UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS

SECOND SESSION

VOLUME 136—PART 14

JULY 26, 1990 TO JULY 31, 1990

(PAGES 19491 TO 20963)

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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Thursday, July 26, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Gracious God, our Father, we hear with gratitude the words of the prophet Micah and the apostle Paul: "He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?"—Micah 6:8. "And we know that all things work together for good to them that love God, to them who are the called according to his purpose."—Romans 8:28.

Eternal God, Father of grace and peace, with grateful hearts we praise Thee for the hour of greatness in the Senate yesterday as the Ethics Committee pronounced its judgment, and the Senators responded. Thank Thee for that remarkable convergence of justice and mercy, honor and love. Thank Thee for the demonstration of the truth that You work in everything for good to them who love You and are called according to Your purpose. Thank Thee for the statesmanship, the humility, the respect, the honesty, the quiet though painful exercise of discipline.

God bless the United States Senate in all of its parts. In Jesus' name, the Prince of Peace, we pray. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the order previously entered, the time of the two leaders will be reserved by unanimous consent, already having been given.

MORNING BUSINESS

The PRESIDENT pro tempore. Also under the order, there will be a period for the transaction of morning business to extend until the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each, and with the special order recognizing Mr. NUNN from Georgia for not to exceed 15 minutes, and with the special order recognizing Mr. REID from Nevada for not to exceed 15 minutes.

Mr. KERRY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized for not to exceed 5 minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed for more than 5 minutes.

The PRESIDENT pro tempore. How much more than 5 minutes?

Mr. KERRY. I think in the vicinity of 10 or 15.

Mr. NUNN. Mr. President, reserving the right to object, could we have the order of the day?

The PRESIDENT pro tempore. Yes. The order for the morning business period is that the Senator from Georgia will be recognized for 15 minutes. The Senator from Nevada [Mr. REID] will be recognized for not to exceed 15 minutes. Other Senators are permitted to speak therein for not to exceed 5 minutes. And the morning business period is to extend until 10 a.m.

Mr. NUNN. I thank the Chair. If I could, through the Chair, express to my colleagues from Massachusetts, I have a time problem and I have about 15 minutes of remarks that I am to make. Will the Senator from Massachusetts be able to perhaps use 10 minutes?

Mr. KERRY. I will be delighted to try to remain within a 10-minute period. I understood the Senator from Georgia was coming over at 9:15. That is why I tried to come beforehand. I will be delighted to try to do that. I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I will not object.

The PRESIDENT pro tempore. The Chair had difficulty understanding what the request was.

Mr. KERRY. Mr. President, the request is now that I be permitted to proceed for a period not to exceed 10 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The Senator from Massachusetts is recognized for not to exceed 10 minutes.

Mr. KERRY. I thank the Chair and I thank the distinguished Senator from Georgia.

THE REVISED UNITED STATES-CAMBODIA POLICY DOES NOT GO FAR ENOUGH

Mr. KERRY. Mr. President, last week the administration announced what has been called revisions in our policy toward Cambodia. As expressed publicly, as well as to the Senate Foreign Relations Committee in hearings last week, there are three essential elements to this change in policy.

First, the United States is withdrawing our recognition at the United Nations of the coalition, including the Khmer Rouge.

Second, the United States is now going to open up direct talks with Vietnam on the issue of moving toward a comprehensive political settlement on the issue of Cambodia. I think it is very important to note that we are opening up talks with Vietnam on the issue of Cambodia, not talks with Vietnam specifically directed toward normalizing of relations with Vietnam, though that might be an outgrowth of it.

Third, we are changing, relaxing the licensing restrictions on the provision of humanitarian aid to the people of Cambodia.

Last Friday, Mr. President, the Senate Foreign Relations Committee held hearings on these so-called revisions. It is this Senator's belief that

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

far from answering serious concerns that are shared by all of us in the Senate regarding the growing successes of the Khmer Rouge, the testimony from administration witnesses only reinforced my belief that these revisions that they have announced are marginal at best and do not constitute an effective strategy against the Khmer Rouge.

Sixty-six of our colleagues have joined together in writing the President, emphasizing our belief that the Khmer Rouge represent an unacceptable risk to the people of Cambodia and that, quoting from the letter, "American policy should be based first and foremost upon preventing the return of the Khmer Rouge."

Despite the fact that the administration continues to state that it opposes a return of the Khmer Rouge, I do not believe that either the previous policy, and I think they have now documented that by the shift, or the revised policy can contribute to this stated goal of U.S. policy.

The tragedy of our policy until now, Mr. President, and conceivably the continuing tragedy, even in the face of the announced revisions, is that the very Khmer Rouge whose genocide we want to prevent from ever happening again remain at this moment the primary beneficiaries of our policy.

That is not to say that stripping the Khmer Rouge of the seat at the United Nations is not important. I think it is important. But the bitter irony and the bitter reality of our current policy is that the most effective weapon that the Khmer Rouge have in their effort to topple the regime in Phnom Penh is the fact that we maintain an economic and political embargo on Cambodia, and we have maintained this embargo since 1975.

The irony is furthered by the fact, Mr. President, that the embargo, which was originally directed at Pol Pot, has now become the best weapon Pol Pot has in his effort to unseat the Hun Sen Government.

The embargo which was subsequently to be our major weapon against Vietnam, and it was directed against Vietnam, is now claiming as its victims the people of Cambodia who do not like the people of Vietnam.

So this is not just a normal embargo. It is not just an embargo similar to other embargoes we have had in the past. This may be the most severe embargo that we have placed on any country anywhere in the world in recent days.

It is far more serious than the sanctions we placed on South Africa. It is far more severe than the embargoes we placed on Central America, Nicaragua, or Noriega's Panama. It is more severe than the embargo we currently place on Vietnam. We are one of the few countries in the world not trading with Vietnam. But as to Cambodia, no Western nation has seen fit to violate the stated policy of the United States and provide aid to that country.

There is still a further irony in the current embargo that we carry, and that is that it is the one element of our policy about which the administration has been able to be most self-congratulatory. They can, indeed, say this policy is working, but when you look at what the "this policy is working" really means, you find that it is in fact working to bring the Khmer Rouge into power. The changes announced by Secretary Baker, welcome as they are—and they are welcome—do not reverse the consequences of this most serious part of our policy. They do not change the reality that it remains helping the Khmer Rouge.

As Secretary Solomon said to the Foreign Relations Committee last week, time is on the side of the Khmer Rouge. For that reason, Mr. President, I think it is so important that we adjust more rapidly and even go further than this administration has been willing to go.

The Hun Sen regime today cannot pay its civil servants, cannot pay its soldiers, faces dire inflation, and the Khmer Rouge are taking advantage of this fact. They are playing a very deadly game in the countryside of Cambodia, on the one hand, paying Cambodian peasants in United States dollars and in gold very handsomely for their rice harvests, but on the other hand where any of those peasants indicate support for the Cambodian Government, for the Phnom Penh government, they turn around and they are willing to murder them and reinstill murder and terror in the countryside.

In point of fact, Mr. President, the maintenance of the economic embargo on Cambodia has become a critical part of the Khmer Rouge strategy, for despite the fact that we now derecognize the rebel coalition at the United Nations, the Khmer Rouge are running around claiming that the maintenance of the embargo represents support for their position and that the outside world in fact is opposed to the Hun Sen regime, and therefore, the people of Cambodia ought to be supportive of them, the true representatives of the people. It further arms them in their efforts to try to pull people away from the government or from the Sihanouk or Son Sann members of the coalition, and that defeats the very policy that we have in place.

Mr. President, I am not alone in my belief that this embargo is really the last vestige of our war against Vietnam itself. Twenty years ago, we helped to bring the Khmer Rouge to power and the results of our invasion into Cambodia during the Vietnam war are what ultimately helped to result in the killing fields themselves.

Subsequently, we engaged in a very sad chapter of diplomacy with China and Thailand, during which time we sought to ensure the survival of the Khmer Rouge. That took place for a number of years when the Vietnamese had driven them out of Cambodia. Kenneth Roth, the Deputy Director of Human Rights Watch, testified before our committee last Friday:

> While concern with the Khmer Rouge clearly plays a role in the formulation of U.S. policy, we fear that it has taken a back seat to punishing Vietnam for installing the current Cambodian Government in January.
>
> We recognize that the administration's willingness to open talks with Vietnam on the subject of Cambodian conflict indicates a possible first step in softening this apparent hostility toward Vietnam. But the hostility seems to have deep roots, the product of lingering competition with the Soviet Union, Vietnam's main supporter; misguided appeasement of China, a traditional Vietnamese rival, and as noted, the principle Khmer Rouge backer; and an unstated desire to vindicate the falling of Saigon by engineering the toppling of Vietnam's ally in Phnom Penh.

There are other concerns about this so-called policy shift. I am concerned about the fact that the administration now goes to Hanoi to discuss the fate of Phnom Penh, which is a signal that further strengthens, I believe, the arguments of the nationalistic efforts of the Khmer Rouge and weakens Hun Sen's capacity, I believe, to act independently. The question, Mr. President, is whether we should be going to Phnom Penh to resolve the issue of Cambodia and whether we should go to Hanoi to resolve the issues regarding Vietnam and to work independently, to use each of those to work at the question of a resolution of the entire conflict.

I am also troubled further, Mr. President, by the fact that the stated purpose for opening the talks with Vietnam is to convince that country to convince Hun Sen to be more flexible on the issue of a political settlement. But the problem is we have not stated what the framework of that political settlement would be, except insomuch as the Perm 5 talks in Paris. We have suggested it would be a quadripartite process.

The PRESIDENT pro tempore. The Senator from Georgia is recognized for not to exceed 15 minutes.

FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

PROGRAM TERMINATIONS

Mr. NUNN. Mr. President, I have been taking a few minutes each morning this week to highlight the fiscal year 1991 defense authorization bill our committee has reported to the Senate. That bill is expected to be debated some time next week.

On Tuesday, I outlined the manpower and personnel provisions included in the bill. Yesterday, I outlined the important initiatives we took on major weapons systems and specifically our across-the-board recommendations to fly before you buy.

This morning I want to outline the actions our committee took to terminate troubled or unneeded programs.

Secretary Cheney recommended that 13 programs be terminated in fiscal year 1991. The committee closely reviewed all the programs and agreed with the Secretary on 11 of the proposed terminations. This is consistent with our committee action last year to terminate all programs the Secretary proposed to terminate except the V-22. Again this year, the committee recommends additional research and development funding on the V-22, which we believe is a program that has a great deal of promise and we believe it should be completed, at least the research and development stage.

Of the new termination recommendations, the committee agreed with all except two. The committee recommended that the Sea Lance Program be continued because the Navy continues to have a requirement for the system, and operational testing to date has been quite positive. Since there are no alternatives at this point to the Sea Lance, the committee decided that termination was unwise. The Sea Lance program is a long-range strike torpedo system that allows an attack against submarines with torpedoes from much further ranges than is possible today.

The other program that the committee decided not to terminate was the Mark-19 grenade launcher. The Army initiated a 5-year multiyear procurement and proposed to terminate it in the third year, just when the savings were greatest. The Army needs over 11,000 launchers and has procured only 1,400. The committee decided it made sense to complete the multiyear contract, which would still leave the Army with less than half of its requirement.

These were the two instances where the committee did not agree with the Secretary's termination recommendations. But the committee went far beyond the Pentagon's list. We examined all programs to determine which programs should be terminated, and we are recommending to the Senate that an additional 15 programs be terminated.

I ask unanimous consent to list at this point the programs the committee has recommended be terminated, in addition to those which the Secretary recommended.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Fiscal year 1991 savings

[BA in millions of dollars]

Terminated program:	
1. Milstar satellite	1,063
2. National aerospace plane (DOD)	158
3. AF over the horizon backscatter radar	265
4. NBC reconnaissance vehicle	37
5. Follow on to Lance missile	112
6. 155mm nuclear artillery shell	(1)
7. 155mm binary chemical artillery shell	74
8. MLRS binary chemical munition	28
9. Navy Bigeye chemical bomb	9
10. Air Force Bigeye chemical bomb	58
11. ADATS air defense system	438
12. Small unit support vehicle	27
13. Armored combat earthmove M-9	44
14. Battlegroup passive horizon extension	(1)
15. Plutonium recovery modification project	65
Total	2,350

[1] Classified.

Mr. NUNN. Terminating these additional programs in fiscal year 1991 will save $2.3 billion. But over the lifetime of the programs, these terminations will save between $45 and $50 billion, which is a substantial amount of money.

The committee examined many programs. I would just like to highlight a few of those that we felt should be terminated.

First, and probably the most significant, is the Milstar Satellite Program. This program is over cost and behind schedule. The committee decided to terminate the Milstar Satellite Program because it is enormously expensive and it is designed for an increasingly improbable threat. Milstar was conceived in a period of intense United States-Soviet strategic competition when the threat of global war arising from a confrontation in the heart of Europe dominated United States military planning.

In the early 1980's people in the Reagan administration started talking about "protracted nuclear war fighting." Proponents of protracted nuclear war fighting envisioned nuclear wars lasting weeks and months. Wave after wave of missiles and bombers would be sent against each other, even after the initial laydown of several thousand weapons on both sides. Such a concept of war would require a command and control capability of enormous complexity and sophistication.

I want to make it clear we are not talking about Milstar as a system in the traditional sense of deterrence. We already have sufficient redundancy in our command and control systems to allow us to survive and then command our forces to retaliate. That is the essence of deterrence. We have to have that capability on a continuing basis. But planners went much further than that with Milstar. They saw a need for a communications system that would permit senior military commanders to conduct electronic conferences and make on-the-spot decisions about prosecuting nuclear exchanges after a major nuclear attack by both sides; that is, to continue war fighting for weeks and months after a laydown of thousands and thousands of nuclear weapons.

The Air Force envisioned the need to monitor the success of a missile attack on the Soviet Union, evaluate additional requirements, and assign new targets to attacking United States bombers while they flew on their way over the North Pole.

All of this would have had to occur while the Soviet Union was raining down thousands of nuclear warheads on the United States. If this were not enough, the planners envisioned these exchanges going on for weeks and months. No one has yet explained how those pilots and other people are going to survive the initial laydown and be alive weeks and months into a nuclear war.

From this kind of thinking emerged the Milstar Satellite Program.

We have to ask a lot of questions about this program. And we did. Is this still what we require to deter nuclear war with the Soviet Union? Is that essential? I want to make that clear. We have to have communications systems that can survive and that can communicate so that we can retaliate. That is the essence of deterrence. That is the essence of preventing a war from ever occurring, because the Soviet Union has to understand that we have that capability so that they will never make the mistake of striking first.

Reliable command control and communications is a necessary prerequisite for deterrence. But does deterrence still spring from the notion that we must be able to wage a protracted nuclear war over a period of months? What does this kind of nuclear war mean? We have to ask these questions now. We did that with the Milstar system.

Mr. President, if we have an all-out nuclear exchange between the United States and the Soviet Union, our policy of deterrence has failed. The United States would lose, the Soviet Union would lose, and the world would lose. I think our basic policy has to remain deterrence rather than protracted nuclear war fighting.

The committee decided that the Milstar system was far too expensive and was designed for a requirement that is not plausible. The committee examined in detail the alternative methods of command and control, and concluded that there are reliable and survivable methods of communication with our nuclear forces and that deterrence is solid with the command and control

systems currently in place or in procurement.

I will not review all the arguments associated with the committee's decision. I expect there will be a challenge on the floor. I imagine we will have considerable discussion then. The committee is prepared to go into this in some detail. Some of it is classified. But I do not believe it can be decided in a classified session. I think we have to have a debate here in open session to the greatest extent possible if we are going to make a rational decision. This decision by the committee, if it is confirmed by the Senate, will save $1 billion in fiscal year 1991, and $35 to $45 billion in life cycle cost forms.

Another program that we went into in some detail was the national aerospace plane. The committee decided to terminate Defense Department participation in the national aerospace plane. This program is a $3 billion demonstration alone, and that does not consider the funds required thereafter. The demonstration part alone costs $3 billion.

The national aerospace plane poses challenges and offers long-range promise. There is no doubt about that. But we believe there are far more important near term requirements. There are serious deficiencies in meeting today's needs for putting payloads in orbit. The committee decided that those and other needs had a substantially higher priority than does the national aerospace plane.

The committee also reviewed the over-the-horizon backscatter radar. The committee reviewed the Department's request for a central sector over-the-horizon backscatter radar, sometimes called the OTH-B radar. The OTH-B radar is a large radar that can cover very large geographical areas from a single location. We have built OTH-B radars on the east and west coasts to detect enemy bombers and cruise missiles.

The Defense Department was requesting funds to build an OTH-B radar facing south. The committee found that the military requirement for the radar largely disappeared, and that it was being pursued now almost exclusively for the drug interdiction mission. While the committee has encouraged the Defense Department to become involved in the war on drugs, the committee found the system to be redundant and unnecessary for this effort.

The committee recommended that we terminate the Follow-on to Lance Program. As my colleagues know, Lance is the current short range nuclear missile used by the United States in Europe. Follow-on to Lance was the Department's program to replace the Lance system with a new short-range missile carrying a nuclear warhead.

This could have been a major issue this year. But it was not because President Bush recommended that the program be terminated. Had the President not made that recommendation, I believe we would have had a long debate here in markup. But I also believe we would have concluded that the program needed termination.

The committee also terminated various programs that were requested for binary chemical weapons. After the budget request was submitted, President Bush and President Gorbachev signed a bilateral agreement that would ban further chemical weapon production by either nation upon entry into force of the accord. In early June the committee was advised that, in light of that agreement, Secretary Cheney had decided that production funding for chemical weapons was no longer needed. This included the 155 millimeter binary artillery round, the multiple launch rocket binary round, and the Bigeye chemical bomb in the Navy and the Air Force. The committee recommended that each of these programs be terminated.

The committee also recommended that the Army's ADATS air defense system be terminated. ADATS is the Army's latest air defense system designed to shoot down enemy fighters and helicopters. It was initiated after the Division Air Defense Program was terminated.

Congress directed the Army to conduct comprehensive tests to determine how well the ADATS system would work in combat conditions. The operational testing of prototype vehicles revealed substantial reliability problems. Acknowledging these problems, the Army restructed the program and deferred procurement for at least 2 years. Under this revised schedule, production units would not get to Europe until 1995 or 1996. By that time U.S. combat units would likely be out of Europe.

The committee decided it was not prudent to spend $190 million to mark time while the contractor fixed the problems, only to have the ADATS system fielded after the requirement, at least the European part of the requirement, had largely disappeared.

We still believe there is the need for air defense. The Army had had a very difficult struggle in this area. The committee initiated a substantially less expensive alternative using the very effective Stinger missile. We expect to hear more from the Army on this subject.

The committee also recommended that the Army's small unit support vehicle should be terminated. The SUSV is designed to transport troops and equipment through deep snow and over rugged terrain. The committee concluded that the Army has enough SUSV's to equip most of its units which need these vehicles.

Another program the committee believes should be terminated is the Army's armored combat earthmover. In the event of a war, combat engineering units will use the earthmover, which is basically an armored bulldozer, to build barriers and protective positions for U.S. combat forces. The Army is going to cut at least six heavy divisions and their associated combat engineering units. Consequently, the Army will need fewer earthmovers. The committee decided that only a fraction of the numbers requested would be sufficient to meet the remaining requirements.

The committee also eliminated funds for the plutonium recovery modification project at the Department of Energy's Rocky Flats Plant in Colorado. The Rocky Flats Plant manufactures plutonium components of nuclear warheads and has been shut down for safety and other improvements since December 1989.

Mr. President, I have not tried to discuss all the terminated programs, and certainly just a sketch has been given this morning of the reasons the committee decided to terminate them. I believe it is clear that the committee conducted a careful and detailed review of all the programs, and we acted to terminate programs that were no longer needed or justified.

I do not believe we have seen the end of the terminations. As budgets decline further and force structure shrinks, there could be additional programs that are no longer justified. Terminating programs is a painful process for all involved. It requires the courage of conviction to tell constituents and colleagues that programs must be ended. I am pleased that our committee made progress on that challenge, and I hope our recommendations will be sustained by the full Senate.

Mr. President, I yield whatever time I have remaining to the Senator from Massachusetts. I thank the Chair.

The PRESIDENT pro tempore. The Senator from Georgia has 5 minutes and 40 seconds remaining. The Senator from Massachusetts is recognized for 5 minutes and 40 seconds.

Mr. KERRY. Mr. President, as I was saying, I was raising the issue about the meaning of the quadripartite coalition in the context of this new change in policy. I believe that it is imperative that the administration redefine the direction or define completely the direction in which it hopes to move in the course of the current talks.

Quadripartite is the code that happened to include the Khmer Rouge. It seems evident that we are setting out on a course where we are going to try to isolate the Khmer Rouge. Moreover, Hun Sen has made it very clear that he will not accept participation of the Khmer Rouge in a formal way within the governing process of Cam-

bodia itself. So I think it is imperative that we set a framework in which the talks can move.

That happened in Tokyo recently. At the Tokyo talks, a communique was issued, which Sihanouk signed onto, and in which there was the creation of a twofold approach to the governing process. Sadly, we chose to ignore that communique. We chose to basically ignore that process, and we lost a moment of advantage and opportunity in doing so, I think.

I am further troubled by the fact that the administration asserts, even with these changes recently, that it is even more imperative now than it was previously that we continue to provide assistance to the non-Communist resistance. That raises serious issues.

Our law, the law that we passed, is clear on this matter. It says that all assistance to the non-Communist resistance is to be terminated, if there is evidence of direct or indirect coordination between the two factions that are directly fighting with the Khmer Rouge and that we are supporting.

Well, the administration knows most of the observers in the area now. The Foreign Relations Committee certainly knows, and most of our intelligence community knows that the Sihanouk forces fighting under the ANS banner are admittedly collaborating with the Khmer Rouge.

This is not haphazard, Mr. President. This is systemic, part of the strategy. Prince Sihanouk has made it very clear in numerous interviews that he needs the Khmer Rouge in order to dislodge Hun Sen and Phnom Penh. The Khmer Rouge have been able to use the ANS as a political shield and hide behind them.

Our policy in effect, once again, is not only round headed in terms of what the outcome has the potential of being, but it is also in violation of our own law.

Mr. President, the members of the Foreign Relations Committee received a very disturbing report from a Mr. Roger Normand, a Harvard law student who has spent the last 18 months living on the Thai-Cambodian border teaching refugees, conducting fact-finding missions on human rights abuses and writing articles on Cambodia. He led a factfinding mission last January and conducted interviews with military defectors and with other high level leaders.

I would like to point out, before I quote from his report, that most experts on the Khmer Rouge, our own intelligence sources included, agree that if they lost a free and fair election under the United Nations auspices or otherwise, the Khmer Rouge would not give up their arms struggle. Our intelligence experts agree that the Khmer Rouge's sole motivation is to return to power in Phnom Penh, using whatever means, political or military, in order to do that. These same experts agree that the Khmer Rouge will never disarm; they would only secure their arms in hidden caches and if need be, after an election, they will resume the struggle.

That underscores the reports from Mr. Normand. Let me read that. He points out that the Khmer Rouge are employing the same strategy they used in 1975 to come to power.

> The Khmer Rouge do not plan to shoot their way back into Phnom Penh as they did on April 17, 1975. Rather, they intend to use international diplomacy and negotiations, in conjunction with guerrilla warfare to facilitate their return to power. But first political cadres must sufficiently "prepare" the country. The delicate task of delaying internationally supervised elections until "the right time" falls to Khieu Samphan, the Khmer Rouge front man in the United Nations.

I quote Khieu Samphan. He says this to the Khmer Rouge commanders during their training sessions:

> I could end the war right now if I wanted, because the outside world is waiting for me, but I am buying time in order to give you comrades the opportunity to carry out all the tasks.

As Normand's report notes further:

> * * * Small cells of highly trained cadres have infiltrated thousands of villages throughout Cambodia, even along the eastern border of Vietnam. * * * By the time elections are held, important cadres will be positioned throughout the country to "lead the balloting work" and ensure Khmer Rouge success.
>
> Normand notes the result of the system of Khmer Rouge indoctrination "is a regimented, disciplined, loyal and effective movement, with no room for dissent."
>
> Pol Pot justifies his alliance with Prince Sihanouk and Son Sann as a means of reaping the political gains inside Cambodia and diplomatic gains abroad, despite the harm to the Khmer Rouge's purity from contact with "capitalist and feudalist elements." He explains that political circumstances "have induced the movement to adopt a moderate, liberal policy in order to placate foreign critics."

Pol Pot characterizes Prince Sihanouk as:

> Like the peel of an orange, but we are the fruit. Sihanouk and the outside world do not fully comprehend this, but you comrades must not doubt our role as the true leaders of the national liberation struggle.

He makes the very telling point, finally:

> Fear, an important weapon in the Khmer Rouge arsenal, renders absurd the concept of free and fair elections in Cambodia, a country which has never held them. Yet, the Western nations have selected U.N.-supervised elections as the miracle cure for Cambodia's ills.

Mr. President, I believe we are hopelessly deluding ourselves, if we believe that a comprehensive political settlement, which includes the Khmer Rouge, will bring an end to the death and destruction in Cambodia. We need to engage in a policy that isolates the Khmer Rouge. We need to engage in a policy that includes pressure on China to end its political support and logistic support for the Khmer Rouge. We need to bring pressure to bear on Thailand to end the use of its territory to supply the Khmer Rouge. Finally, we need to lift the embargo on Cambodia which will help halt the rapid economic deterioration, the sole beneficiaries of which are the Khmer Rouge.

Mr. President, 1 month after Tiananmen Square we were willing to talk with the leaders of China. We have talked with countless governments around the world with whom we have absolutely fundamental disagreements for various reasons. We have talked formally to the government of Pinochet. We have talked to the Government of South Africa. We dealt with a Marcos, and we dealt with Noriega. We even negotiated with the Soviet Union at the very moment the President of the United States called it the evil empire. We dealt with Ceausescu, and so many others.

The question has to be asked, why it is that we cannot at this critical point in time in Cambodia bring ourselves to talk, just to talk to the Government of Cambodia in an effort to try to seek a resolution of this issue?

We are left asking why is it that this tiny country that has been the victim of our policy that began in the 1960's and 1970's and has suffered under other people's wars is now isolated as it is with the United States unwilling to bring it into the process of seeking a resolution to its own problems.

I hope that that will change soon. I congratulate the distinguished majority leader, Senator MITCHELL, on his efforts to circulate a letter that has gone to the President and on his leadership on this issue to try to create a change in our policy. Nothing could really be more vital to us.

The President suggested in his inaugural address that the statute of limitation on Vietnam has run. Mr. President, until we resolve this issue it has not run.

Mr. President, I ask unanimous consent that the full text of Roger Normand's report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

IN POL POT'S CLASSROOM

In a heavily guarded villa in southern Thailand, 150-200 students gather several times a year to absorb the doctrines of their teacher. Reviled by most of the outside world, this teacher is loved by his students. They marvel at his ability to deliver lengthy, coherent lectures without using notes or props; they are awed by his deep understanding of the political and historical forces that have shaped their reality; some weep openly during his more stirring speeches.

The teacher is Pol Pot. His students are elite Khmer Rouge (KR) cadres, from battalion up to division commanders. He is often joined at the head of the class by Son

Sen, Nuon Chea, Ieng Sary, and Ta Mok—the same leaders who presided over the "killing fields" from 1975–78. The villa, called Zone 87 ("87" is one of Pol Pot's aliases), sits in Thailands' Trat province, close to the Cambodian border which houses KR refugee camps. These camps supply the disciplined, battle-hardened guerillas who comprise the 35–40,000 strong KR army. And since the Vietnamese withdrew their troops from Cambodia last September, the Khmer Rouge, in alliance with the U.S.-backed non-communist resistance forces (NCR), have made rapid gains against the inexperienced soldiers of the Phnom Penh government (SOC).

At Zone 87, Pol Pot expounds a well-planned strategy of guerilla warfare aimed at wresting political control of the countryside from an increasingly corrupt and divided SOC administration. Military policy is subordinated to this strategy; battlefield commanders apply sufficient pressure on the cities to tie down the Phnom Penh army, while committing the bulk of their manpower to "liberating" rural Cambodia. Control is not measured by physical occupation, but by the ability of guerillas to infiltrate and rule by night. To keep the military in line with his overall policy, Pol Pot admonishes overzealous commanders to engage only in "mini-battlefields," reminding them that "the cities will follow the countryside." The goal, he explains to the students, is "to invalidate existing state authority" and hasten the disintegration of the PRK, which he estimates can survive no longer than 18 months after a Vietnamese withdrawal.

The Khmer Rouge do not plan to shoot their way back into Phnom Penh as they did on April 17, 1975. Rather, they intend to use international diplomacy and negotiations in conjunction with guerilla warfare to facilitate their return to power. But first political cadres must sufficiently "prepare" the country. The delicate task of delaying internationally-supervised elections until "the right time" falls to Khieu Samphan, the KR front man in the United Nations. He occasionally stops by Zone 87 to explain his diplomatic mission to the commanders: "I am so busy that I have no time to eat, because the outside world keeps demanding a political end to the war in Kampuchea. I could end the war right now if I wanted, because the outside world is waiting for me, but I am buying time in order to give you comrades the opportunity to carry out all the tasks."

The tasks have been carried out with urgency since early 1988, when Pol Pot counseled his students to accelerate political warfare in anticipation of elections. Since then, small cells of highly-trained cadres have infiltrated thousands of villages throughout Cambodia, even along the eastern border with Vietnam. Pol Pot instructs them to use "the weapon of their mouths" to build networks of support among village chiefs and family heads. He has forbidden use of the word "communism"; instead cadres stress the paramount role of the Cambodian peasantry as the source of the strength, virtue, and morality of the nation, while encouraging what Pol Pot terms "the national anger" over the Vietnamese occupation. By the time elections are held, important cadres will be positioned throughout the country to "lead the balloting work" and ensure Khmer Rouge success.

While all the Cambodian factions engage in political warfare, the KR's emphasis on education and indoctrination sets it apart. At Zone 87, commanders study from 6:00 am to 9:00 pm for thirteen days, then return to the front and instruct their troops. Each soldier is expected to memorize the basic doctrines, and teach them to villagers at every opportunity. As one moves down the hierarchy of organizational power, the lessons become less specific and complex, until at the village level the teachings are concerned with general principles of nation, morality, and society. The result of this system of indoctrination is a regimented, disciplined, loyal, and effective movement, with no room for dissent.

Pol Pot usually devotes a full day of classes to the political and social ramifications of the tri-partite coalition with the NCR. He teaches that they joined the coalition in order to reap political gains inside Cambodia and diplomatic gains abroad, despite the harm to the KR's purity from contact with "capitalist and feudalist elements." Pol Pot explains further how political circumstances have induced the movement to adopt a moderate, liberal policy in order to placate foreign critics. However, he admonishes the students to maintain their "true nature" and live by the saying: "the politics has changed but the spirit remains the same."

Moreover, Pol Pot assures his students that, although many high-level diplomatic posts are filled by NCR officials, the Khmer Rouge remain the dominant force in the coalition: "Sihanouk [the titular president] is like the peel of an orange, but we are the fruit. Sihanouk and the outside world do not fully comprehend this, but you comrades must not doubt our role as the true leaders of the national liberation struggle."

During his lessons, Pol Pot strides up and down the aisles crowded with students, peppering them with questions in the same Socratic style as a Harvard law professor. When a nervous student stumbles over his responses, Pol Pot good-naturedly teases him, or stands behind him, patting his shoulder for encouragement. In March 1988, while teaching about the domestic situation inside Kampuchea, he abruptly stopped the lesson and asked, "what can we do to make the people love us?" Several division and brigade commanders suggested exposing the corruption of the other factions and demonstrating the KR's patriotism; others maintained that the key was economics—they had to organize the peasants to increase rice production. Pol Pot kept shaking his head, dissatisfied. Then a battalion commander in the back row raised his hand and responded, "we must put ourselves in the same position as the poorest of the poor, then the people will crowd around us and love us." "Yes," cried the teacher, delighted that one of the lowest ranking students had answered correctly. "Yes! Yes!"

Of course, it is no easy task to erase from historical memory the million or so victims of "past excesses", as Chinese diplomats refer to the carnage wrought by the Khmer Rouge during their attempt to "purify" Khmer society. At Zone 87, Pol Pot explains the proper strategy: "we must focus attention on the Vietnamese aggression and divert attention from our past mistakes." This strategy has worked brilliantly in international diplomacy, where Khieu Samphan, supported by a coalition led by China, ASEAN, and the United States, has successfully deleted any reference to past genocide in the documents and resolutions issued by the U.N. or the various international peace conferences.

In the classroom, Pol Pot blames Vietnamese agents ("Khmer bodies with Vietnamese heads") intent on sabotaging the revolution for most of the killings. But not all. He asserts that the party ordered the liquidation of thousands of political and military elites of the Khmer Republic in 1975 because they were "thoroughly tainted by imperialism." Furthermore, he concedes that some of his young followers were guilty of applying the doctrines too strictly, and warns the students not to repeat these "mistakes." One battalion commander received a stern lesson during a group self-criticism session after he confessed to routinely killing captured SOC officers. Standing alone in the midst of the crowded classroom, the man shook noticeably as Pol Pot yelled at him: "each of those men has relatives throughout Cambodia, who will not seek vengeance against us. Already we have many enemies inside Kampuchea. By your actions, you have multiplied our enemies and lessened our friends!"

The Khmer Rouge have many enemies inside Cambodia. It is rare to find someone who cannot relate a personal horror story about life under Pol Pot. At the same time, many Cambodians harbor a deep-seated fear of national extinction, fueled by repeated invasions by its larger, more powerful neighbors. Having waged relentless guerrilla campaigns against both "U.S. imperialism" and "Vietnamese colonialism," the KR has earned a measure of respect and support among their nationalistic countrymen.

They augment this support by pursuing tactics similar to the successful "hearts and minds" campaign against the U.S.-backed Khmer Republic from 1970–75. As before, villagers report that polite Khmer Rouge guerrillas are paying premium price for their rice, and helping them work the fields. In contrast, NCR guerrillas, who lack the discipline and fanatical devotion of their KR counterparts, are often accused of stealing village supplies and occasionally raping women who wander too near a drunken party. And the SOC army is alienating villagers by commandeering rice and gang-pressing youths into military service.

But if many Cambodians hate the KR, and some respect them, nearly all fear them. The Khmer Rouge still have a reputation, not all based on the past. Refugees and villagers report that KR guerrillas kill those village headmen and administrators unwilling to "cooperate." Such drastic measures are rarely required, however, as most Cambodians retain vivid memories of the price of disobedience.

Fear, an important weapon in the Khmer Rouge arsenal renders absurd the concept of free and fair elections in Cambodia, a country which has never held them. Yet the Western nations have selected U.N.-supervised elections as the miracle cure for Cambodia's ills, expecting the sensible peasants to ride the recent tide of "democracy" and vote away the Khmer Rouge. Thomas Pickering, U.S. Ambassador to the U.N. astutely observed from New York that no one in his right mind expects the Khmer Rouge to win any votes. Yet serious Cambodia watchers, some who have lost their minds to the extent that they try to verify the KR's actual strength through field research, consistently estimate KR electoral support at 20, even 25% of the population, and growing daily. It is entirely possible that the Khmer Rouge will achieve their return to power through elections conceived by the international community as a means to control them and end the bloodshed in Cambodia.

Meanwhile, preparations at Zone 87 continue. At the close of the final self-criticism session, Pol Pot delivers a speech that leaves

even the most battle-hardened commanders in tears, vowing to struggle until their last drop of blood. "Comrades," he begins, "I am very regretful that you have not yet reached a high level of understanding. I worry that the other factions will gain power. So, although I am old and would like to retire, I must continue with all my strength to build up your knowledge.

Do not underestimate yourselves, but also guard against apathy and overconfidence. Everyone must work extra hard in the political area to reach a higher level than I myself have attained. If you fall in this regard, I will not die peacefully."

From numerous interviews with KR defectors, including former commanders still loyal to the movement, a picture of Pol Pot and the Khmer Rouge emerges that does not fit the Western version of a crazed, unstable demagogue leading an army of thuggish killing machines who are universally hated and rejected by the people of Cambodia. Rather, one sees a disciplined, devoted, and efficient political/military movement, guided by an extremely educated and politically savvy leadership, under the unquestioned control of a charismatic ruler, and commanding the support, both voluntary and coerced, of a significant portion of the population.

The Western propensity to demonize Pol Pot and his followers, after having tacitly supported them for almost twelve years, only serves to obscure the very real dangers facing seven million Cambodians. For now, the Khmer Rouge have disavowed the policies of genocide. Yet while they talk of coalitions and democracy in the U.N., Pol Pot's vision of an ethnically pure peasant society remains in the hearts and minds of his students at Zone 87, as before.

The PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Rhode Island [Mr. PELL] is recognized for not to exceed 5 minutes.

AMERICAN POLICY TOWARD CAMBODIA: NEED FOR A NEW LOOK

Mr. PELL. Mr. President, today a majority of the Senate is sending the President a letter, asking that he reexamine our policy toward Cambodia. Already in response to congressional pressure, the President has taken some new initiatives.

I am worried that his actions last week may be too little, too late. Daily, the news out of Cambodia reports that the Khmer Rouge is on the march once again. We must do all that we can to prevent genocide from returning.

The President must do more.

We should also seek an immediate cease-fire and a cutoff of all outside military aid.

We should work with our allies—Thailand and Japan especially—to press China most urgently to end its support for the Khmer Rouge.

In addition to talking to Vietnam, we should speak directly with the government in Phnom Penh about steps that can be taken to move quickly toward a cease-fire and free elections.

I am glad that the adminstration will implement the program to aid children within Cambodia that was authorized earlier. International relief workers have reported that the U.S. embargo has prevented urgently needed assistance from reaching these children.

Our aid for Cambodia should be provided openly, and should consist of humanitarian and development aid that will support efforts to bring about political and economic reform and stability to Cambodia.

It should also be used for the resettlement and repatriation of Cambodian refugees. One of the tragedies of the current situation is that more refugees and internally displaced persons are being created by recent Khmer Rouge attacks within the country.

The military assistance that we have provided, even if it is nonlethal, has helped prolong the war and prevent a peaceful settlement. Whether we intended it or not, it has facilitated cooperation between Prince Sihanouk's forces and the Khmer Rouge.

I urge Prince Sihanouk to bring his historic prestige to the cause of a peaceful, negotiated solution that will prevent the return of the 1975 nightmare of a Khmer Rouge takeover.

A year ago we debated this issue on the floor of the Senate. At that time I expressed my concern that military assistance to the non-Communist resistance had the potential for once again involving the United States in an Indochina insurgency before giving clear thought to the consequences of such a policy.

I was also concerned that by providing military assistance to the non-Communist resistance who were in league with the Khmer Rouge against the government in Phnom Penh we were in effect aiding the return of the genocidal Khmer Rouge.

Unfortunately, I believe that events have proved that my fears were justified. The Khmer Rouge are marching again and from the reports I have received they are marching together with the force of Prince Sihanouk.

I said then, what is equally true today, that our policy toward Cambodia should be:

To assist the Cambodian people to achieve a peaceful and independent Cambodia;

To support diplomatic efforts to reach a durable settlement;

To support an eventual coalition government which does not include the genocidal Khmer Rouge, and

To offer the prospect of substantial assistance to a new Cambodian Government that includes the non-Communist resistance and supports political pluralism and economic liberalism.

Cambodia has already experienced the killing fields. We must not let that happen again.

The PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. Mr. President, Senator REID was to speak during the morning hour and reserved 15 minutes. I understand he will not be speaking, so I ask unanimous consent that I may use such amount of his time as I need to discuss this Cambodian affair.

The PRESIDENT pro tempore. There is no morning hour, the Senate having recessed over. Mr. REID has 15 minutes in morning business.

Without objection, the Senator from California [Mr. CRANSTON] will be recognized for about 15 minutes.

Mr. CRANSTON. I thank the distinguished Presiding Officer.

CAMBODIA

Mr. CRANSTON. Mr. President, our policy toward Indochina, especially Cambodia, is one of the most important foreign policy issues before the United States today. Fifteen years after the end of our tragic involvement in Vietnam we appear as yet unable to put behind us, as we are doing elsewhere in the world, the effects of cold war thinking, cold war policies. In Cambodia the east continues to confront the west through various surrogates, engaged in a guerrilla war whose bitter burden is borne by the long-suffering Cambodian people out of sight of most of the world.

Cambodia for the past 15 years has been alone, isolated from the rest of the world by first its leaders under the Khmer Rouge and then ostracized by the international community after the Vietnamese invasion in December 1978 drove the Khmer Rouge from power, installing a new government.

This period of isolation appears to be ending. At the instigation of the Australians discussions began in Paris last January by the permanent five members of the U.N. Security Council to see if an internationally agreed to plan could be developed for a comprehensive settlement.

Despite movement toward a settlement of the long-running conflict, many obstacles remain. A central obstacle is the lack of knowledge concerning the position of the principal antagonists in the conflict—their strengths, weaknesses, and objectives—and conditions inside Cambodia. Clearly the years of isolation have helped make Cambodia one of the least understood nations in the world. Churchill's observation about the Soviet Union in 1939 could just as easily be applied to today's Cambodia: "a riddle wrapped in a mystery inside an enigma."

The riddle has been made all the more complicated by the number of factions now struggling for control of Cambodia in the wake of the with-

drawal of Vietnamese occupying troops in September 1989. There are four principal groups but within each of these exist competing factions:

First, the State of Cambodia, formerly the People's Republic of Kampuchea [PRK], installed by the Vietnamese and let by Heng Samrin and Hun Sen, two former Khmer Rouge commanders who defected to the Vietnamese in 1978 and 1977, respectively;

Second, the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia [FUNCINPEC] and its military wing, the Armee Nationale Sihanoukienne [ANS], established by Prince Norodom Sihanouk in 1981;

Third, the Khmer People's National Liberation Front [KPNLF] formed by Son Sann, a former government official and Sihanouk's childhood tutor, in 1979; and

Fourth, the Khmer Rouge [Democratic Kampuchea-DK], controlled by Pol Pot and his allies, Khieu Samphan, Ireng Sary, Son Sen, and Ta Mok.

None are particularly strong although the Khmer Rouge with an estimated 35,000 to 40,000 troops are widely credited as the best organized and best trained. The KPNLF under the command of General Sak Sutsakhan has approximately 15,000 soldiers and the ANS, under the command of Sihanouk's second son, Norodom Ranariddh, has about 18,000. The SOC number 40,000 to 60,000. The weakness of each group and the internal competition for control complicates the already difficult task of reaching a satisfactory settlement amenable to all parties.

The country that all fight to control has been the site of almost continuous conflict since the early 1960's. The population has been scattered through out the globe with at least 175,000 Cambodians living in the United States. Refugee camps inside Thailand and controlled by various factions contain over 300,000. At times it has almost ceased to exist as a recognizable state. Cambodia is still far from recovering.

Information on Cambodia is extremely limited. Because of the international boycott, aid programs in Cambodia are restricted, limited to the activities of independent nongovernmental agencies and relief workers. There has been no accurate census conducted and given the destruction of the educated elite by the Khmer Rouge, there are few qualified government officials in Cambodia capable of organizing the administrative apparatus needed to make an accurate assessment of the situation.

Of the few facts available, most are discouraging. The population, estimated at 7.5 to 8 million, is greatly below what it would have been based on a 1969 population estimate of 7.3 million. The economy is two-thirds of what it was in 1969 in absolute terms with a gross domestic product [GDP] of $550 million, $70 per capita, compared to a GDP of $890 million in 1966, $130 per capita.

The toll of the Khmer Rouge days is most telling on the educated elite: 60 percent of all primary school teachers murdered, 70 percent of all secondary teachers, 70 percent of university teachers. Of the total student population of 827,000 about 50 percent are estimated to have been murdered. In the medical profession, of 500 doctors, only 40 remain after 1980. Among 70,000 Buddhist monks, 14,000 died. An estimated 189,000 public officials were killed.

The recovery during 10 years of Vietnamese occupation has been slow. The medical school reopened in 1980 but there is still only 1 doctor for every 30,000 people. Infant mortality is extremely high due mainly to diarrhea and acute respiratory infection. Twenty percent of all children die before the age of 5.

UNICEF reports that the adult literacy rate is now at 70 percent—compared to a 1960 level of 31 percent—after two major literacy campaigns by the government but these "neoliterates" may be losing their newly required skill because they lack reading material. Teachers have had little training and the Ministry of Education's textbook printing capacity is reportedly only 600,000 per year compared to a demand of over 2 million.

The situation suggests opportunities for a major Western impact if aid programs are properly structured and coordinated to reinforce the government's free market economic policies. Given the country's limited absorptive capacity and administration and logistical conditions, such a program would not involve large amounts of new outside aid but would build on the programs and coordinating mechanisms already developed by the some 28 nongovernmental organizations [NGO] now active in Cambodia.

Dangers exist. As an USAID-sponsored study of Cambodia's post-settlement reconstruction and development observed, "if post-settlement politics are fragile and the rival factions—true to past Cambodian political form—are unable to develop the art of coalition governance, the resources and institutional support of donor aid programs likely will become political factors as they associate with and strengthen the hands of individuals and factions." Avoiding this possibility suggests comprehensive planning for Cambodia's future reconstruction should begin with all donors as soon as possible rather than waiting until a settlement is reached.

Achieving such a settlement has so far not appeared to be feasible because of continued insistence by Prince Sihanouk, the Chinese, and the Khmer Rouge that there be a quadripartite settlement that gives the Khmer Rouge a role in the government.

The declared strategy of the resistance forces is not a military victory against the SOC but a political victory, by achieving sufficient control on the ground to force the SOC to negotiate a settlement. However, the effect of the strategy is to reinforce the Khmer Rouge's military position and political status in the country to the detriment of both the NCR and the SOC.

The Khmer Rouge have not been quiet. Last fall they overran the border gem mining center of Pailin after SOC forces withdrew. Since then, the Khmer Rouge have concentrated their attacks in their traditional base area near the city of Battambang. In addition, they have been using another base area in the Cardoman mountains of the southwest as a major infiltration route into the rest of Cambodia. And most recently have begun attacks around Phnom Penh, especially against the provincial capital of Kompong Thom.

A second major Khmer Rouge force under the control of Ta Mok is active in northwestern Cambodia near ANS areas. This group has cut the highway periodically, tying down SOC forces in its defense, but its main activity appears to be infiltrating northern and eastern Cambodia.

Military activity by these guerrillas has been limited in achievement but widespread in effect. Instead their main thrust appears to be political, building support among peasants, even paying for supplies, although some SOC village officials are occasionally assassinated. In many of the most isolated regions, the Khmer Rouge reportedly retain strong support because in the past these villagers were early Khmer Rouge supporters and were thus spared some of the horror.

The military strategy of the Khmer Rouge at this time seems to be rebuilding base areas, caching arms, and attacking urban areas in an effort to sow panic. The Khmer Rouge's military capability at this time is also in doubt. They have not demonstrated the ability to defeat determined defenders although they have shown the ability to operate throughout most of the country, tying down government troops in the towns and cities. However, without a doubt, they remain the most experienced, disciplined, and effective force inside Cambodia, and, among the resistance, the best equipped.

Within the NCR, the KPNLF has borne the brunt of the fighting and demonstrated some capacity for initiating and conducting conventional military attacks. Since September, they have taken a number of small

government outposts, and on December 7, in their most dramatic action, took the garrison town of Svay Chek. The SOC later counterattacked, retaking Sway Chek but control of the small town continues to swing back and forth.

In their military tactics, both the SOC and NCR rely on heavy artillery barrages rather than infantry attacks. This results in a large expenditure of ammunition but few casualties. Most of the casualties that do occur are the result of mines left behind by retreating groups. Recently, according to news reports and Asia Watch, the Khmer Rouge have been seeding the country with lightweight, Chinese antipersonnel mines to devastating effect.

The ANS, located north of the KPNLF and according to recent news reports operating in the interior with the Khmer Rouge, also have not demonstrated an ability to move from small unit guerrilla tactics to larger scale conventional operations. They have been unable to capture and to retain large villages or territory as has the KPNLF. The ANS claims that it avoids "frontal clashes" with the SOC because it lacks heavy weapons and could not sustain for long a campaign with substantial casualties.

The SOC forces are spread throughout the country but concentrated in the western portion where the major offensive actions are underway. Even though the SOC has the additional advantage of greater mobility, given the breadth of country to be covered the SOC faces an extremely difficult military challenge in order to maintain control. Their forces have also been tied down by the current rainy season. In the countryside, the SOC relies upon a hastily equipped, partially armed and trained local militia of an estimated 100,000. In some cases, this militia has performed effectively, but the general lack of training and the tremendous influx of weapons suggests the potential for more chaos. In its hurry to increase its regular forces, the SOC is reported to have dragooned conscripts causing animosity and potentially weakening popular support for the regime.

The dry season generally favors the SOC with its advantage in mechanized armor, but to date the SOC has not demonstrated its ability to employ armor to its clear advantage. At times, its troops have broken under attack, abandoning large amounts of equipment. Resistance forces continue to claim that Vietnamese troops remain in the country. This claim is disputed. Secretary Baker last week declared that all Vietnamese troops had left the country. However, if the Vietnamese do remain, they are probably limited to advisers although, based on the SOC military tactics to date, their advice is not always heeded.

The SOC military is relatively well equipped by the Soviets. Only the SOC forces have air capability but they do not appear to have utilized this in an effective fashion. The Chinese keep the Khmer Rouge also well supplied. According to administration testimony, the Chinese have not reduced their supplies to the Khmer Rouge. The Chinese also supply in a more limited way weapons to the non-Communists. In addition these groups according to news reports receive military supplies and training from the West and certain Southeast Asian nations.

The Khmer Rouge, KPNLF, and FUNCINPEC formed a Coalition Government of Democratic Kampuchea [CGDK] after ASEAN and American pressure in June 1982 with Prince Sihanouk as President, Son Sann as Prime Minister, and Khieu Samphan of the Khmer Rouge as Vice President for Foreign Affairs. The CGDK occupies Cambodia's seat at the United Nations. In an interview published in the the New York Times on December 19, 1989, Prince Sihanouk acknowledged that the NCR and the Khmer Rouge coordinate their military activity in Cambodia, stating that they were forced to do this because of a lack of foreign military support.

The degree of direct or indirect support between the non-Communists and the Khmer Rouge is, of course, a major issue for Congress. Current legislation prohibits any aid being expended to the non-Communist resistance if it aids, directly or indirectly, the Khmer Rouge. In this case, the enemy of my enemy should not be my friend.

Since 1985, the United States has publicly authorized and approved over $3 million annually in nonlethal assistance for the NCR. For fiscal year 1989, the amount was $6.7 million and in fical year 1990 $7.5 million.

Some of those funds are now being allocated for an incredible program: a group of orphans, ages 12 to 16, under Prince Sihanouk's control are being given courses in military discipline, first aid, military music, and "basic acts of combattants [sic]". This "ANS Military Oriented Youth Center" is inside Cambodia—outside the prying eyes of our auditors. Asia Watch reported in my hearing that the ANS have been using children, ages 12 to 16, in military and portering units. This is an astonishing use of American aid.

For the past decade United States policy toward Cambodia has been designed to to assist ASEAN in compelling the withdrawal of Vietnamese troops from Cambodia. This included support for maintaining the Khmer Rouge's seat in the United Nations under the name of Democratic Kampuchea. To that end, the United States has supported a resistance coalition made up of the three factions.

Until early 1985, the United States maintained a cautious approach toward the conflict. With the general approval of Congress, the United States exerted diplomatic pressure and economic sanctions against Vietnam in order to dislodge them from Cambodia, criticized Soviet support for the Vietnamese occupation, and backed ASEAN's efforts to preserve the Khmer Rouge seat in the United Nations.

Since the Vietnamese withdrawal in September, the current policy of the administration has been to support a settlement in Cambodia which would include all four factions in a power-sharing agreement in an interim government to be followed by internationally supervised elections.

Despite recent discussions in Paris and New York among the United States, Soviet Union, China, France, and England on the Australian initiative, for an expanded U.N. role, there are few indications that an agreement acceptable to all parties can be arranged. The SOC does not want the Khmer Rouge to be included in power-sharing, and the Chinese and Prince Sinhaouk continue to insist that they be included. The SOC fears that the Khmer Rouge has not altered its desire to achieve power. Nor do I believe that in the event of a cease-fire that the Khmer Rouge would surrender their arms.

The Khmer Rouge's strategy, according to recent defectors as reported in the Far Eastern Economic Review of April 19, 1990, is "to build political structure in the Cambodian villages through a 'hearts and minds campaign,' as well as terror, to be ready for an election. At the same time, efforts will be made to strangle Phnom Penh through guerrilla attacks." Pol Pot's aim is to "gain time for the Khmer Rouge organization through protracted peace negotiations." Thus, including the Khmer Rouge in a political settlement provides them with the international and domestic political legitimacy that they have heretofore lacked, while allowing them to maintain their military presence.

Recent efforts at achieving a U.N. administered interim authority for Cambodia should not be discounted but do not appear to have much potential for success. The cost of such a U.N. operation is estimated at least $1 billion a year for a 3- to 4-year period. Neither the Chinese nor the Khmer Rouge have expressed support for this concept. Without them aboard, it will be impossible to achieve the cease-fire necessary for the success of a U.N. mission. Chinese strategy at this time appears to be to engage in protracted discussions, postponing to an indeterminate future any final decision.

Should the U.N. effort fail another policy will be needed. Far better to begin constructing that alternative approach now than later when the Khmer Rouge wolf may be at the door.

At the same time, new conditions in Indochina are cause enough for a new United States policy. The principal objectives of this policy should be: First, to bring Cambodia into the Western fold, second, to prevent the Khmer Rouge from returning to power, and third, to avoid the situation in which the refugee situation worsens.

This policy recommendation is based on several premises:

First. Inclusion of the Khmer Rouge in a settlement would be a mistake. First, inclusion of the Khmer Rouge is simply unacceptable to the American public and Congress. It would be tantamount to including the Nazis in the West German Government after the war. Second, it lacks support inside Cambodia. The SOC is adamantly opposed to including the Khmer Rouge, believing that once they are inside the political system they will continue their past murderous practices. Third, including the Khmer Rouge endangers our first principal objective of incorporating Cambodia into the West. Allowing the Khmer Rouge to return to Phnom Penh facilitates their return to power given not only their ability to intimidate opponents but their strong political control of the countryside.

The solution to the Khmer Rouge problem is to isolate it in the countryside, not bring it into Phnom Penh. The Khmer Rouge will fight on either way. Thus, the United States should look for ways to weaken the Khmer Rouge, for example, by cutting off their supplies, using as a model Malaysian tactics that successfully isolated and reduced in importance the Malay Communist Party, and to look for ways to strengthen a Phnom Penh government that includes the non-Communists.

Therefore, the starting point of United States policy should be the explicit exclusion of the Khmer Rouge from a settlement.

Second. Time is on the side of the SOC in terms of international support. Already other Western countries are moving toward closer relations with Phnom Penh. Furthermore, the SOC "squatters rights" policy whereby shopkeepers, peasants and urban dwellers have been given title to the land, apartments, or stores where they reside, has proved popular, giving people a greater stake in their country. The likelihood is that the NCR will become less and less relevant, further marginalizing the more than 300,000 refugees in the Thai camps.

Therefore, United States policy should be to put pressure on the NCR to accept a settlement which would allow refugees to return to Cambodia.

Third. The SOC is already moving in our direction. The SOC has instituted various economic reforms. They are looking for an opening to the West but they need aid and Western expertise, including that of the expatriate Cambodians. The traditional enmity of the Khmer toward Vietnam makes it all the more likely that Cambodia will look to the West for support and guidance rather than the Vietnamese. A policy of inclusion rather than exclusion is more likely to influence events in Cambodia.

Therefore, the United States should use the inducement of an opening to the West and financial assistance to persuade the SOC to accept power-sharing with the NCR and internationally supervised elections. American officials should be authorized to open direct contacts with officials in Phnom Penh to facilitate these negotiations and to assess Cambodian aid requirements. In addition, the United States should begin long-term planning with other Western donors to coordinate the aid program and strengthen the Cambodian political and economic system.

Fourth. A military victory by the NCR is unlikely. Despite victories by the KPNLF in northwest Cambodia, the military capabilities of the non-Communists are limited. At best, they will be able to take and hold a sliver of territory along the border. In addition, military victory would inevitably benefit the Khmer Rouge, the strongest of the resistance forces. As a first step, the NCR should combine their political and military forces, an action which to date they have avoided because of internal power struggles and disagreements.

The principal bargaining chip held by the non-Communists is not military but economic and political. Vietnam ultimately withdrew from Cambodia because of economic and political pressure, not military. What the NCR offers the SOC is greater political legitimacy and the prospect of Western aid and recognition.

Therefore, the non-Communists should be encouraged to work with the SOC and the SOC should be encouraged to compromise with the NCR.

Fifth. The Chinese do not necessarily desire to be the sole support of the Khmer Rouge in the face of international opposition.

It should be remembered that the Khmer Rouge are an uncomfortable reminder for the Chinese of the cultural revolution, and that the Chinese for an even longer period have been supporters of Prince Sihanouk. The Chinese have cut off guerrilla Communist allies in the past, including the Malays and Thais. If ASEAN and the West break with the Khmer Rouge, there is reason to believe that the Chinese would do so as well so as not to be isolated from ASEAN and Western policy. Even if the Chinese do not immediately take this opportunity, the United States should not be bound to the Khmer Rouge simply because of Chinese policy.

Therefore, we should give the Chinese the opportunity to use verification of the Vietnamese withdrawal as a reason to cutoff supplies to the Khmer Rouge, rather than using Chinese support for the Khmer Rouge as an excuse for not promoting a political settlement in Cambodia that excludes the Khmer Rouge.

Sixth. Immediate action should be taken to end the use of Cambodian camps inside Thailand as political and military pawns by the various resistance factions. Over 320,000 Cambodians now live in these camps. In a settlement their return will have a substantial economic and political impact on Cambodia. Plans should be made now to facilitate their return and reintegration into Cambodian society.

Therefore, the United States and other donor governments should begin now to end the domination of camps by various resistance factions and individual faction leaders and to encourage planning for a peaceful return to Cambodia. The United States should endorse Thai Prime Minister Chatichai's proposal for a single, neutral camp under UNHCR control, redirecting our aid program to train Camodians in the public administration skills among others that they will need once they return.

In short, United States policy should seek to broker a settlement between the present government and the non-Communists. This will require the non-Communist to break with the Khmer Rouge and accept a power-sharing settlement with the SOC eventually leading to internationally supervised elections. The key is gaining a return and reintegration of the non-Communists into Cambodia. Given Prince Sihanouk's popularity, his return to Phnom Penh carries the potential for changing almost over night the political equation in Cambodia without the need for elaborate formulas. We should press the Hun Sen government in Phnom Penh to fulfill Sihanouk's recently declared desire to return to Cambodia as a signal of Hun Sen's good faith in negotiating with the non-Communists.

With respect to the SOC, economic inducements should be offered to gain agreement on power-sharing with the non-Communists elements. Sihanouk has already been offered the position of head of state, and the SOC has agreed to other conditions, including an international verification of the Vietnamese withdrawal, the promise of future free elections, and positions within the government for non-Communists. As for the Khmer Rouge, international efforts should concen-

trate on action to isolate and weaken them, preparing for the likelihood that they will continue to fight until defeated by a strong, popularly elected government supported by the West.

There are no easy solutions of the Cambodian problem. The West, as we have learned to our dismay before in Southeast Asia, cannot impose a solution that the people in the region will not accept. We cannot do for them what they will not do for themselves.

But we can be true to ourselves. Supporting a coalition that includes the Khmer Rouge is not being true to ourselves. Forsaking those whom we helped create in the non-Communist resistance is also not being true to ourselves. But we can make clear to both where we stand, what we will support, and how we will support it. If the non-Communists and the Hun Sen government can accept that, then progress can be made. If neither can accept it, then, as the Wall Street Journal recently editorialized, let us step aside that wait "until a decent and genuine option somehow manages to arise from the awful brew that began with the arrival of communism in Southeast Asia."

Mr. President, I am delighted that statements have been made by the distinguished chairman of the Foreign Relations Committee, Senator PELL, and by Senator KERRY on the matter of Cambodia. The United States has a very great responsibility to do all that it can to restore peace, harmony, and tranquility to the strife-torn nation of Cambodia and its people.

We had a lot to do with the turmoil that descended upon that land. Way back during the Nixon administration when we were deeply involved in the war in Vietnam, we made the incursion across the border into Cambodia, a nation that until that time had been out of most of the bloodshed. Ever since we crossed that border, tragedy has befallen steadily day after day, year after year, to the people of Cambodia.

The Khmer Rouge genocidal regime came to power there. The terrible killing fields developed. It seems to me that we have a great moral responsibility to try to do all that we can to restore peace and harmony to that country.

The opportunity may now be at hand. I believe changes are needed in the American policy, a policy inherited by the Bush administration from the Reagan administration, and at long last there are the beginnings of change. I hope that we can see more change because more change is needed.

For well over a year now several of my colleagues and I have been urging President Bush to change his policy toward Cambodia. It has been and continues to be our view that the most serious threat facing Cambodia today is the Khmer Rouge. And in my view the President's policy continues inadvertently to benefit the Khmer Rouge.

I am glad that Secretary Baker, as I said, has finally announced a new American policy toward Cambodia. The President has embraced several of the recommendations contained in a bipartisan letter which Senate Majority Leader MITCHELL, Senator JOHNSTON, and Senator DANFORTH have been circulating in the Senate, a letter that I have eagerly signed and supported. Yesterday that letter was sent to the President with the support of over 60 Senators.

I hope the administration listens carefully to what we are saying because what the President has done so far is not enough.

Specifically, the President is now ending our support for the seating in the United Nations of the Cambodian coalition which includes the Khmer Rouge. He is easing on humanitarian assistance to Cambodia and pledging cooperation on implementing the current law, which Senator BOB KERREY of Nebraska and I offered, providing American aid to children inside Cambodia. I am pleased that the President has already found some of our recommendations worthy of implementation even though a week ago last Friday Under Secretary of State Robert Kimmitt observed we have heard many criticisms of our policy but few practical suggestions.

Mr. President, the President and Secretary Baker heard not only more criticisms but also more practical suggestions at a hearing I chaired in the East Asian and Pacific affairs Subcommittee of the Foreign Relations Committee on July 20. At this hearing a number of distinguished witnesses, notably Secretary Muskie, spoke eloquently about the need to make additional substantive policy changes.

I note that the President pro tempore of the Senate, Senator BYRD, presently presiding over the Senate, has made many constructive proposals for dealing with the tragedy of Cambodia. He has gone far beyond mere criticisms of policies as has been suggested regarding all of us by Under Secretary Kimmitt. He has made very constructive suggestions over several years because of the concern that he has, that so many of us have about the politics of Cambodia and our responsibilities in that part of the world.

It is my view, as I know it is the view of the Senator from West Virginia, that much more needs to be done. The President has given us half a loaf and the half he has sent us is already growing mold. The administration officials are already telling our allies in the region that "we have not shifted our policies as much as reports seem to indicate."

I believe that, first, we should have direct talks with the Hun Sen government. Why are we willing to talk to Vietnam about Cambodia but unwilling to talk to Cambodia about Cambodia? It is the Khmer Rouge who charge that Cambodia is still a Vietnamese colony despite Secretary Baker's assurances that Vietnamese troops have left. By insisting on talking to Hanoi but not Phnom Penh, we lend credence to the Khmer Rouge charges. And I say this is a ridiculous situation.

I would now support establishing an intercession in Cambodia and ending our trade embargo. The embargo was one of the best weapons the Khmer Rouge has against Phnom Penh. By continuing the embargo, the most expensive embargo ever enforced against a country, we assist the Khmer Rouge and we hurt the Cambodian people whose need for humanitarian and development aid remains desperate.

Second, Chinese support for the Khmer Rouge must end. This should have been discussed or made a condition for the resumption of loans to China during the economic summit. President Bush wants the Congress to approve most-favored-nation status to China even as China supports the return of a genocidal regime to Cambodia. We and the rest of the free world must make it clear to China that they will get nothing—no aid, no trade, no assistance—if they continue this abominable policy of arming the Khmer Rouge. Here the Japanese allies can assist us as well by denying aid to China as long as they continue their present policy.

Third, it is time for the Thai military to stop delivering Chinese weapons to the Khmer Rouge. Prime Minister Chatchai has done much to promote a Cambodian peace settlement. I respect him for that. But the Thais must realize if the Khmer Rouge are victorious, their stability will also be jeopardized. Now is the time for the Thai military to lock their warehouses.

Finally, we must end our program of military assistance to the non-Communist resistance and redirect those funds to supporting a democratic political opposition. As long as the non-Communist fight against the Phnom Penh government, they are aiding the Khmer Rouge, and the United States is, in effect, doing the same. I say this must end.

Clearly, there is a role for the non-Communists but it must be won in the political arena, not on a military battlefield. The administration has taken a few tentative promising steps toward shaping the new policy that could help bring about a peaceful and democratic Cambodia. But a few steps are not enough to achieve a Cambodian settlement.

Let us now work together, all of us, for a policy that reflects our own

democratic values and goals for democracy in Cambodia, a policy that allows Cambodia to break free from the seemingly endless cycle of horror and bloodshed in which it has been snared for the past two decades.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

DAVID G. RUIZ RECEIVES 1990 PUBLIC SERVICE SCHOLARSHIP

Ms. MIKULSKI. Mr. President, David G. Ruiz of Maryland has been chosen to receive a 1990 Public Service Scholarship on the basis of his winning essay: "How My Education and Experience Prepare Me for My Chosen Public Career."

This scholarship is sponsored by the Public Employees Roundtable.

Mr. Ruiz' essay is worth reading, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

HOW MY EDUCATION AND EXPERIENCE PREPARE ME FOR MY CHOSEN PUBLIC CAREER

(By David G. Ruiz)

While studying in San Antonio towards an Associates Degree in Computer Programming, I applied and academically qualified for an internship in Washington, D.C. with the IRS. The opportunity enabled me to consider the various careers the federal government had to offer. I chose to pursue the position of a project leader within an automated information processing environment. After the completion of my two year degree, I accepted an offer of an entry level position which has affored me the opportunity to attain a position which is in tune with my established long range goal.

Technical skills, communication skills, time management, and interpersonal skills are among the various job elements needed by an effective project leader. I feel being a member of a management information systems team, a student majoring in Computer Information Systems & Science (CISS), and a leader of a Hispanic youth/education group within the community, assists me in learning, utilizing, and enhancing these skills.

In preparing me in the technical field of computer information systems, I have attained a two year degree related to this field and I am currently working on a related four year degree. As a computer programmer/analyst, I find both my education in CISS and job duties complement each other and have given me an edge in bringing new efficient methods and innovative tools to the IRS. With the use of software taught to me in a university lab, I was one of the pioneers who introduced the automation of drawing computer designs. With the purchase of this inexpensive package, the IRS saves many labor hours. As an intern with the IRS, I quickly applied my education and have become proficient in using the equipment as well as the standards in processing tax payer data. Many times I am sent to the field offices as a centralized point of information and I feel confident as a liaison in the field of information management.

Whether communication is oral, written, or nonverbal, the process of transmitting information from one person to another is a critical factor in all areas of life. My responses to government proposals, school assignments, and recommendations to the Hispanic youth/education committee has enabled me to learn the variety of writing techniques. As a leader of the youth/education committee, I find myself giving speeches where I have learned to express and "sell" my ideas. In general, I cultivate and maintain good communications with IRS management, community leaders, and other college students, to establish goodwill and a professional network.

As a full-time employee and a full-time student, I have developed a personal time management system that permits me to maintain a 3.8 GPA. Even with the demand on both schedules, I balance both to allocate time for participation within the Hispanic community. In addition, I have learned to use time management as a tool in meeting deadlines in all three areas.

Interpersonal skills are also critical when dealing with a unit of people. Whether it be my IRS programming team, a task force developed within a classroom, or the Hispanic youth/education committee, I have learned to be objective with other people's opinions and ideas. I have seen that a project leader's ability to work with people is a key to accomplishing the project's goal. My experience as a chosen project leader on a five month simulation at the university has given me an insight in working with interpersonal skills. Decentralizing decision making and evaluating each member's work within the simulated team were barriers I overcame.

Beside the education and experience I possess and plan to have in order to attain my chosen public service career, I observe and learn from the various project leaders within my work environment. Above all, my father taught me one of the most critical factors that any profession will need—to set goals, evaluate them occasionally, and adjust appropriately.

SQUIRE AND EVELYN BROEL CELEBRATE 50TH ANNIVERSARY

Mr. PRESSLER. Mr. President, this weekend, two fine South Dakotans celebrate their 50th wedding anniversary—Squire and Evelyn Broel, of Sturgis.

We South Dakotans are deeply proud that we have never abandoned our commitment to traditional family values. And no family better exemplifies those values than the family of Squire and Evelyn Broel.

Without doubt, Squire and Evelyn see their proudest accomplishment in their three children:

Son Larry, who now lives with his family in Walla Walla, WA.

Daughter Carolyn, who had the great wisdom to stay home in South Dakota, and now lives with her family in Rapid City.

And Daughter Jean, who resides with her family in the Washington, DC, area, in suburban Virginia.

Those three fine children will be joining their parents—and dozens of other family and friends—in Sturgis this weekend, to honor Squire and Evelyn on this very noteworthy and happy occasion.

I know President Bush has already sent his best wishes to the Broels—and I want to join the President, and the many other well-wishers—in saluting Squire and Evelyn Broel, and wishing them many more years of happiness together.

VISIT TO DARE PROGRAM IN CHEBOYGAN

Mr. LEVIN. Mr. President, a few weeks ago, I had the treat of visiting with Joe Kwiatkowski, county prosecutor for Cheboygan County, MI. Other law enforcement officials in the Cheboygan area who are participating in the Drug Abuse Resistance Education [DARE] Program were also present.

The DARE Program has been a successful effort to teach 5th and 6th grade students how to resist drugs and to fight drugs and to help our communities win the drug war.

Joe Kwiatkowski is the chairman of the DARE advisory group in Michigan. The DARE Program began in Michigan in 1987 in four counties and now exists in about 60 counties. The law enforcement community is very supportive of it and by the fall of this year, there will be approximately 300 certified DARE officers teaching the program statewide to about 50,000 5th and 6th grade students.

Senator WILSON and I have recently offered an amendment to authorize $10 million of Federal funds for the DARE Programs in our States, and the amendment was enacted as part of the drug bill that recently passed the Senate. Federal funds previously allocated to Michigan under Federal drug programs have been assigned by the State to fund DARE Programs.

One of the most creative things DARE does is give children the skills to resist pressures that lead to experimentation with drugs. On my visit to Cheboygan, three very talented students gave a rap performance on the subject of drugs. This skit would be a big hit with 5th and 6th grade classmates and fulfills one of the purposes of the DARE Program, which is to get students involved in creative ways to drive home the message about drugs. One of the lines from the rap performance was, "Drugs are a downer, life is high, so go on and kiss those drugs goodbye." That says it all.

The students—Eric Fradette, Nick Hackett, and Fred Spinella—are three reasons why we are going to win this war against drugs. I commend them, the law enforcement community in general, and Prosecutor Joe Kwiatkowski in particular for the great de-

votion they have committed to the DARE Program.

SUMMER READING IN GRAND RAPIDS

Mr. LEVIN. Mr. President, I rise today to pay special tribute to Reading Day in the Grand Rapids, Kent County areas of Michigan.

The Grand Rapids and Kent County Library Systems have designed a truly creative program to encourage library use, education and reading among their 11- to 15-year-old members. Next week, 1,000 qualified students will learn if they have been selected to spend time with Detroit Piston Isaiah Thomas in August. To qualify for the drawing, each student is required to read a specified number of books during the summer. D&W Food Centers, Inc., the Grand Rapids Public Schools, and the Coca-Cola Bottling Co. have joined in this campaign for literacy.

The Reading Day Program reaches into all corners of the area. Children for whom the libraries are geographically unavailable had transportation provided. And many eager participants involved other members of their families as well.

There are few endeavors as rewarding as developing reading skills. Reading Day is to be commended in Michigan as a program with the potential of truly enhancing its participants' lives. I applaud the fine example of the Grand Rapids and Kent County Reading Day Program.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,958th day that Terry Anderson has been held in captivity in Beirut.

AGENCY FOR MIGRATION AFFAIRS

Mr. CRANSTON. Mr. President, on Tuesday of this week I introduced legislation, S. 2896, to reorganize the agencies of the United States involved in migration affairs into a new Agency for Migration Affairs. The text of that bill was inadvertently omitted from the CONGRESSIONAL RECORD. I ask unanimous consent that the text of S. 2896 now be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Migration Affairs Reorganization Act of 1990".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to ensure that migration be given a high priority on the United States domestic and foreign policy agendas;

(2) to make sure that migration consequences are carefully considered by policymakers involved in trade, development, and international economic matters;

(3) to ensure an efficient, rapid, and coordinated response to any migration emergency that occurs in the future; and

(4) to place the responsibility for formulating and implementing United States immigration policy in a single, high-level official, reporting directly to the President.

SEC. 3. ESTABLISHMENT OF THE AGENCY FOR MIGRATION AFFAIRS.

(a) There is established the Agency for Mirgration Affairs (hereafter in this Act referred to as the "Agency").

(b)(1) The Agency shall be headed by the Commissioner for Migration Affairs (hereafter in this Act referred to as the "Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Section 5315 of title 5, United States Code, is amended by striking out "Commissioner of Immigration and Naturalization, Department of Justice" and inserting in lieu thereof "Commissioner for Migration Affairs".

SEC. 4. DUTIES OF THE AGENCY.

The Agency shall—

(1) provide overall leadership and direction for United States immigration policy;

(2) assess the potential impact on migration of major United States policy decisions, including a review of formal policy statements to be required from appropriate Federal offices;

(3) carry out a comprehensive review of current immigration and refugee laws and policies in an effort to ensure that such laws and policies reflect current migration patterns, needs, and realities; and

(4) develop data bases and analyses which will enable the Agency to project future trends in international migration, to monitor migration developments, and to prepare appropriate contingency plans for migration emergencies that may occur.

SEC. 5. TRANSFER OF FUNCTIONS.

There are transferred to the Commissioner all functions carried out on the day before the effective date of this Act by the Attorney General or the Commissioner of Immigration and Naturalization with respect to immigration laws of the United States and by the Secretary of State with respect to section 104(a) of the Immigration and Nationality Act and the following componets of the Department of State: the Bureau of Consular Affairs (except for such functions as relate to assistance for Americans abroad), the Bureau of Refugee Programs, and the asylum unit of the Bureau of Human Rights and Humanitarian Affairs.

SEC. 6. TRANSFER OF PERSONNEL AND ASSETS.

(a) The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by section 5, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Commissioner for appropriate allocation.

(b) The transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer of after the effective date of this Act, whichever is later.

(c) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executve Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

SEC. 7. INCIDENTAL DISPOSITIONS.

(a) The Director of the Office of Management and Budget, at such time or times as such Commissioner shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, office, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SEC. 8. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Commissioner, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Commissioner, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the governmental units described in section 5. Such proceedings and applications shall be continued before the Commissioner. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commissioner, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to pro-

hibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Commissioner is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the governmental units described in section 2 shall abate by reason of the enactment of this Act. No cause of action by or against the governmental units described in section 5 or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, the governmental units described in section 5, or any officer thereof in the official capacity of such officer, is a party to an action, such action shall be continued with the Agency or other appropriate official of the Agency substituted or added as a party.

(f) Orders and actions of the Commissioner in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions has been by the head of the appropriate governmental unit described in section 5 or his delegate exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearing, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Director.

SEC. 9. REFERENCES IN FEDERAL LAW.

With respect to any functions transferred by this Act and exercised after the effective date of this Act, any reference in any other Federal law to the governmental units described in section 5 or any head thereof shall be deemed to refer to the Agency or the Commissioner, respectively.

SEC. 10. ABOLISHMENT OF PRIOR OFFICES.

(a) The Immigration and Naturalization Service and the office of the Commissioner of Immigration and Naturalization are abolished.

(b) Sections 103(b) and 104(b) of the Immigration and Nationality Act are repealed.

SEC. 11. EFFECTIVE DATE.

The provisions of this Act shall take effect 180 days after the date of enactment.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2830, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Conrad amendment No. 2330, to modify the repayment requirements for advance deficiency payments for certain producers.

(2) Gorton amendment No. 2344, to provide for an apple import marketing order.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey [Mr. LAUTENBERG] is recognized to offer an amendment on pesticides.

Mr. LEAHY. I ask unanimous consent that that order be delayed for 5 minutes and that I be allowed to speak.

Mr. LAUTENBERG. If the manager will yield for just a moment, I do not think that we are prepared at this time to go ahead, and I would like to vitiate the request, with unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I have discussed the matter of recordkeeping with the Senator from New Jersey [Mr. LAUTENBERG] and hope we can reach an agreement and a time limitation on his amendment.

Mr. President, as I understand the parliamentary situation, we still have some time remaining—about 20 minutes—on an amendment raised on Monday by the distinguished Senator from North Dakota [Mr. CONRAD]. Am I correct?

The PRESIDING OFFICER. The Senator is correct as it relates to the amendment by the distinguished Senator from North Dakota. We also have a Gorton amendment that has been set aside.

Mr. LEAHY. I thank the Chair. I also understand that once those two amendments are disposed of, and unless there is another amendment pending or a Senator seeking recognition, the regular order would be then to go to third reading. Would that be correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, obviously, neither Senator LUGAR nor I are going to seek to preclude rights of any Senators. But I would suggest, based on a little bit of experience on this matter, this is the situation we are in.

Last night, in the evening session, we disposed of a considerable number of potential amendments. Most of them represented the results of a number of conferences and compromises and negotiations.

We have, both on the Democratic and Republican sides, made an effort to talk to individual Senators to find what their potential amendments are and whether they intend to bring them up or not. These amendments made up a considerable list.

I have talked with many of these Senators. Some of the amendments have been dropped. Others of them were referenced by the Senators simply to protect their rights, and are not expected to be brought up.

The distinguished Presiding Officer, having managed enough bills, knows this situation—where the Senator places an amendment on the list with the idea, "I will bring this one up only if this one passes or if somebody else goes ahead." They are protecting themselves and their States. That is perfectly appropriate.

At some point all good things must come to an end, even the farm bill.

I urge Senators if they are really serious about these amendments, bring them now to the floor. If they are not serious, or if they are not going to come to the floor with them, then I assume their amendment is in the category of simply protecting themselves or their States. Therefore, I ask that to bring up the two amendments that have been set aside, get votes on them one way or the other, see if anybody else seeks recognition, and then if there are no other amendments, go to final passage.

We have had the cooperation of the leadership on both sides. We would like to get this bill finished. I have talked with the distinguished chairman of the Senate Armed Services Committee. He has a justifiable concern, of course. There are other matters sandwiched between this bill and the defense authorization. If the farm bill goes much beyond this afternoon though, I do not know how we could even come close to the recess schedule.

I have already made plans to cancel my plans for the August recess. I expect others are beginning to do that. But I would hate to have to cancel for the second or third week also just because of the farm bill.

I hope Senators will cooperate as they did last night and the night before. We moved a great deal of things. But now I think we have disposed of all but a couple of troublesome, contentious issues. On those issues let us vote them up or vote them down.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, will the Chair tell me what the parliamentary situation is on the Gorton amendment? What would we have to do to bring that amendment before the body?

The PRESIDING OFFICER. The Gorton amendment was set aside for an unspecified time. The procedure to return to the Gorton amendment would be a call for the regular order.

Mr. LEAHY. Mr. President, I call for the regular order.

AMENDMENT NO. 2344

The PRESIDING OFFICER. The amendment is number 2344, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2344.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend line 19 of page 924 of S. 2830 by striking "or pistachios" and inserting "pistachios, or apples".

Mr. LEAHY. Mr. President, this amendment was set aside at my request and with the cooperation of the distinguished Senator from Washington State last night, because we wanted to check some aspect of it so it did not prejudice the rights of the Senator from Washington. We set it aside then.

All has been cleared. I support the amendment. I have no objection to its adoption.

Mr. LUGAR. Mr. President, on our side of the aisle we commend the distinguished Senator from Washington for his amendment and we support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 2344) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, if I understand the earlier parliamentary inquiry with the Chair, the only amendment now pending is the amendment of the Senator from North Dakota, which was set aside temporarily on Monday. Is that correct?

The PRESIDING OFFICER (Mr. KERRY). The Senator from Vermont is correct.

Mr. LEAHY. Upon disposition of that one remaining amendment, if no other amendment is pending and no Senator is seeking recognition, the regular order would be to go to third reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. The concept, Mr. President, I must say is such an enticing one. It is like an ice cream cone to a child on a warm July day in Vermont, or anywhere else I might say.

The PRESIDING OFFICER. It is like an ice cream cone for the Chair, I would say.

Mr. LEAHY. Mr. President, let us keep that thought in mind because, among others, the chairman will be able to go back to the country road in Vermont sooner than later, with or without the ice cream cone, if we can get this bill through. And I can travel through that beautiful State, from Dummerston to Burlington, and every other part of the State in between. It is too early in the day to start my travelogs of Vermont and no matter, we are in that procedure referred to in the Thomas Jefferson Manual as spinning one's wheels. But I will now make a few calls to Senators to see if we can get a couple more amendments out here, if there are any.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, the Senator from Nevada is recognized for a period not to exceed 10 minutes.

RESEARCH FOR FEMALE DISEASES

Mr. REID. Mr. President, this body consists of 100 Senators, 98 of whom are men, 2 women. The other body consists of 435 Members, 28 of whom are women, the rest men. These bodies traditionally have given money for research into diseases that affect men, primarily.

So I rise today in support of a group who are poorly represented here in the Congress, women. Recognition of who the voters really are has forced many of us to sit up and take notice of women and their particular concerns. In fact, campaign strategies, platforms, and promises are raising the awareness of issues that affect women. That increased awareness, I think, has finally made its way to the Senate floor.

We have seen the passage of the Family and Medical Leave Act, a child care bill, and I hope we will soon see an increase in funding for the Special Supplemental Food Program for Women, Infants, and Children, known as WIC. The chances for these positive legislative developmetns to become law are slim, at best, due to a veto-threatening President, as indicated yesterday by the inability of the House to override the President's veto, and a severely limited budget that faces us all. Still we must see progress here in the Senate by passing legislation that addresses the special needs of women and their families.

Mr. President, unfortunately, 200 years of a male-dominated national legislature has left its mark on women in many area. This mark, this lack of attention, is what I am going to focus on today.

I want to talk today about research as it relates to women, medical research. This, Mr. President, is an area of interest that I have.

Traditionally, men have decided, and for the most part still decide, what gets funded and at what levels. The majority in the Senate are men, and the majority in the health and research fields are men, and they decide where our Nation's resources go.

So I am here to speak for those women currently suffering from female-specific diseases, and those women who sadly have died from those diseases. If men suffered, for example, from a disease called interstitial cystitis with the same frequency as women, you can bet that this disease would be receiving far more attention than it receives at present.

Senator BARBARA MIKULSKI has been a champion of prevention and treatment for the most noted and devastating of female-specific disease, breast, cervical, and uterine cancers. In fact, just yesterday on this floor, the Senator spoke to the issue with strength and with eloquence. I hope my colleagues were listening. Those that were not listening, I hope they take the opportunity to read the remarks that she made.

I commend my colleague from the State of Maryland for her outstanding efforts, and I look forward to supporting her efforts. I also urge my colleagues to cosponsor her bill, S. 2283. Senator MIKULSKI's legislation would authorize a program within the Public Health Service to provide grants to

States for preventive breast and cervical cancer screening and referral services for low-income women. I trust that this bill, which is on the calendar, will soon become law.

Mr. President, Marilyn Quayle, a lawyer with three children, will turn 41 this Sunday. She, like Senator BARBARA MIKULSKI, is a champion of early detection of cancer, breast cancer in particular. In fact, she recently ran in the "Race for the Cure" against breast cancer.

You would expect that the wife of our Vice President, a woman who recently ran this 5-kilometer race, a woman who presumably has had the best of medical care, would not fall seriously ill. But as we have all heard, Marilyn Quayle is currently recovering from surgery for some type of cervical cancer. Thankfully, she is expected to make a full and total recovery because of early detection. I wish her a full and speedy recovery.

What, though, if Marilyn Quayle were an average citizen, one who might not seek breast examinations and Pap smears? Early detection of cancer and the accompanying rate of full recovery is particularly unlikely among low-income women who are unable to afford regular screening of both breast and cervical cancer, which have high survival rates if detected early. Yet, detection methods, particularly for uterine cancer, are far from failsafe.

In many cases, the routine pap test does not test all of the cervix, nor does it test the uterus. Again, my focus is on research funding today. More effective screening, a cure, prevention, these are what research can bring to women.

Dr. Samuel Broder, Director of the National Cancer Institute of the National Institutes of Health, said in his February appearance before the Appropriations Committee:

> Six thousand women die each year of cervical cancer. * * * Breast cancer is one of the leading causes of death in women, with 150,000 new cases and 44,000 deaths in the United States expected in 1990.

Another specialist, S.B. Gusberg, states:

> This year is 1986, there will be 14,000 new cases of invasive carcinoma of the cervix in the United States, compared with 36,000 cases of endometrial, uterine, cancer.

Pap tests and mammography screening are extremely helpful in reducing the numbers of women who lose their lives due to these cancers; yet, prevention is far preferred to treatment, and treatment far preferred to death.

Research dollars must be forthcoming if we are to find ways to prevent breast, cervical, and uterine cancer, and if we are to find improved methods of treatment, treatment that does not include radical surgery. I want to stress that the National Cancer Institute must be well funded so that research projects underway may continue, and there is, Mr. President, a real danger that they will not be able to continue, and that new projects of merit may not be funded.

The National Cancer Institute should be funded at a level that, at very least, reflects an adjustment for inflation of 1991 funding. The Bureau of Labor Statistics reports that the Consumer Price Index for May 1989 through May 1990 was at a rate of 4.4 percent.

The President's budget proposes to increase last year's National Cancer Institute appropriation by ony 3.6 percent, which would, of course, mean a reduction in the real budget of the National Cancer Institute.

A full adjustment for inflation should be the very, very minimum appropriated, Mr. President. In fact, I support the figure recommended by the National Cancer Institute, which is $2.4 billion. The American Cancer Institute's figure will permit the National Cancer Institute to grant 50 percent of the improved reasearch grants, only 50 percent, restore funds to the cancer center support grants program, and increase scientists and physician access to training in cancer research. I am pleased that the House has seen fit to appropriate about $1.75 billion. I trust the Senate can do better.

Multiple sclerosis devastates the lives of thousands and thousands of women and their families. Twice as many women as men suffer from MS. Well over 250,000 Americans, a quarter of a million Americans, are currently suffering from MS and, of course, are praying every day for a cure. When I served in the other body, I held a hearing, a symposium, in Las Vegas, NV, on multiple sclerosis. It was certainly an education to me to hear what I heard.

This disease strikes women in their most productive years. Mr. President, it strikes them in a way that there is nothing shows from the outside. They look healthy but there are many examples of woman being on the ground, on the floor, for example, doing some scrubbing on the floor, that these women simply could not rise, they could not get up. They were so weakened from this disease. Women who were making a bed that simply had to lay down on the bed, that they could not go further; people at work in a secretarial capacity that looked great but simply could not move from their desks.

As I indicated, over a quarter of a million Americans are suffering from this disease now. There have been recent significant breakthroughs in MS research. The hearing I held indicated they were close, they needed just a little bit of money. There are significant breakthroughs which point to a biologically simpler disease and a disease more amenable to treatment than scientists have previously believed. Such good news should be followed with renewed research efforts. I am pleased that the President's budget reflects a 6.6-percent increase over last year's appropriation for the National Institute of Neurological Disorders and Stroke.

Again I think we can do better. Multiple sclerosis is a disease of the nervous system. It strikes twice as many women as it does men and most often during the prime of life from ages 25 to 45.

For many sufferers, the disease lasts for years and results in serious disabilities including paralysis and blindness.

It is vitally important, also, to bring attention of this body and the American people and also bring research funding to a mysterious disease, frustrating and painful to those who suffer from it, and baffling to those involved in treating it. It is estimated that nearly 500,000 Americans, 90 percent of whom are women, suffer from this disease, which is described by some patients as feeling as though there were pieces of glass in their bladders. This disease is known as painful bladder syndrome, or interstitial cystitis. There is no known cause or cure for this disease which is marked by scarring and stiffening of the bladder wall, ulcers or cracks in the lining of the bladder, decreased bladder capacity, a frequent urge to urinate, and pelvic pain. Interstitial cystitis is a difficult disorder to diagnose, treat, and study, because not all people diagnosed with it experience all of the noted symptoms.

Remember, Mr. President, a half million women today are suffering from this disease.

The agony experienced by those who suffer from this disease is caused by thousands of pinpoint hemorrhages between tissue layers within the bladder which have begun to scar. Doctors suspect that interstitial cystitis, or IC, may be an autoimmune disease, an allergic reaction, a scar tissue disease, or perhaps an infection. But they just do not know, and women continue to suffer, a half million women as we speak.

There are interstitial cystitis patients whose lives are limited because of their debilitating pain. I sympathize with their feelings of hopelessness, knowing that there is no cure as of yet, nor, in many instances, medication that successfully lessens the pain.

Until recently it was believed that this disease was psychological because there was no physical explanation. A German psychiatric text, of only a few decades ago, reads like this:

> Urgent bladder symptoms without any established organic causes and appear to be a psychosomatic illness usually affecting married women in midlife. The majority of patients manifest serious neurotic disorders

such as anxiety neuroses, hysteria, phobia, and depression. Patients have sexual disorders, hysterical personality structure, dominated by Oedipus or phallic problems * * *.

Such medical literature was in effect, telling interstitial cystitis patients that there was really nothing wrong with them—that they were really just crazy.

I met with some women who had interstitial cystitis in my Las Vegas office and to sit and talk to them about their feelings of hopelessness and frustration, knowing that that doctors do not know the cause of their problems, their disease and certainly no way to alleviate the pain or the symptoms. But the credit for raising public awareness of interstitial cystitis, or IC goes to Dr. Vicki Ratner, the founder of the Interstitial Cystitis Association. Dr. Ratner is an orthopedic surgeon. She also suffers from IC. Dr. Ratner likens a day at work to "trying to operate on someone when you've got an abcessed tooth." Before the founding of this association 5 years ago, the scientific and clinical community were largely unaware of the magnitude of this disease, both in terms of the numbers of people suffering from this malady, and the incredible pain caused by the disease.

I am pleased to report that the National Institutes of Health is working closely with the Interstitial Cystitis Association to stimulate increased research interest in IC and to gain a better understanding of what patients with this disorder are forced to live with. NIH has established a plan for a research approach to the causes, diagnosis, and treatment of the disease.

Interstitial cystitis not only afflicts large numbers of people in the United States, but also has adverse effects on our economy. Studies have shown that the economic impact of this disease is $1.7 billion each year in lost productivity, wages, and medical costs.

I am confident that with adequate funding for interstitial cystitis through the National Institutes of Health, results will be no less than miraculous. For those who suffer chronic enduring pain, their relief will be no less than miraculous.

Mr. President, in the coming weeks the Senate Appropriations Subcommittee on Labor, Health and Human Services, a subcommittee on which I sit, will consider funding for NIH. It is my intention to see that the Labor, Health and Human Services appropriations bill devotes sufficient resources to NIH in general and to the National Cancer Institute, the National Institute for Neurological Disorders and Stroke, and the National Institute of Diabetes and Digestive and Kidney Diseases in particular, the institutes that work on the diseases about which I have spoken today, so that research on breast and cervical cancer, multiple sclerosis and interstitial cystitis may go forward. We need additional research money.

Improvements in detection capabilities, improvements in treatment, and, most importantly, cures, for these terrible diseases that routinely debilitate, or worse, take the lives of women will not be possible without research.

As I have said before, historically, women have been sorely underrepresented in positions that affect this Nation's health policy. Consequently, health problems that are unique to women have received inadequate attention. I plan to change that trend.

Mr. President, I ask that this body and the other body and the American people recognize that there are diseases that afflict women and there have been no adequate direction given to the health delivery system of this country to alleviate the pain and to certainly find cures for these diseases.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that between the hours of 11:45 a.m. and 1:15 p.m. there be 90 minutes of debate on both a Bond first-degree amendment and a Daschle second-degree amendment relating to crop insurance, with the vote on or in relation to the Daschle second-degree amendment to occur at 1:15 p.m., with no other second-degree amendments to the Bond amendment to be in order and the time to be equally divided in the usual form with the amendments to be offered during the 90-minute period.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, while the leader is on the floor, I will take time to thank the leader for his timely intervention and his crafting of an excellent agreement. We look forward to that amendment because it is one of the last items that are likely to have a sizable debate attached to them, at least in this Senator's judgment. I think that agreement provides an indication to Senators watching these proceedings that we will have a vote on a very important issue at 1:15.

Prior to that time, we are available for business, and we hope that Senators will come with amendments which can be worked out.

I thank the Chair.

Mr. MITCHELL. Mr. President, for the information of Senators, I am advised by the managers that they have, this morning, disposed of several matters which were previously thought to be contentious and would have required rollcall votes. So although no rollcall vote occurred this morning as we had anticipated when we concluded late last night, progress has been made and the number of items to be disposed of is narrowing rapidly.

I am advised, although there remain major contentious items, in numbers those items are declining. We hope to make continued progress between now and 11:45. I understand other noncontroversial amendments may be accepted. From 11:45 to 1:15 there will be debate on what I understand is a major item. Senators should be alerted to the fact that a vote will occur at 1:15 on the crop insurance amendment.

Mr. LUGAR. The leader is correct, Mr. President. I will just point out again, the length of time our debate goes on today is largely going to be determined by the time limits requested by Senators approaching the floor with amendments. It would appear there are good prospects for passage of the bill today. The question is at what hour of the day. For Senators who are concerned about the late evening hours, if they will come during the daylight hours, we can do business and, we believe, can make real progress.

Mr. MITCHELL. Mr. President, I want to reaffirm what the distinguished Senator from Indiana has just said. None of us like these late hours, especially those of us who have to get up early the next morning and go to budget meetings. If Senators want to avoid late evening sessions, the way to avoid them is obviously to come during the day and offer amendments.

As we get to what I hope is close to the end of this bill, I join with the distinguished Senator from Indiana in encouraging those Senators who have some measure that they wish to bring before the Senate to do so promptly so that we can all leave here at a reasonable and early hour this evening. It would be nice for Senators to have dinner with their families one evening, a prospect which I would like to encourage and promote.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2379

(Purpose: To provide for a fair procedure for the appeal of adverse administrative determinations)

Mr. CONRAD. Mr. President, on behalf of Senator PRYOR, I have an amendment. This amendment will improve the appeals process that is available to farmers who have been adversely affected by decisions of the Agriculture Stablization and Conservation Service of the Department of Agriculture. Among other things, this amendment will speed the appeals process and separate the decisionmaker on appeals from the rulemaker. This independence should greatly enhance the appeals process. I think this amendment has been cleared on both sides and is ready for adoption.

The PRESIDING OFFICER. Has the amendment been submitted to the clerk?

Mr. CONRAD. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for Mr. PRYOR, for himself, Mr. KERRY, Mr. DASCHLE, Mr. BOREN, Mr. CONRAD, and Mr. LEVIN, proposes an amendment numbered 2379.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place at the end of subtitle B of title X of the bill, add the following new section:

"SEC. 10 . PRODUCER APPEALS PROCESS.

"(a) AMENDMENT TO AGRICULTURAL ACT OF 1949.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

'SEC. 426. APPEALS.

'(a) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture, (the "ASCS") shall have the right to appeal any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

'(b) APPEAL PROCEDURE.—

'(1) IN GENERAL.—Such appeal shall be made in accordance with this section.

'(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning such participant may appeal such determination as follows:

'(A) if such determination was renderd by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the applicable State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act;

'(B) if such determination was rendered by a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the National Appeals Division established in accordance with this section; and

'(C) if such determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal such determination to the National Appeals Division.

'(3) TIME OF FILING OF APPEAL.—A participant shall file a notice of appeal within a reasonable time after receiving notice of the adverse determination, as determined by the Secretary.

'(c) NATIONAL APPEALS DIVISION.—

'(1) ESTABLISHMENT.—For the purpose of hearing producer appeals, the Secretary shall establish and maintain within the ASCS, a National Appeals Division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Department of Agriculture who shall have no duties other than hearing and determining formal appeals arising under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or a successor agency.

'(2) HEARING OFFICERS.—Hearing officers within the National Appeals Division shall hear each appeal made to the National Appeals Division under this section.

'(3) POWERS AND DUTIES OF DIRECTOR.—The director of the National Appeals Division, in carrying out the provisions of this section—

'(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

'(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this section from any Federal, State, or local governmental agency or unit thereof;

'(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

'(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

'(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals;

'(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out the provisions of this section;

'(G) shall issue procedural rules for the conduct of appeals; and

'(H) may delegate to hearing officers the authorities provided in subparagraphs (A) through (E) of this paragraph as the Secretary determines appropriate.

'(4) HEARINGS.—

'(A) IN GENERAL.—The hearing shall be held at a time and place designated by the National Appeals Division.

'(B) CONDUCT OF HEARING.—At a minimum, the hearing shall be conducted as follows:

'(i) the participant shall be advised of the issues involved;

'(ii) the participant shall be given a full opportunity to present facts and information relevant to the matter in issue and may present evidence; and

'(iii) the hearing officer may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

'(C) RECORD.—At the request of the participant, each hearing before a hearing officer in the National Appeals Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with all documents and evidence submitted shall be made available to the participant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing, if prepared.

'(5) REVIEW OF DECISION.—

'(A) IN GENERAL.—The director of the National Appeals Division shall make all determinations with respect to the appeals submitted to the Division for review.

'(B) PROCEDURE.—In submitting an appeal for the determination of the director, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director.

'(D) BASIS OF REVIEW.—The National Appeals Division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer, except that the director of the National Appeals Division may order that further proceedings be held in order that the record presented for review by the National Appeals Division may be complete or in order to hear new or additional evidence.

'(6) INDEPENDENCE OF DIVISION.—All hearing officers within the National Appeals Division shall report to the principal officers of the division and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the National Appeals Division.

'(7) FINALITY OF DECISIONS.—Except as provided in subsection (e), determinations of the director of the National Appeals Division shall be final, conclusive, and binding on the U.S. Department of Agriculture, including the Commodity Credit Corporation, and any agency thereof.

'(c) COURT REVIEW.—Final decisions of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

'(d) PARTICIPANT.—For the purposes of this section, a participant means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees

or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other act administered by the ASCS.

'(e) DELEGATION OF AUTHORITY.—Nothing contained in this section shall preclude the Secretary, the Administrator of the ASCS, or the Executive Vice President of the Commodity Credit Corporation from determining at any time any question arising under the programs to which the provisions of this section apply or from reversing or modifying (in writing, with sufficient reason given therefor) any determination made by a county or State committee or the director of the National Appeals Division.

'(f) DECISIONS OF STATE AND COUNTY COMMITTEES.—Decisions of the State and County Committees established under section 8(b) of the Soil and Conservation and Domestic Allotment Act, or employees of such committees made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct, unless otherwise appealed under this section, shall be final, unless otherwise modified under subsection (e) within 90 days, and no action shall be taken to recover amounts found to have been disbursed thereon in error unless the producer had reason to believe that the decision was erroneous.

'(g) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to implement the provisions of this section, including regulations governing the conduct of appeals made before State and county committees established under section 8(e) of the Soil Conservation and Domestic Allotment Act.'.

"(b) EFFECTIVE DATE.—The provisions of subsection (a) shall not apply to any appeal or proceeding with respect to any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation prior to the date of enactment of this Act.

"(c) GOOD FAITH RELIANCE.—Section 326 of the Food and Agriculture Act of 1962 is revised to read as follows:

'Notwithstanding any other provision of law, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance upon the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs.'.".

Mr. PRYOR. Mr. President, this legislation fulfills a very basic and fundamental right, and if enacted, would finally begin the process of correcting a situation that has been neglected far too long. I am speaking of a bill which would guarantee farmers a right to fair and equitable treatment, and the right to an impartial and timely review when engaged in the appeals process of ASCS at the Department of Agriculture.

The purpose of this bill is to assure producers who participate in ASCS price support and production programs are given the opportunity to seek an appeals process which is administratively independent from the program side of ASCS. Currently, when a farmer finds that he must appeal a decision rendered by the county committee or the State office, he finds that his case will be heard on the Federal level by ASCS employees who more than likely have offered input on his case while it was being reviewed on the State level. This is not the most comforting thought. Given the fact that we on the Agriculture Committee often seek active participation from the Department while we craft legislation, and after a bill is passed, some of these same people then make interpretations of the bill before issuing the regulations that will guide the enactment of the law. After all of this participation, some of these very same people will then exercise judgment on cases brought before them by producers. This is simply too much involvement from ASCS for anyone's good.

This amendment is not intended to serve as a criticism of ASCS, and certainly not their employees; this is anything but that. In fact, compliments of that agency should accompany this legislation because the job those folks perform is a noble one, especially when one considers their charge and the circumstances under which they must be carried out. They are overworked, and on the county level, they are understaffed. In spite of this, they continue to succeed in accomplishing a demanding job. This amendment, if enacted, should help alleviate some of the heavy taxation they bear.

This amendment, which results from extremely important ideas and contributions from Senator KERREY, Senator BOREN, and Senator DASCHLE, will carry us a long way on the road to assuring that farmers are extended the rights provided to every other citizen in their respective capacities. If passed, this bill would provide for an appeals process within ASCS that is independent of the program side of ASCS. Basic as that sounds, it is not the case today, and would have a major and positive impact on the entire system if done. Results that should derive from this would be a much more efficient and speedier review process, no more double duty within ASCS, and most importantly, we will provide a measure of confidence to farmers when they exercise their rights.

Such a provision has been absent and unattended and nothing will change that. This body can offer acknowledgment of the problem by providing justice to a system in serious need by approving this amendment to the farm bill. Once we can secure passage of this legislation, I will continue to work with my colleagues in an attempt to further address a process that needs and deserves constant attention. This provision is a first step; it provides for an important foundation, from which we can be satisfied, but also from which we can build.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. LUGAR. Mr. President, the amendment offered by the distinguished Senator from Arkansas [Mr. PRYOR] as we understand, creates a mechanism within USDA under which a producer can appeal to an independent entity an adverse decision by State and county officials.

Currently, farmer appeals are heard by the same agency that made the earlier decision. Some farmers have expressed great concern over this lack of autonomy. The amendment that we are considering follows, in large measure, the appeals process established within the Farmers Home Administration in the 1987 Farm Credit Act. That process is working well, in our judgment. Therefore, we support the Pryor amendment and ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. CONRAD. Mr. President, I ask unanimous consent that Senator KERREY, of Nebraska; Senator DASCHLE, of South Dakota; Senator BOREN, of Oklahoma; and Senator CONRAD, of North Dakota, be shown as original cosponsors of the Pryor amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2379) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I ask unanimous consent to add Senator LEVIN to the Pryor amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2380

(Purpose: To provide for the improvement of reports prepared by the Agricultural Attaches concerning trade barriers)

Mr. CONRAD. Mr. President, I send an amendment to the desk on behalf of Mr. LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for Mr. LEVIN, proposes an amendment numbered 2380.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 488, line 20, strike "and";

On page 488, after line 24, add the following:

"(C) where practicable, the average prices and costs of production in such countries for like commodities exported from the United States to such countries; and"

On page 489, strike line 6 and insert the following: "reports prepared under subsection (a)—

(A) on a country by country basis; and

(B) on a commodity by commodity basis for exports of United States agricultural commodities including fruits, vegetables, legumes, popcorn and ducks, as determined appropriate by the Secretary, the export of which is hampered by an unfair trade practice. Where practicable, the report shall include a comparison of the average prices and costs of production for such commodities in the United States and in the importing countries for the previous crop year.".

Mr. CONRAD. Mr. President, this amendment on behalf of Senator LEVIN requires that the Secretary of Agriculture compile a report on foreign unfair trade barriers on a commodity basis and provides that the agricultural attaches collect information on foreign prices and cost of production where practicable.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN. Mr. President, I am offering an amendment today to improve the reporting of unfair foreign trading practices so we are in a better position to attack them. The amendment will help exporters, growers, and policymakers to get a better picture of the barriers to U.S. agricultural exports. It wil give everyone better information to seek out the best market opportunities and make clearer to policymakers which crops are facing unfair trading practices by our competitors. The amendment specifically highlights the need for reporting on fruits, vegetables and beans, as well as a number of other commodities suggested by the senior Senator from Indiana.

The amendment would alter the reporting on trade barriers to U.S. exports, which is now done on a country-by-country basis, to include commodity specific information. It does not require new and elaborate collection efforts. The information is already being collected by our agricultural attaches. The amendment will simply include an additional way of compiling data so that one can look at the information for a single crop and have a listing of the countries with, and the types of, trade barriers to that U.S. crops. Now, one has to review each countries' system of trade barriers to determine if the crop in question is facing unfair practices. Single commodity reporting will also assist trade policymakers and farmers seeking to take advantage of the new flexibility provisions, because they will have a better understanding of the international market demand for, and obstacles to, the export of their crops.

Also, the amendment encourages the collection and development of coordinated information on crop prices which will show the crop's average domestic U.S. price versus the average price of the U.S. export on the market in the importing country. Where practicable, the reports would also include a comparison of the costs of production by crop. This will help further clarify unfair trade practices.

Agricultural trade is going to be an ever-increasingly competitive enterprise as a new, more open world market develops. Producers and policymakers need as clear and concise information a possible. The Federal Government is well-positioned and has a responsibility to give American agriculture the best information available on the domestic and international marketplace so we can fight for a level playing field.

Mr. LUGAR. Mr. President, we commend the distinguished Senator from Michigan for this amendment. We believe this information will be very useful to the Congress and the administration as we get into trade issues and debate. It is important to have the basic facts that have been compiled and assimilated by the agricultural attaches. We support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2380) was agreed to.

Mr. LUGAR. I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been noted, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ SANCTION AMENDMENT

Mr. D'AMATO. Mr. President, on May 17 this year I offered an amendment to the Chemical and Biological Weapons Control Act of 1989 imposing sanctions against Iraq. After a prolonged debate in which many labeled "sanctions rash" and "unduly duly harsh" I withdrew that amendment. It gives me no pleasure to tell the Senate that I told you so, that Saddam Husayn is a menace pure and simple. I called him the "mad dog of the Middle East" at the time. Some said my statement was objected to by mad dog. Too bad. Too bad.

That is exactly what his actions have been. He is a bully. He uses threats of arms. He has us rockin' and rollin'. I intended to offer an amendment that would impose sanctions against Iraq. My amendment was cosponsored by Senators PELL, HELMS, MOYNIHAN, and KASSEBAUM.

We find today that Iraq is engaging in an even more belligerent activity than she was doing at that point of time.

So, Mr. President, let me say to the managers of the bill that I will be proposing an amendment that brings about sanctions. I do not think we should be able to simply hide from the truth by saying that if we are to state publicly what is taking place and indicate that we are not going to be doing business, and facilitating trade with Iraq, that we share not only concern but a sense of displeasure that somehow that is going to exacerbate the situation. I do not think Iraq's pulling or withdrawing some of her troops from the border should be cause for us not going forward.

I understand there is some time agreement pending, Mr. President.

The PRESIDING OFFICER. The Chair advises the Senator from New York that at the current hour of 11:45, by previous agreement, we will turn to the amendment to be offered by the Senator from Missouri and the Senator from South Dakota.

Mr. D'AMATO. If I might be permitted 30 seconds, I ask unanimous consent?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I intend to offer that amendment. I wanted to inform the managers of the bill that we are serious, that there are many cosponsors, and many who will wish to join. At some point later on in the day I will be offering an Iraqi sanctions amendment, long overdue.

Thank you, Mr. President. I thank my colleagues. I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

ORDER OF PROCEDURE

Mr. LUGAR. Mr. President, for a point of clarification, as I recall the order called for two amendments to be discussed during the next 1 hour and a half. I ask unanimous consent that the time on the majority side be controlled by Senator CONRAD, and the time on the minority side by Senator BOND.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The time is under the control of the Senator from North Dakota and the Senator from Missouri.

Mr. FOWLER. I say to the President, I appreciate that clarification. He is as usual accurate. I am trying to find a way to get the attention of one of the floor managers through the Chair. If you would ask the chairman of the committee, the Senator from Vermont, if he might yield me time, I would appreciate it.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota?

Mr. CONRAD. I am wondering if we could get ask unanimous consent to simply put off the beginning of our debate on crop insurance for 5 minutes to accommodate our colleague from Georgia who has an amendment to offer at this point.

Mr. LEAHY. Mr. President, I ask unanimous consent that the time agreement just entered into on crop insurance, that the same time agreement, be in effect but starts 5 minutes later, and end 5 minutes later.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The time agreement will commence at 11:50.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, I thank as usual the chairman of my committee and the ranking member, Mr. LUGAR, for their courtesy.

I assume there are no pending amendments.

The PRESIDING OFFICER. There are no pending amendments.

AMENDMENT NO. 2381

(Purpose: To establish certain agricultural promotion programs)

Mr. FOWLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER], for himself and Mr. BOND, proposes an amendment numbered 2381.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted".)

Mr. FOWLER. Mr. President, I see my distinguished colleague from Missouri, Mr. BOND, on the floor. He joins me in offering this amendment to establish or improve existing research, promotion, and consumer education programs for eight important agricultural commodities.

This amendment is actually very similar to S. 1838 which we passed in the Senate by unanimous consent late last year. However, we believe that including these provisions in the 1990 farm bill will ensure enactment in the most timely manner. The amendment authorizes new programs for soybeans, fresh mushrooms, limes, and pecans. It makes important modifications to existing programs for cotton, potatoes, honey, and Vidalia onions.

These checkoff programs are funded and administered entirely by producers with oversight by the Secretary of Agriculture. They operate at no cost to the Federal Government. Yet they provide agricultural producers the ability to unite on a national level to conduct effective marketing and research activities for their products.

Checkoff programs have proven extremely successful in maintaining and expanding existing markets, and developing new markets and uses for our commodities.

Each program has been crafted separately to address the marketing needs of each commodity, from food safety research to the development of overseas markets. We strongly believe that producers of these commodities should be given the opportunity to implement these self-help programs and strengthen their respective industries in the overall farm economy.

We have, Senator BOND and I, over 30 cosponsors on both sides of the aisle. I ask all my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. GRAHAM. Mr. President, I rise in support of the amendment being offered by my distinguished colleague from Georgia, Senator FOWLER.

This amendment is substantially the same as S. 1838, which passed the Senate by unanimous consent late last year. It is important to include these same provisions in the Senate farm bill in order to have them enacted in a timely manner.

Although I support many provisions of this bill, the promotion and research programs established for mushrooms, soybeans, and pecans—all important Florida products—have my support. But I wish to address specifically the lime promotion and research program, which I sponsored as freestanding legislation June 15, 1989.

The lime promotion program would help lime growers continue their past successful efforts to improve and expand markets for limes.

Lime growers currently market their product under authority of a Federal marketing order. Grower's have used the marketing order since the early 1960's for two purposes: One, to place minimum quality standards on fruit shipped through interstate trade channels; and two, to advertise and promote their product. The growers fund the program by placing an assessment on each box of limes sold.

Because of changing market conditions, the marketing order needs updating. Until recently, all the fresh limes consumed in United States were produced in the United States. Now, nearly half are produced overseas. Therefore, this amendment establishes a program allowing for an assessment on imported limes that equals the domestic assessment. This is fair and reasonable; the market for imported limes is enhanced by the promotion program just as well as the market for domestic limes.

Mr. President, the lime promotion program is not in any way a trade barrier. There is absolutely no prohibition on the importation of limes into this country. Foreign growers will be included in the regulatory board governing the marketing order. They will be equal contributors and equal benefactors.

This provision helps domestic growers continue their past successful program to improve markets for their product, and helps make foreign growers partners in the new marketing order.

Mr. DECONCINI. I rise today in support of the amendment offered by Senator FOWLER and others establishing new agricultural promotion programs as part of the 1990 farm bill. I am proud to be an original cosponsor of this amendment. The proposal applies to many crops and programs; however, I have special interest in its application to cotton and pecans. I might note that the provisions of this amendment that apply to cotton are identical to those included in S. 1838 which I also cosponsored and which passed the Senate by unanimous consent late last year. This amendment is strongly supported by over 50 regional and national cotton organizations throughout our country.

Mr. President, the cotton industry believes strongly in taking personal responsibility in the development and coordination of programs for their industry. Since 1966 they have maintained a cotton promotion and research program placing them in a leadership role for all agriculture. This program, funded and managed by producers, has made significant contributions through research, new product development and by building consumer awareness and recognition of cotton products. Last year, over 85 percent of the growers in my State of Arizona voluntarily participated in the program, the highest participation rate in the Nation. It is a shining example of the effectiveness of coordinated contracts and cooperative agreement partnerships between Government and private enterprise.

Mr. President, even though this program has been successful, it has room to grow and needs to be improved. Cooperative advertising and promotion programs have worked as evidenced by the cotton market share gains in numerous end-products. However, foreign cotton producers have derived direct benefit from this program entirely supported by domestic producers. The importation of cotton is growing at an average annual rate of nearly 20 percent. And, today, foreign products account for an estimated 40 percent of our total domestic consumption. As our cotton industry works harder to develop new products and better consumer awareness, foreign producers are receiving the benefit but only our domestic producers are paying for the program.

Mr. President, the purpose of this amendment is not to lessen foreign importation of cotton. It is simply intended to ensure that all producers contribute their fair-share to the cost of developing markets. The proposal will authorize a 100 percent uniform assessment on domestically produced and imported cotton products consistent with the requirement that any assessment be applied equally. Further, it recognizes the need for representation of importers on the governing body which supervises the operation of the program. Before any additional funds can be collected, producers must approve the proposal by majority vote as has been required with previous referendums. Should the referendum fail, refunds would be made available from an escrow account and the current program would be reinstated.

Mr. President, this program will not cost the Federal Government anything. All Government expenses will be reimbursed, and USDA will continue to supervise the program as it has in the past. Most importantly, it will give cotton producers an opportunity to strengthen their own self-help program.

I urge my colleagues to support this proposal. Let us help an industry that is working hard to help itself, at no cost to the Federal Government.

Mr. McCAIN. Mr. President, I would like to offer a few words on behalf of the amendment introduced by Senators FOWLER and BOND to establish research and promotion programs for commodities. I am pleased to be a cosponsor of this amendment, and urge my colleagues to support it.

This amendment would help establish research and promotional activities for soybeans, mushrooms, pecans, potatoes, and cotton, and other farm products. Each of these commodities has different needs as far as expanding and strengthening their markets, and developing new ones. The checkoff programs called for in this measure will allow each industry to address their own needs. The checkoff programs have been very successful in assisting our farmers and ranchers in promoting the benefits of their products. We should adopt this amendment as part of the 1990 farm bill to make these programs more helpful and equitable to our farmers.

Of great importance to my State is the provision for a cotton program. Arizona is the fourth in the Nation in cotton production, and Arizona cotton growers can take great pride in having the highest cotton yield per acre of any State in the country. Under this amendment, a referendum of cotton producers, as well as other commodity producers, will be held to seek the approval of the industry for continued and expanded research and promotional programs.

The U.S. cotton industry faces strong competition from synthetic fiber products, and research efforts are crucial to providing cotton growers with the skills and techniques to meet this challenge. The quality and value of the cotton-based products that Americans use every day are constantly improving as a result.

This amendment will allow assessments to be placed on imported cotton goods, so that importers contribute a fair share for the promotional programs that increase consumer demand for their products. Importers will then participate in the governing body which will oversee the program.

Mr. President, the effectiveness of the research and promotion programs called for in this amendment are significant, and they do not require the outlay of any taxpayer dollars. There is tremendous support from the producers of all the commodities involved for its adoption. I strongly believe that we should help our farmers in these vital efforts and adopt this measure.

The PRESIDING OFFICER. The Chair would advise that at this moment, by previous order, we are to return to debate on the crop insurance amendment.

Mr. FOWLER. Mr. President, I ask unanimous consent that this amendment be accorded 2 extra minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. As an original cosponsor, along with Senator PRYOR, of the soybean promotion and research checkoff [SPARC], I strongly support this amendment.

This legislation passed the Senate last year and now is part of the CFTC reauthorization bill. However, this is the most appropriate place for this bill.

The American soybean farmers will pay for this program out of their own pockets; this is not a federally funded program.

The export market is probably more important to soybeans than any other crop grown in the United States. Over one-half of annual production is destined for export. World demand for oilseeds is growing at 4 to 5 percent a year.

In my home State of Missouri, one-half of all soybeans and soybean products are exported—more than $560 million in 1988.

WHAT DOES SPARC DO?

First, authorizes a nationwide checkoff of one-half of 1 percent of the net sales proceeds of each bushel of soybeans. This equates to about $50–$60 million, given current conditions.

Second, establishes a farmer-run national United Soybean Board. The Board is charged with allocating funds, subject to the approval of the Secretary of Agriculture.

Third, strictly limits administrative costs to no more than 5 percent.

Fourth, maintains existing State checkoff programs by investing 50 percent at this level.

Fifth, mandates a farmer referendum within 18 to 36 months. During this period, refunds will be allowed.

Sixth, requires a recall vote at the request of at least 10 percent of the soybean producers. However, there must be a certain degree of geographic distribution.

Educational programs, producer funded, will increase consumer awareness of the many important health benefits associated with soybean products.

When asked "What kind of cooking oil do you use?" only 15 percent of U.S. consumers say they used soybean oil in the last 3 months when, in fact, soybean oil is currently 75 percent of the U.S. vegetable oil market.

Soybean oil is the major ingredient in: 85 percent of margarines; 70 percent of solid shortenings; 95 percent of prepared dressings.

Mr. President, I ask unanimous consent that compromise report language agreed to last year between the U.S. Department of Agriculture and the American Soybean Association be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPROMISE REPORT LANGUAGE BETWEEN THE U.S. DEPARTMENT OF AGRICULTURE AND THE AMERICAN SOYBEAN ASSOCIATION, AUGUST 9, 1989

"It is the intent of the Committee in authorizing the promotion activities as defined in this section, to permit the United Soybean Board to conduct activities which will improve the competitive position of soybeans and soybean products and maintain and stimulate increased sales of soybeans and soybean products both domestically and in foreign countries. Included in this definition are traditional promotion activities such as paid advertising and media relations activity.

The Committee recognizes the heavy reliance on exports of the domestic soybean industry. If the domestic industry is to maintain and expand its export opportunities, it

must provide importing nations with technical assistance relating to the storage, use or distribution of soybeans or soybean products and other trade servicing activities similar to those being conducted by industry organizations through the cooperator program implemented in conjunction with the Foreign Agricultural Service of the Department of Agriculture.

In addition, the Committee acknowledges that the United Soybean Board must, in certain situations, conduct activities designed to communicate information to those persons that have an influence on purchases, importation, utilization or distribution of soybeans or soybean products. In many instances, those persons include officials of foreign governments. Therefore, the United Soybean Board must be able to communicate with government officials of foreign countries relating to the positive attributes of soybeans or soybean products, or their importation, utilization or distribution or to develop information regarding the effects of existing or proposed impediments to trade or utilization. The Committee recognizes the potential problems associated with the United Soybean Board engaging in foreign trade activities that may be viewed as establishing or conflicting with the conduct of the official policies of the U.S. Government. A balance must be struck which will allow the United Soybean Board to conduct those activities necessary to facilitate exports, while not authorizing the United Soybean Board to negotiate foreign trade policies on behalf of the U.S. Government. It is not the intent of the committee that the United Soybean Board independently conduct negotiations with or represent U.S. Government of domestic soybean producer industry positions to foreign government officials advocating the removal or modification of tariffs, quotas, or other import barriers. This would not preclude the United Soybean Board from providing technical assistance to the U.S. Government during negotiations or discussion. Trade negotiations are a function of the United States Trade Representative's Office. However, the United Soybean Board must be able to promote its products to those who have an influence on consumption and provide information to consumers, importers, processors, wholesalers, retailers and, as deemed appropriate by the Secretary of Agriculture, foreign government officials relating to the effects of existing or proposed impediments to trade or utilization of soybeans or soybean products.

It is the intent that all plans and projects conducted by the United Soybean Board are to be approved by the Agricultural Marketing Service of the Department of Agriculture. The Committee believes that this review process will preclude any activities by the United Soybean Board that could run counter to or obviate other official ongoing or planned trade-sanctioned activities of the United States Government. The Agricultural Marketing Service, in approving any projects which involve interaction with foreign government officials, shall consult with and obtain the views and comments of the Foreign Agricultural Service and the United States Trade Representative's Office."

Mr. BOND. Mr. President, I have worked closely with the American Soybean Association [ASA] on this legislation. ASA strongly supports the promotion program we have before us, and I believe this will be of tremendous benefit to soybean producers and consumers alike.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I support the agricultural promotion programs amendment to authorize referendums on assessments, or checkoffs, for research and promotion of several specified commodities.

This amendment establishes a series of farmer self-help initiatives which will further strengthen farm income from the marketplace and reduce dependence on Government assistance. This will enable producers of the specified commodities, to develop, finance and implement nationally coordinated programs for the promotion and research of these commodities, at no cost to the Government.

While the Department of Agriculture would provide oversight and ensure compliance, the checkoff program would be run by producers at the State and national level. The revenues generated by this program would be used specifically for the promotion of the commodities and administrative costs would be capped at 5 percent. Funds could not be used for lobbying purposes. Additionally, 50 percent of the funds would remain in each State, targeting State-specific problems for research and promotion of the commodities. Finally, this program would be subject to a producer referendum. Producers would vote on whether to continue the program or not, ensuring their right to make the ultimate decision regarding their involvement in the checkoff program.

I urge all Senators to support this amendment.

Mr. SPECTER. Mr. President, I support the Fowler-Bond amendment to include a number of research and promotion programs in the 1990 farm bill. I would like to speak briefly on one section of this amendment that will have a significant impact on my constituents.

I have the honor of representing the largest mushroom producing State in the Nation. Pennsylvania produces over 185 million pounds of fresh mushrooms annually. They come from small to medium sized, family operated farms that have been in business for as long as three generations in the Chester County area, and from the larget mushroom farm in the world located in the western part of my State. Also, the American Mushroom Institute, the trade association which represents over 85 percent of the mushroom production in the United States, is located in Kennett Square, PA.

The mushroom producers of Pennsylvania have come to realize, along with producers from across the country, that they must play an active role in the marketing of their product. They are asking Congress for the authority to vote in a democratic referendum on whether to establish a research, promotion, and consumer information program for fresh mushrooms.

I would remind my colleague that these programs are entirely producer-funded and producer-operated. They have no cost to the Federal Government. From my position on the Agriculture Appropriations Subcommittee, I know we have far more requests for research dollars that we have funds to spend. Therefore, I believe we should encourage the producers of commodities that take on self-help initiatives, such as these research and promotion programs.

If approved by producers in a referendum, the projects undertaken by the Mushroom Council would work to strengthen the fresh mushroom industry's position in the marketplace, maintain and expand existing markets, and develop new markets and uses for mushooms. This program will allow the mushroom industry to collectively develop projects to provide information on the nutritional benefits, the proper selection, storage, handling and preparation of mushrooms—all of which will be of substantial benefit to the consumer.

Mr. President, this amendment is supported by the overwhelming majority of the fresh mushroom industry, who have worked for many months hammering out a compromise position, and I urge adoption of the Fowler-Bond amendment.

The PRESIDING OFFICER. Is there further debate?

Is there objection to the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2381) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The hour of 11:52 a.m. having arrived, the business before the Senate is the consideration of the crop insurance amendments, with the time to be controlled by the Senator from North Dakota and the Senator from Missouri.

Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2382

Mr. BOND. Mr. President, we have worked long and hard to develop an appropriate response to the concerns that have arisen about our system of crop insurance and disaster relief.

To give my colleagues an idea of what is going to occur, when the amendments are completed by legislative counsel, I intend to lay down a first-degree amendment which sets forth a crop insurance reform package. Included in that amendment will be a sunset provision.

I understand that the Senator from South Dakota will then lay down a second-degree amendment, which will add certain provisions and strike the sunset provision.

At the conclusion of the 90-minute time agreement, I intend to move to table the second-degree amendment.

The basic concepts, I think, have been agreed upon by both sides, and the question will be over the three differences between the amendments. As soon as we receive the amendments from legislative counsel, we will lay them down. That is the procedural situation in which we are going to move ahead.

Last year, I joined our distinguished minority leader and other legislative leaders, the Secretary of Agriculture, and the President at the signing of the 1989 disaster relief bill at the White House. At the time we, once again, stated that it seemed to make no sense to have an expensive system of subsidized crop insurance along with ad hoc disaster assistance. In addition, although we still have crop insurance this year, there has already been another disaster relief bill introduced.

The frustration over crop insurance is extensive. A news conference was held yesterday featuring several former Secretaries of Agriculture, including Earl Butz, Robert Bergland, Richard Lyng, Orville Freeman, Clifford Hardin, and John Block. Prior to the news conference they issued a statement saying, "given the extensive experience on the part of the Federal Government with Federal Crop Insurance, we believe that an actuarial sound program can be structured for the benefit of farmers at a minimum cost to the Federal Government."

In addition, I think my colleagues who follow farm issues know that the House has passed an appropriations bill which zeroed out crop insurance for the 1991 fiscal year.

Included in the Agriculture Appropriation Committee report is a statement, "the committee will expect the corporation"—the Federal Crop Insurance Corporation—"to discontinue issuing new policies after September 30, 1990, until such time as major revisions are made to provide for long-term risk, management protection."

It is for this reason that we are here to discuss the future of Federal Crop Insurance. It is a difficult and complex measure, but it is vital for farmers across America, as well as in my State of Missouri.

While I remain critical of the current program of crop insurance, I also recognize that permanent disaster assistance alone will not solve our problems. I have come full circle on this issue. Initially, I thought perhaps we could have a permanent disaster assistance program.

I spoke yesterday with the Secretary of Agriculture, Clayton Yeutter, who has advised me that it is his strong personal belief, and preference, that we develop an actuarial sound crop insurance program that is equitable and that is within budget guidelines.

The Federal Government, I believe, must remain in a position to provide a safety net in times of catastrophic natural disasters. I believe we can, and must, improve the relationship between the Federal Government and private companies offering crop insurance. It is critical that we address crop insurance in the 1990 farm bill. That is why my amendment is being offered.

If we cannot agree on a permanent solution, which we have not been able to do so far, I hope that we can at least agree on a series of steps leading to major reform. That is what we hope to do today.

Prior to 1980, USDA provided disaster assistance for program crops. It was structured like the 1988 and 1989 disaster bills and the program cost $510 million annually from 1974 to 1980.

In 1980, Congress abandoned the disaster program as being too extensive and encouraging production in high risk areas. The Federal Crop Insurance Act of 1980 represented a second generation safety net. However, crop insurance has not lived up to expectations. Nationwide, participation remains very low, despite the fact that we have required those farmers who have received disaster assistance to purchase crop insurance for the ensuing year.

Prior to the requirements of the 1988 and 1989 disaster bills, only 1 acre in 4 had crop insurance. In Missouri, in 1989, participation was only 31 percent for corn, 24 percent for soybeans, 11 percent for wheat, 4 percent for rice, and 1 percent for cotton. Participation was low, despite the fact that the number of eligible crops has almost doubled since 1980, and nearly every county in the Nation is now eligible for some type of coverage.

This Crop Insurance Program, despite its costs, still has failed to prevent ad hoc disaster assistance. According to the GAO, since 1980, USDA has provided a total of $17.6 billion in disaster assistance in the form of crop insurance, direct disaster payments, and emergency loans. This is symptomatic of Congress' ability to decide how best to respond to natural disasters.

This program of crop insurance remains expensive, and it has failed to be actuarially sound. We spend about $1 billion annually on crop insurance. Nationwide, FCIC pays $1.56 in claims for every dollar in premium charged.

Mr. President, you cannot even make up on volume what you lose on that kind of deal.

Mr. President, over the 1981-88 period eight States had loss ratios exceeding two to one. That means for every $1 of premium paid in, $2 or more was paid back in claims. One State had a loss ratio that exceeded four. That has to be a good deal; $1 of premium gets you $4 in claims.

That is no way to run an insurance program.

From 1981 through 1989 crop insurance companies made a profit of $50 million and received $856 million in reimbursements for operating expenses. At the same time, for the FCIC, on the other hand, indemnities exceeded premiums by $1.4 billion. Let me reemphasize that. The private crop companies made an underwriting profit of $50 million and the Federal Government paid out indemnities above premiums of $1.4 billion. I am advised by USDA that one company made an $11.7 million underwriting profit while FCIC lost $254 million.

If every crop failed 100 percent, the maximum the companies could lose is 15.58 percent. In 1989, if all policies had been paid out 100 percent on the insurance liability, the private sector would pay out $1.8 billion and FCIC would pay out $12.3 billion.

The current program remains riddled with examples of misuse. There has been several highly publicized examples of payments for damages occurring after harvest policies purchased after a disaster, and payments made on undamaged acres. In my State, I have heard the anecdotal evidence time after time. I even had the chance to talk to one crop insurance agent who proudly told me of the fact that claims had been paid out to 90 percent of his insurance clients in the 2 disaster years; 90 percent of them recovered. I asked him how much had been paid out in years when the weather was excellent, when we had the best weather for growing crops; he proudly told me even in those years he had been able to pay 40 percent of his clients.

Something is wrong when we have farmers farming for crop insurance and not for the market.

Recognizing the need for reform, Congress established a Crop Insurance Commission in 1988. Under the act an advisory panel was created to review the current program and make recommendations for improvement. That commission submitted its report to Congress last July. Several of the more than 50 recommendations have been implemented administratively. Other recommendations, however, would lead to significant Federal outlays and have not been implemented.

According to USDA testimony, in aggregate, their recommendations would add hundreds of millions of dollars to the cost of the program.

In sum, the recommendations were for more money, not reform of the system. That just will not get it in this time of tight budgets, or any other time, when we are trying to run a responsible Government program.

The USDA estimates that the current program will cost $1.1 billion for 1990. The current CBO baseline includes $4 billion for crop insurance over the next 5 years.

As I said before, many Senators are aware that our colleagues in the House have decided to appropriate only enough funds for policies entered into before the end of September. Understandably, this has created a good deal of confusion around the country.

I hope that we can approve, in this body, something which addresses their concerns by sending a signal that we are serious about reform of the system.

Under the Bond-Lugar-Boschwitz proposal we have worked together to devise some reforms in the system. The package recognizes budget constraints, seeks increased participation thus reducing the risk of ad hoc disaster assistance, and establishing an actuarially sound program.

I thank the chairman and I thank the ranking member for their cooperation and perseverance on this issue. We have worked hard with their staffs and we appreciate the many good suggestions which have come from both sides of the aisle.

We have been unable to craft a program which meets the objectives of our reforms but we have come up with a working model, the Crop Insurance Adjustment Act of 1990, which will start us in the right direction.

First, the package includes limited structural reform. FCIC is directed to improve actuarial soundness to improve the relationship between premiums and risk. The increase in producer premiums cannot exceed 20 percent annually, thus minimizing the sticker shock to the farmers purchasing crop insurance.

Second, the FCIC is directed to adjust reinsurance contracts so that companies bear a greater amount of risk.

Third, the FCIC is to implement a pilot program to encourage private companies to offer alternative forms of coverage. This will allow for policies better tailored to indvidual needs.

The amendment includes several other improvements suggested by members of the Agriculture Committee.

Finally, our amendment provides that the FCIC would be terminated at the end of 1993. This provision shows that Congress is serious about reform by forcing action. It allows the time necessary to hold hearings, develop a bill, move it through the committee and through both Houses. Finally, the provision will allow for a period in which limited structural reform could be implemented and evaluated.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I yield myself such time as is necessary, but will you please inform me at the end of the 10 minutes?

The PRESIDING OFFICER. I will do that.

AMENDMENT NO. 2383 TO AMENDMENT NO. 2382

Mr. CONRAD. Mr. President, I rise today in support of the Daschle amendment. It is a reasonable approach to initiating much needed reform of the Federal Crop Insurance Program. It sends the right message that Congress supports the program and will enact further reforms in the next 2 years. In contrast, the Bond amendment sends the message that Congress intends to eliminate the Federal Crop Insurance Program. I believe the Bond amendment will cause panic among farmers and private insurance companies leading to the early demise of the program.

Mr. President, the Federal Corp Insurance Program has been under attack this year. The administration proposed to eliminate it in 1991, undermining the vital protection offered by the program and substituting a county-loss triggered disaster program. The House recently acted to eliminate funding for crop insurance in fiscal year 1991.

Mr. President, I believe the Senate does not agree with those positions. If that is true, then my colleagues should support the Daschle amendment and reject the move to eliminate crop insurance as is contained in the Bond amendment.

The Federal Crop Insurance Program works overall in my State because it allows my farmers to individually insure their crops; 89 percent of North Dakota's eligible farm acres were insured for multiperil crop insurance last year. In 1989, 51 percent of the Nation's insurable acres were covered by multiperil crop insurance.

However, it is clear that changes need to be made in the Federal Crop Insurance Program to make it more responsive to individual farmer's needs, more actuarially sound, and less subject to inefficiency and abuse. For example, North Dakota farmers would like to see coverage of more crops, dollar-denominated coverage, and the option to use ASCS yields or 5-year actual production history yields.

My good friend from Missouri and I agree that changes are needed. That is not the debate on these amendments. There are only three differences between the Daschle amendment to reform crop insurance and the Bond amendment to reform crop insurance as I understand it.

The primary difference is that the Bond amendment would sunset crop insurance by 1993. Sunset crop insurance. Mr. President, can we imagine saying to our colleagues because Medicare is a troubled program we ought to sunset it in order to put pressure on Members to reform it?

What sense would that make? But that is what the Bond amendment proposes for crop insurance. Let us sunset it to put pressure on Members to change it. Let us kill the patient and then see if it can be revived.

As I have indicated, most of the provisions contained in the Daschle amendment and the Bond amendment are identical. These provisions start the process of reforming and improving the program by authorizing a number of the recommendations of the Commission for the Improvement of the Federal Crop Insurance Corporation. They make changes that farmers in my State and many States desire.

Let me just highlight a few of these reform provisions. Both of the amendments before us today would authorize dollar-denominated coverage so the producers can insure their crop by a dollar amount per farm. These amendments allow producers to insure their crops using ASCS yields instead of the 10-year actual production history or transition yields based on the average developed from ASCS county yield data.

These provisions require Federal Crop to renegotiate reinsurance contracts to ensure that private insurance companies bear a reasonable amount of risk. In addition, they will reduce abuse of Federal crop insurance programs by requiring the use of producers' Social Security numbers, which allows the tracking to detect double dipping, and authorizing civil penalties for persons who knowingly provide false information.

Mr. President, I am not going to spend a lot of time talking about the similarities of these two amendments. There are three significant differences.

First, the Bond amendment, as I indicated earlier, will terminate crop insurance in 1993. This is not just a standard provision to require reauthorization of appropriations. It terminates the program, with instructions for the orderly liquidation of assets at the end of fiscal year 1993. The Daschle amendment will not terminate the program.

Second, the Daschle amendment will show the Senate's support for the continuation of funding for Federal crop insurance, in light of the House action by the Agriculture Appropriations

Committee to zero out the program at the end of this fiscal year.

Third, the Daschle amendment will require Federal crop insurance to make coverage on a crop available statewide if it is covered in any counties in the State. Mr. President, this provision will not require Federal crop insurance to extend coverage in a county where production of the crop is too risky. It is immensely frustrating, however, to farmers that, while the neighbor in the next county may be able to get Federal crop coverage on a crop, they cannot purchase insurance because that crop is not covered in their county.

I hear similar stories from farmers across the Great Plains. This frustration has worsened since Federal crop insurance eliminated its contiguous county policy. This amendment should improve the availability of coverage, and I commend Senator DASCHLE for including it in his amendment.

As I said earlier, I agree with Senator BOND that changes need to be made in the Federal Crop Insurance Program. But the way to initiate change is not by sunsetting the program. That will simply send a message to Federal crop insurance to phase out its operation, and a message to its employees to look for other jobs. It will bring to a halt current program development on new crops, and it will discourage any innovations because the future of the program is unknown. In addition, farmers and insurance companies will lose confidence in the program, which will lead to reduced participation and will create worse problems than currently exist.

Senator BOND's amendment would at best suspend the agency's efforts to improve and expand the program, and at worst push it into a phaseout mentality over the next few years. I suspect one of the reasons why Federal crop insurance has implemented so few recommendations of the Commission for the Improvement of the Federal Crop Insurance Corporation is due to the uncertainty of its future caused by the administration's proposal to terminate, completely eliminate, Federal corp insurance in fiscal 1991. One of my greatest frustrations with Federal crop insurance is its slow pace in responding to needed changes. Under Senator BOND's amendment, that pace would grind to a halt.

I have enormous respect for Senator BOND. I have been his ally on many issues. I think that he sincerely believes that his termination proposal will not hurt the program, but will simply ensure that Congress reforms it.

However, I think that the administration intends this amendment to authorize the phaseout of the program. This appears to be an attempt to get what was originally proposed by the administration: The replacement of the Federal Crop Insurance Program with a permanent disaster program. I find that unacceptable and, frankly, unwise. A disaster program is not a replacement for crop insurance.

Getting rid of crop insurance is clearly not what farmers want. They want to be able to purchase insurance to cover their individual needs for risk management.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Mr. President, I ask for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Lenders certainly want crop insurance in order to continue to reduce their lending risks. America's taxpayers' certainly do not want to replace a Crop Insurance Program which requires farmers to pay a portion of the cost of insuring their crops with a disaster program which requires the Government to bear the full cost of insuring crops.

We should not, in my judgment, put the program in jeopardy simply to force Congress to reform the program. There is every incentive on the part of Members to improve the program without the need for the additional pressure of reauthorization. I am fully committed to working on crop insurance again as soon as the farm bill is completed, and I suspect that other Members' farmers will not let this issue languish.

Mr. President, Senator BOND's amendment would terminate the program in 3 years. Yet Federal crop insurance problems are complex. Reform will take time. There are numerous recommendations of the Commission which will take time to be implemented. In addition, enactment of the provisions we propose today will likely not occur until the 1992 crop year.

My point is that Congress will not know the results of such changes by the time Senator BOND proposes to terminate the program. Thus reauthorizing the program will be extremely difficult.

Just as I do not agree that terminating the program in 1993 will help reform efforts, nor do I believe that the elimination of funding is an effective or reasonable way to force reforms. Thus, I strongly support the provision in the Daschle amendment which expresses the sense of the Senate that FCIC should be funded in fiscal years 1991–93.

Mr. President, the Daschle amendment sends a strong message to improve the program and makes excellent reforms. The Bond amendment sends the message that crop insurance is on its way out. That would be a fundamental and serious mistake. I urge my colleagues to support the Daschle amendment.

Mr. President, I ask unanimous consent that my more detailed statement be printed at this point in the RECORD.

There being no objection, the detailed statements was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CONRAD IN SUPPORT OF THE DASCHLE AMENDMENT ON THE FEDERAL CROP INSURANCE CORPORATION

Mr. President, I rise in support of the Daschle amendment. It is a reasonable approach to initiating much needed reform of the Federal Crop Insurance Program. It sends the right message that Congress supports the program and will enact further reforms in the next 2 years. In contrast, the Bond amendment sends the message that Congress intends to eliminate the program. It will cause panic among farmers and private insurance companies, leading to the early demise of the program.

FCIC has been under attack this year. The administration proposed to eliminate it in 1991, undermining the vital protection offered by the program and substituting a county-loss triggered disaster program. The House recently acted to eliminate funding for the program in fiscal year 1991. Mr. President, I believe the Senate does not support these efforts. If that is true, then my colleague should support the Daschle amendment, thereby rejecting the Bond amendment.

The Crop Insurance Program works overall in my state because it allows my farmers to individually insure their crops. Of North Dakota eligible farm acres eighty-nine percent were insured for multi-peril crop insurance [MPCI] last year. In the country, the use of the program has increased dramatically. In 1989, 51 percent of the Nation's insurable acres were covered by MPCI.

However, it is clear that changes need to be made in the Crop Insurance Program to make it more responsive to individual farmers' needs, more actuarially sound, and less subject to inefficiency and abuse. For example, North Dakota farmers would like to see coverage of more crops, dollar denominated coverage, and the option to use ASCS yields or 5-year actual production history (APH) yields.

My good friend from Missouri and I agree that changes are needed. That is not the debate on these amendments.

Most of the provisions contained in both of the Daschle amendment and the Bond Amendment are identical. These provisions start the process of reforming and improving the program by authorizing a number of the recommendations of the commission for the improvement of the Federal Crop Insurance Corporation. They make changes that farmers in my State, and many States, desire. They will make the program more responsive to the individual needs of farmers. I want to thank my colleagues for their willingness to work out agreement on so many provisions. I also want to commend Senator MIKULSKI for her contribution.

Let me just highlight a few of these reform provisions. Both of our amendments would authorize dollar-denominated coverage so that producers can insure their crop by a dollar amount per farm, based on their individual cost of production and risk coverage needs. Currently, they can only insure by a price per bushel times their loss.

These amendments allow producers to ensure their crops using ASCS yields instead of the 10-year actual production history or transition yields (T-yields), based on

the average developed from ASCS county yield data. Any increase in premiums as a result of these higher yields will be paid by the producers.

These provisions require FCIC to renegotiate reinsurance contracts to ensure that private insurance companies bear a reasonable amount of risk. In addition, they will reduce abuse of FCIC's programs by requiring the use of producers' Social Security numbers, which allows tracking to detect double-dipping, and authorizing civil penalties for persons who knowingly provide false information.

Mr. President, I am not going to spend a lot of time talking about the similarities in these two amendments. There are three very significant differences. First, the Bond amendment will terminate FCIC in 1993. This is not just a standard provision to require reauthorization of appropriations. It terminates the program, with instructions for the orderly liquidation of assets at the end of fiscal year 1993. The Daschle amendment will not terminate the program.

Second, the Daschle amendment will show the Senate's support for the continuation of funding for FCIC, in light of the House action on the agriculture appropriations bill to zero out the program at the end of this year.

Third, the Daschle amendment will require FCIC to make coverage on a crop available statewide if it is covered in any counties in the State. This provision will not require FCIC to extend coverage in a county where production of the crop is too risky. It is immensely frustrating to farmers that while a neighbor in the next county may be able to get FCIC coverage on a crop, they cannot purchase insurance because that crop is not covered in their county. I hear similar stories from farmers across the Great Plains. This frustration has worsened since FCIC eliminated its contiguous county policy. This amendment should improve the availability of coverage, and I commend Senator DASCHLE for including it in his amendment.

As I said earlier, I agree with Senator BOND that changes need to be made in the FCIC program. But the way to initiate changes is not by sunsetting the program. That will simply send a message to FCIC to phase out its operations, and a message to its employees to look for other jobs. It will bring to a halt current program development on new crops, and will discourage any innovations because the future of the program is unknown.

In addition, farmers and insurance companies will lose confidence in the program, which will lead to reduced participation and will create worse problems than currently exist.

Senator BOND's amendment would at best suspend the agency's efforts to improve and expand the program, and at worst push it into a phaseout mentality, over the next few years. I suspect one of the reasons why FCIC has implemented so few of the recommendations of the commission for the improvement of the Federal Crop Insurance Corporation is due to the uncertainty of its future caused by the administration's proposal to terminate FCIC in fiscal year 1991. One of my greatest frustrations with FCIC is its slow pace in responding to needed changes. Under Senator BOND's amendment that pace will ground to a halt.

I have great respect for Senator BOND, and have been his ally on many issues. I think that he sincerely believes that his termination proposal will not hurt the program, but will simply ensure that Congress will reform it. However, I think that the administration intends this amendment to authorize the phaseout of the program. This appears to be an attempt to get what was originally proposed by the administration: The replacement of the Crop Insurance Program with a permanent disaster program. I find that unacceptable. A disaster program is not a replacement for crop insurance.

Getting rid of crop insurance is clearly not what farmers want. They want to be able to purchase insurance to cover their individual needs for risk management. Lenders certainly want crop insurance in order to continue to reduce their lending risks. America's taxpayers certainly don't want to replace a crop insurance program which requires farmers to pay a portion of the cost of insuring their crops with a disaster program which requires the government to bear the full cost of insuring crops.

We should not put the program in jeopardy simply to force Congress to reform the program. There is every incentive on the part of members to improve the program without the need for the additional pressure of reauthorization. I am fully committed to working on crop insurance again as soon as the farm bill is completed. I suspect that other members' farmers will not let this issue languish. The budget deficit will provide yet further incentive to improve the program.

Staff in both Houses have worked very hard to develop proposals which would improve the program. A number of options were reviewed: reforming the existing program; privatization; giving producers the choice of purchasing private crop insurance, regulated by the federal government, or accepting federal disaster assistance. In all cases, the costs to producers and the Government were great, with no guarantee of a significantly better program. Under one proposal, over 50 percent of the States would experience premium increases of 40 percent to over 80 percent, with no reduction in Government costs. That is why we do not have a crop insurance title in this farm bill. But I do not intend to give up the search for ways to improve the program. However, I am not willing to put the program in jeopardy while I continue that search.

The unsuccessful efforts to develop a better crop insurance program have made me realize that the current program structure is pretty good. Congress may well serve farmers and taxpayers best by simply reforming the current program rather than scrapping it for a new structure. Additional work must be done to make this determination.

Senator BOND's amendment would terminate the program in 3 years. Yet FCIC's problems are complex. Reform will take time. There are numerous recommendations of the commission which, if implemented, would significantly improve the program and eliminate many of the problems farmers experience. The agency has refused thus far to implement most of these changes. These amendments will require FCIC to enact such changes. It will be several years before we see the results of these small changes. Yet these provisions just begin the reform process. Hopefully, the agency will enact more commission recommendations on its own in the next year. In addition, Congress may enact additional reforms. These changes will take time. My point is that Congress will not know the results of such changes by the time Senator BOND proposes to terminate the program. Thus, reauthorizing the program will be extremely difficult. We will have a tough fight against those who simply want to eliminate the program because little data on improvement in the program will be available.

Just as I do not agree that terminating the program in 1993 will help reform efforts, nor do I believe that the elimination of funding for FCIC is an effective or reasonable way to force reforms. I strongly support the provision in the Daschle amendment which expresses the sense of the Senate that FCIC should be funded in fiscal year 1991-1993. It states that if adequate appropriations are not made in these years, that CCC should provide funding to continue the operating of the program. It is my understanding that the chairman of the subcommittee on Agricultural Appropriations does not intend to eliminate funding for the program. This strong statement of Senate Support for the program will help the Senate Appropriations Committee in conferencing the House provision. In addition, it sends a strong signal to farmers and private insurance companies that this program will continue. Their continued confidence and participation is vital to ensure improvements in the program.

Mr. President, the Daschle amendment sends a strong message to improve the program, and makes some excellent reforms. The Bond amendment sends the message that crop insurance is on its way out. I urge my colleagues to support the Daschle amendment.

Mr. CONRAD. I yield back the remainder of my time.

Mr. President, I ask unanimous consent that all time remaining on our side be turned over to the Senator from South Dakota [Mr. DASCHLE] for his control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr BOND. Mr. President, I yield 5 minutes to my distinguished friend, the Senator from Kentucky [Mr. MCCONNELL].

Mr. McCONNELL. I thank my friend from Missouri. I rise in support of his amendment.

Mr. President, it is not unusual for us to sunset programs around here. The farm bill itself, of course, is a sunset. Crop insurance, as we all know, has not worked out very well. When I was touring my State during the disaster of the drought of 1988, I studied the figures at the time and discovered that about 17 percent of Kentucky farmers at that time were using crop insurance. Clearly not much in the way of participation.

And we all know that, with this low participation, it guarantees that we have higher premiums. And of course the farmers are pretty well certain that if there is a major disaster, we will step in anyway. I do not think any of us are exactly certain what ought to be done at this stage.

But, clearly, we are not happy with the status quo and it is obvious we are not going to deal with this issue, at least in any major way, during consideration of the farm bill. So, what Sen-

ator BOND is saying here with his amendment, is let us make us deal with it by having a 3-year sunset provision which guarantees that we will step up to this important issue, study it thoroughly, and reach the proper conclusion.

So I am not at all troubled by a 3-year sunset provision. That is the way we do business around here with most legislation. I think it would inject into the process a sense of urgency, which is what I believe Senator BOND is trying to do, so we will go on and grapple with this problem and come up with the proper solution. It is simply not working the way it is.

Participation in Kentucky, as I said, has been extraordinarily low. However, we have had a few exceptions to that. This year Kentucky lost all of its peach crop and 70 percent of its apple crop. While not all counties had crop insurance available, the farmers that did purchase crop insurance will be able to stay in business for another year. So, obviously, if it were possible to make this kind of program work, it would be an enormous help. But it clearly is not. And it seems to me the sensible way to get at this is to adopt the Bond amendment which sends a message to everybody, to those in crop insurance, to those who are using it, and to those who are not using it, and to ourselves, that it is time to face up to this most important issue and deal with it.

So I principally want to commend the Senator from Missouri for what I think is an outstanding amendment and clearly the way to go. It will make us come to grips with this major problem and deal with it sensibly and provide the kind of protection that American farmers need.

I thank my friend from Missouri for the leadership he has shown on this issue. I want to commend him for this amendment. I think it is exactly the way we ought to go.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will run equally on the amendment.

The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I yield myself 15 minutes.

Mr. President, before I talk about the differences between my amendment and the underlying amendment of the distinguished Senator from Missouri [Mr. BOND] I would just like to take a moment to express my thanks to the members that have worked so hard to get a meaningful crop insurance package put together for inclusion in the farm bill this year.

As Members may be aware, the Senate Agriculture Committee has worked very hard in the last year to develop a revision of the Crop Insurance Program. Frankly, it has just not been possible, but through the hard work and cooperation of Senator BOND and his staff, and the distinguished managers of the bill, we have been able to put forward an interim package of reforms. These reforms will greatly improve the program while the Agriculture Committee, upon completion of the farm bill, returns to the job of developing a long term fix to the program.

Senator BOND and I have been able to agree on a large number of reforms and these are included in both of our amendments. However, there were three areas on which we could not get agreement, and it is these three differences that distinguish my amendment from the amendment of Senator BOND. My amendment does not include the Bond sunset provision as was indicated, and does include two other provisions, not contained in the Bond amendment.

The first of these two provisions requires FCIC to provide statewide crop coverage if coverage on the crop is available in any counties in that State. Crop insurance is now available on most all major crops. However, the insurance is not necessarily available to all of the producers of the insurable crops. An example of this shortcoming is the availability of insurance on alfalfa in less than 10 counties in South Dakota, even though alfalfa is produced in nearly every county of the State. This legislation directs that where insurance is available in at least one county it must be made available in all counties of the State, unless the risks are substantially different. It is important that FCIC improve the availability of coverage for crops already insured. These efforts to improve availability can be more fruitful than developing coverage for new crops.

This is one of the differences between the Daschle and Bond amendments. Senator BOND feels that there are risks to expanding availability. However, I feel that these concerns are unwarranted. FCIC has the ability, if they wanted, to expand availability. The fact is the administration wants to kill the program and is dragging their feet on expanding availability. This provision allows FCIC not to expand coverage if they have good reason not to, but it places the onus on FCIC to expand coverage, rather than on producers fighting with FCIC to make it more readily available.

The second provision is a sense of the Senate statement indicating that in the event no appropriations are made directly for the crop insurance program, then the program should be funded through the Commodity Credit Corporation.

Let me emphasize, this is a sense-of-the-Senate resolution only. This provision responds to the troubling situation that has developed over in the House, where their appropriations bill does not provide for funding policies entered into after the start of the 1991 fiscal year. We, in the Senate, must send a strong message that funding needs to be continued.

Farmers must manage risk. All of the normal risks of business apply to farming. Furthermore, farmers are subject to natural hazards that most other businesses either do not face or can effectively shield against. Farming is weather dependent and subject to all its variations, while other businesses insulate themselves from weather by moving indoors. In addition, farming is a biological enterprise, subject to frequent insect infestations and diseases.

Farmers can do a lot to reduce and control natural risks—that is largely what farming is all about. Occasionally, uncontrollable natural hazards can severely damage or totally destroy the output of a farm and even an entire region of the country, just as natural disasters can disrupt the production of other businesses. Natural disasters are beyond the control of even the most skilled and most prudent farmers.

Many farmers are not capable of self-insuring against natural disaster, and most creditors insist on something more secure than self-insurance. Federal multiperil crop insurance and disaster payments are the two primary tools that farmers rely on to manage risks from extraordinary natural disasters.

Disaster payments have been inequitable for farmers and expensive for the Government. Disaster payments are inequitable because they are typically made available on an ad hoc basis by the USDA or by Congress, they have traditionally been made available only on the small number of price support commodities, and usually, they are not made available on even major price support crops unless the losses are widespread and/or, frankly—and we have to be honest here—the losses happen in an election year. It has happened just in the last decade on a couple of occasions.

Disaster payments are costly to the Government. Just since 1987, the Government has spent more than $6 billion for special disaster payments. This cost has been incurred during a time when the law prevents the Secretary of Agriculture from making disaster payments on price support commodities, except when crop insurance is not available. In fact, crop insurance has been available but participation was low. So, Congress enacted special authority to make disaster payments.

Insurance is the best method for farmers and the Federal Government to manage the risks of natural disasters. Insurance is equitable, and farmers pay premiums for coverage. The Federal Crop Insurance Act of 1980 greatly expanded the availability of crop insurance and mandated subsidi-

zation of producer premiums. Since 1980, the Crop Insurance Program has expanded the number of crops offered coverage and increased the level of participation. However, participation is not high enough to adequately spread the risks among policy-holders. Consequently, premiums are too high for many farmers, and the Federal cost also is just too high.

Reforms need to be made to the Crop Insurance Program. This was recognized when Congress, in 1988, created the Commission for the Improvement of the Federal Crop Insurance Program. The Commission proposed 34 recommendations to increase responsiveness to producer needs, broaden participation, provide simplification to the program, and improve program administration. For the record, I would like to express my gratitude for the work the Commission has done on this most important issue.

It was the hope of the Commission that Congress would undertake a thorough reform of crop insurance. That is not going to happen at this time. However, there are a few changes that can be incorporated at this time. I offer these proposals for two reasons. First, these changes are consistent with the recommendations of the Commission and will improve the program in significant ways. Second, they give explicit recognition to the congressional concern for improving the Crop Insurance Program, even though a more thorough reform will likely have to wait until the next Congress.

A number of proposals common to both the Bond and Daschle amendments are offered to make the Crop Insurance Program more attractive to farmers and to improve its administration.

First, calculating coverage, in terms of dollar value. Of all of the concerns I have heard voiced by farmers in South Dakota, the most common are that the Crop Insurance Program is too complicated: it does not provide the kind of benefits it ought to; and that it ought to be made a lot more like the Hail Insurance Program. And that is what this amendment does.

Crop insurance coverage is now described in terms of three alternative percentages of average yield combined with three alternative price election levels. This type of coverage presentation is not consistent with what is used by the crop hail industry; and, it is not consistent with the way farmers normally think about farm finances. Consequently, crop insurance coverage is difficult for most farmers to understand and sales are hampered.

The alternative that is preferred by most farmers is to purchase a crop policy on the basis of total dollar coverage for the farm.

Sales agents could, and some of the better agents may already, make the necessary calculations for farmers in terms of total dollar coverage. However, the training and sales materials do not follow this approach, and most agents do not make the needed conversions. This proposed legislation directs that coverage be displayed and offered to farmers in terms of total dollar value. The maximum coverage offered to a farmer is to be based upon yield, the upper limit on yield coverage, and the price election level. The price election level shall be no less than the projected market price for the commodity. Lower levels of dollar coverage shall be made available at reduced premiums to reflect the lower levels of risk involved. It will be the farmer's choice to secure the level of dollar protection he chooses up to the maximum available. This is a vast improvement on the present situation where a producer can only get coverage at three levels. Now producers will be able to get coverage at any level up to the maximum.

Utilizing ASCS yields. Coverage is determined by the assigned yield of the insured crop and the selected insurance price. The method of calculating the assigned yield has proven to be a deterrent for many first-time crop insurance buyers.

FCIC uses a 10-year actual-production-history average yield. This calculation is so complex for farmers with incomplete records or less than 10 years of production history that they typically decide not to make the purchase. The Commission gave considerable attention to this problem because it is critical to encouraging increased participation. The calculation of insured yield needs to be relatively flexible and simple. One alternative that was evaluated and endorsed by the Commission is the use of ASCS program yields.

This amendment authorizes FCIC to use ASCS program yields for insurance purposes. It is proposed as a voluntary alternative to encourage increased participation. Where the ASCS yield is higher than the FCIC calculated yield, the producer will pay an additional premium to accurately reflect any increased risk. If adopted by FCIC, this proposal would give farmers the opportunity to purchase a higher level of coverage, which many farmers say they are willing to pay for.

Distributing crop insurance information through ASCS county offices, Critical to increasing participation in the crop insurance program is getting information on the program out to farmers. Senator MIKULSKI correctly points out that farmers producing price supported crops are familiar with their local office of the Agricultural Conservation and Stabilization Service. I fully agree with Senator MIKULSKI that these county ASCS offices can and should serve as a vehicle for reaching farmers with crop insurance information. Even more important than placing crop insurance information in ASCS county offices is guaranteeing that sales agents are well trained and qualified. This legislative proposal directs FCIC to supply ASCS with appropriate information for distribution to farmers, including the names of qualified sales agents.

Establishing standards for loss adjustment. Appraisal of crop losses from natural disasters is complex. In spite of the complexity, loss adjustment should still be done on the basis of objective standards. This amendment specifies that, to the fullest extent practical, standards shall be established to ensure uniform and timely adjustment of losses.

Directing the FCIC to contract with private companies for actuarial loss adjustment and other services in order to avoid costly duplication. This provision is a cost saving measure. There is not justification for the FCIC to duplicate what already exists in the private sector by hiring people or doing the work now being efficiently done by private businesses or other organizations. There is a long history and expertise that exists in the private sector related to crop insurance, especially related to hail and fire insurance. This expertise, knowledge, and data capability should be utilized by FCIC rather than duplicated.

Collecting information to track policyholders. It has become necessary that farmers furnish their Social Security or tax identification number when purchasing crop insurance in order to prevent abuse and fraud. There have been some problems of abuse and fraud by farmers that can and must be prevented or prosecuted. The FCIC does not currently have the authority to develop a system that tracks program participation, loss history, or premium payment history on an individual basis. The use of Social Security and tax identification numbers offers a method for monitoring program participants who fail to pay premiums, but who continue to purchase policies by moving from agency to agency, or who buy more than one policy on the same crop.

Evaluating alternative price determinations. This proposal includes a requirement that FCIC should evaluate several alternatives as the basis for choosing the maximum price for calculating coverage. Explicitly included are four alternatives, including futures contracts, forward contracts, and the cost of production of the commodity. A report would be submitted to Congress within a year.

Increasing the loss burden of insurers. Multiperil crop insurance is a Federal program. The farmer premiums are subsidized and most of the risk of loss is covered by the Federal Govern-

ment. However, nearly all of the sales and adjustment work is done by private insurance companies, with the FCIC being the reinsurer. After 10 years of placing nearly all of the risk of loss on FCIC with private companies receiving the benefits of sales and servicing commissions, it may be time to shift more of the risk to the private insurance companies. This legislation directs FCIC to revise the terms of its reinsurance contracts, if practical, to shift more of the risk of loss to the private insurers.

Most all of us in the Senate agree that no matter what reforms are implemented to improve coverage or make premiums more affordable, the program will continually have difficulty attracting participants if ad hoc disaster payments are made available to all producers when a widespread disaster strikes. Most of us agree that if a revamped Crop Insurance Program is the answer, any reforms must ensure that producer participation is high enough to preclude the political pressure for disaster legislation. Admittedly, the revisions now proposed are not adequate to entirely solve the problem of low participation.

The PRESIDING OFFICER. The Senator's 15 minutes has expired.

Mr. DASCHLE. Mr. President, I yield myself 2 additional minutes.

Mr. President, there is an immediate need for Congress to make major reforms to the Crop Insurance Program. The poor financial performance of the program, the low producer participation, and the continuing political pressure for special disaster payments have made crop insurance reform an urgent policy issue. Unfortunately, and to my dismay, the Agriculture Committee did not have time enough this year to develop comprehensive crop insurance legislation for inclusion in this farm bill. There is little doubt that the Agriculture Committee will take up a comprehensive examination and reform of Federal crop insurance in the next Congress. At that time, reforms will be made that will eliminate the need for ad hoc disaster payments.

In summary let me reiterate the differences between my amendment and Senator BOND's amendment, since it is the differences that we are voting on. My amendment is different in that it does not include a sunset provision and does include a sense of the Senate on the need to fund FCIC through CCC absent separate appropriations, and the requirement that FCIC make insurance available in all counties in a state if it is available in the State, unless FCIC can show good reason not to expand coverage to certain counties or farms.

I believe these three changes are an improvement over the Bond amendment, and I therefore urge my colleagues to vote against the Senator's motion to table my amendment.

I retain the remainder of my time.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Twenty-seven minutes, thirty seconds.

Mr. BOND. I yield 8 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I want to compliment the Senator from Missouri [Mr. BOND] for the leadership he is showing with respect to crop insurance. We have received more comments on the 1990 farm bill in this area than in any other area.

I will also say a word about my friend from South Dakota, and while I disagree with him on this amendment, I compliment him on pushing forward in the whole area of crop insurance. It is something that we really have to do.

In Minnesota, 63 percent of the tilled acreage is enrolled in crop insurance, so many people are involved in it. The approach that Senator BOND takes in this amendment is perhaps as far as we would like to go, and he recognizes that. He recognizes that we have to keep the program afloat and do it in a rational way that can meet the constraints of our budget and then really negotiate out a better program.

Crop insurance in many ways is not deserving of the name insurance. It does not insure all crops. It does not insure adequately the production of those crops. So that is is rather a limp reed on which to rely if you are a farmer.

When I spoke about agriculture at the beginning of this bill, I noted that agriculture is a very highly leveraged business, that you have to make a huge investment in order to get a 2- or 3-percent return. Because of that, insurance is a very necessary ingredient to the whole. So I am very much in favor of working out a good and sound crop insurance plan with the Federal Government involved that is worthy of the name insurance, where enough of the crop can be insured and where all crops can be insured. Once again I laud the Senator from Missouri for the leadership he is giving us in this regard.

I am supportive of his amendment, and I am, indeed, a cosponsor of his amendment.

I do, however, oppose the amendment of my friend from South Dakota. I would like to correct one thing he has said, that the administration wants to kill the crop insurance program. That is not the case.

What the administration has come to us and said, is that every time there is a disaster somewhere in the United States, you pass a disaster bill. You either do that or we are going to have a worthy insurance program. We believe there should be an insurance program that is innovative and that covers the risks involved.

One of the things I like about the program of the Senator from Missouri is that it does, indeed, allow innovation. There are no mandates. For instance, it will allow a dollar denominated coverage—$250 an acre, for instance, on corn or $200 an acre on soybeans—rather than a coverage which is specific with respect to so many bushels. Farmers could buy coverage of so many dollars per acre. That is the kind of innovation, that is the kind of flexibility that I hope is in the final bill and that I hope will eventually be part of crop insurance so that farmers will be given a choice.

I must say I also believe that Senator BOND's sunset provision is good. It holds our feet to the fire by not continuing Federal crop insurance indefinitely, but saying it is going to be sunsetted in 3 years. He is saying that we better get on our horse and really put together a program that is worthy of the name insurance. I like that sunset provision, and I know my friend from South Dakota does not. I also like the ability to innovate so that insurers can compete with one another in coming up with products that farmers will find useful.

I respectfully disagree with my friend from South Dakota about mandating that a company should offer a policy throughout an entire State if offered in one county. I do not think that mandates work. Mandates have been part of the problem. Mandated expansion of subsidized crop insurance insures that taxpayers will bear substantial costs. Taxpayers pay one quarter of farmers' premiums presently. The Government pays the private insurers to sell the insurance, and we absorb way beyond our fair share of the losses that are encountered. In addition to that, we pass a disaster bill when the disaster is a broad one.

Mandating expansion of crop insurance freezes all those costs and also the exposure for losses. Previous attempts by the Congress to force crop insurance sales without adequate consideration for actuarial soundness resulted in massive losses.

The taxpayer has spent in the neighborhood of $5 billion to keep crop insurance afloat. As I remember the figures, this year the taxpayer is paying $889 million to keep the crop insurance program afloat. Another 5 years of crop insurance is already expected to cost another $4 billion. By expanding crop insurance, taxpayers are faced with a situation quite similar to that of the S&L crisis—the beneficiaries of the program carry none of the risks and are federally subsidized to boot, and the Federal Government has the responsibility. In the event that

losses occur, that means taxpayers are going to absorb them without limit.

In conclusion, I once again compliment my friend and my colleague from Missouri for the leadership he is giving on crop insurance. We have heard from more farmers on this particular subject than on any other subject in the farm bill of 1990.

The amendment being offered by Senator BOND, of which I am a cosponsor, begins the process of reform. I urge my colleagues to support Senator BOND'S measure, to reject the measure of my friend from South Dakota so that we can move on to bigger and better things with complete crop insurance coverage that will benefit the rural economy.

I yield the floor.

Mr. DASCHLE. Mr. President, I yield 5 minutes to the Senator from Montana [Mr. BURNS].

Mr. BURNS. I thank the manager. Mr. President, I have an overview of how important this issue really is. Just looking at some figures here, what we are dealing with is a farm bill that is so important to agriculture producers in this country. They cannot go to a banker and look for next year's financing unless they have some way, some merchanism to transfer a little bit of risk. That has to be done.

We in agriculture are at the whim of the weather and predators and every other thing, and those predators sometimes come with two legs. But if you have ever sat and watched a crop die because it did not rain—and we have had that instance in eastern Montana in the last year and it is not raining this year. I do not know whether we are holding our mouth right or not. But those people who depend on agriculture as a livelihood and keep our small towns alive cannot go to a banker to borrow money for operating costs without some sort of mechanism to transfer risk. That is all risk. That is just not hail, and it is just not market. It has to be against dry weather and, yes, too, wet weather. If we could have had those streams down in the lower Midwest turn around and run the other way this spring, we would have been in pretty good shape. We cannot do that. The risk in this program is shared by all producers.

If you will look, Montana has the highest number of acres insured by this program. If everybody else went along with this program, we probably would not have near the difference between premium and outlay as has been registered by the USDA.

With this amendment, it is important for everyone to know this, too, is another part of this farm bill that insures food supply. That is what I have said all along. This is not a farmer welfare bill. This is a consumer bill. It is an insurance bill.

We have to have some way, the man on the land, in the small grain or feed grain business, to transfer some of that risk. As the good Senator from Minnesota knows, more dollars are paid out in Minnesota than premiums paid in, and the same could be said for the State of Missouri.

So when we take a look at this in the overall, I do not want to see an administration that is looking at the bottom line, looking at dollars and cents rather than looking at a food supply and people and the impact on communities, both economic and socially just for a few dollars of outlay that this Government spends in this program. This is a good insurance program, and I do not want to see it go away. I do not think the majority of people who represent farm States and even nonfarm States want to see it go away. I do not want a chink in the dam to allow an administration or an administrator to do away with the program.

I compliment Senator BOND. I think he has looked into this. There has to be some reform. I would agree with some of those reforms. I think it is sort of futuristic and maybe the sunset does force us into a situation where we have to work on it in order to save it. But I think if we just extended the program with some of the reforms that the distinguished Senator from Missouri has worked into this, we can make it work without a time limit.

I would want Senators to look at his very carefully. Disaster programs are disaster programs. There are those who want the CCC to take it over because this does not cover maybe some of the crops they have. But we cannot continue to pass disaster legislation in this body, the mindset that we have now. We have an apparatus in place. We should keep it in place. I thank the chair. I thank the Senator from South Dakota. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield 4 minutes to the senior Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise in strong support of the amendment of the Senator from South Dakota.

Federally supported crop insurance has existed in various forms since just after World War II.

The current comprehensive program was created by the Federal Crop Insurance Act of 1980.

The purpose of the 1980 act was to greatly expand the availability of Federal crop insurance and to eliminate the need for disaster relief legislation for farmers.

As we all know, the current program has not accomplished these objectives.

In most parts of the country, participation has been low. In 1988, only about 26 percent of eligible acreage was enrolled.

In addition, Congress found it necessary to pass disaster relief legislation in 1988, and again in 1989.

Major complaints I have heard from Montanans about this program are that:

First, premiums are too high;

Second, coverage is too low; and

Third, there is too much paperwork.

But while there are problems, crop insurance is still critical.

Montana has one of the highest crop insurance participation levels in the Nation. In 1989, more than 60 percent of Montana farmers had purchased crop insurance.

Those that advocate terminating the program are advocating throwing the baby out with the bath water.

Without crop insurance farmers will be vulnerable to a range of natural disasters. No business can operate without insurance.

HOUSE ACTION

Recently, the House took action which could have a devastating impact on Montana. It voted to substantially curtail the current crop insurance program.

The House passed an agricultural appropriations bill which reduced the Federal Crop Insurance Corporation's funding for administrative and operating expenses by $212 million.

In addition, funding for the premium subsidy was set at a level which is $123.7 million below the fiscal year 1991 budget estimate.

To make matters worse, the committee report directs the FCIC to cease issuing crop insurance policies after September 30, 1990.

Mr. President, it is clear that we must take quick and decisive action to address what the House has done.

That is why I have cosponsored and strongly support the amendment of the Senator from South Dakota.

DASCHLE AMENDMENT

His amendment will demonstrate the Senate's strong support for the continuation of the Crop Insurance Program despite the recent action by the House.

It will express the sense of the Senate that crop insurance should be funded in fiscal year 1991 with funds from the CCC.

If such action were taken, it would mean that the funding of the crop insurance program would be removed from the appropriations process. As a result, the House would be precluded from being able to gut the program.

It would ensure that farmers will be able to purchase crop insurance during the next fiscal year.

In addition, this amendment authorizes dollar coverage so that producers can ensure their crops by a dollar amount per acre, or per farm, based on their individual needs. This is an improvement over the current system which only insures on a bushel basis.

Finally, Mr. President, the amendment makes a number of other changes designed to improve the current program. Such changes include a provision designed to prevent abuse of the program by requiring the use of a producer's Social Security number and by imposing civil penalties on persons who provide false information.

While I realize that this amendment is not a complete solution, it makes important improvements in the current program.

I am hopeful that over the next year, we in the Senate Agriculture Committee will be able to come up with a comprehensive plan for correcting the major problems with the current program.

There is no question that they need to be corrected, but doing away with the program as the House has decided to do is no solution.

We must provide farmers with security against the very real threat of losing everything they have worked their lives to build as the result of a natural disaster such as a drought or a hail storm.

I urge my colleagues to support the amendment of the Senator from South Dakota.

AMENDMENT NO. 2382

(Purpose: To improve the operations of the Federal crop insurance program)

Mr. BOND. Mr. President, I yield myself 4 minutes.

I have an amendment at the desk and I call up that amendment for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. LUGAR, Mr. BOSCHWITZ, Mr. GRASSLEY, Mr. DOLE, and Mr. MCCONNELL, proposes an amendment numbered 2382.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1081, after line 10, add the following new title:

TITLE —CROP INSURANCE

SECTION 01. SHORT TITLE.

This title may be cited as the "Federal Crop Insurance Adjustment Act of 1990.".

SEC. 02. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) a sound system of crop insurance promotes the national welfare by improving the economic stability of American agriculture;

(2) crop insurance should provide reasonable protection against natural disasters;

(3) ad hoc disaster assistance has affected adversely the existing system of Federal crop insurance;

(4) the existing Federal crop insurance system has not been able to provide crop insurance on an actuarially sound basis;

(5) the existing Federal crop insurance system remains unable to offer coverage tailored to the individual needs of agricultural producers; and

(6) efforts to reform the existing Federal crop insurance system should not lead to increased Federal outlays;

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to modify the Federal crop insurance system to begin the process of achieving a sound system of crop insurance.

SEC. 03. IMPROVEMENT OF OPERATION.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in subsection (i), by striking out "and" at the end thereof;

(2) in subsection (j), by striking out "and" at the end thereof;

(3) in subsection (k), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new subsections:

"(l) shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, that each policyholder and each reinsured company furnish to the insurer or to the Corporation the social security number of such policyholder, in the case of a business entity, the applicable employer identification number of such entity; the Corporation and reinsured companies shall have access to such numbers solely for the purpose of establishing systems of records necessary to the effective administration of this title; each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such entity of the requirements and limitations under this title; each such policyholder shall provide to the Manager, at such times and in such manner as prescribed by the Manager, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest in the policyholder; for purposes of this paragraph the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder; and the Manager of the Corporation shall promulgate regulations to protect the personal privacy of individuals with respect to the use of such numbers under this subsection; and

"(m) upon notice and opportunity for a hearing on the record, may—

"(1) impose a civil fine of not to exceed to $10,000 on a person; and

"(2) disqualify a person from receiving any benefit under this Act for a period of not to exceed 10 years;

if such person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this Act, and in assessing such penalty the Corporation shall consider the gravity of the violation.".

SEC. 04. ACTUARIAL SOUNDNESS AND CONGRESSIONAL REPORTS.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (i) as subsections (d) through (k), respectively; and

(2) by inserting after subsection (a), the following new subsections:

"(b)(1) In addition to any standard forms or policies as the Board may require be made available to producers under this title, and without regard to the limitations on levels of coverage and rates provided for in this title, to—

"(A) review other policies and provisions of policies (including dollar-denominated coverage and the uses of yields determined by the Agricultural Conservation and Stabilization Service); and

"(B) review rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary, that may be submitted by companies reinsured under this title.

"(2) If the Board finds that, under the policies referred to in paragraph (1), the interests of producers are adequately protected and that the premiums charged to such producers are actuarially appropriate, such policies, provisions of policies, and rates shall be approved by the Board for reinsurance and for sale to producers at actuarially appropriate rates and under the same terms and conditions as those applicable to the standard policies of insurance authorized under this title.

"(3) Any policies, provisions of policies, and rates approved under this subsection that are developed by more than one reinsured company or by a trade association or industry group for the benefit of more than one reinsured company, or that are made available for use or actually used by more than one reinsured company, shall be published and made available to all companies contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) To determine, on a State and crop basis, the rates and coverages that would be necessary to achieve actuarial soundness. Not later than 120 days after the date of enactment of this subsection, the Corporation shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of such determinations. The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.".

SEC. 05. REINSURANCE AGREEMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 04) is further amended by adding at the end of subsection (g) (as so redesignated), the following new sentences: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992) the Corporation shall revise its Reinsurance Agreement with the Reinsured Companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into considertion the financial conditions of the reinsured companies and the availability of private reinsurance. Not later than 120 days after the date of enactment of the Federal Crop Insurance Adjustment Act of 1990, the Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the amount of increased potential losses that the revised

agreement will require the reinsured companies to assume.".

SEC. 06. LIMITATION OF APPROPRIATIONS TO THE CORPORATION AND THE USE OF OTHER FUNDS.

Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)(1), by striking "There are hereby authorized to be appropriated" and inserting "Except as provided in subsection (e), there are authorized to be appropriated";

(2) in subsection (c)(1), by striking "If at any time" and inserting "Except as provided in subsection (e), if at any time";

(3) in subsection (d), by striking "subsection (c)" and inserting "subsections (c) and (d)"; and

(4) by adding at the end thereof the following new subsection:

"(e) The authorization for the appropriation of funds under subsection (a), the authority for the use of Commodity Credit Corporation funds under subsection (c), and the borrowing authority under subsection (d) shall be effective for the fiscal years 1991 through 1993. Except as may be authorized by law after the date of enactment of this subsection, no funds may be appropriated for any fiscal year after fiscal year 1993, and subsections (c) and (d) shall not be applicable for any fiscal year after fiscal year 1993. The Corporation shall terminate its insurance activities and begin an orderly liquidation of its assets so that the corporation ceases to exist as soon as possible after the end of the 1993 fiscal year.".

SEC. 07. UNIFORM CLAIMS ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (g) (as redesignated by section 04) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

SEC. 8. AVAILABILITY OF CROP INSURANCE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 04) is further amended by adding at the end thereof the following new subsection:

"(1)(1) To provide the Secretary of Agriculture with current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(2) To provide the Secretary of Agriculture with a listing of all agents for agent referral to producers through local offices of the Agricultural Stabilization and Conservation Services.

"(3) The Secretary shall utilize the information provided under paragraph (1) and (2) to educate State Agricultural Stabilization and Conservation Service directors concerning such information to enable such directors to convey such information to local Agricultural Stabilization and Conservation Service offices for distribution to local producers.".

SEC. 9. ASCS YIELDS AND DOLLAR-DENOMINATED COVERAGE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (a)—

(1) by striking out in the seventh sentence "The Corporation" and inserting in lieu thereof the following: "First any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved a yield for the purposes of programs administered by such Service or a yield for crop insurance purposes under the provisions of this Act, and such yield is greater than the recorded or the appraised yield of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield. Such insurance shall be provided for an additional premium set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation"; and

(2) by striking out the eighth sentence and inserting in lieu thereof the following: "The Corporation shall establish a price level for each commodity on which insurance is offered. The price level so established shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of the value of the total acreage of the commodity on the insured farm or farm unit. The maximum coverage on such acreage shall not exceed an amount equal to the total acreage of the commodity on the insured farm multiplied by (1) the recorded or appraised yield for the commodity, (2) the yield coverage level selected by the producer, and (3) the price level established for the commodity. The producer shall have the option of securing insurance protection against production losses on the acreage in any amount not to exceed the maximum coverage as determined under the preceding sentence.".

SEC. 10. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended by inserting after "private insurance companies" the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,".

SEC. 11. STUDY.

"(a) IN GENERAL.—The Federal Crop Insurance Corporation shall conduct a study to consider the feasibility of providing multiple peril crop insurance policies under which prices for covered crops are selected on the basis of—

(1) trading futures contracts on such covered crops on contract markets designated under the Commodity Exchange Act;

(2) forward contracts for such covered crops between producers and market intermediaries;

(3) the cost of production estimated for such covered crops; or

(4) other forums whereby prices are set by market forces.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Crop Insurance Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the study conducted under subsection (a).

SEC. 12. GENERAL SENSE OF CONGRESS CONCERNING FCIC INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

Mr. BOND. Mr. President, this is the amendment which we have been debating. I apologize for the delay in proposing it. We were waiting for the final drafting.

As I stated earlier, this is the underlying amendment and Senator DASCHLE will be proposing a second degree. In addition to myself, the original cosponsors include Mr. LUGAR, Mr. BOSCHWITZ, Mr. DOLE, Mr. GRASSLEY, and Mr. MCCONNELL.

Mr. President, a number of things have been stated which I think need to be clarified. First, my good friend from North Dakota has said that there are relatively high participation rates in the Crop Insurance Program.

That comes about only because in the last 2 years we have provided disaster assistance with the specific requirement that farmers sign up for crop insurance. In other words, farmers have been forced to take crop insurance in order to receive disaster assistance.

Let me cite the statistics from a CRS report to Congress on Federal crop insurance, dated December 12, 1988. It states that in the years 1983–87, nationwide, participation rates were 14 percent, 16 percent, 18 percent, 20 percent, and 22 percent.

Mr. President, that is hardly significant participation. They realize it is flawed. They know something has to be done. They are demanding reform.

Mr. President, midwestern leaders of the Nation's largest organization recognize the importance of reform in this program as well. Several State Farm Bureau presidents which are meeting in Manhattan, KS, have sent us a letter. I received one; maybe others did as well.

The letter states in pertinent part, one,

an actuarially sound crop insurance program, or at least to move toward that direction is important. That is the direction the Farm Bureau has been urging throughout the deliberations on this issue. That is also the direction that the Commission on Crop Insurance Improvement has been urging. It also provides a 3-year sunset. This is a preventive provision to avoid any potential perpetual problems.

Those of us who are presidents have joined together to discuss this and convey our sincere desire to gain your support of the Bond-Lugar amendment.

It is signed by the Farm Bureau presidents of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 25, 1990.

DEAR SENATOR: State Farm Bureau Presidents and Administrators from 12 Midwest States are meeting in Manhattan, Kansas for an annual three-day conference examining timely agricultural issues and trends.

We have received word of a proposal by Senator Christopher Bond and Senator Richard Lugar to offer an amendment to the Senate version of the 1990 Farm Bill to incorporate a crop insurance provision in the Senate bill. This is a vital step for all of the agricultural producers represented by those of us gathered at this meeting.

As Presidents of our state Farm Bureaus, we urge your support for the Bond/Lugar amendment. This amendment will provide:

(1) An actuarially sound crop insurance program, or at least a move toward that direction. That's the direction the Farm Bureau has been urging throughout the deliberations on this issue. That is also the direction the Commission on crop insurance improvement has been urging.

(2) It also provides a three-year sunset. This is a preventive provision to avoid any potential perpetual problems.

Those of use who are Presidents have joined together to discuss this and to convey our sincere desire to gain your support of the Bond/Lugar amendment. Your support will help plant the flag of crop insurance in the Senate Farm Bill.

Thanks for your consideration and support.

Respectfully,

Signed by: State Farm Bureau Presidents Representing 12 Midwestern States.)

John White, Jr., President, Illinois Ag Association; Harry Pearson, President, Indiana Farm Bureau; Merlin Plagge, President, Iowa Farm Bureau; Doyle D. Rahjes, President, Kansas Farm Bureau; John "Jack" Laurie, President, Michigan Farm Bureau; Al Christopherson, President, Minnesota Farm Bureau; Donald Fischer, President, Missouri Farm Bureau; Bryce Neidig, President, Nebraska Farm Bureau; Monty Burke, President, North Dakota Farm Bureau; Fred Finney, President, Ohio Farm Bureau; Richard Ekstrum, President, South Dakota Farm Bureau; Donald Haldeman, President, Wisconsin Farm Bureau.

Mr. BOND. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. I yield 5 minutes to the Senator from Iowa [Mr. GRASSLEY].

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am a cosponsor of the Bond amendment, and, from that standpoint, I will be voting against the amendment if the Senator from South Dakota offers a second-degree amendment. But I want to say to both Senator BOND and Senator DASCHLE that they both deserve compliments from the entire agriculture community for pushing this issue, and pushing all 100 Senators to make some sort of a decision on Federal crop insurance. We have been putting off making decisions for too long. It hurts agriculture, and it is not sound public policy.

I come from both sides of the argument on Federal crop insurance. In 1979 when the legislation was first passed, I was a member of the other body, a member of the Agriculture Committee in the other body, and I fought against the Federal Crop Insurance Program and voted against it. I felt it was going to do damage to the private sector efforts to sell hail insurance, and also because I felt that it would not be accepted as a substitute for drought assistance.

We have found during the decade of the eighties that we have had both crop insurance and drought assistance, and we should not need both.

I voted against Federal crop insurance, but I have accepted, over the last 10 years, the idea that Federal crop insurance, as passed, is better than not having crop insurance at all. On the other hand, it is not a very good program, not received by farmers the way it should be, and it needs to be improved.

It is from that standpoint that I compliment Senator BOND and Senator DASCHLE for their approaches. I did not even purchase Federal crop insurance myself until 1988, and I did not know there was going to be a drought in 1988, because you have to make these purchases a long time before you find out there is going to be damage. Not only from the standpoint of finding that we need it, as good public policy, but I have also found on a personal basis that it is a very good thing, and it has helped us out when we have been hurt by drought, not only throughout my State, but throughout the Midwest generally.

The important thing about Federal crop insurance that I accept now, that I did not accept 10 years ago when I fought it, is the fact that the Federal Government can do a very good economic and social policy by promoting the concept of risk management. The present Federal Crop Insurance Program does that, to some extent. But if we have a better Federal Crop Insurance Program, then obviously we will have the Federal Government promoting a better risk management concept throughout our society.

If you can get people to plan for risk, if you can get the farmers of the United States to set aside resources for times of drought and other natural disaster, they are better off, and the Federal Treasury is better off.

It seems to me a perfectly legitimate goal of the Federal Government to promote risk management. There has been the promotion of risk management, at considerable cost to the Treasury. I think these efforts to bring that considerable cost to the attention of this body for correction is legitimate. That is what Senator BOND is doing, and promoting that through mandating improvement that will come through the sunset.

We should do what we can in this body, so that the income of our farmers is not relying upon the political decisions we make here in Washington, which we do through drought disaster. I voted for drought disaster, and may in the future. We have been lucky, in times of Gramm-Rudman-Hollings, that we have had the resources to pay for it. We need to think to the future that we may not have those resources from one part of the farm program where we are not going to spend money, to put that into a program where there is an emergency, like drought, and we respond to it.

(Mr. ROBB assumed the Chair.)

Mr. GRASSLEY. When Secretary Yeutter suggested that we ought to be relying upon disaster, instead of Federal crop insurance in the future, I take exception to that. That is why I am happy for the work of Senator DASCHLE and Senator BOND. There is enough fault of why we have fixed Federal crop insurance to go around. Congress set up a Federal crop insurance study commission, and they made their report. We did not respond very well.

May I have 2 more minutes?

Mr. BOND. I yield 2 more minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. GRASSLEY. The Congress has not responded very well to it, and that is why I am thanking Senator DASCHLE and Senator BOND for leading an effort, even though it is not a conclusive effort. But also the administration could have implemented about 80 percent of the recommendations of the study commission, and they did not do that. So there is a great big vacuum out there that needs to be filled.

This is maybe too timid an attempt to fill that vacuum. It does not bring about the reforms that needed to be brought about, but it does further push Congress to bite the bullet, when we have not been willing to bite the bullet before this time.

I hope that we are successful in this effort today, and I hope we do not have to wait until the sunset for us to bite the bullet and make the good policy that we ought to, and that good policy is both social and economic, of this Congress promoting risk management within agriculture. And it seems to me that Federal crop insurance is a better program to do that with than disaster relief.

Mr. KERREY addressed the Chair.

Mr. DASCHLE. I yield 2 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I thank the Chair and the Senator from

South Dakota and the distinguished Senator from Missouri for their work on crop insurance. I quickly point out two reasons why I believe the body should not support this crop insurance amendment, without avoiding the sunset provisions, as the Senator from South Dakota is trying to do. The first reason is that those who say that the administration wants crop insurance are wrong.

I ask unanimous consent to have printed in the RECORD a letter from Secretary Yeutter to the Vice President that in fact says directly that this administration proposes legislation to terminate subsidized crop insurance.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 16, 1990.

Hon J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to express the Administration's views on the actions of the Senate Committee on Agriculture, Nutrition and Forestry to develop a 1990 Farm Bill that will be considered by the full Senate in the near future. If S. 2830 were sent to the President prior to the conclusion of the budget summit and does not achieve substantial, multi-year savings from the current Mid-Session Review (MSR) estimate of program costs and if price and income supports are not made more market-oriented than the Committee version, which is a retrogression from the 1985 Act, then the Secretary of Agriculture and the President's other senior advisers would recommend that he veto the bill.

From a budget standpoint, the cost of the bill is excessive. We estimate that the mandatory spending requirements of the bill would result in outlays over $5.0 billion above the MSR current law baseline of $54 billion for FYs 1991-1995. In addition, the bill authorizes appropriations for a number of new programs and authorities which could result in over $3.0 billion of additional outlays.

Significantly, the proposed legislation creates substantial budget exposure that is not well represented by the single number for the cost estimate of the bill. Modest and quite plausible changes in market prices for currently projected levels could well imply substantial future outlays not now reflected in our current estimate. As an example, the soybean marketing loan program appears to be without cost using the current baseline, but a relatively minor change to the soybean price would trigger substantial marketing loan payments. In fact, based on the historical variability of soybean prices, outlays are expected to greatly exceed the costs derived from the assumed baseline market conditions. Another example of significant budget exposure is that the Committee bill would allow the farmer to retain a portion of any USDA overestimate of deficiency payments—the "high-price bonus" program. The budget process assumes no estimate errors—actual payment rates equal projected rates—and scores the cost as zero. Obviously, there will be errors in our estimates and budget costs will occur.

Therefore, the characteristic of this legislation as well as past experience dictate that the Administration's support for the bill will depend not only on the bill's projected outlays under baseline conditions but also the potential for additional budget costs that could result under varying economic and crop conditions during the life of the bill.

The Administration and the Congress are committed to reduction of the Federal deficit. To that end, spending restraint will be required. While the pieces of the budget summit agreement are still being put together, we must recognize that outlays for the 1990 Farm Bill will have to be reduced significantly from the MSR baseline estimate.

Reductions in outlays in the farm program area could be achieved through adjustments to target prices or payment acres and, to a more limited extent, through better targeting of program payments. Payment eligibility could be narrowed to focus on smaller farmers, and administration of the payment limitation could be tightened if payments to artificial entities were attributed back to individuals. We will work with you to meet the agreed upon savings targets, being mindful of the magnitude of the task of deficit reduction.

We also note that there is yet no nutrition title in the Senate bill. We, like you, are committed to continuing our important food assistance programs. However, we are concerned that the Senate bill fails to reauthorize the Food Stamp Program and other nutrition programs and does not adopt many other Administration proposals. In particular, the provisions in our program integrity package and those that can benefit needy families through increased income should be considered. The integrity initiatives will enhance our ability to monitor retail stores and strengthen penalties against those stores who violate program rules, thus ensuring that food stamp benefits are used for their intended purpose.

Meeting budget constraints is completely consistent with our goal to develop legislation that builds on the market-oriented, competitive course of the Food Security Act of 1985. We offer the following comments on individual sections of the Senate Bill to help move the legislation forward to a successful conclusion, as measured by both policy and budget standards.

COMMODITY PROGRAMS

A number of the provisions of the Committee's bill depart from the market-oriented focus of the 1985 Farm Bill and raise the budget exposure of commodity programs. We believe it is unwise to increase the potential cost of these programs given the current budget crisis or to move away from the market oriented policies of the 1985 Farm Bill.

Based on the MSR Budget baseline, we estimate that over their 5-year life the commodity provisions of the Committee's bill will cost about $5.0 billion more than the $54 billion that would be spent under continuation of current law. Since release of the President's FY 1991 Budget baseline in January, several events have caused prices for farm commodities to rise above earlier projections. The MSR update of the President's Budget, which is based on June supply-demand conditions, has incorporated revised price expectations which lowered the projected cost of the commodity provisions of the Committee's bill. However, though the budget baseline outlays are estimated to be lower, the instability of commodity markets dictates that we must consider the variability as well as the absolute dollar estimate of spending for these programs.

One measure of the potential budget exposure of the commodity provisions is the cost of these provisions using the earlier January baseline. Using those assumptions the overall cost of the commodity provisions would exceed the current law baseline by $10.0 billion over the FY 1991-1995 period. The soybean marketing loan program, in particular, would cost about $4.0 billion over the period using the January baseline. As this illustrates, supply-demand conditions can change very rapidly and the outlay exposure is substantial.

One very troubling provision of the Committee bill would require implementation of a pilot program permitting producers to meet their acreage reduction program (ARP) requirement by limiting marketings instead of idling acreage, the so-called pilot bushel-based program. We see no justification whatsoever for resurrecting a discarded commodity program of the past and dubbing it a 'pilot" program. This program is pursued by a small minority who advocate mandatory marketing quotas for U.S. agriculture. It is anti-competitive and would represent a complete reversal of the aggressive, export-oriented stance of the 1985 act.

In the Administration's Farm Bill proposal, we proposed to enhance the competitiveness and efficiency of U.S. agriculture by reducing the rigidity of current programs. The Committee's bill simply does not provide much flexibility, which is a great disappointment to thousands of producers. The very limited flexibility that the Committee has provided involves the farmer weighing the market price of one crop against the target price of another. We believe that planting decisions on all or at least a significant portion of normal crop acreage should be based on market returns alone. This would allow soybeans to compete for acreage with program crops, with much more success than is possible today. Additional planting flexibility would also provide significant environmental benefits.

WHEAT AND FEED GRAINS

For wheat and feed grains, the Committee has chosen to mandate marketing loans and give the Secretary the authority to implement one of two alternative loan programs. Under the first option, the announced loan rate in future years could be no lower than the basic loan rate for 1990. The announced minimum loan rate would be $1.96 per bushel for corn and $2.44 for wheat under this option. Under the second option, the authority to reduce the price support level could be used, but only if advance payments are increased.

The first option would raise price support levels for feed grains and wheat by 25 percent in 1991. These higher loan rates, coupled with the marketing loan provisions, would lead to large budget exposure and the problems of competitiveness inherent in such a program. Our past experience with marketing loans for rice and upland cotton is that these programs are very expensive per dollar of additional exports and at times they create disincentives for farmers to sell at competitive prices. We have projected a 5-year cost of $1.2 billion above baseline under this option. The second loan rate option would require farmers to repay advance payments and it would substantially increase near-term farm program outlays. Implementing the full 20-percent "Findley" loan rate reduction would increase outlays by $2.7 billion above the baseline over FYs 1991-95.

We see no persuasive reason to change the loan rate provisions for wheat and feed grains. Under current provisions we have achieved a substantial increase in exports, regained market share, and farm income has reached new highs. So why fix a program that assuredly is not broken? And why even consider returning at least part way to a program that was broken before being fixed in the 1985 Act?

The Committee Bill would require that deficiency payments be increased 2 percentage points for each 10 percent reduction in the final deficiency payment rate below that announced prior to sign-up. This "high-price bonus" needlessly increases the cost of farm programs. The budget accounting process would score this provision as outlay neutral but, of course, outlays would increase if the Department over-projects the deficiency payment rate at sign-up for even one crop for one year. No one can expect the Department to project farm prices precisely nearly one year in advance of harvest. Based on historical experience, this provision could add up to $1.5 billion for the FY 1991-1995 period. In addition, if prices prove to be higher and payment rates lower than expected, incomes of most producers will be higher since they will be able to market their production at a higher price. And, with the bonus payment, farmers' returns per bushel would exceed the target price. It seems incongruous for Government payments to increase when prices prove to be higher than projected prior to sign-up. Heretofore, Government programs have been designed to offset low prices, not high prices.

Committee provisions to increase the oats target price and barley payments when malting barley prices are high are not justified. Compared with our baseline, these provisions will add a total of $200 million to farm program costs during FYs 1991-95 at a time when payments to other program crops are being held in check.

SOYBEANS

We object to the oilseed marketing loan proposal that simply introduces a new income transfer program for producers of oilseed crops. It would greatly hinder oilseed producers from responding to market forces. There would be a tremendous increase in budget exposure as the soybean loan rate is increased from the current level of $4.50 per bushel to $5.50 per bushel. There is insufficient flexibility to set the rate below this level. Compared with the MSR budget baseline, the soybean marketing loan would raise outlays by $400 million over FYs 1991-1995. However, the actual outlay level, taking into account the probability of varying supply-demand conditions, could easily be several billion dollars higher. Even if it were possible to implement the program in the short run without penalizing other program crop producers or imposing soybean supply controls, we do not believe that will be possible over time.

It is disturbing that the Committee has chosen to deal with the distortions caused by grain production subsidies by escalating soybean production subsidies. When the oilseed marketing loan results in substantial outlays, as it inevitably will, the Congressional reaction will probably be to impose supply controls. So, in the end, what started out as an attempt to improve the competitiveness and market share of soybeans could well have the opposite effect. Our flexibility proposal would cost less and achieve more.

COTTON AND RICE

As is the case for wheat and feed grains, we oppose the Committee loan rate provisions for these commodities. We support elimination of minimum loan rates for cotton and rice and application of the same formula as provided under current law for wheat and feed grains.

The acreage limitation program for upland cotton requires that the announced program result in a carryover of 4 million bales or a ratio of carryover to total disappearance of 33 percent, whichever results in the highest level of carryover. In addition, if at the time of final announcement the acreage limitation program would lead to excessive stocks, the Secretary is required to implement a paid land diversion at whatever level is necessary to reach the stocks target. Requiring such a paid diversion provides no Secretarial discretion and unnecessarily increases the potential cost of the cotton program.

The complicated procedure for determining the world cotton price for the purpose of administering the marketing loan program could merely add to the cost of the program and add nothing to competitiveness. Whenever U.S. stocks are so tight that prices cannot be brought into line through the marketing loan, issuing certificates or importing cotton in a futile attempt to become competitive will only add to budget costs. These mandated policy options should be made discretionary.

Further, the 0-92 program has been expanded to provide preventive planning for cotton and rice. We estimate that this provision will raise outlays by $60 million during FYs 1991-1995.

SUGAR

By maintaining sugar price support at its current level, the bill perpetuates the inequity between the treatment of sugar and other program commodities. In order to begin to relieve the burden on American consumers, the Administration would endorse an immediate 10 percent reduction in the sugar price support level.

DAIRY

The dairy provisions of the Food Security Act of 1985 have reduced dairy product surpluses and brought program costs under control. The key to this success has been the authority to raise or lower the milk support price based on projected Government purchases of dairy products. We proposed to retain the basic mechanism for setting the support price with more graduated support price and net removal trigger levels in order to better respond to future adjustments in the dairy industry.

The Committee Bill unfortunately moves away from price supports that adjust based on projected purchases and instead establishes a floor at $10.10 per hundredweight. The Committee Bill would increase dairy price support outlays by about $2.3 billion over the 5-year life of the bill, more than double the current law baseline or the Administration's proposal.

The $10.10 minimum support price eliminates the opportunity for market prices to signal a drop in milk production should supplies become large. With this choice, the Committee forced itself into resorting to supply controls, such as two-price plans when Government purchases become excessive. Based on experience here and in other countries, supply controls and two-price plans entail production quotas and bases. Adopting such programs as has been done in Canada and the European Community will ultimately lead to increased costs of production and a less competitive U.S. dairy industry.

The requirement that the Secretary provide both Committees on Agriculture with advance notice of virtually all program actions—most of which must be made with little or no latitude—should be reconsidered. The Secretary should be allowed to run the program without second guessing by the Congress. Moreover, such lengthy, advance notifications mean that decisions will have to be made without benefit of timely information.

Further, the requirement that computations of dairy product surpluses be measured on the basis of total milk solids rather than on milkfat will unnecessarily require the dairy program to be administered on a complex and partly subjective basis which will contribute virtually nothing to balancing the supply and demand of milk. Mandating an export program for dairy products would not be necessary if the dairy program were kept flexible in responding to market signals.

WOOL AND MOHAIR

The current wool and mohair program would be extended by the Committee at a 5-year cost approaching $1 billion. Under this program, parity-based formulas would cause support prices to increase over time. As target prices and price supports for most commodities have been reduced since 1985, we believe that wool and mohair supports should be based on a target price commensurate with other commodities. A target price of 90 percent of the 1985 support prices would save about $250 million compared to the 5-year baseline, while maintaining a significant level of support for producers. We note that only about 6,000 producers receive 85 percent of the payments.

HONEY

The Committee raised the minimum honey loan rate substantially above the current program baseline level. Continuing the current program would result in gradual reductions in the honey loan rate and program outlays. The Committee bill would almost double current law spending of $184 million by adding $116 million to the cost of the program over FYs 1991-1995. The Administration proposed converting the program to a target price/deficiency payment program with market-oriented loan rates. We continue to believe the latter program would provide better income support for beekeepers, at reduced cost to the Government.

PEANUTS

The Committee Bill extends the current program, including the cost of production formula used to escalate the quota loan rate. Domestic peanut prices would continue to rise and remain well above world prices. The minimum poundage quota would also be raised. This proposal would perpetuate a program that fosters inefficiency and is costly to the American consumer. It is this very kind of program imposed by other countries that limits our exports of feed grains, wheat, oilseeds, and other commodities. We proposed eliminating the cost of production escalator and decreasing the peanut quota loan rate in line with previous reductions in support levels for other commodities Our proposal would also facilitate the transfer of quota across county and state lines so more peanuts can be grown in relatively lower cost areas.

DISASTER ASSISTANCE

We are very disappointed that the Committee has been unable to reach agreement on a standing authority to provide disaster assistance to farmers. Without such an authority, farmers will continue to rely on Congress to enact ad hoc legislation whenever there is a disaster. We have had ad hoc disaster legislation in each of the last four years. During the past decade, taxpayers have been charged $6 billion for ad hoc disaster assistance, and an additional $5 billion for direct crop insurance subsidies. Earlier this year there were requests to include losses on 1990 crops under the 1989 legislation. This led to an appropriation of $11 million in the recent dire emergency supplemental appropriation to cover losses for the 1990 crop of sugarcane and certain other commodities. In addition, legislation has been introduced to extend the 1989 disaster payment provisions to all 1990 crops.

Meanwhile, Federal costs for continuing the crop insurance program continue to mount and we have been unable to make real progress toward improved actuarial soundness, reduced administrative costs, and increasing rates of participation. The potential budget exposure due to the combination of crop insurance and ad hoc disaster assistance is far greater than the current law budget baseline projection of about $850 million for crop insurance alone. Disaster assistance for the 1989 crop, including both the cost of crop insurance and disaster payments totalled about $2.6 billion. Continuation of the current flawed and overlapping programs imposes high budgetary costs without providing farmers reliable, actuarily sound insurance protection.

This Administration has proposed legislation to terminate subsidized crop insurance and replace it with a standing disaster assistance authority. We strongly recommend that this legislation be incorporated in the final Farm Bill.

FARM CREDIT

The credit title of the Senate Bill contains meaningful reforms of the Farmers Home Administration programs. We are appreciative of the Senate Committee's efforts in passing these reforms. There are, however, major omissions that we feel need to be addressed including: (1) a $150,000 limitation on direct farm ownership loans; (2) a $100,000 limitation on direct farm operating loans; (3) a prohibition on the use of direct farm operating and guaranteed farm ownership loans to refinance existing debt except to graduate borrowers from direct to guaranteed farm ownership loans; and (4) a 20-percent equity requirement on guaranteed loans. In addition, the Administration is opposed to the Senate's change in the board of the Farm Credit System Insurance Corporation. We believe the Insurance Corporation should instead have a board of directors and a small staff that are completely independent of the Farm Credit Administration. This policy would be consistent with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which separated the agency insuring thrift depositors from the agency regulating thrift institutions.

CONSERVATION

There are many features of the conservation title that will encourage conservation and environmental stewardship in agriculture. However, as currently drafted, the bill includes several provisions that will add to the budget, overlap with other provisions, and present administrative problems.

We believe the most appropriate way for the Federal Government to encourage tree planting in rural areas is through expansion of traditional programs that provide cost-sharing for planting costs. The pending budget proposal for the President's "America the Beautiful" program includes over $110 million for cost-sharing on rural lands, and there are plans to maintain at least this level of support in future years. We expect many owners of marginal pasture land to participate in this program, as the investment returns in commercial tree planting are often greater than with other options. Proposals to offer additional incentives through conservation reserve-type rental contracts undermine the cost-share programs. Moreover, as total participation in the Conservation Stewardship Program is limited, use of budget resources to carry out tree planting means less is available to deal with problems such as soil erosion and water quality where rental contracts are, in some cases, necessary.

The Agricultural Water Quality Incentives Program represents an unjustifiable as well as an unnecessary expensive approach to the water quality problem. The initiation of special subsidies to farmers for the purpose of pollution prevention is inconsistent with Administration policy to allocate the costs of maintaining environmental quality equitably across society. The Senate's proposal for the Clean Air Act reflects this rejection of special treatment. While recognizing an offset to Conservation Reserve Program (CRP) enrollment will provide savings relative to rental payments, we see problems with this program as it entails contract requirements and payments for environmentally sensitive farming practices that are most appropriately left to be worked out by State and local Governments and by farmers themselves. We believe that given appropriate information and technical assistance, farmers will voluntarily adopt many of the most critical environmentally sensitive management practices that are needed to protect water quality.

The proposed amendments to the farmland Protection Policy Act would provide Federally subsidized credit for State and local governments to limit conversion of farmland to non-agricultural uses. Such a program would constitute a significant increase in the role of the Federal Government in an area that has been traditionally handled by State and local governments. Existing programs are now being financed by State and local governments primarily through the issuance of tax-exempt bonds. We have no evidence to indicate that this source of financing is inadequate; nor do we think there is any other basis for Federal intervention in this area.

The provisions of the Integrated Crop Management overlap with several other sections of the title. The effectiveness of acreage reduction programs in the commodity titles will be undermined if the authority to waive reduction requirements is widely used. Moreover, criteria for determining "fair and equitable" adjustments in potential commodity program requirements would be largely subjective and difficult to administer. Further, as with the water quality incentives program, we view this program as an inappropriate and inefficient approach to dealing with environmental problems.

Finally, we oppose the provision in the bill to expand the Great Plains Conservation Program to $1.2 billion, an increase of $300 million over the Administration's proposal. While further expansion would generate additional benefits, we do not believe this large expansion is necessary, particularly in view of the other new conservation programs in the Committee's proposed bill.

FORESTRY

While there are a number of sound concepts in the Senate forestry title which would be complementary to the President's "National Tree Trust Act", several others are of great concern.

We do not believe the Forest Legacy Program should be included in the forestry title. The President has already committed significant funds to the acquisition of important lands elsewhere under the "America the Beautiful" program. We do not, therefore, support including the acquisition of partial interest in land under the pilot Forest Legacy Program.

Further, we are very concerned about several unnecessary provisions which would interfere with existing programs. The "Southern Forest Regeneration Center" would overlap work already being performed by Forest Service scientists and extramural research conducted by individual university and industry experts. Instead a centralized grant to a single university would be substituted. The "Forest Health Control" provision could be interpreted as limiting the Department's role with respect to non-Federal lands, and the "Emergency Suppression" subsection unnecessarily duplicates the existing funding authority applicable to insect and disease emergencies. The requirement to acquire lands to expand the Talladega National Forest ignores the objective criteria for establishing land acquisition priorities established by the Administration when the President initiated the current policy of supporting land purchases by Federal agencies. This expansion would not rank high under those criteria.

We also object to the fire fighting provision which calls for $100 million for increased financial and technical assistance for fire mobilization activities. The Forest Service has traditionally provided funding for fighting fires and would suggest the committee authorization should reflect past average trends.

TRADE AND FOOD AID

With respect to Subtitle A of the trade title, which deals with U.S. foreign food aid, we are deeply concerned about the mandated administrative structure, as well as the narrow definition of U.S. foreign policy. Current language of the bill removes the President's authority to determine the administrative structure for U.S. foregin food aid programs, and establishes the specific functions of the Secretary of Agriculture and the Administrator of the Agency for International Development (AID). P.L. 480 offers a unique opportunity to accomplish various, often diverse, U.S. policy goals through one program. The language of this separates decisionmaking responsibility for the various programs and thereby insulates decisions from these various goals of P.L. 480. While we all appreciate the intent of clarifying and streamlining the administration of U.S. food aid, we have strong reservations whether this will be achieved under the provisions of this title. We believe that current administrative changes being undertaken by the Executive Branch will result in the improvements sought by Congress, the public, and the responsible Executive agencies.

A second major concern is the narrow definition of foreign policy to be supported by U.S. food aid that is included in the policy

statement. This language would only authorize U.S. food aid to promote U.S. foreign policy by enhancing food security. While supporting the food security of developing countries is certainly one goal of U.S. foreign policy, it is not the only goal. Foreign policy goals cover a myriad of trade and economic issues as well as international political challenges. The bill should include a general reference to supporting the foreign policy of the United States.

Another concern is the requirement to enter into multi-year agreements at the request of recipient countries. As noted by the Justice Department in earlier correspondence with the Committee, this requirement infringes on the President's constitutional authority to negotiate agreements with foreign powers. However, we share your interest in making greater use of multi-year food aid agreements and would be happy to work with you in crafting acceptable language to encourage such programs.

With respect to Subtitle B of the Committee's trade title, which revises the Agricultural Trade Act of 1978, we have several major concerns. First, we strongly object to the provision which permits commodities to be exported under the CCC export credit guarantee program if they are 90 percent by value derived from agricultural commodities produced in the United States. This provision reverses current policy which requires commodities to be 100 percent U.S. content in all cases. In the recent past, CCC experimented with a policy of permitting less than 100 percent content in the case of tobacco and found it troublesome for both policy and management reasons. Based on that experience, we believe this provision will lead to the same problems but on a much broader scale. Moreover, we are concerned that the net effect of this change in policy will be to encourage exporters, already shipping commodities with 100 percent U.S. content, to blend foreign content in their export products.

We are also opposed to the requirement in Subtitle B that the administrator of the Foreign Agricultural Service (FAS) be appointed by the President and confirmed by the Senate. We fail to understand what benefits will accrue from this provision or how the accomplishments of past FAS Administrators would have been enhanced had it been effective at the time of their appointments. Existing requirements and procedures are appropriate and should not be changed.

We also have a serious problem with a requirement of the Long-Term Agricultural Trade Strategy Reports section that stipulates that the spending levels recommended in these reports "be treated as the annual budget submission of the President to Congress for such activities for such fiscal year . . . " As the Department of Justice noted in an earlier letter to the Committee, this requirement interferes with the President's authority to recommend legislation and should be deleted.

Finally, we are opposed to the authorizations for the use of $50 million of Section 32 funds to promote the export of U.S. cottonseed oil and sunflowerseed oil during each of the next five fiscal years. We believe this authorization is totally unnecessary as we have sufficient statutory authorities to assist with the export of these commodities when conditions warrant, and exports of both oils have been made under the Export Enhancement Program. Mandates such as this are frequently difficult to achieve due to rapidly changing domestic and world market conditions which make them out-of-date soon after enactment. This has been the case with similar requirements for the use of Section 32 funds which have been included in the agriculture appropriations acts in recent years, and we believe they should not be continued.

RESEARCH AND EDUCATION

We are concerned with a number of provisions included in the Research title. We oppose the provisions that establish a corporation and regional centers for commercialization of new agricultural products, including the use of Federal funds for financial assistance to commercialize new products. This approach is a costly, inefficient means of achieving our shared goal of moving new products into the marketplace. We believe that private sector institutions that are fully exposed to the discipline of the market are best equipped to make the complex investment decisions involved in commercialization efforts. We support a Federal role in research and development, and rapid transfer of new technology through mechanisms such as cooperative research and licensing arrangements.

The Committee bill sets forth specific priorities and purposes for agricultural research, including rural development and social goals, to be implemented through regulations. The goals are meritorious, but we are concerned that there is not an adequate balance of these goals and the need to provide technology to enhance profitability and productivity. A new Science and Technology Review Board would be established to conduct assessments of science issues and technologies and review the social and economic consequences of research on urban and rural communities. We believe this new entity is unnecessary in view of capabilities existing within the agencies and on the Joint Council and Users Advisory Board.

We strongly endorse the Committee's action to authorize the National Research Initiative which is an important component of our research program. However, we do not support a Committee provision which would require a second review of all grant proposals by a separate advisory panel. The second review would be costly and is unnecessary given the rigorous peer review to which all proposals are subjected.

MARKETING

Organic Labeling.—The Department supports national minimum standards for most organically-produced fruits and vegetables, to be voluntarily adopted by the States. The bill, as amended, remains impractical, unwieldy, costly, and would require excessive surveillance at both the national and State levels. The cost would be approximately $150 million in appropriations and $90 million from user fees over the life of the bill.

Agricultural Marketing Reform.—The Department opposes the requirement to amend the commodity grading standards to include flavor, sugar content, and nutritional value and reduce emphasis on cosmetic appearance. These proposed provisions are based on unproven assumptions that USDA fruit and vegetable grade standards increase pesticide use. Moreover, these provisions do not address the importance of appearance factors on the overall quality and wholesomeness of commodities. Moreover, implementation of these provisions would require in excess of $53 million in appropriated funds.

Pesticide Export Reform.—The Department prefers to deal with this issue in the context of separate food safety legislation which is currently under consideration by the Congress. Existing law already bars the import of foods containing residues not allowed under U.S. tolerance regulations. Imported foods are already addressed by current certification and inspection programs. The bill, as adopted, places new burdens and information demands on foreign producers not required of domestic producers of pesticides, thus raising a likely challenge under GATT rules.

Grain Quality.—The bill proposes to establish a permanent Grain Quality Coordinator and a Grain Quality Committee. It proposes restrictions on blending different grain qualities and apparently infringes on the jurisdiction of the Environmental Protection Agency and the Food and Drug Administration. It also proposes to establish an approval process for country elevators.

The Department strongly opposes these provisions. The current organizational structure is adequate to oversee and coordinate our grain quality programs. The Department needs to retain the authority to alert local FDA officials regarding potential quality problems which require further investigation. The country elevator approval process is unnecessary and would cost about $16 million annually.

REPORTS AND STUDIES

There are over 30 studies and reports proposed in the Committee bill. The Department urges the Senate to refine these study and report proposals to insure they represent reasonable study requirements with rational time schedules and adequate funding provisions. It is essential that only feasible and necessary studies be requested and that appropriate funding be authorized for each study or report proposal.

In conclusion, we remain hopeful that we can together develop a 1990 Farm Bill that is acceptable to both the Congress and the Administration. It is imperative that we do nothing in this legislation that would reverse the progress achieved under the 1985 Act. In this regard, we fully support legislation that further enhances American agriculture's competitiveness and at the same time deals in a prudent and fiscally responsible way with concerns for the economic well-being of farmers, the environment, food safety and the nutritional needs of our population.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Mr. KERREY. That is very clear. That is what the administration wants. When they presented the green book, it was not so clear. A lot of us suspected they did not look kindly to crop insurance. The Senator from Iowa said there is a lot of blame to go along, and he speaks correctly. In this deal, as far as I am concerned, it is the 90 percent on the executive branch. Disagreements in the Congress are modest compared to the disagreements between Congress and the executive branch.

Ask any milo farmer in Texas what sort of price selections the FCIC did. I heard the Senator talk about the need for market signals to be watched by

the producers. Well, farmers were watching what FCIC did because the price selections were not based upon the market. There was no market-based price selection, as far as I can see. They were planting corn because the price selection for milo was so low.

Ask any farmer in Texas if that is the case. Ask any producer how the FCIC Program has been administered. Talk to a dry edible bean person. How did the FCIC do last fall? My conclusion is that the executive branch is hostile to Federal crop insurance and have been doing all they can to show that it would not work.

I urge my colleagues, who are supporting crop insurance as a way to provide the producers themselves with a basis to assess risk and make a risk-based decision, to support the amendment of the Senator from South Dakota.

It clearly is in support of a comprehensive change on which both he and the Senator from Missouri have worked so hard. It is important, I think, for us not to have this sunset provision in there so as to give Congress the leverage it is going to need with the executive branch, that simply does not want the program around at all.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator controls 9 minutes and 40 seconds.

Mr. LUGAR. Will the Senator yield to me for 4 minutes?

Mr. BOND. I yield 4 minutes to the ranking member.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 4 minutes.

Mr. LUGAR. Mr. President, I thank the Senator from Missouri, who worked diligently to craft a very important part of our farm bill. As was apparent in the discussion when we came out of committee, even though there was a desire in a bipartisan way to fashion something that addresses crop insurance and disaster payments, we were unable to do so at the time of final passage in committee.

Senators BOND, DASCHLE, CONRAD, and others have worked together to fill in a very important gap. The dilemma comes down to precisely the dilemmas that have been discussed already. Namely, there is universal appeal for crop insurance; a good many people, not only the administration, but the Congress and public as a whole, want to get rid of it. It is costly, about $1.50 going out for $1 coming in. Subsidies are large. The disaster payment programs in the last 2 crop years have been very large and those are on top of all that. It will not work in terms of the budget summit or anything we are looking at now.

In view of that, it is important, we feel in the consensus in the Ag Committee, to have a crop insurance program. So many farmers have in fact looked forward to that in this crop year. But we think it is important to keep the pressure on to reform this whole business.

If the sunset is not adopted, then in fact we are going to have an ongoing program, and a great fear really of what lies ahead without any particular reform, a hodgepodge of disaster programs coming to the floor in ad hoc fashion.

In short, it is just very important that we come to a conclusion, that we have a will to progress on this. And this is at best an imperfect interim amendment. Be that as it may, it is better than zero, better than a blank in the bill.

I commend the distinguished Senator from Missouri for his statesmanship in stepping up to something that the committee had been unable to fashion. I commend his amendment. Likewise, the arguments that he has given so eloquently lets me look forward to a successful conclusion of this in the final few minutes of debate.

I Thank the Chair, and I thank the Senator.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will be charged equally against both sides.

The Senator from Nebraska.

Mr. EXON. Mr. President, I ask that the managers of the bill in support of the Crop Insurance Corporation yield whatever time.

How much time do we have remaining?

Mr. DASCHLE. Mr. President, there are a number of Senators who wish to speak. I understand that one Senator is not going to be able to get here for a couple minutes. I ask unanimous consent that debate be extended for 10 minutes, 5 minutes to be allocated on either side.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Mr. President, reserving the right to object, and I shall not object, in fact the distinguished chairman of our committee is desirous of being on the floor, and appropriately should be on the floor at the conclusion of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The debate is extended 10 minutes, 5 minutes to each side.

Mr. DASCHLE. Under the new agreement, how much time do I have?

The PRESIDING OFFICER. Eight minutes and 14 seconds, and the other side, a total of 11 minutes 30 seconds.

Mr. DASCHLE. Mr. President, I already promised the Senator from Iowa 3 minutes. So I yield time to him 3 minutes at this time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank Senator DASCHLE for this time. I support the amendment he is offering. I do not understand how you can say you want the program to work and then try to sunset it. That would only deter farmer participation in the program. Why enroll in the program and fit it into your operation if it is not going to be around in a couple years?

For insurance companies and local agents, why go out and try to increase sales if the program is no longer going to be around? So I think sunsetting is inconsistent with the commitment we are making to try to extend it.

Second, I think we have to extend this statewide. We have had problems in my State where they cover one portion and will not cover another portion. We have potatoes in north Iowa where they have been growing potatoes for 30 years, and you cannot get it. Go 30 miles north in Minnesota and you can get it. It does not make sense. If you are going to offer it in one place, you ought to offer it all over.

I prepared an amendment that would mandate the funding of the Commodity Credit Corporation for crop insurance for the 1991 crop year. However, the CBO informed me that such amendment scored against the Ag Committee and against the farmer, so the option of seeking CCC funding is still a possibility. I am confident the appropriations process will reach a responsible result and fund the program. That is why I am not offering the mandated portion, because it would be scored against us.

So, therefore, I think the sense-of-the-Senate resolution and the modifying amendment offered by the Senator from South Dakota is proper.

Last, on the little time I have remaining, let me say I have been with this program since we changed it over from disaster program to crop insurance program back in 1981, and what killed the Federal Crop Insurance Program has been nothing less than total mismanagement of the program: not extending it to all farmers; not getting enough farmers into the program to build the insurance pool so they could have broad coverage and lower the rates.

I have never seen a program so mismanaged from Washington, DC, in my life. If we had the right management of the program, if we did what Senator DASCHLE is saying to do: not sunset it; mandate they have to cover the entire State if going into one county, then we begin to build up the pool. Like any insurance program, the bigger the pool, the better the coverage and the lower the rates. And that is what we have been trying to do for 10 years now in the crop insurance program. I do not think it is time to throw it over.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. Mr. President, I want to answer some of the statements which have been made in the last few minutes by opponents of the second-degree amendment. They ask why we would sunset a program if we wanted to keep it alive and reform it. My good friend from Montana said this would be a chink in the armor.

Well, let me point out to those concerned about the sunset that the real danger is that all the armor will be taken off. We are going to lose funding of the program if the position of the House prevails.

The objective in getting a sunset 3 years away is to make sure that we have a mechanism to force reform. We want to keep crop insurance available next year, and the year after, and the year after, as we come to a study and reach agreement on how to reform it.

The letter that the Secretary of Agriculture sent to the Vice President points out how much money we have spent on ad hoc disaster assistance and crop insurance. It states at the bottom of page 7:

> Meanwhile, the Federal costs in the Crop Insurance Program continue to mount. We were unable to make real progress toward improving actuarial soundness, reducing administrative costs, and increasing rates of participation.

Mr. President, that is the problem. Secretary Yeutter expressed to me just yesterday, as I said earlier, and repeat for colleagues who did not hear it, that he believes very strongly an actuarially sound crop insurance program is the way to go. We need to provide a safety net to farmers so they are not wiped out; so communities are not destroyed when natural disaster strikes.

The problem is we are on dead center. We are stuck. We cannot move. The argument should not be between those of us in this body, who want crop insurance to be reformed. It is with the other body. They have said cut it out altogether. How can we send a signal that we are serious about it? We send a 3-year warning rather than sending a signal of zero appropriations this year.

I have appreciated the opportunity to work very closely with the distinguished Senator from South Dakota, who is offering this second-degree amendment. We have tried and we have worked diligently. I am deeply grateful to him and the Senator from North Dakota, and the other members of the Agriculture Committee and their staffs, who have worked to try to bring before us reform in crop insurance this year.

The fact of the matter is it is difficult to move a 900-pound gorilla. We cannot get meaningful reform when there are some people who benefit greatly the status quo. As I pointed out, the private crop insurers have made profits of $50 million on underwriting with literally no risk, while the Government has paid out $1.4 billion in underwriting losses. There is no incentive there to reform the system.

Some of my colleagues who are arguing against the sunset are from States in which $2 in loss claims are paid out for every $1 in premiums that are paid in. In that State, you are getting $2 from the cash cow for every dollar you feed it. There is no incentive to reform the system there. Something has to be done.

Now, this bill, the amendment I have introduced, says in section 11:

> It is the sense of the Senate that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

That is our objective. Without it, Mr. President, I fear that we will continue with studies, with ideas for spending more and more money, but never reforming the basic system. I know how hard it is to try to get meaningful reform of crop insurance. It is not easy. I suggest that we need a law against which we are backed. That puts a lot of stiffness in our backs. That will make us reform the system to make it work, to make it actuarially sound, and to make it equitable.

For those reasons, Mr. President, I think it is absolutely essential that we put a hammer into this bill. Otherwise, any measure that we put forward that just says we will try some things, we will study some things, we will look at pilot projects is not going to convince anybody that we are serious about reforming crop insurance. Without that serious commitment to reform, I submit that we may lose the whole program.

The Senator from Iowa [Mr. HARKIN] has said that he does not want to put in a requirement that we fund this out of CCC because it would be scored against other agriculture programs and the commodity programs. Well, that may be the ultimate position in which we are placed if we do not have a mechanism to show the House that we are serious about reforming crop insurance. We need to get on with reform and having a real deadline facing us but 3 full legislative years away is a rational response.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2383 TO AMENDMENT NO. 2382

(Purpose: To improve the operations of the Federal crop insurance program)

Mr. DASCHLE. Mr. President, at this time I send an amendment to the desk and offer it as an amendment in the second degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. CONRAD, Mr. BURDICK, Mr. BAUCUS, Mr. KERREY, Mr. EXON, and Mr. HARKIN, proposes an amendment numbered 2383 to amendment No. 2382.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1 of the amendment, strike out line 3 and all that follows and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This title may be cited as the "Federal Crop Insurance Adjustment Act of 1990.".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) A sound system of crop insurance promotes the national welfare by improving the economic stability of American agriculture;

(2) crop insurance should provide reasonable protection against natural disasters;

(3) ad hoc disaster assistance has affected adversely the existing system of Federal crop insurance;

(4) the existing Federal crop insurance system has not been able to provide crop insurance on an actuarially sound basis;

(5) the existing Federal crop insurance system remains unable to offer coverage tailored to the individual needs of agricultural producers; and

(6) efforts to reform the existing Federal crop insurance system should not lead to increased Federal outlays.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to modify the Federal crop insurance system to begin the process of achieving a sound system of crop insurance.

SEC. 3. IMPROVEMENT OF OPERATION.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in subsection (i), by striking out "and" at the end thereof;

(2) in subsection (j), by striking out "and" at the end thereof;

(3) in subsection (k), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new subsections:

"(1) shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, that each policyholder and each reinsured company furnish to the insurer or to the Corporation the social security number of such policyholder, in the case of a business entity, the applicable employer identification number of such entity; the Corporation and reinsured companies shall have access to such numbers solely for the purpose of establishing systems of records necessary to the effective administration of this title; each policyholder shall notify each individual or other entity that acquires or holds a substantial

beneficial interest in such entity of the requirements and limitations under this title; each such policyholder shall provide to the Manager, at such times and in such manner as prescribed by the Manager, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest in the policyholder; for purposes of this paragraph the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder; and the Manager of the Corporation shall promulgate regulations to protect the personal privacy of individuals with respect to the use of such numbers under this subsection; and

"(m) upon notice and opportunity for a hearing on the record, may—

"(1) impose a civil fine of not to exceed to $10,000 on a person; and

"(2) disqualify a person from receiving any benefit under this Act for a period of not to exceed 10 years;

if such person wilfully and intentionally provides any false or inaccurate information to the Corporation or to any any insurer with respect to an insurance plan or policy under this Act, and in assessing such penalty the Corporation shall consider the gravity of the violation.".

SEC. 4. ACTUARIAL SOUNDNESS AND CONGRESSIONAL REPORTS.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (i) as subsections (d) through (k), respectively; and

(2) by inserting after subsection (a), the following new subsections:

"(b)(1) In addition to any standard forms or policies as the Board may require be made available to producers under this title, and without regard to the limitations on levels of coverage and rates provided for in this title, to—

"(A) review other policies and provisions of policies (including dollar-denominated coverage and the use of yields determined by the Agricultural Conservation and Stabalization Service); and

"(B) review rates or premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary, that may be submitted by companies reinsured under this title.

"(2) If the Board finds that, under the policies referred to in paragraph (1), the interests of producers are adequately protected and that the premiums charged to such producers are actuarially appropriate, such policies, provisions of policies, and rates shall be approved by the Board for reinsurance and for sale to producers at actuarially appropriate rates and under the same terms and conditions as those applicable to the standard policies of insurance authorized under this title.

"(3) Any policies, provisions of policies, and rates approved under this subsection that are developed by more than one reinsured company or by a trade association or industry group for the benefit of more than one reinsured company, or that are made available for use or actually used by more than one reinsured company, shall be published and made available to all companies contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) To determine, on a State and crop basis, the rates and coverages that would be necessary to achieve actuarial soundness. Not later than 120 days after the date of enactment of this subsection, the Corporation shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of such determinations. The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.".

SEC. 5. REINSURANCE AGREEMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section—4) is further amended by adding at the end of subsection (g) (as so redesignated), the following new sentences: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992) the Corporation shall revise its Reinsurance Agreement with the Reinsured Companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into consideration the financial conditions of the reinsured companies and the availability of private reinsurance. Not later than 120 days after the date of enactment of the Federal Crop Insurance Adjustment Act of 1990, the Corporation shall prepare and submit, to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the amount of increased potential losses that the revised agreement will require the reinsured companies to assume.".

SEC. 6. UNIFORM CLAIMS ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (g) (as redesignated by section—4) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

SEC. 7. AVAILABILITY OF CROP INSURANCE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l)(1) To provide the Secretary of Agriculture with current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(2) To provide the Secretary of Agriculture with a listing of all agents for agent referral to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(3) The Secretary shall utilize the information provided under paragraphs (1) and (2) to educate State Agricultural Stabilization and Conservation Service directors concerning such information to enable such directors to convey such information to local Agricultural Stabilization and Conservation Service offices for distribution to local producers.".

SEC. 8. ASCS YIELDS DOLLAR-DENOMINATED COVERAGE, AND EXPANDED AVAILABILITY

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (a)—

(1) by striking out in the seventh sentence "The Corporation" and inserting in lieu thereof the following: "For any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved a yield for the purposes of programs administered by such Service or a yield for crop insurance purposes under the provisions of this Act, and such yield is greater than the recorded or the appraised yield of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield. Such insurance shall be provided for an additional premium set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation";

(2) by adding at the end thereof the following: "The Corporation shall establish an additional price level for each commodity on which insurance is offered. This price level so established shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of the value of the total acreage of the commodity on the insured farm or farm unit beginning with the 1982 crop year. The maximum coverage on such acreage shall not exceed an amount equal to the total acreage of the commodity on the insured farm multiplied by (1) the recorded or appraised yield for the commodity, (2) the yield coverage level selected by the producer, and (3) the price level established for the commodity. The producer shall have the option of securing insurance protection against production losses on the acreage in any amount not to exceed the maximum coverage as determined under the preceding sentence."; and

(3) by striking out the tenth and eleventh sentences and inserting in lieu thereof the following: "If there is crop insurance program for a commodity in any county of a State, crop insurance for such commodity shall be available to producers in all counties of the State, except that the corporation, under regulations promulgated by the Board, may limit or refuse insurance in any country or area, or on any farm, on the basis that there are different insurance risks involved in the production of the commodity in the county or area, or on the farm, because of variations in the type or variety of the commodity produced, agricultural production methods and practices, weather patterns, soil types, topography, or other factors affecting insurance risk.".

SEC. 9. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended by inserting after "private insurance companies" the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal

Government of services that are or may readily be available in the private sector,".

SEC. 10. STUDY.

(a) IN GENERAL.—The Federal Crop Insurance Corporation shall conduct a study to consider the feasibility of providing multiple peril crop insurance policies under which prices for covered crops are selected on the basis of—

(1) trading futures contracts on such covered crops on contract markets designated under the Commodity Exchange Act;

(2) forward contracts for such covered crops between producers and market intermediaries;

(3) the cost of production estimated for such covered crops; or

(4) other forums whereby prices are set by market forces.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Crop Insurance Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the study conducted under subsection (a).

SEC. 11. GENERAL SENSE OF CONGRESS CONCERNING CROP INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

SEC. 12. SENSE OF CONGRESS REGARDING FUNDING.

It is the sense of the Congress that—

(1) the Federal Crop Insurance Corporation should make the multiple peril crop insurance program established under the Federal Crop Insurance Act available to producers of agricultural commodities in accordance with such Act during fiscal years 1991, 1992, and 1993, by—

(A) issuing new multiple peril crop insurance policies and renewing existing multiple peril crop insurance policies to all producers that quality for such under the Federal Crop Insurance Act; and

(B) honoring all valid commitments to crop insurance companies made in the 1991, 1992, and 1993 reinsurance agreements entered into by the Federal Crop Insurance Corporation and such companies under the multiple peril crop insurance program;

(2) the Commodity Credit Corporation should make available to the Federal Crop Insurance Corporation such funds as may be necessary to implement paragraph (1), under terms established by the Secretary, subject to paragraph (3); and

(3) the Federal Crop Insurance Corporation should, if funds are made available to it under any procedure of the type described in paragraph (2), repay the Commodity Credit Corporation any funds so made available as soon as practicable, giving due consideration to the needs of the crop insurance program under the Federal Crop Insurance Act (the Federal Crop Insurance Corporation should incur interest charges on any unpaid balance that may exist at a rate comparable to the rate being paid by the Treasury on borrowings of comparable maturity.

Mr. DASCHLE. Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. EXON. I thank my friend from South Dakota and I thank the Chair.

Mr. President, I rise in strong support of the Daschle amendment and in opposition to the amendment offered by the Senator from Missouri. If we sunset, as the Senator from Missouri indicates—and I thoroughly understand what he is trying to do—I am afraid that we would be sending the signal very loud and very clear that there is not going to be any help whatsoever from the Federal Government on crop insurance 3 years from now. I believe that would be the death knell, because I cannot imagine that very many farmers or very many private insurance companies would be enthused about that kind of proposition at all. Certainly we are spending a lot of money. As the Senator from Iowa has said, we have not managed the program very well. The bottom line is simply this, in my opinion: If we do not have some type of reform of the crop insurance, which is necessary and which would be accomplished with the Daschle amendment, then, simply stated, we are going to have an awful lot of farmers out of business next year because there are many financial institutions who by necessity have to loan money to farmers who are not going to make those loans. They are putting the farmers in Nebraska and elsewhere out of business without insurance.

There have been some problems with the program, and they should be corrected. But let us not move in a precipitate fashion at this time to eliminate crop insurance because of its vital needs for the American farmer. Also, I would point out, Mr. President, the idea of subsidized crop insurance was to get away from these very expensive propositions that we run into with regard to disasters. In Nebraska last year we had a drought. This year we have floods. Likewise, in many other States.

I simply say that at the critical juncture that many farmers find themselves in today, it would be wrong to cancel out the crop insurance, and, in my opinion, it would be wrong to adopt the amendment of the Senator from Missouri.

Mr. President, I join my colleague from South Dakota in supporting this amendment. Now is the time to bolster and reorder and improve crop insurance rather than eliminate it as the administration has proposed.

We have all heard this afternoon about the importance of crop insurance in reducing risk; in helping farmers secure credit; in keeping rural communities going.

The question before us, then, is whether we sunset the program in 3 years or whether we keep it going. The Bond amendment is ostensibly designed to force us to review crop insurance in 3 years or face the reality of a disaster program which simply does not cut it. I think that is the wrong strategy—it will mean 3 more years of indecision and lackluster progress toward improving crop insurance. It also means more uncertainty which is exactly what crop insurance is supposed to avoid. Even without the sunset, there is nothing to stop us from making future improvements.

Having said that, I urge my colleagues to support the Daschle amendment so we can begin making meaningful improvements in crop insurance.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? If neither side yields time, time will be deducted equally from both sides.

Mr. DASCHLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 2 minutes and 29 seconds.

Mr. DASCHLE. And the Senator from Missouri?

The PRESIDING OFFICER. Five minutes, 29 seconds.

Mr. BOND. Mr. President, I yield myself 2 minutes.

Mr. President, I feel a little guilty about having had the time of the Senator from Nebraska charged against the time of the Senator from South Dakota because I think my good friend from Nebraska has made my point very well. He is concerned about cutting off crop insurance next year. He knows the need for reform. He has spoken very eloquently about it. He said that we must make sure we are going to do something about this program and not lose it next time.

The argument that he has, and I have, is with the House. The House said that because the program is so poorly structured, they are zeroing out the appropriations for the 1991 fiscal year. Again, this is something we want to avoid. We have developed a mechanism to do it, to say that we will give ourselves 3 years in which to reform the program and make it work. Without that forcing mechanism, I fear, Mr. President, that we will be back here in 1993 and 1994 saying, "Boy, I wish we could reform this crop insurance program. People aren't participating. There are flaws in it. It isn't working and we just cannot get reform through." That is what we found this year, and I fear that without the forcing mechanism which is contained in the first-degree amendment, we will be here in 2, 3, and 4 years making the same arguments with no real progress.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield to the President pro tempore.

The PRESIDING OFFICER. The President pro tempore is recognized for such time as he may require.

Mr. BYRD. Mr. President, I thank the distinguished Senator from South Dakota. I ask unanimous consent that the time I consume not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY LATVIAN PRIME MINISTER IVARS GODMANIS AND FOREIGN MINISTER JANIS JURKANS

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to bring on the floor of the Senate Mr. Ivars Godmanis, the Prime Minister of Latvia, and Mr. Janis Jurkans, the Foreign Minister of Latvia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, the freely elected legislature of the Republic of Latvia reasserted that country's independence from the Soviet Union after 50 years of occupation. Today, I want to pay tribute, and I want my colleagues to join me in paying tribute, to two individuals who were instrumental in the Latvian drive for free elections and the subsequent declaration of independence.

Mr. Ivars Godmanis was elected Prime Minister by the Latvian Parliament on May 7, and he is making his first official visit to our country this week. Accompanying the Prime Minister is the Foreign Minister, Mr. Janis Jurkans.

Prime Minister Godmanis is an educator by trade. He holds degrees in both physics and mathematics, and was a senior instructor at the University of Latvia. He has been a leader in the Popular Front of Latvia, the largest of the grassroots independence movements. Mr. Godmanis coordinated nationwide election activities for last December's local elections. Those elections laid the groundwork for the free parliamentary elections in March of this year. After being elected to the Parliament as a deputy, he was selected chairman of the Popular Front faction and then, in May, he was chosen Prime Minister.

Before being selected as Foreign Minister, Mr. Jurkans held numerous administrative posts in the capital city of Riga, and also taught at the University of Latvia. He has a degree in English language and literature and served as the cochairman and senior adviser of the Foreign Relations Committee of the Popular Front of Latvia.

It is my pleasure, Mr. President, and I hope my colleagues will join me, to welcome these two courageous individuals to the U.S. Senate today.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate might stand in recess for 2 minutes, to allow our colleagues to welcome our distinguished guests.

There being no objection, the Senate, at 1:31 p.m., recessed until 1:34 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROBB].

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order the Senate will resume consideration of the amendment offered by the Senator from Missouri and the Senator from South Dakota as a second-degree amendment.

Ms. MIKULSKI. Mr. President, I rise in support of the crop insurance amendment.

Among the provisions of this amendment are two important but essentially cost-free improvements in the Crop Insurance Program designed to make the program available to more farmers. These provisions are drawn from my bill S. 739, which was developed by a task force of local farmers in Maryland.

In recent years, participation in the Crop Insurance Program has been low. Yet at the same time, a clear majority of our farmers would like to keep a crop insurance program that can really work. When I first came to the Senate in 1986, I began a tour of Maryland farmland. Maryland farmers told me they wanted a crop insurance program that worked. One of the big problems they kept repeating to me was the lack of accurate and up-to-date information about the program. This problem was addressed both by the Maryland Task Force on Crop Insurance and my bill, S. 739, and it is addressed by this amendment to the farm bill.

As should be obvious, farmers need accurate and up-to-date information so they can have the necessary information about the program to decide whether to participate or not. The crop insurance amendment will go a long way in making up for that lack of information. We may not be able to fix the program completely, but we can at least provide our farmers with the basic information they need to make an informed choice about crop insurance.

The amendment is very simple. It uses the structure already in place, and it adds no new authorizing costs. It just takes information from the Federal Crop Insurance Corporation and distributes it to local Agricultural Stabilization and Conservation Service [ASCS] offices. ASCS is the best Federal network for disseminating information in my State, and probably many other States, and farmers are very familiar with their local ASCS offices.

If farmers want to participate in crop insurance and do not know enough about the program, we will be doing them a great service to assure them that they can get reliable information at their local ASCS office.

And Maryland, if not in all other States, ASCS can send out regular information on crop insurance when they send out other farm program information. As you know, the Crop Insurance Program goes through many changes, so our farmers have to be kept abreast of what policies are available, and what these policies actually cover.

In closing, let me thank Chairman LEAHY for his help in having my amendment included in the farm bill. We have given our farmers a much better chance of participating in this program.

The PRESIDING OFFICER. Who yields time? The Senator from South Dakota.

Mr. DASCHLE. I yield 2 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, just so our colleagues understand what is at stake here, the Daschle amendment in the second degree, which we will be voting on, contains the reforms that are already contained in the amendment by the Senator from Missouri [Mr. BOND]. The fundamental difference is simply this: Senator BOND's amendment would sunset the program, eliminate the Federal Crop Insurance Program by 1993, and provide for the disposition of the assets.

Mr. President, to support the Bond amendment, our colleagues must accept the underlying Bond proposition that we must kill the Crop Insurance Program in order to reform it. That argument is, I believe, a great mistake. It will not bring reform. It will kill the program. It is a high risk strategy that gambles with the future of our farmers.

I urge our colleagues to support the Daschle amendment. Again, the Daschle amendment provides the beginning of reform for crop insurance without killing the program.

Mr. President, I urge our colleagues to support the Daschle amendment.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will be charged equally to both sides.

The chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I ask the remaining time be allocated to myself.

I would say in closing that I appreciate the Members who have come to speak on the floor about crop insurance. Crop insurance is not the easiest thing to get juices flowing and get people involved. Crop insurance is extremely important to farmers in almost all of our States, and absent reform it is a fatally flawed program.

I particularly thank, on our side, the ranking member, Senator MCCONNELL, Senator BOSCHWITZ, Senator GRASSLEY, and Senator DOLE, who is strongly in support of this amendment, for their work on it. Also I want to congratulate the author of the second-degree amendment, Senator DASCHLE, and Senator CONRAD, who have worked very hard on this amendment, and also Senator CONRAD BURNS, and Senator KERREY, who have worked to try to reform crop insurance.

We have not gotten the job done. That is the reason we are saying give us 3 years and give us a hammer to make sure we come to agreement on reforms. Successful reform will be extremely difficult; there are many people who benefit from some of the aberrations, some of the overpayments, some of the profits, that will put up much resistance to change.

By establishing a deadline, we will get things done. Anybody who does not think we need a deadline in this body ought to take a look at how we get serious when a vacation is coming up. To paraphrase Samuel Johnson, who said "nothing focuses the mind like a date with the hangman in a fortnight," there is nothing that focuses the mind of this body more than a deadline. Watch how much we do before the August recess, whenever that occurs.

We need the same kind of forcing mechanism on crop insurance. I have heard my good friends on the other side say there is little doubt that Congress will take up the FCIC revision next year. I say there is a great doubt that they will do so unless we have a deadline and we have a hammer. That is why we introduced the first-degree amendment with the sunset.

I gather from the other side they have concluded their comments.

Does the Senator from South Dakota have anything further?

Mr. DASCHLE. If the Senator will yield just for a list of cosponsors.

I ask unanimous consent to add Senators CONRAD, BURNS, BURDICK, BAUCUS, KERREY, EXON, and HARKIN as cosponsors to the Daschle amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I rise today in strong support on the amendment just offered by my good friend from the State of Missouri, Senator BOND. I understand and support the need for crop insurance, and am appreciative of the efforts that the Agriculture Committee and Senators BOND and DASCHLE have made to come up with conclusions to the crop insurance problem. I support a farm insurance policy that encourages and helps a farmer to manage his risks. I agree that there are problems with the current program and some reform must be made. The sunset provision contained in the amendment offered by the Senator of Missouri will force us to arrive at a solution to the problems.

During the most recent severe droughts that the farmers in my State of Delaware were confronted with, the Delaware Legislature passed legislation and provided funds to help farmers offset some of the costs for insurance. This helped in offsetting some of the cost imposed by the Federal program and helped increase the participation rate of the Delaware farmer in the program.

Mr. President, there is no justification in providing Federal crop insurance every year when we subsequently enact a disaster program to help bail out farmers due to natural disasters. The sunset provision will help us arrive at an equitable solution to the problem.

I urge my colleagues to support the amendment offered by the Senator from Missouri.

Mr. DOLE. Mr. President, I would like to thank Senator BOND for his hard work on the difficult issue of crop insurance. He has made a heroic effort to provide an improved Crop Insurance Program that stays within budget constraints and that provides coverage better tailored to individual producers.

It is extremely difficult to alter the current crop insurance program and still stay within the $800 million budget without substantially increasing the premiums paid by producers. Premiums in some areas could easily double if the program were made actuarially sound and FCIC paid only premium subsidies and delivery costs.

That indicates how heavily farmers in some areas—along with the Government—subsidize many crop insurance purchasers. I would like to note that in the western two-thirds of Kansas, however, rates would decline in the move toward actuarial soundness. Currently, western Kansas farmers are subsidizing farmers in many other States.

Disaster assistance has become an increasingly important fallback for producers, one that—when combined with an unsound Crop Insurance Program—has broken the budget. Crop insurance and disaster assistance have cost about $1.1 billion per year during the 1980's. And expenditures in 1990 on crop insurance alone are estimated to slightly exceed $1 billion.

The problem is that the Crop Insurance Program is not actuarially sound. During the 1980's, producers on average received $1.57 for every $1 they paid in premiums. People focus on the 30 percent premium subsidy that farmers receive. But because the Government pays delivery costs and excess losses, farmers really receive a subsidy in the 60 to 65 percent range.

If crop insurance is eliminated, and disaster language—carried over from the 1981 and 1985 acts—remains in the bill, we would return to the Disaster Program of the 1970's. It covers both prevented plantings and low yields. A farmer would receive a reduced yield payment at a rate equal to 50 percent of the target price for the deficiency in production below 60 percent of the farm program yield. In the 1970's, only program crops were covered.

USDA's green book states that this program cost an average $510 million annually between 1974 and 1980. But with 1990 plantings and target prices, USDA estimates it would cost $500 to $600 million annually for program crops. If soybeans were included, the cost would total $900 million.

Mr. WHITTEN's committee in the House virtually eliminated crop insurance. They reported a measure allowing for $262 million to be spent next year on crop insurance administrative phaseout costs and that authorize FCIC to make payments on any policies sold before October 1.

Mr. BOND's amendment provides a viable option to such a drastic measure. It allows farmers to buy crop insurance—but at a reasonable cost to the Government. It directs FCIC to move toward actuarial soundness. It directs FCIC to modify policies so that companies bear an increased share of the risk of loss. It gives crop insurance companies more flexibility to tailor policies to meet individual needs.

FCIC currently has the authority to make nearly all changes—except for FCIC termination after 1993—specified in the Bond amendment. FCIC is scheduling rate increases in areas that are being undercharged for coverage. FCIC is also in the process of redesigning policies so that crop insurance companies share more of the risk of loss.

The Bond amendment provides a formal declaration supporting the move toward actuarial soundness—while also providing a better program for farmers. By terminating the program after the 1993 crop year, it forces Congress to address substantive actuarial reform at that time. Actuarial reform and other program changes may be more acceptable at that time because of changes occurring under the Bond amendment in 1991 and 1992.

Senator BOND's crop insurance amendment is a move in the right direction. Crop insurance is an important program that needs to be saved.

But the program needs to be altered so that farmers receive coverage better tailored to their individual needs, and pay a fair price for doing so—a fair price to both the farmer and the Government.

Mr. BOND. Mr. President, I move to table the second-degree amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table the second-degree amendment of the Senator from South Dakota to the first-degree amendment of the Senator from Missouri. The clerk will call the roll.

The legislative clerk called the role.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—42

Bond	Grassley	Moynihan
Boschwitz	Hatch	Murkowski
Bradley	Hatfield	Nickles
Chafee	Heinz	Packwood
Coats	Helms	Robb
Cochran	Humphrey	Roth
Cohen	Jeffords	Rudman
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
Dole	Lautenberg	Stevens
Domenici	Lugar	Symms
Garn	Mack	Thurmond
Gorton	McCain	Warner
Gramm	McConnell	Wilson

NAYS—55

Adams	Exon	McClure
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Nunn
Bingaman	Graham	Pell
Boren	Harkin	Pressler
Breaux	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Burdick	Johnston	Rockefeller
Burns	Kennedy	Sanford
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Shelby
Daschle	Leahy	Simon
DeConcini	Levin	Wirth
Dixon	Lieberman	
Dodd	Lott	

NOT VOTING—3

Armstrong	Durenberger	Wallop

So the motion to lay on the table amendment No. 2383 was rejected.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio, Mr. Glenn.

Mr. GLENN. Mr. President, I send an amendment to the desk.

Mr. LEAHY. Mr. President, parliamentary inquiry: If the Daschle amendment was not tabled, is it not still before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. And the underlying amendment, am I correct,

The PRESIDING OFFICER. Both the second-degree amendment and the first-degree amendment are still before the body and they would have to be disposed of before another amendment could be entertained.

Mr. LEAHY. Thank you, Mr. President.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The question occurs on the Daschle amendment. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2383) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri [Mr. BOND].

The amendment (No. 2382) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. GLENN].

AMENDMENT NO. 2384

(Purpose: To exempt certain American Great Lakes vessels from the cargo preference requirements and provide for the phase out of the Great Lakes set-aside)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. DIXON, Mr. KOHL, Mr. LEVIN, Mr. RIEGLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. KASTEN, and Mr. HEINZ, proposes an amendment numbered 2384.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 501, between lines 4 and 5, insert the following new subtitle:

Subtitle E—Shipping Provisions

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 20-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App 1241(b) or 1241(f)), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. EXTENSION OF GREAT LAKES SET-ASIDE.

Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)(2)(B)) is amended by striking "calendar years 1986, 1987, 1988, and 1989" and inserting "each of the calendar years 1991, 1992, 1993, and 1994."

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2385 TO AMENDMENT NO. 2384

(Purpose: To exempt certain American Great Lakes vessels from the cargo preference requirements and provide for the phaseout of the Great Lakes set-aside)

Mr. INOUYE. Mr. President, I send an amendment in the second degree to the Glenn amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. DIXON, Mr. KOHL, Mr. LEVIN, Mr. RIEGLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. KASTEN, and Mr. HEINZ, proposes an amendment numbered 2385 to amendment numbered 2384.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, strike all after "Subtitle E" and insert:

Shipping Provisions

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States, or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS OF OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241(f)) or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(A) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. EXTENSION OF GREAT LAKES SET-ASIDE.

Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. 1241f(c)(2)(B)) is amended by striking "calendar years 1986, 1987, 1988, and 1989" and inserting "each of the calendar years 1991, 1992, and 1993".

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; The Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

Mr. GLENN. May we have order?

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, the matter before us is a very important matter for the Great Lakes States. It is very important for Midwestern States. It is a matter of some controversy and some contention.

The amendment that I have just submitted in the second degree is a compromise that many of us have tried over the past days and evenings and mornings to work out. We believe that we have come up with a fair and equitable compromise.

This amendment provides for the reinstatement of the Great Lakes set-aside, which incidentally expired at the end of 1989, for an additional 3 years. It is not a permanent program. We will reopen that in 3 years, and a permanent solution can be found. The reinstatement will be effective from calendar year 1991 through 1993.

At the same time, Mr. President, foreign flag vessels will be allowed to be documented as U.S.-flag and designated as "American Great Lakes vessel" by the Secretary of Transportation.

Third, this compromise will require that all repair, all maintenance, all reconditioning and other construction shall be performed in American shipyards, and the vessels will be manned by American citizens, crew members, and officers.

Fourth, these reflagged, U.S.-documented, U.S.-crew vessels will be immediately eligible to carry U.S. Government preference cargoes, and therefore will not have to wait for 3 years as is the current law.

Fifth—this is the severe condition—these vessels may not engage in trade from a non-Great Lakes port between U.S. ports such as New York to New Orleans or between Great Lakes ports in the United States and Canada. However, during the winter months when the Saint Lawrence Seaway is closed by ice these vessels may be eligible to carry cargo from other ports, U.S. ports.

The carriage of bulk commodities will be prohibited except for commercial bulk shipments in quantities of less than 7,000 tons per vessel per shipment.

Mr. President, I believe that with these conditions, restrictions if I may call them, this is a fair compromise. It is an equitable compromise. And, from all I can gather, the Great Lakes Ports Association, the shipping companies, the labor unions involved, all favor this. I gather that the Maritime Administration might not be too happy, but with this compromise it will not do much havoc because the other provision on the operating differential subsidy has not been included.

I hope that the U.S. Senate will accept this compromise that has been worked out by several Senators, and proceed with the business at hand.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise in support of this compromise. I view it as a very constructive, a fine compromise offered by my distinguished colleague from Hawaii. He said this amendment would provide for a Great Lakes set-aside of 240,000 tons of bagged cargo over 3 years as well as a Great Lakes reflagging provision that my distinguished colleague mentioned which ensures long-term access by Great Lakes ports to these cargoes, and on a competitive basis when the set-asides expire.

Mr. President, this amendment is important not only to the ports of the Great Lakes, but I believe to American farmers and the U.S. maritime community, as well. So I certainly do urge my colleagues to support this proposal.

As cochairman of the Senate Great Lakes Task Force, I worked long and hard with my colleagues to address the inequities of the 1985 farm bill. You all know the 1985 farm bill increased the amount of Public Law 480 cargo reserved for U.S.-flag vessels from 50 to 75 percent. That had a detrimental impact on the Great Lakes due to the oceangoing U.S.-flag vessels serving the region.

In recognition of the situation, a 4-year set-aside was established for the Great Lakes. There have been difficulties in established, regularly scheduled U.S.-flag service, to replace the need for the set-aside. Therefore, when the set-aside expired, we felt the full impact of the 75-percent requirement. Great Lakes lost cargo they successfully competed for in the past, and repercussions included dramatic loss of dockside jobs and decreased ability of ports to generate additional commercial cargo.

As a result of this situation, a number of my colleagues in the Great Lakes joined me in introducing S. 1350, which included provisions similar to those included in this amendment. So I want to compliment my colleague, the distinguished Senator from Hawaii, for recognizing the merits of that proposal.

I want to point out, Mr. President, this amendment will also benefit U.S. farmers by providing additional outlets through Great Lakes ports for agricultural products. This will also ensure that the St. Lawrence Seaway will remain a viable competitive trade route to guarantee the lowest transportation cost to Midwest farmers. In

addition, to reflag will ensure the availability of modern, efficient U.S.-flag vessels to provide timely handling of export products.

Mr. President, the provision of this amendment that deserves special attention is the reflagging provision. It will allow U.S. companies to bring foreign vessels under U.S. registry operated by U.S. crews but—and let me point this out to those who are concerned about the maritime aspects of this bill—any work required to bring a vessel under U.S. registry and up to U.S. specifications must be completed in U.S. shipyards.

This provision will add much needed new tonnage to the U.S. merchant fleet, will supply additional jobs to U.S. merchant marines, and additional work for U.S. shipyards. I want to emphasize that the shipyard requirement is not limited to Great Lakes shipyards. It could just as well be done in Mississippi, or wherever these shipyards are.

So I think that shipyards throughout the Nation will benefit from the employment provided by this amendment.

I want to thank all my colleagues from the Great Lakes, from the agricultural States, and from coastal States for their cooperation and assistance in working out this compromise amendment.

Mr. President, I further add that I think we should put this in proper perspective, as to what it means in the overall scheme of shipping that would now come through the Great Lakes ports. Of the total amount of grain shipped abroad—most of it, of course, out of the Gulf State ports—only some 2 percent, a little over 2 percent, I believe, of the total amount of grain shipped abroad gets shipped out as Public Law 480 grain.

Now, of that 2 percent, the Great Lakes set-aside would be 4 percent of that 2 percent. That is not much grain compared to the overall scheme of things in this country. What we would do, of course, with the substitute that was put in the second-degree amendment by my distinguished colleague, we agreed to a 3-year extension and a reflagging, which will give business, as I see it, to our own shipyards in this country, and it will provide in the Great Lakes an incentive for ships to come into that area.

These ships can carry cargo in and other cargo out and make other stops, which helps the general business. I add that our lowest estimate of the jobs that are involved with this in the Great Lakes is about 1,200 jobs, or a maximum of about 2,000 jobs. So it is important for the Great Lakes.

Mr. President, on the original amendment that I put in, the Senators that were included as supporting that were Senators KOHL, DIXON, LUGAR, LEVIN, BOSCHWITZ, KASTEN, DURENBERGER, COATS, and METZENBAUM.

I presume that most of them would still be for this substitute, although I have not had a chance to find out specifically how many of them are still for this substitute. I presume most of them are in favor of it.

So, Mr. President, I urge acceptance of this. I do not think it does the dire things that some of the opponents of this proposal have indicated. I think it is an excellent way to set aside a small part of this overseas shipment that is a catalyst in the Great Lakes. It provides shipping back and forth in the Great Lakes, and it can also carry other cargo. But it gives a basis for these ships to come into the Great Lakes, to begin with, or it gives also a continuing basis for the reflagging that is so important throughout the Great Lakes which we are trying to enhance.

Mr. President, I may have a few remarks later on. I know other people are waiting to speak.

I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, we are all aware of the long, heated, and divisive debates that have occurred in connection with the Great Lakes set-aside. Thanks to the good faith efforts of the Members most affected by the set-aside, both in the Great Lakes and around the other port ranges, we have a negotiated compromise that may prevent such a fight from occurring again on this farm bill.

Those of us from the Great Lakes region have always held that the reason we needed the Great Lakes set-aside was due to the lack of regularly scheduled U.S.-flag service in the lakes. The amendment before us addresses that problem by providing incentives for ship operators to reflag foreign bottoms as U.S.-flag vessels to serve as an "American Great Lakes vessel."

In current law, when a foreign-flag vessel is reflagged as a U.S. bottom, that vessel must wait 3 years before it is eligible to carry U.S. preference cargo. This compromise will waive that waiting period, making a reflagged Great Lakes vessel immediately eligible to carry preference cargoes.

In addition, by extending the Great Lakes set-aside for 3 years, we provide for a minimum amount of Public Law 480 title II cargo to move through the Great Lakes during the transitionary period when vessels are being reflagged and U.S. documented.

This amendment will also provide a bonus to U.S. shipyards by requiring that all repair, maintenance, reconditioning, or other construction that must be performed on the reflagged vessels to meet U.S.-flag standards, will be done in U.S. shipyards. And of course, these vessels will be manned by U.S. crewmembers and officers.

Mr. President, in the past, my colleagues from the Great Lakes and I have simply asked for a level playing field in the face of no U.S.-flag service in the lakes, together with the physical constraints of the St. Lawrence Seaway. The compromise before us provides that level playing field, and gives us a fighting chance to compete for our Nation's foreign aid cargoes.

I want to thank my distinguished colleagues from Louisiana and Hawaii for the good-faith negotiations which brought this compromise about, and I certainly urge my colleagues to support the amendment before us.

If I could simply say this in conclusion, Mr. President. My good friend, the senior Senator from Hawaii, has been involved in this debate for many years, going back to the last time it occurred, as I recall, in September of 1984.

I just want to say that his graciousness in a very contentious situation, over the years, is greatly appreciated. I only say to my colleagues this: The amount that we are discussing here is relatively, in the whole picture, inconsequential; only 4 percent, as I understand the figures, of the Public Law 480 shipping would occur in the Great Lakes under this compromise.

(Mr. BURDICK assumed the chair.)

Mr. DIXON. Mr. President, I hope my colleagues know and understand that the Midwestern States and the Great Lakes region for more than a decade have been behind the curve in the economic experience in America. We need this additional help for our region. I believe it to be a very modest amount of help that we request in this compromise amendment.

So, I thank my colleagues for whatever consideration they give this, and I particularly thank those colleagues of ours in a position to make a judgment call on this who have been so very accommodating, and in particular my friend, the senior Senator from Hawaii, who over the years has been very gracious about this; Senator BREAUX, whose predecessor, of course, then the distinguished Senator from Louisiana, Senator Russell Long, who for so many years was very much involved in this issue and who was at the last moment, in 1984, most accommodating on this issue. There may be more that will be said on this. If there is, of course, I will want to participate once again.

But I do express my appreciation for the consideration extended by my colleagues in connection with this issue.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I join with my colleagues from the Great Lakes States in support of this amendment.

Let me make a couple of points about this issue of the Great Lakes set-aside.

By way of overview, we all know that this set-aside was established as part of a comprehensive compromise in the 1985 farm bill. It was compensation given to the Great Lakes in return for the obvious harm created by cargo preference, a policy which makes some sense in general terms but which creates an injustice when applied to our region. The set-aside balanced that injustice.

That balance, however, was created for 4 years—now we have lost it. At this point there is no set-aside, and I would like to explain what that means to my State and my region. Let me make a couple of points.

First, the loss of the set-aside has had a significant impact on the economy of Wisconsin. Every time that a ship calls at the ports of Milwaukee, Green Bay, or Superior, that ship visit is worth $250,000 to the local economy. The loss of the set-aside has cost the Great Lakes States over 2,000 jobs and an export trade estimated at $100 million annually.

Second, let me respond to the contention that the set-aside represents a special deal for our ports. It is not a special deal at all. As I have indicated, it was included in the 1985 farm bill in recognition of the economic injury that an increase in cargo preference from 50 to 75 percent would have on our ports—ports that simply do not have regularly scheduled ocean going U.S. flags.

Some have further argued that the set-aside violates the Constitution by giving one port range preference over others. That is an argument which they could have made in the courts at any time over the past 4 years. It is, in my view, a little difficult for them to make that argument here when they have refused to make it in a more appropriate forum over the past 4 years. In addition, to the extent that their argument is correct, I would suggest that the virtual absence of U.S.-flag service in the Lakes means that our ports are precluded from being able to compete for certain cargo. Turning the argument around, one could suggest that cargo preference is itself unconsititutional unless special accommodation is made for the Great Lakes states.

Third, let me underscore the volume of cargo we are talking about here. The set-aside represents only 4 percent of all Public Law 480 shipments. Let us look at how that 4 percent compares with what the gulf ports receive under the Public Law 480 program. In 1988, of the 797,000 tons of commodities shipped under title II of the Public Law 480 program, the gulf ports received 63 percent of these shipments. The Great Lakes received only 18 percent. Of the 4.2 million tons shipped under titles I and III, the gulf ports received 63 percent. The Great Lakes got nothing. Of the 338,000 tons shipped under the section 416 program, the gulf got 84 percent. The Great Lakes got nothing. All told, the gulf ports got about 70 percent of the total Public Law 480 program shipments.

Mr. President, let me remind my colleagues that the current 75-percent cargo preference requirement remains in current law. The Great Lakes set-aside, however, is gone.

I appreciate the interests of my colleagues opposed to this amendment. Obviously our loss is their gain. Our loss of 4 percent of the program ends up in someone else's port. So I understand completely why my colleagues from gulf port States would prefer not to see the set-aside continued.

But I do object to characterizations of this amendment as being unfair to other ports. Clearly the numbers prove otherwise.

I also object to the argument that this amendment is somehow antilabor. Let any of my colleagues join me in Milwaukee, or Green Bay, or Superior in visiting longshoremen who have lost their jobs as a result of the expiration of the set-aside. There is not a local longshoremen's union in the Great Lakes that opposes a continuation of the set-aside. Quite the contrary: our local longshoremen's union has urged us to oppose the 75 percent cargo preference provision for so long as there is no Great Lakes set-aside.

Let me also tell my colleagues that this measure is supported by both regional and national farm groups, including the National Farmers Organization, the National Farmers Union, and the North Dakota Wheat Growers Association. Their support is based on the importance of the Great Lakes shipping industry to the viability of agriculture throughout the upper Midwest.

Mr. President, I believe that a full extension of the set-aside would have been a reasonable policy. But my colleagues from the Great Lakes and I have gone the extra mile to try to accommodate what we see as legitimate concerns expressed by some people. As a result, the pending amendment represents a compromise which, if adopted, will eliminate forever any need to discuss the set-aside in the future.

Specifically, this amendment extends the set-aside for 3 years and then it expires—forever. During that 3-year period, we provide a substitute for the set-aside program: reflagging.

We have developed a reflagging program which speeds up the process while protecting American maritime jobs and interests; which restricts shipment on the reflagged vessels of commercial bulk cargo; and protects the traditional balance of businesses between the Great Lakes and the Gulf States. It is less than I want; less than I think we deserve; but we can live with it and we offered it in good faith.

This compromise has allowed us to pick up the support of Members of this body who have, in the past, been on the opposite side of this issue. I would like to thank the chairman of the Commerce Committee, Senator HOLLINGS, especially for his valuable support of this compromise.

Some of our colleagues, however, have refused to accept it and refused to accept a time agreement on it. I regret that. I am willing to live with the decision of the Senate on this issue. I am convinced that if my colleagues hear the arguments, that decision will support our amendment. But I am not asking for a guarantee that I will prevail—all I am asking for is a vote which disposes of this issue. I hope we can get that.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the discussion that we are having on the Great Lakes set-aside, and I support the Great Lakes set-aside, is a little bit like talking about a pimple on an elehant or a little bit like a spit in the ocean.

There is the issue of unfairness that needs to be addressed. But there is also the issue of how large of an economic pie should we have to divide up. I suggest that, as fair as the Great Lakes set-aside is, there is a bigger national interest here that deals with public policy of whether or not the amount of cargo transported on American ships should not be made bigger as opposed to defending policies that have brought about a shrinking economic pie.

The question of fairness here is a legitimate one, but it deals with the overall question of whether or not cargo preference in the first instance is fair to the taxpayers, whether it is a wise use of scarce resources, and also whether or not cargo preference is fair to our national security, because one of the main arguments often used about cargo preference is its essential quality for national security.

I have said before, Mr. President, that cargo preference is a back door, hidden subsidy. It creates a monopoly, a monopoly market for a handful of U.S-flag operators to charge virtually what they please, to write out their own Government check.

I do not know of another subsidy program that leaves Congress, the administration, and most of all the taxpayers, so much in the dark about what it cost. Every once in a while someone in Congress asks CBO or GAO to do a cost estimate. But by my review of these cost estimates, none seem to do a very thorough job of digging to the bottom of the heap to find

out what the total costs for cargo preference are.

Therefore, Mr. President, Senator DOMENICI, the ranking member of the Senate Budget Committee, and I asked the Congressional Budget Office to give it their best shot at determining the true costs of cargo preference and operating differential subisidies. CBO spent over 2 months poring over the numbers. Last night we got our final answer from CBO.

Mr. President, CBO found that the cost of ODS and cargo preference for fiscal year 1991 is $1.055 billion. CBO found that for the 5 years running from fiscal year 1991 through fiscal year 1995, the total cost is estimated at $5.165 billion.

Mr. President, one of the biggest arguments that we get in support of cargo preference is that it is necessary to maintain employment of U.S. seafarers for the day that they might have to haul military cargoes into a war zone. So legitimately, that is a very basic need for our national defense.

But with national defense, just like every other thing, we are put to the test of cost-benefit analysis. How much are we willing to pay per job to accomplish this goal? Would it be more cost effective to simply rely upon enlisted men and women in the Navy to handle cargo vessels such as those in the ready reserve fleet, if and when that date comes that we are at war overseas?

After all, the only real major threat to our sealanes today, we are led to believe, is the Soviet Union. Now, of course, we are all looking forward to peace dividends. We shout that we may never have to worry about the Soviets again. In all this euphoria, we fall all over ourselves to show who can cut defense the most.

Instead of putting all of these Navy women and men out of work when we cut the defense budget, would it be more cost effective to keep a few thousand and, instead, get rid of cargo preference? But we cannot even start to make that judgment if we do not know what cargo preference and ODS is costing per seafaring job.

Well, now I can tell you, with the help of billet data from the Maritime Administration. That MarAd data reveals that there are 2,333 jobs supported by ODS and 2,024 jobs supported by cargo preference, for a total of 4,354 seafaring jobs. For those used to quoting close to 10,000 seafaring jobs—and some people have done that—I just recently found out from the Maritime Administration that about 5,000 of those seafaring jobs are supposed by the jobs act, not by cargo preference or ODS. And of course I was surprised at that.

But if divide take that 4,354 jobs into the $1.055 billion that CBO projected the cost of ODS and cargo preference, we are then spending $241,157.55 per job per year to protect high-priced union seafaring jobs for that war that we hope we never have, but that war sometime off into the future with an enemy that we now say we may never have to fight.

Just think what our farm programs would cost per year if we applied this same per seafaring job rate to our 2.1 million farms. Our farm programs would cost over $506 billion a year. That is over one-half of a trillion dollars each and every year.

So, fair is fair. We have a lot of farmers who have served in wars already, as we have been reminded of a lot of loyal, patriotic seafaring people who have protected the national security interest of our United States. And there may be plenty of young farmers who will be called in the future to serve their country. But you can bet that these young farmers never were or never will be as well paid for their war service as our U.S.-flag seafarers are today.

Mr. President, since the primary justification for our maritime subsidies are job protection and national defense, in view of the hundreds upon hundreds of thousands of military personnel, defense industry civilians and also the industrial jobs related to defense, for all these jobs that will be lost in the name of peace dividends, does it not seem eminently fair, does it not make sense to let our high-priced seafarers share in some of these cuts?

This past March, the Department of Defense Office of Economic Adjustment estimated that if we only cut just 10 percent of our defense force personnel over the next 5 years, we will still cause 210,000 active duty military, 100,000 DOD civilians, and 340,000 defense-related civilian workers in the private sector, or a total of 650,000 people, to lose their jobs. That is just with a 10-percent cut. We are talking seriously in this body about having maybe a 30-percent cut by the fifth year from now.

How can my colleagues face their defense industry constituents and their service men and women sent to the unemployment lines after they will probably cast their vote against limiting cargo preference or maybe even against this Great Lakes set-aside?

I say to my good colleagues from Mississippi for instance, or I could say from Louisiana—but let us look at Mississippi—who plan to vote against the Great Lakes set-aside, or they might vote against amendments changing cargo preference. Mississippi has 1,500 constituents working for the defense industry who could lose their jobs with a 10-percent cut. Or, multiply that to 4,500 if it is a 30-percent cut 5 years from now. How will we be able to explain to 4,500 Mississippi constituents that saving each and every one of the 4,354 union seafaring jobs were more important than those defense jobs.

Another State we have heard from on cargo preference is Louisiana. My friends from Louisiana will have to face up to the 3,300 of their defense constituents who lost their jobs. They will have to be told that the union seafaring jobs paying masters $143,000 to work 6 months out of a year were more important than defense jobs.

My colleagues from Maryland may have to face 11,700 constituents with the same question.

California could lose 66,000 defense industry jobs with a 30-percent cut. Yet will my California colleagues dare require some sacrifice from our maritime seafarers? It seems to me we have to talk about sharing the economic strain around here.

I would like to give a list for each one of the States that might be inclined to support cargo preference and be inclined to be against the Great Lakes set-aside. We are going to have to explain losing these defense jobs while we find it very comfortable to maintain jobs because of cargo preference. Arizona up to 7,500 jobs lost; Colorado 6,600 jobs lost; Connecticut, 13,500 jobs lost; Florida, 14,400 jobs; Georgia, 7,500 jobs; Illinois, 4,200; Indiana, 5,400; Kansas, 3,600; Massachusetts, 21,300; Michigan, 4,800; Minnesota, 6,000; Missouri, 14,700; New Jersey, 8,400; New York, 23,700; North Carolina, 3,000; Ohio 12,900; Pennsylvania, 9,900; Texas, 24,600; Virginia, 20,400; Washington State, 7,200. And the rest of the United States altogether, all the States collectively that I did not just read, lose 33,900 jobs.

Mr. President, to reiterate, these numbers represent potentially lost jobs in the defense industry if we cut defense by 30 percent.

With this 30-percent cut we can see there are an awful lot of jobs affected, yet we are talking here today about how are we going to divide up this economic pie that we call cargo preference. And, yes, some of those ought to be in the Great Lakes as well as in the gulf. That is a matter of fairness.

But I think we have to consider what the cost of cargo preference is in the first place and find out if it is worth shedding a lot of blood over, dividing up a shrinking economic pie, particularly when we want to preserve about 5,000 jobs and we do not want to touch them at all in times of budget constraints. But without hardly a thought, we are going to lose 600,000-and-some defense-related jobs. This is based upon estimates already produced by the Defense Department, constructed by DOD analysts. Mr. President, this does not include jobs lost by servicemen and women and does not include Defense Department civilian employees.

I frankly find it an extremely sobering thought, having to face thousands of constitutents who lost their jobs for the sake of saving a few thousand seafaring jobs by paring back cargo preference, which is a hidden, back-door subsidy.

As I said the other day, each person in this body knows the politics of his own State better than I do. I know politics in Iowa, and I do not pretend to know politics in every other State. So my colleagues are going to have to answer these questions, and I wish them good luck in the process.

I think what we need to remember here, Mr. President, is that cargo preference may have a justification but it ought to be competitive. You have to be competitive. If there is a justification for this subsidy I suggest that we ought to not have it be a hidden subsidy but we ought to have it an up front subsidy.

Mr. President, my opposition to cargo preference does not mean that I oppose helping the U.S.-flag maritime industry. I oppose cargo preference because it is hidden subsidy that buries itself within the costs of other programs such as food assistance, export development and so on. Except for two agencies, it is virtually impossible to tally. And, because of that, it is an incredibly irresponsible mechanism for supporting this industry.

If it needs supporting, somebody ought to be smart enough to come up with some other way of doing it. The amount that we spend on maritime operators has no connection to merit. It has to do with how much maritime operators within a protected market can gouge the Government.

We create a monopoly situation and allow a handful of U.S.-flag operators to charge pretty much what they want, because there are no market pressures to keep costs down as long as you are guaranteed the right to pass your added costs on to the shipper, in this case the U.S. Government. But as we all know, many attempts have been made to apply cargo preference to commercial shipments as well; recently, with the grain that we will sell to the Soviets under this new commercial agreement.

Because there are no market pressures and because there are no pressures from budget-conscious Members of Congress since the subsidy program is not out in the open, and, hence, we do not know exactly what it costs, no pressures exist to keep costs down and our maritime industry continues to flounder, continues to decay. There is nothing like a lot of competition to keep things really efficient and up to date.

In the meantime, as I stated earlier, maritime unions congratulate themselves for negotiating new multiyear contracts which run well above the national average of union-negotiated increases.

Mr. LEAHY. Will the Senator yield without losing his right to the floor?

Mr. GRASSLEY. Mr. President, let me inquire of the Senator from Vermont, will he raise any point of order that would cause me to lose my right to the floor?

Mr. LEAHY. No. I assure the Senator as soon as I have had the opportunity to speak for a minute or so he would have the floor again.

Mr. GRASSLEY. I will yield, without losing my right to the floor.

The PRESIDING OFFICER. Without objection the manager of the bill is recognized per the agreement just entered into.

Mr. LEAHY. Mr. President, I thank the Senator from Iowa for his courtesy.

I interrupt solely as manager of the bill. I have been told a tabling motion will be made. Will it be at all possible to get a time agreement for that tabling motion?

Other Senators have hearings, are planning hearings and have appointments. Judge Souter is on the Hill. I just met with him as will others.

I obviously do not wish to interfere with the Senator from Iowa or anybody else.

Mr. GRASSLEY. Mr. President, I would like to inform the Senator from Vermont that I will object to that at this point because I am going to make sure that my colleagues understand what cargo preference is all about and how it is a shrinking economic pie. As important as this vote is, there are a lot of things about cargo preference that I want my constituents to consider. I have been trying to enter into legitimate dialog on this issue, to bring it out to the public, and I think that is very important.

Mr. LEAHY. I thank the Senator. It is obvious we will not get a time agreement now.

I urge Senators, especially those who speak after the Senator from Iowa, to note our work on the farm bill will continue late tonight. I am trying to avoid the obvious Saturday session we are going to have if we must go to a cloture session. I do not want to cut anybody off, but I would like to be informed by any Senators who will object to a time agreement I know the Senator from Iowa will. I ask the others to let me know as well.

The PRESIDING OFFICER. The Senator from Iowa under the agreement retains the right to the floor.

Mr. GRASSLEY. I yield to the Senator from Indiana without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I really wanted to raise a question with my chairman. I hear loud and clear the comment of my distinguished colleague from Iowa, and I think the need for illumination of this whole subject is very important. But I am wondering, even as the Senator speaks—I note other Senators here who have an interest in this; I would like to speak for 4 or 5 minutes on the subject personally; and there are other Senators wishing to speak—am wondering if perhaps we were to say a vote to table would occur at 4:30, whether that might be far enough in advance to encompass a full explanation by the Senator from Iowa and likewise other Members who may wish to speak so that at least we will begin to come into a timeframe.

Mr. LEAHY. No later than four.

Mr. LUGAR. I see my distinguished friend from Mississippi rising. He may have a suggestion of time. My purpose is to try to encompass debate until we get to a tabling motion which I understand will occur and will define the issue a bit more at that point.

Mr. LEAHY. If the Senator will yield, I mention to the Senator from Indiana if we are going to enter into a time agreement, we recommend that Senators keep their remarks brief.

Mr. COCHRAN. Will the Senator yield to me for an opportunity to respond to the inquiry of the Senator from Indiana?

The PRESIDING OFFICER. The Chair reminds all that the Senator from Iowa retains the right to the floor.

Does the Senator from Iowa wish to yield to the Senator from Mississippi to respond to a question by the Senator from Indiana?

Mr. GRASSLEY. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I can say to the inquiry, no person who opposes the amendment has had an opportunity to speak at this point. It seems premature to me to be trying to identify a time under which we can expect a motion to table can be made. I hope we can explain to the Senate what the issue is about from our point of view. We have heard the other point of view. Until the Senator from Iowa concludes his remarks on the general subject of cargo preference, it seems very premature to me.

I can assure my colleagues that there is no interest on the part of this Senator in delaying the Senate 1 minute in the consideration of this amendment or this bill. I would like to go to third reading right now, if the Senators who offered the amendment would withdraw the amendment. I am defending the bill. I am in league with the chairman and ranking member in doing that, I hope. Having said that, I hope Senators understand what our view is with the inquiry.

Mr. LEAHY. If the Senator will yield under the same conditions, I will not propound a request now, but I

simply say to Senators that I am following my dracula rule which I have explained many times: amendments seem to come out after dark around here and not during the daytime. For that reason, I would hope to have a vote or two in the daylight hours rather than just at nighttime.

Mr. GLENN. Will the Senator from Iowa yield?

The PRESIDING OFFICER. Does the Chair interpret the suggestion just made by the manager of the bill that he is suggesting that we vote before midnight?

Mr. LEAHY. As controversial and untraditional as that thought has become, yes, I would like to see a farm bill voted on during the time of the day we normally think of crops growing and not in those times when they are dormant.

I will not pursue that metaphor further, Mr. President. I have too many friends in this Chamber to continue that. I would kind of like to have a vote or two during the daylight hours just to see what it is like.

I yield the floor.

The PRESIDING OFFICER. The interpretation of the Chair is there is not going to be a unanimous-consent agreement at this juncture. So I recognize, again, the Senator from Iowa, who has the floor.

Mr. GLENN. Mr. President, will the Senator from Iowa yield under the same conditions?

Mr. GRASSLEY. Mr. President, I will under those conditions.

The PRESIDING OFFICER. The Senator from Iowa yields under the same prearranged agreement to the Senator from Ohio.

Mr. GLENN. A short observation. I think the distinguished Senator from Mississippi makes a very good point, and I agree with him completely. All the discussions so far have been on one side of the issue. There certainly should be no effort made to not hear the observations of the other side. Both Senators from Mississippi are interested in commenting on this and they should be given the full right to do so.

I think on our side of the aisle, those of us who are proponents of this particular amendment, we would be happy at the appropriate time, whenever the Senators feel they have had enough time to discuss this, to go into a time agreement. I wanted to express our willingness on this side.

The distinguished Senator from Iowa has broadened out the debate a bit from where we started. We were involved with just Great Lakes set-aside. I was not challenging the whole principle of cargo preference. It has now been broadened out a bit. Then they changed the nature of the debate a little bit, depending on how far this goes. I want to point out we will be willing to enter into a time agreement on this side whenever the Senators feel it is appropriate.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Iowa.

Mr. GRASSLEY. Madam President, there is hardly another Government subsidy program that writes its own check. I do not know of any other one. Maybe somebody else does. I think it is time the whole thing comes to a stop. But unfortunately, no one ever seems to worry about cargo preference around here except when there are efforts to try to expand it.

That is sometimes done legislatively; sometimes it is done through commercial agreement and negotiations, like the recent one with the Soviet Union. And even more unfortunate, is the fact that about the only time we pay any attention to the need to revise the program is when we debate the farm bill.

This means about every 4 or 5 years, someone might ask the Congressional Budget Office or General Accounting Office to do a cost estimate which is usually ignored and quickly forgotten. As some of my colleagues know, every year the Congressional Budget Office produces a document called "Reducing the Deficit, Spending and Revenue Options."

During the past year, up until this year, that is, CBO has included in this document eliminating cargo preference maritime subsidies such as the differential subidy. CBO's March 1988 option report stated that the Government would save $2.2 billion between fiscal year 1989 and fiscal year 1993 if we were to eliminate these maritime programs. CBO's 1989 options report stated by eliminating cargo preference and ODS, the Federal Government would save $1.9 billion over 5 years.

I was intrigued to find out that for some reason, in the 1990's CBO option report, it made no mention at all of money that could be saved by eliminating cargo preference. Upon my inquiry as to why, I was told that for just one simple reason, at least it was simple from CBO's standpoint, it seemed a waste of time because Congress kept ignoring CBO's suggestion.

So I guess that is probably understandable. If Congress is so entrenched in this dogmatic opposition to scrutinizing cargo preference and revising it so that it is accountable to the budget process, maybe CBO is wasting its time by worrying about it.

But the more I study maritime subsidies and maritime reporting or the lack of reporting to the Congress, the more convinced I became that Congress must act, and it ought to act now. Along that line, to get information, I would invite my colleagues to order a copy of the Maritime Administration's yearly report. This is the one for 1989. The most recent one was release in May of this year and is entitled, as I said, "MarAd 89" and it covers shipments made during calendar year 1988.

In this particular document, you would find on page 31 a table numbered 15 dealing with Government-sponsored cargoes for calendar year 1988. You will notice that the Maritime Administration keeps track and reports for the agencies shipping the larger amounts of cargo total metric tons shipped, the number of metric tons shipped on U.S.-flag vessels because of cargo preference, and then, third, the amount of money paid to U.S.-flag ships, and then, finally, the Maritime Administration keeps careful watch over the percentage devoted to U.S.-flag vessels to make certain no agency tries to dodge their cargo preference requirements, whether that cargo preference requirement is 50 percent, 75 percent, or 100 percent.

But there is something missing from this report. The Maritime Administration has absolutely no column for the amount of money spent on foreign-flag vessels. If we had that reporting, Congress would at least have a glimpse of what cargo preference costs because we could compare the shipments on a dollar per ton basis of U.S.-flag and foreign-flag.

Since I was curious about this omission, following the fight last fall over waiving cargo preference for aid to Poland, Senator DOLE and I wrote to Transportation Secretary Skinner on November 7, 1989, asking for the foreign revenue figures that were missing so that we could calculate cargo preference. Nearly 4 months later, we got an answer from the Secretary—It was for the Secretary from the Maritime Administrator, Warren Leback—telling us, "Actual differential costs are not immediately available for other cargo preference." The other meaning that that comes from the USDA and AID's Public Law 480 and section 416 programs.

Just think about this. If this information was not immediately available after 4 months of our writing and waiting for it to come, I suppose it is legitimate to think that it would never be available. And again maybe we can learn something from CBO's discouraging experience why they never, after a long period of time, advised doing away with cargo preference.

But the more you study this Maritime Administration report, if you read the fine print and if you read the footnotes very carefully, there seems to be something to learn that even Maritime Administrator Leback did not know. For instance, you will note that under the Defense Security Assistance Agency $26 million was paid to U.S.-flag vessels to carry a little over 80,000 metric tons. The total metric tons shipped under this program was over 161,000 tons.

Now, although there was no column to tell us what was paid for foreign-flag vessels to ship this remaining 81,000 metric tons—and after all, Administrator Leback said that this information was not immediately available—lo and behold, buried in a footnote on a separate page we find the missing piece of the puzzle. Come to find out, it only took, $7.9 million to pay foreign-flag vessels to ship more tonnage than that shipped by U.S.-flag vessels which were paid over $26 million.

Compare that, almost $8 million for foreign-flag vessels to ship more tonnage than was shipped by U.S.-flag vessels compared to the U.S.-flag vessel cost of $26 million.

So the ocean freight differential is quite astounding. We paid U.S.-flag vessels over $326 per metric ton while we paid foreign-flag vessels only about $98 per ton, so cargo preference under this program costs us an extra $228 per ton. No wonder maritime interests want to keep secret the real costs of cargo preference. No wonder they do not want accountability.

Another curious aspect of this MarAd report is that for the largest category of all Government agencies—and that happens to be the Military Sealift Command, which shipped well over 12 million metric tons in calendar year 1988—the Maritime Administration does not even include the amount of money we paid U.S.-flag vessels, let alone what we paid foreign-flag vessels.

Again, another interesting footnote is buried on yet another page. It said, and I quote:

The Maritime Administration is unable to verify the troop support cargo data since complete information was not available in time for this report.

That excuse sounded vaguely familiar to me, but with a new little twist. The information was not available in time for this report. Mr. President, it is important to make careful note that I first saw this footnote when I obtained a copy of the Maritime Administration 1988 report which covered the 1987 cargo data. The MarAd '89 report did not come out until this past May. In March, however, I asked the Military Sealift Command if they might yet have the revenue figures paid to U.S. flags that were unavailable for the 1988 report to which I already referred.

They did have it. The Defense Department had the information with which that report dealt, the 1987 cargoes. In fact, they not only had the 1987 U.S.-flag revenue available, they also had the 1987 foreign-flag revenues. That was great to know.

Administrator Leback will be pleased to know that although he told me otherwise, indeed, foreign revenue costs are in fact immediately available, so do not believe every footnote that you read in this MarAd report.

But do you know what was even more surprising? Military Sealift Command also had available the U.S.-flag and foreign-flag revenues for cargo shipped in 1988 which would be included in the 1989 MarAd report to be released within 2 months, May of 1990. Not only that, but they were able to give me the revenue figures for calendar 1989 which will not be reported until the MarAd '90 report which is released in May of 1991.

Although I wanted to give Maritime Administration officials the benefit of the doubt as to why they did not include this important information in their 1988 report, I must say that I waited anxiously to get my copy of the new report this past May, the MarAd 1989 report. For surely when I had information would it not be included in this 1989 report?

Sadly, although not surprisingly, MarAd once again printed an incomplete report on military sealift cargoes and, sure enough, there was the same footnote claiming "complete information was not available in time for this report."

The Maritime Administration says they do not have the information in time for their May report, but when I am sitting on that very same information that they say is unavailable, I have it for next year's report as well as this year's report.

(Ms. MIKULSKI assumed the chair.)

Mr. GRASSLEY. Madam President, I do not like being lied to, and I do not think that Congress should tolerate being lied to either. If I were a member of committees that deal with oversight of the Maritime Administration, I would haul whoever is responsibile for this sort of deception before the committee and grill them until they scream, and do whatever I could to bring responsible reporting from these departments.

Maybe this does not bother some of my colleagues, but I think it should. Here we have another back-door hidden subsidy called cargo preference, and Government officials take even extra steps to hide the costs from Congress. I thought we had problems with the Defense Department and its $1,800 toilet seats.

Some of my colleagues, particularly those who represent maritime interests, seem to be enjoying asking those of us from farm States questions that they do not think we have the answers to. I think that my colleagues who might call upon a tactic like this should be more worried about why this kind of nonsense of incomplete reporting, actual lying to Congress, is allowed to go on.

I hope that my colleagues who are concerned about the oversight in this area will be concerned that we get these reports that say there are no figures available when they are available. If I could get that information from the Department of Defense, with the reputation that I have over at the Department of Defense, surely the Maritime Administration can do that, or the Senators who are involved in oversight of the maritime independent programs can do that.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I yield to the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator.

Madam President, I rise in strong opposition to this amendment. Back in 1985, I joined with the senior Senator from Mississippi in working out a compromise between the maritime and the agricultural groups. We did it on cargo preference, and did it as a part of the 1985 farm bill.

That compromise was brought about to overturn the court decision that legally was putting a stop to all kinds of commercial farm export programs. It was supported by almost all of the agriculture and maritime groups.

We had extended debate on the floor of the Senate, and a so-called Great Lakes set-aside was adopted; it reserved approximately 20 percent of Public Law 480 cargo shipments from Great Lakes ports. That was to be a temporary position to mitigate the supposedly adverse impact of a cargo preference increase. It was to expire 1 year before the expiration of the Food Security Act. It has expired.

Now, despite the fact that the Great Lakes ports have had 5 years to adjust to cargo preference changes and have survived a full year without that provision, we are now being told that the Great Lakes set-aside is absolutely essential.

Mr. President, a new Great Lakes set-aside would be a mistake. No other port or port range has ever been granted a set-aside or any such preferential treatment under Public Laws 480 or any other Government program. Cargoes are supposed to be purchased, and they are supposed to be shipped on competitive bidding. In the interest of a free-market system and the competitive allocation system on which we base our economy, we should not encourage that kind of favoritism and blatant disregard for the majority of the U.S. ports.

Mr. President, we as a nation provide a great deal of assistance to our ports. I have supported that kind of assistance. I believe that the Federal Government can and should be of assistance in developing our infrastructure. And it is in trouble.

We provide help in building and maintaining not just ports, but bridges, highways, and airports. But there is a huge difference between helping to develop our capital base and infrastructure, and then dictating which parts of the infrastructure we are going to use.

The U.S. Department of Agriculture recently reviewed the bidding for title II cargoes and found that even without cargo preference, the Great Lakes would have received 95,000 metric tons in 1988, and 67,000 metric tons in 1989.

Instead, the Great Lakes were given a giant windfall of some 240,000 metric tons per year under the set-aside. That increase was taken away from other U.S. ports. And in the process, the taxpayers paid more money than they would have otherwise to ship those cargoes.

Let me speak of my own State. In Beaumont and Galveston, they are very concerned about their future prospects for cargo. They have had several depressed seasons in a row. The lower Rio Grande Valley of Texas probably has the highest unemployment rate in the entire United States.

But nevertheless, the proponents of this amendment say that the Great Lakes should have an edge because they are not regularly served by U.S.-flagged vessels. However, most of the ports that were hurt by this set-aside do not have regular U.S.-flag service. That includes several of these in my own State. They have lost cargo due to this kind of a set-aside. They do not have that regular service. They compete for bagged flour, and other processed Public Law 480 title II commodities.

A lot of those jobs now move to the Great Lakes. These and other Texas ports have to negotiate wages with longshoremen and other employees, just as Great Lakes. They find it just as hard to cut costs. But they are not asking for a set-aside. They are just asking for fair and open competition. Unlike the ports in the Great Lakes, those ports do not receive a set-aside, but have to be cost competitive to be awarded Public Law 480 cargoes.

When we are talking about advantage, it is important to see that the Great Lakes do have some advantages, just as some gulf ports tend to have a natural advantage in shipments to some points in Latin America.

The lakes have the advantage of attracting export-import cargoes for Canada, as well as its Canadian fleet. The lakes are most competitive when you are talking about international grain shipments to the Soviet Union, Europe, and North Africa. These areas are not targeted for title II food aid donations, but some are targeted for U.S. commercial agriculture export programs.

Lakes ports are active in the export enhancement and agricultural export credit programs. That is particularly true when you are talking about durum, dark northern spring wheat, barley, and barley malt to such countries as Algeria, Tunisia, Morocco, Egypt, Saudi Arabia, and Cyprus.

And they have another tremendous market where they are greatly competitive. That is because of regional industries they have. The lakes ports have a thriving business in the shipment of bulk commodities, including grain, iron ore, and coal. Although it takes additional time and money and there are limitations on the types of ships that can service the Great Lakes through the St. Lawrence Seaway, the Great Lakes ports have reported they expect 1990 to be a banner year.

That is without any set-aside. According to the St. Lawrence Development Corporation, the seaway is projecting a 2-percent increase in cargo for the 1990 season. With those kinds of advantages already, with that kind of a year forthcoming, I think any special attention to the Great Lakes and taking it away from other ports is really unwarranted.

Madam President, there is no valid reason to grant jobs and economic activity to Great Lakes ports through this set-aside proposal. More importantly, as a matter of public policy, U.S. exports ought to be handled by ports which provide the least landed cost. Efficiency ought not to be penalized by Federal mandate to ignore the marketplace.

I think the injurious effect of this kind of a set-aside far outweighs any purported benefits that might come about, because what you are doing with a set-aside, you are unwisely circumventing the competitive bid process for U.S. Government cargoes. And you are violating the port preference clause of the U.S. Constitution by arbitrarily awarding a specific amount of PL480 cargoes to the Great Lakes at the expense of other regions.

The Great Lakes set-aside is a bad idea. If it is in the interest of public policy to address the concerns of the proponents of this amendment, then solutions should be sought that do not unfairly harm other U.S. ports. If the Great Lakes need assistance, let us take that problem head on, and let us tackle it to see what we can do about it; but do not take Government cargoes fairly won by other ports in the competitive bidding process and divert those to the Great Lakes. I think that amounts to nothing more than protectionism and discrimination.

I thank my distinguished colleague from Mississippi [Mr. COCHRAN], and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I have been on the floor and intend to speak on this issue. I would be happy for the Senator from Louisiana to proceed with his comments on this subject. If I could yield to him, Madam President, with the understanding that I will not lose my right to the floor, I will be happy to yield under those circumstances.

The PRESIDING OFFICER. The Senator yielded for a question, and there is no one controlling the time.

Mr. COCHRAN. I ask unanimous consent that I be permitted to yield to the Senator from Louisiana, without losing my right to the floor, and without my speech being counted as a second speech under the rule.

The PRESIDING OFFICER. Without objection, the Senator's unanimous-consent request is granted.

Mr. JOHNSTON. First, let me thank my friend from Mississippi, who is unfailingly courteous and generous with his time in all respects.

Madam President, the Glenn amendment is what I call a "reverse Robin Hood" amendment. It takes from the poor and gives to the rich. What I mean is, Madam President, that this takes business from those who are competitive, who have the lower price, and gives it to those who charge more. It takes it from a poor area of the country and gives it to a richer area of the country.

Madam President, the unemployment figures just came out in my State. They are at 7 percent, one of the highest rates in the whole country. And that comes after people have left my State by the tens of thousands, leaving the economy shattered and in tatters and in difficulty. I read, and I am delighted to read, that the States in the Midwest along the Great Lakes are doing much better. They are, according to the figures, some of the healthiest economies in the whole country, and I am very glad for that.

So why, in view of that, Madam President, do we want to take business and take jobs out of the gulf ports, which are cheaper, and give it to the midwest ports along the Great Lakes? Madam President, it does not make any sense.

Moreover, it violates what was a clear understanding. In 1985 we had a long and difficult argument on the question of cargo preference, and it was agreed at that time that we would have a transition of 4 years, that the cargo preference would phase out in 1989. That was an agreed deal, that was a done deal.

So here we are in 1990, and they are asking that this be reinstated. Is it in the interest of the taxpayers? No. Is it in the interest of the Department of Agriculture? No. Is it in the interest of farmers? Absolutely not. It is simply a reverse Robin Hood job grab from the cheaper ports along the gulf to those along the Great Lakes. That is not fair.

There was a movie a few years ago called "Catch-22." It was about serving in the military service and how you thought you were playing by the rules, and all of a sudden they came up with some catch-22, as they called it, whereby the rules did not apply to you, and they were going to get you no matter what.

Well, the Glenn amendment is the catch-22. We had a deal in 1985—4 years and that is it. My dear friend from Ohio is a great champion for his people and a great Senator, and he does an awfully good job of trying to help his people, and I admire him for that. But the catch-22 should not work here, especially when it is reverse Robin Hoodism.

We ought to play by those rules. We ought to play by the deal we made in 1985, 4 years and then it was to phase out. The 4 years ended in 1989. But now they are trying to reincarnate it, to bring it up from the ashes and rise full blown in all of its unfairness, in all of the difficulty which it would create on the gulf ports.

Madam President, in 1989, USDA wanted to ship a cargo of bulgar wheat to west Africa. At that time, the Port of Lake Charles had the lowest bid. But because of this set-aside, because of the deal they made—and this was during the transition period—we lost over 6 million pounds of business out of the Port of Lake Charles, even though it was much cheaper. They went to the Port of Milwaukee, even though Milwaukee charged more. Not only did it hurt my people in the Port of Lake Charles, but also processors in the State of Kansas lost on these bids, cereal food processors in Wichita, ADM in north Kansas, ADM Milling in Abilene, all lost because the cargo was diverted to the Great Lakes ports.

Madam President, that is not fair, and it is not good economy, and it is not good policy. During the 4 years of the Great Lakes set-aside, 330,000 metric tons of food aid cargoes shipped under the Public Law 480 program were diverted to Great Lakes ports. That set-aside ended in 1989, and it is time to end the unfairness. It is very, very simple. We had a deal—4 years and phasing out. Now we ought to go by bids. The lowest bid ought to get the business. That is the American way. That is sandlot justice; that is good economy. Let us not have reverse Robin Hoodism and catch-22 rules governing the question of who gets the jobs in the United States. Let us be fair, and let us not have set-asides for Great Lakes ports. I thank my friend from Mississippi.

Mr. COCHRAN. Madam President, let me compliment the distinguished Senator from Louisiana for his statement, and the Senator from Texas as well, for putting into perspective the issue that is before the Senate today.

When we in the Gulf States region heard that Senators were planning to exhume and resurrect this issue, we sent a letter around to all Senators to acquaint them with the issue, a "Dear Colleague" letter dated July 23. Some Senators may not have had an opportunity to see it at this point.

Madam President, I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 23, 1990.

DEAR COLLEAGUE: We understand there will be an attempt made during consideration of the Food, Agriculture, Conservation, and Trade Act (S. 2830) to reestablish the Great Lakes P.O. 480 set-aside, which would reserve about 20 percent of P.L. 480 Title II bagged and processed commodities for Lakes ports. We urge you to vote against this quota.

On the surface, this program may sound harmless, but in fact, during the four years of the temporary set-aside, which expired in 1989, P.L. 480 food aid cargoes were unfairly diverted from other ports to Lake ports, at additional cost to the U.S. taxpayers and at significant cost in jobs and revenues to ports around the country.

With a Great Lakes set-aside, no matter what the tonnage level, efforts by other ports to cut costs and compete fairly for U.S. Government cargoes are useless. It is this principle of fair competition for all ports in the United States which is violated by the Great Lakes set-aside.

This is how the set-aside works: The Lake ports would be guaranteed a certain amount of P.L. 480 title II cargoes each year, about 240,000 metric tons. To meet this quota, cargoes are diverted from ports that offer the lowest bid on processed or bagged food aid shipments to Lake ports where shipping costs are higher. USDA found that 330,000 metric tons of cargo were unfairly taken away from other ports during the set-aside, resulting in the loss of commerce and thousands of jobs. For instance, in the Mississippi Delta region, the most depressed area in the country with unemployment greater than 20%, over 1,000 jobs were sacrificed. Additionally, ports in other regions lost significant numbers of jobs as well.

As the Administration stated when testifying against the Great Lakes set-aside, it is impossible to have a cargo set-aside without causing harm to other ports and increasing the budget for the food aid program. We fail to see why the ports on the Lakes deserve this special treatment to the detriment of all others.

The Great Lakes set-aside created a precedent that we can violate the U.S. Constitution, which states, "No Preference shall be given by any Regulation of Commerce or Revenue to the ports of one State over those of another." The simple fact is that the set-aside denied fair competition under a U.S. Government program and caused economic hardship in regions outside the Lakes. Now, the Lakes want to extend it, even though in 1985 they agreed that it would only be a temporary quota and it would end in 1989.

Sincerely,

David Pryor, Howell Heflin, Mitch McConnell, Phil Gramm, Jesse Helms, Dale Bumpers, Bennett Johnston, Thad Cochran, Bob Graham, Trent Lott, Lloyd Bentsen, David Boren, Richard Shelby, John Breaux, Jim Sasser, Al Gore.

Mr. COCHRAN. Madam President, those of us who signed the letter tried to explain the reasons that this amendment would be a terrible idea and the Senate should reject it.

First, it is unconstitutional to try to direct by statute the shipment of any commodities in our country to any one port. The provision is very clear that no preference shall be given to the ports of one State over the ports of any other State. It is just as clear as it can be in the Constitution.

The only time there has ever been any effort to enact a law in the face of that constitutional prohibition was in 1985, and Senators have described the situation accurately. We were writing a compromise between agriculture interests and maritime interests over the applicability of the Cargo Preference Act of 1954. But an issue had arisen as to whether or not that law applied to blended credit shipments; an export enhancement program that had been developed to try to sell more of what we produced in American agriculture in the international marketplace, making our commodities more active by providing Government credits and other entitlements and induce it to buy U.S.-grown agricultural commodities.

The maritime industries claimed that should be governed by the Cargo Preference Act and that those shipments should be at least 50 percent shipped in U.S.-flag vessels.

The agriculture interests disagreed, and the Department of Agriculture disagreed. So litigation developed and the maritime interests won in a district court decision. It was ruled that the maritime industry ought to have up to 50 percent of those kinds of shipments.

In view of that, it was obvious that the department was just not going to use that kind of Government program to sell our commodities. Farmers were going to suffer, our customers overseas would suffer, our trade deficit would suffer.

So an accommodation was developed to resolve that issue. In the 1985 compromise, title II of Public Law 480 was increased from 50 percent to 75 percent over a 3-year period for cargo preference shipments and no cargo preference would apply to these other kinds of shipments that were in disagreement between the two major industries. That was the deal.

Then when we were debating it and pushing that through the Senate with a consensus that had developed between agriculture groups all over the country and maritime industries, the shippers, the unions that loaded the ships, those who were involved in the

maritime industry as engineers, all were together. But the Great Lakes Senators resisted this increase, claiming it was going to cost jobs in the Great Lakes region.

So, after four rollcall votes, and the debate, they rejected any change to prefer Great Lakes shipping. Finally, on a vote of 53 to 43, an amendment was agreed to over the strenuous objection of many of us who fought that right down to the wire; that would set aside temporarily, as the Senator from Louisiana correctly pointed out, for a 4-year period about 240,000 metric tons per year of Public Law 480, title II bagged commodities for shipment out of the Great Lakes ports. These commodities were to be diverted, in effect and as a practical matter, from other ports that might have had more competitive bids.

The administration, of course, was challenged by having to administer that program. We also wrote into the law that this would not be to the detriment of any other port range. It could not help but be to the detriment of other ports, as it turned out. But, nonetheless, for 4 years we had that program. And since then, thank goodness, we do not have that burden. The program does not have the burden. The Public Law 480 program does not have the burden of the additional costs that were attendant to the shipment from that one region, that it was more expensive to ship grain from other regions of the country.

So our customers have benefited because they have been able to get more food for their money; the taxpayers benefited because the program cost less. Those in the other areas that are more competitive, that made investments, that become more modern, are benefiting because finally their investments are beginning to pay off. Ports like Pascagoula, MS; Memphis, TN; Baton Rouge, Lake Charles, LA; Pensacola, FL, are now finally realizing some fruits of their labors, where over years they tried to improve the competitiveness of their ports and now finally they are getting some business to justify their hopes and investments.

Now the Senate is presented with a suggestion that that business be diverted by law, by statute, to some other region of the country on an arbitrary percentage basis that is going to deprive this region of the country of vital jobs.

The Mississippi Delta is an area where this Senate has already expressed its serious concern in terms of economic conditions, the effort to do something to identify ways for that region to grow, for jobs to be created. We created the Mississippi Delta Commission. They reviewed the economic problems of the Mississippi Delta.

One of the things that could help the Delta, according to the Commission's report, is to develop further the ports on the Mississippi River at Rosedale, at Greenville, at Vicksburg, at Natchez, at Memphis, at Pine Bluff, at Helena. These are the ports where the bagged grain could be loaded, but not if this amendment is agreed to, Madam President. We will be diverting by law, contrary to the findings of the Commission the Senate helped develop and fund as to how we deal with some of the very serious economic problems of the Mississippi Delta region. I point that out as a practical consideration. I think the other facts, the constitutional provisions are reason enough to reject this amendment.

Some of the facts that surround the problems of the Great Lakes ports should be considered by the Senate before it votes on this amendment. It is not just the change in the cargo preference law that has made it difficult for some of the Great Lakes ports to compete with ports in other parts of the country.

There have been a lot of changes in the last 20 years; changes in procurement rules for the Public Law 480 program, efforts to hold down costs; and changes in the advent of oceangoing barges that simply do not use the Great Lakes. The Great Lakes do not have access to this new mode of transportation. It has proven to be very cost effective, however, for river ports which can have barges load in the Mississippi River and then proceed right on through the Port of New Orleans, out into the gulf and the oceans. This is a very cost effective way to ship now.

Are we to penalize those who have invested in this new technology by saying as a matter of national policy they cannot compete on an even basis with other ports and other transportation modes for this business? This is not just bad public policy, this is terrible public policy.

Historically, most of the cargo shipped out of the Great Lakes ports was destined for India. But since 1987 only one India flag vessel services the lakes, and it does not bid very frequently. When it does it is sometimes at greater cost than U.S.-flag service to India from other ports.

In the 1980's few foreign-flag vessels serviced the Great Lakes. Generally they did not offer service without a guarantee of a minimum level of cargo, which cannot be accommodated under the Public Law 480 program. But this is a problem with other ports as well. U.S.-flag vessels do not generally call on a regular basis at the port of Pascagoula. There has to be a reason for them to and we have to make competitive prices available to shippers in order to entice the U.S.-flag vessels.

There are many other considerations, Madam President, that we could discuss. There is a multitude of information on this issue. Senators are not going to be burdened by all I know they are happy to hear on this issue because time is just not required, I hope, before it becomes obvious that this amendment is not in the best interests of the entire country.

It is a very narrow interest that would be served by the adoption of this amendment. If you represent Duluth, MN, or Toledo, OH, or Milwaukee, WI, you will want to be very much in favor of this amendment.

If you represent Chicago, you would want to be in favor of this amendment. Chicago had nearly gone out of the Public Law 480 transportation business before the farm bill of 1985 was enacted. But with the advent of the Great Lakes set-aside, it put Chicago back into the business.

In fact, the Chicago Port was not deprived of any shipment due to an increase in cargo preference requirements. Rather, the Chicago Port was no longer competitive as other ports invested heavily in infrastructure and because of innovations in shipping.

Since the set-aside the Chicago Port has unfairly taken jobs away from my State of Mississippi, as well as from other States. Further, to claim as the Great Lakes Senators do, that an increase in cargo preference necessitates a set-aside is completely unjustified. Then to use the same inaccurate reasoning as justification to establish a new set-aside program really compounds the problem.

I hope the Senate will reject this amendment.

Mr. LOTT. Madam President, I want to say how much I appreciate the comments and the leadership of our distinguished senior Senator from Mississippi [Mr. COCHRAN]. He just did an outstanding job in going back over the history of this issue and making very important salient points about this issue and against this amendment.

We all now know the history of the 1985 compromise between agriculture and maritime interests that led to this Great Lakes set-aside. So I will not repeat that.

But my thought here is: A deal is a deal. I am surprised that we are having this amendment offered this afternoon and debating it again. There was a compromise. Everybody agreed to it. Part of that compromise was that there would be a Great Lakes States set-aside for 4 years. Those 4 years expired in December 1989.

Now we have the Great Lakes States coming back and saying that is not good enough. We need more time, give us a year, 4 years, 3 years, reflag some U.S. ships—I do not have any particular problem with the latter—and other suggestions.

My question is: Why do we not stick to the deal? Everybody else did.

Madam President, that is bad principle, that is bad precedent, and it is unconstitutional without a doubt. We cannot get in a situation where we start giving one area of the country or one State some sort of preferential treatment over the other. Where will it end? We have not done that in the past.

It has been pointed out several times that this is unconstitutional. I do not think I have ever seen an area where it is more on all fours that this is unconstitutional. Let me read it to my colleagues.

Article I of the Constitution, section 9, clause 6:

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another.

How clear can it be? That is the Constitution. And this set aside would clearly ignore that.

Well, some people say, why was there not a challenge? If it is unconstitutional, why was there not a lawsuit filed on this particular set aside? Well, I will give you the answer. Because there was a deal. There was an agreement. We worked it out. It was agreed that this was part of what we would do, so nobody filed a constitutional challenge.

But I will tell you what. If this amendment passes, I think you could look for a constitutional challenge.

Now the Great Lakes States make the argument that they need special consideration because they do not get regular service from U.S.-flag ships. That just does not hold water. That is true with several other ports.

My distinguished colleague from Mississippi has already pointed out that my home town of Pascagoula does not get U.S.-flag ship service—foreign ships. I sit at my home in Pascagoula, MS, on the gulf and on the river. I watch the ships come out, Russian flag, Monrovian, Liberian, Panamanian. It makes me mad when I see all those foreign flags sailing right in front of my home out of the Port of Pascagoula. There are no U.S.-flag ships. But we do not get a set-aside. So that just does not hold water.

The argument is made by the Great Lakes States, well, we are losing tonnage because of this cargo preference. But there are many reasons why they have been losing tonnage in the Great Lakes. They are more expensive for one thing. That is a factor that ought to be considered. Changes in transportation rates have played a role. Oceangoing barge services from the rivers have been a very important development and that affects States and ports all up and down the river, not just our State, but a half-dozen States on the river. Intermodal rates have had an impact. And I have to emphasize again, my own State of Mississippi, one of the poorest, if not the poorest in the country, in the poorest region, is put in a disadvantageous position for competition as a result of this set-aside. That just does not seem fair.

This is not just a gulf coast versus Great Lakes issue. Ports all over the country are affected. On the Atlantic coast, Newport News, VA; Norfolk, VA; Charleston, SC; Moorehead, NC; Wilmington, NC; Savannah, GA; Brunswick, GA; and Jacksonville, FL; on the west coast, Oakland, CA; Long Beach, CA; Sacramento, CA; Portland, OR; Seattle, WA; Olympia, WA; Tacoma, WA; Longview, WA; and Grays Harbor, WA; and the gulf coast ports of Pensacola, FL; Mobile, AL; New Orleans, LA; Baton Rouge, LA; Lake Charles, LA; Pascagoula, MS; Gulfport, MS; Orange, TX; Houston, TX; Beaumont, TX; Galveston, TX; Freeport, TX; and Corpus Christi, TX. There are something like 38 ports in 15 States that are adversely affected by this suggested set-aside that would be continued.

Who benefits? I think it is five ports in three States. I cannot believe that we are getting into this 2-hour debate this afternoon on this set-aside issue that is so unconstitutional.

Now let me just wrap it up, because I think we have had a full and lengthy debate, by making some points or repeating points that have been made. The Great Lakes States set-aside of Public Law 480 commodities is unfair to 38 ports in 15 States. The Great Lakes set-aside increases shipping costs by roughly $20 to $25 per ton. The Food Aid Program is not a port subsidy program and it should not be. It violates the Constitution. And it is impossible to have a cargo set-aside without causing harm to other ports and increasing the budget for the Food Aid Program.

On the basis of fairness, this amendment should be tabled. On the basis of costs, it should be tabled. And on the basis of competition, it absolutely should be tabled.

I urge my colleagues here in the Senate: Do not set this precedent. Let us not do this. We agreed to a package, which we have fulfilled. Now let us go forward. Let the ports and let the States compete on an even basis. The way to do that is to table the amendment by the Senator from Ohio.

I yield back my time, Madam President.

The PRESIDING OFFICER. The senior Senator from Mississippi.

Mr. COCHRAN. Madam President, it had been my intention to move to table the amendment of the Senator from Ohio. I understand the amendment of the Senator from Iowa would be taken down if the motion to table the Glenn amendment were agreed to. I do not want to make that motion until all Senators who want to speak on this issue have had an opportunity to do so.

I recall the Senator from Indiana [Mr. LUGAR] saying he would like to have an opportunity to talk for about 5 minutes on this subject. I know the distinguished Senator from Texas [Mr. GRAMM] had wanted to make a comment or two or several in opposition to this amendment that is pending before the Senate.

So I will withhold making that motion but simply indicate it is getting about that time where I think we ought to consider moving to table the main amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Madam President, I just want to briefly respond to the remarks that have been made here. I note a number of colleagues indicated they wish to speak on this subject on one side or the other, and I urge them to get to the floor because it is my intention to go along with the suggestion of the senior Senator from Mississippi and go ahead with his motion to table if that is what he desires to do at an early opportunity. I have no desire to continue this on into the evening hours.

Let me respond briefly to some of the things that have been said. It has been said repeatedly we need competition, that this set-aside is bad public policy. I submit, the reason we had the set-aside to begin with was because cargo preference is discriminatory in its own right as far as open competition goes. It was found when this was put in at 50 percent, we had shipping in the Great Lakes. But when the cargo preference was moved up to 75 percent, then the Great Lakes set-aside was set at 4 percent of that total based on what the Great Lakes had been winning competitively prior to moving from 50 to 75 percent. That is the reason it was put in to begin with.

Question: Why did not the reflagging occur at that time?

The reflagging did not occur at that time because there was a 3-year waiting period. Ships could not be reflagged without a 3-year waiting period. So it is obvious we did not have the move to reflag so we could not get the international ships in and could not reflag them at all.

If reflagging occurs, which the distinguished Senator from Hawaii has proposed, that would be done in American ports by requirement, by American workers, and the crews would be American crews.

Another thing about the comments that have been made about unemployment along the gulf coast and Texas, Louisiana, and Mississippi. Let me put that in proper perspective here. What we are talking about with regard to all of this shipping going to the Great Lakes is a tiny, tiny, little drop in the bucket compared to the overall shipping that goes out of these other ports

and on Great Lakes ports, the tidal ports, as some refer to them.

In fact, out of the total amount of grain shipped abroad, only about 2 percent of that is Public Law 480. And out of that 2 percent, how much is the set-aside? It is 4 percent of the 2 percent of the total shipping going out of this country. So it really does not amount to very much.

In fact, figures for 1988 were that, out of Great Lakes ports, they shipped 19.2 percent of the processed and packaged title II cargo; they sent 12 percent of the total title II cargo, only 4 percent of Public Law 480. But of all agricultural exports going out of the United States, how much went out of the Great Lakes? One-and-a-half thousandths; .0014.

I just submit when the Great Lakes have going through their ports about one-thousandth of the agricultural exports of this country and to say that only 4 percent in a set-aside of the 2 percent that Public Law 480 comprises, we can hardly be having this monstrous impact on employment around the gulf that has been attributed to this particular effort.

Let me address the constitutionality, because we have looked into that. The text of the set-aside provision requires it be implemented "without detriment to any port range." That differentiation of words there is very import, "port range." Nowhere in the set-aside language do we say it goes to Cleveland or Toledo or Detroit or Chicago or Milwaukee or wherever and that is an important difference. When you say "without detriment to any port range," therefore, under its own terms this provision cannot violate the Constitution's port preference clause.

The cargo preference clearly does have a discriminatory effect against certain port ranges: at 75 percent it has basically eliminated Public Law 480 exports from the Great Lakes. So the set-aside's purpose has been to mitigate the port discriminatory impact of 75 percent cargo preference.

The constitutionality is for the courts to determine. But I submit in the 4 years of set-asides, 1986 to 1989, no court found it to be unconstitutional, nor has the executive branch challenged it as unconsititutional, the basis being as long as we are referring to port ranges that is OK. If we refer to specific cities, then the constitutionality would apply.

I have here a statement by Robert S. Silberman, Deputy Administrator for Inland Waterways and Great Lakes, Maritime Administration, Department of Transportation. His testimony was given before the Committee of Merchant Marine and Fisheries in September 1989. Mr. Hubbard asked a question. I quote:

We heard, Mr. Silberman, that the set-aside is illegal and even unconstitutional. What is the opinion of the Administration on this subject?

Mr. SILBERMAN. I think the Administration disagrees that it's illegal or unconstitutional. There is a variety of case law which can be provided to the Committee which supports the constitutionality of the Great Lakes set-aside with regard to the port preference clause * * *.

Another one taken from a letter from Karl Bakke, Chief Counsel at the Maritime Administration to Mr. David Schaller, director of the Port of Pensacola, FL:

Your special question concerns whether preserving a minimum share of tonnage of certain commodities for Great Lakes ports violates the Port Preference Clause of the United States Constitution. As you pointed out, the case of City of Milwaukee v. Block * * * addressed this issue, but only with regard to availability of U.S.-flag vessels and not the set-aside of cargo for the Great Lakes. It is my opinion that Section 901b(c)(2)(B) is constitutional with regard to the set-aside as well as availability.

He goes on:

The Port Preference Clause prevents laws "intended to give and having the effect of giving preference to the ports of one state over those of another state." Armour Packing Co. v. United States 209 U.S. 56, 80 (1908). Section 901b(c)(2)(B), as well as the Cargo Preference Act at 46 U.S.C. App. sec. 1241(b)(1), concerns geographic areas or port ranges and not specific ports or States. This concept in regard to the Cargo Preference Act was also set out in City of Milwaukee v. Block. It is therefore clear that Section 901b(c)(2)(B) does not violate the Port Preference Clause because it does not prefer ports of one state over another.

Additionally, the Port Preference Clause does not prohibit all acts that might give preference to the ports of one state over another.

As stated in the City of Houston v. FAA: "Government actions do not violate the clause, even if they result in some detriment to the port of a State, where they occur, (i) as an incident to some otherwise legitimate Government act relating to commerce, or, (ii), more as a result of the accident of geography than from an intentional Government preference. In my view, section 901b(c)(2)(B) falls under this statement of law."

So I think that pretty well addresses the constitutionality of it. I bow to the opinions of my colleagues who are lawyers. I am not a lawyer. But those are the indications or the opinions of certain of our constitutional lawyers and counsels of agencies of Government who are, in fact, responsible for making just such judgments.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Madam President, I interrupt my comments. I ask unanimous consent that privilege of the floor be granted to John Epifanio, staff, for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Madam President, I find it difficult to believe we are really having this debate over the amount of the set-aside once again. We figure that out of all the Great Lakes States which bound on some of the most productive crop land in this country, that the total U.S. agricultural exports that we export from the Great Lakes is just over 1,000th of 1 percent. That is what we are debating today. That 4 percent set-aside is 4 percent of the 2 percent of all grains shipped that fall under Public Law 480.

The distinguished Senator from Texas [Mr. BENTSEN], our colleague, emphasized very strongly a little while ago that there were 240,000 tons. That is really a very, very small amount compared to the overall tonnage that is shipped out.

Why is this different than the agreement, a deal is a deal approach that was mentioned a little while ago?

The reason the original allocation, the original set-aside did not result in flagging, as I said, was because there was a 3-year requirement, 3-year period during which no reflagging could occur. What is the long-term solution? Are we going to be back here 3 years hence, according to the amendment by my distinguished colleague from Hawaii? No. And this is the difference between this and the deal, if you want to call it that, that was struck before.

This time we permit reflagging of vessels. That reflagging, that reworking of ships will be done in American ports by American workers. They will be crewed by Americans, they will be reflagged as American ships, American safety, American standards, all the way through.

This cargo preference time period of 3 years that we are asking for is to give us time to get that done. Then this program will sink or swim. It will either be reflagged and will go ahead on that basis, competing, as several speakers have indicated today we should, and that is fine. This is to get us through that period and give us that 4 percent that will make certain that these ships can come in and deal with at least this tiny amount of Public Law 480 cargo, in addition to the other cargo that they might be able to pick up also.

So, Madam President, I think that responds to most of the items that were brought up previously.

That basically, Madam President, is the long-term solution to this problem. We get those ships which can work in the Great Lakes, which most of the giant ocean liners cannot do, and we have them available to perform this shipping function in the Great Lakes. That is what this 4 percent is all about.

I yield the floor. I know there are other people who want to make remarks who are on the floor now. I understand we do have other people on the way to the floor. Whenever it is appropriate, I will be happy to move

to a final resolution by my distinguished colleague.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the Chair. Madam President, I ask unanimous consent that I be added a cosponsor of the Glenn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair.

Madam President, the Republican Cloakroom staff has done some statistical work on the farm bill. Although those of us who have been involved in this process for a week are sometimes dismayed by the time considerations, we are grateful at least that our colleagues on this occasion have moved a good bit more rapidly than did our colleagues in 1985.

The Cloakroom has found that the Senate began consideration of the 1985 farm bill on October 25 and, in fact, the bill was passed on November 23, 29 days later, as the case may be. The Senate considered the farm bill only 11 days during that time and had miscellaneous topics of approprations bills, the debt limit, the textile bill and a 2-day Veterans Day vacation intervening; 129 amendments were offered on the floor, 41 rollcall votes on amendments and on passage of the bill, and 87 hours total Senate consideration.

With my good fortune, today, Madam President, we will truncate the process a good bit from the 1985 experience, and we believe with a very sound bill based in good part, as many have pointed out, on that 1985 experience.

I am grateful to those on the Republican staff for providing this information to us as a benchmark.

I rise for a short statement on the subject raised by Senator GLENN today and commented on by so many of my colleagues.

Madam President, during the committee markup of this 1990 farm bill, I discussed at some length this overall subject of cargo preference, the Public Law 480 shipments in particular, and the Great Lakes set-aside.

During that debate, I tried to bring 2 points to the attention of my colleagues which have been made in many ways, but reiterate them again today. Since the 1985 farm bill, the increase in cargo preference requirements from 50 percent of Public Law 480 shipments to 75 percent has had a devestating impact on Great Lakes ports. The ability to competitively bid for these humanitarian shipments completely ceased. Second, the negative impact of cargo preference laws, in general, became much more clear to all of us.

Madam President, the amendment before the body now, offered by the distinguished Senator from Ohio and those who join with him, is not, in fact, a debate about the larger issue of cargo preference. The distinguished Senator from Iowa discussed that subject earlier with cogency and eloquence.

Today, we are really talking about a very short-term remedy, to compensate the Great Lakes port range in light of the damaging 75 percent cargo preference laws.

Prior to the 1985 farm bill, the Great Lakes ports did bid successfully for the Public Law 480 cargo. The Great Lakes ports are competitive. Now, because of the requirements of cargo preference and the expiration of the Great Lakes set-aside, there is no business, competitive or otherwise. It is the situation of a shutout.

Madam President, I ask unanimous consent to print in the RECORD letters from two of my constituents and a further letter from two national farm organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
Portage, IN, February 16, 1990.

Hon. RICHARD LUGAR,
U.S. Senate, Washington, DC.

DEAR SIR: With the 1989 expiration of the Great Lakes set-aside provision for the transporting of PL-480 cargoes to suppy U.S. humanitarian efforts, the Great Lakes will again suffer at the hands of makers and interpreters of federal policy. Who continue to favor tidal coast maritime interests in conjunction with U.S. Flag vessel operators. The impact of having no program or policy in place to allow cost efficient-cross trading carriers to handle these types of milled grain cargoes closest to the points of origin, will cost U.S. taxpayers millions of dollars in additional transportation costs and cost U.S. Great Lakes Ports along with Longshore Labor millions in direct, indirect and residual economic benefits.

It is my understanding that the Cargo Preference provision for the PL-480 program will be a matter for consideration in the 1990 farm bill. As our Indiana Senator and Co-Chairman of the Agriculture Committee, I would like you to know that this is a very important issue to those of us whose livelihoods are tied to the Great Lakes maritime industry.

The position being expressed by the most Great Lakes maritime leaders is that Cargo Preference does not belong in humanitarian programs and would, therefore, prefer no cargo preference provisions. In the absence of consideration for no preference would be the restoration of the 50-50 formula with which the Great Lakes competed successfully for the years prior to 1985. In the absence of 50-50, we would accept the restoration of a Great Lakes set-aside to guarantee a justifiable share of the PL-480 market to the Great Lakes States and their Home Ports.

Personally, I do not like set-aside, but when the table is not being set with the main course within everyone's reach * * * then perhaps a small bowl in front of us is not such a bad idea.

Your consideration and support on this issue would be greatly appreciated.

With every good wish, I remain
Respectfully,

RAY SIERRA,
B.A.-I.L.A. Local 1969.

AMERICAN GREAT LAKES PORTS,
July 17, 1990.

Hon. RICHARD LUGAR,
U.S. Senate,
Washington, DC.

DEAR SENATOR LUGAR: The once-healthy Great Lakes trade in PL 480 Food for Peace agricultural exports has been entirely wiped out this year because of provisions of law that work against us. We hope that in the farm bill now before the Senate, you will work actively for a fair remedy to this issue.

The problem can be simply stated: until 1985 our area with its strong farm production, the nearby location of milling companies that produce many products used in the PL 480 program and access to world maritime trade routes through the Great Lakes/St. Lawrence Seaway, had competed successfully year after year for a share of PL 480 food exports. In the 1985 farm bill, Congress raised cargo preference on PL 480 from 50% to 75%.

Because U.S. flag ocean-going ships seldom visit the Great Lakes, Congress in 1985 recognized the injury that the cargo preference increase could inflict on us, and therefore created a provision known as the Great Lakes PL 480 set-aside. This modest earmark (245,000 tons annually, about 4% of the PL 480 total) was based on our traditional share won competitively when cargo preference was at 50%.

However, while the 75% cargo preference remains in the law, the Great Lakes set-aside expired at the end of 1989. The results in 1990 have been disastrous: while we continue to be low bidders on a number of occasions, we have not received one PL 480 allocation this year.

You have undoubtedly heard from farm, labor and other groups about this problem. We add our voice from the maritime industry. Our lost PL 480 export trade has been estimated at around $100 million annually, 2,000 or more jobs related directly or indirectly, 350,000 man-hours of longshore work, $250,000 per ship visit per port.

The loss of our traditional PL 480 business is through no fault of our own. What we seek is a fair opportunity to compete. With the 1990 farm bill on the floor, we look forward to your active involvement as a Great Lakes Senator to seek equitable consideration for the Great Lakes so we can restore our participation in the Food for Peace program. We will be giving you our full support.

Sincerely,

JAMES H. HARTUNG,
President.

JULY 17, 1990.

Re 1990 Farm Bill—Cargo Preference Provision.

Hon. RICHARD G. LUGAR,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: In recognition of the common interest of farm producers, the maritime industry and the laborers who handle and move P.L. 480 aid commodities, we encourage the U.S. Senate to continue the cargo preference provisions as established by the 1985 Farm Act. It is essential that this country sustain some reliable shipping capability using American flag vessels and American labor.

It is equally important, however, that the action be balanced to treat fairly the Great

Lakes facilities that have traditionally shared this business with other ports. The set-aside feature that guaranteed Great Lakes ports about 4% of the total federal food aid cargoes should be reinstated and made a permanent part of the continuing arrangement.

The National Farmers Organization and the National Farmers Union have substantial membership in the Lake States and an abiding interest in a healthy economy throughout that region. The Congress should now correct the inequity created by expiration of the set-aside feature at the end of 1989. We are sure that you understand that this farm bill contains a number of provisions bearing heavily on many aspects of our economy. The cargo preference feature is one of them.

If we can be helpful, please call on us. We appreciate your interest.

Sincerely,

CHARLES L. FRAZIER,
Director, Washington Office, National Farmers Organization.
MICHAEL V. DUNN,
V.P. for Legislative Services, National Farmers Union.

Mr. LUGAR. Madam President, the first letter is from Mr. James Hartung, president of the American Great Lakes Ports and director of the port of Indiana at Burns Harbor. The second letter is from Ray Sierra, head of the International Longshoremen's Association of the Great Lakes District.

The third letter is from Mr. Charles Frazier, director of the Washington office of the National Farmers Organization, and Mr. Michael V. Dunn, vice president for legislative services of the National Farmers Union.

The interesting thing about these organizations, Madam President, is that while they differ in terms of their feelings on the larger issue of cargo preference, all three find the great Lakes set-aside to be absolutely essential as they take a look at the broad view of American labor, American business and American farming organizations.

In fact the National Farmers Organization and the National Farmers Union are quite clear that they support cargo preference, but at the same time they say, "The set-aside feature that guaranteed Great Lakes ports about 5 percent of the total Federal food aid cargoes"—shipped by the Federal Government—"should be reinstated and made a permanent part of the continuing arrangement."

I think that is very interesting. These are national farm organizations, and they say it is essential this country sustain some reliable shipping, using American flag vessels and American labor. But: "It is equally important," and I quote from the National Farmers Union and the National Farmers Organization, "that the action be balanced to treat fairly the Great Lakes facilities that have traditionally shared this business with other ports."

The national farm organizations appreciate, as I hope many colleagues do, the need for balance, the need for opportunities, for our food and fiber to have many ports and points of access to the export market, in this case access to humanitarian Public Law 480 exports.

It is interesting that from my State of Indiana, both the management representative, Mr. James H. Hartung, head of the Port of Indiana, and Mr. Ray Sierra, head of the International Longshoremen's Association of the Great Lakes District, who are keenly aware of the problems both nationally as well as locally, have said their first choice would be to eliminate the cargo preference requirements altogether but, second, they would prefer a return to the 50-50 cargo preference requirements that existed prior to the the 1985 farm bill. Under these previous conditions, they could survive both as businessmen and labor unions. My constitutents have really been denied both choices. Madam President, these groups come together with unanimity that as a final gesture of some degree of fairness and balance, there ought to be at least the set-aside provision that is now before us, clearly a third choice, but a last choice as opposed to a shutout.

Madam President, what these men are saying—and I simply want to underline this—is that the Great Lakes ports can be competitive. They are good operations for management and labor and those who try to ship through them. It is quite ironic that in this day and age when our Nation is concerned with competitiveness, the level playing field idea, and so forth, and all we want is a chance to prove we are competitive, Great Lakes ports are clearly not allowed to do so.

The current structure of the game really has ruled us out. Our appeal is one of basic fairness. It is an appeal to basic national strength. In fact, I doubt whether it is truly in the interest of Southern ports to completely do in the Northern ports. I doubt that there is any particular value in a market economy to rigging the game in such a way that some of our ports cannot even compete. Under these conditions, there is no game left.

I think that we have an opportunity, even at this late stage in this debate, to strike a blow for justice, for fairness. I think the Glenn amendment achieves a good bit of that, even in the face of these overall arguments questioning whether to have cargo preference at all, which is not at issue at this point in the debate, but might be in the future.

To the extent that there is no fairness, to the extent that a great number of our ports are literally locked out of this situation, there will be other debates. Madam President, these future debates will focus on the larger picture of all cargo preference laws, which increasingly many of us find unjust. With these debates, the true nature and cost of our cargo preference laws will come out of the darkness and into the daylight. As the American public becomes better informed about this situation, there will be correction and reform.

For the moment, rather than discussing the larger issue, let us at least take the smaller one and do our part for fairness in this bill.

I thank the Chair.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Texas.

Mr. GRAMM. Mr. President, I would like to go back and focus on the issue, because much of what I have heard today really does not address the fundamental issue that is at stake in this debate.

Mr. LEAHY. Mr. President, before the Senator does that, will he yield for a question without losing his right to the floor?

Mr. GRAMM. I will be happy to yield.

Mr. LEAHY. Mr. President, does the Senator from Texas have any idea how long it might be before the motion to table is going to be made.

Mr. GRAMM. Mr. President, to reclaim my time, I plan to use about 10 minutes. Having listened to much of the debate, I am not sure if anybody will be swayed. But in order to seek a good conscience I will discuss this for at least 10 minutes.

I will be happy to yield to anyone else who will explain their plans.

Mr. LEAHY. The Senator understands, I am not trying to cut anybody off. I am trying to get some kind of an idea. I know the Senator from Minnesota, who I assume is going to be customarily, extraordinarily brief, is also going to want to speak. I wonder if I might ask under the same agreement approximately how long he will take.

Mr. BOSCHWITZ. Five or six minutes, I say to the chairman.

Mr. GLENN. Mr. President, Senator DIXON has indicated he wants about 10 minutes. I am a good deal through; 5 minutes would be fine for me.

Senator KOHL, who has done such outstanding work on this, would prefer to have some time. He is presiding now. I do not know whether that takes him out of this or not. But that would mean on this side we probably would not need more than at the very outside a half hour.

Mr. LEAHY. Mr. President, adding those all together, that comes out to about 40 minutes. Under the rule of things, I should notify people there will be a motion to table in about 2 hours.

I yield back to the Senator from Texas, who has been very cooperative.

Mr. GRAMM. Mr. President,

While waiting for my opportunity to speak on this subject, and I have heard two arguments to which I would like to respond.

The first argument is that the ports in the Midwest claim they simply want an opportunity to compete. The second argument is that these ports cannot believe we are debating about a 4-to-5 percent-set-aside; that that is such a trivial amount, why is anybody even talking about it. So let me begin addressing these two assertions.

Mr. President, I am always responsive to the call of those who wish to compete. In fact, the genius of the American economy is based on allowing competition.

But the amendment before us is not about competition. The amendment before us sets down in law a situation where there shall be no competition. The amendment before us is not about allowing ports on the Great Lakes to compete. The amendment before us is to prevent any other port in the United States from competing with the Great Lakes.

The amendment before us is not about promoting competition. The amendment before us is an amendment to kill competition, to use the power of the Federal Government to say there shall be no competition. This amendment says competitors will be barred, and shipping will be directed to the Great Lakes port.

Mr. President, the one who wants competition does not want this amendment.

The second argument reminds me of the argument of a fellow who might go out this afternoon and hold up a local convenience store, and walk away with $17,000. He is arrested. They bring him into court. He stands before the jury and he says, "Ladies and gentlemen, I cannot believe we are here. What is $17,000 to this convenience store. That is less than one-tenth of 1 percent of all the revenues that store might generate in a given year. What is it to this store?

Mr. President, the issue here really boils down to fairness. What is the American system about? The American system is about competition.

Mr. President, I do not know if my ports at Corpus Christi, Galveston, Houston, and up and down the Texas coast would be successful in getting these contracts or not. I would not come to the floor of the Senate and ask for a law that said Texas ports will get these contracts solely by using the power of the Federal Government.

Mr. President, all I am asking is that the ports in my State and the ports in every other State have an opportunity to compete for this work.

Why am I in favor of that? Mr. President, I am in favor of it because that is the way we run our economy. Competition is why we have the greatest economy in the world. Does this amendment promote competition? No. This amendment kills competition. Does this amendment promote the interest of the taxpayer? No. In fact, in a letter from the Secretary of Transportation opposing this amendment, he makes it clear that this set-aside will cost the taxpayers $6 million a year in additional costs.

Mr. President, the second thing that is important in this debate is that this proposal is noneconomic. Think about the paradox of this debate on the floor of the U.S. Senate today. What is interesting is this same debate is also occuring in the Kremlin. An historic debate is occurring on exactly this same issue, only it is moving in the other direction because the foundation of perestroika is not for government to make economic decisions, but to let market forces make those decisions. This amendment is the wave of the past. This amendment is the rejected policy which has brought the Soviet Union to the verge of collapse, and which has never been a guiding principle in any successful economic nation on the face of the Earth. It is an amendment about special interest promoted at the expense of the public interest.

Finally, Mr. President, and it is not a big argument and I am not claiming that it should be an argument here, but I think many of my colleagues will be surprised to see how far our Founding Fathers went to try to prevent this kind of situation. The Founders were justifiably concerned about the government picking and choosing winners and losers. The Founding Fathers were concerned that someday on the floor of the U.S. Senate an amendment like this one would be offered. So they wrote in the Constitution in article I, section 9, clause 6, the following language:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

Mr. President, there are three reasons to vote against this amendment. First, it is unfair, clearly unfair. This is an anticompetitive amendment because it says that there can be no competition and that these products must be shipped from specific ports. It costs the taxpayer money. It is unfair, and it is inefficient.

Second, this amendment should be opposed because elsewhere in the world this type of policy is being rejected as enlightened policy. Today history is being made in the very heart of the Soviet Union by rejecting similar policies, and yet here on the floor of the U.S. Senate, in the face of a tidal wave of economic freedom, we are debating the adoption of a system which has never made sense, which has never been efficient, and which no enlightened person in history has ever endorsed.

Finally, this provision is clearly unconstitutional. Both the letter and the spirit of the Constitution argue against this kind of regionalism, this kind of pitting one region against another.

Mr. President, let me conclude by simply saying this: I do not expect people from the Midwest to vote against this amendment. It is in their interest. I am sure their constituents expect them to support it. We are here as U.S. Senators to represent our States. That sometimes represents a conflict. If I were from the Midwest, this amendment would represent a conflict for me.

But I want to make my final argument to the people who do not have a direct interest in this other than being Representatives of the American people.

This amendment should be rejected because it is part of the failed policies of the past. It should not be replicated again in this farm bill. It should be rejected because it costs the taxpayers' $6 million more to transport the food that we are trying to provide to needy people around the world.

Finally, it is a clear injection of regionalism which should have no part in the setting of national economic policy.

Mr. President, I yield the floor.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I would like to address some remarks to my friend from Texas in just a moment because, as the distinguished Senator from Texas knows, we most often find ourselves on the same side of the issue. In this case, we do not. I would suggest to my friend from Texas that he is operating under a misapprehension.

There is a law called cargo preference that the Senator undoubtedly is familiar with. That law is something that I have opposed for many years since I have been in the U.S. Senate. I suppose the Senator from Texas does as well. However, we have gotten beaten so often on that fight that we leave the floor kind of bloody and our heads hanging because we lose that battle.

Because of cargo preference, I say to the Senator from Texas, the Great Lakes ports are effectively preempted from gaining any food assistance cargo. Cargo preference, of course, says that in the event cargo is generated by the American Government, like Public Law 480, it must go on American bottoms. The cargo preference

rule cost this country not $6 million but $100, or $200 million. I do not know the exact figure. But because of cargo preference and because American bottoms do not come into the Great Lakes port, we are effectly prevented from having any traffic which handles Public Law 480 cargo.

So, therefore, we say with this amendment that we want to have at least a small portion of that traffic.

That is why we are here today. We agree with you, on the basic underlying cargo preference argument. If it were not for that, we would not be having this debate. If all ports could compete in the open market, we would have no complaint because indeed boats do come to the Port of Duluth, the Port of Milwaukee, Chicago, or Toledo, where my friend from Ohio is from. Many, many ships come there. But not ships of American flag registry because the draft in the Great Lakes is not sufficient to accommodate the larger American-flag vessels.

Because of the cargo preference rules, we are prevented from having any Public Law 480 business at all.

Therefore, in the spirit of fairness, we are asking for a small portion, 4 percent, as the Senator pointed out, of the cargo preference shipments. That is not unfair. In order to achieve that, we are also saying that some ships can be reflagged as U.S. flag vessels. Those ships can be made available to the Great Lakes.

It is because of the cargo preference rules that we are prevented from getting any of the shipments that are generated by the American Government. Therefore, since an uncompetitive situation is being created by the Government, a very large uncompetitive situation that wastes $100 or $200 million of the taxpayers' money, we ask for this small exception.

That is the essence of our case. We think that the amendment that has been fashioned by the Senator from Ohio and others, including the Senator from Illinois, is an amendment that at least seeks some elemental fairness. That is what we are after here today.

I rise to say that I support this amendment. I thank the Senator from Ohio and the Senator from Illinois for their work. We have been active, and others have been active, all those from the Great Lakes States. That is what this is all about; the fact that we have been preempted because of the cargo preference law.

Wash away the whole cargo preference law, and we would have our reasonable share of the business. Since we cannot apply or appeal to the open market because we have been beaten so often on cargo preference, we have sought this rather modest proposal. In my judgment, it is a fair proposal, a proposal that has some elemental justice to the Great Lakes ports.

So I say to my friend from Texas and to other Senators that they should indeed support this amendment. It is a compromise which is fair. I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank my friend from Minnesota for those remarks. If he has a moment to stay on the floor, the first thing I want to address is something that I think he will remember. I am anxious that this good man on the other side of the aisle be here when I make this statement, because in the time that I was absent from the floor, Mr. President, I am told that a number of Senators, antagonistic to this amendment, suggested that it violates some kind of a "deal" that was made when this set-aside provision was adopted some years ago.

Mr. President, I was very much involved in the process when that debate took place. I was the junior Senator from Illinois at that time. My senior colleague, Senator Percy, was on the floor involved in that debate. The CONGRESSIONAL RECORD of that period of time is replete with the speeches that were made. My friend from Minnesota was on the floor, very much involved in that debate.

Our debate at that time was a debate against increasing the cargo preference law from 50 to 75 percent, which we suggested then, and the facts now bear out, would completely do away with shipping in the Great Lakes. As a consequence of that fact, we have no American bottoms, because those vessels are too great to pass through the St. Lawrence Seaway. That was the debate at the time.

The debate ended up being a long talk that went on for a period of time, and the ultimate resolution of that was that the then Senator from Louisiana, Senator Long; the senior Senator from Hawaii, Senator INOUYE; others on the other side, finally indicated to us that the adoption of this 4-year accommodation would be one that they would support, in order to end lengthy discussion.

There was never any suggestion at all that we would not come back and suggest to our colleagues later that there should be some continuation of that policy. So I say to every colleague that I was there. In the course of my 40 years in public service, when I have made a deal, I have kept every deal. There was no accommodation made at that time, or at any other time in the life of this Senator that he violated at any time, historically, that I can see in my own background, and I am not doing that now. We had no deal, no deal that said we would not try to later change those cargo preference laws, which I continue to believe are violative of the competitive spirit of this country, which my friend from Texas I believe ordinarily supports very eloquently many times on this floor, and my friend from Mississippi and others. And I still think that cargo preference law acts to our detriment.

I said on the floor the other day, when my friend from Idaho had an amendment on the cargo preference law, that I was not opposing that because I believed we had accommodation on this set-aside, but I believe those cargo preference laws to act against the interest of the competitive spirit in this country, and they do. They are very very injurious to the Great Lakes ports.

So, one, I want to say no deal, never was a deal. If I make a deal, I keep a deal, and there was no deal on this issue. That is the deal question.

I want to say, on the constitutional question, that while I, in my career as a trial lawyer I do not pretend to be a constitutional lawyer but when this issue was before the House, the administration addressed the question of constitutionality. I think that language is very clear in the letter that was sent from the chief counsel of the Maritime Administration, to the director of the Port of Pensacola, FL, where he says, directly concerning constitutionality on this question: "It is my opinion that section 901(b)(c)(2) is constitutional," Members of the Senate, with regard to the set-aside, as well as availability.

So it is constitutional. It is, therefore, clear that section 901(b)(c)2(b) does not violate the port preference clause, because it does not prefer ports of one State over another. So I suggest that with reference to the deal, there is no decent argument against what we are attempting to do here, nor is there an argument with respect to constitutionality.

My friend from Texas, and he is my friend, makes eloquent arguments. He argue here about the question of competition. Here is the Journal of Commerce of July 9 of this year, on the question of competition. Here is a case:

> The Great Lakes ports might not handle a single shipment of food aid cargo this year under Public Law 480 now that a food aid cargo scheduled to go out of the port of Milwaukee has been diverted to a coastal port.

I quote directly from the Journal of Commerce:

> The 2,500 ton cargo destined for Afghanistan was originally allocated to a foreign vessel serving Milwaukee. Subsequently, the Maritime Administration diverted the cargo to another port. Milwaukee had won the cargo on the lowest landed cost basis. The U.S.-flag interest complained, and Mr. Marad ordered that it be shifted to another vessel.

That is the Maritime Administration. The Maritime Administration shifted it to another vessel.

A Maritime Administration official said the diversion was ordered because the vessel in question was not permitted to carry cargo between the United States and other countries. The requirement was that most Government-financed cargos had to be carried on U.S.-flag vessels.

I say to my fellow Senators, in that debate some years ago when the Congress increased the cargo preference shares from 50 to 75 percent, the Congress of the United States effectively killed shipping on the Great Lakes, destroyed the competitive initiative that my friend from Texas talks about. Now my friend from Mississippi suggested, and I think he probably did this with information he had, which I must say to him respectfully is not accurate information, he said that Chicago never carried Public Law 480 cargo before and that since the set-aside, it does.

Chicago and the port of Chicago handled this kind of cargo from the mid-1960's all the way through the eighties at the average of 60,000 to 100,000 tons per year. We have not, I underscore, we have not gained additional business for the Great Lakes or Chicago.

The fact is, and I want to make this final point as clear as I can, how did we get the figure 4 percent? Surely Senators ask that question. Where did the 4 percent come from? The 4 percent came from a median average figure for traffic on the lakes for a period of years prior to the occasion when the amendment was adopted, prior to a growth in traffic througout the country.

So what we did in effect was accept a number, may I say to my fellow Senators, given to us, predicated on a number involving shipping on the lakes when the cargo amounts in the country were at a lesser level, that number given to us, not suggested by the Great Lakes, may I say to my fellow Senators, a number given to us by the Senator from Louisiana and the Senator from Hawaii, representing a broad coalition of other interests in the country.

Now, my friend from Texas at some point in his remarks—I do not remember exactly in what context—said that this set-aside is costing $6 million. I say to my dear friends, $6 million is a decent sum of money. I would confess it. The cargo preference laws cost shippers and farmers in America and will cost over the history of that law billions of dollars, billions not millions, I say to the ladies and gentleman of the Senate, gross billions.

And that law acts against the direct interest of the Midwest, the Great Lakes, and the competitive initiative that my friend from Texas has so eloquently articulated in his earlier speech.

Let me just say this in conclusion: We do things here mostly in the spirit of fair play. I believe that. I honestly believe that, even when we have regional differences. I honestly believe that most of the time all hundred of us are motivated by desire of doing what is in the best interest of this great country of ours. So I think a lot of Senators when they support cargo preference laws say, well, this is a good law, we ought to ship it on American bottoms. Ship it on American bottoms means we will have more American ships that will employ more American seapersons, and so forth. I understand that view.

It has not really worked out that way very well in the first instance, and I have all kinds of facts here that I could cite about that. But when you suggest something of that kind I want to tell you this: The American Great Lakes ports as a consequence of the passage of that act are losing annually over $100 million, 2,000 jobs, 350,000 manhours of longshore work, and $250,000 for every time a ship visits our ports. That is the price we pay for this law.

I say one more time to Senators, what are we asking in return for our tolerance of the law, a law that the Senator from Ohio and I permitted to pass undisturbed in an amendment offered the other night; I say to my friends, a miniscule 4 percent of all the shipping in America. I find it remarkable that friends from the ports along our coasts come to us, having 96 percent of the business, and want 100 percent and that is really what it is. The ports with 96 percent of the business come to us and want 100 percent. We say in the face of these laws which guarantee they will have 100 percent, give us only 4 percent. I think it not an unreasonable request.

So, I hope that others involved who are not directly involved would see the reasonableness of the position articulated by those of us from the Great Lakes States.

I have a great deal more I could say. I think we have probably exhausted the subject matter pretty well. I thank my dear friend and my respected colleague from Ohio for his efforts here. I thank my friend from Wisconsin who has throughout this year been working so diligently to try to renew this very, very fair and very limited provision to allow shipping on the Great Lakes.

I say, Mr. President, as clearly as I can as I said before on this floor, I think my friend from Hawaii and others who are attempting to resolve this with this amendment by supporting it, and it is a decent gesture by him, are trying to avoid a revisitation of the cargo preference laws.

If we cannot have this miserly, miniscule, inconsequential amount of shipping, 4 percent, against all the rest of the country for the lakes, then I think it is necessary for those of us from the Great Lakes region to continue to revisit this cargo preference question until it is ultimately resolved. We really ought to either have a set-aside or else we ought to have an exemption, may I say to my friend from Ohio, for the Great Lakes because it is clear we do not have any American bottoms that can pass through the St. Lawrence Seaway and service the Great Lakes ports. I hope my colleagues seeing the value of the position suggested by the amendment of the Senator from Ohio will support that amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will be brief. I wanted to respond to my dear colleague from Minnesota. The Senator from Minnesota responded to my comments by saying there were no American ship bottoms that could navigate the Great Lakes. There are really just two points I would like to make in reply.

First of all, between 1970 and 1977, when cargo preference went from 67 to 72 percent, the Great Lakes ports were very competitive and they were very competitive because the rest of the country was using the so-called conference shipping rates and the Great Lakes were engaged in price competition by negotiating prices. They were very competitive under circumstances that required American ship bottoms.

They have become noncompetitive really for two reasons. No. 1, the rest of the country has ended the process of setting prices based on agreements and have engaged in price competition which has eliminated that advantage. And second, we have deregulated the railroads and as result price declines have advantaged other ports over Midwest ports.

Finally, even if all these things were not true, it is not as if God has decreed that American ship bottoms cannot be built that can circumnavigate the Great Lakes. They can be. They were in the 1970's. They still exist but are not being used because of noncompetitiveness.

So, Mr. President, I simply wanted to answer that one point, and I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, in ending our discussion here, or at least to the best of my knowledge ending the discussion, I think we need to make it clear to all Senators who will be coming to vote that what we are asking for is 3 last years. The set-aside would permanently end 3 years from now. At the end of those 3 years we will have hopefully succeeded in reflagging ships, which means that U.S.

flags will be able to navigate the waters of the Great Lakes with American labor.

That is what we are talking about here. This is no permanent new arrangement they are asking for. We recognize that the set-aside has a sunset, understood by everybody and at the end of 3 years we compete with all other States on an equal basis.

Anybody who votes against what we are asking for has to understand that they are voting against these last 3 years. We are not talking about a permanent set-aside. I think it is important that we all recognize this as we prepare to vote.

OPPOSE THE ESTABLISHMENT OF A GREAT LAKES SET-ASIDE

Mr. HEFLIN. Mr. President, I am opposed to the Great Lakes set-aside not only based on the amount of cargo that is diverted away from east coast, west coast, gulf coast, and river ports, but also because of the principle. As long as there is a Great Lakes set-aside, no matter what the tonnage level, efforts by other ports to cut costs and compete fairly are useless. It is this principle of fair competition for all ports in the United States that is the primary issue raised by the Great Lakes set-aside. This is an issue of port preference.

There is absolutely no comparison between port preference and U.S.-flag cargo preference. I do not want these issues confused. According to the Constitution of the United States, "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Yet, the Great Lakes set-aside specifically would give preference to the ports of the States bordering the Great Lakes over the ports of every other State.

However, U.S.-flag cargo preference does not violate the port preference clause of the U.S. Constitution. U.S. flag-cargo preference is neutral in its application to ports. On the other hand, the Great Lakes set-aside is direct action by the Congress preferring certain ports over others. This is explicitly prohibited by the Constitution.

Thus, I want to state explicitly that it is not just a question of how many tons are diverted away from other ports or which specific ports are hurt. The true problem is that the Great Lakes ports cargo reservation sets a precedent that we can violate the U.S. Constitution and deny fair competition under U.S. Government programs. That is why I was against the establishment of the set-aside in 1985, when it was offered as an amendment to the Food Security Act, and why I oppose the reestablishment of it today.

The fact that this set-aside amendment is being offered today shows that once Congress sets a precedent, the issue will come back to haunt us again and again. In 1985, the Great Lakes set-aside was touted as a temporary measure, a phase-in to allow the Great Lakes to adjust to a change in cargo preference. The law set it for a 4-year period, purposefully having it expire before the farm bill authorization and clearly showing that it was supposed to be temporary. Nonetheless, the Great Lakes have been trying to make the set-aside permanent since last year.

It may be food aid we are discussing today, but it could be defense cargoes or other U.S. Government program cargoes. How are we going to approach this in the future? Is the Congress going to start to divide up cargoes under all U.S. programs among all ports? Are we going to decide which ports get which cargoes under each program? What about the agricultural processors. Should we divide food aid commodity purchases evenly among all States?

Robert S. Silverman, former Deputy Maritime Administrator for Inland Water Ways and Great Lakes, testified on behalf of the administration on the Great Lakes set-aside before the House Subcommittee on Merchant Marine on September 21, 1989. The administration opposes the set-aside. He stated:

> Tonnage set aside for shipment through one port range necessarily results in fewer commodities being allocated to the other port ranges.

For the years 1986 through 1989, according to the most recent USDA figures, about 900,000 metric tons of Public Law 490 title II cargoes were shipped under the Great Lakes set-aside. This is approximately 20 to 25 percent of the total processed, fortified and bagged commodities shipped under the Public Law 480 program. The other program commodities are mainly bulk grains.

Some ports, such as the Great Lakes ports, only compete for the processed and bagged commodities, not bulk grain. Thus, the set-aside, whether or not it specifically states that it is limited to processed, fortified, and bagged commodities, would only apply to such commodities. Any such statements that the set-aside is only 4 percent of total food aid shipments misrepresents the facts, because it includes bulk grains. The processed and bagged commodities are more labor intensive and certain ports, such as the five in the lakes that compete for food aid cargoes, only compete for these.

For the years 1986 through 1989, under the set-aside, about 330,000 metric tons of commodities were diverted from other U.S. ports to the Great Lakes. If there had been no set-aside, these cargoes would have been divided up according to the most competitive bid, taking into consideration the need to meet 75 percent cargo preference.

The Great Lakes ports claim they would be able to compete for more food aid cargoes if cargo preference were lower. According to the USDA analysis of all bids received under Public Law 480 title II for shipments of food aid over that 4-year period, if no cargo preference laws existed and no Great Lakes reserved tonnage requirements existed, the tonnage allocated to the Great Lakes would have been about 577,000 metric tons.

Perhaps more interesting, is to consider the question of whether this set-aside really helped the Great Lakes ports to become more competitive. Actually, it did not. This is why they have not been awarded any cargoes in the first two shipments of title II food this year.

In 1986, without cargo preference or a set-aside, the Lakes would have received 230,000 metric tons. In 1987, it would have been 185,000; in 1988, 95,000; and in 1989, 67,000 metric tons. The reason for this decreasing competitiveness, even without cargo preference, is that foreign flag ocean freight rates from the lakes have risen. Also, vessels serving the lakes want a guarantee of a minimum cargo load before they go into the lakes. This does not mean the lakes are less competitive in other areas.

In fact, according to Glendon Stewart, new president of the St. Lawrence Seaway Authority, traffic on the seaway could increase by about 5 percent in the 1990 shipping season. This increase is expected due to shipments to the Soviet Union.

Practically speaking, the Great Lakes were given 4 years to adjust to the increase in cargo preference. The set-aside only adds to the Food Aid Program costs—$6 million over past 4 years. It is unfair to other ports that try to compete fairly but lose cargo because it is arbitrarily awarded to the lakes.

It is not appropriate to compare port ranges when it comes to Public Law 480 title II shipments. There are only about 5 ports competing for this title II cargo in the Great Lakes, but about 8 that compete from the Atlantic coast; 13 from the gulf coast; 8 from the river ports; and 9 from the west coast.

Also, some ports that used to participate in the program no longer can because, like the Great Lakes they have become less competitive. For instance, rail deregulation affected all ports, although it made some, such as Baltimore, no longer able to compete for food aid cargoes.

Mr. KASTEN. Mr. President, after talking with my colleagues I will not offer my amendment for the Great Lakes set-aside. However, I want to make it clear that my amendment

would have been a fair one and would have gone far to correct the misguided policies that caused the loss of thousands of jobs and the closing of ports.

My amendment would have required that during the first year of the reinstituted Great Lakes set-aside, 8 percent of all Public Law 480 Food for Peace Program export cargo would be required to be shipped from the Great Lakes. This amendment would have been offered as restitution for the lost business as a result of the elimination of the Great Lakes set-aside in 1989.

The 8-percent set-aside would have only been in effect for 1 year. After that first year, the Great Lakes set-aside would return to its historical level of roughly 4 percent of all Public Law 480 cargo.

Mr. President, this amendment would have had an immediate effect upon the lives of many port workers in Kenosha, Milwaukee, Green Bay, and Superior, WI. Hopefully, the reinstituted Great Lakes set-aside will allow the Port of Kenosha to reopen its doors for business. The Port of Kenosha has fallen victim to cargo preference when the set-aside was eliminated in December 1989. Its docks were shut down. Jobs were lost.

Mr. President, the people of Kenosha have already been dealt a serious economic blow. First the loss of jobs when Chrysler closed its doors, now the closing of the port because of the expiration of the set-aside. We must help the people of Kenosha get back on their feet. My amendment would have done that. Hopefully this compromise will begin a process of bringing relief to communities like Kenosha, Green Bay, Milwaukee, and Superior, WI.

This compromise is a good start but not the ultimate solution. I believe that this compromise will rectify a terrible wrong imposed upon the hard-working people of the Great Lakes in the 1985 farm bill.

In the 1985 farm bill Congress changed the way in which we ship food under Public Law 480, the Food for Peace Program. This ill-advised change raised the cost of the program, and forced us to ship less grain overseas than we otherwise would have.

Specifically, the 1985 farm bill increased the cargo preference requirement for the Food for Peace Program—the amount of goods which must be sent on U.S.-flagged vessels—from 50 to 75 percent of all goods shipped. It also guaranteed, through a set-aside, a short term continuation of Food for Peace shipments to the Great Lakes.

Supporters of the cargo preference increase claimed that this additional 25-percent increase was needed to help the U.S. shipbuilding industry. But those same supporters failed to recognize the costs of this support.

Mr. President, as I stated earlier in my remarks, in the State of Wisconsin the Port of Kenosha has closed down its operations. The Ports of Milwaukee, Green Bay, and Superior have all reported massive layoffs due to devastating cutbacks in shipping as a result of the 75-percent cargo preference imposition.

This injustice must be rectified. This compromise is a good one. It will help maintain our maritime competitiveness. It will restore over 2,000 jobs to the Great Lakes and it will not adversely affect America's shipping industry and it will help the peoples of Kenosha, Milwaukee, Superior, and Green Bay, WI, to get back on their feet to economic stability. For this reason I will support this compromise. I urge my colleagues to do the same.

I yield the floor.

Mr. DURENBERGER. Mr. President, I rise in support of efforts by my colleagues from the Great Lakes and grain-producing States to begin the effort of reforming maritime policy to ensure that all ports, including the Great Lakes, have an opportunity to ship Public Law 480 cargoes. The current cargo preference law is devastating Great Lakes ports. I am committed to correcting this unfairness.

Mr. President, there are three ways to address the unfairness and bias against the Great Lakes. First, the U.S. maritime policy should be reformed. The foundation that maritime policy is based, established decades ago, has crumbled. The huge, modern bulk transport vessels which U.S.-flag shippers prefer are not only too big for the Great Lakes, but they have limited defense capabilities. In this time of extreme budgetary pressure and reevaluation of our national security objectives there is a powerful incentive to update our national maritime policy. Regrettably, quick and comprehensive reform is not likely.

A second way to address the problem destroying the Great Lakes ports is relaxing the reflagging requirements. Because American shippers prefer to purchase and operate large vessels that are incompatible with the Great Lakes Seaway, nearly all the ships plying the Great Lakes and Seaway are foreign flags. Changing the reflagging requirements would address this concern. I have cosponsored legislation that will do this, which, unfortunately, has not been acted upon by the Congress.

A third option is to extend the Great Lakes set-aside program. For the reasons outlined before, the Great Lakes current maritime policies and changes in ship sizes put the Great Lakes at an unfair competitive disadvantage. Preserving the set aside program will prevent the total demise of the Great Lakes international shipping capability.

The debate over cargo preference is an old and contentious issue. Since its inception, nearly three decades ago, it has been argued that cargo preference is needed to ensure that the domestic maritime industry can meet national emergencies. This argument was legitimate at the beginning. However, in the intervening decades, shipping has changed to the point where today's bulk carriers have, at best, only limited defense value. In general, most U.S.-flagged bulk carriers do not have any appreciable defense capabilities.

In the midfifties, many American vessels were compatible with serving Great Lakes ports. However, because the size and configuration of ships built since then have changed, most new ships are incapable of serving Great Lakes ports. Hence, as older U.S.-flag vessels are retired, the level of U.S.-flagged service to Great Lakes ports has declined to the point where it is nearly impossible to embark cargo-preference shipments from the Great Lakes ports.

Now, nearly all of the ships that sail the Great Lakes and are capable of handling cargo-preference shipments are foreign flags. This dilemma could be solved through reflagging. But regrettably, reflagged ships face a 3-year waiting period before they can qualify for cargo-preference shipments. Originally, this qualifier was designed to provide an incentive for American shippers to purchase ships built in American shipyards and to ensure that the owner-operators have a long-term commitment to be a U.S.-flagged ship. However, the unintended consequence of these provisions is that it now impedes U.S.-flagged service to Great Lakes ports.

A little over 5 years ago, this body debated an expansion of cargo preference from 50 to 75 percent. This debate dealt with a so-called compromise which regrettably was made without the participation of Senators from the States most adversely affected by expanded cargo preference requirements. After seven rollcall votes, the compromise cargo-preference package was marginally improved by establishing a 4-year Great Lakes set-aside program. This program reserved 245,000 metric tons of cargo-preference shipments for Great Lakes ports. The set-aside expired last year and efforts to extend it have been frustrated.

At this point, I ask unanimous consent to have printed in the RECORD a number of communications regarding the adverse impact that the unmitigated 75-percent cargo-preference law is having on Great Lakes ports, and especially, the Port of Duluth.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEAWAY PORT AUTHORITY OF DULUTH,
MINNESOTA'S WORLD PORT,
Duluth, MN, July 20, 1990.

Hon. DAVID DURENBERGER,
U.S. Senate, Washington, DC.

DEAR SENATOR DURENBERGER: It's our understanding that the 1990 Farm Bill floor debate Monday will involve proposed amendments to help salvage a role for the Port of Duluth and other Great Lakes ports in the Food for Peace (P.L. 480) Program.

This is our last gasp, as you know. The full impact of the 75 percent U.S.-flag cargo preference requirement—coupled with the December 1989 expiration of the Great Lakes Set-Aside—has hit home this shipping season and hit home hard: Not one pound of Food for Peace cargo has been shipped through this or any other lakes port this year.

Our longshoremen's hours are at an all-time low. Our warehouses are empty. Our bagging plant is at a stand-still. The ripple effects have extended throughout the maritime industry and the losses in local economic impact will easily exceed $4 million.

The regional impact is beyond precise measurement, but please recognize that 55 percent of our grain shipments originate in North Dakota and, until this year, spring wheat had become the primary commodity handled at our bagging plant. Consequently, the losses transcend the obvious and extend to Midwest farmers, processors and inland carriers.

After 25 years of competitive service in the program—25 years in which the Great Lakes annually served to keep everyone's rates in line during the nine-month navigation season—we were sacrificed in 1985 for the sake of a so-called compromise on the cargo preference issue. We were highly competitive at the 50 percent cargo preference rate and we would be again if the level was restored. That, in fact, is the primary reason why Gulf Coast and other non-lakes maritime interests are so adamantly opposed to our survival in the program. Our disappearance from the program has amounted to a governmental license to steal.

We are indebted for your years of effective leadership and ardent support of our causes, but we appeal to you again to help us rejoin the other coastal ranges as full-fledged members of the nation's ports system.

Sincerely,

DAVIS HELBERG,
Executive Director.

INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION,
Duluth, MN, May 23, 1990.

Hon. DAVE DURENBERGER,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: Mainly due to the elimination of the Great Lakes Set-Aside Program that was attached to the 1985 Farm Bill and the continued implementation of the 75% American Bottom requirement mandated by the Cargo Preference Act the Great Lakes Ports have not seen any PL-480 cargoes this year and will not see any until at least August Fifth or later.

The membership of I.L.A. Local 1366 of Duluth Minnesota is in dire straits due to the aforementioned factors. Our unemployment benefits are due to run out shortly and most of us are not in a position to go on welfare. Since we are not destitute we will be forced to borrow or sell our assets at non-advantageous prices to survive. It is our feeling that this situation is not our fault and is an undue hardship to us brought on by regulations that are not doing what they were intended to do. This fact is evidenced by the fact that each year more and more money is poured into the Cargo Preference Program and every year fewer and fewer American Bottom ships exist with the expected decrease in American jobs on those ships.

Since our problem seems to be brought on by the misguided notion of protecting or expanding American jobs, we would hope that there would be a solution to our problem that would be quick enough to help us avoid financial disaster. One way of course would be through a Federal or State extention of our unemployment benefits along with a reinstatement of the Great Lakes Set-Aside in the PL-480 Program. Another solution of course would have been the reservation of the Twenty-five percent of foreign ships exclusively for the Great Lakes Ports. The ultimate answer to our problem of course is a total elimination of the Cargo Preference Act or at least a scale down to a lower percentage rate of American Bottom ships to meet the requirement.

We fervently hope that this conveys the urgency of our situation and that you can find a way to help us survive this crisis.

We thank you for your consideration in this matter and hope to help you in the future.

Sincerely,

RAY MAISUK,
President, I.L.A. Local 1366.
LA MONT RUPPERT,
Secretary Treasurer, I.L.A. Local 1366.

[News Release]

GOVERNOR PERPICH URGES CONGRESS TO AMEND FOOD FOR PEACE SHIPPING LAWS

DULUTH, MN.—Governor Rudy Perpich and Agriculture Commissioner Jim Nichols called today for an overhaul of federal shipping laws they said harm the competitive nature of the Port of Duluth-Superior.

Governor Perpich and Commissioner Nichols said they will work in Congress to repeal all cargo preference on Food for Peace shipments, to double the size of the Food for Peace (PL 480) programs, and to establish a set-aside of Food for Peace cargoes earmarked for shipment through Great Lakes ports.

"Current U.S. cargo preference laws are a disservice to Minnesota," Governor Perpich said. "The laws hamper Minnesota farmers from helping to solve the world's hunger problems, discourage foreign vessels from visiting Minnesota's world port, and effectively eliminate labor-intensive Food for Peace shipments through the Port of Duluth-Superior."

The Cargo Preference Act was amended in 1985 to require that at least 75 percent of U.S. overseas food aid be shipped from U.S. flagged vessels. At the time, a congressional compromise created the Great Lakes Set-Aside, a temporary provision requiring a certain amount of Food for Peace cargo to be shipped through the Great Lakes ports. The set-aside expired on Dec. 31, 1989.

Commissioner Nichols said that cargo preference laws now require Food for Peace cargoes, which generally originate in the Midwest, to be moved to ports in other areas of the nation to reach American-bottomed ships. Since virtually all carriers moving into Great Lakes ports are foreign flagged, Commissioner Nichols said, the laws prevent these ships from returning to their home ports filled with U.S. grain.

"That's a cart before the horse policy," Commissioner Nichols said. "Congress is going to have to ask itself, 'Should we send the ship to pick up the cargo, or should we sent the cargo to pick up the ship?' "

Joining Governor Perpich and Commissioner Nichols in calling for federal change were Davis Helberg, Executive Director of the Seaway Port Authority of Duluth; LaMont Ruppert, Secretary, International Longshoremen's Association Local 1366; and Lynn Thomas, Minnesota Field Office Director, Care, Inc.

STATEMENT BY LYNN THOMAS, DIRECTOR, MINNESOTA FIELD OFFICE, CARE, INC.—JUNE 19, 1990, PORT OF DULUTH PRESS CONFERENCE

CARE is the world's largest nondenominational private voluntary organization engaged in efforts to improve the lives of poor people in developing countries. As such, we are strongly concerned about the ability to get our food and other goods to the people who need them in a timely way, and in good condition.

Unfortunately, U.S. cargo preference makes the job harder because American flag ships too often are not available or suitable for the carriage of our cargoes. This problem existed in past years; and since 1985, when Congress increased the cargo preference requirement from 50% to 75%, the difficulties have multiplied.

There are various ways to help ease this problem for U.S. voluntary agencies working abroad. One would be to reduce cargo preference back to its historic 50%. We would like to see that.

In the meantime we continue to be grateful for the fine support and the excellent work done in food aid by this part of the country. The Great Lakes have a strong record of good performance in the delivery of PL 480 Food for Peace commodities and their transportation through the St. Lawrence Seaway system. We hope this will continue.

[From the Hibbing (MN) Daily Tribune, June 20, 1990]

FARM BILL CRITICAL TO GREAT LAKES PORTS

ST. PAUL, MN.—State Agriculture Commissioner Jim Nichols said Tuesday the 1990 farm bill is the only place Midwest shippers have a chance to restore Food for Peace shipments to Great Lakes ports.

Nichols said the maritime committees are hostile to Midwest shipping interests.

The Port of Duluth-Superior lost Food for Peace shipments when the Great Lakes set-aside, created by Congress, expired at the end of December.

Nichols said Minnesota has the support of several Midwest states—including Illinois, Indiana, Iowa, North Dakota, South Dakota, and Wisconsin—to restore the shipments.

He said Iowa Gov. Terry Branstad, who is chairman of the National Governors Conference, "was very supportive" of the desire by Minnesota to get the agriculture committees in Congress to restore the Great Lakes set-aside, which had been 245,000 tons, including 70,000 tons out of Duluth-Superior.

Each ship carries about 12,000 tons, he said. The Food for Peace shipments from Duluth-Superior are bagged to enable the spring wheat to be unloaded by manual labor in ports on the African continent.

Joining Nichols in support for the legislation were longshoremen in Duluth and Care Inc.

"We can't win the battle in the maritime committees," Nichols said. "We have to win this battle in the agriculture committees. If we lose in the 1990 farm bill, we'll never get it."

Nichols said Gov. Rudy Perpich asked each of the Midwest governors "to put pressure" on their congressional delegations to get a portion of the shipments restored to the Great Lakes.

"Current U.S. cargo preference laws are a disservice to Minnesota," Perpich said.

[From the Hibbing (MN) Daily Tribune, June 19, 1990]

STATE OFFICIALS BLAST U.S. SHIPPING LAWS

DULUTH, MN.—Gov. Rudy Perpich and Agriculture Commissioner Jim Nichols called Monday for an overhaul of federal shipping laws they say hurts the competitiveness of the Duluth-Superior port.

Perpich and Nichols said they will try to persuade Congress to repeal all cargo preference on Food for Peace shipments, to double the size of the Food for Peace programs and to establish a set-aside of such cargoes earmarked for shipment through Great Lakes ports.

"Current U.S. Cargo preference laws are a disservice to Minnesota," Perpich said. "The laws hamper Minnesota farmers from helping to solve the world's hunger problems, discourage foreign vessels from visiting Minnesota's world port, and effectively eliminate labor-intensive Food for Peace shipments through the Port of Duluth-Superior."

The Cargo Preference Act was amended in 1985 to require that at least 75 percent of U.S. overseas food aid be shipped from U.S.-flagged vessels. At the time, a congressional compromise created the Great Lakes Set-Aside, a temporary provision requiring a certain amount of Food for Peace cargo to be shipped through Great Lakes ports. The set-aside expired Dec. 31.

Nichols said cargo preference laws now require the aid shipments, which generally originate in the Midwest, to be moved to ports in other areas of the nation to reach American ships. Since virtually all carriers moving on the Great Lakes are foreign flagged, Nichols said, the laws prevent these ships from returning to their home ports loaded with U.S. grain.

"That's a cart-before-the-horse policy," Nichols said. "Congress is going to have to ask itself, 'Should we send the ship to pick up the cargo, or should we send the cargo to pick up the ship?' "

[News Release]

MINNESOTA SEA GRANT COLLEGE PROGRAM,
St. Paul, MN, April 19, 1990.

SEA GRANT RESEARCHERS CALL FOR REPEAL OF CARGO PREFERENCE ACT

The Cargo Preference Act is bad policy and should be repealed, according to a new report from Minnesota Sea Grant. C. Ford Runge and Charles S. Gitomer wrote the report, Cargo Preference Legislation, Agricultural Exports, and the Future of the Duluth-Superior Economy: a Legislative History and Economic Analysis.

Since the shipping requirements of the Cargo Preference Act were increased from 50 to 75 percent, the policy has harmed the economy of the Duluth-Superior port. The Act also prompted the decline of the merchant marine and pitted farmers against shippers in competition for government subsidies, Runge said.

The U.S. government passed the Cargo Preference Act to guarantee maintenance of a seaworthy merchant fleet. The act required at least 50 percent of U.S. overseas food aid (the Food for Peace program, or PL-480) be shipped on these U.S. flag vessels. In 1985, that figure was increased to 75 percent following a complex legislative battle. The report provides a detailed chronology of these events.

The compromise raising the requirement significantly harmed the Duluth-Superior port economy, Runge said. Most of the general cargo exports from the Duluth-Superior port are attributable to PL-480 concessional cargo. Longshoremen depend on bagged PL-480 grain for half their work hours. According to a recently article in the Duluth News-Tribune, every ton of bagged grain handled by the Twin Ports adds $65 to the local economy.

Few U.S. flag vessels operating on the lakes are capable of carrying PL-480 cargo. Consequently, cargo that must meet the 75 percent requirement is diverted to eastern or gulf ports that have more of these ships.

U.S. flag vessels often avoid the Great Lakes for other reasons, according to Runge. The navigation season is short and the St. Lawrence seaway cannot accommodate some large ocean-going vessels.

Cargo preference has also promoted the demise of the merchant marine, Runge said. "Providing guaranteed cargo created a market in which the fleet didn't have to compete. As a result, cargo preference discouraged the fleet from investing in new equipment and technology, which would have made it competitive. This decaying fleet now relies on the cargo preference subsidy to say afloat."

Finally, cargo preference has harmed farmers and shippers—both heavily subsidized industries—by pitting them against each other. "The two interests fought each other for subsidies, rather than ensuring their competitive positions in the market," Runge said. "Thus, cargo preference has created perverse incentives, with results that are actually the opposite of those intended."

Runge and Gitomer suggest the Cargo Preference Act of 1954 be replaced with direct and separate subsidy programs for farmers and shippers. "In this way, the United States can develop an efficient, market oriented system to support the redevelopment of a modern, safe merchant fleet, and promote cooperation rather than competition between two natural allies—farmers and shippers," Runge said.

Charles S. Gitomer is a graduate research assistant and C. Ford Runge is an associate professor and director of the Center for International Food and Agricultural Policy in the Department of Agricultural and Applied Economics, University of Minnesota. Their research was funded by Minnesota Sea Grant with additional support from the Northwest Area Foundation. Their report is free from Sea Grant.

Minnesota Sea Grant is a statewide program that supports research, extension, and educational programs related to Lake Superior and Minnesota's water resources. Sea Grant offices are located on the Twin Cities and Duluth campuses of the University of Minnesota.

AMERICAN GREAT LAKES PORTS,
July 17, 1990.

Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURENBERGER: The once-healthy Great Lakes trade in PL 480 Food for Peace agricultural exports has been entirely wiped out this year because of provisions of law that work against us. We hope that in the farm bill now before the Senate, you will work actively for a fair remedy to this issue.

The problem can be simply stated: until 1985 our area with its strong farm production, the nearby location of milling companies that produce many products used in the PL 480 program and access to world maritime trade routes through the Great Lakes/St. Lawrence Seaway, had competed successfully year after year for a share of PL 480 food exports. In the 1985 farm bill, Congress raised cargo preference on PL 480 from 50% to 75%.

Because U.S. flag ocean-going ships seldom visit the Great Lakes, Congress in 1985 recognized the injury that the cargo perference increase could inflict on us, and therefore created a provision known as the Great Lakes PL 480 set-aside. This modest earmark (245,000 tons annually, about 4% of the PL 480 total) was based on our traditional share won competitively when cargo preference was at 50%.

However, while the 75% cargo preference remains in the law, the Great Lakes set-aside expired at the end of 1989. The results in 1990 have been disastrous: while we continue to be low bidders on a number of occassions, we have not received one PL 480 allocation.

You have undoubtably heard from farm, labor and other groups about this problem. We add our voice from the maritime industry. Our lost PL 480 export trade has been estimated at around $100 million annually, 2,000 or more jobs related directly or indirectly, 350,000 man-hours of longshore work, $250,000 per ship visit per port.

The loss of our traditional PL 480 business is through no fault of our own. What we seek is a fair opportunity to compete. With the 1990 farm bill on the floor, we look forward to your active involvement as a Great Lakes Senator to seek equitable consideration for the Great Lakes so we can restore our participation in the Food for Peace program. We will be giving you our full support.

Sincerely,

JAMES H. HARTUNG,
President.

Mr. DURENBERGER. Mr. President, the increased cargo-preference provision of the 1985 farm bill has aggravated the situation. In particular, while the Great Lakes ports were spared for 4 years from the adverse consequences of the expended cargo-preference by the Great Lakes set-aside provision its expiration is now causing unmitigated damage to the economies of Great Lakes ports. Because of these adverse consequences, the current cargo-preference law is broadly opposed in my State. This opposition comes from not only the Seaway Port Authority of Duluth and by major humanitarian organizations such as CARE, but it is staunchly opposed and decried by Local 1366 of the International Longshoremen's Association and by the Governor of Minnesota.

Five years ago, a number of Midwestern Senators voted in favor of expanding cargo preference. Now the

Great Lakes ports, including Duluth-Superior, are essentially shut out of cargo-preference shipments. I wonder if their constituents are aware that not only are they now receiving reduced commodity prices, but the workers who would have handled, processed and transported those food commodities are forgoing the accompanying employment and income that shipping those products from Great Lakes ports would have generated.

James Hartung, president of the American Great Lakes Ports, estimated that the expanded cargo-preference requirement means the Great Lakes lose $100 million, 2,000 jobs, 350,000 man-hours of long-shore work, and $250,000 per ship visit per port. Thus, leaving the expanded cargo-preference provision is not in the national interest. It is destroying the livelihood of thousands of American citizens living throughout the northern tier of States.

To conclude, Mr. President, the current cargo-preference law is in dire need of review and reform. It has failed to meet its stated objectives and is now destroying commerce at Great Lakes ports. I believe that complete reform of cargo preference is needed, though I realize that it will not occur via the 1991 farm bill. However, it is imperative that we stop the damage being done to Great Lake ports by current cargo-preference law. I urge my colleagues to take this first step in restoring U.S. maritime policy to one which promotes competition and offers fair opportunity to embark cargo-preference shipments at all ports.

Mr. BREAUX. Mr. President, I will be very brief. I know the Members on the floor have engaged in an extensive discussion and debate on the amendment.

It is interesting we talk about sunsets and sunset provisions. I have decided in the 18 years I have been in the Congress that the Sun never sets in Congress. We have had so many programs that are supposed to last for a year, it is contingent; we have so many tax bills that were supposed to be for a certain period of time. They get extended and extended.

I think many of us remember quite well in 1985 I think, when this proposal setting aside a portion of the preference cargo for the Great Lakes was first adopted. Everybody said we just need 3 years and then be out of years and it was not going to come up and we think 3 years will get our ports straightened out. That time expired and yet here we are again saying give us 5 years more, or give us 3 years more, proving once again, indeed, the Sun does not set in the U.S. Congress.

I think the real issue here is whether the port, because of its geographic location and because of the size of the canals and seaways that go to that port, is going to get special treatment over and above the other ports in the United States. I think that the Congress said we will do it for 3 years, but after that it is not fair to other remaining ports.

This legislation, as I understand the Senator's amendment, and I admire his courage in fighting for it, is even more than what was sunseted. What was sunsetted did not allow foreign ships to come in and reflag and be considered American ships and this legislation simply does that which would allow those ships to compete and get more than the 240,000 tons that would be especially reserved for them. Those six reflagged ships could compete against any amount of preference cargo with no restrictions, no limit at all.

So that is what they are asking for, and I admire their tenacity, and I admire the Senator's work on this legislation. But to say that we should do even more than what was already phased out I think is not the right way to approach this. I hope and would have hoped that this could have been resolved.

I contributed sometimes in an effort in trying to reach a compromise that was realistic. But, unfortunately, we were not successful.

I suggest the best thing to do at this point is to go ahead and table the Senator's amendment and all amendments regarding the set-aside program and let us go to the conference with the House where, indeed, the House has a provision and the Senate would be, of course, required to conference with the House on this very subject and suggest a better way of handling this problem at this time.

I yield the floor.

Mr. COCHRAN. Mr. President, as I understand, most anybody who wanted to speak on this issue has had an opportunity to do so. I have been advised by the managers of the bill they have no objection to proceeding to a motion to table the amendment at this time.

Accordingly, I move to table the amendment of the Senator from Ohio and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Wyoming [Mr. WALLOP]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—46

Bentsen	Gramm	Nickles
Bond	Hatch	Nunn
Boren	Hatfield	Packwood
Breaux	Heflin	Pryor
Bumpers	Helms	Robb
Burdick	Humphrey	Roth
Burns	Jeffords	Rudman
Chafee	Johnston	Sasser
Cochran	Kassebaum	Shelby
Cohen	Lautenberg	Simpson
Danforth	Lott	Symms
Domenici	Mack	Thurmond
Garn	McCain	Warner
Gore	McClure	Wilson
Gorton	McConnell	
Graham	Murkowski	

NAYS—50

Adams	Dole	Lieberman
Akaka	Exon	Lugar
Baucus	Ford	Metzenbaum
Biden	Fowler	Mikulski
Bingaman	Glenn	Mitchell
Boschwitz	Grassley	Moynihan
Bradley	Harkin	Pell
Bryan	Heinz	Pressler
Byrd	Hollings	Reid
Coats	Inouye	Riegle
Conrad	Kasten	Rockefeller
Cranston	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Simon
DeConcini	Kohl	Specter
Dixon	Leahy	Wirth
Dodd	Levin	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Mr. Stevens, nay

NOT VOTING—3

Armstrong	Durenberger	Wallop

So the motion to lay on the table the amendment (No. 2384) was rejected.

Mr. DIXON. I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I urge adoption of the amendment of the Senator from Hawaii.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I regret that the Senate did not agree to the motion to table the amendment of

the Senator from Ohio, and I feel that the fault basically lies with the fact that we did not clearly explain the ramifications of this amendment and how it adversely affects all port ranges in the United States, not just the Gulf States.

All those who spoke against the amendment were almost all from the Gulf States region. I hope that with some clarifying explanation we will have an opportunity to revisit this vote in a little while and be able to vote on the amendment up or down. I hope by that time we will be able to see a different result. I do not know that we will be able to change any votes, but I hope some Senators will look at the facts and at the issue before the Senate so we will have a chance to see what the other options are.

I really do not think, since the House has a provision on this subject, that the Senate is going to be deprived of negotiating on this issue because in conferences we will inevitably have to address it. The House has, as a matter of fact, taken a very unusual step to ensure that that will be done.

The Foreign Relations Committee, under the rules of the other body, has jurisdiction over the Public Law 480 program and other parts of the farm bill that are under debate in the House. That committee insisted upon a provision similar to the provision that is now before the Senate. In the Rules Committee in the other body no amendment was allowed to the bill section that related to this issue when the bill was on the floor. So that provision is, in effect, locked in, and we will have to deal with it in conference. I do not know how it will be resolved. I am not suggesting that we will inevitably come to a compromise that will suit the proponents of this amendment that is before the Senate now, but we will have to address it.

Mr. LEAHY. Mr. President, will the Senator yield to me without losing his right to the floor just so that I may ask a couple of questions and make a couple of observations? I ask it be done by unanimous consent with the right of the Senator from Mississippi to regain the floor at any point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I will be happy to yield under those circumstances, Mr. President.

Mr. LEAHY. Mr. President, I thank the Senator from Mississippi for his usual courtesy. I appreciate it. I raise a couple of points just to try to help every Senator in scheduling. I know my good friend from Mississippi well enough that when he says we may need more education on the subject, that could be education of such length that we will go from the Baccalaureate to a Masters degree, perhaps to a Ph.D., on the subject, and that is absolutely the Senator's right. I also take very seriously the point he makes about the committee of conference.

I should note on Senators' behalf, unlike the last farm bill which I am told by the distinguished Republican leader we began on October 25 and ended on November 23, 1 month later literally, this one we have been on really for this week. I would not want to do a month of it as a practical matter.

With the exception of disposing of this and some other things that are going to be agreed to, we have finished the farm bill. Just so everybody will understand, virtually everything of significance in the farm bill is here other than final passage. So that all Senators will understand just exactly where we are, we have reached a point where, with the exception of some odds and ends that have been agreed to, we could go to final passage because everything that we need to have in the farm bill is there.

Now, I am wondering if it might be possible—and I have not discussed this with the distinguished Senator from Ohio or the distinguished Senator from Hawaii or the distinguished Senator from Mississippi—if it might be possible to set aside briefly this amendment where it would always be the next amendment to come up—during that time we would ask unanimous consent on each one of these so anybody could object and bring it immediately back up—so we might clear some other items. It might give some Senators who are involved in this issue a chance to talk off the floor. Everybody's rights would be protected because either the Senator from Mississippi or the Senator from Ohio or anybody else could bring it back up immediately simply by objecting to whichever item we were considering. We could get on with some other things. They could have a chance to discuss the issue. If they do not find a way out of the impasse they now are at, then they, or I will be happy to do it myself, can bring it right back up. I would commit to do that any time the parties ask me to. If I am here with another matter, I could bring it up and then go back to exactly where we are now.

I am not making that request yet, but I suggest it so people can consider it. I understand everybody is ready to vote on the underlying amendment. Not everybody. I do not want to say that. I understand that the Senator from Ohio would be willing to vote on the undelying amendment. Others are not.

Let me pose a request, and I do this to help other Senators who have matters they want cleared. Mr. President, I ask unanimous consent that the pending amendment be set aside to allow one other amendment to come up; that upon the disposition of that other amendment, unless by unanimous consent it is set aside again, the pending amendment would become the order of business.

Mr. COCHRAN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I reserve the right to object for the purpose of asking the distinguished manager on the majority side if it could be understood that this Senator could be given notice in the event the amendment of the Senator from Ohio or Hawaii is called up, or if regular order is called.

I would have no objection otherwise to proceeding to take up other amendments. That would be fine. When you get to a point where you would like to go back to this amendment, I would be prepared to be on the floor and debate it.

Mr. LEAHY. Could I commit, Mr. President, on behalf of the managers of the bill on both sides, that we will protect the interests of the Senators who are in this room to make sure that, even if it requires putting in a quorum call, notice will be given to Senators when the underlying amendment is apt to come back up.

Mr. GLENN. Mr. President, reserving the right to object, there will be, as I understand it, one intervening amendment and then this would come up again. Is that correct?

Mr. LEAHY. What I would do is after each intervening amendment—this is to protect Senators on both sides on this question—the current amendment would come up automatically, unless I ask unanimous consent. The same unanimous-consent request I just made now will set it aside again.

I do that really in an abundance of caution to protect the proponents and the opponents of this so they are not suddenly shunted off into another world. We would on each amendment as we took it up make the same unanimous-consent request. That way they are not suddenly positioned behind the trainload of amendments.

I suggest that would become a routine thing as we would do it. It is also why I say if we suddenly run out of amendments, and it was going to really come back up, stay up there, we would put in a quorum call so Senators could be notified.

Mr. GLENN. Mr. President, still reserving the right to object, I think I probably will not, but what we would be voting on next would not be the same thing exactly that we just prevailed on. It would be even more favorable to those who want to be more restrictive to the Lakes.

Mr. COCHRAN. Mr. President, I will ask for regular order myself if we engage in a debate on the issue of the underlying issue.

The statement of the distinguished Senators are not exactly correct. The motion to table was on the underlying Glenn amendment, which would have carried with it not only the Glenn amendment but the Inouye amendment too. So both issues were before the Senate and were the subject of a motion to table.

The PRESIDING OFFICER. The Senator from Vermont has the floor. There is a unanimous-consent pending.

Mr. LEAHY. I renew my request.

Mr. GLENN. Reserving the right to object, I agree completely with what the Senator from Mississippi said a moment ago. But I was not trying to mislead anybody. I was trying to clarify what would be the pending amendment coming up. That is all I was trying to do.

Mr. LEAHY. Whichever is the pending amendment?

Mr. GLENN. I ask the parliamentary question of what is the pending amendment we would be calling up?

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Hawaii [Mr. INOUYE].

Mr. GLENN. As a second-degree amendment to the amendment that I proposed. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GLENN. I wanted to resolve which amendment was going to be the one we would be voting on, if we go ahead with the proposal by the Senator from Vermont.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Is it correct that the Senator from Mississippi has the floor and yielded to the Senator from Vermont only for the purpose of proposing a unanimous-consent request?

The PRESIDING OFFICER. The Senator is correct.

Mr. LUGAR. Reserving the right to object, Mr. President, I raise the reservation to ask a question of my chairman.

Is it possible that the parties would feel reassured if the Chairman would change the unanimous-consent request to lay aside the entire cargo preference until 6:30 and, therefore, all parties would know that at 6:30 the debate would be resumed, would have time to rest, or talk to each other. That would give the managers time to deal with a number of the unanimous-consent requests, and move ahead a lot of amendments. So if we are successful in this period, we might then proceed.

Mr. LEAHY. Mr. President, I would withdraw my original unanimous-consent request. I think the Senator from Indiana makes as clear and understandable a one as he could.

I ask unanimous consent that the pending amendment be laid aside until 6:30, and at 6:30 it become the business before the Senate.

Mr. PRYOR. Mr. President, reserving the right to object, I will not object, I inquire of the managers. In view of the request that they are making at this time, and in view of the situation that we find ourselves in rule-wise, I wonder if each of the managers from each side of the aisle could give us sort of a perspective of the farm bill as a whole and how many more amendments, notwithstanding the issue of the Great Lakes set-aside, we might be facing, and especially those amendments which cannot be accepted notwithstanding the Great Lakes set-aside?

Mr. LEAHY. Mr. President, one of the reasons I made this unanimous-consent request is so it is clear on a number of things we have been working on during the debate on the Great Lakes set-aside. It puts me in the position that if we could have this window of 30 or 40 minutes to clear a few things I could probably give a much clearer answer to the Senator from Arkansas.

Therefore, I urge Senators to allow the unanimous-consent request I made to be accepted, because I suspect at some point about 6:15, 6:20, 6:25, prior to this coming back up, I could give my colleagues a much better idea of where we stand. I renew my request.

The PRESIDING OFFICER. Is there objection to the request?

Mr. GLENN. Mr. President, reserving the right to object, I could agree with either of the proposals made by either of the distinguished floor managers. I wonder if it would be possible at this time, if we go with the resuming at 6:30 on this particular issue, to get a time agreement; that it would be 1 hour equally divided at that time so we would know that we would have this matter disposed of sometime this evening.

Mr. LEAHY. Mr. President, hope springs eternal. While I am by nature an optimistic man, even this Irishman is not that optimistic to add that to the unanimous-consent request. Anybody else is free to, but I am not about to.

Maybe by 6:20 we might be able to make such a request.

Mr. GLENN. Could we restate the unanimous-consent request, please?

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Vermont is that the pending amendments be laid aside until 6:30 p.m.

Mr. LEAHY. At which time they would automatically become the order of business.

Mr. COCHRAN. Reserving the right to object, could we add to the request the distinguished Senator from Mississippi, if he is distinguished still, to be recognized at that time?

Mr. LEAHY. Yes. I would make that request at that time, with the concurrence and the courtesy of the Senator from Mississippi. And naturally I would add that as part of the unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. ADAMS. Reserving the right to object, I shall not object, would it be possible that the floor manager request that there be a time agreement on a final vote on the passage of this bill? Is that anticipated?

Mr. LEAHY. It would be certainly possible for me to do it. But again, I would have be alone in this Chamber and with a distracted Presiding Officer—whomever that might be who did not have the hope of doing it—ask unanimous-consent request to do so. When we get close to 6:30, who knows?

Mr. ADAMS. I thank the chair.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

AMENDMENT NO. 2387

(Purpose: To provide for a program option for producers of the 1996 crops of wheat, feed grains, rice, or oilseeds)

Mr. BENTSEN. Mr. President, I have an amendment, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. DOLE, Mr. BURDICK, Mr. BOREN, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRAMM, Mrs. KASSEBAUM, Mr. EXON, Mr. KERREY, Mr. NICKLES, and Mr. PRYOR, proposes an amendment numbered 2387.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place at the end of title X of the bill, add the following new section:

"SEC. 10—. PROGRAM OPTION FOR 1996 CROPS.

"Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended to read as follows:

'(b)(1) Notwithstanding any other provision of law, the Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

'(2) The Secretary may offer such programs based upon the terms and conditions as are provided in sections 101(h), 101A, 103A, 105A, 107A, 107C, 204, 205 of the Agricultural Act of 1949, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, and any other relevant provi-

sions of the Agricultural Act of 1949, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

'(3) The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

'(A) in the case of wheat, June 1, 1995; and

'(B) in the case of feed grains, September 30, 1995;

'(C) in the case of upland cotton, November 1, 1995;

'(D) in the case of extra long staple cotton, December 1, 1995;

'(E) in the case of rice, January 31, 1996;

'(F) in the case of oilseeds, July 15, 1995; and

'(G) in the case of dairy, November 1, 1995.

'(4) Producers may not participate in such programs unless legislation has been enacted subsequent to the date of enactment of the Food, Agriculture, Conservation and Trade Act of 1990 that provides for loans and purchases for the 1996 crop of wheat, feed grains, cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

'(5) The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation in carrying out the provisions of this subsection.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I offer this amendment on behalf of myself, Mr. DOLE, Mr. BOREN, Mr. BURDICK, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRAMM, Mrs. KASSEBAUM, Mr. EXON, Mr. KERREY, Mr. NICKLES, and Mr. PRYOR. This deals with the problem that farmers face when farm programs are announced after the planting time for those crops.

Here we are in late July, and we are debating a farm bill, and we cannot get the unanimous-consent agreement as to when it might end, to bring it to a stop. But the problem the farmer faces out there is that in some of these crops, he is almost ready to plant. It is not something that he can do overnight.

If he is a tenant farmer, he has to arrange to rent that land from the landlord. If he does not have the money to plant the crop, he has to arrange for the financing to borrow the money, and he has to buy the seed ahead of time, he has to prepare the soil ahead of time. The wheat program should have been announced in June. We will plant that crop in August, but this bill will not become law before September. In 1985 the farm bill was not enacted until about Christmastime. The wheat crop was half way to harvest. We were within days of planting the spring crops down in south Texas. We already had to prepare the soil there and get ready for the crop and make up our mind how much land was going to be laid out, how much of it was going to be planted.

Mr. President, that is just not acceptable. Efficient farming demands advance planning. They cannot wait on the Congress or the administration to make up its mind on what is going to happen in the way of a farm program. The amendment we are offering will allow the Secretary of Agriculture to make the timely announcements of farm programs that are necessary, even in a year such as this when the farm bill is not enacted until after some of our major crops are planted.

This amendment will remedy that by giving the Secretary of Agriculture the authority to announce the 1996 commodity programs on or after the normal announcement date for those programs, whether or not the farm bill has been enacted by that date. He would have the same kind of discretion given him in the 1990 farm bill in setting program conditions, with the sole exception of support prices. Target prices and loan rates would be the same as for the 1995 farm program. He can set the acreage reductions at levels he determines are appropriate in light of the conditions at that time.

Mr. President, this is an issue of fairness. If this authority is used, there could be two programs announced for wheat or other commodities for 1996. One would be done on time and under this kind of an amendment. The announcement under the regular farm bill would be late. If the two programs are different, then farmers would be allowed to choose which program to participate in.

This proposal gives the Secretary maximum flexibility. The Secretary is given the authority to announce only part of the farm program on time, if he so desires. He could, for instance, announce only acreage reductions and other planting-related details, but not announce the price support levels. That would tell farmers how to plant if they want to get into the farm program. It would lead to the possibility of an option for farmers later with regard to those details, but it would require all farmers to accept the same support prices set under the 1995 farm bill.

If the Secretary wants to provide additional planting information on time and avoid the extra administration work of two sets of farm program details, then he can simply announce the same requirements again after the farm bill has been enacted.

Mr. President, this amendment will prevent farmers from being squeezed between Mother Nature and some bureaucratic ruling or the lateness of the legislative process. It will provide all the farmers with timely information concerning farm program details, and it will prevent winter wheat producers and possibly even the southern spring crop producers from being held hostage to the legislative process.

I believe that the amendment is acceptable to the managers of the majority and minority. I appreciate the very able assistance that has been given to me from the majority and minority sides in working out this issue, both from the Senators and from their staffs.

I see my distinguished friend, the Senator from Kansas, on the floor. I yield.

Mr. DOLE. Mr. President, we are rapidly approaching the August recess, and back in my home State of Kansas farmers are preparing for the seeding of their winter wheat crop. Even as they reflect upon the record Kansas wheat crop recently harvested, uncertainty lies ahead. That is because Congress again has been unable to finish a farm bill in a timely manner so that producers of fall crops will know their program in advance.

The announcement of a commodity program has much to do with a farmer's financing, purchasing, and managerial decisionmaking. That is why myself and other wheat State Senators, including the distinguished cosponsor of this amendment, recently asked Secretary Yeutter to announce the details of the 1991 wheat program. The Secretary responded positively to our request, and I hope that an announcement will be made soon.

Mr. President, the purpose of this amendment is to prevent our current situation from happening again in 1996, if indeed we arrive with a 5-year farm bill. The 1985 farm bill required the Secretary to make a preliminary announcement of the wheat program on June 1, with final announcement to be made no later than July 31. That provision expired with the 1990 crop year, and has left wheat producers hanging with no provision in the 1985 bill calling for announcement of the 1991 program.

This amendment will protect producers of fall-seeded crops from the contentious nature of farm legislation which has proven to work to their disadvantage. In the heat of debate and compromise during the consideration of a farm bill, Congress seems to lose sight of the importance of timing as it relates to the production of agricultural commodities. Farmers simply cannot delay planting dates to wait on a farm bill. And while the market has played a more significant role in farm income since the 1985 bill, the commodity program provisions still play a major role in the production decisions which a farm manager must make.

I urge my colleagues to accept this amendment, as it recognizes a priority among our Nation's producers. It is a commonsense amendment which as-

sures farmers of a responsible approach to farm legislation.

Mr. LEAHY. Mr. President, the Senator from Texas is absolutely right. He says that he has the support of this side. It is cleared on this side, and I certainly have no objection to it. I think it makes a great deal of sense. I compliment the Senators from Texas and Kansas for bringing this forward.

Mr. LUGAR. Mr. President, we strongly support on our side the statements of the distinguished Senator from Texas and our Republican leader. Of course, we approve the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 2387) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

AMENDMENT NO. 2388

(Purpose: To freeze the established price for wool and mohair and to increase the payment limitation for wool and mohair)

Mr. LUGAR. Mr. President, I send an amendment to the desk on behalf of Senator SIMPSON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. SIMPSON (for himself, Mr. GRAMM, Mr. WALLOP, Mr. HATCH, Mr. MCCLURE, Mr. SYMMS, Mr. BURNS, Mr. BAUCUS, Mr. DASCHLE, Mr. GARN, Mr. PRESSLER, Mr. BENTSEN, and Mr. BINGAMAN) proposes an amendment numbered 2388.

Mr. LUGAR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, strike lines 11 and 21 and insert the following new subsections:

(b) PAYMENT LIMITATION.—Section 703 of such Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no person may receive payments under this Act for wool or mohair in excess of $250,000 per year.

"(2) The Secretary shall issue regulations defining the term 'person' for purposes of this section. The regulations shall be consistent with regulations issued by the Secretary in accordance with sections 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, and 1308-2).".

(c) ESTABLISHED PRICE.—Section 703 of such Act (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, for each of the 1991 through 1995 marketing years for wool and mohair, the established price shall be $1.82 per pound for wool and $4.532 per pound for mohair.".

Mr. SIMPSON. Mr. President, I rise to offer an amendment concerning the wool and mohair program in the farm bill. It is cosponsored by Senators GRAMM, WALLOP, HATCH, MCCLURE, SYMMS, BURNS, BAUCUS, DASCHLE, GARN, PRESSLER, BENTSEN, and BINGAMAN.

The wool and mohair industry is very critical to the rural economy of my State and many others. It is the only form of economic activity in many areas—singularly supporting numerous small towns and communities.

The only direct or indirect Federal Government payment program that benefits the wool and mohair industry is the one which is the subject of this amendment. Under current law, there is no cap as to how much a person may receive for wool or mohair under this program. The administration recommended a $250,000 cap. The Senate version provided for a $50,000 payment limitation. Our amendment would bring the limitation back to the administration recommended level. It would also comply with the administration proposal to freeze the support price for wool and mohair at current levels for the period of this authorization. That is where the cost savings come in.

USDA estimates that this amendment would save $43 million between 1991 and 1994. This compares favorably to the $26 million the current Senate bill would save.

The purpose of the wool and mohair program is to provide an incentive for domestic production. Without the amendment, the Senate bill's $50,000 cap would result in a substantial reduction in production that would seriously weaken the industry and result in increased imports.

This industry cannot hedge its risk through marketing loans, diversion programs, and the like, and has no protection from imports. The size of the industry does not support the "business risk" tools that are available to other agricultural segments, such as futures and options markets. The current cap in the Senate bill simply would not treat this industry equitable as compared to other commodity programs.

This amendment would save the Treasury $43 million, without endangering the survival of this industry, which is so critical to my State and the entire Nation. I appreciate the managers support of this amendment.

● Mr. WALLOP. Mr. President, I am proud to join my good friend from Wyoming, Senator SIMPSON, in offering this amendment to restore the wool incentive payments back to its original level that was in the administration's proposal.

Mr. President, it is not very often that an amendment passes through markup of the authorizing committee by a vote of 13 to 3 and has such a difficult time finding its way into the language of the committee bill. It is obvious to me that the committee supports this provision and I would hope that the Senate would also.

Wyoming agriculture is unique in many respects because of the size of our State, the relative sparseness of population, the arid climate, and certainly the type lands. Wyoming provides a good climate for the production of sheep. The public lands which make up almost one-half of our State and their suitability to the production of sheep are the main reason Wyoming is the largest range State in the Nation and the second largest wool producer. In fact there are many areas of Wyoming where sheep are our option and without the proposed amendment which will provide our sheep producers with the ability to make a reasonable income, land will lay idle and producers will be forced to find other sources of employment and income.

I voted to table the Reid amendment last Thursday because of the inequity built into that method of achieving cost savings in our agriculture programs and will oppose this one for that very same reason. Wyoming agriculture is by the nature of the beast big. In order to make a living in agriculture in the West, a farmer is required to farm or ranch a large operation. Most of the folks who raise sheep in Wyoming do not have the option of diversifying their livestock, nor do they have farm land on which to grow commodities which are subject to deficiency payments. Farmers in other parts of the country are not held as captive by the inflexibility of their land. The sheep producer benefits only from the incentive payments derived from the import tariff on wool which is actually a revenue generator estimated at $445.6 million in 1991. They receive no other support payment.

Mr. President, no one will refute the fact that wool is no longer seen as a strategic commodity. Rather, the wool incentive program is seen as a means of economic development for rural America and certainly one of the few programs which is truly beneficial to Wyoming. There are many good producers which will be forced out of

ranching forever if required to operate under these new guidelines blatantly slanted against the West.

I hope regional equity can be restored to this program, and I look forward to passage of this amendment.●

Mr. BENTSEN. Mr. President, I am pleased to join with my distinguished colleagues Senator SIMPSON and Senator DASCHLE and others in offering this amendment to extend and continue the Wool Act. This amendment implements a cap of $250,000 on Wool Act payments to individuals, rather than the $50,000 cap in the committee-reported bill.

This amendment is good policy, and it is necessary for the continued viability of the wool program. It has been agreed to by all parties. However, under the current circumstances it is necessary to make this amendment budget-neutral in order to keep the bill below the budget limitations. I agree with that constraint. For that reason the amendment which we are offering includes a freeze in wool support prices.

Mr. President, the farm bill debate has been long and I will not prolong it further. I thank the distinguished chairman of the Senate Agriculture Committee, Mr. LEAHY, and the distinguished ranking member, Mr. LUGAR, for their consideration and assistance in working this matter out. I urge the adoption of this amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent that a letter to me from the Vermont Sheep Breeders' Association be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VERMONT SHEEP
BREEDERS' ASSOCIATION,
Calais, VT, July 24, 1990.

Re Farm Bill Wool Act S2234.
Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The Vermont Sheep Breeders Association is the state industry association representing producers on over 800 Vermont farms.

I am writing to you today about proposed changes in the $250,000 cap of Wool Act payments since my last mailgram to you. The proposal of a $50,000 cap would be ruinous to the Vermont sheep industry. Given options now before us in the Senate we will, however reluctantly, accept a bill with a $250,000 cap and a target freeze, although we still prefer a $250,000 cap without a freeze.

Sincerely,

DAVE MCDONOUGH,
President, VSBA.

Mr. LUGAR. Mr. President, the distinguished Senator from Wyoming, joined by Senators GRAMM, WALLOP, HATCH, MCCLURE, SYMMS, BURNS, DASCHLE, GARN, PRESSLER, BENTSEN, and BINGAMAN, have proposed an amendment that freezes the support price for wool at the 1990 crop level to make it consistent with the freeze for all other crops. It increases the payment limit from $50,000 to $250,000, but current law, of course, has no payment limit.

Mr. President, I support the amendment offered by the distinguished Senator from Wyoming and others. We had extensive debate in committee on the wool program. The proposal Senator SIMPSON made addresses two important problems. First of all, a freeze of the wool support level and the consistency with other items which we stressed throughout our markup, and the imposition of a payment limit where one had not been there before. We believe this makes a constructive reform in the wool program. On our side, we support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. I have no objection.

THE WOOL PROGRAM

Mr. BAUCUS. Mr. President, I rise in support of the amendment offered by the Senator from Wyoming to eliminate the $50,000 cap on payments to wool producers and replace it with a $250,000 cap.

The $50,000 cap contained in the Agriculture Committee bill was simply unacceptable.

The effect of such a low cap would no doubt force many domestic producers out of business.

Unlike most commodities addressed in the farm bill, wool is a deficit production commodity. The American sheep industry supplies less than one-third of the domestic consumption of wool.

If we place a low cap on wool producers, they would no doubt curtail production, and we would become more dependent on imports.

For every sheep we don't sheer in the United States, we have to import that much more wool.

Because of the low level of U.S. production, the Wool Act is designed to encourage production through incentives.

The higher the quality of wool a producer produces, the higher the payment he receives.

This program has worked well in Montana.

Currently, we are the fifth largest wool producer in the country just behind Texas, California, Colorado, and Wyoming.

Since 1988, the number of sheep and lambs on Montana farms and ranches have increased by 11 percent to 663,000 in number.

The total value of this industry to my State is approximately $58 million.

A low cap would have resulted in reduced production in Montana and across the country.

This result clearly runs counter to the purpose of the program.

I also want to point out an additional uniqueness in the wool program.

Large producers are critical to the continued survival of small producers.

In Montana, no producer currently makes more than $50,000 in benefits under the wool program.

But Montana producers rely on the infrastructure and marketing systems that are maintained through the volume of product which is provided by larger sized producers.

A low cap would affect that volume and could force packing plants, wool warehouses and wool mills, which Montana producers rely on, out of business.

If large producers are forced out of business, there is no way small producers can survive.

That is why I have fought so hard to remove the $50,000 cap from the farm bill before us.

Unfortunately, this amendment is not everything I would have hoped for. It freezes benefits to sheep producers.

I think this is the wrong way to go, but I have agreed to accept it in order to ensure that the $50,000 cap is removed. I hope the freeze will be deleted in conference.

I urge my colleagues to support this amendment.

Mr. BINGAMAN. Mr. President, I rise today in support of Senator SIMPSON's amendment to raise the $50,000 payment limit contained in S. 2830 on the wool and mohair program to $250,000. Current law has no payment limit.

I am very concerned with the bill's payment limit. The current wool and mohair program has been successful because of its ability to maintain the viability of domestic production of wool and mohair. I am afraid, however, that the proposed $50,000 payment limit would severely harm this industry and cause economic havoc to many small rural communities throughout the Western States. It is estimated these rural communities would suffer an immediate loss of approximately $110 million of business activity if this $50,000 payment limitation were to be enacted.

In States like New Mexico, wool and mohair production is an extremely important commodity and is the economic blood-line for many small towns and communities. In 1988, commercial sheep production generated more than $22 million in cash receipts for New Mexico.

In addition, the sheep and goat industry is vital to the Navajo Nation in northwestern New Mexico. The production of wool and mohair contributed substantially to the incomes of many Navajo families.

It is critical that we continue a viable wool and mohair program with a reasonable payment limitation. The inadequate $50,000 cap would result in a reduction in production that would

seriously weaken the industry infrastructure.

The purpose of the wool and mohair program is to provide an incentive for an increase in domestic production. As a result of this incentive, the quality of U.S. wool has steadily improved since the program's inception. The $50,000 payment cap would eliminate this incentive.

I urge my colleagues to support the $250,000 limit as offered by the Senator from Wyoming.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2388) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, would the Chair state the situation as now exists with reference to amendments?

The PRESIDING OFFICER. There are currently no amendments pending. Therefore, the bill is open for amendments.

AMENDMENT NO. 2389

(Purpose: To prohibit U.S. financial institutions, whose deposits are insured by the United States taxpayer, from extending credit to the Soviet Union at interet rates below those offered to American farmers.)

Mr. HELMS. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

I might mention in the process that the cosponsors are Mr. GRASSLEY, Mr. BOND, Mr. SYMMS, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. D'AMATO, Mr. MCCLURE, Mr. PRESSLER, Mr. MCCAIN, and Mr. LOTT.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina, [Mr. HELMS], for himself, Mr. GRASSLEY, Mr. BOND, Mr. SYMMS, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. D'AMATO, Mr. MCCLURE, Mr. PRESSLER, Mr. MCCAIN, and Mr. LOTT, proposes an amendment numbered 2389.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

"SEC. . (a) It shall be unlawful for a financial institution, the deposits of which are insured by any department, agency, institution or entity of the Government of the United States, to make, or participate in, an extension of credit to the government of the Soviet Union, any agency or other instrumentality of the government of the Soviet Union, or any entity owned or controlled by the government of the Soviet Union, unless the extension of credit is for the sole purpose of purchasing United States-produced agricultural products or commodities, or bears interest at a rate equal to or in excess of the interest rate generally extended by financial institutions to American farmers.

(b) Definitions—

(1) As used in subsection (a) the term "financial institution" means—

(A) any bank, savings association, credit union, or other entity the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board;

(B) any organization the accounts of which are insured by the Securities Investor Protection Corporation; and

(c) any company subject to the provisions of the Bank Holding Company Act of 1956.

(2) As used in subsection (a) the term "interest rate generally extended by financial institutions" means—

(A) the average rate of interest on uninsured loans secured by a farm or ranch, made during the previous quarter, to a producer who engages or producers who engage in farming, ranching or aquaculture operations in the United States, as determined by the United States Department of Agriculture on a State-by-State basis.

(3) As used in subsection (a) the term "producer" means—

(A) any person who, as owner, landlord, tenant or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof.

(c) A violation of this section shall be deemed to be a violation—

(1) of the Federal Deposit Insurance Act with respect to institutions insured by the Federal Deposit Insurance Corporation;

(2) of the Federal Credit Union Act with respect to financial institutions insured by the National Credit Union Administration Board;

(3) of the Securities Act of 1933 with respect to institutions insured by the Securities Investor Protection Corporation;

(4) of the Bank Holding Company of 1956 with respect to financial institutions insured by the bank holding companies.".

Mr. HELMS. Mr. President, this amendment poses a simple, clear-cut question, that question being: Should the banks and other financial institutions of the United States, the deposits of which are insured by the American taxpayers, be allowed to make loans to the Soviet Union at interest rates lower than are charged when loans are made to American farmers or other American businessmen?

Let me make it clear up front. This amendment will not prevent the Soviet Union from purchasing United States-produced agriculture products with below market rate financing nor would it affect any of the food programs to the Soviet Union contained in this farm bill.

Mr. President, in the 1980's, the taxpayers of the United States paid billions of dollars to bail out bad loans made in various places, principally, in Latin America. In the coming years, the U.S. taxpayers will pay some $500 billion to pay for the savings and loan fiasco. In 2 or 3 years, the United States taxpayers could well be asked to perform a similar bailout as a result of bad loans to the Soviets. I think when the U.S. taxpayers look back to see if this disaster could have been prevented, they might just look back at how Senators vote on the pending amendment.

Senators may find it difficult to understand, as do I, that United States' banks can, and do, make loans to the bankrupt Soviet Union at interest rates far lower than those they make available to United States farmers.

For example, in the spring of 1987, even as it was rescheduling previous loans which the Soviets were having difficulty paying, the First Chicago Bank arranged a $200 million loan to the Soviet Union. First Chicago lent this money to the Soviet Union at a 6.4 percent interest rate—which is one-eighth of 1 percent above the cost of the funds—with no principal payments for 6 years.

How would Senators like to have a loan like that? How would the American farmers like to have a loan like that? That is the focus of this amendment.

The fact is, Mr. President, no American farmer can get a commercial loan at this rate. In fact, I doubt that any American taxpayer can get a loan at this rate. Yet this First Chicago Bank loan is ultimately guaranteed by the American taxpayer, inasmuch as the U.S. Government insures deposits of up to $100,000 in U.S. financial institutions.

As the savings and loans crisis has shown, when American bankers make inappropriate loans, the American taxpayer picks up the tab. And any bank is totally irresponsible if it regards the bankrupt Soviet Union as a better risk than American businesses or American Farmers to which it offers loans at prime rate, sometimes.

Mr. President, this amendment will not prevent banks or any other lending institutions from lending money to the Soviets. All it would do is advise banks that if they want their deposits insured by the American taxpayer, then they cannot offer loans to the Soviet Union at interest rates more favorable than the rate it makes generally available to American farmers on uninsured loans, secured by a farm, or ranch, or otherwise.

I am not alone in my concern about the possibility of a massive Soviet default. According to a June 3, Washington Post article, Japan's Trade Ministry has instructed some companies to halt shipments to the Soviet Union, until the Japanese companies get paid for past deliveries.

The Soviets are at least $4.3 billion past due in debt payments to the West. The chief economist for Swiss Bank Corp. International put it this way:

* * * the Soviets' recent inability to pay their bills may result partly from bureaucratic snafus, the delayed payments have focused Japaneses attention on long-term risks. The more serious problem is that the cash flow problem could be permanent. If the Soviet Union collapses into its separate republics, who's liable? Who do you collect from? The Byelorussians? The Russians? The Ukrainians? It's sort of the ultimate in political instability. * * * Sure, the Japanese want to sell, but they want to get paid, too."

That is the end of the quote from the chief economist for Swiss Bank Corporation International.

That was published in the June 3 edition of the Washington Post.

That raises a question that we must confront. Do we want to gamble taxpayers' insured deposits on the uncertain prospect of the Soviet economy? Mr. President, I think we must nip this in the bud before the American taxpayers are again exposed to—and forced to pay for—billions of dollars in bad debt.

Not only is ending this arrangement in the interest of the American taxpayers, but it is in the long-term interest of the Soviet Union. Ending the Western credit line at below market interest rates will force Mr. Gorbachev to expedite his reform program, ultimately to the benefit of the entire Soviet population.

Mr. President, we now know all about the Latin American debt crisis in the 1970's, which the American taxpayers bailed out. We also know about the potential $500 billion taxpayer bailout of the savings and loan debt crisis of the 1980's, for which, of course, the taxpayer will have to cough up the money, and you better believe that they are sore about it and you better believe they are justified in being sore about it.

It is time that the Congress of the United States took note of some of the lessons of the savings and loan crisis. Does it not make sense to make a prudent decision and at least just for openers limit the Soviet Union to an interest rate for any future loans made with funds insured by the taxpayers of the United States at no less than the interest rate made available to American farmers?

Mr. President, American farmers and other taxpayers should not be forced to insure those loans made to the Soviet Union at interest rates which are far, far better than those interest rates that are made available to American farmers, home buyers, and businessmen or other citizens, and that, simply said, is what this amendment is all about.

Mr. President, I ask unanimous consent that the distinguished Senator from Oklahoma [Mr. NICKLES], be added to the list of original cosponsors that I will designate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

The Senator from Indiana.

Mr. LUGAR. Mr. President, while the distinguished proposer of the amendment is on his feet, I would like to pose a question of clarification to him, and the question is: I understand that if loans were to be made to the Soviet Union for overall purposes, the Senator's amendment would prohibit that procedure unless the rate of interest charged was at least as high as that for loans to American farmers?

Mr. HELMS. That is right.

Mr. LUGAR. In the event that the Soviet Union is buying American agricultural products, is the intent of the Senator's amendment to suggest that this is an exception to that rule, in other words, that purchases of American agricultural products could be made at lower rates, but it is for everything else they would in fact have to pay at least the rate paid by farmers?

Mr. HELMS. The Senator is absolutely correct.

Mr. LUGAR. Mr. President, I will support the amendment. I understand from conversation with some members and staff of the Banking Committee that there is a strong feeling that the Banking Committee might very well be the committee of jurisdiction for this amendment dealing with banks and extension of credit.

It clearly does have foreign policy implications, when you mention the Soviet Union, and the Foreign Relations Committee might have substantial interest. The Senator has touched clearly upon agriculture in the sense that agricultural commodities can be financed in a different way and that is important, I suspect, in both a humane way as well as in commerce for American farmers.

I understand from Banking Committee members that if they were in the process of drafting or redrafting the amendment they might want to make some technical changes as a practical matter. That opportunity may be present in conference, when I suspect conferees from the other body may insist the Banking Committee members join the conference and engage in discussion at that point.

So for these reasons, Mr. President, I will support the amendment on the basis of the general common sense the Senator from North Carolina has expressed and that we ought not to be making loans to the Soviet Union at rates that are less than those paid by American farmers or, for that matter, other Americans.

Credit in this world right now is very hard to come by. We are in a very credit-scarce situation in the world. And it may very well be that some commercial interests in this country will want to do business with the Soviet Union, but hopefully they will do so on the basis that is least competitive and fair with regard to the credit requirements in the United States.

I think, beyond that, the Senator makes a good point that the predicament of the Soviet Union is clearly unknown with regard to credit requirements or ability to repay, and great prudence ought to be the watchword.

Having said that, Mr. President, I appreciate that whenever an amendment dealing with foreign policy issues and dealing with the Soviet Union comes to the floor and it does so in the context of a debate on the farm bill, there are usually problems, simply because the administration, the Treasury, the Secretary of State, others who have an interest in this may not be prepared really to have taken a look at the farm bill as the place in which this rather monumental issue arises.

So I support the amendment on the basis of my own understanding of the common sense of the Senator from North Carolina, but at the same time I would simply alert members of the administration who may have an interest in this that as we approach conference their advice and consultation ought to come forward so that we do not make a mistake with regard to foreign policy or the credit policy of our country.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, as the Senator from North Carolina said, I am a cosponsor of this legislation, and I appreciate Senator HELMS' leadership in this area because I think that, as we go into lending money to the Soviet Union we ought to be reminded of some of the bad loans the American bankers have made to a lot of other countries around the world at a time when we did not have enough foresight to consider these issues.

One sure thing, if we do not learn from the mistakes of the past we are probably destined to continue those mistakes and repeat them. And we all learn, from the bad debt of Mexico, Brazil, other countries that are working with IMF or refinancing and the write-down of loans and all the fancy new methods of rolling over debt, that if we are careful now we will not have to worry about this with the Soviet Union down the road 10 years from now.

The major problem is that we do not know how much the Soviets are borrowing from the United States. The reason is that United States banks do not have to report their loans to the Soviets. United States taxpayers, bank

stockholders, national security analysts and other Government officials do not know how much the Soviets have borrowed. However, it is no secret that the Soviets are going to attempt to borrow hundreds of millions and maybe even billions of dollars from United States capital markets once there is a negotiated settlement of past Soviet debts to the United States Government.

Of course, that comes under the terms of the Johnson Default Act, and under the terms of that act the Soviet Union is legally prevented from receiving unrestricted, general purpose loans from United States banks, because the Soviet government is in default of loans made by the United States Government. The Soviet Government defaulted on several loans made in 1919 by the United States Government. This defaulted debt has grown to $1.54 billion today. Further, the Soviet Union still owes the United States over $674 million from the lend-lease program of World War II.

The United States Department of State and the Soviets have been engaged in negotiations since early last year to write off the vast majority of these bad Soviet debts owed to the United States Government. Once the State Department and the Soviets agree how to write these bad Soviet debts off, the State Department will effectively allow the Soviets general, unrestricted lending by United States banks by removing the Johnson debt default restrictions.

Mr. President, now is the time to protect American taxpayers from foolish United States bankers who would otherwise make irresponsible loans to the Soviet Union. It is time we protected the taxpayers from another potential debt crisis, before the State Department writes off hundreds of millions of dollars in bad debts to the Soviet Union, and in the process giving the Soviets unfettered access to United States bank loans.

The fact of the matter is, Mr. President, that even today many United States banks make loans which end up in the Soviet Union. These are loans that are made initially to a bank in a second country. This bank then loans the money to the Soviet Union. The loan, therefore, cannot be tracked by U.S. regulators or anyone else for that matter. This is one of the reasons that we do not know how much the Soviet Union owes the West.

Mr. President, I ask unanimous consent that a list of Soviet loans titled "Capital-Market Financing to Eastern Europe in 1989" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 6.—CAPITAL-MARKETING FINANCING TO EASTERN EUROPE IN 1989

Borrower and Date	Millions	Points [1]	Years	Bonds
Bulgaria: June	200DM		7	Direct (8.5).
Czechosolvakia: June	240$	23	10	Grace period (6.0).
Hungary:				
January	200DM		7	Direct (6.6).
March	35BY		10	Direct (5.7).
April	150$	63	8	Grace period (5.0).
May	200DM		8	Direct (8.0).
August	1,000DSH		7	Direct (8.1).
August	75ECU		7	Direct (10.0).
Poland: April	163$	100	12	Loan.
U.S.S.R.				
January	175$			Loan.
March	750DM		7	Direct (7.0).
June	250FL		7	Direct (8.0).
July	200DM		7	Loan.
August	1,000CH		6	Direct (8.0).
COMECON bank: August.	75SH	32	7	Loan.
Total	4,405$			

[1] Marginal point differential.

Note.—DM: Deutsche mark; $ U.S. dollars; BY: Billions of yens; SH: Austrian shillings; ECU: European currency unit; FL: Flanns; Direct: coupons; Grace periods: years.

Source: Department of Economic Research, Banamex. Based on data from the Organization for Economic Co-operation and Development (OECD).

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Missouri.

Mr. BOND. Mr. President, the question has been asked why this amendment is being offered on the farm bill. There is an interesting piece in the Reader's Digest of a couple of years ago by former Secretary of the Treasury William Simon. It is entitled "Should We Bail Out Gorbachev?"

In that article, the former Secretary writes:

Suppose you asked a bank for a loan and said: I want an interest rate well below what you charge your best customers. I don't want to make any payments on the principal for six years. I won't give you anything for security. And, of course, I will use the money for any purpose I please.

The banker doubtless would laugh, for no American homeowner, businessman or corporation, not even the United States government, can borrow money on such terms. But the Soviet Union can.

Secretary Simon then goes on to point out that hundreds of millions of dollars of loans are made to the Soviet Union without asking what they are for. Banks cannot or will not disclose the purpose of the loans. He further pointed out that while these loans are being made to the Soviet Union, many American farmers have difficulty getting money and lose their land because they are unable to refinance their mortgage. That is the point.

We have had a lot of people talk about the continuing reduction in the number of farmers. At the same time banks are turning down loans to farmers, other banks are extending loans to the bankrupt Soviet Union.

If U.S. banks think unsecured loans to the Soviet Union are a better risk than loans to American farmers secured by farmland, that is one point. They should not be able to make such loans and expect that the American taxpayer will be there to pick up the tab when the loans go bad. If the taxpayer is going to be responsible, the least we can ask is that the American farmer receive as good terms as are made available to the Soviet Union.

I am pleased to support the amendment. I ask unanimous consent that the article from the Reader's Digest of September 1988 be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Reader's Digest, September 1988]

SHOULD WE BAIL OUT GORBACHEV?

(By William E. Simon)

Suppose you asked a bank for a loan and said: I want an interest rate well below what you charge your best customers. I don't want to make any payments on the principal for six years. I won't give you anything for security. And, of course, I will use the money for any purpose I please.

The banker doubtless would laugh, for no American homeowner, businessman or corporation, not even the United States government, can borrow money on such terms. But the Soviet Union can.

The First National Bank of Chicago, for example, last year arranged just such a loan to the Soviets—for $200 million! Asked if the money could be used for missiles, a bank representative replied, "It could, of course, but we would hope not. We can't control that."

In recent years, according to International Financing Review, First Chicago has joined other banks in making loans or providing lines of credit to the Soviets totaling hundreds of millions of dollars. When queried, the bank declined to provide details. Other banks, including Manufacturers Hanover and Security Pacific, also refused to disclose details of loans they have made to the Soviets. During these years, a number of American farmers have lost their land because they were unable to refinance their mortgages. But when Hungary, one of the satellites the Soviets must sustain, threatened in 1986 to default on a $210 million loan, First Chicago and other banks put off the country's payments for four years.

According to Roger W. Robinson, pre-eminent expert on East-West finance, the West and Japan now have supplied the Soviet bloc with some $130 billion in low interest, unsecured loans. The known Soviet share of this indebtedness is at least $43 billion, and communist debts are increasing rapidly. In 1986, the lat year for which data are available, the Soviet Union and its satellites borrowed at the rate of $2 billion a month. At least 80 percent of the money was handed to them with no strings attached.

Private banks make the loans in part because their governments encourage them. The U.S. State Department has endorsed such lending in the naive belief that it would help wean Poland and Hungary away from the Soviet Union. That has not happened, and both countries are now virtually bankrupt. West Germany advocates loans on the equally spurious ground that they will somehow draw West and East closer. This is akin to paying an extortionist in the hope of buying security.

If one powerful organization, the U.S.-U.S.S.R. Trade and Economic Council, has its way, the flow of Western capital to the Soviet Union will swell into a flood. USTEC is composed equally of American businessmen and Kremlin officials, a number of whom are Soviet intelligence officers. Last year USTEC suggested that its American

members urge Congress to ignore a law against importing goods made by slave labor because it would bar many Soviet imports. Asked whether the United States really has an interest in helping make the Soviet Union "an economic superpower," USTEC president James H. Giffen replied, "I think we do."

But is it really in our interest to rush in and try to save the Soviets from themselves? By helping to bail out Gorbachev, might we sabotage the very reforms he publicly advocates?

UNRELENTING HARDSHIPS

To answer those questions, we need to understand the acute crisis in which the Soviet Union today finds itself, and to listen to what the Soviets themselves are saying.

The collective farm system savagely imposed by Stalin remains a disaster. Despite massive imports of grain from the West, the U.S.S.R. cannot adequately feed its people. Food is rationed in many areas. Even in Moscow, fresh meat, milk and fruit often are unavailable. At least 20 percent of all grain, fruit and vegetables rots in the fields or in transit. According to the newspaper Literaturnaya Gazeta, Soviet sausages are so repulsive that cats refuse to eat them!

Light industry that produces Soviet consumer goods is decaying, with 40 percent of its machinery obsolete. Mundane products—vacuum cleaners, aspirin, toothpaste—are scarce or nonexistent. Lack of contraceptives makes abortion, often performed crudely and without anesthetic, a principal means of birth control. More than half the population cannot afford a refrigerator. And as Gorbachev's chief economic adviser points out, only nine out of 100 Soviets have telephones.

The quality of available products is notoriously poor. Half of all new tractors must be cannibalized to provide spare parts for others that have broken down. Soviet television sets are so badly made that they often burst into flame.

While every citizen is promised free medical care, the Soviets acknowledge that is woefully deficient. According to Minister of Health Evgenii Chazov, only 12 of Moscow's 33 maternity hospitals meet modern sanitation standards. Many outlying hospitals "lack not only hot water but even rudimentary sewage treatment."

Many, if not most hospitals also lack such basics as disposable needles and rubber gloves. Declares Soviet eye specialist Svyatoslav Fedorov: "The Soviet physician today is a soldier armed with a bow and arrows, and it not within his power to fight complex diseases."

The Soviet Union is the first industrialized nation in peacetime to suffer a significant drop in male life expectancy. At birth, men can expect to live only to 65, compared with 71 in the United States.

The Soviets blame the pervasive inadequacy and shortage of housing for a host of ills, including high rates of divorce, infectious disease and suicide. At least 13 million urban families still must live in communal apartments or dormitories, sharing bath, kitchen and even bedrooms with other families. In Moscow, newly constructed apartment complexes are crumbling. Outside urban areas, about half the dwellings lack indoor toilets and running water. According to official data, some 30 million Soviet citizens do not have access to pure water. Result: gastrointestinal illness is widespread.

FLOATING ON OIL AND VODKA

But the one problem that most frightens Soviet rulers is technological. The Soviet system simply has proved itself incapable of originating and applying advanced technology in many areas critical to industrial production and military prowess.

Consider computers. The Soviets calculate they presently need 28 million personal computers. Under a high-priority program instituted by Gorbachev, they hoped to produce 1.1 million by 1990. Their first classroom model, though, turned out to be such a hopeless failure that last year they cancelled production.

Adm. Vladimir Maslov has warned that unless Soviet technology quickly improves, the country will fall behind the United States militarily "in five to seven years." But the economy that must generate these improvements is fast decomposing. As Gorbachev concedes, if earnings from vodka and the inflated oil prices in the 1970s are discounted, there has been essentially "no increase in the absolute growth of national income" for 20 years!

Meanwhile, military expenditures levy an insufferable burden, sapping the economy of its best talent and resources. Foreign Minister Eduard Shevardnadze puts Soviet military consumption at 19 percent of gross national product. In private conversations with Westerners, some Soviet economists say the actual figure is 40 percent. By contrast, U.S. defense spending is 5.9 percent of GNP.

Maintenance of the Soviet empire imposes more strain. Subsidies necessary to keep Cuba afloat and finance its armed intervention in Africa now cost at least $5 billion a year. Billions more must be spent to support Vietnam and its occupation of Cambodia, to prop up Marxist regimes in Ethiopia and Angola, and to arm Nicaragua. The Soviets also must supply their East European colonies with oil that they could otherwise sell elsewhere.

Recognizing that the Soviet Union is in danger of being "discarded and left behind by history," Gorbachev has embarked upon the twin policies of perestroika (restructuring) and glasnost (more open discussion). While glasnost has introduced an unprecedented degree of public candor, economic changes initiated under perestroika thus far have been relatively minor. Indeed, some Soviet economists admit that economic conditions are worse than when Gorbachev came to power.

Even his minimal reforms have met extensive resistance. The parasitical ruling class fears loss of its privileges and luxuries. Legions of bureaucrats fear for their jobs. Managers fear the risks and uncertainties of innovation. Laborers foresee harder work—and less security.

LESSONS OF DÉTENTE.

In the past, Soviet rulers often talked about changing the economy but always shrank from fundamental change. Instead, they sought to rescue themselves by begging, borrowing and stealing everyting they could from the West.

After Bolshevik rule reduced the land to ruin, Lenin in 1921 proclaimed a New Economic Policy of "cohabitation with capitalism." But within communist councils, he made clear that the NEP was simply an expedient: "As soon as we are strong enough to overthrow capitalism, we shall seize it by the throat."

Holding out the lure of a vast, untapped Russian market, Lenin induced Western companies to found the Soviet aviation, steel, textile, automotive and tractor industries. Once the foreigners no longer were needed, they were thrown out or, in some cases, jailed on charges of "industrial espionage."

In the 1970s, amid the drumbeats of détente, the Soviets again conjured up a vast, untapped Russian market awaiting Westerners bold enough to exploit it. By 1976, Westerners had erected nearly 1000 factories across the U.S.S.R. To enable the Soviets to pay for these, free-world banks advanced them billions. On the Kama River, German, British, Italian and American firms built the world's largest truck factory.

Abetted by Western capital, the Soviets undertook the greatest military buildup in peacetime history. They pushed into Africa, Central America and Southeast Asia. Then, in 1979, they invaded Afghanistan. The trucks that carried Soviet troops and weapons for that murderous war rolled out of the Kama River plant.

BUSINESS AS USUAL

Now the U.S.S.R. once again seeks to save itself by reaching even more deeply into Western pockets. To rebuild their economy, the Soviets need powerful computers and software, industrial robots, machine tools, factories capable of producing semiconductors and other microelectronic components. They would like to buy this sophisticated know-how and hardware from the West and Japan. But they have little real money. Because Soviet products generally are shoddy, people with any choice will not buy them. Therefore, to earn foreign currency they must rely primarily on the sale of oil, gas, arms and gold. Last year they earned only about $29 billion in real money, barely enough to finance their existing debt and the imports necessary to sustain the economy at its present dismal level. Hence, they crave foreign cash.

The West and Japan should refuse them the money. The unrestricted, cut-rate loans private banks have been making to the Soviets are commercially unsound and unjustifiable. Worse, as communist indebtedness grows, the Soviets acquire ever stronger leverage over the lenders' national economies. Should the Soviets, for political or economic reasons, at some future date default on their loans, they could jeopardize the interrelated banking system of the entire free world. To put our banking system and economic stability at the mercy of hostile powers is potentially suicidal.

I agree with Sen. Bill Bradley (D., N.J.), who said: "Without Western capital and technology, the Soviets can increase domestic investment only by decreasing military spending. I question the wisdom of helping the Soviets avoid the choice."

The date, the Soviets have ducked that choice. In 1986, for instance, the unconditional credits given the U.S.S.R. by Western financial institutions roughly equaled their costs of sustaining control of Nicaragua, Cuba, Vietnam, Angola and Ethiopia. By allowing the Soviets to buy advanced technology, we perpetuate their bloated military and impair our own security.

The Soviets have made clear they have no intention of curtailing the huge supply of arms Nicaragua's Sandinistas are using to undermine Central American democracies. And Soviet support for Ethiopia's inhumane and incompetent Marxist regime threatens hundreds of thousands with starvation.

ANOTHER QUICK FIX

Despite these outrages, Commerce Secretary C. William Verity, a former co-chair-

man of USTEC, has ardently advocated lending and selling to the U.S.S.R. This year the Commerce Department, under Verity, cleared the way for our allies to sell advanced computers which the Soviets could use for military purposes. Verity also tried to facilitate the sale of sophisticated oil exploration and production technology to the Soviet Union.

Fortunately, there is strong, bipartisan awareness in Congress of the dangers—and opportunities—confronting us. A bill sponsored by Senators William Proxmire (D., Wis.) and Jake Garn (R., Utah) would empower the President to require banks to report all Soviet bloc loans. It also would authorize him to forbid loans judged harmful to national security. With passage of this law, the United States could solicit the cooperation of allies who have as much to gain as we do from real changes in the Soviet Union.

Says Rep. Jack Kemp (R., N.Y.): "Bank deposits of American citizens are being used to strengthen the Soviets. Then these same citizens are forced to pay higher taxes to defend against the threats their own money has helped create. This is preposterous!"

If Gorbachev sincerely wants to restructure his society to one that threatens no one and cares for its people, we can only wish him well. But until real changes occur, we must refrain from another quick fix that enables the Soviets to continue their destructive ways.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, incidentally, all the cosponsors should be identified as principal cosponsors. I have just been notified that Senator KASTEN wishes to be included in that list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I appreciate the comments in support of this amendment by my good friend from Indiana, DICK LUGAR and I served together on the Foreign Relations Committee and, as all of us know, he is a very erudite, well-informed Senator.

In case anybody wants to raise the question as to why I feel this amendment is appropriate, I will just say the managers of the bill themselves opened the door to foreign policy and the issue of debt forgiveness—and that is basically what we are talking about—when they offered and approved amendment No. 2327, the Lugar-Leahy amendment. That amendment adds a new provision to allow U.S. Government forgiveness of loans—specifically, the Commodity Credit Corporation—loans made to those countries which are pursuing national economic policy reforms that would promote democratic market-oriented and long-term economic development.

My friend from Iowa, CHUCK GRASSLEY, who is a Senator I admire greatly, and he knows I do, knows I have been worried—as have a great many American citizens—about the syndrome in America for the past generation of just shoveling out money to everybody in the world.

A few years ago a friend of mine from North Carolina wrote to me. He asked: "Do you have any idea how much money the American taxpayers have had to cough up to finance the foreign aid program?" Well, frankly, I did not know it.

Then my friend went on, in his letter, He said: "I am not just talking about the loan itself, or the grant itself. I am talking about the interest." What he proposed to me was to start with the Foreign Aid Program at its inception in 1946, take the amount appropriated by this Congress, calculate it at the interest rate of that time on the theory that since we do not have balanced budgets around this place and have not had in Lord knows how long, the interest ought to be factored in, rolled over, and then the next year's appropriation, add the interest, roll it over, up until that time.

I called in three or four members of my staff and I said, "This is a good idea. Let us go to work on it."

They looked around for 2 or 3 days. They found out nowhere in Washington, DC, can you find a figure for the total amount the United States has spent on foreign aid since inception of the program, including interest. So they laboriously, over a period of months—and it took months to do it—they went, country by country. They got the appropriation for each year; they got the interest rate that the U.S. Government was paying for borrowed money; and they factored all that information together.

They found out it was an arithmetical job that defied any computer capability that we had in our office. So we persuaded the Library of Congress to take on the project. They worked on it, and finally the report came in. It was a stack about so high of computer printout.

I looked at the bottomline and I said, "This cannot be right. Take it back and tell them to do it again."

What do you reckon it totaled, and this was oh, 7 or 8 years ago? I have forgotten how many years.

The total at that time, representing money that the United States Government had given away overseas to Communist countries, non-Communist countries, everybody in sight, willnilly, came to a total, plus interest rolled over, of $2 trillion 300 billion.

So I sent it back to the Library of Congress. I said, "Do it again, and this time do it right."

It came back. They ran it through all again, and they said, "That is right." I remember coming to this floor and making a speech about it. Several Senators raised their eyebrows and said, "That is a lot of money." We put out copies in the press gallery, all of the tabulations, all of the rest of the information. There was not one scintilla of interest, no interest whatsoever, in this $2.3 trillion expenditure of the money of the taxpayers of the United States.

Somebody said, "Why do we have a $3 trillion debt now?" It is because we were not worried about a $2 trillion debt. We were not worried about a $1 trillion debt. We certainly were not worried about a $500 billion debt. But there were some of us who were worried from the very beginning about the profligacy of this Government and of this Congress.

We are having all sorts of problems now, trying to reach a budget accommodation—a budget summit, wherever that is, whatever that is. I do not know what they are going to do about the budget deficit. I hope we have not crossed the Rubicon in terms of the stability of this country.

But at least we can start and do a little something. We can say to the farmers of America, inasmuch as we are working on a farm bill, and at the same time to businessmen and to other Americans who have to go to the bank or the lending institutions to borrow money, that banks whose deposits are insured by the taxpayer are not going to lend money to the Soviet Union or their farmers at a rate lower than the American farmers and businessmen and others.

Mr. D'AMATO. I am wondering if the distinguished Senator from North Carolina might yield for a question.

Mr. HELMS. I will be delighted to yield to my friend from New York.

Mr. D'AMATO. What the Senator's amendment says, in essence, is that we will not be making available credit to the Soviets at interest rates lower than those that our own farmers are charged; is that correct?

Mr. HELMS. That is precisely correct, I say to the Senator.

Mr. D'AMATO. If we were to make an analysis of the disparity, the difference, how much more—are the American farmers actually paying more?

Mr. HELMS. Oh, you bet your boots, when they can get the money.

Mr. D'AMATO. How much more would they be paying as it relates to the credit that the Soviets would be receiving?

Mr. HELMS. I am going to have to check the figure. The Senator will bear with me for a moment.

I am advised that the American farmer pays about 4 percent more.

Mr. D'AMATO. So we would be giving credit to the Soviets, and our own American farmers would be paying 4 percent more.

Mr. HELMS. Correct. On top of that, the Soviets put up no collateral, and sometimes get six years grace period before having to pay any of the principal of the loan.

Mr. D'AMATO. On that same loan.

Mr. HELMS. Correct.

Mr. D'AMATO. Mr. President, I hope that my distinguished colleague

from North Carolina has put me down as a cosponsor.

Mr. HELMS. You are a principal cosponsor, I will say.

Mr. D'AMATO. I am privileged to be a cosponsor because I think for every good reason, every sound reason, fiscally and in addition to morally, for those who want to fight for human rights, the Senator is exactly right. I am wondering if he might yield to me for just 2 minutes to put into the RECORD some observations which were made by Dr. Andrei Sakharov, the Soviet Nobel Peace Prize winner.

Mr. HELMS. I will yield the floor. Have I asked unanimous consent Senator KASTEN be made a cosponsor?

The PRESIDING OFFICER. Senator KASTEN has been made a cosponsor.

Mr. HELMS. Let me say to my friend from New York, I deeply appreciate his comments. I enjoy working with him. He is one of the Senators who understands the difficulties of this country. I thank him.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, on this subject, I would like to ask the Senator from North Carolina, because I am generally supportive of what he is trying to do, but I am a little concerned about the uneven application of his amendment in this sense: As I understand his amendment, it provides that any extension of credit not be concessional—I could not agree more—but that it would be permitted if that credit was to be used to purchase farm commodities.

Mr. HELMS. Correct.

Mr. HEINZ. The Senator from Pennsylvania represents a lot of farmers, but he also represents a lot of manufacturers. It seems to me that it would not be the intention of the Senator from North Carolina, because I know he has a very substantial manufacturing constituency in his home State, to prejudice one sector over another.

My question to him is ——

Mr. HELMS. I understand the question.

Mr. HEINZ. I have a modification I will give to him if he is at all interested, as to whether he would be willing to—excuse me, I am not through. I have the floor.

Mr. HELMS. If the Senator will yield.

Mr. HEINZ. I want to finish what I have to say.

Mr. HELMS. I thought you asked me a question.

Mr. HEINZ. Not yet. I have not finished it.

Mr. HELMS. I thought I saw a question mark.

The PRESIDING OFFICER. The Senator from Pennsylvania does have the floor.

Mr. HEINZ. I apologize for the misunderstanding. I wonder if the Senator from North Carolina will consider modifying his amendment to treat U.S. manufacturers, whether it is soap flakes, which, by the way, sometimes are made out of agricultural products, or other merchandise that are produced here in America and not just agricultural commodities, as understandable as his concern for that might be. There is the question mark.

Mr. HELMS. I do see the question mark.

Mr. HEINZ. Yes.

Mr. HELMS. Let me give the Senator an answer. Food is the only commodity that the United States Government subsidizes the sale of to the Soviet Union. It is done through guaranteed credits. The only one. If the United States Senate wants to pass a law subsidizing the sale of United States-produced medicine or medical equipment or anything else to the Soviet Union, so be it. However, until the U.S. taxpayers start subsidizing the sale of these other United States goods to the Soviet Union, there is no need to make accommodation on the terms of the commercial loans for money the Soviets will need to purchase these goods.

What I am saying is that in the law under which we now operate, food is the only commodity that our Government includes in subsidized sales to the Soviets.

Mr. HEINZ. If the Senator would respond to a question, perhaps I misunderstand his amendment. As I understand the thrust of it, if the Senator's amendment is agreed to the way it is—maybe I am wrong, so please correct me if I am wrong—the effect will be to prevent an unsubsidized manufacture of soap flakes, or soap bars—and soap is in short supply, as far as I know, in the Soviet Union. So far as I know it is not a strategically important commodity, but the effect will be that if somebody in the Soviet Union wants to borrow money from a U.S. bank to import U.S. soap, they would not be able to do so under the terms of the Senator's amendment. Do I understand him correctly, even though soap is unsubsidized?

Mr. HELMS. That is correct.

Mr. HEINZ. But they will be able to import subsidized agricultural commodities.

Mr. HELMS. That is right.

Mr. HEINZ. Why is the Senator preferring American taxpayer subsidized commodities to unsubsidized commodities?

Mr. HELMS. The Congress has taken a position all along that our agricultural commodities, being food, are humanitarian and merit Government issued credit guarantees. Maybe the Senator wants to contend soap flakes are humanitarian. Under some circumstances, I would agree. In addition, U.S. farmers cannot get loans at 6 percent interest to buy cars and that sort of thing, or soap flakes. Why should the Soviet farmers get the money at 6 percent to buy soap flakes when this money is denied from U.S. taxpayer insured deposits?

Mr. HEINZ. Why should they get money to buy avocados?

Mr. HELMS. If that is food, and I think it is, that is the policy of the U.S. Government and this Congress.

Mr. HEINZ. I am not contesting the Senator's question even on avocados, but it seems to me that you should not prefer avocados over soap flakes.

Mr. HELMS. Unless you are going to eat soap flakes, I do not follow the Senator's logic.

Mr. HEINZ. Try washing yourself in avocados sometime.

Mr. HELMS. He may be a devotee of avocados, so be it. But I am saying this Congress and this Government considers food to be a humanitarian gesture and, therefore, it subsidized sales of grain to the Soviet Union for a number of years, as the Senator knows.

Mr. HEINZ. Mr. President, I would like to just simply say to the Senator that his amendment is not limited to humanitarian food supplies. It is unconstrained. If somebody wants to buy gourmet wine from California at $40 a bottle, they can, in the Soviet Union, borrow money. But if someone wants to buy soap flakes, they cannot. And it seems to me if the Senator says, if it is an agricultural commodity, even if it is a $40 bottle of wine or——

Mr. HELMS. No, I have not said that.

Mr. HEINZ. Some exorbitant, whatever our equivalent of caviar is, it is all right for us to sell the Soviet Union luxury food goods? That is humanitarian? I guess I have lost my understanding of the term "humanitarian." It sure is business, and I am not against business, but I would like all business included in it because that employs people in this country.

I hate to see us discriminate on some very arbitrary basis. As I say, if the Senator wanted just to restrict it to humanitarian food supplies, that would be something. But that is not what his amendment does. I hope we can work something out on this. I yield the floor.

Mr. LEAHY. Mr. President, regular order.

Mr. FOWLER. Mr. President, it is now 6:30. What is the regular order?

AMENDMENT NO. 2385 TO AMENDMENT NO. 2384

The PRESIDING OFFICER. Under the previous order, the question recurs on amendment No. 2385 offered by the Senator from Hawaii to amendment No. 2384 by the Senator from Ohio.

The Senator from Mississippi has the floor.

The Senator from Mississippi.

Mr. FOWLER. Mr. President, I would like to ask——

Mr. COCHRAN. Did the Chair recognize the Senator from Mississippi?

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, if the distinguished Senator from Georgia wants me to yield to him for any purpose, I will be glad to consider it.

Mr. FOWLER. I thank my friend from Mississippi. He retains the floor.

Mr. COCHRAN. I said I would be glad to consider it.

Mr. FOWLER. I ask unanimous consent that I be allowed to speak at the indulgence of the Senator from Mississippi. I make a request at the indulgence of the Senator from Mississippi without losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, reserving the right to object, will the distinguished Senator tell us how long this will take? Is this on the subject at hand?

Mr. FOWLER. It is not. It will only take 30 seconds.

Mr. GLENN. OK. Fine. Then we would be back on the pending business?

Mr. FOWLER. I think we are going to be back in 30 seconds, unfortunately.

The PRESIDING OFFICER. Is there objection.

Mr. GLENN. I will not object.

Mr. COCHRAN. Under those circumstances, Mr. President, I am happy to yield to the Senator from Georgia.

The PRESIDING OFFICER. Hearing no objection, the Senator from Georgia has the right to speak at the indulgence of the Senator from Mississippi.

Mr. FOWLER. I rise, my friends—I am glad they are all here—to ask unanimous consent that I be allowed to offer an amendment that will take no longer than 10 minutes relevant to the agriculture bill, at which time we would then return to the business at hand, which is the pending amendment.

Mr. GLENN. Mr. President, reserving the right to object, I had hoped this would not be the pattern. The Senate expressed its will on the amendment that is before the Senate, and I had hoped when we came back we would be able to proceed to that and have disposition hopefully early this evening. It would be up to those on the other side as to how we were able to conclude this.

If this was just going to take 10 or 15 minutes, why, obviously, I would not object. I hope there would be such a time limit expressed so that we could not get into second-degree amendments and things like that that would eat up the evening. If we could have a time certain that this would end, say, within 20 minutes or something like that, I would not object.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Seeing so many of my colleagues who are here for the express purpose of debating and proceeding with the cargo preference amendment, I withdraw my request.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am hoping that Senators will be able to look again at some of the issues that are raised by amendments of the Senators from Ohio and Hawaii on the subject of port preference.

One thing that has disturbed me considerably as we talked about this issue today and discussed it with Senators to try to explain why we think the amendment ought to be rejected is that there is a confusion, it seems to me, about the extent to which cargo preference is a relevant issue to these amendments. I get the impression, for example, from the comments of one Senator, who said that he thought a vote for the motion to table was a vote against cargo preference. I had other Senators who came up and said they thought we should kill cargo preference; therefore, they were going to vote against the motion to table.

What this indicates to this Senator, Mr. President, is that there has been some confusion on the extent to which this amendment affects cargo preference one way or another. This is a port preference amendment. It really does not bear as close a relationship to the cargo preference issue as some Senators are suggesting, in my opinion.

I think if Senators could separate in their minds, for a little bit, these two issues, we could probably resolve this issue tonight and resolve it in a very short period of time. I hope there is a way to craft an amendment to suggest that this issue should be explored, that some assessment should be made of the problems of shipping grain out of the Great Lakes, or in some way deal with the problems that have been brought to the attention of the Senate by the Senators from Wisconsin, Ohio, Illinois, and Minnesota, who have spoken on this issue tonight.

The fact is the Great Lakes ports have been encountering considerable difficulty in competing with other ports throughout the United States, the Gulf States, the Atlantic ports, the Pacific ports, without regard to cargo preference. But when the resolution of the dispute between agriculture and the maritime interests came up during the 1985 farm bill, this was a wonderful opportunity to seize the moment and write into the law a statutory prefererence for Great Lakes shipping. That is what happened in 1985.

It was a limited preference, 4 years, but it amounted to the diversion of a tremendous amount of tonnage to the Great Lakes ports that they would otherwise have not been entitled to ship, all under the guise of compensating those ports for problems that they encountered as a result of changes in the percentage of Public Law 480, title II shipments.

If you go back a little, you can see that in the 1950's there were three important events that created new potential cargoes for U.S. seaports and carriers: The passage of the Cargo Preference Act of 1954 was one of those; the Agriculture Trade Development Assistance Act, which included the Public Law 480 Program for the first time in 1954; and the completion of the St. Lawrence Seaway in 1959.

Under the Public Law 480 title, each year about 1.9 million metric tons of agricultural commodities are shipped to persons overseas. Of this amount, 1.245 million metric tons are used in nonemergency supplemental feeding and development programs such as mother-child health care, and food for work projects carried out by private voluntary organizations. These include CARE, Catholic Relief Services, Save the Children, and others. Cooperatives are involved.

The World Food Program has a role. As required by law, 75 percent of the commodities used in nonemergency programs must be bagged, processed or fortified, such as soybean oil, corn soy blend, soy fortified, bulgur, and now flour. Since Public Law 480 commodities are purchased by the U.S. Government for overseas programs, shipment of these cargoes is subject to the Cargo Preference Act, as amended.

That requires 75 percent of the food to be carried on U.S.-flag vessels. Prior to 1986 cargo preference for food aid cargoes was 50 percent. But this level was increased 60 percent in 1986, 70 percent in 1987, and 75 percent in 1988, and thereafter due to the agricultural maritime compromise, so-called, that was included in the 1985 Food Security Act.

Essentially, under the compromise cargo preference on food aid, shipments increased from 50 to 75 percent over a 3-year period which benefited the maritime industry, and commercial agricultural export programs were exempted from cargo preference which benefited U.S. agribusinesses.

Also as part of the 1985 act about 240,000 metric tons, or 20 percent roughly, of the title II processed, fortified, and bagged commodities were reserved for Great Lakes ports for each of the years 1986 through 1989.

This level represents the tonnage of Public Law 480 cargo shipped from Great Lakes ports in 1984. This tempo-

rary Great Lakes set-aside was established because Great Lakes representatives here in the Congress claimed that their ports would be unfairly disadvantaged in competing for title II cargoes when cargo preference was increased to 75 percent. According to this argument, the lakes are not regularly served by U.S.-flag carriers, and therefore they would be less able to bid on food aid cargoes when the U.S.-flag requirement increased. Thus to help them adjust to the increase in cargo preference, from 1986 through 1989, the lakes were guaranteed the same amount of Public Law 480 cargoes that they had shipped in 1984.

One important factor that has not really been discussed in this issue is the fact that new rules were adopted to cut the costs of the Public Law 480 program. There is flexibility in the law permitting the administrative agencies some leeway in how they seek bids and make awards while keeping down costs and meeting the 75-percent cargo preference.

Changes in the rules in 1987 in some cases have been less favorable to the lakes. The Department of Agriculture issued a final notice on February 24, 1987, amending its rules governing the procurement and allocation for U.S. ports of processed agricultural commodities for donation under Public Law 480 title II.

The intent of the amended regulation was as follows: determine the lowest landed cost on a U.S.-flag basis for the quantity of commodities required to be shipped on U.S.-flag vessels with the balance of commodities procured on a lowest landing cost basis without regard to whether carriage is on a U.S.- or foreign-flag vessel. Landed cost is the total cost of the commodity, and all costs associated with transporting the commodity from the processing plant to the destination overseas.

The second part of the regulation was to maintain a reasonable U.S.-flag cargo preference balance on a year-to-date basis for all title II commodities to avoid a shortfall in the end of the cargo preference year, and to avoid the use of excessively high rates at year end.

Under the prior procurement regulation, the Department of Agriculture would designate the processer and allocate the commodities to a port based on the lowest landed cost without regard to whether carriage was on a U.S.- or foreign-flag vessel. Then, if necessary, to comply with the cargo preference when the time came to book the cargo bids would only be secured for U.S.-flag vessels.

However, USDA found this could be costly since the lowest landed cost might have been based on a foreign-flag rate, and if a U.S. vessel had to be used to reach cargo preference levels, then the cost may be much higher. Also under the prior rules on some occasion a U.S.-flag vessel may not be available from the port awarded the cargo, which led to the problems of trying to reach cargo preference levels for the year.

So the 1987 amended regulation allows the Department of Agriculture to utilize the least costly U.S.-flag rates and to choose a U.S.-flag carrier in a situation where the difference in cost between a U.S.-flag and foreign-flag carrier is minimal. This results in substantial savings, and fosters competition among U.S. carriers.

However the new rules are not as favorable to the Great Lakes, and actually can be attributed in part to the inability of that region and those ports to attract Public Law 480 cargo since 1987. They are a much more important factor. I submit than the increase in cargo preference from 50 to 75 percent. During the 1960's, 1970's, and early 1980's, aid cargo to India from Great Lakes ports was substantial, and much of it was carried on India-flag vessels. Today at least three, and sometimes four, U.S.-flag carriers compete for this cargo for carriage from ports around the country.

This competitive situation has resulted in downward pressure on the rates charged by U.S.-flag carriers on title II cargoes to India. Their rates are often comparable to and sometimes better than foreign-flag rates to India.

Under the new procurement rules, even if a foreign-flag ocean rate to India from a Great Lakes port represents the lowest landed cost, if the difference between U.S.-flag versus foreign-flag via a port outside the lakes is minimal, the cargo will be procured and allocated via the other port on a U.S.-flag carrier.

These new procurement rules keep title II program costs at a minimum. Essentially the department seeks to ship on a U.S.-flag vessel. That is the lowest rate when compared to foreign-flag vessels to the same destination.

However, Government procurement rules are only a part of the lakes problem in the bidding process. USDA also has been unable to award cargo to the lakes because when a foreign-flag vessel quotes a rate from a lakes port even though it may result in the lowest landed cost, the foreign-flag vessel usually requires that it be granted a certain minimum amount of commodity, such as 6,000 or 10,000 metric tons, before it will call on a lakes port. This usually cannot be accommodated because the minimum required exceeds the amount being purchased for a particular destination.

The following example shows how foreign-flag carriers setting a minimum tonnage level can make the lakes less competitive under an invitation for bids.

USDA invitation No. 86, shipping period April 6 through May 5, 1988, Shipping Corporation of India, offered rates and service from the Great Lakes subject to a minimum of 10,000 tons. The invitation for bids was on 13,750 metric tons of commodities to seven different destination points in India.

The company, Shipping Corporation of India, did not offer rates and service to two of the destinations, and Paradip and Jammagar, which together accounted for 4,250 metric tons of commodities.

Thus, the bid only covered 9,500 metric tons, and they would not serve the lakes ports for less than 10,000 metric tons. The amount of tonnage purchased for India under No. 86—I will not read the ports of discharge and the tonnage.

Changes in transportation rates have been another very important factor in the difficulty faced by Great Lakes ports and why they are not able today to compete with other ports and are using the cargo preference excuse to get the Congress to legislate a preference for those ports.

In the 1960's the transportation rates set for rail carriers generally equalized the ability of various ports to compete for food aid cargoes. The lakes were able to offer more competitive rates because three components were significant factors in the procurement and distribution of Public Law 480 title II commodities—port equalization, shipside rates, and ocean conference rates. The lakes ports were particularly advantaged, because this was the only port range permitted to offer nonconference rates until 1976; unloading charges were absorbed by lakes carriers until 1982, a decade longer than other ports.

By 1984, when rail deregulation was in full force, the lakes were in a less competitive position for title II cargoes. However, it must be noted that other ports were negatively affected by these changes as well. Several Atlantic ports were no longer able to compete for title II cargoes, and some parts in ranges other than the lakes were hurt by rail deregulation.

As approved by the Interstate Commerce Commission in the 1960's, Eastern rail carriers devised a plan to provide similar rates for rail carriage of commodities from the Midwest to some East and gulf coast ports. Port equalization accorded shippers and consignees the benefit of the lowest combination rail transportation charges from an interior origin, regardless of the port through which the traffic moved. Port equalization made rail rates from Chicago to New Orleans the same as Chicago to New York, and rates from other Midwest or Central rail stations to Southern ports were set at a percentage of this rate.

However, if the distance from any Midwestern-Central States to a Southern port was the same or greater than the distance to Baltimore, the Baltimore rate was to be observed as minimum. This helped the Eastern and Southern ports to compete on a fairly equal basis on title II and other cargoes.

In the 1960's, port terminal charges, such as unloading vehicles and wharfage—these are the charges used for the wharf—varied among individual ports in each coastal range, with a number of the port terminals being owned and operated by the railroads. Rail shipside rates provided for the delivery of cargo alongside the vessel or receiving pier with the unloading and/or wharfage charges being absorbed in whole or in part by the railroad.

Rates were set differently at each coastal range. At North Atlantic ports, vessels absorbed wharfage charges, and rail carriers covered unloading charges. In the gulf, wharfage unloading charges were absorbed by rail carriers, in whole or part.

In order to defray the expense of absorbing these costs, rail carriers were granted by the ICC a waterborne charge of 12 cents per hundred pounds, not applicable on bulk cargo. In the early 1970's, the railroads eliminated the application of shipside rates to the Atlantic and gulf ports. As a result of the establishment of nonshipside rates, the Atlantic ports were placed in a competitive disadvantage to gulf ports. Although the rail rate differential was small between the Atlantic and gulf, the unloading charges were prohibitive at most Atlantic ports compared to the gulf. There were a few exceptions such as Lambers Point in Norfolk, VA, a private railroad-owned terminal.

In the 1960's, rail movement to the Pacific were west coast ports shipment wharfage charges being subject to a rail water agreement with rail and ocean carriers sharing the absorption of the cost; the 12-cent per hundred pound waterborne charge was applicable.

As in the gulf and Atlantic, shipside rates to the west coast ports were replaced with nonshipside rates in the 1970's. In addition, the lakes' ocean carriers absorbed unloading charges and wharfage until the 1983 lakes shipping season. Thus, the Great Lakes ports enjoyed the advantage of unloading charges and wharfage being absorbed through 1982, about a decade after this practice was discontinued at all other coastal ranges.

Today, only wharfage is absorbed by the carriers servicing the lakes. Another advantage Great Lakes ports enjoyed during the 1960's and 1970's was the fact that the Department of Agriculture would only accept offers on Public Law 480 cargoes from ocean carriers who were members of a steamship conference, with the exception of Great Lakes ocean carriers, which were nonconference or independent carriers. This resulted in a very competitive ocean rate for the Great Lakes, compared with the other coastal ranges, which only could be serviced by conference carriers for Public Law 480 cargoes.

In 1976, the Department of Agriculture lifted this restriction, allowing nonconference carriers to participate from all U.S. ports, which created greater competition for the lakes.

In the 1980's, as a result of the depressed export market, competition among shippers for the limited export cargoes put down the pressure on the rates for the limited export historically charged by the conference carriers. Foreign flag, independent, or nonconference carriers contributed to the downward price and pressure. Those lines were able to significantly undercut the standard rates offered by U.S.- and foreign-flag conference members.

In 1980, passage of the Staggers Act and Motor Carrier Act signified the vanguard of rail and motor carrier deregulation. ICC granted boxcar traffic exemption from regulation, effective December 31, 1983. By the number of 1984, the impact of this newly deregulated environment began to take hold, and rail carriers began offering confidential quotes and contract rates at reduced levels for single-line application to ports that they served.

This was a major departure from earlier rate-setting practices, since prior to deregulation, rates were set at the same level for rail shipments from certain inland origins to Atlantic, gulf, Pacific, and Great Lakes ports.

With deregulation, some rail carriers cut their rates by 50 percent for certain port destinations in order to increase their market share. Other carriers were forced to follow suit in order to compete. As a result, ports with service from only one or two rail carriers lost market share, while ports served by a number of rail carriers retained a much larger market share.

Rail deregulation also affected processors. Thus, to retain a market a processor served by only one rail line may choose to absorb the additional transportation cost.

The cost of rail transportation from mills or processing plants to U.S. ports plays an important role in determining the processor-port combination that results in the lowest landed cost under Public Law 480 title II. Port charges probably reflect about 1 percent of the landed cost. Therefore they have little influence on the overall cost of Public Law 480 cargo, while rail rates have a strong impact. Deregulation not only influenced ports on the Great Lakes, but also altered the competitive posture of ports in other coastal ranges. Markets that ports enjoyed during the years of regulation disappeared overnight.

Thus, starting in 1984, changes in the rate structure for rail transportation affected all U.S. ports, with some benefiting and some losing, depending on how many rail carriers served the port and whether reasonable rates could be secured from the various rail carriers. Further, for Public Law 480, rail shipment costs from some processing plants increased and less costly alternatives, such as using the river system or transporting to different ports, were sought. Since port-related fees are a small percentage of the overall cost of transportation from the plant to overseas destination, ports that were negatively affected by rail deregulation had a difficult time trying to make adjustments to attract Public Law 480 cargoes. Several ports in the gulf, including Pensacola, and in other coastal regions, including the Great Lakes, were affected.

Mr. President, another very important change brought on by technology, innovation to cut costs, to deliver goods more efficiently around the world came with ocean carrier innovations, in addition to the inland rate and rules changes that this Senator has already described.

OCEAN CARRIER INNOVATIONS

In additional to inland rate and rule changes, innovations by ocean carriers in the late 1970's and early 1980's influenced the shipment of Public Law 480 cargoes from Atlantic, gulf, inland waterway, west coast and Great Lakes ports. Two innovations directly affected lakes ports: First, intermodal through service; and second, ocean-going barges.

In 1981, Moore-McCormick Lines approached USDA, railroads, suppliers, ports, and terminal operators with the concept of intermodal rates and services on title II, Public Law 480 commodities. In prior years Moore-McCormick Lines served the Great Lakes ports. However, Moore-McCormick calculated that by establishing "through intermodal rates," which would cover the transportation and associated service charges from vendor mills to destination country; this is, inland carriage, ocean transportation, car unloading, wharfage and stevedoring, considerable savings could be realized by shipping from Atlantic Coast ports rather than Greak Lakes ports. Taking a vessel into the lakes to pick up Public Law 480 cargoes provided by Midwest processors had become too expensive and intermodal rates allowed Moore-McCormick to bid competitively on Public Law 480, title II cargo.

Since the inception of this transportation innovation, there have been a number of ocean carriers utilizing intermodal or bridge rates on Public Law 480, title II commodities. American President Lines utilizes the inter-

modal—or bridge—basis from Midwest mills through its stack-trains via west coast ports to India, Philippines, Sri Lanka, Indonesia, et cetera. In fact, for Public Law 480, title II cargoes, it is often more cost effective to ship from Milwaukee processing plants through west coast ports than to ship from these plants via the Great Lakes, because of the limitation on the size of vessels and the additional time and cost associated with the St. Lawrence Seaway/Great Lakes system. The intermodal concept has been utilized by both U.S.- and foreign-flag carriers from ports in all coastal ranges.

Another innovation of the 1980's was loading bagged agricultural commodities preslung onto commercial river barges from inland waterway ports and loading ocean vessels directly from barge to vessel under the midstream technique at New Orleans, LA.

Also, ocean-going barges was introduced to carry Public Law 480, title II bagged commodities from the inland waterway ports during the 1980's which added these ports to the roster of active competitors for food aid cargoes. Directly competing with the lakes and west coast, Waterman Steamship Lines began using LASH barges on the Mississippi River to carry Public Law 480 cargoes to India. During the set-aside, over 100,000 mt of title II commodities shipped on LASH barges were diverted from ports in the Mississippi Delta, especially Tennessee and Arkansas, to Chicago, even though the cost of servicing Chicago is at least $20 per ton greater.

The impact of these innovations, have created a new shipping environment for Public Law 480 cargoes in the 1980's. The effect from 1986 through 1989 was obscured by the Great Lakes set-aside, but now that the set-aside has expired it is evident that ports with LASH service and intermodal rates have become more competitive than the lakes for food aid cargoes.

Another change, Mr. President, that is very significant that affects the merits of the arguments before the Senate tonight for adopting these amendments relates to changes in the Public Law 480 India Program.

Historically comprising nearly 40 percent of the nonemergency title II program, one of the larger programs under Public Law 480 has been cargo to India. Until 1977, most of the Indian Public Law 480 cargoes were shipped from the west coast and Great Lakes ports, but since then cargo has shifted to the gulf and inland waterways, because of new cost-competive service from these regions, the bankruptcy of an India-flag vessel serving the lakes, and changes in the title II program.

One important factor contributing to the utilization of west coast and Great Lakes ports was the fact that bulgur and soy-fortified bulgur had two suppliers located on the west coast, one in Seattle, WA and the other in Los Angeles, CA. Another contributing factor was that conference ocean rates offered to India from U.S. Atlantic and gulf ports were substantially higher than conference rates from the west coast to India, and higher than the ocean rates offered by independent, nonconference ocean carriers from Great Lakes ports,

In 1977, Waterman Steamship Lines established service and rates from the inland waterways—Mississippi River ports—with LASH ocean-going barges to India. By 1979, the west coast suppliers' share of bulgur and/or soy-fortified bulgur had declined to 37 percent—compared to 76 percent in 1976—and the inland waterway share increased to 39 percent. As a result of these competitive changes in ocean service to India and other considerations, as of November 1985 the two west coast vendors no longer offer bulgur and/or soy-fortified bulgur under the Public Law 480, title II program. All west coast port shipments of bulgur now originate in the Midwest, where suppliers transport the product under American Presidential Lines' intermodal or bridge rates.

Another factor impacting the India market involved ocean freight payments. During the 1970's and early 1980's, the United States Government had a surplus of Indian rupees and booking cargo on India-flag vessels was a means of disposing of this surplus by paying ocean charges with rupees. During that period, it was USDA's policy to consider only U.S.—and India-flag vessels for cargoes bound for India. That policy was changed on the June 1989 commodity purchase, which allowed third-flag vessels to participate on cargo to India.

During the 1960's, 1970's, and early 1980's, the Great Lakes were serviced by two India-flag steamship companies, Scandia and Shipping Corp of India [SCI]. Scindia Lines went into receivership and their last vessel from the Great Lakes was in December 1986, leaving SCI as the only India-flag line serving the Lakes.

In the past few years, SCI has not offered rates and service from the lakes on every commodity purchase invitation.

In some cases, they established minimum requirements for Public Law 480 cargo, such as the 10,000 tons I mentioned in the example that we cited a while ago, before they would consider calling on a lakes port. Their rates have become less competitive, and in one instance the SCI rate offer was 40 percent higher than a U.S.-flag rate from another port.

During the period of the Great Lakes set-aside (1986-89), cargo to India was booked with SCI even though in a number of cases lowest landed cost was via U.S.-flag carriers from other ports. Shipping on U.S.-flag LASH barges from Chicago was also significantly more expensive—at least $20 per ton—than shipping on these vessels from ports lower on the Mississippi River.

Now, Mr. President, we come to cargo preference, the change that is used by the proponents of this amendment as the reason for setting aside by law a certain amount of shipment of Public Law 480 title II cargo to the Great Lakes range.

The changing environment for Public Law 480 shipments cannot be examined without reviewing the effects of cargo preference. U.S. maritime policy, whether regarding cabotage, subsidy, or preference, has been determined by congressional and Presidential action generally for the purpose of protecting the Nation's security by maintaining not only U.S.-flag vessels, but also the merchant marine corps.

Cargo preference, reserving a certain amount of U.S. Government cargoes for U.S.-flag commercial vessels, does not favor one port over another and goes far beyond the self-interest of individual ports or port ranges. The purpose is to assure the use of U.S.-flag vessels in carriage of U.S. Government-impelled cargoes, not to ensure the use of all ports across the Nation.

The cargo preference policy from the Eisenhower and Kennedy years to 1977, was that the use of U.S.-flag vessels must be maximized, unless U.S.-flag service is not available. From 1977 to 1986, the policy was that at least 50 percent of the tonnage must move on U.S.-flag vessels to the extent that U.S.-flag service was available and available at reasonable rates. In 1986, cargo preference on U.S. food aid cargoes increased to 60 percent, in 1987 to 70 percent, and from 1988 onward to 75 percent.

I ask unanimous consent, Mr. President, that a table listing the actual percentage of Public Law 480 cargo shipped on U.S.-flag vessels from 1970 through 1989 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—PUBLIC LAW 480, TITLE II—CARGO PREFERENCE [1]

Year	U.S.-flag percentage
1970	71
1971	72
1972	62
1973	68
1974	67
1975	68
1976	72
1977	57.22
1978	59.87
1979	58.44
1980	51.8
1981	59.3

TABLE 1.—PUBLIC LAW 480, TITLE II—CARGO PREFERENCE [1]—Continued

Year	U.S.-flag percentage
1982	54.69
1983	48.5
1984	56.4
1985	51.3
1986	64.1
1987	72.7
1988	75.0
1989	78.2

[1] Source: AID.

(Mr. BRYAN assumed the Chair.)

Mr. COCHRAN. Reviewing these figures, it is clear that prior to 1977, when the law required that the use of U.S.-flag vessels be maximized, the percentage of cargo shipped on U.S.-flag vessels was greater than when the law changed to require that at least 50 percent be shipped U.S.-flag. Also, even though cargo preference ranged from 67 to 72 percent from 1970 through 1976, during those years the Great Lakes ports were very active in the program.

Thus, there were other factors besides cargo preference affecting the lakes that made them competitive, even when cargo preference was greater than 50 percent. These factors, as previously discussed include: First, prior to 1977 the lakes could offer more favorable rates because they were the only port range permitted by USDA to offer service for food aid cargoes on nonconference carriers; second, ocean-going barge service from river ports, which attracted India cargoes away from the lakes and west coast, was not provided until 1977; third, rail deregulation had not yet occurred and the rates set from processors to the lakes and the absorption of wharfage and loading fees by carriers alowed the lakes to be more cost competitive until 1982-84; and fourth, intermodal through rates, which made it more cost effective to ship cargoes processed in the Midwest from ports outside of the lakes system, was not established until the 1980's.

Another worthwhile observation is that in 1983 USDA failed to comply with the provisions of cargo preference, which did not go unnoticed by the Maritime Administration, Congress, or the maritime industry. USDA's awareness of the importance of meeting 50 percent cargo preference was heightened after the 1983 experience.

On March 6, 1984, USDA, due to concern about meeting 50 percent cargo preference, deviated from its normal procedure by diverting cargo that would have been allocated to the Great Lakes based on lowest landed cost to other coastal ranges. This was necessitated as a result of USDA's inability under its procurement policy to achieve cargo preference compliance. This also led to the 1987 changes in USDA rules to assure 75 percent cargo preference would be met, with the lowest cost to the program possible.

The increase in Public Law 480 cargo preference requirements in 1986 to 60 percent, in 1987 to 70 percent, and from 1988 onward to 75 percent, was a result of a compromise agreement between agriculture and maritime interests and was enacted as a part of the 1985 Food Security Act. Other than the Great Lakes ports, which opposed the 75 percent cargo preference and even sought the entire elimination of cargo preference on food aid, most U.S. ports were not invited and did not participate in the development of this agreement. Due to the Great Lakes' persistence, they were able to convince Congress through a discussion we have already heard today of the set-aside that existed for that year period.

A lawsuit is relevant to the considerations that we have in the Senate tonight. The case of Milwaukee versus Yeutter involved a suit brought by Great Lakes interests against the Department of Agriculture, the U.S. Government, as a result of the 1984 diversion of cargoes from Great Lakes ports to other U.S. ports in order to comply with cargo preference.

A challenge was made of Federal regulations implementing the Cargo Preference Act of 1954, as amended. This applied just to shipments of food commodities procured under title II of Public Law 480. The plaintiffs in the case argued that according to the availability clause of the Cargo Preference Act, the 50-percent U.S.-flag vessels requirement does not apply when vessels are not available. Thus, if U.S.-flag vessels have decided not to ship from the port where the lowest landed cost is provided, cargo preference requirements should be waived. Specifically, in the absence of available U.S.-flag vessels, the suit alleged that cargo preference would have no application.

The plaintiffs concluded that 50 percent cargo preference does not have to be met on a nationwide basis but could be applied to each port and waived at a port where U.S.-flag service is not available for a particular shipment. Also, the Great Lakes' claim that the term "geographic areas" as used in the Cargo Preference Act refers to fair and reasonable participation of U.S. ports by geographic area in the Public Law 480 program. The administration uses the term to mean the fair and reasonable participation of U.S. vessels by destination.

The District Court for the Eastern District of Wisconsin heard the case. The judge found in favor of Milwaukee, that the Federal defendant's application of the availability clause of the CPA on a nationwide basis, in implementing the title II, Public Law 480 program is contrary to the plain wording of the act, which requires the availability clause be applied by geographic area in the United States.

That decision was applied to the U.S. Court of Appeals for the Seventh Circuit in Chicago. The court of appeals ruled that the district court was in error. It said, in effect, that the Cargo Preference Act reference to availability and geographic areas means application of cargo preference should be on a port range, or port-by-port basis. Instead, the court of appeals found that the CPA term "geographic areas" refers to the fair and reasonable participation of U.S.-flag vessels by destination to ensure that these vessels cannot be short hauled. The appeals court concluded that the Cargo Preference Act does not require fair and reasonable participation of ports and port ranges in the Food Aid Program, and that the Government's bid process does not violate the law.

The lakes appealed the decision to the U.S. Supreme Court, and the Supreme Court refused to hear the case.

Mr. LOTT. Mr. President, I wonder if the distinguished senior Senator from Mississippi would yield for a discussion on that particular point.

Mr. COCHRAN. I am happy to yield, Mr. President, with the understanding, and I ask unanimous consent, I not lose my right to the floor and that my response, if any, to the distinguished Senator from Mississippi be considered as a second speech under the rule.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

Mr. COCHRAN. I am happy to yield under those circumstances.

Mr. LOTT. I thank my friend for yielding. I want to emphasize this particular point in the discussion here on the lawsuit Milwaukee versus Yeutter that was filed by the Great Lakes interests concerning cargo preference, was appealed to the higher court and then to the Supreme Court. It resolved this question about cargo preference and stated very emphatically it was, as a matter of fact, not in violation of the port preference clause of the Constitution because it was of a general applicability. It did not give any particular preference or consideration to a region or to a port. As a matter of fact, it was neutral in its application.

The fact that there was this lawsuit and that the lower court was reversed and that was upheld by the Supreme Court, or the Supreme Court refused to consider it, I think once and for all should clear up the question about cargo preference and whether there is any violation of the Constitution in this provision.

But the point I would like to make, and I know the distinguished Senator is familiar with it, is the judge in this case, Judge Easterbrook, who ruled in this decision, said that the cargo preference law was written in a neutral

fashion and does not directly favor ports of any State over those of another, thus disqualifying the claim made by Milwaukee. He said the cargo preference does not violate the port preference clause.

But he went on, and this is the point I want to get to that is particularly on all fours with our discussion here today. Judge Easterbrook added in parenthesis that the set-aside expressly uses geography to allocate business to the Great Lakes. Not surprisingly, he said, "Milwaukee does not say this rule violates the port preference clause."

The point here is cargo preference is neutral; broad applicability. The courts have ruled on that.

But this judge, even without it being raised—he did not have to rule on this point—made the point that Milwaukee had not mentioned the violation of the set-aside of the port preference. There is no question that when you have a set-aside that specifies a port or an area, that violates this port preference clause of the Constitution.

Am I interpreting this right? I would like the Senator to illuminate just a little bit on the fact—we have had this discussion on cargo preference—but the judge specifically referred to the fact that they did not get into the set-aside question.

Mr. COCHRAN. Mr. President, I think the distinguished Senator has identified a very important point in this court decision that the Senate would probably benefit from considering. That is the issue of constitutionality, while not the subject of this litigation, was involved, obviously, in the court of appeals' decision when they ruled, in effect, that no one port or port range had a right to expect special treatment under the Cargo Preference Act. I think that was the gravamen, as they say in law school, of the decision insofar as it relates to the right of a port to claim a certain percentage of a nationwide program.

So that the participation of, in this instance the Port of Milwaukee, in the program, since it was not up to 50 percent of the national program, was no basis to claim discrimination because, under the law, no one port nor port range is entitled to any certain percentage of the program's benefit.

This is guidance, as the Senator correctly points out, to the Senate tonight, in a determination as to whether or not it would be legally permissible—permissible under the Constitution and the laws of this Nation—for the Senate to allocate, by statute, a certain percentage to any port or group of ports or a port range to the detriment of others.

So I think the point is very important and it is one of the reasons why, in this description of the wide range of issues that are involved in this debate tonight, it is important for the Senate to take into account the legal standing of a port range under the laws of our Nation and the Constitution.

I might add that the lawsuit route of discussion of these issues was later taken when in October of 1982, the Secretary of Agriculture decided, in accordance with his assessment of the effect of the cargo preference law, that the blended credit programs that had been authorized by Congress and were being utilized by the Department of Agriculture to sell more U.S. grain in world trade, were not covered by the Cargo Preference Act. This program, as Senators will remember, combines direct Government credit with Government guaranteed private credit to decrease the actual cost to customers of U.S.-grown agriculture commodities.

After the announcement of the Blended Credit Program on October 21, 1982, Secretary of Agriculture John Block and the Commodity Credit Corporation took the position formally that cargo preference did not apply to those shipments. The Department of Transportation and the Maritime Administration took the other point of view. They claimed that cargo preference did apply and disagreed with the Department and took the position that because the exports were subsidized by the U.S. Government, cargo preference applied because they were, therefore, Government shipments.

Mr. LOTT. Mr. President, I wonder if the distinguished Senator will yield to me for some further comments at this point, under the same conditions that he set forth earlier.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I be permitted to yield to the distinguished Senator without losing my right to the floor or having any response I may make be considered a second speech under the rules.

The PRESIDING OFFICER. Is there objection? Hearing none, the request by the senior Senator from Mississippi is agreed to.

Mr. COCHRAN. Under those circumstances, Mr. President, I yield to the distinguished Senator from Mississippi.

Mr. LOTT. Mr. President, once again I thank the Senator for yielding me this time. I have a couple of thoughts I would like to put forth.

As I sit here and listen to what is being said, I can hardly believe what I have heard on the floor today and what I have seen today. I am still flabbergasted at the vote that we had not to table the Inouye amendment on this issue. I really thought that when the facts were put on the record here, and we had done the job adequately, surely, the motion to table would have prevailed.

Again, when I think about the fact that here, today, we have in effect moved toward voting to give one area, really only five ports in three States, preferential treatment over the rest of the country, I cannot believe the U.S. Senate has moved in that direction. I hope maybe before this night is over, there will be a change and that we will find some other way to deal with this issue, because we cannot begin a process where one area, one State, one port, one particular facility would get some preferential treatment over another part of the country.

We are not talking just about the gulf, even though a lot of the speakers today are from the gulf area. I want to emphasize again, the Atlantic State ports are affected and the west coast ports, but especially the river ports up and down the Mississippi River.

This intercoastal barge traffic that we have now really offers a great opportunity for grain to be shipped in international traffic. I think that when you look to the future, the cost savings that will come from that type of shipment of grain are just hard to enumerate at this point.

It was argued by a number of people today that we are talking about such an infinitesimal amount, such a small amount, only 4 percent of 2 percent. I kept thinking, if it is so small, why are we doing this? After 40 hours on the farm bill, we have an amendment offered on this infinitesimal amount. Why would we tie up the Senate 3, 4, 5, 6, 7 hours if it is such an infinitesimal amount. But yet such an important principle is involved and especially after we learned the House, in a very unusual use of the rules and abuse of the rules, set it up in the appropriations bill—I believe it was in the appropriations bill—where no point of order could be offered and no amendment could be offered on this question. So there is language in a bill that is going to force this issue to be considered in conference, and yet this amendment was offered here today tying up 3, 4, 5, 6 hours—who knows—on the farm bill, an issue I thought we had resolved in 1985. A deal was made. We would go with this set-aside for 4 years. And now we want more years, 3, 4, 5 years.

I do not think there is any doubt that this set-aside causes a greater cost, an added cost for food aid, for aid for food for people all over the world. We are increasing costs. Why? Why would we do that? I still do not understand how we would get into a situation where competition—if the ports in my area do not get it, so be it. We have lost in competition many times. But, No. 1, we are adding to the cost of food aid. I cannot believe we are doing that.

Let me say to my colleagues, there is no question it discriminates against a lot of other ports. Several of our Senators have said, yes, it might affect my ports in Georgia or it might affect my ports in North Carolina or it might

affect my ports in California, but not too much, just a little bit.

Where I come from, a little bit is a lot. When we are at the bottom of the barrel, we ought to be getting food aid. And I guess we are, in the way of food stamps, but at least we do not have a set-aside of it being delivered through certain ports. This is an incredible position.

I really am shocked that we are to this point. I commend my senior Senator from Mississippi for the outstanding work that he has done. I hope that he will continue to press this point until we find a solution.

I apologize for interrupting him. I wanted to maybe give him a little break, but also I am getting agitated once again finding ourselves in the position tonight. I would like to find a solution. We should not give preference to one region of the country over another. We should not be doing that. Senators who voted against the motion to table earlier will get a chance to change that vote one way or the other tonight. I urge my colleagues to reconsider their vote. We will give them a hook that they can reconsider and hang their hats on, and I hope they will do so.

I thank the Senator. I promise I will not interrupt him again unless he wants me to. I thank him for this opportunity.

Mr. COCHRAN. Mr. President, I thank the Senator for his comments and the help in defining the issue that is before the Senate tonight, and the importance of it not just to one region of the country but to all regions of the country, really, and to all taxpayers, because the cost of the Public Law 480 Program is affected by how the Senate deals with this issue tonight. Many other aspects of our transportation policy will be affected by the decision the Senate makes tonight.

When the disagreement arose that I was describing between the Government departments, Transportation and Maritime, on the one hand, the Department of Agriculture and the Commodity Credit Corporation on the other, as to whether or not cargo preference would apply to some of the innovative blended credit and other export enhancement programs that were being used to sell our commodities, we saw a deterioration of the debate to the extent that litigation also resulted to try to resolve that issue.

In July of 1983, the Maritime Administration revised its position and declared that the Department of Transportation will not seek to apply cargo preference requirements to USDA Blended Credit Program as previously formulated.

Due to that new position, the Transportation Institute and others brought suit against the Government in the District Court for the District of Columbia. In 1985, a ruling was finally made, and it found that the Department of Transportation, the Maritime Administration, and the Department of Agriculture had violated the Cargo Preference Act by failing to apply the act to the blended credit program. The court further found that failure to comply with the Cargo Preference Act was unlawful and beyond the scope of the defendant's legal authority and therefore was arbitrary and capricious and an abuse of discretion.

The Government did not appeal that decision to the higher court, so the court decision in the Transportation Institute case produced a very difficult situation between the agriculture and maritime industries about the application of cargo preference. This is when a coalition of commodity groups, farmers, agribusinesses, maritime industry representatives, began a discussion of how to resolve this impasse.

Finally, an agreement was reached that rather than have cargo preference apply to all Government shipments, an increase would be legislated in the Cargo Preference Act as to title II Public Law 480 cargoes. The other cargoes to which the court suit related would be exempted by statute from cargo preference, and that in effect was the arrangement. The difference in cost would be paid by appropriated funds from the Department of Transportation's budget. That was an important factor in the negotiations, as this Senator remembers.

Senators here who were involved in presenting this compromise included the Senator from Hawaii [Mr. INOUYE], the Senator from Alaska [Mr. STEVENS], and this Senator. It was referred to as the Cochran amendment, but it was cosponsored by Senators INOUYE and STEVENS during the debate of the 1985 farm bill. Under the compromise, the Senate was urged to approve it and write it into the law to put at rest the very serious controversies and antagonisms that had developed as a result of this controversial issue.

The Food Aid Program and the Department of Agriculture as a part of the deal would not be subjected to any additional costs from its implementation because the Department of Transportation would pay for any additional transportation costs incurred.

With this agreement, maritime interests were willing to give up cargo preference on the blended credit program and the possible application of cargo preference to millions of tons of subsidized commercial agricultural exports. Although many of the agriculture groups agreeing to the compromise including the major wheat, corn, rice, and cotton commodity organizations traditionally oppose cargo preference across the board, they were willing to agree to an increase in the U.S.-flag requirement on Public Law 480 and section 416 food air programs as a tradeoff for the commercial export programs. This compromise was implemented as part of the Food Security Act.

As that was being done, the Senate was undertaking to consider that amendment. Amendments were offered to the amendment dealing with a set-aside especially for the Great Lakes region. The distinguished Senator from Illinois, Senator DIXON, offered the amendment.

According to the arguments made at the time, increasing Public Law 480 cargo preference would place the Great Lakes at a disadvantage since they are not regularly serviced by U.S.-flag carriers. So to get the farm bill passed, with the agriculture-maritime compromise included, after four rollcall votes, as this Senator remembers, the Senate finally agreed to a modified amendment from the Senator from Illinois over the continued strenuous objection of this Senator and 42 other Senators. The vote, as this Senator recalls, on final agreement to an amendment setting aside shipments to the Great Lakes was 53 to 43. Well past midnight, as I remember, after four recorded votes had gone the other way. The Senate got tired of the issue and finally approved an amendment for 4 years, about a 20-percent set-aside of just the title Public Law 480 program shipments.

Written into the amendment, which helped attract support from some Senators, was that this allocation would be undertaken without any detriment to any other port range. That was pointed to by some Senators who espoused the passage of this amendment as assuring fairness and assuring that no other port range would be the subject of any discriminatory allocation that would hurt them economically.

It did not work out that way, Mr. President. The set-aside did reserve approximately 20 percent or 240,000 metric tons per year of the processed and bagged Public Law 480 title II commodities for shipment from the Great Lakes ports as a temporary provision, it was urged, to mitigate the impact of Public Law 480 cargo decrease on those lake ports.

The set-aside by the terms of the amendment expired in 1989. That was a year before the date for the expiration of the Food Security Act. The possible effects of the set-aside on producers, processors, and other ports across the country that regularly compete in the food aid bidding process were never really examined prior to the adoption of the amendment. In fact, some of the Senators, including this Senator, the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. HEFLIN] opposed the set-aside arguing that taking U.S. cargo out of the competitive bid proc-

ess by guaranteeing a small group of ports a minimum amount of cargo was ill-advised. The House-Senate conference on which this Senator served, along with others including the chairman of the House Committee, Mr. DE LA GARZA, a provision was added further trying to minimize the impact of this amendment on other ports and port ranges. That is where the phrase "without detriment to any port range" was added.

So the provision that was adopted finally in the conference report and included in the 1985 farm bill was as follows:

In addition, the Secretary of Transportation, in administering this subsection and section 901 (b), and consistent with these sections, shall take such steps as may be necessary and practical without detriment of any port range, to preserve during calendar years 1986, 1987, 1988, 1989 the percentage share, or metric tonnage of bagged, processed, or fortified commodities, whichever is lower, experienced in calendar year 1984 as determined by the Secretary of Agriculture, of waterborne cargoes exported from Great Lakes ports pursuant to Title II of the Agriculture Trade Development and Assistance Act of 1954.

This set-aside expired in 1989. But the Great Lakes ports are here again seeking to reestablish a special preference for its ports and a set-aside of a specific percentage of Public Law 480, title II shipments to its ports.

One other factor, Mr. President, that ought to be considered by the Senate is that cargo preference does not justify an increase or a set-aside in the Great Lakes advantage over other ports and port ranges under this farm bill.

If the arguments were taken as they are articulated by those urging the adoption of the amendment, you would think that the decline of the Great Lakes interests and their shipping started in the mid-1980's as a result of the increase in cargo preference from 50 to 75 percent.

If you will think back during today's debate, that is what we heard: an opportunity to compete on an even playing field or an even body of water. We want, according to the arguments that were made, to be free from the discriminatory effect of the increase in cargo preference on the title II, Public Law 480 shipments.

Here it is 1990, the amendment that was adopted was to last for 4 years, the changes that are now being sought by law to be given to the Great Lakes are being contained in an amendment in 1990 when everybody knew that set-aside would expire in 1989.

The lakes have always opposed cargo preference on Public Law 480 even at 50 percent. That is understandable. Many agriculture interests have always opposed cargo preference as very articulately argued by my good friend from Iowa, Mr. GRASSLEY, earlier. It has been a controversial issue. But the shipments out of the Great Lakes have not declined just because of cargo preference but because of many, many other factors. The peak years for Great Lakes ports were the late sixties and early seventies with the exception of Burns Harbor, IN, which peaked in 1979.

It is a worthwhile fact to note that Chicago was not a major player in title II prior to the set-aside. That may have been misunderstood or misinterpreted. I probably did not articulate it clearly enough. The Senator from Illinois earlier in the debate took issue with that statement that I made earlier.

I said that Chicago was not a player to the extent that others were. They were not in the business. Here are some facts. Here are some details to further clarify what I meant.

In 1985, a year before the set-aside, only 4,500 metric tons of commodities were shipped from Chicago under title II, while with the set-aside, the level was 92,000 metric tons in 1988 and 35,000 metric tons in 1989.

These cargoes were not shipped through the seaway. That is the usual course. They are the St. Lawrence Seaway through the Great Lakes ports. They were shipped through the Mississippi River. They were shipped out of Chicago, down the river, right by the ports that had bid on the shipments for less cost because of the cost of transportation from Chicago to Memphis, or Baton Rouge, or Greenville, or Vicksburg or Natchez.

The cargoes were diverted by law to Chicago from river ports in Arkansas and Tennessee where the costs would have been at least $20 a ton cheaper.

As with any port, the lakes ports have a variety of special problems as well as special benefits and attractions due to their location. For instance, due to the St. Lawrence Seaway, which was jointly built by the United States and Canada—the United States portion primarily financed by taxpayers—the Great lakes ports have access in nonwinter months to international destinations beyond Canada. However, some of the newer, deeper draft vessels cannot reach lakes ports through the locks system. Actually for the locks to become more competitive with ports on the west, east, and gulf coasts, the seaway would have to be enlarged and deepened to make it compatible with oceangoing vessels. That would be very expensive.

One way to increase international traffic on the lakes as proposed by the lakes is to reflag foreign vessels as part of the amendment offered by the Senator from Hawaii to the amendment of the Senator from Ohio.

Another is to amend the law to allow a waiver of the 3-year waiting period before a foreign-built vessel qualifies for U.S. preference cargoes. That is also included in the amendment of the distinguished Senator from Hawaii.

It takes time to move through the system, and there are tolls which can be expensive for carriers, and elimination of tolls would be another way to cut costs. But the Canadians also charge fees at their locks.

In some States on the lakes, there is a need for more capital for highway improvements, dredging, and quality rail services to make their ports more competitive. The lakes would like to extend the set-aside concept to Department of Defense cargoes.

Listen to this now. If you think you are starting something that is going to get bigger tonight, if you approve these amendments, you are right—Public Law 480 cargoes, title II, the next opportunity, Department of Defense cargoes, developing a new cargo base by law, by preference, unconstitutionally.

In fact, this concept was discussed at a round table meeting on the Great Lakes according to a report in December of 1986 that was attended by some Members of Congress, officials from the administration, lakes labor representatives.

One person who was there, a seaway administrator, was quoted, regarding the Public Law 480 set-aside, and I quote: "You did that as a precedent, although it is eventually going to hurt us in the Public Law 480 program when it went from 50-50 U.S.-flag to 75-25. You gave us a phase-in on the lakes. I call that a sweetener, if you will. You helped us achieve our goal. I wish you hadn't at all, from my standpoint, because we are going to lose Public Law 480 cargo in the long run. But you paid recognition to the uniqueness of the lakes, and you gave us a phase-in."

There was another statement made by this same gentleman. He is former St. Lawrence Seaway Administrator James Emery—when he said there were many factors that have caused the lakes to become less competitive.

For 26 years, since the seaway opened, we assumed we would have more cargo than we could handle. Everybody sat back and went to sleep a bit. As a result of intermodal transportation, double stack trains and container cargo, we have lost a lot of our natural cargo from our industrial base.

Thus, the lakes would like to use the Public Law 480 set-aside as the precedent to guarantee their ports a certain portion of other cargoes, too. They recognize that cargo preference is not really to blame, but a variety of carrier interventions, increased competition, Government regulations, diminished costs, and competition with other United States ports and also with Canada.

But having said these things about the problems with the lakes' ports and why they are here tonight again asking for special preference, the lakes

have some natural advantages; even with the current Public Law 480 cargo preference and no set-aside, the lakes' ports have reported that they expect 1990 to be a banner year.

Despite the natural disadvantage of additional time and cost to reach the lakes' ports through the St. Lawrence Seaway-Great Lakes system and the limitations on the types of ships that can service the lakes, because of regional industries, the lakes' ports have a thriving business in shipments of bulk commodities, particularly grain, iron ore, and coal.

According to the St. Lawrence Seaway Development Corporation, the seaway is projecting an increase in cargo for the 1990 season of 2 percent.

The lakes are most competitive for grain shipments to the Soviet Union, to Europe, and to North Africa, which are not targeted for title II food aid donations. But some are targeted for U.S. commercial agricultural export programs. Did you hear that? That was part of the deal in 1985, to exempt those commodities from cargo preference, to make sure there was a balanced program, there was something specially beneficial in this agreement for those who might be worried about cargo preference or bulk commodities in the Great Lakes range.

The lake ports are active in the export enhancement and agricultural export credit programs, particularly for shipments of Durham, Dark Northern Spring wheat, barley, and barley malt, to such countries as Algeria, Tunisia, Morocco, Egypt, Saudi Arabia, and Cyprus. These commercial agricultural export programs are not subject to cargo preference under the Agriculture Maritime Agreement of 1985.

This was a very important part of the agreement. It was included in large part because of the concerns of the Great Lakes ports. Just as some gulf ports have a natural advantage in shipments to some points in Latin America, the lakes have the advantage of attracting export-import cargoes for Canada, as well as the Canadian fleet.

The Port of Duluth, MN, is one of the leading U.S. ports in exports of Spring wheat and Durham, particularly to destinations in Europe, the Middle East, and North Africa. Much of it is shipped on Canadian vessels.

The cargoes are generally transshipped at elevators lower on the St. Lawrence river and deep water ports on the Canadian side that are not restricted to the 27-foot draft that limits traffic through the Great Lakes system.

In 1989, close to 1.7 million tons of goods moved through Burns International Harbor in Indiana; about 1.3 million tons were bulk commodities, of which bulk grain was the greatest component. Shipments primarily go to Europe and the Soviet Union, not Public Law 480, title II countries. The two Indiana ports on the Ohio River shipped about 4 million tons of goods in 1989, giving the option of exporting soybeans and corn through the Mississippi River.

Indiana is the largest exporter of soybeans to Japan. Corn and soybeans are shipped primarily from the river ports.

Weather plays a vital role in the tonnages flowing through the lakes. During a drought, there may be decreases in grain shipment, but when water is low on the Mississippi cargo can be diverted to the lakes.

Clean air legislation favors low-sulfur coal, which is shipped through lakes ports, especially from Wyoming and Montana. At the Port of Superior they expect to reach maximum capacity for coal this year.

So the lakes are competitive. They are competitive for a variety of reasons, although, not necessarily for Public Law 480, title II shipments. The argument that cargo preference has made them less competitive for food aid cargoes is just not substantiated. If you look at the facts, the records at the Department of Agriculture, at ASCS, you will find that even with no cargo preference the lakes would only be marginally competitive for title II cargoes, but they can do other things better and cheaper than other ports, and they do.

If you look at all of the bids received for each title II invitation for bids over the past few years, you will find that the Department of Agriculture was able to determine the amount of Public Law 480, title II cargoes that would have been allocated to Great Lakes ports, under the following conditions: one, no set-aside and 75 percent cargo preference; two, no set-aside and 50 percent cargo preference; three, no set-aside and no cargo preference.

Their findings for 1988 and 1989, the 2 years when there was a set-aside and cargo preference was at 75 percent are shown in a table, which I ask unanimous consent, Mr. President, to be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE AMOUNT OF PUBLIC LAW 480, TITLE II CARGOES THAT WOULD HAVE BEEN ALLOCATED TO LAKES PORTS WITHOUT THE SET-ASIDE AND WITH 75, 50 PERCENT OR NO CARGO PREFERENCE FOR THE YEARS 1988 and 1989 (USDA/ASCS)

[In metric tons]

	1988	1989	Total
Actual (set-aside and 75 percent)	229,000	200,000	429,000
No set-aside and 75 percent	63,000	37,000	100,000
No set-aside and 50 percent	82,000	64,000	146,000
No set-aside and 0 percent	95,000	67,000	162,000

Mr. COCHRAN. Let me describe what the table shows. On the actual shipments out of these ports, 1988, 229,000 metric tons; 1989, 200,000. For those 2 years, 429,000. If there had been no set-aside and a 75-percent cargo preference, the shipments would have been, in 1988, 63,000 tons; in 1989, 37,000. A total of 100,000 tons.

If you assume no set-aside and a 50-percent cargo preference, the figures would have been, in 1988, 82,000 and in 1989, 64,000, for a total of 146,000.

If you assume no set-aside for the Great Lakes and no cargo preference would have been the rules, total for both years would have been only 162,000 metric tons.

The actual shipments, I want to repeat again, for those 2 years, with the set-aside and a 75-percent cargo preference, were a total of 429,000.

According to the lakes representatives, they need to continue the 200,000 to 240,000 metric ton set-aside to make up for the cargo they have lost due to the increase in cargo preference from 50 to 75 percent.

What is shown by these figures, even with 50 percent cargo preference, if we reduce it and go back to pre-1985–86 levels, the lakes would have received 283,000 metric tons less than they received with the set-aside in 1988 and 1989.

Even with no cargo preference, they would have received less than 100,000 metric tons of title II commodities each year.

My friends, these are the facts. Just comparing 50 and 75 percent cargo preference with no set-aside, it is evident that the increase in cargo preference had only a modest impact of 19,000 metric tons in 1988 and 27,000 metric tons in 1989, respectively.

These figures indicate that the impact of cargo preference on shipping from the lakes under title II is grossly exaggerated.

Although the set-aside was established with good intentions to protect the Great Lakes from losses of Public Law 480 cargo due to the increase in U.S.-flag carriage requirements, unfortunately, the set-aside created an artificial environment which superseded and disrupted competitive market forces. It provided for a disproportionate and excessively generous windfall of cargo to the Lakes from other ports. The levels shipped from the Great Lakes more than doubled the volume that would have been shipped with no U.S.-flag cargo preference.

The Senate cannot want to ingrain in the statutes a preference of that kind.

The set-aside diverted cargoes from other U.S. ports.

This was commented on today by several Senators. I assume it is admitted by all Senators, just as the facts

that have previously been described from ASCS and USDA records.

It is especially ironic that the set-aside goal was to protect the Great Lakes from the increase in U.S. cargo preference, it was said, while in practice it diverted cargo from other coastal ranges which would have been awared the cargoes under the law and under the recollections based on lowest landed cost.

As Maritime Administration former Deputy Administrator for the Great Lakes and Inland Waterways testified before Congress on September 21, 1989, "Tonnage set aside for shipment through one port range necessarily results in fewer commodities being allocated to the other ranges."

It is difficult to see how anyone can justfiy depriving processors and ports of U.S. Government contracts they should have been awarded under the competitive bid process for the reasons stated.

Reviewing the 1986-89 bids, processors located in Abilene, Atchison and Kansas City, KS, who were competitive under lowest landed cost and should have been awarded commodity contracts, were deprived of contracts on a regular basis due to the Great Lakes set-aside. This was also true in other States, such as Iowa, Missouri, Nebraska, Texas, Alabama, and even States which border the Great Lakes such as Illinois, Indiana, and Wisconsin.

For instance, as a result of the set-aside, the city of Milwaukee and the State of Wisconsin were economically impacted because Wisconsin grain was not purchased and a local miller was deprived of a commodity contract, when the Port of Superior won Public Law 480 cargoes.

Example: This is only one example, there were others:

INVITATION No. 059

Shipping Period: June 6-July 5, 1989.

Purchased: 6,099,963 pounds of Corn-Soy Blend for Ethiopia from Crete Mills—Crete, Nebraska via Superior, Wisconsin at F.A.S. Superior $14.08/cwt. Ocean carriage cost to Assab—4.4906 cwt. (Foreign Flag). Total Landed Cost, $18.5706/cwt. or $1,132,799.73.

Lowest Landed Cost: 6,099,963 pounds of Corn-Soy Blend for Ethiopia from ADM Milling—Milwaukee, Wisconsin via Pensacola, Florida at F.A.S. Pensacola $14.1060/cwt. Ocean carriage cost to Assab—$4.3545/cwt. (Foreign Flag). Total Landed Cost, $18.4605/cwt. or $1,102,562.21.

Competitive disadvantages should not be overcome by congressional mandate to perpetrate increased shipping cost at the expense of other American seaports.

There are other examples, Mr. President, an example No. 040 involving shipment out of Green Bay and Duluth, and I ask unanimous consent that a series of examples of the distortion in shipment and the discrimination among ports, even some closer to the point where the commodities were grown, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In the following example from 1990, the foreign-flag carrier from the Lakes was not competitive.

Example: Invitation Number 040.

Shipping Period: May 6 - May 20; and May 21 - June 5, 1990.

Awarded Public Law 480 Title II contracts for over 289,000,000 lbs. of commodities purchased for twenty destination countries with carriers serving the Lakes only offering service to four of the destinations. The following ocean rates were offered to these four destinations:

To: Ethiopia:	
From: (Foreign-Flag):	
Green Bay	$4.3545/cwt. (FF).[1]
Milwaukee, Duluth	4.4906/cwt. (FF).
Gulf Ports	3.7149/cwt. (FF).
Beaumont/Corpus Christi/Houston/ Lake Charles/New Orleans/ Pascagoula/ Pensacola.	3.5335/cwt. (FF).
(U.S.-Flag):	
Gulf/No. and So. Atlantic.	5.5580/cwt. (US).[2]
Beaumont/Orange/ Pensacola/Lake Charles/Corpus Christi/Pascagoula.	5.4431/cwt. (US).
Inland Waterways (River).	5.2232/cwt. (US).
Fort Smith, AR	5.4464/cwt. (US).
(Intermodal):	
Crete, NE/Abilene, KS/ Dallas, TX/ Danville, IL/Milwaukee, WI/Atchison, KS.	6.4509/cwt. (US).
To: Peru:	
From: (Foreign-Flag):	
Inland Waterways (River).	4.7628/cwt. (FF).
Milwaukee, WI	6.5772/cwt. (FF).
(U.S.-Flag):	
Gulfport, MS	5.4464/cwt. (US).
Pascagoula, MS/Beaumont, TX/Orange, TX/Corpus Christi, TX/Pensacola, FL/ Lake Charles, LA.	5.1339/cwt. (US).
Gulf	5.5804/cwt. (US).
Gulf	3.6288/cwt. (US).
To: Morocco:	
From: (Foreign-Flag):	
Inland Waterway	4.3545/cwt. (FF).
Milwaukee, WI/ Duluth, MN.	4.0823/cwt. (FF).
Green Bay, WI	3.9462/cwt. (FF).
Gulf	3.2205/cwt. (FF).
(U.S.-Flag):	
Omni, TX	5.2092/cwt. (US).
Orange, TX	4.7628/cwt. (US).
Charleston, SC/Norfolk, VA.	4.7800/cwt. (US).
Wilmington, NC	5.6700/cwt. (US).
Beaumont/Corpus Christi/Houston/ Lake Charles/New Orleans/ Pascagoula/ Pensacola..	4.5813/cwt. (US).
Gulf	$4.8081/cwt. (US).
To: Bombay, India:	
From: (Foreign-Flag):	
Savannah, GA	$4.2410/cwt. (FF).
Norfolk, VA/Charleston, SC.	5.0300/cwt. (FF).
Gulf	3.9916/cwt. (FF).
New Orleans/Pascagoula/Pensacola/ Beaumont/Corpus Christi/Houston/ Lake Charles.	3.8102/cwt. (FF).
Long Beach, CA/Oakland, CA/Tacoma, WS.	6.8900/cwt. (FF).
(U.S.-Flag):	
Chicago, IL (River)	7.7679/cwt. (US).
Fort Smith, AR (River).	6.1161/cwt. (US).
Gulf/Inland/Atlantic	5.8929/cwt. (US).
Savannah, GA/Wilmington, NC.	6.3393/cwt. (FF).
(Intermodal):	
Crete, NE/Abilene, KS/Danville, IL.	6.7857/cwt. (US).
Bridge Milwaukee, WI	6.7857/cwt. (US).
Bridge Oakland, CA	5.5000/cwt. (US).
Bridge Chicago	$6.7299/cwt. (US).

[1] (FF)-Foreign Flag.
[2] (US)-U.S. Flag.

Mr. COCHRAN. It should be noted that the foreign flag offers on Public Law 480 title II cargoes from Great Lakes ports during the 1990 lakes shipping season have mainly been confined to Green Bay and Milwaukee, WI. On occasions an offer is made from Duluth, MN, with a differential over Green Bay or Milwaukee ranging from $2.72 per ton to $28.65 per ton. Waterman Steamship Lines—U.S.-flag—continues offering Chicago, but the rates reflect the additional cost over the lower river origins, such as Memphis, TN or Fort Smith and Pine Bluff, AR, and they are not competitive.

Deregulation of rail carriers, intermodal, bridge LASH and ocean barges from the inland waterway plus cargo preference have all impacted Pensacola and other gulf and Atlantic ports. Although several ports, including some in the gulf range, would be more competitive if the Public Law 480 program was subject to only 50 percent U.S.-flag cargo preference, the gulf ports have not tried to alter the agriculture-maritime compromise. If con-

structive communication and cooperation are fostered by the compromise, it is beneficial to both the U.S. economy and national security goals.

The Port of Pensacola does not have regular U.S.-flag service, neither does the Port of Pascagoula, MS.

Mr. LOTT. Mr. President, will the distinguished senior Senator from Mississippi yield under the same arrangement we had earlier,

Mr. COCHRAN. Mr. President, I ask unanimous consent I be permitted to yield to the distinguished Senator without losing my right to the floor or having any response I make count as a second speech under the rules.

The PRESIDING OFFICER (Mr. KOHL) without objection, it is so ordered.

Mr. COCHRAN. Under those circumstances, I am happy to yield to my friend.

Mr. LOTT. Mr. President, I thank the Senator once again for yielding to me. He got into the point that the Port of Pensacola, FL, does not have regular U.S.-flag service. He made a point that Pascagoula does not, Pascagoula, MS; and I believe it is true that Gulfport, MS, does not have regular U.S.-flag service coming into those ports, and there are other ports around the gulf and on the east and west coast that do not have U.S.-flag service available to them, either.

Yet this set-aside is not available to them. I wonder if we are are going to have a set-aside, maybe we would be better off it we said you could set-aside for those States that do not get U.S.-flag ships into their ports. I am not really advocating that, but it once again points out how really basically unfair and how hypocritical this approach is, that the major argument for having this set-aside in the Great Lakes is that they do not have regular U.S.-flag ship service, and yet we do not either.

I would love to have U.S.-flag ships coming into my homeport of Pascagoula, MS. As I said earlier today, it really bothers me when I sit there at my home and watch ships come in and out of that port from all over the world, but no U.S. ships. They are from Greece, Russia, Monrovia, Liberia, Panama, all over the world, and that is one of the reasons why I have always supported cargo preference.

The distinguished senior Senator and I are from an agricultural State. We are very proud of our agriculture. It is a big and important part of our long and fine history in Mississippi. We do not want to do anything to damage agriculture in any way.

But, also, we think that, at least in this limited area of the food aid, some cargo preference for the U.S. flags would be something we would like to have. We think it is positive. And this was an agreement between agriculture and the maritime representatives, a very difficult agreement that was worked out. But we reached that agreement. We made the deal and we have lived with it.

So now I think we should continue the deal we agreed to and not extend this set-aside any further. And if we do, it should not be just the Great Lakes States, it should be Gulf States and other States. But, in fact, it should be none of them. Let us all get in there and compete fair and square and let the winners carry the cargo.

I thank the Senator for letting me emphasize that point once again, that the argument about not having U.S. flagships available to them is just not a fair one.

Mr. COCHRAN. Mr. President I thank the distinguished Senator for his comments. He, of course, having grown up in Pascagoula, MS, where this port is located that we described from time to time, is knowledgeable about the situation there. Earlier today he eloquently described the view from his house where he can see the ships coming into the port of Pascagoula. Ships from all over the world come there to collect cargo and to deliver cargo, and very rarely do you see the U.S.-flag vessel. They are from other countries. Pensacola has that situation, too. These are examples that are close to home that we know about.

We know that there have been adverse repercussions for those who work at these ports, for those who live in these communities, because of this mandatory allocation of goods to be shipped out of the Great Lakes region. It is in this port that bagged grain is handled. That is what it was built to handle. And so when a diversion of that grain—there are no other options really at that one elevator at Pascagoula. There is no coal or big, huge terminals for other kinds of bulk grain to be handled there.

At Pensacola, for example, where bagged agriculture commodities are handled also, there has been a tremendous decline, by more than 70 percent, in the amount of bagged commodities that have been shipped. Pensacola was compelled to begin a program aimed at a more diversified commodity mix. It is noted that the value of title II bagged processed cargo is very labor intensive and they continue to put forth their efforts to attract and service those products. But at the same time, competitive reality dictates that they cannot expect the levels of bagged commodities tonnage to be at the same peaks they were in the late 1970's and early 1980's or for that to continue indefinitely or be guaranteed at any special yearly level like 1984.

It has already been pointed out the fact that there is a very compelling argument available for saying that the preference of one port range or one group of ports or one State's ports over any others is contrary to the clear provisions of the U.S. Constitution.

I think all Senators heard this argument being made earlier today, and I will not belabor that point except to simply read the one sentence that is in the Constitution that ought to answer this issue without any question: "No preference shall be given by any regulation of Commerce or Revenue to the ports of one State over those of another." That is article I, section 9, clause 6, of the U.S. Constitution.

The set-aside we are being urged to approve tonight would award a specific amount of Public Law 480 cargo to the Great Lakes States while all other ports—east coast, west coast, inland waterways, gulf coast—must compete for the remaining percentage that is not allocated by law.

In conclusion, Mr. President, let me sum up the factual presentation that I have attempted to make and the reasons for the strenuous opposition to this amendment.

CONCLUSION

During the 1960's and 1970's the Great Lakes ports were very competitive for Public Law 480, title II cargoes for a number of reasons: First, wharfage and unloading rates were absorbed by the ocean carriers; second, they were the only port range permitted by USDA to offer nonconference rates; and third, along with west coast ports, the lakes were well positioned to ship bulgur to India.

In the 1980's, that competitive edge enjoyed over the years substantially declined as a result of innovations in shipping—intermodal service, ocean-going barges, and stack trains—1977 regulatory changes allowing nonconference rates to be offered from ports outside the lakes; in 1982 ocean carriers stopped absorbing loading charges at lakes ports; the 1984 deregulation of rail transportation; the December 1986 bankruptcy of one of the two Indian vessels serving the lakes; 1987 modifications in the Public Law 480 Federal regulations; and in 1989 carriers other than United States- and India-flag were permitted to bid on India cargo.

No special guarantee of Government cargoes is provided for any other ports or range of ports under Public Law 480 or any other Government program. The ports in the Great Lakes should be required to compete for cargo along with all other ports; without benefit of special treatment to protect against competitive deficiencies. The lakes interests continue to pursue the reestablishments of the set-aside, insisting that this is necessary in lieu of decreasing U.S.-flag cargo preference requirements, yet this is not a major fact in their ability to compete.

The Great Lakes ports would like to be guaranteed a certain amount of food aid cargoes each year.

Who would not? Who would not enjoy that?

In spite of the fact, however, there are increasingly competitive and changing transportation factors at work.

The food aid program is not a port subsidy program. It is not the goal of this program to evenly divide cargoes among the many ports in the United States, let alone to arbitrarily favor 4 or 5 lakes ports over 30 other ports competing for the cargo.

The purpose of Public Law 480 that is set forth in its preamble is to use the abundant agricultural productivity of the United States to provide free or subsidized foods to needy countries, peoples overseas who need this assistance. The commodities are produced, purchased, and processed in the United States, and under the law, at least 75 percent must be shipped on privately owned U.S.-flag commercial vessels.

The lakes say they do not have regularly scheduled U.S.-flag service at their ports. We have discussed that. That does not make them different from ports in many other areas of the country, particularly the gulf ports. In fact, it is the set-aside, not cargo preference, that benefits certain ports over others. Think about that. That is a fact. It is established by the records at the department, at ASCS. It is incontrovertible.

The records over a 4-year period in which the set-aside was operative showed that 330,000 of the 907,000 metric tons allocated to the Great Lakes would have been allocated to the ports outside the Great Lakes if there had been no set-aside and cargoes were awarded on a competitive basis.

Food aid shipments from inland river ports have provided an important source of commerce and income for depressed economies in the Mississippi Delta region. In fact, those river ports were hardest hit by the 1986–89 set-aside, losing nearly 40 percent of their cargoes to Chicago, even though shipping from the river ports would have been considerably less expensive.

Furthermore, unlike the western lakes ports, Chicago was not a major player in title II before the set-aside, and was only allocated 4,500 metric tons of cargo in 1985.

The question we have to answer tonight is, can a port come to the Congress to get relief from the advance of technology, such as the introduction of intermodal and LASH service, because it creates greater competition for them? Is it realistic to think the Government can try to keep each port in the same competitive position over a period of years, considering the highly competitive and changing transportation environment and the need to allocate government cargoes under fair and unprejudiced rules? Trying to somehow arbitrarily divide cargoes among ports would not only make the program impossible to manage, but also could never be accomplished without preferential treatment for some ports over others.

Therefore, changes in transportation laws that inadvertently cause some ports to become less well positioned for competing on Government cargoes, such as rail deregulation and cargo preference, should not result in a set-aside for some of the affected ports.

On the surface, a set-aside for the Great Lakes sounds like a practical way to address their concerns and to stave off their attempts to decrease cargo preference. But this is not a very good solution. It is a direct violation of the Constitution and it sets off a chain of negative reactions at ports in other regions that are struggling to compete for food aid cargoes.

I am hoping, Mr. President, that as Senators consider the votes on the amendments before us on this issue, that we take into account the economic realities that exist all over the country and not just, as is being urged by a few tonight, concentrate on some of the limited, narrow problems that exist in a few ports of our great country.

There are many problems being encountered in many other areas as well; some intractable economic problems. Unemployment rates of 20 percent exist in many of the counties of my State along the Mississippi River where there are ports hoping for cargoes to be shipped under Government programs to foreign ports, where capabilities exist to manage that challenge at a competitive price, at a cost that would be less to the American taxpayers, that would help us ship more grain into the international markets.

So, I am hoping now, and I apologize to the Senate for taking so long, that my effort to fully explain the background and the factors at work will help the Senate make its decision tonight.

In conclusion, let me simply say I want to thank the Assistant Port Director for the Port of Pensacola, FL, who developed much of this information that I have presented to the Senate tonight in a paper dated July 10, 1990, entitled, "U.S. Port Participation, the P.L. 480 Title II Program and the Great Lakes Set-Aside," Dwight E. March, from Pensacola, FL. He did a tremendous amount of work to get the facts to help the Senate understand what the facts are. I hope with these facts we are better positioned to make a judgment on the amendments that are before us.

The PRESIDING OFFICER (Mr. FORD). The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, once again the last thing in the world I want to do is cut anybody off. I must say, Mr. President, I have witnessed occasions where Members have just talked for the sake of filling up the time or gaining a tactical advantage. What the Senator from Mississippi has done is entirely different. He has been very substantive. He has not said anything that was not relevant. He has been very clear in his statement.

I only note that, Mr. President, because it is very typical of the way the Senator from Mississippi is in committee meetings and committee discussions, both public and private. He takes his position, takes it strongly, argues cogently for it, but does not go into matters that are irrelevant.

I commend the distinguished senior Senator from Mississippi. I am proud to have him as a colleague; proud to have him as a friend.

I know, Mr. President, that there are Members who feel strongly on this issue. The distinguished Presiding Officer is one who feels very strongly on this issue, both personally and in his capacity as the Senator from Wisconsin, and I commend him for the arguments he has made.

Mr. President, I do encourage Members wishing to speak, to speak to the issue at hand only so that we may complete the farm bill.

Having said that, Mr. President, I should note for my colleagues that we are really at a point where we could complete action on the farm bill.

I believe the issue now pending before us is probably the only major stumbling block in this bill. If we can work our way somehow through this one issue and the few other issues which are being worked out, we will be able to complete work on this bill. But once this issue is gone, Senators should know that within an hour or two, we should be able to complete action on the farm bill, if Senators will cooperate.

Once we reach that point, I feel confident in saying, having talked with Senators on both sides of the aisle, that a majority of Senators, a healthy majority of Senators, will vote for passage of the farm bill.

Absent a cloture situation where all of us have to stand up and vote, I have never in 16 years in the Senate asked Senators to stop their debate or not to represent their States or their interests, political, parochial, philosophical, or whatever. But I would only ask here this evening that all Senators involved in this debate might ask themselves, is there an area of agreement?

But, Mr. President, having said all that, I encourage the distinguished Senator from Mississippi and the distinguished Senator from Ohio to either bring this matter to a vote or an agreement.

I also encourage other Senators who have a lot of amendments—and there are an awful lot of amendments on the

list that I have—to consider reaching an agreement on outstanding issues.

Mr. President, so that the Senators from Mississippi, Ohio, and others will be on notice, I am going to ask unanimous consent that we set aside the pending amendment until 9:05, or earlier, by unanimous consent, so that other matters can be taken up. At the hour of 9:05 or earlier, upon a unanimous-consent request, the Senate return to the pending amendment.

Having alerted everybody to what I am going to do, I now ask unanimous consent that the pending amendment be set aside until the hour of 9:05, and that upon the hour of 9:05, or earlier, by unanimous consent, the pending amendment come back up.

Mr. GLENN. Reserving the right to object, and I do not intend to object, it would be my understanding then immediately after the amendment by the Senator from Georgia is disposed of, this amendment we are on now would be the pending business; is that correct?

The PRESIDING OFFICER. The Chair will advise the Senator from Ohio, his statement is correct.

Without objection, it is so ordered. The Chair recognizes the Senator from Georgia.

Mr. FOWLER. Mr. President, I thank the distinguished chairman of the committee and ranking member and those Members who are allowing me to intercede with an important matter.

AMENDMENT NO. 2390

Mr. FOWLER. Mr. President, I have an amendment which I will send to the desk in a moment.

As Congress considers the 1990 farm bill, Mr. President, it is imperative that we address the needs of minority farmers and their communities. While many farmers have struggled across the country in recent years, these minority farm communities are often among the Nation's poorest and their need for assistance is the most critical.

This year's farm bill provides an excellent opportunity to stem the decline of minorities in agriculture. The minority farm amendment I am offering would enhance minority participation in the USDA programs. It would immediately halt the loss of minority land and minority operated farms. It would also eliminate racial discrimination and indifference to the needs of limited resource farmers, from all programs administered by the Secretary of Agriculture.

Why? Very simply, it is necessary to reverse the trends set forth in the 1982 Civil Rights Commission report entitled "The Decline Of Black Farming in America." The Commission found that since 1920, almost 94 percent of black-owned farms have been lost. Since then, we have seen the same thing happen in Hispanic farming, native American farming, and other minorities throughout our country. Black farmers are currently losing land more than three times faster than other farmers, and similar studies have found that other minority farmers are losing their land at a rate similar to that of other black farmers.

Since that report was written, the situation has only grown worse as the trends that hurt all farmers in the 1980's hit minority farmers the hardest. Nearly one-fourth of these farms have disappeared over the last decade. In my part of the country where 60 percent of all minority farms are located, five minority farmers left farming for every white farmer who quit.

We have to stem these losses before there are no black-owned farms left and begin the work of rebuilding these communities. The Minority Farmers Rights Act of 1990 will help current minority farmers stay in business, allow former farmers to return to the land and provide opportunities for minority youth who want to enter farming.

I am pleased to join Representative MIKE ESPY who has offered similar legislation in the House to make sure that with all our efforts to support a viable farm economy we do not neglect our most disadvantaged farmers. Minority farmers have traditionally received less assistance than their white counterparts. It seems to me it is high time to recognize the contribution of these farmers to our Nation's farm economy and the farm community specifically. This bill makes a strong statement that we are committed not to any select few but to the success of all America's farmers.

I will have a list in a moment of the cosponsors. I ask unanimous consent to include the Senator from Maryland [Ms. MIKULSKI] as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, I want to repeat that in 1987, there were over 2 million farms in our Nation with only 44,000 of those owned or operated by minorities. That is just 2.1 percent of all farms.

In 1978, 10 years earlier, there were 57,988, I am told, but still only 2.6 percent of all farms. This decline has unfortunately been a part of our history since the beginning of this century but it has accelerated alarmingly in the last few years. We are spending a lot of time, appropriately so, those of us who represent large rural States and rural economies, in trying to figure out how to get people back to jobs, productive lives in the small town and rural communities of our country.

There are many proposals that have been offered to try to figure out a way to attract industry, manufacturing, something, some payroll, so that people who would like to live and maintain community lives and values that that represents in our smaller communities, rural areas throughout our country can do it.

We have not been very successful. This is one attempt to allow a lot of minorities who have been working for other folks, many generations of working the land, to keep their own farms. I am determined that we do not profit the many at the expenses of the few, and when you are talking about only 2 percent remaining it is high time we paid some attention not only to this agricultural resource but a national resource that somehow because they do not have a voice, we continue to lose off the land.

Mr. President, my amendment is now at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] for himself, Ms. MIKULSKI, Mr. FORD, Mr. WARNER, Mr. SIMON, Mr. SANFORD, Mr. DASCHLE, Mr. METZENBAUM, and Mr. HEFLIN proposes an amendment numbered 2390.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is ordered.

The amendment is as follows:

At the end of Title XIX, add the following new subtitle:

SEC. 19 . SHORT TITLE.

This Act may be cited as the "Minority Farmers Rights Act of 1990".

SEC. 19 . FINDINGS, POLICIES AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) a serious crisis exists among minority American landowners and farmers;

(B) minority landowners and farmers are losing ownership of their land at an increasing rate;

(C) black land ownership has declined from over 15,000,000 acres in 1910 to approximately 5,000,000 acres today, and minority farmers are losing their land at a rate over 3 times higher than the rate at which nonminority farmers are losing their land; and

(D) in the last century, American Indian land holdings have fallen from 500,000,000 acres to 50,000,000 acres, and American Indian and other minority farmers are losing land at a rate comparable to the rate at which black farmers are losing their land;

(2) limited educational opportunity, and other related factors have contributed to the decline of land ownership by all minorities in the United States;

(3) racial and ethnic diversity in the ownership of agricultural land and cultural diversity in the composition of the family farm population, agricultural communities, and rural population are important and beneficial to the United States; and

(4) the past and continued loss of minority-owned land and minority operated farms may constitute a threat to the general health and welfare of the United States and interferes with orderly commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to stop the contraction of the minority agricultural land base as quickly as possible;

(2) to seek to restore the level of minority Agricultural land ownership to a level comparable to holdings by minorities in 1910 by the year 2000.

(3) to encourage minority land ownership and farm operation to a level commensurate with the rural minority population in each region of the United States;

(4) to eradicate racial discrimination and indifference to the specific needs and problems of minority farmers, and remove all cultural, ethnic, educational, programmatic, or regulatory barriers in all programs administered by the Secretary; and

(5) to encourage racial and ethnic diversity in the ownership of farmland, and diversity and pluralism in the composition of the family farm population.

SEC. 19 . DEFINITIONS.

As used in this Act:

(1) AGRICULTURAL LAND.—The term "agricultural land" means land that is used or is suitable for agricultural production.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization"—

(A) means any private, nonprofit rural organization that has experience in encouraging minority participation in agriculture:

(i) is representative of one or more minority communities or significant segments of minority communities; and

(ii) provides education, technical assistance, and other related services to minority community members interested in farming.

(3) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Advocacy and Enterprise.

(5) HEIR PROPERTY.—The term "heir property" means any interest in real property the title to which—

(A) was held by a minority individual at the time of the death of the individual;

(6) LAND BANK.—The term "land bank" means any public or private agency, corporation, association, or program established to acquire, hold, exchange, or convey land between and among minority farmers with the objective of preserving the minority agricultural landbase.

(7) MINORITY AGRICULTURAL LAND.—The term "minority agricultural land" means agricultural land that is—

(A) owned or controlled by one or more minority persons;

(B) operated only by one or more minority persons; or

(C) heir property.

(8) MINORITY AGRICULTURAL LAND BASE.—The term "minority agricultural land base" means the aggregate of the minority agricultural land in the United States.

(9) MINORITY FARMER.—The term "minority farmer" means a minority person—

(A) who owns or operates a qualified minority farm; and

(B) produces agricultural commodities on the farm.

(10) MINORITY INDIVIDUAL.—The term "minority individual" means an individual who is a member of a group some or all the members of which have been subjected to racial, ethnic, or cultural prejudice because of the indentity of the members as members of a group (including blacks not of Hispanic origin, American Indians, Alaskan Natives, Native Hawiians, Hispanics, Asians, or residents of the Pacific Islands), without regard to the qualities of the members.

(11) MINORITY PERSON.—The term "minority person" means any—

(A) minority individual; or

(B) family farm corporation that is owned or controlled by one or more minority individuals.

(12) OFFICE.—The Term "Office" means the Office of Advocacy and Enterprise of the Department.

(13) QUALIFIED MINORITY FARM.—The Term "qualified minority farm" means a farm the majority of the labor for the operation of which is provided by—

(A) in the case of a farm owned or operated by a minority individual, the individual or the members of the family of the individual; and

(B) in the case of a farm owned or operated by a family farm corporation described in paragraph (10)(B), the members of the families of the shareholders of the corporation who are minority individuals.

(14) QUALIFIED STAFF.—The term "qualified staff" means an employee of the Department who—

(A) has specific training and experience in the successful operation of small farms;

(B) is sensitive to the specific needs of the operators of qualified minority farms; and

(C) receives basic training and continuing education in all special provisions of law and programs administered by the Secretary for minority or socially disadvantaged farmers.

(15) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 19 . DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall establish specific policies and programs in accordance with subsection (b) to achieve the purposes of this Act. The Under Secretary of Agriculture for Small Community and Rural Development shall be directly responsible for the implementation and oversight of such policies and programs.

(b) POLICIES AND PROGRAMS.—The Secretary shall establish policies, programs and allocate resources necessary to address the needs of minority farmers as described in this Act, including—

(1) specific activities and procedures to identify, halt and prevent any act, practice, or policy of any program or employee of the Department, that has the purpose or effect of discriminating against any minority farmer;

(2) specific activities and procedures to increase opportunities for minority individuals to become agricultural producers and encourage ownership of farms; and

(3) interdepartmental and interagency monitoring, oversight, and coordination of programs designed to reverse contraction of the minority agricultural landbase.

(c) OFFICE OF ADVOCACY AND ENTERPRISE.—The Secretary shall increase the duties, staff responsibilities, staffing, and budget of the Office subject to the availability of funds to carry out the policies and programs established under this Act.

SEC. 19 . OUTREACH AND EDUCATION PROGRAM.

Section 623 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985 note) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end thereof the following new subsections:

"(b) INFORMATION AND ASSISTANCE.—In carrying out subsection (a), and to ensure that the goals established pursuant to section 355 of the Consolidated Farm and Rural Development Act are achieved and that section 622 of this Act is carried out, the Secretary may provide outreach education, technical assistance, to encourage and assist minority farmers—

"(1) to register with the National Minority Farmer and Land Registry established under section 7 of the Minority Farmers Right Act of 1990, and take advantage of benefits provided by such Act;

"(2) to take advantage of the goals for Department programs, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act; and

"(3) to apply for loans, grants, benefits, or entitlements provided under State or Federal programs.

"(c) GRANTS AND CONTRACTS.—The Secretary and the Director of the Office of Advocacy and Enterprise are authorized to make and enter into grants, contracts, and other agreements in the furtherance of this section with—

"(1) 50 percent of the funds being provided to community based organizations with demonstrated experience and commitment in providing education, advocacy, or other services to minority farmers (such community based organizations must provide documentary evidence of their past experience and commitment of working with minority farmers during the 2 years preceding their application for assistance under this legislation; and

"(2) 50 percent of the funds being provided to institutions of post-secondary education, with priority given to 1890 Historically Black Land Grant Colleges and Tuskegee University, Indian Tribal Community Colleges and Alaska Native Cooperative Colleges, Hispanic Serving Institutions of Higher Education, and other educational institutions with demonstrated experience in providing education, advocacy or other services to minority family farmers in the region in which such institutions are located.

Community based educational programs that offer degrees and that serve rural minorities and their communities shall also qualify for assistance under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out the programs established under this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 1991 through 1995.

SEC. 19 . DEVELOPMENT OF NATIONAL MINORITY FARMER AND LAND REGISTRY.

(a) IN GENERAL.—The Secretary shall develop and maintain, on a State-by-State and county-by-county basis, a voluntary national registry of the names of all minority farmers in the United States and a legal description of the acreage comprising the minority agricultural land base. The registry shall be known as "National Minority Farmer and Land Registry".

(b) PURPOSE OF REGISTRY.—The Secretary shall use the registry—

(1) to identify agricultural land owned by minority farmers;

(2) assist the Department and other agencies in planning, developing, and implementing programs of benefit to minority farmers; and

(3) to facilitate outreach to socially disadvantaged producers so as to encourage minority participation in agriculture.

(c) REGISTRATION.—

(1) IN GENERAL.—Any minority farmer or othe minority owner of agricultural land, may, at the discretion of the farmer or owner, register with the registry the legal description of any interest in land held by the farmer or owner.

(2) PLACE.—Registration with the registry shall be available at each county office of the Agricultural Stabilization and Conservation Service of the Department.

(3) ENCOURAGEMENT.—The Secretary shall encourage registration by minority farmers or minority owners of agricultural land in the registry.

(4) CONTINUING REGISTRATION.—Registration with the registry shall be available on a continuing basis.

(d) PUBLICATION.—

(1) INITIAL PUBLICATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) publish the registry compiled pursuant to this section; and

(B) make the registry available to the public.

(2) ANNUAL UPDATE.—Not later than 1 year after the initial publication of the registry, and each year thereafter, the Secretary shall publish a complete supplement or an updated compilation of the registry.

SEC. 19 . PRESERVATION OF MINORITY AGRICULTURE LAND BASE.

(a) IN GENERAL.—The Secretary, in consultation with Federal and State programs, private organizations, and interested parties, shall take steps to ensure, to the extent practicable, that the variety, quantity, and distribution of land in the minority agricultural landbase is not significantly reduced from the variety, quantity, and distribution of the land in such landbase as described in the initial publication of the National Minority Farmer and Land Registry established under section 7, and shall establish policies and programs to fulfill the purposes of this act.

(b) METHOD OF PRESERVATION.—The Secretary shall carry out subsection (a) by administering and implementing policies and programs to promote the participation of socially disadvantaged farmers in agriculture by providing education, outreach, technical services, and targeted funding to assist minority individuals in becoming agricultural producers and landowners.

(c) USE OF FEDERAL LAND INVENTORIES.—

(1) IMPLEMENTATION OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement a program which, to the maximum extent possible, attempts to reverse the contraction of the minority agricultural land base.

(2) CONTENTS.—The program required by paragraph (1) shall include education, technical assistance, intraagency coordination, and other measures determined to be necessary by the Secertary.

(3) EXPENDING OF FUNDS.—The Secretary may, in expending such funds, create incentives, provide credit, or acquire property from other Federal or State agencies or departments to carry out the program required by paragraph (1).

(d) CREATION AND MAINTENANCE OF MINORITY LAND BANKS.—

(1) POLICIES AND PROGRAMS.—The Secretary shall establish policies and programs that encourage and assist land banks controlled by minority individuals.

(2) IMPLEMENTATION.—The Secretary shall designate the Director to implement the policies and programs established under paragraph (1).

(3) PARTICIPATION.—The Director shall encourage and facilitate the participation of other Federal and State agencies and private organizations in the development and operation of land banks controlled by minority individuals.

SEC. 19 . MINORITY PARTICIPATION RATES IN DEPARTMENT PROGRAMS.

(a) AGRICULTURE RESEARCH.—

(1) IN GENERAL.—The Secretary shall make funds available to carry out the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) to colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.), and other research institutions with minority enrollment exceeding 50 percent, or to research projects specifically aimed at increasing minority farmer participation in agriculture.

(2) COMMUNITY-BASED ORGANIZATIONS.—Programs funded under this subsection may include research agreements with community-based organizations that have at least 2 years demonstrated experience in reaching minority constituencies.

(b) AGRICULTURE EXTENSION SERVICE STAFF.—

(1) IN GENERAL.—The Secretary shall assign and improve the qualifications and performance of the staff of the Agricultural Extension Services in accordance with this subsection.

(2) PARTICIPATION GOALS BETWEEN 5 AND 25 PERCENT.—In any county in which the participation goals for socially disadvantaged groups, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), is between 5 and 15 percent, the Secretary shall assign a specific qualified member of the staff of the Extension Services in the county who shall implement the policies and programs established or modified in accordance with this subsection.

(4) PARTICIPATION GOALS GREATER THAN 25 PERCENT.—In any county in which the participation goal is greater than 30 percent, the Secretary shall assign at least 2 qualified staff members of the Extension Service who shall serve as adjunct staff members of the Office and who shall implement the policies and programs established or modified in accordance with this subsection.

(5) ALLOCATION OF RESOURCES TO AID MINORITY FARMERS.—

(A) DEPARTMENT.—The Secretary shall develop and implement a plan to allocate a significant portion of the resources of the Extension Service (including personnel) to increase the number of minority farmers and assist minority farmers in developing efficient and profitable farming operations.

(B) COMMUNITY-BASED ORGANIZATIONS.—The Secretary shall also use community-based organizations having at least 2 years of demonstrated experience in assisting minority constituencies in carrying out this subsection.

(c) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—

(1) REVIEW OF MINORITY PARTICIPATION IN CROP PROGRAMS.—

(A) IN GENERAL.—The Secretary shall review minority participation, compared to non-minority participation, in each of the crop programs of the department, on a State-by-State and county-by-county basis. The review shall include a survey representative of all farmers' including socially disadvantaged farmers to identify reasons for participation and non-participation in crop programs of the Department. The results of this review, including an analysis of the differences in rates of minority and non-minority participation, shall be reported to the House and Senate Agriculture Committees not later than September 30, 1991.

(B) CONTENTS OF THE REVIEW.—The Secretary shall calculate, on a State-by-State and county-by-county basis, the following information for each program crop—

(i) the total agriculture base, in acres, for each program crop;

(ii) the percentage of total base acres controlled by minority producers compared to the percentage controlled by non-minority producers; and

(iii) the average program payment yield for minority producers, compared to non-minority producers.

(C) PROCEDURE FOR THE REVIEW.—The Secretary, upon completion of this review, shall solicit public comment on the findings; and recommendations to improve minority participation in crop programs of the Department.

(D) REPORT.—In the report under subparagraph (A), the Secretary shall disclose the findings of the review, together with an analysis of the differences in rates of participation in crop programs between minority and non-minority farmers. Findings from comments under this subsection shall be included in such report. As a result of such review, the Secretary shall propose a plan to promote rates of minority participation in crop programs to levels commensurate to non-minority participation in each region of the nation.

(2) NOTIFICATION.—

(A) MINORITY FARMERS.—Not later than October 1, 1991, and each year thereafter, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall notify, through local media (including minority-owned media), all minority farmers of their eligibility for all farm programs of the Department.

(B) FORFEITED QUOTAS.—The committees shall notify farmers through local media (including minority-owned media and community based organizations) when forfeited quotas and allotments become available under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), and of the application procedures to receive the quotas.

(C) COMMUNITY-BASED ORGANIZATIONS.—Not later than October 1, 1991, and each year thereafter, the Director shall notify all participating community-based organizations and institutions of the terms and conditions of the program established under this subsection, including the effective date and application and appeals procedures.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by minorities in each program of the Department;

(B) the specific participation goals established for each program;

(C) the results achieved for each program under this section; and

(D) the progress of the Department of Agriculture towards meeting each of the purposes described in paragraph (2)(C).

(2) CONTENTS.—In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the goals with actual results of each program of the Department;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this Act;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to minority farmers;

(ii) the amount of funds reallocated pursuant to this Act; and

(iii) the amount of guaranteed loan funds loaned to minority farmers compared to the total amount of such funds so loaned; and

(D) a breakdown in allocation of crop base in each program crop compared to the participation goals established pursuant to section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), on a State-by-State and country-by county basis.

SEC. 19 . MINORITY YOUTH AND MINORITY FIRST-TIME FARMERS.

(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program, to be administered by the Office within the Department, to attract, assist, and encourage—

(1) minority first-time farmers to participate in careers in production agriculture; and

(2) minority youth to participate in careers in production agriculture, related agricultural industries, and rural development.

(b) DEMONSTRATION PROGRAMS.—In order to complement the operation of the comprehensive program established under subsection (a), the Secretary shall support demonstration programs that attract, assist, or encourage minority first-time farmers to participate in careers as described in subsection (a).

In carrying out this section, the Secretary may contract with 1890 Historically Black Land Grant Colleges and Tuskegee University community based organizations, or other groups as deemed appropriate the Secretary. They may include programs that provide—

(1) low-interest rate loans for youths and first-time farmers under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(2) for school-based and vocational agriculture enterprises for youth;

(3) scholarship funds to youths or first-time farmers;

(4) for agricultural apprenticeship or training projects;

(5) assistance to farmworkers seeking to become full-time farmers; or

(6) other assistance to minority youth and minority first-time farmers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Secretary not to exceed $12,000,000 for each of the fiscal years 1991

SEC. 19 . AFFIRMATIVE ACTION, APPEALS, AND CONTRACTING REVIEW.

(a) PURPOSE.—It is the purpose of this section to direct the Secretary to analyze within the Department the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(b) SCOPE.—The study shall include—

(1) an assessment of the successes and failures of these affirmative action programs and policies;

(2) a review of the reasons for the successes and failures described in paragraph (1);

(3) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of minority businesses in such activities, and the impact of those policies on the participation of minorities in such contracting with the Department;

(4) a review of the reasons for participation or lack of participation of minority businesses in the activities described in (3);

(5) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities. The review shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(c) REPORT.—The Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information described in (b) one year after the enactment of this act.

SEC. 19 . ANALYSIS BY THE GENERAL ACCOUNTING OFFICE.

The General Accounting Office shall conduct a review of the progress and efforts by the Department of Agriculture in achieving the goals of this Act and of other farm programs administered by the Department to assist socially disadvantaged farmers.

SEC. 19 . EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1990.

Mr. FOWLER. Mr. President, I also ask unanimous consent to include as original cosponsors, the Senator from Kentucky [Mr. FORD] and the Senator from Virginia [Mr. WARNER].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, I yield the floor to the distinguished Senator from Indiana or my chairman.

Mr. LEAHY. I have no objection, Mr. President, to this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I appreciate very much the presentation by the distinguished Senator from Georgia. The history that is incorporated in his amendment, in addition to the strength of minorities on farms in the present and the future, is very important. I appreciate his working with his staff and the staff of the minority side in fashioning a fine amendment. We commend him and we look forward to supporting the amendment.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

Mr. FOWLER. I thank the Senator from Indiana for those kind words and appreciate, as always, his contribution in the molding and crafting of this amendment.

I want to say to him and also to my chairman, as he knows, there are encouragements here, there are initiatives, there are some protections but there are no quotas. There are directions to the Department of Agriculture. There are increased minority participation in Department programs. There is provisions to preserve and restore the minority land base, and certainly the encouragement of minority youth and first-time farmers. I thank him as always for his help and leadership.

Mr. LEAHY. Mr. President, the Senator from Georgia has spoken with me often on this issue.

He has worked with numerous Senators, Republican and Democrat alike, in fashioning an amendment that can be acceptable. I commend him for it. I think he deserves the thanks of all of us. I commend him. He is a good friend.

Mr. FOWLER. The chairman of the committee, the distinguished Senator from Vermont, is always welcome in Georgia. He has not only been there once but twice. The only problem is that when they see the quality of his representation on the Agriculture Committee they question the quality of mine.

Mr. LEAHY. I think that is probably not so.

I support the amendment and urge its adoption.

Mr. FOWLER. I thank the Senator.

Mr. President, I ask unanimous consent to add Senator SIMON, Senator SANFORD, Senator DASCHLE, Senator METZENBAUM, and the Senator from Alabama, Mr. HEFLIN, also as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I rise today in support of the amendment concerning the rights of minority farmers offered by the distinguished Senator from Georgia, Mr. FOWLER.

I recently had the opportunity to visit with Calvin King, a minority farmer from Arkansas who also works as an advocate for minority and limited resources family farmers with Arkansas Land and Farm Development Corporation, about the drastic decline in the numbers of minority farmers. In my State, Arkansas, in 1982 there were 1,249 black-owned farms. By 1987 that number had dropped to 784, a decline of 37.2 percent. During the same period of time the number of white farmers only declined 3.7 percent, from 49,157 to 47,330.

This rapid decline in the number of minority farmers continues a trend that began early in this century. The 1982 Civil Rights Commission report, "The Decline of Black Farming in America," noted that almost 94 percent of all black-owned farms have been lost since 1920.

It obvious, considering that there are, in this entire country, only 147 black farmers under the age of 25, that the numbers of minority farmers will not increase unless something changes. What can be done to reverse the decline in the numbers of minority farmers in this country?

Mr. President, I do not have the answer to that question. That is why I support the Senator from Georgia in this amendment. It is time, in fact it is past the time, that we should begin to learn the reasons for the loss of minority owned and operated farms.

Calvin King said it very well, Mr. President, when he testified before the House Committee on Government Operations, Government information, Justice and Agriculture Subcommittee yesterday. He said, "Passage of the Minority Farmers Rights Act would provide the opportunity to ensure diversity in the ownership of our country's farmland and for people to have a role in rebuilding our rural economy as self-employed family farmers. We must act now, time has run out." I agree.

Mr. INOUYE. Mr. President, I rise in strong support of Senator FOWLER's minority farmers' rights amendment which I believe will reverse the decline of minorities in agricultural endeavors.

This amendment seeks to increase minority farm ownership and operations, and to ensure that U.S. Department of Agriculture programs are administered in a nondiscriminatory manner. Additionally, the amendment would increase the staff of the Farmers Home Administration and the Agriculture Extension Service to address the special needs of minority farmers.

Minority farmers have been defined to include native Americans, native Hawaiians, Asian Americans, and Pacific Islanders. Hawaii is blessed with a rainbow of minorities; each group contributes to the composition of my island State.

Senator FOWLER's amendment expands outreach and education programs for these important groups of farmers, and establishes demonstration programs for minority youth and new farmers. Native Hawaiians, as well as other minority groups, have historically been dependent on the land and the sea for their food source. Innovative projects are presently being designed to encourage native Hawaiians to grow those crops, such as taro, and raise those species of fish in Hawaiian fish ponds, that were grown and cultivated by their ancestors in a like or similar manner. Such projects allow for the rejuvenation of cultural pride, as well as economic self-sufficiency. These are the types of projects that I believe Senator FOWLER's amendment is intended to foster. I commend him for his sensitivity and for his desire to assist our Nation's minority farmers.

I urge my colleagues to support the Fowler amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2390) was agreed to.

Mr. FOWLER. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, while we still have a few more mintues, I have an amendment on behalf of Mr. HEINZ, Mr. KOHL, and myself.

The PRESIDING OFFICER. The Chair will advise the Senator that unanimous consent did not cover another amendment. It covered setting aside the pending amendment for the amendment of the Senator from Georgia.

Mr. LEAHY. Until the hour of 9:05.

The PRESIDING OFFICER. Or sooner.

AMENDMENT NO. 2391

(Purpose: To require the Secretary of Agriculture to conduct a study concerning fluid milk production)

Mr. LEAHY. Mr. President, I ask unanimous consent since the hour of 9:05 has not arrived, that it be in order for me to send an amendment to the desk on behalf of Mr. HEINZ and others.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

Mr. LEAHY. I send it to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. HEINZ (for himself, Mr. KOHL, Mr. LEAHY, Mr. KASTEN, and Mr. HARKIN), proposes an amendment numbered 2391.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33 between lines 19 and 20, insert the following new section:

SEC. 117. SUBSIDIZED INPUTS-SURPLUS DAIRY PRODUCTION STUDY

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate, a report that shall contain—

(1) the findings of such Secretary concerning whether low-cost alfalfa, other hay, pastureland, and other forage irrigated with below-cost water from Federal reclamation projects is contributing to or promoting fluid milk production in excess of demand in States and regions served by the United States Bureau of Reclamation; and

(2) if such Secretary determines there is a casual link, the recommendations of such Secretary for addressing such surplus production.

(b) DEFINITIONS.—As used in subsection (a), the terms "full cost", "irrigation water", and "project" shall have the same meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).

Mr. HEINZ. Mr. President, the amendment I send to the desk requires the Secretary of Agriculture to conduct a study on the impacts of subsidized inputs on the production of surplus milk in States served by the Bureau of Reclamation.

The Bureau provides irrigation water to some 10 million acres at tremendously subsidized rates. That subsidy is $9.8 billion through 1986, according to the Interior Department. Other experts believe the subsidy is at least $19 billion.

Roughly 3.5 million acres served by the Bureau of Reclamation are used to produce alfalfa and other hay, pasture land and other forage—all important food for dairy cows.

In Pennsylvania, a dairy farmer is lucky to get four cuttings of alfalfa. In the lower altitudes out West, you can get eight or nine cuttings, and a better yield—if you have the water.

I offer this amendment because I'm concerned that taxpayers in Pennsylvania are giving dairy producers in the West a comparative advantage—a significant comparative advantage—by subsidizing water deliveries used to grow alfalfa and other feed.

Dairy production trends seem to bear this out. According to the Senate Committee on Agriculture, milk production increased 66.4 percent in the Pacific Northwest, 69.1 percent in the Southwest, which includes California, and 54.2 percent in the Southern Plains between 1975 and 1988. All three of the regions are milk surplus regions. They produce too much milk.

Production in the Northeast, which is a milk deficit region, increased just 19.5 percent.

This troubles me, Mr. President, because our dairy farmers suffer when too much milk is produced elsewhere.

Ten years ago, dairy farmers in Pennsylvania had a support price of $13.10 per hundredweight of milk. Now they have $10.10 per cwt. And if the dairy title of this farm bill remains intact, Pennsylvania dairy farmers will have $10.10 milk through 1995. All because someone else produced too much milk.

Moreover, Mr. President, our farmers had to pay assessments for 2½ years to defray the cost of the dairy price support program. All because someone somewhere else produced too much milk. The study my amendment requires will help determine if subsidized reclamation water is partially to blame.

Mr. LEAHY. Mr. President, I support this amendment.

Mr. LUGAR. Mr. President, just for my own information, is this the amendment that deals with subsidized input surplus milk study?

Mr. LEAHY. Yes.

Mr. LUGAR. I thank the Chair. We support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2391) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2392

(Purpose: Livestock research)

Mr. LEAHY. Mr. President, I ask unanimous consent, the hour of 9:05 having not yet arrived, that it be in order for me to send an amendment to the desk on behalf of Senator HEFLIN to strike certain language on animal well-being.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for Mr. HEFLIN, proposed an amendment numbered 2392.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 740, insert "and" at the end of line 24;

On page 740, strike line 25; and

On page 741, line 1 strike "(6)" and insert "(5)".

Mr. LUGAR. Mr. President, I ask unanimous consent that Senator GRASSLEY be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, we accept the amendment on our side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (No. 2392) was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that I be allowed to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized to speak as if in the morning business.

Ms. MIKULSKI. Thank you very much, Mr. President. I know those who are very much interested in the issue of the Great Lakes set-aside were careful in how the floor was yielded.

PARENTAL LEAVE

Ms. MIKULSKI. Mr. President, I assure my colleagues interested in this issue my remarks will be confined to the parental leave legislation that the President vetoed.

Mr. President, I do not know if many Senators and people who are watching these proceedings tonight know that President Bush vetoed the parental leave bill. He said it would make us uncompetitive. The House took up that legislation in an attempt to override the veto on parental leave, but it was lost. It was lost by 53 votes. Mr. President, that means because of 53 votes in that House, and I am not sure what would have happened in this Chamber, one-half of the population is deprived of a parental leave benefit that just about every democracy provides to its workers.

There are those who call this a victory for the President. I do not think the President should be proud of that kind of victory where he shows his Presidential might and muscle by vetoing an opportunity for a woman to be able to stay home when she just had a baby and be with that baby for a few weeks without any pay from her employer but be able to go back to her job.

Mr. President, I chair a task force on the Labor and Human Resources Committee with my colleague, Senator DURENBERGER. One thing that emerges very loud and clear as we look at the workplace, we find that the America's workplace is not family friendly. In fact, Mr. President, I find that the American workplace seems to have a contempt for women.

First of all, women are not treated in the way that they deserve. Certainly the American private sector and our American public sector likes the work of women, but they sure do not like to pay women what they are worth.

Mr. President, while we are spending these hours here tonight, I just wanted to say these things and kind of get them off my chest. When I speak here I am speaking for a lot of women out there who are kind of maxing out on the attitude toward us.

First of all, we are not paid what we are worth. When you listen to women and listen to what they do at work, they find their efforts in the marketplace are undervalued and underrespected. We continue to make less pay for the same job or comparable job as our male counterparts. Women continue to be paid 69 cents for the same job that a man does of comparable worth.

Mr. President, when it comes to benefits, we find that once again we are treated in a way that is different. When we take a look at our health care packages, those conditions of being a woman are often treated as a disease that the American private sector does not want to cover. The first and foremost is childbirth. Many, many insurance companies do not want to cover childbirth. That is a normal process. I am not talking about an unusual or high-risk pregnancy. But we say we value life, and then we do not want to cover. We will cover tummy tucks. We will cover prosthetic surgery. Mr. President, we will not cover pregnancy.

Let us take a look at child care. Well, here we are trying to get a child care legislative package through the U.S. Congress. Once again, we find that if we look at our practices in the marketplace, an employer will provide more parking slots for their employees than they will provide day care slots for their employees' children. Mr. President, we love our hubcaps more than we love our kids. Once again, we see the way women and children are treated.

Mr. President, I am going to bring up a sensitive issue here. I would like to just say that I have been very discouraged to watch when it came to voting non parental leave. Many of our colleagues' positions on choice and right to life are well known. It has been very discouraging to me to see many of my colleagues who espouse a right-to-life political position then will not support parental leave.

Mr. President, good people differ on when life begins. I leave it to the theologians, the scholars, and the medical profession to decide that. But I sure know when life begins. Life begins for certainty at birth. I would like to see that America's children and their mothers have that as a recognized right that mothers and children are together in their first few days and their first few weeks of life. I think that when you have just had a new baby, you want to be with that baby and that baby wants to be with you, and, Mr. President, the American women are working not out of some great passion for self-fulfillment; they are working out of economic desperation. Can they not stay home 1 or 2 or 3 or 4 weeks to be with that new baby and then not risk losing their job? Mr. President, when you adopt a baby, very often you cannot plan when you are going to adopt that baby. When the opportunity comes you take it. And you have the need to be with that baby.

Let me tell you what else parental leave covered. It gave you some time off to care for a sick parent. Mr. Presi-

dent, my own dear father had Alzheimer's disease. I said that before in this body. And let me say this: When we had to place my father in a nursing home because we could no longer care for him at home, I took the time to make the calls to find a nursing home for him that would be safe and meet his needs. That was the obligation I owed my dear father. Mr. President, I did that when I was a Congresswoman. I have a Master's degree in social work, and that took me 7 full days of phone calls. And guess what, Mr. President. I did that on taxpayers' time.

Now, I represent 4 million people in Maryland, and I do not know one of the 4 million who would have begrudged me the time to find the right place for my very dear father. But most people would not have had that opportunity. They would have had to take time off from work and maybe even lose their job while they went about that most arduous and melancholy task.

So, Mr. President, we have lost the opportunity this year for parental leave. I know my colleague, Senator DODD, is introducing it tomorrow, and I intend to be an original cosponsor. Make no mistake, we are allowing them less than 12 weeks off, in most cases 6 weeks off, without pay for someone to be with their newborn baby, their adopted baby, care for a child who had a lethal illness like cancer, or to care for a sick parent. That is all it did and covered, and the only industries or jobs covered were those that had 50 or more employees.

So, Mr. President, I guess the Almanac of American Politics will say another victory for George Bush. I would hang my head in shame for that victory. That is sure not a trophy that I would want hanging up in my library.

Mr. President, I am going to yield back the floor, but will not yield back the fight on parental leave.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending business is the Inouye second-degree amendment No. 2385 to the Glenn amendment.

Mr. LEAHY. Mr. President, I notice both the proponents and opponents are on the floor and I wish to assure them I have no intention of doing anything to take action on that.

Mr. President, earlier this evening I pointed out that we are very, very close to completion of this bill, with cooperation. I mentioned that and I, like many others, have family I would like to see and they would like to see me. I have reached a point where, as pleasing as it is to walk back to my office and see photographs of my wife, two sons, daughter, my mother, my mother-in-law, my son's dog, I really would like to see them in person. Right now, my wife, my mother, my mother-in-law, are having supper at our home in the Washington area, probably wondering if I am ever coming back. But I suspect that is the same with all of us.

Once the pending matter is completed, I want to tell my colleagues, there are 40 or 50 other amendments, many of which I have been told privately are not the No. 1 priorities of their sponsor's Senate careers. In fact, they are not, in some instances, the No. 784th priority of the Senator's career.

I would urge Senators, if we complete action one way or the other on the pending matter, to understand this: we can finish action this evening. We will finish action this evening if there is cooperation. That means within the next hour or two. If there is not cooperation, I understand from the leadership we will be in here very, very late or very, very early in the dawn, depending on how one looks at it, and on and on.

Just so everybody knows I have no ulterior motive in this, I have canceled my appointments in Vermont on Saturday morning so I can continue to stay on the bill. But I would ask Senators what they accomplish by that. Because everything that passes from this point on has to go to conference.

Obviously, I take direction from the Senate, as the head of the Senate delegation in conference, and will look carefully at everything passed as we negotiate. My negotiating position, however, and the fevor and urgency of it, perhaps will pale those that are toward the very end, as we go well beyond the time we should finish.

So I would urge Senators, if they are really serious about their amendments, if there are any serious ones left, let us know. We will try to clear them. Let us, one way or the other, get rid of the matter here and let us finish the bill. It is as simple as that. We can finish by midnight tonight with no problem whatsoever, or we can condemn ourselves to the next several days. The last 5-year farm bill began on October 25 of that year and went to November 23. That gives us another 3½ weeks to go if we want to follow that procedure. I would hope not. Let us finish tonight. Let us have cooperation from both sides. Let us dispose of the pending matter one way or the other.

The other 40 or 50 or 60 amendments that come here, I hope Senators would look at them and ask themselves: Is this really the amendment they want on their tombstone because it is so important or, rather, is it one that they may want to forget, a few months from now or 2 months from now or even, perish the thought, is it one that perhaps the conferees might forget 2 months from now when we are in conference? Is it worth the candle? Is it worth keeping all their colleagues in here for another 2 or 3 days?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Inouye amendment, No. 2385, which is a second-degree amendment to the Glenn amendment.

Mr. HEINZ. Mr. President, there is an amendment the Senator from Pennsylvania would like to offer which I think would not require a vote. I do not want to interrupt the flow of discussion on this subject, but it would be the suggestion of the Senator from Pennsylvania that those two amendments be temporarily laid aside for not to exceed a time certain; somebody can call for the regular order, in fact at any time so we do not need to establish a time. I see Senator GLENN is on the floor. I do not know if he would object to that request or not.

Mr. GLENN. Mr. President, reserving the right to object, and I do not intend to object, but I would like to ask about how much time the Senator from Pennsylvania thinks this might take.

Mr. HEINZ. Well, the Senator from Pennsylvania does not plan on taking anymore than 10 minutes for his remarks. I know of at least one other Senator that intends to speak, perhaps for a shorter period of time than that. The maximum, I anticipate, and I could be wrong, would be a half-hour, if there was a spirited debate.

Mr. GLENN. The only reason I was asking was not so much on my amendment or the Inouye amendment, as much as I know the leadership is contemplating some things here on the floor and I would not want to bypass the leadership's ability to get back on the floor. That is the reason.

If there could be some guarantee when the leadership arrives that you would be willing to yield the floor at that point.

Mr. HEINZ. I would, under any circumstances. But my understanding is, Mr. President, and I say this to the Senator from Ohio, that the call for regular order would indeed bring us

back to the amendment of the Senator from Ohio.

Mr. LEAHY. Mr. President, reserving the right to object, the Senator from Pennsylvania has suggested this might be an amendment or amendments that would be acceptable.

Mr. HEINZ. No, I did not suggest that.

Mr. LEAHY. Then I misunderstood. I was going to say if it was something that may or may not be accepted—and I say this for all other Senators—I would not want to move on it until the distinguished Senator from Indiana was on the floor. He is also involved in the negotiations trying to bring this to a completion. I would not be in a position to note the acceptance of any amendment without the concurrence of the Senator from Indiana and without him either present or having told me that he would agree.

I mention that because I would protect his interests, as I know he would protect mine in a similar circumstance.

Is, Mr. President, the Senator from Pennsylvania suggesting this may be an amendment debated in the normal course and then subjected either to a voice vote or rollcall vote?

Mr. HEINZ. It may not even come to that.

Mr. LEAHY. I have no objections. I misunderstood the Senator from Pennsylvania. I do not mean to single him out, but just so all Senators would know, I would not concur to an amendment in the absence of the Senator from Indiana.

The PRESIDING OFFICER. The Chair's understanding is the Senator from Pennsylvania has not made his unanimous-consent request yet.

Mr. LEAHY. I yield the floor.

Mr. GLENN. Mr. President, reserving the right to object.

Mr. HEINZ. I have not made the request yet.

The PRESIDING OFFICER. The Chair made the observation that the Senator from Pennsylvania had not made the unanimous-consent request.

Mr. HEINZ. In order to advance the discussion, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object. All I would like to make certain is, when the majority leader comes in, if they wish to propose some matters the Senator will yield the floor for that? Because once the Senator has the floor——

Mr. HEINZ. My answer unequivocally is yes.

Mr. GLENN. Good. I do not object.

The PRESIDING OFFICER. Hearing no objection, the pending business, the Inouye amendment, is temporarily set-aside.

The Senator from Pennsylvania is recognized under a unanimous-consent request.

AMENDMENT NO. 2393

(Purpose: To establish eligibility requirements for agricultural commodity price support programs with respect to the delivery of irrigation water)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2393.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 349, after line 25, add the following new section:

SEC. 1031. INELIGIBILITY OF RECIPIENTS OF FEDERAL IRRIGATION WATER DELIVERED AT LESS THAN FULL COST FOR BENEFITS FROM PRICE AND INCOME SUPPORT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 425. INELIGIBILITY OF RECIPIENTS OF FEDERAL IRRIGATION WATER DELIVERED AT LESS THAN FULL COST FOR BENEFITS FROM PRICE AND INCOME SUPPORT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE.

"(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), and producer to whom irrigation water is delivered in a crop year at less than full cost from a Federal irrigation project shall not be eligible to receive, directly or indirectly, a loan or payment under, or in connection with, any program carried out by the Secretary under this Act, or any other Act, to support the price or adjust the supply of an agricultural commodity for such crop year.

"(b) EXCEPTION.—Subsection (a) shall not apply to—

"(1) a producer who is a member of an Indian tribe;

"(2) a farming operation that is religious or charitable in nature;

"(3) a farming operation that has a total annual farm related net income of $50,000 or less; or

"(4) a producer who receives irrigation water as described in subsection (a) on a supplemental or temporary basis if the amount of water so received amounts to less than 50 percent of the total irrigation water supply that the producer receives (as demonstrated by documentation provided by such producer).

"(c) MEANING OF TERMS.—As used in this section, the terms 'full cost', 'irrigation water', and 'project' have the meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to irrigation water delivered in any crop year beginning after the date of enactment of this Act pursuant to a contract entered into, renewed, modified, or amended before, on, or after the date of enactment of this Act.

(2) MEANING OF TERMS.—As in this section, the terms "irrigation water" and "contract" have the meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).

Mr. HEINZ. Mr. President, this is no minor amendment. It is the so-called double dip amendment that many of my colleagues and I have discussed over several weeks. Indeed, a number of us have introduced legislation last year on this very subject. This amendment is an amendment to title X of the farm bill. It is an amendment which would prohibit farmers from participating in price and income support programs administered by the Department of Agriculture if they also receive irrigation water from Federal projects at subsidized rates.

Let me continue to explain this amendment. The amendment, Mr. President, is designed to achieve five objectives.

The first is to reconcile farm and reclamation policies which are currently in conflict.

The second is to reduce the budget deficit.

The third is to restore equity among farmers.

The fourth is to achieve an important increment of additional environmental protection.

And the fifth is to foster the efficient allocation of a scarce resource—water—which in some areas is an exceedingly scarce resource indeed. What I am talking about is that on the one hand the Bureau of Reclamation of the Department of the Interior spends a very large amount of the taxpayer's money each year to provide below-cost water to select farmers so they can grow more crops, including crops that are now in surplus; program crops. On the other hand, USDA spends even more of the taxpayer's money paying farmers to retire 45 million acres of cropland because of price-depressing surpluses. Talk about harmonization? That is the opposite.

Between one-third and one-half of the 10 million acres served by the Bureau of Reclamation and its projects typically are used to grow surplus crops; between a third and a half. Indeed, the U.S. Department of Agriculture officials, not me, they, estimate that in 1986 alone it spent some $379 million on commodity payments to farmers who use subsidized reclamation water to grow surplus crops.

That is a double subsidy, Mr. President, and it is akin—as one of our Members, Senator HARKIN of Iowa has remarked—to "driving with one foot on the accelerator and the other foot on the brakes."

Under this amendment, affected farmers would have the flexibility to choose which subsidy they want to receive. We do not say they cannot grow

program crops. We just say you have to be a single dipper. You cannot be a double dipper. So, if a farmer wants to maintain his eligibility for price and income supports, then that farmer would renegotiate his water contract—which, by the way, he has authority to do under the law—to pay full cost rates.

If the farmer in question wants the water subsidy, he can get that and he can switch his production to nonprogram crops or he can continue to grow program crops—without USDA price and income supports.

So, this amendment, I repeat, does not prevent any farmer from growing program crops with below-cost water. Such a farmer simply would lose his eligibility for commodity payments. Again, a single dip, not a double dip.

In order to make this amendment as fair and as clean and clear as possible, the amendment has some exemptions in it. First, we exempt Indian tribes. Second, we exempt religious and charitable organizations. Third, we exempt small farmers who use reclamation water. "Small" is defined as those farmers whose net annual farm income is $50,000 or less. That farmer is exempted.

So we think we are targeting the amendment on the big businesses that have a lot of money and are getting double support at the taxpayer's expenses.

Let me observe that the irrigation subsidy we are talking about is enormous. The Department of Interior estimates that the total subsidy that we have conferred through the Bureau of Reclamation is about $10 billion, form inception to 1986—$9.8 billion, more precisely. The subsidy, as recently as 1986—that is the last year we really have good data for—was a total of $534 million.

On a per-acre basis, that cumulative irrigation subsidy is $995 per acre. In 1986 it was $54. Those are all very large numbers when we consider that some, indeed a good deal of that acreage, is used to produce surplus crops.

I might add, Mr. President, that these estimates are viewed as very conservtive by most people. An Interior Department economist, Richard Wahl, recently wrote the definitive study of these subsidies while on leave to Resources for the Future. Wahl estimated the total irrigation subsidy was not $9 billion but somewhere between $19 and $19.7 billion, about twice. Even that estimate is conservative because it does not count pumping and other costs.

Subsidized irrigation water confers major benefits to reclamation farmers that other farmers simply do not enjoy. First and foremost, yields tend to be much greater on a per-acre basis. For example, the average wheat crop in Fresno County, in California's Central Valley, is 80 bushels per acre. In De Kalb County, IL, the average wheat yield is 50 bushels per acre, and across Alabama—I note the President Officer at this moment is the distinguished junior Senator from Alabama—is 30 bushels per acre.

I might add that crop insurance rates are often much lower, due to the guaranteed availability of irrigation and federally subsidized water. And reclamation projects provide farmers with greater flexibility in choosing which crops they want to grow.

A relatively small proportion of farmer and farm acreage in the West receives subsidized irrigation water.

For those farmers who do receive the water, the Federal taxpayer subsidy averages about 85 percent of the cost of the water. Most western farmers—and the rest of the Nation's farmers—receive no comparable subsidy whatsoever.

This subsidy provides a considerable comparative advantage to reclamation farmers, which has hurt farmers elsewhere.

It is rather ironic to go back and read the CONGRESSIONAL RECORD over the years because concern over this comparative advantage dates back to the very beginning of Federal reclamation.

During debate on the Reclamation Act of 1902, Wyoming Senator Franklin Mondell assured Senators from the Midwest and the South that "no cotton and little corn is grown on irrigated lands in the West, or ever will be."

Nonetheless, just between 1944 and 1964, the Bureau of Reclamation's "go-go" years, cotton acreage in the South declined by 33 percent, or one-third, while Bureau of Reclamation cotton acreage increased by 300 percent. Bean acreage in the South, the North, and the unirrigated West declined while bean acreage on Bureau-irrigated land doubled. Prof. Charles W. Howe, formerly of Resources for the Future, and Prof. K. William Easter, a former Bureau of the Budget economist, have estimated that reclamation has probably displaced 5 to 18 million farmland acres elsewhere.

Some of it is in the West, not benefiting from subsidized water, and the rest in other parts of the country.

Mr. President, our farm and reclamation policies—cheap water and guaranteed markets—also foster environmental degradation. Increased agricultural activity made possible by reclamation has contributed to a number of serious water supply and quality problems, including the accumulation of salts, trace elements, pesticides, herbicides, and heavy metals; ground water contamination; and degraded fish and wildlife resources.

Used irrigation water is heavily salinized. If soil conditions—impermeable clay near the root zone, for instance—prevent deep percolation, such water must be drained. The toxicity of this potent brew should not be underestimated. Used irrigation water from just 8,000 acres in the Westlands Water District, for instance, was conveyed via the San Luis Drain into the Kesterson National Wildlife Refuge near Los Banos, CA, until 1983. At that point, the bio-accumulation of the trace element selenium reached toxic levels and caused widespread nesting failures and deformities in Kesterson's waterfowl. As a result, the Interior Department was forced to close Kesterson because of these environmental harms. So we have mismanagement of water actually poisoning a national wildlife refuge.

Kesterson is just one example. The Yuma, AZ Desalinization Plant provides another example. Farmers along the Colorado pay about $3.50 for an acre-foot of water. That is, of course, the amount of water necessary to cover one level acre to the depth of one foot, or 326,900 gallons. Return flows of that irrigation water are heavily salinized. In fact, water just above the United States-Mexican border is loaded with so much salt, we would violate a treaty agreement to allow it into Mexico. So, for some $300 million, we are building the Yuma Desalinization Plant. Once the plant is operational, it will desalinize water in a fashion sufficient to meet our treaty obligations—at a price of some $350 per acre-foot.

Mind you, this is water the farmers are paying $3.50 per acre-foot to obtain. The taxpayers are picking up 100 times that amount after that water has been used. That does not even take into account what it costs the Federal Government to divert, store, and provide the water in the first place. If you have ever seen the Glen Canyon Dam, it is a very impressive as well as expensive piece of engineering work.

Our amendment will promote water conservation and more cost-efficient use. Regardless of which subsidy the farmers choose they will have the incentives that they do not now have to reduce their inputs, particularly water.

Mr. President, I have no doubt that some reclamation State Senators will claim this amendment is antiwest. Nothing could be further from the truth. This amendment will promote economically efficient allocation of a scarce resource to the benefit of the West.

But I suspect Mark Twain was right when he allegedly observed that, out West, "whiskey's for drinkin' and water's for fightin' over." Those fights are going to become increasingly bitter as the demographics and economies of Western States change, and as the 2-year-old drought intensifies. As big as agriculture is in California—and the farm bounty of that State is truly re-

markable—it accounts for less than 3 percent of California's gross State product, according to the Federal Reserve Bank of San Francisco. Yet, agriculture accounts for 85 percent of all of the State's water use. In Colorado, the alfalfa crop uses 27 percent of the State's water but contributes just $160 million to the gross State product. In contrast, tourism in Colorado takes a tiny fraction of that water but contributes $2 to $3 billion annually to the economy. As Marc Reisner, author of "Cadillac Desert," notes, "tourists prefer their water in roaring mountain streams, not on boring alfalfa fields." Similar patterns prevail throughout the West.

The irrigation features of Bureau of Reclamation projects effectively promoted settlement west of the 100th meridian. They were appropriate for their day. Today, reclamation States have rapidly growing urban centers, manufacturing, and high technology—and waning dependence on natural resource-based extractive industries. The States currently most dependent on agriculture as a share of gross State product are South Dakota and North Dakota at 17.8 and 15.5 percent, respectively. But Bureau of Reclamation-irrigated acreage accounts for less than 1 percent of the land in farms in each of these states. That is why I say it is time to recognize the new economics regarding water allocation and use. It is time to change the Bureau of Reclamation's mission.

And, Mr. President, it is, above all, time to end the double subsidy. I urge my colleagues to vote from this commonsense amendment to lower farm program costs, increase water conservation, and restore rationality and public confidence in our farm and reclamation programs.

Mr. President, I ask unanimous consent that Senator KOHL be listed as an original cosponsor.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I would like to associate myself closely with the remarks of the Senator from Pennsylvania.

Mr. President, I am pleased to be offering this amendment along with my distinguished colleague from Pennsylvania, Senator HEINZ.

Mr. President, we have often heard people say that the Government gives with one hand, and takes away with the other. Many farmers in the West, however, have the best of both worlds. To these farmers, the Government gives with one hand, and gives again with the other hand. Uncle Sam just keeps on giving.

While many farmers across the country are struggling just to get by, or not getting by at all, a relatively small number of farm operations in a few States are receiving an outrageous double subsidy from the American taxpayers. Federal programs all but ensure that these farm operations will not only survive, but profit quite handsomely. It is a generous insurance program for a limited number of farm operations, and the American people are paying the expensive premiums.

Here is how it works: A select number of farmers have the good fortune of owning land which is hooked up to Federal reclamation projects. They receive irrigated water for only a small fraction of its true cost. The American taxpayers, from Maine to California, pay the balance.

Then, many of these same farmers turn around and sign up for USDA price and income support programs. The Department of Agriculture uses target prices, crop loans, and set-aside programs to stabilize farm prices and farmers' incomes. But each year, hundreds of millions of taxpayer dollars are spent on commodity payments to farmers who grow surplus crops with federally subsidized water from the Bureau of Reclamation. Nearly half—as much as 45 percent—of all lands getting subsidized water are used to grow subsidized crops. In other words, we are paying twice: first to help grow the crops, then again to support their prices or keep them off the market.

We have all heard outrageous stories about Government waste, but I think this situation represents the height of absurdity. An editorial in the Washington Post over a year ago summed it up very well, saying "A man from Mars to whom you tried to explain the system might not understand." I certainly do not understand, and I doubt that most Americans would understand.

Why are we giving with one hand, and giving again with the other? And why are not the left hand and the right hand even talking to each other? Is this the same Federal Government that has an enormous fiscal deficit—the same deficit we are trying to reduce by eliminating wasteful and duplicative Federal programs?

Clearly, not growing these crops in the first place would save us all a lot of money. But we are not asking for that. We are just asking that the taxpayers not get hit twice for the same crops. Some estimates show that we are wasting over $830 million a year on water subsidies for program crops. And in 1986, the USDA estimated that we spent slightly less, about $730 million, on support payments for crops grown with subsidized Federal water. It is pretty clear that eliminating the double subsidy could save the Treasury hundreds of millions of dollars annually. That is a substantial savings, and I think it is time to stop the double dipping.

The American people want Congress to reduce Government waste, and this amendment gives the Senate an opportunity to do just that. This amendment has the strong support of the National Taxpayers Union, and Citizens Against Government Waste.

But this is not just a matter of Federal dollars. A vote for this amendment is also a vote for the environment, and that is why the amendment is strongly supported by the National Wildlife Federation, the Natural Resources Defense Council, and other environmental organizations throughout the country.

The double subsidy situation invites farmers to waste water. When water is given away at bargain basement prices, and when Government programs provide a guaranteed market and price for certain crops, the result is wasted water. There is absolutely no incentive for farmers to make sensible business decisions. We're telling these farmers: Help yourself to the water, take as much as you want, and increase production regardless of what the market will bear. Meanwhile, wasted water literally goes down the drain.

Make no mistake about it: there are serious environmnental costs associated with the wasteful use of water, a precious and limited commodity in this country. When water is diverted for agricultural purposes, natural ecosystems around rivers and streams can be permanently damaged. In addition, wasteful water practices result in excess agricultural runoff, causing toxic contamination in nearby soil, groundwater, and wetlands.

And finally, this double subsidy represents a grave inequity to the vast majority of farmers in this country who are not entitled to such favorable treatment. Most of the Nation's farmers, and the majority of farmers in every single State, are unfairly disadvantaged by the double subsidies which accrue to a small number of well-placed competitors. Even in the States with Bureau of Reclamation projects, a lucky few benefit at the expense of the many.

And in States where there are no reclamation projects, the competitive disadvantage is even more acute. Farms receiving the double subsidy can grow cheap alfalfa for their expensive dairy herds, aggravating the dairy surplus and hurting dairy farmers in Wisconsin and other dairy States. Wheat and cottom farmers in the South and Midwest are disadvantaged by the intensive production of those crops on reclamation land, which has the advantage of steady and abundant water supplies, unaffected by nature's whims.

Our amendment simply tells large farm operations receiving Federal reclamation water that they can't have it both ways. They can keep getting

cheap water, or they can get commodity payments from USDA, but they cannot have both. It is a simple amendment, and it is a sensible amendment.

I urge my colleagues to support sound fiscal policy, sound environmental policy, and a consistent national farm policy which is fair to everyone.

Let me say that Senator BRADLEY is going to hold hearings next week on this issue. I think they will be very important and constructive hearings. I am looking forward to being there and making a contribution at that time.

Thank you very much, Mr. President.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise to oppose the amendment offered by the Senator from Pennsylvania. This proposition has been suggested and kicked around for a long, long time. I hope that we are not going to drag this debate out to any great length here tonight because I suspect and predict for one reason, in one manner or another, the amendment offered by the Senator from Pennsylvania will not be adopted.

I oppose the amendment, first, because it has drastic regional implications and; second, because I have the feeling it was not very well thought out.

The proposal essentially forces farmers in drier Western States to choose between farm program participation or Bureau of Reclamation water. This is simply patently unfair. The Bureau of Reclamation projects were built, Mr. President, to increase our food security and to help with the development and prosperity of the West. They have helped with that goal and we have thriving communities and regions that depend on them and would not be thriving otherwise.

This amendment pulls the rug out from under those communities; perhaps a better description is that it cuts them off at the knees. This amendment would not only devastate some farmers, it would wreck havoc on some counties and communities, if not some States. Schools and hospitals and roads and the basic services of the communities that have grown up around reclamation projects would be devastated.

Aside from these very real, very personal concerns, the amendment should be defeated for a couple of more technical or academic reasons. The first is our farm programs. In an effort to maintain their eligibility for reclamation waters, some farmers may be forced to opt out of Federal farm programs. When farmers opt of the farm program, they are generally forced to plant fence row to fence row. That limits the effectiveness of our production adjustment programs and leads to lower prices and eventually very likely bankruptcy for many.

Another option would be for farmers to switch from Bureau-supplied surface water to ground water. This option would further exacerbate ground water depreciation programs as additional wells are sunk to replace surface water.

Mr. President, those are just a brief summary of many of the reasons that I think this amendment, while probably very well intended by the author, simply does not make sense to those of us who live in the Midwest and the West. I urge may colleagues to oppose this amendment.

Mr. BURDICK. Will the Senator yield?

Mr. EXON. I am happy to yield.

Mr. BURDICK. Is it not a fact that our agricultural production is the envy of the world?

Mr. EXON. There is not a question.

Mr. BURDICK. Is it not a fact that the water supply we have in this country is responsible for that result?

Mr. EXON. The Senator is correct.

Mr. President, I yield the floor.

Mr. GORTON. Mr. President, in 1902, when the Water Reclamation Act was passed, and more recently, in the 1950's, when the Columbia Basin Irrigation District was developed in Washington State, the Federal Government made a promise to settlers of the Western United States. That promise was that the Government would provide long-term surface water supplies at a reasonable cost to those settlers. The amendment offered by Senator HEINZ would break this promise. For that reason, I must oppose this amendment.

But that is not the only reason that I oppose this amendment. I also oppose this amendment because clearly, irrigating with subsidized water and receiving USDA commodity program benefits are very different issues. Subsidized irrigation water is, in no way, a direct payment to the farmer. This subsidy is that portion of irrigation system development costs allocated to hydroelectric revenues or to the public treasury, for the construction of the irrigation project. This public water supply simply provides the opportunity for individuals to farm.

Mr. President, under this amendment, farmers served by subsidized Bureau of Reclamation water would be ineligible for participation in Government commodity programs. The author of the bill contends that the Government is providing subsidized water to farmers in the West to grow subsidized crops that are in surplus.

Don't be fooled by the appeal of what at first glance appears to be the elimination of a double subsidy. The truth is, this amendment would do little to reduce Government subsidies as only 8 percent of the farmers in the West are users of subsidized water. But this amendment would subject farmers in Washington State and throughout the West to undue financial hardship. The average family farmer will pay in excess of $186 per acre if this amendment is adopted. Already faced with marginal profits, this added cost could force farmers to opt out of commodity programs, or worse, out of business.

Should this amendment force farmers out of Federal farm programs, it will have an adverse impact on the environment. No longer having to concern themselves with conservation compliance plans or environmentally sound farming practices, producers will disregard conservation measures to protect the earth and pour on chemicals to increase their yields. This damage to the environment is far greater than the savings Government might realize.

Mr. President, proponents of this amendment criticize concurrent water and farm subsidy programs maintaining that the two programs are working at cross-purposes. While I agree that these programs may be linked, they are not contradictory. Rather, I believe they serve separate, distinct, and complementary public purposes.

The Reclamation Program was established long ago to develop the West. Clearly, it has met that objective. Now, it serves the important function of maintaining viable, productive rural areas. I believe it meets this goal, as well. From an initial investment of $9 billion, $5.4 billion of which was for irrigation facilities, reclamation projects today generate almost $20 billion in economic activity every year and have led to over 800,000 new jobs.

Farm programs, too, are working. Farm programs were created to provide stability to an industry which is both fundamentally important to our Nation's health and security but also extremely risky. Farm programs benefit both the farmer and the consumer by evening out price swings and ensuring a safe, abundant food supply. Additionally, farm commodity policy is linked to other high priorities for the Nation—the preservation of our natural resources, the role of the United States in world trade, and assistance for the needy at home and abroad. Our farm programs have achieved all of these goals.

Although the Bureau of Reclamation and the farm programs were created for different purposes, they have worked well together. Reclamation projects have helped make the West the most productive farm region in the world, and farm programs have maintained stability in a volatile world market.

Mr. President, we cannot force farmers in the West to choose between two programs necessary for their exist-

ence. For the sake of the family farmer, I urge my colleagues to vote against this amendment.

DOUBLE SUBSIDY AMENDMENT

● Mr. WALLOP. Mr. President, I oppose this amendment not only because it would cause great harm to Wyoming farmers but because it is simply a bad idea.

This proposal would be more harmful to small farmers than to large farmers. Small farmers have less borrowing power and would find it harder to purchase new equipment and obtain the expertise to switch to an alternative crop. Moreover, the cost of administering the bill, when combined with negative impacts on local and regional economies, would cancel any extra revenues to the Federal Treasury.

The idea behind this bill may seem compelling. Why should not farmers pay the actual cost for their water? Why should we provide subsidized water to farmers growing surplus crops? The answers to these questions appear simple and obvious. Unfortunately, as we often find in these and many other legislative proposals, oversimplified reasoning does not work as we expect in a complex world.

We tend to be reluctant to question our cherished beliefs in these matters, but I believe we owe it to the farmers whose livelihoods we are manipulating to examine the facts closely. To those theoreticians who frequently and predictably churn out their high-minded proposals, I would like to point out some basic and perhaps mundane truths.

First, most of the statements and bills related to reclamation subsidies freely use the term "full cost." The underlying assumption of the authors seems to be that full cost represents the actual cost to the taxpayer of providing water to the farmer; and that the difference between the full cost of water and whatever the farmer is paying is a subsidy picked up by the U.S. Government. It may surprise a lot of people to learn that isn't true.

"Full cost" is a term that was defined by Congress in the Reclamation Reform Act; that act gave two different formulas for calculating full cost. Neither of these formulas takes into consideration the revenues from hydropower on reclamation projects. This is important because it means the Federal Government is not picking up all of the difference between the regular water rates and full cost rates in most cases. In fact, if all farmers on reclamation projects paid the full cost water rate, the United States would be getting paid twice for some of the costs allocated to irrigation—once by the water users and again by the power users.

A frequently overlooked fact about reclamation subsidies in general is that those subsidies are largely capitalized into the value of the land. To illustrate this concept let's take an example of a parallel situation to which we can all relate—real estate prices in cities. We all know or have heard about cases where properties that may be across the street from each other, but which are separated by a city boundary, have widely divergent values. This disparity in property values can often be explained by the different tax rates in the two cities. Other things being equal, the property with the higher tax rate will have a lower value to the knowledgable buyer.

A similar concept applies to irrigated farm land. An irrigated farm that has an expensive water assessment will have a lower per acre value than a farm down the road that has a cheaper source of water. If a reclamation project provides a low-cost water supply, then you can bet that a farmer trying to buy that land is going to have to pay dearly for it. In effect, and I cannot emphasize this point too strongly, the farmer pays for the subsidy when he buys the land. An economist can tell you that a farmer on a reclamation project with a low-cost water supply may not be any better off than a farmer on similar land outside the project. The farmer on the project had to pay more for his land, and is probably paying higher property taxes to boot.

Now some of this may sound a little incongruous. Am I saying that the Federal investment in a reclamation project does not benefit the farmers? No. What I am saying is that the person who received most of the benefit from the Federal investment was the person who owned the land at the time the project was built. This concept is the basis for the excess land laws that Congress passed beginning with the original Reclamation Act of 1902. Those laws said to the owners of land on which reclamation projects were to be built, you may reap the benefits of the Federal subsidy by selling up to 160 acres, but the Government will restrict the price of any land you sell over that acreage. Of course, with the passage of the Reclamation Reform Act in 1982, that 160-acre limit was raised to 960 acres.

The bottom line here is that most reclamation farmers are not benefiting from taxpayer subsidies to the extent we may think they are.

Next, I want to talk about actual full-cost water rates. On some reclamation projects—generally the older projects—full-cost rates aren't much different from the regular rates. This is true mainly for the simple reason that reclamation projects were a lot less expensive to build in the first half of this century than they have been in the latter half.

And a substantial number of reclamation water districts have paid out; that is, they have completely paid off their contractual obligations to the United States. In those cases, the term "full cost," as defined in the Reclamation Reform Act, is meaningless.

In these older and paid out districts, imposition of full-cost water rates simply will not have a major impact. This should be an important consideration for those who would try to influence farmers' behavior through the imposition of full-cost rates.

At the other end of the spectrum from the older and paid out districts are the more recent projects where, in some cases, full-cost rates are extremely high. Some examples of these are the Chief Joseph Dam project in the State of Washington, where full-cost rates reach as high as $900 per acre; the Central Arizona project, where full-cost rates reach $225 per acre-foot; and the North Loup unit in Nebraska, where full-cost rates reach $780 per acre.

Those of us familiar with the farming business can plainly see that these water rates are absolutely prohibitive to profitable farming. In many cases the assessment for the reclamation project occurs whether or not the farmer uses the project water. So a farmer subjected to these prohibitive rates could not pay them—he would simply quit farming. Under some of the proposed bills I have seen invoking full-cost water rates, whole farming communities would be simply wiped out.

In conclusion, I believe this amendment on farm and water subsidies is ruinous and ineffectual and I strongly oppose it, Mr. President.●

Mr. McCAIN. Mr. President, I rise in strong opposition to the Heinz amendment. This proposal bars farmers from receiving subsidized reclamation project water if they also participate in commodity programs. It will hurt literally thousands of our Nation's most efficient farmers at a time when they are just getting back on their feet. It will also threaten the financial viability of rural communities and irrigation districts, destabilize the price and supply of commodities, and reduce the number of farmers who abide by important environmental and conservation practices.

Farmers in my State simply cannot afford to pay $250 per acre foot for reclamation water, which is the full cost. The price of water to Arizona farmers under the conditions of this amendment would increase tremendously, perhaps by as much as 1,000 percent. This would devastate family farmers who have made investments in their land, equipment, and buildings based upon current water costs.

The value of their farmland would plummet as the cost of the water they depend upon skyrockets. The income-producing capability of farms in reclamation project areas would be greatly

reduced, thereby immediately and drastically devaluing the investment a farmer may have put into his land over a lifetime of labor. If we seek to protect the proud legacy of hard work and unparalleled efficiency that generations of American farmers have bestowed upon this Nation, this amendment must be rejected.

Let me address the claim by the sponsors of this amendment that farmers who are using reclamation water, and also participate in commodity programs, are unjustly benefiting from a double subsidy. Mr. President, this claim disregards the fact that farmers in my State have paid for a significant portion of reclamation projects. Arizona farmers funded 20 percent of the water delivery systems from the Central Arizona project in cost-sharing agreements with the Federal Government, and their contribution totaled over $59 million.

The Arizona farmers irrigating their land with CAP water are using water they helped pay for, and like the farmers, the Federal Government should be expected to abide by existing water contracts they agreed to in good faith. As a matter of both conscience and sound agricultural policy, we must not act rashly by singling these farmers out for exclusion from commodity programs.

Furthermore, it is erroneous to assert that farmers in my State are somehow encouraged by subsidized water to produce surplus crops. This is simply not the case. The primary program commodity grown in Arizona is cotton, and Arizona's cotton growers can take great pride in having the highest yeild per acre in the entire country. Currently, the carryover level of cotton stocks in the United States is 3 million bales, which will be completely used up by manufacturers, the textile industry, and exports. In the last 4 years, 29 million bales of cotton have entered the USDA's loan program, and less than 1 percent has been forfeited to the Government. This is not a program in need of major repair, and the Congress should refrain from rushing in and dismantling it by passing this amendment.

Mr. President, I believe this attempt to restrict the participation in commodity programs of farmers in Arizona and many other States using reclamation project water is misguided. In addition to the fact that farmers in my State helped pay for the reclamation water they use, the cost of reclamation projects needs to be placed into a proper context. During this debate let us make sure to consider the benefits to taxpayers and the Federal Treasury created by reclamation projects. Let us also note the comparative cost of payments to farmers who don't depend on reclamation water to support their families and their farm operations.

First, let me address the substantial economic activity and tax revenues attributed to reclamation projects. A extensive study by the Miliken Research Group in Denver estimated economic activity and tax receipts from completed reclamation projects through 1987, at over $50 billion. Compare this to the Bureau of Reclamation report that the total cost of all completed irrigation projects from 1902 through 1986, is $5.4 billion.

Second, I would like to remind my colleagues that our Nation's entire investment in Federal irrigation projects is less than the $5.7 billion paid out by the USDA for drought relief in 1987-88 alone. Most of this massive aid was paid to farmers in nonreclamation areas, as well. It would be cynical, I believe, to assert that the farmers receiving drought relief aid were unfairly benefiting from an additional and unwarranted taxpayer subsidy. It is equally unfair to assert that farmers in my State and many others should be penalized because they use reclamation water and participate in commodity programs.

Mr. President, the sponsors of this amendment have chosen to target a fairly small, but highly productive sector of America's farm industry for possible program exclusion. In my State, known for its abundant and high-quality cotton, $464 million of program crops were produced in 1988, yet only 4 percent of Arizona farm income came from income supports. Clearly this is not an industry that is being overserved by agricultural subsidies.

Of all the farm program crop acreage in the United States, only 2.3 percent is served by reclamation project water. If this body is looking for reasonable and effective means to reduce the cost of agricultural programs to the American taxpayer—as I believe we should—this proposal does not fit the bill. This amendment is not only unfair, but it advertises itself as a necessary and cost-effective reform in U.S. agricultural policy.

It is important also for us to remember the basis for our commodity programs. Federal loans and price supports were established not only to assure farmers of an adequate income, but also to help maintain a stable food supply and prevent massive commodity surpluses or shortages. In an industry whose very nature involves volatile prices, unpredictable weather, and competition from heavily subsidized foreign producers, I think this is an appropriate policy.

The Agri-Business Council of Arizona has estimated that 420,000 acres of farmland might be retired from production if this amendment passes. If these farmers somehow manage to stay in business while paying full cost for the water they depend on, they will then be producing large amounts of commodities outside of Federal supply and conservation requirements. I ask my colleagues, "What will be the impact of this uncontrolled production on prices, domestic and export markets, and the environment?" The answer can only be "We really don't know."

The impact of this legislation in rural America will certainly be severe. It is expected that the Arizona economy would lose several hundred million dollars per year, agriculture-dependent business will surely fail, and rural counties will face declining tax revenues as farm receipts decline. The damage this amendment will inflict upon California, Idaho, Colorado, and other Western States will be similar.

I suggest that farmers and rural communities will feel not a slight economic ripple effect, but a wave of financial uncertainty and disruption.

It is likely that the passage of the Heinz amendment may end up costing American taxpayers in other ways, as well. In addition to the devastating effect on farmers in my State, the Arizona irrigation districts using reclamation water will have a difficult time repaying the Federal Government for the Central Arizona Project. Currently over $235 million is owed by Arizona irrigation districts. Also in jeopardy will be the nearly $60 million owed to private bondholders for construction of water delivery systems. The list of damaging economic effects is extensive, but I think it is clear that the ramifications of this proposal are far-reaching and not fully recognized by its sponsors. This amendment involves issues beyond that of farm subsidies and reclamation projects, and it will have real world effects on farmers and rural America that cannot be properly considered here today.

The concerns about participation in commodity programs and reclamation subsidies merits an exhaustive review. I ask my colleagues not to support such a potentially damaging measure before it has been thoroughly evaluated by the Agriculture Committee.

Mr. President, in considering the 1990 farm bill, we are at an important junction in American agricultural history. America's farmers have strongly rebounded from the crisis of the mid-1980's. Farm income is at record levels, exports are increasing, and important environmental protections have been instituted. The cost of farm programs to taxpayers has been reduced by more than half. As a nation we are blessed with the most productive farm sector in the history of world, and many of us take for granted our low-cost food supply that is abundant, stable, and safe. We must not now pull the rug out from under the feet of thousands of farmers and the communities they sustain by adopting this

amendment. I strongly urge my colleagues to vote against it.

Mr. LUGAR. Mr. President, I appreciate as always the diligence of the distinguished Senator from Pennsylvania and his argument this evening. As the Senator knows, earlier in this debate on both sides of the aisle we were pleased to accept an amendment which provided a study of this general issue. The Senator in this amendment pursues the situation beyond the study to an actual cutoff of the water. That is a substantial difference and it is one that in the judgment at least of this Senator is not going to be supported by a majority of Senators this evening, although it is an interesting idea and it is one that we ought to pursue I am certain in terms of philosophy of resources in the country.

I just simply want to indicate at least that I would not be prepared to support the amendment for reasons I think the Senator knows from conversations we have had. I appreciate his contribution, but I am hopeful that at some point the amendment might be withdrawn.

Mr. HEINZ. Mr. President, if the Senator from Indiana will yield—and I do appreciate his concern about the amendment—I have two points of clarification, both in answer to his and Senator EXON's earlier remarks.

As I thought I had made clear, this amendment forces a choice, but it does not force anybody who chooses to remain in the farm program to give up water. It simply forces them to give up the subsidy of water that is reclamation water. So if anybody is under the misunderstanding that in Nebraska somebody who decided they wanted to stay in the farm program was going to be cut off from water, that would be totally inaccurate and not at all correct. But somebody who made that choice would have to pay the difference between the subsidized price, which on average is about 15 percent, and total cost and make up that difference by renegotiating his or her water contract.

A point of further clarification regarding the amendment that the committee was kind enough to accept earlier today, the study amendment. It deals with a very different subject, although it does deal with reclamation water.

This amendment is linked only to program crops. The study amendment asks the U.S. Department of Agriculture to study the effect of reclamation subsidies on overproduction in dairy. Dairy is not what we commonly think of, as I know the Senator from Indiana knows, as a program crop—although there is a price support program. There is an intermediate step.

The study concerns alfalfa, hay, pasture and—the forage often raised with subsidized water, and then fed to the cows. So I just wanted to make that clarification, and I do appreciate the Senator's comments.

Mr. BRADLEY. Mr. President, I know the distinguished Senator from Pennsylvania has a deep interest in the problem of subsidies, and I think his idea does have some merit. I think that he has offered an amendment that is clearly one that needs to be considered thoroughly. The issue needs to be aired. Everyone has to understand what the impact of such a choice would be, not only on very large farmers but also on small farmers in many States in this country.

I would say to the Senator that I think it has some merit. I am sympathetic to it. I also would like to tell him that the Energy Committee will be holding a hearing on this subject, reclamation law and the Reclamation Reform Act, next Tuesday. I would hope that we could explore this in that hearing. I think that if a record could be built relating to this subject, it would probably give him information he might now have now. He is certainly welcome to come to testify.

I wonder if the Senator would consider withdrawing the amendment until we can actually have a better view of it through the hearing process.

Mr. HEINZ. Mr. President, if the Senator will yield for a question, could the Senator from New Jersey indicate what he thinks might occur subsequent to his hearings? Is the hearing going to be it, or does the Senator from New Jersey anticipate that there will be a vehicle on which either he or other Senators, including myself, can pursue this subject?

Mr. BRADLEY. There will always be vehicles in the Senate for ingenious amendments and amendments that are of value to the country. It would be my hope that we are holding a hearing on reclamation reforms so that we might actually move something ahead.

I hope we will be able to move something ahead before we adjourn this year.

Mr. HEINZ. Is there a particular measure that the Senator hopes to move, or are there going to be specific measures that the Senator will be holding hearings on?

For example, last year, Senator HARKIN and I introduced S. 1032, which is substantively quite similar to this amendment. Would that be the subject of the Senator's hearings?

Mr. BRADLEY. We will be holding hearings on reclamation reform, and one aspect of that will be the registering of double subsidies and surplus crops.

Mr. HEINZ. The Senator from Pennsylvania also intends to introduce a more comprehensive bill tomorrow, which will be I understand refereed to the Energy and Natural Resources Committee and will deal with reclamation.

Will that bill be an appropriate subject for hearings as well?

Mr. BRADLEY. It certainly would be an appropriate subject for hearings. I will expect to arrange to have a hearing on the Senator's bill.

Mr. HEINZ. Mr. President, that is a very attractive offer the Senator from New Jersey has made. I am going to accept it because it is a good offer. We all know that it is desirable to have a full hearing on this issue.

I will be the first to admit that since the Senator from Indiana has indicated that he cannot support this amendment, even though he may be sympathetic to its nature, and since I know there are Members like the Senator from New Jersey who for jurisdictional reasons are going to have reservations, plus some Senators from the West who may, I fervently believe, not understand how modest the amendment is but would nonetheless be inclined to oppose it.

I am going to accept his offer in just a moment, and I will withdraw the amendment. But I want to correct something—not anything he said—but I want to correct one other misimpression about way this amendment, which may cause some farmers to pay full-price rates for their water, will not by any means bankrupt them.

I ask unanimous consent to put that explanation in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Richard Wahl, an economist with the Interior Department's Office of Policy Analysis, has studied the "ability-to-pay" issue extensively. He examined what price irrigators actually pay for land with a Federal water supply when the land is resold. He determined that the difference in land values with and without a Federal water supply serves as a functioning market test of irrigators' actual willingness and ability to pay for project water.

In all of the 18 districts Wahl examined, irrigators have an actual willingness to pay more for project water than they are obligated to pay. He determined that the ratios of willingness to pay range from 1.5 to 51 times the repayment to the Federal Government.

In 7 of the 18 districts, the irrigators' demonstrated willingness to pay for water actually exceed the full financial cost allocated to irrigation, including past and future interest. On these 7 projects, willingness to pay ranges from 1.1 to 4.6 times full cost, indicating that these projects likely would have been viable under private development even without the various water subsidies provided by the Federal Government.

What we can conclude from Wahl's authoritative analysis is that farmers just about everywhere can pay more for their water than they are currently paying. More importantly, in several irrigation districts—perhaps 40 percent, perhaps even more—farmers can afford to pay full cost for their water and are willing to do so. They can renegotiate their water contracts, if they so desire, and stay in commodity programs.

If farmers pay more for their water, they'll conserve it. And before we shed too many tears for these farmers, let us remember the tremendous yields of irrigated cropland. While Bureau of Reclamation acreage represents less than 1 percent of all land in farms, it accounts for 7.5 percent of the value of crop production.

For those farmers unable to pay full cost water prices, the amendment does not prohibit them from growing program crops; they simply are ineligible for price and income supports. Or they can grow nonprogram crops. In either instance they are likely to reduce their water consumption, which is good for them (they pay for water actually delivered) and good for the environment. In the first, they'll strive to lower inputs and increase efficiency. In the second, the crops they shift to will be less water-consumptive.

Once again, their per acre yields will continue to be considerably higher than their dry-land competitors' yields.

Mr. HEINZ. Mr. President, I ask unanimous consent to have printed in the RECORD two studies. One is from the National Wildlife Federation, and is entitled "Irrigation Subsidies and Surplus Crops," by Dr. David C. Campbell. The second is from Resources for the Future, Inc., by Charles W. Howe and K. William Easter, and is entitled "Interbasin Transfers of Water; Economic Issues and Impacts."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERBASIN TRANSFERS OF WATER—ECONOMIC ISSUES AND IMPACTS

(By Charles W. Howe and K. William Easter)

INDIRECT COSTS: THE LONG-RUN IMPACTS OF EXPANDING IRRIGATION ON OTHER REGIONS

The preceding chapter developed measures of the direct construction costs of interbasin transfers, some of the opportunity costs of the water involved, and operating and maintenance costs. In this chapter we examine still another type of cost.

It was argued earlier that most of the water from a large interbasin transfer will have to be used by agriculture. It appears very likely that, even when a project is undertaken to rescue a region with a failing water supply, some of the water will be tapped for the expansion of agriculture along the diversion route. There is nothing inherently wrong in this from an economic viewpoint, but an increase in agricultural output will have direct and indirect impacts on the welfare of other regions through the displacement of production and on the nation as a whole through its effects on the federally financed farm programs. The net benefits of this new agriculture from a national viewpoint will be diminished if the displacement of agricultural production in other regions occurs under conditions that leave land, labor, and capital idle for extended periods of time, and the direct project benefit will be negative if the agriculture can be made profitable only through highly subsidized water prices.

It has been estimated that western farmers served by Bureau of Reclamation projects pay $30 to $135 per acre per year less than the full cost of supplying the water.[1] It thus seems likely that much of the federally sponsored irrigation agriculture could not survive competitively if it had to pay full water costs.

It is the purpose of this chapter to trace likely production displacement effects of irrigation agriculture in the project region and other regions. The evidence will deal with western irrigation lands served by the U.S. Burearu of Reclamation, which is the largest supplier of irrigation waters in the country. Whether or not the Bureau would have jurisdiction over new interbasin transfers, the production displacement effects would be in the same direction as the past effects of the reclamation program discussed in this chapter.

This chapter also investigates the costs that new agricultural production creates through the various farm income and price support programs. The budgeted costs of some of these programs reflect the actual economic or resource costs of the program, as is the case with acreage retirement programs which pay just the net income that would have been earned had the land been kept in production. The budgeted costs of price support or loan programs may overstate or understate the real costs of the program, depending upon the method of payment and the use to which the loan commodities are put. Nonetheless, the estimated costs of these programs are presented as a first approximation to real costs.

Agricultural Supply and Demand Response

The inelasticity of demand for farm products forces the agricultural sector to hold aggregate output within narrow limits. Retail price and income elasticities of demand for all foods are only about −0.34 and 0.25, respectively; a 10 percent decline in food prices increases consumption by only 3 percent. In contrast, retail price elasticities as high as −2.35 for lamb and −1.60 for veal indicate that consumers must substitute between similar commodities quite readily (Brandow 1961).

Demand measurements over time show that elasticities are greater the longer the time allowance for adjustment. Waugh finds an immediate demand elasticity for cotton of −0.06 and a cumulative elasticity of −0.29 after one year and −1.84 after nine years. Cotton mills will gradually shift from cotton if the competing fibers have a continued price advantage. Likewise, the final consumer will gradually shift from cotton clothing to clothing made from substitutes if the price ratios encourage the shift (Wauth 1964, pp. 57–62).

In summation, increased agricultural production will, in the short run, have strong downward impacts on prices. In the longer term, this will cause shifts in the locus of production and changes in the composition of output as particular areas and crops become unprofitable.

There is much less agreement concerning supply response than there is about the inelasticity of aggregate demand for agricultural commodities. At present the evidence seems to indicate that the aggregate agricultural supply response to changes in prices is inelastic and sluggish. Part of the reason for this is the large agricultural investment in capital inputs with low salvage values. As a result, product prices have to drop considerably to make the marginal value product of these inputs less than their salvage value, a situation which would naturally cause farmers to reduce production. As product prices rise, the prospects for the marginal value product of capital inputs remaining above their cost must be good before farmers will make provision for substantial expansion of their output, thus making expansions of output sluggish. Further contributing to the inelastic response to price change is the fact that, while price changes will cause individual farmers to expand or contract their operations, many of the assets and much of the land transferred remain in agriculture, although in different hands.

In summary, uncertainties and costs of shifting to different crops tend to keep the supply response to price changes inelastic in the short run, but as the time horizon is lengthened the supply response becomes more elastic and large changes occur in the locus and composition of farm output-

Impacts of Reclamation Production on the Composition and Location of U.S. Agriculture

A general decline in cropland acreage harvested and a shift in the distribution of acreage and production among crops and regions has taken place during the past two decades. These shifts undoubtedly have been caused by a number of factors, but an important one has been the increase in reclamation production. There has been a decline in the acreage devoted to grain production, with a good portion of the land formerly used for grains being retired under the wheat and feed grains programs. Some has been converted to soybean production (see table 46). Alfalfa hay has been substituted for other hay varieties with lower feed values, particularly in the northern region.[2] The only major crops to show an increase in acreage, besides sorghum, soybeans, and alfalfa hay, have been sugarbeets and rice, which received higher acreage allotments during the sixties as the result of special circumstances.

TABLE 46.—CHANGES IN U.S. CROPLAND HARVESTED BY REGION BETWEEN 1944 AND 1964

[Thousand acres]

Crop	Reclamation	West	North	South	United States [1]
Corn	+246	−610	−11,839	−18,149	−30,598
Sorghum	[2] +64	+113	+2,809	−814	+2,108
Wheat	+152	−510	−6,572	−3,246	−10,328
Oats	−26	−700	−12,964	−2,825	−16,489
Barley	+143	+1,039	−2,894	−34	−1,888
Subtotal (grains)	+579	−668	−31,460	−25,068	−57,195
Alfalfa hay	+713	+1,194	+11,493	+547	+13,234
Other hay [3]	+28	−959	−6,696	+487	−7,168
Potatoes (Irish)	−35	−9	−914	−440	−1,363
Cotton, lint	+369	+812	−48	−5,810	−5,047
Beans, edible dry	+147	−429	−10	−10	−449
Vegetables (excl. all potatoes)	+111	+91	−587	−540	−1,037
Tree fruits, nuts and grapes	+270	+23	−658	−114	−749
Sugarbeets	+436	+575	+232	+22	+830
Rice	[2] +131	+111	+5	+305	+421
Soybeans (1949–64)	([4])	+1	+12,853	+6,842	+19,696
Total, above crops	+2,749	+742	−25,790	−23,779	−48,827
Total all cropland harvested	+3,145	−1,232	−31,122	−33,804	−66,158

[1] Row totals may not add due to rounding.
[2] Change between 1954 and 1965; sorghum and rice were not reported separately in 1944 and 1949.
[3] Excludes alfalfa, soybean, cowpea, and sorghum hay.
[4] Not available.
Note: For regional breakdown see figure 14.
Sources: U.S. Department of Commerce, "Census of Agriculture," 1959 and 1964; U.S. Department of Agriculture, "Agricultural Statistics, 1951 and 1967"; U.S. Department of the Interior, "Crop Report and Related Data, 1944 and 1964."

The major declines in acreage harvested have occurred in the North and South, the

Footnotes at end of article.

regions with the greatest amount of cropland. The South has experienced the largest absolute and relative declines, with almost one-third (38.8 million acres) of its cropland dropping out of production in the last twenty years. This can be compared with declines of 15 percent (31.1 million acres) in the North and 3 percent (1.2 million acres) in the West, while the cropland acreage served by reclamation irrigation projects has increased by 61 percent (3.1 million acres).

In contrast to the general decline in acreage, production increased for nearly all major crops between 1944 and 1964, because of increasing yields per acre. Within these increases, regional production shifts have occurred (see table 47). The North and South have both experienced net declines in the production of several crops, potatoes being a prime example.

TABLE 47.—CHANGES IN U.S. CROP PRODUCTION BY REGION BETWEEN 1944 AND 1964

[In thousands]

Crop	Unit	Reclamation	West	North	South	United States [1]
Barley	bu.	+18,862	+93,890	−882	+7,765	+100,773
Corn	bu.	+22,436	+7,085	+658,809	−93,185	+572,709
Oats	bu.	+1,432	−18,650	−161,512	−52,553	−232,715
Sorghum	bu.	[2] +5,825	+28,013	+146,714	+110,286	+285,013
Wheat	bu.	[2] +13,302	+56,301	+141,575	−12,745	+185,131
Rice	bu.	+15,416	+23,337	+443	+77,451	+101,232
Sugarbeets	tons	+8,420	+12,084	+3,804	+472	+16,361
Soybeans	bu.	([3])	+10	+327,088	+154,840	+481,939
Alfalfa hay	tons	+3,877	+6,603	+27,628	+1,480	+35,711
Cotton lint	bales	+814	+2,222	−8	+680	+2,894
Potatoes	cwt.	+15,273	+26,498	−10,477	−8,075	+7,946
Pears	cwt.	+2,324	+1,939	−591	−1,431	−82
Beans, edible dry	cwt.	+2,834	+796	+2,398	−33	+3,161

[1] Row totals may not add due to rounding.
[2] Change between 1954 and 1964; sorghum and rice were not reported separately in 1944 and 1949.
[3] Not available.

Sources: See table 46.

On land receiving reclamation irrigation water, only potatoes and oats declined in acreage harvested between 1944 and 1964. All other crops showed a significant increase in acreage harvested and even greater increases in production. The production of oats, edible dry beans, and pears increased on land served by the Bureau of Reclamation in the seventeen Western States and declined on the nonreclamation lands in those same states. Similarly, between 1949 and 1964, cotton production doubled on reclamation-served land and dropped by 22 percent (nearly 1.7 million bales) in the nonreclamation portion of these same Western States.[3]

In the twenty-year period 1944–64, the Bureau of Reclamation irrigated 3.3 million additional acres of cropland.[4] In terms of land held in retirement, reclamation has probably replaced 5–18 million acres elsewhere. The lower estimate is based on the assumptions that 25 percent of the reclamation production would have existed without reclamation irrigation and that the yields were twice those on retired land. The upper limit is based on the assumptions that 10 percent of the reclamation production would have existed without reclamation irrigation and the yields were six times those on retired land.[5] This means that 8–26 percent of the 66-million-acre delcine in cropland harvested during 1944–64 would not have been necessary had reclamation not irrigated additional acreage during the same period. Furthermore, 8–43 percent of the 40–65 million acres diverted under the annual commodity programs during the 1960s would not have had to be diverted if reclamation had not increased irrigation.

If reclamation continues to increase irrigation service by 165,000 acres per year (the average rate between 1944 and 1964), 2.64 million acres could be added to reclamations service area from 1965 through 1980. By 1965, the Bureau of Reclamation had already been authorized to bring 3 million additional acres into its service area. The addition of 3 million acres would increase the irrigable service area to 12.6 million acres.[6] Based on past history (1944–64), the projection of a 3-million-acre increase in reclamation irrigation service could cause significant decreases in farm income and increased annual commodity program payments.[7]

During 1964–65, production on reclamation irrigated lands was significantly increased for most crops in response to higher prices, changes in acreage allotments, and increased reclamation service. The only exceptions of any importance were sugarbeets and wheat which were cut back under the annual commodity programs (see table 48).

TABLE 48.—CROPLAND HARVESTED AND PASTURE ON FEDERAL RECLAMATION PROJECTS, 1964–65 [1]

[Thousand acres]

Crop	1964	1965	Change
Barley	501	612	+111
Corn	314	355	+41
Sorghum	146	209	+63
Oats	137	128	−9
Feed grains	1,098	1,304	+206
Silage	286	326	+40
Alfalfa hay	1,868	1,859	−9
Other hay	180	187	+7
Pasture (irrigated)	1,121	1,197	+76
Other forage	39	43	+4
Forage crops	3,493	3,612	+118
Wheat	393	352	−41
Rice	147	157	+10
Other cereals	118	120	+2
Potatoes (Irish)	235	275	+40
Beans, edible dry	301	323	+22
Vegetables	309	349	+40
Cotton (lint)	514	583	+69
Sugarbeets	587	503	−84
Fruit and nuts	384	537	+153
Misc. field crops	63	64	+1
Total	7,643	8,179	+536

[1] This includes full, supplemental, and temporary service.

Sources: U.S. Department of the Interior, "Crop Report and Related Data, 1964," p. 32; 1965, p. 33.

A good example of the impact of expanded acreage on farm income is provided by the 1965 potato crop. Potato acreage served by reclamation irrigation increased 40,000 acres during 1964–65. Production increased almost 19 million cwt., accounting for 40 percent of the total U.S. increase in potato production. Approximately $69 million of the $173 million decline in the farm value of potatoes can be attributed to increased production on lands served by reclamation. Net farm incomes fell even more after netting out the cost of producing the added potatoes. This large drop in total farm value of potatoes may be compared with a $2.9 million increase in farm value of potatoes produced on reclamation-served lands.

Higher Commodity Program Payments

The preceding section strongly suggests that the Bureau of Reclamation's irrigation program has a major impact on the volume and location of agricultural production. Here we consider in some detail the impact of reclamation irrigation on the payments made under the annual commodity programs, i.e., the effects of reclamation on costs borne by the general public through federal programs. As stated earlier, the budgeted costs of these programs may not precisely measure the real resource costs involved since some income redistribution toward agriculture is involved, but the estimates presented here have been calculated so as to approximate real costs.

Under the wheat program, produces who comply with the federally established acreages receive certificate payments and price supports. Farmers who plant less than this limit receive additional payments based on the amount of extra cropland not planted (diverted). The feed grain program offers price supports and support payments to farmers who comply with federally established acreages, while diversion payments are made of additional acreage diversion. The 1966 cotton program works in a similar manner with price supports and support payments to farmers meeting acreage requirements and with diversion payments to retire additional land. The principal means of support for sugarbeets is import quotas, but prices are supplemented by Sugar Act payments.

It has been estimated (table 49) that between $110 million and $239 million of the total annual payments to farmers under the three major annual agricultural commodity programs (diversion payments plus price support and certificate payments for cotton, wheat, and feed grains) and $19 million in Sugar Act payments to growers of sugarbeets can be attributed to the production on reclamation-served land brought in between 1944 and 1964. Since about 40 percent of the increased production on reclamation irrigated land was on land receiving supplemental service, not all of these payments can be at-

tributed directly to reclamation. A 25-percent reduction in payments is suggested as more than adequate to account for any production that might have occurred without reclamation service. This reduces the annual total payments that could be attributed directly to reclamation irrigation during 1944-64 to the range from $83 million to $179 million.

TABLE 49.—ESTIMATED USDA ANNUAL COMMODITY PROGRAM PAYMENTS RESULTING FROM INCREASED BUREAU OF RECLAMATION IRRIGATION DURING 1944–64

Crop	Increased reclamation harvested acreage 1944–64 (thousand acres)	Diversion payments per acre of new acreage under three yield assumptions [1] (dollars/acre)			Total diversion payments under three yield assumptions (million dollars)			Price support, certificate, and Sugar Act payments [2] (million dollars)
		0.9	0.5	0.3	0.9	0.5	0.3	
Corn	246	44	78	131	10.8	19.2	32.2	1.3
Barley	143	26	47	79	3.7	6.7	11.3	.3
Sorghum [3]	96	39	71	118	3.7	6.8	11.3	.6
Wheat	152	16	29	48	2.4	4.4	7.3	2.9
Cotton [4]	327	134	241	401	43.8	78.8	131.1	21.8
Sugarbeets	436							19.0
Subtotal [5]	1,401				64.4	115.9	193.2	46.0
25 percent reduction [6]					16.1	29.0	48.3	11.5
Total [5]					48.3	86.9	144.9	34.5

[1] The USDA assumes that yields on diverted acreage will be 90 percent of the yields on harvested acreage; others suggest that 50 percent or even 30 percent would be more realistic. Vernon W. Ruttan, "Are Grain Surpluses a Thing of the Past?" Paper presented at the Regional Extension Grain Marketing Conference, Duluth, 18 May 1967, p. 5.

Procedure for estimating diversion payments per acre: [(Yield on reclamation irrigated land) ÷ (U.S. average yield) × (% diverted yield is of the harvested yield)] × (Average diversion payment per acre) = payment required to retire production equal to that due to reclamation irrigation.

Example of wheat: (56 bu.)/(25.8 bu.)(0.9) ($6.41) = $15.96 per acre.

[2] Procedure for estimating price support and certificate payments: [(1944–64 increase in reclamation served acreage × 1964 average yield) ÷ (U.S. production)] × (total price support payments for the crop in 1964) = certificate payments arising from increased reclamation irrigation during 1944–64.

Example of wheat: 152,000 acres × 56 bu./acre = 8,512,000 bu. (8,512,000 bu. ÷ 1,217,792,000 bu.)($410.2 million) = $2,875,386.

Federal Sugar Act payments due to the 1944–64 increase in reclamation irrigation: $25,568 × 436,000 acres/587,000 acres = $18,990.

[3] 1944 acreage for sorghum grain on reclamation irrigated land was estimated at 50,000 acres based on the rate of increase in sorghum acreage on reclamation-served land during 1954–64.

[4] Upland cotton only. Excludes the increase in American Egyptian cotton acreage (estimated at 42,000 acres) because American Egyptian was not covered by the upland cotton program. Total diversion and price support payments implied by the figures in the table range from $201 to $468 per acre.

[5] Totals may not add due to rounding.

[6] The 25-percent reduction is to correct the payment estimates for any production that would have occurred without reclamation irrigation.

Note: 1964 payments were used for all crops except cotton. 1966 payments were used for cotton since this was the first year of the new program.

Sources: U.S. Department of the Interior, "Crop Report and Related Data, 1944 and 1964"; U.S. Department of Agriculture, "Agricultural Statistics, 1968"; U.S. Department of Agriculture, "State Estimates of Farm Income," 1949–66 (FIS 207 Supplement), pp. 130–35.

It should be noted that this analysis of impacts on the annual commodity program costs excludes crops that contributed 58 percent of the 1944-64 increase in reclamation-served acreage. The impact of nearly 2 million additional irrigated acres directly and indirectly displacing other acreage may more than offset the 25 percent reduction for supplemental service. For example, increased fruit and vegetable production in the West may cause fruit and vegetable producers in the North to shift to feed grain production and thus increase annual payments under the feed grain program.

Furthermore price support, acreage retirement, and commodity purchase programs help control the supply and/or increase prices of many other agricultural commodities. Rice and dairy products are both under price support programs while nonbasic commodities such as edible dry beans and soybeans are put under price support programs if supplies are determined to be in surplus. In addition, fruits, vegetables, meats and other agricultural commodities are purchased with Section 32 funds during periods of oversupply to reduce commercial supplies and hold up prices. Selected commodities are also purchased for sale or donation in foreign countries through Public Law 480. And on top of this, general land retirement programs such as the Soil Bank and the Cropland Adjustment Programs have been used to reduce agricultural production across the board. Thus the impacts of reclamation irrigation on all USDA supply control and price support programs will probably be more than double the estimated impact on the three major commodity programs and Sugar Act payments.

It is instructive to calculate the added annual commodity program payments resulting from each additional acre brought into production by reclamation irrigation. The average annual price support payment for cotton produced on reclamation irrigated land is estimated at almost $67 per acre (21.8 million ÷ 327,000 acres). The diversion payments necessary to retire cotton production equal to one acre of reclamation irrigated cotton run from $134 to $410 per year, making the total price support and diversion payments arising from an acre of reclamation irrigated cotton between $201 and $468. The actual diversion payments may not be quite as high as the upper limit since acreage allotments may be reduced across the board rather than making excessive diversion payments. Even so, payments under the annual commodity programs resulting from each acre of reclamation cotton are substantial.

The increase in cotton acreage harvested during 1964-65 provides an example of reclamation's impact on the costs of annual commodity program payments. Cotton production under reclamation irrigation increased from 978,000 bales to 1,084,000 bales, and acreage harvested increased by 69,000 acres. Within this total, the acreage of American Egyptian cotton actually declined from 59,000 to 38,000 acres. Therefore, the acreage of upland cotton actually increased by 90,000 acres, which in turn increased USDA cotton diversion and price support payments by an amount in the range of $18.1 million to $42.1 million.[8]

Similar annual commodity program payments arising from each acre of reclamation production can be calculated for feed grains and wheat from Table 49. Although the annual payments are not as large as for cotton, they will be between a low of $16 per acre for wheat (assuming diverted land yields are 90 percent of the yields on harvested acreage and no change in the total U.S. wheat support payments) and a high of $136 per acre for corn (assuming diverted land yields are 30 percent of the average yields on harvested acreage and a *reduction* in total U.S. corn support payments equal to those made to reclamation corn producers).

In the case of sugarbeets, the cost is transferred to the consumer through higher prices and does not constitute a cost to the USDA. The $44 per acre ($18,990,000 ÷ 436,000 acres) is definitely the lower limit of the annual cost to consumers. If one considers the cost to the consumer as the difference between world and U.S. sugar prices minus transportation and import costs, the annual cost could be almost $200 per acre ($114.8 million ÷ 587,000 acres) of sugarbeets brought into production by reclamation irrigation. (See the section on sugarbeets later in this chapter.)

Another way of showing some of the external effects and inconsistencies between increasing production through reclamation irrigation projects and retiring land under annual and longer term USDA programs is to exhibit USDA land retirement expenditures in reclamation counties. This was done for 171 counties in which more than 1,000 acres were irrigated by reclamation as of 1965. These 171 counties account for most of the 8 million acres receiving reclamation irrigation in 1965. Over 3 million acres were in retirement in these same counties in 1965, 1.9 million acres under annual commodity programs and 1.2 million acres under longer term programs (see table 50). In terms of payments, $11 million was spent through the longer term programs and over $121 million under the annual commodity programs.[9] The 1966 commodity program payments to cotton producers would be much larger due to the new cotton program. The 1966 price support and diversion payments to all cotton producers were over eleven times higher than 1965 payments. Thus payments to 1966 cotton producers alone in these 171 counties were probably in the range of $30 to $40 million.[10]

TABLE 50.—ACREAGE RETIRED AND USDA PAYMENTS TO FARMERS IN COUNTIES SERVED BY RECLAMATION IRRIGATION, 1965

[Thousands]

Programs	Acres retired	Cost-share and diversion payments	Price support and certificate payments
	(1)	(2)	(3)
Wheat and feed grains	1,795	$35,625	$82,866
Cotton	88		2,842
Subtotal (annual programs)	1,883	35,625	85,708
Conservation reserve	1,041	10,070	
Agricultural Conservation Program [1] (permanent cover)	125	803	
Cropland conversion program [2]	13	36	
Subtotal (longer-term programs) [3]	1,180	10,909	
Total [3]	3,063	46,534	85,708
Total of columns 2 and 3			132,242

[1] Data from 1964.
[2] Data available for 1963–64 only.
[3] Totals may not add due to rounding.

Source: Compiled from records of USDA, ASCS, by Kenneth G. Ruffing.

Direct Crop Displacement Impacts

This section presents more detailed data and analysis concerning the direct displacement impact of reclamation irrigation on cotton, potatoes, sugarbeets, fruits, nuts, vegetables, alfalfa hay, rice, and feed grains in terms of production, income, and acreage adjustments.

Cotton

Reclamation projects have simultaneously added directly to U.S. cotton surplus problems and provide subsidized competition to other cotton-producing regions. The acreage of cotton harvested has declined by two-thirds from the high levels of the twenties, although production has remained fairly stable. Much of the decline in acreage harvested since 1944 occurred in the South, while in the West (California, Arizona, Nevada, and New Mexico) there has been an increase. Since 1949, acreage harvested has declined in all cotton-producing states although the decline has been greater in the South where most states have experienced a 50 percent decline in acreage harvested.

A normative regional study completed in 1966 indicates that, on the assumptions of no annual commodity programs, advanced technology, and complete adjustment to changing cotton prices (other commodity prices remaining constant), 18.6 million bales would be produced at a price of 21 cents per pound.[11] If the price were raised to 30 cents, production would reach 37.8 million bales. At low prices, cotton competes in production primarily with feed grains, but at higher prices it is more profitable than all other crops except tobacco.

The acreage distribution without acreage restrictions and with a price of 21 cents would be roughly the same as it was in 1964 when 14.7 million bales were produced on 13.9 million acres—78 percent in the South, 19 percent in the West, and 3 percent in the North—although the West would increase its share slightly. At 30 cents a pound, the West would produce a smaller percentage of a much larger production total because the South has a much larger capacity to increase production.

Part of the reason the West would increase its share of cotton production at low cotton prices (as it has been doing over the years) is the competitive advantage provided by low-priced reclamation water. Data from an analysis of the costs of producing upland cotton in the United States indicate that Southern California and Southwest Arizona are enabled to stay in production at lower cotton prices only because of the low price they pay for reclamation irrigation water—about $3 per acre-foot. For these regions the private cost of irrigation was about $7 per bale, compared with the average cost of about $20 for the High Plains of Texas, $18 for the San Joaquin Valley, $22 for Southern Arizona, and $30 for the Upper Rio Grande-Trans Pecos areas (Starbird and Hines 1966).

The costs of projects currently underway for providing additional supplies of water to Southern California have been estimated at $65 to $100 per acre-foot for large deliveries from Northern California. If irrigators currently paying approximately $3 per acre-foot for Colorado River water delivered to the Imperial Valley and other districts in Southern California had to pay the average cost of providing new water, their costs of production would be raised substantially, and they would no longer have average returns of $16 per bale. Instead, as shown below, there would be an average loss ranging from $36 to $96 per bale depending on the price of the water and the efficiency with which it is used.

WATER COST AND RATE OF APPLICATION

	$3 per acre-foot—2.7 acre-feet/bale	$30 per acre-foot—2 acre-foot/bale	$120 per acre-foot—1 acre-feet/bale
Value per bale	$140	$140	$140
Less average costs	124	176	236
Average net receipts	16	−36	−96

The claim that reclamation regions have a cost-efficiency advantage over other areas in producing cotton is not supported by the data shown in table 51. The California-Arizona reclamation-served region has costs uniformly higher than the Mississippi Delta, even under conditions of highly subsidized water.

TABLE 51.—UPLAND COTTON PRODUCTION: AVERAGE PRIVATE COSTS AND RECEIPTS PER POUND OF LINT, 14 REGIONS, 1964–65

Regions	Direct cost [1] (cents/lb.)	Total cost (cents/lb.)
Southeast:		
Southern Piedmont, Clay Hills and Black Belt	23.9	30.5
Coastal Plains	25.8	31.3
South Central:		
Limestone Valley-Sand Mountain	21.4	28.0
Brown Loam	19.7	26.5
Mississippi Delta	18.6	24.0
Northeastern Arkansas	22.1	29.3
Texas-New Mexico:		
Black Prairie	20.5	27.9
Coastal Prairie [2]	17.7	24.9
Lower Rio Grande Valley	23.8	31.2
Rolling and High Plains	20.7	28.3
Upper Rio Grande-Trans Pecos	28.5	36.5
California-Arizona:		
San Joaquin Valley	22.9	30.3
Southern California and Southwest Arizona	19.3	24.8
South Arizona	24.0	30.3
United States	21.2	27.8

[1] Direct costs are chiefly those expenditures which producers must make annually. They exclude overhead and land costs.
[2] There were no reclamation irrigation projects serving the coastal prairie regions.

Source: I. R. Starbird and B. I. French, "1965 Supplement to Cost of Producing Upland Cotton in the United States, 1964 (1965 supplement to Agricultural Economic Report no. 99) USDA, September 1967, p. 8.

The impact of this low-cost reclamation water on increased cotton production has been felt in many areas of the United States. The acreage of cotton harvested on reclamation-served land increased over 3½ times between 1944 and 1954 and since then has remained fairly constant due to the federally established acreages. In contrast, total acreage harvested in the nonreclamation portion of the West declined between 1949 and 1964, and other major cotton-producing areas also experienced declines. In 1964, the acreage harvested in the South was 50 percent lower than in 1949 and one-third lower than in 1944 (see tables 52 and 53). From the late fifties through 1965 the decline was fairly small, as federally established acreages were not reduced again until 1966.

TABLE 52.—U.S. COTTON ACREAGE HARVESTED AND PRODUCTION BY REGIONS

Regions [1]	Harvested acreage (1,000 acres)					Production (1,000 bales)				
	1964	1959	1954	1949	1944	1964	1959	1954	1949	1944
California-Arizona	1,125	1,190	1,318	1,234	401	2,523	2,500	2,301	1,761	449
New Mexico-Nevada	191	190	199	286	104	261	298	293	262	113
West [2]	1,317	1,380	1,517	1,520	505	2,784	2,798	2,595	2,023	562
Texas-Oklahoma	6,203	6,754	8,417	11,802	8,070	4,191	4,530	3,825	6,117	3,157
South Central	4,502	4,523	6,115	9,010	6,915	5,790	4,832	4,605	5,142	5,330
South Atlantic	1,545	1,576	2,383	3,673	3,074	1,568	1,261	1,489	1,663	2,381
South [2]	12,250	12,854	16,914	24,485	18,060	11,549	10,624	9,919	12,922	10,869
North	349	384	427	594	397	399	458	407	474	407
Total [2]	13,915	14,618	18,858	26,599	18,962	14,732	13,880	12,921	15,419	11,838

[1] South Central includes the states of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. South Atlantic includes the states of Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia. North includes the states of Illinois and Missouri. See figure 15.
[2] Totals may not add due to rounding.

Source: Census of Agriculture, 1959 and 1964: U.S. Department of the Interior, Federal Reclamation Projects, 1944, 1949, 1954, and Crop Reports and Related Data, 1964.

TABLE 53.—COTTON ACREAGE HARVESTED AND PRODUCTION IN THE WESTERN STATES

Regions	Harvested acreage (1,000 acres)					Production (1,000 bales)				
	1964	1959	1954	1949	1944	1964	1959	1954	1949	1944
California/Nevada-Arizona	1,129	1,194	13,20	1,235	401	2,528	2,506	2,304	1,762	449
New Mexico-Texas-Oklahoma	6,391	6,941	8,614	12,087	8,174	4,447	4,822	4,116	6,379	3,270
Total	7,520	8,135	9,934	13,322	8,575	6,975	7,328	6,420	8,141	3,719
Reclamation portion[1]	514	504	514	381	145	[2] 978	984	898	487	164
Nonreclamation	7,006	7,631	9,420	12,941	8,430	5,997	6,344	5,522	7,654	3,555

[1] In 1964, 775,000 of these bales were produced on 360,000 acres in California, Arizona, and Nevada, while 203,000 bales came from New Mexico, Texas, and Oklahoma and were produced on 154,000 acres. Also 567,000 bales were produced from land receiving full reclamation irrigation service, 403,000 bales from land with supplemental service and 8,000 bales from land with temporary service.
[2] Only 6 percent (64,000 bales) of the reclamation production was American Egyptian cotton.

Source: See table 52.

Some argue that Western cotton does not compete with cotton produced in the South. Yet, in 1961–62, 45 percent of the cotton crop produced in California, Arizona, and New Mexico was shipped directly to southeastern textile mills, In contrast, in 1933 approximately 96 percent of the cotton from the Western region went to California and Texas ports; little was shipped to the southeastern textile mills. Texas and Oklahoma shipped 31 percent of the 4.5 million-bale crop in 1961–62 to southeastern mills. In 1932–33, Texas had shipped less than 1 percent of its crop to southeastern mills (Potter 1965, p.6).

Since cotton acreage has been controlled through federally established acreages based on historical production, adjustments have taken place in all cotton-producing areas rather than in the marginal areas only, as would have been the case if price had been the controlling factor. This means that the United States fails to produce its cotton at the lowest cost and in the most efficient manner.

Assume for the moment that in 1964 the United States produced just enough cotton to meet present demands and that increases in yield would be enough to meet future increases in demand. If cotton were not produced on reclamation land, then 978,000 bales (see table 53) could be produced in other areas by increasing acreage allotments. To meet this production, allotments could be increased by about 1 million acres since the land coming back into cotton production would be less productive and would yield, on the average, about 1 bale per acre (reclamation land yields almost 2 bales per acre). A uniform increase in the allotments based on the 1964 distribution of acreage would give the South about 550,000 more acres and the North 20,000. In the West (including Texas and Oklahoma) acreage would decline by about 85,000 acres despite a 430,000 acre gain in acreage of cotton for land not served by reclamation irrigation. In terms of annual net income for farmers, the South would gain roughly $27.5 million, the North $1 million and the nonreclamation West $21.5 million, while the reclamation West would lose $50 million.[12]

Potatoes

For potatoes, as for cotton, reclamation production has a very significant direct impact on production and income in other regions. Idaho alone accounts for almost one-fifth of the entire nation's production and nearly 60 percent of the Idaho corp is produced on reclamation irrigated lands. In 1964, the West as a whole accounted for almost 42 percent of U.S. production, and over 53 percent of this production was on land receiving reclamation irrigation water.

Since 1944 the acreage harvested has declined rather drastically in both the North and South while remaining nearly constant in the West (table 54). In both the reclamation and nonreclamation West, higher yields have led to increased production. In contrast, increased yields in other regions have not been enough to offset the acreage decline of the forties. In 1947, Idaho and California had 17.2 percent of U.S. Potato production and Maine and New York had 25.5 percent; by 1963, California and Idaho had jumped to 30.6 percent while New York and Maine had only 21.2 percent. (See table 55.)

TABLE 54.—U.S. (IRISH) POTATO ACREAGE HARVESTED AND PRODUCTION BY REGIONS

Regions	Harvested acreage 1,000 acres)					Production (1,000 cwt.)				
	1964	1959	1954	1949	1944	1964	1959	1954	1949	1944
South	121	149	176	257	561	16,982	18,522	21,147	21,449	25,057
North	600	622	651	854	1,514	111,844	110,120	105,746	124,930	122,321
West (11 States)	452	430	384	403	461	93,048	95,498	77,219	73,423	66,550
Total	1,174	1,200	1,211	1,514	2,537	221,874	224,140	204,113	219,802	213,928
Reclamation portion	235	247	206	237	270	[2] 49,545	54,985	39,304	35,101	34,272

[1] Totals may not add due to rounding.
[2] 28.3 million cwt. came from land receiving supplemental reclamation irrigation service while 21.2 million cwt. came from land receiving full reclamation irrigation service. Since a dependable water supply is fairly critical for potato production, the supplemental service may make the difference between producing potatoes or some other crop requiring less water.

Note: Production includes total quantity harvested, whether for home use or sale. Acreage in 1944 includes all harvested acreage while in the last four more census years acreage was reported only when production was 20 or more bushels.

Source: See table 52.

TABLE 55.—THE DISTRIBUTION OF POTATO PRODUCTION: FIVE IMPORTANT PRODUCING AREAS, 1947 AND 1963

Area	Percentage of U.S. total	
	1947	1963
California	9.8	10.9
Idaho	7.4	19.7
Maine	16.8	13.8
New York	8.7	7.4
North Dakota and Minnesota	9.3	10.1
All other	48.0	38.1
Total	100.0	100.0

Source: Ivan W. Ulrey, "Fresh Potato Transportation to Large Markets from Five Major Producing Areas," Marketing Research Report No. 687, USDA, November 1964, p. 21.

Idaho ships almost as many potatoes to Chicago as do North Dakota and Minnesota combined. Not far behind as major markets for Idaho potatoes are New York City and Detroit. The third, fourth, and fifth largest markets for California potatoes are Chicago, New York City, and Houston, respectively. On the other hand, very few eastern or midwestern potatoes reach western markets. One reason for the West's competitive position is that the increased demand for processed potatoes appears to have favored the type of potato from the West, and that from Idaho in particular (Hee 1967. p. 9). Again, however, low-priced water has been a factor.[13]

By lowering potato prices, reclamation irrigation has substantially reduced the incomes of nonreclamation potato farmers. Since demand elasticity for potatoes has been estimated at from −0.1 to −0.2, any reduction in price will reduce income (Brandow 1961). For every one million cwt. increase in production, the price will drop at least 4 cents per cwt. if demand elasticity is −0.2. This means income to potato producers would drop by $9.2 million from a one million cwt. increase in reclamation production.[14]

The long-run gain in income to potato producers from no reclamation production would depend on the supply response in other areas. At a higher price more potatoes

would be produced in other regions, but in the absence of supply-response data it is difficult to say how much more. If one assumed the elimination of the 68 million cwt. reclamation product and an increase of 30 million cwt. in other areas this would mean an increase in net farm income to potato producers of roughly $350 million due to higher prices.[15] In addition, net income for nonreclamation farmers would also increase because of the 30 million cwt. increase in their share of potato production. Between 1963 and 1964 potato production declined by 32 million cwt. The inelasticity of potato demand is supported by the corresponding price increase of $1.72 per cwt. The impact on farm income was a $357 million increase in the farm vlaue of potatoes.

Sugarbeets

The increase in sugarbeet acreage since 1944 was gradual until the United States made an effort to increase domestic production during the 1962–63 world sugar shortage (table 56). Reclamation-served land contributed 216,000 acres (46 percent) of the substantial increase in production and by 1964 made up 43 percent of the total U.S. acreage harvested, as compared with 28 percent in 1944. In 1964, reclamation production accounted for 45 percent of U.S. production and 51 percent of the production in the seventeen reclamation states—much larger shares than in 1944, when the percentages were only 28 and 33 percent, respectively (table 57).

TABLE 56.—U.S. SUGARBEET ACREAGE HARVESTED BY REGIONS

[Thousand acres]

Regions	1964	1959	1954	1949	1944
South (Texas)	22	2	1	1	(1)
North	406	292	276	217	174
West (11 States)	948	618	587	444	373
Total	1,376	912	864	662	546
Reclamation portion	587	371	378	175	151

[1] Less than 500 acres.

Source: See table 52.

TABLE 57. U.S. SUGARBEET PRODUCTION BY REGIONS

[Thousand tons]

Regions [1]	1964	1959	1954	1949	1944
North Central	3,081	2,603	1,923	1,502	1,025
West (17 States)	20,120	14,219	11,715	8,443	5,817
West (11 States)	17,171	12,447	10,363	7,545	5,087
Plains	2,949	1,772	1,352	898	730
U.S. total [2]	23,202	16,822	13,638	9,944	6,841
Reclamation portion	[3] 10,361	7,147	6,289	2,817	1,941
Nonreclamation West	9,759	7,072	5,424	5,626	3,876

[1] Regions are shown in fig. 15. The 17 Western States include the West (11 States) and the Plains (6 States).
[2] Totals may not add due to rounding.
[3] 5.2 million tons were produced on land receiving full reclamation irrigation service, 5.0 million tons came from land with supplemental service while the remainder came from land with temporary service.

Source: See table 52.

The United States could reduce the cost of sugar by cutting back domestic sugar production and importing more. The savings would be substantial as the world price of raw sugar is about 2¢ a pound and the domestic price is over 7¢ a pound. Over the long run the United States could probably obtain an adequate and dependable supply of sugar at a price of 3¢ to 4¢ a pound (D. Gale Johnson 1968, p. 44). Transportation cost and import fees might increase the price by 1¢ to 1.5¢ a pound, but consumers would still save from 3.5¢ to 4¢ a pound in the short run and 1.5¢ to 3¢ a pound in the long run. The saving from substituting imports for reclamation raw sugar (approximately 2,870 million pounds in 1964) could range from $43.1 million at a saving of 1.5¢ per pound to $114.8 million at 4¢ per pound.[16,17] One difficulty in the way of a quick reversal of sugar policy is that, once reclamation brings land into production and sugarbeets become the basis for reclamation loan repayment, it is almost impossible to reduce reclamation sugar allotments without either bankrupting farmers and reclamation districts or increasing the federal irrigation subsidy.

Vegetables

Only the eleven Western states showed an increase in commercial vegetable acreage over the fifteen years from 1949 to 1964 (see table 58). Each of the other regions experienced reductions ranging from 6 to 25 percent as vegetable production shifted to the West. The total decline in the United States was only 150,000 acres, a 4 percent drop. In 1964, 168,000 acres of the reclamation-served area received full irrigation service, 141,000 acres supplemental service, and 16,000 temporary service. Without this service it is doubtful that many vegetables would be grown on these lands because of the importance in vegetable production of a dependable supply of water. The major vegetables contributing to the 1964 production on reclamation-served lands were lettuce, melons, sweet corn, tomatoes, onions, and carrots.

TABLE 58.—U.S. VEGETABLES, COMMERCIAL: ACREAGE OF PRINCIPAL CROPS BY REGIONS EXCLUDING POTATOES

[Thousand acres]

Regions [1]	1964	1959	1954	1949	Percentage change 1949–64
North Atlantic	397	434	517	526	−25
North Central	779	792	911	901	−14
South Atlantic	633	728	878	673	−6
South Central	110	143	149	146	−25
West (17 States) [2]	1,352	1,395	1,447	1,275	+6
Plains	291	331	482	381	−24
West (11 States)	1,060	1,064	965	894	+19
Total [3]	3,371	3,491	3,902	3,521	
Reclamation portion	325	273	221	220	+48
Nonreclamation West	1,027	1,122	1,226	1,055	−3

[1] See fig. 15 for a map of the regions used in this table.
[2] No acreage report for North Dakota.
[3] Totals may not add due to rounding.

Source: Agricultural Statitics, 1951, 1956, 1961, and 1967.

The shift in production has centered in the reclamation-served lands of the eleven Western states where producers can count on a stable, low-cost supply of water. Between 1949 and 1964 reclamation-served vegetable acreage increased 48 percent (105,000 acres), virtually all of the increase occurring after 1954. The total increase for the seventeen Western states was only 77,000 acres (6 percent). The Plains states, which have only 1 percent of the reclamation-served vegetable production, show a decline of 90,000 acres (24 percent) for 1949–64 and an even larger decline of 191,000 acres for 1954–64. Nonreclamation-served acreage in the eleven Western states has increased by only 61,000 acres since 1949 and has actually been declining since 1954. Thus, increased reclamation-served acreage has been a big factor in increasing the West's share of vegetable acreage and in reducing production in the nonreclamation West and other U.S. regions.

Fruits and Nuts

Like vegetables, fruits and nuts produced on reclamation-served land are primarily in the eleven Western states, less than 0.5 percent of the acreage being in the Plains states. Twenty-one percent (383,000 acres) of the fruits and nuts in the eleven Western states are on reclamation land (see table 59). Reclamation-served land accounted for 9.5 percent of total U.S. fruit and nut acreage in 1964.

TABLE 59.—U.S. FRUIT AND NUT ACREAGE HARVESTED BY REGIONS

[Thousand acres]

Regions	1964	1959	1954	1949	1944
North	640	700	793	1,049	1,298
South	1,725	1,647	1,579	1,835	1,840
West (11 States)	1,886	1,773	1,632	1,833	1,863
Total [1]	4,251	4,120	4,003	4,716	5,001
Reclamation portion	[2] 384	309	254	196	114

[1] Totals may not add due to rounding.
[2] 255,000 acres received supplemental irrigation service, 118,000 full irrigation service and 11,000 acres temporary service.

Source: See table 52.

Between 1944–64 the acreage of fruits and nuts fell 50 percent in the North and dropped by 6 percent in the South. In contrast to these declines, overall acreage in the West increased by 23,000 acres while the acreage on reclamation-served lands increased 237 percent or 270,000 acres. Hence, acreage in the nonreclamation West must have declined by 247,000 acres, or 13 percent.

Some of the important fruits produced on reclamation-served land are apples, citrus, grapes, and pears. Citrus production on reclamation land, which increased sharply from 3 million to 14 million cwt. between 1944–64, competes directly with the Southeast and the nonreclamation West. Similarly, reclamation apple production, which rose from 5.8 million to 8.7 million cwt. during the same twenty-year period, competes directly with the apples grown in the North.

Pear production on reclamation-served land increased 2.3 million cwt. during 1944–64 while in the eleven Western states the increase was only 1.9 million cwt. (See table 60.) Since all the reclamation production was in these eleven states the nonreclamation West actually had a decline of 385,000 cwt. and an even greater decline of nearly 2.5 million cwt. since 1949. Both the North and South experienced drops in relative and absolute production during the same period. The decline in the nonreclamation (North, South and nonreclamation West) production since 1949 totaled 3 million cwt., only slightly less than the 3.4 million cwt. increase on reclamation-served land. At 1965 farm prices of $6.50 per cwt., the value of the shift in production would be between $19 and $23 million.

TABLE 60.—U.S. PEAR PRODUCTION BY REGIONS

[Thousand hundredweights]

Regions	1964	1959	1954	1949	1944
North	1,244	1,126	669	1,271	1,835
South	93	219	264	638	1,524
West (11 States)	12,474	11,981	12,453	11,541	10,535
Total [1]	13,812	13,326	13,386	13,450	13,894
Reclamation portion	[2] 4,410	3,303	1,768	1,003	2,086

[1] Totals may not add due to rounding.
[2] 3.4 million cwt. were produced on land receiving supplemental reclamation irrigation while the remaining 1 million cwt. came from land receiving full reclamation irrigation.

Source: See table 52.

Rice

Rice acreage has been under fairly tight federal controls, and the acreage harvested has fluctuated mostly in response to changes in federal acreage limitations. Even with the limitations, rice production has more than doubled over the last twenty years. Production in the eleven Western States and on reclamation lands is almost exclusively in California's Central Valley. Rice acreage on reclamation-served lands accounts for 43 percent of California's total rice acreage and over 8 percent of the total United States acreage; 10 percent of the total U.S. rice production and 44 percent of California's production (see table 61). The increase in Western rice output has been quite rapid, but the four southern states are the big rice producers.[1][8]

TABLE 61.—U.S. RICE ACREAGE HARVESTED AND PRODUCTION BY REGIONS

Regions	Harvested acreage (1,000 acres)					Production (1,000 bushels)				
	1964	1959	1954	1949	1944	1964	1959	1954	1949	1944
North (Missouri)	5	4	6	(1)	(1)	443	276	376	(1)	(1)
South [2]	1,467	1,311	2,017	1,515	1,162	127,980	91,217	116,578	67,410	50,529
West (California)	343	302	474	304	232	37,852	29,404	28,122	22,022	14,515
Total [3]	1,815	1,617	2,498	1,819	1,394	166,276	120,896	145,076	89,432	65,044
Reclamation portion (California) [4]	147	7	16	(1)	(1)	16,548	656	1,132	(1)	(1)

[1] Not available.
[2] Totals may not add due to rounding.
[3] South includes Mississippi, Arkansas, Louisiana, and Texas.
[4] This land receives primarily supplemental reclamation irrigation service. The big acreage increase in 1964 is due to the inclusion of rice acreage on the Central Valley Project in California. These lands, long irrigated under private initiative, now fall under the repayment requirements of Reclamation Law.

Source: See table 52.

A transfer of 12 million bushels of rice production from reclamation-served lands to the South would mean a 10 percent increase in rice production for those states. At 1965 prices of $2.22 per bushel, this amount of production would be worth $26.6 million in gross farm income. Using $1.24 per bushel as a rough estimate of the cost of production, the production transfer would be worth $11.8 million in net farm income.

Feed and Forage Crops

Taking the nine major feed and forage crops (barley, corn, oats, sorghum, wheat, pasture, silage, other hay, and alfalfa hay) and converting the production to feed units, one obtains a good picture of reclamation's direct contribution to feed and forage production in the last twenty years. Almost 10 percent of the total U.S. increase in feed and forage output has been on reclamation-served land. (See table 62.)

TABLE 62.—CHANGES IN THE U.S. PRODUCTION OF MAJOR FEED AND FORAGE CROPS BY REGION BETWEEN 1944–64

[Millions of feed unit]

Crop	Reclamation	United States [1]	West	North	South
Barley	+830	+4,434	+4,131	−39	+342
Corn	+1,122	+28,635	+354	+32,940	−4,659
Oats	+42	−6,749	−541	−4,684	−1,524
Sorghum	[2] +309	+15,106	+1,485	+7,776	+5,845
Wheat	+838	+11,663	+3,547	+8,919	−803
Alfalfa hay	+4,265	+39,282	+7,263	+30,391	+1,628
Other hay [3]	+404	−11,909	−303	−14,702	+3,096
Silage [4]	+1,970	+23,001	+3,392	+15,522	+4,087
Pasture (irrigated)	+178	(5)	(5)	(5)	(5)
Total [1]	+9,658	+103,463	+19,328	+76,123	+8,012

[1] Totals may not add because of rounding.
[2] Reclamation production figures for sorghum were not available in 1944 and 1949; the 1944 production was estimated at 1.5 million bushels based on the rate of increase in sorghum production on reclamation-served lands during 1954–64 and the quantity of other cereals reported (which included sorghum) in the reclamation statistics for 1944.
[3] Other hay excludes alfalfa, soybean, cowpea, and sorghum hay.
[4] Silage figure includes corn, sorghum, and grass silage. Reclamation 1944 silage production was estimated at 50,000 tons based on other forage crops reported (which included silage) in the reclamation statistics.
[5] Not available.

Conversion factors. The following factors were used to convert production to feed units:

Wheat—bu. × 63
Barley—bu. × 44
Corn—bu. × 50
Sorghum—bu. × 53
Oats—bu. × 29
Alfalfa hay—tons × 1,100
Pasture (irrigated)—acres × 1,600
Other hay—tons × 800
Silage—tons × 400

Sources: Production data from sources listed in table 52. Conversion factors from Earl F. Hodges, Consumption of Feed by Livestock 1940–1959, USDA Production Research Report no. 79, march 1964; Livestock-Feed Relationships 1909–1963, USDA Statistical Bulletin no. 337, November 1963, and Supplement, September 1965.

Increased feed production on reclamation land has a fairly direct effect on livestock prices. Brandow finds that prices of hogs and poultry are sharply reduced by an increase in the tonnage of concentrated feed (corn, barley, oats, sorghum and wheat). He notes that a 1 percent increase in the quantity of concentrate fed to livestock increases the weight added in cattle feeding about 1.9 percent and total cattle slaughter 0.23 percent. (Brandow 1961, pp. 72–74.)

Concentrate feed prices are quite responsive to changes in quantity. Elasticity of demand is about −0.23 which means that a 1 percent increase in quantity will cause a 4.4 percent drop in prices. Since reclamation has increased total U.S. concentrate production over 1 percent during the last twenty years, prices would be about 4.4 percent lower because of this production if it were not for annual commodity programs. Reclamation's increased production of hay and silage has had an even greater impact than concentrates. In the last twenty years reclamation irrigation has increased U.S. silage production by 5 percent and alfafa hay production by 6 percent. Since there are no federal programs to control the supply of forage crops, these increases have had direct effects through lower prices and farm income for nonreclamation farmers.

Feed Grains

The feed grains included in this discussion—corn, barley, oats and sorghum—are readily substitutable both in production and consumption. Their demand is derived primarily from the production of livestock and livestock products. Small changes in relative prices bring quick shifts in use by buyers while sustained price changes bring adjustments in production.

Besides the overall decline in acreage, there has been some shifting among feed grains (see table 63). Sorghum and barley acreages have tended to increase while the acreage of oats has declined sharply. Between 1959 and 1964 feed grain acreages were cut back through the annual feed grain programs in an attempt to raise prices and farm income. Up through 1959, reclamation feed grain acreage had bucked the trend with steady increases.

TABLE 63.—U.S. FEED GRAIN ACREAGE HARVESTED BY REGIONS

[Thousand acres]

Regions	1964	1959	1954	1949	1944
North	70,392	91,107	92,024	90,721	95,279
South	16,542	25,862	28,433	28,784	38,363
West (11 States)	6,727	8,429	8,117	6,476	6,885
Total [1]	93,661	125,398	128,574	125,982	140,529
Reclamation portion	[2] 1,098	1,207	1,065	697	589

[1] Totals may not add due to rounding.
[2] 605,000 acres received full reclamation irrigation service, 487,000 acres received supplemental service while the remaining 6,000 acres received temporary service.

Source: See table 52.
Note: Feed grains include corn, barley, sorghum and oats.

Before the institution of annual feed grain programs, increased production on reclamation lands put direct pressure on feed grain producers in marginal areas in the Southern and Plains States through lower prices. Even with the feed grain programs, shifts in production continue to take place, particularly increases in soybean acreage harvested in the North and in the South (see table 64). The primary reasons for these acreage shifts appear to be the growing market for soybeans and the decline in acreage used for cotton and grain production. Some of this decline is the result of increased reclamation production.

TABLE 64.—U.S. SOYBEAN ACREAGE HARVESTED BY REGIONS

[Thousand acres]

Regions	1964	1959	1954	1949
North	21,614	16,367	13,569	8,761
South	8,229	5,712	2,874	1,387
West (11 States)	1	1	1	(1)
Total	29,844	22,080	16,444	10,148

[1] Less than 500 acres.

Source: See table 52.

Alfalfa Hay

Reclamation alfalfa hay acreage increased by 713,000 acres between 1944 and 1964 and production more than doubled (see table 65). The impact of this production was felt in livestock and livestock product markets rather than in the hay markets of the North or South. Since hay cannot be shipped great distances except in dehydrat-

ed form it is generally fed to livestock not very far from the local markets. But hay competes on the national markets through the final product. At any given level of livestock prices, the cheaper the hay and feed grains the more livestock and livestock products that will be produced, which in turn drives down livestock prices.

TABLE 65.—U.S. ALFALFA HAY ACREAGE HARVESTED AND PRODUCTION BY REGIONS

Regions	Harvested acreage (1,000 acres)					Production (1,000 tons)				
	1964	1959	1954	1949	1944	1964	1959	1954	1949	1944
South	1,713	1,593	1,788	1,433	1,166	3,888	3,562	3,011	3,020	2,408
North	20,408	19,015	18,767	10,688	8,915	45,054	39,900	36,792	20,597	17,426
West	6,091	5,499	5,453	4,291	4,897	19,438	16,410	15,112	11,637	12,835
Total [1]	28,211	26,107	26,008	16,412	14,977	68,381	59,871	54,914	35,254	32,670
Reclamation portion	1,868	1,629	1,483	1,106	1,155	[2] 7,708	6,289	5,090	3,551	3,831

[1] Totals may not add due to rounding.
[2] 4.1 million tons were produced on lands receiving full reclamation irrigation service, 3.5 million tons on lands with supplemental service and the remainder on lands with temporary service.
Source: See Table 52.

How much the increased alfalfa hay production on reclamation-served land may have contributed to lower livestock and livestock product prices is difficult to determine. The increase of over 4 million tons of alfalfa on reclamation-served land between 1949 and 1964 represented 13 percent of the total U.S. increase. In 1964 reclamation-served land produced over 11 percent of the total U.S. production.

Conclusion

There can be little doubt from the data analyzed that reclamation irrigation has had a significant effect on U.S. agriculture. Increased production on reclamation-served land has increased USDA payments, stimulated regional production shifts, and reduced the incomes of non-reclamation farmers. It is estimated that an acre of land irrigated by reclamation is responsbile for an increase of $16 to $468 in annual commodity program payments, the amount varying with the commodity, the assumptions made concerning the relative productivity of displaced land, and the effectiveness of the commodity programs. The reclamation impact on crops not under the annual commodity programs ranged from a shift of $19 million to $23 million in gross farm income for pears to an estimated change of $350 million in net farm income for potato farmers. Finally, from 5 million to 17 million acres of cropland have been displaced by the 1944-64 increase in reclamation irrigation. In terms of income foregone this impact would fall within the range of $50 million to $170 million annually.

These impacts of reclamation projects have not been adequately considered in evaluations of project feasibility. Thus two steps are needed: (1) additional research, indicating possible procedures for estimating and including the appropriate related costs in the cost-benefit analysis, and (2) legislative or executive action requiring federal water agencies to include such costs in their project analysis.

Even if the United States had no excess capacity in agriculture (which the numerous land retirement programs remind us is not so), it would not follow that additional federal irrigation is needed. If additional agricultural capacity is desired, the least-cost means of increasing capacity should be selected.

FOOTNOTES

[1] See Ruttan (1965) for the method of calculating the cost of supplying water and the prices paid by the farmers.

[2] Part of this increase in alfalfa acreage resulted from a change in the Census of Agriculture definition.

[3] The reader can see this by turning to table 53.

[4] Includes cropland not harvested or in soil building crops which adds 120,000 acres to the figure shown in table 46.

[5] In 1964, a little less than half the harvested acreage served by reclamation irrigation received full irrigation service while most of the remainder received supplemental irrigation. This raises the question of how much of the production on land receiving supplemental irrigation can be attributed to reclamation. In some cases the supplemental irrigation makes it possible to grow crops that otherwise could not be grown. In others the supplemental irrigation will just stabilize and increase production. For crops where the latter is true or dry farming is a real alternative, the production of reclamation-served land should be adjusted accordingly. An overall 10 to 25 percent reduction is suggested as a reasonable range for such an adjustment factor.

[6] U.S. Department of the Interior, "Federal Reclamation Projects Statistical Appendix to 1965 Crop Report and Related Data" (U.S. Government Printing Office: 1966).

[7] Abel and Rojko (1967) estimate that the United States will have excess productive capacity at least through 1980. In fact to maintain current average prices for grain, over 20 million acres of grain land will have to be kept in retirement in 1980. Heady and Mayer (1967) estimate that 38 million to 78 million acres of cropland will need to be retired through 1980.

[8] The wide range of values stems from a wide range of assumptions regarding the yields on diverted acreage. The USDA assumes that the yield will be 90 percent of that on harvested acreage, but others have suggested that 30 to 50 percent would be more appropriate. The lower value of $18.1 million assumes a cost of $201 per acre and the higher value of $42.1 million assumes a cost of $468 per acre. See table 49.

[9] These payments may be compared with the 3 million acres of cropland the Bureau of Reclamation brought into production during 1944-64 and with the Bureau's cumulated construction appropriations since 1944 of over $4 billion. U.S. Department of the Interior, "Summary Report of the Commissioner of the Bureau of Reclamation 1966 and Statistical Appendix" (U.S. Government Printing Office, 1967).

[10] U.S. Department of Agriculture, "Farm Income State Estimates, 1949-1966" (FIS 207 Supplement) (U.S. Government Printing Office, 1967), pp. 132-34.

[11] "Cotton: Supply, Demand and Farm Resource Use," Southern Cooperative Series Bulletin 110, November 1966. Available from Arkansas Agricultural Experiment Station, University of Arkansas, Fayetteville, Arkansas.

[12] The difference between the average return on cotton and the average return on the next best alternative crop was estimated at roughly $50 per acre. Data for this estimate came from: (1) I. R. Starbird and F. K. Hines, "Cost of Producing Upland Cotton in the United States, 1964" (Agricultural Economic Report no. 99), September 1966, and (2) "Cotton: Supply, Demand and Farm Resource Use" (Southern Cooperative Series Bulletin 110), November 1966.

[13] Another reason is the somewhat lower freight rates for long-distance eastbound hauls as compared with westbound hauls of equal length. For example, the 1963 freight rate per cwt. for an average 1,200 mile trip from Maine was $1.25 compared to $0.70 from Idaho (Ulrey 1964).

[14] Using demand elasticity (e) of −0.2, a 1 million cwt. cut in 1965 potato production would have the following estimated impact on United States farm income:

1965 price (p)=$2.34/cwt.
1965 production (q)=289 million cwt.
$\Delta p=(p)(\Delta pq)/(q)(e)=(\$2.34(-1)/(289)(-0.2)$
$=\$0.04$/cwt.
$\Delta I=(q+\Delta q)(P+\Delta P)-(Pq)=(288$ million$\times\$2.38)$
$-(289$ million$\times\$2.34)\$685.4$ million$-\$676.2$ million
$=\$9.2$ million.

[15] An estimate based on a production cut of 38 million cwt. and a $9.2 million increase in income per million cwt. cut.

[16] Savings would accrue on all sugar if the U.S. set lower sugar prices

[17] U.S. Department of Agriculture, Sugar Reports, August 1966, No. 171, and Agricultural Statistics, 1966, pp. 80-96.

[18] "Resource Use Adjustment in Southern Rice Areas" (Effects of Price Changes with Unrestricted Rice Acreages), Southern Cooperative Series Bulletin 122, June 1967. Available from Arkansas Agricultural Experiment Station, University of Arkansas, Fayetteville, Arkansas.

Irrigation Subsidies and Surplus Crops [1]

(By David C. Campbell [2])

During the past 40 years, the Federal Government has instituted policies to ease the transition of American agriculture from a labor-intensive industry to a capital-intensive industry. (Although the goal of Federal farm programs is seldom phrased in this way). Increased use of non-labor inputs and efficiency improvements have resulted in productivity gains and surpluses of several crops. Acreage reduction programs, which provide deficiency payments and loans to farmers who reduce acreage planted, are the major component of Federal farm programs.

RECLAMATION IRRIGATION SUBSIDIES AND USDA SET-ASIDE PROGRAMS ARE INCONSISTENT

Yet, as the U.S. Department of Agriculture pays farmers not to grow certain crops, several other Federal programs encourage production of these same crops. The Farmers Home Administration provides loans to farmers and subsidizes rural water and sewer systems, the Rural Electrification Administration and the Power Marketing Administrations subsidizes electric distribution, generation, and rates. The Bureau of Reclamation provides irrigation water to farmers at a fraction of the cost of the Federally-financed and constructed system. The programs are inconsistent with the set-aside programs.

[1] Presented at a joint session of the Association of Environmental and Resource Economists and the Eastern Economic Association, Boston MA, March 11, 1988.

[2] National Wildlife Federation, Washington DC 20036.

In the Reclamation Reform Act of 1982 [Section 222(a)], Congress directed the Secretaries of Agriculture and Interior to study and report on the apparent inconsistency of Federal programs that, on one hand, are designed to restrict production and raise prices and farm income, and on the other hand, are designed to increase the productive capacity of the resource base.

Several policy changes that would eliminate or reduce the effects of the inconsistent programs have been suggested: charging full cost rates for water delivered to lands growing surplus crops; mandating participation in Federal set-aside programs for farmers receiving subsidized reclamation water; and denying participation in set-side programs for such farmers.

The Surplus Crop report [3] did not estimate the welfare gains and losses from denying farmers the right to participate in both programs during the same crop year. The authors did suggest a policy that would eliminate one of the subsidies; farmers who use Bureau of Reclamation water should be required to pay full-cost for water as long as the crop remains in surplus. Several USDA officials have suggested privately that Congress emulate the "swampbuster" language of the 1989 Farm Security Act and include a "waterbuster" provision in the next farm bill to halt all farm subsidies to farmers receiving subsidized water.

Representative Sam Gejdenson introduced H.R. 1443, "The Irrigation Subsidy Reform Act of 1987," during the 100th Congress. The bill would amend the Reclamation Projects Act of 1939 to require the Secretary of the Interior to charge full cost for water delivered from any reclamation or irrigation project for the production of any surplus crop of an agricultural commodity. The House Subcommittee on Water and Power Resources held hearings on the bill in May of 1987 but has taken no further action.

The benefits of reforming the contradiction between the Federal provision of subsidized water and the Federal commodity programs that pay farmers not to grow certain crops appear considerable. Moreover, the current efforts to reduce or eliminate agricultural subsidies worldwide requires an accounting and an evaluation of all American farm subsidy programs.

THE MAGNITUDE OF THE PROBLEM

Bureau of Reclamation projects divert and deliver a staggering amount of water—between 25 and 30 million acre-feet—for irrigation each year. This is the amount of water that 25 to 30 million households consume annually. Even small gains in conservation and efficiency could yield substantial water savings. Over 82 percent of water withdrawals in the 17 Western (Reclamation) States is used for irrigation compared to 8 percent for municipal use. (See Appendices attached.) Yet the heavily subsidized price of this water actually undercuts conservation efforts. Small reductions in irrigation deliveries could provide a significant increase in municipal water supplies. For example, a 2 percent reduction in irrigation demands would release enough water to increase municipal water supplies 20 precent.

The Federal subsidy to irrigation supplied through Bureau of Reclamation facilities in 1986 was $534 million. (Letter to Congressman George Miller from Wayne Marchant, Deputy Assistant Secretary of the Interior for Water and Science, February 24, 1988.) This amounts to $54 per acre for the 9.9 million acres irrigated with Reclamation water in 1986. The annual subsidy is increasing each year because of the addition of new projects to the Reclamation system.

Approximately 38 percent of the lands receiving subsidized water in 1986 was planted in surplus crops. The Secretary of Agriculture has declared crops such as cotton, wheat, corn, rice, and sorghum as surplus because they are in oversupply. Nearly a million acres of Federally-irrigated land was devoted to growing corn in 1986.

The percentage of total U.S. acres growing surplus crops and served by Reclamation water is not large, ranging from 0.7 percent for sorghum in 1981 to 8 percent for rice. But, because irrigated lands are more productive than average lands, the value of crops served by Reclamation water is a more significant proportion of the total value of surplus crops nationwide. Reclamation lands grew 18 percent of the total value of U.S. production of cotton in 1981, 14.1 percent of the total value of barley, and 11.8 percent of the total value of rice. These proportions have not changed significantly since 1981.

The surplus crop study found that the number of acres and value of production of surplus crops grown with Reclamation water was concentrated in several states. In Nevada, 62 percent of the total value of surplus crops was grown with Reclamation water, primarily wheat. Fifty-four percent of the upland cotton and 65 percent of the rice grown in California 1981 was supplied with subsidized water.

Because a significant percentage of U.S. production of cotton, barley, and rice are grown on lands served by Reclamation water, a policy change that eliminated the double subsidies and reduced production would raise domestic prices of these three crops. Higher prices would reduce Federal farm program outlays, increase the incomes of other farmers growing these crops, but reduce consumers' surplus. The net effect would be an improvement in social welfare.

The Department of Agriculture estimated that it paid $730 million in crop-support payments to owners and operators of Federally-irrigated farms in 1986. The total cost of the deficiency payment and loan programs of the Department of Agriculture relating to surplus crops was over $20 billion in fiscal year 1987.

The Bureau defines "irrigation subsidy" as the difference between the annual Federal costs of constructing, operating, and maintaining the irrigation portion of a project, including interest at a Treasury rate on the capital investment, and the revenues received by the Federal Government toward those costs. The prime reason that the subsidy is so large, approximatley 80 to 99 percent of the capital costs, is that no interest is charged on unpaid balances. The second major component of the subsidy is the repayment assistance provided by customers of subsidized electric power generated at federally constructed hydroelectric plants. This repayment assistance is no burden to power customers because it is deferred until after all interest-bearing costs of Federal power plants are repaid—as late as the year 2152 for irrigation features of the Pick-Sloan Missouri River Basin Project. In addition, the portion of Federal power used to pump Reclamation water is priced even lower to irrigators than to other customers. The potential magnitude of the Bureau's subsidies is well illustrated by the North Loup Project now under construction in Nebraska where the subsidized rate for water is $10 per acre per year compared to the full-cost rate of $597.

Cinco Farms, a 6,700-acre, "managed" farm in California's Westlands Water District, provides a dramatic example of how the Reclamation and farm support programs work at cross-purposes. Cinco made the headlines in 1983 when its owners received over $1 million from the cotton-surplus reduction program. The farm also is entitled (under the Bureau's lax interpretation of the 960-acre limitation) to receive Reclamation water with a subsidy valued at over $1 million per year.

ENVIRONMENTAL EFFECTS

The provision of subsidized water has several environmental consequences. It promotes consumption of water that could augment instream flows to provide fish and riparian habitat. Subsidized Reclamation water promotes the construction of new environmentally harmful water storage and diversion projects. Irrigation runoff water often contains chemicals, salts, and other minerals that impair ground and surface water quality.

If policies were instituted that reduced the current application of Reclamation water to surplus crop lands by only 25 percent, 2.5 million acre feet of water would be available for other uses, including instream flows. This amount of water is equivalent to the amount of water consumed in a year by 2.5 million households.

THE DELIVERY OF SUBSIDIZED WATER TO SURPLUS CROPS MISALLOCATES BOTH WATER AND LAND RESOURCES

Since 1950, the increased capacity of American agriculture has exceeded the ability of farmers to market and price commodities to achieve satisfactory incomes. Highly subsidized water delivered through the Bureau of Reclamation's dams and diversions has contributed to this growth in capacity and production. In the past, Reclamation's multi-purpose programs have focused on regional development rather than on agricultural policy. The Department of the Interior, however, has not focused on the Reclamation program's contribution to the overproduction of certain crops.

The Surplus Crop Report also found Reclamation and commodity program goals, as well as the policies, to be in conflict: commodity programs emphasize short-term price and income levels and stability; while Reclamation programs emphasize, among other objectives, maintaining agricultural capacity over time. The report concluded that a policy is needed to link long-term agricultural capacity and short-term farm income goals.

Secretary of the Interior, Donald Hodel, in response to questions submitted this year by the House Appropriations subcommittee on Energy and Water Development, highlighted the isolation of the Reclamation program. He stated, "[I]n areas where specific program legislation does not require joint action activity, the Bureau of Reclamation's program is administered without specific reference to the Department of Agriculture's various commodity programs."

The Reclamation program makes a net contribution to society only when the added value of the crops is greater than the value of the foregone use of the water. Subsidized irrigation water results in otherwise unproductive and unproductive lands to grow dozens of crops consumed and utilized

[3] Austin Fox, Charles Moore, and Harold Stults, "Production of Surplus Crops on Irrigated Land Served by the U.S. Bureau of Reclamation," Economic Research Service USDA February 1984.

throughout the world. Irrigation increases productivity on dry croplands.

Subsidized irrigation water contributes little or a negative value to society when it is delivered to surplus crops. Set-aside programs are what economists call "the binding constraint" to the production of surplus crops. Water is not the binding constraint for surplus crops.

In addition to crops declared surplus by the Secretary of Agriculture, the production of several commodities is restricted under Agricultural Marketing Orders. For example, until 1986, the production of hops was constrained by limits in the hops marketing order rather than by lack of water. Yet, 80 percent of the acreage used to grow hops was served by subsidized Reclamation water. Consumers paid twice: in taxes for the irrigation facilities and again in higher prices for the beer they bought.

The provision of subsidized irrigation water to land growing surplus crops compounds the misallocation of water resources caused by the Reclamation program. More land is farmed and farmers apply more water to their lands than if Reclamation water were priced at full cost.

The diversion of this water to grow surplus crops further reduces instream flows and adversely impacts fish and reparian habitat. The environmental losses do not stop when the water has been removed from the rivers. In documented cases, the irrigation return flows contain excess salts, harmful minerals, and chemical residues that lower the quality of groundwater aquifers, surface water, and wildlife habitat. These damages often are irreversible. Furthermore, excessive application of irrigation water leaches minerals and salts from the soil, reducing the productivity of the land.

CHARGING FULL COST FOR RECLAMATION WATER DELIVERED TO LAND GROWING SURPLUS CROPS WILL CONSERVE WATER

In introducing the Irrigation Subsidy Reform Act of 1987, Representative Gejdenson noted three major benefits to be derived from enactment of his bill. It would lower the Federal deficit, reduce the surplus of American farm products, and protect the environment by encouraging conservation of water.

One of the reasons that the full-cost formula will reduce the Federal deficit is that higher prices for some Reclamation water will reduce the political pressure for costly new Federal irrigation projects. The Bureau has several new projects in various stages of the planning process including the second phase of the Columbia Basin Project, CENDAK in South Dakota, and the Minidoka Extension in Idaho. In addition, environmental damages that would result from the construction and operation of new irrigation works will be avoided.

The Department of Agriculture recently wrote the Commissioner of Reclamation to explain its opposition to the CENDAK and Minidoka projects. The Department noted that "it is working towards retiring land through the Conservation Reserve Program, cutting excess production and reducing federal subsidies." "As a matter of national public policy, the Federal Government should not authorize and fund projects which bring new land into agricultural production at a time when it is burdened by excess crop production."

A fourth benefit of charging full cost for water used to grow surplus crops is that water would be released for other higher-valued uses, including instream flows. The environment will also be protected indirectly because municipalities and industries would build fewer new dams and delivery systems.

The delivery of subsidized Reclamation water to grow surplus crops surely must be the lowest-valued use of water in the arid West. During periods when the Department of Agriculture is paying farmers not to grow surplus crops, each bushel of a surplus crop grown with Reclamation water has a negative value to the nation.

In contrast, the value of the foregone uses of the subsidized water delivered to lands growing surplus crops is considerable. The cost of new municipal and industrial water supplies in the West is more than $200 per acre-foot per year. Water rights have sold recently for up to $3,500 an acre foot.

Because the Gejdenson bill applies only to new and amended contracts it would not affect current beneficiaries. Water would be freed up gradually as new contracts are signed and existing contracts amended. The water released for other uses and growing other than surplus crops would be made available concomitantly with population growth.

Farmers receiving subsidized Reclamation water will be free to make decisions under the provisions of H.R. 1443, as are non-Reclamation farmers. For example, they could continue to grow surplus crops and pay full cost for water. The higher prices for water would flow to the Federal Treasury. Farmers who continue to grow surplus crops could elect, or not elect, to participate in the set-aside programs. The Surplus Crop Report noted that farmers who pay full cost for water are more likely to participate in Federal programs than those who receive subsidized water and that increased participation reduces the total costs of the programs. Economic reasoning would lead one to expect these farmers who elect to pay full-cost (higher prices) to adopt more water-saving practices, releasing water for other uses, including protection and enhancement of the environment.

Farmers could elect to plant other crops not in surplus. The production of surplus crops would then fall, prices would rise, and the costs of the farm program would fall. The average American farmer also would benefit from the higher prices.

The 1984 Surplus Crop Report found that full-cost pricing of water would be more effective in resolving program inconsistencies than mandatory participation in USDA set-aside program for recipients of Reclamation water. Most farm support programs require that farmers set-aside between 20 and 35 percent of their lands normally used to grow surplus crops. Thus, under the mandatory participation proposal, large amounts of subsidized water would continue to be misallocated to grow crops that have no value to the nation.

Congressman Gejdenson's proposal to charge full cost for Reclamation water delivered to lands growing surplus crops is unlikely to be enacted by Congress in this session. Even if the bill does pass it would not be fully effective until 2005 when the last water repayment and water repayment and water service contracts between the Bureau of Reclamation and irrigation districts expire.

DISALLOW FEDERAL FARM PROGRAM BENEFITS FOR SURPLUS CROPS GROWN ON LANDS SERVICED BY RECLAMATION WATER

The problem of inconsistent goals and programs could be addressed by denying farmers who receive subsidized Reclamation water the right to participate in USDA set-aside programs. Implementation of the policy would not be delayed by the length of existing contracts. The denial of farm program benefits would be similar to the "sodbuster" and "swampbuster" provisions of the 1985 Farm bill, and denial of tax benefits for costs incurred in draning wetlands or breaking new sod in the Tax Reform Act of 1986.

The elimination of farm subsidies to farms served with subsidized water may reduce considerably the current Federal expenditures of $730 million but it will not reduce greatly the misallocation of water. Those farmers who currently receive subsidized water are less likely to participate in Federal set-aside programs than those who pay full cost, and than farmers who don't irrigate. (Surplus Crop Report 1984) Farmers who do not elect to participate will plant more acres of land and use more water than without the denial. This increased production could reduce prices and lower the incomes of other farmers. Farmers may switch to non-program crops in order to continue to receive Reclamation water.

MAKING PARTICIPATION IN SET-ASIDE PROGRAMS MANDATORY FOR FARMERS RECEIVING SUBSIDIZED RECLAMATION WATER

Congress required the Surplus Crop study to include the feasilibility and appropriateness of requiring mandatory participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement. The report found that if all recipients of Reclamation water who grew surplus crops participated in set-aside programs in crop year 1982, U.S. farmers would have earned $300 million more because of higher crop prices, consumers would have paid $261 million more for farm goods, and the U.S. Treasury would have paid $51 million less in deficiency payments than it did pay.

The surplus crop report noted mandatory compliance would be a difficult policy to implement because legislation would be needed and administrative procedures would be complex.

CONCLUSION

The elimination of one of the two inconsistent subsidies: Reclamation water subsidies or agricultural set-aside programs makes sense for both the economy and the environment. Three proposed methods are: full-cost pricing of Reclamation water delivered to lands growing surplus crops; mandatory participation in set-aside programs for irrigators receiving subsidized water; and denial of farm program benefits to recipients of subsidized water. Each is not perfect, but full-pricing of Reclamation water would do the most to correct the current misallocation of water. Because passage of the Irrigation Subsidy Reform Act is not likely, the option of mandatory participation is the next best solution.

FRESHWATER WITHDRAWALS BY CATEGORY FOR 17 WESTERN STATES

	Public supply		Rural supply		Irrigation		Industrial		Total (MGD)
	(MGD)	Percent of total	(MGD)	Percent of total	(MGD)	Percent of total	(MGD)	Percent of total	
Arizona	560	7	43	1	7,100	89	249	3	7,952
California	4,100	9	220	1	37,000	84	2470	6	43,790
Colorado	590	4	200	1	14,000	89	900	6	15,690
Idaho	160	1	68	0	16,000	87	2205	12	18,433
Kansas	290	4	140	2	5,600	85	530	8	6,560
Montana	140	1	88	1	11,000	96	290	3	11,518
Nebraska	260	2	170	1	9,300	78	2264	19	11,994
Nevada	230	6	24	1	3,100	86	234	7	3,588
New Mexico	210	5	52	1	3,600	92	72	2	3,934
North Dakota	59	5	32	2	280	21	937	72	1,308
Oklahoma	300	18	93	5	870	51	450	26	1,713
Oregon	230	3	170	2	5,900	86	522	8	6,822
South Dakota	76	11	110	16	460	66	48	7	694
Texas	3,800	27	400	3	8,400	59	1720	12	14,320
Utah	750	17	69	2	3,200	70	52	12	4,543
Washington	810	10	58	1	6,400	77	991	12	8,259
Wyoming	82	2	25	0	4,900	91	390	7	5,397
Total	12,647	8	1962	1	137,110	82	14,796	9	166,515

Source: United States Geological Survey Water-Supply Paper 2250, National Water Summary 1983—Hydrologic Events and Issues.

CONSUMPTION/FRESH WATER WITHDRAWAL IN 17 WESTERN STATES

State	Public supply			Rural supply			Irrigation			Industrial			Totals		
	WTHDL (MGD)	CNSMP (MGD)	CNSMP/WTHDL (percent)	WTHDL (MGD)	CNSMP (MGD)	CNSMP/WTHDL (percent)	WTHDL (MGD)	CNSMP (MGD)	CNSMP/WTHDL (percent)	WTHDL (MGD)	CNSMP (MGD)	CNSMP/WTHDL (percent)	WTHDL (MGD)	CNSMP (MGD)	CNSMP/WTHDL (percent)
Arizona	560	340	61	43	32	74	7,100	4,000	56	249	171	69	8,000	4,500	56
California	4,100	1,700	41	220	130	59	37,000	23,000	62	2,470	231	9	44,000	25,000	57
Colorado	590	160	27	200	59	29	14,000	3,600	26	900	170	19	16,000	4,000	25
Idaho	160	51	32	68	30	44	16,000	5,600	35	2,205	171	8	18,000	5,900	33
Kansas	290	83	29	140	140	100	5,600	4,300	77	530	105	20	6,600	4,700	71
Montana	140	53	38	88	88	100	11,000	2,600	24	290	27	9	11,000	2,700	25
Nebraska	260	53	20	170	160	94	9,300	7,400	80	2,264	25	1	12,000	7,600	63
Nevada	230	69	30	24	15	62	3,100	1,500	48	234	78	33	3,600	1,700	47
New Mexico	210	99	47	52	25	48	3,600	1,700	47	72	59	82	3,900	1,900	49
North Dakota	59	34	58	32	32	100	280	250	89	937	18	2	1,300	330	25
Oklahoma	300	120	40	93	89	96	870	610	70	450	230	51	1,700	1,000	59
Oregon	230	47	20	170	170	100	5,900	3,000	51	522	20	4	6,800	3,200	47
South Dakota	76	15	20	110	100	91	460	340	74	48	5	10	690	460	67
Texas	3,800	640	17	400	400	100	8,400	8,000	95	1,720	990	58	14,000	10,000	71
Utah	750	300	40	69	21	30	3,200	2,400	75	524	90	17	4,500	2,900	64
Washington	810	170	21	58	21	36	6,400	2,600	41	991	151	15	8,200	2,900	35
Wyoming	82	48	59	25	21	84	4,900	2,500	51	390	70	18	5,300	2,600	49
Total	12,647	3,982	31	1,962	1,533	78	137,110	73,400	54	14,796	2,611	18	165,590	81,390	49

Source: U.S. Geological Survey Water-Supply Paper 2250, National Water Summary 1983—Hydrologic Events and Issues.

APPENDIX TABLE 13.—PROPORTION USBR-IRRIGATED VALUE OF PRODUCTION IS OF TOTAL VALUE OF PRODUCTION, PROGRAM CROPS, 17 WESTERN STATES, AND THE UNITED STATES, 1981 [1]

[In percent]

Region and State	Wheat	Corn	Sorghum (grain)	Barley	Oats	Cotton (upland)	Rice	Total
17 Western States:								
Arizona	19.1	0.3	38.6	12.7	NA	24.9	0	23.3
California	27.9	33.2	21.1	40.0	27.6	54.7	65.0	48.2
Colorado	.9	27.8	.4	23.6	28.04	0	0	13.7
Idaho	17.1	36.5	NA	25.0	32.1	0	0	20.7
Kansas	(2)	2.6	.1	0	(2)	0	0	.5
Montana	1.2	15.2	NA	8.8	9.9	0	0	2.7
Nebraska	.1	4.3	.3	2.4	.4	0	0	3.1
Nevada	76.6	0	0	47.9	NA	0	0	62.1
New Mexico	9.1	3.4	5.1	9.8	NA	25.6	0	12.4
North Dakota	.1	.2	NA	(2)	.1	0	0	.1
Oklahoma	.1	0	(2)	0	(2)	8.0	0	1.1
Oregon	5.1	.3	0	30.2	22.2	0	0	8.3
South Dakota	.1	.9	(2)	.2	.2	0	0	.5
Texas	.5	3.3	1.3	51.8	.1	.8	0	1.1
Utah	11.0	31.8	0	26.5	88.5	0	0	20.8
Washington	8.9	63.8	NA	9.0	9.0	0	0	11.8
Wyoming	1.6	34.1	0	58.8	22.8	0	0	30.0
Total	4.2	7.2	1.1	16.8	3.5	25.1	33.4	10.0
United States	3.0	1.3	1.0	14.1	1.3	18.0	11.8	4.4

[1] Crop values in app. table 11 divided by crop values in app. table 12.
[2] Less than 0.05.

NA—Not available.

Source: USDA Economic Research Service 1984, "Production of Surplus Crops on Irrigated Land Served by the U.S. Bureau of Reclamation."

Mr. HEINZ. Mr. President, I ask unanimous consent that an article that appeared in the winter 1988–89 issue of the magazine Issues in Science and Technology, by Marc Reisner, entitled "The Next Water War: Cities Versus Agriculture," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEXT WATER WAR: CITIES VERSUS AGRICULTURE

(By Marc Reisner) [1]

Like most Easterners, when I first came to California I was unprepared for the reality that it was so dry. On television and in the movies, the state had always looked lush and green. But as I drove across it, California—along with so much of the West—seemed far more arid than the mind's-eye image I had formed. It was a revelation to see just how much of this continent the desert owns.

Thus I supposed that the water problems of the West—with limited supplies of this precious resource stretched thin by burgeoning growth in population and industrial activity—were serious indeed. I was wrong. The fact is that the region has plenty of water for any rational need. Our problem is one of management. What we have in the American West is a stupefyingly inefficient—almost Soviet-style—system of water management and allocation. With relatively few adjustments—which may, I admit, require some real political courage to bring about—there would be plenty of water for further economic growth. And there would be water to repair some of the environmental damage that has already occurred—to bird habitats in the rivers and dried-up wetlands of the Pacific flyway, for example, and to estuarine treasures, such as San Francisco Bay, that produce so much aquatic life.

TAKING A LOT, RETURNING A LITTLE

To truly understand the use—and misuse—of water in the West, one must take a cold, detached look at agriculture.

In California, where I live, agriculture accounts for 85 percent of all water use, nearly all of it for irrigation; that figure is even higher in most other western states. But agriculture accounts for only 2.5 percent of the California economy. And, although the state economy has grown by $200 billion over the past 16 years (to $550

[1] Marc Reisner is the author of "Cadillac Desert," a history of water and the American West, which was nominated for the National Book Critics' Circle Award in 1986. A former staff writer for the Natural Resources Defense Council, he lives in San Francisco. This article is adapted from his speech at the Aquavision Conference in Las Vegas last October.

billion), agriculture's contribution has remained static at $14 billion.

Even in New Mexico, the least urbanized western state, agriculture returns just about 18 percent of the state's income—but uses 92 percent of the water.

What does all that water grow? In California, the number-one crop in terms of water consumption is irrigated pasture—grass and hay for cows and sheep—which used approximately 5.3 million acre-feet in 1986. This was equal to the amount of water consumed by all 27 million people in the state, and that includes swimming pools and watered lawns. And what was irrigated pasture worth to California? An invisible $94 million in gross receipts, representing about one five-thousandth of the economy. But it used one-seventh of the water on which that munificent economy depends.

Consider alfalfa, the second most water-consumptive crop. In 1986, irrigating alfalfa required as much water—3.9 million acre-feet—as metropolitan Los Angeles and the Bay Area combined. Drinking water, toilets, lawns, gardens, showers, swimming pools, car washes—everything. What did alfalfa return? About $630 million. Even when you add secondary benefits, alfalfa generated less economic activity than a few square blocks of downtown L.A.

Now we come to cotton, the third most water-consumptive crop. The San Joaquin Valley's million acres of cotton require around 3 million acre-feet of water per year. That's water for 15 million people—or 15 times the population of Nevada. In 1986, cotton added $842 million to the California economy. Better than alfalfa and grass, but still not much to brag about.

Rice is the fourth most water-consumptive crop in California. Rice, you could say, is not everyone's ideal of an appropriate desert crop, since it grows only in manmade lakes. The main reason it is grown at all in California is because many of our rice farmers buy water from the Bureau of Reclamation at a fabulously subsidized prices (as do many of the cotton, alfalfa, and hay farmers). But rice used much more water than the whole Bay Area in 1986—enough for 10 million people. Its gross value was a pitiful $204 million.

Suppose the cotton, alfalfa, pasture, and rice acreage in California was entirely eliminated? Suppose further that the land was not replanted with more sensible crops—truly a worst-case scenario, since you can grow practically anything in California. The agricultural industry would decline, from $14 billion to $12.3 billion a year in gross revenue, but there would instantly be enough water for 70 million more Californians . . . God forbid. That $1.7 billion loss of revenue, by the way, is exactly the cost of the proposed Auburn Dam that farmers want taxpayers to build for them. By simply retiring the land we'd get 75 times more water for our money.

USE IT OR LOSE IT

How has it come to this? How is it that in the western states—which are for the most part semiarid or arid, which have been experiencing tremendous population growth, and which have become dramatically more urbanized and industrialized since World War II—we allow a few extremely low-value forage and fodder crops to claim 50, 60, even 80 percent of the water?

There's no simple answer—is there ever a simple answer?—only a curious admixture of weather, confining legal doctrine, stubborn old habit, bureaucratic self-interest, socialist economics, and religion.

During the nineteenth century—when early western water rights were established—the American West was like a separate continent, isolated from the rest of the country by enormous distances, a primitive transportation system, and a ferocious and impetuous climate. Our forebears in the West felt an urgent need to be self-sufficient in food production. You couldn't easily import beef from Iowa or Texas, as you can today. So a lot of early and senior water rights were very large, based on the need to raise enormous forage acreage for cattle. The people who held these water rights—and who passed them on to their descendants—often formed irrigation districts that build canals and dams that are by now fully amortized. Therefore those who inherited these early water rights often owned a great volume of very inexpensive water.

When the Bureau of Reclamation came along in 1902, it offered cheap water to thousands of other farmers throughout the West, who were—and remain—exempted from paying interest to the taxpayers' investment in expensive aqueducts and dams. Imagine a $200,000 house, payable over 40 years with no interest charged at all. Your payments would be $416 a month instead of $1600 to $1800 a month. That is the order-of-magnitude savings the bureau's privileged farmer-clients enjoy.

In some locales, the bureau still sells water, legally or not—some think not—for less than half a cent per ton, literally cheaper than dirt. This is socialist water—it's hypocritical to call it anything else, even if it means undermining the image of the region's rugged-individualist yeoman farmer. When water costs $7.50 per acre-foot, it's cheaper to waste it than to conserve it. And we are talking here about one-third of the irrigation water currently used in the American West.

So here we have two reasons—one historic, the other economic—for low-value crops (and water waste and inefficiency) that fit hand-in-glove with a third reason: the doctrine of appropriative rights. This preeminent legal framework within which western water rights are acquired, held, and lost, can be boiled down to a fine essence of five words: Use it or lose it. Thus, if you were to shift from irrigated pasture to oranges, you could reduce your water consumption by two-thirds. In fact, you could substitute almost any crop for pasture and reduce your water consumption. But then, under appropriative rights doctrine, your neighbor could simply take the water you no longer use, unless you somehow arranged to sell it.

TOO MUCH FOOD

What about that prospect of selling it? In the case of water that has been developed and is sold by the Bureau of Reclamation—enough water, in theory, for the domestic uses of the entire population of the United States—I have seen almost no water rights being transferred or sold. Although the bureau has been talking about a "new mission," about "redefining its goals," it seems to me that its major goal remains to supply cheap water for as long as possible. I've spoken in person with the Commissioner of Reclamation and both Assistant Commissioners in recent months, and none of them said that the bureau is going to help its client farmers sell or rent water rights on a large scale—even if they want to. And the bureau has no plans to raise water rates substantially, even where projects are foundering in debt.

One reason is that if the Bureau of Reclamation gets into the business of redistributing water, or selling more expensive—which is to say, more realistically priced—water, it knows it will never have to build another dam. If I were an engineer—the Bureau of Reclamation is full of engineers—I would want to build more dams.

There's still another reason why so much western water is used on water-consumptive, low-value crops such as pasture and alfalfa. Outside of California, Arizona, and the Northwest, the region's bitter, high-altitude climate doesn't really let you grow much of anything else.

And yet even in California, where the most valuable crop, by far, is grapes—California's grape industry is worth more than a billion and a half dollars per year, or 15 times the value of irrigated pasture—the grape acreage is barely half as large as the pasture acreage.

So why, even in mediterranean California, aren't we raising more grapes and fewer cows? Partly for the reasons mentioned above: If you have cheap water and a large water right, and western water law gives your neighbor any water you don't use, you might as well keep raising grass. To a western farmer, there is no terror like losing water rights. But another reason is this: The country doesn't need that much land to grow grapes. Or lettuce. Here we are in the age of the salad bar, and here is California growing the overwhelming share of the nation's lettuce, but this colossal lettuce crop needs just 168,000 acres. The avocado crop needs only 74,000 acres. The whole California lemon crop requires just 50,000 acres. With a relatively small amount of cropland devoted to it, California now grows a third of the table food in the United States.

It's not surprising, then, that I have to smile when someone accuses me of trying to doom us all to starvation by shifting water out of irrigation. The basic problem with U.S. agriculture is that we grow too much food! I have to smile, too, when some grower tells me that if the Bureau of Reclamation doubles or triples its water prices, then food prices will double or triple, too. That insults my intelligence. In California, we have farmers buying an acre-foot of federal water for $10 or $15, and other farmers buying State Water Project water for $50 an acre-foot, but they're both in business, and the one guy's tomatoes don't cost three times as much as the other's.

A SENSE OF CONQUEST

Let me add one last, speculative reason why I think water in the West seems to gravitate to the lowest rather than the highest economic uses. It's that water development, in my opinion, has long attained the status of a secular religion in the American West.

We say that we love the desert, those of us who live here. If that's true at all, it's only partially true. When you consider the passion and the money that we bring to the job of transforming the desert, you could easily conclude that we had it. What we really want is a Miami (look at Beverly Hills) or an Illinois (look at the Sacramento Valley) where it doesn't rain. We may drive through the desert—in an air-conditioned car, of course—"experiencing" its grandeur. But we need to come home to a swimming pool and a big green lawn in the midst of that desert. We love to see those agricultural oases, those big swaths of green in the desert's vast austere emptiness. We tweak its majestic indifference by making it bloom.

And where we have rescued land from the desert's possession, we don't want to give it

up. We don't want the desert to reclaim what we have stolen from it at such enormous effort and expense. Seeing those alfalfa fields growing around Reno, or crossing the Tehachapis and heading up the San Joaquin Valley and seeing that sudden explosion of green, gives us not just a sense of conquest—of accomplishment—but also a peace of mind. After all, when you come right down to it, the desert is the most frightening landscape on earth.

That peace of mind—the stability—offered by irrigated agriculture had great economic and social value a hundred years ago. It represented deliverance from the cyclical agonies of boom and bust. But local economies have markedly changed. Nevada, for example, had the good sense to cultivate the four most stable industries on earth: gambling, prostitution, marriage, and divorce. And the economic importance of recreation, retirement, and high technology throughout the region is vastly out of proportion to irrigated grass and alfalfa. But these crops enjoy a certain unordained priority, as if this were not the year 1989 but 1894.

In Colorado, the alfalfa crop uses 27 percent of the state's water and contributes a measly $160 million to the state's economy. Tourism takes a tiny fraction of that water but contributes $2 billion or $3 billion to Colorado's economy. Tourists prefer their water in roaring mountain streams, not on boring alfalfa fields. In California, the water in the South Fork of the American River is worth much more in the river than taken out for irrigation: The whitewater rafting business on the South Fork pumps several million dollars into Placer County's economy each year. Because there are no water development costs, that river presents pure profit. But the South Fork is scheduled to be dammed and diverted, because of that religious, uncompromising desire to keep the desert in bloom.

TOWARD MEANINGFUL CHANGE

Where does this leave us? Potentially with a war on our hands. True, the growers now own most of the water rights. But I don't know when westerners ever signed a Magna Carta proclaiming that agriculture has a God-given right to appropriate 85 to 90 percent of the region's water, for all time.

One day soon the urban voters of the West—who are the great majority today—are going to realize that agriculture—not Los Angeles, Las Vegas, or Phoenix—is the big environmental problem in the West, too. The blame for all the salmon rivers destroyed, the California wetlands acreage down to 5 percent of what it once was, millions of migratory waterfowl gone, the deer and elk and mountain sheep usurped from their traditional grazing lands, and the pesticides contaminating groundwater and Lake Mead and San Francisco Bay can't be laid at the cities' doors. And since something like 80 percent of all Californians and Nevadans now say they would side with nature in a contest with economic growth, this realization is going to count for a great deal when it finally hits home.

And people will someday realize, too, that they can have economic growth without ruining any more rivers and wetlands, and without building any more dams. They will start treating western water as the precious and scarce commodity that it is, and stop giving farmers oodles of subsidized water to grow subsidized crops.

What we have to do is disassemble the whole legal/legislative/procedural Rube Goldberg machine that distributes water in the West, and put it back together in a way that makes sense. Like Detroit in the 1970s, we are going to have to retool completely and build us a better car. Appropriative rights doctrine has got to be loosened up so that farmers have a financial incentive to conserve water. And laws that actually prohibit transfers of unused water rights must be revised. At present, transfers from the upper Colorado basin to the lower basin, between states, and even between designated water districts are often forbidden. It is illegal for Las Vegas to purchase Colorado basin water currently subject to such egregious waste as the growing of alfalfa in this region.

Now, the Bureau of Reclamation and spokespersons for the western irrigation lobby may tell you that rewriting the laws is impossible, or impractical, or politically unthinkable—as if every facet of western water law and regulation is chiseled in stone. Yet the irrigation lobby has succeeded in effecting wholesale revisions—repeatedly—in the most significant of all the federal laws governing water in the West: the Reclamation Act.

Originally, the farmers were supposed to repay the taxpayers' investment—minus interest—in 10 years. They amended that to 20. Then to 40. Then they added a 10-year "grace period," which made it effectively 50 years. Originally, you weren't supposed to receive subsidized water to irrigate more than 160 acres of land. Then the bureau was persuaded to interpret that as 320 acres—160 each for a man and wife. Then, in 1982, after a stellar lobbying campaign waged by the growers, the so-called Reclamation Reform Act upped the legal acreage to 960. Why is it possible to amend laws the irrigation lobby likes, but so impossible to amend laws it doesn't like?

I have no illusions that meaningful change will be easy. But I am convinced that it could be far less painful than most people believe.

Our first priority must be to protect the local economies that could be hurt by widespread sales of water rights—the farmers who remain, the seed and implement dealers, the local Dairy Queen. One could argue that in a free-market economy these people must simply take their knocks, but I don't subscribe to that view. In Colorado, where water rights are traded more freely than in any other western state, special state courts deal solely with the impacts of water transfers; any third party who feels he might be injured may seek compensation in court, and often receives it. Some say this system is too clumsy and expensive; if that's true, let's invent a better one.

Of course, it's a proven fact that we could free up an enormous amount of water for economic growth without retiring any farmland at all. In west Texas, where the great Oglala Aquifer has been severely pumped out, conservation-minded farmers now use 40 percent less irrigation water than they did 10 years ago. They have installed low-head sprinkler systems, they laser-level their fields, they use sophisticated soil-moisture gauges so that hardly a drop of superfluous irrigation water is applied to their crops.

Why doesn't the city of Denver install such technology for those farmers who share the South Platte River with it—and then buy their conserved water—rather than spend $800 million on a white elephant like the proposed Two Forks Dam? The main reason is that in Colorado—as in most other western states—water rights usually may be traded only within designated water districts. Even if such a district abuts the city, Denver can't legally buy any of its water.

In a water-short region, this precious substance must be allowed to gravitate toward its highest economic uses—provided that potentially injured parties are protected. But there has been little thinking along these lines—least of all by state legislatures, where farm interests predominate. Our reflex response to a water shortage has always been to build another dam.

Everyone is afraid of initiating another water war, such as the famous conflict between the Owens Valley and the city of Los Angeles many years ago. But there needn't be any wars. A saner distribution, a more commonsensical allocation of water in the West can be worked out without dynamite and guns. But we had better hurry up and try, for in times of scarcity you do fight over the spoils. Much of the West has now lived through a year of severe drought; California has experienced two critically dry winters in a row. Have we forgotten that the Great Drought of the 1930s lasted nearly 8 years?

Mr. DECONCINI. Mr. President, I rise today in opposition to the proposed amendment forcing agricultural producers to choose between reclamation water and farm program benefits. It will create significant hardships to agricultural interests in my State of Arizona and honest, hardworking farmers will be penalized throughout the West.

Mr. President, we are beginning to blur water policy with agricultural policy. In the West we are very clear and very careful about water policy and feel that questions about its abuse should be treated separately from farm policy.

Over 52 percent of my State's land is committed to some type of farming. There are over 8,000 farms in Arizona covering in excess of 30 million acres, three quarters—6,075—of them individually or family owned and operated. The facts speak for themselves. Agriculture is important to Arizona. Arizona has some of the most modern, most efficient, and best operations in the United States, all of which depend upon a reliable source of water.

As you know, Mr. President, water is a critical and limiting component of any major endeavor in the Southwest. Over 4,000 Arizona farms rely on some sort of irrigation system. Our primary source of water is the central Arizona project, a federally funded reclamation project. Many people believe that water projects like the central Arizona project give farmers free water or at least water at very low prices. That is not true, Mr. President. Arizona farmers currently pay $40 to $50 an acre-foot for CAP water. Much of the country reports water project rates at $2 to $17, which is $30 to $40 per acre-foot cheaper than Arizona project water. How can that be considered an unfair advantage for Arizona farmers? Arizona reclamation water is already $30 to $40 greater than the national average for subsidized water.

Mr. President, you cannot simply compare water rates in Arizona with the rest of the country and decide what is fair. In addition to paying for water, Arizona farmers pay an additional $275 million, or 20 percent, of the cost of the central Arizona project through additional assessments. Should Arizona farmers leave the reclamation program and not participate, the ability to repay private bondholders and the United States for the CAP would be jeopardized. Who would pay off the farmers' 20-percent share of the investment of $275 million if the farmers don't?

Since 1902, the Bureau of Reclamation has spent only $12 billion to build the western reclamation projects, an amount that can be compared to the cost of the Washington, DC, Metrorail System. Of that $12 billion, only $5.4 billion is allocated to irrigation features. In 1987 and 1988, the USDA paid $5.7 billion in drought relief almost exclusively to Midwest farmers. That $5.7 billion did not contribute to long-term drought prevention; it did not build for the future; it didn't even require those Midwest farmers to share in its cost. No, it was an outright payment with no strings attached. Arizona farmers do not receive drought benefits because their crops are irrigated by a project based on long-term thinking.

If our objective is to reduce the cost of Government support to farmers and to eliminate abuses, this proposal fails to achieve that objective. It will not significantly reduce costs of farm programs. In fact, crop deficiency payments will most likely increase as a result of this amendment. Farmers not using CAP water will be forced to plant their total acreage in program crops. We will see farms planted from fence row to fence row.

Arizona farmers are productive; they are efficient, and I can guarantee you, Mr. President, that without farm program benefits production of program crops in Arizona will increase, and particularly cotton, and they will flood the market. We do not want to eliminate farmers from farm programs; we want farmers to comply with our farm programs. If we drive them from the farm program through amendments like this one, our ability to maintain environmental controls will be reduced, if not eliminated.

If the problem is reclamation abuse, then let us correct reclamation abuse. Let us not short-circuit the process and give farmers the privilege of paying the tab.

Mr. HEINZ. Mr. President, I withdraw my amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 2393) was withdrawn.

Mr. CONRAD. Mr. President, I call for regular order on the Conrad amendment number 2330.

The PRESIDING OFFICER. The clerk will report the amendment.

AMENDMENT NO. 2330, AS MODIFIED

(Purpose: To modify the repayment requirements for advance deficiency payments to certain producers)

Mr. CONRAD. Mr. President, I ask unanimous consent to send a modification of that amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. BURNS, Mr. BAUCUS, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. BURDICK, Mr. PRESSLER, Mr. GRASSLEY, and Mr. BOND, proposes an amendment numbered 2330, as modified.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 329, between lines 5 and 6, insert the following new subsection:

(c) REPAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.)

(2) APPLICATION.—This subparagraph shall apply if—

(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a);

(B) the producers are required to provide a refund of at least $1,500.00 under (G) or (H) of section 107C(a)(2) of such act with respect to the advance deficiency payments;

(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.

On page 329, line 6, strike "(c)" and insert "(d)".

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. On this amendment, there are 20 minutes equally divided.

Mr. LEAHY. Can we have order, please, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CONRAD. Mr. President, I would just inquire. I understand my amendment has been cleared on both sides. There previously had been 20 minutes remaining on both sides. I see no need to take an additional 20 minutes of my colleagues' time if in fact it has been cleared on both sides. I feel no need to have further discussion.

Mr. HELMS. Will the Senator yield?

Mr. CONRAD. I am happy to yield for the purpose of a question.

Mr. HELMS. I want to make a parliamentary inquiry: We have been about 5 or 6 hours since a vote. Will the Chair carefully state the parliamentary situation as to amendments?

The PRESIDING OFFICER. The Senator from North Dakota has called for the regular order on amendment No. 2330. There are 20 minutes remaining to be divided equally. Upon disposition of the Inouye amendment No. 2385, we would recur to the Glenn amendment No. 2384. Upon disposition of the Glenn amendment, we would then return to the Helms amendment No. 2389.

Mr. HELMS. Will the Senator forbear for just a moment?

Mr. President, I ask unanimous consent that it be in order for me to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. CONRAD. Mr. President, I register a parliamentary inquiry. Do I lose my right to the floor if I do not object?

The PRESIDING OFFICER. There is no longer a unanimous-consent request pending. The Senator from North Dakota is recognized.

Mr. HELMS. It was not intended that he lose his right to the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. HELMS. I thank the Senator.

Mr. CONRAD. Mr. President, again I just say to the managers, if my amendment has been cleared on both sides, I see no need to proceed to the 20 minutes, that we would be able to adopt the amendment and move ahead.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I reviewed the amendment by the distinguished Senator from North Dakota. I know he has been working on it for several days with different Members and especially with the modification he just sent to the desk.

I have no objection to it. I support it.

Mr. LUGAR. Mr. President, are we in a time agreement? If so, does our side have 10 minutes?

The PRESIDING OFFICER. The Senator from Indiana controls time, 10 minutes on either side.

Mr. LUGAR. I thank the Chair. I yield myself such time as I may require.

Mr. CONRAD. Mr. President, if I might, I was inquiring of the managers if the amendment has been cleared. I would be glad to give back the time.

Mr. LUGAR. I was going to respond on my time to the distinguished Senator that I will yield back after making a statement. But I simply wanted to confirm what I felt was the parliamentary situation, 10 minutes equally divided, and I will yield back that time after completing my comments.

Mr. President, our staff has worked carefully with the distinguished Senator from North Dakota. It is an important issue which as we recall in previous debate has come before the body in various forms.

Let me say that there is no doubt that barley farmers in the Plains States and other farmers, with other crops, were grievously effected by a drought in 1988 that was devastating. And it was met with comprehensive disaster legislation by this body. Something close to $4 billion was expended to assist agricultural America, and in fact the act did a very good job. What could have been a disaster in fact turned our finally to be a record receipt time for American agriculture, generally.

But in the midst of this general prosperity, as Senators have pointed out, and the Senator from North Dakota has been eloquent in pleading this case, there were special situations, special crops, operations of agriculture, which did not have the diverse opportunities. Among these were a number of barley farmers.

In the past, there has been a disposition on the part of this body to extend the time of repayment of advanced deficiency payments made to these farmers. We have come now close to the end of the line of the last of these extensions, July 31.

The Senator from North Dakota and others who have worked with him have proposed not an extension and not a forgiveness, but rather that these debts be recognized, and that they be worked through a regular procedure of repayment. During negotiations on this subject, the repayment interest rate will be the commercial rate.

Mr. President, that is an important concept, and I take the time of the body to mention it. Time is money and money is time. Values are involved here; when farmers have made repayment, they have lost the use of the money. When they have not made repayment, they have the use of that money. The interest rate at a commercial level levels out the playing field, in fairness of those who have paid and have not paid.

So this is not a forgiveness, not a special dispensation. It is a careful working out of those obligations over time and an interest rate that would be true for someone going into planting a field now who needed extra working capital.

Second, we have worked out with the distinguished Senator from North Dakota some important thresholds for this to occur. In 2 years there must have been substantial disaster losses with the counties involved to clear disaster areas, and the farmer himself must have had a certain amount of loss. These are important thresholds. So that these are truly grievously affected farm operations.

Finally, we have, for the sake of administration, said that the debt must be at least $1,500 or more for the administration of this loan program to be worthwhile. If there are smaller debts—and there are in some cases—they must be repaid now with advance deficiency payments.

We appreciate the work of the Senator from North Dakota, and others who worked with him, and the staffs on both sides of the aisle. We are pleased to accept the amendment. I support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first, let me thank the chairman of the committee and the ranking member for their assistance in working out this amendment. This has been a long, tortuous process. I think we have achieved an equitable result.

I want to especially thank my colleague, Senator BURNS, of Montana, who was especially helpful in working out this solution. I very much appreciate his effort. I also want to thank the other original cosponsors and make certain that they are appropriately acknowledged in the RECORD: Senator BAUCUS, of Montana; Senator DASCHLE, of South Dakota; Senator BOSCHWITZ, of Minnesota; Senator BURDICK, of North Dakota; Senator PRESSLER, of South Dakota; Senator BOND, of Missouri, and Senators GRASSLEY and HARKIN, of Iowa.

With that, I yield the floor.

Mr. LUGAR. Mr. President, I wish to commend my colleague, Senator CONRAD BURNS, who was especially influential in the working out of this amendment. I yield to him as much time as he may require.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr President, I thank the manager of this bill. I just want to say that in working this out, it is a very narrow agreement. Everybody has to pay back what they owe. These people that we have sort of gone to bat for—and the distinguished Senator from North Dakota is relentless in his pursuit of fairness—are going into their seventh and eighth year of drought, and a lot of those years they did not have disaster payments, or anything, to fall back on.

So I thank the managers, especially Senator CONRAD and Senator DASCHLE, for their help and particularly our floor manager on this bill, the ranking member of the Agriculture Committee; I thank him, and I yield the floor.

The PRESIDING OFFICER. Does the Senator wish to yield back the remainder of his time?

Mr. LUGAR. Yes, I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on the amendment by the Senator from North Dakota.

The amendment, as modified, (No. 2330) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2394

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order for me to bring up an amendment on behalf of Senator BRADLEY, of New Jersey, which has been cleared. I advise my colleagues that it will probably not take more than a minute or two. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. BRADLEY, proposes an amendment numbered 2394.

Mr. LEAHY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1079, between lines 4 & 5, insert the following new section as:

SEC. 1943. URBAN FORESTRY DEMONSTRATION PROJECTS.

"The Secretary is authorized to undertake, through the United States Department of Agriculture Forest Service's Northeastern Area, State and Private Forestry program, a study and pilot implementation project which will demonstrate the benefits of retaining and integrating forests in urban development. The focus of such a study and implementation project should be to protect the environment, and associated natural resource values, for current and future generations.".

Mr. LEAHY. Mr. President, this has been cleared. This is a forestry matter that Senator BRADLEY spoke about here. I accept the amendment.

Mr. LUGAR. We are pleased to accept the amendment on our side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from New Jersey.

The amendment (No. 2394) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, what is the parliamentary situation now?

The PRESIDING OFFICER. The parliamentary situation is that the Senate recurs to the Inouye amendment No. 2385.

Mr. LEAHY. Mr. President, I know efforts have been made to work out a number of matters and I realize there are a number of potential amendments that are pending.

I encourage Senators who have matters to bring them up. I am ready to stop right now and pass the farm bill. The farm programs in this country are protected, the issues of production of food and fiber are protected, and we would have a superb bill to go to conference with the other body.

I yield the floor.

Mr. BENTSEN. Mr. President, I have an amendment that I will send to the desk and ask for its immediate consideration. I ask unanimous consent that I be allowed to do so.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, I have been waiting patiently. I understand there are a number of amendments at the desk. I am not going to object at this time, but I have to say that this matter goes back 3 months. I have withdrawn the amendment in the past asking for sanctions in Iraq. It is absolutely an amendment that is permitted to this bill. It has to do with the Commodity Credit Corporation and the extension of credits to Iraq. I understand there will be some who will oppose this. But I have to say in fairness, I have not attempted to impede the action of the Senate in undertaking its work.

I do not intend to do it. But at some point in time comity, I believe, would mitigate in permitting the Senator to have his amendment heard, lest he then have to utilize those options which would impair us going forward.

So I am not going to object, but I say I am serving notice as every Member has a right to do, but again in the interest of comity if the managers cannot work out an opportunity to have this heard at some point in time, and I understand there are those who may be opposed to it, then I am going to object until I have an opportunity to get my amendment put forth.

Mr. LUGAR. Will the Senator yield for a question.

Mr. D'AMATO. Yes.

Mr. LUGAR. May I address the question to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BENTSEN. I say to the distinguished Senator from New York, I appreciate his cooperation. I have an amendment that I think has been cleared on both sides and it should not take over a minute or two, but I defer to the distinguished manager.

Mr. LUGAR. Perhaps I can, in the course of raising the question, with a comment help alleviate this situation. Let me say to my distinguished friend from New York that it is fully the intention of both sides of the aisle to hear the Senator's amendment and to do so in a prompt way. Every listing of amendments that we have includes the Senator's amendment. It is a known quantity. It will be dealt with.

I suspect the Chair saw the Senator from Texas first, and if he had noted the Senator from New York out of the corner of his eye more rapidly, he would have recognized him.

But let me just say, on our side of the aisle, and I am certain it is true of the Chairman, we intend to protect the rights of the Senator to make certain his amendment is heard. I thank the Chair.

The PRESIDING OFFICER. If there is no objection the Senator from Texas will be recognized.

AMENDMENT NO. 2395

(Purpose: To allow the merger of certain rural electric cooperatives)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] for himself, Mr. BOREN, Mr. EXON, and Mr. KERREY, proposes an amendment numbered 2395.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Section 306B of the Rural Electrification Act of 1936 (7 U.S.C. § 936b) is amended by adding "(a)" before the first paragraph thereof and adding the following new subsection at the end hereof:

"(b) Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by a borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Administrator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Treasury Department for obligations of comparable maturity to those being prepaid. In the event that a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, a direct loan is a loan made under section 9 of this Act.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I am offering this amendment on behalf of myself and Senators BOREN, EXON, and KERREY.

This amendment would allow the prepayment of REA low-interest direct loans in cases where two electric cooperatives wish to merge and one of them has previously prepaid their REA loans. In these cases the merged cooperative may wish to retire that REA debt in order to avoid being subjected to the loan rules and operating restrictions of two different lenders. The Congressional Budget Office estimates that this amendment will result in Federal receipts of $13 billion in fiscal year 1991 and net receipts of $9 billion over the 5 year life of the farm bill.

This amendment has been carefully crafted to avoid any losses to taxpayers or to the REA revolving loan fund. The loans to be prepaid are low interest direct loans. The amendment does not affect REA loans funded through the Federal Financing Bank, some of which were made at much higher interest rates. The discount rate speci-

fied in the amendment will prevent any losses to the revolving fund. We have included language suggested by the Office of Management and Budget, including a provision providing for the recapture of any tax benefits should tax-exempt financing be used in any of these prepayments.

Mr. President, it is clearly good public policy to encourage these mergers in many cases. The cooperatives involved are seeking to merge in order to become financially stronger, more efficient, and less risky. In many cases one of the merger partners is a relatively weak cooperative, and the merger reduces the chances of default and subsequent loss to the taxpayers and the REA revolving loan fund.

In cases where both cooperatives are financed by the REA, there is no problem in the merger because the operating restrictions and loan rules are the same. However, some cooperatives paid off their REA loans in 1987. They are not financed by the REA and their lenders may have very different rules and restrictions. It is clearly not efficient to have a merger between two cooperatives with different lenders and then to operate under both sets of rules.

This amendment will deal with that problem in a manner acceptable to all concerned. It will allow the cooperatives in these merger situations to prepay their REA loans and operate under a single set of rules. It will discount those loans at an interest rate that will keep both the borrower and the REA whole.

I might add, Mr. President, that the term discount here is used in the pure financial sense. it is not a discount like you might get in a sale at your local grocery store. It is only a discount that recognizes the interest rate on the REA loan, the cost of those funds to the Government, and the real present value of that money. There is no financial gain or loss to the borrower or to the Government.

Mr. President, I thank the distinguished Chairman of the Senate Agriculture Committee, Mr. LEAHY, and the distinguished ranking member, Mr. LUGAR, for their patient assistance in working this matter out. I believe that this amendment is acceptable to the committee, and I urge its adoption by the Senate.

The PRESIDING OFFICER. Is there further debate?

The Senator from Indiana.

Mr. LUGAR. Mr. President we are pleased to accept the distinguished Senator's amendment on our side of the aisle.

The PRESIDING OFFICER. If there are there is no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 2395) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIVE AMERICAN SUBSISTENCE GARDENING PROGRAM

Mr. MCCAIN. Mr. President, I would like to express my strong support for the provisions relating to the Native American Subsistence Gardening Program in the 1990 farm bill which address the problems of nutritional deficiencies and diet-related diseases on Indian reservations.

A joint hearing was held in February of this year, by the Select Committee on Indian Affairs and the Committee on Agriculture, Nutrition, and Forestry where GAO testified that unless improvements are made to the commodity food distribution packages and unless adequate nutritional standards are met, the high incidence of diabetes, heart disease, and malnutrition among Native Americans is likely to continue.

The rate of diabetes and diabetes related complications is at least five times higher than the national average. Native Americans suffer the highest poverty and unemployment rates in the Nation. Their health problems are often compounded by the poor nutritional value of the foods received by those individuals who participate in the food stamp and commodities programs. The purposes of the gardening program are: to provide technical assistance and training through the extension service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs, and to provide a supplemental source of fresh produce for Indians and Alaska Natives who have special dietary needs, or who are participating in the food stamp, commodities or the WIC Program. This program will help reduce diet related diseases and help to combat nutritional deficiencies among Native Americans.

The program will encourage the production of fresh produce, by Native Americans, which will in turn be provided to eligible tribal members. The extension service of the Department of Agriculture will provide the necessary technical assistance and training to subsistence farm operators regarding soil types, appropriate vegetable crops, seed depth and placement, and site selection. The produce grown on the tribal subsistence farms will be used to supplement the diets of certain tribal members who qualify for these benefits based on their special dietary needs, or their participation in the WIC, food stamps, commodities program or if they are elderly persons. This grant program will help address the growing problems of diabetes, hypertension, and other diet related diseases suffered by Native Americans.

I want to thank my friends, Senator LEAHY and Senator LUGAR for their assistance in developing these provisions of the farm bill. I am pleased that the Committee on Agriculture and the Select Committee on Indian Affairs have been able to work together closely to find ways to help improve the health and nutrition of our first citizens.

THE FARMER-TO-FARMER PROGRAM

Mr. GRAHAM. Mr. President, I would like to introduce to you an extremely successful Florida overseas agricultural initiative, the Farmer-to-Farmer Program, and to urge your support of section 209 of the 1990 farm bill which extends and expands the Farmer-to-Farmer Program for another 5 years.

The Farmer-to-Farmer Program is an important component of Florida's International Volunteer Corps, my State's public and private development partnership with the Caribbean, to which I am priviledged to serve as an adviser. Known as "Florida's Mini-Peace Corps," it enjoys solid corporate and State financial support to underwrite a great deal of overseas development assistance in health and education. The Farmer-to-Farmer Program, originating in the 1985 farm bill, provides needed support for corps agricultural assistance overseas. The Farmer-to-Farmer Program is administered by Volunteers in Overseas Cooperative Assistance [VOCA], with whom the Volunteer Corps enjoys a cooperative agreement.

This program operates in the long-term interest of Florida and the Nation through improved economic viability and enhanced trading opportunities in the region.

A recent example of the dramatic impact our volunteers can have, comes from the Leeward Island of Barbuda, where, this summer, Live Oak Florida farmer Jimmy Rich introduced peanuts for the first time in recent memory. Assisting at the request of the governing Barbuda Council, Dr. Rich's experimental plots produced yields twice the Caribbean average! Plans are now underway to expand peanut acreage for local market sales.

The corps' Farmer-to-Farmer Program is effective and cost-efficient because of its nongovernmental, people-to-people approach. Florida farmer-volunteers from agribusiness, land-grant universities and cooperatives, giving freely of their expertise make it happen.

The Florida International Volunteer Corps has demonstrated outstanding success with the Farmer-to-Farmer Program. I hope you will join me in supporting section 209 which extends and expands the Farmer-to-Farmer Program for another 5 years.

RETENTION OF THE USDA'S OFFICE OF TRANSPORTATION

Mr. BURNS. Mr. President, I want to take this opportunity to make a brief statement regarding one of my amendments to the 1990 farm bill which passed by unanimous consent late last night. This amendment is very simple, and yet very important. It expresses the sense of the Senate that the U.S. Department of Agriculture's [USDA's] Office of Transportation [OT] should continue as an independent office.

There has been some discussion recently of eliminating the OT and consolidating its functions into another arm of USDA. I think that this would be a serious mistake.

USDA's Office of Transportation has served as an advocate for agricultural and rural interests in transportation for 12 years. The Office of Transportation "helps make it happen" in three basic areas—moving American agriculture, expanding exports and reconnecting rural America. Their mission is to help develop an efficient agricultural transportation system that will improve farm income, expand exports and meet the needs of rural America. In the words of Martin F. "Buzz" Fitzpatrick, the current Administrator of the Office of Transportation, "Our goal is to make deregulation work for American agriculture and rural America."

Transportation plays such an important role in our society today and it is especially important in our more remote areas. Transportation provides farmers both the means and the incentive to produce more than is needed by themselves. Our transportation system must help those farmers move their product to market—whether that market is 30 miles away or 3,000.

This Office of Transportation represents agricultural and rural transportation interest before other Federal agencies such as the Interstate Commerce Commission and the Department of Transportation to make sure U.S. agriculture continues to have access to domestic and international markets. The recent grain railcar shortages in Montana and other agricultural States is a good example of how OT has been able to influence policy on behalf of the farmers and the agricultural shippers. In July 1989, OT published an eye-opening study on the future availability of railcars for grain transportation which has played an important role in the debate surrounding grain transportation policies.

Transportation is also a key element in another important industry—the tourism industry. USDA's Office of Transportation has worked with other agencies to ensure that rural America is represented at the table when tourism issues are discussed. They recently participated on a Federal task force on rural tourism created by the Department of Commerce U.S. Travel and Tourism Administration. We can't have tourism in rural areas if people can't get there. The maintenance of our transportation infrastructure is crucial to the expansion of tourism in rural areas. The Office of Transportation recognizes this, and is working to set policies in place that benefit rural America.

Mr. President, I think that the stature of the Office of Transportation within USDA is important. It determines how strong a voice they will have. I believe that their voice should be heard loud and clear to help alleviate future transportation problems in rural America. All of U.S. agriculture stands to benefit from a more fair world trade environment, but only if we are provided with an infrastructure that allows U.S. agricultural products to be delivered economically. Rural America also stands to benefit from an ever-increasing number of foreign visitors, but only if we have a transportation infrastructure that can get them there.

I am extremely pleased that the floor managers on both sides agreed to this amendment. I want to thank Senator LUGAR and Senator LEAHY for their cooperation and agreement. I hope that this amendment sends a strong signal down to USDA, and that they will agree to maintain the Office of Transportation as an autonomous entity.

I also ask unanimous consent that a letter endorsing my amendment from the National Grain and Feed Association, the National Association of Wheat Growers and the National Cotton Council be printed in the Record immediately following my statement.

Thank you, Mr. President.

There being no objection, the letter was orderd to be printed in the RECORD, as follows:

July 25, 1990.

Hon. CONRAD BURNS,
U.S. Senate, Washington, DC.

DEAR SENATOR BURNS: We are writing to urge your support of an amendment to S. 2830 being offered by Senator Conrad Burns which affects a matter of critical importance to the health of U.S. agriculture.

This country's agriculture industry is heavily dependent upon an efficient agricultural handling, marketing and transportation infrastructure. Many areas of the country rely on rail transportation for the shipment of agricultural products (in many cases as the sole means of transportation available) to domestic and export points. Grain rail car shortages have beome increasingly frequent in the last two years because of an expanding market oriented agriculture, a lack of investment in new rail car equipment by railroads and the unwillingness of some carriers to allow market-based access of private or leased hopper cars on their tracks.

The U.S. Department of Agriculture's Office of Transportation has played an active role in identifying and monitoring agricultural transportation problems and issues. In July, 1989, the Office of Transportation released the eye-opening study "Railcars for Grain, Future Need and Availability" which identified current and projected rail car shortages for grain shippers.

Apparently, however, USDA is considering plans to downgrade the status of the Office of Transportation and place it under the umbrella of the Agricultural Marketing Service. If reorganized, there will be two or three additional layers of bureaucracy interposed between the Office of Transportation and the responsible Assistant Secretary of Agriculture for Marketing and Inspection Services.

Such a move could not come at a worse time. According to the Office of Transportation's 1989 study, demand for grain hopper cars could exceed supply by almost 30,000 railcars by 2001 if present trends continue. Transportation issues are more important now than at any other point in recent history. Indeed, all the efforts to try to retain a market-oriented farm bill could be seriously undermined by a transportation infrastructure that is ill-prepared to enable U.S. agriculture to capture those market opportunities. With the competitiveness of U.S. agriculture largely dependent upon a sound transportation infrastructure, the Office of Transportation needs to retain its stature as an independent high profile officer within USDA.

Consequently, we urge your support of the Burns Amendment to S. 2830. The amendment does not require increased budget outlays, but instead preserves a worthwhile office that "makes a difference" in encuring that agricultural transportation issues remain on the front burner, as they appropriately should, in USDA policy circles.

Sincerely,

NATIONAL ASSOCIATION OF WHEAT GROWERS. NATIONAL COTTON COUNCIL. NATIONAL GRAIN AND FEED ASSOCIATION.

COMMITTEE LANGUAGE ON RICE PROGRAM

Mr. PRYOR. Mr. President, inadvertently the committee report (101-327) omitted important language regarding the rice title. The language expresses the committee's intentions for key modifications included in the rice program as well as areas where administration of the current program could be strengthened. With the 1985 farm bill having satisfied most congressional objectives for the industry, wholesale changes were not justified as the committee developed the rice title for the 1990 farm bill. However, key areas were identified where improvements could be made and I believe this language is necessary to establish the committee's position on these objectives.

Mr. President, I request that this language be included in the RECORD at the appropriate place.

Mr. COCHRAN. Mr. President, I support the request to have language reflecting the committee's intentions included in the RECORD. It should have been included in the committee report, but, due to an error, was omitted. The current program is considered a success by the rice industry and the objective in 1990 is to make changes that

will help refine its achievements. Because the success of any program depends significantly on implementation, this report language must be included as instructions clarifying the committee's intent for provisions of this important title in the 1990 Farm Bill.

Mr. PRYOR. Mr. President, I see the distinguished chairman of the Agriculture Committee, Senator LEAHY, is here. Did the committee intend to include language for the rice title in the farm bill report?

Mr. LEAHY. Yes, it did. The language was omitted unintentionally. The committee expects the 1990 farm bill rice program to be equally as successful as the 1985 farm bill rice program, if not more so. Developing rice legislation is an important part of the committee's responsibility and I assure the Senator from Arkansas every step will be taken to see that such legislation reflects the intent and interest of the U.S. rice industry.

Mr. President, I agree this language should be included in the RECORD, as follows:

COMMITTEE LANGUAGE ON RICE PROGRAM

The Committee believes adoption of a carryover target based on a 20 percent stocks-to-use ratio using total rice disappearance for the current and two preceding marketing years will achieve a more suitable balance between U.S. rice supply and demand. In adopting a stocks-to-use ratio, the committee hopes to link the annual determination of the ARP to observed disappearance rates for U.S. rice, both domestic and export. In assessing the portion of total disappearance allocated to export demand, the Secretary should factor in all exports, including all commercial and government assisted shipments, including PL 480.

The Committee believes the marketing loan program has proven to be an effective and efficient domestic and foreign marketing program for U.S. rice. Therefore, the Committee instructs the Secretary to administer the rice marketing loan program to assure the U.S. rice industry a continuous level playing field in international trade. The Secretary shall implement a world market price formula that provides prices that follow rice weighted average trade values for all foreign exports. To accomplish this result, the Committee directs the Secretary to not consider U.S. rough, brown and milled rice values in determining world market prices.

The Committee believes the rice marketing loan program should be operated to maximize competitiveness of the U.S. rice industry in international trade. The committee also believes the Secretary should maintain maximum competitiveness for the U.S. rice industry in all foreign markets against all competitors and that no special consideration be given to any other exporting country.

MARKETING ORDER AMENDMENT

Mr. HEINZ. Mr. President, I support this marketing order amendment and its inclusion of mushrooms because it is an attempt to design a marketing order that respects our tradition of free trade. If made into law, it will improve U.S. markets, consumer awareness, and, ultimately, the product itself.

Marketing order programs are attempts by the Federal Government to help U.S. agriculture. However, there is more than one approach to marketing order programs. There are those that help a product only in a relative sense—by hurting or even eliminating their foreign competitors. And there are those that do, in an honest and decent way, just what they purport—they actually work to strengthen the American product, but not at someone else's expense.

Research and advertising are two esential and admirable components of marketing. But the artificial bolstering of indigenous industries by exclusionary measures is entirely antithetical to a free market, and, incidentally, is ultimately self-defeating.

One of the provisions of this amendment, the fresh mushroom provision, would provide for a marketing order program that would bolster the United States fresh mushroom industry by strengthening the product, not by discriminating against the competition. Unlike other proposals, it does not seek to restrict a given market to the unfair advantage of certain U.S. businesses, but rather to enlarge that market, allowing everyone to benefit. Its purpose is to provide knowledge—knowledge to the American consumer about the important role this product can play in a healthy diet, and knowledge to the growers in the form of research and development to help them improve their product.

This is a very important program for the United States fresh mushroom industry. Every mushroom grower involved will tell you how proud he is of his product. It is a healthy and important part of many foods—from homemade soup to nouvelle cuisine. The aim of the legislation before us is to convey this to U.S. consumers, and to provide them with the nutritional information that they are increasingly demanding before they make their supermarket purchases. By doing so we enhance good nutrition, informed consumer buying, and mushroom production.

The chief opponent of the fresh mushroom promotion legislation has apparently been United Foods, a food conglomerate based in Tennessee. This company has argued that the cost of the proposed fresh mushroom consortium would be excessive, though they are the only major fresh mushroom producer complaining. They have argued that voting rights on the proposed Mushroom Council would be apportioned to the benefit of companies in certain geographical areas, even though the council is designed, if anything, to underrepresent these areas. They have argued that the act would not produce sufficient R&D, despite the fact that R&D is one of the clearly stated goals of the provision. They have even suggested that the act would hinder exports of fresh mushrooms because the per pound assessment would raise export costs excessively—an assertion which is simply and manifestly untrue, as the act explicitly excludes export sales from the assessment.

Mr. President, this body has heard in the past, and will hear again in the future, many arguments for various marketing order programs. Before us is legislation that is heavily favored by our industry. It is legislation that will promote not just U.S. growers, but the product itself. Surely these are the best kinds of reasons to engineer a marketing order program.

AMENDMENT NO. 2381

Mr. THURMOND. Mr. President, first I would like to say that the concept behind the research and promotion programs contained in the amendment of the Senator from Georgia is very beneficial to the producers of these commodities. These programs allow the farmers to choose whether or not they want these programs. The farmers also finance the programs by paying a small fee. The moneys collected are used for research and promotion, which achieves such goals as increasing consumption, and finding new uses of these commodities.

I would like to ask the Senator from Georgia a few questions about the pecan section of his amendment. It is my understanding that this program is intended to exclude the small pecan grower who may have only a couple of trees in their yard and sell less than 500 pounds of pecans a year. Is this correct?

Mr. FOWLER. That is correct.

Mr. THURMOND. The recordkeeping involved with registering every sale of less than 500 pounds will cause an undue hardship for some of the pecan handlers. I realize that these small producers will receive benefits from this program but it is doubtful that they will register with the ASCS and vote in the referendum. Will the handlers be required to keep accurate records and assess the fee to such small growers?

Mr. FOWLER. It is my understanding they will not.

AMENDMENT NO. 2381

Mr. KASTEN. Mr. President, as an original cosponsor, I rise to express my support for this amendment to establish a soybean promotion and research checkoff, and others.

This amendment is sound public policy. The world demand for oilseeds is growing steadily at 5 percent each year—and foreign competitors such as Brazil and Argentina are benefiting, not American farmers. The United States is best equipped to take advantage of this lucrative market. This farmer-run checkoff program, with

USDA oversight, will provide a low-cost research tool for American growers. In just a little over a decade, the United States has lost its prominence in the soybean market, but with innovative technology and aggressive tactics, we can capture a greater share of the market.

Every major food company in the United States aggressively pursues promotion and research efforts to build markets for its products. Individual farmers or farm coops simply don't have the resources to carry on such costly and time-consuming projects. But when farmers unite they can achieve the marketing capabilities of a large corporation. Promotion and research programs give farmers this capability to band together behind a self-help marketing effort.

Checkoff programs do not cost the taxpayer any money. Each farmer will pay an assessment on his harvest—this will pay for the research, of which 50 percent must be devoted to individual State programs. After 18 months, farmers will be given the opportunity to evaluate the program and vote on whether to continue it or not. With grassroots input, we can be sure that it won't be just another bureaucratic arm of the USDA.

This checkoff is good for American agriculture and American trade. Agressive research and marketing is necessary. The advent of industrial uses of agricultural products, like soy ink, and the trend toward lowfat vegetable oils make this especially apparent. These efforts are even more critical now as the United States finds itself competing with our South American neighbors in the lucrative world market.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2351

Mr. DOMENICI. Mr. President, the Department of Agriculture's Cooperative Extension Service has over 75 years of truly remarkable service to our farmers, to the business community, and to our country.

In my State of New Mexico, the Extension Service is truly a statewide asset that links Federal, State, county governments, research agribusiness, and the private sector in an integrated partnership providing services throughout the State.

While I have concerns about some titles of amendment 2351, the rural development bill, I do support subtitle C creating the Extension Service Rural Economic and Business Development Program. In particular, this section creates a 5-year, $50 million grant program to enable States to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses and to assist community leaders in community economic analysis and strategic planning.

Specialists would proivide economic development information and assistance concerning new business creation, business planning, and advice.

The rural business link telecommunications program is created to assist rural businesses to share a computer network.

I was very pleased to see that the amendment 2351 offered by Senators LEAHY and HEFLIN and others recognize the Extension's outstanding service record and its key rolein rural communities across the country.

In some respects the Extension Service in New Mexico and the business college at New Mexico State University anticipated this legislation and are well along in developing their program. They may be one of the first States to make a proposal if this program gets enacted into law.

The Extension Service in New Mexico and the business college at New Mexico State University have been working on a proposal for demonstration project in the State that would bring together three important economic development players to enhance the supply of business and agribusiness data and outreach services to rural communities all over the State, utilizing the existing infrastructure of the Argiculture Cooperative Extension Service to reach those target communities.

They envision a true partnership of the New Mexico Agriculture Cooperative Extension Service, the State, and local economic development organizations in the State, and the New Mexico land grant university's college of business.

By interjecting the universities' expertise into the rural economic development arena, the State will have a new, previously untapped resource tool to use to work with other business development forces to stimulate business activity in New Mexico.

Institutions of higher education must assume a leadership role in any rural economic development effort. They have the human resources and expertise to initiate, develop, and implement a strategic economic development program for rural America.

New Mexico wants to develop a data bank, which among other things, will provide socioeconomic profiles of each trade area, region, or sector of the State, including an inventory of the State's resource base, its barriers to economic growth, and an assessment of its competitiveness position in the industrial marketplace, particularly in the area of production sharing operations. The input from this data bank would be used to develop strategic economic development plans for trade areas and rural communities within the State.

The second major component of the New Mexico, Rural Economic Development Program would establish a Rural Service Outreach Center at the land grant university. This would require close consultation and cooperation between the center and the economic development activities of the Department of Agriculture's Cooperative Extension Service. This is consistent with the legislation we are passing today.

The college of business at the university would play a major role in bringing a wide range of business development and information services to the center; tha the center services would be targeted to rural communities with the greatest need and without duplicating any other economic development programs that may exist in New Mexico.

The economic problems facing the rural areas of New Mexico may appear to be the same as problems facing rural America in general. However, New Mexico is unique in many ways and deserving of special attention.

While less than one-fourth of the national population lives in nonmetropolitan areas, over 50 percent of the population of New Mexico lives in nonmetropolitan areas. Furthermore, the racial and ethnic characteristics of New Mexico are unique. The Hispanic population accounts for approximately 7 percent nationally. New Mexico, with 36 percent of its adult population being Hispanic, has the highest percentage of Hispanic of any State in the country. The total percentage of adults classed as racial and ethnic minorities is substantially higher than for the Nation. This is largely due to the high percentage of Hispanics and native Americans in New Mexico.

New Mexico, sharing our border with Mexico, is also unique in that it is rapidly becoming a heavily transversed area in the world in terms of trade. For the year ending December 31, 1988, the volume of twin plant trade alone to the United States was $10.1 billion across the southwest border. When trade in the traditional natural resources and manufacturing sectors originating wholly within Mexico is added, the dollar volume grows to an impressive $19 billion. Much of that volume comes into New Mexico.

That makes the United States-Mexico border the second most important western border in terms of cross-border trade. An opportunity exists to integrate rural New Mexico into this flow of trade. For example, if firms in New Mexico were able to capture just 50 percent of the projected increase in supply services going into twin plant operations in Mexico in the next 12 months, New Mexico companies would increase their revenues by about $400 million. In addition to the direct employment created, secondary employment, which is wholly U.S. based, would increase in areas such as trans-

portation, warehousing, and support services.

I believe that the grant program authorized for the Extension Service will provide an excellent opportunity to demonstrate how to make use of the expertise in the land grant universities within existing State and local economic development structure, and to utilize those strengths in building a long-term program to address the Nation's rural economic development needs.

I want to mention one other provision in the rural development amendment that I authored. The bill includes a sense-of-the-Senate resolution calling for the creation of the Endowment for Rural America. The Endowment will be a public-private partnership that provides grants and services to rural communities for business development.

As a public-private partnership, the Endowment will be required to match 100 percent of its public funds with private donations. Communities will help fund the project by getting private donations for the Endowment. Contributions to the Endowment from individuals and corporations may be deducted from taxable income. The ultimate goal is to make the Endowment a self-financing nonprofit foundation.

The Endowment will work with communities to design programs to reflect their needs and will actively participate in the monitoring of the grant. There won't be a lot of paperwork or bureaucracy to deal with because the Endowment will be working with the community to develop the project.

Private companies are willing to contribute funds for rural development projects, but a nationally organized rural economic development organization does not exist. The need for this type of Endowment exists.

This is an innovative approach to rural development. The Endowment will incorporate Federal programs and dollars with private donations, while designing each grant to reflect the needs of participating communities. The Endowment is not the only answer to rural America's problems, but it would at least be another resource for rural communities to tap.

FARMER MAC COMPROMISE AMENDMENT

Mr. LUGAR. Mr. President, I would like to engage in a brief colloquy with the Senator from Vermont, the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, if I may.

As the distinguished Senator knows, I have long been a supporter of the Farmer Mac Program and desire to do all I can to facilitate its prompt implementation. To this end, I strongly support section 1351 of the committee bill which would authorize Farmer Mac to pool and securitize Farmers Home Administration [FmHA] guaranteed farmer program loans. I also actively participated in discussions stimulated by the Farm Credit Administrations [FCA] request for additional legislation in connection with the exercise of its supervision and examination authority over Farmer Mac pursuant to section 8.11 of the Farm Credit Act of 1971. I raise this matter now because the committee did agree to a compromise on the FCA's request, which is included as part of the committee amendment to the reported bill. I would like to ask my friend from Vermont if he would recite the purpose of this compromise amendment.

Mr. LEAHY. Yes, I would be pleased to respond to the question from my friend, the distinguished Senator from Indiana.

The purpose of this particular provision is to clarify that FCA's current authority over Farmer Mac will also apply to any pooling activity undertaken by Farmer Mac or an affiliate of Farmer Mac under section 1351 of the committee bill. That section, as you pointed out, authorizes Farmer Mac to pool and securitize FmHA guaranteed farmer program loans. The committee amendment does not, however, expand beyond existing section 8.11 FCA's current authority to examine Farmer Mac's condition or to exercise general supervision of its safe and sound performance. The compromise amendment is only intended to clarify that the FCA's existing authority applies to the new pooling activity being authorized for Farmer Mac.

Mr. LUGAR. In connection with this issue, a question has been raised by FCA regarding rules and regulations it might want to issue in connection with its general supervision power over Farmer Mac under the Farm Credit Act of 1971. I have looked at section 8.11, which is the provision in question, and based on its wording and the intent of Congress when this provision was enacted, I believe that there are only two specific situations for which rulemaking authority was provided to FCA: Subsection 9(b)(1) relating to the principles and procedures for FCA's examination of Farmer Mac, and subsection 9(c) relating to information contained in Farmer Mac's annual report.

Does my friend from Vermont agree with my analysis of this issue?

Mr. LEAHY. Yes, I do. It should be emphasized at this point, that it was, and still is, the committee's intent that FCA be an independent arms-length regulator, regulating Farmer Mac's safety and soundness similar to the role of the Comptroller of the Currency as the arms-length regulator of the safety and soundness of banking institutions.

The reference to "general supervision" in section 8.11(a)(B) allows FCA to take steps to determine whether Farmer Mac is being operated in a safe and sound manner and to prevent any unsafe or unsound practices before financial problems arise. These powers include the right to issue cease and desist orders against Farmer Mac, but, the only explicit authority to issue rules and regulations governing Farmer Mac, are in the two areas of examinations and annual reports.

Although it is intended under this provision that FCA should use those statutory powers to define potential safety and soundness problems before they become serious, this does not constitute a broad grant of authority for FCA to issue rules and regulations to govern Farmer Mac's operations. FCA must avoid substituting its judgment for Farmer Mac's day-to-day business and management decisions. Congress did not grant FCA explicit authority to issue regulations to supervise safety and soundness, as it does in other paragraphs of section 8.11 where rulemaking was specifically authorized.

Mr. LUGAR. I thank the Senator for that elaboration. Let me close by saying that I am pleased we were able to work out a compromise on the Farmer Mac provisions that satisfactorily addresses FCA's concerns about its role with regard to the pooling of FmHA guaranteed loans by Farmer Mac. I support fully the need for FCA to assure that Farmer Mac is implemented in a safe and sound manner, but there are many ways for the secondary market to be safely and soundly structured and it was the intent of Congress that Farmer Mac should have the flexibility to determine the most efficient path for the program to follow.

Mr. BOSCHWITZ. Mr. President, as the ranking member of the Agricultural Credit Subcommittee during the 100th Congress, I was deeply involved in drafting the Agricultural Credit Act of 1987, which created Farmer Mac. I am a supporter of this agricultural secondary market.

I would like to associate myself with the remarks of the chairman and the ranking member of the Agriculture Committee concerning the interpretation of section 1352 and of the provisions of the Agricultural Credit Act of 1987 which authorize FCA to examine and supervise Farmer Mac's operations for safety and soundness.

FARMER MAC PROGRAM

Mr. GRASSLEY. Mr. President, I would like to make a few comments regarding the Farmer Mac Program. Currently, there are two sections of S. 2830 that relate to Farmer Mac, sections 1351 and 1352. I support these provisions.

I would like to focus first on an issue that has been raised in connection with section 1352. I am concerned that the Farm Credit Administration [FCA], Farmer Mac's safety and soundness regulator, is using the farm bill debate as an opportunity to

expand its charter over Farmer Mac to include rulemaking authority. Given my experience that FCA is reluctant to exercise many of its existing responsibilities, such as enforcement of System borrower rights, I am surprised it seeks the additional duties of rulemaking authority over Farmer Mac.

As one of the primary sponsors of Farmer Mac legislation in 1987, I am particularly interested in its current state of development and potential for success. On this point, I want to note that the Farmer Mac president and his management team, many with whom I have met and talked, are making great strides toward implementation of the loan pooling process. Farmer Mac's management team is to be commended for its work on this difficult and complicated task. I am concerned that FCA's desire to expand its authority over Farmer Mac could hinder the progress that is now being made and might discourage widespread participation in the program. Considering that over 250 banks in my State alone invested in Farmer Mac stock, this would be a disaster.

The situation I'm now addressing stems from FCA's notion that section 1352 authorizes rulemaking by FCA and from a claim by FCA that its existing authority over Farmer Mac needs to be expanded. I disagree on both points.

First, a simple reading of section 1352 clearly indicates that it addresses only FCA's authority to monitor the safe and sound operation of Farmer Mac with regard to the pooling of FmHA guaranteed loans, authorized in section 1351.

Second, section 8.11 of the Farm Credit Act of 1971 establishes FCA's authority over Farmer Mac and it specifies examination and general supervision for safety and soundness—not rulemaking.

The reference to "general supervision" in section 8.11(a)(B) allows FCA to take steps to determine whether Farmer Mac is being operated in a safe and sound manner and to prevent any unsafe or unsound practices before financial problems arise. These powers do not include the authority to issue rules and regulations governing Farmer Mac, except in the two areas of examinations and annual reports, which are explicitly set forth in the language of that section.

Although it is intended under this provision that FCA should use those statutory powers to define potential safety and soundness problems before they become serious, this does not constitute a grant of authority for FCA to issue rules and regulations to govern Farmer Mac's operations. If Congress had intended for FAC to supervise safety and soundness through the issuance of regulations, the language would have so specified, as it does in other paragraphs of section 8.11 where rulemaking was specifically authorized.

I would like to point out, as did the Agriculture Committee report on S. 1665 in 1987, that the committee's intent in drafting section 8.11 was that FCA's role as the general regulator of the Farm Credit System would be limited to the examination and audit of the operations of Farmer Mac and the use of supervisory powers, where necessary, to protect the safety and soundness of Farmer Mac.

Mr. President, I am satisfied that FCA has considerable authority to carry out its job without expanding into the area of rulemaking. Also, Farmer Mac is already a very regulated entity and I am concerned that further regulation may result in it never getting started.

I look forward to the first pooling activity by Farmer Mac in the near future and hope that we can focus on constructive efforts to assist Farmer Mac in this effort.

I would also like to address the Farmer Mac provision in section 1351 of the farm bill, referred to as "Aggy Mae." Aggy Mae will, in effect, be the secondary market for Farmers Home Administration loans. By providing Farmer Mac the authority to pool FmHA loans, several things are accomplished for the good of Farmer Mac, for the good of commercial lenders, and most importantly, for the good of farmers.

Good weather and a love of the land are certainly tantamount to prosperous farm operations. But more and more, the accessibility of affordable credit is critical to farmers striving to obtain or keep their farms. The FmHA Guaranteed Loan Program is the Federal Government's hallmark effort in addressing that need.

Unfortunately, the Guaranty Program has been underutilized by commercial bankers to only about half of its capacity. By selling the guaranteed portion of the loan to a secondary market, the bank's liquidity and profitability are improved. It will also enable regulators to upgrade classifications of loan portfolios.

The result of this is that lenders will be able to issue more guaranteed loans with beneficial terms to farmers, who will then be able to continue their farm operations. Almost all of us have heard from constituents who are eligible for a guaranty, but can't get the funding from a commercial lender.

Lastly, Farmer Mac is ready to get started in the secondary market business. Its original purpose, that of securitizing regular farm loans for sale to investors, remains paramount in Farmer Mac's mission. This purpose, however, first requires the participation of a certified facility, or pooler, to purchase loans from lenders. Until this occurs, and we hope it will occur soon, Farmer Mac is unable to conduct the main business for which we created it. Aggy Mae will enable Farmer Mac to develop a presence in the financial markets.

While I support Farmer Mac pooling FmHA loans, I want to make it clear that this activity is not to replace or distract from Farmer Mac's primary purpose of securitizing regular farm loans. Congress created Farmer Mac so that financial institutions could get more involved in the agriculture real estate business. As long as this mission is kept on the forefront of Farmer Mac's agenda, I am confident that Aggy Mae will be beneficial for all interested parties.

AGRICULTURE RESEARCH

Mr. SIMON. Mr. President, as we debate Federal farm policy for the next 5 years, I would like to take the opportunity to pay tribute to 50 years of premier agriculture research that has taken place in my State. The U.S. Department of Agriculture estimates that for every dollar invested in agriculture research, society realizes a $40 return.

Through the years the Northern Regional Research Center at Peoria has been responsible for some remarkable discoveries. Among the most famous are the technology to produce penicillin on a large scale and the discovery of Super Slurper, an amazing cornstarch product that can absorb up to 2,000 times its weight in distrilled water.

The Peoria facility is one of four such regional centers operated by the U.S. Department of Agriculture. The current focus at Peoria is development of environmentally friendly value-added products and uses from our abundant agricultural commodities and byproducts. A special emphasis is on research on new uses for cornstarch and soybean oil.

Illinois is the Nation's leading producer of ethanol, the Nation's largest user of corn for ethanol production, and that Illinois sells more ethanol-blended gasoline than any other State in the country. As we enter the 1990's, it makes sense that the great research center at Peoria should also lead the way in ethanol research.

I have been a strong supporter of expanding our use of ethanol. It helps farmers by increasing demand for their crops. Higher corn prices mean savings to the Federal Treasury and ethanol means cleaner burning fuel for cleaner air.

As the Peoria lab celebrates its 50th anniversary this summer, it is set to undergo a $50 million renovation over the next decade. We look forward to the face lift and many more great achievements in the next half century.

I ask unanimous consent to have a UPI article telling the remarkable story of the Peoria penicillin discovery

reprinted in the RECORD. It was written by a member of my staff, Pamela Huey, then a UPI staffer and printed Feb. 5, 1983.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PEORIA, IL.—A moldy melon from a Peoria fruit market was an unlikely star in a drama played out in Peoria 40 years ago.

The mold from the cantaloupe provided one of the major breakthroughs in developing the production of penicillin on a large scale during World War II.

The precious, almost miraculous antibiotic for fighting infections was desperately needed on the war front and the problem was always getting enough of the drug to fill the needs.

That problem was expressed in a letter from Oxford University Professor Howard W. Florey to Robert D. Coghill, then fermentation chief at the Northern Regional Research Center in Peoria, where the key American research on penicillin took place.

A historical marker in the lobby of the U.S. Department of Agriculture's center commemorates the contribution of the Peoria laboratory to opening up the antibiotics age.

Files and correspondence involving the work were declassified by the government several years ago and transferred Sept. 5, 1980, to the National Archives.

"As always, the great struggle is to get enough stuff," wrote Florey, one of two English scientists who developed penicillin into a drug.

Sir Alexander Fleming, as many school children know, first noticed that a stray mold had killed germs on one of his culture plates. But Fleming misunderstood what he saw.

Fleming's work had been nearly forgotten when Florey and Sir Ernst Chain began their work on penicillin in 1938 at Oxford. But it was mass production in the United States—spurred by the work at Peoria—that saved thousands of Allied soldiers during World War II.

"The basis of all production of penicillin was the development research carried out at Peoria," wrote David Wilson, a British scientific journalist in his 1976 book "In Search of Penicillin."

The work at Peoria led to growing penicillin molds in thousand-gallon tanks and vats instead of inches-deep trays and bottles. It started with a telegram from a USDA administrator July 9, 1941, asking laboratory director Orville E. May to set up the laboratory work.

Initially, Andrew J. Moyer, a biochemist on the Peoria staff, worked with a scientist from Oxford. Rather than using yeast to increase the yields of penicillin, Moyer suggested using corn-steep liquor.

"Immediately, it proved not only to work but to be better than yeast at inducing the mold to increase its output of penicillin," Wilson wrote in his book.

Corn-steep liquor is a byproduct of the process of extracting starch from corn. Coghill noted the value of the liquor in a letter dated Aug. 27, 1942.

"Outstanding contribution of this laboratory has been the introduction of the use of corn steep liquor in the medium. What it is in the steep liquor which so markedly increases the yield of penicillin has not yet been ascertained," Coghill said.

Corn liquor and lactose were added to the strain of mold discovered by Fleming.

But at the same time, another Peoria scientist began an extensive search for other strains of penicillin molds. That search led to the Peoria fruit market.

An assistant was told to go regularly to the Peoria markets to find every type of waste fruit. One day she returned with a rotten melon. A strain was isolated from it and it eventually became the origin of much of the penicillin produced in the world, Wilson wrote.

That mold would grow well using the process of deep fermentation, he said.

"Also, this remarkable mold had a yield of penicillin far higher than anything found before," Wilson wrote.

The work at Peoria led to large-scale production by U.S. pharmaceutical companies. In May 1943, Coghill wrote a letter listing 17 companies working on penicillin and he noted the pressing need for more production.

"For the duration of the war there could be no such thing as too much production. I do not believe that any one or two companies can possibly make the amount of penicillin that will be necessary. Every possible step should be taken to encourage anyone who is willing to make a try at it," Coghill's letter said.

One of the final chapters at Peoria was written about two weeks after V-J Day in 1945. Coghill wrote to an industrial colleague, "We have to discontinue our work on penicillin . . . the whole problem has lost any semblance of urgency."

AMENDMENT NO. 2360

Mr. KASTEN. Mr. President, as an original cosponsor, I rise to voice my thoughts on the importance of first-stage processed, or value-added, exports under the Export Enhancement Program.

It is clear that if America is to put its best foot forward in global agricultural trade we need to place greater emphasis on value-added, or first-stage processed, goods. Currently the Export Enhancement Program is being used as a bargaining chip in a game of tit-for-tat as we attempt to retailiate against our foreign competitors who are unfairly subsidizing markets.

The United States has succeeded in its effort to move bulk commodities, especially wheat, in closed markets under the 1985 farm bill. However, the Export Enhancement Program lacks the direction to be truly effective. Rather than being used as a mere bargaining chip for market share, its implementation ought to be guided by an aggressive and cogent trade policy strategy.

Value-added products such as wheat flour, soy oil, dairy products like nonfat dry milk and cheese, meats and forestry products offer the biggest bang for the buck. The European Community has enjoyed near exclusivity in value-added markets as a result of their export subsidies. The EC presently commands a staggering 50 percent of the world market for processed agricultural products compared to the United States mere 7 percent. When considering that the United States is the largest agricultural producer in the world, this small figure does not make sense. Indeed, it is outrageous.

However, since value-added markets are essentially fixed in size, an aggressive effort by the United States could effectively squeeze the EC into a real bargaining position. I strongly believe that an aggressive Value-Added Export Enhancement Program—determined by a 25 percent set-aside of the EEP funds—would help convince the EC to end their trade-distorting practices.

While the export of bulk grains is important, it certainly does not warrant complete domination of the $500 million Export Enhancement Program. The United States should immediately start pursuing agricultural markets in the newly industrialized countries, Taiwan, Korea, Hong Kong, and Singapore. Through market research, development and promotion in the NIC's, emerging democracies and developing nations we can greatly enhance the profitability of American agricultural trade.

The increased emphasis on first-stage processed products would create more American jobs and result in a greater net profit. Currently we are exporting grain that is processed into flour or soybeans that are processed into soy oil. These activities should be done on American soil by American workers.

Furthermore, more first-stage processed exports would result in a diversification of American agricultural trade. This diversification would not, as some might argue, simply take away from our existing successes in the area of bulk commodities—but would create even more success stories.

On page 187 in the committee report, the Agriculture Committee charged that:

> The challenge of the 1990's for U.S. agriculture in the international market place is to do more with less, to maintain and increase U.S. exports with less Federal assistance, better Federal coordination of existing programs, and more commercially oriented agricultural trade policies.

By setting aside 25 percent of EEP funds we would have accomplished more with less—more world trade with greater diversity, and more American jobs with less Federal assistance. With this provision, American agricultural trade would have been put on the road toward significant increases in its share of the world market.

A 25-percent set-aside of EEP funds would have gone further in leveling the playing field for world agricultural trade. I regret that a greater emphasis on value-added exports, especially of dairy products, was not included in this farm bill. However, I am hopeful that this can nevertheless be pursued.

Mr. BURDICK. Mr. President, I have worked during my 30-year tenure in the U.S. Senate to ensure that our farmers receive a fair price for their

commodities. During these 30 years, agriculture has seen both good times and bad times. I have always supported the farm bill regardless of the health of the farm economy. You see, I know the history of our farm programs and understand their value to this society.

Many seem to have forgotten that our price supports are intended to stabilize prices and supply. Why is this necessary? Think back 2 summers ago, when we were suffering one of the worst droughts since the "Dirty 30's." Crop production declined greatly as a result. Yet, we saw little effect at the grocery store. Why? Because our farm programs require the United States maintain adequate stocks in reserve for just a situation.

This farm bill is diffiucult for me to characterize. There are many provisions I find to be a vast improvement over current law, such as the oilseed marketing loan and the swampbuster changes that are so important for North Dakota farmers. However, I disappointed that the bill does not provide protection for farmers from higher input costs. That is why I joined my good friend from Montana, Senator BAUCUS, in offering an amendment to index target prices to the increase in the cost of living.

If it were up to me, I would provide for $5 wheat—quite a jump from current target prices. But, I understand we just cannot do that. Frozen target prices are hard enough to swallow, but I am concerned that there will be a tendency to look to lower target prices in reconciliation in an effort to save money.

I urge my colleagues to look elsewhere first. A cut in targets is a direct cut in farm income and many farmers cannot hold on with lower prices. As chairman of the Subcommittee on Agricultural Appropriations, I certainly understand the constraints under which the Agriculture Committee worked to produce this bill. I face those same constraints each time we draft the bill to fund the Department of Agriculture.

I commend the committee for its work and I urge my colleagues to support this important piece of legislation.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment at the desk be set-aside for consideration of an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2396

(Purpose: To deny Iraq financial credits and benefits, including guarantees made by the Commodity Credit Corporation of loans, until the President certifies that Iraq is in substantial compliance with its obligations under international law)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. PELL, Mr. HELMS, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. WILSON, Mr. MACK, Mr. DECONCINI, and Mr. LAUTENBERG proposes an amendment numbered 2396.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued reading the amendment.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued and concluded reading the amendment, as follows:

At the end of the bill, add the following new title:

TITLE .—THE IRAQ INTERNATIONAL LAW COMPLIANCE ACT OF 1990

SECTION 1. SHORT TITLE.—This title may be cited as "The Iraq International Law Compliance Act of 1990".

SEC. 2. CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Government of Iraq has systematically detained, tortured, and executed thousand of its own citizens;

(2) the Government of Iraq has destroyed more than three thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than sixty-five thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq including the torture and murder of children as a means of punishing their parents:

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention of Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law; and

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including the State of Israel.

SEC. 3. CONGRESSIONAL DETERMINATION.—The Congress find and determines that—

(1) Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nations Charter and the 1925 Geneva Protocol on Poison Gas, places Iraq outside the community of civilized nations.

SEC. 4. ENFORCEMENT OF UNITED STATES LAW.—The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 5. ENFORCEMENT OF INTERNATIONAL LAW.—(a) The President shall extend no new financial credits to Iraq and shall provide no financial assistance or financial benefit of any kind to Iraq, including guarantees made by the Commodity Credit Corporation for loans made to finance export sales of agricultural commodities or products (except for urgent humanitarian assistance) until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee of Foreign Relations of the Senate that Iraq is in substantial compliance with it obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Convenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(b) No item on the United States Munitions list may be sold to Iraq, notice may be issued for the export to Iraq of any item on the United States Munitions list, and the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of all goods and technology on the central list established pursuant to section 5(c)(i) of that Act. The President may waive the requirements of this subsection if he certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee of Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological and Toxin Weapons and on Their Destruction, done at

Washington, London, and Moscow, April 10, 1972.

(c) For the purpose of the export controls imposed pursuant to subsection (b) of section 5, the date described in section 6(m)(l) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2397 TO AMENDMENT NO. 2396

(Purpose: To require report by the President on U.S. oil purchased from Iraq, possible alternative source of oil and the economic consequences of an embargo)

Mr. DECONCINI. Mr. President, I send an amendment to the amendment that is pending at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2397 to amendment No. 2396.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after Section 1, and insert in lieu thereof:

SEC. 2. CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) the Government of Iraq has destroyed more than three thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens resulting in tens of thousands of deaths and more than sixty-five thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law; and

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including the State of Israel.

SEC. 3. CONGRESSIONAL DETERMINATION.—The Congress finds and determines that—

(1) Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nations Charter and the 1925 Geneva Protocol on Poison Gas, places Iraq outside the community of civilized nations.

SEC. 4. ENFORCEMENT OF UNITED STATES LAW.—The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 5. ENFORCEMENT OF INTERNATIONAL LAW.—(a) The President shall extend no new financial credits to Iraq and shall provide no financial assistance or financial benefit of any kind to Iraq including guarantees made by the Commodity Credit Corporation for loans made to finance export sales of agricultural commodities or products (except for urgent humanitarian assistance) until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow; April 10, 1972.

(b) No item on the United States Munitions List may be sold to Iraq, no licenses may be issued for the export to Iraq of any item on the United States Munitions List, and the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of all goods and technology on the control list established pursuant to section 5(c)(1) of that Act. The President may waive the requirements of this subsection if he certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(C) For the purposes of the export controls imposed pursuant to subsection (b) of section 5, the data described in section 6(m)(i) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

SEC. 6. REPORT ON OIL IMPORTS FROM IRAQ.—Not later than 60 days after enactment the President shall submit a report to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee describing total U.S. petroleum purchases from Iraq, and possible alternatives to Iraqi petroleum. The report shall include an assessment of the economic consequences for the United States and Iraq of a ban on the importation of Iraqi petroleum into the United States.

Mr. DECONCINI. This amendment only adds section 6, which provides for a report to the Speaker of the House of Representatives within 60 days and the chairman of the Senate Foreign Relations Committee on the effects of the amendment, and that is all it does.

I support the amendment of the Senator from New York.

Mr. President, I think it is time that we take some positive action on this floor. The Senator offered this amendment sometime ago and he withdrew it on the basis of some hearings to take place in the Foreign Relations Committee, which I understand it has done.

I think it is time that we stop talking and take action against Iraq. Events in the Middle East are so dangerous in normal times and have recently escalated to torture.

Mr. President, I yield to the Senator from New York.

Mr. D'AMATO. Mr. President, I thank my good friend, the Senator from Arizona for his support. And I would like to say this amendment is cosponsored by Senators PELL, HELMS, MOYNIHAN, KASSEBAUM, WILSON, MACK, DECONCINI, LAUTENBERG, NICKLES, and BOSCHWITZ.

This amendment goes back to May 17 of this year when it was first offered to the Chemical and Biological Weapons Control Act. At that time, we had heard what the Iraqis were doing in the area of chemical weapons. At that time, we talked about the gassing of the Kurds. At that time, we were concerned about their attempting to build a nuclear device. Indeed, there had been reports, well circulated and documented, to the fact that they were attempting to bring in nuclear triggering devices.

The Mad Dog of the East—and he resents being called that—but that is what he is. He is worse than that. He is a butcher, he is a killer, he is a manipulator. He said, "well, believe me, we have got these triggering devices." And in terms of the use of chemical weapons, it is well documented in history.

And so our colleagues said:

You know, this may be precipitous. We may be pushing this man into some action. After all, we have signals that we are receiving that he may be willing to talk.

Well, what has taken place in the meantime? More threats, movement of 30,000 troops onto the border. We have to call a mobilization and begin to conduct some air exercises.

Then we hear that:

Oh, well, he was not really serious. He just wants to get $10 billion forgiven. He just wants the price of oil brought up to $25 a barrel. Then maybe he will not send his troops over there.

Maybe he will. But we have to understand him.

This is more than just petulance. What this legislation says, Mr. President, is that we shall not give to the Iraqis the kind of special treatment that you reserve for friends, for allies, for neighbors, the people that, yes, you want to encourage business relationships with. We will deny him the Commodity Credit Corporation guarantee which Iraq used to the extent of $500 million last year. We will not make available to him the Eximbank insurance which again is a revolving fund and which Hussein used to the extent of $200 million last year. And we prohibit foreign military sales, commercial military sales, and sales of dual-use technology.

We are talking about the kind of things now where he says this is a pipeline, but our experts come in and say he is not building a pipeline. He is building a cannon. It does not give me pleasure to say to my colleagues that we said that he was a menace, pure and simple, 2 months ago, and that he continues this menacing. And the facts are clear.

Mr. President, I am not going to take the time of the Senate to go through the litany of horrors that Saddam Hussein is responsible for, for the gassing of thousands of his own people, Kurds within his nation, the use of poison gas against others, the threats that he now presents to the Middle East.

But I am going to say that at some point in time we have to look at more than commercial use. You know we pass sanctions and we say that when you deprive people of human rights then we have to stand. And we stand when it comes to South Africa, and we did so, and it is right. It is the kind of thing we should do. And we say to the Soviets, you stop your economic embargo as it relates to the Lithuanian people, otherwise you do not get most-favored-nation status, and we stand. And I will tell you something: We have to stand at this point in time because the mad dog will go further and further.

Now let me just read from—and I am going to ask that it be included in the RECORD in its entirety, and I ask that it be submitted—today's article called "Piracy in the Gulf" which was found in the Wall Street Journal. I am going to just read a small portion of it.

Mr. Hussein personifies the type of military menace likely to persist and grow even if the Soviet threat fades.

It goes on to say:

Aside from humanitarian considerations, Western interests would be immediately jeopardized by an invasion of Kuwait and a newly militant OPEC. In today's exquisitely interdependent world, we need to think again about the ancient military mission known as suppression of piracy. Today's pirates come with chemical and conceivably even nuclear weapons, and aren't likely to be deterred by the mantra, "peace is breaking out all over."

It is about time that we demonstrate to Hussein that we are willing to take modest steps, and that indeed we would increase that pressure if necessary.

I would like to conclude, Mr. President, and say that two committees have essentially reported out favorably and overwhelmingly this bill. The Foreign Relations Committee—and I see the distinguished chairman of the Foreign Relations Committee, Senator PELL, standing, who has worked assiduously for years attempting to get the administration to stand up to this madman, instead of going over there ready to kiss him whenever there is the slightest sign that maybe he is not going to persist in his ways of threats, of killing, of intimidation, where we grasp any sign and say, "Oh, he has changed his ways."

What will it take for us to wake up to the reality that he understands strength, he understands power, he understands the ability of nations to stand him down? But he is not going to respect this kind of flip-flopping that we do, ready to embrace any kindly gesture which he might offer.

Second, just recently, 2 weeks ago, the House Banking Committee again overwelmingly reported out essentially this same legislation. So we have studied it. We have waited for the State Department. We have waited for the administration to make progress. We have waited for Hussein to take a more humane course, and it has not been done. That is why this Senator presses forth as it relates to this legislation.

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PIRACY IN THE GULF

Saddam Hussein surely knows how to spoil a party. The Iraqi leader has been the annoying buzz at the gala celebrating the end of the cold war. But Western political leaders have preferred to ignore him, since they are having such a good time.

It's been more fun, in the mood of general revelry, to withdraw military power, especially from the Mediterranean. All summer, Congressional Democrats have been ridiculing a Pentagon plan to build a base at Crotone, in southern Italy. The base would enable NATO to project air power throughout the Middle East. "Given the collapse of the Warsaw Pact, why do we need another NATO air base?" asks Senator Jim Sasser. Rep. Pat Schroeder, eager to save domestic bases, calls the Crotone base "a waste of money."

Yesterday, the U.S. announced that it was closing two Mediterranean bases in Greece, to consolidate forces on a single base on Crete. Greek leftists rioted against any U.S. military presence.

On Monday, the usually sensible Rep. Les Aspin said he would oppose future production of the B-2 Stealth bomber, which can evade radar and hit terrorist or other targets. In May, the Canadian defense minister announced that, owing to global peace, NATO was cancelling plans for a fighter training base where pilots from 11 nations would have learned to fly low-altitude attack missions.

But Saddam Hussein's annoying buzz is now so loud it should be heard even above the din of Europhoria. U.S. forces already have started exercises in the Persian Gulf. Maybe it's time to put away the party hats and remember that history hasn't ended.

At first glance, Mr. Hussein's outrageous bullying of Kuwait seems like lunatic belligerency. His thuggery diverts attention from Israel, over whom the Arabs have been winning propaganda victories of late. Moreover, it dashes Mr. Hussein's chances of becoming the undisputed leader of the Arab world. This espisode has spooked a lot of Arab leaders who were happy to cheer him on as he threatened to gas half of Israel. Now moderate Egypt is acting like the keystone of the Arab states.

But there are kernels of rationality in his recent behavior. Iraq's peace with Iran now looks like part of a larger strategy. Some of the nearly 700,000 Iraqi soldiers on the Iranian border now can be directed toward easier prey. Iraq has twice as many soldiers as Kuwait has citizens. With threats that it would "break necks," Iraq now is demanding "massive reparations" for alleged Kuwaiti oil thefts (in reality both sides seem to be stealing from each other). Iraq also seeks forgiveness on the $10 billion debt it owes Kuwait. Yesterday's diplomatic moves suggested that the extortion was likely to work.

This week's events also signal that the Iraqi dictator is willing to serve as OPEC's enforcer. The fall in oil prices has put restraints on the amount of money Mr. Hussein could spend on his war machine. His government has said it would like to see oil at $25 a barrel, and he clearly is willing to intimidate Kuwait or the United Arab Emirates if they continue to violate their quotas. Remember that Mr. Hussein bombed the UAE oil rigs in 1986 because he thought the country was not supporting him sufficiently in the war with Iran.

The Saudis, though frightened by Mr. Hussein's thuggery, clearly appreciate Iraqi efforts to boost prices. We may yet see the restoration of the Iran-Iraq-Saudi dominance of OPEC that led to the ruinous price rises of the 1970s.

For the past several years, while the West studiously has been looking the other way, Iraq has built up a substantial munitions industry and one of the world's largest armies. Mr. Hussein builds his own ammunition, mortars, bombs and missiles. Though his attempts to get a supergun were foiled, he has no trouble buying other weaponry, often from Europe. The U.S. State Department resists any attempt to impose even economic sanctions on the country. The European diplomatic posture has been to lay low. Kuwait gave more than $30 billion in military aid; obviously appeasement doesn't work.

Mr. Hussein's violent rise has transformed the Middle East problem. The major flashpoint is no longer the Syrian-Israeli dispute. Now, the eye of the storm is in Baghdad,

and it radiates out in all directions, militarily and economically.

Mr. Hussein personifies the type of military menace likely to persist and grow even if the Soviet threat fades (itself no safe assumption, given the Soviet Union's huge and undiminished strategic arsenal). Aside from humanitarian considerations, Western interests would be immediately jeopardized by an invasion of Kuwait and a newly militant OPEC. In today's exquisitely interdependent world, we need to think again about the ancient military mission known as suppression of piracy. Today's pirates come with chemical and conceivably even nuclear weapons, and aren't likely to be deterred by the mantra, "peace is breaking out all over."

Mr. D'AMATO. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from New York has mentioned already the Foreign Relations Committee has considered this legislation, and that was certainly appropriate. The jurisdiction there is very clear. The Banking Committee has considered at least this legislation or a reasonable facsimile thereof.

Mr. President, logically, this Senator cannot understand why the legislation must be raised a third time on the farm bill except that there is a very interesting correlation that perhaps the Senator has alluded to but I will hit more directly and I am certain other colleagues will want to mention, and that is approximately $1 billion worth of agricultural exports went to Iraq last year. It has very important markets. It was food not weapons, food for people purchased in regular commercial sales. And that is a very important part of our agricultural economy. It is a very important part of our balance of trade situation. I am certain all Senators know that.

Some Senators may say that essentially the problems they see foreign policywise are so great they will be prepared really to forgo exports of food to Iraq. This Senator is not one of those, as a matter of fact, and in the Foreign Relations Committee debate on this amendment I voted in the negative, in the minority.

So let me be heard again this evening in perhaps a more extensive discussion of this. I would simply point out that this administration of George Bush—and it is true of every modern administration—opposes legislatively mandated sanctions that undermine or usurp the President's ability to conduct foreign policy.

This legislation would deprive the President of all flexibility in dealing with a major power, a major power in a strategically important region in which tensions are now running very high.

We may have our own debates here but they are not always understood around the world in the same way that we understand what is proceeding here. What is proceeding here this evening is simply a reiteration of a theme that the distinguished Senator from New York and others have had. They tried out Foreign Relations, they tried out Banking, why not try out the farm bill?

One has to hope people around the world understand our legislative machinations, as a matter of fact, in this farm bill which we hope will be passed tonight or tomorrow or sometime soon and will probably go to conference sometime in September or October and eventually it may be signed by the President. But let me just indicate to colleagues, an administration which sees a farm bill attempt to emasculate its foreign policy is not likely to be kindly disposed to that situation.

If we are serious about farming, about agriculture, we better speak up about that. This is not a foreign policy forum. There is not particular reason, as the chairman has pointed out, having solved all the agriculture problems we want to solve, now to turn this forum into a general discussion of foreign policy, banking, social policy, whatever may come along the trail.

I think those of us who have a love of agriculture resent having what we believe is a very important farm bill, a very constructive piece of legislation, turned into a general circus of discussions of all sorts. But here we are.

Passage of this legislation would badly undercut any possibility we have of influencing Iraqi behavior in areas from the peace process to human rights, terrorism to proliferation.

Iraq has consistently and in my judgment is very likely again to respond angrily and defiantly and the results may be precisely the opposite of what the sponsors intended. We can all be judges of that but that is my best judgment and I offer that to the body this evening.

During the gulf war there was a broad consensus as to the importance of the Persian Gulf to ourselves and our allies. Now, with very little thought of the consequences, we would create a situation, if this legislation were to become law, in which the United States would have no significant relations with the area's two powerful countries, Iran and Iraq.

Our Arab friends, without exception, rally consistently to Iraq's defense against what they see are politically motivated and unjustified attacks. We see them as justified. Our Arab friends do not. And there are consequences to these forays into foreign policy.

Furthermore, our allies in Western Europe and in Japan will not support these sanctions. In sum, this amendment, it seems to me, is loose with facts and likely to be counterproductive to U.S. interests in a critical part of the world.

Let me say for the sake of the record, the State Department has informed me that they generally prohibit the sale or transfer of United States munitions list items to Iraq. Fifty chemicals are now prohibited for export to Iraq. Items on the Commodity Control List deemed likely to aid Iraq's nuclear, missile or other proliferation programs are now denied. Iraq is one of the largest markets for United States agricultural exports.

The primary objective of our agricultural credit program with Iraq has been to increase our sales of United States farm products abroad. This GSM Program, which I have commented on, runs about $1 billion annually in recent years and provides credit guarantees to U.S. exporters of agricultural commodities. It has been the strong an repeated position of the administration not to use food—not to use food as an economic weapon of foreign policy through the imposition of embargoes on agricultural exports, or otherwise to place limits on our export programs for political purposes if food is involved.

The short-term U.S. Export-Import Bank credit insurance is intended to promote the export of U.S. industrial goods. On Janury 17 President Bush signed a waiver to the fiscal year 1989 Foreign Operations Appropriations Act to enable this program to continue on a national interest grounds. The United States has traditionally tried to avoid politicization of the IMF, which would undermine the fund's technical and monetary character.

By basing IMF actions on political criteria, the United States would create a precedent others would inevitably try to exploit in ways inimical to our interest. Important allies such as Israel could be subject to similar efforts by other countries following the inconsistency of our position.

Politicization would divert the IMF's attention from pressing needs in the international economic system, including debt strategy and restructuring of Eastern Europe.

It is the opinion of our Department of Justice that legislation mandating U.S. votes in international financial institutions would be unconstitutional.

NRC licenses or other authorization under the Atomic Energy Act of 1954 for the export to Iraq of nuclear material, production or utilization facility or sensitive nuclear technology, are not now possible under current United States policy. The distribution of nuclear materials to Iraq is not possible under our current policy.

It is highly unlikely that there will be any DOE authorizations that would allow for direct or indirect activities with Iraq on nuclear energy.

The State Department opposes the virtually total economic embargo of Iraq which would result from this

amendment. The President needs flexibility in dealing with this country at this time on such important issues as the Arab-Israeli peace process on which Iraq has the capability to play a positive or a negative role.

The administration maintains an active review of our policy toward Iraq with a view toward assessing how best to further our interests in this very difficult bilateral relationship. The administration's present approach has been to deal firmly with problems as they arise within the context of broad, many-faceted relations. Imposition of rigid, legislated sanctions will not support vital U.S. interests in the region and may undercut our objectives.

Mr. President, let me say, aside from what I believe is the doubtful nature of this bill's approach to a serious foreign policy problem, I believe the amendment has not, simply, been thought through. For example, the amendment, as I see it, requires the President to certify that Iraq is in substantial compliance with one treaty to which it is not a party—the 1972 Convention on Biological Weapons. The amendment does not explain how the President can assess compliance with a treaty to which Iraq is not a party.

Similarly, the bill requires the President to certify that Iraq is in substantial compliance with the Covenant on Civil and Political Rights to which the United States itself has not given advice and consent to ratification. Nor does the amendment make clear whether the President is to assess Iraqi compliance as of this moment or whether he is to examine prior Iraqi performance under the treaties.

Finally, section 4 purports to direct the President to enforce statutes imposing sanctions on countries which the President determines engage in a consistent pattern of gross violations of internationally recognized human rights. The President is already enforcing these statutes. In this case, he has not made the factual determination that triggers the sanctions they impose. The finding in section 3 of the bill cannot trigger those statutes, only a finding by the President can.

Mr. President, I have taken the time of colleagues at this late hour because this is a serious matter. The Senator from New York perceives it as serious, and so do I. It seems to me important to state these facts and these opinions.

Clearly, I wish the amendment were not on the farm bill, but it has been offered. It must be disposed of. I am hopeful the body will defeat the amendment.

The PRESIDING OFFICER. The Chair recognizes the manager of the bill, the Senator from Vermont.

Mr. LEAHY. Mr. President, I hope our colleagues, listened to the distinguished Senator from Indiana. He has very, very cogently, very accurately, and very well voiced the position of the administration and the position that makes sense in this matter.

I have the honor bringing before the U.S. Senate a 5-year farm bill—a bill that we all know has to pass. But I have to think that along with that honor, comes almost a pent up 5-year desire from people trying to think of attachments to put on the farm bill.

We all know the 5-year farm bill will eventually become law. I understand the temptation of Senators to add things on it that would perhaps best be on other pieces of legislation or best be brought up on their own.

Mr. President, we are reaching that hour where some amendments may seem less relevant to the farm bill. I do not question my good friend from New York, and he is a close personal friend. I do not question his consistent concern on these issues. I do not question his desire to go after those aspects of Iraqi foreign policy and domestic policy because all of us find it reprehensible and oftentimes incomprehensible in this body.

But this is the farm bill—the 1990 5-year farm bill. I am not going to put a nuclear proliferation amendment on this, even though I might want to, or a chemical warfare ban amendment on it, even though I would like to see one passed, or a number of areas that I would like to see changed in our criminal laws because of being a former prosecutor. Those will not be on here.

In September, I will bring to the floor the Foreign Operations Subcommittee bill, from the Foreign Aid Appropriations Subcommittee. Then maybe we will discuss some of these foreign policy issues. But not on this bill.

Mr. President, again, I know the Senator from New York makes a strong statement based on a heartfelt conviction and concern for a conduct he finds reprehensible, and nobody questions that. But this is an amendment that would raise grave concerns in its application, its effect on our food policy and the effect on the policy of the United States. Food should not be used as a weapon, diplomatic or otherwise, by this country.

If we are going to debate this issue, let us debate it in a different context when we look at all aspects. What is our foreign policy? When, if ever, will food be used as a weapon? What is the situation in the Middle East? Who is helped and who is hurt among our friends by this amendment?

Having said that, Mr. President, again, I will tell all Members we can, if we want, pass this farm bill in the next few minutes.

If we were to pass the bill as now amended, we will have a bill within budget and we will have the most progressive farm bill ever to come out of this body. We will have made significant improvements in our production of food and fiber, and significant environmental improvements. We will have a bill that faces the challenges as we go into the next century in agriculture with an ability to have diverse and greatly sought after methods of agriculture.

We could pass this bill in the next few minutes, 5 minutes, 10 minutes if, indeed, we want to, Mr. President. The Senate would have comported itself very well and all Senators could go home and be proud of the farm bill they would have passed here and we would be in great shape to go to the other body in conference.

So I implore Members, make the choice, finish a good farm bill now or go on for a great deal more time.

Again, I say to my good friend from New York, I would hope he might be able to find a better vehicle than this one.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Thank you, Mr. President. I will try to be very brief in my concerns about the Senator's amendment. America in 1990 is supposed to be a kinder and gentler Nation. I cannot imagine this Congress, and particularly this Senate tonight, voting to take food out of the mouths of hungry children and starving women because we do not like the leader of their country. Saddam Hussein is not a nice person. He is just the opposite of that. I think that would pass unanimously.

Who do we think we are punishing by depriving the people of this country of the food they literally need to survive from day-to-day because we do not like the leader of the country who we disagree with? We are not talking about weapons; we are not talking about guns, tanks, and trucks. We are talking about food that is going to allow people to live 1 day more, children and women who are innocent victims of this terrible leader and these terrible wars and controversies that are going on in that part of the world.

Do we as the leader of the free world walk away from those starving women and children and innocent victims and say because we do not like your leader, we are going to deprive your people of the food that is necessary for them to survive? Is that any way for a great Nation trying to influence public policy to operate? I suggest that it is not.

The food that we are talking about is fruit juice, corn, dairy products, milk—are we going to deprive them of milk, poultry, protein products, rice, wheat? We are talking about food that is absolutely essential to the very survival of hungry, innocent, starving people.

It is not so much the money that we make that is important. Of course, it is. But here we have an opportunity to say we as a Nation are going to try and help people who, indeed, need help. Some will say we should not be giving them aid. We are talking about commercial sales. We are talking about commercial transactions, selling food to a Nation in desperate need. These are arguments that I think are legitimate, in addition to the fact that this is a farm bill, not the foreign policy committee, not the Foreign Relations Committee, but rather the Agriculture Committee's legislation.

I think the real reason is because these are innocent victims and starving people who need our help. Because we are mad at their leader I suggest is not any reason to hurt the people who are in desperate need of this country.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will respond in this way. One of the reasons at this late hour that this amendment has been added to this bill is because it contains commodity credit funding, about $500 million in commodity credit funding. So, therefore, it does have some relevance to this bill.

But in answer to the Senator from Louisana, let me say why I feel so strongly about this. Wheat from Kansas is certainly affected by this amendment, but I cannot believe that any farmer in this Nation would want to send his products, subsidized sales—and we are just talking about that, not commercial sales—to a country that has used chemical weapons and to a country that has tortured and injured their children, the Kurdish children, in order to force the families into compliance with the Government.

Mr. President, I think that it is very sad that we have reached this situation because I regard Iraq as an important partnership, but I think the United States cannot afford at this time to turn away from a very tragic situation. I think it behooves us, far more than this amendment, to provide leadership in calling on every other nation in this world to express their outrage at this kind of conduct. I think first and foremost the farmers in this Nation would feel the same way.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, let me also speak in favor of this amendment by saying it is appropriate. I take issue with my friend from Indiana. It is appropriate on this bill.

As the Senator from Kansas has pointed out, these are GSM credits that are authorized under this bill that are being extended to Iraq, which we think should not be extended at the present time. It is not taking food out of the mouths of babes. We are not suggesting in any way an embargo. We are simply saying that the United States should extend credit guarantees to Iraq at this time. The actions of Iraq and the way it is using its money is such that we should not finance these products.

Iraq is in the process of seeking to become the weapons supplier of much of the northern reaches of Africa. Iraq is threatening its neighbors, as the distinguished Senator from New York has said.

We are not suggesting an embargo. We are not suggesting that we use food as a weapon of international policy. We are not undercutting or preventing relationships with a significant nation in the world. We are just saying that at the present time, Iraq is not deserving of credit from the Commodity Credit Corporation, the CCC, under the GSM program of short-term or long-term credit.

It is interesting to note that some of these credits that the country of Iraq is getting are just 6 months to 2 years. It is not as though we are preventing them from buying food over the long haul. They can continue their trade in all these types of strategic goods, and we hope they will. We even hope that they will change some of their ways so that we can give them credit once again. But there is no reasonable reason at the present time to extend Iraq credit from the American Government.

All of us know that Iraq has recently threatened its neighbor. Iraq has sent 30,000 troops to a neighbor that has an army of only 20,000. Iraq is threatening not only its neighbors but other countries in the gulf. Iraq is trying to extend its influence to Yemen, to Mali, and to other nations in Northern Africa.

My friend from New York and the Senator from Kansas have spoken about the use of chemical weapons, so I will not expand on that. But we hope for friendly relations with Iraq. We hope that will be able to restore them. We hope, too, that they will join the Council of Nations in all of their actions.

This is not, however, a time for the American people, the American Government, to extend credit to Iraq.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, this new title is the same as S. 2787, the Iraq International Law Compliance Act of 1990, which was reported out by the Foreign Relations Committee by a vote of 14–4 on June 26.

The purpose of S. 2787 and this amendment is to deny Iraq taxpayer supported financial credits and benefits until the President certifies that Iraq is in substantial compliance with its obligations under international law. The principal benefit that the United States provides Iraq these days is guarantees by the Commodity Credit Corporation of loans for the purchase of agricultural commodities and products. The CCC program is authorized by the pending bill and hence this amendment is directly relevant to the pending legislation. The biggest benefit we provide Iraq is the five or six hundred million in CCC which are authorized in this bill.

Iraq's conduct in the 1980's has shown a blatant disregard for international law and for the most basic standards of human decency. Beginning in 1983, Iraq made extensive use of chemical weapons in the Iran-Iraq war. This use of chemical weapons was in blatant violation of the 1925 Geneva protocol banning the use of chemical weapons in warfare, a protocol to which Iraq is a party. Iraq's use of chemical weapons was by far the most significant violation of the Geneva protocol since its initiation. Not even Hitler did what Iraq did.

In 1988, Iraq's use of chemical weapons culminated with a massive attack on its own Kurdish minority. In a few days in August 1988, after the end of the Iran-Iraq war, the Iraqi air force launched hundreds of chemical weapons attacks on defenseless Kurdish civilians. These attacks, which were documented by a Foreign Relations Committee staff study, caused tens of thousands of deaths and produced more than 65,000 refugees.

Most recently, Iraq has been developing biological weapons in violation of the 1972 convention prohibiting the manufacture or possession of such weapons. It has also attempted to violate U.S. export laws in an effort to acquire nuclear weapons technology in contravention of its obligations under the Nuclear Non-Proliferation Treaty.

Iraq's human rights record is, by the account of the U.S. State Department and of Amnesty International, abysmal. Murder, arbitrary imprisonment, and torture are routine tools of the Iraqi regime. Amnesty International has documented numerous cases of torture and killing of children as a means of punishing their parents. Iraq's conduct constitutes a gross violation of internationally recognized human rights and places it in violation of its obligations under the U.N. Charter and the International Covenant on Civil and Political Rights. Its effort to depopulate the Kurdish regions of

Iraq has many of the attributes of a policy of genocide.

In recent days Iraq has mobilized forces on its border with Kuwait and has issued the most bellicose of threats. These threats risk the involvement of United States servicemen in a Persian Gulf conflict. Iraq has also threatened Israel and the United Arab Emirates.

The Constitution of the United States gives Congress the power and the responsibility to enforce international law which is also the law of the land. We cannot continue to treat Iraq with a policy of appeasement. Past appeasement has only encouraged more aggressive Iraqi behavior. When the world community did nothing about Iraq's use of chemical weapons on Iranians, Iraq cavalierly turned these weapons on its own citizens. When the world did nothing for the Kurds, Iraq was encouraged to develop biological weapons. One can only imagine the catastrophic consequences for the United States if we continue to ignore Iraqi law-breaking.

Providing Iraq taxpayer-guaranteed loans is appeasement. It is also very wrong to provide such assistance to a regime that murders its own people and flouts the very principles of law the defense of which has involved America in two world wars.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I strongly support the D'Amato amendment and am pleased to be a cosponsor. It is time to stop talking and take action against Iraq. The war of words in the Middle East, so dangerous in normal times, has recently escalated to incendiary proportions. President Saddam Hussein of Iraq has turned his verbal wrath on his tiny oil-rich neighbor, the kingdom of Kuwait.

Hussein charges Kuwait, as well as the United Arab Emirates, with flooding the global oil market by exceeding the OPEC-agreed upon production quotas by as much as 500,000 barrels a day. Understandably, financially strapped Iraq suffers by a depression in oil prices. But mechanisms are in place within the organization of petroleum exporting countries, which is now meeting, to resolve these disputes.

Hussein is engaging in "brinksmanship" and "muscle flexing," to quote sources identified in a recent Washington Post article. This most recent incident is but one in a long line of instances in which Hussein talks tough and whips his people into a frenzy. It was this kind of talk which maintained the support of the Iraqi public for its decade-long war with Iran. It is this kind of talk which has resulted in a flurry of diplomatic action throughout the Middle East while Iraq has begun massing its troops along the Iraq-Kuwait border.

They say that talk is cheap. This is true. But unfortunately, life in the Middle East also appears to be cheap. We cannot forget that the Saddam Hussein who is today picking a fight with a country that only 2 years ago was supporting Iraq in its war against Iran, is the same Saddam Hussein who horrified the civilized world when he used chemical weapons against his own people as well as the Kurdish minority in his country. This is the same Hussein who has threatened repeatedly since this spring that he would "eat half of Israel" if Israel took preemptive action to defend its territory. And this is the same Hussein who publicly warned last week that "Iraqis will not forget the saying that cutting necks is better than cutting means of living." Clearly, when dealing with Saddam Hussein, talk can also be a prelude to action.

The Post reports that Western military attachés who crossed the border from Kuwait on their way to Baghdad noticed up to 3,000 Iraqi Army vehicles moving south toward Kuwait transporting an estimated two divisions of Republican Guard Corps Troops.

This convoy appeared to be equipped with tanks, armored personnel carriers, and ground-to-ground battlefield missiles. This massing of troops exceeds Kuwait's entire 20,000-man military which has also been placed on full military alert and has begun moving missiles to the border.

While U.S. military officials expect this crisis to pass, our Middle East force, the seven-ship navy fleet that has been patrolling the Persian Gulf, has been put on full alert.

Mr. President, this is another in a continuing string of irrational actions and statements by Saddam Hussein. It reaffirms my belief that this man is not someone with whom the United States can work nor is he anyone we can drastically change. We need to demonstrate to Hussein that we will no longer tolerate his outrageous behavior and gross violations of human rights. That is why I am supporting the D'Amato amendment which denounces Iraq's human rights record and its violations of international law on the use of chemical weapons.

The amendment would prevent any new financial credits or aid to Iraq until the President certifies that Iraq is in compliance with the United Nations charter and five other world agreements on civil rights and chemical and nuclear arms.

The amendment prohibits the sale to Iraq of any item on the United States munitions list or the export to that country of any goods or technology listed in section 6 of the Export Administration Act of 1979 until the President certifies that Iraq is in compliance with these international agreements.

Finally, it urges the President to enforce against Iraq all laws imposing sanctions on countries that consistently and grossly violate human rights. I hope that the full Senate will pass this well-constructed amendment.

We must do all that we can to ensure that it is only a war of words which we fight in the Persian Gulf and the troubled Middle East.

Mr. President, I am certainly in support of this amendment. I want to comment on the fact that anybody who thinks Mr. Hussein is going to use this particular food to feed starving children, Kurdish and Iraqi children, is just not with what is going on in that country.

If he gets any food, he is going to use it for the soldiers that we see marching today down to the border of Kuwait. That is what we are talking about. We are talking about sending a strong messge to this leader that we are not going to have any part of financing that war. I think it is long overdue that we do it.

I have the greatest respect and understand where the Senator from Indiana is coming from on his objection, because this is a farm bill. But it is time that we act and I think we must act now, not in September or in October, when we might very well be too late. We need to send a strong message. I think the Senator from New York has pointed that out. The Senator from Kansas has pointed it out even more so.

This is a leader who has gassed and used chemical weapons on those children and women of his own nation. Is that the way for a proud world power to respond, to say, oh, we are just going to forget about it and just kind of let it slip off and go ahead and sell food? I should say I think not.

I think we ought to adopt it, and we ought to be proud of it, because it states exactly what this country stands for, that we are opposed to these kinds of human rights violations and we want everybody to know it.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when are we ever going to learn? The last time we put on what amounts to an embargo was when the Soviet Union invaded Afghanistan. We were outraged and we all joined in with that act of punishment for the Soviet Union.

But who got punished? Grain dealers, farmers in the United States, because we lost those markets. Do you not remember, Mr. President? Everybody seemed to have learned that lesson at that time.

I heard, all over in this body, people say let us not put on embargoes. Embargoes do not work.

We are simply shooting ourselves in the foot.

Here we are again. Of course, we are outraged at Iraq. But you know, Mr. President, they raise rice all over the world. Iraq happens to be the best rice customer of the United States. We raise rice in the United States. This pertains, of course, to farm products across the board, but in the case of rice. Mr. President, which is close to our hearts, we have a lot of jobs involved. They can go anywhere else in the world, and they will go somewhere else, and we will lose those markets. It is not Iraq we are punishing. It is American farmers. Let us wake up and remember. Let us not do this silly kind of thing again.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SPECTER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Chair is of the view that the Senate is in order, and the Senator from New York is recognized.

Mr. MONYIHAN. I thank the Chair.

Mr. President, this amendment has the title the Iraq International Law Compliance Act of 1990. In the references—there are six—there is one in particular. It is the protocol for the prohibition of the use in war of asphyxiating, poisonous, or other gases, and bateriological methods of warfare, done at Geneva, June 17, 1925.

Mr. President, this is known in history as the Geneva Convention. Of all the events of the First World War, a war from which this century has not yet fully recovered, of all those events, none so horrified mankind as gas warfare on the western front of France and Belgium. No resolve was ever seen as firm as that with which the nations of the world after that war, in the Geneva site of the League of Nations, resolved in 1925, never to have it happen again.

Mr. President, I know I am speaking about law and that may not be of great interest to the Senate, but perhaps we might have order.

The PRESIDING OFFICER. The Chair is of the view the Senate is in order. If the Chair is missing something, the Chair apologizes, but I think it is possible for the Senator from New York to proceed.

Mr. MOYNIHAN. I thank the Chair.

In the great war that followed the first war, such was the power of that commitment that gas was never used in the Second World War, as expected by every major participant in Europe, it did not happen. It did not happen before or after.

Finally it happened. It happened when Iraq used gas, first in its war with Iran, then internally with the Kurdish citizens. What has been our response? We as a Nation, we as an international community, sir—there has been no response, none. And that is why the Senator from New York, my colleague and friend, brings this amendment here. That is why the distinguished chairman of the Committee on Foreign Relations speaks to it.

What dazzles the mind is that the Department of State opposes this measure. We are even now negotiating a further international treaty on chemical weapons. The State Department is negotiating it with other nations. They will bring this treaty, if successfully concluded, to this Senate and ask that we assent to its ratification as the supreme law of the land under article VI of the convention, not a normal law, a law that requires two-thirds of the Members present in the Senate. Yet, the same State Department opposes this measure.

I ask my friend from New York, I ask the chairman of the Committee on Foreign Relations, with what degree of seriousness are we to consider the forthcoming treaty abolishing, prohibiting the use of chemical weapons in warfare if in the presence of the most blatant and first violation of that first treaty in 1925, the State Department sees no grounds for any sanctions, seeks no retribution in the World Court, does not take the matter to the Security Council, chooses instead to attend to commercial interests, if that is the case? Whatever else is the case, they do not say. But they surely give very little confidence with respect to what they are now doing. It is no small matter that this is entitled the Iraq International Law Compliance Act of 1990, and the Department of State opposes it.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I want to commend the Senator from New York for his observations. It pains me that the State Department, indeed, even at the hearings conducted by Senator PELL and under the questioning of both Senator PELL, Senator MOYNIHAN, and others, had to indicate that they have taken no action, made no recommendations as it relates to the violation of these basic human rights.

We simply write laws that we do not adhere to. It seems to me we have not attempted to utilize any of the findings that are provided for in law as it relates to the outlaw nations that would gas their own people as it relates to their violating basic human rights.

I have to say that I think that the Senator from Kansas covered quite adequately the fact that we are talking about the CCC program and its implementation, and the fact that it is given its statutory authority by way of the agriculture bill.

Now, we had the biological weapons bill, and we should know. Let us not hold it up there, and let us have hearings. We did. I would like to say this: My good friend from Hawaii has legislation that I would far prefer. It is better. Senator INOUYE's legislation and legislation that Senator KASTEN has worked on are better than this bill. They said we just substitute it. I would love to substitute it. But I tell you why I suggested that we do not. Because it goes further than my bill, and because it would be subject to an attack as it relates to raising revenue because it very well might impede the ability of Iraq to sell oil to this country.

I think if we are going to be moral, and right, and stand up, not just because political whims dictate it—sometimes you have to have some courage. I think in the fullness of time we are going to see the Gorbymania that swept this country—that he is not the great liberal so many have held out. That is for another day. I do not mean to discuss it a little at this time. It is OK if a little gassing is going on, we have some people killed, we have some other problems, that we have to bully. But do not—after all, geopolitics; be careful fellows. It is OK if we are turning the other cheek because they are really worried about feeding little babies over there.

We are not worried about feeding babies. We are worried about continuing a flow of business from this country, an economic interest. That is a fact. Nobody here is really concerned about feeding babies. We ought to set up a humanitarian program for the U.N. and see that we have soup kitchens and everything, and we will take care of their needs. That is a lot of hokum.

Mr. President, I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I do not intend to take the floor away from the Senator from New York. I would be happy for him to have it back.

I might ask the President a parliamentary inquiry. We now have the yeas and nays ordered on the amendment by the Senator from New York. We also have the yeas and nays ordered on the amendment by the Senator from North Carolina, Mr. HELMS.

The PRESIDING OFFICER. The Senator is entirely correct.

Mr. LEAHY. I think people know how they are going to vote on this. I wonder if we might vote on either one in the next 15 minutes, and then 15 minutes after completion of that, vote on the other.

In other words, the Senator from New York has stated that he wishes to use the farm bill as a vehicle. I stated before that I understand his strong concerns. I would prefer a different vehicle for this, but he feels strongly that he wants to have it on there. I do not want in any way to deny anybody a vote.

I am not making it as a unanimous-consent request, for I have not discussed it with anybody else, but might it be possible to have the vote in 15 minutes on the amendment of the Senator from New York, and then 15 minutes evenly divided after that on the amendment of the Senator from North Carolina [Mr. HELMS], involving the Soviet Union, and then have the rollcall on that.

These are two major issues, contentious issues. We would be done with them. There is not a Member in this body that does not know exactly how he or she will vote on these two items at this point. Can we do that?

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. LEAHY. Certainly.

Mr. GRAMM. Mr. President, the current parliamentary situation is that there is a second-degree amendment pending. I do not believe that amendment is controversial, but it would be my intention, once this second-degree amendment is adopted, to offer a second-degree amendment to the then pending D'Amato amendment, which I believe would make the amendment far more acceptable to those of us who are concerned about it. It will simply say that if the Secretary of Agriculture finds that the implementation of these credit restrictions denies access to the Iraqi market by American products, and if there are products competitively priced on the world market from non-American sources so that the American farmer, and not Iraq, would be hurt by the amendment, that the Secretary of Agriculture could suspend these provisions.

So it would be my intention, while I do not doubt that there is anybody uncertain about the amendment of the Senator from New York, to offer a second-degree amendment when the pending second-degree amendment is disposed of. I think that amendment is vitally important.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair. Mr. President, on the pending amendment for sanctions against Iraq, the Senate has three choices: It could approve the amendment, it could disapprove the amendment, or it could do nothing.

Mr. President, in my judgment, the vastly preferable course on this subject would be for the Senate to do nothing. As between voting for sanctions or voting against sanctions, it is my judgment that it is preferable to vote for sanctions. The only thing worse than voting for sanctions would be to vote against sanctions, because that would state approval by the United States Senate as to the cement policy of Iraq.

Mr. President, it is my view that Iraq poses an enormously serious threat to peace in the Mideast today—in fact, to world peace, and to the world economy, with the actions which it is taking now on the oil issue with Kuwait and the United Arab Emirates.

I believe there ought to be very strenuous efforts made by the United States to establish a dialog with the Iraqi officials and President Saddam Hussein, in an effort to try to influence the behavior of Iraq. I say that, Mr. President, based on extensive travels which I have undertaken in the Mideast, including two trips to Iraq and an opportunity to meet this past January at length with President Saddam Hussein. The distinguished Senator from Alabama [Mr. SHELBY] and I met with President Saddam Hussein in Baghdad in January for approximately 1 hour and 20 minutes.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Chair has been tolerant, because the Chair is understanding of the fact that Senators are tying to work out various agreements so that we, Lord knows, could possibly move forward on this bill. But the Chair has lost his patience. The Senate is not in order, and the Chair will wait for order.

The Senate is in order. The Senator may proceed.

Mr. SPECTER. Mr. President, it was my judgment, after meeting at length with President Saddam Hussein, that every effort should be made to establish and expand the dialog with him, because I think it is worth our effort to try to influence his behavior.

After Senator SHELBY and I visited with President Saddam Hussein, Senator DOLE led a delegation consisting of himself, Senator METZENBAUM, Senator SIMPSON, Senator MCCLURE, and Senator MURKOWSKI, and all of the seven Senators, but one, Senator SHELBY, being absent, later met with the Iraqu Ambassador, Ambassador Al Maashat, in Senator DOLE's office on a number of occasions.

I believe it is a fair statement that all seven of the Senators found President Saddam Hussein to be a man who was worth talking to. While we were not sure that we could influence him, we thought it was worth our time and effort to influence him, because of the tremendous power which he possesses, because of the threat in the Mideast and the threat to world peace. None of was sure, and there is no way to be sure, especially after such a brief meeting, but there was a unanimous view among the seven of us that it was a matter which ought to be pursued.

Senator DOLE entertained the possibility of another trip to Iraq, and it was a subject which was discussed among Senator DOLE, Secretary of State Baker and myself. The other Sentors who had visited Iraq were consulted, and a number expressed an interest in possibly joining such a trip.

We decided that it would be unwise to undertake another trip to Iraq, in light of the tensions there, out of concern that we place too much deference and too much attention on Iraq and its President, unless there was some positive indication that something useful could be accomplished. And we communicated in writing with President Saddam Hussein. In addition, we spoke with his ambassador, indicating that we wanted a showing that something useful could be obtained.

We set forth three general circumstances. The first circumstance was that Iraq should make a pledge of no first strike against anyone in the Mideast. That request was made because Saddam Hussein was quoted as having made a statement that Iraq would set fire to half of Israel if Israel attacked Iraq. We requested that President Saddam Hussein say that they would not strike first. Ambassador Al Maashat stated that he thought that might well be accomplished because as Ambassador Al Maashat articulated no first strike pledge was implicit in what President Saddam Hussein had said when he uttered the words "we will set fire to half of Israel if Israel attacks." And we responded to Ambassador Al Maashat that it was insufficient that it be implicit, that it ought to be direct.

The second request we made involved the specific recognition by Iraq of U.N. Resolutions 242 and 338. On that subject Ambassador Al Maashat responded by saying that Iraq had implicitly accepted those two U.N. resolutions by virtue of accepting the Fez Conference in 1982, and also by agreeing to what the PLO had agreed to. We responded that it could not be implicit in other arrangements but that it ought to be expressed by Iraq that they accepted 242 and 338.

The third circumstance which we advanced would be a statement of interest by Iraq in participating in the Mideast peace process in some form, perhaps in a summit meeting or international conference in the Mideast. Mr. President, that arrangement did not work out for a variety of reasons.

There are a number of concerns which this Senator has with the pending amendment. However, and I shall repeat, I intend to vote for the pending amendment because I think that although it has many pitfalls it would be worse to have it defeated than to have it passed because its defeat would

say to Iraq that there is approval by the U.S. Senate of Iraq's conduct.

Mr. President, I have said publicly and privately before that we should not extend credits under the commodity credit arrangement to Iraq, that we should not provide advanced industrial furnaces and not give export-import credits. In addition, we should not do anything at all to strengthen Iraq at a time when tension exists in the Mideast, considering Iraq's record. But at the same time we ought not to be belligerent or engage in excess rhetoric or engage in condemnation which would serve no useful purpose when all of these objectives can be accomplished by Executive order.

The advanced industrial furnaces were not shipped by the United States. Executive action was taken on that subject. That is a matter which Senator DOLE and I discussed with President Bush a week ago Wednesday at a time when he was considering that action. I think it is fair to say that our recommendations may have had some weight with the President. There was a concern expressed in that meeting as to whether the President had the authority to halt the sale of those advanced industrial furnaces. And it was my comment that if the President did not have the authority at least this Senator thought he could get that authority in an afternoon. He would be so clear.

As to the Commodity Credit Corporation there is ample authority in the executive branch not to extend the additional $500 million in commodity credits due to Iraq. I have discussed that matter with Secretary of Agriculture Yeutter. I have written to him on the subject. There is not current plan for the Department of Agriculture to extend those credits. That too can be accomplished by Executive order.

Mr. President, when the U.S. Senate undertakes excessive rhetoric and when a U.S. Senator on this floor calls President Saddam Hussein of Iraq a "mad dog," as Saddam Hussein was called last May 17, and repeated today, I suggest that is grossly counterproductive. That is a concern I have about the sanctions bill being moved, but I repeat the worst thing that could happen would be for the United States Senate to reject sanctions against Iraq, to say to Iraq and to the world that we approve of what Iraq is doing. I believe that a tough policy, one which does not make Iraq stronger, is something that I think most if not all of us would agree to.

I suggest that can be done without the context of the excessive rhetoric and without the context of defeating the opportunity for the kind of extended dialog which I think may realistically be present today.

Ambassador Al Maashat came to the Capitol after the meetings which I have described with a number of Senators—Senator DOLE, Senator METZENBAUM, Senator SIMPSON, Senator MCCLURE, Senator MURKOWSKI, and myself—and had a number of meetings and then Iraq Ambassador Al Maashat came again to the Capitol to see Senator DOLE. I saw him as well and he said it would not be a good time for any additional trip to Iraq by United States Senators because of the climate occasioned by the denunciation, the statement made of President Saddam Hussein as being a "mad dog."

I believe, Mr. President, that the efforts to establish a dialog and try to influence the behavior of President Saddam Hussein are enormously important. I think the executive is making progress in that direction. In order to get an update on the situation with Iraq I talked this evening to Robert Kimmitt, a top official at the State Department, who told me about a very unusual meeting within the past 2 days where President Saddam Hussein called on U.S. Ambassador Gillespie in Baghdad, and according to Mr. Kimmitt this was the first time that President Saddam Hussein had called in any ambassador of the United States, at least to the knowledge of the diplomatic corps in Baghdad. President Saddam Hussein expressed concern to our Ambassador over the United States military exercises with the United Arab Emirates. President Saddam Hussein outlined steps he had taken regarding the oil dispute. President Saddam Hussein advised our Ambassador that he did not intend to be belligerant or provocative on those issues.

It may well be, Mr. President, and probably is that the presence of U.S. military force had a good bit to do with that unprecedented action by President Saddam Hussein. But I would suggest, Mr. President, from what we know of President Saddam Hussein, that there is a great deal that he needs to understand about our views of the international oil market, that we are very much opposed to cartels and price fixing and restraints of trade, that we are very much opposed to policies of intimidating countries like Kuwait or the United Arab Emirates or any country in terms of what they ought to do on commercial transactions which might have a corollary economic benefit to Iraq.

When Senator SHELBY and I met with President Saddam Hussein, we advised him about a number of things that he had no familiarity with, such as U.S. immigration policy. He asked why the United States had a policy of excluding Soviet Jews to compel them to go to Israel. We responded that the United States had immigration limitations as to everyone and that in fact the quota of 50,000 for Soviet Jews was a high quota, and that it took a floor fight in the U.S. Senate to get 30,000 people admitted to this country who were Ph.D's, technicians, and highly skilled individuals. We talked to President Saddam Hussein about a great many matters. And in a very interesting interview on ABC "Prime Time News" just a month ago there was again an illustration of President Saddam Hussein's lack of knowledge about what goes on in the United States and what goes on in the world.

And those who saw that program saw the presentation of a man who was rational and a man who can be reasoned with.

Mr. President, I do not think there is any need for me to express my regrets to my colleagues for speaking for the past 14 minutes on this subject because it is a very important subject. After being here 10 years, it never ceases to amaze me, our Senate schedule of taking up at 11 o'clock at night a matter of this importance. But that is the way the Senate works.

It is not something that I relish doing, to speak at any length at any time. But I think this is a matter of really great importance. I think we are rushing to judgment on a sanction motion today which would be better left undone for the reasons which I have articulated. Also, I believe, that when seven Members of this body travel to the Mideast and talk to this man and talk to others that have a firm view, a united view, that he is a person worth talkig to, that there ought to be at least some exploration with Senator MCCLURE, Senator MURKOWSKI, Senator SIMPSON, and myself as to what we found there. There was none at all by those who are pressing this issue.

When I informed the Senator about the response of the Iraqi ambassador to the mad dog comment, it had only the effect of having it repeated on the Senate floor today.

Mr. President, I think it would be really calamitous for this sanction amendment to be defeated because it would say or be widely interpreted that the U.S. Senate condones the activities of President Saddam Hussein. I just hope whatever the outcome is today—and when the Senate passes a resolution of this type, it will receive wide notoriety.

It is amazing how even voice votes on resolutions, not even noted by all or at least 98 of the 100 Senators, receive such attention around the world, and this will receive attention. But it is my hope that it is passed, and we go beyond that to try to pick up a more rational course.

The President is vitally concerned with this issue. I traveled with him to Philadelphia the day before yesterday, and we talked about what was happening with Iraq and the United Arab Emirates. It is receiving top attention from the President, perhaps not at

11:53, and it is receiving top attention from the executive branch.

So, in conclusion, I urge my colleagues to adopt this amendment as the lesser of the undesirable alternatives, and then to proceed, hopefully, with a rational policy to try to expand a dialog, to try to inform Iraq's officials and President Saddam Hussein to influence their behavior in the future.

Mr. CHAFEE. Mr. President, first I want to say, that was certainly a very, very fine statement by the distinguished Senator from Pennsylvania who has given this matter a lot of thought. I find that I agree with it, all except his conclusion.

Mr. President, I think, first of all, by bringing up this amendment, it shows the dangers of this body trespassing in the areas where we frequently do not belong. To me, it is an odd amendment. It lists all the offenses of Iraq, how they have tortured and executed thousands of its citizens and destroyed 3,000 of its villages and used chemical weapons against its own people. Yet it says nothing about the fact that we continue to have diplomatic relations with that country.

We have an Ambassador there. They have an ambassador here. It does not say that we must stop buying oil from Iraq. It says, "We will look into it, ponder it, and in 60 days review it once again." It does not say that we cannot sell them machinery or equipment.

All it says is, it starts down the road of unilateral sanctions, something that this Nation, our country, has had very, very unfortunate experiences with. It has the Senate intruding deeply, as I say, into foreign policy situation, an area that I believe is proper for the executive branch to handle, and it is an area where we should proceed with great caution. I think the distinguished Senator from Pennsylvania made the point that it is unfortunate we ever got into this.

What this measure does is, the result will be to affect, in a substantial degree, our agriculture export: into that area, and that is all.

I personally do not believe that a defeat of this measure says, that we approve of Iraq. That is certainly not the vote of this Senator. If there is a tabling motion as such, it says we are setting this aside, this is not where we belong, certainly not tonight in in this area.

So, Mr. President, I hope that when it comes for a vote, if there is a tabling motion, that it would be tabled. It would say that we choose to leave this matter to the steady hand of this administration, an administration that is giving plenty of thought to this area. It is not going unconsidered and we all recognize that.

Mr. President, I hope that the amendment would not be approved.

Mr. INOUYE. Mr. President, I wish to rise in support of the amendment proposed by my colleague, Senator D'Amato. His amendment is designed to limit United States trade benefits to the country of Iraq and apply standards of international law upon which many of these benfits are based. I am supporting this initiative because of the growing threat I believe Iraq poses to United States overseas interests, as well as the threat posed to the peace and security of the Middle East.

Under this amendment, Iraq will be deprived of $1 billion in agricultural credits provided through the Commodity Credit Corporation and nearly $200 million in financing through the Export-Import Bank—benefits which have flowed directly from the pockets of American taxpayers to support Iraq's war economy.

This amendment, however, need not mean the loss of one dime to the American farmer or industry! I beleive that these agricultural credits and the Export-Import Bank financing now benefiting Iraq can be redirected to Eastern Europe. There they will be put to the use for which they were originally intended—the benefit of people not the insidious production of weapons of mass destruction!

Mr. President, Iraq's persistence in acquiring the latest nuclear, biological, chemical and ballistic missile technology places it among that select group of nations with the capacity, and the determination, to disrupt our lines of communication through Asia, challenge American influence in the Middle East and upset the regional balance of power. These weapons are being added to an already massive conventional armed force. Iraq currently deploys 55 divisions and 1.1 million men under arms, by far the largest standing army in the Middle East. Iraq alone accounts for 9 percent of all the weapons purchases in the world today.

Yet, in spite of this huge arsenal, Iraq is aggressively seeking weapons with a continental reach and the capacity to annihilate whole countries. Our 6th Fleet operating in the Mediterranean as well as our flotilla in the Persian Gulf fall within their killing range.

Iraq's chemical weapons do not permit any discrimination among civilian and combatant populations. Their effect, once used, can last for generations.

Mr. President, Iraq's actions raise serious questions about the ultimate intentions of its President, Saddam Hussein, who recently boasted that he would annihilate half of Israel with poison gas if his country were attacked. As a nation, we would be wise to take these words seriously.

Saddam Hussein has shown no hesitancy in using weapons of mass destruction when it suited his purpose. In 1988 he ordered the use of mustard gas against Iranians during the gulf war and against his own Kurdish minority. In doing so, he blatantly ignored the Geneva Protocol of 1925 prohibiting the use of such agents—a protocol which Iraq signed in 1931. According to Amnesty International, at least 6,000 people perished as a result of these attacks—many thousands more were injured and will suffer permanent and painful disability. One can only assume Iraq would not hesitate to use such weapons again if given even the slightest provocation. It is a specter too horrible to contemplate.

Mr. President, Iraq has exhibited a similar disregard for the 1972 Biological Weapons Convention which it signed but did not ratify. Many experts have noted that Iraq is working aggressively to acquire an offensive biological weapons capability and may have illegally obtained toxins from the United States for just that purpose. As recent reports indicate, Iraq has shown no less an interest in the acquisition of nuclear weapons technology to supplement his already lethal arsenal of state-of-the-art weaponry.

Mr. President, today I ask that the Senate consider this sanctions amendment, which would end support for a country which knows no restraint in its international behavior, which shows little regard for noncombatants or the basic human rights of its own citizens. This is hardly a regime whose assurance we can trust—or would want to trust—with the peace of the region.

Mr. President, recently I addressed the question of our declining military budget and the policy I believe should guide this Nation through the tumultuous years of the 1990's and beyond. I spoke directly of low-intensity threats emanating from the developing world, the spread of modern weapons technologies, and their ready availability to terrorists, local insurgencies, and anti-Western regimes bent on eroding the confidence and ability of the United States to defend its interests.

Mr. President, gradually the world is awakening to the danger of Iraqi military power. As we stand here today, Iraq has amassed 30,000 troops on its border with Kuwait. Several hundred tanks, rockets, and artillery stand poised to attack. Saddam Hussein accuses his poorly armed neighbor of illegally pumping oil from a disputed field and complains that Kuwait has conspired with the United States to drive down oil prices.

Mr. President, I know my colleagues share my outrage at the contempt shown by Iraq to the standards of civilized behavior. It is Iraq which has aggressively set about to steal high technology from the West, launched the 10-year war of conquest against Iran, boastfully supported international terrorism and has sought to dominate the politics of the region through threats and intimidation.

For those of my colleagues who still would insist that Iraq is a friend of the United States, I would point out that since Saddam Hussein threatened Kuwait 1 week ago, the price of oil has risen by $2.50 per barrel. If Iraq has its way at today's OPEC meeting in Geneva the price of oil may go as high as $25 per barrel, causing great financial hardship to people across our land—including the American farmer.

Will the American people continue to blithely go about their business and ignore the threat posed by Iraq to American interests? Will they continue to believe that the threat of nuclear, biological, and chemical war has receded simply because the Soviet Union has shown a kinder face? I do not believe they will.

Mr. President, this sanctions amendment is intended to put an end to this gross inconsistency in our foreign policy and the abuse of American generosity which the actions of the Iraqi regime have so clearly demonstrated.

Mr. DOMENICI. Mr. President, I assure the Senators I will be brief. I just want to say to Senator SPECTER, the Senator from Pennsylvania, I thank him for his remarks. I truly appreciate his recollection of the visit, what he and other Senators found there, and the thoughts he had to offer.

However, I, too, regret to say that while I agree with many of those thoughts I really cannot agree with the conclusion. I cannot believe that, if this amendment was not an appropriate amendment, the mere fact that it was offered makes it the best course of conduct that we pass it rather than defeat it. I mean that would lead to all kinds of conclusions. It seems to me rather irrational.

Having said that, what bothers me most is I remember vividly when we imposed the sanctions on the Soviet Union, the embargo. I was in a little town in New Mexico and got a call from the White House. All Senators were being called because we were going to stop selling farm products to the Soviet Union. And the President said, "Will you support it?" And I guess almost everyone supported it. Then, in turn, within 5 or 6 years, every Senator said to farmers all over America how wrong we were and we will never do it again.

Frankly, I think the minimum we ought to do with this amendment is to make sure that we are not hurting our farmers instead of the Iraqis. Because if the Iraqis can buy the very same products in the world from someone else at the same price on the same terms, then what are we doing? I hope that is what we would do with this amendment sooner or later.

If you want the amendment, at least do not make it effective, if what I have just said happens to be the case. And let somebody find out whether that is the case. I believe they will find it is the case. I believe we should then sell them our rice and our wheat because they are going to buy it elsewhere on the same terms.

I yield the floor.

Mr. MITCHELL. Mr. President, it is not my wish or intention to deter any Senator from speaking who feels compelled to do so. But I merely point out to my colleagues it is now midnight.

For reasons which are not worth going into now, Members of the Senate seem increasingly disposed not to wish to dispose of legislation during normal working hours and get into these debates late in the evening or even in the early morning hours.

Earlier this evening I consulted with the distinguished Republican leader in what was, on my part, then, the naive and now obviously vain hope that we could finish this bill tonight. We now have a list of amendments that is quite long.

May I suggest to the Members of the Senate that we dispose of this amendment and the Helms amendment which awaits only, I understand, a vote. There is very little debate left.

It is my intention to propound a unanimous-consent agreement in an effort to limit the number of amendments remaining and then come back tomorrow. I have discussed this with the distinguished Republican leader and the managers of the bill who have been proceeding with great patience and skill. We are simply going to finish this bill this week, which means tomorrow, and, if not tomorrow, then Saturday. That is a decision that is made by Senators.

Of course, the longer debate goes on this evening, the later we will finish tomorrow or Saturday.

I urge my colleagues, if they are able to, if everyone feels sufficiently informed by the debate so far, that we permit this measure to be voted on now and concluded, and the Helms amendment concluded, and then let us get an agreement on the rest of the amendments and go home. It is already much too late from my standpoint, and I think from that of all the Senators here. We could then, hopefully, work at this list tomorrow.

When I read the list, if they are all offered, which I hope will not be the case, it will be another late night tomorrow. But, being a Friday, hope springs eternal in my heart. Maybe we will be able to get done at a reasonable hour tomorrow.

I make that suggestion. I will be pleased to hear the comments of the distinguished Republican leader in this regard.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not have any strong objection except we would have to give some time—we have not had a vote since 5 o'clock. So many of the Members, if they were smart, they went home. We would have to give them time to get back to the Capitol tonight. I am not certain what we gain, if we gain anything, by having two votes tonight, keep us here to 1 or 1:30, or whether we start off tomorrow with the vote on the Helms amendment, which I understand the Senator is ready to vote on. I guess there is some effort to table or would be a move to table the D'Amato amendment. But I also understand if that is not done there will be a number of Members who are prepared to talk at length, or at least offer second-degree amendments. Is there not a second degree now?

Mr. GRAMM. When it is dealt with.

Mr. DOLE. When it is dealt with. I do not know how long that would take. But we did many in a period of 3 to 4 hours this evening on this side of the aisle, keeping in mind there will probably be more amendments on this side of the aisle because most of the other side were taken care of in the committee, generally—and this is a farm bill. This is sort of normal for a farm bill.

In 1985, it took 11 days, 41 rollcall votes, 8 hours. It actually took a period of a month to pass the farm bill, because every time I tried to pass it I would have an objection from the Senator from Iowa, the Senator from Nebraska, or the former Senator from Montana. It was frustrating. I know farm bills are tough to pass because there is a lot of interest. Every Senator has farmers in his State or her State. It just takes time.

I know it is frustrating and disappointing to the managers, but we moved pretty rapidly on this farm bill. We have only had about 45 hours of debate and are not even up to 100 amendments yet.

Mr. MITCHELL. Mr. President, if I may interject, I had hoped we would come closer to the 1981 bill, rather than the 1985 bill, when we only took 5 days and had only 19 rollcall votes.

I hoped that we could establish 1985 as the exception rather than the rule, but I am afraid we are moving in the opposite direction with respect to farm bills.

Mr. DOLE. But certainly I think I have notified everybody on this side it is the intent to finish the bill tomorrow. Much of that will depend upon the flexibility of the managers in accepting some of the meritorious amendments, a number of which are listed very early on in our list, several near the top. It is under the name of "Dole."

Mr. LEAHY. Mr. President, if I might inquire?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Let us see.

We have a Dole substitute; Dole sense-of-the-Senate; Dole eliminate high price bonus; Dole study elimination; Dole top fix; Dole—I recall we put that in the bill for Senator DOLE—Dole ASCS redtape reduction; Dole nutrition. There is a Leahy-Lugar on that one.

Mr. DOLE. I am just along for the ride on that one.

Mr. LEAHY. It is a good ride.

I would note to the distinguished Republican leader we have been clearing for the last several days a great number of amendments. He may recall last night for almost an hour it was just proposing amendments—I should add Republican—one amendment after another for him. I do not want to suggest there have not been Democratic amendments added, but virtually every amendment that somebody has thought could be cleared from either side of the aisle, I think I have been able to clear on this side of the aisle.

Mr. DOLE. I do not have any problem on that. I think we were able to do well.

Mr. LEAHY. There has been no delay.

Mr. DOLE. As far as this Senator is concerned, I have been very quiet. I have not taken any time on the floor. I think I have spoken a total of 10 or 15 minutes, which is unusual for me in a farm bill. So I have not delayed it one bit, but I do have some amendments, as others have.

We now have over 50 studies in this bill costing over $40 million or somewhere in that neighborhood. I am not certain we need 50 studies. It is things like that I am focusing on.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Might I suggest we get the agreement, which would be a small step but at least a step forward. That would identify the remaining amendments. Then I will suggest a course of action with respect to the pending amendment and the Helms amendment that might accommodate the largest number of Senators.

Let me say it is my understanding—I told the distinguished Republican leader earlier this evening, it was my hope on our side that we could finish all of the Democratic amendments that were contested. I believe we have done that. There are several of them listed. But it is my understanding these were all amendments with respect to which there have been agreements and they are going to be accepted or compromises have been made. So the list, while very long, is not as long as it seems on hearing because all of the Democratic amendments, and I believe several of the Republican amendments, are in the status of not requiring rollcall votes and not being contested.

There are, however, several Republican amendments, the number of which I am not able at this time to identify, that will be contested and will require vote.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent the following amendments be only first-degree amendments and be the only amendments in order to this bill and that any second-degree amendment that is offered be relevant to the first-degree amendment to which it is offered, and no motion to recommit be in order, and the amendments are:

Heinz and Specter on marketing orders;

Dole complete substitute;

Dole sense of the Senate on across-the-board cuts;

Dole, eliminate high-price bonus;

Dole, study elimination;

Dole, top fix;

Dole, ASCS redtape reduction;

Helms, credits to the Soviet Union;

D'Amato, Iraq sanctions;

Symms, private property;

Bond, TCP domestic content;

Burns, CRP cap of 25 percent;

Grassley, foreclosure CRP land;

Grassley, livestock product safety;

Grassley, 10 percent cargo preference;

Pressler on honey;

Simpson and Wallop on drought assistance;

Specter of fruit imports;

Roth on marketing orders;

Lugar on drug-related Public Law 480;

Kasten on wetland easement;

Kasten on Public Law 480 debt for nature;

Kasten on highly erodible land;

Lugar, Leahy, and Dole on nutrition;

Breaux, Cochran, Glenn, and Kohl on a Great Lakes set-aside compromise;

Conrad, a study on agricultural trade;

Leahy on organic;

Robb on compost;

Kohl on dairy trust study;

Kohl on dairy plant security;

Johnston on health demonstration;

Pryor on poultry inspection;

Graham on papaya CBI exemption;

Lautenberg on pesticide recordkeeping;

Glenn on meat inspection;

Levin on marketing assistance programs; and any amendments agreed to by both managers.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I have a Conrad study on Ag trade.

Mr. MITCHELL. I believe I read that, Conrad study on agricultural trade; but if I did not, I now state it.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, it is possible there is work being conducted on the CFTC issue that has been highly controversial. There is a possibility we might work an agreement on that. I would like to be covered.

Mr. MITCHELL. If that is included on the list, we are advised objection will be made to the proposed agreement.

Mr. DODD. We are trying to get. Is anybody making an effort to get an agreement on it? I would like to raise it if anybody objects.

We do not have an amendment yet. We may get one. I would like to be covered. We have CFTC reauthorization waiting; a number of things that are waiting. We are trying to work out everything to the satisfaction of everyone. This would be the appropriate place to do it, if we could.

Mr. GRAMM. Will the distinguished majority leader yield?

Mr. MITCHELL. Certainly.

Mr. GRAMM. Those of us on the other side of the issue, who have not had an opportunity to look at the amendment, are concerned that if we lock in a unanimous consent agreement and there be no further amendments in order, while we would have the right to offer a second degree, others might have preference to the floor, and we might be excluded.

I do not know how I can agree to a unanimous-consent request that would exclude other amendments under that circumstance.

Mr. DODD. I say, if the majority leader will yield, we do not have an amendment. Obviously, it may be impossible to arrive at a consensus. If that is the case, then clearly we are not going to delay this bill forever to consider one amendment until we reach an agreement.

But there is a possibility we may get there. I hope that my colleague from Texas would at least give us the opportunity to make that effort. If we fail, then obviously there are vehicles available to force that amendment off the list as we move this package forward.

Mr. MITCHELL. Might I suggest to the Senator first, even if not on the list, if agreement is reached by unanimous consent, it can be offered.

Mr. DODD. That will be the case anyway. Would that not be the case anyway?

Mr. MITCHELL. It would be. The last clause I read is any amendment agreed to by both managers. Even if it were not on the list, if it were worked out and accepted by both managers, then it could be offered and accepted under this.

Mr. DODD. Under those conditions.

Mr. MITCHELL. Yes.

Mr. DODD. I thank the Senator.

Mr. HARKIN. Reserving the right to object, I have two amendments that I want to offer and would like to be included: one dealing with payment limitations, and one dealing with paperwork reduction.

Mr. MITCHELL. Mr. President, I am sorry; I did not hear the proposed amendments by the Senator from Iowa. I have no objection to them being added to the list if no one else has an objection. Will the Senator state the subject matter of his two amendments?

Mr. HARKIN. One dealing with payment limitations, and one dealing with paperwork reduction.

Mr. MITCHELL. Mr. President, I ask that the proposed unanimous-consent agreement which I previously stated be amended to add the two amendments by Senator HARKIN.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I would like to have an amendment reserved, too. Put a Heflin amendment on it.

Mr. MITCHELL. What is the subject matter?

Mr. HEFLIN. Farming.

[Laughter in the Chamber.]

Mr. LEAHY. Is it germane?

Mr. HEFLIN. Yes.

Mr. MITCHELL. I just want to say to Senators now, everybody is in a good mood now, but when we get to tomorrow afternoon or evening, I hope that I am not going to hear anybody come in and say: What time are we leaving; are we not going to be in this time; are we not going to vote after this time?

The Senate's lengthy hours is the consequence of actions by Senators. I think that is self-evident; but sometimes we would not know it with what goes on here.

I have no objection to the Senator putting on an amendment, but everybody has to understand what is happening here; that this list just keeps growing and the likelihood of it being another late night tomorrow and in on Saturday is increasing with each amendment, and the more we go on.

Mr. HEFLIN. Pardon me, Mr. President. I just wanted to use it as a protective measure.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I amend my request by adding an amendment by Senator GRAMM of Texas regarding agricultural chemical exports.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. The previous unanimous-consent request?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate resumes consideration of S. 2830, the farm bill, the following list of amendments be the only first degree amendments in order to the bill.

Ordered further, That any second degree amendment be relevant to the first degree amendment to which it is offered.

Ordered further, That no motion to recommit be in order.

Bond—TCP domestic content;
Breaux/Cochran/Glenn—Great Lakes set-aside compromise;
Burns—CRP cap 25 percent;
Conrad—Study ag trade;
D'Amato—Iraq sanctions;
Dole—Complete substitute;
Dole—Sense of Senate, across the board cuts, budget;
Dole—Eliminate high price bonus;
Dole—Study elimination;
Dole—Top fix;
Dole—ASCS red tape reduction;
Glenn—Meat inspection;
Graham—Papaya (CBI exemption);
Gramm—Agricultural chemical exports;
Grassley—Foreclosure CRP land;
Grassley—Livestock product safety;
Grassley—10 percent cargo preference;
Harkin—Payment limitations;
Harkin—Paperwork reductions;
Heflin—Farming;
Heinz/Specter—Marketing orders;
Helms—Credits to Soviet Union;
Johnston—Health demonstration;
Kasten—Wetland easement;
Kasten—Public Law 480, debt for nature;
Kasten—Highly erodible land;
Kohl—Dairy trust study;
Kohl—Dairy plant security;
Lautenberg—Pesticide recordkeeping;
Leahy—Organic;
Levin—Marketing assistance program;
Lugar—Drug related Public Law 480;
Lugar/Leahy/Dole—Nutrition;
Pressler—Honey;
Pryor—Poultry inspection;
Robb—Compost;
Roth—Marketing orders;
Simpson/Wallop—Drought assistance;
Specter—Fruit imports; and
Symms—Private property.

Any other amendments agreed to by the managers shall be in order.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Were the Harkin and Heflin amendments included?

Mr. MITCHELL. Yes.

Mr. HEFLIN. Yes.

The PRESIDING OFFICER. The Senator is correct; they were included. The request is granted.

Mr. MITCHELL. Now, Mr. President, it is my suggestion that the Senate vote at 10 a.m. on the Helms amendment and immediately following that, at 10:15, on the DeConcini second-degree amendment to the D'Amato amendment, and that we can then proceed on this list. What time we finish tomorrow or Saturday will be entirely up to Senators. I just repeat for everyone's information and scheduling we will stay until we finish the bill.

Mr. DOLE. I just had one clarification. If the DeConcini amendment, which is a second-degree amendment, is adopted, it would be open to further second-degree amendments?

Mr. MITCHELL. That is correct.

Mr. LEAHY. Reserving the right to object and I shall not, reserving the right to table on either of those amendments, is that preserved?

Mr. MITCHELL. I have not propounded a request yet. My request will be that the vote be on or in relation to those amendments and any other amendments thereto. So that is wide open once we get past that. Then we proceed. I just want to make clear now those Senators whose names are on the list and we have identified amendments must be here to offer them. There is not going to be any protection for Senators who might want to offer an amendment Tuesday afternoon or at some other time. We will proceed, and whatever time we finish will, of course, be up to Senators.

Mr. DOLE. It would be very helpful to the managers if we give them the amendments in the morning by 10. They cannot approve your amendment if they cannot find you. They may not do it if they cannot find you. But there will be less chance to get it approved if they can find you.

Mr. LEAHY. I will be here at the latest at 8 o'clock this morning. I will make it earlier than that if anybody wants to go over their amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the farm bill at 10 a.m. tomorrow morning, there be, without any intervening action or debate, a vote on or in rela-

tion to the Helms amendment; and that upon disposition of the Helms amendment there be a vote on or in relation to the DeConcini second-degree amendment to the D'Amato amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MITCHELL. Mr. President, just so there is no misunderstanding on anyone's part, it is my intention in stating the request in that manner that there will be a vote either on the amendment up or down or the managers or opponents have a right to move to table at that time. So that will be their decision. I am not certain who is opposed to the Senator's amendment. I am just stating that so there is no misunderstanding.

Mr. President, I thank my colleagues for their patience. I especially thank the managers in a very difficult circumstance, and I hope very much that we will be able to proceed tomorrow. There will be no more rollcall votes this evening.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NEW POLICY TOWARD CAMBODIA

Mr. KENNEDY. Mr. President, I am pleased to join so many of my colleagues in calling for a new policy in Cambodia. The letter sent today to President Bush by 66 Members of this body calls on the administration to reexamine our policy toward Cambodia and urges that we make preventing the return of the Khmer Rouge our top priority.

To date, our policy has been mired in the Vietnam era. We have been more concerned with opposing Vietnam and the government it supports in Phnom Penh that with assuring that the people of Cambodia will never, never again relive the days of the killing fields. The government of Hun Sen will necessarily be part of any solution in Cambodia and continuing to isolate him only undermines efforts to achieve a political settlement in Cambodia.

For the first time since the end of the Vietnam war, the Cambodian Government has returned the remains of missing American soldiers. While this event is a painful reminder of a tragic period in our nation's history, we must work to ensure it is the beginning of a new era in relations between our two countries.

We all welcome the administration's long overdue decision to withdraw diplomatic recognition to the United Nations seat held by the opposition forces in Cambodia. The administration has rightly concluded that the coalition is dominated by the Khmer Rouge. Yet, the administration seems to see only half the picture. For while cutting off diplomatic recognition, they continue military and logistical support to the very same coalition fighting to overthrow the Hun Sen regime.

Such logic strains the wildest of imaginations. If the U.N. seat is dominated by the Khmer Rouge, it is clear that the actual coalition on the ground in Cambodia will also be dominated by the Khmer Rouge. In fact, I know of no observer of the situation who does not believe the military coalition is, in fact, dominated by Pol Pot and his killers. The administration attempts to sidetrack the issue by insisting that it only aids the two non-Communist factions led by Prince Sihanouk and Son Sann—not the Khmer Rouge. Yet when all three factions are fighting for the same goal, it is obvious that the three are assisting each other. To pretend otherwise is to live in a fantasy world.

The threat of a Khmer Rouge takeover in Cambodia is a real one and United States policy continues to make that goal more and more of a possibility. Our overriding concern must be to prevent the return of the killing fields in this war-torn nation. And it is high time we admitted the Vietnam war is over and took the necessary steps to bring peace to Cambodia.

We must first end all United States support to factions that continue fighting to overthrow the Hun Sen regime in Cambodia. For whoever is striving for that goal will necessarily be working in tandem with the brutal, ruthless Khmer Rouge. This does not mean we must abandon Prince Sihanouk and Son Sann. Rather, it simply means that if they want our support, they will have to end their military efforts and concentrate on achieving a lasting, negotiated, political settlement. A military victory will only result in a Khmer Rouge dominated government and the United States must have no part in that effort.

We must also begin to talk directly to the Hun Sen regime. The administration should send a high level envoy to Phnom Penh to promote a negotiated settlement. Continued refusal to do so only prolongs the conflict and makes a Khmer Rouge victory more likely. We talk to many governments whose policies and supporters we dislike. The Hun Sen regime should be no exception.

The people of Cambodia have suffered far too long and far too greatly. They want and deserve peace and the United States must do more to help them achieve that goal. In cutting off our diplomatic support to the Khmer Rouge, the administration took an important first half step. It must now follow through and change our policy from a war policy to a peace policy. The people of Cambodia can wait no longer.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:19 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 647) teo amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws; with amendments, in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, with amendments:

S. 2834. An original bill to authorize appropriations for fiscal year 1991 for the intelligence activities of the United States Government, the Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 101-394).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1805. A bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164 (Rept. No. 101-395).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2494. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes (Rept. No. 101-396).

By Mr. BIDEN, from the Committee on the Judiciary, with amendments:

H.R. 639. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens who have served honorably in the Armed Forces of the United States for 4 years.

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1542. A bill to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2545. A bill to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Paul V. Niemeyer, of Maryland, to be United States Circuit Judge for the Fourth Circuit;

Randall R. Rader, of Virginia, to be United States Circuit Judge for the Federal Circuit;

Graham C. Mullen, of North Carolina, to be United States District Judge for the Western District of North Carolina;

John H. McBryde, of Texas, to be United States District Judge for the Northern District of Texas;

Michael Boudin, of the District of Columbia, to be United States District Judge for the District of Columbia;

Carol Bagley Amon, of New York, to be United States District Judge for the Eastern District of New York;

William M. Skretny, of New York, to be United States District Judge for the Western District of New York;

Fred I. Parker, of Vermont, to be United States District Judge for the District of Vermont; and

Albert Z. Moore, of Ohio, to be United States Marshal for the Northern District of Ohio for the term of four years.

By Mr. BIDEN, from the Committee on the Judiciary:

Steven D. Dillingham, of South Carolina, to be Director of the Bureau of Justice Statistics;

Jimmy Gurule, of Utah, to be an Assistant Attorney General; and

Robert C. Bonner, of California, to be Administrator of Drug Enforcement.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY:

S. 2918. A bill to authorize a certificate of documentation for the vessel *Weatherbird*; to the Committee on Commerce, Science, and Transportation.

S. 2919. A bill to authorize a certificate of documentation for the vessel *Weatherbird II*; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES:

S. 2920. A bill entitled the "Resident Employment Opportunity Act"; to the Committee on Labor and Human Resources.

By Ms. MIKULSKI (for herself and Mr. LOTT):

S. 2921. A bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships; to the Committee on Finance.

By Mr. DODD:

S. 2922. A bill to permit interstate banking; to the committee on Banking, Housing, and Urban Affairs.

By Mr. WIRTH:

S. 2923. A bill to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. LUGAR, Mr. COHEN, Mr. LOTT, Mr. DASCHLE, Mr. PRYOR, Mr. DIXON, Mr. CRANSTON, Mr. NUNN, Mr. GRAHAM, Mr. PELL, Mr. SIMON, Mr. BURDICK, Mr. SANFORD, Mr. D'AMATO, Mr. KERREY, Mr. WIRTH, and Mr. REID):

S. 2924. A bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes, placed on the calendar by unanimous consent.

By Mr. DIXON:

S. 2925. A bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON (for himself, Mr. KERREY, Mr. DASCHLE, and Mr. PRESSLER):

S. 2926. A bill to require a feasibility study of a proposed four-lane expressway between Scottsbluff, Nebraska, and Rapid City, South Dakota; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. LIEBERMAN, Mr. DECONCINI, Mr. DODD, Mr. WALLOP, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Ms. MIKULSKI, Mr. BINGAMAN, and Mr. REID):

S. Res. 313. A resolution relating to Vladimir Tsivkin; to the Committee on Foreign Relations.

By Mr. MITCHELL:

S. Res. 314. A resolution to direct the Senate Legal Counsel to represent the Offices of Senators NUNN and FOWLER in civil actions; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 2920. A bill entitled the "Resident Employment Opportunity Act"; to the Committee on Labor and Human Resources.

RESIDENT EMPLOYMENT OPPORTUNITY ACT

● Mr. NICKLES. Mr. President, today I am introducing a bill which I believe will have significant impact on the lives of many residents of public and federally assisted housing projects.

This bill, the Resident Employment Opportunity Act, will open the door of opportunity for tenants across the country who want to be able to compete for construction, rehabilitation, and repair work on the project which they are currently residing.

Under current law, a tenant is forced to sit idle while a Federal contractor brings in outside workers to work on the tenants homes. This situation occurs because of the Davis-Bacon law which was enacted in 1931. The applicable provisions for housing tenants are found in the U.S. Housing Act of 1937.

The Davis-Bacon Act requires contractors to pay all workers on federally funded construction projects valued at more than $2,000 the prevailing wage for that type of work, as determining by the Department of Labor. Davis-Bacon inflates the cost to the government and freezes those laborers who do not have the skills to command union scale wages.

I see no reason why this bill should not be considered and passed by the Senate. An amendment which also allowed the homeless to work on their shelters passed the Senate by voice vote in 1987. This past June, I offered a tenant exemption amendment to the National Affordable Housing Act and it was tabled. However, the bill that I am introducing today is quite narrowly drafted.

My bill, the Resident Employment Opportunity Act exempts only tenants of public housing or federally assisted housing projects and only when the work is on the project in which they are currently residing.

I think Davis-Bacon reform is long overdue. In a time of a mounting Federal deficit, the savings and loan crisis, and talk of new taxes, Congress should be anxious to find ways to reduce costs to the Federal Government. This is one of the reasons I support the repeal or at least reform of the Davis-Bacon Act.

However, at this time, I am simply asking Congress to consider a narrowly drafted bill which will benefit those individuals who are looking for a way to improve their lives for themselves and their families. This bill provide an opportunity for on-the-job training which will lead to the development of

new skills and eventual independence. I urge the support of my colleagues.●

By Ms. MIKULSKI (for herself and Mr. LOTT):

S. 2921. A bill to remedy the serious injury to the U.S. shipbuilding and repair industry caused by subsidized foreign ships; to the Committee on Finance.

SHIPBUILDING AND REPAIR INDUSTRY TRADE ACT

● Ms. MIKULSKI. Mr. President, today I join Senator LOTT in introducing desperately needed legislation to counter the unfair and anticompetitive subsidies offered by foreign governments to shipbuilding and repair operations within their borders.

This legislation will prevent the complete disappearance of the American merchant shipbuilding industry, and let that industry compete for shipbuilding business on fair terms. Our bill forces foreign shipbuilders to repay subsidies to their governments, or to pay a substantial duty to dock in a U.S. port.

Mr. President, this legislation comes just in time. Since 1987, only one merchant ship has been built in the United States. Over 50,000 jobs have been lost to subsidized foreign shipyards in the 1980's. Thousands more are at stake in the 1990's, as the military construction that now provides 98 percent of shipyard business, slows down.

In my hometown of Baltimore, we had two thriving shipyards 10 years ago. Five thousand people made good family wages building ships. Thousands more worked for Bethlehem Steel, making the raw materials the shipyards needed. Now 1 shipyard has closed, and the other employs only 1,300 people. The steelyard employs less than 1,000 steelworkers.

Mr. President, worldwide demand for commercial ships is expected to triple in the 1990's—American workers want to build those ships. It's time we make certain that no more jobs are lost, no more shipyards and steelmills closed down because we're not ready to fight against unfair trade practices. We will not let foreign governments' budgets dictate who works in this country and who doesn't.

We've tried other tactics. We tried unilateral free trade, and our competitors got a free ride—45 shipyards closed down across the United States. We tried negotiations—we've been stonewalled for a year. It's time to level the playing field.

This bill will not subsidize American workers. They don't need subsidies. Our workers and our companies can compete against any in the world. But they can't compete against foreign governments. Our Government should be ready to make sure they don't have to.

Mr. President, I ask unanimous consent that the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shipbuilding and Repair Industry Trade Act of 1990".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The international market for shipbuilding and ship repair has been distorted by the extensive subsidies conferred by virtually all major shipbuilding countries, including, but not limited to, West Germany, Japan, Korea, and Norway.

(2) Foreign governments provide a wide variety of subsidies to their domestic industries, including direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other measures which provide unfair competitive advantages to foreign shipbuilding and repair industries.

(3) In 1981, the United States Government decided unilaterally to eliminate assistance, including loan guarantees and construction differential subsidies, to United States shipyards.

(4) Since the termination of United States subsidies and the increasing benefits conferred on foreign shipyards, the United States shipbuilding and repair industry has suffered serious injury. The United States, which had 60 ships on order or under construction in 1978, has been completely forced out of commercial shipbuilding, with no merchant vessels on order or under construction from November 1987 until January of 1990 when one order was placed. The value of new commercial vessels constructed by the United States industry measured in constant 1978 dollars followed a similar trend, plunging from $1,900,000,000 in 1978 to 0 in 1989.

(5) As a result of these dramatic declines in shipbuilding and repair work, approximately 94 private United States shipyards have closed since 1979 and those still in operation have seen their profitability diminish significantly. In addition, between 1978 and 1990, approximately 52,000 shipbuilding and repair jobs were lost in the United States.

(6) Foreign shipyard subsidies have also taken their toll on the general United States economy, including—

(A) lost jobs in other sectors;

(B) acceleration of the decline of manufacturing and heavy industry in the United States;

(C) an increase in the already enormous United States balance of payments deficit;

(D) reduction of the basic skill level of the United States economy; and

(E) lost opportunities to enhance the technology base of the United States through the spread of technological advances in the shipbuilding and repair industry.

SEC. 3. SPECIAL ASSESSMENT ON SUBSIDIZED FOREIGN SHIPS.

(a) DEFINITIONS.—As used in this section:

(1) The term "construction" includes reconstruction.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "subsidy" includes, but is not limited to, any of the following:

(A) Officially supported export credits.

(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including, but not limited to—

(i) grants;

(ii) preferential loans and loan guarantees;

(iii) forgiveness of debt;

(iv) equity infusions on terms inconsistent with commercial considerations; and

(v) preferential provision of goods and services.

(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including, but not limited to, the kinds of support listed in clauses (i) through (v) of subparagraph (B).

(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that affect shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(F) Any official regulation, practice, or import barrier which is an obstacle to normal competitive conditions in the commercial shipbuilding and repair industry, other than tariffs for newly built ships or official regulations requiring that vessels be built in a country's shipyards for its domestic trade.

(G) Any indirect support linked, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding, conversion or repair activities and any assistance provided to suppliers of significant inputs to shipbuilding.

(H) Any other measure or practice which is an obstacle to normal competitive conditions, including a significant increase in a shipyard's proportional equity level held by the government or a government-owned entity or additional equity infusions by the government or a government-owned entity that are inconsistent with commercial considerations.

(I) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

(4) The term "vessel" means any self-propelled, sea-going vessel that—

(A) is not less than 100 gross tons in weight; and

(B) was delivered to its purchaser on or after the date of the enactment of this Act.

(b) ANNUAL PRELIMINARY DETERMINATIONS OF SUBSIDIES.—

(1) Within 100 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall—

(A) preliminarily determine, based upon the best information available at the time, the amount, if any, of the net subsidy provided, directly or indirectly, with respect to the manufacture, production, sale, and repair of each vessel that is constructed or

repaired by any major shipbuilding and repair company in any foreign country in which the construction and repair of ships exceeds 100,000 deadweight tons annually; and

(B) publish notice of the determinations made under subparagraph (A), including a summary of the methodologies and calculations underlying the determinations, in the Federal Register.

(2) For purposes of making the determinations required under paragraph (1) within the 100-day period following the date of the enactment of this Act, the Secretary shall include any vessel the construction or repair of which was commenced within the 2-year period preceding such date of enactment.

(3) For purposes of making a determination under paragraph (1) for any annual period thereafter, the Secretary shall include vessels that were constructed or repaired in that annual period.

(c) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment on the results of the preliminary determinations made under subsection (b), including a hearing if requested.

(d) PROPRIETARY INFORMATION.—Information submitted to the Secretary in regard to the making of any determination under subsection (b) shall be treated as proprietary if it fulfills the requirements of section 777(b) of the Tariff Act of 1930. Access to proprietary information under protective order shall be permitted under and governed by section 777(c) of the Tariff Act of 1930.

(e) FINAL DETERMINATIONS.—Within 100 days after the publication of notice of preliminary determinations under subsection (b) regarding any major shipbuilding and repair company, the Secretary shall make a final determination—

(1) of the net subsidy provided with respect to each vessel of the company covered by a preliminary determination;

(2) of the aggregate of the net subsidies provided to the company during the period to which such determinations apply; and

(3) publish notice of the final determinations in the Federal Register.

(f) VERIFICATION OF INFORMATION.—The Secretary shall verify all information relied upon in making any final determination under subsection (e)(2). If the Secretary is unable to verify the information submitted, the Secretary shall use the best information available as the basis for action. Whenever a party refuses or is unable to produce information requested in a timely manner and in the form provided, the Secretary shall use the best information otherwise available.

(g) REPAYMENT OF SUBSIDIES.—Each company regarding which the Secretary makes a final determination of an aggregate net subsidy under subsection (e)(2) is required to repay to its government the total value of the aggregate net subsidy provided, plus any interest accrued, subject to the following conditions:

(1) If the value of the aggregate net subsidy is 5 percent or less of the company's total sales, the company must repay the full value of such subsidy within 30 days after the date of publication of notice of the final determination under subsection (e)(2).

(2) If the value of the aggregate net subsidy exceeds 5 percent of the company's total sales, the company must repay the subsidy in 2 equal installments, the first due within 30 days after the date of publication of notice of the final determination under subsection (e)(2) and the second due within 60 days after such notice date.

(3) The Secretary shall require certification from both the company and the government of the country involved that the payment or payments required under paragraph (1) or (2), as the case may be, have occurred. The Secretary shall, if requested, verify the repayment of the subsidy.

(h) ASSESSMENTS.—(1) If the Secretary finds that a major shipbuilding and repair company has not complied, in whole or part, with the subsidy repayment requirement under subsection (g) for an annual period, the Secretary shall—

(A) subject to paragraph (2), calculate an annual assessment which shall be levied in accordance with paragraph (3) on each vessel that is constructed or repaired by the company and to which subsidy repayment applies; and

(B) issue an order directing the Commandant of the Coast Guard to collect the assessment.

(2) The annual assessment levied on any vessel is the amount of the net subsidy provided with respect to the vessel during the annual period concerned—

(A) proportionally adjusted if the company concerned has partially met the subsidy repayment requirement under subsection (g) for that period; and

(B) increased by the amount of any unpaid previous assessment levied under this subsection.

(3) The following apply with respect to the collection of an assessment under paragraph (1):

(A) A vessel may not be permitted to enter a United States port until the applicable assessment is paid in full.

(B) A vessel shall only be subject to 1 assessment per annual period under the provisions of this section, and such assessment shall be collected the first time the vessel enters a United States port during that period.

(h) JUDICIAL REVIEW.—Clause (i) of section 516A(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)(A)) is amended by inserting after subclause (II) the following:

"(III) a final determination of a net subsidy to a shipbuilding or repair company described in section 2(e)(1) of the Shipbuilding and Repair Industry Trade Act of 1990, or".

SEC. 4. AD VALOREM DUTY ON FOREIGN REPAIRS OF PRIVATE VESSELS.

(a) AMENDMENT.—Section 466(a) of the Tariff Act of 1930 (19 U.S.C. 1466(a)) is amended—

(1) in the first sentence, by striking out "The equipments" and all that follows through "country upon" and inserting "(1) The equipments and work described in paragraph (2), or any part thereof, which are purchased or performed in a foreign country that provides any subsidy, direct or indirect, to its ship construction and repair industry, as determined by the Secretary of Commerce and the United States Trade Representative, for"; and

(2) by adding at the end the following:

"(2) The equipment and work referred to in paragraph (1) include—

"(A) boats and repair parts and materials;

"(B) modifications and permanent additions to the hull, fittings, or superstructure of a vessel;

"(C) periodic inspections required by classification societies, insurers, and governmental entities; and

"(D) vessel drydocking and all services necessary or incidental for drydocking; and

"(E) all shipyard costs associated with the maintenance and repair of a vessel;

but do not include emergency repairs.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to foreign repairs made to vessels on or after the date of the enactment of this Act.●

By Mr. DODD:

S. 2922. A bill to permit interstate banking; to the Committee on Banking, Housing, and Urban Affairs.

INTERSTATE BANKING

● Mr. DODD. Mr. President, today I am introducing legislation to permit full interstate banking by depository institutions. The legislation is designed to provide for the more efficient delivery of banking services domestically and to create stronger domestic banks to compete in the international arena. Moreover, in times when States or regions are experiencing credit availability problems, as Connecticut and the whole New England region are now, interstate banking will permit swifter movement of funds to creditworthy borrowers in such areas.

Historically, States have determined branching rules for their own banks. The McFadden Act, as amended in 1933, provided that the branching rights of national banks would be the same as those permitted State-chartered institutions in their home States. Thus, for all practical purposes, national banks were permitted to branch in no more than one State, if that. However, the act left open the possibility for banks to cross State lines by using a bank holding company. The Congress, concerned about the use of bank holding companies for interstate expansion, adopted the Douglas amendment as part of the 1956 Bank Holding Company Act. The Douglas amendment prohibits bank holding companies from acquiring banks outside their home States unless the other State explicitly allows such purchases.

However, despite the lack of any serious movement toward interstate banking by the States until the 1980's, by 1983, domestic and foreign banks had almost 7,500 offices located outside their home States, through the use of loan production offices and other limited exceptions that permitted some banking activities but not full service banking.

Although the State of Maine passed legislation in 1975 permitting out-of-State bank holding companies to acquire Maine banks so long as bank holding companies located in Maine were permitted reciprocal rights, the States showed little interest in interstate banking for the rest of the decade.

All that changed in the 1980's. First Massachusetts in 1982 and then Connecticut and Rhode Island in 1983 adopted laws that authorized reciprocal banking within the New England region. The Hebb Commission, which was the basis for the Connecticut law, stated the rationale: "Interstate bank-

ing would increase banking competition in Connecticut; * * * would sharpen the performance of our own banks and bring our bank customers the benefits of innovative banking products; * * * [and] would also allow Connecticut-based banks the opportunity to grow and strengthen through geographic expansion."

Sharing the same views, I authored legislation in 1984 that would have clarified the rights of States to establish regional compacts. However, the legislation became moot when the Supreme Court on June 10, 1985, upheld the rights of States to establish such compacts in the case of Northeast Bancorp et al. v. Board of Governors of the Federal Reserve Board et al.

At the time, most States and most Members of Congress knew that the regional compacts were just a first step toward interstate banking, not a final solution. These compacts were designed to give banks in the regions enough time to grow so that they could be competitive with the larger banks in such States as New York and California.

In fact, that is just what happened. Today, 47 States have some form of interstate banking and more and more States are opting for full interstate banking, including my own State of Connecticut just this year. Altogether, including limited banking services offices and savings and loans, there are more than 16,000 offices of depository institutions located outside the institutions' home States.

The regional compacts have been successful. As the Connecticut task force to study interstate banking concluded on December 11, 1989:

Based on the empirical data compiled by the department of banking, it appears that the regional interstate experiment has allowed Connecticut banks to consolidate and grow within the boundaries of New England to a point where they can now compete on an equal footing against the larger money center banks. It has also fostered the creation of many smaller banks serving Connecticut communities. And it has brought increased variety to the Connecticut banking market. In each case, the fears of those opposed to interstate banking in 1983 have not been borne out by experience.

Clearly the regional experiments have proved their worth and now it is time to move to full interstate banking. The larger banks in the regions have just about exhausted attractive merger partners and thus are finding themselves limited in terms of expansion capabilities. Moreover, these banks cannot grow as fast as banks in States that permit full interstate banking. Further, contrary to the concerns of some, the number of smaller banks in Connecticut has increased—and increased dramatically—since the adoption of the New England regional banking compact. For these reasons, as well as the need for further consolidation to strengthen our depository institutions to meet international competition and to facilitate the movement of capital to areas in need of credit, it is time for full interstate banking and that is what the identical bills CHUCK SCHUMER and I are introducing today in the House and Senate will achieve.

The bill's main provisions are simple and straightforward:

It authorizes the Federal Reserve to approve applications by bank holding companies to acquire banks across State lines. In effect, this provision repeals the Douglas amendment.

As with Connecticut's law, it delays de novo entry by out-of-State banks until January 1, 1993. This provision, which is consistent with the likely form of entry in the great majority of cases, will give States a little more time to prepare for new entrants without delaying full interstate banking for a prolonged period.

It, permits interstate branching as of January 1, 1994, unless a State enacts a law prohibiting such branching between January 1, 1990 and December 31, 1993. This provision will permit States to exercise greater supervisory control over banks in their States if they so choose.

Finally, the bill contains similar provisions for interstate movement by savings and loan institutions.

In sum, Mr. President, it is time for full interstate banking, which should be established under one set of rules. It is good for banks, it is good for their customers, and it will be good for us competitively in the global economy.●

By Mr. WIRTH:

S. 2923. A bill to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy production to enhance energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act; to the Committee on Energy and Natural Resources.

ENERGY PRODUCTION AND CONSERVATION ACT

● Mr. WIRTH. Mr. President, I have today introduced the Energy Production and Conservation Act of 1990. This bill ties together three important legislative initiatives which Senator HEINZ and I have introduced in the last year.

These bills are an outgrowth of a major public policy study, Project 88, on the use of market forces to enhance environmental protection.

The subject materials of these bills—used oil, scrap tires, and old newspapers—are all materials which can be recovered for energy production or other purposes.

On August 2, 1990 the Energy Committee will hold a hearing to explore the energy production implications of recovering these and other materials through economic incentives.

Mr. President, we cannot divorce our energy, natural resources, and environmental policies. I encourage my colleagues to join me in moving these bills forward. I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Production and Conservation Act of 1990".

TITLE I—ENERGY PRODUCTION FROM USED OIL

SEC. 101. FINDINGS.

The Congress finds the following:

(1) Each year, the United States uses 2.6 billion gallons of lubricating oil. Much, if not most, of that quantity could be recovered for energy production. Used motor oil has an energy value of 145,000 Btu's per gallon.

(2) Used oil, when properly recovered, is a valuable energy production resource. When used as a fuel, it reduces the need to drill for and refine the Nation's limited crude oil supply. When recovered into lubricating oil or other high grade products, production of such products requires only 2.5 percent of the energy of producing fuel and petroleum products from virgin crude oil.

(3) Each year Americans unwisely and needlessly discard more than 400 million gallons of used motor oil—an amount greater than 35 Exxon Valdez oil spills. That amount of oil could reduce the need to import nearly 10 million barrels of crude oil annually. In order to reduce dependence on imported fuels there is a great need to recover the Btu value of used oils for energy production.

(4) Market-based incentives targeted at energy production from used oil can significantly reduce the amount of used oil needlessly discarded.

(5) The Secretary of Energy requires additional statutory authority to address energy production and, in particular, to apply market-based incentives to energy production from used oil.

SEC. 102. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.

Section 383 of the Energy Policy and Conservation Act (42 U.S.C. 6363) is amended—

(1) in subsection (c) by—

(A) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the Energy Production and Conservation Act of 1990"; and

(B) striking "National Bureau of Standards" each place it appears and inserting "National Institute of Standards and Technology"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1)(A) Beginning not later than 18 months after the date of the enactment of this section, a producer or importer of 100,000 gallons or more of lubricating oil each year shall either burn for energy production, or refine, using a method described in subparagraph (B), an amount of used oil

equal to at least that amount of oil determined by—

"(i) multiplying the lubricating oil produced or imported that year by such person, by

"(ii) the percentage established by the Secretary under paragraph (2).

"(B) A producer or importer of lubricating oil may comply with this paragraph—

"(i) by burning used oil for energy production;

"(ii) by refining used oil for purposes of producing petroleum products;

"(iii) by purchasing credits under the credit system established pursuant to paragraph (3).

"(2) The Secretary each year shall establish a percentage for the uses under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect shall be a percentage that is 2 percentage points higher than the recovery rate for lubricating oil that exists on the date of the enactment of this section. Such rate shall be determined by using data for 1988 or the most recent year for which data are available. Through the year 2000, the percentage shall be an additional 2 percentage points higher than the percentage for the previous year.

"(3)(A) Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations to implement these requirements.

"(B) For purposes of this section, the term 'credit' means a legal record of energy production or refining of used oil undertaken in accordance with this subsection that represents an amount of used oil burned or refined for purposes of complying with paragraph (1).

"(C) Exemptions. (i) This section and the regulations promulgated under this section shall not apply to a facility operated by a person described in subparagraph (B) if—

"(I) In the case of a facility described in paragraph (1)(B) (i) or (ii) that burns for energy production or refines used oil into fuel or other petroleum products, the amount of used oil burned for energy production or refined into fuel or other petroleum products each year at the facility is equal to no more than the amount of used oil that the owner of the facility is required to burn for energy production or refine under paragraph (1)(A) for that year: *Provided,* That this clause applies only to a facility in Standard Industrial Classification number 2911 facility that refines at least 10,000 barrels a day of crude oil into petroleum products.

"(II) in the case of a facility described in paragrpah (1)(B)(ii), the amount of used oil compounded or blended into finished lubricant products each year at the facility is equal to no more than 10 percent of the lubricating base oil compounded or blended into finished lubricant products each year at such facility: *Provided,* That this clause only applies to a facility that compounds or blends lubricating base oil into finished lubricant products as its principal activity and is classified as a Standard Industrial Classification number 2899 facility or a Standard Industrial Classification number 4911 facility.

"(ii) This subsection and the regulations promulgated there under shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility classified as a Standard Industrial Classification number 4911 facility.

"(D) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regulations shall cover recordkeeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

"(4) If the Secretary fails to promulgate the regulations as required by subsection (3), the percentage under paragraph (2) shall be 40 percent until such time as the regulations are promulgated.".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

"(a) SECRETARY OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy $1,200,000 to carry out section 383 of the Energy Policy and Conservation Act. Such funds shall be used to hire the equivalent of at least 6 additional full-time employees to carry out those subsections, and shall remain available until expended.

(b) SECRETARY OF COMMERCE.—There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

TITLE II—ENERGY PRODUCTION FROM TIRES AND NEWSPRINT

SEC. 201. FINDINGS.

(a) FINDINGS WITH RESPECT TO SCRAP TIRES.—The Congress finds the following:

(1) Of the 234 million scrap tires generated in the United States every year, more than 198 million, or 84.5 percent, are not recovered for their embedded energy or other purposes—but instead are merely discarded.

(2) Each of these tires contains the equivalent of two and one half gallons of oil; if the 240 million tires that Americans will discard this year were instead used for energy production, they would displace nearly 143 million barrels of crude oil.

(3) Additionally, as many as 5 billion scrap tires have been dumped in illegal and improper tire graveyards across the United States.

(4) Energy production from tires now stockpiled would provide enough energy to heat 19 million households for a year.

(5) Those tires can be burned for their energy content either in a waste-to-energy power production facility dedicated to tire burning, or in a base-load electric utility generating facility. In the latter case, tire fuel and tire derived fuel can provide energy with fewer pounds of sulfur per million Btu's than certain other fuels used for base-load generation of electricity.

(6) Energy production offers the quickest avenue of eliminating the hazards associated with tire piles.

(7) While currently available technology exists to significantly reduce tire stockpiles through energy production and other techniques, scrap tires are underutilized because of adverse economics. It has been cheaper to discard tires than to produce energy.

(8) The Department of Energy, in a publication entitled "Waste Tire Utilization", has concluded that energy production from scrap tires requires additional economic incentives.

(b) FINDINGS WITH RESPECT TO NEWSPRINT.—The Congress finds the following:

(1) A significant portion of the trees harvested from public and private lands is dedicated to the production of newsprint. Below market sales of timber harvested on public lands is a significant drain on the United States Treasury.

(2) 70 percent of old newspaper waste in the United States is not recovered under existing incentives pursuant to the Public Utilities Regulatory Policy Act or other Federal law.

(3) Since old newspapers qualify as waste and biomass under section 3(17)(A)(i) of the Federal Power Act (16 U.S.C. 796(17)(A)(i)), they are a source of energy production from qualifying facilities under that section which can provide a cost-effective use for old newspapers.

(4) State and local newspaper recovery programs have helped create a growing surplus of old newspaper. The biomass from old newspaper can be burned for its Btu content in powerplants.

(5) Old newspapers can produce energy for small power production facilities and baseload powerplants.

(6) The demand for old newspaper needs to be increased to provide incentives for the use of the rapidly increasing glut of old newspaper.

(7) A minimum requirement can be used to stimulate markets for old newspapers for energy production in both small power production and baseload facilities.

(8) Research being undertaken by the Department of Energy shows that using old newspapers as biomass feedstock for fuel alcohol production is currently the most promising technology to produce fuel alcohol from biomass.

(9) In addition to energy production from old newspapers, the production of a ton of newsprint from virgin pulp requires approximately 16,320 kilowatt hours of energy.

(10) The production of a ton of newsprint from old newspapers currently requires only 5,919 kilowatt hours of energy—a savings of 64 percent.

(11) The Secretary of Energy requires additional statutory authority to increase energy production from old newspapers.

SEC. 202. ENERGY CONSERVATION REQUIREMENTS.

(a) AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.—Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended—

(1) in section 321 by adding at the end thereof the following new paragraphs:

"(19) The term 'producer' with respect to tires means any person who produces tires for an automobile, motorcycle, truck, trailer, semitrailer or combination, or truck tractor. Such production does not include retreading tires.

"(20) The term 'importer' with respect to tires means any person who imports tires, either individually or as part of an automobile or other vehicle.

"(21) The term 'scrap tire' means a tire from an automobile, motorcycle, truck, trailer, semitrailer or combination, and truck tractor, that is no longer usable for its original purpose.

"(22) The term 'scrap tire collection facility' means any facility or entity that voluntarily or involuntarily collects, stores, or otherwise accumulates scrap tires in amounts in excess of 1,000 tires a year.

"(23) The term 'tire fuel' means any use of tires to produce heat in an energy production combustion device designed to burn fossil fuels, including such fuels as coal, oil, and natural gas, regardless of the size or shape of the tire upon entering the combustion device.

"(24) The term 'tire derived fuel' means a tire fuel that is reduced to a 2-inch by 2-inch (or smaller) chip, from which 95 percent of the metal has been removed, and which is being burned to produce energy.";

"(25) The term 'reclaimer' means with respect to tires the owner or operator of a tire-fueled energy production facility or a

tire recovery facility who has a permit under subsection 338(b).

"(26) The term 'credit' means with respect to tires a legal record of an activity undertaken in accordance with subsection 338(b) that represents scrap tires used for purposes of complying with that section and subsection 338(a).

"(27) The term 'tire sale and installation facility' means any facility which sells or installs more than 1,000 tires for operation on the highways of the United States.

"(28) The term 'shredded tire' means a scrap tire reduced to 2-inch by 2-inch chips.

(2) by redesignating sections 338 and 339 as sections 340 and 341, respectively;

(3) by inserting after section 337 the following new sections:

"ENERGY PRODUCTION FROM TIRES.

"SEC. 338. (a) REQUIREMENTS.—(1) During the period beginning not later than 24 months after the date of the enactment of this section and ending 10 years after that date, a producer or importer of tires each year shall either burn for energy production or otherwise use, using a method described in paragraph (2), an amount of scrap tires equal to at least that amount of tires determined by—

"(A) multiplying the number of tires produced for domestic use or consumption or imported that year by such person, by

"(B) the percentage established by the Secretary under paragraph (4).

"(2) A producer or importer of tires may comply with this subsection by purchasing credits under the credit system established pursuant to subsection (c).

"(3) A producer or importer of tires shall submit to the Secretary, a report on the number of tires produced or imported in each calendar year by such person. The report shall be submitted at least once a year, but the Secretary also may require such interim reports under this paragraph as he considers necessary.

"(4) The Secretary shall establish the required percentage and managment standards for use under subsection (a). The percentage applicable during the first year that the requirement established by subsection (a) is in effect shall be a percentage that is 5 percentage points higher than the rate for tires that exists on the date of the enactment of this section. The rate shall be determined by using data for 1988 or the most recent year for which data are available. For each of the 10 years thereafter, the percentage shall be an additional 5 percentage points higher than the percentage of the previous year. The percentage shall go into effect automatically and shall be published in the Federal Register.

"(5)(A)(i) Not later than 24 months after the date of the enactment of this section, the Secretary shall promulgate regulations to establish a system under which (I) reclaimers may create credits for scrap tire energy production or other use, and (II) producers or importers of tires may purchase such credits from such reclaimers, for purposes of complying with paragraph (1).

"(ii) The amount of credit that may be created for one scrap tire handled at a scrap tire facility is as follows:

"(I) One-fourth of a credit for one tire burned for energy production after shredding.

"(II) One-half of a credit for one whole tire burned for energy production in an approved manner.

"(III) One-fourth of a credit for one tire shredded.

"(IV) Three-fourths of a credit for one tire reused after shredding.

"(V) One credit for one whole tire reused.

"(B) The Secretary may include such other requirements in the regulations under subparagraph (A) with respect to qualifications for reclaimers, importers, and producers, methods for auditing compliance with the system, and enforcement of the system as the Secretary considers necessary or appropriate for administering the credit system established under this subsection.

"(6) The Secretary shall promulgate regulations to implement this section not later than 18 months after the date of the enactment of this section. If the Secretary fails to promulgate the regulations by that date, the percentage under subsection (b) shall be 60 percent until such time as the regulations are promulgated and shall apply retroactively for each year the regulations are not in effect.

"(b) STATUS AS WASTE.—The generation of credits by facilities having a permit under this section shall not alter—

"(1) the status of scrap tires and scrap tire products (including tire fuel and tire-derived fuel) as a 'waste' under section 3(17)(A)(i) of the Federal Power Act (16 U.S.C. 796(17)(A)(i)); or

"(2) the treatment of whole or shredded tire energy production processing, or disposal facilities as solid waste disposal facilities for purposes of section 142(a)(6) of the Internal Revenue Code of 1986.

"ENERGY PRODUCTION FROM NEWSPRINT

"SEC. 339. (a) REQUIREMENTS—(1) Beginning not later than 18 months after the date of the enactment of this section, a producer or importer of newsprint each year shall burn for energy production or otherwise use, using a method described in paragraph (2), an amount of newsprint equal to at least that amount of newsprint determined by—

"(A) multiplying the newsprint produced or imported that year by such person, by

"(B) the percentage established by the Secretary under subsection (b).

"(2) A producer or importer of newsprint may comply with this subsection—

"(A) by burning old newspapers for energy production;

"(B) by converting old newspapers into fuel alcohol;

"(C) by de-inking old newspapers for purposes of producing newsprint;

"(D) purchasing de-inked old newspapers for purposes of combining with shipments of virgin newsprint; or

"(E) by purchasing credits under the credit system established pursuant to subsection (c).

"(b) The Secretary each year shall establish a percentage for use under subsection (a). The percentage applicable during the first year that the requirement established by subsection (a) is in effect shall be a percentage that is 2 percentage points higher than the recovery rate for newsprint that exists on the date of the enactment of this section. The percentage shall be determined by using data for 1988 or the most recent year for which data are available. Each year thereafter, until 2000, the percentage shall be an additional 2 percentage points higher than the percentage of the previous year.

"(c)(1) Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations to establish a management system under which—

"(A) producers or importers of newsprint may create credits for the use of old newspapers;

"(B) facilities classified in Standard Industrial Classification number 4911 (electric power generating facilities) and qualifying facilities under part II of the Federal Power Act (16 U.S.C. 824 et seq.), may create credits for energy production from old newspapers; and

"(C) producers or importers of newsprint may purchase credits from such reclaimers, for purposes of complying with subsection (a).

"(2) The regulations promulgated pursuant to paragraph (1) shall include:

"(A) Procedures whereby a facility classified in Standard Industrial Classification number 4911 (electric power generation) may generate credits for burning old newspapers for energy production, with a requirement that such a facility maintain records of the receipt of old newspapers and their origin for 2 years after date of receipt.

"(B) A requirement that a facility that produces energy from old newspapers notify the Secretary of its capacity and intent to burn old newspapers, and certify that such burning is consistent with Federal and State requirements for the operation of the facility. The notification shall state the overall capacity of the facility, the capacity in operation during the reporting period, and the portion of capacity utilized to produce energy from old newspapers during the reporting period.

"(C) A requirement that a producer or importer of de-inked newsprint maintain records of the receipt of such newsprint for at least 2 years after date of receipt.

"(3) For the purposes of this subsection—

"(A) the term 'credit' with respect to newsprint means a legal record of activity undertaken in accordance with this subsection that represents an amount of old newspapers used for purposes of complying with this section; and

"(B) the term 'reclaimer' with respect to old newspapers means a producer, importer, or facility described in paragraph (1).

"(d) Not later than 18 months after the date of enactment of this section, the Secretary shall report to the Congress on short- and long-term options for energy production from old newspapers.

"(e) This section applies to any person who produces or imports more than 10 tons of newsprint a year."; and

(6) in section 314(a), as redesignated by paragraph (4)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by inserting after paragraph (4) the following new paragraphs:

"(4) such sums as are necessary to carry out sections 324(h), 325(r), and 338; and

"(5) $1,200,000, to remain available until expended, to carry out section 339, including the hiring of the equivalent of at least 6 additional full-time employees.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. chapter 77) is amended by striking the items relating to sections 338 and 339 and inserting the following:

"Sec. 338. Energy conservation with tires.

"Sec. 339. Energy conservation with newsprint.

"Sec. 340. Annual report.

"Sec. 341. Authorization of appropriations.".●

By Mr. MITCHELL (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. LUGAR, Mr. COHEN, Mr. LOTT, Mr. DASCHLE, Mr. PRYOR, Mr. DIXON, Mr. CRANSTON, Mr. NUNN, Mr. GRAHAM, Mr. PELL, Mr. SIMON, Mr. BURDICK, Mr. SANFORD, Mr. D'AMATO, Mr. KERREY, Mr. WIRTH, and Mr. REID):

S. 2924. A bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; pursuant to the order of July 25, 1990, placed on the calendar.

(The text of the bill was printed earlier in today's RECORD.)

By Mr. DIXON:

S. 2925. A bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CHRISTOPHER COLUMBUS QUINCENTENARY COMMEMORATIVE COIN AND SCHOLARSHIP ENDOWMENT ACT

● Mr. DIXON. Mr. President, I am proud to introduce this bill to commemorate the voyage of Christopher Columbus. The year 1992 will mark the 500-year anniversary of Columbus' voyage to the New World. This bill provides Congress with a unique opportunity to create a lasting and constructive monument to the voyages of Christopher Columbus.

To celebrate the event, the bill will authorize the minting of a Christopher Columbus commemorative coin. More importantly, the bill will set up a living legacy to honor Columbus' accomplishments, a Christopher Columbus Scholarship Program. The costs of running the scholarship program and minting the coins will be paid through the sale of the Christopher Columbus commemorative coins. No Federal funds will be used.

Columbus brought together the European Continent and the American Continent in 1492, because he had the desire and will to go beyond his world and explore others. By setting up this scholarship foundation, I hope to honor the achievements of Columbus and encourage young people to embody his spirit to explore new worlds at home and abroad.

The world while richly diverse in people, languages, and cultures is bound by economic and political interdependence. Today's world is a small place. It took Columbus 33 days to cross the Atlantic. Today it takes 3 hours. International trade in 1492, was confined mostly to spices and gold. Today everything from tractors to peanuts are traded. A family restaurant in Bloomington, IL, can buy its produce from Guangzhou, China, and its wine from Mosel, Germany. Business requires more than a knowledge of numbers. It requires a knowledge of your neighbors, not just the people who live across town, but across oceans.

Our young people need to know their neighbors. They need to understand the world beyond our borders. If we want our children to have the same opportunities we had, we need to prepare them. The world community requires an appreciation and knowledge of other nations—their culture, history, languages, and geography. Our political and economic survival depends on it.

Unfortunately, in recent decades Americans have failed to understand this international mosaic. In 1986, the Southern Governors' Association reported that,

> New worlds open up for discovery every day in commerce, culture, and the marketplace of ideas. While the explorers of the 15th century were able to discover new worlds despite their ignorance of foreign lands and cultures, the new worlds of today are only open to those who can communicate across cultural, linguistic, and national boundaries.

However, too few of our young can function much less compete in this new modern world. A teacher in Massachusetts asked his seventh graders to draw a world map. One student had Asia above Europe. Another missed Europe completely. In a recent nationwide test, 59 percent of the high school seniors tested did not know that a nuclear war would harm the environment.

In the real world this kind of ignorance leads to real-life consequences. Upon closing an important joint venture with a Chinese company, an American company throws a party to celebrate the event. An important Chinese official attends. Part of the celebration involves young women in short costumes dancing to loud music around the product. The official is offended and leaves the event. International markets are waiting for us, but our limited knowledge of languages and cultures prevents us from fully developing these markets.

Yet despite the importance of being able to live and work in the modern world, we do not stress this to our young. Let's show our young people that the study of languages, history, cultures, and geography is respected and rewarded. Let us give them recognition and assistance in exploring our world, and one day they will help this Nation live, work, and prosper in this ever more interdependent world.

The Christopher Columbus Scholarship Program consists of two components: A "New World Summer" Program for high school juniors and a 4-year college scholarship program.

High school juniors will compete for the opportunity to attend a summer educational program to be held between their junior and senior year. Participants for the New World Summer will be selected competitively on the basis of their achievements in languages, history, geography, and international affairs. One student will be chosen from each congressional district and another 65 will be selected by appropriate authorities in other countries who are willing to underwrite transportation costs for their participants in the summer program.

A curriculum designed to promote better understanding of all cultures will be taught. This will include foreign language study taught in that language, as well as an intensive introductory course in one of the native languages of the Americas, such as Quechua, Nahuatl, or Navajo.

The college scholarship recipients will be chosen from New World Summer participants who best embody the personal and intellectual qualities which constitute the Columbus spirit, the capacity to make lasting contributions to national and international affairs. One-fifth to one-fourth of the New World Summer participants will be awarded full 4-year scholarships. No field of study or degree program will be imposed, apart from the year-to-year eligibility requirements set by the recipient's academic institution.

This scholarship program and the minting of a commemorative coin to pay for the program is a constructive demonstration of the Columbus spirit. It will have a lasting positive influence on our Nation. I encourage my colleagues to join with me in supporting this bill.

Mr. President, I ask unanimous consent that this bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Christopher Columbus Quincentenary Commemorative Coin and Scholarship Endowment Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) October 12, 1992 marks the 500th anniversary of the voyages of discovery of Christopher Columbus as commissioned by the King and Queen of Spain.

(2) To commemorate the 500th anniversary of Columbus' voyages to the "New World", and the Hispanic and Native Ameri-

can contributions to the discovery and development of the Americas, a set of commemorative coins shall be minted by the Department of Treasury. The surcharges from the sale of the commemorative coins shall be paid to the Christopher Columbus Quincentenary Scholarship Foundation (hereinafter referred to as the "Foundation"), a private nonprofit foundation incorporated within the District of Columbia.

(3) These funds, together with contributions, shall be used for the planning, organizing, encouraging and conducting of activities and projects related to a scholarship program. This program will commemorate Columbus' voyage by enhancing the value and prestige among American students of the study of geography, history, foreign languages and international affairs.

(4) The proceeds of this coin sale shall constitute the sole Federal contribution to the Foundation.

SEC. 3. AUTHORIZATION TO MINT COMMEMORATIVE COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of Christopher Columbus, man and visionary and the New World then and now. On each five dollar coin there shall be a designation of the value of the coin, an inscription of the years "1492-1992", and inscriptions of the words "Quincentenary", "In God We Trust", "United States of America", "E Pluribus Unum" and "Liberty".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the New World Heritage of America and the New World's contribution to the Old. On each dollar coin there shall be a designation of the value of the coin, an inscription of the years "1492-1992", and inscriptions of the words "Quincentenary", "In God We Trust", "United States of America", "E Pluribus Unum" and "Liberty".

(c) CLAD HALF DOLLAR COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than ten million half dollar coins which shall weigh 11.34 grams, have a diameter of 1.205, and shall be minted to the specifications for clad half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of such half dollar coins shall be emblematic of the Old World Heritage of America. On each such half dollar there shall be a designation of the value of the coin, an inscription of the years "1492-1992", and inscriptions of the words "Quincentenary", "In God We Trust", "United States of America", "E Pluribus Unum" and "Liberty".

(d) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) SOURCES OF SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Material Stockpiling Act (50 U.S.C. 98 et seq.).

(f) SOURCES OF GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this section pursuant to the authority of the Secretary under existing law.

(g) SELECTION OF DESIGN.—The design for each coin authorized by this section shall be selected by the Secretary after consultation with the Christopher Columbus Quincentenary Jubilee Commission (created by Congress under Public Law 98-375; Stat. 1257).

(h) SALE OF THE COINS.—

(1) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this section shall be sold by the Secretary at a price at least equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, equipment, promotional, overhead expenses, and surcharges).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

(i) ISSUANCE OF THE COINS.—

(1) GOLD COINS.—The five dollar coins authorized by this section shall be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(2) SILVER COINS AND CLAD HALF DOLLAR.—The one dollar and clad half dollar coins authorized under this section may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(3) COMMENCEMENT DATE.—Issuance of the coins may commence on July 1, 1991.

(4) SUNSET PROVISION.—No coins shall be minted under this section after 18 months from the actual commencement date.

(j) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity; provided, however, that no business shall be considered to be subject to part 60 of title 41, Code of Federal Regulations (relating to equal employment opportunity affecting government contractors) solely because of its status as a consignee of Mint numismatic products.

(k) DISTRIBUTION OF SURCHARGES.—All surcharges which are received by the Secretary of the Treasury from the sale of coins issued under this section shall be paid quarterly to an endowment fund established and administered as provided in section 4 of this Act.

(l) AUDITS.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditure of amounts paid under subsection (k).

(m) COINAGE PROFIT FUND.—Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this section shall be deposited in the existing coinage profit fund in the United States Treasury;

(2) the Secretary shall pay the amount authorized under this section from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this section.

(n) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all action necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Depository Insurance Corporation or the National Credit Union Administration Board.

SEC. 4. ESTABLISHMENT OF THE CHRISTOPHER COLUMBUS QUINCENTENARY SCHOLARSHIP ENDOWMENT FUND.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "endowment fund" means a fund, established and maintained by the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of generating income for the summer and scholarship programs assisted under this title;

(2) the term "endowment fund corpus" means an amount equal to the coin surcharges authorized by the Act;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this title minus the endowment fund corpus;

(4) the term "secondary school" has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education; and

(6) the term "Foundation" means the Christopher Columbus Quincentenary Scholarship Foundation.

(b) PROGRAM AUTHORIZED.—

(1) The surcharges from the sale of coins, as specified in section 3 (k) and (m), shall be deposited promptly in the endowment fund.

(2) In addition to payment to the endowment fund of the surcharges of the sale of coins, the endowment fund, or an account separately maintained by the Foundation, shall include a minimum of $500,000 raised by the Foundation from non-federally appropriated sources within 3 years of enactment of the Act.

(c) INITIAL FUNDING.—A minimum fixed amount of $500,000 of capital shall be raised by the Foundation before the earnings of the endowment fund corpus can be expended. If the minimum amount is not raised within 3 years of the enactment of this Act, the authorities granted in this Act are repealed, and all proceeds from the sale of coins and any interest earned thereon shall be returned to the United States Department of the Treasury for deposit into the General Fund.

(d) INVESTMENTS.—

(1) IN GENERAL.—The Foundation shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, or obligations of the United States.

(2) STANDARD OF CARE.—The Foundation, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(e) WITHDRAWALS AND EXPENDITURES.—

(1) MAINTENANCE OF VALUE.—The Foundation may withdraw and expend its endowment fund income to defray any expenses necessary to the operation of the summer and scholarship programs. Except as provided in paragraphs (2) and (3) of this subsection, the Foundation shall, in the aggregate, seek to avoid withdrawing or expending in excess of the amount necessary to maintain the constant dollar value of the endowment fund corpus.

(2) EMERGENCY CARES.—The Secretary is authorized to permit the Foundation to withdraw or expend more than provided in paragraph (1) of this subsection whenever the Foundation demonstrates such withdrawal or expenditure is necessary because of a financial emergency, such as a pending insolvency or temporary liquidity problem.

(3) USE OF CORPUS.—Upon the expiration of 20 years from the date of the last deposit of coin sale surcharges to the endowment fund, the Secretary is authorized to permit the Foundation to withdraw or expend the endowment fund corpus in whole or in part as shall be provided in writing.

(f) ENFORCEMENT.—

(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to recover and return to the Treasury any coin surcharges deposited into the endowment fund if the Foundation—

(A) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section (4)(e) of this Act;

(B) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section (4)(d) of this Act;

(C) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income; or

(D) fails to raise the minimum amount of capital as provided for in section (4)(c) of this Act.

(2) PAYMENT TO TREASURY.—If the Secretary takes action to recover funds under this subsection, the Foundation shall return to the Treasury of the United States an amount equal to the sum of the coin sale surcharges deposited into the endowment fund under this Act, plus any income earned thereon. The Secretary may direct the Foundation to take such other appropriate measures to remedy any violation of this Act and to protect the financial interest of the United States.

(g) COLUMBUS SCHOLARS.—

(1) SCHOLARSHIPS.—From amounts available pursuant to section 3(k), the Foundation shall award scholarships to students who embody the spirit and accomplishments of Christopher Columbus by excelling in the study of geography, history, foreign languages and international affairs.

(2) DESIGNATION.—Students awarded scholarships under this subsection shall be known as "Columbus Scholars".

(3) ELIGIBILITY.—In order to receive a scholarship under this subsection each student must demonstrate an outstanding potential to make lasting contributions to national and international affairs in the disciplines of geography, history, foreign languages and international affairs.

(4) STIPENDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each student awarded a scholarship under this subsection shall receive a stipend which shall not exceed the cost to the student of tuition, fees, books, room and board, or $10,000, whichever is less, for each full time academic year of study.

(B) SPECIAL RULE.—The $10,000 limitation described in subparagraph (A) shall be subject to adjustment by the Foundation on the basis of the availability of funds to carry out the provisions of this subsection and changes in the tuition cost index compiled by the National Center for Educational Statistics.

(5) MAXIMUM PERIOD OF AWARD.—Scholarships under this subsection shall be awarded for such period as the Foundation may prescribe, but in no event shall such period exceed 4 academic years.

(6) GEOGRAPHIC DISTRIBUTION.—Subject to the availability of qualified applicants, the Foundation shall award at least one scholarship under this subsection to a student in each State and Territory in each fiscal year.

(7) RECIPIENT'S CHOICE OF INSTITUTION.—A student awarded a scholarship under this subsection may attend any postsecondary institution which offers courses of study, training, or other educational activities designed to prepare persons for careers utilizing a proficiency in geography, history, foreign languages or international affairs as determined pursuant to criteria established by the Foundation.

(8) NATIONWIDE COMPETITION.—The Foundation shall, either directly or by contract, provide for the conduct of a nationwide competition to select Columbus Scholars.

(9) APPLICATION.—Each student desiring a scholarship under this subsection shall submit an application to the Foundation at such time, in such manner and accompanied by such information as the Foundation may reasonably require.

(h) SUMMER PROGRAM.—

(1) ESTABLISHMENT.—The Foundation is authorized to develop and operate a summer program in which secondary school students selected by the Foundation from each State and Territory will assemble to study geography, history, foreign languages and international affairs at a site or sites designated by the Foundation.

(2) ELIGIBILITY.—In order to participate in a summer program described in paragraph (1), a secondary school student must demonstrate outstanding academic performance in the areas of geography, history, foreign languages or international affairs, and an outstanding potential to make lasting contributions to national and international affairs in such disciplines.

(3) STIPEND.—The Foundation shall award a stipend to each student selected to participate in a summer program described in paragraph (1) in an amount related to the cost of attending such program.

(4) APPLICATION.—Each student desiring to participate in a summer program described in paragraph (1) shall submit an application to the Foundation at such time, in such manner and accompanied by such information as the Foundation may reasonably require.

(i) MISCELLANEOUS PROVISIONS.—

(1) AUDIT.—The Comptroller General of the United States shall have the right to examine all books, records, documents and other data of the Foundation.

(2) ANNUAL REPORT.—The Foundation shall annually report to the Congress and the Secretary of Education on its activities.

(3) AUTHORITY OF THE SECRETARY OF EDUCATION.—The Secretary of Education shall have the authority to examine the activities of the Foundation to assure the proper and efficient implementation of the legislative intent of this Act.

(4) LIMITATION ON FURTHER FEDERAL SUPPORT.—The Christopher Columbus commemorative coins and implementation of the summer and scholarship programs authorized by this Act shall be the sole Federal contribution to the Foundation. No funds are authorized to be appropriated from any other Federal source to support the Christopher Columbus Quincentenary Scholarship Foundation.

(5) STATUS AS A NONGOVERNMENTAL ENTITY.—The Foundation shall not, by virtue of its receipt and use of proceeds from the sale of commemorative coins authorized by this Act or the income earned thereon, or for any other reason, became an agency, instrumentality, or establishment of the United States Government and shall not be a "Government Corporation", nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code, nor shall it become a "Government Sponsored Enterprise".

(6) FEDERAL FINANCIAL ASSISTANCE.—Assistance provided under this section shall be considered to be Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(7) TERMINATION OF FEDERAL OVERSIGHT.—The Foundation may at any time choose to pay to the Secretary of the Treasury an amount equal to the total amount received by the Foundation in the endowment fund corpus from sale of the commemorative coins authorized by this Act plus income earned thereon that has not been obligated for authorized activities. In that event, subsections (i) (1), (2) and (3) and the endowment fund created by this Act shall be terminated.

(8) USE OF QUINCENTENARY LOGO, SYMBOLS, EMBLEMS, TRADEMARKS AND NAMES.—

(A) For the purpose of this section, the term "Christopher Columbus Quincentenary Logo" means the symbol or mark designated by the Christopher Columbus Quincentenary Jubilee Commission for use in connection with the commemoration of the Quincentennial of the voyages of discovery of Christopher Columbus and the old world heritage of America.

(B) The Foundation shall have the exclusive right (in conjunction with the Commission during the Commission's operation) to use the Christopher Columbus Quincentenary Logo.

(C) Any person who, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, uses, sells, or distributes the Christopher Columbus Quincentenary Logo

shall be fined not more than $10,000, or imprisoned not more than one year, or both.

(9) TERMINATION OF THE FOUNDATION.—If the Foundation is dissolved and it has not at that time returned to the Secretary of the Treasury the amount specified in subsection (i)(7), then the remaining endowment fund corpus plus any other assets of the Foundation, equal to the value of the total coin sale surcharges deposited in the endowment fund plus any income earned thereon that has not been obligated for authorized activities, shall be liquidated and the resulting sum paid to the Secretary of the Treasury.●

By Mr. EXON (for himself, Mr. KERREY, Mr. DASCHLE, and Mr. PRESSLER):

S. 2926. A bill to require a feasibility study of a proposed four-lane expressway between Scottsbluff, NE, and Rapid City, SD; to the Committee on Environment and Public Works.

EXPRESSWAY BETWEEN SCOTTSBLUFF, NE, AND RAPID CITY, SD

● Mr. EXON. Mr. President, today I am introducing legislation along with my Nebraska colleague Senator KERREY and my South Dakota colleagues Senator DASCHLE and Senator PRESSLER. It requires a feasibility study by the U.S. Secretary of Transportation of a north-south four-lane expressway linking Scottsbluff, NE, and Rapid City, SD.

The expressway segment that is the topic of this legislation would be the final segment needed to allow four-lane highway travel from Denver through western Nebraska to the South Dakota Black Hills region and Rapid City. The State of Nebraska Department of Roads is already constructing a four-lane expressway along another part of the route following Highway 71 from Interstate 80 north to Scottsbluff.

The legislation I am introducing today is directed at the final segment, which would run north from Scottsbluff to Rapid City, thus completing the ultimate Denver-Black Hills area four-lane connection. The bill authorizes the feasibility study at an 80 percent Federal funding level with 20 percent from non-Federal matching funds.

The State of Nebraska Department of Roads has endorsed the study proposed by this bill and has already pledged a 10-percent State fund match up to $100,000. In addition, the State of South Dakota and private citizens in both Nebraska and South Dakota have already agreed to provide the other needed matching funds. There are many unmet highway needs in our Nation, but in this instance the respective States and local citizens have already put their money where their mouth is. That kind of organized local support makes a big difference.

The Administration, the Congress, the States, and others are beginning to debate the form of the 1991 Federal Highway Program reauthorization bill. This is an excellent time to bring this proposal before the Congress in preparation for inclusion as part of the final highway bill.

Improved transportation in rural America will mean improved local economies, less flight of young people to large cities, and less resulting pressure on the infrastructure of urban America. We are an interconnected Nation in economic terms. We must ensure that rural America is connected to the National Transportation System in a manner that meets the needs of the 21st centruy. That is why this is an important bill.

Mr. President, I ask unanimous consent that a copy of a letter from the Nebraska Department of Roads and a copy of the bill appear in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Transportation, in cooperation with the States of Nebraska and South Dakota, shall conduct a "corridor" study to determine the feasibility of constructing a four-lane expressway linking Scottsbluff, Nebraska, and Rapid City, South Dakota, to enable complete four-lane highway travel between Interstate 80 and Interstate 90.

(b) The Secretary of Transportation shall pay no more than 80 percent of the cost of the study required under subsection (a). The States of Nebraska and South Dakota jointly shall pay no more than 20 percent of the cost of such study, and such payments may be made with State or local government or private funds.

(c) By no later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study conducted under subsection (a).

(d) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $800,000 to carry out the provisions of this section

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STATE OF NEBRASKA,
DEPARTMENT OF ROADS,
Lincoln, NE, January 24, 1990.

Mr. STEVE TANDO,
Project Coordinator, Heartland Expressway, 115 Railway Plaza, Scottsbluff, NE.

DEAR MR. TANDO: The Nebraska Department of Roads is responsible for developing a specific and long-range state highway system plan. The Department is also responsible for annually reviewing the state highway system's needs and shall assign priorities for such needs.

As directed by LB 632 in 1987 and the Nebraska Legislature, a system of expressway priorities was developed. In Section 23 the bill stated, "The Legislature finds and declares that the highways of the state are of the utmost importance to future development within the state and . . . the development of a system of expressways, which shall include, but not be limited to, a north-south expressway." As a result of that mandate by the Legislature, U.S. 81 was chosen as the north-south expressway in Nebraska.

In keeping with its responsibility to plan for the future, the Department of Roads supports the attempt to secure federal demonstration funds as the primary source of funding, matched with a maximum of 10% state funds up to $100,000.00, for a corridor study for the Heartland Expressway. The Department will aid in any way needed to obtain the federal funds.

Sincerely,

G.C. STROBEL,
Director, State Engineer.●

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

S. 1224

At the request of Mr. BRYAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1224, a bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

S. 1263

At the request of Mr. SIMON, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1263, a bill to treat Hong Kong as a separate foreign state for purposes of applying the numerical limitations on immigration.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1664

At the request of Mr. BRYAN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Virginia [Mr. WARNER], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BURNS], the Senator from Tennessee [Mr. GORE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 2009

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2009, a bill to limit the use of appropriated funds for the B–2 advanced technology bomber aircraft program.

S. 2186

At the request of Mr. MCCONNELL, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Mississippi [Mr. COCHRAN] were added a cosponsors of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2187

At the request of Mr. COCHRAN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2187, a bill to amend the Public Health Service Act to make grants to encourage States to establish Offices of Rural Health to improve health care in rural areas.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2228

At the request of Mr. HOLLINGS, the name of the Senator from New York [Mr. D'AMATO] was added as a consponsor of S. 2228, a bill to develop a comprehensive program to ensure the wholesomeness of fish products intended for human consumption and sold in interstate commerce, and for other purposes.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Colorado [Mr. WIRTH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Montana [Mr. BAUCUS], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2590

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2590, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 2640

At the request of Mr. DASCHLE, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2640, a bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of Medicare supplemental insurance.

S. 2699

At the request of Mr. ROTH, the name of the Senator from North Carolina [Mr. SANFORD] was added as a consponsor of S. 2699, a bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods.

S. 2711

At the request of Mr. LOTT, the names of the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Washington [Mr. GORTON], the Senator from Wyoming [Mr. WALLOP], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Mississippi [Mr. COCHRAN], the Senator from Montana [Mr. BURNS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. COATS], the Senator from North Carolina [Mr. SANFORD], the Senator from Utah [Mr. GARN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2711, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or Reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 2737

At the request of Mr. ARMSTRONG, the names of the Senator from Montana [Mr. BURNS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from South Dakota [Mr. DASCHLE], the Senator from Michigan [Mr. LEVIN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

At the request of Mr. ROBB, his name was added as a cosponsor of S. 2737, supra.

S. 2762

At the request of Mr. HATFIELD, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2762, a bill to facilitate the implementation of National Forest land and resource management plans, and for other purposes.

S. 2809

At the request of Mr. SIMON, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2809, a bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail.

S. 2885

At the request of Mr. KASTEN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2885, a bill to amend the Federal Deposit Insurance Act to require States in which the failure of State chartered savings associations has involved a disproportionately large share of the thrift resolution costs to pay a State thrift deposit insurance premium as a condition of future Federal deposit insurance.

SENATE JOINT RESOLUTION 183

At the request of Mr. SIMON, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 291

At the request of Mr. HATCH, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 291, a joint resolution designating the week of October 14, 1990, as "National Standards Week."

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor United States combat glider pilots of World War II.

SENATE JOINT RESOLUTION 328

At the request of Mr. SPECTER, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. WILSON], the Senator from Texas [Mr. BENTSEN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. D'AMATO], the Senator from Delaware [Mr. BIDEN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 328, a joint resolu-

tion designating October 1990 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990, through June 23, 1990, as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932–1933," and to commemorate the Ukrainian famine of 1932–1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 342

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. GORTON], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. RIEGLE], the Senator from Hawaii [Mr. INOUYE], the Senator from Arizona [Mr. DECONCINI], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 342, a joint resolution designating October 1990 as "Ending Hunger Month."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991 as "National Trauma Awareness Month."

AMENDMENT NO. 1860

At the request of Mr. BOREN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Amendment No. 1860 intended to be proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

AMENDMENT NO. 2330

At the request of Mr. PRESSLER, his name was added as a cosponsor of Amendment No. 2330 proposed to S. 2830, an original bill to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

At the request of Mr. CONRAD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. BOND], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Amendment No. 2330 proposed to S. 2830, supra.

SENATE RESOLUTION 313—RELATIVE TO VLADIMIR TSIVKIN

Mr. LAUTENBERG (for himself, Mr. LIEBERMAN, Mr. DECONCINI, Mr. DODD, Mr. WALLOP, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Ms. MIKULSKI, Mr. BINGAMAN, and Mr. REID) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 313

Whereas Vladimir Tsivkin is a Soviet refusenik from Leningrad who has been repeatedly refused permission to emigrate since 1979;

Whereas Vladimir Tsivkin is one of only 9 refuseniks in the Soviet Union who have been refused permission to leave for more than 10 years;

Whereas he has been denied on the grounds of state secrets although he has not worked at the Defense Ministry since 1978;

Whereas despite repeated refusals, the Tsivkin family received official permission to emigrate on March 14, 1989, and based on this permission, they relinquished their jobs, sold almost all their belongings and returned their official documents; eight days later the Visa Department called to inform the family that the permission had been granted "by mistake", and no additional information was given;

Whereas Vladimir's wife and daughter left the Soviet Union on a tourist visa and now live in the United States;

Whereas the Soviet refusal to allow Vladimir to emigrate has meant a forced separation from his wife and child;

Whereas Vladimir suffers from an endocrine disorder and is in ill health;

Whereas Vladimir Tsivkin is a case of special humanitarian interest to the United States because he has been in refusal for more than 10 years, making him one of the longest remaining Soviet Jews in refusal, and because his family already lives in the United States;

Whereas there is no purpose served by keeping Vladimir Tsivkin in the Soviet Union against his will since, through no fault of his own, he is no longer a productive member of Soviet society;

Whereas the Soviet Union is a signatory to the Final Act of the Conference on Security and Cooperation in Europe and the United Nations Universal Declaration of Human Rights, which obligate it to allow all citizens to leave the Soviet Union if they so desire, and to facilitate the reunification of families and respect human rights and fundamental freedoms;

Whereas the Soviet Union's continued refusal to grant Vladimir Tsivkin permission to emigrate violates those commitments;

Whereas the Soviet Union's continued refusal to grant Vladimir Tsivkin permission to emigrate violates the spirit of statements made by President Gorbachev before the United Nations and in other forums that the problem of entry and exit from the Soviet Union will be dealt with in a humane spirit, and that strictly warranted time limitations on the secrecy rule will not be applied;

Resolved, That the Senate declares that—

(1) The Soviet Union's continued refusal to permit Vladimir Tsivkin to emigrate violates its international obligations and is not in keeping with its recent practice of permitting thousands of Soviet Jews to emigrate;

(2) Whereas high U.S. government officials have expressed to the Soviet Union the strong desire that Vladimir Tsivkin be granted permission to leave the Soviet Union; and

(3) Vladimir Tsivkin should immediately be granted permission to emigrate from the Soviet Union.

● Mr. LAUTENBERG. Mr. President, I rise to submit, along with Senators DECONCINI, LIEBERMAN, DODD, METZENBAUM, BINGAMAN, MIKULSKI, WIRTH, WALLOP, REID, and D'AMATO, a resolution to urge the Soviet Union to grant Vladimir Tsivkin, a Soviet refusenik from Leningrad, permission to emigrate.

Mr. President, Vladimir told me his story personally when I visited Moscow. Although he lives in Leningrad, he traveled to Moscow in the hope that I could help him. I was impressed by his keen intelligence and by the desperation of his plight. More than anything, he wants to join his wife and daughter in the United States.

Vladimir Tsivkin is one of the few remaining long-term refuseniks. He has been in refusal for more than 10 years, making him one of the longest remaining Soviet Jews in refusal. We can't lose sight of his quest for freedom just because others are now being permitted to leave.

Vladimir's wife and daughter left the Soviet Union earlier this year and now live in the United States. It is very hard on him to be separated from his family. His isolation is even greater as more of his friends leave the Leningrad area for the United States or Israel.

Vladimir also suffers from an endocrine disorder and needs an operation. Since applying to leave the Soviet Union, Vladimir has lost his military card, and therefore he has no way to earn a living. This situation makes him liable to criminal prosecution.

Vladimir has been repeatedly refused permission to emigrate since 1979 on the grounds of state secrets. But what secrets he could possibly possess are beyond me. He has not worked at the Defense Ministry since 1978. My staff and I spent days with Vladimir in the Soviet Union, and I can attest that he possesses no such secrets.

Despite repeated refusals, the Tsivkin family received official permission to emigrate on March 14, 1989. Based on this permission, they relinquished their jobs, sold almost all their belongings, and returned their official documents. Eight days later the Visa Department called to inform the family that the permission had been granted by mistake. No additional information was given.

Mr. President, the continued denial of Vladimir Tsivkin serves no rational purpose. It is inhumane. It is an irritant in the Soviet-American relation-

ship. He cannot work. His family is gone. Through no fault of his own, he is not a productive member of Soviet society any longer. Quite simply, the Soviets have nothing to lose and everything to gain by resolving this case.

Perhaps Mr. Tsivkin's emigration has been blocked due to a vendetta of a petty bureaucrat at his former workplace who is flexing his muscles and trying to prevent Vladimir's departure for reasons that have nothing to do with state secrecy. But, it is clear that Soviet officials can let him go if they want to.

Mr. President, Vladimir's case is once again being considered by the Commission on Citizenship of the Supreme Soviet, a special commission in the Soviet Union set up to resolve "difficult" cases. Although the Commission refused him permission last fall, it is now considering his case again.

I have also officially invited Vladmir to visit me in the United States and he has a request pending with Soviet officials to apply for a tourist visa to visit me in Washington. So far, he has not received permission to even apply for a visa, much less to secure one.

Mr. President, I hope that this resolution, which is cosponsored by members of the Helsinki Commission and others, sends the Commission on Citizenship and other Soviet officials at the highest levels a message that the U.S. Senate wants Vladimir Tsivkin, who has been granted refugee status by our Government, to be given permission to leave the Soviet Union.

Mr. President, I have raised this case repeatly with various Soviet officials, including former Soviet Ambassador to the United States Yuri Dubinin, and also urged the President to add Vladimir Tsivkin to his personal list of refuseniks.

Secretary Baker met with Vladimir Tsivkin on a recent visit to Moscow, underscoring the importance our Government and our people attach to Vladimir's freedom. Assistant Secretary Schifter has consistently raised Vladimir's case with Soviet officials. Max Kampelman, acting in his capacity as head of the United States delegation to the Copenhagen Conference on the Human Dimension, held as part of the Helsinki process during June, also pressed the Soviets to let Vladimir go as a humanitarian gesture.

I know that if the Soviets make the determination to release him, it will happen very quickly. I hope they will make that determination.

I urge the Senate to agree to this resolution swiftly to send a signal to the Soviets that we are watching what they do. We want Mr. Tsvikin to be granted permission to emigrate without further delay.●

SENATE RESOLUTION 314—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 314

Whereas, in the cases of *Michael A. Nelson* v. *Senator Sam Nunn's Office,* Case No. 1:90-CV-1406-JOF, and *Michael A. Nelson* v. *Senator Wyche Fowler's Office,* Case No. 1:90-CV-1465-ODE, pending in the United States District Court for the Northern District of Georgia, the plaintiff has named the Offices of Senator Sam Nunn and Senator Wyche Fowler, respectively, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official repsonsibilities: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent the Offices of Senator Sam Nunn and Senator Wyche Fowler in the cases of *Michael A. Nelson* v. *Senator Sam Nunn's Office,* Case No. 1:90-CV-1406-JOF, and *Michael A. Nelson* v. *Senator Wyche Fowler's Office,* Case No. 1:90-CV-1465-ODE.

AMENDMENTS SUBMITTED

FOOD, AGRICULTURE, TRADE, AND CONSERVATION ACT OF 1990

PRYOR (AND OTHERS) AMENDMENT NO. 2379

Mr. PRYOR (for himself, Mr. KERREY, Mr. DASCHLE, Mr. BOREN, Mr. CONRAD, and Mr. LEVIN) proposed an amendment to the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, as follows:

At the appropriate place at the end of subtitle B of title X of the bill, add the following new section:

"SEC. 10 . PRODUCER APPEALS PROCESS.

"(a) AMENDMENT TO AGRICULTURAL ACT OF 1949.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

'SEC. 426. APPEALS.

'(a) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture, (the "ASCS") shall have the right to appeal any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

'(b) APPEAL PROCEDURE.—

'(1) IN GENERAL.—Such appeal shall be made in accordance with this section.

'(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning such participant may appeal such determination as follows:

'(A) if such determination was renderd by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the applicable State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act;

'(B) if such determination was rendered by a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the National Appeals Division established in accordance with this section; and

'(C) if such determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal such determination to the National Appeals Division.

'(3) TIME OF FILING OF APPEAL.—A participant shall file a notice of appeal within a reasonable time after receiving notice of the adverse determination, as determined by the Secretary.

'(c) NATIONAL APPEALS DIVISION.—

'(1) ESTABLISHMENT.—For the purpose of hearing producer appeals, the Secretary shall establish and maintain within the ASCS, a National Appeals Division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Department of Agriculture who shall have no duties other than hearing and determining formal appeals arising under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or a successor agency.

'(2) HEARING OFFICERS.—Hearing officers within the National Appeals Division shall hear each appeal made to the National Appeals Division under this section.

'(3) POWERS AND DUTIES OF DIRECTOR.—The director of the National Appeals Division, in carrying out the provisions of this section—

'(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

'(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this section from any Federal, State, or local governmental agency or unit thereof;

'(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

'(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

'(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals;

'(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out the provisions of this section;

'(G) shall issue procedural rules for the conduct of appeals; and

'(H) may delegate to hearing officers the authorities provided in subparagraphs (A) through (E) of this paragraph as the Secretary determines appropriate.

'(4) HEARINGS.—

'(A) IN GENERAL.—The hearing shall be held at a time and place designated by the National Appeals Division.

'(B) CONDUCT OF HEARING.—At a minimum, the hearing shall be conducted as follows:

'(i) the participant shall be advised of the issues involved;

'(ii) the participant shall be given a full opportunity to present facts and information relevant to the matter in issue and may present evidence; and

'(iii) the hearing officer may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

'(C) RECORD.—At the request of the participant, each hearing before a hearing officer in the National Appeals Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with all documents and evidence submitted shall be made available to the participant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing, if prepared.

'(5) REVIEW OF DECISION.—

'(A) IN GENERAL.—The director of the National Appeals Division shall make all determinations with respect to the appeals submitted to the Division for review.

'(B) PROCEDURE.—In submitting an appeal for the determination of the director, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director.

'(C) BASIS OF REVIEW.—The National Appeals Division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer, except that the director of the National Appeals Division may order that further proceedings be held in order that the record presented for review by the National Appeals Division may be complete or in order to hear new or additional evidence.

'(6) INDEPENDENCE OF DIVISION.—All hearing officers within the National Appeals Division shall report to the principal officers of the division and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the National Appeals Division.

'(7) FINALITY OF DECISIONS.—Except as provided in subsection (e), determinations of the director of the National Appeals Division shall be final, conclusive, and binding on the U.S. Department of Agriculture, including the Commodity Credit Corporation, and any agency thereof.

'(d) COURT REVIEW.—Final Decisions of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

'(e) PARTICIPANT.—For the purposes of this section, a participant means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other act administered by the ASCS.

'(f) DELEGATION OF AUTHORITY.—Nothing contained in this section shall preclude the Secretary, the Administrator of the ASCS, or the Executive Vice President of the Commodity Credit Corporation from determining at any time any question arising under the programs to which the provisions of this section apply or from reversing or modifying (in writing, with sufficient reason given therefor) any determination made by a county or State committee or the director of the National Appeals Division.

'(g) DECISIONS OF STATE AND COUNTY COMMITTEES.—Decisions of the State and County Committees established under section 8(b) of the Soil and Conservation and Domestic Allotment Act, or employees of such committees made in good faith in the absence of misrepresentation, false statement, fraud, or wilful misconduct, unless otherwise appealed under this section, shall be final, unless otherwise modified under subsection (f) within 90 days, and no action shall be taken to recover amounts found to have been disbursed thereon in error unless the producer had reason to believe that the decision was erroneous.

'(h) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to implement the provisions of this section, including regulations governing the conduct of appeals made before State and county committees established under section 8(e) of the Soil Conservation and Domestic Allotment Act.'.

"(b) EFFECTIVE DATE.—The provisions of subsection (a) shall not apply to any appeal or proceeding with respect to any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation prior to the date of enactment of this Act.

"(c) GOOD FAITH RELIANCE.—Section 326 of the Food and Agriculture Act of 1962 is revised to read as follows:

'Notwithstanding any other provision of law, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, take actions in good faith in reliance upon the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs.'.".

LEVIN AMENDMENT NO. 2380

Mr. CONRAD (for Mr. LEVIN) proposed an amendment to the bill S. 2830, supra; as follows:

On page 488, line 20, strike "and";

On page 488, after line 24, add the following:

"(C) where practicable, the average prices and costs of production in such countries for like commodities exported from the United States to such countries; and"

On page 489, strike line 6 and insert the following: "reports prepared under subsection (a)—

"(A) on a country by country basis; and

"(B) on a commodity by commodity basis for exports of United States agricultural commodities including fruits, vegetables, legumes, popcorn and ducks, as determined appropriate by the Secretary, the export of which is hampered by an unfair trade practice. Where practicable, the report shall include a comparison of the average prices and costs of production for such commodities in the United States and in the importing countries for the previous crop year.".

FOWLER (AND BOND) AMENDMENT NO. 2381

Mr. FOWLER (for himself and Mr. BOND) proposed an amendment to the bill S. 2830, supra, as follows:

On page 1081, after line 10, add the following new title:

TITLE XX—AGRICULTURAL PROMOTION PROGRAMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Agricultural Promotion Programs Act of 1990".

Subtitle A—Soybeans

SEC. 2005. SHORT TITLE.

This subtitle may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 2006. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and those concerned with marketing, using, and producing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer educa-

tion programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on all soybeans produced domestically), and implementing a program of promotion, research, and consumer information designed—

(1) to strengthen the position of the soybean industry in the marketplace;

(2) to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products; and

(3) to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 2007. DEFINITIONS.

As used in this subtitle:

(1) BOARD.—The term "Board" means the United Soybean Board established under section 2009(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) COMMITTEE.—The term "Committee" means the Soybean Program Coordinating Committee established under section 2009(e).

(4) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products.

(5) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(6) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring after harvest from a producer soybeans produced by such producer; or

(B) in any case in which soybeans are pledged as collateral for a loan issued under any Federal price support loan program, the Commodity Credit Corporation.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) NET MARKET PRICE.—The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors; or

(B) for soybeans pledged as collateral for a loan issued under any Federal price support loan program, the principal amount of the loan.

(10) ORDER.—The term "order" means an order issued under section 2008.

(11) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(12) PRODUCER.—The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) PROMOTION.—The term "promotion" means—

(A) any action (including paid advertising, technical assistance, and trade servicing activities) to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets; and

(B) any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) QUALIFIED STATE SOYBEAN BOARD.—

(A) IN GENERAL.—The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law.

(B) NO STATE SOYBEAN PROMOTION ENTITY.—If no such entity exists in a State, such term means a soybean producer-governed entity that—

(i) is organized and operating within a State;

(ii) receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs;

(iii) meets the criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board; and

(iv) is recognized by the Board as the soybean promotion and research entity within the State.

(15) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybean and soybean products.

(16) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(17) SOYBEAN PRODUCTS.—The term "soybean products" means products produced in whole or in part from soybeans or soybean byproducts.

(18) SOYBEANS.—The term "soybeans" means all varieties of Glycine max or Glycine soya.

(19) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 2008. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2006(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this subtitle applicable to producers and first purchasers of soybeans. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURE.—

(1) PROPOSALS.—The Secretary may propose the issuance of an order under this subtitle, or an association of soybean producers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) NOTICE AND PUBLIC COMMENT.—Not later than 30 days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle.

(4) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section, consistent with the requirements of section 2014(b).

SEC. 2009. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) UNITED SOYBEAN BOARD.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) SEATS.—The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) STATE UNITS.—Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) COMBINED UNITS.—A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall group geographically contiguous States together. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) NUMBER OF SEATS PER UNIT.—Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to four seats on the Board.

(D) DETERMINATION OF AVERAGE ANNUAL SOYBEAN PRODUCTION.—For purposes of this section, the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) REAPPORTIONMENT OF SEATS.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the Board to conform with subparagraph (C). If payment of refunds following the initial referendum conducted under section 2010(a) is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) ADJUSTMENT OF LEVELS OF PRODUCTION.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent the Board determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit shall not lose, under this subparagraph, Board seats to which the unit is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraph (A), (B), or (C).

(3) NOMINATIONS.—

(A) IN GENERAL.—The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) METHOD FOR OBTAINING NOMINATIONS.—

(i) INITIALLY-ESTABLISHED BOARD.—

(I) STATE UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of subparagraph (A) or subparagraphs (B)(i) and (B)(ii) of section 2007(14). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria described in subparagraph (A) or subparagraphs (B)(i) and (B)(ii) of section 2007(14).

(ii) SUBSEQUENT APPOINTMENT.—

(I) STATE UNITS.—Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) REJECTION.—The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three 3-year terms.

(5) COMPENSATION.—Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) TEMPORARY APPOINTMENTS.—

(A) APPOINTMENT.—Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) REPRESENTATION OF CERTAIN STATES.—The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) MEETINGS.—The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on the Committee;

(4) to approve, modify, or reject budgets submitted by the Committee;

(5) to contract with appropriate persons to implement plans or projects;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order;

(8) to provide the Secretary with prior notice of meetings of the Board at such time as to permit the Secretary to attend such meetings; and

(9) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(d) BOARD VOTING PROCEDURES.—

(1) IN GENERAL.—The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection. On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(2) NUMBER OF VOTES PER MEMBER.—Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) IN GENERAL.—Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a rollcall vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) ADDITIONAL VOTES.—The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) ASSESSMENT LEVEL.—Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (j)(2)), on the average, during each of the 3 previous fiscal years of the Board.

(ii) FIRST THREE FISCAL YEARS.—

(I) FIRST FISCAL YEAR.—During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) SECOND AND THIRD FISCAL YEARS.—The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) DIVISION OF VOTES WITHIN UNITS.—A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3) MOTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) ROLLCALL VOTES.—Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each

unit determined by a simple majority of all votes cast by members in that unit).

(4) COMMITTEE VOTES.—In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) PROXIES.—A member may not cast votes by proxy.

(e) SOYBEAN PROGRAM COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of—

(i) the Chairperson and Treasurer of the Board;

(ii) eight additional members of the Board elected by the Board; and

(iii) nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) CERTIFICATION.—To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) TERMS.—Terms of appointment to the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) COMPENSATION.—Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) QUORUM.—Fifteen members of the Committee shall constitute a quorum.

(f) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties of the Committee, which shall include the following:

(1) BUDGETS.—The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget.

(2) PLANS AND PROJECTS.—The Committee shall review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval. The Board may develop plans and projects on its own initiative.

(3) VOTING.—A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least 13 members present at a meeting of the Committee.

(g) ADMINISTRATION.—

(1) EXPENSES; STAFF.—The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and that the Board and Committee shall use staff and facilities of established national, nonprofit producer-governed organizations that represent soybean producers to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) LIMIT ON ADMINISTRATIVE COSTS.—The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of revenues to the Board (net of any refunds made under subsection (j)(2)) for that fiscal year.

(h) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure coordination and efficient use of funds, the order shall provide that, except as provided in paragraph (4), the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this subtitle with established national, nonprofit producer-governed organizations that represent soybean producers (including the organization electing representatives to the Committee under subsection (e)(2)), and for the payment of the cost thereof with funds received by the Board under the order.

(2) LIMITATION ON AGREEMENTS.—To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities under this subtitle, shall ensure that all plans or projects implemented within each program area defined in paragraphs (4), (7), (13), and (15) of section 2007, are implemented by a single national, nonprofit producer-governed organization that represents soybean producers, and there shall not be in force, at any one time, more than one contract or agreement for implementation of plans and projects for each general program area.

(3) REQUIREMENTS.—Any contract entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall disclose estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of the activities it has conducted, and make such other reports as the Board or the Secretary shall require.

(4) COMMUNICATIONS TO PRODUCERS.—The order shall provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) APPORTIONMENT OF FUNDS TO QUALIFIED STATE SOYBEAN BOARDS.—

(A) IN GENERAL.—In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) EXCEPTION.—The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(i) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(j) ASSESSMENTS.—

(1) IN GENERAL.—

(A) FIRST PURCHASERS.—

(i) COLLECTION.—The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) RATE.—The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) ONE ASSESSMENT.—No more than one assessment shall be made on any soybeans.

(B) DIRECT PROCESSING.—The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an

assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) REFUNDS.—

(A) REFUNDS PRIOR TO INITIAL REFERENDUM.—The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 2010(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) ADMINISTRATION.—Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) SUBMISSION OF REFUND DEMANDS.—

(i) IN GENERAL.—In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) NO QUALIFIED STATE SOYBEAN BOARD.—In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) TIME LIMIT FOR MAKING REFUND.—Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) ORDER NOT FAVORED.—If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 2010(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 2010(a).

(F) REFUNDS AFTER THE INITIAL REFERENDUM.—

(i) IN GENERAL.—The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 2010(a) as required in this subparagraph.

(ii) AVAILABILITY.—Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 2010(a) and ending on a date (not later than 18 months thereafter) established by the Secretary, the Board shall make refunds available to soybean producers at the end of such period from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) POLL.—Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 2010(b)(3), to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) REFERENDUM.—If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 10 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 2010, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) CONTINUED REFUNDS.—If the Secretary conducts a referendum under clause (iv), the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) CONTINUATION OR CESSATION OF REFUNDS.—If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) ESCROW ACCOUNTS.—

(I) ESTABLISHMENT.—The Board and each qualified State soybean board that collects assessments shall establish escrow accounts to be used to pay refunds under clause (ii) and, if necessary, clauses (v) and (vi).

(II) SEPARATE ACCOUNTS.—The Board shall establish separate escrow accounts for refunds under clauses (ii), (v), and (vi), respectively. Each qualified State soybean board that collects assessments shall establish separate escrow accounts for refunds under each such clause for State funds.

(III) DEPOSITS.—The Board shall deposit into its escrow accounts under clauses (ii), (v), and (vi) 10 percent of the total assessment received by the Board during the time period involved. Each qualified State soybean board shall deposit into each of its escrow accounts 10 percent of collected assessment funds retained by the State board under this subsection during the applicable time period.

(IV) REFUNDS MADE FROM ACCOUNT.—With respect to refunds handled by the Board, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the time period involved shall be made from the Board's escrow account applicable to that clause. With respect to refunds handled by qualified State soybean boards, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the refund period involved shall be made first from the escrow account under such clause for State funds, and only after such escrow account is exhausted, from the escrow account under such clause for Board funds. If the funds in a State board's account for the clause involved are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the Board shall pay such refund requests to such producers. If the funds in the Board's escrow account are insufficient to honor all requests, the Board and the State shall prorate the amount of such refunds from both the State's account and that portion of the Board's account representing funds received by the Board from that State among all producers from that State requesting refunds. In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) USE.—The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than the poll and referendum conducted under paragraph (2)(F).

(4) CREDIT FOR CONTRIBUTIONS TO QUALIFIED STATE SOYBEAN BOARDS.—A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this subtitle, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(k) LOAN COLLATERAL.—

(1) IN GENERAL.—The order may establish a procedure that authorizes the reimbursement of assessments paid by producers if soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting the assessments in the manner prescribed in the order.

(2) SINGLE PROCESS.—The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable and subject to paragraph (1), that such soybeans are subject to a single process of assessment under the order.

(l) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to the date of enactment of this Act, except that

the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(m) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

(1) PRE-REFERENDUM PERIOD.—The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 2010(a), each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) POST-REFERENDUM PERIOD.—The order shall provide, effective after the conduct of the referendum provided for in section 2010(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) LIMITATION.—The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (j) (net of any refunds made under paragraph (2) of subsection (j)) in that year.

(n) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(o) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order; or

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order.

(p) BOOKS AND RECORDS.—

(1) RECORDKEEPING REQUIREMENT.—

(A) IN GENERAL.—The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order, except that the order shall exempt small producers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) DEFINITION OF SMALL PRODUCER.—The order shall define the term "small producer" as such term is used in subparagraph (A).

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this subtitle, or any order or regulation issued under this subtitle.

(B) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this subtitle of information regarding first purchasers that is accumulated under a law or regulation other than this subtitle or regulations under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board.

(B) PERMITTED USES.—Information obtained under the authority of this subtitle shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this subtitle;

(ii) any investigatory or enforcement action necessary for the implementation of this subtitle; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than 1 year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(q) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 2010. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—Not earlier than 18 months or later than 36 months following issuance of an order under section 2008, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

(3) APPROVAL OF ORDER.—Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this Act and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) TIME LIMIT.—Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under subsections (a) and (b), except for the salaries of Government employees.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

SEC. 2011. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to any order issued under this subtitle may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary under such rules or regulations as the Secretary considers necessary to facilitate such services of process.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

SEC. 2012. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 2013. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subtitle or to determine whether any person subject to this subtitle has engaged or is about to engage in any act that constitutes or will constitute a violation of this subtitle, or of any order or regulation issued under this subtitle.

(b) POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to

produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 2014. ADMINISTRATIVE PROVISIONS.

(a) PREEMPTION OF OTHER PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this subtitle may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) EXCEPTIONS.—

(A) REFERENDA ON QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure the proper administration of this subtitle, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 2008 and ending 18 months after the referendum on such order is conducted under section 2010(a), except that such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion program that do not involve termination of the qualified State soybean board.

(B) ASSESSMENTS COLLECTED BY QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure adequate funding of the operations of qualified State soybean boards under this subtitle, whenever an order is in effect under this subtitle, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 2009(j)(4).

(b) AMENDMENTS TO ORDERS.—Except as otherwise provided in sections 2009(d)(1) and 2009(b)(2)(F), the provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

SEC. 2015. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision.

SEC. 2016. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this subtitle.

SEC. 2017. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle, including regulations relating to the assessment of late payment charges.

Subtitle B—Cotton

SEC. 2021. SHORT TITLE.

This subtitle may be cited as the "Cotton Research and Promotion Act Amendments of 1990".

SEC. 2022. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended—

(1) in the first paragraph, by striking the fourth and sixth sentences; and

(2) in the third paragraph—

(A) by striking "harvested" and inserting "marketed"; and

(B) by inserting "and on imports of cotton" after "United States" the first place it appears.

SEC. 2023. ALTERNATIVE ORDER.

(a) IN GENERAL.—The Cotton Research and Promotion Act is amended by inserting after section 7 (7 U.S.C. 2106) the following new section:

"SEC. 7A. ALTERNATIVE ORDER.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 4, 5, 7, and 8 that are inconsistent with this section, the Secretary shall publish the proposed alternative order required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement the Cotton Research and Promotion Act Amendments of 1990.

"(2) TERMS AND CONDITIONS.—Any alternative order issued pursuant to this section shall—

"(A) contain the terms and conditions prescribed in this section; and

"(B) terminate the authority of the Cotton Board to accept and process applications for refunds under section 11.

"(3) RELATIONSHIP TO OTHER ORDER.—

"(A) PROVISIONS.—In issuing the alternative order under this section, the Secretary shall incorporate by reference the provisions of the cotton research and promotion order in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative order.

"(B) BOARD MEMBERS.—Each member of the Cotton Board that is sitting on the effective date of the alternative order shall continue to serve the full term of appointment of the member pursuant to section 7.

"(b) COTTON BOARD.—

"(1) ESTABLISHMENT.—The alternative order shall provide for the establishment and selection by the Secretary of a Cotton Board.

"(2) POWERS AND DUTIES.—The alternative order shall define the powers and duties of the Cotton Board, which shall include only the powers—

"(A) to administer such order in accordance with the terms and provisions of such order;

"(B) to make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting assessments;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such order; and

"(D) to recommend to the Secretary amendments to such order.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative order shall provide that the Cotton Board shall be composed of—

"(i) representatives of cotton producers selected by the Secretary from nominations submitted by—

"(I) eligible producer organizations within a cotton-producing State, as certified pursuant to section 14; or

"(II) if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary,

so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States; and

"(ii) an appropriate number of representatives, as established by the Secretary, of persons who import cotton into the United States on which assessments are paid under this Act.

"(B) COTTON PRODUCERS.—Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

"(C) IMPORTERS.—Importer representatives under subparagraph (A)(ii) shall be appointed by the Secretary after consultation with importer organizations certified by the Secretary.

"(D) CONSUMER ADVISORS.—The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 percent of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

"(c) PLANS AND PROJECTS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), develop and submit to the Secretary for the approval of the Secretary any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

"(d) BUDGETS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), submit to the Secretary for the approval of the Secretary, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

"(e) ASSESSMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment in the manner as prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures. The provisions of subparagraphs (A) and (B) shall not apply to cottonseed and the products derived from cotton and its seed.

"(2) RESERVE.—The alternative order shall include provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified

by the Secretary, and for reimbursing the Secretary—

"(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after the alternative order or amendment to the alternative order has been issued and made effective.

"(3) REIMBURSEMENT OF OTHER AGENCIES.—There shall also be included in the alternative order a provision for reimbursing any agency of Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection with providing such assistance.

"(4) DIFFERENT CLASSES.—To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers, or classes of handlers or importers, to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by this subsection.

"(5) RATE.—The rate of assessment prescribed by the alternative order shall be $1 per bale of cotton handled, plus a supplemental amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary.

"(6) REFERENDA.—No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(7) SUITS.—

"(A) IN GENERAL.—The Secretary may maintain a suit against any person subject to the alternative order for the collection of such assessment.

"(B) JURISDICTION.—The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

"(C) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(8) COTTON IMPORTS.—Notwithstanding the foregoing provisions of this subsection—

"(A) the rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment described in the preceding provisions of this subsection;

"(B) the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner; and

"(C) the assessment on such imports shall be reduced by a percentage equivalent to the proportion that exports of cotton that were reentered into the United States in the form of cotton and products derived from such cotton bears to the total exports of cotton of all exporters in the most recent year for which statistics are available.

"(f) BOOKS AND RECORDS.—The alternative order shall provide that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to the Cotton Board.

"(g) CONTRACTS AND AGREEMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for—

"(A) the development and carrying out of the activities authorized under the order issued pursuant to subsections (a) and (b) of section 6; and

"(B) the payment of the costs thereof with funds collected pursuant to the order, with an organization or association described in paragraph (2).

"(2) ELIGIBLE CONTRACTING ORGANIZATIONS.—For purposes of this subsection, an organization or association is eligible to enter into a contract if the governing body of the organization or association consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization or association in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States.

"(3) PROJECTS; BUDGETS.—Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertizing, and sales promotion projects, together with a budget, or budgets, that shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective on approval by the Secretary.

"(4) RECORDS.—Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

"(h) INFLUENCING GOVERNMENTAL ACTION.—The alternative order shall provide that no funds collected by the Cotton Board under the alternative order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).".

(b) CONFORMING AMENDMENT.—The matter preceding subsection (a) of section 6 of the Cotton Research and Promotion Act (7 U.S.C. 2105(a)) is amended by inserting after "section 7" the following "or 7A".

SEC. 2024. REFERENDA REQUIREMENTS FOR ALTERNATIVE ORDER.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2107) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b)(1) Not later than 120 days after publication of the proposed alternative order pursuant to section 7A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative order in accordance with section 7A. Such alternative order shall become effective as provided in this subsection.

"(2) Notwithstanding the foregoing provisions of this section, the Secretary shall, within a period not to exceed 8 months after the date of enactment of this subsection, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, for the purpose of ascertaining if a majority of those voting approve the proposed alternative order under section 7A. The Secretary shall promptly publish the results of the referendum.

"(3) If the alternative order is approved in the referendum, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish regulations implementing the alternative order provided for in section 7A. Such alternative order shall be effective on an interim basis beginning with the date of publication and shall continue in effect pending the results of another referendum and issuance of a final regulation as provided in subsection (c).

"(c)(1) If the producers specified in subsection (b) approve the alternative order, the Secretary shall conduct another referendum no sooner than 15 but no later than 30 months after the date of the referendum conducted under subsection (b) to determine whether cotton producers and importers of cotton favor the alternative order issued under section 7A.

"(2) Such referendum shall be conducted among—

"(A) persons who have been cotton producers during a representative period, as determined by the Secretary; and

"(B) persons who are importers of cotton and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum under this section, paid an assessment on imports of cotton.

"(3) The Secretary shall promptly publish the results of the referendum.

"(4) If the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum, the Secretary shall issue an order terminating the alternative order.

"(5) If the alternative order is not disapproved, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish final regulations implementing the alternative order provided for in this subsection.

"(6)(A) The Board shall place in an escrow account an amount equal to the product obtained by multiplying by 10 percent the assessments collected from producers and importers during the period prior to announcement of the results of the referendum provided for in this subsection. The funds shall be held in the escrow account until the results of the referendum are published by the Secretary.

"(B) If the alternative order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this Act.

"(C)(i) If the alternative order is not approved in such referendum, the funds in the escrow account shall be refunded to the producers and importers who have requested a refund under clause (ii), after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order as described in section 7A.

"(ii) A producer or importer shall have the right to receive a refund—

"(I) if demand is made personally by the producer or importer, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event later than 90 days after the date of publication of the results of the referendum; and

"(II) on submission of proof satisfactory to the Board that the person or importer paid the assessment for which refund is sought and did not collect the assessment from another person.

"(iii) Any funds not refunded to producers and importers shall be released to be used to carry out this Act.

"(d)(1) If a referendum is conducted under subsection (c), once every 5 years after the date of such referendum, the Secretary shall provide producers and importers an opportunity to request a referendum to determine—

"(A) whether the producers and importers favor continuation of the alternative order to the order required under subsection (b)(1), if such alternative order is then in effect; or

"(B) if such an alternative order is not in effect, whether they favor approval of such alternative order.

"(2) Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service or the office of the county extension agent or by mailing a request on such date to the Administrator, Agricultural Marketing Service, Washington, District of Columbia.

"(3) The signup date shall be publicized by the Secretary and the Cotton Board at least 60 days prior to such date.

"(4) The Secretary shall conduct such a referendum within 12 months after such signup date if a referendum is requested by 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that not more than 20 percent of the persons requesting the referendum may be producers from any one State or importers of cotton.

"(5) The alternative order shall not be effective if the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum.

"(e) The disapproval of any alternative order or of an amendment to an alternative order issued under this Act shall not operate to invalidate the order in effect on the date of the referendum.".

SEC. 2025. PRODUCER REFUNDS; TERMINATION.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended—

(1) by striking "Notwithstanding" and inserting "(a) Except as provided in subsection (b) and notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) The authority of the Cotton Board to accept and process applications for refunds under this section shall terminate if the alternative order issued under section 7A is approved in the referendum provided for under section 8. Such authority shall terminate on the date the Secretary publishes the results of such referendum. Such authority shall be reinstated if the alternative order should be disapproved in any subsequent referendum.".

SEC. 2026. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

"(c)(1) Except as provided in paragraph (2), the term 'cotton' means—

"(A) all upland cotton harvested in the United States, and, except as used in sections 7(e) and subparagraphs (A) and (B) of section 7A(e)(1), includes cottonseed of such cotton and the products derived from such cotton and its seed; and

"(B) imports of upland cotton, including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary).

"(2) The term 'cotton' shall not include—

"(A) any entry of imported cotton by an importer that has a value or weight less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(B) any entry by a person during a year if—

"(i) the total cotton imported by that person during the preceding year, including the upland cotton content of products derived from upland cotton (other than industrial products), was less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(ii) such person certifies that the person intends to import less than such de minimis quantity in the current year, except that the term 'cotton' shall include all imports of cotton by such person during the current year if that person actually imports more than the de minimis quantity in the current year.

"(3) The de minimis quantities established under subparagraphs (A) and (B) of paragraph (2) shall be such as to minimize the burden in administering the assessment provisions of this Act but still provide for the maximum participation of imports of cotton in such provisions.";

(2) in subsection (d), by inserting after "cottonseed" the following: "or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton (including cotton described in subparagraphs (A) and (B) of subsection (c)(2),"; and

(3) by adding at the end the following new subsection:

"(h)(1) The term 'importer' means any person who enters, or withdraws from a warehouse, cotton for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry.".

SEC. 2027. CONFORMING AMENDMENT.

Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended by adding at the end the following new sentence: "The provisions of this subsection shall not apply to cottonseed and the products derived from cotton and its seed.".

Subtitle C—Pecans

SEC. 2031. SHORT TITLE.

This subtitle may be cited as the "Pecan Promotion and Research Act of 1990".

SEC. 2032. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exists established State organizations conducting pecan promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce and directly burden or affect interstate commerce in pecans.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce pecans.

SEC. 2033. DEFINITIONS.

As used in this subtitle:

(1) BOARD.—The term "Board" means the Pecan Marketing Board established in section 2038(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or director has a direct or indirect interest or investment in an entity, corporation, business, or a company dealing directly or indirectly with the Board.

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) DISTRICT.—The term "district" means the four geographic subdivisions of the United States that are approximately equal in the production volume of pecans, as determined by the Board and approved by the Secretary.

(6) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of pecans from a grower. If a grower markets pecans directly, such grower shall be considered the first handler.

(7) GROWER.—The term "grower" means any person engaged in a proprietary capacity in the production and sale of pecans.

(8) GROWER-SHELLER.—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the continental United States; and

(B) grows 50 percent or more of the pecans such person shells or has shelled for such person.

(9) HANDLE.—The term "handle" means receipt of inshell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(10) IMPORTER.—The term "importer" means any person who imports pecans from a country outside of the United States for sale in the United States.

(11) INSHELL PECAN.—The term "inshell pecan" means a pecan that has a shell that has not been removed.

(12) MARKETING.—The term "marketing" means the sale or other disposition of pecans in any channel of commerce.

(13) MARKETING YEAR.—The term "marketing year" means the 12-month period from October 1 through September 30 or such other period of the time as may be recommended by the Board and established by the Secretary.

(14) MEMBER.—The term "member" means a member of the Board.

(15) PECAN.—The term "pecan" means the nut of the pecan tree carya illinoensis, both in-shell or shelled equivalent, grown within the United States, or imported into the United States, that are introduced into the channels of commerce.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, or any other business unit.

(17) PROMOTION.—The term "promotion" means any action taken by the Board, pursuant to this subtitle, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(18) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(19) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(20) SHELL.—The term "shell" means to remove the shell from an in-shell pecan.

(21) SHELLED PECAN.—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(22) SHELLER.—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) purchases more than 50 percent of the pecans such person shells or has shelled for such account.

(23) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 2034. AUTHORITY TO ISSUE ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2032(b), the Secretary shall, subject to this subtitle, issue and from time to time amend, orders applicable to growers, shellers, first handlers, and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

SEC. 2035. NOTICE AND HEARINGS.

(a) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this subtitle, or an association of pecan growers or grower-shellers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(b) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

SEC. 2036. FINDINGS AND ISSUANCE OF ORDERS.

(a) IN GENERAL.—After notice and opportunity for public comment are given, as provided in section 2035, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle.

(b) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

SEC. 2037. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 2038. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) PECAN MARKETING BOARD.—

(1) ESTABLISHMENT.—The order shall establish a Pecan Marketing Board to carry out the program referred to in section 2032(b).

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) eight members who are growers;

(B) four members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, appointed by the Board; and

(F) at the option of the Board, a consultant or advisor representing a pecan producing country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) REPRESENTATION OF MEMBERS.—

(A) GROWER REPRESENTATIVES.—Of the growers referred to in paragraph (3)(A), two members shall be from each of the four districts in the United States.

(B) SHELLER REPRESENTATIVES.—Of the shellers referred to in paragraph (3)(B)—

(i) two members shall be from east of the Mississippi River; and

(ii) two members shall be from west of the Mississippi River.

(C) FIRST HANDLER REPRESENTATIVE.—The first handler representative on the Board referred to in paragraph (3)(C) shall be from one of the districts.

(D) IMPORTER REPRESENTATIVE.—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans to the United States.

(E) PUBLIC REPRESENTATIVE.—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, sheller, or first handler.

(5) ALTERNATE FOR EACH MEMBER.—Each member on the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) LIMITATION ON STATE RESIDENCE.—There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State representing the district that it is in.

(7) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States and the volume of imported pecans; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production and the quantity of imported pecans.

(8) NOMINATION PROCESS FOR MEMBERS.—

(A) PUBLICITY.—The Board shall give reasonable publicity to the industry for nomination of persons interested in being elected to Board membership.

(B) ELIGIBILITY.—Any person referred to in paragraph (3) shall be eligible to vote at the nomination meetings for members who represent that class of members.

(C) NOMINATION OF MEMBERS.—Each person referred to in subparagraph (B) shall have one vote. The candidates receiving the largest number of votes cast for Board positions for each class of members shall be the nominees for such positions.

(D) CERTIFICATION.—The nominations made under subparagraph (C) shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) APPOINTMENT.—The Secretary shall appoint the Board members certified under subparagraph (D).

(F) INITIAL BOARD.—For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Board under this paragraph.

(9) TERMS OF OFFICE.—

(A) IN GENERAL.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) TERMINATION OF TERMS.—Each member shall continue to serve until a successor is appointed by the Secretary.

(C) LIMITATION ON TERMS.—No member shall serve more than 2 consecutive 3-year terms as a member.

(D) VACANCIES.—

(i) SUBMITTING NOMINATIONS.—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that nominations for a successor for such vacancy be submitted by the Board.

(ii) LACK OF NOMINATIONS.—If no eligible nomination is submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson and such other officers as may be necessary to select committees and subcommittees of Board members;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 2040, and a fiscal period budget of the anticipated expenses in the administration of this subtitle, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and development;

(9) to carry out research and development, advertising or promotion, and pay the costs of such projects with funds collected pursuant to subsection (g), subject to subsections (d) and (e) of section 2039;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, and the public to assist in the development of research and promotion programs for pecans;

(12) to refrain from engaging in any action that would be a conflict of interest;

(13) to not engage in any advertising that may be false or misleading;

(14) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(15) to receive, investigate, and report to the Secretary complaints of violations of the order;

(16) to furnish the Secretary with such information as the Secretary may request;

(17) to recommend to the Secretary amendments to the order; and

(18) to develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out this subtitle.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, development, advertising, consumer information, and industry information plans and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for research, development, advertising, or promotion of pecans, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid from assessments collected under section 2040 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) LIMITATION ON SPENDING.—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under subsection (g) for administration of the Board.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) GROWER AND GROWER-SHELLER ORGANIZATIONS.—The order shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those provided in paragraph (2).

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) PROHIBITION.—No fund collected by the Board under this subtitle shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to this subtitle.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler, grower-sheller, or importer subject to this subtitle shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this subtitle of information regarding first handlers, grower-shellers, and importers that may be accumulated under a law or regulation other than this subtitle or regulations under this subtitle.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (B) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) BOARD MEMBERS AND EMPLOYEES.—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph shall prohibit the issuance of general statements based on reports of a number of first-handlers, grower-shellers, or importers, subject to the plan if such statements do not identify the information furnished by any person.

(5) AVAILABILITY OF INFORMATION.—

(A) EXCEPTION.—Except as provided in section 2042, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly

authorized committee or subcommittee of Congress.

(i) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as necessary to effectuate this subtitle.

SEC. 2039. PERMISSIVE TERMS IN ORDERS.

(a) IN GENERAL.—An order issued pursuant to this subtitle may contain one or more of the terms and conditions contained in this section.

(b) EXEMPTIONS.—The order may provide authority to exempt from the order pecans used for nonfood uses, and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers, and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this subtitle.

(e) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to this subtitle, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the order for 2 years.

(g) FOREIGN MARKETS.—The order may provide authority to use funds collected under this subtitle, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(h) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle that are necessary to effectuate the other provisions of the order.

SEC. 2040. ASSESSMENTS.

(a) IN GENERAL.—During the effective period of this subtitle, assessments shall be—

(1) levied on all pecans produced in, or imported into, the United States; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under subsection (a) on a first handler, importer, or grower-sheller for any lot of pecans handled.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) a grower-sheller who markets pecans, in the form of pecans, to consumers either directly, through retail or wholesale outlets, or for export purposes.

(2) TIMES TO REMIT ASSESSMENT.—

(A) FIRST HANDLERS.—Each first handler who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed.

(B) GROWER-SHELLERS.—Each grower-sheller who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on March 31, June 30, and September 30 or such dates as may be recommended by the Board and approved by the Secretary during the fiscal year that the pecans being assessed were produced and harvested.

(3) IMPORTERS.—Importers of pecans into the United States shall pay the assessment at the time the pecans or pecan equivalents enter the United States and such assessment shall be remitted to the Board.

(d) ASSESSMENT RATE.—

(1) IN GENERAL.—Assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of the plan and ending on the date the referendum is conducted under section 2044, one-half cent per pound in-shell or the equivalent; and

(B) after such period, up to 2 cents per pound in-shell or the equivalent.

(2) ADJUSTING RATE FOR OUT-OF-SHELL PECANS.—The in-shell rate of assessment established under paragraph (1) shall be established for shelled pecans or pecan equivalents at twice such in-shell rate.

(3) SPECIAL STATE ASSESSMENT.—In addition to the maximum assessment rate prescribed in paragraph (1), an additional one-quarter cent special State assessment may be remitted to the Board in a manner prescribed by the Secretary for the purpose of utilizing such funds by the State Board for research projects to promote pecans conducted pursuant to State law.

(e) LATE CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit to the Board the total amount that such person is liable for on or before the due date established by the Board under subsection (c)(2).

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board and approved by the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the order and ending on the date the referendum is conducted under section 2044.

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments collected from such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is responsible for paying such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this subtitle; and

(C) the program established by this subtitle is not approved pursuant to the referendum conducted under section 2044.

(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) MAKING OF REFUND.—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible growers, grower-shellers, or importers under this subsection and the program established by this subtitle is not approved pursuant to the referendum conducted under section 2044, the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) PROGRAM APPROVED.—If the program established by this subtitle is approved pursuant to the referendum conducted under section 2044, all funds in the escrow account shall be returned to the Board for use by the Board and no refunds shall be paid.

SEC. 2041. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2042(a).

SEC. 2042. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subtitle or a regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General a violation of this subtitle or a regulation issued under this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of this subtitle or a regulation issued under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under this subtitle or a regulation issued under this subtitle, may be assessed a civil penalty by the Secretary of not less than $1,000 nor more than $10,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 2043. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this subtitle, or any plan, rule, or regulation issued under this subtitle.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 2044. REQUIREMENT OF REFERENDUM.

(a) IN GENERAL.—Not later than 24 months after the effective date of this subtitle, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the order.

(b) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under this subtitle, the Secretary determines that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this subtitle, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this subtitle shall be conducted in such a manner as is determined by the Secretary.

(2) ADVANCE REGISTRATION.—A pecan grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this subtitle (1) shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service for such pecan grower or grower-sheller, after receiving notice from such office concerning such referendum under paragraph (4).

(3) VOTING.—A pecan grower, grower-sheller, or importer who votes in any referendum conducted under this subtitle shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service.

(4) NOTICE.—Each Agricultural Stabilization and Conservation Service office shall notify all pecan growers and grower-shellers in the area of such office at least 30 days prior to a referendum conducted under this subtitle. Such notice shall explain the procedure established under this subsection.

SEC. 2045. SUSPENSION OR TERMINATION OF ORDERS.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or 10 percent or more of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—The Secretary shall terminate or suspend such order, in accordance with section 2044(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 2044 shall apply to a referendum conducted under this subsection.

SEC. 2046. AMENDMENTS.

The provisions of this subtitle applicable to plans shall be applicable to amendments to plans.

SEC. 2047. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this subtitle.

Subtitle D—Mushrooms

SEC. 2051. SHORT TITLE.

This subtitle may be cited as the "Mushroom promotion, Research, and Consumer Information Act of 1990".

SEC. 2052. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out, an effective, continuous, and coordinated program of promotion, research, and consumer and industry information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 2053. DEFINITIONS.

As used in this subtitle—

(1) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) COUNCIL.—The term "Council" means the Mushroom Council established under section 2055(b).

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means any person, as described in an order issued under this subtitle, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

(6) IMPORTER.—The term "importer" means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that are designed to lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) MUSHROOMS.—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are marketed, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) PROMOTION.—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 states of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 2054. ISSUANCE OF ORDERS.

(a) GENERAL.—To effectuate the declared policy of section 2052(b), the Secretary, subject to the procedures provided in section (b), shall issue orders under this subtitle applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURES.—

(1) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this subtitle, or an association of mushroom producers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order the provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 2056(a), shall become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—

(1) IN GENERAL.—The Secretary may amend any order issued under this section.

(2) APPLICATION OF SUBTITLE.—The provisions of this subtitle applicable to an order shall be applicable to amendments to the order.

SEC. 2055. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) MUSHROOM COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.—

(A) IN GENERAL.—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least 4 members and not more than 9 members.

(B) MEMBERSHIP.—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorize by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) UNITS.—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into 4 regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) IMPORTERS.—Importers shall be represented as one region, which shall be separate from the regions established for mushrooms produced in the United States.

(D) MEMBERS PER REGION.—The Secretary shall appoint one member from each region if such region produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) ADDITIONAL MEMBERS.—Subject to the limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds production or im-

ports per year, on average, within the region.

(F) CONSIDERATION OF PRODUCERS.—For purposes of this paragraph, in determining average annual mushroom production in each of the 4 regions of the United States established under this paragraph, the Secretary shall only consider mushrooms produced by producers covered by this subtitle, as defined in section 2053(11).

(G) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment to the council, the Secretary may appoint members on a basis provided for in the order.

(3) TERMS AND COMPENSATION.—

(A) TERMS.—The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) COMPENSATION.—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) POWERS AND DUTIES OF THE COUNCIL.—The order shall define the powers and duties of the Council, which shall include the following—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules and regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, approve and submit to the Secretary for approval under subsection (d) budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement such plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may only be used for any purpose for which the invested funds may be used.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Council to submit to the Secretary for approval budgets, on a fiscal year basis, of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) APPROVAL BY SECRETARY.—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organization, and for the payment of the cost thereof with funds received by the Council under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) BOOKS AND RECORDS OF COUNCIL.—

(1) IN GENERAL.—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) AUDITS.—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) ASSESSMENTS.—

(1) COLLECTION AND PAYMENT.—

(A) IN GENERAL.—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribe by the order, assessments from producers and remit the assessments to the Council.

(B) IMPORTERS.—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) DIRECT MARKETING.—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) RATE OF ASSESSMENT.—The rate of assessment shall be determined and announced by the Council and may be changed by the Council at any time. The order shall provide that the rate of assessment—

(A) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(B) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(C) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(D) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) USE OF ASSESSMENTS.—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this subtitle, with provisions for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this subtitle, except for the salaries of government employees incurred in conducting referenda.

(4) LIMITATION ON COLLECTION.—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) PROHIBITION.—The order shall prohibit any funds received by the Council under the order form being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this title and for the submission to the Secretary of recommended voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler and importer of mushrooms maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) AVAILABILITY TO SECRETARY.—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—All information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and the Council, and agents of the Council, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) LIMITATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(4) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Except as provided in section 2058, information obtained under this subtitle may be made available to another agency of the Federal government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to

the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subtitle shall be construed to authorize the withholding of information from Congress.

(j) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate this subtitle, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 2056. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 2054(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 2054(b), if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) SUCCEEDING REFERENDA.—

(1) DETERMINATION CONCERNING ORDER.—

(A) IN GENERAL.—Effective 5 years after the date on which an order becomes effective under section 2054(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) REQUEST FOR REFERENDUM.—Effective beginning 3 years after the date on which an order becomes effective under section 2054(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to ascertain whether producers and importers favor termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspense or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) MANNER.—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 2057. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that person is filed within 20 days after the date of the entry of such ruling of the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 2058.

SEC. 2058. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order, rule, or regulation issued under this subtitle. If the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates a provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist form continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which such person resides or does business, or in the United States district court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—A person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which such failure continues to be considered as a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

SEC. 2059. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subtitle or to determine whether any person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle or of any order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 2057 or 2058, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.

SEC. 2060. SAVINGS PROVISION.

Nothing in this subtitle may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 2061. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall be considered an order under the meaning of this subtitle.

SEC. 2062. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provision of an order issued under this subtitle.

SEC. 2063. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

Subtitle E—Potatoes

SEC. 2071. SHORT TITLE.

This subtitle may be cited as the "Potato Research and Promotion Act Amendments of 1990".

SEC. 2072. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) in the first sentence, by inserting "and foreign countries" after "United States"; and

(B) in the second sentence, by inserting "and imported into the United States from foreign countries" after "United States";

(2) in the second paragraph, by inserting "and imported into the United States from foreign countries" after "United States"; and

(3) in the last paragraph, by inserting "and imported into the United States from foreign countries" after "United States" each place it appears.

SEC. 2073. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting after "United States" the following: "and foreign countries"; and

(2) by adding at the end the following:

"(g) The term 'importer' means any person who imports tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker or consignee for any person or nation that produces Irish Potatoes outside the United States for sale in the United States.".

SEC. 2074. AUTHORITY TO ISSUE PLANS.

The last sentence of section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) by striking "forty-eight contiguous" and inserting "50"; and

(2) by inserting after "United States" the following: "and foreign countries".

SEC. 2075. NOTICE AND HEARINGS.

The first sentence of section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended by inserting "and importers" after "potato producers".

SEC. 2076. REQUIRED TERMS IN PLANS.

Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2617(e)) is amended by striking "one cent" and inserting "two cents".

SEC. 2077. ALTERNATIVE PLAN.

The Potato Research and Promotion Act is amended by inserting after section 308 (7 U.S.C. 2617) the following new section:

"SEC. 308A. ALTERNATIVE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 305, 306, 308, and 314 that are inconsistent with this section, the Secretary shall publish the proposed alternative plan required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such a plan, if the Secretary determines that such alternative plan effectuates the declared policy of this Act.

"(2) TERMS AND CONDITIONS.—Any alternative plan issued pursuant to this section shall contain the terms and conditions prescribed in this section.

"(3) RELATIONSHIP TO OTHER PLAN.—

"(A) PROVISIONS.—In issuing the alternative plan under this section, the Secretary shall incorporate by reference the provisions of the potato research and promotion plan in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative plan.

"(B) BOARD MEMBERS.—Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member pursuant to section 308.

"(b) NATIONAL POTATO PROMOTION BOARD.—

"(1) ESTABLISHMENT.—The alternative plan shall provide for the establishment by the Secretary of a National Potato Promotion Board (hereinafter in this Act referred to as 'the board').

"(2) POWERS AND DUTIES.—The alternative plan shall define the powers and duties of the board, which shall include powers—

"(A) to administer such plan in accordance with the terms and conditions of such plan;

"(B) to make rules and regulations to effectuate the terms and conditions of such plan;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

"(D) to recommend to the Secretary amendments to such plan.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative plan shall provide that the board shall be composed of representatives of producers, one public representative, and up to five representatives of importers appointed by the Secretary from nominations submitted in accordance with this subsection.

"(B) NOMINATION OF PRODUCER AND IMPORTER REPRESENTATIVES.—Representatives of producers and importers shall be nominated by producers and importers in such manner as may be prescribed by the Secretary.

"(C) NOMINATION OF PUBLIC REPRESENTATIVES.—Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary.

"(D) FAILURE TO NOMINATE.—If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan.

"(E) REFERENDUM.—The requirement for inclusion of public representatives on the board shall not be subject to approval in a referendum.

"(4) COMPENSATION.—The alternative plan shall provide that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

"(5) BUDGET.—The alternative plan shall provide that the board shall prepare and submit to the Secretary for the approval of the Secretary a budget, on a fiscal period basis, of the anticipated expenses and disbursements of the board in the administration of the plan, including probable costs of research, development, advertising, and promotion.

"(c) ASSESSMENTS.—

"(1) RATE.—The alternative plan shall provide that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers pursuant to section 314, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

"(2) USE.—The alternative plan shall provide that—

"(A) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this Act, except that the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall

not be subject to producer or importer approval in a referendum;

"(B) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

"(C) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).

"(3) REFUNDS.—The alternative plan shall not provide for a refund of funds collected by the board.

"(d) PROGRAMS AND PROJECTS.—The alternative plan shall provide that the board shall, subject to paragraphs (1) and (2) of subsection (c), develop and submit to the Secretary for the approval of the Secretary any research, development, advertising, or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

"(e) CONTRACTS AND AGREEMENTS.—The alternative plan shall provide the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this Act.

"(f) BOOKS AND RECORDS.—The alternative plan shall provide that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the board and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

"(g) ESCROW ACCOUNT FOR ASSESSMENT REFUNDS.—

"(1) IN GENERAL.—The board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the alternative plan issued under this section and ending on the date of the referendum on the alternative plan issued pursuant to section 314(e).

"(2) AMOUNT PLACED IN ACCOUNT.—The board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(3) RIGHT TO REFUND.—Subject to paragraphs (4), (5), and (6), any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in paragraph (1) if—

"(A) such producer or importer is responsible for paying such assessments;

"(B) such producer or importer does not support the program established under this Act; and

"(C) the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e).

"(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

"(5) PROOF OF PAYMENT.—Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded.

"(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection and the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e), the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(h) APPLICATION TO ALL STATES.—Notwithstanding any other provision of this Act, an alternative plan issued under this section shall apply to all 50 States.".

SEC. 2078. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (d)"; and

(2) by adding at the end the following new subsection:

"(d)(1) The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes under an alternative plan issued under section 308A shall be—

"(A) established by the board so that the effective assessment rate shall equal that established on domestic production; and

"(B) paid by the importer to the Potato Board at the time of entry into the United States.

"(2) Each importer under an alternative plan issued under section 308A shall maintain a separate record indicating—

"(A) the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan; and

"(B) such information as may be prescribed by the board.

"(3) Importers responsible for payment of assessments under this subsection shall—

"(A) maintain and make available for inspection by the Secretary such books and records as are required by the plan;

"(B) file reports at the times, and in the manner, and having the content prescribed by the plan; and

"(C) make such information and data available to the board and Secretary as is appropriate or necessary for the effectuation, administration, or enforcement of this Act or of any plan or regulation issued pursuant to this Act.

"(4) Notwithstanding any other provision of this Act, assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary for implementing and administering the amendments made by Potato Research and Promotion Act Amendments of 1990.".

SEC. 2079. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended—

(1) in subsection (b), by striking "two-thirds of the producers" and inserting "a majority of the producers";

(2) in subsection (c), by inserting "or importers" after "potato producers";

(3) in subsection (d), by inserting "or importer" after "producer"; and

(4) by adding at the end the following new subsection:

"(e)(1) Not later than 120 days after publication of the proposed alternative plan pursuant to section 308A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative plan under section 308A. Such alternative plan shall become effective as provided in this subsection.

"(2) Not later than 24 months after the date of issuance of the alternative plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes, for the purpose of ascertaining whether the alternative plan issued under section 308A is approved or disapproved by such producers and importers.

"(3) Such alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers voting in the referendum.

"(4) If such alternative plan is not approved, the Secretary shall terminate such alternative plan, and the original plan issued under section 308 shall become effective.".

SEC. 2080. AMENDMENT PROCEDURE.

Section 316 of the Potato Research and Promotion Act (7 U.S.C. 2625) is amended by inserting before the period at the end the following: ", except that amendments to plans may be implemented through (1) notice and comment procedures, or (2) notice and hearing procedures, with approval by a majority of those persons eligible and voting in a referendum, prior to issuance of the amended plan as determined appropriate by the Secretary".

SUBTITLE F—HONEY

SEC. 2085. SHORT TITLE.

This title may be cited as the "Honey Research, Promotion, and Consumer Information Act Amendments of 1990".

SEC. 2086. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended by—

(1) in paragraph (8)—

(A) striking "or who acts" and inserting "or acts"; and

(B) inserting before the period at the end the following: "and who is listed in the import records as the importer of record for such honey or honey products"; and

(2) adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 2087. REQUIRED TERMS IN ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (c)—

(A) by amending paragraph (2)(C) to read as follows:

"(C) two members who are either importers or exporters, of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following paragraph (2)(E), by striking "nominate an alternate or alternates" and inserting "submit nominations for an alternate";

(C) at the end of paragraph (2), by adding the following sentence: "However, no producer-packer who, during any three of the

preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer."; and

(D) in paragraph (4), inserting before the period at the end the following: ", except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed"; and

(2) by adding at the end the following new subsection:

(k) Any patent on any product, copyright on any material, or any invention, product formulation or publication developed through the use of funds collected by the Honey Board shall be the property of the Honey Board. The funds generated from any such patent, copyright, invention, product formulation, or publication shall inure to the benefit of the Honey Board.".

SEC. 2088. ASSESSMENTS.

(a) Assessment Rate and Exemptions.—Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is further amended—

(1) in subsection (e)(1) by striking the second and third sentences and inserting the following: "The assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 9."; and

(2) by striking subsection (e)(2) and inserting the following:

"(2)(A) Honey that is consumed at home by the producer or importer or donated by the producer or importer to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sold shall be exempt from assessment under the order, except that donated honey that later is sold in a commercial outlet by a donee or a donee's assignee shall be subject to assessment on such sale.

"(B)(i) A producer, producer-packer, or importer who produces or imports during any year less than 6,000 pounds of honey shall be eligible for an exemption in such year from paying an assessment on honey such person distributes directly through local retail outlets, as determined by the Secretary, during such year.

"(ii) In order to claim an exemption under this subparagraph, a person shall submit an application to the Honey Board stating the basis on which the person claims the exemption for such year.

"(iii) If, after a person claims an exemption from assessments for any year under this subparagraph, such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.

"(3) If a producer, producer-packer, or importer does not pay any assessments under this Act due to the applicability to such person of the exemptions from assessments provided in paragraph (2), then such producer, producer-packer, or importer shall not be considered a producer or importer for purposes of voting in any referendum conducted under this Act during the period the person's exemption from all assessments is in effect.".

(b) COLLECTION OF ASSESSMENTS; REFUNDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) in subsection (a), by striking "and (e)" and inserting "(e), and (i)";

(2) by amending subsection (d) to read as follows:

"(d) In any case in which a loan is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949, or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds promptly after each occasion when an assessment is deducted from any such loan funds under this subsection.";

(3) in subsection (f), by inserting after "assessments" the following: ", and persons receiving an exemption from assessments under section 7(e)(2),";

(4) in subsection (h), by—

(A) striking "Any" and inserting "(1)(A) Except as otherwise provided in paragraph (2), any";

(B) striking "to importers" and inserting "an importer";

(C) striking "from importers" and inserting "from such importer"; and

(D) adding at the end the following:

"(B) A producer that has obtained a honey price support loan under the agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(2) With respect to the order in effect on the date of the enactment of this paragraph, following the referendum on such order required under section 13(b)(2), a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to terminate refunds under the order is defeated in such referendum."; and

(5) by inserting after subsection (h) the following:

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.".

SEC. 2089. FIRST RECONFIRMATION REFERENDUM.

(a) IN GENERAL.—Section 13(b) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "Five" and inserting "(1) Except as otherwise provided in paragraph (2), five";

(2) striking "continuation, termination," and inserting "termination"; and

(3) inserting at the end the following:

"(2)(A) In lieu of the first referendum otherwise required to be conducted under paragraph (1) for the order in effect on the date of the enactment of this paragraph, the Secretary shall conduct a referendum to determine if honey producers and importers favor—

"(i) the continuation of the order; and

"(ii) termination of the authority for producers and importers to obtain a refund of assessments under section 9(h)(1).

The referendum shall be conducted at the time the first referendum otherwise required under paragraph (1) would have been conducted, except for the operation of this paragraph.

"(B)(i) The Secretary shall terminate such order at the end of the marketing year during which such referendum is conducted, if the Secretary determines that termination of the order is approved or favored by not less than a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

"(ii) If the Secretary determines that termination of the authority for producers and importers to receive refunds of assessments under section 9(h)(1) is favored or approved by a majority of the producers and importers voting in such referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum, then the Secretary shall amend such order as necessary to reflect the vote of producers and importers, Such amendment to the order shall become effective on the date it is issued, but in no case more than 180 days after the conduct of such referendum.".

(b) CONFORMING AMENDMENT.—Section 13(d) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "such order" and inserting "an order";

(2) inserting "in which a referendum is conducted under subsection (b) or (c)" after "marketing year"; and

(3) striking "of the order".

SEC. 2090. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

"INVESTIGATIONS AND POWER TO SUBPOENA

"SEC. 11A. (a) IN GENERAL.—The Secretary may make such investigations as the Secretary deems necessary—

"(1) for the effective administration of this Act; or

"(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this Act, or of any order, rule, or regulation issued under this Act.

"(b) POWER TO SUBPOENA.—(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secrtary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

"(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 10 or section 11, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such

records may be required from any place in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

"(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

"(f) HEARING SITE.—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.".

SEC. 2091 CONFORMING AMENDMENT TO ORDER.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture, after notice and opportunity for public comment, shall issue an amendment to the order in effect under such Act on the date of the enactment of this Act to conform such order to the amendments made by this title, which shall become effective on the date of the publication of such amendment to the order in the Federal Register without a referendum thereon (except for the referendum specifically provided for under section 05). The Secretary shall issue such amendment to the order in final form not later than 150 days after the date of the enactment of this Act.

SUBTITLE G—VIDALIA ONIONS

SEC. 2095. VIDALIA ONIONS.

(2) PROHIBITION.—No person shall label, package, classify, identify, or otherwise designate for sale any onions as "Vidalia onions", "Vidalias", or with any other usage of the term "Vidalia", unless such onions—

(1) are produced in the "Production area", as that term is defined in section 955.4 of Federal Marketing Order No. 955, in effect on the date of enactment of this Act, as contained in part 955 of title 7, Code of Federal Regulations; and

(2) satisfies the definition of the term "Vidalia onions" contained in section 955.5 of the Order.

(b) VIOLATIONS.—A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b (4) and (5)).

BOND (AND OTHERS) AMENDMENT NO. 2382

Mr. BOND (for himself, Mr. LUGAR, Mr. BOSCHWITZ, Mr. GRASSLEY, Mr. DOLE, and Mr. MCCONNELL) proposed an amendment to the bill S. 2830, supra, as follows:

On page 1081, after line 10, add the following new title:

TITLE —CROP INSURANCE

SECTION 01. SHORT TITLE.

This title may be cited as the "Federal Crop Insurance Adjustment Act of 1990.".

SEC. 02. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) a sound system of crop insurance promotes the national welfare by improving the economic stability of American agriculture;

(2) crop insurance should provide reasonable protection against natural disasters;

(3) ad hoc disaster assistance has effected adversely the existing system of Federal crop insurance;

(4) the existing Federal crop insurance system has not been able to provide crop insurance on an actuarially sound basis;

(5) the existing Federal crop insurance system remains unable to offer coverage tailored to the individual needs of agricultural producers; and

(6) efforts to reform the existing Federal crop insurance system should not lead to increased Federal outlays;

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to modify the Federal crop insurance system to begin the process of achieving a sound system of crop insurance.

SEC. 03. IMPROVEMENT OF OPERATION.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in subsection (i), by striking out "and" at the end thereof;

(2) in subsection (j), by striking out "and" at the end thereof;

(3) in subsection (k), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new subsections:

"(1) shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, that each policyholder and each reinsured company furnish to the insurer or to the Corporation the social security number of such policyholder, in the case of a business entity, the applicable employer identification number of such entity; the Corporation and reinsured companies shall have access to such numbers solely for the purpose of establishing systems of records necessary to the effective administration of this title; each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such entity of the requirements and limitations under this title; each such policyholder shall provide to the Manager, at such times and in such manner as prescribed by the Manager, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest in the policyholder; for purposes of this paragraph the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder; and the Manager of the Corporation shall promulgate regulations to protect the personal privacy of individuals with respect to the use of such numbers under this subsection; and

"(m) upon notice and opportunity for a hearing on the record, may—

"(1) impose a civil fine of not to exceed to $10,000 on a person; and

"(2) disqualify a person from receiving any benefit under this Act for a period of not to exceed 10 years;

if such person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this Act, and in assessing such penalty the Corporation shall consider the gravity of the violation.".

SEC. 04. ACTUARIAL SOUNDNESS AND CONGRESSIONAL REPORTS.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (i) as subsections (d) through (k), respectively; and

(2) by inserting after subsection (a), the following new subsections:

"(b)(1) In addition to any standard forms or policies as the Board may require be made available to producers under this title, and without regard to the limitations on levels of coverage and rates provided for in this title, to—

"(A) review other policies and provisions of policies (including dollar-denominated coverage and the uses of yields determined by the Agricultural Conservation and Stabilization Service); and

"(B) review rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary, that may be submitted by companies reinsured under this title.

"(2) If the Board finds that, under the policies referred to in paragraph (1), the interests of producers are adequately protected and that the premiums charged to such producers are actuarially appropriate, such policies, provisions of policies, and rates shall be approved by the Board for reinsurance and for sale to producers at actuarially appropriate rates and under the same terms and conditions as those applicable to the standard policies of insurance authorized under this title.

"(3) Any policies, provisions of policies, and rates approved under this subsection that are developed by more than one reinsured company or by a trade association or industry group for the benefit of more than one reinsured company, or that are made available for use or actually used by more than one reinsured company, shall be published and made available to all companies contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) To determine, on a State and crop basis, the rates and coverages that would be necessary to achieve actuarial soundness. Not later than 120 days after the date of enactment of this subsection, the Corporation shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of such determinations. The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.".

SEC. 05. REINSURANCE AGREEMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 04) is further amended by adding at the end of subsection (g) (as so redesignated), the following new sentences: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992) the Corporation shall revise its Reinsurance Agreement with the Reinsured Companies so as to require the reinsured companies to bear an increased share of any potential loss under

such agreement, taking into considertion the financial conditions of the reinsured companies and the availability of private reinsurance. Not later than 120 days after the date of enactment of the Federal Crop Insurance Adjustment Act of 1990, the Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the amount of increased potential losses that the revised agreement will require the reinsured companies to assume.".

SEC. 06. LIMITATION OF APPROPRIATIONS TO THE CORPORATION AND THE USE OF OTHER FUNDS.

Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)(1), by striking "There are hereby authorized to be appropriated" and inserting "Except as provided in subsection (e), there are authorized to be appropriated";

(2) in subsection (c)(1), by striking "If at any time" and inserting "Except as provided in subsection (e), if at any time";

(3) in subsection (d), by striking "subsection (c)" and inserting "subsections (c) and (d)"; and

(4) by adding at the end thereof the following new subsection:

"(e) The authorization for the appropriation of funds under subsection (a), the authority for the use of Commodity Credit Corporation funds under subsection (c), and the borrowing authority under subsection (d) shall be effective for the fiscal years 1991 through 1993. Except as may be authorized by law after the date of enactment of this subsection, no funds may be appropriated for any fiscal year after fiscal year 1993, and subsections (c) and (d) shall not be applicable for any fiscal year after fiscal year 1993. The Corporation shall terminate its insurance activities and begin an orderly liquidation of its assets so that the corporation ceases to exist as soon as possible after the end of the 1993 fiscal year.".

SEC. 07. UNIFORM CLAIMS ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (g) (as redesignated by section 04) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

SEC. 08. AVAILABILITY OF CROP INSURANCE

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 04) is further amended by adding at the end thereof the following new subsection:

"(1)(1) To provide the Secretary of Agriculture with current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(2) To provide the Secretary of Agriculture with a listing of all agents for agent referral to producers through local offices of the Agricultural Stabilization and Conservation Services.

"(3) The Secretary shall utilize the information provided under paragraph (1) and (2) to educate State Agricultural Stabilization and Conservation Service directors concerning such information to enable such directors to convey such information to local Agricultural Stabilization and Conservation Service offices for distribution to local producers.".

SEC. 09. ASCS YIELDS AND DOLLAR-DENOMINATED COVERAGE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (a)—

(1) by striking out in the seventh sentence "The Corporation" and inserting in lieu thereof the following: "First any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved a yield for the purposes of programs administered by such Service or a yield for crop insurance purposes under the provisions of this Act, and such yield is greater than the recorded or the appraised yield of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield. Such insurance shall be provided for an additional premium set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation"; and

(2) by striking out the eighth sentence and inserting in lieu thereof the following: "The Corporation shall establish a price level for each commodity on which insurance is offered. The price level so established shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of the value of the total acreage of the commodity on the insured farm or farm unit. The maximum coverage on such acreage shall not exceed an amount equal to the total acreage of the commodity on the insured farm multiplied by (1) the recorded or appraised yield for the commodity, (2) the yield coverage level selected by the producer, and (3) the price level established for the commodity. The producer shall have the option of securing insurance protection against production losses on the acreage in any amount not to exceed the maximum coverage as determined under the preceding sentence.".

SEC. 10. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended by inserting after "private insurance companies" the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,".

SEC. 11. STUDY.

"(a) IN GENERAL.—The Federal Crop Insurance Corporation shall conduct a study to consider the feasibility of providing multiple peril crop insurance policies under which prices for covered crops are selected on the basis of—

(1) trading futures contracts on such covered crops on contract markets designated under the Commodity Exchange Act;

(2) forward contracts for such covered crops between producers and market intermediaries;

(3) the cost of production estimated for such covered crops; or

(4) other forums whereby prices are set by market forces.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Crop Insurance Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the study conducted under subsection (a).

SEC. 12. GENERAL SENSE OF CONGRESS CONCERNING FCIC INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

DASCHLE (AND OTHERS) AMENDMENT NO. 2383

Mr. DASCHLE (for himself, Mr. CONRAD, Mr. BURDICK, Mr. BAUCUS, Mr. KERREY, Mr. EXON, and Mr. HARKIN) proposed an amendment to amendment No. 2382 proposed by Mr. BOND (and others) to the bill S. 2830, supra, as follows:

On page 1 of the amendment, strike out line 3 and all that follows and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This title may be cited as the "Federal Crop Insurance Adjustment Act of 1990.".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) A sound system of crop insurance promotes the national welfare by improving the economic stability of American agriculture;

(2) crop insurance should provide reasonable protection against natural disasters;

(3) ad hoc disaster assistance has effected adversely the existing system of Federal crop insurance;

(4) the existing Federal crop insurance system has not been able to provide crop insurance on an actuarially sound basis.

(5) the existing Federal crop insurance system remains unable to offer coverage tailored to the individual needs of agricultural producers; and

(6) efforts to reform the existing Federal crop insurance system should not lead to increased Federal outlays;

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to modify the Federal crop insurance system to begin the process of achieving a sound system of crop insurance.

SEC. 3. IMPROVEMENT OF OPERATION.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in subsection (i), by striking out "and" at the end thereof;

(2) in subsection (j), by striking out "and" at the end thereof;

(3) in subsection (k), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new subsections:

"(1) shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, that each policyholder and each reinsured company furnish to the insurer or to the Corporation the social security number of such policyholder, in the case of a business entity, the applica-

ble employer identification number of such entity; the Corporation and reinsured companies shall have access to such numbers solely for the purpose of establishing systems of records necessary to the effective administration of this title; each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such entity of the requirements and limitations under this title; each such policyholder shall provide to the Manager, at such times and in such manner as prescribed by the Manager, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest in the policyholder; for purposes of this paragraph the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder; and the Manager of the Corporation shall promulgate regulations to protect the personal privacy of individuals with respect to the use of such numbers under this subsection; and

"(m) upon notice and opportunity for a hearing on the record, may—

"(1) impose a civil fine of not to exceed to $10,000 on a person; and

"(2) disqualify a person from receiving any benefit under this Act for a period of not to exceed 10 years;

if such person wilfully and intentionally provides any false or inaccurate information to the Corporation or to any any insurer with respect to an insurance plan or policy under this Act, and in assessing such penalty the Corporation shall consider the gravity of the violation.".

SEC. 4. ACTUARIAL SOUNDNESS AND CONGRESSIONAL REPORTS.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (i) as subsections (d) through (k), respectively; and

(2) by inserting after subsection (a), the following new subsections:

"(b)(1) In addition to any standard forms or policies as the Board may require be made available to producers under this title, and without regard to the limitations on levels of coverage and rates provided for in this title, to—

"(A) review other policies and provisions of policies (including dollar-denominated coverage and the use of yields determined by the Agricultural Conservation and Stabalization Service); and

"(B) review rates or premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary, that may be submitted by companies reinsured under this title.

"(2) If the Board finds that, under the policies referred to in paragraph (1), the interests of producers are adequately protected and that the premiums charged to such producers are actuarially appropriate, such policies, provisions of policies, and rates shall be approved by the Board for reinsurance and for sale to producers at actuarially appropriate rates and under the same terms and conditions as those applicable to the standard policies of insurance authorized under this title.

"(3) Any policies, provisions of policies, and rates approved under this subsection that are developed by more than one reinsured company or by a trade association or industry group for the benefit of more than one reinsured company, or that are made available for use or actually used by more than one reinsured company, shall be published and made available to all companies contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) To determine, on a State and crop basis, the rates and coverages that would be necessary to achieve actuarial soundness. Not later than 120 days after the date of enactment of this subsection, the Corporation shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of such determinations. The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.".

SEC. 5. REINSURANCE AGREEMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section—4) is further amended by adding at the end of subsection (g) (as so redesignated), the following new sentences: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992) the Corporation shall revise its Reinsurance Agreement with the Reinsured Companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into consideration the financial conditions of the reinsured companies and the availability of private reinsurance. Not later than 120 days after the date of enactment of the Federal Crop Insurance Adjustment Act of 1990, the Corporation shall prepare and submit, to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the amount of increased potential losses that the revised agreement will require the reinsured companies to assume.".

SEC. 6. UNIFORM CLAIMS ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (g) (as redesignated by section—4) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

SEC. 7. AVAILABILITY OF CROP INSURANCE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l)(1) To provide the Secretary of Agriculture with current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(2) To provide the Secretary of Agriculture with a listing of all agents for agent referral to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(3) The Secretary shall utilize the information provided under paragraphs (1) and (2) to educate State Agricultural Stabilization and Conservation Service directors concerning such information to enable such directors to convey such information to local Agricultural Stabilization and Conservation Service offices for distribution to local producers.".

SEC. 8. ASCS YIELDS DOLLAR-DENOMINATED COVERAGE, AND EXPANDED AVAILABILITY

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (a)—

(1) by striking out in the seventh sentence "The Corporation" and inserting in lieu thereof the following: "For any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved a yield for the purposes of programs administered by such Service or a yield for crop insurance purposes under the provisions of this Act, and such yield is greater than the recorded or the appraised yield of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield. Such insurance shall be provided for an additional premium set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation";

(2) by adding at the end thereof the following: "The Corporation shall establish an additional price level for each commodity on which insurance is offered. This price level so established shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of the value of the total acreage of the commodity on the insured farm or farm unit beginning with the 1982 crop year. The maximum coverage on such acreage shall not exceed an amount equal to the total acreage of the commodity on the insured farm multiplied by (1) the recorded or appraised yield for the commodity, (2) the yield coverage level selected by the producer, and (3) the price level established for the commodity. The producer shall have the option of securing insurance protection against production losses on the acreage in any amount not to exceed the maximum coverage as determined under the preceding sentence."; and

(3) by striking out the tenth and eleventh sentences and inserting in lieu thereof the following: "If there is crop insurance program for a commodity in any county of a State, crop insurance for such commodity shall be available to producers in all counties of the State, except that the corporation, under regulations promulgated by the Board, may limit or refuse insurance in any country or area, or on any farm, on the basis that there are different insurance risks involved in the production of the commodity in the county or area, or on the farm, because of variations in the type or variety of the commodity produced, agricultural production methods and practices, weather patterns, soil types, topography, or other factors affecting insurance risk.".

SEC. 9. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended by inserting after "private insurance companies" the following: "private rating bureaus,

and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,".

SEC. 10. STUDY.

(a) IN GENERAL.—The Federal Crop Insurance Corporation shall conduct a study to consider the feasibility of providing multiple peril crop insurance policies under which prices for covered corps are selected on the basis of—

(1) trading futures contracts on such covered crops on contract markets designated under the Commodity Exchange Act;

(2) forward contracts for such covered crops between producers and market intermediaries;

(3) the cost of production estimated for such covered crops; or

(4) other forums whereby prices are set by market forces.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Crop Insurance Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the study conducted under subsection (a).

SEC. 11. GENERAL SENSE OF CONGRESS CONCERNING CROP INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

SEC. 12. SENSE OF CONGRESS REGARDING FUNDING.

It is the sense of the Congress that—

(1) the Federal Crop Insurance Corporation should make the multiple peril crop insurance program established under the Federal Crop Insurance Act available to producers of agricultural commodities in accordance with such Act during fiscal years 1991, 1992, and 1993, by—

(A) issuing new multiple peril crop insurance policies and renewing existing multiple peril crop insurance policies to all producers that quality for such under the Federal Crop Insurance Act; and

(B) honoring all valid commitments to crop insurance companies made in the 1991, 1992, and 1993 reinsurance agreements entered into by the Federal Crop Insurance Corporation and such companies under the multiple peril crop insurance program;

(2) the Commodity Credit Corporation should make available to the Federal Crop Insurance Corporation such funds as may be necessary to implement paragraph (1), under terms established by the Secretary, subject to paragraph (3); and

(3) the Federal Crop Insurance Corporation should, if funds are made available to it under any procedure of the type described in paragraph (2), repay the Commodity Credit Corporation any funds so made available a soon as practicable, giving due consideration to the needs of the crop insurance program under the Federal Crop Insurance Act (the Federal Crop Insurance Corporation should incur interest charges on any unpaid balance that may exist at a rate comparable to the rate being paid by the Treasury on borrowings of comparable maturity.

GLENN (AND OTHERS) AMENDMENT NO. 2384

Mr. GLENN (for himself, Mr. DIXON, Mr. KOHL, Mr. LEVIN, Mr. RIEGLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. KASTEN, Mr. HEINZ, and Mr. LUGAR) proposed an amendment to the bill S. 2830, supra, as follows:

On page 501, between lines 4 and 5, insert the following new subtitle:

Subtitle E—Shipping Provisions

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 20-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App 1241(b) or 1241f), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which

the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. EXTENSION OF GREAT LAKES SET-ASIDE.

Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)(2)(B)) is amended by striking "calendar years 1986, 1987, 1988, and 1989" and inserting "each of the calendar years 1991, 1992, 1993, and 1994."

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

INOUYE (AND OTHERS) AMENDMENT NO. 2385

Mr. INOUYE (for himself, Mr. DIXON, Mr. KOHL, Mr. LEVIN, Mr. RIEGLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. KASTEN, and Mr. HEINZ) proposed an amendment to amendment No. 2384 proposed by Mr. GLENN (and others) to the bill S. 2830, supra, as follows:

On page 1, line 3, strike all after "Subtitle E" and insert:

SHIPPING PROVISIONS

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to quality for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 20-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241f), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-mointh period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. EXTENSION OF GREAT LAKES SET-ASIDE.

Section 901b(c)(2)(E) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)(2)(B)) is amended by striking "calendar years 1986, 1987, 1988, and 1989" and inserting "each of the calendar years 1991, 1992, and 1993".

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1991

SHELBY AMENDMENT NO. 2386

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill (H.R. 5019) making appro-

priations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111) is modified to include the acquisition of private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

BENTSEN (AND OTHERS) AMENDMENT NO. 2387

Mr. BENTSEN (for himself, Mr. DOLE, Mr. BURDICK, Mr. BOREN, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRAMM, Mrs. KASSEBAUM, Mr. EXON, Mr. KERREY, Mr. PRYOR, and Mr. NICKLES) proposed an amendment to the bill S. 2830, supra, as follows:

At the appropriate place at the end of title X of the bill, add the following new section:

"SEC. 10—. PROGRAM OPTION FOR 1996 CROPS.

"Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended to read as follows:

'(b)(1) Notwithstanding any other provision of law, the Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

'(2) The Secretary may offer such programs based upon the terms and conditions as are provided in sections 101(h), 101A, 103A, 105A, 107A, 107C, 204, 205 of the Agricultural Act of 1949, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, and any other relevant provisions of the Agricultural Act of 1949, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

'(3) The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

'(A) in the case of wheat, June 1, 1995; and

'(B) in the case of feed grains, September 30, 1995;

'(C) in the case of upland cotton, November 1, 1995;

'(D) in the case of extra long staple cotton, December 1, 1995;

'(E) in the case of rice, January 31, 1996;

'(F) in the case of oilseeds, July 15, 1995; and

'(G) in the case of dairy, November 1, 1995.

'(4) Producers may not participate in such programs unless legislation has been enacted subsequent to the date of enactment of the Food, Agriculture, Conservation and Trade Act of 1990 that provides for loans and purchases for the 1996 crop of wheat, feed grains, cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

'(5) The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation in carrying out the provisions of this subsection.

SIMPSON (AND OTHERS) AMENDMENT NO. 2388

Mr. LUGAR (for Mr. SIMPSON, for himself, Mr. GRAMM, Mr. WALLOP, Mr. HATCH, Mr. MCCLURE, Mr. SYMMS, Mr. BURNS, Mr. BAUCUS, Mr. DASCHLE, Mr. GARN, Mr. PRESSLER, Mr. BENTSEN, and Mr. BINGAMAN) proposed an amendment to the bill S. 2830, supra, as follows:

On page 65, strike lines 11 and 21 and insert the following new subsections:

(b) PAYMENT LIMITATION.—Section 703 of such Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no person may receive payments under this Act for wool or mohair in excess of $250,000 per year.

"(2) The Secretary shall issue regulations defining the term 'person' for purposes of this section. The regulations shall be consistent with regulations issued by the Secretary in accordance with sections 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, and 1308-2).".

(c) ESTABLISHED PRICE.—Section 703 of such Act (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, for each of the 1991 through 1995 marketing years for wool and mohair, the established price shall be $1.82 per pound for wool and $4.532 per pound for mohair.".

HELMS (AND OTHERS) AMENDMENT NO. 2389

Mr. HELMS (for himself, Mr. GRASSLEY, Mr. BOND, Mr. SYMMS, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. D'AMATO, Mr. MCCLURE, Mr. PRESSLER, Mr. MCCAIN, Mr. LOTT, Mr. NICKLES, and Mr. KASTEN) proposed an amendment to the bill S. 2830, supra, as follows:

"SEC. . (a) It shall be unlawful for a financial institution, the deposits of which are insured by any department, agency, institution or entity of the Government of the United States, to make, or participate in, an extension of credit to the government of the Soviet Union, any agency or other instrumentality of the government of the Soviet Union, or any entity owned or controlled by the government of the Soviet Union, unless the extension of credit is for the sole purpose of purchasing United States-produced agricultural products or commodities, or bears interest at a rate equal to or in excess of the interest rate generally extended by financial institutions to American farmers.

(b) Definitions—

(1) As used in subsection (a) the term "financial institution" means—

(A) any bank, savings association, credit union, or other entity the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board;

(B) any organization the accounts of which are insured by the Securities Investor Protection Corporation; and

(C) any company subject to the provisions of the Bank Holding Company Act of 1956.

(2) As used in subsection (a) the term "interest rate generally extended by financial institutions" means—

(A) the average rate of interest on uninsured loans secured by a farm or ranch, made during the previous quarter, to a producer who engages or producers who engage in farming, ranching or aquaculture operations in the United States, as determined by the United States Department of Agriculture on a State-by-State basis.

(3) As used in subsection (a) the term "producer" means—

(A) any person who, as owner, landlord, tenant or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof.

(c) A violation of this section shall be deemed to be a violation—

(1) of the Federal Deposit Insurance Act with respect to institutions insured by the Federal Deposit Insurance Corporation;

(2) of the Federal Credit Union Act with respect to financial institutions insured by the National Credit Union Administration Board;

(3) of the Securities Act of 1933 with respect to institutions insured by the Securities Investor Protection Corporation;

(4) of the Bank Holding Company of 1956 with respect to financial institutions insured by the bank holding companies.".

FOWLER (AND OTHERS) AMENDMENT NO. 2390

Mr. FOWLER (for himself, Ms. MIKULSKI, Mr. FORD, Mr. WARNER, Mr. SIMON, Mr. SANFORD, Mr. DASCHLE, Mr. METZENBAUM, and Mr. HEFLIN) proposed an amendment to the bill S. 2830, supra, as follows:

At the end of Title XIX, add the following new subtitle:

SEC. 19 . SHORT TITLE.

This Act may be cited as the "Minority Farmers Rights Act of 1990".

SEC. 19 . FINDINGS, POLICIES AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) a serious crisis exists among minority American landowners and farmers;

(B) minority landowners and farmers are losing ownership of their land at an increasing rate;

(C) black land ownership has declined from over 15,000,000 acres in 1910 to approximately 5,000,000 acres today, and minority farmers are losing their land at a rate over 3 times higher than the rate at which nonminority farmers are losing their land; and

(D) in the last century, American Indian land holdings have fallen from 500,000,000 acres to 50,000,000 acres, and American Indian and other minority farmers are losing land at a rate comparable to the rate at which black farmers are losing their land;

(2) limited educational opportunity, and other related factors have contributed to the decline of land ownership by all minorities in the United States;

(3) racial and ethnic diversity in the ownership of agricultural land and cultural diversity in the composition of the family farm population, agricultural communities,

and rural population are important and beneficial to the United States; and

(4) the past and continued loss of minority-owned land and minority operated farms may constitute a threat to the general health and welfare of the United States and interferes with orderly commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to stop the contraction of the minority agricultural land base as quickly as possible;

(2) to seek to restore the level of minority Agricultural land ownership to a level comparable to holdings by minorities in 1910 by the year 2000.

(3) to encourage minority land ownership and farm operation to a level commensurate with the rural minority population in each region of the United States;

(4) to eradicate racial discrimination and indifference to the specific needs and problems of minority farmers, and remove all cultural, ethnic, educational, programmatic, or regulatory barriers in all programs administered by the Secretary; and

(5) to encourage racial and ethnic diversity in the ownership of farmland, and diversity and pluralism in the composition of the family farm population.

SEC. 19 . DEFINITIONS.

As used in this Act:

(1) AGRICULTURAL LAND.—The term "agricultural land" means land that is used or is suitable for agricultural production.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization"—

(A) means any private, nonprofit rural organization that has experience in encouraging minority participation in agriculture:

(i) is representative of one or more minority communities or significant segments of minority communities; and

(ii) provides education, technical assistance, and other related services to minority community members interested in farming.

(3) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Advocacy and Enterprise.

(5) HEIR PROPERTY.—The term "heir property" means any interest in real property the title to which—

(A) was held by a minority individual at the time of the death of the individual;

(6) LAND BANK.—The term "land bank" means any public or private agency, corporation, association, or program established to acquire, hold, exchange, or convey land between and among minority farmers with the objective of preserving the minority agricultural landbase.

(7) MINORITY AGRICULTURAL LAND.—The term "minority agricultural land" means agricultural land that is—

(A) owned or controlled by one or more minority persons;

(B) operated only by one or more minority persons; or

(C) heir property.

(8) MINORITY AGRICULTURAL LAND BASE.—The term "minority agricultural land base" means the aggregate of the minority agricultural land in the United States.

(9) MINORITY FARMER.—The term "minority farmer" means a minority person—

(A) who owns or operates a qualified minority farm; and

(B) produces agricultural commodities on the farm.

(10) MINORITY INDIVIDUAL.—The term "minority individual" means an individual who is a member of a group some or all the members of which have been subjected to racial, ethnic, or cultural prejudice because of the indentity of the members as members of a group (including blacks not of Hispanic origin, American Indians, Alaskan Natives, Native Hawiians, Hispanics, Asians, or residents of the Pacific Islands), without regard to the qualities of the members.

(11) MINORITY PERSON.—The term "minority person" means any—

(A) minority individual; or

(B) family farm corporation that is owned or controlled by one or more minority individuals.

(12) OFFICE.—The Term "Office" means the Office of Advocacy and Enterprise of the Department.

(13) QUALIFIED MINORITY FARM.—The Term "qualified minority farm" means a farm the majority of the labor for the operation of which is provided by—

(A) in the case of a farm owned or operated by a minority individual, the individual or the members of the family of the individual; and

(B) in the case of a farm owned or operated by a family farm corporation described in paragraph (10)(B), the members of the families of the shareholders of the corporation who are minority individuals.

(14) QUALIFIED STAFF.—The term "qualified staff" means an employee of the Department who—

(A) has specific training and experience in the successful operation of small farms;

(B) is sensitive to the specific needs of the operators of qualified minority farms; and

(C) receives basic training and continuing education in all special provisions of law and programs administered by the Secretary for minority or socially disadvantaged farmers.

(15) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 19 . DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall establish specific policies and programs in accordance with subsection (b) to achieve the purposes of this Act. The Under Secretary of Agriculture for Small Community and Rural Development shall be directly responsible for the implementation and oversight of such policies and programs.

(b) POLICIES AND PROGRAMS.—The Secretary shall establish policies, programs and allocate resources necessary to address the needs of minority farmers as described in this Act, including—

(1) specific activities and procedures to identify, halt and prevent any act, practice, or policy of any program or employee of the Department, that has the purpose or effect of discriminating against any minority farmer;

(2) specific activities and procedures to increase opportunities for minority individuals to become agricultural producers and encourage ownership of farms; and

(3) interdepartmental and interagency monitoring, oversight, and coordination of programs designed to reverse contraction of the minority agricultural landbase.

(c) OFFICE OF ADVOCACY AND ENTERPRISE.—The Secretary shall increase the duties, staff responsibilities, staffing, and budget of the Office subject to the availability of funds to carry out the policies and programs established under this Act.

SEC. 19 . OUTREACH AND EDUCATION PROGRAM.

Section 623 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985 note) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end thereof the following new subsections:

"(b) INFORMATION AND ASSISTANCE.—In carrying out subsection (a), and to ensure that the goals established pursuant to section 355 of the Consolidated Farm and Rural Development Act are achieved and that section 622 of this Act is carried out, the Secretary may provide outreach education, technical assistance, to encourage and assist minority farmers—

"(1) to register with the National Minority Farmer and Land Registry established under section 7 of the Minority Farmers Right Act of 1990, and take advantage of benefits provided by such Act;

"(2) to take advantage of the goals for Department programs, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act; and

"(3) to apply for loans, grants, benefits, or entitlements provided under State or Federal programs.

"(c) GRANTS AND CONTRACTS.—The Secretary and the Director of the Office of Advocacy and Enterprise are authorized to make and enter into grants, contracts, and other agreements in the furtherance of this section with—

"(1) 50 percent of the funds being provided to community based organizations with demonstrated experience and commitment in providing education, advocacy, or other services to minority farmers (such community based organizations must provide documentary evidence of their past experience and commitment of working with minority farmers during the 2 years preceding their application for assistance under this legislation; and

"(2) 50 percent of the funds being provided to institutions of post-secondary education, with priority given to 1890 Historically Black Land Grant Colleges and Tuskegee University, Indian Tribal Community Colleges and Alaska Native Cooperative Colleges, Hispanic Serving Institutions of Higher Education, and other educational institutions with demonstrated experience in providing education, advocacy or other services to minority family farmers in the region in which such institutions are located.

Community based educational programs that offer degrees and that serve rural minorities and their communities shall also qualify for assistance under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out the programs established under this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 1991 through 1995.

SEC. 19 . DEVELOPMENT OF NATIONAL MINORITY FARMER AND LAND REGISTRY.

(a) IN GENERAL.—The Secretary shall develop and maintain, on a State-by-State and county-by-county basis, a voluntary national registry of the names of all minority farmers in the United States and a legal description of the acreage comprising the minority agricultural land base. The registry shall be known as "National Minority Farmer and Land Registry".

(b) PURPOSE OF REGISTRY.—The Secretary shall use the registry—

(1) to identify agricultural land owned by minority farmers;

(2) assist the Department and other agencies in planning, developing, and implementing programs of benefit to minority farmers; and

(3) to facilitate outreach to socially disadvantaged producers so as to encourage minority participation in agriculture.

(c) REGISTRATION.—

(1) IN GENERAL.—Any minority farmer or othe minority owner of agricultural land, may, at the discretion of the farmer or owner, register with the registry the legal description of any interest in land held by the farmer or owner.

(2) PLACE.—Registration with the registry shall be available at each county office of the Agricultural Stabilization and Conservation Service of the Department.

(3) ENCOURAGEMENT.—The Secretary shall encourage registration by minority farmers or minority owners of agricultural land in the registry.

(4) CONTINUING REGISTRATION.—Registration with the registry shall be available on a continuing basis.

(d) PUBLICATION.—

(1) INITIAL PUBLICATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) publish the registry compiled pursuant to this section; and

(B) make the registry available to the public.

(2) ANNUAL UPDATE.—Not later than 1 year after the initial publication of the registry, and each year thereafter, the Secretary shall publish a complete supplement or an updated compilation of the registry.

SEC. 19 . PRESERVATION OF MINORITY AGRICULTURE LAND BASE.

(a) IN GENERAL.—The Secretary, in consultation with Federal and State programs, private organizations, and interested parties, shall take steps to ensure, to the extent practicable, that the variety, quantity, and distribution of land in the minority agricultural landbase is not significantly reduced from the variety, quantity, and distribution of the land in such landbase as described in the initial publication of the National Minority Farmer and Land Registry established under section 7, and shall establish policies and programs to fulfill the purposes of this act.

(b) METHOD OF PRESERVATION.—The Secretary shall carry out subsection (a) by administering and implementing policies and programs to promote the participation of socially disadvantaged farmers in agriculture by providing education, outreach, technical services, and targeted funding to assist minority individuals in becoming agricultural producers and landowners.

(c) USE OF FEDERAL LAND INVENTORIES.—

(1) IMPLEMENTATION OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement a program which, to the maximum extent possible, attempts to reverse the contraction of the minority agricultural land base.

(2) CONTENTS.—The program required by paragraph (1) shall include education, technical assistance, intraagency coordination, and other measures determined to be necessary by the Secretary.

(3) EXPENDING OF FUNDS.—The Secretary may, in expending such funds, create incentives, provide credit, or acquire property from other Federal or State agencies or departments to carry out the program required by paragraph (1).

(d) CREATION AND MAINTENANCE OF MINORITY LAND BANKS.—

(1) POLICIES AND PROGRAMS.—The Secretary shall establish policies and programs that encourage and assist land banks controlled by minority individuals.

(2) IMPLEMENTATION.—The Secretary shall designate the Director to implement the policies and programs established under paragraph (1).

(3) PARTICIPATION.—The Director shall encourage and facilitate the participation of other Federal and State agencies and private organizations in the development and operation of land banks controlled by minority individuals.

SEC. 19 . MINORITY PARTICIPATION RATES IN DEPARTMENT PROGRAMS.

(a) AGRICULTURE RESEARCH.—

(1) IN GENERAL.—The Secretary shall make funds available to carry out the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) to colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.), and other research institutions with minority enrollment exceeding 50 percent, or to research projects specifically aimed at increasing minority farmer participation in agriculture.

(2) COMMUNITY-BASED ORGANIZATIONS.—Programs funded under this subsection may include research agreements with community-based organizations that have at least 2 years demonstrated experience in reaching minority constituencies.

(b) AGRICULTURE EXTENSION SERVICE STAFF.—

(1) IN GENERAL.—The Secretary shall assign and improve the qualifications and performance of the staff of the Agricultural Extension Services in accordance with this subsection.

(2) PARTICIPATION GOALS BETWEEN 5 AND 25 PERCENT.—In any county in which the participation goals for socially disadvantaged groups, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), is between 5 and 15 percent, the Secretary shall assign a specific qualified member of the staff of the Extension Services in the county who shall implement the policies and programs established or modified in accordance with this subsection.

(4) PARTICIPATION GOALS GREATER THAN 25 PERCENT.—In any county in which the participation goal is greater than 30 percent, the Secretary shall assign at least 2 qualified staff members of the Extension Service who shall serve as adjunct staff members of the Office and who shall implement the policies and programs established or modified in accordance with this subsection.

(5) ALLOCATION OF RESOURCES TO AID MINORITY FARMERS.—

(A) DEPARTMENT.—The Secretary shall develop and implement a plan to allocate a significant portion of the resources of the Extension Service (including personnel) to increase the number of minority farmers and assist minority farmers in developing efficient and profitable farming operations.

(B) COMMUNITY-BASED ORGANIZATIONS.—The Secretary shall also use community-based organizations having at least 2 years of demonstrated experience in assisting minority constituencies in carrying out this subsection.

(c) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—

(1) REVIEW OF MINORITY PARTICIPATION IN CROP PROGRAMS.—

(A) IN GENERAL.—The Secretary shall review minority participation, compared to non-minority participation, in each of the crop programs of the department, on a State-by-State and county-by-county basis. The review shall include a survey representative of all farmers' including socially disadvantaged farmers to identify reasons for participation and non-participation in crop programs of the Department. The results of this review, including an analysis of the differences in rates of minority and non-minority participation, shall be reported to the House and Senate Agriculture Committees not later than September 30, 1991.

(B) CONTENTS OF THE REVIEW.—The Secretary shall calculate, on a State-by-State and county-by-county basis, the following information for each program crop—

(i) the total agriculture base, in acres, for each program crop;

(ii) the percentage of total base acres controlled by minority producers compared to the percentage controlled by non-minority producers; and

(iii) the average program payment yield for minority producers, compared to non-minority producers.

(C) PROCEDURE FOR THE REVIEW.—The Secretary, upon completion of this review, shall solicit public comment on the findings; and recommendations to improve minority participation in crop programs of the Department.

(D) REPORT.—In the report under subparagraph (A), the Secretary shall disclose the findings of the review, together with an analysis of the differences in rates of participation in crop programs between minority and non-minority farmers. Findings from comments under this subsection shall be included in such report. As a result of such review, the Secretary shall propose a plan to promote rates of minority participation in crop programs to levels commensurate to non-minority participation in each region of the nation.

(2) NOTIFICATION.—

(A) MINORITY FARMERS.—Not later than October 1, 1991, and each year thereafter, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall notify, through local media (including minority-owned media), all minority farmers of their eligibility for all farm programs of the Department.

(B) FORFEITED QUOTAS.—The committees shall notify farmers through local media (including minority-owned media and community based organizations) when forfeited quotas and allotments become available under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), and of the application procedures to receive the quotas.

(C) COMMUNITY-BASED ORGANIZATIONS.—Not later than October 1, 1991, and each year thereafter, the Director shall notify all participating community-based organizations and institutions of the terms and conditions of the program established under this subsection, including the effective date and application and appeals procedures.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by minorities in each program of the Department;

(B) the specific participation goals established for each program;

(C) the results achieved for each program under this section; and

(D) the progress of the Department of Agriculture towards meeting each of the purposes described in paragraph (2)(C).

(2) CONTENTS.—In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the goals with actual results of each program of the Department;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this Act;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to minority farmers;

(ii) the amount of funds reallocated pursuant to this Act; and

(iii) the amount of guaranteed loan funds loaned to minority farmers compared to the total amount of such funds so loaned; and

(D) a breakdown in allocation of crop base in each program crop compared to the participation goals established pursuant to section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), on a State-by-State and country-by county basis.

SEC. 19 . MINORITY YOUTH AND MINORITY FIRST-TIME FARMERS.

(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program, to be administered by the Office within the Department, to attract, assist, and encourage—

(1) minority first-time farmers to participate in careers in production agriculture; and

(2) minority youth to participate in careers in production agriculture, related agricultural industries, and rural development.

(b) DEMONSTRATION PROGRAMS.—In order to complement the operation of the comprehensive program established under subsection (a), the Secretary shall support demonstration programs that attract, assist, or encourage minority first-time farmers to participate in careers as described in subsection (a).

In carrying out this section, the Secretary may contract with 1890 Historically Black Land Grant Colleges and Tuskegee University community based organizations, or other groups as deemed appropriate the Secretary. They may include programs that provide—

(1) low-interest rate loans for youths and first-time farmers under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(2) for school-based and vocational agriculture enterprises for youth;

(3) scholarship funds to youths or first-time farmers;

(4) for agricultural apprenticeship or training projects;

(5) assistance to farmworkers seeking to become full-time farmers; or

(6) other assistance to minority youth and minority first-time farmers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Secretary not to exceed $12,000,000 for each of the fiscal years 1991.

SEC. 19 . AFFIRMATIVE ACTION, APPEALS, AND CONTRACTING REVIEW.

(a) PURPOSE.—It is the purpose of this section to direct the Secretary to analyze within the Department the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(b) SCOPE.—The study shall include—

(1) an assessment of the successes and failures of these affirmative action programs and policies;

(2) a review of the reasons for the successes and failures described in paragraph (1);

(3) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of minority businesses in such activities, and the impact of those policies on the participation of minorities in such contracting with the Department;

(4) a review of the reasons for participation or lack of participation of minority businesses in the activities described in (3);

(5) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities. The review shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(c) REPORT.—The Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information described in (b) one year after the enactment of this act.

SEC. 19 . ANALYSIS BY THE GENERAL ACCOUNTING OFFICE.

The General Accounting Office shall conduct a review of the progress and efforts by the Department of Agriculture in achieving the goals of this Act and of other farm programs administered by the Department to assist socially disadvantaged farmers.

SEC. 19 . EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1990.

HEINZ (AND OTHERS) AMENDMENT NO. 2391

Mr. LEAHY (for Mr. HEINZ, for himself, Mr. KOHL, Mr. LEAHY, Mr. KASTEN, Mr. HARKIN, and Mr. MOYNIHAN) proposed an amendment to the bill S. 2830, supra, as follows:

On page 33, between lines 19 and 20, insert the following new section;

SEC. 117. SUBSIDIZED INPUTS/SURPLUS DAIRY PRODUCTION STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate, a report that shall contain—

(1) the findings of such Secretary concerning whether low-cost alfalfa, other hay, pastureland, and other forage irrigated with below-cost water from Federal reclamation projects is contributing to or promoting fluid milk production in excess of demand in States and regions served by the United States Bureau of Reclamation; and

(2) if such Secretary determines there is a casual link, the recommendations of such Secretary for addressing such surplus production.

(b) DEFINITIONS.—As used in subsection (a), the terms "full cost", "irrigation water", and "project" shall have the same meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).

HEFLIN (AND GRASSLEY) AMENDMENT NO. 2392

Mr. LEAHY (for Mr. HEFLIN, for himself, and Mr. GRASSLEY) proposed an amendment to the bill S. 2830, supra, as follows:

On page 740, insert "and" at the end of line 24;

On page 740, strike line 25; and

On page 741, line 1 strike "(6)" and insert "(5)".

HEINZ (AND KOHL) AMENDMENT NO. 2393

Mr. HEINZ (for himself and Mr. KOHL) proposed an amendment to the bill S. 2830, supra, as follows:

On page 349, after line 25, add the following new section:

SEC. 1031. INELIGIBILITY OF RECIPIENTS OF FEDERAL IRRIGATION WATER DELIVERED AT LESS THAN FULL COST FOR BENEFITS FROM PRICE AND INCOME SUPPORT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 425. INELIGIBILITY OF RECIPIENTS OF FEDERAL IRRIGATION WATER DELIVERED AT LESS THAN FULL COST FOR BENEFITS FROM PRICE AND INCOME SUPPORT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE.

"(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), and producer to whom irrigation water is delivered in a crop year at less than full cost from a Federal irrigation project shall not be eligible to receive, directly or indirectly, a loan or payment under, or in connection with, any program carried out by the Secretary under this Act, or any other Act, to support the price or adjust the supply of an agricultural commodity for such crop year.

"(b) EXCEPTION.—Subsection (a) shall not apply to—

"(1) a producer who is a member of an Indian tribe;

"(2) a farming operation that is religious or charitable in nature;

"(3) a farming operation that has a total annual farm related net income of $50,000 or less; or

"(4) a producer who receives irrigation water as described in subsection (a) on a supplemental or temporary basis if the amount of water so received amounts to less than 50 percent of the total irrigation water supply that the producer receives (as demonstrated by documentation provided by such producer).

"(c) MEANING OF TERMS.—As used in this section, the terms 'full cost', 'irrigation water', and 'project' have the meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to irrigation water delivered in any crop year beginning after the date of enactment of this Act pursuant to a contract entered into, re-

newed, modified, or amended before, on, or after the date of enactment of this Act.

(2) MEANING OF TERMS.—As in this section, the terms "irrigation water" and "contract" have the meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).

BRADLEY AMENDMENT NO. 2394

Mr. LEAHY (for Mr. BRADLEY) proposed an amendment to the bill S. 2830, supra; as follows:

On page 1079, between lines 4 and 5, insert the following new section as:

"SEC. 1943. URBAN FORESTRY DEMONSTRATION PROJECTS.

"The Secretary is authorized to undertake, through the United States Department of Agriculture Forest Service's Northeastern Area, State and Private Forestry program, a study and pilot implementation project which will demonstrate the benefits of retaining and integrating forests in urban development. The focus of such a study and implementation project should be to protect the environment, and associated natural resource values, for current and future generations."

BENTSEN (AND OTHERS) AMENDMENT NO. 2395

Mr. BENTSEN (for himself, Mr. BOREN, Mr. EXON, and Mr. KERREY) proposed an amendment to the bill S. 2830, supra, as follows:

At the appropriate place in the bill insert the following:

Section 306B of the Rural Electrification Act of 1936 (7 U.S.C. § 936b) is amended by adding "(a)" before the first paragraph thereof and adding the following new subsection at the end thereof:

"(b) Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by a borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Administrator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Treasury Department for obligations of comparable maturity to those being prepaid. In the event that a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, a direct loan is a loan made under section 4 of this Act."

D'AMATO (AND OTHERS) AMENDMENT NO. 2396

Mr. D'AMATO (for himself, Mr. PELL, Mr. HELMS, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. WILSON, Mr. MACK, Mr. DECONCINI, Mr. LAUTENBERG, and Mr. ROCKEFELLER) proposed an amendment to the bill S. 2830, supra, as follows:

At the end of the bill, add the following new title:

TITLE .—THE IRAQ INTERNATIONAL LAW COMPLIANCE ACT OF 1990

SECTION 1. SHORT TITLE.—This title may be cited as "The Iraq International Law Compliance Act of 1990".

SEC. 2. CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Government of Iraq has systematically detained, tortured, and executed thousand of its own citizens;

(2) the Government of Iraq has destroyed more than three thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than sixty-five thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq including the torture and murder of children as a means of punishing their parents:

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention of Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law; and

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including the State of Israel.

SEC. 3. CONGRESSIONAL DETERMINATION.—The Congress finds and determines that—

(1) Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nations Charter and the 1925 Geneva Protocol on Poison Gas, places Iraq outside the community of civilized nations.

SEC. 4. ENFORCEMENT OF UNITED STATES LAW.—The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 5. ENFORCEMENT OF INTERNATIONAL LAW.—(a) The President shall extend no new financial credits to Iraq and shall provide no financial assistance or financial benefit of any kind to Iraq, including guarantees made by the Commodity Credit Corporation for loans made to finance export sales of agricultural commodities or products (except for urgent humanitarian assistance) until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee of Foreign Relations of the Senate that Iraq is in substantial compliance with it obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons) and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(b) No item on the United States Munitions List may be sold to Iraq. No licence may be issued for the export to Iraq of any item on the United States Munitions List, and the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of all goods and technology on the control list established pursuant to section 5(c)(i) of that Act. The President may waive the requirements of this subsection if he certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological and Toxin Weapons) and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(c) For the purposes of the export controls imposed pursuant to subsection (b) of section 5, the date described in section 6(m)(1) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

DECONCINI AMENDMENT NO. 2397

Mr. DECONCINI proposed an amendment to amendment No. 2397 proposed by Mr. D'AMATO (and others) to the bill S. 2830, supra, as follows:

Strike out all after section 1, and insert in lieu thereof:

SEC. 2. CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) the Government of Iraq has destroyed more than three thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens resulting in tens of thousands of deaths and more than sixty-five thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the tor-

ture and murder of children as a means of punishing their parents;

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law; and

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including the State of Israel.

SEC. 3. CONGRESSIONAL DETERMINATION.—The Congress finds and determines that—

(1) Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nations Charter and the 1925 Geneva Protocol on Poison Gas, places Iraq outside the community of civilized nations.

SEC. 4. ENFORCEMENT OF UNITED STATES LAW.—The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 5. ENFORCEMENT OF INTERNATIONAL LAW.—(a) The President shall extend no new financial credits to Iraq and shall provide no financial assistance or financial benefit of any kind to Iraq including guarantees made by the Commodity Credit Corporation for loans made to finance export sales of agricultural commodities or products (except for urgent humanitarian assistance) until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow; April 10, 1972.

(b) No item on the United States Munitions List may be sold to Iraq, no licenses may be issued for the export to Iraq of any item on the United States Munitions List, and the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of all goods and technology on the control list established pursuant to section 5(c)(i) of that Act. The President may waive the requirements of this subsection if he certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(C) For the purposes of the export controls emposed pursuant to subsection (b) of section 5, the data described in section 6(m)(i) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

SEC. 6. REPORT ON OIL IMPORTS FROM IRAQ.—Not later than 60 days after enactment the President shall submit a report to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee describing total U.S. petroleum purchases from Iraq, and possible alternatives to Iraqi petroleum. The report shall include an assessment of the economic consequences for the United States and Iraq of a ban on the importation of Iraqi petroleum into the United States.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FOREST

Mr. BUMPERS. Mr. President, I would like to advise the public and my colleagues in the Senate that the Subcommittee on Public Lands, National Parks and Forests will continue its oversight hearing on National Park concessions policy on July 31 beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to consider the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program. The two reports are, "Report of the Task Force on National Park Service Concession," dated April 9, 1990, prepared at the request of the Secretary of the Interior, and "Followup Review of Concessions Management, National Park Service," Report No. 90-62, dated April 1990, prepared by the Inspector General of the Department of the Interior. The subcommittee will also consider Secretary Lujan's proposed revisions to National Park Service concessions policy which he announced on Friday, July 20.

At this hearing, we will hear from those witnesses who were unable to present their testimony at Wednesday's hearing because of time constraints. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Tom Williams of the committee staff at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., Friday, July 27, 1990, for a hearing to receive testimony on S. 2521, a bill to exchange certain lands in the State of New Mexico, and for other purposes; S. 2527, a bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded Environmental Education Program in New Mexico; S. 2597, a bill to amend the act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges; S. 2684, a bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM; and S. 2804, a bill to amend the act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 26, at 2 p.m., for a hearing on "Licensing Requirements for International Medical Graduates."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 26, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban affairs be allowed

to meet during the session of the Senate, Thursday, July 26, 1990, at 10 a.m. to conduct a hearing on manufactured housing amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, July 26, at 9:30 a.m. for a hearing on the following nominations: Legree Sylvia Daniels to be a Governor of the U.S. Postal Services; and Patrick E. McFarland, to be Inspector General, Office of Personnel Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., Thursday, July 26, 1990, for a hearing to receive testimony on S. 2177, a bill to improve the collection and dissemination of information relating to the supply of winter heating fuels; and to receive testimony on the Energy Information Administration's recent final report, "An Analysis of Heating Fuel Market Behavior, 1989-90."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during session of the Senate on July 26, 1990, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VISIT OF HOWELL TOWNSHIP KALMUCK-AMERICAN RESIDENTS TO ELISTA, UNION OF SOVIET SOCIALIST REPUBLICS

● Mr. BRADLEY. Mr. President, the mayor of Howell Township, Mr. Michael Ferguson, haas advised me that approximately 60 to 70 Kalmuck-American residents of Howell Township are planning to visit the city of Elista in the Soviet Union next month. The schedule of their visit is intended to coincide with the 550th-year Jangar Festival.

The Kalmuck people settled in Howell Township over 35 years ago and have become an integral part of Howell Township. Their children, being educated in the local school system and going on to higher education and entering the professional business world, have taken an active role in the successful growth of Howell Township. Howell Township is now a vibrant cultural, religious, and social center for the entire Kalmuck community.

Mr. President, a visit of this nature can only lead to greater understanding between our countries. I hope that my fellow New Jerseyans enjoy their historic journey back to their heritage.●

CASTRO'S MOST IMPORTANT DAY IN HISTORY

● Mr. LIEBERMAN. Mr. President, today is the most important day in Fidel Castro's historical calendar. On July 26, 1953, a group of revolutionaries led by Castro attacked a police barracks known as Moncada. This marked the beginning of the armed struggle against the Battista regime.

The Cuban people, however, are celebrating in another manner. For 2 weeks, a steady stream of Cubans has braved gunfire and risked arrest in seeking refuge in Embassies and diplomatic residencies in Havana. As of today, the Czech, Spanish, Italian, Swiss, Canadian, French, West German Embassies and the United States interests section have all been cordoned off by Cuban state security. Not surprisingly, Castro has reiterated his refusal to allow his people to leave the island. But, until they are allowed to vote in voting booths, they will continue to vote with their feet.

Mr. President, I would like to submit the following articles that explain the Embassy crisis in detail.

Another sign of internal decay is the rash of defections in recent weeks: Roman Rodriquez, a high-ranking official of the Cuban Radio and TV Institute; Ramiro Coro Caraballo, a Cuban surgeon who performed Cuba's first pancreas transplant; Alfredo Miguel Oquendo, a 28-year-old nuclear physicist based in Moscow; Arturo Sandoval, a jazz trumpeter touring with the "Dizzy Gillespie Orquestra"; Belkis De Leon of Cuba's national ballet; and Ramon Gonzalez Vergara, Cuba's chief negotiator in Moscow to COMECON.

These men and women are clearly not common criminals. They represent a cross-section of Cuban society: artists, doctors, scientists, and high-ranking political officials. They are the best of what is left in Cuba and they are leaving whenever possible.

Mr. President, Fidel Castro is clearly on the defensive. He must realize that the vast changes that have taken place in Eastern Europe and Nicaragua represent the future of Cuba. While Castro obviously felt that he embodies the future of Latin America several decades ago, he now knows that history is passing him by. Today, Cuba is poor and repressive. The major reason that there is no drug problem there is because the drug cartel is uninterested in Cuba's worthless currency.

Time is working against Fidel Castro. He may celebrate today as the beginning of this revolution. But the Cuban people are waiting to celebrate another day as their national holiday—the day that Fidel Castro is driven from power.

The articles follow:

[From the Miami Herald, July 19, 1990]

SPAT OVER REFUGEES STRAINS SPAIN'S RELATIONS WITH CUBA

(By Andres Oppenheimer)

Spain, a major Western trading partner of Cuba, recalled its ambassador from that island Wednesday and suspended an upcoming meeting on bilateral trade amid nasty exchange of diplomatic notes over Cuban asylum-seekers.

The Spanish government announced the measures after Cuba called the Spanish foreign minister an "anguished colonial overseer" suffering from "historic amnesia, paternalism and scandalous ignorance." Cuba accused the Spanish foreign minister of supporting asylum petitions from "lumpen and anti-social" elements.

Meantime, Cuban police shot at a new asylum-seeker who jumped over the fence of the Spanish Embassy in Havana Wednesday and managed to make it into the grounds of the diplomatic mission, Spanish officials said.

"A corpulent man jumped over the embassy's fence and was shot at by the Cuban police, but he was not hit," Spanish Foreign Ministry spokesman Juan Lena was quoted as saying by the Spanish news agency EFE.

The man, later identified as 41-year-old dental technician Otoniel Pichardo Rangel, was hurt when he fell to the ground, but was in good condition, the spokesman said. His action brought to four the number of Cuban asylum-seekers who have moved into the Spanish Embassy since last Friday.

Another four are at the Italian ambassador's residence, and five remain holed up at a Czechoslovak diplomat's apartment in Havana. Twelve others who had sought asylum at the Czechoslovak Embassy last week have surrendered to Cuban authorities.

The Cuban government says it allows Cubans to leave the island through normal procedures, but that it will "never" permit asylum-seekers to do so. It say asylum bids are part of a planned provocation to create a climate of chaos in the country.

Tensions between Spain and President Fidel Castro's regime escalated last Friday, when Cuban police arrested a man who was forcing his way into the Spanish Embassy, and according to Spanish diplomats was already inside the compound.

Cuba apologized immediately. Hours later, Spanish Foreign Minister Francisco Fernandez Ordonez said Spain would respect the wishes of asylum-seekers. On Wednesday, he told reporters that Castro knew he risked the demise of his own government if he opened Cuba's doors to all who want to leave.

The Cuban Foreign Ministry immediately called the Spanish foreign minister an "anxious colonial overseer," and challenged Spain to become a "sewer" by taking in all of Cuba's "anti-socials" who want to leave the island.

The Spanish Foreign Ministry responded by describing the Cuban statement as "as-

tounding" and "alien to the minimum standards of international coexistence."

It added that Spain was recalling its ambassador to Havana, Antonio Serrano de Haro, and suspending a meeting of the joint Spanish-Cuban commission on economic and industrial development scheduled for next week.

But Lena, the Spanish Foreign Ministry spokesman, rejected speculation of an imminent break of diplomatic relations with Cuba, according to EFE.

Political analysts in Spain noted that, although Wednesday's incident is the most serious between the two countries in recent times, there have been several other diplomatic flaps between the two allies lately. Some speculated that, as has happened on previous occasions, the current crisis may soon be forgotten.

"It's more smoke than fire, but on the other hand one begins to have a sensation that there is some fire," said Jesus Ceberio, a top editor of the influential Spanish daily El Pais.

"If the war of words ends here, I think things will cool down," Ceberio said. "The parliament has just closed down for its summer recess, and the whole country is already in a vacation mood."

Spanish Prime Minister Felipe Gonzalez, who wants Spain to play a key role as a bridge between Latin America and the European Community, is not believed to want a rupture with Castro.

A further escalation of tensions would hurt Cuba badly, analysts say. Spain is one of Cuba's leading Western suppliers of foreign goods, and one of its largest creditors. Cuba owes Spain more than $800 million, much of it contracted during the rightist regime of late Spanish President Gen. Francisco Franco, according to Spain's Economy Ministry.

EMBASSY CONFRONTATIONS FURTHER ISOLATE CASTRO—RASH OF ASYLUM SEEKERS INDICATES RISING DISCONTENT IN CUBA

(By Lee Hockstader)

HAVANA.—For two weeks, a steady stream of Cubans sneaking, barging, breaking, climbing and vaulting into embassies and diplomatic residences here has provoked a diplomatic crisis.

The incidents, ostensibly the work of asylum seekers, and President Fidel Castro's response, have severely damaged Havana's relations with some of its most important trading partners and historical friends at a time when Cuba has lost its major allies in Eastern Europe and can ill affort further diplomatic isolation.

The embassy sit-ins have coincided with a wave of defections in recent weeks by prominent Cubans, including high-level diplomats and a nuclear physicist. It was announced Monday that Arturo Sandoval, an internationally known jazz trumpeter who enjoyed tremendous privileges in Cuba, had defected and is now in Miami.

"These are all symptoms of the same disease," said a Western diplomat, "Fidel doesn't want to compromise on the fundamental nature of the system."

There are still no signs that Castro's rule is on the brink of collapse, nor has anything resembling a viable political opposition been allowed to show its face.

Yet both the embassy invasions and the defections, coming as Cuba's economy continues to slide, are evidence of spreading discontent on this island of 10 million people. In response, Castro has shown his determination to keep that discontent in check even as his own image of invincibility fades.

Castro continues to insist that the Cuban system can be reformed at the margins but not fundamentally altered. He has ruled out any perestroika-like program of economic change and banned even discussion of the existence of political parties other than Communist.

Indeed, he has continued to warn that in the aftermath of what he calls Eastern Europe's political "disaster," preparations are underway for a draconian austerity program, which he likens to putting the economy on a wartime footing. The program, which would be supervised by the military, would include a halt in key social development programs, Castro has said.

Underlying virtually all of Castro's major pronouncements is an assumption that he will retain absolute control. He has moved to stifle internal dissent and all but crushed a fledgling human rights movement. Many dissidents are already in prison, and 10 more received sentences of up to 15 years last week for what prosecutors called terrorist activity.

The embassy incidents, which began July 9 when five Cubans took refuge in the Czechoslovak mission, followed a sudden exodus of thousands of Albanians to Italy and prompted an immediate sense of crisis in Havana. There were instant comparisons with the 1980 Mariel boat lift, when a wave of asylum requests spun out of control, leading to the departure of 125,000 Cubans to Florida. Many observers say that 10 years after Mariel, conditions are ripe for an even greater exodus.

"In 1980, the economy was still growing and [Cuba] could still get credit internationally," said one diplomat. "Now it's totally different. The hopelessness is prevalent."

To stem such a crisis, Castro apparently decided to take extraordinary step of sending agents into the embassy to extract the asylumseekers, diplomats say. According to the envoys, at least 22 of the 44 Cubans who claimed to be seeking asylum since the crisis began are probably working for the Cuban state security apparatus.

They include half of the 18 Cubans who remain in the Spanish Embassy and five who ransacked the apartment of a Czechoslovak diplomat on July 13, diplomats said. The probable agents also include seven who entered the Czechoslovak Embassy July 16, threatened to blow up the premises, briefly held diplomats there hostage and then departed with several other Cubans in tow, including several who probably were genuine asylum seekers, according to diplomats from four Western countries.

The diplomats also say they suspect that one other Cuban, Lazaro Angel Cabrera, who entered the Czechoslovak Embassy July 9 with four other asylum seekers, may have been working with the Cuban Interior Ministry.

"It's a warning for every other embassy and every other asylum seeker," said one diplomat, "But the risks are enormous: He could kill off tourism and investment."

The incidents at the Czechoslovak Embassy and the Czechoslovak diplomat's apartment in Havana also have underscored the extent to which Cuba's relations with one of its most steadfast former East Bloc allies have deteriorated. Most Czechoslovaks, including diplomats, have left Cuba.

In a letter June 22, Czechoslovak President Vaclav Havel, a former dissident who was imprisoned for attacking the Czechoslovak Communist government's human rights record, criticized Cuba's performance on human rights. In an indignant response, Castro accused Havel of ignorance of Cuba's problems.

"Castro's aim here was to preempt the whole asylum issue, to head off an Albanian-style asylum move and also to poke it in the eye of Havel," said a Western diplomat. In the process, he said, the crisis has taught embassies that "if they took in asylum case things would get messy."

Today, 25 Cubans remain holed up in embassies and diplomatic residences in Havana. They include the 18 at the Spanish Embassy, three at the Swiss Embassy and four at the Italian ambassador's residence. In an interview, a Spanish diplomat said he strongly suspected that nine of the 18 Cubans in his embassy were not genuine asylum seekers. He described them as in their twenties and early thirties and physically fit and said they gave inconsistent stories about their job and backgrounds.

He said the nine had no access to phones, radio, television or other communication with the outside but would not say whether they had contact with the other Cubans in the embassy who are thought to be genuine asylum seekers. He said nine Spanish special forces policemen had arrived to provide additional security at the embassy.

The crisis has soured Cuba's relations with Spain, one of the island's leading Western trading partners, an important bridge to the West and a major source of tourism and economic aid. Tourism, in particular, is critical to Cuba as a source of hard currency.

Spain has suspended aid programs worth $2.5 million, withdrawn its ambassador and appealed to Cuba to improve its human rights climate. The Cuban Foreign Ministry responded with a furious letter, comparing Spanish Foreign Minister Francisco Fernandez Ordonez to "an anxious colonial overseer."

That Castro was willing to enter a diplomatic row with Spain surprised many observers here because Spain enjoys special status in Cuba, and many Cubans can trace their ancestry there, Castro's father came to Cuba in 1874 from northwest Spain's region of Galicia.

"There's going to be a high cost to lose good relations with a country with which Cuba has had such strong links," said a Spanish diplomat. "But it is apparent that his first priority is to keep control of the internal situation and of public order, and any other consideration is secondary at this point."

The Cubans have accused diplomats from the United States, Canada, West Germany and Czechoslovakia of masterminding the wave of embassy incidents to create chaos in Cuba. All four governments have denied it.

However, the Cubans did not accuse the Spanish of complicity with the alleged scheme. Today, officials from both the Spanish Embassy and the Cuban Foreign Ministry said they were willing to negotiate a resolution to the crisis.

Cuba has said it will not permit any of those taking shelter in the embassies to leave the country. Spain and Italy have said they will not eject the Cubans, and Switzerland has said the three at its embassy would be allowed to stay until Cuba provides assurances that their lives are not in danger.●

THE CONTRIBUTIONS OF DAVID MAXWELL

● Mr. WIRTH. Mr. President, I rise today to pay tribute to David O. Maxwell, the Chairman and Chief Executive Officer of Fannie Mae—the Federal National Mortgage Association. Many of us have been strong supporters of Fannie Mae and its role in promoting home ownership in the United States. And many of us have been strong supporters of David Maxwell and the astounding record of success he has compiled while at the helm of Fannie Mae.

Recently, the Washingtonian magazine named David Maxwell the 1990 Businessman of the Year. Citing his dedicated and accomplished stewardship of Fannie Mae, the Washingtonian concluded that "David Maxwell continues to have a remarkable and positive impact on his company, his industry, our city, and the Nation's housing." I heartily agree with these sentiments and I commend him for his highly deserved honor.

What was not mentioned in the Washingtonian was the outstanding contributions Mr. Maxwell has made toward the advancement of energy efficiency and housing affordability. David serves with me on the Board of the Alliance to Save Energy, the Nation's largest nonprofit organization dedicated to promoting energy efficiency in all sectors of the economy—particularly the residential and commercial buildings sector. And while he has been turning around the fortunes of Fannie Mae, David Maxwell has also been the most active and dedicated member of the alliance board.

Last fall, Fannie Mae played a leading role in sponsoring an alliance conference on energy efficiency and housing affordability. Many of the recommendations coming out of that conference are now part of the housing bill passed by the Senate in June. David has been a pioneer in recognizing the relationship between the affordability of housing and the energy implications of home ownership. Energy accounts for 20 percent of the typical homeowner's monthly expenses. By reducing energy costs, we can make home ownership a reality for hundreds of thousands of Americans. In fact, the Alliance to Save Energy estimates that 2 million more Americans could afford housing if all cost-effective energy efficiency measures were implemented in the housing sector. Clearly, this is a strategy we should be pursuing and fortunately David Maxwell has been out front in this effort.

Mr. President, David Maxwell is an extraordinary businessman and a valuable community activist in the Washington area. It is important, however, to take note of his broader vision, of becoming a leader in the shaping the future of our Nation. His efforts on behalf of education, the homeless, and energy efficiency are benefiting individuals across the Nation. I hope my colleagues will join me in acknowledging and congratulating the enormous contributions of David Maxwell.

Mr. President, I ask that the previously mentioned Washingtonian article be printed in the RECORD.

The article follows:

[From the Washingtonian, July 1990]

BUSINESSMAN OF THE YEAR: DAVID O. MAXWELL

(By Wayne F. Nelson)

Back in 1981, when David O. Maxwell took over as chairman and chief executive officer of Fannie Mae, mortgage-interest rates were in the double digits, the nation's housing market was in a slump, and the company was losing more than a million dollars a day. The price of its common stock, widely regarded as a barometer of the housing market, was stuck around $2 a share.

Nine years later, the company is a financial powerhouse—the sixth-largest corporation in America. The $2 stock now trades at more than $40 a share, and Fannie Mae's role in the nation's housing market is more crucial than anyone ever conceived it might be. In 1989 Fannie Mae handled $87 billion worth of home mortgages. Today more than 6 million American families live in homes Fannie Mae helped finance.

Before Maxwell took over, the fortunes of the Federal National Mortgage Association, created by Congress to promote home ownership, rode an interest-rate roller coaster. Fannie Mae did well when rates were low and poorly when they were high. The company's purpose in both good and bad markets was to buy mortgages from S&Ls and other lenders so that those institutions would have fresh cash with which to make new loans. Fannie Mae's value as an investment, therefore, fluctuated with the value of the mortgages it owned.

David Maxwell's turn-around strategy for Fannie Mae took nearly seven years to fully implement and for investors to understand. It involved turning illiquid home mortgages into securities that institutional investors are now eager to own, gradually packaging and unloading the thousands of low-yielding mortgages the association owned, and matching Fannie Mae's assets and liabilities to protect itself from interest-rate fluctuations.

Today it doesn't matter whether interest rates go up or down; under Maxwell, Fannie Mae is structured to make money, and lots of it.

Maxwell's focus has always been on the long term. The results are just now beginning to be fully appreciated by Wall Street—and by a housing industry reeling from the collapse of the S&L industry. Fannie Mae has been able to step in and provide the liquidity many S&Ls have needed by buying their mortgages. Fannie Mae has become a company that masterfully fulfills its public purpose while handsomely rewarding its 48,000 private shareholders.

Under Maxwell the company's community involvement has gone well beyond helping people of modest means get a home. The average mortgage Fannie Mae underwrites is less than $80,000, and many in its low-income program are under $40,000. Fannie Mae also has invested in such projects as the conversion of a rundown YMCA building in Pittsburgh into housing for low-income residents, the conversion of the Union Court in Brooklyn to an apartment building for the homeless, and here in DC the rehabilitation of rundown houses for low-income Washingtonians.

Maxwell also is the force behind Fannie Mae's "partnership" with H.D. Woodson High School. *Fortune* magazine called the program a "textbook example of an idea that works." Through its "Futures 500 Club," Fannie Mae provides scholarship funds, employees who serve as mentors, and part-time jobs and summer internships to Woodson students who earn and keep a B average. Since it began, the program has helped boost the number of A and B students from 33 to 130.

Maxwell, a former Philadelphia lawyer who served as budget secretary of Pennsylvania, general counsel of HUD, and CEO of Ticor Mortgage Insurance Corporation before coming to Fannie Mae, is a voracious reader of both fiction and nonfiction. Twelve years ago he began following the advice of one of his Yale professors to write a review of each book he read. "It helps you read more intelligently," he explains. He is a passionate theater-goer, a board member and supporter of Arena Stage, and chairman of WETA. He plays tennis and, when his schedule permits, escapes to his second home on the coast of Maine.

Because Washington has so many strong candidates, it is always hard to single out one person as Businessman of the Year. But David O. Maxwell continues to have a remarkable and positive impact on his company, his industry, our city, and the nation's housing.●

TRIBUTE TO JACK ROWE

● Mr. McCAIN. Mr. President, I would like to take this opportunity to join family and friends in wishing Mr. Jack Rowe, of Tucson, AZ, a happy 70th birthday. Mr. Rowe is currently chairman of the board of the American International Automobile Dealers Association for the 1990-91 term.

Mr. Rowe, a former pilot and sports-car racer, began his career in the auto dealership industry 35 years ago. He is the father of seven and a prominent community leader who enjoys a good round of golf, fishing, and waterskiing. Jack's contributions to his family, community, and nation are commendable. His charitable nature is truly inspirational.

I congratulate Jack on his newest challenge as AIADA's chairman. I look forward to working with him in this capacity and know he will do a good job providing Congress with accurate information for its decisionmaking process.●

BREAST AND CERVICAL CANCER MORTALITY PREVENTION ACT

● Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleague from Maryland, Senator MIKULSKI, as a cosponsor of S. 2283, the Breast and Cervical Cancer Mortality Prevention Act of 1990. This legislation will establish a program of grants to States to provide preventive health

screening and referral services for low-income women for breast and cervical cancer. I commend my colleague for her efforts in support of this vital legislation.

Statistics show that 1 in every 10 women will develop breast cancer during her lifetime. Every 13 minutes another woman dies of this disease in the United States. In 1989 alone, breast cancer took the lives of more than 40,000 women, while cervical cancer claimed an additional 6,000 lives. The facts become even more tragic when we consider that most of these deaths could have been prevented through early detection.

The survival rate for women who detect the disease and seek treatment early is over 90 percent. It is therefore vital that we do everything we can to help educate all women about the benefits of early detection, while increasing the availability of necessary screening and referral services. The Breast and Cervical Cancer Mortality Prevention Act of 1990 establishes a matching grant program for the States and ensures that 60 percent of the funding is used for provision of mammography and pap smear screening procedures for low-income women. The remaining funds may be used for education, training, technical assistance, and quality assurance and monitoring.

Once again, I commend my colleague from Maryland for her leadership in promoting quality health care for all women, regardless of income. I encourage my colleagues to join in supporting S. 2283, and I urge immediate passage of this lifesaving legislation.●

PESSIMISTIC ABOUT THE ECONOMY

● Mr. DECONCINI. Mr. President, recent national polls all say the same thing: Americans are becoming increasingly worried about the future of the economy. In fact, according to one poll, 71 percent of the American people—more than 7 out of every 10—are pessimistic about the economy. Public attitude is even more negative now than it was after the stock market skid on "Black Monday" 2 years ago.

Right now the White House and Congress are locked in budget deliberations. I hope and believe we can arrive at an agreement that cuts the deficit in a meaningful way. But we can do it only if we can show the political will and courage that such a challenge demands.

Mr. President, my son, Patrick DeConcini, has authored a thoughtful article in which he commends President Bush for his courage in changing his mind on taxes. Like many young men and women of his generation, Patrick is concerned about the world he will inherit. He realizes that today's youth must be engaged in the political process if they want to shape their future. The most important part of that process is to elect politicians who have the courage to do what is right for the future instead of what feels good for the moment. I suspect Patrick's views are shared by many of his generation and I wanted to share his thoughts with my colleagues.

Mr. President, I ask that the text of Patrick's article be printed in the RECORD.

The article follows:

STOP BASHING BUSH

Stop bashing Bash for changing his mind on taxes. Isn't it more important to do what's right than to stick to an unrealistic promise that should have never been made? It's no secret to anyone who can think clearly and has a semi-firm grasp of basic economics that at some point we are going to have to pay for the artificial benefits produced during the Reagan years. To think otherwise is to believe in magic, or "voodoo" as Bush himself put it. Clearly Ronald Reagan isn't the only one to blame; Congress was weak and election minded and the American public went right along. After all, we elected all the politicians that didn't stand tall and refused to say, "That's wrong, you can't at the same time increase defense, cut taxes and raise spending." Not only didn't the politicians object, they approved it. Why? Because it made us (the American public) vote for them. Now, we have to pay the price for their decisions and our denial.

Americans are too proud to admit that we've got problems here in the U.S. When taxes are raised that's a message to everyone that something is wrong, a message that hits them where it counts—their pocket book. Americans don't like to admit that this is a troubled nation with big problems like our 3 trillion, 127 billion dollar National Debt that's costing Americans 252 billion dollars every year just in interest—almost as much as we spend on our national defense. So, to our long term demise, we elect politicians who say things that make us feel good instead of politicians that force us to deal with our problems. Whose fault is that?

Some want to blame Bush and the other politicians for manipulating the public and "hood winking" us into thinking that "no new taxes" was the right way to think. Don't blame the politicians; blame the American public who is too complacent to care or so insecure with their understanding of our economy that they would fall for such a scam. Of course Bush is going to raise taxes! In 1980 Bush called a spade a spade—"voodoo economics." Thankfully, he's finally got the guts to stand up again and say what everyone knows is true—either we pay now or pay a whole lot more later. It is neither logical nor practical to put off pain now, just to have it magnified several times over in the future.

If we had a real, voting, educated electorate in this country, candidates in 1988 wouldn't categorically say things like "no new taxes" because it would not help them get elected. The voters would understand the implications and reject it. Instead, to get elected, candidates would have to say things like "Read my lips, no more hiding from the truth." But, politicans won't say those things until the public demands it, and that probably won't happen until it's too late. Americans won't accept a mini-crisis; it's got to be a full blown catastrophe before we'll admit we need to make changes. So, when Bush finally stands up and does what's right, what happens? Those who either still have too much pride or those who are so selfish themselves and seek to take advantage of a perceived weakness attack Bush, calling him a "liar" and a "cheat." Some want Bush to come out and say, "I was wrong." Why, just to gloat? That's the kind of unproductive thinking that will only get us deeper into the hole we're already in. I don't want to hear Bush say he was wrong; I just want him to do what's right. There's nothing bad about making a mistake except not attempting to correct it. Bush sounds like he wants to start fixing our future, so let's leave him alone while he's on the right track. Does this mean we should forget that when Bush said "no new taxes," he either didn't understand our economy very well or he said it just to get elected? Certainly not. But, the price of Bush's statement should not be to the detriment of our long term future.

If taxes are needed and the revenues can be kept out of the "pork barrel," let's do it! No one should deny that we have big problems here in the U.S., and no one should deny that the deficit is one of them just to avoid accepting the harsh realism of our previous short-minded and irresponsible actions. Politicians are not going to tell us unpleasant truths or devise realistic ways to alleviate problems until doing so will help them get elected. And that won't happen until the American Public cares enough about this country and our future to open our eyes and confront the truly ominous challenges that face us.

Let's congratulate the President on doing what he thinks is right for our *future* instead of what feels good for now. So I say, "back off," Bush bashers, and let the President do somethng for your grandchildren, your children and maybe even you.

PATRICK DECONCINI.●

PUBLIC TV—TAKING CARE OF BUSINESS?

● Mr. SIMON. Mr. President, recently, Jeff Cohen, executive director of FAIR, a New York-based media watch group, had an article in the Chicago Sun-Times that was distributed by a news service.

For some time I have been concerned about the increasing reliance of National Public Radio [NPR] and the Public Broadcasting Service [PBS] on commercial sources.

The whole idea of public radio and public television was that they could cover things of interest to a small listening audience but give a balanced and a different perspective to things.

I hope we can rectify this in the near future.

I ask to have printed in the RECORD at this point the article by Jeff Cohen, as well as the column I wrote for the newspapers in my State some months ago on somewhat the same topic.

The articles follow:

[From the Chicago Sun-Times, July 15, 1990]

PUBLIC TV—TAKING CARE OF BUSINESS?

(By Jeff Cohen)

Two recent events have re-ignited a debate about whether public television has

lost its way. The real question is whether public television has been the victim of a corporate takeover.

In May, FAIR (Fairness & Accuracy in Reporting) released a study titled "All the Usual Suspects," which critqued public television's "MacNeil/Lehrer NewsHour" for relying on a narrow spectrum of analysts from establishment or conservative elites.

The six-month study found that nine out of 10 guest panelists were white, almost nine out of 10 were male, and leaders of public interest causes were nearly invisible. For example, "MacNeil/Lehrer" generally discussed the environment without the benefit of environmentalists, relying almost exclusively on government and corporate officials. When it came to think tanks, "MacNeil/Lehrer" turned repeatedly to conservative institutions while ignoring the other end of the spectrum.

The "MacNeil/Lehrer" guest list seemed to mock Public Broadcasting System's original mandate. As set forth in a 1967 Carnegie Commission report that paved the way for PBS, public television was supposed to "provide a voice for groups in the community that may otherwise be unheard" and to "help us see America whole, in all its diversity."

New urgency was added to the debate over public television last month when WNET in New York, PBS' flagship station, terminated "The 11th Hour," its nightly program that excelled at giving voice to the voiceless. The station canceled "The 11th Hour" because no corporate underwriter had stepped forward and station executives said they could no longer afford the program. This despite the fact that it had built up a sizable and loyal audience, and won five Emmys last year for its first season.

The same voices that were barely audible on "MacNeil/Lehrer" came through loud and clear on "The 11th Hour." While only 10 percent of "MacNeil/Lehrer" guests were people of color, close to 30 percent of the guests on "The 11th Hour" were nonwhite. Public interest spokespersons provided only 6 percent of "MacNeil/Lehrer" guests, but 20 percent of those on "The 11th Hour."

Indeed, there is hardly a public interest or activist constituency—whether environmentalist, civil rights, labor, consumer rights or gay and lesbian—that failed to see its most articulate advocates on "The 11th Hour."

The fact that "The 11th Hour"—a program that fulfills public television's mission—was canceled as "too expensive," while the corporate-funded "MacNeil-Lehrer" coasts on its $20 million yearly budget points to the major flaw in public TV: It is not truly public. Corporate underwriters determine which programs air on public TV, and which do not. Corporate financing sustains "MacNeil-Lehrer"; the lack of it killed "The 11th Hour."

The primary "MacNeil-Lehrer" underwriter is American Telephone & Telegraph Co., a military contractor that does not object to NewsHour "debates" about nuclear arms that pit the hawkish former Secretary of Defense Casper Weinberger against the slightly less hawkish Sen. Sam Nunn (D-Ga.). The more wide-ranging debates and discussions found on "The 11th Hour" fail to attract corporate support. Why should we expect corporations to pay for balanced, multi-cultural programs when underfunded PBS affiliates have been all too willing to carry shows preferred by business—those slanted toward establishment views?

The sad truth is that "public television" has become an oxymoron in this country. In Western Europe, where public television is well-funded and has no need to go begging to corporate underwriters, it can carry out its mandate for balance, diversity and independent journalism unencumbered by economic interests.

But in our system, economic pressures have skewed the program lineup. The corporate agenda is well-presented on PBS stations in regular programs such as Louis Rukeyser's "Wall Street Week," "Adam Smith's Money World" and "Nightly Business Report"—all of which are funded by financial or other firms. But PBS does not air a single regular program offering the agenda of public interests groups that often conflict with big business—environmentalist, labor, consumers. Why? Perhaps because General Motors has no interest in underwriting a weekly show for the likes of Ralph Nader.

Two pundits associated with the right-wing National Review, William F. Buckley Jr. and John McLaughlin, host three weekly political talk shows between them on PBS stations—thanks to the financial support of General Electric, Mobil Oil, Paine Webber and other businesses or corporate foundations.

What about a balancing weekly show hosted by a progressive? PBS says it cannot find the underwriting.

Public television is indeed in its 11th hour. Many viewers are frustrated by undue corporate influence over programing. Individual members—who account for 23 percent of the system's funding—are threatening to quit.

That would be unfortunate, for it would create a vacuum that would be filled by even more corporate money.

A thorough restructuring of public television is urgently needed. A new method of financing must be found if public broadcasting is to serve the public and not merely provide one more outlet for the same sort of business interests that also foot the bill for commercial television.

[P.S./Washington, a weekly column by Senator Paul Simon of Illinois]

PBS NEEDS A PUBLIC SPONSOR

I don't know if anyone else feels as I do, but I am uneasy when the Public Broadcasting System (PBS) gives us these brief announcements: "The following program is brought to you through the courtesy of . . . ." Then follows a series of brief mentions of well-established businesses in the nation.

To the extent it helps keep PBS alive, I welcome it.

But to the extent it requires decisions by PBS not on the merits of the program, but on whether or not PBS can get sponsors, we have not served the public well. PBS has an excellent reputation for quality programming, but it is the trend that concerns me.

As late as 1962, CBS broadcast an hour-long interview of Igor Tamm, a Soviet physicist, with Marvin Kalb. Can you imagine that happening today on CBS? Or on any other network? Or on PBS?

I cannot.

The networks are wedded to the need for large audiences. That's why we have so much violence on television—despite overwhelming evidence that it does serious harm to our society—and why we have so little that is genuinely thought-provoking.

Many cable systems offer the House and Senate "in action" on C-SPAN, as well as other programs and committee sessions that they deem of sufficient interest. In some ways, C-SPAN has replaced PBS as the thinking person's television.

If there is a subject that is important but interests few, or is of great controversy but it cannot get sponsors, should PBS be broadcasting a program about it? Yes. Are they likely to now? No.

I am grateful for the MacNeil-Lehrer NewsHour and for other good programs that PBS does broadcast.

But we should do better.

At one point, we had achieved a reasonably good balance between the commercial stations and public broadcasting. But that status is now changing. A large audience is important now to PBS so it can get sponsors.

PBS had been relatively immune from political and commercial pressures. I want to restore that.

My idea of PBS—and my hope for PBS—is a network relatively free from political and commercial considerations.

That is now being compromised.

The answer is adequate appropriations, a sound investment we should make to have a more informed public.●

OUTPATIENT CARE FOR FORMER POW'S

● Mr. D'AMATO. Mr. President, I rise today to add my support to legislation that will correct an injustice that affects a select and courageous group of veterans: Former prisoners of war. These veterans, after suffering the indignity of imprisonment by our enemies while in service to our country, are not always assured the medical care they deserve. Currently, former POW's with less than a 50-percent disability may or may not receive needed outpatient care. It is time to correct this inequity and provide a consistent health care policy for all former POW's. That is why I am cosponsoring S. 1860. This bill guarantees that outpatient medical services for any disability of a former POW will be furnished by the Department of Veterans Affairs.

I must admit that until recently I was not aware that former POW's were not guaranteed this service. However, when it was brought to my attention, I could not believe that this great Nation would deny medical care to these brave individuals. How can we tell these people that their service, in effect, did not count? How can we tell the soldiers of tomorrow that our Nation will not be there for them should they become POW's? Our former POW's fought to preserve the freedoms we hold dear, and in so doing, became captives. They have a right to these medical services.

As we all know, our Nation faces difficult budget choices, but the $1 million cost estimated to provide health services to these veterans is money well spent. I commend Senator BOREN for introducing this bill and I urge my colleagues to join me in cosponsoring this legislation.●

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, I send to the desk a resolution on representation by the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 314) to direct the Senate Legal Counsel to represent the Offices of Senators NUNN and FOWLER in civil actions.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a constituent of the senior and junior Senators from Georgia has filed civil law-suits in the U.S. District Court for the Northern District of Georgia against both Senators' offices. The plaintiff is alleging that the Senators' offices failed to respond adequately to requests for records that he sought under the Freedom of Information Act and Privacy Act, although, in fact, there have been efforts to assist him.

The courts have established that no lawsuit will lie for a constituent's dissatisfaction with his or her Senator's respose to correspondence or handling of requests for assistance. Also, as the Senate legal counsel informed the plaintiff before he filed these actions, neither the Freedom of Information Act nor the Privacy Act applies to the Senate or the House. Accordingly, these acts are not a basis for legal responsibility in these lawsuits.

The Freedom of Information and Privacy Acts are not applicable to the Senate or the House in keeping with the speech or debate clause and the publications clause of the Constitution. These provisions of article I assign to the Houses of Congress the responsibility to determine which of their records should be published. Although the Senate conducts most of its proceedings in public session and publishes the formal record of its actions, those determinations are reserved to the Senate under the Constitution and under rule XI of the Senate's standing rules.

This resolution will authorize the Senate legal counsel to represent the Offices of Senators NUNN and FOWLER in these cases.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 314) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 314

Whereas, in the cases of Michael A. Nelson v. Senator Sam Nunn's Office, Case No. 1:90-CV-1406-JOF, and Michael A. Nelson v. Senator Wyche Fowler's Office, Case No. 1:90-CV-1465-ODE, pending in the United States District Court for the Northern District of Georgia, the plaintiff has named the Offices of Senator Sam Nunn and Senator Wyche Fowler, respectively, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore be it

Resolved, that the Senate Legal Counsel is directed to represent the Offices of Senator Sam Nunn and Senator Wyche Fowler in the cases of Michael A. Nelson v. Senator Sam Nunn's Office, Case No.1:90-CV-1406-JOF, and Michael A. Nelson v. Senator Wyche Fowler's Office, Case No. 1:90-CV-1465-ODE.

Mr. MITCHELL. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FISH SAFETY ACT OF 1990

Pursuant to the order of the Senate of July 25, 1990, Mr. MITCHELL introduced the following bill; which was ordered to be printed in the RECORD of today:

By Mr. MITCHELL (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. LUGAR, Mr. COHEN, Mr. LOTT, Mr. DASCHLE, Mr. PRYOR, Mr. DIXON Mr. CRANSTON, Mr. NUNN, Mr. GRAHAM, Mr. PELL, Mr. SIMON, Mr. BURDICK, Mr. SANFORD, Mr. D'AMATO, Mr. KERREY, Mr. WIRTH, and Mr. REID):

S. 2924. A bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; pursuant to the order of July 25, 1990, placed on the calendar.

S. 2924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fish Safety Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fish are an important component of the flesh food supply of the United States and are processed and marketed by a large and diverse industry;

(2) the wholesomeness and safety of fish and fish products are important to the health and well-being of the people of the United States;

(3) the Department of Agriculture currently conducts inspection programs for all flesh food products other than fish products and has the technical expertise and work force capacity necessary to rapidly expand meat inspection programs to cover fish and fish products or to assist in efforts by States to accomplish that objective;

(4) heightened public awareness of the health benefits associated with eating fish and fish products, and greater diversity of products, have raised consumption rates and the demand for wholesome products;

(5) current Federal health inspection and monitoring programs are insufficient to ensure public confidence in the wholesomeness and safety of fish and fish products;

(6) the sale of unwholesome, adulterated, mislabeled, or deceptively packaged fish or fish products is hazardous to consumers;

(7) existing Federal standards are inadequate to maintain good fish and fish products handling and manufacturing practices, to ensure consistent fish and fish products packaging and labeling procedures, and to detect hazardous levels of contaminants in fish and fish products;

(8) the Federal Government, in cooperation with the States, has the responsibility of ensuring the wholesomeness and safety of all fish and fish products sold in interstate commerce for consumption in the United States;

(9) a public health-based inspection program is important for fish and fish products because of several factors, including—

(A) the fish habitat is often an uncontrolled environment;

(B) certain fish species tend to concentrate contaminants;

(C) deterioration of fish and fish products tends to occur more rapidly; and

(D) fish are consumed raw in some instances;

(10) deceptively labeled or packaged fish products can compete unfairly with properly labeled and packaged products to the detriment of consumers and the public generally; and

(11) in the past decade, various State and local agencies have issued warnings concerning the dangers of consuming certain types or species of fish, and the absence of Federal standards has made it difficult to assure that adequate standards are being applied nationwide.

(b) PURPOSE.—It is the purpose of this Act—

(1) to expand current flesh food inspection programs administered by the Department of Agriculture to include fish and fish products and to assist those States desiring to implement the inspection and sampling program described in this Act;

(2) to ensure the wholesomeness and safety of all fish and fish products in the United States through the development of a comprehensive safety program, that will include—

(A) a mandatory health-based program for the inspection of fish and fish products that will ensure that fish and fish products are properly labeled and packaged;

(B) the establishment and enforcement of safety and wholesomeness standards for fish and fish products;

(C) the monitoring and evaluation of fish and fish product safety risks;

(D) the scientific assessment of consumer health risks attributable to the consumption of adulterated fish and fish products;

(E) consumer education programs; and

(F) the proper storage, labeling, processing, handling, and packaging of fish and fish products; and

(3) to enhance public confidence in the wholesomeness and safety of fish and fish products, and protect the fish and fish products market by requiring the development of a comprehensive safety program.

SEC. 3. FISH INSPECTION PROGRAM.

The Food Security Act of 1985 (7 U.S.C. 1281 note) is amended by adding at the end thereof the following new title:

"TITLE XIX—FISH INSPECTION PROGRAM

"SEC. 1901. DEFINITIONS.

"As used in this title:

"(1) ADULTERATED.—The term 'adulterated' means any fish product that—

"(A) bears or contains any poisonous or deleterious substance that may render such product injurious to health, except that if such substance is a naturally occurring part of the fish product, such product shall not be considered adulterated if the quantity of such substance does not ordinarily render such fish product injurious to human health;

"(B)(i) bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical, a food additive, or a color additive) that may, in the judgment of the Secretary, make such product unfit for human food;

"(ii) is, in whole or in part, a raw agricultural commodity and such commodity bears or contains any pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a);

"(iii) bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 348); or

"(iv) bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 376), except that a fish product that is not otherwise considered to be adulterated under this clause or under clauses (ii) or (iii) shall be considered to be adulterated if the use of a pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations promulgated by the Secretary in establishments;

"(C) consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human food;

"(D) has been prepared, packed, or held under insanitary conditions that may have resulted in such fish product becoming contaminated with filth, or becoming injurious to human health;

"(E) is, in whole or in part, derived from any fish product identified as adulterated under the procedures described in section 1903(d);

"(F) is or was contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;

"(G) has been intentionally subjected to radiation, except that the use of radiation in compliance with a regulation or exemption in effect under section 409 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 348) shall not make such fish product adulterated under this subparagraph;

"(H)(i) has any valuable constituent, in whole or in part, omitted or abstracted therefrom;

"(ii) has any substance substituted, wholly or in part therefor;

"(iii) has damage or an inferiority concealed in any manner; or

"(iv) has substance added thereto or mixed or packed therewith so as to increase the bulk or weight, reduce the quality or strength, or make the appearance of such fish product better or of greater value than it actually is;

"(I) has been made or derived in whole or in part from fish harvested in a production area that has been closed under this title, or closed to commercial fishing for that species by any State or other appropriate authority for reasons related to food safety;

"(J) has been imported and is not in compliance with the requirements of section 1910;

"(K) has been processed by any establishment whose facilities or equipment, or the operation thereof, fail to meet the requirements of this title; or

"(L) has been handled by an establishment for which a certificate has not been issued, or by an establishment no longer holding a certificate.

"(2) CAPABLE OF USE AS HUMAN FOOD.—The term 'capable of use as human food' shall apply to any fish product that is capable of being consumed by humans as food, unless it is denatured or otherwise identified as required by regulations promulgated by the Secretary to deter its use as human food, or unless it is naturally inedible by humans.

"(3) CERTIFICATE.—The term 'certificate' means any certificate, prescribed under regulations promulgated by the Secretary, for issuance by an inspector or other person performing official functions under this title.

"(4) COMMERCIAL FISHING VESSEL.—The term 'commercial fishing vessel' means a vessel that commercially engages in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish, capable of use as human food and intended for human consumption.

"(5) CONTAINER, PACKAGE.—The terms 'container' and 'package' include any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

"(6) ESTABLISHMENT.—The term 'establishment' means any fish processing vessel that is subject to the jurisdiction of the United States, or any building, premises, structure, or other facility located in any State or Territory that is used in the handling or processing of fish products. Such term shall not include—

"(A) recreational vessels, fish tender vessels, commercial fishing vessels, or aquaculture operations, unless any such vessels or operations process fish;

"(B) retail stores;

"(C) restaurants; or

"(D) contract or common carriers that transport fish products.

"(7) FISH.—The term 'fish' includes freshwater or marine finfish, mollusks, crustaceans, and other forms of aquatic animal life, including amphibians, whether from wild or cultured sources, other than birds or mammals.

"(8) FISH PROCESSING VESSEL.—The term 'fish processing vessel' means a vessel that commercially prepares fish products, other than by gutting, decapitating, salting, gilling, skinning, shucking, icing, freezing to the extent that such freezing is associated with other actions related to processing, or brine chilling.

"(9) FISH PRODUCT.—the term 'fish product' means any food product capable of use as human food derived in whole or in substantial part from fish, including unprocessed fish or any part thereof, excepting products which contain fish ingredients only in a relatively small proportion or that historically have not been considered by consumers as products of the fish food industry, and that are exempt from the definition of fish or fish product by the Secretary under such conditions as the Secretary may prescribe to ensure that the fish ingredients contained in such product are not adulterated and that such products are not represented as a fish product.

"(10) FISH TENDER VESSEL.—The term 'fish tender vessel' means a vessel that commercially supplies, stores, refrigerates, or transports fish products that are intended for human consumption, or materials directly related to fishing or the preparation of fish, to or from a commercial fishing vessel, fish processing vessel, fish tender vessel or a fish processing facility.

"(11) IMMEDIATE CONTAINER.—The term 'immediate container' includes any consumer package, or any other container in which fish products, not consumer packaged, are packed.

"(12) INSPECTOR.—The term 'inspector' means any individual appointed or authorized by the Secretary to make inspections, to review compliance, or to perform other functions under this title.

"(13) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce between any State or Territory, and any place outside thereof, or within any territory not organized with a legislative body.

"(14) LABEL.—The term 'label', with respect to fish products, means a display of written, printed, or graphic matter appearing on the immediate container (not including package liners) of any fish product.

"(15) LABELING.—The term 'labeling', with respect to fish products, means all labels and other written, printed, or graphic matter on any fish product or on any of the packages, containers, or wrappers of such article, or accompanying any fish product.

"(16) MISBRANDED.—The term 'misbranded' means any fish product—

"(A) the labeling of which is false or misleading in any manner;

"(B) if such fish product is offered for sale under the name of another food;

"(C) if the package of such fish product is so made, formed, or filled as to be misleading;

"(D) if the label of such fish product is not approved by the Secretary, or is not in a standard form that is approved by the Secretary, or otherwise is not in conformity with regulations promulgated by the Secretary;

"(E) if such fish product is an imitation of another food product, unless the label of such fish product bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter, the name of the food imitated;

"(F) such fish product does not bear a label disclosing—

"(i) the name and the place of business of the manufacturer, packer, or distributor; and

"(ii) an accurate statement of the quantity of such fish product in terms of weight, measure, or numerical count, except that reasonable variations may be permitted, and exemptions as to small packages or articles that are not in packages or other containers may be established by regulations promulgated by the Secretary;

"(G) if any word, statement, or other information required by or under the authority of this title to appear on the label or labeling of such fish product is not prominently placed on such product with such conspicuousness (as compared with other words, statements, designs, or devices, in such labeling) and in such terms as to

render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(H) if such fish product purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the regulations of the Secretary under section 1908 of this title unless—

"(i) such fish product conforms to such definition and standard; and

"(ii) the label of such product bears the name of the food specified in such definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

"(I) if such fish product purports to be or is represented as a food for which a standard or standards of fill of the container of such product have been prescribed under regulations promulgated by the Secretary, and such fish product falls below the standard of fill of container that are applicable thereto, unless the label of such product bears, in such manner and form as such regulations require, a statement that it falls below such standard;

"(J) if such fish product is not subject to the provisions of subparagraph (H), unless its label bears—

"(i) the common or usual name of the food, if any such common or usual name exists; and

"(ii) in the case of a product that is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each and, to the extent that compliance with this clause is impracticable or results in deception or unfair competition, exemptions shall be established through regulations promulgated by the Secretary;

"(K) if such fish product bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless the fish product bears a label that states that fact, except that to the extent that compliance with the requirements of this subparagraph are impracticable, exemptions shall be established through regulations promulgated by the Secretary; or

"(L) if such fish product fails to bear on its package or immediate container, and in the case of nonconsumer packaged fish (if the Secretary so requires) directly thereon, as the Secretary may through regulations prescribe, the official mark, and such other information as the Secretary may require in such regulations to ensure that such fish product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

"(17) OFFICIAL MARK.—The term 'official mark' means any official inspection legend or any other symbol, prescribed under regulations promulgated by the Secretary, to identify the establishment and the status of any fish product under this title.

"(18) OWNER OR OPERATOR.—The term 'owner or operator' means any person who owns, operates, leases, charters, or otherwise controls in whole or in part any establishment or vessel.

"(19) PERSON.—The term 'person' means any individual, partnership, corporation, establishment, importer of fish products, association, or other business unit.

"(20) PESTICIDE CHEMICAL, OTHER TERMS.—The terms 'pesticide chemical', 'food additive', 'color additive' and 'raw agricultural commodity' shall have the same meanings given such terms under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, et. seq.).

"(21) PROCESS.—The terms 'process' and 'processing', with respect to fish products, means to prepare or manufacture such fish products by canning, cooking, smoking, filleting, fermenting, freezing to the extent that the freezing is associated with other actions related to processing, dehydrating, drying, and consumer packaging.

"(22) PROGRAM.—The term 'program' means all aspects of the inspection and sampling program for fish products established under this title.

"(23) RECREATIONAL VESSEL.—The term 'recreational vessel' means a vessel operated primarily for pleasure, or leased, rented or chartered to another for the pleasure of the leasee.

"(24) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(25) SHIPPING CONTAINER.—The term 'shipping container' means any container used or intended for use in packaging a fish product packed in an immediate container.

"(26) STATE.—The term 'State' means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

"(27) TERRITORY.—The term 'Territory' means any territory or possession of the United States not included in the definition under paragraph (26).

"SEC. 1902. EXEMPTIONS AND EXCLUSIONS.

"(a) GENERAL EXEMPTIONS.—The Secretary shall, by regulation and under such conditions as the Secretary may prescribe, exempt from specific provisions of this title—

"(1) the processing by any individual of fish products raised or harvested by that individual exclusively for use by that individual or by the members of the household, the nonpaying guests, and the employees of that individual;

"(2) the custom processing, in any establishment or vessel, of fish products that the owner of such products will exclusively use, in the household of the owner, for the owner or the members of the household, the nonpaying guests, or the employees of the owner, if—

"(A) such establishment or vessel ensures that such fish products are segregated at all times from fish products processed for sale;

"(B) such fish products are plainly labeled or marked as "Not for Sale"; and

"(C) such establishments and vessels are maintained and operated in a sanitary manner;

"(3) any establishment or vessel that processes only fish products that are not intended for use as human food, if such fish products are, prior to their offer for sale or other disposition in commerce, not capable of use as human food.

"(4) the entry, or withdrawal from warehouse, for consumption in the United States of any fish product acquired outside the United States for consumption by the person entering or withdrawing it if—

"(A) the total amount of such fish product does not exceed 50 pounds as the Secretary may prescribe by regulation; or

"(B) the fish product is exempted by regulation because it was caught for other than commercial purposes in waters outside the United States; and

"(5) operations of types traditionally and usually conducted at retail stores or restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities of fish products to consumers at such stores or restaurants.

"(b) EXCLUSIONS.—This title shall not apply to recreational vessels, commercial fishing vessels or fish tender vessels except where such vessels process fish.

"SEC. 1903. FEDERAL AND STATE COOPERATION.

"(a) STATE PROGRAMS.—

"(1) POLICY.—It is the policy of Congress to protect the consuming public from fish products that are adulterated or misbranded and to assist in the efforts of State and other government agencies to accomplish this objective.

"(2) INTRASTATE INSPECTION PROGRAMS.—

"(A) AUTHORITY OF SECRETARY.—

"(i) IN GENERAL.—The Secretary may, when the Secretary determines that it would effectuate the purposes of this title, cooperate with the appropriate State agency in any State that has enacted a mandatory State fish product inspection law that imposes inspection, sampling, sanitation and other requirements of the type described in this title, that are at least equal to those described in this title, to assist such State in developing and administering a State fish product inspection program with respect to all or certain classes of persons engaged in the State in processing fish products solely for sale or other distribution within such State.

"(ii) MARKS OR CERTIFICATES.—Each State program described in clause (i) applicable to fish products in intrastate commerce shall not permit such fish products to bear any official marks or certificates applicable to fish products in interstate commerce as authorized under this title, and any labels on such fish products shall clearly indicate that the fish product is for intrastate commerce only.

"(B) ADULTERATION.—Fish products processed or handled for intrastate commerce, as authorized under a program established under subparagraph (A), that are sold, transported, or delivered for introduction into, or offered for sale in interstate commerce shall be considered to be adulterated for purposes of this title.

"(C) WARNING NOTICE.—If the Secretary determines that a State fish product inspection program established under subparagraph (A) is not at least equal to the program established under this title, or that a State has failed to maintain or is not enforcing a fish product inspection program at least equal to the program established under this title, the Secretary shall promptly notify the chief executive officer of the State of such determination.

"(D) NOTICE.—If, after notification is provided to a State under subparagraph (C), and after the Secretary has consulted with the State and provided the State with an opportunity to promptly correct any deficiencies identified in such notification, the Secretary determines that a State fish product inspection program continues to have State standards that are not at least equal to those established under this title or that the State has failed to maintain or is not enforcing a program having standards at least equal to those established under this title, the Secretary shall—

"(i) promptly notify the chief executive officer of such State of such determination;

"(ii) discontinue assistance to such State under this title;

"(iii) advise the Commissioner of Food Drugs of such determination; and

"(iv) notwithstanding any other provision of this title, in the case of adulterated fish products that are being distributed or sold within such State that are determined to clearly endanger the public health, the Secretary shall immediately notify the chief executive officer of the State of such determination, and if the State does not take action to prevent such endangering of the public health within a reasonable period of time after the receipt of such notice, as determined by the Secretary, in light of the risk to public health, the Secretary may require that such State be subject to the provisions of this title as though the fish products were in interstate commerce until such time as the Secretary determines that the State has developed and will enforce requirements at least equal to those imposed under this title.

"(3) INTERSTATE COMMERCE.—

"(A) AUTHORITY OF THE SECRETARY.—

"(i) IN GENERAL.—The Secretary may, when the Secretary determines that it would effectuate the purposes of this title, cooperate with appropriate State agencies concerning the State administration of the inspection and sampling components of the program established under this title on behalf of the Secretary.

"(ii) REGULATIONS CONCERNING STATE ADMINISTRATION.—The Secretary shall promulgate regulations concerning the State administration of the sampling and inspection components as described in clause (i) on behalf of the Secretary.

"(iii) COOPERATION.—The Secretary may cooperate with other agencies of the Federal Government in implementing this title.

"(iv) EXAMINATIONS, ETC.—In carrying out this title, the Secretary shall conduct such examinations, investigations, and inspections as the Secretary determines practicable through any officer or employee of any State commissioned by the Secretary for such purpose. The Secretary shall monitor, investigate and evaluate each program administered under this paragraph on behalf of the Secretary by a State on an ongoing basis to assure that such programs comply with the regulations and other requirements of the Secretary. The Secretary shall be responsible for the enforcement of this title with respect to States that administer the program on behalf of the Secretary.

"(B) FINANCIAL ASSISTANCE.—

"(i) AUTHORITY.—The Secretary, in cooperating with State agencies under this paragraph, may provide such State agencies with—

"(I) advisory assistance in planning and otherwise developing an adequate State program under this paragraph; and

"(II) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other assistance necessary for the administration of a program under this paragraph.

"(ii) AMOUNT.—The amount to be contributed to any State by the Secretary for an approved State interstate commerce sampling and inspection program for any year shall not exceed 50 percent of the total cost of the cooperative program, and Federal funds utilized by the Secretary under such clause shall be allocated among the States desiring to cooperate under this paragraph on an equitable basis. Such cooperation and payment shall be contingent at all times on the demonstration that the State program is adequate to effectuate the sampling and inspection requirements of this title.

"(iii) WITHHOLDING OF ASSISTANCE.—The Secretary may promulgate regulations to provide for the withholding of Federal assistance under this subparagraph if the Secretary determines that the State is not effectively and properly administering the State program under this title. Such regulations may provide for the subsequent payment of any withheld assistance if the State, to the satisfaction of the Secretary, corrects any deficiencies determined by the Secretary to exist.

"(C) FEDERAL-STATE PARTNERSHIPS.—The Secretary shall establish procedures to enable States to apply to administer, on behalf of the Secretary, an inspection and sampling program under this paragraph.

"(D) PLAN OF OPERATION.—Each State approved by the Secretary to administer an inspection and sampling program for the Secretary under this paragraph shall annually prepare and submit to the Secretary a plan of operation that shall contain such information as the Secretary shall by regulation require, including a description of—

"(i) the manner in which the State intends to administer the fish product inspection and sampling program consistent with the requirements of this title;

"(ii) the State plans for sampling fish products and for inspecting and monitoring establishments;

"(iii) State cost projections that contain the anticipated cost to the State in administering the program on behalf of the Secretary;

"(iv) the staffing, equipment, and other needs of the State to administer such program and the indicators of the expected performance of the State in the administration of the program;

"(v) the types of reports and other information that the State shall provide, as may be required by the Secretary; and

"(vi) the procedures that the State will utilize for the issuing and handling of advance Federal payments under this title, and for the financial recordkeeping concerning the Federal share of the total cost of the cooperative programs administered under this paragraph.

"(E) STANDARDS FOR FEDERAL-STATE COOPERATION.—

"(i) ESTABLISHMENT.—The Secretary shall establish standards for the efficient and effective administration of the sampling and inspection program by each State whose application and plan of operation has been approved under this paragraph.

"(ii) WARNING NOTICE.—If the Secretary determines that any State inspection and sampling program established under this paragraph is not at least equal to the program established under regulations promulgated by the Secretary, or that a State has failed to maintain or is not operating a program at least equal to the program established under this title, the Secretary shall promptly notify the chief executive officer of the State of such determination.

"(iii) DESIGNATION BY SECRETARY.—If, after issuing a notification under clause (ii) to a State and after consulting with such State and providing an opportunity for the State to promptly correct any deficiencies identified in such notification, the Secretary determines that a State inspection and sampling program operated under this paragraph does not have standards that are at least equal to those required under this title or that such State has failed to maintain or operate a program having standards at least equal to those under this title, the Secretary shall promptly notify the chief executive officer of such State of such determination and designate such State as one in which the Federal inspection program established under this title shall apply.

"(F) DEPUTIZATION OF STATE EMPLOYEES.—The Secretary may deputize specific State employees in States approved to administer the Federal inspection and sampling program on behalf of the Secretary under this paragraph, under an annual agreement with each participating State to carry out, on behalf of the Secretary, the inspection program established under this title.

"(4) ADVISORY COMMITTEES.—The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with the Secretary concerning State and Federal programs with respect to fish product inspection and other matters within the scope of this title. Such advisory committees may conduct evaluations of State programs and attempt to obtain improved coordination and more uniformity among such State programs and between the Federal and State programs, and shall provide advice on the protection of consumers.

"(5) LOCAL COOPERATION.—The appropriate State agency with which the Secretary may cooperate under this subsection shall be a single agency in the State that is primarily responsible for the coordination of the State programs having objectives that are the same as the objectives of this title. If the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be considered to be a part of the State agency for purposes of this subsection.

"(b) DEVELOPMENT OF FEDERAL INSPECTION PROGRAM.—The Secretary shall develop and administer a comprehensive and efficient health-based inspection program for fish products designed to protect the consuming public from fish products that may be adulterated or misbranded.

"(c) FEDERAL PROGRAM REQUIREMENTS.—The inspection program established by the Secretary under subsection (b) shall—

"(1) be specifically designed to take into consideration the special characteristics of fish species and fish products;

"(2) be based on a comprehensive assessment of fish and fish products, and the processing and handling of such products, that identifies the hazards and assesses the severity of the hazards and risks, and that prescribes health-based standards for sanitation in the processing of fish products in establishments to ensure that fish products will not be adulterated or misbranded when delivered to the consumer;

"(3) be based on a consideration by the Secretary of all procedures utilized during the processing and distribution of fish including—

"(A) the identification and assessment of the severity of the potential health risks associated with fish, fish species, and fish products and with the processing and handling of such fish, species, and products;

"(B) a determination of the sources and specific points of potential contamination that may adulterate fish products; and

"(C) the potential for persistence and multiplication or concentration of contaminants in fish and fish products;

"(4) be based on the need to require procedures to prevent, eliminate or control potential contaminants that may adulterate fish

and fish products and the need to monitor those procedures;

"(5) be specifically designed to take into consideration the distinctive characteristics, hazards, control points, and processing procedures related to different species of fish;

"(6) assure, through frequent, and unannounced or announced, inspections of establishments that the processing of fish products complies with the standards prescribed pursuant to this title and the regulations issued by the Secretary thereunder, including standards for good sanitation, manufacturing, processing, storage, temperature control, packaging, and handling, taking into consideration—

"(A) the nature and frequency of operations;

"(B) the adequacy of monitoring programs;

"(C) the history of compliance with this title;

"(D) the recommendations of the Model Seafood Surveillance Program;

"(E) the potential of the operations to affect human health based on the probability of fish, fish species, or fish products being susceptible to adulterants or otherwise having potential to affect public health;

"(F) the compliance of the establishment with other federal health and safety laws; and

"(G) such other factors as the Secretary may determine appropriate;

"(7) not require the freezing or cooking of fish or fish products that are intended for raw consumption unless the Secretary determines that such freezing or cooking is the only practical procedure available that will adequately prevent, eliminate, or control an identified source of adulteration in the specified fish species;

"(8) provide for the identification and classification of fish growing and harvesting areas in conjunction with the appropriate Federal and State agencies;

"(9) provide for the delegation, as described in this title, of certain inspection and sampling authorities to State governments and provide compensation to the States for carrying out such authority at a level not to exceed 50 percent of the total cost of the cooperative program;

"(10) provide for the sampling and inspection of fish products, and for the monitoring, and the taking of samples or readings, at such points, in such manner, and with such frequency as the Secretary determines necessary, taking into consideration the factors described in subparagraphs (A) through (G) of paragraph (6);

"(11) establish procedures (that may include requiring the marking of containers, packages or fish products, or by requiring such recordkeeping, lot processing, or other handling procedures as the Secretary determines appropriate) to assist the Secretary in determining sources of contamination, including determining which harvesting or growing areas are likely to produce fish that are adulterated; and

"(12) provide for the promulgation of regulations establishing rules for the identification, naming, labeling and fill of containers of fish products taking into consideration current industry practices and Federal regulations.

"(d) TOLERANCES.—

"(1) POISONOUS OR DELETERIOUS SUBSTANCES.—

"(A) IN GENERAL.—The Commissioner of Food and Drugs shall establish tolerances, except where such tolerances are established by the Administrator of the Environmental Protection Agency, that shall be applicable to poisonous or deleterious substances that may adulterate fish products under the definition of adulteration contained in subparagraphs (A) and (B) of section 1901(1), which shall be used by the Secretary to determine instances in which fish products will be considered adulterated under such subparagraphs. Any such tolerances shall be established at levels so that fish products are not injurious to health.

"(B) CONSULTATION.—Tolerances shall be established under subparagraph (A) in consultation with—

"(i) the National Academy of Sciences;

"(ii) the Environmental Protection Agency;

"(iii) the Centers for Disease Control;

"(iv) the Secretary of Agriculture;

"(v) the Secretary of Commerce; and

"(vi) the Interstate Shellfish Sanitation Conference.

"(C) BASIS.—Tolerances shall be established under subparagraph (A) based on a scientific analysis of the health risks attributable to the poisonous or deleterious substance for which the tolerance is being established.

"(D) TRADE REPRESENTATIVES.—The Commissioner of Food and Drugs shall consult and advise the United States Trade Representative concerning tolerances that may apply to international trade negotiations.

"(E) RECONSIDERATION.—The Commissioner of Food and Drugs or the Administrator of the Environmental Protection Agency shall review and reconsider any tolerances established under subparagraph (A) concerning fish products as new scientific information or new technologies become available.

"(2) CONTAMINANTS.—The Commissioner of Food and Drugs shall establish tolerances, except where such tolerances are established by the Administrator of the Environmental Protection Agency under the Federal Food, Drug and Cosmetic Act, for harmful chemicals, toxins, parasites, pathogenic microorganisms, viruses, bacteria, and other harmful agents, that may render fish products adulterated.

"(3) INDICATORS.—The establishment of tolerances under this subsection may include the use of indicators present in fish or fish products, including indicator organisms, from which it may reasonably be inferred that a hazardous or injurious contaminant or substance is present whenever the contaminant or a poisonous or deleterious substance itself cannot be cost-effectively detected.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to preclude any State from establishing an additional fish products quality program for fish products grown or harvested in such State.

"SEC. 1904. GROWING AND HARVESTING AREAS.

"(a) IDENTIFICATION OF GROWING AREAS.—The Secretary of Commerce for waters under the exclusive jurisdiction of such Secretary, and appropriate State authorities for waters under the jurisdiction of such appropriate State authorities, shall establish a system for the identification and classification of growing and harvesting areas for fish in coastal areas and the Great Lakes.

"(b) MONITORING.—The Secretary shall sample and test fish products to determine if there is any significant instance or trend in the condition of such fish products that may pose a significant threat to the health and safety of consumers.

"(c) NOTICE.—

"(1) DETERMINATION.—If the Secretary determines that a significant instance or trend of the type described under subsection (b) exists, the Secretary shall notify the appropriate State or Federal agencies with authority to remedy such instance or trend. Such agencies shall include—

"(A) the Interstate Shellfish Sanitation Conference;

"(B) the State from which any such fish may have been harvested;

"(C) the Secretary of Commerce;

"(D) the Commissioner of Food and Drugs; and

"(E) the Administrator of the Environmental Protection Agency.

The Secretary shall publish notice of the significant instance or trends determined to exist in the Federal Register.

"(2) ACTIONS.—Each agency notified under paragraph (1) shall, not later than 30 days after the receipt of such notice, inform the Secretary in writing of any actions that such agency has taken to prevent the distribution of adulterated fish products to consumers. Any such written information shall be available for public inspection.

"(d) GRANTS.—The Secretary, in cooperation with States under this section, may provide States with financial and other assistance to prevent the entry of adulterated fish products into establishments, including annual grants to each State that is a member of the Interstate Shellfish Sanitation Conference.

"(e) CLOSURE OF AREAS.—

"(1) IN GENERAL.—In the case of public health emergencies or on receiving notice of the type described in subsection (b) from the Secretary, the Secretary of Commerce may close waters under the exclusive jurisdiction of the Secretary of Commerce, or otherwise restrict the harvesting of a fish species in such waters if the Secretary of Commerce determines that fish of such species within the identified harvesting or growing areas are likely to be adulterated.

"(2) REVIEW.—The Secretary of Commerce shall periodically review the growing and harvesting areas closed or restricted under this subsection to determine whether such closure or restriction should be removed. The Secretary of Commerce shall establish procedures to permit further review on petitions by affected persons.

"(3) NOTICE.—The Secretary of Commerce shall give reasonable public notice, except in cases determined to be public health emergencies, prior to ordering any closure or restriction under this section.

"SEC. 1905. POWER OF INSPECTORS.

"(a) ACTIONS OF INSPECTORS.—Inspectors authorized by the Secretary to conduct inspections, enforce compliance, and otherwise implement his title (including State employees so authorized) shall, pursuant to procedures prescribed by the Secretary, take such actions as are necessary in the judgment of the inspector to implement this title and the regulations promulgated under this title. Such actions may include—

"(1) the inspection of establishments and all locations within establishments, including fish products, packages, containers, labeling, equipment, processing procedures, and records related to this title;

"(2) the sampling and testing of fish products;

"(3) the detention and condemnation of adulterated or misbranded fish products in accordance with this title; and

"(4) the inspection, sampling and testing of imports of fish products.

"(b) CONDEMNED FISH PRODUCTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), all fish products found by the Secretary to be adulterated or misbranded shall be immediately segregated, seized, and, if objection is not made within 48 hours, condemned. If objection is made, such fish products that are in perishable form may be processed to the extent necessary to prevent spoilage pending hearing and judicial review.

"(2) COMPLIANCE ACTIONS.—If the Secretary determines that an adulterated or misbranded fish product can, by relabeling or other action, be brought into compliance with this title or the regulations promulgated under this title, the Secretary may defer a final determination as to the condemnation of such fish product pending the performance by the applicant within a time period specified by the Secretary of such relabeling or other action as the Secretary may authorize. If after such action is performed, the Secretary determines that the fish product has been brought into compliance with this title, the Secretary shall permit its entry into commerce.

"(3) DESTRUCTION.—A fish product condemned by the Secretary without objection, or after hearing and judicial review under section 1918, shall be destroyed and not utilized for human food purposes under the supervision of the Secretary.

"(c) ACCESS.—Inspectors under this title shall have access, for purposes of examination, sampling, inspection, condemnation, and for such other purposes as are determined necessary, to every part of any establishment.

"SEC. 1906. SANITARY CONDITIONS.

"(a) MAINTENANCE OF FACILITIES.—Each establishment shall maintain premises, facilities, and equipment, and the operation of such, in accordance with such sanitary practices as are required under regulations promulgated by the Secretary for the purpose of preventing the entry into, or flow or movement in, or burdensome effect on, commerce, of fish products which are adulterated.

"(b) STORAGE OR HANDLING.—The Secretary shall, by regulation, prescribe conditions under which fish products shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, when the Secretary determines that such action is necessary to ensure that such articles will not be adulterated or misbranded when delivered to the consumer. The Secretary may establish guidelines for the training of persons who are employed by establishments involved in fish and fish product sanitation and quality control.

"(c) TEMPORARY EXEMPTION AUTHORITY.—The Secretary may, under such sanitary conditions as the Secretary may by regulation prescribe, exempt from the inspection requirements of this title until, July 1, 1995, or earlier, the handling or processing of fish products by any person, where the Secretary determines—

"(1) that it is impractical to provide such inspection based on the amount of funds appropriated for the administration of this title; and

"(2) that an exemption under this subsection will aid in the effective transition to the program implemented under this title.

"SEC. 1907. CERTIFICATION OF ESTABLISHMENTS, IMPORTERS.

"(a) IN GENERAL.—

"(1) PROCEDURES.—The Secretary shall establish procedures for the annual certification, or decertification for good cause, of establishments, and persons engaged in the business of importing of fish or fish products.

"(2) INFORMATION.—The Secretary shall require such information as the Secretary determines appropriate for application for certification under paragraph (1), including the name of the owner and operator of the establishment or import business, the principal place of business, and a list of each type of fish or fish product typically processed, handled, or imported by each such establishment or importer.

"(3) PROHIBITION.—No establishment or person engaged in the business of importing shall process or handle any fish product for commercial purposes unless such establishment or importer is certified by the Secretary.

"(b) APPLICATIONS.—Applications for certification under subsection (a) shall be made to the Secretary using such forms and requiring such information as the Secretary shall prescribe by regulation including a description of the quality control program of the establishment or importer.

"(c) REFUSAL TO CERTIFY, REVOCATION.—

"(1) IN GENERAL.—If an establishment or importer certified under subsection (a) fails to comply with any requirement of this title or the regulations promulgated under this title, the Secretary may, after notice and an opportunity for a hearing—

"(A) revoke such certification;

"(B) suspend such certification for a period of time; or

"(C) impose conditions or restrictions on such certification as the Secretary determines necessary and appropriate.

"(2) DENIAL OR REVOCATION.—The Secretary may (for such period, or indefinitely, as the Secretary determines necessary to effect the purposes of this title) refuse to certify or decertify an establishment or importer if the Secretary determines, after providing such establishment or importer with an opportunity for a hearing, that such establishment or importer is unfit to engage in any business subject to or requiring inspection under this title as a result of the establishment or importer, or anyone responsibly connected with the establishment or importer, having been convicted in any Federal or State court of—

"(A) acquiring, handling, or distributing adulterated, mislabled, or deceptively packaged food or fraud in connection with transactions in food; or

"(B) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

"(3) RESPONSIBLY CONNECTED.—For the purpose of this subsection a person shall be considered to be responsibly connected with the establishment or importer if such person is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock of the establishment or importer or is an employee in a managerial or executive capacity, as defined in regulations promulgaged by the Secretary.

"(4) HEARINGS.—On the revocation of a certification for failure to destroy condemned fish products as required under this title, or as a result of any other failure of an establishment or imporer to comply with the requirements of this title as to premises, facilities, or equipment, or the operation thereof, or other noncompliance with the requirements of this title, the applicant for, or holder of, the certification shall, on request, be afforded an opportunity for a hearing with respect to the merits or validity of such action under section 1918. Such decertification or refusal to certify shall continue in effect unless otherwise ordered by the Secretary.

"(5) REINSTATEMENT.—

"(A) IN GENERAL.—An establishment or importer that has had a certification revoked or suspended under this subsection may apply for reinstatement of such certification. The Secretary shall grant such reinstatement, if the revocation or suspension is pending in a hearing or appeal under paragraph (4), if the Secretary determines that the establishment or importer is fit to engage in the handling or processing of fish products.

"(B) CONDITIONAL OR RESTRICTED CERTIFICATIONS.—An establishment or importer that has a certification that is conditional or restricted may apply for the removal of such conditions or restrictions. The Secretary shall immediately remove such conditions or restrictions, if the existence of the condition or restriction is pending in a hearing or appeal under paragraph (4), if the Secretary finds that adequate measures have been taken to comply with this title or regulations promulgated under this title.

"SEC. 1908. LABELING, PACKAGING AND MARKING.

"(a) LABELING.—All fish products processed at any establishment certified under this title, and that are not found to be adulterated, shall at the time that such products leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers such information as the Secretary may require. The Secretary may permit such fish products to bear a seal stating that the product was processed in accordance with Federal standards or such similar language as the Secretary determines appropriate.

"(b) PROTECTION OF PUBLIC.—The Secretary, when the Secretary determines such action is necessary for the protection of the public, may prescribe—

"(1) the styles and sizes of type to be used, with respect to material required to be incorporated in labeling to avoid false or misleading labeling, in marking and labeling any fish products subject to this title;

"(2) definitions and standards of identity or composition of articles subject to this title and standards of fill of containers for such articles that shall not be inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act; and

"(3) procedures that permit statements on labels that indicate the State or location of origin of the product.

"(c) MARKING.—The Secretary shall—

"(1) require the owner or operator of any establishment certified under this title, to cause each package of fish product that is processed in such establishment to be marked at the time the package leaves the establishment with—

"(A) the appropriate identification issued under the authority of this title; and

"(B) labeling that bears or contains an official mark; and

"(2) ensure that the official mark shall be available only for fish products that are processsed in establishments certified under this title.

"(d) NO SALES.—No article subject to this title shall be sold or offered for sale in commerce by any person, under any name or

other marking or labeling that is false or misleading, or in any container of a misleading form or size. Established trade names and other marking and labeling that are not false or misleading and that are approved by the Secretary are permitted.

"(e) FALSE LABELS OR MARKINGS.—

"(1) WITHHOLDING REQUIREMENT.—If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this title is false or misleading in any particular, the Secretary may require that such use be withheld unless the marking, labeling, or container is modified in such manner as the Secretary may prescribe so that it will not be false or misleading.

"(2) REQUEST FOR HEARING.—If a person using or proposing to use markings, labeling, or a container that is subject to a withholding requirement udner paragraph (1) does not accept such requirement, such person may request a hearing, and the use of such marking, labeling, or container shall, if the Secretary so requires, be withheld pending such hearing and final determination by the Secretary.

"(3) APPEALS.—Any determination by the Secretary under paragraph (2) shall be conclusive unless, not later than 30 days after the person receives notice of such final determination, such person appeals such determination to the United States Court of Appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194) shall be applicable to appeals brought under this section.

"SEC. 1909. RECORDS, REPORTS AND DISCLOSURE.

"(a) IN GENERAL.—Establishments shall maintain accurate records as determined to be appropriate by the Secretary. Any requirements imposed under this section may include information concerning—

"(1) the receipt, delivery, sale, movement, or disposition of fish or fish products;

"(2) matters reasonably related to whether fish products may be adulterated or misbranded, including the growing or harvesting area from which such fish was harvested;

"(3) the effective enforcement of this title to ensure against the sale or distribution of adulterated or misbranded fish products to consumers; and

"(4) other activities and matters relevant to food safety and sanitation.

"(b) TIME PERIODS.—The persons described in subsection (c) shall, for such period of time as the Secretary may by regulation prescribe (not to exceed 2 years unless otherwise directed by the Secretary for good cause shown) keep and maintain such records as determined by the Secretary to be appropriate under subsection (a).

"(c) PERSONS AFFECTED.—The recordkeeping and other requirements of this section shall apply to any person, not exempted under section 1902—

"(1) that engages in the business of processing any fish product for interstate commerce; and

"(2) that engages in the business of buying or selling (such as acting as products brokers or wholesalers), or transporting, in interstate commerce, or storing in or for interstate commerce or importing any fish products.

"(d) ACCESS TO RECORDS.—The Secretary and the Secretary of Commerce shall, on request at reasonable times, have access to and make copies of records maintained under this section.

"SEC. 1910. IMPORTS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—No fish product shall be entered, or withdrawn from warehouses, for consumption in the United States, unless such fish product—

"(A) is not adulterated or misbranded;

"(B) complies with all requirements applicable to fish products in commerce in the United States under this title;

"(C) is marked and labeled as required by regulations for imported articles; and

"(D) complies with the requirements of this title and regulations promulgated under this title.

"(2) TREATMENT.—On entry into the United States, any fish product that satisfies the requirements of paragraph (1) shall be considered and treated as domestic fish products under this title, except that all labeling of such fish products shall identify the country of origin.

"(b) INSPECTION OF IMPORTS.—The Secretary shall enforce the requirements of this section through inspections and other procedures, and the sampling and inspection of fish products that are offered for importation or entered, or withdrawn from warehouses, for consumption in the United States, and through any other procedures that the Secretary determines necessary to ensure compliance with this title.

"(c) CORRECTIVE ACTIONS.—All fish products that are refused entry into commerce in the United States under subsection (a) or that are entered, or withdrawn from warehouses, for consumption in the United States in violation of this section, shall pursuant to regulations promulgated by the Secretary, be destroyed unless—

"(1) such fish products are exported within a time fixed for such exportation by the Secretary; or

"(2) the Secretary determines that such fish product can be brought into compliance with this title through relabeling or other action.

If the Secretary makes a positive determination under paragraph (2), the destruction of such fish product may be deferred pending the filing of a written application by the owner or consignee and the execution by the applicant of a bond within a time period specified by the Secretary. On such filing and execution of a bond, the Secretary may authorize the applicant to perform such relabeling or other actions required by the Secretary. If after such action is performed, the Secretary determines that such fish product has been brought into compliance with this title, the Secretary shall permit its entry into commerce.

"(d) COSTS.—Storage, cartage, labor, and other costs resulting from the denial of entry, or withdrawal from warehouse, of any fish product under this section shall be paid by the owner or consignee of such product. The nonpayment of such costs shall constitute a lien against such product and any other fish product thereafter entered, or withdrawn from warehouse, for consumption in the United States by such owner or consignee.

"(e) FOREIGN SEAFOOD INSPECTION PROGRAM.—

"(1) REVIEW.—On request of a country desiring to export fish products to the United States, the Secretary shall review the inspection program, including the sanitary, wholesomeness, quality, species verification, residue and other requirements and tolerances, with respect to fish products to be offered for importation into the United States, to determine whether such requirements and tolerances for such products are at least equal to those established under this title.

"(2) CERTIFICATION.—If the Secretary determines that a country desiring to export fish products to the United States meets the standards and procedures set forth in paragraph (1), with respect to fish products to be offered for importation into the United States, and that such country will permit the enforcement measures that the Secretary determines necessary pursuant to paragraph (5), the Secretary shall issue a certificate to such country stating that the country meets such requirements.

"(3) EFFECT OF NONCERTIFICATION.—All fish products imported from a country that is not certified by the Secretary under this section shall be inspected by the Secretary at the port of entry to ensure compliance with the provisions of this section.

"(4) REVIEW.—

"(A) IN GENERAL.—The Secretary shall periodically review certificates issued under this subsection and shall revoke any such certificate if the Secretary determines that such action is necessary.

"(B) INSPECTION.—The consideration of any application for a certification under this subsection and the review of any such certification, by the Secretary, shall include the inspection of individual establishments that produce fish products to be offered for export to the United States to ensure that such products, and the procedures and standards used in handling and processing such products, meet the inspection, sanitary, quality, species verification, residue and other standards and tolerances required by this title.

"(5) ENFORCEMENT.—The Secretary shall enforce the requirements of this section through inspections, sampling, testing, or such other actions at such stages in the handling or processing of fish products, whether in the foreign country, during importation, or otherwise as the Secretary determines necessary to ensure compliance with this title.

"(f) REPORTS TO CONGRESS.—Not later than March 1 of each year, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committe on Agriculture, Nutrition and Forestry of the Senate, a comprehensive and detailed written report with respect to the administration of this section during the immediately preceding calendar year. Such report shall include—

"(1) a certification by the Secretary that foreign entities exporting fish products under this section have complied with requirements at least equal to all the inspection, building construction standards, and all other provisions of this title and regulations issued thereunder;

"(2) the names and locations of establishments authorized or permitted to have imported fish products into the United States;

"(3) the number of inspectors employed by the Department of Agriculture in the calendar year for which the report is being prepared that were assigned to inspect the establishments referred to in paragraph (2) and the frequency with which each such establishment was inspected by such inspectors;

"(4) the number of inspectors licensed by each country from which any imports subject to the provisions of this section were imported who were assigned, during the calendar year concerned, to inspect such im-

ports and the facilities in which such imports were handled and the frequency and effectiveness of such inspections;

"(5) the total volume of fish products that were imported into the United States during the year for which such report was prepared from each country, including a separate itemization of the volume of each major category of such imports form each country during such year, and a detailed report of rejections of entities for certification and products because of the failure of such entities or products to meet appropriate standards prescribed under this section; and

"(6) the name of each foreign country that applies requirements for the importation of fish products from the United States.

"SEC. 1911. EXPORTS.

"(a) STANDARDS.—Fish products intended for export to a foreign country shall not be considered to be adulterated or misbranded under this title if such products—

"(1) are exported consistent with the specifications of the foreign purchaser;

"(2) are not in conflict with the laws of the country to which they are intended for export;

"(3) are labeled on the outside of the shipping package that they are intended for export; and

"(4) are not sold, offered for sale, or otherwise disposed of in commerce within the United States except that such fish product shall be considered to be adulterated if the Secretary determines such products represent a threat to the health of the eventual consumer.

"(b) INSPECTION.—The Secretary shall inspect fish products intended to be exported to foreign countries at such times and places and in such manner as the Secretary determines necessary.

"(c) CERTIFICATES.—The Secretary shall, on request of the exporter, provide a certificate for export stating the condition of fish products inspected under this section.

"SEC. 1912. RECALL.

"The Secretary may require any person who owns or operates an establishment or is in the business of importing of fish products, to recall any fish product that is adulterated or misbranded if the Secretary determines that such fish product is adulterated or misbranded and could cause serious health consequences.

"SEC. 1913. COOPERATION WITH CENTERS FOR DISEASE CONTROL.

"The Secretary of Health and Human Services shall establish, through the Centers for Disease Control, an active surveillance system, based on a representative proportion of the population of the United States, to provide an accurate estimate of the frequency of human disease in the United States associated with the consumption of food, including a comparison of each major food category.

"SEC. 1914. PROHIBITED ACTS.

"The following acts and the causing thereof are prohibited under this title—

"(1) the processing or handling of any fish product at any establishment except in compliance with the requirements of this title;

"(2) the refusal to permit entry or inspection to or on any establishment or business engaged in importing fish products, or to otherwise interfere with any inspector or other person in carrying out the duties required under this title or under regulations implementing this title;

"(3) the sale, transportation, or offer for sale or transportation, in interstate commerce of any fish product that is adulterated or misbranded at the time of such sale, transportation, or offer for sale or transportation;

"(4) the possession by any establishment of fish products except in compliance with the requirements of this title or regulation issued under this title;

"(5) the commission of any act, or the omission of any act, while fish product is being transported in interstate commerce, or held for sale after such transportation, that is intended to cause or has the effect of causing such products to be adulterated or misbranded;

"(6) the sale, transportation, or offer for sale or transportation, in interstate commerce of any fish product that is not processed in accordance with the requirements of this title or any regulations promulgated under this title;

"(7) the reproduction, alteration, or destruction of any official stamp or certificate without the authorization of the Secretary;

"(8) the misbranding of fish products, or the creation or maintenance of records that are false either by content or omission, or destruction of records containing information required under this title or the alteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to fish products if such act is done while such fish products are held for sale (whether or not such sale is the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded;

"(9) the handling or processing for interstate commerce of fish products in any establishment unless there is in effect for such establishment a certification issued by the Secretary; and

"(10) the importation into the United States of fish products if such articles are adulterated, labeled or packaged in a false or misleading way, or otherwise misbranded, or fail to comply with all the inspection, good processing practices, and other provisions of this title and regulations issued under this title applicable to such articles in interstate commerce within the United States.

"SEC. 1915. CIVIL PENALTIES.

"(a) FINES.—

"(1) IN GENERAL.—Any person who violates any provision of this title, or the regulations promulgated pursuant to this title, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for the first violation. Each day of a continuing violation shall constitute a separate offense.

"(2) CIVIL ACTIONS FILED IN DISTRICT COURT.—The Secretary may commence a civil action in the United States district court in which the person subject to requirements of this title resides, to seek a civil fine from any such person for violation of this title.

"(3) FINDING OF FAILURE TO COMPLY.—If the court, in an action brought under paragraph (2), finds on the basis of clear and convincing evidence, that the person subject to the requirements of this title has failed to comply with such requirements, or the rules and regulations promulgated thereunder, the court shall fine the person not more than $5,000 for each such violation.

"(4) NOTICE.—Not less than 90 days, and not more than 180 days, prior to commencing a civil action under paragraph (2), the Secretary shall provide to each person that is the subject of the action, a written notice that shall include—

"(A) a statement that the Secretary intends to commence such an action;

"(B) a comprehensive description of the alleged violations of this title and the regulations promulgated under this title; and

"(C) a description of the actions to be taken by such person that the Secretary considers necessary to enable the person to comply with this title and to eliminate the need to commence such civil action.

"(5) OPPORTUNITY TO BE HEARD.—Prior to the commencement of a civil action by the Secretary under paragraph (2), the Secretary shall provide the person with an opportunity to present, orally or in writing, information concerning the alleged violations or with respect to such proceeding.

"(6) WRITTEN NOTICE OF WARNING.—In determining whether the public interest would be adequately served by issuing a written notice of warning in lieu of commencing a civil action under paragraph (2), the Secretary shall take into account—

"(A) the compliance history of the person;

"(B) the magnitude of the violations by the person;

"(C) whether compliance with this title would be obtained as a result of a notice of warning; and

"(D) whether such violation is of a minor or technical nature.

Prior to commencing any such civil action under paragraph (2), the Secretary, after considering the factors described in subparagraphs (A) through (D), shall provide a written explanation to the establishment concerning the reasons why the alleged violations of the person warrant commencing a civil action.

"(b) MODIFICATION.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

"SEC. 1916. CRIMINAL PENALTIES.

"(a) IN GENERAL.—Any person who intentionally violates any provision of section 1903, 1908, 1910 or 1914, or the regulations promulgated thereunder, may—

"(1) be fined in any amount not to exceed $10,000, or imprisoned for not more than 1 year, or both; and

"(2) if such intentional violation involves the intent to defraud, or any distribution of any fish product that is adulterated or misbranded, be fined in an amount not to exceed $20,000, or imprisoned for not more than 3 years, or both.

"(b) NOTICE OF WARNING.—In the case of one or more minor violations of this title or the regulations promulgated under this title, the Secretary may, when the Secretary determines that the public interest will be adequately served thereby, issue to the person committing such violation a suitable written notice of warning. In determining whether suitable written notice of warning. In determining whether the public interest will be adequately served by a written notice of warning, the Secretary shall consider, among other factors—

"(1) the compliance history of such person;

"(2) the magnitude of the violation;

"(3) whether compliance with this title would likely be obtained as a result of such notice; and

"(4) whether such violation is of a minor or technical nature.

"(c) NOTICE TO ALLEGED VIOLATOR.—

"(1) IN GENERAL.—Before any violation under this title is reported by the Secretary to any United States attorney for institution of a criminal proceeding under this section, the person against whom such pro-

ceeding is contemplated shall be given reasonable notice of the alleged violation and an opportunity to present the views of such person orally or in writing with regard to such contemplated proceeding.

"(2) EXCEPTION.—Paragraph (1) shall not apply in those cases where it is determined that such notice would significantly interfere with the ability of the United States attorney to prosecute any violation. Nothing in this title shall be construed as requiring the Secretary to report for criminal prosecution violations of this title when the Secretary believes that the public interest will be adequately served by the procedures described in subsection (b).

"(d) PUBLICATION.—In each case in which a criminal penalty is imposed under this section, the Secretary shall publish the name of the offending person, the location of the violator, the amount of the fine and the reason for the fine.

"SEC. 1917. CARRIERS.

"No common carrier or contract carrier, including such carriers that are fish tender vessels, shall be subject to penalties under this title for the receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of any adulterated or misbranded fish product owned by another person, unless the carrier—

"(1) during the time of such receipt, carriage, holding, or delivery, had knowledge or was in possession of facts that would cause a reasonable person to believe that the fish products were adulterated or misbranded or were otherwise not eligible for transportation under this title; or

"(2) refuses to furnish on request of the Secretary the name and address of the person from whom the carrier received the adulterated or misbranded fish product, and copies of all documents pertaining to the delivery of such fish product.

"SEC. 1918. HEARINGS AND SUBPOENAS.

"(a) ADMINISTRATIVE HEARINGS.—Except in the case of criminal prosecutions under section 1916, and as described in section 1908(e) and 1915, the Secretary shall afford an opportunity for an administrative hearing, under procedures established by the Secretary through regulations, to any person claiming to be adversely affected by the action or inaction of the Secretary under this title (hereinafter referred to in this section as the 'claimant'). Such procedures shall include an opportunity to present evidence, a right of cross examination, and a right to be heard in person or by counsel and through witnesses. After the expiration of 60 days after the entry of an order by the Secretary against the claimant under this section, the Secretary shall take any appropriate action under such order, unless the claimant files for judicial review under subsection (d).

"(b) SUBPOENAS.—

"(1) AUTHORITY.—For the purposes of any hearing or investigation under this title, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of any documentation or other evidence that relates to any matter under investigation or in dispute before the Secretary and to administer oaths or affirmations.

"(2) COMPENSATION.—The Secretary shall pay witnesses subpoenaed under this subsection customary reasonable fees and transportation expenses.

"(c) INTERIM RELIEF.—The Secretary may take any actions in emergency situations determined necessary, during the pendency of the administrative hearing process and during the pendency of judicial review (unless the court shall order otherwise) to protect the public health, curb persistent violations that endanger public health, or enforce other provisions of this title or regulations promulgated pursuant to this title.

"(d) JUDICIAL REVIEW.—

"(1) PETITION.—Not later than 60 days after the entry of an order by the Secretary, a person adversely affected by such order may obtain judicial review through the filing of a petition of judicial review in the United States court of appeals for the circuit in which such person resides or where the principal place of business of such person is located, by filing with the clerk of such court a written petition praying that the order of the Secretary be set aside or modified in the manner stated in the petition together with a bond in such sum as the court may consider appropriate. A copy of the petition shall be transmitted by the clerk to the office of the Secretary, and the Secretary shall file in the court the record of the proceeding.

"(2) EVIDENCE.—The evidence contained in the record of the proceeding filed by the Secretary under paragraph (1) shall be considered by the court as evidence in the case. Judicial review of any such order shall be on the record on which the determination and order are based.

"(3) FINDINGS.—The findings of the Secretary concerning questions of fact surrounding the order for which a petition for judicial review is filed shall be sustained if supported by substantial evidence when considered on the record as a whole.

"(4) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Secretary. If the court determines that just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence in such manner and on such terms and conditions as the court determines to be appropriate. The Secretary may modify the findings of the Secretary as to the facts or make new findings by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the order of the Secretary, with the return of such additional evidence.

"(5) APPEAL.—The judgment of the court affirming or setting aside, in whole or in part, any order by the Secretary under this subsection shall be final and subject only to review by the Supreme Court of the United States on certiorari or certification as provided for in section 1254 of title 28 of the United States Code.

"SEC. 1919. OTHER CRIMES.

"(a) BRIBES.—

"(1) PERSON WHO BRIBES.—Any person, or agent or employee of any person, who shall give, pay, or offer, directly or indirectly, to any Inspector, or other officer or employee of the United States or a State, authorized to perform any of the duties authorized under this title or under rules or regulations of the Secretary promulgated under this title, any money or other thing of value, with the intent to influence such inspector, officer or employee, in the discharge of any duty of such inspector, officer or employee provided for under this title, shall be considered to have committed a felony and, on a conviction thereof, shall be punished by a fine not less than $5,000 nor more than $10,000 and by imprisonment for not less than 1 year nor more than 3 years.

"(2) PERSON ACCEPTING BRIBES.—Any inspector, officer or employee of the United States or a State authorized to perform any of the duties authorized under this title or under rules or regulations of the Secretary promulgated under this title, who shall accept any money, gift, or other thing of value from any person, or officers, agents, or employees thereof, given with the intent to influence the official action of such inspector, officer, or employee, or who shall receive or accept from any person engaged in commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be considered to have committed a felony and shall, on a conviction thereof, be summarily discharged from office and shall be punished by a fine not less than $1,000 nor more than $10,000 and by imprisonment not less than 1 year nor more than 3 years.

"(b) ASSAULT.—Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any inspector or other person while engaged in or on account of the performance of the official duties of such inspector or other person under this title shall be fined not more than $5,000 or imprisoned not more than 3 years, or both. Whoever, in the commission of any acts, uses a deadly or dangerous weapon shall be fined not more $10,000 or imprisoned not more than 10 years, or both. Whoever kills any person while engaged in or on account of the performance of the official duties of such person under this title shall be punished as provided under sections 1111 and 1114 of title 18, United States Code.

"SEC. 1920. REGULATION OF PRODUCTS AND ESTABLISHMENTS.

"(a) PROCESSING.— Each establishment or import business that is subject to inspection under this title shall be operated in accordance with such sanitary, good processing, quality control, and handling procedures or practices as are required by regulations promulgated by the Secretary.

"(b) STAMP.—The Secretary shall by regulation prescribe standards for identifying and otherwise marking fish or fish products, or their packages or containers, with an official stamp. The Secretary shall ensure that the official stamp is available only for fish and fish products that are processed or handled in accordance with the requirements of this title.

"(c) RECORDKEEPING.—The Secretary shall promulgate regulations providing for the preparation and maintenance of records that specifically describe all activities relevant to food safety and sanitation. Any such records shall be maintained for such periods of time as the Secretary may by regulation prescribe, but such period shall not exceed 2 years unless the Secretary directs otherwise for good cause shown. Any duly authorized representative of the Secretary shall, at all reasonable times, on notice, be given the opportunity to examine and to copy all such records.

"SEC. 1921. RESEARCH AND EDUCATION.

"(a) RESEARCH.—The Secretary shall, in consultation with other Federal agencies and with the States, establish priorities for fish and fish products safety research, such as test methodology for microbiological and chemical contaminants, and the appropriate Federal agencies shall conduct research regarding such priorities.

"(b) EDUCATION GRANTS.—The Secretary, acting through the Extension Service, shall provide $2,000,000 each fiscal year out of the funds appropriated to carry out this

title to award grants for the establishment of demonstration projects by States, under terms and conditions prescribed by the Secretary, to assist States in conjunction with the Extension Service in providing food safety information and instruction regarding the proper handling, storage and preparation of fish and fish products for human consumption.

"(c) SHELLFISH INDICATOR RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall establish and administer, for a 5-year period, a shellfish indicator research program to develop a system of classification of shellfish harvesting areas based on the latest technological advancements in microbiology and epidemiological methods. In establishing such a program, the Secretary of Commerce shall develop a program that shall include the following activities:

"(A) ASSESSMENTS.—An assessment of commercial shellfish growing areas in the United States, including the evaluation of the relationships between indicators of fecal contaimination and human enteric pathogens.

"(B) EVALUATIONS.—An evaluation of the relationships described in subparagraph (A) with respect to potential health hazards associated with human consumption.

"(C) COMPARISONS.—A comparison of the current microbiological methods used for evaluation of indicator bacteria and human enteric pathogens in shellfish and shellfish harvesting areas with new technological methods designed for this purpose.

"(D) EPIDEMIOLOGICAL STUDIES.—The design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption.

"(2) GRANTS.—The Secretary of Commerce shall carry out the research program established under paragraph (1) by providing assistance in the form of grants to eligible applicants.

"(3) SOLICITATION.—Not later than 90 days after the date of enactment of this title, the Secretary of Commerce shall publish in the Federal Register a solicitation of research proposals to carry out the research program establish under this subsection.

"(4) AWARDING OF GRANTS.—Not later than 90 days after the date of the publication of the solicitation under paragraph (3), the Secretary of Commerce shall award a grant or grants to eligible applicants to carry out the research program established under this subsection.

"(5) ELIGIBLE APPLICANT.—As used in this subsection, the term "eligible applicant" means—

"(A) any public or private institution of higher education;

"(B) any public or private organization with suitable research capabilities; or

"(C) any consortium of two or more entities referred to in subparagraphs (A) and (B).

"(d) ADVISORY PANEL.—The Secretary shall establish an advisory panel, consistent with the requirements of the Federal Advisory Committee Act, to assist in the development and implementation of the research programs under this section. Such advisory panel shall include one representative each from the Environmental Protection Agency, the Food and Drug Administration, the Department of Commerce, the Fish and Wildlife Service, the interstate Shellfish Sanitation Conference, appropriate State health authorities and a representative from the commercial fish industry and from a public interest group.

"(e) PERIODIC REVIEW.—The Secretary shall review the research programs established under this section not less than once every 2 years and, on the basis of that review, make changes in the administration of the programs that are appropriate to carry out more effectively the activities described.

"(f) RESEARCH STUDY CONCERNING INSPECTIONS OF HARVESTING AND FISH TENDER VESSELS.—

"(1) CONDUCT OF STUDY.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary, in cooperation with the Secretary of Commerce shall conduct and complete a study of—

"(i) the role of fish tender and fish harvesting vessels in safeguarding the wholesomeness of fish products;

"(ii) the potential necessity of requesting the Secretary of Commerce, in cooperation with the Coast Guard and the States, to establish procedures for the registration of commercial fishing vessels, fish processing vessels, and fish tender vessels; and

"(iii) based on a scientific analysis, the potential necessity of including any particular type or class of such vessels in the inspection program conducted pursuant to this title.

"(B) UPDATE.—The Secretary, in cooperation with the Secretary of Commerce, may from time to time update the study conducted under subparagraph (A) and shall on completion of such study or after any such updates, immediately submit to the Committees on Agriculture an Merchant Marine and Fisheries of the House of Representatives and the committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation of the Senate, the results of such study and the results of any update of such study.

"(2) CONCLUSIONS.—If as a result of the study conducted under paragraph (1) or any update of such study the Secretary concludes, in consultation with the Secretary of Commerce, that any type or class of vessels not subject to inspection should be subject to inspection, the Secretary shall so advise the Committees described in subpargraph (B) of paragraph (1).

"(g) OTHER RESEARCH.—The Secretary shall conduct and support research concerning—

"(1) the testing of methodology for detecting and measuring biological and chemical contaminants in fish products;

"(2) the techniques and procedures utilized for inspecting fish and fish products;

"(3) the sanitation practices for the harvesting, processing, transportation, and storage of fish and fish products; and

"(4) any other matters that may further the purposes of this title.

"(h) REPORTS TO CONGRESS.—The Secretary of Agriculture in cooperation with the Secretary of Commerce shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a biennial report concerning the research and education programs authorized and established under this section. Such reports shall be made available to appropriate Federal and State agencies, the fish industry, and the general public. Each such report shall include, with respect to the period for which such report was prepared—

"(1) a description of the research assisted under this section and the results of such research;

"(2) all changes that were made in the administration of the programs established under this section subsequent to the date of the previous report; and

"(3) any recommendations for legislative action to improve the effectiveness of the inspection program for fish products.

"SEC. 1922. MISCELLANEOUS.

"(a) PROHIBITION ON COPYING OF OFFICIAL MARKS.—No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of certificate or simulation thereof, except as authorized by the Secretary.

"(b) COMPLIANCE.—No establishment processing fish products for interstate commerce or otherwise subject to this title shall process any fish product except in compliance with this title.

"(c) ENTRY OF ARTICLES INTO ESTABLISHMENTS.—The Secretary may limit the entry of fish products and other materials into any establishment, under such conditions as the Secretary may prescribe to assure that permitting the entry of such products into such establishments will be consistent with the purposes of this title.

"(d) CONDEMNATION OF SEIZURE.—This title shall not be construed to limit the authority of the Secretary to condemn or seize property that is conferred by provisions of other laws.

"(e) ADMINISTRATIVE DETENTION, CONDEMNATION.—

"(1) ADMINISTRATIVE DETENTION.—When any fish product is found by any authoirzed representative of the Secretary on any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to the requirements of this title, and there is reason to believe that any such product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this title or any other Federal law or the laws of any State or Territory, or the District of Columbia, or that it has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period of not to exceed 20 days, pending notification of any Federal, State, or other governmental authorities having jurisdiction over such product, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such product before it is released unless it appears to the satisfaction of the Secretary that the product is eligible to retain such marks.

(2) CONDEMNATION.—

"(A) LIBEL OF INFORMATION; JURISDICTION.—Any fish product that is being transported in commerce or otherwise subject to the requirements of this title, or that is held for sale in the United States after such transportation, and that—

"(i) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this title;

"(ii) is capable of use as human food and is adulterated or misbranded; or

"(iii) in any other manner is in violation of this title;

shall be liable to be proceeded against and seized and condemned at any time, on a libel of information in any United States district court or other proper court as provided for in this title with the jurisdiction of which the product is found.

"(B) DISPOSAL.—If a fish product is condemned it shall, after the entry of the decree of condemnation—

"(i) be distributed in accordance with regulations promulgated by the Secretary; or

"(ii) be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but such product shall not be sold contrary to the provisions of this title, or the laws of the jurisdiction in which it is sold.

On the execution and delivery of a good and sufficient bond conditioned that the fish product shall not be sold or otherwise disposed of contrary to this title, or the laws of the jurisdiction in which the disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws.

"(C) COURT COSTS AND FEES.—When a decree of condemnation is entered against a fish product and such product is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any intervening as claimant of the fish product.

"(D) PROCEEDINGS.—The proceedings in libel cases under this subsection shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand a trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(3) ADMINISTRATION AND ENFORCEMENT.—For the efficient administration and enforcement of this title, the provisions (including penalties) of sections 46, 48, 49, and 50 of title 15, United States Code (except subsections (c) through (h) of section 46 and the last paragraph of section 49 of such title) and the provision of section 4091 of title 47, United States Code, shall be applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this title and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as the Secretary may designate, may prosecute any inquiry necessary to carry out the duties of the Secretary under this title, and the powers conferred by section 49 and 50 of title 15, United States Code, on the district courts of the United States may be exercised for the purposes of this title.

"(f) JURISDICTION.—Except as otherwise provided in this title, the United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this title and shall have jurisdiction in all other kinds of cases arising under this title. All proceedings for the enforcement or to restrain violations of this title shall be by and in the name of the United States .

"(g) SEVERABILITY.—If any provision of this title, or the application of such provision to any person or circumstance is held to be unconstitutional or otherwise invalid, the remainder of this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

"SEC. 1923. REGULATIONS.

"(a) ISSUANCE.—The Secretary shall issue regulations necessary or appropriate to carry out this title in accordance with the informal notice and prior public comment requirements of section 553 of title 5, United States Code.

"(b) COPY AND JUSTIFICATION.—Not later than 5 days prior to issuing any regulation under subsection (a), the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation and a statement in justification of the regulation.

"SEC. 1924. INTERAGENCY COOPERATION.

"The Secretary may, by agreement with the head of any Federal agency, utilize on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of the duties of the Secretary under this title.

"SEC. 1925. EXEMPTION FROM FEDERAL FOOD, DRUG, AND COSMETIC ACT.

"The inspection, sampling or regulation of fish products, and the handling, processing, storage, or transportation of fish products, shall be exempt from the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) to the extent that this title applies to such fish products, or the handling, processing, storage, or transportation of fish products, except that this title shall not diminish any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to the implementation or enforcement of this title under section 5 of the Fish Safety Act of 1990.

"SEC. 1926. COST OF INSPECTION, OVERTIME.

"The cost of inspections rendered under the requirements of this title shall be borne by the United States, except that the cost of overtime work for overtime hours as defined by the Secretary at any given establishment, or for any required holiday work at an establishment, shall be borne by the establishment at such rates as the Secretary may determine appropriate. Sums received by the Secretary in reimbursement for sums paid out by the Secretary for such premium pay work shall be available without fiscal year limitation to carry out this title.

"SEC. 1927. AUTHORIZATION OF APPROPRIATIONS.

"(a) INSPECTION PROGRAM.—There are authorized to be appropriated to carry out this title not to exceed $14,000,000 for fiscal year 1991, $40,000,000 for fiscal year 1992, $80,000,000 for fiscal year 1993, and $100,000,000 in each of the fiscal years 1994 and 1995.

"(b) RESEARCH PROGRAMS AUTHORIZATION.—Of the amounts appropriated under subsection (a), the Secretary shall use not to exceed $5,000,000 in each of the fiscal years 1991, 1992, and 1993, to carry out the research programs under section 1921 of this title.

"(c) EARMARKING OF FUNDS.—

"(1) FOOD AND DRUG ADMINISTRATION.—Of the amount appropriated under subsection (a) in a fiscal year, the Secretary shall ensure that the Food and Drug Administration shall receive—

"(A) 80 percent of such amount in fiscal year 1991;

"(B) 60 percent of such amount in fiscal year 1992;

"(C) 40 percent of such amount in fiscal year 1993; and

"(D) 20 percent of such amount in each of the fiscal years 1994 and 1995.

"(2) DEPARTMENT OF COMMERCE.—of the amounts appropriated under subsection (a), the Secretary shall ensure that the Department of Commerce shall receive 10 percent of such amounts in each of the fiscal years 1991 through 1995 to carry out its research and classification functions under this title.

"SEC. 1928. EFFECTIVE DATE.

"This title shall become effective on the date of enactment of this title.".

SEC. 4. AMENDMENTS TO THE ACT OF MAY 8, 1914.

(a) EXTENSION SERVICE.—Section 2 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 342), is amended by inserting "food safety," after "home economics,".

(b) EDUCATION.—Section 3 of such Act (7 U.S.C. 343) is amended by adding at the end thereof the following new subsection:

"(g) There are authorized to be appropriated for each of the fiscal years 1991 through 1995, $750,000 for additional programs to be administered by the Secretary of Agriculture through the Extension Service to disseminate fool safety information, publications, and instruction to consumers, restaurant food handlers, schools and other persons concerning the proper handling, storage and preparation of fish products.".

SEC. 5. IMPLEMENTATION BY SECRETARY OF AGRICULTURE.

(a) IN GENERAL.—Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Secretary of Agriculture shall, not later than 18 months after the Commissioner of Food and Drugs has issued the initial set of final regulations under section 6, develop and implement by regulation the comprehensive fish product inspection program required under such title XIX. Such regulations issued by the Secretary of Agriculture shall include regulations—

(1) establishing inspection procedures;

(2) setting forth procedures for training inspectors;

(3) regarding the certification of establishments and importers;

(4) for inspecting imported fish products;

(5) authorizing State programs; and

(6) establishing labeling requirements and procedures for the approval of labels and labeling in accordance with the program established under the amendment made by section 3.

(b) PHASE-IN OF STATUTORY PROVISIONS.—

(1) EFFECT OF CURRENT REGULATIONS.—The provisions of law in effect on the date of enactment of this Act relating to fish product safety, fish product labeling, fish product inspection, and related matters, that are relevant to the regulations of the Secretary of Agriculture, the Secretary of Commerce, or the Food and Drug Administration in effect on such date concerning such matters, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations promulgated under title XIX of the Food Security Act of 1985 (as added by section 3).

(2) TRANSITION.—The Secretary of Agriculture shall issue regulations as the Secretary determines necessary or appropriate, in consultation with the Secretary of Commerce and the Commissioner of Food and Drugs, that provide for an orderly transition to the program required under title XIX of the Food Security Act of 1985 (as added by section 3). During such transition and phase-in period, the Secretary of Agricul-

ture may implement any aspects of such program prior to the implementation of other aspects of such program and may require the implementation of such aspects in certain geographic areas prior to such implementation in other areas.

SEC. 6. IMPLEMENTATION BY THE COMMISSIONER OF FOOD AND DRUGS.

(a) IN GENERAL.—Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Commissioner of Food and Drugs, in cooperation with the Secretary of Agriculture, shall not later than 2 years after the date of enactment of this Act, develop and implement a program to carry out the administer such title XIX.

(b) SPECIFIC REQUIREMENTS.—

(1) CONTRACT WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of enactment of title XIX of the Food Security Act of 1985 (as added by section 3), the Commissioner of Food and Drugs shall enter into contracts with the National Academy of Sciences to identify chemical and microbiological contaminants, parasites, toxins and other harmful substances that are most likely to be found in fish and fish products and that are most likely to cause fish and fish products to be adulterated.

(2) REPORT.—Not later than 6 months after the date of the execution of the contract under paragraph (1), the National Academy of Sciences shall prepare and submit, to the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Commerce, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing the results of the research conducted under paragraph (1).

(3) REGULATIONS.—

(A) PUBLICATION OF TOLERANCES BASED ON REPORT.—Not later than 6 months after receiving the report under pararagraph (2), the Commissioner of Food and Drugs shall publish an initial set of proposed regulations that shall include tolerances for those chemical and microbiological contaminants, parasites, toxins and other harmful substances that under such report are found in fish and fish products and that are most likely to cause fish and fish products to be adulterated.

(B) FINAL REGULATIONS.—Not later than 6 months after the date on which the Commissioner issues the proposed regulations under subparagraph (A), the Commissioner shall promulgate final regulations. Such final regulations shall contain a timetable for the issuance of additional rules and regulations.

SEC. 7. IMPLEMENTATION BY THE SECRETARY OF COMMERCE.

Except as otherwise provided in this section or in title XIX of the Food Security Act of 1985 (as added by section 3), the Secretary of Commerce in cooperation with the Secretary of Agriculture shall, not later than 2 years after the date of enactment of this Act, develop and implement a program to carry out the requirements of such title XIX. Not later than 18 months after such date of enactment, the Secretary of Commerce shall issue proposed regulations.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, July 27; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that upon reservation of the two leaders' time, there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that Senator NUNN be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M.

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I ask unanimous consent the Senate stand in recess as under the previous order until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 12:27 a.m., recessed until Friday, July 27, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, July 26, 1990:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

REAR ADMIRAL (LOWER HALF) SIGMUND R. PETERSEN FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL, WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORPS OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED:

MEDICAL CORPS

To be colonel

BRAGA, DJALMA, A., xxx-xx-xxxx
GLAESER, RICHARD D., xxx-xx-xxxx
WARD, ROBERT C., xxx-xx-xxxx

To be lieutenant colonel

BARSON, AARON V., JR., xxx-xx-xxxx
HAMMER, DAVID L., xxx-xx-xxxx
MCGRATH, KIMBERLY N., xxx-xx-xxxx
SILVA, JOHN S., xxx-xx-xxxx
WEISS, JAY A., xxx-xx-xxxx

To be major

PEARSE, JON R., xxx-xx-xxxx
TONG, ANDREW, xxx-xx-xxxx
WILSON, MICHAEL R., xxx-xx-xx...

To be captain

ELLIS, ROBERT W., xxx-xx-xxxx
JOHANSEN, LELAND P., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

BLACKHAM, BENJAMIN, xxx-xx-xx...
COPLEY, WILLIAM C., JR., xxx-xx-xx...
FARHOOD, JOHN E., xxx-xx-xxxx
GAINES, GEORGE W., xxx-xx-xxxx
GURECKIS, KEVIN M., xxx-xx-xxxx
MIRRIELEES, ROBERT A., xxx-xx-xxxx
SMITH, ROGER K., xxx-xx-xxxx
SPANGLE, WILLIAM G., xxx-xx-xxxx
ZURASKY, JOHN E., xxx-xx-xxxx

To be major

BRILEY, JOHN B., xxx-xx-xxxx
COCKLIN, JAMES L., xxx-xx-xx...
GRAY, SCOTT E., xxx-xx-xxxx
HOLT, FON L., xxx-xx-xxxx
HYSLOP, STEPHEN B., xxx-xx-xxxx
KOLODNY, CARTER L., xxx-xx-xxxx
SMITH, JOHN D., xxx-xx-xxxx

To be captain

HOLSTEIN, LEE A., xxx-xx-xx...
NASSIF, GARY M., xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be captain

KURTZ, EUGENE D., xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593, WITH A VIEW OF DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED:

MEDICAL CORPS

To be colonel

WHITEHURST, LAWRENCE R., xxx-xx-xxxx

To be lieutenant colonel

BAKER, GARY E., xxx-xx-xxxx
DAVILA, HECTOR F., xxx-xx-xxxx
FISCHER, ALBERT P., xxx-xx-xxxx
FUNDERBURG, JAMES C., xxx-xx-xxxx
KING, HALIFAX C., xxx-xx-xxxx
KULOW, KEITH R., xxx-xx-xxxx
LENSER, BILLY K., xxx-xx-xxxx
MANNING, JOHN A., III, xxx-xx-xxxx
MEAD, JAY H., xxx-xx-xxxx
MILLER, NORMAN G., xxx-xx-xxxx
SIMPSON, CHARLES L., xxx-xx-xxxx
WALLENTINE, ROGER, xxx-xx-xxxx
YAFFE, MICHAEL G., xxx-xx-xxxx

THE FOLLOWING AIR FORCE OFFICER FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, IN ACCORDANCE WITH TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 1552, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

LINE OF THE AIR FORCE

To be lieutenant colonel

BLACK, TEMPLE H., xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH THE ASTERISK IS ALSO RECOMMENDED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be major

ROBERT L. BEAVER, JR., xxx-xx-xxxx
*MICHAEL J. CAPTAIN, xxx-xx-xx...
MICHAEL G. EDRINGTON, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(a) AND 3385:

ARMY PROMOTION LIST

To be colonel

ADY, JOHN R., xxx-xx-xxxx
BUSTER, KENNETH R., xxx-xx-xxxx
ENCARNACAO, JOHN B., xxx-xx-xx...
GRAY, RICHARD L., xxx-xx-xxxx
HANNA, FREDERICK A., xxx-xx-xxxx
HASKINS, GEORGE R., xxx-xx-xxxx
HUGHES, CLAUDE T., xxx-xx-xxxx
JOHNSON, RODNEY C., xxx-xx-xxxx
KELLY, JAMES J., xxx-xx-xxxx
MAY, LOUIS B., xxx-xx-xxxx
NASON, CONDEE C., JR., xxx-xx-xxxx
NESBITT, WILLIAM T., xxx-xx-xxxx
ROSE, JACKIE T., xxx-xx-xxxx
SCHULTZ, TERRY L., xxx-xx-xxxx
STEPHENS, DUNCAN M., xxx-xx-xxxx
STOCKHAUS, JOHN A., xxx-xx-xxxx
VEZINA, RAYMOND A., xxx-xx-xxxx
WALSH, JOHN P., JR., xxx-xx-xxxx
WILKINS, JERRY, xxx-xx-xxxx

CHAPLAIN

To be colonel

ABRAM, DAVID I., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

BACINO, MICHAEL J., xxx-xx-xx...
BARKER, WILLIAM B., xxx-xx-xxxx
BRYANT, NEIL U., xxx-xx-xxxx
CHRIVIA, TERRY L., xxx-xx-xxxx
DAVIS, WILLIAM W., xxx-xx-xx...
DOLL, GARY A. G., xxx-xx-xxxx
EASTER, JOHN E., III, xxx-xx-xxxx
FINCH, ROY D., xxx-xx-xxxx
FLOYD, JOHN E., JR., xxx-xx-xxxx
FOLEY, CHRISTOPHER E., xxx-xx-xxxx
GOODE, JOSEPH A., JR., xxx-xx-xxxx
HERSHMAN, JOHN B., xxx-xx-xx...
HOOD, RONALD K., xxx-xx-xxxx
KING, HAROLD E., JR., xxx-xx-xxxx
LITTLE, THOMAS E., xxx-xx-xxxx
LYTLE, TERRY J., xxx-xx-xxxx
MARTIN, EDWARD F., III, xxx-xx-xxxx
MCCORMICK, GARY L., xxx-xx-xxxx
OHLAND, BRUCE W., xxx-xx-xxxx
SCHWARTING, GUSTAVUS E., JR., xxx-xx-xxxx
SHUEY, THEODORE G., JR., xxx-xx-xxxx
SPANIOL, RONALD M., xxx-xx-xxxx
STELZER, EDWARD E., xxx-xx-xxxx
THORNTON, EDWARD G., IV, xxx-xx-xxxx
WADE, ROBERT R. G., xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

ALBRECHT, LOUIS H., xxx-xx-xxxx
FULLER, DAVID M., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

BOEHME, LARRY R., xxx-xx-xxxx
GOODMAN, JOSEPH H., xxx-xx-xxxx
LEMON, DENNIS C., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

BLACK, DAVID R., xxx-xx-xxxx
HOBGOOD, JAMES L., JR., xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED EX-U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BIESECKER, GARY L. CARR, RAYMOND E.

THE FOLLOWING NAMED EX-U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

GIACALONE, MICHAEL J., JR. SANFORD, THEODORE J., JR.
LARSON, DAVID L. VEURINK, CHARLES H.

THE FOLLOWING NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

FOX, RICHARD L. LEWIS, JOHN W.
HERNANDEZ, CESAR R. VAN DYKE, DAVID H.
KNUTSON, CARL O

WILLIAM T. FAITH, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be major

ARCURI, MICHAEL R., xxx-xx-xxxx
*ARNDT, DAVID M., xxx-xx-xxxx
*BAGLEY, ANN L., xxx-xx-xxxx
*BANDROWSKY, TIMOTHY, xxx-xx-xxxx
*BAUMGARDNER, DOUGLA, xxx-xx-xxxx
*BICOY, FRED D., xxx-xx-xxxx
*BISCH, FREDERICK G., xxx-xx-xxxx
*BISHOP, BARRY G., xxx-xx-xxxx
*BRACE, MICHAEL L., xxx-xx-xx...
*BREAULT, LAWRENCE G., xxx-xx-xxxx
*BRUNO, ROBIN T., xxx-xx-xxxx
*BURCH, ROBERT H., xxx-xx-xxxx
*BURNETTE, DAVID M., xxx-xx-xxxx
*CAPPELLI, CLIFFORD, xxx-xx-xxxx
*CHAFFIN, CHRIS L., xxx-xx-xxxx
*CINATL, ROBERT H., xxx-xx-xxxx
*COATNEY, DAVID E., xxx-xx-xxxx
*CRADDOCK, MICHAEL R., xxx-xx-xxxx
CZERW, RUSSELL J., xxx-xx-xxxx
*DEVEAUX, ERROL J., xxx-xx-xxxx
*ELLIS, RICHARD M., xxx-xx-xxxx
*FALLO, GLEN J., xxx-xx-xx...
*FALVELLO, CHRISTOPH, xxx-xx-xx...
*FELTON, JOHN C., xxx-xx-xxxx
*FLORENCE, FRANKLIN, xxx-xx-xxxx
*FORD, MICHAEL W., xxx-xx-xx...
*FORTUNATO, PAUL M., xxx-xx-xxxx
*GEHRING, TIMOTHY J., xxx-xx-xxxx
*GRONET, PETER M., xxx-xx-xxxx
*HARMON, FRED J., xxx-xx-xxxx
*HATLEY, CHARLES L., xxx-xx-xx...
*HOFHEINS, DONALD C., xxx-xx-xxxx
*HOUSE, JERALD K., xxx-xx-xxxx
*HUGHES, WILLIAM B., xxx-xx-xxxx
*HYER, JAMES E., xxx-xx-xxxx
*JOHNSON, MARY A., xxx-xx-xxxx
*JOYCE, ANTHONY P., xxx-xx-xxxx
KIERSZ, JEREMY C., xxx-xx-xxxx
*KIM, ANDRE K., xxx-xx-xxxx
*KLIER, KENNETH R., xxx-xx-xxxx
*KNIGHT, LAWRENCE D., xxx-xx-xxxx
*KUMM, RANDAL C., xxx-xx-xxxx
*LARUE, ETHEL M., xxx-xx-xx...
*LIN, JAMES J., xxx-xx-xxxx
*LOCKNEY, DENNIS R., xxx-xx-xxxx
*LOUIE, DONNA G., xxx-xx-xxxx
MACKENZIE, THOMAS S., xxx-xx-xxxx
*MAPLE, RONALD A., xxx-xx-xx...
*MAZUJI, NASRIN, xxx-xx-xxxx
*MILLER, GREGORY J., xxx-xx-xxxx
*MIN, AYE, xxx-xx-xxxx
*MIN, MU M., xxx-xx-xxxx
*MOSS, DAVID L., xxx-xx-xxxx
*NICHOLS, RICHARD A., xxx-xx-xxxx
*PRUITT, BONITA L., xxx-xx-xxxx
*REEVES, DAVID R., xxx-xx-xxxx
*ROHOLT, RONALD L., xxx-xx-xxxx
*ROTHFUSS, LARRY G., xxx-xx-xxxx
*ROUSE, STEPHEN J., xxx-xx-xxxx
*ROYAL, JOHN R., xxx-xx-xxxx
SANDIFER, ALAN D., xxx-xx-xxxx
*SCOTT, LOIS S., xxx-xx-xxxx
*SHIROMA, CALVIN Y., xxx-xx-xx...
*SMITH, SIDNEY C., xxx-xx-xxxx
*STRUPP, TOBIN J., xxx-xx-xxxx
*VISSICHELLI, VINCEN, xxx-xx-xx...
*WALMANN, JAMES O., xxx-xx-xxxx
*WALSH, STEPHEN R., xxx-xx-xxxx
*WETZEL, ROGER T., xxx-xx-xxxx
*WINDHORN, RICHARD J., xxx-xx-xxxx
WOOLLARD, GORDON W., xxx-xx-xxxx
*WRIGHT, SCOTT A., xxx-xx-xxxx

MEDICAL CORPS

To be major

*ABDALATI, HUDA, xxx-xx-xxxx
*ALEXANDER, MARK E., xxx-xx-xxxx
*ALLEN, ROBERT C., xxx-xx-x...
ALLGOOD, BRIAN D., xxx-xx-xxxx
ALVORD, REX M., xxx-xx-xxxx
*AMMALA, EDWARD D., xxx-xx-xx...
AMOROSO, PAUL J., xxx-xx-xxxx
*ANDERSON, THADDEUS, xxx-xx-xxxx
*ANDREWS, STEPHEN J., xxx-xx-xxxx
*ANDRIKO, JO A., xxx-xx-xxxx
ANTOINE, JILL A., xxx-xx-xx...
*AUBER, ANDREW E., xxx-xx-xxxx
*AUMULLER, SCOTT C., xxx-xx-xx...
BAGG, MARK R., xxx-xx-xxxx
*BAIRD, COLEEN P., xxx-xx-xxxx
*BAMBENEK, JOHN C., xxx-xx-xxxx
BARKER, JAMES A., xxx-xx-xxxx
*BARNES, DAVID R., xxx-xx-xxxx
*BARNETT, FREDERICK, xxx-xx-xxxx
*BATTS, KENNETH B., xxx-xx-xxxx
*BEAN, DAVID W., xxx-xx-xx...
*BEAUCHESNE, RICHARD, xxx-xx-xxxx
*BEITLER, ALAN L., xxx-xx-xx...
*BELL, JANAE M., xxx-xx-xx...
*BELL, VALERIE A., xxx-xx-xx...
*BERGET, JONATHAN T., xxx-xx-xxxx
*BERLAND, JERRY E., xxx-xx-xxxx
BERTLER, DAVID E., xxx-xx-xxxx
BETTENCOURT, JOSEPH, xxx-xx-xxxx
*BILELLO, JOHN F., xxx-xx-xx...
*BLACK, ALAN S., xxx-xx-xx...
*BLAIR, FREDERIC W., xxx-xx-xxxx
*BODNEY, STEPHEN A., xxx-xx-xxxx
*BOIN, MARC H., xxx-xx-xxxx
BONOVICH, AMELIA G., xxx-xx-xx...
*BORK, MICHAEL D., xxx-xx-xxxx
*BOROSKY, BERNARD D., xxx-xx-xxxx
*BRAATEN, JEFFREY M., xxx-xx-xxxx
*BRADSHAW, WILLIAM H., xxx-xx-xxxx
*BREGMAN, DANIEL K., xxx-xx-xxxx
BRENT, ELAINE L., xxx-xx-xxxx
*BROOKS, NATHANIEL J., xxx-xx-xxxx
*BROSNAN, JOHN J., xxx-xx-xxxx
*BROWN, DAVID P., xxx-xx-xxxx
*BROWN, DEBORAH A., xxx-xx-xxxx
*BROWN, WILLIAM B., xxx-xx-xx...
BROWNE, MATRICE W., xxx-xx-xxxx
BROWNE, WILLIAM T., xxx-xx-xx...
*BURKE, PAUL B., xxx-xx-xxxx
BURKHALTER WILLIAM, xxx-xx-xxxx
*BURMAN, WILLIAM J., xxx-xx-xx...
BURNHAM, KAREN M., xxx-xx-xxxx
*BURRIS, HOWARD A. II, xxx-xx-xxxx
*BURTON, BRADFORD S., xxx-xx-xxxx
*BUTLER, BETH Y., xxx-xx-xxxx
*BUTT, WILLIAM B., xxx-xx-xxxx
*BUTTERFIELD, CONNIE, xxx-xx-xxxx
BYRON, JOHN W., xxx-xx-xxxx
*CALDWELL, JAMES B., xxx-xx-xx...
*CALKIN, MARK T., xxx-xx-xxxx
*CAMERON, SCOTT E., xxx-xx-xxxx
*CAMPOS, MIGUEL A., xxx-xx-xxxx
*CANTEES, KIMBERLY K., xxx-xx-xxxx
*CARPENTER, ALAN L., xxx-xx-xxxx
*CARR, ROBERT J., xxx-xx-xxxx
CARROUGHER, JOHN G., xxx-xx-xxxx
*CARTIER, MARK P., xxx-xx-xxxx
*CASEY, PAUL D., xxx-xx-xxxx
*CASEY-LUTZ, ROSEMAR, xxx-xx-xxxx
*CAUDULIO, ALFRED A., xxx-xx-xxxx
*CERVONI, MANUEL I., xxx-xx-xxxx
*CHAMP, JERRY D., xxx-xx-xxxx
*CHAPMAN, DOUGLAS E., xxx-xx-xxxx
*CHARETTE, JOHN D., xxx-xx-xxxx
*CHEN, DAVID, xxx-xx-xxxx
*CHETHAM, STEVEN T., xxx-xx-xxxx
*CHING, ANTHONY L., xxx-xx-xxxx
*CHOI, YOUNG S., xxx-xx-xxxx
*CHRISTENSEN, REED S., xxx-xx-xxxx
*CHU, EDWARD, xxx-xx-xxxx
*CIAMPI, FRANK P., xxx-xx-xxxx
*CIRILLO, RICHARD M., xxx-xx-xxxx
*CLARK, STEVEN A., xxx-xx-xxxx
*CLAWSON, LANCE D., xxx-xx-xx...
*CLINITE, EDWARD W., xxx-xx-xxxx
*COBB, PATRICK W., xxx-xx-xxxx
*COBURN, THOMAS C., xxx-xx-xxxx
*COLLISTER, BETH, xxx-xx-xxxx
*CONCILIO, GERARDO, xxx-xx-xxxx
COTTON, STEPHEN C., xxx-xx-xxxx
*COZZA, STEPHEN J., xxx-xx-xxxx
*CRAFT, NORMAN D., xxx-xx-xxxx
*CRESPOALICEA, ISRAE, xxx-xx-xxxx
*CROLLARD, SCOTT A., xxx-xx-xxxx
*CULBERTSON, GARY R., xxx-xx-xxxx
CURTIS, ALEX K., xxx-xx-xxxx
*DALEY, LUCI W., xxx-xx-xx...
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*MOORE, DONNA W., xxx-xx-xxxx
*MUNERARIVERA, JOSE, xxx-xx-xxxx
*NEVILL, PATRICIA A., xxx-xx-xxxx
*NUSSBAUM, TERESA M., xxx-xx-xxxx
*OGRADY, SHANNON M., xxx-xx-xxxx
*OVERLY, THOMAS W., xxx-xx-xxxx
*PERRY, STEVEN L., xxx-xx-xxxx
PETERS, LAURA, xxx-xx-xxxx
*REED, BARRY D., xxx-xx-xxxx
*REID, PAUL C., xxx-xx-xxxx
*RICCIARDI, RICHARD, xxx-xx-xxxx
*RICE, PHILLIP J., xxx-xx-xxxx
*RICHARDSON, CHRISTI, xxx-xx-xxxx
*RITZ, ROBERT E., xxx-xx-xxxx
*RIVERA, LOURDES M., xxx-xx-xxxx
*ROBERTS, CLIFTON E., xxx-xx-xxxx
*ROBEY, MICHAEL J., xxx-xx-xxxx
*ROBINSON, BRIAN, xxx-xx-xxxx
*RODRIGUEZOLIVERA, R, xxx-xx-xxxx
*SANDERS, MYRON D., xxx-xx-xxxx
*SAUNDERS, ROGER P., xxx-xx-xxxx
*SCHLOSS, HOWARD E., xxx-xx-xxxx
SHAW, CHRISTOPHER J., xxx-xx-xxxx
*SIKORA, DIANE, xxx-xx-xxxx
*STEPHENS, JACQUELIN, xxx-xx-xxxx
*STURDEVANT, ALLEN R., xxx-xx-xxxx
*STUTTS, JAMES A., xxx-xx-xxxx
*THOMAS, WILLIAMS L., xxx-xx-xxxx
*TORRES, EVELYN, xxx-xx-xxxx
*UTTER, FREDERICK S., xxx-xx-xxxx
VEAL, RICHARD L., xxx-xx-xxxx
*WELTON, PAULETTE A., xxx-xx-xxxx
*WHITFIELD, GREGORY, xxx-xx-xxxx
*WIDENER, RUSSELL K., xxx-xx-xxxx
*WILLETT, JAMES M., xxx-xx-xxxx
WILLIAMS, LINDA A., xxx-xx-xxxx
*WILLIAMS, PAMELA Y., xxx-xx-xxxx
*WOLFORD, CONNORS A., xxx-xx-xxxx
*WORTMAN, BERNARD J., xxx-xx-xxxx
*ZAPATA, RICHARD, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

AKIN, MICHAEL G., xx...
ANDRES, RUSSELL A., JR., xx...
ANDREWS, DAVID L., xx...
BACKUS, TERYL L., xx...
BALDWIN, GEORGE H., JR., xx...
BEAGHLER, MICHAEL J., xx...
BENDER, JOHN F., xx...
BOIVIN, JOHN A., xx...
BOSSHARD, STEVEN A., xx...
BOURDREAUX, AL C., xx...
BOWEN, SHIRLEY L., xx...
BROWN, WILL S., III, xx...
BURGESS, DUNCAN H., xx...
CARLSTRAND, ROBERT G., xx...
CHANDLER, THOMAS E., JR., xx...
CONSTANTINO, THOMAS L., xx...
DONNELL, LEROY R., xx...
DOWD, ROBERT M., xx...
DREW, DENNIS E., xx...
FOSTER, KENNETH L., JR., xx...
FOX, GEORGE W., III, xx...
FULLER, DONALD B., xx...
GILES, JOHN B., xx...
GLAZER, STUART A., xx...
GLUECK, WILLIAM J., xx...
GRESSLIN, WILLIAM D., xx...
GRIEVE, WILLIAM G., xx...
GRIMES, PETER, xx...
HAMILTON, THOMAS B., JR., xx...
HARRELL, MASON D., xx...
HAZELL, DAVID J., xx...
HICKEY, MICHAEL C., JR., xx...
HULINGER, CRAIG H., xx...
HUMBARD, ROBERT E., xx...
JACKSON, JACKIE C., xx...
JACKSON, ROBERT E., xx...
JENSEN, GARY R., xx...
JOHNSON, RANDALL A., xx...
JOHNSON, RICHARD C., xx...
JOHNSON, RICHARD W., xx...
JOHNSON, THOMAS A., xx...
KEAVENEY, MARK D., xx...
KIANG, LINDSEY C., xx...
KLEINTOP, CHARLES T., xx...
KLEMMER, GROVER R., xx...
KLINE, HIBBERD V., III, xx...
KOPP, WILLIAM J., xx...
KUKLOK, KEVIN B., xx...
KUZMICK, JAMES J., xx...
LANGE, WILLIAM E., xx...
LESLIE, JAMES L., xx...
LYMAN, RICHARD E., xx...
MALONE, SUSAN L., xx...
MCCARTHY, JOHN J., JR., xx...
MCVEY, ROBERT B., xx...
MEISEN, DANIEL S., xx...
MICHAELS, CHARLES E., xx...
MILTON, ROGER D., xx...
MORRIS, SAMUEL A., xx...
NIGHSWONGER, BENJAMIN L., xx...
NORDLUND, DAVID C., xx...
OREILLY, ARTHUR M., xx...
ORLANDELLA, RALPH A., xx...
OSEGUERA, PALMA M., xx...
OWENS, MACKUBIN T., JR., xx...
PUNARO, ARNOLD L., xx...
RETTIG, JOHN A., xx...
RICHARD, LAWRENCE G., xx...
ROBERTS, DARRYL F., xx...
RUEB, RANDALL W., xx...
SANDERS, WILLIAM E., JR., xx...
SCHNACK, DAVID B., xx...
SCHROEDER, CLIFTON P., xx...
SCHUTT, HERBERT R., JR., xx...
SCOTT, JOHN R., xx...
SEABROOK, JOHN T., xx...
SHULER, WYMAN E., III, xx...
SIEGEL, JAMES R., xx...
SIMON, DAVID S., xx...
STECKEL, LESLIE T., xx...
STOWE, FLOYD H., II, xx...
SWITZER, JAMES E., JR., xx...
TAUCHES, FRANK A., JR., xx...
TILLETT, SAMUEL E., xx...
UTLEY, THOMAS R., xx...
VANHORNE, RICHARD F., xx...
VIDA, THOAMS E., xx...
WALDNER, RICHARD E., xx...
WHITAKER, ROBERT L., xx...
WHITEHURST, CORNELIUS B., xx...
WHITWORTH, JOHN R., xx...
YORCK, DVID C., xx...
ZIMMER, IVAN P., xx...

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be lieutenant commander

ALBAHRA, MOTAZ
ANDERSON, MARK D.
ANDROS, THOMAS G.
ARCHER, TIMOTHY FRANK
ARMSTRONG, NEIL C.
AUBUCHON, WILLIAM
AUVIL, DALLAS GREGORY
BAHIA, CORAZON A.
BAIRD, MICHAEL A.
BAIRD, RONALD E.
BAKER, BRUCE CHANDLER
BAKER, JAY PATRICK
BARBER, GREGORY A.
BARRON, ADAM MICHAEL
BARTH, JOSEPH JOHN, III
BAXTER CHARLES
BAYARD, DAVID
BEECKEL, PETER NEIL
BERNDT, STEVEN D.
BIDDULPH, JOHN T.
BIELSKI, STEVEN JOSEPH
BOEHM, CLIFFORD E.
BOGGS, RALPH BRIDGES
BONACQUISTI, KEITH A.
BONE, WILLIAM DALE
BOSCO, RICHARD RUSSELL
BOTTINO, CHRISTOPHER J.
BOZANICH, ALEXANDER S.
BRADSHAW, DAVID ALLEN
BRANDON, DAVID CHARLES
BRANSCUM, BARTON ANTHONY
BRANTLEY, DAVID SPENCER
BRAR, HARPREET SINGH
BRICKNER, RICHARD LOUIS
BRISSETTE, JOSEPH
BROOKS, ALICE JOYCE
BRYANT, DAVID EVAN
BURTON, ERIC WILLIAM
BUTLER, DAVID TANKSLEY
CAIN, WILBERT
CAIRO, FRANK CHARLES
CALBERT, JACQUELYN LUCI
CALDWELL, JOE PAT
CAMEROTA, ANTHONY J.
CAMPBELL, WALTER L.
CARNEY, JOHN R.
CENTNER, DONALD J.
CENTNER, RONALD F.
CHENEY, ELISABETH M.
CHIAVACCI, JOHN
CHOE, SUNG HYOK
CHOY, C. GALEN
COCALIS, MARK WILLIAMS
CONNELLY, STEVEN NESBIT
CORRIGAN, KATHLEEN
COYLE, WALTER J.
CRAIG, ROBERT LAIRD
CRANE, JOHN ALEXANDER
CRAVEN, JAMES M.
CROSS, GREGORY H.
CURRAN, CHARLES WALTER
CURRAN, MICHAEL J.
CURTISS, STEVEN IAN
DATTOLO, ROBERT A.
DEAN, PHILIP J.
DEMOVILLE, RAYMOND B.
DEWAR, JAMES C.
DISTASIO, ANTHONY JOHN
DIXON, NANCY GERTRUDE
DONOVAN, MURRAY SEAN
DRAKE, JOHN E.
DREW MARK C.
DRIES, CHARLES P.
DULLY, KATHLEEN MARY
EATON, DOUGLAS O.
ELIZONDO, DANIEL R.
ELLIS, MARK
EMANUEL, RAYMOND JOSEPH
EPHRON, PAUL HARMON
FALLON, ANN P.
FEDER, JOSHUA DANIEL
FETCHERO, JAMES WILLIAM
FIETE, RANDY
FISHER, CARLA ANNA
FLEISHER, CHARLES WAYNE
FLEMING, TIMOTHY WREA
FLYNN, WILLIAM T.
FOOTE, FREDERICK O.
FOREMAN, DANIEL S.
FROST, MARK L.
FUQUA, JOHN STEPEN
GALLAGHER, MICHAEL W.
GARDELL, RANDY C.
GERBINO, PETER G., II
GILES, SCOTT PATRICK
GILFEATER, BRIAN M.
GILLINGHAM, BRUCE LINDSEY
GINGOLD, BETTY RUTH
GOULD, RAYMOND CLAY
GRAFF, ROBERT S.
GREINWALD, JOHN H., JR.
GRICE, GUERARD P.
GUDEWICZ, THOMAS MICHAEL
HALKO, GEORGE JOSEPH
HAMES, CHARLES
HAMM, FRANCIS E.
HAMMOND, ALBERT SYDNEY
HAMMOND, TERRY CRAIG
HANDY, MARK WILLIAM
HARDWIG, JEFFREY T.
HARRIS, KURT N.
HEFFERNAN, JOHN P.
HELLER, JOEL B.
HENDRICK, BYRON
HERSH, ROBERT E.
HICKS, THOMAS K.
HOLLAND, WILLIAM CARL I.
HOLLR, JAMES CHRISTOHPER
HOLMES, KYLE D.
HOWARD, JOHN COOPER
HUDSON, GEORGE M.
HUFF, HAROLD R.
INTEGLIA, MARK JOSEPH
JAGGEARS, FLOYD R., JR.
JAVERY, THOMAS E.
JOHNSON, BRIAN LOGAN
JOHNSON, DOUGLAS J.
JOHNSTONE, PETER ANTHONY
JONES, ROBERT O.
KARAKLA, DANIEL W.
KELLY, PATRICK J.
KIDWELL, WALTER M.
KIM, KUN Z.
KING, KERRY JAMES
KOVACS, JEFFREY P.
KRUITHOFF, WAYNE ALLAN
KUNKE, TERRY ALAN
KUSHNER, EILEEN M.
LAMAR, JAMES E.
LANE, LEEWOOD LAWRENCE
LASSETER, DAVID H.
LAVALLE, MICHAEL F.
LEE, JEFFREY ALAN
LETENDRE, SCOTT L.
LEWINSKI, STEVEN V.
LEWIS, ERIC C.
LICEA, GUSTAVO CARIDAD
LIEDTKA, JANE E.
LINDEMANN, KEITH JAN
LINZ, PETER ERWIN

LIPPINCOTT, TYLER B.
LOCHMANN, DANIEL P.
LOVELL, ERIC R.
LOVINGER, JEFFERY DAVID
LUND, JON D.
LYON, ROBERT KEITH
MABRY, PAUL A.
MACCARTHY, JOHN BYRON
MACE, RICHARD C.
MAHER, ANDREW T.
MAHER, PETER DONALD, IV
MARIETTA, JOSEPH MICHAEL
MATTHEWS, ROBERT D.
MATTSON, STEPHEN D.
MCCAFFREY, MARTIN
MCCULLUM, KEVIN JOHN
MCGUIGAN, FRANCIS XAVIER
MCKEATHEN, MARGARET
MCNEARY, BRIAN T.
MCSHANE, ROBERT B.
MELILLO, ANTHONY S.
MENELEY, BRUCE COVAL
MERRILL, DANIEL MARQUEZ
MEYER, JOHN C.
MEYERS, BRYAN FITCH
MICHAELS, RODNEY DOUGLAS
MIKESELL, BRUCE D.
MILLER, CARLTON D.
MITCHELL, DANIEL R.
MONAHAN, BRIAN PATRICK
MONCEAUX, DARRYL
MOORHEAD, JOHN A.
MORGAN, DAVID BRIAN
MORRISON, JOHN DANIEL
MORTON, ASA
MOTT, KEVIN JOHN
MULDOON, MICHAEL
MUNN, GARY L.
MUNZO, MELISSA M.
MURPHY, CHRISTOPHER JOHN
NAITO, NEAL ANDREW
NEELY, JULIE ANNE
NETHERLAND, DONALD EARL
NEWMAN, FREDERIC B.
NIGHTENGALE, CHRISTOPHER
NOONAN, MICHAEL P.
NOONAN, PATRICK T.
NORDLING, OLAF B.
NOTARO, JOSEPH R.
NYE, GREGORY F.
OBRIEN, PAUL JOHN
OCONNELL, KEVIN A.
OCONNOR, WILLIAM W.
ODONNELL, MICHAEL J.
OHL, CHRISTOPHER ALAN
OLSEN, JOHN CLIFFORD
OLSON, DAVID EDWIN, SR.
OLSON, ROBERT J.
OMALLEY, DONALD E.
ORIBA, HOWARD A.
OTA, JENNIFER B.
OTRUBA, CHRISTINE T.
OTRUBA, MICHAEL STEPHEN
PANETTIERE, ANTHONY SAL
PARKINSON, ROBERT K.
PARRISH, JOHN SCOTT
PAULSON, JEFFERY W.
PERKINS, ROBERT ALLEN J.
PETERSEN, PHILLIP H.
PETIT, NANCY FRANCES
PHILLIPS, WENDELL STEPHEN
PLY, JONATHAN J.
POMPUTIUS, WILLIAM FRANCIS
PONTE, ROBERT A.
POWELL, CRAIG C.
PROVOST, THOMAS GILBERT
PRYOR, KENNETH H.
PUCKETT, TERRY LEE
PUDIMAT, PAUL ALLEN
PULICICCHIO, LOUIS U.
PUMAREJO, RAYMOND M.
QUINONES, LUIS ENRIQUE
QUIST, BRADLEY K.
RACKLEFF, DEAN LAWRENCE
RAHEB, STEVEN THEODORE
RAHN, MARK AARON
RANDALL, WENDELL LEWIS
RASCONA, DOMINICK A.
REESE, DANIEL PAUL
REESE, WILLIAM A.
RHODEMAN, THOMAS JOHAN
RICHEY, JOSEPH LEWIS
ROGALSKI, CYNTHIA
ROONEY, THOMAS ALAN
ROSEN, RONALD G.
ROSS, EDWARD VICTOR, JR.,
RUH, JENNIFER MARIE
RUTLEDGE, JOHN J.
SARGENT, ROBERT TAYLOR
SAROSY, CHARLES JOHN
SATONIK, ROBERT C.
SAVITZ, JOSEPH
SCALFANO, FRANK P.
SCHAETZEL, HILL K.B.
SCHEPERGERDES, STEPHAN
SCHINDLER, ERIC H.
SCHMIDT, ANITA ELLEN
SECORD, ANN REBECCA
SERRATO, DANIEL HENRY
SEUFERT, KEVEN T.
SHAFFER, PEGGY MARIE
SHERROD, PETER D.
SHIPE, TIMOTHY R.
SIMNING, PATRICK LANCE
SMOOT, HARLEY W.
SNEAD, THOMAS ARTHUR
SNYDER, RICKY LEE
SPENCER, JEFFREY S.
SPRANCE, HENRY E.
STANICH, BRIANA MARIE
STEELE, STEPHEN ROSS
STEPHEN, PETER D.
STEVENS, DOUGLAS M.
STRUNK, MICHAEL
SUMMERS, DENNIS EDWIN
TALLMAN, THOMAS A.
TANDY, THOMAS KING, III
TANNER, GARY ALFRED
TAYLOR, GREGORY M.
THAKER, UPRENDA
THOMPSON, JEFFERY NOEL
TORR, RALPH W.
UNDERWOOD, REED STOCKTON
URUCHURTUVALDIVIA, RICHARD
UTZ, GREGORY
VANMOL, ANDRE
VERNIER, REGINALD LAVON
VOGELER, SHERRIE
WALD, HOHN T.
WALKER, JOHN H.
WALL, MARYANN PURLY
WALLS, JANICE LEA
WATSON, JOHN K.
WATSON, MARY ELIZABETH
WAX, JOSEPH ROBERT
WEBER, DAVID J.
WELCH, DAVID EUGENE
WELLING, LYNN ELLIS
WENBERG, ROBERT D.
WHITE, JERRY WADE
WHITLEY, MARK E.
WIDERGREN, JOHN T.
WILLETT, DAWAYNE
WITHAM, NANCY DIANE
WOLFE, RUSSELL M.
WOOD, LEMONTE
WOODS, EDWARD ANDREW
WORRILOW, CHARLES COBB
WRIGHT, JAMES A.
YENCHO, MICHAEL E.
YOUNG, STEVEN A.
ZINTZ, ERIC JON
ZOLZER, JAMES G.

SUPPLY CORPS OFFICERS

To be lieutenant commander

ADAMS, MICHAEL KEVIN
AHERN, MICHAEL GEORGE
ALCOTT, MARTIN NMN
ANDERSON, BERNIE JACK, JR.
ASSELIN, ROBERT R.
AVCALADE, CHRISTOPHER JOHN A.
AVRAM, GEORGE PATRICK
BALANZA, HENRY CARDENAS
BATES, BASIL B.
BECKERDITE, STANLEY M.
BETHMANN, THOMAS SCOTT
BIANCHI, ROBERT JOHN
BIRDWELL, ROBERT JACK
BOBBITT, JIMMY RODGES
BONNE, TERRENCE CHARLES
BRADLEY, JEFFREY CHESTER
BRENNER, GERARD FRANCIS
BRIGHT, ARLEY V.
BROWN, MARK ALBERT
BURNETT, MARTIN EDWARD
BURTON, CHESTER OTTO
CAMPBELL, JAMES RICHARD
CAMPBELL, RICHARD DUANE
CAPPS, KATHLEEN
CARLSON, MICHAEL PAUL
CHAPMAN, MICHAEL JERE
CHOJNOWSKI, KIM CHRISTIAN
COLE, BRUCE D.
COLLINS, GARRY NEAL
COOPER, DAVID LEE, JR.
COWART, RICHARD ORIECE
COX, WAYNE A.
COYNE, JOHN W.
CRAFT, MICHAEL JOHN
CRAWFORD, KEVIN P.
CURRY, WILLIAM SCOTT
CUSKEY, JEFFREY ROBERT
DAVIS, HARRY WAYNE
DEFILIPPO, RICHARD THOMAS
DEMANN, PETER JAY
DESMARAIS, CAROL
DEXTER, MARK DAVID
DOLLOFF, ROBERT H., JR.
DOWNS, DANIEL LEE
DUCHOW, DARBY J.
DUNN, JAMES LEE
DUNNE, MARGARET ANNE
EASON, THOMAS M, JR.
ESCANO, RONNIE APACIBLE
FALLON, JAMES S.
FERRANCRUZ, JUAN GUILLERMO
FINK, ROBERT MICHAEL
FLONDARINA, PAUL VILLARAMA
FRANCISCO, AUGUSTO M.
FRASER, HEATHER ANN
FREEBURN, GREGORY H.
GIBSON, THOMAS ELMER, JR.
GONZALES, DOMINGO
GORDON, MICHAEL E.
GRAFF, DAVID JACQUES
GRAU, CHARLES VINCENT
GRAY, BASIL FRANKLIN, III
GREEN, BRUCE EDWARD, JR.
GREEN, TIMOTHY FRED
GUEVARA, JOY MARIE
GUSTAFSON, GARY GENE, JR.
HALL, ALAN S.
HARP, DAVID MADISON
HAY, ROBERT WAYNE, JR.
HENNING, ROBERT J.
HITSON, ROBERT LAMAR
HIXON, RAYMOND LEX
HORN, GEORGE ARTHUR
HUGHES, JENNIFER JOANNE
HURLEY, JAMES JOSEPH
JAMIESON, WERNER KEITH
JOAQUIN, THOMAS EDWARD
JORGENSEN, HERMAN J.M., IV
KAMMERER, RONALD GUSTAVE
KEITH, JOHN ALAN
KELLY, GARY EDWIN
KERBER, JAMES LEMAY
KERTZ, GARY WAYNE
KITTREDGE, KENNETH KEYES
KOMPANIK, MICHAEL PAUL
KUHM, FREDERICK GEORGE
LAMBERT, MARIE SOHN
LANTELME, JOHN ROBERT
LAPID, HERMINIO S.
LAWRIMORE, CARL B., JR.
LAWRIMORE, JANICE ANN
LEGGIERI, PETER R.
LEITER, DONALD JOSEPH
LIVINGS, WILLIAM THOMAS, JR.
MAHAFFEY, VANCE GORDON
MANNA, JOSEPH FRANCIS
MARCINEK, ROBERT D.
MARSH, KENNETH DUNCAN
MARTIN, JOHN JEFFREY
MCCARTHY, JOHN P.
MCCLELLAN, MOLLY JEAN
MCCURDY, BRIDGET E.
MCELROY, FRANCIS STEVEN
MCNEELEY, DONALD CARSON, JR.
MELTON, WALTER HAROLD
MENDEZ, RICHARD ANDREW
MILLER, DONALD CLARK
MILLER, FRANK WILLIAM, JR.
MILLER, JONATHAN DAVID
MILLER, ROBERT W.
MONETTE, ROBERT LAWRENCE
MOON, KYUNG CHANG
MORGAN, CHARLES WILLIAM
MOYLE, SAMUEL BODDIE, III
MUCK, STEVEN ROBERT
MURPHY, ROBERT PAUL
MUTKALA, DONALD EARL
NAPOLI, JOSEPH ANTHONY, JR.
NELSON, KEITH MCCLARY
NELSON, RANDALL DWIGHT
NEWKIRK, RONNIE E.
OCONNOR, KEVIN THOMAS
OCONNOR, MICHAEY MURRAY
OLSON, DAVID WARNER
ORIHEL, GREGORY MICHAEL
PADDOCK, CHRISTOPHER DORAN
PAGE, ASA HIX, III
PALMITIER, TERRY JUNE
PFEIFFER, STEVEN CHARLES
PINKERTON, KIM GREGORY
PRATT, DOUGLAS A.
RACKLIFFE, JOHN ALDEN
REIDY, DONALD JOSEPH, JR.
RELLINS, MICHAEL ANTHONY
REYNOLDS, TIMOTHY ALLEN
RICHARDSON, GREGORY G.
RILEY, THOMAS WILLIAM
RITCHIE, MARY GILES
ROE, RUSSELL GARDNER
ROMANO, STEVEN JAMES
ROSS, TIMOTHY JOSEPH
ROY, PHILIP CHARLES
RULE, GADSDEN EDWARD
SCARPA, JOSEPH
SCHELLHAMMER, FRED OTHO
SCHLIENZ, DON FRANKLIN
SEIDL, MARK FRANCIS
SERGESON, ROBERT B.
SHEETS, RANDY LEE
SHUTELOCK, ELIZABETH BLANTON
SICARI, JAMES JOSEPH
SMALL, CHRIS WILLIAM
SNYDER, ROBERT JOSEPH
SPEAR, CHARLES O., IV
SPURGEON, JOSEPH EDWARD
STAGGS, CARL STEPHEN
STYRON, ERNEST LEE
SULLIVAN, LOREN CHARLES
SWEENEY, EDWARD JOHN
SWEENEY, RICHARD FRANCIS
SWERCZEK, ANTHONY GERARD
SYMONS, GAIL ANN
TALMADGE, CYNTHIA LOUISE
TALWAR, PAUL
TIBAYAN, ARTURO NUESTRO
TIFFANY, MURRAY LEE, III
TILLSON, PATRICK ANDREW
TROJAN, GREGORY CHARLES
TUMALIUAN, ANNIANO T.
VANHAASTEREN, CLEVE J.
VITT, CHRISTOPHER MUTAIR
WARREN, GRIFFIN L.
WIGGS, DAVID BRIAN
WISE, MICHAEL S.
WOLF, RANDY ALLEN
WRIGHT, WALTER P.
ZAK, GARY W.
ZAROU, MAHER MIRSHED
ZUCKER, JANET FLORENCE

CHAPLAIN CORPS OFFICERS

To be lieutenant commander

ARNOLD, RALPH WAYNE, JR.
ASPARRO, JAMES VITO
AUFDERHEIDE, STAN MITCHELL
BARTZ, WILLIAM JOHN
BEYER, STEPHEN P.
BLAIR, WILLIAM CONNIE, JR.
BUENAVENTURA, CESAR VIGILIA
CARTER, HERSTEL G.
CASH, TIERIAN
CLARK, ROBERT J.
COMPTON, JERRY WAYNE
CRIM, ROGER LEE
DAVIS, WINFIELD SCOTT
DEATON, DANIEL E.
DOUGLASS, WILBUR C., III
DRAB, GUY WILLIAM
EDWARDS, THEODORE WHITFIELD
EVANS, ROBERT DAVID
FERRETTI, SAM J., JR.
GANTT, JAMES DARRELL
GAY, JAMES ALEXANDER
HAHN, PATRICK ALLEN
HALL, STEPHEN BLAIR
HOFT, THEES CARL
HUBBARD, RICHARD RETTMER
HULSEY, STEPHEN ALAN
JACK, EDWARD EUGENE
JACKSON, ROBERT WALDO
KELLY, BRIAN FRANCIS
KIENZLE, JEROME CHARLES
LEROW, DONALD FRANCIS
LEWIS, ROBERT SIMPSON, JR.
LOOBY, JAMES FRANCIS
MARSH, WALKER E., JR.
MAY, BOBBITTI NAHYL
MCGEORY, PETER W.
MCLAUGHLIN, JOSE ENRIQUE
MELE, THOMAS FRANCIS
MELLEY, JAMES JOSEPH
MILTON, NATHANIEL NMN
MULLIS, DAVID EMERSON
OBERSTEIN, ARYEH SHEVACH
PETRUSKA, WILLIAM MARTIN
PIPKIN, JAMES ROBERT
PUTTLER, JAMES DANIEL
ROBERTSON, SHELIA CAROL
ROTT, TIMOTHY DONALD
SANDERS, DAVID KENNETH
SHAFER, DAVID WILILAM
SHOAFF, CHARLES DOUGLAS
SICKLER, BRADLEY R.
SIMMONS, LANDA HARRIS
SIMPSON, BRIAN L.
SMITH, LYMAN MARC
SPIRITOSANTO, JAMES LEE
STRICKLAND, ROBERT DWAYNE
THIES, THOMAS EVERETT
TIDD, MARK LUZERNE
TRAPANI, ANTHONY M.
VINSON, JAMES EARL, JR.
WAITE, DOUGLAS JOHN
WAUN, WILLIAM GEORGE
WEADICK, JAMES DOUGLAS
WHITSON, GARY LYNN
WILLIAMS, ROBERT LEE, JR.
WILSON, CHARLES EDWARD
WINTERS, KENNETH GARY
WOHLRABE, JOHN C., JR.
WYRICK, PHILIP ALAN
XENAKIS, CHRISTOPHER
ZINN, JAMES WILLIAM
ZUFFOLETTO, MICHAEL PETER

CIVIL ENGINEER CORPS OFFICERS

To be lieutenant commander

BACKMAN, DANIEL FRED
BALK, DAVID MICHAEL
BANHAM, STEPHEN RICHARD
BARR, RONALD SCOTT
BELANGER, JOHN DURELL
BESSETTE, STEVEN ARTHER
BROWN, JOHN ROBERT
BROZZO, MICHAEL R.
CALISTI, SCOTT PHILIP
CIMORELLI, NICHOLAS CORNELIUS
COLEMAN, BRYCE C.
COUCH, JAMES T.
FIELER, PHILIP STUART
FRIAR, JEFFERY EDWARD
GAMBLE, RICHARD O., II
HANDLEY, MARK ANDREW
HUBBARD, EUGENE F.
JACKSON, JAMES R.
JAMES, CRAIG EUGENE
JENNISON, STEPHEN DAVID
JONES, JAMES ALLEN
JORDAN, ROBERT L.
LORD, STEPHEN J.
LUTKENHOUSE, MARK GEOFFRY
MAFFETT, GREGORY LEE
MATTHEWS, GEORGE CHARLES, III
MCKERALL, WILLIAM CARLTON
MILLER, CHARLES CLIFTON, III
MONANCHINO, JOSEPH ANTHONY
MOOT, CHRISTINA A.
MOSSEY, CHRISTOPHER JORDAN
MYERS, ZANE A.
NEWMAN, ROBERT SCOTT
PARKER, ROBERT F.
PECK, JAMES TARLETON VAN LEE
PEEK, MICHAEL A
PIRTLE, GARY NEAL
RACANELLI, VINCENT
RAMSAY, ROBERT ALLAN
RIEGER, MICHAEL N.
ROTH, RICHARD DOUGLAS, JR.
SAUERWEIN, RICHARD PHILIP, JR.
STEWART, DAVID JAMES
THACKSTON, RUSSELL C.
VANDESSEL, LARRY FRANCIS
WATTS, EDWIN B.
WESTERHORSTMANN, JOSEPH H.
WHEELAND, DANIEL G.

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be lieutenant commander

ARGALL, DENNIS JAMES
BAKER, BRYCE STUART
BOULDEN, WILLIAM LARSON
CARBER, FRANK HOUGH, JR.
CHRISTENSEN, LINDA MARIE
CLEMENT, DAVID B.
COURTNEY, THOMAS EDWARD
CRAWFORD, JAMES WALTER
DONOVAN, JANET RUSSELL
GAASCH, CAROLE J.
GILCHRIST, REBECCA L.
HAYES, DAVID FRANCIS
JENKINS, MAX BRADLEY
JOHNSON, KURT ALAN
KOENIG, DONALD EUGENE
LAVERDIERE, MARC GASTON
LITTLE, WILLIAM CLYDE J.
LYLES, BRENDA JO
MORIN, CHRISTOPHER NELSON
NEHER, PATRICK JOSEPH
NEWCOMB, MARK EDWARD
ORR, ROBERT JAMES, III
OTOOLE, DANIEL EDWARD
PEDROZO, RAUL ANTONIO F.
REGAN, EDWARD JOSEPH
RODGERS, STEPHEN MICHAEL
RUIZROQUE, ORLANDO
STALLINGS, LISA RAWL

STYRON, JEFFREY W.
THOMPSON, RUTH GLADYS
TOMPKINS, DAWN MARIE
VENDEWATER, GLENN THOMAS
WALTMAN, BURTON JAY
WINTHROP, JAMES PEPPLER
WISE, CHARLOTTE OWENS
ZELLER, TIMOTHY WILLIAM

DENTAL CORPS OFFICERS

To be lieutenant commander

AMADOR, RAUL ALBERTO
APPLEQUIST, EVAN ATWOOD
ASHE, MICHAEL JOSEPH
BARRY, JOHN MARK
BARSS, THEODORE KOLB
BASCOM, LINDA KATHRYN
BEACH, CURT W.
BEASLEY, WILLIE KEITH
BERRY, ZACHARY JAMES
BITONTI, DAVID ANTHONY
BLACK, BARBARA SUSAN
BLUSTEIN, JAMES ALLEN
BOWERS, THOMAS LEWIS
BRANCH, MORRIS ANDREW
BURNS, CHRISTOPHER A.
CANAAN, THOMAS JOSEPH
CANDELARIA, LIONEL MICHAEL
COOK, NORMAN BLAINE
CROCKETT, PHILLIP ANTHONY
CROSSLAND, STEVE
CUFF, DANA MATHANY
DEGGES, MARGARET ELIZABETH
DELFINER, ARNOLD GARY
DEUTSCH, WAYNE MICHAEL
DIEFENDERFER, KIM EDWARD
DOOLEY, MARY THERESE
DOWD, TIMOTHY M.
EAGLE, HOWARD GLENN
FRANCIS, SCOTT HAYNES
GARRETT, PATRICK JOHN
GENTILE, MICHAEL JOSEPH
GERDES, GLENN STEVEN
GETKA, THU PHAN
GOODELL, GARY GERVAIS
GREENAWALT, PAUL B.
HANES, BILLY WILSON, JR.
HICKEY, MARTIN FRANCIS
HUETHER, KIMBERLY JAYE
HUNT, BRADLEY W.
HURTT, WILLIAM L.
IANNAZZO, STEPHEN
IANNONE, JOSEPH F.
JACKSON, LESTER GEORGE
JAHNKE, PETER VINCENT
JOSEPH, CATHY
KING, DALE MICHAEL
KISSINGER, PHILLIP
KJELLBERG, GREGORY BRUCE
KLOCHAK, JOSEPH ROBERT
KOOP, MARTIN JOHN
KUCSERA, MICHAEL JOHN
KULNIS, RANDALL WILLIAM
LAUGHLIN, GAYLE ANN
LEE, DONNA S.
LEIENDECKER, THOMAS MICHAEL
LLODRA, CLARA YANITSA
MAHAN, DENNIS MORRIS
MARINELLI, STEVEN MARK
MARKS, MICHAEL GEORGE
MCNALLY, MATTHEW ARTHUR
MILLARD, GARY D.
NEUMANN, DANIEL JAY
NORRIS, MORGAN EDWARD I.
OSMAK, MATTHEW
OXFORD, JAMES ROLAND, JR.
PACHUTA, STEPHEN MICHAEL
PARKER, STEPHEN MICHAEL
PATTERSON, NATHAN RONALD
PETERS, SCOTT B.
PIERCE, JOHN PHILLIP, JR.
POMMER, MATTHEW WALTER
POSCH, TIMOTHY R.
QUAGLIOTTI, MARK STEVEN
RAFFETTO, ROBERT CHARLEY
RIEGER, WILLIAM PATRICK
RIVERA, AUGUSTO DENNIS
ROHDE, TIMOTHY ROGER
RUSSO, NICOLAS HENRY
RYKEN, DEBRA MARIE
SAMS, ALVIN RAYE
SCOTT, TRACY ALAN
SMITH, BRUCE CHRISTOPHER
STEWART, MARY LOU
STINCHFIELD, KENNETH MA
TRENOR, DOUGLAS JAMES S.
TRIPP, GERALD ABINADI
TSOI, POMAY
VANDERMOLEN, MATT GORDON
WALCHESSEN, MARTA LIJIA
WALERKO, PHILIP SCOTT
WALLACE, MARK SPANGLER
WALTERS, TIMOTHY RYAN
WASKEWICZ, GREGORY ALAN
WATFORD, GREGORY L.
WEST, TERRY SHELTON
WHITE, DAVID KENNETH
WILLIAMS, DAVID ROSS
WORONKO, GEORGE ALBIN

MEDICAL SERVICE CORPS OFFICERS

To be lieutenant commander

ADAMS, MICHAEL LYNNE
AITKEN, ROBERT P.
ALBERT, TIMOTHY GEORGE
ALEXANDER, WILLIAM KEITH
ANDERSON, THOMAS J.
BAKER, RICHARD LEE
BARBER, WILLIAM BRENT
BARINGOLDZ, GREGG MICHAEL
BARRON, DANNY MICHAEL
BATRCHELOR, ROGER ALLEN
BATES, ANDREW VERNON
BAYSINGER, MARK OLIN
BENTON, EARNEST ELWOOD
BOATMAN, SUZANNE SHADRA
BOMAN, MARK OLIVER
BORIS, LINDA MAE
BOYD, BARBARA A.
BROAD, JANIS DEBBY
BROWN, JOHN ANTHONY, III
BURNS, ELIZABETH A.
BURR, DONALD HARRY
CALLAHAN, WAYNE THOMAS
CARPENTER, COLEMAN RILEY
CARPENTER, JERRY LEE
CERENIO, JUSTO DECAYO
CHAPMAN, GEORGIANN EUGENE
CHRZAN, JOAN THERESA
CHURCH, COLE JACKSON
CLENNEY, JAMES ALBERT
CLIPPER, ROBERT WARREN
CONLON, JOSEPH MICHAEL
CORWIN, ANDREW LEE
CURRAN, MICHAEL JOSEPH
DALESSANDRO, JOHN ARNOLD
DAVIS, DAVID ROBERT
DEES, WILLIAM HUNTER
DEJAEGER, MICHAEL JEROME
DOBBS, MARK ANTHONY
DOREMUS, STEVEN WILLIAM
DOW, MU YING HOM
DWINE, STEVEN JAY
EARLEY, JERRY DWAINE
ERCEG, JOHN HARRY
ESPIE, JOHN CLARK, IV
FERREIRA, ARTHUR DAVID
FLOWERS, LYNN LIONEL
FOGARTY, MICHAEL BLAIR
FORCINO, CARROLL DOUGLAS
FORDICE, PHILLIP STANLEY
FORSHA, JOSEPH DAVID
FOSS, GEOFFREY WRIGHT
FRANCIS, JOSEPH PAUL
FRANKE, EILEEN DIANE
GEIGER, DANIEL
GLOVER, ALFRED LAWRENCE
GOLGART, DALE ANDREW
GORSUCH, GREGORY MARK
GOULD, GEORGE CLAVEL
GRODEN, JEFFREY HOWARD
HALTER, RANDAL JOSEPH
HAMMER, ALLAN JOHN
HANSEN, CHRISTIAN WALTER
HANSON, ROGER PAUL
HARTMANN, KATHLEEN GAIL
HAUGEN, OLAF GREGORY
HELTON, MILFORD ROY, JR.
HIGGINS, GARRY A.
HOOD, BARRY FRANCIS
HOOPER, JAMES MALCOLM
HOWELL, JEFFREY LYNN
HUDSON, JAMES NEIL
HUFF, PHILIP HARRISON
JACOBS, ROBERT JOHN
JENKINS, SAMUEL PAUL, JR.
JEWETT, JOHN MICHAEL
JONES, TREVOR REES
KANE, MARK EDMUND
KANOUR, WILLIAM WENDELL
KELLY, PATRICK JOHN
KENT, STEPHEN ALEN
KIRSHNER, ANDREW MARK
KIRTLAND, SARAH KATHERINE
KNECHTGES, PAUL LEE
KOBUS, DAVID ALLAN
KOLLASCH, DOUGLAS JOHN
LANE, TERESA ANN
LAWSON, FRANK GREGORY
LEIBOLD, VIRGINIA ELLEN
LEMM, MICHAEL EDWARD
LININGER, LINDA ANN
LOGAN, RONALD JOSEPH
MAHONY, MICHAEL EDMOND
MANN, MICHAEL O.
MAVRIDOGLOU, THEODOROS
MCDONALD, CONNIE LOUISE
MCKIVIGAN, JAMES MICHAEL
MEIBOOM, DEWEY RODERICK
METHENY, ROBERT MICHAEL
MISISCO, DAVID JOHN
MITTSCARCAVALLO, DIANA
MOLNAR, DENNIS JOSEPH
MUNSON, MARK ROGER
MURDOCH, DONNA MARIE
NICHOLS, STEVEN MARK
OCKER, KENNETH ROBERT
OCONNOR, PETER FRANCIS
OLSEN, CHARLES NELSON
OSBORNE, WAYNE JOHN
PATTERSON, ERIN E.
PERRY, WILLIAM COURTNAY
PHILLIPS, LARRY JAMES
POBLETE, RICHARDO QUIMZO
POKORSKI, THOMAS LEE
QUEEN, JOAN RENEE
RAHN, MARK ALLEN
RHODES, CHARLES BLAKE
RICKER, DAVID DEAN
ROBINSON, CHARLES ALLEN
ROCK, SYBIL LORENE
ROSSI, JOHN III
SASHIN, MICHAEL DAVID
SAUL, JONATHAN OLIVER
SCHWALM, MICHAEL ALLEN
SHAFFER, RICHARD ALLEN
SHAMMAS, JOSEPH IVARO
SHASTEEN, STEPHEN PERRY
SHAUB, TIMM LEROY
SHIU, WING SUE MARIA
SOSH, RICKIE LANE
SPAULDING, ROBIN ALLISON
STEELE, TIMOTHY PATRICK
STEVENSON, FRANCINE SCO
STOOPS, DENNIS EUGENE
SUPANCHECK,. GREGORY EARL
THOMPSON, MARIANNE
THOMPSON, TIMOTHY EDWARD
TINLING, WALTER WILLIAM
TORSCH, VIRGINIA MAY
TOURVILLE, JOHN FRANCIS
UPDEGROVE, CHARLES DELA
VALENTIN, ELEANOR VIVIAN
VILLARREAL, RENE
WALTERS, JAMES MATTHEW
WEBB, BENJAMIN FRANKLIN
WEBB, SCHUYLER CLEVELAND
WEBER, DENISE ENGLER
WELLEN, DAVID PHILIP
WHITEMAN, JAMISON A.
WOODHEAD, ALFRED BURLEY
WHITEMAN, JAMISON A.
WOODHEAD, ALFRED BURLEY
YU, DANILO LOPEZ
ZUBRITSKY, DESIDER PAUL

NURSE CORPS OFFICERS

To be lieutenant commander

ALDRICH, DIANNE JOSEPHINE
ARELLANO, SERGIO ELISEO
ATCHISON, JOAN ROBIN
BAILEYGEER, SANDRA
BANKSTARR, SHARON ELIZABETH
BARBOUR, REGINA DENISE
BARNES, JOY JEANNE KARA
BAUER, KATHRYN REGINA
BORTISSER, DEBORAH JEAN
CHRISTENSEN, SOREN
DAVIS, MARGARET DENDY
DICOLA, CYNTHIA A.
DILLON, ANITA LOUISE
DURANT, VALERIE ROBINSON
FRYSLIE, ARLETTA RAE
GEMENDER, ROSARIA
GREGORY, MAURICE THOMAS
GROMLEY, RALPH EUGENE
HEINDEL, LOUIS JAMES
LAMPO, BONNY JEANNIE CO
LUNDGREN, KARIN ELIZABETH
MADDEN, LORETTA ANNE
MARKLE, RIVA MARIE
MARTINSANDERS, SUSAN LO
MCCORMICKBOYLE, REBECCA
MCDONALD, ELIZABETH A.
MCDOWELL, DENISE SMITH
MILLER, DIANE MARIE
MURPHY, PAMELA LYNN
OLESEN, JOYCE ANN
OTT, EARY CATHERINE
PATTON, WILLIE RAY
PEARLMAN, HELEN VIRGINI
PENDRICK, PAULA ANN
RILEY, BARBARA MAHON
ROARK, PAMELA KAY
ROSEMOND, ANDREA BARBARA
SAUNDERS, SANDRA KAY
SAYER, MARY ANN
SCHMIDTGEARY, MARGARET
SHEALY, BRENDA CHERYL
SPENCER, JOHN GAGER
WARREN, NANCYE KATHLEEN
WILLOUGHBY, DONA MAY RI
YAKSHAW, RONALD ANTHONY
YAREMA, DEBRA DEANNE

LIMITED DUTY OFFICERS (STAFF)

To be lieutenant commander

BONNETTE, MICHAEL R.
CURRY, CHARLES JAMES
DEE, DAVID W.
HEIMBAUGH, RICHARD A.
KELLER, GENE WESLEY
LAMBERT, OTIS P.
MEDINA, GENELITO V.
PHILLIPS, DAVID C.
PLUDE, DOUGLAS J.
SCIANCALEPORE, MICHAEL T.
STANGELAND, HERBERT
VASQUEZ, MICHAEL TRISTAN

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

ARMY PROMOTION LIST

To be colonel

RICHARD H. CLARK, xxx-xx-xxxx
CHARLES E. DOTY, xxx-xx-xxxx
RONALD L. GAMBOLATI, xxx-xx-xxxx
CHARLES W. GORHAM, xxx-xx-xxxx
CHARLES H. HAYNES, JR., xxx-xx-xxxx
KENNETH W. MCGRAW, xxx-xx-xxxx
TOMMY R. MURPHREE, xxx-xx-xxxx
PETER E. MURRAY, xxx-xx-xxxx
GLENNON E. NENNINGER, JR., xxx-xx-xxxx
RICHARD H. NIXON, xxx-xx-xxxx
GEORGE V. NOIROT, xxx-xx-xxxx
THOMAS C. OWENS, xxx-xx-xxxx
RICHARD L. RISHEL, xxx-xx-xxxx
ROBERT W. SMITH, III, xxx-xx-xxxx
BOBBY H. TAPLEY, xxx-xx-xxxx
WADE TOWSEND, xxx-xx-xxxx
JOSEPH R. WHITE, xxx-xx-xxxx

CHAPLAIN CORPS

To be colonel

JAMES C. BURKE, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

GLENN E. WIERSON, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

RONALD W. ALBERT, xxx-xx-xxxx
JAMES R. ANDERSON, xxx-xx-xxxx
AUGUST A. BAILEY, xxx-xx-xxxx
TRAVIS M. BEDSOLE, JR., xxx-xx-xxxx
MICHAEL A. BENDAS, xxx-xx-xxxx
ROBERT J. BOOTZ, xxx-xx-xxxx
JOHN E. BRADDY, xxx-xx-xxxx
WILSON L. BROWN, xxx-xx-xxxx
DAVID V. COLLIGNON, xxx-xx-xxxx
TERRY J. DEJONG, xxx-xx-xxxx
TERRENCE T. FAHEY, xxx-xx-xxxx
GEORGE B. GARRETT, xxx-xx-xxxx
CARL R. HAMMETT, xxx-xx-xxxx
GALEN W. JOHNSON, xxx-xx-xxxx
JAMES H. JOHNSON, xxx-xx-xxxx
MELVIN KAKU, xxx-xx-xxxx
JAMES R. KINGSLEY, xxx-xx-xxxx
DAVID E. KRATZER, xxx-xx-xxxx
DONALD W. KROENING, xxx-xx-xxxx
DAVID W. LANCE, xxx-xx-xxxx
DANA C. MCCUE, xxx-xx-xxxx
JOSEPH L. MOORE, xxx-xx-xxxx
BRUCE W. NOLTE, xxx-xx-xxxx
JAMES G. ROCK, xxx-xx-xxxx
R.E. ROGERS, JR., xxx-xx-xxxx
JAMES E. SHIGLEY, xxx-xx-xxxx
MICHAEL R. WARING, xxx-xx-xxxx
ROBERT J. WILLIAMSON, xxx-xx-xxxx
GLENN K.Y. YOUNG, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

CHRIS S. CARTWRIGHT, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

BEN P. BINGCANG, xxx-xx-xxxx
DAVID SABBAR, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

DAVID P. BELL, xxx-xx-xxxx
ROBERT M. MILLS, xxx-xx-xxxx
THOMAS W. NEWKIRK, xxx-xx-xxxx
DAVID C. SCRUGGS, xxx-xx-xxxx
ROBERT A. STROUSE, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

GREGORY B. MAZZEI, xxx-xx-xxxx
WAYNE E. PETEREIT, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3370:

ARMY NURSE CORPS

To be colonel

CANDICE L. OTSTOTT, xxx-xx-xxxx

DENTAL CORPS

To be colonel

MARVIN B. PITTMAN, xxx-xx-xxxx
HUGH R. WALPOLE, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

WILBERT J. MANUEL, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

WILLIAM R. COOK, xxx-xx-xxxx
MICHAEL A. O'DOCKERTY, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

JOHN E. ARSTINGSTALL, xxx-xx-xxxx
ROBERT E. MILLER, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

KATHLEEN A. KING-TRYCE, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

LOUIS E. FIELD, JR., xxx-xx-xxxx
ALLEN N. HUNT, xxx-xx-xxxx
DANIEL J. SHEEHY, xxx-xx-xxxx

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A), 594(A), AND 3359:

DENTAL CORPS

To be lieutenant colonel

CARLOS MIGUEL ALVAREZ, xxx-xx-xx...
JAMES D. VALENTINE, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

WILLIAM R. BERRY, JR., xxx-xx-xxxx
WILLIAM N. HINDERSTEIN, xxx-xx-xxxx
JOSEPH E. PARISI, xxx-xx-xxxx
MARK L. VANDEWALKER, xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Thursday, July 26, 1990*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MURTHA].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 26, 1990.

I hereby designate the Honorable JOHN P. MURTHA to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we ever be conscious, O God, of that in which we believe. Remind us of our heritage of faith and our traditions of belief that like a beacon point the way to the paths of justice and good will for each person. May Your blessing, O God, that gives peace and confidence to every soul, be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WEISS] please come forward and lead the House in the Pledge of Allegiance.

Mr. WEISS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to the bill (S. 666) entitled "An act to enroll twenty individuals under the Alaska Native Claims Settlement Act" with amendments.

HURTING BEGINS ANEW WITH EACH NEW WHITE HOUSE BROKEN PROMISE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, in literature the broken lance is the symbol for Don Quixote. In countless western movies, the sign of peace between the cowboys and Indians was the broken arrow. Today, though, when you think of the White House, the image leaps to mind of the broken promise. After you finish reading all the lips, the results are different from the words.

Remember the person who stood beside Boston Harbor vowing to be the environment President? Yet it was this administration that tried to cancel the Federal funding to clean the harbor up.

"No new taxes" was the promise. The lips speak for themselves.

Just yesterday, as the President's veto of the Family Leave Act was upheld, I could still hear the ghostly ringing of the President's earlier pledge that women should not have to worry about getting their jobs back after having a child or caring for a child during a serious illness.

Once lances and arrows are broken, they cannot hurt anyone any more. Unfortunately, the hurting just beings anew with each new White House broken promise.

CUBAN INTEREST SECTION ASKED TO LEAVE CZECH EMBASSY

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, today is a historic day. In 1953, Castro led his rebel forces against Fulgencio Batista's police barracks. That famous raid was Castro's first major military strike, and gave Castro's forces their name, "the July 26 Movement."

Thirty-seven years later, I stand before you urging yet another July 26 strike. This time though, the attack is against Castro himself, and the objective diplomatic, not military.

Today at 3 p.m. I will be presenting a letter signed by 66 of my colleagues to Miloslav Chrobok, the chargé d'affaires from the Embassy of the Czech and Slovak Federal Republic. The letter, addressed to President Havel, is a request to remove the Cuban interests section from the Czech Embassy.

I welcome you all to join me in the presentation of this letter to Mr. Chrobok. With any luck, the only movement Castro's forces will be making in 1990 is out the Czech Embassy's door or—harkening back to another famous historical occurrence—out the window.

PRESIDENT SPEAKS OUT OF BOTH SIDES OF MOUTH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush promised a balanced budget; Social Security was raised. President Bush promised help for the homeless; we got pillows for the steel grates. President Bush promised Pentagon reform; we got a bookkeeping system called multiple choice. President Bush further promised Pentagon cuts; some general got a vasectomy. President Bush promised no new taxes; ladies and gentlemen, he simply raised all the old ones.

What is next, ladies and gentlemen? Two cars in every garage? It is pretty hard to read someone's lips when they speak out of both sides of their mouth.

SSC COSTS ARE ESCALATING

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, yesterday, the Department of Energy released new cost estimates for the superconducting super collider [SSC]. The information confirms our suspicions that the SSC cannot be built for $8 billion, the figure on which Congress has been basing its deliberations.

At its press conference, the Department tried to put the best face on a new $8.6 billion estimate that came from the High Energy Physics Advisory Panel, or HEPAP. The Department sought to trivialize the estimate, saying it was based on contingency accounts and citing a lower estimate from the SSC contractor.

But I would point out that the HEPAP is not exactly composed of SSC detractors. Indeed, it was HEPAP that recommended the SSC be built in the first place, and it was HEPAP that recommended the new, more expensive design. In short, the Department has relied on HEPAP until this week when its views became inconvenient.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Department officials implied that the new cost estimate merely highlights the need for Congress to fund the SSC on schedule. But the biggest threat to the SSC is not some irrational, delaying tactic by Congress.

This project is threatened by only two factors—the Department's overly optimistic assessments of the SSC's costs and benefits, and a sober assessment of whether the Nation's top science priority is building a 54-mile tunnel in Texas.

TIME FOR WALTERS AND GOOD TO MAKE GOOD

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, last month Kenneth Good and Williams Walters appeared before the Banking Committee to testify about their role in the collapse of Silverado Banking. Mr. Good and Mr. Walters were major borrowers from Silverado. They and their partnerships and companies defaulted on over $100 million in loans from Silverado.

At the Banking Committee hearing, both men claimed that they had no net worth. Mr. Walters told how at one time he was worth $100 million but now he was broke. Mr. Good talked about how he had lost his $10 million home in Colorado through foreclosure.

It turns out that neither man is ready to join the ranks of the homeless.

Mr. Good drives a Maserati, owns a home in an exclusive Florida development, and regularly commutes to his condo in New York.

Mr. Walters has gone West rather than East. He lives with his wife in a $2 million house in Newport Beach, CA. The Walters' also have a quarter-million-dollar beach trailer. When they tire of the ocean view, they can retreat to Palm Springs, where the family has a millon-dollar condominium.

I am today inviting Mr. Good and Mr. Walters to appear before the Financial Institutions Subcommittee on September 6, so they can explain the discrepancy between their testimony and their lifestyles.

Mr. Speaker, the American people deserve to learn how people who have cost them $100 million on defaulted loans to a failed savings and loan can afford to live in a manner worthy of "Lifestyles of the Rich and Famous." I intend to get the answer to that question from Mr. Good and Mr. Walters.

TRADE LAWS UNDER ATTACK IN GATT TRADE NEGOTIATIONS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I rise to sound an alarm because our trade laws are under attack in the GATT trade negotiations.

The laws I am referring to, our antidumping and countervailing duty laws, are the last line of defense available to a broad range of U.S. industries trying to combat the unfair foreign trade practices of dumping and subsidization. This broad range of industries includes steel and textiles, typewriters and semiconductors, roses, raspberries, and pork.

Japan, Korea, Singapore, Hong Kong, and Canada are leading an effort to gut the multilateral GATT antidumping and subsidies codes. If they succeed in this forum, they know the United States will have to revamp its own laws to make them GATT compatible. In plain and simple language, this means our domestic remedies would be greatly weakened, and U.S. firms severely injured.

If these countries cherish the open U.S. market, which accommodates so many of their exports, they should rethink their strategy of weakening the laws that preserve such openness.

□ 1010

NO MORE PROMISES, MR. PRESIDENT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the annual deficit under President Carter was $56.65 billion. Candidate Reagan promised to change that by balancing the Federal budget. His annual deficit was $167.34 billion. Candidate Bush promised to change that. His annual projected deficit through 1991 is $193 billion.

But some on the other side might protest that the Democrats made these Presidents do it. Let us forget what Reagan and Bush did. Let us see what they asked for.

Reagan asked Congress for a deficit of $1,045,300,000,000, and President Bush has asked us for $283.7 billion.

Mr. President, give me anything, but do not give me any more promises.

SAVINGS AND LOAN CRISIS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, if we go home in August without passing legislation geared toward tracking down and severely punishing all of those people who abused the savings and loan system, then home is not going to be a place any one of us will want to be.

Mr. Speaker, I am informed that Sam Rayburn used to tell freshmen like me, "Don't try to go too fast; learn your job. Don't ever talk until you know what you're talking about."

Well, Mr. Speaker, I may be only a freshman, but I know and the American people know that those who have committed crimes in the S&L industry must be brought to justice.

There are several things that we can and should do right away, today, to bring us closer to reaching that goal, beginning with passing H.R. 5353, a special crime bill focusing on the savings and loan mess—a bill that would, among other things, establish a special commission to look into the dealings of Members of this body who may have contributed to the crisis.

I urge my colleagues to join me in cosponsoring H.R. 5353. We should not head for home without it.

GOVERNMENT GUARANTEED JUNK BONDS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the climax of the carnival of greed in the corporate boardroom and on Wall Street in the past decade is contained in this news story. It says the Federal Government is now one of the largest junk bond dealers in the country. It holds $3.7 billion in junk bonds.

The ultimate irony here is that Michael Milken, Drexel Burnham, Donald Trump, R.J.R. Nabisco, Boone Pickens, and others all issued junk bonds for their hostile takeovers and greed games, and they turned out, in the end, to be Government guaranteed.

How did this happen?

The incompetent regulators told the savings and loans they could go ahead and buy junk bonds, they would not watch, and the S&L's bought junk bonds and the S&L's failed. The Federal Government guaranteed the loss and we end up with the junk bonds. In a cruel twist, it means that junk bonds, in effect, were Government guaranteed.

In the 1980's the Reagan administration told the big shots, "You go ahead and play your speculative monopoly games and we won't watch."

The result was an orgy of greed that weakened this country. Hostile takeovers, leveraged buyouts, junk bonds—it is the lexicon of failure and the crowning failure is that this administration put us in the position of allowing the greed merchants to force the American taxpayer to guarantee their junk bonds.

CUBAN INTEREST SECTION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, since 1977, Czechoslovakian leaders have allowed the Cuban interest section into their Washington Embassy. The Cuban interest section distributes information below the Czechoslovakian Embassy heading. This must stop.

Today, Congressman CURT WELDON and I will be presenting a letter addressed to President Havel, through the Czech Embassy, urging him to remove the Cuban interest section.

Removing the Cuban interest section from the Czechoslovakian Embassy will serve to accelerate the withdrawal of international support for Castro's brutal government and will weaken his stranglehold on the will of the Cuban people.

I urge the Members to join us today at 3:30 in Congressman WELDON's office to send a strong message to Castro.

AMERICA SHOULD WORK FOR CHANGE IN OUR INNER CITIES

(Mr. SERRANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, this morning, the "Today Show" ran a story about Petra, a young mother from the South Bronx. The report focused on her success in shielding her children from the dangers of inner city street life. She achieved this success by leaving the Bronx.

Petra demonstrated commendable initiative by overcoming poverty and hopelessness through education. Although she dropped out of school in the ninth grade, she is now attending Hunter College, and looks forward to getting a better job as a college graduate.

But is it not sad that she must attribute her success and the well-being of her children to leaving her home and community? Would it not be wonderful to hear stories of the achievements of the hard-working community groups who are striving to improve the conditions that drove Petra from the South Bronx?

Our poverty-stricken urban communities now need our support more than ever. They are struggling to keep their children in school, and to keep drug dealers off the streets and out of the playgrounds. For most people, leaving these areas is not a viable alternative. We must help them to improve their lives in their own communites.

I urge my colleagues not to sit back and accept the conditions in our inner-city areas as a part of American life. We must recognize that these conditions are not acceptable for citizens of this great Nation, and work for change and hope for the parents and children in our cities.

PRESIDENTIAL INITIATIVE ON DEFENSE PROGRAMS

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, as the Armed Services Committee begins the process of marking up the 1991 Defense authorization bill, I want to correct an erroneous news story that may have left some of my colleagues in doubt as to my position on certain weapons systems.

First, I strongly support the President on the B-2. To maintain effective deterrence, we need to modernzie the airbreathing leg of the strategic triad.

Second, I have always strongly supported SDI, and to draw any other conclusion is to misrepresent me both in context and fact.

Finally, to say that I advocate not buying the Seawolf submarine because of improved Soviet-United States relations is nonsense. Regardless of our relations, the Soviets are modernizing and we should continue to do so.

Soviet conventional and nuclear naval forces continue to be modernized. That is the best reason of all to buy Seawolfs.

AMERICANS WITH DISABILITIES ACT BECOMES LAW TODAY: A NEW ERA DAWNS FOR THE NATION'S DISABLED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the ADA bill is one of the most important pieces of civil rights legislation to have been passed by Congress in recent years.

Some call disabled persons "handicapped." I call them "handicapable" and, ADA will enable the handicapable in realizing the fullness of their talents and abilities.

On a more personal note: I was a cosponsor of ADA and, as member of the House Judiciary Committee, I supported strengthening amendments and opposed weakening amendments when ADA was before our panel.

And, I had the honor to be acting as Speaker pro tempore in the House when the conference report on Americans with Disabilities came to the floor.

Mr. Speaker, today is a day to rejoice both for the millions of disabled Americans who, because of ADA, will enter a new era and for the Congress of the United States and the President whose collaborative efforts led to the passage of this milestone law.

I have disagreed with President Bush on certain issues during his tenure in office. However, I agree with the President—and salute him—for his action today in signing into law the Americans With Disabilities Act [ADA].

ADA prohibits discrimination against disabled persons in hiring practices, in the workplace, in public accommodations, and in communications.

□ 1030

INTRODUCTION OF LEGISLATION HONORING WORLD WAR II VETERANS

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, I rise today to express the views of my constituents in Rhode Island who have joined me in honoring our veterans of World War II. As a veteran myself, I am keenly aware of the contribution these brave individuals have made to maintaining freedom and democracy both here and throughout the world.

To pay tribute to our veterans, I recently cosponsored two important pieces of legislation: H.R. 2807, which would authorize establishment of a World War II veterans memorial in our Nation's Capital. This bill would also express the sense of Congress that, during the 50th anniversary of World War II, the Federal Goverment, through the Smithsonian Institution, should encourage and promote appropriate exhibitions and commemorations in honor of our World War II veterans. I have also cosponsored H.R. 4365, a bill to direct the U.S. Treasury Department to mint a special commemorative coin to honor the 50th anniversary of World War II.

In an effort to make a more compelling argument to this body in support of these two bills, I recently asked my constituents in Rhode Island for their views on this issue. I am pleased to report to my colleagues that the response to my survey has been overwhelming: by an overwhelming margin, my constituents, both veterans and nonveterans, have expressed their strong support for H.R. 2807 and H.R. 4365. This outpouring of support should make it clear to all Members of the House of Representatives that we owe World War II veterans our deepest gratitude for their selfless sacrifice. While we cannot do enough to honor these men and women, we can show them a limited degree of recognition by passing H.R. 2807 and H.R. 4365. As such, I strongly urge all of my colleagues to consponsor these two important bills.

LET US REFORM THE EXCLUSIONARY RULE

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the American people are sick and tired of hearing about cases where a criminal is caught red-handed in his criminal act, finds himself in court and then freed on a technicality because the police who arrested him sometimes have not had on the search warrant the exact language required for the offense that they found already occurring.

For instance, there was a case very recently where the police going to a particular place with a search warrant to seek contraband of guns and other kinds of illegal equipment found great stashes of cocaine and arrested the individual who was responsible for maintaining those batches of cocaine. But in court that case was thrown out because of the exclusionary rule, which commanded the court to say, "Well, the search warrant didn't have cocaine on it as one of the articles to be sought; it has to be thrown out."

We cannot stand to have that go on any longer.

We in the Judiciary Committee who have been trying valiantly for the 8 years that I have been here to reform the exclusionary rule, to allow the good faith of the police to be a factor in the determination of whether or not that kind of case should be thrown out, have been thwarted by the prevailing numbers in the Committee on the Judiciary. We hope we can do better on the floor.

The American people want us to do so.

LET'S FIND A WORKABLE SOLUTION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the Washington Post reports this morning that 6 out of 10 Americans believe that the economy is getting seriously off on the wrong track. This is an increase of 11 percent since January.

When will Congress wake up and recognize what the people already know? Ongoing huge deficits are threatening U.S. economic expansion and until we get the budget under control the economic outlook will be bleak.

In the face of potential recession, all the people of America hear is partisan naysaying. One side says it will not cut discretionary spending. The other side says it will not accept a revenue increase. But no side says what they will do to solve our Nation's problems. None of the naysayers have stepped forward and presented a workable, politically practical deficit reduction plan.

Mr. Speaker, the American people know that there is a problem and they are ready to work to solve it. All that is needed is a balanced and fair package that calls on every American to give something to the country's best interests. Let us get on with the work of governing and produce that package.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MORRISON of Connecticut. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary be permitted to sit while the House is proceeding under the 5-minute rule this afternoon.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

THE PRESIDENT SHOULD WORK FOR ALL THE PEOPLE OF THIS COUNTRY, NOT JUST THE WEALTHIEST PEOPLE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the other day the Nation was focused on the stock market, a 50-point drop, a 100-point drop back up to 50 points down. I predict that if the market had gone down 100 points 2 days in a row, the White House would get serious about dealing with the economic problems of this Nation.

But the only problems today are for workers; defense workers are being laid off, workers who own homes suddenly find the values of their homes being lost. What is the White House doing? Absolutely nothing.

It opposes conversion and diversification legislation to give our defense workers an opportunity to keep their homes and their families together. It does not address the needs of homeowners who find the values of their homes shrinking. We need a President who is engaged, one who gets the administration to manage the country again, the regulators to regulate, and an administration that is ready not just to fight for the folks who have money in the stock market but the people who work in the factories and own homes in our neighborhoods, Mr. Speaker.

We need a President who is ready to go to work for the people of this country, not just the wealthiest people of this country.

UPDATE ON BALANCED-BUDGET AMENDMENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, last week the House considered a precendent constitutional amendment requiring that we balance the budget.

It failed by our inability to shift 7 votes. The total was 279 to 150.

It is interesting to note that of the Democrats in the House who voted for it, 110, representing 42 percent of the Democrats serving in the House of Representatives; about 95 percent of the Republicans serving in the House voted for it.

My State of California is very interesting in considering the loss of this constitutional amendment. Specifically, we have 27 Democrats in California serving in the House. Unfortunately, only 4 of those 27 voted for the constitutional amendment on the balanced budget, which is 15 percent of that total.

If the California Democrats, the 27 of them serving in the House, had voted in the same percentage as the national Democrats serving in the House, 42 percent, we would have had 11 votes from Democrats in California.

Since we only had 4, not 11, that difference is 7. That difference of seven votes which we did not get from the California Democrat delegation is the difference between victory and defeat of this constitutional amendment.

So the question for the people of America and for the people of California is: How does it come to be that the Democrats in this House from California are so far to the left, so far out of sync with the Democrats nationally serving in the House of Representatives? Or maybe the other question is: Did the ghost of Phil Burton strike again?

CALL OF THE HOUSE

Mr. DANNEMEYER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 267]

Ackerman	Ballenger	Bevill
Andrews	Barnard	Bilbray
Annunzio	Barton	Bilirakis
Anthony	Bateman	Bliley
Applegate	Bates	Boehlert
Armey	Bellenson	Bonior
Aspin	Bennett	Borski
Atkins	Bentley	Bosco
AuCoin	Bereuter	Boucher
Baker	Berman	Boxer

Brennan
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

□ 1053

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall, 398 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that the purpose of the call of the House was because of the important legislation that is before the House, and the gentleman from California [Mr. DIXON], the chairman of the Committee on Standards of Official Conduct, wishes to make a statement.

EXPLANATION OF AGENDA FOR DEBATE IN THE MATTER OF REPRESENTATIVE BARNEY FRANK

(Mr. DIXON asked and was given permission to address the House for 1 minute.)

Mr. DIXON. Mr. Speaker, I wish to explain to the body today what the agenda will be.

By agreement between the gentleman from Indiana [Mr. MYERS], the ranking member, and myself, we have agreed with the gentleman from California [Mr. DANNEMEYER] that he will call up his privileged resolution at the desk in the matter of Representative BARNEY FRANK. That resolution calls for expulsion. The committee is obviously opposed to that. There will be a vote. We will resist any motion to table.

Mr. Speaker, at the end of that resolve, it will be my intention then to call up the committee's bill. I will ask unanimous consent for 2 hours of debate on that issue. It is my understanding that the gentleman from Indiana [Mr. MYERS] will provide ample time for the gentleman from Georgia [Mr. GINGRICH] who intends to offer a motion to recommit with instructions for censure.

Mr. Speaker, that is the order in which we will proceed.

I will advise Members that we will have three votes on this matter, one on the DANNEMEYER issue for expulsion, one on the motion to recommit, and, hopefully, one on the one for the committee recommendation of reprimand.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MICHEL. Mr. Speaker, we are going to be considering this resolution in the House. If we were operating under the 5-minute rule, it would take unanimous consent for any of the committees of the Congress to be meeting during the deliberations. It is my understanding that two of our committees have scheduled hearings this morning. There are some Members I know, particularly on my side, who wanted to be privy to all the debate that would ensue on this very important matter, and while I know there is no official way for me to register that thought, other than by this means, I would hope that the Chair or the Speaker would see that the appropriate committees were advised that maybe it would be better for them to recess their hearings so that Members might be free to attend the discussion on this very important matter.

The SPEAKER pro tempore. Speaking on behalf of the Speaker, the gentleman from Washington [Mr. FOLEY], he agrees entirely that the Members should pay close attention to this work that has been done over such an extended period of time, and he urges the Members to be on the floor during the debate.

IN THE MATTER OF REPRESENTATIVE BARNEY FRANK

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged resolution (H. Res. 442) on the expulsion of Representative BARNEY FRANK, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 442

Resolved, That, pursuant to article I, section 5, clause 2 of the United States Constitution, Representative Barney Frank be, and he hereby is, expelled from the House of Representatives.

The SPEAKER pro tempore. The Chair wishes to remind Members of the restrictions imposed by clause 1 of rule XIV, and by the precedents relating to references to Members in debate. These restrictions indicate

that Members should refrain from using language which is personally abusive. While a wide range of discussion relating to conduct of the Member in question will be permitted, it is the duty of the Chair to maintain proper decorum in debate. It is the intention of the Chair to enforce the rules.

The gentleman from California [Mr. DANNEMEYER] is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, according to the agreement that the gentleman from California [Mr. DIXON], the gentleman from Indiana [Mr. MYERS] and myself have worked out, a half an hour is hereby accorded to the gentleman from California [Mr. DIXON], and I believe that I have been accorded a half an hour.

The SPEAKER pro tempore. The gentleman is correct.

Mr. DANNEMEYER. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DIXON], and pending that I yield myself such time as I may consume.

Mr. Speaker, initially let me commend the committee for the work they have done. The 12 members, 6 Democrats and 6 Republicans who serve on that committee, have a thankless job. We all know that, and I want to thank them personally for the many hours that they have deliberated on a very serious matter that, frankly, is not very pleasant for any of us.

Mr. Speaker, if anybody in this Chamber believes that I am enjoying what I am going through, then I say to them, "Please disabuse yourself of that notion because I'm not."

My colleagues, we are sent here by the people of this country to legislate, establish an agenda for the country. That is our principal role for being here.

□ 1100

But occasionally when matters of this nature come up, whether we like it or not, we must stand and affirm the existence of standards of our society, because to put this issue in perspective, what is going on in America is a cultural war. It has reached an increasing intensity in the last 25 years, because we have two conflicting philosophies struggling for dominance in our society. The Judeo-Christian ethic on which this Nation was founded says very clearly that there are fixed standards which God gave to man to govern people in any society.

The philosophy of moral relativism, on the other hand, says that there are no standards, that man himself is capable of establishing any rule at any time, situation ethics, do anything you want so long as the perception is that you are not harming anybody else.

The gentleman from Massachusetts [Mr. FRANK] is an example, in my judgment, of these two philosophies in conflict, and he is not who is on trial today. It is the House of Representatives who is on trial today.

The ethics committee has made its report. I disagree, frankly, with what they have said. You will have to forgive a point of personal reference. Before I came to this distinguished body, I was a deputy district attorney and a trial lawyer for years on both sides, plaintiff and defense, civil and criminal, and with that background I began reading the report of the ethics committee when it was published last Friday, and when I began that exercise I thought I would be reading a document which would be an objective analysis of the evidence concerning the issue at hand. After I got about a third of the way through that document, it became apparent to me that that was not the case. What I was reading was a brief prepared for the benefit of the gentleman from Massachusetts [Mr. FRANK].

The reason that I say that is because of what is contained in the findings themselves.

The truth of the matter is that Mr. FRANK has admitted that he committed a felony on numerous occasions in the District of Columbia during the interval of April 1, 1985, through August 1987.

It is a violation of the DC Criminal Code 22-3502, maximum 10 years in prison.

Mr. FRANK also admitted that he invited for purposes of prostitution, which is a violation of DC Criminal Code 22-2701, maximum fine, 90 days in jail.

Mr. FRANK also admitted that he is in violation of making lewd, obscene, or indecent sexual proposals, which is a violation of DC Criminal Code 22-1112, with a maximum of 90 days in jail.

Finally, Mr. FRANK admitted through newspaper accounts that he had reason to believe that a prostitute was conducting illegal activities out of his home and this maintaining of premises for lewdness or prostitution is a violation of DC Criminal Code 22-2713, with a maximum of confiscation of property, or DC Criminal Code 22-2712, maintaining a house of prostitution, with a maximum of 5 years in prison, or DC Criminal Code 22-2722, keeping a bawdy house, a maximum fine and 1 year in jail.

Unfortunately, the ethics committee did not list in its recommendations to the House anything about the commission of the felonies that I have described and the misdemeanors. I think that is a significant omission.

With respect to the two findings that the ethics committee found, you note them on page 56 of the report of the ethics committee, and it relates to the incident involving the 33 traffic tickets and also the incident involving the representations to the probation officer for Mr. Gobie. Mr. FRANK on the stationery of his identified certain facts relating to Mr. Gobie, a convicted pronographer, molester of other people, and in this representation which was communicated, or Mr. FRANK was found to have knowledge would have been communicated to other people, it certainly misrepresented the status between Mr. FRANK and Mr. Gobie.

When you look at the analysis of the traffic tickets that are part of the exhibit of the committee, and the lawyers in this Chamber will understand what I am saying when I make this observation, you notice that a number of them, or rather I should say a few of them, listed the time when the traffic ticket for the automobile owned by Mr. FRANK was ticketed by the District of Columbia Police, but none of them showed the place where the traffic ticket was obtained, and a lot of them did not contain the time.

Now, what is the significance of that omission? It goes to the knowledge of Mr. FRANK as to whether or not he knew that prostituion activities were taking place in his residence here in the District of Columbia, and on that point I want to share some thoughts with my colleagues because I think it is relevant, that is to say, this case comes down to one very simple case or one very simple analysis, and it is something that each of us who serve in this Chamber are going to have to go home and answer to our constituents about, no matter what side we are on, and the issue on which the House is on trial today is simply this: Do we tolerate, do we condone a Member of this body who knowingly permits a house of prostitution to be operated out of his residence here in the District of Columbia during the 2½ years that this Member associated with a known prostitute. This is the issue, and I think each of us in our own way are going to have to be prepared to answer that question because that sums it all up.

Now, I notice that the ethics committee did not find on this particular issue, and it was interesting to me because Mr. FRANK in testifying to the ethics committee by way of deposition stated that he, the gentleman from Massachusetts, first had knowledge that Mr. Gobie was operating this house of prostitution out of FRANK's residence in August of 1987 when the landlady brought to Mr. FRANK's attention that something unusual was going on. There were a lot of people coming and going, a lot of women, a lot of men, and she was concerned about this.

Mr. FRANK told the ethics committee in his deposition that that was the first knowledge that he had that prostitution activity was going on; but we find in one of the newspaper accounts printed in the Washington Times that on August 23, 1989, Mr. FRANK's statement was taken by a representative of the paper.

Mr. FRANK replied that he had at least three indications that prostitution services were being conducted from his apartment prior to the August call that led to Gobie's ejection, and I am quoting now from a portion of that statement by Mr. FRANK this newspaper investigative reporter on August 23, 1989, which took place, by the way, in Mr. FRANK's residence.

He said his landlady called and said something funny was going on in his apartment, and then FRANK relates:

She said there were people coming and going and that was like the third indication. The first example of the indication, I had gotten this phone call from the landlady. The second indication, once I got a call forwarded to my number. I was here, but you know, once I was here and a guy said something about where is—and some woman's name, I was supposed to meet her, and I said, what the hell is going on? I was suspicious, but I couldn't prove anything. The third indication, once a women did come here and said she was answering an ad about an escort job.

Now, the ethics committee said in their report:

Well, we relied on the statement that Mr. FRANK gave to us under oath as a part of the investigation of the committee.

And by the way, Mr. FRANK in that statement of deposition to the ethics committee said under oath:

I had no idea until the first potential idea was when Mary Jo Daugherty, who was the landlady, told me in August 1987, that he was arranging escorts for other people.

□ 1110

Either Mr. FRANK lied to the committee, or he lied to that reporter.

What should the ethics committee have done, if they were truly conducting a searching investigation? Answer: They subpoena the records of the reporter and the reporter, and they bring him in there, and they put that reporter under oath and they ask him what is the story that was forthcoming from Mr. FRANK when you took his statement in August of 1989? That is not in this report from the ethics committee. That, to me, is a very, very serious omission.

On page 9 of the report of the ethics committee Mr. FRANK admits that he knew that Gobie was in the prostitution business. Mr. FRANK's assessment was that having that knowledge, Mr. FRANK did not realize or know that Gobie was arranging prostitution activities for other people coming into FRANK's residence. But he admits, Mr. FRANK does, that Mr. Gobie was in the prostitution business, and he assumes was servicing other clients during the time that Mr. FRANK and Mr. Gobie were cohabiting in Mr. FRANK's resi dence.

Then on page 39 of the ethics committee report is an interesting observation about the testimony of a prostitute named Lynn, a pseudonym. Her deposition was taken by the ethics committee. And this prostitute, who worked her profession in the residence of BARNEY FRANK, was present in Mr. FRANK's residence. And she said this under oath, that a male voice called her up in June 1987, and this male voice said to her:

Is it okay to come home? Have you finished with yor client? I will be there in 15 or 20 minutes.

She went on to relate that the voice, the male voice, she believed was Mr. FRANK, although Mr. FRANK is not identifying himself as Mr. FRANK. This Lynn prostitute said she believed it was Mr. FRANK because he spoke with a lisp and he had a northern accent.

Now, she also said that she had on two or three other occasions met or talked with Mr. FRANK, either in person or on the telephone. And, interestingly enough, the committee recited this testimony that I just described of this prostitute, but gave it no weight on the issue of whether or not Mr. FRANK had knowledge that prostitution activities were being conducted out of his personal residence.

Then I think there is other evidence that makes very clear that Mr. FRANK knew that prostitution activities were taking place in his residence. Specifically on page 15 of the committee report, the records of the telephone company were subpoenaed, and those records disclose that in January and February of 1987 Gobie's escort/prostitution service telephone number, the calls were being referred to FRANK's personal telephone number in his residence.

That is significant because Mr. FRANK, on page 14 of the committee report, Mr. FRANK said it was his practice to regularly call home to get his messages for press calls and other business that may be coming up.

Now, think about it for a moment. The record of the committee discloses for all of us, without any equivocation on doubt, that in January and February of 1987 the calls for Gobie's prostitution/escort service were being referred to FRANK's residence, to FRANK's personal telephone number. And FRANK tells us he regularly called to get his messages. He had to have made calls to his residence, if he regularly does something, during that interval at least, and found out that Gobie was running this prostitution service in his residence.

The telephone company records for 1986, unfortunately, do not tell us whether or not a referral took place in those months or not. The records of the telephone company do not say why they are not available or what reason, but we just do not have the answer to that.

Now, when we analyze other things about how other leaders in our society have reacted under this kind of an issue, I find that tragically we, people who live in this area, work in this area and live elsewhere, when the president of American University, a man named Richard Berendzen, he was reported in the press as having made one obscene phone call to a lady that resides in this area, and what did he do? He resigned.

An elementary school principal by the name Gabriel Massaro, working in Chevy Chase, MD, was involved in the prostitution ring of Gobie, in that Gobie apparently went to this elementary school where Mr. Massaro worked and exchanged sex with Mr. Massaro on those premises.

And what did this elementary school principal do when this became public? He resigned.

A former member of this House, Wayne Hayes, became involved in a scandal involving a number of things. One involved a female, not his wife, working in his office. What did he do? He resigned.

But when we find out with respect to what Mr. FRANK has done in the face of this tragedy, what he really says is that he was playing the role of Professor Higgins to Lisa Doolittle, that he wanted to reform Gobie.

Now, that is nonsense, and we all know it. I believe that the honorable thing for Mr. FRANK to have done when this surfaced was to resign.

We also note that Mr. FRANK has an interesting point position here in the House in his activities. He is one of those who signed the letter initiating the investigation of our colleague Mr. SAVAGE. And during the Presidency of President Reagan, with Ed Meese, the Attorney General serving in the Reagan administration, Mr. FRANK and other Members of this body got on Mr. Meese, and they said that Mr. Meese should resign. And then Mr. FRANK and others who are making that request were asked well, Mr. Meese is not under indictment. And Mr. FRANK responded:

That is not the measure of integrity in office in America. We are in public life. We have to set a high standard. We will judge people on their associations.

Now, using that same standard for our colleague the distinguished gentleman from Massachusetts, if that is the measure of his standard for performance in public life, I think he should live with the consequences of his own standard, and resign.

At this point, Mr. Speaker, I would like to reserve the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The Chair recognizes the

gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, good morning. You have just heard one of the most edited, selective garbage that has ever been put forth in my opinion in this House. By agreement we allowed Mr. DANNEMEYER, at his request, to take up his resolution first. This is what Mr. DANNEMEYER wanted to do. So if you want to talk about the House being on trial, let us talk about procedurally what should happen around here.

The committee should present its evidence first. It is the committee that has worked 10 months on this project. But no, Mr. DANNEMEYER wanted to get the first shot.

You got the first shot, Mr. DANNEMEYER.

Mr. DANNEMEYER would stand in this well and tell you that he did not come to this well with any predisposed disposition on this case.

□ 1120

Before we had concluded our investigation, Mr. DANNEMEYER on January 23 sent out a letter indicating that he would wait for the committee report—thank you, Mr. DANNEMEYER—and then he would move to expel. Did he have any information at that time? He had information on Congressman FRANK's lifestyle That is the only information he had at that time.

So he comes here today with a predisposed disposition and then selectively selects things to support that.

Yes, Mr. DANNEMEYER, the House is on trial. The House is on trial if it votes to expel a Member when the committee has not made its report. Absolutely.

I am not going to attempt to refute every garbage statement made, but I am going to go through a brief analysis for you.

First of all, this privileged resolution should be rejected because the facts and the merits of the conduct of Mr. FRANK do not warrant expulsion, plain and simple.

Equally as important, the statements that he has made on this floor are totally incorrect. Let us look at the last thing he talked about or at least one of the last things he talked about, and that was some call forwarding.

One of the tragedies of this case is that although we started our investigation sometime in September, it is ripe, the story hit during the August break, and there has been multiple stories since that point in time. The committee's responsibility was to sort out the facts from the fiction, and 12 men in this House, 6 Republicans and Democrats, have tried to do that in this report.

He insults the intelligence and the literacy of the Members of this House who have read this report. As it relates to call forwarding, the period in question as it relates to a prostitute operating out of that House was June and July of 1987. Mr. Gobie did not have call forwarding in June and July. He did have it on one telephone up until February of 1987. There is no record when he had call forwarding as to where he forwarded the calls. Mr. DANNEMEYER would have you believe that there is some record available that they were forwarded to Mr. FRANK's house. There is no record of that. There is never any record of that.

Then he brings in the Washington Times and he talks to the lawyers in the House. Two points. Every lawyer in this House understands that the press has certain first amendment rights. And the Washington Times has asserted that first amendment right in another case where we subpoenaed their records.

Now Mr. DANNEMEYER has done one terrible thing here. We have systematically in this committee tried to protect innocent people, witnesses who might have some material evidence to present, but in our view were innocent, and their identity should be protected. He says that the name "Lynn" was used by the Washington Times. Mr. DANNEMEYER knows the last name of Lynn, because he circulated it to you in a Dear Colleague. Where did he get that name? Not from the committee. The Washington Times broke a story that implicated, as they said, a gentleman in the West. That gentleman in the West has been interviewed by this committee and completely contradicts the Washington Times story.

Mr. DANNEMEYER has that man's name and put it in a Dear Colleague letter that was circulated to you. Now those of you who have read the report, we have not mentioned the man's name. We have gone out of our way.

Mr. DANNEMEYER, you have done a mean, evil thing to somebody, not to BARNEY FRANK, but to some other people who are not directly involved in this, and that gentleman refuted everything in the Times article. But what did you do? You selectively in the letter that you sent out talked to the issue.

Mr. And this is what you said:

Mr. Frank knew Steve Gobie was involved in Saxons. The committee was told by Mr. Latta that on one occasion at which Representatives Frank and Mr. Gobie were present the operation of the Saxons escort service were discussed.

That is absolutely not true, and if you read the report, and I assume you did, you lifted an excerpt. Following along, Mr. DANNEMEYER, on page 49 of the report, the entire sentence, look at it, Mr. DANNEMEYER. It is on page 49. The entire sentence reads as follows:

The witness specifically took issue with the disputed accuracy of the May 1, 1990 news article with respect to the statement that on one dinner occasion at which Representative Frank and Mr. Gobie were present the operations of the Saxons escort service were discussed.

Page 49, Mr. DANNEMEYER. Take a look at it.

Mr. BURTON of Indiana. Will the gentleman yield?

Mr. DIXON. No, I will not yield.

Mr. BURTON. of Indiana. Just for one question.

Mr. DIXON. I will not yield.

Page 49, Mr. DANNEMEYER. Going on,

The witnesses said that he did not make this statement because the purported discussion did not occur.

You systematically lifted part of that statement to try to prove your point.

There are many inaccuracies in this report, but I say to my colleagues, this is not the time to debate the BARNEY FRANK case, on fiction. Give us an opportunity to present our case. We have spent 10 months on this, over 30 hours of depositions. We have traced every newspaper article that came out this issue.

In the Dear Colleague, and I will close with this distortion, in the Dear Colleague Mr. DANNEMEYER tries to infer that there was a successful attempt—it is on page 9 of your circulation—that there was a successful attempt to influence the parole officers on behalf of Steve Gobie by Mr. FRANK. It is page 23, Mr. DANNEMEYER, of the committee report. The parole officer or probation officer was Cheryl Johnston. When Mrs. Johnston was involved or invited at the close of the testimony to add anything for the record, she volunteered the following, and please listen, Mr. DANNEMEYER, please listen. I listened to you. Page 23 of the report, the person that had Mr. Gobie under probation, under supervision, this is what she said to the committee. You say that he successfully, Mr. FRANK successfully influenced.

I would just say that, you know, during the time I was involved with Steve and getting correspondence from Congressman Frank, and even when I was taking him back to court, I never had the feeling that Congressman Frank tried to influence or pressure me in any way.

□ 1130

Did you miss that page? There was another person involved with the supervision of Mr. Gobie. That was a sex therapist. On page 22, this woman who came in under oath, Ms. Valladares, on December 18 of last year, said

Congressman Frank's call to me was completely appropriate in every way. He asked nothing of me that was in any way inappropriate. I discerned no attempt to influence me in my treatment of Mr. Gobie or in my contacts with the Probation Department. His inquiry was like many calls from employers of clients of mine.

Can you fairly say that Mr. FRANK successfully influenced the people that were supervising Mr. Gobie? That is not fair, Mr. DANNEMEYER.

So I say to you, those who have read the report, there is no point in going point by point. Give this committee a chance to present its report, vote down this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield now?

Mr. DIXON. I will not yield. If you would like to get time from Mr. DANNEMEYER, I will be happy to answer any questions.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I just would like to ask the chairman of the committee, you interviewed the individual who refuted the reporter from the Washington Times, did you not?

Mr. DIXON. The answer is yes.

Mr. BURTON of Indiana. OK. Why did you not even ask the Washington Times reporter to come before the committee? Not subpoena, just ask him to come before the committee?

Mr. DIXON. Mr. BURTON——

Mr. BURTON of Indiana. If you got that one guy to respond, why didn't you get the reporter to respond?

Mr. DIXON. Mr. BURTON, I explained it to you. There are laws protecting reporters' notes and materials in preparation of a news story under the first amendment of the Constitution.

In another case, sometime ago, we attempted to do with the very newspaper what you say.

Mr. BURTON of Indiana. If I may reclaim.

Mr. DIXON. Let me finish my answer. And they exercised that right.

Mr. BURTON of Indiana. OK. Now, if I may respond. You didn't even ask him to appear, not subpoena, you didn't even ask him to appear.

Mr. DIXON. You are absolutely correct. I have tried to give you the answer why.

Mr. BURTON of Indiana. Let me just respond by saying if they choose under their first amendment rights not to respond to a subpoena, the news media has the right to do that. But I think it is a dereliction of the responsibility of the committee when a person refutes an article in a paper to not even ask that reporter to appear to respond.

I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, did the chairman of the committee, Mr. DIXON, have any other witnesses that he chose to speak on this matter? Did you have any other Members you were going to ask to speak?

Mr. DIXON. Yes. I recognize your right to close. Mr. MYERS would like to speak on this issue.

Mr. DANNEMEYER. I would like to close on the resolution.

Mr. DIXON. May I inquire of the Chair how much time is left on both sides?

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] has 17 minutes remaining and the gentleman from California [Mr. DANNEMEYER] has 10½ minutes remaining.

Mr. DIXON. Mr. DANNEMEYER, if you would like to use that 10 minutes to close, I would be glad to yield to Mr. MYERS at this point.

Mr. DANNEMEYER. I thank the chairman.

Mr. DIXON. Mr. Speaker, I yield such time as he may consume, to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker and Members of this body, we are asked today and charged with the responsibility of undertaking the most serious responsibility probably this House has, and that is sitting as jurors and judging a colleague, whether that colleague has been guilty of violating the rules of the House or any other law and, if so, what type of punishment one might administer to that individual.

Your Committee on Standards of Official Conduct that today has been called the Committee on Ethics is now in its 11th month of examining charges brought last year on alleged wrong-doing by one colleague of ours, the Congressman from Massachusetts [Mr. FRANK].

That 11 months hasn't been an easy job for any Member of this committee. We have gone about it as methodically and as carefully, as judiciously, as capably as we could.

Mr. DANNEMEYER, I am not here to criticize you today. In fact, we, the chairman and I, have agreed to give you every opportuntiy of having your views put before this body even to the point of, as the chairman has said, letting you go first.

I am not going to be too critical of what is in the document that you have handed us. Unfortunately, as the chairman has said, there are some misstatements in that document. I am not going to criticize you for those misstatements. Maybe in some cases you had no way of knowing what you have been given was not accurate. Only members of this committee who have spent months and hundreds of hours examining testimony, of interviewing individuals, witnesses, most of whom are under oath, some were not. But your committee has undergone to carefully examine whatever we felt that you should know and we should know. And we have found some differences from what the media, some of the media, has suggested that Mr. FRANK is guilty of.

We found some differences. In many areas, we could never, if we waited for 5 years, in my judgment, could never come down to what was right and what was wrong, because it is just impossible to prove some of the accusations that were made.

Your committee has come forward today with a recommendation we will talk about a little bit later, but I will just give you one example, Mr. DANNEMEYER, of where you have been given some information that is not accurate, or at least what it says.

That is on page 15 of your document, relating to the records of the C&P Telephone Co. about the call-forward.

We went into this, your committee went into it, very carefully. Unfortunately, the statement by Mr. Gobie, which we will talk about a little bit later on our own time, Mr. Gobie alleged that there was a call-forwarding from two numbers that Mr. Gobie gave us. We could only go to the telephone records for those two numbers that he had given us. Whether there are other numbers, we have no way of knowing.

But in the procedure that the telephone company has, they could only have records from 1987, they didn't have 1986 and behind it, or they destroyed those records. So we have no way of knowing if or if not there was a call-forwarding. But the thing about your document here that is wrong, the procedure by the telephone company is that they know a number that is called forward from but there is no way of knowing the procedure of what number is dialed into the telephone number or where it is forwarded. The receiver of the call-forwarding has no record. So we don't know whether it was forwarded to X number. We just know where it originated; there was a call-forwarding. It could have been forwarded to any of your numbers here, but we don't know, and I am not alleging or suggesting it was.

But the important thing here is we are dealing with the most serious punishment allowed by our House of Representatives, that of expelling a Member, one that has been exercised in the history of our country only 4 times. Three of those for what have been called in the record, of treason, Members whose allegiance to the Constitution of the United States was questioned.

□ 1140

And those Members were expelled. One action brought by this very committee, upon a Member for a felony, a very serious felony, among other charges. Historically, this body has been very, very cautious, as we should be, that we only exercise that responsibility of expelling a Member for only the most grievous, most serious crimes. And the judgment of this committee, your committee that you appointed to

make the investigation, that is not the case with Mr. BARNEY FRANK. So I am not asking any one of you how you should vote or suggesting how you should vote, but once you have sat through hundreds of hours of testimony, examined the thousands of pages of testimony and evidence, I am not going to exercise that most serious, most serious action this House can take of expelling a colleague for what I think the colleague is guilty of acting.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I do not rise to criticize the committee. I do not rise to try to point out lawfully what has been done. I rise to say the ethics of this Nation looks at this House to give us guidelines on what we do in the future. How can we ask a school teacher who has committed crimes to resign if we are not willing to stand up in our body?

I am here to say that FRANK has admitted enough to me to say that, as a person who believes in the Christian ethics of this Nation, who believes that the whole Nation looks at us to say that what you do should be OK for everyone to do. If you are willing to let your Member get by with this, if you are willing to accept this, what will we accept next? What are we willing to say can happen in 2 years, and will we accept just a reprimand or slap somebody on the hands?

I am here to say I support the resolution. I think this country demands discipline on our part. It demands discipline on the part of everyone. And how can we ask anyone or send a message any different than to expel this Member?

Mr. DANNEMEYER. I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I noticed my colleague who just spoke in the well, his legs were shaking. I have not been this nervous in this well in over a 14-year span in this House.

I came to the floor today not to expel the gentleman from Massachusetts because the historical precedent is compelling. Three men for treason, and Ozzie Myers upon whom we had videotape. While I sat there thinking, am I going to let colleagues sit here and be told that he has put out garbage on the floor, that he has done a mean thing, that this is garbage? I don't care about the details. The devil is in the details. That is for you lawyers.

We have two-thirds of the lawyers in the world in the United States now. But I want to raise this back to the higher issue of whether Mr. FRANK should have resigned. My brother is a high school teacher, Richard Dornan. This would have destroyed his career, anything remotely approaching this. My career as an Air Force officer, finis, finished. As a broadcaster in television, if I did not resign, I would be fired.

I tell Members if we lower the standards of this ethics committee when we did not expel a Member who touched one of these children who serve Members so loyally and faithfully as pages. And then we pushed the whole process down. Members came up with something called a letter of reproval for a person who would call his female staffers and talk filthy to them on the phone. That cost this American University president his job. Anybody I know in an honorable profession, a CEO of any corporation in America, finished, fired, if he wouldn't resign.

The mother of the parliaments, the House of Commons, and the gentleman [Mr. FRANK] is a good debater, fun to debate with. He is an intellectual, he knows that in the House of Commons he is history, he is finished. The House of Lords, also. And maybe 100 or 90 percent of the parliaments in this world, and every one of our house legislatures, I bet, out the door, BARNEY.

What if your name was Bernice Frank from Massachusetts? The 25 female Members of this House know that if we applied this standard to the women of this House, they would be in disgrace, never even have showed up on the floor again. Any Republican would have lost in a primary. This is why I love my party, and there is a track record to prove it.

I will vote for expelling because you did not have the honor or decency to resign.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will remind the guests of the House in the gallery not to express any outward signs of approval or disapproval during the proceedings. Also, the Chair would remind the Members to address the Chair rather than individual Members.

Mr. DANNEMEYER. Mr. Speaker, may I inquire what is the status on time?

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] has 6½ minutes remaining, and the gentleman from California [Mr. DIXON] has 11 minutes remaining.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Let's everyone take a deep breath. No one say fire. My opinion is that it is a mean thing to expose people who are not directly related to this case unnecessarily. That is a mean thing in my opinion. My opinion is to either intentionally or unintentionally distort the committee's report, that to me is garbage. That is my opinion. My opinion is that it is not Mr. FRANK's lifestyle that should be judged here today. That is my opinion. But rather what he did or did not do as it relates to the House of Representatives. My opinion is that politics should not get involved in this, and I can say that the committee was not involved in any politics.

So let's talk slow and not try to railroad any emotions here. The committee has not done that. It has been very deliberate. I think this body should do that.

Finally, ladies and gentleman of this body, there are two sets of ethics to be applied. One is the ethical rules that we promulgate. And the second is how we apply those rules. We cannot apply those rules unfairly. The issue here today is what conduct Mr. FRANK has or has not committed, what are the facts, and if those facts warrant a sanction by the House. You have read the report. We have found some things in the newspaper totally not true. We have found other things that are true, and we are recommending an appropriate sanction. We deserve the right to be heard on that. Vote down this resolution.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] has 6½ minutes remaining.

Mr. DANNEMEYER. May I inquire if the distinguished chairman has other requests for time?

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I would like to ask the gentleman from California [Mr. DANNEMEYER] a question. I have listened intently, as did we all, to the way the gentleman framed the entire debate and said he would like to share his thoughts with Members. And he said that there was a crisis in America with there being some kind of conflict with our Judeo-Christian values, and some other value system he had a fancy dude term for it—homophobic.

Mr. DANNEMEYER. I used the term "moral relativism," described eloquently by Judge Bork in his book, "The Tempting of America," which describes how he was unable to make it to the U.S. Supreme Court because certain people in this country do not share the philosophy of the original——

The SPEAKER pro tempore. The gentleman from New York controls the time.

Mr. ACKERMAN. I would like to ask the gentleman, in his opinion, trying to understand from where this is all coming from, and having listened intently to this debate, if we would remove all the bells and whistles involved in this case, is it his opinion that somebody with an alternative activity, alternative lifestyle should not

be allowed to serve in the House of Representatives?

□ 1150

Mr. DANNEMEYER. Mr. Speaker, I would say to the gentleman that that is not the issue at all.

Mr. ACKERMAN. I want to know your opinion.

Mr. DANNEMEYER. Well, I responded to the gentleman.

Mr. ACKERMAN. I want to know if a Member who is actively involved in an alternative lifestyle should not be qualified to sit in this body. That is a yes or no answer, and I think that is what you proposed before us.

Mr. DANNEMEYER. I responded to the gentleman by saying that is not the issue here.

Mr. ACKERMAN. That demands a yes or no answer.

Mr. DANNEMEYER. The issue is whether a Member——

Mr. ACKERMAN. The question is whether a Member who is actively engaged in an alternative lifestyle should, in your opinion, be allowed to serve in this body, yes or no.

Mr. DANNEMEYER. I responded to the gentleman by saying that is not the issue before the House.

Mr. ACKERMAN. That is the issue, and you are avoiding the question.

Mr. DANNEMEYER. I responded to the gentleman.

Mr. ACKERMAN. I think you have not.

Mr. Speaker, I thank the gentleman very much.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I had not so much the privilege as the responsibility of serving on the Select Committee involving the case of Adam Clayton Powell. I believe it is accurate to say it was my recommendation in the report that resulted in the creation of the House Ethics Committee.

I would point out to the House that generally speaking when the House has overruled the recommendation of a committee chosen to sit as a jury, which is to say in a committee which acquaints itself with the facts rather than the hysteria involved, as there is always hysteria involved in discipline cases, when the House has not accepted those recommendations of the Members who know the facts rather than the slogans, it has erred. It certainly did so in the case of Adam Clayton Powell, as was determined by the Supreme Court in the case of Powell versus McCormack.

I listened with interest and affection to the remarks of the gentleman from California [Mr. DORNAN], who said that if a case like this occurred in a high school, the person would be fired, and that if a case like this occurred in the Air Force, the person would be fired. What I think some people are confused about is, who is the employer in the case of the U.S. House of Representatives? This is the one office to which no one can be appointed. This is one office which purely requires the consent of the people for them to judge.

It was Alexander Hamilton, who tended to be a royalist, who said these beautiful words etched in stone not far from where we sit and stand: "Here, sir, the people rule."

In the case of Adam Clayton Powell, after the people proved their point that it was their choice, they chose not to reelect Adam Clayton Powell, but they were not going to let people elected from other districts tell them who they should pick for their Representative.

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from California [Mr. DANNEMEYER] is recognized for 6½ minutes.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to the chairman of the committee that I have nothing but respect for him and his analysis, as well as that of the other members of the committee, who have studied this matter. We are all Members of this body.

When we look at the report, I think it presents a compromise. That is not an insult. It is just a fact of life. There was a legitimate split of opinion among the Members as to how the issue should be treated in that recommendation to the committee, a finding of two violations of the rules of the House, that the conduct of the gentleman from Massachusetts did not meet the standards we are talking about that we must creditably reflect in the House of Representatives in what we do here.

My good friend, the gentleman from Massachusetts [Mr. JACOBS], is right. To get here you have to be elected from a district, but we also must obey the standards of the House with respect to that. In using newspaper accounts to decide issues of magnitude, I can say that that gives me as a lawyer a little bit of a pause, but let me quote a decision of the Supreme Court in the case of Banzhaf versus Smith. A Federal district court ruled that neither the credibility nor the specificity of the information supplied by plaintiffs is diminished by the fact that plaintiffs did not discover it through their own confidential or other life sources but compiled it from published newspaper and magazine reports, and while publication in the media does not necessarily endow information with special attributes of credibility, it is not deprived of those attributes merely because there has been such publication. This gentleman from California based on the analysis of what the newspaper account said and what the investigation indicated by the first of the year, caused me to reach the conclusion that I did. I share with my colleagues the information as it has come out through the testimony and the revelations from the well today. Of all the speeches and statements that I have discovered or read about this matter, I will close with what I consider to be the most succinct analysis of what we in the House of Representatives should do with respect to this issue.

These words were penned by somebody on the political left, a noted columnist here in Washington, DC, Carl Rowen, who writes in the Washington Post, and he published this article in the Washington Post on September 1, 1989. This is what he said:

Those of us who have insisted that the self-declared homosexuality of Rep. Barney Frank was irrelevant to his work as a congressman might now seem to face a dilemma.

How do we deal with revelations that Frank hired a male prostitute to be his sexual partner and made the prostitute, Steven L. Govie, his "household employee" for 18 months, during which Gobie ran a prostitution ring from Frank's home?

I say there is no special problem here. We treat Frank the same way we would treat a heterosexual congressman who hired a woman prostitute, bedded her down in his domicile and let her operate a prostitution ring from his place.

We would be asking for the resignation, or ejection from Congress, of the heterosexual lawmaker on grounds that his behavior was egregiously offensive and his judgment so bad as to render him unfit to make the laws of the land.

It is no assault on "gay rights" or anything else to say that what Frank did was lacking in taste and discretion, and beyond that simply dumb, dumb, dumb.

I find serious problems of credibility in this sordid mess. Frank says he hired Gobie as his housekeeper and driver in an effort to "rehabilitate" this male prostitute whose past was unsavory, to put it mildly. This claim that Frank was engaged in bedroom therapy is not compelling of belief.

Frank says he was conned by Gobie and never knew that the prostitute was running a sexual business from the congressman's home * * * and, that he kicked Gobie out when he learned what was going on. It is hard to believe that a man that showed such smarts, such intuition and perceptiveness, in House hearings and deliberations could not know for 18 months that Gobie was selling sex from his residence.

Gobie says Frank knew all about the sex business and wrote letters to protect Gobie and the sex ring.

The problem is that Gobie is as distasteful as, and has about as much credibility as, one of the garden slugs hanging around my tomato plants. Gobie is a slimy character who admits that he is trying to parlay this scandal into a movie, TV and/or book deal in which he can make more money than he did as a pimp or prostitute.

But we don't have to fully believe either Frank or Gobie. All we have to do is note that Frank has admitted to actions that most Americans would find morally intoler-

able for a heterosexual member of Congress. We can, without guilt, find those same actions censorable for a homosexual lawmaker.

Frank ought to resign, not because, as some have written, his actions "hurt the Democratic Party and the cause of liberalism."

What Frank did regarding Gobie, and what Gobie did under the shelter of Frank's roof, haven't a damn thing to do with Democrats or Republicans, liberals or conservatives. What is at stake here is the reputation and integrity of the Congress and all the elements of government. Frank has sullied the House of Representatives and all who serve there in some ineradicable ways. He let lust lay on him stupidities that are almost beyond belief.

He ought to admit this and resign immediately, without forcing the House Ethics Committee to go through long, X-rated hearings, about Frank's culpability in this wicked extravaganza.

□ 1200

Mr. Speaker, those words, I think, express it far better than anything I can say.

Let me close by observing that, if we are honest with ourselves, in our hearts, looking back on our own lives, we can say to the gentleman from Massachusetts [Mr. FRANK], and I mean this sincerely, "There but for the grace of God go I."

However, Mr. Speaker, that is not the issue today. We have a responsibility to speak, not just for the people of this country in enacting laws, but we have the responsibility to say, "Are there standards in our society that we will affirm for ourselves and our children?"

That is the issue, and I think the proper thing, the responsible thing, is to vote to expel Mr. FRANK.

The materials referred to are as follows:

H. RES.—

(A resolution offered by Mr. Dannemeyer from California on the expulsion of Representative Barney Frank)

Resolved,

Whereas, pursuant to House Rule 43, Clause 1, a Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives;

Whereas, thirty (30) Members of the House have been considered for expulsion since the creation of the institution. Only four (4) were actually expelled:

1861—John B. Clark (D-MO) for support of rebellion.

1861—Henry C. Burnett (D-KY) for support of rebellion.

1861—John W. Reid (D-MO) for support of rebellion.

1980—Michael "Ozzie" Myers (D-PA) for corruption.

And that, in this current era four (4) Members have been considered for expulsion:

1979—Charles C. Diggs, Jr. (D-MI) for corruption; Outcome: censure.

1980—Michael "Ozzie" Myers (D-PA) for corruption; Outcome: expelled.

1981—Raymond F. Lederer (D-PA) for corruption; Outcome: resigned.

1988—Mario Biaggi (D-NY) for corruption; Outcome: resigned.

Whereas, the standard procedure of the Committee on Standards of Official Conduct with regard to actual or alleged violations of House rules are as follows:

1. A formal complaint is lodged or the Committee acts unilaterally to inquire into the conduct of a Member.

2. A preliminary inquiry is held to see if the matter merits further inquiry.

3. A further inquiry requires the Committee to determine if a violation of House rules has occurred.

4. If a violation has occurred, a statement of alleged violations is issued.

5. A Member in violation has the right to file a written response or to offer an oral response to the statement of allegations. The Member can call witnesses and request subpoenas to be ordered during a special hearing.

6. The Committee then votes on an appropriate sanction if any. Four primary sanctions are considered (other punishments are allowed) and based on "clear and convincing evidence":

a. A letter of reprimand.—This can occur at any time once the Member in question signs a waiver allowing the Committee to make a final judgment. No report is required.

b. A formal reprimand.—A floor procedure where a resolution is drafted and accompanied by a report. The resolution states the violation(s) and a letter of reprimand is read to the House. The Member in question does not have to be present.

c. Censure.—This is similar to a formal reprimand with the exception that the Member has to turn and face his colleagues while the statement of violation is read.

d. Expulsion.—Requires two thirds vote of House.

Whereas, in Banzhaf v. Smith (1984) a federal district court ruled that neither the credibility nor the specificity of the information supplied by plaintiffs is diminished by the fact that plaintiffs did not discover it through their own confidential or other live sources but complied it from published newspaper and magazine reports, and that while publication in the media does not necessarily endow information with special attributes of credibility, it is not deprived of those attributes merely because there has been such publication;

Whereas, the list of complaints and admissions by Representative Barney Frank include:

A. Admitted that he did pay for and commit felony sodomy at his townhouse apartment on April 1, 1985 and at many times thereafter, violation of D.C. Criminal Code 22-3502, maximum 10 years in prison,

Mr. Frank is reported to have stated, "I met him sexually and had a personal relationship with him," and "I knew it was wrong to be hiring prostitutes from time to time. Gobie wasn't the only one." The two had sex at Mr. Frank's basement townhouse apartment in the early evening of April 1, 1985. Cite: the Washington Times, August 25, 1989; Newsweek, September 25, 1989.

B. Inviting for purposes of prostitution, violation of D.C. Criminal Code 22-2701, maximum of fine and 90 days in jail,

Mr. Frank is reported to have stated, "I knew it was wrong to be hiring prostitutes from time to time. Gobie wasn't the only one. I knew it was wrong, but I just couldn't sit home." Cite: Newsweek, September 25, 1989; the Washington Post, February 5, 1990; WRKO Radio in Boston, August 29, 1989.

C. Making lewd, obscene, or indecent sexual proposal, violation of D.C. Criminal Code 22-1112, maximum 90 days in jail,

Mr. Frank is reported to have stated, "I knew it was wrong to be hiring prostitutes from time to time. Gobie wasn't the only one." Cite: Newsweek, September 25, 1989; the Washington Post, February 5, 1990.

D. Admitted he had reason to believe that a prostitute was conducting illegal activities out of his home, and this maintaining of premises for lewdness or prostitution is a violation of D.C. Criminal Code 22-2713, maximum of confiscation of property, or D.C. Criminal Code 22-2712 [house of prostitution], maximum 5 years in prison, or D.C. Criminal Code 22-2722 [keeping a bawdy house], maximum of fine and one year in jail,

Mr. Frank is reported to have stated, "I had reason to believe that he might be trying to do that. * * * As soon as my landlady had any reason to believe something was going on. * * * I told him that's it." Cite: the Washington Times, August 23, 1989; Newsweek, September 25, 1989.

The Committee report has discounted the "I had reason to believe" comment made by Frank as pertaining to circumstances after being notified by Mr. Frank's landlady. Although, Mr. Frank's testimony to the Committee on page 14 contradicts this conclusion where Mr. Frank explains his use of an answering machine in his home. Mr. Frank was "regularly calling my house" to get messages from his machine, and that, "I do remember getting one call where a guy said, 'Hey, some girl is supposed to meet me and where is she?'." Evidence of the Committee shows that calls were forwarded from an escort service to Mr. Frank's home phone. This incidence Mr. Frank has testified to came prior to the notification of wrongdoing from the landlady.

E. Evidence of letters written on behalf of Steve Gobie to probation officers concealing true nature of their relationship and allowing Gobie to continue to ply his trade in the District of Columbia, misleading a government agency, and abuse of franking privileges,

Mr. Frank wrote to a parole board that Steve Gobie "performs a number of administrative duties, pertaining to my work and living in Washington. It is important to me to have someone who is available to me to take care of many matters for me in Washington* * *." Cite: the Washington Times, August 25, 1989.

F. Admitted to failure to report payments to Gobie in his employ for reasonable services. Possible IRS violations regarding failure to report as well as failure to make Social Security payments,

Mr. Frank is reported to have stated, "I considered him to be a consultant. * * * He had use of the car, I bought him a lot of meals, I bought him food to use here, and I paid for his lawyer." Cite: the Washington Times, August 25, 1989.

Mr. Frank wrote on September 5, 1985, "I am writing this letter to inform you that I have been employing Mr. Steve Gobie in my personal capacity for the past two months." Cite: Letter to Cheryl Johnston, Gobie's probation officer.

Mr. Frank wrote on March 10, 1986, "This letter is to inform you that I continue to employ Steve Gobie. * * * [He] serves as sort of an administrative assistant." Cite: Letter to Cheryl Johnston, Gobie's probation officer.

Mr. Frank wrote on September 2, 1986, "* * * I continue to employ Steve Gobie as a

personal assistant." Cite: Letter to Cheryl Johnston, Gobie's probation officer.

Mr. Frank wrote on December 16, 1986, "* * * Gobie continues to work for me. * * * He performs a number of administrative duties, pertaining to my work and living in Washington." Cite: Letter to probation officials.

Mr. Frank testified that compensation for these "administrative duties" was "about $5,000 per year." Cite: Committee report, page 21.

G. Mr. Frank has been found by the Committee on Standards of Official Conduct to have misled public officials,

"* * * the congressman set into motion a series of contacts resulting in that documents being sent to the Commonwealth Attorney. As a result, the misleading statements could be perceived as an attempt to use political influence to affect the outcome of the administration of Mr. Gobie's probation. * * * Representative Frank reasonably should have anticipated the 1986 Memorandum might be communicated to law enforcement officials." Cite: Committee report, pages 29 and 56.

H. Mr. Frank has been found by the Committee on Standards of Official Conduct to have used his official office and stature as a Member of the House to influence the routine handling of thirty-three (33) parking tickets collected by Steve Gobie while in use of Mr. Frank's automobile;

"Accordingly, the Committee directs Representative Frank to make full restitution to the District of Columbia for the value of the 33 tickets dismissed due to the absence of any statement or indication that his automobile was being used for official purposes." Cite: Committee report, page 34.

I. Mr. Frank has been found by the Committee on Standards of Official Conduct to have violated House rules relating to the House gymnasium by bringing Steve Gobie to use the facilities. Cite: Committee report, page 35.

Whereas, Representative Barney Frank has admitted to writing letters on behalf of Steve Gobie to probation officers concealing the true nature of the relationship between Representative Barney Frank and Steve Gobie, and allowing Mr. Gobie to continue to ply his trade in the District of Columbia, putting Representative Barney Frank in violation of the Massachusetts Bar Association Code of Ethics Disciplinary Rule 8-101 that reads in part, that a lawyer who holds public office shall not use his public position to influence, or attempt to influence, a tribunal to act in favor of himself or of a "client" such as Steve Gobie;

Whereas, Representative Barney Frank's successful attempt to influence parole officers on behalf of Steve Gobie with the intent that a sexual relationship could continue is in violation of 18 USC 201 and 18 USC 203 in that Representative Barney Frank did receive, in his own mind, something of value from Mr. Gobie for or because of any official act performed or to be performed, and that the penalty for such influence can include a prohibition against holding any office of honor, trust, or profit under the United States;

Whereas, other persons holding public trust throughout the nation are expected and required to maintain personal conduct and example becoming of the public trust such as embodied in the West Point Code of Honor;

Whereas, similar community standards as those in judgment of Representative Barney Frank forced Mr. Gabriel Massaro, an elementary school principal, and Richard Berendzen, a university president, to resign in disgrace from office;

Whereas, according to the United States Department of Justice's Immigration and Naturalization Service, Form I-485, application for permanent residence, Representative Barney Frank would be prohibited from gaining status as a permanent resident because of his admitted crimes of engaging in commercial sexual activity, sexual deviation, and commission of a crime involving moral turpitude;

Whereas, at least a half a dozen convictions for sodomy were reviewed by the D.C. Court of Appeals, the District's highest court, during the 1989. The following four (4) decisions over the last two years provide evidence of these convictions:

Edelen v. *United States,* 560 A.2d 527 (1989)

Brewer v. *United States,* 559 A.2d 317 (1988)

Coates v. *United States,* 558 A.2d 1148 (1989)

Gray v. *United States,* 554 A.2d 48 (1988)

Whereas, Representative Barney Frank acted with crass hypcorisy by soliciting a male prostitute for the purpose of sodomy as the nationwide epidemic of AIDS was raging throughout the homosexual community.

Mr. Frank is reported to have stated, "By the time I was sexually active, I knew better. I knew about AIDS and I was very careful. One of the first men I went out with was a doctor who specializes in AIDS research." Cite: Newsweek, September 25, 1989.

Prostitute Steve Gobie is reported to have stated, "Frank refused to get an AIDS test. He said, 'What would you do about sex then?" Cite: Penthouse Magazine, March 1990;

Whereas, because of the irresponsible behavior of Representative Barney Frank, the House of Representatives has been held in further disrepute and in continual ridicule by the American public through print and broadcast media (See Exhibits, A, B, C, D, and E), and by public tours of our Nation's capital;

Whereas, the Beth Din Zedek, according to Halacha (Jewish law), supported by the Rabbinical Alliance of America and the Union of Orthodox Rabbis, and presided over by Rabbi Joseph Friedman, on June 27, 1990 in New York City, excommunicated Barney Frank from the Jewish faith for "Desecrating the name of God and the Jewish people, for bringing dishonor and disgrace upon the high office of congressman, and for promoting and encouraging the moral corruption of society. A prominent Jewish public official, to our deep embarrassment Frank has been a blatant promoter of moral depravity."

Whereas, Representative Barney Frank's public announcement of his homosexual behavior on May 30, 1987, was widely held by the news media as a courageous political act; the announcement can now be viewed as a calculated move to offset the potential embrassment associated with Steve Gobie,

Mr. Frank is reported to have stated at the time of his announcement, "I have nothing to hide, nothing to advertise," Cite: 1987 Congressional Quarterly Almanac, page 52;

Whereas, Representative Barney Frank publicly admitted that he paid Steve Gobie for sex, and that he hired other male prostitutes who even worked on his campaign staff. Cite: the Washington Times, June 26, 1990;

Whereas, Representative Barney Frank had a long-term relationship with Steve Gobie, wherein Mr. Frank hired Mr. Gobie as a personal assistant; Steve Gobie was a public escort to many public functions; Mr. Frank wrote to parole officers on behalf of Mr. Gobie; Mr. Frank fixed parking tickets given Mr. Gobie; Stevie Gobie had full access to the apartment and car of Mr. Frank;

Whereas, Representative Barney Frank knew that Steve Gobie continued to be involved in prostitution and worked for a prostitution ring, in that—

Committee report language states that "the congressman acknowledged to the Committee that he was aware during the period in question [18 month relationship] Mr. Gobie was engaging in prostitution." (page 28)

Mr. Frank Latta, former Director of the Bureau of Indian Affairs in the Department of Interior was a roommate of the late Richard Allen, owner of "Saxons", a large male escort service in Washington, D.C., and that,

Mr. Latta has stated to reporters that he, Mr. Allen, Steve Gobie, and Mr. Frank met for dinner at least twice (the Committee was told at least once) and that Mr. Allen had promised to procure male prostitutes for Mr. Frank, and that Mr. Frank knew Steve Gobie was involved in Saxons (the Committee was told by Mr. Latta that "on one occasion at which Representative Frank and Mr. Gobie were present, the operation of the Saxons escort service were discussed"), and that,

Whereas, Representative Barney Frank knew his 8th Street basement apartment was being used by Steve Gobie for prostitution activities, in that—

Ms. Lyn Monroe [her maiden name, referred to as the "female prostitute" by the Committee] has stated that Mr. Frank would call before going home (the Committee was told at least once) to make sure Ms. Monroe or Mr. Gobie were not entertaining a client, and that:

"The witness said that she was aware of sexual activities occurring in Representative Frank's apartment during the period June through July, 1987 * * * The witness stated that she undertook client activity in Representative Frank's Washington, D.C., residence on 6 to 8 occasions during the June through July, 1987 period * * * the witness stated that only three involved sexual activity * * * the witness was clear in her recollection that she only had *one* telephone conservation with the individual whom she believed was Representative Frank while she was at his apartment in June, 1987 * * * Representative Frank inquired if 'Greg' was there; asked if there was a 'client' present; asked if the residence was clean; and said he would "be home in 15-20 minutes.' " Cite: Committee report, pages 41, 42, 43.

"She stated that because she believed the individual with whom she spoke on the telephone was Representative Frank (because she 'recognized the voice * * * Maybe slightly a lisp and a northern accent'), and based upon the conversation described above, she personally concluded that the congressman knew that his apartment was being used by Mr. Gobie for business purposes." Cite: Committee report, page 43; call received by prostitute June 25, 1987.

—Records of the C&P telephone company show that the general phone number of Saxons escort service was forwarded to Mr. Frank's home number at 547-0608 (C&P records for 1986, the largest block of time during their relationship, are not available

for review; the Saxons phone line was forwarded to Mr. Frank's apartment during the time "from January to Febuary 13, 1987," according to the Committee report), and that

—Mr. Frank has told reporters that he had picked up the phone several times and had heard customers calling for sexual services (Mr. Frank told the Committee this happened at least once);

Whereas, if independent third parties were suspicious of prostitution activities in Mr. Frank's apartment, then surely the resident of that apartment, Mr. Frank, should have been cognizant of such activities:

Mr. Frank's landlady, Mary Jo Daugherty, responded in interrogatories, "In the summer of 1987, I become concerned and suspicious of [Gobie's] activities as I observed comings and goings in the neighborhood during this short period * * * [A] woman came to my home, suitcase in hand, asked for Steve and demanded to come in * * * I saw her on a later weekend, coming and going as if she lived there * * * The comings and goings of many suspicious looking women brought me to such a conclusion * * * I came to the personal belief that apparent prostitution was going on * * * I called Barney on vacation and said, 'Something is going on in the apartment. All these women coming and going, it looks like a hooker ring." Cite: Committee report, Appendix B, questions 11, 12, 13, and 17.

Whereas, constituents of the Massachusetts 4th District have succiently stated that—

"Congressman Frank is a knowledgeable and capable man. It has been with much sadness we have watched the events in his life unfold over the past few months. We have watched with embarrassment and hearty disapproval as his illegal and unethical actions have come to light. We sincerely hope all of us have learned some very important lessons from this ordeal. We hope the voters of Massachusetts have learned that intelligence and integrity are not necessarily synonymous. We hope that the Members of Congress have learned how their private lives affect their image as leaders. We in Massachusetts, strongly support a stiff and judicious punishment against Mr. Frank, so as to preserve the honor of the Congress. As the people responsible for sending him to Congress, we ask the nation's forgiveness for Mr. Frank's inappropriate actions which may have brought shame and disgrace on this governing body. Let us move forward from this, committed to a government that displays the highest ethical and moral standards possible";

Whereas, nationally syndicated, liberal columnist Carl Rowan wrote September 1, 1989 that—

"Those of us who have insisted that the self-declared homosexuality of Rep. Barney Frank was irrelevant to his work as a congressman might now seem to face a dilemma.

"How do we deal with revelations that Frank hired a male prostitute to be his sexual partner and made the prostitute, Steven L. Gobie, his 'household employee' for 18 months, during which Gobie ran a prostitution ring from Frank's home?

"I say there is no special problem here. We treat Frank the same way we would treat a heterosexual congressman who hired a woman prostitute, bedded her down in his domicile and let her operate a prostitution ring from his place.

"We would be asking for the resignation, or ejection from Congress, of the heterosexual lawmaker on grounds that his behavior was egregiously offensive and his judgment so bad as to render him unfit to make the laws of the land.

"It is no assault on 'gay rights' or anything else to say that what Frank did was lacking in taste and discretion, and beyond that simply dumb, dumb, dumb.

"I find serious problems of credibility in this sordid mess. Frank says he hired Gobie as his housekeeper and driver in an effort to 'rehabilitate' this male prostitute whose past was unsavory, to put it mildly. This claim that Frank was engaged in bedroom therapy is not compelling of belief.

"Frank says he was conned by Gobie and never knew that the prostitute was running a sexual business from the congressman's home * * * and, that he kicked Gobie out when he learned what was going on. It is hard to believe that a man that showed such smarts, such intuition and perceptiveness, in House hearings and deliberations could not know for 18 months that Gobie was selling sex from his residence.

"Gobie says Frank knew all about the sex business and wrote letters to protect Gobie and the sex ring.

"The problem is that Gobie is as distasteful as, and has about as much credibility as, one of the garden slugs hanging around my tomato plants. Gobie is a slimy character who admits that he is trying to parlay this scandal into a movie, TV and/or book deal in which he can make more money than he did as a pimp or prostitute.

"But we don't have to fully believe either Frank or Gobie. All we have to do is note that Frank has admitted to actions that most Americans would find morally intolerable for a heterosexual member of Congress. We can, without guilt, find those same actions censorable for a homosexual lawmaker.

"Frank ought to resign, not because, as some have written, his actions 'hurt the Democratic Party and the cause of liberalism.'

"What Frank did regarding Gobie, and what Gobie did under the shelter of Frank's roof, haven't a damn thing to do with Democrats or Republicans, liberals or conservatives. What is at stake here is the reputation and integrity of the Congress and all the elements of Government. Frank has sullied the House of Representatives and all who serve there in some ineradicable ways. He let lust lay on him stupidities that are almost beyond belief.

"He ought to admit this and resign immediately, without forcing the House Ethics Committee to go through long, X-rated hearings about Frank's culpability in this wicked extravaganza.";

And whereas, inasmuch as the Committee has stated in citing a violation of House Rule 43 that Mr. Frank "reasonably should have anticipated" the effects of his actions regarding the 1986 Memorandum, it is now unreasonable to judge Mr. Frank's activities and 18 month relationship with male prostitute Steve Gobie as actions that Mr. Frank "reasonably should have anticipated" leading to the morass of difficulties Mr. Frank finds himself in today?

Therefore, be it resolved, that pursuant to article I, section 5, clause 2 of the United States Constitution, Representative Barney Frank be, and he hereby is, expelled from the House of Representatives.

NO DOUBLE STANDARD FOR OR AGAINST BARNEY FRANK

(By Carl T. Rowan)

WASHINGTON.—Those of us who have insisted that the self-declared homosexuality of Rep. Barney Frank (D., Mass.) was irrelevant to his work as a congressman might seem now to face a dilemma.

How do we deal with revelations that Frank hired a male prostitute to be his sexual partner and made the prostitute, Stephen L. Gobie, his "household employee" for 18 months, during which Gobie ran a prostitution ring from Frank's home.

I say there is no special problem here. We treat Frank the same way we would treat a heterosexual congressman who hired a woman prostitute, bedded her down in his domicile and let her operate a prostitution ring from his place.

We would be asking for the resignation, or ejection from Congress, of the heterosexual lawmaker on grounds that his behavior was egregiously offensive and his judgment so bad as to render him unfit to make the laws of the land.

It is no assault upon "gay rights" or anything else to say that what Frank did was lacking in taste and discretion, and beyond that simply dumb, dumb, dumb.

I find serious problems of credibility in this sordid mess. Frank says he hired Gobie as his housekeeper and driver in an effort to "rehabilitate" this male prostitute whose past was unsavory, to put it mildly. This claim that Frank was engaged in bedroom therapy is not compelling of belief.

Frank says he was conned by Gobie and never knew that the prostitute was running a sexual business from the congressman's home . . . and, that he kicked Gobie out when learned what was going on. It is hard to believe that a man who showed such smarts, such intuition and perceptiveness, in House hearings and deliberations could not know for 18 months that Gobie was selling sex from his residence.

Gobie says Frank knew all about the sex business and wrote letters to protect Gobie and the sex ring.

The problem is that Gobie is as distasteful as, and has about as much credibility as, one of the garden slugs that are hanging around my tomato plants. Gobie is a slimy character who admits that he's trying to parlay this scandal into a movie, TV and/or book deal in which he can make more money than he did as a pimp and prostitute.

But we don't have to fully believe either Frank or Gobie. All we have to do is note that Frank has admitted to actions that most Americans would find morally intolerable for a heterosexual member of Congress. We can, without guilt, find those same actions censorable for a homosexual lawmaker.

Frank ought to resign, not because, as some have written, his actions "hurt the Democratic Party and the cause of liberation."

What Frank did regarding Gobie, and what Gobie did under the shelter of Frank's roof, haven't a damn thing to do with Democrats or Republicans, liberals or conservatives. What is at stake here is the reputation and integrity of the Congress and all the elements of government. Frank has sullied the House of Representatives and all who serve there in some ineradicable ways. He let lust lay on him stupidities that are almost beyond belief.

He ought to admit this and resign immediately, without forcing the House Ethics

Committee to go through long, X-rated hearings about Frank's culpability in this wicked extravaganza.

[From the Fall River Herald News (MA) Sept. 20, 1989]

FOR BARNEY FRANK, A DIFFICULT DECISION

U.S. Congressman Barney Frank has a difficult decision to make, and only he can make it. Voters and friends of the Fourth Congressional District are watching him with anxiety.

But as the tension and embarrassment of his situation overcomes what should properly be the business of government, *The Herald News* recommends that Barney Frank resign immediately.

We make this suggestion with regret, with a sense of the tragic consequences of conflicting human commitments, and with every good wish that he may restructure his career in a way that makes the best use of his outstanding intellectual and diplomatic gifts.

Since August, when the nature of his involvement with a male prostitute became known—and he made no attempt to deny charges of procurement—public opinion has vacillated. At first, Frank affirmed that his lifestyle in no way hampered his Congressional effectiveness.

This would seem to be true, since his involvement with Stephen Gobie apparently ended two years ago. In the interlude between the end of that affair and the recent revelations, Frank functioned with his characteristic balance and aggressiveness, easily winning re-election in November, 1988.

The Herald News firmly endorsed him in that election as "a lawmaker of high responsibility, keeping an equal eye on national policy and constitutional interests of the Fourth Congressional District, who has endeared himself to area voters by frequent visits here."

The Herald News also lauded the congressman for being "highly competent, articulate, and at the same time, wisely moderate."

Unfortunately, the sad revelations of Frank's past habitual behavior now belie this last attributed virtue, "wisely moderate." He was immoderate to the point of foolhardiness in presuming he could break the laws of the District of Columbia and the rules of the House Code of Official Conduct.

He has admitted hiring male prostitutes on several occasions. At least one of them was indiscreet enough to talk, for motives however base. And in the course of a review by the Committee on the Standards of Official Conduct, how many more "revelations" will Barney Frank be obliged to counter or accede to? Why should he be sacrificed to further humiliation—or the hypocrisy of human nature?

The congressman, in 1987, acknowledged that he is a homosexual. Many people of various persuasions commended his honesty, and only his most vitriolic enemies hoped to make a political issue of this lifestye. They failed. It must be clear that sexual preference is not the issue here.

Prostitution, however, whether of males or females, is degrading to the person and destructive to the social order. No eloquence, highmindedness or wit can make it palatable. And it is a particularly unseemly recourse for a congressman who pledges to uphold the laws of the land and the dignity, of the House of Representatives.

Humanly, we can't help being disappoined in what would seem to be a lack of self-respect in a man so obviously gifted and bearing such a burden of personal example. The cause of homosexual rights is hardly advanced by Frank's cynical involvement in sex-for-pay arrangements.

Whatever the voters, pollsters, talk shows, magazines or editorials say, Frank's dialogue now should be with his conscience.

It is a painful dialogue, but necessary to set things right with his district, his constituents and the U.S. Congress.

We believe Barney Frank should resign.

[From the Anchor, Sept. 8, 1989]

FOR THE COMMON GOOD—RESIGN

If he were a policeman, schoolteacher or fireman, he would be out of a job. But he's not one of these civil servants. He's a politician, an elected official.

On the hand, a cop or teacher who makes a mistake is dismissed with vengeance and wrath. On the other hand, a congressman seems able to set his own standard of behavior regardless of any moral accountability.

This does not seem an acceptable model for a public servant, especially in the case of the flagrant activities of Representative Barney Frank.

His rather tacky double standard should not be condoned or excused. His argument that his legislative activities are totally distinct from his sexual activities degrades the belief that public office is a public trust.

Our liberal do-it-if-it-feels-good ethic has replaced the objective with the subjective.

Few in today's social order wish to admit that there are criteria that should guide behavior. One's private preferences should not automatically be considered publicly acceptable.

Somehow we have forgotten that the social conduct of those in public office should be above reproach.

There are those who would argue that it makes little difference what an elected official does in so-called private life as long as he or she is an effective legislator. Such an attitude is duplicitous, never mind pathetic. There is a measure of fitness expected on an officeholder. At its minimum, it should adhere to the basic standards expected of all who serve the public. At its best, it should be an example to be emulated.

The tragedy to date in the Frank scandal is not merely the congressman. It's the members of the public who support his flagrant violation of morality. You can be sure that if a voter had a son or daughter sexually violated by a policeman, teacher or socialworker, he or she would go to the ends of the earth to remove such a person from a position of public trust.

How can the same people say that the Frank situation is different? Just because it happened in Washington and not in the fourth Congressional district, is he to be free from all accountability? Yet such seems the case.

Much of such duplicity has been fostered by those elements in our society that condone personal license and lewdness, to often encouraged by the liberal media.

Those same media have invaded nearly every home with offerings ranging from the harshness of MTV to the pornography of Playboy/girl. How often do we hear "I read it in the paper" or "I saw it on T.V." as if such mention sanctions whatever activity is being discussed.

Sad to say, because of the millions of Massachusetts voters who tolerate literally anything from their liberal Democratic congressional delegation, Barney Frank seemingly has nothing to worry about. Indeed, across the nation our Commonwealth has a terrible reputation. This point was made quite clear in the last presidential election.

Objections to the passive acceptance of Frank's conduct are innumerable. All in all, considering the enormity of his actions and all their implications, it would be best that he avoid the farce of running for reelection.

In fact, he should resign from office as soon as possible. It would be the honest thing to do, not only for himself but for the good of all whom he currently represents in the House.

In an age crying for role models, this nation, state and district need to encourage high-caliber men and women to strive for public leadership roles. How can this be done if at the same time we tolerate the aberrant patterns of behavior currently so prevalent?

[From the Boston Globe, Sept. 17, 1989]

BARNEY FRANK'S FUTURE

When he arrived in Washington in 1971 as administrative assistant to then-Rep. Michael J. Harrington of Beverly, Barney Frank's first duties included learning the rules of the House and, equally important, learning the unwritten rules of politics in the capital, about effectiveness, about discretion, about caution. Frank, a quick study, mastered those rules 18 years ago; he has left his friends, his colleagues and his constituents baffled about how he could have so recklessly violated them.

Were his transgressions serious enough to warrant his departure from Congress? Yes. For his own good, and for the good of his constituents, his causes and Congress, he should resign. At 49, a graduate of Harvard College and Harvard Law School, he is able to channel his considerable gifts to the furtherance of his ideals. Now his presence in Congress serves as a distraction and a hindrance to those ideals.

The Boston Globe has enthusiastically endorsed Frank throughout his public career, and for good reason. "He is an exceptional politician," we said in 1978. "He combines a sharp intelligence with genuine compassion: his belief in progressive politics is matched by a willingness to challenge conventional liberalism," we said in 1980. In 1982, when he faced a strong challenge from former Rep. Margaret Heckler, we noted that "Frank is a truly independent and creative politician."

This may be one of the rare occasions in which it is useful to explain a newspaper's editorial silence. On Aug. 25, Frank admitted that he had hired a prostitute, in apparent violation of the rules of the House and the statutes of the District of Columbia. Frank contended that he had tried to "reform" Steve Gobie by also hiring him to do chores and compared himself with Henry Higgins, a character in George Bernard Shaw's "Pygmalion."

Until an official congressional committee made its initial finding, it was only an exchange of charges between Gobie and Frank. Three choices then were available for editorial comment. One was the familiar, evasive technique, the time-will-tell bromide that says, "It's up to the voters." We rejected that approach because it is unfair to the voters of the 4th Congressional District. The electorate is not a jury, and Frank's case is not in a court of law. He must answer to a standard higher than "not guilty beyond a reasonable doubt."

Another editorial could have been: Barney Frank must stay; that is, his service is vital for the homeless, the elderly or others

whose cause he has served well. Standards must not only be suspended, but swept aside. Part of this argument might include his status as an declared homosexual, an argument suggesting that his behavior while "in the closet" was forced upon him by a society hostile to the gay lifestyle. Yet Frank has never asserted that his freedom was so circumscribed.

The issue of Frank's conduct is not homosexuality but prostitution, which is illegal and which has always been a destructive element in heterosexual and homosexual life. Had the issue been heterosexual prostitution, feminist groups would not have been silent. So far, Frank has enjoyed more than the benefit of the doubt; he has enjoyed a double standard.

But wasn't the behavior of his fellow Democratic representative, Gerry Studds, worse? Studds was censured by the House in 1983 for seducing a congressional page; he was subsequently reelected. Unlike the Studds case, Frank's behavior involved no public funds and no responsibility of custodial care for an adolescent page.

Today, Studds would have faced a harsher punishment than censure, under more exacting congressional standards. Life is unfair; the more exciting standards do not bode well for Barney Frank.

The committee reviewing his behavior is not the "House ethics committee" but the Committee on Standards of Official Conduct. It concerns itself not with the personal ethics of members of Congress, but with seeing whether its members obey House rules. The chairman of the committee, Rep. Julian Dixon of California, said pointedly that the investigation of Frank was the committee's idea, not Frank's. In other words, no whitewash. That, too, does not bode well for Frank.

Earlier this year, former House Speaker Jim Wright of Texas also welcomed a committee investigation, but the cumulative weight of allegations forced him to resign rather than continue. Shortly thereafter, Tony Coelho of California, the House majority whip, resigned before an investigation into his finances.

Both Wright and Coelho could make a case of power and effectiveness greater than Frank's, yet they spared their colleagues and constituents the task of measuring the relative merits of that power. Life goes on; their successors in Congress were elected last week, after debating real issues, not financial misconduct.

Frank's effectiveness is diminished, perhaps permanently. If former Housing Secretary Samuel Pierce testifies before the subcommittee on which Frank sits, can Frank chastise Pierce for doing favors for friends at HUD?

The sad theme threading through major and minor political scandals of recent decades is that they usually involve not aberrations but characteristic behavior. Political careers are seldom ended by a single event. Gary Hart's was not. Neither was that of John Tower. In 1967, presidential candidate George Romney did not display confusion for the first time when he confessed that he was "brain-washed" in Vietnam. In 1972, when Edmund Muskie lost his composure during the New Hampshire primary, it was not aberrant behavior. Both before and after Chappaquiddick, Edward Kennedy did not enjoy a reputation for abstemious behavior. Watergate was not the only time Richard Nixon lied.

Barney Frank's financial dealings are not at issue. His sex life is. What would be served by an exhaustive examination of it? Does he want to answer how many times he sought the services of a prostitute? Does it do anyone any good to learn about it?

Frank has admitted violating both common sense and Rule 43 of the House Code of Official Conduct: to "conduct himself at all times in a manner which shall reflect creditably on the House of Representatives." Frank has been talented in his public life and untalented in his private life. Unlike central figures in other scandals, Frank's career displays a chasm between the high ideals of his public life and the squalor of his private life. His private life may now take new directions—all the better if it is truly private.

His public life, valuable as it has been, must also take new directions. For his sake, for the Congress and the causes he has served well. Barney Frank must go.

[From Penthouse magazine, March 1990]

THE CONGRESSMAN BARNEY FRANK/PROSTITUTE STEVEN GOBIE RELATIONSHIP

"It was 1985 when he [Gobie] showed up for the first time at Frank's Capitol Hill basement apartment, in slacks and a jacket, The Washington Post under one arm—a clean cut preppy all the way.

" 'Barney said I was the first hustler who ever came over carrying a newspaper,' Gobie told Penthouse, and 'then was able to discuss the issues of the day.' "

"Gobie was hardly the first male prostitute he sought out, Frank has admitted.

"In 1985 on their first date, an $80 fling, they talked current affairs and sports. At first Gobie had no idea who this trick was, but he found him nice, bright, a good guy, someone he would soon nickname 'Sweet and Low'—sweet guy low on cash. Here's how Gobie remembers their affair:

" 'You want to go on back to the bedroom,' asked Frank. 'Sure', said Gobie. 'Let's get comfortable.' As Frank started disrobing, Gobie jumped up to help him undress. 'Now you can return the favor,' said the hooker.

" 'Gladly,' said Frank. I said, 'By the way, while your down there. . .' He laughed. He went down on me."

"Gobie, who genuinely liked him, offered the congressman a discount. 'I don't do this with many clients," he said, 'but your such a nice guy, I'm going to cut your fee in half. I don't want money to be a factor. . . ."

"Gobie, figured he could make a fortune in the escort game, he says, if he could just find some "official cover" to fool his probation officer. Suddenly here was Frank, the perfect cover. Gobie said there would be no charge for sex anymore."

" 'I've been forced to the fringe by my probation people. I lose every regular job when they [employers] find out about my past. I'm being humiliated. He felt sorry for me when he realized I was being hounded and pushed around.'

"It was Frank who came up with the idea to hire him as a driver, Gobie says, allowing him to use the car on Frank's frequent congressional trips out of town. Even more importantly, his 'employment' by Frank allowed him to present a pretty face to his probation officer. 'He said, "you can use me as a reference to the probation people," ' says Gobie, who listed Frank's house as his address.

"Between September 1985 and December 1986, Frank sent four letters on official stationery to Gobie's probation officer, one of which asked if Gobie could travel with him."

" 'He is intelligent, personable, and reliable,' Frank wrote to Gobie in one of the letters obtained by *Penthouse.* 'It is important for me to know that someone of his ability and dependability is looking after . . . these important tasks for me.'

"Frank says that he paid Gobie about $20,000; Gobie says it was more like $2,500. '[For] cleaning and maintenance of homes and cars; purchases of various sorts; and other household and personal matters which become difficult [for me to tend to] given my complex schedule and my constant traveling between Boston and D.C.' "

" 'The letters and Barney's [congressional] perks were worth far more to me than any fees I could have charged him. I wasn't a gold digger, but I'm not a dumb escort, either.' "

"During their 18 month relationship, by Gobie's count, he and Frank had sex 30 to 40 times in all, 'about every two weeks, or we'd just meet for dinner.' "

"Gobie began booking hard-core male prostitutes for his mentor [Frank]. 'I said, Look, I know you want to do other things, and I appreciate your being understanding with me.' "

"There were six [male prostitutes] in all, says Gobie. Frank preferred 19-year olds, especially one trim, six-foot blond named 'Ricky' who rode to his place on a ten-speed bike."

"A nervous Ricky, the prostitute who confirmed Gobie's recollections, spoke for the first time to *Penthouse.* He serviced Frank once, he said, for a discounted $100 charge after Gobie arranged the tryst and agreed to waive a referral fee as a favor to Frank."

" 'When he [Frank] f****d me, he was very rough about it. I said something about safe sex, but he didn't use a rubber.' "

"By August 1987, Frank's landlord reported the basement brothel to his tenant, after one of Gobie's prospective prostitutes mistakenly approached the landlord. Gobie had had a good run by his count: from one to three tricks a day, five days a week over 18 months, during the hours of nine to five.

" 'I had at least two orgasms in Barney's bed,' laughs a former Gobie hooker named Lyn, who calls Frank's claims that he didn't know about the operation 'baloney.'

" 'Barney knew when a woman had been in his bed,' laughs Gobie. 'He'd sniff the sheets and say, "Smells like fish to me." ' "

" '[Barney told Gobie] the landlord found out what's going on. One of your girls asked if this was the place to come for escort interviews. . . .' "

" 'I hold him [Frank] I needed $2,000 or $3,000 to move to Florida,' Gobie says. 'I thought Washington had tapped out for me. Barney offered me $10,000 to $12,000, but I said I don't need that much.' "

". . . the congressman allowed him to use his Chevorlet Chevette anytime he wanted.

" 'I always told Frank when I was using it,' says Gobie. 'I used it all the time. He said it was okay . . . He said it was okay to use it the entire Christmas break [1987].' "

"Frank refused to allow reporters with *The Boston Globe* access to his insurance records, but the newspaper reported that his insurance company wrote a check for $164.65 to Miles Glass Company."

"Gobie says he accidently picked up the wrong clothes. Frank didn't discover the mistake until he got off the plane."

"At the same time that he was seeing Frank Gobie was taking other calls, including some from Craig Spence."

"[Steve Gobie] ran an out-call prostitution ring from the congressman's Capitol Hill apartment between 1985 and 1987."

"Frank admits answering one of Gobie's ads, the opening gambit of a torrid 18-month relationship that has shaken this capital city to its core."

"[Gobie's] appearance [before the ethics committee] was compelled by subpoena."

HIGHLIGHTS OF CONGRESSMAN FRANK'S ACTIVITIES AS REPORTED IN PENTHOUSE

". . . Frank phoned home before leaving his Capitol Hill office to make certain Gobie or his prostitutes had finished turning tricks in his bed, and then dashed home to delight over the soiled sheets on which they had frolicked."

"'Barney could call and ask, "Are you entertaining company?"' a former female prostitute who worked for Gobie told *Penthouse*. 'And I'd say, "Yeah, but they're about to leave." and he'd say, "I'll give you 20 or 25 minutes."'"

"[Frank claims] that he was 'suckered' by the prostitute he hoped to reform by hiring him as a chaufeur and aide, protesting further to the media that he orderd Gobie to relocate and broke off their dealings after his landlord alerted him to the brothel in his basement."

"However, for at least four months thereafter, Gobie was still using Frank's car for personal errands, including a jaunt to buy cocaine and a trip to New York with a young woman."

". . . on New Year's Day, 1986, in the silence of the empty House gymnasium, Frank and Gobie, naked in the shower like a pair of naughty adolescents, snapped each other with towels, and then begin masturbating—ejaculating into the open locker of then-Vice President George Bush, Gobie says he was reluctant, but Frank reassured him."

"'I said, "I wonder if this kind of thing ever happened in here before." And he said, "Don't worry, it happens all the time."' Frank has denied that, too, and further declined to comment on any aspect of this story."

"[Prostitute Gobie] says his congressional benefactor fixed more than 50 [parking] tickets—Frank admits fixing a few—by claiming that the car was on official congressional business when he was well aware of Gobie's profession."

". . . Frank refused to get an AIDS test. 'He said, "what would you do about sex then?"'"

The SPEAKER. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 38, noes 390, answered "present" 3, not voting 2, as follows:

[Roll No. 268]

AYES—38

Barton	Hopkins	Schulze
Bunning	Hunter	Shumway
Burton	Lightfoot	Smith, Denny (OR)
Coble	Livingston	Smith, Robert (NH)
Crane	McEwen	Smith, Robert (OR)
Dannemeyer	Moorhead	Stearns
Dornan (CA)	Packard	Stump
Duncan	Porter	Sundquist
Fawell	Quillen	Vucanovich
Hall (TX)	Robinson	Wylie
Hancock	Rogers	
Hastert	Roth	
Herger	Sarpalius	
Holloway	Schuette	

NOES—390

Ackerman	Dellums	Hoagland
Alexander	Derrick	Hochbrueckner
Anderson	DeWine	Horton
Andrews	Dickinson	Houghton
Annunzio	Dicks	Hoyer
Anthony	Dingell	Hubbard
Applegate	Dixon	Huckaby
Archer	Donnelly	Hughes
Armey	Dorgan (ND)	Hutto
Aspin	Douglas	Hyde
Atkins	Downey	Inhofe
AuCoin	Dreier	Ireland
Baker	Durbin	Jacobs
Ballenger	Dwyer	James
Barnard	Dymally	Jenkins
Bartlett	Dyson	Johnson (CT)
Bateman	Early	Johnson (SD)
Bates	Eckart	Johnston
Bellenson	Edwards (CA)	Jones (GA)
Bennett	Edwards (OK)	Jones (NC)
Bentley	Emerson	Jontz
Bereuter	Engel	Kanjorski
Berman	English	Kaptur
Bevill	Erdreich	Kasich
Bilbray	Espy	Kastenmeier
Bliley	Evans	Kennedy
Boehlert	Fascell	Kennelly
Boggs	Fazio	Kildee
Bonior	Feighan	Kleczka
Borski	Fields	Kolbe
Bosco	Fish	Kolter
Boucher	Flake	Kostmayer
Boxer	Flippo	Kyl
Brennan	Foglietta	LaFalce
Brooks	Foley	Lagomarsino
Broomfield	Ford (MI)	Lancaster
Browder	Ford (TN)	Lantos
Brown (CA)	Frenzel	Laughlin
Brown (CO)	Frost	Leach (IA)
Bruce	Gallegly	Leath (TX)
Bryant	Gallo	Lehman (CA)
Buechner	Gaydos	Lehman (FL)
Bustamante	Gejdenson	Lent
Byron	Gekas	Levin (MI)
Callahan	Gephardt	Levine (CA)
Campbell (CA)	Geren	Lewis (CA)
Campbell (CO)	Gibbons	Lewis (FL)
Cardin	Gillmor	Lewis (GA)
Carper	Gilman	Lipinski
Carr	Gingrich	Lloyd
Chandler	Glickman	Long
Chapman	Gonzalez	Lowery (CA)
Clarke	Goodling	Lowey (NY)
Clay	Gordon	Luken, Thomas
Clement	Goss	Machtley
Clinger	Gradison	Madigan
Coleman (MO)	Grandy	Manton
Coleman (TX)	Grant	Markey
Collins	Gray	Marlenee
Combest	Green	Martin (IL)
Condit	Guarini	Martin (NY)
Conte	Gunderson	Martinez
Conyers	Hall (OH)	Matsui
Cooper	Hamilton	Mavroules
Costello	Hammerschmidt	Mazzoli
Coughlin	Hansen	McCandless
Courter	Harris	McCloskey
Cox	Hatcher	McCollum
Coyne	Hawkins	McCrery
Craig	Hayes (IL)	McCurdy
Crockett	Hayes (LA)	McDade
Darden	Hefley	McDermott
Davis	Hefner	McGrath
de la Garza	Henry	McHugh
DeFazio	Hertel	McMillan (NC)
DeLay	Hiler	McMillen (MD)
McNulty	Rangel	Spence
Meyers	Ravenel	Spratt
Mfume	Ray	Staggers
Michel	Regula	Stallings
Miller (CA)	Rhodes	Stangeland
Miller (OH)	Richardson	Stark
Miller (WA)	Ridge	Stenholm
Mineta	Rinaldo	Stokes
Moakley	Ritter	Studds
Molinari	Roberts	Swift
Mollohan	Roe	Synar
Montgomery	Rohrabacher	Tallon
Moody	Ros-Lehtinen	Tanner
Morella	Rose	Tauke
Morrison (CT)	Rostenkowski	Tauzin
Morrison (WA)	Roukema	Taylor
Mrazek	Rowland (CT)	Thomas (CA)
Murphy	Rowland (GA)	Thomas (GA)
Murtha	Roybal	Thomas (WY)
Myers	Russo	Torres
Nagle	Sabo	Torricelli
Natcher	Saiki	Towns
Neal (MA)	Sangmeister	Traficant
Neal (NC)	Sawyer	Traxler
Nielson	Saxton	Udall
Nowak	Schaefer	Unsoeld
Oakar	Scheuer	Upton
Oberstar	Schiff	Valentine
Obey	Schneider	Vander Jagt
Olin	Schroeder	Vento
Ortiz	Schumer	Visclosky
Owens (NY)	Sensenbrenner	Volkmer
Owens (UT)	Serrano	Walgren
Oxley	Sharp	Walker
Pallone	Shaw	Walsh
Panetta	Shays	Washington
Parker	Shuster	Watkins
Parris	Sikorski	Waxman
Pashayan	Sisisky	Weber
Patterson	Skaggs	Weiss
Paxon	Skeen	Weldon
Payne (NJ)	Skelton	Wheat
Payne (VA)	Slattery	Whittaker
Pease	Slaughter (NY)	Whitten
Pelosi	Slaughter (VA)	Williams
Penny	Smith (FL)	Wilson
Perkins	Smith (IA)	Wise
Petri	Smith (NE)	Wolf
Pickett	Smith (NJ)	Wolpe
Pickle	Smith (TX)	Wyden
Poshard	Smith (VT)	Yates
Price	Snowe	Yatron
Pursell	Solarz	Young (AK)
Rahall	Solomon	Young (FL)

ANSWERED "PRESENT"—3

Frank	Lukens, Donald	Savage

NOT VOTING—2

Bilirakis	Nelson

□ 1228

Mr. LEHMAN of Florida changed his vote from "aye" to "no."

Mr. HASTERT changed his vote from "no" to "aye."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MICHEL. Mr. Speaker, it is my understanding that the Commerce Committee met all during the consideration of the previous resolution. There are some 40 members involved, most of whom, I think, now particularly would want to hear the arguments presented by the committee on this very important matter.

It was my understanding that the Speaker felt, as I did and as I do, that on matters as important as this the committees ought not to be meeting and that Members ought to be free to attend the proceedings.

I would urge the Speaker to make that kind of contact if that is what is required so our Members would be free to attend these deliberations.

□ 1230

The SPEAKER. The Chair in response to the suggestion of the gentleman from Illinois [Mr. MICHEL] will say that the rules of the House do not prohibit the meeting of committees, except during the consideration of bills under the 5-minute rule, leave not having been granted by the House. So committees are not required to adjourn during the pendency of disciplinary proceedings.

The Chair also will inform the gentleman from Illinois that he has communicated with the committee.

IN THE MATTER OF REPRESENTATIVE BARNEY FRANK

Mr. DIXON. Mr. Speaker, I offer a privileged resolution (H. Res. 440) in the matter of Representative BARNEY FRANK and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 440

Resolved, That the House of Representatives adopt the report by the Committee on Standards of Official Conduct dated July 20, 1990, in the matter of Representative Barney Frank.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the subject of this resolution in the Extensions of Remarks section only. I feel it is essential that the printed RECORD on these proceedings reflect the actual proceedings.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I ask unanimous consent that up to 2 hours be allowed for debate on House Resolution 440. Of the allotted time, for purposes of debate only, I will yield 60 minutes to the gentleman from Indiana [Mr. MYERS].

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I address the privileged resolution, let me indicate to all Members that I have the greatest respect for the gentleman from California [Mr. DANNEMEYER]. I say that very sincerely. I have served with the gentleman in the State legislature, and I have served with him in the Congress. We disagree on many philosophical issues. I think I can say that the gentleman is a personal friend.

My comments on the floor were by no means directed to his sincerity of his conviction, and any comments were just straightforward characterizations of what I thought he had presented, but in no way reflect on the high esteem I sincerely hold him in.

I have known this gentleman for over 20 years, and I think he is an outstanding Member of Congress in pursuing his personal convictions.

Mr. Speaker, I am going to ask Members today to do a very difficult thing. But in asking you to do a difficult thing, I want you to recognize fully that the 12 Members who serve on the committee on ethics have already done that. That is why we have set aside all of the color, all of the fill, and have examined the facts. I ask Members to set aside in their minds the debate that went on in the privileged resolution of the gentleman from California [Mr. DANNEMEYER]. Do not accept anything that I said during that debate or anything that the gentleman from California [Mr. DANNEMEYER] said. Let us not get confused. Let us take and look at the report of the committee.

I hope that by the time we finish this debate in 2 hours, that we will have addressed every issue and every concern.

Mr. Speaker, we are not here to discuss editorials. We are not here to discuss newspaper articles. We are here to discuss the findings of this committee as represented by this report and the resolution that is at the desk. I suggest to Members that it is not what is on talk shows, what you did or did not see or hear on CNN. I think we owe it to the institution to examine this issue on the merits, and I suggest to Members that the merits are here in this book.

This case began on September 12, 1989, when the committee announced the commencement of a preliminary inquiry regarding the association of the gentleman from Massachusetts [Mr. FRANK] with an individual by the name of Stephen L. Gobie. If Members follow along with me in the report, on page 2, after a careful analysis of newspaper articles, we examined four areas that we felt were appropriate.

One was the use of the Congressman's personal residence in Washington, DC, for the purpose of prostitution involving third parties; the second one was the Congressman's contacts with individuals for the oversight and administration of Mr. Gobie's probation; the third was the administrative dismissal of parking tickets; and the fourth was sexual activity in the House gymnasium. That is what we looked at.

The committee in its investigation took sworn testimony between that time of September 12 and May 31, 1990. As the gentleman from Indiana [Mr. MYERS] has said, the committee has reviewed thousands of pages of documents and testimony. In addition, the gentleman from Indiana [Mr. MYERS] and I have spent hundreds of hours in a personal review and discussion. I say without reservation that after all of that work, both the ranking member and I are in full accord with the committee's report and recommendation. Of equal importance, the committee was unanimous in reporting this measure to the floor.

Mr. Speaker, there has been some discussion on the floor and in the newspapers that this was a compromise.

I have likened the deliberative stage of our committee's work to a jury. A jury does not walk in a room, or very, very rarely, and everyone feels the same way about the case from the instant they begin their deliberations. Just like that, these 12 men had variances of opinions. But when the report was written and the vote was taken, the decision was unanimous.

Mr. Speaker, let me focus first on what the committee did not find. The committee found no evidence to support mainly that the gentleman from Massachusetts [Mr. FRANK] had knowledge of prostitution activities alleged to have taken place in his apartment involving third parties, and that the gentleman from Massachusetts engaged in sexual activity in the gym.

It was clear to the committee that the burden of proof was on the person who was the accuser, Mr. Gobie. Mr. Gobie's credibility had to be of necessity a focal point of our investigation, for all of these charges arise out of the utterances by Mr. Gobie.

Let me say again that Mr. Gobie, in the opinion of the committee, did not meet the burden of proof as it relates to Mr. FRANK having knowledge about prostitution activities conducted in his home.

If you turn to the report, you will see the specifics of deposition and the affidavit from Mr. FRANK's landlord at that time. We came to the conclusion that Mr. Gobie had not demonstrated evidence that would indicate that Mr. FRANK knew about it.

□ 1240

We will discuss in detail perhaps in a few minutes some of the evidence, but I just want to give an overview.

Yes, there was some assertions in the newspaper about activities in the gymnasium. We found no such activity in the gymnasium.

We did find, by Mr. FRANK's own admission, that he had taken Mr. Gobie into the gym on several occasions, and that is all that we found.

However, the committee found improper conduct on the part of Mr. FRANK in two other matters, the administrative dismissal of parking tickets and a 1986 memorandum containing misleading statements which could have affected the administration of Steven Gobie's probation. These I will address shortly. As we debate these findings, I urge Members as my colleagues to keep in mind that this should not be perceived as a referendum on purely private conduct or lifestyle. This is not the first time that the House has been asked to consider a Member's conduct which involves official activities undertaken as a result of personal relationships or activities. But it is the first time that the House is being asked to consider two specifically related to official status which affects every Member of this institution.

They are, obviously, the limited right under local law for Members to obtain administrative dismissal of parking tickets that are received in conjunction with official business, and two, how Members may properly communicate with third parties.

The recommendation before the House today, I think, is consistent with prior precedents. The fact is clearly that Mr. FRANK sought or accepted dismissal of 33 parking tickets which he should not have, some acknowledged while the car was under the control of Mr. Gobie, but obviously some when the car was under the control of Mr. FRANK.

Parenthetically, by the way, we mapped out those, and the large majority of those were either at Mr. FRANK's domicile or Mr. Gobie's domicile. So basically it was illegal parking that was not official business, but there was a dismissal of those tickets.

The committee has already taken action on this matter by directing Representative FRANK to make restitution to the District of Columbia. Mr. FRANK has already communicated with the District to make payment.

With respect to Mr. FRANK's communication on behalf of Mr. Gobie, the committee's conclusion was not to fault the four letters he wrote to probation officials. Adequate information was not received to sustain the claim that he did not employ Mr. Gobie, which was the thrust of these letters.

These letters appear in the appendices to this report, and as I address Members I ask them to read those letters and see if they come to the same conclusion, plain and simple. To come to any other conclusion one would have to assume that Mr. Gobie had no job at all with Mr. FRANK.

There is nothing in these letters other than a verification of an employment relationship. I emphasize this because the committee's findings have been incorrectly characterized as reaching the opposite conclusion somehow.

Let me state clearly that the report says, on page 29, adequate information has not been received on which to sustain Mr. Gobie's claim that he was not employed by Representative FRANK. As a matter of fact, the notes in the probation officer's file indicate that Mr. Gobie had said on at least one occasion that he did go for work for Mr. FRANK.

There is no credible evidence for the committee to conclude Representative FRANK's four letters to probation officials verifying Mr. Gobie's employment were inaccurate. So let us get it clear. There were four letters sent. I invite Members' attention to them on page 72, and unless they believe that the committee was wrong in finding that there was no evidence or not sufficient evidence to substantiate Mr. Gobie's claim of nonemployment, there is nothing else in these letters at all. Read them for yourself.

Where the confusion may have arisen is the report points out that the committee did obtain a 1986 memorandum prepared by Mr. FRANK which contained, and he admits, misleading statements regarding certain factual matters related and relevant to his association with Mr. Gobie. Mr. FRANK stated, and the committee did not disagree, that he did not ask for this memorandum to be sent to law enforcement authorities, or that he ever even intended that it would be sent to any decision-making person who might play a role in the administration of Mr. Gobie's probation. However, the fact does remain that the Congressman prepared a document with statements he knew to be misleading. He has admitted that.

The committee concluded that Representative FRANK reasonably should have anticipated in the preparation of that document, and setting it into motion, that it might be forwarded to the law enforcement official. That memorandum is in the appendices.

In the committee's judgment, these acknowledged misleading statements could be perceived as an attempt to apply political influence affecting the administration of Mr. Gobie's probation. And the committee's recommendation represents I feel a fair and responsible action.

Yes, the committee took into consideration Mr. FRANK's explanation that in large part these misleading statements were derived from his desire to maintain confidentiality of his private activities. While this may be some compelling argument, the committee feels it does not, however, justify his making misleading statements.

So in sum, the parking tickets and the 1986 memorandum, the committee came to the conclusion, brought discredit to the House, and makes the recommendation about reprimanding Mr. FRANK. The committee did not find anything inappropriate about the four letters. The committee did not find evidence to sustain a finding that Mr. FRANK knew of alleged activities in his house. The committee did find that the memorandum was inappropriate and did in fact wind up in a law enforcement officer's file, and that dismissing some parking tickets, 33, was inappropriate because he was not on official business.

This committee has systematically stripped away all of the color, who said somebody in the West, a prostitute here, what the third neighbor said, and we have come to a conclusion after 10 months, and some 20 or 30 hours of depositions in this matter.

I will address a little later the sanction and the other members of the committee want to speak. But I want to say to Members that this committee labors very, very hard to do a job for you. And while I recognize every Member's right to exercise their independent judgment, it seems to me that the men, and on occasion women who serve on that committee deserve one, to have their case thoroughly heard and two, not to be confused with extrinsic things, what my neighbor said, or what the talk show person said.

And I assure you that our activity in that room has been nonpartisan. I think that this institution owes it to us to read our report, understand it, make up your mind in a nonpartisan manner.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this House once again is asked to do one of the most distasteful responsibilities that we have, and that is of judging a colleague for alleged wrongdoing. The U.S. Constitution, article 1, section 5, provides that each House may punish its Members for disorderly behavior and, with the concurrence of two-thirds, expel a Member. That is the basis of the Committee on Standards of Official Conduct that you have given the responsibility of investigating allegations made against Members, officers and employees of the House of Representatives.

Chairman DIXON has just given you what our committee has done now in its 11th month of investigation of allegations, examining documents, testimony, and other evidence relating to the possible miscarriage of the rules of the House and/or laws by our colleague, Mr. FRANK of Massachusetts.

We have spent 11 months, and now we have come forward with a report of 57 pages, in this report, containing also 16 documents in the appendices of this.

I hope everyone has read that.

I thank Chairman DIXON for his courtesy, his understanding and the many, many hours that he and I spent, as he has already related to you, in examining the documents, examining the evidence, traveling over the country a good many hours in an airplane to interview witnesses, to depose witnesses, so that we could come today with as much fact and truth as is possible.

I also thank our colleagues on the committee, all 12, the other 11 who have contributed to bringing this to the floor today, and the staff, particularly Chief Counsel Ralph Lotkin as well as David McCarthy and other staff members.

Some worked late into the night on several occasions. As you all know, we don't get paid overtime around here, even the staff does not. So your committee worked very diligently, very sincerely and very faithfully that wemight do a thorough job.

And from time to time we have been criticized and asked questions by some of you: "Why has it taken so long?" In the interest of doing a thorough job and being able to come today and to tell you with honesty and fairness that we have examined and looked under every rock and examined every article, it takes this long.

All of us, as you well know, serve on other committees, we have other responsibilities. So it was absolutely necessary for us to take almost this long, if not this long. In our judgment, we have done everything that could be done at this point.

The chairman has spoken about the two items that were in the preliminary inquiry that the committee found insufficient evidence to further any investigation or make any recommendations. I will not dwell on those.

The two that we did find were there were areas, one is the improper disposition of 33 parking tickets issued by the police of the District of Columbia. Mr. FRANK has admitted that these were improperly handled. I think the word he used was that he was sloppy in the disposition of those. And he has agreed to make restitution to the District of Columbia. So I think we need not expand on that.

The one area about the influence with the probation authorities is one which is of deep concern to me. It is true that the probation authorities that we inquired and interviewed and deposed did say they were not influenced by any action of Mr. FRANK or anyone else, but they decided that the disposition of the probation of Mr. Gobie, independent of anything that anyone, whether in this Congress or any place else, did.

However, there was one document that the committee did discover, a letter, a 2-page document which some call letter, we call memorandum because that is what Mr. FRANK categorized and characterized it, as a memo.

Mr. FRANK says that there were misstatements, things that were said in that and written into this document that were not factual, would not relate to the facts. I think this is of deep concern; it certainly is to me. It goes to the very heart of our ability here to be able to communicate with another Federal agency or with a committee of our Congress or even our colleagues or even down to the constituency.

I hope our creditbility here, our word, whether it be written or verbal, means something. And I think we should be held accountable for a statement that we make, if it is knowingly made, a false statement, I think there has to be some accountability for that.

So this is, I think, much more serious than the other charge of the so-called fixing of hte parking tickets. I think it goes to the very heart of the reputation, of the credibility of each of us here and also to our institution that we love, the House of Representatives.

Now, Mr. FRANK has not been found quilty of any criminal violation or even been accused of any criminal act. However, do you think we should not be held to an even higher standard than the criminal code when we accept the oath of office here to defend the Constitution of the United States, when we accept the responsibility of being a Member of this House, of this body, that we should not be held to a higher standard than just violation of the criminal code someplace? I think the American people expect no less of us than to say when you make a statement that they can depend, that they can bank and bet the farm on the statement that we make.

People, I also believe, in carrying out the intention of part of section 5 of article 1 of the U.S. Constitution, expect us to police ourselves. They have given us that authority. That is the reason we have our committee, and that is the reason we are here today: that we might police and discipline ourselves, if necessary.

I have read some media say that this is a vendetta against some person that some don't like, that it is a political vendetta, that it has been politicized. Well, Members of the House, as Chairman DIXON has told you of the many, many hours of discussion that he and I have had, that all 12 of us have had at the many, many meetings that we held, politics never, never entered into our discussion. The politics of this is absolutely untrue. The very fact that there are 12 members on this committee, 6 Democrats and 6 Republicans, and all 12 of us voted unanimously for this action, in itself is prima facie the fact politics didn't enter into our decision. And it is a disservice to this committee and to this House to suggest that politics has anything to do with the decision that we have made to come forth today on this occasion.

Not once during all those deliberations did politics ever enter into it.

Your committee and you today could come to any of three conclusions. The first would be to dismiss all the allegations, all the charges. The second we found reason to believe there was something wrong, there was a violation of the House of Representatives and/or rule of law. The third would be under the Constitution to expel. This body has already made a decision on expulsion, and I think you made the right decision.

So we go back to the first two. Your committee has felt that it would be not in the best interests of this institution, the House of Representatives, to recommend dismissal.

So we go now to what other action that we might take, and that is an official condemnation for the conduct of BARNEY FRANK, our colleague.

Now, when we decide if there is official condemnation for those acts, then we have to decide what level of sanction or recommendation for punishment. There are a number of things that could happen there.

The committee could itself have issued a letter of reproval. The committee chose not to issue a letter of reproval, which would never have come to this House. It would have been issued by the chairman and myself, me.

The second level would be a reprimand, which your committee has selected. The third is a censure, which some, I understand, are going to offer at a later date, and a motion to recommit, a motion to censure our colleague.

□ 1300

What is the difference? We are concerned today about doing the proper thing here, but to the American people, we finally owe our responsibility. Is there any difference between censure and reprimand to the American people? If Members ask the people that are watching this all around the world at this moment, is there any difference? I doubt very few would know the difference between censure and reprimand. Both must be decided today by the Members sitting here today. We will shortly be voting on that.

There are two differences between a reprimand and a censure. In a censure, the person would not be sitting as the gentleman from Massachusetts [Mr. FRANK] is sitting in this audience. When it is read by the Speaker, at instance, and the respondent, as we call the defendant, would have to appear in the well, and face the reading of that document. Otherwise that document will be read finally, and the Member sits out here. Then because of rules of the Democrat caucus, if a

Member is censured, the Democrat caucus has decided that Member loses chairmanship of any committees during the remainder of that session of the Congress. Well, let Members look at the remainder of the session. How many working days do we have left for any Member to function, let alone a chairman? Very few. Less than 50, probably, working days.

So, is that really severe punishment? Your committee felt not. We have recommended reprimand, an official sanction by this House of Representatives, finding that our colleague violated the Rules of the House of Representatives and should be officially sanctioned. I do not think there is enough difference to make a battle here today. But that is a decision each Member will have to make, and we will be discussing a little bit later.

Your committee has "recommended" which I think is a strong, strong action. In the history of our country we have had only four expelled, as we mentioned earlier, so that is disposed of. We have had a number of reprimands. We will discuss that a little bit later, and a number of censures. We will discuss that when we get to that point just a little bit later.

I think your committee, I know your committee has acted fairly, judiciously, and I think that we have recommended firmly the appropriate action for this House to take today. It has been suggested in some quarters that we are acting as a committee, and then requesting the House to act in a harsh manner, more harsh than has been treated other cases in the past. Do not try to judge the outcome of previous cases, the recommendation, from what membership knows about the cases we have considered. It is an unfair thing to do to try to judge because one happens to be similar, that the recommendation of the committee or action by the House should be compared today.

Each one of these cases, and I have been on this committee now, unfortunately myself, for 10 years. It sure has not been my desire to spend that long a time on this committee, but one thing, no one has ever volunteered to serve on this committee, and it is very difficult to get off of it. I have not found an opportunity at the right time to get off in the last several years. I am sure hoping one comes in the future. It has been suggested we have been harsh because of our colleague's lifestyle or his sexual preference. Again, I can assure Members, that the action recommended today by the 12 Members, even though some Members have a lot of difficulty understanding that lifestyle, or understanding the sexual; preference, we are neither condemning today nor condoning that lifestyle. That is not what the rules of the House provide. We have gone absolutely by what the rules of the House provide for, as a proper conduct for a colleague.

Over the door downstairs, just like over these entryways into the gallery, are portraits or in-stone faces of famous lawyers, and downstairs I wonder if Members have ever looked over the doors in the first corridor downstairs, heading toward the House dining room? The statements over each one of those doors that were put on just a few years ago, and over one of the entryways to one of the doors to the dining room, there is this statement: "The only legitimate right to govern is an expressed grant of power from the governed, an expressed right, granted by the governed." That is really what is the issue today. It is not anything else.

We are charged by our constituency to uphold the rules of the House, and each Member, who loves this institution, and we are talking about maintaining the integrity and the reputation of the House of Representatives, how we best do it. That is a decision each Member has to make today.

I urge, and I have never asked of Members to vote any certain way, but I believe your committee has come with the proper sanctions.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Indiana [Mr. MYERS] has consumed 15 minutes.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, first of all, before I have any words to say, I want to indicate that I have for 7½ years I guess, soon to be 8 years, served on this committee, and it has been, I guess I could use the term advisedly, "a privilege." It has not been fun to go to the basement with my 11 colleagues and spend endless hours poring over the minutia of depositions, arguing over the facts and impressions. But it has been a responsibility that I think all Members take seriously, and I want to say that during that period of time, I have been privileged to sit at the right hand of my good friend and colleague, the gentleman from California [Mr. DIXON], and across the table from my good friend and colleague, the gentleman from Indiana [Mr. MYERS].

I want to say on behalf of all those members of the committee that Members do not begin to understand or appreciate that the Members, who take the chairmanship and the ranking minority of this committee, put in far more time than those Members who merely serve on it. I have been privileged to serve with the gentleman from Ohio [Mr. STOKES] when he served as chairman, and the gentleman from South Carolina [Mr. SPENCE], who served for many years. Those four people who I have been exposed to in those leadership roles are the unsung heroes of this body, because no one begins to appreciate just what they go through.

I could think of no other manner in which we could express our appreciation to them and the leadership they perform, than to listen to them when they speak to Members on the floor. So often I think the members of the committee, and certainly the committee leadership, come to the floor and feel that somehow all we have done is tee it up for everybody else. We have set it up for somebody else to knock it out of the park. I think that is a travesty. Why do we go through the agony of 10 months of pressure of inordinate workloads on top of all the other responsibilities that we have? Simply to serve it up to our colleagues on the floor so they can take it to a higher level of punishment and go home and say, "Well, you see, we were even more righteous than those who understood the issue, who wrote the report"?

I would venture to say that probably no more than 10 percent of our colleagues have really read it, and yet we are about to cast a vote on it in a few minutes because somebody named Steven Gobie, a proven liar, decided to spread his venom around this town. We are here today because he took on not only a Congressman, but Congress, automatically got credibility.

What do we do in the face of that kind of challenge to this institution? It seems to me we do what is right. We stand up. Yes, we are judged as an entity, as a body. We are judged as a committee, certainly. And of course, we will ultimately all be judged on election day, but we stand up and do what is the right thing to do as if we were on a jury of our peers somewhere out in our constituency.

□ 1310

We filter out all the political heat, we cool the passions, I think, that are somehow penetrating this body, mostly from the press, we stay above the fray, and we take politics out of these judgment calls as much as we possibly can. I think we try to avoid even the impression of a genteel lynch mob, which occassionally, I think, is the impression we give when we up the ante here on the floor.

It seems to me that we have to reject the temptation to operate out of fear here. This is a mature and deliberative body, I believe, of people who are wise in the ways of the world, but we are mere people; we are not demigods. We are not better nor worse than anyone who elects us, we have all the foibles of the people who vote for us.

BARNEY FRANK made mistakes, several mistakes. He gets what he deserves here today, no more, no less. We

should not be asking ourselves whether or not we can face up to running into Mrs. Smith on Main Street back in our districts and justify what we did. We have to justify it to ourselves in our consciences here. That is why we are a jury of our peers on this committee. That is what ultimately this body should be. We cannot let ourselves be blown about in the political winds that surround the whole question of the lifestyles on homosexuality. That is not what we are here for.

This is a question of guilt or innocence. Truth is what should guide us, and we must take the consequences, those 12 of us on this committee and all of us here on the floor. This body of 12 members has looked at the sum and substance of these charges. We have weighted the validity of the witnesses and the credibility of those who brought the charges, and we made the best decision we could, and we ask only that our colleagues respect us and the work we did and give us the consideration we are due.

We have been under partisan pressure before. I have served regrettably on a committee that had to deal with the future of past Speaker of this House. We have been asked to review the behavior of the current minority whip. We have taken a lot of heat, and we and those who will follow us on this committee, I am sure, will take a lot more. We are in a new and pressurized environment. Everything we do is on the front pages of the newspapers, and the more personal the issue, the more public the debate.

I think the committee has stood up to that heat. We have taken it effectively. We could have brought to this floor more of what former Speaker Wright called "mindless cannibalism" not too long ago, and the partisan fevers might well have overriden our wisdom, and we might have done the wrong thing specifically in regard to the minority leader. We stood up to that and did not do it.

I think today the committee deserves not only your support but your confidence, because once again we have done the right thing for the body, and if the committee can be supported, I think we will probably establish a tradition that will carry on and allow other Members who take our place to serve with honor on this committee. If we fail again as we have in recent years to sustain our position, as far as I am concerned, you can do away with this committee. We do need to go through this agony so that some people will have somebody to tee it up for them to knock it out of the park, and take it to the next highest level of sanction.

This committee is not here simply on trial as members, 12 of us; we are on trial as an institution, and the test should be whether we have the courage of our convictions or whether we are going to be craven cowards and flee before what may well be, I hope, uninformed public opinion.

Mr. MYERS of Indiana. Mr. Speaker, I yield 7 minutes to the gentleman from Utah [Mr. HANSEN], who has served as many years on this committee as I have.

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman's yielding time to me.

Mr. Speaker, we go through this exercise on somewhat of a regular basis. It is not a pleasant experience that we go through. I remember not too long ago we were going through one of these and Members were getting up and giving speeches, and one gentleman got up and he said, "I have been here for 30 minutes and the committee hasn't made its case, and I am going to vote differently than what I thought I was going to."

I just have to echo what has just been said. We have a lot of people who have worked long and hard. I would agree that maybe we cannot make our case in 2 hours. I can agree with that premise, but I cannot look at JULIAN DIXON and JOHN MYERS and all the work we spent in this committee, hundreds of hours pouring over these things, arguing and debating, without saying that I would hope you would put a little faith in all these hours we spent in the committee. Believe me, it is an awful lot of hours.

Mr. Speaker, I would like to say that during these 10 years I have sat on this committee I would dare say we cannot remember what everyone had. Was it a censure, was it a reprimand, or what was it? I doubt if you can remember. I doubt if you can remember all those things that occurred. I do not know whether it really means that much to you anyway.

As the gentleman from Indiana pointed out, we only have a few penalties that we come up with. We do not excommunicate them, we do not deny fellowship, we do not do like the Senate did the other day. We only have the ones that have been given to us under the rules of the House.

So keep in mind what you may think when you go home and you talk to people who have the Archie Bunker concept when they walk in and say, "Doggone it, that's the way it is. We're going to believe that."

We all know when we are in our kitchens talking to our kids that that is really easy to do. Anybody can do that. But when you are stuck there in that dungeon down at the bottom of this place, when it is raining and you have a bucket there catching the rain and you cannot participate in the things you want to participate in and you have to go over it hour after hour and decide these things, it is entirely a different ballgame, believe me.

I agree with my friend, the gentleman from Indiana, anyone who wants my position, please come and take it. I am more than willing to give it up. I would like to spend more time on some of the other committees in which I have much more interest than I have in this particular committee.

Let me keep in mind here that this cannot be an issue of partisan politics. I do not believe that with either Chairman STOKES or Chairman DIXON that I have ever seen a partisan vote. I am ready to stand corrected, but I do not think we have. Never has there been one. We have tried to work this out and overlook these things. This is not an issue of liberal versus conservative. I do not think it has a thing to do with that. I consider myself a conservative Member and I look at a liberal Member.

It is an issue of trying to get down to what we think is right. What is the issue? The issue then comes down to this: Is there a violation of the rules of the House?

Just let me read the rule we are talking about, if there is any question in anybody's mind. This is 43-1:

> A Member, officer, or employee of the House, or Representative, shall conduct himself at all times in a manner which will reflect credibility to the House of Representatives.

So as you look in your heart and mind at this and as we have to determine this, if we had said this is a case for Mr. FRANK, we would not be here, but we felt, looking at the facts we had, digesting them, and looking them over, that possibly there was discredit brought upon the House in this particular instance. So, therefore, that is what we are looking at.

We can get into an awful lot of arguments. I think we could take these 435 jurors that are going to debate this and we could come up with this question: What is official conduct and what is personal conduct? Many people argue that there is a distinction. I really do not know if there is. Let us say you go home and get a DUI on you and see if your constituents say, "Yes, that is a personal conduct. We won't worry about that one."

Let us say you catch too many fish the next time you are out and get caught by a fish and game officer. Are they just going to overlook that one? Let us say you use gutter language and see if they are going to overlook that. And we can go on down the line. And we can go on down the line. Keep in mind, I say to my fellow Members, you are going to find yourselves on this matter of official conduct and personal conduct in the position of wearing the same hat.

But we argued that one for hours and hours, and it seemed like we went days and days, before we finally came up with that one.

Then, after you finish with the committee, you walk out, and if you want

to see something, walk down there sometime, go down to the dungeon and join us once or twice. I look around here at the Members of this House who do compassionate, good, nice things for the public. Sometimes you have spent hundreds of hours just doing something that is going to help somebody out. Then outside that committee room do you see the lines of television cameras? Do you see the reporters following you around? I rarely see that.

Come on down and look at what JULIAN DIXON does. He is a great quarterback, using broken field running just to make it from one end to the other, just to get through that group of people who are there to catch the nasty and the mundane and all the crude and irrational kinds of things that may come about.

I cannot believe the mentality of the media in some instances, having been on the committee a long time. Let us go back and see if they have been exactly correct on things. Go back to the instance we had of the page scandals some time ago and see what happened on that. In all candor, we all know that was brought about by one of the reporters for one of the big national news groups. He prompted and programmed these young pages to say a certain thing. We all know that. That cost us a million bucks to find that out. Yet because he did that, what did they do? Did they can him? No, they gave him a raise and sent him out on another series.

Was everything all right in the Jim Wright? Absolutely not. Some of us who have to sit through these things should go and read this stuff. Very seldom in my 10 years have I found the media correct. So as you look at this case, you may say, oh boy, it was the media. Look at what the media found in this instance."

Let us look at it very carefully. The old saying is: "Don't let the facts get in the way of a good story." Sometimes that really bothers me sitting as a member of the ethics committee. I say that respectfully to my friends in the media.

□ 1320

However, Mr. Speaker, I have to say I read something the other day that was said by one of the heads of the predominant church in Utah, and I am going to beg for forgiveness for me reading this.

Our generation is afflicted with critics in the media who think they do a great and clever thing in mercilessly attacking men and women in public office and in other positions of leadership. They are prone to take a line or a paragraph out of context and pursue their prey like a swarm of killer bees. They lash out with invective and snide innuendo against those who have no effective way of fighting back or, who, in the spirit of the teachings of the master, prefer to turn the other cheek and go forward with their lives—Gordon B. Hinckley.

I personally feel that was well stated.

Mr. Speaker, please give us some faith in this thing. There are some facts and fiction we can look at in many of the things that were said. They are just not the evidence, as the gentleman from California [Mr. DIXON] pointed out, to back it up.

We are supposed to be reasonable people. We are the normal, reasonable people. We look at it and say, "Do we have the evidence to sustain harsher penalties?"

Mr. Speaker, if my colleagues look at this candidly and objectively, they will find that we do not have the evidence. Regardless of what we want to believe, it is just not there.

So, I would ask my colleagues to put some faith into what we are trying to do. Let us go ahead with the committee recommendation. I think we will do the right thing by that.

I would ask my Republican friends to take in mind what they heard the gentleman from Indiana [Mr. MYERS] say a few moments ago. There really is not much difference between a reprimand and a censure. I say, "If it makes you feel good, I don't know if it amounts to much on our side at all."

Frankly, it is rather minor, the difference between the two, and I would urge my colleagues to accept the committee position, and I compliment the chairman, the gentleman from California [Mr. DIXON], and the ranking member, the gentleman from Indiana [Mr. MYERS], for the great work they have done.

Mr. DIXON. Mr. Speaker, I yield 6 minutes to the former chairman of the Committee on Standards of Official Conduct, the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, this past September the Speaker of the House called me and asked me if I would agree to go back on the Committee on Standards of Official Conduct. This occurred when the gentleman from Massachusetts rescued himself from serving on the committee. When the Speaker called me, I had some very mixed emotions about going back on this committee again. I served on the Committee on Standards of Official Conduct a few years ago. I served on the ethics committee that recommended the expulsion of Ozzie Myers. I chaired the committee when we had the Abscam case, the sex and drug case involving Members of Congress and pages, the George Hansen case, a Member of Congress, and then the last matter that we handled was that of Geraldine Ferraro at the time she was running for the vice presidency of the United States.

Mr. Speaker, when I left the committee, I felt that I never wanted to serve on that committee again. It was the most distasteful experience that I had ever had in my tenure here in the Congress, but I had served there because the previous Speaker had asked me to serve, and I felt an obligation to this institution of people who serve here. So, when the Speaker asked me if I would serve again, I went on for that reason.

I want to say to my colleagues that anyone who has not served on that committee can ever understand what it means to serve on that committee. These are some of the most dedicated people I have ever served with. During my 4-year tenure as chairman of the Committee on Standards of Official Conduct I recall FLOYD SPENCE who was my ranking minority member. FLOYD and I never had a disagreement. We never brought a matter to the floor in which he and I did not both agree.

In addition, Mr. Speaker, as the gentleman from Utah [Mr. HANSEN] has just said, I have never seen a vote along partisan lines during all the time that I served on that committee. I had it easy really. I only had to serve the 10 months on this one case. I only had to be present for the some 40 hours that went into hearings and depositions. In between, they had to handle all the other matters that are presently pending before the ethics committee.

My colleagues, the news media all knew when the BARNEY FRANK case was going to be considered by the committee because they saw LOU STOKES coming down the hall. Any other day they could judge that the BARNEY FRANK case was not being discussed because they did not see LOU STOKES.

In all of these matters there is sensationalism. Nothing was more sensational than the sex and drug cases involving Members of Congress and pages, these young people who come here to serve in the Congress. It was in the same way that the FRANK case has been sensationalized, without the facts to back it up, that we saw the sex and drugs cases involving the pages. Every night on national TV we would see a young page hidden behind a sheet, and we could not see his face, but we would hear his voice, and one would have thought from that that all the Members of the U.S. Congress were involved in drugs and sex, and, after many, many months, when we sorted out all the facts and brought the facts to the floor, we found out that out two Members were involved, just with sex, no drugs.

Mr. Speaker, at that time the House reacted properly. The House censured both of those Members, and both of them should have been censured because these were egregious acts involving small young children.

In this case we do not have that. The evidence just was not there. Any

way my colleagues look at this case, it boils down to what we bring before them, and that is it boils down to the 33 traffic tickets that were improperly handled by the gentleman from Massachusetts [Mr. FRANK] and the memorandum, which we felt he should have known when he issued it with misleading statements in it that it might end up in a public official's hands, and for that reason that is all we could bring to the House because that is all that was there.

Mr. Speaker, we are required, like any court of law or any jury, to sort out the evidence and then base it upon clear and convincing proof. Clear and convincing proof was not evident here for anything other than what we have brought to our colleagues. There is no corruption involved here, no involvement with pages of the House. There are no indictments pending, in spite of all the talk we heard about felonies earlier on this morning. This man has never been charged with anything anywhere in the District of Columbia.

In fact, Mr. Speaker, the gentleman from Massachusetts [Mr. FRANK] is the person who sent a letter to the Committee on Standards of Official Conduct asking that these allegations appearing in the newspaper be investigated.

So, I would ask all of my colleagues to really read this testimony. If they read the testimony, nobody here would do anything more to the gentleman from Massachusetts [Mr. FRANK] than what the committee has asked them to do.

The man who brought these charges is a despicable character. No one in this room would want anybody near and dear to them to be convicted upon this type of evidence. The man is a male prostitute who, in everything that he says, is an unreliable person, an untrustworthy person. I would not want anybody near and dear to me to be convicted upon his type of testimony.

Mr. Speaker, I ask my colleagues to rely upon the hard work that this committee has put into this case and their recommendation, and I appreciate the opportunity to have served with such fine people as the gentleman from Indiana [Mr. MYERS] and the gentleman from California [Mr. DIXON]. I say to my colleagues, "We have to all be proud of these men."

Mr. MYERS of Indiana. Mr. Speaker, I thank our colleague, the gentleman from Ohio [Mr. STOKES], for his comments and his accolades, and I thank him for his willingness to serve on this committee under a most difficult situation. It is because of Members like him who are willing to make a personal sacrifice of time and involvement that has made it possible for this committee and this House to function and to do a proper job.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank the gentleman from Indiana [Mr. MYERS] for yielding this time to me, and I would like to join with the other members of the Committee on Standards of Official Conduct who have spoken in expressing my admiration for the chairman of our committee, the gentleman from California [Mr. DIXON] and the ranking Republican, the gentleman from Indiana [Mr. MYERS], and for the other members. It has been an obviously difficult task that we have all done, but it has been made easier by the fact that all of the members that I have been privileged to serve with have been very conscientious and have tried to operate with the very highest standards and the greatest deliberation, each listening to the other.

□ 1330

As this case came forward, as the chairman said, there were wide differences in the thinking of members of the committee, not so much, I guess, on facts, although I guess on some of that there were differences also, but on the level of sanctions.

To my own mind, there were two large gaps in the level of sanctions. One was, of course, to do nothing; second, whether a letter issued from the chairman and ranking Republican of the committee to the Member, and then the next level, whether you went to the floor or not; finally, whether the floor Members of the House of Representatives chose to expel the individual.

Whether we reprimand or censure, which is really what we are debating about, I think, at this stage in the proceedings, is not that great a difference. In the spirit of compromise, since many other Members moved much farther than I think I did, I agreed to join with the other 11 Members in signing this report that notified the Members at the time I did so that I would reserve the right, I would not offer the motion myself, if a Member did offer a motion to increase the sanction from a reprimand to censure, to vote for that. That has to do with a difference, I think, in the opinion on some of the evidence before the House.

I strongly feel, and I agree and compliment the vast majority of our colleagues who voted not to expel Mr. Frank. I agree with our colleague, the gentleman from Indiana [Mr. JACOBS] and others who spoke that each of us work for the people in our districts, and they are the bosses and if that sanction is to be imposed, except in the most severe, most severe circumstances, it should be imposed by the voters, the citizens of this country, and not by other Members of this House.

We have to draw gradations between cases. This is a severe case, in my opinion, but it is not the most severe, as severe as treason or some of the other cases where expulsion has ended up resulting.

But we do have a series of patterns involving official conduct, in my opinion, by a Member with the department of corrections of probation authorities of the State of Virginia involving the use of congressional stationery, congressional personnel typing memos and letters, and the congressional office use of telephones, verifications of employment and the like.

Let me just go through some of this evidence. The department of corrections of Virginia imposes conditions of probation of people on probation, as Mr. Gobie was for a felony, in that jurisiction. There are a number, but among the major ones are to obey all municipal, county, State and Federal laws and ordinances, to report any arrests or citations including traffic tickets within 3 days to my probation and parole officer, and to maintain regular employment.

Now, Mr. Gobie for a considerable period of time had a great deal of difficulty in maintaining regular employment. Each time he went in to see his probation officer he was asked, according to the notes of the probation officer, to bring in some paychecks showing a job, because otherwise how was he employing himself? He might have been doing something illegal, and he could not do it. He tried to get jobs, night clerk in hotels, working on construction, and so on. He could not do it.

Finally, the reports start changing and we see that he agreed to try to get the employment. Finally he advised that he worked for 15 days with Congressman FRANK on June 18, 1985, who Gobie met playing softball. He needed some work done on his townhouse at 210 8th Street, SE.

From that time on about every month there are regular reports in the probation counselor's notes indicating employer, BARNEY FRANK; days worked, 10 or 20, earnings $800. That goes on for a period of about a year and a half, so he is meeting a condition of employment. He has a regular job.

That was verified, however, never by any checks or any W-2 forms or anything of the sort. It was verified by an official communcation from the employer. A Member of Congress, on official congressional stationery, typed in that Member's office.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Wisconsin has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. PETRI. Those letters are included in the appendix to the report and you can refer to them, if you wish.

I quote only from one on September 5, 1985:

I am writing to inform you that I have been employing Mr. Steve Gobie in my personal capacity for the past two months.

Mr. Gobie is intelligent, personable, reliable, and it is important to me to know that someone of his ability and dependability is looking after some of these important tasks for me.

And there are similar indications to that effect.

Now, what did Gobie say about all this when he was called under oath? He was asked, "Did you work for Representative FRANK?"

And he answered no, he never did work for Representative FRANK.

"Why did FRANK write the letters?"

Well, he said under oath, he said:

I don't want to get in a situation where you are forced to move back to Virginia and he said maybe there is something I can do to help you stay here in Washington. The suggestion he made was why don't I write her letters of reference, I will put it on my congressional letterhead stationery, and he said when she sees that it will probably—I have to paraphrase, but the gist of the conversation was that he was going to write letters to her to try to get her to back off from me and wait until she sees this letterhead, when she sees U.S. Congress.

It seems to me there is a burden here——

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has again expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. PETRI. Mr. Speaker, I thank my colleague.

It seems to me you have an assertion that an employment relationship existed. So far as the committee was able to determine, there is a conflict in the testimony between Mr. Gobie and Mr. FRANK on that. There is no independent evidence that came to our committee's attention that I am aware of in terms of W-2 forms, tax reports, cancelled checks, cash flow analysis of the Member's checking account, to indicate that the amount of $800 was being paid each month as reported to the probation authorities to Mr. Gobie by Mr. FRANK.

I think that, in my mind, represents a misrepresentation of a situation. If it had not been a Member of Congress, if it had been two people, one saying they employed the other, I cannot imagine that they would not have asked for checks and W-2 forms and the like. Therefore, I think there was an effort here, in my opinion, to mislead the probation authorities of the State of Virginia as to the employment status of Mr. Gobie by a Member of this House that was improper and warrants more severe sanction.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from West Virginia [Mr. MOLLOHAN], another member of the committee.

Mr. MOLLOHAN. Mr. Speaker, upon examination of the committee's report, I feel that Members of this body would agree that the factual conclusions which this committee reached are sound. I can assure the House that the facts were carefully considered and reconsidered by all 12 of the committee's members. We considered carefully all the evidence surrounding the much publicized accusation that Representative FRANK knew that alleged prostitution activities were occurring in his residence. We found that there was not credible evidence to support that accusation.

We considered carefully all the evidence surrounding the much publicized accusation that Representative FRANK attempted to improperly influence the decisions of probation officers in Mr. Gobie's case. We found there was not credible evidence to support that accusation, and indeed the probation officials refuted the charge.

We considered all of the evidence carefully surrounding the much publicized accusations by Mr. Gobie about improper conduct in the House gym. We simply found no credible evidence to support that charge.

□ 1340

Mr. Speaker, then we considered carefully all of the evidence surrounding the accusation that Representative FRANK improperly arranged for the dismissal of a number of parking tickets which were issued during Mr. Gobie's use of his car. We found that fixing those tickets was improper.

Likewise, we considered carefully all of the evidence surrounding the memo which Mr. FRANK wrote which contained arguably misstatements about Mr. Gobie. We found that memo inappropriate, because while there was no showing that Representative FRANK ever intended for it to be used to persuade probation officials, nevertheless, we found that he should have anticipated that it might wind up in official hands.

Mr. Speaker, as the committee's report makes clear, the committee was united in reaching the conclusions of fact before you. Therefore, I would urge all Members to avoid assuming as a fact something which the committee did not find or rejected. I can assure all of my colleagues in this House that, if nothing else the ethics committee has not acted carelessly in this case in reaching its factual conclusions and, therefore, its recommendation of reprimand has been carefully considered in light of these factual findings, and I commend to my colleagues that recommendation of reprimand.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the chairman.

I have a hard time accepting the premise that a reprimand is not punishment enough, and I wish to address myself to that issue.

Since this ethics committee was formed in 1968, six people have been reprimanded, only six; four were censured; one expelled. During all of those years, 4,785 people could have been judged by the ethics committee at any time during those 11 Congresses, and there were six reprimands.

How many in this House feel they could sit through a reprimand like this? How many think it would be easy on them? How many would relish going back to face an election, facing our constituents, our press, our family after a reprimand not only by the committee as a recommendation but voted on by this House? Reprimand is no cakewalk. I am sitting next to the person who is about to face it. It is no cakewalk, and it should not be.

Reprimand means that your colleagues are rebuking you, and they are saying you are wrong. BARNEY FRANK admits he made mistakes. Could he have resigned as Mr. DORNAN suggested? Yes, he could have, rather than face all of this. Could he have decided not to face reelection and go through this all over again on the ground in his district with his press? He could have. He decided to stay, to take his punishment, to have the whole story told in detail, to have the ethics committee investigate everything, and they did.

In a strong bipartisan vote, they called for a reprimand.

At times like this, this House has to decide what we are all about. Let us not make this a time to score political points. That would bring no credit upon this institution. Let us stand behind Mr. DIXON and Mr. MYERS and the committee, and Mr. FRANK will take his punishment, will take his reprimand.

Let us stick with the committee.

Mr. DIXON. Mr. Speaker, if I may inquire of the Chair, How much time is left on both sides?

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] has 22 minutes remaining, and the gentleman from Indiana [Mr. MYERS] has 31 minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise to speak in support of BARNEY FRANK and in favor of the resolution to reprimand. We started in the Congress together in the class of 1980 and have been friends ever since.

What is most significant about BARNEY is his voice. A voice for civil

rights—for every American. A voice for human rights—around the world. A voice for a sane military budget. A voice for a better world.

My colleagues, BARNEY FRANK does not stand accused of stealing money, taking bribes, or selling his office. BARNEY FRANK stands accused of making a mistake. BARNEY FRANK stands accused of being stupid. And, my colleagues, if stupidity suddenly became grounds for expulsion from this body—there would be very few of us left here.

BARNEY has admitted his error. A reprimand is sufficient punishment for his mistake. Let us vote for this resolution and go on with the business of this House. Let us allow BARNEY's voice to continue to fill the well of this House.

Mr. MYERS of Indiana. Mr. Speaker, in fairness to those who will be presenting their statements, the chairman has given notice to the membership that there is no extension of remarks and no revision. There is extension only in the remarks section in the extension section of the RECORD, but there is no revision of remarks. So whatever you say here is going to go down in posterity.

Mr. Speaker, I yield 6 minutes to our colleague on the committee, the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, when I was given the high honor of serving on the ethics committee last year, a reporter from the Des Moines Register asked me why I would want this job, and I said to him because after reviewing the Wright case and the reportage surrounding the Wright case, perhaps the ethics committee is the one place where you can put these very important, very crucial matters in their proper context. and I thought about that today as I was listening to my college from California [Mr. DANNEMEYER] conclude his remarks with a column by Carl Rowen which was written on September 1, 1989, 10 days before the case of BARNEY FRANK came to the ethics committee. It is in that light that I would like to talk about what I hope is the proper context today, the work of the committee and the things that the committee agreed upon.

The committee concluded that Representative FRANK did abuse congressional authority to obtain relief from parking violations, and the abuse was more than minimal. We are not exactly sure how many tickets were fixed, how many tickets were written while the Representative was using the car, how many were written while Stephen Gobie was using the car, but there were clearly some of both, and the House is discredited when a Member converts a law written to help him carry out the people's business into a personal privilege and convenience not available to the average citizen, and because it happened so many times in this case with one Representative, the committee concluded that it could not simply overlook this matter, and it warranted a sanction which is before you today.

And we agreed that the memo written on behalf of Gobie's release from probation brought discredit to the House. And we agree that Representative FRANK is ultimately responsible for its winding up in the hands of the prosecutor and that he authored those misleading statements. The Virginia prosecutor needed to know, most of all, whether Stephen Gobie was obeying the law. Instead of learning the truth from Representative FRANK, he got statements of Representative FRANK suggesting that Gobie was obeying the law, which covered up Gobie's prostitution.

We all agree that Members of Congress should not stand in the way of truth, especially when they deal with law enforcement matters, and that is why the committee agreed that Representative FRANK should be punished before the full House in connection with this communication.

□ 1350

But we also agreed, as the chairman and other members of this committee have indicated, that we did not have enough evidence to conclude that other alleged misconduct occurred.

Mr. Speaker, let us focus here. We spent 10 months, 11 months now, examining witnesses, documents, and evidence. The burden of proof is not on the respondent to prove his innocence, it is on the committee to prove his guilt.

The evidence was found wanting in areas of the House gymnasium and in evidence of the apartment that allegedly was used for prostitution. The standard is clear and convincing evidence. In both cases it was neither.

Finally, we were convinced that Representative FRANK did not badger nor intimidate the female probation officer or Stephen Gobie's court-appointed therapist.

So we are here today not hearing Members disputing the committee's factual findings. We are not here in criticism of the committee's procedure, or even the scope of the investigation.

Even with respect to the punishment, we are close to full agreement. We have decided that expulsion is unwarranted. Obviously this body has agreed with that assessment. But even the respondent himself is arguing that he should be punished by the House.

So we ask why we agreed upon reprimand rather than censure? Why did we make what seems to be to many people not on the committee a finite and somewhat arbitrary definition?

Once we made our factual findings, we stepped back, we looked at the case overall, and decided what punishment is appropriate in the aggregate. Remember that some of these allegations had been raised at the beginning but were simply not supported by, again, the standard of clear and convincing evidence. Had those allegations been proven true, we might well have recommended a higher level of punishment.

Second, unlike the two prior cases in which the House has censured Members for misconduct, Stephen Gobie was not a child whose parents had entrusted him to the care of the House of Representatives.

Third, in a prior case the committee charged a Member with a false written statement, not under oath, and the penalty was reprimand. So there was precedent for this decision.

With all of these things in mind, the committee decided, and I support that decision, that the respondent should be punished by all of his colleagues in the House, but not censured. I would ask all Members not to imbue this discussion with their personal feelings or their concerns about relative lifestyles.

Mr. Speaker, let me just say this in conclusion: I do not feel, if it is the belief of this House that the Committee on Ethics is that panel in this body which determines whether we support a Judeo-Christian ethic or moral relativism, that this gentleman from Iowa can remain on that committee, because, Mr. Speaker, I am not that good. I am not that smart. I do not deserve to sit on some Olympian council, some Sanhedrin up there, that passes down moral dictates to my colleagues and peers.

Mr. Speaker, I see this committee as having two important functions to perform. One is to protect this institution from the individual, and the other is to protect the individual from the institution. We perform both functions today, and we do not enshrine and enhance traditional family values by damning individuals whose lifestyles differ from our own.

We are here to prosecute, not persecute. So I support the committee, because we have acquitted that trust.

Mr. Speaker, I would just close by saying that a lady from my district, and I would have to argue that my district probably falls on the Judeo-Christian side of this argument, wrote me a letter and said, "Now that we know about BARNEY FRANK, what are you going to do about it?"

I wrote back and said, "BARNEY FRANK is going to get everything that he deserves—a fair trial."

Mr. Speaker, this committee has given him a fair trial. It will give him a fair verdict. I ask Members to do the same and support the reprimand.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PASHAYAN], an-

other member of the Committee on Standards of Official Conduct.

Mr. PASHAYAN. Mr. Speaker, I ask this question: Is the committee a court? The answer to that is in one sense, yes. Although it is not required by the Constitution, the committee, and I think rightly, has elected to proceed in a manner like a court when it comes to the subject of evidence. I think this works well to the members of both parties. It works well to the institution and to the American people.

Mr. Speaker, we ask not what the innuendo is, or what the rumor is, or what the supposition is; rather we seek documents, sworn testimony, and other forms of evidence of the kind that a court would accept in some kind of a trial.

There is a long tradition in Anglo-American law, which is the law our Constitution derives from, that we do not try and convict people on what must have happened. We do not try and convict people on supposed facts, not in evidence, and proved to a body of peers.

There is no doubt in this case that it is easy for somebody to say that the Member must have known that something was taking place. That is easy to say. But there was no evidence indicating such.

People from all over the world came and yearn today to come to the United States because they are fleeing from judicial and even religious systems that condemn and convict on the argument that the defendant must have known, or that he must have done something wrong.

Mr. Speaker, that is not the tradition in the United States. That is not the tradition that we inherited from Europe. That is not the tradition or the spirit in which the Founding Fathers drafted the U.S. Constitution, and that certainly is not the tradition that our own little Committee on Ethics has pursued. Rather we look to see what the facts are and what the evidence is.

Mr. Speaker, we make our decisions on what we can see and hear and touch. If it is not there, if it is not there, right or wrong, as any decent court, then we must lay aside in favor of the defendant.

I think that tradition serves this institution well indeed, Mr. Speaker, and is present very much in this case.

CALL OF THE HOUSE

Mr. DIXON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 269]

Ackerman	Andrews	Applegate
Alexander	Annunzio	Archer
Anderson	Anthony	Armey
Aspin	Evans	Laughlin
Atkins	Fascell	Leach (IA)
AuCoin	Fawell	Leath (TX)
Baker	Fazio	Lehman (CA)
Ballenger	Feighan	Lehman (FL)
Barnard	Fields	Lent
Bartlett	Fish	Levin (MI)
Barton	Flake	Levine (CA)
Bates	Flippo	Lewis (CA)
Beilenson	Foglietta	Lewis (FL)
Bennett	Ford (MI)	Lewis (GA)
Bentley	Ford (TN)	Lightfoot
Bereuter	Frank	Lipinski
Berman	Frenzel	Livingston
Bevill	Frost	Lloyd
Bilbray	Gallegly	Long
Billey	Gallo	Lowery (CA)
Boehlert	Gaydos	Lowey (NY)
Boggs	Gejdenson	Luken, Thomas
Bonior	Gekas	Lukens, Donald
Borski	Gephardt	Machtley
Bosco	Geren	Madigan
Boucher	Gibbons	Manton
Boxer	Gillmor	Markey
Brennan	Gilman	Marlenee
Brooks	Gingrich	Martin (IL)
Broomfield	Glickman	Martin (NY)
Browder	Gonzalez	Martinez
Brown (CA)	Goodling	Matsui
Brown (CO)	Gordon	Mavroules
Bruce	Goss	Mazzoli
Bryant	Gradison	McCandless
Buechner	Grandy	McCloskey
Bunning	Grant	McCollum
Burton	Gray	McCrery
Bustamante	Green	McCurdy
Byron	Guarini	McDade
Callahan	Gunderson	McDermott
Campbell (CA)	Hall (OH)	McEwen
Campbell (CO)	Hall (TX)	McGrath
Cardin	Hamilton	McHugh
Carper	Hammerschmidt	McMillan (NC)
Carr	Hancock	McMillen (MD)
Chandler	Hansen	McNulty
Clarke	Harris	Meyers
Clay	Hastert	Mfume
Clement	Hatcher	Michel
Clinger	Hawkins	Miller (CA)
Coble	Hayes (IL)	Miller (OH)
Coleman (MO)	Hayes (LA)	Miller (WA)
Coleman (TX)	Hefley	Mineta
Collins	Hefner	Moakley
Combest	Henry	Molinari
Condit	Herger	Mollohan
Conte	Hertel	Montgomery
Cooper	Hiler	Moody
Costello	Hoagland	Moorhead
Coughlin	Hochbrueckner	Morella
Courter	Holloway	Morrison (CT)
Cox	Hopkins	Mrazek
Coyne	Horton	Murphy
Craig	Houghton	Murtha
Crane	Hoyer	Myers
Dannemeyer	Hubbard	Nagle
Darden	Huckaby	Natcher
Davis	Hughes	Neal (MA)
de la Garza	Hunter	Neal (NC)
DeFazio	Hutto	Nielson
DeLay	Hyde	Nowak
Dellums	Inhofe	Oakar
Derrick	Ireland	Oberstar
DeWine	Jacobs	Obey
Dickinson	James	Olin
Dicks	Jenkins	Ortiz
Dingell	Johnson (CT)	Owens (NY)
Dixon	Johnson (SD)	Owens (UT)
Donnelly	Johnston	Oxley
Dorgan (ND)	Jones (GA)	Packard
Dornan (CA)	Jones (NC)	Pallone
Douglas	Jontz	Panetta
Downey	Kanjorski	Parker
Dreier	Kaptur	Parris
Duncan	Kasich	Pashayan
Durbin	Kastenmeier	Patterson
Dwyer	Kennedy	Paxon
Dymally	Kennelly	Payne (NJ)
Dyson	Kildee	Payne (VA)
Early	Kleczka	Pease
Eckart	Kolbe	Pelosi
Edwards (CA)	Kolter	Penny
Edwards (OK)	Kostmayer	Perkins
Emerson	Kyl	Petri
Engel	LaFalce	Pickett
English	Lagomarsino	Pickle
Erdreich	Lancaster	Porter
Espy	Lantos	Poshard
Price	Sharp	Tauke
Pursell	Shaw	Tauzin
Quillen	Shays	Taylor
Rahall	Shumway	Thomas (CA)
Rangel	Sikorski	Thomas (GA)
Ravenel	Sisisky	Thomas (WY)
Ray	Skaggs	Torres
Regula	Skeen	Torricelli
Rhodes	Skelton	Towns
Richardson	Slattery	Traficant
Ridge	Slaughter (NY)	Traxler
Rinaldo	Slaughter (VA)	Udall
Ritter	Smith (FL)	Unsoeld
Roberts	Smith (IA)	Upton
Robinson	Smith (NE)	Valentine
Roe	Smith (NJ)	Vander Jagt
Rogers	Smith (TX)	Vento
Rohrabacher	Smith (VT)	Visclosky
Ros-Lehtinen	Smith, Denny (OR)	Volkmer
Rose	Smith, Robert (NH)	Vucanovich
Rostenkowski	Smith, Robert (OR)	Walgren
Roth	Snowe	Walker
Roukema	Solarz	Walsh
Rowland (CT)	Solomon	Washington
Rowland (GA)	Spence	Watkins
Roybal	Spratt	Waxman
Russo	Staggers	Weber
Sabo	Stallings	Weiss
Saiki	Stangeland	Weldon
Sangmeister	Stark	Wheat
Sarpalius	Stearns	Whittaker
Savage	Stenholm	Whitten
Sawyer	Stokes	Williams
Saxton	Studds	Wilson
Schaefer	Stump	Wolf
Schiff	Sundquist	Wolpe
Schneider	Swift	Wyden
Schroeder	Synar	Wylie
Schuette	Tallon	Yates
Schulze	Tanner	Yatron
Schumer		Young (AK)
Sensenbrenner		Young (FL)
Serrano		

□ 1416

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall, 422 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

IN THE MATTER OF REPRESENTATIVE BARNEY FRANK

Mr. MYERS of Indiana. Mr. Speaker, with the attention and courtesty of the Members, we can finish this in just a few minutes as a matter of a privileged resolution.

□ 1420

Mr. Speaker, I yield 10 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker I rise to explain a motion to recommit, and to insist on censure, with the greatest sadness. Today's actions are tragic. The gentleman from Massachusetts [Mr. FRANK] has been one of our brighest and most energetic Members. This entire scandal is painful both for him and for his colleagues. Yet we are where we are. We have the facts we cannot avoid. Some have suggested these facts are tainted by partisanship or by lifestyle. Those charges sadden me almost beyond words.

In 1988, I insisted that Pat Swindall ask the ethics committee to investigate his case or I said I would file charges against him. He was a conservative Republican from Georgia. In

1989, on June 20, the Cincinnati Inquirer published an article entitled "Gingrich: Lukens Finished Politically," in which I talked about a man I regarded as a close personal friend, an ideological ally, a Republican, and a man who has been one of the margins of victory in 87 to 85 race. Suggestions of partisanship or lifestyle in ethics case demeans the House and its Members.

I have the greatest respect for the chairman, the gentleman from California [Mr. DIXON], and the ranking member, the gentleman from Indiana [Mr. MYERS]. I appreciate the time and integrity of the Members who serve on the ethics committee, yet the committee's recommendations are in the end, recommendations. There is ample precedent for the House to increase a sanction from reprimand to censure. In 1983, the ethics committee recommended reprimand in the two cases involved sexual exploitation of pages. The House voted to strengthen those sanctions to censure. In the Dan Crane case the House voted 289 to 136 to upgrade the sanction to censure. In the Studds case, the House voted 338 to 87 to upgrade the sanction to censure.

Today, the gentleman from Ohio [Mr. STOKES] commented that the House did the right thing when they were censured. That right thing was an increase in the sanction from the committee recommendation of reprimand to censure. Theere is an enormous difference between reprimand and censure. Reprimand is a statement that leaves the Member with his subcommittee chairmanship, his committee staff, the power and prestige of being given by his colleagues a chairmanship in a legislative body. A "no" vote on the motion to recommit is a vote to keep in a chairmanship position in a subcommittee on the Committee on the Judiciary, a Member whose memorandum, according to the ethics committee on page 56, and I want to quote from the ethics committee:

Representative Frank reasonably should have anticipated that the 1986 Memorandum might be communicated to law enforcement officials. The Congressman set into motion a series fo contacts resulting in that document being sent to the Commonwealth Attorney. As a result, the misleading statements could be perceived as an attempt to use political influence to affect the administration of Mr. Gobie's probation. That the Memorandum apparently had no such effect does not detract from the inappropriateness of communicating misleading statements which could have affected the administration of Mr. Gobie's probation.

In view of the above, the Committee concludes that Representative Frank's improper conduct in connection with parking tickets and the 1986 Memorandum reflected discredit upon the House in violation of House Rule XLIII, Clause 1.

That memorandum was about a convicted cocaine dealer, convicted child pornographer. That memorandum was about a convicted felon who was out on probation. That memorandum was about a prostitute who had been breaking the law on probation, and who the Member knew had been breaking the law while on probation. The ethics committee has ruled clearly on the memorandum. It found, "The 1989 memorandum reflected discredit on the House."

There is no argument about the facts of the case. There is an argument about the appropriate sanction. There is no duty more important than maintaining the public respect for the U.S. House of Representatives. There is no duty more important than judging our colleagues when they engage in improper conduct.

As the gentleman from Indiana [Mr. MYERS] noted, the Constitution provides in article I, section 5, that we Members of the House have this duty. We are not here today simply to deal with the gentleman from Massachusetts [Mr. FRANK]. We are here to repair the integrity of the U.S. House of Representatives.

Let me repeat what I said in 1983:

We represent the most important bastion of freedom on this planet. That freedom survives only because decent, simple, everyday human beings across this planet say, "When I elect people, they are my leaders."

This has been the people's House for 200 years. We are in deep trouble as a society. Part of that trouble is reflected by the people here because we are a pretty active reflection of the people's House. People are looking for a guidepost as to how they should live, how their institutions should behave, and who they should follow.

Our decisions are not made today about two individuals; our decisions are made today about the integrity of freedom, about belief in our leaders, about the future of this country, about what we should become.

In that setting and with no malice toward any individual, with no feeling of ill will toward any individual, I cannot see how reprimand is in any way adequate. I cannot see the signposts it sends. I cannot see the guide it gives to the American Nation. I cannot see how it rebuilds any sense of trust.* * *I think now is the time to draw the line to set the base for how we will deal with those.

I went on to say,

Mr. Speaker, there will be a motion to recommit offered later to propose stronger sanctions, not against the individuals but for the integrity of this institution. I would urge all of my colleagues, in all their compassion for the individuals involved, to think about the future of freedom and the integrity of this institution and to vote for that motion to recommit.

Mr. Speaker, I said those words in cases involving two colleagues, one a Democrat, one a Republican and a friend, one involving homosexual behavior, one involving heterosexual behavior. There was no reflection on lifestyle or party in those words. There was a commitment to honesty and integrity for our House and our system of self-government in those words.

When I sit down, Mr. Speaker, my two colleagues, the gentleman from California [Mr. DIXON] and the gentleman from Indiana [Mr. MYERS] will defend the committee's recommendation. They have a difficult job, and they have done it with great skill. All Members owe them respect. However, we do not owe them our votes. Every Member should read the report, think through the facts the committee has reported, and then vote your conscience. No Member should vote politically. Look into your heart and your conscience.

As for me, I cannot vote to leave a Member in a chairmanship of the Committee on the Judiciary, whose memorandum was so wrong. I cannot vote to send a signal to this country that the House will tolerate such behavior with a prostitute who was a convicted cocaine dealer and a convicted child pornographer.

In 1979, as a freshman, I moved to expel a Member who was a convicted felon. He had been convicted of 29 counts of stealing $70,000. He was out on appeal, and insisting on voting. I was told at the time not to do it. We had not had a vote on expelling in 50 years. A year later, we expelled a Member for the first time for corruption in American history. At that time, as a freshman, I closed my speech, as I will close it today. For those who speak of partisanship or ideology or of lifestyle, let me close with the words of Martin Luther at the Diet of Worms, "God rest my soul, here I stand, I can do no other."

□ 1430

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I am not here today to join this debate in the normal sense. I am here to offer an apology and an explanation, and it is an explanation that is not meant to detract from the apology because I am here to apologize to my colleagues, to this institution, and to those around me.

Let me say, Mr. Speaker, one of the things I said when I spoke in Massachusetts last week. I want to say here that these mistakes were mine; they were not mistakes from my colleagues, of my staff, or of my family. To the extent anyone close to me had some sense of what I was doing, they tried to get me to stop it. It was all mine.

I made some mistakes. I made mistakes which included, in a couple of cases, misrepresenting facts. The memo has been cited. Let me say that I should put at the head of the list those to whom I apologize, the members of the ethics committee. I have done more to impose on them than anyone should have to put up with. I appreciate the care that they took in

their report. It is not usual to be able to read a document prepared by others in which you have been so deeply involved and feel that there has been an accurate representation.

I must tell you that after this process, as I read the report, it is as fair a document, both in the positive and the negative, as I have seen, and they acknowledge some things as having been inaccurately charged and others as accurately charged. And the memorandum is obviously the most serious. I should not have written it.

I think Members will agree I have had a reputation for honesty, not always tact or tolerance, but honesty. There was in my life a central element of dishonesty for about 40 years—well, 34—and it had to do with my privacy and my private life. And in that memorandum—and I make no accusation, if that is involved here; I offer it only because it is an explanation—if you look at the report, you will see there is one area there, when I wrote to the probation department, I was telling them the truth, and when I communicated with this committee, I was telling them the truth. Last September I probably told more truths than most people thought I should have. But that was a personal decision, not an intellectual or a political one.

I did in that memorandum misrepresent the facts because in those two instances that was necessary for me to conceal my sexuality. I never intended that memorandum to go beyond a couple of friends, and let me just say—and this is my explanation—having heard all this, I called a couple of practicing attorneys I knew. I was approached by Mr. Gobie, and he said, "They're going to extend my probation, what can you do?"

I said, "Well, I had better find out."

I asked, and they recommended to me that I write down what I was asking and tell them so they could respond. I did that.

I think the committee is right. I should not have sent that memorandum to them with misstatements, because there was the possibility that in fact happened, and it was not unreasonable. And they were not wrong; they did not know about any misstatements. Nobody else involved did anything wrong but me, and I accept that fact. The explanation is, as I said, that I was seeking to conceal something.

Three years ago I decided that concealment did not work. I wish I had decided it a few years earlier. But I did want to get that point across. I accept the committee's conclusion, yes. I actually prepared the memorandum, not intending it to go to any official of the law. I am pleased—and it is a strange word in this context—that the committee did know and did conclude that with regard to my dealings with officials, I told only the truth. I never misrepresented anything. I never tried to pressure them. I did impose on some friends, and I did it with a written memorandum, and they, one of them, passed it along. That should not have happened. It was my fault because I should not have put that in his hands without saying, "By the way, don't show it to anybody."

I want to add this point: I did not know until January of this year that that memorandum had been used by the prosecutor. Had I known, I would have felt an obligation to have known and said, "I have to apologize. You have a memorandum that has got some misinformation in it. Please, absolutely disregard everything in it," because I would not have wanted to identify which was misleading.

But I acknowledge that, and that is all I wanted to say, to apologize and to explain to my colleagues that I have no quarrel with what the committee said. Yes, I set into motion a chain of events which did not have a negative effect, but it could have and I should have known better. I now do know better, but it is a little too late.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the remaining time.

The SPEAKER. The gentleman from Indiana [Mr. MYERS] is recognized for 13 minutes.

Mr. MYERS of Indiana. Mr. Speaker, I think most of us in our lives have heard many times that we should forgive the sinner and condemn the sin. I think that is the posture we find ourselves in today here as Members of this august body, making a decision about a friend, about a colleague.

This is the people's House, and the people do have the final decision upon who serves here. Not one of us here, not one of the 435 Members here, came here except by the consent and will of the majority of the electorate that sent us here. I think each of us has a responsibility to those people who sent us here to uphold the rules and regulations of this body and the decency of society itself.

We also have a responsibility to our colleagues to uphold the reputation and the credibility of the institution so we do not tarnish our individual right and responsibility to be able to communicate with others, written or verbal. We have that responsibility, and it is one that we should not and must not treat lightly.

We have throughout our history exercised as a body our right under article I, section 5, that discipline to take action against our colleagues, if necessary. Today I think our decision here is not to decide whether one of our colleagues has violated the rules. I think we all have heard that rules were violated. Our decision today is: What is the appropriate action to take when the people's trust has been abused?

Other than for the most serious crimes, I think we can forgive, but when the reputation of the House is in question, I think we must rise above the treatment or above our personal feelings toward the individual who has violated those rules. We have a responsibility to the American people who sent us here and to the American people who did not send us but sent others here. And we have a responsibility to the institution that all of us do respect. That exercise has been very cautiously and very diligently guarded, as has been earlier discussed.

Only four Members have ever been expelled, and that was for very high, serious crimes. In the history of 202 years—this being the 202d year of the House of Representatives and of Congress, there have been many accusations brought against Members and former Members, and 26 individuals have been censured. So censure has been used more often. Only six have been reprimanded.

I think we can discuss all day what is the appropriate action today to take in this instance. Your committee feels that the correct action today and the proper sanction is that of reprimand. I guess we could argue all day about what is appropriate, whether one thinks it is more or less. Your decision today is not to vote your personal feelings. We must set that aside and go to a higher level. Our personal feelings about this individual, about his intelligence, about his reputation, or about his popularity in this body or his political philosophy, we must set all of those things aside and deal with the more serious responsibility that each of us assumed, and that is our responsibility to the institution of the House of Representatives.

Hopefully this House and prayerfully this House will be here a long time after all of us have been long gone. The story about any one of us, whether it is the Speaker or Congressman FRANK of Massachusetts may be only one layer of history, but the important thing today is how we have treated the trust our constituency has placed in us.

□ 1440

Mr. Speaker, I think that is the last decision. The judgment is each of ours alone. No one can make it for us, and I am sure, in using the best judgment, sincere judgment, many of us will make different decisions. I do think that the proper, proper decision is reprimand, but the important thing is that we act in a fashion, as we have up until right now, and I am sure we will continue, for the integrity and the reputation of the House of Representatives. That is much more important than anything else we can do in the form of punishment or in our personal action.

Mr. Speaker, I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I asked my colleagues at the beginning to set aside the things that they have heard on TV or in the newspaper and judge the work of the Committee on Standards of Official Conduct by its report. I had planned to say one thing in closing here, however the gentleman from Georgia [Mr. GINGRICH] has in some ways accommodated me, for, if I understand Mr. GINGRICH correctly today, he has no problem with the report that we have submitted. He has a problem with the sanction.

Mr. Speaker, I have a great deal of respect for the gentleman from Georgia [Mr. GINGRICH]. Before today I did not understand it because many of the public utterances confused the facts. The statements that he made were incorrect, and I think to some extent he is acknowledging that by now, if I understand him correctly, there is no dispute over the facts in the case. The dispute is over the sanction.

So, Mr. Speaker, this case boils down to really, "Who do you trust?"

The Speaker and the minority leader over a period of time have selected, six each, men and women to serve on this committee, and so I address my comments, not to those who have made up their mind to support the committee or not support the committee, but those who have some doubts.

Mr. Speaker, I say to them, "If you have any doubt, you owe it to this institution, and I dare say the members of the committee, to accept their judgment."

Forty-five hours is a modest statement to talk about deliberations on this case, a thorough examination of all of the issues. There has not been anything that has come up here on this floor today that has not been discussed and examined in our committee. And, yes, we had 2 hours to debate this, and my colleagues have had 3 days to digest our report.

Mr. Speaker, I say to my colleagues, "If you have any doubt as to the appropriate sanction, you should resolve that in favor of the people that you have entrusted to make that decision and bring that recommendation to the committee."

Mr. Speaker, I do not think there is any doubt that this committee has stood tall, and I am proud of each and every one of them. Over the last 5 years, under pressure, we have a reputation of staying away from politics. My colleagues know the cases. There was tremendous pressure for retribution. We stood tall and said that was wrong.

So, Mr. Speaker, we have a record of demonstrating to this House, whether each Member liked it or not, that we are nonpartisan, and we give to our colleagues our best judgment, and I suggest that that judgment cannot be struck down with a quick digest of something.

We cannot restore the dignity of this House by voting a censure. This man has suffered, rightfully so. We gain nothing by piling on.

So, to those of my colleagues who have some doubt as to which way to go I say, "Don't split the baby. The easiest thing to do is say, 'Well, I voted against expulsion, and the committee wants this, so I'll split it down the middle. I'll vote for censure.' "

Mr. Speaker, we are all bigger than that in this Chamber. I say to my colleagues, "Vote your conscience based on your reading of the report and the recommendations of the committee."

As the gentleman from California [Mr. FAZIO] suggested, we could have a free-for-all. We could take newspaper articles, and just stand up here and read them, and then just punch each other and then vote. We should not do that. We have got to have a better system.

This system is not perfect. I will not stand here and tell my colleagues that I can reconcile every sanction that we have taken going back 8 or 10 years. But I have insisted, and JOHN has insisted, that we will throw no one to the wolves, that each case, each Member, is entitled to our independent judgment regardless of what happened before or what happened after.

Mr. Speaker, I say to my colleagues, "We have given you our best, and for those who have any doubt, give us the benefit of that doubt."

I think the report stands clear, and, if my colleagues think that they have a question about 33 parking tickets and one memo that admittedly has wrong material in it, and it was not forwarded by a Member, but was forwarded, and he has come here and apologized for that and explained why it happened, I ask, "Is that worth a censure?"

Mr. Speaker, again I say to my colleagues, "If you have any doubt, stand by us. Stand by us because we have stood by you and this institution."

When I move the previous question, the gentleman from Georgia [Mr. GINGRICH] will be asking my colleagues to vote "no" because he has at the desk a motion to recommit with instructions, and that is censure, and I ask my colleagues to vote down any motion of that kind and stand by us.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. GINGRICH

Mr. GINGRICH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. GINGRICH. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk, read as follows:

Mr. GINGRICH of Georgia moves to recommit House Resolution 440 to the Committee on Standards of Official Conduct with instructions to report the resolution back to the House forthwith with the following amendment: Strike all after the resolving clause and insert in lieu thereof the following:

(1) That Representative BARNEY FRANK be censured;

(2) That Representative BARNEY FRANK forthwith present himself in the well of the House for the pronouncement of censure; and

(3) That Representative BARNEY FRANK be censured with the public reading of this resolution by the Speaker.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

Mr. GINGRICH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 141, nays 287, answered "present" 3, not voting 2, as follows:

[Roll No. 270]

YEAS—141

Archer	Hefley	Rogers
Armey	Henry	Rohrabacher
Baker	Herger	Ros-Lehtinen
Ballenger	Hiler	Roth
Barnard	Holloway	Roukema
Bartlett	Hopkins	Rowland (CT)
Barton	Hunter	Rowland (GA)
Bateman	Hutto	Saiki
Bentley	Hyde	Sarpalius
Bilirakis	Inhofe	Saxton
Bliley	Ireland	Schaefer
Broomfield	James	Schuette
Brown (CO)	Johnson (CT)	Schulze
Buechner	Kasich	Sensenbrenner
Bunning	Kolbe	Shaw
Burton	Kyl	Shays
Coble	Lagomarsino	Shumway
Combest	Laughlin	Shuster
Courter	Lewis (FL)	Skeen
Cox	Lightfoot	Slaughter (VA)
Craig	Livingston	Smith (NE)
Crane	Madigan	Smith (NJ)
Dannemeyer	McCandless	Smith (TX)
DeLay	McCollum	Smith (VT)
DeWine	McCrery	Smith, Denny (OR)
Dickinson	McEwen	Smith, Robert (NH)
Dornan (CA)	McMillan (NC)	Smith, Robert (OR)
Douglas	Meyers	Solomon
Dreier	Michel	Stearns
Duncan	Miller (OH)	Stump
Edwards (OK)	Moorhead	Sundquist
Emerson	Nielson	Taylor
Fawell	Oxley	Thomas (CA)
Fields	Packard	Thomas (GA)
Gallegly	Parris	Thomas (WY)
Gallo	Patterson	Upton
Gekas	Paxon	Vander Jagt
Gillmor	Petri	Vucanovich
Gingrich	Porter	Walker
Goodling	Poshard	Walsh
Goss	Pursell	Watkins
Gradison	Quillen	Weber
Grant	Ray	Wolf
Hall (TX)	Regula	Wylie
Hammerschmidt	Rhodes	Young (FL)
Hancock	Rinaldo	
Hansen	Roberts	
Hastert	Robinson	

NAYS—287

Ackerman	Anderson	Annunzio
Alexander	Andrews	Anthony

Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pashayan
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ravenel
Richardson
Ridge
Ritter
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sangmeister
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

ANSWERED "PRESENT"—3

Frank Lukens, Donald Savage

NOT VOTING—2

Chapman Nelson

□ 1507

Mr. GUNDERSON and Mr. TAUKE changed their vote from "yea" to "nay."

Mr. SARPALIUS changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MYERS of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 18, answered "present" 4, not voting 3, as follows:

[Roll No. 271]

YEAS—408

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—18

Burton
Clay
Dannemeyer
Dornan (CA)
Dymally
Gingrich
Hancock
Herger
Holloway
Hunter
Mrazek
Pelosi
Stump
Sundquist
Walker
Washington
Waxman
Yates

ANSWERED "PRESENT"—4

Dellums
Frank
Lukens, Donald
Savage

NOT VOTING—3

Chapman Gordon Nelson

□ 1525

Mr. DORNAN of California and Mr. HERGER changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Jersey [Mr. GALLO] and myself.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1528

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5311 with Mr. Bosco in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5311 which we present to the House today makes appropriations for the operations of the District of Columbia government for fiscal year 1991.

Before I make my statement on the bill, I want to take this opportunity to thank the members of the committee for their hard work and their assistance in bringing this bill to the floor today. I want to especially thank the gentleman from New Jersey, Mr. GALLO. As the ranking member, he has participated in all of the hearings and has been extremely helpful in resolving the difficult and sensitive issues we faced.

MIX OF FEDERAL FUNDS AND LOCAL FUNDS IN BILL

I know Members are familiar with appropriations bills and how they are financed by the U.S. Treasury. This bill is different in the sense that it is funded by three distinct and separate parts consisting of: First, Federal funds, second, local or District funds, and third, long-term borrowing authority on the bond market to finance construction projects.

It is important to keep this distinction in mind. This bill is unlike the other 12 annual appropriations bills that we consider.

The first part of bill totals $543 million in Federal appropriations to help finance the city's total budget; and

The second part is the local revenues of $2.9 billion such as real estate and income taxes and traffic fines and penalties and water and sewer revenues collected by the District government as a municipality. This second part, this $2.9 billion in local revenues, finances over 87 percent of the cost of operating the District of Columbia.

The third part is $353 million in borrowing authority to finance 109 construction projects. These funds will be borrowed on the commercial bond market and repaid over a 20- or 30-year period by District taxpayers.

These three amounts in this bill will provide the District government with a total budget of $3.9 billion for fiscal year 1991.

Mr. Chairman, let me speak for a moment to the Federal payment of $430.5 million, which is $5.5 million above the authorized level. This payment is to offset the extraordinary costs of the Federal presence and is made to the District government in lieu of taxes that the Federal Government is not required to pay even though the District has to provide municipal services such as police and fire protection as well as street and sidewalk maintenance.

The Federal Government occupies 41 percent of the District's land area yet contributes only 13 percent toward the operating costs. And another 10 percent of the land area is tax exempt because it is owned by foreign governments, religious institutions, and other organizations, many of which are exempt because of specific congressional action. In fiscal year 1985 the Federal payment authorization was set at $425 million, and today 7 years later, it is still at $425 million. In fiscal 1985, the Federal payment financed 20.5 percent of the city's operating costs. In the bill now before you, the Federal payment finances only 13 percent, a decrease of 7 percent, which, if translated into dollars for fiscal year 1991 alone—forgetting what the District has lost in fiscal years 1986, 1987, 1988, 1989, and 1990—that 7 percent drop means a loss of $233 million to the taxpayers of the District of Columbia. In other words, District taxpayers are saddled with the financial burden of higher taxes to make up the shortfall in the Federal Government's contribution. It is unconscionable that the Federal payment to the general fund has been static for 7 years.

FEDERAL ADD-ONS

In an effort to address some of the inequity, the committee recommends increases of $23.6 million above the President's request of $519 million. These amounts were added following several days of hearings and after careful consideration by the committee.

We recommend $1 million as a matching Federal contribution for the Commission on Budget and Financial Priorities which has a no-holds barred mission to investigate spending, taxes, efficiency, the number of employees on the payroll, services delivered, financial planning and anything else that may touch on the financial status of the city government during the next 5 years. The Commission's final report is due on November 15, 1990.

The bill includes $800,000 for a study of the District's home rule institutions, the city's governmental structure. The committee believes this in-depth evaluation is warranted in view of the length of time the present home rule structure has been in place. The study will be performed by an independent research organization or institute of national prominence which will submit its report to the Congress, the Mayor and Council, and the citizens of the District for review. Recommendations, if any, for changes will be made to Congress for whatever consideration the Congress deems appropriate.

The committee recommends $1.6 million to restore the budget of the Department of Administrative Services to last year's level. This department is the nerve center of the District government and without adequate funding, it cannot adequately service other agencies, which in turn are unable to perform their functions properly and thus they become less effective and less able to serve the public.

A special Federal contribution of $12 million is recommended for the Board of Education for maintenance improvements and emergency repairs to public school buildings including athletic and recreational grounds and facilities. A blue ribbon group of business and civic leaders issued a report

last year identifying $150 million in deferred maintenance of public school buildings and facilities including such serious problems as overloaded electrical systems, leaking roofs, and fire doors that were inoperative.

Mr. Chairman, the financial burden that is being placed on our hospitals because of uncompensated care is a serious problem nationwide. We recommend $5 million in this bill to improve and expand services at D.C. General Hospital, the city's only public hospital. The hospital's bed capacity was reduced from 500 in fiscal year 1988 to 410 in fiscal year 1989, and 3 of its 7 operating rooms are closed because of inadequate funding even though it has a level I trauma designation and the busiest emergency room in the District. The committee believes that a strong public hospital is an important step toward addressing the health needs of the uninsured in the District and that it is the most effective method of addressing the problem of uncompensated care.

The bill includes a Federal contribution of $3 million to Children's National Medical Center for a cost-shared National Child Protection, Trauma and Research Center focused on child and substance abuse prevention, trauma emergency medical care, pediatric AIDS/HIV treatment, and critical care of newborn, pediatric and adolescent patients.

Mr. Chairman, I want to bring to the Members's attention the $26.7 million we recommend for drug emergency programs. These funds will be used to continue funding 700 additional police officers and will allow the police force to reach a level of 5,055 officers by December 1990, the highest level since they were at 5,100 in 1974, 17 years ago.

DISTRICT FUNDS

Let me move on now to District funds. In the area of human support services, the bill includes $873 million for programs such as drug treatment and drug education, foster care, day care, the homeless, AIDS programs, mental health programs, and the operation of senior citizen programs. This appropriation has grown from $565 million in fiscal year 1985 to $873 million this year, and spending pressures are continuing unabated.

For public safety and justice, we recommend $919 million or an increase of $50 million above last year's level. This is one of the largest single increases in any area of the budget and includes funding for fire and police protection, ambulance service, and support for the city's criminal justice system.

We recommend $735 million for public education, an increase of $51 million, to boost the public school system and to keep the neighborood libraries open and stocked with books and to provide other education related activities.

For public works, the bill includes $229 million for a variety of efforts including street and sidewalk maintenance, sanitation services, metrobus and metrorail operating support, snow removal, and maintenance of open space areas.

ENTERPRISE FUND

The bill includes $226 million for the water and sewer enterprise fund which is used to provide safe drinking water and to collect, treat and dispose of waste water for the District and a large portion of the neighboring jurisdictions.

CAPITAL OUTLAY

The capital budget recommended by the committee totals $353 million and includes $40 million for a variety of public school improvements, $17 million for the District of Columbia School of Law to acquire a site and construct a permanent facility, $17 million for public housing improvements, and $33 million for several Department of Human Services improvement and renovation programs. The committee's recommendation also includes $129 million for the Department of Public Works for the rehabilitation and improvement of roads, streets, and bridges, the upgrading of environmental support facilities, and the renovation and general improvements of government facilities.

GENERAL PROVISIONS

As far as general provisions are concerned, we have included most of the ones that have been carried for years with a few exceptions.

In section 117 we recommend language that restricts the use of Federal funds for the use of abortions except for rape, incest, ectopic pregnancies, and to save the life of the mother. We do not restrict the use of local funds; that is a decision that should be made by the local government, just as it is in your home state and in my home state. Abortions are either legal or they are not. And if they are legal, then all women should be treated equal, regardless of their economic circumstances. Just because they cannot afford the financial costs should not mean they are denied the medical treatment they choose if that identical treatment is available to women who have money to pay for the procedure.

The committee did not approve language requested by the District government and transmitted to the Congress by the President which would have authorized public officials to use private donations for public purposes. The committee believes the proper forum for public debate on this matter rests with the authorizing committees and has advised the committee of jurisdiction accordingly.

COMPARISON WITH BUDGET RESOLUTION

In comparing this bill with the budget resolution, our recommended funding level is $6.8 million below the 302(b) allocation in budget authority and $17 million below in outlays.

APPRECIATION TO MEMBERS

Mr. Chairman, again I want to commend the ranking member, Mr. GALLO, for his assistance in shaping this bill, and I appreciate the conscientious and dedicated service of all the members of the subcommittee. Members who serve on this subcommittee do so out of dedication and commitment. It does nothing to help them back in their home districts. They do it as a labor of love, and they are all outstanding Members of the House—Mr. NATCHER of Kentucky, Mr. STOKES of Ohio, Mr. AUCOIN of Oregon, Mr. DWYER of New Jersey, Mr. HOYER of Maryland, Mr. GREEN of New York, and Mr. REGULA of Ohio.

I want to especially thank my good friend from Kentucky, Mr. NATCHER. He has continued to serve with me even while he chairs the Appropriations Subcommittee on Labor, Health and Human Services, and Education and serves on the Rural Development and Agriculture Appropriations Subcommittee. He has been on this subcommittee for 37 years and 17 of those were as chairman. I want him to know that it is a privilege to serve with the gentleman.

CONCLUSION

Mr. Chairman, this is a good bill. The budget is balanced with projected revenues equal to budget authority. And 87 percent of the general fund budget is from local sources rather than Federal funds.

We are below our 302(b) allocations in both budget authority and outlays.

We respectfully request that the bill be approved as presented to the Committee this afternoon.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I would like to say how much I have appreciated the opportunity to serve as ranking minority member of the Subcommittee of the District of Columbia under the leadership of the chairman, Mr. DIXON of California. His hard work, his strong interest in the general good of the people of the District, and his unflagging desire to assist the elected and appointed officials of the District in carrying out their responsibilities to their citizens has been an inspiration to us all.

Also, I would like to thank Mr. GREEN of New York and Mr. REGULA of Ohio, Members from my side of the aisle, who have graciously shared their time and experience with me. And, I wish to call to your attention the bipartisan support and assistance given by the former chairman, Mr. NATCHER of Kentucky, and by Mr. STOKES of Ohio, Mr. AUCOIN of Oregon, Mr.

HOYER of Maryland, and Mr. DWYER of New Jersey.

I mention the States that the members of the subcommittee represent in order to underscore the fact that service on this subcommittee does not provide direct benefits to our constituents nor does it provide us with opportunities to launch nationwide programs. We serve, representing the Congress in its special role as the protector and yet also partner of the District of Columbia, a unique entity, our Nation's Capitol.

Mr. Chairman, this bill, H.R. 5311 which provides appropriations for the District of Columbia consists of two separate parts. One part is the Federal payment which, as it has for years remains unchanged but is augmented to include $23,640,000 basically for school maintenance and programs to engage children in healthful alternatives to a nonproductive life on the streets and for the extraordinary expenses that hospitals are undertaking as they try to help, in particular, the innocent young victims of the drug epidemic. As strongly as I believe that this addition is fair, representing less than the amount that would have kept pace with inflation, I must point out—as I did during the hearings—that this increase is not carved in stone. The budget we are working under is not final and the amount of the Federal payment is subject to change.

The other part of the appropriation is the major portion and it accounts for over 86 percent of the District's budget. The money for this portion is raised in the same way that any large municipality raises money—from a combination of local property, income and other taxes, and from grants. The elected representatives of the over 625,000 people who live in the District have the responsibility of deciding how these funds will be raised and I believe that they also should have the responsibility of determining how they will be spent.

As I said before, the District is a unique entity and we in Congress have a very special relationship with it. We do have a duty to ensure the safety of our own constituents as they visit the seat of their government. We do have a duty to share our experience. We have a duty to make sure our Federal Government can function—that its employees can get to work, and that diplomatic activities are carried out.

But, when the elected representatives of the District decide to spend the tax money of the District's citizens to make it possible for all District women, regardless of income, to chose to have a safe abortion, we do not have the duty to overrule them.

These are hard times for District citizens. The murder rate is still climbing. Too many people continue to lose their lives because of drugs; too many babies continue to be born addicted to crack; too many continue to be injured or abandoned by their mothers and fathers.

The District faces the same economic conditions that the rest of the Northeast faces. Tax collections are down and human service expenditures are up. In addition, every major elective position is being challenged. I believe that City Administrator Carol Thompson and her team have done an outstanding job under very difficult circumstances, but there is no substitute for stable government and stable financing.

The District cannot afford to rely on short term borrowing while we have our annual knockdown and drag-out fight over abortion. For this and many other good reasons I believe that H.R. 5311 should be accepted as reported, subject of course to the final Federal budget. The $542,918,000 in Federal funds proposed for the District is not only less than our 302(b) allocation, it is also $39,049,000 less than we appropriated last year. The total appropriation of $3,856,792,000 meets the congressional requirement that the District have a balanced budget with revenues equal to expenditures.

Mr. Chairman, again I want to thank my fellow members of the subcommittee and urge that the members of this Committee of the Whole vote to accept H.R. 5311 as reported.

Mr. Chairman, I reserve the balance of my time.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Committee on the District of Columbia, the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 5311, the D.C. appropriations bill for fiscal year 1991.

Mr. Chairman, H.R. 5311 as reported by the Subcommittee on D.C. Appropriations, includes in increase in the Federal payment to the District of Columbia. For the record Mr. Chairman, the Federal payment to the District of Columbia has not been increased since 1985. At that time it constituted 20.5 percent of the operating budget. Had that percentage remained the same throughout the 5-year period of 1985 to 1990, the Federal payment would be $663 million instead of the $435 million presently in the President's budget. Today the Federal payment is down to 13.8 percent of the operating budget. This is neither fair nor equitable—for it has not kept pace with inflation or the increased needs and demands placed on the government of the District of Columbia during the past 5 years.

Mr. Chairman, H.R. 5311 does not attempt to close the gap created by our failure to increase the Federal payment during the past 5 years. If we were to do that, the Federal payment would be increased by more than $225 million. Instead the increase is $55 million dollars, all of which is directed toward very specific programs. Those programs include:

Drug emergency funding—$26 million which includes a payment to the Federal prison system and the 1989 increase in metropolitian Police Department authorized by D.C. Police Authorization Act of 1989 and signed into law by President Bush, Public Law 101-223.

In addition, H.R. 5311 provides for Federal contribution of $3 million of a national child protection research center which has a total cost estimate of $50 million.

Also included in this bill is a Federal contribution of $12 million for D.C. schools and $5 million for D.C. General Hospital.

The additional sums are clearly spelled out on pages 16-21 of the committee report that accompanies H.R. 5311.

Mr. Chairman, I want to assure my colleagues that the authorizing committee, which I chair, has under consideration at this time a bill whichu includes the authuorization for the increase in the Federal payment not covered by Public Law 101-223, the D.C. Police Authorization Act of 1989.

Mr. Chairman, H.R. 5311 is a good bill and and deserves thue full support of my colleagues in the House.

I urge you to join me in voting for passage of H.R. 5311.

□ 1540

Mr. GALLO. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I will say at the outset that the chairman of this committee and the ranking member of this committee deserve a lot of credit for the diligence they apply to a thankless task. This city is the Capital of the United States. It is vitally important that we do our best to make this a first class city, and one that we will all share with pride.

I do hope the Members will take time to read the additional views I have submitted in the report.

I have been concerned about the school system here because that is the future of any community, particularly here. It is important that young people who in effect have no choice over what their school opportunity will be, that they have a good quality school system that will give them the chance to break out from some of the problems that exist in families and otherwise in this city.

I want to commend also, the groups in the city that are trying to help themselves, the Committee on Public Education, Parents United and the Washington Lawyers Committee.

There are a number of groups who are making a valiant effort to improve the school system, and they deserve our thanks. Also, they deserve our assistance.

I am troubled by the fact, and I have outlined this in my additional views, that the school system is top heavy with nonteaching personnel. The heart and soul of any school system is the teacher, the teacher that reaches out, inspires that young person to better themselves, to give themself esteem. The teacher is such a vital part of any education program, and yet in this situation we are overloaded with nonteaching personnel. As a result, the money is not there to pay the teachers as well as they should be. Things are left undone in terms of attracting top flight teachers.

That leads me to the buildings. They are deplorable. There are too many. They are not well taken care of. The image that is projected to that student of the school itself is that no one cares about the conditions in which the students have to function. D.C. schools have 176 buildings for 81,000 students. By contrast, for example, Albuquerque, NM, has 115 buildings, for about 84,000 students. Last year there were 19 fires in the buildings. We even have instances where exits are chained shut. The building conditions in the city school system are really undesirable, and I am certain this has an impact on the students and their attitude toward the school system. We find also that the students in the D.C. system get less time overall. They lose the equivalent of about 1 year of school, because of a shorter day and because they do not have the opportunities as a result thereof that we find in adjacent districts. We are advised that 24 buildings, do not even have a facility for students to wash their hands. There are all types of adverse conditions which are part of what the students are forced to tolerate. I think it is absolutely essential that we in the Congress take some interest in the school program. It is part of our responsibility, and we should give support to those who are trying to make an improvement, namely the parents' groups.

I also want to comment on the $800,000 study that we provide in this bill. The city has had home rule here for 15 years, and it is the committee's feeling that we ought to take a look, that there might be a better way such as a city manager form of government. We are not talking about statehood, that should be made clear up front.

I have introduced a bill to give the city to Maryland; to set up a system similar to what Canada has for Ottawa. It is the capital of that country, and yet is a city in one of the provinces of Canada. This legislation would be great for the people, because they get plugged into the Maryland education system, they get plugged into the health system; the highway system; the economic development system; the human services, programs and a whole host of support systems that are not presently available.

Speaking of that, I might go back to the school system for a moment and point out that it has a double level of administration. There is a State type of administration and also a duplicate public school administrative system. We have asked them about why they do not combine the two and use the money saved to improve teachers' salary, and there really is no answer provided.

This would be one of the problems of statehood, there would be a double level of administration, a governor and legislature as well as mayor and a council. In that instance we get more government and more cost without any improvement in the delivery of services to people.

What we are thinking about in this home rule study are what possibilities, such as city manager government, or something similar to that, that might be available, that would make the city function more effectively. The bottom line of all this is that we share the responsibility as the Congress to ensure that the people in the city of Washington, DC, have the same quality of government, the same quality of education, the same quality of health services, that we expect in all of our cities. That has been the objective of this subcommittee in working with this legislation that even though we do not have direct responsibility that we try to urge those that are on the firing line of the city and have the responsibility for making it work, be encouraged to improve the quality of life for the people that live in this city. This is a concern that we should all participate in and that has certainly been the objective of this subcommittee as we have worked with the budget of the city.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, as the elected Member of this body representing the people of the District of Columbia, I want to add my commendation to that of the chairman of the Committee on the District of Columbia and to the subcommittee on its recommendations to the House on this budget. I do so in gratitude first for the kind of sensitivity that the full committee and the subcommittee have evidence in dealing with the expanding needs of our public schools.

The gentleman from Ohio [Mr. REGULA] has referenced that, and I am most appreciative on behalf of the parents, teachers and young people of the schools of our Nation's Capital for that added investment in our determination to provide quality education here in our Nation's Capital. I want to also commend the committee for the valor they have shown in addressing one of the most serious problems confronting this Nation, one that reflects itself rather acutely in the experience of the District of Columbia residents, namely that of illegal drug trafficking.

We are grateful that Members have chosen to extend the provisions of the bill which I offered at the last session, to train 700 additional police officers, to promote the public safety of those who are in particularly exposed areas of the city. I am also grateful for the eight additional justices who have been provided for our Superior Court, but most important, I am pleased at the fact that the committee has recognized the need for valiantly addressing this drug problem by assuring we have additional funds for the education of our young on the dangers of drug use, and more particularly, that the committee has afforded assistance in providing medical treatment, prenatal care, for those who unfortunately are pregnant and who have exposed themselves, and thus their unborn infants, to drugs.

I am particularly sensitive to this because about a year ago my wife encouraged me and convinced me that one of the best things we could do as citizens of our Nation's Capital would be to take an 8-week course to see if we could qualify to become parents of one of those abandoned boarder babies. We went through that 8-week course last year, and in only June of this year we took into our home one of those boarder babies, and we had a wonderful experience loving the crack out of her. That experience itself demonstrates the need for this kind of balance the committee has voted for, providing treatment so that we do not get more of these boarder babies.

I remind the House as well that we should remember that the Federal payment level that is recommended here, as several Members have already noted, does not represent any increase in the last 5 years in the level of Federal payment, and as a result we have dropped from 20.1 percent of the budget being borne by the Federal Government to 13.9 percent, which means now that in excess of 86 percent of the budget is being borne by the citizens of the District of Columbia. Even now, as we sit in this Chamber, the elected government is somehow trying to find $90 million to account for the shortfall that we had this year. Had we voted the same level of Federal payment in 1990 as we did in 1985, there would have been $200 million more, as the chairman of this committee pointed out.

I want the Members to bear that in mind, and that certain amendments may be offered here today to cut the level of the Federal payment or spend-

ing across the board. The citizens of the District of Columbia are already more highly taxed than any others in the region, and in many ways they are more highly taxed than any others anywhere in the Nation. I hope Members will bear that in mind, and hopefully at a later time we will have an opportunity to vote on the Dellums amendment which will at least provide us with a Federal payment which would be what it was 5 years ago and enable us to seal this partnership between the citizens of the District of Columbia and the Federal Government in assuring that in our Nation's Capital we have the kind of stability that provides for the proper and unimpeded function of the three branches of our National Government.

Mr. GALLO. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I rise in support of this legislation, and although there are some amendments that will be offered by various Members, let me say that although this is not a perfect bill, it is a good bill and deserves the support of the Members of Congress.

I will say to the Members that I feel almost sorry for the chairman of the subcommittee on the District of Columbia of the Appropriations Committee. This has been some day for him. It seems just a short time ago that we were in the well of this House doing the same thing, but time flies when you are having fun.

Once again the issue before us is the District of Columbia appropriations bill, and I take this time, Mr. Chairman, basically to express my appreciation to the chairman of the subcommittee, the gentleman from California [Mr. DIXON], and the ranking member and vice chairman of the subcommittee, the gentleman from New Jersey [Mr. GALLO], as well as the members of that subcommittee. All of these gentlemen have been exceedingly courteous and cooperative with this Member.

This matter is a matter of some significance to my particular district. I am truly grateful for their thoughtful consideration of these matters which do impact dramatically on many of us. I want to add my appreciation to the chairman of the authorizing committee, the gentleman from California [Mr. DELLUMS], with whom I have a close personal relationship and a good relationship and understanding.

I will conclude these remarks, Mr. Chairman, by simply making note of the fact that this bill does now and will hopefully at the conclusion of these proceedings include $10 million for the acquisition and design of a plant for sorting and processing recycled solid waste in this city, another million and a half dollars or so to complete the renovation of the mass burn facility in northeast Washington, and $700,000 for the trash compactor in Washington, DC. There are many aspects of this bill that will help the general Washington metropolitan area, and for all of that I am truly grateful.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 5311, the District of Columbia appropriations bill for fiscal year 1991.

This bill provides $542.9 million in Federal funds to the District of Columbia, and it appropriates approximately $3.8 billion in locally raised funds for the District.

Of the Federal funds provided, $430.5 million for the Federal payment top the District, the same amount as appropriated last year and the same as the President's request. In addition, the bill provides $52 million for the Federal contribution to the police officer's and fire fighters', teachers' and judges' retirement fund; $10 million for the transitional payment for Saint Elizabeth's Hospital; $26.7 million in drug emergency funds. All of these amounts were requested by the President.

The committee did add several items that were not request and that are not authorized, including $1 million for the Commission on Budget and Financial Priorities; $800,000 for a home rule study; $1.6 million for the Department of Administrative Services; $12.08 million for the Board of Education for capital repairs; $5 million for the D.C. General Hospital for improvement and expansion of services; and $3 million for the Children's National Medical Center.

Even with these add-ons, the bill as reported is under the 302(B) allocation for budget authority and outlays.

However, these items do bring the bill, in Federal funds, about $23.6 million above the President's request, and as a result the administration objects to adding these additional funds.

The administration also objects to the abortion provision included in the committee reported bill, and the Statement of Administration Policy predicts that "the President's senior advisers would recommend that he veto any District of Columbia appropriations bill that does not contain * * *" the language they requested. I have included for the RECORD a copy of the administration's position on this issue and the bill as a whole.

STATEMENT OF ADMINISTRATION POLICY

The Administration continues to oppose House action on appropriations bills in advance of a budget summit agreement. Such action could unnecessarily and perhaps harmfully complicate implementation of a final budget resolution that reflects the agreement. However, inasmuch as the House is apparently going to take action, the Administration will express its views on these bills as they come before the House. The purpose of this Statement of Administration Policy is to express views on the District of Columbia Appropriations Bill, FY 1991, as reported by the House Appropriations Committee

The Administration objects to the provision that is included in this bill concerning the use of Federal and local funds to finance abortions. Last year, the President vetoed the first FY 1990 District of Columbia appropriations bill because it contained language identical to that included in this bill.

We urge the Congress to send to the President a bill that includes the language concerning abortion that was included in both the FY 1989 and FY 1990 District of Columbia Appropriations Acts. This language is a prohibition on the use of Federal and local funds to perform abortions, except where the life of the mother would be endangered if the fetus were carried to term. The President's senior advisors would recommend that he veto any District of Columbia appropriations bill that does not contain this language.

This and other concerns the Administration has with the bill are outlined in the attachment.

H.R. 5311—DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1991

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding Levels

The Administration opposes the Committee's addition of $23.6 million to the President's request for Federal funding for the District. Federal funding for the District, like other domestic discretionary programs, must share in the burden of meeting Gramm-Rudman-Hollings deficit reduction targets. It is inappropriate to earmark these Federal tax dollars for purposes that are clearly a local responsibility (i.e., District schools and hospitals).

B. Language Provisions

The Administration objects to the provision included in this bill concerning the use of Federal and local funds to finance abortions. Last year, the President vetoed the first FY 1990 District of Columbia appropriations bill because it contained language identical to that included in the Committee bill. This provision would place no restrictions on the use of District funds for abortion and would prohibit the use of Federal funds to pay for abortions unless: (a) the life of the mother is endangered if the fetus is carried to term or (b) medical procedures are necessary for victims of rape or incest that has been promptly reported to legal or medical authorities. The provision would also allow payment for anti-pregnancy drugs and for medical procedures to terminate ectopic pregnancies.

We urge the Congress to send to the President a bill that substitutes the language concerning abortion that was included in the FY 1989 and FY 1990 District of Columbia Appropriations Acts. This language is a prohibition on the use of Federal and local funds to perform abortions, except where the life of the mother would be endangered if the fetus were carried to term. The President's senior advisors would recommend that he veto any District of Columbia Appropriations bill that does not contain this language.

The Administration requests that legislation excluding Federal fund payments to the District from the apportionment process, contained in section 132 of the FY 1988 District of Columbia Appropriations Act, be repealed. This exclusion is a highly objectionable erosion of Presidential authority. The apportionment restriction also provides the District with a "hidden budget increase". This increase is worth about $13 million in the form of higher interest earnings when the entire Federal payment is provided at the start of the fiscal year rather than apportioned quarterly in four

equal payments over the year. Most grants to States and local governments are apportioned quarterly.

The Administration continues to support legislation that would require Federal agencies to pay the District directly for water and sewer services. Requiring the Department of the Treasury to continue to act as a conduit for funneling payments to the District is an administrative burden and expense to Treasury and contributes nothing to the payment process. The District also reaps a windfall benefit because water and sewer rates charged the Federal government include the cost of direct billing services not provided to Federal buildings. Concerns that Federal agencies won't pay the District are unfounded. There is no record of unreconciled non-payment complaints from utilities providing services to Federal buildings located outside of the District. Furthermore, all Federal agencies are bound by requirements of the Prompt Payment Act.

Mr. FAZIO. Mr. Chairman during today's consideration of H.R. 5311, two provisions are of particular importance and interest to those of us concerned with individual liberties and freedom of choice.

First, I would like to commend the chairman, Congressman Julian Dixon, and the members of the subcommittee for including language in this bill which will allow reproductive choice for the women of the District of Columbia. This important provision will allow the District government to use its own locally raised revenue to pay for abortions and allow Federal funds for cases of rape or incest.

This provision not only reaffirms our prochoices position, but it allows us to show support for self-governance for the District of Columbia. Most importantly, however, is that it gives the poor women of the District of Columbia some control over their own destinies. And despite his veto of this legislation in the past and current threats, I hope that President Bush will reconsider his misguided opposition to this language and recognize that the will of Congress and the American people is to allow reproductive freedom.

The second issue of concern in the consideration of this bill is the ill-advised move to attack the arts community by cutting funds for the University of the District of Columbia because of its role in sponsoring the Judy Chicago art exhibit entitled "The Dinner Party."

Judy Chicago is a prominent artist in my home State of California and has resided for some time in Benicia, CA, an arts community located in my congressional district. She has devoted her career to feminist achievements and has been a moving force in the women's arts movement.

It is a commentary on the strength and the wisdom of a government which supports and nurtures the creativity of its artists. Every society needs its artists; they are its watchers, its critics, and its champions. Judy Chicago is such an artist.

Ms. Chicago spent 5 years creating The Dinner Party, a monumental ceramic and needlework project that seeks to convey the social history of women in the Western World and to broaden the base of art.

If we fostered an environment where there was no controversy in art, the result would be an assembly of unimaginative and unchallenging works. We cannot encourage creative work in an environment where artists must continually question what will be acceptable to every segment of our society.

Mr. DIXON. Mr. Chairman, I have no further requests for time.

Mr. GALLO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1991, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1991, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 4,430, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Hospital Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $10,000,000.

CRIMINAL JUSTICE INITIATIVE

The $70,300,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1989, and September 30, 1991, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison: *Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further,* That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

DRUG EMERGENCY

For a Federal contribution to the District of Columbia, $26,708,000, to remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases.

COMMISSION ON BUDGET AND FINANCIAL PRIORITIES

For payment to the District of Columbia for expenses incurred in fiscal year 1990 and fiscal year 1991 by the Commission on Budget and Financial Priorities, up to $1,000,000: *Provided,* That such funds shall become available only when equally matched with District funds.

HOME RULE STUDY

For payment to the District of Columbia for an indepth study of the District's present governmental structure by an independent research organization or institution of national prominence, $800,000: *Provided,* That the request for proposal shall be transmitted to the House and Senate Committees on Appropriations and the respective authorizing committees for the District of Columbia at least 15 days, excluding Saturdays, Sundays, and holidays, prior to release for bid: *Provided further,* That the Mayor of the District of Columbia shall notify the House and Senate Committees on Appropriations and the respective authorizing committees for the District of Columbia at least 15 days, excluding Saturdays, Sundays, and holidays, prior to the contract award: *Provided further,* That the complete study shall be transmitted by the contractor to the Congress at the time it is provided to the Mayor and the Council of the District of Columbia.

DEPARTMENT OF ADMINISTRATIVE SERVICES

For a Federal contribution to the District of Columbia for the Department of Administrative Services, $1,600,000.

BOARD OF EDUCATION

For a Federal contribution to the District of Columbia, $12,080,000, of which $10,000,000 shall be for maintenance improvements and emergency repairs to public school facilities, $2,000,000 shall be for renovations to public school athletic and recreational grounds and facilities, and $80,000 shall be for the D.C. Schools Project for immigrant children.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

For a Federal contribution to the District of Columbia for the After School Kids Program, $160,000.

DISTRICT OF COLUMBIA GENERAL HOSPITAL

For a Federal contribution to the District of Columbia General Hospital, $5,000,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, $3,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current

fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,279,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $9,077,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $818,000 shall be derived from the general fund and not to exceed $8,259,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the Indirect Cost Allocation distributed by the District government, no less than $500,000 shall be provided to the Department of Administrative Services and no less than $500,000 shall be provided to the Office of Personnel.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $135,541,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $275,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $919,323,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1991, shall be available for obligations incurred under that Act in each fiscal year since inception in the fiscal year ending September 30, 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1991, shall be available for obligations incurred under that Act in each fiscal year since inception in the fiscal year ending September 30, 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the United States Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1991, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That at least 21 ambulances shall be maintained on duty 24 hours per day, 365 days a year: *Provided further,* That the staffing levels of each two-piece engine company within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect: *Provided further,* That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Firefighting Division of the Department: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as published in the District of Columbia Register for July 25, 1986 (33 DCR 4453a): *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved: *Provided further,* That $17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $735,240,000, to be allocated as follows: $526,764,000 for the public schools of the District of Columbia; $22,000,000 for pay-as-you-go capital projects for public schools; $81,200,000 for the District of Columbia Teachers' Retirement Fund; $76,913,000 for the University of the District of Columbia; $20,378,000 for the Public Library; $3,527,000 for the Commission on the Arts and Humanities; $3,940,000 for the District of Columbia School of Law; and $518,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That the amount allocated under this title for the public schools shall be increased, dollar for dollar up to $36,400,000, by the amount the annual Federal payment for fiscal year 1991 is increased above the current $430,500,000 Federal payment in fiscal year 1990: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the

District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1991, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That under this heading for the fiscal year ending September 30, 1991, the Public Library shall be considered a statutorily independent agency and thus shall be exempted from any and all across-the-board rescissions that may be applied to agencies under the control of the Mayor.

HUMAN SUPPORT SERVICES

Human support services, $873,390,000: *Provided,* That $20,848,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used to provide health care to homeless persons: *Provided further,* That not less than $191,000 of the funds appropriated under this heading shall be used by the Administrator of the Youth Services Administration to install security fences and security lighting at the Oak Hill Juvenile Detention Facility and security lighting at the Cedar Knoll Facility: *Provided further,* That of the funds provided for the provision of emergency shelter services in the Department of Human Services, three-fourths of the funds shall be available solely for allocation to a legally constituted private nonprofit organization in the District as defined in section 411(5) of the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 495; 42 U.S.C. 11371(5)): *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services, if the District would not be qualified to receive reimbursement pursuant to the McKinney Act (42 U.S.C. 11301 et seq.): *Provided further,* That the Hurt Home located at 3050 R Street, Northwest, in the District of Columbia, shall not be occupied by residential or day patients or used as a residential treatment facility until final adjudication by the relevant courts.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $229,482,000: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further,* That any unobligated funds from the school transit subsidy shall be applied solely to the repayment of the general fund accumulated deficit.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $8,383,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual Convention Center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, space note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $252,740,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $213,403,000 general fund accumulated deficit as of September 30, 1989, $20,000,000, of which not less than $18,287,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1991 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), as amended, the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order: *Provided further,* That all net revenue the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint Communications, et al. v. District of Columbia et al., CA 10080-87 (court order filed November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $13,028,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,112,000.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENT

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object class 20 (supplies), 30a (energy), and 70 (equipment) in the amount of $10,000,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $10,000,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $324,322,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $15,962,000 shall be available for project management and $17,521,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use by each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $22,000,000 for the public school system, $392,000 for the Department of Recreation and Parks, and $2,208,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1992, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1992: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $226,209,000, of which $36,608,000 shall be apportioned and payable to the debt service fund for repayment of loans

and interest incurred for capital improvement projects.

For construction projects, $28,730,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That $39,609,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriations Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,600,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,700,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personnel compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1991, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 40,037.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1992, shall be transmitted to the Congress no later than April 15, 1991.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1990 shall be deemed to be the rate of pay payable for that position for September 30, 1990.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1991, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1991 revenue estimates as of the end of the first quarter of fiscal year 1991. These estimates shall be used in the budget request for the fiscal year ending September 30, 1992. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking out "sold before October 1, 1990" and inserting in lieu thereof "sold before October 1, 1991".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 133. Section 133(e) of the District of Columbia Appropriations Act, 1990 is amended by striking "December 31, 1990" and inserting "December 31, 1991".

SEC. 134. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 135. For the fiscal year ending September 30, 1991, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 136. For purposes of appointing individuals as attorneys, the residency provisions of section 1-610.6 of the District of Columbia Code, shall not apply: *Provided*, That individuals hired as attorneys shall be subject to the residency preference provisions of section 1-608(1)(e) of the District of Columbia Code.

This Act may be cited as the "District of Columbia Appropriations Act, 1991".

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment and points of order at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I have a point of order on page 5.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. WALKER. Mr. Chairman, I make a point of order against the paragraph on page 5, beginning on line 6 through line 8, on the grounds that it violates section 2(a) of rule XXI, which states that no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law.

The CHAIRMAN. Does the gentleman from California [Mr. DIXON] wish to speak on this point of order?

Mr. DIXON. Yes, I do, Mr. Chairman.

Mr. Chairman, I would say that this money was added basically because of the feeling of the committee that this department, which is the backbone of the District as far as providing goods and services to other agencies, is underfunded. But the gentleman from Pennsylvania [Mr. WALKER] makes a good point, and I would not challenge his point of order.

The CHAIRMAN (Mr. Bosco). The point of order raised by the gentleman from Pennsylvania [Mr. WALKER] is conceded and sustained.

Are there further points of order?

If not, are there any amendments to the bill?

AMENDMEND OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS: Page 4, strike line 14 and all that follows through page 5, line 5.

Mr. PARRIS. Mr. Chairman, this amendment would delete from the bill, funds provided to the District Government to contract for a study of the city's current governmental structure under the Home Rule Act.

In offering this amendment, it is not my intention to call into question the good faith or motives of the Appropriations Subcommittee on the District of Columbia, nor any of its members. But this particular provision place in this bill. On the contrary, it is a matter completely under the jurisdiction of the authorizing committee, of which I am honored to serve as vice chairman.

It is further the intent of the chairman of the District Committee, Mr. DELLUMS, and myself to conduct extensive hearings on his very matter in the near future.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, I understand and appreciate the stand and the motives of the gentleman from Virginia [Mr. PARRIS] for this amendment, and I actually do not have any problem with striking this language. I thought this language was the result of an agreement that members of the committee had reached. It is my understanding that the ranking member of the Subcommittee on District of Columbia Appropriations also has some problems with the language. Therefore, Mr. Chairman, I will accept the gentleman's amendment.

Mr. PARRIS. Mr. Chairman, I appreciate the gentleman's comments.

Mr. GALLO. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from New Jersey.

Mr. GALLO. Mr. Chairman, I will accept that amendment.

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Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. DELLUMS], the chairman of the Committee on the District of Columbia.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman from Virginia [Mr. PARRIS], my colleague, for yielding this time to me, and first I say I thank my colleague for his kind and generous remarks during the general debate; and, No. 2, to say that I welcome the acquiescence of both the distinguished subcommittee chairman and the ranking minority member on this amendment. I think the gentleman from Virginia [Mr. PARRIS] has done the House a service by focusing on the fact that, if this study should go forward, it should go forward under the jurisdiction of the authorizing committee. No. 3, I would say to my colleagues in the body that authorizing committee has already begun this process and that we will continue as diligently as possible within the framework of the resources that we have available to try to accommodate the body and to do exactly what it is the Committee on Appropriations chooses to do, but we will do it within the framework of the institutional constraints that ought to provide the opportunity for the authorizing committee to do this.

Mr. Chairman, I thank the gentleman from Virginia [Mr. PARRIS] for yielding, and I thank my distinguished colleagues for their acquiescence.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PARRIS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MC DERMOTT

Mr. McDERMOTT. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. MCDERMOTT: Page 5, insert after line 21 the following:

DEPARTMENT OF PUBLIC WORKS

For a Federal contribution to the Department of Public Works of the District of Columbia for the preparation of an environmental impact statement relating to the expansion of the landfill at the Lorton prison, $100,000.

Page 15, line 13, insert before the period the following:

Provided further, That not less than $100,000 of the funds appropriated under this heading shall be used to prepare an environmental impact statement relating to the proposed expansion of the landfill at the Lorton prison prior to carrying out such proposed expansion.

Mr. McDERMOTT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McDERMOTT. Mr. Chairman, I ask unanimous consent that these two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McDERMOTT. Mr. Chairman, the amendments I offer to H.R. 5311 calls for the government of the District of Columbia to complete an environmental impact study of the proposed expansion of the Lorton landfill in Lorton, VA. The purpose of the study is to insure that the proposed expansion does not adversely affect the Lorton communities and those communities surrounding the landfill. Mr. Chairman, this amendment was requested by the ranking Republican of the D.C. authorizing committee, the gentleman from Virginia, STAN PARRIS, and has the full support of the chair of the committee, RONALD V. DELLUMS. In addition it is supported by the chair of the D.C. Appropriations Subcommittee, Mr. DIXON; and the ranking Republican member, Mr. GALLO. Mr. Chairman, I urge my colleagues to support the McDermott amendment.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I would like to thank the gentleman from Washington [Mr. MCDERMOTT] for his assistance in this very important matter, and I would like to extend again my appreciation to the gentleman from California [Mr. DIXON] and the gentleman from New Jersey [Mr. GALLO] for their support in this matter.

Mr. Chairman, I urge my colleagues to support the amendments.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, I have no problem with these amendments, and I am glad to accept them.

Mr. GALLO. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from New Jersey.

Mr. GALLO. Mr. Chairman, the minority has no problem with these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington [Mr. MCDERMOTT].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 33, insert after line 11 the following new section:

SEC. 137. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with, the offices of United States Senator or United States Representatives under section 4(d) of D.C. Law 3-171 (sec. 1-113(d), D.C. Code).

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is a fairly funds restrictive amendment. It is fairly narrowly defined, but, yes, I think it is important.

Mr. Chairman, what it says is that we cannot use the funds provided under this act in order to fund the new shadow Senators and Representatives that the District government has evidently decided to put in place. The reason for this is that, meritorious as the intent may be, the fact is that what we are talking about are paid lobbyists. These are people who are going to be hired to do the job of lobbying the U.S. Congress on behalf of the District of Columbia's statehood proposal.

Mr. Chairman, it is my belief that the taxpayers of the country ought not be picking up the tab for funding lobbyists who are going to come to the Congress. That is not an appropriate kind of precedent to set, and so, therefore, this amendment is designed to assure that the taxpayers are not paying the fees for the lobbyists that

the District of Columbia wishes to send to Capitol Hill.

Mr. GALLO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. GALLO. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER], and I, too, had my concerns when we were discussing this through the committee system and the hearings, and I believe that we have taken care of those concerns.

However, Mr. Chairman, I compliment the gentleman from Pennsylvania [Mr. WALKER] for his clear and concise amendment that makes it explicit that there will be no funds.

Mr. WALKER. Mr. Chairman, I thank the gentleman from New Jersey [Mr. GALLO]

Mr. Chairman, I think that there is language in the bill, as the gentleman points out, that may cover this, but I think that it is very important that we do detail specifically what we mean. I think my amendment gets to that particular issue and very definitely targets it and makes certain that none of these funds may be used for the taxpayers to hire lobbyists.

Mr. FAUNTROY. Mr. Chairman, if the gentleman will yield, I want to thank the distinguished ranking member of the subcommittee for, of course, reminding the distinguished gentleman from Pennsylvania [Mr. WALKER] that he is offering a cure where there is no disease. The fact is, of course, that the appropriation does not authorize in any way Federal funds for the Senators to be elected for this purpose. Indeed, as a consequence of the failure of the Congress to vote even a minimal increase in the Federal payment over the past 5 years, the Mayor and council in their considered judgment concluded that they could not even fund this out of local funds.

So, Mr. Chairman, I hope it is very clear that this amendment addresses a problem that does not exist in this appropriation, and, as I say, it is tantamount to offering a cure where there is no disease.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS: Page 12, line 16, strike "$76,913,000" and insert "$75,313,000".

Mr. PARRIS. Mr. Chairman, this amendment may receive slightly more attention than has been accorded to those that we have dealt with in these last few moments. This amendment, Mr. Chairman, will delete $1.6 million from the operating budget of the University of the District of Columbia and is designed to be in direct response to what I consider to be their lack of fiscal responsibility, questionable propriety of business relationships between various parties and offensiveness to the sensitivities and moral values of our various related communities.

Mr. Chairman, this $1.6 million deletion is identical to the amount of money proposed to be expended by the University of the District of Columbia to renovate the Carnegie Library Building to display a work by feminist artist Judy Chicago which covers almost 1,000 square feet. It is 40 feet across in all of its dimensions, at its triangular. Renovations to accommodate this exhibit include removal of the current mezzanine in the library, installation of a new staircase and elevator, the ventilation system, and some other things. Yet, the library building now needs a new roof and other repairs totaling some $650,000. Somehow the priorities here are, in my view, misplaced.

Mr. Chairman, I have no quarrel with those who may find that this sculpture articulates their own visions, their own beliefs, their sense of appreciation. I have no desire to censor this or any other work, no matter how offensive it may be to me and to many others. But I do have a quarrel with those who would insist that we use public funds to promote and proselytize their own special interests upon an unsuspecting public.

I am more particularly disturbed that this singular exhibit would be the centerpiece; some have called it the hallmark, of what the UDC trustee president called, quote, the first step of the university becoming a repository of human expression, unquote.

Mr. Chairman, what kinds of art, what kinds of messages, what kinds of expressions is this institution asking taxpayers to promote? What value system are we, the Federal lawmakers, responsible for promoting in this, the Nation's Capital, by being asked to give our imprimatur of approval to this particular work?

□ 1610

This exhibit is not a gift, contrary to what you may have read. There are too many restrictions which belie that it is a gift. For instance, the artist retains a license fee for each reproduction, a 25-percent interest in any sales profits, a requirement that the art be insured for $2 million at the expense of the university, even though the sculpture itself cost $250,000 to create, and a faculty job for the artist if a chair or professorship be established in the artist's name. That is not a gift. It is a potential sinecure.

Additionally, it has been reported that the UDC trustee who arranged the acquisition stands to gain as a member of the Board of the Artists Foundation 10 to 15 percent of the profit from the sale of reproductions and other products developed from the work; and to make matters worse, an associate of this trustee would receive $30,000 a year to serve as the administrator of the exhibit, and these two individuals share the same phone number and address. This is hardly an arm's length transaction, nor is it in my view the kind of transaction that trustees for nonprofit tax exempt institutions ought to engage in.

Set aside whether or not the art is controversial or whether it is pornographic, the financial transactions which underlie this exhibit would fail to be acceptable in any other academic institution in the country and should be unacceptable to this Congress.

Finally, for all of this, the transaction is taking place in an institution that is in desperate financial straits and lacking in academic leadership. Nearly $2 million in scheduled pay increases owed to 60 percent of its faculty have not been met, and summer school salaries are not now currently being paid. Overspending has occurred in several areas, including an estimated $500,000 overpayment in a $1.8 million program, almost a 25-percent overrun.

So what do they do? They just cancel the sports program.

The UDC owes $1.8 million for salary increases it did not pay in 1986, and for which it is liable under a court order.

The president of the university resigned or was fired and is now suing the institution for millions of dollars in benefits.

The question, Mr. Chairman, that I do not understand is how the trustees of this university can defend the reprogramming of $80,000 from its current budget to transport this so-called art from California to Washington, DC, and authorize the additional sum to display this item in the face of those financial considerations that I have just discussed.

The UDC under this bill will receive $76.9 million for operating funds, along with an additional $17.4 million for capital projects and $500,000 for electrical and safety repairs, or a total of $94.8 million to this university.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Now, $94.8 million, Mr. Chairman, is a lot of money for a poor Virginia lawyer, and if we gave that sum in portable scholarships to qualify the students, those individuals could attend any first-rate institution of their choice, instead of an institution whose mission is decidedly unclear, whose leadership is lacking and

whose accreditation is apparently threatened and whose idea of an endowment is an art exhibit for which admission fees will be charged and which is considered by most people to be of very questionable taste.

This amendment cuts $1.6 million. That amount is identical to the costs associated with housing this exhibit. It happens to represent 1½ percent of the amount appropriated by this bill to the university.

Now, that is not a lot, but if this university is serious about being an academic institution, it should take to heart our action at this time, and I certainly hope that it will.

There is a time, Mr. Chairman, to let things happen and a time to make things happen, and now is that time. We need to send a message to the University of the District of Columbia, and I would hope that my colleagues will support this amendment.

Mr. DYMALLY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me state my bias before I proceed to respond to my friend, the gentleman from Virginia [Mr. PARRIS].

If I were an autocrat, given this decision to make, I would not have made that decision; so having made clear what I think about the purchase and the expenditure of those funds, let me put these facts into proper perspective.

The money we are talking about is not for those funds. This money is bond money, appropriated by the city council to the District University for reconstruction of the Carnegie Library. The Carnegie Library is part of a greater plan for a downtown campus.

In the course of deliberations, the trustees—not the city council—made the decision to include art in the whole restructuring of the Library. You may have quarrels with the kind of art or you may not, but the issue before us today is not the art, it is not the reconstruction, but it is the autonomy of the university and whether this Congress has the right to be punitive against the university because we disagree.

Now, there exists in Virginia now a major controversy surrounding the Virginia Military Institute. The Virginia Military Institute receives Federal funds, and even with the acceptance of Federal funds I do not think it is appropriate for this Congress to get involved in that controversy.

It is enough for the gentleman from Virginia [Mr. PARRIS] and the Governor of Virginia to resolve that problem.

All across the country there are disputes between the public, the board of trustees, and the administration of various universities. In the final analysis the university makes that decision. It seems to me that it is appropriate to criticize the board of trustees, as the gentleman from Virginia [Mr. PARRIS] has done, and the facts laid out by him are not in dispute, except one, Mr. Chairman. The gentleman from Virginia [Mr. PARRIS] is not exactly unwealthy, even though he declared poverty a few minutes ago; but the other facts laid out are not in dispute.

What is in dispute here with the gentleman from Virginia [Mr. PARRIS] is whether this Congress should take a colonial attitude and punish the university for a decision which some of us believe was not a very discreet one. That to me was a decision which the city council and the board of trustees should make, not the Congress.

Now, by taking away $1.6 million it does not stop the construction of the library, the rehabilitation, in fact, of the library. It does not stop the display of the art there.

We are simply punishing young students who are seeking an opportunity to gain a higher education at the university, and this university, Mr. Chairman, needs the money. The downtown campus needs the money to construct new buildings. We are paying an enormous amount of rent because we do not have adequate facilities for the university, so this is not a question of censure, a question of disapproval. This is a question of violating the autonomy of a university and being punitive by withdrawing Federal funds when no Federal funds were involved in this project; so I hope the Members will reject this amendment.

Let me conclude to say, Mr. Chairman, that I speak today in my capacity as chairman of the Subcommittee on Judiciary and Education which has oversight responsibility for this university.

□ 1620

The chairman of the full committee, the gentleman from California [Mr. DELLUMS], and I only today agreed to meet next week to discuss a strategy to deal with this problem at the University of the District of Columbia. He has taken the position, the gentleman from California [Mr. DELLUMS], that this is local autonomy which we must respect.

We do not go about in California interfering with the University of California because they receive Federal funds or the University of Virginia. We permit them to correct their errors, and if we believe there is an error here, the appropriate bodies to do that are the city council and the board of trustees, not the U.S. Congress.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I am happy to yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from California [Mr. DYMALLY] has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mr. DYMALLY was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would simply like to commend my colleague for his very fine statement. It is extraordinarily difficult to stand on integrity and to stand on dignity and to stand on principle in a body where we more often than not find ourselves dancing on the winds of political expediency.

It is very easy to take on this issue, because in this particular political environment, whether this piece of art is appropriate or should cost this amount of money, it is very easy for Members to rise and give magnificent speeches engaging people at an emotional level, but I applaud the gentleman for standing here attempting to engage us at an intellectual level.

I would say to my distinguished colleague, the gentleman from northern Virginia, he and I do have an excellent working relationship, and there are times when our relationship brings us to the floor and we do major battle, but we do battle hopefully on the intellectual issue. I choose to do that today in the same vein.

We have worked very hard to preserve the dignity and integrity of home rule, and it is very easy, given all the things that are happening in the District of Columbia, for us to move beyond that principle, but I would say to my colleague, at a time in the history of the world when many other nations are running rapidly toward the principles of democracy and freedom, we should not be marching backwards into the 19th century attempting to impose our will.

Granted, some decisions may be made at the local level that arouse our anger, that create problems as we perceive it, but nevertheless, we must come down on the side of their right to make those decisions.

In California, in Oregon, in New York, in Arizona, in Alaska, people have a right to make these decisions, and if people at the local level or at the State level choose to be in direct opposition to those decisions, they have a right to recall those public officials or run against them and defeat them and replace them with other people, where residents in the District of Columbia, it seems to me, have the very same right, and under the principles of home rule, we ought to be saying to them that, "You do, indeed, have this right."

The CHAIRMAN. The time of the gentleman from California [Mr. DYMALLY] has again expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mr. DYMALLY was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. If the gentleman will yield further, we all applauded the openness and freedom that took place when the Berlin Wall came tumbling down in Eastern Europe. When governments toppled in Eastern Europe in the name of freedom and democracy, what message do we send? What message do we send to these people or the children who challenged in Tiananmen Square in China to deal with the issues of democratic principles when we stand in the well of the House suggesting that our own citizens in this country do not have the right to make decisions, even decisions with which we disagree? That is the magnificence of the democratic process, and I would suggest to my colleague that it is not an overstatement to say that whenever we stand up to thwart the rights of the citizens of this country, whether they live inside or outside the District of Columbia, that we send inappropriate messages other places in the world.

If we believe in freedom and democracy, it ought to be good enough for the 600,000 human beings who are the residents of the District of Columbia. If they do not like the expenditure of $1.6 million, let them, within the confines of this political system, make those judgments and bring that pressure. That is what this process is all about.

We were not elected here to be super-city-councilpersons of the District of Columbia. We have more significant business to engage in, or supermayors of the District of Columbia. We have more important business with which to engage.

We certainly were not elected here to become the board of directors or the members of the board of directors of the College of the District of Columbia. We have more significant business to engage in.

We ought to be talking about national policy.

Finally, again, I thank my colleague for his courageous statement. We could have sat here quietly and allowed this matter to pass, but it seems to me that it always takes courage, and I applaud it, it always takes dignity, and I applaud it, it always takes integrity, and I applaud it, to stand up on the braces of principle and to defend the rights and the prerogatives of people to make their own decisions.

I thank the gentleman for his generosity.

Mr. DYMALLY. I thank the gentleman for his kind comments.

Mr. DIXON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there are actually no funds in this bill, none whatsoever, dealing with this artwork that is entitled "The Dinner Party."

For the record, the art work is valued at some $2 million. The $80,000 that the gentleman from Virginia [Mr. PARRIS] talks about is to be expended to ship the artwork to the District. Now, that $80,000 is coming from nonappropriated sources that do not flow from this bill. These are revenues that any university may raise through student fees, through private donations, and through various types of campus activities.

Let me now move to the $1.6 million in renovation costs for the library where the art is to be exhibited. These are renovations which will probably be made a year from now. The renovations will be financed through municipal bonds and will be repaid by District taxpayers, not by the Federal Government. So there is nothing in this bill today whatsoever dealing with this art work entitled "The Dinner Party."

I think it is ironic that the gentlemen from Virginia [Mr. PARRIS], when he was in the well, although I understand his frustration over the issue, talked about the problems of paying the salaries for teachers. But he is actually cutting the funds that are used to pay those salaries. I understand his frustration, but he cannot reach the art work through this bill, because there is nothing in this bill dealing with the art work. I think the gentleman from California [Mr. DELLUMS] and the gentleman from California [Mr. DYMALLY] have adequately addressed the issue for home rule, and I think they both explained that he is not on the university's board of trustees, he is not a part of the D.C. government, and his private opinion is exactly that—his private opinion. He cannot do what he is intending to do through this bill, so I would ask for a no vote on the gentlemen's amendment.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is getting increasingly frustrating to serve in this House with any kind of honor, and the proceedings this morning showed that. Molest a page around here, statutory rape, you get censure. All the proceedings this morning, you get reprimand. Talk filthy to your employees on the telephone, make them hug you in the morning, grab their legs, say to one you would like to smash her face until it bled, you get a letter of reproach.

We now have the pornographic art, I mean, three-dimensional ceramic art of 39 women's vaginal area, their genitalia, served up on plates that requires a whole room at the University of the District of Columbia to be set aside, a room that needs $650,000 of roof repair, and they are asking us for $60 million more, and we are supposed to not find some vehicle to send them a message.

We are told to use Western Union, cross our fingers, that we are not the board of directors, and hope for the best, while everybody concedes it is pornographic.

□ 1630

Here is the headline of one of the papers in this city with a color picture, a long shot of this dinner-table art that was created at the cost of $250,000 a decade ago, and NEA was not a big problem then, because we did not know what was going on. It got $36,500 of tax dollars, and the 39 place settings at this disgusting dinner table are supposed to be great women of history including some women authors, one of whom said she is disgusted and appalled that her name would dare appear at the 39th place setting. Look at this garbage. "UDC's $1.6 million 'Dinner.'" It says it was banned in art galleries around the country because it depicts women's genitalia on plates. It has been characterized as obscene by some critics—not all critics though; $36,500 NEA money—that debate comes up tomorrow, I guess. D.C. Council last week approved a $1.6 million bond issue for the university. To set up this entire room in the university, the mezzanine will be removed, stairs and an elevator will be installed. They refuse to detail the cost for transporting. Insurance is a mind blower to insure this. They are going to set up a $30,000 employee's job to preside over this peace of ceramic 3-D pornography, that we would not let one of our children within the whole campus to go near this thing.

The story goes on to describe it in detail in some newspapers, with some taste that we cannot talk about on the House floor here, because we have got even better rules of decorum than the three networks, the biggest papers in the country now, and I am not saying that is wrong.

The dinner party, some of the people at the university said, "Well, I didn't look closely at the picture. What are you seeing there?" This is a full, gigantic room.

Then an article the next day quotes the gentleman from California [Mr. ROHRABACHER], who will speak in a minute, and the gentleman from Virginia [Mr. PARRIS]. It says, "The D.C. Council's sanity is questioned as the Hill learns of the dinner party," and for some Members, learning 10 years to late.

I have an article that was in yesterday's paper that has nothing to do with the dinner party, ceramic three-dimensional art, insulting another American assault on women. This has to do with the whole school falling apart.

"UDC facing growing debt, status review." This is yesterday. Football players, 65 of them with no eligibility. Teachers not being paid.

Mr. Chairman, I would include the articles for the RECORD at this point.

UDC FACING GROWING DEBT, STATUS REVIEW

(By Jonetta Rose Barras)

The University of the District of Columbia is facing mounting debt and a critical reaccreditation review that school administration officials say could jeopardize the university's academic and financial future.

Enrollment at UDC, said one source within the university president's office, "could literally crash."

Nearly $2 million in scheduled pay raises for teachers and other school personnel have not been met. Some faculty members have not been paid their regular salaries. And overspending has occurred in several areas, including the university's $1.8 million athletic program.

A spokesman for UDC's faculty Senate said the pay issue alone will cause the Middle States Association of Colleges and Schools to scrutinize the school's re-accreditation.

"They are more concerned about the academics," said the spokesman. "But if the school isn't paying its faculty, that definitely affects the academic quality."

An accreditation review team is expected to visit UDC later this month.

"If we come up with an unsatisfactory rating or lose it, that doesn't leave us with an anchor. Enrollment could literally crash, and we could lose grant programs that require accreditation. All of that means a loss of money," said the source, who works in the president's office and spoke on condition of anonymity.

Miles Fisher, UDC's interim president, did not respond to telephone calls.

The 14-year-old university has been plagued by management and fiscal woes since its founding in the mid-1970s. There have been four presidents and two interim presidents. For years its School of Engineering was unable to receive accreditation. The nursing program received accreditation only in May.

The athletic program remains in serious disarray—an internal audit found as many as 60 ineligible athletes played football at the school over the past three years.

Board of Trustees' President Nira Hardon Long earlier this year said the $1.8 million athletic programs budget was overspent by $500,000—at a time when athletes were complaining about not receiving meals.

The football program has been suspended for the upcoming school year, officials said.

In addition, UDC owes $725,000 in back pay to its faculty for scheduled salary increases. Officials are appealing the decision by the federal arbitrator who awarded the amount after the union filed a grievance, said Samuel Carcione, faculty union representative.

If the university loses and does not pay the amount due before the end of fiscal year 1990, the total will double, he said.

In 1986, the union filed an unfair labor practice grievance. It won the grievance, and the university now owes $1.8 million for the years covering 1986 through the present.

"We have always had a terrible time with the administration in this place," Mr. Carcione said.

The two month suspension of some faculty contracts may have cost the school an estimated $450,000 in income, according to an impact statement prepared by staff of the Employment Training Program in the Continuing Education Division.

William Hyman, the division's chief administrator, did not return repeated phone calls to his office.

At the same time, trustees have unanimously approved spending nearly $80,000 from the operating budget to transport "The Dinner Party"—a dramatic piece of sexual sculpture—from a California warehouse where it is currently stored.

They also convinced the D.C. Council to approve a $1.6 million bond issue to cover renovations to the East Wing of the university's Carnegie Library at Mount Vernon Place in Northwest, which will house the sculpture. That bond, including interest, will eventually cost the city $2.4 million.

UDC also must purchase $2 million in insurance, hire security personnel, develop, print and distribute publicity materials for "The Dinner Party" exhibition, according to the agreement.

"This is the worst possible time for all of this," said one upper level administrator about the board's decision to go ahead with the agreement between feminist artist Judy Chicago and her nonprofit corporation, Through the Flower.

"This opens us up for scrutiny that could result in budget cuts that we can't stand to take."

Thomas Perry, a senior at UDC, added, "It's deplorable that the board and the city council would agree to spend this type of money on something that is not going to pay off academically."

Another student, who requested anonymity, said the board's action showed how "far removed" they are from the students.

"Those funds could have been spent on an outreach program . . . or to fund day care," she said.

But Mrs. Long, who defended UDC's acquisition of the 10-year-old art work, said the massive sculpture representing vaginas on dinner place settings will serve as the centerpiece for the school's endowment. She called the expenditure "seed money."

She said renovation funds have no relation to the operating budget and "thus no bearing on the university's ability to pay its employees."

"We see this as seed money. We will receive [admission] fees [to view the art] into the millions," she said, but could not offer specifics.

UDC'S $1.6 MILLION "DINNER"—FEMINIST ARTWORK CAUSES SOME INDIGESTION

(By Joneta Rose Barras)

While UDC faces mounting fiscal problems, the Board of Trustees will spend nearly $1.6 million to acquire and exhibit a piece of controversial art.

"The Dinner Party" by feminist artist Judy Chicago was banned in several art galleries around the country because it depicts women's genitalia on plates and has been characterized by some critics as obscene.

The massive work cost about $250,000 to develop in the early 1970s with the help of a $36,500 grant from the National Endowment for the Arts. Plans for the project will be unveiled Friday the 20th at a reception, officials with the University of the District of Columbia said yesterday.

"I have no idea what you're looking at," said Patricia Mathis, a UDC trustee who arranged the acquisition. "It was controversial 15 years ago; it is not controversial now. This is one of the nicest things that has happened to the university."

The D.C. Council last week approved a $1.6 million bond issue for the university. The funds were allocated for renovations to the east wing of the school's Carnegie Library, located at Mount Vernon Square NW, where the work will be exhibited.

The mezzanine will be removed and stairs and an elevator will be installed. The ventilation system will also be upgraded, said Tara Hamilton of the D.C. Department of Public Works. "This is only an estimate because the design hasn't been submitted," she said.

Miss Mathis refused to detail costs for transporting, insuring and exhibiting the art or the financial arrangements with the artist.

According to UDC documents obtained by The Washington Times, the donation by Miss Chicago carries several stipulations, including a license fee for each reproduction, a 25 percent return to the artist from any sales profits, $2 million worth of insurance coverage and a faculty job for the artist if an endowed chair or special professorship is established in her name.

A Benicia, Calif., non-profit corporation, on whose board Miss Mathis also sits, is expected to receive as much as 10 percent to 15 percent profit from sales of reproductions or other products developed from the work, according to the documents.

Miss Chicago is a founder of the corporation, which is not listed in the Benicia telephone directory.

The board is also reviewing a contract that would pay $30,000 to Mary Jo Aagerstoun, head of the D.C. Employee Appeals Board, to serve as administrator of "The Dinner Party" project, according to a highly placed UDC source.

Miss Aagerstoun, who shares Miss Mathis' phone number and address, according to a staff person at Miss Mathis' consulting firm, could not be reached for comment.

UDC's board last month unanimously approved taking nearly $80,000 from other university programs to pay for transporting the art and preparing a temporary exhibition site at the Carnegie Library, despite warnings from legal and development staff at the school.

"The lawyers told us it was an exhibition agreement and not a gift," said a source in the UDC president's office. "They consistently told the chair of the board, but she still went ahead with the arrangements.

In an April 4 memo, Marianne Phelps, UDC's director of development, expressed concern about acquiring and maintaining the art.

"No cost projections beyond the move of the painting has been developed. The income projected will be available only after the painting has been well established in its new location," the memo says.

"In the meantime the university will have to bear the costs of staff to develop the project, additional security, publicity and marketing, the initial investment in paraphernalia, maintenance of the work, and the like," Miss Phelps said in her memo.

Council approval was given without many of the members seeing a photograph of the actual art.

"I asked for a photo but never got one," said council member William Lightfoot, who pushed for passage of the bonding authority for the art and was surprised when told what it depicted.

"I was told that this was a major centerpiece of the university's endowment and that it depicted women throughout history," he said.

Mr. Lightfoot said council approval was rushed through because the council was going into summer recess. He said the library has been badly in need of repairs since 1986 and that was his primary consid-

eration when he voted to approve the money.

Joseph Webb, a trustee, said the board was shown photographs of "The Dinner Party," but "some people did not see that the various things were female genitalia."

"As a poet, I have no problem with the art," he said.

Mr. Webb acknowledged that the university is experiencing financial difficulty but said the art project "is not responsible for people not receiving their pay."

"Yes, there are costs associated with acquiring it and transporting it and exhibiting it," he said. "Yes, there is a hiring freeze and building repairs that need to be done. But I thought we should go ahead and acquire the art and look in other places to make cuts."

Several UDC programs have been beset with financial problems, including summer school, building repairs, the continuing education program and the athletic program, where student athletes said they were improperly housed and not fed.

Earlier this year, 40 persons in the continuing education office were not paid because of budget shortages. And last month, faculty with the summer school program complained about late pay checks.

"Money programmed to bring the art is modest. We intend to raise private funds to reimburse the university," Miss Mathis said. "This is a money-maker and will make money for the university."

Nonetheless, the source in the president's office was angry about spending the money during a budget crunch.

"It's ridiculous for them to spend that kind of money on art, when people aren't getting paid and programs are being cut," the source said. "Plus this kind of art is not what the university should be getting."

D.C. COUNCIL'S SANITY QUESTIONED AS HILL LEARNS OF "DINNER PARTY"

(By Jonetta Rose Barras)

Members of Congress blasted the D.C. Council yesterday for approving $1.6 million in funds to acquire and exhibit a controversial piece of art, calling the action a mismanagement of funds and questioning the sanity of officials.

The outrage follows yesterday's disclosure by The Washington Times that the council approved funding for renovations of the East Wing of the University of the District of Columbia's Carnegie Library to house and exhibit "The Dinner Party," by feminist artist Judy Chicago.

Rep. Dana Rohrabacher, California Republican and a leader in the congressional fight against federally funded obscene art, said he questioned the "values and taste" of UDC officials along with their "fiscal responsibility and perhaps even their sanity."

"It seems to me that this is going to undermine their credibility when they say they need another $60 million from us," he said. "If they can spend their money on weird sexual art, I don't know why they expect we'll give them serious consideration. . . . It's going to make it difficult for people to take their plea seriously."

Rep. Stan Parris, Virginia Republican and a frequent critic of the District, said the transaction demonstrates the city's poor fiscal planning.

"That money for UDC for something that is clearly pornographic just goes into the deficit of the District and raises again the lack of fiscal responsibility," he said.

The massive work, which cost about $250,000 when it was developed in the early 1970s, was partly funded by a $36,500 grant from the National Endowment for the Arts. Its major feature is a huge triangular dining table with elaborate place settings depicting a portion of the female anatomy.

Yesterday, council Chairman David Clarke said he didn't object to the content of the art but thought it was too expensive. About $80,000 of the funds will be used to transport it to the library.

"It was an exceptionally high single expenditure at a time for fiscal austerity," he said. "I know this is in the capital budget and not in the operating budget, which is where we are having the problem, but I just couldn't bring myself to approve it at this time."

UDC trustee Patricia Mathis arranged for the acquisition and stands to gain as much as 10 percent to 15 percent profit from sales of reproductions or other products developed from the work, according to documents.

Miss Mathis said Tuesday that the work is expected to be the centerpiece of UDC's endowment and a moneymaker.

The funding approval comes as some UDC employees charge they have not been paid and city officials notify thousands of workers they may be furloughed.

Council members said the funding was pushed through quickly because they wanted to act on the general bond issue before their summer recess.

"We're sending the wrong message," council member Frank Smith said yesterday. "We can't even make payroll. Some of us wanted to vote against it, but we didn't have the votes."

"The council relied on [council member William] Lightfoot and he relied on Miss Mathis," one council staffer said. "She left us out to dry."

UDC Board President Nira Hardon Long defended the expenditure.

"This will mean millions of dollars in the future and it's the first step toward the university becoming a national repository for human expression. We're not denying we will have to do some remodeling for a separate entrance for the art. We think this will lead to us receiving other art; we already have another gift that's on the way," she said. "We just can't understand why citizens acting in the public interest should be attacked."

Nonetheless, a group of top-level UDC administrators questioned the content of the work and the costs.

"This art is of questionable propriety and may be offensive to the moral values of many of our constituents," the deans wrote yesterday in a letter to Mrs. Long and UDC's vice president of academic affairs, Constance Carter Cooper. "It also appears to be a most inappropriate use of university resources at this time when both the city and the university are in serve fiscal straits."

Said one employee at UDC's Division of Continuing Education: "For two months, 17 of us have been working without a contract . . . We only needed $30,000, but the board found $80,000 for this art. This is really an insult."

Mr. Chairman, this thing is a nightmare. I say to my friends whom I respect and work with on all sorts of issues, you frustrate me. I do not know how to get at this. You tell me not to punish the whole D.C. budget.

Well, I wanted to offer a simple amendment today, an antiabortion amendment on the life of the mother. I have just talked to the Chief of Staff of the White House in the parking lot. I called him this morning. You took out my abortion language, which has been law for 2 years.

Be advised that the White House has again sworn to me, and they kept their promise through two vetoes last fall, they will veto this again.

Now, this is what our honorable chairman just admitted to me, because he is a super guy. He said that I could stand here on about eight points of order and get you busted by the Parliamentarian for legislating on an appropriations bill. The gentleman smiled at me with that winning smile of his and says, "You won't do that." And I said, "No, I won't." I said, "But you will get up on a point of order if I want life of the mother, won't you?" And he went yes. I said, "Well, there are more pressures on you than there are on me, so we will just turn to the White House for a full veto from the appropriations angle."

Gentlemen, believe me, my heart goes out to the students at the University of the District of Columbia. I do not know how to get at this process, like I do not know how to get at a lot of morality issues around here.

We are being all skewed around here on the NEA thing.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Virginia, the ranking Republican leader on the Committee on the District of Columbia.

Mr. PARRIS. Mr. Chairman, I would simply rise to remind Members that the Federal funds authorized in this bill, are $1,179,796,000.

My friend the gentleman from California [Mr. DYMALLY] says we do not have the right to be punitive. Well, it is not a question of punitive. We have an obligation to be diligent. Over $1 billion of Federal revenue.

The gentleman from California [Mr. DIXON] is absolutely correct. This is the only way I can find to get to the question of this prioritization by the board of trustees of this university.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN of California. I yield to the gentleman.

Mr. PARRIS. My amendment does in fact cut $1.6 million out of the oper-

ating funds of this school. But, cutting the salary amounts of the professors who are already unpaid might, Mr. Chairman, just might get the attention of the members of the board of trustees.

Let me read from page 47 of the report which we are discussing right now:

The University of the District of Columbia is the Nation's only exclusively urban land-grant university. As a land grant institution it has a mandate to teach and engage in basic and applied research, and carry the results of the community through extension programs and services.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN of California. I yield to the gentleman.

Mr. PARRIS. I ask, Mr. Chairman, if that is the purpose of this university, then what is it doing spending money, when in fact the spokesman for the university says a critical reaccreditation review, the school administration officials say, "could jeopardize the university's academic and financial future; if the school is not paying its faculty, that definitely affects the academic quality."

Now, if that is not a statement of common sense, I have never heard it.

Mr. DORNAN of California. Mr. Chairman, I reclaim my time.

Mr. Joseph Webb, a trustee, said the board was shown photographs of "The Dinner Party," but some people did not see the various things were female genitalia. Then he says, "As a poet, I have no problem with the art."

I will put 100 bucks on the table here that I will duel poetry with any Member of this House, not Senator BYRD in the other body, poetry, Shakespeare, line for line, Longfellow. Come on, let us do it. I am a poet, and I do have trouble with this, because it is not art. It is not art, it is pornography, 3-D ceramic pornography, wasting a school that is betraying its students in not giving them an education.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, members of the committee, I am reminded of the remarks of one much brighter than this gentleman who spoke of sound and fury signifying nothing. I think this debate is a great deal of sound and fury signifying nothing, because it is sound and fury about something very minor.

But the Member from California [Mr. DORNAN] who just spoke in the well challenged this gentleman to rise and make a few comments.

The gentleman used the term "pornography" and he raised a question of the difficulty of dealing with moral issues. With respect to the issue of pornography, I think that it is pornography to see a nuclear weapon standing erect with only one function, and that is to destroy human life on this planet, beyond comprehension. Pornographic military weapons that look like phallic symbols, capable of doing nothing but destroying human life on this planet.

Do you want to talk about pornography? Do you want to talk about deadly art? We deal with pornography every single day, but we do not talk about it in that context.

Mr. Chairman, obscenities and immoral issues, I find war immoral. I find poverty immoral. I find the fact that we can all drive home from our jobs to our various homes throughout this country and see thousands of human beings eating from garbage cans and living in homelessness, that is immoral.

We can address the real immorality of this Nation, but we sit here pompously and arrogantly talking about immorality and obscenities and profanities, and pornography, when the real pornography, the real scandals, the real pain, the real obscenities, the real immorality, are not really fully addressed and adequately dealt with.

Yes, Mr. Chairman, sound and fury signifying nothing; $1.6 million, and we are going to sit here and debate for hours over this minuscule issue.

The gentleman from California [Mr. DIXON] pointed out there is no money in this bill for this. But we always want to use the platform of the District of Columbia, because, and I use this term advisedly, of the impotence of the District of Columbia, because it cannot elect a Member to this body who can stand in this well and not only advocate for them, but vote for them and against provisions that challenge their rights and challenge their prerogatives.

□ 1640

So it is an easy shot, Mr. Chairman, to use this platform to challenge, to punish, to beat up.

What then can my distinguished colleague from Washington, DC, do? He can rise with his courage and his dignity and his eloquence and he can speak against these provisions. But then he must sit down in powerlessness because he lacks the right to vote.

That is obscene to me. That is pornographic to me. That is immoral to me, that 600,000 people lack representation.

So if my colleague who is in the well wanted to engage in a debate over what is pornographic, I rise to that challenge. If the gentleman wants to debate over what is obscene, I rise to that challenge. If the gentleman says he cannot find avenues to deal with what is immoral, I will tell him what is immoral, and we can rise to that debate, if we are here dealing seriously. But again, not on sound and fury, Mr. Chairman, signifying nothing.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I am happy to yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding, and I will be very brief in my remarks.

I would just remind my friend from California that I doubt very much that this measure will pass by one vote. I think it is going to pass by a fair margin, and I hope it does. It is my amendment, and I have some degree of responsibility and pride in the authorship, because I think it is right.

But I will suggest to the gentleman that that is not the issue. They are not going to display a mobile MX missile or a B-2 bomber. They are going to feature a work that has 39 elaborate place settings depiciting female vaginas, and I think that is a little different. And I hope that this amendment passes.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman from California who is unfailingly gracious.

I bet, Mr. Chairman, that there are those Members of this Congress who will think twice before they have to go home and tell their individual constituents that part of this $1,179,000,000 went for a piece of art to be displayed publicly in this town for this purpose.

Mr. DELLUMS. If I might reclaim my time for a moment, let me say to my colleagues that my remarks are not directed at the gentleman on a personal basis. I am here addressing the issue, and it is not to suggest that one cannot make a case about art, whether you like it or you not like it.

But what thrills this gentleman is that I am able to get up every single day, as a black American, representing a diverse congressional district, and come here and speak my piece. That is what democracy is all about. That is what the first amendment is all about. All I would suggest to my colleagues that when we pervert and distort the first amendment to the Constitution we do a grave disservice to the very Government that we operate in.

As I have said more than one time, I come to this body against the backdrop of the civil rights movement, and people said, "Challenge, come here so that you can speak out." But I hear too often in this Chamber efforts to deny our ability to speak.

Art is a precious expression of the first amendment to the Constitution, and we can debate that all night. But let me come back to the point that I make to my colleague, and I speak to him as my ranking Republican member on the House Committee on the District of Columbia, it is important that every time we have the opportunity, I would say to my colleague, to reinforce the principle of home rule, and the dignity of the principle of home rule, and every time we chip away at it, we chip away at ourselves, and we chip away at the principles of democracy. I do not know whether the gentleman cherishes it as much as I do, but I cherish it because this is the only opportunity I have to stand up and to challenge that with which I disagree. But on the matters of principle, the right of freedom of expression, freedom of speech, the right of people to be adequately represented, and the precious prerogatives that are guaranteed under this act that we have come to euphemistically refer to as the Home Rule Act should never be challenged. And I know that we could stand up and talk about female genitalia. I just talked about missiles looking like male genitalia. But we could take that issue all the way out. The point I am saying is that we need to focus back on what is home rule and should we preserve the integrity of it, and if my colleague believes as strongly as this gentleman does in the principle of home rule, then this amendment is inappropriate.

That is not to say on the merits you may or may not have a case. But for the 20 years I have served in this body I have never allowed myself to deteriorate the debate into the substantive issues of whether I like or do not like what the local elected officials do. That is not my right nor my prerogative. I was not elected to come here to do that. That is the prerogative of the residents of the District of Columbia. If they do not like the $1.6 million expenditure, then they have a right to do something about it, and have the wherewithal to do it.

But let us not then in penalizing these people and making political—will not say that because that is challenging motive, and that is inappropriate, but making this matter visible and highly political, it seems to me that we ought to resist the temptation to do that, because we are going to end up hurting people because we take money that is inappropriate and unnecessary to take.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, in preparing for this debate I try to say to myself, "Don't get angry," because I am angered by the kind of amendments the gentleman from Virginia [Mr. PARRIS] offers on these measures every year. But I am troubled when he infers to the Members of the House that these are Federal funds which the school used, and he gives the wrong impression. These were local bonded moneys, and by taking away Federal funds we do not replace anything. It is simply punitive.

Whatever the gentleman from Virginia thinks, and you laid out the facts, and I did not dispute the facts, but I am troubled by the inference that these are Federal funds which you are trying to restore.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has again expired.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say at the outset this is a rather well known work of art. There are some who think it is an important work of art. There are some, like my friend from Virginia, who think otherwise.

I really question whether in any event and in any circumstances the Congress of the United States ought to be picking which works of art to display and which not, because I think that is a very bad precedent. But I think it is an even worse precedent, more aggravated precedent in the present case because it plainly violates the agreement that we reached with the District of Columbia when the Congress passed the District of Columbia Self-Government Act of 1973.

And we are going at this in about the worst way possible. We are penalizing a university run by the District of Columbia to educate its young people so that they can move ahead in life, move to a better station than they otherwise might have in life. That is the funding that we are taking away in order to penalize this university for proposing to display this work of art.

It is the District's own money. The money that we are taking away is money that does not relate to the money that the District has put up to display the art. So in essence, we are saying you students in the District of Columbia who want to go to the University of the District of Columbia, you are going to have less money for your education because we do not like this work of art that the university, with other funds, has chosen to display.

That strikes me as wrong for so many reasons that I hope my colleagues can overcome their dislike, if they dislike this piece of art, and recognize that this is the wrong way to show their dislike. You do not show your dislike for a work of art by denying people a chance for an education.

□ 1650

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment because the sponsors and advocates of it are cute, but they are not correct. They may be sincere, but they are sincerely wrong.

It is not correct to suggest to the Members of this House that by voting for this amendment they will prevent the University of the District of Columbia from displaying this art. The chairman of the Committee on Appropriations has made that very clear, and Members ought to know what that while it is cute to suggest that this vote will prevent the showing of this art in the District of Columbia at that facility, it is not correct.

Second, it is cute to suggest that the board of directors of the UDC are fiscally irresponsible in restoring this building and utilizing this means of raising funds. It is cute, but it is not correct.

The fact is that because of the fierce competition for shrinking public resources to address legitimate problems of human need, public colleges and universities across the United States have been compelled to develop strategies to attract private sector support for their missions.

While it is correct to suggest that the mission of the UDC is to teach and educate basic and applied research and to carry out the results of the community through extensive programs, the fact is that the board is acting responsibly in seeking to raise private sector funds to carry out that mission.

It is also cute to say that this measure appropriates $1.1 billion of Federal moneys. It is cute, but it is not correct.

The fact is that it appropriates $430 million in Federal payment, but it does not authorize the Federal grants authorized in numerous pieces of legislation passed by this body to which the District of Columbia residents are entitled as the citizens of the United States.

If in fact it did appropriate the $1.8 billion that the District of Columbia Government must forgo in terms of revenues because of the Federal presence, I could agree with the gentleman. The gentleman may be sincere in saying that this bill appropriates $1.1 billion, but the fact is that he is sincerely wrong.

And so I would hope that the body will take into consideration the truth that I tell in love, and that is the fact, No. 1, support for this amendment will not deny the University of the District of Columbia from carrying out a decision which it made pursuant to delegated authority.

I hope that the Members of this body will understand that what it will do will be to deny students who require the education that we attempt to

provide in our Nation's Capital to them, it will deny teachers adequate salaries because this is not a measure that is capable of denying the public the view of art considered by some in this body to be pornographic. It is for that reason I hope you will reject this amendment.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I thank the gentleman from the District of Columbia for his courtesy.

Mr. Chairman, I am reading from page 11 of the report on this bill where it says, "A total of $1,179,796,000 in Federal funds will be available to the District of Columbia during fiscal year 1991." And it is marked "Federal funds."

Now, the thing the gentleman should understand, and I think will concede, is that when you take two buckets of water and pour them together, they become one, and it is very difficult to separate them again. That is exactly what happens here.

There are Federal funds and there are local funds, and they ultimately come out of the same pot. But we have the responsibility as the chief legislative body over the Nation's Capital of 250 million Americans to deal with this thing constitutionally. I would say to the gentleman, William Safire once said, "A right to do something does not mean that doing it is right."

That is what we are talking about here. This university is essentially bankrupt. The question is not whether this is a neat piece of work or whether it is a lousy piece of pornography; the issue is should we take this money and use it for student loan programs or mobile scholarships, what should we do with $1.6 million under our constitutional obligation to approve it or disapprove it?

That I would say to my friend from the District of Columbia is the issue.

The CHAIRMAN. The time of the gentleman from the District of Columbia [Mr. FAUNTROY] has expired.

(By unanimous consent, Mr. FAUNTROY was allowed to proceed for 1 additional minute.)

Mr. FAUNTROY. Mr. Chairman, the gentleman has just demonstrated what I said at the outset, namely that his remarks are cute but they are not correct and he may be sincere but he is sincerely wrong. The fact the gentleman represented to this body this bill "authorizes" $1.1 billion of Federal funds; then he made the statement that it "makes available a total of." There is a report to the body of what, in addition to the Federal payment authorized by this legislation, would be available to the District of Columbia as a function of our rights as American citizens on a per capita basis to authorizations and appropriations made in almost every major category of governmental function upon which this body makes decisions.

Second, the gentleman ought to certainly be aware that if he is concerned about a bankrupt institution that is seeking to expand its resources through raising private funds, he would also be concerned that this $1.6 million will not do anything, hear me, anything to prevent the showing of this art as he has led the people of this body to believe is the case. He is sincere, but he is sincerely wrong.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have heard the position described in very eloquent terms by my colleague, the gentleman from California that the words "immoral" and "pornography" do not apply to what we are discussing today.

Let me add another word to the debate. Let us just use the word "waste."

It is a waste for this university under such financial conditions to spend $1.6 million in order to display weird sexual art. Those who are the decision makers at UDC are the ones who are acting like autocrats. We are not the ones acting like autocrats.

They act like autocrats when they say:

> The taxpayers be damned, the creditors be damned, the employees be damned, the students be damned, we are going to spend $1.6 million on this weird sexual art no matter what they think and no matter who we owe and no matter what effect it will have on the financing of our institution by Members of Congress.

They realize full well now that they are making a decision that is an affront to the values of many people in this body and many citizens throughout the United States of America who are picking up the tab.

This same institution is crying to us, on another piece of legislation, for $60 million more in funding—$60 million, they are crying they need this money.

I am a member of the Committee on the District of Columbia. I have heard their pleas. Well, they are going to have a very tough time getting this Congressman to approve $60 million more when they are willing to spend $1.6 million on weird sexual art.

Now, perhaps if they are willing to spend that much money on this type of weird art, perhaps they do not need the full $60 million. Perhaps they do not need, if they are willing to spend this money like this in a way that is such an affront to the values of our people, perhaps they do not need this money as being suggested today in the Parris amendment.

Home rule is supposed to promote accountability and responsibility.

Now we have heard a lot about the word "dignity" in reference to home rule today. Well, the people who are chipping away at the dignity of home rule and chipping away at the power and accountability and responsibility of home rule are the people who are making this decision, making a decision to spend this type of money at a time when this university owes so much other money. They owe money to their own employees, they owe money to the professors; yet they are willing to spend money in this way.

It is not the job of the universities to raise money by creating a spectacle of weird art, weird sexual art at that, in order to charge people to come in and see it. I doubt if they are going to make any money on this. I doubt if they will make back the $1.6 million. But that is not the job of the university. This is an act of irresponsibility. It is up to us to set standards so that the taxpayers' dollars are not being misused.

□ 1700

This issue goes far beyond UDC, about whether or not trying to set standards for the use of Federal dollars when it comes to art, whether or not that is in some violation of free speech or the violation of the first amendment. I think eventually the courts will decide this issue, whether it is determined by UDC on this case or whether it is determined by the National Endowment for the Arts.

However, it goes beyond common sense on this side of the aisle, at least to suggest that setting standards so that tax dollars cannot be spent on pornography, or antireligious works is in some way a violation simply because we refuse to subsidize that, that that was a violation of this person's right to speak.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. DYMALLY. Does my good friend from California, my traveling compadre, does he recognize that if we vote for the Parris amendment, that the work at the library will continue?

Mr. ROHRABACHER. Yes, I do.

Mr. DYMALLY. If the gentleman will continue to yield, so then one has to conclude that this is a tentative amendment, to take away from deserving students $1.6 million?

Mr. ROHRABACHER. I would suggest that those who were taking away from the students are those who are insisting on this expenditure of their money on weird sexual art.

(On request of Mr. WALKER and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I think the gentleman has made an im-

portant statement, and it seems to me the thing we have to look at is the purpose of the university. The purpose of the university is to enhance scholarship. The purpose of the university is to make certain the professional relationship with the teacher is strengthened and not undermined.

Now, the fact is that this is a university that is unable to pay its faculty at the present, is $2 million in arrears in terms of the ability to pay its faculty. Now, the people who are in charge of this university have gone out to spend $1.6 million on a piece of art work instead of paying the professors. Now, I do not care what is in the art work. That is a nutty decision. That is a decision that makes absolutely no sense. If they cannot pay professors, what are they doing going out and buying art?

I would simply suggest that the gentleman is absolutely correct in suggesting that these folks just do not have their act together. They somehow have forgotten what the university is supposed to exist for, have somehow forgotten what it is the faculty-student relationship is all about. All we are saying with the Parris amendment is may your teachers enhance the ability of your students to get an education, do not go out and spend it on superfluous things.

I congratulate the gentleman from Virginia for his amendment.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I asked to be yielded to for one purpose, and that is to share with my colleagues the last paragraph of an agreement relating to the exhibit of this item in the university, and it is an agreement, a contractual agreement, between the board of trustees of the university and the artist. The last paragraph says, on page 3, dated the 20th day of July 1990. "This agreement shall not be effective unless and until the donee"—which is the university—"elects to allocate sufficient funds from its operating and capital budget so as to meet the requirements of this agreement regarding the initial exhibition of "The Dinner Party."

Now, the purpose of all that and the gentleman is totally correct, we cannot, and this Congress is incapable under the circumstances of stopping this exhibit.

(On request of Mr. PARRIS and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 1 additional minute.)

Mr. PARRIS. If the gentleman will continue to yield, we are incapable of reaching into the operations of the District of Columbia and the university, to stop this exhibit.

My purpose, Mr. Chairman, is to try to get the attention of the university trustees who can simply change their mind about all of this if they choose to do so and to not exhibit this magnificent art work. That, I hope, Mr. Chairman, I trust and hope, will be their decision. I think it would be an exceedingly smart one on their part because the other $79 million that goes to operating fund, is still going to go to a conference or something, and it could be considered at some future date possibly.

Therefore, I submit, Mr. Chairman, that it is not exactly what I would like, and I am against millionaires, and I say to the gentleman from California [Mr. DYMALLY], but never offer me the chance to be a millionaire. So I suggest I would like to be a member of the board of trustees, but do not give me that chance, because I am not there, but if I was given that chance, guess what I would do on this particular decision?

(By unanimous consent, Mr. ROHRABACHER was allowed to proceed for 1 additional minute.)

Mr. ROHRABACHER. Just one thought. I do not care if they display this art at UDC or anywhere else. What we are concerned about is the spending of these dollars that should be used somewhere else for the benefit of the children or the benefit to pay off the professors or whatever. But to waste this money is what we are concerned about. The word here is "waste." The word is not "pornography." The word is not "immorality." The word is absolute, utter waste, and if someone wants to donate the money to have this piece of weird sexual art shown on campus, fine. However, we should not be wasting our tax dollars, or they should not be able to waste this money in order to do it.

Mr. WILLIAMS. Mr. Chairman, I move to strike the last word. I have not, during my 12 years in the House, spoken on this legislation. I do want the House to understand that I suppose if one looks at my voting record with regard to D.C. appropriations, I would not be listed as a friend of the District of Columbia, because I have voted against many of the appropriation bills for a number of reasons which I will not go into here, but none of which are the fault of the D.C. Authorizing Committee, but rather in my judgment, the D.C. Government itself.

As chairman of the Subcommittee on Post-Secondary Education, which has some jurisdiction of certain programs of our colleges and universities, and also has authorization over the National Endowment for the Arts, I am interested in the debate here today, and so I come forward. This sounds to me like a dry run for the National Endowment for the Arts debate, which will be held in September. I have not heard any Member defend the artist, Judy Chicago, or the work, "The Dinner Party." Inasmuch as I do not know Ms. Chicago, nor have I seen the work, "The Dinner Party," perhaps I am the wrong one to defend either, but it does seem to me that Judy Chicago's work is highly considered by artists in the United States, and therefore, perhaps some defense is not entirely inappropriate.

Judy Chicago's work, generally, and the specific work that we are discussing here today, that is, "The Dinner Party" specifically, are referenced in virtually every art, modern art textbook in the United States. "The Dinner Party" itself has been the subject of two highly successful art books, published by Doubleday Publishers. If we would listen to the artist with regard to her intentions in the art work, we might hear her say this, which she wrote not long ago, and I am quoting Ms. Chicago now:

> The Dinner Party is, along with being a symbolic history of women in Western civilization, a shriek of outrage against a culture that has marginalized us as women, while asserting the universality of the white male experience.

Ms. Chicago continues,

> When I created "The Dinner Party," I wanted to create a work of art that told the story of the people of a "women people,"—a story that has been excised from history.

Has "The Dinner Party" been accepted? Or has it been only excoriated as it is being excoriated here in the House of Representatives today? Well, consider the exhibition history of "The Dinner Party." In 1979, the San Francisco Museum of Modern Art; in 1980, the Brooklyn Museum, in, of course, Brooklyn, NY; in 1981, it was at Printers' Row at Temple on the Heights, sponsored by the Ad Hoc Community Group in Cleveland, Ohio; and the earlier one in Chicago, IL.

□ 1710

In 1982, it was shown in Quebec, Canada, in Ontario, Canada, and in Atlanta, GA. In 1983 it was shown in Calgary, Alberta, and in 1984 it was shown in Edinburgh, Scotland, at the Edinburgh Festival. In 1985, it was shown in London, England, in the Warehouse. In 1987 it was exhibited in Frankfurt, Germany. In 1988, it was exhibited in Melbourne, Australia, and today apparently the exhibition moves here to the House of Representatives.

The work is not without its patrons, and although I have not seen it and cannot make a judgment as to whether I like it, I want to submit to the House that it does not make a tinker's dam whether I like it or not or whether you like it or not. It does not make any difference whether you think it is pornography; that does not make it so. It does not make any difference whether you like it; if you do not like it, that does make it pornography. What you are saying is that the University of the District of Columbia

should not like it because you do not. That is quite a reach.

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS. Mr. Chairman, as chairman of the Subcommittee on Postsecondary Education, I would not dare to exercise this type of action against the University of Virginia. I would not dare to exercise this kind of action against my own university in the district which I represent, that is, the University of Montana. If they want to spend money that is their own, money which they are going to raise through a bonding mechanism, then I say to the University of the District of Columbia, "Go ahead. You are not using our money in this bill; you are using your own money raised through your own bonds. Go ahead."

Speaking for myself now and not the gentleman who is offering this amendment, I would not have the arrogance to tell the University of the District of Columbia that we are going to penalize them in this bill to the tune of $1,600,000 because they are going to show a piece of art that I do not like. I would not have that kind of arrogance.

Do I like this piece of art? I do not know. Do I think the University of the District of Columbia could use their money in a better way? Yes, I sure do. They have late salary warrants down there. They could be putting this money out to students to bring them in under scholarships and grants. They could be refurbishing classroom space, or they could be giving their professors a salary increase. But that is their business, not mine. If I was the president of the University of the District of Columbia, I guess I would do it differently, but I am not. I am a Congressman from Montana, so I let them do their business and I worry about things over which I have jurisdiction.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding, and I will be exceedingly brief.

I will say to the gentleman that I do not believe he was on the floor when I made my original remarks in regard to this amendment. Had he been here, he would have heard me say that I intend in no way to censure this particular piece of work because it happens to be not to my liking or in my good taste or lack of good taste, as the case may be.

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has again expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield further?

Mr. WILLIAMS. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, the point is that we are asked to approve $76,913,000 for the operating expenses of this university, and that is our constitutional obligation under article 1, section 8, clause 17.

I take no offense to the gentleman's appearance here on the floor in regard to his known interest in the National Endowment for the Arts which in some areas has created some recent controversy. It is his perfect right to preserve and defend the expression of artistic nature of this kind. This piece was partly funded by a $365,000 grant by the National Endowment of the Arts. None of that is even pertinent.

This is the question: The gentleman from Montana said that if he were the president of this university, maybe he would spend the money differently. I can assure him that this gentleman from Virginia would also.

How about student loans? How about paying the people who are supposed to be teaching down there? How about fixing the roof of the building where this thing is going to be put. How about some of those fundamental basic things that are not being done? How about protecting the quality of the institution so it is not deaccredited?

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has again expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 30 additional seconds.)

Mr. WILLIAMS. Mr. Chairman, I will take this time for myself to conclude.

Let me conclude by just noting that I think perhaps the gentleman from Virginia and I would together object to some decisions with regard to the expenditure of funds, particularly this one, by the University of the District of Columbia. I just suggest to him that it is their decision. They are doing it with money they are going to raise through bonds. There is not a penny appropriated in this bill, and the gentleman's amendment is objected to by me because it is punitive action to take money out of this bill that was not intended for that project and cannot go for that project. The gentleman takes money out of this bill, and I suggest he does it because he does not like this piece of art.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PARRIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PARRIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 123, answered "present" 1, not voting 11, as follows:

[Roll No. 272]

AYES—297

Alexander	Glickman	Morrison (CT)
Andrews	Goodling	Morrison (WA)
Annunzio	Gordon	Murphy
Applegate	Goss	Myers
Archer	Gradison	Nagle
Armey	Grandy	Natcher
Aspin	Grant	Neal (MA)
Baker	Guarini	Neal (NC)
Ballenger	Gunderson	Nielson
Barnard	Hall (OH)	Nowak
Bartlett	Hall (TX)	Owens (UT)
Barton	Hamilton	Oxley
Bateman	Hammerschmidt	Packard
Bennett	Hancock	Pallone
Bentley	Hansen	Panetta
Bereuter	Harris	Parker
Bevill	Hastert	Parris
Bilbray	Hatcher	Pashayan
Bilirakis	Hayes (LA)	Patterson
Billey	Hefley	Paxon
Boehlert	Hefner	Payne (VA)
Borski	Henry	Penny
Brennan	Herger	Perkins
Brooks	Hiler	Petri
Broomfield	Hoagland	Pickett
Browder	Hochbrueckner	Pickle
Brown (CO)	Holloway	Porter
Bruce	Hopkins	Poshard
Bryant	Horton	Price
Buechner	Houghton	Pursell
Bunning	Hubbard	Quillen
Burton	Huckaby	Rahall
Bustamante	Hughes	Ravenel
Byron	Hunter	Ray
Callahan	Hutto	Regula
Campbell (CO)	Hyde	Rhodes
Carper	Inhofe	Richardson
Chandler	Ireland	Rinaldo
Clarke	James	Ritter
Clement	Jenkins	Roberts
Clinger	Johnson (CT)	Robinson
Coble	Johnson (SD)	Roe
Coleman (MO)	Jones (GA)	Rogers
Coleman (TX)	Kanjorski	Rohrabacher
Combest	Kaptur	Ros-Lehtinen
Cooper	Kasich	Rose
Costello	Kleczka	Roth
Coughlin	Kolbe	Roukema
Courter	Kolter	Rowland (CT)
Cox	Kyl	Rowland (GA)
Craig	Lagomarsino	Russo
Crane	Lancaster	Saiki
Dannemeyer	Laughlin	Sangmeister
Darden	Leach (IA)	Sarpalius
Davis	Leath (TX)	Saxton
de la Garza	Lehman (CA)	Schaefer
DeFazio	Lent	Schiff
DeLay	Lewis (FL)	Schuette
Derrick	Lightfoot	Schulze
DeWine	Lipinski	Sensenbrenner
Dickinson	Lloyd	Sharp
Dingell	Long	Shaw
Donnelly	Lowery (CA)	Shays
Dorgan (ND)	Luken, Thomas	Shumway
Dornan (CA)	Lukens, Donald	Shuster
Douglas	Madigan	Sisisky
Dreier	Marlenee	Skeen
Duncan	Martin (IL)	Skelton
Durbin	Martin (NY)	Slattery
Dyson	McCandless	Slaughter (VA)
Eckart	McCollum	Smith (NE)
Edwards (OK)	McCurdy	Smith (NJ)
Emerson	McDade	Smith (TX)
English	McEwen	Smith (VT)
Erdreich	McGrath	Smith, Denny (OR)
Fawell	McMillan (NC)	Smith, Robert (NH)
Feighan	McMillen (MD)	Smith, Robert (OR)
Fields	McNulty	Snowe
Flippo	Meyers	Solomon
Frost	Michel	Spence
Gallegly	Miller (OH)	Spratt
Gaydos	Miller (WA)	Staggers
Gekas	Moakley	Stallings
Geren	Molinari	Stangeland
Gibbons	Mollohan	
Gillmor	Montgomery	
Gingrich	Moorhead	

Stearns	Torricelli	Walsh
Stenholm	Traficant	Watkins
Stump	Traxler	Weber
Sundquist	Udall	Weldon
Tallon	Unsoeld	Whittaker
Tanner	Upton	Whitten
Tauke	Valentine	Wilson
Tauzin	Vander Jagt	Wise
Taylor	Visclosky	Wolf
Thomas (CA)	Volkmer	Wylie
Thomas (GA)	Vucanovich	Yatron
Thomas (WY)	Walgren	Young (AK)
Torres	Walker	Young (FL)

NOES—123

Ackerman	Gallo	Morella
Anderson	Gejdenson	Mrazek
Anthony	Gephardt	Murtha
Atkins	Gilman	Oakar
AuCoin	Gonzalez	Oberstar
Bates	Gray	Olin
Bellenson	Green	Ortiz
Berman	Hawkins	Owens (NY)
Boggs	Hayes (IL)	Payne (NJ)
Bonior	Hertel	Pease
Bosco	Hoyer	Pelosi
Boxer	Jacobs	Rangel
Brown (CA)	Johnston	Ridge
Campbell (CA)	Jones (NC)	Roybal
Cardin	Jontz	Sabo
Carr	Kastenmeier	Savage
Clay	Kennedy	Sawyer
Collins	Kennelly	Scheuer
Conte	Kildee	Schneider
Conyers	Kostmayer	Schroeder
Coyne	LaFalce	Schumer
Crockett	Lantos	Serrano
Dellums	Lehman (FL)	Sikorski
Dicks	Levin (MI)	Skaggs
Dixon	Levine (CA)	Slaughter (NY)
Downey	Lewis (CA)	Smith (IA)
Dwyer	Lewis (GA)	Solarz
Dymally	Machtley	Stark
Edwards (CA)	Manton	Stokes
Engel	Markey	Studds
Espy	Martinez	Swift
Evans	Matsui	Synar
Fascell	Mavroules	Towns
Fazio	Mazzoli	Vento
Fish	McCloskey	Waxman
Flake	McDermott	Weiss
Foglietta	McHugh	Wheat
Ford (MI)	Mfume	Williams
Ford (TN)	Miller (CA)	Wolpe
Frank	Mineta	Wyden
Frenzel	Moody	Yates

ANSWERED "PRESENT"—1

Obey

NOT VOTING—11

Boucher	Livingston	Rostenkowski
Chapman	Lowey (NY)	Smith (FL)
Condit	McCrery	Washington
Early	Nelson	

□ 1737

Mr. KENNEDY changed his vote from "aye" to "no."

Messrs. WISE, CAMPBELL of Colorado, ALEXANDER, LEHMAN of California, BENNETT, and HATCHER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 33, insert after line 11 the following new section:

SEC. 137. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act in paragraphs appearing prior to the heading "Division of Expenses" that is not required to be appropriated or otherwise made available by a provision of law is reduced by 4.4 percent.

Mr. FRENZEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I know the hour is late and I will try to move this along as quickly as I can.

Mr. Chairman, I rise once again as a part of my ongoing effort to show some modicum of spending restraint. Today, I am proposing an across-the-board reduction of 4.4 percent for all discretionary spending in this act. The proposed reduction of $25 million will reduce spending in this bill to the fiscal year 1990 level.

Over the last 3 weeks numerous attempts were made to reduce the discretionary spending in appropriations bills. None of these attempts—no matter how small the cut—were successful.

Here we are—with a projected $170 billion deficit staring us in the face and potential $100 billion sequestration breathing down our neck—merrily proceeding as if there were no problem at all. Every appropriations bill brought forward so far this year has had an increase over last year's spending and, despite the valiant efforts of several members, this body has steadfastly resisted the temptation to make even the smallest reduction in these spending increases.

This bill has its own problems which are unrelated to the deficit and will likely result in the President vetoing it. Nevertheless, it does increase spending over last year's level and should be reduced. The budget summit negotiators are reaching a critical stage in their negotiations and we should not further encumber them by passing yet another spending increase.

The prudent course of action to day is to reduce the spending in this bill. I urge my colleagues who support fiscal responsibility—few though they may be—to join me in voting for this amendment.

□ 1740

Mr. DIXON. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I understand exactly what he wants to do, but the Federal payment stands in a unique situation as it relates to the government of the District of Columbia. First of all, the Federal payment has not been increased since 1985, and if we are to look realistically at our responsibility, the fact that the Federal Government occupies 41 percent of the land area and pays no taxes for the municipal services it receives, not only do I believe that we are behind in the Federal payment but, in fact, we should be moving to increase the Federal payment.

It is like saying if you are behind in balancing your budget you do not pay your rent. It is for that reason that I think this is not a good amendment and oppose it.

Mr. Chairman, this amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 219, not voting 18, as follows:

[Roll No. 273]

AYES—195

Archer	Hammerschmidt	Oxley
Armey	Hancock	Packard
Baker	Hansen	Pallone
Ballenger	Hastert	Parker
Barnard	Hayes (LA)	Pashayan
Bartlett	Hefley	Patterson
Barton	Henry	Paxon
Bennett	Herger	Penny
Bentley	Hiler	Petri
Bereuter	Hoagland	Porter
Bilirakis	Hochbrueckner	Pursell
Brooks	Holloway	Quillen
Broomfield	Hopkins	Ravenel
Brown (CO)	Houghton	Ray
Buechner	Hubbard	Rhodes
Bunning	Huckaby	Ridge
Burton	Hughes	Rinaldo
Byron	Hutto	Ritter
Callahan	Hyde	Roberts
Campbell (CA)	Inhofe	Rogers
Chandler	Ireland	Rohrabacher
Clinger	Jacobs	Roth
Coble	James	Roukema
Coleman (MO)	Jenkins	Rowland (CT)
Combest	Kasich	Russo
Cooper	Kolbe	Saiki
Courter	Kyl	Sangmeister
Cox	Lagomarsino	Sarpalius
Craig	Lancaster	Saxton
Crane	Laughlin	Schaefer
Dannemeyer	Leach (IA)	Schroeder
DeFazio	Leath (TX)	Schuette
DeLay	Lent	Schulze
Derrick	Lewis (FL)	Sensenbrenner
DeWine	Lightfoot	Sharp
Dickinson	Lipinski	Shaw
Dorgan (ND)	Lloyd	Shays
Dornan (CA)	Long	Shumway
Douglas	Lowery (CA)	Shuster
Dreier	Lukens, Donald	Skelton
Duncan	Madigan	Slattery
Eckart	Marlenee	Slaughter (VA)
Emerson	Martin (IL)	Smith (NE)
English	McCandless	Smith (NJ)
Fawell	McCollum	Smith (TX)
Fields	McCurdy	Smith (VT)
Frenzel	McEwen	Smith, Denny (OR)
Gallegly	McGrath	
Gekas	McMillan (NC)	Smith, Robert (NH)
Gingrich	Meyers	
Glickman	Michel	Smith, Robert (OR)
Goodling	Miller (OH)	
Goss	Miller (WA)	Snowe
Gradison	Molinari	Solomon
Grandy	Montgomery	Spence
Grant	Moorhead	Stangeland
Guarini	Morrison (WA)	Stearns
Gunderson	Murphy	Stenholm
Hall (TX)	Neal (NC)	Stump
Hamilton	Nielson	Sundquist

Tallon	Udall	Walker
Tauke	Upton	Watkins
Tauzin	Valentine	Weber
Taylor	Vander Jagt	Weldon
Thomas (CA)	Volkmer	Whittaker
Thomas (WY)	Vucanovich	Wylie

NOES—219

Ackerman	Gallo	Oberstar
Alexander	Gaydos	Obey
Anderson	Gejdenson	Olin
Andrews	Gephardt	Ortiz
Annunzio	Geren	Owens (UT)
Anthony	Gibbons	Panetta
Applegate	Gillmor	Parris
Aspin	Gilman	Payne (NJ)
Atkins	Gonzalez	Payne (VA)
AuCoin	Gordon	Pease
Bateman	Gray	Pelosi
Bates	Green	Perkins
Beilenson	Hall (OH)	Pickett
Berman	Harris	Pickle
Bevill	Hatcher	Poshard
Bilbray	Hayes (IL)	Price
Bliley	Hefner	Rahall
Boehlert	Hertel	Rangel
Boggs	Horton	Regula
Bonior	Hoyer	Richardson
Borski	Johnson (CT)	Roe
Bosco	Johnson (SD)	Ros-Lehtinen
Boucher	Johnston	Rose
Boxer	Jones (GA)	Rowland (GA)
Brennan	Jones (NC)	Roybal
Browder	Jontz	Sabo
Brown (CA)	Kanjorski	Savage
Bruce	Kaptur	Sawyer
Bryant	Kastenmeier	Scheuer
Bustamante	Kennedy	Schiff
Campbell (CO)	Kildee	Schneider
Cardin	Kleczka	Schumer
Carper	Kolter	Serrano
Carr	Kostmayer	Sikorski
Clarke	LaFalce	Sisisky
Clay	Lantos	Skaggs
Clement	Lehman (CA)	Slaughter (NY)
Coleman (TX)	Lehman (FL)	Smith (IA)
Collins	Levin (MI)	Solarz
Conte	Levine (CA)	Spratt
Conyers	Lewis (CA)	Staggers
Costello	Lewis (GA)	Stallings
Coughlin	Luken, Thomas	Stark
Coyne	Machtley	Stokes
Crockett	Manton	Studds
Darden	Markey	Swift
de la Garza	Martin (NY)	Synar
Dellums	Martinez	Tanner
Dicks	Matsui	Thomas (GA)
Dingell	Mavroules	Torres
Dixon	Mazzoli	Torricelli
Donnelly	McCloskey	Towns
Downey	McDade	Traficant
Durbin	McDermott	Traxler
Dwyer	McHugh	Unsoeld
Dymally	McMillen (MD)	Vento
Dyson	McNulty	Visclosky
Edwards (CA)	Mfume	Walgren
Engel	Miller (CA)	Walsh
Erdreich	Mineta	Washington
Espy	Moakley	Waxman
Evans	Mollohan	Weiss
Fascell	Moody	Wheat
Fazio	Morella	Whitten
Feighan	Morrison (CT)	Williams
Fish	Mrazek	Wilson
Flake	Murtha	Wise
Flippo	Myers	Wolf
Foglietta	Nagle	Wolpe
Ford (MI)	Natcher	Wyden
Ford (TN)	Neal (MA)	Yates
Frank	Nowak	Yatron
Frost	Oakar	Young (FL)

NOT VOTING—18

Chapman	Hunter	Owens (NY)
Condit	Kennelly	Robinson
Davis	Livingston	Rostenkowski
Early	Lowey (NY)	Skeen
Edwards (OK)	McCrery	Smith (FL)
Hawkins	Nelson	Young (AK)

□ 1802

The Clerk announced the following pairs:

On this vote:

Mr. Chapman for, with Mr. Nelson of Florida against.

Mr. Robinson for, with Mr. Hawkins against.

Mr. TORRICELLI changed his vote from "aye" to "no."

Mr. DORGAN of North Dakota changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 33, insert after line 11 the following new section:

SEC. 137. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

Mr. PENNY. Mr. Chairman, this is the latest in a series of amendments that I have prepared to each appropriation bill. These amendments have called for a 2-percent cut in each of these appropriation measures.

If all of the 2-percent cuts were to be adopted we could save $10 billion in Federal spending for fiscal year 1991. I acknowledge that the D.C. appropriation bill is the smallest of those appropriation bills considered here on the House floor. Consequently, we do not save a lot of money with this particular cut. But it is part of that overall effort to trim each spending bill by 2 percent.

Mr. Chairman, by making a 2-percent reduction we retain the relative priorities that have been established by the House budget resolution and by the allocations within the Appropriations Committee, and within each spending bill we retain the relative priority established for each of the programs within that bill. We simply say that those priorities, however they are allocated, are to be trimmed equally by 2 percent.

H.R. 5311 appropriates a total of $543 million, which is $24 million above the request and provides for a total of $1.2 billion in Federal funds, grants, and reimbursements for the District of Columbia.

Again, while maintaining the subcommittee's overall priorities, the 2-percent reduction amendment that we offer will reduce discretionary appropriations by just $11 million.

In this bill we have new initiatives, $1 million for the Commission on Budget and Financial Priorities, $12.1 million for the Board of Education, $5 million for D.C. General Hospital. So in addition to the other accounts that have traditionally been funded these are new initiatives within the bill, and I think that certainly those new initiatives, along with other programs in the bill, could sustain a 2-percent cut.

Mr. GALLO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I could ask the gentleman from Minnesota, in dealing with his amendment, from his explanation it would indicate that he is talking about a cut that would go only on the Federal funds that would be available to the District of Columbia.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. GALLO. I yield to the gentleman from Minnesota.

Mr. PENNY. The gentleman is correct. That is true.

Mr. GALLO. But in your amendment it would indicate that you are talking about provisions of this act, each amount appropriated, which would raise the question with me as to whether or not you are talking about both Federal and also District money. Maybe the chairman might be able to shed some light on this.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. GALLO. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, the language appears to be written in such a way that it would apply across the board to both Federal and local funds.

I do not really know how you reduce their local revenues since those revenues are paid into the District treasury by District taxpayers. I would think it should only apply to what we call the Federal payment, which is $430.5 million.

Mr. GALLO. If I might continue, the amendment of the gentleman from Minnesota [Mr. FRENZEL] was changed so that it reflected only the Federal dollars, and I think we should have a clear understanding.

Mr. PENNY. If the gentleman will yield, we can make that adjustment.

MODIFICATION TO AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, we can make an adjustment in the language, and it is at the desk. I would ask unanimous consent that the adjustment be made. That was the intent in preparing the amendment.

The CHAIRMAN. The gentleman from Minnesota makes the unanimous-consent request that a modification in his amendment be made. The Clerk will report the modification.

The Clerk read as follows:

In line 3 of the amendment after the word "Act" insert "in paragraphs appearing prior to the heading 'Division of Expenses.' "

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 33, insert after line 11 the following new section:

SEC. 137. Notwithstanding any other provision of this Act, each amount appropri-

ated or otherwise made available by this Act in paragraphs appearing prior to the heading "Division of Expenses" that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

Mr. DIXON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I rise to oppose this amendment. The Federal Government is already behind in providing an adequate Federal payment, and we certainly should not cut it further.

I hope Members vote down this amendment.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words and I rise to oppose the amendment.

I realize that given the lateness of the hour and the mood here this evening that this amendment as modified will probably be adopted.

□ 1810

I simply want to remind you of what the amendment will do.

As you know, the District of Columbia is the only jurisdiction where this Congress has a shared responsibility for governance. It is a jurisdiction in which we see reflected most acutely the basic problems confronting this Nation.

We have the highest drug violence rate in the Nation, where we have the responsibility for Government, we have the highest infant mortality rate in the Nation, the highest school dropout rate in the Nation, the highest AIDS rate in the Nation, the highest number of infants born with illegal substances in their bodies in the Nation per capita.

What this will do is to deny us 2 percent of a Federal payment that has not been raised in 5 years. You are calling upon a community that is already spending 86 percent of the budget for this community to now do without 2 percent.

Shall we cut it from police protection? Shall we take it from our hospitals, where we have the highest infant mortality rate in the Nation, the highest AIDS rate in the Nation? Shall we take it from our schools?

I hope that as you vote on this measure you will remember your responsibility to the American people as, in fact, a city council, an excutive branch for this Government, not to shortchange us on the ability to deal with the basic problems confronting this Nation that happen to be reflected most acutely in the experiences of the people who live in our Nation's Capital.

Mr. McMILLAN of North Carolina. Mr. Chairman, this is the ninth appropriations bill for fiscal year 1991 this Congress has taken up. So far, the spending increase in the appropriations bills passed to date ranges from 3 percent to 15 percent over last year's levels precisely at the time we should be holding the level constant.

W are like a drowning man in 90 feet of water who does not have the will to come up for air and sinks further with each passing moment.

The latest CBO numbers of July 1990 estimate a deficit of $195 billion in fiscal year 1990 with the changes from earlier in the year due to technical errors by the economists and budget forecasters. That is $85 billion over the Gramm-Rudman-Hollings target of $110 billion.

The baseline deficit estimate for the fiscal year 1991 deficit is $164 billion before looking at the RTC numbers. That is $90 billion over the Gramm-Rudman-Hollings target for that year of $74 billion.

CBO projects total baseline outlays of $1,287 billion for 1991. That would require a reduction of 7 percent—or $90 billion—to achieve the Gramm-Rudman-Hollings target even before RTC funding. If you aren't willing to cut projected outlays by 7 percent, not much more than a freeze at last years's level, or even the 2 percent in the Penny-McMillan offered here now, then you apparently are willing to increase taxes by close to 8 percent which is $90 billion required to meet the Gramm-Rudman target.

The amendment offered by my colleague from Minnesota and me is a bare minimum this House should do as a stroke toward rising up to the fresh air of a balanced budget. I would suggest that if you are really serious about reducing the deficit according to Gramm-Rudman targets without a full tax increase of 8 percent, then you are compelled to support this amendment to reduce Federal outlays. If you do not, you should be ready to support higher taxes.

The President showed his willingness to take politically difficult steps whether some of us on this side like it or not. Let us give the American people some hope that there is still some semblance of leadership left in Congress. Vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY], as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. KILDEE) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GALLO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 241, nays 178, not voting 13, as follows:

[Roll No. 274]

YEAS—241

Ackerman	Dicks	Horton
Alexander	Dingell	Houghton
Anderson	Dixon	Hoyer
Andrews	Donnelly	Jacobs
Annunzio	Dorgan (ND)	Johnson (CT)
Anthony	Downey	Johnston
Aspin	Durbin	Jones (GA)
Atkins	Dwyer	Jones (NC)
AuCoin	Dymally	Jontz
Bateman	Dyson	Kanjorski
Bates	Eckart	Kaptur
Beilenson	Edwards (CA)	Kastenmeier
Bennett	Engel	Kennedy
Berman	Erdreich	Kennelly
Bevill	Espy	Kleczka
Bilbray	Evans	Kolbe
Bliley	Fascell	Kolter
Boehlert	Fawell	Kostmayer
Boggs	Fazio	Lancaster
Bonior	Feighan	Lantos
Borski	Fish	Leath (TX)
Bosco	Flake	Lehman (CA)
Boucher	Flippo	Lehman (FL)
Boxer	Foglietta	Levin (MI)
Brennan	Ford (MI)	Levine (CA)
Brooks	Ford (TN)	Lewis (CA)
Browder	Frank	Lewis (GA)
Brown (CA)	Frost	Long
Bruce	Gallo	Machtley
Bryant	Gaydos	Manton
Bustamante	Gejdenson	Markey
Campbell (CO)	Gephardt	Martin (NY)
Cardin	Geren	Martinez
Carper	Gibbons	Matsui
Carr	Gillmor	Mavroules
Clarke	Gilman	Mazzoli
Clay	Gonzalez	McCloskey
Clement	Goodling	McDade
Coleman (TX)	Gordon	McDermott
Collins	Gray	McHugh
Conte	Green	McMillan (NC)
Conyers	Guarini	McMillen (MD)
Cooper	Hall (OH)	McNulty
Costello	Hamilton	Mfume
Coyne	Harris	Miller (CA)
Crockett	Hatcher	Mineta
Darden	Hayes (IL)	Moakley
de la Garza	Hefner	Molinari
Dellums	Hertel	Moody
Derrick	Hochbrueckner	Morrison (CT)

Mrazek	Richardson	Stangeland
Murtha	Ridge	Stark
Myers	Roe	Stokes
Nagle	Rose	Studds
Natcher	Roukema	Swift
Neal (MA)	Rowland (CT)	Synar
Nowak	Rowland (GA)	Tanner
Oakar	Roybal	Thomas (GA)
Oberstar	Sabo	Torres
Obey	Saiki	Torricelli
Olin	Savage	Towns
Ortiz	Sawyer	Traficant
Owens (NY)	Scheuer	Traxler
Owens (UT)	Schiff	Udall
Panetta	Schneider	Unsoeld
Parris	Schroeder	Valentine
Patterson	Schumer	Vento
Payne (NJ)	Serrano	Visclosky
Payne (VA)	Sharp	Walgren
Pease	Shays	Washington
Pelosi	Sikorski	Waxman
Perkins	Sisisky	Weiss
Pickett	Skaggs	Wheat
Pickle	Skeen	Wilson
Porter	Slaughter (NY)	Wise
Poshard	Smith (FL)	Wolpe
Price	Smith (IA)	Wyden
Rahall	Smith (VT)	Yates
Rangel	Solarz	Young (FL)
Ravenel	Spratt	
Regula	Staggers	

NAYS—178

Applegate	Hiler	Rinaldo
Archer	Hoagland	Ritter
Armey	Holloway	Roberts
Baker	Hopkins	Rogers
Ballenger	Hubbard	Rohrabacher
Barnard	Huckaby	Ros-Lehtinen
Bartlett	Hughes	Roth
Barton	Hunter	Russo
Bentley	Hutto	Sangmeister
Bereuter	Hyde	Sarpalius
Bilirakis	Inhofe	Saxton
Broomfield	Ireland	Schaefer
Brown (CO)	James	Schuette
Buechner	Jenkins	Schulze
Bunning	Johnson (SD)	Sensenbrenner
Burton	Kasich	Shaw
Byron	Kildee	Shumway
Callahan	Kyl	Shuster
Campbell (CA)	LaFalce	Skelton
Chandler	Lagomarsino	Slattery
Clinger	Laughlin	Slaughter (VA)
Coble	Leach (IA)	Smith (NE)
Coleman (MO)	Lent	Smith (NJ)
Combest	Lewis (FL)	Smith (TX)
Coughlin	Lightfoot	Smith, Denny (OR)
Courter	Lipinski	
Cox	Lloyd	Smith, Robert (NH)
Craig	Lowery (CA)	
Crane	Luken, Thomas	Smith, Robert (OR)
Dannemeyer	Lukens, Donald	
DeFazio	Madigan	Snowe
DeLay	Marlenee	Solomon
DeWine	Martin (IL)	Spence
Dickinson	McCandless	Stallings
Dornan (CA)	McCollum	Stearns
Douglas	McCurdy	Stenholm
Dreier	McEwen	Stump
Duncan	McGrath	Sundquist
Edwards (OK)	Meyers	Tallon
Emerson	Michel	Tauke
English	Miller (OH)	Tauzin
Fields	Miller (WA)	Taylor
Frenzel	Mollohan	Thomas (CA)
Gallegly	Montgomery	Thomas (WY)
Gekas	Moorhead	Upton
Gingrich	Morrison (WA)	Vander Jagt
Glickman	Murphy	Volkmer
Goss	Neal (NC)	Vucanovich
Gradison	Nielson	Walker
Grandy	Oxley	Walsh
Grant	Packard	Watkins
Gunderson	Pallone	Weber
Hall (TX)	Parker	Weldon
Hammerschmidt	Pashayan	Whittaker
Hancock	Paxon	Williams
Hansen	Penny	Wolf
Hastert	Petri	Wylie
Hayes (LA)	Pursell	Yatron
Hefley	Quillen	Young (AK)
Henry	Ray	
Herger	Rhodes	

NOT VOTING—13

Chapman	Livingston	Robinson
Condit	Lowey (NY)	Rostenkowski
Davis	McCrery	Whitten
Early	Morella	
Hawkins	Nelson	

□ 1833

The Clerk announced the following pair:

On this vote:

Mrs. Morella for, with Mr. Robinson against.

Messrs. TALLON, APPLEGATE, JOHNSON of South Dakota, and STALLINGS changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 5311, the bill just passed.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 271 and No. 274 and "nay" on rollcall No. 268, No. 270, No. 272, and No. 273.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4493

Mr. TALLON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 4493.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. GORDON. Mr. Speaker, on the vote earlier today concerning a reprimand for Mr. FRANK, inadvertently I was not recorded as having voted. Whether this was the result of mechanical error or not, I wish to have the RECORD show that had my vote been recorded I would have been showing as voting for the reprimand.

HELSINKI HUMAN RIGHTS DAY

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate joint resolution (S.J. Res. 339) to designate August 1, 1990, as "Helsinki Human Rights Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I take this time to yield to the chairman of the committee for the purpose of explaining the legislation.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of Senate Joint Resolution 339, to designate August 1, 1990, the 15th anniversary of the signing of the Helsinki Final Act, as "Helsinki Human Rights Day."

This measure unanimously passed the other body on June 29, and is identical to House Joint Resolution 620, which was introduced in the House by our distinguished colleague, cochairman of the Helsinki Commission, STENY HOYER, and has more than 50 cosponsors, including myself. The Subcommittee on Europe and the Middle East and the full Committee on Foreign Affairs considered Senate Joint Resolution 339 earlier this week and reported it favorably. The Subcommittee on Human Rights and International Organizations, to whom this measure was also referred, waived consideration in order that it might be brought before the full House and, hopefully, be sent to the President for his signature before next week. I commend our distinguished colleagues, Mr. HAMILTON, the chairman of our Subcommittee on Europe and the Middle East, Mr. YATRON, the chairman of our Subcommittee on Human Rights and International Organizations, and their ranking minority members, Mr. GILMAN and Mr. BEREUTER, for their expeditious consideration and their leadership on this important issue.

Mr. Speaker, the last year has seen historic and momentous changes occurring throughout Eastern Europe. The kind of Europe envisioned 15 years ago when the leaders of the United States, Canada, the Soviet Union and 32 European countries met in Helsinki, Finland to affix their signatures on the Final Act of the Conference on Security and Cooperation in Europe [CSCE] is finally being realized. In many East European countries and the Soviet Union, human rights which had for so long been routinely denied are, at last, being respected. Civil, political, and religious rights are being exercised, people can travel and emigrate freely across national borders, the flow of information of all kinds is no longer impeded, free elections have taken place, and long-held aspirations for self-determination are

being realized. While, regrettably, violations of human rights continue to occur in some countries, most notably Romania, the entire climate in Europe has changed since 1975, when the Helsinki Final Act was signed. The winds of freedom, which for so long were stifled by repressive Communist regimes, now blow freely across Europe.

A democratic, united, and peaceful Europe had its roots in the pledges of the Final Act and was nurtured for the last 15 years by the regular scrutiny and spotlight of public opinion that the CSCE—in the followup meetings of Belgrade, Madrid, and Vienna—provided. The fledging and beleaguered democracy and human rights movements in Eastern Europe took solace from the support they received and the criticism their oppressors had levied against them by Western delegations, led by the United States, at the CSCE review meetings. Those labors have now born fruit as human rights activists become parliamentarians, president, and prime ministers in Eastern Europe. The promises of the CSCE Final Act have become reality.

The role of the CSCE in ensuring the future of this new Europe is critical. While CSCE is not well-suited to replace military alliances and guarantee the security of Europe, it can play a valuable role as a forum for increased cooperation in the economic, military, and humanitarian spheres. It can provide a vehicle for airing differences and resolving disputes among nations as well as promoting the further democratization of Europe. In my opinion, it is essential that the CSCE continue to promote respect for human rights and fundamental freedoms as the cornerstone for genuine peace and security in Europe.

Mr. Speaker, this year, for the first time in 15 years, August 1, 1990 is the occasion for a joyous celebration of the victory of freedom over repression. There is no doubt that the CSCE process helped to accelerate the demise of the totalitarian regimes of Eastern Europe. The revolutions of 1989 would not have taken place without the CSCE and it is this uplifting success story which we commemorate in this resolution today.

I urge the immediate adoption of Senate Joint Resolution 339.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, on behalf of myself and the gentleman from Michigan [Mr. BROOMFIELD] I am happy to support this resolution to designate August 1—the 15th anniversary of the signing of the Helsinki Final Act—as Helsinki Human Rights Day.

The human rights provisions of the Helsinki agreement served us well during the dark days of the cold war. The Helsinki accords may soon acquire further significance by providing a new, universal framework for European security to supplement existing alliance arrangements.

Despite the dramatic changes in Eastern Europe and even the Soviet Union, the importance of the Helsinki human rights process is undiminished. History has shown that respect for human rights is the fundamental basis of peace in Europe, and throughout the world.

I wish to commend Chairman FASCELL and Vice Chairman BROOMFIELD for their support of this resolution. And I also commend the sponsors, many of whom are members of the Commissions on Security and Cooperation in Europe which was established to monitor the Helsinki process for the United States.

Mr. PORTER. Mr. Speaker there is cause for great celebration on this year's Helsinki Human Rights Day. Over the past year the rights of human beings all over Central and Eastern Europe and in the Soviet Union itself have been greatly enhanced. The gentleman from Florida and Maryland should be commended for their sponsorship of this resolution and for their excellent remarks. I am pleased to associate myself with them and pleased that I am cosponsoring the resolution.

While we rejoice that the yoke of international communism has been lifted throughout central and eastern Europe, some of the nations have not lifted the yoke of their national Communist parties. It is of some interest that it is in these same places that ethnic strife is greatest, where the Bulgarians repress the ethnic Turks, where the Romanians persecute ethnic Hungarians, where Serb and ethnic Albanian stand off in the Kosovo region.

Mr. Speaker, the message of rejoicing over advances in human rights, which is one of the missions of the Helsinki Commission, on which I am privileged to serve, must be tempered by these ethnic conflicts. The word must go forth that with rights come responsibilities, and that freedom is not the freedom to renew old ethnic hatreds, but freedom to live according to the rule of law with respect for the rights of all others.

Perhaps there is something to the argument often heard that not everyone is ready for freedom, that not everyone can handle democracy. I have never believed this. While in times of economic difficulty, people often look for scapegoats and those scapegoats often are people who are different from themselves, at the heart most people are good, are tolerant, and understand that the golden rule is the best guide of their conduct.

President Bush said in his inaugural address nearly 2 years ago when the Berlin Wall remained in place and the Iron Curtain held strong that "We know what works; freedom works." As economic freedom increasingly pervades the newly freed societies, as life for the average Pole, Czech, Slovak, Serb, Croat, and all the other peoples that make up this facinating part of the world, improves, we may look for a greater understanding of freedom and a greater desire to live in peace and dignity with one's neighbors.

The work of the Helsinki Commission is obviously not over. While the focus changes, the efforts to ensure and institutionalize rights throughout the region continues. The Soviets could go a long way to greater understanding by passing into law a comprehensive emigration act and setting up the governmental institutions to carry it out.

So, Mr. Speaker, we celebrate Helsinki Human Rights Day with much joy in our hearts, but, too, with a renewed commitment to see that the rights of all persons, and their responsibilities, too, continue to be enhanced.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 339

Whereas August 1, 1990, is the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to guarantee the effective exercise of human rights and fundamental freedoms which derive from the inherent dignity of humanity and are essential for the free and full development of that dignity;

Whereas the participating States have committed themselves to "protect and create the conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory," as well as to "respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others";

Whereas the Helsinki accords also express the commitment of the participating State in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia Interna-

tional Covenants on Human Rights, by which they may be bound";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are bought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect of human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have made it their aim to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the dramatic changes which have occurred within the last year in many signatory States have brought the human rights promises of Helsinki closer to fruition;

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas on January 19, 1989, representatives from the signatory States agreed on the Concluding Document of the Vienna Follow-Up Meeting, a document which has added clarity and precision to the obligations undertaken by the State in signing the Helsinki accords;

Whereas by agreeing to the Concluding Document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security";

Whereas the Conference on Security and Cooperation in Europe of the thirty-five signatory States of the Helsinki accords has made major contributions to the positive developments in Eastern and Central Europe, including greater respect for human rights and fundamental freedoms of individuals and groups; and

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1990, the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

The Senate joint resolution was ordered to be read a third-time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate joint resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMERICAN-ISRAELI RELATIONS: MORE THAN EVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, many have observed over the ages that the more things change, the more they remain the same. Such is the case with the state of American foreign relations today.

Mr. Speaker, during the last year, we have witnessed remarkable changes towards freedom and democracy in Eastern Europe. Dictatorships have fallen in country after country behind the Iron Curtain. The Berlin Wall now lies in rubble. Free-market initiatives are starting to take hold. Surely, all my colleagues in Congress share my joyfulness and thankfulness that the decades repression are coming to an end in Eastern Europe. We have also recognized that these remarkable events have placed new challenges and new demands on American foreign policy, and I believe that Congress thus far has acted swiftly and appropriately by enacting H.R. 3402, the Support for East European Democracy [SEED] Act, in November of last year.

However, I regret to report that the winds of change sweeping across Eastern Europe have not yet reached the Middle East, which remains perhaps the most volatile area on the globe.

Yet there are some who would argue that the ending of the cold war should prompt a reevaluation of American-Israeli affairs, that the new challenges in Eastern Europe should be met at the expense of our 42-year relationship with the State of Israel, that the easing of East-West relations have somehow diminished Israel's strategic importance. Nothing, Mr. Speaker, could be farther from the truth.

Since its creation, Israel has been and remains among America's strongest and most strategically important allies, and I for one believe that our alliance with the State of Israel should—and will—grow in strength and importance in the years ahead. With anticipated decreases in both American military presence and the likelihood of superpower confrontation in Europe, the United States will rely more—not less—on Israel in several areas.

The decline of American land forces in Europe will increase the significance of naval operations in the Mediterranean, and of the support facilities Israel can provide to our naval forces. At a time when other allies are increasingly reluctant to host and cooperate with American military bases, it is reassuring to know that Israel has shown a willingness to work jointly with the United States. Additionally, the potential elimination of Europe as a possible battleground increases the strategic significance of a regional conflict in the Middle East, especially since Soviet-client states continue to receive a steady flow of arms from Moscow, and do not appear willing to follow the lead of their Eastern European allies in seeking democracy and peace. We also must not forget that many in this region remain committed to the anti-American, anti-Western forces of radical Islamic fundamentalism, against which Israel is our only ally in the Middle East.

But in addition to a strategic commitment to Israel, Mr. Speaker, we must not forget that we have a moral commitment to her as well. Israel is our most trusted, most democratic ally in the Middle East, and the historic ties which bind our two nations are as strong as any the United States has ever enjoyed. Together with Egypt, Israel shares the central United States objective of promoting peace and stability in the region through initiatives such as the Camp David Accords. Israel not only deserves our support, but needs our support.

The facts speak for themselves: Israel's Arab neighbors have 4 times as many fighter

planes, 4.5. times as many tanks, and have spent 13 times more on new weapons since the 1973 Yom Kippur war. Israel is already greatly outnumbered; without the United States, where would she be?

For all these reasons, I believe that strong American-Israeli relations are as crucial to regional and world peace today as ever before.

Yet, there are those in the White House who don't see things the same way as I do. Some within the Bush administration say Israel is not doing enough to forge a peaceful solution to the problems afflicting the Middle East, or is being obstructionist in entering into a dialog with the Palestine Liberation Organization, or is not serious enough about wanting peace.

Mr. Speaker, I believe that such views are shamefully incorrect and misguided.

I am quick to point out that this is not a matter of mere partisan bickering, as I am sure former Ambassador Jeane Kirkpatrick would agree. In May, Ambassador Kirkpatrick wrote that "Bush views Israel rather the same way the 'moderate' Arab States view Israel: as the source of the problem, the state that has disrupted the peace of the region." These sentiments reveal themselves in the Bush administration's track record on Israeli relations.

In April, President Bush stumbled through a minefield on the Jerusalem issue, and brought down Israel's fragile coalition government in the process. After weeks of delicate, but promising, negotiations on East Jerusalem representation came President Bush's unanticipated and still preplexing pronouncement that the United States considers East Jerusalem to be occupied Arab territory and off-limits for settlement by immigrant Soviet Jews. This statement set off a series of events which most observers agree not only was the last straw for Prime Minister Shamir's coalition government, but also doomed these delicate negotiations.

A second, related area of concern is the administration's attempt to enter into a dialog with the PLO, which was conditioned upon the PLOs renunciation of terrorism. When the United States began an official dialogue with the PLO in December 1988, the Bush administration took Yasser Arafat at his word. Just in May, the administration reported to Congress that the PLO had not violated this commitment. Shortly thereafter, Arafat made a fool of the administration and proved that his word is worthless when the PLO refused to condemn a May 30 terrorist attack against civilians on the beaches of Tel Aviv.

Even worse is what appears to be a double standard that is being used to judge Israel, best illustrated by a couple of events which have occurred in recent months. Why is it that the whole of Israeli society is immediately blamed and denounced in the media when a single, mentally unstable, Israeli ex-con commits an insane act of mass murder against innocent Palestinians in May—but no one seems to blink when the PLO blames the Israeli Government when two masked terrorists intercepted an Israeli tour bus and machine-gunned nine passengers to death in February?

The State Department has its own version of this double standard. In response to the May tragedy, State Department spokesman said, "in the absence of the peace process" in other words, because Shamir won't give in to the administration's demands—"the potential for this kind of senseless violence goes up." But the State Department called the February attack "an obvious attempt to halt efforts at reconciliation and dialog." Well, which one is it? Does the peace process cause terrorist attacks on Israeli civilians, or does it diminish "the potential for this kind of senseless violence," as the State Department says now? Then, at about the same time, the Secretary of State issues a public proclamation that when Israel is serious about peace, they should telephone the White House at 202-456-1414. In my 26 years in Congress, I have never heard such an undiplomatic statement—not even to a nation at hostility with the United States. This is what President Bush considers diplomacy?

Mr. Speaker, in response to the Bush administration's mismanagement of Middle Eastern foreign affairs, I believe that it is essential that Congress take swift action in the remaining days of the 101st Congress to shore up American-Israeli relations.

I call upon my colleagues in the House to hold hearings and quickly pass H.R. 4995, legislation which I have cosponsored, to declare that further negotiations between the United States and the Palestine Liberation Organization are prohibited because the PLO has failed to adhere to its obligation to renounce the use of terrorism. In addition, I call upon the U.S. Senate to follow the lead of the House and pass House Concurrent Resolution 290—of which I am also proud to be a cosponsor—to acknowledge that Jerusalem is and should remain the capital of the State of Israel.

Both of these measures, Mr. Speaker, are modest proposals. However, in light of the current state of affairs between the Bush administration and Israel, I believe that it is absolutely imperative that both bills be enacted into law this year. In the name of 42 years of Israeli-American friendship, I believe that it is the very least we can do.

AMERICA'S BATTLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, it was wonderful news of a significant victory for Go-Video, Inc., of Scottsdale, AZ, that was faxed to me today. The significant victory for them also means a big win for our electronics industry—the U.S. electronics industry.

Go-Video filed a lawsuit against the major electronics and trading companies in Japan alleging their involvement in a conspiracy against Go-Video in violation of antitrust laws of the United States.

Their announcement today means several things:

First, the Federal district court's 81-page decision means the Japanese companies must stand trial before a Federal jury in Phoenix, AZ. These companies must answer the charges in an American court that they have conspired in violation of Federal antitrust laws to block the marketing of dual-deck VCR's in the United States.

Second, it means that the Federal judge has found that there is substantial evidence of conspiracy in the Japanese electronics industry and Go-Video is one of the victims.

Third, it also means that the Japanese electronic manufacturers have lost their challenge to the Go-Video dual-deck patent. The Japanese companies can make the single deck VCR's but they cannot make the Go-Video, USA dual deck.

The defendants remaining in this case are the giants of the Japanese electronics industry. They include Matsushita Electric Industrial Co., Ltd., Victor Co. of Japan, Ltd., Sony Corp., Sanyo Electric Co., Ltd., and NEC Corp.

This case is a true American story that fills the annals of American business—those who never give up, but keep on slugging because they have faith in their products, in themselves and in our system.

I am very proud of these two young men who have been coming into my office since early in 1987. Terry Dunlap, CEO of Go-Video and Eric Schedeler, president of the company along with their attorney, Joe Alioto, are to be commended. It is amazing to me what they have accomplished. This suit was filed by a small Arizona company, not by the Justice Department, the U.S. Trade Representative, the Department of Commerce, or the Federal Trade Commission.

This time, unlike the Matsushita case, the Japanese defendants must stand trial. The Matsushita case destroyed our electronics industry when the Government filed a friendly Amicus Curiae case on behalf of the Japanese that they were not dumping and destroying our television market.

This is a victory for all American businessmen.

Now Americans finally have the opportunity to challenge the VCR market—which amounts to $9 billion of our trade deficit with Japan.

More than that, it also means that the second suit, which Go-Video filed in January should go forward. That suit charges the Japanese with a worldwide electronics conspiracy. That case means that Go-Video will be battling not only for the dual-deck VCR but VCR's in general and for HDTV, and digital audio tape.

These three young men are true Americans. They are carrying their fight into Japan. They will show their product at the Japanese Electronics Show in Tokyo this fall. So far, Go-Video is the only American company listed in attendance at the show. In today's world I will say "right on", but if it were a few years ago, I would say "my hat is off to you."

Either way, I am proud of them and of my colleague, Congressman JOHN "JAY" RHODES who also helped them a great deal with the Government. Together they have made a good team.

If I seem elated, you must understand that all we hear is how lazy American businessmen are, we don't plan for the long term and the list of complaints goes on. Now we finally have an American company catching the Japanese with their hand in the cookie jar.

It is time for us to take this one step further. We must work to win this economic war. Lest we forget the definition—a war—according to my trusty Webster's Dictionary, is a struggle between opposing forces or for a particular end. This is a significant victory in one battle of this economic competition with our friendly ally, Japan.

Go-Video also is significant because of its patent on the double-deck VCR and what it means to our entertainment industry. The double-deck VCR will be used in video-phones and in home communication studios.

More importantly, Sony wanted Columbia Pictures to have the software for their hardware. They have been the largest makers of VCR's. Now they can have their software but with the passing of a few years, it will all be on double-deck VCR's. At present, only the microprocessor for the Go-Video VCR is made by Intel in Scottsdale, AZ.

The microprocessors are a start—and what a start. Go-Video now has brought microprocessors back to the United States. We emphasize this because everyone knows that Go-Video is an American company. Go-Video is living proof that one person can make a difference and two or three an absolute change.

What has Go-Video—and all our American businesses been battling in this economic war which we euphemistically call "free trade?"

This was answered for me in an article in the April, 1990 issue of Business Tokyo. Titled "Big Business In Japan" it explained the following:

> Let me tell you what Japanese manufacturing is really like. Every big firm you've ever heard of is just the top of a giant pyramid. The only name you know is the name of the parent firm, which is listed on the Tokyo Stock Exchange along with the members of its keiretsu, a large group of loosely related companies that share common interests and a common main bank. The big electronics manufacturers are usually among the central companies in these keiretsu.

It went on to explain that these large companies do publish impressive annual reports but these companies purchase a large portion of their goods as either finished or semifinished products from other companies.

> What most people don't realize is just how extensive this system is, and that many products are made entirely by smaller companies and simply labeled and packaged to look as if they were manufactured by one of Japan's "giants".

The article goes on to explain that,

> One of Japan's top electronics makers has well over 6,000 subcontractors.
>
> The companies in a manufacturing group are like parts of a big machine. As a subcontractor, you exist to produce goods for the company one level above you. You produce what they want, when they want it, and at the price they want it. Rule No. 1 is never to talk to companies outside the group. From now on, everything you know, everything you see, everyone you meet is in the group.

The Business Tokyo article also stated that,

> As a member of a manufacturer's corporate group, you are automatically a member of its keiretsu industrial group. What this means for you, the small operator, is that you have to do business not only with the companies in your parent's pyramid, but with other firms in its keiretsu.

What happens within these groups was explained by the Japan Economic Journal last year in an article that "Interlocking Firms Lock Out Foes." It stated,

> Cooperation within each industrial group runs the gamut. For example, business groups have each formed separate study groups to promote regional development projects such as the new Kansai international airport near Osaka and development of the Tokyo Bay Area.
>
> Further, companies within business groups also usually entrust management of corporate pensions to trust banks and life insurance companies within the same group.

Now we all know about shareholdings and how my friend Boone Pickens has tried to get a seat on the board of Koito. He owns 26 percent of the stock and yet cannot get even one seat on the board. Perhaps he will be successful in his battle just as Go-Video is.

This should mean that no longer will we be buying 33,000 VCR's a day or 1 million a month from Japan—we should have a choice.

We all have a choice to do what we can to get this country moving so that all Americans can share in the American dream. We do it by one step at a time, and in the true American fashion, never give up. I haven't—Go-Video hasn't given up, Boone Pickens hasn't given up and neither should any American. Together we can restore and polish the American dream and keep it strong.

□ 1850

THE POLICE CORPS: A NEW COMMITMENT TO FIGHTING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. MCCURDY] is recognized for 60 minutes.

Mr. MCCURDY. Mr. Speaker, Members, both Republican and Democrat, often speak of their overwhelming commitment to fighting crime and their overwhelming commitment to helping everyone get a college education. However, when it comes time to vote, many of my Republican colleagues vote to cut funding for higher education and law enforcement. This contradiction must end. By voting to fund a police corps, we can help move the Nation closer to fulfilling both critical goals.

Police corps is essentially a ROTC type program that would provide training and college scholarships to young people who enter policing. The police corps could have a direct and immediate impact in reducing crime.

The police corps is based on a simple premise: to reclaim America's crime-ridden streets and neighborhoods, we need more police officers and better police tactics. It is a creative response to the stunning deterioration of personal security in America in the last three decades. In 1988, over 1½ million violent crimes were reported, five times the incidence in 1960. The Justice Department recently estimated that more than 8 out of every 10 Americans can expect to be the victime of a violent crime at some point in their lives.

Of all the startling statistics associated with crime, perhaps the most telling is the reversal in the relative strength of our police forces and the criminals they battle. In 1951, in cities with populations over 50,000, there were more than three police for every reported violent crime. By 1988, there were more than three violent crimes for every police officer.

The police corps is designed to reverse today's unequal struggle between police and criminals. It would award up to a total of $40,000 in college scholarships to students who agree to serve in a State or local police department for 4 years after they graduate. An influx of highly educated and motivated young officers would be a particular boon to financially strapped cities. Like the original GI bill, the police corps is a civic compact that rewards citizens who engage in a particularly difficult and dangerous form of service to the Nation.

Adding more police, however, is only a first step. New recruits must be deployed in a manner that prevents crime and mobilizes its potential victims to help in the fight. Law enforcement experts have increasingly come to believe that an alternative method called community policing offers a more effective deployment strategy than motorized rapid response. Under this approach, police are trained to think in terms of patterns of criminal activity, not simply to respond to radio calls. They are deployed in a visible and continuous manner in a particular neighborhood. They work actively to get citizens to cooperate to alleviate the conditions that feed crime.

The police corps bill, would be a big boost to community policing. It mandates that recruits be kept on community and preventive patrol. While Congress should not try to regulate local police practices, the least it should do is give a push to community policing efforts that have been proven effective.

When the Senate recently debated and passed its crime bill, a police corps amendment was adopted. However, the Republican members opposed it on the basis that it offered loan forgiveness. The Republican members of the House Education and Labor Committee opposed a police corps provision that was included in Congresswoman LOWEY's drug education bill—also because it offered loan forgiveness. Can it be that Republicans think the only person that deserves loan forgiveness is Neil Bush? Republicans complain that the police corps will cost too much money. But rest assured, in just a few days, these very same members will be complaining that Democrats aren't tough enough against crime. Let's put our money where our mouths are and support a program that will help deserving students get to college and help fight crime.

Mr. Speaker, as head of the mainstream caucus and mainstream forum, we have been discussing in a number of meetings and over a few days different concepts that we believe are issues that are of great concern to mainstream America.

Mr. Speaker, the forum has decided that personal security, along with national security, are two of the most important issues facing America. The police corps concept offers a new approach. It offers an innovative solution to the rising crime rate in this country.

Many of us have had law enforcement background, many within the Democratic Party, many within this Congress, many who are members of the mainstream forum. Whether or not you have had law enforcement background, whether as an assistant attorney general, as I, the role that I played for a number of years, or as a prosecutor or a police officer or others, members share a deep and abiding concern for the victims of crime, for the communities, for the cities, for the rural areas. Rural America, too, is stricken by this wave of criminal activity, and we believe that we need to come together to find new approaches. We believe the Federal Government has a role to play.

Mr. Speaker, it is my pleasure to yield at this point to the gentleman from Texas [Mr. LAUGHLIN], who also has a law enforcement background, to discuss the police corps concept and initiatives to fight crime.

Mr. LAUGHLIN. Mr. Speaker, I want to thank the gentleman for inviting me to participate in this special order on law enforcement and crime enforcement in America. Too often we Democrats have been called soft on crime. It is a bum rap, when you look around at many of our distinguished colleagues who have a strong law enforcement background.

I will begin by mentioning two of our Members who are former elected sheriffs in their respective counties and States, the gentleman from Texas [Mr. ORTIZ], my neighbor to the south of me in Texas served as sheriff of Nueces County for a number of years before coming to Congress.

□ 1900

Our colleague, the gentleman from Ohio [Mr. TRAFICANT], served as sheriff in his home county in Ohio before being elected to Congress. But Mr. Speaker, I want to address the police corps from the perspective of being a former prosecutor in a very large city.

I served under the district attorney, Carol Vance, for 4 years, My deskmate, my next-door neighbor in the very crowded offices we had, was John E. Holmes, current district attorney of Houston, the fourth largest city in America. While I served under Carol Vance as assistant district attorney, I prosecuted many cases, and I found that crime knew no boundaries in our neighborhoods, in our schools, and, very tragically, through illegal drugs, it knew no boundaries in our families.

I found that while working as assistant district attorney that our crime rates were lower in those areas where policemen seemed to be hanging around, and that made sense to me as I thought about it, because I realized if you are going to break into a building or if you are going to shoot someone or rob someone, you generally are not going to do it with a police officer nearby who will either witness it or hear a gunshot or hear a scream. For that reason and others that I will talk about later, I think that the police corps concept is one that cries out to America, that we must find those kinds of steps to prepare good quality trained youngsters for a law enforcement career.

As a product of the ROTC program, I have many friends at Texas A&M, where we were an all-military school, and I had many friends who were called to duty and served with honor in Vietnam. Just as many of our colleagues from around the United States who received their commissions as officers from the ROTC program, we all were well trained, and we knew we had a duty to perform, and that duty was to enter upon the active duty of the military services of our country for a period of years varying from 2 years to 4 years dependent upon whether we received a commission from the Army or a commission from the Air Force. Of course, the Navy and Marine Corps had a very fine program, but, unfortunately, we did not have that at Texas A&M at that time, so I cannot address the merits of their programs firsthand.

But the point of all that is we were youngsters who were receiving a small amount of money each month to pursue our education, and we knew and had an expectation of serving our country. That is the appealing thing to me about the police corps is that we will go out and have youngsters who desire a law enforcement career, and we will give them the proper training that will qualify them to serve in our neighborhoods, and those same youngsters would have an expectation, along with the requirement of serving in the neighborhoods, just as my colleagues and I had an expectation to serve in the military forces of our land, and I think it is an important consideration that we continue to attract our youngsters to training programs as we look at the scaledown of the military forces in our country.

It seems to me that the ROTC program probably will shrink, and that is another valid reason for considering a police ROTC program where we have our youngsters receive a small amount of money with the expectation of serving in the police units of our land in their neighborhoods where they can be present.

I have read numerous reports that indicate that when a policeman is on the ground, shoe leather to pavement, the crime rate is lowest in those areas. It steps up a matter of degrees when the policeman is in that same area but on a motorcycle, and then the incidence of crime gets even higher when that policeman is in a vehicle, a motor vehicle, an automobile, and then, of course, it gets sky-high and off the charts when we have no policeman around, because either the territory is too large like we have in my district for a policeman to cover very much, or the population is so great and the density of buildings and people are so great that one officer is not very effective in covering the area that we could have with trained youngsters committed to a career.

Mr. Speaker, I have other comments, but we have colleagues who have come in, and at this time, keeping in mind their schedule, I would defer to the gentlewoman from South Carolina [Mrs. PATTERSON], who has indicated the desire to speak on this very important issue. We ceratinaly thank her for taking the time out of her busy schedule to participate in this special order on crime and law enforcement, and I know it is important to her. We thank her for joining us.

Mr. McCURDY. Mr. Speaker, I yield to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, I thank the gentleman for yielding. I appreciate it.

Mr. Speaker, let me join my colleague, the gentleman from Oklahoma [Mr. MCCURDY], and commend the Democratic leadership conference for proposing the police corps. I do not have law enforcement background. I am not a lawyer. But when I heard of the concept of the police corps, I really wanted to speak tonight, because I wanted to speak from two perspectives, No. 1, as a mother, as a mother of three teenagers, three teenagers who are faced every day with the problem of drugs, the problem of drugs that, of course, has become very closely related to crime, crime in our streets, crime in our schools and in our communities, and as a parent, I wanted to say that I am concerned about the problem of drugs. But I also wanted to say as a parent how important I think education is, how very important education is, not just to educate our children about the dangers of drugs but how important education is for those men and women who are in law enforcement and who are out there helping us as we fight this war on drugs.

As a mother, I wanted to speak, but I also wanted to speak as a Representative in this wonderful body of the U.S. Congress. I wanted to speak on behalf of my district, and for those of you who do not know, I come from the Fourth Congressional District in South Carolina, basically rural, three counties, two towns over 55,000, but basically rural.

As I travel to town meetings, visiting the little communities, I listen and I hear from our law enforcement officers a desire to be better officers, and many of them say, "I don't have the money or didn't have the money to continue my education."

I believe that the Democratic proposal of a police corps is a wonderful way to help my district, the men and women in my district and the families in my district. I want to commend my colleague, the gentleman from Oklahoma [Mr. MCCURDY], and the Democratic mainstream group in this body for really thinking about law enforcement and saying to young men and women today, "It is an honorable profession. It is an honorable profession. If you want to go into it, we want to help you, and we want to help you get that education so when you go back to my communities, to my small towns, to my sheriff's department, that you will be trained to help fight that war on drugs, to make our towns and our communities a safer place."

So let me join others in saying congratulations, thank you, and I commend you for bringing this wonderful idea of the police corps to its forefront. I hope we will find the money to fund it.

Mr. MCCURDY. I thank the gentlewoman for not only her comments but, more importantly, for the role that she plays in this body to raise concerns not only of importance to her constituency in South Carolina but to the Nation as a whole. It is important for us, as Members of Congress, to also speak as parents.

Mrs. PATTERSON. Very much so.

Mr. MCCURDY. When the gentlewoman says she speaks as a mother of three teenagers, I speak as a father of three soon-to-become teenagers, and we share very similar concerns about the risks, the dangers, the temptations.

I guess generations for years have always said, "Well, we had it easier; we didn't have the challenges or the temptations that perhaps our children will face," and we had some dangerous ones and probably did some very stupid things as kids, but I am very much concerned as a parent, as a father about the risks that face our children today.

□ 1910

The risk of drugs is frightening to us all. But one of the things I wanted to raise with the gentlewoman from South Caroliona [Mrs. PATTERSON], which I think she agrees with, is it is important for us also when we look at how to fight crime, and the gentleman from Texas [Mr. LAUGHLIN] mentioned this as well, it is one thing not only to have them present and visible, but they have to be a role model when they are present and visible. If they have had the experience of a college education, in many instances, and we find this in rural communities as well, they would have an opportunity to perhaps have a broader range of tolerance and understanding of different views and concerns. In the kinds of communities that have different mixes of emotion and challenges and income groups and races, it is important that people have a perspective that is professional. I believe that they would not be providing more law enforcement, but higher quality law enforcement. So education is critical.

Also it is important for us to evaluate the position itself. It is like teachers in this country. In Japan, and the gentlewoman from Maryland [Mrs. BENTLEY] has left, and she has spoken many, many times on Japan and the trade issue, but one thing that they do to their credit is that they respect their teachers. They elevate them in their society. They respect engineers and manufacturers. They elevate that position.

The gentlewoman mentioned, for instance, Boone Pickens. Well, quite frankly, Boone Pickens is not on my list as one that I elevate as a role model for either American industry or for young people in this country. We have elevated the Donald Trumps and the Boone Pickenses and people that appear to be motivated by money, but I am not sure that we have motivated young people to think about careers such as law enforcement or the military or other very noble professions that affect us and that are adding value to our society. They are giving back in return.

That is why a police corps concept, like the GI bill, is simple. You earn a benefit, getting an assistance loan forgiveness to go to college. How do you pay it back? How do you give it back? Well, you give it back through service. You give it back through citizenship. You give it back through service to your community, to your country, and to your fellow man. That is the concept, that is the idea, and that is why it appalls me that we see people vote against it because, "It is loan forgiveness."

I do not really have a question for the gentlewoman from South Carolina [Mrs. PATTERSON]. I wanted to raise that point because she struck me with the fact that she speaks from the heart as not only a Representative, and very well, but as a parent. I think it is important for us not to forget that we are parents in this body.

Mrs. PATTERSON. Mr. Speaker, I appreciate that, and I appreciate the response of the gentleman. Let me say I could not agree with him more about education. I think to tell young men and women it is okay to go into law enforcement, and we are going to help you get the best education possible, so that when you go out there, you will know how to handle that job in a more professional way, so many young men and women today want to go to college and would like to major maybe in law enforcement. But unless they get that incentive, and we do need to raise that profession to the height that it deserves, because they are putting their lives on the line for us daily.

Mr. LAUGHLIN. Mr. Speaker, the gentlewoman is exactly right when she talks about better quality. As a prosecutor I had some murder cases thrown out, some drug cases thrown out, and other kinds of serious crimes thrown out of court because of lack of skills in the investigative process, either in their report writing or not taking care of the evidence properly.

We are in an age where the criminals are smarter than they were years ago. I love to watch the old classic movie channel, the movies that were made in the 1930's and 1940's. I watch those criminals on there, and they are so dumb, because the ones I prosecuted were so much smarter. Frankly, some even had good educations. But our officers today are operating in a climate where they have to be better.

The Supreme Court across the street from this U.S. Capitol requires our police officers to be smarter than the

cop that we used to see in the movies or that we saw in the neighborhoods where we grew up who went down, strapped a .45 on his hip, and walked around with a badge on. That is about all the training that many of them got.

Admittedly, there is a lot better training today than in that era I am talking about. But we need these law enforcement people to have concentrated law enforcement training so that they can deal with the complexities that the political world requires of them and the Supreme Court and Federal court decisions require.

I think the gentlewoman makes a very valid point that education is what produces that. It is an investment in our neighborhoods, our families, our loved ones, and we get a substantial return when they are qualified role models, qualified police officers, and they are out there setting a good example and doing good police work.

Nothing hurts law enforcement worse than a police officer who does a bad job, either through lack of training or not doing a good job in his investigative skills.

Mrs. PATTERSON. Mr. Speaker, just one more remark. I would emphasize I am so pleased to be a member of a party, the Democratic Party, that I believe really puts an emphasis on education. Because I just am a firm believer that that is the future. I wish we could get folks on the other side of the aisle to believe in it as strongly as I do.

Education is the key to success for our country. To say that we want to have trained law enforcement officers who are going to help in this crime war that we are having, I am tired of rhetoric. I am ready for programs.

I just want to close by saying I commend the gentleman from Oklahoma [Mr. MCCURDY] for setting aside this special order so that I might have the opportunity as a mom and as a Member of Congress to express that.

Mr. MCCURDY. Mr. Speaker, this is important. Those of us that set up and organize the Mainstream Forum, it has become an adjunct of the Democratic Leadership Council. We are talking about values in the middle of America. Yet, to be honest, it is not just a question of Republican Members voting against a concept such as the police corps.

Many within our party, for instance, have often fallen into the trap of trying to protect civil liberties to the extent they end up trying to protect the rights of the criminals as opposed to the victims and society as a whole. What we are saying is that neither extreme is right. You cannot just say we are going to have all penalty and all punishment, but we are not going to have the preventive measures out there to help the victim prevent crimes from occurring, or we are just taking the position we are going to try to protect the constitutional rights of perpetrators.

We are really concerned about quality of law enforcement. We believe the crime bill has many valuable components, but one of the most important is this concept that we are discussing today on the police corps. Just to be fair, and again to kind of put focus on this, we are talking about the kinds of concepts which I think America supports.

Someone raised the question the other day, Adam Wolinski is the person who thought of it and did much of the research and development of the concept of the police corps, about the cost of it. Well, yes, you know it does cost. But the gentleman from Missouri [Mr. SKELTON] here and the gentleman from Texas [Mr. LAUGHLIN] and myself are all members of the Armed Services Committee. For the cost of one strategic platform, we could put over 40,000 to 80,000 police officers on the street.

Now, they would be educated, they would be trained. I believe that is the kind of perspective that we have to remember as well. Because in our last special order we talked about economic security as being part of national security.

Let me tell Members, personal security, men and woman, children being able to walk on their streets in their neighborhoods free from crime, and the threat, the terror or threat of being a victim of crime, is a national issue. It is elevated to a national issue because of the startling statistics.

In the shadow of the Capitol, where we sit here today, in this city, they have a per capita murder rate higher than they do in El Salvador, a country that is in a civil war. That is outrageous. That is outrageous. That is why these concepts are incredibly important.

□ 1920

Mr. LAUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. MCCURDY. I am glad to yield to the gentleman from Texas.

Mr. LAUGHLIN. Mr. Speaker, I want to thank the gentleman from Oklahoma for yielding on that point. I just read a very sad statistic that criminals outnumber our crime fighters in America.

The gentlewoman from South Carolina was making a point that just comes right back, and that is that people do want safety in their neighborhoods. While the gentlewoman from South Carolina is a mom, the other moms in America want the same thing. My wife does for her children, and my mother did for her children. That is why the fastest growing business in America today is security forces, neighborhood security forces, and that is a sad statistic.

We need to replace that with the uniformed neighborhood policeman who works for the police chief, the city council, who works for the sheriff and the commissioner's court. That statistic alone points out why we must have a concentrated effort to bring talented, qualified crime fighters to our streets.

I will be the first to get in line and say we need to punish the criminal with a good kick in the rear that floats him into the county or State penitentiary. But we are not protecting our own citizens if we do not have policemen out there, skilled and trained to do it.

Mr. Speaker, I hope the gentleman from Oklahoma will now recognize the gentleman from Mississippi [Mr. ESPEY], who brings law enforcement as a Democrat to this House. He is a former assistant attorney general, and I want to thank the gentleman from Mississippi for taking of his valuable time to participate in the special orders on crime enforcement.

Mr. MCCURDY. Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. ESPEY. Mr. Speaker, I want to thank the gentleman for yielding and thank the gentleman from Texas and the gentleman from Oklahoma for bringing us together to talk about an issue that is timely, that is pertinent, significant, and very important to our Nation.

The gentleman from Texas is right. Before I was elected to this august body I had a chance to serve the citizens of the State of Mississippi as one of their assistant attorneys general. While there in Mississippi I observed a couple of things. One is in the performance of their duties, these police officers and constables and sheriffs, I had a chance to travel with them from time to time and observe, and hopefully assist, but mostly observe them in the performance of these very difficult duties, and they are out there in harm's way for us. We have a chance and an obligation to do something for them. Their duty is to protect and to serve the public. They have done it well and they do it well, and I know that they will continue to do it well.

But they need help, and that is why we are here, to talk about the help that perhaps this Congress can send very quickly to assist them in the performance of their duties.

Mr. Speaker, across this country, the explosion in crime is threatening the very fiber of our Nation. When Americans think about security today, they are more likely to be referring to their own personal security and that of their loved ones at home rather than a threat from abroad. As we see relaxation intentions from Eastern Europe and the Soviet Union, we are concerned that we see an escalation intention at home.

The U.S. rate of violent crime is far and away worse that most of the Western democracies. The gentleman from Texas talks about escalation in crime. The gentleman already knows that there has been a fivefold increase in the number of violent crimes reported since the 1960s. Our murder rate is five times that of Europe, and four times that of Canada, of Australia, and of New Zealand. In fact, the Department of Justice estimates that more than half of even the most violent crimes are never even reported to the police.

And for minorities, in particular, violent crime has become a fact of life which few can dismiss. It is often times said that being a black male in the United States is really becoming an endangered occupation. Half of all of the homicide victims are black, and murder has now become the leading cause of death among young black males.

In the State of Mississippi we have had more young black males in Parchment, which is our State penitentiary, than we do graduating from high schools in our particular State, and that is not an anomaly. That is the same situation that exists elsewhere in most every other State around this Nation.

But if the Justice Department is correct, then fully 8 out of 10 Americans can expect to be the victim of a violent crime at some point in their lives. And this is not just related to urban areas, Mr. Speaker. It is apparent that the plague of violent crime has spread beyond urban boundaries to rural America as well. Violent crime has spread beyond the urban boundaries and has infiltrated the fabric of rural America as well. Horrible murders are no longer isolated to big cities. Crack cocaine is now being sold all over rural America, and the violence which is attendant to this, which follows this cocaine trade has come along with it, unfortunately.

So clearly we are losing this war against crime. The fundamental right to live in a safe and secure community no longer exists, we fear, for millions of our citizens.

So, therefore, there are common sense measures that we can take and that we are taking. That is why we are here talking about the idea of a police corps.

One of the most shocking statistics, The Speaker, that I have read about crime in America is that relative to our police force the number of crimes has increased dramatically. The Progressive Policy Institute reports that in 1951, in cities with populations over 50,000, there were more than three police officers for evey reported violent crime. But by the year 1988, the ratio was just the reverse, more than three violent crimes for every police officer in our country.

Our effective strength in the police force relative to violent crime is one-ninth what it was in 1951. Seventy percent of police officers surveyed in 1985 reported serious manpower shortages. However, even when money has been available to increase the police force, new recruits have simply not responded.

So clearly, when it comes to police officers, our demand I think greatly outstrips our supply. We have a problem. We need something like a police corps.

But while the lack of police officers is a serious concern, the PPI report also found that there are serious deficiencies with our current methods of deployment. Having police officers running to emergency calls day and night trying to quell reported criminal activity is seriously deficient. Police spend valuable time responding to noncritical calls and false alarms, doing paperwork, and treating each call as a separate incident unconnected to what has happened before.

Mr. Speaker, the evidence is that this kind of 911 policing just does not work. The evidence suggests that we need more police officers, better educated police officers and more officers who are deployed in communities rather than running from one perceived emergency to the next.

So the proposal for this police corps, which has already passed the Senate, and is included in a crime bill on our side, would address each of these problems. And the premise is simple, that the best way to keep America safe is to put more policemen, policewomen on the beat. Like the ROTC for the Armed Forces, the police corps would be an ROTC for police. In exchange for 4 years of college education and training, participants would give 4 years of service in their State or local police department.

Mr. LAUGHLIN. The Speaker, will the gentleman yield on that point for just a moment?

Mr. McCURDY. I yield to the gentleman from Texas.

Mr. LAUGHLIN. The Speaker, does the gentleman think a police academy or law enforcement academy would have trouble recruiting students to participate in a police corps as he is talking about?

Mr. ESPEY. I really do not. I really do not, to respond to the gentleman from Texas.

In fact, I had a gentleman, a young black gentleman in my office looking for a job, and he had just finished the University of Maryland with a degree in criminal justice, and this is his particular circumstance. He could not find a job, had no money, and so he came to me to try to direct him into an endeavor like this.

Mr. LAUGHLIN. I thank the gentleman.

Mr. McCURDY. If the gentleman will yield back to me, I just want to commend the gentleman first of all not only because I think he is a tremendous legislator. When he was first elected I recall, and I guess other than my colleagues to my right from Missouri, I have been here longer than the other Members present, serving my fifth term, but when the gentleman from Mississippi was elected I thought it was a very good day not only for his State, but for the country because I think the gentleman in the well has as bright a future as any Member of this Congress I have ever witnessed. I say that from the bottom of my heart. I have been so pleased to be able to work with him in the Democratic Leadership Council and also in the Mainstream Forum, because he brings a very valuable perspective, and I think some unique insight into this body, representing a southern State with unique problems that are endemic, that have been plaguing that State for many years, and trying to help in the economy, but also trying to present the opportunity and increase the opportunity for all Americans and all of the constituents in his area.

□ 1930

But also the fact he has had law enforcement background. I too was an assistant attorney general, as was the gentleman from Missouri [Mr. SKELTON]. We share many of the views on trying to bring some resources to bear to fight crime. The police corps probably is not the solution to the problem, but it is a step in the right direction.

Not only do we have to provide incentives for people to go into law enforcement, we also have to assist law enforcement to try to have jobs and slots and resources to provide more assistance.

Would the gentleman tell me the largest community in his congressional district? I know it is a large district, but there are not many large communities. They are strapped for cash, for funds to have qualified law enforcement personnel. Also, I think in a State like Mississippi, Oklahoma, and others, it would be important to recruit minorities into law enforcement because in the minority community, which has been the victim of much of the crime in this country, they are crying out for local assistance and also Federal assistance.

I believe the gentleman offers some perspective here.

Mr. ESPY. I agree with the gentleman. We used to have revenue sharing, we used to have LEAA. The largest community in my congressional district, in response to the question of the gentleman, is Greenville in Washington County. There are about 52,000

people or so in the area. It is suffering from a shortage of resources.

Seeing that the well is running dry from this level, and certainly the need in terms of resisting crime and an influx of drugs, those needs are increasing. So I agree with the gentleman's position. That is exactly what we are talking about, providing more resources for this particular purpose.

That is why I think the police corps would provide an influx of highly educated, highly skilled police officers. It would enable cities and towns to expand their police forces and to provide a newest source of college tuition assistance available to young people who want to serve their communities.

It will also do another thing, it will bring back the concept of community policing, put more police directly into the communities to work with local citizens to deter crime on the spot.

The gentleman from Oklahoma [Mr. MCCURDY] talked earlier about the cost of this. I think that investment is very modest.

I am not a member of the Committee on Armed Services, but I am a Member of this House and I have seen proposals—some agree and some disagree—to fund the B-2 bomber, wihch is now about $815 million per copy. However you feel about that, I think that this will cost about $1.4 billion per year. Our reports about what it would take to clean up the S&L mess escalates somehow to $500 billion to bail out the savings and loans. I think if we can do this, we can find this $1.4 billion for this police corps.

So, in conclusion, I want to thank the gentleman from Texas and the gentleman from Oklahoma and the gentleman from Missouri as well as the gentlewoman from South Carolina for allowing us to participate in this special order, this forum, the Mainstream Forum.

Thank you for reserving the time for this special order. I think America is losing the war against crime. I am convinced that a commonsense proposal such as the police corps can help turn this situation around.

When it comes to crime, I think the American people have been treated to a lot of rhetoric. I hate to say that I think most of it has been coming from the other side, but it is still rhetoric and distorted campaign ads.

I think the people want action. I think the police corps represents the kind of action that the American people will support.

Mr. McCURDY. Mr. Speaker, we have witnessed a Presidential campaign recently where crime was a factor, but the way the crime issue was addressed was through 30-second commercials or 60-second commercials. The gentleman from Texas has seen some pretty bloody campaigns during the recent cycle where law enforcement, crime was a major element. It appears that even though I support the death penalty, that the campaigns tend to focus on how many people you are willing to execute as opposed to, really, addressing the core issue, and that is preventing the crime.

What putting more policemen on the street does is it reduces the likelihood of the occurrence. It is preventive medicine.

That makes more sense as opposed to trying to come up with money because of the prison shortages in this country where we are housing prisoners at an incredible cost per day, when in fact we ought to be putting more people on the street, more police officers, more law enforcement people on the street. That is, I think, a very important element of this.

Mr. ESPY. I thank the gentlemen for their comments and for allowing me to participate in this special order.

Mr. McCURDY. I yield to the gentleman from Texas.

Mr. LAUGHLIN. Mr. Speaker, I want to thank the gentleman from Mississippi for being here.

Mr. Speaker, I proudly concur with all the compliments that the gentleman from Oklahoma expressed concerning the gentleman from Mississippi. I may have known the gentleman from Mississippi longer than the ones who were speaking, since we became friends before MIKE ESPY was elected to the U.S. Congress, which was 2 years before I was elected.

I just want the gentleman from Mississippi to know that I am extremely proud to serve with him because I recognize he brings the kind of leadership qualities to the Congress that we need.

Mr. Speaker, I want to say to the gentleman from Mississippi that I thank him very much for taking his time to join us on this very important crime enforcement issue and giving us his valuable perspective.

Mr. McCURDY. Mr. Speaker, I yield to the gentleman from Texas for the purpose of introducing the gentleman from Missouri [Mr. SKELTON].

Mr. LAUGHLIN. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Missouri [Mr. SKELTON] was a prosecuting attorney for Lafayette County, MI. He was elected to that position, served 4 years, and at one time served as a special assistant attorney general for the State of Missouri. I am very proud and pleased to turn the floor over to the gentleman from Missouri, my good friend, IKE SKELTON.

Mr. SKELTON. I thank the gentleman from Oklahoma for allowing me to have this opportunity to say a few words about law enforcement and the problems of law enforcement in our country.

A special thanks to the gentleman from Mississippi, the gentlewoman from South Carolina, and the gentleman who took this special order tonight, the gentleman from Oklahoma [Mr. MCCURDY]. I especially give him a compliment because in this day and age, when we are inundated with an extremely large amount of work, when we seem to have problems rained upon us all the way from budgets, law enforcement, and the like, that this gentleman from Oklahoma has a rare vision, is able to see beyond the end of the corner.

I compliment the gentleman for that, for his intellect, for his vision, for his integrity, and his hard work, and we thank him for this night.

Mr. McCURDY. It is nice to get into love-ins, but I just want to say this: The gentleman and I serve on the Committee on Armed Services together. For 10 years we have been at the forefront of trying to provide for the growth, the smart growth in the armed services, the Armed Forces. He was one of the driving forces behind the reorganization of the Department of Defense to make it more effective. He has been a proponent of the smart procurement of weapons systems, trying to increase the education and the facilities for education in the military services, throughout this country in the armed services.

IKE is always there trying to provide tough, well-thought-out answers for our national security.

Sometimes, being on the Armed Services Committee, we look at things in the context of a $300 billion budget, but it is also important for us to remember to go back to our roots, because the gentleman from Missouri was a country prosecutor and an assistant attorney general dealing with issues that involve personal security.

□ 1940

Personal security today is a national issue. The Soviet threat has diminished, is diminishing. It has not gone away. It is diminishing. One of the reasons we have seen the check in the Soviet expansion, and we have quality personnel in the armed services, the highest quality we have ever had.

What we are trying to do here is take the concept of ROTC, and as a person who was in ROTC in the Air Force Reserves, and benefited from that—we can use that core later. We can use that model for, in fact, law enforcement, and improve the quality of life and our condition as well.

I just want to compliment the gentleman because he is always a pleasure to work with, but he is also a leader in this area.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for his kind comments. I certainly agree with the gentleman when he speaks of security, and as we work together on the Committee on Armed Services as we have all these 10 years, that security is always a personal thing, whether it be

security from the foreign interest, or whether it be a security walking down the street to the local grocery store at night. That is what we are all about in this special order which the gentleman was kind enough to take out. I am pleased to join with my colleagues, and pleased to join with my fellow Democrats this evening in pledging my support for this initiative to help alleviate the tragedy of crime in this country. As the gentleman was kind enough to mention, I was a prosecuting attorney for 2 years, and 4 years a special assistant attorney general. At that time I then recognized that the Federal Government's historic role in law enforcement through the years has been dealing with crimes of a national scope, those involving areas subject to Federal jurisdiction, drug interdiction, espionage, terrorism, offenses committed on military installations or in Federal buildings or offenses taking place across State line. The enforcement of law on a day-to-day basis, as the gentleman well knows, has been traditionally left to the States and localities and counties and the like, but during the last 30 years the Federal Government has assumed a broader role in providing cooperation and service to grants and programs and technical assistance.

As we are discussing these anticrime proposals, we can put the need for action in perspective by examining some unfortunate but staggering statistics. Over 1½ million violent crimes were reported in the United States in 1988. My last year as prosecuting attorney of Lafayette County was 1960. What we had in 1988 was five times the total amount of reported crime than I was prosecutor in 1960. We normally speculate about the number of instances that were not reported because a good number were not. While the frequency of violent crime has been increasing, the amount of resources with which to combat this problem has been diminished, on Federal level as well as State level in some instances. Forty years ago, the proportion of police officers to violent crimes was more than 3 to 1. In 1990, that ratio has been reversed, placing a heavier strain on the already limited resources of the State and local police departments.

I recently, and as a matter of fact it was yesterday, talked with a sheriff back in my home district, and the burdens, the amount of crimes that they were dealing with today. He was a deputy many years ago when I happened to be prosecuting attorney. He tells me I would not believe the caseload that they are dealing with in this day and age as opposed to what they did back in the early 1960's. All indications are that the acceleration of crime will continue and that it is being fed by this illegal drug enterprise that we see throughout not just our Nation, but frankly throughout the world.

Along this line, I am convinced that we must develop the national will to ostracize even occasional drug users. Until we truly isolate these users in our society, ensure that they have access to adequate treatment, and make drug use socially unacceptable, it will be impossible to shut off the demand that feeds the supply line.

How do we do this? One way to do this is to make sure they are caught in the process of this, to prosecute them. I remember I had a wonderful sheriff by the name of Dewey Parrott who now is long since gone, but Dewey Parrott and I worked together when I was prosecutor. He told me one day when we first got started working in our joint venture to stop or slow down, which by the way we did, the large amount of burglars coming down and burglarizing our farms from Jackson County, the Kansas City area. He said, "We want to put a stop soon at Lafayette County's edge, and the way to do that is to catch them and to have a certainty of tough, fair prosecution." And we did. That was successful. That is what we must do when we come to the drug users, when it comes to those that sell drugs, the certainty of punishment, the certainty of getting caught. That will cause this ostracization of the drug users and drug sellers, and I think that will have a great effect.

The war on drugs really is a two-front war. The first front is here at home, where the great demands result in the escalation of crime, as we mentioned. The second front is being fought overseas where most of the drug supply has been produced. The drug kingpins have so much money they can hire sophisticated drug mercenaries to keep their production going. The Committee on the Judiciary recently marked up a comprehensive crime bill that confronts a wide range of law enforcement issues, including the death penalty, prison overcrowding, and penalties for drug possession and use. Of particular interest to me is the proposal of which we speak tonight, a provision that would establish a police corps similar to the Reserve Officers Training Corps programs in our Nation's colleges and universities. As the gentleman from the Committee on Armed Services will recall, I have done a fair amount of work in the ROTC area. It is good for our Nation. We turn fine young people out, whether they go into active duty or not. We produce fine American citizens through this program. The Senate has already passed a measure providing for the establishment of this police corps, which follows the ROTC pattern. With imminent cuts in military personnel in the years ahead, the police corps would provide an opportunity for competent, bright, dedicated young men and women to serve their fellow citizens on a day-to-day basis, and still receive assistance with college tuition. I think it is a good idea.

The police corps is a good deal for the American people, good for our cities, and good for those men and women who want to serve their communities, and our citizens benefit by gaining trained, capable police officers to patrol their neighborhoods and deal with the rapid escalation of the incidence of crime. While tough, effective law enforcement is critical in fighting crime in this country, it is also to be fought on the prevention level. Many youth today are enticed by crime, especially the lucrative drug market that exists in the streets of the cities, as well as in the rural areas. We must do something about this. I think the certainty of being arrested and the certainty of punishment is a great step in the right direction.

On top of that, when we make sure that those who deal in drugs, those who use drugs, will be ostracized in society because of the certainty of being detected and prosecuted, I think that we will make great steps. We have to do this. We really have to do this. I am convinced that this is one way of achieving that goal. Crime control is not a Democratic or Republican issue. It is not a conservative or liberal issue. If we are to win this war against crime, we here in Congress must ensure that State and local governments have the resources with which to fight crime. Police corps, I think, is a responsive step and responsible step in this right direction.

I urge my colleagues to support this effort. I thank the gentleman for the opportunity to say a few words on his behalf, and I think letting the people of our country know of our interest that we do have a solid proposal that we do want to eradicate this in a positive manner, will help tremendously. I would like to see crime get back to the low level. People have high respect for it, but they will respect it only when those who deal in crime know with certainty that they will be caught, and the certainty that they will be prosecuted.

□ 1950

Mr. Speaker, I simply want to compliment the gentleman from Oklahoma [Mr. MCCURDY] for this special order.

Mr. MCCURDY. Mr. Speaker, I thank the gentleman from Missouri [Mr. SKELTON]. I appreciate his dedication and his efforts.

Mr. Speaker, the gentleman from Minnesota [Mr. PENNY] is a member of the Democratic Leadership Council and Mainstream Forum, one of the founders of the Mainstream Forum, and has brought a number of innovative ideas to this floor, and I know

that he, too, has had a law enforcement background at the county level, and that is an important level for all of us, whether in Washington or back in the respective districts and States.

Mr. Speaker, I am glad to yield to the gentleman from Minnesota [Mr. PENNY] at this point.

Mr. PENNY. Mr. Speaker, I appreciate the introduction from the gentleman from Oklahoma [Mr. MCCURDY]. What he meant to say is that my brother has a law enforcement involvement at the country level. He works as a law enforcement official for the Dakota County Sheriff's Office in Minnesota. This is, I believe, the fastest-growing county in our State. It used to be largely farming country with a large river town, Hastings, at the northern edge. That is the county seat, but it is now a growing suburban county, and there are a number of communities in this country that were not even there 2 years ago. So, my colleagues can imagine the challenges for law enforcement in a county with a rural heritage, and a number of rural communities in the southern end of the county, and yet the fastest-growing region in the State in the northern part of the county. Frankly, it has helped me to appreciate even more than I appreciated previously the challenges that law enforcement officials face. My brother and his colleagues in law enforcement are presented with difficult and stressful situations day in and day out. They put their lives on the line on a daily basis, and all of that to assure security for their friends and their neighbors.

As my colleagues know, we have spent a lot of time here at the national level discussing crime and drugs. Every election year here in Congress we manage to pass a drug bill for a crime bill along with debates on gun control, and death penalties and other solutions. But frankly it is difficult to define just what is the appropriate Federal Government role in fighting crime when so much of what must be done, admittedly, lies as a State and local responsibility because that is where the crimes occur, and that is where the enforcement has to take place.

However, Mr. Speaker, I think establishment of a police corps is a role the Federal Government can play, and it will make a big difference. By increasing the pool of trained law enforcement officers, we will be addressing the problem right where it will do the most good, on the front lines. Studies have shown that an increase in the number of policemen on the beat, policemen that know the neighborhood, the people in the community, the normal routines of the community, have a dramatic impact on reducing the crime rate.

However, Mr. Speaker, not only are we fighting crime with this measure. In addition, we are providing a means for young people to attend college by giving them financial aid in exchange for their work in the law enforcement field.

Furthermore, we are offering these students an alternative to ROTC, which may be phased down in response to the changes on the international level which will result in a reduction in our military forces.

I am also excited that a police corps gives young people a chance to actively participate in service to their community. This proposal represents a step toward national service, a plan where young people would have several alternatives to provide service to their country in exchange for study aid.

Fundamentally, Mr. Speaker, the police corps program would help financially strapped cities, counties and other communities fight crime with less of a financial commitment on their part because the Federal Government will provide a partnership with them in their law enforcement efforts.

This is a Democratic idea that I am excited about. It is an idea that will work to stop crime, and it will make a big difference in communities all across America.

Mr. Speaker, I thank the gentleman from Oklahoma [Mr. MCCURDY] for his leadership and the gentleman from Texas [Mr. LAUGHLIN] for his involvement in this particular proposal.

Mr. MCCURDY. Mr. Speaker, I thank the gentleman from Minnesota [Mr. PENNY] and, as always, I appreciate his leadership in this body.

Mr. Speaker, the gentleman from Minnesota [Mr. PENNY] made one good point that we should be discussing within the Mainstream Forum and DLC, and it is a proposal that Senator NUNN on the other side and I have sponsored along with the gentleman from Minnesota for a voluntary national service that would provide community service, an obligation that, one, helps increase the opportunity for Americans to achieve higher education, attain a higher education, regardless of their ability to pay, but also gets more involvement in citizenship, citizenship and responsibility in our country, and investment in our country. Police corps is a companion to that concept. It addresses a specific problem and, I think, one which is very real.

Mr. Speaker, I want to thank the gentleman from Texas [Mr. LAUGHLIN] for his work in helping organize this special order. We have a surprising number of Democratic Members who have law enforcement backgrounds who I think wanted to be involved. The difficulty of predicting the schedule in the last couple of weeks before a major recess made it very difficult, but I appreciate his efforts.

Mr. LAUGHLIN. Mr. Speaker, will the gentleman yield for just a moment?

I have just a quick example of the very thing we are talking about, why trained, qualified law enforcement in the neighborhood, more law enforcement people on the streets, reduces crime. I had a case I prosecuted where two police officers were driving down the street. They saw a man running around the corner holding a pistol. In Texas a police officer has a responsibility to make an arrest when they see someone carrying a gun. They made the arrest, tool the pistol, put it in the front seat, put the guy and his paper sack in the back seat, and they got about three blocks headed toward the police station when a broadcast comes over the police radio that there had been a robbery in the neighborhood, a cookie store, and that the culprit was seen running from the store and put the money in a cookie sack as he was gathering up the money out of the cash register, and he put some cookies on top of it. The police officer pulls over, reaches to the back seat, gets the cookie sack out, lifts the cookies out, and there is the money. The crime was solved before he even knew the crime was committed because he was present and had actually viewed a separate crime.

That to me, Mr. Speaker, is a good example of why we need police officers out in our neighborhoods, and I thank the gentleman from Oklahoma [Mr. MCCURDY] especially for organizing these special orders and particularly for the leadership that the gentleman has given those of us who are mainstream Democrats.

Mr. MCCURDY. Mr. Speaker, I thank the gentleman from Texas [Mr. LAUGHLIN].

GENERAL LEAVE

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order tonight.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MCCURDY. In addition, Mr. Speaker, I appreciate the gentleman in the chair tonight who, by the way, is a former mayor of Akron, OH, who was elected because of much of his innovative leadership at the local level to improve the quality of life in his community, and also in the discussion we had earlier he indicated that the educational level of law enforcement officers is one of the most important elements in effective crime fighting, and he has seen it at that very level which counts the most.

So, Mr. Speaker, we can probably go on and on in this body pointing out in-

dividual Members that have similar experiences and certainly share our concern, but, with that, I do yield back the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, we hear continually of the increase of violent crime in our cities. Statistics show that more than three violent felonies were committed in 1988, for every sworn officer in America. In my own city of Salt Lake, the ratio was somewhat higher.

A generation ago—the last time the country can be said to have enjoyed substantial civic peace—there were three times as many police officers as there were violent crimes.

As Representatives of the people we should be dismayed and angered by this increase of fear and danger in the lives of our citizens; we should support well-reasoned, feasible plans to bring this criminal violence under control.

We have such a proposal before us now. The Police Corps bill, is an imaginative and far-sighted proposal to increase the ranks of sworn officers by 80,000 nationwide by offering scholarships to students who are willing and able to give 4 years of service to their local police department. While in college, these students will pursue the studies of their choice and will participate in specific training programs to prepare them for service, in much the same way ROTC prepares students for service in the Army. When they have completed 4 years of service, participants' student loans, up to $40,000, will be assumed by the Federal Government. For $800 million dollars, the cost of this program if fully implemented, we will have a more integrated and representative police force, upgraded hiring standards, and have police on the beat, where they are desperately needed. Our police will become more representative of the communities they protect. Forty-five percent of black students and forty percent of women students expressed interest in joining such a program. Students who participate in the Police Corps will expand the strength of the local police without taxing the finances of communities which are already strained. The new officers will join the force with a sincere commitment to law enforcement and a college degree, all for the same salary as rookies without such education earn today.

When Police Corps participants join their local police force, most of them will be put on a beat, a duty which the current shortage of manpower has made infrequent at best. They will walk the streets where violent crimes occur daily. Their presence will discourage the continued growth of crime and fear in our cities.

Only much larger numbers of police on patrol, in neighborhoods, can begin to reestablish community order and safety. Police patrol is the key to the very survival of neighborhoods. It is also the only guarantor of the peace of the street, that allows us to meet with each other as fellow citizens to be enjoyed and cherished. I believe that the overwhelming cause of the kind of ugly racial incidents that have disfigured too many of our cities is fear—fear of crime, fear of the stranger, fear of those who we do not know, fear of those whose color is different from our own. I also believe that if we begin to reestablish domestic peace and order, we can begin also to restore our sense of confidence in one another—and so resume our historic march toward the fulfillment of the American promise for all of our people.

We need to help students help themselves and their communities by supporting the Police Corps.

□ 2000

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today until 2:30 p.m., on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request for Mrs. BENTLEY) to revise and extend their remarks and include extraneous materials:)

Mr. BURTON of Indiana, for 60 minutes, on July 30, 31, August 1 and 2.

Mr. DOUGLAS for 5 minutes today.

(The following Member (at the request for Mr. MCNULTY) to revise and extend his remarks and include extraneous materials:)

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. LOWERY of California.

Mr. STANGELAND.

Mr. SOLOMON.

Mr. GILMAN.

Ms. ROS-LEHTINEN in two instances.

Mr. HYDE.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. TORRICELLI.

Mr. JACOBS.

Mr. LEHMAN of Florida.

Mr. MURTHA.

Mr. MAZZOLI.

Mr. THOMAS A. LUKEN in two instances.

Mr. GEPHARDT.

Mr. KASTENMEIER.

Mr. SHARP.

Mr. FLIPPO.

Mr. HALL of Ohio.

Mr. NELSON of Florida.

Mr. BONIOR in two instances.

Mr. TRAFICANT.

Mr. HUBBARD.

Mr. JACOBS.

Mr. APPLEGATE.

ADJOURNMENT

Mr. MCCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock p.m.), the House adjourned until tomorrow, Friday, July 27, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3621. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Coordination Council for North American Affairs for defense articles (Transmittal No. 90-50), pursuant to 10 U.S.C 118; to the Committee on Armed Services.

3622. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles (Transmittal No. 90-51), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3623. A letter from the Secretary, Department of Housing and Urban Development, transmitting the first annual report describing the status of multifamily housing subject to subsection (a) of section 203(k) of the Housing and Community Development Amendments of 1978, as amended, pursuant to 42 U.S.C. 1701z-11; to the Committee on Banking, Finance and Urban Affairs.

3624. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services; to the Committee on Foreign Affairs.

3625. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Oman for defense articles and services (Transmittal No. 90-49), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3626. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Coordination Council of North American Affairs for defense articles and services (Transmittal No. 90-50), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3627. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the President's intention to exercise authority under section 506(a) of the Foreign Assistance Act of 1961, as amended, in order to provide defense articles and services to Colombia, Bolivia, Ecuador, Jamaica, Belize, and Mexico for antinarcotics assistance, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3628. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially (Transmittal

No. DTC-21-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3629. A letter from the Librarian of Congress transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1989; accompanied by a copy of the annual report of the Library of Congress Trust Fund Board, pursuant to 2 U.S.C. 139; 2 U.S.C. 163; to the Committee on House Administration.

3630. A letter from the Assistant Secretary—Land and Minerals Management, Department of the Interior, transmitting the Department's notice on leasing systems for the western Gulf of Mexico, sale 125, scheduled to be held in August 1990, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

3631. A letter from the Deputy Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend chapter 224 of title 18, United States Code, to provide for admission to the United States of certain alien participants in the Witness Security Program; to the Committee on the Judiciary.

3632. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a further revised list of projects to accompany the second report on construction authorizations which was submitted in January (Ex. Com. No. 2396), pursuant to 33 U.S.C. 579a; to the Committee on Public Works and Transportation.

3633. A letter from the U.S. Trade Representative, transmitting the annual report identifying export subsidies and other export enhancing techniques, and identifying markets in which U.S. export subsidies might be used to offset the benefits of foreign export subsidies, pursuant to 7 U.S.C. 1736x(c)(3); jointly to the Committees on Agriculture and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5350. A bill to provide for a temporary increase in the public debt limit (Rept. 101-631). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5355. A bill to increase the statutory limit on the public debt. (Rept. 101-632). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RUSSO (for himself, Mr. SUNDQUIST, Mr. ANDREWS, Mr. ANTHONY, Mr. BROWN of Colorado, Mr. CARDIN, Mr. CHANDLER, Mr. COYNE, Mr. CRANE, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. FLIPPO, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. GIBBONS, Mr. GRADISON, Mr. GUARINI, Mr. JACOBS, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. MCGRATH, Mr. MOODY, Mr. PEASE, Mr. PICKLE, Mr. RANGEL, Mr. SCHULZE, Mr. SHAW, Mr. THOMAS of California, and Mr. VANDER JAGT):

H.R. 5376. A bill to amend the Internal Revenue Code of 1986 to require the use of the 150 percent declining balance method of depreciation for computer equipment for certain purposes of the alternative minimum tax; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. HENRY, Mr. EDWARDS of California, Mr. SENSENBRENNER, Mr. ACKERMAN, Mr. AUCOIN, Mr. BERMAN, Mr. CARDIN, Mrs. COLLINS, Mr. DANNEMEYER, Mr. DEFAZIO, Mr. DURBIN, Mr. EVANS, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. FRANK, Mr. GINGRICH, Mr. GRADISON, Mr. HUGHES, Mr. LEHMAN of Florida, Mrs. LOWEY of New York, Mr. MARTINEZ, Mr. MCMILLEN of Maryland, Mr. MINETA, Mr. MOODY, Mr. OWENS of New York, Ms. PELOSI, Mr. SCHEUER, Mr. SMITH of Texas, Mr. TOWNS, Mr. TRAFICANT, Mr. UDALL, Mr. WOLPE, and Mr. YATES):

H.R. 5377. A bill to protect the free exercise of religion; to the Committee on the Judiciary.

By Mr. BAKER (for himself, Mr. HAYES of Louisiana, Mr. HOLLOWAY, Mr. MCCRERY, and Mr. TAUZIN):

H.R. 5378. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to increase for fiscal year 1991 the share of Federal funds provided under subpart 1 of part E of such title; to the Committee on the Judiciary.

By Mr. CHANDLER (for himself, Mr. KYL, Mrs. JOHNSON of Connecticut, Mr. SCHUETTE, and Mr. STEARNS):

H.R. 5379. A bill to provide that taxpayers may rely on Internal Revenue Service guidelines in determining the funding limits for pension plans; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. CRANE (by request):

H.R. 5380. A bill to amend the Harmonized Tariff Schedule of the U.S. provisions implementing annex D of the Nairobi protocol to the Florence agreement; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself and Mr. MOORHEAD):

H.R. 5381. A bill to implement certain proposals of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY (for himself, Mr. GOODLING, Mr. LAFALCE, Mr. PETRI, Mr. PENNY, Mr. BARTLETT, and Mr. FALEOMAVAEGA):

H.R. 5382. A bill to amend the Fair Labor Standards Act of 1938 to clarify the minumum wage coverage under that act, and for other purposes; to the Committee on Education and Labor.

By Mr. NEAL of North Carolina:

H.R. 5383. A bill to name the post office building located at 200 3d Street, SW, in Taylorsville NC, as the "Clifford G. Watts Post Office"; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER:

H.R. 5384. A bill to permit interstate banking; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAFALCE:

H.R. 5385. A bill to amend the Civil Rights Act of 1964; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. DANNEMEYER:

H. Res. 442. Resolution on the explusion of Representative BARNEY FRANK; considered and not agreed to.

MEMORIALS

Under clause 4 of rule XXII,

479. THe SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Federal disaster relief for the sugarcane industry in Louisiana; to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 990: Ms. SCHNEIDER.

H.R. 1163: Mrs. ROUKEMA and Mr. SOLOMON.

H.R. 1635: Mr. KILDEE.

H.R. 1994: Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Mr. SHAYS, Mr. WASHINGTON, and Mr. HAWKINS.

H.R. 2360: Mr. HAYES of Louisiana.

H.R. 2460: Mr. BENNETT and Mr. DYSON.

H.R. 2575: Mr. MCCOLLUM, Mr. MINETA, and Mr. ATKINS.

H.R. 2707: Mr. MCNULTY and Mr. ROE.

H.R. 2853: Mr. SHARP.

H.R. 2870: Mr. WEISS.

H.R. 3120: Mr. VALENTINE.

H.R. 3429: Mr. LEATH of Texas.

H.R. 3935: Mr. VISCLOSKY and Mr. FISH.

H.R. 3982: Mr. OWENS of New York.

H.R. 3999: Mr. ANDERSON.

H.R. 4075: Mr. KOLBE.

H.R. 4229: Mr. PICKETT.

H.R. 4261: Mr. DONALD E. LUKENS.

H.R. 4368: Mr. MADIGAN.

H.R. 4369: Mr. CALLAHAN and Mr. SPENCE.

H.R. 4488: Mr. MACHTLEY.

H.R. 4669: Mr. BILIRAKIS, Mr. FAUNTROY, Mr. MORRISON of Connecticut, Mr. OWENS of Utah, Mr. POSHARD, and Mr. VALENTINE.

H.R. 4733: Ms. PELOSI, Mr. FOGLIETTA, Mr. MORRISON of Connecticut, Mr. STARK, Mr. MCGRATH, Mr. SABO, Mr. MCNULTY, Ms. KAPTUR, Mr. PENNY, Mrs. COLLINS, Mr. MILLER of California, Mr. HALL of Ohio, Mr. BERMAN, Mr. DYMALLY, Mr. DELLUMS, Mr. BOSCO, Mr. BORSKI, Mr. FORD of Tennessee, Mr. OBERSTAR, Mrs. BOXER, Mr. HERTEL, Mr. KOSTMAYER, Mr. GONZALEZ, Mr. FAUNTROY, Mr. DE LUGO, Mr. MATSUI, Mr. DWYER of New Jersey, Mr. LEWIS of Georgia, Mr. JOHNSTON of Florida, Mr. FROST, and Mr. FLIPPO.

H.R. 4974: Mr. FORD of Tennessee.

H.R. 4997: Mr. WHITTAKER, Mr. BUNNING, Mr. HUCKABY, Mr. PENNY, and Mr. TALLON.

H.R. 5007: Mr. CRAIG, Mr. DANNEMEYER, Mr. EMERSON, Mr. GOSS, Mr. GUNDERSON, Mr. HILER, Mr. HOPKINS, Mr. JACOBS, Mr. MCCANDLESS, Mr. MARTINEZ, Mr. MILLER of Ohio, Mr. PASHAYAN, Mr. RITTER, Mr. SHAW, Mr. SKEEN, Mr. SOLOMON, Mrs. MORELLA, Mr. BONIOR, Mr. GILMAN, Mr. LEWIS of Georgia, Mr. BALLENGER, Mr. BARNARD, Mr. BEREUTER, Mr. BROWN of Colorado, Mr. BUNNING, Mr. DICKINSON, Mr. EDWARDS of Oklahoma, Mr. GALLEGLY, Mr. GALLO, Mr. GRANT, Mr. HERGER, Mr. HOYER, Mr. KYL, Mr. LEACH of Iowa, Mr. MARLENEE, Mr. MARTIN of New York, Mr. RHODES, Mr. SLAUGHTER of Virgin-

ia, Mrs. SMITH of Nebraska, Mr. TAUKE, Mr. UPTON, and Mrs. VUCANOVICH.

H.R. 5008: Mr. LEHMAN of Florida.

H.R. 5023: Mr. NEAL of North Carolina, Mr. MORRISON of Connecticut, and Mr. HUGHES.

H.R. 5050: Mr. LANTOS, Mr. HOPKINS, Mr. BALLENGER, and Mr. SMITH of New Hampshire.

H.R. 5145: Mr. KOLBE.

H.R. 5166: Mr. POSHARD.

H.R. 5188: Mr. LEWIS of Georgia, and Mr. SCHEUER.

H.R. 5202: Mr. COLEMAN of Texas, Mr. MRAZEK, Mr. BOSCO, Mr. HUGHES, and Mr. SKAGGS.

H.R. 5208: Mr. LEWIS of Georgia.

H.R. 5249: Mr. FUSTER, Mr. ACKERMAN, and Mr. FROST.

H.J. Res. 481: Mrs. MEYERS of Kansas, and Mrs. JOHNSON of Connecticut.

H.J. Res. 482: Mr. DEWINE, Mr. GRANT, Mr. JACOBS, Mr. JONTZ, Mr. MARTINEZ, Mr. MINETA, Mr. OBERSTAR, Mr. SAVAGE, Mr. SHAYS, Mr. STARK, Mr. TORRES, Mr. RICHARDSON, and Mr. SERRANO.

H.J. Res. 519: Mr. MINETA and Mr. MARKEY.

H.J. Res. 598: Mr. KLECZKA.

H.J. Res. 609: Mr. DORNAN of California, Mrs. COLLINS, Mr. PARRIS, Mr. VALENTINE, Mr. BUSTAMANTE, Mr. MONTGOMERY, Mr. GALLEGLY, Mr. LENT, Mr. BENNETT, Mr. HORTON, Mr. FAUNTROY, Mr. WILSON, Mr. KOSTMAYER, Mr. FUSTER, Mr. LANCASTER, Mr. SOLARZ, and Mr. WAXMAN.

H.J. Res. 616: Mr. MCGRATH, Mr. PERKINS, Mr. CRAIG, Mr. DE LA GARZA, Mr. PANETTA, Mr. BUSTAMANTE, Mr. GAYDOS, Mr. LIVINGSTON, Mr. FUSTER, Mr. MCCOLLUM, Mr. MILLER of Washington, Mr. SERRANO, Mr. WOLPE, and Mr. MANTON.

H. Con. Res. 6: Mr. STOKES.

H. Con. Res. 248: Mr. BEREUTER.

H. Res. 342: Mr. DELAY and Mr. NIELSON of Utah.

H. Res. 438: Mr. BEVILL and Mr. MILLER of Ohio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4493: Mr. TALLON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

218. By the SPEAKER: Petition of Larry Davis, Chicago, IL, relative to Judge John F. Grady; to the Committee on the Judiciary.

219. Also, petition of the National Conference of State Legislatures, Washington, DC, relative to the bipartisan budget summit; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

SISTERS OF NOTRE DAME DE NAMUR MARK 150 YEARS IN UNITED STATES

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I am sincerely happy to congratulate the Sisters of Notre Dame de Namur as they celebrate their 150th anniversary in the United States.

The Congregation of Sisters of Notre Dame de Namur was founded in France in 1804 by Julie Billiart, a peasant woman from Cuvilly, France, and Francoise Blin de Bourdon, a member of the aristocracy. Their purpose in founding the congregation was to teach the children of the poor, especially young girls.

The eight young Sisters who left their homeland to help the needy in America showed great courage. These eight early educators chose Sixth Street in Cincinnati to begin their first school in our country. Because of Cincinnati's rapid growth in the mid-19th century, the Sisters were asked to open 13 other parish schools. They soon received and accepted invitations to begin schools in other cities. Because of the arrival of 16 additional Notre Dame groups from Europe and the rapid growth of the congregation in this country, the Sisters began to expand their schools throughout Ohio, Illinois, Maryland, and the District of Columbia. In 1900, they established Trinity College in Washington, DC, the first women's college in the United States, to begin as an institution of higher education.

The Sisters of Notre Dame de Namur are looking forward to an even more rewarding future. The Notre Dame Mission Volunteer Program and the literacy/tutorial project are brand new programs that have been launched in celebration of their very special anniversary. The Notre Dame Mission Volunteer Program invites laymen and laywomen to collaborate with the Sisters in their mission. The literacy/tutorial project will enable both adults and youths to acquire a greater sense of self-worth by developing basic reading skills.

The Sisters provide a vital service to the city of Cincinnati. They established the city's first free standing school for the poor at St. Xavier Parish; the first school for the city's African-Americans at St. Ann's, and the first School for the deaf at Notre Dame Academy which is now St. Rita School for the Deaf and Hard of Hearing. The city owes a great deal of praise and admiration for the Sisters' many great accomplishments.

I wish the Sisters of Notre Dame de Namur the best of luck in any future endeavors they pursue. I am proud to have the Sisters in my district and am delighted to be able to commemorate their 150th anniversary in the United States.

STALKING ROSTY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. JACOBS. Mr. Speaker, there is a lot of agitation at the so-called budget summit right now to "do something about entitlements." Ironically some of the sponsors of the effort to repeal the retirement test are the ones most often heard saying that we should do something about entitlements. The thing they apparently want to do about entitlements is spend $26 billion more on them during the next three years. Naturally I wouldn't accuse anybody of anything as vile as inconsistency. I assume that when it comes to cutting Federal spending and the entitlements, these folks simply want to back up to get a good start.

[From the Wall Street Journal, June 4, 1990]

STALKING ROSTY

The last time House Ways and Means Chairman Dan Rostenkowski tried to block a tax cut for the elderly—the catastrophic health-care tax repeal—a group of seniors besieged him inside his car in Chicago until he fled in his car.

Now, Rosty's committee has become the main obstacle to the repeal of one of the most unfair laws in the U.S. tax code, the earnings limit for Social Security recipients. Illinois Republican Dennis Hastert has 226 cosponsors for his bill to repeal this tax on people over age 65. A House majority is only 218. Yet Rosty, abetted by subcommittee Chairman Andy Jacobs of Indiana, won't even let the legislation come to the House floor for debate. Maybe Congress should consult the Supreme Soviet for a lesson in democracy.

The earnings limit amounts to a surtax on the working elderly. For every $3 earned by a retiree over a certain limit, he or she loses $1 in Social Security benefits. The limit in 1990 is $9,360 for seniors between age 65 and 69; it's $6,840 for seniors age 62 to 66 (who lose $1 in benefits for every $2 earned above the limit). The special tax expires at age 70.

This means in practice that retirees face an outrageously high marginal tax rate. A man in the 15% federal tax bracket who works at McDonald's can face a marginal rate of 55%. Since the earnings-limit tax also cuts his wife's Social Security benefits (even if she doesn't work), the marginal rate for the couple can reach 105%. And this doesn't count state and local taxes. The couple ends up paying the government for the privilege of working. As that Soviet emigre comedian likes to say, what a country!

It gets worse. The tax applies only to "earned" income, the sort that comes from working for a wage or salary. If income derives from interest or dividends, no Social Security benefit is lost. So the rich elderly can have a lower marginal tax rate than the average working stiff. Democrats used to care about such matters of "equity," but nowadays they'd rather be the tax collectors for the welfare state.

Rosty and his comrades are petrified that repeal might "cost" the Treasury revenue. In the static computer models of the Congressional Budget Office, repeal would "cost" $3.6 billion in the first year, and $26.2 billion over five years. This assumes repeal wouldn't change anyone's behavior. Former Treasury economists Aldona and Gary Robbins, who do consider behavior, have estimated that enough seniors would happily work more and that the federal government would gain revenue. Not surprisingly, labor-participation rates among the elderly are lowest right around the income levels worst hit by the earnings-limit tax.

The earnings limit is an artifact of the Depression era, when the U.S. wanted seniors to retire so scarce jobs would open for younger people. But many parts of the U.S. now have a labor shortage. The skills and experience of the elderly are one of our most underutilized assets, and will become even more valuable as the Baby Boom generation retires. The punitive taxation of the earnings limit sends the message to seniors that their country doesn't want them to work, or that they are fools if they do. It's time for another run at Dan Rostenkowski's limousine.

[From the Wall Street Journal, June 28, 1990]

SOCIAL SECURITY LOTTO: WIN WITHOUT A TICKET

The headline on your June 4 editorial was "Stalking Rosty." In nostalgic reminiscence, President Bush might suggest another headline: "Voodoo Too."

In the editorial you advocate the ultimate liberalization of a federal entitlement program by paying full Social Security retirement benefits to seniors under 70 who are not retired. These are people who never paid a nickel into Social Security without the condition that they meet the act's definition of retirement before they could receive retirement benefits.

How do you get the $26 billion to pay for this giveaway? The same way they got the $1.75 billion to pay for the mainly upper-bracket income-tax cut and the trillion-dollar net spending increase during the first Reagan term. Simply dust off the "laughable" curve, rosy up the assumptions and just say no to reality.

Reality and the Social Security actuaries say that substantial liberalizations of the retirement test in the past have produced no significant increases in tax receipts from earnings of Social Security retirees. Reality has also falsified the rosy assumption that as a consequence of the Kemp-Roth-Laffer alchemy of 1981, harder work and greater income-tax collections would balance the budget by 1984.

You suggest that obeying long-established law that denies retirement benefits to seniors who are not retired amounts to an unjust taxation of those seniors. Here we apparently need a primer on the difference between the apples of government taxes and the oranges of government benefits. The

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

government collects the former and pays out the latter. The seniors who fail the retirement test do not have something taken from them by taxation. They simply are not given something that is not owed them. If a car dealership won't give you an automobile you never paid for, it is not taxing you $10,000.

Contrary to calculated myth, there is nothing in the Social Security law that prohibits a senior citizen from working full time. There is and always has been something in the Social Security law that prohibits a senior citizen from working full time and pretending to be retired.

The retirement test is, in essence, the definition of part-time work. Not only is that test indexed for wage inflation, but the federal government has recently liberalized the test in real dollars and is about to do so again with my full support and that of Chairman Dan Rostenkowski, whose "limousine," by the way, is as much a fantasy as the rest of your editorial.

But to repeal the retirement requirement altogether would mean that those senior professional and business people who have already chosen continued six-figure incomes instead of, say, $12,000 Social Security benefits would suddenly hit a big Social Security Lotto—without ever having purchased a ticket. Whoopee.—REP. ANDREW JACOBS JR. (D., Ind.), Chairman, Subcommittee on Social Security.

JUNE 28, 1990.

Rep. ANDREW JACOBS, Jr.,
Chairman, Subcommittee on Social Security, House of Representatives, Washington, DC.

DEAR SIR: You should be commended on your explanation of the Social Security earnings policy in this morning's Wall Street Journal. You made it clear enough that even the greediest of my old geezer friends can understand it.

Incidentally, I think you should make it clear to your committee that by no means all of us elderly people are out to fleece the taxpayers for every dime we can get. It's our nation too.

Respectfully yours,

GENEVIEVE S. GRAY.

SEMICONDUCTOR SALE TO JAPAN

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. VALENTINE. Mr. Speaker, I would like to bring to my colleagues' attention and express my grave concern over the impending sale of yet another major element of our semiconductor manufacturing technology capability to Japan. During the past week, the interagency Committee on Foreign Investment in the United States has approved the sale of the Semi-Gas Co., which is the world's leading supplier of high-technology equipment used to purify and distribute the gases that are used in the manufacture of semiconductors. Semi-Gas, located in the Silicon Valley, is the major supplier of gas equipment to the government/private industry consortium Sematech and is the major supplier of such equipment to most of the U.S. semiconductor manufacturers. The sale of Semi-Gas will not only delay Sematech's plans for the development of the next generation of high density semiconductors, it will provide our major competitor with detailed knowledge of a technology that is available only in this country. I am including an article from the July 23 issue of Electronic News, which describes the sale of Semi-Gas in detail.

JUSTICE PROBE CONTINUES: CFIUS OKS SANSO BUY OF SEMI-GAS

(By Jack Robertson)

WASHINGTON.—The interagency Committee on Foreign Investment in the U.S. (CFIUS) has notified President Bush that Nippon Sanso's $21 million acquisition of Semi-Gas, a semiconductor gas distribution equipment firm, presented no national security concerns and should proceed.

The President is expected to accept the panel's decision, which leaves a Justice Department antitrust investigation as the last remaining hurdle before the Japanese firm can acquire the first Sematech contractor to be purchased by a foreign company.

Semi-Gas has an estimated 50 percent of the U.S. market and would be folded into Nippon Sanso, the largest gas equipment supplier in Japan.

Justice officials last week said they are continuing their study of the pending acquisition, but could give no timetable on when a decision would be reached. Sources said for the first time Justice has been looking into the possible global antitrust impact of a foreign acquisition of a dominant U.S. company. Justice has been under increasing Congressional criticism for only considering the domestic antitrust issues in mergers, ignoring the world market where a foreign firm can become monopolistic by buying the leading U.S. company in a field.

SEEKS REPLACEMENT

Meanwhile, Sematech was scurrying to get ready to replace Semi-Gas as its gas distribution system team manager on the consortium's test manufacturing lines. Peter Mills, Sematech vice president, said the consortium is taking with Linde, which is the partner on Semi-Gas team to supply bulk gases, to take over as manager of the Sematech system. Wilson Oxygen is the other team member, supplying specialty gases.

Mr. Mills said Sematech may go back to other U.S. gas distribution equipment suppliers, which had originally bid to the consortium for the installation won by Semi-Gas. He identified Air Products as a potential replacement contractor.

Sematech had told the CFIUS panel that the Japanese acquisition of Semi-Gas would give foreign competitors "intimate intelligence" not only about Sematech's advanced technology, but also about the competitive developments of major U.S. semi-conductor operations. Mr. Mills said the gas distribution system is involved in almost every phase of semiconductor fabrication so the supplier would gain an intimate early knowledge of much of the proprietary steps in developing new devices.

ACCESS

"Nothing less than the early preferential access to 0.35 micron, 84-Megabit DRAM technology is at stake, since ultrapure speciality gas is the key to producing devices at these complexities," Sematech wrote to CFIUS. "The control of contamination levels to make this entire next generation of devices is at issue."

The consortium told CFIUS that replacing Semi-Gas on its test lines would set the firm's Phase 2 and Phase 3 development back by at least six months.

Sematech had asked CFIUS, if the panel approved the Nippon Sanso acquisition, to insist on conditions that the Japanese firm would give the consortium a license for date involved in the current Semi-Gas system on its lines. Mr. Mills said as of last week he had heard nothing about whether CFIUS made such a demand of Nippon Sanso. He said Sematech itself has had no contact with Nippon Sanso or Semi-Gas' parent, Hercules, on such licensing rights.

LOBBYING

Sematech had mounted a major lobbying effort in Congress and the Administration to try to head off the Japanese buy-out of Semi-Gas. Sources believe some Congressional pressure had caused CFIUS to agree to investigate the acquisition, after initially indicating that the panel saw no reason to make any study.

Then, the day CFIUS met nearly two weeks ago to make its decision, the panel surprised observers by postponing a vote to seek additional information. The seven assistant secretaries of agencies in CFIUS then met on the last day of the legally-imposed timetable and, apparently satisfied with the additional data received, voted to approve the deal.

THE FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION ACT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. KASTENMEIER. Mr. Speaker, today, I am introducing legislation to implement several of the recommendations of the Federal Courts Study Committee. The Federal Courts Study Committee was a product of the Judicial Improvements and Access to Justice Act of 1988. In the act, Congress addressed a range of problems confronting the Federal judiciary. Among those problems—perhaps central among them—is that with the recent influx of criminal prosecutions, court congestion and workload have increased dramatically, resulting in a concomitant decline in access to justice in both our civil and criminal courts. Although Congress has long been concerned with court congestion and workload, and has passed legislation to relieve caseload pressures in virtually every Congress in recent memory, it has operated without a comprehensive plan. That plan is what the Judicial Improvements and Access to Justice Act commissioned the Federal Courts Study Committee to provide.

Pursuant to the Judicial Improvements and Access to Justice Act, Chief Justice Rehnquist appointed a 15-member committee to study the Federal courts for 15 months and to recommend reforms. The committee was comprised of five Federal judges, including Judge Joseph Weis, Jr., who chaired the committee, Judge Jose Cabranes, Judge Levin Campbell, Judge Judith Keep, and Judge Richard Posner; Washington Supreme Court Justice Keith Callow; Edward Dennis, Assistant Attorney General with the U.S. Department of Justice; former Solicitor General Rex Lee; two pri-

vate practitioners, Diana Gribbon Motz and Morris Harell; Vince Aprile II, General Counsel of a State public advocacy program; and four Members of Congress, including Senators HOWELL HEFLIN and CHARLES GRASSLEY, Representative MOORHEAD, and myself.

The Study Committee completed its work and issued its report on April 2, 1990. The report included over a hundred recommendations for improvement of the Federal courts. Many of those recommendations can be implemented by the judiciary without further congressional action, while others call for legislation. Of those recommendations that require legislation, some are far-reaching and controversial, while others are more modest and noncontroversial.

The core of the bill that I am introducing today is in title I, which implements a number of salutary, but essentially noncontroversial recommendations of the Federal Courts Study Committee. Section 102 of the bill directs the Federal Judicial Center to study the nature and extent of conflicts among the Federal courts of appeals in interpreting the law.

Section 103 changes the appointment procedure for the Director and Deputy Director of the Administrative Office of the U.S. Courts, so that the Judicial Conference, which supervises the Administrative Office, has input.

Section 104 authorizes the Supreme Court to utilize the rulemaking process as a means to clarify when a district court's ruling is final for purposes of appeal.

Section 105 vests the authority to appoint Federal public defenders with an independent commission, instead of with the judges before whom they will appear.

Section 106 requires that the budgets of the Federal Circuit and the Court of International Trade be submitted as part of the overall judicial budget, rather than separately.

Section 107 provides a means to fill judicial vacancies created by judges who become Director of the Federal Judicial Center or the Administrative Office of the U.S. Courts.

Section 108 increases witness and juror fees.

Section 109 extends the life of the parole commission to make parole decisions with respect to prisoners convicted before parole was eliminated.

Section 110 restricts removal of separate and independent claims.

Section 111 clarifies the venue statute by eliminating confusion surrounding where a claim is deemed to arise for purpose of establishing venue, by eliminating plaintiffs' residence as a basis for venue, and by providing for venue in a judicial district where any defendant resides, if all defendants reside in the same State.

Section 112 creates a fallback statute of limitations for civil statutes where no limitation period is specified.

Section 113 amends the retirement program for claims court judges to make it more closely akin to the program for tax court judges.

Sections 114 through 118 amend the laws relating to bankruptcy proceedings by authorizing multicircuit bankruptcy appeals panels, clarifying the consent needed for bankruptcy court findings to become final in noncore proceedings, clarifying the circumstances under which certain bankruptcy court determinations may be appealed, authorizing bankruptcy judges to remain in office at the end of their terms pending appointment of replacements, and by extending the bankruptcy administrator program.

Section 119 authorizes district judges to encourage parties to have civil cases tried by magistrates, and enables magistrates to remain in office at the expiration of their terms, pending appointment of replacements.

Section 120 clarifies the circumstances in which the Federal courts have jurisdiction over State law claims by virtue of being supplemental or pendent to claims properly asserted in Federal court.

Finally, section 121 clarifies the authority of the Federal courts to adopt local rules relating to voluntary dispute resolution procedures, and directs the Federal Judicial Center to monitor the progress of dispute resolution techniques developed by the courts.

In addition to implementing the recommendations of the Federal Courts Study Committee, the bill contains a second title that includes a limited number of miscellaneous provisions relating to the organization and administration of the Federal courts.

This legislation represents an initial effort to implement some of the many excellent recommendations of the Federal Courts Study Committee, and is a tribute to the extraordinary effort of Study Committee, and to the able leadership of Study Committee Chairman, Joseph Weis, Jr. It is the product of a closely coordinated effort among the four Members of Congress who had the privilege of serving on the Study Committee. In short, this legislation is the result of cooperation and consensus between the branches of Government and between the political parties in Congress, and is in keeping with the finest traditions of carefully considered Federal court improvements legislation.

FAREWELL TO THE JEWISH FLORIDIAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. LEHMAN of Florida. Mr. Speaker, one of the most enduring of our south Florida institutions is no more. With the June 29 edition, the Jewish Floridian has come to an end.

Editor and Publisher Fred K. Shochet has decided to retire, and the paper his father started in 1928 is retiring with him. Fred has been more than just a leader in Florida's Jewish community, and more than just a newspaperman committed to excellence, although he is both. When so many businesses fled the inner city, Fred Shochet kept his business there and became an important mainstay to that area's fragile stability.

Fred Shochet was also a south Florida diplomat. From central Europe to the Middle East, his voice and presence made an important statement in support of a secure Israel and for a more rational, peaceful world.

To Fred and Suzanne, to their family and to the staff of the Jewish Floridian, congratulations on a job well done and may the best of times still be ahead.

Mr. Speaker, I would like to share with my colleagues the following article from the Jewish Floridian.

[From the Jewish Floridian, June 29, 1990]

PUBLISHER RETIRES, NEWSPAPER RETIRES WITH HIM

He is not just another luminary who is retiring. He is not pulling up roots. He will remain a very vibrant, involved, interested citizen of his beloved Miami.

Fred K. Shochet, publisher of The Jewish Floridian, a leader in Miami's Jewish and general communities for nigh onto 50 years, this week confirmed his retirement.

And you are, dear reader, holding in your hand the last issue of The Jewish Floridian weekly. There will be no more.

Shochet looks back on a long and successful career. If there are any regrets or sentimental feelings about the end of his major life's work, he does not express them.

"After all," says Shochet, "there is the inevitable tug of time, and there is no one exempt from the toll it exacts." He muses for a moment, then continues: "We have to deal with the fact that there is no family heir apparent, and so I am retiring The Jewish Floridian, a true labor of love, with me."

RICH PIECE OF HISTORY

It is almost as if the thought of passing The Jewish Floridian on to strange hands would have been too painful to contemplate. But he does acknowledge that there were times during the early stages of his planning for retirement and as recently as last week that he mulled such possibilities over in his mind.

Says Shochet proudly "I take with me, a rich piece of history, not just The Jewish Floridian's but its leadership in South Florida—and elsewhere—through some 62 years of consecutive weekly publication."

Now, he says, this rich history "is mine to keep—and to continue sharing with the Jewish community, and the general community as well, but in another form." He does not yet say what kind.

But is also his family's history, he is quick to point out, which remains his and which does not disappear into the strange hands of indifferent corporate archives.

"Founded by a Shochet," he contends, "The Jewish Floridian is being brought to a close by a Shochet. I see our journalistic enterprise as a successful father-and-son endeavor in the cause of tradition and service to the Jewish community."

COMMITMENT TO CAUSES

It was back in 1925 when J. Louis Shochet and his family arrived in Miami, and he immediately became active in its Jewish affairs—"scant as they were at the time," the son recalls. The first issue of The Jewish Floridian appeared three years later, on October 19, 1928.

J. Louis Shochet succumbed to a sudden illness at an early age in January, 1939. A commanding photographic portrait of his father as founder-publisher dominates Fred Shochet's office at The Jewish Floridian Building in downtown Miami to this day. On the passing of his father, he promptly assumed the post of Editor-Publisher.

"From the beginning," he says, "the paper was dedicated to the Jewish causes for which it was established: to contribute to the betterment of understanding among religious, racial and ethnic groups in the com-

munity; support for the State of Israel; and growth of the American Jewish community as a significant contributor to the strength and well-being of the nation at large."

"In these efforts," Shochet suggests, "our publication recorded the history of Jewish life in South Florida."

By the 1960's and early 1970's, The Jewish Floridian expanded from its Miami base into a group of nine publications, serving Jewish communities in New Orleans, La., the Florida West Coast, South Florida East Coast and State of Florida (B'nai B'rith).

"At the same time," he observes, "that we enlarged our publication enterprises, we were also able to add to our documentation of the Jewish community in Florida at large, and also to some extent in Louisiana."

Shochet adds wryly: "And to witness some 20-odd competitors in this very fertile field fall by the wayside. This gives a publisher some sense of successful purpose."

MANY AWARDS WON

"Fertile field" is his way of speaking metaphorically about the success of The Jewish Floridian and the independence of its publisher, who "considered buyout offers and had the luxury of rejecting them as unacceptable possibilities and just not to my taste," as his own retirement plans began to assume shape in his mind.

Shochet prefers to make reference instead to The Jewish Floridian's "coverage, editorial integrity and journalistic prestige," the later having won him and the newspaper walls full of national and local awards.

He is also proud of his three-decades-long relationship with Leo Mindlin, who was the publication's editor and a lead columnist of national distinction, and who typified the constancy in personnel which Shochet credits for the development of The Jewish Floridian into a major Jewish newspaper.

Mindlin, a college professor at heart and in practice throughout his life brought to his work the kind of penetrating insights which also won him many honors and added national stature for Shochet Publications including the Council of Jewish Federations and Welfare Funds' Boris Smolar Award; and the Histadrut Isaac Hamlin Memorial Award, which Mindlin shared with the late U.S. Supreme Court Justice William O. Douglas.

And there was Mindlin's wife Hilary, who served as The Jewish Floridian book editor with a weekly column for 15 uninterrupted years.

PLANNED RETIREMENT

Quiet for a moment of contemplation, clearly about the past, and surely some about the future, of ends and new beginnings, Shochet muses: "Our wind-down and spinoffs are completed. For five years, we have done a good deal of serious thinking centered on this day of retirement, and now we believe it is safe to say that our best-laid plans have been fulfilled to our satisfaction."

"We" includes as a full and faithful partner in this process Shochet's wife, Suzanne. "Since our successful marriage," he says, "Sue has worked side by side with me, and she has always been deeply involved in assuring the successful achievement of my goals and the goals of The Jewish Floridian. And I have served the community with an exciting personal involvement on the local and national scene, which Sue has facilitated by her willingness to accept the sacrifices she was called upon to make for such time-consuming commitments on my part."

He adds: "This has made for a rewarding professional career which is now at a point where change is inevitable. This is the wind-down to something new: mainly, to enjoy the luxury of time together with Sue, which was previously in such short supply."

ARCHIVES A PROJECT

An avid lifelong angler, Shochet tells a tale of new fish to catch, of new goals merely dreamed of before. "Now, I will have the enjoyment of organizing my personal archives, as well as those of The Jewish Floridian. You know," he says "the history thing. The Jewish Floridian is a major source of documentation of the history of our Jewish community." Shochet has a complete library of bound volumes of The Jewish Floridian beginning with its very first edition. Scholars and others have used this valuable resource in the past for their own study and writing, but we were always "too busy putting out newspapers to make these resources readily available to everyone. Now, this will change."

How?

"By organizing the material into a kind of reference library for social scientists, students, just ordinary and interested people".

And?

Shochet mentions "periodic newsletters concerning behind-the-scenes insights into the activities of philanthropic fund-raising, which will also consider the roles of professionals and volunteers—perhaps a major departure from the scholarly norm, but necessary information for a complete understanding of these processes."

To these activities on his ambitious agenda, he adds, "publishing," but says no more except, "now there will be time."

"Few men," he believes, "feel that they have accomplished all that they set out to achieve. In this regard, I am fortunate to have done much that I hoped to do. I am retiring The Jewish Floridian but there will be more to come."

STAFF STABILITY

Again and again, he repeats his "great gratitude to our community and our many friends for their steadfast support over the years."

But, in the end, he does not forget "our loyal local and national advertisers and our subscribers who read The Jewish Floridian regularly—including those," he adds with good humor, "who believe they could do a better job than we were doing and helped us by letting us know how, often in stern lectures. We include all of them in our successes."

Nor does he forget faithful staff members, some of whom served his organization for professional lifetimes, in this way also contributing to the stability of The Jewish Floridian. He counts off in rapid order: "Joan C. Teglas, current office manager, 15 years; Selma Thompson; Minnie McWhorter; Wilhelmina Heller and Hannah Moss, 30 years; Dorothy Brewer and W.T. Brewer, 20 years; Henry Chau and Jose Latour, 10 years; and Shevell Brooks-Armas and Migdalia Vinajeras."

Shochet stops and thinks, then whispers, reverently, "And, of course, G-d Almightly for making this all possible."

To the ordinary, untutored eye, Shochet is a man who appears to have "just gone fishing." But oh those fish: they are of a different order for a different kind of fisherman.

FOSTER GRANDPARENTS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I would like to honor the Foster Grandparent Program of Cincinnati for the 25 years of invaluable service the program has given to the community and the Nation.

In September of this year, the Cincinnati Foster Grandparent Program will be celebrating 25 years of serving children with special needs. It is a volunteer project which addresses itself to two problem areas confronting our society today, the impoverished senior citizen and the institutionalized child or child with special needs.

Foster grandparents volunteer 4 hours a day, 5 days per week. The program provides the opportunity for the older citizens of this country to use their years of experience to help children grow physically, socially, emotionally, and mentally. The foster grandparents provide the much needed one-on-one attention that promotes a sense of security and love so vital to the proper emotional growth and development of children.

One extra special foster grandparent is Helen Kammer. Helen was brought up in St. Aloysius orphanage. Today she helps children in the same orphanage where she spent her childhood years. It makes me proud to have people like Helen living in Cincinnati.

The special combination of young and old when coupled with love, tenderness, understanding, and patience makes a tremendous difference in the lives of both the child and the foster grandparent.

Keep up the good work. America is a better place because of the effort of the foster grandparent.

WHY I AM PROUD OF AMERICA

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. STANGELAND. Mr. Speaker, I would like to take this opportunity to recognize Thomas Alfred Carl Seltz from Fergus Falls, MN, in my congressional district. Thomas Seltz, a senior at Fergus Falls Senior High School won second place honors in the nationwide Voice of Democracy broadcast scriptwriting contest. This year more than 137,000 young people across the United States participated in this outstanding program. With this in mind, I pass along my congratulations to Thomas and his family for his award-winning script entitled "Why I am Proud of America" and which is reproduced here in full text.

WHY I AM PROUD OF AMERICA

(By Thomas A. Seltz, Minnesota winner, 1989/90 VFW Voice of Democracy Scholarship Program)

I am proud of America. Why? It's mine. It is mine, and it is just the way I want it. Well, it's not just mine. I own it with some

friends. But we're not real possessive . . . really. I mean practically anybody who wants a piece of it can come over and share it with us. It makes us feel . . . oh, I don't know . . . enlightened. You know, it brings in different points of view. Keeps our minds open. We like that.

I guess that's real unusual. I've been told you can move to another country, say, Japan, and no matter how long you live there, you'll never be Japanese. But, a Japanese, for example, can move here to the United States and almost instantaneously fit in as a true American.

We've always been that way. Our nation was founded on peoples from other lands: In fact, within the last 150 years or so, we have admitted over 46 million immigrants into our society. Immigrants who literally have come from every corner of the Earth, and we let many of them be them.

We also let them express their opinions and views. This is possible because our forefathers set up a system of government that is flexible to fit and address the wants and needs of the different peoples in our diverse society. The wants and needs of America's diverse peoples provoke us into using our collective power to push in a positive direction in the world; a push which ultimately caused the United States to become a symbol for the force for good and opportunity for all. I like being a symbol. I like being considered a force for good. This is why I am proud of America. I am proud of America because it's mine, and because after all things considered, we always try to do the right thing.

Right now, we are living in an exciting time! We are seeing changes in South Africa, Eastern Europe and all over the world. We are seeing countries respond to pressures outside their governments . . . and they are responding in ways that they never would have before. I believe many of these changes have occurred because we Americans have been consistently and with a vision negotiated to obtain freedom, and worked for the human rights of those who have been oppressed.

Today, we have seen the removal of the Berlin Wall. It is now obscure. We have seen East Germans unite with their West Berlin brothers and sisters and rejoice. We can be proud, because West Berlin would never have survived without the airlift. It never would have survived without America's opposition to evil.

As the citizens of more nations gain their freedoms, we can be proud, because we are a force of freedom. And we are seeing progress . . . in places like South Africa, China, Afghanistan, and here in the United States. And the particularly wonderful thing is: We will see many of these changes come peacefully. They will come not only because of internal and economic reasons, but also because of our urgings and negotiations. Yes, I am terribly proud of America.

It is incredible to find such a generous and globally concerned nation as the United States. People using their resources, their energies, and their good will to solve problems domestically and abroad. These people do this at many different levels. Whether it be as a nation, say, to give a multi-million dollar bank loan to a country in need; whether it be as a group, such as the Red Cross or Salvation Army who help the people in areas recovering from serious losses, whether it be as an individual who personally boycotts products imported from a nation who is unfair to its people; they are all acting out of purely unselfish reasons.

Yes, I am proud of America. I am proud of America because it is first and foremost of the people, By the people, and FOR the people. Not just here, but all over the world . . . I am proud of America because my friends . . . all 200 and 40 million of them . . . are working to make the world a better place. What a noble cause! God Bless America!

And God bless its people.

MILAN VOLUNTEER FIRE DEPARTMENT TO CELEBRATE NEW PUMPER-TANKER

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SOLOMON. Mr. Speaker, just recently it was brought to my attention that the Milan Volunteer Fire Company, under the leadership of President George Leonhardt, Chief Albert Weingaertner, and 1st Lt. Larry Brody, will be celebrating the purchase of a new pumper-tanker for Milan Station No. 1 on August 18.

When Lieutenant Brody asked me to participate in the ceremony, it made me recall my 25 years as a volunteer fireman in my hometown of Queensbury, NY. That's why I have a special appreciation for volunteer firefighters, people from all walks of life and all economic levels who make enormous sacrifices to protect their communities.

Mr. Speaker, in rural districts like mine, with few large municipalities, these volunteer companies represent the only fire protection. Milan Volunteer Fire Department, for example, has been protecting the community since 1947. These companies save billions of dollars' worth of property every year, and countless lives. They undergo extensive training, and their performance often rivals that of full-time paid fire departments.

Several years ago, it was my privilege to lead the fight to exempt volunteer firefighters from rigid, and in the opinion of many, inappropriate, drivers license requirements. The House exempted volunteer firefighters because Members know how vital volunteer companies are to towns and villages across America, and that the requirement threatened the viability of many companies.

Mr. Speaker, that's one of the reasons my office has been decorated by hundreds of fire helmets. It's a measure of my admiration and respect for our volunteer firefighters.

At the August ceremony Milan Station No. 1 will be getting a new E-1 Mac pumper-tanker to replace their 1966 American LaFrance. Please join me in saluting President Windgaertner, Chief Leonhardt, Lieutenant Brody, and all the other able, dedicated firefighters of the Milan Volunteer Fire Department.

DESIGNATION OF THE CLIFFORD G. WATTS MEMORIAL POST OFFICE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. NEAL of North Carolina. Mr. Speaker, on behalf of Joel Harbinson, a good friend and constituent of mine, I am introducing legislation today to name the new post office in Taylorsville, NC, after the late Clifford G. Watts.

Clifford G. Watts served as the postmaster in Taylorsville for 18 years until his death in 1978. As a leading alumnus of the University of North Carolina, an honorable veteran of World War II, and deacon in the First Baptist Church of Taylorsville, Clifford Watts was a valued and active member of his community. He was known by many children as the "chewing gum man" for his friendly habit of giving gum to children at church and at the post office.

Mr. Speaker, I request that we include in the record at this point a biographical sketch of Clifford Watts, a fine citizen of our area, sent to me by his longtime friend, Joel Harbinson. The material follows:

Clifford G. Watts was born in the Liledoun section of Alexander County on January 21, 1911. He was the son of J.L. Watts and Ada Green Watts.

Clifford graduated from Taylorsville High School and was active in all sports. He was member of the first football team at Taylorsville High School.

He was a graduate of the University of North Carolina at Chapel Hill, where he was a letterman on the football squad under coach Carl Snavely. He served as Alexander County Chairman of the Morehead Foundation Scholarship Committee from the beginning of the foundation until his death. He influenced many to attend the University of North Carolina by helping them to get financial assistance and jobs.

Clifford taught in the public schools and coached football after graduation from college until he was inducted into the Army during World War II. He served in the U.S. Army engineers for four years, three of which were in the South Pacific. He received an honorable discharge when the war was over. He was then an active member of veterans organizations including the American Legion, the Veterans of Foreign Wars, and the Disabled Chamber of Commerce.

Clifford was a member of the First Baptist Church of Taylorsville, where he was a Sunday School teacher, superintendent of older adults, and deacon. He also led the Boy Scout troop sponsored by the church.

He was manager of his family's department store, J.L. Watts & Co. from 1946 to 1960. In 1960 he became postmaster of Taylorsville and continued in that capacity until his death in 1978.

Clifford was known as the "chewing gum man" by children entering the post office, church, and wherever he met them. He believed all children should be recognized. Many adults still remember the attention he gave them when they were young.

He married Moselle Ball, and they had one son, John F. Watts. John, a local pharmacist and school board member, also at-

tended U.N.C.-Chapel Hill and succeeded his father as Chairman of the Alexander County Morehead Committee.

Clifford G. Watts died July 29, 1978.

Mr. Speaker, I am pleased to have the opportunity to honor this outstanding citizen and the city of Taylorsville by introducing this legislation.

THE FRANK REPRIMAND

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. WEISS. Mr. Speaker, today, we are faced with one of the most difficult tasks in Congress: judging the actions of a House colleague. Before making that judgment, we should judiciously weigh the evidence before us.

Fortunately, the members of the ethics committee have done a thorough job of summarizing the allegations and evidence against Congressman FRANK.

Concerning the most serious allegations, the committee found nothing. Congressman FRANK had no prior or concurrent knowledge of prostitution taking place at his residence. Nor were the accusations about Mr. FRANK'S sexual activity on Federal property true.

I am, of course, saddened by the course of events in which my friend, BARNEY FRANK, has been involved. He showed an uncharacteristic lack of good judgment when he sought dismiss of the 33 parking tickets. He was careless when he permitted his office to send a memo to an attorney in Virginia detailing misleading information about Steve Gobie. For these actions, the ethics committee voted to reprimand him.

The committee's recommendation can be considered excessive given its decisions on other recent cases of misconduct. However, since BARNEY FRANK, himself, has accepted the judgment of the ethics committees I will reluctantly support its recommendations. Congressman FRANK has apologized for his misconduct and said that he would pay the parking tickets. I for one am satisfied with Congressman FRANK'S sincerity and regret.

Still, some House Members insist on taking this matter farther than the committee's recommendation by punishing Congressman FRANK with the even stiffer penalts of censure.

Such punishment does not fit his misconduct. It is an attempt to punish Mr. FRANK—not for his actions—but for his political outlook and his personal life.

Concerning the latter, the issue before us today is not Congressman FRANK'S sexual orientation, about which he has been courageously open. I would remind my colleagues that what consenting adults do in the privacy of their homes is not for discussion on this House floor. Nor is it relevant to this vote either.

It should be offensive to all of us that some members of this body insist on making an issue of another's sexual orientation.

Any attempt to go beyond the committee's recommendation can only be viewed as meanspirited and partisan. It is clearly an attempt to take political advantage of the situation.

Article I, section 5 of the Constittution gives us the authority to punish Members for misconduct. Let's do that without vengeance or disrespect. Voting for reprimand is more than sufficient punishment.

STAR MANAGING EDITOR ANNOUNCES RETIREMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. JACOBS. Mr. Speaker, the following article speaks for itself.

I am delighted with the opportunity to speak further for "Bo" Connor.

He is a human validation of the familiar phrase, "scholar and a gentleman."

The community of Indianapolis has been served well by his journalistic career. And I presume that that service will continue in some very significant way after his retirement.

[From the Indianapolis Star, July 20, 1990]

STAR MANAGING EDITOR ANNOUNCES RETIREMENT

Lawrence S. Connor, managing editor of The Indianapolis Star and a key editor for the newspaper for more than 30 years, has announced his retirement effective Aug. 31.

Connor informed top editors of his decision Thursday, saying he had decided to step down on his 65th birthday.

"I will have been with The Star for 41 years this fall," he said. "I couldn't have had a more rewarding career. It has been a great place to work.

"I am grateful to everyone in the organization who has helped me over the years."

Connor was a reporter, assistant city editor, city editor, news editor, and editor at the newspaper before being named managing editor in September 1979. As managing editor he is responsible for all news departments and the news content of The Star.

Among many staff members who have credited him for his help with their careers was the late Tom Keating, a widely respected daily columnist. Also, The Star captured a Pulitzer Prize in 1975, when Connor was city editor, for a series about police corruption.

He is a graduate of Cathedral High School and the University of Notre Dame.

A successor has not yet been named.

THE CUBAN AMERICAN NATIONAL COUNCIL HELPS FLORIDA INTERNATIONAL UNIVERSITY'S COLLEGE OF EDUCATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to recognize the Cuban American National Council for their outstanding contributions to the surrounding community. This fine organization has seeked different methods in which to improve existing programs and design new ones.

Since its inception in 1972, the Cuban American National Council [CNC] has strived to deal realistically with modern social issues facing Cuban-Americans and other minorities. The CNC is to be commended for its important role in helping Cuban-Americans and other refugees adjust to the United States. The CNC accomplishes just that by acting as an identifier of the economic, social, and educational needs of Cuban-Americans and other minorities and attracting the support of government agencies, corporations, and foundations in order to fulfill those needs.

However, the CNC also focuses its efforts in other areas of the community needing assistance. This year, one such project includes putting on the first annual dinner to benefit the college of education at Florida International University [FIU] to be held on February 9, 1991. The college of education is a leading force in Florida in providing top quality educational access and academic/professional excellence. The evening's events will focus on raising critically needed funds for FIU's college of education in order to assist them in keeping the quality of education high.

The Cuban American National Council members are to be thanked for their efforts to helping Florida's community. The officers of CNC are: Guarione M. Diaz, president; Agustin de Goytisolo, chairman; Alina E. Becker, secretary; Maria Acosta, treasurer. The board of directors include Wilfredo Allen, Alina Antonetti, Antonio L. Argiz, Enrique Baloyra, Laureano Batista-Falla, Nelson Benedico, Marta Bequer, Peter Bernal, Annie Betancourt, Elva Collazo, Federico Costales, Rita Di Martino, Albert E. Dotson, Nancy Dreicer, Jorge Escalona, Zulima Farber, Marcelo Fernandez-Zayas, Vincent Forte, Juan Galan, Margarita Garcia, Mario Goderich, Sara C. Gomez, Pedro Jose Greer, Jr., Alma Guerra, Jose Manuel Hernandez, Antonio Jorge, Ada M. Kirby, Carmela Lacayo, Ivan Llorente, Sergio Masvidal, Marta Miyares, Beatriz Olivera, Jose S. Prince, Rene Rocha, Angel Rodriguez, Jorge Salazar, Celia Suarez, Frank Torano, Barton Udell, Mario Vizcaino, Raul Yzaguirre, and Tere Zubizarreta.

TRIBUTE TO MS. BEATRICE "MAMA BEA" PERRY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a renowned individual, Ms. Beatrice "Moma Bea" Perry. The Beatrice Perry Scholarship Committee is hosting a dinner/dance in honor of Ms. Perry on August 5, 1990.

Ms. Perry was a native of Alabama who moved to Michigan and quickly became a part of our community. She became active at all levels of community life. She gave help to others through her knowledge, insight and connections gained over the years.

Her work to help and teach others won her an elected seat on the New Haven board of education. She was the first woman to serve in that position. Driven by her belief in the po-

tential of each of us, she sought to provide scholarships for those who might not be able to pursue an education otherwise. By reestablishing the scholarship fund, the Beatrice Perry Scholarship Committee is working hard to instill the vision of Ms. Perry into the entire community.

I commend Ms. Perry on her vision, as well as those who share that vision. She will long be remembered as a true friend of our community.

THE U.S. FLAT PANEL DISPLAY INDUSTRY AND ANOTHER TEST OF U.S. ANTIDUMPING LAWS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. GEPHARDT. Mr. Speaker, today, I would like to inform my colleagues that on July 17, 1990, yet another U.S. industry filed an antidumping petition with the United States Government as a result of adverse affects of continued unfair trade practices by the Japanese. The Advanced Display Manufacturers of America [ADMA], involving six U.S. companies in the flat panel display industry have mustered the courage and limited resources to put our trade laws to the fairness test.

These companies, located throughout the United States in Oregon, Ohio, Texas, Illinois, New York, and Pennsylvania are the backbone of U.S. entrepreneurial spirit in our flat panel display efforts.

Though they and their efforts are probably unknown to many of us, these companies have contributed much to our defense industry and commercial markets for computers, medical equipment, communications systems, industrial control products, and many others. Their technological developments in the past and in the future have been and are important to our commercial industrial electronics base and our national security.

Flat panel display technology was developed in the United States and yet, right now, many of our United States companies are struggling to hold onto their investments and their patents, some of which are due to expire and face the threat of being strategically sought after by the Japanese and others.

Mr. Speaker, we must not allow the U.S. flat panel display industry to be strategically snatched up by our trading partners. No matter what the investment of the Japanese—whether the United States law firms for purposes of defeating United States interests on our own soil, or in the outright purchase of these small businesses and their strategic technologies and patents, we must counter it.

This petition, one of the roughly 350 filed under 19 United States Code, section 1673 since 1980, is not a popular measure to take with our trading partners, especially the Japanese. Though this law is there for use by and to aid U.S. industries, many have been pressured—from domestic users and from international suppliers of the dumped products—not to seek remedy from unfair trade practices and actions under this law.

I commend the Advanced Display Manufacturers of America [ADMA] for taking a tough stand against unfair Japanese trade practices and filing its petition. I hope we in Congress and the administration will wholeheartedly support this industry's efforts to stop such abuses and encourage domestic user industries of flat panel display products to do so as well.

We must properly enforce our dumping laws to give our flat panel manufacturers temporary relief from devastating business practices enforced by our trading partners.

Let's hope the administration passes this test, and encourages rather than crushes the continued entrepreneurial spirit of these high technology manufacturers. Once again, this should not be a matter of ideology—it's a question of fairness and the survival of another vital U.S. high-technology industry.

CHICAGO HONORS BOXING'S MAN OF STEEL

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. HYDE. Mr. Speaker, one of the great athletic heros of the Nation is the great former middleweight boxing champion, the legendary Tony Zale from Gary, IN.

A great column on this illustrious citizen written by Steve Neal, political editor of the Chicago Sun-Times, appeared in the July 18 issue and I would like to share it with my colleagues:

[From the Chicago Sun-Times, July 18, 1990]

CHICAGO HONORS BOXING'S "MAN OF STEEL"

(By Steve Neal)

For Tony Zale, there was nothing to lose.

It was 50 years ago, in July of 1940, that the former steelworker from Gary was offered his shot at the world middleweight championship. He was bluntly informed that he wouldn't get paid much, just enough to cover his expenses to Seattle, which also happened to be champion Al Hostak's hometown.

Only four years earlier, Zale had quit boxing and returned to his job in front of the Illinois Steel blast furnaces. When Zale resumed his boxing career in 1937, he had built up his strength and stamina.

Though Zale was the underdog, he eagerly grabbed the title shot. On July 19, 1940, the tough, plain-spoken Polish kid from Gary won the middleweight championship by knocking out Hostak in the 13th round.

On Thursday night, Zale is planning to celebrate the 50th anniversary of his championship at the old stone fortress on North Dearburn and West Ontario that used to be the home for the Chicago Historical Society. Zale now is viewed as among boxing's authentic legends, one of the 20th century's greatest fighters.

With his high cheekbones, deep-set gray eyes and cast-iron build, Zale looks much the same as he did in the 1940s when he dominated the middleweight division.

Zale was the fighter's fighter. There were more artful boxers than Zale but none who hit with more power. Heavyweight contender Billy Conn was so jolted by a Zale body shot that Conn spent the rest of the night running from him. Former middleweight champion Billy Soose said that when Zale hit him, it was like getting a hot poker stuck in your ribs. Rocky Graziano said that Zale was tougher and quicker than anyone he ever fought. Zale won two of their three epic fights, which are arguable the best in the history of the sport.

When Graziano saw the film of Zale pounding him in their third fight, Rocky quipped, "If I knew that was going on, I would have quit in the first round." Zale's code was to fight until he was beaten. He had the quiet confidence that he could defeat anyone. He took on all comers, including seven world champions, without backing down.

Zale never forgot where he came from. After winning a unification bout for the world title in New York, he rushed home to Gary to celebrate with his pals in the old neighborhood.

When the U.S. entered World War II, Zale joined the Navy and served as a fight instructor at the Great Lakes Naval Base. He was offered a fortune to defend his title in Chicago, but declined on grounds that it wouldn't look right to be fighting for money while American boys were dying in combat.

Zale was supposed to portray himself in "Somebody Up There Likes Me," the movie about Graziano. But he lost the part when Paul Newman, playing Graziano, made the mistake of trading punches with Zale, who sent the actor staggering. "He was trying to knock my block off," Zale recalled. "I don't mind waltzing a bit. But you gotta show who the boss is."

For a half century, there has never been any doubt about who was the boss when Zale stepped into the ring. "There's only one way you can lick Zale," Graziano once observed. "You got to kill him."

IN SUPPORT OF THE ACTUARIAL AUDIT BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. CHANDLER. Mr. Speaker, throughout my congressional career I have worked to ensure that all Americans, at the conclusion of their productive working careers, have an opportunity to enjoy financially secure retirement years. Usually, my efforts on behalf of sound pension and retirement programs have revolved around introducing and attempting to obtain passage of new pension-related legislation.

Today, however, it is not new legislation which concerns me, but rather the callous implementation of previous legislation by the Internal Revenue Service [IRS] which threatens the continued existence of private pension plans being maintained by many of our Nation's small employers. The IRS is currently attempting to raise approximately $666 million from the sponsors of small, defined benefit plans over the next 2 years by retroactively imposing revised interest rate and retirement age assumptions for small plans.

This small plan actuarial audit program is a highly abusive program geared to collect the maximum amount of revenue without regard

to either the statute or to previously published IRS guidelines.

For over 15 years, Federal standards for defined benefit plans have been developed through a combination of IRS revenue rulings, notices, and regulations. The standards for such plans are found in the audit guidelines which were issued by the IRS in 1984 to guide practitioners—practitioners who must be able to rely on some set of standards.

Now, however, in a shortsighted effort to generate additional revenues, these long-standing guidelines are being scrapped as they relate to small business plans. More seriously, the new guidelines which were developed without benefit of any public comment or congressional involvement, are being applied retroactively.

Historically, the IRS had maintained the position that actuarial assumptions upon which defined benefit plans are based must be reasonable—an interest rate of 5 to 6 percent and an estimated retirement age of 55 have been presumed adequate. Recently however, the IRS has unilaterally altered its standard and now requires small businesses to use an assumed interest rate of 8 percent and a retirement age of 65. Any small business retirement plan—5 or less employees—not meeting the revised regulations will find that its deduction arising from mandatory plan contributions is reduced, and as a result, Federal tax obligations will be increased.

A majority of large plans have interest rate assumptions below 8 percent and retirement age assumptions below age 65, but only small plans with such assumptions are being challenged. The impression is left that small defined benefits plans have been singled out for attack because they are less able to defend themselves.

The bottom line for managers is that the IRS is sending a message to all small businesses to be wary of establishing a pension plan. If IRS practices in this matter are not corrected, thousands of small busines defined benefit plans could be terminated. Not only is IRS management creating severe difficulties for current plan sponsors, but it is also acting as a deterrent to the adoption of new defined benefit pension plans by small employers.

The bill I am introducing today simply provides that if a small business relies on the actuarial guidelines promulgated by the IRS, such assumptions shall be deemed reasonable until such time as they are formally amended by the normal process. It is a companion bill to S. 2583, which has introduced in the other body on May 8 by Senator BOSCHWITZ.

INTRODUCTION OF A BILL TO PERMIT INTERSTATE BANKING

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SCHUMER. Mr. Speaker, today, I introduce legislation to permit interstate banking. Specifically, this legislation would relax restrictions on interstate banking and branching, allowing acquisitions of existing banks by out-of-state holding companies upon enactment, and authorizing interstate branching after 1993.

This legislation is necessary because existing legal barriers barring nationwide banking have created a highly fragmented banking system, fast losing ground in international competition, and overexposed to regional economic downturns.

While the gradual removal of these barriers by individual States over the last few years has brought some improvement, U.S. banks are still effectively barred from full nationwide banking. Indeed, even as Western Europe prepares to allow its banks to expand across national boundaries, U.S. banks are still prohibited from branching across State lines and, in some cases, even across county lines.

It is time to eliminate these outmoded restrictions and usher in a new era in banking. This bill will create a stronger, healthier U.S. banking sytem, better able to meet the challenges of international competition, and better equipped to serve its customers.

In particular, this bill will strengthen U.S. banks by enhancing opportunities for risk diversification. Banks that are allowed to expand beyond State and regional boundaries will be less dependent upon isolated local economic conditions and therefore less exposed to downturns in regional economies. Had banks in Texas been allowed to expand into other regions of the country, perhaps the collapse of oil prices and real estate in Texas would not have resulted in the future of every large banking organization in that State.

This legislation will also promote efficiency by removing barriers to entry in banking and making delivery of banking services more cost effective. Today, banks that want to establish an interstate network must do so through separately chartered affiliates. This requires a vast duplication of services, making interstate banking a cumbersome and expensive operation.

Consumers will benefit from this legislation, as well. In particular, the bill will make banking more convenient for many customers in interstate metropolitan areas. For example, in the Washington, DC, metropolitan area, customers who bank at Sovran branches in Virginia cannot deposit their paychecks in a Sovran branch in the District. This bill will eliminate this sort of needless and absurd restriction.

Despite these advantages, the legislation will not signal a radical change in our banking system. Over the last several years, the barriers against interstate banking have gradually broken down, as State after State has adopted regional and interstate banking laws. Indeed, only a handful of States still prohibit any form of interstate activity for banks. By 1993, 28 States will permit full nationwide interstate banking, and 16 States will permit out-of-state banking by its regional neighbors. Thus, adoption of this bill would simply expedite a process that is already under way.

At the same time, the legislation would continue to give States the power to control branching within their boundaries. States that do not want interstate branching will be allowed to opt out of the Federal scheme if they enact laws prohibiting branching by all out-of-state banks before 1994. This provision protects State interests, while at the same time precluding States from discriminating against individual States.

Mr. Speaker, the U.S. banking industry will be faced with many challenges in the years ahead. We can no longer afford to hold on to outmoded laws and barriers that will make it more difficult to meet those challenges.

FOURTH NATIONAL YOUTH CRIME PREVENTION CONFERENCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to honor the Youth Crime Watch of Dade County for its involvement in hosting this year's Fourth National Youth Crime Prevention Conference being held from October 4 to 6, 1990, in the Hotel Inter-Continental of Miami, FL.

The Youth Crime Watch of Dade County has been serving the community since 1979 by preventing alcohol and drug abuse, guns, violence, and dropouts. This was done by implementing its programs in each of Dade's 225 elementary, middle and senior high schools. These programs encourage students to build self-esteem through problem-solving meetings, action projected and assemblies which give them a sound alternative to substance abuse.

The Fourth National Youth Crime Prevention Conference is titled, "A Call For Young Heroes: Working Together To Stop Crime and Drugs." The conference's primary goal is to promote a youth-led crime and drug prevention movement and to share the accomplishments of young heroes who are working toward that effort.

Youth Crime Watch of Dade County is hosting this year's conference and I would like to recognize the officers of the board of directors: Louis Wolfson III, chairman of the board; Joyce Bell, president; Linda Brown, first vice president; Sgt. James Di Bernardo, second vice president; Elodia Sanchez, secretary; Peter Pruitt, treasurer; and Ann W. Lisk, executive director. The board of directors also includes: Mr. E.O. McAllister, Officer Pat Evans, and Officer Bill Flanagan.

Thanks to dedicated individuals who care about their community, programs such as Youth Crime Watch of Dade County are flourishing today and helping in the fight against crime. I commend all involved in the Fourth National Youth Crime Prevention Conference. It is only through the exchange of ideas that solutions to the most serious problems will appear. The Fourth National Youth Crime Prevention Conference will undoubtedly provide some solutions to one of society's most pressing problems: crime.

TRIBUTE TO GEORGE CURIS, SR. AND GEORGE CURIS, JR.

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to two celebrated individuals, George Curis, Sr., and George Curis, Jr. These gentleman are being recognized as "Citizens of the Year" by the Alexander Macomb Citizen of the Year Committee.

Mr. Curis, Jr., currently serves as president of the family's Big Boy restaurants, which now number 11. Mr. Curis, Sr., is president of Curis Management Inc., which manages six companies. Mr. Curis, Sr., opened his first Big Boy restaurant in 1960 and has long been active in community activities to help the less fortunate in the area. He has encouraged his family to volunteer in the same ways.

Mr. Curis, Sr., gives a large amount of his time to the Capuchin Soup Kitchen in Detroit. His son has an active role on the United Community Services Executive Board in Macomb County. Mr. Curis, Jr., is also a board member for the March of Dimes, southeast Michigan chapter.

Both father and son have also worked hard to help babies born with birth defects. For their hours of community service and care for those less fortunate, particularly the children, the Curis' truly deserve to be chosen as "Alexander Macomb Citizens of the Year."

I commend George Curis, Sr., and George Curis, Jr., on their exceptional community involvement. They will long be remembered as true friends of our community.

THE PRESIDENT SALUTES CAPTIVE NATIONS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. GILMAN. Mr. Speaker, I had the privledge earlier this week of attending the ceremony at the White House marking Captive Nations Week.

Although we are all inspired by recent developments in Eastern Europe, we must not forget that many nationalities within the Soviet Union and within the sphere of influence of the People's Republic of China remain captive. The Ukraine, Lithuania, Latvia, Estonia, Albania, Armenia, Cambodia, and Tibet—all have joined with other nationalities throughout the world to expressed yearnings for freedom that so far have been deferred.

Because of the importance of this commoration, I would like to share with our colleagues the President's poignant remarks. President Bush calls on all of us to "work together so that next year this dream of freedom extends to all those countries where it is now denied."

Mr. Speaker, I insert the President's remarks in their entirety at this point in the CONGRESSIONAL RECORD:

REMARKS BY THE PRESIDENT DURING CAPTIVE NATIONS CEREMONY

Thank you very much, and welcome—welcome to the Rose Garden. And a special welcome to some of our guests—to all of you—but to some special guests today. Of course, I'm very pleased the Vice President is with me for this special occasion. Secretary Derwinski over here, who's been a leader in all of this for many, many years. And, of course, our Deputy Secretary Larry Eagleburger—Deputy Secretary of State, and Don Carlson, the head of the Voice. And so many of our friends from Congress, welcome to all of you. And a special, again, salute and welcome to all of you have been in the forefront of the Captive Nations cause for so many years.

You know, for the last 32 years, Presidents from Eisenhower to Reagan have commemorated the ongoing struggle of captive nations. And traditionally, this one has been the ceremony to commemorate the ongoing struggle of these nations to bear witness to the suffering of millions—a ceremony to honor courage, a ceremony to tell everyone still in captivity that they are not forgotten.

These previous Captive Nations Ceremonies have not been moments of joy, but really, rather, of serious rededication and sadness that so many in our world lived in the throats of tyranny.

The Revolution of 1989 was stunning—thrilling, clearly a historic time. And at this ceremony last year, we told the world that we would keep faith with those who were oppressed; and we did. And then taking their lives into their own hands, the very people who are in our hearts crafted an unforgettable year of triumph. The triumph of brave hearts. The triumph of people declaring they would control their own destinies.

And last summer while we were in Eastern Europe, Barbara and I sensed that excitment in the air, that some of you here had been telling me about. In meetings with the people of Poland and Hungary, I pledged America's strong support for their historic struggle. And like most Americans, we watched in joy as the barbed wire on that Austrian-Hungarian border came down. And we were deeply moved as the changes swept across the continent bringing within reach the vision of a Europe truly whole and free.

For four long decades, America and her allies have remained united and strong in our mission for peace and freedom. That strength has at long last borne some fruit. What an amazing year this has been, a year of technicolor glory in lands that had been defined by these black watchtowers and walls, and the drab emptiness of lost dreams.

But we are gathered here today, not just to celebrate the joyous change of this past year, but to celebrate it in a very special way. With us today are some of the young people whose countries were a part of this Revolution of '89. And each is proud of his country. And it's easy to understand why they believe in themselves and in their homelands. For the bold and brilliant light of freedom now illuminates their world.

And so to honor that shining faith in the future, I dedicate this day to this new generation of freedom and to future generations who will never have to bear the burden of tyranny. For some of this new generation this freedom means a whole new world in their own backyard. On that unforgettable morning when the East German borders fell, parents gathered up their kids and brought them to the Brandenburg Gate, the final symbol of tyranny in Berlin. And still in their pajamas, these children on this day of new freedom were passed up from friendly hand to friendly hand to have the thrill of sitting on top of the Wall, looking across at the endless horizon of their dreams. And now, a new generation is coming of age in freedom.

In the audience today it is a group of young interns from Poland, Hungary and Czechoslovakia. Supported by funding from private American organizations, they are spending the summer working and learning in our great country. And one is working with the Speaker of North Carolina's House of Delegates, another with a television station in Washington, another with the U.S. Chamber of Commerce. And they are here learning how a free society works and will return to build a free Poland, a free Hungary, a free Czechoslovakia.

But while we celebrate for those who are now free, we must also remember those who are not. And I continue to be moved by what I see and hear throughout the rest of the world where unfinished revolutions continue one heroic story at a time. In the Americas, where a boy with nothing but a board and sail windsurfed to escape the politics of repression. In Asia, where iron tanks were met by the iron will of the courageous lone man. And today, I also want to remember especially the people of Latvia, Lithuania and Estonia, and renew—(applause)—and renew our unflagging support for their long quest for national self-determination. The road ahead is going to be difficult. But we can now join them in looking forward with hope to the day when their long, cherished dreams will become reality.

Alongside this success story of nations we also hear quite stories of individuals who, even in darkness, could see the vision of liberty. Those who have risked everything in countries not yet free. The countries we must still remember today, the desperate people we must never forget.

Boys like Quang Trinh, a young Vietnamese teenager. He almost died escaping from the shattered life of a country where he had seen his mother killed, his father jailed, his brother's spirits broken. Quang fled the only life he had known for freedom. And he jumped into shark-infested waters for freedom. And he starved in delirium for freedom. And after he was finally rescued and told he could enter the United States, he wept all night long.

When did something touch our lives so completely that we cried for joy through the entire night? Quang calls America "freedom country." And how many of us have stopped to think of our homeland in those terms? You know, on my desk inside there in the Oval Office, I have two special mementos with me at all times. One is a small American flag, given to me in an army hospital by a soldier wounded while fighting to free our friends in Panama. It represents America's commitment to freedom and to proud people wherever they may be who seek that freedom.

And the other souvenir is a piece of the Berlin Wall. One of the very first chiseled from that horrifying affront to humanity. I keep it as a reminder of the miracle which courage, strength and unity can achieve. It's sitting right here.

And I also wanted to bring with me today this piece of barb wire which I brought to last year's ceremony. Some of you may remember. It came from the Austria-Hungary border. And these two symbols of tyranny should never be forgotten.

Sitting in this peaceful Rose Garden today are several generations of these nations of miracles, including the new generation. But there are also countries that are still waiting to be free. So let us all work together so that next year this dream of freedom extends to all those countries where it is now denied. Let us pray together that the light of liberty will shine across our entire planet. And that the next Captive Nations Week will be the last.

Thank you all for coming here and God bless you for your steadfast commitment to freedom around the world. Thank you all very, very much.

HISPANIC HERITAGE MONTH

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. HALL of Ohio. Mr. Speaker, I rise today to call attention to Hispanic Heritage Month, to take place during the period of September 15 to October 15, 1990. This month will be celebrated in my district, which includes Dayton, OH, as well as nationwide.

This month is designated by Congress as a national observance to promote awareness and appreciation for the many contributions of Hispanic-Americans to our country. The Hispanic culture has contributed to our American society over the years by influencing our food, music, dress, and art. The culture and heritage of Hispanic-Americans have enriched our Nation for many centuries.

In 1968, by a joint resolution. Congress set aside a period in September as National Hispanic Heritage Week. Two years ago, Congress extended this celebration to a full month because of the increasing significance of the occasion.

On September 15, a Hispanic heritage banquet will be held to commemorate Dayton's celebration of National Hispanic Heritage Month. Other Hispanic-oriented activities will be held to celebrate the Hispanic culture and heritage in Dayton.

Americans of Hispanic descent, and their heritage have contributed much to Dayton, OH, and also to the entire United States. I join my colleagues in celebrating this year's Hispanic Heritage Month.

A SALUTE TO PERUVIAN INDEPENDENCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the 169th anniversary of Peruvian independence. On July 28, we celebrate the day when Argentine Gen. Jose de San Martin declared that Peru was independent from Spanish rule. One hundred sixty-nine years later Peruvians from all over the world celebrate this happy event.

The Peruvian Club of Miami is having a gala party at the Doral Resort and Country Club to celebrate the day when their homeland was freed. Their celebrations, which will extend for several days before the day of independence, will include cultural, educational, and sporting events. Carlos Macedo and Victoria Lopez, the club's president and secretary, respectively, will be at the ceremonies which are intended to bring together the Peruvian communities throughout the United States and especially the one in Miami.

The Peruvian people have long considered themselves special and unique people. Their country was seen by the Incas as the center of the univerise and indeed for centuries, the city of Cusco was the center of American culture and civilization. The Incas, through Peru, have had a profound influence on all other cultures. Peruvian history fully reflects the past and the pride that the Peruvian people have in their ancestry.

On July 28, 1990, the Miami Peruvian Community will celebrate their independence day. With commitment to their past and strengthened by their new roots in the United States, the great Peruvian people make up an essential part of Miami.

THE QUALITY OF GOVERNMENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents and a longtime friend, Marvin W. Orgill of Paducah, KY.

In his letter Marvin Orgill voices his deep concern regarding a number of serious problems facing our Nation today. He believes that Congress and the administration have failed to address them effectively and that a great number of Americans who feel as he does are justly critical of the quality of the Federal Government. Mr. Orgill makes a number of suggestions to strengthen the integrity and record of achievement of Congress.

I urge my colleagues to read the letter from Marvin W. Orgill. The letter follows in its entirety:

PADUCAH, KY,
July 5, 1990.

U.S. Representative CARROLL HUBBARD, Jr.,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE HUBBARD: Viewpoints and editorials of newspapers are carrying more and more taxpayer criticisms of the action or performance of the congressmen. Conversations on the street generally incorporate dissatisfaction with the performance of the elected officials.

The congressmen continue to procrastinate in the resolution of the major issues of the '80s. The tolerance for an unbalanced federal budget, the S&L debacle, HUD scandal, defense fraud, generous foreign aid, bungling of the war on drugs, poor governmental management and efficiency, etc. etc. etc. has been shameful and responsible for the country's indebtedness.

The advocates of higher taxes state the government is revenue-starved. This is a ruse to continue runaway spending for political purposes. It's sad that our country cannot be adequately administered on a budget less than $1.3 trillion.

Even our President who pledged "no new taxes" is ready to sock it to the middle-class citizen. His simplistic answers to complex problems are nothing more than political rhetoric. We need action!

It is strange that very little effort has been made by the Administration to reduce fraud, waste and inefficiency in government in the past decade. The S&L debacle and HUD fiasco of fraud and manipulation of the S&L executives, failures of auditors, bureaucratic bungling of regulators and influence peddling legislators have been going on for years, yet no person has been convicted, particularly the major contributors to the debacle. No ill-gotten personal gains have been recorded. The cost of this inefficient oversight is estimated to cost taxpayers approximately $300 billion. It is disgusting that the Executive, Legislative and Judicial branches ignored this problem until it became unmanageable, thus allowing crooks to steal everything in sight and accumulate undeserved fortunes * * * which possibly by now have been hidden away.

This kind of performance doesn't surprise me. The congressional investigation of the Iran Contra Affair netted zero performance results and cost $20 million plus. The Judicial branch probably spent at least an equivalent amount and closed with the indicted getting less than a slap on the wrist.

The insider trading fraud, hostile buy outs and junk bonds have disrupted the business world, dealing misery to many of the employees and wiping out some elderly investors. Layoffs, firings, forced retirements and increased underemployment have resulted from buy outs disguised and verbalized as corporate efficiency. Today, companies provide low quality and services at higher prices. Only the crooks and opportunists benefit.

The American voter expected the congressmen, the voter representatives, to look out for the interests of the population. It would have been gratifying if the congressmen had handled those issues which placed a burden on the citizenry as expeditiously, completely and with the certainty as they handled the pay raise for themselves, as well as expense-free touring of the world.

One other area for serious consideration, let's stop meddling in the affairs of other countries, as well as playing banker for these nations. We have never been successful in buying loyalty and subserviency. The time has come that we are a "debtor nation." Why should we borrow from other nations to give away to others?

We do not have charity dollars available. We are denying our own people to give people beyond our shores a better living. It is high time that our congressmen and executive leadership become statesmen and "snap to" the balancing of the budget; demanding efficiency and productivity in government; eliminating government fraud and waste; mandating that adequate justice be administered to those guilty of crimes against the American citizenry; challenging the Administration and Judicial branch to resolve the S&L debacle and HUD fiasco expeditiously—limiting the S&L harm to the American people; stopping Congress from messing with Social Security Trust Fund and Medicare Trust Fund; and responsibly addressing the problems of crime, drugs, AIDS and all other life-threatening consequences.

Some final suggestions to strengthen the integrity and the due performance of Congress: Establish mandatory presence at committee meetings and voting on issues on the

Senate and House floors; limit political campaigning on government time and expense including visitation and mail to district; penalize congressional personnel for accepting unofficial, as well as registered lobbying contributions on issues treated in their committees; provide a means for judicial evaluation of congressional members relative to integrity and performance; outlay congressional overseas tours (often including family members) disguised as congressional business; and evaluate the necessity of the relatively large office staffs of congresspersons.

It is not infrequent that citizens in our area write letters to the editor of newspapers urging voters to "give all incumbents their richly-earned reward at the polling place."

I would appreciate your voicing my concerns regarding the ethics and performance of Congress. Undoubtedly, newspaper articles bear me out when I say a great number of voters are critical of the quality of government. We have greater expectations of our elected officials than the record achievement reveals.

You might inform Dan Rostenkowski, Chairman of the House Ways and Means Committee, that I will be happy to accept a cut in social security when the senators and congressmen return their "self-voted" pay raise to the government treasury. Until then I find cuts to senior citizens unacceptable.

Sincerely,

MARVIN W. ORGILL.

DORCHESTER COUNTY SUPPORTS CITIZENS' FAIRNESS FOR LANDOWNERS COMMITTEE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. DYSON. Mr. Speaker, I rise today to draw the attention of our colleagues to a problem that is fast becoming a crisis for property owners in my district. This crisis springs from the new procedures being followed by the Corps of Engineers for delineating jurisdictional wetlands and reviewing applications for Clean Water Act section 404 permits.

Quite simply, Mr. Speaker, the procedures aren't working. Throughout the entire State of Maryland, there are an estimated 265,000 acres of wetlands, both tidal and nontidal, saltwater, and fresh. That, at least, was the estimate of the Federal Fish and Wildlife Service as recently as 5 years ago.

According to the new wetlands delineation manual, however, as many as 1.2 million acres of property may now be subject to Federal wetlands restriction.

Mr. Speaker, with a stroke of a pen the Federal Government has just become the principal land use authority throughout Maryland's First Congressional District.

If the burden this creates for local property owners were reasonable and fair, there would be no significant complaint about this arrangement. Wetlands are a vital natural resource. They are also endangered. There is no dispute about the need to halt the destruction of wetlands or the need to reclaim and enhance those that have been destroyed.

My constituents do not object to these goals. The residents of the Eastern Shore have chosen to live in this region because, like an island, it is a little more remote, a little more isolated, than the beltway suburbs of the mainland. At dawn the sun rises over the bottomland hardwoods that forest the area. At sunset it shimmers off the marshes and wetlands that line the shallows of the bay. In evening cool breezes carry the songs of nightbirds from the darkened treetops and fields.

The residents of my district value the natural beauty of this region that lies soft and low between the lifegiving waters of the Chesapeake Bay and the rolling surf of the Atlantic Ocean. And they are willing to make the sacrifices necessary to protect it.

To live on the Eastern Shore is to be an environmentalist by necessity. But to live on the shore, you must have a home.

Not one single individual property owner has been granted permission to disturb a single acre of so-called isolated, nontidal wetland property for the purpose of building a home, Mr. Speaker, since the new delineation manual went into effect more than 16 months ago. That is the effect of the new procedures. Clean Water Act permits have been approved, to be sure, for bulkheads and piers on the water. State roads have been built. Other disturbances have been allowed.

I have tried to be exhaustive in my efforts to review the record. To the best of my knowledge, there have been no grants of any approval for residential construction anywhere on isolated wetland property anywhere on the Eastern Shore since March 1989.

Property owners in my district have surveyed their land, sought State assistance, petitioned the Corps of Engineers and waited. They have waited and continue to wait. Now they have run out of patience. Now they are organizing. Their commercial endeavors have been put in jeopardy. And they have just about taken as much as they can stand.

Last month a group of Eastern Shore property owners organized a citizens group—the Fairness to Landowners Committee—and sought recognition by the Dorchester County Commissioners. The county's commissioners have responded by adopting an unprecedented resolution endorsing the mission of the committee and calling on President Bush to authorize immediate modifications to Federal restrictions on nontidal wetlands.

I am submitting a copy of the resolution adopted last month by the county commissioners of Dorchester County and signed by my friend Calvin Travers, commission president. I hope my colleagues in the House of Representatives take a close look at it. I believe they will be seeing more of these from their constituents during the months ahead.

THE COUNTY COMMISSIONERS
OF DORCHESTER COUNTY,
Cambridge, MD, July 11, 1990.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: We, the Commissioners of Dorchester County, Maryland, do hereby transmit to you, your administration and our Federal representatives our Proclamation adopted at a Public Hearing on July 10, 1990.

We have listened to our constituents through the efforts of The FLOC—Fairness to Land Owners Committee. This citizens group, formed less than two weeks ago, has a membership of over 2,700 Dorchester Countians.

As elected officials, representing the citizens, we are sure you are aware of the importance of listening to the people.

This Proclamation, issued on their behalf, does hereby protest the Federal Government's new definitions and policies concerning jurisdictional non-tidal wetlands. In addition, we have resolved to seek relief for our citizens from the economic and personal hardships caused by these new policies.

We are pro-environment, but we believe that environmental issues need to have a balance between the value and scarcity of the resource and the needs and the welfare of the people.

We are also hereby urging the Federal representatives copied below to join us in our protest and our attempt to provide relief, under the law.

Sincerely,

CALVIN TRAVERS,
President.

A PROCLAMATION OF THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, MD

EXPLANATORY STATEMENT

The County Commissioners of Dorchester County ("County Commissioners") are a body politic and political subdivision of the State of Maryland charged with the general welfare of the people of Dorchester County, Maryland.

In 1977, Section 404 of the Clean Water Act of the United States authorized the Secretary of the Army, acting through the Chief of Engineers, Department of the Army, to issue permits for the discharge of dredged or fill material into the waters of the United States at specified disposal sites.

On November 13, 1986, the Final Rule for Regulatory Programs of the Corps of Engineers, 33 CFR Parts 320 through 330, was published in the Federal Register and defined the law of the authority of the Corps of Engineers and the rights of the land owner.

Later, President George Bush proclaimed his policy of "no net loss" of wetlands.

On January 10, 1989, the Director, Fish and Wildlife Service, the Chief, Soil Conservation Service, the Acting Assistant Administrator for Water of the Environmental Protection Agency and the Assistant Secretary of the Army for Civil Works signed and adopted the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (the "Manual").

The Manual was signed and adopted without public notice and without giving the citizens of Dorchester County, Maryland any opportunity to express their views. The Manual significantly changed the definition of non-tidal wetlands to fulfill President Bush's "no net loss" policy. The Manual reclassified approximately sixty per cent (60%) of our County as jurisdictional nontidal wetlands, hereby classifying a high proportion of our County as wetlands. The manual changed the status of many of our citizens' properties from uplands to jurisdictional non-tidal wetlands and the mandatory use of the Manual significantly affected many of our property owners and the use of their property. Many of our citizens purchased land and relied on the U.S. Department of Interior National Wetlands Inventory Map as indicating that they were purchasing uplands.

On March 7, 1989, the Office of the Chief of Engineers directed all Corps Divisions and Districts that mandatory use of the said Manual would become effective March 20, 1989.

Our County Zoning Regulations deter high density residential development and thereby limit the amount of disturbance on any one parcel.

Our County's low density is supported by the fact that we have a voting age population of approximately 23,770 living on 379,660 acres of land.

On February 7, 1990, the Alaskan oil interest was granted an exemption to the Manual under the Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines, due to a "high proportion of land that is wetlands."

Since the adoption of the Manual, our citizens have been unable to obtain permits from the Corps of Engineers for minute disturbances on large parcels—some for less than one-third acre on a twenty acre parcel—and the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency have been recommendating that the Corps of Engineers deny our citizens' applications for residential development.

The EPA has recommended to our citizens to seek alternative sites outside of Dorchester County, Maryland.

Our citizens complain that the inability of our citizens to obtain permits has stopped them from building new homes.

Our citizens complain that the change in definitions and policy has significantly diminished the collateral value of their farms.

Our citizens complain that the change in definitions and policy has deterred their construction of wildlife habitat and ponds.

Our citizens complain that the change in definitions and policy has stopped our foresters from changing land use from tree farming to crop farming or residential development.

Our citizens complain that the change in definitions and policy is a total injustice to and economic hardship on them.

Our citizens complain that the Manual does not have jurisdiction under Section 404 of the Clean Water Act or 33 CFR Parts 320 through 330 of the Regulatory Programs of the Corps of Engineers since it does not have the required "Nexus" to interstate or foreign commerce for federal jurisdiction under the Commerce Clause of the Constitution of the United States, and the County Commissioners believe the Manual is a statement of policy and interpretive ruling and does not have the status of law.

Our citizens have organized a committee known as the Fairness to Land Owners Committee (herein "FLOC") whose policy statement is:

"We are pro-environment. We believe that non-tidal wetlands should be protected; however, we can not accept that the mere presence of hydric soils (prevalent on the Eastern Shore and Southern Maryland) makes our land non-tidal wetlands. We do not accept that all the land the Federal Government has classified as jurisdictional non-tidal wetlands, due to hydric soils, is functioning as a filter for the aquatic ecosystem. We believe that environmental issues need to have a balance between the value and scacrcity of the resources and the needs and the welfare of the people. We believe that fairness must be employed when dealing with the rights of land owners. We can not accept the Government taking our land without economic compensation. We can not accept the Government's injustice of shutting down the Eastern Shore. We need to band together to attempt mitigate the catastrophic impact of the Federal Government's new non-tidal wetlands definitions and policies."

The County Commissioners support the policy statement of FLOC.

The change in definitions and policy is having a significant domino effect on our entire eonomy, and our citizens proclaim that our County has been "shut down."

For the reasons set forth above, the County Commissioners of Dorchester County, Maryland do hereby proclaim and resolve:

Resolved: That a state of crisis exists for the people of Dorchester County, Maryland which crisis will continue until more reasonable non-tidal wetland rules, regulations and policies are implemented.

Resolved: To request that President George Bush investigate why the people of Dorchester County, Maryland are unable to obtain federal non-tidal wetland permits and to take immediate corrective action to alleviate the "shut down" of Dorchester County, Maryland.

Resolved: To obtain for our citizens their rights under the law—Regulatory Programs of the Corps of Engineers—33 CFR Part 320 through 330.

Resolved: To obtain for our citizens the exemption granted to the oil interest in Alaska under the February 7, 1990, Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army as a high proportion of our County is now classified as wetlands.

Resolved: To support the Norfolk District Corps of Engineers' Regional Permit 29 for discharges of dredged and/or fill material on cleared agricultural lands situated on hydric soils with wetland hydrology in association with an established, on-going farming operation or the conversion of such lands to non-farm uses.

And resolved: To request a Regional Permit for disturbances of less than ten per cent (10%) for all parcels of record.

COMPETITION IN THE ELECTRIC POWER MARKET

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SHARP. Mr. Speaker, as the conference committee deliberates on amendments to the Clean Air Act, I want to discuss how this important legislation can affect the growing trend toward competition in the generation of electricity.

Independent power, by which I mean electric generation built by firms other than traditional electric utilities, is a burgeoning industry that has supplied much of the new generation in this country since passage of the Public Utility Regulatory Policies Act of 1978, and we have tried to ensure that nothing in the legislation disadvantages this sector relative to other competitors.

Independent power is expected to play a major role in meeting the Nation's new power generating needs in this decade. Between 1990 and 2000, it has been estimated that independent producers of electric power will supply 40 to 50 percent of the new capacity needed and bring needed competition to the wholesale power supply market.

Competition in the electric generating market provides a number of benefits to electricity consumers and our national economy. Competition by independent power producers shifts construction and operating risks in a manner that can promote efficiency, enrich the supply options for utilities, and drive down costs. In addition, properly structured competition for new power capacity can integrate considerations of national environmental and energy policy; the public interest in reliability, efficiency, and environmental protection can all be taken into account in electric generating choices afforded by this competition.

In adopting amendments to title V of H.R. 3030, the House Energy and Commerce Committee sought to recognize, among many other concerns, the unique problems and status of independent power producers. For example, independent power producers generally must enter into long-term, fixed-price contracts to supply the power they generate. Moreover, new independent power-generating units must usually be project financed. They cannot be financed based on the strength of a utility's balance sheet, as most new utility projects will be.

To obtain needed financing, developers of new independent power projects have to first finalize a power sales agreement with a purchasing utility, an arduous and costly process. After passage of the Clean Air amendments, however, such developers will also have to demonstrate to their prospective lenders that they will have the necessary allowances required under the acid rain program to continue to function after the year 2000.

The allowance system that was initially proposed by the administration confronted developers of new independent power projects with a potentially serious competitive disadvantage vis-a-vis traditional utilities. Independent developers of new projects must compete with existing utilities that are allocated allowances on the basis of their existing units. Investor-owned utilities may be able to transfer allowances among their facilities or subsidiaries in order to build new facilities. They may also be able to purchase allowances from other utilities more readily than can independent power producers.

A recent report by Resources for the Future [RFF], entitled "Emissions Trading in the Electric Utility Industry," highlights concerns about the potential of the earliest proposals for an allowance system to stifle competition in the wholesale power generation market. The RFF report was written by former FERC Commissioner Charles Stalon, and contains the following warnings:

Uncertainty about the price and availability of allowances could make it difficult, for example, to arrange financing for new generation units, particularly for plants being developed by independent generating companies that have no captive markets and that must compete with established utilities.

The fear is that the market for allowance trading will break down before it gets a chance to prove itself. The possibility of a

market failure can be reduced if the program recognizes the need to maintain liquidity in allowances for a short transition period until the new technologies prove themselves and future market conditions become more apparent. An alternative for guaranteeing liquidity, as described below, is a set-aside reserve of allowances that would be sold by the government, with the objective of maintaining a minimum flow of allowances in the market.

Allowances can simply be given away as an endowment, they can be auctioned, or they can be sold at a fixed price. The endowment approach bestows a potentially valuable asset upon specified recipients, but parties that are not favored by the initial endowment may be apprehensive that the allowance market will fail to develop adequately to provide a ready access to supply. The auction and sale options, which gave all parties access to allowances, are motivated by this concern about liquidity.

Mr. Speaker, my colleagues and I on the Energy and Commerce Committee took these concerns seriously. We accordingly included amendments in title V that would help preserve and enhance competition by ensuring fair access to adequate allowances for developers of new independent power production units and provided a variety of mechanisms to help foster a fluid and active market for allowances toward this end, including:

The contingency guarantee, providing allowances at a fixed price;

Mandatory and voluntary auctions of allowances;

Fixed-price reserve sales, with opportunities to purchase allowances from the reserve provided to IPP's;

Allowance transfer authority for cogeneration replacement facilities;

Opt-in authority for industrial SO_2 emission sources; and

Limitations on life extension projects for existing utilities.

In addition, we adopted language mandating EPA, in prescribing its rules for establishment of the allowance system, to ensure that the system functions competitively and equitably. We also adopted language making clear that nothing in the title would be construed to interfere with or impede existing or future State programs providing for competitive bidding for power supply.

Taken together, these provisions respond to the important public policy concerns raised by Commissioner Stalon and others. I encourage conferees to be attentive to these concerns in conference. It is imperative that we work closely with the Senate to retain those vital provisions that most adequately address these concerns. In addition, we expect that the bill's mandate to preserve fair competition in wholesale power markets will be faithfully reflected in the implementation of this title.

COMMENDING EPSCOR'S ROLE IN ENHANCING NATIONAL RESEARCH EFFORTS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. FLIPPO. Mr. Speaker, the United States must continue to support research programs at our Nation's universities if we are to maintain our competitive edge.

America's research universities play a vital role in laying a foundation for future economic growth. That's why I want to note the success of the National Science Foundation's EPSCOR program to stimulate competitive research efforts in States across the Nation.

Recently the Chronicle of Higher Education hailed the EPSCOR program as a model for broader distribution of U.S. research funds. This article notes the great progress that has been made in promoting research efforts in States that had often been overlooked by the National Science Foundation and other Federal research funding agencies.

For too long, most States have historically received only a small amount of NSF grants. The EPSCOR program provides an opportunity for universities in these States to do first-rate research. The result has been a general improvement in research facilities nationwide.

Back in 1984, there were some who didn't want to continue the EPSCOR program. In response, I offered language as part of my testimony before the Subcommittee on Science, Research and Technology supporting EPSCOR that resulted in not only reauthorizing this valuable program, but also expanding it.

In the fiscal 1985 NSF authorization bill, the Congress extended this program with my active support and an additional 11 States were included in the EPSCOR program, among them my own State of Alabama.

The success of EPSCOR is shown most clearly in these States. In Alabama, two of my State's universities now rank among the top 100 research institutions receiving Federal grants.

I urge my colleagues to review the success story of EPSCOR, and join me in supporting the broader distribution of Federal research funds.

[From the Chronicle of Higher Education, July 25, 1990]

TINY NSF PROGRAM HAILED AS MODEL FOR BROADER DISTRIBUTION OF U.S. FUNDS

(By Colleen Cordes)

Ten years ago, Jack Horner's chances of getting a grant from the National Science Foundation wouldn't have looked good.

Mr. Horner, who has dyslexia, had no college degrees, and his position as assistant curator of the Museum of the Rockies at Montana State University left him relatively isolated from the scientific mainstream.

But the State of Montana is a participant in a National Science Foundation program to help improve the research capabilities of states without strong records in attracting federal research support. Mr. Horner received a $15,000 grant through that program.

400 DINOSAUR EGGS

He used the money to explore nesting sites for dinosaurs. He has since won international prominence—and, along the way, a MacArthur Foundation fellowship. Mr. Horner has found at least 400 dinosaur eggs, including one with an intact embryo. His work is now supported by a regular NSF grant.

Mr. Horner's unlikely success story helps explain why many people are excited about the NSF program, which is called the Experimental Program to Simulate Competitive Research, of EPSCOR.

With a budget of only $10 million, EPSCOR is a small part of the NSF. But it is being hailed by Congress, the Administration, and many university officials as a model for broadening the geographic distribution of federal research support. Many also see it as a promising, long-term antidote to the controversial Congressional practice of earmarking federal money for specific campus research projects.

EPSCOR makes competitive awards to states that traditionally have received a relatively small amount of support from the agency—and generally from most other federal research agencies, as well. The participants, 16 states and Puerto Rico, captured less than 10 percent of all the federal money for research and development at colleges and universities in 1988, the most recent year for which data are available.

To determine which states were eligible for the program, N.S.F. officials used a complicated formula that took into account a state's rank in terms of total N.S.F. support. The formula also compared the amount of federal research support the state received with its population and with the number of academic scientists and engineers it had.

The states that are eligible are Alabama, Arkansas, Idaho, Kentucky, Louisiana, Maine, Mississippi, Montana, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming.

Grants offered under the program, which is now about 10 years old, help the states develop their institutions' ability to win money in normal research competitions. Each of the states has contributed money from a variety of sources to the research projects EPSCOR supports. The states' total support, in fact, has been more than three times the amount of federal spending.

EXPANSION TO OTHER AGENCIES

The Bush Administration and Congress have expressed interest in expanding the idea to other agencies. Already, Congress has asked the National Aeronautics and Space Administration to start a similar effort. Says F. Karl Willenbrock, an assistant director of the science foundation: "We consider it a very significant success story."

EPSCOR's supporters point to Montana's experience as evidence of the program's effectiveness. In the last 10 years, the program has supported the studies of about 220 researchers there. About half of them have since won federal grants through regular competitions. Another 20 per cent have won support from other sources.

Supporters also cite South Carolina's experience. By the time the state's first five-year award ran out, for example, the mathematics department at the University of South Carolina ranked 62nd in the nation in terms of outside support, and the one at Clemson University ranked 47th. At the start of the program, neither had been in the top 100.

MORE TIME IS NEEDED

"If peer review means anything, I guess our quality has improved, because we get more from the peer-review system," says Thomas Coggins, the University of South Carolina's associate director of sponsored programs and research.

EPSCOR has also demonstrated that geographic equity in the distribution of federal support cannot be achieved quickly, officials say. That's why the original plan—for one-time, five-year grants—had to be extended, they add.

"Five years sounds like a long time," says Robert A. Jenkins, project director of Wyoming's EPSCOR program. "But when you're trying to turn around some major deficiencies, a longer period of time is in order."

Indeed, the EPSCOR states as a group have not changed their overall rankings much in terms of total support from the foundation for research and development. The foundation is still analyzing whether the EPSCOR states, together, now claim a larger portion of the agency's research budget.

But many federal and state officials agree that, considering how small the federal investment has been, EPSCOR's results have been promising. And many science-policy experts hail the program as a fruitful alternative to the Congressional practice of earmarking.

In pushing for such earmarks, lawmakers rail against the merit-review system used to award most federal research money. They contend that it has unfairly directed the bulk of support to relatively few states and institutions.

Opponents of the earmarking practice say EPSCOR is a fairer and more efficient way to deal with the imbalance that are one-time grants obtained by powerful members of Congress.

But many proponents of earmarking also support EPSCOR. They see the program as complementing earmarks by helping "have-not" states improve their science facilities.

MORE LEVERAGE

Regardless of where they stand on the earmarking issue, many university, state, and federal officials say EPSCOR has pushed states and institutions that have not been big winners of federal research money to create more supportive environments for their own research programs.

"I really believe that EPSCOR as a program has provided more impetus, more leverage, more general support for the research endeavor on our campus than anything else that has come along," said Wyoming's Mr. Jenkins.

Following N.S.F. guidelines, the states have used EPSCOR funds to help promising young scientists who are jockeying for position in the race for federal grants. State EPSCOR committees have directed scientific equipment, money to pay for laboratory technicians and graduate students, and other aid to specific scientists whom the committees identified as most likely to compete well nationally.

Some universities and state governments have also committed themselves to adding faculty positions in the sciences.

In hopes of making the states more competitive nationally in research, the EPSCOR program is based on competitive merit reviews. The 16 states and Puerto Rico must compete with other for the total amount of EPSCOR money available. In doing so, their proposals undergo what many university officials describe as a rigorous series of reviews by scientists, many from outside each state. A state wins more or less money—or none at all—depending on the strength of its proposal.

NEW RULES, LARGER AWARDS

Now the agency is planning a new competition for EPSCOR money, with larger awards at stake for the winners and new requirements designed to help states build on past successes.

In the past, the N.S.F. gave the states money to pass on to talented individuals. Now the agency wants states to take their programs one step further and support either small groups of researchers working in areas in which the states want to become more competitive or a research center dedicated to such an area. The awards will still include support for such infrastructure expenses as equipment and laboratory technicians.

Meanwhile, the states have formed a coalition that is lobbying for more EPSCOR money and for similar programs in other agencies. The group wants to increase the program's budget at the N.S.F., for example, to about $25-million for fiscal 1991. President Bush, in contrast, has proposed spending about $10-million on it next year.

NOT ALL ARE SUCCESSFUL

While Administration and state officials applaud the program, some say the states that participate have not been equally successful in meeting its goals.

West Virginia, for example, did not succeed as well as some states in making the general political and academic environment more supportive for research, according to Joseph G. Danek, who was EPSCOR's first director at N.S.F. Mr. Danek continues to supervise the program from another position in the foundation.

Many individual scientists in the state who were supported under EPSCOR did become more competitive nationally, but a significant number of them then left West Virginia, he added.

William E. Vehse, director of West Virginia's EPSCOR program, acknowledges that the state "has not been as effective as we would have liked."

He says West Virginia's economic woes prevented state officials from providing enough money to improve research efforts there. Mr. Vehse adds that in the last two years, state officials have made more progress. "Things are looking up now," he says.

Mr. Danek cites the University of South Carolina as an institution that used its EPSCOR money wisely. The university built up certain departments as part of a larger push to transform itself into a major research university, he says.

As interest grows in EPSCOR as a model for other agencies, questions loom about the direction of such efforts. How much money should the government spend to help some states become more competitive, given the tight federal budget? At what point would the most successful research institutions start complaining that such efforts were unfairly draining support from other programs?

And when has a state made enough progress to graduate from EPSCOR, or fallen behind enough to be added to the list? The foundation recently avoided that issue by deciding not to use the most recent statistics on total N.S.F. and federal support to recalculate which of the 50 states should be eligible for the upcoming competition for new grants. Instead, the agency simply made all past participants—but no other states—eligible.

Even some proponents say Congress may push agencies to set up programs that don't rely as strictly on competitive merit reviews as EPSCOR does. That would be a mistake, the proponents say, because the program's goal is not just to provide short-term support for particular projects. Its success, they note, hinges on its ability to stimulate states to establish long-term policies that promote research.

Says Mr. Danek: "There's a danger of not understanding that simply providing money is not the answer."

THE CONSIDERATION OF DISCIPLINARY MEASURES OF BARNEY FRANK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. WAXMAN. Mr. Speaker, as peers, we are called upon to judge each other on our integrity in the exercise of our official duties. We should guard against such misdeeds as corruption, bribery, and vote-buying.

We must police such acts because they may actually affect a public policy. They may change the way government works and move the course of the Nation.

We must police such acts because they also may diminish citizens' confidence in their government. Doubts about the honor of an individual's official conduct can lead to distrust of the legislative process itself. Any loss of faith in the integrity of our government is dangerous to us all.

I wish to note, however, that for the most part today's reprimand is not about an exercise of official duties. Indeed, I believe few Members can ever hope to measure up to the professional standards set by our colleague, BARNEY FRANK.

The charges being brought today are primarily about private conduct. To the extent BARNEY FRANK acted improperly in his official capacity—specifically traffic tickets and making dubious representations on congressional stationery—a stern letter of disapproval from the committee was justified and would have been sufficient.

Instead, we have before us a recommendation by the committee for an official reprimand from the House and a move by others for even sterner sanctions. Since the creation of this committee, this punishment has been reserved for serious abuses of office. I firmly believe that these harsh recommendations would not be before us except for the fact that BARNEY FRANK is being judged with disapproval of his personal and private life.

We should steer clear of such judgments. On a purely practical level, such questions of how private life might bring discredit on the House can never be defined clearly enough to answer. The standard is vague and open to a shifting and imprecise judgment. Fifty years ago, an unhappy divorce could have created sufficient scandal to cause a reaction, a mistress might have caused expulsion. No Member should be forced to account for all of his life to all of his colleagues. We are not

pure enough, strong enough, or good enough to vote on our private honor.

More fundamentally, such examinations of private life are beyond the rights and needs of this House to protect the integrity of its actions. Private activity may call an individual Member into question as a prudent man or woman, but it does not jeopardize the legislative process. Private life does not cause public loss of faith in the Congress as an institution. I believe the judgment of such private activity should be between a Member and his electorate and between a Member and his conscience. It is not a matter to be decided on a majority vote.

The House, by allowing itself to stray into these private issues, has opened the possibilities of ad hoc judgments, unrelated to our responsibilities as preservers of the Constitution and the Nation. We should look deeply into this report for any wrongdoing involving official duties, not probe for private indiscretions.

It is often said in this Chamber that this is a government of laws, not of men. This standard is usually invoked to mean that we should not allow men to overrule the laws for special favors or advantages. But it also should mean that we should reserve our judgments for our violations of law, not for our mistakes as men. I believe that my colleague has made personal mistakes and has exercised bad personal judgment. But I do not believe that he has done damage to this House in doing so, and I do not believe that he should be reprimanded or censured for his personal actions.

As much as we may hope to be a body of impartial peers, we are often an imperfect jury. Our deliberations sometimes reflect not justice but politics. Our verdicts are decisions not just about the facts before us, but about the electorate we all will face. Members may seek to be fair to the individual charged, but parties and elections are always just outside the Chamber, pulling on sleeves and coattails to think how our votes can be used in campaigns and debates, causing us to think about slogans and images.

I believe that the votes today reflect these mundane influences. We are considering this report as a compromise document. It was a unanimous report not because all were convinced beyond a reasonable doubt but because the committee sought to arrive at a position that could be won on the floor. We are not judging whether our colleague acted rightly or wrongly, but how we can marshal a majority vote and whether there is political cover for an aye or a nay.

That is wrong.

Almost all of our votes are important. America and the world depend on this body to create policies that make peace and war and provide prosperity and health. To make all these important decisions we clearly make compromises to get majority votes and to get political cover for uncomfortable choices. It is an old and vigorous tradition.

But this vote is one on an individual. It is as close to a bill of attainder as our Constitution allows and should be used cautiously. We should not make compromises.

In that manner, I will say that I believe that the committee has compromised too fully. The committee has reprimanded not because all Members believed that was right, but because it was necessary to find some punishment that could be voted on.

Finally, let me say that as mistaken as I believe the committee's actions to be, these mistakes were made in good faith, in an attempt to make the Ethics Committee work and the process continue. The further measures proposed for censure and expulsion cannot be given so much credit.

I believe many of the supporters of harsh measures are not pursuing the honor of the House but are seeking another plank in a political platform. They are planning a campaign about the NEA, the flag, and BARNEY FRANK—a campaign made for television.

Such activity is cynical and misplaced. It calls into question our entire role as impartial peers. It brings dishonor upon the House in our official capacity.

We should resist this call to politics and remember that in this vote we are called upon to be jurists. As jurists we should examine the validity of the charges and the recommendation for punishment. I believe both were mistaken.

ENTITLEMENTS CANNOT BE COMPROMISED DURING BUDGET SUMMIT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. MAZZOLI. Mr. Speaker, I am dismayed and disturbed by rumors that the package of deficit-reduction measures to be reported by the congressional-White House summit could include reductions in Social Security benefits.

I wish to make it clear that I cannot, and will not, vote for any such entitlement cuts, unless Congress agrees to cut foreign aid.

I did not support the $15.8 billion foreign aid appropriations bill for fiscal year 1991 because it is too costly and because 24 percent, or $4.6 billion, of the funds appropriated are in the form of foreign military assistance.

With all the belt-tightening here at home, it just isn't fair to Americans—especially those living on fixed, limited incomes, and Social Security—to continue a sky-high foreign aid program while, at the same time, proposing to cut benefits to the elderly which they have earned in a life time of hard work.

Mr. Speaker, our responsibility to elderly and poor Americans cannot be sacrificed to budget concerns where there are other options—such as reduced foreign aid—which can put our budget back into balance.

A TRIBUTE TO MARY McCORVEY MAYS

HON. GUS SAVAGE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SAVAGE. Mr. Speaker, I rise to call our Nation's attention to a constituent and a truly outstanding individual, Mrs. Mary McCorvey Mays of Chicago. I have known Mrs. Mays for over 30 years and, in that time, I have known few individuals who rival her sense of commitment to helping her community.

Mrs. Mays founded and heads the Accounters Community Center, located at 1155 West 81st Street, Chicago, IL. The center, founded in 1967, takes its name from Romans 14:12, which states, "So then, everyone shall give account of himself to God." I could not think of a more appropriate name, because, when the time comes, Mrs. Mays can stand tall and deliver her remarkable account with pride.

After serving more than two decades as a teacher and administrator in the Chicago public school system, Mary saw the need for a community service center to make up for the deficiencies in Chicago's social service operations. Since then, the service has blossomed to include a wide range of community service programs, such as youth counseling for drug abuse, truancy, education, and employment. For needy families, she provides meals and housing assistance.

Probably the most remarkable aspect of Mrs. Mays' achievements is that she accomplished them on funds that would make the administrators for comparable government agencies close their doors and go home. I have never known a more efficient and resourceful provider of services to the desperately needy. She has truly created something out of nothing, and she stands as a testament to the powers of positive thinking and utter personal commitment. She is truly the silver lining in a cloud of despair, and I am proud to call her my friend and colleague in the struggle for jobs, peace, and justice for all people.

NINE SAN DIEGO STUDENTS LEAP INTO THE FUTURE

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. LOWERY of California. Mr. Speaker, I rise today to commend nine young San Diegans who have just graduated from high school in the class of 1990.

Each of these individuals is the recipient of a San Diego-based nonprofit scholarship called LEAP Into the Future. This program, supported by private donations, exists to aid financially disadvantaged high school students with their goal of achieving higher education.

Mr. Speaker, these students have demonstrated their own academic ability in the face of overwhelming odds, and several are also involved in athletics and extracurricular activities. While each of these students has an individual story, they all have two things in common. First, they have each demonstrated a potential for leadership. Second, they lack the funds necessary to develop that potential in college.

For 1990, the students receiving LEAP scholarships are: Regina Johnson of U.S.D. High School, (Billy) Vinh Dinh Truong of Madison High School, Bee Yang of Mira Mesa High School, Jennifer Richardson of San Diego High School, Robert Hamilton of Serra High School, Bao Dang of Clairement High School, Jason Pogrell of University City High School, Jessica Zinda at Point Loma High

School, and David Nguyen of Mt. Carmel High School.

The LEAP Into the Future Program is San Diego's way of both recognizing the efforts of individuals, and reflecting the community's recognition of the nationwide need to provide leaders for our future. As programs such as this one grow, America can fill its educational deficit, and ensure our future in international competitiveness. Only in this way can the United States be assured that its youth are knowledgeable, well trained, and competent to compete in the rapidly changing global marketplace.

Mr. Speaker, I am proud to say the citizens of San Diego understand this, and have started the change with nine young men and women, graduating with the class of 1990. You can be sure that many more will take the LEAP with them as years pass.

SUPPORT OF THE AMENDMENT TO THE FAIR LABOR STANDARDS ACT

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. MURPHY. Mr. Speaker, today I rise in support of the amendments to the Fair Labor Standards Act that I have just introduced. These amendments are technical in nature. They cover four issues related to the Fair Labor Standards Amendments of 1989 which we were not able to successfully resolve at that time due to oversight and the controversy that surrounded the minimum wage issue.

The provisions of my bill are quite simple. The first section amends the Fair Labor Standards Act [FLSA] to correct the application of the exemption from coverage for enterprises with an annual volume of business of less than $500,000. This small business exemption was included in the minimum wage law, H.R. 2710, which was enacted into law last year.

This section of the amendment fulfills a promise made in the committee report on H.R. 2710 to enact a true $500,000 exemption for most small businesses. My bill's language is carefully drafted to expand coverage of the equal pay provision of the FLSA as well as to preserve statutory protection against the exploitation of industrial home workers or those employed in sheltered workshops for handicapped workers.

My bill also amends the FLSA to apply the training wage to teenage seasonal farm workers in the same manner as it applies to all other workers under 20 years of age. This amendment would not apply to migrant farm workers.

Also, this legislation amends the FLSA to apply the professional overtime exemption in section 13(a) of the act to certain highly skilled computer professionals. This measure would only be applicable to those highly compensated employees who earn wages that are at least 6½ times the applicable minimum wage rate under section 6 of the FLSA. I would like to remind my colleagues that this proposed change passed both the House and the Senate as part of the conference report on H.R. 2, but it was not included in H.R. 2710.

And finally, my bill provides a technical correction to the special minimum wage provisions of the FLSA which apply only to American Samoa.

I ask my colleagues to join with me and cosponsor this legislation. These amendments will simplify and clarify many provisions of current law. In my opinion, this reason alone makes this legislation worth your serious consideration and support.

TRIBUTE TO VOLUNTEER FIREMEN OF CONEMAUGH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. MURTHA. Mr. Speaker, many communities in the United States rely on volunteer firemen in order to protect their homes, families, and businesses from the threat of a destructive fire. The many volunteer firemen all across the Nation who selflessly serve their communities deserve much more recognition than we are able to give them.

I would like to take a moment, however, to call your attention to two brothers who have each been serving their community as volunteer firemen for over 50 years. Harry and Dan Grove have been volunteer firemen in Conemaugh, PA, since the 1930's. They have spent countless hours performing dangerous work for the people of Conemaugh, and I would like to take this opportunity to commend them for their efforts.

Harry and Dan Grove epitomize the volunteer spirit that makes the United States great. Fifty years as a volunteer firefighter is a remarkable achievement, and the people of Conemaugh consider themselves fortunate that two brothers have spent over 100 combined years serving the community.

HOUSE VOTE ON REPRIMAND OF REPRESENTATIVE BARNEY FRANK

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SYNAR. Mr. Speaker, the bipartisan Ethics Committee was established to fully review cases such as this and make recommendations to Congress based on all the facts surrounding each case. The recommendation to reprimand Congressman FRANK is based on a careful investigation. I support the Ethics Committee's decision and will vote to reprimand my colleague.

Congressman FRANK erred in his judgment. All of us have the responsibility to make known our concern by voting to reprimand him. It is the Massachusetts' voters job to decide whether further punishment is deserved.

S&L BILL—DON'T LEAVE TOWN WITHOUT IT

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. STEARNS. Mr. Speaker, this body only has only a week or two at the most before it recesses for the month of August. As I look at the House floor schedule, I notice that no legislation is pending for consideration of the S&L crisis. I stand here in amazement that we could even consider leaving town before we vote on legislation that would begin to expedite that investigation and prosecution of S&L criminals and begin to retrieve the money stolen from depositors.

For weeks now Members have heard often heated debate concerning who is to blame for the S&L scandal. We've heard get tough talk on the S&L criminal. We've heard that this official or that official is responsible for not doing enough. If this debate is really serious then we shouldn't be talking about leaving town in August until a serious S&L fraud bill has been passed by this body. H.R. 5353 is that bill. It should be brought to the floor as a free standing bill and voted on before anybody in the House goes home.

The S&L debacle is the worst financial crisis to hit this country—ever. It will cost our children billions of dollars. It will take years to run down the people who fraudulently operated savings institutions.

I strongly urge my colleagues and the leadership to allow H.R. 5353 to come up for a vote. Let's not just talk and talk about this S&L mess, let's not throw it around here like the proverbial political football, let's get serious and bring this legislation before the House.

THE REPRIMAND OF CONGRESSMAN BARNEY FRANK

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. COSTELLO. Mr. Speaker, before I came to Congress I had many years of experience and background in law enforcement and the judicial process. I have witnessed hundreds of court cases and strongly believe that while there are some problems with the American judicial system, our process is the fairest and most sound system that exists in the world today.

It is always difficult to sit in judgment of another person. As Members of the United States House of Representatives, we have established a system for judging fellow Members that seems both equitable and fair, as difficult a process as this is. We established a Committee on Standards and Official Conduct, the only committee of the House with equal bipartisan representation.

We have selected six Democrats and six Republicans to sit on this committee and represent the entire House in hearing evidence

and taking testimony in certain cases of alleged wrongdoing. And, as part of this process, we entrust that after reviewing all of the evidence, they will recommend to the House the most appropriate punishment for the misdeed.

That is why today I will support the committee's recommendation in the case of Congressman BARNEY FRANK of Massachusetts, to ask for his reprimand by the entire House.

I do not take this position lightly, nor do I support it without having read thoroughly the report of the committee in this instance. By reading the report, it is evident that the Members have spent several months holding hearings, examining evidence and taking testimony from dozens of witnesses. The committee's goal has been to document facts, not the hearsay, directly from those involved, and to issue in the report to the Member of this body the most accurate portrayal of what actually happened.

In reviewing these cases, the ethics committee functions similarly to jury. Just as 12 Members of a jury are selected to judge their peers on behalf of their community, so do the 12 members of the ethics committee hear a case on behalf of the entire membership of the House.

On the floor of the House today, we will hear the recommendation of the ethics committee, as well as entertain several motions to alter or make more severe the recommendations of the committee.

I will not support efforts to alter the recommendations of the committee, because I believe they go against the process we have established to judge our fellow Members. For example, this would be tantamount to having a jury anywhere in America hear a criminal or civil case over a period of months, having that jury render a verdict and then ask the jury across the hall what they think of the decision.

In reviewing the case of Mr. FRANK, the ethics committee is our jury. It has heard the evidence, and has rendered a verdict.

Unless there is evidence that the ethics committee has not heard, or if there is evidence that committee has ignored any information that could alter its hearings, the Members of this body should sustain the committee's recommendation. If Members are going to be constantly challenging or contradicting the recommendations of the committee, then we should abolish the committee and have all 435 Members of the House hear these cases.

Let me make it clear to my colleagues that I do not condone Members of Congress being involved with prostitutes, nor do I condone homosexuality.

This case, however, goes beyond those two issues to consider conduct undertaken by a Member of Congress that constitutes, in the committee's view, a direct violation of House rule XLIII which states that "A Member, officer, or employee shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives." The decision is a recommendation to the full House of a reprimand of Congressman FRANK.

Given the duties as assigned by the Members of this House, their exhaustive examination of this case and their report to the full House, I will vote today to sustain the recommendations of the committee on Standards of Official Conduct and against other motions to increase or alter their recommendation.

I would also note that in regard to the motion to expel Mr. FRANK from this body, a colleague of mine earlier acknowledged Alexander Hamilton's quote, that "Here, sir, the people govern." This House is unique in our Government because it is the only federal body to which an official cannot be appointed, they must be elected by the people.

Therefore, Mr. FRANK'S service to the people in his congressional district should be determined by those he represents, and not by this body as a whole, and the future of his service in this House is in the hands of his constituents.

AIRPORT IMPROVEMENT PROGRAM

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. TORRICELLI. Mr. Speaker, on July 19 the House accepted my amendment relating to the use of Airport Improvement Program money for training airport crash-fire-rescue teams. I believe that this change in the AIP Program will help better protect the American public.

After consideration of the amendment, a colleague approached me with a question about the ability of certain facilities to use the AIP money. In order to address these concerns, let me state that the AIP money could be used at off-site crash-fire-rescue training facilities. However, these facilities would not have to be established exclusively for the implementation of these programs. Airport authorities could request that AIP money be provided for use by State or local fire training programs. Such awards would, of course, be contingent on the program's ability to meet Department of Transportation training requirements.

Mr. Speaker, thank you for the opportunity to clarify the intent of the amendment, and I appreciate the interest of my colleagues in this important issue.

TRIBUTE TO THE KNOXVILLE VOLUNTEER FIRE DEPARTMENT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to the Knoxville Volunteer Fire Department, Inc., loyally serving the Knoxville-Toronto areas of Ohio for 25 years. This group of dedicated firefighters arose out of a town meeting held on May 4, 1965.

Twenty-four Knoxville area men attended the meeting, including Mr. Ed Schrader, who proved instrumental in providing the necessary information on the general operations of a fire department. Through his expert advice, the group elected temporary officers, and adopted a constitution and bylaws. A plot of land was offered by Mr. William Crawford as a site for the new firehouse. Richard Webber was elected as fire chief to lead the fire department in protecting the Knoxville area, which previously had to depend on neighboring departments.

The first few months were spent raising money, visiting nearby departments gathering ideas, and obtaining an old model Chevrolet firetruck from the village of Empire. The first fire call came from the Knoxville Presbyterian Church, and was handled promptly and efficiently. In 1966, the members agreed on the building design, and construction began immediately on a new four bay fire station. Both members and volunteers from the community provided materials, equipment and hours of hard work. The completed fire station was open to public display on May 28, 1967, when an open house was held for the firemen and friends. At this time the department had the distinction of being the fastest growing fire department in the State of Ohio.

In 1970, the department finally received its first new truck, and another open house was held so the community could view the new vehicle and equipment. This immediately resulted in plans to add yet another truck to support the department. This was obtained in 1972. By 1973, in order to meet growing demands, plans for expansion were put in motion. Ground was broken in 1974 for a new addition which provided larger kitchen facilities, rest rooms, and an activities room.

Since its inception, the department has been lead by five different fire chiefs. Chief Richard Webber began in 1965, and served through 1967. He was followed by Chief Ted Riffle in 1968 and 1969, who was succeeded by Chief Bill Bray for the next 2 years. Chief Dale Swickard served from 1971 until 1983, and was followed by Chief Bob Phelps, who has served ever since. During the 25 years of service, the department has been saddened by the loss of 28 of its volunteers. Thankfully, none have been lost while responding to a fire call, although many close calls could have caused the heartache that so many other fire departments experience.

Currently, the department has three front line vehicles, the last unit being a quick response unit purchased from the Wintersville Volunteer Fire Department in 1987. An effort is being made to update personal equipment, firefighting equipment, and to purchase a new fire truck. Although the old 1937 truck could no longer be used in active fire service, members have been working since early this year to restore it to its original condition.

Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join with me in acclamation of all the members and officers of the Knoxville Volunteer Fire Department for providing the community with 25 years of dedicated service.

A TRIBUTE TO PARKCHESTER

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SCHEUER. Mr. Speaker, where can you find an oasis of parklike beauty in the middle of a busy urban center? Where can you find an integrated residential area where families have lived and prospered for generations? Where do you find a neighborhood with people from all over the country, and all over the world, living together in a model of what urban life can be?

Mr. Speaker, this place exists. It is in the Borough of the Bronx in New York City, and it is called Parkchester. I am proud to say Parkchester is in my district, and I rise today in recognition and tribute on its 50th anniversary.

In 1938, Metropolitan Life Insurance Co. purchased 130 acres of property from the New York Catholic Protectory for the purpose of building the world's largest apartment house development. The plan, conceived by Fredrick H. Ecker, chairman of Metropolitan's board of directors, provided jobs at a time of low employment and at the same time offered modern accommodations for families of moderate income.

On March 1, 1940, the first 500 families moved in, and by September of that year there were almost 2,000. Today, the 171 apartment buildings accommodate 12,271 families from not only every State in our country, but from many countries throughout the world.

Planned as a parklike suburb, the buildings only cover less than 28 percent of the land. The 66.6 acres of landscaped and recreation area are covered with 3,700 trees, 35,000 hedge plants, and 300,000 ground cover plants. From the thousands of tulips and pansies to the masses of chrysanthemums in the fall, Parkchester exists as a garden oasis in the midst of urban turmoil.

The windows of the apartments look over manicured grounds, and onto a vista of the Long Island Sound and the Manhattan skyline.

A large playing field and 22 conveniently located recreational areas offer the residents facilities for a variety of athletic activities as well as swings and slides for the young children.

Macy's opened its first branch store here, a 2,000-seat movie theater was built, a post office and a library were opened while shopping and services were laid out all to serve this growing community, a city within a city.

By 1941, all of Parkchester's 42,000 units were leased, and this blooming neighborhood became a full-fledged member of the New York City community.

Residents of Parkchester have served in World War II, Korea, and Vietnam. Many veterans returned to Parkchester to marry and raise their families in the community they always knew as home.

Accessible bridges and expressways, a short distance from both Bronx and Van Cortlandt Parks and just a 30-minute subway ride to midtown Manhattan, Parkchester stood as the most desirable moderate rental housing facility ever built.

In 1968, a private investment group bought Parkchester from Metropolitan Life. In 1972, the north condominium was formed, and 4,000 units became the first apartment complex in the State to be converted under a noneviction plan. In 1986, the south condominium came into existence; 1,800 units remaining rental apartments.

Today, after 50 years, Parkchester is mostly tenant-owned, but otherwise remains much the same. It is a role model of a beautiful, integrated community for cities everywhere.

Mr. Speaker, there are still places in New York City where mothers and fathers push their small children on the swings in the playground, young couples still walk hand in hand in landscaped gardens and older citizens still enjoy the beauty of a reflecting pool. Parkchester is a tribute to its founders and especially its residents. I am honored and proud to be able to wish Parkchester a happy 50th anniversary.

TRIBUTE TO MIKE AND PATTY INFANTE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mike and Patty Infante of my 17th Congressional District of Ohio, who received the Luther Halsey Gulick Award.

Mike and Patty Infante received the Luther Halsey Gulick Award, the highest honor presented for service to the Camp Fire Boys and Girls, for their dedication and devotion to the Mahoning Valley Camp Fire Council.

Mike and Patty have been actively involved in the Camp Fire Boys and Girls for 9 years, ever since their son, Chris, came home one afternoon and told his mother that he wanted to join the Bluebirds. Initially considering that the organization was limited to girls only, Mike and Patty investigated and subsequently organized seven neighborhood boys into a local Camp Fire Boys and Girls club. The club has continued to grow and act as a focal point for local youth, with Mike and Patty taking an ever-increasing role in the Mahoning Valley Camp Fire Council.

Again, I would like to take this opportunity to recognize and congratulate Mike and Patty Infante for their commitment to the youth of the 17th District.

A TRIBUTE TO CHARLES B. FITZGERALD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. SKELTON. Mr. Speaker, I rise before you today to pay tribute to a longtime friend, Mr. Charles B. Fitzgerald, who passed away on March 28 in Kansas City at the age of 69.

Charles was a fellow trial lawyer. I had the opportunity to try many cases against him during my practicing days. He was an outstanding trial lawyer and he always represented his profession with the utmost of honor and dignity.

Charles will be missed much, by his family, his friends, and the law profession. Join with me in paying tribute to a longtime friend.

TRIBUTE TO POINTE COUPEE ELEMENTARY SCHOOL

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1990

Mr. HOLLOWAY. Mr. Speaker, the threat posed to our Nation by the use and abuse of illicit drugs can scarcely be exaggerated. Let us consider what is at stake: the health and safety of our children, the fabric of our families, and our Nation's long-term economic health hang in the balance. Congress has acted: We've passed legislation and provided billions of dollars to fight and win the drug war. Everyone acknowledges the importance of a beefed up criminal justice system and treatment programs which work.

But, Mr. Speaker, unfortunately the Federal Government cannot do it all. Parents have to care, they have to give a damn. A lot of parents don't give a damn, and they act surprised when they find their child is in trouble with drugs. Yes, the Government has to lead the way in doing as much as it can, but parents, schools and communities have to get involved and stay involved.

I rise today to pay tribute to the administrator, principal, faculty, students, and parents associated with Pointe Coupee Elementary School in New Roads, LA. Mr. Speaker, the Drug Education and Prevention Program in place at Pointe Coupee Elementary School has been recognized for its excellence by the U.S. Department of Education and the President of the United States. The success of the program speaks for itself. The recognition given Pointe Coupee Elementary School is richly deserved, merited in every respect. It is an honor to represent such a school in the U.S. Congress. What Pointe Coupee Elementary School, and the people of New Roads, LA, have developed is a practical and effective program which demonstrates how drugs can be fought at the grassroots level. The program works, its participants are committed; it should serve as a superb example for schools and communities everywhere.

SENATE—*Friday, July 27, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of Abraham, Isaac and Israel, help us to comprehend the remarkable promise given by Isaiah: "Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool."—Isaiah 1:18.

Loving Father, thank Thee for the gracious assurance of Your unconditional love given throughout the Bible. Thank You that You do not stop loving us even when we sin and that the supreme manifestation of Your love was in the death of Your Son. We acknowledge our fallibility. We know, that there is, in the lives of each of us, that which we would rather not have exposed. Thank You Father, that You know these things, yet You still love us. Help us to understand that when we try to conceal anything from You we deceive only ourselves and refuse Your unconditional, infinite, eternal love as well as the forgiveness and absolution which it promises. Teach us the wisdom of openness toward You, knowing that ultimately we are accountable to You and that when we confess our sins You forgive, cleanse, and renew. Help us to realize, Lord, that Your grace is inexhaustible and, however great our need, Your grace is infinitely greater.

We pray in the name of Jesus who incarnated Your love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, to not extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

In my capacity as a Senator from Nebraska, I note the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Georgia [Mr. NUNN] is recognized for up to 15 minutes.

Mr. NUNN. I thank the Chair.

GREATER RELIANCE ON THE NATIONAL GUARD AND RESERVE COMPONENTS

Mr. NUNN. Mr. President, one of the major initiatives in the fiscal year 1991 Defense authorization bill recently reported to the Senate by the Armed Services Committee is a plan to make greater and more innovative use of the National Guard and Reserve components. I want to take a few moments this morning to outline the committee's extensive recommendations in this area before the Senate begins debating the Defense authorization bill next week.

I ask unanimous consent that a copy of the committee bill and report language associated with the National Guard and Reserve initiative be printed in the RECORD at the end of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, the events of the past year have fundamentally altered some of the basic premises of the national security policies of the United States that we followed over the last 40 years. The introduction of our committee report provides an overall assessment of the changes to the threats to our national security, and is available for all Senators to review.

The most profound change in the threat has been the virtual elimination of the threat of a large-scale Warsaw Pact attack against Western Europe and the NATO alliance. If the emerging NATO Warsaw Pact arm reductions agreement on conventional armed forces in Europe, so-called CFE talks, are successfully concluded, it will make the threat of a Soviet attack on Western Europe even more remote, and, of course, the Soviets are talking now with the Germans about getting their forces out of Germany within 3 to 4 years. So the changes we have already seen are going to be much more sweeping in the next 3 to 4 years if these events take place.

While the changes in the Soviet conventional threat have been more dramatic in Europe, there has also been some change in Soviet naval activity. Submarine and surface deployments have been scaled back. Naval aviation activity has also been curtailed.

These changes have led Admiral Kelso, the Chief of Naval Operations, to conclude that the Soviet fleet has adopted a defensive doctrine.

I think it is important for us to understand that the Soviets continue to have very large production lines for conventional weapons, including naval capabilities. We are not talking about disregarding their military capability. We are talking about changes that have occurred that can also be reversed. We will need to watch the situation very carefully.

When we were facing a huge Warsaw Pact conventional threat and a short warning of an attack, most of the tooth of our combat capability was appropriately kept in the active components because we felt we had to be ready to go to war in a matter of days. To lower overall costs, much of the support or "tail" was put in National Guard and Reserve units, because we could take longer to get them to the scene of a conflict.

We face a very different world today. The substantially greater warning time of a large conventional con-

flict, coupled with the need to preserve as much combat capability as possible as the overall size of our military forces is reduced, require that we place much greater reliance on National Guard and Reserve Forces than we have in the past.

National Guard and Reserve forces have repeatedly demonstrated that they are capable of assuming a greater role in our overall military strategy, and at a much lower cost than similar capability in the active components. For this reason, the Armed Services Committee recommends a comprehensive set of proposals to strengthen the National Guard and Reserve components in order to enhance our utilization of these forces. These proposals fall into the general categories of force structure; management of Reserve forces; and equipment modernization.

FORCE STRUCTURE

The fiscal year 1991 Defense budget request and the Defense Department's current 5-year defense plan were not based on a fundamental reassessment of the threat and the development of a new military strategy. Instead, the military services seem to have adopted a share-the-pain approach to the problem of meeting lower funding levels. The defense budget that we have examined this year is a fiscally driven budget, not a threat driven budget. Current DOD plans call for reductions in Reserve component forces nearly proportionate to reductions in Active component forces. The committee concluded that this proportionate reduction approach was not justified in light of the current threat and the changes that are necessary in our military strategy.

The administration's fiscal year 1991 budget request called for reductions in the end strength of several of the Reserve components. The committee rejected these reductions, and authorized fiscal year 1991 strengths for all of the Reserve components at the current fiscal year 1990 level. In addition, the committee bill includes a provision requiring the Secretary of Defense to maintain the Reserve component force structure at the current level through fiscal year 1991. These actions will stabilize the current strength and force structure of the Reserve components pending the outcome of the Defense Department's study of the total force that is required to be submitted to Congress by December 31 of this year.

Mr. President, I think it is important for us to emphasize that we are not locking in this force structure for an indefinite timeframe. We are saying to hold what we have with the National Guard and Reserve until we get the study that should be based on the changes in the threat and in our strategy. The total force policy study will be very, very important, and I hope everyone working on the study in the Defense Department understands the importance of it.

I think it is also important for us to understand that we are not talking about an inflexible kind of policy in regard to force structure. We are saying that the Secretary of Defense shall ensure that the force structure of the Selected Reserve of the Reserve components of the armed services during fiscal year 1991 is equivalent to the force structure of those components on January 1, 1990. We provide explicitly in section 1411 of the committee bill that "The Secretary may make changes in the force structure of the Selected Reserve, of the Reserve components, only to the extent that the Secretary determines that such changes enhance the capability of Reserve units in the interest of national security."

The Secretary of Defense has flexibility here, but we are saying we want to preserve the overall stucture for 1 year.

INCREASED RESERVE COMPONENT PARTICIPATION IN CERTAIN MISSION AREAS

Even in the absence of the important total force policy study, there are several mission areas where the committee concluded that the Reserve components could assume a greater role.

Within the Defense Department, the Air Force has been a leader in the effective utilization of the Reserve components. However, the Air Force has consistently assigned fewer aircraft to Reserve squadrons than to active duty squadrons. For the most part, this practice reflects the Air Force's decision to maintain an artificial balance between Active and Reserve forces.

The committee concluded that existing Air National Guard and Air Force Reserve units could operate an additional 270 fighter, airlift and tanker aircraft within their existing force structure. The committee believes that this so-called robusting concept is a very cost-effective way of preserving combat force structure as the overall size of the military services is reduced. For this reason, the committee bill includes a provision directing the Secretary of the Air Force to transfer aircraft from the Active Air Force to National Guard and Reserve units to bring these units to full strength. This robusting initiative could save over $1 billion over the next 5 years.

TACTICAL AIRLIFT

Although over half of the Air Force's tactical airlift capabilities are in the Air National Guard and Air Force Reserve, the Active Air Force considers the tactical airlift mission to be a second- or third-level priority. The Air Force has no plans to modernize its tactical airlift fleet until well into the next century, despite the fact that its current inventory averages 25 years in age.

By contrast, the Air National Guard and Air Force Reserve consider tactical airlift one of their premier missions. Air Force reservists fly tactical airlift missions every week of the year. They routinely support overseas deployments, and have consistently worked to update and modernize their tactical airlift fleet.

Since the Air Reserve components are the principal proponents of the tactical airlift mission, the committee adopted a provision directing the Secretary of Defense to assign the entire tactical airlift mission to the Air Force Reserve and Air National Guard. The committee is confident that the Air Reserve components will be able to carry out this demanding mission.

NAVY RESERVE

The committee devoted special attention to the need to strengthen the Navy Reserve. While the problems confronting the Navy in the use of reservists are perhaps greater than those for other services, in my opinion the Navy has not devoted sufficient attention and resources to its Reserve component.

In his recent confirmaiton hearing, Admiral Kelso, the Chief of Naval Operations, said that he intended to find ways to increase reserves which will be trained and available after mobilization. Admiral Kelso pointed out that with greater warning time, the Navy will have more time to bring ships out of Reserve status. He went on to describe what some have called a nesting concept which would have several ships partially manned by active crews to train reservists, but not the level of manning needed to take the ships to sea on short notice. The committee will be following the Navy's work in this area in the coming year.

I am pleased that Admiral Kelso appears to have an open mind and inquiring mind on this important subject.

On the naval aviation side, the committee concluded that the Navy Reserve could increase their contribution to the maritime patrol mission. The committee bill contains a provision that directs the Secretary of the Navy to issue the same number of P-3 antisubmarine aircraft to Navy Reserve squadrons as to active duty squadrons, and to transfer 80 of the newer model P-3 aircraft from Active to Reserve squadrons by September 30, 1996.

MANAGEMENT OF THE RESERVE COMPONENTS

The committee bill includes several provisions to improve the management of the Reserve components. A key objective of these provisions is to enhance the integration of the Active and Reserve components. In the past, Reserve forces have generally had a better understanding of an appreciation for active duty forces than the reverse case. I believe that the military services must find ways to improve

Active component understanding of an appreciation for Reserve components.

To that end, the committee bill includes a provision to initiate a 3-year phased process of introducing active duty military personnel into the full-time administration and support of Reserve component units. At the end of 3 years, approximately 30 percent of the full-time manning positions currently manned by National Guardsmen and reservists will be manned by Active component personnel. To insure that high quality personnel are assigned to the Reserve component units, the committee directed the Secretary of Defense to report next year on the desirability of requiring 2 years of active duty in support of the reserves as a prerequisite for promotion above the grades of lieutenant colonel or commander in the active forces.

CALL-UP AUTHORITY

The committee also pointed out that the President's current authority to mobilize up to 200,000 members of the selected Reserve for operational missions for up to 90 days has never been used. Presidents have been reluctant to use this authority, and the Defense Department and the military services have been reluctant to recommend that he exercise this authority. I believe this is a fundamental error. The political reluctance to selectively mobilize the Reserves has led military planners to question the accessibility of forces that depend on Reserve component units and personnel.

As we place greater reliance on the Reserve components, I believe it is imperative that the Defense Department demonstrate its willingness and ability to ask for and use the existing Presidential authority to call up members of the National Guard and Reserves. The committee directed the Secretary of Defense to develop a scenario of operational missions during fiscal year 1991 under which this authority could be exercised on a routine basis.

We are never going to make the conversion that we need to make from Active to Reserve, we are never going to save the billions of dollars we can save and preserve a lot of capability we otherwise will not have unless we have the leadership in the Department of Defense and in the White House to be willing to call up Reserves when they are needed. I think the Reserve components and the Guard components that I have talked to understand this and understand it well.

I believe that these provisions will strengthen the integration of the Active and Reserve components as the overall size of the military services is reduced over the next 5 years.

EQUIPMENT MODERNIZATION

In the past, National Guard and Reserve units have often been given older, less capable weapons systems and equipment. In some cases, equipment operated by the Reserve components is tactically obsolete. For a number of years, the committee has authorized funds specifically to purchase new equipment and weapons to equip Reserve component units, because inevitably these requests are not made by the Active components at the Department of Defense.

This year the committee authorized a total of $2.6 billion for National Guard and Reserve procurement programs, $863 million above the amount requested in the budget. The major programs added by the committee include: $60 million to purchase 27 multiple launch rocket systems to accelerate the modernization of artillery units in the Army National Guard; $141 million for 24 remanufactured CH-47 helicopters for the Army National Guard; $156 million for 24 UH-60 helicopters for the Army National Guard; $220 million for 10 C-130 transports for the Air National Guard; $282 million for 12 MH-53 minesweeper helicopters for the Navy Reserve; and $35 million to buy night vision devices for the Army National Guard.

In addition to authorizing procurement of this new equipment for the Reserve components, the committee directed the Defense Department to report to Congress with next year's budget on the plans to redistribute equipment from active units to Reserve units over the next 6 years.

CONCLUSION

Mr. President, in conclusion, today our National Guard and Reserve Forces are highly motivated and well-led. From tactical airlift missions to antisubmarine warfare patrols to standing air defense and strategic alert, National guardsmen and reservists make an important contribution to the day-to-day peacetime operations of our military forces. From Grenada to Lebanon to Operation Just Cause, they have shown that they can be counted on in times of crisis.

The Armed Services Committee is convinced that placing greater emphasis on our National Guard and Reserve Forces should be a key element of our military strategy in light of the changes in the threats to our national security, particularly the change in the warning time in Central Europe. The increase in warning time of any large-scale conventional war allows us to place more missions in the Reserve components. At the same time, assigning more missions to the Reserve components means that we will be able to preserve more of our current combat capability in the face of the fiscal pressures on the defense budget and the reductions in the size of our defense establishment.

The Armed Services Committee's recommendations in the fiscal year 1991 Defense authorization bill emphasize the expanded role that our National Guard and Reserve Forces can play in our military strategy, and begin to allocate the necessary resources to the Reserve components to allow them to assume a greater role in our overall national security posture.

EXHIBIT 1

EXCERPT FROM S. 2884, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

TITLE XIV—GUARD AND RESERVE INITIATIVE

PART A—UTILIZATION OF RESERVE COMPONENTS

SEC. 1401. SENSE OF THE CONGRESS ON GREATER UTILIZATION OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase utilization of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception in 1973.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise existing reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Fores should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active components and reserve component units should be promoted as a means of achieving the Total Force Policy of the Department of Defense.

PART B—FORCE STRUCTURE

SEC. 1411. PRESERVATION OF FORCE STRUCTURE IN THE RESERVE COMPONENTS.

(a) IN GENERAL.—The Secretary to Defense shall ensure that the force structure of the Selected Reserve of the reserve components of the Armed Forces during fiscal year 1991 is equivalent to the force structure of those components on January 1, 1990.

(b) AUTHORITY TO CHANGE FORCE STRUCTURE.—The Secretary may make changes in the force structure of the Selected Reserve of the reserve components only to the

extent that the Secretary determines that such changes enhance the capability of reserve units in the interests of national security.

SEC. 1412. AIR NATIONAL GUARD AND AIR FORCE RESERVE AIRCRAFT.

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENT.—The Secretary of the Air Force, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1994—

(1) the average number of aircraft assigned to a tanker aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a tanker aircraft squadron in the regular component of the Air Force; and

(2) the average number of aircraft assigned to a fighter aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a fighter aircraft squadron in the regular component of the Air Force;

(3) the average number of aircraft assigned to an airlift aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to an airlift aircraft squadron in the regular component of the Air Force.

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may temporarily waiver the requirement in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that the squadron cannot operate the aircraft required to be transferred and that the transfer would be prejudicial to the national security of the United States.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

SEC. 1413. P-3 AIRCRAFT.

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENTS.—(1) The Secretary of the Navy, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1996, the average number of aircraft assigned to a P-3 aircraft squadron in the Naval Reserve is equal to the average number of aircraft assigned to a P-3 aircraft squadron in the regular Navy.

(2) The Secretary shall transfer no fewer than 80 P-3C aircraft pursuant to subsection (a).

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense, may temporarily waive the requirements in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that—

(A) the submarine threat presented by the Soviet Union has increased; and

(B) the P-3B aircraft would be able to track and attack effectively the submarines that comprise the increase in the threat.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

(c) PROHIBITION ON USE OF FUNDS.—Funds appropriated or otherwise made available for operation and maintenance for the Navy for any fiscal year beginning on or after September 30, 1996, may not be used to operate or maintain P-3B aircraft.

SEC. 1414. TACTICAL AIRLIFT MISSION.

(a) IN GENERAL.—Not later than September 30, 1092, the Secretary of Defense shall assign the tactical airlift mission of the Department of Defense to the Air Force Reserve and the Air National Guard of the United States.

(b) REQUIREMENT FOR TRANSFER PLAN.—The Secretary of the Air Force shall develop a plan for the transfer of all tactical airlift transport aircraft to the Air Force Reserve and the Air National Guard of the United States at the earliest practical date and shall complete the transfer in accordance with such plan not later than September 30, 1992.

(c) DEADLINE FOR SUBMISSION OF PLAN.—The Secretary of the Air Force shall submit to the congressional defense committees a copy of the plan referred to in subsection (b) not later than June 1, 1991.

SEC. 1415. REPLACEMENT OF OV-1 AND OV-10 AIRCRAFT WITH A-10 AIRCRAFT.

(a) PROHIBITION ON USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Army for any fiscal year beginning after September 30, 1996, may not be used to operate or maintain OV-1 aircraft.

(2) Funds appropriated or otherwise made available to the Marine Corps after September 30, 1996, may not be used to operate or maintain OV-10 aircraft.

(b) RETIREMENT OF OV-1 AND OV-10 AIRCRAFT.—(1) Not later than September 30, 1991, the Secretary of the Army shall retire not less than 20 percent of the OV-1 aircraft in the inventory of the Army on October 1, 1990.

(2) The Secretary of the Army and the Secretary of the Navy shall take such actions as necessary to retire, by not later than September 30, 1996, OV-1 and OV-10 aircraft in the inventory of the Army and Marine Corps, repectively. The Secretary of the military department concerned shall notify the Secretary of the Air Force at the time each such aircraft is retired, and the Secretary of the Air Force shall, upon such notification, transfer one A-10 aircraft and all required support equipment to such military department.

(c) TRAINING AND SUPPORT.—Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9316. Training and support for A-10 aircraft

"The Secretary of the Air Force shall provide each military department with flight training, fleet support, and depot maintenance with respect to all A-10 aircraft assigned to each such department.".

(d) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9316. Training and support for A-10 aircraft.".

PART C—MILITARY PERSONNEL

SEC. 1421. FINDINGS AND SENSE OF CONGRESS REGARDING THE IMPORTANCE OF THE READY RESERVE.

(a) FINDINGS.—The Congress finds that—

(1) as a result of the recent dramatic changes in Eastern Europe and the Soviet Union, the active military forces of the United States will be significantly reduced; and

(2) as a consequence of that reduction it will be necessary to rely increasingly, in the event of a threat to the national security, on the immediate availability of trained personnel of the Ready Reserve of the reserve components of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the finding in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should take appropriate action to ensure that members of the Ready Reserve are made fully aware of their continuing obligation for immediate service in the active military forces in the event of a war or national emergency;

(2) the Secretary should utilize the annual muster provided for under section 687 of title 10, United States Code, as a means of alerting such personnel to that obligation; and

(3) the Secretary should insure that adequate funds are made available, out of funds appropriated for the reserve components, to carry out the annual muster of such personnel.

SEC. 1422. READY RESERVE OBLIGATION OF PERSONS WHO RECEIVE TRANSITION ASSISTANCE.

(a) IN GENERAL.—As a condition of eligibility to receiving benefits under section 1174 of title 10, United States Code (as amended by section 641 of this Act), section 1105 of such title (as added by section 642 of this Act), section 1420 of title 38, United States Code (as added by section 643 of this Act), or section 644 of this Act, a person otherwise eligible for those benefits shall be required to enter into a written agreement with the Secretary concerned to serve in the Ready Reserve of a reserve component of the Armed Forces for a period of three years following the person's discharge or release from active duty. If the person has a service obligation under section 651 of title 10, United States Code, or under any other provision of law that is not completed at the time the person is discharged or released from active duty, the three-year obligation under this section shall begin on the day after the date on which the person completes the person's obligation under such section or other provision of law.

(b) TRANSFER TO A RESERVE COMPONENT.—Each person who enters into an agreement referred to in subsection (a), who is not already a Reserve of an armed force, and who is qualified shall, upon such person's discharge or release from active duty, be enlisted or appointed, as appropriate, as a Reserve and be transferred to a reserve component of an armed force.

(c) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section.

(d) DEFINITION.—As used in this section, the term "Secretary concerned" means—

(1) the Secretary of the Army, with respect to matters concerning the Army;

(2) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

(3) the Secretary of the Air Force, with respect to matters concerning the Air Force.

SEC. 1423. REPORT REGARDING REQUIREMENT FOR DUTY IN SUPPORT OF NATIONAL GUARD AND RESERVES.

Not later than April 15, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the desirability of requiring active-duty list officers to serve a minimum of two years in support of a National Guard or Reserve unit as a condition of eligibility for consideration for promotion to the grade of colonel or, in the case of the Navy, captain.

SEC. 1424. PROHIBITION OF CERTAIN RESERVE SERVICE.

On and after September 30, 1991, no member of a reserve component serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components of the Armed Forces may be assigned to duty with any unit of the Reserve Officer Training Corps program.

SEC. 1425. EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE.

Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 37 U.S.C. 302 note), is amended by striking out "1990" and inserting in lieu thereof "1993".

SEC. 1426. SPECIAL PAY FOR RESERVE MEDICAL OFFICERS.

(a) IN GENERAL.—Section 302(h) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)";

(2) in paragraph (2) by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (2)";

(3) by redesignating paragraph (2) (as so amended) as paragraph (3); and

(4) by inserting after paragraph (1) the following new paragraph (2):

"(2) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title and is a reserve medical officer, the member is entitled to an increase in compensation equal to 1/30 of the monthly special pay authorized in paragraph (1) for the performance of that duty. Such member is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This paragraph does not apply to a member who is entitled to basic pay under section 204 of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the fourth calendar month which begins after the month in which this Act is enacted and shall apply only with respect to duty performed on or after that day.

SEC. 1427. COMMISSARY PRIVILEGES FOR CERTAIN RETIRED RESERVES.

(a) IN GENERAL.—(1) Chapter 54 of title 10, United States Code, is amended by adding at the end the following new sections:

"§ 1064. Use of commissary stores by certain Reserves

"Under regulations prescribed by the Secrtetary of Defense, a member of an armed force who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age shall be authorized to use commissary stores of the Department of Defense for 12 days each calendar year.

"§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components

"(a) UNRESTRICTED USE.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) and members of an armed force who would be eligible for retired pay under chapter 67 of this title but for the fact that the person is under 60 years of age, and the dependents of such members and persons, shall be permitted to use, on the same basis as members on active duty, the exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

"(b) CONDITIONAL USE.—Subject to such regulations as the Secretary of Defense determines necessary and appropriate, members of the Ready Reserves other than members of the Selected Reserve may be permitted to use the facilities referred to in subsection (a) on the same basis as members serving on active duty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1064. Use of commissary stores by certain Reserves.
"1065. Use of certain morale, welfare, and recreation facilities by member of reserve components.".

(b) EFFECTIVE DATE AND DEADLINE FOR REGULATIONS.—(1) The amendments made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall prescribe such regulations as may be necessary for the proper administration of sections 1064 and 1065 of title 10, United States Code, as added by subsection (a), not later than 120 days after the date of the enactment of this Act.

PART D—PROCUREMENT

SEC. 1431. PROCUREMENT FOR THE RESERVE COMPONENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $879,961,000.

(2) For the Air National Guard, $537,700,000.

(3) For the Army Reserve, $153,800,000.

(4) For the Navy Reserve, $400,900,000.

(5) For the Air Force Reserve, $105,600,000.

(6) For the Marine Corps Reserve, $114,000,000.

(b) CLARIFICATION OF AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsection (a) are in addition to the funds authorized to be appropriated pursuant to section 106.

SEC. 1432. PROVISION OF CH-47 AIRCRAFT FOR THE ARMY NATIONAL GUARD.

(a) TRANSFER OF AIRCRAFT TO AIR NATIONAL GUARD.—Of the modified CH-47 aircraft procured with funds appropriated or otherwise made available in fiscal year 1991, the Secretary of the Army shall distribute not less than 24 such aircraft to the Army National Guard of the United States, as provided in subsection (b).

(b) PLAN REQUIRED.—The Secretary of the Army shall develop a plan to retire—

(A) not less than 24 CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1992; and

(B) all remaining CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1993.

(2) For each CH-54 aircraft assigned to the Army National Guard of the United States that is retired by the Secretary of the Army on or after the date of enactment of this Act, the Secretary shall transfer one of the CH-47 aircraft referred to in subsection (a) to the Army National Guard of the United States.

SEC. 1433. MH-53 MINESWEEPER HELICOPTER.

Of the amounts authorized to be appropriated pursuant to section 1431(a)(4) for aircraft for the Navy Reserve, $281,900,000 shall be available for procurement of MH-53 minesweeper helicopters for the Navy Reserve.

SEC. 1434. AH-1W HELICOPTERS.

(a) FISCAL YEAR 1990 FUNDS.—Of the amounts appropriated for National Guard and Reserve equipment for fiscal year 1990, $58,600,000 is available for procurement of six AH-1W helicopters for the Marine Corps Reserve.

(b) FISCAL YEAR 1991 FUNDS.—Of the amounts authorized to be appropriated pursuant to section 1431(a)(6) for the Marine Corps Reserve, $79,000,000 shall be available for procurement of eight AH-1W helicopters for the Marine Corps Reserve.

EXCERPT FROM SENATE REPORT 101-384 ON S. 2884, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

TITLE XIV—GUARD AND RESERVE INITIATIVE

The past year has witnessed remarkable developments that have far reaching consequences for U.S. security policy. Without question, the most profound change in the threats confronting U.S. security in the last year has been the virtual elimination of the threat of a large-scale Warsaw Pact attack against Western Europe. Three separate factors have contributed to this development:

—the increase in warning time—now estimated by some DoD officials to exceed 2 years;
—the Soviet and Warsaw Pact unilateral reductions begun in 1989 and scheduled for completion before 1991; and
—the disintegration in recent months of the Warsaw Pact as a warfighting coalition.

In addition, the emerging NATO/Warsaw Pact arms reduction agreement on Conventional Armed Forces in Europe (GTE) will, if successfully concluded, make the threat of a Soviet attack on Western Europe even more remote.

While the changes in the Soviet conventional threat have been most dramatic in the European theater, there have also been important developments in Soviet naval activity. Submarine and surface deployments have been scaled back dramatically. Naval aviation activity has been similarly curtailed. Most Soviet naval activity is now limited to home waters, leading Admiral Kelso, the Chief of Naval Operations, to conclude that the Soviet fleet has adopted a defensive doctrine. Obviously these operating patterns can be reversed, but such a change would take years and could be clearly observed.

These fundamental changes in the threat now permit a fundamental change in the strategy for dealing with the new threat. With increased warning times, it is possible to adopt fundamentally new approaches to fielding conventional forces.

STRATEGIC SHIFT TO EMPHASIZE RESERVE FORCES

Since 1973 the United States has maintained a Total Force Policy. That policy called for the effective integration of active

duty and Reserve components into a combined force. The perception that conventional war could occur with extremely little warning led the military Services and civilian policy makers to place most of the "tooth" in the Active components, while the Reserve components were largely given "tail" or support functions. Reserve combat units were routinely given the oldest and least capable equipment. The Air Force was an important exception, where a substantial percentage of combat capability was assigned to Air Force Reserve and Air National Guard units.

The substantially greater warning times and the need to preserve as much combat capability as possible during this period of budgetary austerity require a greater dependence on reserve forces. Reserve forces are clearly able to shoulder a greater share of the burden in light of the changes that have occurred in warning time.

COMMITTEE GUARD/RESERVE FORCES INITIATIVE

The committee recommends a comprehensive set of legislative proposals to strengthen the National Guard and Reserve components in light of the decision to enhance utilization of these forces. These proposals fall into the general categories of force structure, management of reserve forces, and general modernization.

FORCE STRUCTURE

The amended fiscal year 1991 budget request is not based on a fundamental reassessment of the threat and the development of a new strategy. Rather, the Services have generally adopted a "share the pain" approach to meeting lower funding levels. Reserve forces are being cut back proportionally with reductions in active duty forces. This is most apparent in the area of force structure.

The committee recommends a series of proposals to address this problem. In general terms, these provisions would:

—freeze reserve component force structure at current levels;
—direct the Military Departments to undertake a 5-year plan to strengthen reserve units and balance them with the capabilities and resources: of active duty units; and
—direct the increase of Reserve component participation in certain mission areas.

The committee devoted special attention to the need to strengthen the Navy Reserve. While the problems confronting the Navy in the use of reservists is perhaps greater than those for other Services, the Navy clearly has not devoted sufficient attention and resources to its Reserve component.

The committee notes that, in response to questions for his confirmation hearing, the Chief of Naval Operations stated that, "I intend to find ways to increase reserves which will be trained and available after mobilization. With greater warning time, we will have more time to bring ships out of reserve status." His answer went on to describe what some have called a "nesting" concept which would have several ships partially manned by active crews to train reservists, but not the level of manning needed to take the ships to sea on short notice.

The committee is particularly interested in having the Navy fully explore such alternatives, but proposes no directive legislation this year on the basis of Admiral Kelso's commitment that the Navy will explore all promising options. The committee will be interested in monitoring the Navy's studies and looks forward to receiving periodic progress reports.

MANAGEMENT OF RESERVES

The committee recommends several provisions that would improve the management of reserve forces. The most important element of this improved management is to enhance the integration of Active and Reserve components. The reserves have tended to have a better understanding of and appreciation for active duty forces than the reverse case. The committee believes that the Department must find ways of improving Active component understanding of and appreciation for reserve forces. To that end, the committee recommends a 3-year phased process of introducing active duty personnel into reserve forces to replace the current dependence on full time reservists.

MODERNIZATION OF RESERVE FORCES

As noted above, reserve units are uniformly given older, less capable equipment. In some instances that equipment is tactically obsolete. The committee recommends a series of budgetary additions to the National Guard and Reserve Equipment appropriation account and includes provisions directing the deactivation of certain older, obsolete systems.

PRESERVATION OF CURRENT RESERVE COMPONENT FORCE STRUCTURE

During extensive hearings, the committee learned that the Military Departments are contemplating reductions in Reserve force structure, often strictly because of a "share the pain" philosophy on the part of the Services. The committee rejects this approach. The committee has concluded that the Defense Department is facing a fundamental period of change that will place greater emphasis on the use of National Guard and Reserve forces. This is especially the case in flying units where National Guard and Reserve units have virtually the same capabilities as active duty counterpart units. The committee is convinced that placing greater emphasis on National Guard and Reserve forces is a key strategy for dealing with the change in the threat while conserving in the face of tighter budgets the talent and skill that has been developed in active forces over the past decade.

Consequently, the committee recommends a provision (sec. 1411) that would preserve the National Guard and Reserve force structure through fiscal year 1991 at the equivalent level that existed on January 1, 1990. The provision does not prohibit the normal and orderly modernization of equipment as signed to reserve units.

"ROBUSTING" AIR NATIONAL GUARD AIR FORCE RESERVE UNITS

For years, the Air Force has consistently assigned fewer aircraft to reserve squadrons than to active duty squadrons. While in some limited instances this reflects demographic constraints in certain geographical areas, hearings and analysis revealed that the consistent, systematic pattern of assigning fewer aircraft to reserve units reflected an informal policy to maintain an artificial balance between active and reserve numbers. The committee rejects this approach, especially at a time when national strategy will place greater emphasis on Reserve forces.

Detailed analysis shows that existing Air National Guard and Air Force Reserve units could operate an additional 270 fighter, airlift, and tanker aircraft within existing force structure. The committee believes this so-called "robusting" concept is the most cost-effective way of preserving combat capability during a period of reduced budgetary resources. In the long run, robusting offers the potential to save substantial resources, well over $1 billion over the next 5 years.

The committee recommends a provision (sec. 1412) that would require the Secretary of the Air Force to transfer aircraft from the active Air Force to reserve units to correct the imbalance and bring reserve units to full strength. The committee understands that 72 fighter aircraft, 32 transport aircraft, and 26 tanker aircraft could be transferred and absorbed within existing reserve units starting in fiscal year 1991.

To realign funding to carry out the transfers in fiscal year 1991, the committee adjusted the amended budget request for operations and maintenance as follows:

	Millions
Operations and Maintenance, Air Force	-$67
Operations and Maintenance, Air Force Reserve	+18
Operations and Maintenance, Air National Guard	+53

The committee understands that there may be additional military construction expenses, but those costs cannot be identified until actual units are selected and final plans delineated. The committee would welcome a reprogramming request to address those military construction costs when they are known.

MODERNIZING NAVY RESERVE MARITIME PATROL SQUADRONS

In hearings this year, the Navy confirmed that there has been a substantial reduction in Soviet submarine activity. This reduction permits a greater concentration of P-3 resources in reserve units. The Navy Reserve already makes a substantial contribution in the maritime patrol mission, with 35 percent of the P-3 fleet operated in reserve units. This percentage can increase in the face of the change in Soviet submarine activity.

At the same time, the Navy confirmed that the Soviet submarine shipbuilding program is continuing. The new generation of substantially quieter submarines makes the early model P-3B aircraft operated by Navy Reserve squadrons increasingly obsolete.

The committee concludes that it is appropriate to address both developments by increasing the number of P-3C model aircraft in the Navy Reserve. At the same time, the committee believes that Navy Reserve VP squadrons should have the same number of aircraft as active duty squadrons.

Consequently, the committee recommends a provision (sec. 1413) that would direct the Secretary of the Navy to issue the same number of aircraft to Navy Reserve squadrons as to active duty squadrons, and to transfer 80 P-3C aircraft from active to reserve squadrons by September 30, 1996. (Another provision in this title prohibits the Navy from deactivating any Navy Reserve maritime patrol squadrons.) In light of the committee actions in this area, the Navy should reconsider any plans to realign or transfer existing P-3 squadrons in the Navy Reserve.

To realign funding to carry out this transfer in fiscal year 1991, the committee adjusted the budget request for operation and maintenance as follows:

	Millions
Operation and Maintenance, Navy	-$49
Operation and Maintenance, Navy Reserve.....	+4.4

The committee understands that there might be additional costs associated with refurbishing and transferring support equipment from deactivated Navy squadrons to Navy Reserve squadrons. The committee welcomes a reprogramming request to pay for those costs once they are identified.

ASSIGNING THE TACTICAL AIRLIFT MISSION TO THE RESERVE COMPONENTS

The Air Force has done a better job of implementing the Total Force Policy than have the other Military Departments. Over half of the Air Force's tactical airlift capabilities are found in Air National Guard and Air Force Reserve units.

Despite this considerable achievement, it is clear that the Air Force considers the tactical airlift mission to be a second- or third-level priority. The Air Force has no plans to modernize its tactical airlift fleet until well into the next century, despite the fact that its current inventory averages 25 years in age. During the next 10 years, the Air Force plans to spend $20-30 billion on a next-generation fighter, $15-20 billion on a next-generation strategic transport aircraft, $20 billion on space boosters, $5-8 billion on air-to-air missiles, and so forth. The Air Force has not budgeted anything to modernize tactical airlift squadrons.

By contrast, the Air National Guard and Air Force Reserve consider tactical airlift one of their premier missions. Air Force reservists fly tactical airlift missions every week of the year. They routinely support overseas deployments, and have consistently worked to update and modernize their tactical airlift fleet.

The committee concludes that proponency for the tactical airlift mission currently falls to the Reserve components in practice. The committee recommends that this be formalized, and has included a provision (sec. 1414) that would direct the Secretary of Defense to assign the tactical airlift mission to the Air Force Reserve and the Air National Guard. The provision would also direct the Secretary of the Air Force to develop a plan for transferring all tactical airlift transport aircraft to reserve squadrons by September 30, 1992. The committee understands that this will necessitate the activation of additional squadrons.

The committee understands that the Air Force believes that reserve units cannot respond as quickly as can active duty units if emergencies arise. The committee believes that this problem can be addressed by assigning a certain number of active duty personnel to reserve squadrons, consistent with initiatives in the Manpower and Personnel titles of the bill.

REPLACEMENT OF OV-1 AND OV-10 AIRCRAFT WITH A-10 AIRCRAFT

The committee understands that the Air Force is retiring a large number of its old obsolete observation aircraft and replacing them with A-10 close air support aircraft. The committee believes this is a cost-effective plan, in that it removes obsolete forces while expanding the usefulness of the A-10, which would retain its close air support capabilities.

The committee notes that the Army and the Marine Corps have a significant number of equally aged observation aircraft. The committee believes that those aircraft are just as vulnerable and hard to support as are the old observation aircraft in the Air Force. Rather than procure new observation aircraft, the committee believes that the Air Force should transfer A-10 aircraft to the Army and Marine Corps.

Consequently, the committee recommends a provision (sec. 1415) that would direct the Army and Marine Corps to deactivate their fleet of observation aircraft over the next 5 years, and the Air Force to transfer A-10 aircraft as replacements. Since the Air Force will continue to operate the largest number of A-10s, it is directed to provide ongoing training, support, and depot maintenance for all of the Services' OA-10 fleets.

SENSE OF CONGRESS ON IRR MUSTER

The committee recommends a provision (sec. 1421) that would express the sense of the Congress supporting an annual muster of the Army Individual Ready Reserve (IRR). In 1985, the Congress required a muster test of the Army IRR. The following year, the Department of Defense required by policy that all members of the Individual Ready Reserve who had not recently completed active service or were not close to the end of their military obligation would physically report on an annual basis to confirm their immediate availability for service and to reinforce their understanding of their continued military membership. In 1989, the Congress authorized a new "muster duty" to provide an additional authority to the Secretary of Defense under which members of the Individual Ready Reserve could be called up for 1 day each year without their consent. A new flat rate allowance for such duty was also authorized to ease administration. With the drawdown of active forces, the committee believes this program is more important than ever to support the rapid expansion of U.S. Armed Forces in the event of war or national emergency.

RESERVE OBLIGATION FOR MEMBERS RECEIVING TRANSITION ASSISTANCE

The committee recommends a provision (sec. 1422) that would require members who receive transition assistance, including separation pay, under the provisions added by this act or existing law, as a condition of that assistance, to become or remain a member of a Reserve component for 3 years from the date of their separation or from the end of any existing service obligation.

As active military forces are reduced in light of the diminished threat, the importance of maintaining trained manpower in our Reserve components becomes even greater as a hedge against a deterioration in the world situation. The committee believes that its recommendation will provide an infusion of high quality, trained manpower from the active force into the Reserve components, and also provide separating active force personnel with opportunities to serve in the Reserve components as the active forces build down.

DESIRABILITY OF 2-YEAR DUTY IN RESERVES FOR PROMOTION

The committee recommends a provision (sec. 1423) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives by April 15, 1991, on the desirability of requiring the assignment of 2 years of active duty in support of the reserves as a prerequisite for promotion above the grades of lieutenant colonel or Navy commander in the Active component. The committee notes that in 1948 a Department of Defense committee recommended that all regular officers serve at least one tour (and not their last tour) with a Reserve component.

ASSIGNMENT OF CERTAIN RESERVE MEMBERS TO ROTC ACTIVITIES

The committee recommends a provision (sec. 1424) that would prohibit the assignment of members paid from National Guard or Reserve personnel appropriations to ROTC units effective on October 1, 1992. The justification of estimates for the President's budget for fiscal year 1991 indicates that, out of the total request for 8,129 officers to be on full-time duty to support the Reserve components of the Army, 314 Army Reserve officers and 293 Army National Guard officers will be used in ROTC units. The Department of Defense has reported that, although the ROTC program does provide officers for immediate utilization in Selected Reserve units, the duties of the 607 officers do not require Reserve component expertise and could be performed by Active component members.

EXTENSION OF AUTHORITY FOR RESERVE MEDICAL BONUS

The committee recommends a provision (sec. 1425) that would extend the test of a reserve medical bonus through September 30, 1992. Section 613 of the National Defense Authorization Act for Fiscal Year 1989 authorized a geographically limited test of a bonus for critically short wartime physician and nurse specialties. The Department of Defense was somewhat slow in setting up the parameters for this test; therefore, the results which the Department reported for fiscal year 1989 were inconclusive. The committee understands the incomplete results for fiscal year 1990 show a very positive response from individuals in critical nursing specialties.

MEDICAL SPECIAL PAY FOR RESERVISTS

The committee recommends a provision (sec. 1426) that would authorize reserve medical officers performing inactive-duty training to receive medical special pay for each period of such duty performed. This recommendation addresses difficulties in attracting and retaining certain medical specialists in the reserves.

BENEFITS FOR MEMBERS OF THE RESERVE

The committee recommends a provision (sec. 1427) that would authorize reservists who have completed all requirements for receipt of retired pay at age 60, but who are no longer in the Selected Reserve, and their dependents to use the commissary stores on the same basis as participating Selected Reservists. Currently, members of the Selected Reserve and their dependents are authorized to use the commissary stores of the Department of Defense once each month and whenever they are serving on active duty. Reservists who have completed all requirements for receipt of retired pay at age 60, but who are no longer in the Selected Reserve, and their dependents are not authorized commissary use until they reach age 60. The committee believes that this situation contributes to the reluctance of some members with long service to leave the Selected Reserve. The committee's recommendation corrects this situation.

The committee's recommendation would also require that the Secretary of Defense issue regulations which provide participating Selected Reservists, reservists who have completed the service necessary to qualify for retired pay at 60, and the dependents of both to use the exchange stores of the Department of Defense and all revenue generating nonappropriated fund activities.

Finally, recognizing that many revenue generating nonappropriated fund activities

are likely to be less used as active forces drawdown, the committee recommendation would require that the Secretary of Defense issue regulations to authorize members of the Individual Ready Reserve in good standing access to these facilities. The Secretary would have authority to limit access for this category as necessary to ensure the best operation of the nonappropriated fund activities.

PRESIDENTIAL AUTHORITY TO MOBILIZE MEMBERS OF THE RESERVE COMPONENTS

Under current law (10 U.S. Code 673b), the President has the authority to mobilize up to 200,000 members of the Selected Reserve for operational missions for 90 days. This period may be extended by the President for an additional 90 days. The President can exercise this authority without declaring a national emergency.

This call up authority has never been used. Presidents have been reluctant to use this authority, and the Defense Department and the military Services have been reluctant to recommend that they exercise this authority. The political reluctance to selectively mobilize the reserves has led military planners justifiably to question the accessibility of forces that depend on Reserve component units and personnel.

As the Defense Department begins to place even greater reliance on the Reserve components, it is imperative that the Defense Department demonstrate its willingness and ability to ask for and use the existing Presidential authority to call up members of the National Guard and Reserves. The committee directs the Secretary of Defense to develop, during fiscal year 1991, a scenario of operational missions under which this call up authority could be exercised on a routine basis. The committee intends to review the Department's efforts in this area during hearings on the fiscal year 1992-1993 defense authorization request.

P-1 line	Item	Amended fiscal year 1991 request		Senate change to request		Senate authorization	
		Quantity	Amount	Quantity	Amount	Quantity	Amount
	NATIONAL GUARD AND RESERVE PROCUREMENT						
4	truck, 5-ton	915	60,000	(915)	(60,000)		
6a	Army Reserve equipment consolidation				213,800		213,800
	MH-53 minesweepers			12	281,900	12	281,900
16a	Navy Reserve equipment consolidation				119,000		119,000
19	AH-1W Corbra aircraft			8	79,000	8	79,000
	AH-1W Cobra prior year			[6]	[58,600]		
20a	Marine Corps Reserve equip consolidation				35,000		35,000
27a	Air Force Reserve equipment consolidation				105,600		105,600
29	Undistributed reduction-fiscal year Unob. bal				(60,000)		(60,000)
	Night Vision devices				35,000		35,000
	MLRS launchers			27	60,000	27	60,000
	CH-47 helicopters			24	141,061	24	141,061
30	UH-60 helicopters			24	156,000	24	156,000
37	M113 armored personnel carrier mods				10,000		10,000
42a	Army National Guard equip consolidation				537,900		537,900
44	C-130 Aircraft	2	48,000	10	220,100	12	268,100
54a	Air National Guard equip consolidation				317,600		317,600
	Total National Guard and Reserve		455,400		2,191,961		2,647,361

GUARD AND RESERVE MODERNIZATION PROPOSALS

Multiple Launch Rocket System (MLRS)

The Army has determined that its 8-inch howitzers are tactically obsolete and currently plans to remove them from active duty units by the mid-1990s. Those units will be assigned Multiple Launch Rocket System (MLRS) launchers and support equipment. Currently roughly half of the Army's inventory of 8-inch howitzers is found in National Guard and Army Reserve units, and the number will actually increase through the 1990s as 8-inch howitzers are removed from Active component units.

The committee believes that the MLRS system is especially well suited to Reserve component units and recommends that an increase of $60 million be used to purchase 27 launchers to accelerate the modernization of artillery units in the National Guard.

CH-47 Helicopter Replacements for CH-54 Helicopters

Currently only the Army National Guard operates the aging CH-54 helicopters. The age of the fleet and the small numbers of helicopters in the fleet impose a serious and expensive maintenance burden. The Army intends to replace the CH-54 helicopters with remanufactured CH-47 helicopters.

The committee believes that the Army should accelerate the replacement program. Further, the committee believes that a greater proportion of CH-47s should be operated by reserve units than is currently planned by the Army. Consequently, the committee recommends an authorization of $141.1 million for 24 remanufactured CH-47 helicopters for the National Guard, and directs the Army to proceed immediately with the deactivation of 24 CH-54 helicopters when their replacements become available. Further, the committee directs the Army to plan for the total deactivation and replacement to occur during the next 5 years.

UH-60 Helicopters

In order to facilitate the modernization of Army reserve component helicopter units, the committee recommends an authorization of $156 million for UH-60 helicopters for the Army National Guard.

C-130 Transports

For the past 15 years, the Air Force has consistently refused to budget resources to modernize tactical transports in either the Active or the Reserve components. In each of the last 13 years, the Congress has procured C-130 aircraft for Air National Guard and Air Force Reserve squadrons. As a consequence of this action, this is the one mission area where, on the average, reserve squadrons operate equipment that is equal to or somewhat better than their active duty counterparts.

The committee is convinced that the Air Force considers tactical airlift a second or even third order priority. While the average C-130 in the active Air Force today is 25 years old, the Air Force has not budgeted replacement aircraft until well into the next century. This contrasts with the Air National Guard and the Air Force Reserve which award the highest priority to modernizing their tactical airlift capabilities.

Consequently, the committee recommends a provision that would direct the Secretary of Defense to transfer the tactical airlift mission exclusively to the Air National Guard and Air Force Reserve. The provision directs the Secretary of the Air Force to transfer all C-130 aircraft to reserve squadrons over the next 5 years. In order to insure prompt availability of tactical transports in times of emergency, the Secretary of the Air Force shall insure that active duty Air Force pilots and maintenance personnel are assigned to reserve squadrons.

The committee also recommends an increased authorization of $220.1 million for 10 additional C-130 transports for the Air National Guard in fiscal year 1991.

Navy Reserve Minesweepers

The committee believes that countermine warfare is one of the most effective ways to utilize Navy Reserve personnel. The committee notes that while the Navy has initiated a modernization program for helicopters in active duty helicopter minesweeper squadrons, no comparable modernization plan is contemplated for reserve units. Consequently, the committee recommends an authorization of $281.9 million to procure 12 MH-53 helicopters to be assigned only to Navy Reserve squadrons.

Night Vision Devices

The committee notes that if the National Guard is to fight side by side with the Active components, it will require an accelerated fielding of night vision devices. In order to expedite the fielding of modern generation equipment, the committee recommends an authorization of $35 million to procure night vision devices for the Army National Guard.

M113A2 to M113A3 Upgrade

As active units are inactivated, equipment will be transferred from active units to Reserve component units. Many of the M113A2 personnel carriers which will be transferred are old and in need of upgrade. The committee recommends an authorization of $10 million to convert M113A2 to M113A3 for the National Guard as they are transferred from active to reserve units.

AH-1W Helicopters for Marine Corps Reserve

As noted elsewhere in this report, the committee believes that all of the Services need to procure lighter, more lethal equipment. The Marine Corps, for example, has

decided to replace its inventory of 465 M60 tanks with 215 M1A1 tanks. The committee believes that this is a constructive development. Nonetheless, the committee also believes that the Marine Corps should increase its anti-armor capability to complement the smaller number of tanks.

Consequently, the committee recommends an authorization of $79 million to procure 8 AH-1W helicopters for the Marine Corps Reserve. The committee also recommends an authorization of the six AH-1W helicopters appropriated in fiscal year 1990 which were not authorized at the time. Altogether, these 14 helicopters are sufficient to replace the aging helicopters in one of the existing Marine Corps Reserve attack helicopter squadrons. The committee directs the Marine Corps to budget resources in the future to modernize its reserve attack helicopter squadrons.

REDISTRIBUTION OF EQUIPMENT FROM ACTIVE TO RESERVE UNITS

The committee recognizes the increasing role that reserve forces will have in the Nation's future defense posture. The committee also recognizes that greater utilization of reserve forces will be unnecessarily impeded if equipment shortages persist.

The committee anticipates that substantial amounts of new equipment will be made available to the National Guard and Reserve components over the next several years as the number of active units is reduced. This transfer of equipment should substantially improve the readiness and combat potential of reserve forces.

To date, the Department of Defense has not been able to provide the Congress with information on the likely transfers of equipment to the Reserve components from active units that are being inactivated. That information will be crucial for long-term planning on the future modernization needs of the Reserve components. Therefore, the committee directs the Department to submit a report, concurrent with the next budget submission, which identifies the plans to redistribute equipment from active units to reserve units over the next 6 years.

EXAMINATION OF ALTERNATIVE AH-64 FIELDING CONCEPTS FOR GUARD/RESERVE UNITS

The Army developed a Single Station Unit Fielding Training (SSUFT) concept for fielding the new AH-64 helicopter in Army aviation battalions. An attack helicopter battalion would temporarily move to Ft. Hood, Texas, where the pilots would learn to fly the helicopter, the maintenance technicians would learn to maintain the helicopter, and all equipment required to support the new battalion would be assembled. This new fielding approach has proven to be extremely successful and has served as a model for unit training and conversion.

While this concept has been very successful for active duty personnel, it has proven to be difficult for Army National Guard and Army Reserve units to undergo the conversion and training process. The SSUFT approach requires 90 days of tactical training at Ft. Hood, which is difficult for reserve personnel to accomplish.

By contrast, when an Air National Guard or Air Force Reserve squadron is scheduled to undergo conversion to new weapon systems, the new hardware, training personnel, and support equipment are delivered to the unit for conversion and training at the location of the reserve unit. This approach is less demanding on reserve personnel.

The committee believes the Army should examine such an approach for use in training its reserve aviation battalions, now that the bulk of active Army battalions will have completed conversion to the AH-64 helicopter.

Mr. NUNN. Mr. President, I yield back all of the time I have remaining.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

TRIBUTE TO STEPHANIE D. BELL, MARION, VA

Mr. ROBB. Mr. President, I would like to share with my colleagues an essay on the Job Corps written by a young Virginian whose life is back on track thanks to this program. Stephanie D. Bell, a student at the Blue Ridge Job Corps Center in Marion, VA, won second place in the Joint Action in Community Service's writing contest with the entry, "What the Job Corps Means to Me."

Mr. President, I ask unanimous consent that Ms. Bell's essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

WHAT THE JOB CORPS MEANS TO ME

(By Stephenie D. Bell)

As far back as I can remember, I've always semed to make wrong decisions. That is until I came to Blue Ridge.

At thirteen, I was faced with my first experience with sex. I made the wrong decision and ended up pregnant at thirteen. That was fine, I made a mistake, and I was determined to live up to my responsibility.

At fifteen, I found someone who I thought was a friend. Instead, Sheena turned out to be a backstabbing liar who always hurt people. Then, her brother, Pierre, came into the picture. I went against my mother's warnings and associated with them exclusively. As the story goes, one summer night Pierre raped me as Sheena watched. I ended up pregnant again.

Despite the rape and pregnancy as a result of it, I finished high school and had a two-year scholarship to University of Tennessee Chattanooga. Before I could really get started in my accounting classes, I found myself pregnant again. So I quit college and went back home to Norfolk to have the baby. That's when my life turned sour. I was eighteen years old with three children and had no idea what I was going to do. That's when my step-sister became an important part of my life.

At first we got along fine, then things changed. I noticed a change in her personality and later found that she was using drugs. I swore that I would never resort to that, but six months later found myself on cocaine and addicted. All of my dreams of one day being a CPA seemed to go up in smoke. There I was on crack and going from one rehabilitation center to the next trying so desperately to get my priorities in order so I could be the mother I knew I should be to my three precious children. Around this time, I noticed on my ADC checks that a number was attached. It was for the Job Corps program. I was too involved in the drug scene to pay it any attention.

Then, in December, I overdosed and came within inches of losing my life. I was in Virginia Beach Detoxification Center when my mom called and gave me the number to talk to someone about the Job Corps program. I finally made the call.

Now, I am here at Blue Ridge working on my fourth trade. I'm enrolled in the college program for the fall, and I graduate from my first two trades in July. And I don't think I could have made a better decision. I've finally proved to myself that I can do it.

Through this program, I have found that lost part of my soul that cocaine had. That one part of me, my intelligence, makes the difference in my whole personality. I chair the NA/AA meeting in order not to go back to that way of life. I never want to forget where I have been because it is instrumental to where I am going. Blue Ridge has given me that much needed second chance and for that I will be eternally grateful.

I take off my hat to this program. I've found a me that I like very much and am very proud of. I honestly must say that if the Job Corps program hasn't worked for anyone else, it has definitely worked for me.

What does the Job Corps mean to me? That's simple, it means my very life.

REMARKS OF DR. LEO PEZZEMENTI, BIRMINGHAM-SOUTHERN COLLEGE

Mr. HEFLIN. Mr. President, since I came to the U.S. Senate, I have been a strong supporter of appropriating funds for the National Institutes of Health [NIH]. One program I strongly support, which is sponsored by NIH, is the Academic Research Enhancement Award [AREA] Program, a program currently underfunded.

This program funds research at schools that have not traditionally received NIH funding. Two colleges in my home State of Alabama that have benefited from the program are Auburn University and my alma mater, Birmingham-Southern College.

Throughout our Nation, many undergraduate colleges have received academic research enhancement award grants, and many undergraduate students have been initiated into biomedical research. Many students across America go on to graduate school and embark upon careers in research or medicine after having participated in the AREA Program.

Recently, Dr. Leo Pezzementi, who is an associate professor of biology, delivered a stirring address at a workshop on the Academic Research Enhancement Award Program at the National Institutes of Health outlining the benefits that Birmingham-Southern College and its students have received from this important program.

Dr. Pezzementi's address will be published in the Newsletter of the Council on Undergraduate Research, which is

a national organization committed to involving undergraduate students in meaningful research. I ask unanimous consent that the speech by Dr. Leo Pezzementi of Birmingham-Southern College be printed in the RECORD in its entirety.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

NIH AREA PROGRAM FROM THE PERSPECTIVE OF UNDERGRADUATE RESEARCH

(By Leo Pezzementi)

Since 1985, I have taught at Birmingham-Southern College, a small, traditional liberal arts college. Before coming to Birmingham-Southern, I taught as sabbatical replacement for three years at Franklin and Marshall and Oberlin colleges, where I discovered that faculty at small colleges can do scientific research. The science done at small colleges may not be big science, but it can and should be good science. It was at these schools that I also became convinced of the educational importance of research with undergraduate students; that the best way for undergraduates to learn science is for them to become scientists, and that this experience often motivates them to pursue careers in research and education. Now, as a biology councilor of the Council on Undergraduate Research, I have learned that I share these views with many other scientists at small colleges, who see research with undergraduates as serving two complementary purposes—the advancement of science and the education of future scientists.

When I arrived at Birmingham-Southern in 1985, I had a small Research Corporation grant. However, by the end of the summer of 1987, I had expended all of the funds in that grant, and my research on the structure and function of acetylcholinesterase from the lamprey could have come to a stop since, at the time, Birmingham-Southern did not have any on-campus money available for research. Fortunately, the summer before, I wrote an AREA proposal that was funded in full for two years. Later, I asked for and received a one year extension. I was encouraged to write the grant by Dr. Terry Rosenberry at Case Western, a reviewer of a number of AREA proposals, whom I met at Oberlin and who subsequently became a collaborator on the proposal. After receiving the grant, and having trouble getting started because of my teaching load and problems with equipment acquistion, I spent the summer of 1988 in Dr. Rosenberry's laboratory, where I learned many new and valuable techniques for the purification and characterization of acetylcholinesterase (AChE).

While in the laboratory, I also met Dr. Jean-Pierre Toutant. Dr. Toutant has developed an electrophoretic technique for the analysis of the amphiphilicity of AChE, and we have entered into a productive collaboration on the AChE from amphioxus. Dr. Toutant developed this technique in the laboratory of Dr. Jean Massoulié at l'Ecole Normale Supérierure, and at the end of the summer, I asked if it might be possible for me to spend a sabbatical year in Dr. Massouliés laboratory to learn how to use the techniques of molecular biology to study AChE. At the urging of Dr. Toutant, I wrote to Dr. Massoulié who agreed and suggested that I write for a NIH-French CNRS fellowship. Armed with preliminary results from the tenure of my AREA grant, I wrote a successful fellowship proposal and will be spending the 1990-1991 academic year in Paris. Also, as a result of the work that I have done under my AREA grant, I will be an invited speaker at the Third International Meeting on Cholinesterase in La Grande Motte, France, this May. Thus, the AREA program has enabled me to become a member of the international scientific community working on AChE.

Since my AREA grant expires this summer, and I was advised not to apply for an NIH RO1 grant to begin while I was out of the country, I have written an NSF-RUI proposal to use a combination of biochemical, pharmacological and molecular biological approaches to study AChE from some primitive species. In this grant, I ask for $120,000 worth of equipment, and to keep the requested amount within the budgetary guidelines suggested by the NSF, Birmingham-Southern has agreed to provide $51,000 or 42% of this amount. If my ARA grant had not allowed me to establish myself as a productive scientist in my field, I don't think that the college would have made this commitment.

The AREA grant that I received has made other indirect contributions to the science and research environment at Birmingham-Southern. I certainly do not want to attribute all the changes that have taken place to my acquisition of a single grant, because a number of factors have been involved, with the AREA grant being just one of them. Nevertheless, shortly after I received my grant the college initiated a modest summer research grant program. Also, in the past three years, the college has hired three new faculty members in the chemistry department, and I am told that my success has motivated them and others in biology to write proposals. In the five years before I received my AREA grant, the college received one major grant in the sciences; since 1987, the college has received five major grants with four others pending for scientific research, equipment, and education. These and other developments have attracted the attention of administration, and the college is now constructing an addition to the science building, which will house laboratories primarily for chemistry and physics, but also for cell molecular biology. The facility will also have laboratories designated specifically for undergraduate research students.

In the eight years that I have taught at small liberal arts colleges, I have had thirteen undergraduates work with me for at least a semester or a summer. Five of these students have worked with me during the tenure of my AREA grant. Of the thirteen students, seven are coauthors on papers, because they have made significant contributions to the work. More importantly, of the ten who have graduated, four went on to graduate school in the biomedical sciences, and three went on to medical school. Now, students at the college are interested in my work; two are working in my lab for credit, and one has written a grant proposal to Sigma Xi for a modest project that he conceived. I have asked for funds for eight undergraduate students in my NSF-RUI grant to ensure the education of undergraduates remains an integral part of my research effort. The college is also seriously considering stipends for undergraduate research students.

Thus, the AREA program has had a very positive effect on me, my institution, and my students, and I am very thankful. However, it is stated in the AREA Program guidelines that these grants will allow principal investigators to conduct "preliminary research studies preparatory to seeking more substantial funding through other traditional NIH grant mechanisms". In this respect, the program does not appear to have been completely successful. NIH statistics show that only 15 of the 381 AREA grant recipients in the first three years of the program have gone on to receive RO1 grants. It has been suggested that two years is not enough time to collect the data necessary for a competitive RO1 proposal, and the NIH has responded to this suggestion by lengthening the duration of the grants from two to three years. It has also been suggested that the yearly budgets of the grants be increased so that technicians could be hired to maintain continuity and productivity in the laboratory. Teaching loads at liberal arts colleges are often high, and undergraduates are quite unprepared and transient; thus, working with undergraduates can resemble starting up a new lab every year. A full-time technician could help smooth the transition. I think that both of these suggestions are good ideas and already have or would improve the situation. However, it occurred to me that the pressure to mainstream might actually be undermining one of the major goals of undergraduate research—the training of future scientists—exactly at a time when such development is becoming crucial. This training is best accomplished when the student and the teacher work together. When this requirement is considered along with the constraints mentioned above, it seems obvious that the pace of research at undergraduate colleges will be slow, making it difficult for those of us who are committed to teaching and research to compete for funding with faculty at research-intensive universities.

S. 160, WORLD WAR II VETERANS MEMORIAL

Mr. HEFLIN. Mr. President I stand before you today in support of Senate bill 160, which would require the construction of a memorial for those Americans who served and died in World War II. On December 7, 1991, we will be celebrating the 50th anniversary of the bombing of Pearl Harbor. I feel, Mr. President, that a monument to commemorate the American veterans who fought to preserve our Nation's freedom would be appropriate on this upcoming occasion.

Although there are numerous World War II monuments and memorials, this memorial is important because it would be the first to pay tribute to all World War II American Veterans as a group. World War II was one of the most significant periods of our Nation's history and one which required a heroic and united effort by the American people to stop the march of totalitarian governments on both sides of the globe. Many American soldiers were killed or wounded, and it is time to recognize those individuals collectively for their efforts to preserve and protect freedom throughout the world.

As proposed in S. 160, the financing for this monument would come solely from private contributions, while maintenance would be paid by the

Government. The location, here in Washington, and the architectural design would be decided by the American Battle Monuments Commission and the newly created World War II Memorial Advisory Board. The Commission would also be responsible for soliciting and accepting financial contributions for the memorial's construction.

Washington, DC, has been the site for a number of veteran memorials, including the very moving Vietnam Veterans Memorial. Legislation has been passed for the creation of two other important monuments, the Korean Veterans Memorial and the Women's Vietnam Memorial. World War II veterans also deserve to have a monument established in honor of their courageous service to the United States.

We would be saluting a generation of men and women for the duties they performed during a period of world crisis. This memorial would also serve to remind future generations of those who bravely gave of themselves to protect our basic rights and freedoms. Mr. President, it is my honor to speak in favor of this bill which would allow the American Battle Monuments Commission to construct a memorial for the veterans of the Second World War.

SENATE QUARTERLY MAIL COSTS

Mr. FORD. Mr. President, I am submitting two reports for printing in the RECORD. The first report is the Senate's quarterly mass mail report for the third quarter of this fiscal year, that is, for the period April 1 through June 30, 1990. This report sets forth the mass-mail volumes and costs for each Senator and each other office of the Senate for the quarter. The costs are total costs, including postage, paper, and production costs. The per capita amounts were calculated using the population figures from the "State Population and Household Estimates: July 1, 1989," issued March 1990 by the Bureau of the Census. The second report is the quarterly statement from the U.S. Postal Service. This report shows the Senate's total postage costs for the quarter, by category of mail.

Mr. President, I am pleased to be able to state that the Senate's mail costs continue to reflect the frugality that was evidenced in these reports for the first two quarters of this year. The Postal Service is now projecting a surplus of approximately $7.3 million in the Senate official mail account for this fiscal year.

I would like to draw attention to one line on the report from the Postal Service that is evidence of the success of a recent change in policy. That is the line for "Address Corrections (third class)" which cost $38,229 for this quarter. This amount is a substantial reduction in this item, which in fiscal year 1988 totaled $1,467,544 and in 1989 totaled $895,143, for quarterly averages of $366,886 and $223,786, respectively. As Senators know, the Senate's policy before this fiscal year was to require Senators to use the "Return Postage Guaranteed" endorsement on addressed third-class mail. This fiscal year the policy was changed, and Senators were encouraged to use the endorsement "Do Not Forward" and to include the words "Or Current Resident" on the address label. Senators who choose to use the "Return Postage Guaranteed" endorsement can do so, but their postal allocations are charged for the cost of the returns. Senators have responded to the change in policy in an admirable manner and saved approximately $200,000 on the cost of returned mail in this quarter alone.

Mr. President, I ask unanimous consent that the two reports be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1990

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita
Adams	47,993	0.01008	$10,954.66	$0.00230
Akaka	0	.00000		.00000
Armstrong	0	.00000		.00000
Baucus	110,475	.13707	17,375.03	.02156
Bentsen	28,275	.00166	5,036.04	.00030
Biden	0	.00000		.00000
Bingaman	19,195	.01256	3,991.90	.00261
Bond	61,740	.01197	8,457.25	.00164
Boren	0	.00000		.00000
Boschwitz	186,890	.04293	32,703.61	.00751
Bradley	18,300	.00237	3,242.06	.00042
Breaux	0	.00000		.00000
Bryan	53,240	.04792	6,786.84	.00611
Bumpers	6,550	.00272	1,071.63	.00045
Burdick	92,900	.14076	14,646.07	.02219
Burns	27,570	.03421	4,761.61	.00591
Byrd	0	.00000		.00000
Chafee	132,800	.13307	20,243.54	.02028
Coats	612	.00011	138.56	.00002
Cochran	0	.00000		.00000
Cohen	34,050	.02786	5,118.79	.00419
Conrad	0	.00000		.00000
Cranston	1,800,000	.06193	270,236.26	.00930
D'Amato	1,520,835	.08473	234,684.56	.01307
Danforth	0	.00000		.00000
Daschle	223,880	.31312	33,306.43	.04658
DeConcini	2,038	.00057	1,750.63	.00049
Dixon	832,000	.07137	117,508.88	.01008
Dodd	0	.00000		.00000
Dole	0	.00000		.00000
Domenici	0	.00000		.00000
Durenberger	26,500	.00609	5,159.11	.00119
Exon	3,064	.00190	2,610.52	.00162
Ford	0	.00000		.00000
Fowler	0	.00000		.00000
Garn	0	.00000		.00000
Glenn	3,000	.00028	555.14	.00005
Gore	123,750	.02505	15,779.39	.00319
Gorton	0	.00000		.00000
Graham	78,700	.00621	13,127.95	.00104
Gramm	311,175	.01831	42,055.11	.00248
Grassley	234,855	.08270	37,366.16	.01316
Harkin	168,750	.05942	26,486.74	.00933
Hatch	2,300	.00135	394.58	.00023
Hatfield	0	.00000		.00000
Heflin	0	.00000		.00000
Heinz	706,600	.05869	97,254.63	.00808
Helms	0	.00000		.00000
Hollings	0	.00000		.00000
Humphrey	0	.00000		.00000
Inouye	4,150	.00373	1,123.05	.00101
Jeffords	11,000	.01940	3,069.31	.00541
Johnston	110,525	.02522	15,266.38	.00348
Kassebaum	0	.00000		.00000
Kasten	361,393	.07425	52,422.91	.01077
Kennedy	0	.00000		.00000
Kerrey	1,774	.00110	1,527.41	.00095

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1990—Continued

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita
Kerry	19,950	.00337	5,273.51	.00089
Kohl	0	.00000		.00000
Lautenberg	633,725	.08192	106,006.68	.01370
Leahy	53,805	.09489	9,038.74	.01594
Levin	0	.00000		.00000
Lieberman	141,827	.04379	22,455.56	.00693
Lott	0	.00000		.00000
Lugar	176,840	.03162	26,253.28	.00469
Mack	47,450	.00374	8,116.31	.00064
Matsunaga	5,000	.00450	851.79	.00077
McCain	139,175	.03914	23,468.06	.00660
McClure	9,775	.00964	1,296.98	.00128
McConnell	206,200	.05533	30,778.29	.00826
Metzenbaum	0	.00000		.00000
Mikulski	0	.00000		.00000
Mitchell	0	.00000		.00000
Moynihan	1,276,100	.07109	222,431.19	.01239
Murkowski	33,645	.06384	5,057.21	.00960
Nickles	17,292	.00536	13,995.35	.00434
Nunn	0	.00000		.00000
Packwood	243,780	.08645	45,482.45	.01613
Pell	322,319	.32296	51,321.83	.05142
Pressler	295,780	.41368	46,319.14	.06478
Pryor	72,150	.02999	12,775.26	.00531
Reid	50,401	.04547	9,448.37	.00850
Riegle	19,045	.00205	3,631.78	.00039
Robb	0	.00000		.00000
Rockefeller	35,025	.01886	5,823.43	.00314
Roth	298,465	.44348	45,139.99	.06707
Rudman	0	.00000		.00000
Sanford	0	.00000		.00000
Sarbanes	43,345	.00923	8,495.39	.00181
Sasser	0	.00000		.00000
Shelby	0	.00000		.00000
Simon	324,450	.02783	48,294.60	.00414
Simpson	14,200	.20989	1,816.70	.00382
Specter	360,950	.02998	47,941.28	.00398
Stevens	428,950	.81395	68,408.82	.12981
Symms	21,750	.02145	4,064.93	.00401
Thurmond	0	.00000		.00000
Wallop	674	.00142	109.69	.00023
Warner	91,050	.01493	13,954.17	.00229
Wilson	0	.00000		.00000
Wirth	0	.00000		.00000
Totals, Senators	12,729,998	4.34047	1,994,264	.68988

Other offices	Pieces	Cost
The Vice President	0	
The President pro-tempore	0	
The Majority Leader	0	
The Minority Leader	0	
The Assistant Majority Leader	0	
The Assistant Minority Leader	0	
Sec of Majority Conference	0	
Sec of Minority Conference	0	
Agriculture Committee	0	
Appropriations Committee	0	
Armed Services Committee	0	
Banking Committee	0	
Budget Committee	0	
Commerce Committee	0	
Energy Committee	590	$165.26
Environment Committee	0	
Finance Committee	0	
Foreign Relations Committee	0	
Governmental Affairs Committee	0	
Judiciary Committee	0	
Labor Committee	0	
Rules Committee	0	
Small Business Committee	10,894	9,357.92
Veterans Affairs Committee	0	
Ethics Committee	0	
Indian Affairs Committee	0	
Intelligence Committee	0	
Aging Committee	1,500	301.56
Joint Economic Committee	6,950	1,853.77
Joint Committee on Printing	0	
Democratic Policy Committee	0	
Democratic Conference	0	
Republican Policy Committee	0	
Republican Conference	0	
Legislative Counsel	0	
Legal Counsel	0	
Secretary of the Senate	0	
Sergeant at Arms	0	
Narcotics Caucus	0	
Total	19,934	11,678.51

U.S. POSTAL SERVICE,
DEPARTMENT OF THE CONTROLLER,
Washington, DC., July 27, 1990.

Hon. WALTER J. STEWART,
Secretary, U.S. Senate,
Washington, DC.

DEAR MR. STEWART: Detailed data on franked mail usage by the U.S. Senate for the third Postal Quarter, Fiscal Year 1990, is enclosed. Total postage and fees for the quarter is $2,864,051.

A summary of Senate franked mail usage based upon the first three Postal Quarters of actual data for Fiscal Year 1990 is as follows:

Volume	56,318,738
Revenue per piece	$0.1734
Revenue	$9,765,483
Provisional payments (prorated to June 1, 1990)	$15,857,800
Excess in provisional payments	$6,092,317

The first three Postal Quarter results, when projected to an annual figure based upon historical trends for Senate franked mail, provide the following adjusted estimates for FY 1990:

Volume	93,242,944
Revenue per piece	$0.1756
Total revenue	$16,371,223
Current appropriation	$23,688,000
Estimated surplus	$7,316,777

Also enclosed is a copy of the comparable report for the U.S. House of Representatives and revised detailed data for Senate Quarter 1, Fiscal Year 1990 Franked Mail usage. Due to a typographical error, the original Senate Quarter 1 report dated February 27, 1990, reflected an incorrect total volume of 27,738,897 pieces and a revenue per piece of $0.1356. The correct total volume was 22,738,897 pieces and the correct revenue per piece was $0.1674.

If you or your staff have any questions, please call Tom Galgano of my staff on 268-3255.

Sincerely,

JAMES S. STANFORD,
General Manager, Office and International Mail Accounting Division, Office of Accounting.

Enclosures.

FRANKED MAIL, SENATE

[Postal quarter III, fiscal year 1990]

Subcategories	Pieces	Rate	Amount
1. Letters: First class	2,330,783	$0.2501	$582,929
Total	2,330,783	.2501	582,929
2. Flats: First class	104,027	.9016	93,791
Total	104,027	.9016	93,791
3. Parcels:			
Priority—up to 11 oz			
Priority—over 11 oz	14,281	5.1456	73,484
4th class—Regular	25,548	3.4644	88,508
Total	39,829	4.0672	161,992
4. Orange bag pouches:			
First class	119,132	.3478	41,434
Priority—up to 11 oz	1,651	2.3992	3,961
Priority—over 11 oz	8,825	4.0715	35,931
Total	129,608	.6275	81,326
5. Agriculture bulletins:			
First class			
Priority—up to 11 oz			
Priority—over 11 oz			
3rd class			
4th class special (Bk)	2	9.2000	18
4th class regular	158	5.9479	940

FRANKED MAIL, SENATE—Continued

[Postal quarter III, fiscal year 1990]

Subcategories	Pieces	Rate	Amount
Total	160	5.9875	958
6. Yearbooks: 4th Class Special (Bk)	1,016	1.2575	1,278
Total	1,016	1.2575	1,278
7. Other (odd size parcels):			
Priority—up to 11 oz			
Priority—up over 11 oz	421	33.4538	14,084
4th class special (BK)			
4th class regular	1,533	10.8669	16,659
Total	1,954	15.7334	30,743
Total outside DC (see attachment)	334,891	.4247	142,227
3rd class bulk rate	12,780,391	.1066	1,362,564
First class presort—PI			
First class single PC—PI			
Address corrections (3547'S)	1,164	.3000	349
Address corrections (3RD CL)	152,917	.2500	38,229
Mailing list corrections (10 names or less)			
Mailing list corrections (more than 10 names)			
Mailgrams			
IPA—International Priority Airmail			
Mailing fees, (registry, certified, etc.)			
Postage due/short paid mail			490
Permit fees			50
Miscellaneous charges/adj			
(Nondel. of town mtg. notes)			(2,376)
Express mail service			369,501
Subtotal	15,876,740	.1804	2,864,051
Adjustments (prior yr. etc.)			
Grand total	15,876,740	.1804	2,864,051

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,959th day that Terry Anderson has been held in captivity in Beirut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FOOD, AGRICULTURE CONSERVATION, AND TRADE ACT OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2830, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms amendment No. 2389, to prohibit U.S. financial institutions, whose deposits are insured by the United States taxpayer, from extending credit to the Soviet Union at interest rates below those offered to American farmers.

Glenn amendment No. 2384, to exempt certain American Great Lakes vessels from the cargo preference requirements and provide for the phase out of the Great Lakes set-aside after four years.

Inouye amendment No. 2385 (to Amendment No. 2384), to exempt certain American Great Lakes set-aside after three years.

D'Amato amendment No. 2396, to deny Iraq financial credits and benefits, including guarantees made by the Commodity Credit Corporation of loans, until the President certifies that Iraq is in substantial compliance with its obligations under international law.

DeConcini amendment No. 2397 (to Amendment No. 2396), to require a report to Congress describing total U.S. petroleum purchases from Iraq, and an assessment of the economic consequences for the U.S. and Iraq of a ban on the importation of Iraqi petroleum into the United States.

Mr. LEVIN. Mr. President, under the Helms amendment, U.S. financial institutions could sell agricultural commodities at advantageous interest rates. However, manufactured goods exported from the United States could not be sold at similarly advantageous interest rates. In other words, under this amendment, United States banks could finance the sale of tobacco to the Soviet Union at lower interest rates, but not the sale of cars at those interest rates. For that reason, I will vote against it.

VOTE ON AMENDMENT NO. 2389

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2389 proposed by the Senator from North Carolina [Mr. HELMS]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—64

Akaka	Daschle	Humphrey
Baucus	Dixon	Inouye
Bentsen	Dole	Kassebaum
Biden	Domenici	Kasten
Bond	Exon	Kerrey
Boren	Ford	Kohl
Boschwitz	Garn	Lieberman
Bradley	Graham	Lott
Bumpers	Gramm	Lugar
Burdick	Grassley	Mack
Burns	Harkin	McCain
Chafee	Hatch	McClure
Coats	Hatfield	McConnell
Cochran	Heflin	Mikulski
Cohen	Heinz	Murkowski
Conrad	Helms	Nickles
D'Amato	Hollings	Packwood

Pressler	Shelby	Thurmond
Pryor	Simpson	Warner
Reid	Specter	Wilson
Roth	Stevens	
Rudman	Symms	

NAYS—32

Adams	Gore	Nunn
Bingaman	Gorton	Pell
Breaux	Jeffords	Riegle
Bryan	Kennedy	Robb
Byrd	Kerry	Rockefeller
Cranston	Lautenberg	Sanford
Danforth	Leahy	Sarbanes
DeConcini	Levin	Sasser
Dodd	Metzenbaum	Simon
Fowler	Mitchell	Wirth
Glenn	Moynihan	

NOT VOTING—4

Armstrong	Johnston	Wallop
Durenberger		

So the amendment (No. 2389) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2397 TO AMENDMENT NO. 2396

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—80

Adams	Graham	Moynihan
Akaka	Gramm	Murkowski
Bentsen	Grassley	Nickles
Biden	Harkin	Nunn
Bingaman	Hatch	Packwood
Bond	Heflin	Pell
Boschwitz	Heinz	Pressler
Bradley	Helms	Reid
Bryan	Hollings	Riegle
Burdick	Humphrey	Robb
Burns	Inouye	Rockefeller
Byrd	Kassebaum	Roth
Cohen	Kasten	Rudman
Cranston	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Leahy	Simpson
Domenici	Levin	Specter
Exon	Lieberman	Stevens
Ford	Mack	Symms
Fowler	McCain	Thurmond
Garn	McConnell	Warner
Glenn	Metzenbaum	Wilson
Gore	Mikulski	Wirth
Gorton	Mitchell	

NAYS—16

Baucus	Cochran	Lott
Boren	Conrad	Lugar
Breaux	Danforth	McClure
Bumpers	Dole	Pryor
Chafee	Hatfield	
Coats	Jeffords	

NOT VOTING—4

Armstrong	Johnston	Wallop
Durenberger		

So, the amendment (No. 2397) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GRAMM of Texas now be recognized to offer a second-degree amendment to the D'Amato amendment, and that there be 30 minutes of debate equally divided and in the usual form on that amendment, and that upon the use or yielding back of that time, that the Senate proceed without any intervening action to vote on or in relation to the Gramm amendment.

Mr. LEAHY. Reserving the right to object, and I will not object, is there any possibility of that being 20 minutes equally divided?

Mr. GRAMM. If the leader will yield, I would be happy with the 20 minutes. Senator BENTSEN wanted to get back from committee to speak. I guess I can hold that until the end of the 40 minutes; 30 minutes equally divided might be more convenient, but I do want to accommodate the leader and the distinguished chairman of the Agriculture Committee.

Mr. COHEN. Reserving the right to object, I think 30 minutes under the circumstances would be more appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, may I inquire, who controls the time on the amendment?

The PRESIDING OFFICER. The author of the amendment controls time.

Mr. MITCHELL. Mr. President, would the manager have objection to Senator GRAMM controlling the time in favor of the amendment and Senator COHEN controlling the time in opposition to the amendment?

Mr. LEAHY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2398

(Purpose: To ensure that restrictions on credit to Iraq are not imposed so as to hurt American farmers and workers more than they hurt Iraq)

Mr. GRAMM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. DOLE, Mr. BENTSEN, Mr. SIMON, Mr. BREAUX, Mr. BURDICK, Mr. COCHRAN, and Mr. PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. DOLE, Mr. BENTSEN, Mr. SIMON, Mr. BREAUX, Mr. BURDICK, Mr. COCHRAN, and Mr. PRYOR, proposes an amendment numbered 2398.

At the end of the amendment add the following:

"( ) If the Secretary of Agriculture finds that the credit restrictions imposed by this title would result in decreasing the export of agricultural products from the United States that are readily available to Iraq from non-United States sources, so that the impact of the restriction of credit imposed under this title would harm American farmers more than it would Iraq, the Secretary may waive the restriction on the availability of credit in support of agricultural exports. If the Secretary of Commerce finds that the credit restrictions imposed by this title would result in decreasing the export of manufactured products from the United States that are readily available to Iraq from non-United States sources, so that the impact of the restriction of credit imposed under this title would harm American workers more than it would Iraq, the Secretary may waive the restriction on the availability of credit in support of manufactured exports. Restrictions on credit under this title shall not become effective until after the Secretary of Agriculture and the Secretary of Commerce have studied the impact of such credit restrictions and determined whether such restrictions would have a negative impact greater upon American farmers and/or workers than upon Iraq.".

Mr. GRAMM. Mr. President, this is a pretty straightforward amendment. One might call it the "hitting the right target" amendment.

Mr. President, I think everyone here and every civilized person in the world is outraged by the words and the actions of the State of Iraq. The question is, will the actions that we contemplate taking in the amendment of the Senator from New York actually hit the right target? Will it actually impose costs on Iraq which, in turn, I assume the author of the amendment believes, will change the behavior in Iraq or at least make us feel better?

Mr. President, I support the thrust of the amendment. I congratulate our distinguished colleague from New York for offering it. But my concern is straightforward and simple. I was in Congress when we imposed sanctions on the Soviet Union. I remember, Mr. President, all the breast beating at the time about the sanctions against the Soviet Union for the invasion of Afghanistan, how we were going to impose costs on the Soviet Union.

Well, Mr. President, the problem was that we ended up imposing costs on the American farmer. The Soviet Union turned to competitive sources. They were virtually unaffected. American agriculture was devastated. And I remember vividly every Member of the House and Senate going back home,

taking blood oaths, saying, never again will we have an export embargo; never again.

Mr. President, I know the proponents of ths amendment are going to say it is different. And, technically, legally, it is different, but the result is the same. We are in competition in the agriculture markets of the world, competing fiercely with the Europeans, with the Australians, and with the people who produce primarily agriculture products all over the world. In order for us to be competitive, we have to have competitive financing.

So even though this technically allows the sale by denying competitive credit, the result is exactly the same as an embargo. The result is that rice and feed grain and dairy products and cotton and cornstarch and sugar and wood products and a host of other agriculture sales, adding up to over $1 billion last year, will be lost. Those sales, in all probability, will go to our competitors. The Iraqis will not have been harmed, only American farmers will have been harmed. The same is true for manufactured products.

So, Mr. President, I believe that this amendment offers a real protection. It says that if the Secretary of Agriculture finds that the products that would be denied marketability by denial of credit are readily available from other competitive sources so that the American farmer is hurt worse than Iraq, that well-intended though this amendment may be, the bullet hit the wrong target. The Secretary of Agriculture would then have the power to waive the provisions of this section of the bill.

If, on the other hand, the Secretary of Agriculture finds that the commodity, which is denied the credit and is not therefore available for sale at the old competitive price, is not readily available—that in fact costs will be imposed upon Iraq and those costs are at least as great or greater than the costs on the American farmer—then the Secretary of Agriculture will leave the provisions of this denial of credit in place.

Mr. President, I ask unanimous consent to add Senator BUMPERS and Senator PRYOR as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, this is a simple, straightforward amendment. It is not the objective of this amendment to weaken the provisions offered by the Senator from New York. This is not intended to be a qutting amendment. But I ask my colleagues one simple question: If, in fact, the concerns that I have raised and addressed in this amendment are correct, and the products that we are denying marketability turn out to be, after study, available on the world market, do we want to hurt American farmers simply to make a gesture that we are being tough on Iraq?

My view is if we are going to do something, let us do something that hurts Iraq, not something that hurts the people who produce food and fiber in this country and who produce manufactured products.

Mr. President, the amendment is straightforward. I hope it will be adopted.

I reserve the remainder of my time.

Mr. COHEN. Mr. President, I yield myself 5 minutes.

Mr. President, I rise in opposition to this amendment. The Senator from Texas says that everyone is outraged about the conduct of Iraq and that may be true except that no one is willing to do much about it.

We have heard the very same argument being made over the years about the sale of sophisticated technology to the Soviet Union, to the Warsaw Pact, and to other nations we consider to be either dangerous or unstable. But each time the argument was, well, if we hold back on this, it will not affect the British or the Germans or the Japanese or the French and our United States manufacturers are going to lose out.

That is the reason we do not have a policy against terrorism today. We have a nonpolicy against terrorism because our allies do not want to jeopardize their relations with oil-producing countries. We still have those people responsible for the bombing of Pan Am 103 walking around the European theater or Middle East, as a result of this nonpolicy, not wanting to take any action that might jeopardize our economic relations with those who produce oil.

I would like to raise this argument in conjunction with an article that was written and appeared in today's Washington Post, written by Charles Krauthammer, entitled "Nightmare From the '30s." There is a quote here ascribed to Hitler on inflation.

He says:

I will see to it that prices remain stable. That is what I have my storm troopers for.

I ask to have printed in the RECORD at the end of my remarks this article by Mr. Krauthammer.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COHEN. Krauthammer goes on to point out this is exactly what Mr. Saddam Husayn has in mind, exactly what he had his 30,000 or 40,000 storm troopers headed for the Kuwaiti border for. What Mr. Saddam Husayn would like to do is jack up the price of oil. He wants to go from $14 a barrel up to $25 a barrel. So the question becomes, in conjunction with the amendment of the Senator from Texas, how many are going to stand up to this blackmail he is going to engage in?

If there is a threat to raise the cost of oil to Western nations up to $25 a barrel, who is not going to sell subsidized goods to Baghdad? To Saddam Husayn? Everyone will be in a feeding frenzy to get there before that price goes up. Everyone will want to avoid the consequences of blackmail.

So it is not only a weakening amendment; this is in fact a destructive amendment. We will drive not a truck, but a John Deere tractor and maybe even a M-1 tank through that loophole that will be created by the Senator from Texas.

I mention M-1 tanks because there is some misapprehension, perhaps, that Senator D'AMATO's amendment that was just amended by Senator DECONCINI, only applies to farm products. It does not. It extends to Eximbank credits, it extends to dual use weapons, it applies to those items that are on a munitions list; it is not just the farmers who are affected.

Mr. President, we are talking about Saddam Husayn's policies. He has been labeled the bad boy of Baghdad, the butcher of Baghdad. Why is this so? Well, we know in the face of legal prohibitions he has engaged in the use of chemical weapons. He gassed thousands of Kurds. He gassed thousands more Iranians. What did we do? Zero. We gave him a verbal slap on the wrist; we said, "Do not do it again."

By his action he lowered the threshold of the use of chemical weapons for many nations who are developing them. We said, "Do not do it again. We are not taking any action; we expect you to abide by the rule of law."

Well, in 1989, as a result of this heinous action taken by Saddam Husayn, we extended $1 billion in guaranteed credits for him to buy food; while at the same time he is building missiles, he is continuing his production of chemical weapons, and seeking to build an atomic capability.

Some of my colleagues may recall what happened just last March when, through a FBI sting operation, some of his associates were apprehended trying to acquire some technology, electronic devices that his representatives said were really only intended for air-conditioning purposes.

If you believe that, I think there are some condominiums for sale on Mount St. Helens. It may be used for air-conditioning purposes, probably to air condition his chemical weapons munitions plants, or more likely to build a nuclear capability.

After Congress voted to terminate Eximbank credits, at the end of 1989, President Bush waived the termination, resulting in $200 million in subsidized credits going to Baghdad.

I am reluctantly supporting the amendment of Senator D'AMATO. I say reluctantly because I do not think it

goes far enough. It provides a wide loophole at the very end saying if the President certifies that Saddam Husayn is in compliance with all laws, the President can waive the restrictive provisions. We have had those provisions waived in the past. We have been following a policy of appeasement toward Iraq.

The reason for that is, I think, quite clear. It is the smell of oil and the color of money that corrodes our principles. We are about to do precisely the same thing here today in the name of protecting the American farmers, saying if Baghdad is going to acquire subsidized commodities from other countries, if there is going to be a feeding frenzy, make sure our farmers are able to get in on the frenzy itself.

Mr. President, I hope we will reject this amendment. We have already seen waivers take place. A lot of us have been concerned about high technology going to dangerous regimes like Iraq.

Just last Sunday an article appeared in the Washington Post written by Gary Milhollin. He points out that on July 1 the United States and its allies lifted export controls on the very nuclear weapon devices, the so-called krytons that Iraq tried to smuggle out of the United States in March. Now Iraq can buy these triggers over the counter in Eastern Europe, as can Pakistan, India, Israel, South Africa, and any other country that wants to make nuclear weapons.

They also decontrolled what they call skull furnaces, which Iraq has been trying to get from a manufacturer in New Jersey. These can melt plutonium for nuclear bomb cores and titanium for missile nose cones.

What we are doing here by releasing the restrictions on these vital items is we are encouraging the proliferation of the very thing we are working so very hard with the Soviets to prevent, and that is the spread of nuclear weapons, again in the name of economic prosperity.

Our Western counterparts want to open up their high technology stalls now and sell to Eastern Europe. So we want to get in the business, too. Because they want to sell to Eastern Europe, and because the Eastern Europeans can then sell to anybody they want, let us not deprive the United States of that opportunity.

When are we going to start exercising some moral leadership in this country, saying we are not going to support nations like Iraq that engage in acts of terrorism, that engage in the use of chemical weapons, that engage in the attempt to intimidate their neighbors who supported them during their war with Iran?

I think the time has come right now.

While I support the Senator from New York's amendment, it does not go nearly far enough for me. I hope the amendment of the Senator from Texas does not go any further.

Mr. President, I ask unanimous consent the Washington Post article by Gary Milhollin be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 22, 1990]

ATTENTION, NUKE-MART SHOPPERS!

(By Gary Milhollin)

In its haste to end the Cold War, the West is making it easier for the Third World to get the bomb.

On July 1, the United States and its allies lifted export controls on the very nuclear weapon triggers, called krytons, that Iraq tried to smuggle out of the United States in March. Now Iraq can buy these triggers over-the-counter in Eastern Europe. So can Pakistan, India, Israel, South Africa and any other country trying to make nuclear weapons.

Also decontrolled were "skull furnaces", which Iraq has been trying to get from a company in New Jersey. The furnaces can melt plutonium for nuclear bomb cores and melt titanium for missile nose cones. They are now on a dock in the Delaware River, blocked by the Pentagon on the last legal ground possible: that the exporter "knows or has reason to know" that they will be used in "fabricating . . . nuclear weapons." This remarkable stand is the first U.S. declaration that Iraq has an active A-bomb effort.

The move to decontrol was made by Cocom, the Coordinating Committee on Multilateral Export Controls, composed of Australia, Japan and all the NATO countries except Iceland. The intent was to help Eastern Europe develop its economy. But the effect will also be to help such countries as Libya and Iraq build nuclear arms.

Through what was apparently an amazing oversight, the Bush administration agreed in a Cocom meeting in June to decontrol 30 categories of strategic equipment—most of which are on the dream list of Third World bomb makers. In the words of one U.S. export official: "This is a big problem the administration missed—they were warned about it but they didn't listen."

Cocom also decontrolled spin forming machines (which U.S. officials earlier tried to stop Iraq from getting from Germany) used to make uranium gas centrifuges, as well as vacuum pumps. With fewer than a thousand centrifuges, Iraq can produce enough weapon-grade uranium for one Hiroshima-size bomb per year. With vacuum pumps, Iraq can move fragile-uranium gas through the centrifuges. Only last year, U.S. officials seized vacuum pumps that Iraq was trying to import from the United States without a license.

These deletions are just the beginning. Want some "maraging steel?" In 1987, a Pakistani was arrested in Philadelphia for trying to smuggle this special alloy, particularly suited for making centrifuges, out of the United States. Now, anybody can buy it by the ton. How about a plasma torch, or a high-speed oscilloscope? Plasma torches can nickle-plate the surface of a plutonium metal bomb core, such as the one that destroyed Nagasaki. Plating makes the core safe to handle. High-speed oscilloscopes can process the rapid data from nuclear tests. They can also help develop missile guidance systems, and can receive and sort the data from missile flight tests. Now both will go to the highest bidder.

Three factors make this decontrol a bonanza for neophyte bomb makers. First, when an item is dropped from the Cocom list, it can be sold to buyers in Eastern Europe without a license. Nuclear triggers can go to Romania, Hungary to Czechoslovakia like bags of onions. There will be no shipment records and no limits on re-export. This means that Iraq, Iran or Libya can order U.S. A-bomb triggers (and oscilloscopes) through Eastern Europe without breaking any laws. So can Pakistan, India or any other country that wants to make the bomb. Iraq and Libya have already used European front companies to import chemical weapon plants.

Second, these items will drop off Cocom control lists in Western Europe. Although Cocom is supposed to deny technology only to Communist countries, our European allies have not distinguished between keeping technology away from the Warsaw Pact and keeping it away from Third World bomb makers. "Where we send something to India, we are prepared to see it go to the Soviet Union," said a British spokesman on U.K. export controls. Britain shares this approach with Italy, Spain and other European countries. Thus, when an item falls off the Cocom list, it simply drops out of these countries' licensing systems.

Third, even if there were some strings attached to sales to Eastern Europe (such as a pledge not to re-export an item without permission) there would still be a great risk of diversion. These cash-starved regimes do not have functioning export control systems. Until they do, their companies can break the conditions of sale at minimal risk.

Cocom made these changes because German exporters, celebrating the end of the Cold War, demanded cuts in the control list. Faced with this demand, the Joint Chiefs of Staff produced a study that selected the few technologies the Pentagon thought it needed to stay ahead of the Soviets-"stealth" airplanes being an example. The Chiefs then agreed to decontrol the rest. For the Chiefs, it was more important to fight the Cold War than to stop the spread of the bomb. As usual, the generals were thinking of the last war.

What makes these changes so important is that they are happening at the very moment when the Third World is rushing to build weapons of mass destruction. In the Middle East, Iran, Iraq and Libya have all imported chemical weapons plants. They are now trying to import nuclear weapons and long-range missiles. In South Asia, India and Pakistan are threatening to have the world's first nuclear-armed border war—made possible by nuclear imports. In South America, Argentina and Brazil are teetering on the nuclear brink. And elsewhere, Israel and South Africa, pursuing their unique alliance, are building and testing long-range missiles together. In the 1990s, the East-West arms race is being replaced by a North-South arms race. Our export policies have not caught up with that fact.

What can be done? "The best solution," said one U.S. official, "would be to back up and do it right the first time." By that he meant that we should not have thrown out East-West controls before making sure that North-South controls stayed in place. Although legislation might help, neither of the two export bills pending in Congress recognizes the problem. According to a Senate staffer, the House bill, which loosens

controls even more, "might as well be called the Proliferation Facilitation Act."

In our haste, we have made the best solution impossible. Now, we can only try to back-fit controls before too much bomb and missile technology rushes from the North to the South.

U.S. law, which still controls several items dropped off the Cocom list, shows how that might be done. Because of U.S. policy against nuclear and missile proliferation, the U.S. goods that can now go to Eastern Europe still cannot be exported directly to Third World bomb makers. For our NATO partners to adopt similar rules, they would have to declare frankly that they oppose the spread of nuclear bombs and missiles—and be ready to take the heat from the Third World. No longer could they blame Cocom for standing between them and their customers. So far, it is not clear that they will do that. If they don't, their companies will start selling the means to make the bomb, regardless of what the United States does.

But even if our NATO allies cooperate, we will need the cooperation of the old East Bloc. It will do no good to stop sales from Western Europe if Iraq and Libya can fill their orders through Eastern Europe. Bringing in the East Bloc would also put a fence around the technology that Eastern Europe is developing on its own. What we need is an anti-proliferation fence around both Eastern and Western Europe.

There are three ways to build it: use the Nuclear Non-Proliferation Treaty, use the European Community, or use a new version of Cocom. The treaty probably won't work. Although its members have already agreed to control a list of exports, the treaty's peculiar language limits the list to plutonium and enriched uranium, the two fission bomb fuels, and the equipment directly needed to make them. The list does not cover the hundred or so other commodities, such as nuclear weapon triggers, that are used to make or test nuclear bombs but do not produce bomb fuel. Such commodities are known as "dual-use items"—they also have civilian applications. Treaty members have consistently refused to expand the treaty's list to cover these items.

The European Community probably won't work either. Although it already contains the NATO countries, and may soon bring in Eastern Europe, it is still in the formative stages, has many other issues to face and has little competence in export control. Furthermore, the United States has no official access to EC deliberations.

The best choice for controlling nuclear commodities is as new Cocom—with a new mission aimed at nuclear and missile nonproliferation instead of the East-West arms race. To make such a group work, the East Bloc would have to join.

But would it? Eastern Europe obviously won't join in order to obtain the technology that Cocom has already decontrolled. Now, the West must offer a different incentive. One such incentive is economic aid. Export controls would be a small price to pay for such a boost.

The second carrot in Western hands is the technology that Cocom still controls. Cocom could gradually exchange this technology for cooperation on North-South issues. This would appeal to the Soviet Union, which wants the technology and has its own special concerns about nuclear proliferation. There is no reason why the entire East Bloc could not become part of a new group (with a new name) that included Cocom and operated in the same informal way as Cocom does.

The new group would have two goals: keeping nuclear bombs and missiles out of the Third World, and promoting trade among its members. Trade would increase along with non-proliferation controls. Organizing this would take some work, and there would still be a transition period during which NATO members of the new group denied technology to Warsaw Pact members. The result, however, would be much better than spreading the bomb to the Third World.

EXHIBIT 1

[From the Washington Post, 27, 1990]

NIGHTMARE FROM THE '30s

(By Charles Krauthammer)

"I'll see to it that prices remain stable. That's what I have my storm troopers for." —Hitler, on inflation.

Hitler analogies are not to be used lightly. To be compared to Hitler is too high a compliment in evil to pay to most tyrants. The time has come, however, to bestow the compliment on a tyrant who is truly a nightmare out of the 1930s: Saddam Hussein, President (soon for life) of Iraq.

Hussein has a million-man army left over from the war he started with Iran, and he is itching to do something useful with it. So last week he threatened to attack a defenseless Arab neighbor, Kuwait, over a dispute he concocted about cash.

Kuwait, together with other Arab gulf states, sustained Hussein through his eight-year Iranian war with tens of billions of dollars in loans. Gratitude is not one of Hussein's strong points. He now accuses Kuwait of stealing Iraqi oil, and, together with another local pygmy (the United Arab Emirates), of destroying his economy by overproducing oil, thus driving down prices. His tiny neighbors are to return the stolen oil, unilaterally cut oil production and forgive all war debts (estimated at between $30 billion and $60 billion). Otherwise, he promises that "Iraqis will not forget the saying that cutting necks is better than cutting [one's] means of living."

What raises Hussein to the Hitlerian level is not just his unconventional technique—violence—for regulating prices. Nor is it merely his penchant for domestic brutality—the wholesale murder of political opponents, the poison gas attacks on his own Kurdish minority, the "Republic of Fear" (as a now anomymous expatriate calls his book on Hussein's Iraq) that he has constructed.

What makes him truly Hitlerian is his way of dealing with neighboring states. In a chilling echo of the '30s, Iraq, a regional superpower, accuses a powerless neighbor of a "deliberate policy of aggression against Iraq," precisely the kind of absurd accusation Hitler lodged against helpless Czechoslovakia and Poland as a prelude to their dismemberment.

The diplomacy practiced by the fascist powers of the '30s was to accumulate massive military power for translation into immediate gain—territorial, economic, political—through extortion and, if still necessary, war. Hussein has mastered the technique. As one Iraqi expert says, "Hussein has never met a weapon he didn't use."

Whether Hussein will in fact use his weapons against Kuwait will depend purely on whether or not he feels that he needs to occupy Kuwait in order to turn it into a vassal state. The threat alone might make it submit. But Kuwait is not Hussein's ultimate objective. Saudi Arabia is. The Saudis have a long history of acquiescing to regional bullies. If Hussein can successfully bully Kuwait and the Emirates, the Saudis will follow.

Saudi production decisions alone can make oil prices rise or fall dramatically. If Hussein could dictate not just Iraqi production but Saudi, Kuwaiti, Emirate and the rest of Arab gulf production, he would realize his fondest ambition. He would become not just King of the Gulf but King Oil.

Why should Americans care about this? Because King Oil's hostility to America is today unmatched in the world, except possibly for that of Iran, from whom the United States helped save Hussein during the Iran-Iraq war. (The gratitude problem again.) Hussein's declared objective is to raise oil prices to at least $25 a barrel. Last week oil was $14 a barrel. Such an oil shock, not seen since the '70s, would be ruinous for Western economies, and in particular the U.S. economy, which now imports half of its oil.

Last week's thuggery finally jolted the Bush administration out of its policy of craven appeasement of Iraq. It has been resisting congressional efforts to punish Iraq by stopping subsidies for American-Iraqi trade. Perhaps now it will consider supporting Sen. Daniel Inouye's (D-Hawaii) bill denying all assistance and banning all trade with Iraq.

Hussein is roughly $80 billion in debt, and banks are not lending to him because he doesn't feel he has to pay loans back. It is because Iraq is hurting economicallly that Hussein has decided to solve his problem with storm troopers. A quarantine would kick him while he's (financially) down, which is the best time to kick a bully. Once he gains control of world oil prices, he will be much harder to stop.

Even if a quarantine does not stop him, however, there is an important lesson to be learned from Hussein's emergence as a world disturber. With the collapse of communism, it has become fashionable to believe that the use of force as a means to achieve political objectives has become obsolete. Force may indeed be obsolete in some places (Western Europe, for example). The Persian Gulf, however, is not such a place. And while Iraq begins its trust into the Gulf by sending 30,000 troops and tanks to the Kuwaiti border, Congress debates how much to cut the U.S. carrier fleet, our best deterrent against such regional thugs.

"The day of dictator is over," declared President Bush in his Inaugural Address. In many places, yes. But it is precisely because in some places dictators remain, massively armed and practiced in Hitler's formula for turning arms into power, that his heady time is no time for disarmament.

Hussein will undoubtedly be appeased this time. But there will be a next. Like all bullies, he will in the end be deterred only by superior force. We had better make sure we have it.

The PRESIDING OFFICER (Mr. PRYOR). Who yields time?

Mr. GRAMM. I yield 5 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

The Senate will be in order.

Mr. BENTSEN. Mr. President, I thank my colleague.

Let us stipulate on a few things. Saddam Hussein is an outrage. The

man is a dictator, he is a man who has used chemical weapons, he violates human rights. He is a man who is looking at the Middle East, at Kuwait, not stopping there but also looking at Saudi Arabia. If that man was in control of the oil supplies of the Middle East our problems in this country would be horrendous. So let us accept that and understand that.

But let us also understand we do not have a monopoly on food in the world. We do not have exclusive control of it. We should never put an embargo on, we should never indulge in sanctions, unless we hurt the other fellow worse than we hurt ourselves. That is basic. Yet that is not the result of what has been proposed in the previous amendment. That is why it needs the kind of modification that my colleague from Texas is talking about bringing about.

Let us look at some of the sanctions and embargoes we put on in the past. I can remember when I was here early on in my service in the Senate, when President Nixon put an embargo on soybeans going to Japan. What was the result? The Japanese went down and spent $1.5 billion in Brazil to develop soybean production, and that is our No. 1 competitor in that market today. We were the ones that were hurt, not the Japanese at that point that Nixon was trying to make a point with.

Then what happened when President Carter came along? Then he wanted to put an embargo on the sale of wheat to Russia because we did not agree with their policies at that moment. And what happened? Down in Argentina they put the plow to a lot of ranch land. In Canada they opened up a lot more farmland to the production of wheat. And, once again, it was our farmers who were hurt and it was not the Russians. We were the ones who were damaged. We did not accomplish our objective.

Then along comes President Reagan and you have a pipeline bringing gas from Russia into Western Europe. And he wanted to have a foreign policy directed against the Russians so he put an embargo on the export of a lot of those things that would be used to build that pipeline.

One of them was Caterpillars, in effect. It was almost the demise of the Caterpillar factory. And along came Komatsu in Japan developing competition of size by being able to sell their Caterpillars, the equivalent of a Caterpillar, to build that pipeline.

Once again, it was this country that was hurt, not the Russians that were hurt. Now what we are looking at is Thailand and Australia, ready to step in and take over some of those markets, developing some of the same kinds of incentives to move into those markets and take over that market share. Once they take it, it is tough to get it back.

I think my friends make a valid point when they talk about incentives. I listened to the distinguished Senator from Kansas make her point, a good point, when you use the taxpayers' dollars to try to sell these things.

What my friend from Texas is talking about is once you take a look at that and then see what the competitive market is, can Iraq then go buy from another country for an equivalent price? If they can, and I am convinced they will be able to, frankly, then we have not accomplished our objective at all. Once again, we have not hurt them worse than we have hurt ourselves.

We saw this country go from the No. 1 creditor Nation in the world to the No. 1 debtor Nation in the world, and it happened in just 3 years. We saw the credit ratings of our country go down and our interest rates go up. It is tougher and tougher to sell our securities. That is what happens when we use an ineffective tool to try to determine foreign policy. Do I agree with the dangers of this man? Absolutely, I agree.

One of the reasons we cannot afford unilateral disarmament in this country, one of the reasons we need a mobile strike force in the military force is because we are always going to have one of these characters around. Look at the records of the Saudis and the Kuwaitis, who are not militarily strong, who have a tendency to try to buy off the aggressor or whomsoever threatens them at the moment. That is the way they will move.

This man will gain more power as we go along unless we find a more effective way to call his hand and deny him the ability to buy something that he can buy from someone else at an equivalent price. And if he cannot, then let us not waive it. Let us go ahead with the D'Amato and the DeConcini thrust and obtain whatever objectives we can in that regard.

Mr. President, I understand the frustration of wanting to bring this fellow to heel, to be a responsible member of world society, but let us find an effective way to do it that accomplishes our objective and one that hurts him more than it hurts us.

Thank you very much.

Mr. COHEN. Mr. President, I yield the Senator from Minnesota 2 minutes.

Mr. BOSCHWITZ. Mr. President, if this were an embargo, the way the Senator from Texas is calling it, I would be standing with him. It is not an embargo. He said we are denying the ability of the Iraqis to purchase goods from us; we are not doing that at all. We are just saying that we should not give them Commodity Credit Corporation credit guarantees. Indeed, I am with the Senator from New York and the Senator from Maine in regard to that.

The distinguished chairman of the Finance Committee talked about the embargo on soybeans during the Nixon time which resulted in a great investment by the Japanese and Brazil. That indeed, did happen. The Senator is right. But this is not an embargo. This is merely saying that we are not going to give them GSM credits. If they want to buy, fine, but they have to pay cash or they have to get credit elsewhere.

In the case of the Japanese, I say to my colleague, I remind him that the Japanese, as pragmatic as they are, do not give credit to the Russians because of foreign relations or foreign-policy considerations.

This is just a question of whether or not we extend credit to the Iraqis in view of what they are doing in the world, in view of their attitudes, in view of what they are doing to their neighbors that was so well covered by my distinguished colleagues from Maine.

I say no, we should not give credit. I say that our credits are limited in the first place, and that this time we should apply those credits to other buyers, but not to Saddam Hussein of Iraq.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Texas.

Mr. GRAMM. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. GRAMM. Mr. President, let me make a brief statement. The credit is to the American farmer, not to Iraq. Denying credit is denying sales. This amendment simply makes us look to see once we have drawn the gun and threatened somebody to be sure we have not threatened to shoot ourselves.

I ask unanimous consent that Senator CONRAD be added as a cosponsor, and I yield the remainder of my time to my distinguished colleague from North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, there is no question about the character of Saddam Hussein. That is not the issue before us. The question is, What do we do about the things that we find reprehensible in his actions? The proposal before us it to cut off food. We cut off our ability to sell to Iraq.

But do we not learn? We have tried this before. We all recall when we attempted to punish the Soviet Union for their invasion of Afghanistan by cutting them off. And what did we learn? Who was hurt? Did we hurt the Soviets? Oh, no; they were able to go elsewhere and buy the grain that they needed. But we did hurt someone. The evidence is quite clear on that. We

hurt the farmers in this country who were unable to meet the Soviet demand.

Soviets bought elsewhere; the Iraqis will buy elsewhere. We will not have hurt the target of our anger and animosity. We will have hurt ourselves. Do we not learn?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas has 32 seconds remaining.

Mr. GRAMM. Mr. President, I ask unanimous consent that Senator MCCLURE and Senator SYMMS be added as cosponsors.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. COCHRAN. Mr. President, Iraq will import agricultural and wood products, with or without United States credit or financial assistance. However, without access to United States credit guarantees, Iraq will turn to other countries for their agricultural imports.

Iraq accounts for one-fourth of commercial United States rice exports. Since 1983, Iraq has purchased more than $4.5 billion of United States agricultural products. In 1983, Iraq purchased approximately $215 million in sales of agricultural commodities which were guaranteed by the Commodity Credit Corporation. Program levels increased each year and reached a high in 1989 of $1 billion in 1989.

Effective market development activities, such as the export credit guarantee program, have allowed the United States to penetrate the Iraqi rice market.

I support the amendment offered by the Senator from Texas [Mr. GRAMM]. I urge all Senators to support this amendment.

Mr. GRAMM. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to make two points. First, this is not an embargo, and that has been stated. I know what has not been stated during the course of the debate. Many referred to our embargo of grain at the time of the Soviet invasion of Afghanistan. The Soviet Union was not receiving any credits. They never have since the Jackson-Vanik legislation for credit sales. That was grain that was totally embargoed that the Soviets were paying hard cash for. We are not stopping sales of grain to Iraq that would be paid for with cash in Iraq. These are simply sales that would go through the Commodity Credit Corporation.

Mr. President, there is no one who feels more strongly than myself that food should not be used as a weapon. But as I said last night, there comes a time when I think we have to stand up and be counted. It is not just food we are dealing with in this amendment; it is also banning the sale of weapons that are on the munitions list, as well as weapons equipment that has dual use purposes.

I think the Senator from Texas made a very good point when he said we must find an effective way to call the hand of the President of Iraq, Saddam Hussein. This will not be effective, I will certainly concur, unless we can get other major trading nations to stand with us.

I think, Mr. President, that is the type of leadership that we must exert at this point.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I inquire how much time remains?

The PRESIDING OFFICER. Two minutes fifty-two seconds remaining.

Mr. COHEN. I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I would like to make several observations. I did not intend to speak, but let me first commend the Senator from Maine for his presentation because, once again, we stand at a threshold of history where we see the bullies of the world and a military dictator—that is what he is—who suppresses his own people—by the way, whose sensibility is just like Hitler. He is offended if someone does not call him "His Imperial Highness," "His Majesty," praise him with the most laudatory expressions. This is no President. This guy is a butcher, and his sensibilities are offended when we call him a mad dog. He is a mad dog. Imagine, his sensibilities are offended. A fellow who gases children, women, his own people, and he is upset if we call him mad dog. He is a killer, a murderer, a bully, and at some point in time we are going to have to take a stand and not let him continue. I do not know when that is going to be.

But let us talk about this Commodity Credit Corporation. We are going to loan him millions and he already owes us $2 billion. Do you think we are going to get paid? This is not a loan. We are backing this up. We are not going to get paid. He does not have the money. He does not have revenues to pay us. When eventually he threatens the sheikdom, we will do something, if we can. It is like Hitler going into Czechoslovakia: Do not rock the boat. When he drives the price of oil up to $30, $40, $50, we will have to do something.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. Mr. President, I support the position of the Senator from Maine. I think it is about time we stood tall.

Mr. GRAMM. Mr. President, the amendment before us, which I seek to amend, is threatening the terrible bully the Senator from New York alludes to by pulling a gun, putting it to your head and saying, "If you threaten me, I'll shoot myself."

Mr. President, it did not work with regard to Afghanistan. It will not work here. This simply assures that we are hitting him with the bullet and not ourselves.

Mr. COHEN. Mr. President, I just have a few seconds left and let me say that at one point in our history we heard the tap tap tap of Neville Chamberlain's umbrella on the cobblestones of Munich. Now we are about to hear the rumble of the farm tractor on the bricks of Baghdad.

Make no mistake about it, we are following a policy of appeasement and we are never going to lead in the fight against terrorism. We are never going to lead in the fight against the spread of chemical weapons or that of high military technology, because of the argument that our allies are unwilling to follow our example. Therefore, we are left with the argument that we must follow the herd, follow it right down the path of feeding Saddam Hussein while he continues to terrorize, attack, gas, or simply threaten to do so. This is a policy of appeasement that will go unchallenged for years to come if we accept the arguments offered by the Senator from Texas.

The PRESIDING OFFICER. The Chair reminds the Senator from Texas and the Senator from Maine that the yeas and nays have not been ordered.

Mr. COHEN. Mr. President, I move to table the amendment of the Senator from Texas.

Mr. BOSCHWITZ. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment (No. 2398) of the Senator from Texas. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Me. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "no."

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber who desire to vote.

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—57

Adams	Heinz	Moynihan
Akaka	Helms	Murkowski
Bingaman	Hollings	Nickles
Boschwitz	Humphrey	Nunn
Bradley	Inouye	Packwood
Bryan	Kassebaum	Pell
Byrd	Kasten	Reid
Cohen	Kennedy	Riegle
Cranston	Kerry	Robb
D'Amato	Kohl	Rockefeller
DeConcini	Lautenberg	Sanford
Dodd	Leahy	Sarbanes
Ford	Levin	Sasser
Fowler	Lieberman	Shelby
Garn	Mack	Specter
Glenn	McCain	Stevens
Gore	Metzenbaum	Warner
Graham	Mikulski	Wilson
Hatch	Mitchell	Wirth

NAYS—38

Baucus	Danforth	Kerrey
Bentsen	Daschle	Lott
Biden	Dixon	Lugar
Bond	Dole	McClure
Boren	Domenici	McConnell
Breaux	Exon	Pressler
Bumpers	Gorton	Pryor
Burdick	Gramm	Roth
Burns	Grassley	Simon
Chafee	Harkin	Simpson
Coats	Hatfield	Symms
Cochran	Heflin	Thurmond
Conrad	Jeffords	

NOT VOTING—5

Armstrong	Johnston	Wallop
Durenberger	Rudman	

So the motion to lay on the table the amendment (No. 2398) was agreed to.

Mr. BOSCHWITZ. I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

VOTE ON AMENDMENT NO. 2396, AS AMENDED

Mr. MITCHELL. Mr. President, this matter has been the subject of extensive debate and, again, without wishing to deter any Senator who wants to address the subject, we are trying to finish today, and may I suggest that we proceed to a vote immediately on the D'Amato amendment.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. Is there further debate on the amendment of the Senator from New York?

If there is no further debate, the yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from California [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 83, nays 12, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—83

Adams	Gorton	Mikulski
Akaka	Graham	Mitchell
Bentsen	Gramm	Moynihan
Biden	Grassley	Murkowski
Bingaman	Harkin	Nickles
Bond	Hatch	Nunn
Boschwitz	Hatfield	Packwood
Bradley	Heflin	Pell
Bryan	Heinz	Pressler
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Coats	Inouye	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerry	Sasser
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dixon	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Symms
Ford	Lugar	Thurmond
Fowler	Mack	Warner
Garn	McCain	Wilson
Glenn	McConnell	Wirth
Gore	Metzenbaum	

NAYS—12

Baucus	Chafee	Jeffords
Boren	Conrad	Kerrey
Breaux	Danforth	McClure
Bumpers	Exon	Pryor

NOT VOTING—5

Armstrong	Johnston	Wallop
Durenberger	Rudman	

So the amendment (No. 2396), as amended, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am about to propound a unanimous-consent request which has been cleared on both sides for three votes.

I would just note that most of the debate is taking considerably less time than the rollcalls. I hope maybe at some point we might be able to have 15-minute rollcalls because we are having 20-minute debates and 3-minute rollcalls and we are going to have quite a few more rollcalls today.

UNANIMOUS-CONSENT AGREEMENT

Mr. LEAHY. Mr. President, I ask unanimous consent that it next be in order for the Senator from Idaho [Mr. SYMMS] to bring up an amendment which is on the list from last night, for which there will be 20 minutes equally divided.

Upon the disposition of that amendment, that it be in order for the distinguished Senator from South Dakota [Mr. PRESSLER] to bring up an amendment on honey price supports, also on the list, with 15 minutes equally divided.

Upon the disposition of that amendment, that it be in order for the distinguished Senator from Pennsylvania [Mr. SPECTER] to bring up an amendment on imported fruit, which is also on the list and on which there would be 20 minutes equally divided.

Upon the disposition of that amendment, we will then see what new business we have. And also, upon the disposition of the Specter amendment, that the next amendment be a Great Lakes set-aside amendment by Senator GLENN; and further that on the Symms amendment, there be no amendments in order to the Symms amendment, leaving, of course, the right to either tabling the amendment or voting up-or-down, depending on where we are.

The PRESIDING OFFICER. The pending amendment is the Inouye amendment to the Glenn amendment. That amendment will have to be set aside.

Mr. LEAHY. I thank the Chair. I had forgotten that. I add that to the unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I do not object to any of the amendments that were proposed except for the Great Lakes set-aside. I have problems with that coming up as part of that list.

Mr. LEAHY. Mr. President, I withdraw that part of the unanimous-consent request and make my unanimous-consent request as it was with the exception of the Glenn amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request, as amended?

Mr. WILSON. Reserving the right to object, Mr. President. This is really a parliamentary inquiry. I did not hear all of the manager's statement. Does this include the Specter amendment, as well?

Mr. LEAHY. Mr. President, I will tell the distinguished Senator from California that the Specter amendment was the third on that list, with 20 minutes equally divided. The first amendment would be the Symms

amendment, then the Pressler amendment, then the Specter amendment.

Mr. WILSON. I thank the manager. I thank the Chair. I do not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2399

(Purpose: To require that the possibility of private property being "taken" for public purposes be assessed prior to imposition of regulations on the use of that property.)

Mr. SYMMS. Mr. President, on behalf of myself, Mr. WALLOP, Mr. HATCH, Mr. BURNS, Mr. MCCLURE, and Mr. NICKLES, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] for himself (Mr. WALLOP, Mr. HATCH, Mr. BURNS, Mr. MCCLURE, and Mr. NICKLES) proposes an amendment numbered 2399.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

"SEC. . PROTECTION OF PRIVATE PROPERTY.

"No regulation promulgated after the date of enactment of this Act by or under the authority of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army or the Administrator of the Environmental Protection Agency or their designees shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.".

Mr. SYMMS. Mr. President, I understand I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. SYMMS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. SYMMS. Mr. President, one of the reasons that the American farmers have been so successful is because of the basic premise of private property that we enjoy in the United States of America, something that farmers in many of the newly turned democracies of the world are anxiously seeking—private property, ownership of their own land. The formerly Communist bloc nations are just now realizing that private property is a critical part of a free and prosperous society. In its absence, there is no true stewardship of the land and its resources. Farmers do not see any reason to make the land produce efficiently, since they have no stake in it. The resulting economic depression from the lack of private property has rivaled Third World conditions.

And while the swift move in Eastern Europe toward private property ownership is well known, my colleagues should note that even the recently concluded Congress of the Communist Party in the Soviet Union voted to support a project that essentially provides property rights to certain farmers. In nearly every emerging democracy, the restoration of private property is widely hailed as the single most important agrarian reform on the agenda. Around the world, people are recognizing that the key to a competitive, productive agricultural sector is the kind of individual stewardship that comes through private property ownership.

America is lucky. Our Nation was founded with the concept of private property held sacrosanct. Adam Smith, the man hailed by James Madison as the author of The American System of Commerce and Trade," wrote:

the property which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable.

The great jurist Sir William Blackstone said this of private property:

So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community.

The fifth amendment of our Constitution expressly states that no person shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Supreme Court, in interpreting what this constitutional protection requires, declared nearly a century ago that "regulation may deprive an owner of beneficial use of his property and may destroy the values of the property for the purposes to which it is suited, even if the public interest is thereby greatly enhanced."—Hadacheck versus Sebastion, 1915. It was Justice Oliver Wendall Holmes who stated it clearest: "if regulation goes too far it will be recognized as a taking."

The U.S. Government, in its effort to implement the laws that we enact here in Congress, issues regulations daily—reams of them come streaming out of the Government Printing Office. In all of this regulation, it is not unreasonable to suspect that some of it may be treading very close to the private property rights of Americans, if not outright trampling on several. For some reason, the problem has become even more acute recently. The stories in the State of Idaho alone about farmers being told when, how or if they could cultivate their property raise a number of concerns. But I am told that these same stories are replete throughout the rest of the United States as well.

In my opinion, Mr. President, it is essential that we more clearly draw the line between "policing for the safety of others," and "taking for a public purpose." There are two ways that Congress might do this: First, roll back the aggressiveness of our national environment, health, public safety, civil rights and other laws so that they do not even come close to impinging on property rights; or second, allow them to proceed aggressively but rely on safeguards that ensure that, when they do inevitably "cross the line," the taking of private property is fairly compensated.

Mr. President, which is it that this Congress would prefer? Many of my colleagues in this body believe that our laws relating to the environment, health, safety, et cetera are not aggressive enough. I don't think they are about to "roll them back" just to ensure that private property is not infringed upon.

So that leaves us, as responsible legislators, with only one choice: to make sure that safeguards exist. If safeguards exist, ensuring that when our aggressive regulation does cross that line into "taking private property," we are ready and prepared to offer just compensation, then we can enforce those regulations with as much animation and vigor as anyone in the body may desire. If safeguards do not exist, then we erode the sanctity of private property, embroil the Government in needless legislation, and leave the taxpayer at the mercy of the claims court because of our haste to regulate.

The amendment I am offering today is very simple, even though its opponents may try to make it sound complex. I simply propose that the agencies most likely to regulate farmers set up administrative or procedural safeguards to assess whether their regulation may result in taking private property, and to avoid that result whenever possible. Since the Justice Department is the entity that eventually must defend the Federal Government in a takings case, the requirements of the amendment are satisfied merely by having the Attorney General "certify" that an agency's built-in safeguards are adequate.

The amendment requires that these safeguards, and I quote from the amendment, "assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible." Now, if the President desired to establish such a process from scratch, he could do so.

But, fortunately, we already have such a safeguard in Executive Order 12630. That executive order was prepared immediately following two im-

portant Supreme Court cases that significantly expanded the interpretation of what constitutes a taking of private property. It is a tried and tested document, that has won the strong support and endorsement of many farmers and ranchers in the regulated community. A glowing editorial in the Farm Bureau News described the Executive order this way:

On March 15, 1988, then President Reagan signed Executive Order 12630, "Governmental Actions and Interference With Constitutionally Protected Property Rights." The order targets the just compensation clause of the Fifth Amendment to the Constitution, which provides that private property shall not be taken for public use without just compensation. The specific concern was that governmental actions, other than condemnations of property, could result in a taking of property for which compensation is required.

The order requires Federal departments and agencies to take into account what effects their proposals or programs would have on private property rights.

The Executive order has been fairly well recognized as a wise and prudent mechanism for assuring that regulations are "well thought out" in advance. Current EPA Administrator William Reilly has described it this way:

The purpose of the executive order is to ensure that governmental decisionmakers evaluate carefully the effect of their actions on constitutionally protected property rights and thereby avoid unnecessary takings.

Administrator Reilly has voiced staunch support for the basic goals of the Executive order, noting that "Governmental agencies must be sensitive to the rights of property owners and must not unconstitutionally interfere with the use of private property." Just for the record, Mr. President, I am quoting Mr. Reilly from a letter he sent to the Honorable John McClaughry of the Vermont State Legislature dated September 6, 1989.

Whether through the Executive order or not, my amendment would reinforce this existing simple procedure, ensuring that the laws we have enacted will not trample on the critical and constitutionally derived private property rights that are at the foundation of America's great agricultural productivity.

Mr. President, I have letters endorsing this amendment from the American Farm Bureau Federation, the National Cattlemen's Association, and the American Agriculture Movement.

I also, for the record, want to point out that the text of this amendment is the result of over a week of negotiation and discussion with all of the affected agencies of the Federal Government and the principal legal authorities of the administration. The amendment as drafted is supported by all agencies of the Federal Government, including the Department of Agriculture and the Environmental Protection Agency, by the Attorney General, the Office of Management and Budget, and the White House counsel. I might also add that the President and Vice President themselves have expressed support for the procedures established in the Executive order.

Mr. President, finally, before yielding the floor, I would like to make just one comment about the potential opposition to this amendment. I doubt at this point that the arguments advanced are even relevant to the amendment I have offered. The final language of the amendment, complete with the approval of the Environmental Protection Agency, was only developed late last night. And yet I know that many of the little "dirt" sheets put together to "oppose the Symms amendment on property rights" were distributed days earlier. Claims like, "the amendment creates inappropriate causes of action," or "it could burden with procedural obstacles the rulemaking process," or "it codifies an entire Executive order by reference" are all concerns that came up in the course of my discussions with the administration, and it is the belief of all those agencies involved that none of the concerns now applies to the amendment before the Senate.

Mr. President, I am going to reserve the remainder of my time.

I ask unanimous consent to print in the RECORD a letter from the American Farm Bureau Federation, the National Cattlemen's Association, from the American Agriculture Movement, an article by Doug Bandow, "Property Protection at Risk?" and, Mr. President, I ask unanimous consent that the Executive order itself No. 12630, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, July 20, 1990.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Executive Order 12630, issued by President Reagan on March 16, 1988, requires federal executive agencies to consider possible taking implications (confiscation of private property) of agency action. The American Farm Bureau Federation staunchly supports the Executive Order and its implementation.

The Executive Order is premised on two basic, fundamental principles which are of paramount importance to every American. The Order merely requires that federal executive agencies consider these fundamental principles in their decision making.

First and foremost, the Executive Order is premised on the Fifth Amendment to the Constitution. That amendment, in part, requires that private property shall not be taken for public use without just compensation. It is the cornerstone upon which our founding fathers sought to protect private property rights which are an integral part of the American way of life. In this regard, the Executive Order does not require anything that federal agencies should not already consider in their decision making. The Executive Order merely provides a formal framework for considering the property rights of private citizens, a principle which many people feel has been neglected to some extent in the rush to bigger and more pervasive government.

The Executive Order does not require any particular course of action. Rather, it merely requires that federal agencies consider the impacts of their decision making on private property rights and take "the least intrusive alternative." The upshot of such a requirement is to balance the legitimate needs of government with the private property rights of individuals.

It is clearly not the intention of Executive Order No. 12630 to undermine any particular program or program area. Such programs will only be affected to the extent that they might run afoul of private property rights and the Fifth Amendment. In those cases, the Constitution would require that such programs should be affected. Moreover, federal officials should be concerned about the impacts their programs will have on private property rights of taxpayers.

In those cases where the legitimate needs of government might need to affect the private property rights of individuals, the founding fathers, through the Fifth Amendment, require that those private property rights be compensated. Actions which are in a "public interest" should be paid for by the general public, not by one segment of the population (such as farmers and ranchers) who are most directly and adversely impacted by the action. The thrust of the Executive Order merely reinforces this concept directed by our Constitution.

The second impact of the Executive Order is again one of which both our government and all American citizens should be cognizant—the impact of just compensation requirements on the federal budget. The American Farm Bureau is concerned about the budget deficit and the rising costs of government. Every sector of government is looking for ways to cut costs and to prevent needless expenditure of funds. By requiring federal agencies to pay close attention to the Fifth Amendment implications of their actions, the Executive Order addresses this concern. It requires federal agencies to "think before they act" so as to minimize possible governmental costs associated with Fifth Amendment compensation claims.

The actual awards paid out of the judgment fund for Fifth Amendment claims, while not definitely quantified, are often irrelevant. That is because for every dollar paid in awards, there are many more dollars spent by our government in procesing claims, and in legal costs and fees in litigating those claims. Additional costs to the government also result from the withdrawal of productive industry in order to preserve the "public purpose" for which such lands are withdrawn. The often adversarial nature of these proceedings also has a more indirect but nonetheless important social cost—the feeling of mistrust or open hostility toward our federal government from those that are directly affected by the confiscation of their property. All of these costs are important, and all of these costs should be considered by any federal agency which seeks to use private property for public purposes.

Rather than hindering the efficient and productive operation of our government, the Executive Order actually enhances its operation by reminding federal decision

makers of their responsibilities under the Fifth Amendment of the Constitution and of the costs of their actions. It does nothing more than any statute which has ever been passed by our government seeks to do—administer government in accordance with the requirements of our Constitution. In any government "of the people, by the people, and for the people," private property interests of the people themselves must be considered. That is all the Executive Order seeks to accomplish.

We strongly urge your support of an amendment to the farm bill to ensure that the intent of Executive Order 12630 is carried out in future regulatory proceedings. We appreciate your support and consideration of this important matter.

Sincerely,

JOHN C. DATT,
Executive Director, Washington Office.

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, July 19, 1990.

Hon. STEVE SYMMS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SYMMS: The National Cattlemen's Association (NCA) expresses strong support for your amendment on Executive Order #12630 concernig "takings" by government.

Executive Order #12630 is an important tool for avoiding federal action which unnecessarily transgresses private property rights and for reducing unnecessary federal spending. It in no way limits federal agencies authority to regulate or to fulfill any legislative mandates. However, Executive Order #12630 requires federal decisionmakers to assess the potential impact of their action on private property rights before they finalize their action. Thorough compliance with the order as stipulated by your amendment would significantly help minimize inadvertent transgression of constitutionally guaranteed private rights.

NCA has long been a staunch defender of private property rights without which U.S. cattle and all agricultural production would have no foundation. Federal compliance with Executive Order #12630 would be a strategic step toward balancing government action and protection of private rights.

We commend you for your realization of the importance of this Executive Order and we appreciate your initiative in sponsoring this amendment.

Sincerely,

JOHN W. LACEY,
President.

AMERICAN AGRICULTURE MOVEMENT, INC.
Washington, DC, July 27, 1990.

DEAR SENATOR: The American Agriculture Movement, Inc. (AAM) vigorously supports Senator Steven Symms' amendment to S. 3820 on Executive Order #12630 concerning "takings" of private property by the Federal Government.

The decade of the 80's saw American's farmers loss 25 to 50% of their net equity do to low commodity prices, inadequate government programs, falling land and equipment prices, and many other factors beyond their control. It now appears that the decade of the 90's may see America's farmers loss another 25 to 50% of their net equity due to the outright taking of their land by the federal government. Most of this "taking" is due to an attempt by some agencies of the government to preserve our wetlands and enforcement of the federal clean water act. The problem as we see it is that these agencies are using wetlands delineation, clean water, and other laws as a way to take control of vast areas of farmland, much of which has been farmed for decades and has nothing to do with permanent wetlands.

Executive order #12630 requires agencies to assess the possibility that private property is being taken in the course of regulating it. It would be very beneficial to America's farmers and private property owners if this order was enforced by law.

AAM therefore proclaims its full support for the Symms amendment to force compliance of executive order #12630.

Sincerely,

DAVID SENTER,
National Director.

[From the Washington Times, July 10, 1989]

PROPERTY PROTECTION AT RISK?

(By Doug Bandow)

Despite the dramatic sound and fury of the "Reagan Revolution," very little of the former president's policies remain. For all his rhetorical success, President Reagan's legacy has largely been written in the sand.

One area where the Reagan administration continues to have an impact, however, is an enhanced appreciation of the need to protect property owners from federal encroachments. In March 1988, Mr. Reagan issued an executive order requiring agencies to conduct a "takings-implication assessment" whenever regulations might result in a taking of private land.

The assessment must include an analysis of the risk that a taking will occur, any alternatives that would not violate property rights, and the likely cost of compensation. Departments also are to deduct from their budgets any payments made to owners. Says Justice Department lawyer James Brookshire, the order is a "think-before-you-act" measure.

It's difficult to imagine how anyone could object to such a rule. Why shouldn't agencies figure out in advance the likely cost of their actions, as well as alternatives that may accomplish the same ends less expensively? Nevertheless, a group of 10 congressional committee and subcommittee chairmen are "studying" the issue. One staff member says they are concerned that the executive order seeks to amend existing laws "by executive fiat."

But the Constitution takes precedence over statutes, and the Constitution requires the federal government to respect private property rights. For the founders recognized that the right to own property is not subordinate to other "human" rights, but instead is the foundation of all human rights.

And for roughly 150 years, the federal courts implemented the constitutional provisions protecting economic liberties. The right to contract, limitations on federal authority to interfere with intrastate commerce, and particularly the prohibition of unjustified takings of private property were generally enforced.

But the Great Depression led to a president and a Congress dedicated to a new collectivist economic philosophy. And the Supreme Court, despite its relatively independent position, proved that it does follow the election returns. In 1937 occurred the famous "switch in time that saved nine," after which constitutional protection for economic liberties went the way of the Dodo Bird.

For a time the Public Use Clause, which so explicitly limits the power of government to seize private property, retained some potency. However, judges eventually began validating increasing numbers of property seizures for virtually any purpose. Five years ago, in an opinion authored by Reagan appointee Justice Sandra Day O'Connor, the Supreme Court allowed the state of Hawaii to seize land to redistribute from landlords to renters, With that case, Hawaii Housing Authority vs. Midkiff, the federal constitutional restrictions on eminent domain became virtually meaningless.

Since then, however, another Reagan appointee, Antonin Scalia, has helped revive the Public Use Clause. He joined the majority in one case two years ago in ruling that even temporary takings had to be compensated. And in a second case he wrote an opinion preventing the California Coastal Commission from committing what the five-member majority called "an out-and-out plan of extortion" by using regulatory restrictions to effectively take land.

Though the court has yet to block the government from seizing property it is prepared to pay for, the requirement that compensation be paid for all takings places a significant restraint on meddlesome public officials. For if agencies can regulate someone's land without consequence, they will inevitably ignore his rights. But if they have to pay, they will more carefully balance costs against benefits.

The federal executive order has the same effect. Jan Goldman-Carter, an attorney with the National Wildlife Federation, complains that, "You're going to have the very people who should be out there protecting wetlands in their offices worrying about whether they might be making a taking," but the Constitution requires that they worry about it. All the executive order does is ensure that statutes comply with the nation's fundamental law.

In recent decades, federal officials have grown used to acting without concern for the consequences of their actions. Mr. Reagan's executive order helps change that by forcing them to keep the Constitution in mind before grabbing someone's land. That may make some special interests and congressmen unhappy, but so what? The president's highest duty is to enforce the Constitution, not placate the noisy statist activists who infest the nation's capital. (Doug Bandow, a senior fellow at the Cato Institute, is a nationally syndicated columnist.)

EXECUTIVE ORDER 12630—GOVERNMENTAL ACTIONS AND INTERFERENCE WITH CONSTITUTIONALLY PROTECTED PROPERTY RIGHTS, MARCH 16, 1988

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure that government actions are undertaken on a well-reasoned basis with due regard for fiscal accountability, for the financial impact of the obligations imposed on the Federal government by the just Compensation Clause of the Fifth Amendment, and for the Constitution, it is hereby ordered as follows:

Section 1. Purpose.—(a) The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation. Government historically has used the formal exercise of the power of eminent domain which provides orderly processes for paying just compensation, to acquire private

property for public use. Recent Supreme Court decisions, however, in reaffirming the fundamental protection of private property rights provided by the Fifth Amendment and in assessing the nature of governmental actions that have an impact on constitutionally protected property rights, have also reaffirmed that governmental actions that do not formally invoke the condemnation power, including regulations, may result in a taking for which just compensation is required.

(b) Responsible fiscal management and fundamental principles of good government require that government decision-makers evaluate carefully the effect of their administrative, regulatory, and legislative actions on constitutionally protected property rights. Executive departments and agencies should review their actions carefully to prevent unnecessary takings and should account in decion-making for those takings that are necessitated by statutory mandate.

(c) The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing planning, and implementing actions with due regard for the constitutional protections provided by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fisc resulting from lawful governmental action. In furtherance of the purpose of this Order, the Attorney General shall, consistent with the principles stated herein and in consultation with the Executive departments and agencies, promulgate Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings to which each Executive department or agency shall refer in making the evaluations required by this Order or in otherwise taking any action that is the subject of this Order. The Guidelines shall be promulgated no later than May 1, 1988, and shall be disseminated to all units of each Executive department and agency no later than July 1, 1988. The Attorney General shall, as necessary, update these guidelines to reflect fundamental changes in takings law occurring as a result of Supreme Court decisions.

Sec. 2. Definitions. For the purpose of this Order: (a) "Policies that have takings implications" refers to Federal regulations, proposed Federal regulations, proposed Federal legislation, comments on proposed Federal legislation, or other Federal policy statements that, if implemented or enacted, could effect a taking, such as rules and regulations that propose or implement licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property. "Policies that have takings implications" does not include:

(1) Actions abolishing regulations, discontinuing governmental programs, or modifying regulations in a manner that lessens interference with the use of private property;

(2) Actions taken with respect to properties held in trust by the United States or in preparation for or during treaty negotiations with foreign nations;

(3) Law enforcement actions involving seizure, for violations of law, or property for forfeiture or as evidence in criminal proceedings;

(4) Studies or similar efforts or planning activities;

(5) Communications between Federal agencies or departments and State or local land-use planning agencies regarding planned or proposed State of local actions regulating private property regardless of whether such communications are initiated by a Federal agency or department or are undertaken in response to an invitation by the State or local authority.

(6) The placement of military facilities or military activities involving the use of Federal property alone; or

(7) Any military or foreign affairs functions (including procurement functions thereunder) but not including the U.S. Army Corps of Engineers civil works program.

(b) Private property refers to all property protected by the Just Compensation Clause of the Fifth Amendment.

(c) "Actions" refers to proposed Federal regulations, proposed Federal legislation, comments on proposed Federal legislation, applications of Federal regulations to specific property, or Federal governmental actions physically invading or occupying private property, or other policy statements or actions related to Federal regulation or direct physical invasion or occupancy, but does not include;

(1) Actions in which the power of eminent domains of formally exercised;

(2) Actions taken with respect to properties held in trust by the United States or in preparation for or during treaty negotiations with foreign nations;

(3) Law enforcement actions involving seizure, for violations of law, of property for forfeiture or as evidence in criminal proceedings;

(4) Studies or similar efforts or planning activities;

(5) Communications between Federal agencies or departments and State or local land-use planning agencies regarding planned or proposed State or local actions regulating private property regardless of whether such communications are initiated by a Federal agency or department or are undertaken in response to an invitation by the State or local authority;

(6) The placement of military facilities or military activities involving the use of Federal property alone; or

(7) Any military or foreign affairs functions (including procurement functions thereunder), but not including the U.S. Army Corps of Engineers civil works program.

Sec. 3. General Principles. In formulating or implementing policies that have takings implications, each Executive department and agency shall be guided by the following general principles:

(a) Governmental officials should be sensitive to, anticipate, and account for, the obligations imposed by the Just Compensation Clause of the Fifth Amendment in planning and carrying out governmental actions so that they do not result in the imposition of unanticipated or undue additional burdens on the public fisc.

(b) Actions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use, may constitute a taking of property. Further, governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property and even if the action constituting a taking is temporary in nature.

(c) Government officials whose actions are taken specifically for purposes of protecting public health and safety are ordinarily given broader latitude by courts before their actions are considered to be takings. However, the mere assertion of a public health and safety purpose is insufficient to avoid a taking. Actions to which this Order applies asserted to be for the protection of public health and safety, therefore, should be undertaken only in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety purpose.

(d) While normal governmental processes do not ordinarily effect takings, undue delays in decision-making during which private property use is interfered with carry a risk of being held to be takings. Additionally, a delay in processing may increase significantly the size of compensation due if a taking is later found to have occurred.

(e) The Just Compensation Clause is self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation. Accordingly, governmental actions that may have a significant impact on the use or value of private property should be scrutinized to avoid undue or unplanned burdens on the public fisc.

Sec. 4. Department of Agency Action. In addition to the fundamental principles set forth in Section 3, Executive departments and agencies shall adhere, to the extent permitted by law, to the following criteria when implementing policies that have takings implications:

(a) When an Executive department or agency requires a private party to obtain a permit in order to undertake a specific use of, or action with respect to, private property, and any conditions imposed on the granting of a permit shall:

(1) Serve the same purpose that would have been served by a prohibition of the use or action; and

(2) Substantially advance that purpose.

(b) When a proposed action would place a restriction on a use of private property, the restriction imposed on the use shall not be disproportionate to the extent to which the use contributes to the overall problem that the restriction is imposed to redress.

(c) When a proposed action involves a permitting process or any other decision-making process will interfere with, or otherwise prohibit, the use of private property pending the completion of the process, the duration of the process shall be kept to the minimum necessary.

(d) Before undertaking any proposed action regulating private property use for the protection of public health or safety, the Executive department or agency involved shall, in internal deliberative documents and any submissions to the Director of the Office of Management and Budget that are required:

(1) Identify clearly, with as much specificity as possible, the public health or safety risk created by the private property use that is the subject of the proposed action;

(2) Establish that such proposed action substantially advances the purpose of protecting public health and safety against the specifically identified risk;

(3) Establish to the extent possible that the restrictions imposed on the private property are not disproportionate to the extent to which the use contributes to the overall risk; and

(4) Estimate, to the extent possible, the potential cost to the government in the

event that a court later determines that the action constituted a taking.

In instances in which there is an immediate threat to health and safety that constitutes an emergency requiring immediate response, this analysis may be done upon completion of the emergency action.

Sec. 5. Executive Department and Agency Implementation. (a) The head of each executive department and agency shall designate an official to be responsible for ensuring compliance with this Order with respect to the actions of that department or agency.

(b) Executive departments and agencies shall, to the extent permitted by law, identify the takings implications of proposed regulatory actions and address the merits of those actions in light of the identified takings implications, if any, in all required submissions made to the Office of Management and Budget. Significant takings implications should also be identified and discussed in notices of proposed rule-making and messages transmitting legislative proposals to the Congress, stating the departments and agencies' conclusions on the takings issues.

(c) Executive departments and agencies shall identify each existing Federal rule and regulation against which a takings award has been made or against which a takings claim is pending including the amount of each claim or award. A "takings" award has been made or a "takings" claim pending if the award was made, or the pending claim brought, pursuant to the Just Compensation Clause of the Fifth Amendment. An itemized compilation of all such awards made in Fiscal Years 1985, 1986, and 1987 and all such pending claims shall be submitted to the Director, Office of Management and Budget, on or before May 16, 1988.

(d) Each Executive department and agency shall submit annually to the Director, Office of Management and Budget, and to the Attorney General an itemized compilation of all awards of just compensation entered against the United States for takings, including awards of interest as well as monies paid pursuant to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601.

(e)(1) The Director, Office of Management and Budget, and the Attorney General shall each, to the extent permitted by law, take action to ensure that the policies of the Executive departments and agencies are consistent with the principles, criteria, and requirements stated in Sections 1 through 5 of this Order, and the Office of Management and Budget shall take action to ensure that all takings awards levied against agencies are properly accounted for in agency budget submissions.

(2) In addition to the guidelines required by Section 1 of this Order, the Attorney General shall, in consultation with each Executive department and agency to which this Order applies, promulgate such supplemental guidelines as may be appropriate to the specific obligations of that department or agency.

Sec. 6. Judicial Review. This Order is intended only to improve the Internal management of the Executive branch and is not intended to create any right or benefit, substative or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

RONALD REAGAN.

THE WHITE HOUSE, *March 15, 1988.*

Mr. SYMMS. Mr. President, I yield 5 minutes to the distinguished senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I thank my colleague for the authorship and the work he has done on this amendment. The concept of private property is more than just a relic of America's history. It is a principle the Founding Fathers held sacrosanct, one they saw fit to protect in the Bill of Rights.

Beyond just a philosophical constitutional law, private property has proven through the years to be a very positive element of our society. Much of America's strength lies in the fact that Americans own their own property and not the Government. That means that they are the stewards, so to speak, of their land. The productivity of their farms and ranches is up to them. If they use their property wisely and productively, they are the ones who benefit. If they abuse and neglect their property, they are the ones who suffer.

I believe that any regulatory action that undermines private property will inevitably prove to be bad policy. That is why I support the amendment of the junior Senator from Idaho. The amendment will provide for continued checks and balances on the regulations that affect the property of farmers and ranchers. The amendment makes it clear that the agencies issuing these regulations should have their own internal guidelines, safeguards, and procedures for assessing and reducing where possible the taking of private property. The Attorney General is required to oversee these procedures, to certify on an ongoing basis that they accomplish their intended goals. I believe my assessment of the Senator's amendment is correct.

Mr. SYMMS. The senior Senator from Idaho is correct.

Mr. McCLURE. I see no reason to oppose such an amendment. Having procedures in place to prevent unnecessary taking of private property is only common sense. Anything else is not only dangerous to our tradition of private property ownership—it is irresponsible government. An agency that does not follow such guidelines, especially those established by the President as being necessary to safeguard against entangling litigation and potential claims against the public fisc, is being arbitrary and capricious in its administrative procedure, wasting the time and resources of the Government. A policy of prudent anticipation, so as to avoid impinging on the rights of private property owners if at all possible, is absolutely essential. I strongly urge my colleagues to support the amendment.

Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield 3 minutes to the distinguished Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is a very curious amendment. The President of the United States issued an Executive order. For some curious reason now, they are saying that this Executive order will have to go through clearance, approval in some fashion by the Attorney General of the United States.

The Attorney General is to certify—it is not exactly clear what that means—that the agencies are in compliance with the Executive order on takings or similar procedures. In other words, the Executive order on takings or similar proceedings, whatever that means.

What the Symms amendment does is to insert the Department of Justice into all regulatory decisions, decisions, and it specifically says by the Department of the Interiror, the Department of the Army, the Department of Agriculture, and the Environmental Protection Agency.

These agencies already have to comply with the Executive order. If these agencies already have their regulations in compliance with the Executive order, why should the Justice Department suddenly become a gatekeeper, a bottleneck in the process, the ability to veto any regulations to which it objects?

One of the most troublesome aspects of the Symms amendment is the open-ended blanket authority granted to the Attorney General. This amendment requires agency compliance, not only with the Reagan Executive order, but also similar procedures to assess the potential for the taking of private property.

By adopting this amendment, Congress will give the Attorney General unbridled discretion to impose any new set of unknown procedures on the affected agencies. No regulations could be put into effect until the Department of Justice sanctioned that they complied with this new test.

Mr. President, what does this mean? It means a possible indefinite promulgation of regulations which the taxpayers and those who are trying to make progress in the country are going to be subjected to, whether it is with mining or constructing a factory or renovating a treatment plant.

The regulated community is continually complaining about delays. Now there is another clearance process. This amendment, I might say, Mr. President, is opposed by all the major environmental organizations: the National Wildlife Federation, for example; the National Audubon Society.

Mr. President, there have been no hearings on it.

It is a strange amendment, I must say, Mr. President, that suddenly says that the Department of Justice is going to be this gatekeeper for those regulations that are submitted pursuant to a Presidential Executive order.

So, Mr. President, I think it is an unfortunate amendment and hope it would not prevail.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. LEAHY. Mr. President, this amendment actually enacts by reference a 7-page Executive order that is so confusing that there is a 17-page Department of Justice memorandum, with a 27-page appendix, just to explain these 7 pages. By reference, what we would be doing, is enacting 24 pages of Executive order material, with an appendix, that were written by unelected bureaucrats and never subject to public hearings.

This is not relief for farmers. This is a lawyer's relief act. It creates a cause of action for thousands of plaintiffs. It will certainly help those lawyers who have a slow practice but does not do a great deal for anybody else. It certainly could undermine the implementation of our agricultural laws. Counsel from the agencies have indicated considerable misgivings about this amendment. For example, every Department of Agriculture decision on set-asides could be challenged by it. Every conservation compliance regulation could be challenged. Every rule of the Department related to marketing loans could be challenged. Every rule related to marketing orders for fruits and vegetables could be challenged.

Now, if we want to destroy the farm programs with litigation, if we want to overwhelm them with litigation, then support this amendment. If we do not, then we should oppose it. I do oppose it. I agree with those counselors that say this amendment is unnecessary since the Executive order is already in effect, and the rulemaking of Federal agencies is already subject to its provisions.

So I hope, Mr. President, that we will reject the amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. SYMMS. I yield myself a part of a minute first to say that the Department of Agriculture does not oppose this amendment. The administration supports the amendment. It has done a lot of work on it. It may be some reference to an earlier version of the amendment that the chairman of the committee is using. But this amendment is supported by the administration.

I yield 2 minutes to the Senator from Montana, Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 minutes.

Mr. BURNS. I thank the Chair. I thank my distinguished colleague from Idaho.

I just want to make some points that get to the bottom line. When you look around this country and you take a look at the economy, about the only growth industry we have right now is Government. We see evidence of encroachment on property rights every day. I guess we are a little more aware of those especially in the country where a great deal of public land is involved.

Let us face it. There is a nick in the fifth amendment of the Bill of Rights, which basically could be defined as the cornerstone of productivity in this Nation. Every American wants to own property, his own property. It is his right to do so, which creates productivity. It is the cornerstone of property ownership, but it is also the cornerstone of individual freedoms that we hold dear in this country. We are seeing it every day, and some of it done by bureaucracy. This is just to heighten the awareness to Americans on what is happening when big Government becomes a bad neighbor. Basically, this amendment raises the awareness of the American people, that this is something having to do with good neighbor policy and basic constitutional law.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield the senior Senator from Idaho 2 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 2 minutes.

Mr. McCLURE. Mr. President, I will not use all that time. I will yield a portion of it back to my distinguished colleague.

I wish to make one clarification. The distinguished floor manager of the bill in opposition to the amendment indicated that this would codify an Executive order. That is not precisely correct. It makes reference to the Executive order and says they must comply with that Executive order or similar procedures, which allows more flexibility in the administration of it than was implied by the statement of the Senator from Vermont.

I yield back the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, let me explain in simpler terms what my amendment does,

First, the amendment identifies the four Federal agencies that most impact regulation of farm and ranch land in the United States. It does this because it is an amendment to the farm bill, so its scope should be limited to those agencies relevant to farming and agriculture.

Second, the amendment requires that agencies—please make note of the word "agencies"—must be certified by the Attorney General's office before issuing regulations. This language does not require the Attorney General to certify individual regulations.

Last, the amendment states the objective of that certification—either compliance with Executive Order 12630, or with similar procedures "to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible."

The intention behind the amendment is to encourage agencies to develop their own internal guidelines, their own "safety mechanisms" so to speak, to ensure that regulation isn't taking private property, or that if it is, the need for just compensation is clearly stated up front, so that costly and entangling litigation isn't needed.

These guidelines must reflect the contemporary and best understanding available of how the courts are likely to interpret a regulatory action and whether or not it runs the risk of taking private property. They should also encourage agencies to achieve their goals in ways that steer clear of private property problems.

It is a simple procedure. It is not going to cause more redtape for others. I would have to disagree with my colleagues.

Mr. President, I ask unanimous consent to add Senator BOREN, of Oklahoma, as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield 3 minutes to the distinguished Senator from California [Mr. WILSON].

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. WILSON. Mr. President, I thank the Chair. I wonder if my friend from Idaho could elaborate. I am not, frankly, clear on the statement that he just made, and I apologize because I have just come on the floor. I was called off and did not hear his earlier explanation.

It seems to me that even those who are in sympathy with his objective have reason to be concerned that the

requirement that no regulation go forward, no regulation that relates to a taking, until it has been certified by the Department of Justice without any deadline established in this legislation may invite a result precisely the opposite of what he is seeking.

Mr. SYMMS. If I could respond to my colleague, the purpose of this is to provide a mechanism, a safeguard, a "look before you leap" which has been approved by Justice Department and administration attorneys. The language is approved by the entire executive branch. It is exactly what they are trying to develop themselves. The EPA has supported this, under the existing Executive order, but they are having troubled moving it along, getting it initiated.

All we are trying to say is let us have a procedure in place before we regulate. For example, in St. Mary's, ID they could not put a steam donkey, a historic replica of logging, between two railroad tracks because there was a little pile of mud there about 5-foot square which did nothing but breed mosquitos.

What we want to have in place is the procedure so that EPA, the Corps of Engineers, the USDA, the Department of the Interior, and other regulatory or management agencies do not go out and run roughshod over people without a process to avoid taking their property. This amendment is a protection for landowners in this country.

Mr. WILSON. Mr. President, I thank my friend for this response. I am not convinced that, nonetheless, there will not be an unintended result, because it seems to me that what he is describing in the example he just gave me really relates to the wisdom of the judgment of the regulating agency. But the amendment that he has placed before us requires a certification by the Attorney General to be made.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILSON. I wonder if I might have an additional minute.

Mr. LEAHY. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. LEAHY. I yield 1 minute of that time to Senator WILSON and 1 minute to Senator CHAFEE.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mr. WILSON. I thank the Chair.

Mr. President, it seems to me that the requirement for certification of each action by the Attorney General inevitably is going to complicate.

It is an enlayer process. I think it cannot help much but add time to the process. I think in many cases that may turn out to be self-defeating. It may prove not just counterproductive but to achieve an unintended result that is exactly contrary to the goal that is sought by the offeror of the amendment. We have the Executive order in place. I really do not see that this adds anything except certification by the Attorney General, and added delay.

I thank the Chair.

Mr. SYMMS. Mr. President, if I could just respond to my colleague. I yield myself 30 seconds.

I say to my colleague from California, the text of this amendment, has been worked on at great length by the attorneys of the regulated farmers and ranchers in the American Farm Bureau, the American Cattlemen's Association, the American Agriculture Movement, and a great many other people. So it is a very well thought out piece of legislation.

We are trying to protect the private property rights that have seen a gradual erosion because of the overreach in some instances of big government. That is all this amendment is trying to do. I believe the amendment speaks to it very well. It has been worked and reworked by EPA lawyers, by the White House counsel, the President's counsel, Boyden Gray.

I think the Senator from Indiana can confirm that the administration supports this amendment. So all colleagues are assured of this.

I appreciate the concern of my colleagues from California, but I believe, knowing his basic philosophical belief, that he should be in support of this amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island is recognized for 1 minute.

Mr. CHAFEE. Mr. President, how did we get here, briefly?

President Reagan put out an Executive order which was designed to greatly expand the definition of what is private property. He was distressed at what the Supreme Court was saying constituted private property, what constituted a take.

So he put out this Executive order which in itself is some seven pages long. The interpretation of that became incredibly complex. Here is the Attorney General's guidelines, 17 pages, plus 27 pages of appendix. Nobody knew exactly how to define what the President was trying to do.

Now the next step, this amendment places that Executive order, in effect, into legislation, the same that the Attorney General has to approve that each Department is in compliance with this Executive order.

We are setting up an absolute maze of regulation and problems here for the citizens of the United States; and greatly expanding the definition of "taking," which is going to expand the Federal Government's liability. It is going to mean that every environmental law—and that is what they are really gunning at—is going to have to go through all kinds of hurdles to obtain approval.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho has 1 minute 3 seconds remaining.

Mr. SYMMS. Mr. President, I ask unanimous consent that the letter to the Honorable John McClaughry, Vermont State Senate, dated September 6, 1989, signed by William Reilly be printed in the RECORD in support of the goals of the Executive order, and then I yield 1 minute to Senator MCCLURE.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, September 6, 1989.

Hon. JOHN MCCLAUGHRY,
Vermont Senate, Montpelier, VT.

DEAR MR. MCCLAUGHRY: This is in response to your July 7, 1989 letter regarding my views on Executive Order 12630, "Governmental Actions and Interference With Constitutionally Protected Property Rights." The purpose of the Executive Order is to ensure that governmental decision-makers evaluate carefully the effect of their actions on constitutionally protected property rights and thereby avoid unnecessary takings. I agree with these basic goals of the Executive Order. Governmental agencies must be sensitive to the rights of property owners and must not unconstitutionally interfere with the use of private property.

The Executive Order recognizes that courts give deference to activities that carry out a health and safety purpose. It is our view that most of EPA's actions are to protect public health and safety and therefore do not constitute compensable takings. We are discussing with the Department of Justice how best to implement the Executive Order for EPA's programs, taking this view into account.

I appreciate your interest in this matter.

Sincerely yours,

WILLIAM K. REILLY.

Mr. MCCLURE. Mr. President, I thank the Senator for yielding the 43 seconds.

Let me suggest to my friend from California, and to my friend from Rhode Island, this does not codify the Executive order as I explained once before. I will not take the time to explain it again.

Second, all this requires is that the Attorney General certify that the processes used by the agency in the promulgation of the regulations are in compliance with the Executive order or a similar process. That is all it does. It does not require a checkoff on every regulation that comes out from every agency.

So, I think the characterization of this by the opponents of the amendment are simply based upon their unfamiliarity with the facts rather than any knowledge of the impact of the amendment.

Mr. SIMPSON. Mr. President, I rise as a cosponsor of the amendment to

the farm bill offered by my distinguished colleague, Senator SYMMS.

Executive Order 12630, issued by President Reagan on March 16, 1988, requires Federal agencies to consider the implications—before action is commenced—of certain "takings" of private property.

This order is based on sacred constitutional principles which are fundamental to the American way of life. The fifth amendment provides that private property shall not be taken for public use without just compensation. The Executive order does not require anything more than what the Federal agencies should be considering in their decisionmaking. It provides a formal framework for considering the property rights of private citizens, in cases where the needs of the Federal Government might affect those private rights. Through the fifth amendment, the Founding Fathers wisely required that the "taking" of any of those private property rights be justly compensated. The Executive order merely reinforces that concept as directed by our Constitution.

More than just the cost of paying a private owner a price for his land is at stake here. There are also so many other direct and indirect costs in the taking process—litigation costs, the time and effort necessary to process claims, and the cost of the withdrawal of a previously productive commercial purpose for the land. All of these should be most carefully considered by Federal agencies before they act only in order to try to minimize possible governmental costs associated with fifth amendment compensation claims. This is especially critical in this era of huge budget deficits.

Because the Executive order incorporates principles which are so fundamental to our national fabric, I think it is very essential that it be codified and included in this legislation.

I urge the passage of the amendment.

Mr. WALLOP. Mr. President, I cosponsor and strongly support this amendment to establish Executive Order 12630 into law. It is reasonable and just to require that the possibility of private property being taken for public purposes be assessed prior to imposition of regulations on the use of that property. More importantly, it would help safeguard a treasured constitutional right upon which our Nation began and continues to develop.

We in Wyoming have long been concerned about Government actions and regulations which effect a taking of private property. Last summer the Wyoming wool growers, assisted by the Wyoming stockgrowers, State bar and the Public Lands Council, conducted a seminar to increase public awareness of the takings order, Executive Order 12630. I would like to include, for the RECORD, a copy of my views which I delivered at the seminar because I think they are so pertinent to the discussion today.

I would like to commend my colleague, the Senator from Idaho, for offering this amendment which I urge the Senate to adopt.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

There was a point in time when the Government was doing all it could to get America's land into private hands. Federal laws encouraged settlement of the West beginning with the Homestead Act of 1862, the preemption doctrine and the Desert Lands Entry Act of 1877.

Ours has always been a government of the people, not a government on the people and private property should not be taken for public use without just compensation. This is not just another old saw, it is part of the Constitution. I believe the authors of the fifth amendment would be dismayed that what so frequently happens these days.

Today, we see a Congress with an enormous appetite for taking lands, but no stomach for paying for them. Too often, the government strips private property of all economic value but never gets around to actually compensating the private landowner who is left with nothing but a continuing obligation to pay property taxes.

It is a bureaucratic monster that has spent $3.7 billion to acquire 4 million acres of recreation lands since 1965, yet has a backlog of land condemned but still unpaid for which exceeds $6 billion. That's $6 billion worth of private property rights.

And there's more. Fifty-eight million dollars of taxpayers money was awarded by the federal courts over a two year period to satisfy just compensation claims under the 5th Amendment. Pending court cases currently total upwards of $1 billion.

It is the American people who bear the cost of feeding this federal hunger for land—and gauging this cost is an inexact science, at best. When Congress wanted to expand Redwoods National Park by legislative taking it estimated that it would cost $300,000,000. Today, over $1.4 billion has been spent and the end is still not in sight.

But private property owners can be injured by more than just legislative takings. Governmental regulations and restrictions often deprive them of their rights just as surely as do outright takings.

California water users experienced the frustrations and expense of governmental restrictions when they attempted to repair their leaky canals. It seems the wetlands created by their inefficient water system had become a habitat for wildlife. When the government learned about the proposed repairs, it forced the private water users to mitigate the impact on the accidental habitat by retaining the artificially created wetlands. All of this, using their own money and their own scarce water.

And, in Oregon, imagine rancher Dayton Hyde's dismay when his own creative program was locked-by Government regulations destroying the very flexibility which was the basis of his widely praised project.

Dayton Hyde is the director of Operation Stronghold which was designed to advise private landowners how to preserve and protect the nation's wildlife. Using Stronghold's principles, Dayton Hyde's own habitat program was very successful. He boosted the number of bird species on his ranch from 6 to 83 by restoring natural wetlands and other habitat improvements. The real irony is that Hyde's management of his private bird refuge is now handcuffed by regulatory agencies which are concerned that he might adopt unsound land practices and hurt the birds whose habitat he just created.

Across the nation, other examples of takings are endless. Travelling our own State of Wyoming, the stories of outrage and frustration reflect a deep distaste for the disregard of personal property rights.

President Reagan responded to the distress. He signed Executive Order 12630. Also, the Supreme Court's decisions in First English and Nollan were a needed caution against government policies insensitive to the rights of private landowners.

President Reagan's order has a twofold purpose. First, it requires a sensitivity to takings implications by assuring that government decisionmakers are fully informed of potential takings of any proposed policies or actions. Second, it requires decisionmakers to choose the action alternative that minimizes the unintended impacts on property rights.

Significant opposition has arisen to the order. The environmental community, joined by a group of 10 Congressmen, called for President Bush to repeal the order because it "unnecessarily impedes environmental protection."

It is issues such as the introduction of the wolf into Yellowstone Park which will measure this Administration's commitment to the Executive order. In designating critical habitat for the wolf, a takings analysis should consider impacts such as the denial of grazing permits, interference with multiple uses such as timbering, outfitting and state wildlife populations, as well as, the actual takings of livestock.

A further national challenge to the President's commitment to the order will be the American Heritage Trust Act. Environmentalists claim this bill will preserve America's natural resources by providing $1 billion per year to Government and private nonprofit organizations for such actions as the purchase of private lands. A proper takings analysis of the American Heritage Trust will reveal that essential economic development could be blocked and private lands condemned.

A government which now owns more than one-third of all the lands of our country—and one-half of the state of Wyoming—should gauge carefully how much more it wishes to remove from private hands.

Why the opposition to a document that requires sensitivity to, and compliance with the fifth amendment? Philosphically, many conservationists view property rights as incompatible with effective regulation. In order to effectively regulate, they argue, we must reject the whole notion of property rights.

In a recent article critical of the Executive order, the author charged that the unstated purposes of the order was to "chill" the agencies from making regulatory decisions that may be constructed as takings. In other words, the author opposes the order because its purpose is to promote constitutional sensitivity. Such criticisms is mindboggling unless you realize that the Order is threatening only to those who are threatened by the existence of private property rights.

The current head of EPA, William Reilly once claimed that "the land market, as it operates today, is the principle obstacle to effective protection of open space." Mr.

Reilly even urged the overthrow of takings law calling it "anachronistic". What he and others fail to realize is that this Executive Order simply recognizes that property rights lie at the core of individual liberties so treasured by America.

The order has put environmentalists in an uncomfortable and novel position—on the defensive. Landowners now have a weapon to defend themselves from federal encroachment.

But the order is not without shortcomings. It has no teeth. Without the possibility of judicial review or the requirement of disclosure, the executive branch can ignore the order with impunity. Moreover, as with all executive orders, it can be withdrawn on a whim.

The first task for those who believe in private property rights will be to increase public awareness of the order, through seminars such as yours and the one yield last May in Denver. Then we must commit to action. Public action could include comments on proposed rulemakings, appeals to permit denials and letters to federal legislators. Within the executive branch there is widespread ignorance of the order and few of my colleagues here in Congress have heard of it. Let them hear from Wyoming about the value of private property.

We must act now if we are to slow the voracious appetite for taking private rights. It is not just land that we will continue to lose. In Nebraska, on the Platte River, the government designated critical habitat for whooping cranes and ever since threatens to deny Wyoming ranchers and municipalities essential permits for dams and use of water rights upstream because of possible effects on that habitat. Such regulations result in a taking. It is no wonder that Nebraskans so happily view environmental laws as a dam in their neighbor's ditch.

I tried to stop this taking of water from entitled users by amending the 1977 Clean Water Act to make state's rights supreme. Despite the fact that my amendment was passed by both Houses of Congress and signed into law by President Carter, the courts dismissed it as merely advisory. The courts may not view a denial of a permit to dam as a technical taking. However, if the only use of the water permitted by the Government is to ride down the river in 700 rubber dinghys, the owners of those State water rights have indeed been deprived.

As Robert Frost said, "Good fences makes good neighbors." In Wyoming, the Federal Government is a large neighbor and Executive Order 12630 helps our neighbor stay inside its fifth amendment "fence." By making decisionmakers more sensitive to takings implications of Federal actions, Executive Order 12630 forces them to identify the boundaries, and more importantly, to recognize when it crosses those boundaries. With its "fence" clearly charted, the Federal Government can become a "good neighbor."

The PRESIDING OFFICER. All time has expired. The question is on the amendment.

Mr. LEAHY. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Vermont, to lay on the table the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. BURDICK). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—52

Adams	Hatfield	Mitchell
Akaka	Heflin	Moynihan
Biden	Heinz	Nunn
Bingaman	Hollings	Pell
Bradley	Humphrey	Reid
Bryan	Inouye	Riegle
Byrd	Jeffords	Robb
Chafee	Kasten	Rockefeller
Cohen	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
Danforth	Kerry	Sasser
Dixon	Kohl	Shelby
Dodd	Lautenberg	Simon
Ford	Leahy	Specter
Fowler	Levin	Wilson
Glenn	Lieberman	Wirth
Gore	Metzenbaum	
Graham	Mikulski	

NAYS—43

Baucus	Dole	McClure
Bentsen	Domenici	McConnell
Bond	Exon	Murkowski
Boren	Garn	Nickles
Boschwitz	Gorton	Packwood
Breaux	Gramm	Pressler
Bumpers	Grassley	Pryor
Burdick	Harkin	Roth
Burns	Hatch	Simpson
Coats	Helms	Stevens
Cochran	Kassebaum	Symms
Conrad	Lott	Thurmond
D'Amato	Lugar	Warner
Daschle	Mack	
DeConcini	McCain	

NOT VOTING—5

Armstrong	Johnston	Wallop
Durenberger	Rudman	

So the motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent to continue for 1 minute without using the time of the Senator from South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, just to remind Senators, we have the amendment of the distinguished Senator from Pennsylvania. The first one will be under a 15-minute time agreement equally divided; the second one under a 20-minute time agreement.

Everyone has been asking me whether we are going to get out of here tonight or not. Again, I would just tell Senators it is taking far longer to do the 15-minute rollcall votes than it does the 20- or 25-minute debate.

Please, I urge Senators to come over here and vote quickly. It is conceivable we can be out of here by 7 or 8 o'clock tonight if we do that.

AMENDMENT NO. 2400

Mr. PRESSLER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota, [Mr. PRESSLER] proposes an amendment numbered 2400.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill strike "SEC. 208.—HONEY PRICE SUPPORT" and insert in lieu thereof the following new section:

SEC. . HONEY PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

(a) LOANS, PURCHASES, AND OTHER OPERATIONS.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 53.8 cents per pound, as determined by the Secretary.

(b) REPAYMENTS.—The Secretary may permit a producer to repay a loan made to the producer under this section for a crop at a level:

(1) the loan level determined for the crop; or

(2) the level as the Secretary determines will—

(A) minimize the number of loan forfeitures;

(B) not result in excessive total stocks of honey;

(C) reduce the costs incurred by the Federal government in storing honey; and

(D) maintain the competitiveness of honey in domestic and export markets.

(c) PLEDGING ADULTERATED OR IMPORTED HONEY AS COLLATERAL.—

(1) IN GENERAL.—If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this section, the person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment under this section for the three crop years succeeding the determination.

(2) ADULTERATED HONEY.—For purposes of paragraph (1), honey shall be considered adulterated if—

(A) any substance has been substituted wholly or in part for the honey;

(B) the honey contains a poisonous or deleterious substance that may render the honey injurious to health, except that in any case in which the substance is not

added to the honey, the honey shall not be considered adulterated if the quantity of the substance in or on the honey does not ordinarily render it injurious to health; or

(C) the honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. PRESSLER. Yes, I yield to the distinguished majority leader.

Mr. MITCHELL. Mr. President, to accommodate as many Senators as possible, may I suggest that we stack the next three votes; that we have 15 minutes on this one, and 20 on the Specter amendment, and then the Heinz amendment?

Mr. PRESSLER. Could we do this vote? I think the debate on it will be fairly short.

Mr. MITCHELL. Mr. President, first, I ask unanimous consent that the time taken for the colloquy not be taken off the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That is my point. The time is short and the time is short on the next one and the one after that. I am suggesting, to save time, to stack the three votes.

The Senator from South Dakota's vote would be first in the stacking, and then we would have 10-minute votes on the other two. That, I think, would greatly expedite the Senate's business and permit us to complete action. I do not wish to disadvantage any Senator.

Mr. PRESSLER. As I understand it, it would be 20 minutes of debate on this amendment and 1 hour from now would be three back-to-back votes.

Mr. MITCHELL. With the Senator from South Dakota coming first.

Mr. PRESSLER. Fine. That is fine with me.

Mr. MITCHELL. Mr. President, I ask unanimous consent that on the next two votes the debate occur, on the Pressler amendment, 15 minutes equally divided, to be followed by the vote on the Specter amendment, 20 minutes equally divided, and that the vote on the Pressler amendment occur immediately after the debate on the Specter amendment to then be followed by a vote on the Specter amendment. So we would have two debated and both voted. It is my intention that the first vote be kept to a 15-minute vote and the second vote to a 10-minute vote so Senators should be aware of that and be present for those votes.

And, Mr. President I meant to make certain the votes be on or in relation to the amendments.

The PRESIDING OFFICER (Mr. REID). Is there objection to the request of the majority leader? Hearing none, that is the order.

Mr. MITCHELL. Senators should be aware that two rollcall votes will occur beginning at approximately 1:35 to 1:40 and will be a 15-minute and 10-minute rollcall vote.

I thank the Senator from South Dakota for his courtesy to his fellow Senators.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, the amendment I have takes the sting out of the bee amendment, at least the budgetary sting.

The purpose of this amendment is to set the honey price support rate at 53.8 cents per pound. On Tuesday of this week the Senate, by passing the Chafee amendment, eliminated the honey program over a 4-year period. The price support level for honey in the original bill was 56.8 cents per pound. The amendment of mine saves $6 million. It is a compromise amendment and it sets the honey loan rate at the same rate as it is in the House bill.

I would like to point out this results in a saving, of $6 million per year. The budgetary aspect is much improved over the higher rate voted on earlier this week.

According to a study done last year by Cornell University, the value of the increased yield in quality of crops pollinated by honeybees alone was about $9.7 billion in 1985. Even if we did not eat honey, every consumer benefits from the pollination bestowed by honeybees on fruits, nut trees and vegetables.

Without the honey program our beekeeping industry would pretty much come to an end. We would not have the benefit of pollinated crops.

I understand the budget restraints, but I believe this is the only aspect of the farm program in the family of commodities that has been eliminated. I wanted to give my colleagues a chance to vote for the honey program at this lower level—53.8 cents per pound.

This amendment is supported by the American Honey Producers Association and the American Beekeeping Federation.

The honey program has experienced a 50-percent reduction in cost from 1985 to 1989. The cost of this program in 1989 was only $41.7 million. My proposed amendment would lower the cost of the honey program by $25 million to $30 million over the duration of the new farm bill. This would result in a savings of $6 million per year.

This amendment gives us the opportunity to keep an important agricultural industry in operation. The cost of the honey program under my amendment is projected to be approximately $35 million annually. This is a small price to pay for the benefits the consumer receives from the beekeeping industy.

Without the honey program, the domestic industry will be driven out of business by a tidal wave of foreign honey of questionable quality. Without a honey program, producers of crops dependent on honeybee pollination will be devastated financially.

It is wrong to assume U.S. honey producers will maintain their honey production without a honey program. Many will not be able to do so. Producers needing crops pollinated will suffer and so will consumers of fruits, nuts, and flowers. Every time they go to the store to buy these products they will notice the higher prices. Collectively, over the years, this could cost the consumers billions of dollars; far more than the modest cost of the honey program.

A vote for my amendment is a vote for a $15 million to $30 million cut in Federal funding for the 5 years of the 1990 farm bill. This is the price U.S. honey producers are willing to pay to keep the program alive. It is a substantial loss to them and substantial contribution on their part toward Federal budget deficit reduction. I urge my colleagues to support the honey program and vote for this amendment.

In conclusion, Mr. President, the only thing we are trying to accomplish here is to arrive at a support level of 53.8 cents per pound on honey. This is a compromise. It is a lower level and it results in a $6 million savings per year. I urge my colleagues to consider it.

Mr. DASCHLE. Mr. President, on Tuesday I stated the reasons I believe we must maintain the honey program. Beekeeping is vital to American agriculture; the program's benefits far outweigh its costs; and as beekeepers face difficult financial circumstances and new threats that will increase their costs, it's a bad time to take away their safety net.

Nevertheless, the Senate voted 52 to 46 against my motion to table the amendment by Senator CHAFEE to phase out the program. Today, the supporters of the program make another attempt to keep the progam alive. I urge my colleagues to vote for this amendment.

The reasons for maintaining the program deserve to be repeated. More than 140 cultivated crops either require or benefit from bee pollination, including millions of acres of fruits, vegetables, oilseeds, and legume seed crops.

A study last year by Cornell University placed the value added to pollinated crops by the U.S. honey bee at $9.7 billion. The ratio of value added to value added is $9.7 billion to $41 million, 237 to 1.

Consumers benefit indirectly from the honey program because it helps maintain a sufficient supply of honeybee colonies, so that many important food and fiber crops are pollinated. An estimated 15 percent of the plant-derived portion of the human diet comes from plants dependent upon or benefited by insect pollination. Much of the beef

and dairy products consumed in the United States are produced from insect-pollinated legumes. About one-third of the human diet is derived directly or indirectly from insect-pollinated plants.

If the price support program is withdrawn or reduced, the supply of honey bee colonies will be jeapordized and much of U.S. agriculture that depends on pollination will be hurt. Honey production provides the incentive for beekeepers to maintain strong colonies of bees during the many months of the year that bees are not involved in commercial pollination.

Testimony before the Agriculture Committee showed that most commercial beekeepers are currently operating at a loss. The average yields per colony do not allow a return on investment, or in some cases even a reasonable salary. Beekeeping supplies and equipment costs are rising at, or higher than, the inflation rate.

Even with the program, commercial beekeepers are losing $4 on every colony they operate. The program represents 20 percent of their income. Without that, beekeepers would be losing even more money.

Beekeeping is labor intensive. The average commercial operation with 2,400 colonies is supporting a family and at least three full-time employees and their families.

It is clear, Mr. President, that commercial beekeeping is vital to American agriculture. Its benefits far outweigh the costs of the program. The honey industry has seen its prices drop while its costs are rising. It is struggling against imports and new threats. It is not the picture people want to paint of it. Commercial beekeepers are not getting rich off the program. Commercial beekeepers support not only themselves but other families through the jobs they provide.

The honey price support program has enabled beekeepers to continue operations and provide vital pollinating services while also assuring consumers of a stable supply of nutritious honey at reasonable prices.

Mr. President, I urge that the Senate support this amendment to maintain the honey program.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, do I have 7½ minutes?

The PRESIDING OFFICER. The Senator from Rhode Island has 7½ minutes.

Mr. CHAFEE. Mr. President, this amendment reduces the price supports by 3 cents. As we recall, earlier this week we eliminated the program totally over 4 years. This does not do that. All it does is drop the price supports by 3 cents.

The amendment does not address the GAO contention that this program no longer addresses crop pollination and that the program really is a high cost program for a very few honey producers in the United States.

To a great extent, Mr. President, this is the same vote we took several days ago. There is no question but that the expenses under the program will continue. We estimated under the 56-cent-support figure it averages about $70 million a year for cost. Under this program it would be slightly less than that, but not significantly. In other words, it is the difference between 56 cents a pound support and 53 cents a pound support. So, essentially it is the same vote as we took the other day, which we thoroughly debated.

I appreciate that my distinguished colleague from South Dakota was not able to be here and he forcefully and ably presented his views today. But, Mr. President, I really see no difference in essence to what we voted on several days ago with the effort to end the program over 4 years—plenty of time provided. It was agreed to by this body by a vote of 52 to 46.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Who is controlling time?

The PRESIDING OFFICER. The Senator from North Dakota is informed the Senator from Rhode Island controls 5½ minutes; the Senator from South Dakota controls 3 minutes.

Mr. PRESSLER. The Senator from Florida also wishes to speak, so perhaps we could divide the time here. I believe we have 3 minutes with two speakers.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 1½ minutes.

Mr. CONRAD. I thank my colleague from South Dakota and thank the Chair. I want to repeat what I think is the critical argument in favor of the amendment of the Senator from South Dakota. I had the privilege of chairing the hearing on the honey program before the Senate Agriculture Committee. Over and over, it was made clear we benefit in this country, every American, by the existence of this program, because the bees are the pollinaters and there is $9.3 billion of benefit each and every year from the pollination of our fruits and vegetables and flowers as a result of this honey program. If we did not have the honey program we would have to invent one.

Because of the action yesterday on the floor, we now are in the position of having to restore this program. I commend the Senator from South Dakota and support his amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized for up to 2 minutes.

Mr. GRAHAM. Mr. President, I would like to make two points. First to reinforce the point just made by our distinguished colleague from North Dakota. People look at the honeybee program and they say this is a small, minuscule program. Its elimination will not have any adverse effect on American agriculture. The fact is this program has a much wider benefit. In my State, which is one of the larger honeybee producing States, a substantial part of our industry is located in the same regions of the State that are the principal citrus producers.

The reason for that is not by consent. It is because there is an important relationship between honeybees and citrus pollination and production.

Our Commissioner of Agriculture, Mr. Doyle Conner, of Florida, has estimated that the value to Florida agriculture of the honeybee crop pollination approaches $2 billion. That is the significance of the issue that we have before us today.

I believe the Senator from South Dakota has offered us a reasonable compromise, a compromise that will put the Senate in concurrence with the House of Representatives, which is to continue the program but at a reduced level.

Second, Mr. President, this is an industry which is emerging. It is an industry which is attempting to develop a stable base of production and a reliable point of marketing access. The purpose of this program is not to keep this industry dependent, but rather to allow it to move forward in self-sufficiency.

I believe the amendment of the Senator from South Dakota will contribute to that concept.

The PRESIDING OFFICER. The time of the Senator has expired. Senator CHAFEE has 5 minutes, 15 seconds.

Mr. CHAFEE. Mr. President, I just repeat, if I might, from the GAO report, which brought up to date the report that was originally given in 1985. This is the most recent report of April of this year, dealing with this very farm bill and the honey price supports in it.

First of all, Mr. President, it is important to point out that this price support program is for a very, very few honey producers in the United States. We have 212,000 honey producers, of which 2,100, or one-tenth of 1 percent, receive support under the program. The numbers who receive any substantial support are very, very few.

Mr. President, I will just briefly read from the GAO report, because pollination constantly comes up:

The honey program is no longer needed to ensure crop pollination because producers of crops requiring pollination have ready

access to bees through rental and ownership.

In addition, since the program began, beekeepers have generally emphasized honey production over crop pollination.

So, Mr. President, we had a long debate the other day on this subject. After giving due consideration, a majority of this body said we are going to end the program. It was a significant vote. I will agree with the distinguished Senator from South Dakota, it is the only subsidized program that has been ended. But it is a step, a modest step. It is not going to solve the budgetary problems of the United States of America, but it is going to help.

What about the proposal of the Senator from South Dakota? Yes, it will save some money over the program we were talking about the other day. The other day we figured, estimated, and these figures came from the respected authorities within the Department of Agriculture, that it would cost $385 million over a 5-year period for the support under the honey program.

The proposal of the distinguished Senator from South Dakota would save $20 million. So, therefore, this program is going to cost $365 million over a 5-year period.

So, Mr. President, we made the decision to end the program. I think it was a good decision, and I hope we can support that vote again today.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

Mr. CHAFEE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. CHAFEE. I will be glad to give the Senator my time.

Mr. PRESSLER. Mr. President, I thank the Senator. The cosposnors of this amendment are Senators DOLE, PRYOR, FOWLER, BOREN, HEFLIN, CONRAD, and DASCHLE, and perhaps others I do not have here. But I am very pleased to offer this on behalf of those cosponsors, some of whom voted the other way, or at least one, Senator DOLE, earlier this week. So we are glad to have his cosponsorship.

Mr. President, parliamentary inquiry; do I need to ask for the yeas and nays, or was that included in the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator needs to ask for the yeas and nays.

Mr. PRESSLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, throughout the farm bill debate, my No. 1 priority has been no secret. This is a budget-driven farm bill, and I intend to remain committed to the budget summit talks going on down the hall by not voting for a farm bill that is over-budget. I have voted for spending reductions in the various commodities which have come before this body, and intend to continue to do so.

However, we cannot strike and eliminate entire programs in order to make up for our lack of resolve in cutting other commodities. Honey took the fall the other day, yet sugar and peanuts came through unscathed. Mr. President, that is unfair.

It seems to me that unless Members can find a consistency in voting for budget savings, we should not gang up on a single commodity and call ourselves budget-conscious. That is irresponsible. I am going to vote in favor of the amendment offered by the Senator from South Dakota, and trust that we can commit to some real savings across the board either later today or in conference.

The PRESIDING OFFICER. The Senator from Rhode Island has 1½ minutes remaining.

Mr. CHAFEE. Mr. President, if the Senator from South Dakota would like my time, I will be glad to give it to him. Otherwise, I will yield it back.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded back his time. All debate has ceased on this matter. The vote on this matter will take place following the debate on the Specter amendment.

Under the unanimous-consent agreement, the Senator from Pennsylvania is recognized for 20 minutes to be equally divided.

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask, What is the pending business?

The PRESIDING OFFICER. The Specter amendment. More properly, the unanimous-consent request calls for the Senator from Pennsylvania to present an amendment to the Senate at this time.

Mr. SPECTER. Is it correct, Mr. President, that the arrangement is for 20 minutes equally divided?

The PRESIDING OFFICER. Equally divided.

Mr. SPECTER. I thank the Chair.

AMENDMENT NO. 2401

(Purpose: To provide for the establishment of a grading program for imports of Chilean fruits and vegetables)

Mr. SPECTER. At this time I send an amendment to the desk and ask for its immediate consideration pursuant to the unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. HEINZ, Mr. ROTH, Mr. BIDEN, Mr. BRADLEY, and Mr. LAUTENBERG, proposes an amendment numbered 2401.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 924, between lines 19 and 20, insert the following new section:

SEC. 1722. CHILEAN INSPECTION PROGRAM.

(a) TRIAL GRADING PROGRAM.—Not later than November 1, 1990, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of Agriculture shall establish and implement a trial grading program (that may include on-site inspections), to be appli d to fruits and vegetables that are to be imported into the United States from the Republic of Chile, in accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act. The Secretary shall use amounts provided by the exporters to carry out the program established under this paragraph. Such program shall terminate 5 years after the date of enactment of this Act.

(b) The inspections done in Chile shall be done under shipping point standards. Once the imported produce reaches the U.S., inspections would parallel those for domestic produce and be done under delivery point or "en route" standards, upon request.

(c) The Secretary shall use amounts provided by the exporters to carry out the program established under this paragraph. Such program shall terminate 5 years after the date of enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the implementation of the program established under subsection (a), and every 2 years thereafter, the General Accounting Office shall prepare and submit, to the appropriate Committees of Congress, a report that shall contain—

(1) a summary of the performance of on-site inspection programs conducted with respect to the requirements set out in domestic marketing orders;

(2) a summary of the effect of such marketing orders on the importation of Chilean fruit into the United States;

(3) a summary of the effect of on-site inspection programs as they relate to the concern of United States producers regarding to the quality standards for imported fruit; and

(4) the effect of the program established under subsection (a) on the availability of imported produce in the United States.

Mr. SPECTER. Mr. President, this amendment is being offered on behalf of myself and my colleagues, Senator HEINZ, Senator ROTH, Senator BIDEN, Senator BRADLEY, and Senator LAUTENBERG. It involves an effort to make a very minimal attempt to achieve some fairness for imported fruit to the United States in distinction to the unfair advantage which this bill now has for California fruit.

There have been extensive negotiations to try to work out a change from

the committee bill to have different testing, or to have the President have some authority on a variety of minimal measures to try to provide some balance as between the Port of Philadelphia and California and in order to benefit the consumers of America. The other 48 States could, frankly, care less on a fight between California and the Delaware River Valley—New Jersey, Delaware, and Pennsylvania—but I submit that the consumers of America are being badly prejudiced by what this bill provides because, in effect, it excludes large quantities of fruit from outside the United States and specifically from Chile. What the amendment does is to authorize a pilot project where the U.S. Department of Agriculture will test fruit in Chile paid for by Chile and then to see what the fruit is like when it arrives in Philadelphia.

At the present time, Chilean fruit is judged by a standard on arrival in Philadelphia contrasted with California fruit which is judged on a standard of arrival when it leaves California. It is fundamentally unfair to test one fruit on arrival after travel and the other fruit on departure.

It is true that it is longer from Chile to Philadelphia than from California to Philadelphia, but this pilot project is to test and see how it works out, if the Chileans have packaging and appropriate procedures to have fruit in topnotch shape when it gets to Philadelphia.

Mr. President, this program will cost the United States taxpayers nothing. It is conditioned on being paid for by the Chilean Government.

In light of the very abbreviated time period, Mr. President, I shall conclude at this point and ask how much time remains.

The PRESIDING OFFICER. Seven minutes.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, on behalf of the chairman of the Agriculture Committee, I yield time in opposition to the amendment to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment for reasons I will spell out shortly. Basically, it is very similar to the amendment that was withdrawn Wednesday night after it was clear that there would be a motion to table supported by Senator WILSON, my California colleague, myself, and Senators LEAHY and LUGAR, the managers of the bill. I will now yield 5 minutes to my colleague from California, Senator Wilson.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. WILSON. Mr. President, I thank my colleague.

The reason that the U.S. consumer enjoys the best produce in the world is in large measure owing to the fact that we have high standards that are imposed by marketing orders. These have to do with the maturity of fruit and vegetables. They have to do with their quality, their size. What we are seeing now is an effort to evade those high standards that have brought the American consumer the best produce in the world.

A couple of years ago we dealt with the problem that related to Chilean grapes. The Chileans were exporting grapes to the United States, putting them in cold storage for at least a month in a deliberate effort to evade the requirements of the U.S. Federal marketing order, the order that protects quality for the American consumer.

For that reason we put into existing law a requirement, or rather authority, for the Secretary of Agriculture to extend the provisions of the marketing order to an earlier time in order to not allow those exporters to the United States, who wished to do so, to be able to evade the requirements of the marketing order.

What we have today is an effort to try to equalize in the minds of those offering their amendment what they conceive to be not a level playing field. The fact of the matter is inspection has to occur at the point nearest to the marketplace; that is, a practical point for inspection by those who are charged with that responsibility, the U.S. Department of Agriculture.

You cannot have them inspecting each truckload of domestic produce, but obviously they can be allowed to inspect at the port of entry for the fruit that is exported to the United States.

Those imports have to come a long distance. Seventeen days transpire between the departure from Chile and their arrival at the Port of Philadelphia. During that period of time understandably that fruit will undergo some deterioration. It may not look different, but when it gets into the marketplace it will taste different. And the disappointed consumer will decide, gee, this spring the fruit is not very good, I am not going to buy anymore.

The purpose of the marketing order was, first, to assure quality for the consumer; and second, by assuring quality for the consumer, to assure a good and healthy market for the producers, not just the domestic but the foreign as well.

Let me point out that, during the time that this marketing order has been in effect, imports from Chile have increased with the exception of the year in which there was a scare because of the cyanide in those Chilean grapes that we read about. With the exception of that 1 year, there has been a steady increase in the volume imported. And, in fact, domestic grape growers do not object to the presence in the marketplace of imported grapes provided they are of quality that meets the standards imposed by the marketing order for the protection of the consumer, because by doing that they also protect the producer by assuring that there will be a good market. That is what this is all about.

What we are saying is that as a matter of practicality, and in fairness to the consumer, inspection should be made at the port of entry, the Port of Philadelphia in this case. We have bent over backward to try to accommodate the Senators from Pennsylvania and, for that matter, the Chilean exporters.

I might say that we have not received reciprocity. Chile does not accord any similar advantage to exports to Chile and, indeed, they impose a duty which we do not impose.

So speaking of level playing fields, there is not one. There is certainly not reciprocity. What we are seeking by opposing the amendment is to oppose the necessity inevitably for the Department of Agriculture to have to send inspectors not just to Chile but to virtually every country who will now, in turn, request it.

That is opposed not only by the Department of Agriculture, but by the Department of State. They want no part of it.

Mr. President, this would be a very unwise precedent to set. At the appropriate time, I will offer a motion to table.

Mr. SPECTER. Mr. President, I yield 1 minute to the distinguished Senator from Delaware [Mr. ROTH].

The PRESIDING OFFICER. The Senator from Delaware is recognized for 1 minute.

Mr. ROTH. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Pennsylvania. It is only a question of fairness, of equity.

This amendment proposes that the Secretary of Agriculture shall establish and implement a trial trading program to be applied to fruits and vegetables that are to be imported into the United States from the Republic of Chile.

As I said, this is of critical importance to the consumer in our region of the country. It is important to our facilities. If the present legislation is not amended, then we risk losing as much as 10,000 jobs in the region as well as

$174 million annually in cost to the ports.

So I urge the Spector amendment be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I yield 1 minute to the Senator from New Jersey [Mr. BRADLEY].

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY] is recognized for 1 minute.

Mr. BRADLEY. Mr. President, I rise to support this amendment. This amendment is good for American consumers, and it could lead to lower priced fruit for them to purchase. It is also, I think, a reasonable amendment. It simply says that fruit can be inspected according to shipping point standards in the country of origin at the point of embarkation.

This does not apply to many countries. It applies to one country, Chile. It will have USDA inspection standards in Chile, and it will be paid for by Chile, not by the United States. Mr. President, this is a pilot program. This is not a dramatic change affecting all countries. It is a pilot program for 5 years to ascertain whether our contention is correct. It will not result in more cost for consumers.

The PRESIDING OFFICER. The Senator from Pennsylvania has 5 minutes. The Senator from California has 4½ minutes.

Mr. SPECTER. Mr. President, I yield 1 minute to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized for 1 minute.

Mr. LAUTENBERG. I thank the Senator.

Mr. President, very briefly, I rise in support of this amendment by the distinguished Senator from Pennsylvania because what we are doing otherwise is depriving the American consumer of the opportunity of the option of buying fruit that becomes available to him or her in the marketplace. This is an attempt to restrict the market. It is a blatant attempt to circumvent the present structure.

Mr. President, a couple of years ago, we had a marketing order issued on grapes. What happened was that it cost millions of dollars' worth of opportunity out of U.S. ports and raised prices for American consumers. The quality can be assured, the product can be assured. It therefore makes all products equally competitive.

Mr. President, when we are called upon to take care of a product for the consumer, then we ought to do it just that way, and not try to restrict or favor one place over another in terms of its production.

Mr. President, this amendment is a response to provisions in this bill that would extend marketing orders to imported kiwi, plums, nectarines, and apples.

These provisions are of great concern to ports in the Delaware River Valley, because they would erect significant trade barriers that could cost the ports millions of dollars and thousands of jobs.

Mr. President, the supporters of marketing orders describe them merely as mechanisms to ensure quality produce for consumers.

On its face, that is a worthy goal that I would support.

But the fact is, Mr. President, that marketing orders are not so benign.

In practice, they have the effect of excluding vast amounts of high quality produce from the United States.

In the process, they cost U.S. ports millions of dollars, and raise prices on American consumers.

Mr. President, this is not mere conjecture. The Delaware River ports know this from direct experience.

In 1987, a marketing order was extended to table grapes.

And what happened?

Well, when Chilean exporters realized that about a dozen of their ships would not reach the ports by the time the marketing order became effective, they redirected them to other countries. In one fell swoop, the port lost almost $8 million.

Since then, Chilean exporters have been developing alternative markets to ship their grapes and other produce.

Last year, Chile exported 1.4 million cases of produce after April 20, the effective date for the table grape marketing order. Of those 1.4 million cases, only 1,700 came through our ports—98 percent went to other markets which did not have similar restrictions.

Mr. Pesident, to a large extent, the problem with the marketing orders in this bill is that they would be implemented in an unfair manner.

The fruit coming into the country under these marketing orders will be inspected under standards that are significantly more stringent than the standards used in inspection of domestic fruit, after the domestic fruit has been shipped.

That is unfair. It is protectionist. And it doesn't make sense.

This amendment would simply establish a pilot program so that U.S. inspectors could go abroad and inspect fruit being exported to the United States under the same so-called shipping point standards that are now applied to domestic fruit.

I think it is a very reasonable propsal. It could help save thousands of jobs in the Delaware River Valley region. And I urge my colleagues to support it.

Mr. CRANSTON. Mr. President, I yield myself such time as I may need.

I rise in opposition to this amendment. Its intent is the same as the amendment offered Wednesday evening by the Senator from Pennsylvania [Mr. HEINZ]. I opposed that amendment as did others, including the managers of the bill.

One of us would have moved to table if it had not been withdrawn.

This amendment, like the amendment that was debated at length and withdrawn, would hurt consumers. It is opposed by the committee, it is opposed by the administration, and by the Department of Agriculture.

Marketing orders were created to bring stability into the fresh produce market. Marketing orders can include minimum quality requirements such as size and maturity. These minimum standards ensure the consumer of a consistent and dependable supply of high-quality produce, and the standards provide a fair return to the grower.

However, efforts by the domestic industry to market only high-quality produce under the auspices of a marketing order can be severely undercut by imports of a like commodity that is a much inferior quality. Consumers have a hard time distinguishing between fresh fruits and vegetables that are domestically grown and those that are imported.

Section 8(e) of the Agricultural Marketing Agreement Act provides a remedy to this problem by providing that if domestic producers adopt through a marketing order, a plan to establish minimum quality standards for a particular commodity, then the imported commodity marketed domestically must also meet these minimum quality standards.

Section 8(e) thus ensures quality consistency and this benefits domestic and foreign producers equally, to the extent that the market is enhanced through improved product quality and confidence.

Currently, there are 18 agricultural commodities including table grapes that are marketed under the auspices of section 8(e) legislation. The committee bill adds, kiwi fruit, plums, nectarines, and pistachios to this list of 8(e) crops. The section 8(e) provisions are fully compatible with GATT.

Experience shows that section 8(e) is a win-win situation for both domestic and imported produce. Average yearly sales have increased for both domestic and imported produce since section 8(e) was enacted. I emphasize, for both domestic and imported produce marketing orders have improved and have increased sales.

Let me give one example. There has been an average 7-percent increase in the sales of domestically grown table grapes after section 8(e) was enacted. For imported table grapes, sales have had a 175-percent increase. Section 8(e) clearly does not hurt imports. It helps them.

Minimum quality standards established by section 8(e) legislation generally lead to long-term growth for both foreign and domestic fruits, vegetables, and specialty crops. The inspection ensures that these minimum quality standards will be and are achieved.

The amendment proposed by the Senator from Pennsylvania could deprive consumers the benefit of the inspection. It takes up to 2 weeks for shipments from Chile to arrive in the United States. Fresh produce can deteriorate during this time. Inspection en route on shipboard can be done early in the voyage and mean nothing. The amendment is not clear upon whose request delivery point inspection would be taken, and under what circumstances it would not be taken.

Mr. President, the European Community and Canada require year round inspection at the delivery point. But for the fruit coming to the United States, Chile wants inspection at the shipping point. Having the inspection program in Chile undermines the integrity of section 8(e) and the benefits of inspection. The clear intent is to open the door to permit Chile to dump its low-quality grapes on the United States market. The committee opposes it, and the administration opposes it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Pennsylvania has 3½ minutes.

Mr. BIDEN. Will the Senator yield 2 minutes?

Mr. SPECTER. Yes.

Mr. BIDEN. Ports in our region have suffered from the effects of marketing orders. Imports of fruit covered by marketing orders have been unfairly restricted by differing inspection standards than those applied to domestic fruits. The amendment offered by my colleague from Pennsylvania seeks to return to a more equitable situation.

The Specter amendment will establish a pilot program for onsite inspection of imported fruits from Chile. It is a demonstration program, one that will allow us to assure consumers that quality standards are being met, and to assure producers that they are being imposed in a fair manner.

The amendment does not establish a broad new program. It is a carefully targeted amendment that will be in effect for only for a limited amount of time. At the end of that time, Congress will have to reauthorize the program. Or it can end it if the program does not work.

Under the approach contained in this bill, a California grape grower can pick the grape and have it inspected by the Department of Agriculture almost immediately. And that will be the last time that grape is seen by a USDA inspector, even though it may be stored for weeks and then shipped cross country by truck.

In contrast, Chilean grapes are picked, shipped, and then inspected under the same standards as the grape in California that is fresh off the vine. Opponents of the Specter amendment claim that this system protects consumers. I believe it harms consumers by restricting imports under the guise of protection and by raising prices.

I urge my colleagues to support the Specter amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. I yield 1 minute to my distinguished colleague from Pennsylvania [Mr. HEINZ].

Mr. HEINZ. Mr. President, I want to make the point that this amendment is quite different form the one the Senator from California alluded to. The amendment the Senator from Pennsylvania offered yesterday would have permitted the application of tolerances for en route delivery.

This is a totally different amendment than the one Senator SPECTER offered. It allows for the establishment of a pilot program at the shipping point. It also, contrary to what the Senator from California says, gives permission to the Secretary of Agriculture to have reinspection at the delivery point. It is an extremely modest amendment. If it does not pass, I will offer another amendment.

The PRESIDING OFFICER. Who yield time?

The Senator from Pennsylvania [Mr. SPECTER] has 2 minutes.

Mr. SPECTER. How much time remains for the opponents?

The PRESIDING OFFICER. There is no time remaining.

Mr. SPECTER. In very brief summary, I disagree directly with what the distinguished Senator from California says about evading marketing orders. This amendment does no such thing.

We seek an opportunity by a test program to determine whether we can have fair access to American markets, United States markets, by Chilean exporters. When there is an allegation here that there is some unfairness in what Chile is doing, it is exactly the contrary. As a result of what has come out of the committee through the able guidance of one committee member, the distinguished Senator from California, Senator WILSON, there has been an unfair tilt in favor of California—for what is essentially subsidies for California at the expense of the consumers of fruit in the United States.

There ought to be more fruit available. There are very significant quantities of kiwis, grapes, plums, and other fruits which are available from Chile. You simply cannot impose a standard from a point of entry at the Philadelphia port when California has a standard at point of departure.

This amendment, simply stated, seeks to have a pilot program at the expense of Chile, to see how it works out. I do say this to my colleagues on the floor and those listening: strenuous efforts have been made by Senator HEINZ and myself over the last 3 days, going into the late hours, to find some minimal redress. This is the absolute minimum, which gives us an opportunity to see what such a program would do, which would put Pennsylvania and California on a par, but most important, at a benefit to the American consumer of fruit.

The Senator's time has expired. All time has expired.

VOTE ON AMENDMENT NO. 2400

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota [Mr. PRESSLER].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. Rudman], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER [Mr. KOHL]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—40

Baucus	Exon	Mack
Bond	Fowler	McClure
Boren	Graham	Nickles
Boschwitz	Gramm	Pressler
Bumpers	Grassley	Pryor
Burdick	Harkin	Riegle
Burns	Hatch	Rockefeller
Cochran	Heflin	Shelby
Conrad	Jeffords	Simpson
Cranston	Kassebaum	Stevens
Daschle	Kasten	Symms
DeConcini	Kerrey	Thurmond
Dole	Kohl	
Domenici	Lott	

NAYS—55

Adams	Gore	Mitchell
Akaka	Gorton	Moynihan
Bentsen	Hatfield	Murkowski
Biden	Heinz	Nunn
Bingaman	Helms	Packwood
Bradley	Hollings	Pell
Breaux	Humphrey	Reid
Bryan	Inouye	Robb
Byrd	Kennedy	Roth
Chafee	Kerry	Sanford
Coats	Lautenberg	Sarbanes
Cohen	Leahy	Sasser
D'Amato	Levin	Simon
Danforth	Lieberman	Specter
Dixon	Lugar	Warner
Dodd	McCain	Wilson
Ford	McConnell	Wirth
Garn	Metzenbaum	
Glenn	Mikulski	

NOT VOTING—5

Armstrong	Johnston	Wallop
Durenberger	Rudman	

So the amendment (No. 2400) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2401

The PRESIDING OFFICER (Mr. KOHL). The question occurs on amendment No. 2401 offered by the Senator from Pennsylvania.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered and the clerk will call the roll.

This will be a 10-minute rollcall.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The result was announced—yeas 29, nays 66, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—29

Biden	Domenici	Mikulski
Bond	Glenn	Moynihan
Boschwitz	Harkin	Murkowski
Bradley	Heinz	Packwood
Burns	Humphrey	Pell
Byrd	Jeffords	Pressler
Chafee	Kerry	Roth
D'Amato	Lautenberg	Sarbanes
Dixon	Lieberman	Specter
Dodd	Lugar	

NAYS—66

Adams	Exon	Kohl
Akaka	Ford	Leahy
Baucus	Fowler	Levin
Bentsen	Garn	Lott
Bingaman	Gore	Mack
Boren	Gorton	McCain
Breaux	Graham	McClure
Bryan	Gramm	McConnell
Bumpers	Grassley	Metzenbaum
Burdick	Hatch	Mitchell
Coats	Hatfield	Nickles
Cochran	Heflin	Nunn
Cohen	Helms	Pryor
Conrad	Hollings	Reid
Cranston	Inouye	Riegle
Danforth	Kassebaum	Robb
Daschle	Kasten	Rockefeller
DeConcini	Kennedy	Sanford
Dole	Kerrey	Sasser
Shelby	Stevens	Warner
Simon	Symms	Wilson
Simpson	Thurmond	Wirth

NOT VOTING—5

Armstrong	Johnston	Wallop
Durenberger	Rudman	

So the amendment (No. 2401) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I ask unanimous consent that the pending amendment of the Senator from Hawaii [Mr. INOUYE] be temporarily set aside in order that I might send an amendment to the desk.

Mr. HEINZ. Reserving the right to object.

Mr. LEAHY. Mr. President, may we have order, please? It is impossible to hear. Senators are trying to make objections to the unanimous-consent request. The Chair and Members cannot hear.

The PRESIDING OFFICER. Is the amendment set aside or withdrawn?

Mr. BREAUX. Withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2385) was withdrawn.

AMENDMENT NO. 2402 TO AMENDMENT NO. 2384

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], (for himself, Mr. COCHRAN, Mr. GLENN, Mr. KOHL, and Mr. DIXON) proposes an amendment numbered 2402 to amendment No. 2384.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after Subtitle E and insert the following:

SHIPPING PROVISIONS

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Transportation (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 120-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enact-

ment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241f), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, afer notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

"SEC. 1155. ALLOCATION OF CARGOES.

"(a) Section 901b (c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. app. section 1241f(c)(2)(B)) is deleted and the following is inserted instead:

"(b) In addition, in administering sections 901(b) and 901b (46 U.S.C. app. sections 1241(b) and 1241f), and consistent with these sections, the Secretary of Transportation shall take such steps as may be necessary and practicable without detriment to any port range, commencing as of the date hereof and terminating March 30, 1995, to allocate, on the general principle to lowest landed cost, fifty percent of the bagged, processed or fortified commodities pursuant to title II of the Agriculture Trade Development and Assistance Act of 1990 (7 U.S.C. section 1721 et seq.); *Provided, however,* That such allocation shall not result in the Great Lakes port range receiving a percentage share, or metric tonnage of such commodities, whichever is lower, greater than that experienced by that port range in 1984 as determined by the Secretary of Agriculture; *Provided, further,* That any determination of nonavailability of United States-flag vessels resulting from this provision shall not reduce the gross tonnage of such commodities transported on United States-flag vessels as required under section 901(b) and 901b."

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance wiht section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

Mr. BREAUX. Mr. President, I want to, first of all, start by thanking a number of Senators who have participated in a rather long and serious, but certainly worthwhile debate, not so much on the floor but certainly off the floor, in trying to arrive at a reasonable and rational compromise dealing with the so-called Great Lakes set-aside issue, in which the Senator in the Chair certainly has been one of the leading participants, I might add. I would also like to thank Senators INOUYE, GLENN, and DIXON for their help in reaching this compromise.

As we all know, this situation has arisen as a result of many of the Great Lakes Members being very concerned that they were not allowed to participate in the so-called extra 25 percent of the Public Law 480 cargo and other cargo, as required by law, when cargo preference was increased in the last few years. Because of the problems with availability of U.S. flag vessels in the Great Lakes area the Great Lakes ports claim that they can only compete for 25 percent of the cargo. There were many Senators—and I would cite, of course, my colleagues from Mississippi, Senator COCHRAN and Senator LOTT, a number of the others representing the gulf ports and other ports around the country—who felt a set-aside was, on its face, patently unfair to the other ports which had to compete in order to get business under the Public Law 480 program.

Mr. President, I think this represents a fair compromise. Essentially what it does is to allow the Great Lakes ports to compete and bid competitively on an additional 25 percent of the Public Law 480 cargo, giving them a total of 50 percent that they would be able to bid on. In bidding on these cargoes the Great Lakes ports would be able to use not only U.S.-flag vessels but also foreign-flag vessels in order to compete for that business.

The cargo would be awarded on the lowest landed cost which allows them to use U.S.-flag vessels or foreign-flag vessels. That certainly gives them an advantage because of the lower cost of using a foreign-flag vessel.

This amendment provides that there is a cap on the amount of cargo that can be shipped out of the Great Lakes under the new provision. This is the same cap that was in place under the prior agreement, or compromise, of 245,000 metric tons. After the cap is reached, the Great Lakes ports would not be able to participate in any additional cargo under the new compromise provision.

I would make the other point that this amendment provides for reflagging of foreign-flag vessels to become U.S.-flag vessels, waiving the normal 3-year waiting period. This will allow foreign-flag vessels to come into this trade and operate as U.S.-flag vessels.

Mr. President, I say to our colleagues who have participated in this effort—and I think we all have joined in offering this—this is a fair compromise. It is a good compromise. It allows the Great Lakes to participate in a very positive way in getting this additional business and at the same time protects the other ports in basic opposition to a set-aside. But it does allow the Great Lakes participants to get a portion of the cargo that will allow them to increase their opportunity to share in the Public Law 480 cargo operations.

In conclusion, this amendment provides enhanced opportunity for ports in the Great Lakes to bid based on lowest landed cost for Public Law 480 title II cargoes.

It provides a permanent waiver of the 3-year waiting period for reflagged vessels to be eligible to carry nonbulk cargo preference cargoes from Great Lakes ports.

For 5 years, 50 percent of Public Law 480 title II bagged, processed or fortified cargoes will be awarded to the port with the lowest landed cost, even if such cargoes must travel on U.S.-flag vessels pursuant to cargo preference requirements.

However, for that portion, any additional cost of carrying this cargo on U.S.-flag ships will not come from the USDA budget. Rather, it will come from the DOT budget as presently required by law.

This amendment maintains the current 75-percent U.S.-flag cargo preference requirement.

This amendment caps the amount that can be allocated to Great Lakes ports under this special bidding process to 245,000 metric tons a year, the amount set aside under the recently expired Great Lakes set-aside.

This amendment does not set a ceiling on the total amount of tonnage that can be loaded at the Great Lakes or any other port.

I yield the floor.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from Louisiana in offering this amendment as an alternative to the Great Lakes set-aside proposal that was previously before the body. This amendment does revise the bidding procedures and permits Great Lakes ports to be in a more competitive position with respect to bidding for cargoes under the Public Law 480 title II program.

There is a cap to ensure that no greater share of tonnage would be given to Great Lakes ports than they had in the year 1984. There are other provisions, as accurately described by my colleague and friend from Louisiana. I might say that this effectively compromises the issue that we had before us, in my judgment, Mr. President. I urge all Senators to support the agreement. I feel it will help deal with the concerns that existed in the Great Lakes and also in the other port ranges that were brought about by reason of the change in the cargo preference percentage of 1985 and the realities of new, modern transportation opportunities that we have for shipments of what we produce on America's farms into the international marketplace.

I thank very sincerely the other Senators who have been actively involved in the persentation of this issue to the Senate, particularly my colleague from Mississippi [Mr. LOTT].

Mr. GLENN. Mr. President, I will not run through all the provisions. The Senator from Louisiana has done a fine job of outlining these things. I do want to pay tribute to a couple of people though; one in particular who is presiding right now, Senator KOHL, who worked long and hard on this. He did a superb job, did all the spadework that has to be done on something like this; Senator DIXON also; on the other side, Senator LOTT and Senator COCHRAN, who were willing to talk about this and compromise. We had, let us call it, a spirited debate yesterday, and out of it came this compromise which I do fully support. This is an excellent resolution of this matter.

I think this is an excellent compromise for everybody; for the port people on the gulf, for the Great Lakes people, and I think it works out to everybody's advantage. I urge very strongly that my colleagues vote for this.

Mr. LUGAR. Mr. President, I compliment all of the Senators who have worked out what I believe is truly a historic agreement. It certainly expedites the passage of this legislation. Beyond that it brings greater fairness, in my judgment, for all parties concerned. I know of no further debate on our side of the aisle.

Mr. LEAHY. Mr. President, I want to concur in what the distinguished Senator from Indiana has said. I do wish to compliment Senators on both sides of the aisle.

When extremely well qualified Senators concerned with a national issue put their heads together, they come up with a reasonable compromise. I applaud them. As one of the two managers of the bill, I support it.

Mr. DIXON. Mr. President, we have before us a perfecting amendment to the Inouye Great Lakes amendment. As the Senate is aware, I strongly supported the amendment of the distinguished senior Senator from Hawaii. This perfecting amendment is a compromise that was reached in the interests of moving forward on this issue, and on the overall bill. It is often necessary in this body to meet people halfway for the larger interests of the Senate.

I believe in compromise, Mr. President, and I am glad that we are moving forward on this issue. But let me make it clear that I viewed the Inouye amendment as an effective compromise, and the majority of the Senate reinforced this by the earlier vote on the motion to table.

I do not intend to renew the debate on the Great Lakes set-aside. We have all said our piece, and I believe that the compromise before us does, indeed, provide some relief by enlarging the pool of cargo that the Lakes can bid on, and by providing for a permanent waiver of the 3-year waiting period before reflagged vessels to be eligible to carry U.S. Government preference cargoes from Great Lakes ports.

I would certainly hope, however, that when the Senate conferees work to reconcile this amendment with the House provision, which I view as a stronger and more favorable amendment, they will keep in mind that the original amendment survived a motion to table. The fact that the Senate was unable to hold a vote on the merits of the Great Lakes set-aside should not preclude our conferees from considering such a provision as it appears in the House.

Overall, Mr. President, I am pleased that we are addressing the problems experienced by our Nation's fourth coastal range, and I ask my colleagues to support the amendment before us.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2402) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

Mr. GLENN. Mr. President, I am pleased to rise in support of this amendment, which will promote shipping on the Great Lakes. This amendment addresses both reflagging and the process of bidding for Public Law 480 title II awards of bagged, processed, or fortified commodities.

Concerning reflagging: Under present law, a vessel built outside the United States and then documented under the American flag usually must wait 3 years until it is eligible to carry civilian preference cargo such as food aid commodities exported under the Public Law 480 Food for Peace Program. Under the amendment, the 3-year provision would be waived for vessels serving the Great Lakes provided they meet certain conditions.

The reflagged vessel, an "American Great Lakes vessel" under this amendment, would have to be built between 1985 and 1990, its reconditioning and repair work would have to be done in the United States, and its service would have to be between U.S. Great Lakes and foreign ports except for a 90-day period annually when it could carry cargo abroad from other U.S. ports.

The American Great Lakes vessel would be principally a carrier of packaged and other nonbulk goods. It would not be allowed to carry bulk cargo above 7,000 tons of commercial bulk cargo per voyage.

By waiving the 3-year waiting restriction for reflagged ships meeting these conditions, the amendment provides an incentive for the maritime industry to invest the money necessary to introduce new U.S. ocean going flag service into the Great Lakes, because the vessels would be immediately eligible for U.S. civilian preference cargoes. At present, U.S.-flag merchant ships in international service seldom come to the Great Lakes. The amendment does not add to Public Law 480 costs. It does provide opportunities for adding modern merchant vessels to the U.S. fleet and increasing U.S. maritime jobs aship and ashore.

The bidding process addressed by the amendment involves a chance to expand the Public Law 480 bidding possibilities for Great Lakes ports. The new process would apply over the next 5 years.

Under the present law and procedure, the U.S. Department of Agriculture awards its Public Law 480 title II cargoes on a monthly basis with the first 75 percent allocated to U.S.-flag vessels. The remaining 25 percent is allocated to the lowest bidders regardless of the flag of carriage.

Under the amendment, the USDA would have 50 percent of its Public Law 480 title II bagged, processed or fortified commodities—the types of Public Law 480 cargoes traditionally exported through Great Lakes ports—open to bidding on an all-flag, lowest-land-cost basis. The broader, all-flag bidding base would apply until the Great Lakes achieved a traditional market share of about 245,000 tons of such commodities annually. The law requiring that 75 percent of cargoes go on U.S.-flag ships would still apply. However, the cargoes would be allocated to ports with the lowest-land-cost bids on an all-flag basis, and U.S.-flag ships would have to pick up the cargoes at those ports if the ships are available.

Inasmuch as the Great Lakes are disadvantaged in bidding for Public Law 480 cargoes by the lack of U.S.-flag shipping service, the combination of a broader all-flag bidding base and the incentive to bring in U.S. ships through reflagging is intended to increase the opportunities for the Great Lakes to compete for Public Law 480 business.

I ask unanimous concent that a summary of this amendment to printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE AMENDMENT

1. Provides enhanced opportunity for ports in the Great Lakes to bid based on lowest landed cost for Public Law 480 Title II cargoes.

2. Provides a permanent waiver of the 3-year waiting period for reflagged vessels to be eligible to carry non-bulk cargo preference cargoes from Great Lakes ports.

3. For five years, 50 percent of Public Law 480 Title II bagged, processed or fortified cargoes will be awarded to the port with the lowest landed cost, even if such cargoes must travel on U.S.-flag vessels pursuant to cargo preference requirements.

4. However, for that portion, any additional cost of carrying this cargo on U.S.-flag ships will not come from the USDA budget. Rather, it will come from the DOT budget as presently required by law.

5. This amendment maintains the current 75 percent U.S.-flag cargo preference requirement.

6. This amendment caps the amount that can be allocated to Great Lakes ports under this special bidding process to 245,000 metric tons a year, the amount set aside under the recently-expired Great Lakes Set-Aside.

7. This amendment does not set a ceiling on the total amount of tonnage that can be loaded at the Great Lakes or any other port.

Mr. President, this is a rare occasion in which disparate members of the maritime industry, including maritime unions, port directors, and shipowners, have focused on the needs of the Great Lakes. As a result, we have a constructive long-term strategy for removing regional inequities related to cargo preference, and for promoting ocean-going shipping on the Great Lakes. I encourage my colleagues to join me in supporting it.

VOTE ON AMENDMENT NO. 2384, AS AMENDED

The PRESIDING OFFICER. The question now occurs on the Glenn amendment, as amended.

The amendment (No. 2384) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I know the Senator from Pennsylvania is standing. I am not going to cut his time. I am going to yield in just a moment so that he can be recognized. I would simply ask, Mr. President, the Senator from Pennsylvania is about to bring up an amendment, if I am correct, and I just want to check whether it is possible on this, as on the other amendments so far today, if we could have a time agreement?

I would, in saying that, propose an agreement. Let me propose that there be a 20-minute time agreement, equally divided, with no amendments in order to the amendment, with a vote to occur on or in relation to the amendment 20 minutes after debate begins.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Will the floor manager yield for a question?

Mr. LEAHY. Yes.

Mr. LAUTENBERG. Is it the manager's intention to try to delineate or list those amendments ready to go, so that we have an order that we can proceed to and, therefore, eliminate delays between the various offerings?

Mr. LEAHY. The Senator from New Jersey makes an excellent suggestion, one that we have begun work on. During this 20 minutes, we will try to work out such a list. It would be my intention after this next vote, with the concurrence of the distinguished Republican manager, Senator LUGAR, that we might have a list.

Also I would hope, I know a number of amendments have been cleared for voice votes, that we might do all of those at the same time. In other words when we have this next vote, if Senators wish to stay around, I think we will be able to give an order, a list, and dispose of a number of amendments by voice vote.

Mr. LAUTENBERG. I thank the Senator.

Mr. LEAHY. I thank the distinguished Senator from Pennsylvania for his cooperation.

Mr. HEINZ addressed the Chair.

AMENDMENT NO. 2404

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], for himself, Mr. SPECTER, Mr. BRADLEY, Mr. BIDEN, Mr. LAUTENBERG, and Mr. ROTH, proposes an amendment numbered 2404.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 924, line 15, insert "(a) IN GENERAL.—" before "The first".

On page 924, between lines 19 and 20 insert the following new subsection:

"(b) COOPERATIVE AGREEMENTS.—The President of the United States shall have the authority to enter into cooperative agreements with heads of state of foreign governments to establish grading programs to be applied to horiticultural crops to be imported into the United States, in accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act. Nothing in the provisions of this subsection may be construed as limiting the authority of the President to enter into cooperative agreements described under this subsection. This amendment shall take effect 7 days after enactment"

Mr. HEINZ. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. No second-degree amendments are in order.

Mr. HEINZ. I beg your pardon, Mr. President? There are no second-degrees in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Very well. If that is the case, I withdraw the perfecting amendment.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes on the original amendment.

Mr. HEINZ. Very well.

Mr. President, we just had a debate here a few minutes ago on the amendment by the Senator from Pennsylvania [Mr. SPECTER]. The problem that exists with the importation of grapes principally from Chile and some other fruit products and the inequity that exists because of the differences in the time and place of inspection with certain domestic produce, principally grapes, nectarines, plums from California, I think was made clear. That is, that at the present time there is shipping point inspection. That is practically in the field for domestic producers even though the ones in the United States are 3,000 miles and maybe 10 days by truck, away. In the case of Hawaii of course they are even farther away. Compared to imports from Chile which is a major source of importation of produce into the United States through the port of Philadelphia—we have destination point inspection. Both are to the same standards.

So it is clear that there is an inequity which was described earlier, and

that is something that is inspected 3,000 miles away and 10 days earlier probably is not going to be in exactly the same shape as when it was inspected and then delivered to the east coast, whereas imports are subjected to a standard that is just as high. Senator SPECTER earlier was trying to resolve that through a pilot program.

There seems to be objections by the Senators from California to doing that. While I do not agree with them, what I would like to do in this amendment is give somebody, in this case the President, the authority to do something if in the judgment of the President he thinks it is necessary.

So what this amendment does is to say that the President is authorized but he is not required; this is permissive authority. He may establish and enter into cooperative agreements with the heads of state of foreign governments to establish grading programs. It does not say what the nature of those grading programs has to be. It does not say where any inspection has to take place.

It aims at trying to solve this problem, but we are not saying that in an effort to address the clear opportunity for degradation of domestic fruit between its picking and inspection in California and its delivery in the east. We are not saying that there has to have to be applied en route or delivery tolerances. They are not precluded but they are not insisted upon. We are not saying as I said that inspection has to take place at one shipping point or another delivery point.

We are not requiring that shipping point inspection be conducted outside the United States. We are not requiring that there be a U.S. inspection pilot program as in Senator SPECTER's amendment.

We are not requiring that the United States allow Chileans to come to the United States for specialized training. We are not designating that.

We are saying that all of those alternatives are open, and probably more alternatives because what we are doing is giving the President this expressed authority to take whatever steps in his best judgment he deems are necessary to protect U.S. consumers, and producers, and to deal with any trade inequities that he believes are present.

Mr. President, I think this is as modest an amendment as we could ever design and offer to our colleagues here on the Senate floor. I urge our colleagues' support of the amendment.

I reserve the remainder of my time. Mr. President, I offer this amendment on behalf of Senators SPECTER, BRADLEY, BIDEN, LAUTENBERG, and ROTH.

Mr. CRANSTON. Mr. President, I understand that the manager of the bill would permit me to handle the time. So I yield myself such time as I will need, but I will be very brief.

This amendment is an attempt to accomplish through the President what the Senate just rejected by an overwhelming vote. Let me repeat: Minimum quality standards assure the consumer of a consistent and dependable supply of high quality produce.

The inspection ensures that these minimum quality standards are achieved. The amendment proposed by the Senator from Pennsylvania could deprive consumers the benefit of the inspection. It takes up to 2 weeks for shipments from Chile to arrive in the United States. Fresh produce can deteriorate during this time.

That leads to uncertainty among consumers. They do not know what is good. They do not know what is bad. They do not know what is domestically grown. They do not know what is imported.

Experience shows when you have marketing orders you have a better selling record of both imported and domestic produce. So this amendment will not help ports. This amendment would hinder ports, despite the views of the Senator from Pennsylvania. Giving the President the authority to enter into agreements with foreign governments on commodity quality programs undermines the integrity of section 8(e) and the benefits of inspection which have benefited our farmers and benefited our consumers.

I urge my colleagues to reject this amendment as they rejected the previous one.

I yield 3 minutes to my colleague from California, Senator WILSON.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. WILSON. Thank you, Mr. President.

Mr. President, as my colleague from California said, this is simply another effort to evade the standards that are set by marketing orders for the protection of the consumers, to protect the quality of produce. So Members should vote on this measure as they did upon the last one because it is essentially the same question.

This is a much less direct casting of the effort to evade the quality standards because it says that nothing in the provisions of this subsection may be construed as limiting the authority of the executive to enter into cooperative agreements described under this subsection. Described under this subsection are certain domestic marketing orders. What they are saying is the existing law and the existing protections of the Federal marketing order shall not be deemed as a bar to the State Department if they want to make a deal with Chile. This is an invitation to the Chilean lobbyists to come to the State Department, and say let us make a little deal here, we will work out something.

I am not unsympathetic to my friends' efforts to try to protect business for the port of Philadelphia. But I am unsympathetic to efforts that would allow the violation of the protections of the existing Federal marketing order to the loss of the American consumer, and that is precisely what there is.

It is essentially the same question asked in a different way. It is less direct. I must say if not intended to be, I think it is a touch devious in its effort to circumvent marketing orders by simply saying the President of the United States through his agents has the authority to enter into cooperative agreements with other governments.

Well, the President does not routinely override existing law, constitutional or statutory. That is an invitation here to foreign governments to urge the State Department to have him do just that by some secret agreement.

I urge the same vote as on the last measure. It is the same issue. It is consumer protection and the honoring of existing law.

I yield the floor.

Mr. HEINZ. Mr. President, I think the Senator from California, Senator WILSON, is right in one regard, that most of the arguments have been made on this subject. And he is right when he says that this is a question of consumer protection, but maybe perhaps not the way he means it, because right now consumers are not as protected as they ought to be.

This would allow the President to do a better job of protecting consumers, so that there are standards. For example, if he felt it was in his judgment prudent to have destination point inspections not just for imports but for domestic produce coming more than 2,000 or 3,000 miles, which takes more than, say, 7 days to get to a consumer market.

So, yes, I think it is quite proper to say that this amendment is about protecting consumers better, because we give the President the authority to do it.

One other assertion of the Senator from California [Mr. WILSON] that I take issue with, is that this somehow gives the President the authority to nullify or override any of the marketing orders that either exist or were contemplated by this legislation. And if anybody would take the time to read the amendment, it says that the President has this authority, but only in accordance with certain domestic marketing orders implemented under the Agriculture Adjustment Act. It is in the amendment.

I do not know whether the Senator from California was reading my amendment or some other amendment. But on its face, those words clearly state that we are not trying to nullify the effect of any marketing

order anyplace. I think the Senator from California knows that, and I hope he will be clear, if he really meant the contrary. I would be happy to debate what the amendment does and what it does not say.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. How much time does my colleague want?

Mr. WILSON. Two minutes.

Mr. CRANSTON. I yield 2 minutes to the Senator from California.

Mr. WILSON. Mr. President, I think that it is very clear that this language is not clear. I do not know that it was intended to have the effect that it does by my friend from Pennsylvania. But it is not well drafted.

Yes, indeed it does make reference—it says "In accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act," and it says, "Nothing in the provisions of this subsection may be construed as limiting the authority of the President to enter into cooperative agreements described under this subsection."

So, to me, that suggestion is that the agreements that are described under this subsection, which are stated to be in accordance with marketing orders, may, in fact, be subject to an agreement by the executive. It is not clear if he intended it to be clear. I have to say that I think the drafting has failed, and if it was not his intention to permit this situation in which the executive, and, notably, specifically, the State Department, might enter into an agreement with a foreign power, foreign government, then, frankly, it is not well enough drafted, and it should not be passed. It is not a good idea, in any case.

The basic issue is the one we just addressed on the preceding vote. The question put simply is, do you believe that American consumers should be protected with respect to the quality of produce, or do you want to let down the standard somewhat, let deteriorating fruits come in and pretend it is, in essence, really the same quality?

Mr. President, I reserve the remainder of our time.

Mr. CRANSTON. Mr. President, we have discussed this ad nauseam now. I am opposed to it. The Senator from California, my colleague, is opposed; the manager is opposed. The administration does not like it.

I am prepared to yield back my time.

Mr. HEINZ. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 2 minutes remaining.

Mr. HEINZ. I will just take a minute of that time, Mr. President, to answer the junior Senator from California.

The phrase that he refers to, "Nothing in the provisions of this subsection may be construed as limiting the authority of the President," and so forth, is a standard phrase. It is a term of art. It has always meant existing authority. The word "existing" authority is not there, but we never put it in because it is understood.

If the Senator from California wants to split hairs, I will put it in, and I modify my amendment accordingly. Nevertheless, that is the amendment, and in my judgment, it was correctly drafted.

The PRESIDING OFFICER. The Senator would be modifying his amendment by unanimous consent?

Mr. HEINZ. The Senator from Pennsylvania has not asked for the yeas and nays on his amendment.

The PRESIDING OFFICER. The modification may only occur by unanimous consent.

Mr. HEINZ. I do not care much one way or the other. I am willing to ask unanimous consent, but I do not think it makes any difference. I do so.

Mr. WILSON. Reserving the right to object, Mr. President, what is the modification?

Mr. HEINZ. Putting in the word "existing" before "authority," which I think is hairsplitting, but I am doing it to satisfy the Senator from California.

Mr. WILSON. Mr. President, it will not change anything.

Mr. HEINZ. That is right.

Mr. WILSON. It will not remove my objection. I not only object to the modification, I will state that it does not change the basic objection, or the fact that this statement leaves it unclear as to what the authority of the President will be. Obviously, it meant existing authority.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so modified.

The amendment, as modified, is as follows:

On page 924, line 15, insert "(a) IN GENERAL.—" before "The first".

On page 924, between lines 19 and 20 insert the following new subsection:

"(b) COOPERATIVE AGREEMENTS—The President of the United States shall have the authority to enter into cooperative agreements with heads of state of foreign governments to establish grading programs to be applied to horticultural crops to be imported into the United States, in accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act. Nothing in the provisions of this subsection may be construed as limiting the existing authority of the President to enter into cooperative agreements described under this subsection. This amendment shall take effect 7 days after enactment.".

Mr. SPECTER. Mr. President, the amendment by my distinguished colleague from Pennsylvania provides the President of the United States with specific authority to enter into cooperative agreements with Heads of State of foreign governments to establish grading programs on fruits and vegetables that are imported into the United States. As a cosponsor of this amendment, I believe that this approach will grant further review of the inequities which exist under the current marketing order standards.

Mr. President, the Senate is being asked to extend the terms and conditions of a domestic marketing order to imported produce. We are to consider whether the domestic marketing order that controls the production, sale and marketing of domestically grown kiwi, plums and nectarines should be applied to imported fruit.

Imported produce represents a significant amount of business for the Delaware River Ports. In 1988 imported Chilean kiwi, nectarines, and plums represented $6.4 million in direct benefits and $9.7 million in indirect benefits to the Philadelphia and South Jersey ports. Imported New Zealand kiwi represented about $4.6 million in direct benefits and $6.9 million in indirect benefits to the Wilmington Port. Extension of the marketing order puts into jeopardy about $27.6 million of direct and indirect benefits to the Delaware River ports. However, Chilean and New Zealand imports represent 30 percent of the ports man-hours—$174 million in direct benefits and indirect benefits. Such a financial loss will inevitably lead to significant job losses. Conservative estimates indicate at least 10,000 are directly related to the produce in the Delaware, Philadelphia, and New Jersey ports.

I must point out that this concern is based on past experience. The Port of Philadelphia lost $7.6 million in revenue in 1988 as a result of Chilean produce going to ports outside the United States after implementation of the marketing order. In 1989, the marketing order for table grapes began on April 20. After that date Chile exported 1.4 million cases of fruit, but only 1,700 cases came to the United States. About 98 percent was diverted to other countries. In 1990, as in most other years, the ports received 98 percent of their shipments.

Quality concerns did not drive the Chilean fruit away from this market. According to data collected at the Philadelphia Port, at most only 2 percent of the grapes that came through the ports after the marketing order had been imposed, failed to meet the quality standards. For the exporters, the issue is not that the produce is inferior and will fail to meet the grade. The issue is a business decision; whether to ship to markets where there is a risk that some will be rejected or ship to a market without those restrictions and thus no risk of rejection.

The implementation of marketing orders and their application to imports has negative consequences for American consumers. To illustrate this point, I will again refer to our experience with the effect of marketing orders on table grapes. An economic study designed to assess the results of advancing the effective date for marketing orders on table grapes concluded that a shift in the marketing order of less than a month could cost consumers anywhere from $3 to $17 million. The marketing order creates an artificial scarcity resulting in higher costs for domestic produce.

I support the amendment of my colleague from Pennsylvania to have the President enter into talks with foreign governments with respect to this inequity. Accordingly, I urge my colleagues to support this important amendment.

Mr. DECONCINI. Mr. President, I rise in opposition to the proposal of Senator HEINZ giving the President of the United States authority to enter into cooperative agreements with foreign governments for the establishment of grading programs in accordance with domestic marketing orders. I urge my colleagues to reject the idea of conducting quality inspections of certain chilean agricultural commodities in Chile.

Currently, grapes from Chile are inspected at their entry into the United States—for most grapes that entry is Philadelphia—during the United States growing season. It is common knowledge in the produce business that fruits and vegetables undergo some inevitable decay in transit. The transit time from Chile is approximately 2 weeks, a significant time period for fresh produce to degenerate.

Under the proposed amendment, grapes inspected in Chile for quality and not in the United States could enter the United States markets at the same time that top quality domestic grapes first come on the market. End of season grapes that have deteriorated in transit from Chile will crowd the market with less than good quality grapes, causing the American consumer to reject all grapes on the grocery shelves.

No other agricultural product imported into the United States is inspected for quality at the port of departure; they are all inspected in the United States. Both Canada and the European community inspect in country, and all year round. This is a much tougher standard than the United States, one which only calls for quality inspection during the United States growing season. In fact, of the total imports of 41 million boxes of grapes from Chile, only about 240,000 boxes are subject to the inspection. Given this evidence—that less than one-half of 1 percent of all Chilean grapes are subject to quality inspection—I am frankly at a loss to understand why the Senators from Pennsylvania want to attack this domestic market. What is the reasoning? I cannot believe that my colleagues are seeking to disadvantage American grape growers—placing them in a tougher position and subject to a tougher standard than grapes from Chile.

Under the 8E provisions, grapes entering this country must meet the same minimum quality standards as the domestic product. That is why the Mexican grape growers support the 8E provisions. The Mexican grape growers want to entice the American consumer to buy more grapes by providing good quality merchandise.

The 8E provisions have not hurt the importation of Chilean grapes. Rather these imports have increased from 500,000 boxes in 1975 to an estimated 41 million boxes this year. Undoubtedly, the quality standards and inspection in the United States have not inhibited the importation of grapes from Chile. Additionally, I should note that the United States has no duty on grapes from Chile. By Contrast, Chile imposes a 15 percent duty on all table grapes imported into their country.

Arizona now produces 1.8 million boxes of table grapes a year on 5,700 acres. My growers cannot afford to have low-quality grapes on the market which would reduce the American consumer's confidence in their product.

I urge my colleagues to reject this provision. Inspection in Chile will result in lower quality and lower consumer demand for grapes and in the end both foreign and domestic growers will be hurt.

Mr. HEINZ. I suggest we vote. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, the modification makes no change in the amendment. We still oppose it. Consistent with the last vote, Senators who voted against this amendment last time should vote against this alteration in it. It does not change it in a significant way.

I yield back whatever time I have left.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Pennsylvania.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the role.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. BINGAMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 68, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—25

Biden	Domenici	Murkowski
Bond	Heinz	Packwood
Boschwitz	Humphrey	Pell
Bradley	Jeffords	Roth
Byrd	Kerry	Sarbanes
Chafee	Lautenberg	Specter
D'Amato	Lieberman	Symms
Dodd	Lugar	
Dole	McClure	

NAYS—68

Adams	Glenn	McConnell
Akaka	Gore	Mikulski
Baucus	Gorton	Mitchell
Bentsen	Graham	Moynihan
Bingaman	Gramm	Nickles
Breaux	Grassley	Nunn
Bryan	Harkin	Pressler
Bumpers	Hatch	Pryor
Burdick	Hatfield	Reid
Burns	Heflin	Riegle
Coats	Helms	Robb
Cochran	Hollings	Rockefeller
Cohen	Inouye	Sanford
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
Danforth	Kennedy	Simon
Daschle	Kerrey	Simpson
DeConcini	Kohl	Stevens
Dixon	Leahy	Thurmond
Exon	Levin	Warner
Ford	Lott	Wilson
Fowler	Mack	Wirth
Garn	McCain	

NOT VOTING—7

Armstrong	Johnston	Wallop
Boren	Metzenbaum	
Durenberger	Rudman	

So the amendment (No. 2404), as modified, was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I think we are reaching a point where guarded optimism can be the order of the day.

We have tried to work out a list of agreed upon amendments and we are going to be prepared to go to those in a moment. I just want to make sure that the distinguished Senator from Indiana and I have a chance to double-check because we were tied up during this vote.

Mr. President, I suggest the absence of a quorum and advise my colleagues it is going to be a short one.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor of the campaign finance reform bill before us in the form of amendment 1613 to S. 137.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand my distinguished colleague from New Jersey, Senator LAUTENBERG, had a matter he wished to address. I yield to him.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I had intended to offer an amendment on behalf of myself and Senators JEFFORDS, LIEBERMAN, REID, KERRY, CRANSTON, and PELL.

Mr. President, our amendment would have strengthened the pesticide recordkeeping provisions in S. 2830, the 1990 farm bill. Although the Senate Agriculture Committee bill has taken a step in the right direction, its provisions needs to be improved.

Improperly used pesticides can make our surface and ground water unsafe to drink and harm aquatic resources, can make our food unsafe to eat, and can poison farm workers.

According to EPA's latest water quality survey, pesticides have impaired nearly 15,000 miles of the Nation's rivers and over 140,000 acres of the Nation's lakes. Fourteen States reported instances of pesticides causing fish kills, many in estuarine waters.

In a separate EPA survey, the Agency identified 54 pesticides that, with limited monitoring, already have been detected in ground water.

It is no wonder that 37 States identified pesticides as contaminants of concern for their States' waters.

Improper use of pesticides also threatens our health. A 1987 National Academy of Sciences report concluded that legal applications of only 28 pesticides could cause cancer for 6 out of every 1,000 people. And EPA has identified 25 other pesticides which may be carcinogens but can be legally be used on food.

And improper pesticide use can threaten worker health. According to EPA, there are significant numbers of pesticide poisonings among agricultural workers every year. And only a small percentage of poisonings are reported. OTA recently reported that there is evidence of more than 300,000 pesticide-related illness among farmworkers.

Recordkeeping will help deal with these threats by expanding data on actual pesticide use. Agencies will be able to target food and water monitoring more efficiently and cost effectively and improve their pesticide regulatory actions.

Agricultural extension agents could help farmers improve the efficiency of pesticide use and improve pesticide management.

And health professionals and workers will have access to pesticide use information which will improve farm worker diagnosis and treatment.

Our amendment would have strengthened recordkeeping requirements contained in S. 2830.

The committee bill would require recordkeeping only for restricted use pesticides [RUP's]. These are compounds which EPA has restricted for use by trained pesticide applicators because of potential threats to human health or the environment.

Other pesticides, however, pose significant threats and deserve the same treatment as RUP's.

According to a 1989 EPA report, of the 54 pesticides that have been detected in ground water, 24 are classified for general use, including some potential human carcinogens. Some have been found at levels which exceed levels EPA has determined are unsafe to drink.

A recent U.S. Geological Survey analysis prepared at my request determined that 35 general use pesticides have been detected in the Nation's ground water and 32 have been detected in surface water. In a USGS survey of pesticides found in surface water in the Midwest, general use pesticides have been found above the levels which EPA has determined are unsafe to drink.

And NOAA has identified eight instances where general use pesticides have resulted in fish kills in the Nation's estuaries.

Eight States now require recordkeeping for more than just restricted use pesticides.

Our amendment would have required recordkeeping for all pesticides, not just restricted use pesticides as the committee bill provides. It also would have required that anyone who applies pesticides for commercial purposes keep records and expands the information which will be contained in the record.

Our amendment also would have expanded access to pesticide records. Mr. President, knowledge is power—power to work for a cleaner environment and workplace.

That is the meaning of the right-to-know provisions of the 1986 Superfund revisions which I authored. Those provisions gave communities the right-to-know what chemicals they were being exposed to.

That law is having a significant effect on the use of toxic chemicals.

As companies are identifying the level of toxics they are emitting, many are voluntarily reducing the amount of toxics they emit. And Government agencies are better able to target pollution control efforts.

Mr. President, we need to provide access to pesticide information as well as chemical information.

The committee's provision would provide access of pesticide records to Federal, and State government officials, and would provide information be given to medical professionals only in cases of medical emergencies.

But local governments have the right to know what pesticides are being used in their areas in order to protect community water supplies from contamination.

Health care professionals have a need to access to data to improve diagnosis and treatment.

And workers have a right-to-know what pesticides they are being exposed to.

Our amendment would have provided a type of right-to-know for pesticides. It would allow access to records for local, as well as Federal and State officials, would expand access to records for medical personnel and would provide access to farm workers.

And while citizens would have access to records pursuant to the Freedom of Information Act or similar State law, the names and addresses of farmers will be protected from disclosure.

At the same time, the amendment limits the number of governmental agencies which can request a record directly from a farmer. In this regard, it is more protective of farmers than the Agriculture Committee bill which allows all appropriate Federal and State agencies to get records directly from farmers.

Ten States already have varying forms of recordkeeping requirements. In none of these States has recordkeeping been a serious burden on farmers.

Farmers could use one page to record the mandated information for each pesticide application.

Our amendment is supported by environmental, labor and consumer groups and the National Farmers Union, which represents more than three-quarters of a million people who

own farms and ranches in the United States.

Mr. President, the National Farmers Union support of this amendment, together with the existing recordkeeping program in 10 States, clearly demonstrates that our Nation's farmers can live with and benefit from a pesticide recordkeeping program.

I ask unanimous consent that a copy of the amendment and a list summarizing the State pesticide recordkeeping programs be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. LAUTENBERG (for himself, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. KERRY, Mr. CRANSTON, Mr. PELL, and Mr. REID).

On page 560, strike out line 1 through line 6 on page 562, and insert in lieu thereof the following new section:

SEC. 1273. RECORDKEEPING FOR PESTICIDE USE.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Any person using pesticides for agricultural production, including postharvest treatment of agricultural products, or other commercial purposes shall maintain records of each pesticide application. Such records shall include at least the product name, amount and rate of application, method of application, target pest, crop or site treated, date and approximate time of application, and location of application of each pesticide used for at least a 2-year period after such use.

(2) COPY.—A commercial applicator shall provide a copy of records maintained under paragraph (1) to the person for whom the pesticide application was provided within 30 days of the application.

(b) ACCESS.—Information maintained under subsections (a) and (g) shall be made available to any Federal, State, or local agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides. Federal agency access to records under this section shall be the responsibility of the Department of Agriculture. If the Department fails to act on a request from a Federal agency for records in a timely manner, the Environmental Protection Agency will have the responsibility to obtain records directly on behalf of the requesting Federal agency. State and local agency requests for access to records maintained under this section shall be the responsibility of the lead State agency so designated by the State. Information maintained under this section by any government agency shall be subject to public disclosure under section 552(a) of title 5, United States Code or any similar State law, except that the name and address of the individual maintaining the records shall not be subject to such disclosure.

(c) HEALTH CARE PERSONNEL.—When a health professional such as a physician, nurse, paramedic, or industrial hygenist determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to such pesticides, upon request persons covered by this section shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) INFORMATION.—On the request of an employee, or designated representative, persons covered by this section shall provide records on a pesticide to which such employee is or has been exposed.

(e) PENALTY.—The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), (c), and (d). A person who violates any such subsection shall—

(1)(A) in the case of a first offense, be subject to a penalty not to exceed $500; and

(B) in the case of a subsequent offense, be subject to a penalty not less than $1,000, except that such penalty may be reduced if the Secretary determines that the person made a good faith effort to comply with this section; or

(2) in the case of any offense be subject to loss of certification for use of restricted use pesticides; whichever is determined appropriate by the Secretary.

(f) FEDERAL OR STATE PROVISIONS.—The requirements of this section shall not affect provisions of other Federal or State laws.

(g) SURVEYS AND REPORTS.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under this section to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. Such report shall be filed on April 1, of each year.

(h) REGULATIONS.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations implementing this section within 180 days after enactment of this Act.

(i) REPEAL.—Subsection (d) of section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136i(d)) is repealed.

SUMMARY OF STATE PESTICIDE APPLICATOR RECORD KEEPING PROGRAMS

State	Department	Category	Type of pesticides	Access to Information	Survey	Enforcement	Period records kept
California	CDFA	Anyone using pesticides for agricultural use or post-harvest treatment.	RUP's and general use	Available from county ag. commiss.			2 yrs.
Connecticut	Department of Environmental Protection.	Certified private and commercial applicators.	RUP's for private applicators; all pesticides for commercial applicators.	Public information, available from DEP.	None	$1,000 to $5,000; usually, letter of warning.	5 yrs. for commercial applicators.
Kansas	DOA	Commercial applicators	RUP's and general use	Available from DOA	NASS survey of corn and milo.	Compliance monitoring and investigations.	3 yrs.
Maine	DOA	Certified commercial, govt., and private applicators; dealers.	Varies from All to RUP's, depending on type of record keeper.	Public info, available from DOA.		Letter of warning, civil and criminal charges, ineligibility to renew license.	
Massachusetts	DFAg	Certified applicators	RUP's and general use	Public access restricted (?)		Letter of warning	3 yrs.
New Hampshire	DOA	Certified applicators and dealers.	RUP's and general use	Available to public at the discretion of DOA.	All users submit annual records.	Letter of warning, administrative fines, civil and criminal charges, ineligibility to renew license.	2 yrs.
New Jersey	Dept. of Environmental Protection.	Anyone using pest. on commod. for sale.	RUP's and gen'l use since 1985 (RUP's only previously).	Available from DEP	Farmers: every 2 yr. Dealers: every 3 yr.	Warning notice for first offense: $100 to $3,000 fine for chronic violators.	3 yrs.
New York	Department of Environmental Conservation.	Commercial and private applicators.	Commercial = all; private applicators = RUP'S.	Annual reports of totals	None	Enforcement actions taken for failure to maintain proper records.	3 yrs.
Texas	TDA	Certified applicators and employers.	RUP's and general use	TDA access for all applicators; farm worker access to info. from employers.		Fine varies with nature and severity of violation.	2 yrs for farmers; 30 yrs for employers.
Washington	DOA	Certified applicators, and all who apply on more than one acre.	RUP's and State RUP's	Available from DOA		$1,000 to $7,500 per violation.	7 yrs.

Mr. LIEBERMAN. Mr. President, I am pleased to speak today in support of the recordkeeping amendment proposed by Senator LAUTENBERG. This important amendment will ensure the availability of critical information necessary to treat farmers and farmworkers who suffer from pesticide poisoning. It will also provide the data necessary for the Government to make well-reasoned decisions about the use of pesticides. Approximately 750 million pounds of pesticides are used in agriculture every year. EPA region 1, the region in which Connecticut is located, has listed pesticide residues on food and ground-water contamination as among the highest risks to human health in the region. Yet, despite the fact that both the Environmental Protection Agency and the Department of Agriculture make key decisions about pesticide uses and exposures regularly,

we actually know very little about pesticide use across the country.

Last year when concern about the use of Alar was sweeping the country, the Federal Government was unable to develop any reliable estimate of the percentage of the apple crop which had been treated with Alar. EPA's only estimate was based on a hasty phone survey which they later admitted was flawed. Other independent groups did their own testing and came up with very different numbers. EPA estimated that 5 percent of apples were treated, while the other surveys indicated that up to 65 percent of apples had been treated with Alar. The inability to develop accurate figures caused unnecessary confusion and delay in Government decisionmaking. Information on pesticide use—what food the pesticide has been used on, how much was used, and when it was used—is critical to making informed decisions about risks to human health and the environment. Everyone benefits when Government decisions are based on accurate data.

According to a League of Women Voters Education Fund report as many as 300,000 farmworkers become ill from pesticides annually. Information on the specific pesticides used is critical for the medical treatment of those who are exposed to pesticides. When a farmworker arrives at a health clinic suffering from what might be pesticide poisoning, it is imperative that the health care personnel have immediate access to information on what pesticides the person has been exposed to. Just as those who work in factories have the right-to-know what chemicals they are exposed to in the work place, those who work in the fields cultivating and harvesting this country's food have the right to the same information.

Ten States now have recordkeeping provisions which require pesticide applicators to keep some records. In both California and Texas complete recordkeeping has proved to be workable. It has not presented difficulties to producers or program officials, nor has it generated any increase in lawsuits concerning the required information. The information which would be available under this provision insures that the Government will be able to reassure consumers with far more accurate information regarding pesticide residues in food than it has in the past and, it will also make assessing risks to human health far less of a guessing game.

I believe this amendment ensures that the Government and health care personnel will have access to information necessary to monitor pesticide exposure and potential effects on human health and the environment and, at the same time, does not place undue burdens on the farmers. We are all exposed to pesticides on a regular basis—on our food, as Senator LAUTENBERG has detailed, in our water, and, if we live in communities where spraying occurs, in the air. The data this amendment will provide the Government is data which will enable all of us to better understand and address the effects of pesticides on human health and the environment. I urge my colleagues to support the amendment.

Mr. GRASSLEY. Mr. President, I rise in opposition to the Lautenberg amendment. Not only does Senator LAUTENBERG's amendment violate the agreement reached between farm and environmental groups on the farm pesticide recordkeeping issue, it also guts the recordkeeping provisions that where agreed upon by the Senate Agriculture Committee.

The pesticide recordkeeping provision of S. 2830 is very progressive. For the first time, farmers will need to maintain records of pesticide use and submit those records to the Secretary of Agriculture. They will also have to make those records available in event of a medical emergency. The Ag Committee did a good job drafting this provision and I wholeheartedly support their action.

Senator LAUTENBERG's amendment will result in a huge and unnecessary burden being placed on the family farmer as well as the USDA and EPA. The current provisions of S. 2830 require the maintenance of records on some 225 pesticides which are considered by the EPA to be of greatest concern. However, Senator LAUTENBERG's amendment brings into play all pesticides. This is approximately 25,000 products. This requirement is overkill, farmers are already required to keep records of the chemicals if they are storing quantities under the existing superfund community right-to-know requirements.

If you follow the logic of the Lautenberg amendment, it seems that everyone should keep a record every time we use a pesticide—especially since nonfarmers clearly outnumber farmers. In metropolitan areas, lawn care chemicals are heavily used by the private homeowner whose sole interest is a picture perfect lawn.

The Lautenberg amendment does not adequately protect the privacy of farmers. By allowing persons other than Federal and State government officials to have access to the records, we are leaving farmers open to attacks, harassment, frivolous litigation, and overall mischief by activist groups.

Also, the amendment would allow local governments to have access to farmers' records. It was just a few days ago that the distinguished senior Senator from Alabama described for this body his concerns regarding the Reid targeting amendment. Senator HEFLIN correctly pointed out that the Reid amendment would be an invasion of constitutionally guaranteed privacy. I feel that the Lautenberg amendment suffers from the same problems.

The Lautenberg amendment would also require the Secretary of Agriculture to provide an annual report compiled from the millions of individual records submitted by farmers. This requirement will place a tremendous burden on the Department of Agriculture that is totally unnecessary. In addition, I question the motive of requiring farmers to keep records on all pesticides when the USDA and EPA are already involved in programs that address problems such as pesticide residues in ground water as well as other issues related to pesticide use which have been expressed by the environmental and agricultural community. Again, the Lautenberg amendment is overkill and unnecessary in light of our budget problems.

I want to reaffirm my support of the current recordkeeping provisions of S. 2830. This provision is reasonable and addresses the concern that has been raised about those pesticides which the EPA deems questionable with regard to public health and the environment. The Lautenberg amendment goes way too far by placing an unnecessary burden on farmers and the Federal Government.

Mr. President, I am not advocating that farmers should not be responsible for keeping any records at all. Neither am I advocating that everyone should keep records of pesticide use. I am, however, suggesting that we be reasoned and measured in our approach.

I will oppose Mr. LAUTENBERG's amendment and I urge my colleagues to do so also.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to add Senator REID as a cosponsor of the amendment. He will have a statement for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, as I indicated, I had intended to offer that amendment, but, in a discussion with the manager of the bill, the chairman of the Agriculture Committee, we developed an agreement to have just a brief review and to have a colloguy here on the floor. I wanted to ask him here, for the record, about the pesticide recordkeeping issue.

As I indicated, the committee position on recordkeeping fails to require that records be kept for general use pesticides and unnecessarily limits access for those records which are kept. I understand the other body will agree to a pesticide recordkeeping provision which addresses all pesticides and expands access to the records.

I want to ask the chairman of the committee his views on the pesticide recordkeeping provision in the committee bill.

Mr. LEAHY. Mr. President, first I wish to thank the distinguished Senator from New Jersey for his work in this area. It has been superb. He has a lifetime commitment to the environment. It is demonstrated in the work he does here. I note for the record I would have voted for the amendment, had the Senator from New Jersey offered it.

I am pleased that for the first time the Agriculture Committee bill requires certain farmers to keep records about their pesticide use. There are many important uses for the information included in these records—among these uses are better documentation about the use of pesticides and their impact on ground water, and on the health of farmers and farm workers.

However, I believe we need to do more to address this issue than the committee provision, and I will work in the conference on this legislation for provisions, such as those included in the amendment of the Senator from New Jersey, that protect those who have a legitimate need for access to the data included in farm records.

I am going to work in the conference for the provisions included by the Senator from New Jersey to protect those who have a legitimate need for access to the data included in the farm records. I intend to work closely with the Senator from New Jersey as we get to the time of the conference, seeking his advice and his help.

Mr. LAUTENBERG. I want to thank the chairman of the Agriculture Committee for his willingness to review this and for his comments and for his support and thank him publicly for a job very well done. His commitment to the farm community is very well known. He is very serious about his obligation to the agricultural sector of our society, but, at the same time, Senator LEAHY is someone who cares about the environment. He has demonstrated that over a number of years.

I thank him very much for his cooperation.

Mr. JEFFORDS. Will the Senator from New Jersey yield?

Mr. LAUTENBERG. I am happy to yield.

Mr. REID. Mr. President, I join my colleagues Senators LAUTENBERG, LIEBERMAN, and JEFFORDS in offering this amendment to expand the recordkeeping requirements relating to pesticide use in the Food, Agriculture, Conservation and Trade Act, S. 2830.

While the recordkeeping provisions contained in the farm bill are beneficial, they do not go far enough. The bill before us would required farmers who are certified to use pesticides that are extremely hazardous, known, as restricted use pesticides, to keep records on this use. In addition, the Agriculture Committee proposal restricts access to the records to Federal and State government officials and limits information given to medical professionals in cases of medical emergencies.

Concern about food safety has emerged as the catalyst for reforming regulations pertaining to the use of pesticides in food. There are approximately 50,000 agricultural chemicals used in America today. Approximately 1.2 billion pounds of pesticides costing $65 billion are sold each year—almost 5 pounds of pesticides for every man, woman, and child in this country. Of the approximately 500 active ingredients registered, restricted use applies to a small percentage of these pesticides.

Fears about the use of Alar in apples and apple products prompted the Subcommittee on Toxic Substance, Environmental Oversight, Research and Development—which I chair—to delve into the complicated area of regulating food, raw and processed; imported and exported. I conducted two hearing last year to review the pesticide regulatory process.

Following the hearing, the subcommittee completed a report entitled "Government Regulation of Pesticides in Food: The Need for Administrative and Regulatory Reform." The report outlines the shortcomings in the pesticide regulatory process and sets froth recommendations, for improvement. I have cosponsored a bill introduced by my colleague from Connecticut, Senator LIEBERMAN, to address many of the deficiencies in the pesticide regulatory process to protect public health. An important provision of the Pesticide Health and Safety Act of 1990 requires all pesticide applicators to keep records of the date and time of pesticide applications.

In March, my subcommittee held a hearing relating to the regulation of lawn care chemicals. The professional lawn care industry relies on chemical pesticides to ensure weed- and pest-free lawns. In 1987, the lawn care industry grossed $15 billion in sales when over 7 million Americans bought their services. Although pesticides are used more widely on agricultural land than on lawns, a National Academy of Sciences report noted that those caring for lawns tend to use up to 10 times more per acre of toxic chemicals.

The fact that some chemicals used in food production and lawn care may have adverse health affects on people raises a number of important issues. First, the American people need to know—and have a right to know—what these products are. Second, those who apply the chemicals need to be assured that the work they do is safe.

Expanded recordkeeping of pesticide use will enable us to monitor pesticide residues in the food supply, protect the health of farmworkers and other exposed to these chemicals, protect the groundwater supply and endangered species, and target research to pesticides most likely to pose threats to public health and the environment.

Mr. President, this amendment would not create a hardship for agricultural producers and other pesticide users. Accurate recordkeeping is already taking place to document business expenses for tax purposes. This amendment would not create undue hardship for agricultural producers and other pesticide users; nor would it preempt or limit state recordkeeping programs.

Mr. President, I urge my colleagues to adopt this fair and sensible amendment.

Mr. JEFFORDS. I rise in support of the amendment. I am sorry it is not being offered, but I do understand why it is not. To me, it is essential that our farmers recognize that they must begin to keep records not only to protect themselves but to help the public to recognize they are not the villains if we do get problems with the drinking water or ground water or what else. The amendment cast very little burden on farmers, and I am hopeful in conference this issue will be satisfactorily taken care of.

It is vitally important that we develop an objective data base to help keep track of pesticide use across the country. Over the past several years the monitoring of ground water supplies throughout the Nation has shown pesticide contamination in the ground water of 26 States.

Ground water is the primary source of drinking water for about 50 percent of the total population and 95 percent of the rural population of the United States. It also provides about 55 percent of the water used by livestock, and 40 percent of the irrigation water. This ground water resource is being contaminated with chemicals that over the past 25 years have been increasingly applied in agricultural practice—nitrates derived from fertilizers and organic chemicals applied as pesticides. These agrichemicals pose a variety of health hazards, including cancers in adults and children, potentially fatal infant disorders, and birth defects. Agricultural contamination is most prevalent in precisely those areas most dependent on ground water. Farmers and their rural neighbors are most at risk from agricultural chemicals in their drinking water.

This amendment dealt directly with recordkeeping for pesticides used on agricultural crops only.

Organic chemicals used for control of insects, weeds, and other pests can clearly enter and contaminate ground water. Pesticide contamination has resulted from improper storage and handling as well as from accidents and spills, but again, the major problem is normal use. A 1988 review of empirical studies found that at least 46 pesticides had been detected in the ground

water of 26 States. At about the same time the Environmental Protection Agency estimated that more than 100,000 wells were contaminated nationwide from conventional applications of pesticides. Surveys conducted in areas whose geology and farming practices make them especially vulnerable to contamination found that up to 25 percent of the wells had detectable amounts of pesticides and 10 percent had levels above health advisory standards.

Although direct connections between ground water contamination and health problems are difficult to verify, some evidence suggests cause-and-effect linages. Herbicide use has been associated with increased levels of lumphoid cancers among farmers. A study of young farmers in Nebraska and Wisconsin found that they had significantly higher risks of leukemia, 80 percent, and lumphoma, 70 percent, compared to other people of the same age.

Both the use of pesticides and their occurrence in ground water have vastly increased in recent years. Between 1964 and 1984, per-acre use of pesticides almost tripled nationwide, with most of the increase attributable to herbicides was generally thought that pesticides would not leach to ground water, except under rare circumstances. However, as application rates increased, so did evidence of contamination.

Pesticides are highly variable in their leaching characteristics. Some decay rapidly; others are persistent. For example, nematocides—pesticides used against nematodes—can be particularly difficult because of their solubility and persistence and because of the tendency to apply them on sandy soils. The cumulative impact in many areas amounts to increasing levels of pesticide residues. If the chemicals remain in ground water, they eventually will leach down to deeper aquifers.

Farmers are directly concerned with this potential contamination. Numerous surveys of farmers have shown conclusively that not only are they aware of the problem of ground water contamination, but they are very concerned as well. They are directly affected since they and their families drink the well water.

This amendment would have simply started the process of collecting information. It would have given officials a much better idea of the type, amount, and location of agricultural pesticides being used. As I stated earlier it would have been burdensome to farmers. The information required under this amendment was simple and straightforward. Once this data is available it will help farmers devise cropping systems to prevent ground water contamination from agricultural pesticide use. That is what we want and it is what we need. Unless we move soon on this issue we will not be able to help reduce and eventually eliminate this problem in the future.

I commend Senator LAUTENBERG for bringing this matter before the Senate.

I yield the floor.

Mr. BOND. Mr. President, I rise to express my strong disagreement with the amendment which has been presented by the Senator from New Jersey. We had discussions on this several days ago. We have not seen the exact language. I assume it is close to the language which has been adopted in the House and would expand recordkeeping beyond the restricted use pesticides to all pesticides generally. I was prepared to introduce an amendment, with the cosponsorship of Senator CONRAD, which would have addressed what we feel is the one flaw in the bill passed out of the Agriculture Committee, and that is to assure confidentiality of the records.

Property designed, I think a recordkeeping program can benefit agricultural producers and policymakers, and I believe we have gone very far in the measure that was adopted by the Senate Agricultural Committee. Recordkeeping is an essential business practice. With increased concern over environmental effects of agricultural chemicals, farmers and ranchers must keep records for their own protection and defense against litigation.

I think we in the Agriculture Committee recognized this and adopted a mandatory recordkeeping program. I would have introduced an amendment as a substitute had this one been brought to a vote which would have had a clear-cut direction that records kept by farmers would only be available to the Secretary of Agriculture or the designated State agency to make sure that a farmer did not have a line of cars from various Federal agencies and State agencies and local agencies lined up past the mailbox waiting to look at his business records, giving access to the records to competitors and others as well.

But, in any event, I did not offer that amendment. I want to make it clear that there is some very strong objection to going further with recordkeeping.

As I understand it, the Lautenberg amendment would apply to some 13,000 general-use pesticides. These are pesticides available to everyone, to you and me, Mr. President. If we go down to the hardware store or the general market, we can pick up those products to use in our yards, in our gardens, because they have not been labeled as dangerous, restricted-use pesticides.

The recordkeeping burden that this would place on every farmer is unbelievable. We have talked about the burdens on the family farmer, and if we are suggesting that the Senate should go further than we have in the Agriculture Committee bill, I submit that that is a great mistake.

I believe that the Members of this body may have wanted to have an opportunity to express themselves on this amendment. I am not going to ask for a vote at this time, but I am going to have available for my colleagues who feel, as I do, a letter to the conferees to urge them not to put this terrible burden, an additional and unnecessary burden, on the back of the American farmer.

Mr. President, in pertinent part, this letter says:

> It makes absolutely no sense to allow any Federal, State or local agency to force producers to submit pesticide records. At the farm level, information should only be made available to the designated State pesticide regulatory agency. Adequate safeguards must be in place to ensure business and personal confidentiality of the information.

In addition, any further attempt to impose regulatory requirements on generally available pesticides that have not been labeled as restricted use, would be an unnecessary and unwarranted cost that we are placing on the backs of the already burdened American farmer.

Mr. President, I want to be noted in the RECORD as strongly opposing the concept that I understand is envisioned in the Lautenberg amendment. I want to give my colleagues an opportunity to join me in that opposition. I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. LEAHY. Mr. President, will the Senator from Wisconsin withhold just one moment?

Mr. KASTEN. I will be pleased to.

Mr. LEAHY. I thank the Senator from Wisconsin for his usual and unfailing courtesy. I note for my colleagues the Senator from Wisconsin is going to bring up a couple of amendments which are going to be accepted, I expect. I do not think they will require a rollcall. I certainly am going to support them. Once those are accepted, the Senator from Indiana and I have a series of amendments that have been cleared which also will be accepted.

Then with the cooperation of our colleagues, we literally could have this bill finished in an hour. Now I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2405

(Purpose: To improve certain provisions relating to soil conservation)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. WIRTH, Mr. JEFFORDS, Mr. GRASSLEY, and Mr. KOHL, proposes amendment numbered 2405.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 541, line 25, insert "(a) IN GENERAL" before "Section".

On page 542, line 8, after the period add end quotation marks and a period.

On page 542, between lines 8 and 9, insert the following new subsection:

(b) INFORMATION CONCERNING FLEXIBILITY.—Section 1212 of such Act (16 U.S.C. 3832) (as amended in subsection (a)) is further amended by adding at the end thereof the following new subsection:

"(f) The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of sections 1001, 1213, 1271, 1274, and 1303 of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendment made by such sections).".

On page 542, strike out lines 9 through 13.

On page 542, after line 22, add the following new section:

SEC. 1235. GRADUATED SANCTIONS FOR CONVERSION OF HIGHLY ERODIBLE LAND.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by sections 1232, 1233, and 1234) is further amended by adding at the end thereof the following new subsection:

"(h)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems and conservation treatment measures and schedules prepared under subsection (a)(2) or (b)(3), if the Secretary determines that—

"(A) such person has not violated the provisions of section 1211 more than one time (excluding any violation of a minor and technical nature under paragraph (3)) in any 10-year period on a farm; and

"(B) such person acted in good faith and without an intent to violate the provisions of this substitle.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1211 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than $750 nor more than $10,000 (depending on the seriousness of the violation as determined by the Secretary), program benefits described in section 1211, that such producer would otherwise be eligible to receive in a crop year.

"(3) Notwithstanding any other provision of this subtitle, if the Secretary determines that a violation of section 1211 is technical and minor in nature and that such violation has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which such violation has occurred, the ineligibility provisions of section 1211 shall not apply to the owner or operator of such land.

"(4) Any person whose benefits are reduced in any one crop year under this subsection shall continue to be eligible for the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying conservation plans prepared under subsection (a)(2) or (b)(3), according to the schedule set forth in such plan.".

On page 543, line 1, strike out "1235" and insert in lieu thereof: "1236".

On page 543, line 5, strike out "1247" and insert in lieu thereof "1248".

On page 544, line 13, strike out "1236" and insert in lieu thereof "1237".

On page 544, line 16, strike out "1235" and insert in lieu thereof "1236".

On page 545, after line 23, insert the following new section:

SEC. 1238. COMPREHENSIVE REPORT.

Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by sections 1237) is further amended by adding after section 1246 the following new section:

"SEC. 1247. COMPREHENSIVE REPORT.

"(a) IN GENERAL.—Not later than December 31, 1992, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (c), the programs and policies established and operated under this title.

"(b) CONSULTATIONS.—The report required under subsection (a) shall be developed, where appropriate, in cooperation with the Fish and Wildlife Service, other Federal agencies, and such State agencies or officials as the chief executive officer of each State may designate for this purpose.

"(c) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) require the Soil Conservation Service to assess the progress made toward the national objective of protection of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend means to overcome such obstacles;

"(2) require the Soil Conservation Service, in consultation with the Agricultural Research Service, and using the best available techniques for estimating average annual erosion rates in the field, to perform on-site evaluations of conservation practices on highly erodible lands, on-site estimates of erosion reductions that may result from the implementation of conservation plans, and to assess the technical adequacy and feasibility of such plans;

"(3) require the Soil Conservation Service, in cooperation with the Fish and Wildlife Service, to assess the contribution toward the national objectives of wetlands preservation, wildlife and waterfowl habitat improvement, and water quality improvement through the implementation of the relevant provisions of this title, identify obstacles to furthering progress toward such objectives, and recommend manners in which to overcome such obstacles; and

"(4) collect data concerning the social and economic impacts, violations and appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title.

"(d) COMPLIANCE MONITORING—

"(1) PROCEDURES.—The Secretary shall develop and implement procedures for monitoring the compliance of producers and others with the provisions of this title at the local level. Such procedures shall include annual spotchecks of not less than 5 percent of all affected acreage.

"(2) REPORT.—Beginning on December 31, 1991, the Secretary shall prepare an annual report that shall contain a summary of the results of the monitoring conducted under paragraph (1), and include information concerning the adequacy of conservation plans and practices implemented under this title, the impact of such plans and practices on soil erosion, the number and nature of violations of such plans and appeals, and other matters that may be necessary to monitor the implementation of this title.

"(3) SPECIAL REVIEW.—Based on the information contained in the report under paragraph (2), the Secretary may designate for special review any areas or soil types for which the national objective of adequate protection of soil resources is likely to prove difficult to attain under existing conservation plans.

"(4) NOTICE.—The Secretary shall provide notice to all persons whose conservation plans are being monitored of the results of such monitoring, and provide such persons with information regarding erosion rates, the adequacy of conservation practices, or the designation of special review status.

"(5) SUBMISSION.—The Secretary may develop and implement the procedures required under paragraph (1) in conjunction with the preparation by the Secretary of the report required under subsection (a). The report required under paragraph (2) shall be submitted together with the report required under subsection (a) on December 31, 1992.".

Mr. KASTEN. Mr. President, the amendment that I am offering makes certain changes in the implementation, enforcement and evaluation process of the conservation title of the 1985 farm bill, especially with respect to conservation compliance.

That conservation title was truly landmark legislation. It did something that Congress does all too seldom; it addressed a serious problem before that problem became a crisis. Tremendous progress has been made in improving the stewardship of our Nation's soil resources, but serious problems remain to be addressed.

In saying this, I am not pointing the finger at any villains, be they uncooperative farmers or bungling bureaucrats. While evidence suggests that evasion of our soil conservation laws is common in some areas, it is not the main issue.

The fact is that conservation compliance is a new program, very different from anything the Department of Agriculture or the farmers of this country have ever been asked to do before. It should come as no surprise that there are shortcomings in the implementation of conservation compliance—what must be done is to find

ways to fix these shortcomings and get on with the job.

My amendment would do the following things to improve the implementation of conservation compliance:

First, institute a reduced penalty for first-time violators of sodbuster and conservation compliance, along the lines of the reduced penalty for the first-time swampbuster violators already in the bill, and

Second, require a comprehensive evaluation of implementation and enforcement of all four sections of the conservation title by SCS, in cooperation with other agencies where this is appropriate; for example, with swampbuster, by the end of 1992, plus yearly monitoring of program implementation.

I had intended to offer an amendment that included also a provision requiring in conservation compliance plans the active application of primary conservation practices applicable to the area, type of soil, kind of soil erosion problem, etc, for land on which the average rate of erosion is expected to be in excess of 5 tons per acre per year.

I ask unamimous consent that this amendment be printed in the RECORD at this point.

This provision would have effectively addressed some serious deficiencies in the planning process under conservation compliance that I believe threaten to undermine the purpose of this important soil conservation law.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 506, line 10, strike out "and".

On page 507, line 15, strike out both periods and the end quotation marks and insert in lieu thereof "; or".

On page 541, line 25, insert "(a) IN GENERAL." before "Section".

On page 542, line 8, after the period add end quotation marks and a period.

On page 542, between line 8 and 9, insert the following new subsection:

(b) INFORMATION CONCERNING FLEXIBILITY.—Section 1212 of such Act (16 U.S.C. 3832) (as amended in subsection (a)) is further amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall provide owners and operators with information concerning flexibility in commodity programs to assist such owners and operators in determining whether to adopt or alter crop rotation patterns to achieve compliance with conservation provisions under this subtitle.".

On page 542, strike out lines 9 through 13.

On page 542, after line 22, add the following new sections:

SEC. 1235. GRADUATED SANCTIONS FOR CONVERSION OF HIGHLY ERODIBLE LAND.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by sections 1232, 1233, and 1234) is further amended by adding at the end thereof the following new subsection:

"(h)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems and conservation treatment measures and schedules prepared under subsection (a)(2) or (b)(3), if the Secretary determines that—

"(A) such person has not violated the provisions of section 1211 more than one time in any 10-year period on a farm; and

"(B) such person acted in good faith and without an intent to violate the provisions of this subtitle; and

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1221 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than $750 nor more than $10,000 (depending on the seriousness of the violation as determined by the Secretary), program benefits described in section 1211, that such producer would otherwise be eligible to receive in a crop year.

"(3) Notwithstanding any other provision of this subtitle, if the Secretary determines that a violation of section 1211 is technical and minor in nature and that such violation has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which such violation has occurred, the ineligibility provisions of section 1211 shall not apply to the owner or operator of such land.

"(4) Any person whose benefits are reduced in any one crop year under this subsection shall continue to be eligible for the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying conservation plans prepared under subsection (a)(2) or (b)(3), according to the schedule set forth in such plan.".

SEC. 1236. APPLICATION OF CONSERVATION PRACTICES.

Subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1214. APPLICATION OF CONSERVATION PRACTICES.

"(a) PREPARATION OR PLAN AND PROGRESS.—The Secretary, in preparing or revising a conservation plan for application under this subtitle, and in otherwise enforcing the ineligibility provisions of this subtitle, shall encourage and provide assistance to agricultural producers to enable such producers to reduce soil erosion on their land and progress toward the goal of maximum protection of the soil resource achievable through the application of primary conservation practices. The Secretary shall establish procedures to determine the progress made by the producer in meeting the goal of the applicable conservation plan.

"(b) MODIFICATIONS.—

"(1) REQUEST.—A revision of a conservation plan that is or will be applied under this subtitle shall include the modification of any conservation practices or implementation schedules mandated by such plan if a request for such modification is made by the applicable producer or by the Secretary as a result of the monitoring or enforcement of this subtitle.

"(2) APPLICATION OF CONSERVATION PRACTICES.—In preparing or revising a conservation plan under this subtitle after the date of enactment of this section, including those prepared or revised for special review areas as identified under section 1243, the Secretary shall require the producer to actively apply all appropriate primary conservation practices that would have the effect of reducing erosion on the land if, in the absence of such practices, the average annual rate of soil erosion would exceed five tons per acre.

"(3) PRIMARY PRACTICES.—

"(A) IDENTIFICATION.—In identifying appropriate primary conservation practices to be applied under paragraph (2), the Secretary shall take into account the nature of the erosion problem, the technical feasibility of the practice, the crop or crops produced on the farm, the prevailing climate in the area, and such other relevant factors as the Secretary may think appropriate.

"(B) LIST OF PRACTICES.—To be required to be applied under subparagraph (A), a primary conservation practice must be listed in the local field office technical guide, and such practices shall include contour farming, cross slope farming, divided slope farming, contour strip cropping, field strip cropping, wind strip cropping, grassed waterways (where necessary to control gully erosion), field borders, filter strips, cover and green manure crops, emergency tillage, and conservation tillage, except that no conservation tillage shall require residue levels in excess of 50 percent.".

On page 543, line 1, strike out "1235" and insert in lieu thereof "1237".

On page 543, line 5, strike out "1247" and insert in lieu thereof "1248".

On page 544, line 13, strike out "1236" and insert in lieu thereof "1238".

On page 544, line 16, strike out "1235" and insert in lieu thereof "1237".

On page 545, after line 23, insert the following new section:

SEC. 1239. COMPREHENSIVE REPORT.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by sections 1237 and 1238) is further amended by adding after section 1246 the following new section:

"SEC. 1247. COMPREHENSIVE REPORT.

"(a) IN GENERAL.—Not later than December 31, 1992, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (c), the programs and policies established and operated under this title.

"(b) CONSULTATIONS.—The report required under subsection (a) shall be developed, where appropriate, in cooperation with the Fish and Wildlife Service, other Federal agencies, and such State agencies or officials as the Chief executive officer of each State may designate for this purpose.

"(c) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) require the Soil Conservation Service to assess the progress made toward the national objective of protection of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend means to overcome such obstacles;

"(2) require the Soil Conservation Service, in consultation with the Agricultural Research Service, and using the best available techniques for estimating average annual erosion rates in the field, to perform onsite evaluations of conservation practices on highly erodible lands, on-site estimates of erosion reductions that may result from the implementation of conservation plans, and

to assess the technical adequacy and feasibility of such plans;

"(3) require the Soil Conservation Service, in cooperation with the Fish and Wildlife Service, to assess the contribution toward the national objectives of wetlands preservation, wildlife and waterfowl habitat improvement, and water quality improvement through the implementation of the relevant provisions of this title, identify obstacles to furthering progress toward such objectives, and recommend manners in which to overcome such obstacles; and

"(4) collect data concerning the social and economic impacts, violations and appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title.

"(d) COMPLIANCE MONITORING.—

"(1) PROCEDURES.—The Secretary shall develop and implement procedures for monitoring the compliance of producers and others with the provisions of this title at the local level. Such procedures shall include annual spotchecks of not less than 5 percent of all affected acreage.

"(2) REPORT.—Beginning on December 31, 1991, the Secretary shall prepare an annual report that shall contain a summary of the results of the monitoring conducted under paragraph (1), and include information concerning the adequacy of conservation plans and practices implemented under this title, the impact of such plans and practices on soil erosion, the number and nature of violations of such plans and appeals, and other matters that may be necessary to monitor the implementation of this title.

"(3) SPECIAL REVIEW.—Based on the information contained in the report under paragraph (2), the Secretary may designate for special review any areas or soil types for which the national objective of adequate protection of soil resources is likely to prove difficult to attain under existing conservation plans.

"(4) NOTICE.—The Secretary shall provide notice to all persons whose conservation plans are being monitored of the results of such monitoring, and provide such persons with information regarding erosion rates, the adequacy of conservation practices, or the designation of special review status.

"(5) SUBMISSION.—The Secretary may develop and implement the procedures required under paragraph (1) in conjunction with the preparation by the Secretary of the report required under subsection (a). The report required under paragraph (2) shall be submitted together with the report required under subsection (a) on December 31, 1992.".

Mr. KASTEN. The background is a 15-county survey by the Soil and Water Conservation Society published earlier this year that detailed the deficiencies in the planning process under conservation compliance.

Simply put, a lot of the plans weren't any good.

Some of them required farmers to implement inappropriate erosion control practices, or to install structures they could not possibly afford. The survey indicated that some existing plans would require farmers to reduce erosion to the soil loss tolerance level, the so-called T standard, where this is not practical.

On the other hand, many of the 1 million plans written to date do not provide for enough erosion control. Too many plans rely almost exclusively on conservation tillage and residue management—useful tools, yes, but inadequate in many cases.

In some counties, the Soil and Water Conservation Society survey said that the planning process amounted to no more than a single sheet of paper, on which farmers were told to check off erosion control practices they thought were needed on their farm.

The 1985 law did not specify the practices that had to be included in a conservation plan. Looking back, perhaps this was a mistake. It seems to have led to confusion among farmers and USDA personnel as to what the law requires, as well as a planning process that helps farmers conserve their resources and in some parts of the country while ignoring the need elsewhere.

The original Kasten amendment would have required farmers to actively implement primary conservation practices in their conservation plan on land eroding at more than 5 tons per acre. The intent here was that farmers unable to reduce soil erosion below that level through the use of one practice such as conservation tillage would be required to adopt other appropriate practices.

The practices listed in my amendment are not new. You will find them listed in any Soil Conservation Service field office technical guide. They include practices such as strip cropping and contour farming—practices that USDA has been trying to get farmers to use since the 1930's.

I would note, Mr. President, that Thomas Jefferson helped pioneer the use of contour farming in America upon his return from service as Minister to France in the 1780's. So the idea behind this part of the original Kasten amendment is not an innovation. That idea is this:

The goal we need to be working toward is for farmers to apply basic, primary practices as a matter of routine. If we can make this happen the greatest part of our erosion problem will have been dealt with.

I believe that this provision in the amendment I had intended to offer would have cleared up the confusion that now surrounds conservation compliance. Clearly, many farmers still have questions about how much erosion reduction conservation compliance is supposed to have achieved or what practices they should use to achieve it. There remains disagreement in the farm and environmental communities and within USDA on many important technical questions.

The original Kasten amendment proposed an answer to those questions and a legislative framework for settling technical disagreements—in plenty of time for farmers to adjust before the 1995 deadline for full implementation of conservation compliance plans.

However, I recognize the very strong view held by many Senators that this set of issues is so complex that legislative action should not be taken without hearings and further study. I regret the lost opportunity to resolve policy questions that are likely to prove troublesome in future years.

However, in deference to the strong feeling in favor of further study of this issue, my amendment does not include a section on mandated practices in conservation compliance plans.

Mr. President, S. 2830 as reported by the committee contains a reduced penalty for some first-time violators of swamp buster, if they were acting in good faith and agree to restore the wetland. The reasoning was that the denial of all benefits, the so-called death penalty, was a penalty so large that county ASCS committees were reluctant to enforce it.

There is no reason to have a reduced penalty for swamp buster and not for conservation compliance. There may well be cases where a farmer has an erodible field and is not fully implementing a compliance plan, perhaps because he didn't start the planning process soon enough. Clearly he is violating the law—but if he's acting in good faith and moving in the right direction, complete denial of farm program benefits is too harsh a penalty for a first offense.

I want to make clear that I do not regard the reduced penalty for first-time violators as something we ought to apply to people who are in clear and willful violation of the law. When my amendment says that the reduced penalty applies to people acting "in good faith and without intent to violate" the conservation compliance laws, that is what it means.

Implementing conservation compliance will be complex. I believe the reduced first-time penalty will encourage enforcement, and make the law work more effectively to protect our soil resources. The provision in my amendment dealing with minor, technical violations that have a minimal impact on the erosion control purposes of a farmer's conservation plan will permit farmers the flexibility to apply their plans without worrying about being penalized for inconsequential infractions.

The final part of my amendment addresses one of the central difficulties with the conservation title of the 1985 farm bill—simple lack of information.

Too often we in Congress have the opposite problem when we attempt to deal with a difficult problem—we wait until we have studies, hearing records, and reports stacked from the floor to the ceiling. Many times we wait too long, and find ourselves trying to clean up after policy disasters.

But in 1985 we took the right steps to protect our soil resources and preserve our wetlands, while it was still possible to do so. Now it is time to gather the information we will need for the next farm bill—to see how we are doing, to identify problems, and suggest ways of solving them.

My amendment requires the Department of Agriculture to develop procedures for annual monitoring of the implementation of each of the programs included in the conservation title. It also requires a comprehensive evaluation of these programs by the end of 1992.

I believe that to establish a group of programs as important and far reaching as that included in the conservation title without such regular monitoring would be irresponsible. The annual reports and the 1992 comprehensive evaluation will give us information that will make making policy in the next farm bill much easier.

Mr. President, my amendment is designed to make the historic soil conservation legislation passed by Congress in 1985 work more efficiently. I believe it upholds the high priority we set five years ago on protecting our soil resources for future generations.

Before moving adoption of my amendment, I would like to engage in a brief colloquy with the distinguished chairman of the Agriculture Committee, the senior Senator from Vermont.

Mr. President, of all the findings of the Soil and Water Conservation Society report, the one that most concerned me suggested that up to 50 percent of farmers in the counties surveyed either do not think or do not know that they will lose farm program benefits if they are—or even if they choose to be—out of compliance.

This is in spite of the fact that most producers surveyed agree with the policy and believe it will have no impact on the profitability of their operations.

Clearly, this suggests doubt in rural America that Congress will enforce conservation compliance—a belief that when faced by pressures from a minority of farmers with difficult circumstances and an even smaller minority that is simply indifferent to soil conservation, Congress will simply back off on its commitment to preserving our Nation's soil resources.

I am determined that Congress not do this. I want to ask the distinguished chairman of the committee, he is also determined that conservation compliance should be vigorously enforced?

Mr. LEAHY. I agree with the Senator.

Mr. KASTEN. Mr. President, I further ask if we can have the chairman's assurance that the committee will hold hearings on implementation of conservation compliance and give recommendations for needed changes in plenty of time for farmers to adjust before the 1995 deadline for full implementation of conservation compliance plans?

Mr. LEAHY. The Senator from Wisconsin again makes a good point, and I intend to have such hearings.

Mr. KASTEN. I thank the chairman. I ask unanimous consent, Mr. President, that a letter from major environmental groups in support of my amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 27, 1990.

DEAR SENATOR: We are writing to urge you to support the Kasten-Wirth-Jeffords-Grassley Amendment to strengthen the soil protection provisions of S. 2830, the Food, Agriculture, Conservation, and Trade act of 1990.

The Food Security Act of 1985 established conservation compliance provisions to require farmers to implement approved soil conservation plans on millions of acres of highly erodible land nationwide. Although over 1 million plans have been prepared, evidence overwhelmingly shows that many of these plans are incomplete or technically inadequate to meet congressional intent. Moreover, it appears that, despite widespread violations, USDA is not effectively enforcing the law.

The Kasten-Wirth-Jeffords-Grassley amendment would improve administration of the 1985 Food Security Act soil protection provisions by:

Establishing a reduced, first-time penalty for unintentional violations of conservation compliance and sodbuster to enhance enforcement and give farmers a second chance for minor and technical violations;

Requiring the Secretary of agriculture to provide information concerning flexibility in commodity programs for producers who want to alter rotations to achieve conservation compliance; and

Establishing a rigorous monitoring and evaluation system for the landmark 1985 Conservation Title.

These strengthening provisions are essential to an effective policy for protecting the valuable soil and water resources of this Nation.

Sincerely,

Center for Resource economics, Ken Cook; American Farmland Trust, David Dyer; Institute for Alternative Agriculture, Jim Aidala; National Audubon Society, Maureen Hinkle; National Wildlife Federation, Cindy Deacon Williams; Soil and Water Conservation Society, Norm Berg.

Mr. LEAHY. Mr. President, the 1985 farm bill's conservation title was a landmark in environmental policy. The sodbuster and conservation compliance policies place requirements on farmers to apply locally approved soil conservation plans for any highly erodible land they farm in order to remain eligible for most USDA programs.

The committee endeavored to protect and strengthen these provisions in 1990. It is our intent not to back off in the slightest from the goals of sodbuster and conservation compliance. It is our intent that farmers adopt workable, technically sound, and effective conservation plans and implement them in a timely manner.

For generations, the principles of sound stewardship have demanded nothing less. Today, frankly, the taxpayers, too, are asking for nothing less. For as we have seen in this Chamber during this debate, protection of the environment and natural resources has come to be an important rationale for commodity, credit, crop insurance, and other programs authorized in this farm bill.

In developing the wetlands protection provisions of the 1990 farm bill, the committee encountered evidence that swampbuster enforcement was sometimes hampered by the fact that local officials who implement the law were reluctant to impose severe penalties for violations that were clear, yet minor, and had occurred despite good-faith efforts on the part of the producer to comply. We addressed the problem by providing a reduced penalty for such violations of the law the first time they occurred on a farm over a period of 10 years, provided the violator restored the wetland under a plan concurrently developed and approved by the Soil Conservation Service and the Fish and Wildlife Service. The reduced penalty provision of the committee bill for swampbuster is a benefit reduction of between $750 and $10,000, depending on the severity of the inadvertent, first-time violation.

The intent was to send an unambiguous signal, not a crushing blow, to violators acting in good faith.

But we did not address a similar problem for sodbuster and concservation compliance. It has come to our attention that, in the case of sodbuster, there appears to have been violations since 1985, some of which have not been subject to enforcement by virtue of the fact that the penalty for noncompliance is rigid and, in many cases, very severe: loss of all farm program benefits the violator may be receiving.

The problem again, is this: We want sodbuster and conservation compliance to be enforce. Fairly and firmly enforced. We do not want violations ignored because a local official or committeeman is reluctant to impose penalty that is far in excess of the seriousness of the violation.

At the same time, we do not want unreasonably harsh punishment for producers who, acting in good faith, fail to comply with their plans.

A second matter that needs to be addressed is the monitoring and evaluation of progress and problems in the entire conservation title. Unfortunately, much of the debate in 1990 over swampbuster, conservation compliance, and sodbuster was based on anecdote. It should have been based on sound information—about the number and nature of violations; the quality of conservation plans; the

actual amount of soil erosion control being achieved; and so forth.

The amendment we are discussing today would thus deal with both of these issues: The need for fair, effective, workable penalties, and a process by which to monitor what is happening on the hundreds of millions of acres affected by these laws.

Mr. WIRTH. Mr. President, today I am pleased to join with my good friends from Wisconsin, Vermont, and Iowa, Senator KASTEN, Senator JEFFORDS, and Senator GRASSLEY, in offering an amendment to S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990.

Throughout the debate on the farm bill, we have all heard praise for the conservation title in the 1985 act. These important provisions linked soil erosion control practices to the operation of the Federal agriculture programs. While I voted against the 1985 bill, I believed that the inclusion of the conservation requirements was one of the few redeeming features of that legislation.

For the first time, farmers who broke out highly erodible land into production would not be eligible for agriculture program benefits—the so-called sodbuster provision, which was then so ably advocated by my colleague and friend from Colorado, Senator ARMSTRONG. In addition, producers were required to develop, adopt and implement conservation practices for their overall farm to reduce soil erosion, under the conservation compliance provisions. Finally, highly erodible land which was already being farmed, was removed from production by the very successful Conservation Reserve Program [CRP].

Colorado has the unfortunate characteristic of containing large amounts of highly erodible land. During the expansive 1970's, thousands of acres were broken out into production—land that would have never been profitable to farm before. As a result, soil blowing from field to field became commonplace, heavy silting of irrigation systems was a chronic problem and rapid topsoil loss was undermining the quality and value of Colorado's cropland.

In the main, I believe these programs have been successful. In Colorado, more than 2.4 million acres are covered by conservation compliance plans and we have seen very significant gains in erosion control. But this is not to say that these programs cannot operate better. As I said before, these were new sections of our farm policy—and, as with all new programs, they need fine tuning.

With the implementation of the conservation title, there have been some problems. There have been instances where lack of information and confusion on the part of the Department of Agriculture has directed farmers into practices which do not necessarily reduce erosion. Making matters more difficult, there has been an inadequate effort to monitor and encourage compliance with the conservation title.

This proposal requires the USDA to provide sufficient amounts of information to the producer so that he or she can make informed decisions on what measures are necessary to achieve the maximum erosion reduction. In addition, the Secretary is directed to develop procedures to monitor producers' compliance with the conservation title, which will include spotchecks of 5 percent of affected acreage.

With this increased enforcement, the Secretary is directed to undertake a comprehensive report, to be delivered back to the Congress by the end of 1992, of all the programs and policies established under the conservation title of the farm bill. This will allow us to determine if our soil erosion reduction goals are being met and what we need to do if they are not.

Finally, the amendment reduces the penalties for violations under the conservation title. Currently, farmers face the loss of all Federal farm program benefits if they sodbust land or fall out of compliance. The problem is that this is just too big a stick to wield—the penalty is so drastic that oftentimes the USDA is reluctant to use it. The proposal before us now provides for a graduated reduced penalty—from $750 to $10,000. Not only will a graduated penalty coupled with increased monitoring enhance compliance, levying the penalty will not mean economic ruin for the producer, as with the current law.

Mr. President, the conservation title was a historic addition to the farm bill in 1985, and has been widely praised by farmers, consumers and environmentalists. This proposal, while it could be stronger, makes reasonable and necessary improvements to help insure the maximum soil erosion reduction—a goal which should be shared by us all. I urge the support of all my colleagues for this amendment.

Thank you, Mr. President, I yield the floor.

Mr. KASTEN. Mr. President, I hope we can adopt my amendment.

Mr. LEAHY. Mr. President, I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2405) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, does the Senator from Wisconsin have another amendment?

Mr. KASTEN. I do. I might say to the chairman, before I offer my second amendment having to do with wetlands, that I am listed on his chart with three different amendments. It is not my intention to offer all three. I will offer the wetlands amendment, and I will not offer the other amendment that is listed.

Mr. LEAHY. Mr. President, I sincerely thank the Senator from Wisconsin for that. It speeds things up. I yield to the Senator from Wisconsin.

AMENDMENT NO. 2406

(Purpose: To improve the operation of the wetlands reserve program)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. CHAFEE, Mr. ROTH, and Mr. KOHL, proposes an amendment numbered 2406.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 524, line 13, strike out "the Secretary" and all that follows through "of the Interior" on line 14, and insert in lieu thereof "in consultation at the local level with a representative of the Fish and Wildlife Service.

On page 524, line 16, insert after the comma, "including appropriate buffer areas".

On page 527, line 14, insert the following: "(C) IN GENERAL.—Wetland Reserve Program Lands may be used for compatible economic uses, including such activities as hunting and fishing, managed timber harvest, or periodic haying, if such use is specifically permitted by the Plan and consistent with the long term protection and enhancement of the wetlands resources for which the easement was established;".

On page 527, line 14, strike out "(c)" and insert in lieu thereof "(d)".

On page 527, line 19, strike out "(d)" and insert in lieu thereof "(e)".

On page 528, line 2, insert after the comma the following: "except in the case of a permanent easement, a single lump-sum payment may be provided".

On page 528, between lines 2 and 3, insert the following new subsection:

"(e) EASEMENT PRIORITY.—In carrying out this chapter, to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent conservation easements before shorter term conservation easements.".

On page 529, between lines 15 and 16, insert the following new subsection:

"(b) DELEGATION OF EASEMENT ADMINISTRATION.—The Secretary may delegate any of the easement management, monitoring, and enforcement responsibilities of the Secretary to Federal or State agencies that have the appropriate authority, expertise, and re-

sources necessary to carry out such delegated responsibilities.".

On page 529, line 16, strike out "(b)" and insert in lieu thereof "(C)".

Mr. KASTEN. Mr. President, the primary objective of this amendment is to insure that the Wetland Reserve Program established by this bill will have the support and interest of farmers and conservationists alike so that it will not only succeed in protecting wetlands, but can serve as a model program for how to blend good conservation, good farming, and good economics. This voluntary program offers a tremendous potential to bring affordable conservation to the farm.

My amendment would make several changes to the Wetland Reserve Program proposed in S. 2830:

The surging interest in wetlands conservation in the late 1980's and today is a result of our steep learning curve on what wetlands are good for. For decades we looked only at waterfowl production or fur harvest. Current research indicates, that as valuable as these traditional functions are, the hydrological functions of renewing and filtering groundwater, storing and gradually releasing floodwater, maintaining groundwater levels and soil moisture maintenance in surrounding crop land, are also tremendously valuable.

The droughts in the upper Midwest of the last 3 to 4 years have shed a new light on the value of wetlands in providing for a diversified landscape. Diversity in the landscape is as critical as in an investment portfolio—it helps you weather good time and bad. we need to put into motion a significant wetland restoration effort.

First, the Secretary should be given the specific discretion to delegate easement management, monitoring or enforcement responsibilities to qualified State or Federal agencies. Many such agencies, such as the Department of Natural Resources in Wisconsin are actively involved in administering easement programs.

In Wisconsin, the Governor signed legislation in August 1989 that authorizes $25 million over the next 10 years to acquire conservation easements for environmental purposes including grasslands, wetlands, and stream banks.

The Fish and Wildlife Servcie has been operating a wetlands easement program for over 20 years on over 1.2 million acres of wetlands. Administering this new program will challenge the Department of Agriculture. Adding this flexibility will allow the Secretary to build on the experience of other agencies to maximize the opportunity to establish a successful program.

Second, the bill should explicitly allow limited compatible economic uses on such easement areas. The bill language should be clarified to do so. I am not talking about intensive agricultural practices. I am talking about leases for hunting and fishing, managed timber or hay cutting that is compatible with protecting and enhancing the wetlands for which the easement is established.

In many cases it will be possible to allow the landowner some limited uses to offset property taxes and perhaps fund habitat management practices on the easement to enhance its wetlands values. We should provide every responsible incentive for farmers to participate in this program. Allowing compatible economic uses would also act to reduce the price of establishing conservation easements.

Third, the committee report—page 217—correctly notes that important areas adjacent to eligible wetlands should be included in the reserve, not only to protect the integrity of the wetland area but to enhance habitat values.

However, as written, the bill allows only cropped wetlands and wetlands that would add to the functional value of the easement to be eligible for the reserve. Therefore, I propose that suitable buffer areas be added as eligible lands.

The amendment allows the Secretary to make a single lump sum payment to farmers who enroll lands in a permanent easement. This will help get money in the pockets of farmers faster. It will also provide an incentive to farmers to select the voluntary permanent easements.

Fifth, the amendment directs the Secretary to give priority to selecting easements of longer terms.

Mr. President, I had hoped to explicitly authorize an additional million acres for inclusion in the easement program. However, after consultation, I have withdrawn that provision of my amendment. I understand from conversations with the administration and the committee that such additional authority is not needed.

The committee language does not restrict the amount of land that can be enrolled in the wetland easement program. For that reason, I will not insist that the bill be amended to specify the additional acreage.

Mr. President, I simply want to say that my amendment makes some important improvements to a strong wetlands reserve program in the bill that would improve the chances for a successful program. It is farmer friendly.

The amendment makes some important improvements to a strong wetlands reserve program in the bill that would improve chances for a successful program. It is farmer friendly. I urge the adoption of the amendment.

Mr. LEAHY. Mr. President, I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2406) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I ask unanimous consent the Senator from Rhode Island [Mr. CHAFEE], the Senator from Delaware [Mr. ROTH], and the Senator from Wisconsin [Mr. KOHL] be added as original cosponsors of my wetlands reserve amendment, which was just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. I thank the Chair and the leadership on both sides. I also thank the staffs.

We have been working back and forth on these amendments. I appreciate the hard work that all of us have done. I think we have ended up with a solution that all of us cannot only work with but be happy with and proud of. So I thank the chairman and ranking member.

Mr. LEAHY. Mr. President, I thank the Senator from Wisconsin for his cooperation and help and ability to move this forward.

AMENDMENT NO. 2407

(Purpose: To require the Secretary of Agriculture to conduct a study of the impact of the establishment of a Federal dairy producer trust on the dairy industry)

Mr. LEAHY. Mr. President, I now have an amendment which I send to the desk on behalf of Mr. KOHL, Mr. KASTEN, and Mr. HEINZ and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. KOHL (for himself, Mr. KASTEN, and Mr. HEINZ), proposes an amendment numbered 2407.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, between lines 19 and 20, insert the following new section:

SEC. 117. STUDY OF FEDERAL DAIRY PRODUCER TRUST.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Packers and Stockyards Administration, the Agricultural Marketing Service, the Agricultural Cooperative Service, and representative of the dairy and agricultural lending industries, shall conduct a study of the need for and the impact of the establishment of a Federal dairy producer trust, comparable to trusts established for the benefit of livestock and poultry producers under the

Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) on various segments of the dairy industry.

(b) TRUST IMPACT.—In evaluating the impact of a Federal dairy producer trust, the Secretary shall consider—

(1) the extent of economic losses suffered by dairy producers as a result of the bankruptcy of dairy processing facilities since 1975;

(2) the adequacy of protection provided producers by individual State dairy plant security programs;

(3) the extent to which a Federal dairy producer trust could have prevented economic losses to dairy producers;

(4) the potential economic costs and benefits to dairy producers of the trust;

(5) the potential economic impact on dairy processing facilities considering factors such as the differences between the operations of and business conditions affecting dairy processors, as compared to livestock and poultry processing facilities currently subject to Federal producer trust laws;

(6) the potential economic impact on dairy processing facilities in terms of size, number, and ownership of dairy processing operations and in terms of credit availability, credit costs, operating expenses, and liquidity;

(7) the economic impact of existing Federal producer trust laws on those industries currently subject to the laws: and

(8) the need for Federal laws in order to protect dairy producer income and, in the event of dairy product wholesaler or retailer bankruptcies, to protect dairy processor income.

(c) OTHER FACTORS.—In addition to analyzing the impact of a Federal dairy producer trust, the Secretary shall also consider—

(1) the need for alternative Federal legislative approaches, or combination of approaches, as a means of improving economic protection for dairy producers in the event of a dairy processing plant bankruptcy, including—

(A) requiring the filing of different types of security arrangements for dairy processing plants (such as surety bonds, letters of credit, cash escrow accounts, and certificates of deposits) and the degree of financial requirmeents necessary in filing such types of security (based on milk purchases, debt-to-assets ratios, and other financial criteria) in order to adequately protect dairy producer income; and

(B) establishing a producer guaranty trust fund funded, fully or partially, by producer and processor assessments, including consideration of—

(i) the size of such a trust fund;

(ii) the size of assessments;

(iii) whether such a fund should be established nationally or by State;

(iv) whether the fund should require a deductible in the case of processor bankruptcy; and

(v) the effective amount of the deductible if such a deductible is required;

(C) the effect of such alternative legislation on dairy processors;

(2) the need for Federal legislation in order to more adequately protect dairy producer income in the event of a dairy processing plant bankruptcy;

(3) the likely changes in existing State dairy plant security laws as a result of the implementation of Federal dairy plant security laws; and

(4)(A) the economic impact on dairy producers, proprietary dairy product processors, and lenders, and desirability, of excluding dairy cooperatives from the trust fund; and

(B) the economic impact of implementing Federal dairy producers trust legislation on proprietary processors, versus its impact on dairy cooperatives, in the event dairy cooperatives are excluded from the trust fund.

(d) CONSULTATION.—In conducting the study, the Secretary shall seek the advice and counsel of the Packers and Stockyards Administration, the Agricultural Cooperative Service, the Agricultural Marketing Service, and representatives of the dairy and agricultural lending industries, including representatives from—

(1) State Departments of Agriculture in those States with State dairy plant security laws:

(2) dairy cooperatives;

(3) proprietary dairy processing associations;

(4) lending associations that provide financing to dairy processing facilities; and

(5) dairy producer organizations.

(e) REPORT.—Not later than October 1, 1991, the Secretary shall submit a report describing the results of the study conducted under this section (together with legislative recommendations, if appropriate) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 118. PRIORITY STATUS OF DAIRY PRODUCERS IN DAIRY PROCESSOR BANKRUPTCIES.

Section 507(a)(5) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking out "or" at the end thereof;

(2) in subparagraph (B) by striking out "facility—" and inserting in lieu thereof "facility, or"; and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) engaged as a dairy producer against a debtor who owns or operates a dairy processing facility,".

Mr. KOHL. Mr. President, in May 1989, a large dairy processor in Wisconsin, Kasson, Inc. USA, went bankrupt. While Federal bankruptcy proceedings are still underway, one outcome of this bankruptcy is becoming clear: the 210 milk producers who are owed more than $2.5 million in unpaid milk checks from Kasson are unlikely to see much of the money owed them returned. Payments due these producers average between $10,000 and $15,000 each, with some producers owed more than $30,000.

The amendment I am offering today, while of little solace to these 210 farmers, will help prevent a similar situation from happening again. I am pleased to have Senator BOB KASTEN and Senator JOHN HEINZ as cosponsors of this amendment.

The amendment has two parts. The first gives dairy producers fifth priority status as unsecured creditors under the Federal Bankruptcy Code. The second directs USDA to examine the need for additional Federal legislation in this area.

Mr. President, this amendment is important because of the unique nature of the dairy business. In Wisconsin, many dairy producers are paid just once a month by the processing plant to which they sell. For the average Wisconsin dairy farmer, one month's worth of milk represents one quarter of the total yearly profits for that farm. Thus, when a producer is owed the equivalent of one quarter of his net income—as many are—by processing plants, the loss of that monthly paycheck as a result of a dairy plant bankruptcy is a severe, often irreparable, economic loss.

Unfortunately, the Kasson bankruptcy was not a unique occurrence within the dairy industry, either. In 1986, a large dairy processor in California, Knudson-Foremost, went bankrupt, defaulting on over $35 million in milk checks owed to producers. In 1983, a Pennsylvania cheese processor, Scheps Cheese, filed for bankruptcy, leaving dairy farmers in that State with unpaid milk checks that ranged from $20,000 to $30,000. In Pennsylvania alone, there have been 19 other dairy plant bankruptcies since 1974.

Many States, including Wisconsin, have statutes designed to protect dairy producers in the event of a dairy plant bankruptcy. These State statutes, however, have not done an adequate job in ensuring dairy farmers of repayment from bankrupt processors. While some of the fault for this may lie at the State level, the nature of the Federal bankruptcy code also limits the ability of States to establish the type of legislation necessary to truly assist producers. In addition, 31 States have no dairy plant security provisions whatsoever. In these States, producers have little, if any, recourse in the event of a plant bankruptcy.

My amendment would offer dairy producers a small degree of protection under the Federal bankruptcy code. It would treat dairy producers as fishermen and grain producers are treated under the Federal bankruptcy code, by giving them fifth priority status as unsecured creditors, up to a limit of $2,000. While secured creditors would continue to be paid first in the event of a bankruptcy, this amendment would move dairy farmers up on the chain of unsecured creditors.

Mr. President, this is an extremely modest proposal. In fact, it may be too modest. The U.S. Department of Agriculture estimates that the average dollar amount owed a milk producer by a processor in any given month is $12,000. Therefore, the $2,000 offered producers under this amendment is not likely to completely cover their losses in the event of a bankruptcy. However, while I would like to see this dollar figure higher, I appreciate the need for equal treatment for producers of agricultural commodities under the Federal bankruptcy code. I will therefore not urge that this limit be increased at this point in time.

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The second half of this amendment is designed to give us a better understanding of the need for additional Federal legislation in this area, such as the type of provision included in the House version of the 1990 farm bill. The provision included in H.R. 3950 would offer dairy farmers the same protection as that given to livestock and poultry producers under the Federal Packers and Stockyards Act, ensuring that dairy farmers would be paid before all other creditors in the event of a dairy plant bankruptcy.

Unfortunately, I cannot support this approach at this point in time because of the legitimate concerns that have been raised by dairy processors about the establishment of a Federal "dairy producer trust". Dairy processors have argued that a dairy producer trust could ultimately hurt the very producers the program is intended to protect, by raising the cost and reducing the availability of credit to processing plants. If this is in fact true, and the costs of operating dairy processing plants are increased and passed on to producers, then we have done nothing to help the dairy industry nor assist dairy farmers.

Before we take action on this type of legislation, it is imperative that we fully understand it's potential impact on the dairy industry.

My amendment requires the U.S. Department of Agriculture, in consultation with representatives of general farm organizations, dairy cooperatives, proprietary processing organizations and agricultural lenders, to analyze the impact of Federal dairy producer trust legislation on credit availability and costs for processing plants. The study would also look at alternative approaches for Federal legislation, whether or not dairy cooperatives should be exempt from Federal legislation, and the effectiveness of State statutes in protecting dairy producers. The amendment requires that the study be completed within 1 year of passage of this legislation.

Mr. President, should this amendment be adopted and the results of the study indicate that Federal legislation in the area of dairy plant security is in the best interests of the dairy industry, I will pursue such legislation in the next Congress. However, absent a better understanding of the impact of the dairy producer trust provision contained in H.R. 3950, I cannot urge its adoption by the Senate or by conferees on this measure at this point in time.

Mr. President, I urge my colleagues to join with me in support of this amendment.

Mr. KASTEN. Mr. President, I rise today as an original cosponsor of this amendment with my distinguished colleague from Wisconsin.

The whole necessity of a dairy producer trust first became apparent in May 1989 when Kasson Cheese, a cheesemaker in Wisconsin for half a century, filed for bankruptcy owing more than 200 dairy farmers $2.5 million for milk they had sold Kasson on credit. Since then, more and more dairy farmers have become aware of the tenuous position they are in. They want assurance that they will be paid for their milk. This makes good sense. Farmers are the lifeblood of processors—without them processors wouldn't be in business in the first place.

Lifestock producers and growers of fruits and vegetables currently enjoy a priority lien program that is administered under the Packers and Stockyards Act. As well, California, New York, and Pennsylvania have their own laws mandating a milk producer security fund. These precedents support the need for a dairy security trust.

This amendment would require the Secretary of Agriculture to consult all of the primary groups who would be affected by the crafting of this provision. By soliciting the views of dairy producers, dairy processors, agricultural lenders, as well as reviewing the performance of existing trusts in other areas, a program will be developed that will assure farmers that they won't be brought down in the event of a processor bankruptcy and assure small dairy plants that their credit will not be curtailed.

In a report to the Governor and Secretary of Agriculture of Wisconsin last summer, a dairy security trust was strongly endorsed. This task force included representatives from Kraft, Land O'Lakes, St. Paul Bank for Cooperatives, Wisconsin Farm Bureau Federation, Farmers Union Milk Marketing Cooperative, and the dairy farming community.

It is clear that the idea of a dairy security trust has a broad-based support. However, the form that it ought to take is still in question. What must be accomplished is a program that would help dairy producers without hurting processors. In this effort, this USDA study will be tremendously successful.

I urge the acceptance of this amendment.

Mr. LEAHY. Mr. President, this amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2407) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2408

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. BURNS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for Mr. BURNS, proposes an amendment numbered 2408.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 502, line 16, after "opportunities," insert "the consequences for the economic health and vitality of rural communities of enrolling such acres,".

On page 502, line 19, insert the following at the end of the line:

"If the Secretary determines to place acreage into the conservation stewardship program in excess of 40 million acres, the Secretary may limit the cropland and enrolled into the conservation reserve on an owner or operator's farm to 25 percent of the cropland on such farm.".

Mr. LEAHY. Mr. President, this amendment also has been cleared. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2408) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2409

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Senator GRAHAM regarding papayas and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. GRAHAM, proposes an amendment numbered 2409.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 924, line 19, after the word "papayas", insert "(except papayas grown in the beneficiary countries under the Caribbean Basin Economy Recovery Act)".

Mr. LEAHY. Mr. President, this amendment also has been cleared. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2409) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2410

Mr. LEAHY. Mr. President, I have an amendment on behalf of Mr. JOHNSTON. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. JOHNSTON, proposes an amendment numbered 2410.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place: The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473E (7 U.S.C. 3319e) the following new section:

"SEC. (a) The Secretary is authorized to award a grant to a research facility that is part of a land grant college or university system that on the date of the enactment of this section benefits from a dedicated non-Federal nutrition endowment of at least $100 million to establish at least one food science nutrition research center for the Southeast Region of the United States.

"Funds appropriated to carry out the purpose of this section shall be administered by the Cooperative State Research Service in consultation with the Agricultural Research Service to assure a coordinated approach to human nutrition research and to avert duplication of research conducted at existing Federal human nutrition research centers.

"There are authorized to be appropriated in each of the fiscal years 1991 thru 1995 such sums as may be necessary to carry out this section.".

Mr. JOHNSTON. Mr. President, this amendment incorporates a compromise the entire Louisiana delegation has been working on for 2 years. The Representative from Baton Rouge, Mr. BAKER, has taken a leading role in developing this proposal and virtually every member of the delegation in the House and in the Senate has worked in various committees to help put this together. It has good and strong bipartisan support; it is supported by all interested parties in Louisiana; and it will provide us with a unique opportunity to use existing state-of-the-art facilities in Baton Rouge for research on important nutrition projects of national importance.

This amendment does not authorize any funds for construction of new facilities, Mr. President. Rather, the Federal commitment would be directed totally to nutrition research, which would be carried out by staff already in place and would not require any Federal personnel commitment other than through the Cooperative State Research Service which would be responsible for administering the grants through the normal process CSRS uses for administering the grant through the normal process CSRS uses for grant administration. This is a very cost-effective approach for USDA since every Federal dollar would be spent on research.

I urge the Senate to adopt this amendment, Mr. President, and take advantage of a unique opportunity which will help us carry out research of national importance in a cost-effective manner.

Mr. LEAHY. Mr. President, this amendment has also been cleared. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2140) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2411

Mr. LEAHY. Mr. President, I send to the desk an amendment on behalf of Senator DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. DOLE, proposes an amendment numbered 2411.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment is dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place at the end of title XIX add the following new section:

SEC. . REPORTING AND RECORDKEEPING IMPROVEMENTS ANALYSIS.

(a) This section may be referred to as the "Agricultural Program Reporting and Recordkeeping Improvement Act of 1990."

(b) Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an analysis that examines the feasibility of, and contains criteria and recommendations for, reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as 'producers') who apply for participation in, or attempt to comply with the requirements of—

(1) agricultural price and income support programs administered by the Secretary, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(2) voluntary or mandatory soil or water conservation programs administered by the Secretary, including programs under the Food Security Act of 1985 (7 U.S.C. 1281 note); and

(3) other related programs administered by the Secretary.

(c)(1) In the analysis required by subsection (b) of this section, the Secretary shall examine the feasibility of reducing current levels of paperwork and recordkeeping required of producers by providing such producers with access to a computerized Departmental network or system (including the utilization of computer capability and equipment which has been or will be acquired by the Department of Agriculture and its various agencies, which could be used by producers: (i) to communicate by voice, video, or a combination thereof for the purpose of submitting electronically all of (or a significant portion of) any necessary and appropriate applications, reports, or other documentation, and (ii) to provide updated electronic information and data pertinent to the producer's agricultural operation and marketing activities, or information-sharing by means of video conferences.

(2) In determining the feasibility and costs of providing a computerized network or system as described in paragraph (1) of this subsection, the Secretary may examine the usefulness and establish a schedule of nominal fees to be charged to producers for a pro-rata share of a portion of the costs associated with access to and use of such system, which fees would partially or entirely defray the costs (after taking into consideration any ongoing savings to the Department) associated with the operation and maintenance and future expansion of such portion of the network or system and its capabilities, but not to include any reimbursement for existing equipment and capabilities nor any reimbursement for the costs associated with the initial establishment of the network or system. The analysis should also contain recommendations outlining additional categories of users who might also be permitted access to the network or system for a fee, and the types of safeguards which would be reasonably necessary to limit file access as may be necessitated in accordance with provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and other relevant authorities governing the disclosure of individual or proprietary information.

(d)(1) Insofar as practicable, in preparing the analysis required by subsection (b) of this section, the Secretary shall take into consideration and incorporate the recommendations of the commission created by title V, section 501 of the Farm Credit Amendments Act of 1985 as contained in the Report of the National Commission on Agricultural Finance, dated February 22, 1989, insofar as such recommendations relate to the need to develop a universal loan application form and uniform accounting standards for farm business. In considering such recommendations, the Secretary shall strive to design and adopt forms and standards which are brief and succinct as possible and shall consult with representatives of the Farm Credit System and with representatives of the commercial banking system as well as with those representing other significant providers of farm ownership and operating credit.

(2) In order to increase the efficiency of agricultural programs administered by the Department of Agriculture and to reduce the burden of paperwork on participants in such programs, the Secretary shall examine the feasibility of creating one brief application form to be used by applicants for participation in the agricultural programs of

the Department of Agriculture including the analysis required by subsection (b) shall include information with regard to the progress made by the Department of Agriculture toward compliance with this subsection. The analysis shall also identify statutory impediments to the use of such single brief form.

(e) The Secretary is authorized to use such funds of the Commodity Credit Corporation, not to exceed $1,500,000, as the Secretary deems necessary to timely complete the analysis, to the extent such funds are provided in advance in appropriations acts.

Mr. LEAHY. Mr. President, this amendment also has been cleared. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on this amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2411) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2412

Mr. LEAHY. Mr. President, I have an amendment in the form of a sense-of-the-Senate resolution on behalf of Senator DOLE which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. DOLE, proposes an amendment numbered 2412.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

"It is the sense of the Senate that, in the event the budget reconciliation instructions or a budget summit agreement for any of the Fiscal years ending September 30, 1991 through September 30, 1995, require that budget authority and outlays for programs under the jurisdiction of the Senate Committee on Agriculture, Nutrition and Forestry be reduced, that the Congress shall comply with those instructions.

"Further, it is the sense of the Senate that the budget process unfairly penalizes producers of commodities supported primarily by Treasury payments relative to producers of commodities supported primarily by consumers.

"Further, it is the sense of the Senate that whatever outlay reductions required by the budget process for Treasury payment supported commodities should be shared equitably between such commodities. In addition, there should be equitable reductions in support mechanisms for commodities supported by consumers relative to Treasury payment supported commodities.".

Mr. LEAHY. Mr. President, this also has been cleared. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2412) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2413

(Purpose: To extend the FmHA demonstration project for the purchase of farm credit system land)

Mr. LEAHY. Mr. President, I have an amendment on behalf of Senator GRASSLEY. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. GRASSLEY, proposes an amendment numbered 2413.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 593, lines 16 and 17, insert the following new subsection:

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351(h)(1) (7 U.S.C. 1999(h)(1)) is amended by striking "3-year" and inserting "4-year".

Mr. GRASSLEY. Mr. President, I am pleased to sponsor this amendment which will extend the period of time in which farmers can take advantage of the Farmers Home Administration demonstration project which was authorized in the Agricultural Credit Act of 1987.

This program was added to the 1987 Agriculture Credit Act through the initiative of the distinguished chairman of the Agriculture Committee. It was Senator LEAHY who recognized the potential of disposing of, what was at that time, the huge inventory of land acquired by the Farm Credit System. I commend the Senator from Vermont for his insight at that time and for his cooperation with my amendment today.

This demonstration project enables FmHA eligible borrowers to purchase inventory property at reduced interest rates. Property which can be sold under this project is that which is held in inventory by Farm Credit System districts which have received financial assistance. Borrowers may receive an interest reduction of up to 4 percent for up to 5 years. Also, if the lender reduces the interest rate by 1 percent, the loan qualifies for a 95-percent guaranty through FmHA.

This program was authorized for 3 years. The statute directed the Secretary of Farmers Home and the Farm Credit Administration to, within 60 days, develop a joint memorandum of understanding governing the implementation of the demonstration project. The memorandum of understanding was completed and agreed upon. However, Farmers Home decided not to implement the program until administrative rules were promulgated.

I took issue with FmHA for its insistence that rules were necessary, and also that the rule process took so long. Despite written and verbal communication from me, as well as other Senators, the rules did not take effect until a full year after enactment of the Agricultural Credit Act.

Mr. President, it was the clear intent of Congress that the FmHA Demonstration Program be implemented for 3 years. Yet it will expire in January of this coming year, after only 2 years of operation. This amendment will simply allow the program to operate for 3 years, as Congress intended.

I thank the floor managers of the bill for accepting this amendment.

Mr. LEAHY. Mr. President, this amendment also has been cleared. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2413) was agreed to.

AMENDMENT NO. 2414

Mr. LEAHY. Mr. President, I send a sense-of-the-Senate resolution to the desk on behalf of Mr. PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. PRYOR, proposes an amendment numbered 2414.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XIX add the following new section:

"SEC. 19 . REGULATION GOVERNING INSPECTION OF IMPORTED POULTRY.

"Since in 1985 the Poultry Products Inspection Act, an Act to maintain the integrity and wholesomeness of this nation's food supply, was amended by the Food Security Act of 1985;

"Since, the 1985 amendment provided that poultry products offered for importation into the United States shall be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States and that such products shall have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States;

"Since, on October 30, 1989, the Food Safety and Inspection Service, an agency within the United States Department of Ag-

riculture charged with the responsibility of administering the provisions of the Poultry Products Inspection Act, promulgated a regulation, implementing the 1985 amendment to that Act, providing that a foreign inspection system seeking certification for export of poultry to the United States merely impose requirements at least equal to those applicable in the United States.

"Now, therefore, be it

"Determined that the Senate of the United States considers the regulation promulgated by the Food Safety and Inspection Service do not reflect the intention of the Congress of United States; with respect to poultry products offered for importation into the United States.

"Determined further, that the Senate of the United States urges the Food Safety and Inspection Service of the United States Department of Agriculture to repeal the October 30, 1989 regulation and promulgate a new regulation reflecting the intention of the Congress.".

Mr. LEAHY. Mr. President, this amendment has also been cleared, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2414) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2415

Mr. LEAHY. Mr. President, I send an amendment on behalf of Senator DOLE to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. DOLE, proposes an amendment numbered 2415.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place at the end of the bill:

Notwithstanding any other provision of this Act, to conserve scarce Federal resources, the Secretary may after concurrence with the chairman and ranking member of the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, rank by priority the studies or reports authorized by this Act and determine which of those studies or reports shall be completed, however, the Secretary must complete at least 12 such studies or reports.

Mr. LEAHY. Mr. President, the amendment by Senator DOLE has been cleared. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2415) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2416

(Purpose: To establish a task force to consult with the Secretary of Agriculture concerning compost)

Mr. LEAHY. Mr. President, I have an amendment on behalf of Senator ROBB and Senator BOND. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. ROBB (for himself and Mr. BOND), proposes an amendment numbered 2416.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 574, line 22, after "Secretary of Agriculture", insert ", in consultation with the task force established in subsection (c),";

On page 574, line 6, after "Secretary of Agriculture", insert ", in consultation with the task force established in subsection (c),"; and

On page 575, insert the following new subsection after line 20:

"(c) COMPOST TASK FORCE.—

"(1) ESTABLISHMENT.—Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall establish a Compost Task Force, which shall meet at least two times annually.

"(2) MEMBERSHIP.—The Compost Task Force shall consist of 15 members, appointed by the Secretary, from representatives of the Department of Commerce, The environmental Protection Agency, the Department of the Interior, the Food and Drug Administration, the United States Trade Representative, Federal Highway Administration, States with laws concerning composting, agricultural representatives (including livestock, forestry, fishing, nursery, horticulture, vineyard, and orchard interests), landscapers and builders, the composting industry, microbiological scientists, food and fiber processors, food service industries, public interst groups, and manufacturers of consumer product packaging.

"(3) CHAIR.—The Secretary shall serve as the chairperson of the Compost Task Force.

"(4) CONSULTATION.—In its deliberations, the Compost Task Force shall consult regularly with and solicit recommendations from the agencies, organizations, and entities referred to in paragraph (2).

"(5) SUNSET.—The task force authorized by this subsection shall terminate on September 30, 1995.".

Mr. ROBB. Mr. President, I am pleased to propose this amendment to establish a compost task force along with my colleague from Missouri, Senator BOND.

It is estimated that woody waste—things like grass clippings, trees, limbs, and lumber waste—comprises 15 to 20 percent of the Nation's municipal solid waste. Such waste is currently disposed of by landfilling or incineration. There is a movement under way in private industry to ease the problem of lack of landfill space by composting woody waste on a larger scale.

The Senate farm bill does contain a composting section, sponsored by Senator FOWLER, but unlike the House version, it does not include the establishment of a compost task force. The amendment that Senator BOND and I offer today seeks to ensure that the task force provision will be a part of the farm bill conference report.

By bringing together expertise from government, science, and industry, the compost task force will serve as a clearing house of technologies and applications for composting of all forms of agricultural waste. It is also important that this amendment requires no additional appropriation.

Mr. President, many of my colleagues may have read a recent article in the Washington Post about Ticonderoga Farms. Ticonderoga is a private farm in northern Virginia that has made great strides in researching compose techniques. Ticonderoga piles woody waste into large windrows that are broken down organically into high-grade top soil by simulating a rainforest-like environment of vines, fungus, and irrigation.

Ticonderoga and other farms like it across the country will benefit greatly from the information collected and disseminated by the compost task force.

I want to thank Senator BOND for his commitment to investigating this environmentally promising industry.

Mr. LEAHY. This amendment has also been cleared. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2416) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, sometime soon—hopefully today—I plan to vote against this farm bill.

I will do so with considerable reluctance.

I have been involved in the drafting of this legislation from the first stage in the Agriculture Committee.

BAUCUS PROVISIONS

I have either authored or coauthored a number of provisions in this bill that are very important to my State.

They include:

First, a provision to prohibit future dairy buyouts;

Second, a provision to encourage production of minor oilseeds;

Third, a provision to grant processed wood products access to agricultural export programs;

Fourth, a provision allowing farmers to choose a higher target price in return for a larger set-aside;

Fifth, a provision to change the calculation of barley deficiency payments to enhance producer income;

Sixth, an increase in the oats target price;

Seventh, reauthorization of strong export programs, including TEA and EEP;

Eighth, a mandate to implement a marketing loan or across-the-board EEP if the current round of GATT negotiations fails;

Ninth, a series of provisions to enhance exports of value added agricultural exports;

Tenth, an extension of the sugar and wool programs;

Eleventh, a provision that launches a new national noxious weed control effort;

Twelfth, a series of provisions to encourage rural development;

Thirteenth, a provision to allow barley farmers to repay advance deficiency payments from the 1988 and 1989 drought over a period of 3 years instead of by July 31; and

Finally, a critical provision to fund and extend the Federal Crop Insurance Program.

I take considerable pride in these provisions, and I greatly appreciate the cooperation of my colleagues in my efforts to include these provisions in the bill.

And there are other good provisions in the bill which I support as well.

In fact, I believe that my colleagues and I on the Agriculture Committee have produced about as good a farm bill as possible under the budgetary constraints set by the administration.

THE FARM RECESSION

But those constraints are simply too tight to protect farm income at a reasonable level.

I feel compelled to oppose this bill because the bill is just not fair for American farmers.

There is a widespread perception in this body that the farm crisis of the mid 1980's is now over.

Indeed, the situation is a little better.

Income is up and the number of foreclosures are down.

And the 1985 farm bill can claim a considerable share of the credit for this recovery.

The 1985 bill was a good bill for 1985. I voted for it in 1985.

But this bill is basically an extension of the 1985 farm bill, and the 1985 farm bill is not the right farm bill for 1990.

As I pointed out repeatedly in the debate on this bill, CBO recently completed a study that indicated that the bill will cut farm income by more than 20 percent by 1995.

According to CBO, that means that more than 500,000 farmers will be forced out of business over the next 5 years.

In other words, we will see one out of every four farmers forced off the land.

Keep in mind, when farmers are forced off the land it does not just mean the end of their farms.

It means the end of the rural communities that are built around those farms.

It may now seem like things are going relatively well in the United States, but things are not going well in Miles City, MT; Grand Forks, ND; Rapid City, SD; and North Platte, NE. Those rural communities have never fully recovered from the farm recession of the mid 1980's. And if the CBO is correct, the worst is yet to come.

Mr. President, I simply cannot, in good conscience, vote for a bill that would create ghost towns in the farm belt. Listening to the administration and some in this body, one might get the impression that the farm program is the root and cause of the Federal budget deficit. Nothing could be further from the truth.

The cost of the farm program has declined more than 50 percent in the last 3 years. Farm program spending is the fastest shrinking item in the Federal budget. The United States is now spending only a fraction of what other nations spend. Japan and the European Community devote much more to their farm support programs. We now spend less than 1 percent of the Federal budget on farm programs, and if we entirely eliminated the farm program, it would barely make a dent in the Federal budget.

I am as committed to eliminating the budget deficit as any of my colleagues. I have voted to cut out many programs, in order to balance the budget. I have even supported an across-the-board freeze on all Federal spending. But we cannot balance the budget on the backs of the farmers. Farm programs have been cut enough. Further cuts will drive farmers off the land in droves.

Mr. President, I have faith in this body. I believe there is deep support for farmers and for the farm program on both sides of the aisle. Therefore, I suspect we will be back here in a few years trying to undo or correct what we are otherwise going to do today. I, for one, will vote against what we are doing today.

With that said, I want to extend my sincere thanks to the managers of the bill for the tireless efforts throughout this long process. I also commend the staff of the Agriculture Committee for their efforts. They worked very hard. Even more particularly, I praise the chairman of the committee, Senator LEAHY from Vermont, who has worked very hard in the circumstances to produce a bill.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Montana for his congratulations.

AMENDMENT NO. 2417

Mr. LUGAR. Mr. President, I send an amendment to the desk on behalf of Senator DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana, [Mr. LUGAR], for Mr. DOLE, proposes an amendment numbered 2417.

Mr. LUGAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95, line 19, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 145, line 6, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 200, line 6, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 243, line 14, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives".

Mr. LUGAR. Mr. President, we commend the amendment and ask for immediate adoption.

Mr. LEAHY. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2417) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2418

Mr. LUGAR. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana, [Mr. LUGAR] proposes an amendment numbered 2418.

Mr. LUGAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 420, between lines 9 and 10, add the following new section:

"SEC. 409. ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

"Notwithstanding any other provision of law, the President through the Administrator may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under this Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(1)(2) of the Foreign Assistance Act of 1961) for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.".

Mr. LUGAR. I have offered this amendment, Mr. President, on behalf of the administration. We ask for the ability to try to use foreign currency generated by Public Law 480 sales or assistance to reduce the production of drugs in foreign countries. This has been cleared on both sides of the aisle.

Mr. LEAHY. Mr. President, I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment (No. 2418) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2419

(Purpose: To exempt owners and operators from conservation reserve repayment requirements in cases of foreclosure)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY, related to the repayment requirements and in cases of foreclosed property and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. GRASSLEY, proposes an amendment numbered 2419.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 520, after line 22, add the following new subsection:

(d) EFFECT OF FORCECLOSURE.—Section 1232 of such Act (16 U.S.C. 3832) (as amended by subsections (b) and (c)) is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, an owner or operator that is a party to a contract entered into under this chapter shall not be required to make repayments to the Secretary of amounts received under such contract if the land that is subject to such contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This subsection shall not void the responsibilities of such an owner or operator under the contract if such owner or operator resumes control over the property that is subject to the contract within the period specified in the contract. Upon the resumption of such control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.".

Mr. LEAHY. This is an amendment that has been cleared. There is no objection to it on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2419) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2420

(Purpose: To study the effects of the elimination of agricultural trade limitations)

Mr. LEAHY. Mr. President, I send an amendment on behalf of Senator CONRAD to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont, [Mr. LEAHY], for Mr. CONRAD, proposes an amendment numbered 2420.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 501, at the end of title XI, add the following:

SEC. 11. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study, and prepare and submit to the Committee on Agriculture of the United States House of Representative and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report, concerning the effects of the multilateral elimination by all Western Hemisphere nations of tariffs, quotas, marketing orders, quality standards, and other limitations on agricultural trade among the nations of the Western Hemisphere of the United States and other Western Hemisphere nations.

Mr. LEAHY. Mr. President, this also has been cleared. There is no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 2420) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2421

(Purpose: To improve the development of regulations governing the eligibility of trade organizations for Marketing Assistance Program funds)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. LEVIN, Mr. HATCH, and Mr. RIEGLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. LEVIN (for himself, Mr. HATCH, and Mr. RIEGLE), proposes an amendment numbered 2421.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 455, between line 4 and 5, insert the following new subsection:

"(1) REVIEW OF REGULATIONS.—The Foreign Agricultural Service shall review the regulations governing the eligibility of trade and agricultural commodity promotion organizations for Marketing Assistance Program funds and make recommendations, within sixty days of enactment of this act, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on ways to improve the use of funds under this section by smaller trade organizations, and advise the Committees on changes in these regulations.".

Mr. LEVIN. Mr. President, Michigan is the largest tart cherry producer in the United States. Our orchards are so productive that we need constantly to look for and develop new markets. We also need to break into old, protected markets that have significant barriers to Michigan tart cherries. That is one reason why the Targeted Export Assistance [TEA] Program, and its successor, the Marketing Assistance Program [MAP], is very important to my

State. This program is designed exactly to help agricultural trade and commodity promotion groups through cost-share assistance to implement a market development program in foreign countries. I am offering an amendment today that will help Michigan's cherry industry and make a contribution to our foreign trade efforts.

There is an organization in Michigan, the Cherry Marketing Institute [CMI], that not only represents Michigan cherry growers, but growers from the States of Wisconsin and Utah. CMI has made some astounding progress getting into the European and Japanese markets using TEA funds and a lot of elbow grease. Now, however, the Foreign Agricultural Service [FAS] has served CMI notice that it is not eligible for TEA funds due to a FAS regulation regarding the definition of "affiliated organizations."

The problem, according to FAS, is CMI's relationship with CherreX, an export trading company. But, FAS' regulations were written in response to historical situations involving much larger organizations to prevent the misuse of TEA funds by trade organizations that were not representative of all growers or processors of a commodity wishing to export. That is not what is going on at CMI in relation to CherreX. The CMI situation is very different in scale and degree of affiliation, and the applicability of and the necessity for the current FAS regulations need to be revisited for organizations in CMI's condition.

Mr. President, because of the changes we are making in the definition of the organizations that are eligible for MAP funds, the FAS will need to look at its regulations governing which organizations are eligible for MAP funds and promulgate new regulations. Though I believe that current language in the bill will require the development of new FAS regulations that will allow the coexistence and current relationship of CMI and CherreX, I am offering an amendment to ensure that FAS gives adequate consideration to different possible configurations of trade and commodity promotion organizations applying for MAP funds. We need to be creative when we promote U.S. products. We need to be more creative in finding new ways into foreign markets than our competitors are in closing them to us.

I am also concerned that the Cherry Marketing Institute, which has applied for TEA funds for fiscal year 1991, might have to halt its market opening activities because of the FAS declaration of ineligibility and the resultant loss of fiscal year 1991 promotional funds. By the time this whole thing is worked out, so that CMI and CherreX could continue functioning in some new configuration and CMI become eligible for MAP funds again, all the fiscal year 1991 funds might already be allocated. This would leave a new, restructured CMI high and dry for fiscal year 1991. This is certainly not what I and 12 other Members of Congress were hoping for when we sent a letter to Mr. Roland Anderson, FAS Administrator, in support of the Cherry Marketing Institue's fiscal year 1991 MAP fund application. I ask unanimous consent that the letter be introduced into the RECORD following my comments.

Mr. President, I would ask the distinguished floor manager, Senator LEAHY, whether he believes it would be appropriate for the FAS to take into account the changes we are making in this bill in the definition of organizations eligible for MAP funds, the time and results of the review required by this amendment, and any outstanding appeals or applications by groups, such as the Cherry Marketing Institute, as the FAS allocates its fiscal year 1991 MAP funds?

Mr. LEAHY. I think it would be appropriate for the Foreign Agricultural Service to take all these elements into consideration and allocate or reserve the fiscal year 1991 MAP funds accordingly.

Mr. LEVIN. I thank the Senator from Vermont. I am optimistic that with the inclusion of this amendment, small agricultural commodity promotion and trade organizations will be eligible for MAP funds. And, given the Chairman's remarks, it seems that FAS should have time to develop regulations in response to the new legislation and that these organizations should have some time to adapt to the ensuing regulations, so that fiscal year 1991 MAP allocations will still be available to them.

Mr. President, I ask unanimous consent that a letter to the Foreign Agricultural Service be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 3, 1990.

Mr. ROLAND E. ANDERSON,
Administrator, Foreign Agricultural Service, Washington, DC

DEAR MR. ANDERSON: The Cherry Marketing Institute representing cherry growers in Michigan, Utah, and Wisconsin, has applied for TEA (MAP) funding in the amount of $750,000 for FY91.

As representatives of cherry growers in these states, we wish to express our strongest support for this request and particularly for the $128,000 requested for establishment of a Japanese representative office. The industry is on the verge of negotiating some very significant contracts in Japan and this office should be the catalyst that leads to their consummation.

Sincerely,

Orrin Hatch, Bob Kasten, Howard C. Nielson, Tom Petri, Guy Vander Jagt, Carl Levin, Herb Kohl, Bob Traxler, Toby Roth, Wayne Owens, Fred Upton, James V. Hansen, Don Riegle.

Mr. LEAHY. This amendment also has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2421) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2422

(Purpose: To make various technical corrections concerning organic production)

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2422.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 879, line 12, strike out "or".

On page 879, line 13, strike out the period and insert in lieu thereof "; or".

On page 879, between lines 13 and 14, insert the following new subparagraph:

"(D) medicated feeds.".

On page 880, line 14, insert "medications including" after "of".

On page 881, strike out lines 1 through 6, and insert in lieu thereof the following new paragraph:

"(1) POULTRY.—

"(A) IN GENERAL.—All poultry from which the meat will be labeled as organically produced, shall be managed in accordance with this subtitle prior to (except for the first day after hatching) and during the period in which such meat is sold.

"(B) LAYING HENS.—All poultry from which the eggs will be labeled as organically produced, shall be managed in accordance with this subtitle for a period of not less than 4 months prior to the sale of such eggs.".

On page 881, line 16, insert "from birth" before the period.

On page 882, between lines 4 and 5, insert the following new subsection:

(i) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary, in carrying out the provisions of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or any other Act concerning the misbranding of meat and poultry products, may accept a certification provided by a certifying agent at the point of slaughter as proof that the meat and poultry have been raised in accordance with this subtitle.

Mr. LEAHY. Mr. President, this involves primarily technical amendments and has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2422) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2423

(Purpose: To provide disaster assistance to producers for losses from the Big Horn River drainage system on the Wind River Indian Reservation, WY)

Mr. LEAHY. I send an amendment to the desk on behalf of Mr. SIMPSON and Mr. WALLOP and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. SIMPSON (for himself and Mr. WALLOP), proposes an amendment numbered 2423.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATED ON THE WIND RIVER INDIAN RESERVATION.

(a) IN GENERAL.—Effective only for providers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture may make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note, and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity: *Provided, however,* That said assistance shall be drawn from a pool of funds not to exceed $250,000.

(b) ADMINISTRATION.—Titles I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, including crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4) for purposes of this amendment only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this amendment only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B) for purposes of this amendment "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this amendment "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) *Provided further,* That if the Secretary determines to offer the assistance described in subsection (a), the producers on a farm as specified in (a) may elect, at the producer's option, to request and receive a 12-month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States;

(1) said request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent certified mail to the nearest regional office; and

(2) written requests for deferral under (c) must be made within 60 days of enactment of this title.

Mr. WALLOP. Mr. President, there are producers on the Wind River Indian Reservation in the middle of Wyoming who find themselves in a very uncommon and most unfortunate circumstance. Through no fault of their own they have lost much with regard to their right to use water in the Big Horn drainage system and are now suffering crop damages which will cause them great economic hardship. The drought they face is not God's fault alone, but largely due to actions by the Federal Government. It would not be fair or equitable for Congress to turn its back on them at this point in time.

The assistance Senator SIMPSON and I seek for these farmers cannot set a precedent of any type because of the unique circumstances in this case. This crisis is the result of the Federal land settlement policies at the turn of the century coupled with a recent Supreme Court decision applicable only to Wyoming.

In order to understand this situation, you must understand that ownership on the Wind River Reservation is best described as something of a mosaic—some is owned by non-Indians, some by Indians and some is held in trust by the U.S. Government.

The landowners on the reservation which this amendment is intended to relieve, applied for and obtained water rights through the State legal system just as any other water user in Wyoming. And, just as any other water user they thought they had a vested property right that could not be taken or damaged without just compensation.

The Federal Government made certain assurances to these producers on another level, also. Dams, reservoirs and canal systems were installed and managed by both the Bureau of Indian Affairs and the Bureau of Reclamation with the implied promise that there would be adequate water to accompany these projects. In reliance of this promise, farmers participated in these projects upon which their very livelihoods depend.

However, in 1988, as the result of a 12-year legal battle, the Shoshone and Arapaho Tribes were awarded approximately 500,000 acre-feet of water out of the 1.2 to 1.5 million acre-feet of water annually flowing through the Wind River, a major drainage of the Big Horn River system. The U.S. Supreme Court affirmed the award which gave the tribes an 1868 priority date for the water.

This court decree was damaging to non-Indian irrigators in two ways. First of all, by granting the tribes an 1868 priority date most all non-Indian users were suddenly moved down in priority. Thus, they can no longer use their water when the supply is low but must yield to the demands of seniors. Since this is a water short year, these farmers are not able to get an adequate amount of water on their crops. Prior to the court decree, during any shortage on the reservation, water was shared equally by all users in the BIA projects. Now the non-Indians must bear the brunt of the shortage.

Second, in addition to the 1868 priority date, the court decree awarded the tribes more water than has been historically used. This additional demand on the river system must be met by using water which could otherwise go to the non-Indian irrigators.

The tribes have every right to the waters awarded by the courts, Mr. President. However, it is simply not equitable that other users should suffer because of Federal actions.

It was the Federal Government that made a portion of the reservation available for homesteading to non-Indians. In addition, reservation land was allotted to individual Indians under the General Allotment Act of 1887 and eventually some of these lands were sold to non-Indians. The Federal Government enticed, encouraged and welcomed non-Indians to settle in the area, Mr. President. Then, 120 years after establishing the reservation, the Federal Government finally corrected its failure to reserve an adequate amount of water for that reservation.

Non-Indian irrigators did nothing wrong, yet the Federal Government is asking them to pay for the Government's own negligence. That is not the way a Government should deal with the people it was designed to serve.

Mr. SIMPSON. Mr. President, I am pleased to join with my friend and colleague, the senior Senator from Wyoming, MALCOLM WALLOP, to propose this amendment which can assist some very deserving small farmers in Wyoming to survive a period of severe hardship. These fine people are suffering from a sudden shortage of irrigation water that is partly the work of Mother Nature and in part the result of Federal land settlement and water policies of nearly 100 years ago.

However, it is important to note that the Crowheart amendment to the farm bill is extremely limited. It would allow between 13 and 100 small family farms to be eligible for drought assistance. It is possible that losses may not be severe enough for any of these farms to qualify because they are still required to prove 40-percent losses, as under present drought legislation.

The tribal representatives have also indicated their support—and please remember that the relief will not be limited to non-Indians. There are Indian farmers who had water priorities based on State law also who now are adversely affected by the new Supreme Court established priorities.

Through the able assistance of the floor managers and their able staffs, this amendment has been limited in another respect. We have limited the Government's maximum financial exposure. There is a cap on the amount that can be paid of $250,000.

Likewise, the time frame is very limited—this amendment only applies for the year 1990 and is intended only to relieve the tensions in the community in order that the State and the tribes can get together and complete negotiations without those external tensions adding further pressures to an already disruptive situation.

The ability to qualify for relief under this bill does not mean an automatic payment, Mr. President. After the affected farmers have shown their qualifying loss, the Secretary of Agriculture still has discretion in permitting payments. This, in effect, is an additional guarantee that Federal money will not be spent inadvisedly. We have no doubt that the Secretary will give every consideration to the deserving applicants and he can be assured that the Wyoming delegation is eager to assist in any way we properly can.

In addition, there is another portion of this amendment that we feel is of particular importance. If the affected farmers can qualify for crop loss payments, they can choose an alternate form of assistance that will save Federal funds and provide needed, immediate, cash assistance. Within 60 days of enactment, the qualified farmers may write and request a 12-month deferment of payments on their Federal farm loans. This costs the Government virtually nothing yet provides an immediate cash windfall for families who could have otherwise not been able to keep their farms. This is not a restructuring or a forgiveness of debt, which would cause reduced Federal revenues; this is just a brief time out long enough to let these hard-working families catch their breath and get ready for the next season.

This should be an incentive for the State and the tribes to again begin the crucial and necessary negotiations that must be conducted in order to solve this serious problem.

The House version of this bill has a similar provision and it was accepted by both parties—just as this amendment is being so accepted in the Senate.

So, I do want to thank the bill managers and all of my colleagues for their help and support for this amendment—an amendment which could literally make a world of difference for some of Wyoming's most honest, hard working farmers and their families.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 2423) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2424

(Purpose: To improve the food stamp and related programs)

Mr. LEAHY. Mr. President, I send to the desk an amendment, on behalf of myself, Senator LUGAR, Senator HARKIN, Senator BOSCHWITZ, Senator DOLE, Senator PRYOR, Senator MCCONNELL, Senator FOWLER, Senator WILSON, Senator HEFLIN, Senator BOND, and Senator DASCHLE, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. LUGAR, Mr. HARKIN, Mr. BOSCHWITZ, Mr. DOLE, Mr. PRYOR, Mr. MCCONNELL, Mr. FOWLER, Mr. WILSON, Mr. HEFLIN, Mr. BOND, and Mr. DASCHLE, proposes an amendment numbered 2424.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEAHY. Mr. President, this amendment is a no-cost package of nutrition improvements. I am disappointed that we could not add the Mickey Leland Hunger Relief Act to this farm bill. I will continue to work for enactment of the Mickey Leland bill this session. This amendment pays for itself and makes some modest, but important, improvements in nutrition programs.

I want to thank its sponsors: Senators LUGAR, HARKIN, BOSCHWITZ, DOLE, PRYOR, MCCONNELL, FOWLER, WILSON, HEFLIN, BOND, and DASCHLE.

I am especially proud of the provisions benefiting homeless children living in temporary homeless shelters.

This amendment expands a program to help feed homeless children under 6 years of age.

The problem is simple. Often homeless shelters are not able to feed the homeless families living there. The shelters are strapped for funds—often relying on volunteer labor.

Older children are fed meals under the school lunch or school breakfast programs. However, preschool children are not old enough to be in school. They should not go hungry.

This amendment provides up to $3 million per year to expand this feeding program throughout America.

This idea was started by the U.S. Catholic Conference. A pilot project is taking place in Philadelphia to feed these preschool children—we need to expand this program to the rest of the Nation.

This provision was in the nutrition bill introduced by Senator SASSER early this year. He has been a strong proponent of this great program.

The amendment also helps families in transitional housing—living in temporary quarters until they are able to find more permanent housing.

New York City has made great strides in moving homeless families out of welfare hotels and into better housing. Both Senators MOYNIHAN and D'AMATO have been very helpful regarding this provision.

Another provision should help low-income persons who want to work their way out of poverty through self-employment. It excludes the value of equipment they need to earn an income when food stamp benefits are calculated.

This will help the self-employed in my home State of Vermont, and every other State in this Nation.

The amendment contains several provisions which will help reduce paperwork.

One provision will greatly reduce the paperwork for the elderly and disabled. It requires that States can rely on reasonable estimates of expected medical expenses for elderly participants on food stamps. This eliminates needless verification of medical expenses.

Another very important provision concerns the mail issuance of food stamp coupons in rural areas. Rural participation in the food stamp program is low. Many elderly and disabled residents of rural America have great difficulty in getting into the food

stamp offices to pick up their food stamps.

This provision requires States to mail coupons to eligible households in certain rural areas within States where low-income families face substantial difficulties in obtaining transportation.

There are many other good provisions in this amendment. I want to thank Senator LUGAR who worked with me on these provisions. He and his staff were very helpful. Also, Senator PRYOR was the moving force behind several of the provisions which benefit the elderly.

Senator HARKIN worked to have included the provisions regarding the Commodity Supplemental Feeding Program.

Senator BOSCHWITZ also played a major role in the development of this package of nutrition provisions, as did the minority leader, Senator DOLE. I appreciate their strong support for nutrition programs, and the efforts of other Members regarding this amendment.

This amendment also improves nutrition programs for native Americans—native American Indians, Alaska Natives and native Hawaiians.

The Agriculture Committee had a joint hearing with the Senate Select Indian Affairs Committee on nutrition problems on Indian reservations. I also appreciate the efforts of the staff of that committee—especially Pete Taylor and Kathleen Hooker.

Some of these provisions address concerns raised at those hearings. Also, I want to thank Senators AKAKA and INOUYE for the provisions assisting native Hawaiians in terms of nutrition programs.

These provisions will assist farmers on Hawaiian homelands.

Senators MCCAIN, DASCHLE, CONRAD, and KERREY were also very helpful regarding the native American Indian provisions. At Agriculture Committee hearings and markups, Senators DASCHLE, CONRAD, and KERREY have strongly fought for provisions helping native Americans.

I also want to thank Senator FORD for his work on the school lunch study provision.

I want to stress my commitment, however, to enactment of the Mickey Leland Hunger Relief Act this session. This amendment is a good one—but I will continue my efforts to enact the Mickey Leland bill. This amendment is not a substitute for the Mickey Leland bill.

Mr. LUGAR. Mr. President, first I would like to comment that the amendment the distinguished chairman has offered is the nutrition amendment and it is a very important amendment once again carrying for his leadership and that of Senator BOSCHWITZ, Senator DOLE in the past has made tremendous contributions in this area. I am pleased to be associated with these distinguished colleagues.

Mr. President, I rise to support the nutrition amendment to the farm bill.

The distinguished chairman of the committee and I have a long history of cooperation on vital nutrition issues. Every year since we assumed our leadership positions on the Agriculture Committee, we have cooperated to craft important nutrition legislation. I also wish to thank our colleagues on the committee who always make positive contributions to our nutrition debates, Senator BOSCHWITZ, the ranking Republican on the Nutrition Subcommittee and Senator DOLE, whose record of achievement on nutrition issues is unmatched in the Senate. Together, our past efforts include: the nutrition portion of the McKinney Homeless Act; the Commodity Distribution Reform and WIC Amendments Act of 1987, the Hunger Prevention Act of 1988, and the Child Nutrition and WIC Reauthorization Act of 1989. This amendment continues in that spirit.

As my colleagues are aware, S. 2830 does not contain a nutrition title. Because a final budget resolution has not been completed, the chairman determined that he would prefer not to include reauthorization of the Food Stamp Program, the Commodity Supplemental Food Program, the Nutrition Assistance Program for Puerto Rico and the other expiring nutrition programs. I assented to the chairman's wishes. Also, I have not sought to increase funding for these programs until we complete a budget resolution that indicates what, if any, funding increases will be available for nutrition.

The farm bill being debated in the other body does contain a nutrition title that reauthorizes these programs. Thus, reauthorization will be an issue at conference. However, there are some changes favored by the Agriculture Committee that are not contained in the House bill. This amendment contains those changes and other provisions widely supported on the Agriculture Committee.

The amendment would allow the homeless to use their food stamps at approved local restaurants. Because the homeless generally lack cooking facilities, it makes sense that the usual rule prohibiting use of food stamps for prepared meals be waived in these cases. The amendment requires that efforts be made to inform homeless shelters of the existence of the charitable institutions food program at USDA. It also makes improvements regarding students in the employment and training program.

The amendment simplifies the requirements for food stamp applications. It contains several provisions designed to increase the integrity of the Food Stamp Program. Also, the amendment expands a program the committee created 2 years ago to provide assistance to homeless preschool children.

Mr. President, this amendment is a positive addition to S. 2830. It is, of course, not exactly the amendment I would have designed myself but it is a good amendment. The Congressional Budget Office has estimated the cost of the amendment at under $500,000. I urge my colleagues to support the amendment.

Mr. BOSCHWITZ. Mr. President, I rise today as a cosponsor of this nutrition amendment offered by the distinguished chairman of the Agriculture Committee, Senator PATRICK LEAHY.

As the ranking minority member of the Nutrition Subcommittee, I have been a long time supporter of the Federal nutrition programs. These programs provide vital nutritional assistance to millions of Americans each year.

This amendment makes some important changes to protect the integrity of the food stamp program. We have heard some disturbing reports lately about food stamp trafficking and the use of food stamps as a second currency. This amendment provides for increased fines for this illegal activity and increases efforts to monitor food stamp traffickers. Many of these provisions were requested by the administration in its 1990 farm bill proposal. I firmly believe that we need to enact stiffer penalties to thwart these illegal activities which deprive those most in need of their food stamp benefits.

We have also set forth several important changes in the Commodity Supplemental Food Program [CSFP]. This program is similar to WIC except that a package of food, rather than vouchers, is provided to low-income women and children. The program also serves the elderly in a few areas of the country. We have two CSFP sites in Minnesota, and the program has been very well-received. The amendment increases administrative funding for the program and makes it clear that, when funded, there can be CSFP sites that serve only the elderly. Finally, a minimum amount of cheese and nonfat dry milk will be made available to the program each year as long as cheese and nonfat dry milk are acquired by the Commodity Credit Corporation.

I have long believe that we should work to better coordinate and simplify assistance programs for low-income Americans. In the long run, this would benefit those administering the programs, caseworkers as well as recipients. Under this amendment, as many as 60 demonstration projects could be undertaken to evaluate more coordination between employment and training under the Food Stamp Program and the jobs program under Aid to Families with Dependent Children. This

amendment makes important progress in moving toward more coordination between these assistance programs.

On a final note, the amendment allows States some additional flexibility in several areas in administering the food stamp program. This amendment also resolves a problem for State agencies regarding monthly reporting and retrospective budgeting that resulted from the Hunger Prevention Act of 1988.

I urge my colleagues to support this important amendment.

Mr. PRYOR. Mr. President, I rise today in support of the nutrition amendment offered by Senator LEAHY, the distinguished chairman of the Senate Agriculture Committee.

Hunger and malnutrition are tragic and unnecessary facts of American life. Studies indicate that hunger increased substantially throughout the 1980's. For example, in every year since 1982, the U.S. Conference of Mayors' survey has reported an increased demand for emergency food. Harvard University's Physician Task Force on Hunger has estimated that 20 million Americans suffer from hunger—that represents 1 out of every 12 citizens.

Moreover, hunger is not unknown in my home State. Let me quote from a letter that I received from Laura Rhea, executive director of the Arkansas Rice Depot, a distributor for food pantries and soup kitchens in my home State:

> In a year's time, we have given away 800,000 pounds of [TEFAP] commodities to 65 hunger agencies, church food pantries, and shelters in Arkansas. Through all Rice Depot programs, we give away about 140,000 pounds of food a month to over 400 agencies statewide.

If only one agency in Arkansas is providing so much free food to so many antihunger programs, there is clearly a need for Federal nutrition programs.

As chairman of the Senate Special Committee on Aging, I am particularly concerned about hunger among the elderly and disabled. These vulnerable persons frequently suffer from medical conditions exacerbated by poor nutrition. In fact, it has been estimated that 65 percent of all elderly persons admitted to a hospital have a serious nutrition problem.

At particular risk are those elderly and disabled persons who live alone and may have insufficient funds to prepare wholesome meals. According to a 1987 study by the Commonwealth Fund Commission, 43 percent of all elderly persons who live alone have income within 150 percent of the poverty line.

In April, I introduced the Federal Food Effort for the Elderly and Disabled (S. 2509), or "FEED" for short. The FEED bill improves the ability of several Federal nutrition programs to serve the needy, elderly and disabled. I take pride that several provisions of Senator LEAHY's amendment are drawn directly from FEED. In particular, I am pleased that this amendment provides for mail issuance of food stamp coupons in rural areas, streamlines the mechanism commodities, and directs the Comptroller General to study the effectiveness of the Social Security Administration's program to assist food stamp applicants.

As the distinguished chairman of the Agriculture Committee noted during his opening remarks regarding S. 2830, the current budget resolution will not accommodate the increased nutrition spending contained in the Mickey Leland Domestic Hunger Relief Act (S. 2489), which I cosponsored. Also, there is no room in the current budget resolution for other important nutrition spending items, including: First, indexing for inflation, the mimimum Food Stamp benefit upon which thousands of elderly and disabled persons depend; and second, excluding Medicare premium payments for purposes of calculating food stamp eligibility and benefit levels, as provided in my FEED bill. It is my hope that the farm bill which is sent to the President can include all these vitally important improvements to our Nation's nutrition programs.

Of course, the Leahy amendment does not reauthorize the Food Stamp Program. I urge the conferees to assure that these programs are reauthorized this year.

Mr. President, the Federal Government has no greater responsibility than to assure an adequate and nutritious diet for low-income persons and vulnerable populations, such as the elderly and disabled. This is a special responsibility which, I believe, the American people and this Congress are ready, able, and willing to fulfill.

I note that this package of amendments does not include an important provision included in the Leland Act as introduced by the Senator from Vermont and the Senator from Minnesota. I refer to a modest provision to adjust the $10 minimum benefit, which several hundred thousand low-income elderly and disabled food stamp recipients depend on, so that it keeps pace with rising food costs in the future. This provision is very modest in scope, but it is important for many elderly and disabled people living below the poverty line on a small SSI or Social Security check. I am disturbed to see that this provision is not included here. Can the Senator from Vermont explain why this provision is not part of the amendment. Does he believe it is acceptable for the food purchasing power of this benefit to erode each year so that many elderly and disabled poor people can buy less food each year even though they are no less poor?

Mr. LEAHY. I very much share the view of the Senator from Arkansas about the provision in question, which I also strongly support. In 1977, the food stamp benefit structure was overhauled and simplified, but the simplifications had one serious flaw—they would have terminated food stamps for many elderly and disabled people below the poverty line and in need of food assistance. Accordingly, a provision was included in the 1977 law establishing a minimum benefit so that these low-income elderly and disabled people—who met every food stamp eligibility criterion—could at least receive a $10 benefit. Ten dollars purchased more food then than it does now.

Without the minimum benefit provision, I doubt Congress would have approved the other changes in the food stamp benefit structure made in 1977.

Since 1977, however, the cost of food has risen 90 percent. During this time the minimum benefit has never been adjusted. Some 30 percent of all elderly persons on food stamps receive this very meager $10 benefit.

The committee received proposals to make up for the ground that has been lost by doubling the minimum benefit. For cost reasons, this was not included in the Leland Act. However, we did include a modest provision to adjust the minimum benefit to keep pace with food price inflation in the future, so that it does not lose further ground.

That provision is not included in this amendment for just one reason. This is a package of no-cost provisions. While the provision to index the minimum benefit has no cost for the next 5 years, it would eventually have some cost, although the cost would be quite small. For that reason, it was felt to be inappropriate to include it in this amendment package.

The minimum benefit provision is, fortunately, before the House, and I trust the House will approve it. I want to assure the Senator from Arkansas that I will do my best to see that it is included in the bill that emerges from conference. I am well aware that 85 percent of those receiving the minimum benefit are low-income elderly or handicapped people. I will try to be attentive to their concerns and needs in the conference, as I know the Senator from Arkansas would want me to be.

Mr. PRYOR. I thank the Senator for his assurances.

Mr. MCCONNELL. Mr. President, I rise today in support of the Leahy-Lugar nutrition amendment to the 1990 farm bill. This is an important amendment, one which will help feed millions of needy Americans and I am pleased to join with Senators LEAHY, LUGAR, BOSCHWITZ, DOLE, and HARKIN as an original cosponsor.

It is a shame that in our wealthy Nation we are not providing for citi-

zens who desperately need our help. Since coming to the Senate, I have worked for the expansion of Federal nutrition programs to serve more low-income families and children.

Earlier this year, I introduced legislation which would allow more eligible elderly persons to receive benefits from the Commodity Supplemental Feeding Program. The amendment before us addresses this critical issue by providing additional CSFP sites for elderly Americans to receive commodity benefits.

In May 1989, I introduced legislation intended to benefit millions of children nationwide, by providing them with nutritious meals. This legislation, which was incorporated into Public Law 101-147, and became law on November 10, 1989, provided and expanded funds to children participating in the School Breakfast and Summer Feeding Programs.

Mr. President, no part of our country is immune from the terrible reach of hunger. I believe that the Federal Government must take an active role in making sure that our elderly poor and low-income families receive assistance that will provide them with nutritious meals. By continuing nutrition programs for needy Americans, we can provide our citizens with a steady, solid diet to improve their health and ultimately give them a better opportunity to succeed in life.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2424) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

AMENDMENT NO. 2425

(Purpose: To provide that in the administration of certain cargo preference laws, a United States-flag vessel may not charge a rate greater than 110 percent of the lowest bid by a foreign-flag vessel)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for himself and Mr. KASTEN, proposes an amendment numbered 2425.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 499, insert between lines 9 and 10 the following new section:

SEC. 1136. LIMITATION ON RATES CHARGED BY UNITED STATES FLAG VESSELS UNDER CERTAIN CARGO PREFERENCE LAWS.

Section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (c)(1) of this section or section 901(b) of this Act, in the administration of subsection (a)(1) (and in the administration of section 901(b) of this Act by the Department of Agriculture as such section applies to any export activity, agricultural commodity, or product under subsection (b) of this section), no United States-flag vessel transporting cargo may be awarded a contract at a rate for such transport greater than 110 percent of the lowest bid of any foreign-flag vessel for the transport of such cargo.".

AMENDMENT NO. 2426 TO AMENDMENT NO. 2425

(Purpose: To increase the amount of food assistance that is provided to foreign countries)

Mr. LEAHY. Mr. President, I send to the desk an amendment on behalf of Senator HARKIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for Mr. HARKIN, proposes an amendment numbered 2426 to amendment No. 2425.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

"(k) OCEAN FREIGHT CHARGES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food and export assistance provided by the Federal government in any fiscal year under this Act, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(2) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under paragraph (1).

"(3) DEFINITIONS.—As used in this subsection:

"(A) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed immediately prior to the date of enactment of this Act).

"(B) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

"SEC. 407. FOOD ASSISTANCE TO FOREIGN COUNTRIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal government in any fiscal year, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(b) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed immediately prior to the date of enactment of this Act).

"(2) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2427 TO AMENDMENT NO. 2425

(Purpose: To increase the amount of food assistance that is provided to foreign countries)

Mr. HARKIN. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2427 to amendment No. 2425.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2 of the amendment, strike out all after "SEC. —" and insert in lieu thereof the following:

"(k) OCEAN FREIGHT CHARGES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food and export assistance provided by the Federal government in any fiscal year under this Act, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural

commodities be transported in United States flag vessels.

"(2) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under paragraph (1).

"(3) DEFINITIONS.—As used in this subsection:

"(A) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed immediately prior to the date of enactment of this Act).

"(B) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

"SEC. 407. FOOD ASSISTANCE TO FOREIGN COUNTRIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal government in any fiscal year, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(b) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section immediately existed prior to the date of enactment of this Act).

"(2) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, as I have made clear through earlier comments, probably on four or five occasions during debate of the farm bill, in commenting on cargo preference I spoke about what very serious problems we have with cargo preference. I have spoken about the hidden, buried parasite that it is. It feeds off the lifeblood of other Government programs along with their objectives and effectiveness.

When applied to commercial sales, it is even more devasting. That is why Iowa farmers adamantly oppose cargo preference. That is why I fought so hard to stop the maritime industry from gaining a share of our Soviet grain trade earlier this year.

Cargo preference is a failure. It is a failure in its defense and national security objectives; it is a failure in its foreign commerce development objectives. These have not been met. And, as stated earlier, this is also backed up by an OMB analysis that I quoted a few days ago.

Since that report was completed, U.S. maritime has only decayed further. We have seen it go down, in 25 or 30 years, from U.S.-flags being very dominant in world trade to now down to about 4 percent of our total foreign trade. And, as we found out from the Congressional Budget Office this week, it is extremely expensive. I think I made clear yesterday that although the reports from MarAd say certain statistics on cost are not available, do not believe those footnotes in anydens' future report because those figures are available. I got them myself from other departments of Government, particularly the Department of Defense.

Using these figures viewed on a per-job or billet basis, the American taxpayers pay well over $240,000 per job per year in ODS and cargo preference. That is for over $1 billion, 50 million per year. When viewed in light of the hundreds of thousands of defense-related people laid off all in the name of the "Peace Dividend" that is going to come about this budget year, cargo preference and maritime subsidies then, in this new fiscal environment of a "Peace Dividend," are impossible to defend.

I made clear I had no interest in hurting our U.S. maritime. Like our farmers, they deserve a reasonable level of support. But support that is accountable and keenly focused to our Government objectives and goals. But, because cargo preference is so very expensive, and at the same time so counterproductive, so fiscally irresponsible, so unjustifiable any more, I admit I was tempted to offer an amendment at this time to completely eliminate cargo preference laws, all of them. That is not what the amendment before this body does. But I had to look at the votes we had a few months ago on the Polish aid bill, and I could see just eliminating it would not work.

But, in terms of the new "Peace Dividend" environment we are in, when 2 to 3 million servicemen and women, defense, civilian, and industrial workers, lose their jobs over "Peace Dividends"—and that is a fact of life that is just around the corner—I think at that point there are going to be a lot of people ready to cast votes with me. When people find out their respective Senators think it is more important to save seafaring jobs for people who work for a few months and pocket $142,000 and then sun themselves or play golf for the remaining 6 months—at that point, maybe, when we compare those jobs to all the DOD employees who are going to be out of work and the employees of the military-industrial complex who are going to be out of work, then maybe we will have votes enough to pass a fair and equitable budget proposition here that has cargo preference sacrifice a little bit, the same way the employees of the military-industrial complex are going to sacrifice.

This is all in the vein of a reasonable expectation on my part. What I am attempting to do in these debates that have gone on for a period of months and may go on for some months in the future, is make cargo preference very responsible and make cargo preference very visible in the budget. This position is right.

The reason it is right is because we have the expenditure of taxpayers' money here that is very much hidden. I explained yesterday how difficult it is to get the figures.

But if there is a subsidy justified, then let us know exactly what it costs the taxpayers. Just as in this farm bill we are going to pass in a little while, everybody knows exactly what the farm program is going to cost. So, for now I am offering a far more modest amendment. My amendment applies only to the U.S. Department of Agriculture's Public Law 480 and Section 416 programs that presently require 75 percent of these cargoes to be shipped on expensive U.S.-flag vessels. CBO, in their cost estimate released this week, concluded that in fiscal year 1991, this 75-percent requirement adds $135 million to the cost of our USDA shipments. In the remaining 4 years it adds up to $150 million in each of the years, the 5-year total extra cost for these requirements on our agriculture and food shipments equal $735 million.

Let it be clear that my amendment does not eliminate or cut back on this presently existing 75-percent monopoly afforded to our high priced, uncompetitive maritime industry.

But for USDA shipments only, there will be strings attached that can and must be met by our U.S.-flag merchant marine in order to retain that right to the 75-percent share.

Just like when our farmers have to idle 10 or 20 percent of their wheat or corn acreage in order to be eligible for farm program benefits—U.S.-flag operators, under my amendment, will have to make a small sacrifice in the form of discipline, in order to get their benefits.

What my amendment says is:

No U.S.-flag vessel transporting cargo may be awarded a contract at a rate for such transport greater than 110 percent of the lowest bid of any foreign-flag vessel for the transport of such cargo.

In short, for the first time ever, we are requiring U.S.-flag vessels to learn to compete in the world market, not

for all their cargo preference cargoes, just those handled by USDA.

Is this too much to ask? A few days ago, my friend and colleague from Louisiana was displaying in his chart how well our U.S.-flag vessels have done in bringing their rates closer to foreign competitors. I think that chart was timely.

It is timely now, in light of my amendment. Because the argument was we are becoming more competitive.

I think they can easily bring it within 10 percent. And based upon the $135 million CBO estimates cargo preference is costing us with these USDA programs, we will likely save $50 million or more with my amendment, perhaps much more.

This would seem like a modest sacrifice. I present this to my colleagues as a modest sacrifice for our U.S.-flag merchant marine for the extra $1 billion in farm program savings that our farmers may be asked to provide at the budget summit. It is very possible that some of our summiteers will put cargo preference on the table at the budget summit, just like farm programs are going to be put on the table at the budget summit.

I think we have good enough figures here that if they want to do it on their own, it probably can be more effective because they can do it across the board; whereas, with my amendment, at this point, we are just dealing with USDA.

So can we ask our maritime friends then to agree to a little budget restraint of their own? Or do my colleagues want to add their farmers to that list of defense industry and servicemen and women who are jobless to whom you will have to explain that maritime jobs are more important than theirs.

Mr. President, all the U.S.-flag operators will have to do is bid within 10 percent of the lowest foreign-flag competitors.

Mr. President, there is not much more that I need to say about my amendment. It is simple. It requires our U.S.-flag vessels to bid within 10 percent of the lowest foreign-flag bids. Our operators will have a pretty good idea of what they need to bid. If they do not bid within 10 percent of the lowest bid, then simply they will not have the right to benefit or, in other words, they will not have the guarantee of 75 percent of our USDA shipments.

Mr. President, there is no question it may mean some adjustment, some sacrifice among U.S.-flag operators and seafarer workers, just like our farmers have had to adjust and will have to adjust more probably when the budget summit is done. Of course, every year, farmers are sacrificing by idling productive land in order to get farm program benefits. Just like our farmers, maritime should be required to contribute some additional budget savings required by the budget summit.

If maritime operators and seafarers are willing to make a few sacrifices, they will still get the business. No jobs will be lost and no operators will go out of business.

Mr. President, yesterday, I put on the Members desk a "Dear Colleague" letter. Because it is in such summary form, I want to read it in closing:

DEAR COLLEAGUE: Do you know how many of your constituents will lose their jobs because of the "Peace Dividend" defense cuts? The Defense Department estimates that a 10 percent cut will eliminate 650,000 American jobs. We are now talking about a 30 percent cut in force, three times the earlier estimate!

Do you know how many of your farmers will be harmed by an additional one billion dollar cut in farm programs required by the "Budget Summit"?

There are 11.3 million Americans who either live on farms, work on farms, or get income from farms. There are as many family and hired workers on farms as the total labor force of the transportation, automobile, and steel industries.

Do you know how many of your constituents are union seafarers who work the 4,354 U.S.-flag ocean-going jobs which are supported by "Cargo Preference" and Operating Differential Subsidies—particularly the seafarers who earn well-over $142,000 to work a mere six months?

Did you know that the Congressional Budget Office this week reported that $1,050,000,000 per year is spent by the Federal government to pay for "Cargo Preference" and Operating Differential Subsidies? That translates into $241,157.55 per U.S.-flag seafaring job.

Did you know that the primary justification for these maritime subsidies is national defense?! Be assured that we can get far more "bang for the buck" with the $1800 toilet seats than we can with subsidies like "Cargo Preferences"!

Therefore, I am inviting you to cosponsor an amendment to the Farm Bill which will require that U.S.-flag operators bid within 10 percent of the lowest foreign-flag bid in order for them to be assured of their government guarantee of 75 percent of the USDA P.L. 480 and section 416 food assistance and farm export cargoes.

This will nudge our uncompetitive U.S.-flag fleet into the real world of competition—they can "test the waters," so to speak. Because it will save the budget around $50 to $100 million, this can be viewed as the U.S.-flag merchant marine industry's small—very small—contribution to the all popular "Peace Dividend" and to the additional cuts our farmers must make because of the Budget Summit.

We have put up long enough with this nonsense of a government subsidy—"Cargo Preference"—that is unaccountable, irresponsible, ineffective, and wasteful! Yet for years, the powerful maritime lobby has convinced Congress to treat its subsidies like the "untouchable sacred cow."

What better place to instill some discipline upon a "Sacred Cow" than on the 1990 Farm Bill!

My colleagues know that the situation before us is that I will not be able to get a vote on my amendment because of the amendment that my colleague from my State has offered as a substitute. We kind of figured that some substitute would be offered.

I will only say to my colleague from Iowa, and he is on the floor listening, so I think it is within the rules of the Senate for me to say this, he has known for some time that I would be offering an amendment to the farm bill to address the cargo preference problem because I talked about this all during the debate on the farm bill.

I offered the amendment that I did because cargo preference is a budgetary atrocity, unaccountable and hidden. Not so much its costs but the fact that it is unaccountable and hidden.

My colleague's amendment as I understand it, because this would be paid through the defense or transportation budget, requires further borrowing by the Treasury to cover the costs until DOD or DOT is given an appropriation to cover the costs up to a year later. It is the same financing mechanism that is used today in that portion of cargo preference that is paid out of the DOT. It actually increases the cost of cargo preference because of this borrowing.

Cargo preference, whether it is paid for by Defense or whether it is paid for by the Department of Transportation or by the U.S. Department of Agriculture, is irresponsible no matter who pays for it. So, of course, my colleagues will not be surprised if I oppose the amendment of my good colleague from the State of Iowa.

I imagine, Mr. President, that the situation is such that it is now impossible for me to get an up-or-down vote on my amendment. I think it is impossible.

So, Mr. President, I move to table the Grassley amendment; that is the underlying amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from Iowa, Mr. GRASSLEY.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. RUDMAN], and

the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 30, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—62

Adams	Gore	Mitchell
Akaka	Gorton	Moynihan
Bentsen	Graham	Murkowski
Biden	Hatfield	Nunn
Bingaman	Heflin	Packwood
Bradley	Heinz	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Burdick	Jeffords	Riegle
Byrd	Kennedy	Robb
Cochran	Kerrey	Rockefeller
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
D'Amato	Lautenberg	Sasser
Daschle	Leahy	Shelby
DeConcini	Levin	Simon
Dixon	Lieberman	Specter
Dodd	Lott	Stevens
Ford	Mack	Wilson
Fowler	McClure	Wirth
Glenn	Mikulski	

NAYS—30

Baucus	Domenici	Lugar
Bond	Exon	McCain
Boren	Garn	McConnell
Boschwitz	Gramm	Nickles
Burns	Grassley	Pressler
Chafee	Harkin	Roth
Coats	Helms	Simpson
Conrad	Humphrey	Symms
Danforth	Kassebaum	Thurmond
Dole	Kasten	Warner

NOT VOTING—8

Armstrong	Hatch	Rudman
Bumpers	Johnston	Wallop
Durenberger	Metzenbaum	

So the motion to lay on the table amendment No. 2425 was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Madam President, if we could have order.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senate is not in order. We would like to hear from the manager of the bill. If Senators will take their seats and cease private and personal conversations.

Mr. LEAHY. Madam President, for my colleagues' knowledge, Senator LUGAR and I have a handful of amendments that have been cleared, which I am just about to propose, and then I think we are going to be ready for third reading.

AMENDMENT NO. 2428

Mr. LEAHY. Madam President, I send an amendment to the desk on behalf of Senators GRASSLEY, DOLE, KASSEBAUM, and HARKIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. GRASSLEY (for himself, Mr. DOLE, Mrs. KASSEBAUM, and Mr. HARKIN), proposes an amendment numbered 2428.

Mr. LEAHY. Madam President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 802, after line 24, add the following new section:

SEC. 1497. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary for Science and Education, acting through the Cooperative State Research Service special grants program, may provide assistance to eligible entities to encourage and assist efforts made by research institutions to improve the efficiency and effectiveness of safety and inspection systems for livestock products.

(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section an entity—

(1) shall be a Land Grant college or university or any other college or university with demonstrable capability in the agriculture sciences, an individual research institution, or a consortia of such institutions;

(d) CONTRIBUTION BY ENTITY.—

(1) REQUIREMENT.—To be eligible to receive assistance under this section, an entity shall agree that such entity will, with respect to the costs to be incurred by the entity in conducting the research for which the assistance is provided, make available (directly or through donations) non-Federal contributions toward such costs in an amount equal to 50 percent of such costs.

(2) NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions, required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(e) ADMINISTRATION.—

(2) DISTRIBUTION.—In providing assistance under this section, the Assistant Secretary for Science and Education shall to the extent practicable ensure that the amount of such assistance is provided equally to eligible entities representing the beef, pork, poultry, and aquaculture industries.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as necessary for each of the fiscal years 1991 through 1995.

Mr. LEAHY. Madam President, this has been cleared on this side.

The PRESIDING OFFICER. Is there debate?

If there be no debate, the question is on agreeing to the amendment.

The amendment (No. 2428) was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO 2429

Mr. LEAHY. Madam President, I send a series of technical amendments to the desk and ask unanimous consent that the series of technical and correcting amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes amendments, en bloc, numbered 2429.

Mr. LEAHY. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Section 1054(b)(4)(A) of the bill (as amended by amendment No. 2304) (page 11, lines 16 through 20 of the amendment No. 2304) is amended to read as follows:

"(A) IN GENERAL.—The program benefits to be offered participating producers shall include the cost of option premiums and payments of not more than 15 cents per bushel to cover transaction fees, interest, and other expenses.".

On page 941, line 3, strike out "17(a)(7)" and insert in lieu thereof "17(a)(8)".

On page 942, line 16, strike out ", 17(a)(8)(C)".

On page 943, strike out lines 6 through 9, and insert in lieu thereof:

"(a) IN GENERAL.—Subsections (a) and (b) of section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 1360(a) and (b)) are amended to read as follows:".

On page 967, line 25, insert end quotations marks and a period after the period.

On page 968, strike out line 1 and all tht follows through line 5 on page 969, and insert in lieu thereof the following:

"(b) COOPERATION IN INTERNATIONAL EFFORTS.—Subsections (d) and (e) of section 17 of such Act (7 U.S.C. 1360(d)(e)) are amended to read as follows:".

On page 970, line 12, strike out "(e)(1)" and insert in lieu thereof "(e) STUDY.—" (1)".

On page 971, strike out line 14 and all that follows through the matter before line 1 on page 972, and insert in lieu thereof the following:

(2) by striking the items relating to subsections (a) and (b) of section 17 and inserting the following:

"(a) Pesticides or devices intended for export.
"(1) In general.
"(2) Export of pesticides.
"(3) Temporary waiver for the control of communicable disease.
"(4) Temporary waiver in circumstances of famine.
"(5) Statutory construction.
"(6) Additional requirements for the export of certain pesticides.
"(7) Restriction on the export of certain pesticides.
"(8) Labels.
"(9) Special exemption for the export of research or experimental pesticides.
"(b) Notices of regulatory events furnished to foreign government.
"(1) In general.

"(2) Content of notice.".

and

(3) by striking the item relating to subsections (d) and (e) of section 17 and inserting the following:

"(d) Cooperation in international efforts.
"(e) Study.".

On page 615, strike lines 1 through 5;

On line 6, strike "SEC. 1349" and insert "SEC. 1348";

On line 13, strike "SEC. 1350" and insert "SEC. 1349";

On page 616, line 1, strike "SEC. 1351" and insert "SEC. 1350";

On page 618, line 3, strike "SEC. 1352" and insert "SEC. 1351".

(a) striking "(c)" and inserting:

"(c) Animal Inspection and Veterinary Diagnostics.—(1) ANIMAL INSPECTION.—The Secretary may prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance.

"(2) VETERINARY DIAGNOSTICS.—Section 11 of the Act of May 29, 1884 (58 Stat. 734, as amended, 21 U.S.C. 114a) is amended by inserting immediately following the first sentence: 'The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of carrying out the provisions of this section which relate to veterinary diagnostics.

"(3) LIABILITY.—Any person for whom an activity related to the importation, entry, or exportation of an animal, article, or means of conveyance or relating to veterinary diagnostics, is performed pursuant to the section, shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by 31 U.S.C. 3717. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation.

"(4) LIENS.—

"(A) IN GENERAL.—The Secretary shall have a lien against the animal, article, means of conveyance, or facility for which services have been provided under this subtitle for the fees, any late payment penalty, and any accrued interest assessed under this subsection.

"(B) OTHER ANIMALS, ETC.—In the case of any person who fails to make payment when due under this subsection, the Secretary shall have a lien against any animal, article, or means of conveyance thereafter imported, moved in interstate commerce, or attempted to be exported by the person after the date of such failure until the date on which such owner or operator makes full payment to the Secretary under this subsection.

"(C) SALE OF ANIMALS, ETC.—

(i) AUTHORITY.—The Secretary may, if a person does not pay fees, late payment penalties, or accrued interest on such, after providing reasonable notice of default to such person, sell at public sale after reasonable public notice, or otherwise dispose of, any such animal, article, means of conveyance or facility on which the Secretary has a lien under this paragraph.

"(ii) EXCESS PROCEEDS.—If the sale proceeds under clause (i) exceed the fees due, any late payment penalty assessed, any accrued interest on such, and the expenses associated with the sale; such excess shall be paid to the owner of the animal, article, means of conveyance, or facility if such owner submits an application for such excess together with proof of ownership not later than 6 months after the date of such sale. If no such application is made, such excess shall be credited to accounts that incur the costs associated with the fees collected and shall remain available until expended, without fiscal year limitation. The Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest under this subtitle.", and

(b) (on page 11) strike subparagraph "(4) and insert:

"(4) ANIMAL QUARANTINE LAWS.—For the purposes of subsection (c), the term 'Animal Quarantine Laws' means the provisions in 19 U.S.C. 1306; 21 U.S.C. 101-105, 111-131, and 134-134h; and any other statute, except 21 U.S.C. 135, administered by the Secretary relating to animal diseases or pests."

On page 97, line 23 of amendment number 2351 the "Rural Partnership Act of 1990," (as adopted on July 24, 1990) strike out "COMMUNITYU" and insert in lieu thereof "COMMUNITY".

On page 100, line 11 of amendment number 2351 (as adopted on July 24, 1990), strike out "34(i)" and insert in lieu thereof "34(h)".

On page 100, line 12 of amendment number 2351 (as adopted on July 24, 1990), strike out "medical link project" and insert in lieu thereof "projects authorized in this subtitle".

On page 593 strike lines 9-16 and insert:

"(C) Notwithstanding any other provision of law,

"(1) the Secretary shall reduce the amounts otherwise made available for insured loans by $100,000,000 in fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(2) to the extent practicable, the Secretary, in implementing the program established under Section 351 shall guarantee loans, in an amount totaling not less than $100,000,000 in fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(D) Notwithstanding subsections (a) and (b) of section 338, the Secretary shall, as soon as practicable after the date of enactment of this subsection, make or guarantee loans at the levels authorized by this subsection for the fiscal years ending September 30, 1991, 1992, 1993, 1994, 1995.".

The PRESIDING OFFICER. Is there debate?

If there be no debate, the question is on agreeing to the amendments.

The amendments (No. 2429), en bloc, were agreed to.

Mr. LUGAR. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF AMENDMENT NO. 2390

Mr. LEAHY. Madam President, I ask unanimous consent that the words "through 1995" be inserted at the end of line 25 on page 24 of Senator FOWLER'S amendment 2390 pertaining to minority farmers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I do not have anything else.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

It is difficult to hear the Senators who seek recognition because of the conversation going on within the body.

Mr. LUGAR. I thank the Chair. I ask unanimous consent that Senators GORTON and COCHRAN be added as cosponsors of the nutrition amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I have an amendment that has been agreed upon and will not require a vote. Before I do that, however, I want to take a short amount of time to say how disappointed I am that the last amendment dealing with cargo preference, was offered by my colleague from Iowa was tabled. I had offered a second-degree amendment to that amendment that would have shifted the funding for cargo preference from the Department of Agriculture to the Department of Transportation to put funding for cargo preference cost for food aid shipments in the Maritime Administration, where I think it belongs.

I have long noted that Senators cannot agree about whether they are for cargo preference or against it, or how much it ought to cover or how much it ought not to cover, whatever the level of the ocean freight differential is.

But however this body decides the level of the differential, it should not come out of the Department of Agriculture budget. That is not the proper place for it, The main argument for cargo preference, and paying for the differential, as I understand it, has always been that we need a strong merchant fleet, that we need ships in that merchant fleet for national security.

I have generally held to that argument in the past, because I believe that to be true, there has been a lot of discussion that times and circumstances concerning national security have changed in the last several months. But regardless of the arguments on the need for cargo preference, the funding for it ought to come from DOT, and my amendment to the Grassley amendment would have done that.

Right now, that mechanism for funding cargo preference out of DOT is already in place under the 1985 farm bill. Seventy-five percent of U.S. food aid shipments must be transported on U.S.-flag vessels, and the cargo preference cost on 25 percent of food aid shipments comes from DOT. That is, DOT now reimburses USDA for the ocean freight differential for that 25-

percent increment reflecting the increase in the cargo preference share for food aid shipments from 50 percent to 75 percent in the 1985 farm bill.

For the 1988 and 1989 cargo preference year, USDA paid $99.6 million. I want to get some of these facts out. USDA paid $99.6 million in ocean freight differential for that year, and DOT reimbursed USDA for another $46.4 million in ocean freight differential costs. For the 1991 fiscal year, the budget indicates that about $72 million in cargo preference costs would be shifted from USDA over to DOT, under the amendment that I had offered to the Grassley amendment.

I have often said that I wanted to get a vote on shifting cargo preference costs to DOT. I tried to get a vote on a similar amendment last fall on the Polish aid bill. I did not get an up-or-down vote. I am frustrated. I hope at some point I am able to get an up-or-down vote on shifting the funding for the differential from USDA to DOT where it belongs, under the Maritime Administration. I have been unsuccessful in getting that straight up-or-down vote.

Again, we can talk about what that differential ought to be at some point. That can be debated. But I sure hoped that we would have been able to shift the cost of the differential over to DOT. Because my amendment was a second-degree to the Grassley amendment, the fact that the underlying Grassley amendment was tabled means my amendment went down also.

So we will not get a chance for an up-or-down vote on shifting cargo preference costs for food aid shipments from USDA to DOT.

AMENDMENT NO. 2430

(Purpose: To establish a program within the Department of Agriculture to minimize the amount of paperwork, and the amount of time needed to complete paperwork, required of producers who participate in programs administered by the Department of Agriculture)

Mr. HARKIN. Madam President, I have an amendment I'll send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2430.

Mr. HARKIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1962 of the bill (as added by Amendment No. 2304) is amended in the following manner (beginning on page 53 of the amendment):

In section 1962(a), (on line 10 of the amendment) immediately after the word "implement", by striking the word "a" and inserting in its place "an ongoing", and by adding the following new sentence (at the end of line 14 of the amendment): "It shall be the express goal of the program to bring about within three years of the enactment of this provision a reduction, in general and for the typical producer, of not less than one-third in the volume of documentation and paperwork, the amount of time for completion of documentation and paperwork, and the number of visits to offices of the Department of Agriculture required of producers participating in programs administered by the Department of Agriculture."

On page 53, between lines 14 and 15 of the amendment, by inserting the following new subsection 1962(b): "(b) Advisory Committee: The Secretary shall establish a standing advisory committee to assist in carrying out the program established in this section, which shall consist of not fewer than six individuals chosen from the Department of Agriculture, other government agencies and the private sector, at least two of whom must be family farmers as the Secretary may determine appropriate, with an emphasis placed upon the selection of individuals having expertise in time management and information systems management."

By redesignating subsection (b) as subsection (c) (on line 15, page 53 of the amendment).

By inserting in redesignated subsection (c), (on line 16, page 53 of the amendment) following "Secretary of Agriculture", the following: "in consultation with the committee established pursuant to subsection (b),".

By substituting in redesignated subsection (c) "recommendations" for "proposals" (on page 53, line 20 of the amendment)

By substituting "subsection (c)" for "subsection (b)" wherever it appears thereafter in the section.

By redesignating subsection (c) as subsection (d) (page 54, line 21 of the amendment).

By redesignating subsection (d) as subsection (e) (page 57, line 6 of the amendment).

In redesignated subsection (e), by inserting in paragraph (1) the word "maximum" immediately prior to the word "extent" (page 57, line 7 of the amendment).

In paragraph (2) of redesignated subsection (e), by inserting immediately before the period the following: "and the progress made in achieving the goals and purposes of program established in this section." (page 57, line 19).

Mr. HARKIN. Madam President, this amendment provides for some additions to an amendment on farm program paperwork simplification and reduction that I was pleased to work on with Senator BOND in the Agriculture Committee and which has been adopted previously. I understand that the pending amendment has been cleared on both sides. I also understand that an amendment on paperwork and recordkeeping offered by Senator DOLE is also being cleared.

One of the more common complaints I hear from farmers is the amount of paperwork now required for participation in the farm programs, and the time and effort that is required to comply with all of the paperwork and documentation requirements.

The paperwork reduction program is designed to let farmers spend more time farming and less time in Government offices and filling out forms.

Here are just some of the forms that an ordinary farmer must deal with in the usual crop year:

Form AD-1026—Highly Erodible Land and Wetland Conservation Certification;

Form CCC-502A—Farm Operating Plan for Payment Limitation Review;

Form CCC-477—Contract to Participate in the Price Support and Production Adjustment Program;

Form CCC-477B—Farm Program Participation Worksheet;

Form ASCS-578—Report of Acreage Planted;

Form CCC-677—Farm Storage Note and Security Agreement;

Form CCC-6—Commodity Credit Corporation Commodity Certificates;

Form CCC-500—Loan Repayment Receipt;

Form 3-LP—Acknowledgement of Loan Redemption Using Commodity Certificates.

The amendment that was agreed upon in committee establishes a program within USDA specifically designed to reduce the volume of paperwork that farmers must complete and the amount of time they must spend on paperwork and the trips they must make to USDA offices. The amendment also requires USDA to examine the greater use of computers and telecommunications for meeting the paperwork and documentation requirements of farmers.

The amendment that I am now offering establishes a specific goal for the program of bringing about within 3 years at least a one-third reduction in the volume of documentation and paperwork, the amount of time required for completion of documentation and paperwork, and the number of visits that producers must make to USDA offices.

My amendment also provides for a standing advisory committee to assist in carrying out the paperwork reduction program. The members of the committee are to be chosen with an emphasis on those individuals who have expertise in time management and information systems management. At least two of the members must be family farmers.

Mr. President, I urge the adoption of this amendment.

Mr. LEAHY. Madam President, we are prepared to vote, if the Senator is finished.

The PRESIDING OFFICER. Is there further debate? Does any other Senator wish to speak?

The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2430) was agreed to.

Mr. LUGAR. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Madam President, I ask unanimous consent that the Senator from Kansas, Mrs. KASSEBAUM, be added as a cosponsor of the amendment offered by Senator DOLE dealing with education and curtailment studies.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

Mr. DOLE. Madam President, I have a statement or two I have to make. I am going to do that after the bill is passed. I am not going to offer the amendment to strike out the high price bonus but I will explain that because I really think it is a travesty as far as adding cost to this bill.

I know many Members have other plans. I will make a statement on the high price bonus amendment, and then following passage of the bill, I will make a statement on the bill.

HIGH PRICE BONUS AMENDMENT

Mr. DOLE. Madam President, the current Senate version of the farm bill includes a new provision called the "high price bonus." This plan penalizes the American taxpayer in the event that the USDA underestimates its projection of season—average prices, and awards the farmer an unearned income. If market prices rise and the final deficiency payment is smaller than the original projection, farmers are awarded 20 percent of that difference.

In effect, this is another attempt to increase target prices through the back door. A rise in market prices decreases the deficiency payment as the market contributes more. Paying 20 percent of that price increase is nothing more than matching income already earned from the market. That obviously increases returns over the target price, and amounts to another costly give-away.

Madam President, the USDA does not have a crystal ball which determines projected deficiency rates. Over the past 5 years, USDA has tended to underestimate season-average prices due to drought and various economic factors. Perhaps that provided the initiative for this amendment. But given the fact that this proposal is expected to cost at least $1.5 billion over 5 years, you can bet the farm that those projections are going to change. Rather than face the penalty of giving away millions each year because the USDA cannot see into the future, analysts would logically lower the projected deficiency rates. This amendment would then ultimately result in lower advance deficiency payments, putting farmers in a cost squeeze as they attempt to pay for preproduction expenses.

So this amendment has two potential outcomes, and both are bad policy. If USDA continues to underestimate season-average prices, farmers will receive a handout of $1.5 billion. If, in the very likely case that USDA revises its analysis to prevent budget-busting giveaways, this amendment is antifarmer and reduces the amount of advance deficiency payments which the producer is entitled to under law. Either way, this amendment takes farm policy down a misguided and costly path, and I urge my colleagues to join me in its rejection

Mr. LEAHY. Madam President, I wish to thank all Members on both sides of the aisle who have worked so hard to put together the most progressive farm bill I have seen since I have been here.

I ask for the regular order.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, may the Senator from Nebraska be recognized before the vote?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, we are about ready to vote on a piece of farm legislation. I congratulate the Agriculture Committee for a lot of long and hard work.

I am not at all satisfied with what we have been able to do here. I intend to cast a vote for this bill with great hesitation and in the hope that improvements can be made in it.

I am very much concerned and worried about what the budget summit might or might not do with what we are doing here. I am not satisfied with this measure, but I suspect that at least this measure that we have may be the basis for something to come along in the next few weeks that will be somewhat better. I intend to cast my vote for this not with any degree of enthusiasm but with the hope it can be improved upon.

I yield the floor.

TOP BUDGET NEUTRALITY

Mr. DOLE. Mr. President, my position on the importance of fiscal responsibility within the farm bill is well known. It is unfair to make farm country face a possible 38 percent sequester because of any budget irresponsibility that comes out of Congress.

One particular area of budget concern is the wording on the Target Option [TOP] Program. The current language states that the Secretary shall, to the extent practicable, ensure that the TOP Program does not have a significant effect on program participation or total production. With this language, the administration is scoring top at $948 million over 5 years. Over one-half of that total is for feed grains.

The amendment I am proposing is a technical correction to the TOP Program that allows the program to better operate within the budget environment. It states that the TOP Program "shall be implemented in such manner that the Secretary determines will result in no additional budget outlays."

I want to make one point clear. By stressing the budget realities, I am in no way resigning from the high priority I have always placed on American agriculture. Farm country cannot stand the consequences of a budget-busting farm bill that hurts farmers in the long run. We can write a budget-conscious farm bill that provides much more for the farm economy than an overbudget bill that creates turmoil for American agriculture.

FARM BILL REMAINS TOO COSTLY BY FAR

Mr. PELL. Mr. President, I am opposed to final passage of the farm bill. It moves in the right directions on a number of issues—including some important environmental and conservation initiatives—but it remains far too costly because of bloated agricultural subsidies.

I have joined in introducing and supporting amendments to reduce or eliminate these subsidies. Likewise, I have supported efforts to better target Federal aid to the family farmers who need help and to avoid authorizing fat Federal checks for agribusiness and wealthy farmers.

The managers of the farm bill have earned our thanks for their hard work to make this measure more environmentally responsible. I particularly appreciate the work of the senior Senator from Vermont [Mr. LEAHY] and applaud his pesticide export reform and organic food production initiatives.

The pesticide provision, which I cosponsored as S. 2227, the Pesticide Export Reform Act, bans the export of all unregistered persticides including those that have been banned or have never been registered. I commend Senator LEAHY for introducing this measure and incorporating it into the farm bill.

In addition, I joined in cosponsoring S. 2108, the Organic Foods Production Act, which Senator LEAHY also introduced and incorporated into the farm bill. This bill would create a USDA "organically produced" label for products meeting strict production standards.

I also joined my colleague, the junior Senator from Rhode Island [Mr. CHAFEE] in introducing an amendment to eliminate honey subsidies from the farm bill. That measure, which would save taxpayers hundreds

of millions of dollars, is now part of the farm bill.

Unfortunately, the Senate did not approve other major amendments to trim the farm bill subsidies and to target aid to the farmers who need it most. In the hope of cutting the fat from the farm bill, I joined in introducing a number of these measures.

The Senate defeated an amendment, which I joined the senior Senator from Nevada [Mr. REID] in introducing, to make farmers and farm corporations with gross annual sales in excess of $500,000 ineligible for all agricultural payments, except disaster and conservation reserve payments. This measure would have saved an estimated billion dollars a year.

The Senate also defeated an amendment, which I joined the senior Senator from New Jersey [Mr. BRADLEY] in introducing to cut the loan rate for sugar by a modest 2 cents, from 18 cents to 16 cents.

Frankly, I support even deeper cuts in this so-called no cost program. The loan rate has proved to be an expensive disaster that has guaranteed high profits for sugar growers—at the expense of all other Americans. The sugar program cost consumers an estimated $3 billion a few years ago and the current cost is probably close to $2 billion.

Our proposed 2-cent reduction would have provided a break for consumers. In these years of staggering Federal deficits, when we should be tightening our belts, I think it is long past time for us to demand that the sugar program be trimmed and that American consumers get an honest deal.

I was disappointed that the Senate also failed to pass an amendment, which I joined the senior Senator from Delaware [Mr. ROTH] and the junior Senator from Ohio [Mr. METZENBAUM] in introducing, to eliminate the feudal peanut pound quota system.

The U.S. Department of Agriculture estimates that this system cost U.S. consumers about $190 million more for farmers' stock peanuts in 1985-86 to 1987-88. There are tens of thousands of farmers trapped in this system today who must pay what amounts to a tribute to an absentee quota owner.

We are long overdue to eliminate this outdated and costly burden to consumers.

Unfortunately, the farm bill will continue to be an example of extravagant Federal spending. According to the administration, this measure contains nearly $60 billion in commodity provisions and agricultural subsidies.

Our citizens will pay twice for this burden, because their taxes go for the same subsidies that keep prices artificially high. Taxpayers then must pay the cost of these high prices as consumers in the marketplace.

It should come as no surprise to my colleagues or my constituents that I am casting my vote against final passage of the farm bill. Although it contains some good and innovative measures, it remains far too outdated and too costly in a time when we should be tightening our belts.

Mr. GRAHAM. Mr. President, it is with great pleasure that I support final passage of the 1990 farm bill. At this time, I wish to enumerate the provisions in this bill that will positively affect Florida.

Florida is the fruit and vegetable basket of the United States. Because we grow an enormous variety of special crops, we have special farm policy concerns. Many of these concerns were addressed by the creation of a new fruit and vegetable title in the farm bill. Senator MACK and I introduced the legislation that eventually laid the foundation for this new title, and we owe our thanks to the chairman and ranking member for giving fruits and vegetables the recognition in the farm bill that they deserve.

The farm bill before us also recognizes one of the most pressing problems Florida and other specialty crop growers face today—the potential loss of pest control measures. Because of the costs manufacturers face when registering or reregistering pesticides for minor use—or specialty—crops, often the decision will be made not to pursue that registration. With Senator INOUYE, Senator ADAMS, and the late Senator Matsunaga, I developed a legislative proposal that will ease the bureaucratic and economic restrictions that hamper the development and use of safe pesticides for fruits, vegetables, and other specialty crops. We also encourage USDA, through an improved and more adequately funded IR-4 project, to help develop the data to evaluate and develop new, environmentally sound, minor use chemicals. We also call on both EPA and the USDA to work together to develop alternative pest control measures.

The Senate's farm bill contains our proposal, and I thank both the managers of the bill and their staff for their cooperation. The State of Florida, as well as the many other States in the Union that are large producers of minor crops, will benefit from this amendment. I intend to work to include this same provision in the final conference version of the farm bill.

Another important amendment the Senate has incorporated into the farm bill rectifies a problem in the committee reported bill. The amendment, which I cosponsored, precludes the flexibility provision of the farm bill from being applied to crop acreage that is planted with nonprogram crops. The flexibility program is a well-intended program that encourages program crop farmers to respond to market incentives and plant a portion of their base acreage in some other, more marketable crop. The amendment we offered and the Senate accepted, exempts nonprogram crops from the list of crops that can be substituted for base acreage crops.

We took this step because nonprogram crops, like fruits and vegetables, are grown in a free-market system. Unlike program crops which have a guaranteed market, the fruit and vegetable farmers in Florida produce for a sensitive and easily destabilized market. Encouraging program crop growers to take a no-risk step into fruit and vegetable farming invites market instability and threatens the livelihood of nonprogram crop farmers. Many of Florida's farmers faced severe challenges from the freeze that hit this past Christmas. I am pleased that the Senate has adopted this amendment and we will avoid dealing Florida's nonprogram crop farmers another unfair blow.

Yet another problem provision in the Senate Committee bill was corrected during our debate on the farm bill. Senator FOWLER has amended his original language regarding the grading standards of fruits and vegetables. I congratulate my colleague from Georgia for his thoughtful reconsideration of his original provision and for substituting a request for USDA to perform a study in its stead.

Besides reauthorizing many commodity programs important to Florida, the Senate approved new research and promotion programs for other Florida crops such as mushrooms, soybeans, and limes. Although I supported the creation of all these marketing programs, I am particularly pleased that legislation I sponsored to create the new lime marketing order and promotion program is part of the farm bill. The lime research and promotion provison helps domestic growers continue their already successful program, improves the marketability of both domestic and imported limes, and will make foreign lime growers partners in the new marketing order.

In closing, I would like to once again commend the managers of the bill and their staff for their cooperation. Florida will benefit from the 1990 farm bill. Where the Senate failed Florida, rejecting an amendment to reduce the cost of the honey program and favoring the complete dismantling of the program, I will work with Florida Representatives to correct. But overall, Florida has gained in this new farm bill. Therefore, I will cast my vote in suppport of this important and comprehensive measure.

RED TAPE REDUCTION REPORT AMENDMENT

Mr. DOLE. Mr. President, as we carry on in our deliberation of farm policy, we often seem to get carried away in addressing what we believe are the things which the farm commu-

nity wants and needs. The same is true for this farm bill. Over this past week, Members have told us what they believe is the most important issue for farmers. We have heard many issues advanced, each of which are supposedly the most prominent concern among farmers.

But we have yet to single out the issue which I hear the most from farmers in Kansas. If they could get one thing out of the 1990 farm bill, they could sum it up in one word: simplicity.

Mr. President, our current farm programs create an annual nightmare of paperwork for producers. The endless time required for signup, documentation, maintenance of record on conservation compliance and other items creates an unnecessary burden that the system could well do without.

In light of this, I am offering an amendment to reduce the amount of paperwork and redtape which plagues farmers on an annual basis. This amendment would require the Secretary to make a recommendation on the feasibility and implementation of a computerized network which would give farmers and ASCS employees instant access to records for review and update. The report would also make recommendations for establishing a one-time signup plan which would carry into following years if no changes in the farm plan are desired by the producer or required by law.

This amendment recognizes what is probably the msot important and legitimate concern of farmers. It attempts to alleviate the confusion for farmers of constantly verifying and updating their farm program records. The possibility of clerical error also stands to be substantially reduced through a computerized and streamlined system. Most importantly, it is a simple, overdue, and commonsense answer to what most farmers would like to see changed more than anything else.

FARM BILL OF 1990

Mr. NICKLES. Mr. President, 5 years ago, when I and many others in this body debated the Food Security Act of 1985, the agriculture industry in Oklahoma and throughout the country was depressed. Our statements on the Senate floor were of sustained low commodity prices, falling land values, and high interest rates. We spoke of farm programs that had failed to provide adequate income protection despite the large amounts of tax dollars they required, and we spoke of farm policy that had failed to hold down production and had allowed our international competitors to steal our export markets.

Mr. President, we are all fortunate that the 1985 farm bill has been effective in several respects. I will support the legislation we now consider because I believe that it will continue that effectiveness.

It goes without saying, Mr. President, that even with the passage of this legislation there will still be problems with our farm programs. Our farm policy will continue to provide artificial incentives to overproduce, and it limits the flexibility of farm managers to respond to market signals. It also freezes target prices at a level barely above the cost of production, which, with inflation, is the equivalent of an annual reduction. We must realize that these problems are substantial, and in the case of the target price freeze, unavoidable due to budget constraints.

Mr. President, the farmers in my State want to produce for the market, and they want to take their profits from the market. If we existed in a perfect world, our farmers and ranchers could compete successfully in a market free of government bureaucracy. The reality, however, is that we are competing on a broad, fiercely competitive world market. If negotiated agreements result in the elimination of other countries' trade distorting practices, the benefits to our highly productive agriculture sector will likely be great. Until that time, however, we cannot unilaterally disarm our farmers, and leave them at the mercy of those who will not compete fairly.

A bushel of wheat which sold for $2 per bushel 30 years ago, and which sold for nearly $4 1 year ago, is today commanding only $2.65. That single bushel of wheat produces over 70 1-pound loaves of bread, and yet a farmer's share of a dollar loaf of bread is less than 5 cents. I say this to illustrate the volatility of farm markets, and the impact of that volatility on family farmers. Unfortunately, Mr. President, this farm bill will not change that.

I am pleased that the Senate farm bill will continue recent progress in the areas of regaining lost export volume, maintaining reasonable program costs, and helping to stabilize rural economies. The U.S. balance of agricultural trade has not experienced a deficit in the last four decades. From 1960 to 1987, farm exports contributed almost $240 billion to the total U.S. balance of trade. Much of this success can be attributed to aggressive export programs, such as the Export Enhancement Program, which is continued in this legislation. The Export Enhancement Program increased wheat exports, which are vital to my State, over 50 percent from 1987 to 1988. Ending stocks are now expected to reach historically low levels below 500 million bushels.

The cost, Mr. President, of Federal farm programs is also on the decline. After a critical year of transition in 1986 when commodity programs cost the taxpayer an incredible $26 billion, the cost of farm programs has fallen more than 60 percent to $10.4 billion in 1989. While farm program spending in 1986 accounted for 2.6 percent of total Federal outlays, in 1989 farm program spending accounted for 0.9 percent of total Federal outlays.

One portion of the Senate farm bill with which I still have deep concerns is the Wetland Conservation provisions which amend the section of the 1985 farm bill known as swampbuster. On April 25 of this year, I introduced legislation entitled the Common Sense Agricultural Wetlands Act of 1990. My legislation was created in response to the problems many Oklahoma farmers and ranchers were having with this program. I firmly believe that restricting private land which is traditionally devoted to farming is not the best way to protect wetlands. Federal and State efforts are better directed toward preserving and enhancing those areas with real environmental, wildlife and recreation potential.

The Common Sense Agricultural Wetlands Act was drafted in a manner which I believe would solve the concerns of farmers and ranchers while maintaining the underlying interest of the Federal Government to protect valuable wetland habitat. Under my bill, persons who drain, fill, or otherwise modify significant wetland areas which have not traditionally been farmed would still risk the law's penalties.

Mr. President, I am pleased the Senate Agriculture Committee has included provisions in S. 2830 which are similar to Common Sense Act. I hope those provisions will give the Soil Conservation Service the flexibility they need to exempt nuisance wetlands. I believe the opportuntiy for the Federal Government to dictate what may or may not occur on private property should be restricted. I intent to closely monitor the implementation of the swampbuster program and other wetlands provisions, and if necessary, seek to amend them further in the future.

Finally, Mr. President, I commend the Senate Agriculture Committee for producing this legislation prior to the fall planting season, and I hope all Senators will support its passage.

Thank you, Mr. President.

FARM CREDIT SYSTEM BORROWER RIGHTS

Mr. GRASSLEY. Mr. President, I rise to discuss an amendment I was working on with the Senator from Colorado [Mr. ARMSTRONG].

This legislation is the Agricultural Credit Act of 1987 and the sections to which I refer provide borrower rights protection to farm credit borrowers.

The amendment was being developed in good faith. All interested parties were informed of our intent throughout the entire process. We changed the amendment numerous times in response to concerns raised.

We welcomed input—indeed we sought input. We welcomed ideas, not just in hopes of getting the amendment accepted, but also because we wanted to improve the amendment.

Despite accommodating every concern raised, we were opposed by the same groups with whom we'd been meeting. While my staff and I spent our time working to address their concerns, they were working to drum up opposition to the amendment.

Next time I might not be so inclined to consult them. Instead, I just might bring up an amendment without advance warning.

For example, I might be inclined to introduce a bill or an amendment for private right of action. For now, however, I sought an alternative dispute resolution process because I believe that litigation is too expensive and too draining for the parties involved.

But I have been told that any amendment that deals with borrower rights, any amendment at all, will be opposed.

I find this particularly ironic since the floor managers of the bill accepted an amendment creating an entire appeals process within ASCS. Such an appeals process is probably a good thing. But is it so different than an appeals mechanism in the Farm Credit System?

Mr. President, it was always my position throughout the 1987 credit debate that any assistance to the Farm Credit System must first and foremost contain provisions to directly aid the struggling farm borrower.

I wrote of my priority to the distinguished chairman and ranking member of the Senate Agriculture Committee. I am pleased that meaningful borrower rights were included in the 1987 Credit Act.

Now, I know that all Members of the Senate are not great proponents of borrower rights. But that law was passed—it is a statute of the United States.

Any law is only as good as its implementation and enforcement.

The opponents of this proposed amendment insist that there is 99 percent compliance with borrower rights, so that we don't need an enforcement mechanism.

Well, if 99 percent of all drivers on the highway obey the speed limit—do we eliminate the highway patrol?

If 99 percent of all processed meat passes health standards—do we eliminate the meat inspectors?

The answer, of course, is "No."

We've been asked "Who wants this?" and "Who needs this?" The answer is simply that aggrieved farmers need it.

Evidently, that's not sufficient. The voice of the System is much louder. It has gone out of its way to kill my amendment. Well, the Senator is not the least bit surprised that the System doesn't want this amendment.

What financial institution would not want to be able to operate in an environment of little or no accountability. No, Mr. President, I am not the least bit surprised that the Farm Credit System opposed our amendment.

Nor am I surprised that the Farm Credit Administration opposed our amendment. After all, there's nothing catchy or sophisticated about enforcing borrower rights.

FCA also complains that an appeals process will cost more money. They will have to add more staff in order to take on this "additional" responsibility.

Yet FCA is clamoring for the additional task of rulemaking over Farmer Mac. I cannot understand why it is so eager to take on the additional task of rulemaking over Farmer Mac, a complicated financial enterprise. But Congress has to drag this same regulatory agency, kicking and screaming, to perform its existing duty of enforcing borrower rights.

The final version of our amendment would have simply provided borrowers notice of their opportunity to seek a review by the Farm Credit Administration. We also expanded the role of the credit review committee to examine borrower rights procedures.

While I have not stated my position on private right of action, I have always maintained that litigation is not the preferred answer to enforcement of borrower rights, as it is far too costly in terms of time, money, and emotions.

It is in that vein—that of seeking an alternative to costly litigation—in which I sought this amendment.

I am sure that every Member of this Senate has sat across the table from a farm couple which is just spent—spent financially and emotionally—from their legal battles with lenders.

Those farm families, indeed even the lenders, need an alternative dispute resolution process.

Well, I am not giving up today. The Farm Credit Administration, as the regulator of the System, presently conducts such reviews. In letters of May and of June of this year, Mr. Steele, FCA Chairman, further described the review process his agency undertakes. I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FARM CREDIT ADMINISTRATION,
McLean, VA, June 25, 1990.

Hon. Charles E. Grassley,
U.S. Senate,
Washington, DC.

DEAR CHUCK: This is in response to your June 14, 1990 letter requesting the Farm Credit Administration's (FCA) response to various questions regarding borrower rights compliance by Farm Credit institutions. The FCA appreciates your concerns, but reiterates that current examination efforts and enforcement powers have been effective in ensuring compliance with the borrower rights provisions of the Farm Credit Act of 1971, as amended.

Answers to your specific questions, including a description of FCA's borrower complaint investigation process, are presented below.

Question (A): Since FCA does not intervene in "business" decisions, I would like your definition of business decisions and how you determine whether a case fits that definition.

Answer: the FCA investigates every allegation of noncompliance it receives, regardless of the nature of dispute. With regard to individual borrower complaints, the agency generally does not interfere with Farm Credit institution business decisions as long as the decisions comply with the letter and intent of applicable statutes and regulations. Intervention in disputes arising out of a contractual or lending arrangement, when resulting actions comply with applicable regulations, would contradict the agency's role as an independent, arm's-length regulator.

A "business" decision involves any loan servicing action taken by the lender or other decision made in the normal course of business which is subject to the judgment of the institution's board and management. These actions, as used in the discussion of borrower complaints, generally include contractual matters (such as default of loan agreements) and the resulting servicing actions. Such business decisions would be investigated only if FCA were aware of problems which had potential adverse effects on an individual's borrower rights.

Question (B): Please describe specifically what types of cases you will review. For example, what type of statutory or regulatory noncompliance will you investigate and what are the necessary characteristics of the borrowers?

Answer: Any allegation of statutory or regulatory noncompliance will be investigated, regardless of its nature. Accordingly, the agency investigates each allegation it receives in order to ensure that Farm Credit institutions act within the law and regulations in negotiations with distressed borrowers. Due to limited examination and investigative resources, the scope of these investigations depends on the nature of the allegation, and the quantity and quality of information submitted.

Question (C): I would also like a detailed description of the investigation undertaken, such as: the information that the borrower must submit, the point that a borrower must request review, and how your agency determines what type of corrective action is necessary.

Answer: The FCA has developed procedures for conducting and documenting investigations of borrower complaints. The dynamics of each allegation and surrounding circumstances, however, will determine the scope and depth of investigative work performed.

It has been our experience that complainants rarely furnish sufficiently detailed and accurate information to facilitate timely and objective review of their allegations. Thus, much effort is expended attempting to discover the bases or specifics of allegations. Ideally, the following information should be submitted with each complaint: the name and loan number of the person or entity to which the loan was made, the name and location of the servicing Farm Credit institution, a statement of specific

statutory or regulatory violations believed to have been violated, and copies of letters or other documents to support these allegations.

Upon receipt of a complaint, FCA examiners review the complaint to identify its nature and applicable regulations, and to determine what additional information may be needed. Reports of examination and workpapers generated in prior examinations are reviewed to determine if a pattern or practice of similar violations or significant loan servicing weaknesses exists. In some instances, FCA examiners may have already examined the particular loan in question. The complaint is usually discussed with local FCA examiners responsible for examining the institution, as well as Farm Credit institution personnel responsible for servicing the loan. And, on occasion, the complainant may be contacted to obtain additional information.

Upon completion of the investigation, the FCA prepares its summary and conclusions. Corrective actions directed by the agency depend on the nature of the violation, and can range from an informal agreement to rectify the problem to imposition of civil money penalties. Recent history shows that a vast majority of complaints do not result from regulatory or statutory violations. When violations are noted, however, institution personnel are so notified and generally instructed to rectify the situation. Because complaints often signal weaknesses of some type, all complaints are forwarded to FCA field examiners for inclusion in future examination work, regardless of whether or not allegations are substantiated.

Question (D): What is the status of the loan or property in question during FCA investigation? Does it [FCA investigation] require the lender to forestall further action until FCA makes a ruling on the case?

Answer: Loan servicing status and FCA action depend on the nature of the allegation and the adequacy of supporting documentation presented. The decision to forestall or initiate loan servicing actions is generally a management function of the lender. The FCA may informally recommend suspension of particular actions, but could use its formal enforcement powers in addressing these circumstances.

Complaints in which a pending sale or foreclosure action is involved receive priority attention by FCA examiners. Prompt action is taken to ensure that all rights are afforded prior to consummation of any action which is not easily rectified once committed (e.g., sale of acquired property to a third party).

Suppose, for instance, that an institution plans to sell an acquired property to a third party, but the previous owner complains to the FCA that first refusal rights were not offered. The institution would be notified of the allegation and the FCA's pending investigation. At that time, FCA examiners would ascertain specific case details and communicate any concerns about possible regulatory violations.

The servicing institutions may, and in fact do at times, choose to forestall planned actions (such as sale to a third party) pending further investigation. If the institution feels that it has complied with all statutes and regulations (usually upon determination by outside counsel), and the FCA lacks evidence to show otherwise, the institution would likely proceed. It does so, however, knowing that heightened scrutiny will be afforded by FCA examiners in the future.

If, on the other hand, the FCA possesses sufficient evidence to show that a violation occurred, the institution will be so notified. At that point, the institution would be directed to correct the problem, and instructed that failure to do so may subject the institution to enforcement actions, including potential monetary penalties.

Finally, your letter requested that FCA explain how the agency would handle the following complaints:

a. The previous owner makes a timely offer to repurchase property acquired by the System lender. The System subsequently sells the property to a third party for a price less than that offered by the previous owner.

b. The System lender does not allow the borrower sufficient time to present his restructuring proposal.

c. The System lender does not correctly calculate the cost of foreclosure or the cost of restructuring.

Answer: The manner in which the FCA handles each of these complaints depends on several factors, including: the nature of the complaint and the potential impact of violations, the quantity and quality of supporting documentation, and past history regarding similar complaints or institution performance. Each of the cases discussed below would require detailed documentation of dates, values, and applicable correspondence.

The situation posed by question "a." would result in a violation of FCA Regulation 614.4522, which requires substantial evidence to prove. As mentioned earlier, the FCA's corrective powers are embodied in the Farm Credit Act of 1971, as amended, including the potential imposition of formal enforcement actions or monetary penalties. Suspension of contractual agreements between the institution and a third party, and the awarding of monetary damages, are matters for the courts and subject to applicable state laws.

Situation "b." presents a less urgent, but potentially equally important situation. Failure to provide sufficient time to present a restructuring proposal violates FCA Regulations 614.4516 and 614.4519. If the allegations are proven correct, then the institution will be so informed and instructed to remedy the violation. In this case, most institutions will voluntarily offer the aggrieved borrower an opportunity to submit another restructuring proposal.

Situation "c." addresses a highly subjective area requiring detailed analysis of various documents—usually via onsite examination. FCA Regulation 614.4517 requires lenders to compare the cost of restructuring versus the cost of foreclosure, taking into consideration all relevant factors. If deficiencies are noted in a specific analysis or institution procedures for performing its analyses, the institution would be directed to correct those deficiencies and reevaluate the loan in question according to amended procedures.

When specific regulatory violations are brought forth and substantiated by a borrower complaint, the FCA has authority to direct the institution to take corrective actions. In such cases, the FCA will direct the board to (1) rectify the specific violation, (2) conduct a review to ensure similar violations have not occurred, and (3) establish necessary controls to ensure violations do not recur.

We hope the above discussion fully addresses your concerns regarding the agency's oversight of Farm Credit institutions' compliance with borrower rights provisions. The FCA will continue its diligence in examining and investigating any allegations of statutory or regulatory noncompliance.

Sincerely,

HAROLD B. STEELE,
Chairman.

FARM CREDIT ADMINISTRATION,
McLean, VA, May 14, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: As we discussed in your office on March 26, 1990, the Farm Credit Administration's Office of Examination maintains a policy to include a review of compliance with borrower rights legislation during the course of every examination of a Farm Credit System direct lender. As we also discussed at the meeting, each examiner employed by the Farm Credit Administration has been provided with examination procedures to be used to determine compliance. It has been the practice of this agency to require any institution determined to be in violation of borrower rights legislation to effect corrective action, including directing such corrective action through enforcement actions if circumstances dictated the imposition of an enforcement action.

I understand your concern with a statement in correspondence from this agency to your office that "the Farm Credit Administration does not intervene in disagreements between a Farm Credit System institution and one of its borrowers." It would, indeed, be improper for the agency to interfere with the business decision of a Farm Credit institution as long as it has documented its compliance with the spirit and intent of applicable borrower rights legislation. In that regard, the agency's Office of Examination investigates every allegation of noncompliance it receives in order to ensure that each Farm Credit System institution has acted properly in its negotiations with distressed borrowers, regardless of the nature of the dispute.

I commit to you that the agency's examiners will continue to be diligent in their efforts to ensure compliance with borrower rights legislation. I further commit that the agency will investigate any allegations of noncompliance it receives, assuming sufficient information is included to permit us to conduct such an investigation. Should you need additional information or wish to discuss the issue further, please contact me at your earliest convenience.

Sincerely,

HAROLD B. STEELE,
Chairman.

Mr. GRASSLEY. Mr. President, as public officials, we should make our constituents aware of this opportunity.

It is the intent of this Senator to distribute the letters from Mr. Steele and to demand the Farm Credit Administration to ensure that borrowers have the necessary information.

I certainly hope and expect that the Farm Credit Administration will fully live up to its promises of providing a full and swift review of cases brought to its attention.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

Mr GRASSLEY. Mr. President, every 4 to 5 years, we debate a farm bill that establishes the benchmark by

which we gauge our progress in rural America.

Now that the Senate has completed its deliberations on the 1990 farm bill, we have laid the framework for a new benchmark that will serve us for the next 5 years.

As this bill goes to conference, however, I hope the conferees will review the gains we made with the 1985 Food Security Act and use that framework to craft a final bill.

The major emphasis of the 1985 act was its market orientation.

Our American producers are some of the most efficient in the world. They provide food for more consumers, at a lower cost, than any other country in the world.

With this productivity, however, comes the potential for depressing farm income because of surpluses.

The challenge facing us in 1985 was to decide whether or not we should limit our production to no more than our current demand, or whether we should move forward with our efforts to expand our share of world trade. Placing controls on our production may have yielded a higher market price in the short term. But as we see soy oil, oats, and other agricultural commodities imported into the United States, it is easy to see that these prices could not have been sustained.

We live in a global community. Unlike the past, American farmers have to compete with their foreign counterparts for market right here in our own back yard. If American farmers had been under the control of the Government in 1985, any increased market demand would have been filled by our international competitors. I think we recognize that fact now; but the 1985 Food Security Act went down a different road.

The bill signaled our competitors that we were going to grow crops to meet world demand. The Act created aggressive marketing programs that sent notice to our competitors that we would meet unfair trade subsidies head-to-head.

We inserted the authority for the Secretary to adjust our commodity programs to help us compete for those international markets. This ability to adjust loan rates ensured that we did not set a floor for our commodities that could be readily undercut by our competitors.

Contrary to the arguments expressed by some, this reduction in loan rates did not equal reduced market prices. In fact, as loan rates reached their low-point at the end of the 1985 act, we find market prices strong for a number of our program and nonprogram crops. Higher market prices were just one benefit of the 1985 bill. We have seen our exports rise over 33 percent the past 5 years.

And while some would dispute the validity of the farm income figures put out by the Department of Agriculture, there is very little argument that income has risen dramatically since the early 1980's. These improvements in our rural economy have all come about under the 1985 Food Security Act. But the economic improvements under the 1985 act were not the only benefits of that bill.

The conservation title of this section created conservation plans for farmers that will reduce soil losses substantially. We created the Conservation Reserve Program which has removed 34 million acres of highly erodible land from intensive production.

Finally, we included protection of wetlands within the bill. The swampbuster provisions will ensure that remaining wetland areas will not be put into production—thus preserving these valuable wildlife habitat areas.

The one major flaw in 1985 act, from both an economic and environmental standpoint, was that it continued the rigid system of crop specific bases and payments started under the 1977 farm bill. I'm an Iowa farmer. I know Iowa agriculture. And I know that Iowa farmers want more flexibility than what was provided in the 1985 Food Security Act. The 1988 Disaster Assistance Act did provide base protection for farmers which helped improve the flexibility of our farm programs. But the distortion between program crops and nonprograms remains in place.

With this overview of the 1985 act, we can now examine this bill which is before us. One of my main goals in crafting any farm program is to make it simple and workable for farmers. I have heard stories from many of my farmers about how the farm program contracts in the 1930's and 1940's were one page long.

Today, we force farmers to make numerous trips to the ASCS office and sign piles of forms to participate in our new farm programs. And the bill we have before us will compound farmer's lives even more.

The Agriculture Committee had lengthy and contentious fights over whether to raise, freeze, or lower commodity loan rates. In the spirit of compromise, they have created a mess which will leave farmers confused and drown them in additional paperwork.

Instead of simplifying the program, the Agriculture Committee has left the Secretary with the choice of a program we may not be able to afford or a program that would have farmers repaying deficiency payments months after they thought they had earned the money. Neither choice is sound policy.

I don't think loan rates were ever intended as a price support mechanism. To me, loan rates should be a management tool for farmers to use to try to increase the percentage of their income which comes from the marketplace. A tool to be used for risk management.

I have already expressed my disappointment about the defeat of my flexibility amendment. I hope that the conferees will at least review the options for a flexibility program that does provide market neutral planting signals. Some commodity groups have argued against flexibility for fear that the increases in production would decrease market prices.

If this is to be the philosophy of the 1990's, the conferees may as well consider surrendering to the tired old idea of mandatory controls for those commodity groups that oppose flexibility. The effect would be the same. These groups have undermined American agriculture to ensure that no one else has the opportunity to produce their commodity. Rather than focusing on creating demand and on international competitiveness, these groups focus on protectionist policies that would not be acceptable in the international community.

We argue all the time that American farmers can be competitive, yet we don't trust the American farmers to make decisions in the marketplace. This bill continues the philosophy that Government controls over what is produced is still necessary because farmers aren't smart enough to decide what crops the market is demanding. I know farmers better than that, Mr. President. They can manage their farms much better than the Government, if we give them the opportunity.

Farmers have switched about 3 percent of their acres into oilseeds the past 2 years under the base protection provisions similar to the Senate bill. During this same time world oilseed demand has increased 4–5 percent. The bill we are likely to approve will continue the trend we have seen the past 10 years where world oilseed demand increased 25 percent while U.S. production dropped 17 percent. The result will most likely be new acres of South American rainforests destroyed and brought into production to meet the increased demand for which the United States is unwilling to compete.

The oilseed marketing loan that was included in the Senate bill will provide some income support to our soybean farmers. This new program will send a clear signal to our foreign competitors that the U.S. Government will no longer be in the business of storing grain but is ready to compete for markets. The $5.50 level is good for farmers, but is still below the level at which soybeans will compete effectively with program crops.

This bill does demonstrate the Congress' and the administration's commitment for carrying through on the promises we made in the conservation title of the 1985 Food Security Act.

This bill does, however, attempt to make these provisions workable. The graduated penalties and mitigation provisions provide relief to farmers who inadvertently crop sensitive wetland areas.

From an environmental standpoint, those provisions will help ensure enforcement of the swampbuster provisions as well as providing for the restoration of wetland areas which had been converted to program commodities.

I do resent the intrusion of the Fish and Wildlife Service into a process which has historically been handled by the Department of Agriculture. The 1985 act directed the Secretary of Agriculture to consult with the Secretary of Interior with respect to wetland regulation. Somewhere amidst the piles of regulations developed to implement the 1985 Food Security Act, however, consult was changed to concur. The Agriculture Committee, in this bill, proposes to codify a regulation, developed by the bureaucracy, that was never part of the intent of the 1985 farm bill.

I considered offering an amendment to remove the Fish and Wildlife Service's authority over minimal effect determinations, but I did not wish to disrupt the compromise reached between the environmental groups, the agriculture groups, and the Senate Agriculture Committee. Fish and Wildlife Service concurrence is an unnecessary duplication of USDA authority. We have trusted enforcement of farm program regulations to local ASCS and SCS committees for years. There is no reason to change that precedent now.

If this section is to be reviewed during the conference committee consideration, however, I would urge the conferees to restore the intent of the 1985 act with respect to Fish and Wildlife Service consultation.

With respect to trade, this bill does little to improve upon the programs created under the 1985 act.

The cuts in the marketing assistance program, formerly the TEA program, are a step in the wrong direction as far as the long-term goal of market development.

The committee did adopt a number of provisions that I had introduced as part of the Agricultural Export Enhancement Act of 1990, S. 2266, which was designed to increase our share of the value-added export market. I was pleased to see the passage of an amendment by my colleague from Montana, Senator BAUCUS, which also focused on increasing the export of processed commodities. I hope the conferees will maintain and strengthen these provisions.

We still need an increased emphasis on the export of value-added commodities and livestock products. Nearly 90 percent of our current EEP is devoted to wheat and flour. The Secretary must be more aggressive in using this program to respond to threats to our livestock sales such as the EC's 300 percent increase in pork subsidies to Japan. Corn gluten feeds, vegetable oils, and meals could all benefit from expanded use of this program.

Finally, I was pleased to see some action yesterday on the issue of Federal crop insurance. Unfortunately, the provision passed yesterday provides us with no incentive to reform the Federal Crop Insurance Program—something most everyone recognizes needs to be done.

Nonetheless, with passage of Senator DASCHLE's amendment, farmers can continue to rely on this mechanism to reduce their risks and appropriately manage their operations.

I made an attempt to modify the sustainable agriculture research title so that more farmers would become interested. Farmers are interested in the environment; they will be interested in the alternatives for sustainable agriculture.

The program included in the Senate bill however will continue to exclude farmers who do not accept this definition of sustainable agriculture.

I am also very concerned that this legislation will give consumers a false sense of security about the circle of poison. The "circle" has not been broken by this bill. In fact, it will actually place the United States on the outside. With less control over the pesticides used on foreign produced food.

There are a number of other provisions within this bill that I am concerned about. As the House and Senate conferees prepare for conference committee action, I intend to more fully address these concerns.

I want a farm bill that I know will be good for my farmers, I hope I can work with the conferees to achieve this goal.

THE 1990 FARM BILL

Mr. BYRD. Mr. President, today we will vote on final passage of the 1990 farm bill. This bill was carefully crafted by the Committee on Agriculture, Nutrition, and Forestry. The bill's managers, Chairman LEAHY and Senator LUGAR, have expertly and expeditiously moved this complex legislative measure through to final passage, with a series of persuasive speeches and a plea for maintaining the delicate compromises struck in committee.

The farm bill we are considering today differs little from the farm bill we crafted in 1985, except for one philosophical difference. The bill we crafted in 1985, again through a series of careful compromises and complex negotiations, was designed to bring down farm subsidies, and to reduce the costs of the farm programs. The bill we act on today does not continue this responsible action; rather it would freeze farm prices at 1990 levels.

The Members of this body and the other body are now facing the difficult task of reducing our unconscionable Federal deficit—a deficit which has been repeatedly revised upward this year, partially because of the spiraling costs of the savings and loan bailout. Deficit reduction requires that many of our domestic programs face serious cuts—cuts that will be felt by every sector of our society. We must all do our share for deficit reduction. I am concerned that this bill before us, if it becomes law, will effectively remove the big farmers from the deficit equation. Therefore, I have reluctantly concluded that I must vote against passage of the farm bill.

It is not that I do not support America's farmers. I am concerned that this measure helps the big farmers and subsidizes agribusiness. In 1988, 43 percent of our farm payments went to farm operators, who averaged a net income of $96,000 per year, and averaged over $60,000 in Government payments. Very few of West Virginia farmers will receive this level of support.

As I understand it, the bill that has passed the Senate may be in excess of its allocation by the Senate budget resolution. I am told by Budget Committee staff that their best estimate is that this measure would cost $53 to $56 billion over 5 years, and that the total may or may not be in excess of what the committee received in the reported Senate budget resolution. In any case, as Members of the Senate have pointed out throughout this debate, the summit and the resulting reconciliation instructions will have to take into consideration the cost of this measure, and the conference of the Agriculture Committees will have to adjust accordingly.

THE 1990 FARM BILL

Mr. GORE. Mr. President, I rise to join the distinguished chairman of the Senate Agriculture Committee and others in supporting the Food, Agriculture, Conservation, and Trade Act of 1990. The members of the Agriculture Committee are to be commended for writing a strong bipartisan bill that seeks to ensure that farmers get a fair price for the food they provide people throughout the world and that the environment is preserved through sound environmental protection for future generations.

The extreme importance of the 5-year farm bill cannot be underestimated. During the next 5 years almost every aspect of American life—our economy, the environment, food supply, and the viability of American agriculture and family farmers—will be heavily affected by this legislation.

Congress took several steps in the 1985 Food Security Act to help food producers move toward a more profitable and sustainable production system.

It is generally viewed that the 1985 farm bill has been very successful in helping farmers gain competitive leverage once again. I am confident that this bill continues this trend.

My home State, Tennessee, has a proud history in agriculture. We have nearly 96,000 farms, covering about half the land in the State. And Tennessee agriculture accounts for one in every four jobs in our State and nearly $2 billion in cash receipts. Tennessee producers are family farmers, many of whom farm land that has been in their family for generations. These hard-working farmers deserve a fair return on their crops. This legislation should help preserve farms throughout Tennessee and the country so Americans can continue to benefit from an abundant and safe food supply.

Mr. President, I also believe that this bill takes important steps in the areas of food safety and conservation. It extends important wetlands protection and creates a new water quality initiative. The Conservation Reserve Program has been particularly successful in my State, and the 5-year extension will ensure the continued effectiveness of this important initiative.

I am especially pleased that the Senate Agriculture Committee has included language in this bill that will break the "circle of poison" by prohibiting the overseas exports of chemicals for farm use that are banned from farm use in the United States. I joined Senator LEAHY as an original cosponsor when he introduced the Pesticide Export Reform Act of 1990 to stop the export of pesticides already banned here in the United States.

This issue is really quite simple. If we decide to ban a life-threatening pesticide from use on food in this country, then it makes absolutely no sense to allow the export of that pesticide to another country where it can be applied to crops and place the citizens of that country at risk or end up back in this country, as residues on foods we import. This will make legal what is already logical and sound: insecticides and other chemicals that are not registered in this country for food uses cannot be exported to other countries for food uses.

Everyday, we are pressing countries throughout the world to make sacrifices to assure the preservation of our environment. It is crucial that the United States exert leadership in this arena. While pesticides are useful to food producers in protecting their crops, we have wisely chosen to make certain these uses are compatible with maintaining good human health and protection of the environment. We have a responsibility to see to it that these standards are upheld not just within our borders but around the world.

I am very pleased to join my colleagues in supporting final passage of the 1990 farm bill.

COMMODITY CHECK-OFF PROGRAMS

Mr. GRASSLEY. Mr. President, over the last few months, I have become increasingly concerned that the soybean promotion and research checkoff [SPARC] will not serve our farmers as it is intended.

The consequences of this are most dramatic for the farmers who will be paying for this program.

I cosponsored the original SPARC bill introduced by Senator PRYOR. I am one of the few farmers in the Senate who will actually be paying into this soybean checkoff program.

When I cosponsored this bill, I felt then, as I do now, that farmer driven promotion programs can have a positive effect on the marketplace.

But, we live in a global marketplace. Promotion programs which increase our market prices can also serve to increase production overseas. Thus, the question we must answer is, who will actually benefit the most from these promotion programs?

Under present U.S. farm policies, U.S. soybean farmers have not produced the soybeans necessary to meet world demand. We have lost almost 10 million acres of soybean production over the last 10 years, while our South American competitors have increased production by an equal amount.

The American Soybean Association [ASA], has indicated that with a new checkoff, we could expect almost another billion bushels of demand for soybeans. That is roughly equivalent to another 30 million acres of soybeans.

We will not be able to meet this demand for soybeans without significant farm policy changes.

Until farmers begin comparing the market price for soybeans with the market price for program crops, we have little hope for increasing soybean production under current market situations.

The flexibility amendment I offered Tuesday night would have addressed this problem.

Many Senators complained that we should have increased the price of the soybean marketing loan to achieve a program that put all crops on a level footing. But these people are idealists. And there is no room for this type of thinking in today's global market place.

I too would have liked to see a higher soybean marketing loan rate.

But at a point in time when we are cutting all of our farm programs because of budget considerations, the idea of creating a new program which could cost several billion dollars is pure fantasy.

So, we had ruled out spending more money to solve the problem. But the problem still existed.

Did the critics of my flexibility plan recognize and admit that the problem still existed and that the program we had did not treat all of our commodities equally? Yes.

But did any of these critics of flexibility have an alternative plan? No.

The final result is a new policy which is likely to continue the downward trend in soybean production established over the past 10 years.

Proponents of the soybean promotion and research checkoff have argued that increased market prices resulting from this program will be high enough to draw in the additional U.S. production necessary to meet world demand.

But I would ask my colleagues to consider the increase in soybean and soyoil imports we've seen the past few years. Who will be taking advantage of the new demand promised by the SPARC Program?

If market prices rise to levels where, historically, program crop acreage moves into soybeans, will farmers be willing to give up the guaranteed income security of the program crop to plant soybeans? Mr. President, I hope so.

For if not, our farmers will be shelling out $60 milion dollars annually for a program that provides new markets for South America.

A number of very important questions need to be answered before we can move prudently forward with this program:

First, who will be filling the markets that the SPARC program is creating through domestic and international market development?

Obviously, there is the research portion of APARC which will provide benefits to all producers. If we can lower our cost of production, this will make our farmers more competitive in world markets.

But the program doesn't call for devoting all of the money to production research. Rather, money will be spent on the development of new uses and the development of new or expanded export markets. I do support both of these ideas, but I remain worried that this new demand could be filled just as easily by South America as it can be by U.S. farmers.

Second, is it prudent to move forward with a $60 million a year checkoff at a time when there are so many uncertainties in the world regarding the future of the U.S. soybean industry from a U.S. farm policy and foreign trade perspective?

If program changes are made, I feel confident this program will have a positive impact on producers.

But without changes, our foreign competitors will continue to evaluate our planting intentions and recognize the reluctance of U.S. farmers to switch out of program crop produc-

tion. The signal for them is loud and clear—plant more soybeans.

Third, finally, I ask my colleagues to remember that the hundreds of thousands of farmers out there who will be paying this checkoff may not get a chance to vote on the referendum outlined in this bill until after they have already invested close to $180 million.

Up to the time this checkoff is approved of by producers, as the Senators who approved of this bill, we remain responsible for the decision to go forward with this program. Will you be as proud of this vote 3 or 4 years from now if this turns out to be an ineffective program? If we start seeing soybean and soybean products imported into this country, will we be as proud of our creation? I hope we never have to answer this question.

Before we passed this checkoff legislation, I wanted to be confident that the program would be a wise investment for the U.S. soybean farmer. I am not confident of that at this time.

THE 1990 FARM BILL OF THE U.S. SENATE

Mr. COCHRAN. Mr. President, this Senate bill represents a strong commitment to American agriculture.

It contains market oriented programs that encourage efficient production of food and fiber for America's consumers and our customers overseas.

It balances producer interests with consumers' needs, and it is fiscally responsible.

The income support programs for cotton, rice, wheat, and soybeans will boost production on Mississippi farms and better protect our economy from the uncertainties of the international marketplace.

The new soybean program, the new promotion and research programs, the proven export and conservation initiatives will all help ensure stability and opportunity for farmers.

We have a very good work product before us today. I am glad to support it, and I recommend its passage by the Senate.

FARMER MAC

Mr. BOREN. Mr. President, as chairman of the Agriculture Committee's Credit Subcommittee during consideration of the Agriculture Credit Act of 1987, when Farmer Mac was authorized, I was intimately involved in developing the provisions of that act as they relate to the Farm Credit Administration [FCA] and its role as the regulator for Farmer Mac.

With this background in mind, I would like to associate myself with the statements of Mr. LEAHY and Mr. LUGAR, the chairman and ranking member of the Agriculture Committee, on the interpretation of section 1352 and of the provisions of section 8.11 of the Farm Credit Act of 1971. There is no question in my mind that the FCA is responsible to examine and supervise Farmer Mac's financial safety and soundness, and that the agency was provided very substantial authority to adequately do this job. I am equally certain that it was not the committee's intent, or the intent of the Congress, in enacting section 8.11 of the act, to authorize the FCA to issue rules and regulations governing the Farmer Mac Program, except as was explicitly provided for in the language of that section.

WETLANDS RESERVE PROGRAM

Mr. WALLOP. Mr. President, I am concerned about the implementation of the new Wetlands Reserve Program [WRP] established in the conservation title of the Senate farm bill. This program restores and protects wetlands through the use of both 30 year and permanent conservation easements. A landowner participating in the WRP will voluntarily enter into an agreement with the Secretary of Agriculture covering a number of factors affecting the new or enhanced wetlands and the nature of the easement. The wetlands easement conservation plan contains the specifics of the agreement so established. However, I believe certain clarifications must be made in order to properly protect the rights of landholders wishing to take part in this program.

The bill specifies that the plan shall prohibit—

Any activities to be carried out on land that is immediately adjacent to, and functionally dependent on, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land. (Section 1240B(b)(E), chapter 3 of subtitle D, title XII of the Food Security Act, 1985, as amended.)

Mr. President, this language is unclear whether the prohibition applies to landowners who are neighbors to the participating landowner and whose lands are adjacent to those coming under easement. If such a prohibition were meant to apply to neighboring landowners, I would have to object because it constitutes, in my mind, a violation of the constitutionally protected rights of these neighboring landowners.

I am also concerned about how the wetlands restored under this program will be treated under section 404 of the Clean Water Act and other related statutes when the 30-year easements end. I understand that there is sufficient authority for the administration to make such a determination under section 404 of the Clean Water Act, and is in the process of making such a decision. I believe it is important for this determination to be made by the administration prior to the implementation of the WRP and the creation of any 30 year easements. I also believe it is vitally important for the Secretary to ensure that a potential participant is fully informed, in both written and verbal forms, concerning how their land will be treated when their 30-year easements expire.

Mr. President, I have a few questions I would like to ask the committee chairman and manager of this bill, Mr. LEAHY, concerning these wetland easement issues.

Mr. WALLOP. I am concerned about infringement upon the rights of the individual private property holder due to the authority provided in this language. The wetlands reserve program includes a prohibition against certain activities on adjacent and functionally dependent lands under the terms of the easement. I believe such a prohibition should affect only lands owned by the individual accepting the wetland conservation easement.

Mr. LEAHY. The prohibition you speak of is incorporated into the wetland easement conservation plan. The prohibtion is meant to prevent the participating landowner, who has agreed to this plan, from undertaking activities on land adjacent to the easement that degrade the quality of the restored wetlands. This prohibition is meant to apply only to the landowner contracting with the Federal Government for the wetland easement.

Mr. WALLOP. I am glad to hear this, because I have been told by legal counsel that such a prohibition could not be binding on landholders who have not entered into contract with the Federal Government. Therefore, the neighbor of a landholder entering into an easement agreement, whether temporary or permanent, would not be bound by this provision. Am I correct in that assumption?

Mr. LEAHY. You are correct in that assumption. Neighbors of the participating landholder are not party to this plan, and are not subject to its restrictions.

Mr. WALLOP. I have another concern that I would like to address. When reading the wetland reserve language in the Senate bill, it is readily apparent that private landowners wanting a temporary easement in the wetland reserve could easily be unaware of the ramifications of this program with respect to their rights as private property holders 30 years down the road when their easements end. Do you agree with that assessment?

Mr. LEAHY. I agree, participants in the program could be unaware of how all applicable statutes will affect their lands when their easements expire. I understand that the administration is currently reviewing existing authority as it affects the treatment of wetlands restored and protected under programs such as the wetlands reserve, particularly how such wetlands are treated when the term of the easement ends.

Mr. WALLOP. I believe the administration should clarify the implications

of these authorities before entering anyone into a temporary easement, and think it is the duty of the Secretary or his specified designee to make known both in written and in verbal forms exactly what the rights of this landholder will be at the completion of the contracted easement.

Mr. LEAHY. I agree that constitutionally protected private property rights are very important, and concur with you in how important it is that the Secretary should make every effort to ensure that private landholders are fully aware of how their lands will be treated when the terms of their easement ends.

Mr. DOMENICI. I would like to commend the chairman of the Agricultural Committee and the Senator from Alabama [Mr. HEFLIN] for the fine work they have done in creating the Rural Economic and Business Development Program included in subtitle C, section 41.

In New Mexico we have a very fine business college at New Mexico State University that has been working with the Cooperative Extension Service. In some ways they anticipated the legislation we are enacting today and have put together an agricultural extension service business school partnership that is very promising. I would like to ask the Senator from Vermont if such college of business-extension service partnerships was envisioned when this legislation was drafted?

Mr. LEAHY. We need to harness all of the key economic development resources within the State. This legislation was intended to do just that. I would agree with the Senator from New Mexico that the college of business, if as in the case you describe in your State, is the entity involved in these activities, that they are certainly envisioned as participating in this arrangement.

I am pleased to hear that in New Mexico the extension service and the college of business at New Mexico State University are working together to address rural development problems in New Mexico.

Mr. DOMENICI. The new rural economic and business development program will assist new businesses with computer technologies. New Mexico envisions creating a comprehensive data base. Would that activity be included in those activities envisioned for the new centers? Would creating and maintaining a data base qualify for funding under the program?

Mr. LEAHY. Absolutely. I consider the creation and maintenance of data bases to be covered as a computer technology, which are expressly enumerated in the legislation.

Mr. DOMENICI. I am very glad to hear that. The activities of "management assistance, business and financial planning, and other related matters" are included in the legislation as activities that specialists would help new businesses with. Does that include manufacturing and marketing assistance?

Mr. LEAHY. Yes it does.

Mr. DOMENICI. The legislation provides for specialists to be employed as part of the Cooperative Extension Service staff, yet the legislation does not define who would be considered a specialist. Would experts at the college of business, at the land grant colleges and universities be included as specialists?

Mr. LEAHY. It is the intention of this legislation to assist States in hiring specialists to commit their expertise fully to rural development activities. It is certainly possible that the business school experts could fulfill those qualifications.

Mr. DOMENICI. Thank you, Mr. President.

DISASTER RELIEF AMENDMENT

Mr. BAUCUS. Mr. President, in 1988 and 1989, dozens of States experienced droughts which wiped out crops across the country.

Congress responded by quickly passing legislation that provided disaster payments to producers with substantial losses.

This year, some counties in Montana and other States are being blasted with similar dry weather conditions.

While the drought is not as widespread as it was in 1988 and 1989, it is nevertheless severe in the counties it affects.

Crops in Carter, Daniels, Dawson, Fallon, Garfield, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties are all being destroyed for lack of rain.

Because the drought is not as widespread as it has been in the past couple of years, a drought disaster bill this year is unlikely.

These counties, therefore, have applied for various forms of relief under disaster programs provided by the USDA. These programs are designed to help farmers survive the ravages of natural disasters.

The programs include the Emergency Feed Program, the Farmer's Home Administration Emergency Loan Program, and emergency haying and grazing programs.

The USDA has made some of these programs available in some counties and other programs available in other counties.

But without exception, the USDA has taken much longer to make its decisions on which programs to make available than should be the case.

Roosevelt County, for example, applied for the emergency haying and grazing program 6 weeks before it was finally approved by the USDA.

My staff was forced to resort to phoning the Department several times a day to get them to move on Roosevelt County's application.

Mr. President, Montana ranchers can't wait for 6 weeks to feed their cattle.

To make matters worse, when the Department finally approved the application, the restrictions placed on the land which can be hayed and grazed were so severe, it did little to help anyone.

The USDA told Montana ranchers that they may hay and graze their CRP land only if they own cattle. But they may not hay or graze it if they do not own cattle.

This restriction makes little sense.

Many ranchers who own cattle do not have land in the CRP. In such a case, a rancher should be able to graze his cattle on his neighbor's CRP land and pay him for it.

This amendment addresses this problem and many other problems Montanans have had when applying for disaster relief.

My amendment will require that once the Secretary of Agriculture has found that a Montana county has been substantially affected by a natural disaster, all disaster relief programs will be made immediately available to those counties with no restrictions.

My amendment will enable Montanans to take quick action to mitigate the effects of the drought.

I urge my colleagues to support it.

Mr. LEAHY. Will the distinguished Senator from Montana yield?

Mr. BAUCUS. I yield to my colleague from Vermont.

Mr. LEAHY. I understand from the Senator from Montana that drought is again a serious problem in some counties in this State. Many farmers and ranchers in Montana are desperate for USDA's disaster programs to be made available to them.

And I do not blame the Senator for being frustrated by what appears to be substantial delays in the USDA's approval of applications for disater relief.

But I wonder if mandating that disaster programs be made available to farmers in these counties is the best approach to take at this time.

It seems to me that we can work together to accomplish a similar result without tying the Secretary's hands.

I have a suggestion for the Senator from Montana.

If he will withdraw his amendment, I will make every effort to work with him and the Secretary of Agriculture to make sure that disaster programs are made available to Montana farmers and ranchers as quickly as possible, and with as few restrictions as possible.

These people need assistance. The Department should be there to help them. It should not put up roadblocks.

Mr. BAUCUS. I thank the distinguished Senator from Vermont. I appreciate and accept his offer of help.

Montanans are waiting to hear from the Department. I hope that our combined efforts will be successful in expediting the process.

I will not offer my amendment.

INSPECTION OF POTATOES

Mr. MITCHELL. If I might have the attention of the distinguished chairman and ranking minority member of the Agriculture Committee for a brief colloquy.

As both the chairman and ranking member know, section 1704 of the 1985 farm bill, Public Law 99-198, requires the Secretary of Agriculture to perform random spot checks of potatoes entering the United States through ports of entry in the northeastern United States and report to the Congress on the results of the spot checks.

Report language accompanying the conference report said the Secretary should increase the frequency or take other actions as necessary to achieve and maintain a significant reduction of substandard imported potatoes.

Under those provisions, USDA has conducted a program of spot inspections along the Maine-Canadian border for each of the past several years and reported annually to the House and Senate Committees the results of such inspections.

Earlier this year, after Maine Agriculture Commissioner Bernard Shaw asked the congressional delegation to reauthorize the inspection authority again in this year's farm bill, Representative SNOWE approached the House Agriculture Committee on this matter. It was that committee's view, however, that section 1704 was permanent legislation that would not require reauthorization in the 1990 farm bill.

That point of view has now been seconded by USDA in a July 2 letter to Representative SNOWE from USDA General Counsel Alan Charles Raul.

With that background, I would ask the floor managers if it is their understanding that the Secretary of Agriculture would continue to be obligated to perform the random checks mandated under section 1704 without the need for further legislation?

Mr. LEAHY. The majority leader is correct in his interpretation of the status of section 1704, that is, that reenactment is not necessary to continue the inspection requirement on the part of the Secretary of Agriculture.

Mr. LUGAR. I concur with the sentiments of the chairman as to the need for reauthorization of this authority.

Mr. MITCHELL. I thank both floor managers. Mr. President, I ask unanimous consent that the letter to Representative SNOWE from the USDA General Counsel referred to in my earlier statement be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 2, 1990.

Hon. OLYMPIA J. SNOWE,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN SNOWE: This is in response to your letter of June 20, 1990, regarding the provision in the 1985 Farm Bill requiring the Secretary of Agriculture to perform random spot checks of imported potatoes entering the United States through ports of entry in the Northeast.

This will confirm the advice of Department officials to your staff that in our view section 1704 of P.L. 99-198, which is set out as a note under 7 U.S.C. 499n, is permanent legislation. Accordingly, reenactment is not necessary to continuation of this inspection requirement.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

ALAN CHARLES RAUL,
General Counsel.

THE 1990 FARM BILL

Mr. GORTON. Mr. President, S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990 contains programs that will benefit farmers, consumers, and the environment for many years to come. The objectives of this bill are no different than any bill dating back to the first farm bill passed by Congress in 1933. Farm programs were created to provide stability to an industry, to an industry which is both fundamentally important to our Nation's health and security, but also very risky. I believe this bill accomplishes this goal. It is for this reason that I support the bill.

This bill, which will guide agricultural policy for the next 5 years, contains many excellent provisions. The trade title will assist in maintaining and expanding U.S. market share. Through programs like the Marketing Assistance Program and the Export Assistance Program, our producers will be given a chance to compete against unfair trade barriers. The research title will serve both the producer and consumer through improved technology, enhanced production and greater food safety. The grain quality title will ensure that U.S. grain remains the best in the world.

I am highly supportive of the conservation title. The Food, Agriculture, Conservation, and Trade Act of 1990 is the first farm bill to include a title on the environment. The conservation title will take important steps in protecting the environment and preserving the livelihood of the farmer.

Although I voted in favor of the bill, I still am concerned about the spending required by the bill and its potential impact on farmers. The Gramm-Rudman deficit reduction law makes spending cuts inevitable. Thus, if savings are not found, all farmers—despite what this bill promises—will suffer when their programs are cut. For this reason, I believe this bill, absent further reforms, makes a hollow promise to America's farmers.

I will continue to work on behalf of the farmer through the life of the 1990 farm bill and beyond.

SUPPORT OF THE PET THEFT ACT OF 1990

Mr. FORD. Mr. President, in April 1987 a class B dealer came to the eastern part of Kentucky to buy allegedly stray and unwanted dogs for medical research purposes. Unfortunately, many—if not all, of the dogs he bought were stolen. They were peoples' pets. I was very upset to learn of this particular incident, but it also triggered in the back of my mind the memory of the day years ago when my small son's prized and beloved hunting dog was thrown into a panel truck right in front of his eyes, never to be seen again. I did not know what was happening at the time, but I do now.

The theft of pets for interstate transport and sale to research facilities is a national problem of massive and heart-breaking proposition. Literally hundreds of thousands of dogs and cats are stolen from their homes each year by butchers who sell them to class B dealers who, in turn, sell them to research facilities; the animals' owners never have a chance to reclaim them.

It is difficult to compile statistics on pet theft, Mr. President, because most thefts are not reported to the authorities and because our already overburdened police give short shrift to such complaints. However a citizens network has been established to try to combat the crime and it has begun counting. One such group is Action 81, Inc., a nonprofit foundation based in Virginia since 1976 which is designed to prevent, monitor and expose organized theft of privately owned dogs and cats.

I want to give my colleagues an idea of the magnitude of the problem of pet theft. According to Action 81, the estimated annual numbers of missing dogs in the United States is 5 million, 10 percent of the total dog population. Its estimated number of stolen dogs in the missing dog figure is 2 million, or nearly half of the missing dog figure. Two million.

The market for these stolen animals is varied: research purposes, breeding, pelts, use as food, cults, ransom.

No dog is safe from the clutches of butchers and unscrupulous class B dealers. Farm dogs, hunting dogs, guard dogs, pampered pets, beautiful purebreds, lovable mutts—all are potential prey.

This ugly practice has been documented most recently by the program "20/20" which was aired on Friday, July 1 and which focused on pet theft in Oregon. I ask unanimous consent that the transcript of that program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[From ABC News: "20/20," July 1, 1990]

"PUPPY SALES"

STONE NARRATION. To many, this slice of central Oregon is the summit of tranquility.

Pristine streams that cascade down rugged cliffs. Glistening forests that wander aimlessly. American gothic farmhouses that dot the fertile plain. And sunsets that transform the countryside into a pallet of greens and reds and blues.

It is a place where neighbors usually help one another, rather than fight among themselves. But, today, there is a blood fued going on here that runs as deep as the fields of crimson clover.

STONE NARRATION. The issue is whether these animals, destined to be sacrificed for medical research, are being mistreated, and whether some of them are, in fact, stolen pets.

JULIE GRIZZEL. I couldn't believe that somebody can take your animal off your property and take it to somebody else's property and they could destroy what, what legally is not even theirs.

It just—it isn't right.

STONE NARRATION. Julie Grizzel's dog, Demetria, was stolen from her front yard and delivered to this kennel by local teenagers looking to make a fast buck.

The kennel supplies animals for medical experiments.

[Dogs bark.]

STONE NARRATION. Stealing someone's pet and selling it for research: it's heartless and it's cruel, but it's happening all over the United States. It's estimated that as many as a million dogs are stolen every year in this country, many ending up in medical experiments.

Even though the research may be useful in finding cures for humans, some animals are subjected to severe pain. Photographs like these can be difficult to look at, and it's even worse when you think it could be your dog or cat.

[Dogs bark.]

STONE NARRATION. In some States, there are flea markets where animal dealers buy and sell from the backs of trucks. It is big business.

Major dealers can make hundreds of thousands of dollars a year, and even smalltimers who deal primarily in stolen pets can earn a good living.

The animals are here one day; gone the next: to research labs. Here, the chains are often so tight, the poor dogs can't even stand up!

Listen to one former broker describe what went on, and how dealers knew they were trafficking in stolen pets.

BUNCHER. At first, I thought they were all legitimate dogs, until I figured it out after a while that they were stolen—nobody could have that many dogs every week. Raise them on their own.

The sellers would be there, and they . . . make up fictitious names to write down, and ask me if I knew any names they could write down for the dogs.

STONE NARRATION. How many were stolen? He says three out of four.

BUNCHER. Oh . . . Beagle dogs, and Collies, and German Shepherds, they can use them, and . . . Dobermanns, use a lot, 'cause they're short hair. You know, those are all house pets, or—you know, family pets.

STONE NARRATION. And how were they treated?

BUNCHER. And then, sometimes, when they was uncooperative they shot them in the head and drag them off right then, and took their tag off and used it on another dog.

WILLIAM DEHAVEN. To say that it's not a problem would not be true. It is a problem, and it's a concern of everyone; everyone that has a love for animals.

On the other hand, to say that it is a widespread problem; to say that it is occurring . . . in tremendous volume, I would contest that.

STONE NARRATION. William Dehaven is with the U.S. Department of Agriculture, which regulates animal dealers and research labs.

Mary Warner is an animal rights activist who probably knows more about pet theft than anyone else in America.

MARY WARNER. It's just a nationwide form of larceny that's affecting millions of people.

There are people who are going to make money at the expense of the commodity they're . . . acquiring and selling, because we have dogs and cats who can't speak, can't tell about anything that's happening, and the supplier cuts down food, water, comforts, all of that, just get 'em in, keep 'em a certain length of time, and take 'em out and collect the money.

STONE NARRATION. That's what the blood feud in Oregon is all about. The animal dealer at the center of it runs this kennel.

Meet Joseph Hickey. His animal supply operation in Lebanon, Oregon, started by his father, is believed to be the biggest on the west coast.

Hickey is what's known as Class B, or "random source" dealer. He doesn't raise animals for research. He buys them, from pounds, animal shelters, and private owners. He'll pay $20 for cats; $50 for dogs. Then sell them to research facilities for 5 to 10 times that much.

His impressive list of customers includes the Veterans' Administration Hospital in Sepulveda, California, which last year bought nearly all of its stock from Hickey. And the prestigious Harbor U.C.L.A. Medical Center in Los Angeles.

But more than 300 people in central Oregon have complained that their pets were stolen and delivered to the Hickeys' operation. Many want it closed down, including Joseph Hickey's own godmother, Merthal Settelmier who lives next door. She says there's no doubt in her mind that he's mistreating animals and dealing in stolen pets.

MERTHAL SETTELMIER. It was very disturbing to think that—things were going on over there that I saw that would happen in this day and age to animals, even though they're being used for research. It still is, to me, very inhuman.

STONE NARRATION. How would you describe the conditions over there, for the animals?

MERTHAL SETTELMIER. Well, the time I was over there, there was 3 or 4 animals in a cage where there should be 2. There was feces on the floor. There was, very warm day, no shade; no water. The food bowls were empty, and the dogs were fighting each other.

STONE NARRATION. And when the animals aren't suitable for research, Merthal Settelmier says the're shot. Have you heard gun shots?

MERTHAL SETTELMIER. Yes, I have. Sometimes it's once a week. Sometimes it's maybe two times a week. Just this month, it was three gun shots early in the morning, about nine o'clock. And we saw pools of blood where dogs could have died, and 22 shells.

STONE NARRATION. The Hickeys have claimed repeatedly that they just don't deal, don't traffic in stolen animals!

JOE FICK. Yeah, well, bank robbers claim they've never robbed a bank, either, so—I don't think anybody's going to admit anything out in the open like that, especially something this dirty, this kind of trade like this; it'd be hard to, to sleep at night, let alone admit to people that you know that their pets, pets are being stolen from people's houses and sold to research.

STONE NARRATION. Joe Fick almost lost his Rotweiler Max when the dog was stolen right out of his yard by two teenagers and sold to Joseph Hickey's father, James.

JOE FICK. And I'm living alone, single, and as it looks good to come home and have your dog waiting for you, you know, goof around with in the evenings——

STONE NARRATION. And when you came home that day, he wasn't there.

JOE FICK. No, he wasn't there, and I started getting some information that there had been a vehicle in the area stealing other animals that afternoon, so I was sure at that point, then, that he was probably stolen.

STONE NARRATION. On a tip from police, Fick decided to go to the Hickey's kennel, where he found Max in a cage.

JOE FICK. There was no water for any of the animals; not in any of the cages or anything. They all were very, very dehydrated, and they all—it was sad. They all wanted to come home with me. I mean, every one I walked by, it was very obvious that they were—they wanted out of there. It was a sad situation.

STONE NARRATION. What did the Hickeys tell you about how they'd gotten Max.

JOE FICK. He, he played really dumb. He said that he had, he gets animals from reliable people and that there was no way that this dog was stolen.

STONE NARRATION. Joe Fick was lucky. He got Max back, and the two teenagers were convicted.

Remeber Julie Grizzel and her dog Demetria? Demetria was stolen the same day, by the same teenaged boys, but apparently little Demetria was considered too small for research , so the father, James Hickey, shot it.

JULIE GRIZZEL. He . . . told them my dog wasn't big enough for research, and, according to the police report . . . it sounded that—it sound like he had shot my dog right in front of the kids.

And . . . he had no reason to do it. The—you know, I, and I talked with him 2 days afterwards to, to ask him about—did, you know, about the Cocker that he had killed, and . . . he said that . . . at first he said that it wasn't the right size for research, and then he went on to say "Well she was mean, and she was sick." And, you know, he had no right to do it. I know my dog was a healthy dog. You can't, you couldn't help but tell the truth, I mean she was a purebred Cocker Spaniel. . . .

STONE NARRATION. Was the dog's body ever found?

JULIE GRIZZEL. No, it wasn't . . . I know that they put the animals in a pit, and put lime over 'em and dirt over 'em and so I'm sure that my dog was just like the rest of them, put in that big pit.

STONE NARRATION. Others charge that the Hickeys not only accept stolen pets, they ac-

tively encourage people to do the stealing for them.

This woman, Ella Snapp, a close friend of Joseph Hickey, was convicted of pet theft after bringing nearly two dozen animals to the Hickey kennels.

Snapp used a different method. According to police, she would turn to the classified ads and zero in on the ones you see every day in newspapers across the country: "Pet needs loving owner. Free to good home." Retriever. Collie. Shepherd. Mutt—it didn't matter. If a dog was big, and the dog was free, she answered the ad.

ANN AMODEI. She was real convincing. She often took her infant with her, would leave the baby in the car seat, carry her with her to look at a dog . . . would tell a story about how when she and her husband married, he had a Pit Bull that was real aggressive towards her . . .

STONE NARRATION. Police officer Ann Amodei arrested Ella Snapp for stealing animals through deception.

ANN AMODEI. . . . and how they had been looking for a long time to find a suitable family pet to replace his dog.

STONE NARRATION. Hickey's role according to Snapp . . .?

ANN AMODEI. He talked to her about the merits of research. Like I said, brought the fact that she had a child, and how many animals would she be willing to sacrifice if it meant a medical cure to save her baby!

And then he let her know how much money he'd pay for animals.

STONE NARRATION. So you're basically saying Joe Hickey recruited her!

ANN AMODEI: In my opinion, he did!

STONE NARRATION. In this sworn statement that led to her conviction, Ella Snapp maintained that she was not stealing animals, but simply obtaining unwanted pets. She said that a lot of people were involved in the same setup with the Hickeys, but if her friend Joseph Hickey knew an animal was stolen, he wouldn't buy it. Snapp refused to speak with "20/20" on camera. So did Joseph Hickey, but he spoke earlier with local reporters.

JOSEPH HICKEY. We've done nothing wrong here. We have kept exactly to records, and exactly to standards and exactly to the standards that we're licensed underneath by the Federal Government, and I am not about to desert the people that depend upon me for animals, for needed use—exceptionally valuable research.

STONE NARRATION. While the Hickeys have never been charged with stealing pets, a U.S. Department of Agriculture investigation found serious violations at the Hickeys' operation.

These inspection reports show that cats were being held in onion sacks; inadequate recordkeeping was a recurring deficiency and violation, and dead dogs were being left in an uncovered pit.

James Hickey, the father, is now banned from doing business for 25 years. Joseph Hickey is facing a 1-year suspension of his license, but is still in business while he appeals the ruling.

STONE NARRATION. The U.S.D.A. says any criminal charges for allegedly dealing in stolen pets would be up to local authorities.

WILLIAM DEHAVEN. Pet theft is a horrible problem. Anyone that's had a, a dog or a cat as a private pet knows how attached and important that animal is to the family.

On the other hand, it wasn't the intent of Congress with the Animal Welfare Act to regulate pet theft as such. As, as devastating a problem as it can be on an individual basis.

STONE NARRATION. The emotional debate over the use of animals for scientific research will continue, but clearly, pets stolen out of people's yards don't belong in research labs.

For pet owners the loss may be devastating, but in most states, stealing animals is considered minor theft.

STONE NARRATION. And despite the efforts of officers like Ann Amodei in Oregon, most local police departments have more serious crimes with which to deal.

ANN AMODEI. Animal calls are definitely a low priority. In my mind, it's definitely a theft, but it's beyond that—it—animals, to many people are something the've loved, they've nurtured, they've put a lot of time and caring into, and to think that that family member was taken under false pretenses and basically sentenced to torture and pain and, finally ultimate death, you're talking about a real emotional issue.

Mr. FORD. Mr. President, pet theft has also been the subject of a three-part series by KMOV-TV in St. Louis and of other nationwide news broadcasts. I have copies of many of these tapes and will be glad to share them with my colleagues if they are interested in viewing them.

Over the past several years numerous articles describing its horrible practice have appeared in a variety of newspapers and magazines. Perhaps the most recent of these is a comprehensive series run the week of July 8 in the Kansas City Star, which I recommend to my colleagues and which I will be happy to provide upon request.

No less an entity than the Department of Agriculture itself recognizes the seriousness and the extent of the problem of pet theft. According to USDA, case after case of stolen pets occurs primarily in relation to auction sales, as noted in proposed regulations dated March 31, 1987. I quote from them:

> In the past few years, there have been several instances of dealers buying and selling obviously stolen animals and of a few research facilities obtaining animals under questionable circumstances. One of the major purposes of the (Animal Welfare) Act is to protect the owners of animals from the theft of their animals and to prevent the sale or use of animals which have been stolen. The Department is, therefore, proposing a new section prohibiting the purchase, sale, use, or transportation of stolen animals.

In the last Congress I introduced the Pet Theft Act of 1988, legislation based on these proposed regulations and designed to prohibit class B dealers from taking animals from anything other than a legitimate source. The bill passed the Senate in August 1988, but died in the House as the Congress ended.

That legislation has been incorporated into the 1990 farm bill now before us, S. 2380, and has become section 1481 of title 14. This latest version, the Pet Theft Act of 1990, is different from my original bill and even from the one that already passed the Senate. It is based on USDA's final regulations and has been modified to accommodate comments from the biomedical research community, the American Veterinary Medical Society, and animal protection groups. They have made some very valid suggestions and I am pleased to have made changes on their behalf.

Mr. President, I want to make it clear to my colleagues that medical researchers do not want to experiment on stolen animals. I say this on the basis of extensive communication with and testimony from individual researchers across the Nation. I also want my colleagues to know that, among many others, Dr. Michael DeBakey, one of this country's most prominent heart surgeons and the premier spokesman for the biomedical research community, has personally endorsed my bill.

The American Veterinary Medical Association [AVMA] not only supports this legislation, but testified on behalf of it in hearings before the House Subcommittee on Department Operations, Research and Foreign Agriculture 2 years ago. The provision is supported by every animal protection group of national standing: American Humane Association, Animal Protection Institute, Doris Day Animal League, Humane Society of the United States, Massachusetts Society for the Prevention of Cruelty to Animals, National Alliance for Animal Legislation, People for the Ethical Treatment of Animals, and Society for Animal Protective Legislation. To put it another way, the only opposition to section 1481 comes from extremists on both sides.

The original purpose of the Animal Welfare Act, passed 24 years ago, was to prevent pet theft and the sale or use of stolen animals. Yet here we are today faced by the exact same problem of perhaps even greater dimension. In an attempt to be more effective, the Pet Theft Act of 1990 amends the Animal Welfare Act by tightening existing USDA regulations—by putting some teeth into them. Basically, the act establishes a paper trail documenting when and from whom an animal was purchased and mandating that such paperwork accompany the animal when sold, strengthens penalties for class B dealers who violate the law, and closes an egregious loophole in the regulations that would permit a class B dealer to establish his own shelter and launder stolen animals through it.

There is no onus on medical researchers, there is no diminishing of legal sources of random source animals.

Mr. President, the owners of the 56 million cats and 54 million dogs across the United States have a right to protect their animals from theft. Many of my colleagues and their staff are

among them—the owners of Billy Byrd and Leader Dole being two of the best known. The bill before us is a step in that direction, and I urge its swift passage and that it be retained in conference.

THE COTTON PROGRAM

Mr. HEFLIN. Mr. President, cotton is the single most important textile fiber in the world, accounting for about 50 percent of all fibers used. Cotton is grown in about 75 countries. The three largest producers—China, Soviet Union, and the United States—account for over one-half of world production. During crop years 1987 and 1988, the United States produced about 20 percent of the world's cotton and used 10 percent. This means about half of U.S. cotton production is exported. Consequently, the health of the U.S. cotton industry is closely linked to the world economy and global textile consumption and trade.

U.S. exports of raw cotton during crop years 1980 through 1984 accounted for about 30 percent of world cotton trade. Export earnings averaged about $2 billion, or about 5 percent of the total value of U.S. agricultural exports.

Cotton is currently produced in 17 States from California to Virginia, with major concentrations in the delta of Mississippi, Arkansas, and Louisiana; the Texas High Plains and Rolling Plains; central Arizona; and the San Joaquin Valley of California.

Like most other kinds of farms, there has been a long-term trend to fewer but larger cotton farms in response to economic and technological forces. In 1949, there were 1,110,000 farms growing cotton in the United States with an average of 24 acres of cotton per farm. By 1982, the number of farms dropped to 38,000 and average acreage increased to 256 acres. Cotton acreage per farm increased 87 percent from 1974 to 1982 while the number of farms dropped by 43 percent. However, data from the 1987 Census of Agriculture indicate that the number of farms producing cotton is up about 12 percent since 1982 and the number of acres of cotton per farm is down about 10 percent.

Acres planted in 1987 were slightly less than in 1982, so the increase in number of farms growing cotton was not due to increased area in production. A probable explanation for the change in the long-term trend toward fewer and larger cotton farms is a substantial restructing of farm ownership and operation in response to economic demands to become more efficient by reducing the per unit cost of production. Other reasons for restructuring included changes in tax laws and other regulations, including the cotton program.

The Census of Agriculture indicates that about 43,000 U.S. farms harvested cotton in 1987. Upland cotton, the type most commonly grown throughout the world, accounts for about 98 percent of the U.S. crop. The other 2 percent is extra-long staple [ELS] cotton which is grown mostly in southwest Texas, New Mexico, Arizona, and California.

Much of the growth in the world and U.S. cotton trade in the 1960's and 1970's was associated with the development of textile industries in the Pacific Rim countries of Japan, Taiwan, Hong Kong, and South Korea. These cotton-importing countries, with their low labor costs, gained a competitive advantage in the manufacture of labor-intensive textile products. However, during the 1960's, textile production costs increased rapidly in these countries. Consequently, another group of textile exporters emerged. These recent exporters—China, Brazil, Pakistan, and India—rely predominantly on domestically produced cotton for their textile goods. Since the early 1970's, world trade in raw cotton has grown at only three-fourths the rate of world production, indicating a growing share of world production is now processed within producing countries.

Even though world cotton production and trade have increased, cotton's share of world fibers fell from 55 to 50 percent during the last two decades. Cotton has lost market share to man-made fibers, such as polyester—noncellulosic fiber—and rayon and acetate—cellulosic fibers. However, in the United States, natural fibers have enjoyed increased popularity during the late-1980's and cotton's market share has risen.

During the mid-1980's, as production rebounded from the 1983 drought, cotton stocks began to build and market prices settled near the support level. The loan rate served as a price umbrella for our competitors and reduced the demand for U.S. cotton. An objective of the Food Security Act of 1985 was to make U.S. cotton competitive in the world market.

The Food Security Act of 1985 established farm policy for 5 crop years, 1986 to 1990. Some major features of past farm acts were retained, including acreage limitations, nonrecourse loans, and target prices, but the act vested the Secretary of Agriculture with more discretionary authority for administering annual commodity programs. The act provided for greater market orientation and more flexibility to promote market competitiveness. The act also specified declining target price minimums through 1990. Loan rates were tied to an average of past market prices with provisions for allowing loans to be repaid at levels below the loan rate if market competitiveness might be hampered by the formula-determined rate.

The basic loan rate for upland cotton in 1986 was set at 55 cents per pound for SLM 1 1/16 inch cotton. For 1987-90, the loan rates are based on essentially the same formula as that used in the 1981 act: the smaller of first, 85 percent of the average spot market price during 3 of the preceding 5 market years, excluding highest and lowest, or second, 90 percent of the average of the 5 lowest priced growths among the growths quoted for Middling 1 3/32 inch cotton, c.i.f. Northern Europe, adjusted downward by the average difference between the Northern European prices and U.S. spot market prices of SLM 1 1/16 cotton.

A major new provision of the 1985 act, the marketing loan, provided a loan repayment plan if the basic loan rate is not competitive on world markets. If the world price of cotton, as determined by the Secretary, is below the loan rate, a loan repayment plan must be implemented. The Secretary would choose one of two alternative market enhancement plans for the repayment of loans. Under plan A, the Secretary could lower the producer repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a more competitive price. Under plan A, the repayment level must be announced at the same time the Secretary announces the loan rate—by November 1—and cannot thereafter be changed. Under plan B, repayment rates would vary periodically during the year to keep pace with world markets. For the 1987-90 crops, if the world price, adjusted to U.S. quality and location—adjusted world price—is below 80 percent of the basic loan rate, a loan repayment level may be set at any level between the adjusted world price and 80 percent of the loan rate. Plan A was chosen for the 1986 crop, with a loan repayment rate equal to 80 percent of the basic loan rate for each quality of cotton. Plan B was subsequently selected for the 1987-90 crops.

The concept of the marketing loan was an attempt to retain the basic cotton loan program yet keep U.S. cotton competitive in world markets. Under this program, each week the USDA calculates and publishes an adjusted world price [AWP]. The AWP is the prevailing world market price of cotton adjusted to U.S. base quality and location. The procedure for establishing the weekly AWP is based on a specified formula developed by the USDA. Congress gave the Secretary of Agriculture discretionary authority to develop and modify this formula as deemed necessary to keep U.S. cotton competitive.

If the Secretary determines that the supply of cotton is excessive, an acreage limitation program or paid diversion program, or both, is authorized. The act specifies that, to the extent practicable, an acreage limitation pro-

gram should create a carryover of 4 million bales of upland cotton.

The 1986 crop was the first under the 1985 act. The combination of the new program, large foreign stocks, and U.S. stocks of upland cotton in excess of 9 million bales initially drove market prices well below loan rates. The AWP briefly plunged to 22 cents a pound. The price drop sparked demand and, compared with a year earlier, cotton exports more than tripled and U.S. mill use rose nearly one-fifth. By the season's end, prices were well above the loan rate and carryover stocks were nearly halved.

Since the 1986-87 season, the effect of the marketing loan on the competitiveness of U.S. cotton in world markets has remained an issue. Following the 1986-87 season, exports declined and stocks rose for 2 successive years. By the start of 1989-90, U.S. upland cotton stocks had reached 7 million bales. While U.S. stocks were rising, foreign cotton stocks fell during both years. During this period, U.S. cotton prices on the world market rose above competitors prices. The objective of the marketing loan—to have cotton pledged as collateral for CCC loans released to the market at a competitive price—was not being achieved. The apparent failure of the marketing loan set in motion a series of industry proposals and USDA adjustments in the upland cotton marketing loan program.

At the start of the 1988-89 season, USDA made four major changes in the program. First, the transportation component of the AWP formula was changed to more closely reflect actual transportation costs. This change increased the transportation differential that is subtracted for the world price in order to adjust the world price to average U.S. location. Consequently, this change reduced the AWP. Second, loan repayments were permitted at the same premium and discount schedule in effect when the cotton was placed under loan. At the time this change was made, current year loan differences from the base quality were being used for certificate redemptions, and these differences were narrower than those in effect when the loan was taken out. Using larger differences effectively lowered the AWP for those cotton types below the base grade. Third, the coarse count adjustment in the AWP formula was modified to make coarse count cottons more competitive. Fourth, CCC agreed to pay enough of the interest and warehouse charges on outstanding loans to encourage repayment of loans at the AWP. Other technical changes were also made in the AWP formula.

In October 1989, the Department once again made changes in the marketing loan program to improve the competitiveness of U.S. cotton. In order to reduce the incentives for storing cotton for 18 months, producers are now required to pay storage and interest charges for the loan extension period on cash loan repayments. Producers must also pay storage charges for the loan extension period and a $1 per bale handling charge on forfeited cotton. In addition, the AWP formula was changed. When the AWP is within 15 pecent of the loan rate and U.S. cotton prices in Northern Europe exceed the five lowest priced competitors' cotton, the AWP may now be reduced by up to the amount that the U.S. price exceeds foreign prices.

It is essential for a successful and cost-effective cotton program that the AWP accurately reflect the true world selling price of cotton. There have been extended periods of time when U.S. cotton was clearly not competitive, yet the Department refused to alter the AWP formula or take any other action to make U.S. cotton competitive. Although the program is currently being administered as intended by Congress, the new farm legislation includes important provisions to ensure that U.S. cotton is priced competitively on domestic and world markets. There has also been some criticism of the operation of the upland cotton nonrecourse loan program. The 10-month loan, with the triggered 8-month extension, is an important marketing tool for the producer and is continued in the new legislation. The loan program should not, however, become a major hindrance to the orderly marketing of cotton. The Department has the flexibility to make adjustments in certain charges applied to loans in order to respond to changing market conditions and to ensure the continued orderly operation of the program. The new legislation authorizes the Department to continue to operate the loan program under current provisions unless major changes are warranted.

The demand for cotton in domestic and international markets is expected to remain strong. The cotton provisions included in the 1990 farm legislation should help to ensure that adequate supplies of U.S. cotton are consistently available at competitive prices while protecting producer income in the face of heavily subsidized competition. The marketing loan has been an effective tool for cotton in that it reacts to foreign subsidized competition and discourages unfair trade practices.

In this the final year of the 1985 legislation, cotton utilization is up both domestically and in export markets, stocks have returned to normal levels and production is strong. Further, budget outlays for cotton have declined to the point that the program is actually returning money to the Treasury for fiscal 1991. It is imperative that the fundamental principles of the 1985 legislation be continued for the future. And, it is equally important that further limitations or program eligibility, such as means tests and other limits, not be imposed on the cotton industry in such a manner as to make the program ineffective.

FMHA LAND TRANSFER PROGRAM

Mr. BUMPERS. Mr. President, the Farmers Home Administration [FmHA], as a lender of last resort, often finds itself involved in loans for farm operations that are very marginal. In Arkansas, as in many other States, properties that clearly should not continue to be farmed frequently become a part of the FmHA inventory. In some instances these properties, because of their present and potential environmental value, would make excellent additions to the National Wildlife Refuge System or to a State wildlife management area system.

During the Agriculture Credit Act deliberations I was successful in sponsoring legislation that would allow the Farmers Home Administration to transfer inventory lands to a Federal or a State agency for conservation purposes. The actual drafting of the provision was done in close cooperation with both the Farmers Home Administration and the Fish and Wildlife Service. The administration had no problem with the proposal.

Section 16 of the Agriculture Credit Act of 1987 amended section 354 of the Consolidated Farm and Rural Development Act to provide the Secretary with the discretionary authority to transfer Farmers Home Administration inventory lands to any Federal or State agency where:

Rights of all prior owners and operators have first expired;

The land is classified by Farmers Home as suitable or surplus; and

The land has marginal value for agricultural production, is environmentally sensitive or has special management significance.

Regulations to implement this authority were published in the Federal Register on Wednesday, September 14, 1988. The regulations were jointly prepared by the FmHA and FWS and very clearly provided for the implementation of a transfer program fully consistent with the statute.

Program implementation proceeded smoothly until about February 1989. In my State, six separate properties were transferred between program initiation and February 1989. Five of the properties went to the Arkansas Game and Fish Commission and one to the Fish and Wildlife Service.

Since February 1989, the State FmHA director in my State has recommended to the Washington administration that nine additional properties should be transferred to either the State or to the Fish and Wildlife Service. However, the Washington FmHA

office placed the entire transfer program on hold, ostensibly for the purpose of developing additional field guidance for processing transfer requests.

The long overdue guidance document to reactivate the transfer program, developed by Farmers Home in consultation with Fish and Wildlife Services, was released on July 18, 1990. The long delay in the release of the document, a draft of which had been agreed to in July 1989, was apparently a negotiating tactic employed by USDA in an effort to resolve an unrelated wetland easement issue that was under negotiation by USDA and the Department of the Interior. The Senate Agriculture Committee has included language in the proposed 1990 farm bill that will resolve the easement issue.

I had planned to offer an amendment to the farm bill to reactivate the transfer program. Because the guidance document for transfers was published on July 18, and because I have received a written assurance from the Under Secretary for Small Community and Rural Development, Roland R. Vautour, I have decided not to pursue my amendment.

I am troubled that USDA terminated an established program without justification or authority and then reactivated it only after I began efforts to introduce an amendment to the farm bill. But I believe that USDA is now committed to reactivating the transfer program and that their commitments to the program have been made in good faith. All of us will be the ultimate beneficiaries of this program.

Mr. President, I ask that the July 18, 1990, guidance document and the July 24, 1990, letter from Mr. Vautour be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 24, 1990.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: I understand that you may have some continuing concerns with respect to the policies and procedures of the Department of Agriculture governing the transfer of Farmers Home Administration (FmHA) inventory property to Federal or State agencies for conservation purposes under the provisions of section 616 of the Agricultural Credit Act of 1987.

There is in effect a blanket policy whereby appropriate disposition of property eligible for transfer under section 616 is a matter of consultation between FmHA and the Fish and Wildlife Service (FWS) of the Department of the Interior. A cooperative working relationship governing the identification of properties has been established between the two agencies, dating from the initial implementation of the program, and has been maintained since that time.

It is further the policy of the Department that properties subject to transfer requests be withheld from sale pending a determination of their suitability for transfer under the authority of the Secretary. I am not aware of any such property's having been sold in contravention of this policy. If informed that any such a sale is pending, I shall of course take the necessary steps to assure that the transaction is not concluded.

Enclosed is a list of pending requests for transfer and their status. This list is routinely updated and I would be pleased to furnish you with a July report as soon as it is available, along with an indication of the timetable for processing in the National Office of FmHA.

Your office has, I believe, been furnished a copy of my letter of last week to Senator Leahy informing him of our decision to resume the section 616 transfer program in light of the wetlands language amendment to the 1990 Farm Bill, adopted by floor vote last week, plus a copy of the FmHA Administrator's directive to the agency's field staff to that effect.

Please let me know if you wish further information on implementation of this program.

Sincerely,

ROLAND R. VAUTOUR,
Under Secretary for Small Community and Rural Development.

FARMERS HOME ADMINISTRATION,
Washington, DC, July 18, 1990.

Subject: Transfers of Farm Inventory Property to Federal or State Agencies for Conservation Purposes.

To: State Directors, District Directors, and County Supervisors.

Purpose/intended outcome: The purpose of this AN is to outline FmHA policy in transferring farm inventory property to a Federal or State agency for conservation purposes. The AN also outlines the information needed by the National Office to authorize a transfer. The intent is to clarify Section 1955.139(c) of FmHA Instruction 1955-C, ensuring a consistent approach in transferring property for conservation purposes.

Implementation responsibilities: Section 1955.139(c) of FmHA Instruction 1955-C states that suitable and surplus farm inventory property may be transferred to a Federal or State agency for conservation purposes. FmHA will process such requests under the following guidelines:

A. PROPERTY DISPOSITION

Property eligible for transfer in accordance with Section 1955.139(c) of FmHA Instruction 1955-C may be transferred in accordance with the following guidelines:

1. Transfers will only be considered after all leaseback/buyback and homestead protection rights are exhausted.

2. The U.S. Fish and Wildlife Service (FWS) will indicate its interest in a property as part of its environmental evaluation. FWS will be responsible for notifying other Agencies which may have an interest in the property.

3. Once priority leaseback/buyback and homestead protection rights have expired, FmHA will notify FWS and Agencies which have expressed interest in the property. FmHA will permit the interested Agency to apply for transfer prior to the parcel being offered for sale as either suitable or surplus. If appropriate, the requesting Agency may split its request for a suitable property into two stages: Stage 1 would cover that portion determined to be of MAJOR importance, and which the requesting Agency believes qualifies for immediate transfer, as outlined in paragraphs 4 and 5 below. Stage 2 would cover that portion qualifying for transfer after FmHA has attempted to sell it, as outlined in paragraph 7 below.

4. When the requirements of paragraph 1 have been met, suitable property which is of MAJOR importance, as set forth in this AN's Attachment, will be transferred to the requesting Agency without advertising it for sale. If such property has been processed for sale prior to the receipt of the AN, the sale process will be suspended if the property has not been publicly advertised for sale. If the property has been advertised for sale to the public and FmHA is in the process of accepting offers, the Administrator should be contacted for further guidance.

5. When a portion of a suitable property is of MAJOR importance, the State Director may request authorization from the Administrator to subdivide the farm and transfer that portion without advertising it for sale. FmHA reserves the right to determine whether the property will be subdivided.

6. Surplus property will be transferred to a requesting Agency without advertising.

7. When Agencies have expressed an interest in suitable property that is NOT of MAJOR importance, FmHA will offer such property for sale at least one time within 6 months from the date FmHA gains the ability to dispose of the property by sale or transfer. This date should be immediately posted in item number 7 of Form FmHA 1955-3A to update the inventory tracking system. After the expiration of this 6-month period, if the property is not sold, FmHA will transfer all or that portion of the property which meets the requirements of Section 1955.139(c) of FmHA Instruction 1955-C.

Properties that FmHA had the ability to dispose of for more than 6 months as of the date of this AN will be processed in two classes as follows:

(a) Properties which have not yet been advertised for sale will have their 6-month period begin as of the date of this AN.

(b) Properties that have been advertised for sale to family-sized farmers will be transferred with no additional sales attempt if no acceptable offers were received.

8. If there is no request for transfer of suitable property within the time frame of paragraph 7 above, FmHA will continue to advertise the property as set forth in Section 1955.107 of FmHA Instruction 1955-C. If a transfer request is received, FmHA will process the request at the conclusion of any existing advertised sale attempt, should no acceptable offers be received, unless the sale attempt is suspended by the Administrator.

9. After 36 months from the date of acquisition, unsold suitable property will be reclassified as surplus in accordance with Section 1955.63(a) of FmHA Instruction 1955-B. Upon request from an eligible Agency, such property will be transferred for conservation purposes without further attempts to sell it. The State Director may recommend to the Administrator an appropriate subdivision of the surplus property, and, if approved, may advertise the remaining portion to the general public.

10. If leaseback/buyback or homestead protection rights are exercised through a lease with option to purchase, but the applicant fails to exercise the option, the property will be processed as set forth in paragraphs 3 through 9.

11. Inventory properties which have not been previously evaluated by FWS will be processed as provided in paragraphs 1 through 7.

B. SUBMITTING REQUESTS FOR TRANSFERS TO THE NATIONAL OFFICE

Requests to the Administrator for authorization to transfer property must provide:

1. A written recommendation from the State Director to transfer the property to another Federal or State Agency, including documentation supporting the eligibility of both the property for transfer and the requesting Agency. The recommendation must include a copy of the recipient Agency's request and, if applicable, supporting documentation for the MAJOR importance determination.

2. A discussion of the potential impact of the proposed transfer on adjacent properties, the overall environment of the community, and the local economy.

3. A current market appraisal of the property.

4. An Agricultural Stabilization and Conservation Service aerial photo of the property or map, highlighting the boundaries, and estimated number of acres of pasture, tillable acres, woodland, wetlands, floodplains, or other protected environmental resource(s).

5. A description of the types of agricultural enterprises and/or commodities produced during the last 3 years of the farm's operation.

6. Description of the property's location in relation to other farms in the area, population centers, wildlife refuges, other environmentally sensitive properties, etc.

7. If applicable, a description of how the property will be subdivided and the rationale for the subdivision.

8. A copy of the environmental impact analysis prepared in accordance with FmHA Instruction 1940-G.

C. DECISIONMAKING AUTHORITY

Unless authorized by the Administrator, State Directors cannot approve transfers. By this AN, State Directors have the authority to deny transfers if they determine that either the property is not eligible for transfer under Section 1955.139(c) of FmHA Instruction 1955-C, or the transfer does not meet the definition of MAJOR under the provision of the Attachment to this AN. All other requests must be submitted to the Administrator within 30 days from receipt of the request and include the State Director's recommendation and supporting documentation.

When denying a request, the State Director will inform the requesting Agency in writing within 30 days from receipt of the request.

1. The requesting Agency may seek the Administrator's review of the decision by providing notice to the State Director within 30 days.

2. Until the Administrator's review is completed, no further disposition actions will be taken by FmHA.

3. If the requesting Agency asks for an Administrator's review, the correspondence is to be transmitted through the State Director.

Requests received prior to the expiration of leaseback/buyback and homestead protection rights should not be formally denied, but should be acknowledged and then handled under the provision of paragraph A, item 3.

The Administrator reserves the right to deny any transfer request meeting these guidelines when there are overriding concerns. The requesting Agency will be notified of FmHA's position.

Questions should be directed to Roger Witt, Farmer Programs Loan Servicing and Property Management Division, on FTS or 202-382-1984.

Expiration date: July 31, 1991.

LAVERNE AUSMAN,
Administrator.

INVENTORY PROPERTY OF MAJOR IMPORTANCE

In reviewing requests for transfers of inventory property or portions thereof to State or Federal Agencies, a property or portion of same will be of major importance if it meets any one of the following criteria.

A. Property that is eligible for transfer under the definition of environmentally sensitive:

1. Property is or would be so encumbered with a required conservation easement that further agricultural use is impractical; or

2. Property either (a) contains listed or proposed Federal/State critical habitat; (b) clearly supports Federal/State proposed or listed endangered or threatened species, or (c) property is specified in a recovery plan for a listed Federal/State endangered species; or

3. Property contains wetland(s) that (a) would qualify for acquisition under the FWS wetland assessment threshold criteria; and (b) is within an identified priority land acquisition area of the North American Waterfowl Management Plan; and (c) would be actively managed by the receiving Agency; or

4. Property is either within the boundaries of the Coastal Barrier Resources System or the National Wilderness Preservation System, or borders the watercourse of a designated or proposed area of the National Wild and Scenic Rivers System; or

5. Property is within the boundaries of an Environmental Protection Agency designated sole source acquifer recharge area and also has marginal value for agricultural production; or

6. Property contains an historic property of National Landmark status.

B. Property that is eligible for transfer under the definition of special management importance:

1. Property is an inholding, as verified by the requesting Agency, in either a State or Federally owned area or an area legally designated for acquisition by a State or Federal Agency (hereafter referred to as legally designated area); or

2. Property is adjacent to or in close proximity to a legally designated area, as verified by the requesting Agency, and property is also either environmentally sensitive in its present resource state or marginal farmland; or

3. Property is adjacent to or in close proximity to a legally designated area and there are documentable problems with adjecent land uses, such as encroachment by development; or

4. Property provides unique opportunity for necessary ingress or egress to a legally designated area.

C. Property that is eligible for transfer under the definition of marginal value for agricultural production:

Property meeting only this criterion will normally not be considered for a priority transfer. However, if the requesting Agency demonstrates that the property can serve a significant conservation purpose, FmHA will consider transfer without an attempt to sell.

FOOD SAFETY AND INSPECTION SERVICE RULES FOR VOLUNTARY CERTIFICATION OF BOB VEAL CALVES

Mr. KOHL. Mr. President, it had been my intention to offer an amendment to this bill which would have directed the Food Safety and Inspection Service to return to rules they promulgated on June 7, 1984 for the voluntary certification program for bob veal calves. The ultimate goal of this amendment was to solve a significant problem with the current voluntary certification program within FSIS.

Mr. President, I would like to take a few moments to explain the problem with which the veal industry has been confronted.

In the early 1980's, Mr. President, the bob veal industry faced an unusually high rate of violative residues found in bob veal calves at the time of slaughter. As a solution to that problem FSIS promulgated rules on June 7, 1984, creating a voluntary certification program for producers of veal calves. Producers were allowed to certify that they did not treat their calves with antibiotics or sulfonamides, or that if they did treat the calf, the proper withdrawal period was followed. Certified calves are subject to less frequent random testing by FSIS and as a result, brought a price premium in the market. While producers were pleased with the program, FSIS amended these rules on March 2 of this year.

The new rules for the voluntary certification program required that all custodians of the calf, from farm gate to slaughterhouse, certify that the calf was not treated with antibiotics or sulfonamides while in their possession. The fine for false certification is $250,000 per calf and/or five years in jail. Mr. President, no truck driver or handler is willing to incur such a liability for an animal which is in their possession for such a short time.

I am told by the veal industry in my home State that the end result of this rule change has been the virtual elimination of the voluntary certification in the bob veal industry. Truckers and dealers are unwilling to certify the calves because they assert they have no control over the treatment of the calf prior to their handling of the animal. In short, they are afraid of being falsely accused of treating an animal with antibiotics.

Mr. President, this is a significant problem for my producers in Wisconsin. Well over 1 million veal calves are sold each year in Wisconsin.

I believe that it is essential that we establish a workable voluntary certification program for the bob veal industry. The industry is committed to providing consumers with a pure and wholesome veal product. However, it is clear that the existing program is not meeting it's stated purpose.

I have worked extensively with the Food Safety and Inspection Service regarding this problem. I am pleased that it is no longer necessary to offer an amendment to solve this problem.

I have received an assurance from the Department of Agriculture that they will conduct a full review of the program, including an analysis of it's effectiveness, the process and the impact on consumer confidence. Following completion of the study, FSIS will file their report with the Congress.

I commend the Food Safety and Inspection Service for their commitment to reevaluate the program and their willingness to work with me in resolving this problem.

I share the concern that FSIS has for ensuring consumers a safe food product. I am confident that this review will bring to light the significant problems with the existing veal certification program. It is my hope that a new voluntary certification program will be created which results in wide industry participation and ensures a wholesome veal product to consumers.

Mr. President, I ask unanimous consent that a copy of the letter I received from FSIS be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC.

Senator HERBERT KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: I appreciate knowing of your interest in the bob veal residue certification program operated by USDA's Food Safety and Inspection Service (FSIS).

As you know, FSIS issued a new rule strengthening the certification program in March. This rule was designed to enhance food safety by requiring all custodians of the calves to take responsibility for their actions while the calves are in their possession. Specifically, each custodian is now required to certify that the calf did not receive any drugs or that proper withdrawal procedures were followed while the calf was in that custodian's possession.

Under prior regulations, only the producer of the calf was required to complete a residue certification form. However, the calf may pass through several custodians before ultimately reaching consumers. In some cases, there were greater incidences of violative drug residues for certified calves than for non-certified calves. Since a premium price may be paid for certified calves, all custodians down to the consumer level have a right to expect that certified calves are, in fact, free of violative levels of drug residues.

The new rule also requires each custodian to sign a statement that he or she understands there is a maximum penalty of $250,000 for misrepresenting or falsifying information on the certificate. The penalty is not new; it has always been a part of the program. The change is only to remind custodians of the seriousness of misrepresenting or falsifying documents when food safety is involved.

We share your interest in making the certification program a successful and widely used program. Our first priority remains ensuring food safety for consumers. We will conduct a full review of the program including an analysis of the program's effectiveness, the process, and the impact on the consumer's confidence. We will file our report with the Congress.

Sincerely,

JO ANN SMITH,
Assistant Secretary.

SWAMPBUSTER PROVISION

Mr. LUGAR. Mr. President, in the farm bill before us today the committee has recognized that the swampbuster minimal effects exemption process is to be utilized more readily than has been the case in the past. This will indeed make the swampbuster provision more workable. On the other hand, it could be interpreted as providing latitude for potential wetland loss. What measures are being taken to ensure that the wetland protection aspects of the 1985 act are not being diminished here?

Mr. LEAHY. The bill provides guidance so that minimal effects determinations may be made without the hesitancy that has prevailed in the process to date. However, the protection of wetlands will not be diminished under the language in the bill. Although producers will be able to take actions which have only a minimal effect on wetland values, the committee expects the Department of Agriculture to protect wetlands and their functions and value. The committee bill requires concurrence with the Fish and Wildlife Service at the local level with all minimal effect determinations.

Mr. LUGAR. The minimal effects provision is very valuable, I believe. It is important that producers not be found in violation of swampbuster if they make a mistake, or act inadvertently, and the effect of this mistake or action on the wetland in question is minimal.

Mr. LEAHY. I agree, this provision does permit the law to be implemented fairly and equitably, protecting the wetland resources in question, and the rights of producers.

THE FARM BILL OF 1990

Mr. BINGAMAN. Mr. President, I rise in support of S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990. This legislation reauthorizes farm programs for 5 years. Failure to act on this legislation would mean higher price and income supports; the elimination of controls in acreage, production, or marketing; and, the mandatory purchase of suplus production by the Federal Government.

The major benefit of S. 2830 is that it would provide long-term stability to farmers, enabling them to plan over a multiyear period. Highlights of the bill include a freeze on market prices, additional flexibility to farmers to plant crops of their choosing without losing historical commodity base acreages and to make tradeoffs between acreage set-aside requirements and target prices, prohibition on the overseas export of pesticides banned from U.S. farm use but found in many imported foods, reauthorization of the conservation reserve with tree-planting and water quality initiatives; new forestry provisions calling for enhanced private-public partnership to protect private forest lands; and higher funding levels and broadened research authorities, including research in new agricultural products.

American farmers provide the consumer with the cheapest, safest, and most reliable food supply in the world. Our farmers also provide food to the rest of the world, especially those least developed nations. Agriculture is the Nation's largest industry—employing over 20 million people and accounts for nearly one-fifth of our Nation's gross national product. In New Mexico there are over 13,500 farms with cash receipts from agriculture totaling over $1.1 billion.

A farm bill should help ensure that Americans have plentiful supplies of food and fiber at reasonable costs, and that our farmers receive a fair return on their crops, that the food we produce in the United States is safe and nutritious, and that our farm programs meet budgetary constraints.

I believe this legislation strikes that careful balance. I congratulate all members of the Agriculture Committee who worked so effectively in a bipartisan manner to draft the Food, Agriculture, Conservation and Trade Act of 1990.

I ask my colleagues to support this legislation.

THE SENATE FARM BILL

Mr. SPECTER. Mr. President, while this farm bill will doubtless pass by a decisive margin, I am voting no as a protest against excessive Federal spending and provisions against consumers' interest, especially related to California fruit, which significantly adversely affect Pennsylvania.

Notwithstanding efforts to curtail excessive subsidies, this bill contains too much Federal support for commodities such as sugar and peanuts.

With the history for farm supports, it is difficult to take immediate, significant steps to return to a market oriented economy. In my extensive travels through Pennsylvania discussing these issues with farmers, I have heard much sentiment by the Pennsylvania agriculture community in favor of less governmental action, even though it would mean in some cases less price support for them, with steps moving toward a market economy. There is a great spirit among our farm community for free enterprise, individuality and productivity.

In my home State, Pennsylvania, agriculture is the No. 1 industry. The Commonwealth's 56,500 farm families and its 1,500 food processors provide a strong economic base for the Commonwealth. With a $3.2-billion annual harvest, Pennsylvania's family farms

generate $35 billion in economic activity each year. Although Pennsylvania ranks 16th in the country in number of farms and 14th in the country for total farm marketing, it ranks 34th in Government farm payments. This, I believe, indicates that Pennsylvania farmers are extremely diverse in their choice of commodities and typically grow quality crops. On a comparative basis, Pennsylvania benefits from this farm bill much less than other States where sugar or peanuts are subsidized or where there are extensive supports for products such as feed grains.

I strongly oppose the bill's provisions which add extra protection for California produce to the detriment of America's consumers and also to the specific injury to the Philadelphia port. Extra commodities have been added to the marketing order and the period for excluding Chilean grapes has been expanded. Senator HEINZ and I made extensive efforts to negotiate a more equitable arrangement with our California colleagues, Senator CRANSTON and Senator WILSON, but to no avail. Senator HEINZ and I then offered amendments with the able assistance of our regional colleagues—Senator ROTH, Senator BIDEN, Senator BRADLEY, Senator LAUTENBERG—but again to no avail in light of opposition by the U.S. Department of Agriculture and the members of the Agriculture Committee.

The farm bill is a very complex piece of legislation because it represents a coalition of so many interests. Pennsylvania has a large agricultural community which has a vital stake in this bill. Few people realize that there are more people living in rural Pennsylvania then live in the rural part of any other State in the country. My work on the Agriculture Subcommittee of Appropriations keeps me in constant touch with these important issues. On balance, I think it is fair to say that Pennsylvania does not receive equitable treatment under this legislation.

In terms of the national interest, a much better bill can be enacted to limit excessive Federal spending and to provide more equitable treatment for all our Nation's farmers.

DAIRY MANUFACTURING ALLOWANCE

Mr. WILSON. Mr. President, I wish to commend the distinguished Senator from Vermont [Mr. LEAHY] and the distinguished Senator from Indiana, [Mr. LUGAR] for the tremendous effort they have expanded in forging the Food, Agriculture, Conservation, and Trade Act of 1990. Clearly, the formulation of such a bill was a demanding exercise which required skill and compromise on both sides of the political aisle.

While I applaud Senators LEAHY and LUGAR and my other colleagues on the Agriculture Committee for drafting this comprehensive bill, I must, nonetheless, comment on one aspect of this bill which I find to reflect inferior farm policy.

The provision to which I am alluding is the requirement in the dairy title which mandates that all 50 States utilize a uniform manufacturing allowance. The potential repercussions of federally imposed uniformity are detrimental for those States which choose not to rely on USDA manufacturing allowances. The provision also promises to have detrimental consequences for the Federal budget.

In prohibiting States from establishing manufacturing allowances that exceed those established by the USDA, this provision erroneously assumes that all States face the same market conditions.

In my own State of California, the dairy industry confronts unique market conditions that include low farm production costs coupled with high manufacturing costs. Thus, the California manufacturing allowance serves as a differential paid to compensate manufacturers of butter, nonfat dry milk, and cheese for the high labor and utility costs with which they must contend. California has historically established manufacturing allowances greater than those set by the Federal system in order to ensure adequate manufacturing capacity for the State. Implementing a policy that disregards those conditions would disrupt the carefully achieved equilibrium that exists in California's dairy market.

In addition to the damage individual States will suffer, a uniform manufacturing allowance represents fiscal irresponsibility. Proponents of the uniform manufacturing allowance base their support on the premise that lowering the manufacturing allowance in a State like California will decrease Commodity Credit Corporation [CCC] purchases. However, the likely outcome is that sales to the CCC will increase, leading to greater Federal outlays and an increased Federal deficit.

A worsened Federal deficit will occur because, in the case of California, dairy farmers will receive a greater return which will stimulate production. Consumer demand, however, will not match this heightened production, and California's excess supplies will be purchased by the CCC.

The budget implications of the increased purchases from California alone are substantial. A cost estimate by CBO determined that the CCC purchases would result in $51 million in additional Federal outlays in the 5-year life of the bill. A similar estimate by the California dairy institute put the cost at $165 to $219 million over the 5-year period.

Given the adverse implications of this provision, it is my hope that the conference committee will reevaluate the uniform manufacturing allowance and strike it from the bill. In these times of fiscal austerity, we cannot afford to implement policies that fail to meet the test of fiscal responsibility. There is no doubt that a federally mandated manufacturing allowance fails to pass such a test.

MITIGATION OF WETLANDS CONVERTED BETWEEN 1985 AND 1990

Mr. LUGAR. I believe the committee made a very valuable change in the Swampbuster Program through the creation of a wetland mitigation provision. In general, the provision allows for the mitigation of converted wetlands through the restoration of a previously converted wetland as long as such restoration occurs before or concurrent with the wetland conversion.

Mr. LEAHY. I agree with the Senator's assessment of the value of the wetland mitigation provision. The requirement that restoration needs to occur before or concurrent with the wetland conversion is very important because it helps ensure that equivalent wetland functions and values will be created in this process.

Mr. LUGAR. The Committee recognized the importance of the timing of the restoration effort, and for this reason included this requirement. At the same time, we need to recognize that some wetlands will have been drained since December 23, 1985, but before the enactment of this title. In these cases, the wetland functions and values have been lost. Unfortunately, the language in the bill is silent as to whether the loss of these wetlands could be mitigated.

Mr. LEAHY. I believe that it is important to make sure that as many of these lost wetland functions and values be regained, and that their mitigation under this circumstance is consistent with the principle established in the mitigation provision in the bill.

Mr. LUGAR. This being the case, it is appropriate to say that wetlands converted after December 23, 1985, but before enactment of this title, should be eligible for the same mitigation privileges as those converted following enactment of this title, provided that the restoration effort results in equivalent functions and values.

Mr. LEAHY. I concur with the Senator from Indiana's statement on this issue.

HAWAIIAN HOMESTEAD LANDS

Mr. AKAKA. Mr. President, I rise in support of the pending amendment.

Mr. President, current law permits the Federal Government to financially assist farmers, ranchers, and other eligible private landowners with the cost of approved soil and water conservation and pollution abatement practices. Unfortunately, there is a group of landowners who have been unable to obtain access to Federal cost sharing. These farmers are homesteaders on Hawaiian homelands. The inability

to obtain cost sharing at the connection stage of their irrigation systems represents a major barrier to native Hawaiians seeking to conserve water, develop their lands agriculturally, and improve their economic well-being.

The Agricultural Stabilization and Conservation Service should be commended for ruling that some Hawaiian homestead lands previously leased to pineapple companies and irrigated with tank truck systems constitute land previously irrigated and eligible for Agricultural Conservation Program cost sharing. The installation of water conserving irrigation systems, however, raises a peculiar problem for Hawaiian homesteads. Connection costs are far higher than would normally be encountered. These higher costs are a result of the fact that much smaller tracts of land are being irrigated than was the case when pineapple was produced on this land.

Last year and again in May, the Select Committee on Indian Affairs held hearings in the State of Hawaii on issues associated with native Hawaiians. During these hearings, special attention was given to their access to Federal programs which might be of assistance in developing Hawaiian homelands and thereby relieving some of the catastrophic physical, social, and economic conditions of the native Hawaiians. The aspects of this amendment relating to native Hawaiians are a product of those hearings.

Mr. President, this amendment would attempt to rectify this problem by extending the assistance to farmers on Hawaiian homelands that is necessary to permit them to irrigate their land.

ACROSS-THE-BOARD CUTS

Mr. McCONNELL. Would the distinguished minority leader yield for a question?

Mr. DOLE. I would.

Mr. McCONNELL. Is it his intent that this sense of the Senate include tobacco?

Mr. DOLE. No. That is not my intention.

Mr. McCONNELL. Thank you, because it is important to recognize the contribution tobacco already makes to reducing the deficit. It is a program that is paid for entirely by growers and manufacturers and generates nearly $10 billion in excise taxes.

Mr. HELMS. Would the leader yield for a similar question?

Mr. DOLE. Yes.

Mr. HELMS. I am pleased with the Senator from Kansas' intentions regarding tobacco. I wonder if I could make some observations on the peanut program as well.

Mr. DOLE. I yield to the Senator.

Mr. HELMS. I am hopeful the minority leader will keep in mind the peanut program took a budgetary hit in 1981 and should receive some credit for getting the Government out of their program, and for paying its own way.

Mr. DOLE. I am aware of that fact, but I would also remind the Senator from North Carolina that many commodities took cuts in 1985.

Mr. HELMS. I understand, and merely wanted to point out the peanut program's unique ability to already pay for itself.

Mr. DOLE. I appreciate the comments of my friend from North Carolina.

Mr. SIMPSON. Mr. President, this bill, like so many that we consider here, has been the result of a great deal of thorough debate and compromise. Like any negotiated bill, it isn't perfect—it has its good and bad provisions.

On the positive side, this legislation takes some important steps toward the goal of making agriculture in the United States more market oriented.

There are also provisions in this bill, as it has been amended, which have significant importance to the State of Wyoming. I am pleased to have sponsored an amendment to this bill which, I believe, treats the wool industry more equitably than the committee reported version of the bill would have done. The wool industry is so vital to my State and to many other areas of this country. My amendment would comply with the administration's recommended cap of $250,000, which is a great improvement over the $50,000 cap which was previously in the bill. I am also pleased to see that the sugar program was maintained at its current level. That program is also very vital to Wyoming. But furthermore, it is a no-cost program to the taxpayers who provide incentives to this important national industry.

Efforts to include certain "anti-western" water reclamation amendments in this bill were thwarted. An amendment which I sponsored, and which my friend and senior colleague, MALCOLM WALLOP cosponsored, to provide drought assistance eligibility for certain farmers on the Wind River Reservation was also included in the bill.

On the other hand, the farm bill is still over budget. During the course of the budget summit, farm programs will be right back on the table, along with every other spending program in this country, if we ever hope to achieve an agreement. Like all other spending programs, the farm program should be expected to share an equitable part of the burden of deficit reduction during these critical times. In view of the budget constraints, I do hope this bill will be improved in conference and that the final result will be more substantially in compliance with the administration's budget recommendations.

Finally, I do want to sincerely commend the managers on both sides of the aisle. They have done an excellent job, as is characteristic of both of them. Typically, it has been a pleasure working with the distinguished chairman of the committee, my friend, PAT LEAHY who I serve with on the Judiciary Committee—an able and directed gentleman and the ranking member Senator LUGAR a patient and steady man who is one of the most respected men in this body. Both of them are always very capable in every aspect of their work here in the Senate. I would also like to thank the majority staff director, Chuck Reimenschneider and the majority staff. They have been very helpful to me and my staff. On the Republican side, Chuck Conner and the rest of the Republican staff helped me and my staff immeasurably during the course of this bill's consideration.

I would like to especially commend my brandnew agriculture legislative assistant, Katherine Brunett. Quite a baptism under fire! She is from my native State of Wyoming and has a very strong academic and practical background in agriculture. However, she has only been with me for 2 weeks and she was certainly thrown into the "deep end of the pool" during consideration of this bill. She has performed admirably and I am very proud of her work. I would also like to thank Warren Schaeffer of my staff. He is a splendid lawyer and he has provided able legal assistance on the drought assistance amendment. And to my loyal and always present counsel for the assistant minority leader's office; Mike Tongour. He did a great job of coordinating our efforts on behalf of our State.

Finally, I would like to thank our strong and thoughtful leader, BOB DOLE, for his expertise in this area and for his excellent and insurmountable leadership during the debate. His staff, especially Jim Whittinghill and Dave Spears have been particularly helpful to all of us. As usual, the majority leader has demonstrated job-like patience, and he should also be commended for his fine leadership.

CONSERVATION

Mr. LUGAR. Mr. President, the Department of Agriculture, as a consequence of the conservation provisions of the 1985 farm bill, made and will continue to make hundreds of thousands of determinations concerning various activities of farmers. These determinations have a direct influence on the eligibility of farmers for various Federal commodity program benefits.

Situations have arisen where producers have taken actions in accordance with guidance provided by USDA personnel, only to learn later that the guidance was in error. Producers have, as a result, found themselves in technical violation of various commodity or conservation provisions. In this situ-

ation, should these producers be eligible for program benefits?

Mr. LEAHY. A producer should not become ineligible for farm program benefits for actions taken in good faith, based on the advice of USDA personnel. However, as stated in existing USDA regulations, relief should not be accorded in those cases where the Secretary has determined that the producer knows that the action or advice provided by USDA personnel was improper or in error.

Mr. LUGAR. What if the incorrect guidance is corrected before the producer actually takes the action?

Mr. LEAHY. In the case of Swampbuster, the 1985 Food Security Act permits wetland conversion activities to be completed if they were commenced prior to the enactment of the 1985 farm bill. I believe the same principle should apply in those situations where incorrect information was provided to producers.

Mr. LUGAR. I understand that under this principle, if a producer has committed funds toward a wetland conversion under a commenced determination rendered by the USDA, and such determination is later found in error and corrected, the producer should be allowed to complete whatever portion of the conversion effort that is fair and equitable.

Mr. LEAHY. That is correct. Also, following this same principle, if no funds had been committed toward the conversion activity prior to receipt of the corrected guidance, then the conversion should not be allowed to be implemented if such action is in conflict with the corrected guidance.

THE AGRICULTURAL PROMOTION PROGRAMS ACT OF 1990

Mr. DOMENICI. Mr. President, I rise in support of legislation before the Senate dealing with promotion programs for agricultural commodities.

First, I would like to comment on those provisions which would amend the Cotton Research and Promotion Act. Specifically, this language would extend the collection of assessments to the upland cotton content of imported products and would discontinue the current practice of allowing a refund of the producer assessment.

Production of upland cotton is very important in New Mexico. In 1988, cotton lint generated approximately $32 million in cash receipts, with an estimated 69,000 acres of upland cotton harvested in the State.

Mr. President, I generally support the concept of self-help programs to allow for market development when such programs are funded and directed by agricultural producers. Given this program's demonstrated successes, a rescission of the refund provision will probably not cause undue hardships for upland cotton farmers.

Upland cotton producers in New Mexico are generally considered some of the strongest supporters of this program. In 1987, they paid an assessment of approximately $2.95 per bale; more than $194,000 was paid into the cotton promotion program by New Mexico farmers. New Mexico has a very low rate of request for refund of the assessment.

Even though I support this legislation, for the record I would hope that the provisions extending the assessment to importers of cotton products be carefully examined. I am concerned that this provision may not be consistent with the General Agreement on Tariffs and Trade [GATT]. Raw cotton and many cotton products entering the United States are subject to import quotas. Once the quota is met, this promotion program cannot assist importers in expanding their share of the market. Thus, a potential GATT conflict could arise because the importer is not treated in a manner consistent with the treatment of the domestic producer.

I would also like to mention my support for the provisions in this amendment which would establish a program for promotion of pecans.

In 1988, pecans were ranked ninth in terms of cash receipts; New Mexico's crop of 26 million pounds generated approximately $16 million in receipts for our farmers.

In fact, in fiscal year 1989 New Mexico ranked as the seventh largest exporter of tree nuts in the United States.

In the language before us, a self-help program for farmers could be established to strengthen the pecan industry's market position and to maintain and expand existing and new markets and uses for this important commodity. These efforts could be conducted in the United States and abroad.

The Pecan Marketing Board would be directed by a board of sixteen members, eight of whom would be growers. Activities would be funded by an assessment of ½ cent per pound in the first year and 2 cents per pound thereafter on all pecans produced in or imported into this country.

Within 24 months, the program would be subject to a referendum to determine if a majority of pecan growers, grower-shellers and importers wish to continue, terminate or suspend the program.

Similar provisions were included in the reconciliation package reported by the Senate Budget Committee last fall. The language was clearly extraneous to the reconciliation process, and I supported stripping it from the reconciliation bill.

At that time I indicated there were provisions in that bill I supported; these are some of those. In fact, last year I cosponsored similar legislation passed by unanimous consent by the Senate.

I am hopeful that the 1990 farm bill will provide the forum for these provisions to be enacted in an expeditious fashion.

DEPARTMENT OF AGRICULTURE'S PLANS FOR IMPLEMENTING THE UNITED STATES-CANADA "OPEN BORDER" AGREEMENT

Mr. DASCHLE. Mr. President, on February 26, U.S. Secretary of Agriculture Clayton Yeutter and Canadian Minister of Agriculture Donald Mazankowski issued a joint statement announcing their agreement to conduct a 1-year experiment in which procedures for reinspection of meat and poultry products would be modified to permit products to move freely between their countries.

On June 29, the Food Safety and Inspection Service published a proposed rule to implement the agreement. The proposal would amend the Federal inspection regulations by exempting Canadian meat and poultry products intended for import into the United States from several requirements under these regulations, including the requirement that imported products be subject to reinspection by United States import inspectors. This means no more port-of-entry inspections of Canadian meat and poultry products by United States inspectors. The experiment will be conducted without any random or spot checks to monitor Canadian compliance with the terms of the agreement, or United States inspection and grading standards.

The comment period on the proposed rule is open and USDA officials have said the 30-day comment period that was to expire July 30 will be extended for another 30 days.

The so-called open border agreement represents a dramatic departure from current inspection procedures and holds broad implications for the meat and poultry industry and American consumers. It is significant that the agreement comes at this time, as the negotiators in the Uruguay round of the General Agreement on Tariffs and Trade consider proposals to harmonize international sanitary and phytosanitary standards.

The performance of the Department of Agriculture with respect to the negotiation and administration of this open border agreement gives us a basis on which to judge the Department's ability to handle other agreements of this kind. It also gives us a view of the changes the Department may have in mind for American consumers and the meat industry under an international agreement.

My examination so far of the way the Department has handled the negotiation and proposed implementation of this experiment has not inspired my confidence in the Department's ability to administer trade agreements of this

kind, or of the Department's resolve in protecting the interests of U.S. processors, producers and consumers. To be successful, any free trade agreement must be based on a level playing field that treats American producers, processors and consumers the same as the other party to the agreement.

Senators should be aware of the following information about the agreement.

The agreement was made on the grounds that the Canadian inspection system is equivalent to our own. Testimony presented at a hearing July 12 before the Agriculture Subcommittee on Research and General Legislation showed that there are significant differences in inspection and grading standards and procedures that put our processors and producers at a competitive disadvantage. These differences are not addressed in the agreement.

Further regarding the issue of equivalency, the General Accounting Office testified at the July 12 hearing that USDA lacked adequate documentation for GAO to independently review the USDA determination of equivalency of the two inspection systems.

According to the USDA general counsel, the agreement was made and signed without any consultations with the general counsel as to whether or not the agreement is consistent with U.S. law.

Again according to the general counsel, the agreement was signed contingent upon the clearance of the general counsel. OGS says that as of May 18, such clearance had not been sought or obtained. It is not clear that such clearance has been granted to this date. If the agreement is contingent on general counsel clearance, this raises the question of whether, without such clearance, there is an agreement that is enforceable. Furthermore, there is a question of whether the agreement requires clearance by the Department of State.

Because the agreement was made and signed prior to general counsel clearance, the general counsel was forced to develop, some might say "concoct," a legal argument to justify the agreement as consistent with U.S. law. The argument that the general counsel developed is this: That the Secretary of Agriculture may rely on foreign inspectors to enforce U.S. meat and poultry inspection laws.

This interpretation of law also suggests that USDA has no further responsibility to spot check, or make random inspections, to make sure that imported meat and poultry products are in compliance with United States rules and standards, or that the Canadian Government is complying with the terms of the open border agreement.

This interpretation is not what Congress envisioned when it wrote the meat and poultry inspection laws. It was intended that the Secretary of Agriculture enforce U.S. inspection laws through U.S. inspectors. The USDA legal interpretation is not what Congress envisioned when it approved the Free Trade Agreement. The implementing legislation specifically provides allowance for spot checks under a more liberal meat and poultry inspection regime.

The USDA general counsel has warned the Assistant Secretary of Marketing and Inspection Services that there is a high likelihood of a lawsuit against USDA challenging the promulgation of the proposed rule and that the implementation of the agreement by regulation, without a change in law, is subject to legal risk. In other words, the rule could be stopped in court as not in compliance with U.S. law. USDA offers in defense of its judgment that the Canadian inspection system is equivalent to that of the United States that the Canadian system is more like our system than that of any other country in the world. That is not a satisfactory response. Whether or not the Canadian system is more like our own system is beside the point. The inspection regimes of all other countries could be vastly different from our own, and because the Canadian system might be more like ours than the rest could mean that the Canadian system could still be very different. This response does not answer the question of how USDA knows, how can it assure consumers—let alone Congress, producers and processors—that the Canadian system is equivalent to the United States system. To this question, USDA has not provided a satisfactory response.

This is a critical issue, because under the open border agreement, this determination of equivalency becomes the only assurance that Canadian meat and poultry products are safe and wholesome for American consumers.

USDA offers assurances that spot checks will occur, but only to the extent that they occur on domestic products. That means that inspections on meat and poultry products for further processing at U.S. processing plants will be the only means by which inspections by United States inspectors will take place to determine a Canadian product's compliance with U.S. health and safety standards. This inspection is not as rigorous as procedures at the border. Furthermore, it means that any products ready for retail, imported from Canada would not receive any inspection by U.S. inspectors. For example, geese labeled grade A could be imported and sold in the supermarket without any check by U.S. inspectors to determine whether the product is in compliance with U.S. grading standards. Hot dogs could be imported and sold in the supermarket without any check by U.S. inspectors for chemical residues or other contaminants.

Concerns have been raised about products imported from Canada. Earlier this year, geese from Canada were found at five establishments in the United States that were improperly labeled. GAO reported, and FSIS confirmed, that rejection rates for Canadian products reinspected under random procedures increased in 1989 from the previous year. Border inspectors report significant problems with the current relaxed inspection procedures as well as significant rejections of Canadian products.

The inspector in Sweetgrass, MT, reports high percentages of contaminated meat coming in from Canada through his facilities. For example, on May 11, the inspector received 13 assignments to run product exams. He refused entry to 5 of the 13, based on findings of fecal material, ingesta, hair, bruises and blood clots on the samples. Of the 175,799 pounds of meat inspected, the inspector refused for entry 64,638 pounds. This is a 36-percent rate of failure for 1 day. On May 18 and 19, the inspector refused entry to 13.9 and 22.5 percent, respectively, of the meat he inspected.

Senators also should be aware of the relaxed reinspection procedures now in operation at the border. In January 1989 FSIS installed new, streamlined inspection procedures for Canadian meat to ease its entry into the United States. Normal inspection procedures require that every shipment of meat and poultry entering the United States be unloaded at a border inspection facility for a routine visual inspection. The FSIS inspector examines a shipment for general condition, proper certification and labeling. In addition, shipments are subject to more comprehensive inspections, using computer-assigned sampling procedures and individual plant history, to verify that the product is wholesome and unadulterated. Except in cases where every shipment must be inspected, the shipping plant has no advance notice of whether a particular shipment will be inspected.

Under the streamlined inspection procedures, Canadian meat is no longer given the routine visual inspection. Canadian meat is subject to inspections for wholesomeness but on a random basis. FSIS officers notify a Canadian Government inspector of when a shipment is to be subject to inspection. If the computer system selects a shipment for one of the random inspections, a Canadian inspector draws samples following FSIS instructions and places the samples in an accessible location in the back of the truck.

Here's what the GAO had to say about this procedures:

FSIS has no control procedure to ensure that samples are pulled in accordance with FSIS instructions; rather, it trusts the Canadaian inspector to ensure samples are pulled properly.

This procedure poses a dilemma for the Canadian inspectors. They are forbidden by law to allow the shipment of products that would fail inspection. When an inspector pulls a sample that would fail inspection, he must decide whether to violate his obligations, or to allow the random process to work, and permit the sample to be inspected by U.S. inspectors at the border. United States inspectors say they are concerned, based on their experience, that Canadian inspectors are providing samples that are clean and wholesome, thereby compromising the integrity of the random sampling procedure.

It is incredible to me that we would operate a procedure for random verification that relies on the very people who have a strong incentive to bias the outcome. It makes no sense.

American consumers expect that U.S. officials will enforce U.S. law. They will not be satisfied with a system that relies solely on employees of a foreign government to enforce U.S. laws.

If USDA believes that this agreement is good for the United States and Canada—and if there is concern, as implied by USDA general counsel, that the agreement may not be upheld in court without a change in law—then USDA should come to Congress and recommend changes in law that will establish a firm legal footing for this agreement.

It is the role of the Food Safety and Inspection Service to assure American consumers that meat and poultry products, whether processed domestically or in a foreign country, are safe and wholesome. Standards that we have established for domestic products ought to apply to foreign products. Consumers expect that meat and poultry products imported to the United States meet standards for inspection and grading that are at least as stringent as those we apply to domestic products.

Free trade must be our goal, so long a we ensure that free trade is fair trade. Meat and poultry products are not the same as timber, automobiles and other manufactured goods.

It is reasonable, and compatible without notions of free trade, to maintain a system for monitoring industry compliance with fair and responsible health, safety and grading standards and regulations.

Meat and poultry products must be safe for human consumption. The integrity of our inspection laws, and the inspection system established by these laws, enables the U.S. meat and poultry industry to assure consumers that when they eat in a restaurant, or buy meat or poultry in a supermarket, they are receiving a safe and wholesome product. These laws should not be compromised.

FARM BILL

● Mr. DURENBERGER. Mr. President, today the Senate concludes debate on the 1990 farm bill, otherwise known as Food, Agriculture, Conservation, and Trade Act of 1990. This bill will determine the direction of America's agriculture for the next 5 years.

By its very size it is comprehensive, covering all aspects of agriculture: the major commodities like corn, wheat, and soybeans, the small commodities like sugar, peanuts, and fruits and vegetables. It also covers dairy programs, forestry, wetlands, ground water, international trade, farm loans, research and development, and grain quality.

As a whole, I am satisfied with the 1990 farm bill which the Senate has crafted. I roundly applaud the many grueling hours which the Agriculture Committee invested in bringing this legislation to fruition. In particular, I want to praise Senator LEAHY and Senator LUGAR for their fine effort in managing this bill through both committee action and floor debate. I also want to praise the hard work of my Minnesota colleague RUDY BOSCHWITZ. He has devoted thousands of hours to representing the interests of Minnesota's agriculture during this legislative process.

As with all farm bills, this one has very controversial elements as well as elements that everyone agrees on. As modified, S. 2830 continues to strike a delicate balance. It maintains adequate price and income supports while enhancing American competitiveness in international trade. For the most part, this farm bill will be good for Minnesota and the Nation. Included in the bill are two amendments I offered, one on farm safety, and the other calling for a coordinated, national wetlands and ground water protection strategy.

For these reasons, I plan to vote in support of final passage of this legislation.

One area of disappointment is that this legislation does not provide as much planting flexibility as was hoped for by many farmers. Such flexibility would have allowed market forces to play a greater role in farmer planting decisions. However, this bill still has more flexibility than the 1985 act did. Much of this improved flexibility resulted from the pressure which my colleague RUDY BOSCHWITZ provided on this issue. For a number of years, Senator BOSCHWITZ has been the chief proponent of commodity flexibility. And, after numerous roadblocks, I am pleased that his wisdom is finally being taken to heart.

Senator BOSCHWITZ's voice is also heard on the dairy program, in particular he is the chief sponsor of the fluid promotion program provisions. This program should result in an increased demand for milk. As a consequence, not only will milk prices rise in response to this increased demand, but so will total milk marketings. This is in contrast to the effects of production controls which while increasing the price of milk, also suppress milk consumption. This loss consumption eventually results in fewer dairy cows and fewer dairy farms.

MINNESOTA'S DIVERSE AGRICULTURE

Mr. President, agriculture is very important to Minnesota. They are 90,000 farms in Minnesota, managing 30 million acres of land. In 1988, the total direct cash receipts were $6.1 billion. Dairy is the State's largest single agricultural product accounting for nearly $1.2 billion in receipts or 19.6 percent of the total. Soybeans are close behind, accounting for $1.5 billion in receipts or nearly 19 percent of the total.

Mr. President, I ask unanimous consent that a table describing Minnesota cash receipts from farm marketings be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MINNESOTA CASH RECEIPTS FROM FARM MARKETINGS [1]

Commodity	1986		1987		1988	
	Dollars	Percent of total	Dollars	Percent of total	Dollars	Percent of total
Crops: [2]						
Feed crops:						
Corn	$939,911	15.5	$583,687	10.0	$761,177	12.5
Oats	26,823	0.4	29,630	0.5	34,629	0.6
Barley	81,475	1.3	62,998	1.1	86,545	1.4
Hay	77,089	1.3	78,000	1.3	74,608	1.2
Food grains:						
Wheat	290,742	4.8	233,347	4.0	212,722	3.5
Rye	3,391	0.1	1,995	(5)	1,218	(5)

MINNESOTA CASH RECEIPTS FROM FARM MARKETINGS [1]—Continued

Commodity	1986		1987		1988	
	Dollars	Percent of total	Dollars	Percent of total	Dollars	Percent of total
Oil crops:						
Soybeans	758,092	12.5	733,228	13.3	1,145,137	18.8
Flaxseed	3,295	0.1	783	([5])	860	([5])
Sunflowers	17,678	0.3	14,908	0.3	9,615	0.2
Vegetable crops:						
Potatoes	58,092	1.0	62,020	1.1	63,575	1.0
Sweet corn (process)	39,534	0.6	40,914	0.7	30,246	0.5
Green peas (process)	21,926	0.4	22,369	0.4	13,818	0.2
Sugarbeets	203,605	3.4	243,040	4.2	207,743	3.4
Dry beans	19,652	0.3	21,265	0.4	8,330	0.1
Apples	5,465	0.1	5,297	([5])	3,797	0.1
Greenhouse-nursery floriculture	45,853	0.8	50,193	0.9	53,448	0.9
Other crops, fruits, vegetables [3]	44,657	0.7	46,470	0.8	35,061	0.6
Total crops	2,637,280	43.6	2,270,144	38.9	2,742,529	44.9
Livestock Products:						
Meat animals:						
Cattle and calves	936,728	15.5	1,080,149	18.5	956,741	15.7
Hogs	750,234	12.4	839,170	14.4	749,700	12.3
Sheep and lambs	14,354	0.2	13,007	0.2	12,891	0.2
Dairy products	1,238,325	20.5	1,216,243	20.9	1,194,425	19.6
Poultry and eggs:						
Turkeys	269,325	4.5	228,096	3.9	267,729	4.4
Broilers	45,085	0.7	37,913	0.7	49,782	0.8
Farm chickens	2,707	([5])	3,049	([5])	2,083	([5])
Eggs	91,709	1.5	81,091	1.4	71,250	1.2
Honey	4,986	0.1	7,452	0.1	8,708	0.1
Miscellaneous other livestock and products [4]	54,398	0.9	54,809	0.9	50,888	0.8
Total livestock	3,407,851	56.4	3,560,979	61.1	3,364,197	55.1
Total all crops and livestock	6,045,131	100.0	5,831,123	100.0	6,106,726	100.0

[1] 1986 and 1987 are revised; 1988 is preliminary.
[2] Includes Commodity Credit (calculated by crop open market sales plus CCC loans).
[3] Kentucky bluegrass, red clover, timothy, and other seeds; asparagus, green lima beans, snap beans, cabbage, onions, carrots, cucumbers, miscellaneous vegetables, mushrooms, other fruits, and field crops.
[4] Wool, mink, goats, horses, mules, ducks, geese, beeswax, turkey eggs, and other livestock and poultry.
[5] Less than .05 percent.

Note: Percents may not add up to totals because of rounding.

Mr. DURENBERGER. Mr. President, yet, anyone who has been to Minnesota knows agriculture is important to the State. But, few know how important it is to the Nation. I can safely state that Minnesota is one of the largest agricultural producing States in the country and just as importantly it is the most diverse. If producing agricultural products were an Olympic sport and those who are first, second, and third in the country in a production group received medals, Minnesota would be tied for first—with California.

Although Minnesota is first in production of only sugarbeets, it is second in seven products—spring wheat, turkeys, sweet corn, green peas, total cheese, American cheese and nonfat dry milk—and third in 10 products—soybeans, oats, flaxseed, rye, hogs produced and marketed, pigs, butter, mink, and honey. Thus, in this Olympic contest Minnesota would have 18 medals. For comparison, States like Iowa would receive 11 medals, Texas and Wisconsin would receive 9, and North Dakota would get 6.

Mr. President, I ask that a listing of State rankings be inserted into the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATE RANKINGS—MINNESOTA'S RANK AMONG THE STATES

Item	1	2	3	4	5	6	7	8	9	10
Number of farms, June 1, 1989	TX	MO	IA	KY	TN	MN	OH	IL	CA	WI
Cash receipts, 1989:										
Total	CA	TX	IA	IL	KS	MN	NE	WI	FL	NC
Crops	CA	IL	FL	TX	IA	NE	MN	IN	WA	KS
Livestock and livestock products	TX	NE	CA	IA	WI	KS	MN	CO	PA	AR
Crop production, 1989:										
Corn	IA	IL	NE	MN	IN	OH	WI	MI	MO	SD
Soybeans	IL	IA	MN	IN	OH	MO	NE	AR	KS	SD
All wheat	ND	KS	OK	MT	WA	IL	MN	ID	MO	SD
Spring wheat	ND	MN	MT	SD	WA	ID	OR	CO	UT	NV
Oats	IA	WI	MN	SD	ND	MI	IL	OH	PA	NY
Barley	ND	MT	ID	MN	WA	SD	CA	CO	OR	UT
All sunflowers	ND	SD	KS	MN	TX					
All hay	TX	CA	WI	MO	IA	MN	NE	KS	KY	MI
All potatoes	ID	WA	WI	OR	CO	ME	CA	MN	ND	MI
Sugarbeets	MN	CA	ID	ND	MI	NE	WY	MT	CO	TX
Flaxseed	ND	SD	MN							
Rye	SD	GA	MN	ND	MI	SC	NE	PA	OK	NC
Sweed corn for processing	WI	MN	WA	OR	IL	ID	NY	DE	MD	PA
Green peas for processing	WI	MN	WA	OR	NY	DE				
Dry edible beans	MI	NE	ID	CA	CO	ND	WA	MN	WY	NY
Livestock, dairy, poultry:										
Red meat production, 1989	IA	NE	KS	TX	IL	CO	MN	CA	SD	MI
Cattle and calves, January 1, 1990 [1]	TX	NE	KS	OK	CA	IA	MO	WI	SD	CO
Milk cows, January 1, 1990	WI	CA	NY	MN	PA	TX	OH	MI	IA	MO
Cattle and calves marketed, 1989 [2]	TX	NE	KS	OK	CO	IA	CA	SD	MO	WI
Cattle and calves on feed, January 1, 1990	TX	NE	KS	IA	CO	CA	OK	IL	MN	SD
Hogs, December 1, 1989	IA	IL	MN	IN	NE	MO	NC	OH	SD	KS
Pig crop, 1989	IA	IL	MN	IN	NE	NC	MO	OH	SD	KS
Hogs marketed, 1989	IA	IL	MN	NE	IN	NC	MO	OH	SD	KS
Stock sheep and lambs, January 1, 1990 [3]	TX	CA	WY	MT	SD	UT	NM	CO	IA	OR
Lamb crop, 1989 [2]	TX	WY	CA	SD	MT	UT	CO	IA	OR	NM
All chickens, December 1, 1989 [1]	CA	IN	GA	PA	AR	OH	NC	TX	AL	FL

STATE RANKINGS—MINNESOTA'S RANK AMONG THE STATES—Continued

Item	1	2	3	4	5	6	7	8	9	10
Eggs produced, December 1988–November 1989	CA	IN	PA	OH	GA	AR	NC	TX	FL	MN
Turkeys raised, 1989	NC	MN	CA	AR	MO	VA	IN	PA	IA	SC
Milk production, 1989	WI	CA	NY	MN	PA	TX	MI	OH	IA	WA
Dairy products manufactured, 1989:										
Total cheese	WI	MN	CA	NY	IA	PA	MO	ID	SD	IL
American cheese	WI	MN	CA	IA	ID	NY	MO	SD	ND	UT
Butter	WI	CA	MN	PA	MI	NY	KS	OK	OR	MO
Ice cream	CA	PA	NY	TX	MN	MA	NC	OH	FL	MI
Nonfat dry milk for human food	CA	MN	IA	WI	MI	NY	MO	ND		
Mink pelts produced, 1988	WI	UT	MN	ID	OR	WA	IL	PA	MI	IA
Honey produced, 1989	CA	ND	MN	FL	SD	TX	WI	NE	MI	MT
Agricultural exports	CA	NE	IA	KS	TX	IL	MN	IN	WA	MO

[1] Minnesota ranks 11th.
[2] Minnesota ranks 12th.
[3] Minnesota ranks 13th.

Mr. DURENBERGER. Mr. President, I point this out not to discomfort these other States, but to show that although Minnesota is known more for its lakes and cold weather, than for its agricultural production, it has a very special and notable place among the States like Illinois with its soybeans, Iowa with its corn, and Texas with its cattle.

Thus, as the Senate completes the 1990 farm bill, I want to make sure my colleagues understand how this important bill will affect my State. Minnesota's agricultural diversity is a blessing, giving it great strength. It also means Federal agricultural policy affects every corner, dramatically influencing the health on my State's economy. That is why I paid such close attention to this farm bill.

FARM SAFETY

Mr. President, last November the world class marathon runner Dick Beardsley was transferring corn to a crib on his Minnesota dairy farm when his coveralls became caught in the tractor. By the time his wife found him, Dick's leg was wrapped around the tractor's power shaft. Luckily, his leg was not broken or mangled, but his knee was severely damaged. Because of this accident, Dick Beardsley, the man who came in second in the Boston Marathon in 1982, will never run the way he had before.

This incident is not unique. It happens every day on farms throughout America. There are about 50 agricultural deaths per 100,000 compared to an annual death rate for all industries of 11. In 1986 there were 1,900 agricultural deaths, 300 of them children and most of them were machine-related. In addition, there are approximately 170,000 disabling farm injuries each year causing pain and suffering, costing millions of dollars in health costs, and disrupting lives and families. This all makes agriculture the most dangerous occupation in America.

Mr. President, my farm safety amendment is similar to the Farm Injury Prevention and Treatment Act of 1990 that Senator BOSCHWITZ and I introduced earlier this month. It addresses the farm safety in four ways: Government resources will be better focused, farm machinery will be made safer, farm injuries will receive better treatment, and rehabilitation, and accident prevention information will be better disbursed.

My amendment is simple. It will streamline the Nation's farm safety research and education efforts by creating a 17-member intergovernmental, interdisciplinary task force of experts. The task force, based in the Department of Agriculture, will advise the Secretaries of Agriculture and Health and Human Services on how best to address the vexing problem of farm safety.

The task force will also conduct a national study of the problem. By doing a national study the task force will identify the extent and nature of the problem. Once this is better known the Federal Government and other concerned organizations can better focus their resources. In addition, the amendment will direct additional resources to the treatment, care, and rehabilitation of farmers injured in farming accidents.

Yet, Mr. President, as we all know preventing accidents from occurring is our most important weapon against farm injuries. This calls for education. My amendment will also focus the Government's attention and resources in this area.

An integral part of solving the problem is making farm machinery safer. No matter how safe they are, I believe more can be done. Toward this end, the amendment requires the task force to study the tractor roll-over problem—the No. 1 killer—and develop recommendations on how best to address the problem. It does not mandate roll-over protection systems, although I believe their use is very important. To push farm machinery safety even further, my amendment will create farm machinery engineering research grants. These grants will provide seed money for engineering research that will hopefully make machines safe under all use conditions.

To conclude, Mr. President, my amendment will streamline and focus this Government's resources and attention on a problem that deserves it. Farm accidents have taken and disrupted too many lives. It is about time the Federal Government recognized this problem and took steps to solve it. My amendment does this, and does it in a way that is nonintrusive to the farmer and will get the job done.

WETLANDS AND GROUND WATER RESOLUTION

Mr. President, in recent months I have toured Minnesota listening to my constituents' concerns about wetlands and ground water. As you can imagine, these issues are very important to Minnesotans since the State has lost over half of its original 18 million acres of wetlands. And, because 90 percent of the State's population depends on ground water for their drinking water.

On my tours I saw landowners preserving and enhancing their wetlands or protecting their drinking water sources from contamination. Experts showed me the latest scientific technologies on ground water protection and wetlands mitigation.

Yet, one think I heard from landowner and expert alike, is that Federal ground water and wetlands regulations have been developed on a piecemeal basis, by different departments and agencies and, as a result, are complex and confusing, often leaving landowners uncertain as to their duties and obligations. Unfortunately, this uncertainty places these precious resources at risk.

Numerous Federal agencies have an interest in how a landowner cares for wetlands. The Environmental Protection Agency, the Agricultural Stabilization and Conservation Service, the U.S. Army Corps of Engineers, the Soil Conservation Service, and the U.S. Fish and Wildlife Service all have a significant piece of the wetlands agenda. There is a comparable list for ground water. The EPA, SCS, ASCS, and U.S. Geological Survey all have duties protecting ground water. And, Mr. President, this ignores all the applicable State laws.

It is clear to anyone who looks at these issues or who must handle constituent complaints, that Americans want to obey the law, they want to protect wetlands and ground water, but get frustrated with the unwieldy and often inconsistent regulations.

Thus, Mr. President, my amendment to the 1990 farm bill that, in resolu-

tion form, will take the Nation an important step closer to a comprehensive national strategy to prevent ground water contamination and wetlands loss. My goal is to set the ball moving toward coordinated Federal protection laws so that landowners, farmer and city dweller alike, have greater certainty as to their responsibilities, and most importantly prevent ground water contamination and wetlands loss.

Mr. President, protecting the Nation's wetlands and ground water from loss or degradation is of vital importance to the country. Wetlands reduce floods, improve ground and surface water quality, and provide recreational areas and habitat for fish and wildlife. Ground water provides drinking water to 50 percent of the Nation's population or 117 million Americans. In rural areas, 97 percent of Americans rely on untreated ground water for their household needs.

To conclude, there is a need for a coordinated, national strategy that prevents ground water contamination and wetlands loss. Such a strategy will provide landowners needed regulatory certainty and protect these precious resources. My amendment is a very important first step toward this goal.

DAIRY

As I have already indicated, dairy farming is very important to Minnesota, placing my State fourth among the States, exceeded only by Wisconsin, California, and New York in total dairy production. It accounts for $1.3 billion in cash receipts or nearly 20 percent of the State's total agricultural cash receipts. In 1989 Minnesota produced over 10 billion pounds of milk.

From my point of view, S. 2830 does an acceptable job of balancing dairy policy considerations while remaining sensitive to program costs. In this case, it appears that the bill is policy driven rather than budget driven. By setting the support level at $10.10 the bill establishes a floor that will protect dairy farmers from continued downward price pressures. At the same time, S. 2830 provides the administration with a strong encouragement to review the existing Federal Milk Marketing Order System. That review, in this Senator's estimation, is needed to remove certain antiquated provisions.

A little history on effects of the 1985 farm bill sheds some light on why I support this bill's dairy provisions.

In 1985, the Nation was awash with surplus dairy products and the CCC warehouses were bursting at the seams. In the Food Security Act of 1985, we adopted dairy provisions designed to restore a balance between supply and demand of dairy products. Those provisions, unpleasant and painful to many dairy farmers, reduced total CCC outlays for this program to levels less than one-third of what they were in 1985. In the last 2 years, the CCC has made no significant purchases of cheese and nonfat dry milk.

Regrettably, the 1985 dairy provisions were painful for Minnesotans. Since 1985, dairymen in the upper Midwest have borne the brunt of dairy program reductions. The basic support price for manufactured milk has fallen from $11.60 to the current $10.10. Since the Minnesota-Wisconsin [MW] milk market order has one of the lowest fluid milk utilization levels, this decrease has been felt most intensely in this order. As a consequence of the focusing effect that dairy price support cuts have had on the upper Midwest, dairy cow numbers for Minnesota and Wisconsin have dropped by more than 200,000 even when adjusted for the regions high participation in the Dairy Termination Program.

I can appreciate the administration's worry that the S. 2830 dairy provisions will sharply restrict the Secretary's ability to control the program's cost if expected dairy consumption and production deviate from what is anticipated. However, to ask the efficient dairy farmers of Minnesota and Wisconsin to accept lower milk prices while ignoring other Government subsidies and dairy program provisions that spur dairy production increases in other portions of this country is simply not acceptable to this Senator.

While I am reluctant, as most dairy farmers in my State are, to broach the topic of inter-regional competition among dairy producers, continued silence on this issue would be irresponsible to the dairy producers living in my State. One of the ironies of the 1985 farm bill is that while some producing regions made significant reductions in the number of dairy cows on farms, other areas continued to expand their herds. I note that the major regions where dairy production have increased the most during the 1985 farm bill—the Southern Plains, the Southeast, Mountain and the Far West—all have significant artificial economic benefits bestowed to their dairy producers that are not shared with dairymen throughout the country.

The heated debate over the dairy program 5 years ago was resolved by a coerced compromise. A key condition of that compromise was a provision to substantially increase the class I milk differential. This increase, when combined with some regions' high historical fluid use, created a significant economic signal to dairy producers in the southern portion of our Nation to increase production.

Mr. President, I ask unanimous consent that several charts and tables created by Ed Jesse and Bob Cropp, dairy marketing specialists from the University of Wisconsin be printed in the RECORD.

[Material not reproducible.]

Mr. DURENBERGER. Mr. President, chart A shows the regional change in cow numbers that have occurred during the life of the 1985 farm bill. Since January 1986, and even adjusting for the Dairy Termination Program, there has been a major migration of cows from the North to the South and West. A closer examination of that table reveals that the Northeast's loss is more than offset by the Far West's gain and the combined gains of Mountain and Southern Plains is about equal to the Lakes States' loss.

A second chart (B) provides a breakdown by major dairy State on the change in cow numbers over the period. Again, it is easy to follow where the cows moved. The loss of cow numbers in New York and Wisconsin is equal to California's gain and Minnesota's loss slightly exceeds Texas' gain.

One might ask "Why are cattle moving from Minnesota and Wisconsin to the Far West and Deep South?" I expect that my Southern and Western colleagues will respond that the cows are merely following the movement of people in these areas. There may be a kernel of truth to this response, but there is credible evidence which suggests that a significant portion of the incentive is due to Federal economic benefits.

As I mentioned earlier, part of the dairy compromise in the 1985 farm bill were increases in the class I differentials. Those increases were not equal among the milk market orders. As a general rule those milk market orders located in the South and Southeast received class I differential increases that were three to four times larger than milk market orders in the upper Midwest—chart C.

The higher class I differential creates a substantial bonus for dairy producers in those orders. It is not surprising to see what happened in the Texas Federal milk marketing order. In that order an increasing percentage of milk—chart D—went to class II and III utilization while fluid milk consumption in that order remained nearly constant. I anticipate that Southern producers will argue that these larger class I differentials were needed to reflect the higher costs of moving fluid milk. In doing so, they hope their consumers will not notice that there are less costly ways of moving milk such as reverse osmosis rather than trucking as 90 percent fluid. Regrettably, the use of that technology has been stymied by existing milk marketing order regulations.

However, dairy herd expansion was not just limited to the Southern reaches of our country. There is another region where dairy producers enjoy a Federal subsidy which dairy

farmers in my State do not. In the Far West, most of the forages and high energy feeds that are fed to dairy cows are grown in irrigated acreages that receive huge Federal water subsidies. Late last week, my distinguished colleague from Arkansas submitted to the RECORD a table listing the State-by-State analysis of Federal water subsidies. I could not help but notice that over 60 percent of Federal western water subsidies are paid to California farmers, a sum exceeding over $300 million. While it is difficult to accurately calculate the portion of this subsidy which accrues to dairymen in that region, I have no doubt that it is quite substantial. Furthermore, I am worried by the long-term wisdom of encouraging dairy farms to relocate to the Far West in view of the region's growing water shortage and the adverse environmental consequences of irrigation runoff.

In summation, I want to remind my Senate colleagues that I appreciate the administration's concern that the dairy provisions of S. 2830 do not give the Secretary sufficient flexibility to lower dairy price supports if the dairy surplus grows above 7 billion pounds of milk equivalent. However, the provisions of the 1985 dairy program have caused considerable pain for the dairy farmers of my State. Because of these provisions, the number of dairy farmers and dairy cows in my State have declined significantly. At the same time, the Federal Government has continued to send strong economic signals to other regions of the country to increase dairy production.

Consequently, I believe that should a dairy supply imbalance reoccur, the problem does not lie with upper Midwest dairy farmers who have reduced the number of cows that they milk and in many cases quit milking entirely. Rather, it is the continued production stimulus provided by other unrestrained Federal subsidies. Until those economic distortions are leveled I cannot support continued lowering of the milk price support.

SOYBEANS

Mr. President, I support the bill's soybean provisions. It is a major step toward achieving policy enabling U.S. soybean farmers to compete and profit in a changing world market. Soybeans are important in Minnesota. Minnesota is the Nation's No. 3 producer of soybeans and at $1.5 billion, they account for nearly 19 percent of the State's total cash receipts in agriculture. In 1989, the 40,000 Minnesota soybean farmers produced 185 million bushels. Minnesota exported $465 million worth of soybeans.

Since the 1985 farm bill, U.S. soybean acreage and production have fallen while world demand for soybeans has expanded. The United States is losing its share of this important world market to foreign competition.

Traditionally, nearly half of the U.S. soybean crop has been exported in the form of soybeans, oil or meal. In Minnesota, every other acre of the 5 million acres planted in 1989 was exported. U.S. soybean exports account for approximately $6 billion toward the balance of trade. Yet, USDA economists predict that soybeans will be the only major crop showing smaller cash receipts in 1990.

I had hoped that the 1990 farm bill would fully address all the challenges that American soybean farmers are facing. While soybean farmers have enjoyed success in the past, primarily free from Government involvement, the world has changed. U.S. farm policy must give soybean farmers a more equitable opportunity to compete and profit. I believe the soybean provisions of S. 2830 will help our soybean farmers by achieving several important goals:

First, by removing the price floor for U.S. soybean competitors, the soybean marketing loan will support U.S. farmers;

Second, the soybean marketing loan establishes much needed income protection for soybean farmers by providing a safety net against extremely low prices; and

Third, the soybean marketing loan discourages Government stockpiling of soybeans and allows price increases to profit the farmer and not the Government.

According to the Congressional Budget Office, the soybean marketing loan would operate at virtually no cost to the Federal Government—only $152 million over 5 years. It is a small amount to pay to save an important segment of American agriculture.

Regrettably, during floor action on S. 2830, the Grassley flexibility amendment which would have allowed farmers to plant up to 25 percent of their commodity bases in soybeans was defeated. While I can appreciate some of the fears that opponents to this measure voiced—most dealt with the perception that nonprogram crop farmers would face unfair competition from subsidized growers who flexed their acres into nonprogram crops. However, in many instances, most nonprogram crops have sizable specialized capital investments which makes it unlikely that added production of those crops would suppress prices to any significant degree. Unfortunately, the failure of this amendment makes it highly unlikely that farmers will shift any appreciable amount of crop production from gains to oilseeds such as soybeans because of economic cost of giving up commodity program benefits.

CATTLE AND CALVES

Mr. President, when compared to other States, cattle and calves production in Minnesota is small. But in 1989 Minnesota produced 2,820 cattle and 1,075 calves which produced slightly under $1 billion in cash receipts or 15.7 percent of the State's total agricultural cash receipts.

Livestock producers are as concerned as anyone about the health of the rural economy. The well-being of their rural neighbors who produce corn, soybeans, and small grains means hope for their rural communities and adequate feedstuffs on hand for livestock. This Senate bill ensures a stable feed grain supply that will have a positive effect on rural communities.

Another concern cattle growers have is the uneven international playing field on quality assurances. As is the case with many food imports, beef from some countries is not subjected to the same inspection standards that our own domestic beef is measured against. That is not fair. We need to assure that the same tough standards that our own livestock producers meet with their product is exactly the same as those meats coming into the country. We all know, the demand for American produced meat can be filled with a safe, quality product.

In addition, American livestock farmers need a Government policy that helps them expand into foreign markets. S. 2830 replaces the Targeted Export Assistance Program with a new program called the Marketing Assistance Program [MAP] which is broader and focuses on building markets rather than compensating exporters for markets lost due to unfair trade practices. I hope that MAP will be of significant assistance to ongoing efforts to expand beef exports to the burgeoning economies of the Asian Rim. Those consumers are extremely eager for the high quality American beef that our country's cattlemen produce.

FEEDGRAINS

Mr. President, while I have mixed feelings about the S. 2830's feedgrain provisions, in general, these provisions provide an adequate floor for farm income and make some progress to treating the different feedgrains more equitably.

Last year, the value of corn, barley, and oats grown on Minnesota farms was close to $1.8 billion, with corn accounting for about 90 percent of that value. Minnesota generally ranks fourth in corn production and in the top three or four for both oats and barley. In 1988 total direct cash receipts for these three crops was nearly $900 million or about 14 percent of total 1988 cash receipts.

The agricultural climate has changed dramatically since the decapitalization period during which the 1985 farm bill was promulgated. In 1985, our rural communities were literally being buried by coinciding moun-

tains of surplus commodities and unserviceable agricultural debt. The 1985 Food Security Act sought to alleviate both the excessive accumulation of commodity stocks and stabilize farm income. I am pleased to say that the 1985 farm bill accomplished both of these objectives and this is particularly true regarding feed grains.

The proposed feedgrain provisions of S. 2830 provides a safety net of protection for Minnesota corn growers against severe price swings. It extends the current $2.75 target price for the life of the bill. That level of support should be sufficient to cushion American corn growers from temporary decreases in the price of their commodity. I think that there will be sufficient increase in demand for corn to keep the market price of corn near or above the $2.75 target price.

That opinion is generated by my assessment that the prospect for expanded new commercial uses of corn is quite bright. I am pleased that this bill pledges to invest more resources in agricultural research aimed at developing new commercial use for agricultural products. Corn is a remarkable renewable source which converts solar energy and atmospheric carbon dioxide in renewable and recyclable biohydrocarbon sources. This attribute and the clean-burning nature of biofuels produced from cereal crops will probably play a major role in alleviating some of our Nation's urban air quality problems and could lessen our dependence on imported petroleum.

It has been suggested by some of my colleagues and some of my constituents that farmers need higher feedgrain and corn price supports to keep farmers on the farm and rural communities alive. As much as I might wish that the Senate could accommodate their desires, I do not know of a way to do so without either substantially increasing Federal subsidies or enacting a substantial supply-management program which would ultimately sacrifice U.S. exports.

The first option while it could bolster farm and rural income is precluded because of budgetary considerations. The latter would be self-defeating for American farmers and devastating to rural communities. Any move to significantly increase prices through supply control would shift world feedgrain exports and production to other feedgrain producing nations. Nearly one-third of our annual corn production is exported and losing this market for our corn would create powerful economic downsizing pressure on rural communities already struggling to keep their agribusinesses, grain elevators, and railroad services in their communities.

I am pleased that the Senate has finally taken action to treat oat growers in a more equitable manner. The provision to increase the target price of oats from the current $1.45 for the current crop year by 10 cents for each of the next 3 years till the target price reaches $1.75 a bushel in 1994 should help increase the domestic production of oats. During the last decade, oat production has diminished significantly, despite the fact that it was enjoying renewed popularity as a food. In this period, our Nation went from being a significant net exporter of oats to being a major importer of oats. I am hopeful that this provision will entice American farmers to grow more oats. I also believe that giving the Secretary some discretionary power to permit the shifting of crop bases in order to meet conservation needs will facilitate some additional increase in oat acreage.

But as far as barley is concerned, I am not totally satisfied with the compromise reached by the Senate. S. 2830 sets the target price of barley at $2.36 and caps the malting barley premium at $0.22 per bushel in the barley deficiency payment calculation. Of the major four feed grains, barley is unique in that a considerable portion of the crop, about one-third, is priced significantly higher due to its use in making malt. While the weighted added value of malting barley is included in calculating the average annual barley price, the target price of barley is based solely on energy based feed equivalence to corn.

This divergence is especially exacerbated during years the production of malting quality barley is sharply reduced due to inclement weather. In those years, only those farmers lucky enough to get a good—malting quality—crop benefit from the sharply higher barley prices. Unfortunately, the rest of the barley growers not only have a much smaller and perhaps nonmalting grade of barely crop to sell, but the higher malting premium shrinks their deficiency payment. That bitter truth was revealed only too painfully to Minnesota barley growers during the drought of 1988. While Congress deferred repayment of that crop's advanced deficiency until this year, it has created economic hardships for many barley growers in my State who never were able to take advantaged of the presumed higher barley price in 1988.

Over the last 2 years, I have joined my colleagues from other barley growing States in several appeals to the Secretary urging him to use his discretion and adjust the barley deficiency calculations to remedy the problem. Regrettably, those appeals were not favorably received by the Secretary.

However, the proposal to cap the malting premium barley premium to 22 cents is an improvement over existing circumstances. I had hoped that the Senate could have fully addressed the concerns of the barley growers.

HOGS

Hogs are the fifth most important agricultural product in Minnesota. In 1989, Minnesota raised nearly 20,000 hogs which produced nearly three-quarters of a billion dollars in cash receipts. Minnesota is ranked third among States in hog production.

The Targeted Export Enhancement Program is very important to the Minnesota pork producers. It has been vital to the recent strides in United States and Minnesota pork exports. The level of exports has increased from 27,000 metric tons in 1986 to more than 85,000 metric tons in 1989. More than $325 million worth of pork product was exported last year, which set a new record.

I share the pork producers concern about cuts in the TEA funding at a time when the export market looks so promising. For example, in 1989, $2.45 million were added to the $600,000 from the National Pork Producers Council to establish successful pork promotions in Hong Kong. The TEA Program is one of the few Government programs that directly benefits United States and Minnesota pork producers, and one that I strongly support.

S. 2830 replaces the TEA with a new program called the Marketing Assistance Program which is broader and focuses on building markets rather than compensating exporters for markets lost due to unfair trade practices. I hope that MAP will be of assistance to ongoing efforts to increase pork exports to the growing economies of the Asian Rim.

Hog farmers in Minnesota should be happy to learn that S. 2830 establishes a national program for the eradication of pseudorabies in U.S. swine populations. This should come as some relief to hog farmers who have been struggling to eliminate this scourge which has plagued thousands of swine operations during the last 20 years.

SUGAR

Before I leave the agricultural commodities that are important to Minnesota, I must mention sugar. I strongly support the bill's sugar program and opposed the Bradley amendment that would have undermined the program.

As anyone who has looked at the sugar issue knows, it is an extraordinarily complicated system of price supports and subsidies practiced by every other producer in the world. The United States uses no-cost loans to producers and import quotas to keep U.S. prices stable. But, the U.S. price is higher than the so-called world price, leading critics to argue it violates our country's free trade policy, thereby hurting our developing nations friends, and costs Americans jobs and consumers billions of dollars.

I do not agree. The self-interested critics have tunnel vision. They look at

the program and see only trees in their way and want to chop them down. They fail to see the forest's complexity and hidden benefits.

The sugar program is very important to rural Minnesota and North Dakota. There are about 450,000 acres of sugar beets grown in 25 counties near the Red River of the north which supports nearly 5,000 direct full-time jobs and almost 15,000 indirect jobs. The sugar beet industry in this area generated $1 billion in 1987, raising $27 million for State and local governments. This is reason enough for a politician from Minnesota to support the program, but I do so for policy reasons too.

Critics moan about the program's cost to consumers. This too is misguided and not supported by the facts. Prior to the current program sugar prices fluctuated wildly. Raw sugar prices soared as high as 65 cents per pound, then plummeted to less than 10 cents per pound, and then shot back up to 42 cents. This fluctuation cost consumers and food and beverage processors a great deal of money and created intolerable price uncertainty for an essential ingredient.

Since the sugar program was implemented the prices have been consistent and have actually gone down relative to other products that use sugar. From 1980 to 1987, the Consumer Price Index increased by 38 percent; for products using a lot of sugarlike candies the price has gone up 37 percent; for cookies and cakes 45 percent; and cereals 63 percent. Yet, retail sugar prices dropped 17 percent and the price of corn syrup used in soft drinks fell 23 percent. Thus, those who argue that sugar prices are too high because of the sugar program miss the fact that all major products that use sugar have increased in price while the cost of sugar has decreased. This means that any reduction in the wholesale price of sugar ends up not saving the consumer money but enriching the processors.

Thus, as the Congress debates the U.S. sugar program I want Minnesotans to know that although the sugar program is loudly criticized it is not only good for Minnesota but good national and international policy in a world of subsidized and dumped sugar. Prices are low and stable and rural Minnesotans receive adequate incomes. This would not be the case without the U.S. sugar program.

CONSERVATION

The conservation title of the Food Security Act of 1985 was a landmark in agricultural policy. That title, for the first time created a link between receiving Federal farm subsidies and practicing acceptable soil and water stewardship. There are three major components of the conservation title of the 1985 farm bill.

One was the highly erodible land [HEL] conservation or so-called sodbuster provision. This section established a cross-compliance requirement in which program participants could lose their commodity program benefits if they violated the so-called sodbuster rules. Those rules include a proscription on the plowing out and growing of commodity crops without a conservation plan of highly erodible noncropland. A second provision requires that farmers growing crops on highly erodible lands must have a plan by January 1, 1990 to reduce erosion on those acres to acceptable soil conservation limits and those plans must be fully implemented by 1995.

The second component of the conservation title of the 1985 Food Security Act and perhaps the most controversial has been the wetland conservation element commonly called "swampbuster." The swampbuster provision prohibits the Secretary of Agriculture from paying program benefits to farmers who drained wetlands after December 23, 1985 and planted a commodity crop on that land. Unfortunately, considerable confusion occurred during the early implementation of these regulations and significant loopholes remained allowing some farmers to drain wetlands without loss of program benefits. Hence, removing the ambiguities from swampbuster is a high priority for the 1990 Farm bill.

The third and final component of the 1985 conservation title was creation of the Conservation Reserve Program [CRP]. The CRP is designed to enroll highly eroding cropland into a 10-year contract in which the farmer seeds the contracted acres down to soil conserving vegetative cover, usually grass or tree. The Secretary was directed to enroll 45 million acres in to the CRP by the 1985 farm bill.

S. 2830 refines, extends and renames the CRP into the Conservation Stewardship Program [CSP]. The new CSP is a much broader conservation program than the CRP. In this bill, the Secretary is directed to enroll at least 40 million acres in the CSP and has discretion to increase it up to a maximum of 50 million acres. Eligibility cropland for the CSP is expanded to include marginal pasture land and the land used to plant shelterbelts, windbreaks and waterway filter strips. Another component of the CSP is the Wetland Reserve Program [WRP] that will allow farmers to contract to restore converted wetlands and protect existing wetlands. Finally, the CSP includes a new initiative, the Agricultural Water Quality Incentive Program [WQIP] to provide management incentives to help farmers prevent ground and surface water contamination.

In S. 2830, the Senate has made an effort to not only improve wetland protection, but to more fairly treat farmers who accidentally violate swampbuster rules. This action was the result of a compromise between conservationists and agricultural interests. That compromise calls for the Agriculture Department to withhold farm program payments from producers who drain wetlands for the purpose of planting on them; allow planting on wetlands that, because of natural and seasonal characteristics, had been planted with a crop but not drained before December 23, 1985—the day Swampbuster went into effect; allow the draining of land that has been farmed extensively but still has wetlands characteristics just as long as the drainage would have a minimal effect on ecology and wildlife habitat.

S. 2830 also sets up a case-by-case procedure to determine what qualifies for a minimal exempt wetlands; require officials of both the Fish and Wildlife Service and the Soil Conservation Service to approve farmers' plans to restore wetlands; and to lessen the penalty against first-time violators for draining wetlands.

From my previous discussion with people on all sides of the issues, both environmentalists and farm groups should be satisfied with these compromises. Notwithstanding, there may still be some details that need to be worked out during the conference action that follows the Senate approval of S. 2830 and the House passage of H.R. 3965. On the balance of things, I am reasonably pleased with S. 2830 conservation provisions.

CONCLUSION

In summation, Mr. President, I want to remind my colleagues on how important agriculture is to Minnesota. Agriculture supports over 90,000 family farms who till 30 million acres. Total farm cash receipts have been over $6 billion dollars.

S. 2830 as it will be passed by the Senate is on the balance a good bill. It has points of great strengths and it has some imperfections. S. 2830 continues the evolution of American agricultural policy. It continues price and income supports for farmers while ensuring consumers access to affordable, sufficient and safe food. It expands conservation efforts to protect our Nation's fertile land and precious wetlands and adds a new initiative designed to help farmers protect ground and surface water quality.

I am pleased to note that this bill now includes two of my amendments. One of those amendments creates a comprehensive interdisciplinary task force on farm safety issues and provides additional resources for the treatment, care and rehabilitation of farmers injured in farm accidents. The second amendment calls for a national wetlands and ground water protection strategy. While this legislation does

address some of the aspects of preserving this country's wetlands, there is still an urgent need to continue to make progress on this topic.

Areas where this legislation is weak are its lack of a nutrition title and its failure to offer farmers as much flexibility to plant as many farmers and agricultural experts have sought. Such flexibility could allow farmers to reap more of their farm profits from responding to market signals.

In closing, Mr. President, I intend to support passage of this legislation. On the whole, this legislation should help both rural America and our urban cities. Its faults are not so grievous as to preempt my support and its forte are well worth supporting.●

Mr. THURMOND. Mr. President, I rise today to urge my colleagues to vote for passage of S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990. This bill will guide our farm policy for the next 5 years.

This measure sets the policy for most of the crops grown in this country. In addition to the commodity titles of this legislation, there are also titles relating to trade, conservation, credit, research, forestry, and organic certification.

The research title of this bill will do much to assist farmers with research that will benefit the farm community. Research efforts will be directed toward finding alternative uses for commodities, ground water research, and expansion of several Extension research and education programs.

Another important title of this bill is the organic certification program. With the citizens of our country becoming more health conscious over the last several years, consumers have become more concerned with the safety of their food. This title will set national standards for what is considered to be organically grown.

I am especially pleased that this measure contains a provision that provides much needed relief to those private timber owners devastated by Hurricane Hugo. I am sure my colleagues remember the tremendous damage Hurricane Hugo caused nearly 1 year ago on the night of September 21, 1989.

The morning after Hurricane Hugo hit South Carolina, I went to South Carolina to survey, first hand, the damage caused by this storm. Several days later I joined President Bush on a trip there to examine the destruction. The damage I witnessed was unlike any I have ever seen. It reminded me of a war zone.

The forests in South Carolina took a heavy beating. Approximately 36 percent, or 4.4 million acres, of the 12.2 million acres of forested land in South Carolina were damaged. Of the 46 counties in my State, 23 suffered significant timber damage and 7 of those were classified as extensively damaged. Estimates are that Hugo damaged a total of 6.7 billion board feet of sawtimber. Since South Carolina normally harvests only 2.2 billion board feet annually, it would take 3 years under normal conditions for loggers to cut this amount of timber. Approximately 660,000 homes could be built with the volume of sawtimber damaged. This is more timber than was damaged by the eruption of Mount Saint Helens, the Yellowstone fires of 1988, and Hurricanes Camille and Frederick combined. In addition to the $1 billion direct loss to timber owners, another $10 billion in products and sales could rot in the woods.

Shortly after Hugo hit South Carolina, on October 5, I introduced S. 1728, the Hugo Forestry Restoration Act, which will provide assistance for reforesting the timberlands destroyed by this disaster. Further, on March 29, of this year, I testified before the Senate Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Conservation and Forestry as to the dire need for this legislation.

I am pleased that the Agriculture Committee included a reforestation provision similar to the bill I introduced in the forestry title of the 1990 farm bill. This provision will help restore those areas devastated by natural disasters. It provides for a government cost-share program for private landowners who have less than 1,000 acres of timberland. These landowners will be able to receive cost-share assistance up to 75 percent for replanting and other related expenses.

Mr. President, this provision will go a long way toward restoring the forests of South Carolina to their pre-Hugo condition.

In closing, while the farm bill is not perfect, I am hopeful that it will help the farmers and consumers of this country. Passage of this bill is a major accomplishment and I would like to commend the members of the Senate Agriculture Committee for their fine work on this measure.

THE 1990 FARM BILL

Mr. BIDEN. The 1990 farm bill is a collage of programs, some good and some that are still in need of reform. Under the leadership of the chairman of the Agriculture Committee, Senator LEAHY, this bill makes tremendous strides in a number of areas that have gone unaddressed by previous farm bills.

But there are many other areas that still need to be addressed, and I fear will continue to act as lighting rods for criticism of farm programs in general. For that reason, I voted against this bill. It was not a vote that was based on how far this bill went, but rather a reflection of steps that were not taken.

During the last decade, we witnessed wild swings in the farm economy. As costs of farm programs escalated nearly out of control, the shortfalls of our Federal farm programs were painfully exposed. In particular, a paradoxical situation developed in which Federal costs skyrocketed, but conditions in rural communities deteriorated.

Questions were legitimately raised about exactly who we were supporting through the programs. Reports that the Prince of Liechtenstein was among those who qualified for Government checks did great damage to the credibility of the program.

I believe we need to maintain a safety net for American farmers. The unpredictability of agricultural production, one of the riskiest businesses one can enter, is great enough just trying to deal with the weather. But the theft or export markets because of the unfair trading practices of our competitors cannot be addressed by farmers action alone. Any individual farmers cannot hope to scrape by when prices are driven down either by export market distortions or by surplus conditions.

The bill reported by the committee maintains the safety net for farmers on the broad scale and keeps price support programs from interfering in the market, but fails to make additional changes that could save billions of dollars. That was one of the top factors in my decision to vote against this bill.

But the collage of programs in this bill extends well beyond the crop supports that are the focus of most attention and I believe the committee is to be commended for the initiatives included in the bill. The environmental components of the bill move aggressively into many new areas and in ways that are based on cooperation with farmers, not confrontation. Ground water protection will receive heightened attention.

Agricultural research is provided the resources it desperately needs to keep American farmers the most efficient producers in the world. In addition, the bill sets us strongly on a course of diversification in our agricultural economy. I have supported just such a change for years. It is a long overdue shift in direction.

But unfortunately, while the bill moves aggressively into the future in some areas, it clings tenaciously to the past in others. We cannot continue to turn a blind eye to the quirks that remain in the whole range of our Federal farm programs. That is why I voted against this bill. I was encouraged by the tremendous progress it represents, but I measured the bill against how far we should go. On that count, I believe it falls short of what I could support.

We are headed in the right direction. I hope the bill that emerges from the conference committee builds on the progress made in the Senate.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Regular order.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

On this vote, the Senator from Wyoming [Mr. WALLOP] is paired with the Senator from Minnesota [Mr. DURENBERGER]. If present and voting, the Senator from Wyoming would vote "nay" and the Senator from Minnesota would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 21, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—70

Adams	Glenn	McConnell
Akaka	Gore	Mikulski
Bentsen	Gorton	Mitchell
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatfield	Packwood
Breaux	Heflin	Pryor
Burdick	Heinz	Riegle
Burns	Hollings	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Sanford
Cochran	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kohl	Simpson
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Exon	Mack	Wilson
Ford	McCain	
Fowler	McClure	

NAYS—21

Baucus	Garn	Moynihan
Biden	Grassley	Pell
Bryan	Helms	Pressler
Byrd	Humphrey	Reid
Cohen	Kerry	Roth
Daschle	Lautenberg	Specter
Dodd	Lieberman	Wirth

NOT VOTING—9

Armstrong	Durenberger	Metzenbaum
Bradley	Hatch	Rudman
Bumpers	Johnston	Wallop

So the bill (2830), as amended, was passed.

The text of S. 2830, the Food, Agriculture, Conservation, and Trade Act of 1990 is as follows:

S. 2830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DAIRY

Subtitle A—General Provisions

Sec. 101. Findings.
Sec. 102. Milk price support and milk marketing adjustment program for calendar years 1991 through 1995.
Sec. 103. Milk manufacturing margin adjustment.
Sec. 104. Minnesota-Wisconsin price series reform.
Sec. 105. Report of dairy product purchases.
Sec. 106. Application of support price for milk.
Sec. 107. Application of amendments.
Sec. 108. Adjustments for seasonal production; hearings on amendments; determination of milk prices.
Sec. 109. Transfer of dairy products to the military and veterans hospitals.
Sec. 110. Extension of the dairy indemnity program.
Sec. 111. Export sales of dairy products.
Sec. 112. Component pricing of milk.
Sec. 113. Adjustments in payments by handlers.
Sec. 114. Dairy export incentive program.
Sec. 115. Status of producer handlers.
Sec. 116. Multiple component pricing study.
Sec. 117. Subsidized inputs/surplus dairy production study.
Sec. 118. Study of Federal Dairy producer trust.
Sec. 119. Priority status of dairy producers in dairy processor bankruptcies.

Subtitle B—Processor-Funded Milk Promotion Program

Sec. 121. Short title.
Sec. 122. Findings and declaration of policy.
Sec. 123. Definitions.
Sec. 124. Authority to issue orders.
Sec. 125. Notice and hearings.
Sec. 126. Findings and issuance of orders.
Sec. 127. Regulations.
Sec. 128. Required terms in orders.
Sec. 129. Permissive terms.
Sec. 130. Assessments.
Sec. 131. Petition and review.
Sec. 132. Enforcement.
Sec. 133. Investigations and power to subpoena.
Sec. 134. Requirement of referendum.
Sec. 135. Suspension or termination of orders.
Sec. 136. Amendments.
Sec. 137. Independent evaluation of programs.
Sec. 138. Authorization of appropriations.

TITLE II—WOOL AND MOHAIR

Sec. 201. Wool and mohair price support program.

TITLE III—WHEAT

Sec. 301. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of wheat.
Sec. 302. Nonapplicability of certificate requirements.
Sec. 303. Suspension of land use, wheat marketing allocation, and producer certificate provisions.
Sec. 304. Suspension of certain quota provisions.
Sec. 305. Nonapplicability of section 107 of the Agricultural Act of 1949 to the 1991 through 1995 crops of wheat.

TITLE IV—FEED GRAINS

Sec. 401. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of feed grains.
Sec. 402. Nonapplicability of section 105 of the Agricultural Act of 1949 to the 1991 through 1995 crops of feed grains.
Sec. 403. Recourse loan program for silage.
Sec. 404. Nondiscretionary authority.

TITLE V—COTTON

Sec. 501. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of upland cotton.
Sec. 502. Suspension of base acreage allotments, marketing quotas, and related provisions.
Sec. 503. Miscellaneous cotton provisions.
Sec. 504. Skiprow practices.
Sec. 505. Preliminary allotments for 1996 crop of upland cotton.
Sec. 506. Extension of extra long staple cotton program.
Sec. 507. Adverse effect on cottonseed or cottonseed oil.

TITLE VI—RICE

Sec. 601. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of rice.

TITLE VII—PEANUTS

Sec. 701. Suspension of marketing quotas and acreage allotments.
Sec. 702. National poundage quotas and acreage allotments.
Sec. 703. Sale, lease, or transfer of farm poundage quota.
Sec. 704. Marketing penalties; disposition of additional peanuts.
Sec. 705. Experimental and research programs for peanuts.
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TITLE I—DAIRY

Subtitle A—General Provisions

SEC. 101. FINDINGS.

Congress finds that—

(1) United States dairy policy should foster an economic environment in which milk producers have the opportunity to receive a satisfactory return for their labor and investment;

(2) the Federal support price for milk should establish a minimum price that guarantees an adequate supply of wholesome milk;

(3) the Federal dairy program should foster the use of a component-based price support system to more readily reflect market demands and the economic composition of milk and products derived from milk;

(4) market forces, together with appropriate adjustments in the Government support price and standby milk marketing adjustment programs should balance supply and demand for milk and dairy products;

(5) Federal and State dairy policy must be consistent;

(6) United States milk producers should be treated equally under Federal laws that compel the Secretary of Agriculture to purchase dairy products under the milk price support program;

(7) dairy policy should protect against widely fluctuating consumer prices and producer income;

(8) it is in the interest of the United States to have wholesome dairy products available for domestic and international nutrition programs;

(9) a properly functioning dairy program should result in a balanced purchase of dairy products so that the products are available to carry out the nutrition programs; and

(10) the Federal dairy program should encourage greater protein production in milk and discourage additional butterfat production through the use of incentives and disincentives.

SEC. 102. MILK PRICE SUPPORT AND MILK MARKETING ADJUSTMENT PROGRAM FOR CALENDAR YEARS 1991 THROUGH 1995.

Effective January 1, 1991, title II of the Agricultural Act of 1949 is amended by adding at the end the following new section:

"SEC. 204. MILK PRICE SUPPORT AND MILK MARKETING ADJUSTMENT PROGRAM FOR CALENDAR YEARS 1991 THROUGH 1995.

"Notwithstanding any other provision of law:

"(a) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported as provided in this section.

"(b) RATE.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported at a rate not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(c) PURCHASES.—

"(1) IN GENERAL.—The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) BUTTER AND NONFAT DRY MILK.—

"(A) MAXIMUM PURCHASE PRICE FOR BUTTER.—Except as provided in subparagraph (B), in carrying out this section, the Secretary shall offer to purchase butter for not more than an amount per pound of $0.983 in calendar year 1991, $0.815 in calendar years 1992 and 1993, and $0.788 in calendar years 1994 and 1995.

"(B) ALTERNATIVE ALLOCATION.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner other than that resulting from subparagraph (A) if the Secretary determines the allocation will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the determination.

"(C) TIMING.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

"(d) ADJUSTMENT OF PRICE SUPPORT RATE.—

"(1) REDUCTION.—Effective January 1 of each of the calendar years 1991 through 1995, the rate of price support for milk as in effect on that date shall be reduced by the Secretary by an amount per hundredweight of at least $0.25 but not more than $0.50 (but not below $10.10 per hundredweight) if the Secretary estimates on November 1 of the previous calendar year that the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use) during the 12-month period commencing on January 1 of the calendar year will exceed 5,000,000,000 pounds, milk equivalent, total milk solids basis, as provided in this subsection.

"(2) INCREASE.—Effective January 1 of each of the calendar years 1991 through 1995, the rate of price support for milk as in effect on that date shall be increased by the Secretary by an amount per hundredweight of at least $0.25 if the Secretary estimates on November 1 of the previous calendar year that the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use) during the 12-month period commencing on January 1 of the calendar year will not exceed 3,500,000,000 pounds, milk equivalent, total milk solids basis, as provided in this subsection.

"(3) NO ADJUSTMENTS.—If for any of the calendar years 1991 through 1995, the Secretary does not make any adjustment in the support price for milk as provided for in paragraph (1) or (2), the rate of price support for milk for the year shall be the rate as in effect on January 1 of such year.

"(4) NOTIFICATION OF CONGRESS.—The Secretary shall, on November 1 of each of the calendar years 1991 through 1995, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed reduction or increase during the subsequent calendar year in the rate of price support for milk under paragraph (1) or (2).

"(5) ADMINISTRATION.—

"(A) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—

"(i) IN GENERAL.—As used in this section, the term 'milk equivalent, total milk solids basis', of milk and the products of milk shall be equal to the weighted average of—

"(I) the milk equivalent of the products, as computed on a milk fat basis; and

"(II) the milk equivalent of the products, as computed on a milk solids not fat basis.

"(ii) WEIGHTING FACTORS.—The weighting factors for the calculation in clause (i) shall reflect the proportions of such components found in milk, but equal to not more than 40 percent for the milk equivalent, as computed on a milk fat basis, and not more than 70 percent for the milk equivalent, as computed on a milk solids not fat basis. The weighting factors shall total 100 percent.

"(B) LEVEL OF PURCHASES.—In estimating the level of purchases of milk and the products of milk under this section, the Secretary shall deduct the quantity, if any, by which the level of imports into the United States of milk and the products of milk during the most recent calendar year exceeds the annual average level of imports into the United States of milk and the products of milk during the period January 1, 1986, through December 31, 1990, milk equivalent, total milk solids basis.

"(e) REPORT ON MILK MARKETING ADJUSTMENT PROGRAM.—

"(1) IN GENERAL.—Not later than July 1, 1991, the Secretary shall prepare a report and recommendations on milk marketing adjustment programs that would be implemented under subsection (f)(1) in the event purchases of milk and milk products, total milk solids basis, exceed 7,000,000,000 pounds in a calendar year.

"(2) SOLICITATION OF PROPOSALS.—Within 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a notice to solicit proposals concerning a milk marketing adjustment program.

"(3) EVALUATION OF PROPOSALS.—Within 180 days after the publication of the notice, the Secretary shall evaluate the proposals received and make a preliminary determination concerning a milk marketing adjustment program.

"(4) CRITERIA FOR EVALUATION.—The Secretary shall evaluate the proposals received for a milk marketing adjustment program based on—

"(A) the speed and effectiveness of reducing excess milk production;

"(B) the effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;

"(C) the regional impact on milk prices, producer revenue, and milk supplies;

"(D) the impact on national producer income and Government expenditures;

"(E) the impact on the rural economy and maintaining family farms;

"(F) the impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;

"(G) technological innovations;

"(H) the effectiveness in reducing butter fat production and increasing protein content in milk;

"(I) the impact of temporary increases and decreases of milk production;

"(J) the impact on the United States livestock industry; and

"(K) all other issues the Secretary considers appropriate.

"(5) NOTICE AND COMMENT.—The Secretary shall provide for public notice and comment on the recommended milk marketing adjustment program and shall take the comments into consideration in preparing a milk marketing adjustment program.

"(6) REPORTS.—

"(A) INITIAL REPORT.—The Secretary shall provide the report required by this subsection and other recommendations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than July 1, 1991.

"(B) SUBSEQUENT REPORTS.—No later than July 1 of each year following the initial report under this paragraph, the Secretary shall update the report (with notice and public comment) and make recommendations to Congress regarding alternative milk marketing adjustment proposals for the upcoming year.

"(f) IMPLEMENTATION OF MILK MARKETING ADJUSTMENT PROGRAM.—

"(1) IN GENERAL.—If, on November 1 of each of the calendar years 1991 through 1994, the Secretary estimates that the level of Commodity Credit Corporation purchases of milk and the products of milk for the following calendar year will exceed 7,000,000,000 pounds, milk equivalent, total milk solids basis, as provided in this Act, the Secretary shall establish a milk marketing adjustment program for the purpose of controlling the level of the purchases of milk and milk products by the Commodity Credit Corporation during the following calendar year.

"(2) NOTIFICATION OF CONGRESS CONCERNING PROPOSED ACTION.—No later than July 1 of each of the years 1991 through 1994, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of what action the Secretary determines will be taken with regard to a milk marketing adjustment program in the event the Secretary estimates that Corporation purchases of milk and milk products will exceed 7,000,000,000 pounds.

"(3) IMPLEMENTATION.—If the Secretary estimates that Corporation purchases of milk and milk products will exceed 7,000,000,000 pounds during a calendar year, the Secretary shall implement the milk marketing adjustment program established in paragraph (1) no later than January 1 of the cal-

endar year, unless a law is enacted disapproving or modifying the program.

"(4) NOTIFICATION OF CONGRESS CONCERNING ESTIMATED PURCHASES.—On November 1 of each calendar year 1991 through 1994, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate whether the Secretary estimates that the Corporation purchases of milk and the products of milk will exceed 7,000,000,000 pounds during the upcoming calendar year.

"(5) PROHIBITION ON MILK PRODUCTION TERMINATION PROGRAM.—Notwithstanding any other provision of law, if the Secretary is required under this subsection to implement a milk marketing adjustment program, the Secretary shall not offer to enter into a contract with any producer of milk in the United States for the purpose of selling for slaughter or export (other than the export of live dairy cattle) any dairy cattle in which the producer owns an interest.".

SEC. 103. MILK MANUFACTURING MARGIN ADJUSTMENT.

No State may use a greater allowance than that provided for in Federal programs to establish a Grade A price for milk for manufacturing butter, nonfat dry milk, or cheese.

SEC. 104. MINNESOTA-WISCONSIN PRICE SERIES REFORM.

(a) IN GENERAL.—Within 60 days of the date of enactment of this Act, the Secretary of Agriculture shall initiate a study regarding alternative pricing formulas used to determine the minimum prices paid under milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(b) AVAILABILITY OF DATA.—The Secretary shall compile and make available to the public the historical and current data used to compare the alternative pricing formulas submitted and recommended as provided in subsection (a) with the existing Minnesota-Wisconsin price series.

(c) DEADLINE FOR REPORT.—Not later than October 1, 1991, the Secretary shall prepare and provide a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the results of the study conducted under subsection (a).

(d) NOTICE AND COMMENT.—If the Secretary determines, as a result of the study conducted under subsection (a), that changes should be made in the mechanism used to compute minimum prices paid under Federal milk marketing orders, the Secretary shall give notice and a reasonable opportunity for public comment on any such proposed changes.

SEC. 105. REPORT OF DAIRY PRODUCT PURCHASES.

The Secretary of Agriculture shall make available to the public quarterly evaluations of the acquisition and disposal of Commodity Credit Corporation purchases of dairy products.

SEC. 106. APPLICATION OF SUPPORT PRICE FOR MILK.

For purposes of supporting the price of milk under section 204 of the Agricultural Act of 1949 (as added by section 102 of this Act), the Secretary of Agriculture may not take into consideration any market value of whey.

SEC. 107. APPLICATION OF AMENDMENTS.

The amendments made by this title shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act.

SEC. 108. ADJUSTMENTS FOR SEASONAL PRODUCTION; HEARINGS ON AMENDMENTS; DETERMINATION OF MILK PRICES.

Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking "1990" and inserting "1995".

SEC. 109. TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS.

Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended by striking "1990" each place it appears in subsections (a) and (b) and inserting "1995".

SEC. 110. EXTENSION OF THE DAIRY INDEMNITY PROGRAM.

Section 3 of the Act entitled "An Act to provide indemnity payments to dairy farmers" (7 U.S.C. 4501), approved August 13, 1968, is amended by striking "1990" and inserting "1995".

SEC. 111. EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended by striking "1990" each place it appears and inserting "1995".

SEC. 112. COMPONENT PRICING OF MILK.

Section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking "and" at the end of clause (d); and

(2) by inserting before the period at the end the following: "and, (f) a further adjustment, equitably to apportion the total value of milk purchased by any handler or by all handlers among producers on the basis of the milk components contained in their marketings of milk".

SEC. 113. ADJUSTMENTS IN PAYMENTS BY HANDLERS.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(L) Providing that adjustments in payments by handlers under paragraph (A) need not be the same as adjustments to producers under paragraph (B) with regard to adjustments authorized by subparagraphs (2) and (3) of paragraph (A) and clauses (b), (c), and (d) of paragraph (B)(ii).".

SEC. 114. DAIRY EXPORT INCENTIVE PROGRAM.

Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by striking "September 30, 1990" and inserting "December 31, 1995".

SEC. 115. STATUS OF PRODUCER HANDLERS.

The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title take effect as it was before the effective date of the amendments.

SEC. 116. MULTIPLE COMPONENT PRICING STUDY.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall initiate a study to determine whether, and to what extent, milkfat is being produced in the United States in excess of commercial market needs as a result of any provision of law, regulation, or order that affects the manner in which producers receive payment for milk on the basis of the milk components contained in their marketings of milk under any Federal or State milk pricing program.

(b) STUDY.—In conducting the study, the Secretary shall assess the potential impact on achieving balance in the production, marketing, and domestic commercial use of milkfat through adoption of multiple component pricing programs under Federal and State milk pricing programs.

(c) REPORT.—Not later that 180 days after the date of enactment of this Act, the Secretary shall—

(1) report the results of the study conducted under subsection (a), together with associated recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(2) publish the results of the study.

(d) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—On completion and publication of the study described in this section, the Secretary shall—

(1) announce a national hearing to consider the adoption of multiple component pricing provisions in individual Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) invite industry and consumer proposals on the specific provisions to be considered for each order.

SEC. 117. SUBSIDIZED INPUTS/SURPLUS DAIRY PRODUCTION STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate, a report that shall contain—

(1) the findings of such Secretary concerning whether low-cost alfalfa, other hay, pastureland, and other forage irrigated with below-cost water from Federal reclamation projects is contributing to or promoting fluid milk production in excess of demand in States and regions served by the United States Bureau of Reclamation; and

(2) if such Secretary determines there is a casual link, the recommendations of such Secretary for addressing such surplus production.

(b) DEFINITIONS.—As used in subsection (a), the terms "full cost", "irrigation water", and "project" shall have the same meaning given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).

SEC. 118. STUDY OF FEDERAL DAIRY PRODUCER TRUST.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Packers and Stockyards Administration, the Agricultural Marketing Service, the Agricultural Cooperative Service, and representatives of the dairy and agricultural lending industries, shall conduct a study of the need for and the impact of the establishment of a Federal dairy producer trust, comparable to trusts established for the benefit of livestock and poultry producers under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) on various segments of the dairy industry.

(b) TRUST IMPACT.—In evaluating the impact of a Federal dairy producer trust, the Secretary shall consider—

(1) the extent of economic losses suffered by dairy producers as a result of the bankruptcy of dairy processing facilities since 1975;

(2) the adequacy of protection provided producers by individual State dairy plant security programs;

(3) the extent to which a Federal dairy producer trust could have prevented economic losses to dairy producers;

(4) the potential economic costs and benefits to dairy producers of the trust;

(5) the potential economic impact on dairy processing facilities considering factors such as the differences between the operations of and business conditions affecting dairy processors, as compared to livestock and poultry processing facilities currently subject to Federal producer trust laws;

(6) the potential economic impact on dairy processing facilities in terms of size, number, and ownership of dairy processing operations and in terms of credit availability, credit costs, operating expenses, and liquidity;

(7) the economic impact of existing Federal producer trust laws on those industries currently subject to the laws; and

(8) the need for Federal laws in order to protect dairy producer income and, in the event of dairy product wholesaler or retailer bankruptcies, to protect dairy processor income.

(c) OTHER FACTORS.—In addition to analyzing the impact of a Federal dairy producer trust, the Secretary shall also consider—

(1) the need for alternative Federal legislative approaches, or combination of approaches, as a means of improving economic protection for dairy producers in the event of a dairy processing plant bankruptcy, including—

(A) requiring the filing of different types of security arrangements for dairy processing plants (such as surety bonds, letters of credit, cash escrow accounts, and certificates of deposits) and the degree of financial requirements necessary in filing such types of security (based on milk purchases, debt-to-assets ratios, and other financial criteria) in order to adequately protect dairy producer income; and

(B) establishing a producer guaranty trust fund funded, fully or partially, by producer and processor assessments, including consideration of—

(i) the size of such a trust fund;

(ii) the size of assessments;

(iii) whether such a fund should be established nationally or by State;

(iv) whether the fund should require a deductible in the case of processor bankruptcy; and

(v) the effective amount of the deductible if such a deductible is required;

(C) the effect of such alternative legislation on dairy processors;

(2) the need for Federal legislation in order to more adequately protect dairy producer income in the event of a dairy processing plant bankruptcy;

(3) the likely changes in existing State dairy plant security laws as a result of the implementation of Federal dairy plant security laws; and

(4)(A) the economic impact on dairy producers, proprietary dairy product processors, and lenders, and desirability, of excluding dairy cooperatives from the trust fund; and

(B) the economic impact of implementing Federal dairy producers trust legislation on proprietary processors, versus its impact on dairy cooperatives, in the event dairy cooperatives are excluded from the trust fund.

(d) CONSULTATION.—In conducting the study, the Secretary shall seek the advice and counsel of the Packers and Stockyards Administration, the Agricultural Cooperative Service, the Agricultural Marketing Service, and representatives of the dairy and agricultural lending industries, including representatives from—

(1) State Departments of Agriculture in those States with State dairy plant security laws;

(2) dairy cooperatives;

(3) proprietary dairy processing associations;

(4) lending associations that provide financing to dairy processing facilities; and

(5) dairy producer organizations.

(e) REPORT.—Not later than October 1, 1991, the Secretary shall submit a report describing the results of the study conducted under this section (together with legislative recommendations, if appropriate) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 119. PRIORITY STATUS OF DAIRY PRODUCERS IN DAIRY PROCESSOR BANKRUPTCIES.

Section 507(a)(5) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking out "or" at the end thereof;

(2) in subparagraph (B) by striking out "facility—" and inserting in lieu thereof "facility, or"; and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) engaged as a dairy producer against a debtor who owns or operates a dairy processing facility,".

Subtitle B—Processor-Funded Milk Promotion Program

SEC. 121. SHORT TITLE.

This subtitle may be cited as the "Fluid Milk Promotion Act of 1990".

SEC. 122. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fluid milk and dairy products are basic foods that are a valuable part of the human diet;

(2) fluid milk and dairy products play a significant role in the economy of the United States, milk is produced by thousands of milk producers, and fluid milk and dairy products are consumed by millions of people throughout the United States;

(3) fluid milk and dairy products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for fluid milk and dairy products are vital to the welfare of milk producers and those concerned with marketing, using, and producing fluid milk and dairy products, as well as to the general economy of the United States; and

(5) fluid milk and dairy products move in interstate and foreign commerce, and dairy products that do not move in channels of commerce directly burden or affect interstate commerce of dairy products.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for financing and carrying out a coordinated program of promotion designed to strengthen the position of the dairy industry in the marketplace and to maintain and expand uses for class I fluid milk products in the United States. Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.

SEC. 123. DEFINITIONS.

As used in this subtitle:

(1) ADVERTISING.—The term "advertising" means any advertising or promotion program involving only a Class I fluid milk product.

(2) BOARD.—The term "Board" means the National Processor Advertising and Promotion Board established under section 128(b).

(3) CLASS I FLUID MILK PRODUCT.—The term "Class I fluid milk product" means—

(A) any of the following fluid milk products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(B) does not include evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey.

(4) CLASS I PROCESSOR.—The term "Class I processor" means any person who uses milk to produce a Class I fluid milk product.

(5) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(6) RESEARCH.—The term "research" means market research limited to the support of advertising and promotion efforts, including educational activities.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(8) UNITED STATES.—The term "United States" means the 48 contiguous States in the continental United States.

SEC. 124. AUTHORITY TO ISSUE ORDERS.

The Secretary—

(1) shall, subject to this subtitle, issue and from time to time amend, orders applicable to all processors of milk; and

(2) may issue orders authorizing—

(A) the collection of assessments on Class I fluid milk products subject to this subtitle; and

(B) the use of the assessments to provide research and advertising in a manner prescribed by this subtitle.

(b) SCOPE.—Any order issued under this subtitle shall be national in scope.

(c) ONE ORDER.—Not more than one order shall be in effect under this subtitle at any one time.

SEC. 125. NOTICE AND HEARINGS.

(a) ISSUANCE OF AN ORDER.—Subject to section 134, if the Secretary receives a request for the issuance of an order under this subtitle, and a specific proposal for a plan, from class I processors representing not less than 30 percent of class I fluid milk product sales, the Secretary shall propose the issuance of an order under this subtitle.

(b) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of such a request and proposal for an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

SEC. 126. FINDINGS AND ISSUANCE OF ORDERS.

(a) IN GENERAL.—Not later than 90 days after publication of the proposed order, as provided in section 125, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements and the declared policy of this subtitle.

(b) EFFECTIVE DATE.—The order shall be issued and become effective not later than 90 days following approval of the proposed order in the referendum conducted under section 134.

SEC. 127. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the powers vested in the Secretary by this subtitle.

SEC. 128. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) NATIONAL PROCESSOR ADVERTISING AND PROMOTION BOARD.—

(1) ESTABLISHMENT.—The order shall establish a National Processor Advertising and Promotion Board to carry out the programs and projects established under this subtitle.

(2) SERVICE TO THE ENTIRE INDUSTRY.—In carrying out this subtitle, the Board shall carry out programs and projects that will provide maximum benefit to the fluid milk industry and promote only Class I fluid milk products. The Board shall, to the extent practicable, ensure that advertising coverage in each region is proportionate to the funds collected from each region.

(3) REGIONS.—The Secretary shall establish not less than 10 nor more than 25 regions in order to ensure appropriate geographic representation on the Board.

(A) IN GENERAL.—Subject to subparagraph (B), the Board shall consist of one member appointed by the Secretary, from among Class I processors, to represent each of the regions established under paragraph (3), with the members representing, to the extent practicable, differing sizes of operations.

(B) ADDITIONAL MEMBERS.—The Secretary may appoint not more than five additional at-large members to the Board, of which at least three members shall be Class I processors.

(5) TERMS OF OFFICE.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary. No member shall serve for more than 2 consecutive terms, except that the members that are selected to serve for the initial term of 1 or 2 years shall be eligible to be reappointed for a 3-year term.

(6) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties of the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to make rules to effectuate the terms and conditions of the order;

(3) to receive, investigate, and report to the Secretary complaints of violations of the order;

(4) to develop and recommend such rules, regulations, and amendments to the order to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out this subtitle;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a fiscal period budget of the anticipated expenses in the administration of this subtitle, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and advertising;

(9) to carry out research or advertising, and pay the costs of the projects with funds collected pursuant to subsection 130;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to furnish the Secretary with such other information as the Secretary may require;

(12) to provide for an independent evaluation of the effectiveness of promotion carried out under this subtitle; and

(13) to invest funds collected by the Board pursuant to subsection (g).

(d) PLANS AND BUDGETS.—

(1) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of the fiscal year, to develop budgets of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of research and advertising. The budget shall be submitted to the Secretary and effective on the approval of the Secretary.

(2) INCURRING EXPENSES.—The Board may incur such expenses for research or advertising of Class I fluid milk products, and other expenses for the administration, maintenance, and functioning of the Board, as may be authorized by the Secretary. The expenses shall include any implementation, administrative, and referendum costs incurred by the Department, other than referendum costs for salaries of Government employees.

(3) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (2) shall be paid from assessments collected under section 130.

(4) LIMITATION ON SPENDING.—Effective 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 5 percent of the assessments collected for administration of the Board.

(e) PROHIBITION ON BRANDED ADVERTISING.—A program or project conducted under this subtitle shall not make any reference to private brand names or use false or unwarranted claims on behalf of Class I fluid milk products or false or unwarranted statements with respect to the attributes or use of any competing products, except that this subsection shall not preclude the Board from offering its programs and projects for use by commercial parties, under such terms and conditions as the Board may prescribe.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds collected under this subtitle, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects for Class I fluid milk products promotion and advertising, and for the payment of the costs of the plans or projects with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget or budgets that shall disclose estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of the transactions of the contracting party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may not contract with processor organizations for any other services.

(g) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending disbursement of the funds, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(h) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) IN GENERAL.—The order shall require that each Class I processor subject to this subtitle to maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) USE OF INFORMATION.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board.

(B) PERMITTED USES.—Information obtained under this subtitle shall be made

available to any agency or officer of the Federal Government only for—

(i) the implementation of this subtitle;

(ii) any investigatory or enforcement action necessary for the implementation of this subtitle; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by the person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(6) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of the records.

(j) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) EXCEPTION.—Paragraph (1) shall not apply to the development or recommendation of amendments to the order.

(k) COORDINATION.—The order shall require the Board to take reasonable steps to coordinate the promotion and research activities of the Board with the National Dairy Promotion and Research Board established under section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)).

(l) EXEMPTIONS.—The order shall exempt Class I fluid milk products exported from the United States.

(m) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate this subtitle.

SEC. 129. PERMISSIVE TERMS.

(a) IN GENERAL.—Each order issued under this subtitle may contain one or more of the terms and conditions described in this section.

(b) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The order may provide authority to designate different payment and reporting schedules for Class I processors to recognize differences in marketing practices and procedures utilized in different production areas.

(c) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of Class I fluid milk products and for the disbursement of necessary funds for the purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for Class I fluid milk products; and

(2) the promotional activities shall comply with other restrictions on the use of funds that are established under this subtitle.

(d) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying out research projects and studies to support the advertising and promotion efforts for Class I fluid milk products.

(e) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to this subtitle, to permit an effective and continuous coordinated program or research, and advertising in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed 25 percent of the amount budgeted for the operation in the current year of the order.

(f) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle as are necessary to effectuate the other provisions of the order.

SEC. 130. ASSESSMENTS.

(a) IN GENERAL.—In the case of Class I fluid milk products that are subject to Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, during the effective period of this subtitle, the Secretary shall modify regulations governing the milk products in a manner such that assessments under this subtitle shall—

(1) be added to all Class I milk differentials or, where applicable, minimum prices;

(2) be included in the Class I price; and

(3) not otherwise be deducted from the amounts that handlers must pay for Class I producer milk sold to a processor.

(b) UNREGULATED AREAS.—In the case of Class I fluid milk products that are not subject to such an order, processors of the milk products shall report all Class I fluid milk product sales directly to the Secretary and remit assessments to the Board.

(c) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under this section for the purposes of this subtitle on a processor for any unit of Class I fluid milk product.

(d) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsections (a) and (b) shall be remitted to the Board in accordance with regulations issued by the Secretary.

(2) TIMES TO REMIT ASSESSMENT.—Each person who is responsible for the remittance of an assessment under paragraph (1) shall remit the assessment to the Board no later than the last day of the month following the month that the milk being assessed was purchased or marketed.

(3) PRODUCER-HANDLERS.—Producers-handlers that are required to pay the assessment imposed under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) shall also be responsible for the additional assessment imposed by this section.

(4) VERIFICATION.—Remittances shall be verified by market administrators and State regulatory officials, and local and State Agricultural Stabilization and Conservation Service offices, as directed by the Secretary.

(e) PROCESSOR ASSESSMENT RATE.—Except as provided in section 136(b), the rate of assessment prescribed by the order shall be 20 cents per hundredweight.

SEC. 131. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition, which shall be final if the ruling is made in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which the person is an inhabitant or carries on business shall have jurisdiction to review the ruling, if a complaint for review of the ruling is filed within 20 days after the date of the entry of the ruling.

(2) PROCESS.—Service of process in the proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 132.

SEC. 132. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subtitle or a regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General of the United States for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General a violation of this subtitle, or a regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of this subtitle or a regulation issued under this subtitle may be assessed—

(A) a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation; or

(B) in the case of a willful failure or refusal to pay, collect, or remit any assessment or fee duly required of the person under this subtitle or a regulation issued under this subtitle, a civil penalty by the Secretary of

not less than $10,000 nor more than $100,000 for each such violation.

Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless the person is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the order of the Secretary with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which the violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 133. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—The attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. The court may issue an order requiring the person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as contempt of the order.

(e) PROCESS.—All process in any such case may be served in the judicial district of which the person is an inhabitant or wherever the person may be found.

(f) JURISDICTION.—The site of any hearing held under this section shall be within the judicial district where the person is inhabitant or has a principal place of business.

SEC. 134. REQUIREMENT OF REFERENDUM.

(a) IN GENERAL.—After the hearing on an order conducted in accordance with section 125, the Secretary shall conduct a referendum among Class I processors that have been engaged, during a representative period as determined by the Secretary, in the production of Class I fluid milk products, for the purpose of ascertaining whether processors favor the implementation of the order.

(b) IMPLEMENTATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that implementation of the order is favored by Class I processors voting in the referendum who represent, as determined by the Secretary, 60 percent or more of the volume of Class I fluid milk products represented in the referendum, the Secretary shall implement the order.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this subtitle, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this subtitle shall be conducted in a manner determined by the Secretary.

(2) ADVANCE REGISTRATION.—A Class I processor who chooses to vote in any referendum conducted under this subtitle shall register with the Secretary prior to the voting period, after receiving notice from the office concerning the referendum under paragraph (4).

(3) VOTING.—A Class I processor who votes in any referendum conducted under this subtitle shall vote in accordance with procedures established by the Secretary. The ballots and other information or reports that reveal or tend to reveal the vote of any processor shall be held strictly confidential.

(4) NOTICE.—The Secretary shall notify all processors at least 30 days prior to a referendum conducted under this subtitle. The notice shall explain the procedure established under this subsection.

SEC. 135. SUSPENSION OR TERMINATION OF ORDERS.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of the order or provision.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct a referendum at any time after the initial referendum provided for in section 134(a), and shall hold a referendum on request of the Board or Class I processors representing 10 percent or more of the Class I fluid milk product sales. Not more than one referendum authorized in this section may be conducted per year.

(2) SUSPENSION OR TERMINATION.—If the Secretary determines that the suspension or termination is favored by Class I processors voting in the referendum who represent, as determined by the Secretary, 60 percent or more of the volume of Class I fluid milk products, the Secretary shall—

(A) within 6 months after making the determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 134 shall apply to a referendum conducted under this subsection.

SEC. 136. AMENDMENTS.

(a) APPLICATION OF SUBTITLE.—The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

(b) AMENDMENT TO ASSESSMENT RATES.—

(1) IN GENERAL.—The Secretary may conduct a referendum on the assessment rate at any time after the initial referendum provided for in section 134(a), and shall hold a referendum on request of the Board or Class I processors representing 10 percent or more of the Class I fluid milk product sales during a representative period, as determined by the Secretary. Not more than one referendum authorized in this section may be conducted per year.

(2) ADJUSTMENT TO ASSESSMENT RATE.—The Secretary shall adjust the assessment rate as established in section 130(e) whenever the Secretary determines that the adjustment is favored by Class I processors representing 60 percent or more of the volume of Class I fluid milk products represented by the processors voting in the referendum. The adjustment shall be effective on date of the referendum.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 134 shall apply to a referendum conducted under this subsection.

SEC. 137. INDEPENDENT EVALUATION OF PROGRAMS.

(a) REVIEW AND EVALUATION.—The Comptroller General of the United States shall review and evaluate the order no later than 2 years after the date of enactment of this Act to—

(1) determine the effectiveness of the promotion program conducted under this subtitle on fluid milk sales;

(2) determine if the assessments for the program have been passed back to milk producers by Class I processors; and

(3) make recommendations for future funding and assessment levels for the program.

(b) REPORT TO CONGRESS.—The Comptroller General shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the evaluations made under this section.

SEC. 138. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this subtitle.

TITLE II—WOOL AND MOHAIR

SEC. 201. WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

(a) EXTENSION.—Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "1990" each place it appears in subsections (a) and (b) and inserting "1995".

(b) PAYMENT LIMITATION.—Section 703 of such Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no person may receive payments under this Act for wool or mohair in excess of $250,000 per year.

"(2) The Secretary shall issue regulations defining the term 'person' for purposes of this section. The regulations shall be consistent with regulations issued by the Secretary in accordance with sections 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, and 1308-2).".

(c) ESTABLISHED PRICE.—Section 703 of such Act (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, for each of the 1991 through 1995 marketing years for wool and mohair, the established price shall be $1.82 per pound for wool and $4.532 per pound for mohair.".

TITLE III—WHEAT

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 107A, 107B, and 107D (7 U.S.C. 1445b, 1445b-1, and 1445b-3); and

(2) by inserting after section 107 (7 U.S.C. 1445a) the following new section:

"SEC. 107A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of wheat produced on the farm at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) MINIMUM LEVELS.—The Secretary shall determine the loan and purchase level for a crop of wheat under paragraph (1) in accordance with subparagraph (A) or (B), as follows:

"(A) BASIC LEVEL.—If the Secretary elects to establish the loan and purchase level for wheat under this subparagraph, the loan and purchase level shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subparagraph may not be reduced by more than 5 percent from the level determined for the preceding crop nor below $2.44 per bushel.

"(B) ADJUSTED LEVEL.—If the Secretary elects to establish the loan and purchase level for wheat under this subparagraph, the level shall be established as follows:

"(i) IN GENERAL.—Except as provided in clause (ii), the loan and purchase level shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subparagraph may not be reduced by more than 5 percent from the level determined for the preceding crop nor below $2.44 per bushel.

"(ii) ADJUSTMENTS TO SUPPORT LEVEL.—If the Secretary determines that the average price received by producers for wheat in the previous marketing year was not more than 110 percent of the loan and purchase level for wheat for the marketing year or determines that the action is necessary to maintain a competitive market position for wheat, the Secretary may reduce the loan and purchase level for wheat for the corresponding crop by an amount the Secretary determines necessary to maintain domestic and export markets for wheat, but not more than 20 percent in any year.

"(iii) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan and purchase level for wheat under clause (ii) shall not be considered in determining the loan and purchase level for wheat for subsequent years.

"(iv) REPORT TO CONGRESS.—If the Secretary elects to establish the loan and purchase level for wheat under this subparagraph, the Secretary shall, within 30 days of the election, submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(I) outlining the budget implications of the election;

"(II) describing the anticipated effect on farm income of the election;

"(III) describing why an adjustment under clause (ii) is necessary to prevent the build-up of stocks and to maintain price competitiveness; and

"(IV) describing the anticipated effect on the orderly marketing of the crop of wheat of the election.

"(v) ADVANCE COMPENSATION.—

"(I) IN GENERAL.—If the loan and purchase level for a crop of wheat is reduced under clause (ii), the Secretary shall make advance compensation available to producers of the crop in accordance with this clause.

"(II) AMOUNT.—The amount of the advance compensation available for a crop under this clause shall not be less than an amount determined by multiplying—

"(aa) the estimated individual farm program acreage for the crop; by

"(bb) the farm program payment yield for the crop; by

"(cc) an amount determined by multiplying 0.75 by the amount of the reduction in the loan level for the crop under clause (ii).

"(III) TIMING OF ADVANCE COMPENSATION.—Advance compensation under this clause shall be made available between October 1 and October 31 of the year in which the crop is harvested.

"(IV) REPAYMENT OF ADVANCE COMPENSATION.—A producer who receives advance compensation for a crop under this clause shall repay the advance compensation to the Secretary not later than 270 days after the advance compensation was made available.

"(3) REPAYMENT OF LOAN.—

"(A) IN GENERAL.—The Secretary shall permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for wheat, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1991 through 1995 crops of wheat, if the world market price for wheat (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of wheat stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing wheat; and

"(iv) allow wheat produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(4) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wheat the producer is eligible to place under loan (or obtain a purchase agreement) but forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds—

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (also referred to in this section as 'deficiency payments') for each of the 1991 through 1995 crops of wheat in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) PAYMENT RATE.—The payment rate for wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(i) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(ii) the loan level determined for the crop.

"(C) ESTABLISHED PRICE.—The established price for wheat shall not be less than $4.00 per bushel for each of the 1991 through 1995 crops of wheat.

"(D) EMERGENCY COMPENSATION.—

"(i) SAME TOTAL RETURN TO PRODUCERS.—Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for wheat under subsection (a)(2)(B)(ii), the Secretary shall provide emergency compensation by increasing the deficiency payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made, taking into consideration any deficiency payments made under this subsection.

"(ii) CALCULATION.—In determining the payment rate, per bushel, for emergency compensation payments for a crop of wheat under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of wheat, received by producers during the first 5 months of the marketing year for each of the 1991 through 1995 crops.

"(E) DEVOTING ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the permitted wheat acreage of the farm (as determined in accordance with subsection (e)(2)(A)) equal to more than 8 percent of the permitted wheat acreage of the farm for the crop or all of such permitted acreage, to conservation uses (except as provided in subparagraph (F))—

"(I) the portion (or all) of the permitted wheat acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to wheat for the purpose of determining the individual farm program acreage in accordance with subsection (e) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(C); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage.

"(ii) PAYMENTS.—Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted wheat acreage of the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced due to the fact that a portion (or all) of the permitted wheat acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop of wheat on a greater acreage than the acreage actually planted to wheat.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to wheat in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(F) PLANTING OTHER CROPS ON CONSERVATION USE ACREAGE.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, sesame, castor beans, safflower, sunflower, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, and other minor oilseeds designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseeds produced on the farm.

"(G) REDUCTION FOR DISASTER PAYMENTS.—The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage that the producers were prevented from planting to wheat or other nonconserving crops in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the average of the established prices for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance

Act (7 U.S.C. 1501 et seq.) with respect to the wheat acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the wheat acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of wheat shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, except as provided in subparagraph (E), if the Secretary determines that the total supply of wheat, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat an acreage limitation program as described in paragraph (2).

"(B) CONSERVATION STEWARDSHIP PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation stewardship program established under title XII of the Food Security Act of 1985.

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than June 1 prior to the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) ADJUSTMENTS.—Not later than July 31 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

"(E) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, except as provided in subsections (f) and (g) and section 505, the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program.

"(F) CARRYOVER STOCKS.—In the case of each of the 1991 through 1995 crops of wheat, if the Secretary estimates for a marketing year for the crop that the ratio of wheat-ending stocks to total disappearance of wheat for the preceding marketing year will be—

"(i) more than 40 percent, the Secretary shall provide for an acreage reduction program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm reduced by not less than 12.5 percent nor more than 20 percent; or

"(ii) 40 percent or less, the Secretary may provide for such an acreage reduction program under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm reduced by not more than 12.5 percent.

For the purpose of this subparagraph, the term 'total disappearance' means all wheat utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a wheat acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the wheat crop acreage base for the crop for each wheat-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Except as provided in subsection (g) and section 505, producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Wheat crop acreage bases for each crop of wheat shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the wheat crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereinafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereinafter in this subsection referred to as 'permitted acreage'.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm as established under this paragraph.

"(F) PLANTING OILSEEDS OR OTHER CROPS ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may plant an oilseed, or other such crop considered appropriate by the Secretary, on no more than one-half of the reduced acreage on the farm.

"(ii) LIMITATIONS.—If the producers on a farm elect to plant oilseeds or other crops on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the oilseeds or other crops, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in acreage used to compute deficiency payments are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) PLANTING EXPERIMENTAL OR INDUSTRIAL NONPROGRAM CROPS, OR HARVESTING CONSERVING CROPS, ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may elect to—

"(I) devote reduced acreage to an experimental or industrial nonprogram crop; or

"(II) harvest a conserving crop on reduced acreage,

determined and announced by the Secretary (hereinafter in this subparagraph referred to as an 'approved crop').

"(ii) LIMITATIONS.—If the producers on a farm elect to plant or harvest an approved crop on reduced acreage under this subparagraph, the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted for harvest to an approved crop, by an amount equal to the deficiency payment that would be made with respect to one acre (or portion thereof) of the crop, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of wheat, the Secretary shall make available to producers on a farm who do not receive payments under subsection (c)(1)(E) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—The Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of wheat under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE ESTABLISHED PRICE.—A producer shall be eligible to receive an increase in the established price for wheat under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' wheat acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for wheat by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' wheat acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' wheat acreage base shall not be increased by more than 10 percentage points for the 1991 crop and 15 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—A producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' wheat acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for wheat under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for wheat by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' wheat acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' wheat acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop.

"(ii) PERENNIAL COVER.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—Notwithstanding any other provision of this subparagraph, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E)), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(D) SUMMER FALLOW PRACTICES.—In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(E) ADDITIONAL PRACTICES.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program for wheat is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—Any acreage required to be devoted to conservation uses and any additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement, if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of wheat.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of negotiable marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan under subsection (a);

"(B) agrees to forgo receiving payments under subsections (b) and (c);

"(C) does not plant wheat for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—If a wheat acreage limitation program or a land diversion program is announced under subsection (d) for the 1991 or 1992 crop of wheat (and the 1993 through 1995 crops if the Secretary so determines), the Secretary shall carry out a pilot program in at least 15 counties in at least 4 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of such acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the wheat production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to wheat under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for wheat for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of wheat shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the normal crop acreage; and

"(C) be considered to have complied with the terms and conditions of the wheat acreage reduction program or land diversion program for the crop, even though the acreage planted to wheat on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of wheat produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess wheat is produced less the quantity of wheat produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of wheat may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) in an amount that reflects the quantity of wheat that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess wheat production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any wheat that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for wheat for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the wheat program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON WHEAT PROGRAM.—

"(1) IN GENERAL.—In order to ensure that producers and consumers of wheat are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1991 and subsequent crops of wheat, the Secretary shall request public comment regarding the wheat program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of wheat under this section, the Secretary shall propose for public comment various program options for the crop of wheat.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(4) ESTIMATES.—In announcing the program for a crop of wheat under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government

that is expected to result from the program as announced.

"(p) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of wheat.".

SEC. 302. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.

Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.

SEC. 303. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.

Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.

SEC. 304. SUSPENSION OF CERTAIN QUOTA PROVISIONS.

The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.

SEC. 305. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF WHEAT.

Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.

TITLE IV—FEED GRAINS

SEC. 401. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 105A, 105B, and 105C (7 U.S.C. 1444c, 1444d, and 1444e); and

(2) by inserting after section 105 (7 U.S.C. 1444b) the following new section:

"SEC. 105A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of corn produced on the farm at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

"(2) MINIMUM LEVELS.—The Secretary shall determine the loan and purchase level for a crop of corn under paragraph (1) in accordance with subparagraph (A) or (B), as follows:

"(A) BASIC LEVEL.—If the Secretary elects to establish the loan and purchase level for corn under this subparagraph, the loan and purchase level shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subparagraph may not be reduced by more than 5 percent from the level determined for the preceding crop nor below $1.96 per bushel.

"(B) ADJUSTED LEVEL.—If the Secretary elects to establish the loan and purchase level for corn under this subparagraph, the level shall be established as follows:

"(i) IN GENERAL.—Except as provided in clause (ii), the loan and purchase level shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subparagraph may not be reduced by more than 5 percent from the level determined for the preceding crop nor below $1.96 per bushel.

"(ii) ADJUSTMENTS TO SUPPORT LEVEL.—If the Secretary determines that the average price received by producers for corn in the previous marketing year was not more than 110 percent of the loan and purchase level for corn for the marketing year or determines that the action is necessary to maintain a competitive market position for corn, the Secretary may reduce the loan and purchase level for corn for the corresponding crop by an amount the Secretary determines necessary to maintain domestic and export markets for corn, but not more than 20 percent in any year.

"(iii) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan and purchase level for corn under clause (ii) shall not be considered in determining the loan and purchase level for corn for subsequent years.

"(iv) REPORT TO CONGRESS.—If the Secretary elects to establish the loan and purchase level for corn under this subparagraph, the Secretary shall, within 30 days of the election, submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(I) outlining the budget implications of the election;

"(II) describing the anticipated effect on farm income of the election;

"(III) describing why an adjustment under clause (ii) is necessary to prevent the build-up of stocks and to maintain price competitiveness; and

"(IV) describing the anticipated effect on the orderly marketing of the crop of corn of the election.

"(v) ADVANCE COMPENSATION.—

"(I) IN GENERAL.—If the loan and purchase level for a crop of corn is reduced under clause (ii), the Secretary shall make advance compensation available to producers of the crop in accordance with this clause.

"(II) AMOUNT.—The amount of the advance compensation available for a crop under this clause shall not be less than an amount determined by multiplying—

"(aa) the estimated individual farm program acreage for the crop; by

"(bb) the farm program payment yield for the crop; by

"(cc) an amount determined by multiplying 0.75 by the amount of the reduction in the loan level for the crop under clause (ii).

"(III) TIMING OF ADVANCE COMPENSATION.—Advance compensation under this clause shall be made available between October 1 and October 31 of the year in which the crop is harvested.

"(IV) REPAYMENT OF ADVANCE COMPENSATION.—A producer who receives advance compensation for a crop under this clause shall repay the advance compensation to the Secretary not later than 270 days after the advance compensation was made available.

"(3) REPAYMENT OF LOAN.—

"(A) IN GENERAL.—The Secretary shall permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for feed grains, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1991 through 1995 crops of feed grains, if the world market price for feed grains (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of feed grain stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing feed grains; and

"(iv) allow feed grains produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(4) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(5) OTHER FEED GRAINS.—The Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of grain sorghums, barley, oats, and rye, respectively, produced on the farm at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 401(b).

"(6) BARLEY FEED VALUE DETERMINATION.—Prior to the announcement of the program for the 1991 crop of barley, the Secretary shall conduct a study to determine a fair and reasonable relationship between the feed values of barley and corn. The study shall take into account the relative qualities of the two feed grains when fed as is to the various livestock classes, on a dry-matter basis.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of feed grains the producer is eligible to place under loan (or obtain a purchase agreement) but forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop of feed grains under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (also referred to in this section as 'deficiency payments') for each of the 1991 through 1995 crops of corn, grain sorghums, oats, and barley, in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) PAYMENT RATE.—The payment rate for a crop of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the crop exceeds the higher of—

"(i) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(ii) the loan level determined for the crop.

"(C) ESTABLISHED PRICES.—

"(i) CORN.—The established price for corn shall not be less than $2.75 per bushel for each of the 1991 through 1995 crops of corn.

"(ii) OATS.—The established price for oats shall not be less than $1.55 per bushel for the 1991 crop, $1.65 per bushel for the 1992 crop, $1.75 per bushel for the 1993 crop, and $1.85 per bushel for each of the 1994 and 1995 crops.

"(iii) GRAIN SORGHUMS AND BARLEY.—The established price for each of the 1991 through 1995 crops of grain sorghums and barley shall be not less than $2.61 per bushel for grain sorghums and not less than $2.36 per bushel for barley.

"(iv) ADJUSTMENT FOR BARLEY.—For the purposes of determining the payment rate for a crop of barley under subparagraph (B), the Secretary shall include feed barley prices and malting barley prices in the computation of the national weighted average market price for barley, except that the Secretary shall exclude the portion of average malting barley prices received by producers that exceeds prices received by producers for feed barley by more than $0.22 per bushel.

"(D) EMERGENCY COMPENSATION.—

"(i) SAME TOTAL RETURN TO PRODUCERS.—Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for feed grains under subsection (a)(2)(B)(ii), the Secretary shall provide emergency compensation by increasing the deficiency payments for feed grains by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made, taking into consideration any deficiency payments made under this subsection.

"(ii) CALCULATION.—In determining the payment rate, per bushel, for emergency compensation payments for a crop of feed grains under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of feed grains, received by producers during the first 5 months of the marketing year for each of the 1991 through 1995 crops.

"(E) DEVOTING ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the permitted feed grain acreage of the farm (as determined in accordance with subsection (e)(2)(A)) equal to more than 8 percent of the permitted feed grain acreage of the farm for the crop or all of such permitted acreage, to conservation uses (except as provided in subparagraph (F))—

"(I) the portion (or all) of the permitted feed grain acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to feed grains for the purpose of determining the individual farm program acreage in accordance with subsection (e) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(C); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage.

"(ii) PAYMENTS.—Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted feed grain acreage of the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The feed grain crop acreage base and feed grain farm program payment yield of the farm shall not be reduced due to the fact that a portion (or all) of the permitted feed grain acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop of feed grains on a greater acreage than the acreage actually planted to feed grains.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to feed grains in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(F) PLANTING OTHER CROPS ON CONSERVATION USE ACREAGE.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, and other minor oilseeds designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseeds produced on the farm.

"(G) REDUCTION FOR DISASTER PAYMENTS.—The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed

grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage that the producers were prevented from planting to feed grains or other nonconserving crops in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the feed grain acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the feed grain acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting feed grains or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of feed grains shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, except as provided in subparagraph (E), if the Secretary determines that the total supply of corn, grain sorghum, barley, or oats, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any of the crops an acreage limitation program as described in paragraph (2).

"(B) CONSERVATION STEWARDSHIP PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation stewardship program established under title XII of the Food Security Act of 1985.

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than September 30 prior to the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) ADJUSTMENTS.—Not later than November 15 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

"(E) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, except as provided in subsections (f) and (g) and section 505, the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program.

"(F) CARRYOVER STOCKS.—In the case of each of the 1991 through 1995 crops of feed grains, if the Secretary estimates for a marketing year for the crop that the ratio of corn-ending stocks to total disappearance of corn for the preceding marketing year will be—

"(i) more than 25 percent, the Secretary shall provide for an acreage reduction program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm reduced by not less than 12.5 percent nor more than 20 percent; or

"(ii) 25 percent or less, the Secretary may provide for such an acreage reduction program under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm reduced by not more than 12.5 percent.

For the purpose of this subparagraph, the term 'total disappearance' means all corn utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a feed grain acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the crop acreage base for corn, grain sorghum, barley, or oats, respectively, for each feed grain-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Except as provided in subsection (g) and section 505, producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Feed grain crop acreage bases for each crop of feed grains shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the respective feed grain crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereinafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereinafter in this subsection referred to as 'permitted acreage'.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted feed grain acreage for the farm as established under this paragraph.

"(F) PLANTING OILSEEDS OR OTHER CROPS ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may plant an oilseed, or other such crop considered appropriate by the Secretary, on no more than one-half of the reduced acreage on the farm.

"(ii) LIMITATIONS.—If the producers on a farm elect to plant oilseeds or other crops on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the oilseeds or other crops, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop is planted on the farm, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in acreage used to compute deficiency payments are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) PLANTING EXPERIMENTAL OR INDUSTRIAL NONPROGRAM CROPS, OR HARVESTING CONSERVING CROPS, ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may elect to—

"(I) devote reduced acreage to an experimental or industrial nonprogram crop; or

"(II) harvest a conserving crop on reduced acreage,

determined and announced by the Secretary (hereinafter in this subparagraph referred to as an 'approved crop').

"(ii) LIMITATIONS.—If the producers on a farm elect to plant or harvest an approved

crop on reduced acreage under this subparagraph, the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted for harvest to an approved crop, by an amount equal to the deficiency payment that would be made with respect to one acre (or portion thereof) of the crop, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of feed grains, the Secretary shall make available to producers on a farm who do not receive payments under subsection (c)(1)(E) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—The Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of feed grains under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—A producer shall be eligible to receive an increase in the established price for corn under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' corn acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for corn by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' corn acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' corn acreage base shall not be increased by more than 5 percentage points for the 1991 crop and 10 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 20 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—A producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' corn acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for wheat under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for corn by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' corn acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' corn acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) OTHER FEED GRAINS.—The Secretary shall implement the program provided for by this paragraph for other feed grains similarly to the manner in which the program is implemented for corn.

"(F) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop.

"(ii) PERENNIAL COVER.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—Notwithstanding any other provision of this subparagraph, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(D) ADDITIONAL PRACTICES.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage limitation program for feed grains is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—Any acreage required to be devoted to conservation uses and any additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including

practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement, if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of feed grains.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of negotiable marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan under subsection (a);

"(B) agrees to forgo receiving payments under subsections (b) and (c);

"(C) does not plant feed grains for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—If a feed grain acreage limitation program or a land diversion program is announced under subsection (d) for the 1991 or 1992 crop of feed grains (and the 1993 through 1995 crops if the Secretary so determines), the Secretary shall carry out a pilot program in at least 15 counties in at least 4 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of the acreage limitation or land diversion program if the producers meet there requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of feed grains in excess of the feed grain production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to feed grains under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for feed grains for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of feed grains shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the normal crop acreage; and

"(C) be considered to have complied with the terms and conditions of the feed grain acreage reduction program or land diversion program for the crop, even though the acreage planted to feed grains on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of feed grains produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess feed grains are produced less the quantity of feed grains produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of feed grains may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) in an amount that reflects the quantity of feed grains that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess feed grain production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any feed grains that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for feed grains for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the feed grains program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON FEED GRAINS PROGRAM.—

"(1) IN GENERAL.—In order to ensure that producers and consumers of feed grains are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1991 and subsequent crops of feed grains, the Secretary shall request public comment regarding the feed grains program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of feed grains under this section, the Secretary shall propose for public comment various program options for the crop of feed grains.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(4) ESTIMATES.—In announcing the program for a crop of feed grains under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(p) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of feed grains.".

SEC. 402. NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains.

SEC. 403. RECOURSE LOAN PROGRAM FOR SILAGE.

Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1990" and inserting "1996".

SEC. 404. NONDISCRETIONARY AUTHORITY.

Any provision of this Act relating specifically to the authority of the Secretary to adjust the payments due to producers of barley for the 1988 and 1989 crop years shall be nondiscretionary.

TITLE V—COTTON

SEC. 501. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF UPLAND COTTON.

Section 103A of the Agricultural Act of 1949 (7 U.S.C. 1444-1) is amended to read as follows:

"SEC. 103A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF UPLAND COTTON.

"(a) LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title reflecting accrued storage charges of not more than 60 days, make available for the 1991 through 1995 crops of upland cotton to producers on a farm nonrecourse loans for upland cotton produced on the farm for a term of 10 months from the first day of the month in which the loan is made at such level, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average location in the United States a level that is not less than the smaller of—

"(A) 85 percent of the average price (weighted by market and month) of such base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling one and three-thirty-seconds inch cotton C.I.F. northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton, as determined by the Secretary.

For purposes of perfecting a security interest under any State law, the evidence of title approved by the Secretary under this paragraph shall be considered to be a warehouse receipt.

"(2) MINIMUM LEVEL.—

"(A) IN GENERAL.—The loan level for any crop determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop, and may not be reduced below 50 cents per pound.

"(B) INCREASE OF LEVEL.—If for any crop the average northern European price determined under paragraph (1)(B) is less than the average United States spot market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States spot market price determined under paragraph (1)(A).

"(3) ANNOUNCEMENT.—The loan level for any crop of upland cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which the loan is to be effective. The level shall not thereafter be changed.

"(4) EXTENSION OF LOAN PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nonrecourse loans provided for in this section shall, on request of the producer during the 10th month of the loan period for the cotton, be made available for an additional term of 8 months.

"(B) NO EXTENSION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for the preceding month exceeded 130 percent of the average price of such base quality of cotton in the markets for the preceding 36-month period.

"(5) MARKETING LOAN PROVISIONS.—

"(A) IN GENERAL.—

"(i) LOAN REPAYMENT RATE.—If the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under the foregoing provisions of this subsection, in order to make United States upland cotton competitive in world markets, the Secretary shall permit a producer to repay a loan made for any crop at a level (except as provided in clause (ii)) that is the lesser of—

"(I) the loan level determined for the crop; or

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary.

"(ii) ALTERNATIVE REPAYMENT RATES.—For each of the 1991 through 1995 crops of cotton, if the world market price for cotton (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(I) minimize potential loan forfeitures;

"(II) minimize the accumulation of cotton stocks by the Federal Government;

"(III) minimize the cost incurred by the Federal Government in storing cotton; and

"(IV) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(B) NEGOTIABLE MARKETING CERTIFICATES.—

"(i) IN GENERAL.—During the period beginning August 1, 1991, and ending July 31, 1996, if a program carried out under subparagraph (A) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for upland cotton determined under subparagraph (A), to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of negotiable marketing certificates in accordance with this subparagraph.

"(ii) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to first handlers of cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this subparagraph.

"(iii) VALUE.—The value of each certificate issued under clause (ii) shall be based on the difference between—

"(I) the loan repayment rate for upland cotton; and

"(II) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

"(iv) REDEMPTION, MARKETING, OR EXCHANGE.—In accordance with regulations, the Commodity Credit Corporation, may assist any person receiving marketing certificates under this subparagraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this subparagraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

"(vi) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

"(vii) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this subparagraph may be transferred to other handlers and persons approved by the Secretary.

"(C) PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The Secretary shall prescribe by regulation—

"(I) a formula to define the prevailing world market price for upland cotton (adjusted to United States quality and location); and

"(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton (adjusted to United States quality and location).

"(ii) USE.—The prevailing world market price established under this subparagraph shall be used under subparagraphs (A) and (B).

"(D) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—During the period beginning August 1, 1991, and ending July 31, 1996, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subparagraph (C) shall be further adjusted if—

"(I) the adjusted prevailing world market price is less than 115 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary; and

"(II) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling one and three-thirty seconds inch cotton delivered C.I.F. Northern Europe is greater than the average price of the five lowest-priced growths of upland cotton, as quoted for Middling one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe (hereinafter in this subsection referred to as the 'Northern Europe price').

"(ii) FURTHER ADJUSTMENT.—Except as provided in clause (iii), the adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of cotton export sales and cotton export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton determination (adjusted to United States quality and location).

"(iii) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under clause (ii) may not exceed the difference between—

"(I) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling one and three-thirty seconds inch cotton C.I.F. Northern Europe; and

"(II) the Northern Europe price.

"(E) NEGOTIABLE MARKETING CERTIFICATES.—

"(i) ISSUANCE.—During the period beginning August 1, 1991, and ending July 31, 1996, if for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, the Secretary shall issue negotiable marketing certificates to domestic users or exporters for documented sales made in the week following such consecutive 4-week period.

"(ii) VALUE.—The value of the negotiable marketing certificates shall be based on the amount of the difference (reduced by 1.25 cents per pound) in such prices during the fourth week of the consecutive four-week period multiplied by the quantity of upland cotton included in the documented sales.

"(iii) ADMINISTRATION.—Clauses (iv) through (vii) of subparagraph (B) shall apply to negotiable marketing certificates issued under this subparagraph. Any such certificates may be transferred to other persons as provided by the Secretary in regulations.

"(F) SPECIAL LIMITED GLOBAL IMPORT QUOTA.—

"(i) ESTABLISHMENT.—The President shall, within 60 days after the date of enactment of this section, establish an import quota program which shall provide that whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subparagraph (E), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special limited global import quota.

"(ii) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(iii) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the establishment of the quota and entered not later than 180 days after the date of the establishment of the quota.

"(iv) OVERLAP.—Except as provided in clause (v), a special quota period may be established that overlaps any existing quota period if required by clause (i).

"(v) NO OVERLAP.—A special quota period may not be established under this paragraph if a special quota period has been established under subsection (n).

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of upland cotton, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of upland cotton the producer is eligible to place under loan but forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) NEGOTIABLE MARKETING CERTIFICATES.—The Secretary may make up to one-half the amount of a payment under this subsection available in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(B).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (also referred to in this section as 'deficiency payments') for each of the 1991 through 1995 crops of upland cotton in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) PAYMENT RATE.—The payment rate for upland cotton shall be the amount by which the established price for the crop of upland cotton exceeds the higher of—

"(i) the national average market price received by producers during the calendar year that includes the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(ii) the loan level determined for the crop.

"(C) ESTABLISHED PRICE.—The established price for upland cotton shall not be less than $0.729 per pound for each of the 1991 through 1995 crops.

"(D) DEVOTING PERMITTED ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of upland cotton and the producers on a farm devote a portion of the permitted upland cotton acreage of the farm (as determined in accordance with subsection (e)(2)(A)) equal to more than 8 percent of the permitted upland cotton acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) such portion of the permitted upland cotton acreage in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to upland cotton for the purpose of determining the individual farm program acreage in accordance with subsection (e)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on the farm must actually plant upland cotton for harvest on at least 50 percent of the permitted upland cotton acreage of the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the permitted upland cotton acreage of the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for the crop at a rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for the crop.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of upland cotton for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING.—If an acreage limitation program under subsection (e) is in effect for any crop of upland cotton and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for upland cotton to upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to upland cotton.

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted cotton acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)).

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to upland cotton.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to upland cotton in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(E) PLANTING INDUSTRIAL AND OTHER CROPS ON CONSERVATION USE ACREAGE.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of upland cotton on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for upland cotton to upland cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to upland cotton for harvest (including any acreage that the producers were prevented from planting to upland cotton or other nonconserving crops in lieu of upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of upland cotton that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the upland cotton acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the upland cotton acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting upland cotton or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of upland cotton shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of upland cotton, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for

any crop of upland cotton an acreage limitation program as described in paragraph (2).

"(B) CONSERVATION STEWARDSHIP PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation stewardship program established under title XII of the Food Security Act of 1985.

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than November 1 of the calendar year preceding the year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) REVISIONS.—The Secretary may revise the acreage limitation program first proclaimed for any crop year not later than January 1 of the calendar year in which the crop is harvested if the Secretary determines it necessary based on the latest available information. If the Secretary determines that producers in early planting areas (as determined by the Secretary) would be disadvantaged by such revision, such producers may elect to participate in the acreage limitation program based on the terms and conditions for such program first proclaimed for the crop.

"(E) DESIRED CARRYOVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of upland cotton in a manner that will result in a carryover of 4 million bales of upland cotton or a ratio of carryover to total disappearance of 33 percent, whichever results in a higher carryover based on the Secretary's most recent projection of carryover and total disappearance at the time of announcement of the acreage limitation program. For the purpose of this subparagraph, the term 'total disappearance' means all upland cotton utilization, including total domestic, total export, and total residual disappearance.

"(F) EXCESS CARRYOVER.—If at the time of the final announcement of the acreage limitation program established under paragraph (2) it is determined that the carryover of upland cotton will be in excess of the amount specified in subparagraph (E), notwithstanding the implementation of an acreage limitation program, the Secretary shall carry out a land diversion program as described in paragraph (5) in a manner that will result in a carryover specified in subparagraph (E).

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if an upland cotton acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Except as provided in section 505, producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for upland cotton loans and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Upland cotton crop acreage bases for each crop of upland cotton shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the upland cotton crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereinafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereinafter in this subsection referred to as 'permitted acreage'.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage for the farm as established under this paragraph.

"(F) PLANTING OILSEEDS OR OTHER CROPS ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may plant an oilseed, or other such crop considered appropriate by the Secretary, on no more than one-half of the reduced acreage on the farm.

"(ii) LIMITATIONS.—If the producers on a farm elect to plant oilseeds or other crops on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the oilseeds or other crops, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in acreage used to compute deficiency payments are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) PLANTING EXPERIMENTAL OR INDUSTRIAL NONPROGRAM CROPS, OR HARVESTING CONSERVING CROPS, ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may elect to—

"(I) devote reduced acreage to an experimental or industrial nonprogram crop; or

"(II) harvest a conserving crop on reduced acreage,

determined and announced by the Secretary (hereinafter in this subparagraph referred to as an 'approved crop').

"(ii) LIMITATIONS.—If the producers on a farm elect to plant or harvest an approved crop on reduced acreage under this subparagraph, the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted for harvest to an approved crop, by an amount equal to the deficiency payment that would be made with respect to one acre (or portion thereof) of the crop, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of upland cotton, the Secretary shall make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—The Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of upland cotton under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—A producer shall be eligible to receive an increase in the established price for upland cotton under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' upland cotton acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for upland cotton by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1.0 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' upland cotton acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' upland cotton acreage base shall not be increased by more than 10 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(iv) ADJUSTMENT FOR UNDERPLANTINGS.—In determining the increased acreage limitation percentage that is applied to the producer's upland cotton base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer's permitted upland cotton acreage and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to upland cotton for harvest during the previous two years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—A producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for upland cotton under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for upland cotton by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' upland cotton acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop.

"(ii) PERENNIAL COVER.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—Notwithstanding any other provision of this subparagraph, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(D) ADDITIONAL PRACTICES.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation program for upland cotton is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of upland cotton.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of upland cotton, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(B).

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant upland cotton for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards

to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the upland cotton program with respect to any other farm operated by the producers.

"(n) SPECIAL LIMITED GLOBAL IMPORT QUOTA.—

"(1) IN GENERAL.—Whenever the Secretary determines that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

"(A) GENERAL QUANTITY.—The quantity of the special quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(B) SUCCESSOR QUOTA.—If a special quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated as set forth in subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

"(C) DEFINITIONS.—As used in subparagraph (B):

"(i) SUPPLY.—The term 'supply' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

"(I) the carryover of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the special quota is established; plus

"(II) production of the current crop; plus

"(III) imports to the latest date available during the marketing year.

"(ii) DEMAND.—The term 'demand' means—

"(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; plus

"(II) the larger of—

"(aa) average exports of upland cotton during the preceding 6 marketing years; or

"(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the special quota is established.

"(D) ENTRY OF COTTON.—When a special quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the effective date of the proclamation.

"(2) NO OVERLAP.—Notwithstanding paragraph (1), a special quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a)(5)(F).

"(o) RECOURSE LOANS FOR SEED COTTON.—In order to encourage and assist producers in the orderly ginning and marketing of their production of upland cotton, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

"(p) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of upland cotton.".

SEC. 502. SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.

Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1991 through 1995 crops of upland cotton.

SEC. 503. MISCELLANEOUS COTTON PROVISIONS.

Sections 103 and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446(d)) shall not be applicable to the 1991 through 1995 crops.

SEC. 504. SKIPROW PRACTICES.

Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking "1990 crops" and inserting "1995 crops, except that, for the 1990 through 1995 crops, the rules shall allow the Secretary to take other skiprow practices into account for classifying the acreage planted to cotton and the acreage skipped and the Secretary shall take other practices into account".

SEC. 505. PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON.

Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop.

SEC. 506. EXTENSION OF EXTRA LONG STAPLE COTTON PROGRAM.

Section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)) is amended—

(1) in paragraph (8)(A)(ii), by striking "as extended for the 1989 and 1990 crop" and inserting "beginning with the 1989 crop";

(2) by striking paragraph (16) and inserting the following new paragraph:

"(16)(A) Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this subsection for the farm, to comply with the terms and conditions of the extra long staple cotton program with respect to any other farm operated by the producers."; and

(3) in paragraph (19), by striking "1991" and inserting "1996".

SEC. 507. ADVERSE EFFECT ON COTTONSEED OR COTTONSEED OIL.

If the Secretary of Agriculture determines that the price support program for oilseeds carried out under section 205 of the Agricultural Act of 1949 (as added by section 801 of this Act) causes, or is likely to cause, a reduction in prices received by producers of cottonseed or by processors of cottonseed oil, the Secretary shall take such actions as the Secretary determines necessary to offset the actual or anticipated impact of the oilseed program on prices of cottonseed or cottonseed oil.

TITLE VI—RICE

SEC. 601. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF RICE.

Section 101A of the Agricultural Act of 1949 (7 U.S.C. 1441-1) is amended to read as follows:

"SEC. 101A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF RICE.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall make available to producers on a farm nonrecourse loans and purchases for each of the 1991 through 1995 crops of rice produced on the farm at a level that is not less than the higher of—

"(A) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) $6.50 per hundredweight.

"(2) MAXIMUM REDUCTION.—The loan level for any crop of rice determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ANNOUNCEMENT.—The loan and purchase level and the established price for each of the 1991 through 1995 crops of rice shall be announced not later than January 31 of each calendar year for the crop harvested in the calendar year.

"(4) TERM.—A loan made under this subsection shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

"(5) REPAYMENT.—

"(A) IN GENERAL.—In order to ensure that a competitive market position is maintained for rice, the Secretary shall permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the higher of—

"(I) the loan level determined for the crop multiplied by 70 percent; or

"(II) the prevailing world market price for rice, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for rice; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

"(C) NEGOTIABLE MARKETING CERTIFICATES.—

"(i) IN GENERAL.—As a condition of permitting a producer to repay a loan as provided in subparagraph (A), the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. The certificates shall be negotiable.

"(ii) REDEMPTION FOR RICE OR CASH.—The certificates shall be redeemable for agricultural commodities owned by the Commodity Credit Corporation valued at the prevailing market price, as determined by the Secretary or for cash, under such terms and conditions as the Secretary may prescribe.

"(iii) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing or exchange of the certificates at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section.

"(iv) CHARGES.—If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates.

"(vi) SALES PRICE RESTRICTIONS.—Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(vii) DISPLACEMENT.—The Secretary of Agriculture shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this subparagraph from adversely affecting the income of producers of the commodities or products.

"(viii) TRANSFERS.—Under regulations prescribed by the Secretary of Agriculture, certificates issued under this subparagraph may be transferred to other persons approved by the Secretary.

"(D) MAINTAINING COMPETITIVENESS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1991, and ending July 31, 1996, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation, under regulations, shall make payments, through the issuance of negotiable marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this subparagraph.

"(ii) VALUE.—The value of each certificate issued under this subparagraph shall be based on the difference between—

"(I) the loan repayment rate for the class of rice; and

"(II) the prevailing world market price for the class of rice, as determined by the Secretary.

"(iii) TERMS AND CONDITIONS OF CERTIFICATES.—Negotiable marketing certificates issued under this subparagraph shall be subject to the same terms and conditions as certificates issued under subparagraph (C).

"(6) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of rice, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of rice the producer is eligible to place under loan (or obtain a purchase agreement) but forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) NEGOTIABLE MARKETING CERTIFICATES.—The Secretary may make up to one-half the amount of a payment under this subsection available in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (also referred to in this section as 'deficiency payments') for each of the 1991 through 1995 crops of rice in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) PAYMENT RATE.—The payment rate for rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

"(i) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(ii) the loan level determined for the crop.

"(C) ESTABLISHED PRICE.—The established price for rice shall not be less than $10.71 per hundredweight for each of the 1991 through 1995 crops.

"(D) DEVOTING PERMITTED ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of rice and the producers on a farm devote a portion of the permitted rice acreage of the farm (as determined in accordance with subsection (e)(2)(A)) equal to more than 8 percent of the permitted upland cotton acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) such portion of the permitted rice acreage in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to rice for the purpose of determining the individual farm program acreage in accordance with subsection (e)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on the farm must actually plant rice for harvest on at least 50 percent of the permitted rice acreage of the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the permitted rice acreage of the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to rice and eligible for payments under this subparagraph for the crop at a rate established by the Secretary.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING.—If an acreage limitation program under subsection (e) is in effect for any crop of rice and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for rice to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to rice.

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted rice acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)).

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to rice.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to rice in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion pro-

gram requiring that the producers devote a specified acreage to conservation uses.

"(E) PLANTING INDUSTRIAL AND OTHER CROPS ON CONSERVATION USE ACREAGE.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of rice on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for rice to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to rice for harvest (including any acreage that the producers were prevented from planting to rice or other nonconserving crops in lieu of rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the rice acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the rice acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting rice or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of rice shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of rice an acreage limitation program as described in paragraph (2).

"(B) CONSERVATION STEWARDSHIP PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation stewardship program established under title XII of the Food Security Act of 1985.

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce any such program not later than January 31 of the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) CARRYOVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of rice in a manner that will result in carryover stocks equal to 16.5 to 20 percent of the simple average of the total disappearance of rice for each of the 3 marketing years preceding the year for which the announcement is made. For the purpose of this subparagraph, the term 'total disappearance' means all rice utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a rice acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 35 percent) to the rice crop acreage base for the crop for each rice-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Except as provided in section 505, producers who knowingly produce rice in excess of the permitted rice acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for rice loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Rice crop acreage bases for each crop of rice shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the rice crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereinafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereinafter in this subsection referred to as 'permitted acreage'.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to rice for harvest within the permitted rice acreage for the farm as established under this paragraph.

"(F) PLANTING OILSEEDS OR OTHER CROPS ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may plant an oilseed, or other such crop considered appropriate by the Secretary, on no more than one-half of the reduced acreage on the farm.

"(ii) LIMITATIONS.—If the producers on a farm elect to plant oilseeds or other crops on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the oilseeds or other crops, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in acreage used to compute deficiency payments are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) PLANTING EXPERIMENTAL OR INDUSTRIAL NONPROGRAM CROPS, OR HARVESTING CONSERVING CROPS, ON REDUCED ACREAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the producers on a farm may elect to—

"(I) devote reduced acreage to an experimental or industrial nonprogram crop; or

"(II) harvest a conserving crop on reduced acreage,

determined and announced by the Secretary (hereinafter in this subparagraph referred to as an 'approved crop').

"(ii) LIMITATIONS.—If the producers on a farm elect to plant or harvest an approved crop on reduced acreage under this subparagraph, the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted for harvest to an approved crop, by an amount equal to the deficiency payment that would be made with respect to one acre (or portion thereof) of the crop, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of rice and announces an acreage limitation percentage of 20 percent or less, the Secretary shall make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—The Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of rice under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—A producer shall be eligible to receive an increase in the established price for rice under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' rice acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for rice by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' rice acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' rice acreage base shall not be increased by more than 5 percentage points above the acreage limitation percentage announced by the Secretary.

"(iv) ADJUSTMENT FOR UNDERPLANTINGS.—In determining the increased acreage limitation percentage that is applied to the producer's rice acreage base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer's permitted rice acreage and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to rice for harvest during the previous 2 years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—A producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' rice acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for rice under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for rice by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' rice acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' rice acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop.

"(ii) PERENNIAL COVER.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—Notwithstanding any other provision of this subparagraph, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(D) ADDITIONAL PRACTICES.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation program for rice is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so

as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—Any reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement, if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of rice.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of rice, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C).

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsections (b) and (c);

"(C) does not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the rice program with respect to any other farm operated by the producers.

"(n) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of rice.".

TITLE VII—PEANUTS

SEC. 701. SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.

The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1991 through 1995 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358(a)-(j)).

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a(a)-(h)).

(3) Subsections (a), (b), (d), and (e) of section 359 (7 U.S.C. 1359 (a), (b), (d), and (e)).

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(5) Section 371 (7 U.S.C. 1371).

SEC. 702. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

The Agricultural Adjustment Act of 1938 is amended—

(1) in section 358 (7 U.S.C. 1358), by striking subsections (k) through (v); and

(2) by inserting after section 358 the following new section:

"SEC. 358-1. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) NATIONAL POUNDAGE QUOTAS.—

"(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1991 through 1995 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. If the Secretary finds that adjustments in the level to provide an adequate carryover for the remainder of the marketing year and to account for deliveries of undermarketings by producers will not increase program costs, cause the Commodity Credit Corporation to incur losses, or disrupt the integrity of the program, the Secretary shall make such adjustments in the national poundage quota for peanuts. Notwithstanding any other provision of this paragraph, the national poundage quota for a marketing year shall not be less than 1,350,000 tons.

"(2) ANNOUNCEMENT.—The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding the marketing year.

"(3) APPORTIONMENT AMONG STATES.—The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1990.

"(b) FARM POUNDAGE QUOTAS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A farm poundage quota for each of the 1991 through 1995 marketing years shall be established—

"(i) for each farm that had a farm poundage quota for peanuts for the 1990 marketing year;

"(ii) if the poundage quota apportioned to a State under subsection (a)(3) for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary; and

"(iii) as approved and determined by the Secretary under section 358c, for each farm on which peanuts are produced in connection with experimental and research programs.

"(B) QUANTITY.—The farm poundage quota for each of the 1991 through 1995 marketing years for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including—

"(i) any increases for undermarketings from previous years; or

"(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

The farm poundage quota, if any, for each of the 1991 through 1995 marketing years for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

"(C) TRANSFERS.—For purposes of this subsection, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 358a or 358b, the receiving farm shall be considered as possessing the farm poundage quota (or portion thereof) of the transferring farm for all subsequent marketing years.

"(2) ADJUSTMENTS.—

"(A) ALLOCATION OF INCREASED QUOTA GENERALLY.—Except as provided in subparagraph (B) and subject to subparagraph (D), if the poundage quota apportioned to a State under subsection (a)(3) for any of the 1991 through 1995 marketing years is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated proportionately, based on

farm production history for peanuts for the 3 immediately preceding years, among—

"(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

"(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

"(B) ALLOCATION OF INCREASED QUOTA IN TEXAS.—

"(i) IN GENERAL.—In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, 33 percent of the increased quota referred to in subparagraph (A) shall be allocated to farms having poundage quotas for the 1990 marketing year in any county in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

"(ii) BASIS FOR ALLOCATION TO COUNTIES.—The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective counties for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (6)(C) shall not be increased by more than 100 percent of the basic quota assigned to the county for the 1989 marketing year if that county had more than 10,000 tons of quota for the 1989 marketing year.

"(iii) ALLOCATION TO OTHER COUNTIES.—If the total quota for any such county is so increased by 100 percent, all of the remaining quota percentage set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

"(iv) ALLOCATION TO ELIGIBLE FARMS.—The percentage of increased quota in any county shall be allocated under this subparagraph only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

"(I) FACTOR.—A factor shall be established for each such eligible farm by dividing the quantity of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(II) ALLOCATION.—Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

"(v) REMAINING PERCENTAGE.—In Texas, the remaining 67 percent of the increased quota referred to in subparagraph (A) shall be allocated to farms in the State in accordance with subparagraph (A).

"(C) DECREASE.—If the poundage quota apportioned to a State under subsection (a)(3) for any of the 1991 through 1995 marketing years is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(D) SPECIAL RULE ON TENANT'S SHARE OF INCREASED QUOTA.—Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in that percentage of the quota referred to in subparagraph (A) and otherwise allocated to the farm as the result of the tenant's production on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable, the tenant's share of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to that farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

"(3) QUOTA NOT PRODUCED.—

"(A) IN GENERAL.—Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any of the 1991 through 1995 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

"(B) EXCLUSIONS.—For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include—

"(i) any increases for undermarketing of quota peanuts from previous years; or

"(ii) any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

"(4) QUOTA CONSIDERED PRODUCED.—For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

"(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

"(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

"(C) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

"(5) QUOTA PERMANENTLY RELEASED.—Notwithstanding any other provision of law—

"(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

"(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is so released.

"(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

"(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—Not more than 25 percent of the total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm.

"(C) ALLOCATION OF QUOTAS REDUCED OR RELEASED IN TEXAS.—

"(i) IN GENERAL.—In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, the total quantity of the farm poundage quota, except the percentage allocated to new farms under subparagraph (B), shall be allocated to other farms having poundage quotas for the 1990 marketing year in all counties in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

"(ii) BASIS FOR ALLOCATION TO COUNTIES.—The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective county for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (2)(B) shall not be increased by more than 100 percent of the basic quota allocated to the county for the 1989 marketing year, if that county had more than 10,000 tons of quota for the 1989 marketing year.

"(iii) ALLOCATION TO OTHER COUNTIES.—If the total quota for any such county is so increased by 100 percent, all of the remaining quota set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

"(iv) ALLOCATION TO ELIGIBLE FARMS.—The percentage of farm poundage quota available for allocation under this subparagraph shall be allocated only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

"(I) FACTOR.—A factor shall be established for each such eligible farm by dividing the amount of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(II) ALLOCATION.—Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

"(7) QUOTA TEMPORARILY RELEASED.—

"(A) IN GENERAL.—The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to

other farms in the State on such basis as the Secretary may by regulation prescribe.

"(B) EFFECTIVE PERIOD.—Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

"(8) INCREASE FOR UNDERMARKETINGS IN PREVIOUS MARKETING YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the farm poundage quota for a farm for any marketing year shall be increased by the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1989 crop) were less than the total amount of applicable farm poundage quotas (disregarding adjustments for undermarketings from previous marketing years) for the marketing years.

"(B) QUOTA NOT PRODUCED.—For purposes of subparagraph (A), no increase for undermarketings in previous marketing years shall be made to the poundage quota for any farm to the extent that the poundage quota for the farm for the marketing year was reduced under paragraph (3) for failure to produce.

"(C) NATIONAL POUNDAGE QUOTA.—Any increases in farm poundage quotas under this paragraph shall not be counted against the national poundage quota for the marketing year involved.

"(D) TRANSFER OF ADDITIONAL PEANUTS.—Any increase in the farm poundage quota for a farm for a marketing year under this paragraph may be used during the marketing year by the transfer of additional peanuts produced on the farm to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation prescribe.

"(9) LIMIT ON INCREASES FOR UNDERMARKETINGS.—Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which the increases shall be applicable, the Secretary shall adjust the increases so that the total of all the increases does not exceed 10 percent of the national poundage quota.

"(c) FARM YIELDS.—

"(1) IN GENERAL.—For each farm for which a farm poundage quota is established under subsection (b), and when necessary for purposes of this Act, a farm yield of peanuts shall be determined for each such farm.

"(2) QUANTITY.—The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

"(3) APPRAISED YIELDS.—If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

"(d) REFERENDUM RESPECTING POUNDAGE QUOTAS.—

"(1) IN GENERAL.—Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

"(2) PROCLAMATION.—The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

"(3) VOTE AGAINST QUOTAS.—If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

"(e) DEFINITIONS.—For the purposes of this part and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

"(1) ADDITIONAL PEANUTS.—The term 'additional peanuts' means, for any marketing year—

"(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

"(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b).

"(2) CRUSHING.—The term 'crushing' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

"(3) DOMESTIC EDIBLE USE.—The term 'domestic edible use' means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 359(c), are unique strains, and are not commercially available.

"(4) QUOTA PEANUTS.—The term 'quota peanuts' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (b), that—

"(A) are eligible for domestic edible use as determined by the Secretary;

"(B) are marketed or considered marketed from a farm; and

"(C) do not exceed the farm poundage quota of the farm for the year.

"(f) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 703. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

The Agricultural Adjustment Act of 1938 is amended—

(1) in section 358a (7 U.S.C. 1358a), by striking subsections (i) through (l); and

(2) by inserting after section 358a the following new section:

"SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(A) if not less than 90 percent of the basic quota (the farm quota exclusive of undermarketings and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(B) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same county or in a county contiguous to the county in the same State and that had a farm poundage quota for the preceding year's crop. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

"(3) TRANSFERS IN STATES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

"(b) CONDITIONS.—Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) LIENHOLDERS.—No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) TILLABLE CROPLAND.—No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which the transfer

is made and the committee determines that the transfer complies with this section.

"(4) OTHER TERMS.—Such other terms and conditions that the Secretary may by regulation prescribe.

"(c) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 704. MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS.

The Agricultural Adjustment Act of 1938 is amended—

(1) in section 359 (7 U.S.C. 1359), by striking subsections (f) through (s); and

(2) by inserting after section 359 the following new section:

"SEC. 359a. MARKETING PENALTIES AND DISPOSITION OF ADDITIONAL PEANUTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) MARKETING PENALTIES.—

"(1) IN GENERAL.—

"(A) MARKETING PEANUTS IN EXCESS OF QUOTA.—The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs, except that the penalty shall not apply to the marketing of breeder or Foundation seed peanuts, grown under the auspices of a publicly owned agricultural experiment station (including a State-operated seed organization), under such regulations as the Secretary may prescribe.

"(B) MARKETING YEAR.—For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

"(C) MARKETING ADDITIONAL PEANUTS.—The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are—

"(i) placed under loan at the additional loan rate in effect for the peanuts under section 108 of the Agricultural Act of 1949 and not redeemed by the producers;

"(ii) marketed through an area marketing association designated pursuant to section 108(c)(1) of the Agricultural Act of 1949; or

"(iii) marketed under contracts between handlers and producers pursuant to subsection (f).

"(2) PAYER.—The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

"(3) FAILURE TO COLLECT.—If the person required to collect the penalty fails to collect the penalty, the person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable with such persons who failed to collect the penalty for the amount of the penalty.

"(4) APPLICATION OF QUOTA.—Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

"(5) FALSE INFORMATION.—If any producer falsely identifies, fails to accurately certify planted acres, or fails to account for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the farm's average or actual yield, as determined by the Secretary, times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

"(6) UNINTENTIONAL VIOLATIONS.—The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or reduce marketing penalties provided for under this subsection in cases which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

"(7) DE MINIMIS VIOLATIONS.—Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

"(b) USE OF QUOTA AND ADDITIONAL PEANUTS.—

"(1) QUOTA PEANUTS.—Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, such retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 359(c), are unique strains, and are not commercially available.

"(2) ADDITIONAL PEANUTS.—Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g).

"(3) SEED.—Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

"(c) MARKETING PEANUTS WITH EXCESS QUANTITY, GRADE, OR QUALITY.—On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

"(d) HANDLING AND DISPOSAL OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 108(c)(1) of the Agricultural Act of 1949.

"(2) SUPERVISION BY NONHANDLERS.—

"(A) IN GENERAL.—Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

"(B) REGULATIONS.—The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

"(i) TYPES OF EXPORTED OR CRUSHED PEANUTS.—Handlers of shelled or milled peanuts may export or crush peanuts classified by type in all of the following quantities:

"(I) SOUND SPLIT AND MATURE KERNEL PEANUTS.—Sound split kernel peanuts, and sound mature kernel peanuts, in a quantity equal to the combined poundage of such peanuts purchased by the handler as additional peanuts. There shall be no limit on the quantity of sound splits that may be delivered by producers nor shall discounts be imposed on the prices paid to producers for the peanuts based on the proportion of sound splits to sound mature kernels in the deliveries, except that premiums may be paid for deliveries of peanuts with fewer sound splits proportionally than sound mature kernels as provided in section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423).

"(II) REMAINDER.—The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

"(ii) DOCUMENTATION.—Handlers shall ensure that any additional peanuts exported or crushed are evidenced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

"(iii) LOSS OF PEANUTS.—If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

"(iv) SHRINKAGE ALLOWANCE.—

"(I) IN GENERAL.—The obligation of a handler to export or crush peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

"(II) COMMON INDUSTRY PRACTICES.—The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

"(3) ADEQUATE FINANCES AND FACILITIES.—A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with the facilities under the control and operation of the handler, to ensure the handler's compliance with the obligation to export peanuts.

"(4) COMMINGLING OF LIKE PEANUTS.—Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

"(5) PENALTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to

140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

"(B) NONDELIVERY.—A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

"(6) REENTRY OF EXPORTED PEANUTS.—If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

"(e) SPECIAL EXPORT CREDITS.—Notwithstanding any other provision of this Act, the Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which the export credits the handler may thereafter apply, up to the amount thereof, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

"(f) CONTRACTS FOR PURCHASE OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing or export, or both.

"(2) SUBMISSION TO SECRETARY.—Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval before December 16 of the year in which the crop is produced.

"(3) FORM.—The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, the poundage, and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

"(4) INFORMATION FOR HANDLING AND PROCESSING ADDITIONAL PEANUTS.—Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) by such date as prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

"(5) TERMS.—Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

"(6) SUSPENSION OF RESTRICTIONS ON IMPORTED PEANUTS.—Notwithstanding any other provision of this Act, if the President issues a proclamation under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

"(g) MARKETING OF PEANUTS OWNED OR CONTROLLED BY THE COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427), any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

"(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

"(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

"(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

"(2) ACCEPTANCE OF BIDS BY AREA MARKETING ASSOCIATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 108(c)(1) of the Agricultural Act of 1949 shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

"(B) MODIFICATION.—The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

"(3) SPECIAL RULE.—Notwithstanding any other provision of law, whenever the Secretary finds that one or more area marketing associations are withholding from sale stocks of peanuts under price support loans without justifiable cause, the Secretary shall direct the association or associations to make the peanuts available for sale.

"(h) ADMINISTRATION.—

"(1) INTEREST.—The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

"(2) DE MINIMIS QUANTITY.—This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

"(3) LIENS.—Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

"(4) PENALTIES.—

"(A) PROCEDURES.—Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

"(B) JUDICIAL REVIEW.—Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with the applicable law and regulations.

"(C) CIVIL PENALTIES.—All penalties imposed under this section shall for all purposes be considered civil penalties.

"(5) REDUCTION OF PENALTIES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

"(B) FAILURE TO EXPORT CONTRACTED ADDITIONAL PEANUTS.—The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

"(i) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 705. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

The Agricultural Adjustment Act of 1938 (as amended by section 703 of this Act) is further amended by inserting after section 358b the following new section:

"SEC. 358c. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, as determined and approved by the Secretary, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be used for experimental and research purposes by land grant colleges and universities and, as appropriate, the Agricultural Research Service of the Department of Agriculture.

"(b) DUTIES.—The responsibility for complying with the duties of the farm operator with respect to the production of the quota peanuts shall be vested in the director of the Agricultural Experiment Station for the State.

"(c) CROPS.—Notwithstanding any other provision of law, this section shall be effec-

tive only for the 1991 through 1995 crops of peanuts.".

SEC. 706. PRICE SUPPORT PROGRAM.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 108, 108A, and 108B (7 U.S.C. 1445c, 1445c-1, and 1445c-2); and

(2) by inserting after section 107F (7 U.S.C. 1445b-5) the following new section:

"SEC. 108. PRICE SUPPORT PROGRAM FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) QUOTA PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, and other operations on quota peanuts for each of the 1991 through 1995 crops.

"(2) SUPPORT RATES.—

"(A) 1991 CROP.—The national average quota support rate for the 1991 crop of quota peanuts shall be the national average quota support rate for the 1990 crop, adjusted to reflect any increase during 1990 in the national average cost of peanut production, excluding any change in the cost of land, except that the national average quota support rate for the 1991 crop shall not exceed by more than 8 percent the national average quota support rate for the 1990 crop.

"(B) 1992 AND 1994 CROPS.—For each of the 1992 and 1994 crops of peanuts, the national average quota support rate shall be the national average quota support rate for the immediately preceding crop.

"(C) 1993 AND 1995 CROPS.—For the 1993 and 1995 crops of peanuts, the national average quota support rate shall be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase, during the 2 calendar years immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any change in the cost of land, except that the total of the increases in the national average cost of peanut production for each of the 2 preceding years shall not exceed an average of 4 percent.

"(3) INSPECTION, HANDLING, OR STORAGE.—The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage.

"(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments for location of peanuts and such other factors as are authorized by section 403.

"(5) ANNOUNCEMENT.—The Secretary shall announce the level of support for quota peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(b) ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1991 through 1995 crops at such levels as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, except that the Secretary shall set the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

"(2) ANNOUNCEMENT.—The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(c) AREA MARKETING ASSOCIATIONS.—

"(1) WAREHOUSE STORAGE LOANS.—

"(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the three producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—The area marketing associations shall be used in administrative and supervisory activities relating to price support and marketing activities under this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include, in addition to the price support value of the peanuts, such costs as the area marketing association reasonably may incur in carrying out its responsibilities, operations, and activities under this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

"(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

"(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

"(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool plus an amount from all additional pool gains equal to any loss on disposition of all peanuts in the pool for quota peanuts.

"(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (i).

"(d) LOSSES.—Notwithstanding any other provision of this section:

"(1) QUOTA PEANUTS PLACED UNDER LOAN.—Any distribution of net gains on additional peanuts (other than net gains on additional peanuts in separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

"(2) QUOTA LOAN POOLS.—

"(A) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by such producer under section 358-1(b)(8) of the Agricultural Adjustment Act of 1938.

"(B) OTHER LOSSES.—Losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358-1(b)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

"(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no price support may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358-1(d) of the Agricultural Adjustment Act of 1938.

"(f) QUALITY IMPROVEMENT.—

"(1) IN GENERAL.—With respect to peanuts placed under price support loan, the Secretary—

"(A) is encouraged to evaluate the peanut inspection and grading procedures being used on the date of enactment of this section and, to the extent practicable, encourage the incorporation of objective methods and technologies shown to improve peanut quality;

"(B) is encouraged to provide incentives for producers to reduce loose shelled kernels in farmers stock peanuts;

"(C) shall encourage, to the maximum extent practicable, the crushing of peanuts at greater risk of deterioration before peanuts that are at a lesser risk; and

"(D) if higher standards for quality and inspection are adopted in the implementation of the Peanut Marketing Agreement No. 146, may make such adjustments in the quality and inspection standards for peanuts placed under price support loan as are needed to maintain consistency with the higher standards.

"(2) PRICES.—Any changes in grades or quality resulting from modifications made under this subsection shall be implemented so as to maintain or increase the average price to producers.

"(g) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 707. REPORTS AND RECORDS.

Effective only for the 1991 through 1995 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

SEC. 708. SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.

Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1991 through 1995 crops of peanuts.

SEC. 709. REGULATIONS.

(a) NOTICE.—Notwithstanding any other provision of law, within 30 days after the date of enactment of this Act, the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall publish notice in the Federal Register of a general

informal hearing on the implementation of this title and the amendments made by this title.

(b) INFORMAL HEARING BEFORE INITIAL ISSUANCE OF REGULATIONS.—The Secretary shall conduct an informal hearing on the implementation of this title and amendments made by this title within 30 days after publication of notice under subsection (a) in Atlanta, Georgia to receive comments on regulations to implement the title and amendments, prior to the formal proposal of the regulations.

(c) ANNUAL INFORMAL HEARINGS ON REGULATIONS.—The Secretary shall hold an informal hearing in Atlanta, Georgia at least once each year in a timely manner before the planting of the upcoming crop for the purpose of permitting interested industry organizations and individuals to advise the Secretary in regard to regulations issued to carry out the price support and production control program for peanuts, and related administrative policies and procedures used by the Secretary, that relate to the implementation of this title and the amendments made by this title.

(d) ADDITIONAL INFORMAL HEARINGS ON REGULATIONS.—Additional informal hearings may be held after the hearing held under subsection (c), for the purposes referred to in subsection (c), on publication of notice of the additional hearings in the Federal Register.

(e) ATTENDANCE; RECORDS.—A representative of the Department of Agriculture shall—

(1) attend all hearings held under this section;

(2) maintain official records of the hearings; and

(3) make the records available to all interested persons.

(f) NOTICE AND COMMENT.—The Secretary shall—

(1) provide public notice through the Federal Register of any proposed regulations referred to in this section; and

(2) allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

TITLE VIII—OILSEEDS

SEC. 801. LOANS AND PAYMENTS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS.

Title II of the Agricultural Act of 1949 (as amended by section 101 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446)—

(A) in the matter preceding subsection (a), by striking "tung nuts," and inserting the following: "soybeans, sunflower seeds, canola, rapeseed, safflower, flaxseed, and such other oilseeds as the Secretary may determine,"; and

(B) by striking subsections (i) and (l); and

(2) by adding at the end the following new section:

"SEC. 205. LOANS AND PAYMENTS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS.

"(a) DEFINITION OF OILSEEDS.—As used in this section, the term 'oilseeds' means soybeans, sunflower seeds, canola, rapeseed, safflower, flaxseed, and such other oilseeds as the Secretary may determine.

"(b) NONRECOURSE LOANS.—The Secretary shall support the price of oilseeds through nonrecourse loans for oilseeds produced on the farm in each of the 1991 through 1995 marketing years as provided in this section.

"(c) LOAN LEVELS.—

"(1) SOYBEANS.—The loan level for each of the 1991 through 1995 crops of soybeans shall be $5.50 per bushel.

"(2) SUNFLOWER SEEDS, CANOLA, RAPESEED, SAFFLOWER, AND FLAXSEED.—The loan level for each of the 1991 through 1995 crops of sunflower seed, canola, rapeseed, safflower, and flaxseed shall be $0.097 per pound.

"(3) OTHER OILSEEDS.—The loan level for each of the 1991 through 1995 crops of oilseeds, other than oilseeds referred to in paragraph (1) or (2), shall be established at such level as the Secretary determines will take into account the historical price relationship between each type of oilseeds and soybeans, the prevailing loan level for soybeans, and the historical meal oil content of each type of oilseeds and soybeans.

"(4) ADJUSTMENT.—Notwithstanding paragraph (1), if the Secretary estimates, not later than September 30 of the year previous to the year in which the crop of soybeans is harvested that the stocks-to-use ratio for any of the 1991 through 1995 crops of soybeans will be—

"(A) over 19 percent, the Secretary may establish the loan level for the crop at $5.25 per bushel; or

"(B) over 25 percent, the Secretary may establish the loan level for the crop at $5.00 per bushel.

"(5) ADJUSTMENT IN LEVEL FOR OTHER OILSEEDS.—If the Secretary adjusts the loan level for a crop of soybeans under paragraph (4), the Secretary shall make a corresponding adjustment in the loan level for sunflower seeds, canola, rapeseed, safflower, flaxseed, and any other oilseed designated by the Secretary under subsection (a).

"(6) EFFECT ON FUTURE YEARS.—Any reduction in the loan level determined under paragraph (4) shall not be considered in determining the loan level for subsequent years.

"(d) REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall permit a producer of oilseeds to repay a loan made under this section for a crop at a level that is the lesser of—

"(A) the loan level determined for the crop; or

"(B) the prevailing world market price for the applicable oilseed (adjusted for location and quality differentials), as determined by the Secretary.

"(2) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(A) a formula for determining the prevailing world market price for oilseeds; and

"(B) a mechanism by which the Secretary shall periodically announce the prevailing world market price for oilseeds.

"(e) LOAN DEFICIENCY PAYMENT.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of oilseeds, make payments available to producers who, although eligible to obtain a loan under subsection (b), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of oilseeds the producer is eligible to place under loan but forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (c); exceeds

"(B) the level at which a loan may be repaid under subsection (d).

"(f) MARKETING YEAR.—

"(1) SOYBEANS.—For purposes of this section, the marketing year for soybeans shall be the 12-month period beginning on September 1 and ending on August 31.

"(2) OTHER OILSEEDS.—For purposes of this section, the marketing year for each type of oilseeds, other than soybeans, shall be prescribed by the Secretary by regulation.

"(g) ANNOUNCEMENTS.—

"(1) PRELIMINARY ANNOUNCEMENT.—The Secretary shall make a preliminary announcement of the level of price support for each type of oilseeds for a marketing year not later than July 15 of the year prior to the marketing year for the crop. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(2) FINAL ANNOUNCEMENT.—The Secretary shall make a final announcement of the level of price support not later than November 15 of the year prior to the marketing year for the crop of oilseeds.

"(h) OTHER TERMS AND CONDITIONS.—Notwithstanding any other provision of law—

"(1) the Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for price support for oilseeds;

"(2) except as otherwise provided in this Act, the Secretary shall not permit the planting of soybeans for harvest on acreage required to be devoted to conservation uses or diverted from production under any other Federal Government program;

"(3) the Secretary may not authorize payments to producers to cover the cost of storing soybeans; and

"(4) soybeans may not be considered an eligible commodity for any reserve program.

"(i) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of oilseeds.

"(j) IMPLEMENTATION.—The Secretary shall ensure that the program established under this section shall be implemented in such a manner that will—

"(1) minimize potential loan forfeitures;

"(2) minimize the accumulation of oilseed stocks by the Federal Government;

"(3) minimize the cost incurred by the Federal Government in storing oilseeds; and

"(4) allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally.".

TITLE IX—SUGAR

SEC. 901. SUGAR PRICE SUPPORT.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) (as amended by section 801 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446)—

(A) in the matter preceding subsection (a), by striking "honey, and milk" and inserting "honey, milk, sugar beets, and sugarcane"; and

(B) by striking subsection (j); and

(2) by adding at the end the following new section:

"SEC. 206. SUGAR PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

"(a) IN GENERAL.—The price of each of the 1991 through 1995 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

"(b) SUGARCANE.—The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such

level as the Secretary determines appropriate, but not less than 18 cents per pound for raw cane sugar, except that the level may be increased under subsection (d).

"(c) SUGAR BEETS.—The Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines is fair and reasonable in relation to the loan level for sugarcane.

"(d) INCREASE IN SUPPORT PRICE.—

"(1) IN GENERAL.—The Secretary may increase the support price for each of the 1991 through 1995 crops of domestically grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

"(2) REPORT.—If the Secretary makes a determination not to increase the support price under subparagraph (A), the Secretary shall submit a report containing the findings, decision, and supporting data for the determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) ANNOUNCEMENTS.—The Secretary shall announce the loan rate to be applicable during any fiscal year under this section as far in advance of the beginning of that fiscal year as is practicable consistent with the purposes of this section.

"(f) TERM.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

"(1) the end of 9 months; or

"(2) the end of the fiscal year.

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—In the case of sugar beet producing areas in which sugar beets normally are harvested during the last 3 months of a fiscal year, the Secretary shall make available, to each borrower of a loan made and repaid under this section during the last 3 months of the fiscal year on sugar processed from sugar beets so harvested, a supplementary nonrecourse loan in addition to the initial loan. In each case, the supplementary loan shall—

"(1) be made available to the borrower as of the first day of the following fiscal year;

"(2) be made at the same loan rate as the initial loan; and

"(3) mature in 9 months less the amount of time that the initial loan was in effect.

"(h) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of sugar beets and sugarcane.".

SEC. 902. DISTORTIONS TO WORLD SUGAR TRADE.

(a) Whereas the Senate finds that:

(1) the sugar industry is important to the countries of Latin America, especially in the Caribbean, Central American and Andean regions;

(2) the United States is an important destination for sugar from these countries;

(3) over the past nine years, import quotas have drastically reduced United States imports of sugar;

(4) the sugar industry of these countries is in the midst of a prolonged crisis, undermining economic growth and creating political instability;

(5) for the long-term development of these regions, trade is more important than aid;

(6) the export-promotion strategy of these regions can succeed only to the extent that other developed countries increase access to their markets for sugar;

(7) despite requests by regional governments, the international community has not been forthcoming in granting broader market access; and

(8) in light of Latin America's severe economic crisis and its commitment to rebuilding its economies, the international community should remove obstacles to reviving trade.

(b) Therefore, the General Accounting Office shall, no later than October 31, 1990, report to Congress recommendations for policies the United States can adopt to improve and enhance developing countries access to world sugar markets and reduce other distortions to world sugar trade.

TITLE X—GENERAL COMMODITY PROVISIONS

Subtitle A—Acreage Base and Yield System

SEC. 1001. ACREAGE BASE AND YIELD SYSTEM.

Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended to read as follows:

"TITLE V—ACREAGE BASE AND YIELD SYSTEM

"SEC. 501. PURPOSE.

"The purpose of this title is to prescribe a system for establishing normal and crop acreage bases and program payment yields for the wheat, feed grains, upland cotton, extra long staple cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.

"SEC. 502. DEFINITIONS.

"For purposes of this title:

"(1) COUNTY COMMITTEE.—The term 'county committee' means the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located.

"(2) NORMAL CROP ACREAGE.—The term 'normal crop acreage' means the sum of the crop acreage bases established for program crops and historical oilseed plantings for a farm.

"(3) OILSEED.—The term 'oilseed' means a crop of soybeans, sunflowers, rapeseed, canola, safflower, flaxseed, or, if designated by the Secretary, other oilseeds.

"(4) PROGRAM CROP.—The term 'program crop' means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, extra long staple cotton, or rice.".

"SEC. 503. NORMAL CROP ACREAGE.

"(a) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of a normal crop acreage for the 1991 and subsequent crop years.

"(b) DETERMINATION.—The county committee, in accordance with regulations prescribed by the Secretary, shall determine the normal crop acreage for a farm for a crop year.

"SEC. 504. CROP ACREAGE BASES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of—

"(A) crop acreage bases for each program crop, including any program crop produced under an established practice of double cropping; and

"(B) historical oilseed plantings for the farm.

"(2) DEFINITION OF DOUBLE CROPPING.—As used in this subsection, the term 'double cropping' means a farming practice, as defined by the Secretary, that has been carried out on a farm during at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

"(b) CALCULATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the crop acreage base for each program crop and the historical oilseed planting for a farm for a crop year shall be the number of acres that is equal to the average of the acreage planted and considered planted to the program crop or oilseed for harvest on the farm in each of the 5 crop years preceding the crop year.

"(2) UPLAND COTTON AND RICE.—

"(A) CALCULATION.—In the case of upland cotton and rice, except as provided in subparagraph (B), if no planted and considered planted acreage has been established for a farm for each of the 5 crop years preceding such crop year, the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding such crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm.

"(B) LIMITATION.—Any crop acreage base established in accordance with subparagraph (A) shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding such crop year.

"(c) ACREAGE CONSIDERED PLANTED.—For purposes of this Act, acreage considered planted to a program crop or oilseed shall include—

"(1) any reduced acreage and diverted acreage on the farm;

"(2) any acreage on the farm that producers were prevented from planting to the crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

"(3) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted by the Secretary;

"(4) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to the production of commodities in accordance with section 505;

"(5) any acreage on the farm that the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base; and

"(6) the permitted acreage for the crop, if producers on the farm certify that no acreage on the farm was planted to the crop (or any fruit or vegetable crop (including potatoes and edible beans) not designated as an industrial or experimental crop by the Secretary) and forgo receiving any payments under the program established under title I for the crop.

"(d) PLANTING HISTORY.—For the purpose of determining the crop acreage base or historical oilseed plantings for a crop year for any farm, the county committee, in accordance with regulations prescribed by the Secretary pursuant to this Act, may construct a planting history for the crop if—

"(1) planting records for the crop for any of the 5 crop years preceding the crop year are incomplete or unavailable; or

"(2) during at least 1 but not more than 4 of the 5 crop years preceding the crop year, the program crop or oilseed was not produced on the farm.

"(e) ADJUSTMENTS.—The Secretary shall make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base, including adjustments necessary to enable producers to meet the requirements of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

"(f) DISASTERS OR SIMILAR CONDITIONS.—If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop or oilseed on any farm within the county (or substantially destroyed any such program crop or oilseed after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop or oilseed, on acreage of the farm that, but for the occurrence of the disaster or other condition, would have been devoted to the production of a program crop (without regard to any acreage reduction program established for the crop). For purposes of determining the normal crop acreage, the crop acreage base, or historical oilseed plantings, any acreage on the farm on which a substitute crop, including any program crop or oilseed, is planted under this subsection shall be taken into account as if the acreage had been planted to the program crop or oilseed for which the other crop was substituted.

"(g) SUBSEQUENT CROP YEARS.—A producer who is eligible to receive a deficiency payment for any program crop in any crop year with respect to a farm may not use the acreage planted or considered planted to any program crop or oilseed on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year.

"SEC. 505. PLANTING FLEXIBILITY.

"(a) IN GENERAL.—The producers on a farm may, in accordance with this section, plant for harvest on the crop acreage base established for a program crop a commodity, other than the specific program crop, without suffering a reduction in the crop acreage base as a result of the production.

"(b) SPECIFIED COMMODITIES.—For purposes of this section, the commodities that may be planted for harvest on a crop acreage base are—

"(1) any program crop;

"(2) any oilseed, industrial crops and experimental crops (as designated by the Secretary); and

"(3) any nonprogram, nonoilseed crop, except any fruit or vegetable crop (including potatoes and edible beans) not designated as an industrial or experimental crop by the Secretary.

"(c) LIMITATION ON ACREAGE.—The quantity of the crop acreage base that may be planted to a commodity, other than the specific program crop, under this section may not exceed 25 percent of the crop acreage base.

"(d) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Notwithstanding any other provision of this Act, producers of a program crop shall be allowed to plant the program crop in a quantity that exceeds the permitted acreage for the crop without losing their eligibility for loans, purchases, or payments under this Act if—

"(1) the acreage planted to the program crop on the farm in excess of the permitted acreage does not exceed 25 percent of the crop acreage bases on the farm for other program crops; and

"(2) the permitted acreage for the other program crops produced on the farm is reduced by an amount equal to the overplanting.

"(e) LOAN ELIGIBILITY.—

"(1) IN GENERAL.—Producers of a specific program crop (referred to in this subsection as the 'original program crop') who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are not participants in the program established for such other program crop shall be eligible to receive loans or purchases for such other program crop on the same terms and conditions as are provided to participants in a production adjustment program established for such other program crop.

"(2) REQUIREMENTS.—Producers shall be eligible to receive loans or purchases under this subsection if the producers—

"(A) plant such other program crop in an amount that does not exceed 25 percent of the crop acreage base established for the original program crop; and

"(B) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.

"SEC. 506. FARM PROGRAM PAYMENT YIELDS.

"(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c).

"(b) FARM PROGRAM PAYMENT YIELDS BASED ON 1990 CROP YEAR.—

"(1) IN GENERAL.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraphs (2) and (3), the farm program payment yield for each of the 1991 through 1995 crop years shall be the the farm program payment yield for the 1990 crop year for the farm.

"(2) ADDITIONAL YIELD PAYMENTS.—In the case of each of the 1991 through 1995 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year.

"(3) NO CROP OR YIELD AVAILABLE.—If no crop of the commodity was produced on the farm or no farm program payment yield was established for the farm for any of the 1986 through 1990 crop years, the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

"(4) NATIONAL, STATE, OR COUNTY YIELDS.—If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

"(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

"(5) BALANCING YIELDS.—If national, State, or country program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(c) AVERAGE OF ACTUAL YIELDS DURING IMMEDIATELY PRECEDING CROP YEARS.—

"(1) IN GENERAL.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, the farm program payment yield for any program crop for any farm shall be the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which the crop was not planted on the farm.

"(2) ACTUAL YIELDS.—For purposes of paragraph (1), the actual yield per harvested acre shall be used in determining farm program payment yields.

"(3) DISASTERS OR SIMILAR CONDITIONS.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any program yield for any program crop for any farm if the program yield for the crop on the farm does not accurately reflect the productive potential of the farm because of the occurrence of a natural disaster or other similar condition beyond the control of the producer.

"(d) ACTUAL YIELDS NOT AVAILABLE.—In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

"(e) ACTUAL YIELD DATA.—

"(1) PROVISION.—The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

"(2) MAINTENANCE.—The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.

"(3) NOTIFICATION.—The Secretary shall provide timely notification to producers of the provisions of this subsection.

"(f) IRRIGATED YIELDS.—The Secretary shall not establish farm program payment yields based on yields for irrigated land, as opposed to yields for nonirrigated land, for any acreage that was not irrigated prior to the beginning of the 1991 crop year.

"SEC. 507. PLANTING AND PRODUCTION HISTORY OF FARMS.

"Each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a normal crop acreage, crop acreage base, or farm program payment yield for a farm for a crop year to provide planting and production history of the farm for each of the 5 crop years immediately preceding the crop year.

"SEC. 508. ESTABLISHMENT OF BASES AND YIELDS BY COUNTY COMMITTEES.

"Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a normal crop acreage, crop acreage base, and farm program payment yield with respect to any farm administratively located within the county if the normal crop acreage, crop acreage base, or farm program payment yield cannot otherwise be established under this title. The normal crop acreages, crop acreage bases, and farm program payment yields shall be established in a fair and equitable manner, but no such bases or farm program payment yields shall be established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

"SEC. 509. APPEALS.

"The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to normal crop acreage, crop acreage bases, and farm program payment yields.".

Subtitle B—Miscellaneous Commodity Provisions

SEC. 1011. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraphs (1) and (2)(A), by striking "1987 through 1990 crops" both places it appears and inserting "1991 through 1995 crops";

(2) in paragraph (2)(A), by striking "(with respect to clause (iii)(II) of subparagraph (B))"; and

(3) in paragraph (2)(B)—

(A) by striking clause (iii) and inserting the following new clause:

"(iii) any gain realized by a producer from repaying a loan for a crop of any commodity at a lower level than the original loan level established under the Agricultural Act of 1949;";

(B) in clause (iv)—

(i) by striking "section 107D(c)(1) or 105C(c)(1)" and inserting "107A(c)(1) or 105A(c)(1); and

(ii) by striking "section 107D(a)(4) or 105C(a)(3)" and inserting "section 107A(a)(2)(B)(ii) or 105A(a)(2)(B)(ii)";

(C) by striking clause (v) and inserting the following new clause:

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, rice, or oilseeds under section 107A(b), 105A(b), 103A(b), 101A(b), or 205(e), respectively, of the Agricultural Act of 1949; and"; and

(D) in clause (vi), by striking "section 107D(g), 105C(g), 103A(g), or 101A(g)" and inserting "section 107A(f), 105A(f), 103A(f), or 101A(f)".

(b) FOREIGN PERSONS.—Section 1001C(a) of such Act (7 U.S.C. 1308-3(a)) is amended by striking "1989 and 1990 crops" and inserting "1991 through 1995 crops".

(c) SPOUSES.—Clause (iii) of section 1001(5)(B) of such Act (7 U.S.C. 1308(5)(B)(iii)) is amended to read as follows:

"(iii) The regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that, for the purpose of the application of the limitations established under this section—

"(I) in the case of any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by the spouse so long as the operation remains as a separate farming operation; and

"(II) in the case of any married couple consisting of spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including the spouses themselves) engaged in farm operations that also receives farm program payments (as described in paragraphs (1) and (2)) as separate persons, the spouses may be considered as separate persons if each spouse meets the other requirements established under this section and section 1001A to be considered to be a separate person.".

(d) GROWERS OF HYBRID SEED.—Section 1001A(b) of such Act (7 U.S.C. 1308-1(b)) is amended by adding at the end the following new paragraph:

"(6) GROWERS OF HYBRID SEED.—To determine whether a person growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.".

(e) IRREVOCABLE TRUSTS.—Section 1001(5)(B)(ii) of such Act (7 U.S.C. 1308(5)(B)(ii)) is amended by adding at the end the following new subparagraph:

"(III) Notwithstanding any other provision of law, to be considered a separate person under this section, an irrevocable trust (other than a trust established prior to January 1, 1987) must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving majority or is contingent on the death of the grantor or income beneficiary.".

(f) MINIMAL BENEFICIAL INTERESTS.—Section 1001A(a)(2) of such Act (7 U.S.C. 1308-1(a)(2)) is amended by striking "10 percent" and inserting "5 percent".

(g) INFORMATION.—The Food Security Act of 1985 is amended by inserting after section 1001C (7 U.S.C. 1308-3) the following new section:

"SEC. 1001D. INFORMATION.

"(a) EXCESS PAYMENTS TO INDIVIDUALS.—

"(1) DEVELOPMENT OF DATA.—The Secretary of Agriculture shall develop a database pertaining to individuals receiving direct payments in excess of the statutory limitation of $50,000 prescribed in section 1001(1).

"(2) PUBLICATION OF REPORT.—Not later than 180 days after the date of enactment of this section, and annually thereafter, the Secretary shall publish a report based on the information collected under paragraph (1) that includes—

"(A) the percentage of individuals eligible for direct deficiency payments receiving payment in excess of $50,000;

"(B) the percentage of direct deficiency payments in excess of $50,000 made to individuals attributed by principal crop;

"(C) the amount of direct deficiency payments by commodity that would have been made in the absence of any payment limitations;

"(D) the names of individuals receiving direct deficiency payments in excess of $50,000, and the total amount of payments received in the applicable year by each such individual;

"(E) a description of the bases on which individuals are eligible to receive the excess payments;

"(F) the percentage of eligible individuals who decline to participate in commodity programs because of the limitation on direct payments; and

"(G) other pertinent information, including any recommendations for changes in law or regulation to provide for equitable administration of payment limitations, as determined by the Secretary.

"(b) VIOLATIONS.—

"(1) IN GENERAL.—The Secretary shall submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate providing information on the extent to which there are violations of the payment limitations and restrictions contained in sections 1001 through 1001C.

"(2) CONTENTS.—The report shall contain—

"(A) the names of individuals found to be in violation of such sections;

"(B) the amount of payments received in violation of such sections by the individuals; and

"(C) any recommendations for changes in law or regulation to prevent the violations.".

(h) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1001D (as added by subsection (g) of this section) the following new section:

"SEC. 1001E. EDUCATION PROGRAM.

"(a) IN GENERAL.—The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions established under sections 1001 through 1001C.

"(b) TRAINING.—The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C.

"(c) ADMINISTRATION.—The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1001 through 1001C to farm operations consisting of more than 5 persons, subject to review by the Secretary.

"(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.".

(i) TREATMENT OF MULTIYEAR PROGRAM CONTRACT PAYMENTS.—Effective beginning with the date of enactment of this Act, the Food Security Act of 1985 is amended by inserting after section 1001C (7 U.S.C. 1308-3) the following new section:

"SEC. 1001F. TREATMENT OF MULTIYEAR PROGRAM CONTRACT PAYMENTS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's Conservation Reserve Program contract (entered into pursuant to title XII of this Act),

make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any Conservation Reserve Program contract executed prior to such devise or descent.

"(b) LIMITATION.—Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.".

SEC. 1012. ADVANCE DEFICIENCY AND DIVERSION PAYMENTS.

(a) IN GENERAL.—Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) is amended—

(1) in subsection (a)(1), by striking "1988 through 1990" and inserting "1991 through 1995"; and

(2) in subsection (b), by striking "1986 through 1990" and inserting "1991 through 1995".

(b) PAYMENTS FOR UNDERESTIMATED MARKET PRICES.—Section 107C of such Act is amended by adding at the end the following:

"(c) If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the projected deficiency payment determined by the Secretary for the purposes of calculating the advance deficiency payment made available under subsection (a), the Secretary shall provide a payment to the producer equal to 20 percent of the difference between the final deficiency payment and the projected deficiency payment.".

(c) REPAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.).

(2) APPLICATION.—This subparagraph shall apply if—

(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a));

(B) the producers are required to provide a refund of at least $1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.

(d) CONFORMING AMENDMENT.—Section 1002 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1446) is amended by striking "Effective only for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, section" and inserting "Section".

SEC. 1013. ADVANCE RECOURSE COMMODITY LOANS.

(a) IN GENERAL.—Section 424 of the Agricultural Act of 1949 (7 U.S.C. 1433c) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

(b) CONFORMING AMENDMENT.—Section 1003 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1447) is amended by striking "Effective for the 1986 through 1990 crops, the" and inserting "The".

SEC. 1014. INTEREST PAYMENT CERTIFICATES.

(a) IN GENERAL.—Section 405(b)(1) of the Agricultural Act of 1949 (7 U.S.C. 1425(b)(1)) is amended by inserting after "programs, for" the following: "the 1991 through 1995 crops of".

(b) CONFORMING AMENDMENT.—Section 1004 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1447) is amended by striking "Effective only for the 1986 through 1990 crops, section" and inserting "Section".

SEC. 1015. PAYMENT OF INTEREST ON CERTIFICATES.

Section 107E of the Agricultural Act of 1949 (7 U.S.C. 1445b-4) is amended by adding at the end the following new subsection:

"(c) The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days.".

SEC. 1016. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended to read as follows:

"SEC. 407. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

"(a) IN GENERAL.—The Commodity Credit Corporation may sell any farm commodity owned or controlled by the Corporation at any price not prohibited by this section.

"(b) INVENTORIES.—In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should consider the establishment of such policies with respect to prices, terms, and conditions as the Corporation determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

"(c) SALES PRICE RESTRICTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 115 percent of the lower of—

"(A) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, and other factors determined appropriate by the Corporation; or

"(B) the loan repayment level.

"(2) EXTRA LONG STAPLE COTTON.—The Corporation may sell extra long staple cotton for unrestricted use at such price as the Corporation determines is appropriate to maintain and expand export and domestic markets.

"(3) OILSEEDS.—The Corporation shall not sell oilseeds at less than the lower of—

"(A) 105 percent of the current national average price support loan rate for the oilseed, adjusted for the current market differentials reflecting grade, quality, location, and other factors determined appropriate by the Corporation; or

"(B) 115 percent of the loan repayment level.

"(4) WHEAT AND FEED GRAINS.—Whenever the producer reserve program for wheat and feed grains established under section 110 is in effect, the Corporation may not sell any of its stocks of wheat or feed grains at a level that is less than 105 percent of the established price for wheat or feed grains.

"(5) UPLAND COTTON.—The Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same price the Corporation sells upland cotton for export, but in no event at less than the amount provided for in paragraph (1).

"(d) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—The foregoing restrictions of this section shall not apply to—

"(1) sales for new or byproduct uses;

"(2) sales of peanuts and oilseeds for the extraction of oil;

"(3) sales for seed or feed if the sales will not substantially impair any price support program;

"(4) sales of commodities that have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

"(5) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity;

"(6) sales for export (excluding sales of upland cotton for export);

"(7) sales of wool; and

"(8) sales for other than primary uses.

"(e) DISTRESS, DISASTER, AND LIVESTOCK EMERGENCY AREAS.—

"(1) IN GENERAL.—Notwithstanding the foregoing provisions of this section, the Corporation, on such terms and conditions as the Secretary may consider in the public interest, may—

"(A) make available any farm commodity or product thereof owned or controlled by the Corporation for use in relieving distress—

"(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

"(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

"(B) donate or sell commodities in accordance with title VI.

"(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making the commodity available under this subsection beyond the cost of the commodities to the Corporation in—

"(A) the storage of the commodity; and

"(B) the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area.

"(f) EFFICIENT OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the foregoing restrictions of this section shall not apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantities involved, or because of age, location or questionable continued storability of the commodity.

"(2) OFFSETS.—The sales shall be offset (if necessary) by the purchases of commodities as the Corporation determines is appropriate to prevent the sales from substantially impairing any price support program or unduly affecting market prices, except that the purchase price shall not exceed the Corporation's minimum sales price for the commodities for unrestricted use.

"(3) COMPETITIVE BID BASIS.—Subject to the sales price restrictions contained in this section, the Corporation may sell any basic agricultural commodity or storable nonbasic commodity on a competitive bid basis, if the sale is determined to be appropriate by the Secretary.

"(g) SALES FOR EXPORT.—For the purposes of this section, sales for export shall include—

"(1) sales made on condition that the identical commodities sold be exported; and

"(2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.".

SEC. 1017. DISASTER PAYMENTS.

Title II of Agricultural Act of 1949 (as amended by section 901 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446), by striking subsection (k); and

(2) by adding at the end the following new section:

"SEC. 207. DISASTER PAYMENTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS, SOYBEANS, SUGAR BEETS, AND SUGARCANE.

"(a) PREVENTED PLANTING.—If the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage on the farm intended for peanuts, soybeans, sugar beets, or sugarcane to peanuts, soybeans, sugar beets, sugarcane, or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary may make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(1) the number of acres so affected but not to exceed the acreage planted to peanuts, soybeans, sugar beets, or sugarcane for harvest (including any acreage that the producers were prevented from planting to the commodity or to other nonconserving crops in lieu of peanuts, soybeans, sugar beets, or sugarcane because of drought, flood or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(2) 75 percent of the farm program payment yield established by the Secretary; by

"(3) a payment rate equal to 50 percent of the loan and purchase level for the crop.

"(b) REDUCED YIELDS.—If the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of peanuts, soybeans, sugar beets, or sugarcane that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary may make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan and purchase level for the crop for the deficiency in production below 60 percent for the crop.

"(c) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts, soybeans, sugar beets, and sugarcane.".

SEC. 1018. MULTIYEAR SET-ASIDES.

Section 1010(1) of the Food Security Act of 1985 (7 U.S.C. 1445i(1)) is amended—

(1) by striking "beyond the 1990 crops" and inserting "beyond the 1995 crops"; and

(2) by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 1019. SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.

(a) IN GENERAL.—Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended—

(1) by striking "section 105C or 107D" and inserting "section 105A or 107A"; and

(2) by striking "1986 through 1990" and inserting "1991 through 1995".

(b) CONFORMING AMENDMENT.—Section 1011 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1454) is amended by striking "Effective for the 1986 through 1990 crops of wheat and feed grains, section" and inserting "Section".

SEC. 1020. EXTENSION OF WHEAT RESERVE.

(a) IN GENERAL.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1990" both places it appears and inserting "1995".

(b) ADJUSTMENT OF LEVEL.—Section 302 of such Act is amended by adding at the end the following new subsection:

"(j) If, for each of the 1991 through 1995 marketing years for wheat, the Secretary determines that the season average price for wheat during the marketing year is less than 140 percent of the loan rate for wheat established under title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), the Secretary shall take whatever steps are necessary to ensure that stocks in the reserve established under this section equal at least 75 million bushels by the end of the marketing year.".

SEC. 1021. NORMALLY PLANTED ACREAGE.

Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended—

(1) by striking "1990" each place it appears and inserting in lieu thereof "1995"; and

(2) in subsection (c)(2), by striking "section 107D(d)(3)(A)" and inserting "section 107A(d)(3)(A)".

SEC. 1022. SPECIAL GRAZING AND HAY PROGRAM

The first sentence of section 109(a) of the Agricultural Act of 1949 (7 U.S.C. 1445d(a)) is amended by striking "1990" and inserting "1995".

SEC. 1023. ADVANCE ANNOUNCEMENT OF PROGRAMS.

Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended—

(1) by striking "1987 through 1991" each place it appears in paragraphs (1) and (2) and inserting "1992 through 1996";

(2) in paragraph (3)(B)(ii)—

(A) by striking "1991" each place it appears and inserting "1996";

(B) by striking "1990" each place it appears and inserting "1995"; and

(C) by striking "Food Security Act of 1985" and inserting "Food, Agriculture, Conservation, and Trade Act of 1990".

SEC. 1024. DETERMINATIONS OF THE SECRETARY.

Section 1017(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1459) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 1025. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.

(a) IN GENERAL.—Subsection (k) of section 408 of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended to read as follows:

"(k)(1) Reference made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act.

"(3) Notwithstanding any other provision of law, this subsection shall be effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice.".

(b) PRODUCER.—Section 408 of such Act is amended by striking subsections (l) and (m) and inserting the following new subsection:

"(l) 'Producer' shall include a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.".

SEC. 1026. NORMAL SUPPLY.

Notwithstanding any other provision of law, if the Secretary of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for the marketing year for any of the 1991 through 1995 crops of the commodity is not likely to be excessive and that program measures to reduce or control the planted acreage of the crop are not necessary, such a decision shall constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination to the contrary shall be made by the Secretary with respect to the commodity for the marketing year.

SEC. 1027. NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD.

(a) MEMBERSHIP.—The first sentence of section 1006(a)(1) of the Agriculture and Food Act of 1981 (7 U.S.C. 4102(a)(1)) is

amended by striking "seven members who are engaged in the commercial production of one or more of the various major agricultural commodities produced in the United States" and inserting "seven members who, individually or as a group, are engaged in the commercial production of each of the program crops and in one or more of the other various major agricultural commodities produced in the United States".

(b) EXTENSION.—Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1990" and inserting "1995".

SEC. 1028. ADJUSTMENT OF SUPPORT PRICES.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended to read as follows:

"SEC. 403. ADJUSTMENTS OF SUPPORT PRICES.

"(a) IN GENERAL.—The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. The adjustments shall, so far as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors be equal to the level of support determined as provided in this Act.

"(b) ADJUSTMENT IN SUPPORT PRICES FOR COTTON.—The Secretary may make appropriate adjustments in the support price for cotton for differences in quality factors and location. Beginning with the 1991 crop, the quality differences (premiums and discounts for quality factors) for the upland cotton loan program shall be established by the Secretary by giving equal weight to (1) loan differences for the preceding crop, and (2) market differences for such crop in the designated United States spot markets.

"(c) LIMITATION ON ADJUSTMENTS FOR WHEAT AND FEED GRAINS.—Notwithstanding any other provision of this section, for each of the 1990 through 1995 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease the regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.".

SEC. 1029. FARMER OWNED RESERVE PROGRAM.

Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended to read as follows:

"SEC. 110. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

"(a) IN GENERAL.—The Secretary shall formulate and administer a producer storage program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities.

"(b) TERMS OF PROGRAM.—

"(1) PRICE SUPPORT LOANS.—In carrying out this program, the Secretary shall provide original or extended price support loans for wheat and feed grains under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time whenever the supply of wheat and feed grains are in abundant supply, as determined by the Secretary, or whenever the price of wheat or feed grains is less than 140 percent of the loan rate established under this title for wheat and feed grains.

"(2) LEVEL OF LOANS.—Loans made under this section shall not be less than the then current level of support under the wheat and feed grain programs established under this title.

"(3) OTHER TERMS AND CONDITIONS.—The Secretary shall provide for—

"(A) loans with a maturity of not less than 3 years, with extensions as warranted by market conditions;

"(B) a rate of interest as provided under subsection (c); and

"(C) payments to producers for storage as provided in subsection (d).

"(4) REGIONAL DIFFERENCES.—The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

"(c) INTEREST CHARGES.—

"(1) LEVYING OF INTEREST.—The Secretary may charge interest on loans under this section whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities.

"(2) 90-DAY PERIOD.—If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

"(3) RATE OF INTEREST.—The rate of interest charged participants in this program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

"(d) STORAGE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall provide storage payments to producers for storage of wheat or feed grains under the program established in this section in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program.

"(2) TIMING.—The Secretary shall make storage payments available to participants in this program at the end of each quarter.

"(3) DURATION.—The Secretary may cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

"(e) EMERGENCIES.—Notwithstanding any other provision of law, the Secretary may require producers to repay loans under this section, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

"(f) QUANTITY OF COMMODITIES IN PROGRAM.—The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under this program as follows:

"(1) The quantities may not be established at less than 300 million bushels of wheat and 600 million bushels of feed grains.

"(2) The quantities may not be established at more than—

"(A) 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary; and

"(B) 15 percent of the estimated total domestic and export usage of feed grains during the marketing year for the crop, as determined by the Secretary.

"(3) Notwithstanding paragraph (2), the Secretary may establish the upper limits at higher levels, not in excess of 110 percent of the levels established in paragraph (2), if the Secretary determines that the higher limits are necessary to achieve the purposes of this section.

"(g) ANNOUNCEMENT OF PROGRAM.—

"(1) TIME OF ANNOUNCEMENT.—The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable.

"(2) CONTENT OF ANNOUNCEMENT.—In the announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

"(h) RECONCENTRATION OF GRAIN.—The Secretary may, with the concurrence of the owner of grain stored under this program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

"(i) MANAGEMENT OF GRAIN.—Whenever grain is stored under this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(k) USE OF COMMODITY CERTIFICATES.—Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as

loan collateral and redeemed only within the same county.

"(l) ADDITIONAL AUTHORITY.—The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.".

SEC. 1030. COMPARABILITY OF STORAGE PAYMENTS.

In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehouses under the authority contained in the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehouse shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehouse as a result of the adjustment of storage rates under this section.

SEC. 1031. LOAN RATE STUDY.

(a) IN GENERAL.—In the case of the annual programs established for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under sections 107A, 105A, 103A, and 101A of the Agricultural Act of 1949 (as amended by sections 301, 401, 501, and 601 of this Act), respectively, the Secretary of Agriculture shall study the impact of—

(1) increasing the minimum loan and purchase level established the crop to—

(A) the corresponding established price level for the crop; or

(B) the projected average cost of production level for the crop; and

(2) eliminating deficiency payments for the crop.

(b) FACTORS.—In conducting the study, the Secretary shall analyze the impact of the actions described in subsection (a) on—

(1) the export market share for each commodity;

(2) Commodity Credit Corporation outlays for each commodity; and

(3) net farm income for each commodity.

(c) REPORT.—Not later than October 1, 1991, the Secretary shall submit a report that describes the results of the study conducted under this section to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1032. PRODUCER APPEALS PROCESS.

(a) AMENDMENT TO AGRICULTURAL ACT OF 1949.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 426. APPEALS.

"(a) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture (the 'ASCS'), shall have the right to appeal any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(b) APPEAL PROCEDURE.—

"(1) IN GENERAL.—Such appeal shall be made in accordance with this section.

"(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning such participant may appeal such determination as follows:

"(A) if such determination was rendered by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the applicable State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act;

"(B) if such determination was rendered by a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the National Appeals Division established in accordance with this section; and

"(C) if such determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal such determination to the National Appeals Division.

"(3) TIME OF FILING OF APPEAL.—A participant shall file a notice of appeal within a reasonble time after receiving notice of the adverse determination, as determined by the Secretary.

"(c) NATIONAL APPEALS DIVISION.—

"(1) ESTABLISHMENT.—For the purpose of hearing producer appeals, the Secretary shall establish and maintain within the ASCS, a National Appeals Division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Department of Agriculture who shall have no duties other than hearing and determining formal appeals arising under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or a successor agency.

"(2) HEARING OFFICERS.—Hearing officers within the National Appeals Division shall hear each appeal made to the National Appeals Division under this section.

"(3) POWERS AND DUTIES OF DIRECTOR.—The director of the National Appeals Division, in carrying out the provisions of this section—

"(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this section from any Federal, State, or local governmental agency or unit thereof;

"(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

"(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

"(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals;

"(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out the provisions of this section;

"(G) shall issue procedural rules for the conduct of appeals; and

"(H) may delegate to hearing officers the authorities provided in subparagraphs (A) through (E) of this paragraph as the Secretary determines appropriate.

"(4) HEARINGS.—

"(A) IN GENERAL.—The hearing shall be held at a time and place designated by the National Appeals Division.

"(B) CONDUCT OF HEARING.—At a minimum, the hearing shall be conducted as follows:

"(i) the participant shall be advised of the issues involved;

"(ii) the participant shall be given a full opportunity to present facts and information relevant to the matter in issue and may present evidence; and

"(iii) the hearing officer may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

"(C) RECORD.—At the request of the participant, each hearing before a hearing officer in the National Appeals Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with all documents and evidence submitted shall be made available to the participant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing, if prepared.

"(5) REVIEW OF DECISION.—

"(A) IN GENERAL.—The director of the National Appeals Division shall make all determinations with respect to the appeals submitted to the Division for review.

"(B) PROCEDURE.—In submitting an appeal for the determination of the director, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director.

"(C) BASIS OF REVIEW.—The National Appeals Division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer, except that the director of the National Appeals Division may order that further proceedings be had in order that the record presented for review by the National Appeals Division may be complete or in order to hear new or additional evidence.

"(6) INDEPENDENCE OF DIVISION—All hearing officers within the National Appeals Division shall report to the principal officers of the division and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the National Appeals Division.

"(7) FINALITY OF DECISIONS.—Except as provided in subsection (e), determinations of the director of the National Appeals Division shall be final, conclusive, and binding on the Department of Agriculture, including the Commodity Credit Corporation, and any agency thereof.

"(d) COURT REVIEW.—Final decisions of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

"(e) PARTICIPANT.—For the purposes of this section, a participant means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State or country committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(f) DELEGATION OF AUTHORITY.—Nothing contained in this section shall preclude the Secretary, the Administrator of the ASCS, or the Executive Vice President of the Commodity Credit Corporation from determining at any time any question arising under the programs to which the provisions of this section apply or from reversing or modifying (in writing, with sufficient reason given therefor) any determination made by a county or State committee or the director of the National Appeals Division.

"(g) DECISIONS OF STATE AND COUNTY COMMITTEES.—Decisions of the State and County Committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, or employees of such committees made in good faith in the absence of misrepresentation, false statement, fraud, or wilful misconduct, unless otherwise appealed under this section, shall be final, unless otherwise modified under subsection (f) within 90 days, and no action shall be taken to recover amounts found to have been disbursed thereon in error unless the producer had reason to believe that the decision was erroneous.

"(h) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to implement the provisions of this section, including regulations governing the conduct of appeals made before State and county committees established under section 8(e) of the Soil Conservation and Domestic Allotment Act.".

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall not apply to any appeal or proceeding with respect to any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation prior to the date of enactment of this Act.

(c) GOOD FAITH RELIANCE.—Section 326 of the Food and Agriculture Act of 1962 is revised to read as follows: "Notwithstanding any other provision of law, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance upon the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs.".

SEC. 1033. PROGRAM OPTION FOR 1996 CROPS.

Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, the Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

"(2) The Secretary may offer such programs based upon the terms and conditions as are provided in sections 101(h), 101A, 103A, 105A, 107A, 107C, 204, and 205 of the Agricultural Act of 1949, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, and any other relevant provisions of the Agricultural Act of 1949, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

"(3) The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

"(A) in the case of wheat, June 1, 1995;

"(B) in the case of feed grains, September 30, 1995;

"(C) in the case of upland cotton, November 1, 1995;

"(D) in the case of extra long staple cotton, December 1, 1995;

"(E) in the case of rice, January 31, 1996;

"(F) in the case of oilseeds, July 15, 1995; and

"(G) in the case of dairy, November 1, 1995.

"(4) Producers may not participate in such programs unless legislation has been enacted subsequent to the date of enactment of the Food, Agriculture, Conservation and Trade Act of 1990 that provides for loans and purchases for the 1996 crop of wheat, feed grains, cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

"(5) The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation in carrying out the provisions of this subsection.".

SEC. 1034. DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATED ON THE WIND RIVER INDIAN RESERVATION.

(a) IN GENERAL.—Effective only for providers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture may make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note, and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity: *Provided, however,* That said assistance shall be drawn from a pool of funds not to exceed $250,000.

(b) ADMINISTRATION.—Titles I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, including crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4) for purposes of this section only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this section only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B) for purposes of this section "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this section "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) If the Secretary determines to offer the assistance described in subsection (a), the producers on a farm as specified in subsection (a) may elect, at the producer's option, to request and receive a 12 month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States;

(1) said request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent certified mail to the nearest regional office; and

(2) written requests for deferral under subsection (c) must be made within 60 days of enactment of this title.

Subtitle C—Honey

SEC. 1041. HONEY PRICE SUPPORT.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) (as amended by section 1017 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446), by striking subsection (b); and

(2) by adding at the end the following new section:

"SEC. 208. HONEY PRICE SUPPORT.

"(a) 1991 THROUGH 1994 CROPS.—For each of the 1991 through 1994 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at such level as is determined to be appropriate by the Secretary.

"(b) 1995 AND SUBSEQUENT CROPS.—Beginning with the 1995 crop of honey, the price of honey shall not be supported through loans, purchases, or any other operations.".

SEC. 1042. RESEARCH ON HONEYBEE DISEASES.

(a) SENSE OF CONGRESS.—It is the sense of Congress
that—

(1) diseases affecting the entire honeybee population impact on the ability of honeybees to carry out crop pollination and honey production, and therefore impact negatively on beekeepers, producers and consumers; and

(2) certain diseases (such as those caused by teacheal mite, varroa mite, and the Africanized honeybee) pose a threat to the continued well-being of the general honeybee population, and thus merit further study.

(b) RESEARCH.—Notwithstanding any other provision of law, the Secretary of Agriculture shall give priority attention to the funding of research regarding the diseases referred to in subsection (a) that are affecting the honeybee population.

Subtitle D—Options Pilot Program

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Options Pilot Program Act of 1990".

SEC. 1052. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there would be significant budgetary savings if practical alternatives could be found to the price support and production adjustment programs carried out by the Secretary of Agriculture and the Commodity Credit Corporation;

(2) in the free market economy of the United States, a reasonable measure of protection from fluctuations in the price of crops such as wheat, feed grains, and soybeans may be found through hedging activity on regulated commodities futures markets;

(3) while utilization of the markets by grain traders and large consumers of commodities for which market futures prices are available is widespread, agricultural producers are not generally familiar with the procedures for hedging the value of their production;

(4) such price protection may be economically obtained by trading in futures options rather than by the purchase or sale of futures contracts for large quantities of grain; and

(5) more information and data are needed to evaluate the viability of futures options trading as an alternative to the price support and production adjustment programs carried out by the Secretary of Agriculture and the Commodity Credit Corporation.

(b) PURPOSES.—It is the purpose of this subtitle to require the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") to conduct research necessary—

(1) to ascertain whether futures options trading would provide reasonable protection to producers from fluctuations in the value of the commodities they produce;

(2) to ascertain whether producers will accept and fully utilize this method of price protection if information is provided to the producers concerning its proper use; and

(3) to determine the effect widespread adoption of such futures options trading program would have on commodity prices.

SEC 1053. OPTIONS PILOT PROGRAM.

(a) IN GENERAL.—To determine whether regulated agricultural commodity options trading can be used by producers to obtain protection from fluctuations in the market prices of the commodities they produce and the impact of such trading on the prices of the commodities, the Secretary shall conduct a pilot program for each of the 1991 through 1995 crops of corn and for each of the 1993 through 1995 crops of wheat and soybeans.

(b) COUNTIES.—The Secretary shall conduct the pilot program in various counties that produce significant quantities of the 1991 through 1995 crops of corn, and significant quantities of the 1993 through 1995 crops of wheat and soybeans. For the 1991 crop year, the Secretary shall select not less than three counties in each of three major corn-producing States to conduct the pilot program for corn for the crop year. The Secretary may add additional States and counties to the program in succeeding crop years.

(c) BROKERS.—Trades under the pilot program conducted under this subtitle shall be carried out through registered commodity brokers who choose to participate in the program.

(d) ELIGIBLE PRODUCER PARTICIPANTS.—The Secretary shall contract with eligible producers who wish to participate in the program and who are located in the counties selected for the pilot program. The contracts shall set forth the terms and conditions for participation in the pilot program, including a provision that the contract may be terminated by any participating producer at any time prior to receiving payments for options contracted for under the pilot program.

SEC. 1054. TERMS AND CONDITIONS.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—To be eligible to participate in the pilot program conducted under this subtitle, a producer shall meet all of the eligibility requirements specified in this subtitle, and the regulations issued pursuant to this subtitle.

(2) PARTICIPATION IN PRICE SUPPORT PROGRAMS.—The regulations shall specify to what degree participation in the price support and production adjustment program established for the applicable crop of the commodity shall be required for participation in the pilot program.

(3) ADDITIONAL REQUIREMENTS.—To be eligible to participate in the pilot program, a producer shall—

(A) attend not less than one seminar conducted by the Cooperative Extension Service;

(B) maintain a separate brokerage account for the purpose of trading futures and options contracts covered by the pilot program; and

(C) compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the program may require to permit a proper record to be kept of the results of all cash, futures, or options trading that may be undertaken under the pilot program by the producer.

(b) PROGRAM TERMS AND CONDITIONS.—The Secretary shall issue regulations or develop contract forms, or both, that set forth the terms and conditions of the program, and the rights and obligations of all of the parties participating in the program (including producers and registered brokers). At a minimum, the terms and conditions shall include—

(1) CONTRACT MONTHS AND STRIKE PRICES.—

(A) IN GENERAL.—The contract months and options strike prices at which participating producers may buy commodity put options in order to receive payments to cover the premiums on the options for each of the 1991 through 1995 crops of corn, and for each of the 1993 through 1995 crops of wheat and soybeans.

(B) TARGET PRICE AND LOAN RATE STRIKE PRICES.—The pilot program shall provide—

(i) a target price strike price for put options that is equivalent to the target price for the commodity involved; and

(ii) a loan rate strike price that is equivalent to the loan rate for the commodity involved.

(C) OTHER OPTIONS STRIKE PRICES.—Other options strike prices for commodities included in the program may be used if the prices are selected and agreed on by the Secretary and the representatives of the commodity futures trading industry designated in accordance with section 1055(a).

(2) ELIGIBLE PORTION OF CROP.—The portion of the crop of an eligible producer that may be used as a basis for acquiring options contracts.

(3) PUT OPTIONS CONTRACTS.—The time when, and the manner in which, put options contracts shall be acquired, held, and liquidated by producers to meet program requirements.

(4) PROGRAM BENEFITS.—

(A) IN GENERAL.—The program benefits to be offered participating producers shall include the cost of option premiums and payments of not more than 15 cents per bushel to cover transaction fees, interest, and other expenses.

(B) RELATIVE BENEFITS.—The Secretary shall inform participants that their participation is voluntary and that neither the United States, the Commodity Credit Corporation, nor representatives of the futures industry can guarantee that the participants will be better or worse off financially as a result of participation in the pilot program than the participants would be if the participants participated solely in price support and production adjustment programs carried out by the Secretary and the Commodity Credit Corporation.

SEC. 1055. COMMODITY FUTURES TRADING INDUSTRY.

(a) CONSULTATION.—The Secretary or the Secretary's designees may consult with representatives of the commodity futures trading industry who are specialists in the trading of futures contracts and futures options contracts, and who are designated by the regulated commodity futures markets that choose to participate in the pilot program.

(b) PROCEDURE.—The designations and consultations may be held without regard to the Federal Advisory Committee Act (5 U.S.C. App. 2). Such Act shall not be applicable to the pilot program carried out under this subtitle, or to the meetings of representatives of the commodity futures trading industry with the Secretary or the Secretary's designees relating to this subtitle.

SEC. 1056. COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—The pilot program established under this subtitle shall be carried out by and through the Commodity Credit Corporation.

(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle.

(c) CONTRACTS.—Contracts entered into under this subtitle shall be considered to be program benefit contracts of the Commodity Credit Corporation, and not service or acquisition contracts of the United States.

Subtitle E—Technical and Conforming Amendments

SEC. 1061. CONFORMING AMENDMENTS.

(a) MISCELLANEOUS COMMODITY PROVISIONS.—The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) (as amended by sections 301, 1012, and 1015 of this Act) is further amended—

(1) by repealing section 107F (7 U.S.C. 1445b-5); and

(2) by redesignating sections 107C and 107E (7 U.S.C. 1445b-2 and 1445b-4) as sections 107B and 107C, respectively.

(b) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) (as amended by sections 801, 901, 1017, and 1041 of this Act) is further amended—

(1) by striking subsections (a) and (d) through (h);

(2) in the first sentence—

(A) by inserting "(a)" before "The Secretary"; and

(B) by striking "as follows:" and inserting "in accordance with this title.";

(3) in subsection (c), by striking "subsection (d)" and inserting "section 204"; and

(4) by redesignating subsection (c) (as amended) as subsection (b).

(c) PEANUTS.—Section 8b(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 608b(b)(2)) (as amended by section 4 of Public Law 101-220; 103 Stat. 1878), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "section 108B of the Agricultural Act of 1949" and inserting "section 108 of the Agricultural Act of 1949".

(d) SUGAR.—Section 902(a) of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended by striking "section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446)" and inserting "section 206 of the Agricultural Act of 1949".

(e) HONEY.—Section 405A(a) of the Agricultural Act of 1949 (7 U.S.C. 1425a(a)) is amended—

(1) by striking "section 201(b)" both places it appears and inserting "section 208"; and

(2) by striking "section 201(b)(2)(B)" and inserting "section 208(b)(2)".

Subtitle F—Effective Date

SEC. 1071. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in title I through this title, such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of an agricultural commodity.

(b) PRIOR CROPS.—Notwithstanding any other provision of law, title I through this title, and the amendments made by such titles, shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1986 through 1990 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date prescribed by subsection (a).

TITLE XI—TRADE

SEC. 1101. SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

Subtitle A—Agricultural Trade Development and Assistance Act of 1954

SEC. 1111. AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Agricultural Trade Development and Assistance Act of 1954'.

"SEC. 2. POLICY.

"It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of such productivity to—

"(1) combat world hunger, malnutrition, and their causes;

"(2) promote broad-based and sustainable economic development;

"(3) expand international trade;

"(4) develop and expand export markets for United States agricultural commodities;

"(5) foster and encourage the development of private enterprise and democratic participation in developing countries; and

"(6) use foreign currencies accruing under this Act to implement the policy objectives described in this section.

"SEC. 3. GLOBAL FOOD AID NEEDS.

"Pursuant to the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above present levels of about 10,000,000 metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

"(1) increase the contributions of food aid of the United States, and encourage other donor countries to increase the contributions of such countries toward meeting new food aid requirements; and

"(2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition particularly through the expansion of international food and agricultural assistance programs.

"SEC. 4. DEFINITIONS.

"As used in this Act:

"(1) AGRICULTURAL COMMODITY.—Unless otherwise provided in this Act, the term 'agricultural commodity' includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Agency for International Development.

"(3) COOPERATIVES.—The term 'cooperative' means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

"(4) INDIGENOUS NON-GOVERNMENTAL ORGANIZATION.—The term 'indigenous non-governmental organization' means a foreign organization that is not primarily an agency or instrumentality of a foreign government, working at the local level to solve development problems in the foreign country in which it is located.

"(5) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a nonprofit organization (a tax-exempt organization if such is a United States organization) that receives some portion of its annual revenue from the private sector and receives voluntary contributions of money.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"TITLE I—FOOD AND DEVELOPMENT ASSISTANCE

"SEC. 101. FOOD AND DEVELOPMENT ASSISTANCE.

"The President shall—

"(1) carry out through the Agency for International Development a program under which agricultural commodities are donated under section 103 to least developed countries and the revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities; and

"(2) establish and implement through the Secretary a program under section 107 to offer agricultural commodities for sale on credit to developing countries, and to carry out domestic agricultural trade development activities with the local currency proceeds associated with the repayment of such loans.

"SEC. 102. ELIGIBLE COUNTRIES.

"(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under section 103 if—

"(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development Civil Works Preference for providing financial assistance; or

"(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (c).

"(b) DEVELOPING COUNTRIES.—A country shall be considered to be a developing country and eligible for assistance under section 107 if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

"(c) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator (using the best available information) must determine that the country meets all of the following indicators of national food deficit and malnutrition:

"(1) CALORIE CONSUMPTION.—That the daily per capita calorie consumption of the country is less than 2,300 calories.

"(2) FOOD SECURITY REQUIREMENTS.—That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

"(3) CHILD MORTALITY RATE.—That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1,000 births.

"(d) VIOLATIONS OF HUMAN RIGHTS.—

"(1) INELIGIBLE COUNTRIES.—The Administrator or the Secretary, as appropriate, shall not enter into any agreement under this title to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

"(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

"(B) the prolonged detention of individuals without charges;

"(C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

"(D) other flagrant denials of the right to life, liberty, and the security of persons.

"(2) WAIVER.—Paragraph (1) shall not prohibit the provision of food assistance to such a country if the food assistance is targeted to the most needy people in such country and is made available in such coun-

try through channels other than the government.

"SEC. 103. GRANT PROGRAM.

"(a) IN GENERAL.—To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries under section 102(a) to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

"(b) ALLOCATION OF ASSISTANCE.—

"(1) COUNTRY DETERMINATION.—The Administrator shall (subject to section 401) determine whether and to what extent agricultural commodities shall be made available under this section to least developed countries.

"(2) PRIORITY.—In making a determination under paragraph (1), the Administrator shall give priority to least developed countries that—

"(A) demonstrate the greatest need for food;

"(B) demonstrate the capacity to use food assistance effectively; and

"(C) are willing to adopt policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk.

"(c) MULTI-YEAR DEVELOPMENT AGREEMENTS.—

"(1) SUBMISSION OF PROPOSAL.—Except as provided in paragraph (3), in entering into agreements under this section the Administrator shall enter into multi-year agreements to make agricultural commodities available to eligible countries.

"(2) TERMS OF MULTI-YEAR AGREEMENT.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include an estimate of the annual value or volume of agricultural commodities proposed to be provided to the country under the agreement;

"(B) include a plan for the intended use (on an annual basis) of the revenue generated from the sale within the country of the agricultural commodities provided under the agreement;

"(C) include a statement of the manner in which the agricultural commodities provided under the agreement, or the revenue received for such commodities, will be integrated into the overall development plans of the country;

"(D) include a plan to encourage competitive private sector participation within the country in the storage, marketing, transportation, and distribution of food assistance;

"(E) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-year agreement applies, of the necessary appropriations and agricultural commodities; and

"(F) contain such other terms and conditions as the Administrator determines to be necessary.

"(3) EXCEPTION.—The Administrator may determine not to enter into a multi-year agreement with a country under paragraph (1) if the Administrator determines that assistance should be provided to such country only on an annual basis because—

"(A) the past performance of the country in meeting program objectives does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for food aid does not extend beyond 1 year;

"(C) other circumstances, as determined by the Administrator, indicate there is only a need for a 1 year agreement; or

"(D) the country does not desire a multi-year agreement.

"(d) TRANSPORTATION OF COMMODITIES.—

"(1) HANDLING OF COMMODITIES.—The Administrator shall transfer, arrange for transportation, and take other steps necessary to make available to recipient countries agricultural commodities to be provided under this section.

"(2) TRANSPORTATION OF COMMODITIES.—

"(A) PURCHASING OR SHIPPING AGENT.—Except as provided in subparagraph (C), the Administrator is the only entity that may serve as the purchasing or shipping agent, or both, for the importing country in arranging the purchase or shipping of commodities financed under this section.

"(B) REASONABLE FEES.—Notwithstanding any other provision of law, the Administrator may enter into an agreement with the importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Administrator, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

"(C) CONTRACTING.—The Administrator may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Administrator to handle the shipping of commodities financed under this section.

"(3) TIMING OF SHIPMENT OF COMMODITIES.—In making determinations under this subsection, the Administrator shall consider—

"(A) the time of harvest of any competing commodities in the recipient country; and

"(B) such other concerns determined to be appropriate by the Administrator.

"(e) DEADLINE FOR AGREEMENTS.—An agreement between the recipient country and the Administrator to provide agricultural commodities under this section shall, to the extent practicable, be entered into not later than November 30 of the fiscal year in which such commodities are to be shipped.

"SEC. 104. DIRECT USES OR SALES OF DONATED COMMODITIES WITHIN RECIPIENT COUNTRIES.

"Agricultural commodities provided to a least developed country under section 103 may—

"(1) be used in the recipient country for direct feeding programs or the development of emergency food reserves, or may be distributed through normal commercial channels; or

"(2) be sold in such country by the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale distributed in accordance with section 105.

"SEC. 105. LOCAL CURRENCY ACCOUNTS.

"(a) RETENTION OF PROCEEDS.—To the extent practicable, all of the revenues generated from the sale, under section 104(2), of agricultural commodities provided under section 103 shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed in such country in accordance with local currency agreements entered into between the recipient country and the Administrator.

"(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of the account referred to in subsection (a) shall be the property of the United States, or the recipient country, as determined appropriate by the Administrator, and shall be utilized for the benefit of the recipient country. If owned by the recipient country, such account shall be jointly programmed by the Administrator and the recipient country.

"(c) OVERALL DEVELOPMENT STRATEGY.—The Administrator shall consider the amounts in the accounts referred to in this section as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

"SEC. 106. USE OF LOCAL CURRENCY ACCOUNTS.

"(a) IN GENERAL.—Amounts contained in an account established under section 105(a) shall be used in the recipient country for economic development purposes, including—

"(1) the promotion of policy reforms to improve food security and agricultural development within the country and to promote broad-based economically and environmentally sustainable growth;

"(2) the establishment of development projects that promote food security, alleviate hunger, and improve nutrition;

"(3) the promotion of increased access to food supplies through the encouragement of policies and programs designed to increase employment and incomes within the country;

"(4) the promotion of free and open markets;

"(5) supporting United States private voluntary organizations and cooperatives and encouraging the development and utilization of indigenous nongovernmental organizations, including the use of endowments, the income of which will be used for the purposes described in this section;

"(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country to meet urgent or extraordinary relief requirements in the country or in neighboring countries, or to develop emergency food reserves;

"(7) the payment, to the extent practicable, of the costs of carrying out the program authorized in section 209; and

"(8) private sector development activities designed to further the purposes of this title.

"(b) SUPPORT OF PRIVATE INDIGENOUS NON-GOVERNMENTAL ORGANIZATIONS.—To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 105(a) shall be used by such country to support the development and utilization of indigenous nongovernmental organizations and cooperatives that are active in rural development, sustainable agricultural production, and environmental protection projects within such country.

"SEC. 107. CONCESSIONAL CREDIT SALES PROGRAM.

"(a) IN GENERAL.—To carry out the policies and accomplish the objectives described in section 2, the Secretary may negotiate and execute agreements with developing countries under section 102(b) to finance the sale and exportation, for dollars or local currencies, of agricultural commodities to such countries on a deferred payment basis and on such other terms and conditions as required by the Secretary in such agreements.

"(b) ALLOCATION OF ASSISTANCE.—

"(1) COUNTRY DETERMINATION.—The Secretary shall determine whether and to what extent agricultural commodities shall be made available under this section to developing countries.

"(2) PRIORITY.—In making a determination under paragraph (1), the Secretary shall give priority to developing countries that—

"(A) demonstrate the greatest need for food;

"(B) are listed on the priority list established by the Secretary under title I of the Agricultural Trade Act of 1978; and

"(C) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.

"(c) HANDLING OF COMMODITIES.—

"(1) ACQUISITION OF COMMODITIES.—The importing country shall acquire agricultural commodities to be financed under this section.

"(2) TRANSPORTATION OF COMMODITIES.—

"(A) PURCHASING OR SHIPPING AGENT.—Except as provided in subparagraph (C), the Secretary or the Commodity Credit Corporation are the only entities that may serve as the purchasing or shipping agent, or both, for the importing country in arranging the purchase or shipping of commodities financed under this section.

"(B) REASONABLE FEES.—Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

"(C) CONTRACTING.—The Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this section.

"(d) TIMING OF SHIPMENT OF COMMODITIES.—The Secretary shall determine the timing of the shipment of commodities to be provided under this section. In making a determination under this subsection, the Secretary shall consider—

"(1) the time of harvest of any competing commodities in the recipient country; and

"(2) such other concerns determined to be appropriate by the Secretary.

"SEC. 108. TERMS AND CONDITIONS OF SALES.

"(a) PAYMENT.—

"(1) DOLLARS.—Except as provided in paragraph (2), agreements entered into under section 107 shall require that payment for agricultural commodities be made in dollars.

"(2) LOCAL CURRENCIES.—The Secretary may permit a recipient country to make payment under an agreement entered into under section 107 in the local currency of such country in order to use the proceeds from such payments to carry out activities under section 109.

"(3) EXCHANGE RATE.—Payment in local currency shall be at rates of exchange that are not less favorable than the highest exchange rate legally obtainable in the country and that are not less favorable than the highest exchange rate obtainable by any other nation.

"(b) INTEREST.—An agreement entered into under section 107 shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

"(c) DURATION.—Payments required under an agreement entered into under section 107 may be made in reasonable annual amounts over the period (not less than 10 nor more than 20 years from the date of the last delivery of commodities in each calendar year under such agreement) specified in the agreement.

"(d) DEFERRAL OF PAYMENTS.—The Secretary may defer the date on which the recipient country is required to begin making payment, under an agreement entered into under section 107, for a period of not in excess of 7 years after the date of the last delivery of commodities under the agreement, and interest shall be computed from the date of such last delivery.

"(e) MULTI-YEAR DEVELOPMENT AGREEMENTS.—

"(1) SUBMISSION OF PROPOSAL.—Except as provided in paragraph (3), in entering into agreements under section 107 the Secretary shall enter into multi-year agreements to make the financing of the sales of agricultural commodities available to eligible countries.

"(2) TERMS OF MULTI-YEAR AGREEMENT.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include an estimate of the annual value or volume of agricultural commodities proposed to be financed under the agreement;

"(B) include a statement of the manner in which the agricultural commodities provided under the agreement, or the revenue received for such commodities, will be compatible with the overall development plans for the country;

"(C) include a plan to encourage competitive private sector participation within the country in the storage, marketing, transportation, and distribution of agricultural commodities financed under section 107;

"(D) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-year agreement applies, of the necessary appropriations and agricultural commodities; and

"(E) contain such other terms and conditions as the Secretary determines to be necessary.

"(3) EXCEPTION.—The Secretary may determine not to enter into a multi-year agreement with a country under paragraph (1) if the Secretary determines that assistance should be provided only on an annual basis because—

"(A) the past performance of the country does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for financial assistance does not extend beyond 1 year;

"(C) other circumstances, as determined by the Secretary, indicate there is only a need for a 1 year agreement; or

"(D) the country does not desire a multi-year agreement.

"(f) DELIVERY OF COMMODITIES.—Delivery of the commodities that are subject to an agreement entered into under section 107 shall be made in accordance with the terms of the agreement and shall be subject to the availability of the commodities at the time delivery is to be made, as determined by the Secretary.

"SEC. 109. USE OF PAYMENTS.

"(a) IN GENERAL.—Agreements entered into under section 107 may provide that the Secretary shall use payments made by the recipient country in the form of foreign currencies under section 108 as provided for in subsection (b).

"(b) ACTIVITIES.—The proceeds from the payments referred to in subsection (a) (including principal and interest from loan repayments under this subsection) shall be used for one or more of the following activities:

"(1) TRADE DEVELOPMENT.—To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the recipient country.

"(2) AGRICULTURAL BUSINESS DEVELOPMENT LOANS.—To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such recipient countries.

"(3) AGRICULTURAL FACILITIES LOANS.—To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural commodities.

"(4) TRADE PROMOTION.—To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities that the Secretary determines to be appropriate.

"(5) RECIPIENT COUNTRY.—To conduct private sector agricultural trade development activities in the recipient country, as determined appropriate by the Secretary.

"(6) RESEARCH.—To conduct research in agriculture, forestry, and agriculture, including research which is mutually beneficial to the United States and the recipient country.

"(7) UNITED STATES OBLIGATIONS.—To make payments of United States obligations (including obligations entered into pursuant to other laws).

"(c) SPECIAL ACCOUNT.—Foreign currencies received by the Secretary under section 107 shall be deposited in an interest-bearing account to the credit of the United States and shall be used as provided for in this section. Any department or agency of the Federal government other than the Department of Agriculture using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

"(d) EXEMPTION.—Section 1415 of the Supplemental Appropriation Act, 1953, shall not apply to foreign currencies used by the Secretary under paragraphs (1) through (6) of subsection (b).

"SEC. 110. PROCEDURES.

"(a) INVITATION FOR BID.—No purchases of agricultural commodities from private stock or purchase of ocean transportation shall be financed under section 107 or 103 unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation that shall be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under section 107 or 103 shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary or the Administrator, as appropriate.

"(b) PROHIBITION ON COMMISSIONS.—Commissions, fees, or other payments to any

selling agent or to any agent of a purchaser or grantee shall be prohibited in the purchase of agricultural commodities and ocean transportation that are financed under section 107 or 103.

"(c) REPORTING OF FEES.—

"(1) REQUIREMENT.—Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid, or to be paid, by any supplier of an agricultural commodity, or any ocean transportation financed or agricultural commodity donated by the Commodity Credit Corporation under this title, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary by the supplier of the commodity or ocean transportation.

"(2) CONTENT.—A report filed under paragraph (1) shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made and the amount of the commission or fees paid.

"(3) PUBLICATION OF INFORMATION.—The Secretary shall—

"(A) maintain all information provided under this subsection for public inspection;

"(B) publish a report containing the information referred to in subparagraph (A) annually; and

"(C) forward a copy of the annual report referred to in subparagraph (B) to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) FAILURE TO FILE.—A supplier of a commodity or ocean transportation who fails to file a report under this subsection, or who files a false report, shall be ineligible to furnish, directly or indirectly, commodities or ocean transportation financed under this title for a period of 5 years.

"(d) AVOIDANCE OF CONFLICT OF INTEREST.—Freight agents employed by the Secretary, the Commodity Credit Corporation, or the Agency for International Development under this Act shall not represent any supplier of commodities, freight or ancillary services, or any foreign government during the period of their contract with the United States government.

"SEC. 111. VALUE-ADDED FOODS.

"(a) POLICY.—Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under title II to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this title.

"(b) PARTIAL WAIVER OF REPAYMENT.—In implementing the policy declared in subsection (a), the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under section 107 with countries that—

"(1) provide assurances that the benefits of any waiver granted under this subsection will be passed on to the individual recipients of such foods; and

"(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

may make provisions for a waiver of payment of not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

"(c) MINIMIZE IMPACT.—In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of such section on other commercial and concessional sales of whole grains and, where feasible, agreements under section 107 utilizing the authority contained in this section to provide for sales of such commodities.

"SEC. 112. USE OF COMMODITY CREDIT CORPORATION.

"(a) USE OF COMMODITY CREDIT CORPORATION.—

"(1) DONATED COMMODITIES.—The Commodity Credit Corporation shall acquire or otherwise make available to the Administrator, by donation, purchase, or the financing of a sale, such agricultural commodities as are determined under section 401 to be available to carry out agreements entered into under section 103.

"(2) CREDIT SALES.—The Commodity Credit Corporation may finance the sale and export of such agricultural commodities, whether from private stocks or from the stocks of the Commodity Credit Corporation, as are determined under section 401 to be available to carry out agreements entered into under section 107.

"(b) COST AND FREIGHT BASIS.—The Commodity Credit Corporation may, in carrying out the provisions of this title, make commodities available under section 103 to the recipient country on a cost and freight (C&F) basis or arrange for sales of commodities financed under section 107 to be made on a cost and freight (C&F) basis.

"(c) INCLUDED EXPENSES.—With respect to commodities made available under section 103, the Commodity Credit Corporation may pay—

"(1) the cost of acquiring such commodities;

"(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

"(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;

"(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

"(A) of landlocked countries;

"(B) of ports that cannot be used effectively because of natural or other disturbances;

"(C) of the unavailability of carriers to a specific country; or

"(D) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"(d) LIMITATION ON EXPENDITURES.—The total value of agreements entered into under this title during any fiscal year shall not exceed an amount that would require Congress to appropriate in excess of $1,900,000,000 to reimburse the Commodity Credit Corporation for commodities and services provided under such agreements, in addition to any amount by which such agreements in prior years have necessitated, or will necessitate, additional appropriations to reimburse the Commodity Credit Corporation for commodities and services provided in amounts that exceed amounts authorized for prior years.

"SEC. 113. REGULATIONS.

"The Secretary or the Administrator, as applicable, shall promulgate regulations implementing the provisions of this title.

"TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

"SEC. 201. GENERAL AUTHORITY.

"The President through the Administrator may provide agricultural commodities to foreign countries on behalf of the people of the United States to—

"(1) address famine or other urgent or extraordinary relief requirements;

"(2) combat malnutrition, especially in children and mothers;

"(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

"(4) promote economic and community development; and

"(5) promote sound environmental practices.

"SEC. 202. PROVISION OF AGRICULTURAL COMMODITIES.

"(a) EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities to meet emergency food needs under section 201 through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

"(b) NON-EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities for non-emergency assistance under section 201 through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use such commodities in accordance with this title.

"(c) FORM OF ASSISTANCE.—Agricultural commodities provided under this title may be made available for direct distribution, sale, barter, or other appropriate disposition in carrying out section 201.

"(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under this title an organization shall be—

"(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

"(2) an intergovernmental organization, such as the World Food Program.

"(e) MULTI-YEAR AGREEMENTS.—

"(1) APPROVAL.—Except as provided in paragraph (3), in entering into agreements under this section the Administrator shall enter into multi-year agreements with eligible organizations to make agricultural commodities available for non-emergency assistance through such organizations under this title.

"(2) TERMS.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include assurances that the eligible organization that is subject to the agreement shall provide assistance under the agreement on a multi-year basis;

"(B) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-

year agreement applies, of the necessary appropriations and agricultural commodities; or

"(C) contain such other terms and conditions as the Administrator determines to be necessary.

"(3) EXCEPTION.—The Administrator may refuse to enter into a multi-year agreement with an organization under paragraph (1) if the Administrator determines that assistance should be provided through such organization only on an annual basis because—

"(A) the past performance of such organization does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for food aid does not extend beyond 1 year;

"(C) other circumstances, as determined by the Administrator, indicate there is only a need for a 1 year agreement; or

"(D) the eligible organization does not desire a multi-year agreement.

"(f) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Not less than 2 percent of the amounts made available in each fiscal year under this title shall be made available by the Administrator to United States private voluntary organizations or cooperatives to assist such organizations and cooperatives in—

"(A) expanding and establishing new programs under this title; and

"(B) meeting administrative, management, personnel and internal transportation and distribution costs for carrying out programs under this title.

"(2) REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), a private voluntary organization or cooperative shall submit a request for such funds when submitting a proposal to the Administrator for an agreement under this title.

"(3) CONTENT OF REQUEST.—A request for funds under paragraph (2) shall include a specific explanation of—

"(A) the program costs to be offset by such funds;

"(B) the reason why such funds are needed by the private voluntary organization or cooperative in carrying out the particular assistance program; and

"(C) the degree to which such funds will improve the provision of food assistance to countries of the world (particularly those in sub-Saharan Africa) suffering from acute, long-term food shortages.

"(g) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

"(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

"(2) assess and take into account nutritional and other needs of beneficiary groups;

"(3) help such beneficiary groups design and carry out mutually acceptable projects;

"(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

"(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

"(6) periodically evaluate the effectiveness of projects undertaken under this title.

"(h) PRIORITY.—In carrying out the provisions of this title, the Administrator shall give priority to United States private voluntary organizations or cooperatives.

"(i) LABELING.—Commodities provided under this title shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

"SEC. 203. GENERATION AND USE OF FOREIGN CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

"(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in the recipient country of the commodities to be provided under such agreement.

"(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the Administrator shall permit private voluntary organizations and cooperatives to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

"(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

"(d) USE.—Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this title may be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this title;

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country; or

"(3) to establish an endowment, the income of which shall be used for the purposes described in paragraph (1) or (2).

"(e) SALES ASSISTANCE.—The Administrator may provide assistance to an organization or cooperative, on request, in the sale of commodities in the recipient country.

"SEC. 204. LEVELS OF ASSISTANCE.

"(a) MINIMUM LEVELS.—

"(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this title in an amount that—

"(A) for fiscal year 1991, is not less than 1,925,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,950,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,975,000 metric tons;

"(D) for fiscal year 1994, is not less than 2,000,000 metric tons; and

"(E) for fiscal year 1995, is not less than 2,025,000 metric tons.

"(2) MINIMUM NON-EMERGENCY ASSISTANCE.—Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202(a) in an amount that—

"(A) for fiscal year 1991, is not less than 1,450,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,475,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,500,000 metric tons;

"(D) for fiscal year 1994, is not less than 1,525,000 metric tons; and

"(E) for fiscal year 1995, is not less than 1,550,000 metric tons.

"(3) EXCEPTION.—The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver.

"(b) USE OF VALUE-ADDED COMMODITIES.—

"(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) be in the form of processed or fortified products or bagged commodities, including processed milk, plant protein products, and fruit, nut, and vegetable products.

"(2) WAIVER OF MINIMUM.—The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this title will not be best served by the enforcement of such requirement under such paragraph.

"SEC. 205. FOOD AID CONSULTATIVE GROUP.

"(a) ESTABLISHMENT.—There is established a Food Aid Consultative Group (hereinafter referred to in this section as the 'Group') that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this title, and the implementation of other provisions of this title that may involve private voluntary organizations, cooperatives and indigenous non-governmental organizations.

"(b) MEMBERSHIP.—The Group shall be composed of—

"(1) the Administrator;

"(2) the Under Secretary for International Affairs and Commodity Programs;

"(3) the Inspector General of the Agency for International Development;

"(4) representatives of each private voluntary organization and cooperative participating in a program under this title, or receiving planning assistance funds from the Agency to establish programs under this title; and

"(5) one representative each from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator.

"(c) CHAIRPERSON.—The Administrator shall be the chairperson of the Group.

"(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment and shall consult and, when appropriate, meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

"(e) ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

"SEC. 206. USE OF COMMODITY CREDIT CORPORATION.

"(a) AVAILABILITY OF COMMODITIES.—The Commodity Credit Corporation shall (subject to section 401) make available to the Administrator such agricultural commodities as the Administrator may request to implement this title.

"(b) INCLUDED EXPENSES.—With respect to commodities made available under this title, the Commodity Credit Corporation may pay—

"(1) the cost of acquiring such commodities;

"(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

"(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;

"(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

"(A) of landlocked countries;

"(B) of ports that cannot be used effectively because of natural or other disturbances;

"(C) of the unavailability of carriers to a specific country; or

"(D) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"SEC. 207. MAXIMUM LEVEL OF EXPENDITURES.

"(a) MAXIMUM EXPENDITURES.—Except as provided in subsection (b), programs of assistance shall not be undertaken under this title during any fiscal year if such programs necessitate an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

"(b) WAIVER BY PRESIDENT.—The President may waive the limitation contained in subsection (a) if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

"SEC. 208. ADMINISTRATION.

"(a) PROPOSALS.—

"(1) TIME FOR DECISION.—Not later than 45 days after the receipt by the Administrator of a proposal submitted—

"(A) by a private voluntary organization or cooperative, with the concurrence of the appropriate United States field mission, for commodities; or

"(B) by a United States field mission to make commodities available to a private voluntary organization or cooperative;

under this title, the Administrator shall make a decision concerning such proposal.

"(2) DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

"(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline to carry out this title, the Administrator shall—

"(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment, to private voluntary organizations and cooperatives that participate in programs under this title, and to other interested persons;

"(2) make the proposed guideline available, on request, to the organizations, cooperatives, and other entities referred to in paragraph (1); and

"(3) take any comments received into consideration prior to the issuance of the final guideline.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

"(2) REQUIREMENTS.—The Administrator shall develop regulations with the intent of—

"(A) simplifying procedures for participation in the programs established under this title;

"(B) reducing paperwork requirements under such programs;

"(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this title, taking into consideration the problems associated with carrying out programs in developing countries; and

"(D) providing flexibility for carrying out programs under this title.

"(3) HANDBOOKS.—Handbooks developed by the Administrator to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

"(d) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a United States field mission for agricultural commodities that meet the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

"SEC. 209. FARMER-TO-FARMER PROGRAM.

"(a) IN GENERAL.—To further assist developing countries, middle-income countries, and newly-emerging democracies to increase farm production and farmer incomes, the Administrator, in consultation with the Secretary, may, notwithstanding any other provision of law—

"(1) establish and administer a program of farmer-to-farmer assistance between the United States and such countries to assist in increasing food production and distribution and improving the effectiveness of the farming and marketing operations of such farmers;

"(2) utilize United States farmers, agriculturalists, land grant universities and private agribusiness and non-profit farm organizations to work in conjunction with farmers and farm organizations in such countries, on a voluntary basis, to facilitate the improvement of farm and agribusiness operations and agricultural systems in such countries, including animal care and health, field crop cultivation, fruit and vegetable growing, livestock operations, food processing and packaging, farm credit, marketing, inputs, agricultural extension, and the strengthening of cooperatives and other farmer groups;

"(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on a person-to-person basis, to such countries while enhancing the democratic process by supporting private and public organizations who request and support technical assistance activities through cash and in-kind services;

"(4) enter into contracts, cooperative agreements, or make grants to private voluntary organizations, cooperatives, land grant universities, private agribusiness or non-profit farm organizations, to the extent practicable, to carry out this section;

"(5) coordinate programs established under this section with other foreign assistance activities carried out by the United States; and

"(6) to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities.

"(b) DEFINITIONS.—

"(1) EMERGING DEMOCRACIES.—For the purposes of this section, the term 'emerging democracy' means a country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

"(2) MIDDLE INCOME COUNTRY.—For the purposes of this section, the term 'middle-income country' means a country that has developed economically to the point where it does not receive bilateral economic assistance from the United States.

"(c) MINIMUM FUNDING.—Notwithstanding any other provision of law, not less than 0.1 percent of the amounts made available for each of the fiscal years 1991 through 1995 to carry out this Act, in addition to any funds that may be specifically appropriated to carry out this section, shall be used to carry out programs under this section in developing countries.

"TITLE III—FOOD FOR FREEDOM

"SEC. 301. FOOD FOR FREEDOM.

"(a) ESTABLISHMENT OF PROGRAM.—There is established under this section a program to be known as the 'Food for Freedom Program' (hereinafter referred to in this title as the 'Program').

"(b) AGREEMENTS.—The President may enter into agreements with eligible countries (as described in subsection (d)), or with private voluntary organizations or cooperatives, to provide agricultural commodities under this section to eligible countries to

support the democratization of the governments of such countries, the granting of individual liberties to the people of such countries, and the promotion of economic freedom within such countries.

"(c) TYPES OF ASSISTANCE.—Commodities made available under this section may be provided on a grant basis or on credit terms, as authorized in this section.

"(d) ELIGIBLE COUNTRIES.—To be eligible to participate in the program established under this section, a country shall, as determined by the President—

"(1) have begun the transformation of the system of government of the country from a non-representative type of government to a representative democracy; or

"(2) have made commitments to introduce or expand free enterprise elements in the economy of such country.

"(e) COMMODITY CREDIT CORPORATION.—

"(1) DUTIES.—The Commodity Credit Corporation shall—

"(A) make such agricultural commodities available to the President as are determined under section 401 to be available to carry out agreements entered into by the President under this section; and

"(B) finance the sale and exportation of such agricultural commodities to the extent necessary to carry out agreements entered into by the President under this section.

"(2) PURCHASE OF COMMODITIES.—The Commodity Credit Corporation may purchase commodities for use under this section if—

"(A) the Commodity Credit Corporation does not hold stocks of such commodities at the time of such purchase; or

"(B) Commodity Credit Corporation stocks at the time of such purchase are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

"(3) EXPENSES.—The Commodity Credit Corporation may pay certain expenses in connection with the Program under this section as are described in section 206(b).

"(4) LIMITATION ON EXPENDITURES.—No funds of the Commodity Credit Corporation in excess of $50,000,000 (exclusive of the cost of commodities) in each fiscal year shall be used to carry out this section unless such excess is appropriated in advance in appropriations Acts.

"(f) AGREEMENTS.—If the President enters into an agreement with a private voluntary organization or cooperative under this section, such agreement—

"(1) shall require such organization or cooperative to use any commodities provided to it under this section to carry out the purposes of this section;

"(2) may permit such organization or cooperative to sell or barter any commodities provided to it under this section, and use the amounts generated through such sale or barter—

"(A) to promote the establishment and expansion of private enterprise in the recipient country;

"(B) to aid in the production of food in the recipient country through improved agricultural research, marketing systems, and instruments of production in such country; and

"(C) to help develop commercial markets for the purchase of agricultural commodities; and

"(3) shall contain such other terms and conditions as are determined necessary by the President.

"(g) MULTI-YEAR BASIS.—An agreement entered into under this section may provide for commodities to be made available on a multi-year basis subject to the availability of funds and commodities.

"(h) TRANSSHIPMENT OF COMMODITIES.—An agreement entered into under this section shall prohibit the resale or transshipment of the commodities made available under such agreement to other countries, unless such resale or transshipment is authorized by the President.

"(i) DISPLACEMENT.—In implementing this section, the President shall, to the extent practicable, avoid the displacement of any sales of United States agricultural commodities that would otherwise be made to eligible countries and avoid disrupting foreign and domestic markets for United States agricultural commodities.

"(j) RESTRICTIONS ON AGREEMENTS.—No agreement shall be entered into under this section if such agreement would result in—

"(1) the inability of the Commodity Credit Corporation to provide sufficient commodities to carry out food assistance programs established under titles I and II, or domestic commodity programs established under titles I and II of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or agricultural trade programs established under the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.);

"(2) a shortage in the domestic supply of any commodities that would be required under the terms of such agreement; or

"(3) the inability of the Commodity Credit Corporation to maintain adequate carryover stocks to meet any emergency, the requirements of the Agricultural Act of 1949, or the requirements of any other Act.

"(k) REPORT OF PRESIDENT.—Not later than January 15 of each year after a year in which an agreement entered into under this section is in effect, the President shall prepare and submit, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the commodities and funds made available under this section during the previous fiscal year.

"SEC. 302. PRIVATE MARKET ENHANCEMENT.

"(a) PRIVATE SECTOR AGRICULTURE.—To enhance the development of private sector agriculture in countries receiving assistance under this title the President may, in each of the fiscal years 1991 through 1995, use in addition to any amounts or commodities otherwise made available under this Act for such activities, not less than $20,000,000 of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs to strengthen private sector agriculture in recipient countries.

"(b) USE OF COMMODITY TRANSACTION.—To carry out this section, the President may provide agricultural commodities under agreements entered into under this Act in a manner that uses the commodity transaction itself as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

"(c) USE OF FUNDS.—The President may use the assistance provided under this section and local currencies derived from the sale of commodities under subsection (b) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural commodities.

"SEC. 303. CLASSIFICATION OF EXPENDITURES.

"The value of commodities made available under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or under any other Act, and provided through the programs established under this title, and any expenses incurred by the Commodity Credit Corporation in connection with the provision of commodities under this title, shall be in addition to the level of assistance provided under titles I and II and shall not be considered expenditures for international affairs and finance.

"TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS.

"SEC. 401. COMMODITY DETERMINATIONS.

"(a) AVAILABLE COMMODITIES.—After consulting with other agencies of the Federal Government affected and within policies established by the President for implementing this Act, and after taking into consideration productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary shall, prior to the beginning of each fiscal year, determine the agricultural commodities and quantities thereof available for disposition under this Act.

"(b) POLICIES FOR IMPLEMENTING ACT.—In establishing policies for implementing this Act, the President should attempt to maintain a stable level of available agricultural commodities under this Act of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.

"(c) COMMODITIES NOT AVAILABLE.—The Secretary may suspend the eligibility of a commodity for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary.

"(d) EXCEPTION.—Notwithstanding subsections (a) and (c), the Secretary may make commodities available for disposition under this Act if the Secretary determines that some part of the supply of such commodity should be used to carry out urgent humanitarian purposes of this Act.

"(e) INELIGIBLE COMMODITIES.—

"(1) ALCOHOLIC BEVERAGES.—Alcoholic beverages shall not be made available for disposition under this Act.

"(2) TOBACCO.—Tobacco or the products thereof shall not be made available under section 103 or title II of this Act.

"(f) REPRESENTATIVES IN MARKET DEVELOPMENT ACTIVITIES.—Subsection (e)(1) shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under title I of this Act.

"SEC. 402. GENERAL PROVISIONS.

"(a) PROHIBITION.—No agricultural commodity shall be made available under this Act unless the Secretary or Administrator, as appropriate, determines that—

"(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to pre-

vent the spoilage or waste of the commodity; and

"(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

"(b) CONSULTATIONS.—The Administrator or the Secretary, as appropriate, shall consult with representatives from the International Monetary Fund, the World Bank, and the government of the country that receives assistance under this Act to ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

"(c) TRANSHIPMENT.—The Secretary or the Administrator, as appropriate, may, under such terms and conditions as are determined to be appropriate, require commitments from countries designed to prevent or restrict the resale or transshipment to other countries, for use for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

"(d) USE OF PRIVATE TRADE CHANNELS.—The Secretary or the Administrator, as appropriate, shall ensure that, in providing commodities or concessional credit sales under this Act, private trade channels are used to the maximum extent practicable in the United States and in the recipient countries with respect to—

"(1) sales from privately owned stocks;

"(2) sales from stocks owned by the Commodity Credit Corporation; and

"(3) donations; and

that small businesses have adequate and fair opportunity to participate in sales made under this Act.

"(e) WORLD PRICES.—In carrying out this Act, the Secretary or the Administrator, as appropriate, shall take reasonable precautions to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

"(f) FOOD FOR PEACE.—The Secretary or the Administrator, as appropriate, shall obtain commitments from countries purchasing commodities under this Act that such countries will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

"(g) PARTICIPATION OF PRIVATE SECTOR.—The Administrator or the Secretary, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this Act.

"(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, the Secretary or the Administrator, as appropriate, shall take reasonable precautions to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made for cash dollars.

"(i) MILITARY DISTRIBUTION OF FOOD AID.—

"(1) IN GENERAL.—The Administrator shall attempt to ensure that agricultural commodities made available under section 103 or under title II will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

"(2) PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator shall not enter into an agreement under section 103 or title II to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Administrator may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

"(i) nonmilitary channels are not available for such handling or distribution;

"(ii) such action is consistent with the requirements of paragraph (1); and

"(iii) the Administrator determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

"(C) REPORT.—Not later than 30 days after an authorization is provided under subparagraph (B), the Administrator shall prepare and submit to the appropriate Committees of Congress a report concerning such authorization and include in any such report the reason for the authorization, including an explanation of why no alternatives to such handling or distribution were available.

"(3) ENCOURAGEMENT OF SAFE PASSAGE.—When entering into agreements under section 103 or title II that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Administrator shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

"(j) OCEAN TRANSPORTATION SERVICES.—Notwithstanding any provision of the Federal Property Act of 1949, as amended, or other similar provisions relating to the making or performance of Federal Government contracts, the Agency for International Development may procure ocean transportation services under this Act under such full and open competitive procedures as such Agency may determine necessary and appropriate.

"SEC. 403. DEBT FORGIVENESS.

"(a) IN GENERAL.—The President may waive the payments that would otherwise be made to the United States by an eligible developing country as a result of food aid obligations to the Commodity Credit Corporation provided under this Act.

"(b) ELIGIBLE DEVELOPING COUNTRIES.—A country shall be an eligible developing country for purposes of subsection (a) if the country meets the least developed country criteria described in section 102(a) and—

"(1) an International Monetary Fund standby agreement is in effect with respect to that country;

"(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

"(3) a structural adjustment facility or enhanced structural adjustment facility with the International Monetary Fund is in effect with respect to that country; or

"(4) if such an agreement, program or facility is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

"(c) REQUEST FOR DEBT RELIEF BY PRESIDENT.—The President may provide debt relief under subsection (a) only if a request for such relief is included in the annual budget of the President that is submitted to Congress, or is transmitted, not later than 3 months after the annual budget of the President is submitted to Congress, to the Committee on Foreign Affairs, the Committee on Appropriations and the Committee on Agriculture of the House of Representatives, and the Committee on Appropriations and the Committee on Agriculture, Nutrition and Forestry of the Senate. Such a request shall—

"(1) specify the amount of official debt the President proposes to liquidate;

"(2) identify the countries for which debt relief is proposed and the basis for their eligibility under subsection (b); and

"(3) establish a separate line item to cover the anticipated cost of any proposed debt liquidation under subsection (a).

"(d) APPROPRIATIONS ACTION REQUIRED.—The authorities of this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(e) PROHIBITION ON NEW LOANS.—No food aid loans under this Act shall be provided to countries receiving debt relief under subsection (a) for a period of 2 years.

"SEC. 404. EXPIRATION DATE.

"No agreements to finance sales or to provide other assistance under this Act shall be entered into after December 31, 1995.

"SEC. 405. REDUCTION IN DEFICIT IN BALANCE OF PAYMENTS.

"The President may utilize foreign currencies received under this Act in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

"SEC. 406. INDEPENDENT EVALUATION OF PROGRAMS.

"(a) GRANT PROGRAM.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under section 103 that are representative of all such countries in three geographic regions and evaluate—

"(1) the uses of the commodities provided under such title in such countries; and

"(2) the uses of the special account funds established in such countries under section 105;

with respect to the impact of such uses and funds on enhancing food security, including nutrition, in such countries and the financial management of those funds, with reference to personnel requirements to manage such funds.

"(b) CONCESSIONAL CREDIT SALES PROGRAM.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under section 107 that are representative of all countries in three geographic regions and evaluate the uses of the funds under section 109 in such countries with respect to the impact of such uses on agricultural trade development, and the financial management of those funds, with reference to personnel requirements to manage these funds.

"(c) TITLE II PROGRAMS.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assist-

ance under title II that are representative of all countries in three geographic regions and evaluate the uses of the assistance provided under such title, including an evaluation of the impact of such assistance on enhancing food security in such countries and an evaluation of the use of local currencies for economic development, as well as the financial management of those funds, with reference to personnel requirements to manage these funds.

"(d) REPORT TO CONGRESS.—The Comptroller General of the United States shall prepare and submit, to the Committee on Foreign Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report concerning the evaluations made under this section.

"SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

"(a) REIMBURSEMENT.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out—

"(A) the grant program established under section 103;

"(B) the concessional credit sales program established under section 107; and

"(C) titles II and III;

including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs described in subparagraphs (A) through (C) for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

"(2) LIMITATIONS.—Not less than 40 percent of the amounts made available for any fiscal year to carry out title I shall be used—

"(A) to carry out the credit sales program established under section 107; and

"(B) to carry out the grant program established under section 103.

"(3) BUDGET.—In presenting the Budget of the United States, the President shall (except as provided in section 303) classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

"(b) VALUE OF COMMODITIES.—Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this Act, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this Act.

"(c) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, if the President determines it to be necessary for purposes of this Act, the President may provide that not in excess of 15 percent of the amounts available in fiscal year for carrying out section 103, section 107, title II or title III, may be used to carry out any other section or title.

"(d) COMMODITIES MADE AVAILABLE UNDER SECTION 416.—The value of commodities made available through section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) and provided under titles I, II or III, and any expenses incurred by the Commodity Credit Corporation in connection with the provision of such commodities, shall be in addition to the level of assistance provided under this Act and shall not be considered expenditures for international affairs and finance.

"SEC. 408. COORDINATION OF PUBLIC LAW 480 AND OTHER FOREIGN ASSISTANCE PROGRAMS.

"(a) NOTIFICATION REQUIREMENT.—To facilitate the coordination of programs of assistance under this Act with other foreign assistance programs, the Committees on Agriculture, Foreign Affairs, and Appropriations of the House of Representatives, and the Committees on Appropriations, and Agriculture, Nutrition, and Forestry of the Senate, shall be notified at least 15 days—

"(1) prior to the entering into of any agreement under this Act (including any local currency agreement);

"(2) prior to the adoption, on behalf of the United States, of any amendment to agreement described in paragraph (1) that would increase the amount of assistance to be provided under the agreement or would change the purposes for which such assistance could be used, including any increase or change involving local currencies; or

"(3) prior to the waiver of any payments under section 403.

"(b) PROCEDURES AND PRACTICES APPLICABLE TO NOTIFICATIONS.—The notifications required by subsection (a) shall be treated in the same manner as reprogramming notifications pursuant to section 634A of the Foreign Assistance Act of 1961.

"SEC. 409 ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

"Notwithstanding any other provision of law, the President through the Administror may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under this Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.".

SEC. 1112. AMENDMENTS IN 1990.

With respect to any amendments made to title II of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 1101) during 1990, the Administrator shall—

(1) promulgate proposed regulations implementing such amendments not later than 120 days after the date of enactment of such amendments;

(2) promulgate final regulations implementing such amendments not later than 210 days after the enactment of any amendments made to this title during 1990; and

(3) issue revisions to Agency guidelines implementing such amendments not later than 210 days after the date of enactment of such amendments.

SEC. 1113. AMENDMENTS TO SECTION 416.

Subsection (b) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended to read as follows:

"(b)(1) The Secretary may provide eligible commodities for carrying out programs of assistance in foreign countries as provided for under titles I, II and III of the Agricultural Trade Development and Assistance Act of 1954.

"(2) As used in this subsection, the term 'eligible commodities' means—

"(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations under title I, and the products thereof, that the Secretary determines meet the criteria described in subsection (a); and

"(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection.

"(3)(A) Except as provided in paragraph (4), the Secretary shall make available, in each of the fiscal years 1990 through 1995, to carry out programs of assistance under titles I, II and III of the Agricultural Trade Development and Assistance Act of 1954 not less than the minimum quantities of eligible commodities described in subparagraph (B).

"(B) The minimum quantity of eligible commodities that shall be made available for disposition under this subsection in each fiscal year shall be—

"(i) 500,000 metric tons of wheat, rice, feed grains, and oilseeds from the uncommitted stocks of the Commodity Credit Corporation, or an amount equal to 10 percent of the uncommitted stocks of wheat, rice, feed grains, and oilseeds of such Corporation as of the end of such fiscal year (as estimated by the Secretary), whichever is less; and

"(ii) 10 percent of the uncommitted stocks of dairy products of such Corporation, but not less than 150,000 metric tons of such products to the extent that uncommitted stocks are available.

"(C) The Secretary shall, to the extent practicable, make the estimation of expected year-end levels of the uncommitted stocks of such Corporation prior to October 1, of the fiscal year.

"(D) The determination of the Secretary with respect to the amount of the stocks of such Corporation that shall be made available for disposition under this subsection for such fiscal year shall be published in the Federal Register prior to October 1, of such fiscal year, together with a breakdown by kind of commodity and the quantity of each kind of commodity that shall be made available.

"(E) The Secretary may waive the minimum quantity requirements of this paragraph for a fiscal year to the extent that there are not sufficient requests for eligible commodities under this subsection for such fiscal year.

"(4) Commodities shall not be made available for disposition under this subsection in amounts that—

"(A) will in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies; or

"(B) will prevent the Secretary from fulfilling any agreements entered into under the production adjustment programs provided for in titles I and II of this Act, or other Acts administered by the Secretary.

"(5) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

"(6) Foreign currency proceeds generated in Poland may be used for activities approved by the joint commission established by section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that—

"(A) improve the quality of life of the Polish people; and

"(B) strengthen and support the activities of private, nongovernmental independent institutions in Poland.".

SEC. 1114. CONFORMING AMENDMENTS AND TECHNICAL CHANGES

Section 1208(d)(2) of the Agricultural and Food Act of 1981 (7 U.S.C. 1736n(d)(2)) is amended by striking "report submitted pursuant to section 408(a) of" and inserting "reports submitted to Congress under".

Subtitle B—Agricultural Trade Act of 1978

SEC. 1121. AMENDMENT TO THE AGRICULTURAL TRADE ACT OF 1978.

The Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Agricultural Trade Act of 1978'.

"TITLE I—AGRICULTURAL TRADE POLICY

"Subtitle A—Purpose and Definitions

"SEC. 101. AGRICULTURAL TRADE POLICY OF THE UNITED STATES.

"It is the policy of the United States—

"(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

"(2) to increase export sales of United States processed, value-added agricultural products;

"(3) to provide food assistance to needy countries;

"(4) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

"(5) to aggressively counter unfair foreign trade practices using all available means, including export promotion programs and, if necessary, restrictions on United States imports of foreign agricultural commodities and products as a means to encourage fairer trade;

"(6) to remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

"(7) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

"SEC. 102. PURPOSE.

"It is the purpose of this Act to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

"(1) increasing the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation;

"(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

"(3) providing for the coordination and efficient implementation of all agricultural trade programs.

"SEC. 103. DEFINITIONS.

"As used in this Act:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' includes any agricultural commodity or product thereof produced in the United States, wood or processed wood products, fish or livestock or value-added, fortified, or high-value agricultural products.

"(2) DEVELOPING COUNTRIES.—The term 'developing country' means a country that—

"(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

"(B) has the potential to become a commercial market for United States agricultural commodities.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the United States Department of Agriculture.

"(4) SERVICE.—The term 'Service' means the Foreign Agricultural Service of the Department of Agriculture.

"(5) UNFAIR TRADE PRACTICE.—The term 'unfair trade practice' includes any act, policy, or practice of a foreign country that is unreasonable or discriminatory and burdens or restricts United States agricultural exports, including—

"(A) export subsidies, including—

"(i) the provision by governments of direct subsidies to an individual, firm, or industry contingent on export performance;

"(ii) currency retention schemes or any similar practices that involve a bonus on exports;

"(iii) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favorable than for domestic shipments; and

"(iv) tax rebates on exports;

"(B) furnishing or ensuring the availability of raw materials to domestic processing operations at artificially low prices, including—

"(i) the maintenance of export taxes, duties, or charges on products that are used as inputs for the production of secondary products at levels that are higher than that levied on the secondary products;

"(ii) any other differential export tax or duty exemption;

"(iii) domestic consumption quotas; and

"(iv) the assumption of costs or expenses of production, processing, or distribution by the government;

"(C) financial assistance on preferential terms;

"(D) variable levies or restrictive licensing practices; and

"(E) discriminatory pricing policies of marketing boards and State trading agencies that are solely responsible for the policies concerning all pricing, or the pricing of certain classes of items, within a country.

An act, policy or practice is 'unreasonable' if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"(6) WOOD AND PROCESSED WOOD PRODUCTS.—The term 'wood and processed wood products' includes logs, lumber (such as boards, timber, millwork, molding, flooring, and siding), veneer, panel products (such as plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.

"Subtitle B—Program Implementation

"SEC. 110. LONG-TERM AGRICULTURAL TRADE STRATEGY.

"(a) IN GENERAL.—

"(1) DEVELOPMENT OF MULTI-YEAR STRATEGY.—The Secretary shall develop a long-term agricultural trade strategy for the United States to guide the Secretary in the implementation of agricultural trade programs of the United States under this Act, the Agricultural Trade Development and Assistance Act of 1954, and any other Act.

"(2) GOALS.—The long-term agricultural trade strategy established under paragraph (1) shall be designed to ensure—

"(A) the efficient, coordinated use of United States agricultural trade programs;

"(B) the improvement in the commercial potential of developing country agricultural markets;

"(C) the provision of food assistance to needy countries;

"(D) the growth of United States agricultural exports;

"(E) and increase the United States share of world markets for processed, value-added products because of the multiple benefits derived from such United States exports for American producers, processors, agricultural-industrial exporters and the national workforce; and

"(F) the maintenance of traditional markets for United States agricultural commodities.

"(b) COMPONENTS.—In developing the long-term agricultural trade strategy under subsection (a), the Secretary shall—

"(1) establish long-term agricultural trade goals under section 111;

"(2) identify priority markets for the export of United States agricultural commodities under section 112; and

"(3) establish specific market plans for each of the priority markets established under section 112.

"(c) REQUIREMENTS.—In developing the long-term agricultural trade strategy under subsection (a), the Secretary shall—

"(1) consult with the United States Trade Representative, the Secretary of State, the Administrator of the Agency for International Development, and the Agricultural Policy Advisory Committee established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

"(2) consider the effects of exchange rate fluctuations and unfair trading practices on the competitiveness and availability of United States agricultural exports;

"(3) develop strategies that seek to encourage the commercialization of foreign markets for United States agricultural commodities;

"(4) consider the food needs of foreign countries that depend on the United States for food assistance;

"(5) develop strategies designed to make the United States a primary and dependable supplier of agricultural commodities on the world market;

"(6) consider transportation and shipping factors;

"(7) consider the differences in the markets of developed and developing countries (including the debt load of particular countries) and develop the means to increase United States agricultural exports in such markets;

"(8) develop multi-year plans for the implementation of the export assistance programs and food assistance programs established under this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts;

"(9) provide for public comment on the development of the long-term agricultural trade strategy; and

"(10) consider such other factors as the Secretary determines appropriate.

"(d) TIME.—The Secretary shall develop a long-term agricultural trade strategy under subsection (a) at least once every 3 years and may annually revise such long-term strategy.

"SEC. 111. LONG-TERM AGRICULTURAL TRADE GOALS.

"(a) IN GENERAL.—The Secretary shall develop agricultural trade goals with respect to the desired levels of United States agricultural exports and market shares over a period of not less than 3 years.

"(b) REQUIREMENTS.—The long-term agricultural trade goals established under subsection (a) shall include—

"(1) as appropriate, the agricultural trade goals for total agricultural commodities over a period of not less than 3 years;

"(2) as appropriate, the agricultural trade goals for certain specified agricultural commodities over a period of not less than 3 years;

"(3) as appropriate, the agricultural trade goals for high-value, and value-added processed agricultural commodities over a period of not less than 3 years;

"(4) the desired levels of expenditures on agricultural export programs; and

"(5) any other statement of trade goals that the Secretary determines appropriate.

"SEC. 112. ESTABLISHMENT OF PRIORITY MARKETS.

"(a) DESIGNATION OF GROWTH MARKETS.—The Secretary shall establish a list of not less than 15 countries (or groups of countries) that are most likely to emerge as growth markets for United States agricultural commodities within the 5 and 10-year periods following the development of a long-term agricultural trade strategy under this subtitle.

"(b) DEVELOPING COUNTRIES.—Not less than 5 of the countries identified on the list developed under subsection (a) shall be developing countries.

"(c) DESIGNATION AS PRIORITY MARKETS.—Countries identified on the list developed under subsection (a) shall be designated as priority markets for the use of United States agricultural export programs (other than those programs designed to provide food assistance and those programs under title III that are designed to combat unfair trade practices).

"(d) TARGETING OF AGRICULTURAL TRADE PROGRAMS.—The Secretary shall place a priority on the development of agricultural markets, through the use of agricultural trade programs and through other means, in those countries designated as priority markets under subsection (c) in accordance with the individual market plans established under section 113 and in accordance with the long-term agricultural trade goals developed under section 111.

"SEC. 113. ESTABLISHMENT OF MARKET PLANS.

"(a) IN GENERAL.—The Secretary shall develop individual market plans for each country (or groups of countries) designated as a priority market under section 112.

"(b) CONTENTS.—An individual market plan developed under subsection (a) shall contain—

"(1) specific plans for the use of United States agricultural trade programs to assist United States exports and market development in the specific country; and

"(2) the agricultural trade goals for the United States for that country over a period of not less than 3 years.

"(c) INDIVIDUAL MARKET GOALS.—

"(1) PRIMARILY COMMERCIAL MARKETS.—With respect to markets that have strong commercial potential, the individual market plan developed under subsection (a) for a country shall be designed to increase exports of United States agricultural commodities in that country.

"(2) HEAVILY SUBSIDIZED MARKETS.—With respect to markets in which United States exporters face unfair trade practices of other competing countries, the individual market plan developed under subsection (a) for a country shall be designed to directly combat such unfair trade practices and should result in either increased agricultural trade expenditures by the targeted competitor in such market or in a decrease in the market share or the exports of the targeted competitor in that market.

"(3) MARKETS THAT ARE PRIMARILY CONCESSIONAL.—With respect to markets that are primarily concessional and are the recipients of assistance under the Agricultural Trade Development and Assistance Act of 1954, the individual market plan developed under subsection (a) for a country shall be designed to increase United States agricultural exports to such country by increasing over time, the amount of United States agricultural exports moving through commercial channels and under other export programs established in this Act, and to decrease steadily the amount of food and developmental assistance necessary under the Agricultural Trade Development and Assistance Act of 1954.

"SEC. 114. REVIEW.

"(a) FREQUENCY OF REVIEW.—Not less than once every 3 years, the Secretary shall review the agricultural trade performance of the United States based on the long-term agricultural trade strategy and trade goals developed by the Secretary under this subtitle.

"(b) CONTENT OF REVIEW.—In conducting the review under subsection (a), the Secretary shall—

"(1) determine whether and to what extent individual market plans were successfully implemented during the 3-year period for which the review is being conducted;

"(2) determine whether the use of certain agricultural trade programs resulted in agricultural exports or increased agricultural exports or market share in the priority markets during the 3-year period for which the review is being conducted;

"(3) determine whether the use of agricultural trade programs to combat unfair trade practices has attained the established trade goals developed under this Act during the 3-year period for which the review is being conducted;

"(4) determine the degree to which the long-term agricultural trade goals developed under this Act were reached during the 3-year period for which the review is being conducted;

"(5) conduct a country-by-country analysis of expenditures made under agricultural trade programs (under this Act, the Agricultural Trade Development and Assistance Act of 1954, and any other Act) and the export performance of the United States in such market during the 3-year period for which the review is being conducted; and

"(6) evaluate whether revisions in the long-term agricultural trade strategy, goals, or market plans developed under this Act or in agricultural trade programs are necessary to help meet the purposes of this Act.

"(c) VALUE-ADDED PRODUCTS.—With respect to the trade performance of processed, value-added products under the reviews required under this section, the Secretary, not later than 18 months after the initial 3-year period described in such subsections, shall conduct an interim review under this subsection. Such interim and subsequent reviews shall include reports to the appropriate Committees of the Congress concerning those actions that the Secretary has taken during the reporting period to increase exports of United States processed, value-added agricultural products and the plans of the Secretary pertaining to such actions during the subsequent reporting period.

"SEC. 115. PRESERVATION OF TRADITIONAL MARKETS.

"Notwithstanding any other provision of this Act, the Secretary shall, in implementing the provisions of this Act, seek to preserve traditional markets for United States agricultural commodities.

"TITLE II—AGRICULTURAL EXPORT PROGRAMS

"Subtitle A—Export Assistance Programs

"SEC. 201. DIRECT CREDIT SALES PROGRAM.

"(a) SHORT-TERM PROGRAM.—To promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

"(b) INTERMEDIATE-TERM PROGRAM.—Subject to subsection (c), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years.

"(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) USE OF PROGRAM.—

"(1) GENERAL USES.—The Commodity Credit Corporation may use export sales financing authorized under this section—

"(A) to increase exports of agricultural commodities;

"(B) to compete against United States agricultural export competitors for agricultural export sales;

"(C) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

"(2) COST OF FREIGHT.—The Commodity Credit Corporation may include the cost of freight from the United States to designated points of entry in other countries in any sale financed under this section.

"(3) GENERAL RESTRICTIONS.—Export sales financing authorized under this section shall not be used for foreign aid or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

"(e) TERMS OF CREDIT ASSISTANCE.—Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

"(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

"(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

"(f) PROHIBITION ON RESALE OR TRANSSHIPMENT.—The Commodity Credit Corporation shall, where feasible, obtain commitments from purchasers of commodities under subsection (b) that such purchasers will pre-

vent the resale or transshipment of such commodities to other countries.

"SEC. 202. EXPORT CREDIT GUARANTEE PROGRAM.

"(a) SHORT-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation may guarantee the repayment of loans made by financial institutions in the United States to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that do not exceed a 3-year period.

"(b) INTERMEDIATE-TERM CREDIT GUARANTEES.—Subject to the provisions of subsection (c), the Commodity Credit Corporation may guarantee the repayment of loans made by financial institutions in the United States to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period.

"(c) REQUIRED DETERMINATIONS.—The Commodity Credit Corporation shall not guarantee under subsection (b) the repayment of a loan made to finance an export sale unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) PURPOSE OF PROGRAM.—The Commodity Credit Corporation may use export credit guarantees authorized under this section—

"(1) to increase exports of agricultural commodities;

"(2) to compete against United States agricultural export competitors for agricultural export sales;

"(3) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(4) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

"(e) COST OF FREIGHT.—The Commodity Credit Corporation may include the cost of freight from the United States to designated points of entry in other countries in any sale guaranteed under this section.

"(f) RESTRICTIONS ON USE OF CREDIT GUARANTEES.—Export credit guarantees provided under this section shall not be used for foreign aid or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales guaranteed under this section.

"(g) RESTRICTIONS.—The Commodity Credit Corporation shall not make credit guarantees available to any country that the Secretary determines cannot adequately service the debt associated with such guarantee.

"(h) TERMS.—Contracts of guarantee entered into under this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

"(i) PROHIBITION ON RESALE OR TRANSSHIPMENT.—The Commodity Credit Corporation shall, wherever feasible, obtain a certification from purchasers that such purchasers will prevent the resale or transshipment of the commodities that are subject to the contract of guarantee issued under subsection (b) to other countries.

"(j) ELIGIBILITY OF CERTAIN COMMODITIES.—

"(1) DOMESTIC CONTENT REQUIREMENT.—Except as provided in paragraphs (2) and (3), export sales of United States agricultural commodities shall be eligible for short or intermediate-term export credit guarantees under this section if not less than 90 percent of the value of such commodity is derived from agricultural commodities produced in the United States.

"(2) INABILITY TO MONITOR.—The Commodity Credit Corporation may require that any export of United States agricultural commodities shall be composed entirely of commodities produced within the United States and with goods from the United States, to enable such export to be eligible for short or intermediate-term export credit guarantees under this section, if the Commodity Credit Corporation determines that it is not practicable to monitor the export of such commodity to determine the percentage of domestic content of such agricultural commodity as a result of—

"(A) the export commodity being a bulk commodity that is not commonly stored in a manner that will enable the Corporation to determine the domestic content of the product because of the blending of the commodities with commodities produced outside the United States;

"(B) the export commodity being a blend of commodities produced both in and outside of the United States through a procedure that does not make the percentage of domestic content of such product easily verifiable; or

"(C) the determination, by the Commodity Credit Corporation, that the domestic content of the export commodity or of a particular type of export commodity is not practicable to verify.

"(3) LIMITATION OF PERCENTAGE COVERED BY GUARANTEE.—An export credit guarantee made available with respect to the export of an agricultural commodity that is not composed of commodities produced entirely in the United States shall not cover any portion of the exported commodity that was derived from agricultural commodities produced outside the United States.

"(k) INELIGIBILITY OF FINANCIAL INSTITUTIONS.—A financial institution shall be ineligible to receive an assignment of letters of credit guaranteed by the Commodity Credit Corporation under this section if it is determined by the Corporation that such financial institution—

"(1) is not in a sound financial condition;

"(2) does not have sufficient experience in transactions of the type being guaranteed by the Commodity Credit Corporation; or

"(3) is the financial institution issuing the letter of credit or a subsidiary of such institution.

"(l) ARRIVAL OF COMMODITIES.—The Commodity Credit Corporation shall establish procedures providing for the annual audit of a number of export transactions under this section to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

"(m) FRAUD.—No export credit guarantee issued under this section shall be valid with respect to any exporter or assignee who has knowledge of any scheme to misuse any such credit guarantee or to misappropriate any agricultural commodities the sale of which was subject to such guarantee, as determined by the Secretary.

"(n) CONDITIONS FOR WOOD AND PROCESSED WOOD PRODUCTS.—The Secretary shall make guarantees available under subsections (a) and (b) for wood and processed wood products under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to other agricultural commodities under such subsections.

"SEC. 203. DEFERRED PAYMENT SALES.

"(a) IN GENERAL.—The Secretary may provide financing through the Commodity Credit Corporation to exporters of United States agricultural commodities that desire to provide deferred payment terms to purchasers in other countries to meet sales competition from other countries or to make additional export sales.

"(b) AVAILABILITY OF FINANCING.—Financing shall be available under this section only with respect to export sales to those countries that are eligible for financing under the short-term export credit sales program established under section 201(a).

"(c) ELIGIBILITY FOR FINANCING.—To be eligible to receive financing assistance under this section, the United States exporter shall—

"(1) enter into a contract to export United States agricultural commodities to a foreign country on deferred payment terms that shall not exceed a 3-year period;

"(2) provide the deferred payment terms referred to in paragraph (1);

"(3) establish to the satisfaction of the Commodity Credit Corporation that the exporter is providing such deferred payment terms in order to meet sales competition from other countries or to make additional export sales;

"(4) submit, for approval by the Commodity Credit Corporation, an export sales plan;

"(5) provide assurances, to the satisfaction of the Commodity Credit Corporation, that exports have been made in accordance with an approved plan under paragraph (4); and

"(6) comply with any other terms and conditions determined by the Corporation to be necessary.

"(d) TERMS OF REPAYMENT.—

"(1) REPAYMENT IN DOLLARS.—Payments to the Commodity Credit Corporation under contracts entered into under this section shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan under subsection (c).

"(2) INTEREST.—Interest rates under paragraph (1) shall not exceed those charged for financing under the short-term export credit sales program established under section 201(a).

"(e) PERFORMANCE GUARANTEE.—The Commodity Credit Corporation may, if the Corporation determines such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the export sale.

"(f) REVIEW.—Financing agreements entered into under this section shall be subject to such other terms and conditions as the Commodity Credit Corporation determines necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(g) USE OF COMMODITY CREDIT CORPORATION.—The funds, facilities, and authorities of the Commodity Credit Corporation may be used in carrying out this section.

"(h) EFFECT ON COMMODITY CREDIT CORPORATION.—The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secre-

tary or the Commodity Credit Corporation under any other provision of law.

"SEC. 204. MARKETING ASSISTANCE PROGRAM.

"(a) IN GENERAL.—The Secretary may establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for United States agricultural commodities through the provision of cost-share assistance to United States organizations that implement a market development program in a foreign country.

"(b) TYPE OF ASSISTANCE.—Cost share assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

"(c) REQUIREMENTS FOR PARTICIPATION.—

"(1) IN GENERAL.—To be eligible for cost-share assistance under this section, a United States organization shall—

"(A) be an eligible trade organization;

"(B) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

"(C) meet any other requirements established by the Secretary.

"(2) PROVISION OF ASSISTANCE.—

"(A) VIABLE MARKETS.—Funds or commodities shall be made available for use under this section only in connection with marketing plans developed for foreign countries that are, or have the potential to be, viable commercial markets for United States agricultural commodities, the export of which would have a significant positive effect on farmgate agricultural commodity values and on financial returns to farmers.

"(B) PRIORITY BASIS FOR EXPORT ASSISTANCE.—The Secretary shall provide export assistance under this section on a priority basis—

"(i) in the case of agricultural commodities with respect to which there has been an affirmative determination under section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

"(ii) in the case of agricultural commodities for which exports have been adversely affected, as defined by the Secretary, through retaliatory actions related to an affirmative determination under section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

"(iii) to counter or offset the adverse effect on the export of a United States agricultural commodity of an unfair trade practice of a foreign country; or

"(iv) to promote the sale of agricultural commodities and value-added, fortified, or high-value agricultural products in countries eligible for assistance under section 301 of the Agricultural Trade Development and Assistance Act of 1954, especially countries in Eastern Europe.

"(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

"(1) a United States agricultural trade organization or regional State-related organization that is formed to promote the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

"(2) a United States cooperative organization or State agency that promotes the sale of agricultural commodities;

"(3) a private organization that promotes the export and sale of agricultural commodities if the Administrator determines that such organization would significantly contribute to United States export market development; or

"(4) a tribal or inter-tribal organization that promotes the export and sale of one or more Native American agricultural products.

"(e) APPROVED MARKETING PLAN.—

"(1) IN GENERAL.—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other marketing-oriented export promotion plan to be carried out by the eligible trade organization with respect to which cost-share assistance under this section is being requested.

"(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

"(A) specifically describe the manner in which assistance received by the eligible trade organization under this section will be expended in implementing the marketing plan;

"(B) specifically describe the manner in which funds provided by the eligible trade organization will be expended in implementing the marketing plan;

"(C) establish specific market goals to be achieved as a result of the marketing promotion program; and

"(D) contain whatever additional requirements are determined by the Secretary to be necessary.

"(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

"(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

"(f) DURATION OF COST-SHARE ASSISTANCE.—

"(1) ONE- TO THREE-YEAR BASIS.—The Secretary may provide assistance under this section on a 1 to 3 year basis, subject to annual reviews for compliance with the approved marketing plan by the Secretary.

"(2) REQUIREMENTS FOR MULTI-YEAR ASSISTANCE.—To be eligible to receive multi-year assistance under this section, an eligible trade organization shall—

"(A) establish, to the satisfaction of the Secretary, that multi-year funding is necessary to implement a successful marketing promotion program; and

"(B) prepare and submit a marketing promotion plan that specifically describes the manner in which assistance under this section will be used on a multi-year basis.

"(g) OTHER TERMS AND CONDITIONS.—

"(1) TERMINATION OF ASSISTANCE.—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

"(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

"(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the marketing promotion program;

"(C) the eligible trade organization is not adequately contributing its own resources to the marketing promotion program;

"(D) the unfair trade practice that was the basis of the provision of assistance has been stopped and marketing assistance is no longer required to offset its effects; or

"(E) the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

"(2) AVAILABILITY OF RECORDS.—An eligible trade organization that receives assistance under this section shall maintain all records concerning the use of assistance under this program for a period of 5 years and shall permit the Secretary to have full and complete access to the financial records of the organization relating to the use of assistance under this program while such organization is a participant in this program and for a period of 5 years thereafter.

"(3) LEVEL OF COST SHARE ASSISTANCE.—Cost share assistance provided under this section to private organizations as described in subsection (d)(3) shall not exceed 50 percent of the cost of implementing the marketing plan, except that such 50 percent ceiling shall not apply in the case of agricultural commodities with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

"(4) STAGED REDUCTION IN ASSISTANCE.—In the case of any private entities that received assistance under section 1124 of the Food Security Act of 1985 prior to the date of enactment of this Act and with respect to which assistance under this section would be limited under paragraph (3), any such reduction in assistance shall be staged down to the 50 percent ceiling in equal increments over a 5-year period.

"(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out the provisions of this section.

"(i) REVIEW OF REGULATIONS.—The Foreign Agricultural Service shall review the regulations governing the eligibility of trade and agricultural commodity promotion organizations for Marketing Assistance Program funds and make recommendations, within sixty days of enactment of this Act, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on ways to improve the use of funds under this section by smaller trade organizations, and advise the Committees on changes in these regulations.

"SEC. 205. BARTER OF AGRICULTURAL COMMODITIES.

"(a) IN GENERAL.—The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign products under such terms and conditions as the Secretary or the Corporation shall prescribe.

"(b) ELIGIBLE COMMODITIES.—Unless otherwise specified, eligible commodities shall include—

"(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

"(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

"(c) BARTER BY U.S. EXPORTERS OF AGRICULTURAL COMMODITIES.—

"(1) PURPOSE.—The Secretary or the Commodity Credit Corporation shall encourage United States exporters of agricultural commodities to barter such commodities for foreign products—

"(A) to acquire such foreign products needed by such exporters; and

"(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

"(2) ELIGIBLE ACTIVITIES.—The Secretary or the Commodity Credit Corporation may provide eligible commodities to United

States exporters to assist such exporters in barter transactions.

"(3) TECHNICAL ASSISTANCE.—The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

"(d) TRANSFER OF FOREIGN PRODUCTS TO OTHER GOVERNMENT AGENCY OR PRIVATE PARTIES.—The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other government agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

"(e) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

"(f) PROHIBITED ACTIVITIES.—The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

"(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

"(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

"(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

"SEC. 206. AGRICULTURAL CREDIT REVOLVING FUND.

"(a) ESTABLISHMENT.—The revolving fund known as the Agricultural Export Credit Revolving Fund established under section 4(d) of the Food for Peace Act of 1966 (as such section existed prior to the date of enactment of this Act), shall be available without fiscal year limitation for use by the Commodity Credit Corporation (hereinafter referred to in this section as the 'Corporation') for financing, in accordance with this section and section 714c(f) of title 15, United States Code—

"(1) commercial export sales of United States agricultural commodities out of private stocks or stocks owned or controlled by the Corporation on credit terms of not to exceed a 3-year period;

"(2) export sales of United States breeding animals (including, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

"(3) the establishment of facilities in importing countries to improve the capacity of such countries for handling, marketing, processing, storing, or distributing fungible agricultural commodities produced in and exported from the United States (through the use of local currency generated from the sale of United States agricultural commodities).

"(b) USE.—The Corporation shall use the revolving fund described in subsection (a) only to extend credit for purposes of market development and expansion and only where there is substantial potential for developing or enhancing regular commercial markets for United States agricultural commodities.

"(c) MARKETING OPPORTUNITIES.—The Secretary shall ensure that the revolving fund described in subsection (a) is used in such a manner as to involve the equitable use of the funds to finance sales to the greatest feasible number of countries consistent with maximizing market opportunities. In carrying out this objective, the Secretary shall establish procedures under which—

"(1) not less than 85 percent of the estimated amount in the revolving fund for any fiscal year shall be made available for the purposes described in paragraph (1) of subsection (a); and

"(2) not to exceed 25 percent of the estimated amount in the revolving fund for any fiscal year shall be made available for the financing of credit sales to any one country for the purposes described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Agricultural Export Credit Revolving Fund such sums as may be necessary to carry out the provisions of this section. All funds received by the Corporation in payment for credit extended by the Corporation using such revolving fund, including interest or other receipts on investments and credit obligations, in financing export sales of the types specified in subsection (a) shall be added to and become a part of such revolving fund.

"(e) TERMINATION.—Effective October 1, 1995, the revolving fund described in subsection (a) shall be abolished and all unobligated money in such fund on September 30, 1995, shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

"(f) AUTHORITY.—The authority provided under this section shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Corporation under any other provision of law.

"(g) LIMITATIONS.—The authority provided under this section to incur obligations to make loans shall be effective only to the extent that such obligations do not exceed annual limitations on new direct loan obligations which shall be provided in annual appropriations Acts.

"SEC. 207. COMBINATION OF PROGRAMS.

"(a) FAILURE TO MEET FINANCIAL QUALIFICATIONS.—If a country does not meet the financial qualifications for participation in the export programs established under sections 201 or 202, the Secretary may provide agricultural commodities to such country under section 302 to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to make it possible for such country to meet such qualifications.

"(b) REVIEW.—The Secretary shall review and adjust annually the quantity of commodities provided to a country under subsection (a) to encourage such country to place greater reliance on the increased use of commercial trade to meet the qualifications referred to in subsection (a).

"(c) COMBINED CREDIT PROGRAMS.—The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits from the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

"Subtitle B—Implementation

"SEC. 211. FUNDING LEVELS.

"(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) SHORT-TERM GUARANTEES.—

"(A) MINIMUM AMOUNTS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, not less than $5,000,000,000 in credit guarantees under section 202(a) to extend short-term credit to finance the export sales of United States agricultural commodities.

"(B) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to one percent of the amount of credit extended under the transaction.

"(2) INTERMEDIATE-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, not less than $500,000,000 in credit guarantees under section 202(b) to extend intermediate-term credit to finance the export sales of United States agricultural commodities.

"(c) MARKETING ASSISTANCE PROGRAMS.—The Commodity Credit Corporation or the Secretary shall make available for market promotion activities authorized to be carried out by the Commodity Credit Corporation under section 204—

"(1) in addition to any funds that may be specifically appropriated to implement a market development program, not less than $200,000,000 nor more than $325,000,000 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

"(2) any funds that may be specifically appropriated to carry out a marketing assistance program under section 204.

"SEC. 212. REGULATIONS.

"The Secretary or the Commodity Credit Corporation, as appropriate, shall promulgate regulations to carry out the provisions of this title.".

"SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out this title.

"TITLE III—RESPONSE TO UNFAIR TRADE PRACTICES

"SEC. 301. PURPOSE OF AUTHORITIES.

"It is the purpose of this title to authorize the Secretary to carry out such agricultural trade programs as may be necessary to carry out the agricultural trade policy of the United States with respect to the use of unfair agricultural trade practices by foreign countries.

"SEC. 302. EXPORT ENHANCEMENT PROGRAM TO COMBAT UNFAIR TRADE PRACTICES.

"(a) IN GENERAL.—The Secretary shall carry out in accordance with this section a program to discourage unfair trade practices by foreign countries and to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities by making United States agricultural commodities price competitive.

"(b) EXPORT INCENTIVE.—In carrying out the program established under this section, the Secretary may—

"(1) make agricultural commodities, acquired by the Commodity Credit Corporation, available to exporters, users, or proces-

sors of United States agricultural commodities at no cost either directly or through the issuance of commodity certificates; and

"(2) make cash payments to exporters, users, and processors of United States agricultural commodities.

"(c) TERMS AND CONDITIONS OF PROGRAM.—

"(1) WHEN AVAILABLE.—The Secretary shall use export incentives made available under this section to the extent necessary to counter or offset the adverse effect on the export of a United States agricultural commodity of the unfair trade practice of a foreign country that directly or indirectly benefits producers, processors, or exporters of agricultural commodities in such foreign country.

"(2) MARKET PRICE.—The Secretary shall provide export incentives under this section to exporters, users, or processors of United States agricultural commodities to the extent necessary to permit such commodities to be made available at the world market price in the foreign market to which such commodities are exported.

"(3) INTERESTED FOREIGN MARKETS.—The Secretary shall consider providing incentives under the program established under this section to facilitate sales to be made to buyers in all foreign markets in which other countries are engaging in unfair trade practices, giving priority to sales to be made to buyers in those foreign markets that have been traditional markets for United States agricultural commodities.

"(4) DISPLACEMENT.—The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

"(5) PRECAUTIONS AGAINST RESALE.—The Secretary shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities receiving export assistance under this section.

"(6) COMPETITIVE DISADVANTAGE.—The Secretary shall take such action as necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of United States agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

"(7) FREIGHT COST.—The Secretary may include the cost of freight from the United States to designated points of entry in foreign countries.

"(8) DIFFERENT COMMODITIES.—The Secretary may provide to a exporter, user, or processor of United States agricultural commodities under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

"(9) OTHER EXPORT PROGRAMS.—The Secretary may provide commodities under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

"(10) AVOIDANCE OF PREFERENTIAL APPLICATION.—When using the authorities of this section to promote the export of wheat, the Secretary shall make reasonable efforts to avoid giving a preference to one class of wheat disproportionately more than another.

"(11) RELIEF FROM UNFAIR TRADE PRACTICES AGAINST PARTICULAR COMMODITIES.—

"(A) COMMERCIAL EXPORT PROMOTION.—

"(i) AVAILABILITY.—The Secretary shall, if appropriate for each agricultural commodity described in clause (ii), make available some or all of the commercial export assistance that is available under this subtitle to assist in the mitigation or to offset the unfair trade practice serving as the basis for the proceeding described in such subparagraph.

"(ii) APPLICATION.—Clause (i) shall apply in the case of agricultural commodities for which the United States has—

"(I) instituted any dispute settlement proceeding under any international trade agreement;

"(II) been prevented from progressing to a decision in proceedings described in subclause (I) as a result of the failure of a panel to reach a conclusive interpretation of law or the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress; or

"(III) initiated a section 301 investigation into foreign unfair trade practices effecting the article.

"(B) DUTIES OF SECRETARY.—For any agricultural commodity described in subparagraph (A)(ii), the Secretary shall—

"(i) promptly consult with representatives of the industry producing such commodities and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy that utilizes some or all of the assistance available under this subtitle to assist in the mitigation or to offset the unfair trade practice identified in subparagraph (A)(ii); and

"(ii) ascertain and take into account the industry preference for the practical use of available assistance in implementing subparagraph (A)(i).

"(d) RESTRICTION ON PURCHASE OF COMMODITIES.—United States agricultural commodities shall not be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, for the sole purpose of using such commodities under the program under this section. Such commodities or products thereof shall not be provided to a user, exporter, or processor of United States agricultural commodities under the program established under this section except by mutual agreement of such user, exporter or processor and the Secretary.

"(e) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program established under this section through the Commodity Credit Corporation.

"(f) INAPPLICABILITY OF PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

"(g) NATURE OF PROGRAM ACTIVITY.—The authority granted under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.

"(h) ADMINISTRATION.—In the administration of the program established under this section, the Secretary shall—

"(1) use definite and publicized criteria for reviewing initiatives made under the program, including criteria for identifying the trade threat countered by the initiatives, the additional agricultural exports that the initiative will promote, and for the targeting of particular importing countries;

"(2) establish and maintain a procedure for evaluating and reviewing bonuses awarded under the program;

"(3) establish and maintain consistent and effective procedures for reviewing the payment of bonuses to exporters, and for securing refunds of overpayments of bonus payments that the exporter is not entitled to retain; and

"(4) require exporters, users, or processors who receive assistance under this program to maintain all records concerning the use of such assistance for a period of 5 years and permit the Secretary to have full and complete access to the records of the exporter, user, or processor relating to the use of assistance under the program for the 5-year period following the provision of assistance.

"(i) VALUE ADDED PRODUCTS.—The Secretary shall ensure that not less than 10 percent of the amounts referred to under subsection (j) to carry out this section shall be made available for sales of value-added, fortified, or high-value agricultural commodities.

"(j) FUNDING LEVELS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, such funds or commodities of the Commodity Credit Corporation as may be necessary to carry out the program established under this section.

"SEC. 303. REGULATIONS.

"The Secretary or the Commodity Credit Corporation, as appropriate, shall promulgate regulations necessary to carry out this title.

"TITLE IV—GENERAL PROVISIONS

"SEC. 401. AGRICULTURAL EMBARGO PROTECTION.

"(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provisions of law, if—

"(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

"(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

"(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

"(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

"(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

"(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

"(B) the farm program acreage established for the commodity; by

"(C) the amount by which the average market price per unit of such commodity received by producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

"(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

"(c) TIME FOR PAYMENTS.—Payments under paragraph (1) of subsection (b) shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

"(d) COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

"(e) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to carry out this section.

"SEC. 402. DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

"To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

"(1) develop a comprehensive contingency plan that shall include—

"(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

"(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

"(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

"(2) for any suspension or restriction for which compensation is not provided under section 401, prepare and submit to the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

"(3) for any suspension or restriction for which compensation is provided under section 401, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 401; and

"(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

"(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

"(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

"(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

"SEC. 403. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

"(a) IN GENERAL.—The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

"(b) NOT EMPLOYEES OF THE UNITED STATES.—Individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States.

"SEC. 404. TRADE CONSULTATIONS CONCERNING IMPORTS.

"(a) CONSULTATION BETWEEN AGENCIES.—The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

"(b) CONSULTATION WITH TRADE REPRESENTATIVE.—The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

"SEC. 405. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

"The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

"SEC. 406. PROHIBITION ON DUTY DRAWBACK CLAIMS BY EXPORTERS WHO USE CERTAIN EXPORT PROMOTION PROGRAMS.

"(a) IN GENERAL.—The Secretary may provide that a person shall be ineligible for participation in an export program established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

"(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

"(c) CERTIFICATION.—If the Secretary takes action under the authority granted under subsection (a), a person applying to export any agricultural commodity under the export programs referred to in subsection (a) shall certify that none of the commodity has been or will be used as the basis of a claim for any refund specified in subsection (a), except that regardless of whether the Secretary takes action under the authority granted under subsection (a), a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

"(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.

"(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

"SEC. 407. BUDGET INCENTIVES

"(a) PROVISION OF ADVISE.—Not later than November 15 of each year, the Secretary shall advise the Secretary of the Treasury and the Director of the Office of Management and Budget concerning the additional United States agricultural exports including but not limited to exports of value-added agricultural products, resulting from the assistance provided by the Secretary under section 302(c)(10).

"(b) ESTIMATION OF REVENUE.—The Director of the Office of Management and Budget shall estimate the amount of additional revenue received by the Treasury as a result of the assistance programs established under this Act to provide for the enhancement of United States processed, value-added agricultural exports.

"(c) DETERMINATION OF BUDGETS.—In determining the budgets of the Department of Agriculture, the President shall, to the maximum extent practicable, provide special consideration for the export assistance programs funded by the Secretary under this Act, based on the increases in Treasury receipts and the balance of payments of the United States with other countries.

"TITLE V—FOREIGN AGRICULTURAL SERVICE

"SEC. 501. UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS.

"There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

"SEC. 502. ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service to be appointed by the President, by and with the advice and consent of the Senate.

"(b) DUTIES.—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

"(c) USE OF SERVICE.—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

"(d) OTHER SPECIFICATIONS.—The Administrator shall receive basic pay at the highest annual rate authorized under section 5382 of title 5, United States Code. Notwithstanding any other provision of law, if a career member of the Senior Foreign Service appointed pursuant to section 3942 of title 5, United States Code, is appointed by the President, by and with the advice and consent of the Senate, to serve as Administrator, such career member may elect, while serving in such appointment, to continue to receive basic pay, and to continue to be eligible for performance awards, awards of rank, severance pay, leave and retirement as if such career member had remained in the Senior Foreign Service position from which such member was appointed, and any such career member may rejoin the Senior Foreign Service at the termination of the tenure of such member as the Administrator.

"(e) EFFECTIVE DATE.—The requirement for advice and consent of the Senate with respect to the appointment of the Administrator of the Foreign Agricultural Service shall not apply to any individual serving as such Administrator prior to the date of enactment of this Act.

"SEC. 503. RESPONSIBILITIES OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) IN GENERAL.—The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.

"(b) OTHER RESPONSIBILITIES.—In carrying out its responsibilities, the Service shall—

"(1) promote the export of United States agricultural commodities and products thereof;

"(2) facilitate economic assistance and agricultural development programs;

"(3) offer assistance to the United States Trade Representative in representing United States agricultural producers, processors and exporters in bilateral and multilateral negotiations to reduce unfair trade practices of foreign countries on agricultural trade;

"(4) collect and distribute information regarding foreign production, supply, and distribution of agricultural commodities and products thereof, and government policies affecting agricultural production and trade; and

"(5) perform such other duties as the Secretary requests.

"SEC. 504. PROVISION OF TRADE ASSISTANCE.

"(a) ESTABLISHMENT.—The Trade Assistance Office within the Service established under section 4206 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 5216) shall be maintained by the Secretary to carry out the duties described in subsections (b) and (c) of this section under the direction of the Administrator of the Service.

"(b) PRIMARY RESPONSIBILITY.—The Office referred to in subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

"(c) DUTIES.—The Office referred to in subsection (a) shall—

"(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices;

"(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products; and

"(3) coordinate the dissemination of information generated under paragraphs (1) and (2) with the Extension Service, as appropriate.

"SEC. 505. STAFF OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) PERSONNEL OF THE SERVICE.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

"(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this title.

"TITLE VI—REPORTS

"SEC. 601. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

"(a) IN GENERAL.—The Secretary of Agriculture shall every 3 years prepare a Long-Term Agricultural Trade Strategy Report based on the long-term agricultural trade strategy developed by the Secretary under title I.

"(b) CONTENTS.—The Report required in subsection (a) shall—

"(1) detail the Long-Term Agricultural Trade Strategy developed by the Secretary under title I; and

"(2) for each report submitted after the first report, review the agricultural trade performance of the United States during the previous 3-year period in light of the long-term agricultural trade strategy and trade goals developed by the Secretary for such period under this Act.

"(c) CONSULTATION.—In preparing each report under subsection (a), the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213).

"(d) UPDATE.—The Secretary shall prepare an annual update to the report required under subsection (a) that shall contain a description of any revisions to the long-term agricultural trade strategy made by the Secretary and such other information as may be specified in this section or determined appropriate by the Secretary.

"(e) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report and annual update of such report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the annual budget submission of the President to Congress for such activities for such fiscal year, and shall be submitted together with the budget request for other programs of the Department of Agriculture for such fiscal year.

"(f) AVAILABILITY OF REPORT.—

"(1) SUBMISSION TO CONGRESS.—The Secretary shall submit the report required under subsection (a) (and any updates to such report) to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry and the Committee on Finance of the Senate.

"(2) AVAILABILITY TO PUBLIC.—Except as provided in paragraph (3), the Secretary may make the report required under subsection (a) available to the general public, including the State departments of agriculture.

"(3) CONFIDENTIAL.—The Secretary may designate portions of the report required under subsection (a) as confidential and not to be released to the general public if—

"(A) the Secretary determines that the release of such information would disadvantage the United States with respect to its competitors in specific foreign markets; or

"(B) any of such information is determined to be business confidential.

"(4) NOT APPLICABLE TO REVIEW OF STRATEGY.—The provisions of paragraph (3)(A) shall not be applicable with respect to the portion of the report that reviews the agricultural trade performance of the United States over a previous 3-year period in accordance with subsection (b)(2).

"SEC. 602. OTHER REPORTS TO CONGRESS.

"The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, reports concerning the information described in this section. Such information may be provided in individual reports, in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 601.

"(1) BARTER.—The Secretary shall, not later than January 15 of each year, prepare and submit a report concerning the use of the barter authorities by the Secretary or the Commodity Credit Corporation under this Act or under any other Act (except the barter provisions contained in titles I and II of the Agricultural Trade Development and Assistance Act of 1954) during the previous fiscal year.

"(2) EXPORT ASSISTANCE UPDATE.—The Secretary shall, not less than bi-monthly, prepare and submit a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this Act, the Commodity Credit Corporation Charter Act, and under the Agricultural Trade Development and Assistance Act of 1954 during the current fiscal year.

"(3) TRADE ASSISTANCE OFFICE.—The Secretary shall, not later than January 15 of each year, prepare and submit a report that describes the type of information that is currently available through the Trade Assistance Office of the Service and the type of assistance provided to persons through such office during the previous fiscal year.

"(4) EXPORT SALES, USE OF CREDIT GUARANTEES AND DIRECT LOANS.—On a quarterly basis, the Administrator shall report to the appropriate Committees of Congress concerning the level of export sales generated by the use of credit guarantees and direct credits.

"(5) FOOD AID ASSISTANCE REPORT.—Not later than January 15 of each year, the Secretary shall prepare and submit, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report concerning the food aid assistance programs. The Secretary may submit such report in conjunction with reports required under sections 601 or 602. This report shall include—

"(A) a review of the programs and activities carried out under section 416 of the Agricultural Act of 1949;

"(B) the levels and recipients of food and other assistance provided under the Agricultural Trade Development and Assistance Act of 1954;

"(C) the countries in which projects or activities are implemented under this Act;

"(D) a general description of the projects or activities implemented with assistance under this Act;

"(E) a description of the status of each agreement entered into with a country under title III of the Agricultural Trade Development and Assistance Act of 1954 and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development in such country; and

"(F) the recommendations of the Secretary, if any, for legislative changes to improve the conduct of the food aid assistance programs.".

SEC. 1122. AMENDMENT TO THE AGRICULTURAL ACT OF 1954.

The Agricultural Act of 1954 (7 U.S.C. 1741 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 108. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

"(a) IN GENERAL.—The Secretary shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

"(1) document the nature and extent of—

"(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof;

"(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

"(C) where practicable, the average prices and costs of production in such countries for like commodities exported from the United States to such countries; and

"(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

"(b) DUTIES.—The Secretary shall—

"(1) annually compile the information contained in reports prepared under subsection (a)—

"(A) on a country by country basis; and

"(B) on a commodity by commodity basis for exports of United States agricultural commodities including fruits, vegetables, legumes, popcorn and ducks, as determined appropriate by the Secretary, the export of which is hampered by an unfair trade practice. Where practicable, the report shall include a comparison of the average prices and costs of production for such commodities in the United States and in the importing countries for the previous crop year.

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) not later than January 15 of each year, make the compilation available to Congress, the trade assistance office authorized under section 504 of the Agricultural Trade Act of 1978 (as amended by section 201), the agricultural policy advisory committee, and other interested parties.

"(c) MEETING.—The Secretary and the United States Trade Representative shall convene a meeting, at least once each year, of the Agricultural Policy Advisory Committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

"(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (b); and

"(2) expand United States agricultural export opportunities identified in such annual reports.

"SEC. 109. ATTACHE EDUCATIONAL PROGRAM.

"The Administrator of the Foreign Agricultural Service shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.".

SEC. 1123. PROHIBITION ON USE OF TITLE.

The prohibition on the use of the designation "Assistant Secretary of Agriculture for International Affairs and Commodity Programs" (as contained in section 501(c) of the Agricultural Trade Act of 1978 as it existed prior to the date of enactment of this Act) shall continue after the date of enactment of this Act.

SEC. 1124. DURUM WHEAT IMPORTS.

(a) The Secretary of Agriculture shall conduct a study of the impact on domestic durum wheat growers of the importation of durum wheat from Canada into the United States.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a report on the study conducted under subsection (a).

SEC. 1125. ALFALFA SEED IMPORTS.

(a) The Secretary of Agriculture shall conduct a study of the impact on domestic alfalfa seed growers of the importation of alfalfa seed from Canada into the United States.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a report on the study conducted under subsection (a).

Subtitle C—General Provisions

SEC. 1131. FOOD SECURITY WHEAT RESERVE.

Subsection (i) of section 302 of the Agricultural Act of 1980 is amended by striking "1990" each place that such appears and inserting "1995".

SEC. 1132. COTTONSEED OIL AND SUNFLOWER OIL EXPORTS.

Subparagraph (A) of section 301(b)(2) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) is amended to read as follows:

"(A)(i) Effective for each of the fiscal years 1991 through 1995, $50,000,000 of the funds made available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c) shall, to the extent provided in appropriations Acts, be utilized during each such fiscal year as provided for in paragraph (1) of the second sentence of such Act to encourage the sale of additional quantities of sunflower seed oil and cottonseed oil in world markets at competitive world prices through the payment of benefits in connection with the exportation of such commodities.

"(ii) Clause (i) shall be implemented in such a manner as to maximize the export of such oils by assuring that the sums made available under such clause are fully obligated in the year or years in which—

"(I) such sums are made available; and

"(II) the domestic prices of such oils exceed competitive world prices.

"(iii) In determining sales on which benefits are to be provided under this subparagraph, the Secretary shall take into consid-

eration solely the amount of benefits needed to encourage the sale.

"(iv) In carrying out this subparagraph, the Secretary shall ensure that, to the maximum extent practicable, equivalent amounts of funds are used during each fiscal year to encourage the sale of sunflower seed oil and cottonseed oil in world markets.".

SEC. 1133. AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a fellowship program for middle income countries and emerging democracies, to be known as the "Cochran Fellowship Program", to provide fellowships to individuals from eligible countries who specialize in agriculture for study in the United States.

(b) ELIGIBLE COUNTRIES.—Countries that meet the following requirements shall be eligible to participate in the program established under this section:

(1) MIDDLE-INCOME COUNTRY.—A country that has developed economically to the point where it no longer qualifies for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereinafter referred in this section to as a "middle-income" country).

(2) ONGOING RELATIONSHIP.—A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States.

(3) TYPE OF GOVERNMENT.—A country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this section shall be provided to permit the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food needs of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participating countries to help identify program candidates for fellowships under this section from both the public and private sectors of those countries.

(e) PROGRAM IMPLEMENTATION.—The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the objectives of the Program established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program established under this section, except that the amount of such funds in any fiscal year shall not exceed—

(1) for eligible countries that meet the requirements of subsection (b)(1), 3,000,000 dollars;

(2) for eligible countries that meet the requirements of subsection (b)(2), 2,000,000 dollars; and

(3) for eligible countries that meet the requirements of subsection (b)(3), 5,000,000 dollars.

(g) COMPLEMENTARY FUNDS.—If the Secretary of Agriculture determines that it is advisable in furtherance of the purposes of the program established under this section, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposition as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

SEC. 1134. MULTILATERAL TRADE NEGOTIATIONS.

(a) IN GENERAL.—It is the sense of Congress that the objective of the Uruguay Round of Multilateral Trade Negotiations concerning agricultural trade should be to—

(1) obtain a reform of global agricultural trade and an elimination of the policies and practices that distort agricultural trade; and

(2) to reach an agreement that—

(A) provides United States farmers and agricultural community with the opportunity to compete fairly in international markets;

(B) permits United States farmers to have a safety net to protect them against market instability;

(C) assures consumers of an adequate supply of high quality food and fiber at reasonable prices, both now and in the future; and

(D) assures that humanitarian food needs are met.

(b) CONDUCT OF NEGOTIATIONS.—In conducting the agricultural trade negotiations in the Uruguay Round of Multilateral Trade Negotiations and in meeting the principal negotiating objectives contained in section 1101(b) of the Omnibus Trade and Competitiveness Act of 1988 and in this section, the United States should—

(1) ensure that any agreement—

(A) is beneficial to United States agricultural producers and businesses;

(B) does not leave an individual commodity vulnerable to unfair treatment or increased barriers and that the various sectors of United States agriculture receive equitable and fair treatment;

(C) permits countries to provide income support and stability from the vagaries of the market directly or indirectly through self-help efforts;

(D) provides a period of adjustment in cases where the reduction or elimination of trade barriers or subsidies would cause industry adjustment and resource reallocation; and

(E) does not sacrifice the interests of the agricultural sector for other sectors of the United States economy;

(2) seek the immediate elimination of all export subsidies that are conditioned on the export of agricultural commodities and products, except bona fide food aid;

(3) not enter into any self-executing agreement that would unduly restrict the authority of the United States to provide for the stabilization of its agricultural economy;

(4) not enter into any agreement that would have the effect of repealing or materially interfering with any existing legal authority designed to promote or protect any domestic agricultural program, the purpose of which is to stabilize prices, or eliminate any existing waiver granted to the United States under the General Agreement on Tariffs and Trade permitting the imposition of quantitative limitations on the entry of commodities into the United States unless the agreement meets the objectives described in this section; and

(5) ensure that any provision for special and differential treatment for developing countries contains guidelines and limitations providing for the phasing out of such treatment as such countries become more competitive.

(c) REPORT.—Not later than 30 days after the conclusion of any agreement as described in this section, the President shall prepare and submit, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate, a report that specifies the details of such agreement and the manner in which such agreement meets the objectives and criteria contained in this section and in section 1101(b) of the Omnibus Trade and Competitiveness Act of 1988.

SEC. 1135. TRIGGERED MARKETING LOANS.

Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 1446 note) is amended—

(1) in subsection (a), by striking "1990" and inserting "1991";

(2) in subsection (b)(1), by striking "1990 crop of wheat, instruct" and all that follows through the dash and inserting "1991 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under the Agricultural Act of 1949 for each of the 1991 crops of wheat, feed grains, and soybeans at a level that is the lesser of—"; and

(3) in subsection (c)(1), by striking "1990 through 1992" and inserting "1991 through 1993".

SEC. 1136. WORLD LIVESTOCK MARKET PRICE INFORMATION.

(a) DEVELOPMENT OF METHODOLOGY.—The Secretary of Agriculture shall develop appropriate methodology for determining the world price of livestock and livestock products and shall gather and analyze appropriate price and cost of production information concerning such products in foreign countries for the purpose of price discovery and to aid in the sale of livestock and livestock products in foreign export markets.

(b) PUBLICATION OF INFORMATION.—Not later than 240 days after the date of enactment of this Act, and periodically thereafter, the Secretary of Agriculture shall publish the information gathered under subsection (a).

SEC. 1137. SENSE OF SENATE CONCERNING REBALANCING PROPOSAL OF THE EUROPEAN COMMUNITY.

(a) FINDINGS.—Congress finds that—

(1) the success of the agriculture negotiations under the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) is important to the liberalization of world agricultural trade and the development of the markets for United States commodities;

(2) in order to correct distortions and restrictions in world agricultural markets, the participants in GATT negotiations have committed to substantial and progressive reductions in agricultural protection and support;

(3) the history of establishing more market-oriented trade since World War II has been progressive liberalization through a series of multilateral trade negotiations;

(4) the European Community's proposal to "rebalance" import protections could actually permit the European Community to increase import barriers for some products, including products which have enjoyed barrier free trade status as a result of earlier trade negotiations;

(5) this rebalancing proposal could pose a particularly severe threat to United States exports of corn gluten feed and oilseeds to the European Community, products whose duty-free status the European Community has long sought to undercut; and

(6) the European Community market for United States exports of corn gluten feed and oilseeds has been a successful fixture of United States-European Community trade relations for approximately 30 years, and should not be restricted.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the European Community's proposed rebalancing of import protections is fundamentally at odds with the important goals of liberalizing world agricultural trade and eliminating trade-distorting policies;

(2) such rebalancing could have a particularly servere impact on United States exports of corn gluten feed and oilseeds to the European Community, leaving them vulnerable to unfair treatment and increased trade barriers; and

(3) the United States, throughout the remainder of the Uruguary Round of the GATT negotiations on agriculture, should forcefully reject the European Community's proposal to rebalance import protections.

Subtitle D—Conforming Provisions and Technical Changes

SEC. 1141. AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) COMMODITY DONATIONS TO POLAND.—Sections 2223, 2224, and 2226 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 1431 note) are amended by striking "section 416(b)(7)(D)(ii)" each place that such occurs and inserting "section 416(b)".

(b) REPEALS.—The Omnibus Trade and Competitiveness Act of 1988 is amended by repealing sections 4201, 4202, 4205, 4206, 4211, 4212, 4213, 4305, and 4311 (7 U.S.C. 5211, 5212, 5215, 5216, 5231, 5232, 5233, 1736t note, and 1691 note, respectively).

SEC. 1142. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

The Food Security Act of 1985 is amended—

(1) in section 1110 (7 U.S.C. 1736o)—

(A) by striking subsection (j); and

(B) by redesignating subsection (k) as subsection (j); and

(2) by repealing sections 1124, 1125, 1127, 1128, 1132, 1151, 1162, and 1167 (7 U.S.C. 1736s, 1736t, 1736v, 1736w, 1736x, 2275, 1736z, and 1736aa).

SEC. 1143. AMENDMENTS TO THE AGRICULTURE AND FOOD ACT OF 1981.

The Agriculture and Food Act of 1981 is amended by repealing sections 1203, 1204, and 1205 (7 U.S.C. 1736i, 1736j, and 1736k).

SEC. 1144. AMENDMENT TO THE FOOD FOR PEACE ACT OF 1966.

The Food for Peace Act of 1966 is amended by repealing section 4 (7 U.S.C. 1707a).

SEC. 1145. AMENDMENT TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 is amended by striking subsection (d) of section 416 (7 U.S.C. 1431(d)).

SEC. 1146. AMENDMENT TO THE AGRICULTURAL ACT OF 1956.

Section 201 of the Agricultural Act of 1956 (7 U.S.C. 1851(b)) is amended by striking subsection (b).

SEC. 1147. AMENDMENT TO AGRICULTURAL TECHNICAL CORRECTIONS ACT.

Section 13 of Public Law 101-220 (7 U.S.C. 1736cc) is repealed.

Subtitle E—Shipping Provisions

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Transportation (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 120-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241f), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an Ameri-

can Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. ALLOCATION OF CARGOES.

(a) Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241f(c)(2)(B)) is deleted and the following is inserted instead:

"(b) In addition, in administering sections 901(b) and 901b (46. U.S.C. App. 1241(b) and 1241f), and consistent with these sections, the Secretary of Transportation shall take such steps as may be necessary and practicable without detriment to any port range, commencing as of the date hereof and terminating March 30, 1995, to allocate, on the general principle to lowest landed cost, fifty percent of the bagged, processed or fortified commodities pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.): *Provided, however,* That such allocation shall not result in the Great Lakes port range receiving a percentage share, or metric tonnage of such commodities, whichever is lower, greater than that experienced by that port range in 1984 as determined by the Secretary of Agriculture: *Provided further,* That any determination of non-availability of United States-flag vessels resulting from this provision shall not reduce the gross tonnage of such commodities transported on United States-flag vessels as required under section 901(b) and 901b.".

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

SEC. 1157. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study, and prepare and submit to the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report, concerning the effects of the multilateral elimination by all Western Hemisphere nations of tariffs, quotas, marketing orders, quality standards, and other limitations on agricultural trade among the nations of the Western Hemisphere on the United States and other Western Hemisphere nations.

TITLE XII—CONSERVATION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Conservation Stewardship Act of 1990".

Subtitle A—Soil and Water Conservation

SEC. 1211. CONSERVATION STEWARDSHIP PROGRAM.

(a) CONSERVATION STEWARDSHIP PROGRAM.—Subtitle D of Title XII of the Food Security Act of 1985 (16 U.S.C. 1231 et seq.) is amended—

(1) in the subtitle heading, by striking "Conservation Reserve" and inserting "Conservation Stewardship Program"; and

(2) by inserting before section 1231 the following:

"CHAPTER 1—GENERAL PROVISIONS

"SEC. 1230. CONSERVATION STEWARDSHIP PROGRAM.

"(a) ESTABLISHMENT.—During the 1991 through 1995 crop years, the Secretary shall, in accordance with this subtitle, establish a Conservation Stewardship Program and implement such program through contracts and the acquisition of easements to assist owners and operators of highly erodible lands, other fragile lands (including land with associated ground or surface water that may be vulnerable to contamination), and wetlands in conserving and improving the soil and water resources of the farms or ranches of such owners and operators.

"(b) NUMBER OF ACRES.—In carrying out the conservation stewardship program the Secretary shall enter into contracts with owners and operators and acquire easements from owners as provided for in chapters 2 and 3, to place in the conservation reserve established under chapter 2 and the wetland reserve established under chapter 3 during the 1986 through 1995 crop years, a total of not less than 40,000,000 nor more than 50,000,000 acres. The Secretary, in determining whether to place acreage into the conservation stewardship program in excess of 40,000,000 acres shall take into consideration commodity prices and reserves, natural disasters, export market opportunities, the consequences for the economic health and vitality of rural communities of enrolling such acres, and other factors relating to the maintenance of an adequate supply of commodities necessary to meet domestic and export requirements, and to maintain adequate reserves. If the Secretary determines to place acreage into the conservation stewardship program in excess of 40,000,000 acres, the Secretary may limit the cropland enrolled into the conservation reserve on an owner or operator's farm to 25 percent of the cropland on such farm.

"(c) IMPLEMENTATION.—The Secretary shall carry out the conservation stewardship program established under subsection (a) through the environmental conservation acreage reserve program and the wetland reserve program established in chapters 2 and 3, respectively. Acreage enrolled into the conservation reserve under chapter 2 prior to the date of enactment of this chapter shall be considered to be land placed in the conservation stewardship program established under subsection (a) for the purposes of this chapter.

"(d) COUNTY LIMITATION.—The Secretary shall not place more than 25 percent of the cropland in any one county (excluding acreage subject to a contract under the water quality incentives program under chapter 4) into the conservation stewardship program established under subsection (a), except that the Secretary may exceed this limitation in a county to the extent that the Secretary determines that such action would not adversely affect the local economy of such county. The limitation established under this subsection shall not apply to cropland that is being used for the establishment of shelterbelts and windbreaks.

"(e) WATER QUALITY INCENTIVE ACREAGE.—

"(1) IN GENERAL.—Acreage that is subject to a contract under the water quality incentives program under chapter 4 shall be considered to be acreage enrolled into the Conservation Stewardship Program in an amount determined by dividing the amount of the acreage that is subject to such contract by the value determined under paragraph (2).

"(2) RATIO.—For the purposes of calculating the value referred to in paragraph (1), the Secretary shall determine the average cost per acre of entering land into the environmental conservation acreage reserve program and divide such amount by the incentive payment per acre that is applicable to the land that is subject to contract under the water quality incentives program under chapter 4.

"(3) LIMITATION.—With respect to the 1991 and subsequent crop years, a total of not more than 1,000,000 acres, as determined under paragraphs (1) and (2), may be considered as acreage enrolled into the Conservation Stewardship Program for the purposes of subsection (b). Not more than an additional 1,000,000 acres, as determined under paragraphs (1) and (2), may be considered as acreage enrolled into the Conservation Stewardship Program with respect to the 1995 and subsequent crop years if the Secretary determines that such acreage is not needed under the environmental conservation acreage reserve program to meet the erosion or other objectives of this subtitle, as determined by the Secretary.

"CHAPTER 2—ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM".

SEC. 1212. EXTENSION OF CONSERVATION RESERVE PROGRAM.

(a) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a) by striking "1990" and inserting "1995"; and

(2) in subsection (b) by striking paragraph (5) and inserting the following new paragraph:

"(5) during the 1986 through 1995 crop years, an amount of acreage that will enable the Secretary to meet the acreage goals established in section 1230.".

(b) COUNTY LIMITATION.—Subsection (d) of section 1231 of such Act (16 U.S.C. 3831(d)) is amended to read as follows:

"(d) Notwithstanding the 25 percent limitation described in section 1230(d), the Secretary shall permit the amount of acreage placed under contract under this chapter to exceed the 25 percent county limit to the extent the Secretary determines that producers in such county are having severe difficulty in meeting existing conservation and environmental requirements. In making a determination under this subsection, the Secretary shall not require the written consent of a member of Congress.".

(c) DUTIES OF OWNERS AND OPERATORS.—Section 1232(a) of such Act (16 U.S.C. 3832(a)) is amended—

(1) in paragraph (9), by striking "and" at the end thereof;

(2) in paragraph (10), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) with respect to any contract entered into after the date of enactment of this paragraph concerning highly erodible land in a county that has not reached the limitation established by section 1231(d), not to produce an agricultural commodity for the duration of the contract on any other highly erodible land that does not have a history of being used to produce an agricul-

tural commodity other than forage crops; and

"(12) on the violation of a contract described in paragraph (11), in addition to the sanctions described in paragraph (5), to be ineligible for—

"(A) as to any commodity produced during that crop year by such owner or operator—

"(i) any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

"(ii) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

"(iii) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

"(iv) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

"(v) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration; or

"(B) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) during such crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.".

SEC. 1213. SHELTERBELTS, WINDBREAKS, MARGINAL PASTURELANDS, AND OTHER ELIGIBLE LANDS.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsections:

"(g)(1) The Secretary shall enter into contracts with owners and operators to place in the conservation reserve established under this section, land that is not otherwise eligible to be placed in such reserve to the extent that such land will be used as a shelterbelt, windbreak, permanent contoured grass strips or for some other similar purpose to avoid or mitigate—

"(A) soil loss on highly erodible cropland; or

"(B) an on-farm or off-farm environmental threat.

"(2) To place land that will be used as a shelterbelt or windbreak into the conservation reserve under this subsection, the owner or operator of such land shall enter into an agreement to provide a conservation easement to the Secretary for the useful life of such shelterbelt or windbreak.

"(h) The Secretary shall enter into contracts with owners and operators to place in the conservation reserve established under this section, land that is pastureland and that is environmentally sensitive, economically marginal and sustainable for tree planting, and that is not otherwise eligible to be placed in the reserve, if such land will be devoted to trees subsequent to the enrollment of such lands in the reserve. Land placed into the conservation reserve under this subsection shall not be eligible for cost share assistance under any other Federal program. The Secretary may establish a reasonable limit on the number of acres per farm that are eligible to be placed into the conservation reserve under this subsection.

"(i)(1) The Secretary shall enter into contracts with owners and operators to place in the conservation reserve established under this section, land that is not otherwise eligible to be placed in the reserve, if the Secretary, in consultation with the Chief of the Soil Conservation Service determines that placing such land into the conservation reserve will ameliorate or prevent an on-farm or off-farm threat to water quality.

"(2) Land that shall be eligible to be placed in the conservation reserve under paragraph (1) shall include—

"(A) cropland that is within a State approved wellhead protection area, under a State wellhead protection program submitted under section 1428 of the Safe Drinking Water Act (42 U.S.C. 300h-7), or not more than 1,000 feet from a public well;

"(B) cropland that is in shallow Karst topography areas where sinkholes convey runoff water directly into ground water;

"(C) critical cropland areas within hydrologic units identified in a plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as having priority problems that result from agricultural nonpoint sources; and

"(D) cropland areas where agricultural nonpoint sources have been determined to pose a significant threat to habitat utilized by threatened and endangered species.

"(3) In determining other lands that should be considered eligible to be placed in the conservation reserve under this subsection, the Secretary shall take into consideration—

"(A) the benefit to be derived from using filter strips on such land; and

"(B) such other factors that the Secretary determines to be appropriate in evaluating the costs and benefits of achieving water quality improvements.

"(4) Land enrolled in the environmental conservation acreage reserve program under this subsection shall not be taken into consideration in applying the limitation established under section 1230(d) for any county if the Secretary determines that the potential risk to water quality posed by the continued cropping of such land outweighs the adverse impact that removing such land from production would have on the local economy.

"(5) Land may not be enrolled in the environmental conservation acreage reserve program in accordance with this subsection unless the Secretary determines that water quality objectives with respect to such land cannot be achieved under the water quality incentives program established under chapter 4.".

SEC. 1214. EASEMENTS.

Subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1232 (16 U.S.C. 3832) the following new section:

"SEC. 1232A. EASEMENTS.

"(a) IN GENERAL.—For purposes of placing land in the conservation reserve established under this chapter, the Secretary may enter into contracts with owners and operators that require—

"(1) the owner of such land to provide the Secretary with a non-perpetual conservation easement of not less than 30 years on the land that is subject to such contracts; or

"(2) the owner of such land to provide the Secretary with a permanent conservation easement on the land that is subject to such contracts.

"(b) EASEMENTS.—The Secretary shall, to the extent practicable, encourage the use of permanent easements on land that is subject to contracts entered into under section 1231(i). The amount paid to an owner or operator by the Secretary for such an easement shall not exceed the fair market value of the land that is subject to the easement.".

SEC. 1215. CONVERSION OF LAND SUBJECT TO CONTRACT.

Subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1235 (16 U.S.C. 3835) the following new section:

"SEC. 1235A. CONVERSION OF LAND SUBJECT TO CONTRACT TO OTHER CONSERVING USES.

"(a) CONVERSION TO TREES.—

"(1) IN GENERAL.—The Secretary shall permit an owner or operator who has entered into a contract under this chapter that is in effect on the date of enactment of this section to convert areas of highly erodible cropland that are subject to such contract, and that are devoted to vegetative cover, from such use to hardwood trees, windbreaks, or shelterbelts.

"(2) TERMS.—

"(A) EXTENSION OF CONTRACT.—With respect to any contract on land to be devoted to hardwood trees, windbreaks, or shelterbelts under this section, if the original term of such contract was less than 15 years, the owner or operator may extend such contract to a term of not to exceed 15 years.

"(B) EASEMENTS.—If such areas are converted to windbreaks or shelterbelts under this section, the owner of such land shall enter into an agreement to provide a conservation easement to the Secretary for the useful life of such shelterbelt or windbreak.

"(C) COST SHARE ASSISTANCE.—The Secretary shall pay 50 percent of the cost of establishing conservation measures and practices authorized under this subsection for which the Secretary determines the cost-sharing is appropriate and in the public interest.

"(b) CONVERSION TO WETLANDS.—The Secretary shall permit an owner or operator who has entered into a contract under this subtitle that is in effect on the date of enactment of this section to restore areas of highly erodible cropland that are devoted to vegetative cover under such contract to wetlands if—

"(1) such areas are prior converted wetlands;

"(2) the owner or operator of such areas enters into an agreement to provide the Secretary with a long-term or permanent easement under chapter 3 covering such areas;

"(3) there is a high probability that the prior converted area can be successfully restored to wetland status; and

"(4) the restoration of such areas otherwise meets the requirements of chapter 3.".

SEC. 1216. TREE PLANTING INCENTIVES.

(a) CONTINUOUS SIGN-UP FOR HARDWOOD TREES.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end thereof the following new paragraph:

"(4) In the case of acreage enrolled in the conservation reserve established under this chapter that is to be devoted to hardwood trees, the Secretary shall consider bids for contracts under this subsection on a continuous basis.".

(b) COST SHARE ASSISTANCE.—Subsection (b) of section 1234 of such Act (16 U.S.C. 3834(b)) is amended to read as follows:

"(b)(1) In making cost sharing payments to an owner or operator under a contract entered into under this chapter, the Secretary shall pay 50 percent of the cost of establishing conservation measures and practices required under such contracts for which the Secretary determines that cost-sharing is appropriate and in the public interest.

"(2) In the case of land devoted to the production of hardwood trees, windbreaks, or shelterbelts under a contract entered into under this chapter after the date of enactment of this section, the Secretary, in making cost-share payments to an owner or operator of such land, shall pay not less than 50, nor more than 75, percent of the reasonable and necessary costs, as determined by the Secretary, incurred by such owner or operator for maintaining such tree plantings, including the cost of replanting (if the trees were lost due to conditions beyond the control of the owner or operator), during not less than the 2-year, and not more than the 4-year, period beginning on the date a tree is planted, as determined appropriate by the Secretary.

"(3) The Secretary may permit owners or operators who contract to devote at least 10 acres of land to the production of hardwood trees under this chapter to extend the planting of such trees over a 3-year period if at least one-third of such trees are planted in each of the first 2 years.".

(c) DURATION OF CONTRACT.—Section 1231(e) of such Act (16 U.S.C. 3831(e)) is amended by adding at the end thereof the following new sentence: "In the case of land devoted to hardwood trees, shelterbelts, or windbreaks under a contract entered into under this chapter after October 1, 1990, and land devoted to such uses under contracts modified under section 1235A, the owner or operator of such land may, within the limitations prescribed under this section, specify the duration of the contract. The Secretary may, in the case of land that is devoted to hardwood trees under a contract entered into under this chapter prior to October 1, 1990, extend such contract for not to exceed 5 years, as agreed to by the owner or operator of such land and the Secretary.".

SEC. 1217. BID-BACK PROGRAM.

Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) (as amended by section 1216(a)) is further amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may establish and implement a bid-back program to remove the least highly erodible cropland from the conservation reserve established under this chapter if such bid-back program results in an equal or greater total level of erosion reduction at a cost to the Federal Government that is equal to or less than the cost to the Federal Government of maintaining such land in the reserve.".

SEC. 1218. ACCEPTABILITY OF CONTRACTS FOR CONSERVATION RESERVE PROGRAM.

Section 1234(c)(3) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended—

(1) in subparagraph (C), by striking "and" at the end thereof;

(2) in subparagraph (D), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) give priority to offers that would provide for the greatest public benefit;

"(F) take into consideration the potential benefits to wildlife; and

"(G) take into consideration the existence of watersheds experiencing actual and significant adverse water quality or habitat effects related to agricultural production activities, including such environmentally sensitive areas as the basins of the Chesapeake Bay and the Great Lakes, particularly where there are active State programs working to protect such watersheds. In utilizing the authority granted under this subparagraph, the Secretary shall attempt to maximize water quality and habitat benefits in such watersheds by promoting a significant level of enrollment of lands containing watersheds in the program under this chapter by whatever means the Secretary determines appropriate and consistent with the purposes of this chapter.".

SEC. 1219. OWNERSHIP REQUIREMENT.

(a) IN GENERAL.—Section 1235(a) of the Food Security Act of 1985 (16 U.S.C. 3835(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Paragraph (1) shall not apply to highly erodible cropland that is administered on the date of enactment of the Farm Credit Act Amendments of 1987 by—

"(i) an institution of the Farm Credit System under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.);

"(ii) the Secretary under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.); or

"(iii) a private lender.

"(B) Notwithstanding any other provision of law, in the case of any land that is placed in the conservation reserve under this paragraph, the Secretary shall make payments under this chapter only to family farmers who purchase or lease such cropland and who enter into a contract under this chapter.

"(C) If the Secretary receives contract offers for participation in the program established under this chapter from owners or operators who satisfy the requirements of paragraph (1) and family farmers who satisfy the requirements of this paragraph, the Secretary shall give priority to the offers submitted by owners or operators who satisfy the requirements of paragraph (1).

"(D) As used in this paragraph, the term 'family farmer' means an owner or operator (as of the time immediately after such sale or lease) of not larger than a family size farm located in a State, as defined by the Secretary, for farms in the State under the Consolidated Farm and Rural Development Act.".

SEC. 1220. DUTIES OF OWNERS AND OPERATORS.

(a) IMPLEMENTATION OF PLAN AND TREATMENT OF CERTAIN ACREAGE.—

(1) IMPLEMENTATION OF PLAN.—Section 1212(a) of the Food Security Act of 1985 (16 U.S.C. 3812(a)) is amended by adding at the end thereof the following new paragraph:

"(3) With respect to any person who owns or operates highly erodible land that was the subject of a contract entered into under subtitle D, such person shall have until 2 years after the expiration of such contract to comply with a conservation plan established under this subtitle for such land before such person will be subject to program ineligibility with respect to such land under section 1211, if the conservation plan requires structures to be constructed.".

(2) TREATMENT OF CERTAIN ACREAGE.—Section 1231 of such Act (16 U.S.C. 3831) (as amended by section 1213) is further amended by adding at the end thereof the following new subsection:

"(j) On the expiration of a contract entered into under this chapter, the provisions of section 1212 shall apply to the acreage that was the subject of such contract.".

(b) ERODIBILITY REQUIREMENTS.—Section 1232 of such Act (16 U.S.C. 3832) is amended by adding at the end thereof the following new subsection:

"(d) An owner or operator of land that is the subject of a contract entered into under this chapter after the 1990 crop year shall, on the termination or expiration of such contract, be required, with respect to the application of the requirements of subtitle B, to limit the soil erosion of such land to not more than the soil loss tolerance level for the land to assure that there is no net loss of soil on such land after the expiration of the contract, except that the Secretary may specify a different erosion rate for the land if the Secretary determines that it is not feasible to limit soil erosion on such land to such soil loss tolerance level.".

(c) ALLEY-CROPPING.—Section 1232 of such Act (16 U.S.C. 3832) (as amended in subsection (b)) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary may permit agricultural commodities to be produced on land that is subject to contracts entered into under this chapter, if—

"(A) such land is planted to hardwood trees;

"(B) such agricultural commodities will be produced in conjunction with, and in close proximity to, such hardwood trees; and

"(C) the owner or operator of such land agrees to implement appropriate conservation practices concerning such land.

"(2) The Secretary shall develop a bid system by which owners and operators may offer to reduce their annual rental payments in exchange for permission to produce agricultural commodities on such land in accordance with this subsection. The Secretary shall not accept offers under this paragraph that provide for less than a 50 percent reduction in such annual payments.

"(3) The Secretary shall ensure that the total annual rental payments over the term of any contract modified under this subsection are not in excess of that specified in the original contract.".

(d) EFFECT OF FORECLOSURE.—Section 1232 of such Act (16 U.S.C. 3832) (as amended by subsections (b) and (c)) is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, an owner or operator that is a party to a contract entered into under this chapter shall not be required to make repayments to the Secretary of amounts received under such contract if the land that is subject to such contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This subsection shall not void the responsibilities of such an owner or operator under the contract if such owner or operator resumes control over the property that is subject to the contract within the period specified in the contract. Upon the resumption of such control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.".

SEC. 1221. EXPIRATION OF CONSERVATION RESERVE CONTRACTS.

Section 1236 of the Food Security Act of 1985 (16 U.S.C. 3836) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may extend, for such time as the Secretary determines to be appropriate, the protection of crop acreage bases, quotas and allotments on land that is the subject of a contract under this subtitle beyond the period of such contract to the extent that the producer agrees to continue to carry out conservation uses on such land in the same manner as was required under the terms of the contract.".

SEC. 1222. STUDY OF LAND USE FOR EXPIRING CONTRACTS AND EXTENSION OF AUTHORITY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of cropland subject to expiring conservation reserve contracts entered into under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) (prior to the date of enactment of this Act). Such study shall include the consideration of—

(1) the environmental benefits of such lands that remain out of crop production as compared to the economic benefits that would result from returning such lands to production under adequate stewardship and management;

(2) the renewal of the contracts in a manner that allows for certain sustainable economic uses of cropland in return for lower rental payments;

(3) the purchase of permanent easements permitting specified economic uses of cropland subject to the contracts;

(4) the purchase of the cropland subject to the contracts;

(5) the preservation of crop acreage bases associated with cropland subject to the contracts if the owner or operator continues to devote the cropland to conserving uses;

(6) the purchase of crop acreage bases associated with cropland subject to the contracts; and

(7) the expiration of the contracts.

(b) REPORT.—Not later than December 31, 1993, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the results of the study conducted under subsection (a) and recommendations concerning the treatment of lands subject to expiring contracts under subtitle D of title XII of the Food Security Act of 1985, proposed legislation addressing the treatment of such lands, and the projected cost of such treatment.

(c) EXTENSIONS.—During the 1996 through 2000 crop years, the Secretary of Agriculture may—

(1) extend contracts entered into under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831) prior to the date of enactment of this Act; or

(2) purchase long-term or permanent easements as provided for in section 1232A of the Food Security Act of 1985 (as added by section 1214);

at the option of the owner or operator on land that the Secretary has determined under the study conducted under subsection (a) should remain in conserving uses.

SEC. 1223. WETLANDS RESERVE PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 3—WETLANDS RESERVE PROGRAM

"SEC. 1240A. WETLANDS RESERVE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

"(b) NUMBER OF ACRES.—To the extent practicable, the Secretary shall attempt to enter into agreements with owners of eligible lands to place not less than 1,000,000 acres of land in the wetlands reserve during the 1991 through 1995 crop years.

"(c) COUNTY LIMITATION.—The wetland reserve established under this chapter shall be subject to the 25 percent limitation, on land in a county enrolled under the program established under this section, the environmental conservation acreage reserve program, and the conservation stewardship program, contained in section 1230(d).

"(d) ELIGIBILITY.—For purposes of enrolling land in the wetland reserve established under this chapter during the 1991 through 1995 crop years, land shall be eligible to be placed into such reserve if the Secretary, in consultation with the Chief of the Soil Conservation Service and in consultation at the local level with a representative of the Fish and Wildlife Service determines that—

"(1)(A) such land is farmed wetland or converted wetland, including appropriate buffer areas, except that wetlands converted without a commenced determination (under section 1222(a)(1)) after December 23, 1985, shall not be eligible to be enrolled in the program under this section; and

"(B) the wetland value of the farmed wetland or restored wetland, and the likelihood of the successful restoration of the land, merits inclusion of such land in the program taking into consideration the cost of such restoration.

"(e) OTHER ELIGIBLE LAND.—The Secretary may include in the wetland reserve established under this chapter, together with land that is eligible under subsection (d), other wetland of an owner that would not otherwise be eligible if the Secretary determines that the inclusion of such wetland in such easement would add to the functional value of the easement.

"(f) EASEMENTS.—The Secretary shall place lands in the wetland reserve through the purchase of easements as provided for in section 1240B.

"SEC. 1240B. EASEMENTS.

"(a) IN GENERAL.—To be eligible to place land into the wetland reserve under this chapter, the owner of such land shall enter into an agreement with the Secretary to grant an easement on such land to the Secretary.

"(b) TERMS OF EASEMENT.—An easement granted under subsection (a) shall provide for the restoration and protection of the functional values of wetland pursuant to a Wetland Easement Conservation Plan developed by the Soil Conservation Service (hereinafter referred to in this chapter as the 'Plan'), in concurrence with the Secretary of the Interior, and with the approval of the participating landowner, that—

"(1) prohibits—

"(A) the alteration of wildlife habitat and other natural features of such land, unless specifically permitted by the Plan;

"(B) agricultural crop production or harvesting of timber on such land, unless specifically permitted by the Plan;

"(C) the grazing of livestock on such land, unless specifically permitted by the Plan;

"(D) the spraying of such land with chemicals or the mowing of such land, except where such spraying or mowing is necessary—

"(i) to comply with Federal or State noxious weed control laws; or

"(ii) to comply with a Federal or State emergency pest treatment program; and

"(E) any activities to be carried out on land that is immediately adjacent to, and functionally dependent on, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land;

"(2) permits—

"(A) repairs, improvements, and inspections on such land that are necessary to maintain existing public drainage systems if such land is subsequently restored to the condition required by the terms of the easement; and

"(B) the land to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner or operator;

"(3) includes plans for the efficient and effective restoration of the functional values of wetlands;

"(4) permits landowners to control public access on the easement areas while identifying access routes to be used for wetland restoration activities and management and easement monitoring; and

"(5) contains such other terms and conditions as are agreed to by the Secretary and the owner.

"(c) IN GENERAL.—Wetland Reserve Program lands may be used for compatible economic uses, including such activities as hunting and fishing, managed timber harvest, or periodic haying, if such use is specifically permitted by the Plan and consistent with the long-term protection and enhancement of the wetlands resources for which the easement was established.

"(d) TYPE AND LENGTH OF EASEMENT.—A conservation easement granted under this section—

"(1) shall be in a recordable form; and

"(2) may be permanent or may be for a specified duration that is not less than 30 years.

"(e) COMPENSATION.—Compensation for easements acquired by the Secretary under this chapter shall be made in cash in such amount as is agreed to and specified in the easement agreement, but not to exceed the fair market value of the land. Such amount may be determined through the submission of bids under a procedure established by the Secretary. Compensation may be provided in not less than 5 nor more than 20 annual payments of either equal or unequal size, except in the case of a permanent easement, a single lump-sum payment may be provided, as agreed on by the owner and the Secretary.

"(f) EASEMENT PRIORITY.—In carrying out this chapter, to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent conservation easements before shorter term conservation easements.

"SEC. 1240C. DUTIES OF OWNERS.

"Under the terms of an agreement entered into under this chapter, an owner and operator of the land that is subject to an easement under this chapter shall agree to comply with the terms of the easement.

"SEC. 1240D. DUTIES OF THE SECRETARY.

"(a) COMPENSATION.—In return for an easement granted to the Secretary by an owner under this chapter, the Secretary shall compensate such owner in an amount determined in accordance with section 1240B(d), and shall share the cost of restoring the functional values of such wetland with such owner.

"(b) COST SHARE ASSISTANCE.—In making cost share payments to owners or operators under this chapter, the Secretary shall pay the owner an amount that is not less than 50 percent nor more than 75 percent with respect to a 30-year easement, nor more than 100 percent with respect to a permanent easement, of the cost of—

"(1) restoring the eligible lands that are placed into the wetland reserve to their original state as wetlands;

"(2) protecting the eligible lands that are placed into the wetland reserve to enable such lands to remain as wetlands; and

"(3) complying with the conservation plan developed by the Soil Conservation Service in concurrence with the Fish and Wildlife Service concerning the restoration of such land.

"SEC. 1240E. ADMINISTRATION, AND FUNDING.

"(a) USE OF THE COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this chapter, except that the Secretary may not use funds of the Corporation for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this chapter.

"(b) DELEGATION OF EASEMENT ADMINISTRATION.—The Secretary may delegate any of the easement management, monitoring, and enforcement responsibilities of the Secretary to Federal or State agencies that have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities.

"(c) REGULATIONS.—Not later than 180 days after the date of enactment of this chapter, the Secretary shall issue such regulations as are necessary to carry out this chapter.

"SEC. 1240F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this chapter.".

SEC. 1224. AGRICULTURAL WATER QUALITY INCENTIVES.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) (as amended by section 1223) is further amended by adding at the end thereof the following new chapter:

"CHAPTER 4—AGRICULTURAL WATER QUALITY INCENTIVES

"SEC. 1240I. ESTABLISHMENT OF WATER QUALITY INCENTIVES PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish and implement a program to be known as the 'Agricultural Water Quality Incentive Program' to encourage owners and operators of eligible agricultural land to implement, improve and maintain agricultural production practices on such land that are designed to achieve major reductions in the potential for contamination or degradation of surface water or ground water as a consequence of agricultural production on such land, with emphasis given to practices that enhance farm profitability and productivity.

"(b) ELIGIBLE LAND.—Land shall be eligible to be placed into the water quality incentives program established under this chapter if agricultural production on such land, due to the characteristics, location, or other factors of such land, could contribute to the potential for degradation of the quality of surface and ground water, as determined by the Secretary, including cropland areas—

"(1) that are not more than 1,000 feet from a public well;

"(2) that are in shallow Karst topography areas where sinkholes convey runoff water directly into ground water;

"(3) that are considered to be critical cropland areas within hydrologic units identified in a plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as having priority problems that result from agricultural nonpoint sources; and

"(4) where agricultural nonpoint sources have been determined to pose a significant threat to habitat utilized by threatened and endangered species.

"(c) FARM WATER QUALITY MANAGEMENT PLANS.—An owner or operator participating in the program established under this chapter shall develop and implement a Farm Water Quality Management Plan that shall contain specific goals and objectives that will ensure that a major reduction is achieved in the potential for contamination or degradation of surface water or ground water by sediment, fertilizers and other crop nutrients, agricultural chemicals, salts, animal wastes or other pollutants associated with agricultural production on eligible land that is subject to a contract under this chapter.

"(d) TECHNICAL ASSISTANCE.—The Soil Conservation Service, the Extension Service, and, where determined appropriate by the Secretary, private agricultural consultants shall provide technical assistance for the development and implementation of Farm Water Quality Management Plans under subsection (c).

"(e) INCENTIVE PAYMENTS.—The Secretary shall provide incentive payments to owners and operators under section 1240K for the implementation, improvement and maintenance of agricultural production practices in accordance with the approved Farm Water Quality Management Plan of the owner or operator.

"(f) ACREAGE.—The Secretary shall attempt to place acreage into the water quality incentives program established under this chapter in an amount sufficient to enable the Secretary to achieve an improvement in the quality of ground or surface water.

"SEC. 1240J. CONTRACTS.

"(a) REQUIREMENT.—The Secretary shall enter into contracts with owners and operators of eligible land to place acreage in the program established under this chapter.

"(b) GENERAL TERMS.—Contracts entered into under this section shall—

"(1) incorporate the Farm Water Quality Management Plan prepared by the owner or operator under section 1240I(c) and approved by the Soil Conservation Service;

"(2) specifically describe the agricultural production practices that will be implemented, improved and maintained, as well as any practices that are to be avoided, in order to carry out and achieve the goals and objectives that are described in the Farm Water Quality Management Plan prepared for the farm;

"(3) provide for the use by the owner or operator, to the maximum extent possible and consistent with ensuring that major reductions are achieved in the potential for contamination or degradation of surface water or ground water, of agricultural production practices that enhance farm profitability and productivity through reducing waste and inefficiency in the management and use of fertilizers and crop nutrients, animal waste and other organic materials, and agricultural chemicals;

"(4) establish a schedule of deadlines for the implementation, improvement, or other modification of agricultural production practices as described under paragraph (2);

"(5) establish a schedule for the performance of the maintenance activities described under paragraph (2);

"(6) specify performance standards that shall enable the parties to the contract to determine whether the owner or operator is performing satisfactorily under the contract; and

"(7) specify the obligations of the Secretary under the program established under this chapter.

"(c) TERM OF CONTRACT.—A contract entered into under this chapter with an owner or operator shall require such owner or operator to continue and maintain any practice for which an incentive payment is made under section 1240K for a period of not less than 5 crop years.

"(d) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—To remain eligible for incentive payments under section 1240K, an owner or operator shall—

"(A) continue to implement, improve or maintain practices as required in the contract entered into under this section, and continue to avoid using any practices prohibited in such contract, for the period described in subsection (c); and

"(B) remain in compliance with the other conservation provisions of this title.

"(2) REFUNDS.—An owner or operator that does not comply with the requirements of paragraph (1) shall be liable to the Secretary for a refund of any incentive payments received under section 1240K concerning the contract to which the noncompliance applies, plus interest.

"(e) REVISIONS.—An owner or operator may obtain a revision of the contract entered into under this section on such terms as the Secretary determines to be reasonable if—

"(1) natural causes prevent the implementation, improvement or maintenance of practices as required under such contract;

"(2) such contract no longer accurately reflects the production patterns or circumstances pertaining to the farm;

"(3) the contract cannot be carried out without economic losses that threaten the viability of the farming operation; or

"(4) the owner or operator and the Secretary agree on contract modifications that will not compromise the water quality goals and objectives in the existing contract and that will be no less effective or timely in achieving such goals and objectives than the existing contract.

"SEC. 1240K. INCENTIVE PAYMENTS.

"(a) IN GENERAL.—A contract entered into under the program established under this chapter shall provide for annual incentive payments to be made by the Secretary to the owner or operator of land subject to a contract under this chapter on a per acre basis in amounts sufficient to encourage participation in the program in sufficient numbers to achieve the acreage levels described in section 1240I(f).

"(b) TERMS, AMOUNTS, LIMITATION, MANNER.—

"(1) TERMS.—Payments shall be made under this section for a period of not less than 3 nor more than 5 years, as determined appropriate by the Secretary, and as specified in the contract entered into under the program established under this chapter.

"(2) AMOUNTS.—In determining the amount and number of payments to be made to an owner or operator under this section, the Secretary shall consider the cost and effort involved in implementing, improving and maintaining the practices for which incentive payments are made.

"(3) LIMITATION.—Payments to an owner or operator under this section shall not exceed $3,500 for any crop year. Payments under this section shall not be subject to, or considered in applying, limitations on payments under any other program administered by the Secretary, except that incen-

tive payments for a practice or practices shall not be made under this section if payments or assistance is provided for such practice or practices under any other Federal program.

"(4) MANNER.—The Secretary may make a lump sum payment to an owner or operator of the annual incentive payments required under a contract entered into under this chapter, as reduced to present value, if such lump sum payment is necessary to enable the producer to pay the initial costs of implementing a practice required under such contract.

"SEC. 1240L. ADMINISTRATION.

"(a) ACCEPTABILITY OF CONTRACT OFFERS.—In determining the acceptability of contract offers under this chapter, the Secretary shall—

"(1) consider the degree of reductions in the potential for contamination or degradation of surface or ground water to be achieved on the land to be subject to the contract;

"(2) give priority to an area within a State that is determined, under a designation established by a State (or Federal program if no State program exists) water quality program or classification system developed on the basis of an analysis of the geological or hydrological criteria, cropping patterns, and other relevant factors of the area, and in consultation with the Administrator of the Environmental Protection Agency and State officials having responsibility for monitoring and protecting water quality, to be land on which agricultural production creates the potential for contamination or degradation of surface water or ground water; and

"(3) give priority to offers that would provide for the greatest public benefit.

"(b) INFORMATION AND ASSISTANCE.—The Secretary shall, at the request of a producer, provide information and assistance to such producer concerning the resource, economic, and environmental effects of implementing the Farm Water Quality Management Plans under this chapter.

"(c) NATIONAL DATABASE.—The Secretary shall collect and maintain data on a national and State-by-State basis concerning the resource, economic, and environmental consequences of the water quality management plans selected by producers.

"SEC. 1240M. DEMONSTRATION AND PILOT PROGRAMS.

"(a) DEMONSTRATION AND MODEL FARM PROGRAMS.—To the extent practicable and consistent with the requirements of the program established under this chapter and the priority described in section 1240L, the Secretary shall enter into contracts under this chapter with owners and operators to facilitate the participation by such owners or operators in demonstration or model farm programs that are sponsored by governmental or private non-profit entities and are designed to provide education on, disseminate information about, and demonstrate the practical application of agricultural production practices that reduce the potential for contamination or degradation of surface water or ground water while emphasizing practices that enhance profitability and productivity.

"(b) PILOT PROGRAMS.—To complement and enhance the effectiveness of the program established under this chapter, the Secretary may estabiish pilot programs, for implementation in areas determined to be priority areas under section 1240L, that shall be designed to provide assistance to address a wide range of farming operations and production conditions that enhance the efficient use of farm inputs and reduce waste.".

SEC. 1225. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CHANGE IN PROGRAM NAME.—Title XII of the Food Security Act of 1985 is amended—

(1) in section 1201 (16 U.S.C. 3801), by adding at the end thereof the following new subsection:

"(c) The term 'conservation reserve program' as used in this or any other Act shall be considered to mean the environmental conservation acreage program established under subtitle D.";

(2) in the heading for section 1231 (16 U.S.C. 3831) by striking "Conservation Reserve" and inserting "Environmental Conservation Acreage Reserve Program"; and

(3) in section 1231 (16 U.S.C. 3831), by striking "conservation reserve program" each place that such occurs and inserting "environmental conservation acreage reserve program".

(b) FOOD SECURITY ACT.—Subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) as such subtitle existed prior to the date of enactment of this Act, is amended by striking "subtitle" each place that such occurs (other than in the subtitle designation) and inserting "chapter 2 of subtitle D".

Subtitle B—Amendments to Title XII of the Food Security Act of 1985

SEC. 1231. DEFINITION OF AGRICULTURAL COMMODITY.

Section 1201(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(1)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) any agricultural commodity planted (or considered planted under an acreage reduction program authorized by title I of the Agricultural Act of 1949) and produced in a State by annual tilling of the soil, including tilling by one-trip planters; or".

SEC. 1232. HIGHLY ERODIBLE LAND.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by adding at the end thereof the following new subsection:

"(d) If a tenant is determined to be ineligible for payments and other benefits under section 1211, the Secretary may limit such ineligibility only to the farm which is the basis for such ineligibility determination if—

"(1) the tenant has established to the satisfaction of the County Committee that—

"(A) the tenant has made a good faith effort to meet the requirements of section 1212, including gaining the assistance of the Secretary to obtain a reasonable conservation compliance plan for such farm; and

"(B) the landlord refuses to comply with such plan on such farm; and

"(2) the County Committee determines that such lack of compliance is not a part of a scheme or device to avoid such compliance.

The county committee shall provide an annual report to the Secretary concerning the ineligibility determinations affected during the previous 12-month period by this subsection.".

SEC. 1233. HIGHLY ERODIBLE LAND CONSERVATION.

(a) IN GENERAL.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by section 1232) is further amended by adding at the end thereof the following new subsections:

"(e) The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information concerning all cost effective and applicable erosion control measures that may be available to such individual to meet the requirements of this section.".

(b) INFORMATION CONCERNING FLEXIBILITY.—Section 1212 of such Act (16 U.S.C. 3832) (as amended in subsection (a)) is further amended by adding at the end thereof the following new subsection:

"(f) The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of sections 1001, 1213, 1271, 1274, and 1303 of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendment made by such sections).".

SEC. 1234. NON-COMMERCIAL PRODUCTION OF AGRICULTURAL COMMODITIES.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by sections 1231 and 1232) is further amended by adding at the end thereof the following new subsection:

"(g) Section 1211 shall not apply to the non-commercial production of agricultural commodities on a farm if such production is limited to two acres or less.".

SEC. 1235. GRADUATED SANCTIONS FOR CONVERSION OF HIGHLY ERODIBLE LAND.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by sections 1232, 1233, and 1234) is further amended by adding at the end thereof the following new subsection:

"(h)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems and conservation treatment measures and schedules prepared under subsections (a)(2) or (b)(3), if the Secretary determines that—

"(A) such person has not violated the provisions of section 1211 more than one time (excluding any violation of a minor and technical nature under paragraph (3)) in any 10-year period on a farm; and

"(B) such person acted in good faith and without an intent to violate the provisions of this subtitle.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1211 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than $750 nor more than $10,000 (depending on the seriousness of the violation as determined by the Secretary), program benefits described in section 1211, that such producer would otherwise be eligible to receive in a crop year.

"(3) Notwithstanding any other provision of this subtitle, if the Secretary determines that a violation of section 1211 is technical and minor in nature and that such violation has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which such violation has occurred, the ineligibility provisions of section 1211 shall not apply to the owner or operator of such land.

"(4) Any person whose benefits are reduced in any one crop year under this subsection shall continue to be eligible for the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying conservation plans prepared under subsections (a)(2) or (b)(3), according to the schedule set forth in such plan.".

SEC. 1236. OUTREACH TO SOCIALLY DISADVANTAGED FARMERS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended—

(1) by redesignating section 1245 as section 1248; and

(2) by inserting after section 1244, the following new section:

"SEC. 1245. OUTREACH TO SOCIALLY DISADVANTAGED FARMERS.

"(a) OUTREACH AND ASSISTANCE.—The Secretary, acting through the Office of Advocacy and Enterprise, shall provide outreach and technical assistance to encourage and assist farmers who meet the socially disadvantaged criteria described in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to participate in all of the programs established under this title.

"(b) GRANTS AND AGREEMENTS.—The Secretary and the Director of the Office of Advocacy and Enterprise may make grants and enter into contracts, and other agreements with 1890 colleges, traditionally minority community colleges, and community based organizations with demonstrated experience in providing education and other services to family farmers to carry out the purposes of this section.

"(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Director of the Office of Advocacy and Enterprise shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report, on a State-by-State basis and county-by-county basis, concerning the rate of minority participation in each program established under this title. Such report shall compare the actual application rates, acceptance rates and participation rates with target participation rates for programs that were established by the Secretary pursuant to section 35(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), on a State-by-State and county-by-county basis.".

SEC. 1237. PROGRAMS TO CONTROL THE SPREAD OF WEEDS AND PESTS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) (as amended by section 1236) is further amended by inserting after section 1245 the following new section:

"SEC. 1246. PROGRAMS TO CONTROL THE SPREAD OF WEEDS AND PESTS.

"(a) IN GENERAL.—The Secretary, in consultation with State experiment stations, the Administrator of the Extension Service, the Chief of the Soil Conservation Service, and State pest and weed control boards, shall make available to owners and operators of land that is subject to a contract under subtitle D, weed and pest control technical guides that address common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the environmental conservation acreage reserve program.

"(b) EFFECTIVE CONTROL ON NEW CONTRACTS.—If the Secretary determines that effective control of weeds is not achieved as a result of the failure of the owner or operator to follow the recommendations in the weed control technical guides provided under subsection (a), on acreage enrolled in the environmental conservation acreage reserve program under chapter 2 of subtitle D after the date of enactment of this section, and following review by the Administrator of the Agricultural Stabilization and Conservation Service, local committees, State and local weed and pest control boards, or other agencies responsible for implementing such environmental conservation reserve acreage program or local weed and pest laws, the owner or operator of the acreage that is subject to the contract under such chapter shall be subject to a reduction in annual payments made available under section 1234, as determined by the Secretary, for failing to control weeds enrolled in such program. Such reduction in payments shall be based on the entire acreage that such owner or operator has enrolled in such program.

"(c) EFFECTIVE CONTROL ON EXISTING CONTRACTS.—(1) Not later than 180 days after enactment of the Food, Agriculture, Conservation, and Trade Act of 1990, the Secretary of Agriculture shall identify the land already enrolled in the environmental conservation acreage reserve program under chapter 2 of subtitle D which is most likely to incur a crop pest infestation that adversely impacts surrounding commercial farm land.

"(2) Notwithstanding the requirements of subtitle D, immediately after complying with paragraph (1) the Secretary of Agriculture may—

"(A) offer to the owners or operators who hold contracts for land identified under paragraph (1) the following terms for renegotiation of those contracts:

"(i) continuation of the contract unaltered except that the responsibility for controlling crop pests on contracted lands as necessary to prevent adverse economic damage to surrounding farm land shall be assumed by the contract holder, or

"(ii) termination of the contract with no further annual rental payment, and with a penalty not to exceed 100 percent of the cost-sharing payment made pursuant to subsection 1234(a), as determined by the Secretary of Agriculture; or

"(B) establish any other procedures to control such pest infestations on such lands. Upon establishing such terms or procedures, the Secretary may specify a period of time, not to exceed three months, in which an owner or operator must notify the Secretary of which terms or procedures will be accepted.

"(3) An owner or operator offered renegotiation terms pursuant to paragraph (2) who notifies the Secretary of Agriculture of acceptance of the terms of subparagraph (2)(A)(i), shall receive an increased annual rental payment as determined by the Secretary to be fair and equitable.

"(4) At the Secretary's discretion, the control of insect pests on acreage identified in paragraph (1) to avoid adversely impacting surrounding commercial farmland may be considered a conservation measure or practice for the purposes of subsection 1234(b).".

SEC. 1238. COMPREHENSIVE REPORT.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by section 1237) is further amended by adding after section 1246 the following new section:

"SEC. 1247. COMPREHENSIVE REPORT.

"(a) IN GENERAL.—Not later than December 31, 1992, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (c), the programs and policies established and operated under this title.

"(b) CONSULTATIONS.—The report required under subsection (a) shall be developed, where appropriate, in cooperation with the Fish and Wildlife Service, other Federal agencies, and such State agencies or officials as the chief executive officer of each State may designate for this purpose.

"(c) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) require the Soil Conservation Service to assess the progress made toward the national objective of protection of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend means to overcome such obstacles;

"(2) require the Soil Conservation Service, in consultation with the Agricultural Research Service, and using the best available techniques for estimating average annual erosion rates in the field, to perform on-site evaluations of conservation practices on highly erodible lands, on-site estimates of erosion reductions that may result from the implementation of conservation plans, and to assess the technical adequacy and feasibility of such plans;

"(3) require the Soil Conservation Service, in cooperation with the Fish and Wildlife Service, to assess the contribution toward the national objectives of wetlands preservation, wildlife and waterfowl habitat improvement, and water quality improvement through the implementation of the relevant provisions of this title, identify obstacles to furthering progress toward such objectives, and recommend manners in which to overcome such obstacles; and

"(4) collect data concerning the social and economic impacts, violations and appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title.

"(d) COMPLIANCE MONITORING.—

"(1) PROCEDURES.—The Secretary shall develop and implement procedures for monitoring the compliance of producers and others with the provisions of this title at the local level. Such procedures shall include annual spotchecks of not less than 5 percent of all affected acreage.

"(2) REPORT.—Beginning on December 31, 1991, the Secretary shall prepare an annual report that shall contain a summary of the results of the monitoring conducted under paragraph (1), and include information concerning the adequacy of conservation plans and practices implemented under this title, the impact of such plans and practices on soil erosion, the number and nature of violations of such plans and appeals, and other matters that may be necessary to monitor the implementation of this title.

"(3) SPECIAL REVIEW.—Based on the information contained in the report under paragraph (2), the Secretary may designate for special review any areas or soil types for which the national objective of adequate protection of soil resources is likely to prove difficult to attain under existing conservation plans.

"(4) NOTICE.—The Secretary shall provide notice to all persons whose conservation plans are being monitored of the results of

such monitoring, and provide such persons with information regarding erosion rates, the adequacy of conservation practices, or the designation of special review status.

"(5) SUBMISSION.—The Secretary may develop and implement the procedures required under paragraph (1) in conjunction with the preparation by the Secretary of the report required under subsection (a). The report required under paragraph (2) shall be submitted together with the report required under subsection (a) on December 31, 1992.".

Subtitle C—Farmland Protection Policy Act

SEC. 1241. IDENTIFYING THE EFFECTS OF FEDERAL PROGRAMS.

Section 1541(b) of the Farmland Protection Policy Act (7 U.S.C. 4202(b)) is amended by inserting ", to identify the quantity of farmland actually converted by Federal programs, and" after "of this section,".

Subtitle D—Watershed Protection and Flood Prevention Act

SEC. 1251. RELATION OF BENEFITS TO AGRICULTURE.

The Watershed Protection and Flood Prevention Act of 1954 is amended—

(1) in the third sentence of section 2 (16 U.S.C. 1002)—

(A) by striking "Each such project" and all that follows through "1987," and inserting "Each project"; and

(B) by inserting after "agriculture" the following: ", including upstream rural communities,"; and

(2) in section 4(1) (16 U.S.C. 1004) by striking "land, easements, or rights-of-way" each time such appears and inserting "lands, easements, rights-of-way, and dredged material disposal areas".

SEC. 1252. COST-SHARE ASSISTANCE.

The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) is amended by inserting after section 3 the following new section:

"SEC. 3A. COST-SHARE ASSISTANCE.

"(a) EASEMENTS.—

"(1) IN GENERAL.—The Secretary may provide cost-share assistance to project sponsors to enable such sponsors to acquire perpetual wetland or floodplain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and floodplains to retain excessive floodwaters, improve water quality and quantity, and to provide habitat for fish and wildlife.

"(2) AMOUNT.—The Secretary shall require that project sponsors of watershed projects provide up to 50 percent of the cost of acquiring easements under paragraph (1).".

SEC. 1253. CONDITIONS FOR ASSISTANCE.

Section 4 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1004) is amended—

(1) in paragraph (2)(B), by striking "except that any part of the construction cost" and inserting "except that up to 100 percent of the construction cost"; and

(2) in paragraph (3), by inserting before the semicolon ", except that the local organization shall agree to provide 100 percent of the operation and maintenance costs of such projects".

SEC. 1254. DATA.

The Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 13. DATA.

"The Secretary shall collect and maintain data on a national and State by State basis concerning—

"(1) expenditures for the individual flood control and conservation measures that receiving assistance under this Act; and

"(2) the expected flood control or environmental (including soil erosion) benefits that will result from the implementation of such measures.".

Subtitle E—Farmland Protection

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "Farms for the Future Act of 1990".

SEC. 1262. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) States, local governments and private nonprofit organizations have exercised leadership in conserving the agricultural land resources of the United States by acquiring interests in land to protect and preserve important farmlands for future agricultural use;

(2) the conversion of agricultural land resources to nonagricultural uses is occurring at such a rapid rate in some States that efforts to conserve these resources must be dramatically increased to assure the long-term viability of agricultural production in these States;

(3) as declared in the Farmland Protection Policy Act (7 U.S.C. 4201, et seq.), there is a national interest in maintaining the viability of agriculture in all States and, hence, the Federal Government has an appropriate role to play in conserving agricultural lands; and

(4) the establishment of a Federal program to help finance demonstration projects designed to protect and preserve farmland will help improve and increase agricultural resource conservation efforts by States, local governments and private nonprofit organizations.

(b) PURPOSE.—It is the purpose of this subtitle to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

SEC. 1263. DEFINITIONS.

As used in this subtitle:

(1) ALLOWABLE INTEREST RATE.—The term "allowable interest rate" refers to an interest rate which shall be the current average rate of interest that each State pays on 10-year notes or other similar obligations of the State, or a comparable interest rate as determined by the Secretary.

(2) ELIGIBLE LOAN.—The term "eligible loan" means the 10-year loans made by lending institutions to State trust funds to further the purposes of this subtitle. No principal payments shall be due on such eligible loans for the first 10 years after such loan is made and the principal amount shall be paid by the State trust fund at the end of the 10th year. For each such eligible loan, each State trust fund shall be entitled to receive an interest rate subsidy from the Secretary as set forth in section 1264(b).

(3) ELIGIBLE STATE.—The term "eligible State" means any State that on or before August 1, 1991—

(A) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

(B) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

(4) LENDING INSTITUTION.—The term "lending institution" means any Federal or State chartered bank, savings and loan associations, cooperative lending agencies, or other legally organized lending agencies.

(5) PROGRAM.—The term "program" means the farmland preservation program established under this subtitle to be known as the "Agricultural Resource Conservation Demonstration Program".

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STATE.—The term "State" means any State of the United States, Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(8) STATE TRUST FUND.—The term "State trust fund" means a trust fund or an account established by an eligible State, approved to participate by the Secretary in the program, in which Federal funds received under this subtitle are deposited for use by such trust fund.

SEC. 1264. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) PURPOSE.—The Secretary, acting through the Farmers Home Administration, shall establish and implement a program, to be known as the "Agricultural Resource Conservation Demonstration Program", to provide Federal guarantees and interest rate assistance for loans made by lending institutions to State trust funds.

(2) ASSISTANCE.—Under the program, the Secretary shall guarantee the timely payment of the principal amount and interest due on eligible loans made by lending institutions to State trust funds and shall subsidize the interest on such loans at the allowable interest rate for the first 5 years after such loan is made, and at no less than three percentage points for the second 5 years under procedures described in subsection (b). Each State trust fund shall pay the rate of interest, and the principal at the end of the 10th year, as provided for in the loan agreement regarding each eligible loan.

(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

(1) fully insure or guarantee each eligible loan made by lending institutions to each State trust fund under regulations promulgated by the Secretary;

(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under procedures developed by the Secretary, during each of the first 5 years after the date on which each such loan is made; and

(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each loan the State trust fund receives from any given lending institution, as determined under procedures issued by the Secretary.

(c) FUNDING PROVIDED BY THE SECRETARY OF THE TREASURY.—The Secretary of Agriculture is required to make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining Funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this subtitle. Such stock shall

not pay dividends and shall not be redeemable.

(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify, in writing, the Secretary of the Treasury each time an application of an eligible State is approved by the Secretary under this subtitle. The Secretary of the Treasury shall purchase stock offered by the Secretary under subsection (c) on the day offered and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer this program.

(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in section (b).

(f) REGULATIONS.—The Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

(1) the application procedures for eligible States;

(2) the factors to be used in approving applicants;

(3) procedures for the prompt payment of the obligations of the Secretary under section (b);

(4) recordkeeping requirements for approved State trust funds;

(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this subtitle; and

(7) any other rules necessary and appropriate to carry out this program.

SEC. 1265. FEDERAL ACCOUNTS.

To carry out the purposes of this subtitle, the Secretary may establish in the Treasury of the United States an account, to be known as the "Agricultural Resource Conservation Revolving Fund" (hereinafter referred to in this subtitle as the "Fund"), for the use by the Secretary to meet the obligations of the Secretary under this subtitle.

SEC. 1266. APPLICATIONS.

In applying for assistance under this subtitle an eligible State shall—

(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

(2) agree that the State trust fund will use any Funds provided by the Secretary under this subtitle in a manner which is consistent with the subtitle and the regulations promulgated by the Secretary; and

(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

SEC. 1267. ADMINISTRATION.

(a) ANNUAL APPLICATIONS.—Eligible States may apply for Federal assistance under this subtitle on an annual basis.

(b) MATCH AND MAXIMUM AMOUNT.—The total amount of any guarantees provided by the Secretary under this program shall not exceed an amount that is equal to double the amount that each eligible State shall make available for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

SEC. 1268. REPORT.

Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this subtitle.

SEC. 1269. DURATION OF PROGRAM.

The program established under this subtitle shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this subtitle.

SEC. 1270. IMPLEMENTATION AND EFFECTIVE DATE.

Not later than 180 days after the date of enactment of this subtitle, the Secretary shall promulgate final regulations to implement this subtitle. This subtitle shall become effective on October 1, 1990.

Subtitle F—Noxious Weed Management

SEC. 1271. SHORT TITLE.

This subtitle may be cited as the "Noxious Weed Management Act of 1990".

SEC. 1272. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) noxious weeds and undesirable plants are—

(A) contaminating Federal, State, and private lands by taking over and encroaching on desirable plant species;

(B) degrading air, land, and water resources by increasing soil erosion and decreasing native ground cover;

(C) spreading on Federal, State, and private lands;

(D) causing wildlife habitats to be degraded to the detriment of wildlife populations;

(E) causing human health hazards through the spread of pollen, insects, and disease;

(F) costing farmers and ranchers millions of dollars in lost crops and range land; and

(G) displacing the native vegetation in the area that such weeds are present and thus having a considerable impact on domestic animals and wildlife foraging in such areas;

(2) unless noxious weeds and undesirable plants are prevented, controlled, or contained, they will—

(A) increase expotentially, causing further contamination and deterioration of wildlife habitat, recreational resources, and aesthetic values;

(B) increase soil, water, and contamination hazards;

(C) have a detrimental effect on human health; and

(D) further eliminate native species of vegetation;

(3) even though there are numerous laws addressing the stewardship and management of Federal lands, those laws do not directly or effectively deal with the management of noxious weeds and undesirable plants on Federal lands;

(4) the total eradication of noxious weeds is impossible, therefore resources should be used to develop measures that will decrease the number of noxious weeds and undesirable plants to an acceptable level;

(5) concerns about reducing ground water contamination and environmental impact argue in favor of a more ecologically sound approach to resolving noxious weed problems;

(6) in order to control and manage noxious weeds and undesirable plants, the focus must be on an integrated management plan; and

(7) comprehensive, national noxious weed management will—

(A) protect the environment by preventing the degradation of air, land, and water resources, and reduce soil erosion through the prevention of the introduction and containing the spread of noxious weeds and undesirable plants on Federal lands;

(B) improve the protection of recreation uses and aesthetic values on Federal lands by reducing the risk of the transfer of noxious weeds and undesirable plants from one area to another;

(C) improve the habitat for wildlife and domestic animals on Federal lands by reducing the spread of undesirable plants that are detrimental to desirable vegetation;

(D) protect threatened and endangered species listed as such under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) by reducing the infestation of noxious weeds and undesirable plants in protected ecosystems;

(E) provide for the management, development, and enhancement of Federal lands by protecting those lands from the continuing spread of noxious weeds and undesirable plants; and

(F) promote coordination, control, and educational efforts at the regional, State, and local level.

(b) PURPOSE.—It is the purpose of this subtitle to—

(1) establish and implement a national comprehensive management program to prevent and control undesirable plant species on Federal lands and maintain practices that achieve the control of noxious weeds on such lands; and

(2) establish and implement a national noxious weed management coordination program.

SEC. 1273. DEFINITIONS.

As used in this subtitle:

(1) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means a written agreement between a Federal and a State agency.

(2) EXOTIC PLANT.—The term "exotic plant" means a plant species that—

(A) is not indigenous to the United States nor native to the plant community in which it is found; and

(B) may possess one or more of the following—

(i) it aggressively invades or is detrimental to native plant communities or crops;

(ii) it is poisonous to livestock;

(iii) it is of little economic value;

(iv) it colonizes disturbed habitats;

(v) it is a carrier of detrimental insects, diseases, or parasites;

(vi) its presence is detrimental to sound management of native or agricultural ecosystems; and

(vii) it threatens fish, wildlife, or endangered species.

(3) FEDERAL AGENCY.—The term "Federal agency" means a department, agency, or bureau of the Federal Government that is responsible for administering or managing Federal lands under its jurisdiction.

(4) FEDERAL LANDS.—The term "Federal lands" means lands managed by or under the jurisdiction of the Federal Government, except those lands on which the activities authorized under this subtitle are precluded by Federal law.

(5) INTEGRATED MANAGEMENT SYSTEM.—The term "integrated management system" means a system for the planning and imple-

mentation of a program using an interdisciplinary approach to select methods for preventing, controlling, or containing undesirable plants through the use of all judicious and environmentally safe methods, including—

(A) education;

(B) preventive measures;

(C) physical or mechanical methods;

(D) biological agents;

(E) herbicide methods;

(F) cultural methods; and

(G) general land management practices, such as manipulation of livestock or wildlife grazing strategies or improving wildlife or livestock habitats.

(6) INTERDISCIPLINARY APPROACH.—The term "interdisciplinary approach" means an approach to making decisions regarding the prevention, containment, or control of noxious weeds and undesirable plants that—

(A) includes the participation of personnel from Federal or State administrative agencies with experience in areas including weed science, range science, wildlife biology, land management, ecology, and forestry; and

(B) includes the consideration of—

(i) the most efficient and effective methods of preventing, containing, or controlling undesirable plants to achieve optimum management with the least possible environmental damage;

(ii) scientific evidence and current technology;

(iii) the physiology and habitat of a plant species; and

(iv) the economic, social, and ecological consequences of implementing the programs established under this subtitle.

(7) NOXIOUS PLANT.—The term "noxious plant" has the same meaning given the term "noxious weed" under section 3(c) of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802(c)) and includes all noxious plant species listed on the Federal or State noxious weed list.

(8) STATE AGENCY.—The term "State agency" means the State Department of Agriculture, or any political subdivision thereof, or other appropriate State agency or political subdivision thereof as designated by the chief executive officer.

(9) UNDESIRABLE PLANT SPECIES.—The term "undesirable plant species" means plant species that is classified as undesirable, noxious, exotic, injurious, or poisonous, pursuant to State or Federal law. A designation of undesirable plants under this section shall be limited by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and shall not include plants indigenous to an area where control measures are to be taken under this section.

CHAPTER 1—NATIONAL UNDESIRABLE PLANT MANAGEMENT PROGRAM

SEC. 1274. MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LAND.

Each Federal agency shall—

(1) designate a specific office, and an individual who is adequately trained in the management of undesirable plant species, to develop and coordinate a program for the management of undesirable plant species on Federal lands that are under the jurisdiction of that agency;

(2) establish a program to manage undesirable plant species on a continuing basis;

(3) enter into and implement cooperative agreements with State and local agencies, when appropriate, regarding the management of undesirable plant species on Federal lands that are under the jurisdiction of that agency;

(4) establish integrated management systems using an interdisciplinary approach to prevent, control, or contain undesirable plant species targeted under cooperative agreements entered into under paragraph (3); and

(5) complete an environmental assessment or environmental impact statement that may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and implement the plant prevention, control, or containment activities under this section not later than 1 year after the date on which the agency ascertains that the preparation of such assessment or statement is necessary.

SEC. 1275. COOPERATIVE AGREEMENTS WITH STATE AGENCIES.

(a) IN GENERAL.—A Federal agency shall, where appropriate, enter into cooperative agreements under section 1274(3), when requested by State and local agencies, to coordinate the management of undesirable plant species on Federal lands under the jurisdiction of that Federal agency.

(b) CONTENTS.—A cooperative agreement entered into under subsection (a) shall—

(1) prioritize and target undesirable plant species to be prevented, controlled, or contained within a specific geographic area;

(2) describe an integrated management system to be used to prevent, control, or contain the targeted undesirable plant species; and

(3) detail the means of implementing such an integrated management systems, define the duties of the Federal and State agency in implementing such systems, and establish a time frame for the initiation and completion of the tasks specified in such integrated management systems.

CHAPTER 2—NATIONAL NOXIOUS WEED MANAGEMENT COORDINATION PROGRAM

SEC. 1276. NOXIOUS WEED MANAGEMENT COORDINATION PROGRAM.

(a) NATIONAL NOXIOUS WEED MANAGEMENT COUNCIL.—

(1) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior shall jointly establish a National Noxious Weed Management Council that shall take such actions as may be necessary to coordinate the national control, research, and educational efforts associated with Federal, State, and locally designated noxious weeds.

(2) REGIONAL COMMISSIONS.—

(A) AUTHORITY.—The National Noxious Weed Management Council is authorized to establish such regional commissions as may be necessary to assist the Council in carrying out this subtitle.

(B) COMPOSITION.—A regional commission established under subparagraph (A) shall be composed of—

(i) two regional representatives of the Department of Agriculture;

(ii) two regional representatives of the Department of the Interior;

(iii) one regional representative of the Army Corps of Engineers; and

(iv) not more than seven representatives of State and local governments involved in weed management activities, including representatives for agriculture, wildlife management, and health.

(C) DUTIES.—A regional commission established under subparagraph (A) shall—

(i) identify regional priorities with respect to noxious weed management;

(ii) make recommendations to the National Noxious Weed Management Council concerning noxious weed management;

(iii) coordinate noxious weed management using an interdisciplinary approach, regional research, training, technical assistance, and requests for funding;

(iv) assist in the development of regional technical guides for noxious weed management; and

(v) prepare and submit, on not less than an annual basis, to the National Noxious Weed Management Council a report on regional control, research, and education concerning noxious weed management.

(3) COORDINATION.—The National Noxious Weed Management Council shall coordinate the regional commissions established under paragraph (2) and facilitate the transfer of information among such regional commissions.

(4) SUPPORT SERVICES.—The Secretary of Agriculture and the Secretary of the Interior may provide to each regional commission established under paragraph (2) such administrative and technical support services as necessary for the effective functioning of such regional activities.

(b) ADMINISTRATIVE PROVISIONS RELATING TO REGIONAL COMMISSIONS.—

(1) COMPENSATION.—The members of a regional commission established under subsection (a)(2) shall receive no additional pay, allowances or benefits by reason of such members service to the regional commission.

(2) CHAIRMAN.—The members of a regional commission shall select a chairman from among the members of the regional commission.

(3) AREA.—Each regional commission shall meet in the geographical area of the regional commission at the call of the chairman of such commission or at the request of a majority of the members of such commission.

SEC. 1277. NOXIOUS WEED MANAGEMENT COST SHARING.

(a) GRANTS.—The National Noxious Weed Management Council, in consultation with the regional commissions established under subsection 1276(a)(2), may provide grants to State and local agencies to enable such agencies to manage noxious weeds and to provide cost sharing incentives to local private landowners for the management of noxious weeds.

(b) ELIGIBILITY.—To be eligible to receive assistance from the National Noxious Weed Management Council for the management of noxious weeds, a State or local agency shall—

(1) maintain staff that is adequately trained in the management of noxious weeds;

(2) develop and coordinate a program of noxious weed management in consultation with the regional commissions established under section 1276(a)(2); and

(3) ensure that a majority of the landowners in the area will participate in a noxious weed management program.

SEC. 1278. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary in each of fiscal years 1991 through 1995 to carry out this subtitle.

Subtitle G—Miscellaneous Provisions

SEC. 1281. GREAT PLAINS CONSERVATION PROGRAM.

(a) CONTRACTS.—Section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) is amended—

(1) in paragraph (1), by striking "1991" and inserting "2001"; and

(2) in paragraph (7), by striking "$600,000,000" and inserting "$1,200,000,000".

(b) DESIGN OF SYSTEMS AND DATA.—Section 16 of the Soil Conservation and Domestic

Allotment Act (16 U.S.C. 590p) is amended by adding at the end thereof the following new subsections:

"(j) In the design and preparation of resource management systems under this section, the Secretary shall, where practicable, substitute more intensive management measures for structural measures.

"(k) The Secretary shall collect and maintain data on a national and State by State basis concerning the resource, environmental and economic consequences of the assistance and applications provided under this section.".

SEC. 1282. ASSISTANCE FOR COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) PURPOSE.—It is the purpose of this section to encourage sound stewardship of the environmental and natural resources on land owned by producers by assisting such producers in complying with Federal and State environmental laws.

(b) PROVISION OF ASSISTANCE.—The Secretary of Agriculture shall, on the request of a producer, provide technical assistance to assist such producers in complying with the requirements of Federal or State environmental laws aimed at controlling pollution.

(c) ELIGIBILITY.—For a producer to be eligible for assistance under this section, the land utilized by such producer shall be within an area specially designated by the State as an environmentally sensitive area for purposes of State or Federal law.

(d) CRITERIA.—In providing assistance under this section the Secretary of Agriculture shall consider the ecological and agricultural nature and location of the land of an applicant under subsection (c) and whether such land is within an area specially designated by the State as an environmentally sensitive area for purposes of State or Federal law.

(e) ON-FARM PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture shall, on the request of a producer, prepare an on-farm plan, based on the ecological and agricultural characteristics of the land to which such plan shall apply, for any producer under subsection (c) determined by the Secretary to be operating on land within an area specially designated by the State as an environmentally sensitive area under subsection (d).

(2) CONTENTS.—A plan prepared under paragraph (1) shall contain a description of the estimated resource, economic, and environmental effects of the practices and systems that will be used by the producer to comply with Federal or State environmental laws, prevent pollution, and protect water quality and the environment, while maintaining or enhancing, to the extent practicable, the agricultural productivity and profitability of the farm operated by the producer.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1283. RECORD KEEPING FOR RESTRICTED USE PESTICIDES.

(a) REQUIREMENTS.—The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require that producers who are certified applicators who utilize restricted use pesticides (of the type described under section 3(d)(1)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)(1)(C)), maintain records, comparable to records maintained by commercial applicators of pesticides in each State. If there are no State requirements, such producers shall maintain records that contain the product name, amount, approximate date of application, and location of application of each such pesticide used for a 2-year period after such use.

(b) ACCESS.—Records maintained under subsection (a) shall be made available to any Federal or State agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides, on the request of such agencies. Records and information maintained under this section shall not be disclosed, except to employees of such agencies.

(c) EMERGENCY PERSONNEL.—On the request of any medical personnel, a producer shall provide such personnel with information concerning any pesticide for which records are maintained under this section to enable such personnel to provide emergency treatment to an individual who may have been exposed to such pesticide. Such information shall be limited to the product name of the pesticide and any associated label information.

(d) PENALTY.—The Secretary shall notify the Administrator of the Environmental Protection Agency of producers who fail to maintain records and provide information as required in this section, and such producers shall be ineligible to be certified under section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136i), or may have any such certification revoked. Such ineligibility or revocation shall be in effect for such length of time as the Administrator of the Environmental Protection Agency determines appropriate based on the seriousness of the offense.

(e) FEDERAL OR STATE PROVISIONS.—The requirements of this section shall not affect provisions of other Federal or State laws.

(f) SURVEYS AND REPORTS.—The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall develop and maintain a database that shall be comprised of pesticide usage survey data that is sufficient to enable the Secretary to publish periodic reports concerning agricultural and nonagricultural pesticide use. Such reports shall provide aggregated information only so as to protect the identity of individual applicators.

(g) AMENDMENTS TO OTHER LAWS.—Section 11(d) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136i(d)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary of Agriculture may require private applicators of pesticides to maintain records of the purchase and use of any pesticide classified for restricted use.".

SEC. 1284. INTEGRATED CROP MANAGEMENT PROGRAM OPTION.

(a) DEFINITIONS.—As used in this section:

(1) RESOURCE-CONSERVING CROP.—

(A) IN GENERAL.—The term "resource-conserving crop" means legumes, legume-grass mixtures, legume-small grain mixtures, and legume-grass-small grain mixtures.

(B) CROPS.—For purposes of subparagraph (A):

(i) GRASS.—The term "grass" includes perennial grasses commonly used for haying or grazing.

(ii) LEGUME.—The term "legume" means forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

(iii) SMALL GRAINS.—The term "small grains" shall not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.

(2) RESOURCE-CONSERVING CROP ROTATION.—The term "resource-conserving crop rotation" means a crop rotation that includes a resource-conserving crop and that reduces erosion and improves the efficiency and effectiveness of agricultural inputs.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) ESTABLISHMENT.—The Secretary shall, by rule, establish a voluntary program, to be known as the "Integrated Crop Management Program Option" (referred to in this section as the "program"), designed to assist producers of agricultural commodities in adopting site-specific integrated crop management plans.

(c) ELIGIBILITY.—To be eligible to participate in the program, a producer must—

(1) submit an integrated crop management plan (referred to in this section as a "plan") to the Secretary;

(2) obtain the approval of the Secretary for the plan; and

(3) comply with the terms and conditions of the plan, as certified by the Secretary.

(d) FARM MANAGEMENT PLAN.—Each plan approved by the Secretary shall—

(1) describe the farming operations and practices to be implemented during a 5-year contract period;

(2) describe the manner in which the farming operations and practices could reasonably be expected to result in a reduction of agricultural pollution, including nondegradation of farmland soils, protection of water supplies from contamination, and reduction in the use of nonrenewable natural resources and purchased production inputs if such reductions result in positive economic and environmental benefits; and

(3) contain other terms as the Secretary may require.

(e) ADMINISTRATION AND CERTIFICATION.—

(1) ADMINISTRATION.—

(A) TECHNICAL ASSISTANCE.—In administering the program, the Secretary shall provide technical assistance to producers formulating integrated crop management plans. The plans may draw on handbooks and technical guides and may also include other practices appropriate to the particular circumstances of the producer and the program.

(B) FLEXIBILITY.—In administering the program, the Secretary shall provide sufficient flexibility for producers to adjust or modify their plans consistent with this section, except that such adjustments or modifications must be approved by the Secretary.

(2) SCOPE.—In accepting contracts for the program, the Secretary, to the extent practicable, shall enroll not less than 3,000,000 acres, nor more than 5,000,000 acres, of cropland in each of the fiscal years 1991 through 1995.

(f) PROGRAM RULES.—

(1) BASE AND PAYMENT PROTECTION.—

(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary shall not reduce crop acreage bases established for the crops of wheat, feed grains, upland cotton, extra long staple cotton, or rice, or any other crops whose acreage bases are established in accordance with title V of the Agricultural Act of 1949 and the Secretary shall not reduce payments received for a crop of rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, honey, sugarcane and sugar beets, and any other crop under sections 101A, 103(h), 103A,

105A, 107A, and title II of the Agricultural Act of 1949 or any other farm program payments received by a participant in the integrated crop management program established under this section as a result of such participant planting a resource-conserving crop as part of a resource-conserving crop rotation in accordance with such program.

(B) EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to producers who participate in the integrated crop management program established under this section, the Secretary shall eliminate any payments such producers are otherwise eligible to receive for a crop of rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, honey, sugarcane, and sugar beets, and any other crop under section 101A, 103(h), 103A, 105A, 107A, and 201 of the Agricultural Act of 1949 with respect to the particular acreage that such producer plants to a resource-conserving crop as part of a resource-conserving crop rotation in accordance with the integrated crop management program and that is hayed or grazed.

(ii) RESOURCE-CONSERVING CROPS.—Notwithstanding clause (i), payments to a participant under a production adjustment program established under the Agricultural Act of 1949, shall not be affected as a result of—

(I) the planting, by such participant, of a resource-conserving small grains crop (such as oats or triticale) as part of a resource-conserving crop rotation plan under this section; and

(II) the grazing of the residue of such small grains crop, if the grazing occurs only after a 5-month period in the State during which haying and grazing of conserving use acres is not permitted under the Agricultural Act of 1949;

if such producer harvests the grains in kernel form.

(2) ADJUSTMENTS IN ACREAGE REDUCTION REQUIREMENTS.—Notwithstanding any other provision of law, the Secretary shall make fair and equitable adjustments in acreage reduction requirements applicable to producers participating in the integrated crop management program to take into account crop rotation, soil and water conservation practices, and other appropriate factors resulting from the implementation of plans. If the Secretary determines that the reduction in program crop production and total crop production on a participating farm referred to in the preceding sentence will equal or exceed any reduction in crop production that occurs on the farm as a result of acreage reduction requirements in the absence of participation in the program, the Secretary shall waive or reduce the acreage reduction requirement for the farm.

(3) CROSS-COMPLIANCE EXEMPTION.—Notwithstanding any other provision of law, the Secretary shall waive cross-compliance requirements of other acreage reduction programs as the requirements apply to producers on a farm who are participating in the program, if the waiver of the requirements is necessary as part of a plan as determined appropriate by the Secretary.

(4) HAYING AND GRAZING RESTRICTION.—Notwithstanding any other provision of this section, if the Secretary determines that implementation of this section will result in a significant adverse economic impact on hay or livestock prices in a particular geographic area, the Secretary may limit the quantity of hay that can be harvested or grazed from that area. Such limit may include restrictions on the number of times that hay may be harvested or grazed from the acres per year, the timing of such harvesting and grazing, or the number of years that such land may remain in the same hay stand, or a prohibition on the harvesting or grazing of hay from acres on which a small grain was not originally interplanted with the hay crop and harvested for grain.

SEC. 1285. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Subtitle D of the Consolidated Farm and Rural Development Act is amended by adding after section 363 (as added by section 1326 of this Act) the following new section:

"SEC. 364. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

"A loan made, insured, guaranteed, or otherwise assisted under this title shall not be used to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16)), including any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in the case of such activity that is already commenced prior to the date of enactment of this section.".

SEC. 1286. WETLAND CONSERVATION.

(a) MINIMAL EFFECTS AND MITIGATION.—Subsection (c) of section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822(c)) is amended to read as follows:

"(c)(1) The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if, as determined by the Secretary—

"(A) such action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetland, including the value to waterfowl and wildlife; or

"(B) such wetland has been frequently cropped prior to the date of such action and the wetland values, acreage, and functions are mitigated by the producer through the restoration of a prior converted wetland that shall—

"(i) occur in advance of, or concurrently with, such actions according to a restoration plan;

"(ii) not be at the expense of the Federal Government;

"(iii) be made on not more than a one for one acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion;

"(iv) be on lands in the same general area of the local watershed as the converted wetland; and

"(v) be subject to an agreement by the producer to protect such restored wetland as a wetland or, if the restored wetland is not located on the property of the producer, be recorded on the deed, for as long as the converted wetland remains in cropland, or is not returned to its original wetland classification.

"(2)(A) Determinations and the development of restoration plans under paragraph (1) shall be made through an agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If an agreement cannot be reached at the local level under the preceding sentence, such determinations will be referred to the State Conservationist, who in making a determination under this paragraph, shall consult with a representative of the Fish and Wildlife Service.

"(B) The State Conservationist and the representative of the Fish and Wildlife Service referred to in subparagraph (A) shall report to their respective national offices concerning all determination made under subparagraph (A) at the State level as a result of an agreement not being reached at the local level.

"(3) The Secretary shall conduct such monitoring activities as are necessary to ensure the success and effectiveness of the wetland restoration efforts under paragraph (1)(B).".

(b) GRADUATED SANCTIONS.—Section 1222 of such Act (16 U.S.C. 3822) is amended by adding at the end thereof the following new subsections:

"(d)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland, or the production of an agricultural commodity on a converted wetland, subsequent to the date of enactment of this subsection, if—

"(A) such person, under an agreement entered into with the Secretary, agrees to fully restore the converted wetland to its prior wetland state; and

"(B) the Secretary determines that—

"(i) the person has not violated the provisions of section 1221 more than one time in any 10-year period on a farm; and

"(ii) such person converted a wetland, or produced an agricultural commodity on a converted wetland, in good faith and without the intent to violate the provisions of section 1221.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1221 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1221, reduce by not less than $750 nor more than $10,000, (depending on the seriousness of the violation) program benefits described in section 1221, that such producer would otherwise be eligible to receive in a crop year.

"(e) Any person who is determined to be ineligible for program benefits under section 1221 for any crop year shall not be ineligible for such program benefits under such section for any subsequent crop year if, prior to the beginning of such subsequent crop year, the person restores the converted wetland to its prior wetland state.

"(f)(1) Determinations and the development of restoration plans under this section shall be made through an agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If an agreement cannot be reached at the local level under the preceding sentence, such determinations will be referred to the State Conservationist, who in making a determination under this paragraph, shall consult with a representative of the Fish and Wildlife Service.

"(2) The State Conservationist and the representative of the Fish and Wildlife Service referred to in paragraph (1) shall report to their respective national offices concerning all determination made under paragraph (1) at the State level as a result of an agreement not being reached at the local level.

"(3) The Secretary shall conduct such monitoring activities as are necessary to ensure the success and effectiveness of the wetland restoration efforts under this section.".

(c) TIMING OF VIOLATION.—Section 1221 of such Act (16 U.S.C. 3821) is amended by striking "this Act, any" and all that follows through "for—" and inserting the following: "this Act, any person who in any crop year produces an agricultural commodity on converted wetland or who converts (subsequent to the date of enactment of the Food, Agriculture, Conservation and Trade Act of 1990) a wetland for the purpose, or that has the effect, of making the production of an agricultural commodity possible on such converted wetland during a crop year shall be ineligible for—".

(d) LAND ELIGIBILITY.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(k) For purposes of determining the eligibility of land to be placed in the conservation reserve established under this chapter, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented land from being planted to the commodity during the crop year.".

SEC. 1287. PROVISIONS RELATING TO COMPOST USE.

(a) CATALOG.—The Secretary of Agriculture, in consultation with the task force established in subsection (c), shall assemble a catalog of laws, rules, and programs adopted by State and local governments, and foreign countries, that—

(1) establish standards for compost quality;

(2) establish definitions for processing, handling, or using compost; or

(3) otherwise affect the production or use of compost.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Agriculture, in consultation with the task force established in subsection (c), shall conduct a study of the uses for compost and the processes for composting agricultural wastes, and from other waste streams as appropriate. Such study shall include an evaluation of the processing and application of composting wastes resulting from the production, processing, and distribution of food, fiber, forestry, livestock, and fish products.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the results of the study conducted under paragraph (1).

(c) COMPOST TASK FORCE.—

(1) ESTABLISHMENT.—Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall establish a Compost Task Force, which shall meet at least two times annually.

(2) MEMBERSHIP.—The Compost Task Force shall consist of 15 members, appointed by the Secretary, from representatives of the Department of Commerce, the Environmental Protection Agency, the Department of the Interior, the Food and Drug Administration, the United States Trade Representative, Federal Highway Administration, States with laws concerning composting, agricultural representatives (including livestock, forestry, fishing, nursery, horticulture, vineyard, and orchard interests), landscapers and builders, the composting industry, microbiological scientists, food and fiber processors, food service industries, public interest groups, and manufacturers of consumer product packaging.

(3) CHAIR.—The Secretary shall serve as the chairperson of the Compost Task Force.

(4) CONSULTATION.—In its deliberations, the Compost Task Force shall consult regularly with and solicit recommendations from the agencies, organizations, and entities referred to in paragraph (2).

(5) SUNSET.—The task force authorized by this subsection shall terminate on September 30, 1995.

SEC. 1288. INCREASE IN RESOURCE CONSERVATION AND DEVELOPMENT AREAS.

Section 1536 of the Agriculture and Food Act (7 U.S.C. 3459) is amended by striking "two hundred twenty-five" and inserting "450".

SEC. 1289. CONSOLIDATION OF USDA OFFICES ON INDIAN RESERVATIONS.

(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—The Secretary of Agriculture shall establish a demonstration project to improve the delivery of Department of Agriculture services to Indian tribes and Indian producers through the establishment of consolidated Federal agricultural offices on not less than 12 Indian reservations.

(b) ENTITIES AS PART OF CONSOLIDATED OFFICE.—An office established under subsection (a) on an Indian reservation shall be composed of representatives of Federal agricultural offices having jurisdiction over the area in which the reservation is located, including—

(1) the Agricultural Stabilization and Conservation Service;

(2) the Soil Conservation Service;

(3) the Farmers Home Administration; and

(4) other offices as determined appropriate by the Secretary of Agriculture;

with such representatives having the same responsibilities and authority to perform or provide such services on the Indian reservation as representatives of county offices of such Federal agricultural agencies.

(c) OTHER SERVICES ON NONPARTICIPATING INDIAN RESERVATIONS.—

(1) IN GENERAL.—With respect to an Indian reservation for which a consolidated Federal agricultural office is not established under subsection (a), the Secretary of Agriculture shall require the local office of the—

(A) Agricultural Stabilization and Conservation Service;

(B) Soil Conservation Service; and

(C) Farmers Home Administration;

that operates in a county in which such Indian reservation exists to establish a consolidated agricultural sub-office at the Tribal headquarters of such reservation and to provide staff for such sub-office as necessary, but in no event for less than one day a week.

(2) RESERVATIONS IN MORE THAN ONE COUNTY.—With respect to an Indian reservation that is located in more than one county, the Secretary of Agriculture, the relevant Federal county agricultural offices, and the Indian tribe shall enter into a cooperative agreement for the provision of the services required under paragraph (1) to avoid duplication of effort.

(3) NUMBER OF RESERVATIONS.—The Secretary of Agriculture ensure the provision of services under this subsection on not less than 12 Indian reservations during the first year after the date of enactment of this Act, and on not less than 10 additional reservations each year during which this section remains in effect.

(d) SELECTION OF RESERVATIONS.—In selecting those Indian reservations on which offices will be established under this section, the Secretary of Agriculture, in consultation with the Bureau of Indian Affairs, the Intertribal Agricultural Council, and the Southwest Indian Agriculture Association, shall consider agricultural acreage within the boundaries of the reservation or tribal jurisdiction, the soil classification of such acreage, and the population of such reservation of tribal jurisdiction.

(e) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year, such sums as may be necessary to carry out this section.

SEC. 1290. REPORT CONCERNING AN INTERNATIONAL AGRICULTURAL CONSERVATION RESERVE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Approximately one-fifth of the world's cropland is experiencing an intolerable rate of soil erosion;

(2) The cost of farm program subsidies is at record levels in many nations;

(3) The United States has taken the initiative of enrolling nearly 34 million acres of agricultural land in a ten-year Conservation Reserve Program;

(4) World food production historically has increased at an annual rate of 2.5 percent, but world food production during the 1980's has increased at an average rate of over 3 percent annually;

(5) All nations would benefit from the decreased agricultural subsidies and stabilized food production an international agricultural conservation reserve could provide.

(b) REPORT TO CONGRESS.—

(1) Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall, in consultation with other Federal agencies, prepare and submit a report to the Congress on the feasibility of negotiating an international agreement or treaty to establish an international agricultural conservation reserve to protect fragile agricultural soils.

(2) The report shall examine the potential for the establishment of an international agricultural conservation reserve under which:

(A) All signatory nations would agree not to subsidize farmers who bring highly erodible virgin land into crop production.

(B) All signatory nations would agree to return a certain percentage of highly erodible cropland to its natural state and keep it out of production for a minimum of 10 years and implement sound conservation practices on such land to control soil erosion.

(C) Provisions would be established to allow a portion of the land placed by signatory nations into the reserve to be returned to production if stocks fell below those levels needed to maintain adequate commodity and food supplies.

SEC 1291. A NATIONAL GROUND WATER AND WETLANDS PROTECTION STRATEGY.

(a) FINDINGS.—The Congress finds that—

(1) Federal policy, as reflected in the Food, Agriculture, Conservation, and Trade Act of 1990, to protect the Nation's wetlands and ground water from loss or degradation is of vital importance to American agriculture and to the country as a whole;

(2) Wetlands reduce floods, improve ground and surface water quality, and provide recreational areas and habitat for fish and wildlife;

(3) Ground water provides drinking water to 50 percent of the Nation's population or 117 million Americans, and that 97 percent of Americans in rural areas rely on untreated ground water for their household needs;

(4) Government regulations protecting and preventing ground water from contamination and wetlands from loss or degradation have been developed piecemeal by several different Departments and agencies and as a result are complex and confusing often leaving landowners uncertain as to their duties and obligations and the resources at risk;

(5) There is a need for a national strategy that coordinates and strengthens the Nation's ground water and wetlands protection efforts; and

(6) Key conservation provisions in the Food, Agriculture, Conservation, and Trade Act of 1990 go a long way toward protecting wetlands and ground water, and any new legislation involving wetlands and ground water protection should recognize these gains.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) Federal agricultural policy should reflect environmental policy and concerns;

(2) wetlands loss or degradation and ground water contamination should be discouraged by Federal, State, and local governments; and

(3) the upcoming reauthorization of the Federal clean water programs should—

(A) emphasize a policy designed to prevent wetlands loss and ground water contamination;

(B) provide consistent and understandable regulations that will give landowners greater certainty as to their duties and responsibilities for protecting wetlands and ground water; and

(C) strengthen the Nation's ground water and wetlands protection laws.

TITLE XIII—CREDIT

Subtitle A—FmHA Loans

SEC. 1301. REFERENCES TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except to the extent otherwise specifically provided.

SEC. 1302. TRAINING OR EXPERIENCE REQUIREMENT FOR FARM OWNERSHIP LOANS.

Section 302(a)(2) (7 U.S.C. 1922(a)(2)) is amended by inserting before the comma at the end the following: ", including at least 3 years of farm or ranch training or experience (of which at least 1 year must be farming or ranching experience) during the 5-year period immediately preceding the date on which the application of the person for the loan is submitted".

SEC. 1303. SOIL AND WATER LOAN PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 304 (7 U.S.C. 1924(a)) is amended to read as follows:

"(a) Loans may also be made or insured under this subtitle to any farmowner or tenant eligible for loans under this subtitle for the purpose of soil and water conservation and protection for—

"(1) the installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences;

"(2) a forest cover for sustained yield timber management, erosion control, or shelterbelt purposes;

"(3) an establishment or improvement of permanent pastures;

"(4) costs of complying with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812); and

"(5) other purposes consistent with soil and water conservation plans, integrated farm management plans, water quality enhancement plans, and wildlife habitat enhancement plans.".

(b) LIMITED RESOURCE LOANS.—Subsection 310D(a) (7 U.S.C. 1934(a)) is amended by inserting after "section 303(a) of this title" the following: ", or in paragraphs (1) through (5) of section 304(a),".

SEC. 1304. INTEREST RATE ON FARM OWNERSHIP LOANS MADE TO LIMITED RESOURCE BORROWERS.

Section 307(a)(3)(B) (7 U.S.C. 1927(a)(3)(B)) is amended by striking "remaining periods" and all that follows through the end and inserting the following: "maturities of 5 years, in addition to an amount determined appropriate by the Secretary that shall not exceed 1 percent per year, and in no event shall the rate be less than 5 percent per year.".

SEC. 1305. GUARANTEE OF PAYMENT BY DEPARTMENT OF HAWAIIAN HOME LANDS.

Section 310C(b) (7 U.S.C. 1933(b)) is amended by inserting after "amended," the following: "or this title".

SEC. 1306. TRAINING OR EXPERIENCE REQUIREMENT FOR OPERATING LOANS.

Section 311(a)(2) (7 U.S.C. 1941(a)(2)) is amended by inserting before the comma at the end the following: ", including at least 3 years of farm or ranch training or experience (of which at least 1 year must be farming or ranching experience) during the 5-year period immediately preceding the date on which the application of the person for the loan is submitted".

SEC. 1307. INTEREST RATE ON OPERATING LOANS MADE TO LIMITED RESOURCE BORROWERS.

Paragraph (2) of section 316(a) (7 U.S.C. 1946(a)(2)) is amended to read as follows:

"(2) The interest rate on any loan (other than a guaranteed loan) to a low-income, limited resource borrower under this subtitle shall be determined by the Secretary, but shall not be in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years, in addition to an amount determined appropriate by the Secretary that shall not exceed 1 percent per year, and in no event shall the rate be less than 5 percent per year.".

SEC. 1308. DEBT SETTLEMENT.

(a) IN GENERAL.—Section 331 (7 U.S.C. 1981) is amended—

(1) in subsection (d)—

(A) by striking "under any of its programs, as circumstances may require, to carry out this title";

(B) in the third sentence, by striking "incurred under this title"; and

(C) in paragraph (1), by inserting "with respect to farmer program loans," before "on terms"; and

(2) in subsection (e)—

(A) by striking "arising or";

(B) by striking "under this title" and inserting "by the Farmers Home Administration"; and

(C) by striking "pursuant to this title" and inserting "by the Farmers Home Administration".

(b) PAYMENT OF ACCRUED INTEREST.—Section 331 is amended by striking subsection (h).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 331 is amended—

(1) by indenting the margin of subsections (f), (g), and (i) so as to align with the margin of subsection (e);

(2) in subsection (f), by striking "Release" and inserting "release";

(3) in subsection (g), by striking "Obtain" and inserting "obtain";

(4) in subsection (i), by striking "Consent" and inserting "consent"; and

(5) by redesignating subsections (i) and (j) (as so amended) as subsections (h) and (i), respectively.

SEC. 1309. DOCUMENTATION FOR APPROVAL OF SECURITY TRANSFER.

Section 331(h)(2) (as amended and redesignated by section 1308 of this Act) is amended by inserting before the semicolon at the end the following: ", and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower".

SEC. 1310. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D (7 U.S.C. 1981d) is amended—

(1) in subsection (b)(1), by inserting "debt settlement programs," after "preservation loan service programs,"; and

(2) in subsection (e), by striking "45" and inserting "60".

SEC. 1311. UNDERWRITING FORMS AND STANDARDS.

(a) IN GENERAL.—The Act is amended by inserting after section 331E (7 U.S.C. 1981e) the following new section:

"SEC. 331F. UNDERWRITING FORMS AND STANDARDS.

"In the administration of this title, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.".

(b) REGULATIONS.—The Secretary of Agriculture shall not issue final regulations providing for the use of ratios and standards for determining the degree of potential loan risk under section 331F of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section), prior to the submission of the study and report on the effects of the regulations required by section 621 of the Agricultural Credit Act of 1987 (7 U.S.C. 1989 note).

SEC. 1312. COUNTY COMMITTEES.

(a) FmHA-ELIGIBLE BORROWERS.—Section 332(a)(4) (7 U.S.C. 1982(a)(4)) is amended by adding at the end the following new sentence: "The appointment of a farmer who is eligible for a loan made or insured under this title by the Secretary to a county committee shall not preclude the election of such a farmer to the county committee.".

(b) MAILING BALLOTS.—Section 332(a) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall provide for the mailing of ballots to persons eligible to vote for the election of county committee members if the mailing of the ballots coincides with the mailing of ballots by the Agricultural Stabilization and Conservation Service.".

(c) TRAINING.—Section 332 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide annual training of county committee members on the job responsibilities of the members under this title.

"(2) The Secretary shall develop and provide a county committee training manual to all county committee members and shall update the manual in a timely manner to reflect changes in law or regulations.".

SEC. 1313. CERTIFICATION OF LOAN ELIGIBILITY.

Section 333(b) (7 U.S.C. 1983(b)) is amended by inserting before the semicolon at the end the following: ", and the certification of eligibility under this subsection shall continue in effect for a 2-year period or for such other period as the committee may determine appropriate".

SEC. 1314. BUSINESS AND INDUSTRIAL LOAN PROGRAM APPLICATIONS.

Section 333A(a) (7 U.S.C. 1983a(a)) is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 310B(a) that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make the loan or guarantee shall not be disapproved but shall be placed in pending status.

"(B) The Secretary shall retain the pending application and reconsider the application beginning on the date that sufficient funds become available.

"(C) Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.".

SEC. 1315. APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end the following new subsection:

"(h) Except as provided in subsection (e)(3) and in the regulations of the Secretary governing the right of the Secretary to seek review of appeal decisions under this title, a county committee or employee of the Farmers Home Administration shall, on having a case returned pursuant to the decision of a hearing officer, State director, or the director of the national appeals division, implement the decision within a reasonable period of time.".

SEC. 1316. DISPOSITION OF SUITABLE PROPERTY.

(a) HOLDING PERIOD.—The fourth sentence of section 335(c)(1) (7 U.S.C. 1985(c)(1)) is amended by striking "three years from the date of acquisition" and inserting "12 months from the date first published under paragraph (2)(D)".

(b) SELECTION OF APPLICANTS.—Section 335(c)(2)(C) is amended by inserting before the semicolon the following: ", except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee may select between the qualified applicants on a random basis".

(c) PROPERTY SUBJECT TO BORROWER PURCHASE OR LEASE OPTION.—Section 335(e)(1)(A)(i) is amended by striking "real property" and inserting "real farm or ranch property (including the principal residence of the borrower)".

(d) RIGHT OF FIRST REFUSAL.—Section 335(e)(1)(A) is amended by adding at the end the following new clause:

"(iv) In the case of real property described in clause (i) that was acquired by the Secretary before January 6, 1988, that is (or has been at any time during the 12-month period preceding the date of enactment of this clause) under lease to a person described in subparagraph (C), and that has not been conveyed (or contracted to be conveyed) by the Secretary prior to the date of enactment of this clause, the Secretary shall, during the 30-day period following the date of enactment of this clause, make the person an offer, to be held open for a period of 90 days, to purchase the property on the same terms and conditions that such offers are made in the case of property coming into inventory on or after the date of enactment of this clause.".

(e) QUALIFIED BEGINNING FARMERS OR RANCHERS.—Section 335(e)(1)(C) is amended—

(1) by redesignating clause (iv) as clause (v); and

(2) by inserting after clause (iii) the following new clause:

"(iv) Qualified beginning farmers or ranchers.".

(f) INDIAN LAND IN INVENTORY.—Section 335(e)(1)(D) is amended by adding at the end the following new subparagraph:

"(x) This subparagraph shall apply to all lands in the land inventory established under this title (as of the date of enactment of this clause) that were (immediately prior to such date) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise is received within 180 days after the date of enactment of this clause, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).".

(g) PURCHASE PRICE.—Section 335(e)(4)(B) is amended by striking "a price that reflects the average annual income that may be reasonably anticipated to be generated from farming" and inserting "the appraised fair market value of".

(h) RANDOM SELECTION.—Section 335(e)(4)(C) is amended—

(1) by striking "shall, by majority vote," and inserting "shall randomly"; and

(2) by inserting before the period at the end the following: ", in accordance with subsection (c)(2)(C)".

(i) CONSERVATION EASEMENTS ON WETLANDS ON FmHA INVENTORY PROPERTY.—Section 335 is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraphs (2) through (5), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property, as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

"(2) In establishing the wetland conservation easements on land that is considered to be cropland as of the date of enactment of this subsection, the Secretary shall avoid, to the extent practicable, an adverse impact on the productivity of the croplands, as provided in this subsection.

"(3) In order to avoid the adverse impact, the Secretary shall—

"(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

"(D) ensure that access to other portions of the property for farming and other uses is provided.

"(4) The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands.

"(5) If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C), or to a borrower who is a beginning farmer or rancher, from being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

"(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

"(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit.

"(6) The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

"(7) The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

"(8) Notwithstanding the limitations described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4).".

SEC. 1317. DEFINITIONS.

Section 343(a) (7 U.S.C. 1991(a)) is amended—

(1) by striking "and" at the end paragraph (6); and

(2) by inserting before the period at the end the following: ", (8) the term 'beginning farmer or rancher' means such term as defined by the Secretary, (9) the term 'direct loan' means a loan made or insured from funds in the account created by section 309, and (10) the term 'farmer program loan' means a farm ownership loan (FO), operat-

ing loan (OL), soil and water loan (SW), recreation loan (RL), emergency loan (EM), economic emergency loan (EE), economic opportunity loan (EO), special livestock loan (SL), softwood timber loan (ST), or rural housing loan for farm service buildings (RHF)".

SEC. 1318. EXTENSION OF ELIGIBILITY FOR CONSERVATION EASEMENTS; ASSISTANCE TO BORROWERS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(3)(A), by striking clause (ii) and inserting the following:

"(ii) such an easement better enables a qualified borrower to repay the loan in a timely manner, as determined by the Secretary; or";

(2) by striking subsection (e) and inserting the following new subsection:

"(e)(1) Any such easement acquired by the Secretary shall be purchased from the borrower involved by canceling that part of the aggregate amount of the outstanding loans or by reducing the principal of a new loan issued and held by the Secretary under a law administered by the Farmers Home Administration that bears the same ratio to the aggregate amount of the outstanding loans or the principal of the new loan held by the Secretary under all such laws as the number of acres of the real property of the borrower that are subject to the easement bears to the aggregate number of acres securing the loans.

"(2) In no case shall the amount so canceled, in the case of delinquent loans, exceed—

"(A) the value of the land on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the value of the land, whichever is greater; or

"(B) in the case of nondelinquent loans, 33 percent of the amount of the loan secured by the land."; and

(3) by striking subsection (h).

SEC. 1319. INTEREST RATE REDUCTION PROGRAM.

(a) INTEREST RATE REDUCTION PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (c)—

(A) by striking "50 percent" and inserting "100 percent"; and

(B) by striking "2 percent" and inserting "4 percent"; and

(2) in subsection (d), by striking ", or 3 years, whichever is less".

(b) SPENDING LIMITATIONS.—Subsection (b) of section 346 (7 U.S.C. 1994) is amended to read as follows:

"(b)(1)(A) For each of the fiscal years ending September 30, 1991, through September 30, 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, from the Agricultural Credit Insurance Fund established under section 309 in amounts equal to the following levels—

"(i) for the fiscal year ending September 30, 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A;

"(ii) for the fiscal year ending September 30, 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A;

"(iii) for the fiscal year ending September 30, 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A;

"(iv) for the fiscal year ending September 30, 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A; and

"(v) for the fiscal year ending September 30, 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A.

"(B) Subject to subparagraph (C), such amounts set forth in subparagraph (A) shall be apportioned as follows:

"(i) For the fiscal year ending September 30, 1991—

"(I) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

"(II) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

"(ii) For the fiscal year ending September 30, 1992—

"(I) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

"(II) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

"(iii) For the fiscal year ending September 30, 1993—

"(I) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

"(II) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

"(iv) For the fiscal year ending September 30, 1994—

"(I) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

"(II) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

"(v) For the fiscal year ending September 30, 1995—

"(I) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

"(II) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

"(C) Notwithstanding any other provision of law—

"(i) the Secretary shall reduce the amounts otherwise made available for insured loans by $100,000,000 for fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(ii) to the extent practicable, the Secretary, in implementing the program established under section 351 shall guarantee loans, in an amount totaling not less than $100,000,000 in fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(D) Notwithstanding subsections (a) and (b) of section 338, the Secretary shall, as soon as practicable after the date of enactment of this subsection, make or guarantee loans at the levels authorized by this subsection for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995.".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351(h)(1) (7 U.S.C. 1999(h)(1)) is amended by striking "3-year" and inserting "4-year".

SEC. 1320. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) ELIGIBILITY FOR RESTRUCTURING.—Section 353(b)(1) (7 U.S.C. 2001(b)(1)) is amended by inserting before the semicolon the following: ", except that the regulations shall require that, if the value of the assets calculated under subsection (c)(1)(C) that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a)".

(b) NET RECOVERY VALUE.—Section 353(c)(1) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) the value of the assets not included in the calculation of the recovery value under paragraph (2)(A) that—

"(i) are not essential to the support of the family or the sound operations of the borrower; and

"(ii) are not exempt from judgment creditors or in a bankruptcy action under Federal or State law.".

(c) DEBT SERVICE MARGIN.—Section 353(c)(3) is amended by adding at the end the following new subparagraph:

"(C) DEBT SERVICE MARGIN.—

"(i) ASSUMPTION.—In calculating the ability of a borrower to meet debt obligations and continue farming operations under paragraph (1), the determination of the Secretary shall be based on the assumption that the borrower needs up to 105 percent of the amount indicated for loan payments.

"(ii) AVAILABLE INCOME.—The Secretary shall consider the income of the borrower to be adequate for the payment of debt only when an amount that equals up to 105 percent of debt payments has been earmarked for the payments.".

(d) DEADLINE FOR RESTRUCTURING CALCULATIONS.—Section 353(c)(4) is amended by striking "60" and inserting "90".

(e) TERMINATION OF LOAN OBLIGATIONS.—Paragraph (6) of section 353(c) is amended to read as follows:

"(6) TERMINATION OF LOAN OBLIGATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the obligations of a borrower to the Secretary under a restructured loan shall terminate if—

"(i) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

"(ii) the value of the restructured loan is less than the recovery value; and

"(iii) within 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value.

"(B) SHARED APPRECIATION AGREEMENTS.—

"(i) IN GENERAL.—The Secretary may require, as a condition of the termination of loan obligations, that the borrower enter into a shared appreciation agreement, that meets the requirements of paragraphs (2) and (3), and subparagraphs (A) and (C) of paragraph (4), of subsection (e), except that the agreement shall be based on the difference between the net recovery value of the property paid by the borrower and the fair market value at the time of recapture.

"(ii) INTERFAMILY TRANSFERS.—For purposes of clause (i), transfer of title to a spouse or child who is actively engaged in farming on the death or retirement of the borrower shall not be treated as a sale or transfer.

"(C) LIMITATION ON ASSISTANCE.—A borrower who does not satisfy the requirements of paragraphs (1) and (2) of subsection (b) shall not be entitled to priority in the lease or purchase of property under subsection (c) or (e) of section 335, or to homestead protection under section 352.".

(f) APPLICATION AND DATA COLLECTION.—Section 353(c) is amended by adding at the end the following new paragraph:

"(7) APPLICATION AND DATA COLLECTION.—

"(A) APPLICATION.—The prerequisite that the delinquency is due to circumstances beyond the control of the borrower and that a buyer act in good faith to be eligible for the termination of loan obligations under paragraph (6) shall not apply to offers of net recovery buyout made by the Secretary under this section prior to the date of enactment of this paragraph, except that the prerequisite shall apply, prior to such date, to borrowers determined (prior to such date) by the Secretary not to have acted in good faith with respect to the loan.

"(B) DATA COLLECTION.—The Secretary shall collect and make available in a timely fashion, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, information on—

"(i) the number of borrowers who have applied for debt restructuring who are alleged, or who have been shown, to have acted in bad faith;

"(ii) the number of applications for net recovery buyout that are being held due to bad faith allegations;

"(iii) the number of subsequent appeals to or reversals by the national appeals division of bad faith determinations that have occurred because of the implementation of paragraphs (1)(B) and (2) of subsection (b);

"(iv) the amount of time required for the processing of net recovery buyout requests;

"(v) the number of borrowers who have applied for debt restructuring after the date of issuance of the first notices of the availability of loan servicing programs that—

"(I) have not been offered restructuring options by the Secretary; and

"(II) have not received a notice of intent to accelerate or to continue acceleration, a notice of borrowers' rights, and forms for the making of responses to the notice of the intent of the Farmers Home Administration to accelerate or continue acceleration; and

"(vi) the number of bad faith allegations that have been submitted to or by the State Directors in connection with farmer program loans.".

(g) APPRAISALS.—Section 353(c) (as amended by subsection (f) of this section) is further amended by adding at the end the following new paragraph:

"(8) NEGOTIATION OF APPRAISAL.—

"(A) IN GENERAL.—In making a determination concerning restructuring under this subsection, the Secretary, at the request of the borrower, shall enter into negotiations concerning appraisals required under this subsection with the borrower.

"(B) INDEPENDENT APPRAISAL.—If the borrower, based on a separate current appraisal, objects to the decision of the Secretary regarding an appraisal, the borrower and the Secretary shall mutually agree, to the extent practicable, on an independent appraiser who shall conduct another appraisal of the borrower's property. The average of the two appraisals that are closest in value shall become the final appraisal under this paragraph. The borrower and the Secretary shall each pay one-half of the cost of the independent appraisal.".

(h) ADDITIONAL PROVISIONS.—Section 353 is amended by adding at the end the following new subsections:

"(l) PARTIAL LIQUIDATIONS.—If partial liquidations are performed (with the prior consent of the Secretary) as part of loan servicing by a guaranteed lender under this title, the Secretary shall not require full liquidation of a delinquent loan in order for the lender to be eligible to receive payment on losses.

"(m) DISPOSITION OF NORMAL INCOME SECURITY.—For purposes of subsection (b)(2), if a borrower—

"(1) disposed of normal income security prior to October 14, 1988, without the consent of the Secretary; and

"(2) demonstrates that—

"(A) the proceeds were utilized to pay essential household and farm operating expenses; and

"(B) the borrower would have been entitled to a release of income proceeds by the Secretary if the regulations in effect on the date of enactment of this subsection had been in effect at the time of the disposition, the Secretary shall not consider the borrower to have acted without good faith to the extent of the disposition.

"(n) SUBSEQUENT WRITE-DOWNS AND NET RECOVERY BUY-OUTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no borrower who has received a write-down or net recovery buy-out under this section shall be eligible for a subsequent write-down or net recovery buy-out.

"(2) DISASTERS.—If a borrower receives a write-down or net recovery buy-out and becomes delinquent on a farmer program loan as the result of a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.) that occurred during the current or previous calendar year, the borrower may be given a subsequent write-down or net recovery buy-out.

"(3) EXISTING BORROWERS.—A borrower who received a write-down prior to the date of enactment of this subsection and becomes delinquent may be given a subsequent write-down in an amount not to exceed a sum that, when added to the initial write-down, would equal the amount that would have been written down if the initial write-down had been calculated on the basis of a required debt service margin of 105 percent.

"(o) LIQUIDATION OF ASSETS.—No write-downs or net recovery buy-outs provided under this section shall result in the reduction or termination of any portion of the debt of the borrower that the borrower could pay through the liquidation of assets, or through the payment of the loan value of the assets if the value is greater than the liquidation value, that the Secretary determines are not essential to the operation of the farm or for the payment of the essential living expenses of the borrower and the family of the borrower.

"(p) DEBT FORGIVENESS LIMITATION.—Debt forgiveness provided under this section to any one borrower shall not exceed a total of $350,000.".

SEC. 1321. DISTRIBUTION OF FUNDS ON INDIAN RESERVATIONS.

Section 355(b) (7 U.S.C. 355(b)) is amended by adding at the end the following new paragraph:

"(3) INDIAN RESERVATIONS.—In distributing loan funds in counties within the boundaries of an Indian reservation, the Secretary shall allocate the funds on a reservation-wide basis.".

SEC. 1322. BORROWER TRAINING.

(a) IN GENERAL.—The Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following new section:

"SEC. 359. BORROWER TRAINING.

"(a) IN GENERAL.—The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct and guaranteed loans made under this title in financial and farm management concepts associated with commercial farming.

"(b) CONTRACT.—

"(1) IN GENERAL.—The Secretary may contract with State or private farm management and credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

"(2) CONSULTATION.—The Secretary may consult with the chief executive office of a State concerning the identity of the contracting organization and the process for contracting.

"(c) ELIGIBILITY FOR LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), to be eligible to obtain a direct or guaranteed loan under this title, a borrower must obtain management assistance under this section, based on the management ability of the borrower (as determined by the appropriate county committee established pursuant to section 332, during the determination of eligibility for the loan).

"(2) LOAN CONDITIONS.—The need of a borrower who satisfies the criteria set out in sections 302(a)(2) or 311(a)(2) for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct or guaranteed loan under this title.

"(d) GUIDELINES AND CURRICULUM.—The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section.

"(e) PAYMENT.—A borrower shall pay for training received under this section, and may use funds from operating loans made under subtitle B to pay for the training.

"(f) WAIVERS.—The Secretary may waive the requirements of this section for an individual borrower on a determination by the county committee that the borrower demonstrates adequate knowledge in areas described in this section.".

(b) OPERATING LOAN PURPOSES.—Section 312(a) (7 U.S.C. 1942(a)) is amended—

(1) by striking "and" at the end of paragraph (11); and

(2) by inserting before the period at the end the following: ", and (13) borrower training received under section 359".

SEC. 1323. LOAN ASSESSMENTS.

The Act (7 U.S.C. 1921 et seq.) (as amended by section 1322 of this Act) is further amended by adding at the end the following new section:

"SEC. 360. LOAN ASSESSMENTS.

"(a) IN GENERAL.—After an applicant is determined eligible for assistance under this title by the appropriate county committee established pursuant to section 332, the Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

"(b) DETERMINATIONS.—In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

"(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

"(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

"(3) the goals of the proposed farming plan of the applicant;

"(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

"(5) whether assistance is necessary under this title and, if so, the amount of the assistance.

"(c) CONTRACT.—The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 359(b)) to conduct loan assessments under this section.

"(d) REVIEW OF LOANS.—

"(1) IN GENERAL.—Loan assessments conducted under this section shall include biannual review of direct loans, and periodic review (as determined necessary by the Secretary) of guaranteed loans, made under this title to assess the progress of a borrower in meeting the goals for the farm or ranch operation.

"(2) CONTRACTS.—The Secretary may contract with an entity that is eligible to provide borrower training under section 359(b) to conduct loan reviews under paragraph (1).

"(3) PROBLEM ASSESSMENTS.—If a borrower is delinquent in payments on a direct or guaranteed loan made under this title, the Secretary or the contracting credit counseling service shall conduct a problem assessment to determine the cause and action necessary to correct the problem.

"(e) GUIDELINES.—The Secretary shall issue regulations providing guidelines for loan assessments conducted under this section.".

SEC. 1324. SUPERVISED CREDIT.

The Act (7 U.S.C. 1921 et seq.) (as amended by section 1323 of this Act) is further amended by adding at the end the following new section:

"SEC. 361. SUPERVISED CREDIT.

"The Secretary shall provide adequate training to employees of the Farmers Home Administration on credit analysis and financial and farm management to—

"(1) better acquaint the employees with what constitutes adequate financial data on which to base a direct or guaranteed loan approval decision; and

"(2) ensure proper supervision of farmer program loans.".

SEC. 1325. GRADUATION OF FmHA BORROWERS TO PRIVATE COMMERCIAL CREDIT.

The Act (7 U.S.C. 1921 et seq.) (as amended by section 1324 of this Act) is further amended by adding at the end the following new section:

"SEC. 362. GRADUATION OF FmHA BORROWERS TO PRIVATE COMMERCIAL CREDIT.

"(a) IN GENERAL.—The Secretary shall establish a plan to encourage the graduation of a borrower to private commercial credit at the time a direct loan or guaranteed loan is made to—

"(1) a qualified farmer or rancher; or

"(2) a borrower with a loan outstanding on the date of enactment of this section.

"(b) LIMITATIONS.—

"(1) DIRECT LOANS.—On or after the first day after the 10th year after the date of enactment of this section, no direct loan shall be made under this title to a borrower who has obtained a direct loan or the guarantee of a loan 10 or more years prior to the closing date of the loan applied for.

"(2) GUARANTEED LOANS.—On and after the first day after the 15th year after the date of enactment of this section, no loan shall be guaranteed under this title with respect to a borrower who has obtained a direct loan or the guarantee of a loan 15 or more years before the closing date of the loan sought to be guaranteed.

"(c) RELATIONSHIP TO OTHER PROGRAMS.—The Secretary shall establish graduation plans, and otherwise carry out this section, in coordination with—

"(1) the borrower training program established under section 359; and

"(2) the loan assessment program established under section 360;

"(3) increased supervision of credit required under section 361.".

SEC. 1326. MARKET PLACEMENT.

The Act (7 U.S.C. 1921 et seq.) (as amended by section 1325 of this Act) is further amended by adding at the end the following new section:

"SEC. 363. MARKET PLACEMENT.

"The Secretary shall establish a market placement program for beginning farmers and ranchers and other borrowers of farmer program loans that the Secretary believes have a reasonable chance of qualifying for commercial credit with a guarantee provided under this title.".

SEC. 1327. SENSE OF CONGRESS REGARDING ASSISTANCE FOR QUALIFIED BEGINNING FARMERS OR RANCHERS.

It is the sense of Congress that, in carrying out the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), the Secretary of Agriculture should—

(1) establish innovative programs of finance and assistance for land transfer between generations and for establishment of new farm and ranch units;

(2) expand the use of the credit sale and land contract method for the sale of suitable property acquired under such Act; and

(3) maintain statistics on the number of loans made, insured, or guaranteed, and inventory farmland sold or leased, to qualified beginning farmers or ranchers under such Act.

SEC. 1328. SENSE OF CONGRESS REGARDING FmHA LOAN APPLICATION REVIEW AND LOAN SERVICING.

(a) FINDINGS.—Congress finds that reports issued by the Inspector General of the Department of Agriculture and the Comptroller General of the United States found problems with the system of loan application review, and monitoring of loan servicing of guaranteed loans, used under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should quickly take all actions necessary to correct the problems identified by the reports and report to Congress on the actions taken.

Subtitle B—Farm Credit System

SEC. 1341. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise specifically provided.

SEC. 1342. FINANCING FOR BASIC PROCESSING AND MARKETING OPERATIONS OWNED BY BONA FIDE PRODUCERS.

(a) FARM CREDIT BANKS.—Section 1.11(a) (12 U.S.C. 2019(a)) is amended by striking "at least 20 percent," and all that follows through "Farm Credit Administration," and inserting "some portion".

(b) PRODUCTION CREDIT ASSOCIATION.—Section 2.4(a)(1) (12 U.S.C. 2075(a)(1)) is amended by striking "at least 20 percent," and all that follows through "Farm Credit Administration," and inserting "some portion".

SEC. 1343. RESTORATION OF FIRST LIEN ON STOCK.

Subtitle A of title II is amended—

(1) by redesignating section 2.6 (12 U.S.C. 2077) as section 2.7; and

(2) by inserting after section 2.5 (12 U.S.C. 2076) the following new section:

"SEC. 2.6. LIENS ON STOCK.

"Except with regard to stock or participation certificates held by other Farm Credit System institutions, each production credit association shall have a first lien on stock and participation certificates the association issues, allocated surplus, and on investments in equity reserve, for any indebtedness of the holder of the capital investments and, in the case of equity reserves, for charges for association losses in excess of reserves and surpluses.".

SEC. 1344. INSURANCE SERVICES.

Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)(2)—

(A) in the first sentence, by inserting before the period at the end the following: ", if more than two insurers for each type of insurance have proposed programs to a bank that will, in all likelihood, have long-term viability and meet the requirements of subsection (b)(2)(D)"; and

(B) in the third sentence, by inserting before the period at the end the following: ", if at least two insurers have been approved in accordance with this paragraph"; and

(2) in subsection (b)(2)(E), by inserting before the semicolon at the end the following: ", if at least two insurers have been approved in accordance with subsection (a)(2)".

SEC. 1345. MANAGEMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION BY FARM CREDIT ADMINISTRATION BOARD.

(a) FARM CREDIT ADMINISTRATION BOARD.—Part B of title V is amended by inserting "and the Farm Credit System Insurance Corporation" after "Administration" each place it appears in sections 5.9, 5.10, and 5.11 (other than in subsections (a) and (d) of section 5.11) (12 U.S.C. 2243, 2244, and 2245).

(b) BOARD OF DIRECTORS OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.53 (12 U.S.C. 2277a-2) is amended to read as follows:

"SEC. 5.53. BOARD OF DIRECTORS.

"The Corporation shall be managed by the Farm Credit Administration Board.".

SEC. 1346. CLARIFICATION OF CONTENTS OF CERTIFIED STATEMENTS.

Subsection (a) of section 5.56 (12 U.S.C. 2277a-5(a)) is amended to read as follows:

"(a) FILING CERTIFIED STATEMENT.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of the year shall file with the Corporation a certified statement showing—

"(1) the annual average principal outstanding on loans made by the bank that are in accrual status, including the nonguaranteed portions of government-guaranteed loans;

"(2) the annual average principal outstanding on the guaranteed portion of Federal Government-guaranteed loans (as de-

fined in section 5.55(a)(2)) that are in accrual status;

"(3) the annual average principal on State government-guaranteed loans (as defined in section 5.55(a)(2)) that are in accrual status;

"(4) the annual average principal outstanding on loans that are in nonaccrual status; and

"(5) the amount of the premium due the Corporation from the bank for the year.".

SEC. 1347. TERMINATION DATE FOR FARM CREDIT SYSTEM ASSISTANCE BOARD.

(a) USE OF INSURANCE FUND.—Section 5.60(c) (12 U.S.C. 2277a-9(c)) is amended by striking "5 years after the date of enactment of this part" each place it appears in paragraphs (1) and (2) and inserting "January 1, 1993".

(b) POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.—Section 5.61(f) (12 U.S.C. 2277a-10(f)) is amended by striking "beginning on the date of enactment of this part" and inserting "prior to January 1, 1993".

SEC. 1348. EMPLOYMENT OF CERTAIN PERSONS BY FARM CREDIT SYSTEM INSTITUTIONS.

Section 5.65(d) (12 U.S.C. 2277a-14(d)) is amended—

(1) in paragraph (1), by striking "insured System bank" and inserting "insured System institution"; and

(2) in paragraph (2), by striking "bank" and inserting "institution".

SEC. 1349. TERMINATION OF SYSTEM INSTITUTION STATUS OF CALIFORNIA LIVESTOCK PRODUCTION CREDIT ASSOCIATION.

(a) AUTHORITY TO TERMINATE.—Notwithstanding any other provision of law, effective on the date of enactment of this Act, the California Livestock Production Credit Association may terminate the status of the Association as a Farm Credit System institution.

(b) REQUIREMENTS.—Notwithstanding section 7.10(a)(4) of the Farm Credit Act of 1971 (12 U.S.C. 2279(a)(4)), the California Livestock Production Credit Association shall not (on termination) be—

(1) required to pay any part of the last $1,000,000 of its capital; or

(2) restricted from transferring any part of the $1,000,000 to its successor institution.

SEC. 1350. SECONDARY MARKET FOR GUARANTEED FARMER PROGRAM LOANS.

(a) DEFINITION OF CERTIFIED FACILITY.—Paragraph (3) of section 8.0 (12 U.S.C. 2279aa(3)) is amended to read as follows:

"(3) CERTIFIED FACILITY.—The term 'certified facility' means—

"(A) a secondary marketing agricultural loan facility that is certified under section 8.5; or

"(B) the Corporation and any affiliate thereof, but only with respect to qualified loans as defined in paragraph (9)(B).".

(b) DEFINITION OF QUALIFIED LOAN.—Paragraph (9) of section 8.0 is amended to read as follows:

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation that—

"(A)(i) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(ii) is an obligation of—

"(I) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(II) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in subclause (I); and

"(iii) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms; or

"(B) is the portion of a loan guaranteed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except that—

"(i) subsections (b) through (f) of section 8.6, and sections 8.7, 8.8, and 8.9, shall not apply to the portion of a loan guaranteed by the Secretary or to an obligation, pool, or security representing an interest in or obligation backed by a pool of obligations relating to the portion of a loan guaranteed by the Secretary; and

"(ii) the portion of a loan guaranteed by the Secretary, shall be considered to meet all standards for qualified loans for all purposes under this Act.".

SEC. 1351. AUTHORITY OF FARM CREDIT ADMINISTRATION TO REGULATE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following new paragraph:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to—

"(A) provide for the examination of the condition of the Corporation and its affiliates; and

"(B) provide for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V."; and

(2) by adding at the end the following new subsection:

"(e) DEFINITION OF AFFILIATE.—As used in this title, the term 'affiliate' shall mean an entity effectively controlled or owned by the Corporation, except that such term shall not include a certified facility or an originator (as defined in paragraphs (3) and (7), respectively, of section 8.0).".

SEC. 1352. EXCLUSION OF FARM CREDIT ADMINISTRATION FROM SENIOR EXECUTIVE SERVICE.

Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Farm Credit Administration," after "Corporation,".

SEC. 1353. GAO STUDY OF RURAL CREDIT COST AND AVAILABILITY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of certain matters related to the cost and availability of credit in rural America, including a study of—

(1) the relationship of the role and lending volume of the Farm Credit System to the ability of the System to repay the assistance provided under the Agricultural Credit Act of 1987 (Public Law 100-233) and amendments made by such Act;

(2) the ability of Farm Credit System institutions to be competitive taking into consideration the costs of rebuilding capital, repaying assistance, and capitalizing the Farm Credit Insurance Fund established under section 5.60 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-9);

(3) the rates Farm Credit Banks charge for credit and the rates prevailing in the market for credit of comparable risk and maturity;

(4) the potential for credit pricing practices of rural lending institutions to adversely affect the financial soundness of other lending institutions that provide agricultural credit;

(5) the pricing practices of commercial lending and insurance institutions and whether the practices adequately address the level of risk in agricultural lending;

(6) whether the assistance authorized under the Agricultural Credit Act of 1987, and amendments made by such Act, is being utilized in accordance with the purposes intended by Congress;

(7) the availability and adequacy of credit in rural America for the purpose of financing agricultural production, infrastructure (roads, bridges, and water systems), and rural development;

(8) the prudence and desirability for commercial lenders and Farm Credit System institutions who serve primarily agriculture to broaden lending activity to provide diversity in their portfolios;

(9) the level of competitiveness among the major sector lenders in agriculture, whether competition has increased or decreased in the last 5 years, and whether American producers have benefited from the competitive situation; and

(10) the level of farm lending activity, in relation to the total asset level, of agricultural lending institutions in rural America and the level of investment by the institutions outside of the rural community or area in which the lending institutions are located.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report on the study conducted under subsection (a) (including any related recommendations) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1354. BANK EXAMINATION.

Section 5.17(a) of the Farm Credit Act of 1971 is amended by deleting paragraph (13).

Section 5.19(a) of the Farm Credit Act of 1971 is amended by adding after the third sentence the following:

"Examinations of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank."

Subtitle C—Miscellaneous

SEC. 1361. ECONOMIC EMERGENCY LOAN PROGRAM.

The Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is repealed.

SEC. 1362. AUTHORIZATION OF APPROPRIATIONS FOR FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

Section 623 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985 note) is amended—

(1) by inserting before "The Secretary" the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991 through 1995.".

SEC. 1363. STATE MEDIATION PROGRAMS.

Section 506 of the Agricultural Credit Act of 1987 (7 U.S.C. 5106) is amended by striking "1991" and inserting "1995".

SEC. 1364. INDIAN LAND ACQUISITION PROGRAM.

(a) LIMITED RESOURCE INTEREST RATE.—Section 5 of Public Law 91-229 (25 U.S.C. 492) is amended by striking "section 307(a)" and inserting "section 307(a)(3)(B)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Public Law 91-229 (25 U.S.C. 488 et seq.) is amended by adding at the end the following new section:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act $8,000,000 for each of the fiscal years 1991 through 1995.".

Subtitle D—Effective Dates

SEC. 1371. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act.

(b) NOTICE OF DEBT SETTLEMENT PROGRAMS.—The amendment made by section 1310(1) shall become effective 120 days after the date of enactment of this Act.

(c) DEBT RESTRUCTURING AND LOAN SERVICING.—

(1) IN GENERAL.—Except as provided in section 353(c)(7)(A) of the Consolidated Farm and Rural Development Act (as added by section 1320(f) of this Act) and paragraph (3), section 1320 and the amendments made by section 1320 shall apply to new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act.

(2) DEFINITION OF NEW APPLICATION.—As used in paragraph (1), the term "new application" means an application submitted by a borrower to initiate a debt restructuring consideration and not an application reconsidered after an appeal or revision of the original application.

(3) LIQUIDATION OF ASSETS.—Section 353(o) of the Consolidated Farm and Rural Development Act (as added by section 1320(h) of this Act) shall not apply until the Secretary of Agriculture has issued final regulations to carry out section 353(o) of the Consolidated Farm and Rural Development Act.

(d) RESTORATION OF FIRST LIEN ON STOCK.—The amendment made by section 1343 shall be effective as of January 7, 1988.

(e) REGULATIONS.—As soon as practicable after the date of enactment of this Act—

(1) the Secretary of Agriculture shall issue such regulations as are necessary to carry out subtitles A and C and the amendments made by such subtitles; and

(2) the Farm Credit Administration shall issue such regulations as are necessary to carry out subtitle B and the amendments made by such subtitle.

TITLE XIV—RESEARCH

SEC. 1401. SHORT TITLE.

This title may be cited as the "National Agricultural Research, Extension, and Teaching Policy Act of 1990".

Subtitle A—Amendments to the National Agricultural Research, Extension, and Teaching Policy Act of 1977

SEC. 1405. REFERENCES.

Whenever in this title, an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.).

SEC. 1406. FINDINGS.

Section 1402 of the Act (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. FINDINGS.

"Congress finds that—

"(1) the Federal Government has provided funding support for agricultural research and extension for many years in order to promote and protect the general health and welfare of the people of the United States, and such support has significantly contributed to the development of the agricultural system of the United States;

"(2) the existing agricultural research system consisting of the Federal Government, land-grant colleges and universities, other colleges and universities engaged in agricultural research, agricultural experiment stations, and the private sector constitute an essential national resource that must serve as the foundation for the strengthening of agricultural research in the United States;

"(3) the entities conducting Federally supported agricultural research were established at different times in response to different and specific needs and Federally supported research needs to be fully coordinated among these entities and non-Federally supported agricultural research activities;

"(4) long-range planning for research, extension, and teaching is a key element in meeting the objectives of this Act and, as such, all entities in the food and agricultural science and education system should be encouraged to expand their planning and coordination efforts;

"(5) agricultural research agencies have only been partially successful in responding to the needs of all persons affected by their research, and useful information produced through Federally supported research needs to be more efficiently transferred to the people of the United States;

"(6) the agricultural system of the United States is increasingly dependent on science and technology and requires a constant source of food and agricultural scientific expertise to maintain this dynamic system;

"(7) expanded agricultural research and extension is needed to meet the rising demand for food and fiber products caused by increases in worldwide population, market forces, and food distribution;

"(8) advances in food and agricultural sciences and technology have become increasingly limited by periodic imbalances between the thorough development and exploitation of currently known scientific principles and technological approaches and the concentration on more fundamental research, requiring a continuing review and balancing of research emphases;

"(9) Federal funding levels for agricultural research and extension in recent years have not been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation;

"(10) it is and has been the policy of the United States to support food and agricultural research, extension, and teaching in the broadest sense of these terms;

"(11) efforts to implement the policy described in paragraph (10) have resulted in a partnership between the Federal Government and the States, cooperation with the food and agricultural industry, and have provided the United States with the most productive and efficient food and agricultural system in the world;

"(12) the food and agricultural system of the United States is the basis of our national affluence and it provides vast amounts of food and fiber to other people around the world, however this food and agricultural system is dynamic and constantly changing;

"(13) the agricultural research, extension, and teaching programs of the United States must be maintained and constantly adjusted to meet new challenges and opportunities;

"(14) national support for cooperative research, extension, and teaching efforts must be reaffirmed and strengthened to meet major societal needs and scientific opportunities;

"(15) continuing or increased efforts in the food and agricultural sciences are needed in the areas of—

"(A) plant genome structure and function, molecular and cellular genetics and plant biotechnology, plant-pest interactions and biocontrol systems, crop plant response to environmental stresses, improved nutrient qualities of plant products, and new food and industrial uses of plant products and development of new crops and cropping systems;

"(B) cellular and molecular basis of animal reproduction, growth, disease, and health, identification of genes responsible for improved production traits and resistance to disease, improved nutritional performance of animals, improved nutrient qualities of animal products, and uses, and the development of new and improved animal husbandry and production systems that take into account production efficiency and animal well-being, and animal systems applicable to aquaculture;

"(C) microbial contaminants and pesticides residues related to human health, links between diet and health, including monitoring the nutritional status of the population, especially critical subpopulations, nutrition education, rural family welfare, bioavailability of nutrients, postharvest physiology and practices, and improved processing technologies;

"(D) fundamental structures and functions of ecosystems, biological and physical bases of sustainable production systems, minimizing soil losses and degradation, sustaining surface water and groundwater quality and maximizing water availability, forest and range management and productivity, weather and climatic effects on agriculture, and biological diversity;

"(E) new uses and new products from crops, animals, by-products, waste products, and natural resources, robotics, computing and expert systems, energy efficiency, conservation, and the development of alternative, renewable energy sources, new resource and environmental quality and management; and

"(F) optimal strategies for entering and being competitive in overseas markets, new decision tools for on-farm and market systems, choices and applications of technology, new approaches to economic development and viability in the rural United States with emphasis on family farming operations, international cooperation in agricultural research, extension, and teaching, and agricultural and nutritional improvements in developing nations;

"(16)(A) the implications of the economic and scientific globalization of agriculture for the future well-being of the United States agriculture industry are immediate, pervasive, and of great consequence for both the producers and consumers of the United States;

"(B) the prosperity of United States agriculture (most specifically its ability to compete in world markets) depends directly on its active participation in the expanding and increasingly sophisticated global network of science and education;

"(C) it is recognized that, with the globalization of agriculture, the agenda of international issues of interest and importance to United States agriculture is increasing; and

"(D) the Department of Agriculture can provide crucial assistance and should assume an active role in providing this assistance;

"(17)(A) historically the Department of Agriculture has taken a strong role in research and education in colleges and universities of the United States, however, there is a segment of institutions (primarily those with significant minority enrollment) that are uniquely in a position to assist the Department in carrying out its legislative mandates to assess needs and expand opportunities for human expertise development in the food and agricultural sciences on a national and international scale; and

"(B) the needs of the United States for trained professionals and scientists in the food and agricultural sciences are becoming increasingly critical, and Department initiatives undertaken to benefit students pursuing careers in food and agriculture can address this national need; and

"(18)(A) a 1989 report of the National Research Council of the National Academy of Sciences entitled, 'Investing in Research: A Proposal to Strengthen the Agricultural, Food and Environment System', identified an urgent need and opportunity for further investment in agricultural research;

"(B) in the agricultural system, as with other segments of United States industry, the need for research in the 21st century will intensify more quickly than ever before;

"(C) research opportunities must be seized immediately, before their peak of potential benefit has passed; and

"(D) the ability of the United States to resolve the spectrum of issues and related problems in agriculture (such as nutrition, economics and international trade, production efficiency, natural resources conservation, control of pollutants, and other issues and problems) depends on depth of knowledge, the available tools and technologies, and the skill and insight to apply the knowledge, tools, and technologies.".

SEC. 1407. DEFINITIONS.

Section 1404 of the Act (7 U.S.C. 3103) is amended—

(1) in paragraph (15), by striking "and" at the end thereof;

(2) in paragraph (16)(F), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) the term 'Technology Board' means the Agricultural Science and Technology Review Board established under section 1413B.".

SEC. 1408. PRIORITIES FOR AGRICULTURAL RESEARCH AND EXTENSION SYSTEM.

(a) STATEMENT OF PURPOSES.—The Act is amended by inserting after section 1403 (7 U.S.C. 3102) the following new section:

"SEC. 1403A. STATEMENT OF PURPOSES FOR AGRICULTURAL RESEARCH AND EXTENSION.

"(a) PRIMARY PURPOSE.—The primary purpose of Federal involvement in both basic and applied agricultural research and extension activities shall be—

"(1) to enhance the sustainability and competitiveness of the food production and agricultural system of the United States; and

"(2) to the extent practicable, maximize competitiveness and the social, environmental, human health, economic, international and food security interests of the United States.

"(b) SPECIFIC PURPOSES.—Subject to the varying conditions and needs of States to carry out subsection (a), federally funded agricultural research and extension programs shall be designed to, among other things—

"(1) increase employment opportunities (especially self-employment) in agricultural and rural communities, strengthen the family farm system of agriculture, enhance the competitive position of small- and moderate-sized, owner-operated farms on which the operators rely for a significant portion of their income, contribute to a more equitable rural, social, and economic structure, while enhancing the social and economic vivacity and quality of life of rural communities;

"(2) protect the environment and natural resources through activities including reducing soil erosion, enhancing wildlife habitat and populations, protecting ground water and surface water from pollution from sediment, nutrients, synthetic chemicals, and other potential pollutants that may impair water quality or have an adverse affect on human health or the environment;

"(3) enhance human health by fostering the availability and affordability of a safe, wholesome, healthful, and nutritious food supply that meets the needs and preferences of consumers, and by developing farming systems without adverse impacts on the health of consumers, farmers, farmworkers, and other persons involved in the food and farm system, or by assisting farmers and other rural residents in the detection and prevention of health and safety concerns;

"(4) enhance the resiliency and competitiveness of the food and farm system to ensure long-term food security and affordability by—

"(A) reducing reliance on consumptive use of nonrenewable resources, including petroleum and other nonrenewable sources of energy;

"(B) preserving, enhancing, and sustaining the productivity of natural resources, including farmland;

"(C) maintaining genetic and species diversity; or

"(D) developing farming systems capable of meeting future food and farm product needs;

"(5) enhance the efficiency, profitability, and competitiveness of United States agriculture through the development of production systems that address constraints facing producers and that allow the producers, through more intensive application and use of management, skilled labor, and other means to reduce production costs; or

"(6) enhance the efficiency, profitability, and competitiveness of United States agriculture through the development of more efficient processes, new uses for existing crops, or new and alternative crops as industrial raw materials.

"(c) PROGRAMS.—To foster the purposes described in subsections (a) and (b), agricultural research and extension programs should encompass—

"(1) the development of farming systems that take greater advantage of natural processes and beneficial biological interactions so as to sustain and enhance the interactions for use in agronomic and livestock farm management, including—

"(A) enhanced management of fertilizers, pesticides, animal drugs, and inputs;

"(B) use and development of integrated pest management systems and biological controls for insects, weeds, and plant pathogens;

"(C) soil management systems that reduce soil erosion, use cover crops, crop residues, crop rotation, and legumes as nitrogen sources; and

"(D) environmentally sound application of animal manure;

"(2) agroecology research aimed at developing an understanding of the ecology of agricultural ecosystems and the interaction among living organisms, environmental conditions, and farming practices;

"(3) genetics research (using both traditional approaches and biotechnology) that result in crop varieties and livestock that enhance management options, farm productivity, use of inputs, and a diversity of products that can be marketed by the farm operator;

"(4) research to develop farming systems appropriate to an era of climatological uncertainty, including development of more drought tolerant plants and farming systems that conserve moisture, and plants and livestock that are adaptable to shifts in climate;

"(5) research to increase the demand for current farm products, and to develop new farm crops and enterprises, that are socially, economically, and environmentally advantageous and enhance agricultural diversity, including—

"(A) new crops and new uses for existing crops that can be grown on highly erodible land at acceptable rates of soil erosion;

"(B) new uses for existing crops and new crops that when added to rotations with major crops reduce soil erosion and the need for substantial off-farm inputs;

"(C) new crops and products that are environmentally sound and appropriate to small- and moderate-sized family farms; and

"(D) processing techniques for agricultural products that are appropriate to location on farms and in small rural communities;

"(6) research to enhance the profitability and productivity of soil conserving land uses and farming systems that rely on long-term perennial plant systems, including greater reliance on forages and development of livestock systems that improve the utilization of forage products;

"(7) research that develops—

"(A) rural development strategies that build on the entrepreneurial skills, self-employment tradition, and agricultural resource base of farm-dependent communities; and

"(B) extension programs to disseminate those strategies and provide technical assistance to grassroots, self-help rural community development efforts, including those aimed particularly at increasing economic opportunities of minorities and low income individuals;

"(8) innovative extension and education programs that transfer new technology to the agricultural community and to widely reach small- and moderate-sized family farmers, including potential beginning and minority farmers with limited resources (who might otherwise fail to keep pace with rapidly changing technology) to enhance their management capabilities and inform them of established and emerging technological and farming systems alternatives appropriate to small- and moderate-sized family farms;

"(9) extension programs that are adequately funded and staffed and substantially involve a broad range of interested individuals, commodity groups, agri-industry groups, farm groups, rural organizations,

community groups, farm worker groups, food groups, church groups, and environmental organizations to broaden input into research and extension priority setting;

"(10) programs to strengthen the role of the Department of Agriculture in international agricultural research, extension, education and international development programs and related activities of the Department and cooperating State universities and land grant colleges, in cooperation with the Agency for International Development, as appropriate;

"(11) a plant and animal genome mapping program to decipher the set of genetic instructions that guides the development of important food and forest species and coordinate the activities of the Federal, State, and private sector concerning genome mapping in a national effort to preserve and document the valuable plant, animal, and microbial germplasm in the genebanks with the United States; and

"(12) research that develops technology that will ascertain the lean content of animal carcasses that will be used for human consumption.".

(b) APPLICATION OF PURPOSES.—The Act is amended by inserting before section 1407 (7 U.S.C. 3122) the following new section:

"SEC 1406A. APPLICATION OF PURPOSES TO AGRICULTURAL RESEARCH AND EXTENSION PROJECTS.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations implementing the purposes identified in section 1403 for agricultural research and extension programs administered by the Secretary, and shall inform persons participating in such programs of such purposes.

"(2) COMMENT PERIOD.—The public comment period applicable to the regulations under paragraph (1) shall be not less than 60 days.

"(b) IDENTIFICATION OF PURPOSES IN AGRICULTURAL RESEARCH AND EXTENSION PROJECTS.—Except as provided in subsection (c), requests for proposals in agricultural research or extension that are issued by the Secretary and that will result in projects funded at a level of $10,000 or more shall identify—

"(1) the purposes that the project seeks to further; and

"(2) the effects of the project on—

"(A) the purposes stated in section 1403A;

"(B) the purposes underlying the law authorizing the project; or

"(C) the annual and 5-year plan for research, teaching, and extension prepared by the Joint Council and the Advisory Board.

"(c) RELATIONSHIP TO OTHER LAWS.—Subsection (b) shall not override requirements for specifying objectives of projects to be funded that are prescribed under—

"(1) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.) (commonly known as the 'Hatch Act of 1887'); or

"(2) the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.) (commonly known as the 'Smith-Lever Act').".

SEC. 1409. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

Section 1407 of the Act (7 U.S.C. 3122) is amended to read as follows:

"SEC. 1407. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a committee to be known as the Joint Council on Food and Agricultural Sciences which shall remain in existence until September 30, 1995.

"(b) MEMBERSHIP.—The Joint Council shall be composed of not less than 19 members who represent organizations or agencies that conduct or assist in conducting programs of research, extension, or teaching in the food and agricultural sciences (including State cooperative institutions, other colleges and universities having a demonstrable capacity to carry out food and agricultural research, extension, or teaching, agencies within the Department of Agriculture and other Federal agencies that have significant research, extension, or teaching responsibilities), including—

"(1) a representative of the National Institutes of Health;

"(2) a representative of the National Science Foundation;

"(3) a representative of the Department of Energy;

"(4) a representative of the Environmental Protection Agency;

"(5) the Administrator of the Agricultural Research Service;

"(6) the Administrator of the Cooperative State Research Service;

"(7) the Administrator of the Extension Service;

"(8) the Administrator of the Economic Research Service;

"(9) the Chief of the Forest Service;

"(10) the Director of the National Agricultural Library;

"(11) the Assistant Secretary for Economics;

"(12) the Assistant Secretary for Science and Education;

"(13) a representative of the Experiment Station Committee on Policy established by land grant colleges;

"(14) a representative of the Extension Committee on Policy established by land grant colleges;

"(15) a representative of the Resident Instruction Committee on Policy established by land grant colleges;

"(16) a representative of the International Committee on Policy established by land grant colleges;

"(17) a representative of colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.) including Tuskegee University;

"(18) a representative of the American Association of Schools and Colleges of Agriculture and Renewable Resources;

"(19) a representative of the Council of Administrative Heads of Agriculture; and

"(20) to the extent that the such Council is composed of in excess of 19 members, up to six additional individuals that the Secretary may identify as appropriate and capable of contributing to the formulation of national policy in the food and agricultural sciences.

"(c) CHAIRPERSONS.—The Assistant Secretary for Science and Education and a representative of the land grant colleges shall be cochairpersons of the Joint Council.

"(d) TECHNICAL PANELS.—

"(1) ESTABLISHMENT.—The Joint Council may establish such technical panels as the Joint Council considers necessary to prioritize and accomplish research and technology transfer in accordance with this section.

"(2) DUTIES.—A panel established under paragraph (1) shall—

"(A) define research and technology transfer needs;

"(B) delineate alternatives and recommend research and technology transfer approaches;

"(C) identify centers of expertise; and

"(D) make recommendations regarding the overall level and mix of available funding.

"(3) EXPERTISE.—Members of the panels established under paragraph (1) shall include experts from the public and private sector on all dimensions of a priority area, including its basic science, applied research, education, economic, and social dimensions.

"(e) LIAISON TO ADVISORY BOARD.—One member of the Joint Council shall be elected annually to serve as liaison to the Advisory Board established under section 1408.

"(f) MEETINGS.—The Joint Council shall meet at least once during each 3-month period. At least one meeting each year shall be a combined meeting with the Advisory Board and with other representatives of Federal agencies that support agricultural research.

"(g) RESPONSIBILITIES.—

"(1) PRIMARY.—The primary responsibility of the Joint Council shall be to bring about more effective research, extension, and teaching in the food and agricultural sciences in the United States by improving planning and coordination of publicly and privately supported food and agricultural science activities and by relating Federal budget development and management program management to such activities.

"(2) ADDITIONAL.—The Joint Council shall—

"(A) provide a forum for the interchange of information among the organizations represented by the members of the Joint Council that will ensure improved awareness among the organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization;

"(B) analyze and evaluate the economic, environmental, and social impacts of agricultural research extension and teaching programs conducted in the United States and determine high priority agricultural research areas with particular attention being paid to the potential of such to advance the purposes expressed in section 1403A, and submit annual reports identifying such high priority research areas to the Secretary and representatives of Federal agencies that support agricultural research;

"(C) develop and review the effectiveness of the system, for use by the Secretary and representatives of Federal agencies that support agricultural research, of compiling, maintaining, and disseminating information concerning—

"(i) federally supported agricultural research or extension projects; and

"(ii) to the maximum extent possible, private agricultural research and extension projects conducted by colleges and universities, foundations, contract research groups, business and others, except that information on private agricultural research and extension projects shall not be included in the system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects agree to the inclusion of information about such projects;

"(D) assist the parties in developing, reviewing, and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Secretary and the participants in agricultural research, extension, and teaching programs under this Act and other Acts;

"(E) assist the Secretary and representatives of other Federal agencies that support agricultural research in carrying out the re-

sponsibilities assigned to the Secretary and the representatives of other Federal agencies that support agricultural research under this Act through planning and coordination in the food and agricultural sciences by—

"(i) using, wherever possible, the existing regional research, extension, and teaching organizations of State cooperative institutions to provide regional planning and coordination; and

"(ii) the development of recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences and the means to achieve the goals;

"(F) on the recommendation of the Advisory Board—

"(i) oversee and prioritize funds made available to the Department of Agriculture for agricultural research, extension and teaching to promote the purposes of section 1403A and this section;

"(ii) provide an annual review and prioritize requests for agricultural related special research and construction grants;

"(iii) provide an annual review of the competitive grants made by the Secretary to determine priority research and grant categories and types that best advance the purposes expressed in section 1403A; and

"(iv) review and make budget recommendations on the research, extension, and teaching budgets for the Agricultural Research Service, the Forest Service, the Economic Research Service, the Extension Service, the National Agricultural Library, and the Cooperative State Research Service;

"(G) submit a report—

"(i) not later than June 30 of each year, specifying—

"(I) the recommendations of the Joint Council on priorities for food and agricultural research, extension, and teaching programs;

"(II) suggested areas of responsibility among Federal, State, and private organizations in carrying out such programs; and

"(III) the levels of financial and other support needed to carry out such programs;

"(ii) not later than November 30 of each year specifying—

"(I) ongoing research, extension, and teaching programs;

"(II) accomplishments of such programs; and

"(III) the levels of financial and other support needed to carry out such programs;

"(iii) not later than November 30, 1990, outlining a 5-year plan for food and agricultural sciences that reflects the coordinated views of the research, extension, and teaching community, and updating the plan every 2 years thereafter;

with each such report submitted to Congress, the Secretary, and the directors of Federal agencies who are supporting agricultural research, and with minority views, if timely submitted; and

"(H) coordinate with the Secretary in assessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community.

"(h) PUBLICITY OF MEETINGS AND ACTIVITIES.—The meetings of the Joint Council shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Joint Council shall be kept and made available to the public on request.

"(i) NONAPPLICABILITY OF OTHER FEDERAL PROVISIONS.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the Joint Council.".

SEC. 1410. NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD.

Section 1408 of the Act (7 U.S.C. 1323) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board (hereinafter referred to in this section as the 'Advisory Board') which shall remain in existence until September 30, 1995.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of 21 members to be appointed by the Secretary, and to serve staggered terms, in a manner determined appropriate by the Secretary, with—

"(1) one member who is a producer representing farm cooperatives;

"(2) two members who are producers representing general farm organizations;

"(3) four members who are producers representing agricultural commodities, forest product, and aquacultural product groups from various geographic regions;

"(4) one member representing agricultural farm suppliers;

"(5) one member representing food and fiber processors;

"(6) one member representing animal health interests;

"(7) one member engaged in transportation of food and agricultural products to domestic or foreign markets;

"(8) one member representing labor organizations primarily concerned with the production, processing, distribution, or transport of food and agricultural products;

"(9) one member representing food marketing interests;

"(10) one member representing private nonprofit organizations and foundations involved in agricultural research, sustainable agricultural research, education, and extension;

"(11) one member representing private sector organizations involved in development programs and issues in developing countries;

"(12) one member representing agencies of the Department of Agriculture that do not have research capabilities;

"(13) one member engaged in rural development work;

"(14) one member engaged in human nutrition work;

"(15) two members representing consumer interests, including one member who represents nonprofit consumer advocacy organizations; and

"(16) one member representing nonprofit environmental protection organizations.

"(c) CHAIRPERSON; VICE-CHAIRPERSON.—The members of the Advisory Board shall select a chairperson and vice-chairperson from their membership at the first meeting each year of the Board, who shall serve in such positions for a term of 1 year.

"(d) MEETINGS.—The Advisory Board shall meet a sufficient number of times each year to carry out its responsibilities under subsection (f). At least one meeting per year shall be a combined meeting with the Joint Council established under section 1407 and with other representatives of Federal agencies that support agricultural research.

"(e) PANELS.—The Advisory Board may establish such panels as the Advisory Board considers appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting the responsibilities of the Advisory Board. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal Government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

"(f) RESPONSIBILITIES.—

"(1) GENERAL.—The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences. One member of the Advisory Board shall be elected annually to serve as liaison to the Joint Council established under section 1407.

"(2) SPECIFIC.—The Advisory Board shall have specific responsibility for—

"(A) reviewing the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this Act;

"(B) reviewing and assessing the extent of agricultural research, teaching, and extension being conducted by the private sector and the relationships and coordination of such activities with federally supported agricultural research, teaching, and extension programs;

"(C) reviewing and providing consultation to the Secretary on national policies, priorities and strategies for agricultural research and extension for both the short and long term;

"(D) assessing the overall adequacy of, and making recommendations to the Secretary, Federal agencies, and private organizations who are contributing to agricultural research, extension, and education funding, with regard to the distribution of resources and the allocation of funds authorized by this Act;

"(E) identifying emerging agricultural research, teaching, and extension issues and suggesting programs and technology transfer solutions for use by the public and private agricultural science and education community;

"(F) evaluating the results and the effectiveness of research and extension programs as to their influence on long-term goals of agriculture expressed in section 1403A and consumer needs;

"(G) not later than July 1 of each year, providing an oral briefing to the Secretary (by the chairperson of the Advisory Board), and a written report of recommendations to the appropriate Committees of Congress and the Secretary, concerning the allocation of responsibilities and levels of funding among federally supported agricultural research and extension programs, including—

"(i) a review and assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by organizations represented by the members on the Joint Council established under section 1407;

"(ii) an evaluation of—

"(I) the effectiveness of coordination of Federal and private research initiatives;

"(II) new research and extension programs that need to be conducted by the research system; and

"(III) an evaluation of the effectiveness of the private and public research and extension system; and

"(iii) minority views, if timely submitted; and

"(H) not later than February 20 of each year, submitting, to the President, the appropriate Committees of Congress, and the Joint Council established under section 1407, a report containing—

"(i) an appraisal by the Advisory Board of the proposed budget of the President for the food and agricultural sciences for the fiscal year beginning in such year;

"(ii) the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to section 1410; and

"(iii) separate views of members of the Advisory Board, if timely submitted.

"(3) REPORTS.—Each report prepared by the Advisory Board shall list the membership of the Board, including the organizational and employment affiliation of each Board member.

"(g) REPORT BY SECRETARY.—Not later than February 1 of each year, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the manner in which the recommendations of the Advisory Board have been incorporated into the budget and programs of the Department of Agriculture.".

SEC. 1411. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

Section 1413A of the Act (7 U.S.C. 3129) is amended to read as follows:

"SEC. 1413A. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

"(a) ESTABLISHMENT.—The Secretary, acting through the Joint Council established under section 1407, shall establish and oversee an Agricultural Science Technology Review Board (hereinafter referred to in this section as the 'Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Board shall be composed of 11 individuals, to be appointed by the Secretary, who have expertise in technology assessment, environmental sciences, rural sociology, international agricultural issues, the social sciences, agricultural sciences (both basic and applied), technology transfer, and education, including representatives of—

"(A) the Agricultural Research Service;

"(B) the Cooperative State Research Service;

"(C) the Extension Service;

"(D) private foundations and nonprofit organizations who have expertise in agricultural research, education, and technology transfer;

"(E) private agricultural research and technology transfer firms; and

"(F) the Land Grant University System.

"(2) MANNER OF APPOINTMENT.—The Secretary shall appoint members of the Board in a manner determined to be appropriate by the Secretary.

"(3) PRIVATE SECTOR REPRESENTATION.—A majority of the members of the Board appointed under paragraph (1) shall be from the private sector.

"(4) TERMS.—Members of the Board shall serve for staggered terms of 3 years, as determined appropriate by the Secretary.

"(5) CHAIRPERSON.—The Board shall select a chairperson from its membership, who shall serve in that position for a term of 1 year.

"(c) TECHNICAL INTERPRETATION AND ASSESSMENTS.—

"(1) IN GENERAL.—The Board shall—

"(A) provide technical interpretation and translation of current and emerging agricultural and environmental science issues for use by the Joint Council and the Advisory Board in setting priorities and conducting evaluations; and

"(B) provide technology assessment of current and emerging public and private agricultural research and technology transfer initiatives, including emerging technologies from private industry and public institutions that would influence agriculture, environment, nutrition, and the broad social, economic, and health consequences on urban and rural communities.

"(2) PRIVATE SECTOR ANALYSES.—The Board may conduct an assessment of private sector agricultural research and technology transfer initiatives involving a private sector entity only to the extent the entity is willing to cooperate in the assessment.

"(d) TECHNOLOGY ASSESSMENT REPORT.—

"(1) IN GENERAL.—Not later than December 31 of each year, the Board shall prepare a report that contains a technology assessment of emerging public and private agricultural research initiatives and activities, including—

"(A) recommendations on how such research would be best directed to advance the goals and purposes set forth in section 1403A; and

"(B) an assessment of activities conducted by the Secretary, research components of public and private colleges and universities, and emerging private agricultural research initiatives.

"(2) RECIPIENTS.—The Board shall submit the report required under paragraph (1) to the appropriate Committees of Congress, to the Secretary, to the heads of other Federal agencies who support agricultural research, and (on request) to private organizations who have a significant involvement in agricultural research.

"(3) MINORITY VIEWS.—The Board shall include minority views in the report, if timely submitted.".

SEC. 1412. SUPPORT FOR THE JOINT COUNCIL, ADVISORY BOARD AND TECHNOLOGY BOARD.

Section 1412 of the Act (7 U.S.C. 3127) is amended—

(1) by striking the heading and inserting the following new heading:

"SEC. 1412. SUPPORT FOR THE JOINT COUNCIL, ADVISORY BOARD AND TECHNOLOGY BOARD.";

(2) in subsection (a)—

(A) by striking "and the Advisory Board" and inserting ", the Advisory Board and the Technology Board established under section 1413A"; and

(B) by inserting "and the Technology Board" immediately before the dash;

(3) in paragraph (1) of subsection (a), by inserting "and the Technology Board" before "may direct";

(4) in paragraph (2) of subsection (a), by inserting "and one shall serve as the executive secretary to the Technology Board" before the period;

(5) in subsection (b), by striking "and the Advisory Board" and inserting ", the Advisory Board and the Technology Board"; and

(6) in subsection (c), by striking "and the Advisory Board" and inserting ", the Advisory Board and the Technology Board".

SEC. 1413. GENERAL PROVISIONS.

Section 1413 of the Act (7 U.S.C. 3128) is amended—

(1) in subsection (a), by striking "or the Advisory Board" and inserting ", the Advisory Board or the Technology Board established under section 1413A";

(2) in subsection (b), by striking "and the Advisory Board" and inserting ", the Advisory Board and the Technology Board"; and

(3) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 1414. RESPONSIBILITIES OF SECRETARY AND DEPARTMENT OF AGRICULTURE.

Section 1405 of the Act (7 U.S.C. 3121(12)) is amended—

(1) in paragraph (11), by striking "and" at the end thereof;

(2) in paragraph (12)—

(A) by striking "establish" and inserting "after coordination with the Technology Board established under section 1413A, establish"; and

(B) by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(13) establish a plant and animal genome mapping program to decipher the complete set of genetic instructions that guide the development of important food and forest species; and

"(14) coordinate the activities of the Federal, State, and private sector in a national effort to preserve and document the valuable plant, animal, and microbial germplasm in the genebanks within the United States.".

SEC. 1415. ANNUAL REPORT OF THE SECRETARY.

Section 1410(2) of the Act (7 U.S.C. 3125(2)) is amended by inserting "and the Technology Board established under section 1413A" before the semicolon.

SEC. 1416. GENERAL AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1463 of the Act (7 U.S.C. 3311) is amended—

(1) in subsection (a), by striking "$600,000,000" and all that follows through the period and inserting "$730,000,000 for each of the fiscal years 1991 through 1995, and not later than October 1, 1993, and for each fiscal year thereafter, not less than 20 percent of the amount appropriated in each such fiscal year under this subsection shall be used for research that has the goal of increasing the demand or utilization of farm or forest products, with special emphasis on the development of new nonfood uses for traditional commodities and the development of alternative farm and forest products."; and

(2) in subsection (b), by striking "$270,000,000" and all that follows through the period and inserting "$310,000,000 for each of the fiscal years 1991 through 1995.".

(b) COST-REIMBURSABLE AGREEMENTS.—Section 1473 of the Act (7 U.S.C. 3319a) is amended by inserting before "without regard" the following: "and State departments of agriculture and associations thereof".

SEC. 1417. AUTHORIZATION FOR APPROPRIATIONS FOR EXTENSION EDUCATION.

Section 1464 of the Act (7 U.S.C. 3312) is amended by striking "$370,000,000" and all that follows through the period and inserting "$420,000,000 for fiscal year 1991, $430,000,000 for fiscal year 1992, $440,000,000 for fiscal year 1993, $450,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995.".

SEC. 1418. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the Act (7 U.S.C. 3152) is amended to read as follows:

"SEC. 1417. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

"(a) HIGHER EDUCATION TEACHING PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall promote and strengthen higher education in the food and agricultural sciences by formulating and administering programs to enhance college and university teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agricultural system.

"(2) GRANTS.—The Secretary may make competitive grants, or grants without regard to any requirement for competition, to land grant colleges and universities, to colleges and universities with significant minority enrollments having a demonstrable capacity to carry out the teaching of food and agricultural sciences, and to other colleges and universities having a demonstrable capacity to carry out the teaching of food and agricultural sciences, for a period not to exceed 5 years—

"(A) to strengthen institutional capacities, including curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(B) to attract and support undergraduate and graduate students in order to educate the students in national need areas of the food and agricultural sciences;

"(C) to facilitate cooperative initiatives between two or more eligible institutions, or between eligible institutions and units of State government or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs;

"(D) to conduct undergraduate scholarship programs to meet national and international needs for training food and agricultural scientists and professionals; and

"(E) to conduct graduate and postdoctoral fellowship programs to attract highly promising individuals to research or teaching careers in the food and agricultural sciences.

"(3) ELIGIBILITY.—To be eligible for a grant under this subsection, a recipient institution must have a significant demonstrable commitment to higher education teaching programs in the food and agricultural sciences and to each specific subject area for which the grant is to be used.

"(4) MINORITY GROUPS.—The Secretary may set aside a portion of the funds appropriated for the awarding of grants under this subsection, and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full representation of minority groups in the food and agricultural sciences workforce of the United States.

"(5) NATIONAL NEED FOR TRAINED PROFESSIONALS AND SCIENTISTS.—The Secretary may require that any grants awarded under this subsection contain provisions that require funds to be targeted to meet the needs identified in section 1402(17).

"(b) EVALUATION OF TEACHING PROGRAMS.—The Secretary shall conduct programs to develop, analyze, and provide to colleges and universities data and information that are essential to the evaluation of the quality of teaching programs and to facilitate the design of more effective programs comprising the food and agricultural sciences higher education system of the United States.

"(c) CONTINUING EDUCATION.—The Secretary shall conduct special programs with colleges and universities, and with organizations in the private sector, to support educational initiatives to enable food and agricultural scientists and professionals to maintain their knowledge of changing technology, the expanding knowledge base, societal issues, and other factors that impact the skills and competencies needed to maintain the expertise base available to the agricultural system of the United States. The special programs shall include grants and technical assistance.

"(d) TRANSFERS.—

"(1) FUNDS.—Funds authorized in section 22 of the Act of June 29, 1935 (49 Stat. 439, chapter 338; 7 U.S.C. 329) are transferred to and shall be administered by the Secretary of Agriculture.

"(2) FUNCTIONS AND DUTIES.—There are transferred to the Secretary all the functions and duties of the Secretary of Education under the Act of June 29, 1935 applicable to the activities and programs for which funds are made available under section 22 of such Act.

"(e) AWARDS PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a National Food and Agricultural Sciences Teaching Awards program to recognize and promote excellence in teaching food and agricultural sciences at a college or university.

"(2) AWARDS.—In implementing the program established under paragraph (1), the Secretary shall designate at least 6 regions of the United States in which awards will be made on an annual basis. Such awards may be in cash to nominees selected by the Secretary.

"(3) FUNDING.—

"(A) TRANSFERS.—The Secretary may transfer funds from amounts appropriated for the conduct of any agricultural research, extension, or teaching program to an account established pursuant to this section for the purpose of making the awards.

"(B) GIFTS.—The Secretary may accept gifts in accordance with Public Law 95-442 (7 U.S.C. 2269) for the purpose of making the awards.

"(f) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App. 2) and title II of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications, proposals, or nominations for awards submitted under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section $70,000,000 for each of the fiscal years 1990 through 1995, of which $10,000,000 shall be used for the national needs graduate fellowship program referred to in subsection (a)(2)(E).".

SEC. 1419. NATIONAL AGRICULTURAL LIBRARY.

(a) IN GENERAL.—The Act (7 U.S.C. 3101 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle N—National Agricultural Library

"SEC. 1485. FINDING AND PURPOSE.

"(a) FINDING.—Congress finds that the library of the Department of Agriculture established pursuant to section 520 of the Revised Statutes (7 U.S.C. 2201) has grown over the years to become a national library that serves as the leading agricultural information resource in the United States.

"(b) PURPOSE.—The purpose of this subtitle is to consolidate and expand the statutory authority for the operation of the National Agricultural Library as the primary agricultural information resource of the United States.

"SEC. 1486. ESTABLISHMENT.

"There is established in the Department of Agriculture the National Agricultural Library to serve as the primary agricultural information resource of the United States.

"SEC. 1487. DIRECTOR.

"The National Agricultural Library shall be headed by a Director (hereinafter in this subtitle referred to as the 'Director'), who shall be appointed by and subject to the direction of the Secretary.

"SEC. 1488. FUNCTIONS.

"The Director may—

"(1) acquire, preserve, and manage information and information products and services in all phases of agriculture and allied sciences;

"(2) organize agricultural information and information products and services by cataloging, indexing, bibliographical listing, and other appropriate techniques;

"(3) provide agricultural information and information products and services to agencies of the Department of Agriculture and the Federal Government, public and private organizations, and individuals, within the United States and internationally;

"(4) plan for, coordinate, and evaluate information and library needs related to agricultural research and education;

"(5) cooperate with and coordinate efforts among agricultural college and university libraries, in conjunction with private industry and other agricultural library and information centers, toward the development of a comprehensive agricultural library and information network; and

"(6) coordinate the development of specialized subject information services among the agricultural and library information communities.

"SEC. 1489. LIBRARY PRODUCTS AND SERVICES.

"(a) IN GENERAL.—The Director may—

"(1) make copies of the bibliographies prepared by the National Agricultural Library;

"(2) make microforms and other reproductions of books and other library materials in the Department; and

"(3) provide any other library and information products and services.

"(b) SALE.—The Director may sell products and services developed under subsection (a) at such prices (not less than the estimated total cost of disseminating the products and services) as the Secretary may determine appropriate.

"(c) RECEIPTS.—The money received from sales under subsection (b) shall be deposited in the Treasury of the United States to the credit of the applicable appropriation and shall remain available until expended.

"SEC. 1490. AGREEMENTS.

"(a) IN GENERAL.—On or after the date of enactment of this subtitle, the Director may enter into agreement with, and receive funds from any State, and other political subdivision, organization, business, or individual for the purpose of conducting activities to carry out this subtitle.

"(b) FUNDS.—Funds received under this section for payments for library products and services or other activities shall be deposited to the miscellaneous contributed fund account, and shall remain available until expended.

"SEC. 1491. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this subtitle.".

(b) CONFORMING AMENDMENTS.—

(1) The Act of May 23, 1908 (35 Stat. 264, chapter 192; 7 U.S.C. 2242) is amended—

(A) in the second unnumbered paragraph following the heading "LIBRARY.", by striking the second sentence; and

(B) in the second sentence of the second unnumbered paragraph following the heading "OFFICE OF EXPERIMENT STATIONS.", by striking "the Secretary of Agriculture hereafter may furnish" and all that follows through "miscellaneous receipts; and".

(2) The Act of March 4, 1915 (38 Stat. 1109, chapter 144; 7 U.S.C. 2242) is amended by striking the eleventh unnumbered paragraph following the heading "STATES RELATIONS SERVICE.".

(3) Section 708 of the Act of September 21, 1944 (58 Stat. 742, chapter 412; 7 U.S.C. 2244) is repealed.

SEC. 1420. RANGELAND RESEARCH.

(a) ADVISORY BOARD.—Section 1482(a) of the Act (7 U.S.C. 3335(a)) is amended by striking "1990" and inserting "1995".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1483(a) of the Act (7 U.S.C. 3336(a)) is amended by striking "1990" and inserting "1995".

(c) The Secretary of Agriculture is encouraged to conduct a study on the impact of rangeland carrying capacity during drought and, within 1 year after the date of enactment of this Act, submit to the Congress a report on such study.

(d) The study shall include—

(1) a review of existing rangeland drought research here and abroad; and

(2) a strategy for the establishment of a national rangeland drought research program, involving international, Federal, State, and local agencies.

SEC. 1421. ANIMAL HEALTH AND DISEASE RESEARCH.

(a) ADVISORY BOARD.—Section 1432(a) of the Act (7 U.S.C. 3194(a)) is amended by striking "1990" and inserting "1995".

(b) MEETINGS.—Section 1432(b) of the Act (7 U.S.C. 3194(b)) is amended—

(1) by striking "implementation of this subtitle" and inserting "conduct of animal health and disease programs under any authority of the Secretary";

(2) by inserting "such" before "research"; and

(3) by striking "authorized under this subtitle".

(c) RESEARCH PROGRAMS.—Section 1433(a) of the Act (7 U.S.C. 3195(a)) is amended by striking "1990" and inserting "1995".

(d) DISEASE PROBLEMS.—Section 1434 of the Act (7 U.S.C. 3196) is amended—

(1) in subsection (a), by striking "1990" and inserting "1995"; and

(2) in subsection (c), by striking "the Board" and inserting "the Board and the Technology Board established under section 1413A".

SEC. 1422. AQUACULTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1477 of the Act (7 U.S.C. 3324) is amended by striking "1990" and inserting "1995".

(b) FISH DISEASE PROGRAM.—Section 1475 of the Act (7 U.S.C. 3322) is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall implement a fish disease program to include the development of new diagnostic procedures for fish diseases, the determination of the effect of water environment on the development of the fish immune system, and the development of therapeutic, synthetic, or natural systems, for the control of fish diseases.".

SEC. 1423. INTERNATIONAL AGRICULTURAL SCIENCE, EDUCATION, AND DEVELOPMENT.

Subsection (a) of section 1458 of the Act (7 U.S.C. 3291(a)) is amended to read as follows:

"(a) To carry out the policy of this subtitle, the Secretary (subject to such coordination with other Federal officials, Departments, and agencies as the President may direct) is authorized to—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by—

"(A) exchanging research materials and results with the institutions or persons; and

"(B) conducting with the institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2)(A) enter into cooperative arrangements with Departments and Ministries of Agriculture in other nations (especially Western Europe, Eastern Europe, the Pacific Rim, and Latin America) to conduct research, extension, and education activities in support of the development of a viable and sustainable global agricultural system, including efforts to establish a global system for plant genetic resources conservation; and

"(B) at the option of the Secretary, enter into agreements with land grant universities, the Agency for International Development, and international organizations (such as the United Nations, World Bank, regional development banks, the International Agricultural Research Center), or other organizations, institutions or individuals with comparable goals, to promote and support the development of a viable and sustainable global agricultural system.

"(3) further develop within the Department highly qualified and experienced scientists and experts who specialize in international programs, to be available to carry out the activities described in this section;

"(4) work with transitional and more advanced countries in food, agricultural, and related research, development, and extension (including providing technical assistance, training, and advice to persons from the countries engaged in the activities and the stationing of scientists and other specialists at national and international institutions in the countries);

"(5) expand collaboration and coordination with the Agency for International Development regarding food and agricultural research, extension, and education programs in developing countries;

"(6) assist colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension that is relevant to agricultural development activities in other countries through—

"(A) the provision of support to State universities, colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 41; 7 U.S.C. 321 et seq.) including Tuskegee University, and land-grant colleges to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

"(B) the provision of support for cooperative extension education in global agriculture and to promote the application of new technology developed in foreign countries to United States agriculture; and

"(C) the provision of support for the internationalization of resident instruction programs of the universities and colleges described in subparagraph (A); and

"(7) establish, in cooperation with the Secretary of State, a program, to be coordinated through the International Arid Land Consortium, to enhance collaboration and cooperation between institutions possessing research capabilities applied to the development, management, and reclamation of arid lands.".

SEC. 1424. 1890 INSTITUTIONS.

Section 1404(16)(F) of the Act (7 U.S.C. 3103(16)(F)) is amended by inserting "G," after "subtitle E,".

SEC. 1425. GRANTS TO 1890 FACILITIES.

Section 1416(b) of the Food Security Act of 1985 (7 U.S.C. 3224(b)) is amended by striking "1990" and inserting "1992".

SEC. 1426. RESEARCH FACILITIES.

Section 4(a) of the Act entitled "An Act to assist the States to provide additional facilities for research at the State agricultural experiment stations", approved July 22, 1963 (7 U.S.C. 390c(a)), is amended by striking "$20,000,000" and all that follows through "1990" and inserting "$50,000,000 for each of the fiscal years 1990 through 1995".

SEC. 1427. ALTERNATIVE USES FOR AGRICULTURAL PRODUCTS.

(a) The Secretary of Agriculture is encouraged to conduct a study on new uses for traditional and alternative agricultural products and, within 6 months, and annually thereafter, after the date of enactment of this Act, submit to the Congress a report on such study.

(b) The annual studies shall include—

(1) a review of existing alternative uses for traditional and alternative crop both here and abroad; and

(2) a strategy for research in new uses for traditional and alternative agricultural products within the national land grant college system.

Subtitle B—Ground Water Policy Research and Education

SEC. 1431. SHORT TITLE.

This subtitle may be cited as the "Agriculture and Ground Water Policy Research and Education Coordination Act".

SEC. 1432. DEFINITIONS.

As used in this subtitle:

(1) AGRICHEMICALS.—The term "agrichemicals" means a chemical pesticide or fertilizer that is used in agricultural production.

(2) AGRICULTURAL GROUND WATER MANAGEMENT PRACTICES.—The term "agricultural ground water management practices" means a system of agricultural production that includes—

(A) the efficient use of fertilizers and agricultural chemicals;

(B) techniques for determining appropriate application rates for fertilizers and agricultural chemicals;

(C) timing and placement methods for agricultural chemicals;

(D) appropriate use of cropping sequences and crop rotations; and

(E) the application of conservation practices, such as ridge planting, strip tillage, strip cropping, irrigation water management, slow-release fertilizers, water testing, soil and tissue testing, and vegetative buffer crops.

(3) AGRICULTURAL MANAGEMENT PRACTICES.—The term "agricultural management practices" means generally recognized management practices under the control of those

individuals engaged in crop, livestock, and horticultural production.

(4) AGRICULTURAL NITROGEN.—The term "agricultural nitrogen" means nitrogen in all forms (whether manmade, chemical, or biological) that may be present or available for crop production.

(5) CONTAMINANT.—The term "contaminant" means any matter that, in its original form or as a metabolite, degradation, or waste product, as a constituent of ground water may impair the quality of ground water or have an adverse effect on human health or the environment.

(6) DIRECTOR.—The term "Director" means the Director of the Office of Ground Water Policy Coordination appointed under section 1436.

(7) FOOD AND AGRICULTURAL COUNCILS.—The term "Food and Agricultural Councils" means those councils established by the policy of the Secretary in each State and consisting of the leaders of agricultural programs within each State department of agriculture.

(8) GROUND WATER.—The term "ground water" includes all water in the soil from the soil surface through the root zone and the vadose zone through the zone of saturation.

(9) GROUND WATER QUALITY COORDINATOR.—The term "ground water quality coordinator" means an individual appointed under section 1443.

(10) OFFICE.—The term "Office" means the Office of Ground Water Policy Coordination established under section 1436.

(11) PESTICIDE.—The term "pesticide" means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide under section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

(12) ROOT ZONE.—The term "root zone" means that part of the soil profile that begins at the land surface and extends to the lowest depths obtained by the roots of plants and crops.

(13) SOIL AND WATER CONSERVATION COMMITTEES.—The term "Soil and Water Conservation Committees" refers to the committees established within the respective States by State law and which include the leaders of appropriate State agencies that address water quality issues.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and Federally recognized Indian tribes.

(16) STATE GOVERNMENT AGENCY.—The term "State government agency" means an entity with administrative and policy responsibility that is created by a State law.

(17) STATE WATER QUALITY ADVISORY COUNCIL.—The term "State water quality advisory council" means an organization that is appointed by the chief executive officer of a State that has advisory authority over programs that affect water quality .

(18) TECHNICAL INTEGRATION GROUP.—The term "technical integration group" means a group of scientists from within any Federal agency who are coordinating and conducting research concerning ground water quality.

(19) VADOSE ZONE OR UNSATURATED ZONE.—The term "vadose zone" or "unsaturated zone" means the portion of the soil profile between the land surface and the zone of saturation.

(20) ZONE OF SATURATION.—The term "zone of saturation" means the portion of the soil profile where soil pores, macropores, and other empty soil spaces are saturated with water, beginning at the top of the water table and extending down.

CHAPTER 1—GROUND WATER POLICY

SEC. 1435. POLICY WITH RESPECT TO AGRICHEMICALS.

(a) AUTHORITY.—The Department of Agriculture shall be the principal Federal agency responsible and accountable for the development and delivery of educational programs, technical assistance, and research results for the users of agrichemicals and the consumers of food and fiber so that—

(1) the application of agrichemicals by users is prudent, economical, and environmentally sound; and

(2) consumers understand the economic, environmental, and social benefits and liabilities of the use of agrichemicals and can assess the respective risks and benefits with respect to the use of such chemicals.

(b) COOPERATIVE EFFORTS.—The Secretary may establish and implement programs and provide assistance, of the type described in subsection (a), in cooperation with other Federal, State, and local governments and agencies, and appropriate nonprofit organizations.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the dissemination of information concerning the results of activities conducted under this section.

SEC. 1436. OFFICE OF GROUND WATER POLICY COORDINATION.

(a) ESTABLISHMENT.—The Secretary shall establish, within the Department of Agriculture, an office to be known as the "Office of Ground Water Policy Coordination".

(b) DIRECTOR.—

(1) APPOINTMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall appoint an individual to serve as Director of the Office.

(2) QUALIFICATIONS.—To be appointed as director under paragraph (1), an individual shall demonstrate that such individual possesses technical expertise and experience concerning ground water matters.

(3) DUTIES.—The Director shall coordinate and monitor all policies and programs of the Department of Agriculture that are related to ground water quality, including research, educational, and technical assistance.

(c) STAFF.—

(1) IN GENERAL.—The Director shall appoint not to exceed four individuals, who possess professional technical expertise concerning ground water matters, and such other staff as the Director considers appropriate to administer the Office.

(2) ASSIGNMENT OF PERSONNEL.—On a determination by the Director that the services of additional professional personnel are necessary to effectively carry out the duties of the Director, and on a request by the Director for such personnel, the head of a Federal agency may assign, on a reimbursable basis, any of the personnel of such agency to the Office to assist the Director in carrying out the duties of the Director.

(d) TECHNICAL AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director of the Office of Ground Water Policy Coordination.".

SEC. 1437. DUTIES.

(a) IN GENERAL.—The Secretary, acting through the Director, shall serve as the coordinator for the development of—

(1) a departmental agency-specific ground water policy statement and implementation plan;

(2) a national agricultural ground water plan; and

(3) an annual agricultural ground water activities report, as required under section 1440.

(b) COORDINATION AND INTERPRETATION.—The Director shall coordinate the planning processes of the Secretary concerning ground water activities and shall coordinate the ground water policies of the Federal departments and agencies.

(c) SPECIFIC DUTIES.—The Director shall—

(1) prepare and submit, to the Secretary, recommendations concerning specific ground water protection programs, initiatives, and policies that will balance the needs of agricultural production with ground water concerns;

(2) provide advice to the Secretary concerning the development and implementation of comprehensive ground water-related policies, and review the activities of the Secretary to ensure that the ground water protection policies of the Secretary are implemented;

(3) coordinate the ground water policies—

(A) of those agencies administered or subject to the control of the Secretary; and

(B) of the Secretary with other Federal agencies, regional authorities, State and local governments, land-grant and other colleges and universities, and nonprofit and commercial organizations;

(4) provide training for State ground water quality coordinators appointed under section 1443;

(5) coordinate the data, information, programs, and legislative initiatives of the Secretary concerning ground water;

(6) oversee the development of the plans and reports described in section 1440;

(7) consult with the Administrator of the Extension Service in the development and implementation of an annual agriculture and ground water quality workshop that shall include the State ground water coordinators appointed under section 1443; and

(8) to the extent practicable, accelerate the efforts of the Federal Government in performing or assisting in the performance of research, investigations, studies, and surveys concerning the nature, and best methods for the control and mitigation, of the potential adverse impacts on water quality that could result from agricultural activities.

SEC. 1438. COMMITTEE ON GROUND WATER QUALITY.

(a) ESTABLISHMENT.—The Secretary shall establish, within the Department, an interagency committee on ground water quality (hereinafter referred to in this section as the "committee"). The committee shall—

(1) provide advice to the Director concerning the policies and activities of the Secretary that have an impact on ground water; and

(2) provide guidance to the Director concerning actions that the Director should undertake relating to ground water.

(b) MEMBERSHIP.—The committee established under subsection (a) shall be composed of—

(1) the Director;

(2) the Administrator of the Agricultural Research Service;

(3) the Administrator of the Agricultural Stabilization and Conservation Service;
(4) the Administrator of the Animal and Plant Health Inspection Service;
(5) the Administrator of the Cooperative State Research Service;
(6) the Administrator of the Economic Research Service;
(7) the Administrator of the Extension Service;
(8) the Chief of the Forest Service;
(9) the Director of the National Agricultural Library;
(10) the Administrator of the National Agricultural Statistics Service;
(11) the Chief of the Soil Conservation Service; and
(12) a producer.

(c) CHAIRPERSON, MEETINGS.—The Deputy Secretary of Agriculture shall serve as the chairperson of the committee. The committee shall meet at least once every 4 months.

(d) LIAISON.—The members of the committee shall serve as liaisons between their agencies and the committee.

(e) MINUTES.—The committee shall keep the minutes of its meetings.

SEC. 1439. TECHNICAL SUPPORT COMMITTEES.

(a) TECHNICAL ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Director shall establish such technical advisory committees as the Director determines necessary to carry out the duties of the Director.

(2) FUNCTION.—The committees established under paragraph (1) shall assist the Director in reviewing and evaluating the ground water policies of the Secretary.

(3) COMPOSITION.—The committees established under paragraph (1) shall be composed from among the members described in paragraphs (2) through (11) of section 1438(b), with the appropriate members of each committee having the relevant technical expertise necessary to serve on such committee for the purpose for which such committee is established.

(b) TECHNICAL INTEGRATION GROUPS.—The Director shall use technical integration groups to coordinate the research agendas and priorities of—

(1) the Secretary;
(2) the United States Geological Survey;
(3) the Environmental Protection Agency;
(4) the National Oceanic and Atmospheric Agency;
(5) the National Fertilizer Development Center of the Tennessee Valley Authority;
(6) the United States Army Corps of Engineers;
(7) the United States Fish and Wildlife Service; and
(8) other appropriate Federal agencies.

(c) INTERAGENCY TECHNICAL SUPPORT COMMITTEES.—The Director may establish such interagency technical support committees as the Director determines necessary to—

(1) provide technical advice, and assist in reviewing and evaluating recommendations submitted, to the Director; and
(2) make recommendations to the Director for the improvement of the coordination efforts of the Office.

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to advisory committees established under this section.

SEC. 1440. DEVELOPMENT AND IMPLEMENTATION OF A GROUND WATER POLICY.

(a) GROUND WATER POLICY STATEMENT AND IMPLEMENTATION PLAN.—

(1) ASSESSMENT.—

(A) PREPARATION.—Not later than 180 days after the date of enactment of this Act, and prior to the preparation of each 5-year plan under subsection (b), the Secretary, acting through the Director, shall prepare an assessment of the status and level of effort, in terms of manpower and funding levels, of programs administered by the Department of Agriculture to evaluate, prevent, and mitigate ground water problems that may result from agricultural production that exist prior to the date of such assessment.

(B) USE.—The assessments prepared under subparagraph (A) shall be used by the Secretary and the Director as background material for the preparation of the national agricultural ground water plans prepared under subsection (b) and to justify the findings and conclusion of such plans.

(C) USE OF DOCUMENTS PREPARED FOR OMB.—In preparing the assessment under subparagraph (A), the Director may incorporate documents and planning processes established or utilized by the Secretary, on or before the date referred to in such subparagraph, to comply with requests made by the Office of Management and Budget for information.

(D) CONTENTS.—The assessment prepared under subparagraph (A) shall include—

(i) a description of the information available concerning the location of the hydrogeological soils and agronomic, biological, and environmental properties that impact on the quantity, quality, and rates of depletion of ground water resources; and

(ii) a detailed description concerning—

(I) the roles of the respective divisions within, and services provided through, the Department of Agriculture relating to ground water;

(II) the efforts of the Secretary to coordinate ground water activities;

(III) the recommendations of the Director for the elimination of any undesirable duplication of effort by the Secretary and between the Secretary and the administrators of other Federal or State programs concerning ground water; and

(IV) the recommendations of the Director for changes in existing programs and the establishment of new initiatives concerning monitoring, research, extension, and technical assistance efforts necessary to address present and potential ground water and quantity problems.

(2) STATEMENT AND PLAN.—

(A) REQUIREMENT.—Not later than 75 days after the date of enactment of this Act, and the subsequent 5-year dates established by the Director for the completion of the plan under subsection (b), each of the individuals referred to in paragraphs (2) through (11) of section 1438(b) shall prepare and submit, to the Director, a statement of the ground water policy and related ground water implementation plan of the entity administered by such individual. Such statement and plan shall be developed in accordance with the policy of the Secretary to protect and enhance ground water quality as expressed in the document entitled "USDA Policy for Ground Water Quality" (52 F.R. 48135), or any successor document issued by the Secretary.

(B) APPROVAL.—Not later than 30 days after the date on which a statement and plan is submitted under paragraph (2), the Director shall approve or disapprove such statement and plan. If the Director disapproves of such statement or plan, the individual submitting such statement or plan shall, not later than 30 days after the date of such disapproval, resubmit such statement or plan in a form acceptable to the Director.

(3) INCORPORATION INTO NATIONAL GROUND WATER PLAN.—Each plan approved under paragraph (2) shall be considered for incorporation by the Director into the national agricultural ground water plan developed under subsection (b).

(4) ROLE OF THE DIRECTOR.—The Director shall monitor the development and implementation of each plan approved under paragraph (2), and each individual described in paragraphs (2) through (11) of section 1438(b) shall notify the Director of all programs to be undertaken by the entity administered by such individual that may have an impact on ground water.

(b) NATIONAL AGRICULTURAL GROUND WATER PLAN.—

(1) REQUIREMENT.—

(A) IN GENERAL.—At least once during each 5-year period beginning on the date of enactment of this Act, the Secretary, acting through the Director, shall develop and implement, a coordinated intra-agency National Agricultural Ground Water Plan (hereinafter referred to in this subsection as the "Plan"), for the protection, maintenance, and restoration of the water resources of the United States.

(B) FOCUS OF PLAN.—The Plan shall address the voluntary adoption of economically feasible and environmentally sound uses of agrichemicals, land use practices, and other activities that affect the quality of ground water resources, and shall be supported by the development of an annual integrated, intra-agency budget.

(C) POLICY DECISIONS.—The Plan shall include a list of all major policy issues relating to agricultural impacts on ground water that are likely to be pending before the Secretary within the 5-year period for which the plan is prepared, and the types of scientific information needed to address such policy issues.

(2) DEVELOPMENT.—The Director shall develop and implement the Plan based on—

(A) the statements and plans submitted under subsection (a)(2);

(B) the information provided as a result of the assessments and evaluations conducted under sections 1444, 1445, 1446, and 1447; and

(C) the planning report described in paragraph (3).

(3) PLANNING REPORT.—

(A) ASSESSMENT.—Prior to developing each Plan, the Director shall prepare a planning report containing an assessment of the adequacy of existing programs to protect ground water resources from agricultural production.

(B) CONTENTS.—In preparing the reports under subparagraph (A), the Director shall use the reports and findings obtained from the individuals described in paragraphs (2) through (11) of section 1438(b), and from the States as provided for in paragraph (2)(B). Such reports shall include—

(i) a description of the implications of the issues and findings identified in such reports and findings;

(ii) a review of the adequacy of the efforts and programs of the Secretary concerning ground water, including an assessment of possible areas of overlap or neglect;

(iii) an evaluation of the availability and accessibility of existing ground water data which the Secretary has access to and the availability of such data to other Federal agencies, State and local governments, academic institutions, and other persons;

(iv) recommendations concerning actions that should be taken to improve the utilization of existing information, and recommen-

dations to improve the collection of data and information;

(v) an itemized list of all major policy issues affecting the protection, maintenance, and restoration of ground water from contamination from agricultural production that are pending before the Secretary or that may arise in the foreseeable future, and—

(I) a comprehensive analysis of the type of information relevant to such policy issues;

(II) an evaluation of the adequacy of information available concerning protection, maintenance, and restoration of such; and

(III) a description of the research and studies necessary to address the deficiencies in the available information;

(vi) an assessment of the adequacy of the ground water activities within the United States, including an identification of problem areas, resource shortages, priority problems, and problems involving State coordination with other States and regional bodies; and

(vii) an identification and assessment of Federal agricultural programs that may lead to ground water quality degradation.

(C) PRELIMINARY DRAFT AND FINAL REPORT.—A preliminary draft of the planning report required under subparagraph (A) shall be prepared not later than 300 days after the date of enactment of this Act and shall be made available for public comment for a period of not less than 30 days. Not later than 1 year after the date of enactment of this Act, the Director shall submit the final planning report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, appropriate State and Federal agencies, and shall make the final planning report available to the general public.

(D) UPDATES.—The report prepared under subparagraph (A) shall be updated at least once every 5 years, and an annual report containing updates of such report shall be included in the annual agricultural ground water activities report required by subsection (c).

(c) ANNUAL AGRICULTURAL GROUND WATER ACTIVITIES REPORT.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director, shall annually prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, appropriate State and Federal agencies, and the general public, an annual report concerning the progress that has been made during the report period toward the goals established in the national agricultural ground water plan prepared under subsection (b). Such report shall include an integrated, intra-agency budget, that shall constitute the basis on which requests for appropriations are made to carry out activities related to ground water for the succeeding fiscal year.

(2) RESPONSIBILITIES.—The annual report prepared under paragraph (1) shall include—

(A) a description of the progress that has been made during the report period toward the goals established in the national agricultural ground water plan prepared under subsection (b);

(B) an assessment of the actions taken by the Director and the Secretary to—

(i) review the ground water policies of the Secretary and to reduce duplication and overlap in ground water programs administered by the Secretary;

(ii) coordinate the ground water programs administered by the Secretary with those administered by other Federal agencies;

(iii) coordinate the ground water programs administered by the Secretary with State programs;

(iv) implement the extension and education programs established under chapter 3;

(v) implement the soil conservation service and technical assistance programs established under chapter 4;

(vi) implement the research activities and programs established under chapter 5; and

(vii) establish and develop the agriculture and ground water data base established under chapter 6; and

(C) any recommendations for changes or additional ground water protection programs, initiatives, and policies that will balance the needs of production agriculture while addressing ground water concerns that the Director considers appropriate.

SEC. 1441. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 in each fiscal year, and such additional sums that may be necessary in each such fiscal year, to carry out the provisions of this chapter.

CHAPTER 2—COORDINATION WITH STATE PROGRAMS

SEC. 1442. STATE GROUND WATER COORDINATION COMMITTEES.

(a) ESTABLISHMENT.—The Secretary shall establish State intra-agency ground water coordination committees (hereinafter referred to in this section as the committee") within the food and agricultural councils of such States.

(b) COMPOSITION.—A committee shall be composed of—

(1) the State ground water policy coordinator;

(2) a representative of each of the individuals described in paragraphs (2) through (11) of section 1438(b) if the entities administered by such individuals are operating within the State; and

(3) if approved by the committee, ad hoc members representing State and local government agencies that administer water quality programs within the State, or, in a State with a water quality advisory council, a representative of that council.

(c) CHAIRPERSON.—The members of the committee described in paragraphs (1) and (2) of subsection (b) shall elect a chairperson of the committee who shall serve on an annual rotating basis. The organization and conduct of committee meetings shall be supported by the State ground water quality coordinator.

(d) DUTY.—The committee shall coordinate the ground water programs and activities of the Secretary with agencies of that State.

(e) ADVISORY PANELS.—The chairperson of the committee and the ground water quality coordinator for the State may establish an ad hoc advisory panel that shall include farmers, representatives of conservation and environmental groups, and advocates of sustainable agricultural practices, consumer groups, agribusiness, chemical and fertilizer industries, agricultural commodities, banks, and trade organizations. Such panels shall provide advice to the committee concerning ground water activities.

(f) REPORTS.—The committee shall prepare and submit, to the Director, and the chief executive officer of a State, an annual report concerning the accomplishments of the committee.

SEC. 1443. STATE GROUND WATER QUALITY COORDINATOR.

(a) ESTABLISHMENT AND APPOINTMENT.—

(1) ESTABLISHMENT OF POSITION.—The Secretary, acting through the Administrator of the Extension Service, shall provide for the establishment within each State extension service of a position of "ground water quality coordinator" to be responsible to the State extension director in each of the respective States.

(2) APPOINTMENT.—Not later than 60 days after the date of enactment of this Act, the State extension director shall appoint an individual to serve as the ground water quality coordinator for such State.

(3) LOCATION OF OFFICE.—The ground water quality coordinator for a State shall be located at a college or university established pursuant to the Act of July 2, 1862 (7 U.S.C. 301 et seq.) in such State.

(b) QUALIFICATIONS AND JOB DESCRIPTION.—The Administrator of the Extension Service shall cooperate with the Director in developing and defining the required qualifications and job description of the ground water quality coordinators.

(c) COORDINATION.—The Administrator of the Extension Service shall consult with the Director to ensure that adequate mechanisms are employed to provide national coordination of the respective State ground water programs, and to ensure that the national programs and initiatives of the Secretary are integrated and coordinated with the ground water programs of State agencies in each State.

(d) DUTIES.—The ground water quality coordinator shall—

(1) initiate the formation and convening of the committee established under section 1442 and support the chairperson of such committee in the conduct and implementation of the activities of the committee;

(2) collaborate with the Chairperson of the committee established under section 1442 to establish the advisory panels described in section 1442(e);

(3) serve as the focal point within the State for the coordination of agricultural ground water programs administered or supported by the Secretary with the ground water programs conducted by other Federal agencies within the State;

(4) maintain, and annually update, a list of agencies, organizations, programs, and persons involved in agriculture and ground water programs and projects within the State in accordance with a standard format and protocol established by the Administrator of the National Agricultural Library and the Secretary, for entry in the national agriculture and ground water data base developed under section 1469;

(5) work with the committee established under section 1442, and appropriate State and Federal agencies, to facilitate and implement the provisions of sections 1444, 1445, and 1446; and

(6) participate in an annual agriculture and ground water quality workshop to be conducted by the Administrator of the Extension Service and the Director.

SEC. 1444. REVIEW OF STATE NONPOINT SOURCE POLLUTION PLANS.

(a) PARTICIPANTS.—Within each State, the committee established under section 1442 and the ground water quality coordinator appointed under section 1443, in consultation with appropriate Federal and State agencies and other appropriate groups and persons, shall review the ground water plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33

U.S.C. 1329) to conduct a needs assessment of the State program that addresses agricultural sources of nonpoint source pollutants.

(b) UTILIZATION.—The Director shall consider the needs assessment conducted under subsection (a), in the development of the national agricultural ground water plan required under section 1440(b).

(c) IMPLEMENTATION.—The committee established under section 1442, and the ground water quality coordinator established under section 1443, shall consider methods for the implementation of ground water quality programs in a manner that furthers the goals outlined in the agricultural section of the State plan submitted under section 319 of the Federal Water Pollution Control Act.

SEC. 1445. REVIEW OF MANAGEMENT PRACTICES UNDER RURAL CLEAN WATER PROGRAM.

(a) PARTICIPANTS.—In States that had water quality protection projects developed pursuant to the program established under section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)), the committee established under section 1442 and the ground water quality coordinator established under section 1443, shall consult with appropriate Federal and State agencies and other appropriate persons and groups to review the relevance of such projects to ground water protection programs.

(b) REVIEW REQUIREMENTS.—The review of projects conducted under subsection (a) shall include—

(1) an evaluation of such projects to gain information concerning agricultural sources of nonpoint source pollutants;

(2) an evaluation of the possible interactions between project components to protect surface waters and project components to protect ground water; and

(3) an identification of information gained from such projects that is relevant or will have implications for the development of ground water protection programs.

(c) UTILIZATION.—The Director shall consider the information contained in such review in the development of the national agricultural ground water plan required under section 1440(b).

SEC. 1446. REVIEW OF MAPPING OF HYDROLOGIC UNITS.

(a) PARTICIPANTS.—Within each State, the committee established under section 1442 and the ground water quality coordinator established under section 1443, in consultation with the State agricultural experiment stations and agricultural divisions of the State land-grant university, the Soil Conservation Service, the Federal and State Geologic Surveys, other appropriate Federal and State agencies, and other appropriate groups and persons, shall assess the identification and mapping of hydrologic units within the State.

(b) ASSESSMENT.—In performing the assessment under subsection (a), the committee and coordinator shall evaluate—

(1) the degree to which aquifers and hydrogeologic units have been described within the State;

(2) the existence, relevance, utility, and usability of existing maps and data bases on such hydrogeologic units;

(3) the degree to which current maps and data bases incorporate agronomic and soils data that will allow for the determination of the mobility of agricultural chemicals and nutrients in the ground water; and

(4) the efforts and costs necessary to develop, integrate, and complete the identification and mapping of hydrogeologic units, and incorporating the necessary agronomic and soils data, in order to develop the basic framework for research and management decisions to protect ground water.

(c) UTILIZATION.—The Director shall consider the information contained in the assessment in the development of the national agricultural ground water plan established under section 1440(b).

SEC. 1447. ASSESSMENT OF STATE PROGRAMS AND NEEDS.

(a) PARTICIPANTS.—Within each State, the committee established under section 1442 and the ground water quality coordinator established under section 1443, in consultation with the appropriate representative scientists from the State agricultural experiment stations and the agricultural schools of the land-grant universities, appropriate Federal and State agencies and other appropriate groups and persons, shall assess the adequacy of the programs of the State for addressing agricultural sources of ground water contamination.

(b) ASSESSMENT.—The assessment performed under subsection (a) shall incorporate the information that resulted from the studies conducted under sections 1444, 1445, and 1446, and shall include—

(1) an estimate of the extent of ground water contamination due to agricultural operations and an examination of the extent to which such contamination is due to identifiable sources;

(2) an estimate of the extent of contamination to ground water posed by agricultural nitrogen;

(3) a review of the status of current information concerning the relationships between agricultural nitrogen and ground water;

(4) an assessment of the adequacy of the procedures and tools used for the dissemination of data, information, and reports to the public, farming communities, researchers, and the current need for enhancing and developing computerized data and information-based systems;

(5) an assessment of the adequacy of the total efforts undertaken within the State for the development and implementation of comprehensive, integrated programs to protect ground water from agricultural chemical use;

(6) an identification of those areas in which the ground water management efforts of the State are inadequate, specifically identifying areas in which agricultural sources of contamination exist that are not being sufficiently addressed in current programs;

(7) an identification of the research priorities and needs of the State, as described in section 1465; and

(8) the development of an intra-agency plan and timetable to improve areas of need or inadequacy identified in the preceding paragraphs.

SEC. 1448. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE GROUND WATER QUALITY COORDINATOR.—There are authorized to be appropriated $10,000,000 for each fiscal year to enable the Secretary to provide for the creation of positions of State ground water quality coordinators under section 1443.

(b) STATE REVIEWS.—There are authorized to be appropriated $1,000,000 to enable the Secretary to employ staff and purchase resources to complete the reviews and studies required under this chapter.

CHAPTER 3—EXTENSION AND EDUCATION

Subchapter A—Chemical Education

SEC. 1451. ESTABLISHMENT OF A NATIONAL CHEMICAL EDUCATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in concurrence with the Administrator of the Environmental Protection Agency, shall establish within the Extension Service a program to be known as the "National Chemical Education Program" (hereinafter referred to in this subchapter as the "Program") to provide information to improve the safety of pesticide and fertilizer use, except that pesticides that have been classified as restricted use pesticides shall not be included in the Program.

(b) RESPONSIBILITIES.—In carrying out the Program, the Secretary of Agriculture shall—

(1) develop guidelines and provide information to the users and dealers of pesticides and fertilizers to enable such users and dealers to gain an understanding of the appropriate procedures for the safe application of such products, including information related to farm worker safety, clothing and protective equipment, public health, the environment, integrated pest management, integrated crop management, prevention of ground water contamination, disposal of chemicals, and the requirements of applicable Federal laws, regulations, and labeling;

(2) act as the national coordinator to provide training and training information to all applicators and dealers of general use pesticides and fertilizers;

(3) develop and deliver training to carry out the purposes described in paragraph (1) using a national curriculum, supplemented with State materials as appropriate, that includes ground water concerns and attendant pesticide and fertilizer implications as essential and integral elements of the training and the requirements of local applicable laws, regulations, labeling, and conditions of use;

(4) revise and make current information described in paragraph (1), as appropriate; and

(5) undertake any other activities that the Secretary determines appropriate.

SEC. 1452. OBJECTIVES CONCERNING FERTILIZER USE.

(a) IN GENERAL.—With respect to information provided under the Program concerning safe fertilizer use, the objective of the Program shall be to provide for the voluntary adoption of nutrient management practices and agricultural ground water management practices that minimize or mitigate the effect of agriculture on ground water quality. Such agricultural ground water management practices may include—

(1) the use of soil testing;

(2) the setting and seeking of appropriate yield goals;

(3) the ability to select fertilizer forms, methods of application, and timing that will reduce the contamination of ground water resources;

(4) the use of nutrient budgets;

(5) the use of proper irrigation management to minimize the potential for leaching and runoff, including the ability to schedule irrigation use based on soil-water holding capacity and crop need;

(6) the proper storage and handling of fertilizers;

(7) the use of crop rotations;

(8) the use of alternative sources of nutrients, including organic sources and cover crops; and

(9) the ability to properly apply and manage manures and crop residues and to take appropriate credits for the nutrients in these materials.

(b) TARGET AUDIENCES.—The Program shall target any individual or entity that uses or consults in the use of fertilizers, manures, or other applied nutrients, including farmers, ranchers, and other producers, fertilizer dealers, sales people, applicators and consultants, and groundskeepers.

SEC. 1453. SOIL AND TISSUE TESTING.

The Secretary shall strengthen programs in existence on the date of enactment of this Act, and implement additional programs necessary to carry out this title, directed toward agricultural producers and suppliers of agricultural nitrogen and other plant nutrients to ensure that nutrient users and dealers—

(1) understand that soil and tissue testing are valuable tools in the management of agricultural nitrogen and other nutrients;

(2) understand and adopt appropriate soil and tissue sampling techniques;

(3) are able to correctly interpret and apply soil and tissue testing results in the determination of appropriate application rates based on soil test results and realistic yield goals; and

(4) understand the implications of their actions and the potential effects on ground water quality.

Subchapter B—Household Chemicals, Pesticides, and Fertilizers

SEC. 1454. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish within the Extension Service a program, to be known as the "National Education Program for the Management of Household Chemicals, Pesticides, and Fertilizers" to—

(1) in cooperation with conservation districts, provide individuals who own or rent dwellings with information concerning the potential for common household chemicals, fertilizers, and pesticides to contaminate water resources, and information on the utilization of safe methods of disposal; and

(2) provide homeowners with information concerning disposal method alternatives for use by individuals described in paragraph (1) that reduce the hazards to water quality.

Subchapter C—National Water Quality Management Education Programs

SEC. 1455. ESTABLISHMENT.

The Secretary shall establish, within the Extension Service, a program, to be known as the "National Education Program for the Management of Water Resources (hereinafter referred to in this subchapter as the "Program"), to conduct educational activities concerning water quality education, including activities that address well water testing, water utilization, and staff training needs.

SEC. 1456. STAFF TRAINING ACTIVITIES.

(a) GROUND WATER QUALITY COORDINATORS.—As part of the Program established under section 1455, the Secretary, acting through the Extension Service and the Office of Ground Water Policy Coordination, shall conduct a national training project for the training of ground water quality coordinators appointed under section 1443. Such training project shall include an orientation workshop administered by the Director and a general orientation in all aspects of ground water protection, including appropriate technical instruction.

(b) ADDITIONAL PROJECTS.—As part of the Program established under section 1455, the Secretary, acting through the Extension Service and the Office of Ground Water Policy Coordination, shall establish a national training project for the training of appropriate field office personnel, and the appropriate staff and personnel within the Department, concerning ground water protection, to be implemented in the States. Such training shall include training concerning the meaning and use of ground water protection components of the Soil Conservation Service Field Office Technical Guidelines, and other pertinent references and technical training.

SEC. 1457. WELL WATER TESTING.

As part of the Program established under section 1455, the Secretary shall establish, within the Extension Service, a national well water testing project that provides individuals who are dependent on private and public wells as a source of their drinking water with—

(1) an understanding of the need to regularly test the quality of their drinking water supply;

(2) information concerning sources of testing; and

(3) an understanding of how to interpret the results of such tests and information regarding remediation alternatives in the case of contaminated water.

Subchapter D—Authorization of Appropriations

SEC. 1458. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated a total of $56,000,000 in each fiscal year to carry out the programs established under this chapter to be allocated as necessary to carry out the programs established under subchapters A, B, and C.

CHAPTER 4—SOIL CONSERVATION SERVICE

SEC. 1459. PURPOSE OF SOIL CONSERVATION SERVICE.

Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is amended by adding at the end thereof the following new sentence: "It is a purpose of the Soil Conservation Service, in addition to the other purposes of such organization, to protect and improve the quality of ground water".

SEC. 1460. GROUND WATER ACTIVITIES.

(a) CONSERVATION PLANS.—

(1) REVIEW.—The Chief of the Soil Conservation Service, in consultation with the directors of the State agriculture experiment stations and the directors of the State cooperative extension services, shall—

(A) review State conservation plans submitted under title XII of the Food Security Act of 1985 (16 U.S.C. 3201 et seq.) for compliance certification;

(B) review such existing conservation plans to create a database concerning the agricultural ground water management practices that have already been included in such plans.

(2) COMPLETION OF REVIEW.—Not later than January 1, 2000, the Chief of the Soil Conservation Service shall complete the review of the conservation plans as required under paragraph (1). Priority for review shall be provided to plans encompassing those areas in which the assessment made under section 1447(b) has identified potential or actual contamination due to agricultural operations.

(b) GROUND WATER MANAGEMENT PRACTICES.—

(1) DEVELOPMENT.—The Chief of the Soil Conservation Service shall develop management practice guidelines to protect ground water.

(2) FIELD GUIDES.—Not later than 1 year after the date of enactment of this Act, the initial set of management practice guidelines developed under paragraph (1) shall be incorporated into the technical field guides published by the Soil Conservation Service.

(3) INCLUSION IN REPORT.—The Chief of the Soil Conservation Service shall prepare, for inclusion in the report described in subsection (e), a report concerning the practices developed under this subsection. Such report shall include—

(A) a description of the development of such practices;

(B) a description of the status of the incorporation of such practices into the technical field guides; and

(C) an evaluation of the effectiveness and limitations of such practices in controlling and abating ground water contamination.

(c) ACQUISITION OF GROUND WATER INFORMATION THROUGH THE NATIONAL RESOURCES INVENTORY.—Not later than 6 months after the date of enactment of this Act, the Secretary, acting through the Chief of the Soil Conservation Service, shall determine whether the national resources inventory established under title XII of the Food Security Act of 1985 (16 U.S.C. 3201 et seq.) can be modified to acquire useful information concerning ground water conditions, and surface conditions that affect ground water quality and supply. In making such determination, the Secretary shall consider the costs, limitations, opportunities, and rate of expanding the inventory to include ground water matters, as well as whether the natural resources inventory can be integrated with alternative sources of data concerning ground water from Federal and State agencies.

SEC. 1461. REPORT TO CONGRESS.

Not later than 90 days after the date on which Congress convenes in 1994, and once during every 5-year period thereafter, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the activities undertaken by the Extension Service, the Soil Conservation Service, and conservation districts relating to programs established under sections 1451, 1453, 1454, and 1460.

SEC. 1462. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

CHAPTER 5—RESEARCH OF THE DEPARTMENT OF AGRICULTURE

SEC. 1463. FINDINGS.

Congress finds that—

(1) there are basic biological and soils processes involving the fate and transport of agricultural chemicals through the soil that need to be better understood in order to prevent the movement of these chemicals into ground water resources;

(2) much work is required to develop a better understanding of the movement of agricultural chemicals and nutrients through the soil, to develop more cost-effective monitoring and detection tools, and to develop agricultural management systems to protect ground water resources from agricultural production;

(3) because many topics concerning the relationship between agricultural production and ground water protection deserve and require further study, and because national economic resources are limited, it is imperative that the research community develop some system for prioritizing research topics and projects so that the most critical and

far reaching issues are addressed as quickly as possible;

(4) agricultural environments vary from farm to farm (including differences in soil type, soil texture, slope, cropping patterns, natural vegetation, drainage, underlying geology, air and soil temperatures, and available precipitation) and the management tools required by farmers and producers also vary, depending on their physical environments and personnel and economic resources;

(5) due to such variations, the development of agricultural ground water management plans and programs requires the development of management systems that are site-specific, and take into account the physical, personnel, and economic resources of the producers;

(6) it is difficult to monitor the many diverse and sometimes fragmented research efforts relevant to developing agricultural ground water management systems; and

(7) the research agendas of the diverse research programs need to be integrated and coordinated, and the current effort of technical integration groups to facilitate coordination between the programs needs to be formalized, enhanced, supported, and sustained.

SEC. 1464. RESEARCH TOPICS.

The Secretary, acting through the Administrators of the Agricultural Research Service, the Cooperative State Research Service, and consulting with the directors of the State agricultural experiment stations, the Economic Research Service, and other appropriate agencies, shall conduct, in addition to other research activities, or assist in the conduct of research, investigations, studies, and surveys with respect to—

(1) chemical and biological interactions and processes including—

(A) the fate and transport of substances released by agricultural practices from the point of release through the soil; and

(B) the biological, chemical, and physical factors that govern nutrient transformation and mediate pesticide efficacy, stability, fate, and transport in the soil;

(2) the source, extent and occurrence of agricultural chemicals and their metabolites and degradation products (including pesticides, nutrients, and salts) resulting from irrigation in the soil;

(3) methods of measuring, sampling, and characterizing the movement of agricultural chemicals and nutrients through the soil and the environment;

(4) analytical models and testing methodology, including—

(A) physical process models to describe the movement of water and agricultural chemicals through the soil; and

(B) predictive models to manage the impact of alternative agricultural chemical applications, water management programs, and production systems concerning ground and surface ground water;

(5) data bases and data base management systems for model testing and validation, including management systems to enable users to determine optimal nutrient and pesticide applications while minimizing effects on ground water for various soils and environmental conditions;

(6) the effects of changing application technology and irrigation and agricultural production systems on chemical and water flux in the soil;

(7) the effectiveness of water management and tillage practices in controlling the movement of water and its constituents through the interacting soil medium;

(8) the effect of various water management and agricultural production systems on soil microbiota that may effect the efficacy, persistence, and breakdown of agricultural chemicals;

(9) the review of new agricultural chemical products, including controlled release pesticides and nutrients, that may improve the efficacy, reduce application variability, and minimize the possibility of soil and ground water contamination;

(10) the development and adoption of practices, including crop rotations, alternative crops, biological controls, and integrated pest management;

(11) the development of new technologies to facilitate the safe disposal or recycling of agricultural chemical and nutrient containers, including the development of closed containment systems;

(12) the study of the movement and management of agricultural nitrogen and other nutrients in the environment, including the study of—

(A) how nutrient properties affect their transport to water resources, including mobile versus immobile nutrients and organic versus inorganic sources;

(B) how soil properties affect nutrient fate and transport;

(C) how climate affects nutrient fate and transport;

(D) the leaching potential of various forms of applied nitrogen;

(E) the role of soil and tissue testing to determine nutrient needs; and

(F) the determination of economically and environmentally appropriate yield goals;

(13) the development of integrated, interdisciplinary system solutions for the management of agricultural production so that ground water resources are protected while maintaining the economic viability of agricultural producers;

(14) the development of improved water quality testing procedures, including technology, with the objective of developing economical, low cost rural well testing techniques; and

(15) the development of environmentally sensitive animal waste management techniques including research on the use of by-products and processing methods.

SEC. 1465. PRIORITIZING.

(a) STATE PRIORITIES.—

(1) ASSISTANCE OF SCIENTISTS.—The ground water quality coordinator for each State appointed under section 1443 shall request the assistance of appropriate representative scientists from the Agricultural Research Service, the State agricultural experiment stations, and the agricultural departments of land-grant universities in the State, in working in conjunction with the committee established in section 1442 to establish a prioritized agriculture and ground water research agenda for the State.

(2) BASIS OF AGENDA.—Such research agenda shall address the research topics identified in section 1464 and the concerns or findings identified through the activities described in sections 1444, 1445, and 1446 and shall be incorporated in the State programs and needs assessment under section 1447.

(b) REGIONAL PRIORITIES.—

(1) IN GENERAL.—The research priorities of a State identified under the agenda prepared under subsection (a) shall be compiled and reviewed by the appropriate water quality committees of the Cooperative State Research Service.

(2) MEETINGS.—The committees described in paragraph (1) shall meet with—

(A) the appropriate ground water quality coordinators;

(B) the directors at large;

(C) the research leaders from the Agricultural Research Service offices appropriate for the region; and

(D) the appropriate representatives of Federal programs administered by the Cooperative State Research Service and the Director.

(c) NATIONAL PRIORITIES.—The Director shall utilize the information contained in the research agenda prepared under subsection (a)—

(1) in the establishment of a national agricultural ground water plan under section 1440(b);

(2) in the development of funding priorities in the respective water quality research programs administered by the Secretary; and

(3) in requests for project and activity proposals under this title to be administered through the Cooperative State Research Service.

SEC. 1466. WATER QUALITY DATABASE AND EVALUATION.

The Secretary, acting through the Director, shall cooperate with the Director of the United States Geological Survey, the Administrator of the Environmental Protection Agency, and with State and local governments to monitor and conduct evaluations of the effectiveness of activities carried out under this subtitle on water quality.

SEC. 1467. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1991.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) for fiscal year 1991, the Secretary shall make available to the Agricultural Research Service not less than $15,000,000, and to the Cooperative State Research Service not less than $15,000,000, for the development of agricultural and ground water research programs authorized under this chapter.

(2) ECONOMIC RESEARCH SERVICE.—There are authorized to be appropriated $5,000,000 for fiscal year 1991 to be made available to the Economic Research Service to carry out activities under this chapter.

(b) SUCCEEDING FISCAL YEARS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) for each of the fiscal years 1992 through 1995, the Secretary shall make available to the Agricultural Research Service not less than $20,000,000, and to the Cooperative State Research Service not less than $20,000,000, in each such fiscal year for the development of agricultural and ground water research programs authorized under this chapter.

(2) ECONOMIC RESEARCH SERVICE.—There are authorized to be appropriated $7,500,000 for each of the fiscal years 1992 through 1995, to be made available to the Economic Research Service to carry out activities under this chapter.

CHAPTER 6—NATIONAL AGRICULTURE AND GROUND WATER CLEARINGHOUSE

SEC. 1468. REPOSITORY OF AGRICULTURE AND GROUND WATER QUALITY PLANNING INFORMATION.

The Secretary, acting through the Administrator of the National Agricultural Library, shall establish at such Library, a repository for all reports prepared and sub-

mitted, in accordance with this subtitle, to the Director, the Secretary, or Committees of Congress. The Administrator of the Library, in administering such repository, shall—

(1) compile other planning documents concerning agriculture and ground water protection that are produced by the Secretary and other Federal, regional, and State agencies;

(2) compile and catalog all Federal statutes relevant to the protection of ground water from agricultural production; and

(3) identify, list, and provide information concerning access to data bases and informational sources relating to ground water and agricultural production that are available through the Secretary, the United States Geological Survey, the Environmental Protection Agency, the Department of Commerce, the National Oceanic and Atmospheric Agency, the Tennessee Valley Authority, private industry, nonprofit organizations, and other sources.

SEC. 1469. DATA BASE ON STATE PLANS AND PROGRAMS.

(a) ESTABLISHMENT.—The Secretary, acting through the Director of the National Agricultural Library, and in consultation with the Chairman of the Tennessee Valley Authority, shall establish at such Library, an interactive data base on State programs that shall include—

(1) State laws that specifically address the relationships between agricultural production and ground water quality; and

(2) information concerning State programs as compiled by the State ground water quality coordinator appointed under section 1443.

(b) STANDARDIZATION.—

(1) DEVELOPMENT OF FORMAT.—The Director of the National Agricultural Library, in consultation with the Director, the State ground water quality coordinators appointed under section 1443, and the heads of appropriate departmental agencies of Federal and State governments, shall develop a standardized format for the entry and description of State programs and activities relating to ground water, and the results of such programs and activities.

(2) DESCRIPTION.—The Director of the Library may include, in the description of State programs and activities as described in paragraph (1), information received from the Cooperative State Research Service system and the data bases of the Extension Service. Such descriptions shall also include the current status and results of ongoing State programs and activities, and information concerning programs sponsored by State and Federal agencies acting within the States.

(3) CATEGORIZATION.—Information acquired under this subsection shall be categorized so as to make it possible for interested parties in a State to search and locate information regarding ground water protection programs in other States.

SEC. 1470. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1991 and $400,000 in each subsequent fiscal year, to establish the repositories, data bases, and related activities required under this chapter.

Subtitle C—National Competitive Research Initiative

SEC. 1471. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

Section 2(b) of Public Law 89-106 (7 U.S.C. 450i(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by striking the third sentence and all that follows and inserting the following new paragraphs:

"(2) For purposes of this subsection, the term 'high priority research' means basic and applied research that focuses on both national and regional research needs (and methods to transfer such research to onfarm or inmarket practice) in—

"(A) plant systems, including plant genome structure and function; molecular and cellular genetics and plant biotechnology; plant-pest interactions and biocontrol systems; crop plant response to environmental stresses; unproved nutrient qualities of plant products; and new food and industrial uses of plant products;

"(B) animal systems, including acquaculture, cellular and molecular basis of animal reproduction, growth, disease, and health; identification of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; and improved nutrient qualities of animal products, and uses, and the development of new and improved animal husbandry and production systems that take into account production efficiency and animal well-being, and animal systems applicable to aquaculture;

"(C) nutrition, food quality, and health, including microbial contaminants and pesticides residues related to human health; links between diet and health; bioavailability of nutrients; postharvest physiology and practices; and improved processing technologies;

"(D) natural resources and the environment, including fundamental structures and functions of ecosystems; biological and physical bases of sustainable production systems; minimizing soil and water losses and sustaining surface water and ground water quality; global climate effects on agriculture; forestry; and biological diversity;

"(E) engineering, products, and processes, including new uses and new products from traditional and non-traditional crops, animals, byproducts, and natural resources; robotics, energy efficiency, computing, and expert systems; new hazard and risk assessment and mitigation measures; and water quality and management; and

"(F) markets, trade, and policy, including optional strategies for entering and being competitive in overseas markets; new decision tools for onfarm and inmarket systems; choices and applications of technology; technology assessment; and new approaches to economic development and viability in the rural United States and developing nations.

"(3) In addition to making research grants under paragraph (1), the Secretary may conduct a program to improve research capabilities in the agricultural, food, and environmental sciences and award the following categories of competitive grants:

"(A) Grants may be awarded to a single investigator or coinvestigators within the same discipline.

"(B) Grants may be awarded to teams of researchers from different areas of agricultural research and scientific disciplines.

"(C) Grants may be awarded to multidisciplinary teams that are proposing research on long-term applied research problems, with technology transfer a major component of all such grant proposals.

"(D) Grants may be awarded to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching. The Secretary shall use not less than 25 percent, and not more than 40 percent, of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences.

"(E) Grants may be awarded to single investigators or coinvestigators who are beginning their research careers and do not have an extensive research publication record. To be eligible for a grant under this subparagraph, an individual shall have less than 5 years of post-graduate research experience.

"(F) Grants may be awarded to ensure that the faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants.

"(4) The term of a competitive grant made under this subsection shall not exceed 5 years.

"(5)(A) In seeking proposals for grants under this subsection and in performing peer and advisory review evaluations of such proposals, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

"(B) All proposals shall undergo review by a panel of experts who have demonstrated scientific expertise in the scientific category in which the proposal was submitted.

"(C) The scientific peer review panels shall evaluate the scientific and technical merit of grant proposals and make budget recommendations for each proposal but shall make no final funding decisions.

"(D) A second level of review shall be conducted by an advisory review panel.

"(E) The primary function of the advisory review panel shall be to evaluate the overall competitive grants research program as reflected in the complement of proposals submitted, to assure that the program is balanced among the various areas of science, capitalizes on emerging scientific developments and addresses the broad priorities in agricultural research, extension, and higher education described in section 1403A of the National Agricultural Research, Extension and Teaching Policy Act of 1977, and the priorities established by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board.

"(F) The advisory review panel shall make final recommendations to the Secretary on funding.

"(G) The Secretary shall seek the widest participation of individuals for the advisory review panel that shall include the Administrator of the Cooperative State Research Service and an equal number of personnel who have expertise in the agricultural sciences, and members of the general public who are leaders in fields of agricultural public policy, social sciences, and technology assessment.

"(6)(A) All requests for proposals issued by the Department of Agriculture for competitive grants under this subsection shall contain an evaluation that addresses the potential benefits of the research in meeting the goals and priorities set forth in section 1403A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and the priorities established by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board.

"(B) A technology assessment shall be included, where appropriate, for requests for proposals with research goals that have the potential to influence farm scale implementation, rural communities, farm ownership, and environmental management of farm practices. Assistance in the preparation of the assessment may be provided by qualified individuals in the land grant university system or by private consultants who have expertise in the social sciences and technology assessment.

"(7) A grant made under paragraph (1) may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility. Such grant funds may be used to pay one half of the cost of purchase and installation of fixed equipment in an existing research space and one half of the cost of minor alterations, renovations, or repairs to an existing research space when the equipment, alterations, renovations, or repairs are necessary and incidental to the conduct of a research project for which a grant is awarded. With the exception of such costs, these grants shall be made without regard to matching funds.

"(8) The Secretary may not take the offer or availability of matching funds into consideration in making a grant under this subsection.

"(9) In consultation with the National Agricultural Research and Extension Users Advisory Board and an advisory review board established under paragraph (5)(E), the Joint Council on Food and Agricultural Sciences shall review research programs, grant types, and funding allocation levels of the competitive grant program conducted under this subsection and recommend to the Secretary modifications in the program.

"(10) There are authorized to be appropriated to carry out this subsection $150,000,000 for fiscal year 1991, $275,000,000 for fiscal year 1992, $350,000,000 for fiscal year 1993, and $400,000,000 for fiscal year 1994, and $500,000,000 for fiscal year 1995, of which each fiscal year—

"(A) not less than 30 percent shall be available to make grants under subparagraph (C) of paragraph (3) for research to be conducted by multidisciplinary teams who are conducting mission-linked systems research;

"(B) not less than 10 percent shall be available to make grants under subparagraphs (D) and (F) of paragraph (3) for awarding grants in research and education strengthening and research opportunity; and

"(C) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.".

Subtitle D—Sustainable Agriculture Research and Education

SEC. 1475. SHORT TITLE.

This subtitle may be cited as the "Sustainable Agriculture Research and Education Act of 1990".

SEC. 1476. AMENDMENT TO FOOD SECURITY ACT OF 1985.

Subtitle C of title XIV of the Food Security Act of 1985 (7 U.S.C. 4701 et seq.) is amended to read as follows:

"Subtitle C—Sustainable Agriculture Research and Education

"CHAPTER 1—LOW-INPUT SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION PROGRAM

"SEC. 1461. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) the United States must focus its research and education efforts on the development of sustainable methods of farming that are productive and profitable, conserve natural resources, and protect the environment and the health and safety of agricultural workers and consumers;

"(2) different methods of agricultural production can contribute to the goal of achieving long-term sustainability;

"(3) many farmers and ranchers are highly dependent on nonrenewable production inputs and natural resources for agricultural production and are seeking information on sustainable production systems;

"(4) farmers and ranchers have demonstrated interest in participating directly in research and extension efforts and that participation can improve farming methods and benefit research and extension programs; and

"(5) expanded agricultural research and extension efforts are needed to assist farmers, ranchers, and agribusinesses to—

"(A) improve agriculture productivity, profitability and competitiveness;

"(B) prevent water pollution and soil erosion and degradation;

"(C) protect the health and safety of farmers, farmworkers, and consumers;

"(D) implement soil, water, and energy conservation practices;

"(E) reduce the use of nonrenewable production inputs, to the extent feasible and practicable, and optimize the reasonable use of resources;

"(F) explore alternative livestock production systems that lead to low-input livestock production; and

"(G) stabilize and improve farm income through crop and enterprise diversification.

"(b) PURPOSES.—It is the purpose of this chapter to encourage research designed to increase our knowledge concerning agricultural production systems that—

"(1) maintain and enhance the quality and productivity of the soil;

"(2) conserve soil, water, energy, and natural resources, and improve fish and wildlife habitat conditions;

"(3) prevent contamination of surface and ground water;

"(4) protect the health and safety of farmers, farmworkers and consumers; and

"(5) maintain or increase the number of economically viable self-employment opportunities in agriculture.

"SEC. 1462. DEFINITIONS.

"As used in this chapter:

"(1) AGRIBUSINESS.—The term 'agribusiness' includes a producer or organization engaged in an agricultural enterprise with a profit motive.

"(2) EXTENSION.—The term 'extension' shall have the same meaning given such term in section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101(7)).

"(3) NON-PROFIT ORGANIZATION.—The term 'non-profit organization' means an organization, group, institute, or institution that—

"(A) has a demonstrated capacity to conduct agricultural research or education programs;

"(B) has experience in research, demonstration, education, or extension in sustainable agricultural practices and systems; and

"(C) qualifies as a non-for-profit organization under section 501(c) of the Internal Revenue Code of 1986.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(6) STATE AGRICULTURAL EXPERIMENT STATIONS.—The term 'State agricultural experiment stations' shall have the same meaning given such term by section 1404(13) of the National Agricultural Research, Extension, and Teaching Act of 1977 (7 U.S.C. 3103(13)).

"(7) SUSTAINABLE AGRICULTURE.—The term 'sustainable agriculture' means a variety of farming systems, ranging from organic systems that use no synthetic chemical inputs to those involving the prudent use of agricultural chemicals and that result in—

"(A) the thorough incorporation of natural processes such as nutrient cycles, nitrogen fixation, and pest-predator relationships into the agricultural production process;

"(B) the reduction in the use of inputs with potential to harm significantly the environment or the health of farmer and consumer;

"(C) the greater productive use of the biological and genetic potential of plant and animal species;

"(D) the improvement of the match between cropping patterns and the productive potential and physical limitations of agricultural lands to ensure the long-term sustainability of current production levels; and

"(E) the profitable and efficient agricultural production, with emphasis on improved farm management and conservation of soil, water, energy, and biological resources.

"SEC. 1463. RESEARCH AND EXTENSION PROJECTS.

"(a) IN GENERAL.—The Secretary shall conduct research and extension projects to obtain data, develop conclusions, demonstrate technologies, and conduct educational programs that promote the purposes of this chapter, including research and extension projects that—

"(1) facilitate and increase scientific investigation and education in order to—

"(A) reduce, to the extent feasible and practicable, the use of toxic chemical pesticides, fertilizers, and natural materials in agricultural production;

"(B) improve low-input farm management to enhance agricultural productivity, profitability, and competitiveness; and

"(C) promote crop, livestock, and enterprise diversification; and

"(2) facilitate the conduct of projects in order to—

"(A) study, to the extent practicable, agricultural production systems that are located in areas that possess various soil, climate, and physical characteristics;

"(B) study farms that have been, and will continue to be, managed using farm production practices that rely on low-input and conservation practices;

"(C) take advantage of the experience and expertise of farmers and ranchers through their direct participation and leadership in projects;

"(D) transfer practical, reliable and timely information to farmers and ranchers concerning sustainable farming practices and systems; and

"(E) promote a partnership between farmers, nonprofit organizations, agribusiness, and public and private research and extension institutions.

"(b) AGREEMENTS.—The Secretary shall carry out this section through agreements

entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations, or Federal or State governmental entities.

"(c) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—The Secretary shall select research and extension projects to be conducted under this section on the basis of—

"(A) the recommendations of the National Sustainable Agriculture Advisory Council established in section 1464;

"(B) the relevance of the project to the purposes of this chapter;

"(C) the appropriateness of the design of the project;

"(D) the likelihood of obtaining the objectives of the project; and

"(E) the national or regional applicability of the findings and outcomes of the proposed project.

"(2) PRIORITY.—In conducting projects under this section, the Secretary shall give priority to projects that—

"(A) are recommended by the National Sustainable Agriculture Advisory Council;

"(B) closely coordinate research and extension activities;

"(C) indicate the manner in which the findings of the project will be made readily usable by farmers;

"(D) maximize the involvement and cooperation of farmers, including projects involving on-farm research and demonstration;

"(E) involve a multidisciplinary systems approach; and

"(F) involve cooperation between farms, non-profit organizations, colleges and universities, and government agencies.

"(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall conduct projects and studies under this section in areas that are broadly representative of the diversity of United States agricultural production, including production on small farms, mixed-crop livestock farms and dairy operations.

"(e) ON-FARM RESEARCH.—The Secretary may conduct projects and activities that involve on-farm research and demonstration in carrying out this section.

"(f) IMPACT STUDIES.—The Secretary may approve study projects concerning the national and regional economic, global competitiveness, social and environmental implications of the adoption of sustainable agricultural practices and systems.

"(g) PROJECT DURATION.—

"(1) IN GENERAL.—The Secretary may approve projects to be conducted under this section that have a duration of more than 1 fiscal year.

"(2) SEQUENCE PLANTING.—In the case of a research project conducted under this section that involves the planting of a sequence of crops or crop rotations, the Secretary shall approve such projects for a term that is appropriate to the sequence or rotation being studied.

"(h) PUBLIC ACCESS.—The Secretary shall ensure that research projects conducted under this section are open for public observation.

"(i) INDEMNIFICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may indemnify the operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

"(2) SUBJECT TO AGREEMENT.—An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

"SEC. 1464. PROGRAM ADMINISTRATION.

"(a) DUTIES OF SECRETARY.—The Secretary shall—

"(1) administer the programs and projects conducted under sections 1463 and 1465 through the Cooperative State Research Service in close cooperation with the Extension Service and other appropriate agencies;

"(2) establish a National Sustainable Advisory Council in accordance with subsection (b);

"(3) establish a minimum of four Regional Administrative Councils in accordance with subsection (c); and

"(4) in conjunction with such Regional Administrative Councils, identify regional host institutions required to carry out such programs or projects.

"(b) NATIONAL SUSTAINABLE AGRICULTURE ADVISORY COUNCIL.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Secretary shall establish a National Sustainable Agriculture Advisory Council that shall be composed of representatives of—

"(A) the Agricultural Research Service;

"(B) the Cooperative State Research Service;

"(C) the Soil Conservation Service;

"(D) the Extension Service;

"(E) State cooperative extension services;

"(F) State agricultural experiment stations;

"(G) the Economic Research Service;

"(H) the National Agricultural Library;

"(I) the Environmental Protection Agency;

"(J) the Board of Agriculture of the National Academy of Sciences;

"(K) nonprofit organizations;

"(L) farmers utilizing sustainable agriculture systems and practices;

"(M) the Geological Survey;

"(N) agribusiness;

"(O) the Farmers Home Administration; and

"(P) other specialists in agricultural research and technology transfer.

"(2) RESPONSIBILITIES.—The Council established under paragraph (1) shall—

"(A) make recommendations to the Secretary concerning research and extension projects that should receive funding under sections 1463 and 1465;

"(B) promote the programs established under this chapter at the national level;

"(C) coordinate research and extension activities funded under such programs;

"(D) establish general procedures for awarding and administering funds under this chapter;

"(E) consider recommendations for improving such programs;

"(F) facilitate cooperation and integration between sustainable agriculture, national water quality, integrated pest management, food safety, and other related programs; and

"(G) prepare and submit an annual report concerning its activities to the Secretary.

"(c) REGIONAL ADMINISTRATIVE COUNCILS.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Secretary shall establish four Regional Administrative Councils that shall be composed of representatives of—

"(A) the Cooperative State Research Service;

"(B) the Extension Service;

"(C) State cooperative extension services;

"(D) State agricultural experiment stations;

"(E) the Soil Conservation Service;

"(F) State departments engaged in promoting sustainable agriculture;

"(G) nonprofit organizations;

"(H) farmers utilizing sustainable agriculture systems and practices;

"(I) the United States Geological Survey; and

"(J) other persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities.

"(2) RESPONSIBILITIES.—The Councils established under paragraph (1) shall—

"(A) make recommendations to the National Sustainable Agriculture Advisory Council concerning research and extension projects that should receive funding under section 1463 and 1465;

"(B) promote the programs established under this chapter at the regional level;

"(C) establish goals and criteria for the selection of projects authorized under this chapter within the applicable region;

"(D) appoint a technical committee to evaluate the proposals for projects to be considered under this chapter by such council;

"(E) review and act on the recommendations of the technical committee, and coordinate its activities with the regional host institution; and

"(F) prepare and make available an annual report concerning projects funded under sections 1463 and 1465, together with an evaluation of the project activity.

"(d) CONFLICT OF INTEREST.—Members of the Council and Committees established under this section shall recuse themselves from participation in discussions and recommendations of proposed projects if members have, or have had, a professional or business interest in, including the provision of consultancy services, the organization whose grant application is under review.

"SEC. 1465. FEDERAL-STATE MATCHING GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a Federal-State matching grant program to make grants to States to encourage and assist in the creation or enhancement of State sustainable agriculture research, extension, and higher and continuing education programs.

"(b) ELIGIBLE PROGRAMS AND ACTIVITIES.—State programs eligible to receive a grant under this section may conduct a variety of activities designed to carry out the purposes of this chapter, including—

"(1) activities that encourage the incorporation and integration of sustainable agriculture concerns in all State research, extension, and education projects;

"(2) educational programs for farmers, educators, and the public;

"(3) activities that encourage revisions to agricultural curricula to promote understanding of sustainable agriculture at all levels;

"(4) the incorporation of sustainable agriculture studies in undergraduate and graduate degree programs;

"(5) the development and funding of innovative sustainable agriculture research, extension, and education programs;

"(6) the conduct of research and demonstration projects;

"(7) the provision of technical assistance to farmers and ranchers;

"(8) activities that encourage farmer-to-farmer information exchanges; and

"(9) such other activities that are appropriate to the agricultural concerns of the State and are consistent with the purposes of this chapter.

"(c) SUBMISSION OF PLAN.—

"(1) IN GENERAL.—States that elect to apply for a grant under this section shall prepare and submit, to the appropriate Regional Administrative Council established under section 1464, a State plan and schedule for the approval of such Council and the Secretary.

"(2) CONTENTS OF STATE PLAN.—State plans prepared under paragraph (1) shall provide details of the proposed program to be implemented using assistance provided under this section for fiscal years 1991 through 1995, or any 5-year period thereafter, and shall identify the sources of matching State funds for the same fiscal years.

"(3) PARTICIPATION.—To be eligible for approval, State plans submitted under paragraph (1) shall ensure that there will be extensive and direct participation of farmers in the development, implementation, and evaluation of the program.

"(d) GRANT AWARD.—

"(1) AMOUNT OF GRANT.—Subject to paragraph (2), the Secretary shall provide grants to eligible States under this section in an amount that shall not exceed 50 percent of the cost of the establishment or enhancement of a State sustainable agriculture program under a plan approved by the Secretary under subsection (c) for a period of not to exceed 5 years.

"(2) STATE PARTICIPATION.—To be eligible to receive a grant under this section, a State shall agree to pay, from State appropriated funds, other State revenue, or from private contributions received by the State, not less than 50 percent of the cost of the establishment or enhancement of the sustainable agriculture program under an approved plan under subsection (c).

"SEC. 1466. TECHNICAL GUIDES FOR LOW-INPUT AGRICULTURAL PRODUCTION SYSTEMS.

"(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this subtitle, the Secretary shall, after full public notice and comment, and in consultation with the National Sustainable Advisory Council established under section 1464, develop technical guides that describe farm production systems that foster sustainable agricultural production systems, including low-input systems, mitigate public health risks, protect environmental quality, conserve soil, water, and energy, and otherwise carry out the purposes of this chapter.

"(b) COORDINATION OF EFFORT.—To the extent possible, the Secretary shall coordinate the ongoing technical guide work of the Soil Conservation Service and the Extension Service to avoid duplication of effort and to provide farmers and other agriculture professionals with a comprehensive technical guide that addresses a broad array of technical concerns.

"(c) CONTENT OF TECHNICAL GUIDES.—

"(1) IN GENERAL.—The technical guides developed under this section shall include information on the selection of crops and crop-plant varieties, rotation practices, tillage systems, nutrient management systems, soil building practices, pest, weed, and disease management, soil, water, and energy conservation, livestock management, and other practices useful in carrying out the purposes of this chapter.

"(2) INSTRUCTIONS.—Such technical guides shall provide practical instructions, based on existing scientific and technical knowledge, to ensure nondegradation of farmland soils, protection of water supplies from depletion and contamination, and reductions in the use of nonrenewable resources and purchased production inputs.

"(3) INFORMATION COLLECTION.—To assist in the development of guides under this section, the Secretary shall—

"(A) survey existing data bases containing information on sustainable agricultural systems, including those created by the Soil Conservation Service and the National Agricultural Library and the Appropriate Technology Transfer in the Rural Areas program established under section 2(b)(7) of Public Law 89-106 (7 U.S.C. 450i(b)(7));

"(B) inventory and classify by subject matter studies, reports, and other material developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of this chapter; and

"(C) determine which of such reports and projects provide useful information and make such useful reports available to farmers and ranchers.

"(d) GRANT PROGRAM.—The Secretary, in consultation with the National Sustainable Agriculture Advisory Council established in section 1464, may establish a grant program to assist in the development and periodic revision of technical guides under this section.

"(e) DISTRIBUTION OF GUIDES.—The Secretary shall ensure that the technical guides developed under this section are made available to the public and are updated as determined necessary by the Secretary.

"SEC. 1467. REPORTS.

"Not later than April 1, 1991, and each April 1 thereafter, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the National Sustainable Agriculture Advisory Council established under section 1464—

"(1) a report describing the results of the programs carried out under sections 1463 and 1465; and

"(2) a report describing the progress of projects conducted under this chapter, including—

"(A) a summary and analysis of data collected under such projects;

"(B) recommendations based on such data for new basic or applied research; and

"(C) the number, length, and type of projects proposed, funded and carried out, by region.

"SEC. 1468. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $40,000,000 for each fiscal year to carry out this chapter. Of any amount that is appropriated to carry out the programs established under this chapter, not less than $15,000,000, or not less than two thirds of any such appropriation, whichever is greater, shall be used to carry out sections 1463 and 1464.

"CHAPTER 2—NATIONAL TRAINING PROGRAM IN SUSTAINABLE AGRICULTURE

"SEC. 1471. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) there is a great need for research-based practical knowledge that will assist farmers and nonfarmers in adopting sustainable agriculture technologies, practices, and systems on their farms, in their businesses and in their homes;

"(2) farmers rely on the Extension Service as a primary source for the dissemination of research-based practical knowledge concerning farming methods; and

"(3) the Extension Service as well as other agricultural leaders need training in new sustainable agriculture technologies and practices in order to provide the information farmers and nonfarmers demand.

"(b) PURPOSE.—It is the purpose of this chapter to establish a training program in sustainable agriculture for Extension Service agents and other leaders in agricultural education in order to facilitate the extension of knowledge of sustainable agriculture.

"SEC. 1472. DEFINITIONS.

"As used in this chapter:

"(1) EXTENSION SERVICE AGENTS.—The term 'Extension Service agents' shall include employees of the Federal Extension Service, and the State and county cooperative extension services.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(3) SUSTAINABLE AGRICULTURE.—The term 'sustainable agriculture' means an agricultural system that is economically viable and agronomically and environmentally sound over short and long term periods.

"SEC. 1473. PROGRAM ADMINISTRATION.

"(a) IN GENERAL.—The Secretary shall establish a National Training Program in Sustainable Agriculture to provide education and training for Extension Service agents and other professionals involved in the education and transfer of technical information concerning sustainable agriculture to develop understanding, competence, and ability to teach and communicate the concepts of sustainable agriculture to Extension Service agents and to farmers and urban residents needing information on sustainable agriculture systems.

"(b) ADMINISTRATION.—The training program established under subsection (a) shall be organized and administered by the Extension Service in cooperation with the Centers established in section 1474 and shall include on-site education at the Centers as well as education at other locations including land-grant universities, State agricultural experiment stations, and demonstration farms.

"SEC. 1474. NATIONAL TRAINING CENTERS.

"(a) IN GENERAL.—The Secretary shall designate not less than two National Training Centers (hereinafter referred to in this section as the 'Centers') to coordinate and administer educational activities in sustainable agriculture as provided for in section 1473.

"(b) TRAINING PROGRAM.—The Centers shall offer intensive instructional programs and involving classroom and field training work for extension specialists and other individuals who are required to transmit technical information.

"(c) PROHIBITION ON CONSTRUCTION.—The Centers shall be located at existing facilities. No funds appropriated under this chapter shall be used for facility construction.

"(d) ADMINISTRATION.—The Centers should be administered by organizations that—

"(1) have demonstrated capability relating to sustainable agriculture;

"(2) have a base of programming that includes both research and education related to sustainable agriculture, with an emphasis on the application of an overall production systems approach that studies environmental interactions, farming methods, and resource efficiency; and

"(3) have cooperative relationships with other agencies such as the Agricultural Research Service, the Extension Service, land

grant universities and nonprofit organizations.

"(e) COORDINATION OF RESOURCES.—The Centers shall make use of information generated by the Department of Agriculture and the State agricultural experiment stations, and the practical experience of farmers, especially those cooperating in on-farm demonstrations and research projects, in carrying out the functions of the Centers.

"(f) LOCATION.—The Secretary should consider utilizing existing organizations with expertise in sustainable agriculture to assist in the design and implementation of the training program under subsection (b).

"SEC. 1475. COMPETITIVE GRANTS.

"(a) IN GENERAL.—The Secretary shall establish a competitive grants program to award grants to organizations, including land grant universities, to carry out sustainable agricultural training for county agents and other individuals that need basic information concerning sustainable agriculture practices.

"(b) SHORT COURSES.—The purpose of the grants made available under subsection (a) shall be to establish, in various regions in the United States, training programs that consist of workshops and short courses designed to familiarize participants with the concepts and importance of sustainable agriculture.

"SEC. 1476. TRAINING PROGRAM.

"(a) IN GENERAL.—

"(1) REQUIRED TRAINING.—The Secretary shall ensure that all Extension Service agents are provided with training in all aspects of sustainable agriculture not later than the end of the 5-year period beginning on the date of enactment of this subtitle.

"(2) CONCENTRATION.—Training provided under paragraph (1) shall be concentrated in agroecology, all aspects of integrated crop management, urban applications of sustainable agricultural methods, and multidisciplinary problem solving, with regular periodic updates provided to supplement such training.

"(b) NEW AGENTS.—Beginning 3 years after the date of enactment of this subtitle, the Secretary shall ensure that Extension Service agents employed by such Service are able to demonstrate, not later than 18 months after the employment of such agents, that such agents have a thorough knowledge of all aspects of sustainable agriculture and integrated crop management.

"(c) SPECIALIST PROGRAMS.—Not later than 3 years after the date of enactment of this subtitle, each State shall have an integrated crop management specialist trained in integrated crop management practices and other environmental agricultural practices available within such State to assist agricultural producers within such State. Such specialists shall operate out of the land grant universities in such State.

"(d) REPORT.—Not later than September 30, 1993, and September 30, 1995, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the training provided under this section.

"(e) FUNDING.—The Secretary shall use amounts made available to carry out the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.) (commonly known as the 'Smith-Lever Act') to carry out the provisions of this section.

"SEC. 1477. AUTHORIZATION OF APPROPRIATIONS.

"There are to be authorized to be appropriated $10,000,000 for each fiscal year to carry out this chapter.

"CHAPTER 3—EXTENSION SERVICE PESTICIDE APPLICATION ADVICE

"SEC. 1481. FINDING AND PURPOSE.

"(a) FINDING.—Congress finds that, in many cases, Extension Service agents would like to provide information to farmers concerning lower, more cost efficient rates of pesticide application than that specified on the label of the pesticide, in order to guide farmers toward more cost effective agriculture systems.

"(b) PURPOSE.—The purpose of this chapter is to authorize Extension Service agents to provide information to farmers on reduced pesticide application rates to the extent such information is available.

"SEC. 1482. DEFINITIONS.

"As used in this chapter:

"(1) EXTENSION SERVICE AGENTS.—The term 'Extension Service agents' shall include employees of the Federal Extension Service, and that State and county cooperative extension services.

"(2) PESTICIDE.—The term 'pesticide' means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

"SEC. 1483. PESTICIDE USE RECOMMENDATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, Extension Service agents may advise farmers to apply any pesticide at a dosage, concentration, or frequency that is less than that specified on the label for such pesticide if the Extension Service agent has research findings to indicate that use of the pesticide at the lower dosage, concentration, or frequency would be efficacious.

"(b) PUBLICATIONS.—Extension Service agents may include advice to farmers concerning such lower usage of specific pesticides in publications issued by the Extension Service if—

"(1) such publication also states the rates of application specified on the label of such pesticide; and

"(2) such publication discusses the efficacy of the pesticide when applied at such lower rate.

"CHAPTER 4—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH

"SEC. 1491. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) rapid advances in the application of biotechnology to agriculture have and will continue to result in the development of products whose research, evaluation, and commercial use require introduction into the environment; and

"(2) more scientific information about the effects of the introduction of genetically engineered organisms into the environment, and the development of methods to contain and monitor such introduction are needed to—

"(A) help researchers make sound judgments about the overall environmental impacts of genetically engineered organisms they develop, and to design projects that minimize any risks associated with the introduction of such genetically engineered organisms; and

"(B) help regulators make scientifically sound and timely decisions regarding the introduction of genetically engineered organisms.

"(b) PURPOSE.—It is the purpose of this chapter to—

"(1) authorize and support environmental assessment research to the extent necessary to help address general concerns about environmental effects of biotechnology; and

"(2) authorize research to help regulators develop policies, as soon as is practicable, concerning the introduction into the environment of such technology.

"SEC. 1492. DEFINITIONS.

"As used in this chapter:

"(1) ENVIRONMENTAL ASSESSMENT RESEARCH.—The term 'environmental assessment research' means research aimed at understanding the potential impacts on agricultural ecosystems, natural ecosystems, and human health of genetically engineered organisms introduced into the environment.

"(2) GENETICALLY ENGINEERED ORGANISM.—The term 'genetically engineered organism' means a living organism, including a virus, that is genetically modified using techniques of modern biotechnology, including recombinant DNA, chemical and electrical poration, and microinjection.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 1493. GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a grant program within the Cooperative State Research Service and the Agricultural Research Service to provide assistance necessary for environmental assessment research concerning the introduction of genetically engineered organisms into the environment.

"(b) AREAS OF RESEARCH.—Areas of research eligible for assistance under subsection (a) shall include—

"(1) the development of methods to physically and biologically contain genetically engineered fish, plants, and microorganisms once they are introduced into the environment;

"(2) the development of methods to monitor the dispersal of genetically engineered fish, plants, and microorganisms;

"(3) research designed to further existing knowledge with respect to the rates and methods of gene transfer that may occur between genetically engineered organisms and related wild and agricultural organisms; and

"(4) other areas of research designed to further the purposes of this chapter.

"(c) REQUESTS FOR PROPOSALS.—The Secretary shall consult with the Administrator of the Animal and Plant Health Inspection Service, any existing Office of Agricultural Biotechnology, and any existing Agricultural Biotechnology Research Advisory Committee regarding any specific areas of research considered for assistance under this section.

"(d) PROGRAM COORDINATION.—The Secretary shall coordinate research authorized under this chapter with the Office of Research and Development of the Environmental Protection Agency and shall seek to avoid duplication of research activities.

"(e) OPEN COMPETITION.—Grants shall be made on the basis of the quality of the proposed research project and shall not be restricted to land grant colleges and colleges of agriculture.

"SEC. 1494. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this chapter.".

SEC. 1477. CONFORMING AMENDMENT.

Subsection (ee) of section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended by striking

"unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency".

Subtitle E—Miscellaneous Provisions

SEC. 1481. PROTECTION OF PETS.

(a) SHORT TITLE.—This section may be cited as the "Pet Theft Act of 1990".

(b) AMENDMENT TO ANIMAL WELFARE ACT.—The Animal Welfare Act (7 U.S.C. 2131 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 28. PROTECTION OF PETS.

"(a) GENERAL RULE.—It shall be unlawful for any class B licensee, as defined by the Secretary of Agriculture in regulations (hereinafter referred to in this section as the 'dealer'), to obtain live random source dogs and cats from a source other than—

"(1) a State, county, or city owned and operated pound or shelter;

"(2) a private entity established for the purpose of caring for animals such as a humane society, or any other organization that is under contract with a State, county, or city that operates as a pound or shelter and that releases animals on a voluntary basis;

"(3) research facilities licensed by the Department of Agriculture;

"(4) individuals who have bred and raised such dogs and cats on their own premises; or

"(5) another class B licensee.

Nothing in this section shall be construed to either require or to prohibit the mandatory release of animals from pounds or shelters.

"(b) HOLDING PERIODS.—The pounds, shelters, or organizations referred to in section 28(a) (1), (2), and (3) shall hold and care for dogs or cats for a period of at least five days, such period to include a Saturday, before selling such dogs or cats to dealers, to enable such dogs and cats to be recovered by their original owners or to be adopted by other individuals.

"(c) CERTIFICATION.—

"(1) IN GENERAL.—Dealers shall not sell, provide, or make available to any individual or entity a random source dog or cat unless such dealers provides the recipient with a valid certification that meets the requirements of paragraph (2) and subsection (b).

"(2) REQUIREMENTS.—A valid certification must contain—

"(A) the name, address, and Department of Agriculture license or registration number (if such number exists) of the dealer;

"(B) the name, address, Department of Agriculture license or registration number (if such number exists), and the signature of the recipient of the dog or cat;

"(C) a description of the dog or cat being provided that shall include—

"(i) the species and breed or type of such;

"(ii) the sex of such;

"(iii) the date of birth (if known) of such;

"(iv) the color and any distinctive marking of such; and

"(v) any other information that the Secretary by regulation shall determine appropriate;

"(D) the name and address of the person, pound, or shelter from which the dog or cat was purchased or otherwise acquired by the dealer, and an assurance that such person, pound, or shelter was notified that such dog or cat may be used for research or educational purposes;

"(E) the date of the purchase or acquisition referred to in subparagraph (D);

"(F) a statement by the pound or shelter (if the dealer acquired the dog or cat from such) that it satisfied the requirements of subsection (b); and

"(G) any other information that the Secretary by regulation shall determine appropriate.

"(3) RECORDS.—The original certification required under paragraph (1) shall accompany the shipment of a dog or cat to be sold, provided, or otherwise made available by the dealer, and shall be kept and maintained by the research facility for a period of at least one year for enforcement purposes. The dealer shall retain one copy of the certification provided under this paragraph for a period of at least one year for enforcement purposes.

"(4) TRANSFERS.—In instances where one research facility transfers animals to another research facility a copy of the certificate must accompany such transfer.

"(d) ENFORCEMENT.—

"(1) IN GENERAL.—Dealers who fail to act according to the requirements of this section or who include false information in the certification required under subsection (c), shall be subject to the penalties provided for under section 19.

"(2) SUBSEQUENT VIOLATIONS.—Any dealer who violates this section more than one time shall be subject to a fine of $5,000 per dog or cat acquired or sold in violation of this section.

"(3) PERMANENT REVOCATIONS.—Any dealer who violates this section three or more times shall have such dealers license permanently revoked.

"(e) REGULATION.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.".

SEC. 1482. AGRICULTURAL EXPERIMENT STATIONS.

Section 3(d) of the Act of March 2, 1887 (24 Stat. 441; chapter 314; 7 U.S.C. 361c(d)) is amended by inserting before the period at the end the following: "and reapportioned among the States".

SEC. 1483. UTILIZATION OF TESTING EQUIPMENT.

The first sentence of section 12 of the Act of May 29, 1884 (23 Stat. 31, chapter 229; 21 U.S.C. 113a) is amended by inserting after "adequate safeguards," the following: "and except that the Secretary may transport said virus to Brookhaven National Laboratory in Upton, New York, under adequate safeguards for the conduct of analytical research on said virus,".

SEC. 1484. SPECIAL, AND FACILITIES RESEARCH GRANTS.

Subsection (c) of section 2 of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i) is amended to read as follows:

"(c)(1) The Secretary of Agriculture is authorized to make grants, for periods not to exceed 5 years in duration—

"(A) to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research, as determined by the Secretary to carry out research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States; and

"(B) to State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.) and accredited school of colleges of veterinary medicine, to facilitate or expand ongoing State-Federal food and agricultural research programs that;

"(i) promote excellence in research on a regional and national level;

"(ii) promote the development of regional research centers;

"(iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and

"(iv) facilitate coordination and cooperation of research among States through regional research grants.

"(2) No grant may be made under this subsection for any purpose for which a grant may be made under subsection (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

"(3) Grants made under this subsection shall be made without regard to matching funds.

"(4) Four percent of the amount appropriated for any fiscal year to carry out this subsection may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.

"(5) Ninety percent of the amount appropriated for any fiscal year to carry out this subsection shall be made to regional research projects.".

SEC. 1485. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) ANNUAL GRANTS.—The Secretary of Agriculture shall make annual grants to accredited tribally controlled community colleges, as defined in section 2(4) of the Tribally Controlled Community Colleges Assistance Act of 1976 (25 U.S.C. 1801(4)), in the amount of $50,000 per institution for the purpose of enabling such colleges to carry out the agriculturally-related research and higher education programs of such colleges.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each fiscal year to carry out the activities described in subsection (a).

SEC. 1486. RESERVATION EXTENSION AGENTS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish reservation extension agents to provide extension services to Indian Reservations and tribal jurisdictions. In developing and implementing such program, the Secretary shall consult with the Bureau of Indian Affairs, the Intertribal Agriculture Council, and the Southwest Indian Agriculture Association.

(b) PLACING OF AGENTS.— In determining where to place agents under the program established under subsection (a), the Secretary of Agriculture, in consultation with the entities described in subsection (a), shall consider agricultural acreage within the boundaries of the Reservation or tribal jurisdiction, the soil classifications of such acreage, and the population of such Reservation of tribal jurisdiction.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section.

SEC. 1487. NATIONAL COMMUNITY DEVELOPMENT AWARD.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the National Community Development Award for land grant complexes (including land grant universities, the State agricultural experiment stations, and the State cooperative extension services) that demonstrate outstanding com-

mitment to mission-based integrated research and extension programs that—

(1) are interactive with and contributing to the local communities;

(2) are in areas of research approved by the Agricultural Science and Technology Review Board established under section 1413A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and

(3) best reflect the purposes established in section 1403A of such Act.

(b) AMOUNTS.—Awards made under subsection (a) shall not exceed $500,000 per year for a period of not to exceed 3 years to support research or study by the recipient. Not less than five awards shall be made each year.

(c) COMMITTEES.—The Secretary of Agriculture may establish such nominating and selection committees, to consist of scientists and others, to receive nominations and make recommendations for awards under this section, as the Secretary determines appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 in each of the fiscal years 1991, 1992, and 1993 to carry out this section.

SEC. 1488. SENSE OF CONGRESS REGARDING FORMULA FUNDING FOR AGRICULTURAL RESEARCH AND EXTENSION.

It is the sense of Congress that—

(1) any increase in the amount of funds made available for the program of competitive grants established by section 2(b) of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i(b)), should not be derived from a reduction in funds for formula funding programs established under—

(A) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.) (commonly known as the "Hatch Act of 1887"); or

(B) the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.) (commonly known as the "Smith-Lever Act"); and

(2) programs that are funded under such Acts should be funded at a level that will maintain an effective infrastructure to conduct applied agricultural research and technology transfer programs.

SEC. 1489. REPEALS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(1) by repealing section 1419 (7 U.S.C. 3154);

(2) by repealing chapters 1 through 6 of subtitle H (7 U.S.C. 3241 et seq.);

(3) by repealing section 1473B (7 U.S.C. 3319b);

(4) by repealing section 1473C (7 U.S.C. 3319c); and

(5) effective October 1, 1991 by repealing section 1473D (7 U.S.C. 3319d).

SEC. 1490. AGRICULTURAL MATERIALS RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1990, section 16 of The Critical Agricultural Materials Act (7 U.S.C. 178n) is amended—

(1) in subsection (a) to read as follows:

"(a) There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to carry out this Act in each of the fiscal years 1991 through 1995."; and

(2) by striking subsection (b) and designating subsection (c) as subsection (b).

(b) RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473D (7 U.S.C. 3319d) the following new section:

"SEC. 1473E. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

"The Secretary may—

"(1) conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and

"(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.".

SEC. 1491. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

(a) PURPOSE.—The program established under this section is intended to encourage the development and utilization of an agricultural communications network to facilitate and to strengthen agricultural extension, resident education and research, and the domestic and international marketing of United States agricultural commodities and products through the establishment of a partnership between eligible institutions and the Department of Agriculture. This program will employ a communications network to disseminate and to share academic instruction, cooperative extension programming, and agricultural research and marketing information.

(b) OBJECTIVES.—The objectives of the program established under this section are—

(1) to make optimal use of available resources for agricultural extension, resident education, and research by sharing resources between participating institutions;

(2) to improve the competitive position of United States agriculture in international markets through the dissemination of information to producers, processors and researchers;

(3) to train students for careers in agriculture and food industries;

(4) to facilitate interaction among leading agricultural scientists;

(5) to enhance the ability of United States agriculture to respond to environmental and food safety concerns; and

(6) to identify new uses for farm commodities and to increase the demand for United States agricultural products in both domestic and foreign markets.

(c) DEFINITIONS.—As used in this section:

(1) COMMUNICATIONS NETWORK.—The term "communications network" refers to signal conversion equipment (including both modulators, demodulators and satellites), computer hardware and software, terminals, or related devices, used to process and exchange data through a telecommunications system in which signals are generated, modified or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission.

(2) DELIVERY.—The term "delivery" means the transmission and reception of programs by facilities that transmit, receive, or carry data between telecommunications terminal equipment at each end of a telecommunications circuit or path.

(3) ELIGIBLE INSTITUTION.—The term "eligible institution" means any Land Grant college or university (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977), agricultural institution of a foreign country that participates with any such Land Grant college or university, and any other educational institution that the Secretary may determine appropriate.

(4) FACILITIES.—The term "facilities" includes microwave antenna, fiber-optic cables and repeaters, coaxial cables, communications satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmission, and similar items as defined by the Secretary.

(5) SATELLITE GROUND STATION COMPLEX.—The term "satellite ground station complex" includes transmitters, receivers, and communications antennae at the Earth station sites together with the interconnecting terrestrial transmission facilities (including cables, line or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(d) ASSISTANCE TO ELIGIBLE INSTITUTIONS.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education, under which financial and technical assistance may be provided to eligible institutions that participate in a communications network that distributes information consistent with the objectives described in subsection (b).

(2) APPLICATION.—To receive assistance under this section an eligible institution shall prepare and submit, to the Secretary, an application at such time, in such form, and containing such information as the Secretary shall prescribe. The Secretary may approve all or part of any application submitted by an eligible institution if the proposed activity described in the application will contribute, directly or indirectly, to the purpose and objectives of the program established under this section.

(3) PRODUCTION OF DELIVERY.—As provided for in subsection (f), applications for assistance under this section may include requests for assistance in the funding of program production, program delivery, or both.

(e) PRIORITY.—The Secretary, in considering applications for assistance under the program established under this section, shall establish procedures to ensure that there is a broad dissemination of programming through the communications network, giving a priority to applications that—

(1) are submitted by institutions affiliated with an established agricultural telecommunications network that distributes programs to a wide geographical area; or

(2) demonstrate the need for such assistance, taking into consideration the relative needs of all applicants and the financial ability of the applicants to otherwise secure or create the communications network.

(f) PROGRAM PRODUCTION AND DELIVERY.—

(1) IN GENERAL.—The Secretary shall consider applications for assistance under subsection (d)(3) for the production and delivery of programs of cooperative extension, academic instruction in agriculture, agricultural research and other topics consistent with the objectives described in subsection (b).

(2) REQUESTS FOR ASSISTANCE.—Eligible institutions shall request assistance under this subsection through the application submitted under subsection (d). Such requests shall include—

(A) a detailed description of the communications network and programming proposed to be produced and delivered, including to

whom the programming will be distributed, the manner in which the programming will contribute to achieving the objectives described in subsection (b), and the total cost of producing and delivering such programming;

(B) the amount of assistance requested by the applicant for the proposed activity authorized to be conducted under this section and other sources of funding that will be used for the proposed activity; and

(C) an analysis of the costs and benefits of purchasing (or leasing) different types of facilities, equipment, components, hardware and software, or other items.

(g) LIMITATIONS ON ASSISTANCE.—

(1) MATCHING GRANTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may provide assistance to an eligible institution submitting an application under subsection (d) in an amount that shall not exceed 50 percent of the cost of the proposal for which the application was submitted.

(B) EXCEPTION.—Notwithstanding the subparagraph (A), the Secretary may provide assistance to an eligible institution in an amount that does not exceed 100 percent of the cost of the proposal for which the application was submitted if the Secretary determines that the eligible institution would otherwise be unable to carry out the proposal.

(2) PURCHASE AND INSTALLATION OF EQUIPMENT.—The Secretary may allocate not to exceed 10 percent of the amounts appropriated under subsection (h) for the acquisition and installation of telecommunications transmission facilities.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, not to exceed $12,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1492. GRADUATE SCHOOL OF THE DEPARTMENT OF AGRICULTURE.

(a) TRAINING SERVICES.—Notwithstanding any other provision of law, the head of a Federal agency or major organizational unit within any agency, including agencies and offices within the Department of Agriculture, may place an order, or enter into an agreement, with the Graduate School of the Department of Agriculture (hereinafter in this section referred to as the "Graduate School") under the provisions of section 1535 of title 31, United States Code, for training as defined in section 4101 of title 5, United States Code, and for other services incidental to the provision of such training.

(b) GOODS OR SERVICES.—The Graduate school may obtain any goods or services necessary to the fulfillment of an order under subsection (a) or its obligations under such agreement without regard to the requirements of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(c) AUDITS OF RECORDS.—The financial records of the Graduate School relating to orders or agreements under subsection (a) shall be made available to the Comptroller General for purposes of conducting an audit.

SEC. 1493. SPECIAL GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

Section 502(f) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "shall" and inserting "may"; and

(B) by adding at the end thereof the following new clause:

"(ix) Assistance for local officials and groups in developing income and employment alternatives.";

(2) in paragraph (1)(C), by inserting before the period at the end thereof the following: ", except that not less than one third of a grant provided to a State under this subsection may be used to provide the type of services described in subparagraph (B)(i)";

(3) in paragraph (1)(D)—

(A) by striking "is encouraged to work with" and inserting "shall work with the State office of rural health, the State department or agency of mental health, and other"; and

(B) by adding at the end thereof the following new sentence: "For recipients in a State to be eligible for the special grant funds for a year, the State department or agency of mental health must sign the annual comprehensive plan."; and

(4) in paragraph (2)—

(A) by inserting after "may be made" the following: "to any State applying for participation"; and

(B) by striking "1990" and inserting "1995".

SEC. 1494. RESEARCH FACILITIES.

(a) FINDINGS.—Congress finds that—

(1) modern agriculture is science-based and the ability of American agriculture to meet future challenges will depend on the quality, quantity, and availability of new research knowledge;

(2) analyses of the national effort in agricultural science and education have concluded that the United States is underinvesting in ongoing and future agricultural research programs, the training of talented agricultural scientists for the future, and in the research tools laboratories, facilities, and equipment needed by agricultural scientists to conduct quality and relevant research;

(3) reviews conducted by the General Accounting Office, the Office of Technology Assessment, the National Academy of Sciences, the National Science Foundation, the National Association of State Universities and Land Grant Colleges, and the Users Advisory Board of the Department of Agriculture indicate—

(A) that many facilities designed for research are underused, run-down, and duplicative of other facilities; and

(B) that an adequate planning process for the acquisition or modernization of research facilities is not utilized by the Department of Agriculture or the Congress;

(4) there is a national need for a coordinated, coherent policy to maintain and promote America's agricultural research infrastructure and to reinvest in facilities that are needed by modern research and education programs;

(5) construction of new research facilities currently consumes a disproportionate amount of agriculture research investment and more resources should be directed at upgrading and maintaining existing facilities; and

(6) an advisory commission is needed to objectively evaluate the facilities acquisition and modernization system utilized by the Department of Agriculture and recommend improvements in such system.

(b) DEFINITIONS.—As used in this section:

(1) AGRICULTURE FACILITY.—The term "agriculture facility" means—

(A) an existing Agricultural Research Service facility or a Forest Service facility;

(B) an agricultural facility in the process of being planned or being constructed using Federal funding or a planned agricultural facility that will use Federal funding; or

(C) any other facility under the jurisdiction of the Secretary of Agriculture.

(2) STUDY COMMISSION.—The term "Study Commission" means the Agriculture Research Facilities Planning and Closure Study Commission established under this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(c) STUDY COMMISSION.—

(1) ESTABLISHMENT.—The Secretary shall establish an Agriculture Research Facilities Planning and Closure Study Commission to carry out the activities described in subsection (d).

(2) MEMBERSHIP.—The Commission shall be composed of 14 members to be appointed not later than 60 days after the date of enactment of this Act, of which—

(A) two members shall be appointed by the Secretary from among private citizens or employees of the Executive Branch;

(B) three members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) three members shall be appointed by the Ranking Minority Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(D) three members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives; and

(E) three members shall be appointed by the Ranking Minority Member of the Committee on Agriculture of the House of Representatives.

(3) VACANCIES.—A vacancy occurring on the Commission shall be filled in the same manner as that in which the original appointment was made.

(4) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Members of the Commission who are not regular full-time employees of the United States government shall, while attending meetings and conferences of the Commission or otherwise engaged in the business of the Commission (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedules established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of such Commission may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently by the Federal Government.

(5) CHAIRPERSON.—The Secretary shall designate a member of the Commission to serve as the Chairperson.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson, of a majority of the members of the Commission, or at the call of the Secretary.

(7) DIRECTOR AND STAFF.—The Chairperson of the Commission may appoint a Director of the Commission, and may request the detailing of the staff of Federal agencies to the Commission to assist the Commission in carrying out its duties. The Chairperson may employ experts and consultants.

(d) GENERAL DUTIES.—The Commission shall—

(1) review all currently operating and planned agricultural facilities for research importance;

(2) identify those agricultural research facilities that should be closed, realigned, consolidated, or modernized, in order to aid in carrying out the research agenda of the Secretary; and

(3) develop recommendations concerning agricultural research facilities and evaluate the facilities acquisition and modernization system utilized by the Department of Agriculture and recommend improvements in such system.

(e) GENERAL POWERS.—The Commission shall have the power to meet and hold hearings, use the mails of the United States, and provide and acquire administrative support services.

(f) REPORT.—Not later than 240 days after the date of enactment of this Act, the Commission shall prepare and submit to the Secretary, the Committee on Agriculture and Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and Appropriations of the Senate, a report concerning the findings and recommendations developed under subsection (d).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1495. RURAL HEALTH AND SAFETY EDUCATION.

(a) SHORT TITLE.—This section may be cited as the "Rural Health and Safety Education Act of 1990".

(b) RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.—

(1) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2661) is amended by adding at the end thereof the following new subsection:

"(g) RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.—

"(1) PROGRAMS AUTHORIZED.—

"(A) INDIVIDUAL AND FAMILY HEALTH EDUCATION.—The Secretary may make grants for the establishment of individual and family health education programs that shall provide individuals and families with—

"(i) information concerning the value of good health;

"(ii) information to increase the individual or families motivation to take more responsibility for their own health;

"(iii) access to health promotion activities; and

"(iv) training for volunteers and health services providers concerning health promotion and health care services.

"(B) FARM SAFETY EDUCATION.—The Secretary may make grants for the establishment of farm safety education programs that shall provide information and training to farm workers, timber harvesters, and farm families concerning safety in the work place, including information and training concerning—

"(i) the reduction of occupational injury and death rates;

"(ii) the reduction and prevention of exposure to farm chemicals;

"(iii) the reduction of agricultural respiratory diseases and dermititis;

"(iv) the reduction and prevention of noise induced hearing loss;

"(v) the occupational rehabilitation of farmers and timber harvesters with physical disabilities; and

"(vi) emergency medical technicians and nonprofessionals on farm accident rescue procedures.

"(2) COORDINATION OF PROGRAMS.—Educational programs conducted with grants awarded under this subsection shall be coordinated with the State offices of rural health.

"(3) DISSEMINATION OF INFORMATION.—Educational programs conducted with grants awarded under this subsection shall provide leadership within the State for the dissemination of appropriate rural health and safety information resources possessed by the Rural Information Center established at the National Agricultural Library.

"(4) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures and limitations that shall apply to States that desire to receive a grant under this subsection. In States with land-grant colleges and universities that are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall mutually determine the type of rural health and safety education program needed in the State within which such institutions reside.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection, $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended.".

(2) TECHNICAL AMENDMENT.—Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended by striking "and section 502(f)" and inserting "section 502(f), and section 502(g)".

SEC. 1496. RURAL REHABILITATION AND ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

(a) SPECIAL DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary of Agriculture may make demonstration grants to private nonprofit disability organizations to enable such organizations to initiate or expand community-based direct service programs that provide on-site rural rehabilitation and assistive technology for individuals with physical disabilities, and their families, who are engaged in farming or farm-related occupations.

(2) ELIGIBLE PROGRAMS.—Grants awarded under paragraph (1) may be used to initiate or expand programs that—

(A) provide direct, on-site rural rehabilitation services and counseling to individuals with disabilities that engage in farming or farm-related occupations;

(B) provide on-site technical advice concerning assistive technology, and assist in the modification of farm worksites, operations and living arrangements to accommodate individuals with disabilities that engage in farming, farm living, and farm-related tasks;

(C) involve community and health care professionals and others in the early identification of farm and rural families that are in need of services related to the disability of an individual;

(D) provide specialized training and educational programs to enhance the professional competencies of rural rehabilitation and health care providers, vocational counselors, and other providers of services to individuals with disabilities, and their families, who engage in farming or farm-related occupations; and

(E) mobilize rural volunteer resources, including peer counseling among farmers with disabilities and rural ingenuity networks promoting cost effective methods of accommodating disabilities in farming and farm-related activities.

(3) EXTENSION SERVICE AGENCIES.—Grants shall be awarded under this subsection directly to State extension service agencies to enable such agencies to enter into contracts, on a multiyear basis, with private nonprofit community-based direct service organizations to enable such organizations to initiate or expand the types of services described in paragraph (2).

(4) MINIMUM AMOUNT.—No grant shall be awarded under this subsection in an amount that is less than $150,000.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 and 1992, not less than $3,000,000, and for each of the fiscal years ending 1993 through 1996, not less than $5,000,000 to carry out this subsection.

(b) NATIONAL GRANT FOR TECHNICAL ASSISTANCE, TRAINING AND DISSEMINATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall award a grant to a national private nonprofit disability organization to enable such organization to provide technical assistance, training, information dissemination and other activities to support community-based direct service programs of on-site rural rehabilitation and assistive technology for individuals with physical disabilities, and their families, who are engaged in farming or farm-related occupations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1996, not to exceed $1,000,000 to carry out this subsection.

SEC. 1497. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.

(a) GRANT FOR DEMONSTRATION PROJECT.—The Secretary of Agriculture shall award a grant for the establishment of a project to demonstrate a model approach to improving rural health infrastructure. The project established with such grant shall—

(1) carry out systematic, community-based rural health needs assessments;

(2) identify and coordinate available health services resources;

(3) improve community infrastructure through health education and information and leadership development and training; and

(4) develop community generated health improvement strategies.

(b) PROJECT IMPLEMENTATION.—The project established under subsection (a) shall be implemented through the cooperation of—

(1) an academic medical center with accredited health professions schools, including schools of medicine, dentistry, public health, nursing, and allied health;

(2) the Cooperative Extension System of a land-grant university; and

(3) county-based citizens' organizations concerned with rural health services.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each fiscal year to carry out subsection (a). Amounts appropriated under this subsection shall remain available until expended.

SEC. 1497A. ZEBRA MUSSELS AND DREISSENA POLYMORPHA.

Interagency research, design criteria and eradication program on zebra mussels, Dreissena polymorpha, as they affect the Nation's agricultural irrigation systems:

(a) The Secretary of Agriculture and the Assistant Secretary of the Army for Civil

Works, in consultation with the Director of the United States Fish and Wildlife Service and the Administrator of the Environmental Protection Agency, shall develop a program of research and design criteria for agricultural irrigation systems, with the emphasis on developing techniques and design standards to eradicate and control the effects of zebra mussels in the Nation's agricultural irrigation system.

(b)(1) There are hereby authorized to be appropriated to the Secretary of Agriculture to carry out subsection (a) of this section, the amount of $2,000,000 for each of the five fiscal years beginning with fiscal year 1991.

(2) There are hereby authorized to be appropriated to the Secretary of the Army for Civil Works to carry out subsection (a) of this section, the amount of $2,000,000 for each of the five fiscal years beginning with fiscal year 1991.

SEC. 1497B. PSEUDORABIES ERADICATION.

(a) FINDINGS.—Congress finds that efforts to eradicate pseudorabies in United States swine populations by the Department of Agriculture in cooperation with State agencies and the pork industry have a high priority and should be continued until pseudorabies is completely eradicated in the United States.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and carry out a program for the eradication of pseudorabies in United States swine populations.

(c) USE OF FUNDS FOR TESTING AND CONTROL OF DISEASES AND PESTS.—The Secretary shall ensure that not less than 65 percent of the funds appropriated for any animal or plant disease or pest eradication or control program administered by the Department of Agriculture shall be used for testing and screening of animals or plants and for other purposes directly related to the eradication or control of the animal or plant disease or pest.

(d) APPROPRIATIONS.—There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1991 through September 30, 1995, such sums as may be necessary for the purpose of carrying out the program established under this section.

SEC. 1497C. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary for Science and Education, acting through the Cooperative State Research Service special grants program, may provide assistance to eligible entities to encourage and assist efforts made by research institutions to improve the efficiency and effectiveness of safety and inspection systems for livestock products.

(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section an entity shall be a Land Grant college or university or any other college or university which demonstrate capability in the agriculture sciences, an individual research institution, or a consortia of such institutions.

(c) CONTRIBUTION BY ENTITY.—

(1) REQUIREMENT.—To be eligible to receive assistance under this section, an entity shall agree that such entity will, with respect to the costs to be incurred by the entity in conducting the research for which the assistance is provided, make available (directly or through donations) non-Federal contributions toward such costs in an amount equal to 50 percent of such costs.

(2) NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) ADMINISTRATION.—In providing assistance under this section, the Assistant Secretary for Science and Education shall to the extent practicable ensure that the amount of such assistance is provided equally to eligible entities representing the beef, pork, poultry, and acquaculture industries.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as necessary for each of the fiscal years 1991 through 1995.

Subtitle F—Farm Safety

SEC. 1498. SHORT TITLE.

This subtitle may be cited as the "Farm Injury Prevention and Treatment Act of 1990".

SEC. 1498A. FINDINGS.

Congress finds that—

(1) data developed by the National Safety Council indicate that farming is one of the most dangerous occupations in the United States;

(2) farmers face unique severe injuries that threaten both the lives and livelihoods of farmers;

(3) the public needs to fully understand the causes of, extent of, or solutions to, problems of injury to farmers;

(4) it serves the national interest to increase medical treatment and rehabilitation services for farm injuries;

(5) it serves the national interest to increase public knowledge about farm safety issues and the impact of farm safety on rural health; and

(6) it serves the national interest to improve coordination among the many government agencies with jurisdiction over farm safety issues.

SEC. 1498B. DEFINITIONS.

As used in this subtitle:

(1) FARMER.—The term "farmer" includes a farmer, rancher, family member of a farmer or rancher who is involved in the operation of the farm or ranch, child of a farmer or rancher, and seasonal employee of a farmer or rancher.

(2) FARM ACCIDENT.—The term "farm accident" means an unplanned incident that—

(A) may result in a farm injury; and

(B) is determined by the Task Force to be a farm accident.

(3) FARM ILLNESS.—The term "farm illness" means a chronic condition causing impaired function that—

(A) results from a farm injury; and

(B) is determined by the Task Force to be a farm accident.

(4) FARM INJURY.—The term "farm injury" means a traumatic or toxic exposure injury to a farm worker that is determined by the Task Force to be a farm injury, including—

(A) an injury that results from improper design or construction of a building, machine, or equipment; and

(B) an intentional injury, including an injury that results from assaultive or abusive action, or suicide.

(5) LAND GRANT UNIVERSITY.—The term "land grant university" means a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) or under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419; 7 U.S.C. 321 et seq.).

(6) TASK FORCE.—The term "Task Force" means the Farm Safety Task Force, established in section 1498C(a).

(7) TOXIC EXPOSURE INJURY.—The term "toxic exposure injury" means an injury that results from inhalation or contact with chemical, organic, or infectious substances or with electrical or thermal sources.

(8) TRAUMATIC INJURY.—The term "traumatic injury" means an injury that results from acute or repetitive subacute stresses to the human body.

SEC. 1498C. TASK FORCE.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture a Farm Safety Task Force to serve as an advisory panel of experts to the Secretary of Agriculture and the Secretary of Health and Human Services.

(b) MEMBERSHIP.—The Task Force shall be composed of 17 members, including—

(1) the Secretary of Agriculture;

(2) the Secretary of Health and Human Services; and

(3) 15 other members appointed by the Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, including—

(A) 3 individuals from other Federal, State, and local government agencies that conduct programs related to agriculture, occupational safety, or health, such as the Department of Labor, or other agencies determined to be appropriate by the Secretary of Agriculture and the Secretary of Health and Human Services;

(B) 3 individuals from among individuals nominated by national agricultural organizations;

(C) 3 individuals who shall represent the interests of—

(i) the farm machinery industry; and

(ii) other industries affected by issues of farm safety that have an interest in, and a potential to contribute to, the formulation of national policy related to farm safety, as determined by the Secretary of Agriculture and the Secretary of Health and Human Services;

(D) 3 individuals with medical experience related to treatment of farm injuries; and

(E) 3 private citizens.

(c) CO-CHAIRPERSONS.—The Secretary of Agriculture and the Secretary of Health and Human Services shall serve as the Co-chairpersons of the Task Force.

(d) TERM OF OFFICE.—The Secretary of Agriculture shall appoint members of the Task Force under subsection (b)(3) for terms of 3 years, except that the Secretary of Agriculture shall appoint one-third of the original members for a term of 1 year, and one-third for a term of 2 years.

(e) VACANCIES.—The Secretary of Agriculture shall fill any vacancy in the membership of the Task Force in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Task Force.

(f) QUORUM.—A quorum shall consist of 9 members of the Task Force, except that 7 members may conduct a hearing.

(g) MEETINGS.—The Task Force shall meet at the call of the Co-chairpersons or a majority of the members of the Task Force.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

(1) COMPENSATION.—Each member of the Task Force who is not an employee of the Federal Government shall receive compen-

sation at a rate not to exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Task Force.

(2) TRAVEL EXPENSES.—Each member of the Task Force shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to pay the adminstrative expenses of the Task Force $250,000 for each of fiscal years 1991 through 1995.

SEC. 1498D. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may appoint and determine the compensation of such staff as the Task Force determines to be necessary to carry out the duties of the Task Force.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Task Force. The Secretary of Agriculture and the Secretary of Health and Human Services may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—

(1) SERVICES AND COMPENSATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may obtain and compensate such temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Task Force determines to be necessary to carry out the duties of the Task Force.

(2) LIMITATION.—The rate of compensation for each expert or consultant shall not exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code for each day the expert or consultant is engaged in the actual performance of duties for the Task Force.

(3) INTENT OF CONGRESS.—It is the intent of Congress that the Secretary of Agriculture and the Secretary of Health and Human Services shall obtain the services of experts and consultants from State agencies, land grant universities, and other organizations that gather farm accident and injury information in accordance with this subsection whenever appropriate in order to use existing expertise and information concerning farm accidents and injuries.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Task Force, the Secretary of Agriculture and the Secretary of Health and Human Services shall detail, without reimbursement, any of the personnel of the Department of Agriculture or the Department of Health and Human Services to the Task Force as the Task Force determines to be necessary to carry out the duties of the Task Force. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Task Force, the Secretary of Agriculture and the Secretary of Health and Human Services shall provide, without reimbursement, such technical assistance and administrative support services to the Task Force as the Task Force determines to be necessary to carry out the duties of the Task Force.

(e) OBTAINING INFORMATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may secure directly from any Federal agency information necessary to enable the Task Force to carry out the duties of the Task Force, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the Secretary of Agriculture and the Secretary of Health and Human Services, the head of the agency shall furnish the information to the Task Force.

SEC. 1498E. ORGANIZATION.

(a) MEMORANDUM OF AGREEMENT.—Not later than 4 months after the date of enactment of this subtitle, the Secretary of Agriculture and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement that shall, at a minimum—

(1) identify the resources and programs of the Department of Agriculture, the Department of Health and Human Services, and other Federal, State, and local programs, that relate to farm safety issues;

(2) coordinate the resources and programs, including education and information dissemination, of the Department of Agriculture and the Department of Health and Human Services existing on the date of enactment of this subtitle with the research and grant programs established by sections 1498G through 1498M;

(3) develop and establish appropriate minimum standards for the responsibilities of the Department of Agriculture and the Department of Health and Human Services to the Task Force, including provision of staff to the Task Force to develop recommendations on research and grant proposals, and perform the administrative work of the Task Force;

(4) develop a budget for the activities of the Task Force;

(5) provide that, in the event of a disagreement between the Task Force and the Secretary of Agriculture with respect to any research program established by section 1498G or 1498H the decision of the Secretary of Agriculture shall be final; and

(6) provide for an annual review of the memorandum of agreement by the Secretary of Agriculture and the Secretary of Health and Human Services.

(b) CONSULTATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of the heads of other Federal, State, and local programs that relate to farm safety issues.

(c) PUBLICATION.—The Memorandum of Agreement established in accordance with subsection (a) shall be submitted to Congress and published in the Federal Register not later than 6 months after the date of enactment of this subtitle.

(d) COORDINATION.—The Task Force shall coordinate and serve as a clearinghouse for Federal farm safety outreach and education programs.

(e) PRIORITY.—The Task Force shall make recommendations concerning the scope and priority of each of the research and grant programs established by sections 1498G through 1498M.

SEC. 1498F. CENSUS OF AGRICULTURE.

The Secretary of Commerce shall include questions relating to agricultural accidents and farm safety in the 1992 Census of Agriculture.

SEC. 1498G. FARM ACCIDENT PREVENTION STUDY.

(a) STUDY.—

(1) SUBJECT.—The Task Force shall—

(A) conduct a nationwide study of the frequency and the types of farm accidents that involve farmers;

(B) gather and provide relevant regional information on farm accidents; and

(C) perform tasks determined by the Secretary of Agriculture to be needed to acquire and analyze the information required to be collected under subparagraphs (A) and (B).

(2) ANALYSIS.—In conducting the study described in paragraph (1), the Task Force shall—

(A) analyze farm accidents involving—

(i) farm equipment and machinery;

(ii) agricultural chemicals;

(iii) livestock;

(iv) farm buildings; and

(v) children;

(B) differentiate between farm accidents that are related to agricultural employment and farm accidents that are not related to agricultural employment; and

(C) use recognized scientific and analytical methods.

(b) GRANTS.—To assist in the conduct of the study under subsection (a), the Task Force shall make special grants under section 2(c)(1) of the Act of August 4, 1965 (7 U.S.C. 450i) to public and private institutions to gather and provide relevant regional information, and to perform such other tasks determined needed by the Secretary relating to the items specified in paragraph (a).

(c) STUDY RESULTS.—

(1) DEFICIENCIES IN EXISTING PROGRAMS.—The Secretary of Agriculture shall use the information gathered under subsection (a) to inform the Agricultural Extension Service of the adequacies or deficiencies of existing farm safety programs operating within various regions of the country.

(2) DISSEMINATION.—The Secretary of Agriculture, acting through the Agricultural Extension Service, and in cooperation with agricultural organizations, State departments of agriculture, machinery manufacturers, and land grant universities, shall coordinate and disseminate information relating to farm safety programs that are targeted at farmers, ranchers, and their employees.

(3) ADMINISTRATIVE RECOMMENDATIONS.—The Task Force shall review the information gathered in accordance with subsection (a) and submit to appropriate Federal agencies the findings and conclusions of the Task Force about the adequacy or deficiency of existing farm safety programs operating within various regions of the country, including recommendations for administrative reform.

(4) REPORT TO CONGRESS.—Not later than January 1, 1993, the Task Force shall submit a report to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate describing the findings and conclusions of the study required by subsection (a), including recommendations for legislative reform.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1991 through 1995.

SEC. 1498H. TRACTOR ROLL-OVER STUDY AND REQUIREMENTS.

(a) STUDY.—

(1) SUBJECT.—The Task Force shall conduct a study of protective roll-over devices for tractors. In particular, the Task Force shall examine—

(A) the safety benefits of various protective devices;

(B) the costs associated with various protective devices;

(C) appropriate minimum guidelines for protective devices;

(D) practical and feasible means of encouraging farmers and farm machinery manufacturers to install protective devices on farm machinery; and

(E) practical and feasible means of discouraging users of farm machinery from inhibiting or overiding safety devices.

(2) REPORT.—Not later than 12 months after the date of enactment of this subtitle, the Task Force shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary of Agriculture a written report of its findings and conclusions from the study conducted under paragraph (1), including recommendations for administrative and legislative reform.

(b) REQUIREMENTS.—If Congress has not passed legislation concerning tractor roll-over protective devices 6 months after the date the Task Force has submitted the report described in subsection (a)(2), the Secretary of Agriculture shall issue regulations to implement the recommendations of the Task Force contained within the report specified in subsection (a)(2).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) STUDY.—There are authorized to be appropriated for purposes of carrying out subsection (a) $1,000,000 for fiscal year 1991.

(2) REQUIREMENTS.—There are authorized to be appropriated for purposes of carrying out subsection (b) $500,000 for each of the fiscal years 1992 through 1995.

SEC. 1498I. FARM MACHINERY ENGINEERING RESEARCH GRANTS.

(a) ESTABLISHMENT.—The Task Force shall establish a Farm Safety Fund and is authorized, in accordance with appropriation Acts, to award grants from the Fund to eligible entities to pay for the Federal share of conducting research on farm machinery safety engineering.

(b) USE OF GRANTS.—Entities shall use grants provided under this section to—

(1) conduct research on engineering designs and protective devices to improve the safety of farm machinery;

(2) implement the designs and install the devices on farm machinery; and

(3) test the designs and devices.

(c) AWARD OF GRANTS.—

(1) PEER REVIEW.—The Task Force shall obtain peer review of research proposals, and shall seek the widest participation of qualified scientists in the Federal Government, State governments, colleges and universities, and the private sector to perform the review. The results of the review shall be presented to the Task Force.

(2) PRIORITY.—The Task Force shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 1498E(e), and shall give priority to applicants that—

(A) receive non-Federal funding;

(B) are land grant universities;

(C) propose research designs that demonstrate a high likelihood of adaptability to existing and future farm machinery; or

(D) propose research designs that address user or behavioral actions that inhibit current safety devices.

(3) AWARDS.—The Task Force shall award grant funds from the Farm Safety Fund on a majority vote of the Task Force. Either the Secretary of Agriculture or the Secretary of Health and Human Services may veto a disbursement.

(4) LIMITATION ON AMOUNT.—In awarding a grant to an entity under subsection (a), the Task Force may—

(A) make individual grants of up to $250,000; and

(B) make total awards of up to $500,000 within any 3-year period.

(d) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Task Force at such time, in such manner, and containing such agreements, assurances, and information, as the Task Force determines to be necessary to carry out this section. At a minimum, the application shall contain—

(1) a research proposal;

(2) an assurance that the entity will submit periodic reports to the Task Force containing a description of the progress made and findings obtained by the study; and

(3) an assurance that the entity will obtain at least 50 percent of the costs of conducting research from non-Federal funds.

(e) ELIGIBILITY.—The Task Force shall establish eligibility criteria for an entity, including a land grant university, to receive grants under subsection (a).

(f) FEDERAL SHARE.—The Federal share of grants provided under this section shall be not more than 50 percent.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Farm Safety Fund for purposes of carrying out this section $5,500,000 for each of the fiscal years 1991 through 1995.

SEC. 1498J. GRANTS TO IMPROVE THE RECOGNITION, CARE, AND REHABILITATION OF FARM INJURIES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Centers for Disease Control and in consultation with the Task Force, shall make grants, on a competitive basis, to States and other entities to carry out activities to improve the identification, treatment, and rehabilitation of farm injuries and farm illnesses.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to—

(1) develop guidelines, standards, and protocols governing the identification, treatment, and rehabilitation of farm injuries and farm illnesses; and

(2) develop training materials and conduct training for paramedical, medical, nursing, and allied therapy personnel in the subject matter of the guidelines, standards, and protocols.

(c) AWARD OF GRANTS.—The Secretary of Health and Human Services shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 1498E(e). The Secretary of Agriculture may veto a disbursement.

(d) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such agreements, assurances, and information as the Secretary of Health and Human Services determines to be necessary to carry out this section. At a minimum, the application shall contain assurances that the entity will submit periodic reports to the Secretary of Health and Human Services and to the Task Force containing—

(1) guidelines, standards, and protocols developed in accordance with subsection (b)(1); and

(2) a description of the training conducted in accordance with subsection (b)(2).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1498K. GRANTS TO STUDY INJURY MECHANISMS AND REHABILITATION PROCESSES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health and in consultation with the Task Force, shall award grants to, and enter into cooperative agreements with, public and private nonprofit entities to support a full range of research and development projects concerning farm injury mechanisms, and healing and rehabilitation processes for farm injuries.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to establish research and development projects involving—

(1) basic and clinical research, including longitudinal and consortium-type multidisciplinary and clinical trials, on the causes of farm injuries;

(2) biomedical and behavioral studies on the causes of farm injuries;

(3) projects that take a multidisciplinary approach to preventing a specific farm injury; or

(4) demonstrations of advanced methods of diagnosing, preventing, treating, and managing farm injuries.

(c) AWARD OF GRANTS.—

(1) PEER REVIEW.—The Director of the National Institutes of Health shall obtain peer review of research proposals, and shall seek the widest participation of qualified scientists in the Federal Government, State governments, colleges and universities, and the private sector to perform the review. The results of the review shall be presented to the Director of the National Institutes of Health.

(2) PRIORITY.—The Director of the National Institutes of Health shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 1498E(e).

(d) APPLICATION.—To be eligible to receive a grant or enter into a cooperative agreement under this section, an entity shall submit an application to the Director of the National Institutes of Health at such time, in such manner, and containing such agreements, assurances, and information as the Director and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain—

(1) a research proposal; and

(2) an assurance that the entity will submit periodic reports to the Director and the Task Force containing a description of the progress made and the findings obtained by the research or development project.

(e) CONSULTATION AND COORDINATION.—In carrying out the provisions of this section, the Director of the National Institutes of Health shall consult with the Director of the National Institute on Neurological and Communicative Disorders and Stroke, the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the Secretary of Agriculture, and the Directors of other relevant Institutes and Public Health Service Agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 1991 through 1995.

SEC. 1498L. GRANTS TO INCREASE THE AVAILABILITY AND QUALIFICATIONS OF CLINICAL STAFF AND RESEARCHERS IN FARM OCCUPATIONAL HEALTH.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Task Force, shall award grants to and enter into cooperative agreements with public and private nonprofit entities to increase the availability and qualifications of clinical staff and researchers in farm occupational health.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to establish programs to—

(1) attract new practitioners to careers in aspects of occupational medicine that include farm injury prevention, treatment, and rehabilitation; and

(2) attract new or young researchers to careers in fields involving clinical applications and research on the biomedical, behavorial, and rehabilitative aspects of farm injuries.

(c) AWARD OF GRANTS.—The Secretary of Health and Human Services shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 1498E(e).

(d) APPLICATION.—To be eligible to receive a grant or enter into a cooperative agreement under this section, an entity shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such agreements, assurances, and information as the Secretary of Health and Human Services and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain assurances that the State will submit periodic reports to the Secretary of Health and Human Services and to the Task Force containing a description of the programs established in accordance with subsection (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 1991 through 1995.

SEC. 1498M. FARM SAFETY EDUCATION.

(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Task Force, shall make grants to States and other entities for the establishment of farm safety education programs concerning safety in the workplace.

(b) USE OF GRANTS.—Entities shall use grants awarded under subsection (a) to provide to farmers—

(1) information and training concerning—

(A) reduction of occupational injury and death rates;

(B) reduction and prevention of exposure to farm chemicals;

(C) reduction of agricultural respiratory diseases and dermatitis;

(D) reduction and prevention of noise induced hearing loss;

(E) occupational rehabilitation of farmers with physical disabilities;

(F) farm accident rescue procedures for emergency medical technicians and nonprofessionals; and

(2) appropriate rural health and safety information resources from the Rural Information Center, established at the National Agricultural Library.

(3)(A) The Secretary in consultation with this Task Force, shall award grants under this subparagraph based on a prioritized listing of farm injury and disease-related hazards. The Secretary shall establish specific accident and illness reduction objectives and procedures to evaluate the improvement in farm safety and health achieved under this paragraph. The prioritized listing and objectives shall be reviewed periodically by the Secretary.

(B) PRIORITIZATION OF EFFORTS.—Educational programs conducted with grants awarded under this paragraph shall systematically focus on prioritized health and accident hazards that affect persons in rural areas.

(c) COORDINATION OF PROGRAMS.—Education programs funded by grants awarded in under subsection (a) shall be coordinated with State offices of rural health or other entities determined by the Secretary of Agriculture and the Task Force to be appropriate.

(d) AWARD OF GRANTS.—The Secretary of Agriculture shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 1498E(e).

(e) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Secretary at such time, in such manner, and containing such agreements, assurances, and information as the Secretary and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain an assurance by any State applicant that, if the State contains a land-grant university, including Tuskegee University, the State and the land-grant university shall mutually determine the type of rural health and safety education program needed in the State.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended.

SEC. 1498N. TERMINATION AND REPEAL.

(a) TERMINATION.—Effective September 30, 1995, the Task Force shall be abolished, and all programs established by this subtitle shall terminate.

(b) REPEAL.—Effective September 30, 1995, this subtitle shall be repealed.

Subtitle G—Effective Date

SEC. 1499. EFFECTIVE DATE.

Except as otherwise provided, this title and the amendments made by this title shall become effective on October 1, 1990.

TITLE XV—FORESTRY

SEC. 1501. SHORT TITLE.

This title may be cited as the "Forest Stewardship Act of 1990".

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 1511. REFERENCES.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.).

SEC. 1512. FINDINGS, PURPOSE, AND POLICY.

Section 2 of the Act (16 U.S.C. 2101) is amended to read as follows:

"SEC. 2. FINDINGS, PURPOSE, AND POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;

"(2) adequate supplies of timber and other forest resources are essential to the Nation, and adequate supplies are dependent on efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

"(3) nearly one-half of the wood supply of the Nation comes from non-industrial private timberlands and such percentage could rise with expanded assistance programs;

"(4) managed forest lands provide habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other forest resources;

"(5) the soil, water, air quality, and aesthetics of the Nation can be maintained and improved through good stewardship of privately held forest resources;

"(6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

"(7) fires in rural areas threaten human lives, property, and forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

"(8) trees and forests are of great environmental and economic value to urban areas;

"(9) managed forests contribute to improving the quality, quantity, and timing of water yields, that are of broad benefit to society;

"(10) over half the forest lands of the Nation are in need of some type of conservation treatment;

"(11) forest landowners are being faced with increased pressure to convert their forest land to development and other purposes;

"(12) increased population pressures and user demands are being placed on private, as well as public, landholders to provide a wide variety of products and services including fish and wildlife habitat, maintenance of biological diversity, aesthetic quality, and recreational opportunities;

"(13) stewardship of privately held forest resources requires a long-term commitment that can be fostered through local, State, and Federal governmental actions;

"(14) the Department of Agriculture, through the coordinated efforts of the Agriculture Research Service, Agriculture Stabilization and Conservation Service, Cooperative State Research Service, Extension Service, Forest Service, Soil Conservation Service cooperating with other Federal agencies, and State foresters and other political sub-

divisions, has the expertise and experience to assist private landowners in achieving individual goals and public benefits;

"(15) Federal funding for State and private forest management assistance has been reduced by 44 percent between 1979 and 1989;

"(16) sustainable agroforestry systems that integrate the soil and crop protection of tree windbreaks with the soil and water protection of conservation farming practices can improve environmental quality, maintain farm yields, and income; and

"(17) the greatest benefits of tree planting in semiarid lands are for soil and water conservation, crop, livestock, and road protection, surface and ground water quality protection, biological diversity, recreational, wildlife, environmental and socio-economic enhancement.

"(b) PURPOSE.—It is the purpose of this Act to authorize the Secretary of Agriculture (hereinafter in this Act referred to as the 'Secretary') with respect to non-Federal forest lands, to assist in—

"(1) the establishment of a coordinated and cooperative Federal, State, and local forest stewardship program for management of the non-Federal forest lands of the United States;

"(2) the encouragement of the production of timber;

"(3) the prevention and control of insects and diseases affecting trees and forests;

"(4) the prevention and control of rural fires;

"(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

"(6) the improvement and maintenance of fish and wildlife habitat;

"(7) the planning and conduct of urban forestry programs;

"(8) the establishment of a forest stewardship program to broaden existing forest management, fire protection, and insect and disease protection programs on non-Federal private forest lands to meet the multiple use objectives of landowners in an environmentally sensitive manner;

"(9) the establishment of a Forest Legacy Program that provides private landowners with opportunities to protect ecologically valuable or threatened non-Federal forest lands; and

"(10) the strengthening of educational, technical and financial assistance programs that provide assistance to owners of non-Federal forest lands.

"(c) POLICY.—It is the policy of Congress that it is in the national interest for the Secretary to work through and in cooperation with State foresters, or equivalent State officials, non-governmental organizations and the private sector in implementing Federal programs affecting non-Federal forest lands.

"(d) CONSTRUCTION.—This Act shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 2101).".

SEC. 1513. FOREST STEWARDSHIP ASSISTANCE.

Section 3 of the Act (16 U.S.C. 2102) is amended to read as follows:

"SEC. 3. RURAL FORESTRY ASSISTANCE.

"(a) IN GENERAL.—The Secretary, acting through the appropriate Federal, State and local agencies, and the private sector shall establish and implement expanded programs that provide educational and technical assistance to meet the goals of this Act.

"(b) ASSISTANCE.—The Secretary may provide financial, technical, educational, and related assistance to the State foresters, State extension directors, and equivalent State officials to enable such officials to provide technical information, advice, and related assistance to private forest landowners and managers, vendors, forest resource operators, forest resource professionals, public agencies and individuals to enable such persons to carry out activities that are consistent with the purposes of this Act, including—

"(1) protecting, maintaining, enhancing, restoring, and preserving forest lands and the multiple values, uses, and communities that depend on such lands, including—

"(A) monitoring the condition of the forest to ensure a healthy condition;

"(B) conserve the soil and water resources associated with their forest lands;

"(2) identifying, protecting, maintaining, enhancing, and preserving rare and endangered wildlife and fish species and their habitats;

"(3) implementing forest stewardship and management technologies;

"(4) selecting, producing, and marketing alternative forest crops, products and services from forest lands;

"(5) protecting forest land from damage caused by fire, insects, and disease;

"(6) identifying highly aesthetic forest land and implement management activities to protect, regenerate, and improve the aesthetic character of such lands;

"(7) managing the lands where rural and urban areas meet to balance the use of forest resources in and adjacent to urban and community areas and to protect forest lands from conversion to other uses;

"(8) identifying and managing recreational forest land resources;

"(9) protecting forest land from conversion to alternative uses; and

"(10) managing the timber resources of forest lands, including—

"(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

"(B) the conversion of wood to energy for domestic, industrial, municipal, and other uses;

"(C) the planning, management, and treatment of forest land, including site preparation, reforestation, thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of timber and other forest resources;

"(D) investing a portion of the proceeds from the sale of timber or other forest resources in stewardship activities that preserve, protect, maintain, and enhance their forest land;

"(E) ensuring that forest regeneration or reforestation occurs if needed to sustain long-term resource productivity and to help prevent major climatic changes as a result of the greenhouse effect;

"(F) protecting and improving forest soil fertility and the quality, quantity, and timing of water yields; and

"(G) protecting and improving fish and wildlife and their habitats.

"(c) STATE FORESTRY ASSISTANCE.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters, or equivalent State officials, to—

"(1) develop genetically improved tree seeds;

"(2) develop and contract for the development of field arboretums, greenhouses, and tree nurseries, in cooperation with the State, to facilitate production and distribution of tree seeds and seedlings in States where the Secretary determines that there is an inadequate capacity to carry out present and future reforestation needs;

"(3) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

"(4) plant tree seeds and trees for the reforestation or afforestation of non-Federal forest lands that are suitable for the production of timber, recreation, and for other benefits associated with the growing of trees;

"(5) plan, organize, and implement measures on non-Federal forest lands, including thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom; and

"(6) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields.

"(d) FOREST STEWARDSHIP PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with the State foresters, or equivalent State officials, shall establish a program within the Forest Service, to be known as the 'Forest Stewardship Program' (hereinafter referred to in this section as the 'Program'), to meet the objective and goal of subparagraphs (A) and (B) of paragraph (2).

"(2) OBJECTIVES AND GOAL.—

"(A) OBJECTIVE.—It shall be the objective of the Program to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources.

"(B) GOAL.—The goal of the Program shall be to place an additional 25,000,000 acres of nonindustrial private forest lands under stewardship management in accordance with landowner objectives and to provide multiple benefits to the nation between 1991 and 1995.

"(3) ASSISTANCE.—

"(A) PROVISION.—In carrying out the Program, the Secretary, in consultation with each State Forester or equivalent official, may provide financial, technical, and related assistance to such State Foresters or equivalent State officials, who may use such assistance to provide financial assistance to other State and local natural resource agencies and land-grant universities for the delivery of information and professional assistance to owners of nonindustrial private forest lands.

"(B) COOPERATION.—The Secretary, in consultation with the State Foresters or equivalent State officials, may cooperate directly with other State and local natural resource agencies and land-grant universities in implementing this section in cases in which the State Foresters or equivalent State officials are not able to make fund transfers to other agencies.

"(C) ACTIONS OF OWNERS.—The information and assistance made available under this subsection shall be directed to assist owners of forest lands to understand and evaluate alternative activities and practices such owners could take on their land under this Act.

"(4) RECOGNITION PROGRAM.—The Secretary, in consultation with the State Foresters or equivalent State officials, is encouraged to develop an appropriate recognition program for landowners who practice stewardship management on their lands, with an

appropriate, special recognition symbol and title.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of the fiscal years 1991 through 1995.

"(e) IMPLEMENTATION.—In implementing this section, the Secretary shall cooperate with other Federal, State, and local natural resources agencies, universities and the private sector.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, other than subsection (d).".

SEC. 1514. FORESTRY STEWARDSHIP ASSISTANCE.

The Act (16 U.S.C. 2101 et seq.) is amended—

(1) by redesignating sections 4 through 15 as sections 6 through 17, respectively; and

(2) by inserting after section 3 the following new sections:

"SEC. 4. FOREST STEWARDSHIP INCENTIVES.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the State foresters, or equivalent State officials, shall establish a program within the Forest Service, to be known as the 'Forest Stewardship Incentives Program' (hereinafter referred to in this section as the 'Program'), to meet the objectives and goals of section 3(d)(2).

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—All existing private nonindustrial forest lands that are not in management under existing Federal, State, or private sector financial and technical assistance programs are eligible for assistance under the Program. Private nonindustrial forest lands that are managed under existing Federal, State, or private sector financial and technical assistance programs may be eligible for assistance under the Program if forest management activities are expanded and enhanced and the landowner agrees to meet the requirements of this Act.

"(2) COST SHARING.—Landowners shall be eligible for cost sharing assistance under this section if such landowners own not more than 1,000 acres of forest land, except that the Secretary may approve the provision of cost sharing assistance to landowners that own more than 1,000 acres of such land if the Secretary determines that significant public benefits from such will accrue. The Secretary shall not approve of the provision of cost sharing assistance to any landowner owning in excess of 5,000 acres of private forest land. A landowner shall not receive cost share assistance for timber management under this section if such landowner receives cost share assistance under section 6.

"(3) STATE PRIORITIES.—The Secretary in consultation with the State forester, or equivalent State official, and other State natural resource management agencies may recommend State priorities for bringing forest land into the Program that will promote the unique forest management objectives in that State.

"(4) APPROVED ACTIVITIES.—

"(A) DEVELOPMENT.—The Secretary, in consultation with the State Forest Stewardship Advisory Committees established under section 18(b), shall develop a list of approved forest activities and practices that will be eligible for cost-share assistance under the Program within each State.

"(B) TYPE OF ACTIVITIES.—The Secretary, in developing a list of approved activities and practices under subparagraph (A), shall attempt to achieve landowner and public purposes including—

"(i) the management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality and other conservation purposes;

"(ii) the sustainable growing and management of forests for timber production pursuant to the forestry incentives program under section 6 of this Act;

"(iii) the protection, restoration, and use of forest wetlands;

"(iv) the enhanced management and maintenance of native vegetation on other lands vital to water quality;

"(v) agro-forestry management;

"(vi) the growing and management of trees for energy conservation purposes;

"(vii) the management and maintenance of fish and wildlife habitat;

"(viii) the management of outdoor recreational opportunities; and

"(ix) other activities approved by the Secretary.

"(C) EXISTING ENVIRONMENTAL LAWS.—In developing and applying approved activities under subparagraph (A), the Secretary shall ensure that such approved activities are consistent with existing Federal and State environmental laws and policies.

"(c) DUTIES OF OWNERS.—To enter forest land into the Program, the landowners shall—

"(1) prepare and submit to the State forester a forest stewardship management plan that meets the requirements of subsection (b) and that shall—

"(A) be prepared by a professional resource manager;

"(B) identify and describe actions to be taken by the landowner to protect soil, water, range, aesthetic quality, recreation, timber, water, fish and wildlife resources on such land in a manner that is compatible with the objectives of the landowner; and

"(C) be approved by the State forester, or equivalent State official, in accordance with Federal and State law;

"(2) agree to maintain the approved activities on the land that is subject to the management plan for not less than 20 years unless the State forester, or equivalent State official, approves modifications in such plan; and

"(3) agree that during the 20-year period, all activities conducted on such land shall be consistent with the intent of this Act.

"(d) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall share the cost of developing and carrying out the forest stewardship management plan under subsection (c), and in implementing the approved activities that the Secretary determines are appropriate and in the public interest, with a landowner who has entered in an agreement to place the forest land of such owner into the Program.

"(2) RATE.—The Secretary, in consultation with the State forester, or equivalent State official, shall determine the appropriate reimbursement rate for making cost share payments under paragraph (1), and the schedule of such payments.

"(3) MAXIMUM.—The Secretary shall not make cost share payments under this subsection to a landowner in an amount in excess of 75 percent of the total cost to such landowner of developing and implementing the forest stewardship management plan. Total payments to any one landowner shall be determined by the Secretary.

"(e) PENALTY PAYBACK PROVISIONS.—The Secretary shall establish and implement a penalty-payback provision to be applied in the event that a landowner terminates any approved practice required under the forest stewardship management plan of such landowner within the life of the contract.

"(f) PREPARATION.—The Secretary shall encourage the use of private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest stewardship management plans and the implementation of approved activities.

"(g) DISTRIBUTION.—The Secretary shall distribute funds available for cost sharing under this section among the States only after assessing the public benefit incident to such distribution, and after giving appropriate consideration to—

"(1) the acreage of private forest land in each State;

"(2) the potential productivity of such land;

"(3) the number of owners eligible for cost sharing in each State; and

"(4) the need for multiple-use forestry investments on such ownerships.

"(h) OTHER AUTHORITY.—In implementing this section, the Secretary may use the authorities provided in sections 1001, 1002, 1004, and 1008 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 5. FOREST LEGACY PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a Forest Legacy Program in cooperation with State and political subdivisions for the purpose of protecting environmentally sensitive forest lands that are threatened by conversion to an alternative use through the facilitation of the utilization of conservation easements in the administration of lands and interests in lands for conservation purposes as otherwise provided in law.

"(b) INTEREST IN LAND AND WATER.—In addition to the authorities granted under the Weeks Act and the Department of Agriculture Organic Act of 1956, the Secretary may purchase interests in land and water for the protection of forest resources and the preservation of environmental resources from willing forest landowners, on forest lands eligible for inclusion in the Forest Legacy Program established under this section.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—Interest in lands or water under subsection (b) may be held by the Secretary.

"(2) PILOT PROJECTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish a pilot project to meet the goals and requirements of this section for the Forest Legacy Program in the northern forest lands of New York, New Hampshire, Vermont, and Maine. The Secretary shall establish additional projects in each of the Northeast, Midwest, South, and Western regions of the United States, and the Pacific Northwest (including the State of Washington), on the preparation of an assessment of the need for such a project.

"(3) DISCRETION.—Subsequent State programs or a comprehensive national program under this section shall be implemented at the discretion of the Secretary.

"(d) ELIGIBILITY.—The Secretary, in consultation with State Forest Stewardship Advisory Committees established under section 18(b), shall establish eligibility criteria for the inclusion of land with significant envi-

ronmental values threatened by conversion to nonforest uses in the Forest Legacy Program. Of land proposed to be included in the Program the Secretary shall give priority to lands—

"(1) that have unique scenic or recreational values;

"(2) that are unique riparian areas; or

"(3) that have unique fish and wildlife values.

"(e) APPLICATION.—To be eligible to enter forest lands in the Forest Legacy Program, the owner of such land shall prepare and submit, through the State Forester, an application at such time, in such form, and containing such information as the Secretary shall require. Not later than 1 year after the date of enactment of this section the Secretary shall make available application forms under this subsection.

"(f) DETERMINATION.—The Secretary shall determine the eligibility of forest lands for inclusion within the Forest Legacy Program in consultation with the State forester and other appropriate State natural resource management agencies. If applications exceed the ability of the Secretary to bring forest lands into the Forest Legacy Program, priority shall be given to those forest lands under the greatest threats pursuant to the criteria described in subsection (d).

"(g) FOREST MANAGEMENT ACTIVITIES.—Forest management activities, including timber management, on land entered in the Forest Legacy Program shall be consistent with the purpose of this section. Such activities shall be described and approved under a Forest Legacy Plan submitted under subsection (h)(1).

"(h) DUTIES OF OWNERS.—Under the terms of an interest in land acquired under subsection (b), the landowner shall—

"(1) prepare a Forest Legacy Plan pursuant to the eligibility criteria established under subparagraphs (A), (B) and (C) of section 4(c)(1) and—

"(A) identify the environmental and ecological rationale for bringing the forest land into the Forest Legacy Program;

"(B) describe any management activity that is planned under the forest reserve plan and the manner in which the values identified in such plan are to be protected; and

"(C) disclose other information determined appropriate by the Secretary; and

"(2) manage such land in a manner that is consistent with and protects the purposes for which the forest land was placed in the Forest Legacy Program and shall not convert such lands to other uses during the life of the interest in the land or water that is acquired by the Secretary. Hunting, fishing, and similar recreational leases shall not be considered to be inconsistent with the purposes of this program.

"(i) REIMBURSEMENT.—

"(1) COST SHARING.—In return for an interest in land or water acquired by the Secretary under this section, the Secretary shall share, with the landowner, State, private, or nongovernmental organization, the cost of purchasing any such interest and any management program that the Secretary determines is in the public interest.

"(2) RATE AND SCHEDULE.—The Secretary, in consultation with the State forester, shall determine the appropriate reimbursement rate and schedule for various lands in the Forest Legacy Program. Such determination shall be based on—

"(A) the value of the land;

"(B) the ecological and scenic value of the land;

"(C) the degree of threat of loss of forest land;

"(D) any potential income expected; and

"(E) any other criteria that are developed by the Secretary.

"(3) FEDERAL SHARE.—The Federal share of payments under paragraph (1) shall not exceed 75 percent.

"(4) PAYMENTS.—Payments under this section shall—

"(A) be lump-sum or periodic payments that are established within the interest in lands; and

"(B) be based on other criteria determined appropriate by the Secretary.

"(j) EASEMENTS.—

"(1) DEFINITION.—As used in this section, the terms 'conservation easement', or 'easement' means any interest in lands or waters or both owned by the United States, a State or local government entity, or nonprofit organization for any of the purposes described in section 170(h)(4) of the Internal Revenue Code of 1986. Such terms shall also include the acquisition of all rights, title and interests in a property, except those expressly reserved by a Grantor that run with the land to the Grantors successors in title.

"(2) PROHIBITIONS ON LIMITATIONS.—Notwithstanding any provision of State law, no easement held by the United States under this section shall be limited in duration or scope or defeasible by—

"(A) the easement being in gross or appurtenant;

"(B) the management of the easement having been delegated or assigned to a non-Federal entity;

"(C) any requirement under State law for re-recordation or renewal of the easement; or

"(D) any future disestablishment of a Federal project area for which the easement was originally acquired.

"(3) AUTHORITY TO ACQUIRE.—Unless expressly prohibited by Federal law, wherever the Secretary is authorized to acquire lands under any provision of law, such authorization shall be construed to also include the acquisition of easements.

"(4) CONSTRUCTION.—Notwithstanding any provision of State law, easements shall be construed to effect the Federal purposes for which they were acquired and in interpreting their terms there shall be no presumption favoring the easement holder or fee owner.

"(k) APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 1515. FOREST HEALTH PROTECTION.

Section 7 of the Act (as redesignated by section 1514 of this Act) (16 U.S.C. 2104) is amended to read as follows:

"SEC. 7. FOREST HEALTH PROTECTION.

"(a) IN GENERAL.—The Secretary, in cooperation with others on lands in the United States, may protect trees and forests and wood products, stored wood, and wood in use directly on the National Forest System, from natural and man made causes, to—

"(1) enhance the growth and maintenance of trees and forests;

"(2) promote the stability of forest-related industries and employment associated therewith through the protection of forest resources;

"(3) aid in forest fire prevention and control;

"(4) conserve forest cover on watersheds, shelterbelts, and windbreakers;

"(5) protect outdoor recreation opportunities and other forest resources; and

"(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

"(b) ACTIVITIES.—Subject to subsections (c), (d), and (e) and to whatever other conditions the Secretary may prescribe, the Secretary may, directly on the National Forest System, in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters, or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands—

"(1) conduct surveys to detect and appraise insect infestations and disease conditions and man made stresses affecting trees and to establish a monitoring system throughout the forests of the United States to determine detrimental changes or improvements that occur over time, and report annually concerning such surveys;

"(2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;

"(3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

"(4) provide technical information, advice, and related assistance on the various techniques available to maintain a healthy forest in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use;

"(5) develop applied technology and conduct pilot tests of research results prior to the full-scale application of such technology in affected forests;

"(6) promote the implementation of appropriate silvicultural or management techniques that may improve or protect the health of the forests of the United States; and

"(7) take any other actions the Secretary determines necessary to accomplish the objectives and purposes of this section.

"(c) CONSENT OF ENTITY.—Operations under this section to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

"(d) CONTRIBUTION BY ENTITY.—No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined appropriate by the Secretary.

"(e) ALLOTMENTS TO OTHER AGENCIES.—The Secretary may, in the Secretary's discretion, and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary determines necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

"(f) LIMITATION ON USE OF APPROPRIATIONS.—Amounts appropriated to imple-

ment this section shall be available for necessary expenses. No such amounts shall be used to—

"(1) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees; or

"(2) compensate for the value of any property injured, damaged, or destroyed by any cause.

The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), under whatever procedures the Secretary may prescribe, if the Secretary determines that such action is necessary and in the public interest.

"(g) PARTNERSHIPS.—The Secretary may provide financial assistance through the Forest Service, to partnerships among the Forest Service and State and private forestry organizations, in cooperation with State foresters or equivalent State officials, to monitor forest health and protect the forest lands of the United States. The Secretary shall require contribution by the non-Federal partner in the amount and in the manner determined appropriate. Such non-Federal share can be in the form of cash, services, or equipment, as determined appropriate by the Secretary.

"(h) EMERGENCY SUPPRESSIONS.—Any appropriations of funds available to the Forest Service may be advanced to provide assistance to State and private forestry organizations for the emergency suppression of forest pests on all lands of the United States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated annually such sums as may be necessary to carry out this section.".

SEC. 1516. MOBILIZATION AND FUNDING.

(a) MOBILIZATION OF FIREFIGHTERS.—Section 9(b) (as redesignated by section 1514 of this Act) (16 U.S.C. 2106(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide financial, technical, and related assistance to State foresters or equivalent State officials to conduct mobilization activities.".

(b) AUTHORIZATIONS OF APPROPRIATIONS.—Section 9(e) (as redesignated by section 1514 of this Act) (16 U.S.C. 2106(e)) is amended—

(1) by striking "(e)" and inserting "(e)(1)";

(2) in paragraph (1) (as designated by paragraph (1)), by inserting "paragraphs (1), (2), and (3) of" after "implement"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) There is authorized to be appropriated the amount of $100,000,000 for each fiscal year to carry out subsection (b)(4). Of such amount—

"(i) $50,000,000 shall be available for State forestry agencies to enhance their firefighting capability and conduct mobilization activities, of which not less than $100,000 shall be made available to each State; and

"(ii) $50,000,000 shall be available for rural volunteer fire departments to conduct activities pursuant to subsection (b)(4).

"(B) The Federal share of those activities of a State or rural volunteer fire department carried out with funds made available pursuant to this paragraph shall not exceed 50 percent of the cost of those activities and shall be provided on a matching basis. The non-Federal share for such activities may be in the form of cash, services, or in-kind contributions, fairly valued.".

(c) DEFINITIONS.—Section 9 (as redesignated by section 1514 of this Act) (16 U.S.C. 2106) is amended by adding at the end thereof the following new subsection:

"(g) As used in this Act—

"(1) the term 'rural volunteer fire department' means any organized, not for profit, fire protection organization which provides service to a community or city with a population of 10,000 or less, whose manpower is 80 percent or more volunteer, and which is recognized as a fire department by the laws of the State; and

"(2) the term 'mobilization' means any activity in which one fire fighting organization assists another which has requested assistance.".

SEC. 1517. RURAL REVITALIZATION THROUGH FORESTRY.

(a) ESTABLISHMENT OF ECONOMIC DEVELOPMENT AND GLOBAL MARKETING PROGRAM.—The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.

(b) ACTIVITIES.—Programs established under subsection (a) shall—

(1) transfer technologies to natural resource-based industries in the United States to make such industries more efficient, productive, and competitive;

(2) assist businesses to identify global marketing opportunities, conduct business on an international basis, and market themselves more effectively; and

(3) train local leaders in strategic community economic development.

(c) TYPES OF PROGRAMS.—The Secretary of Agriculture shall establish specific programs under subsection (a) that shall—

(1) deliver educational services focused on community economic analysis, economic diversification, economic impact analysis, retention and expansion of existing commodity and noncommodity industries, amenity resource and tourism development, and entrepreneurship focusing on forest lands and rural communities;

(2) utilize Cooperative Extension System databases and analytical tools to help communities diversify its economic bases, add value locally to raw forest product materials, and retain revenues by helping to develop local businesses and industries to supply forests products locally; and

(3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.

SEC. 1518. FEDERAL, STATE, AND LOCAL COORDINATION AND COOPERATION.

The Act (16 U.S.C. 2101 et seq.) (as amended by section 1514 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 18. FEDERAL, STATE, AND LOCAL COORDINATION AND COOPERATION.

"(a) DEPARTMENT OF AGRICULTURE COORDINATION.—

"(1) ESTABLISHMENT OF COORDINATING COMMITTEE.—The Secretary shall establish an intra-departmental committee, to be known as the 'Forest Resource Coordinating Committee' (hereinafter referred to in this section as the 'Coordinating Committee') to coordinate forestry activities.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of representatives, appointed by the Secretary, from the Agricultural Research Service, Agricultural Stabilization and Conservation Service, Extension Service, Forest Service and Soil Conservation Service.

"(3) CHAIRPERSON.—The Secretary shall designate the Chief of the Forest Service as chairperson.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide assistance in directing and coordinating actions of the Department of Agriculture that relate to educational, technical, and financial assistance concerning forest land to private landowners;

"(B) clarify individual agency responsibilities concerning forest land, consistent with the legislative authorities of each agency represented on the Committee; and

"(C) advise the Secretary to mediate and facilitate intradepartmental differences regarding the implementation of this Act, and any other Act related to the authority of the Secretary concerning non-Federal forest lands.

"(b) FEDERAL, STATE, AND LOCAL COORDINATION.—

"(1) ESTABLISHMENT OF ADVISORY COMMITTEES.—

"(A) IN GENERAL.—The Secretary, in consultation with the State forester of each State, shall establish a Forest Stewardship Advisory Committee (hereinafter referred to in this Act as the 'Advisory Committee') for each such State. Such Committees may be existing State forestry committees.

"(B) COMPOSITION.—The Advisory Committee shall be chaired and administered by the State Forester, or equivalent State official, and shall be composed, to the extent practicable, of—

"(i) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and Extension Service;

"(ii) representatives, to be appointed by the State forester, of forestry interests including, individuals that are representative of—

"(I) local government;

"(II) the private sector;

"(III) environmental organizations;

"(IV) the public at large;

"(V) forest land owners;

"(VI) land-trust organizations, if applicable in the State;

"(VII) conservation organizations;

"(VIII) the State fish and wildlife department; and

"(IX) the State Park Service; and

"(iii) any other individuals determined appropriate by the Secretary.

"(C) TERMS.—The members of the Advisory Committee appointed under subparagraph (B)(ii) shall serve 3-year terms, with the initial members serving staggered terms as determined by the State forester, and may be reappointed for consecutive terms.

"(D) EXISTING COMMITTEES.—Existing State forestry committees may be used to complement, formulate, or replace the Advisory Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(ii), and if such existing committees include landowners and the general public in their memberships.

"(2) DUTIES.—An Advisory Committee shall—

"(A) consult with other Department of Agriculture and State committees that address State and private forestry issues;

"(B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this Act by the various Federal and State forest management agencies that take into consideration the mandates of each such agency;

"(C) make recommendations to the State Forester concerning the development of a Forest Stewardship Planning Guide under paragraph (4);

"(D) make recommendations to the Secretary concerning the development of approved activities pursuant to section 4(b)(4); and

"(E) make recommendations to the State Forester concerning those forest lands that should be given priority for inclusion in the Forest Legacy Program.

"(3) SUBCOMMITTEES.—The Advisory Committees may establish subcommittees to address different programs under this Act.

"(4) FOREST STEWARDSHIP PLANNING GUIDE.—The State forester of each State, in consultation with the Advisory Committee of such State, shall develop a Forest Stewardship Planning Guide that shall—

"(A) provide baseline data on the forest resources of the State;

"(B) outline threats to the forest resources of the State;

"(C) describe economic and environmental opportunities that are linked with the forest resources of the State;

"(D) address management problems, opportunities, and objectives associated with intermingled Federal, State, and private land ownership patterns within the State; and

"(E) make planning recommendations for Federal, State, and local implementation of this Act.

"(5) OTHER PLANS.—Other State forest management plans may be used as the basis for or in lieu of establishing a guide for the State under paragraph (4) if such plans fully conform to the objectives of this Act.".

SEC. 1519. ADMINISTRATION AND LIMITATIONS.

(a) ADMINISTRATION.—The Act (16 U.S.C. 2101 et seq.) (as amended by section 1518 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 19. ADMINISTRATION.

"(a) IN GENERAL.—The Secretary shall administer this Act in accordance with regulations that the Secretary shall develop.

"(b) AFFECT OF OTHER REGULATIONS.—Regulations issued under this Act and title X of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973, to the extent not inconsistent with the provisions of this Act, shall remain in effect until revoked or amended by regulations promulgated under this subsection.

"(c) GUIDELINES.—The regulations promulgated under this Act shall include guidelines for the administration of this Act at the Federal and State levels, and shall identify the measures and activities that are eligible for cost sharing under this Act.

"(d) AGREEMENTS.—The Secretary may make grants, agreements, contracts, and other arrangements the Secretary determines necessary to implement this Act.

"(e) SUPPLEMENTAL CONSTRUCTION.—This Act shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary.

"(f) EXISTING MECHANISMS.—Existing mechanisms shall be used to the extent possible to make payments and deliver services to the landowner under this Act.".

(b) STATEMENT OF LIMITATION.—Section 13 of the Act (16 U.S.C. 2110) (as redesignated by section 1514 of this Act) is amended to read as follows:

"SEC. 13. STATEMENT OF LIMITATION.

"This Act shall not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, unless property rights are voluntarily sold under the Forest Legacy Program, and this Act does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.".

SEC. 1520. CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Act is amended—

(1) in subsections (d) and (f) of section 6 (as redesignated by section 1514 of this Act) (16 U.S.C. 2103 (d) and (f)), by striking "10(c)" each place that such occurs and inserting "12(c)";

(2) in section 11 (as redesignated by section 1514 of this Act) (16 U.S.C. 2108)—

(A) by striking "4" in subsection (a) and inserting "6"; and

(B) by striking "13" in subsection (f) and inserting "15"; and

(3) in section 12(g) (as redesignated by section 1514 of this Act) (16 U.S.C. 2109(g)), by striking "13" and inserting "15".

(b) INTERNAL REVENUE CODE.—Section 126(a)(8) of the Internal Revenue Code of 1986 is amended by striking "section 4" and inserting in lieu thereof "section 6".

Subtitle B—Research and Education

CHAPTER 1—GENERAL RESEARCH PROGRAMS

SEC. 1521. McINTIRE-STENNIS RESEARCH PROGRAM.

It is the sense of Congress to reaffirm the importance of Public Law 87-788 (16 U.S.C. 582a et seq.) commonly known as the McIntire-Stennis Cooperative Forestry Act.

SEC. 1522. COMPETITIVE FORESTRY, NATURAL RESOURCES, AND ENVIRONMENTAL GRANTS PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereinafter referred to in this section as the "Secretary") shall establish a competitive forestry, natural resources, and environmental grant program to award grants for the conduct of research as described in subsection (c).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a State agricultural experiment station, a college or university, a research institution or organization, a Federal agency, a private organization, or a corporation that has a demonstrable capacity to conduct forestry, natural resources, and environmental research as determined by the Secretary; and

(2) prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require, including the proposed use of the amounts that may be received under a grant.

(c) USE.—In awarding the initial grants under subsection (a) the Secretary shall give priority to applicants who will use such grants for research concerning—

(1) the biology of forest organisms, including physiology, genetic mechanisms, and biotechnology;

(2) ecosystem function and management, including forest ecosystem research, biodiversity, long-term productivity, pest management, and alternative silvicultural systems;

(3) wood as a raw material, including forest products and harvesting;

(4) human forest interactions, including outdoor recreation, public policy formulation, economics, sociology, and administrative behavior;

(5) international trade, competition, and cooperation related to forest products;

(6) energy, water, and agricultural chemical reduction to improve net farm income, protect the environment and meet the constant economic and technical changes in agriculture and rural areas;

(7) alternative native crops, products, and services that can be produced from renewable natural resources associated with privately held forest lands;

(8) viable economic production and marketing systems for alternative natural resource products and services;

(9) economic and environmental benefits of various conservation practices on forest and crop lands;

(10) the economic and environmental impacts of global climate change on forest lands and conservation measures to reduce global climate change;

(11) genetic tree improvement; and

(12) market expansion.

(d) FACILITIES AND EQUIPMENT.—

(1) AUTHORITY.—Grants made under this section may be used to update research facilities and equipment available to facilitate the conduct of state-of-the-art research in forestry, natural resources, and the environment.

(2) PRIORITIES AND CRITERIA.—The Secretary, in consultation with Cooperative Forestry Research Council appointed under section 5(b) of Public Law 87-788 (16 U.S.C. 582e(b)), may develop criteria and priorities for the awarding of grants for use under paragraph (1).

(e) RECOMMENDATIONS.—The Secretary shall request the Cooperative Forestry Research Council referred to in subsection (d)(2) to provide recommendations regarding grant priorities.

(f) TERM.—The Secretary may make grants under this section for periods of not to exceed 5 years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

CHAPTER 2—SOUTHERN FOREST REGENERATION PROGRAM

SEC. 1525. ESTABLISHMENT.

(a) GRANT.—The Secretary of Agriculture shall make a grant to a State for the establishment, within such State, of a center, to be known as the "Southern Forest Regeneration Center" (hereinafter referred to in this chapter as the "Center"), to study forest regeneration problems and forest productivity in the southern regions of the United States.

(b) PREFERENCE.—In making the grant under subsection (a), the Secretary of Agriculture shall give preference to a State that intends to establish the Center at a land-grant university that—

(1) operates a forestry program;

(2) operates existing forest regeneration research programs that use an interdisciplinary approach and that are involved in South-wide forest regeneration research;

(3) employs research personnel with expertise in nursery seedling production, soil and tree nutrition, impact of environmental stress on forest trees, forest vegetation management, and impacts of competition of forest growth; and

(4) has an effective communication system that can link on a regional basis to conduct information exchange.

SEC. 1526. DUTIES OF CENTER.

The Center shall study forest regeneration problems and forest productivity in the southern regions of the United States, including—

(1) nursery management concerns that will lead to improved seedling quality;

(2) forest management practices that account for environmental stresses; and

(3) the development of low-cost forest regeneration methods that provide options for wood products, species diversity, wildlife habitat, and production of clean air and water.

SEC. 1527. PLAN.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive plan for the implementation of the recommendations of the Center that relate to research directions, educational activities, and funding levels to carry out regeneration activities proposed by the Center.

SEC. 1528. ESTABLISHMENT OF OTHER PROGRAMS.

The Secretary of Agriculture may establish other programs in other regions of the United States, or a comprehensive National program, to carry out the purposes of this chapter as the Secretary determines appropriate.

SEC. 1529. REPORT.

Not later than 1 year after the date of the submission of the plan under section 1527, and annually thereafter, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an annual report concerning the forest regeneration research activities conducted by the Secretary pursuant to the recommendation of such plan.

SEC. 1530. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

CHAPTER 3—COMPETITIVE GRANT PROGRAM

SEC. 1531. SOUTHERN FOREST PRODUCTIVITY GRANT PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—To fully implement the Southern Forest Productivity priority research program of the Forest Service, the Secretary of Agriculture shall establish a competitive grant program within the Southern Forest Productivity Program to make grants to eligible recipients for the conduct of research focused on protecting and increasing the productivity of southern forest lands.

(b) ELIGIBLE RECIPIENT.—An entity shall be eligible to be a recipient of a grant under this section if such entity is a college or university, a private research institution, a corporation, a State or Federal agency that has a demonstrable capacity to conduct research to address the needs established in the Southern Forest Productivity Program.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

CHAPTER 4—EDUCATION

SEC. 1535. EXTENSION.

(a) EXPANSION OF PROGRAMS.—The Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.) is amended by inserting after section 5, the following new section:

"SEC. 5A. EXPANDED PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Extension Service and the State Cooperative Extension Services, and in consultation with State foresters, school boards, and universities, shall expand forestry and natural resources education programs conducted under this Act for private forest owners and managers, public officials, youth, and the general public, and shall include guidelines for the transfer of technology.

"(b) ACTIVITIES.—

"(1) IN GENERAL.—In expanding the programs conducted under this Act, the Secretary shall ensure that activities are undertaken to promote policies and practices that enhance the health, vitality, productivity, economic value, and environmental attributes of the forest lands of the United States.

"(2) TYPES.—The activities referred to in paragraph (1) shall include—

"(A) demonstrating and teaching landowners and forest managers the concepts of sustainable natural resource systems;

"(B) conducting comprehensive environmental education programs that assist citizens to participate in environmentally positive activities such as tree planting, recycling, erosion prevention, and waste management; and

"(C) educational programs and materials that will improve the capacity of schools, local governments and resource agencies to deliver forestry and natural resources information to young people, environmentally concerned citizens, and action groups.".

(b) PROGRAM AUTHORIZATIONS.—Section 3(a) of such Act (16 U.S.C. 1672(a)) is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) conduct a comprehensive natural resource and environmental education program for landowners and managers, public officials, and the public, with particular emphasis on youth.".

(c) EXTENSION PROGRAM PLAN.—Section 5(a) of such Act (16 U.S.C. 1674(a)) is amended by inserting before the period at the end thereof the following: ", and give special attention to water quality protection and natural resource and environmental education for landowners and managers, public officials, and the public".

SEC. 1536. FORESTRY STUDENT GRANT PROGRAM.

The Forest Rangeland and Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 9. FORESTRY STUDENT GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a program, to be known as the 'Forestry Student Grant Program', (hereinafter referred to in this section as the 'Program') to provide assistance to expand the professional education of forestry, natural resources, and environmental scientists.

"(b) STUDENT GRANTS.—Under the Program the Secretary of Agriculture shall provide assistance for the establishment of a competitive grant fellowship program to assist graduate, and undergraduate minority and female, students attending institutions having graduate programs in forestry, natural resources, and environment.

"(c) PRIORITY.—In providing assistance to a student under subsection (b), the Secretary of Agriculture shall ensure that priority is given to those students concentrating in studies concerning—

"(1) biology and forest organisms;

"(2) ecosystem function and management;

"(3) human-forest interaction;

"(4) international trade, competition, and cooperation; and

"(5) wood as a raw material.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

CHAPTER 5—AGROFORESTRY RESEARCH

SEC. 1541. CENTER FOR SEMIARID AGROFORESTRY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereinafter referred to in this chapter as the "Secretary") shall establish a Center for Semiarid Agroforestry Research, Development, and Demonstration (hereinafter referred to in this section as the "Center") and shall appoint a Director of the Center.

(b) LOCATION.—The Center shall be located at the Forest Service facilities at Lincoln, Nebraska.

(c) COOPERATION.—Under the direction of the Forest Service, the Center shall work in cooperation with State and private foresters, international foresters, the Soil Conservation Service, the Agricultural Research Service, Great Plains universities agricultural experiment stations, and the Agricultural Extension Service.

SEC. 1542. RESEARCH TOPICS.

The Secretary, acting through the Administrators of the Agricultural Research Service, the Cooperative State Research Service and in consultation with State agricultural experiment stations, the Forest Service, the Soil Conservation Service, other appropriate agencies of the Department of Agriculture, and the Director of the Center shall conduct or assist research, investigations, studies, and surveys to—

(1) develop sustainable agroforestry systems on semiarid lands that will minimize topsoil loss and water contamination while stabilizing and maintaining crop productivity and farm programs;

(2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;

(3) develop genetically stress and pest-resistant trees for conservation forestry and agroforestry applications, including the introduction and breeding of trees suited for the Great Plains and semiarid regions and development of methods to match tree strains with specific environments;

(4) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems;

(5) increase biodiversity, wildlife habitat, recreation opportunities, and environmental quality through the development of agroforestry systems;

(6) develop improved windbreak technologies for drought preparedness, soil and

water conservation, environmental quality, and biological diversity on semiarid lands;

(7) develop technical and economic concepts for sustainable agroforestry on drylands, including the conduct of economic analyses of the costs and benefits of agroforestry systems and the development of models to predict the economic benefits under soil or climate conditions;

(8) assess and mitigate global climate change impacts on species tolerance and biodiversity;

(9) provide international leadership in the development and exchange of agroforestry practices on drylands worldwide;

(10) support research on the effects of agroforestry systems on mitigating nonsource water pollution;

(11) support research on the design, establishment, and maintenance of tree and shrub plantings to regulate the deposition of snow along roadways; and

(12) conduct sociological, demographic, and economic studies as needed to develop strategies for increasing the use of forestry conservation and agroforestry practices.

SEC. 1543. REPORT.

The Secretary shall annually prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning actions taken to carry out this chapter as part of the annual report prepared pursuant to section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

SEC. 1544. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter $5,000,000 for each fiscal year.

CHAPTER 6—NEW YORK-NEW JERSEY HIGHLANDS

SEC. 1545. STUDY CONCERNING NEW YORK-NEW JERSEY HIGHLANDS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of the region known as the "New York-New Jersey Highlands", located in New York, New Jersey, and Pennsylvania, including the Sterling Forest in Orange County, New York (hereinafter referred to in this section as the "region").

(b) SCOPE OF STUDY.—The study authorized under subsection (a) (hereinafter referred to in this section as the "study") shall include an identification and assessment of—

(1) the physiographic boundaries of the region referred to in subsection (a);

(2) forest resources of the region, including timber and other forest products, fish and wildlife, lakes and rivers, and recreation;

(3) historical land ownership patterns in the region and projected future land ownership, management, and use, including future recreational demands and deficits and the potential economic benefits of recreation to the region;

(4) the likely impacts of changes in land and resource ownership, management, and use on traditional land use patterns in the region, including economic stability and employment, public use of private lands, natural integrity, and local culture and quality of life;

(5) alternative conservation strategies to protect the long-term integrity and traditional uses of lands within the region; and

(6) the impact of forestland conversion to alternative uses on the surrounding area and any threats that this may pose.

(c) ALTERNATIVE CONSERVATION STRATEGIES.—The alternative conservation strategies referred to in subsection (b)(5) shall include a consideration of—

(1) sustained flow of renewable resources in a combination that will meet the present and future needs of society;

(2) public access for recreation;

(3) protection of fish and wildlife habitat;

(4) preservation of biological diversity and critical natural areas; and

(5) new local, State, or Federal designations.

(d) PUBLIC PARTICIPATION.—In conducting the study, the Secretary shall provide an opportunity for public participation.

(e) TIME LIMIT.—The study shall be complete not later than 12 months after the date on which funds are appropriated under subsection (f).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000 to carry out this section.

Subtitle C—International Trade

SEC. 1551. INTERNATIONAL TRADE.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the promotion and participation of wood and wood products in the programs conducted under the Agricultural Trade Development and Assistance Act of 1954, section 1125 of the Food Security Act of 1985, and section 4 of the Food for Peace Act of 1966. This report shall include monthly statistics on the Department of Agriculture export financing programs.

Subtitle D—Emergency Reforestation Program

SEC. 1561. PURPOSE.

The Secretary of Agriculture is authorized to develop and implement within the Forest Service an emergency reforestation program to encourage the development, management, and protection of timber lands that are damaged by natural disasters.

SEC. 1562. DEFINITIONS.

As used in this subtitle:

(1) EMERGENCY REFORESTATION COMMITTEE.—The term "Emergency Reforestation Committee" means a committee of not less than five State foresters or equivalent State officials who represent diverse geographical interests and who are selected by a majority of the State foresters or equivalent officials from States participating in programs under the Cooperative Forestry Assistance Act of 1978.

(2) FORESTRY PRACTICES.—The term "forestry practices" means site preparations, reforestation of damaged stands, timber stand improvement practices, including thinning, prescribed burning, and other practices approved by the Secretary for reforestation.

(3) NATURAL DISASTER.—The term "natural disaster" means a condition described in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(4) PRIVATE FOREST LAND.—The term "private forest land" means land capable of producing commercial crops of industrial wood and owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity, except agencies of Federal, State, or local governments.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1563. COST SHARE ASSISTANCE.

(a) ELIGIBILITY.—Landowners shall be eligible for cost sharing assistance under this subtitle if they own 1,000 acres or less of private forest land that have been damaged by a natural disaster, except that the Secretary may approve the provision of cost sharing assistance to landowners owning more than 1,000 acres of such land if significant public benefit will accrue therefrom. In no case may the Secretary approve the provision of cost sharing assistance to landowners owning more than 5,000 acres of private forest land. Cost share assistance under this subtitle shall apply to a landowner with an inability to pay, as determined by the Secretary in cooperation with the Emergency Reforestation Committee.

(b) MANAGEMENT PLANS.—Individual forest management plans developed by the landowner in cooperation with and approved by the State forester or equivalent State official shall be the basis for agreements between the landowner and the Secretary under this section. The Secretary shall encourage participating States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest management plans.

(c) LIMITATION OF ASSISTANCE.—In return for the agreement by the landowner under this section, the Secretary shall agree to share the cost of implementing forestry practices and measures set forth in the agreement for which the Secretary determines that cost sharing is appropriate. The portion of such cost (including labor) to be shared shall be not greater than 75 percent of the actual costs incurred by the landowner. The maximum amount any individual may receive under the program authorized by this section shall be determined by the Secretary in consultation with the Emergency Reforestation Committee.

(d) RETROACTIVE ASSISTANCE.—The Secretary shall use funds provided under this subtitle to reimburse landowners for approved reforestation practices that were implemented before the date of enactment of this subtitle. The Secretary in no case shall make a reimbursement for reforestation practices that were implemented prior to September 1, 1989.

SEC. 1564. REGULATIONS.

The Secretary, in cooperation with the Emergency Reforestation Committee, shall issue regulations to implement the provisions of this subtitle as soon as practicable after the date of the enactment of this subtitle, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

SEC. 1565. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriate such sums as may be necessary to carry out this subtitle.

Subtitle E—Miscellaneous Provisions

SEC. 1571. TALLADEGA NATIONAL FOREST EXPANSION.

(a) ACQUISITION OF LAND BY SECRETARY.—

(1) IN GENERAL.—To protect and manage the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of Alabama, the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary"), in cooperation with State and private entities as provided in this section, shall acquire by purchase, donation, exchange or otherwise, lands and interests lying within the boundaries depicted on

maps dated December 31, 1990, and entitled "Talladega Forest Expansion", that are on file with the Chief of the Forest Service in Washington D.C.

(2) TECHNICAL ERRORS.—The Chief of the Forest Services may correct technical and clerical errors that appear on the maps referred to in paragraph (1).

(3) REFERENCE.—The lands included within the boundaries depicted on the maps described in paragraph (1) are hereinafter referred to as the "Talladega Expansion Lands".

(b) CONDITIONS.—

(1) IN GENERAL.—Acquisitions made under this section shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or of any condition precedent.

(2) EXCLUSIONS.—The Secretary may exclude from an acquisition of land under this section—

(A) such rights-of-way, easements and other outstanding rights determined to be unacceptable to the Secretary; and

(B) any small or isolated parcels of land that the Secretary determines are not manageable.

(c) ADMINISTRATION OF ACQUIRED LANDS.—All lands acquired by the Secretary under this section shall be administered under the Act of March 1, 1911 (36 Stat. 961, as amended) (commonly referred to as the Weeks Act). In managing such lands the primary emphasis shall be on the sustained yield of forest products from such land consistent with the traditional uses, including hunting, hiking, public access and conservation of other resource values.

Subtitle F—America the Beautiful

SEC. 1581. SHORT TITLE.

This subtitle cited as the "America the Beautiful Act of 1990".

SEC. 1582. FINDINGS.

Congress finds that—

(1) trees and forests provide beauty and diversity to both rural and urban landscapes;

(2) trees and forests protect the Nation's soil, water, and wetland resources by filtering runoff and preventing erosion;

(3) trees and forests provide food and cover for many species of wildlife;

(4) trees and forests capture and safely store greenhouse gases, thereby reducing the possibility of global climate change;

(5) trees and forests provide shade, block winds, and add moisture to the air, thereby mitigating the urban "heat island" effect and significantly reducing energy use;

(6) trees and forests make important contributions to the environmental, social, and economic well-being of both rural and urban areas across the Nation; and

(7) stewardship of trees and forests could be significantly enhanced by encouraging, promoting, and supporting partnerships and community service projects involving individuals, youth groups, organizations, businesses and governments at all levels.

SEC. 1583. PURPOSES.

The purposes of this subtitle are to—

(1) authorize the President to designate a private nonprofit foundation as eligible for a one-time grant from the Secretary of Agriculture, to be used for promoting public awareness and a spirit of volunteerism, soliciting private sector contributions, and overseeing the use of these contributions to encourage tree planting projects in communities and urban areas;

(2) promote the principles of basic forest stewardship through the nationwide planting, improvement, and maintenance of trees in order to increase reforestation, enhance the environmental and aesthetic qualities of our Nation's rural and urban areas, and reduce global carbon dioxide levels;

(3) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others, and enter into cost sharing agreements with individuals, for the purpose of encouraging owners of nonindustrial private lands to plant and maintain trees and improve forests in rural areas; and

(4) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others for the purpose of encouraging units of local government, civic groups, and individuals to plant and maintain trees and improve forests in communities and urban areas.

SEC. 1584. NATIONAL TREE TRUST FOUNDATION.

(a) PURPOSES.—It is the intent of this section to provide for the awarding of a grant to a private nonprofit Foundation to be used for the following purposes—

(1) to solicit, accept, and administer public and private sector grants;

(2) to promote public awareness and a spirit of volunteerism by awarding grants to, and providing organizational support and training for, local community volunteer organizations dedicated to tree planting and the care of trees;

(3) to support the preservation of unique natural resources and environments; and

(4) to award matching grants to nonprofit organizations including youth groups for the planting and cultivation of trees to ensure that our descendants may share the pride of their ancestors when referring to their land as "America the Beautiful".

(5) to award matching grants to municipalities that have developed an urban forestry plan, and have demonstrated a capability to provide at least one-half of the total cost of the project or program for which the foundation funds will be used.

(b) AUTHORITY.—

(1) IN GENERAL.—The President is authorized to designate a private nonprofit organization (hereinafter referred to in this section as the "Foundation") as eligible to receive funds pursuant to subsection (d), after making a determination that such organization is able, consistent with its charter, to carry out the purposes described in subsection (a), and that the officers of such organization have the experience and expertise necessary to direct the activities of the organization.

(2) CONSTRUCTION.—Nothing in this section shall be construed as making the Foundation an agency or instrumentality of the United States, or as making officers, employees, or members of the board of directors of the Foundation officers or employees of the United States.

(c) AMOUNT OF GRANT.—In fiscal year 1991, the Secretary of Agriculture is authorized to make a grant to the Foundation, from amounts appropriated to carry out this subtitle, in an amount that shall not exceed $25,000,000.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant awarded under subsection (c) shall be utilized by the Foundation—

(A) to carry out the purposes described in subsection (a); and

(B) for the administrative expenses of the Foundation incurred in carrying out such purposes.

(2) INTEREST.—Notwithstanding any other provision of law, the Foundation may hold amounts awarded under a grant under subsection (c) in interest-bearing accounts, prior to the disbursement of such funds for the purposes described in subsection (a), and may retain for such program purposes any interest earned on such deposits.

(e) ELIGIBILITY OF THE FOUNDATION.—

(1) COMPLIANCE.—To be eligible to receive a grant under this section, the Foundation shall agree to comply with the requirements of this section.

(2) CONSISTENCY WITH PURPOSES.—The Foundation may use funds provided under this section only for programs and projects that are consistent with the purposes described in subsection (a).

(3) OUTSIDE SOURCES OF COMPENSATION.—Officers and employees of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

(4) PROHIBITION ON ISSUANCE.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(5) COMPENSATION.—No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for the services or expenses of such member, officer or employee. Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses. No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation if such question affects the financial interests of the director, officer, or employee or the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee is an officer, director, or trustee, or in which such director, officer, or employee has any direct or indirect financial interest.

(6) POLITICAL ACTIVITY.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(7) GENERAL AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under this section, and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted accounting procedures by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or of a political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by paragraph (10).

(8) AGENCY AUDITS.—The financial transactions undertaken under this section by the Foundation may be audited by any agency designated by the President for the fiscal year in which the Foundation receives the grant awarded under this section and for the 5 succeeding fiscal years.

(9) MAINTENANCE OF RECORDS.—The Foundation shall ensure—

(A) that each recipient of assistance provided through the Foundation under this subtitle maintains, for 5 years after the receipt of such assistance, separate accounts with respect to such assistance, and such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of

such assistance, the total cost of the project or undertaking in connection with which such assistance is provided or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

(B) that the Foundation, the agency designated by the President pursuant to paragraph (8), or any of the duly authorized representatives of the Foundation, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of assistance under this section that are pertinent to the provision and use of such assistance.

(10) ANNUAL REPORT.—Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report for the preceding fiscal year. The report shall include a comprehensive and detailed report of the operation, activities, financial condition, and accomplishments of the Foundation under this subtitle. The obligation of the Foundation to publish annual reports under this paragraph shall terminate after publication of the report incorporating the findings of the final audit required by paragraph (9).

SEC. 1585. RURAL TREE PLANTING, FOREST IMPROVEMENT AND STEWARDSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture is authorized to establish a rural tree planting, forest improvement and stewardship program as a special component of the Rural Forestry Assistance Program and Forest Stewardship Incentives Program established under sections 3 and 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102) (as amended by subtitle A).

(b) ASSISTANCE.—

(1) IN GENERAL.—In carrying out this section, the Secretary of Agriculture is authorized to provide financial, technical, and related assistance to State foresters and other persons for the purpose of assisting nonindustrial private landowners to plant, maintain, and improve trees and forest resources in rural areas.

(2) EMPHASIS.—Assistance provided by the Secretary of Agriculture under this section shall be used to emphasize tree planting and forest stewardship practices designed to prevent soil erosion, enhance aesthetics and recreational opportunities, improve wildlife habitat, increase timber supplies, reduce the possibility of global climate change, and provide other environmental and economic benefits.

SEC. 1586. COMMUNITY TREE PLANTING AND FOREST IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture is authorized to establish a community tree planting and improvement program as a special component of the urban forestry assistance program established under section 8 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) (as redesignated by section 1514).

(b) ASSISTANCE.—

(1) IN GENERAL.—In implementing this section, the Secretary of Agriculture is authorized to provide financial, technical, and related assistance to State foresters and other persons for the purpose of assisting units of local government, civic organizations, and individuals to plant, maintain, and improve trees and forests in communities and urban areas.

(2) EMPHASIS.—Assistance provided by the Secretary of Agriculture under this section shall be used to emphasize tree planting and forest improvement practices designed to improve the efficiency of energy use, enhance aesthetics and recreational opportunities, improve wildlife habitat, moderate temperature extremes, reduce the possibility of global climate change, and provide other general environmental benefits that contribute to social well-being and a sense of community.

SEC. 1587. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY.—In carrying out this title, the Secretary of Agriculture may utilize such of the authority provided in section 12 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109) (as redesignated by section 1514) as the Secretary may consider appropriate and practicable.

(b) REGULATIONS.—The Secretary of Agriculture may issue such regulations as may be necessary to carry out the provisions of this subtitle.

SEC. 1588. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated annually such sums as may be necessary to implement this subtitle.

TITLE XVI—ORGANIC CERTIFICATION PROGRAM

SEC. 1601. SHORT TITLE.

This title may be cited as the "Organic Foods Production Act of 1990".

SEC. 1602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) consumers are demanding fresh and processed foods produced using organic methods;

(2) organic farming methods may promote sustainable agricultural practices;

(3) existing rules that govern the labeling of fresh and processed food do not provide national standards for organic food production;

(4) while some regional variation is necessary and desirable, current State and private organizations have such differing organic definitions, standards, and certification procedures that interstate commerce is hampered; and

(5) there is a need for a national program designed to standardize and promote the production of food through organic, sustainable farming methods.

(b) PURPOSES.—It is the purpose of this title—

(1) to establish national standards governing the labeling of certain agricultural products as organically produced products;

(2) to provide consumers with reliable information concerning which products are organically produced;

(3) to assure consumers that products labeled as organically produced are not produced with, or handled with, substances that may cause adverse human health or environmental effects;

(4) to encourage environmental stewardship through the increased adoption of organic, sustainable farming methods;

(5) to assist emerging and important food industry sectors that produce, process, and market organically produced products;

(6) to provide market incentives to encourage the use of organic, sustainable farming practices;

(7) to preserve the integrity of organic food programs that have been implemented by States and encourage other States to adopt organic food programs; and

(8) to facilitate interstate commerce in fresh and processed food that is organically produced.

SEC. 1603. DEFINITIONS.

As used in this title:

(1) AGRICULTURAL PRODUCTS.—The term "agricultural products" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, or fowl that is marketed in the United States for human and livestock consumption.

(2) BOTANICAL PESTICIDES.—The term "botanical pesticides" means natural pesticides derived from plants.

(3) CERTIFYING AGENT.—The term "certifying agent" means the chief executive officer of a State or, in a State that provides for the Statewide election of a Commissioner of Agriculture, the Commissioner of Agriculture, and any individual (including private entities), who is accredited by the Secretary as a certifying agent for the purpose of certifying a farm or handling operation as an organically certified farm or handling operation in accordance with this subtitle.

(4) CERTIFIED ORGANIC FARM.—The term "certified organic farm" means a farm, or portion of a farm, or site where agricultural products are produced that is certified by the certifying agent under this subtitle as utilizing a system of organic farming as described by this subtitle.

(5) CERTIFIED ORGANIC HANDLING OPERATION.—The term "certified organic handling operation" means any operation, or portion of any handling operation, that is certified by the certifying agent under this subtitle as utilizing a system of organic handling as described under this subtitle.

(6) CROP YEAR.—The term "crop year" means the normal growing season for a crop as determined by the Secretary.

(7) GOVERNING STATE OFFICIAL.—The term "governing State official" means the chief executive official of a State or, in a State that provides for the Statewide election of a Commissioner of Agriculture, the Commissioner of Agriculture, who administers the organic certification program established under section 1612(a) and approved by the Secretary.

(8) GROWING MEDIUM.—The term "growing medium" means a substance that provides nutrients for plants or fungi but that is separate from the land surface.

(9) HANDLE.—The term "handle" means to sell, process or package agricultural products, except such term shall not include final retailers of agricultural products that do not process agricultural products.

(10) HANDLER.—The term "handler" means any individual engaged in the business of handling agricultural products.

(11) HANDLING OPERATION.—The term "handling operation" means any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that—

(A) receives or otherwise acquires agricultural products; and

(B) processes, packages, or stores such products.

(12) INDIVIDUAL.—The term "individual" means a person, group of people, corporation, association, organization, cooperative, or other entity.

(13) MICRONUTRIENTS.—The term "micronutrients" means trace or minor elements in the soil that are essential for normal plant growth.

(14) NATIONAL LIST.—The term "National List" means a list of approved and prohibited substances as provided for in section 1626.

(15) ORGANIC PLAN.—The term "organic plan" means a plan of management of an organic production or handling operation that has been agreed to by the producer and the

certifying agent and that includes written plans concerning all aspects of agricultural production described in this subtitle including crop rotation and other practices as required under section 1620.

(16) ORGANICALLY PRODUCED.—The term "organically produced" means an agriculture product that is produced using organic farming methods as described in this subtitle, on an organically certified farm and handled by organically certified handling operations.

(17) ORGANICALLY PRODUCED LABEL.—The term "organically produced label" means a label that is established under section 1613.

(18) PESTICIDE.—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(19) PROCESSING.—The term "processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

(20) PRODUCER.—The term "producer" means an individual who engages in the business of growing or producing food or feed.

(21) PROGRAM.—The term "Program" means the National Transition Label Demonstration Program established under section 1651(a).

(22) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(23) STATE ORGANIC CERTIFICATION PROGRAM.—The term "State organic certification program" means a program that meets the requirements of section 1614, is approved by the Secretary, and that is designed to ensure that a product that is labeled as "organically produced" under this subtitle is produced and handled using organic methods.

(24) SYNTHETIC.—The term "synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, excepting microbiological processes.

(25) TRANSITION FARM.—The term "transition farm" means a farm that meets all of the standards required under subtitle A and the applicable State program but that has not yet met the 3 year requirement to be certified as an organic farm.

Subtitle A—National Standards Governing the Organic Production of Agricultural Products

SEC. 1611. NATIONAL ORGANIC PRODUCTION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this subtitle.

(b) STATE PROGRAM.—In establishing the program under subsection (a), the Secretary shall permit each State to implement a State organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this subtitle.

(c) CONSULTATION.—In developing the program under subsection (a), and the National List under section 1625, the Secretary shall consult with the National Organic Standards Board established under section 1626.

(d) CERTIFICATION.—The Secretary shall implement the program established under subsection (a) through certifying agents that may certify a farm or handling operation that meets the requirements of this subtitle and the requirements of the organic certification program of the State (if applicable) as an organically certified farm or handling operation.

SEC. 1612. ESTABLISHMENT OF LABEL.

(a) IN GENERAL.—The Secretary shall establish a label to be affixed to agricultural products that have been produced on organically certified farms and have been handled by organically certified handlers.

(b) CONTENT OF LABEL.—The label established under subsection (a) shall state that the agricultural product to which such label is affixed has been "organically produced" and shall bear the seal of the Department of Agriculture.

(c) TAMPERING WITH LABEL.—No individual may replicate, affix, or otherwise tamper with an organically produced label in any manner other than a normal consumer use, as determined by the Secretary.

(d) LIMITATION ON LABELING.—

(1) RESTRICTION.—On or after September 1, 1992, no individual may affix a label to an agricultural product for sale within the United States that states or implies, directly or indirectly, that such product is produced, grown, or processed using organic methods except in accordance with this subtitle and under an approved State organic certification program implemented under this subtitle.

(2) EXEMPTIONS FOR PROCESSED FOOD.—Paragraph (1) shall not apply in the case of products that—

(A) contain at least 50 percent organically produced ingredients by weight, excluding water and salt, if the Secretary, on the recommendation of the National Organic Standards Board, and in consultation with the Secretary of Health and Human Services, has determined to permit the word "organically produced" to be used on the principal display panel of such products only for the purpose of describing the organically produced ingredients; or

(B) contain less than 50 percent organically produced ingredients by weight, excluding water and salt, if the Secretary, on the recommendation of the National Organic Standards Board, and in consultation with the Secretary of Health and Human Services, has determined to permit the word "organically produced" to be used on the ingredient listing panel to describe those ingredients that are organically produced in accordance with this subtitle.

(3) SMALL FARMER EXEMPTION.—Paragraph (1) shall not apply to individuals who produce and sell agricultural products if compensation received for gross sales of all agricultural products by such individual does not exceed $5,000 annually. Individuals who claim the exemption under this paragraph shall not be eligible to have the "organically produced" label, established under subsection (a), affixed to agricultural products produced and sold by such individual.

(4) EXEMPTION FOR IMPORTED PRODUCTS.—Paragraph (1) shall not apply to imported agricultural products with labels that imply that such product is organically produced if the Secretary determines that such products have been produced and handled under an organic program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of this title.

(f) STATE LABEL.—The certifying agent, or the designee of such agent, on the approval of the Secretary, may affix an additional label to an agricultural product that indicates the State origin and certifying body of such product.

SEC. 1613. GENERAL REQUIREMENTS.

(a) IN GENERAL.—A program established under this subtitle shall—

(1) require that each agricultural product that bears an organically produced label must—

(A) be produced only on organically certified farms and handled only through organically certified handling operations in accordance with this subtitle; and

(B) be produced and handled in accordance with such program;

(2) require that producers and handlers desiring to participate under such program establish an organic plan under section 1620;

(3) establish procedures that permit producers and handlers to appeal an adverse administrative determination under this subtitle;

(4) require that each organic farming operation or each organic handling operation covered under such program certify to the Secretary, the governing State official (if applicable), and the certifying agent on an annual basis, that such producer or handler has not produced or handled any agricultural product bearing an organically produced label except in accordance with this subtitle and any applicable State program;

(5) require annual on-site inspections by the certifying agent of each farm and handling operation that has been certified under this subtitle;

(6) require periodic residue testing by certifying agents of agricultural products that have been produced on organically certified farms and handled through organically certified handling operations to determine whether such products contain any pesticide or other nonorganic residue or natural toxicants;

(7) establish appropriate and adequate enforcement procedures, as determined by the Secretary to be necessary and consistent with section 1624;

(8) establish regulations to protect against conflict-of-interest as specified under section 1622(i);

(9) require public access to certification documents and laboratory analyses that support certifications under this subtitle; and

(10) require such other terms and conditions as may be determined by the Secretary to be necessary.

(b) DISCRETIONARY REQUIREMENTS.—An organic certification program established under this subtitle may—

(1) provide for the collection of reasonable fees from producers and handlers who participate in such program;

(2) provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if—

(A) in the case of a farm, the fields to be certified have distinct, defined boundaries and buffer zones separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods;

(B) the operators of such farm or handling operation maintain separate records of all operations and make such records available at all times for inspection by the Secretary, the certifying agent, and the governing State official; and

(C) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified land or area; and

(3) provide for reasonable exemptions from specific requirements of this subtitle (except the provisions of section 1618) with respect to agricultural products produced on organically certified farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(c) STATE PROGRAM.—A State organic certification program approved under this subtitle may contain additional guidelines governing the production or handling of products labeled as organically produced in such State as required in section 1614.

SEC. 1614. STATE ORGANIC CERTIFICATION PROGRAM.

(a) IN GENERAL.—The governing State official may prepare and submit a plan for the establishment of a State organic certification program, to the Secretary for approval. A State organic certification program must meet the requirements of this subtitle to be approved by the Secretary.

(b) ADDITIONAL REQUIREMENTS.—

(1) AUTHORITY.—A State organic certification program established under subsection (a) may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of agricultural products that are to be labeled as organically produced under this subtitle than are contained in the program established by the Secretary.

(2) CONTENT.—Additional requirements established under paragraph (1) shall—

(A) further the purposes of this subtitle;

(B) not be inconsistent with this subtitle;

(C) not be discriminatory towards agricultural commodities organically produced in other States in accordance with this subtitle; and

(D) be approved by the Secretary.

(c) REVIEW AND OTHER DETERMINATIONS.—

(1) SUBSEQUENT REVIEW.—The Secretary shall review programs established under plans approved by the Secretary not less than once during each 5-year period following the date of the approval of such program.

(2) CHANGES IN PROGRAM.—The governing State official, prior to implementing any substantive change to programs approved under this subsection, shall submit such change to the Secretary for approval.

(3) TIME FOR DETERMINATION.—The Secretary shall make a determination concerning any plan, proposed change to a plan, or a review of a plan not later than 6 months after receipt of such plan, such proposed change, or the initiation of such review.

SEC. 1615. PROHIBITED CROP PRODUCTION PRACTICES AND MATERIALS.

(a) SEED, SEEDLINGS AND PLANTING PRACTICES.—For a farm to be certified under this subtitle, producers on such farm shall not apply materials to, or engage in practices on, seeds or seedlings that are determined by the Secretary or by the applicable governing State official to be contrary to, or inconsistent with, this subtitle or the applicable State organic certification program.

(b) IRRIGATION WATER.—For a farm to be certified under this subtitle, producers on such farm shall not use irrigation water for the production of agricultural products unless such water has been analyzed for quality, salinity, and purity and such analysis has been submitted for the approval of the certifying agent.

(c) SOIL AMENDMENTS.—For a farm to be certified under this subtitle, producers on such farm shall not—

(1) use any fertilizers containing synthetic ingredients or any commercially blended fertilizers containing materials prohibited under this subtitle or under the applicable State organic certification program;

(2) use as a source of fertilizer any contaminated organic material as determined by the Secretary or the governing State official; and

(3) use as a source of nitrogen, phosphorus, lime, potash, or micronutrients any materials determined by the Secretary or the governing State official to be inconsistent with the purposes of this subtitle.

(d) CROP MANAGEMENT.—For a farm to be certified under this subtitle, producers on such farm shall not—

(1) use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, as determined by the applicable governing State official or the Secretary.

(2) use micronutrients at toxic levels, as determined by the applicable governing State official or the Secretary;

(3) use plastic mulches, unless such mulches are removed at the end of each growing or harvest season; or

(4) use annual transplants that are treated with any synthetic or prohibited material.

SEC. 1616. ANIMAL PRODUCTION PRACTICES AND MATERIALS.

(a) IN GENERAL.—Any meat, poultry, wild or domesticated game, or other nonplant life that is to be slaughtered and sold as organically produced shall be raised in accordance with this subtitle.

(b) BREEDER STOCK.—Breeder stock may be purchased from whatever source if such stock is not in the last third of gestation.

(c) FEED.—For a farm that produces livestock to be certified under this subtitle, producers on such farm—

(1) shall feed such livestock organically produced feed that meets the requirements of this subtitle; and

(2) shall not use the following feed—

(A) plastic pellets for roughage;

(B) manure refeeding;

(C) feed formulas containing urea; or

(D) medicated feeds.

(d) SUPPLEMENTS.—For a farm that produces livestock to be organically certified under this subtitle, producers on such farm shall not use growth promoters and hormones, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of livestock covered by this subtitle.

(e) DRINKING WATER.—

(1) ANALYSIS OF DRINKING WATER.—A certifying agent may require, in order for a farm to be organically certified under this subtitle, that producers on such farm submit for analysis any water to be made available for livestock covered by this subtitle for the purpose of determining the quality, salinity, and purity of such water and the presence of pesticides and nitrates in such water.

(2) IMPURE WATER.—A farm shall not be certified under this subtitle with respect to livestock if the certifying agent determines that drinking water to be made available to the livestock covered by this subtitle is so contaminated as to cause contamination of the organically produced product.

(f) HEALTH CARE.—

(1) PROHIBITED PRACTICES.—For a farm that produces livestock to be organically certified under this subtitle, producers on such farm shall not—

(A) use subtherapeutic doses of medications including antibiotics;

(B) use synthetic internal parasiticides on a routine basis; or

(C) administer medication other than vaccinations in the absence of illness.

(2) STANDARDS.—The National Organics Standard Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that the animal is organically produced.

(g) ADDITIONAL GUIDELINES.—

(1) POULTRY.—

(A) IN GENERAL.—All poultry from which the meat will be labeled as organically produced, shall be managed in accordance with this subtitle prior to (except for the first day after hatching) and during the period in which such meat is sold.

(B) LAYING HENS.—All poultry from which the eggs will be labeled as organically produced, shall be managed in accordance with this subtitle for a period of not less than 4 months prior to the sale of such eggs.

(2) DAIRY LIVESTOCK.—A dairy cow from which milk or milk products will be labeled as organically produced, shall be raised in accordance with this subtitle for not less than the 12-month period immediately prior to the sale of such milk and milk products.

(3) OTHER SLAUGHTER LIVESTOCK.—Other meat, from wild or domesticated game, or other nonplant life that is to be slaughtered and sold as organically produced shall be raised in accordance with this subtitle from birth.

(h) LIVESTOCK INDENTIFICATION.—

(1) IN GENERAL.—For a farm that produces livestock to be certified under this subtitle, producers shall keep adequate records and maintain a detailed, verifiable audit trail so that each animal or flock can be traced back to such farm.

(2) RECORDS.—To carry out paragraph (1), each producer shall keep accurate records including—

(A) amounts and sources of all medications administered; and

(B) all feeds and feed supplements bought and fed.

(i) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary, in carrying out the provisions of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or any other Act concerning the misbranding of meat and poultry products, may accept a certification provided by a certifying agent at the point of slaughter as proof that the meat and poultry have been raised in accordance with this subtitle.

SEC. 1617. HANDLING.

(a) IN GENERAL.—For a handling operation to be certified under this subtitle, each individual on such handling operation shall not, with respect to any agricultural product covered by this subtitle—

(1) add any synthetic ingredient during the processing or any post harvest handling of the product;

(2) add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the Secretary or applicable governing State official;

(3) add any sulfites, nitrates, or nitrites;

(4) add any ingredients that are not organically produced in accordance with this subtitle and the applicable State organic certification program, unless such ingredients are included on the National List and represent not more than 5 percent of the weight of the total finished product (excluding salt and water);

(5) use any packaging materials, storage containers or bins that contain fungicides, preservatives, or fumigants;

(6) use any bag or container that had previously been in contact with any substance that would compromise the organic quality of such product; or

(7) use, in processed food to be labeled organically produced, water that does not minimally meet all Safe Drinking Water Act requirements.

(b) MEAT.—For a farm or handling operation to be organically certified under this subtitle, producers on such farm or individual on such handling operation shall ensure that organically produced meat does not come in contact with nonorganically produced meat.

SEC. 1618. ADDITIONAL GUIDELINES.

(a) IN GENERAL.—The Secretary, the applicable governing State official, and the certifying agent shall utilize a system of residue testing to test products labeled as organically produced under this subtitle to assist in the enforcement of this subtitle.

(b) PRE-HARVEST TESTING.—The Secretary, the applicable governing State Official, or the certifying agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants.

(c) COMPLIANCE REVIEW.—

(1) INSPECTION.—If the Secretary, the applicable governing State official, or the certifying agent determines that an agricultural product labeled as organically produced under this subtitle contains any detectable pesticide or other non-organic residue or prohibited natural substance the Secretary, the applicable governing State official, or the certifying agent shall conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler of such product to prove that any prohibited substance was not applied to such product.

(2) REMOVAL OF ORGANIC LABEL.—If, as determined by the Secretary, the applicable governing State official, or the certifying agent, the investigation conducted under paragraph (1) indicates that the residue is—

(A) the result of intentional application of a prohibited substance; or

(B) present at levels that are greater than unavoidable residual environmental contamination as prescribed by the Secretary or the applicable governing State official;

such agricultural product shall not be labeled as organically produced under this subtitle.

(d) RECORDKEEPING REQUIREMENTS.—Producers who operate certified farming or handling operations under this subtitle shall maintain records for 5 years concerning the production or handling of agricultural products labeled as organically produced under this subtitle by such operation, including—

(1) a detailed history of substances applied to fields or agricultural products; and

(2) the names and addresses of persons who applied such substances, the dates, the rate and method of application of such substances.

SEC. 1619. OTHER PRODUCTION AND HANDLING PRACTICES.

If a production or handling practice is not prohibited or otherwise restricted under this subtitle, such practice shall be permitted unless the Secretary or the applicable governing State official determines that such practice would be inconsistent with the purposes of this subtitle.

SEC. 1620. ORGANIC PLAN.

(a) IN GENERAL.—A producer or handler seeking certification under this subtitle shall submit an organic plan to the certifying agent that meets the requirements of this subtitle and the State organic certification program (if applicable), and such plan shall be reviewed by the certifying agent who shall determine if such plan meets the requirements of such programs.

(b) CROP PRODUCTION FARM PLAN.—

(1) SOIL FERTILITY.—An organic farm plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

(2) MANURING.—

(A) INCLUSION IN ORGANIC FARM PLAN.—An organic farm plan shall contain terms and conditions that regulate the application of manure to crops.

(B) APPLICATION OF MANURE.—Such organic farm plan may provide for the application of raw manure only to—

(i) any green manure crop;

(ii) any perennial crop;

(iii) any crop not for human consumption; and

(iv) any crop for human consumption, if such crop is harvested after a reasonable period of time after the most recent application of raw manure, determined by the certifying agent to ensure the safety of such crop, but in no event shall such period be less than 60 days after such application.

(C) CONTAMINATION BY MANURE.—Such organic farm plan shall prohibit raw manure from being applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(c) LIVESTOCK PLAN.—An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this subtitle, as determined appropriate by Secretary and the applicable governing State official.

(d) MIXED CROP LIVESTOCK PRODUCTION.—An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) if both activities are conducted by the same producer.

(e) HANDLING PLAN.—An organic handling plan shall contain provisions designed to ensure that organically produced agricultural products are processed or packaged in a manner that is consistent with the purposes of this subtitle, as determined appropriate by the Secretary and the applicable governing State official.

(f) MANAGEMENT OF CROPS.—An organic plan for the harvesting of wild crops shall—

(1) designate the area from which the wild crop will be gathered or harvested;

(2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;

(3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop; and

(4) include provisions that no prohibited substances will be applied by the producer.

(g) LIMITATION ON CONTENT OF PLAN.—An organic plan shall not include any production or handling practices that are inconsistent with this subtitle and the applicable State organic certification program.

SEC. 1621. ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a program to provide a governing State official and any private individual that meets the requirements of this section, with an accreditation as a certifying agent for the purpose of certifying a farm or handling operation as an organically certified farm or handling operation.

(b) REQUIREMENTS.—To be accredited as a certifying agent under this section, a governing State official or private individual shall—

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this subtitle.

(c) DURATION OF DESIGNATION.—An accreditation made under this section shall be for a period of not to exceed 5 years, or a shorter period, as determined appropriate by the Secretary, and may be renewed.

(d) FEES.—The Secretary may provide for the collection of reasonable fees from certifying agents seeking accreditation or reaccreditation under this section to assist in defraying the costs of the program established under this subtitle.

SEC. 1622. REQUIREMENTS OF CERTIFYING AGENTS.

(a) ABILITY TO IMPLEMENT REQUIREMENTS.—To be accredited as a certifying agent under section 1621, a governing State official or an individual must be able to fully implement the organic labeling program established under this subtitle.

(b) USE OF ORGANICALLY PRODUCED LABEL.—A certifying agent shall use the organically produced label only in accordance with this subtitle and the State organic certification program (if applicable).

(c) INSPECTORS.—A certifying agent shall employ a sufficient number of inspectors as necessary to implement the program established under this subtitle.

(d) RECORDKEEPING.—

(1) MAINTENANCE OF RECORDS.—A certifying agent shall maintain all records concerning the activities of such agent under this subtitle for a period of not less than 10 years.

(2) ACCESS FOR SECRETARY.—A certifying agent shall permit representatives of the Secretary and the governing State official to have access to any and all records concerning the activities of such agent under this subtitle.

(3) TRANSFERENCE OF RECORDS.—If a private individual that has been accredited as a certifying agent under section 1621 is dissolved or loses its accreditation, all records concerning activities of such individual under this subtitle shall become the property of the Secretary and shall be transferred to the Secretary and made available to the applicable governing State official.

(e) AGREEMENT.—A certifying agent shall enter into an agreement with the Secretary under which, such agent shall—

(1) agree to carry out this subtitle; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(f) PRIVATE CERTIFYING AGENT AGREEMENT.—A private individual that has been

accredited as a certifying agent under section 1621, in addition to the agreement required under subsection (e), shall—

(1) agree to hold the Secretary harmless for any failure on the part of the agent to carry out this subtitle; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the program established under this subtitle.

(g) COMPLIANCE WITH STATE PROGRAM.—A certifying agent shall fully comply with the terms and conditions of the applicable State organic certification program implemented under this subtitle.

(h) CONFIDENTIALITY.—Except as provided in section 1613(a)(9) and section 552 of title 5, United States Code, a certifying agent shall maintain strict confidentiality, with respect to the clients of such agent, and shall not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client that was obtained while the agent was implementing this subtitle.

(i) CONFLICT OF INTEREST.—A certifying agent shall not—

(1) carry out any inspections of any operation in which such agent, or employee of such agent has, or has had, a business or financial interest in, including the provision of consultancy services by such agent;

(2) accept payment, gifts, or favors of any kind from the business inspected that is in excess of prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than for fees established under such program.

(j) ADMINISTRATOR.—A certifying agent that is a private individual shall designate the person who administers the day to day operations of the agent.

(k) LOSS OF ACCREDITATION.—

(1) NONCOMPLIANCE.—If the Secretary or the governing State official (if applicable) determines that a certifying agent is not in compliance with this subtitle, the Secretary or such governing State official, after notice and an opportunity to be heard, may suspend the accreditation of such agent.

(2) EFFECT ON CERTIFIED OPERATIONS.—If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by such agent may retain their organic certification.

SEC. 1623. PEER REVIEW OF CERTIFYING AGENTS.

(a) PEER REVIEW.—In determining whether to approve an application for accreditation submitted under section 1621, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b).

(b) PEER REVIEW PANEL.—To assist the Secretary in evaluating applications under section 1621, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State or private individual that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be individuals who are not employees of the Department of Agriculture or of the applicable State government.

SEC. 1624. NATIONAL STANDARDS FOR ORGANIC PRODUCTION.

(a) ORGANICALLY PRODUCED PRODUCTS.—To be labeled as an organically produced agricultural commodity under this subtitle, such commodity shall meet the minimum standards established under this subtitle.

(b) SYNTHETIC CHEMICALS.—To be labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall have been produced or handled without the use of synthetic chemicals, except as provided in section 1625.

(c) TRANSITION PERIODS.—To be labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of the agricultural products.

(d) COMPLIANCE WITH ORGANIC PLAN.—To be labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the certifying agent.

SEC. 1625. NATIONAL LIST.

(a) IN GENERAL.—The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production established under this subtitle in order for such products to be labeled as organically produced under this subtitle.

(b) CONTENT OF LIST.—

(1) ITEMIZATION OF SUBSTANCES.—The List established under subsection (a) shall contain an itemization of—

(A) the specific synthetic substances that may be used in the production and handling of agricultural products labeled as organically produced under this subtitle, even though the use of such substances is prohibited elsewhere in this subtitle; or

(B) the specific natural substances that may not be used in the production and handling of agricultural products labeled as organically produced under this subtitle, even though the use of such substances would be allowed under other provisions of this subtitle.

(2) SPECIFIC USES.—An exemption granted under paragraph (1)(A) or the prohibition contained in paragraph (1)(B) with respect to a specific synthetic or natural substance shall be limited to a specific use of such substance in a farming or handling operation.

(c) GUIDELINES FOR PROHIBITIONS OR EXEMPTIONS.—

(1) EXEMPTION FOR PROHIBITED SUBSTANCES.—The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this subtitle only if—

(A) the Secretary determines that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming procedures;

(B) the substance—

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheremones; soaps; horticultural oils; treated seed; fish emulsions; vitamins and minerals; livestock parasiticiades and medicines; and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers;

(ii) is used in production and contains synthetic inert ingredients; or

(iii) is used in processing and is non-synthetic but not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d).

(2) PROHIBITION OF USE OF SPECIFIC NATURAL SUBSTANCES.—The National List may provide for the prohibition of the use of specific natural substances in an organic farming or handling operation that are otherwise permitted under this subtitle only if—

(A) the Secretary determines that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming procedures and the purposes of this subtitle; and

(B) the specific prohibition is developed using the procedures described in subsection (d).

(d) PROCEDURE FOR ESTABLISHING NATIONAL LIST.—

(1) IN GENERAL.—The National List established by the Secretary shall be based on a proposed national list or proposed amendments to the National List that is developed by the National Organic Standards Board.

(2) NO ADDITIONS.—The Secretary shall not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the proposed national list or proposed amendments to the National List.

(3) NOTICE AND COMMENT.—Prior to establishing the National List or making amendments to such, the Secretary shall publish the proposed national list or any proposed amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such publication any changes to such proposed list or amendments recommended by the Secretary.

(4) PUBLICATION OF NATIONAL LIST.—After evaluating all comments received concerning the proposed national list or proposed amendments to the National List, the Secretary shall publish the final National List in the Federal Register, together with a discussion of comments received.

SEC. 1626. NATIONAL ORGANIC STANDARDS BOARD.

(a) IN GENERAL.—The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.)) to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.

(b) COMPOSITION OF BOARD.—The Board shall be composed of 13 members of which—

(1) four shall be individuals who operate an organic farming operation;

(2) two shall be individuals who own or operate an organic handling operation;

(3) one shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) three shall be individuals with expertise in the areas of environmental protection and resource conservation; and

(5) three shall be individuals who represent public interest or consumer interest organizations.

(c) APPOINTMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the Board from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) TERM.—A member of the Board shall serve for a term of 5 years, except that the Secretary may shorten the terms of the original members of the Board in order to provide for a staggered term of appointment for all members of the Board. Members cannot serve consecutive terms unless they are members whose terms have been reduced by the Secretary, but in no event may a member serve for more than 6 consecutive years.

(e) MEETINGS.—The Secretary shall convene a meeting of the Board not later than 60 days after the appointment of its members and shall convene subsequent meetings on a periodic basis.

(f) COMPENSATION.—A member of the Board shall serve without compensation, but may be reimbursed by the Secretary for expenses (in accordance with section 5703 of title 5, United States Code) incurred in performing duties as a member of the Board.

(g) CHAIR.—The Board shall select a Chairperson for the Board.

(h) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(i) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(j) OTHER TERMS AND CONDITIONS.—The Secretary shall authorize the Board to hire a staff director and shall detail staff of the Department of Agriculture or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by such Board in carrying out the provisions of this subtitle, as determined appropriate by the Secretary.

(k) RESPONSIBILITIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall provide recommendations to the Secretary regarding the implementation of this title.

(2) NATIONAL LIST.—The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 1625.

(3) TECHNICAL ADVISORY PANELS.—The Board shall convene technical advisory panels to provide scientific evaluations of the materials considered for inclusion on the National List. Such panels may include experts in agronomy, entomology, health sciences, and other relevant disciplines.

(4) SPECIAL REVIEW OF BOTANICAL PESTICIDES.—The National Organic Standards Board shall, prior to the establishment of any list, review all botanical pesticides used in agricultural production and consider whether any such botanical pesticide should be included in the list of prohibited natural substances.

(5) CONSULTATION.—The National Organic Standards Board shall advise the Secretary and the Administrator of the Environmental Protection Agency on whether to establish a registration program for organic production materials.

(6) PRODUCT RESIDUE TESTING.—The Board shall advise the Secretary concerning the testing of organically produced agricultural products for residues as a result of unavoidable residual environmental contamination.

(l) REQUIREMENTS.—In establishing the proposed National list or proposed amendments to the National List, the National Organic Standards Board shall—

(1) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National list;

(2) work with manufacturers of substances considered for inclusion in the proposed National list to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National list or any proposed amendments to such list, the results of the National Organic Standards Board evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

(m) EVALUATION.—In evaluating substances considered for inclusion in the proposed National list or proposed amendments to the National List, the National Organic Standards Board shall determine—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effects of the substance on human health;

(5) the effects of the material on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including consideration of salt index and solubility), crops, and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

(n) PETITIONS.—The National Organic Standards Board shall establish procedures under which individuals may petition the Organic Standards Board for the purpose of evaluating substances for inclusion on the National List.

(o) SUNSET REVIEW.—

(1) EVERY 5 YEARS.—The National Organic Standards Board shall review each substance included as an exemption or prohibition on the National List at least once during each 5-year period beginning on the date such substance was initially included on the National List or on the date of the last review of such substance under this subsection.

(2) SUBMISSION TO SECRETARY.—The National Organic Standards Board shall submit the results of a review under paragraph (1) to the Secretary with a recommendation as to whether such substance should continue to be included on the National List.

(p) CONFIDENTIALITY.—Any business sensitive material obtained by the National Organic Standards Board in carrying out this section shall be treated as confidential business information by such Board and shall not be released to the public.

SEC. 1627. VIOLATIONS OF SUBTITLE.

(a) MISUSE OF LABEL.—Any individual who uses, affixes, or otherwise tampers with a label identifying a product as organically produced, except in accordance with this subtitle, shall be subject to a civil penalty of not more than $50,000 and imprisonment of not more than 2 years.

(b) FALSE CERTIFICATION.—Any individual who issues a false certification under this subtitle to the Secretary, a governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

(c) INELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any producer who—

(A) issues a false certification;

(B) attempts to have an organically produced label affixed to an agricultural product that such producer knows, or should have reason to know, to have been produced in a manner that is not in accordance with this subtitle; or

(C) otherwise violates the purposes of the national organic certification program established under section 1611(a);

as determined by the Secretary or the applicable governing State official, after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years from the date of such occurrence, to receive certification under this subtitle with respect to any farm or handling operation in which such producer has an interest.

(2) WAIVER.—Notwithstanding paragraph (1), the Secretary may reduce or eliminate such period of ineligibility if the Secretary determines that such modification or waiver would be in the best interests of the national organic certification program established under this subtitle.

(d) REPORTING OF VIOLATIONS.—A certifying agent shall immediately report any violations of this subtitle to the Secretary or the governing State official (if applicable), and shall decertify any individual determined to be in violation of this subtitle.

(e) VIOLATIONS BY CERTIFYING AGENT.—Any certifying agent that is a private individual that violates the provisions of this subtitle or that falsely or negligently certifies any farming or handling operation and that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the governing State official (if applicable) after notice and an opportunity to be heard, shall—

(1) lose its accreditation as a certifying agent under this subtitle; and

(2) be ineligible to be accredited as a certifying agent under this subtitle for a period of not less than 3 years subsequent to such determination.

(f) MISBRANDING.—Nothing in this title shall alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or any other Act concerning the misbranding of meat and poultry products.

SEC. 1628. ADMINISTRATIVE APPEAL.

(a) EXPEDITED APPEALS PROCEDURE.—The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, a certifying agent, or a certified farming or handling operation under this title that—

(1) adversely affects such person; or

(2) is inconsistent with the organic certification program established under this subtitle.

(b) APPEAL OF FINAL DECISION.—A final decision of the Secretary under such process may be appealed to the United States Court of Appeals of the District in which such person is located.

SEC. 1629. ADMINISTRATION.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this subtitle,

the Secretary shall issue proposed regulations to carry out this subtitle.

(b) ASSISTANCE TO STATE.—

(1) TECHNICAL AND OTHER ASSISTANCE.—The Secretary shall provide technical, administrative, and Extension Service assistance to each State that implements an organic certification program under this subtitle.

(2) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State that implements an organic certification program under this subtitle.

SEC. 1630. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this subtitle.

Subtitle B—National Organic Promotion Advisory Committee

SEC. 1641. ESTABLISHMENT OF NATIONAL ORGANIC PROMOTION ADVISORY COMMITTEE.

(a) IN GENERAL.—The Secretary shall establish a National Organic Promotion Advisory Committee (hereinafter referred to in this subtitle as the "Advisory Committee") to acquire information and advice from representative elements of the organic farming and organic handling sector concerning—

(1) the establishment of an organic promotion, research, and consumer education program;

(2) the development of an initial referendum and structure for such an organic promotion, research, and consumer education program;

(3) the research program established in subtitle D; and

(4) any other aspect of organic production, research, education, or promotion of concern to the Secretary.

(b) MEMBERSHIP.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint members of the Advisory Committee established under subsection (a) from nominations received from organic certifying organizations, States, and other interested persons and organizations. The Advisory Committee shall be composed of 15 members, of which—

(1) six members shall be individuals who own or operate an organic farming operation;

(2) six members shall be individuals who own or operate an organic handling operation; and

(3) three members shall be individuals who represent public interest or consumer interest organizations.

(c) CHAIRPERSON.—At the initial meeting of the Advisory Committee, the Committee shall designate a member to serve as chairperson.

(d) MEETINGS.—Not later than 60 days after appointment of the Committee under subsection (b), the Secretary shall convene the initial meeting of the Committee, and subsequent meeting shall be at the call of the Secretary or the chairperson. The Advisory Committee shall meet not less than twice each year.

(e) RESPONSIBILITIES.—The Advisory Committee shall provide recommendations and advice to the Secretary concerning—

(1) the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, promotion, and consumer information concerning organically produced agricultural products;

(2) the establishment of a democratic process under which individuals who are involved in the organic industry may determine whether a permanent national organic promotion, research, and consumer education program should be implemented after 1992;

(3) ways to maintain, develop, and expand the position of the organic industry in domestic and foreign markets; and

(4) needed research and extension programs on agricultural production systems and materials used or potentially to be used in organic production.

(f) ADVISORY COMMITTEE SUPPORT.—The Secretary shall provide such staff, information, personnel, and administrative services and assistance to the Advisory Committee as the Advisory Committee may reasonably require to carry out the activities of such Committee.

(g) RECOMMENDATIONS AND FINAL REPORT.—

(1) PERIODIC REPORTS.—The Advisory Committee may submit, to the Secretary and to the chairpersons of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, at any appropriate time, the recommendations of the Committee for the establishment of an organic promotion, research, and consumer education program.

(2) FINAL REPORT.—On the termination of the Advisory Committee, the Committee shall prepare and submit, to the Secretary and to the chairpersons of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a final report concerning the development of a program of the type referred to in paragraph (1), and such report shall be made available to the public for review and comment.

(h) COMPENSATION AND EXPENSES.—A member of the Advisory Committee shall serve without compensation, but my be reimbursed by the Secretary for expenses (in accordance with section 5703 of title 5, United States Code) incurred in the performing duties as a member of the Advisory Committee.

(i) TERMINATION.—The Advisory Committee shall cease to exist not later than 3 years after the date on which the initial meeting is convened by the Secretary.

SEC. 1642. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle C—Transition Label Demonstration Program

SEC. 1651. NATIONAL LABEL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a National Transition Label Demonstration Program for the purposes described in subsection (b).

(b) PURPOSES.—The purpose of the Program is—

(1) to authorize the establishment of a grant program for States to explore the ramifications of establishing a transition label for agricultural products;

(2) to provide a labeling option for farmers who are in transition from traditional to organic farming systems;

(3) to evaluate the impact that a transition label would have on consumer purchasing decisions and organic markets; and

(4) to assess whether the availability of a transition label would provide a significant incentive to motivate farmers to adopt organic farming systems.

SEC. 1652. ADMINISTRATION.

(a) GRANT PROGRAM.—The Secretary shall make a grant from amounts appropriated under section 1655 to not less than 4 States that—

(1) have implemented a State organic certification program under subtitle A;

(2) can designate a limited marketing area within the State in which the label established under this subtitle could be used and controlled;

(3) submit a competitive proposal that meets the requirement established by the Secretary for conducting the Program; and

(4) will carry out a Program under this subtitle.

(b) PREFERENCE.—In making grants under subsection (a), the Secretary shall give preference to any State that will assist in the development and implementation of the Program by making funds or other resources of such State available for use in the Program.

(c) RESPONSIBILITIES OF RECIPIENT.—Each State recipient of a grant under subsection (b) shall—

(1) design a demonstration project that meets the requirements of the Secretary;

(2) designate farming operations eligible to participate in the Program as transition farms;

(3) authorize the sale of the products of the farms designated under paragraph (2) in retail establishments in such State; and

(4) prepare and submit a final report as required by section 1654.

SEC. 1653. ESTABLISHMENT OF LABELS.

(a) IN GENERAL.—The Secretary shall establish a label to be affixed to agricultural products that have been produced on transition farms designated for participation in the Program.

(b) CONTENT OF LABELS.—The Secretary shall establish a label that states that an agricultural product has been produced in "transition to organic" and that shall bear the seal of the Department of Agriculture.

(c) AFFIXATION OF LABEL.—The chief executive officer of a State or their designees shall affix the labels referred to in subsection (a) to an agricultural product only if such product has been produced on designated transition farms.

SEC. 1654. REPORTS.

Not later than 2 years after the date of enactment of this subtitle, the chief executive officer of a State shall prepare and submit a final report that contains the results of the Program to—

(1) the Secretary;

(2) the Committee on Agriculture of the House of Representatives; and

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1655. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle D—Organic Production Research

SEC. 1661. ORGANIC PRODUCTION RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to conduct research related to the production and marketing of organic agricultural products. The Secretary may provide grants under such program to facilitate the conduct of such research under this subtitle.

(b) RESEARCH TOPICS.—In implementing the program established under subsection (a), the Secretary shall provide for the conduct of research to—

(1) study the toxicity levels of toxic synthetic and natural substances currently used in organic production, and the residues and other effects of such substances on food

crops, farmers and farmworkers, soil, water, and the environment;

(2) identify efficacious substitutes for the most commonly used synthetic and toxic natural substances currently used in organic production;

(3) identify and measure levels of background contamination of toxic substances in water, soil, air, and other agricultural production inputs required by organic producers and handlers;

(4) develop reliable, economical and quick residue testing procedures for the detection and quantification of potentially harmful residue levels in food products;

(5) develop efficacious protocols and materials for the manufacturing, process, and other handling of organic food products as "organically produced" products;

(6) assist the transition from conventional to organic production and handling of agricultural products;

(7) study the effect of organic farming practices on the reduction of environmental contamination and damage;

(8) study the nutritional content of organically produced products compared to conventional production; and

(9) improve the technology of organic livestock production.

(c) CONSULTATION.—The Secretary shall consult with the National Organic Standards Board established under subtitle A and the National Organic Promotion Advisory Committee established under subtitle B concerning specific research topics that are necessary under this subtitle.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

TITLE XVII—FRUITS AND VEGETABLES

SEC. 1701. SHORT TITLE.

This title may be cited as the "Fruits and Vegetables Act of 1990".

Subtitle A—Study of Domestic Fruit and Vegetable Industry

SEC. 1711. FINDINGS.

Congress finds that—

(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious diet by numerous health organizations including the Surgeon General of the United States, the National Institutes of Health, the National Cancer Institute, the American Heart Association, the National Academy of Sciences, Committee on Diet, Nutrition and Cancer, the Department of Agriculture; and the Department of Health and Human Services.

SEC. 1712. PURPOSES.

The purposes of this subtitle are to—

(1) improve the dietary and nutritional standards of the Nation by promoting domestically produced wholesome and nutritious fruit and vegetable products;

(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable production in the future.

SEC. 1713. DECLARATION OF POLICY.

It is declared that the domestic production of fruits and vegetables is a keystone of the farm policy of the United States.

SEC. 1714. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

(2) CONTENTS.—The study conducted under paragraph (1) shall include—

(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables;

(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits to consumers that would result from the labeling of such products; and

(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

(b) REPORT.—Not later than 18 months after the date of enactment of this title, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a).

SEC. 1715. ASSISTANCE PROGRAMS REPORT.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the Federal programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities.

(b) REPORT.—Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that shall contain—

(1) the results of the study conducted under subsection (a); and

(2) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs described in subsection (a) could participate in such programs; and

(3) the recommendations to the Secretary concerning the establishment of additional programs of the type described in subsection (a) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

SEC. 1716. LABELING OF PRODUCTS GROWN IN THE UNITED STATES.

(a) SHORT TITLE.—This section may be cited as the "Grown in the United States Food Labeling Act of 1990".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title, the Secretary of Agriculture, in cooperation with the Commissioner of Food and Drugs, shall establish a program to be known as the "Grown in the United States Food Labeling Program".

(2) CONDITIONS FOR LABELING.—In establishing the program under paragraph (1), the Secretary and the Commissioner shall prescribe conditions under which food producers, processors and sellers may label food products as "Grown in the United States" or as "Made of Ingredients Grown in the United States".

(3) IMPORTED INGREDIENTS.—A food product that contains a significant amount of imported ingredients, as determined by the Secretary of Agriculture, shall not be eligible to participate in the program established under paragraph (1).

(c) REPORT.—Not later than 6 months after the date of enactment of this title, the Secretary of Agriculture, in cooperation with the Commissioner of Food and Drugs, shall conduct a comprehensive review of all existing Federal country of origin food labeling requirements and prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains an analysis of the adequacy of current Federal country of origin food labeling requirements and that makes recommendations concerning the improvement of country of origin information available to American consumers.

SEC. 1717. USE OF UNITED STATES PRODUCED FRUITS AND VEGETABLES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the food procurement office of each agency or department of the Federal Government should intensify its efforts to procure from United States sources domestically produced fruits and vegetables to be used in the food programs that are consumed by the employees of such agency or department either in the United States or in foreign countries; and

(2) with respect to purchases of United States fruits and vegetables in United States facilities located in foreign countries, each agency or department of the Federal Government should make a special effort to purchase and use United States grown fruits and vegetables only if the transportation of such commodities can be done with existing transportation capabilities and the costs of such domestic fruits and vegetables are comparable to the costs of fruits and vegetables previously purchased.

(b) REPORT.—Not later than 18 months after the date of enactment of this title, the head of each agency and department of the Federal Government shall prepare and submit, to the appropriate Committees of Congress, a report concerning the progress made in increasing the purchases of United States grown fruits and vegetables.

Subtitle B—Kiwifruit and Other Fruit and Marketing Reform

CHAPTER 1—KIWIFRUIT AND OTHER FRUIT

SEC. 1721. KIWIFRUIT AND OTHER FRUIT.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-

1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or eggplants" and inserting "eggplants, kiwifruit, nectarines, plums, papayas (except papayas grown in the beneficiary countries under the Caribbean Basin Economic Recovery Act), pistachios, or apples".

CHAPTER 2—MARKETING REFORM

SEC. 1725. SHORT TITLE.

This chapter may be cited as the "Agricultural Marketing Research and Reform Act of 1990".

SEC. 1726. DEFINITION.

COSMETIC.—The term "cosmetic" means superficial damage to, or alteration of, the exterior appearance of an agricultural commodity that does not significantly affect yield, taste, or nutritional value.

SEC. 1727. STATEMENT OF POLICY.

(a) It is the policy of Congress that Federal grade standards for perishable commodities shall be developed with consideration of their impact on farmers' ability to reduce pesticide use and of consumer access to safe, affordable, abundant, flavorful and nutritious food supply.

(b) It is further the policy of Congress that the Federal Government shall investigate the impact of Federal grade standards on pesticide use in agriculture and take appropriate action based on the findings of that research.

SEC. 1728. RESEARCH.

(a) The Secretary of Agriculture shall provide for the conduct of research, through the Economic Research Service and the Cooperative State Research Service, in consultation with other agencies within USDA;

(b) The research shall examine the effects, to the extent listed in the following subsection (c) ("scope of research"), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance;

(c) SCOPE OF RESEARCH.—The primary goal of this research is to investigate the extent to which grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

(1) determine pesticide application levels for United States perishable commodity production and assess trends and factors influencing those trends of such pesticide application levels since 1975;

(2) determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on:

(A) the application and availability of pesticides in agriculture;

(B) the adoption of agricultural practices that result in reduced pesticide use;

(C) production and marketing costs;

(D) domestic and international markets and trade for perishable commodities;

(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section;

(6) FIELD RESEARCH.—

(A) the Secretary of Agriculture shall implement, not later than 12 months after enactment of this Act, or upon completion of the first phase of the research, a minimum of three, 2-year market research projects, in at least 3 States, to demonstrate and evaluate the feasibility of consumer education and information programs;

(B) SCOPE OF FIELD RESEARCH.—Research shall be conducted to evaluate programs designed to—

(i) offer consumers choices among perishable commodities produced with different production practices;

(ii) provide consumers with information about agricultural practices used in the production of perishable commodities;

(iii) educate the public about the relationship, as determined in the research conducted under this chapter, between cosmetic appearance of perishable commodities and pesticide use.

(d) DISSEMINATION OF RESULTS.—The Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning Federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

(e) ADVISORY COMMITTEE.—

(1) The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements;

(2) MEMBERSHIP.—The Advisory Committee shall consist of twelve members comprised of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower/shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section;

(3) The Advisory Committee shall cease to exist no later than September 30, 1993.

(f) REPORT.—The Secretary of Agriculture shall report to Congress on the findings of research under this section no later than September 30, 1992 with the exception of the findings under subsection (6) which shall be reported no later than September 30, 1993.

SEC. 1729. CHANGES IN PROCEDURAL REGULATIONS.

With regard to Federal grade standards developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq), the Secretary of Agriculture shall—

(1) take into account the impact of those standards on perishable commodity growers' ability to reduce the use of pesticides;

(2) provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards;

(3) provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process;

(4) provide interested parties with annual status reports, updated upon request, on all pending grade standard changes the Department of Agriculture is considering.

SEC. 1729A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the activities required under this chapter, $4,000,000 for each fiscal year.

SEC. 1730. CHECK-OFF PROGRAM FOR WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by striking out "two thirds" each place that such appears and inserting in lieu thereof "a majority".

SEC. 1730A. MARKETING ORDERS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1), is amended by—

(1) striking "(a) Notwithstanding any other provision of law," in the first sentence, and inserting in its place "(a) Subject to the provisions of subsection (c) and notwithstanding any other provision of law,";

(2) adding at the end thereof the following new subsection:

"(c) Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

"(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation;

"(2) the United States Trade Representative shall determine, and submit in writing to the Secretary of Agriculture, that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports are not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade; and

"(3) if the United States Trade Representative does not submit a determination under paragraph (2) within 30 days of the notification under paragraph (1), the Secretary may proceed with the proposed prohibition or regulation.".

Subtitle C—National Laboratory Accreditation

SEC. 1731. DEFINITIONS.

As used in this subtitle:

(1) AGRICULTURAL PRODUCTS.—The term "agricultural products" means any agricultural commodity or product whether raw or processed, including any commodity or product derived from livestock or fowl that is marketed in the United States for human or livestock consumption.

(2) CERTIFICATE.—The term "certificate" means a certificate of accreditation issued under this subtitle.

(3) LABORATORY.—The term "laboratory" means any facility or vehicle that is owned by an individual or a public or private entity and is equipped and operated for the purpose of carrying out pesticide residue analysis on agricultural products.

(4) PESTICIDE.—The term "pesticide" means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

(5) REFERENCE LABORATORY.—The term "reference laboratory" means a laboratory that is owned and operated by a governmental regulatory agency for the principal purpose of analyzing samples referred by other laboratories for confirmatory analysis.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1732. NATIONAL LABORATORY ACCREDITATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a National Laboratory Accreditation Program under which labora-

tories that request accreditation and conduct residue testing of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products, shall be determined to meet certain minimum quality and reliability standards.

(b) REQUIREMENTS.—To be accredited under this subtitle, a laboratory shall—

(1) prepare and submit an application for accreditation to the Secretary;

(2) complete a series of tests required by the Secretary; and

(3) comply with any additional terms and conditions as are determined necessary by the Secretary.

(c) CONSULTATION.—The Secretary shall, in consultation with the Administrator of the Food and Drug Administration and the Administrator of the Environmental Protection Agency, establish minimum standards for laboratories concerning—

(1) quality assurance programs;

(2) laboratory facilities;

(3) equipment;

(4) normal scientific methodologies;

(5) qualifications of directors and other personnel; and

(6) any other area concerning the operation or maintenance of a laboratory that is determined by the Secretary to be necessary to ensure accurate and complete analysis.

(d) EXCEPTIONS.—This subtitle shall not apply to—

(1) a laboratory operated by a government agency;

(2) a laboratory operated by a corporation that only performs analysis of residues on agricultural products for such corporation or any wholly owned subsidiary of such corporation and does not make claims to the public or buyers based on such analysis;

(3) a laboratory operated by a partnership that only performs analysis of residues on agricultural products for the partners of such partnership and does not make claims to the public or buyers based on such analysis; or

(4) a laboratory not operated for commercial purposes that performs pesticide chemical residue analysis on agricultural products for research or quality control for the internal use of a person who is initiating the analysis.

SEC. 1733. ACCREDITATION.

(a) IN GENERAL.—The Secretary shall issue certificates of accreditation to laboratories that meet the requirements of this subtitle, as determined by the Secretary.

(b) REQUIREMENTS FOR ACCREDITATION.—To receive accreditation under this subtitle, a laboratory shall prepare and submit an application for accreditation to the Secretary and shall complete all tests of samples required, and meet all minimum standards established, by the Secretary under section 1732.

(c) INTERIM ACCREDITATION.—

(1) IN GENERAL.—On the filing by a laboratory of a complete application for accreditation under section 1734, the Secretary may issue a certificate of interim accreditation to such laboratory pending the full approval of such application by the Secretary.

(2) CRITERIA.—The Secretary may issue certificates of interim accreditation to laboratories that the Secretary determines are likely to successfully meet all requirements for full accreditation. In making such determination, the Secretary shall consider the experience and current personnel of such laboratory.

(3) DURATION.

(A) COMPLETION OF EVALUATION.—An interim accreditation shall be effective until the Secretary either grants or denies such laboratory full accreditation.

(B) MAXIMUM PERIOD.—An interim accreditation shall not be effective for more than 180 days after the date of the issuance.

(C) NON-RENEWABLE.—An interim accreditation shall not be immediately renewable.

(d) FAILURE TO MEET ACCREDITATION STANDARDS.—The Secretary shall deny an application for accreditation or shall revoke any existing accreditation with respect to any laboratory that—

(1) does not complete successfully all tests of samples and other tests required by the Secretary;

(2) does not pass an onsite inspection conducted by the Secretary; or

(3) is not in compliance with the national laboratory accreditation program established under this subtitle.

(e) LIMITED ACCREDITATION.—The Secretary may issue certificates of accreditation to laboratories that are limited to specific fields of testing.

(f) DURATION OF ACCREDITATION.—A certificate of accreditation shall be effective for not more than 3 years from the date of the issuance.

(g) RENEWAL OF ACCREDITATION.—A certificate of accreditation for a laboratory may be renewed on the completion of all tests of samples required by the Secretary and on a review of such laboratory by the Secretary to determine that such laboratory meets the requirements of this subtitle.

SEC. 1734. SAMPLES.

(a) PERFORMANCE EVALUATION SAMPLES.—

(1) PROVIDED BY SECRETARY.—The Secretary shall provide performance evaluation samples to any laboratory that has applied for accreditation or for a renewal of accreditation under this subtitle.

(2) ANALYSIS BY LABORATORY.—A laboratory described in paragraph (1) shall analyze such performance evaluation samples and submit the results of such analysis to the Secretary.

(3) TESTING METHODS.—Samples shall be tested by the laboratory according to methods specifically approved for such purpose by alternate methods of demonstrated adequacy or equivalence, as determined by the Secretary.

(b) RESULTS OF TESTING.—

(1) SUBMISSION OF RESULTS.—The laboratory shall submit the results of the tests conducted under subsection (a) to the Secretary on forms provided by the Secretary, on or before the date determined by the Secretary.

(2) EVALUATION OF TESTS.—The Secretary shall evaluate the results of such tests achieved by the laboratory and shall determine whether such laboratory is capable of undertaking an accurate analysis of chemical residues in agricultural products.

(c) REVIEW OF ACCREDITATION.—The Secretary shall provide performance evaluation samples for analysis to laboratories accredited under this subtitle not less than two times a year.

(d) IDENTIFICATION.—In any arrangement between laboratories that involves the transfer of performance evaluation samples or portions of such samples, the analyzing laboratory shall be identified in all reports regarding such samples and shall be the laboratory for purposes of accreditation.

SEC. 1735. APPLICATION.

(a) CONTENTS OF APPLICATION.—An application for accreditation or for renewal of accreditation under this subtitle shall be prepared and submitted to the Secretary and shall include—

(1) the name and address of the laboratory;

(2) the name and address of the owners and managers of such laboratory;

(3) a statement concerning the type of analysis the laboratory intends to conduct;

(4) a brief history of the laboratory and its previous operations; and

(5) such other information as may be required by the Secretary.

(b) RESTRICTIONS ON SUBMISSION OF APPLICATION.—A laboratory that has been denied, or has lost, accreditation under this subtitle shall not reapply for accreditation until the expiration of at least 3 months after such denial or loss of accreditation.

SEC. 1736. REPORTING.

(a) IN GENERAL.—Each laboratory or individual that performs, brokers, or otherwise arranges for the performance of a pesticide chemical analysis of food shall prepare and submit a report, simultaneously to the Secretary and to the owner of such food, that shall contain any finding of pesticide chemical residues in such food—

(1) for which no chemical residue tolerance has been established;

(2) that is in excess of residue tolerances; or

(3) for which the chemical residue tolerance is suspended, banned, or otherwise not permitted by the Environmental Protection Agency.

(b) TIMING OF REPORT.—A laboratory shall submit the report required under subsection (a) to the Secretary and the owner of such food as soon as practicable after the completion of the analysis of such food.

(c) GUIDELINES.—The Secretary shall adopt standardized reporting guidelines to be applied to laboratories under this section and shall provide such guidelines to laboratories accredited under this subtitle, as well as other sources of information regarding applicable pesticide chemical tolerances.

SEC. 1737. FEES.

(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary, and annually thereafter, a laboratory seeking such accreditation or a renewal of accreditation under this subtitle shall pay a nonrefundable accreditation fee.

(b) AMOUNT OF FEE.—The fee required under subsection (a) shall be established by the Secretary in an amount that will assist in offsetting the cost of the program established by this subtitle.

(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under this subtitle or that has applied for accreditation under this subtitle shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of such laboratory.

(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section, as necessary to support the full costs of the program established by this subtitle.

(e) GOVERNMENT-OWNED LABORATORY.—A State or local government-owned laboratory that performs work only in a reference capacity as a reference laboratory shall be exempt from the payment of any accreditation fee required under this section.

SEC. 1738. PUBLIC DISCLOSURE.

The results of the evaluations of laboratories conducted by the Secretary under this subtitle shall be made available to the public on request.

SEC. 1739. REGULATIONS.

The Secretary shall promulgate regulations to carry out this subtitle.

SEC. 1740. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 1741. EFFECTIVE DATE.

This subtitle shall become effective on January 1, 1991.

Subtitle D—Pesticide Export Reform

SEC. 1751. SHORT TITLE.

This subtitle may be cited as the "Pesticide Export Reform Act of 1990".

CHAPTER 1—EXPORTED PESTICIDES

SEC. 1755. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended by adding at the end the following new subsections:

"(hh) COUNTRY OF USE.—The term 'country of use' means any foreign country in which a pesticide—

"(1) is intended by the exporter to be used or formulated; or

"(2) on the basis of information reasonably available to the exporter, the use or formulation of such pesticide being exported is foreseeable.

"(ii) EXPORTER.—The term 'exporter' means any person who arranges to transport, or who transports, any pesticide from the United States or any territory or possession of the United States to any country other than the United States.".

(b) MISBRANDED.—Section 2(q)(1) of such Act (7 U.S.C. 136(q)(1)) is amended—

(1) in subparagraph (G), by striking "or" at the end thereof;

(2) in subparagraph (H), by striking the period and inserting "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export from the United States, the labeling does not meet the requirements of section 17(a)(8).".

SEC. 1756. REGISTRATION OF ESTABLISHMENTS.

Paragraph (1) of section 7(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136e(c)(1)) is amended to read as follows:

"(1)(A) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of the types and quantities of pesticides and active ingredients used in producing pesticides that the producer—

"(i) is currently producing;

"(ii) has produced in the past 365-day period; and

"(iii) has sold or distributed during the past 365-day period.

"(B) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of—

"(i) the types and quantities of pesticides, and active ingredients used in producing pesticides, for export to a foreign country; and

"(ii) the date of export and quantity of pesticides and active ingredients exported to each foreign country to which the producer has exported during the past 365-day period.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.".

SEC. 1757. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

Section 10(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)) is amended by adding at the end the following new paragraph:

"(4) Notwithstanding any other provision of this Act, the information submitted to the Administrator under sections 17(a)(6)(C) and 7(c)(1)(B)(ii) shall not be entitled to confidential treatment under subsection (b).".

SEC. 1758. UNLAWFUL ACTS.

Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(T) to knowingly or recklessly export a pesticide or device in violation of section 17.".

SEC. 1759. IMPORTS AND EXPORTS.

(a) IN GENERAL.—Subsections (a) and (b) of section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 1360 (a) and (b)) are amended to read as follows:

"(a) PESTICIDES OR DEVICES INTENDED FOR EXPORT.—

"(1) IN GENERAL.—

"(A) Notwithstanding any other provision of this Act, no pesticide or device may be exported to a foreign country unless such pesticide or device is prepared and packaged according to the specifications of the foreign purchaser and the legal requirements of the country of use and complies with section 2(q).

"(B) The producers and exporters of any such pesticide or device shall be subject to the requirements of paragraphs (1), (2), (6), (7), and (9) of this subsection and sections 2(q), 7, 8 and 19(a) and (e).

"(2) EXPORT OF PESTICIDES.—

"(A) No person shall export to any country of use a pesticide—

"(i) unless—

"(I) that pesticide is registered with the Administrator under section 3; or

"(II) the active ingredients in that pesticide are the subject of a food tolerance established under section 408 or 409 of the Food, Drug, and Cosmetic Act; and

"(ii) if that pesticide is for use in connection with agricultural production related to food use unless—

"(I) that pesticide is registered with the Administrator for use in connection with agricultural production related to food under section 3; or

"(II) the active ingredients of that pesticide are the subject of a food tolerance established under section 408 or 409 of the Food, Drug, and Cosmetic Act.

A tolerance or exemption whose revocation or suspension has been delayed pursuant to subparagraph (C) or (D) of section 408(p)(1) of the Federal Food, Drug, and Cosmetic Act shall have no effect for purposes of this section.

"(B) A pesticide shall be considered to be for use in conjunction with agricultural production related to food use under the requirements of subparagraph (A)(ii) if in the country of use—

"(i) on the basis of the advertising, promotion, packaging, distribution, labeling of such pesticide, or other circumstance, it is probable that such pesticide may be used in connection with agricultural production related to food use;

"(ii) patterns of pesticide use in the country indicate that it is probable that such pesticide may be used in connection with agricultural production related to food use;

"(iii) such pesticide is in use in connection with agricultural production related to food use; or

"(iv) the quantity of such pesticide that an exporter intends to export to a country of use exceeds the quantity, on the basis of expectations of use, that could be used in the country of use for use other than in connection with agricultural production related to food use.

"(3) TEMPORARY WAIVER FOR THE CONTROL OF COMMUNICABLE DISEASE.—On the request of a country of use, the Administrator may issue a temporary waiver from any requirement under paragraph (2) or (6) to permit the export to a country of use of a pesticide that does not otherwise meet the requirements for export under paragraph (2) or (6) to prevent the imminent spread or to arrest the spread of a communicable disease of humans that poses a serious threat to public health in such country of use, if—

"(A) based on the certification of the country of use and information readily available to the Administrator, the Administrator makes a determination that—

"(i) the pesticide is to be used on a temporary basis for a period of time that shall not exceed 180 days;

"(ii) there is no practical chemical or nonchemical alternative to using the pesticide to prevent the imminent spread or arrest the spread of the communicable disease; and

"(iii) the pesticide will not be used as part of a routine continuing pest control program;

"(B) no quantity of the pesticide shall be exported in excess of a quantity that the Administrator, in consultation with the country of use, determines to be necessary to accomplish the purpose for the use of such pesticide under this paragraph;

"(C) the exporter agrees to assist in providing for the disposition or removal from the country of use of any unused or excess quantities of the pesticide at the time the purpose for the use of such pesticide under this paragraph has been accomplished; and

"(D) the Administrator publishes a notice in the Federal Register prior to the exportation of such pesticide, or as soon thereafter as practicable, that includes—

"(i) the factual basis for any determination that the Administrator makes under this paragraph;

"(ii) the identity of the exporter and the country of use;

"(iii) the quantity and identity of the pesticide (including a complete chemical description of the active ingredient of such pesticide that includes any commonly accepted chemical (generic), or abbreviated chemical name of such active ingredient) that the Administrator authorizes for export under this paragraph; and

"(iv) the estimated dates of export for the pesticide.

"(4) TEMPORARY WAIVER IN CIRCUMSTANCES OF FAMINE.—On the request of the country of use, the Administrator may issue a temporary waiver from any requirement under paragraph (2) or (6) to permit the export of a pesticide that does not otherwise meet the requirements for export under paragraph (2) or (6) to stop the spread or to prevent the imminent spread of a pest that is destroying or will destroy sufficient quantities

of the food supply of the country of use so as to result in widespread famine or human starvation in the country of use in a country of use if—

"(A) based on the certification of the country of use and information readily available to the Administrator, the Administrator makes a determination that—

"(i) the pesticide is to be used on a temporary basis for a period of not to exceed 180 days;

"(ii) the pesticide will only be used to stop the spread or to prevent the imminent spread of a pest that is destroying or will destroy sufficient quantities of the food supply of the country of use as to result in widespread famine or human starvation in the country of use;

"(iii) there is no practical chemical or nonchemical alternative to the use of the pesticide to stop the spread or to prevent the imminent spread of the pest in the country of use in time to prevent the destruction of such quantities of the food supply of the country of use as to result in human starvation in the country of use;

"(iv) the pesticide will not be used as part of a routine continuing pest control program; and

"(v) based on information provided by the country of use, food supplies stored in the country of use or that are available for purchase by the country of use or that are likely to be made otherwise available to the country of use are not likely to be adequate to prevent widespread famine or human starvation caused by the pest in the country of use;

"(B) no quantity of the pesticide shall be exported in excess of a quantity that the Administrator, in consultation with the country of use, determines to be necessary to accomplish the purpose for the use of such pesticide under this paragraph;

"(C) the exporter agrees to assist in providing for the disposition or removal from the country of use of any unused or excess quantities of the pesticide at the time the purpose for the use of such pesticide under this paragraph has been accomplished; and

"(D) the Administrator publishes a notice in the Federal Register prior to the exportation of such pesticide, or as soon thereafter as practicable, that includes—

"(i) the factual basis for any determination that the Administrator makes under this paragraph;

"(ii) the identity of the exporter and the country of use;

"(iii) the quantity and identity of the pesticide (including a complete chemical description of the active ingredient of such pesticide that includes any commonly accepted chemical (generic), or abbreviated chemical name of such active ingredient) that the Administrator authorizes for export under this paragraph; and

"(iv) the estimated dates of export for the pesticide.

"(5) STATUTORY CONSTRUCTION.—Except as specifically provided in this section, paragraphs (1) and (2) shall not be construed so as to allow the Administrator to exempt any pesticide or device from any requirement under this section except in the case of a domestic use or sale of a pesticide that is exempted from the provisions of this Act pursuant to section 25(b).

"(6) ADDITIONAL REQUIREMENTS FOR THE EXPORT OF CERTAIN PESTICIDES.—

"(A) This paragraph applies to a pesticide—

"(i) for which a restricted use classification for reasons of human health risk is effective under section 3;

"(ii) that is subject to an order of suspension under section 6(c);

"(iii) that is the subject of a cancellation proceeding under section 6(b);

"(iv) that is the subject of a conditional registration under section 3(c)(7)(C);

"(v) that is the subject of an interim administrative review described in section 3(c)(8) in which the Administrator proposes to cancel the product;

"(vi) that contains an active ingredient that is included on the World Health Organization list of Class 1A, 'extremely hazardous', or Class 1B, 'highly hazardous' pesticides; or

"(vii) that contains an active ingredient that was the subject of a registration under section 3 that was canceled, or was amended to delete a registered use because of human health risk associated with the registered use.

"(B) No pesticide described in subparagraph (A) shall be exported if—

"(i) the exporter has not provided the notice required in subparagraph (C);

"(ii) the exporter has received from the Administrator, or the Administrator has published in the Federal Register, a written notice that the country of use has refused to consent to the importation of such pesticide pursuant to paragraph (7)(B); or

"(iii) to the extent not in conflict with requirements of the country of use, the pesticide is not packaged, and stored in conformity with standards for composition and quality of the Food and Agriculture Organization of the United Nations.

"(C) No pesticide described in subparagraph (A) may be exported unless, prior to shipment of such pesticide, the exporter provides to the Administrator—

"(i) the common or trade names by which such pesticide is known in the country of use and a complete chemical description of the active ingredients of such pesticide, including any commonly accepted, chemical (generic), or abbreviated chemical name known in the country of use for such active ingredients;

"(ii) the name and the address of the producer and exporter;

"(iii) the name and address of the foreign purchaser;

"(iv) the intended date and quantity of shipment of such pesticide;

"(v) the manner of transport of such shipment;

"(vi) the country of use that is the ultimate destination of such shipment; and

"(vii) the raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(r)), or processed food, if any, on which such pesticide is intended or likely to be used.

"(D) For each pesticide identified in a notice submitted under subparagraph (C), if such notice is the first such notice that identifies a country of use for that pesticide that is received by the Administrator in the 12-month period immediately preceding the date of the receipt of such notice, the Administrator shall, within 60 days of the receipt of such notice submitted under subparagraph (C), notify the appropriate official in the appropriate regulatory department or agency designated by the country of use and the office responsible for the International Register of Potentially Toxic Chemicals of the intended export. Such notice by the Administrator shall contain a description in English, and in an official language of the country of use, of—

"(i) the information required by subparagraph (C);

"(ii) if the pesticide is subject to a conditional registration under section (3)(c)(7)(C), an interim administrative review or suspension or cancellation proceeding, or is classified for restricted use under this Act, a statement explaining the reasons for such status;

"(iii) alternatives known to the Administrator, including nonchemical alternatives, to the use of such pesticide; and

"(iv) the name and address of the office of the Environmental Protection Agency that, on request of an appropriate official of the country of use, will provide additional information concerning such pesticide and alternatives to the use of such pesticide.

"(7) RESTRICTION ON THE EXPORT OF CERTAIN PESTICIDES.—

"(A) The Administrator shall publish a notice in the Federal Register disclosing that a country of use has informed the Administrator, or an international agency of which the United States is a member, that such country does not wish to import a pesticide, not later than 10 days of the receipt by the Administrator of such information.

"(B) The Administrator shall publish a notice under subparagraph (A) concerning a specific country of use only if—

"(i) the country of use has indicated that it does not wish to import the pesticide pursuant to an international system of pesticide export and import controls—

"(I) adopted by an international agency, if the United States is a member of the international agency and has consented to the adoption of the system; or

"(II) reached through an international agreement to which the United States is a signatory; or

"(ii) on the basis of a notice issued in accordance with paragraph (6)(D), the country of use does not consent, or has given conditional consent, to the importation of a pesticide.

"(C) Any refusal of consent by a country of use shall be considered as a continuing refusal that shall be effective until the country of use modifies or withdraws such refusal.

"(D) A refusal by a country of use to consent to the importation of a pesticide shall not be effective unless the country of use has certified that it—

"(i) is not producing and will not produce the pesticide or a similar product with the same active ingredient for use in the country of use; and

"(ii) is not importing and will not consent to the importation of the pesticide or a similar product with the same active ingredient from any other country.

"(E) If the Administrator makes a determination that the country of use is not in compliance with the certification provided under subparagraph (D), the Administrator shall withdraw the notice published under subparagraph (A).

"(8) LABELS.—The label of any pesticide intended for export from the United States shall—

"(A) be written in an official language of the country of use; and

"(B) to the extent not in conflict with requirements of the country of use, contain any health, safety, environmental and other related information required to be included under section 3 in the labeling for such pesticide for use in the United States.

"(9) SPECIAL EXEMPTION FOR THE EXPORT OF RESEARCH OR EXPERIMENTAL PESTICIDES.—

"(A) Notwithstanding paragraphs (2) and (6), an exporter may export a pesticide for research or experimental use for use in a

country of use if such pesticide for research or experimental use—

"(i) is not and has not been the subject of any registration under section 3; and

"(ii) is to be used only for research or experimental purposes.

"(B) Nothing in this paragraph shall be interpreted so as to authorize the export of a pesticide for research or experimental use without the written consent of the government of the country of use. Such consent shall be obtained in the manner prescribed under subparagraph (C).

"(C)(i) In order to obtain the written consent of the government of country of use, the exporter shall submit a written request for consent to export the pesticide for research or experimental use to the Administrator and to the government of the country of use.

"(ii) The Administrator shall transmit to the appropriate official in the appropriate agency responsible for the regulation of pesticides in the country of use—

"(I) such written request;

"(II) a summary of all available information relating to the actual and potential adverse effects of the pesticide for research or experimental use on human health and the environment prepared by the Administrator; and

"(III) a complete statement of the factual basis for the issuance by the Administrator of an experimental use permit under section 5(a) for such pesticide if such permit has been issued for such pesticide.

"(iii) Not later than 60 days after the receipt of a request under clause (ii)(I), the Administrator shall certify whether such request meets the requirements of subparagraph (D).

"(iv) On receipt of a response to a request for consent to export the pesticide for research or experimental use, the Administrator shall publish in the Federal Register a notice of the receipt of such response. Such notice shall identify—

"(I) the pesticide for research or experimental use that is the subject of such request;

"(II) the producer and exporter of such pesticide;

"(III) the country of use to which the request for permission to export such pesticide was transmitted; and

"(IV) the response of the country of use.

"(v) The written request transmitted by the Administrator to the country of use shall be subject to public review.

"(D) A written request for consent that is submitted to the Administrator for transmittal to the country of use, and submitted to the country of use, shall identify the pesticide for experimental use and the active ingredients of such pesticide and include—

"(i) the name of the exporter;

"(ii) the trade names and chemical names of the active ingredients of the pesticide (including any commonly accepted, generic, or abbreviated chemical names);

"(iii) a complete description of the proposed experimental activity, including the formulation of the pesticide, the application rates and methods, the pests that are sought to be controlled, the locations where the experimental use will be made, the size of the areas where the experimental pesticide will be applied, the dates on which the experiment will be conducted, and the manner in which experimental data will be collected and recorded;

"(iv) the name of the persons who shall be responsible for the design and execution of the experiment and for the evaluation of the results of the experiment, along with the qualifications of these persons;

"(v) the name, address and qualifications of the person who will be the representative of the exporter in the country of use and, if different, the named address and qualifications of the person in the country of use who will supervise the experiment;

"(vi) the location and manner of storage of the pesticide in the country of use;

"(vii) the protective techniques, devices and measures that will be provided to protect the health and safety of workers who will apply the pesticide and the health and safety of persons who live or work near the location of the experiment;

"(viii) a complete description of the results of all information known to the exporter of the toxic effects of the pesticide, including its effects on the pest that is to be controlled, its effects on plants and animals other than the pest that is likely to be controlled (with special reference to plant and animal species at and near the location of the experiment, including any crops or livestock to which the pesticide may be applied), and its chronic and acute effects on human health;

"(ix) a complete description of all information known by the exporter concerning the environmental persistence and fate of the pesticide, including the rate and manner of its degradation, its retention within plants and livestock, and its movement within water supplies;

"(x) such other disclosures as the Administrator may by regulation require;

"(xi) a written undertaking by the exporter to promptly advise the country of use of any changes, revisions or additions in the facts, circumstances and information that relate to the disclosures and that are required by this paragraph;

"(xii) a written certification by the exporter that the pesticide will be used only for experimental purposes, and will not be used for any nonexperimental commercial purpose; and

"(xiii) a written undertaking by the exporter that the exporter will destroy any crops or livestock to which the pesticide is applied or that the crops or livestock will be fed only to experimental animals that will be destroyed and not used for food purposes.

"(E) On the request of the appropriate official of the country of use, the Administrator shall provide a copy of any records in the files of the Administrator that are associated with the issuance of an experimental use permit issued pursuant to section 5(a) for the pesticide for research or experimental use that is the subject of a request under this paragraph if such permit has been issued for such pesticide, except that a complete confidential statement of the composition of the formula to be tested shall not be required to be provided.

"(F) The appropriate official of the country of use may consent, deny consent, or consent to such request on such terms and conditions as such official determines to be appropriate and shall transmit the response of the government of the country of use to the Administrator and the exporter. If the official sends a written notice of consent to the use of the pesticide for research or experimental use to the Administrator, the Administrator shall, not later than 5 working days after receipt of such notice, notify the exporter of such pesticide. On receipt of such written notice of consent from the Administrator or the country of use, the exporter of such pesticide may export such pesticide in accordance with—

"(i) the terms of the request submitted under subparagraph (D);

"(ii) any term or condition in the written notice of consent issued by the official of the country of use; and

"(iii) the requirements of this section.

"(G) The written notice of consent issued by the official of the country of use shall be subject to public review and inspection.

"(H) A producer or exporter of a pesticide that exports a pesticide for research or experimental use to a country of use pursuant to this paragraph shall be subject to the requirements of sections 2(p), 2(q), 7, and 8.

"(b) NOTICES OF REGULATORY EVENTS FURNISHED TO FOREIGN GOVERNMENTS.—

"(1) IN GENERAL.—The Administrator shall, not more than 30 days after the effective date of the actions described in subparagraphs (A) through (D), transmit a notice to the appropriate officials of the appropriate departments or agencies of all countries, and to the office responsible for the International Register of Potentially Toxic Chemicals. The Administrator shall provide such notice each time—

"(A) a registration or a cancellation (whether voluntary or involuntary) or suspension, due in whole or in part to human health or environmental risks, of the registration of a pesticide becomes effective or ceases to be effective under this Act;

"(B) a pesticide is first classified for restricted use under this Act;

"(C) a registration of a pesticide is made subject to conditions under section 3(c)(7)(C); or

"(D) a pesticide is made subject to an interim administrative review under section 3(c)(8).

"(2) CONTENTS OF NOTICE.—A notice described in paragraph (1) shall include—

"(A) the factual basis on which the Administrator issued findings in support of any regulatory action described in subparagraphs (A) through (D) of paragraph (1);

"(B) an explanation of the legal significance of such regulatory action;

"(C) information reasonably available to the Administrator in the case of any action that causes a pesticide to be subject to subsection (a)(2)—

"(i) concerning other pesticides registered under section 3 that could be used as an alternative to such pesticide including—

"(I) a complete summary of the regulatory status under this Act of any alternative pesticide; and

"(II) a summary of possible adverse effects on human health or on the environment that any alternative pesticide may cause;

"(ii) nonchemical alternatives to such pesticide;

"(iii) the names and addresses of international organizations that the Administrator determines to be capable of providing information concerning nonchemical alternatives to such pesticide; and

"(iv) the name and address of the office of the Environmental Protection Agency that will, on request, provide additional information concerning any pesticide that is subject to regulatory action, and alternatives to such pesticide.".

(b) COOPERATION IN INTERNATIONAL EFFORTS.—Subsections (d) and (e) of section 17 of such Act (7 U.S.C. 136o(d)(e)) are amended to read as follows:

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator should—

"(1) convene, in cooperation with the Agency for International Development of the Department of State, the Food and

Drug Administration of the Department of Health and Human Services, the United States Department of Agriculture, the United Nations Environment Program and agencies, Food and Agriculture Organization, and any other appropriate Federal agencies or departments, not later than 1 year after the date of the enactment of this section, a meeting of representatives of foreign governments, nongovernmental organizations, and other interested parties, and sponsor such additional meetings, as the Administrator determines to be necessary to promote the development and implementation of improved research and regulatory programs for pest management, and improved strategies for sustainable agriculture, including the promotion and development of integrated pest management;

"(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs; and

"(3) not later than 1 year after the date of enactment of this section, convene, a meeting of representatives of foreign governments, nongovernmental organizations, and other interested parties, and sponsor such other meetings as may be necessary, to actively encourage the adoption of a binding multilateral convention requiring standard, mandatory notice and export control measures for pesticides.

"(e) STUDY.—(1) Not later than 1 year after the date of enactment of this section, and every 3 years thereafter, the Administrator shall conduct, publish, and transmit to Congress a study of countries that import pesticides from United States exporters and from which the United States imports agricultural commodities, to—

"(A) ascertain the procedures that are implemented by each such country regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides; and

"(B) ascertain the procedures that are implemented by each such country to control residues on foods in order to meet tolerances established under United States law.

"(2) Not later than 1 year after the date of enactment of this section, the Administrator shall conduct a study, in cooperation with the Food and Drug Administration and the Department of Agriculture, on the ability of such agencies to test effectively for residues of pesticides.".

SEC. 1760. CONFORMING AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new items:

"(hh) Country of use.
"(ii) Exporter.";

and

(2) by striking the items relating to subsections (a) and (b) of section 17 and inserting the following:

"(a) Pesticides or devices intended for export.
"(1) In general.
"(2) Export of pesticides.
"(3) Temporary waiver for the control of communicable disease.
"(4) Temporary waiver in circumstances of famine.
"(5) Statutory construction.
"(6) Additional requirements for the export of certain pesticides.
"(7) Restriction on the export of certain pesticides.
"(8) Labels.
"(9) Special exemption for the export of research or experimental pesticides.
"(b) Notices of regulatory events furnished to foreign government.
"(1) In general.
"(2) Content of notice.".

and

(3) by striking the item relating to subsections (d) and (e) of section 17 and inserting the following:

"(d) Cooperation in international efforts.
"(e) Study.".

CHAPTER 2—TOLERANCES FOR AGRICULTURAL COMMODITIES

SEC. 1761. TOLERANCES FOR AGRICULTURAL COMMODITIES.

(a) REVOCATIONS.—Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) is amended by adding at the end the following new subsection:

"(p)(1)(A) If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), with or without the consent of the registrant, either cancels the registration of each pesticide that contains a particular pesticide chemical and that is registered for use on a particular food, or requires that the registration of each such pesticide be modified to prohibit the use of the pesticide in connection with the production, storage, processing or transportation of the food, due in whole or in significant part to dietary risks to humans posed by residues of the pesticide chemical in or on the food, the Administrator shall revoke any tolerance or exemption under this section or section 409 that permits the presence of the pesticide chemical, or any pesticide chemical that results from its use, in or on the food. The Administrator shall, not later than 30 days after the date on which this subparagraph initially applies to the pesticide chemical, publish a notice in the Federal Register issuing an order revoking any tolerance or exemption for such use established under this section or section 409 for such pesticide chemical in or on such food.

"(B) The effective date of a revocation described in subparagraph (A) shall be 180 days after the date on which such subparagraph (A) initially applies to the pesticide chemical.

"(C) The Administrator may delay the effective date of a modification or revocation of a tolerance or exemption from the requirement of a tolerance for a pesticide chemical residue in or on a food under this section or section 409 if the modification or revocation would require a lower level of the pesticide chemical residue in or on the food than the level in effect under the tolerance or exemption immediately before the date the modification or revocation would otherwise take effect.

"(D) The Administrator may delay the effective date, to permit the tolerance or exemption to remain at the level in effect immediately before the date the modification or revocation would otherwise take effect, for the period of time that the Administrator determines is necessary to allow foods that could contain the pesticide chemical residue as a result of lawful application of the pesticide chemical prior to the date the modification or revocation would otherwise take effect to be sold to consumers in the course of the usual practice for the production, processing, transportation, storage, and distribution of that type of food.

"(E) The Administrator shall designate the delayed effective date and describe the determinations supporting the selection of the date in the order modifying or revoking the tolerance or exemption.

"(F) Notwithstanding subparagraph (C) or (D), the Administrator shall, in the order modifying or revoking the tolerance or exemption, establish a shorter period of time for delay of the effective date, or provide for no delay of the effective date, for the modification or revocation, if the Administrator determines that the shorter period, or no delay of the effective date, is necessary to protect the public health during the period of the delay that would be required under subparagraph (C) or (D).

"(2)(A) If the Administrator acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), with or without the consent of the Registrant, suspends the use of each registered pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical in or on the food, the Administrator shall suspend any tolerance or exemption under this section or section 409 that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from its use, in or on the food.

"(B) The suspension of a tolerance or exemption under subparagraph (A) shall be effective as long as each associated registration of a pesticide is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

"(C) While a suspension of a tolerance or exemption is effective the tolerance or exemption shall not be considered to be in effect. If the suspension of the associated registration of the pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is terminated, leaving the registration of the pesticide for the use in effect under such Act, the Administrator shall rescind any associated suspension of a tolerance of exemption.

"(D) The effective date of a suspension described in subparagraph (A) shall be 120 days after the date on which the registration that is the subject of an order of suspension or an order of emergency suspension initially applies to the pesticide chemical.

"(E) The effective date of a suspension may be delayed in accordance with subparagraphs (C), (D), (E) and (F) of paragraph (1).

"(3)(A) In connection with action taken under paragraph (1)(A) or (2)(A) or taken with respect to pesticides whose registrations were canceled prior to the effective date of this section, if the Administrator determines that a residue of the canceled or suspended pesticide chemical will unavoidably persist in the environment and be present in or on a food, the Administrator may establish a tolerance for the pesticide chemical residue at a level that permits the unavoidable residue to remain in or on the food and will protect the public health. In establishing such a tolerance, the Administrator shall use the procedures set forth in subsection (e).

"(B) Not later than one year after the date on which action is taken under paragraph (1)(A) or (2)(A), and not less than annually thereafter until the date on which the revocation or suspension of the tolerance becomes effective, the Administrator

shall reduce the tolerance for the pesticide chemical residue under this section or section 409, if any decrease in residual environmental contamination by such pesticide chemical, or residues of such pesticide chemical in or on lawfully treated food has occurred, based on information reasonably available to the Administrator.

"(4)(A) Within 60 days after the date of publication in the Federal Register of a final regulation or order under paragraph (1)(E) or (F), or (3), any person may file objections to the regulation or order with the Administrator, specifying with particularity the provisions of the regulation or order considered objectionable and stating reasonable grounds for the objection. The Administrator shall publish a summary of the objections in the Federal Register and allow a period of not less than 30 days for comment.

"(B) As soon as practicable after the comment period has closed, the Administrator shall publish in the Federal Register an order stating the action taken on each such objection and setting forth any revision to the regulation or prior order that the Administrator has found to be warranted.

"(C) An order issued under this paragraph ruling on an objection shall not take effect before the 90th day after the publication of the order, unless the Administrator finds that emergency conditions exist necessitating an earlier effective date, in which event the Administrator shall specify in the order the findings of the Administrator as to the conditions.

"(D) Review of a final order under this paragraph shall be in accordance with subsection (i).".

SEC. 1762. TOLERANCES.

Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) (as amended by section 1761) is further amended by adding at the end the following new subsection:

"(q) A tolerance for a pesticide chemical residue in or on food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary of Health and Human Services or the Secretary of Agriculture, as appropriate, that there is a practical method for detecting and measuring the levels of such pesticide chemical on such raw agricultural commodity or processed food at the level of the pesticide chemical established by the tolerance that the Secretary is able to perform on a routine basis as part of surveillance and compliance sampling of raw agricultural commodities and processed foods for pesticide chemicals.".

SEC. 1763. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

Section 108 of the Agricultural Act of 1954 (as added by section 1122) is amended—

(1) in subsection (a)(1)—

(A) by striking "and" at the end of subparagraph (A);

(B) by adding after subparagraph (B) the following new subparagraph:

"(C) the customary use of the pesticides in the production of agricultural commodities in such countries, except that—

"(i) a priority shall be placed on gathering information on agricultural commodities that such country exports to the United States; and

"(ii) to the extent practicable, gather information on agricultural commodities that such country may export to the United States via a third country; and"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) annually provide the information in reports prepared under subsection (a)(1)(C) to the Secretary of Health and Human Services and the Secretary of the Treasury.".

CHAPTER 3—EFFECTIVE DATES

SEC. 1765. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by this subtitle, shall become effective 6 months after the date of the enactment of this title.

(b) SECTION 17.—

(1) IN GENERAL.—The provisions of section 17(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by section 1759) shall become effective 6 months after the date of enactment of this title, except that such provisions shall become effective 36 months after the date of enactment of this title with respect to any pesticide that—

(A) on the date of enactment of this title, has not been the subject of a food tolerance or exemption petition under section 408 or 409 of the Federal Food Drug and Cosmetic Act, or an application for registration under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) all of which have been denied, revoked, canceled, or suspended; and

(B) is the subject of a food tolerance petition under section 408 of the Federal Food, Drug, and Cosmetic Act that is filed not later than 6 months after the date of enactment of this title.

(2) EXTENSION.—The Administrator of the Environmental Protection Agency may grant up to a 1-year extension of the 36 month period described under paragraph (1)(A) for good cause shown if the applicant for a food tolerance petition filed pursuant to paragraph (1)(B) has filed a complete petition in accordance with paragraph (1)(B) that has not been denied by the Administrator and if such applicant has exercised due diligence in pursuing such petition.

Subtitle E—Miscellaneous Provisions

SEC. 1771. NATIONAL AGRICULTURAL PEST CONTROL INFORMATION PROGRAM.

(a) PURPOSES.—The purposes of this section are—

(1) to compile a national database on the use of chemical and nonchemical pest control methods on commercially raised crops and livestock; and

(2) to provide information from the national database to the Office of Pesticide Programs of the Environmental Protection Agency for benefit and risk assessments of pesticides.

(b) DEFINITIONS.—As used in this section:

(1) PESTICIDE.—The term "pesticide" means a pesticide as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

(2) PEST CONTROL INFORMATION.—The term "pest control information" means the information collected by the States under subsection (d)(1).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(c) NATIONAL AGRICULTURAL PEST CONTROL INFORMATION PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish in the Agricultural Research Service a national agricultural pest control information program.

(2) INFORMATION.—In carrying out the program established under paragraph (1), the Secretary shall—

(A) specify by regulation the type of information to be submitted, and the manner of submission, by States under subsection (d);

(B) receive, verify, coordinate, and evaluate pest control information;

(C) in conjunction with the Administrator of the National Agricultural Statistics Service, establish and maintain a database containing pest control information; and

(D) publish pest control information not later than 36 months after the date of enactment of this Act, and at the end of each 3-year period thereafter.

(3) LIAISON.—The Secretary shall establish a liaison between the Department of Agriculture and the Environmental Protection Agency on issues concerning the national agricultural pest control information program.

(4) COOPERATION.—In establishing the database and publishing pest control information under subparagraphs (C) and (D) of paragraph (2), the Secretary shall cooperate, to the maximum extent possible, with the Administrator of the Environmental Protection Agency and other users of the pest control information.

(d) PRIORITY PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain, within the National Agriculture Pesticide Impact Assessment Program (established in Department of Agriculture regulation 9500-2, March 7, 1983), a continuing priority program as described in paragraph (2) to compile data concerning chemical and nonchemical pest controls used in each State for each pesticide or other methods of pest control for the purpose of obtaining timely information on—

(A) crops treated;

(B) number of acres treated in a crop year;

(C) applications in a crop year;

(D) rates of application; and

(E) methods of application.

(2) DATA COLLECTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State shall conduct a survey to collect pest control information.

(B) EXISTING INFORMATION.—No State with a continuing program to collect pest control information shall be required to collect additional information.

(3) DATA SUBMISSION.—Not later than 30 months after the date of enactment of this Act, and at the end of each 3-year period thereafter, to be eligible to receive any Federal funds for the collection of pest control information, a State shall submit the information described in paragraph (1) to the Secretary.

(4) GRANTS.—

(A) IN GENERAL.—The Secretary may make grants to States for purposes of collecting pest control information under paragraph (1).

(B) ALLOCATION.—The Secretary shall allocate grants under this subsection among the States based on such regulations as the Secretary prescribes to carry out this subsection.

(C) REIMBURSEMENT.—The Secretary may make grants under subparagraph (A) to any State that has collected and submitted pest control information to reimburse the State for all, or any portion of, the costs incurred by the State in collecting the information.

(D) APPLICATION.—In order for a State to be eligible for a grant under subparagraph (A), the State shall submit an application to the Secretary at such time, in such manner, and containing such agreements, assurances, and information, as the Secretary determines to be necessary to carry out this subsection.

SEC. 1772. NATIONAL AGRICULTURAL CHEMICAL PLASTIC CONTAINER COLLECTION AND RECYCLING STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than January 1, 1993, the Administrator of the Environmental Protection Agency may, in consultation with heads of other interested Federal and State agencies, promulgate standards for national agricultural chemical plastic container collection and recycling.

(2) REQUIREMENTS.—The standards shall be designed, to the fullest extent practicable, to—

(A) provide an immediate option to the landfilling of containers;

(B) provide a safe, effective, voluntary, and workable solution to plastic container disposal;

(C) be economically and environmentally sound;

(D) be coordinated with appropriate State, county, and regional entities;

(E) promote incentives to encourage the collection or return of empty containers;

(F) encourage the participation of the private sector;

(G) not be unduly burdensome to small businesses and retail dealers;

(H) not require the submission of confidential business data from registrants for pesticide packaging prior to July 1, 1988; and

(I) not affect the authorities or requirements concerning pesticide containers established under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(3) CONSULTATION.—The Administrator shall consult with the heads of other interested Federal agencies, State lead agencies, agricultural chemical industry groups, plastic industry groups, recycling groups, business groups, environmental groups, agricultural grower groups, and other persons to developing reasonable, practicable, and economic standards to carry out this subsection.

(b) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall conduct a study to determine the feasibility of standards for national agricultural chemical plastic container collection and recycling referred to in subsection (a).

(2) REQUIREMENTS.—In carrying out the study, the Administrator shall to the fullest extent practicable—

(A) determine the feasibility of recycling at least 40,000,000 pounds of plastic, assess the need for and potential uses of recycled plastic containers, and determine if there are any technical, scientific, and geographic barriers to recycling;

(B) recommend criteria for identifying and selecting plastic recyclers who can recycle containers;

(C) recommend criteria for container collection site selection and evaluate the utilization of existing county landfill or designated solid waste regional sites provided for in the Solid Waste Disposal Act (42 U.S.C. 6901 et. seq.) as sites for containing collection with the goal of eliminating overlapping and duplicative sites;

(D) consider procedures for the proper handling, storage, and transportation of containers to collection sites;

(E) identify and define procedures, criteria, and persons responsible for the inspection and certification of empty containers at collection sites;

(F) define procedures for the identification, separation, and preparation of empty containers in a manner that will ensure the reliability of the recycling standards;

(G) suggest a system for the transportation of collected containers, including (if appropriate) transportation from local sites (through central collection processing sites) to approved recycling operations;

(H) analyze the costs and benefits of recycling agricultural chemical plastic containers produced for the domestic market;

(I) examine methods of funding the collection and recycling of plastic containers and suggest a reasonable, practicable, effective, and efficient means of collecting monies;

(J) recommend the appropriate agency to administer a funding mechanism, including consideration of the Environmental Protection Agency, the Department of Agriculture, the Department of the Treasury, and the Internal Revenue Service;

(K) determine the nature, scope, costs, and benefits of incentives to encourage all agricultural chemical users (including commercial and private applicators, farmers, and ranchers) to return containers to a central or county location;

(L) specify what additional information needs to be collected by the Administrator;

(M) recommend the appropriate Federal and State role in the implementation and enforcement of national collection and recycling, including consideration of—

(i) amendments to State pesticide plans to include recycling and collection standards;

(ii) necessary enforcement criteria; and

(iii) all applicable Federal laws and regulations;

(N) develop a verification process to ensure that a funding mechanism referred to in subparagraph (I) is collected to carry out collection and recycling, including consideration of the feasibility of—

(i) establishing a tamper-proof seal, hologram, indelible ink-jet code, or some other equivalent method; and

(ii) allotting redemption tickets to persons who return properly-rinsed containers;

(O) identify the effects of plastic material differences between closures and containers, and recommend solutions to any problems;

(P) conform to provisions of law and regulations promoting the safe storage and disposal of pesticides; and

(Q) coordinate Federal regulatory requirements with the Secretary of Transportation to permit appropriate use of recycled plastic into agricultural pesticide plastic containers.

(3) HIGH DENSITY POLYETHYLENE CONTAINERS.—As part of the study required under this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, applicable State agencies, agricultural chemical industry groups, plastics industry groups, recycling groups, business groups, environmental groups, agricultural grower groups, and other persons, determine and assess the practical and economic feasibility and environmental benefits of a national agricultural plastic pesticide container collection and recycling project for high density polyethylene containers.

(4) REPORT AND RECOMMENDATIONS.—Not later than September 1, 1991, the Administrator shall submit to Congress—

(A) a report describing the results of the study required under this subsection;

(B) a legislative recommendation for implementation of standards for national agricultural chemical plastic container collection and recycling; and

(C) a legislative recommendation for implementing a funding mechanism for collecting and recycling plastics.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,500,000 for fiscal year 1991.

SEC. 1773. BIOLOGICAL PESTICIDE HANDLING STUDY.

(a) STUDY.—Not later than September 30, 1992, the National Academy of Sciences shall conduct a study of the biological control programs and registration procedures utilized by the Food and Drug Administration, the Animal and Plant Health Inspection Service, and the Environmental Protection Agency.

(b) DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the completion of the study under subsection (a), the agencies and offices described in such subsection shall develop and implement a common process for reviewing and approving biological control applications that are submitted to such agencies and offices that shall be based on the study conducted under such subsection and the recommendation of the National Academy of Sciences, and other public comment.

Subtitle F—Minor Use Pesticides

CHAPTER 1—REGISTRATION OF PESTICIDES FOR AGRICULTURAL MINOR USES

SEC. 1781. DATA IN SUPPORT OF REGISTRATION.

Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(A)) is amended by inserting after the third sentence the following new sentence: "The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this Act, any field residue data from a geographic area where the pesticide will not be registered for such use.".

SEC. 1782. REDUCTION OR WAIVER OF FEES FOR PESTICIDES REGISTERED FOR MINOR AGRICULTURAL USES.

Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended by adding at the end thereof the following:

"In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this section if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.".

SEC. 1783. VOLUNTARY CANCELLATION.

Section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(f)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) VOLUNTARY CANCELLATION.—

"(A) A registrant may, at any time, request that a pesticide registration of the registrant be canceled or amended to terminate one or more pesticide uses.

"(B) Before acting on the request, the Administrator shall publish in the Federal Register a notice of the receipt of the request and provide for a 30-day period in which the public may comment.

"(C) In the case of a pesticide that is registered for a minor agricultural use, if the Ad-

ministrator determines that the cancellation or termination of uses would adversely affect the availability of the pesticide for use, the Administrator—

"(i) shall publish in the Federal Register a notice of the receipt of the request and make reasonable efforts to inform persons who so use the pesticide of the request; and

"(ii) may not approve or reject the request until the termination of the 90-day period beginning on the date of publication of the notice in the Federal Register, and

"(iii) may waive the 90-day period upon the request of the registrant or if the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment.

"(D) Subject to paragraph (3)(B), after complying with this paragraph, the Administrator may approve or deny the request,"; and

(2) by adding at the end the following new paragraph:

"(3) TRANSFER OF REGISTRATION OF PESTICIDES REGISTERED FOR MINOR AGRICULTURAL USES.—In the case of a pesticide that is registered for a minor agricultural use:

"(A) During the 90-day period referred to in paragraph (1)(C)(ii), the registrant of the pesticide may notify the Administrator of an agreement between the registrant and a person or persons (including persons who so use the pesticide) to transfer the registration of the pesticide, in lieu of canceling or amending the registration to terminate the use.

"(B) An application for transfer of registration, in conformance with any regulations the Administrator may adopt with respect to the transfer of the pesticide registrations, must be submitted to the Administrator within 30 days of the date of notification provided pursuant to subparagraph (A). If such an application is submitted, the Administrator shall approve the transfer and shall not approve the request for voluntary cancellation or amendment to terminate use unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse affect on the environment.

"(C) If the Administrator approves the transfer and the registrant transfers the registration of the pesticide, the Administrator shall not cancel or amend the registration to delete the use, or rescind the transfer of the registration, during the 180-day period beginning on the date of the approval of the transfer, unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

"(D) The new registrant of the pesticide shall assume the outstanding data and other requirements for the pesticide that are pending at the time of the transfer.".

SEC. 1784. PEST CONTROL.

Section 28 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-3) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Administrator,"; and

(2) by adding at the end thereof the following new subsections:

"(b) MINOR USE PESTS.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Agriculture, shall identify—

"(A) pests affecting minor-use crops that must be brought under control; and

"(B) chemical control measures available to control the pests described in subparagraph (A) and biological and other alternative control measures available to control the pests.

"(2) REPORT.—The Secretary of Agriculture shall, not later than 180 days after the date of enactment of this section and annually thereafter, prepare a report and send the report to the Administrator. The report shall—

"(A) describe in detail the pests and measures of pest control described in subparagraphs (A) and (B) of paragraph (1);

"(B) identify areas of pest control at risk of losing effectiveness due to—

"(i) an insufficient number of registered pesticides; or

"(ii) resistance by a pest to pest control measures; and

"(C) describe in detail research efforts, including agricultural extension programs, to develop effective pest control to address the areas of pest control described in subparagraph (B).

"(D) identify those crops likely to be affected by the lack of access to pesticides for minor agricultural use and identify, through research, alternative pest control measures.

"(c) INTEGRATED PEST MANAGEMENT.—The Administrator, in cooperation with the Secretary of Agriculture, shall develop approaches to the control of pests based on integrated pest management that respond to the needs of producers who use pesticides for minor agricultural uses.".

SEC. 1785. CONFORMING AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by striking out the item relating to section 6(f)(1) and inserting in lieu thereof the following new item:

"(1) Voluntary cancellation.";

(2) by adding at the end of the item relating to section 6(f) the following new item:

"(3) Transfer of registration of pesticides registered for minor agricultural uses.";

and

(3) by striking the items relating to section 28 and inserting the following new items:

"Sec. 28. Pest control.
"(a) In general.
"(b) Minor use pesticides.
"(1) In general.
"(2) Report.
"(c) Integrated pest management.".

CHAPTER 2—INTER-REGIONAL RESEARCH PROJECT NUMBER 4 (IR-4 PROGRAM)

SEC. 1786. FINDINGS.

Congress finds that—

(1) the Inter-Regional Research Project Number 4 (IR-4 program) is a national research program intended to facilitate the registration of pesticides for minor agricultural uses where use volume does not justify commercial development;

(2) the main beneficiaries of the IR-4 project are growers who use the pesticides to produce crops that are eaten daily (such as vegetables, fruits, and nuts) and other plants (such as ornamental plants, floral crops, trees, and turf grass), and consumers who benefit from a plentiful, safe, and inexpensive domestic food supply;

(3) as the result of insufficient funding, the IR-4 program has a backlog of 1,200 requests for new uses;

(4) section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1) requires the reregistration of over 4,000 currently labeled uses;

(5) about 1,000 priority minor use needs will not be supported for reregistration by industry; and

(6) given this level of responsibility, the IR-4 program will be unable to fulfill its important mission without additional funding resources.

SEC. 1787. INTER-REGIONAL RESEARCH PROJECT NUMBER 4 (IR-4 PROGRAM).

Section 2 of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i), is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively;

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of Agriculture shall establish an Inter-Regional Research Project Number 4 (hereinafter referred to in this section as the 'IR-4 Program') to assist in the collection of residue and efficacy data in support of—

"(A) the registration or reregistration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

"(B) tolerances for residues of minor use chemicals in or on raw agricultural commodities under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 846a).

"(2) The Secretary shall carry out the IR-4 program in cooperation with the Administrator of the Environmental Protection Agency, State agricultural experiment stations, colleges and universities, extension services, private industry, and other interested parties.

"(3) In carrying out the IR-4 program, the Secretary shall give priority to registrations, reregistrations, and tolerances for pesticide uses related to the production of agricultural crops for food use.

"(4) As part of carrying out the IR-4 program, the Secretary shall—

"(A) participate in research activities aimed at reducing residues of pesticides registered for minor agricultural use;

"(B) develop analytical techniques applicable to residues of pesticides registered for minor agricultural use, including automation techniques and validation of analytical methods; and

"(C) coordinate with other programs within the Department of Agriculture and the Environmental Protection Agency designed to develop and promote biological and other alternative control measures.

"(5) The Secretary shall prepare and submit, to appropriate Committees of Congress, a report on an annual basis that contains—

"(A) a listing of all registrations, reregistrations, and tolerances for which data has been collected in the preceding year;

"(B) a listing of all registration, reregistrations, and tolerances for which data collection is scheduled to occur in the following year, with an explanation of the priority system used to develop this list;

"(C) a listing of all activities the IR-4 program has carried out pursuant to paragraph (4).

"(6) The Secretary shall submit to Congress within one year a report detailing the feasibility of requiring recoupment of the

costs of developing residue data for registrations, reregistrations or tolerances under this program. This recoupment shall only apply to those registrants which make a profit on said registration, reregistration or tolerance subsequent to residue data development under this program. This report shall include:

"(A) an analysis of possible benefits to the IR-4 program of such a recoupment;

"(B) an analysis of the impact of such a payment on the availability of registrants to pursue registrations or reregistrations of minor use pesticides; and

"(C) recommendations for implementation of such a recoupment policy.

"(7) There are authorized to be appropriated $25,000,000 for fiscal year 1991, and such sums as are necessary for subsequent fiscal years to carry out this section.".

(3) By inserting in subsection (g) following "subsection (b)" the phrase "and subsection (e)".

TITLE XVIII—GRAIN QUALITY

SEC. 1801. SHORT TITLE.

This title may be cited as the "Grain Quality Incentives Act of 1990".

Subtitle A—Coordination and Evaluation of Grain Quality Improvements

SEC. 1811. COMMITTEE ON GRAIN QUALITY AND GRAIN QUALITY COORDINATOR.

(a) ESTABLISHMENT.—

(1) COMMITTEE.—The Secretary of Agriculture (hereinafter referred to in this subtitle as the "Secretary") shall establish a Department of Agriculture Committee on Grain Quality.

(2) COORDINATOR.—The committee established under paragraph (1) shall be chaired by an individual who shall serve as the Grain Quality Coordinator (hereinafter referred to in this subtitle as the "Coordinator") and carry out the duties described in subsection (b).

(b) DUTIES.—The Coordinator shall be responsible for—

(1) assembling and evaluating, in a systematic manner, concerns and problems, expressed by foreign and domestic buyers and end-users, with the quality of United States grain;

(2) the developing and implementing of a coordinated effort to inform and educate foreign buyers concerning the proper specification of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this subtitle, (and other provisions of law relating to agriculture) as the provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Service, Animal and Plant Health Inspection Service, Agricultural Stabilization and Conservation Service, Food and Drug Administration, Environmental Protection Agency, Occupational Safety and Health Administration, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality problems;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this subtitle.

SEC. 1812. BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY.

The Secretary of Agriculture shall estimate the economic impact, including the benefits and costs and the distribution of the benefits and costs, prior to making any major changes necessary to carry out the amendment made by sections 1822, 1824, and 1825.

Subtitle B—Meeting the Performance Requirements of Intermediate and End Users

SEC. 1821. CLASSIFICATION, GRADES AND STANDARDS DESIGN FRAMEWORK.

Section 2(b)(3) of the United States Grain Standards Act (7 U.S.C. 74) is amended—

(1) in subparagraph (C), by striking "and" at the end thereof;

(2) in subparagraph (D), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) reflect the economic value-based characteristics in the intermediate and end uses of grain; and

"(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.".

SEC. 1822. IMPROVING THE CLEANLINESS OF GRAIN.

Section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) If the Administrator determines that the establishment or amendment of standards regarding cleanliness conditions of grain that meets the requirements for grade No. 3 or better (as set forth in subparagraph (B)) would—

"(I) enhance the competitiveness of exports of grain from the United States with grain marketed by other major exporters;

"(II) result in the maintenance or expansion of the United States export market share for grains;

"(III) result in the maintenance or increase of United States producer income; and

"(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Administrator shall establish or amend the standards to include economically and commercially practical levels of cleanliness for the grain.

"(ii) The Administrator shall make a finding under this subsection no later than 1 year after the date of enactment of this section.

"(B)(i) In setting requirements for cleanliness characteristics, the Administrator shall—

"(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing grain exporting nations;

"(II) follow established rulemaking procedures, including the solicitation of public comment; and

"(III) phase in the limits by incrementally decreasing the levels of the objectionable material permitted in shipments of grade No. 3 or better grain.

"(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness limits shall be conducted consistent with the schedule of the Administrator for reviewing grain standards.

"(C) If the Administrator determines to establish limits on cleanliness characteristics under this section, the limits shall be fully implemented not later than 5 years after the determination.".

SEC. 1823. CARGO LOADING REQUIREMENTS.

Section 7 of the United States Grain Standards Act (7 U.S.C. 79) is amended by adding at the end the following new subsection:

"(k) Except as otherwise authorized by the Administrator, or except on the request of a purchaser, all export grain that is officially inspected shall be loaded aboard the final carrier according to a plan that favors neither the buyer nor the seller in meeting the requirements specified by the loading order.".

SEC. 1824. GRADE DETERMINING FACTORS RELATED TO PHYSICAL SOUNDNESS AND PURITY.

Section 4 of the United States Grain Standards Act (7 U.S.C. 76) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) In establishing standards under subsection (a), the Administrator shall establish official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with the intermediate and end-use performance goals of the major foreign and domestic users of each grain for which official grades are established. The soundness and purity levels established for grades No. 3 and better shall facilitate the general utilization of these grades for acquiring grain that meets the general expectations of performance with minimal need for additional specification relating to soundness and purity.

"(2)(A) In carrying out paragraph (1), the Administrator shall make a determination that establishes a nature and level of adverse soundness and purity conditions of grain that unacceptably limit the performance of the grain for normal intended uses by foreign and domestic users, with allowance being made for differences among the needs of various buyers and various end uses.

"(B) In making the determination under subparagraph (A), the Administrator shall evaluate the grade-determining factors and factor limits in existence on the date of enactment of this section, to determine the suitability of the use of the factors as contract specifications for intermediate and end users. The evaluation shall include an assessment of what changes, if any, in factors and factor limits are necessary to achieve the requirements of paragraph (1). The evaluation shall be conducted consistent with the schedule of the Administrator for receiving grain standards.

"(C) After the completion of the evaluation conducted under subparagraph (B), the Administrator shall follow established rulemaking procedures, including the solicitation of public comments, prior to making changes in the grade-determining factors and limits that shall be applicable under this section to grain that is officially graded.".

SEC. 1825. PROHIBITION ON CONTAMINATION.

Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Administrator may prohibit the contamination of sound and pure grain through the introduction of nongrain substances, toxic grain that exceeds action limits established by the Food and Drug Administration and grain having residues that exceed the tolerance levels established by the Environmental Protection Agency, or unmerchantable grain to the extent that its combination with grades 3 or better will preclude the resultant combination from meeting the performance levels expected of the grades, if the Administrator determines that the action is practical and necessary to provide that grains marketed as No. 3 or better are safe and meet the performance levels expected of the grades as is required by section 4(c)(1). No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

"(2) Prior to taking action under this paragraph, the Administrator shall follow established rule-making procedures, including the solicitation of public comment, in identifying and defining actions and conditions that are subject to prohibition. In no case shall the Administrator prohibit the blending of an entire grade of grain.".

SEC. 1826. SENSE OF CONGRESS CONCERNING TESTS FOR PURITY.

(a) FINDING.—Congress finds that consumers, both internationally and domestically, are aware of, and concerned with, the purity of their food supply.

(b) SENSE OF CONGRESS.—It is the sense of Congress that in order to assure buyers of the purity of United States grain, the Federal Grain Inspection Service should, as soon as technically and economically practical, develop tests for mycotoxins and pesticide residues and make available tests on the impurities in conjunction with official grain inspections established under the United States Grain Standards Act (7 U.S.C. 71 et seq.).

SEC. 1827. SENSE OF CONGRESS CONCERNING COOPERATIVE ENFORCEMENT OF FEDERAL GRAIN PURITY REQUIREMENTS.

(a) FINDINGS.—Congress finds that the laws and regulations related to the purity and safety of grain that are administered by the Food and Drug Administration and the Environmental Protection Agency, serve to ensure the integrity of the United States as a supplier of wholesome grain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal agencies that are responsible for enforcing the laws and regulations relating to the quality, purity, and safety of grain marketed both domestically and to foreign nations, should seek assistance from and cooperate with the Federal Grain Inspection Service in the enforcement of the laws and regulations.

SEC. 1828. AFLATOXIN TESTING.

Section 5 of the United States Grain Standards Act (7 U.S.C. 77) is amended by adding at the end thereof the following new subsection:

"(c) No person shall ship from the United States to any place outside thereof any lot of corn unless such lot is tested by official inspection personnel, on the basis of an official sample, for the presence of aflatoxin in accordance with procedures prescribed by the Administrator, except that the Administrator may waive the foregoing requirement in an emergency or other circumstances that would not impair the objectives of this Act.".

Subtitle C—Incorporating Quality Incentives in Commodity Credit Corporation Programs and Activities

SEC. 1831. ENTRY QUALITY STANDARDS FOR ALL FARMER-OWNED RESERVE GRAINS.

Section 110 of the Agricultural Act of 1949 (as amended by section 1029 of this Act) is further amended by adding at the end the following new subsection:

"(m) ENTRY QUALITY STANDARDS.—In announcing the terms and conditions of the producer storage program under subsection (d)(1), the Secretary shall establish standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall establish such inspection, maintenance, and stock rotation requirements as are necessary to maintain the quality of such grain.".

SEC. 1832. PRICE SUPPORT LOAN INCENTIVES FOR QUALITY GRAIN.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) (as amended by section 1028 of this Act) is further amended by inserting after the second sentence the following new sentence: "Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.".

SEC. 1833. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION-OWNED GRAIN.

The Agricultural Act of 1949 (7 U.S.C. 1427) is amended by inserting after section 407 the following new section:

"SEC. 407A. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION-OWNED GRAIN.

"(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the storability of grain and assurance of acceptable end-use performance.

"(b) INSPECTION OF GRAIN ACQUISITIONS.—The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires and owns.".

SEC. 1834. ESTABLISHING QUALITY AS A GOAL FOR COMMODITY CREDIT CORPORATION PROGRAMS.

Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting immediately after subsection (g) the following new sentence:

"In carrying out its activities, the Commodity Credit Corporation shall, when practical, provide for program provisions that promote quality in the production and marketing of crops and livestock in the United States.".

Subtitle D—Intrinsic Quality Improvement

SEC. 1841. SEED VARIETY INFORMATION.

(a) IN GENERAL.—Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Agricultural Research Service.

(b) DISSEMINATION OF INFORMATION.—The Extension Service shall disseminate varietal performance information to plant breeders, producers, and intermediate and end users.

SEC. 1842. SURVEY OF GRAIN VARIETIES.

The National Agricultural Statistics Service shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

SEC. 1843. ANALYSIS OF VARIETY SURVEY DATA.

The Agricultural Research Service shall analyze the variety surveys conducted, in conjunction with available applied research information on intrinsic quality attributes of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics.

SEC. 1844. SENSE OF CONGRESS CONCERNING END-USE PERFORMANCE RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) research concerning the end-use performance of grain conducted by the Agricultural Research Service and land-grant universities is critical to improving the quality and competitiveness of United States grains in domestic and world markets;

(2) the work done by the Agricultural Research Service wheat quality laboratories has proven valuable to improving the understanding of individuals concerning the relationships between the physical and chemical properties of wheat and the performance of wheat in milling and baking; and

(3) research conducted by the Agricultural Research Service and at land-grant universities concerning the composition of corn and soybean varieties has proven valuable to feed and food users.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture, and in particular the Agricultural Research Service and land-grant universities, should adjust their financial priorities to place increased emphasis on grain variety evaluation and the development of objective tests for the end-use properties of grains.

SEC. 1845. SENSE OF CONGRESS CONCERNING COOPERATION IN OBJECTIVE TESTING.

(a) FINDING.—Congress finds that the close cooperative relationship that exists between the Federal Grain Inspection Service, the Agricultural Research Service, and land grant universities has proven highly beneficial in identifying grain quality-related

characteristics, developing tests, and designing grain standards.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the cooperative efforts described in subsection (a), including the sharing of funds and personnel, should be expanded, and that the Federal Grain Inspection Service should continue to utilize the research capabilities of the Agricultural Research Service and the land-grant universities in the efforts.

Subtitle E—Assistance for Improvements in Grain Quality

SEC. 1851. AUTHORITY TO ASSIST FARMERS AND ELEVATOR OPERATORS.

The Secretary of Agriculture may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist the producers and operators in installing or improving grain cleaning, drying or storage equipment.

SEC. 1852. STANDARDIZING COMMERCIAL INSPECTIONS.

(a) TESTING EQUIPMENT.—To promote greater uniformity in commercial grain inspection test results, the Secretary may work in conjunction with the National Institute for Standards and Technology and the National Conference on Weights and Measures to—

(1) identify inspection instruments requiring standardization under subsection (b);

(2) establish commercial performance criteria for the grain inspection instruments;

(3) develop a National Type Evaluation Program to approve grain inspection instruments for commercial inspection; and

(4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

(b) GENERAL INSPECTION PROCEDURES.—To ensure that producers are treated uniformly in delivering grain, the Secretary shall develop practical and cost-effective procedures for conducting commercial inspections of grain at the first point of delivery where the inspections result in price adjustments related to premiums and discounts for quality factors for the grain. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

(c) CERTIFICATION.—To encourage the adoption of Federally approved equipment and sampling and testing procedures developed under subsections (a) and (b), the Administrator of the Federal Grain Inspection Service shall establish a voluntary inspection certification program that shall apply to country elevators and others conducting first-point-of-delivery inspections.

TITLE XIX—RELATED AND MISCELLANEOUS MATTERS

Subtitle A—Alternative Agricultural Research and Commercialization

SEC. 1901. SHORT TITLE.

This subtitle may be cited as the "Alternative Agricultural Research and Commercialization Act of 1990".

CHAPTER 1—ESTABLISHMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION

SEC. 1902. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) with the advances made in biotechnology and other advances in science, there is a far greater capability of modifying plants and plant materials in order to produce commercially viable nonfood products;

(2) the diversification of agriculture is crucial for the long term economic health of that sector and for the economy of rural America;

(3) the establishment of new crops and varieties of existing crops are an important means of achieving greater agricultural stability under fluctuating environmental and economic conditions, and a larger selection of crops and crop varieties will foster better use of land resources;

(4) the use of agricultural and forestry products for nonfood, nonfeed industrial uses can assist in the reduction of the United States trade deficit and be environmentally beneficial;

(5) a major increase in targeted research in the area described in paragraph (4) is necessary to maximize the number and value of nonfood products;

(6) many of the emerging new ideas, products, and processes resulting from agricultural research will not be commercialized because of high initial financing costs and high risk; and

(7) the careful targeting of financial assistance to entrepreneurs for the development and commercialization of new industrial uses of agricultural and forestry products will stimulate the agricultural sector and redevelop the rural economy.

(b) PURPOSE.—It is the purpose of this subtitle through the Corporation established pursuant to section 1904—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food, feed or traditional forest or fiber products;

(2) to commercialize new nonfood, nonfeed uses for traditional and new agricultural crops in order to create jobs, to enhance the economic development of the rural economy, and to diversify markets for raw agricultural and forestry products;

(3) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to assist the commercialization of new industrial uses for agricultural and forestry products; and

(4) to direct, to the maximum extent possible, research and commercialization efforts toward the production of new industrial products from crops that can be raised by family-sized agricultural producers.

SEC. 1903. DEFINITIONS.

As used in this subtitle:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) BOARD.—The term "Board" means the Board of Directors established pursuant to section 1906.

(3) COMMERCIALIZATION.—The term "commercialization" or "commercialize" includes—

(A) activities associated with the development of prototype products or manufacturing plants;

(B) the application of technology and techniques to the development of industrial production; and

(C) the market development of new industrial uses of new and traditional agricultural and forestry products and processes that will lead to the creation of marketable goods and services.

(4) CORPORATION.—The term "Corporation" means the Alternative Agricultural Research and Commercialization Corporation established in section 1904.

(5) HOST INSTITUTION.—The term "host institution" means an existing entity that is located in the region that is—

(A) a university or other institution of higher education;

(B) a Department of Agriculture laboratory;

(C) a State agricultural experiment station;

(D) a State cooperative extension service facility; or

(E) another organization that is involved in the development or commercialization of new industrial uses for agricultural commodities, or is involved in rural economic development.

(6) NEW INDUSTRIAL PRODUCT DEVELOPMENT.—The term "new industrial product development" means targeted research, including fundamental and applied research—

(A) concerning the plant, modification of plant material, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new industrial product, and any research on the uses of the new product; and

(B) necessary to make a product available for the marketplace.

(7) NEW INDUSTRIAL PRODUCT.—The term "new industrial product" means an item that is primarily not a food, feed or traditional forest or fiber product, including an item that exists but is not commercially available from a plant source.

(8) REGIONAL CENTER.—The term "Regional Center" means a Center established pursuant to chapter 3.

(9) RESEARCH PROJECT.—The term "research project" means a project that is directed toward the development of a new marketable industrial or commercial product, other than a food, feed or traditional forest or fiber product, through biotechnology or other modification of a plant, and includes all of the various research tasks necessary to develop a new industrial product.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(11) TRADITIONAL FOREST OR FIBER PRODUCT.—The term "traditional forest or fiber product" means a forest or fiber product that does not have substantial new properties and that is derived from forest or agricultural materials.

SEC. 1904. ESTABLISHMENT OF CORPORATION.

(a) IN GENERAL.—There is established within the Department of Agriculture a body corporate to be known as the "Alternative Agricultural Research and Commercialization Corporation".

(b) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation that are within the Washington, D.C. metropolitan area.

(c) PURPOSE.—The Corporation shall carry out the purposes of this subtitle through the provision of grant assistance, contracts and cooperative agreements, loans, interest subsidies, technology transfers, information collection and dissemination, participation in cooperative projects, searches for industrial materials that may be produced from agricultural commodities and for processes to produce such materials, and other activities described in this subtitle.

SEC. 1905. POWERS OF THE CORPORATION.

(a) NONPROFIT CORPORATE POWERS.—To carry out this subtitle, the Corporation shall have the powers conferred on a nonprofit corporation under the District of Columbia Nonprofit Corporation Act.

(b) GENERAL POWERS.—In addition to any specific power granted to the Corporation elsewhere in this subtitle, the Corporation shall have the power—

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental agencies, except that the Corporation shall not provide any financial assistance unless specifically permitted under this subtitle;

(3) to lease, purchase, accept gifts or donation of, or otherwise to acquire, and to use, own, hold, improve, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to complain and defend in any court of a competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to this chapter, to select, employ, fix the compensation of, and discharge any such officers, employees, attorneys and agents as shall be necessary for the transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may consider necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may consider necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out this subtitle and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to obtain the services and fix the compensation of consultants;

(11) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(12) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out this section, and to the exercise of its powers, purposes, functions, duties, and authorized activities.

(c) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Corporation is authorized to accept and utilize voluntary and uncompensated services.

(d) GOVERNMENT CORPORATION CONTROL ACT.—The Corporation shall be considered a wholly-owned corporation for the purposes of the Government Corporation Control Act.

SEC. 1906. CORPORATE BOARD OF DIRECTORS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall consist of nine members, who shall be citizens of the United States, of which—

(A) one member shall be the Assistant Secretary;

(B) one member shall be the Under Secretary of Agriculture for Small Community and Rural Development;

(C) two members shall be appointed by the Director of the National Science Foundation, at least one of whom shall have expertise in appropriate areas of applied research;

(D) three members shall be appointed by the Secretary; and

(E) two members shall be appointed by the Secretary of Commerce, including a representative recommended by the Small Business Administration.

(2) EXPERIENCE.—In appointing the members to the Board under paragraph (1), the Secretary, the Secretary of Commerce, and the Director of the National Science Foundation shall assure that the members appointed under subparagraphs (C), (D), and (E) are representative of the agricultural, scientific, financial, and managerial community, and that at least three such members are members of the private scientific, agricultural, financial, or managerial sector.

(3) CHAIRPERSON.—The Board shall elect a Chairperson from among the members of the Board referred to in paragraph (1).

(4) OTHER EMPLOYMENT.—A Director may hold a position in the public or private sector at the same time as such director is serving on the Board.

(b) TERM OF OFFICE.—

(1) IN GENERAL.—A member of the Board appointed under subparagraphs (C), (D), and (E) of subsection (a)(1) shall be appointed for a term of 5 years.

(2) INITIAL MEMBERS.—The initial members of the Board appointed under subparagraphs (C), (D), and (E) of subsection (a)(1) shall serve as follows:

(A) Two members shall serve a term of 4 years.

(B) Two members shall serve a term of 3 years.

(C) Two members shall serve a term of 2 years.

(D) One member shall serve a term of 1 year.

(c) OATH.—Before assuming office, each member of the Board shall take an oath to faithfully discharge the duties of the individual's position as a member of such Board.

(d) MEETINGS, QUORUM, ACTIONS.—

(1) MEETINGS.—The Board shall meet in accordance with the bylaws of the Corporation, and at any time pursuant to the call of the Chairperson, but the Board shall not meet less than four times annually to review research and financial applications. For the purpose of section 552b of title 5, United States Code, the Board shall be considered to be an agency.

(2) QUORUM AND ACTIONS.—A majority of the Board members shall constitute a quorum. Any action by such Board shall require a majority vote of all members of the Board.

SEC. 1907. POWERS AND DUTIES OF CORPORATE BOARD.

(a) POWERS.—

(1) VESTING.—The powers of the Corporation shall be vested in the Board.

(2) OFFICERS.—The Board shall establish the offices and appoint the officers of the Corporation (which may include a General Counsel, Treasurer, and an Executive Director) and define the duties of such offices.

(b) DELEGATION OF AUTHORITY.—

(1) CORPORATE BOARD.—The Board may, by resolution, delegate to the Chairperson and any other director any function, power, or duty assigned to the Corporation under this subtitle other than those expressly vested in the Board.

(2) CHAIRPERSON.—The Chairperson may, by written instrument, delegate such function, power, or duty as is assigned to the Chairperson pursuant to this subtitle, to such other director, officer, or employee of the Corporation as the Chairperson considers appropriate.

(c) DELEGATION NOT PERMITTED.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Board, the Chairperson, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, except where such delegation is pursuant to an authority in law that expressly makes reference to this subtitle.

(2) REORGANIZATION ACT.—Notwithstanding any other provision of law, chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or duty.

(d) BYLAWS.—The Board shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(e) ORGANIZATION.—The Board shall provide a system of organization to fix responsibility and promote efficiency within the Corporation.

(f) GOVERNMENT EMPLOYMENT LAWS.—Directors, officers, and employees of the Corporation shall be subject to all laws of the United States relating to governmental employment, including the provisions of title 5, United States Code, relating to compensation.

(g) POLITICAL QUALIFICATIONS.—No political test or qualifications shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

(h) EXPERTS.—The Board shall establish boards of farm, forestry and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(i) HEARINGS.—The Board may, for the purpose of carrying out this subtitle, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 1908. COMPENSATION.

(a) CORPORATE BOARD.—Members who serve on the Board, except for the Under Secretary identified in section 1906(a)(1)(B) and the Assistant Secretary, shall receive compensation at a rate equivalent to the daily rate paid under Level II of the Executive Schedule under section 5312 of title 5, United States Code, as well as reasonable expenses incurred in carrying out the business of the Corporation, as approved by the Board.

(b) OFFICERS AND EMPLOYEES.—The Board may, if determined necessary and approved by the Secretary, fix the rate of compensation of no more than one officer position or other position at a rate or rates in excess of that prescribed for Level II of the Executive Schedule under section 5312 of title 5, United States Code.

SEC. 1909. FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST.

(a) FINANCIAL DISCLOSURE.—The Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) shall apply to the Directors and all of the other officers and employees of the Corporation as if such individuals were Federal employees.

(b) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—Except as permitted in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, such member, spouse or minor child of such

member, partner or organization (other than the Corporation) in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) REMOVAL.—Action by a member of the Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to the powers of the Corporation in section 1905, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member or officer participated.

(3) INFORMED CONSENT.—The prohibition contained in paragraph (1) shall not apply if—

(A) the member of the Board—

(i) advises the Board of the nature of the particular matter in which such member proposes to participate in; and

(ii) makes a full disclosure of such financial interest, prior to any participation; and

(B) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of such member's services to the Corporation in that matter.

The member involved shall not participate in such determination.

SEC. 1910. AUTHORIZATION OF ADMINISTRATIVE EXPENDITURES.

(a) CORPORATE EXPENDITURES.—In each fiscal year the Corporation is authorized to expend amounts for—

(1) reasonable and necessary administrative expenses, not to exceed 5 percent of amounts made available in any fiscal year; and

(2) generic studies and specific reviews of individual proposals for financial assistance and research projects, which shall not exceed 3 percent of amounts made available in any fiscal year.

(b) ADMINISTRATIVE EXPENDITURES.—For purposes of this section, administrative expenditures shall include—

(1) all ordinary and necessary expenses (including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses); and

(2) reimbursement to members of the Board for reasonable expenses that are incurred in connection with the service of the Corporation.

(c) LIMITATION.—Expenditures authorized under subsection (a)(2) shall not be available—

(1) for administrative expenses;

(2) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation; or

(3) for operating expenses.

(d) REAL PROPERTY.—Funds authorized for administrative expenditures shall not be available for the acquisition of real property.

SEC. 1911. CRIMINAL SANCTIONS.

Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

CHAPTER 2—RESEARCH AND DEVELOPMENT

SEC. 1912. RESEARCH PROJECTS.

(a) AUTHORIZATION.—The Secretary shall select research projects that are to receive funding under this subtitle that are recommended by the Board, for purposes of research to develop and produce new industrial products.

(b) APPROPRIATE PROJECTS.—

(1) DEVELOPMENT.—Each project shall target the development of a new crop, or modification of an existing crop, forest or agricultural material, that meets the criteria listed in paragraph (2).

(2) CRITERIA.—Criteria for the selection of projects may include—

(A) the prospect of developing technologies that could make it possible to use or modify existing plants or plant products to provide an economically viable quantity of new industrial products;

(B) the potential market size of the new industrial product, the likely time period needed to bring the new industrial product into the stream of commerce for general use, and the likely ability to grow the plant used to produce the product;

(C) the potential for job creation in an economically distressed rural area;

(D) the anticipated State or local financial participation;

(E) the anticipated financial participation of private entities;

(F) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(G) the unavailability of adequate funding from other sources;

(H) the likely positive impact on resource conservation and the environment; or

(I) the likely positive effect of helping family-sized farmers and communities near the affected agricultural and forested areas.

(c) FUNDING.—

(1) PURPOSE.—Funding shall only be provided under this subtitle to those projects that have as the principal purpose the development of new industrial products, with priority given to biotechnological research projects.

(2) CONSORTIA.—The Secretary may fund projects proposed by consortia.

(3) LIMITATION.—No funds authorized to be appropriated under this subtitle shall be used to plan, repair, rehabilitate, acquire, or construct a building or facility.

(4) PERIOD OF FUNDING.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new industrial product is developed or determined to be unattainable or unnecessary.

(d) CONTRACTS.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortium or other entity capable of conducting the appropriate research over the applicable research period.

(e) PEER REVIEW.—The Board shall establish peer review committees of technical experts who shall review each project proposal based on technical review and report the results of such reviews to the Board.

(f) REVIEW AND REPORTING.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

CHAPTER 3—ESTABLISHMENT OF REGIONAL CENTERS

SEC. 1913. REGIONAL CENTERS.

(a) ESTABLISHMENT OF REGIONAL CENTERS.—The Corporation shall establish a minimum of four and a maximum of nine Regional Centers in the United States, as provided for in this section.

(b) LOCATION.—

(1) IN GENERAL.—Each Regional Center established by the Corporation pursuant to this section shall be located in a different State, reflective of regional climatic conditions, rural economic stress, and the qualifications of the applicant to serve as the host institution for a Regional Center and to carry out the duties of the Corporation.

(2) COMPETITIVE AWARDING.—Host institutions desiring to have a Regional Center located in their region shall submit a proposal for such location to the Board. The Board shall determine the location of such centers based on a competitive review of the contents of such proposals.

(3) HOST INSTITUTIONS.—Each Regional Center shall be located at a host institution in the region.

(4) MATCHING OF FUNDS.—

(A) IN GENERAL.—Each candidate host institution submitting a proposal for a Regional Center under this section shall provide assurances—

(i) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal government under this subtitle;

(ii) that it is qualified to carry out the activities required of a Regional Center;

(iii) concerning such other factors as the Corporation shall determine appropriate.

(B) APPLICANTS.—The matching funds required under subparagraph (A) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(c) ACTIVITIES.—Each Regional Center shall carry on activities provided for in this subtitle and such other activities as the Board shall from time to time delegate to such Centers.

(d) REGIONAL DIRECTOR.—Each Regional Center shall be headed by a full-time Regional Director who shall—

(1) be selected by the Board;

(2)(A) have a scientific or engineering background; or

(B) have experience in the new product development of new industrial products or processes in the public or private sector.

(e) ADVISORY COUNCILS.—

(1) APPOINTMENT.—The Board shall appoint an Advisory Council for each Regional Center. Such Council shall advise the Regional Director concerning all applications for assistance.

(2) COMPOSITION.—An Advisory Council shall be comprised of representatives of the public sector, the financial sector, the private business community, State and local governments, educational institutions, private and Federal laboratories, the agricultural sector, scientists, and engineers. An Advisory Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

(3) DUTIES.—

(A) PRIMARY DUTY.—The primary duty of the members of an Advisory Council shall be to review or coordinate the review of the technical, engineering, financial, and managerial soundness and marketing potential of the applications for assistance received under this subtitle.

(B) MONITORING ACTIVITIES.—An Advisory Council may assist a Regional Director in monitoring the progress of ongoing projects by providing technical and business counseling when needed.

(C) TECHNICAL AND BUSINESS COUNSELING.—An Advisory Council may provide technical and business counseling to entities not seeking financial assistance from the Corporation, but that are engaged in commercializing nonfood, nonfeed uses of agricultural and forestry commodities.

SEC. 1914. ACTIVITIES OF THE REGIONAL CENTERS.

A Regional Center shall—

(1) encourage interaction among private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, and other Federal resources, State and local regional economic new industrial product development programs, universities, colleges, the private sector and the financial community, for the purpose of evaluating and commercializing new, nonfood, nonfeed uses of agricultural and forestry products;

(2) identify broad areas where commercialization of new industrial products and processes can contribute to the economic growth in rural areas of the United States, through the development of new, nonfood, nonfeed uses for farm and forest products by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small American businesses to commercialize new, nonfood, nonfeed uses of agricultural and forestry products;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance for future commercialization;

(5) make use of existing programs in scientific, engineering, technical and management education that will support the accelerated commercialization of new, nonfood, nonfeed products and processes using farm and forest products;

(6) advise the Corporation on the viability of specific proposals submitted for financial assistance for future commercialization and on the type of assistance, if any, to be provided; and

(7) coordinate their activities with the Small Business Development Centers authorized by section 21 of the Small Business Act (15 U.S.C. 648).

CHAPTER 4—FINANCIAL ASSISTANCE FOR COMMERCIALIZATION

SEC. 1915. PROVISION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Corporation, through the Regional Directors, in accordance with the criteria provided for in section 1906, may provide, to projects for the commercialization of new, nonfood, nonfeed products using agricultural and forestry commodities, financial assistance in the form of—

(1) loans made or insured by the Corporation (backed by the full faith and credit of the United States);

(2) interest subsidy payments made by the Corporation to the lender equal to an amount determined pursuant to an agreement between the Corporation, the lender, and the borrower;

(3) venture capital invested by the Corporation in the form of a convertible debenture;

(4) repayable grants that are matched by private, State or local public funds and that are repaid as agreed in a contract between the Corporation and entity; and

(5) umbrella bonding.

(b) DISCRETIONARY FUNDS.—The Board may establish a discretionary fund for each Regional Center of not more than 1 percent of the amounts made available to carry out this section. Such funds shall be used for activities related to financial assistance described under this section and section 1906. Each 6 months, a Regional Director shall prepare and submit to the Board a report that accounts for expenditures made from this fund.

(c) OVERSIGHT OF PROJECTS.—

(1) IN GENERAL.—The Corporation shall monitor the progress of the projects that receive financial assistance under this subtitle.

(2) TYPE OF OVERSIGHT.—Such oversight may include on-site reviews, written reports, and supportive business and technical counseling, as needed. The Director may call on the Advisory Council to assist in such monitoring.

(3) DEMONSTRATION BY APPLICANTS.—The Corporation may require that applicants demonstrate that the use of financial assistance is in compliance with the contractual agreement.

SEC. 1916. ELIGIBILITY CRITERIA FOR FINANCIAL ASSISTANCE FOR COMMERCIALIZATION.

(a) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—To obtain financial assistance for commercialization of industrial products from the Corporation, an entity shall—

(A) be a university or other institution of higher education, a nonprofit organization, a cooperative, or a small business concern; and

(B) file an application with the Regional Director of a Regional Center.

(2) DEFINITIONS.—As used in paragraph (1):

(A) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization that is—

(i) described in section 501(c) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of such Code.

(B) SMALL BUSINESS CONCERN.—The term "small business concern" shall have the same meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and in implementing rules issued by the Administrator of the Small Business Administration under such section.

(b) APPLICATION.—An application submitted to the Regional Director under subsection (a) shall—

(1) describe the proposal of the entity for the commercialization of a new industrial product consistent with this section, including documentation that such proposal is—

(A) scientifically sound;

(B) technologically feasible; and

(C) marketable;

(2) provide documentation that adequate private sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(3) provide documentation that the applicant's own resources, including time and money, have been invested in the project;

(4) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(5) provide documentation that the proposal will be carried out with broad participation by representatives of the sectors described in section 1913(e)(2);

(6) provide documentation that the managerial ability or an established relationship exists between the applicant and other entities to give the applicant access to sufficient private business assistance;

(7) provide assurances of legal compliance by the applicant with the terms and conditions for the receipt of assistance under this subtitle; and

(8) provide assurances that the proposal will result in the creation of new jobs in rural areas.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—The Board shall give priority to—

(A) applications that create jobs in economically distressed rural areas;

(B) applications that have State or local government financial participation; and

(C) applications that have significant private financial participation.

(2) ADDITIONAL CRITERIA.—The Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize—

(A) the quantity and quality of jobs that are likely to be created;

(B) the amount of the financial participation by State or local governments or private entities;

(C) the qualifications of the management to be used in the project;

(D) the potential market demand for the potential product to be marketed proportional to the financial assistance requested; and

(E) the likely level of returns to the revolving fund established under section 1918, and the items described in section 1912(b)(2)(B), (F), (H), and (I).

(d) APPLICATION REVIEW PROCESS.—

(1) IN GENERAL.—A Regional Director shall work in consultation with an Advisory Council to review and evaluate the proposals submitted to the Regional Center.

(2) ADVISORY COUNCIL.—The Advisory Council shall review proposals submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on the proposal to the Regional Director. No member of the Advisory Council shall participate in making recommendations concerning proposals in which, to the knowledge of such member, such member, spouse or minor child of such member, partner or organization in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement with concerning prospective employment, has a financial interest, as determined by the Regional Director.

(3) REGIONAL DIRECTOR.—The Regional Director, on consideration of the Advisory Council's recommendation and any other comments received from interested parties, shall make and submit the Regional Director's recommendation to the Board along with the recommendation of the Advisory Council.

(4) CORPORATE BOARD.—

(A) FINAL DECISION ON ASSISTANCE.—The Board shall, by majority vote, make the final decision on whether and how to provide assistance to the applicant.

(B) SECRETARIAL VETO.—Any final decision made under subparagraph (A) may be

vetoed by the Secretary. The Secretary shall notify the Board of the reasons for a veto of any decision.

(5) CONFIDENTIALITY.—The Board shall establish procedures that shall ensure the confidentiality of applications submitted under this section.

(e) NOTICE OF APPLICATIONS.—The Board shall publish in the Federal Register a notice that it is receiving applications for assistance under this subtitle not later that 30 days prior to the period established for receipt of such applications.

SEC. 1917. REPAYMENT OF FINANCIAL ASSISTANCE.

(a) REPAYMENT.—An entity receiving financial assistance under this subtitle shall repay the Corporation in accordance with the contract between the Corporation and the entity.

(b) WAIVERS.—The Board may waive the repayment of financial assistance for such reasonable grounds as the Board may from time to time determine.

(c) MAXIMUM REPAYMENT TIME LIMIT.—Financial assistance made available under this subtitle shall have a maximum repayment period that is not in excess of 12 years.

CHAPTER 5—REVOLVING FUND

SEC. 1918. REVOLVING FUND.

(a) ESTABLISHMENT.—There is established a revolving fund to be administered by the Board as provided for in this section.

(b) CONTENTS.—Funds received by the Regional Centers under section 1917 as a result of any financial assistance made pursuant to this subtitle, shall be converted into and become a part of the revolving fund established under subsection (a).

(c) USE OF FUND.—The revolving fund established under subsection (a) shall be available, as provided in appropriation Acts, to provide financial and research assistance under chapter 2, and to pay for the costs of operation as provided for in section 1912.

(d) CONTRIBUTIONS.—Amounts received from contributions from State tax check-off programs, or other independent sources, may also become part of the revolving fund established under this section. Such amounts may be specified by the donor for any form of financial assistance for a project in a particular region or State.

CHAPTER 6—AUTHORIZATION OF APPROPRIATIONS

SEC. 1919. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle in each of the fiscal years 1991 through 2000.

(2) AVAILABILITY OF FUNDS.—Of amounts appropriated under paragraph (1), the Secretary shall ensure that—

(A) $10,000,000 shall be made available for fiscal year 1991;

(B) $20,000,000 shall be made available for fiscal year 1992;

(C) $30,000,000 shall be made available for fiscal year 1993;

(D) $50,000,000 shall be made available for fiscal year 1994; and

(E) $75,000,000 shall be made available in each of the 6 fiscal years thereafter;

to carry out chapter 2.

(b) NONTRADITIONAL CROPS.—A portion of the funds appropriated under subsection (a) shall be used for the development and commercialization of new industrial products from nontraditional crops.

(c) REGIONAL CENTER.—Notwithstanding any other provision in this subtitle, the Corporation shall not establish any regional center until not less than $5,000,000 is appropriated in any one fiscal year.

Subtitle B—Global Climate Change Prevention

SEC. 1921. SHORT TITLE.

This subtitle may be cited as the "Global Climate Change Prevention Act of 1990".

SEC. 1922. FINDINGS.

Congress finds that—

(1) the earth's atmosphere is being altered by the generation of carbon dioxide and other infrared absorptive gases;

(2) these gases are, in large part, linked to population growth and are the byproducts of human activities, including the widespread combustion of fossil fuels, deforestation, and the use of chlorofluorocarbons;

(3) agricultural production and forest practices may contribute to global climate change, and that such contributions must be evaluated in light of the enormous productivity of modern agriculture and the importance of maintaining a viable agricultural production base;

(4) there is reasonable scientific concern that the atmospheric "greenhouse effect" is likely to cause a general global warming trend that may cause significant disruption of temperature and precipitation patterns worldwide;

(5) the global warming trend may cause serious economic and environmental dislocation within American agriculture and forestry, including diminished capacities to grow certain major crops and timber species in the geographic regions in which they are currently produced;

(6) such impacts could threaten the national economy and world food security; and

(7) expanded application of sustainable agricultural and forestry practices and energy conservation may ameliorate the greenhouse effect.

CHAPTER 1—AGRICULTURE AND GLOBAL CLIMATE CHANGE

Subchapter A—Office of Climate Change

SEC. 1923. OFFICE OF CLIMATE CHANGE.

(a) ESTABLISHMENT OF OFFICE OF CLIMATE CHANGE.—For the purpose of having within the Department of Agriculture a focal point for coordinating all issues of climate change there is established in the Department of Agriculture the Office of Climate Change (hereinafter referred to in this chapter as the "Office"). The Secretary shall designate the Assistant Secretary responsible for departmental coordination of climate change activities to administer the Office. The Director of the Office shall be appointed by and report to the designated Assistant Secretary.

(b) DUTIES.—

(1) COORDINATION OF POLICY.—The Office of Climate Change shall serve as the lead organization within the Department of Agriculture for coordinating policy analysis, long range planning, research, extension, technology transfer, and response strategies relating to climate change issues. The Office shall insure that a concern for the potential for climate change is fully integrated into the research, planning, and decision-making processes of the Department.

(2) LIAISON.—The Office shall serve as a liaison with other United States Government agencies dealing with issues of climate change and shall insure that the impacts on agriculture and forestry are fully understood and addressed in interagency councils, including broader issues relating to such matters as energy that affect the impact of climate change on the farms and forests of the United States.

(3) INFORM SECRETARY.—The Office shall keep the Secretary fully apprised of scientific developments and policy issues relating to climate change and agriculture and forestry, and it shall advise the Secretary with respect to alternative courses of action.

(c) SPECIFIC RESPONSIBILITIES.—The Office of Climate Change shall be responsible for—

(1) coordinating the response of the Department of Agriculture to the requirement for a climate change study under section 1921;

(2) providing, through the Cooperative State Research Service, competitive grants for research in atmospheric sciences and climatology and agricultural economics and rural sociology as they relate to the potential impact of climate change on agriculture and forestry;

(3) providing, through the Cooperative State Research Service, competitive grants for research on the potential for agriculture and forestry to mitigate the buildup of atmospheric carbon dioxide and methane;

(4) coordinating Department of Agriculture participation in interagency climate-related activities, including the United States global change research program;

(5) coordinating with the climate research activities of the National Academy of Sciences and climate-related activities of other private, academic, State, and local groups;

(6) representing the Department of Agriculture on the Climate Program Policy Board as established by the National Climate Program Act (15 U.S.C. 2901 et seq.) and for coordinating the activities of the Department of Agriculture in response to the requirements of that Act;

(7) representing the Department of Agriculture on the Intergovernmental Panel on Climate Change;

(8) reviewing and making recommendations concerning all Department of Agriculture budget items relating to climate change issues, including specifically the research budget submitted to the Committee on Earth Sciences, and the Department of Agriculture submission to the Office of Management and Budget's integrated multiagency request; and

(9) coordinating research, education, extension, and technology transfer activities of the Department of Agriculture related to climate change issues.

SEC. 1924. STUDY ON AGRICULTURE AND FORESTRY IMPLICATIONS OF GLOBAL CLIMATE CHANGE.

(a) STUDY.—The Secretary of Agriculture, in consultation with other appropriate government departments and agencies, shall conduct a study on the implications of global climate change for agriculture and forestry.

(b) PURPOSE.—The study conducted under subsection (a) shall assess the potential effects of global climate change on United States agriculture and forestry and on global food production and trade, including the implications for—

(1) soil and water resources;

(2) river transportation and rural employment;

(3) management of destructive agents such as pests, plant diseases, and wildfires;

(4) geographic ranges of crops and forest species;

(5) adequacy of available crop and forest genetic resources;

(6) irrigation and tillage practices;

(7) long range world food and fiber supplies and prices, including global nutritional needs;

(8) United States exports and international trade; and

(9) United States agricultural and forestry policies and programs.

(c) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results and findings of the study prepared under this section.

Subchapter B—Research on Global Warming, Forests, and Agriculture

SEC. 1925. SHORT TITLE.

This subchapter may be cited as the "Domestic Research on Global Warming, Forests, and Agriculture Act of 1990".

SEC. 1926. FINDINGS.

Congress finds that—

(1) the Earth's atmosphere is changing due to increasing concentrations of anthropogenic and biogenic pollutants including methane (CH_4), carbon dioxide (CO_2), nitrous oxide (N_2O), non-methane hydrocarbons (NMHC), and tropospheric ozone (O_3);

(2) temperature increase and other climatological phenomena are likely to result from the greenhouse gas emissions to the atmosphere which have already occurred to date, even if stringent efforts are made to limit emissions;

(3) studies have shown that global warming is likely to cause changes in the climatology and hydrology of major crop growing areas and that such changes could lead to climatologic regimes outside of recent experience and may potentially interfere with the world supply of food and the agricultural productive capacity of many countries;

(4) current scientific studies indicate that changes in current precipitation patterns and sea surface temperatures may lead to increases in the severity and frequency of storms and hurricanes;

(5) understanding the potential risks that global warming is presenting to agriculture and forestry is important to formulating programs to limit emissions; and

(6) forests and agricultural systems may offer the potential for limitation of emissions through changes in planting, harvesting, fertilizing, and other practices.

SEC. 1927. PURPOSES.

(a) PRIMARY PURPOSE.—The primary purpose of this subchapter is to identify research priorities and direct research for examining the effects of global warming on forests and agricultural productivity and to determine and demonstrate possible changes in forest management and agricultural practices that could reduce emissions of greenhouse gases, with due regard for the maintenance of agricultural productivity and incomes.

(b) SPECIFIC PURPOSES.—In support of the purpose described in subsection (a), the specific purposes of this subchapter are to direct research to—

(1) assess the impacts of global warming on crops vital to the world and the United States and develop the means to mitigate such impacts, if necessary;

(2) assess the emissions of greenhouse gases from forest and agricultural processes, determine the means of reducing such emissions where possible, and explore cost effective options for emissions reduction; and

(3) assess potential increases in greenhouse gases and related pollutants from agriculture and forests in response to global warming.

SEC. 1928. RESEARCH STUDIES.

(a) CROPS.—

(1) FINDINGS.—Congress finds that—

(A)(i) rice is a major world crop, providing 70 percent of caloric intake for 2,800,000,000 people;

(ii) several studies have shown that temperature rise can adversely affect rice during periods of reproduction and ripening; and

(iii) the impacts on rice of combined increased temperatures and carbon dioxide are unknown;

(B)(i) the potential effects of temperature increases on crops grown widely in the United States such as corn, sorghum, wheat, soybeans, and millet are unknown;

(ii) existing studies show maize, sorghum, wheat, millet, and soybeans are adversely affected by high temperatures during phases of early growth, flowering, and ripening; and

(iii) studies also show that the viability and vigor of the next generation of seed are adversely affected by high temperatures during development for millet and soybeans;

(C)(i) methane is an important greenhouse gas with many times the warming per equivalent change in atmospheric concentration as carbon dioxide;

(ii) methane has a relatively short atmospheric lifetime of 7 years so the effect of cutbacks in emissions could be realized within the next decade; and

(iii) recent studies indicate that a cutback of 10 to 20 percent in methane emissions would stabilize concentrations at current levels;

(D) current estimates suggest that irrigated rice production contributes 20 percent of the world's methane emissions, however, such estimates are based on limited studies and data;

(E)(i) methane emissions from irrigated rice cultivation may be affected by fertilization practices, management practices, and soil temperatures; and

(ii) methods for reducing methane emissions from irrigated rice production have not been examined, but may be possible; and

(F)(i) nitrous oxide concentrations have increased by 5 to 10 percent since preindustrial times;

(ii) each nitrous oxide molecule has over 200 times the impact on climate change as a carbon dioxide molecule; and

(iii) emissions from nitrogen intensive crops may contribute to this rise, however, there is insufficient information to estimate this contribution or to then formulate plans to reduce these nitrous oxide emissions if substantial.

(2) STUDIES ON RICE YIELDS.—

(A) IN GENERAL.—

(i) IMPACT OF INCREASES IN TEMPERATURE.—The Secretary of Agriculture shall conduct a study on the effects of global warming on rice production that shall, at a minimum address the impacts of a range of possible simultaneous increases in temperature and carbon dioxide on the yields of the most temperature tolerant and most economically important species of rice.

(ii) MITIGATION OF IMPACT.—If the results of the research conducted under clause (i) warrant, the Secretary shall conduct a study that addresses the means of mitigating the impacts of global warming on rice that shall—

(I) identify whether tolerance can be bred into sensitive cultivars, what timeframe for any such breeding is involved, and ultimately what effects will such breeding have on the income of farmers;

(II) evaluate the current genetic resources and current breeding programs for rice for their sufficiency for developing new breeds that will be tolerant to anticipated climate changes; and

(III) assess the potential for breeding rice cultivars that are tolerant to anticipated climate changes and that also have other desirable traits such as tolerance to drought, pests, and salinity.

(B) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report concerning the results of the study conducted under subparagraph (A). Interim reports shall be provided by the Secretary to such Committees annually.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1994, $2,000,000 to carry out this paragraph.

(3) STUDIES ON MAJOR UNITED STATES CROPS.—

(A) EXPERIMENTAL STUDIES.—

(i) IN GENERAL.—The Secretary of Agriculture shall conduct experimental studies on the effects of global warming on the production of major United States crops that shall, at a minimum address—

(I) the impacts of simultaneous increases in temperature and carbon dioxide on yields of corn, wheat, sorghum, millet, and soybeans;

(II) the impacts of more severe weather events on such crops;

(III) the impacts of potential changes in hydrologic regimes on current crop yields;

(IV) the economic and social impacts of widespread and increased drought frequency in the south, midwest, and plains States; and

(V) changes in pest problems due to higher temperatures.

(ii) FURTHER STUDIES.—If the results of the study conducted under clause (i) warrant, the Secretary of Agriculture shall conduct further studies that address the means of mitigating the impacts of global warming on major United States crops that shall, at a minimum—

(I) identify whether tolerance can be bred into sensitive crops, what timeframe for any such breeding is involved, and ultimately what effects will such breeding have on the income of farmers;

(II) evaluate the current genetic resources and current breeding programs for crops in terms of the sufficiency of such resources and programs for developing new breeds that will be tolerant to anticipated climate changes; and

(III) assess the potential for breeding crops that are tolerant to anticipated climate changes and that also have other desirable traits such as tolerance to drought, pests, and salinity.

(B) REPORT.—Not later than 6 years after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report concerning the results of the study conducted under subparagraph (A). Interim reports shall be provided by the Secretary to such Committees annually.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1996, $4,000,000 to carry out this paragraph.

(4) METHANE EMISSIONS.—

(A) STUDY.—The Secretary of Agriculture shall conduct a study on methane emissions from United States and Asian irrigated rice production that shall, at a minimum—

(i) obtain detailed and systematic field measurements of emissions of methane from irrigated rice cultivation;

(ii) determine methane emissions from irrigated rice cultivation over complete growing seasons;

(iii) determine the effect of soil temperature and fertilizer rates and types on methane emissions;

(iv) obtain measurements of other trace gases such as nitrous oxide in irrigated rice cultivation;

(v) evaluate options for reducing methane emissions from rice growing including cultivar selection and management practices; and

(vi) assess the effects of simultaneously increased temperature and carbon dioxide on methane emissions.

(B) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report of the results of the study conducted under subparagraph (A) and containing the recommendations of the Secretary. Interim reports shall be provided by the Secretary to such Committees annually.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1993, $1,000,000 to carry out this paragraph.

(5) EMISSIONS FROM NITROGEN INTENSIVE CROPS.—

(A) STUDY.—The Secretary of Agriculture shall conduct a study concerning the magnitude and types of emissions from nitrogen intensive crops and the means for reducing emissions that shall, at a minimum—

(i) obtain field measurements of nitrous oxide from nitrogen intensive growing of such grains as corn, cotton, wheat, legumes, and rice;

(ii) obtain measurements of nitrous oxide from manure and biomass burning; and

(iii) identify management techniques appropriate for sustainable or other agricultural practices that can reduce the emissions of nitrous oxide.

(B) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report concerning the results of the study conducted under subparagraph (A). Interim reports shall be provided by the Secretary to such Committees annually.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1993, $1,000,000 to carry out this paragraph.

(b) LIVESTOCK.—

(1) FINDINGS.—Congress finds that—

(A) managed ruminants and other animals are a source of methane emissions from human activities, accounting for on the order of 15 percent of global annual methane emissions;

(B) opportunities exist for reducing methane emissions from this source;

(C) these efforts may simultaneously contribute to higher animal productivity and increased farmers' incomes that would have significant benefits in addition to the benefit of reducing methane emissions; and

(D) animals are a major source of human food that in 1990 provided 70 percent of the protein, 35 percent of the energy, 80 percent of the calcium, and 60 percent of the phosphorous for the United States population, and animal byproducts are used for personal, medical and industrial uses.

(2) METHANE EMISSIONS PROGRAM.—

(A) ESTABLISHMENT.—The Secretary shall establish a Methane Emissions Program to—

(i) evaluate methane emissions from agriculture-related activities in the United States and around the world, particularly the management of ruminants and other animals and the wastes produced by these animals;

(ii) develop data describing the factors influencing rates of emissions from agriculture-related activities and identify opportunities for reducing methane emissions from agricultural activities; and

(iii) demonstrate the effectiveness of alternative methods of reducing methane emissions from agricultural activities under field conditions.

(B) EVALUATION.—The program established under subparagraph (A) shall evaluate the feasibility and costs (including the effects on the incomes of farmers) of options for achieving reductions in methane emissions from animal management activities, including—

(i) modifications in the feeding strategies of United States dairy and beef animals, while maintaining or improving animal productivity and profitability;

(ii) evaluations of the use of supplements (such as nonprotein nitrogen supplements, including urea) to animals in developing countries in terms of the types of animals that may benefit, the costs of providing supplements, and the methane reductions achieved;

(iii) assessments of the near- and long-term opportunities for reducing methane emissions by engineering microbes through activities such as genetic engineering of rumen acetogens and engineering better degradation of feed fibers;

(iv) evaluations of the magnitude of variation of individual animals in terms of methane production and the inheritability of such characteristic; and

(v) evaluations of current animal waste management practices in terms of methane generation and identification and evaluation of options for recovering or preventing the release or creation of this methane.

Such program shall also evaluate options for the beneficial utilization of methane.

(C) REPORT.—

(i) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report concerning the options evaluated in subparagraph (B). Such report shall include studies and demonstration projects recommended by the Secretary that will improve the public understanding of opportunities for reducing and using methane emissions from agriculture-related activities.

(ii) STUDIES AND DEMONSTRATION PROJECTS.—Not later than 6 months after the submission of the report under clause (i), the Secretary shall initiate studies and demonstration projects recommended under such report. In initiating such demonstration projects, the Secretary shall give priority to those opportunities for reducing emissions that are anticipated to increase animal productivity in the United States or developing countries or are anticipated to be cost beneficial in their own right.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph, $5,000,000 for fiscal year 1991, and $7,000,000 for each of the fiscal years 1992 and 1993.

(c) FORESTS.—

(1) FINDINGS.—Congress finds that—

(A) deforestation activities make a major contribution to carbon dioxide in the atmosphere;

(B) temperate and tropical forests may be adversely affected by climate change;

(C) tropical forests may be major sources of methane and nitrous oxide, however, the actual contribution of tropical forests is unknown;

(D) improved management of forests and increased planting of trees could result in increased utilization of forests as carbon sinks; and

(E) current research and information are inadequate to allow accurate assessment of either risks to forest systems from global warming or opportunities to reduce global concentrations of greenhouse gases using altered management practices.

(2) STUDY.—

(A) IN GENERAL.—The Secretary of Agriculture shall conduct a study on the emissions of methane, nitrous oxide, and hydrocarbons from tropical and temperate forests, the manner in which global change may affect emissions, and the manner in which such emissions may be reduced through management practices, that shall at a minimum—

(i) obtain measurements of nitrous oxide, methane, and nonmethane hydrocarbons from tropical forests;

(ii) obtain measurements of nitrous oxide, methane, and nonmethane hydrocarbons from temperate forests;

(iii) determine the manner in which the nitrous oxide, methane, and nonmethane hydrocarbons emissions from temperate and tropical forest systems will respond under anticipated climate change;

(iv) identify management techniques for temperate and tropical forests that could potentially reduce emissions of greenhouse gases; and

(v) address the manner in which the carbon dioxide sink that forests create can be increased by more intensive management, use of new lands, and planting of short rotation trees.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, a report concerning the results of the study conducted under subparagraph (A). Interim reports shall be provided by the Secretary to such Committees annually.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1993, $2,000,000 to carry out this paragraph.

SEC. 1929. COORDINATION.

(a) IN GENERAL.—The Secretary of Agriculture shall coordinate the planning and implementation of the activities required to be carried out by the Secretary under this subchapter with the Committee on Earth Sciences and the Environmental Protection Agency.

(b) REPORT.—The Secretary of Agriculture shall prepare and submit, to the Administrator of the Environmental Protection Agency, a report concerning the options for reducing methane emissions from livestock and rice on a schedule compatible with the needs of the Environmental Protection Agency to assist in the preparation of reduction plans for all methane sources.

SEC. 1930. TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a technical advisory committee to provide advice to the Secretary concerning the major study areas required under this subchapter (such as studies on rice, studies of crops vital to the United States, studies of methane emissions from rice, studies of emissions from nitrogen intensive crops, etc.) and the Methane Emissions Evaluation, Use, and Control Program established under this subchapter.

(b) MEMBERS.—The committee established under subsection (a) shall be composed of representatives of universities, professional societies, government laboratories, agricultural, environmental and other organizations as the Secretary of Agriculture, in consultation with the Chairperson of the Committee on Earth Sciences and the Administrator of the Environmental Protection Agency, determines appropriate based on the assessment by the Secretary of the technical and other qualifications required for services of such committee. Appointments to such committee shall be made not later than 90 days after the date of the enactment of this Act. Such committee shall have a chairperson who shall be elected by the members of the committee from among such members.

CHAPTER 2—FORESTRY AND GLOBAL CLIMATE CHANGE

Subchapter A—International Forestry Cooperation

SEC. 1931. SHORT TITLE.

This subchapter may be cited as the "International Forestry Cooperation Act of 1990".

SEC. 1932. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the nations of the world are bound by common interest in achieving sustainable global environmental stability, economic development, scientific discovery, and opportunities for trade;

(2) nations are inextricably dependent on and linked to each other for resources;

(3) forests in many parts of the world are rapidly declining both in terms of health and extent;

(4) in the tropics, an estimated 28,000,000 acres of forests are lost each year and another 9,000,000 acres are seriously degraded;

(5) deforestation in the tropics is a major contributor to global climate change, threatens the very ability of land to sustain life and reduces biological diversity;

(6) in nonforested areas of the tropics, pastoral and community trees are rapidly disappearing;

(7) in temperate regions where deforestation has been stabilized, industrial pollution, insects and diseases threaten productivity;

(8) forestry and natural resource programs in the United States benefit substantially from international advances in science and technology, a better balance in wood products trade, greater utilization of wood products, and an improved global environment;

(9) tropical forests and woodlands are essential to the economic and social well-being of people in developing countries;

(10) global forestry and natural resource problems require global solutions that can only be achieved through concerted international cooperation;

(11) the Department of Agriculture, through the Forest Service and other cooperating agencies, has expertise and experience that could contribute significantly to the transfer of forestry related knowledge and technology between the United States and foreign countries;

(12) Forest Service technology transfer, research and training experience could be brought to bear on problems facing tropical forests and tropical forest dwellers, and to demonstrate and teach multiple-use tropical forest management;

(13) the Department of Agriculture Forest Service has over 70 years experience in managing the Caribbean National Forest/Luquillo Experimental Forest in Puerto Rico, and over 50 years of experience conducting tropical forestry research at such facility;

(14) the Forest Service conducts tropical forestry research and technology transfer programs in Hawaii, the Western Pacific, and at the Forest Products Laboratory in Wisconsin; and

(15) the Caribbean National Forest/Luquillo Experimental Forest in Puerto Rico, is the only tropical forest that is managed by the Department of Agriculture Forest Service and that such forest has been designated a Biosphere Reserve by the United Nations Educational, Scientific, and Cultural Organization Man and Biosphere Program.

(b) PURPOSE.—The purpose of this subchapter is to encourage cooperation with other countries as they seek to achieve sustainable economic development through sound natural resource management that meets human needs while protecting environmental quality, and to that end, encourage the participation of the Forest Service in promoting sound management and conservation of forests and related natural resources in other countries.

SEC. 1933. FORESTRY AND RELATED NATURAL RESOURCE ASSISTANCE.

(a) COUNTRY FOCUS.—

(1) FINDING.—Congress finds that remedial actions with respect to forestry policy and resource conservation and development undertaken by a relatively few key industrializing, middle- and low-income developing countries (hereinafter referred to in this chapter as "key countries") could have a substantial impact on emissions of greenhouse gases related to global warming.

(2) FOCUS OF ACTIVITIES.—To achieve the maximum impact from activities undertaken under the authority of this chapter, the Secretary shall focus such activities on the key countries.

(b) AUTHORITY FOR INTERNATIONAL FORESTRY ACTIVITIES.—In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture (hereinafter referred to in this chapter as the Secretary) may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries habitat, and related natural resource activities.

(c) ELIGIBLE COUNTRIES.—The Secretary shall undertake the activities described in subsection (b), in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

SEC. 1934. TROPICAL DEFORESTATION ASSESSMENT AND ASSISTANCE.

In support of the Tropical Forestry Action Plan of the United Nations Food Agricultural Organization, and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to refine such Plan and promote coordination among all agencies involved in its implementation;

(2) together with the United States Agency for International Development, and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies;

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies;

(4) provide staff to the Food and Agriculture Organization of the United Nations (staff assignments may be to the Food and Agriculture Organization headquarters or in tropical countries) through the Associate Professional Officer Program or other mechanisms on either long- or short-term assignments to assist in assessing the status of tropical forests and other aspects of tropical forestry and natural resources development;

(5) share with the Food and Agriculture Organization of the United Nations nonsensitive technologies and satellite imagery relevant to assessing the status of tropical forests; and

(6) provide financial assistance to the Food and Agriculture Organization of the United Nations for the purpose of assessing the status of tropical forests, for implementing and coordinating such plan, and for related tropical forestry development activities.

SEC. 1935. TRAINING FOR TROPICAL FOREST MANAGEMENT AND CONSERVATION.

In support of tropical forestry training activities within and outside of the United States and its territories and possessions, the Secretary may—

(1) develop partnerships with tropical forestry management, research or training institutions to promote the exchange of technical information and personnel concerning all aspects of natural resource conservation and forest land management, with special attention given to assisting tropical countries with outreach activities that promote grass roots reforestation, multiple-use forest management, and land rehabilitation activities;

(2) develop and maintain close cooperation with universities and technical schools in the United States and in tropical countries to facilitate the education and training of students and professionals on all aspects of research and management of tropical forest lands;

(3) manage the Caribbean National Forest/Luquillo Experimental Forest, as a model of quality tropical forest management, as a site for research on tropical forestry and natural resources, and as a center for demonstration, training, and outreach on tropical forest and natural resources research and management;

(4) utilize the facilities and resources of the Forest Service, including the Institute of Tropical Forestry, the Institute of Pacific Islands Forestry, and the Forest Products Laboratory to carry out research, technology transfer, training, information exchange, and demonstration programs concerning management of tropical forests and related resources; and

(5) in cooperation with the United States Agency for International Development, assist tropical country governments, land managers, and industries to cooperatively encourage local and village level conservation, reforestation, training, and education for sustainable tropical forestry management.

SEC. 1936. INSTITUTE OF TROPICAL FORESTRY.

(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this subchapter, and as funds are appropriated for such expansion and construction.

(b) TROPICAL FORESTRY PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a). Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/Luquillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

SEC. 1937. ADMINISTRATIVE PROVISIONS.

(a) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all activities outside of the United States under this subtitle with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) ASSISTANCE.—The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this chapter, including technical and financial assistance, equipment, and facilities without reimbursement.

SEC. 1938. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 1939. CONFORMING AMENDMENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended—

(1) in section 2 (16 U.S.C. 1641)—

(A) by inserting "(1)" after "(a)";

(B) by adding at the end of subsection (a) the following new paragraph:

"(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, over-harvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy."; and

(C) by adding at the end thereof the following new subsection:

"(c) It is a purpose of this Act to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale.";

(2) in section 3(a) (16 U.S.C. 1642(a)), by inserting "of the United States and such other countries as the Secretary determines appropriate" immediately before the period;

(3) in the first sentence of section 4(c) (16 U.S.C. 1643(c)), by inserting "international," before "Federal"; and

(4) in section 6 (16 U.S.C. 1645), by adding at the end thereof following new subsection:

"(g) In conducting activities authorized by this Act outside the United States, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct.".

(b) COOPERATIVE FORESTRY ASSISTANCE ACT.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) (as amended by subtitle A of title XV of this Act) is further amended—

(1) in section 2(a)—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(18) the same forest resource supply, protection and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.";

(2) in section 2(b), by inserting "in the United States, and forest lands in foreign countries," after "non-Federal forest lands," the first place it appears and in paragraph (10); and

(3) in section 12, by adding at the end thereof the following new subsection:

"(h) In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term 'non-Federal forest land' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to 'State foresters or equivalent State officials' in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.".

Subchapter B—Forestry Planning and Global Warming

SEC. 1940. THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974.

(a) RENEWABLE RESOURCE ASSESSMENT.—Section 3(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(a)) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) a detailed analysis of the potential effects of climate change on the condition of renewable resources on the forests and rangelands of the United States; and

"(6) a detailed analysis of the rural and urban forestry opportunities to mitigate the buildup of atmospheric carbon dioxide and reduce the risk of climate change from global warming,".

(b) RENEWABLE RESOURCE PROGRAM.—Section 4 of such Act (16 U.S.C. 1602) is amended in paragraph (5)—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) account fully for the effects of climate change on forest and rangeland conditions, including potential effects on the geographic ranges of species, and on forest and rangeland products.".

(c) LAND AND RESOURCE MANAGEMENT PLANS.—Section 6(e)(2) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(e)(2)), is amended by inserting immediately before the period ", and the potential effects of climate change on the condition of forest lands, natural resources and ecosystems".

Subchapter C—Urban Forestry

SEC. 1941. FINDINGS.

Congress finds that—

(1) the atmosphere of the Earth is being changed at a rapid rate as a result of human activities, especially those activities related to the burning of fossil fuels, and the concurrent destruction of trees and forests;

(2) the results of such activities contribute to an increase in the so-called greenhouse gases, especially carbon dioxide;

(3) the improved management and expansion of forests are essential to reduce the rate of buildup of the so-called greenhouse effect;

(4) the risks of global warming are sufficiently great that positive action is warranted to alleviate the potential consequences;

(5) cities increasingly experience so-called heat island effects as a result of human activities that produce heat, and the absorption and retention of heat by buildings, pavement, and other portions of the built-environment;

(6) trees, when properly situated around urban buildings, have been shown by research conducted at Federal laboratories, to be effective at ameliorating the so-called heat island effects which offers a low-cost method to reduce air-conditioning needs that will in turn reduce carbon dioxide emissions from electrical generation;

(7) an urban tree is 15 times more effective than a forest tree at reducing the build-up of carbon dioxide emissions, through the oasis effect of cooling urban heat islands, and to directly sequester the amount of carbon saved through the planting of 100,000,000 urban trees, it would require the planting of 1,500,000,000 forest trees;

(8) reducing each pound of atmospheric carbon dioxide through tree planting costs between 0.3 and 1.3 cents, while doing such through improved appliances costs about 2.5 cents per pound, and doing such through more efficient cars costs in excess of 10 cents per pound;

(9) studies have shown that urban trees are disappearing and that approximately four trees are dying for each tree planted in most cities;

(10) enormous opportunities exist to plant trees for energy efficiency in urban areas, such as the existence of 100,000,000 spaces near residences and small commercial buildings, and another 60,000,000 spaces along streets, as well as parks and other open areas;

(11) to achieve the maximum benefits from trees, public education, technical assistance, research, and incentives to plant and care for more trees will be required; and

(12) the American Forestry Association has initiated Global Relief, a public information and education campaign to encourage tree planting, and improved forest management nationally and internationally, with the initial goal of planting and caring for 100,000,000 trees in cities by 1992 to capture the benefits of trees for energy conservation.

SEC. 1942. URBAN FORESTRY ENERGY CONSERVATION PROGRAM.

(a) PLANTING PROGRAM.—The Secretary of Agriculture, in conjunction with other relevant governmental agencies, and interested members of the public including non-profit private organizations, shall establish and implement an urban forestry education and accelerated planting program to reduce carbon dioxide emissions, conserve energy, and improve urban air quality, in addition to providing other environmental benefits. Such program shall include citizen education, technical assistance, and accelerated demonstration plantings and care of trees to show the contributions of trees in meeting environmental needs in urban areas.

(b) SERVICES.—To enhance urban forestry energy conservation, the Secretary of Agriculture, through the program established under subsection (a), may provide—

(1) educational activities to encourage owners of private residences and commercial properties to plant and maintain energy-saving trees;

(2) technical assistance to local units of government and others in selecting, locating, planting, and maintaining urban trees;

(3) assistance through a tree planting program supported with competitive matching grants awarded to local units of government, or approved organizations that meet the requirements of section 501(c) of the Internal Revenue Code of 1986, after the approval by the Secretary of a plan submitted by such entities; and

(4) applied research information concerning costs and savings associated with tree planting for energy conservation purposes, to suggest a range of public policies and incentives to further encourage public and private efforts to plant trees, and maintain such trees in the hostile urban environment.

(c) REPORT.—The Secretary of Agriculture shall, annually as part of the Annual Report of the Forest Service prepared under section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606), prepare and submit, to the appropriate Committees of Congress, a report concerning the effectiveness of the program established under subsection (a).

(d) AUTHORIZATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

(e) ASSISTANCE.—In carrying out this section, the Secretary of Agriculture shall utilize or cooperate with the Agriculture Cooperative Extension Service, the Forest Service, forestry and research services of States, universities, and private entities, the Environmental Protection Agency, the Department of Energy, the Department of the Interior, and the Agency for International Development.

SEC. 1943. NATIONAL URBAN AND COMMUNITY FORESTRY ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Secretary shall establish a National Urban and Community Forestry Advisory Council for the purpose of—

(1) developing a national urban and community forestry action plan;

(2) evaluating the implementation of such plan; and

(3) developing recommended criteria for, and submitting recommendations with respect to, the Urban Forestry Energy Conservation Program under section 1942.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of 15 members appointed by the Secretary, including at least two representatives of each of the following—

(A) national nonprofit forestry and conservation citizen organizations;

(B) the forest products, nursery, or related industries;

(C) urban forestry professionals such as landscape, or design consultants, planners, horticulturalists, consulting foresters, and arboriculturalists;

(D) academic institutions with an expertise in urban and community forestry activities;

(E) State or local forestry agencies or equivalent State or local agencies;

(F) Federal agencies involved in urban forestry such as the Forest Service; and

(G) the general public, one of whom shall be a resident of a community with a population of less than 50,000 as of the most recent census and both of whom shall have expertise and have been active in urban and community forestry.

(2) VACANCY.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(3) CHAIRPERSON.—The Secretary shall select one individual from among the members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

(4) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), members of the Council shall be appointed for terms of 3 years, and no member shall serve more than two consecutive terms.

(B) STAGGERED TERMS.—Of the members first appointed under paragraph (1)—

(i) five, including the chairperson, shall be appointed for a term of 3 years;

(ii) five shall be appointed for a term of 2 years; and

(iii) five shall be appointed for a term of 1 year;

as designated by the Secretary at the time of appointment.

(C) EXPIRATION OF TERM.—Any member appointed to fill a vacancy occurring before the expiration of the term of the predecessor of such member shall be appointed only for the remainder of such term. A member may serve after the expiration of the term of such member until the successor of such member has taken office.

(5) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties of the Council.

(B) EMPLOYEES OF THE FEDERAL GOVERNMENT.—Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

(C) SUPPORT.—The Secretary shall provide financial and administrative support for the Council.

(c) NATIONAL PLAN.—Not later than 1 year after the date of enactment of this Act, and at least once every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include—

(1) an assessment of the status of urban forest resources in the United States at the time of the submission of the Plan;

(2) the results of a review of urban and community forestry programs and activities carried out in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and other interested entities;

(3) recommendations for improving the status of the urban and community forest resources of the United States, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies;

(4) the results of a review of urban and community forestry research including—

(A) all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community areas that are being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

(B) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

(C) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years;

(5) a statement of the criteria to be used for evaluating proposed projects under the Urban Forestry Energy Conservation Program under section 1942, with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities; and

(6) an estimate of the resources needed to implement the Plan for the succeeding 10 fiscal years.

(d) AMENDING OF PLAN.—The Plan may be amended by a majority of the members of the Council. Such amendments shall be incorporated into the annual review by the Council of the Plan.

(e) The Council shall submit the Plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on its completion. Not later than December 31 of the first year after the submission of the Plan, and annually thereafter, the Council shall submit a review of the Plan to the Secretary. Such review shall consist of—

(1) the assessment of the Council of the prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

(2) the recommendations of the Council for research, education, technical assistance, and related activities in the succeeding year; and

(3) the recommendations of the Council for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review to be submitted to the Secretary under this subsection shall be incorporated into the annual report of the Forest Service to the Congress under the Forest and Rangeland Renewable Resources Planning Act of 1974.

(f) DETAIL OF PERSONNEL.—On request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this section.

(g) DEFINITIONS.—As used in this section:

(1) COUNCIL.—The term "Council" means the National Urban and Community Forestry Advisory Council established under subsection (a).

(2) PLAN.—The term "plan" means the National Urban and Community Forestry Action Plan developed under subsection (c).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) URBAN AND COMMUNITY AREA.—The term "urban and community area" includes cities, their suburbs, and towns.

SEC. 1943A. URBAN FORESTRY DEMONSTRATION PROJECTS.

The Secretary is authorized to undertake, through the United States Department of Agriculture Forest Service's Northeastern Area, State and Private Forestry program, a study and pilot implementation project which will demonstrate the benefits of retaining and integrating forests in urban development. The focus of such a study and implementation project should be to protect the environment, and associated natural resource values, for current and future generations.

Subchapter D—Biomass Energy Demonstration Projects

SEC. 1944. PROJECTS.

The Secretary of Agriculture, in consultation with the Secretary of Energy, may carry out projects that demonstrate the potential of short-rotation silvicultural methods to produce wood for electricity production and industrial energy needs. In carrying out such projects, the Secretary shall cooperate with private industries, Federal and State agencies, and other organizations.

Subchapter E—Forestry Research and Global Warming

SEC. 1945. THE FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT OF 1978.

(a) RENEWABLE RESOURCE ASSESSMENT.—Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "five" and inserting "six"; and

(B) by striking "(5)" and inserting "(6)";

(2) in paragraph (1), by inserting "biodiversity, germ plasm reserves," after "fish and wildlife,"; and

(3) by adding at the end thereof the following new paragraph:

"(6) Renewable resource response to environmental stress research shall include, as appropriate, research activities related to understanding the effects of weather, climate, and air pollution on forests and rangelands, understanding the effects of forest and rangeland management activities on weather, climate, and air pollution, and developing the scientific and technical basis of alternatives for adaptation to environmental stress and mitigation of adverse impacts that affect the management and protection of forests and rangelands.".

(b) AMENDMENT.—Section 3(c)(4)(B)(ii) of such Act (16 U.S.C. 1642(c)(4)(B)(ii)) is amended by inserting "and other anthropogenic environmental stress" after "effects of atmospheric pollution".

Subchapter F—Interagency Cooperation on Forestry and Climate Change

SEC. 1946. INTERAGENCY COOPERATION TO MAXIMIZE BIOMASS GROWTH.

The Secretary of Agriculture may enter into agreement with the Secretary of Defense to—

(1) conduct a study of reforestation and improved management of Department of Defense military installations and lands; and

(2) develop a program to manage such forests and lands so as to maximize their potential for biomass growth and sequestering carbon dioxide.

SEC. 1947. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1991 through 1993, $2,000,000 to carry out this subchapter.

SEC. 1948. USDA'S OFFICE OF TRANSPORTATION.

(a) It is the sense of Congress that the United States Department of Agriculture's Office of Transportation should continue as an independent office and take the lead in addressing agricultural transportation issues. The USDA's Office of Transportation should actively participate in efforts to seek solutions to present and future rail transportation problems. This is especially important for the purpose of maintaining and improving U.S. agriculture's competitive position in the world marketplace. Likewise, USDA, through the Commodity Credit Corporation is a major shipper of grain. During periods of rail car shortages CCC loses the flexibility it needs to properly administer Federal Government farm programs. Grain rail car shortages can interfere with the Public Law 480 program, government food donation efforts and the efficient transfer of government grain stocks to private ownership.

(b) It is the sense of Congress that USDA's Office of Transportation should assist in ensuring that adequate numbers of grain rail cars are available on an equitable and timely basis to preserve the competitiveness of United States agricultural producers.

(c) It is the sense of Congress that availability of adequate and timely rail transportation for all of this Nation's agricultural areas permits farmers and our rural communities to maximize the benefit of prices received from end-user to producer. Conversely, when rail transportation is not available on an adequate and timely basis, farmers and rural communities are forced to seek, and rely upon, expensive government programs rather than the marketplace.

Subchapter G—Collection of Fees for Inspection Services

SEC. 1951. COLLECTION OF FEES FOR INSPECTION SERVICES.

(a) QUARANTINE, INSPECTION AND TRANSPORTATION FEES.—

(1) QUARANTINE AND INSPECTION.—The Secretary of Agriculture may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of a commercial vessel, commercial aircraft, commercial truck, or railroad car.

(2) TREASURY.—Any person who collects a fee under this subsection shall remit such fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which such fee is collected.

(3) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the "Agricultural Quarantine Inspection User Fee Account" (hereinafter referred to in this subtitle as the "Account"), for the use of the Secretary for quarantine or inspection services under this subtitle.

(B) AMOUNTS IN ACCOUNT.—

(i) DEPOSITS.—All of the fees collected under this subsection shall be deposited in the Account.

(ii) REIMBURSEMENT.—The Secretary of Treasury shall use the Account to provide reimbursements to any appropriations accounts that incur the costs associated with the services authorized in section (a)(1).

(iii) PROCEDURE.—The Secretary of the Treasury shall make reimbursement under clause (ii) on a quarterly basis. Amounts required to be reimbursed under clause (ii), shall be made on the basis of estimates made by the Secretary of the expenses described in clause (ii) that are incurred by the Secretary in the 3-month period immediately preceding such reimbursement.

(iv) ADJUSTMENTS.—Adjustments of reimbursements made under clause (ii) shall be made to the extent necessary to correct prior estimates that were in excess of, or

less than, the amount required to be reimbursed under clause (iii).

(4) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fees to be assessed under this subsection to reflect the cost to the Secretary in administering such subsection, in carrying out the activities at ports in customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services, and in maintaining a reasonable balance in the Account.

(b) PLANT INSPECTION.—Section 102(f) of the Act of September 21, 1944 (7 U.S.C. 147a(f)), is amended to read as follows:

"(f)(1) Notwithstanding paragraph (2) of this subsection, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Unless otherwise specifically authorized or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

"(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifiying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. Any person for whom such an activity is performed shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary of Agriculture shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by 31 U.S.C. 3717. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation. The Secretary of Agriculture shall have a lien for the fees, any late payment penalty, and any accrued interest assessed against the plant or plant product for which services have been provided. In the case of any person who fails to make payment when due, the Secretary of Agriculture shall also have a lien against any plant or plant product thereafter attempted to be exported by such person. The Secretary of Agriculture may, in case of nonpayment of the fees, late payment penalty, or accrued interest, after giving reasonable notice of default to the person liable for payment of such assessments, sell at public sale after reasonable public notice, or otherwise dispose of, any such plant or plant product upon which the Secretary of Agriculture has a lien pursuant to this section. If the sale proceeds exceed the fees due, any late payment penalty assessed, any accrued interest and the expenses of the sale, the excess shall be paid, in accordance with regulations of the Secretary of Agriculture, to the owner of the plant or plant product sold upon the owner making application therefore with proof of ownership, within six months after such sale, and otherwise the excess shall be credited to accounts that incur the costs and shall remain available until expended. The Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest.".

(c) ANIMAL INSPECTION AND VETERINARY DIAGNOSTICS.—

(1) ANIMAL INSPECTION.—The Secretary may prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance.

(2) VETERINARY DIAGNOSTICS.—Section 11 of the Act of May 29, 1884 (58 Stat. 734, as amended, 21 U.S.C. 114a), is amended by inserting immediately following the first sentence: "The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of carrying out the provisions of this section which relate to veterinary diagnostics.".

(3) LIABILITY.—Any person for whom an activity related to the importation, entry, or exportation of an animal, article, or means of conveyance or relating to veterinary diagnostics, is performed pursuant to the section, shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by 31 U.S.C. 3717. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation.

(A) IN GENERAL.—The Secretary shall have a lien against the animal, article, means of conveyance, or facility for which services have been provided under this subtitle for the fees, any late payment penalty, and any accrued interest assessed under this subsection.

(B) OTHER ANIMALS, ETC.—In the case of any person who fails to make payment when due under this subsection, the Secretary shall have a lien against any animal, article, or means of conveyance thereafter imported, moved in interstate commerce, or attempted to be exported by the person after the date of such failure until the date on which such owner or operator makes full payment to the Secretary under this subsection.

(C) SALES OF ANIMALS, ETC.—

(i) AUTHORITY.—The Secretary may, if a person does not pay fees, late payment penalties, or accrued interest on such, after providing reasonable notice of default to such person, sell at public sale after reasonable public notice, or otherwise dispose of, any such animal, article, means of conveyance or facility on which the Secretary has a lien under this paragraph.

(ii) EXCESS PROCEEDS.—If the sale proceeds under clause (i) exceed the fees due, any late payment penalty assessed, any accrued interest on such, and the expenses associated with the sale, such excess shall be paid to the owner of the animal, article, means of conveyance, or facility if such owner submits an application for such excess together with proof of ownership not later than 6 months after the date of such sale. If no such application is made, such excess shall be credited to accounts that incur the costs associated with the fees collected and shall remain available until expended, without fiscal year limitation. The Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest under this subtitle."

(d) REGULATIONS.—The Secretary of Agriculture may prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(e) RECOVERY OF AMOUNTS OWED.—An action may be brought for the recovery of fees, late payment penalties, and accrued interest which have not been paid in accordance with this section against any person obligated for payment of such assessments under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which such person is found or resides or transacts business, and such court shall have jurisdiction to hear and decide such action.

(f) DEFINITIONS.—

(1) PERSON.—For the purposes of this section, the term "person" means an individual, corporation, partnership, trust, association, or any other public or private entity, or any officer, employee, or agent thereof.

(2) VESSEL.—For the purposes of subsection (a), the term "vessel" does not include any ferry.

(3) CUSTOMS TERRITORY.—For the purposes of subsection (a), the term "customs territory of the United States" means the 50 States, the District of Columbia, and Puerto Rico.

(4) ANIMAL QUARANTINE LAWS.—For the purposes of subsection (c), the term "Animal Quarantine Laws" means the provisions in 19 U.S.C. 1306; 21 U.S.C. 101-105, 111-131, and 134-134h; and any other statute, except 21 U.S.C. 135, administered by the Secretary relating to animal diseases or pests.

(5) UNITED STATES.—For the purposes of subsection (b), the term "United States" means the several States of the United States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

(g) PENALTIES.—On failure of a person to pay any fee assessed under this section, the Secretary shall assess a late payment penalty on such person, and the overdue fees and late payment penalty shall accrue interest, as provided in section 3717 of title 31, United States Code. Any late payment penalty and any accrued interest shall be credited to the accounts that incur the costs associated with the fees collected and shall remain available until expended without fiscal year limitation.

SEC. 1952. ADDITIONAL INSPECTION SERVICES.

AGREEMENTS.—The Secretary of Agriculture, in carrying out regulations prohibiting or restricting the entry of materials that may harbor pests, or diseases, is authorized to enter into agreements with operators or owners of vessels for the purpose of providing inspection services at ocean ports of entry in the United States in addition to the regular or on-call basis currently available in connection with such ships. Any such agreement shall provide for the payment by the operator or owner of an amount determined by the Secretary to be necessary to defray the costs of providing additional service pursuant to such agreement.

Subtitle H—Investment of Certain Fees

SEC. 1961. PERISHABLE AGRICULTURAL COMMODITIES ACT.

Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c) is amended by striking "referred to above:" and inserting the following: "referred to above, except that any operating balances and interest earned may be invested by the

Secretary of the Treasury, at the request of the Secretary of Agriculture, in public debt securities with maturities suitable to the needs of the funds, as determined by the Secretary of Agriculture, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding obligations of the United States of comparable maturities. All interest earned shall be credited to the fund to pay for the services provided under this Act.".

SEC. 1962. TOBACCO ADJUSTMENT ACT OF 1983.

Section 213(d) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is amended by adding at the end the following new sentences: "Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of the Treasury, at the request of the Secretary of Agriculture, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of Agriculture, and bearing interest at rates determined by the Secretary of Treasury, taking into consideration the current market yields on outstanding obligations of the United States of the comparable maturities. Fees and charges, including late payment penalties, and interest earned from the investment of such funds shall be credited to the account referred to in this section.".

SEC. 1963. USER FEES FOR REPORTS, PUBLICATIONS, AND SOFTWARE.

Section 1121 of the Agriculture and Food Act of 1981 (7 U.S.C. 2242a) is amended by adding at the end the following new subsection:

"(d) INVESTMENT.—Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of the Treasury at the request of the Secretary of Agriculture, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of Agriculture, and bearing interest at rates determined by the Secretary of Treasury, taking into consideration the current market yields on outstanding obligations of the United States of the comparable maturities. Fees and charges, including late payment penalties and interest earned from the investment of such funds shall be credited to the account that incurs such costs.".

Subtitle I—Nutrition

SEC. 1965. COMMERCIAL WAREHOUSING AND DISTRIBUTION.

Section 3(d) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended—

(1) by striking "Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the" and inserting "The"; and

(2) by striking paragraphs (1), (2) and (3) and inserting the following new paragraphs:

"(1) evaluate its system for warehousing and distributing donated commodities to recipient agencies designated in section 13(3)(A) (hereinafter in this Act referred to as 'child nutrition program recipient agencies');

"(2) in the case of State distribution agencies that require payment of fees by child nutrition program recipient agencies for any aspect of warehousing or distribution, implement the warehousing and distribution system that provides donated commodities to child nutrition program recipient agencies in the most efficient manner, at the lowest cost to those recipient agencies, and at a level that is not less than the basic level of services determined by the Secretary;

"(3) in determining the most efficient and lowest cost system, consider the use of commercial facilities for providing warehousing and distribution services and both the direct and indirect costs of the child nutrition program recipient agencies;".

SEC. 1966. COMMODITY ACCEPTABILITY INFORMATION.

Section 3(f)(2) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended by striking "semiannually" and inserting "annually".

Subtitle J—Miscellaneous

SEC. 1971. CONFIDENTIALITY OF INFORMATION.

Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276) is amended—

(1) in subsection (a)(1)—

(A) by inserting "in a manner such that the data supplied by any particular respondent is not discernible and" after "aggregate data"; and

(B) by striking "person" and inserting "respondent";

(2) in subsection (a)(2)—

(A) by inserting "the data supplied by any particular respondent or" after "identification of"; and

(B) by striking "person" and inserting "respondent";

(3) in subsection (b)(2)(B), by striking "person" and inserting "respondent";

(4) in subsection (c), by striking "section (a)" and inserting "subsection (a)"; and

(5) by adding at the end the following new subsections:

"(e) For purposes of this section, the term 'respondent' means any—

"(1) individual;

"(2) corporation, partnership, or other business establishment;

"(3) group or association;

"(4) State or local agency or instrumentality; and

"(5) any other entity that provided information to the Department of Agriculture pursuant to a provision of law referred to in subsection (d) of this section.

"(f) Nothing in this section will affect the availability of such information under State or local law.".

SEC. 1972. RECORDKEEPING AND SERVICE CENTER IMPROVEMENT.

(a) PURPOSE.—The Secretary of Agriculture shall establish and implement an ongoing program that is designed to minimize the amount of paperwork, and the time needed to complete such paperwork, required of producers that participate in programs administered by the Secretary of Agriculture. It shall be the express goal of the program to bring about within 3 years of the enactment of this provision a reduction, in general, and for the typical producer, of not less than one-third in the volume of documentation and paperwork, the amount of time for completion of documentation and paperwork, and the number of visits to offices of the Department of Agriculture required of producers participating in programs administered by the Department of Agriculture.

(b) ADVISORY COMMITTEE.—The Secretary shall establish a standing advisory committee to assist in carrying out the program established in this section, which shall consist of not fewer than six individuals chosen from the Department of Agriculture, other Government agencies and the private sector, at least two of whom must be family farmers, as the Secretary may determine appropriate, with an emphasis placed upon the selection of individuals having expertise in time management and information systems management.

(c) REPORT.—Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture in consultation with the committee established pursuant to subsection (b), shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains specific recommendations for—

(1) reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as "producers") who apply for participation in, or attempt to comply with the requirements of—

(A) Federal agricultural price and income support programs administered by the Secretary of Agriculture, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(B) Voluntary or mandatory soil or water conservation programs administered by the Secretary of Agriculture, including programs under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.); and

(C) other agriculturally related programs administered by the Secretary of Agriculture and related agency heads; and

(2) consolidating and relocating county offices of various agencies and operations of the Department of Agriculture to provide for more convenient and efficient public access to, and the more efficient use of, publicly owned or leased property; and

(3) statutory changes that are required to reduce paperwork burdens on producers.

(d) EVALUATION.—

(1) IN GENERAL.—In preparing the report required under subsection (c), the Secretary of Agriculture shall undertake a thorough examination of the feasibility of reducing paperwork and recordkeeping requirements imposed on agricultural producers by the Department of Agriculture by permitting such producers to have access to an existing subsequently developed computer network or system with the capability to—

(A) receive electronic transmissions, from computer terminals on farms or other remote locations, of all or a portion of any information required to be provided by such producers;

(B) provide any such producer with updated electronic information and data pertinent to the agricultural operation and marketing of such producer; and

(C) provide producers with information-sharing through audio conferencing.

(2) COMPUTER FEES AND USER CATEGORIES.—

(A) COMPUTER FEES.—In determining the feasibility and costs of providing a computer network or system as described in paragraph (1), the Secretary of Agriculture may consider the imposition of a nominal user fee on producers and others who desire to have access to and the use of such a network or system. The amount of such fee should be sufficient to partially or entirely defray the costs (after considering any savings to the Department of Agriculture) associated with the operation, maintenance, and future expansion of such network or system attributable to producer use thereof, but shall not include any reimbursement for existing equipment or equipment capability or for any costs associated with the initial establishment of such network or system.

(B) USER CATEGORIES.—In determining an appropriate amount to be imposed as a user fee under subparagraph (A), the Secretary of Agriculture shall examine additional categories of users who may be permitted access to the computer network or system, and examine safeguards that would be reasonably necessary to limit file access consistent with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a et seq.) and any other relevant statutory or regulatory provisions governing disclosure of individuals or proprietary information.

(3) RECOMMENDATIONS.—In the report required under subsection (c), the Secretary of Agriculture shall include a detailed summary of the examination conducted under this section and recommendations regarding the feasibility of providing producers and other users with access to such computer network or system, and the appropriate amount of user fees that shall be imposed for such access and use, if any, and the categories of users who should be granted access to such network or system.

(e) IMPLEMENTATION.—

(1) IN GENERAL.—To the maximum extent practicable, the Secretary of Agriculture shall take steps necessary to implement the recommendations contained in the report required under subsection (c).

(2) REPORT.—Not later than 180 days after the submission of the report required under subsection (b), the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report that describes the steps taken to implement the recommendations contained in the report required under subsection (c) and the progress made in achieving the goals and purposes of programs established in this section.

SEC. 1973. WINE AND WINE GRAPE INDUSTRY STUDY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the most effective manner in which the Department of Agriculture may work with and support the United States wine and wine grape industry. Such study shall—

(1) be designed to determine whether existing Department of Agriculture programs could be improved to more effectively assist and support the United States wine and wine grape industry;

(2) be designed to determine whether new methods or programs implemented by the Department of Agriculture could enhance wine and wine grape production and processing and expand markets for United States wine and wine grapes; and

(3) be conducted in consultation with local, State, and national associations or organizations of the United States wine and wine grape industry.

(b) REPORT.—Not later than December 31, 1991, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report that contains a description of the determinations made in the study conducted under subsection (a). Such report shall also include any recommendations for legislation that the Secretary determines may be necessary to implement the programs or methods described in subsection (a).

SEC. 1974. GRAIN-BASED ALCOHOL FUELS RESEARCH.

(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Secretary of Energy, shall establish an alcohol fuels research program to determine the methods for, and the economic advantages of, utilizing offgrade grain in the production of clean fuels from renewable resources.

(b) PRIORITY RESEARCH.—The primary objective of the program established under subsection (a) shall be to encourage alcohol fuels research concerning grain and other agricultural crops and waste materials that would—

(1) convert cellulose and hemicellulose into sugars;

(2) convert 5- and 6-carbon sugars into ethanol;

(3) convert off-grade grains into ethanol, especially its derivative, ethyl tertiary butyl ether;

(4) utilize membranes to separate ethanol from process streams rather than using fossil fuel energy;

(5) improve the quality and value of byproducts to increase digestibility and performance of livestock, poultry, and fish; and

(6) develop new markets for such byproducts.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of the fiscal years 1991 through 1995 to carry out the program established under subsection (a).

SEC. 1975. CREDIT TO THE SOVIET UNION.

(a) It shall be unlawful for a financial institution, the deposits of which are insured by any department, agency, institution or entity of the Government of the United States, to make, or participate in, an extension of credit to the Government of the Soviet Union, any agency or other instrumentality of the Government of the Soviet Union, or any entity owned or controlled by the Government of the Soviet Union, unless the extension of credit is for the sole purpose of purchasing United States-produced agricultural products or commodities, or bears interest at a rate equal to or in excess of the interest rate generally extended by financial institutions to American farmers.

(b) DEFINITIONS—

(1) As used in subsection (a), the term "financial institution" means—

(A) any bank, savings association, credit union, or other entity the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board;

(B) any organization the accounts of which are insured by the Securities Investor Protection Corporation; and

(C) any company subject to the provisions of the Bank Holding Company Act of 1956.

(2) As used in subsection (a), the term "interest rate generally extended by financial institutions" means—

(A) the average rate of interest on uninsured loans secured by a farm or ranch, made during the previous quarter, to a producer who engages or producers who engage in farming, ranching or aquaculture operations in the United States, as determined by the United States Department of Agriculture on a state by state basis.

(3) As used in subsection (a), the term "producer" means—

(A) any person who, as owner, landlord, tenant or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof.

(c) A violation of this section shall be deemed to be a violation—

(1) of the Federal Deposit Insurance Act with respect to institutions insured by the Federal Deposit Insurance Corporation;

(2) of the Federal Credit Union Act with respect to financial institutions insured by the National Credit Union Administration Board;

(3) of the Securities Act of 1933 with respect to institutions insured by the Securities Investor Protection Corporation;

(4) of the Bank Holding Company Act of 1956 with respect to financial institutions insured by the bank holding companies.

SEC. 1976. FOOD SCIENCE NUTRITION RESEARCH CENTER.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473E (7 U.S.C. 3319e) the following new section:

"SEC. . (a) The Secretary is authorized to award a grant to a research facility that is part of a land grant college or university system that on the date of the enactment of this section benefits from a dedicated non-Federal nutrition endowment of at least $100,000,000 to establish at least one food science nutrition research center for the Southeast Region of the United States.

"Funds appropriated to carry out the purpose of this section shall be administered by the Cooperative State Research Service in consultation with the Agricultural Research Service to assure a coordinated approach to human nutrition research and to avert duplication of research conducted at existing Federal human nutrition research centers.

"There are authorized to be appropriated in each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this section.".

SEC. 1977. REPORTING AND RECORDKEEPING IMPROVEMENT ANALYSIS.

(a) This section may be referred to as the "Agricultural Program Reporting and Recordkeeping Improvement Act of 1990".

(b) Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an analysis that examines the feasibility of, and contains criteria and recommendations for, reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as "producers") who apply for participation in, or attempt to comply with the requirements of—

(1) agricultural price and income support programs administered by the Secretary, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(2) voluntary or mandatory soil or water conservation programs administered by the Secretary, including programs under the Food Security Act of 1985 (7 U.S.C. 1281 note); and

(3) other related programs administered by the Secretary.

(c)(1) In the analysis required by subsection (b) of this section, the Secretary shall examine the feasibility of reducing current levels of paperwork and recordkeeping required of producers by providing such producers with access to a computerized Departmental network or system (including the utilization of computer capability and equipment which has been or will be acquired by the Department of Agriculture and its various agencies) which could be used by producers: (i) to communicate by voice, video, or a combination thereof for the purpose of submitting electronically all of (or a significant portion of) any necessary and appropriate applications, reports, or other documentation, and (ii) to provide updated electronic information and data pertinent to the producer's agricultural oper-

ation and marketing activities, or information-sharing by means of video conferencing.

(2) In determining the feasibility and costs of providing a computerized network or system as described in paragraph (1) of this subsection, the Secretary may examine the usefulness of establishing a schedule of nominal fees to be charged to producers for a pro-rata share of a portion of the costs associated with access to and use of such system, which fees would partially or entirely defray the costs (after taking into consideration any ongoing savings to the Department) associated with the operation and maintenance and future expansion of such portion of the network or system and its capabilities, but not to include any reimbursement for existing equipment and capabilities nor any reimbursement for the costs associated with the initial establishment of the network or system. The analysis should also contain recommendations outlining additional categories of users who might also be permitted access to the network or system for a fee, and the types of safeguards which would be reasonably necessary to limit file access as may be necessitated in accordance with provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and other relevant authorities governing the disclosure of individual or proprietary information.

(d)(1) Insofar as practicable, in preparing the analysis required by subsection (b) of this section, the Secretary shall take into consideration and incorporate the recommendations of the commission created by title V, section 501 of the Farm Credit Amendments Act of 1985 as contained in the Report of the National Commission on Agricultural Finance, dated February 22, 1989, insofar as such recommendations relate to the need to develop a universal loan application form and uniform accounting standards for farm businesses. In considering such recommendations, the Secretary shall strive to design and adopt forms and standards which are as brief and succinct as possible and shall consult with representatives of the Farm Credit System and with representatives of the commercial banking system as well as with those representing other significant providers of farm ownership and operating credit.

(2) In order to increase the efficiency of agricultural programs administered by the Department of Agriculture and to reduce the burden of paperwork on participants in such programs, the Secretary shall examine the feasibility of creating one brief application form to be used by applicants for participation in the agricultural programs of the Department of Agriculture including but not limited to analysis required by subsection (b) shall include information with regard to the progress made by the Department of Agriculture toward compliance with this subsection. The analysis shall also identify statutory impediments to the use of such single brief form.

(e) The Secretary is authorized to use such funds of the Commodity Credit Corporation, not to exceed $1,500,000, as the Secretary deems necessary to timely complete the analysis to the extent such funds are provided in advance in appropriations acts.

SEC. 1978. BUDGET RECONCILIATION INSTRUCTIONS.

(a) It is the sense of the Senate that, in the event the budget reconciliation instructions or a budget summit agreement for any of the fiscal years ending September 30, 1991, through September 30, 1995, require that budget authority and outlays for programs under the jurisdiction of the Senate Committee on Agriculture, Nutrition, and Forestry be reduced, that the Congress shall comply with those instructions.

(b) Further, it is the sense of the Senate that the budget process unfairly penalizes producers of commodities supported primarily by Treasury payments relative to producers of commodities supported primarily by consumers.

(c) Further, it is the sense of the Senate that whatever outlay reductions required by the budget process for Treasury payment supported commodities should be shared equitably between such commodities. In addition, there should be equitable reductions in support mechanisms for commodities supported by consumers relative to Treasury payment supported commodities.

SEC. 1979. REGULATION GOVERNING INSPECTION OF IMPORTED POULTRY.

(a)(1) Since, in 1985 the Poultry Products Inspection Act, an Act to maintain the integrity and wholesomeness of this Nation's food supply, was amended by the Food Security Act of 1985.

(2) Since, the 1985 amendment provided that poultry products offered for importation into the United States shall be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States and that such products shall have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States.

(3) Since, on October 30, 1989, the Food Safety and Inspection Service, an agency within the United States Department of Agriculture charged with the responsibility of administering the provisions of the Poultry Products Inspection Act, promulgated a regulation, implementing the 1985 amendment to that Act, providing that a foreign inspection system seeking certification for export of poultry to the United States merely impose requirements at least equal to those applicable in the United States.

(b) Now, therefore, be it—

(1) determined that the Senate of the United States considers the regulation promulgated by the Food Safety and Inspection Service with respect to poultry products offered for importation into the United States does not reflect the intention of the Congress of the United States;

(2) determined further, that the Senate of the United States urges the Food Safety and Inspection Service of the United States Department of Agriculture to repeal the October 30, 1989, regulation and promulgate a new regulation reflecting the intention of the Congress.

SEC. 1980. SCARCE FEDERAL RESOURCES.

Notwithstanding any other provision of this Act, to conserve scarce Federal resources, the Secretary may after concurrence with the Chairman and Ranking Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, rank by priority the studies or reports authorized by this Act and determine which of those studies or reports shall be completed; however, the Secretary must complete at least 12 such studies or reports.

Subtitle K—Minority Farmers

SEC. 1981. SHORT TITLE.

This subtitle may be cited as the "Minority Farmers Rights Act of 1990".

SEC. 1982. FINDINGS, POLICIES AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) a serious crisis exists among minority American landowners and farmers;

(B) minority landowners and farmers are losing ownership of their land at an increasing rate;

(C) black land ownership has declined from over 15,000,000 acres in 1910 to approximately 5,000,000 acres today, and minority farmers are losing their land at a rate over 3 times higher than the rate at which non-minority farmers are losing their land; and

(D) in the last century, American Indian land holdings have fallen from 500,000,000 acres to 50,000,000 acres, and American Indian and other minority farmers are losing land at a rate comparable to the rate at which black farmers are losing their land;

(2) limited educational opportunity, and other related factors have contributed to the decline of land ownership by all minorities in the United States;

(3) racial and ethnic diversity in the ownership of agricultural land and cultural diversity in the composition of the family farm population, agricultural communities, and rural population are important and beneficial to United States; and

(4) the past and continued loss of minority-owned land and minority operated farms may constitute a threat to the general health and welfare of the United States and interferes with orderly commerce.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to stop the contraction of the minority agricultural land base as quickly as possible;

(2) to seek to restore the level of minority Agricultural land ownership to a level comparable to holdings by minorities in 1910 by the year 2000.

(3) to encourage minority land ownership and farm operation to a level commensurate with the rural minority population in each region of the United States;

(4) to eradicate racial discrimination and indifference to the specific needs and problems of minority farmers, and remove all cultural, ethnic, educational, programmatic, or regulatory barriers in all programs administered by the Secretary; and

(5) to encourage racial and ethnic diversity in the ownership of farmland, and diversity and pluralism in the composition of the family farm population.

SEC. 1983. DEFINITIONS.

As used in this Act:

(1) AGRICULTURAL LAND.—The term "agricultural land" means land that is used or is suitable for agricultural production.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization"—

(A) means any private, nonprofit rural organization that has experience in encouraging minority participation in agriculture:

(i) is representative of one or more minority communities or significant segments of minority communities; and

(ii) provides education, technical assistance, and other related services to minority community members interested in farming.

(3) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Advocacy and Enterprise.

(5) HEIR PROPERTY.—The term "heir property" means any interest in real property the title to which was held by a minority in-

dividual at the time of the death of the individual;

(6) LAND BANK.—The term "land bank" means any public or private agency, corporation, association, or program established to acquire, hold, exchange, or convey land between and among minority farmers with the objective of preserving the minority agricultural landbase.

(7) MINORITY AGRICULTURAL LAND.—The term "minority agricultural land" means agricultural land that is—

(A) owned or controlled by one or more minority persons;

(B) operated only by one or more minority persons; or

(C) heir property.

(8) MINORITY AGRICULTURAL LAND BASE.—The term "minority agricultural land base" means the aggregate of the minority agricultural land in the United States.

(9) MINORITY FARMER.—The term "minority farmer" means a minority person—

(A) who owns or operates a qualified minority farm; and

(B) produces agricultural commodities on the farm.

(10) MINORITY INDIVIDUAL.—The term "minority individual" means an individual who is a member of a group some or all the members of which have been subjected to racial, ethnic, or cultural prejudice because of the identity of the members as members of a group (including blacks not of Hispanic origin, American Indians, Alaskan Natives, Native Hawiian's, Hispanics, Asians, or residents of the Pacific Islands), without regard to the qualities of the members.

(11) MINORITY PERSON.—The term "minority person" means any—

(A) minority individual; or

(B) family farm corporation that is owned or controlled by one or more minority individuals.

(12) OFFICE.—The term "Office" means the Office of Advocacy and Enterprise of the Department.

(13) QUALIFIED MINORITY FARM.—The term "qualified minority farm" means a farm the majority of the labor for the operation of which is provided by—

(A) in the case of a farm owned or operated by a minority individual, the individual or the members of the family of the individual; and

(B) in the case of a farm owned or operated by a family farm corporation described in paragraph (10)(B), the members of the families of the shareholders of the corporation who are minority individuals.

(14) QUALIFIED STAFF.—The term "qualified staff" means an employee of the Department who—

(A) has specific training and experience in the successful operation of small farms;

(B) is sensitive to the specific needs of the operators of qualified minority farms; and

(C) receives basic training and continuing education in all special provisions of law and programs administered by the Secretary for minority or socially disadvantaged farmers.

(15) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1984. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall establish specific policies and programs in accordance with subsection (b) to achieve the purposes of this subtitle. The Under Secretary of Agriculture for Small Community and Rural Development shall be directly responsible for the implementation and oversight of such policies and programs.

(b) POLICIES AND PROGRAMS.—The Secretary shall establish policies, programs and allocate resources necessary to address the needs of minority farmers as described in this subtitle, including—

(1) specific activities and procedures to identify, halt and prevent any act, practice, or policy of any program or employee of the Department, that has the purpose or effect of discriminating against any minority farmer;

(2) specific activities and procedures to increase opportunities for minority individuals to become agricultural producers and encouraging ownership of farms; and

(3) interdepartmental and interagency monitoring, oversight, and coordination of programs designed to reverse contraction of the minority agricultural landbase.

(c) OFFICE OF ADVOCACY AND ENTERPRISE.—The Secretary shall increase the duties, staff responsibilities, staffing, and budget of the Office subject to the availability of funds to carry out the policies and programs established under this subtitle.

SEC. 1985. OUTREACH AND EDUCATION PROGRAM.

Section 623 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985 note) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end thereof the following new subsections:

"(b) INFORMATION AND ASSISTANCE.—In carrying out subsection (a), and to ensure that the goals established pursuant to section 355 of the Consolidated Farm and Rural Development Act are achieved and that section 622 of this Act is carried out, the Secretary may provide outreach education, technical assistance, to encourage and assist minority farmers—

"(1) to register with the National Minority Farmer and Land Registry established under section 7 of the Minority Farmers Rights Act of 1990, and take advantage of benefits provided by such Act;

"(2) to take advantage of the goals for Department programs, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act; and

"(3) to apply for loans, grants, benefits, or entitlements provided under State or Federal programs.

"(c) GRANTS AND CONTRACTS.—The Secretary and the Director of the Office of Advocacy and Enterprise are authorized to make and enter into grants, contracts, and other agreements in the furtherance of this section with—

"(1) 50 percent of the funds being provided to community based organizations with demonstrated experience and commitment in providing education, advocacy, or other services to minority farmers (such community based organizations must provide documentary evidence of their past experience and commitment of working with minority farmers during the 2 years preceding their application for assistance under this legislation; and

"(2) 50 percent of the funds being provided to institutions of post-secondary education, with priority given to 1890 Historically Black Land Grant Colleges and Tuskegee University, Indian Tribal Community Colleges and Alaska Native Cooperative Colleges, Hispanic Serving Institutions of Higher Education, and other educational institutions with demonstrated experience in providing education, advocacy or other services to minority family farmers in the region in which such institutions are located.

Community based educational programs that offer degrees and that serve rural minorities and their communities shall also qualify for assistance under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out the programs established under this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 1991 through 1995.".

SEC. 1986. DEVELOPMENT OF NATIONAL MINORITY FARMER AND LAND REGISTRY.

(a) IN GENERAL.—The Secretary shall develop and maintain, on a State-by-State and county-by-county basis, a voluntary national registry of the names of all minority farmers in the United States and a legal description of the acreage comprising the minority agricultural land base. The registry shall be known as the "National Minority Farmer and Land Registry".

(b) PURPOSE OF REGISTRY.—The Secretary shall use the registry—

(1) to identify agricultural land owned by minority farmers;

(2) to assist the Department and other agencies in planning, developing, and implementing programs of benefit to minority farmers; and

(3) to facilitate outreach to socially disadvantaged producers so as to encourage minority participation in agriculture.

(c) REGISTRATION.—

(1) IN GENERAL.—Any minority farmer or other minority owner of agricultural land, may, at the discretion of the farmer or owner, register with the registry the legal description of any interest in land held by the farmer or owner.

(2) PLACE.—Registration with the registry shall be available at each county office of the Agricultural Stabilization and Conservation Service of the Department.

(3) ENCOURAGEMENT.—The Secretary shall encourage registration by minority farmers or minority owners of agricultural land in the registry.

(4) CONTINUING REGISTRATION.—Registration with the registry shall be available on a continuing basis.

(d) PUBLICATION.—

(1) INITIAL PUBLICATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) publish the registry compiled pursuant to this section; and

(B) make the registry available to the public.

(2) ANNUAL UPDATE.—Not later than 1 year after the initial publication of the registry, and each year thereafter, the Secretary shall publish a complete supplement or an updated compilation of the registry.

SEC. 1987. PRESERVATION OF MINORITY AGRICULTURE LAND BASE.

(a) IN GENERAL.—The Secretary, in consultation with Federal and State programs, private organizations, and interested parties, shall take steps to ensure, to the extent practicable, that the variety, quantity, and distribution of land in the minority agricultural landbase is not significantly reduced from the variety, quantity, and distribution of the land in such landbase as described in the initial publication of the National Minority Farmer and Land Registry established under section 7, and shall establish policies and programs to fulfill the purposes of this Act.

(b) METHOD OF PRESERVATION.—The Secretary shall carry out subsection (a) by administering and implementing policies and programs to promote the participation of socially disadvantaged farmers in agriculture by providing education, outreach, technical services, and targeted funding to assist mi-

nority individuals in becoming agricultural producers and landowners.

(c) USE OF FEDERAL LAND INVENTORIES.—

(1) IMPLEMENTATION OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement a program which, to the maximum extent possible, attempts to reverse the contraction of the minority agricultural land base.

(2) CONTENTS.—The program required by paragraph (1) shall include education, technical assistance, intraagency coordination, and other measures determined to be necessary by the Secretary.

(3) EXPENDING OF FUNDS.—The Secretary may, in expending such funds, create incentives, provide credit, or acquire property from other Federal or State agencies or departments to carry out the program required by paragraph (1).

(d) CREATION AND MAINTENANCE OF MINORITY LAND BANKS.—

(1) POLICIES AND PROGRAMS.—The Secretary shall establish policies and programs that encourage and assist land banks controlled by minority in- dividuals.

(2) IMPLEMENTATION.—The Secretary shall designate the Director to implement the policies and programs established under paragraph (1).

(3) PARTICIPATION.—The Director shall encourage and facilitate the participation of other Federal and State agencies and private organizations in the development and operation of land banks controlled by minority individuals.

SEC. 1988. MINORITY PARTICIPATION RATES IN DEPARTMENT PROGRAMS.

(a) AGRICULTURE RESEARCH.—

(1) IN GENERAL.—The Secretary shall make funds available to carry out the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) to colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.), and other research institutions with minority enrollment exceeding 50 percent, or to research projects specifically aimed at increasing minority farmer participation in agriculture.

(2) COMMUNITY-BASED ORGANIZATIONS.—Programs funded under this subsection may include research agreements with community-based organizations that have at least 2 years demonstrated experience in reaching minority constituencies.

(b) AGRICULTURE EXTENSION SERVICE STAFF.—

(1) IN GENERAL.—The Secretary shall assign and improve the qualifications and performance of the staff of the Agricultural Extension Services in accordance with this subsection.

(2) PARTICIPATION GOALS BETWEEN 5 AND 25 PERCENT.—In any county in which the participation goal for socially disadvantaged groups, as established under section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), is between 5 and 25 percent, the Secretary shall assign a specific qualified member of the staff of the Extension Services in the county who shall implement the policies and programs established or modified in accordance with this subsection.

(3) PARTICIPATION GOALS GREATER THAN 25 PERCENT.—In any county in which the participation goal is greater than 25 percent, the Secretary shall assign at least 2 qualified staff members of the Extension Service who shall serve as adjunct staff members of the Office and who shall implement the policies and programs established or modified in accordance with this subsection.

(4) ALLOCATION OF RESOURCES TO AID MINORITY FARMERS.—

(A) DEPARTMENT.—The Secretary shall develop and implement a plan to allocate a significant portion of the resources of the Extension Service (including personnel) to increase the number of minority farmers and assist minority farmers in developing efficient and profitable farming operations.

(B) COMMUNITY-BASED ORGANIZATIONS.—The Secretary shall also use community-based organizations having at least 2 years of demonstrated experience in assisting minority constituencies in carrying out this subsection.

(c) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—

(1) REVIEW OF MINORITY PARTICIPATION IN CROP PROGRAMS.—

(A) IN GENERAL.—The Secretary shall review minority participation, compared to non-minority participation, in each of the crop programs of the department, on a State-by-State and county-by-county basis. The review shall include a survey representative of all farmers, including socially disadvantaged farmers to identify reasons for participation and non-participation in crop programs of the Department. The results of this review, including an analysis of the differences in rates of minority and non-minority participation, shall be reported to the House and Senate Agriculture Committees not later than September 30, 1991.

(B) CONTENTS OF THE REVIEW.—The Secretary shall calculate, on a State-by-State and county-by-county basis, the following information for each program crop—

(i) the total agriculture base, in acres, for each program crop;

(ii) the percentage of total base acres controlled by minority producers compared to the percentage controlled by non-minority producers; and

(iii) the average program payment yield for minority producers, compared to non-minority producers.

(C) PROCEDURE FOR THE REVIEW.—The Secretary, upon completion of this review, shall solicit public comment on the findings; and recommendations to improve minority participation in crop programs of the Department.

(D) REPORT.—In the report under subparagraph (A), the Secretary shall disclose the findings of the review, together with an analysis of the differences in rates of participation in crop programs between minority and non-minority farmers. Findings from comments under this subsection shall be included in such report. As a result of such review, the Secretary shall propose a plan to promote rates of minority participation in crop programs to levels commensurate to non-minority participation in each region of the nation.

(2) NOTIFICATION.—

(A) MINORITY FARMERS.—Not later than October 1, 1991, and each year thereafter, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall notify, through local media (including minority-owned media), all minority farmers of their eligibility for all farm programs of the Department.

(B) FORFEITED QUOTAS.—The committees shall notify farmers through local media (including minority-owned media and community based organizations) when forfeited quotas and allotments become available under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), and of the application procedures to receive the quotas.

(C) COMMUNITY-BASED ORGANIZATIONS.—Not later than October 1, 1991, and each year thereafter, the Director shall notify all participating community-based organizations and institutions of the terms and conditions of the program established under this subsection, including the effective date and application and appeals procedures.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by minorities in each program of the Department;

(B) the specific participation goals established for each program;

(C) the results achieved for each program under this section; and

(D) the progress of the Department of Agriculture toward meeting each of the purposes described in paragraph (2)(C).

(2) CONTENTS.—In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the goals with actual results of each program of the Department;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this Act;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to minority farmers;

(ii) the amount of funds reallocated pursuant to this Act; and

(iii) the amount of guaranteed loan funds loaned to minority farmers compared to the total amount of such funds so loaned; and

(D) a breakdown in allocation of crop base in each program crop compared to the participation goals established pursuant to section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), on a State-by-State and county-by-county basis.

SEC. 1989. MINORITY YOUTH AND MINORITY FIRST-TIME FARMERS.

(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program, to be administered by the Office within the Department, to attract, assist, and encourage—

(1) minority first-time farmers to participate in careers in production agriculture; and

(2) minority youth to participate in careers in production agriculture, related agricultural industries, and rural development.

(b) DEMONSTRATION PROGRAMS.—In order to complement the operation of the comprehensive program established under subsection (a), the Secretary shall support demonstration programs that attract, assist, or encourage minority youth or minority first-time farmers to participate in careers as described in subsection (a). In carrying out this section, the Secretary may contract with 1890 Historically Black Land Grant Colleges and Tuskegee University community based organizations, or other as deemed appropriate the Secretary. They may include programs that provide—

(1) low-interest rate loans for youths and first-time farmers under the Consolidated

Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(2) for school-based and vocational agriculture enterprises for youth;

(3) scholarship funds to youths or first-time farmers;

(4) for agricultural apprenticeship or training projects;

(5) assistance to farmworkers seeking to become full-time farmers; or

(6) other assistance to minority youth and minority first-time farmers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Secretary not to exceed $12,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1990. AFFIRMATIVE ACTION, APPEALS, AND CONTRACTING REVIEW.

(a) PURPOSE.—It is the purpose of this section to direct the Secretary to analyze within the Department the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(b) SCOPE.—The study shall include—

(1) an assessment of the successes and failures of these affirmative action programs and policies;

(2) a review of the reasons for the successes and failures described in paragraph (1);

(3) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of minority businesses in such activities, and the impact of those policies on the participation of minorities in such contracting with the Department;

(4) a review of the reasons for participation or lack of participation of minority businesses in the activities described in (3);

(5) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities. The review shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(c) REPORT.—The Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information described in (b) one year after the enactment of this Act.

SEC. 1991. ANALYSIS BY THE GENERAL ACCOUNTING OFFICE.

The General Accounting Office shall conduct a review of the progress and efforts by the Department of Agriculture in achieving the goals of this Act and of other farm programs administered by the Department to assist socially disadvantaged farmers.

SEC. 1992. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on October 1, 1990.

TITLE XX—RURAL DEVELOPMENT

SEC. 2001. SHORT TITLE.

This title may be cited as the "Rural Partnerships Act of 1990".

SEC. 2002. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the economic well-being of rural America is vital to overall national growth and prosperity;

(2) many rural areas suffer from a lack of industrial and business diversity;

(3) rural poverty and unemployment rates are significantly higher than metropolitan rates, and rural per capita income is substantially lower than metropolitan per capita income;

(4) the lack of access to advanced telecommunications in rural areas impedes economic growth; and

(5) a more robust rural economy will make the United States more competitive in world markets.

(b) PURPOSE.—It is the purpose of this title to promote a national rural development strategy, through procedures flexible enough to allow for regional and local differences, to promote the growth and economic diversification of rural America, to improve rural telecommunications, and to increase business, educational, and employment opportunities in rural America.

Subtitle A—Rural Business and Job Creation

CHAPTER 1—RURAL PARTNERSHIPS INVESTMENT BOARD

SEC. 2005. DEFINITIONS.

As used in this chapter:

(1) APPROVED LOCAL BUSINESS.—The term "approved local business" means a local business that is approved to receive assistance from the revolving fund of an eligible entity as provided under the provisions of this chapter.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A)(i) a nonprofit private corporation or a public entity that is—

(I) the governing body of each public regional organization (such as the governing body of an economic development district) that is chartered or otherwise organized under State law for the purpose of promoting economic development;

(II) the agency of each State that is primarily responsible for rural economic development programs within the State;

(III) the governing body of a county or other political subdivision of a State;

(IV) the governing body of a town or township within a State; or

(V) an incorporated public organization or a nonprofit private community development corporation, or similar nonprofit private organization, that is chartered or otherwise organized under State law for the purpose of promoting economic development; or

(ii) an Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), any Indian organization or entity chartered under the Act of June 18, 1934 (25 U.S.C. 1001 et seq.), commonly known as the "Indian Reorganization Act", or any tribal organization (as defined in the section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); and

(B) an entity described in subparagraph (A) that—

(i) possesses the powers reasonably necessary to perform the functions and activities described in this chapter;

(ii) has a professional staff and management ability (including adequate accounting, legal, and business servicing abilities or experience); and

(iii) meets any other requirements established by the Board to carry out this chapter.

(3) INVESTMENT BOARD.—The term "Investment Board" or "Board" means the Rural Partnerships Investment Board established in section 2006(a).

(4) LOCAL BUSINESS.—The term "local business" means—

(A) a business concern, located in a rural area, that—

(i) is incorporated or otherwise organized under State law so that financial records and accounts are maintained regarding the business concern separate and apart from records and accounts not related to that business concern; and

(ii) is independently or cooperatively (not including borrowers under the Rural Electrification Act of 1936) owned and operated as defined by the Board; or

(B) an individual who plans to organize and operate an entity of the type described in subparagraph (A); and

that meets any additional requirements that are established by the Board to carry out the intent of this Act.

(5) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, having a population of 20,000 or more based on the latest decennial census of the United States, and any neighboring urbanized area as defined by the Board.

(6) RURAL FUND.—The term "Rural Fund" or "Fund" means the Rural Business Investment Fund established under section 2007(a).

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this Act.

(8) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 2006. RURAL PARTNERSHIPS INVESTMENT BOARD.

(a) ESTABLISHMENT.—There is established a "Rural Partnerships Investment Board" to provide lines of credit to eligible entities to enable such entities to establish, maintain, or expand revolving funds that are used to make or guarantee loans, or to make capital investments in new or expanding local businesses in conjunction with loans or investments made by banks (as defined in section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c))), insured savings and loan institutions (as defined in title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.)), State owned banks whose deposits are backed by the full faith and credit of the State, or community development credit unions chartered by the National Credit Union Administration under the authority of the Federal Credit Union Act (12 U.S.C. 1751 et seq.).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Investment Board shall consist of—

(A) the Administrator of the Rural Electrification Administration;

(B) the Administrator of the Farmers Home Administration;

(C) the Administrator of the Extension Service of the Department of Agriculture; and

(D) two members who shall be experienced in rural development and related matters to be appointed by the President with the advice and consent of the Senate, of which each member shall be from a separate political party.

(2) CHAIRPERSON.—The Chairperson of the Board shall be elected by the members of the Board from among the Board members who are Administrators under subparagraphs (A) through (C) of paragraph (1), and shall serve for a 2-year period. Such Chairperson may serve consecutive terms.

(3) VACANCIES.—Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

(4) CHIEF EXECUTIVE OFFICER.—A chief executive officer shall be selected by the Board and shall serve at the pleasure of the Board.

(5) QUORUM.—A quorum shall consist of three members of the Board. All decisions made by the Board shall require an affirmative vote of a majority of the members.

(6) COMPENSATION.—Members of the Board—

(A) specified under subparagraphs (A), (B), and (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

(B) appointed under subparagraph (D) of paragraph (1) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

(7) RULES AND RECORDS.—The Board shall adopt such rules and procedures as it may consider appropriate for the transaction of the business of the Investment Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) POWERS OF THE INVESTMENT BOARD.—The Investment Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Investment Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general operations are to be conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this chapter;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this chapter;

(11) make such rules and regulations as the Board determines necessary and appropriate to carry out the authority vested in the Board under this Act;

(12) procure the temporary (not in excess of 2 years) or intermittent services of experts or consultants or organizations thereof, without regard to the civil service and classification laws and without regard to section 5 of title 41, at rates not to exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and while such individual is away from the home or regular place of business of such individual, travel expenses as authorized under section 5703 of title 5, United States Code; and

(13) exercise other powers as set forth in this chapter, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this chapter.

SEC. 2007. ESTABLISHMENT OF INVESTMENT FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund for the use of the Board in carrying out the provisions of this chapter that shall be known as the "Rural Business Investment Fund".

(2) AVAILABILITY.—The Fund established under paragraph (1) shall be available to the Board to provide lines of credit for revolving funds to be operated by approved eligible entities to serve local businesses in rural areas.

(b) USE.—

(1) LINES OF CREDIT.—Amounts contained in the fund established under subsection (a) shall be used by the Board to provide lines of credit in amounts determined appropriate by the Board, but in no event shall any such line of credit exceed $750,000 annually (up to a total amount of $2,250,000) to an approved eligible entity. Each line of credit shall be made available over a period of time established by the Board for each such entity, but in no event shall any such period of time extend beyond the date on which the Investment Board is terminated under section 2008(n).

(2) EXCEPTION.—Notwithstanding paragraph (1), if the approved eligible entity is the agency of any State that is primarily responsible for the rural economic development programs within such State, the Board may provide a line of credit to such agency in an amount that shall not exceed $1,250,000 annually (up to a total amount of $3,750,000) in the manner described in paragraph (1).

(3) AMOUNTS DRAWN FROM LINE.—Amounts drawn from each line of credit by each approved eligible entity shall be used solely as provided under this chapter and shall be drawn only as needed to provide loans, investments, or to carry out a guarantee.

(c) APPLICATIONS OF ELIGIBLE ENTITIES FOR LINES OF CREDIT.—

(1) FEDERAL REGISTER NOTICES.—The Board shall publish notices of solicitations for applications for lines of credit in the Federal Register and such notices shall contain—

(A) the application procedures established by the Board;

(B) the application requirements of paragraph (3);

(C) the deadlines for submission of applications (which in no event shall be less than 150 days after the publication of the applicable notice);

(D) a copy of all available response forms;

(E) a summary of the functions of the Board regarding applications; and

(F) other information determined appropriate by the Board.

(2) SUBMISSION AND CONSIDERATION.—An eligible entity that desires to receive a line of credit under this chapter shall submit an application to the Board at such time, in such form, and containing such information and documentation, including a description of the areas to be served, as the Board shall prescribe under paragraph (1), and the Board shall consider each such application based on the requirements of this chapter.

(3) ELIGIBLE ENTITY.—

(A) MATCHING FUNDS OR LETTERS OF INTENT.—In order for an application to be considered for approval by the Board for a line of credit, each eligible entity that submits an application shall—

(i) certify in writing that it shall use such funds as part of a revolving fund to invest in, and make or guarantee loans to, local businesses in accordance with this chapter; and

(ii)(I) agree to provide matching funds (Federal funds shall not be used to satisfy such matching requirement) in amounts that are at least equal to the amount of the line of credit to be provided by the Board, that shall be in the form of—

(aa) cash or cash equivalents; or

(bb) letters of credit in favor of the eligible entity issued or submitted by banks, savings and loan associations, insurance companies, similar Federally regulated financial institutions, State owned banks, local or State government or private philanthropic foundations, as determined appropriate and acceptable by the Board; or

(II) demonstrate, through procedures determined appropriate and acceptable by the Board, that banks, savings and loan associations, or community development credit unions, as defined in section 2006(a), are prepared to participate with the eligible entity in a lending, guarantee, or investment program for the benefit of local businesses, and that the total financial commitment demonstrated by the letters of intent or other documents is at least equal to the value of the line of credit for which the eligible entity is applying.

(B) EXCEPTION FOR CERTAIN ELIGIBLE ENTITIES.—

(i) LOW PER CAPITA INCOME AREAS.—If the average per capita income level of the identified rural areas served by an eligible entity is less than 70 percent of the national average per capita income for the most recent year for which such information is available, each such eligible entity shall only be required to match 50 percent of the funds provided by the Board in the same manner as described in paragraph (3)(A)(ii) (I) or (II). A list of the average per capita income and population of each county in the United States that contains rural areas, and the national average per capita income for such

year, shall be published in the Federal Register and otherwise made available by the Board to the public.

(ii) INDIAN TRIBAL COUNCIL PARTICIPATION.—

(I) IN GENERAL.—Community or tribal development corporations operated by Federally recognized tribal councils that desire to administer a local revolving fund may participate in the program established under this chapter if such corporations meet the rules and procedures established under this chapter, that are determined by the Board to be pertinent.

(II) ESTABLISHMENT OF SPECIAL RULES AND PROCEDURES.—

(aa) IN GENERAL.—Not later than 220 days after the date of enactment of this Act, the Board shall establish rules and procedures to enable such community or tribal development corporations serving rural areas located on Federally recognized reservations (including former reservations in Oklahoma) to participate in the program established under this chapter through the operation of revolving funds used for investing in, and making or guaranteeing loans to, new or expanding local businesses.

(bb) CONTENTS.—Rules and procedures established under item (aa) shall be established to ensure that development corporations that receive Federal lines of credit under this chapter serve needy reservation areas, including areas that have low per capita income, high unemployment, high poverty rates, depressed or lagging local economies, and other factors determined appropriate by the Board.

(III) MATCHING REQUIREMENTS.—The requirements of subsection (c)(3) and section 2008(d) concerning the provision of matching funds and the requirement of partnerships for loans, and any related matching requirements, shall not apply to the development corporations receiving assistance under this clause.

(4) REAPPLICATION FOR LINES OF CREDIT.—

(A) IN GENERAL.—An eligible entity that has received a line of credit under this section may reapply in subsequent years for additional lines of credit if the Board makes a determination that—

(i) the applicant has demonstrated that the funds previously allocated under such line of credit have been substantially obligated and that additional demand for lending, investment, or guaranteed funding exists in the service area of the applicant;

(ii) the applicant will meet the matching requirements under subsection (c)(3); and

(iii) the applicant has administered the revolving fund consistent with this chapter and has the capacity to administer additional funds in the same manner.

(B) PRIORITY.—Eligible entities qualified to receive an initial line of credit or that will serve a service area not served by another entity shall receive priority over any applicant seeking a second or subsequent line of credit.

(5) MONITORING COMPLIANCE.—The Board shall establish procedures to monitor the compliance of each eligible entity participating in the program authorized by this chapter with the requirements of this chapter.

(6) ELIGIBLE ENTITY REVOLVING FUND REQUIREMENT.—To be eligible to receive a line of credit from the Rural Fund, the applicant eligible entity shall—

(A) demonstrate its ability or potential capacity to make sound business, lending, and investment decisions and to provide business counseling and technical assistance;

(B) demonstrate its ability to operate consistent with the requirements of this chapter and to increase the availability of credit in rural areas to promote the creation or expansion of viable businesses in rural areas;

(C) identify the proposed service area and define a strategy for serving that area that should describe such characteristics as similar industrial, labor, or other markets, similar geographic or socioeconomic conditions, or other related considerations, and, to the extent that such area includes any towns or townships, such towns or townships shall be served in their entirety;

(D) provide an assurance that its service area will consist of—

(i) any or all rural areas within a county where the median household income of each such county is less than the Statewide nonmetropolitan median household income; or

(ii) identified rural areas within a county, in which the median household income of each such county is equal to or greater than the Statewide nonmetropolitan median household income, if the median household income of each rural city, town or township to be served, and each separate contiguous rural area to be served, is less than the Statewide nonmetropolitan median household income or identified rural areas within a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or

(iii) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and

(E) provide a notification that an application has been filed with the Board to each county or other local unit of government having jurisdiction over some or all of the proposed service area under procedures developed by the Board.

(7) FACTORS IN APPROVAL OF APPLICATIONS.—In determining which applications to approve, and the maximum amount of funds to be offered in each line of credit, the Board shall grant a preference to eligible entities—

(A) that have experience in serving local credit or equity needs and in making sound business and investment decisions, or that have the ability to serve such needs and make such decisions;

(B) whose boards of directors, or governing bodies if no such board exists, are composed of a cross-section of individuals (such as individuals with business, community development or regional development backgrounds, or individuals who are State, local or county government officials, or individuals involved in banking, financial, or other investment activities);

(C) that are likely to stimulate significant job creation or retention and new business creation or business expansion per dollar of funds provided under this section;

(D) that submit applications that demonstrate the ability and willingness to provide continuing technical and management assistance, training, financial and business guidance, and planning, to local businesses;

(E) that demonstrate that the activities of the eligible entity are consistent with State, county or local goals, whichever is applicable, regarding long-term economic growth and community development;

(F) that submit applications containing a comprehensive investment strategy, developed in consultation with the applicable State, regional council or government, and county or other general purpose unit of local government; and

(G) that propose to serve a service area—

(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.

(8) GEOGRAPHIC SPREAD.—

(A) IN GENERAL.—In awarding lines of credit under this section the Board shall attempt, as much as reasonably practicable and consistent with sound financial judgment, to assure that all rural regions of the United States benefit from such awards.

(B) MINIMUM AMOUNT OF FUNDS.—After considering the availability of qualified applications, and if consistent with good investment practices and the other requirements of this chapter, the Board shall approve the application of at least one eligible entity in each of at least 45 States. The Board shall, to the maximum extent practicable and appropriate, ensure that eligible entities that are approved by the Board in any given State receive at least $750,000 (per State) out of the funds provided under subsection (d). In addition, to the maximum extent practicable the Board shall approve the applications of at least two eligible entities in each State containing an approved eligible entity.

(C) MAXIMUM AMOUNT OF FUNDS.—The total amount of funds provided under this chapter to eligible entities in any State shall not exceed $10,000,000.

(D) SPECIAL PROGRAM.—

(i) IN GENERAL.—The Board shall issue regulations to establish a program that targets the benefits of the Federal lines of credit provided under this section to those rural areas and residents with special needs.

(ii) LIMITS.—If consistent with sound investment practices, not less than 5 percent, nor more than 15 percent, of the funds appropriated under subsection (d) shall be issued to eligible entities that will serve—

(I) local businesses located in very distressed rural areas, as defined by the Board, that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation; and

(II) local businesses that provide beneficial services to rural residents such as improved medical, hospital, or health care, licensed day care facilities or centers, improved services for the handicapped, the disabled, the elderly or other needy individuals, improved educational opportunities, improved public transportation services for needy individuals, or other related services as determined appropriate by the Board.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 in fiscal year 1991, $86,000,000 in fiscal year 1992, $67,000,000 in fiscal year 1993, and $47,000,000 in fiscal year 1994 to be made available to the Rural Fund and the Board for the purpose of carrying out this chapter. Amounts appropriated under this subsection shall remain available until expended or until the Board is terminated.

(e) RELOCATION AND REFINANCING.—The Board shall establish rules and procedures to prohibit eligible entities from using the assistance received under this chapter for loans and investments, or for issuing guarantees, that would—

(1) facilitate the relocation of a local business from one community to another;

(2) refinance the existing debt of a local business, except that such refinancing may be undertaken with such assistance if it is undertaken in conjunction with a substantial expansion effort by the local business; or

(3) significantly reduce the viability of an existing business engaged in substantially the same business activities in the same community.

SEC. 2008. LOCAL REVOLVING FUNDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Each eligible entity approved by the Board to participate in the program established under this chapter shall establish a local revolving fund account in which to deposit—

(A)(i) amounts received from the Fund under this chapter;

(ii) any local matching funds described under section 2007(c)(3)(A); and

(iii) any profits or income, repayments of loans, proceeds from the sale of equity investments, or other gains or returns on investments or loans, derived from the activities of the revolving fund established under this subsection; less

(B) reasonable operating expenses or losses incurred in administering such fund.

(2) PLACE OF ESTABLISHMENT.—Each local revolving fund established under this subsection may be established in one or more member banks of the Federal Reserve System, any Federally insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), or any State owned bank whose deposits are backed by the full faith and credit of the State, and the funds, except as used as authorized in subsection (b), shall be held in cash and receive interest or be invested in direct obligations of the United States or in obligations guaranteed by the United States or an agency thereof.

(b) USE OF FUND.—Amounts in a local revolving fund may be used—

(1) to provide loans or equity capital, or loan guarantees, to approved local businesses as authorized in this chapter, under procedures established by the Board;

(2) to cover the costs of providing training, business or financial planning, or management or technical assistance to approved local businesses in amounts that do not exceed amounts or levels described in standards established by the Board;

(3) if financial investments are made in the eligible entity in accordance with section 2007(c)(3)(A)(ii)(I) (aa) or (bb), to provide for a return of capital to non-Federal investors in the revolving fund, except that if such revolving fund experiences capital or other losses the share of returned capital under this paragraph shall be proportionately, or otherwise appropriately reduced to reflect such losses, under procedures established by the Board; or

(4) to cover reasonable operating or capital expenses, losses, or for other charges as prescribed in rules or standards established by the Board.

(c) DECISIONS CONCERNING FUNDING.—Eligible entities that receive a line of credit under section 2007 shall make case-by-case determinations concerning applications submitted by each local business for loans, equity capital or loan guarantees, under general procedures and requirements established by the Board.

(d) REQUIREMENT OF PARTNERSHIPS FOR LOANS OR INVESTMENTS.—Funds in each local revolving fund shall be loaned, invested, or used to provide a guarantee, only if one or more banks, savings and loan institutions, or community development credit unions, under procedures established by the Board, match each investment or loan made by each such revolving fund to each such local business, on at least a dollar-for-dollar basis, or provide the funds for the loans that are guaranteed by such local revolving fund.

(e) INVESTMENT SIZE LIMITS.—

(1) IN GENERAL.—

(A) AMOUNT PER LOCAL BUSINESS.—The amount of Federal funds provided from any revolving fund for use in making loans or investments, or available regarding each guarantee, shall not exceed $250,000 in any given calendar year, to any single approved local business or to other local businesses that are financially connected or otherwise related to such local business as defined by the Board.

(B) OTHER SOURCES.—The provisions of this chapter shall not limit the total amount of loans, investments, or guarantees from sources other than eligible entities that each local business may receive.

(C) PROCEDURES.—In implementing this paragraph the Board shall develop procedures to establish, impute, or determine the amount of Federal funds that shall be considered available in the revolving funds created by approved eligible entities.

(2) INELIGIBILITY.—Any local business that employs 100 or more employees shall not be eligible to receive assistance from a local revolving fund that receives assistance under this chapter.

(f) SUBORDINATED INTEREST OF LOCAL REVOLVING FUND.—If a bank, savings and loan association, or a community development credit union has made an investment or loan in a local business in conjunction with an investment or loan made out of the revolving fund of an approved eligible entity, the amount invested or loaned by such revolving fund in such local business may be subordinated, to any degree, and in any manner.

(g) OTHER INVESTORS.—A bank, savings and loan association, community development credit union, similar Federally regulated financial institution, State owned bank, local or State government, private philanthrophic foundation, or other entity that contributes capital to an eligible entity that receives Federal assistance under this chapter may establish contractual arrangements with such eligible entity concerning the return of such investments in the local revolving fund consistent with subsection (b)(3).

(h) ADDITIONAL CAPITAL.—The Board shall promulgate regulations that provide each participating eligible entity with a sufficient amount of time to obtain additional capital, lines of credit, or letters of intent, if any investor, pursuant to the contract with the eligible entity under subsection (g), withdraw some or all of its investment.

(i) CONTINUATION OF LINE OF CREDIT.—A line of credit provided to an approved eligible entity under section 2007 for use in a local revolving fund shall continue to be available to be drawn upon until the Investment Board is terminated or until the line of credit is canceled, revoked, or suspended by the Board or the Secretary as described in section 2009 or subsection (l).

(j) CONTINUATION OF BUSINESS PROMOTION ACTIVITIES.—The Federal assistance provided to each eligible entity under this chapter shall become the property of each such entity on the termination of the Investment Board if—

(1) the eligible entity that administers the local revolving fund has operated the fund in a manner that is consistent with this chapter as determined by the Board; and

(2) the eligible entity contracts with the Secretary to continue to provide lending, investment, and guarantee assistance consistent with this chapter.

(k) DEVELOPMENT OF MONITORING PROCEDURES.—On the date on which the Investment Board is terminated, the Secretary shall act in place of the Board and shall monitor the operations of eligible entities that receive Federal assistance under this chapter which continue to exist on the date the Board is terminated.

(l) REFUND OF FUNDS.—Notwithstanding subsection (j), and in addition to any actions taken under section 2009, if the Secretary finds that the purpose of any eligible entity is no longer to promote business development in a manner consistent with this chapter, the Secretary shall revoke the approval of the eligible entity, obtain a refund in an amount equal to the amount of funds drawn out of the Federal line of credit issued to the eligible entity together with an appropriate amount of interest on such amount, as determined by the Secretary, and succeed to, or acquire the rights, privileges, assets, investment and payments due from such eligible entity as described in section 2009(h).

(m) ANNUAL REPORTS TO THE BOARD.—

(1) IN GENERAL.—Each eligible entity that receives assistance under this chapter shall annually prepare and submit to the Board, at such time, and in such form as the Board may require, a report describing the financial condition of the eligible entity, and the investments, cash revenues, income from investments, loans made, equity positions taken, guarantees issued, losses sustained or taken, any training, business, or technical assistance, or financial planning provided, operating expenses, loss rates, and such other matters as the Board determines appropriate concerning the eligible entity.

(2) POST TERMINATION.—After the Board terminates under subsection (n), the reports required under paragraph (1) shall be submitted to the Secretary who shall stand in the same position as the Board.

(n) TERMINATION OF BOARD.—The Investment Board established by section 2006(a) shall terminate on the last day of the 5th calendar year following the date of enactment of this chapter and the Secretary shall act in place of such Board.

SEC. 2009. COMPLIANCE AND ENFORCEMENT.

(a) REVOCATION OR CANCELLATION OF LINE OF CREDIT AND REFUND.—

(1) GROUNDS FOR REVOCATION.—A line of credit shall be revoked or suspended by the Board, and a full or partial refund of the Federal investment, together with an appropriate amount of interest, shall be requested by the Board—

(A) for false statements knowingly made in any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter;

(B) if any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(C) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this chapter;

(D) for willful or repeated violation of, or willful or repeated failure to observe, any

rule or regulation authorized under this chapter; or

(E) for violation of, or failure to observe, any cease and desist order issued by the Board under this subsection.

(2) CANCELLATION OF LINE OF CREDIT.—Notwithstanding any actions taken under paragraph (1), the Board may cancel any prospective payments to be made from any approved line of credit under this chapter if the Board determines that the eligible entity participating in the program established under this chapter made investments or acted in a manner that was inconsistent with the provision of this chapter.

(3) CEASE AND DESIST ORDERS.—Where an eligible entity has not complied with any provision of this chapter, or of any regulation issued pursuant thereto, or is engaging or is about to engage in any acts or practices that constitute or will constitute a violation of such chapter or regulation, the Board may order such entity to cease and desist from such action or failure to act. The Board may further order such entity to take such action or to refrain from such action as the Board determines necessary to ensure compliance with this chapter and the regulations issued thereunder.

(4) ORDER TO SHOW CAUSE, CONTENTS, AND HEARING.—

(A) ORDER.—Prior to revoking or suspending a line of credit under paragraph (1) or (2), or issuing a cease and desist order under paragraph (3), the Board shall serve on the eligible entity an order to show cause why an order revoking or suspending the line of credit or a cease and desist order should not be issued.

(B) CONTENTS.—An order to show cause under subparagraph (A) shall contain a statement of the matters of fact and law asserted by the Board and the legal authority and jurisdiction under which a hearing is to be held, and shall state that a hearing will be held before the Board at a time and place stated in the order.

(C) HEARING.—If after a hearing under subparagraph (B), or a waiver thereof, the Board determines on the record that an order revoking or suspending the line of credit, or a cease and desist order should be issued, or an order requiring a refund of the Federal investment in addition to reasonable interest thereon should issue, the Board shall promptly issue such order, which shall include a statement of the findings of the Administration and the reasons for such findings and specify the effective date of the order, and shall cause the order to be served on the entity.

(5) SUBPOENA OF PERSONS, BOOKS, PAPERS, AND DOCUMENTS; FEES AND MILEAGE; ENFORCEMENT.—

(A) SUBPOENA.—The Board may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States.

(B) FEES AND MILEAGE.—Witnesses summoned before the Board shall be paid by the party at whose instance such witnesses were called the same fees and mileage that are paid witnesses in the courts of the United States.

(C) ENFORCEMENT.—In the case of disobedience to a subpoena under this paragraph, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(6) PETITION TO MODIFY OR SET ASIDE ORDER; FILING, TIME AND PLACE, ADMINISTRATION TO SUBMIT RECORD; ACTION OF COURT; REVIEW.—

(A) IN GENERAL.—An order issued by the Board under this subsection shall be final and conclusive unless not later than 30 days after the service thereof the eligible entity appeals to the United States court of appeals for the circuit in which such corporation has its principal place of business by filing with the clerk of such court a petition praying that the order of the Board be set aside or modified in the manner stated in the petition.

(B) FILING.—

(i) LEAVE OF COURT.—After the expiration of the 30-day period referred to in subparagraph (A), a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition prior to the expiration of such period.

(ii) CERTIFICATION.—The clerk of the court shall, on filing, cause a copy of the petition to be delivered to the Board and the Board shall certify and file in the court a transcript of the record on which the order was entered. If prior to the filing of such record the Board amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, after providing notice to the Board.

(C) STAY OR SUSPENSION OF ORDER.—The filing of a petition for review under this paragraph shall not of itself stay or suspend the operation of the order of the Board, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

(D) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Board.

(E) ADDITIONAL EVIDENCE.—

(i) DETERMINATION.—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Board to reopen the hearing for the taking of such evidence, in such manner and on such terms and conditions as the court may consider appropriate.

(ii) FINDINGS.—The Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence taken under this subparagraph, and it shall file its modified or new findings and the amendments, if any, of its order, with the records of such additional evidence.

(F) CONSIDERATION OF OBJECTIONS.—No objection to an order of the Board shall be considered by the court unless the objection was argued before the Board or, if it was not so argued, unless there were reasonable grounds for failure to do so.

(G) REVIEW.—The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be subject only to review by the Supreme Court of the United States on certification or certiorari as provided in section 1254 of title 28.

(7) ENFORCEMENT OF ORDER.—If the entity against which or against whom an order is issued under this subsection fails to obey the order, the Board may apply to the United States Court of appeals, within the circuit where the entity has its principal place of business, for the enforcement of the order, and shall file a transcript of the record on which the order complained of was entered. On the filing of the application the court shall cause notice thereof to be served on the entity. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in paragraph (6) for applications to set aside or modify orders.

(b) INVESTIGATIONS AND EXAMINATIONS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Board may conduct such investigations as the Board considers necessary to determine whether an eligible entity has engaged in any acts or practices that constitute or will constitute a violation of any provision of this chapter, or of any regulation issued under this chapter, or of any order issued under this section.

(B) FILING OF STATEMENTS.—The Board shall permit any individual to file a statement with the Board that is in writing, under oath or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(C) SUBPOENA.—For the purpose of any investigation under this subsection, the Board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(D) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any individual, including an entity or corporation, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such individual resides or carries on business activity, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents, and such court may issue an order requiring such individual to appear before the Board, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(E) CONTEMPT.—A failure to obey an order of the court under this subsection shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district where such individual is an inhabitant or wherever such individual may be found.

(2) EXAMINATIONS AND REPORTS.—

(A) EXAMINATIONS.—An eligible entity under this chapter shall be subject to examinations made by the Board through examiners selected or approved by the Board, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Board be assessed against the entity examined and when so assessed shall be paid by such entity.

(B) REPORTS.—Such entities shall prepare and submit reports to the Board at such times and in such form as the Board may require.

(3) EXAMINATIONS.—Each eligible entity shall be examined and audited at least once every 2 years, under procedures established by the Board, to determine whether or not such entity has been operated in a manner consistent with this chapter and in an otherwise lawful manner, except that the Board may waive the examination requirement for up to 1 additional year if, in its discretion, the Board determines that such a delay would be appropriate based on the prior operating experience of the entity, the contents and results of the last examination and the management expertise of the entity.

(c) INJUNCTIONS OR OTHER ORDERS.—

(1) GROUNDS AND JURISDICTION OF COURT.—Whenever, in the judgment of the Board an

eligible entity has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of this chapter, or of any regulation under this chapter, or of any order issued under this section, the Board may apply to the proper district court of the United States or a United States court located in any jurisdiction subject to the laws of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order. Such court shall have jurisdiction over such actions and, on a showing by the Board that such entity has engaged in or is about to engage in such acts or practices, may issue a permanent or temporary injunction, restraining order, or other order without bond.

(2) EQUITY JURISDICTION OF CORPORATION AND ASSETS.—In any proceeding under this section the court as a court of equity may, to such extent as it considers necessary, declare that such court has exclusive jurisdiction over the entity and the assets thereof, wherever located. Such court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(3) TRUSTEESHIP OR RECEIVERSHIP.—The Board shall have authority to act as trustee or receiver of an entity under this section. On request by the Board, the court may appoint the Board to act in such capacity unless the court determines such appointment to be inequitable or otherwise inappropriate because of the special circumstances involved.

(d) UNLAWFUL ACTS AND OMISSIONS BY OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS.—

(1) VIOLATION OF CHAPTER.—Wherever an eligible entity violates any provision of this chapter or regulation issued under such chapter by reason of the failure of such entity to comply with the terms thereof, or by reason of such entity engaging in any act or practice that constitutes or will constitute a violation thereof, such violation shall be considered to be a violation and an unlawful act on the part of any individual who, directly or indirectly, authorizes, orders, participates in, or causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, such violation.

(2) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of an eligible entity to engage in any act or practice, or to omit any act, in breach the fiduciary duty of such individual or such officer, director, employee, agent, or participant, if, as a result thereof, the entity has suffered or is in imminent danger of suffering financial loss or other damage.

(3) DISQUALIFICATION OF OFFICERS AND EMPLOYEES.—Except on the written consent of the Board, it shall be unlawful—

(A) for any individual to take office as an officer, director, or employee of an eligible entity, or to become an agent or participate in the conduct of the affairs or management of an eligible entity, if—

(i) such individual has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; or

(B) for any individual to continue to serve in any of the above-described capacities, if—

(i) such individual is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual is found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

(e) PENALTIES AND FORFEITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity that violates any regulation or written directive issued by the Board requiring the filing of any regular or special report under this chapter, shall forfeit and pay to the United States a civil penalty of not more than $100 for each and every day of the continuance of the corporation's failure to file such report, unless the entity demonstrates that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this subsection shall accrue to the United States and may be recovered in a civil action brought by the Board.

(2) EXEMPTION.—The Board may through rules and regulations, or on application of an interested party, at any time previous to a failure under paragraph (1), by order, after notice and opportunity for hearing, exempt in whole or in part, any entity from the provisions of paragraph (1), on such terms and conditions and for such period of time as the Board determines necessary and appropriate, if the Board finds that such action is not inconsistent with the public interest or the protection of the Board. The Board may for purposes of this subsection make any alternative requirements appropriate to the situation.

(f) JURISDICTION AND SERVICE OF PROCESS.—Any suit or action brought under this section by the Board to enforce any liability or duty created by, or to enjoin any violation of, this chapter, or any rule, regulation, or order promulgated thereunder, shall be brought in the district wherein the eligible entity maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

(g) SUBSTITUTION OF SECRETARY.—On the termination of the Board, the Secretary shall stand in place of the Board and shall possess all the powers, privileges and rights regarding compliance and enforcement described in this section and in section 2008.

(h) REVOCATION, SUSPENSION, OR TERMINATION.—If the approval of any eligible entity to participate in this program is revoked, suspended, or terminated, or if the activities of the eligible entity otherwise end, the Board, or the Secretary, upon the termination of the Board, shall—

(1) possess all the rights and privileges of such eligible entity;

(2) succeed to the assets of such eligible entity to the extent necessary to obtain a refund of any amounts due to the Board, or the Secretary;

(3) be entitled to receive any payments due to such eligible entity from any local businesses on any outstanding loans; and

(4) take over any equity investment held by such eligible entity.

CHAPTER 2—RURAL CAPITAL ACCESS PROGRAM

SEC. 2010. PURPOSE.

It is the purpose of this chapter to create a Rural Capital Access Program within the Department of Agriculture to encourage lending institutions to provide loans to certain businesses in rural areas.

SEC. 2011. DEFINITIONS.

As used in this chapter:

(1) FUND.—The term "Fund" means the Rural Capital Access Fund established under section 2012(b).

(2) PROGRAM.—The term "Program" means the Rural Capital Access Program established under section 2012(a).

(3) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, or neighboring urbanized area as defined by the Board, having a population of 20,000 or more based on the latest decennial census of the United States.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 2012. RURAL CAPITAL ACCESS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to be known as the "Rural Capital Access Program" through which the Secretary shall provide incentives to lending institutions to encourage such institutions to provide new loans to certain businesses in rural areas.

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Secretary shall establish and maintain a fund to be known as the "Rural Capital Access Fund" that shall serve as a reserve account to protect lending institutions that participate in the Program from losses associated with certain loans.

(2) AMOUNTS IN FUND.—The Fund established under paragraph (1) shall contain amounts received under this subtitle from the Federal Government, participating lending institutions, and eligible borrowers. The amounts obligated to the Fund shall remain in the Fund until expended.

SEC. 2013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this chapter there are authorized to be appropriated $15,000,000 in fiscal year 1991, $20,000,000 in fiscal year 1992, $30,000,000 in fiscal year 1993, $40,000,000 in fiscal year 1994, and $60,000,000 in fiscal year 1995.

(b) AMOUNTS NOT TO REMAIN AVAILABLE.—The amounts appropriated during each fiscal year pursuant to paragraph (1), that are not obligated to the Fund during such fiscal year, shall not remain available for use under the Program after the fiscal year for which such sums are appropriated.

(c) ADMINISTRATIVE EXPENSES.—No funds appropriated under this chapter shall be used for the administrative expenses of State agencies or institutions participating in the Program.

SEC. 2014. ALLOCATION.

(a) IN GENERAL.—Of the amounts appropriated under section 2013, the Secretary shall allocate to each State at the beginning of each fiscal year an amount for use under the Program equal to an amount that bears the same ratio to the total amount of such appropriation as the number of individuals residing in rural areas in such State bears to the number of individuals residing in rural areas in all States.

(b) REALLOCATION.—Any portion of the allocation under subsection (a) for use within a State during a fiscal year that the Secretary determines is not obligated to the Fund by June 1 of such fiscal year shall be released by the Secretary for obligation under the Program in connection with loans made in any other State.

SEC. 2015. ADMINISTRATION OF THE PROGRAM.

(a) NOTIFICATION AND APPLICATION.—

(1) IN GENERAL.—A State that desires to participate in the Program shall notify the Secretary in writing of its intent to participate, and shall provide such information as the Secretary shall require, including a designation of the State agency or private institution that shall administer the Program within the State.

(2) PRIVATE INSTITUTION.—If a State fails to—

(A) submit a notification to the Secretary within 6 months after the date of enactment of this Act; or

(B) designate a State agency or private institution to administer the Program;

a private institution within such State may apply to the Secretary to participate in the Program on behalf of such State. Within a reasonable period of time following the receipt of such application, the Secretary shall approve such institution for participation in the Program unless good cause exists to reject such application. If more than one such application is received from institutions within the State, the Secretary shall select from among the applicants one institution to participate in the Program.

(3) DUTIES.—The participating State agency or private institution shall—

(A) promote the Program within the State;

(B) recruit lending institutions within the State to participate in the Program;

(C) enter into agreements with participating lending institutions that outline the rights and obligations of such institutions;

(D) encourage participating lending institutions to use the Program to expand the funding activity of such institutions in rural areas and avoid displacing commercial loans that could otherwise be made without the incentives provided under the Program; and

(E) maintain such books and records of its activities under the Program, as specified by the Secretary and grant the Secretary reasonable access to such books and records.

(b) ELIGIBLE LENDING INSTITUTIONS, BORROWERS, AND LOANS.—

(1) ELIGIBLE LENDING INSTITUTIONS.—To be eligible to participate in the Program, a lending institution must be legally able to make loans within rural areas in the State.

(2) ELIGIBLE BORROWERS.—An eligible borrower must be a corporation, partnership, joint venture, sole proprietorship, retail business, cooperative, individual, or any other entity, whether profit or nonprofit, that conducts or is planning to conduct business in a rural area of a State.

(3) ELIGIBLE LOAN.—To be eligible for protection under this chapter a loan made by an eligible lending institution shall—

(A) be made to an eligible borrower;

(B) be used by the borrower for economic activity that is located in a rural area;

(C) not be used for the construction or purchase of residential property;

(D) not be used to finance any real estate purchase primarily for investment purposes, without developing or improving such real estate, or without intending to use such real estate in connection with the business of the borrower;

(E) not be an existing loan of the lending institution (or an affiliate of such institution) that is not in the Program unless the institution increases the outstanding balance of such loan and places the refinanced loan into the Program only to the extent that the principal of such loan is increased;

(F) not be made to a director, officer, or principal shareholder of the lender or a member of the immediate family of a director, officer, or principal shareholder of the lender; and

(G) not exceed $3,000,000.

SEC. 2016. OPERATION OF THE PROGRAM.

(a) LOAN PROCESS.—A lending institution that enters into an agreement with the administering agency or institution may make loans to eligible borrowers and such loans shall be protected by the subaccounts contained in the Fund.

(b) CREATION OF SUBACCOUNTS.—

(1) IN GENERAL.—A subaccount shall be created in the Fund for each lending institution that enters into an agreement with the administering agency or institution that shall contain amounts derived from contributions made by the lending institution, the borrower, and the Federal Government.

(2) CONTRIBUTIONS.—

(A) MINIMUM.—The minimum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not less than 1.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(B) MAXIMUM.—The maximum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not greater than 3.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(C) DETERMINATION.—The amount of the contribution to be made by a borrower in connection with any eligible loan made under the Program shall be established through an agreement between the lender and the borrower.

(3) INTEREST.—The subaccount of each lending institution shall earn interest at a rate equal to the current average market yield on outstanding marketable obligations of the United States.

(4) WITHDRAWAL.—A lending institution shall only be permitted to withdraw funds from the subaccount of such institution to reimburse such institution for losses suffered on eligible loans made under the Program.

(c) PROCEDURE.—

(1) NOTIFICATION.—After entering into an agreement with the administering agency or institution to participate in the Program, a lending institution shall notify such agency or institution before concluding a loan agreement to provide an eligible loan to any eligible borrower to ensure that the Secretary has sufficient funds available for use in such State to pay the contribution required of the Secretary under subsection (b)(2).

(2) TIME FOR PAYMENTS OF CONTRIBUTIONS.—

(A) LENDING INSTITUTION AND BORROWER.—The lending institution shall pay the required contribution, and collect and pay the required contribution of the borrower, to the administering agency or institution not later than 10 working days after the applicable loan agreement is entered into.

(B) TRANSFER TO SECRETARY.—Not later than 5 working days after the receipt of funds under subparagraph (A), the administering agency or institution shall transfer such funds to the Secretary.

(C) SECRETARY.—As soon as practicable after the administering agency or institution transmits the contributions required under subsection (b)(2) to the Secretary, such contributions and the matching funds required to be provided by the Secretary, shall be deposited by the Secretary into the subaccount of the institution created within the Fund in accordance with subsection (b)(1).

(d) CLAIMS AGAINST THE FUND.—

(1) DETERMINATION OF CHARGE OFFS.—A lending institution shall determine when and how much to charge off on a loan eligible for protection under this chapter in a manner that is consistent with the normal methods used by such institution for making such determinations concerning its commercial business loans not covered under the Program.

(2) FILING OF CLAIMS.—A lending institution shall file a claim for assistance under this chapter with the administering agency or institution at the time that such lending institution charges off all or part of an eligible loan.

(3) AMOUNT OF CLAIM.—

(A) IN GENERAL.—A claim filed by a lending institution under this subsection may include the full amount of the principal of the loan that is charged off, any interest accrued on the loan, and any out-of-pocket expenses incurred by such institution in connection with the loan.

(B) LIMITATION.—If the amount of a loan that is protected under this Program is less than the total amount of the loan principal charged off by the lender, the amount of principal and accrued interest that may be included in a claim shall not exceed the principal amount of such loan that is protected under the Program in addition to any accrued interest attributable to such principal.

(4) REVIEW OF CLAIMS.—

(A) IN GENERAL.—A claim submitted under this section shall be promptly delivered by the administering agency or institution to the Secretary who shall, not later than 20 days after the receipt of such claim, review the claim and make a payment to the lending institution from the subaccount of such institution in the amount of the claim.

(B) LIMITATION.—Except as provided in section 2018(c), the amount of payment made to a lender on any claim under this Program shall not exceed the total amount that such lending institution has in its subaccount in the Fund.

(C) GROUNDS FOR DENIAL OF CLAIM.—The Secretary shall only deny a claim submitted under this subsection, or a portion thereof, if the Secretary determines that the lending institution that submitted the claim has knowingly—

(i) violated a provision of this chapter;

(ii) violated a provision of the agreement of the institution with the administering agency or institution;

(iii) allowed interest to accrue on the loan for an unreasonable period of time after the loan became delinquent without taking prudent action to collect the principal; or

(iv) submitted a false claim.

(e) REVIEW BY THE SECRETARY.—The Secretary may review the operations of any lending institution that participates in the Program under this chapter.

SEC. 2017. INACTIVE LENDING INSTITUTIONS.

If, for a period of at least 24 consecutive months, the amount in the subaccount of a lending institution exceeds the outstanding balance of all loans of such institution protected under this Program, the Secretary may withdraw any such excess amounts so that the amount of funds remaining in the subaccount are equal to 100 percent of the outstanding balance of such loans. Such excess shall be transferred to a general account within the Fund to be utilized by the Secretary for other contributions under section 2016(b)(2).

SEC. 2018. INITIAL PROGRAM INCENTIVES.

(a) PURPOSES.—To encourage lending institutions to participate in the Program and to make eligible loans during the early stages of the implementation of the Program, the Secretary shall provide two special incentives as provided in subsections (b) and (c).

(b) ADDITIONAL CONTRIBUTION.—The Secretary shall contribute an amount, under section 2016(b)(2), equal to 150 percent of the amount of the contributions made by the lending institution and the borrower, in connection with any loan protected under the Program, with respect to the first $2,000,000 of principal on loans made by such institution that are protected under the Program.

(c) PAYMENT OF CLAIMS WITH FUTURE CONTRIBUTIONS.—

(1) AVAILABILITY.—The provisions of this subsection shall only apply to the first $5,000,000 of principal on loans made by a lending institution that are protected under the Program.

(2) INCENTIVE.—If a claim is filed under section 2016(d) on a loan that meets the requirement of paragraph (1), and at the time that such claim is made there is not a sufficient amount of funds in the claiming lending institution's subaccount to pay the full amount of such claim, the lending institution may withdraw all of the funds in such subaccount and, to the extent such institution continues to make eligible loans under this chapter that result in additional contributions to such subaccount, such institution may withdraw such additional funds from the subaccount at the time such funds are deposited as may be necessary to exhaust the full amount of any such claim.

(3) LIMITATION.—The Secretary shall limit withdrawals from the subaccount of any lender under this subsection so that the amount withdrawn by the lending institution to reimburse such institution for a prior claim, shall not exceed 75 percent of the amount in such subaccount immediately prior to such subsequent withdrawal.

CHAPTER 3—RURAL ECONOMIC DEVELOPMENT ADMINISTERED BY THE SECRETARY AND THE RURAL ELECTRIFICATION ADMINISTRATION

SEC. 2020. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 is amended by adding after section 11 (7 U.S.C. 911) the following new section:

"SEC. 11A. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

"(a) APPOINTMENT.—The Administrator shall appoint an Assistant Administrator for Economic Development (hereinafter referred to in this Act as the 'Assistant Administrator') to carry out the programs of the Rural Electrification Administration concerning the involvement of rural electric and telephone systems in community and economic development.

"(b) APPOINTMENT FACTORS.—In appointing an Assistant Administrator, the Administrator shall consider the degree to which candidates possess—

"(1) knowledge of and experience in community and economic development programs and strategies;

"(2) the ability to develop and manage the specific programs and responsibilities of this office, as described in this Act;

"(3) the ability to work effectively with officials of Federal, State, and local governments, private, and other officials of development programs, as well as with borrowers of the Rural Electrification Administration and their associations; and

"(4) other factors as determined by the Administrator to be important in the successful execution of the responsibilities of the office of Assistant Administrator.

"(c) RESPONSIBILITIES AND STANDING.—The Assistant Administrator shall be—

"(1) responsible, unless otherwise provided by law, for the administration of the programs of the Rural Electrification Administration not directly related to the providing of electric or telephone service; and

"(2) compensated at a salary level that is not less than that of the Assistant Administrator for Electric and the Assistant Administrator for Telephone of the Rural Electrification Administration.

"(d) FUNDING.—Not less than 10 percent nor more than 20 percent of the salaries and expenses provided to the Administration during any fiscal year shall be used by the Assistant Administrator in carrying out the responsibilities of the Assistant Administrator as described in subsection (c), and such amounts shall remain available until expended.

"(e) TECHNICAL ASSISTANCE UNIT.—The Administrator shall establish a technical assistance unit to provide advice and guidance to borrowers concerning community and economic development activities permitted under this Act. From the amounts made available to the Assistant Administrator under subsection (d), not less than 1 percent of the salaries and expenses of the Rural Electrification Administration shall be made available to such technical assistance unit established in this section.".

SEC. 2021. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in section 12(a), except that such deferment shall not be permitted based on the determination by the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred; and

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total of amount of such payments shall be equal to the amount of the payment deferred; and

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower in community or economic development projects.

"(B) The amount of the deferment shall not exceed 50 percent of the cost of a community or economic development project financed under paragraph (2).

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments received during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a cushion of credit payment in an amount equal to the amount of the payment deferred. Such payment shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation provided by section 313 of this Act.

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 2022. WATER AND WASTE FACILITY FINANCING.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding after section 306, the following new section:

"SEC. 306A. ADDITIONAL WATER AND WASTE FACILITIES PROGRAM.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to individuals or entities who are borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), (hereinafter referred to in this section as the 'borrower') to enable such borrowers to provide water and waste facility services in areas served by such borrowers.

"(2) PROGRAMS.—The loan program established by the Secretary under this section shall be in addition to any programs administered under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926).

"(b) LIMITATION.—Loans made under subsection (a) shall not, unless otherwise specified by law, exceed an amount equal to 10 percent of the total amount of insured loans under the Rural Electrification Act of 1936 authorized during the fiscal year in which such loan is made for rural electrification and telephone purposes, or $40,000,000, whichever is less. Such limitations shall be in addition to the total amount of insured loans authorized for electrification and telephone purposes.

"(c) PRIORITY.—In reviewing applications for loans under this section the Secretary shall consider—

"(1) whether the loan is necessary to enable the communities to be served to comply with applicable Federal or State environmental laws;

"(2) whether the individuals residing in the area for which service is proposed, and any local government entities, are in favor of the borrower providing such services in the area;

"(3) the income, unemployment, and other characteristics of the area to be served;

"(4) the degree of deprivation faced by residents of the area to be served as a result of the lack of safe drinking water, adequate water supplies, sewage treatment and other waste disposal facilities;

"(5) the impact that the availability of safe water supplies, waste disposal and similar services would be likely to have on enhancing the prospects for economic growth within the area to be served;

"(6) the degree to which a loan that may be provided under this subsection is necessary to ensure that water and waste disposal services are available in the area to be served by such loan at costs that do not exceed those charged in other nearby areas;

"(7) the impact of the proposed loan on the retention of the property and service territory of the borrower, or in protecting the security given on outstanding loans provided to the borrower; and

"(8) whether the water and waste facility projects described in the application will duplicate any existing facilities, and whether the borrower will coordinate its water and waste facility operations with similar operations in the area, including efforts to achieve economies of scale through joint billing, collection, or other operations with nearby systems in order to reduce the costs, improve the operations, or otherwise assist such systems.

"(d) COORDINATION.—

"(1) OTHER PROGRAMS AND REQUIREMENTS.—

"(A) OTHER PROGRAMS.—The Secretary shall ensure that the program established under this section is coordinated with the programs authorized and established under section 306, and will attempt to coordinate the lending activities under this section with similar activities conducted by other entities.

"(B) REQUIREMENTS.—Loans made under this section shall be subject, in the same manner as loans made under section 306, to the provisions of section 306(a)(9) and 306(a)(10) (which require approvals by State water pollution control agencies), sections 306(a)(19) (A) and (B), (which include certain requirements in connection with the technical design and choice of materials for water and waste systems), and section 306(b) (which concerns the curtailment or limitation of service).

"(2) ASSIGNMENT OF DUTIES.—The Secretary shall determine whether the Rural Electrification Administration possesses greater expertise, as compared with the Farmers Home Administration, in the areas of utility accounting, utility management and financial analysis, advice and assistance, and other aspects of utility operations and engineering. If the Secretary determines that the Rural Electrification Administration possesses greater expertise in such areas, the Secretary shall require the Rural Electrification Administration to provide technical assistance, and assist in the processing of applications under this section.

"(3) PROHIBITION ON LIMITING ACCESS.—The Secretary shall establish rules and procedures that prohibit borrowers from conditioning or limiting access to, or the use of, any water and waste facility services that are financed under this section. Such rules and procedures shall be based on whether individuals or entities in the area for which such facility is proposed receive, or will accept, electric service from such borrower.

"(e) TERMS.—

"(1) IN GENERAL.—Loans made under this section shall be for the same repayment period as insured loans made by the Administrator of the Rural Electrification Administration to such borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and interest rates on loans made under this section shall not exceed the 5 percent interest rate on such insured loans as described in section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935).

"(2) INTEREST RATE.—The Secretary shall determine the interest rate to be charged on loans made under this section on the basis of—

"(A) ensuring that the cost to consumers for water and waste disposal services financed with loans provided under this section does not, to the extent possible, exceed rates charged in areas that are near the area served by the borrower;

"(B) the income and other characteristics of the individuals to be served through the provision of such loans; and

"(C) encouraging borrowers to obtain private sector capital, as provided for in subsection (f), to supplement loans made under this section.

"(f) PRIVATE SECTOR CAPITAL.—The Secretary shall require borrowers under this section to obtain private sector capital to supplement assistance made available under this section if—

"(1) the Secretary determines that—

"(A) it is appropriate to require use of such private capital, taking into account subparagraphs (A) and (B) of subsection (e)(2); and

"(B) the borrower is able to obtain revenues from the facilities to be financed to recover its cost, including the cost of such private capital; and

"(2) the borrower is able to obtain such private sector capital.

In order to facilitate the obtaining of such private capital, the Secretary may, on a case-by-case basis, reduce the interest rate on loans provided under this section when such reduction is appropriate and will enable the borrower to obtain such private capital.

"(g) APPROPRIATIONS.—The Secretary is authorized to make loans to the extent amounts are appropriated as provided under this section, except that during any fiscal year the amount of such loans, unless otherwise provided by law, shall not exceed 10 percent of the amount authorized for all insured loans under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), or $40,000,000, whichever amount is less. Funds appropriated under this section shall remain available until expended.

"(h) REPAYMENT.—Appropriations made for purposes of this section shall be placed in a separate account. Advances on loans made under this section shall be made from such account, and payments on such loans shall be returned to the account for use by the account in making advances on future loans.

"(i) FULL USE.—The Secretary shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds held by the account established under subsection (h), subject to limitations that loans for the purpose of this section shall not exceed 10 percent of the amount of loans made under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) during any fiscal year, or $40,000,000, whichever amount is less, and subject to any other limitations that may be imposed by law, except that any repayments made during each fiscal year shall not be considered in computing such 10 percent or $40,000,000 limit.

"(j) REPLENISHMENT OF WATER AND WASTE FACILITY FUND.—

"(1) CALCULATION OF TOTAL AMOUNT OF LOANS.—At the end of each fiscal year the Secretary shall calculate—

"(A) the total amount of loans extended under this section during such fiscal year; and

"(B) the amount of water or waste facility loans extended to borrowers (as referred to in subsection (a)(1)) under section 306 of this Act.

"(2) TRANSFER OF AMOUNTS.—Notwithstanding the provisions of subsections (g) and (i), if any amounts appropriated under this section remain available at the end of any fiscal year, the Secretary shall transfer such available amounts to the fund used to make water or waste facility loans under section 306, to the extent of the amount of any loans made to borrowers under the Rural Electrification Act of 1936, under such section 306, and any such loan to such borrower made under section 306 shall be subject to the terms, conditions and other requirements of section 306A, and any such section 306 loan shall be repaid to the account established by subsection (h).".

SEC. 2023. RURAL ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—RURAL ECONOMIC DEVELOPMENT

"SEC. 501. ADDITIONAL POWERS AND DUTIES OF REA ADMINISTRATOR.

"The Administrator shall—

"(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development;

"(7) review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and

"(8) administer a Rural Business Incubator Fund (as established under section 502) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

"SEC. 502. RURAL BUSINESS INCUBATOR FUND.

"(a) ESTABLISHMENT AND USE.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (hereinafter referred to in this title as the 'Incubator Fund') to be administered by the Administrator.

"(2) USE.—The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this Act or to other non-profit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas as defined in this Act, and the rate of such loans shall not exceed the 5 percent rate as provided in section 305.

"(3) BUSINESS INCUBATOR.—Any business incubator that receives assistance under this title shall be a facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this title even when such programs do not involve the sharing of premises.

"(b) APPLICATION FOR ASSISTANCE.—

"(1) ELIGIBILITY TO SUBMIT.—Borrowers under this Act that operate existing business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Administrator for obtaining grants or reduced interest loans under this section, may submit applications at such time, in such form, and containing such information as the Administrator shall require, for such grants or loans. Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which one or fewer electric borrowers are headquartered in such State.

"(2) REQUIREMENTS.—Applications submitted under paragraph (1) shall, at a minimum—

"(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

"(B) contain an assurance that it will be the policy of such incubator to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy;

"(3) REVIEW.—In reviewing applications for assistance, the Administrator shall consider—

"(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

"(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Administrator.

"(c) FUNDING OF LOCAL INCUBATORS.—

"(1) BY BORROWER ESTABLISHING INCUBATOR.—

"(A) IN GENERAL.—A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Administrator under this section.

"(B) REDEMPTION OF CERTIFICATES.—Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Administrator shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated amounts not to exceed $10,000,000 annually for such capitalization until the total of such capitalization shall equal $60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.

"(d) REPAYMENTS TO INCUBATION FUND.—All payments made on loans under this section, and all amounts provided under subsection (c), shall be placed in the Incubator Fund established by subsection (a) and shall be available to carry out the purposes of this section.

"(e) FULL USE.—The Administrator shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a), consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c). During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities, as provided under subsection (b), that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to utilize such 10 percent amount during each such fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

SEC. 2024. PROMOTING RURAL DEVELOPMENT BY REA TELEPHONE BORROWERS.

To promote additional rural development by Rural Electrification Administration telephone borrowers, amounts invested by any such borrower for improved rural telecommunications facilities under programs established pursuant to section 2035, or other additional rural development efforts made under subtitle C, shall not be considered dividends or distributions of capital by the Rural Electrification Administration.

SEC. 2025. REVIEW OF PROGRAMS FOR BUSINESS INCUBATOR.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States that the Federal Government should encourage and support the development and operation of business incubator centers as a tool of economic and community development.

(b) ACTION BY SECRETARIES.—The Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, and Agriculture, and the Administrator of the Small Business Administration shall review existing regulations promulgated by their respective departments and agencies governing grants and loans for purposes of community development, business promotion, research and development, and export promotion and shall take such action as may be necessary to ensure that business incubator centers are eligible for such grants or loans.

(c) REPORT.—Not later than March 1, 1991, the head of each agency or department described in subsection (b) shall prepare and submit, to the appropriate Committees of the House of Representatives and to the Governmental Affairs Committee and other appropriate committees of the Senate, a report containing the findings of its review including—

(1) a description of existing Federal grant or loan programs the purpose of which is community development, business promotion, research and development, or export promotion for which business incubator centers are currently eligible;

(2) recommendations as to changes in existing law needed to make business incubator centers eligible for current Federal grant or loan programs for purposes of community development, business promotion, research and development, or export promotion; and

(3) recommendations for any additional legislation that may be required to foster and support business incubator centers.

(d) CONSULTATION.—In conducting the reviews under subsections (b) and (c), the heads of the agencies and departments shall regularly consult with representatives of incubator operators, officials of State and local government, and others involved in small business promotion and economic development.

(e) AVAILABILITY OF REPORTS.—The Administrator of the Small Business Administration shall ensure that any reports developed as the result of such reviews are made available to interested parties and to the general public.

Subtitle B—Enhancing Human Resources

SEC. 2031. PURPOSE.

It is the purpose of this subtitle to provide incentives for local telephone exchange carriers, and for rural community facilities or residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.

SEC. 2032. GOALS.

It is a goal of the Federal government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

SEC. 2033. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Electrification Administration.

(2) COMMUNICATION SATELLITE GROUND STATION COMPLEX.—The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(3) COMPREHENSIVE RURAL TELECOMMUNICATIONS PLAN.—The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this subtitle. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Administrator under this subtitle;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Administrator under this subtitle or otherwise imposed under section 2034;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of subtitle II, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative cost-benefit of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and the anticipated role of such carrier in the proposed telecommunications system.

(4) COMPUTER NETWORKS.—The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(5) DATA TERMINAL EQUIPMENT.—The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

(6) END USER.—The term "end user" means rural community facilities or persons associated with those facilities who participate in the programs established under this subtitle.

(7) FIBER-OPTIC CABLE.—The term "fiber-optic cable" means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(8) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antenna, relay stations and towers, other telecommunications antenna, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Administrator.

(11) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode or otherwise prepare signals to be transmitted via such telecommunications facilities or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the mission for which the circuit was established.

SEC. 2034. PROVISIONS RELEVANT TO TELECOMMUNICATIONS PROGRAMS.

(a) ADMINISTRATION.—The Administrator shall be responsible for the administration of this subtitle.

(b) RULEMAKING.—Not later than 160 days after the date of enactment of this Act, the Administrator shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, that establish the telecommunications programs authorized in this subtitle.

(c) PRIORITY.—The Administrator shall establish procedures to target the benefits of this subtitle to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create the telecommunications systems.

(d) WAIVERS.—If the Administrator determines that a compelling need is present, the Administrator may modify any of the definitions described in section 2033.

(e) EXPEDITING COORDINATED TELEPHONE LOANS.—The Administrator shall establish and implement procedures to assure that applications for loans and advances of funds submitted by local exchange carriers under this subtitle—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Administrator under this subtitle that will be completed by such local telephone exchange carriers but that is not covered by the grants issued under this subtitle;

shall receive expedited consideration and determination.

(f) GRANT APPROVAL PROCESS.—

(1) MODIFICATIONS.—The Administrator shall have the authority to request modifications or changes in any proposal described in a grant application submitted under this subtitle.

(2) LEVELS OF FUNDING.—

(A) IN GENERAL.—The Administrator may offer to fund grant applications under this subtitle at any levels that the Administrator considers appropriate but not exceeding any percentage levels described in this subtitle.

(B) CONSIDERATIONS.—The Administrator shall provide grant funding in amounts based on—

(i) the worthiness of the application;

(ii) the financial needs of the applicant for the grant assistance;

(iii) the need of the affected rural communities for the proposed projects; and

(iv) other factors determined appropriate by the Administrator;

after taking into consideration the nationwide demands for grant assistance and the cost-benefit of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities.

(g) JOINT USE OF TELECOMMUNICATIONS TRANSMISSIONS FACILITIES.—In issuing regulations implementing this subtitle, and in requesting changes in, or approving applications for grants, the Administrator shall give a priority to the extent reasonable and appropriate to provide funding for such facilities that can be jointly shared regarding projects established under this subtitle.

(h) EXPEDITED LOANS FOR TELEPHONE TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to approved end users if the local telephone exchange carrier providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924), will install such facilities through the use of expedited telephone loans as described in subsection (e) under the conditions and deadlines described in this section or through other financing procedures.

(2) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—Applicants for grants for a rural telecommunications program established under this subtitle shall notify the appropriate local telephone exchange carrier regarding the application filed with the Administrator for assistance under this subtitle and shall attempt to work with such carrier in developing the rural telecommunications project.

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—The Administrator shall, not later than 45 days after the receipt of the completed application, respond to such completed application for an expedited telephone loan. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

SEC. 2035. RURAL COMMUNITY ACCESS TO ADVANCED TELECOMMUNICATIONS.

(a) PURPOSE.—

(1) IN GENERAL.—It is the purpose of the program established under this section to encourage and improve the use of telecom-

munications, computer networks, and related advanced technologies, by persons associated with end users, including students and teachers, medical professionals, small businesses, and other residents living in rural areas associated with rural community facilities in rural areas.

(2) GRANTS.—The program established under this section shall make grants available to end users to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Administrator.

(b) GRANTS.—

(1) GENERAL AUTHORIZATION.—The Administrator is authorized to make grants to accomplish the purposes of the program established under this section in amounts that shall not exceed the levels set forth in paragraph (3).

(2) DISBURSEMENT.—In order to facilitate appropriate planning for, and continuity of the program established under this section, funds appropriated by Congress during a particular year may be committed by the Administrator for disbursement in a subsequent year or years, and funds appropriated and committed during a year may exceed the limitations described in paragraph (1). Funds appropriated pursuant to this section shall remain available until expended.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this subtitle, $25,000,000 in fiscal year 1991, $50,000,000 in each of the fiscal years 1992 and 1993, and $60,000,000 in each of the fiscal years 1994 and 1995. Amounts appropriated under this subsection shall remain available until expended.

(4) USE OF FUNDS.—Grants under this section shall be made available to end users to be used for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this section, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this section;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this section as approved by the Administrator.

(5) Under the conditions described in section 2034(h), expedited loans may also be provided, to carry out any projects authorized in this subtitle, to local exchange carriers providing telephone service, as defined in section 2033(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a)), to cover the costs of telecommunications transmission facilities.

(6) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this section.

(7) LIMITS ON GRANTS.—Grants awarded under this section for an end user shall not be used for the salaries or expenses of an end user.

(c) REGULATIONS.—Not later than 160 days after the date of enactment of this Act, the Administrator shall, in addition to promulgating the regulations described in section 2034(b), establish a priority system for awarding grants to end users located in rural areas that are most in need of enhanced communications to carry out the purposes of this section.

Subtitle C—Focus on Rural America by the Department of Agriculture

SEC. 2041. EXTENSION SERVICE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end thereof the following new subsection:

"(g) RURAL ECONOMIC AND BUSINESS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall establish an Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses, including cooperatives, or to assist existing businesses, and to assist such businesses regarding advanced telecommunications, computer technologies, technical or management assistance, business and financial planning, and other related matters, and to assist community leaders in community economic analysis and strategic planning.

"(2) FUNCTION OF SPECIALISTS.—Specialists employed under paragraph (1) shall provide economic development information and assistance concerning new business creation, business planning and advice, advanced telecommunications, business management, computer operations, and other technical assistance to community leaders and private sector entrepreneurs and cooperatives operating in the State or county that employs such specialists.

"(3) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures and limitations that shall apply to States and counties that desire to participate in the program established under this subsection. States and counties shall determine the types of rural economic and business development specialists that are needed by such States and counties. In States with land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall mutually determine the types of rural economic and business development specialists needed.

"(4) PAYMENT OF SALARY.—The Secretary shall make grants to States and counties that participate in the program established under this section in an amount equal to 60 percent of the total amount of the salary paid to any specialists employed under such program, and the State or county shall provide funds for the remaining 40 percent of such salary. Land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, shall be exempt from the 40 percent salary matching requirement.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 in fiscal year 1991, $10,000,000 in fiscal year 1992, $15,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994 and each subsequent fiscal year, to carry out this section. Amounts appropriated under this section shall remain available until expended.

"(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.".

SEC. 2042. RURAL DEVELOPMENT ASSISTANCE INFORMATION AND AVAILABILITY.

The Rural Development Act of 1972 (7 U.S.C. 2651 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 509. NEED AND AVAILABILITY OF RURAL DEVELOPMENT ASSISTANCE.

"(a) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a program to study economically distressed counties in a variety of States that have high concentrations of nonmetropolitan counties with low per capita income or nonmetropolitan counties experiencing high rates of outmigration.

"(b) EVALUATION.—When conducting a study of counties under subsection (a), the Secretary shall evaluate the need of such counties for rural development assistance, the nature of the assistance needed, and the availability of such assistance.

"(c) REPORT.—Not later than September 30, of each of the fiscal years 1991 through 1994, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the studies and evaluations conducted under this section and on any action taken by the Secretary to improve economic conditions in rural counties.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 510. RURAL DEVELOPMENT ASSISTANCE INFORMATION.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, to be operated in conjunction with the National Rural Information Center Clearinghouse established within the National Agricultural Library, to provide information to local rural communities, nonmetropolitan counties, and rural areas concerning rural development matters and the availability of Federal rural development assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 2043. REPORT ON COORDINATION OF RURAL DEVELOPMENT ACTIVITIES.

Not later than September 1, 1991, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the recommendations of the Secretary concerning better coordination of the rural development activities of the Farmers Home Administration, the Forest Service, the Soil Conservation Service, the Agricultural Research Service, the Agricultural Stabilization and Conservation Service, the Agricultural Cooperative Service, the Rural Electrification Administration, the Extension Service, and the Office of Transportation.

SEC. 2044. REPORT ON DATA PROCESSING FEASIBILITY IN RURAL AREAS.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study that—

(1) assesses the data processing functions administered by the Secretary;

(2) analyzes whether or not the current data processing functions of the Department of Agriculture, and the future processing functions, may be conducted in rural areas at similar or reduced costs; and

(3) assesses any other information that the Secretary determines appropriate to analyze the potential for locating current and expanded data processing jobs in rural areas.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000.

Subtitle D—Rural Business and Emergency Assistance

SEC. 2045. LOCAL TECHNICAL ASSISTANCE GRANTS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended to read as follows:

"(11)(A)(i) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies, private non profit community development corporations or entities, or such other agencies as the Secretary may select to enable such recipients—

"(I) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(II) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(III) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and enhancing the capacity of local individuals and entities to engage in sound economic activities; and

"(IV) to conduct regional, community, and local economic development planning and coordination, and leadership development.

"(ii) In awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(I) the extent to which the applicant provides development services in its rural service area; and

"(II) the capability of the applicant to carry out the purposes of this section.

"(iii) There are authorized to be appropriated to make grants under this subparagraph, $7,500,000 in each fiscal year.".

SEC. 2046. RURAL EMERGENCY ASSISTANCE LOANS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) (as amended by section 2045), is further amended by adding at the end thereof the following new subparagraph:

"(B)(i) The Secretary shall establish and implement a program to make loans for the benefit of any town or city that—

"(I) has a population of less than 20,000 individuals within its outer boundaries; and

"(II) is financially unable to obtain funds as quickly as needed to correct emergency conditions or situations needing urgent attention.

"(ii) The Secretary shall promulgate regulations—

"(I) targeting the program established under this subparagraph toward needy communities in rural areas;

"(II) setting forth a definition of 'emergency conditions or situations needing urgent attention'; and

"(III) requiring that the Secretary approve or reject applications within 30 days of their receipt.

"(iii) The Secretary shall limit the amount of loans provided to the same borrower under this subparagraph to $50,000, and the term of such loans shall not exceed 2 years.

"(iv) The Secretary may respond to the credit needs of rural towns or cities eligible to participate in the program authorized under this subparagraph by making loans that are eligible for refinancing after the expiration of the 2-year period described in clause (iii), and payments under such loans may be set at a level that is at a sufficiently low level during such 2-year period so that the financially troubled town or city can participate in the program established under this subparagraph. The Secretary shall assist such borrowers in obtaining financing through existing Farmers Home Administration programs so that such borrowers are able to pay the balance due on each loan at the end of such 2-year period.

"(v) There are authorized to be appropriated $2,500,000 for fiscal year 1991, and $5,000,000 for fiscal year 1992 and for each subsequent fiscal year, to carry out the emergency lending program authorized by the program established under this subparagraph.".

Subtitle E—National Rural Information Center Clearinghouse

SEC. 2051. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (hereinafter referred to in this subtitle as the "Clearinghouse") to perform the functions specified in subsection (b).

(b) FUNCTIONS.—The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling.

(c) FEDERAL AGENCIES.—On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to carry out the functions specified in subsection (b).

(d) STATE AND LOCAL AGENCIES AND NONPROFIT ORGANIZATIONS.—The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1991 through 1995.

Subtitle F—Water and Sewer Assistance

SEC. 2056. WATER AND WASTE FACILITY GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking out "$154,900,000 in any fiscal year" and inserting in lieu thereof "$194,900,000 in each of fiscal years 1991 and 1992, and $204,900,000 in each of the succeeding fiscal years.".

SEC. 2057. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306A (as added by section 2022) the following new section:

"SEC. 306B. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy an acute shortage of quality water or would remedy a significant decline in the quantity or quality of water that is available.

"(b) PRIORITY.—In carrying out subsection (a), the Secretary shall give priority to projects described in subsection (a)(1), and provide at least 70 percent of all such grants to such projects.

"(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

"(d) USES.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—No grant provided under this section shall be used to assist any rural area or community that—

"(1) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or

"(2) has a median household income in excess of the State nonmetropolitan median household income according to the most

recent decennial census of the United States.

Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

"(h) APPLICATION.—The Secretary shall develop a nationally competitive application process to award grants under this section. Such process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water. The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1991, and $10,000,000 for fiscal year 1992, such sums to remain authorized until fully appropriated.".

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Secretary shall publish—

(A) interim final regulations to carry out section 306B of the Consolidated Farm and Rural Development Act not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306B of such Act not later than 90 days after the date of enactment of this Act.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306B(h) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306B(a)(1) of Consolidated Farm and Rural Development Act.

SEC. 2058. SEWER AND WATER LENDING BY BANKS FOR COOPERATIVES.

The banks of the Farm Credit System that are authorized to extend credit under title III of the Farm Credit Act of 1971 (12 U.S.C. 2121, et seq.) are authorized to make and participate in loans and commitments, and to extend other technical and financial assistance for the purpose of the installation, expansion, or improvement of waste disposal facilities or drinking water facilities or systems, to any entity that has received or is eligible to receive a loan made or insured by the Secretary of Agriculture under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)).

SEC. 2059. RURAL WASTEWATER TREATMENT CIRCUIT RIDER GRANT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Farmers Home Administration shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).

SEC. 2060. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary may make grants to non-profit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for technical assistance shall be made for 100 percent of the cost of such assistance.".

Subtitle G—Miscellaneous

SEC. 2071. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

(a) BUREAU OF THE CENSUS.—The Director of the Bureau of the Census shall expand the data collection efforts of the Bureau to enable the Bureau to collect statistically significant data concerning the changing economic condition of rural counties and communities in the United States, including data on rural employment, poverty and income, and other information concerning the rural labor force.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out subsection (a).

SEC. 2072. HISTORIC PRESERVATION REQUIREMENTS.

With respect to applications for assistance under this Act, the Secretary of the Interior, in consultation with the Under Secretary of Agriculture for Small Community and Rural Development and the National Trust for Historic Preservation in recognition of its charter duties, shall prescribe and implement regulations concerning projects funded under this title and their relationship with the provisions of Acts entitled—

(1) "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.); and

(2) "An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960 (16 U.S.C. 469 et seq.).

SEC. 2073. LOAN RATES APPLICABLE TO HEALTH CARE AND RELATED FACILITIES.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary shall establish loan rates for health care and related facilities that shall be based solely on the income of the area to be served, and such rates shall be otherwise consistent with the provisions of such subparagraph.".

SEC. 2074. ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.

(a) ADDITIONAL FUNDS FOR THE REFORESTATION TRUST FUND.—Section 303(b)(2) of Public Law 96-451, relating to the Reforestation Trust Fund (16 U.S.C. 1606a(b)(2)) is amended by striking "$30,000,000" and inserting "$40,000,000 (of which, $10,000,000, shall be subject to subsection (e))".

(b) ADDITIONAL PURPOSES FOR WHICH FUND AVAILABLE.—Section 303(d) of such Act (16 U.S.C. 1606a(d)) is amended—

(1) in paragraph (1) by striking out "and" at the end thereof;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) economic diversification assistance to communities which are dependent to a significant degree upon Forest Service resource management decisions for their local economic activity; and".

(c) ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.—Section 303 of such Act (16 U.S.C. 1606a) is amended by adding at the end thereof the following new subsection:

"(e) In each fiscal year $10,000,000 of the amounts transferred to the Trust Fund by the Secretary under subsection (b)(2) shall be expended for purposes described in subsection (d)(2) and any such amount shall be available only as provided for in annual appropriations Acts.".

SEC. 2075. ASSISTING DISTRESSED RURAL HOSPITALS AND HEALTH CARE FACILITIES.

The Secretary shall establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001), except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 306(a)). Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, as modeled after those promulgated under such section 353, that implement the program established under this section.

SEC. 2076. RURAL DEVELOPMENT RESEARCH ASSISTANCE.

Section 502 of the Rural Development Act of 1973 (7 U.S.C. 2662) (as amended by section 2041) is further amended by adding at the end thereof the following new subsection:

"(h) RESEARCH GRANTS.—

"(1) IN GENERAL.—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, nonprofit organizations specializing in applied research, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to improve economic competitiveness and diversification, support strategic planning for economic investments, improve human resources, and improve the data base for rural development decisionmaking in rural areas.

"(2) RURAL TECHNOLOGY TRANSFER AND INNOVATION.—The Secretary shall establish and implement a program to award matching grants to promote technology transfer, innovation, and new product development. Grantees shall include institutions de-

scribed in paragraph (1) and other nonprofit organizations that have demonstrable capability in technology transfer, applied research, innovation, and new product development that will lead to economic growth and job creation in rural areas. Applicants for grants under this paragraph shall demonstrate the ability to provide, at a minimum, a one-to-one financial match.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 in each fiscal year to carry out this subsection. Amounts appropriated under this subsection shall remain available until expended.".

SEC. 2077. BUSINESS AND INDUSTRIAL LOAN PROGRAM APPLICATIONS.

Section 333A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)) is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 310B(a) that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make such loan or guarantee shall not be disapproved but shall be placed in pending status. The Secretary shall retain such pending application and reconsider such application beginning on the date that sufficient funds become available. Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.".

SEC. 2078. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

(b) CONTENTS.—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible by individuals through their personal computers;

(2) assess the technological, regulatory or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history or other interests, as well as to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1).

SEC. 2079. SENSE OF THE CONGRESS CONCERNING TOLL RATE AVERAGING.

(a) FINDINGS.—Congress finds that—

(1) new technologies make it possible for previously isolated rural areas to compete for regional, national, and international business opportunities;

(2) such new business opportunities are made possible by modern communications, telecommunication, and satellite, and radio networks;

(3) the use of uniform averaged rates for toll calls of equal distance, duration, and class of service prevents price discrimination for telephone service to rural areas;

(4) the policy of toll rate averaging has long been recognized by Congress, the Federal Communications Commission, and the telecommunications industry as beneficial to the public interest;

(5) deaveraging may result in extreme price disparities between rural and urban areas due to the high cost of serving sparsely populated areas;

(6) higher rural toll rates could result in rural subscribers leaving the switched network; and

(7) the important relationship between toll rate averaging and universal service needs to be clarified.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that toll rate averaging shall be defined as the cornerstone of universal service and that such policy, being in the public interest, shall be maintained.

SEC. 2080. NATIONAL ENDOWMENT FOR RURAL DEVELOPMENT.

(a) It is the sense of the Congress that a National Endowment for Rural Development should be established with the effective use of both public and private funds to maximize business development in rural communities in every feasible way.

(b)(1) The Executive Office of the President shall undertake a review of a National Endowment for Rural America, for the purposes of determining the desirability of such an Endowment for rural development.

(2) That review shall be completed by January 1, 1990 and shall make recommendations to the Congress on appropriate legislation to implement such an Endowment.

(3) Those recommendations should focus on, but not be limited to—

(A) the purposes and goals,

(B) the organizational structure with private and public participation,

(C) funding sources for the Endowment,

(D) eligible awardees of endowment.

SEC. 2081. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may make grants to Statewide private non-profit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Funds available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 2082. ECONOMIC IMPACT STATEMENTS.

When promulgating regulations concerning rural development activities after the date of enactment of this Act, the Federal agency or department promulgating such regulations shall issue an economic impact assessment concerning the effect of such regulations on rural communities and businesses.

SEC. 2083. NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended—

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans, and the National Rural Development and Finance Corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) in subsection (b)(1)—

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the Corporation certifies to the Secretary that they are able to establish effective, ongoing State programs or rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(c) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsections (a) or (b) may use not to exceed 10 percent of the amount of such grants over a 2-year period for program operation and administration costs.".

SEC. 2084. MERGER OF CERTAIN RURAL ELECTRIC COOPERATIVES.

Section 306B of the Rural Electrification Act of 1936 (7 U.S.C. § 936b) is amended by adding "(a)" before the first paragraph thereof and adding the following new subsection at the end thereof:

"(b) Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by a borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Administrator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Treasury Department for obligations of comparable maturity to those being prepaid. In the event that a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, a direct loan is a loan made under section 9 of this Act.

TITLE XXI—AGRICULTURAL PROMOTION PROGRAMS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Agricultural Promotion Programs Act of 1990".

Subtitle A—Soybeans

SEC. 2105. SHORT TITLE.

This subtitle may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 2106. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and those concerned with marketing, using, and producing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on all soybeans produced domestically), and implementing a program of promotion, research, and consumer information designed—

(1) to strengthen the position of the soybean industry in the marketplace;

(2) to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products; and

(3) to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 2107. DEFINITIONS.

As used in this subtitle:

(1) BOARD.—The term "Board" means the United Soybean Board established under section 2109(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) COMMITTEE.—The term "Committee" means the Soybean Program Coordinating Committee established under section 2109(e).

(4) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products.

(5) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(6) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring after harvest from a producer soybeans produced by such producer; or

(B) in any case in which soybeans are pledged as collateral for a loan issued under any Federal price support loan program, the Commodity Credit Corporation.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) NET MARKET PRICE.—The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors; or

(B) for soybeans pledged as collateral for a loan issued under any Federal price support loan program, the principal amount of the loan.

(10) ORDER.—The term "order" means an order issued under section 2108.

(11) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(12) PRODUCER.—The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) PROMOTION.—The term "promotion" means—

(A) any action (including paid advertising, technical assistance, and trade servicing activities) to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets; and

(B) any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) QUALIFIED STATE SOYBEAN BOARD.—

(A) IN GENERAL.—The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law.

(B) NO STATE SOYBEAN PROMOTION ENTITY.—If no such entity exists in a State, such term means a soybean producer-governed entity that—

(i) is organized and operating within a State;

(ii) receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs;

(iii) meets the criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board; and

(iv) is recognized by the Board as the soybean promotion and research entity within the State.

(15) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybean and soybean products.

(16) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(17) SOYBEAN PRODUCTS.—The term "soybean products" means products produced in whole or in part from soybeans or soybean byproducts.

(18) SOYBEANS.—The term "soybeans" means all varieties of Glycine max or Glycine soya.

(19) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 2108. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2106(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this subtitle applicable to producers and first purchasers of soybeans. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURE.—

(1) PROPOSALS.—The Secretary may propose the issuance of an order under this subtitle, or an association of soybean producers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) NOTICE AND PUBLIC COMMENT.—Not later than 30 days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle.

(4) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section, consistent with the requirements of section 2114(b).

SEC. 2109. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) UNITED SOYBEAN BOARD.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) SEATS.—The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) STATE UNITS.—Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) COMBINED UNITS.—A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall group geographically contiguous States together. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) NUMBER OF SEATS PER UNIT.—Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to four seats on the Board.

(D) DETERMINATION OF AVERAGE ANNUAL SOYBEAN PRODUCTION.—For purposes of this section, the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) REAPPORTIONMENT OF SEATS.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the Board to conform with subparagraph (C). If payment of refunds following the initial referendum conducted under section 2110(a) is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) ADJUSTMENT OF LEVELS OF PRODUCTION.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent the Board determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit shall not lose, under this subparagraph, Board seats to which the unit is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraph (A), (B), or (C).

(3) NOMINATIONS.—

(A) IN GENERAL.—The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) METHOD FOR OBTAINING NOMINATIONS.—

(i) INITIALLY-ESTABLISHED BOARD.—

(I) STATE UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of subparagraph (A) or subparagraphs (B)(i) and (B)(ii) of section 2107(14). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria described in subparagraph (A) or subparagraphs (B)(i) and (B)(ii) of section 2107(14).

(ii) SUBSEQUENT APPOINTMENT.—

(I) STATE UNITS.—Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) REJECTION.—The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three 3-year terms.

(5) COMPENSATION.—Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) TEMPORARY APPOINTMENTS.—

(A) APPOINTMENT.—Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) REPRESENTATION OF CERTAIN STATES.—The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) MEETINGS.—The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on the Committee;

(4) to approve, modify, or reject budgets submitted by the Committee;

(5) to contract with appropriate persons to implement plans or projects;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order;

(8) to provide the Secretary with prior notice of meetings of the Board at such time as to permit the Secretary to attend such meetings; and

(9) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(d) BOARD VOTING PROCEDURES.—

(1) IN GENERAL.—The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection. On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(2) NUMBER OF VOTES PER MEMBER.—Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) IN GENERAL.—Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a rollcall vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) ADDITIONAL VOTES.—The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) ASSESSMENT LEVEL.—Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (j)(2)), on the average, during each of the 3 previous fiscal years of the Board.

(ii) FIRST THREE FISCAL YEARS.—

(I) FIRST FISCAL YEAR.—During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) SECOND AND THIRD FISCAL YEARS.—The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) DIVISION OF VOTES WITHIN UNITS.—A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3) MOTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) ROLLCALL VOTES.—Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) COMMITTEE VOTES.—In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) PROXIES.—A member may not cast votes by proxy.

(e) SOYBEAN PROGRAM COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of—

(i) the Chairperson and Treasurer of the Board;

(ii) eight additional members of the Board elected by the Board; and

(iii) nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) CERTIFICATION.—To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) TERMS.—Terms of appointment to the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) COMPENSATION.—Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) QUORUM.—Fifteen members of the Committee shall constitute a quorum.

(f) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties of the Committee, which shall include the following:

(1) BUDGETS.—The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget.

(2) PLANS AND PROJECTS.—The Committee shall review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval. The Board may develop plans and projects on its own initiative.

(3) VOTING.—A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least 13 members present at a meeting of the Committee.

(g) ADMINISTRATION.—

(1) EXPENSES; STAFF.—The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and that the Board and Committee shall use staff and facilities of established national, nonprofit producer-governed organizations that represent soybean producers to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) LIMIT ON ADMINISTRATIVE COSTS.—The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of revenues to the Board (net of any refunds made under subsection (j)(2)) for that fiscal year.

(h) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure coordination and efficient use of funds, the order shall provide that, except as provided in paragraph (4), the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this subtitle with established national, nonprofit producer-governed organizations that represent soybean producers (including the organization electing representatives to the Committee under subsection (e)(2)), and for the payment of the cost thereof with funds received by the Board under the order.

(2) LIMITATION ON AGREEMENTS.—To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities under this subtitle, shall ensure that all plans or projects implemented within each program area defined in paragraphs (4), (7), (13), and (15) of section 2107, are implemented by a single national, nonprofit producer-governed organization that represents soybean producers, and there shall not be in force, at any one time, more than one contract or agreement for implementation of plans and projects for each general program area.

(3) REQUIREMENTS.—Any contract entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall disclose estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of the activities it has conducted, and make such other reports as the Board or the Secretary shall require.

(4) COMMUNICATIONS TO PRODUCERS.—The order shall provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) APPORTIONMENT OF FUNDS TO QUALIFIED STATE SOYBEAN BOARDS.—

(A) IN GENERAL.—In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) EXCEPTION.—The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use

of such apportionment during the year involved, and the contract or agreement shall so provide.

(i) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(j) ASSESSMENTS.—

(1) IN GENERAL.—

(A) FIRST PURCHASERS.—

(i) COLLECTION.—The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) RATE.—The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) ONE ASSESSMENT.—No more than one assessment shall be made on any soybeans.

(B) DIRECT PROCESSING.—The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) REFUNDS.—

(A) REFUNDS PRIOR TO INITIAL REFERENDUM.—The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 2110(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) ADMINISTRATION.—Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) SUBMISSION OF REFUND DEMANDS.—

(i) IN GENERAL.—In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) NO QUALIFIED STATE SOYBEAN BOARD.—In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) TIME LIMIT FOR MAKING REFUND.—Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) ORDER NOT FAVORED.—If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 2110(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 2110(a).

(F) REFUNDS AFTER THE INITIAL REFERENDUM.—

(i) IN GENERAL.—The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 2110(a) as required in this subparagraph.

(ii) AVAILABILITY.—Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 2110(a) and ending on a date (not later than 18 months thereafter) established by the Secretary, the Board shall make refunds available to soybean producers at the end of such period from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) POLL.—Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 2110(b)(3), to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) REFERENDUM.—If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 10 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 2110, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) CONTINUED REFUNDS.—If the Secretary conducts a referendum under clause (iv), the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) CONTINUATION OR CESSATION OF REFUNDS.—If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) ESCROW ACCOUNTS.—

(I) ESTABLISHMENT.—The Board and each qualified State soybean board that collects assessments shall establish escrow accounts to be used to pay refunds under clauses (ii) and, if necessary, clauses (v) and (vi).

(II) SEPARATE ACCOUNTS.—The Board shall establish separate escrow accounts for refunds under clauses (ii), (v), and (vi), respectively. Each qualified State soybean board that collects assessments shall establish separate escrow accounts for refunds under each such clause for State funds.

(III) DEPOSITS.—The Board shall deposit into its escrow accounts under clauses (ii), (v), and (vi) 10 percent of the total assessment received by the Board during the time period involved. Each qualified State soybean board shall deposit into each of its escrow accounts 10 percent of collected assessment funds retained by the State board under this subsection during the applicable time period.

(IV) REFUNDS MADE FROM ACCOUNT.—With respect to refunds handled by the Board, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the time period involved shall be made from the Board's escrow account applicable to that clause. With respect to refunds handled by qualified State soybean boards, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the refund period involved shall be made first from the escrow account under such clause for State funds, and only after such escrow account is exhausted, from the escrow account under such clause for Board funds. If the funds in a State board's account for the clause involved are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the Board shall pay such refund requests to such producers. If the funds in the Board's escrow account are insufficient to honor all requests, the Board and the State shall prorate the amount of such refunds from both the State's account and that portion of the Board's account representing funds received by the Board from that State among all producers from that State requesting refunds. In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) USE.—The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than the poll and referendum conducted under paragraph (2)(F).

(4) CREDIT FOR CONTRIBUTIONS TO QUALIFIED STATE SOYBEAN BOARDS.—A producer who can establish that such producer is contributing to a qualified State soybean board

shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this subtitle, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(k) LOAN COLLATERAL.—

(1) IN GENERAL.—The order may establish a procedure that authorizes the reimbursement of assessments paid by producers if soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting the assessments in the manner prescribed in the order.

(2) SINGLE PROCESS.—The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable and subject to paragraph (1), that such soybeans are subject to a single process of assessment under the order.

(l) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to the date of enactment of this Act, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(m) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

(1) PRE-REFERENDUM PERIOD.—The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 2110(a), each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) POST-REFERENDUM PERIOD.—The order shall provide, effective after the conduct of the referendum provided for in section 2110(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) LIMITATION.—The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (j) (net of any refunds made under paragraph (2) of subsection (j)) in that year.

(n) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(o) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order; or

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order.

(p) BOOKS AND RECORDS.—

(1) RECORDKEEPING REQUIREMENT.—

(A) IN GENERAL.—The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order, except that the order shall exempt small producers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) DEFINITION OF SMALL PRODUCER.—The order shall define the term "small producer" as such term is used in subparagraph (A).

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this subtitle, or any order or regulation issued under this subtitle.

(B) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this subtitle of information regarding first purchasers that is accumulated under a law or regulation other than this subtitle or regulations under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board.

(B) PERMITTED USES.—Information obtained under the authority of this subtitle shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this subtitle;

(ii) any investigatory or enforcement action necessary for the implementation of this subtitle; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than 1 year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(q) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 2110. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—Not earlier than 18 months or later than 36 months following issuance of an order under section 2108, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

(3) APPROVAL OF ORDER.—Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this Act and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) TIME LIMIT.—Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under subsections (a) and (b), except for the salaries of Government employees.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

SEC. 2111. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to any order issued under this subtitle may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary under such rules or regulations as the Secretary considers necessary to facilitate such services of process.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

SEC. 2112. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and un-

appealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 2113. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subtitle or to determine whether any person subject to this subtitle has engaged or is about to engage in any act that constitutes or will constitute a violation of this subtitle, or of any order or regulation issued under this subtitle.

(b) POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 2114. ADMINISTRATIVE PROVISIONS.

(a) PREEMPTION OF OTHER PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this subtitle may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) EXCEPTIONS.—

(A) REFERENDA ON QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure the proper administration of this subtitle, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 2108 and ending 18 months after the referendum on such order is conducted under section 2110(a), except that such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion program that do not involve termination of the qualified State soybean board.

(B) ASSESSMENTS COLLECTED BY QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure adequate funding of the operations of qualified State soybean boards under this subtitle, whenever an order is in effect under this subtitle, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 2109(j)(4).

(b) AMENDMENTS TO ORDERS.—Except as otherwise provided in sections 2109(d)(1) and 2109(b)(2)(F), the provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

SEC. 2115. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision.

SEC. 2116. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this subtitle.

SEC. 2117. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle, including regulations relating to the assessment of late payment charges.

Subtitle B—Cotton

SEC. 2121. SHORT TITLE.

This subtitle may be cited as the "Cotton Research and Promotion Act Amendments of 1990".

SEC. 2122. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended—

(1) in the first paragraph, by striking the fourth and sixth sentences; and

(2) in the third paragraph—

(A) by striking "harvested" and inserting "marketed"; and

(B) by inserting "and on imports of cotton" after "United States" the first place it appears.

SEC. 2123. ALTERNATIVE ORDER.

(a) IN GENERAL.—The Cotton Research and Promotion Act is amended by inserting after section 7 (7 U.S.C. 2106) the following new section:

"SEC. 7A. ALTERNATIVE ORDER.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 4, 5, 7, and 8 that are inconsistent with this section, the Secretary shall publish the proposed alternative order required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement the Cotton Research and Promotion Act Amendments of 1990.

"(2) TERMS AND CONDITIONS.—Any alternative order issued pursuant to this section shall—

"(A) contain the terms and conditions prescribed in this section; and

"(B) terminate the authority of the Cotton Board to accept and process applications for refunds under section 11.

"(3) RELATIONSHIP TO OTHER ORDER.—

"(A) PROVISIONS.—In issuing the alternative order under this section, the Secretary shall incorporate by reference the provisions of the cotton research and promotion order in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative order.

"(B) BOARD MEMBERS.—Each member of the Cotton Board that is sitting on the effective date of the alternative order shall continue to serve the full term of appointment of the member pursuant to section 7.

"(b) COTTON BOARD.—

"(1) ESTABLISHMENT.—The alternative order shall provide for the establishment and selection by the Secretary of a Cotton Board.

"(2) POWERS AND DUTIES.—The alternative order shall define the powers and duties of the Cotton Board, which shall include only the powers—

"(A) to administer such order in accordance with the terms and provisions of such order;

"(B) to make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting assessments;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such order; and

"(D) to recommend to the Secretary amendments to such order.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative order shall provide that the Cotton Board shall be composed of—

"(i) representatives of cotton producers selected by the Secretary from nominations submitted by—

"(I) eligible producer organizations within a cotton-producing State, as certified pursuant to section 14; or

"(II) if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary,

so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States; and

"(ii) an appropriate number of representatives, as established by the Secretary, of persons who import cotton into the United States on which assessments are paid under this Act.

"(B) COTTON PRODUCERS.—Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

"(C) IMPORTERS.—Importer representatives under subparagraph (A)(ii) shall be appointed by the Secretary after consultation with importer organizations certified by the Secretary.

"(D) CONSUMER ADVISORS.—The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 percent of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

"(c) PLANS AND PROJECTS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), develop and submit to the Secretary for the approval of the Secretary any advertising or sales promotion or research and development plans

or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

"(d) BUDGETS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), submit to the Secretary for the approval of the Secretary, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

"(e) ASSESSMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment in the manner as prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures. The provisions of subparagraphs (A) and (B) shall not apply to cottonseed and the products derived from cotton and its seed.

"(2) RESERVE.—The alternative order shall include provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary, and for reimbursing the Secretary—

"(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after the alternative order or amendment to the alternative order has been issued and made effective.

"(3) REIMBURSEMENT OF OTHER AGENCIES.—There shall also be included in the alternative order a provision for reimbursing any agency of Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection with providing such assistance.

"(4) DIFFERENT CLASSES.—To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers, or classes of handlers or importers, to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by this subsection.

"(5) RATE.—The rate of assessment prescribed by the alternative order shall be $1 per bale of cotton handled, plus a supplemental amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary.

"(6) REFERENDA.—No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(7) SUITS.—

"(A) IN GENERAL.—The Secretary may maintain a suit against any person subject to the alternative order for the collection of such assessment.

"(B) JURISDICTION.—The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

"(C) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(8) COTTON IMPORTS.—Notwithstanding the foregoing provisions of this subsection—

"(A) the rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment described in the preceding provisions of this subsection;

"(B) the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner; and

"(C) the assessment on such imports shall be reduced by a percentage equivalent to the proportion that exports of cotton that were reentered into the United States in the form of cotton and products derived from such cotton bears to the total exports of cotton of all exporters in the most recent year for which statistics are available.

"(f) BOOKS AND RECORDS.—The alternative order shall provide that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to the Cotton Board.

"(g) CONTRACTS AND AGREEMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for—

"(A) the development and carrying out of the activities authorized under the order issued pursuant to subsections (a) and (b) of section 6; and

"(B) the payment of the costs thereof with funds collected pursuant to the order, with an organization or association described in paragraph (2).

"(2) ELIGIBLE CONTRACTING ORGANIZATIONS.—For purposes of this subsection, an organization or association is eligible to enter into a contract if the governing body of the organization or association consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization or association in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States.

"(3) PROJECTS; BUDGETS.—Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, that shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective on approval by the Secretary.

"(4) RECORDS.—Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

"(h) INFLUENCING GOVERNMENTAL ACTION.—The alternative order shall provide that no funds collected by the Cotton Board under the alternative order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).".

(b) CONFORMING AMENDMENT.—The matter preceding subsection (a) of section 6 of the Cotton Research and Promotion Act (7 U.S.C. 2105(a)) is amended by inserting after "section 7" the following "or 7A".

SEC. 2124. REFERENDA REQUIREMENTS FOR ALTERNATIVE ORDER.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2107) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b)(1) Not later than 120 days after publication of the proposed alternative order pursuant to section 7A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative order in accordance with section 7A. Such alternative order shall become effective as provided in this subsection.

"(2) Notwithstanding the foregoing provisions of this section, the Secretary shall, within a period not to exceed 8 months after the date of enactment of this subsection, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, for the purpose of ascertaining if a majority of those voting approve the proposed alternative order under section 7A. The Secretary shall promptly publish the results of the referendum.

"(3) If the alternative order is approved in the referendum, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish regulations implementing the alternative order provided for in section 7A. Such alternative order shall be effective on an interim basis beginning with the date of publication and shall continue in effect pending the results of another referendum and issuance of a final regulation as provided in subsection (c).

"(c)(1) If the producers specified in subsection (b) approve the alternative order, the Secretary shall conduct another referendum no sooner than 15 but no later than 30 months after the date of the referendum conducted under subsection (b) to determine whether cotton producers and importers of cotton favor the alternative order issued under section 7A.

"(2) Such referendum shall be conducted among—

"(A) persons who have been cotton producers during a representative period, as determined by the Secretary; and

"(B) persons who are importers of cotton and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum under this section, paid an assessment on imports of cotton.

"(3) The Secretary shall promptly publish the results of the referendum.

"(4) If the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum, the Secretary shall issue an order terminating the alternative order.

"(5) If the alternative order is not disapproved, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish final regulations implementing the alternative order provided for in this subsection.

"(6)(A) The Board shall place in an escrow account an amount equal to the product obtained by multiplying by 10 percent the assessments collected from producers and importers during the period prior to announcement of the results of the referendum provided for in this subsection. The funds shall be held in the escrow account until the results of the referendum are published by the Secretary.

"(B) If the alternative order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this Act.

"(C)(i) If the alternative order is not approved in such referendum, the funds in the escrow account shall be refunded to the producers and importers who have requested a refund under clause (ii), after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order as described in section 7A.

"(ii) A producer or importer shall have the right to receive a refund—

"(I) if demand is made personally by the producer or importer, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event later than 90 days after the date of publication of the results of the referendum; and

"(II) on submission of proof satisfactory to the Board that the person or importer paid the assessment for which refund is sought and did not collect the assessment from another person.

"(iii) Any funds not refunded to producers and importers shall be released to be used to carry out this Act.

"(d)(1) If a referendum is conducted under subsection (c), once every 5 years after the date of such referendum, the Secretary shall provide producers and importers an opportunity to request a referendum to determine—

"(A) whether the producers and importers favor continuation of the alternative order to the order required under subsection (b)(1), if such alternative order is then in effect; or

"(B) if such an alternative order is not in effect, whether they favor approval of such alternative order.

"(2) Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service or the office of the county extension agent or by mailing a request on such date to the Administrator, Agricultural Marketing Service, Washington, District of Columbia.

"(3) The signup date shall be publicized by the Secretary and the Cotton Board at least 60 days prior to such date.

"(4) The Secretary shall conduct such a referendum within 12 months after such signup date if a referendum is requested by 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that not more than 20 percent of the persons requesting the referendum may be producers from any one State or importers of cotton.

"(5) The alternative order shall not be effective if the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum.

"(e) The disapproval of any alternative order or of an amendment to an alternative order issued under this Act shall not operate to invalidate the order in effect on the date of the referendum.".

SEC. 2125. PRODUCER REFUNDS; TERMINATION.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended—

(1) by striking "Notwithstanding" and inserting "(a) Except as provided in subsection (b) and notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) The authority of the Cotton Board to accept and process applications for refunds under this section shall terminate if the alternative order issued under section 7A is approved in the referendum provided for under section 8. Such authority shall terminate on the date the Secretary publishes the results of such referendum. Such authority shall be reinstated if the alternative order should be disapproved in any subsequent referendum.".

SEC. 2126. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

"(c)(1) Except as provided in paragraph (2), the term 'cotton' means—

"(A) all upland cotton harvested in the United States, and, except as used in sections 7(e) and subparagraphs (A) and (B) of section 7A(e)(1), includes cottonseed of such cotton and the products derived from such cotton and its seed; and

"(B) imports of upland cotton, including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary).

"(2) The term 'cotton' shall not include—

"(A) any entry of imported cotton by an importer that has a value or weight less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(B) any entry by a person during a year if—

"(i) the total cotton imported by that person during the preceding year, including the upland cotton content of products derived from uplandcotton (other than industrial products), was less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(ii) such person certifies that the person intends to import less than such de minimis quantity in the current year, except that the term 'cotton' shall include all imports of cotton by such person during the current year if that person actually imports more than the de minimis quantity in the current year.

"(3) The de minimis quantities established under subparagraphs (A) and (B) of paragraph (2) shall be such as to minimize the burden in administering the assessment provisions of this Act but still provide for the maximum participation of imports of cotton in such provisions.";

(2) in subsection (d), by inserting after "cottonseed" the following: "or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton (including cotton described in subparagraphs (A) and (B) of subsection (c)(2),"; and

(3) by adding at the end the following new subsection:

"(h)(1) The term 'importer' means any person who enters, or withdraws from a warehouse, cotton for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry.".

SEC. 2127. CONFORMING AMENDMENT.

Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended by adding at the end the following new sentence: "The provisions of this subsection shall not apply to cottonseed and the products derived from cotton and its seed.".

Subtitle C—Pecans

SEC. 2131. SHORT TITLE.

This subtitle may be cited as the "Pecan Promotion and Research Act of 1990".

SEC. 2132. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exists established State organizations conducting pecan promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce and directly burden or affect interstate commerce in pecans.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the

right of individual producers to produce pecans.

SEC. 2133. DEFINITIONS.

As used in this subtitle:

(1) BOARD.—The term "Board" means the Pecan Marketing Board established in section 2138(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or director has a direct or indirect interest or investment in an entity, corporation, business, or a company dealing directly or indirectly with the Board.

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) DISTRICT.—The term "district" means the four geographic subdivisions of the United States that are approximately equal in the production volume of pecans, as determined by the Board and approved by the Secretary.

(6) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of pecans from a grower. If a grower markets pecans directly, such grower shall be considered the first handler.

(7) GROWER.—The term "grower" means any person engaged in a proprietary capacity in the production and sale of pecans.

(8) GROWER-SHELLER.—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the continental United States; and

(B) grows 50 percent or more of the pecans such person shells or has shelled for such person.

(9) HANDLE.—The term "handle" means receipt of inshell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(10) IMPORTER.—The term "importer" means any person who imports pecans from a country outside of the United States for sale in the United States.

(11) INSHELL PECAN.—The term "inshell pecan" means a pecan that has a shell that has not been removed.

(12) MARKETING.—The term "marketing" means the sale or other disposition of pecans in any channel of commerce.

(13) MARKETING YEAR.—The term "marketing year" means the 12-month period from October 1 through September 30 or such other period of the time as may be recommended by the Board and established by the Secretary.

(14) MEMBER.—The term "member" means a member of the Board.

(15) PECAN.—The term "pecan" means the nut of the pecan tree carya illinoensis, both in-shell or shelled equivalent, grown within the United States, or imported into the United States, that are introduced into the channels of commerce.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, or any other business unit.

(17) PROMOTION.—The term "promotion" means any action taken by the Board, pursuant to this subtitle, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(18) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(19) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(20) SHELL.—The term "shell" means to remove the shell from an in-shell pecan.

(21) SHELLED PECAN.—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(22) SHELLER.—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) purchases more than 50 percent of the pecans such person shells or has shelled for such account.

(23) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 2134. AUTHORITY TO ISSUE ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2132(b), the Secretary shall, subject to this subtitle, issue and from time to time amend, orders applicable to growers, shellers, first handlers, and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

SEC. 2135. NOTICE AND HEARINGS.

(a) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this subtitle, or an association of pecan growers or grower-shellers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(b) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

SEC. 2136. FINDINGS AND ISSUANCE OF ORDERS.

(a) IN GENERAL.—After notice and opportunity for public comment are given, as provided in section 2135, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle.

(b) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

SEC. 2137. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 2138. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) PECAN MARKETING BOARD.—

(1) ESTABLISHMENT.—The order shall establish a Pecan Marketing Board to carry out the program referred to in section 2132(b).

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) eight members who are growers;

(B) four members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, appointed by the Board; and

(F) at the option of the Board, a consultant or advisor representing a pecan producing country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) REPRESENTATION OF MEMBERS.—

(A) GROWER REPRESENTATIVES.—Of the growers referred to in paragraph (3)(A), two members shall be from each of the four districts in the United States.

(B) SHELLER REPRESENTATIVES.—Of the shellers referred to in paragraph (3)(B)—

(i) two members shall be from east of the Mississippi River; and

(ii) two members shall be from west of the Mississippi River.

(C) FIRST HANDLER REPRESENTATIVE.—The first handler representative on the Board referred to in paragraph (3)(C) shall be from one of the districts.

(D) IMPORTER REPRESENTATIVE.—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans to the United States.

(E) PUBLIC REPRESENTATIVE.—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, sheller, or first handler.

(5) ALTERNATE FOR EACH MEMBER.—Each member on the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) LIMITATION ON STATE RESIDENCE.—There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State representing the district that it is in.

(7) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States and the volume of imported pecans; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production and the quantity of imported pecans.

(8) NOMINATION PROCESS FOR MEMBERS.—

(A) PUBLICITY.—The Board shall give reasonable publicity to the industry for nomination of persons interested in being elected to Board membership.

(B) ELIGIBILITY.—Any person referred to in paragraph (3) shall be eligible to vote at the nomination meetings for members who represent that class of members.

(C) NOMINATION OF MEMBERS.—Each person referred to in subparagraph (B) shall have one vote. The candidates receiving the largest number of votes cast for Board positions for each class of members shall be the nominees for such positions.

(D) CERTIFICATION.—The nominations made under subparagraph (C) shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) APPOINTMENT.—The Secretary shall appoint the Board members certified under subparagraph (D).

(F) INITIAL BOARD.—For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Board under this paragraph.

(9) TERMS OF OFFICE.—

(A) IN GENERAL.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) TERMINATION OF TERMS.—Each member shall continue to serve until a successor is appointed by the Secretary.

(C) LIMITATION ON TERMS.—No member shall serve more than 2 consecutive 3-year terms as a member.

(D) VACANCIES.—

(i) SUBMITTING NOMINATIONS.—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that nominations for a successor for such vacancy be submitted by the Board.

(ii) LACK OF NOMINATIONS.—If no eligible nomination is submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson and such other officers as may be necessary to select committees and subcommittees of Board members;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 2140, and a fiscal period budget of the anticipated expenses in the administration of this subtitle, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and development;

(9) to carry out research and development, advertising or promotion, and pay the costs of such projects with funds collected pursuant to subsection (g), subject to subsections (d) and (e) of section 2139;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, and the public to assist in the development of research and promotion programs for pecans;

(12) to refrain from engaging in any action that would be a conflict of interest;

(13) to not engage in any advertising that may be false or misleading;

(14) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(15) to receive, investigate, and report to the Secretary complaints of violations of the order;

(16) to furnish the Secretary with such information as the Secretary may request;

(17) to recommend to the Secretary amendments to the order; and

(18) to develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out this subtitle.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, development, advertising, consumer information, and industry information plans and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for research, development, advertising, or promotion of pecans, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid from assessments collected under section 2140 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) LIMITATION ON SPENDING.—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under subsection (g) for administration of the Board.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) GROWER AND GROWER-SHELLER ORGANIZATIONS.—The order shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those provided in paragraph (2).

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) PROHIBITION.—No fund collected by the Board under this subtitle shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to this subtitle.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler, grower-sheller, or importer subject to this subtitle shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this subtitle of information regarding first handlers, grower-shellers, and importers that may be accumulated under a law or regulation other than this subtitle or regulations under this subtitle.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (B) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direc-

tion or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) BOARD MEMBERS AND EMPLOYEES.—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph shall prohibit the issuance of general statements based on reports of a number of first-handlers, grower-shellers, or importers, subject to the plan if such statements do not identify the information furnished by any person.

(5) AVAILABILITY OF INFORMATION.—

(A) EXCEPTION.—Except as provided in section 2142, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(i) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as necessary to effectuate this subtitle.

SEC. 2139. PERMISSIVE TERMS IN ORDERS.

(a) IN GENERAL.—An order issued pursuant to this subtitle may contain one or more of the terms and conditions contained in this section.

(b) EXEMPTIONS.—The order may provide authority to exempt from the order pecans used for nonfood uses, and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers, and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this subtitle.

(e) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to this subtitle, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the order for 2 years.

(g) FOREIGN MARKETS.—The order may provide authority to use funds collected under this subtitle, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(h) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle that are necessary to effectuate the other provisions of the order.

SEC. 2140. ASSESSMENTS.

(a) IN GENERAL.—During the effective period of this subtitle, assessments shall be—

(1) levied on all pecans produced in, or imported into, the United States; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under subsection (a) on a first handler, importer, or grower-sheller for any lot of pecans handled.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) a grower-sheller who markets pecans, in the form of pecans, to consumers either directly, through retail or wholesale outlets, or for export purposes.

(2) TIMES TO REMIT ASSESSMENT.—

(A) FIRST HANDLERS.—Each first handler who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed.

(B) GROWER-SHELLERS.—Each grower-sheller who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on March 31, June 30, and September 30 or such dates as may be recommended by the Board and approved by the Secretary during the fiscal year that the pecans being assessed were produced and harvested.

(3) IMPORTERS.—Importers of pecans into the United States shall pay the assessment at the time the pecans or pecan equivalents enter the United States and such assessment shall be remitted to the Board.

(d) ASSESSMENT RATE.—

(1) IN GENERAL.—Assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of the plan and ending on the date the referendum is conducted under section 2144, one-half cent per pound in-shell or the equivalent; and

(B) after such period, up to 2 cents per pound in-shell or the equivalent.

(2) ADJUSTING RATE FOR OUT-OF-SHELL PECANS.—The in-shell rate of assessment established under paragraph (1) shall be established for shelled pecans or pecan equivalents at twice such in-shell rate.

(3) SPECIAL STATE ASSESSMENT.—In addition to the maximum assessment rate prescribed in paragraph (1), an additional one-quarter cent special State assessment may be remitted to the Board in a manner prescribed by the Secretary for the purpose of utilizing such funds by the State Board for research projects to promote pecans conducted pursuant to State law.

(e) LATE CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit to the Board the total amount that such person is liable for on or before the due date established by the Board under subsection (c)(2).

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board and approved by the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the order and ending on the date the referendum is conducted under section 2144.

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments collected from such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is responsible for paying such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this subtitle; and

(C) the program established by this subtitle is not approved pursuant to the referendum conducted under section 2144.

(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) MAKING OF REFUND.—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible growers, grower-shellers, or importers under this subsection and the program established by this subtitle is not approved pursuant to the referendum conducted under section 2144, the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) PROGRAM APPROVED.—If the program established by this subtitle is approved pursuant to the referendum conducted under sec-

tion 2144, all funds in the escrow account shall be returned to the Board for use by the Board and no refunds shall be paid.

SEC. 2141. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2142(a).

SEC. 2142. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subtitle or a regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General a violation of this subtitle or a regulation issued under this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of this subtitle or a regulation issued under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under this subtitle or a regulation issued under this subtitle, may be assessed a civil penalty by the Secretary of not less than $1,000 nor more than $10,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 2143. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this subtitle, or any plan, rule, or regulation issued under this subtitle.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 2144. REQUIREMENT OF REFERENDUM.

(a) IN GENERAL.—Not later than 24 months after the effective date of this subtitle, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the order.

(b) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under this subtitle, the Secretary determines that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this subtitle, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this subtitle shall be conducted in such a manner as is determined by the Secretary.

(2) ADVANCE REGISTRATION.—A pecan grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this subtitle (1) shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service for such pecan grower or grower-sheller, after receiving notice from such office concerning such referendum under paragraph (4).

(3) VOTING.—A pecan grower, grower-sheller, or importer who votes in any referendum conducted under this subtitle shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service.

(4) NOTICE.—Each Agricultural Stabilization and Conservation Service office shall notify all pecan growers and grower-shellers in the area of such office at least 30 days prior to a referendum conducted under this subtitle. Such notice shall explain the procedure established under this subsection.

SEC. 2145. SUSPENSION OR TERMINATION OF ORDERS.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or 10 percent or more of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—The Secretary shall terminate or suspend such order, in accordance with section 2144(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 2144 shall apply to a referendum conducted under this subsection.

SEC. 2146. AMENDMENTS.

The provisions of this subtitle applicable to plans shall be applicable to amendments to plans.

SEC. 2147. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this subtitle.

Subtitle D—Mushrooms

SEC. 2151. SHORT TITLE.

This subtitle may be cited as the "Mushroom Promotion, Research, and Consumer Information Act of 1990".

SEC. 2152. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out, an effective, continuous, and coordinated program of promotion, research, and consumer and industry information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 2153. DEFINITIONS.

As used in this subtitle—

(1) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) COUNCIL.—The term "Council" means the Mushroom Council established under section 2155(b).

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means any person, as described in an order issued under this subtitle, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

(6) IMPORTER.—The term "importer" means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that are designed to lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) MUSHROOMS.—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are marketed, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) PROMOTION.—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 2154. ISSUANCE OF ORDERS.

(a) GENERAL.—To effectuate the declared policy of section 2152(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this subtitle applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURES.—

(1) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this subtitle, or an association of mushroom producers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order the provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 2156(a), shall become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—

(1) IN GENERAL.—The Secretary may amend any order issued under this section.

(2) APPLICATION OF SUBTITLE.—The provisions of this subtitle applicable to an order shall be applicable to amendments to the order.

SEC. 2155. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) MUSHROOM COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.—

(A) IN GENERAL.—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall

consist of at least 4 members and not more than 9 members.

(B) MEMBERSHIP.—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) UNITS.—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into 4 regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) IMPORTERS.—Importers shall be represented as one region, which shall be separate from the regions established for mushrooms produced in the United States.

(D) MEMBERS PER REGION.—The Secretary shall appoint one member from each region if such region produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) ADDITIONAL MEMBERS.—Subject to the limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds production or imports per year, on average, within the region.

(F) CONSIDERATION OF PRODUCERS.—For purposes of this paragraph, in determining average annual mushroom production in each of the 4 regions of the United States established under this paragraph, the Secretary shall only consider mushrooms produced by producers covered by this subtitle, as defined in section 2153(11).

(G) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment to the Council, the Secretary may appoint members on a basis provided for in the order.

(3) TERMS AND COMPENSATION.—

(A) TERMS.—The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) COMPENSATION.—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) POWERS AND DUTIES OF THE COUNCIL.—The order shall define the powers and duties of the Council, which shall include the following—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules and regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, approve and submit to the Secretary for approval under subsection (d) budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement such plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may only be used for any purpose for which the invested funds may be used.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Council to submit to the Secretary for approval budgets, on a fiscal year basis, of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) APPROVAL BY SECRETARY.—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organization, and for the payment of the cost thereof with funds received by the Council under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) BOOKS AND RECORDS OF COUNCIL.—

(1) IN GENERAL.—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) AUDITS.—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) ASSESSMENTS.—

(1) COLLECTION AND PAYMENT.—

(A) IN GENERAL.—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) IMPORTERS.—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) DIRECT MARKETING.—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) RATE OF ASSESSMENT.—The rate of assessment shall be determined and announced by the Council and may be changed by the Council at any time. The order shall provide that the rate of assessment—

(A) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(B) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(C) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(D) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) USE OF ASSESSMENTS.—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this subtitle, with provisions for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this subtitle, except for the salaries of Government employees incurred in conducting referenda.

(4) LIMITATION ON COLLECTION.—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) PROHIBITION.—The order shall prohibit any funds received by the Council under the order form being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this title and for the submission to the Secretary of recommended voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler and importer of mushrooms maintain, and make available for inspection, such books and records as may be required by the order and file re-

ports at the time, in the manner, and having the content prescribed by the order.

(2) AVAILABILITY TO SECRETARY.—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—All information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and the Council, and agents of the Council, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) LIMITATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(4) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Except as provided in section 2158, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subtitle shall be construed to authorize the withholding of information from Congress.

(j) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate this subtitle, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 2156. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 2154(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 2154(b), if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) SUCCEEDING REFERENDA.—

(1) DETERMINATION CONCERNING ORDER.—

(A) IN GENERAL.—Effective 5 years after the date on which an order becomes effective under section 2154(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) REQUEST FOR REFERENDUM.—Effective beginning 3 years after the date on which an order becomes effective under section 2154(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to ascertain whether producers and importers favor termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspense or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) MANNER.—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 2157. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complain for that person is filed within 20 days after the date of the entry of such ruling of the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 2158.

SEC. 2158. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order, rule, or regulation issued under this subtitle. If the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates a provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which such person resides or does business, or in the United States district court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—A person who fails to obey a cease and desist order

after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which such failure continues to be considered as a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer to the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

SEC. 2159. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subtitle or to determine whether any person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle or of any order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 2157 or 2158, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.

SEC. 2160. SAVINGS PROVISION.

Nothing in this subtitle may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 2161. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall be considered an order under the meaning of this subtitle.

SEC. 2162. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provision of an order issued under this subtitle.

SEC. 2163. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

Subtitle E—Potatoes

SEC. 2171. SHORT TITLE.

This subtitle may be cited as the "Potato Research and Promotion Act Amendments of 1990".

SEC. 2172. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) in the first sentence, by inserting "and foreign countries" after "United States"; and

(B) in the second sentence, by inserting "and imported into the United States from foreign countries" after "United States";

(2) in the second paragraph, by inserting "and imported into the United States from foreign countries" after "United States"; and

(3) in the last paragraph, by inserting "and imported into the United States from foreign countries" after "United States" each place it appears.

SEC. 2173. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting after "United States" the following: "and foreign countries"; and

(2) by adding at the end the following:

"(g) The term 'importer' means any person who imports tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker or consignee for any person or nation that produces Irish Potatoes outside the United States for sale in the United States.".

SEC. 2174. AUTHORITY TO ISSUE PLANS.

The last sentence of section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) by striking "forty-eight contiguous" and inserting "50"; and

(2) by inserting after "United States" the following: "and foreign countries".

SEC. 2175. NOTICE AND HEARINGS.

The first sentence of section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended by inserting "and importers" after "potato producers".

SEC. 2176. REQUIRED TERMS IN PLANS.

Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2617(e)) is amended by striking "one cent" and inserting "two cents".

SEC. 2177. ALTERNATIVE PLAN.

The Potato Research and Promotion Act is amended by inserting after section 308 (7 U.S.C. 2617) the following new section:

"SEC. 308A. ALTERNATIVE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 305, 306, 308, and 314 that are inconsistent with this section, the Secretary shall publish the proposed alternative plan required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such a plan, if the Secretary determines that such alternative plan effectuates the declared policy of this Act.

"(2) TERMS AND CONDITIONS.—Any alternative plan issued pursuant to this section shall contain the terms and conditions prescribed in this section.

"(3) RELATIONSHIP TO OTHER PLAN.—

"(A) PROVISIONS.—In issuing the alternative plan under this section, the Secretary shall incorporate by reference the provisions of the potato research and promotion plan in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative plan.

"(B) BOARD MEMBERS.—Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member pursuant to section 308.

"(b) NATIONAL POTATO PROMOTION BOARD.—

"(1) ESTABLISHMENT.—The alternative plan shall provide for the establishment by the Secretary of a National Potato Promotion Board (hereinafter in this Act referred to as 'the board').

"(2) POWERS AND DUTIES.—The alternative plan shall define the powers and duties of the board, which shall include powers—

"(A) to administer such plan in accordance with the terms and conditions of such plan;

"(B) to make rules and regulations to effectuate the terms and conditions of such plan;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

"(D) to recommend to the Secretary amendments to such plan.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative plan shall provide that the board shall be composed of representatives of producers, one public representative, and up to five representatives of importers appointed by the Secretary from nominations submitted in accordance with this subsection.

"(B) NOMINATION OF PRODUCER AND IMPORTER REPRESENTATIVES.—Representatives of producers and importers shall be nominated by producers and importers in such manner as may be prescribed by the Secretary.

"(C) NOMINATION OF PUBLIC REPRESENTATIVES.—Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary.

"(D) FAILURE TO NOMINATE.—If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan.

"(E) REFERENDUM.—The requirement for inclusion of public representatives on the board shall not be subject to approval in a referendum.

"(4) COMPENSATION.—The alternative plan shall provide that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

"(5) BUDGET.—The alternative plan shall provide that the board shall prepare and submit to the Secretary for the approval of the Secretary a budget, on a fiscal period basis, of the anticipated expenses and disbursements of the board in the administration of the plan, including probable costs of research, development, advertising, and promotion.

"(c) ASSESSMENTS.—

"(1) RATE.—The alternative plan shall provide that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers pursuant to section 314, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

"(2) USE.—The alternative plan shall provide that—

"(A) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this Act, except that the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer or importer approval in a referendum;

"(B) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

"(C) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).

"(3) REFUNDS.—The alternative plan shall not provide for a refund of funds collected by the board.

"(d) PROGRAMS AND PROJECTS.—The alternative plan shall provide that the board shall, subject to paragraphs (1) and (2) of subsection (c), develop and submit to the Secretary for the approval of the Secretary any research, development, advertising, or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

"(e) CONTRACTS AND AGREEMENTS.—The alternative plan shall provide the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this Act.

"(f) BOOKS AND RECORDS.—The alternative plan shall provide that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the board and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

"(g) ESCROW ACCOUNT FOR ASSESSMENT REFUNDS.—

"(1) IN GENERAL.—The board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the alternative plan issued under this section and ending on the date of the referendum on the alternative plan issued pursuant to section 314(e).

"(2) AMOUNT PLACED IN ACCOUNT.—The board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(3) RIGHT TO REFUND.—Subject to paragraphs (4), (5), and (6), any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in paragraph (1) if—

"(A) such producer or importer is responsible for paying such assessments;

"(B) such producer or importer does not support the program established under this Act; and

"(C) the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e).

"(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

"(5) PROOF OF PAYMENT.—Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded.

"(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection and the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e), the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(h) APPLICATION TO ALL STATES.—Notwithstanding any other provision of this Act, an alternative plan issued under this section shall apply to all 50 States.".

SEC. 2178. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (d)"; and

(2) by adding at the end the following new subsection:

"(d)(1) The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes under an alternative plan issued under section 308A shall be—

"(A) established by the board so that the effective assessment rate shall equal that established on domestic production; and

"(B) paid by the importer to the Potato Board at the time of entry into the United States.

"(2) Each importer under an alternative plan issued under section 308A shall maintain a separate record indicating—

"(A) the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan; and

"(B) such information as may be prescribed by the board.

"(3) Importers responsible for payment of assessments under this subsection shall—

"(A) maintain and make available for inspection by the Secretary such books and records as are required by the plan;

"(B) file reports at the times, and in the manner, and having the content prescribed by the plan; and

"(C) make such information and data available to the board and Secretary as is appropriate or necessary for the effectuation, administration, or enforcement of this Act or of any plan or regulation issued pursuant to this Act.

"(4) Notwithstanding any other provision of this Act, assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary for implementing and administering the amendments made by Potato Research and Promotion Act Amendments of 1990.".

SEC. 2179. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended—

(1) in subsection (b), by striking "two-thirds of the producers" and inserting "a majority of the producers";

(2) in subsection (c), by inserting "or importers" after "potato producers";

(3) in subsection (d), by inserting "or importer" after "producer"; and

(4) by adding at the end the following new subsection:

"(e)(1) Not later than 120 days after publication of the proposed alternative plan pursuant to section 308A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative plan under section 308A. Such alternative plan shall become effective as provided in this subsection.

"(2) Not later than 24 months after the date of issuance of the alternative plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes, for the purpose of ascertaining whether the alternative plan issued under section 308A is approved or disapproved by such producers and importers.

"(3) Such alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers voting in the referendum.

"(4) If such alternative plan is not approved, the Secretary shall terminate such alternative plan, and the original plan issued under section 308 shall become effective.".

SEC. 2180. AMENDMENT PROCEDURE.

Section 316 of the Potato Research and Promotion Act (7 U.S.C. 2625) is amended by inserting before the period at the end the following: ", except that amendments to plans may be implemented through (1) notice and comment procedures, or (2) notice and hearing procedures, with approval by a majority of those persons eligible and voting in a referendum, prior to issuance of the amended plan as determined appropriate by the Secretary".

Subtitle F—Honey

SEC. 2185. SHORT TITLE.

This title may be cited as the "Honey Research, Promotion, and Consumer Information Act Amendments of 1990".

SEC. 2186. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended by—

(1) in paragraph (8)—

(A) striking "or who acts" and inserting "or acts"; and

(B) inserting before the period at the end the following: "and who is listed in the import records as the importer of record for such honey or honey products"; and

(2) adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 2187. REQUIRED TERMS IN ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (c)—

(A) by amending paragraph (2)(C) to read as follows:

"(C) two members who are either importers or exporters, of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following paragraph (2)(E), by striking "nominate an alternate or alternates" and inserting "submit nominations for an alternate";

(C) at the end of paragraph (2), by adding the following sentence: "However, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer."; and

(D) in paragraph (4), inserting before the period at the end the following: ", except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed"; and

(2) by adding at the end the following new subsection:

"(k) Any patent on any product, copyright on any material, or any invention, product formulation or publication developed through the use of funds collected by the Honey Board shall be the property of the Honey Board. The funds generated from any such patent, copyright, invention, product formulation, or publication shall inure to the benefit of the Honey Board.".

SEC. 2188. ASSESSMENTS.

(a) ASSESSMENT RATE AND EXEMPTIONS.—Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is further amended—

(1) in subsection (e)(1) by striking the second and third sentences and inserting the following: "The assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 9."; and

(2) by striking subsection (e)(2) and inserting the following:

"(2)(A) Honey that is consumed at home by the producer or importer or donated by the producer or importer to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sold shall be exempt from assessment under the order, except that donated honey that later is sold in a commercial outlet by a donee or a donee's assignee shall be subject to assessment on such sale.

"(B)(i) A producer, producer-packer, or importer who produces or imports during any year less than 6,000 pounds of honey shall be eligible for an exemption in such year from paying an assessment on honey such person distributes directly through local retail outlets, as determined by the Secretary, during such year.

"(ii) In order to claim an exemption under this subparagraph, a person shall submit an application to the Honey Board stating the basis on which the person claims the exemption for such year.

"(iii) If, after a person claims an exemption from assessments for any year under this subparagraph, such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.

"(3) If a producer, producer-packer, or importer does not pay any assessments under this Act due to the applicability to such person of the exemptions from assessments provided in paragraph (2), then such producer, producer-packer, or importer shall not be considered a producer or importer for purposes of voting in any referendum conducted under this Act during the period the person's exemption from all assessments is in effect.".

(b) COLLECTION OF ASSESSMENTS; REFUNDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) in subsection (a), by striking "and (e)" and inserting "(e), and (i)";

(2) by amending subsection (d) to read as follows:

"(d) In any case in which a loan is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949, or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds promptly after each occasion when an assessment is deducted from any such loan funds under this subsection.";

(3) in subsection (f), by inserting after "assessments" the following: ", and persons receiving an exemption from assessments under section 7(e)(2),";

(4) in subsection (h), by—

(A) striking "Any" and inserting "(1)(A) Except as otherwise provided in paragraph (2), any";

(B) striking "to importers" and inserting "an importer";

(C) striking "from importers" and inserting "from such importer"; and

(D) adding at the end the following:

"(B) A producer that has obtained a honey price support loan under the Agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(2) With respect to the order in effect on the date of the enactment of this paragraph, following the referendum on such order required under section 13(b)(2), a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to terminate refunds under the order is defeated in such referendum,"; and

(5) by inserting after subsection (h) the following:

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.".

SEC. 2189. FIRST RECONFIRMATION REFERENDUM.

(a) IN GENERAL.—Section 13(b) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "Five" and inserting "(1) Except as otherwise provided in paragraph (2), five";

(2) striking "continuation, termination," and inserting "termination"; and

(3) inserting at the end the following:

"(2)(A) In lieu of the first referendum otherwise required to be conducted under paragraph (1) for the order in effect on the date of the enactment of this paragraph, the Secretary shall conduct a referendum to determine if honey producers and importers favor—

"(i) the continuation of the order; and

"(ii) termination of the authority for producers and importers to obtain a refund of assessments under section 9(h)(1).

The referendum shall be conducted at the time the first referendum otherwise required under paragraph (1) would have been conducted, except for the operation of this paragraph.

"(B)(i) The Secretary shall terminate such order at the end of the marketing year during which such referendum is conducted, if the Secretary determines that termination of the order is approved or favored by not less than a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

"(ii) If the Secretary determines that termination of the authority for producers and importers to receive refunds of assessments under section 9(h)(1) is favored or approved by a majority of the producers and importers voting in such referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum, then the Secretary shall amend such order as necessary to reflect the vote of producers and importers. Such amendment to the order shall become effective on the date it is issued, but in no case more than 180 days after the conduct of such referendum.".

(b) CONFORMING AMENDMENT.—Section 13(d) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "such order" and inserting "an order";

(2) inserting "in which a referendum is conducted under subsection (b) or (c)" after "marketing year"; and

(3) striking "of the order".

SEC. 2190. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

"INVESTIGATIONS AND POWER TO SUBPOENA

"SEC. 11A. (a) IN GENERAL.—The Secretary may make such investigations as the Secretary deems necessary—

"(1) for the effective administration of this Act; or

"(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this Act, or of any order, rule, or regulation issued under this Act.

"(b) POWER TO SUBPOENA.—(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

"(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 10 or section 11, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

"(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

"(f) HEARING SITE.—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.".

SEC. 2191. CONFORMING AMENDMENT TO ORDER.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture, after notice and opportunity for public comment, shall issue an amendment to the order in effect under such Act on the date of the enactment of this Act to conform such order to the amendments made by this title, which shall become effective on the date of the publication of such amendment to the order in the Federal Register without a referendum thereon (except for the referendum specifically provided for under section 2105). The Secretary shall issue such amendment to the order in final form not later than 150 days after the date of the enactment of this Act.

Subtitle G—Vidalia Onions

SEC. 2195. VIDALIA ONIONS.

(a) PROHIBITION.—No person shall label, package, classify, identify, or otherwise designate for sale any onions as "Vidalia onions", "Vidalias", or with any other usage of the term "Vidalia", unless such onions—

(1) are produced in the "Production area", as that term is defined in section 955.4 of Federal Marketing Order No. 955, in effect on the date of enactment of this Act, as contained in part 955 of title 7, Code of Federal Regulations; and

(2) satisfies the definition of the term "Vidalia onions" contained in section 955.5 of the Order.

(b) VIOLATIONS.—A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4) and (5)).

TITLE XXII—CROP INSURANCE

SEC. 2201. SHORT TITLE.

This title may be cited as the "Federal Crop Insurance Adjustment Act of 1990.".

SEC. 2202. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) a sound system of crop insurance promotes the national welfare by improving the economic stability of American agriculture;

(2) crop insurance should provide reasonable protection against natural disasters;

(3) ad hoc disaster assistance has effected adversely the existing system of Federal crop insurance;

(4) the existing Federal crop insurance system has not been able to provide crop insurance on an actuarially sound basis;

(5) the existing Federal crop insurance system remains unable to offer coverage tailored to the individual needs of agricultural producers; and

(6) efforts to reform the existing Federal crop insurance system should not lead to increased Federal outlays;

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to modify the Federal crop insurance system to begin the process of achieving a sound system of crop insurance.

SEC. 2203. IMPROVEMENT OF OPERATION.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in subsection (i), by striking out "and" at the end thereof;

(2) in subsection (j), by striking out "and" at the end thereof;

(3) in subsection (k), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new subsections:

"(l) shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, that each policyholder and each reinsured company furnish to the insurer or to the Corporation the social security number of such policyholder, in the case of a business entity, the applicable employer identification number of such entity; the Corporation and reinsured companies shall have access to such numbers solely for the purpose of establishing systems of records necessary to the effective administration of this title; each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such entity of the requirements and limitations under this title; each such policyholder shall provide to the Manager, at such times and in such manner as prescribed by the Manager, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest in the policyholder; for purposes of this paragraph the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder; and the Manager of the Corporation shall promulgate regulations to protect the personal privacy of individuals with respect to the use of such numbers under this subsection; and

"(m) upon notice and opportunity for a hearing on the record, may—

"(1) impose a civil fine of not to exceed $10,000 on a person; and

"(2) disqualify a person from receiving any benefit under this Act for a period of not to exceed 10 years;

if such person wilfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this Act, and in assessing such penalty the Corporation shall consider the gravity of the violation.".

SEC. 2204. ACTUARIAL SOUNDNESS AND CONGRESSIONAL REPORTS.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (i) as subsections (d) through (k), respectively; and

(2) by inserting after subsection (a), the following new subsections:

"(b)(1) In addition to any standard forms or policies as the Board may require be made available to producers under this title, and without regard to the limitations on levels of coverage and rates provided for in this title, to—

"(A) review other policies and provisions of policies (including dollar-denominated coverage and the use of yields determined by the Agricultural Conservation and Stabilization Service); and

"(B) review rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary, that may be submitted by companies reinsured under this title.

"(2) If the Board finds that, under the policies referred to in paragraph (1), the interests of producers are adequately protected and that the premiums charged to such producers are actuarially appropriate, such policies, provisions of policies, and rates shall be approved by the Board for reinsurance and for sale to producers at actuarially appropriate rates and under the same terms and conditions as those applicable to the standard policies of insurance authorized under this title.

"(3) Any policies, provisions of policies, and rates approved under this subsection that are developed by more than one reinsured company or by a trade association or industry group for the benefit of more than one reinsured company, or that are made available for use or actually used by more than one reinsured company, shall be published and made available to all companies contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) To determine, on a State and crop basis, the rates and coverages that would be necessary to achieve actuarial soundness. Not later than 120 days after the date of enactment of this subsection, the Corporation

shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of such determinations. The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.".

SEC. 2205. REINSURANCE AGREEMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 2204) is further amended by adding at the end of subsection (g) (as so redesignated), the following new sentences: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992) the Corporation shall revise its reinsurance agreement with the reinsured companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into consideration the financial conditions of the reinsured companies and the availability of private reinsurance. Not later than 120 days after the date of enactment of the Federal Crop Insurance Adjustment Act of 1990, the Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the amount of increased potential losses that the revised agreement will require the reinsured companies to assume.".

SEC. 2206. UNIFORM CLAIMS ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (g) (as redesignated by section 2204) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

SEC. 2207. AVAILABILITY OF CROP INSURANCE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) (as amended by section 2204) is further amended by adding at the end thereof the following new subsection:

"(l)(1) To provide the Secretary of Agriculture with current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(2) To provide the Secretary of Agriculture with a listing of all agents for agent referral to producers through local offices of the Agricultural Stabilization and Conservation Service.

"(3) The Secretary shall utilize the information provided under paragraphs (1) and (2) to educate State Agricultural Stabilization and Conservation Service directors concerning such information to enable such directors to convey such information to local Agricultural Stabilization and Conservation Service offices for distribution to local producers.".

SEC. 2208. ASCS YIELDS, DOLLAR-DENOMINATED COVERAGE, AND EXPANDED AVAILABILITY.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended in subsection (a)—

(1) by striking out in the seventh sentence "The Corporation" and inserting in lieu thereof the following: "For any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved a yield for the purposes of programs administered by such Service or a yield for crop insurance purposes under the provisions of this Act, and such yield is greater than the recorded or the appraised yield of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield. Such insurance shall be provided for an additional premium set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation";

(2) by adding at the end thereof the following: "The Corporation shall establish an additional price level for each commodity on which insurance is offered. This price level so established shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of the value of the total acreage of the commodity on the insured farm or farm unit beginning with the 1982 crop year. The maximum coverage on such acreage shall not exceed an amount equal to the total acreage of the commodity on the insured farm multiplied by (1) the recorded or appraised yield for the commodity, (2) the yield coverage level selected by the producer, and (3) the price level established for the commodity. The producer shall have the option of securing insurance protection against production losses on the acreage in any amount not to exceed the maximum coverage as determined under the preceding sentence."; and

(3) by striking out the tenth and eleventh sentences and inserting in lieu thereof the following: "If there is a crop insurance program for a commodity in any county of a State, crop insurance for such commodity shall be available to producers in all counties of the State, except that the Corporation, under regulations promulgated by the Board, may limit or refuse insurance in any county or area, or on any farm, on the basis that there are different insurance risks involved in the production of the commodity in the county or area, or on the farm, because of variations in the type or variety of the commodity produced, agricultural production methods and practices, weather patterns, soil types, topography, or other factors affecting insurance risk.".

SEC. 2209. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended by inserting after "private insurance companies" the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,".

SEC. 2210. STUDY.

(a) IN GENERAL.—The Federal Crop Insurance Corporation shall conduct a study to consider the feasibility of providing multiple peril crop insurance policies under which prices for covered crops are selected on the basis of—

(1) trading futures contracts on such covered crops on contract markets designated under the Commodity Exchange Act;

(2) forward contracts for such covered crops between producers and market intermediaries;

(3) the cost of production estimated for such covered crops; or

(4) other forums whereby prices are set by market forces.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Crop Insurance Corporation shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the study conducted under subsection (a).

SEC. 2211. GENERAL SENSE OF CONGRESS CONCERNING CROP INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture, and every attempt shall be made to develop such program to obviate the termination of contracts and reinsured crop insurance contracts.

SEC. 2212. SENSE OF CONGRESS REGARDING FUNDING.

It is the sense of the Congress that—

(1) the Federal Crop Insurance Corporation should make the multiple peril crop insurance program established under the Federal Crop Insurance Act available to producers of agricultural commodities in accordance with such Act during fiscal years 1991, 1992, and 1993, by—

(A) issuing new multiple peril crop insurance policies and renewing existing multiple peril crop insurance policies to all producers that qualify for such under the Federal Crop Insurance Act; and

(B) honoring all valid commitments to crop insurance companies made in the 1991, 1992, and 1993 reinsurance agreements entered into by the Federal Crop Insurance Corporation and such companies under the multiple peril crop insurance program;

(2) the Commodity Credit Corporation should make available to the Federal Crop Insurance Corporation such funds as may be necessary to implement paragraph (1), under terms established by the Secretary, subject to paragraph (3); and

(3) the Federal Crop Insurance Corporation should, if funds are made available to it under any procedure of the type described in paragraph (2), repay to the Commodity Credit Corporation any funds so made available as soon as practicable, giving due consideration to the needs of the crop insurance program under the Federal Crop Insurance Act (the Federal Crop Insurance Corporation should incur interest charges on any unpaid balance that may exist at a rate comparable to the rate being paid by the Treasury on borrowings of comparable maturity).

TITLE XXIII—THE IRAQ INTERNATIONAL LAW COMPLIANCE ACT OF 1990

SEC. 2301. SHORT TITLE.

This title may be cited as "The Iraq International Law Compliance Act of 1990".

SEC. 2302. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) the Government of Iraq has destroyed more than three thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than sixty-five thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law; and

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including the State of Israel.

SEC. 2303. CONGRESSIONAL DETERMINATION.

The Congress finds and determines that—

(1) Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nations Charter and the 1925 Geneva Protocol on Poison Gas, places Iraq outside the community of civilized nations.

SEC. 2304. ENFORCEMENT OF UNITED STATES LAW.

The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

SEC. 2305. ENFORCEMENT OF INTERNATIONAL LAW.

(a) The President shall extend no new financial credits to Iraq and shall provide no financial assistance or financial benefit of any kind to Iraq including guarantees made by the Commodity Credit Corporation for loans made to finance export sales of agricultural commodities or products (except for urgent humanitarian assistance) until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(b) No item on the United States Munitions List may be sold to Iraq. No licenses may be issued for the export to Iraq of any item on the United States Munitions List, and the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to Iraq of all goods and technology on the control list established pursuant to section 5(c)(1) of that Act. The President may waive the requirements of this subsection if he certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that Iraq is in substantial compliance with its obligations under the Law of Nations including:

(1) the United Nations Charter;

(2) the International Covenant on Civil and Political Rights of December 16, 1966;

(3) the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris, December 9, 1948;

(4) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva, June 17, 1925;

(5) the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968; and

(6) the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow, April 10, 1972.

(c) For the purposes of the export controls imposed pursuant to subsection (b) of section 5, the date described in section 6(m)(1) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

SEC. 2306. REPORT ON OIL IMPORTS FROM IRAQ.

Not later than 60 days after enactment the President shall submit a report to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee describing total United States petroleum purchases from Iraq, and possible alternatives to Iraqi petroleum. The report shall include an assessment of the economic consequences for the United States and Iraq of a ban on the importation of Iraqi petroleum into the United States.

TITLE XXIV—FOOD STAMP AND RELATED PROVISIONS

SEC. 2401. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), except to the extent otherwise specifically provided.

Subtitle A—Protecting Households in Special Circumstances

SEC. 2411. RESTAURANT MEALS AT CONCESSIONAL PRICES FOR THE HOMELESS.

Section 3(g)(9) (7 U.S.C. 2012(g)(9)) is amended by inserting before the period at the end the following: "and by private establishments (other than private nonprofit establishments and private nonprofit shelters previously described in this paragraph) that contract with the appropriate agency of the State to offer meals for such persons at concessional prices".

SEC. 2412. EMERGENCY FOOD FOR DISASTER VICTIMS.

Section 5(h) (7 U.S.C. 2014(h)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster.

"(B) The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary of not greater than the applicable maximum monthly allotment for the household size.

"(C) The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.".

SEC. 2413. ESTIMATES IN LIEU OF VERIFICATION FOR HOMELESS HOUSEHOLDS WITH SHELTER COSTS.

Section 11(e)(3)(E) (7 U.S.C. 2020(e)(3)(E)) is amended by inserting before the final semicolon a period and the following: "Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. The Secretary may issue regulations to preclude the use of the estimates for households with extremely low shelter costs in which event the following sentence shall not apply. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses".

SEC. 2414. PROTECTION FOR PARTICIPANTS IN CASH-OUT DEMONSTRATIONS.

(a) COMPENSATION FOR SALES TAX.—Section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (ii), no waiver or demonstration program shall be approved, and no waiver or demonstration program shall be continued, under this paragraph after September 30, 1991, unless—

"(I) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project; and

"(II) the State agency conducting the demonstration project pays the cost of the increased allotments.

"(ii) Clause (i) shall not apply if—

"(I) the waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides;

"(II) in the case of a demonstration project approved prior to October 1, 1990, the jurisdiction in which the demonstration project operates does not apply sales tax to a significant number of food items, or

"(III) in the case of a project in which the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are entitled to supplemental Security Income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).".

(b) CONFORMING AMENDMENT.—Section 8(b) (7 U.S.C. 2017(b)) is amended—

(1) by inserting after "of the allotment" the following: "(or benefits issued in lieu of the allotment)"; and

(2) by inserting after "of an allotment" the following: "(or benefits issued in lieu of an allotment)".

SEC. 2415. NOTIFYING SHELTERS OF CHARITABLE INSTITUTIONS PROGRAM.

The Secretary of Agriculture or the appropriate State agency shall undertake efforts to inform shelters for the homeless and for battered women and children of—

(1) the availability of commodity donations to charitable institutions;

(2) the criteria for qualifying to receive the donations; and

(3) how application can be made to receive the donations.

Subtitle B—Promoting Self-Sufficiency

SEC. 2421. FAMILIES IN TRANSITIONAL HOUSING.

(a) DEFINITION OF TRANSITIONAL HOUSING.—Section 3 (7 U.S.C. 2012) is amended by adding at the end the following new subsection:

"(t) 'Transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable period of time, as determined by the Secretary of Housing and Urban Development. 'Transitional housing' includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children.".

(b) THIRD PARTY PAYMENTS.—Section 5(k)(2) (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (F) and inserting the following new subparagraph:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing; or".

SEC. 2422. EXPANDING THE AVAILABILITY OF EMPLOYMENT AND TRAINING OPPORTUNITIES.

(a) DEMONSTRATION PROJECT EXPANDING STATE FLEXIBILITY.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following new subparagraph:

"(O) The Secretary shall conduct a demonstration project to give priority in the provision of services under this paragraph to voluntary participants, including both exempt and nonexempt participants, except that giving priority to the participants shall not excuse the State agency from compliance with the performance standards set forth in subparagraphs (K) and (L). Voluntary participation in an employment and training program under this subparagraph shall not affect the requirements of the job opportunities and basic skills training program established under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).".

(b) PROGRAMS THAT FOCUS ON SELF-EMPLOYMENT OPPORTUNITIES.—

(1) AUTHORIZATION FOR PROGRAMS.—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(A) by redesignating clause (vi) as clause (vii); and

(B) by inserting after clause (v) the following new clause:

"(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.".

(2) EXEMPTION FOR RESOURCES USED IN PROJECTS.—Section 5(g) of such Act (7 U.S.C. 2014(g)) is amended—

(A) by designating the first, second, third, and fourth sentences as paragraphs (1) through (4), respectively; and

(B) in paragraph (3) (as so redesignated), by inserting before the period at the end of the paragraph the following: "and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 6(d)".

SEC. 2423. ENHANCED WAIVER AUTHORITY FOR DEMONSTRATION PROJECTS.

Section 17(b) of the Act (7 U.S.C. 2026(b)) is amended by—

(1) in the second sentence of paragraph (1), inserting after "eligible households" the following: "or a project authorized under paragraph (3) of this subsection";

(2) inserting at the end a new paragraph (3) to read as follows:

"(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and the training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act. Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 6(d) to permit a State to operate an employment and training program for food stamp recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F of title IV of the Social Security Act, and any work experience program conducted as part of such project shall be conducted in conformity with section 482(f) of part F of title IV of such Act. A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of sections 402(a)(19) and 402(g) of part A of title IV of the Social Security Act (but not including the provision of transitional benefits under sections 402(g)(1)(A)(ii) through (vii)) and sections 481–487 of part F of title IV of such Act, and each reference to 'aid to families with dependent children' in those sections shall be deemed to be a reference to food stamps for purposes of the demonstration project. Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which food stamp benefits are converted to cash shall occur only with the consent of the participant.

"(B) For the purposes of any project conducted under this paragraph, the provisions of this Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402 of part A and sections 481–487 of part F of title IV of the Social Security Act. At least 60 days prior to granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraph for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Waivers may be granted under this paragraph to conduct projects at any one time in a total of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

"(C) A waiver for a change in program rules may be granted under this paragraph only for a demonstration project that has been approved by the Secretary, is being evaluated by the Secretary, and that will be in operation for no more than 4 years.".

SEC. 2424. ELIGIBILITY FOR STUDENTS IN OTHER EMPLOYMENT AND TRAINING PROGAMS.

Subsection (e) of section 6 (7 U.S.C. 2015(e)) is amended to read as follows:

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half time in an institution of higher education, unless the individual—

"(1) is under 18 years of age or is age 50 or older;

"(2) is not physically and mentally fit;

"(3) is attending or assigned to an institution of higher education through or in compliance with the requirements of—

"(A) a program established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) an employment and training program established under this section;

"(C) a program established under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(D) another program for the purpose of employment and training operated by a State or local government;

"(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

"(5) is—

"(A) a parent with responsibility for the care of a dependent child under the age of 6; or

"(B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual both to attend class and to satisfy the requirements of paragraph (4);

"(6) is receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(7) is so enrolled as a result of participation in the work incentive program established under title IV of the Social Security Act or its successor programs.".

Subtitle C—Simplifying Program Administration

SEC. 2431. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF STATE GENERAL ASSISTANCE.

Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by inserting after "receives benefits under" the following: "a state or local general assistance program that complies with standards established by the Secretary for ensuring that such programs are appropriate for categorical treatment (except that no member of any such household who is disqualified under sections 6 or 16(e)(1) may receive benefits),".

SEC. 2432. SIMPLIFYING RESOURCE DETERMINATIONS.

Section 5(g) (7 U.S.C. 2014(g)) (as amended by section 2423(b)(2) of this Act) is further amended by adding at the end the following new paragraph:

"(5) The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that the household is unlikely to be able to sell for any significant return because the interest of the household is so slight or because the cost of selling the interest of the house-

hold would be excessive in relation to the value of the interest. Resources so identified shall be excluded as inaccessible resources.".

SEC. 2433. STATE FLEXIBILITY IN ASSISTING HOUSEHOLDS.

Paragraph (3) of section 8(c) (7 U.S.C. 2017(c)(3)) is amended to read as follows:

"(3) A State agency may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e). A State agency that does not elect to provide aggregate allotments under this paragraph shall provide any household that applies after the 15th day of the month and that is entitled to expedited service under section 11(e)(9) with the allotment of the household for the month after the month of application not later than the first business day of the month.".

SEC. 2434. SIMPLIFIED APPLICATION REQUIREMENTS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended—

(1) in the third sentence, by striking "instructions" and inserting "(on or near its front cover) explanations"; and

(2) by striking the sentence beginning "One adult member" and inserting the following new sentences: "The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process.".

SEC. 2435. FOOD STAMP APPLICATION FOR GENERAL ASSISTANCE HOUSEHOLDS.

Section 11(i)(3) (7 U.S.C. 2020(i)(3)) is amended by—

(1) striking "state or local general assistance grant" and inserting in lieu thereof "a general assistance grant provided under basic eligibility standards established by the state"; and

(2) inserting before the semicolon at the end thereof the following: ", and households applying for a local general assistance grant in local jurisdictions in which the agency administering the general assistance program also administers the Food Stamp Program shall be provided an application for participation in the Food Stamp Program at the time of their application for general assistance, along with information concerning how to apply for the Food Stamp Program".

Subtitle D—Promoting Access for the Elderly and Disabled

SEC. 2441. SIMPLIFIED PROCEDURE TO CLAIM EXCESS MEDICAL DEDUCTION.

The last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by inserting before the period at the end the following: ", shall rely on reasonable estimates of the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period".

SEC. 2442. SIMPLIFIED ISSUANCE PROCEDURES IN RURAL AREAS.

Section 11(e) (7 U.S.C. 2020(e)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting a semicolon;

(3) by striking "and" at the end of paragraph (23);

(4) by striking the period at the end of paragraph (24) and inserting "and"; and

(5) by adding at the end the following new paragraph:

"(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within the area where the mail loss rates exceed standards set by the Secretary.".

SEC. 2443. OPTIONAL ISSUANCE PROCEDURES FOR LOW FOOD STAMP ALLOTMENTS.

Section 8(a) (7 U.S.C. 2017(a)) (as amended by section 2442 of this Act) is further amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) A State agency may establish procedures that allow a household whose regular food stamp benefits does not exceed $20, at the option of the household, to receive, in lieu of the food stamp benefits of the household for the initial period under subsection (c) and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed $60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 11(e) (except that no household shall begin to receive combined allotments under this paragraph until the household has complied with all applicable verification requirements of subsection 11(e)(3)) and (with respect to the first aggregate allotment so issued) within the time provided for allotments under section 7(h).".

SEC. 2444. APPLICANTS FOR SUPPLEMENTAL SECURITY INCOME.

Section 11(j)(1) (7 U.S.C. 2020(j)(1)) is amended by inserting after "recipient of" the following: "supplemental security income or".

Subtitle F—Program Integrity

SEC. 2451. AUTHORIZATION OF WHOLESALE FOOD CONCERNS.

Section 9(b)(1) (7 U.S.C. 2018(b)(1)) is amended by inserting after the first sentence the following new sentence: "No colocated wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households.".

SEC. 2452. REQUIRED SUBMISSION OF SOCIAL SECURITY NUMBERS BY RETAIL FOOD STORES.

Section 9(c) (7 U.S.C. 2018(c)) is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second and third sentences as paragraph (2); and

(3) by adding at the end the following new paragraph:

"(3) Regulations issued pursuant to this Act shall require that an applicant retail food store or wholesale food concern provide social security numbers of the officers, owners (except in the case of publicly-held corporations), and on-site managers of the applicant retail food store or wholesale food concern.".

SEC. 2453. IMPROVED COLLECTION OF INFORMATION FROM RETAIL FOOD STORES.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section 2452 of this Act) is further amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to issue regulations providing for improved collection of information from retail food stores and wholesale food concerns, including periodic reporting of information needed to ensure the integrity of the program.".

SEC. 2454. EMPLOYER IDENTIFICATION AND SOCIAL SECURITY NUMBERS.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section 2453 of this Act) is further amended by adding at the end the following new paragraph:

"(5) Regulations issued under this Act shall require an applicant retail food store or wholesale food concern to provide the employer identification number assigned to the store or concern by the Internal Revenue Service.".

SEC. 2455. PERMANENT DISQUALIFICATION FOR CERTAIN ABUSES.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting after "substantial evidence" the following: "(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a finding of the sale of firearms, ammunition, explosives, or controlled substances (as the term is defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence that the store or food concern had an effective policy and program in effect to prevent violations of this Act.".

SEC. 2456. FINES FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ACCEPT LOOSE COUPONS.

Section 12(e) (7 U.S.C. 2021(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may impose a fine against any retail food store or wholesale

food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for change-making as specified in regulations issued under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. 2457. FINES FOR UNAUTHORIZED THIRD PARTIES THAT ACCEPT FOOD STAMPS.

Section 12 (7 U.S.C. 2021) is amended by adding at the end the following new subsection:

"(f) The Secretary may impose a fine against any firm or individual not approved by the Secretary to accept and redeem food coupons that violates any provision of this Act, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. 2458. FRAUD CLAIMS REPAYMENT.

The last sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)) is amended by striking "thirty" and inserting "10".

SEC. 2459. COMPUTER FRAUD PENALTIES.

(a) USE OF AN ACCESS DEVICE.—Section 15(b) (7 U.S.C. 2024(b)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "or authorization cards" the first place it appears and inserting ", authorization cards, or an access device"; and

(B) by inserting after "a value of $100 or more," the following: "or if the item used, transferred, acquired, altered, or possessed is an access device,"; and

(2) by adding at the end the following new paragraph:

"(3) As used in this section, the term 'access device' means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act.".

(b) CONFORMING CHANGE.—The first sentence of section 15(g) (7 U.S.C. 2024(g)) is amended by striking "or authorization cards" and inserting ", authorization cards, an access device, or anything of value obtained by use of an access device,".

SEC. 2460. INCREASED FINES FOR COUPON TRAFFICKING.

Section 15(c) (7 U.S.C. 2024(c)) is amended by striking "$10,000" each place it appears and inserting "$20,000".

Subtitle F—Program Improvements

SEC. 2461. FOOD STAMP ACT PROVISIONS.

Paragraph (1) of section 16(h) (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for the fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.".

SEC. 2462. COMMODITY DISTRIBUTION PROGRAM AND COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

The Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "15 per centum" and all that follows through "and (B)" and inserting the following: "the sum of (A) 20 percent of the amount appropriated for the commodity supplemental food program and (B) 15 percent of".

SEC. 2463. SOUP KITCHENS AND FOOD BANKS.

Section 110(b) of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization whose primary purpose is to distribute food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.".

SEC. 2464. CONTINUATION OF PROVISION OF CHEESE AND NONFAT DRY MILK.

Section 130 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 130. CONTINUATION OF PROVISION OF CHEESE AND NONFAT DRY MILK.

"Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 1995 to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program authorized under section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) before the end of each fiscal year.".

SEC. 2465. PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1990" and inserting "1995".

SEC. 2466. NUTRITION EDUCATION AUTHORIZATION.

Section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)) is amended by adding at the end the following new paragraph:

"(3) There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343(d)) and this section $63,000,000 for fiscal year 1991, $68,000,000 for fiscal year 1992, $73,000,000 for fiscal year 1993, $78,000,000 for fiscal year 1994, and $83,000,000 for fiscal year 1995.".

Subtitle G—Miscellaneous

SEC. 2471. COMMODITY DISTRIBUTION REFORM.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended—

(1) by redesignating section 14 as section 15; and

(2) by inserting after section 13 the following new sections:

"SEC. 14. STATE OPTION CONTRACTS FOR COMMODITIES.

"(a) PAYMENT BY SECRETARY.—The Secretary may use the funds of the Commodity Credit Corporation and the funds available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost of food or the processing or packaging of food on behalf of a State distribution agency.

"(b) REIMBURSEMENT BY STATE DISTRIBUTION AGENCY.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed-on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or the appropriation originally charged for the food, processing, or packaging, as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full for all such foods that have been delivered to the State, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.

"SEC. 15. COMMODITY PROCESSING PROGRAM.

"(a) IN GENERAL.—In accordance with section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)), the Secretary shall establish a commodity processing program to promote and facilitate the reprocessing of commodities into end-use products that are useful and suitable to the needs of local agencies distributing or making use of the commodities.

"(b) REGULATIONS.—The Secretary shall issue regulations for the commodity processing program that—

"(1) provide uniformity, to the maximum extent possible, in conducting processing agreements under the direction of the Secretary;

"(2) take into account the preferences and needs of local agencies using commodities; and

"(3) foster administrative and cost efficiency.".

SEC. 2472. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

The Temporary Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in section 203A, by adding at the end the following new sentence: "The Secretary may undertake a demonstration project in which part or all of one or more surplus commodities are processed into an end product that is more readily usable for household consumption.";

(2) in section 203B, by adding at the end the following new subsection:

"(e) The Secretary shall not require a State to impose additional recordkeeping or application requirements on individual recipients, so long as the Secretary has not determined that the recordkeeping or application procedure of the individual recipient agency is inadequate.";

(3) in the second sentence of section 204(c)(2), by inserting after "handling," the following: "repackaging, processing,"; and

(4) in section 210, by striking subsection (c) and inserting the following new subsection:

"(c)(1) With respect to the commodity distribution program under this Act in effect during the period ending on the date specified in section 212, the Secretary shall as early as feasible but not later than the beginning of each of the fiscal years during the period, publish in the Federal Register an estimate of the types and quantities of

commodities that the Secretary anticipates are likely to be made available during the fiscal year.

"(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1).".

SEC. 2473. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

(a) ELDERLY.—The Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "supplemental feeding programs" and inserting "supplemental feeding programs serving women, infants, and children or elderly persons, or both,"; and

(2) in section 5(f), by inserting after "additional sites for the program" the following: ", including sites that serve only elderly persons,".

(b) REFERRALS TO OTHER PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN.—Section 5 of such Act (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(h) Each State agency administering the commodity supplemental food program shall—

"(1) ensure that written information concerning food stamps, the Medicare program under title XVIII of the Social Security Act, the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult participant in and each adult applicant for the commodity supplemental food program;

"(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

"(3) provide to individuals applying to the commodity supplemental food program, or reapplying, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the program, if the individuals are not participating in the program and appear to have family income below the applicable maximum income limits for the program.".

(c) ADVANCE WARNING FOR DECLINE IN PERSONS SERVED UNDER PROGRAM.—Section 5 of such Act (7 U.S.C. 612c note) (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(i)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

"(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.".

SEC. 2474. OLDER AMERICANS NUTRITION PROGRAMS.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended—

(1) by inserting after "Secretary of Agriculture" the following: "or is made available pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))"; and

(2) by inserting after "eligible recipient agencies" the following: "(including agencies providing nutrition services under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)".

SEC. 2475. FOOD STAMP PROGRAM.

(a) ELDERLY AND DISABLED PERSONS IN THE TERRITORIES.—

(1) DEFINITION OF FOOD.—Section 3(g) (7 U.S.C. 2012(g)) is amended—

(A) in clause (3), by striking "under title XVI" and inserting "or disability or blindness payments under title I, II, X, XIV, or XVI"; and

(B) in clause (7)—

(i) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(ii) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

(2) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) is amended—

(A) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(B) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

(b) BUDGETING INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 5(f) (7 U.S.C. 2014(f)) is amended to read as follows:

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

"(B) In the case of the first month, or at the option of the State, the first and second months, during a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.

"(C) Households specified in clauses (i), (ii), and (iii) of section 6(c)(1)(A) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B).".

(2) CALCULATION OF HOUSEHOLD INCOME.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning October 1, 1988, and ending on the first day of the first month beginning at least 120 days after the date of enactment of this Act, a State agency may elect to implement the amendment to section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) made by section 202(a) of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1656) (with respect to the requirement that income be calculated on a prospective basis in the case of households that are not required to report monthly on their income and household circumstances).

(B) PAYMENT ERROR RATES.—Notwithstanding section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), during the period referred to in paragraph (1), errors resulting solely from implementation by a State agency of the amendment referred to in paragraph (1) shall not be included in payment error rates determined under section 16(c) of such Act.

(c) NUTRITION EDUCATION.—

Section 11(f) (7 U.S.C. 2020(f)) is amended by striking the first sentence and inserting the following new sentence: "To encourage the purchase, preparation, and consumption of nutritious foods, the Secretary is authorized to assign responsibility for the nutrition education of people eligible for food stamps to the Cooperative Extension Service, in cooperation with the Food and Nutrition Service.".

SEC. 2476. ASSISTANCE TO HOMELESS PRESCHOOL CHILDREN.

Section 18(f)(5)(A) of the National School Lunch Act (42 U.S.C. 1769(f)(5)(A)) (as added by section 107(2) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101-147; 103 Stat. 886)) is amended by striking the first sentence and inserting the following new sentence: "Except as provided in subparagraph (B), the Secretary shall expend to carry out this section, from amounts appropriated to carry out this Act, not less than $500,000 in fiscal year 1991, not less than $750,000 in fiscal year 1992, not less than $2,000,000 in fiscal year 1993, and not less than $3,000,000 in fiscal year 1994, in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966, except that not more than $5,000,000 shall be expended for the program authorized by this subsection in any fiscal year and, in any fiscal year in which funds are not used to carry out this sentence, the Secretary shall return the unused portion to the Treasury.".

SEC. 2477. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) INCREASE IN FOOD PACKAGES.—The food packages provided to participants in the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall be increased by approximately 10 percent to provide a greater amount of foods to needy participants.

(b) INCREASE IN VARIETY.—The Secretary of Agriculture, taking into account the views of participants, the Indian Health Service, and participating tribal organizations that administer the food distribution program on Indian reservations, shall increase the variety of foods, or develop procedures to increase the variety of foods, provided to participants in the program to better address the nutritional problems faced by participating tribal members, including the problems of hypertension, diabetes and the malabsorbtion of certain nutrients.

(c) DEADLINE.—The Secretary shall carry out this section not later than 1 year after the date of enactment of this Act.

SEC. 2478. AUDIT OF SIMPLIFIED FOOD STAMP APPLICATIONS AT SOCIAL SECURITY ADMINISTRATION OFFICES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the program established under sub-

sections (i) and (j) of section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) under which an applicant for or recipient of Social Security benefits may make a simple application to participate in the food stamp program at social security offices, including an examination of whether—

(1) the program is operating effectively;

(2) the program should be expanded to include all applicants for and recipients of social security benefits; and

(3) a joint application is feasible for benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).

(b) REPORT.—Not later than September 30, 1991, the Comptroller General shall deliver a report on the results of the study required by this section to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Special Committee on Aging of the Senate.

SEC. 2479. SCHOOL LUNCH STUDY.

(a) PURPOSES.—It is the purpose of the study required by this section to provide an updated analysis of the national school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) that will serve as a basis for evaluating changes to the program and will help ensure that the program is structured and administered in such a way as to provide the greatest number of children with nutritious meals.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the national school lunch program to determine—

(1) the quantity of bonus commodities lost, by State, since the 1987-88 school year;

(2) the amount of indirect costs assessed against local school food service authorities by schools;

(3) the current cost of providing a school lunch by component, including the costs of labor;

(4) why those schools that voluntarily dropped the national school lunch program during the 1980's made their decision to do so;

(5) if low-income children in schools that voluntarily dropped out of the national school lunch program continued to receive meals free of charge;

(6) the changes in responsibility, and costs associated with those changes, that have occurred since 1980 at the State agency level in the administration of the school programs at the State level;

(7) the changes in responsibility and costs to local school food service authorities of satisfying the Federal administrative program requirements, including the cost of audits; and

(8) what school food service authorities charge students for nonfree or reduced price meals.

(c) REPORT.—Not later than October 1, 1992, the Secretary shall submit a final report to Congress on results of the study conducted under this section.

Subtitle H—Indian Nutrition Gardening Program

SEC. 2481. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of gardening programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian and Alaska Native Gardening Grant Program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. 2482. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTERTRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any gardening program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 2483. INDIAN SUBSISTENCE FARMING GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish an Indian gardening grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of gardening operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the gardening project proposed by the applicant;

(B) the number of Indians to be employed in the project;

(C) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(D) the number of Indians who are projected as eligible recipients of produce grown on for the project.

SEC. 2484. EXTENSION SERVICE.

The Secretary shall provide technical assistance and training through the Extension Service to Indian tribes and intertribal consortia for the development and operation of gardening projects designed to improve the nutritional health of participating tribal members. The extension service shall provide—

(1) appropriate training and educational programs;

(2) equipment, tools, and materials needed for gardening; and

(3) seeds, seedlings, or plants, fertilizer, soil enhancers, or other gardening supplies to assist Indian tribes and intertribal consortia in the development of gardening projects.

SEC. 2485. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service shall conduct, with respect to the projects established under this subtitle, site surveys, workshops and short courses on such topics as spacing, depth of seed placement, soil types, and other aspects of gardening operations.

SEC. 2486. TRIBAL CONSULTATION.

An Indian tribe participating in any gardening program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian gardening project.

SEC. 2487. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 2488. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $500,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 2489. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 2490. NATIVE HAWAIIAN GARDENING PROGRAM.

Notwithstanding any other provision of this subtitle, the Secretary shall by regulation develop a nutrition gardening program for Native Hawaiians in areas in Hawaii set aside for the use of Native Hawaiians under the Act of July 9, 1921. Such regulations shall be based, to the extent practicable, on the requirements of this subtitle. Grants made under this subtitle for the benefit of Native Hawaiians shall be used, to the extent practicable, for the purposes set forth in this subtitle. For purposes of this section the term "Native Hawaiian" means a person who is eligible to receive an assignment of land under the Act of July 9, 1921 (42 Stat. 108).

SEC. 2491. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $8,000,000 for each of the fiscal years 1991 and 1992 and $10,000,000 for each of the fiscal years 1993 and 1994.

SEC. 2492. ASSISTANCE TO NATIVE HAWAIIANS.

Notwithstanding any other provision of Subtitle H, the Secretary may provide grants to an agency of the State of Hawaii administering assistance to Native Hawaiians under the Act of July 9, 1921 (42 Stat. 108) from funds appropriated under authority of section 2490 of this subtitle. Grants under this section shall be for components of irrigation systems not normally eligible for assistance under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(h)), including water meters, connecting pipe and related connection costs, if such components are necessary for the operation of sytems providing agricultural irrigation to Hawaiian Home Lands.

Subtitle I—Effective Dates

SEC. 2495. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall become effective and be implemented 120 days after the date of enactment.

(b) SPECIAL EFFECTIVE DATES.—

(1) Sections 2411, 2412, 2413, 2422, 2423, 2431, 2432, 2434, 2441, 2443, 2444, and 2471(b), and the amendments made by such sections, shall become effective and be implemented on April 1, 1991.

(2) Section 2421, and the amendments made by such section, shall become effective and implemented on February 1, 1991.

(3) Section 2461, and the amendments made by such section, shall become effective and implemented on October 1, 1990.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, again I wish to thank all Senators for helping us get this 5-year farm bill through. As one Senator pointed out, in the years I have been here this is the first time we passed a farm bill in daylight hours. That in itself is an achievement.

I wish to thank all the members of the Senate Agriculture Committee, who worked so hard on this bill. I especially want to thank my good friend with whom I have served all these years in the Senate, Senator LUGAR of Indiana.

Senator LUGAR has been a tower of strength throughout. At times we have agreed, at times we have disagreed. But he has always been honest and forthright. We have been able to work out most of the difficulties.

Each member of this committee, Democrat and Republican, helped forge this bill and the fact is, throughout the committee process in all but a handful of votes, the votes were almost unanimous. The fact is, we have done that again here today.

The farm bill, Mr. President, that was presented to the Senate 3 weeks ago, is basically the same bill passed here tonight by a lopsided margin.

There are aspects of the bill that have been improved as we have gone through the process, and those things that I believe may have detracted from the bill have not been added.

Mr. President, this is a good bill, a progressive bill, and one that will take us into the next century, and one that Senators can be proud of. It is an environmentally conscious farm bill. It is one that allows us to do the kind of things in growing our food and fiber that American consumers want. It makes major revisions in the Food for Peace Program—the most significant changes in 25 years. It includes the first forestry title since I have been here.

Mr. President, I know Senators want to go home for the weekend. But, Mr. President, it is absolutely impossible for a bill like this to go through without the superb help of the staff.

I wish to commend the minority staff. I know that Senator LUGAR will be going through those names. I also commend the majority staff, beginning with chief of staff, Dr. Charles Riemenschneider. Chuck Riemenschneider had the unenviable duty of bringing staff members together evenings, wee hours of the morning, and weekends. And I commend the other staff members, Jim Cubie, our chief counsel, who worked so hard on this and continued right up to minutes ago in helping to forge agreements; Janet Breslin; Bob Young; Bill Gillon; Kathleen Merrigan; Tom Herbert; Carolyn Brickey; Ed Barron; Lynnett Wagner; Margaret Huessy; Ken Ackerman; Jim Phippard; Chris Sarcone; Andy Fish; Lisa Witt; Tom Tuchmann; Jon Haber; Julie Bernstein; Laura Madden; Bob Sturm; Mary Kinzer; Alan Surchin; Sylvia Gaudette; Valerie Callands; Annalisa Milas; Mary Byrne; and Cynthia Neuwalder; Keith Bulatao; Don Finch and Tim Young. I also wish to thank Gary Endicott and Bill Baird of Senate Legislative Counsel's Office. I will speak more about the contributions of these individual staff members next week.

I will close with this: I commend our distinguished majority leader, Senator MITCHELL, who had the patience to work with us time and time again, with all his other duties, to help move this bill to the point where we could finish it today and have final passage. I thank my good friend, the Republican leader, Senator BOB DOLE, with whom I have had many discussions throughout the bill, and for his help in getting us to the point we are.

Now to show my great appreciation for all Members of this wonderful body, I yield the floor.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana, the ranking minority member of the Agriculture Committee.

Mr. LUGAR. I thank the Chair.

Mr. President, I agree with our distinguished chairman that the Senate has worked its will and produced an excellent farm bill. I think that Senators know the characteristics of the 1985 farm bill: a trend toward greater exports, higher income, less governmental interference with farmers and opening up our system to young people. This trend continues. It was not by chance; it is because the Senate found that there were fundamental principles in the 1985 bill that were important, and we believe we have strengthened them.

Mr. President, we know we have some work to do, not only in conference, but with the President and with our congressional leaders, with regard to budgetary constraints which were clear throughout this debate and which remain. The distinguished chairman has pointed out many times that he will be asserting his leadership to make this bill come into conformity with the work being done at the summit by the distinguished majority leader, the distinguished Republican leader and others. We want to pledge our cooperation to make certain that those changes are made as they are needed and that agriculture will pay its share, but we feel it is equitable that agriculture pay no more than that. That has been a theme throughout our work.

Let me thank, with words that I really cannot define, the great leadership of my chairman. He has been a remarkable inspiration to all of us, a consensus builder, someone determined to have a bipartisan farm bill, and that he has achieved. It has been a very real pleasure to work with him.

It is always a great pleasure to work with my leader, Senator DOLE, who brings great expertise from his own work in this committee over the years,

his own life in Kansas and his great parliamentary skills. These were essential in guiding us not only on this side of the aisle, but in the overall mission that we had.

It has been a very great pleasure to work with the majority leader, Senator MITCHELL, who maintained the faith that Senator LEAHY and I would proceed expeditiously and helped us in every way that he could.

Mr. President, let me simply commend the minority staff, led by Chuck Conner and including Brent Baglien, Randy Green, John Ziolkowski, Janet Horton, Dave Johnson, Greg Thies, Debbie Schwertner, Debbie Cohn, Kristen Morton, and Bruce Odel and likewise a very, very helpful staff of the United States Department of Agriculture whom we were able to consult throughout the bill in order to stay in touch with the administration and with USDA. They included Bruce Gardner, Gene Bailey, John Campbell, Brad Myers, Wanda Worswam, Keith Collins, Scott Steele, Bruce Blanton, Ralph Linden, Christine Gunderson, George Braley, Bonny O'Neill, and Mack Gray.

Finally, Mr. President, let me thank the members of our committee. As I met many of them as we voted, I think we concluded that we have had an excellent 7 days together. We know each other a great deal better under fire, but in a constructive way.

I have great appreciation for all the members of our committee on both sides of the aisle. They are good people and represent their States to the best of their abilities but finally have as their goal the common good of our country.

I thank Members of the Senate who voted for the bill and likewise those who offer constructive criticism. We look forward to going to conference.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I want to take a moment to thank the distinguished chairman and ranking member of the Agriculture Committee and the distinguished Republican leader for their efforts in making it possible to complete action on this very important complex legislation. Senator LEAHY and Senator LUGAR are highly respected by their colleagues. Their persistence, their diligence, their fair and evenhanded approach have enabled the Senate to complete action on a very important measure, we do only once in every 5 years.

I especially want to thank the distinguished Republican leader for his cooperation in our efforts to complete action on this bill. He is, of course, one of the senior members of the committee and is intimately familiar with the importance of this legislation to the farmers of his and other States.

I thank my colleagues very much, particularly my dear friend and colleague from Vermont, Senator LEAHY, whose leadership made this possible.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

SENSE OF THE SENATE RESOLUTION: BUDGET RECONCILIATION

Mr. DOLE. Mr. President, the 1985 farm bill changed direction in farm policy and established a market-oriented policy. Since 1985 we have priced our commodities competitively, aggressively pursued export markets, and supplemented farm incomes through direct payments and other measures. The results have been very positive with regards to farm income, exports, farm debt, and land values.

That bill, however, cost the American taxpayer over $80 billion in Commodity Program outlays. As the Senate Agriculture Committee developed the 1990 farm bill, it no longer had $80 billion to spend. With a budget baseline of about $55 billion, the bill developed and currently on the floor shows signs of backsliding from the 1985 bill. For example, loan rates are increased for wheat, feedgrains, peanuts, honey, and wool and mohair. Supply management programs containing rigid bases and quotas, are virtually assured in dairy. Little additional flexibility is given to the farmer to respond to market signals. In short, farm policy is getting worse rather than better.

For anyone interested in a vibrant and healthy farm economy, alarm bells should be going off. It seems clear that any final 1990 farm bill will have to be pared back—perhaps as much as $2.5 billion per year, on average. Pressures will begin at that point to raise loan rates even further, increase the amount of acreage taken out of production, establish mandatory Harkin-Gephardt-style supply management schemes containing strict base and quota allocations for dairy and perhaps other commodities. This would be a tragedy for farmers—a return to the failed policies of the past.

In order to avoid this potential disaster, I propose a sense of the Senate resolution regarding the eventuality of a budget reconciliation. In that event, the required reduction in outlays for agricultural programs should be achieved through equal percentage reductions in the support prices, loan and purchase levels, established prices, and other income or price support mechanisms in effect for all agricultural commodity programs. These reductions should be achieved regardless of the outlays estimated for individual commodities, even if a commodity has low or no outlays.

The resolution recognizes what lies ahead for the level of farm program outlays. Even with the budget-fix amendment accepted upon the introduction of the bill, a bill which remains $1.8 billion over the baseline ignores the fact that additional cuts are around the corner. Farm program savings of $1.1 billion for this year—$18.7 over 5 years—have been requested by the administration.

Moreover, the budget summit is counting on savings of anywhere from $6 to $18 billion below the current law baseline. So we have got to be realistic and recognize our responsibility. Counting the S&L's, the deficit is now $231 billion. In the next couple of months we will be facing a sequester of more than $100 billion. Therefore, if we do not get a budget agreement, we are facing a cut of 38 percent across the board in all farm programs.

This resolution would assure equity between commodities once cuts in outlays come into effect. It represents the only fair way to administer the necessary reductions, a recognition of equity which we were unable to achieve in the vote on the sugar amendment earlier today. I voted in favor of that amendment and the honey amendment, anticipating the cuts which will come for other commodities in the near future. The bottom line is that we cannot single out these individual commodities without addressing them all, and we must address them all as we develop policies which will encompass the necessary savings.

In 1985, we reduced the safety net for most commodities by at least 10 percent. However, some commodities received an increase or were not reduced.

It is time that we start treating farmers fairly given the budget constraints we will soon be facing. This resolution will at least begin the process of being honest with farmers.

Mr. President, let me congratulate the chairman, Senator LEAHY, and the ranking Republican, Senator LUGAR. Having had some experience with farm legislation, it is not easy, but I think they may have broken new ground because we finished this bill, I think, in record time. I am not sure it equals the 1981 bill, but certainly a much better record than we had in 1985. As I recall, it was 88 hours, 41 rollcall votes over a period of a month before we finally passed the legislation. So I congratulate Senator LEAHY and Senator LUGAR and members of their respective staff and others who have worked on this bill.

I thank my staff, Dave Spears, Brett Fox, Joy Harwood, and others who have been helpful on the Republican side, and, of course, the majority leader who kept pressing, as leaders must do.

Farm bills are very difficult. Some Members never fully appreciate agriculture until you have a farm bill on the floor. Unless you are on the committee, it is sometimes hard to keep up

with it. It takes some time to prepare an amendment and sort of get comfortable with what happens in farm legislation.

I do believe for the most part we are proceeding with a philosophy that we put together in 1985 again on a nonpartisan or bipartisan basis. I have learned over the years that farm bills have to be bipartisan. There were 21 votes against this bill. It is obvious that farm bills are always in danger and always very susceptible to vetoes. This is the case. It is the nature that some people will not vote for farm bills. They are never good enough. And others, they are never good at all.

I think we are continuing on that path. I think the problem with the 1985 farm bill, very honestly, was it cost about $80 billion in program outlays and, as the Senate committee developed the 1990 farm bill, they no longer had $80 billion to spend. Cost had gone down. We had a budget baseline of about $55 billion. The bill developed concurrently on the floor is just about there. There is some discrepancy, some would say $1 billion or so. But basically we are keeping in touch.

The point I wanted to make and did not want to take the time of the full Senate, because many are on their way to other destinations, some of us also serve on the budget summit and that is a very difficult job. We know that when they come down to certain program cuts, agriculture is not going to escape. Not many programs will escape except those that affect low-income Americans. We know there will probably be a fairly substantial cut over the 5-year period in agriculture program outlays. That is why I offered a sense-of-the-Senate resolution, knowing that probably it does not have much impact but just as sort of a marker so that we will understand—and I appreciate the amendment being accepted by the managers—that in the budget summit meeting and then in the agriculture conference with Senator LEAHY and Senator LUGAR and Congressman DE LA GARZA, Congressman MADIGAN, as the chief conferees, they will have to make further adjustments in all these programs.

In my view, all the programs ought to be fairly treated. Some are way over the budget now, some are about on the budget, some are no cost, the sugar program and others, but there are still costly programs and cost consumers.

I regret in a sense that we did make a change in the honey program. I will confess I voted both ways. I was hopeful that we could take some of these programs that cost consumers a lot of money and somehow send a signal that they cannot be exempt either in this process.

Since we were unable to do that, it seemed to me we might as well put honey at its original status and let us work on it in conference.

In any event, I think it is clear to say the conference is going to be very difficult. We are fortunate to have Senator LEAHY and Senator LUGAR on our side leading the conference. They understand. They have been very willing to face up to demands of Members on both sides of the aisle who wanted to add more spending.

It is always easy to add more spending, but I think in the long run it holds out false hopes to American farmers. Farmers in my State are concerned about inflation, and the farmers in my State are concerned about interest rates; farmers in my State are concerned about the economy, and I am certain it is true in every other State represented on the Senate floor.

Farmers are businessmen and businesswomen. They are sophisticated. They understand that the higher the subsidy, someone will have to pay for it. They also understand the increasing national debt, the interest on the debt, and they know that sooner or later farm program costs are going to have to be reduced if we move to a market-oriented economy.

It is difficult for those of us who come from farm States to vote for less, but at the same time it seems to me that it is good policy in the long run; it is good for American agriculture.

If we get into the budget agreement, as I hope we will, and as I believe we will, we could probably be looking at savings—I do not know how many billions of dollars. Some have gone up to $18 or $19 billion over the 5-year period. Whatever it is, keep in mind if we do not do anything, then we are going to have a sequester, and that is really going to hit agriculture hard.

So I have confidence in the Senator from Vermont, the chairman of the committee, and the Senator from Indiana, the ranking Republican on the committee, and others who will be conferees.

I believe in the final analysis we will do the right thing for the American farmer and for agribusiness and the American taxpayer. Farmers are taxpayers, too.

Notwithstanding statements we may make from time to time about wanting more and more and more in the area of subsidies, in the final analysis we have to rely on the market, and in my view that is the view shared by most American producers.

Finally, I again thank the managers for their splendid work.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I am going to tell a little story this afternoon at the conclusion of this legislative triumph for Senator LEAHY and Senator LUGAR, who have worked so hard. This little story I think sort of demonstrates what it has been like to put together this particular farm bill after 7 days, 64 hours, and 12 minutes of debate, and dealing not only with Republican and Democratic differences but of equal importance and equal difference, those differences that we find in various regions of our country.

Mr. President, we have a wonderful little town in north Arkansas. The name of that little community is Eureka Springs, AR. It is built up in the mountains, and actually it is one of the highest elevated communities in our State and one of the main sources of income would be tourists, the next would be chickens. We grow a lot of chickens in that part of our State.

I have a friend there who has a 1959 Chevrolet truck. Not long ago, he was taking his chickens to market one day. He became sort of famous around those parts because his old truck; he had it stuck together with haywire and everything else you could imagine, and rope. It was a 1959 model. Every time he started up one of these hills, to get up this hill, no one knew why, but he had this huge lead pipe and he would reach out the window of the cab of his truck, Mr. President, with this lead pipe and he would start beating on the top of the cab of his truck. After chugging and going back, he would beat the cab of the truck a little bit and finally he got to the top of the hill.

One of the people there who was behind him in another truck said, "Joe, I have been watching you for years take these chickens to the market and we get to this particular hill, that 4-mile stretch up there, and you get to that place where the truck won't go any further and you take that lead pipe and beat the heck out of the top of that truck. Why do you do it?"

He said, "It's easy." And it reminds me of Senator LEAHY and Senator LUGAR in putting this bill together. He says, "I have a 2-ton truck and I have 4 tons of chickens on this truck. Unless I keep half of them in the air at the same time, I don't have any opportunity to get to the top of that hill."

Mr. President, that is what these two fine Senators have done. On many occasions—and Senator LEAHY will testify to this—I have walked out of meetings when I thought it was hopeless to put together a 1990 farm bill.

I never thought that this document would be before the Senate 2 months ago. But with his perseverance, his patience, his commitment, doing what was the right thing, not only for the American farmer but equally so, Mr. President, for the American consumer, I think it has absolutely been a legislative masterpiece in putting all of these

groups together, many with different philosophies from different regions of this country.

Mr. President, I salute today my distinguished chairman. I have been a bit player in the production of this legislation. He has been the major player, along with his friend and colleague, Senator LUGAR, who has shown a most cooperative spirit from the very beginning.

We have had some hard times. We have had some hard talks. We have had some big disagreements. I wanted to say that I salute my distinguished chairman, and also the ranking member.

Mr. President, let me also say to Senator LEAHY's staff, I salute his staff, and I salute the staff here today who have been up an untold number of hours, who have worked on compromises.

Not one person in this Senate has gotten everything that they desired in this piece of legislation. But together it is a composite. It is also a composite of America. It is also representative of what this body can do when it commits, and perseveres to a common end and a common purpose.

Mr. President, I salute the chairman and the vice chairman. It has been a pleasure working with them—also, the staff of the Senator from Vermont, the staff of the Senator from Indiana, and all of these wonderful people who have really dedicated their lives and souls to making this day become a reality.

I thank the Chair.

Mr. LEAHY. Mr. President, I could not begin to thank the distinguished Senator from Arkansas enough for his kind words. I turned 50 years old this spring. So I expect to live a long, long time. When the times comes, as it does for everybody, I want the distinguished Senator from Arkansas to give my eulogy because he is the only person who with a straight face could stretch my abilities and capabilities as much as he has.

I only hope my mother, my mother-in-law, my wife, and my children will read Senator PRYOR's kind words because they are probably the only ones who love me enough that they might actually believe all the attributes accredited to me. Obviously, I appreciate it.

And I tell my dear and good friend from Arkansas, it means a great deal to me. But there are times when I do not know if I am the driver of the truck, or the lead pipe being banged on the roof, or the chickens in the air.

But were it not for the Senator from Arkansas—we met many, many times in an ad hoc committee to put this bill together—we would not be here.

With that, the poor majority leader might finally be able to close the Senate. I am going to leave the floor.

But I thank the Senators for all their kind words.

Mr. HARKIN. Mr. President, I am pleased that the Senate has given approval to this legislation that is so important for farm families and rural America. I want to commend Senator LEAHY and Senator LUGAR for their leadership and hard work in pulling this legislation together and carrying it through to passage.

The bill is not perfect, as we all acknowledge. Many of us would have liked to pass legislation that provided more in the way of farm income. But the budget constraints in putting this bill together were enormous. This legislation reflects that sober reality. Yet in many areas, this legislation contains significant improvements over current farm programs and agricultural policies.

This farm bill is vitally important to the economic well-being of rural America. But it is by no means a bill just for farmers or just for rural America. This bill embodies the basic food and agriculture policies for this Nation and is a bill for the benefit of all Americans. It is much more than a bill providing income and price supports to agriculture, as reflected in its title: the Food, Agriculture, Conservation and Trade Act of 1990.

The conservation title of the bill, for example, protects the resources that make our agricultural abundance possible. The research title will help improve agricultural productivity, protect the environment and develop new uses and markets for agricultural commodities. The trade title recognizes the tremendous importance of agricultural exports to the agricultural sector and to our economy as a whole.

The basic food and agriculture policies that this bill contains have enabled American consumers to take for granted a stable, dependable supply of food at a cost of only 10.4 percent of their disposable income, the lowest share in the world. Our food and agriculture system has never failed us. Farm programs have played an important role in fostering that stability and dependability.

Hard-working farm families are the key to the success and productivity of American agriculture. Family farms also hold the best hope for conservation and stewardship of our soil, water, and other natural resources. But without sufficient income, our farmers cannot stay in business and the food production system we have come to depend upon simply cannot survive. When the market is not providing adequate returns to farmers, farm programs are needed to fill the income gap. Simply put, our farm programs have helped to develop and maintain an agricultural system that provides food at such low cost.

Hence, in my view, there is no more important issue in the farm bill than the effect it will have upon farm income. The past decade has demonstrated once again that low levels of farm income bring economic devastation and real human tragedy to rural communities. Adequate farm income is the lifeblood of the rural economy: when farm income falls the effect is felt not only on farms, but up and down Main Street and across all of rural America. Moreover, American agriculture must be economically sound in order to compete successfully for foreign markets.

The constraints of the Federal budget have severely limited our ability to provide for as much in the way of farm income as we would like. The bill nevertheless contains a number of provisions that will help farm income, including several improvements over the 1985 farm bill: an end to the progressive decline in target prices and loan rates, a minimum milk support level, a marketing loan at the basic loan rate or an advance Findley payment for wheat and feed grains, a mechanism to protect a portion of estimated deficiency payments against market price increases, a new oilseeds loan program, a higher oats target price, the targeted option payment program, greater planting flexibility and a pilot bushel-based program.

As with many of the provisions of the bill, the planting flexibility provisions reflect a compromise. I would have preferred considerably more flexibility along the lines of the normal crop acreage approach contained in legislation I joined in introducing earlier this year. The compromise flexibility provisions contained in the bill do, however, give farmers significantly more freedom to make their own planting decisions. In addition to allowing a shift of 25 percent of program crop base acres, the bill will allow the planting of industrial and experimental crops on ARP acres and give farmers the opportunity to increase or decrease their ARP levels under the targeted option payment program.

Significant progress has been made in various other titles of the bill as well. The conservation title contains a major new agricultural water quality incentive program which will provide payments to farmers to encourage them to adopt practices that reduce the potential for contamination of ground water and surface water. I proposed this program because it relies on incentives, rather than regulation, and because it emphasizes practices that improve both environmental quality and the farmer's bottom line. The conservation title also includes a major compromise which strikes a balance between agricultural production and wetlands conservation and improvements in the Conservation Reserve

Program favoring wetlands restoration and tree planting.

Many problems remain unresolved in the Federal crop insurance program. This legislation does, however, reflect a commitment by the Senate to continue and improve the program and to provide adequate funding for it.

I am very pleased that the bill includes the rural development legislation that we put together last year.

And I am pleased that despite the budget problems that we face, the legislation includes a number of improvements in the Federal nutrition programs.

The bill also contains a strong research title, including a program to increase research into and commercialization of nonfood uses of agricultural commodities, which holds a large potential for expanding the markets for agricultural commodities.

I was pleased to work with Senator BOND on an amendment that will establish a program within USDA specifically designed to minimize the amount of paperwork, and the amount of time needed to complete such paperwork, required of producers who participate in USDA programs. One of the biggest complaints I hear from farmers is about the time and trouble it takes to handle the paperwork required for USDA programs. This amendment directs USDA to act to reduce the paperwork burden so that farmers can spend more time farming and less time in Government offices.

I was also pleased to cosponsor along with Senator FOWLER an amendment to facilitate the recycling of plastic agricultural chemical containers. Discarded chemical containers are a nuisance in landfills and around the farm, and may create an environmental hazard. This amendment will help build on the pioneering effort now underway in Iowa to encourage the recycling of plastic agricultural chemical containers.

I am also pleased that the bill includes another amendment I offered, with the cosponsorship of Senator DASCHLE, which directs USDA to collect and publish information about world prices and foreign country costs of production for livestock and livestock products in order to aid the sales of U.S. livestock and livestock products in foreign export markets. Export sales of livestock and meats are increasingly important to our livestock and meat industry. This information will help our producers compete for export markets and will help us determine where unfair trade barriers are hurting U.S. export sales.

Also included in the en bloc amendments, is an amendment authorizing research to develop technology for determining the lean content of animal carcasses. The research would enhance the information available to livestock producers by providing accurate and objective analyses of the lean content of meat products. This technology would help our livestock producers better develop their products to fit market demands, whether it be for leaner meats as is usually the case, or for special markets like Japan, where fatter, highly marbleized meat is desired. The technology should provide for a quantifiable, uniform and noninvasive procedure.

Mr. President, in conclusion, I am pleased with the many good provisions that this bill includes and hope that it will be further improved as we move toward the final product.

Mr. CONRAD. Mr. President, I too would like to salute the chairman and the ranking member for a remarkable effort to bring together all of the different interests represented around the Senate Agriculture Committee table and in this Chamber.

Mr. President, I think under very difficult circumstances we have done a good job. I voted for the bill before us because it is a stronger bill than the 1985 farm bill, far stronger than what the House has done. On that basis, it deserves support.

Mr. President, let me take just a moment to indicate the things in this bill that deserve our support. No. 1, we have for the first time ever a targeted option payment program that will allow farmers to get a higher target price if they set aside more of their land.

No. 2, we have for the first time ever an oilseeds program that will mean more income protection for the oilseeds our farmers grow.

No. 3, we increased the oats target price. Ironically, the United States is actually importing oats. This move will help eliminate that. We have taken care of the problem involving the differential between malt and feed barley. We have maintained the sugar program in the face of an aggressive attack. We maintained the crop insurance program in the face of an aggressive attack.

In addition, Mr. President, we have included my idea for a commercialization corporation to commercialize new nonfeed, nonfood uses of our crops. We have also included the most ambitious rural development program in over a decade.

Mr. President, important for many farmers, we have allowed them to repay their advance deficiency payments over a 3-year period instead of expecting them to come up with all of the money by July 31 of this year, just days away. They have not had a crop in many cases for 3 years.

Mr. President, this bill does not do all that we sought to achieve. But as I said before, it is a significant improvement over the 1985 bill, and much stronger version than what the House has passed. On that basis, I think it deserves our support.

Again I want to commend the chairman, the ranking member, and all of the staff who worked so hard on this legislation.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GOLDEN CALF

Mr. MOYNIHAN. Mr. President, of all the images of the pagan world from which Judaism emerged triumphant, to live on from the dawn of history to our own time, none has proved so enduring as that of the golden calf. Until this moment it has been just that; an image, an idea. Now, in an instant, it has become a reality. A brilliant archeological team from Harvard University, lead by Dr. Lawrence E. Stager, has just discovered the very same at their dig at Ashkelon, an ancient Cannanite city on the coast of Israel. By the happiest coincidence. Richard and Joan Scheuer, he the brother of my distinguished colleague and friend JAMES H. SCHEUER, were present at this moment of creation on June 26. With them were Leon Levy and Shelby White who are the sponsors of the excavation.

For them this must be a moment of exultation; the illumination of human history which is the great goal of archeology, the triumph of infinite pains. I know the Senate will wish to join in expressing our great congratulations and profound gratitude for this inspired and indefatigable pursuit.

Mr. President, I ask unanimous consent that the New York Times article documenting this wonderful discovery be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 1990]

BIBLE BOUNTY

Ephraim perished because he worshipped Baal, the god the golden calf represented. And those who followed Ephraim's path, the Old Testament thundered, would be "like the morning mist, like dew that vanishes early, like chaff blown from the threshing floor or smoke from a chimney."

Still, Nicolas Poussin and Marc Chagall dared to paint it. Arnold Schoenberg, in "Moses und Aron," sacrificed three naked virgins in front of it. Cecil B. DeMille, in "The Ten Commandments," set scarcely dressed females to dancing around it. Kurt Weill composed some jazzily percussive music about it. Supreme Court Justice Antonin Scalia cited it. A Soviet hockey player was compared to it. This newspaper has used the term to describe the American flag, the ivory tower and dollars per square foot of retail space. But until now, the golden calf seemed as illusory as the purple cow.

Last month, however, a team of American archeologists unearthed a golden calf in the ruins of a temple near the ancient port of Ashkelon in Israel. The calf is tiny, articulated, made mostly of bronze that, burnishing marks show, was kept polished to a high sheen, and looks less powerful than perky. The temple, and the small pottery cowshed in which the calf was displayed, were reduced to rubble by the Egyptians in 1550 B.C., by which time Ashkelon had been a city for 2,000 years.

"It was a totally unexpected find," said Dr. Lawrence E. Stager, the Harvard professor who headed the team. He thus invites the armchair archeologist to dream of other unexpected finds. Joseph's multicolored coat. The 12 stones, inscribed with the names of the sons of Israel on Aaron's holy garments. The miraculous rod of Moses. And, of course, the Ark.

May Dr. Stager and his colleagues go on digging. And may the golden calf, which at least one lexicographer believes gave birth to the term "cash cow," bring them the resources to do so.

[From the New York Times, July 25, 1990]

ARCHEOLOGISTS UNEARTH "GOLDEN CALF" IN ISRAEL

(By Joel Brinkley)

ASHKELON, ISRAEL, July 24.—Harvard University archeologists excavating Canaanite ruins surrounding the site of the ancient port city of Ashkelon have unearthed a "golden calf" that was an object of worship dating from the second millennium B.C.

The tiny image of bronze and other metals was recovered almost intact, with legs, ears, tail and one of its two horns still in place, even though the temple in which it was housed was reduced to rubble during a conquest of Ashkelon in about 1550 B.C., midway through the Bronze Age.

The earliest legends of Judaism show the religion's fathers inveighing against the worship of golden calves. In the Bible, golden calves, similar in form but considerably larger than the Ashkelon find, are referred to in the story of Aaron during the Exodus, in ancient Jerusalem's rivalry with the northern, calf-worshiping Hebrew king Jeroboam, and in other Old Testament accounts.

According to the American team that discovered the calf on June 26, it is the only one of its kind ever found and provides important evidence to help explain religious development in this region. It was dated by examination of the pottery and other artifacts found alongside it, a standard archeological practice. The pottery style had already been demonstrated to be of this period, midway through the second millennium B.C.

"It was a totally unexpected find," said Dr. Lawrence E. Stager, the Dorot Professor of the Archeology of Israel at Harvard and head of the team at work here. "We were just cleaning down the side of the stone ramparts, and the last thing we thought we would find was this temple. We haven't found any precedents for this."

The calf is about 4½ inches long, 4¼ inches tall and weighs just under one pound. The figure is well articulated and was formed in parts. The arms, legs, horns, tail and other parts were attached in sockets, and they are of different metals. The body was of bronze, and burnishing marks show that it was probably kept polished to a high sheen so that it resembled gold.

The legs, head and genitals are of a metal believed to be silver, though the researchers have not yet been able to analyze it. The horns and tail were formed from copper wire. Since the little animal has suffered mild corrosion, the bronze parts are dark green and the silver is a rough lead color.

FOUND NEXT TO SHRINE

The animal is filled with a heavy metal, believed to be lead, and was found lying on its side next to a shattered pottery shrine in which it was mounted while in use.

The pottery vessel had an opening with doors. "We believe it was displayed looking out, emerging from this cowshed, which was a shrine to the milk goddess," Dr. Stager said of the calf.

The calf and shrine were found in the rubble of a temple. Only the building's foundations remain.

The early Israelites are believed to have been a breakaway Canaanite sect. They forged their own identity, Dr. Stager said, "by being in opposition to the Canaanite religious matrix" that prevailed in the region until it was swept out by the Philistines, who conquered the coastal area in about 1180 B.C. The golden calf is believed to have been the central object of worship for the Canaanites for 1,000 years or longer.

A verse in the Old Testament book of Hosea, 13:1, illustrates the Israelites' ever-vigilant efforts to banish Canaanite worship of the calf, which was sometimes used to represent the Cannanite deity known as Baal. In the Revised English Bible, it reads:

"Ephraim was a prince and a leader, and he was exalted in Israel. But, guilty of Baal-worship, he suffered death.

"Yet now they sin more and more; they cast for themselves images, they use their silver to make idols, all fashioned by craftsmen. It is said of Ephraim: 'They offer human sacrifices and kiss calf-images.' "

"Therefore they will be like the morning mist, like dew that vanishes early, like chaff blown from the threshing floor or smoke from a chimney."

By Dr. Stager's interpretation, this and other accounts of condemnation of the worship of calf-deities were born of the early Israelites' efforts to purge the Canaanite influence of their forbears and establish themselves as a separate people.

The Ashkelon calf was believed to have been in use several hundred years before the first Israelite kingdom was founded, until Ashketon was conquered by the Egyptians in about 1550 B.C. The biblical accounts of Moses and the Exodus have been dated approximately between 1200 B.C. and 1500 B.C.

Historians and archeologists believe it was not the animal itself that was the object of worship. Canaanites believed that their pagan Gods rode on these strong and sacred beasts. So the temples showed the calves as representations of the deities, and worshipers made sacrificial offerings to the animals.

The large multi-room temple in which the Ashkelon calf was found sat at the base of the ancient city's vast wall and rampart, now being unearthed. Ashketon was a large city and was already ancient by 1550 B.C. It had already been in existence for 2,000 years and had a population of 15,000 to 20,000 people.

"It may have been the largest city" in the region, Dr. Stager said, "and it was the largest seaport."

WALL LARGELY INTACT

The city was surrounded by a massive wall and rampart, large sections of which are now being uncovered still largely intact. The wall was almost 50 feet high, sloping down more than 90 feet to a base almost 80 feet wide. The slope was intended to defeat battering rams and make tunneling more difficult.

The temple was on the outside of the wall, adjacent to the city's northern gate, which is being excavated now.

The find was made in the sixth season of excavation here. The project, approved by the Israeli Government, is sponsored by the Semitic Museum at Harvard, of which Dr. Stager is the director. Leon Levy, a New York City businessman, has provided financing for the dig from the beginning.

When testing and research is complete, the call will probably be turned over to the Israel Museum in Jerusalem.

THIS TAX HURTS US ALL

Mr. MACK. Mr. President, I wanted to bring to my colleagues attention an article by Ralph Kinney Bennett that was printed in the August 1990 Reader's Digest. The article is on the capital gains tax and is appropriately titled "This Tax Hurts Us All."

Mr. Kinney eloquently points out with real life examples how a high capital gains tax is punitive. His article demonstrates out how a capital gains tax locks away money that could be producing wealth and jobs, increases the cost of doing business, fosters debt and discourages savings.

This article clearly points to the need for a lower capital gains tax. I ask unanimous consent that the article be printed in the RECORD in order to enlighten some of my more sceptical colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS TAX HURTS US ALL

(By Ralph Kinney Bennett)

Malvine Cole of Stratton, Vt., had every reason to be proud of her foresight in buying property as a retirement investment back in 1959. It had cost $25,000—a considerable sum for her. Last year she had a chance to sell the undeveloped land for $150,000, which would have provided a $125,000 nest egg.

But when she realized that profits from the sale would push her out of the 15-percent tax bracket and into the top 33-percent range, the deal did not look so sweet. Once the IRS got its share of her "capital gain," she would end up with just $83,750.

Worse, Cole would have paid a crushing hidden tax. Inflation over the past 30 years has devalued the dollar by more than 75 percent. Thus, she would barely come out ahead in constant dollars: the capital-gains tax—unlike regular income tax—is not "in-

dexed" to discount inflation's yearly erosion of the dollar's value. Malvine Cole was not disappointed when the deal did not go through.

Beginning in 1922, capital gains were taxed at a lower rate than regular income. This enhanced individual hopes for financial independence, provided incentive to investors and entrepreneurs and recognized the key role of investment capital in the expansion of the U.S. economy. By 1981 the top capital-gains rate had been slashed to 20 percent, helping fuel an unprecedented economic boom. Then, under the 1986 Tax Reform Act, Congress raised the rate to 33 percent, the same rate that applies to regular income.

That hike was clearly a mistake, says Harvard University economist Lawrence B. Lindsey. "The rate is punitive, kept high out of envy and demagoguery, and it punishes everyone: the taxpayer, the government and the economy." A Montana small-business man puts the matter more simply in a letter to Congress: "You're killing my retirement."

Common sense says it's wrong to punish Americans for their financial success. Here are four compelling resasons to cut the capital-gains tax:

1. The tax hurts everyone, not just the rich. In a nation built on the premise that today's poor man can be tomorrow's rich one, a high capital-gains tax is neither good politics or good economics.

Some Congressional liberals still cherish the notion that the tax helps divide the nation's economic pie equitably. But as economist Gray Robbins of the National Center for Policy Analysis notes, the levy primarily affects "the size of the income pie, regardless of how it is divided."

The higher the tax, the more the pie shrinks, as people avoid paying the tax by refusing to sell assets that could send money flowing into the economy. Robert Haden, an Oak Brook, Ill., investment broker, has delayed selling his town house and reinvesting the profit. "I'm not alone," Haden says. "Many of my clients are keeping capital tied up because of this tax."

But many people do not have that choice. Circumstances—medical or college bills, job loss, divorce—force them to liquidate assets and suffer the tax. These are not "the rich" but people whose whole wherewithal may be their home or small business.

When the breakup of her marriage left Paula Creekmore with two children, one of whom has multiple handicaps, the court awarded her the family home in Bedford, N.H. Although her ex-husband pays child support, she sold the frame colonial for $350,000, hoping to help provide for her childrens special needs. But appreciation on the house, as well as on previous ones she and her husband had owned, meant she had to pay more than $30,000 in capital-gains tax. Once the mortgage and real-estate fee were paid off, she found that she could not afford another house in the Bedford area. She finally moved to Eugene, Ore., and made a down payment on a much smaller house there.

According to the Department of the Treasury, over 70 percent of the taxpayers who reported capital gains in 1987 had regular incomes of less than $50,000. Because a single capital gain, however modest, looms very large for lower- and middle-income people, the effect of the tax falls most heavily on them. These Americans are doubly victimized because inflation has eaten away the value of the dollars locked up in their assets over the years.

Texans Hilda and Roy Powers[1] were happy to get $36,000 for the small home they maintained as a rental property. After deducting all costs, they realized an apparent profit of $15,478.26 on the sale, of which the IRS took $4,950. But Roy, a retired oil-company employee, decided to measure that profit against consumer price index inflation figures. Using 1989 dollars, he calculated all costs of the property from the initial $16,500 purchase price in 1954. Powers blinked when he saw the number on his computer screen. He and Hilda were paying capital "gains" tax on a loss of more than $60,000!

2. The tax locks away money that could be producing wealth and jobs. When people choose to hold assets rather than endure the tax bite, money that might have capitalized new enterprises and expanded old ones remains tied up.

In Los Angeles, an elderly couple whose home, purchased for $60,000, had appreciated to $800,000, considered selling so they could invest the money for their children and grandchildren. But they decided to hold on to the house because "we want our children to receive their inheritance, not the government." Thus, about three-quarters of a million dollars that might be energizing the economy remains stagnant.

This diminution of capital particularly hurts new businesses, which cannot sell bonds or compete with big corporate rivals for below-prime-rate loans. Fledgling entrepreneurs are hungry for the money tied up in assets like that California home.

"We're strapped for cash," says Thomas Oesterling, president of Gliatech in Cleveland, Ohio, a small company developing drugs to aid in nerve regeneration. "We need incentives to get people to invest in a long-term, risky venture like ours."

The greatest incentive companies like Gliatech can offer is the prospect of future profits. But the capital-gains tax stands in the way.

3. The tax increases the cost of doing business, fosters debt and discourages savings. Many of our nation's fiercest industrial competitors, including West Germany, Taiwan, South Korea and Hong Kong, have little or no tax on long-term capital gains, thus freeing more money to modernize plants and develop new products. Japan does tax long-term gains, but its generous options usually translate to a very low effective tax rate. Indeed, Treasury Secretary Nicholas Brady observes that, "in some cases, U.S. companies face capital costs fully twice as high as our foreign competitors."

The result? American companies may find it more prudent to locate plants overseas where costs are lower. And rather than issue new stock, companies find it cheaper to go into debt to finance expansion or buy new machinery. The Federal Reserve Bank of San Francisco notes in its Economic Review that "the tax on capital gains increases the use of debt generally and low-grade (risky or 'junk') debt specifically." Small wonder that, from 1984 to 1989, U.S. corporate debt (excluding financial service companies) increased by approximately $1.1 trillion.

But it is deep down in the economy—at the innovative, job-producing, small-business-level—that the high capital-gains rate is most debilitating. Risky enterprises that might hold the key to our economic future won't attract investors who discern that the government will rip off their profits. Consequently, would-be entrepreneurs who might have the next great economy-expanding idea remain within the shelter of corporate salaries and perks.

One who didn't, thanks to then-prevailing capital-gains rates, was Darrell Wilburn. His company, Step Engineering of Sunnyvale, Calif., is now a leading manufacturer of instruments that help design large computers. Wilburn started the company in his garage with $8,000 of his own money in 1977. "I had a jood job in Silicon Valley," he said, "but I went without a salary, thinking of the long-term gain. Then the capital-gains tax was low. Now I would think twice before starting up because of the tax on any profit I might make."

A cut in the capital-gains tax will have a dramatic effect throughout the economy. Money in savings accounts, doing some economic good as bank loans, could be put to more dynamic effect as seed capital for high-tech business ventures. Minority entrepreneurs, facing difficulty obtaining low-cost loans, would attract more risk-takers. One study of the payoff from a capital-gains cut of 33 percent for just two years, and indexed threreafter, projects a $40-billion increase in the gross national product and more than a half million new jobs over the coming decade.

4. The tax actually decreases federal revenues. Analysis of tax data by the U.S. Treasury and most academic studies show that federal revenues will go up when capital-gains rates go down. Investors, businessmen and consumers will all react dynamically to the prospect of having more of their own money to spend the way they—not the government—wish. Recent history indicates that when taxpayers can keep more money, the economy booms, the tax base broadens, and revenues rise.

From 1968 to 1976, inflation-driven "bracket creep" caused a steady climb in the numbers of people paying the maximum tax rate on capital gains. Despite those built-in tax boosts and the steady inflation that had caused them, revenues from capital gains were barely greater in 1976 than they had been eight years earlier. Then, in 1978, the maximum rate was cut nearly in half; economic activity increased sharply, and revenues poured into the Treasury, rising 28 percent the first year.

When the Reagan Administration trimmed the maximum capital-gains rate from 26.6 percent to 20 in 1981, Congressional critics predicted huge losses to the Treasury. But in the next four years federal revenues from capital gains nearly doubled, from $12.7 billion to $24.5 billion.

Although the Tax Reform Act of 1986 lowered regular income-tax rates, it erased the capital-gains differential, treating such gains as regular income. As a result, economist Lindsey estimates, so many appreciated assets (from blocks of stock to parcels of commercial property) were withheld from sale in the last two years alone that federal revenues have been reduced as much as $5 billion each year. According to figures from Congress's Joint Committee on Taxation, he says, the present capital-gains rate costs the U.S. economy $9 for every $1 the government takes in.

Make yourself heard! While other nations are streamlining their economies, Congress continues to play the politics of envy and throw burdens on productive Americans. It does so in the name of raising revenues that never materialize and of preventing "handouts" to the wealthy, when in fact it is choking off investment avenues by which

[1] These names have been changed.

low- and middle-income Americans can attain wealth.

Jack Davis, president of Dianon Systems, Inc., a biotechnology company in Stratford, Conn., proudly points to the fact that Dianon, started with little capital and a handful of employees in 1983, now employs 170 people, generates $20 million in annual revenues and substantial state and federal revenues. "But, if we don't lower the cost of capital, small entrepreneurial companies like this one will not come into being to create jobs and generate revenue."

Here is a vital issue upon which you can have an important effect. Last year, even though six Democrats on the House Ways and Means Committee broke with their party and backed a capital-gains cut, the measure ultimately was not included in legislation. This session, numerous bills before the Congress call for cuts in capital gains. Some propose short-term cuts—but half-measures won't do.

The Bush Administration originally proposed reducing the capital-gains tax to a flat 15 percent, a rate that economist Lindsey believes would optimize both benefits to individuals and revenue for government. Such a cut, if indexed to protect against inflation, would energize savings, investment, innovation and entrepreneurship.

If you agree, write your Congressman now; demand that Congress cut the tax that hurts us all.

HOMELESSNESS AND HUNGER AMONG CHILDREN

Mr. SASSER. Mr. President, as Chairman of the Senate Budget Committee, I have made the alleviation of childhood hunger in this country one of my highest priorities. Earlier this year, I convened a hearing of the Budget Committee on this subject and introduced the Hunger Prevention Act of 1990 (S. 2310) along with Senator DOMENICI. Most of the provisions of our bill are being incorporated into the Mickey Leland hunger relief bill.

We are fortunate in this country to have a wide array of nutrition programs for our children sponsored by both governmental and voluntary organizations. In my home State of Tennessee, I have seen first hand the impact these child nutrition programs have on the health, development, and educational achievement of children particularly those from low-income families. It is alarming that even though we have these effective progams, the needs of so many children still go unmet.

That is why I included a very important provision dealing with the nutritional needs of homeless children in the Sasser-Domenici hunger initiative. I am very pleased that this provision is included in Senator LEAHY's nutrition improvement amendment.

Homeless children under the age of 6 do not have ready access to the Government's nutrition programs for children. Since they are not in school, they do not benefit from the school breakfast and lunch program. Because of the extreme distruption in the lives of their families and the lack of a fixed residence with storage and cooking facilities, the Food Stamp and Women, Infants, and Children [WIC] programs are usually not able to provide assistance to these kids.

As the number of homeless families with children in this country increases, the nutritional needs of these children must be given our urgent attention. My provision increases funding for pilot projects to provide year-round food service to homeless children under age 6 in emergency shelters. These funds—$500,000 in 1991 growing to $4 million in 1994—will be available automatically and do not have to be appropriated by Congress.

The Archdiocese of Philadelphia has the first program underway. My provision will encourage other organizations to set up similar food assistance programs in other towns and cities across America.

Given the prevalence of both homelessness and hunger among children in our country, this may appear to be only a modest step. In fact, it is a Giant leap forward that recognizes the government's role in cooperating with local organizations in combating the scourges facing our children. It is an acknowledgement that a rich country can find the resources to help homeless children that have slipped through the safety net.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 887, 894, 895, 909, 910, 911, and 912.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, and that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Leon Snead, of Maryland, to be Inspector General, Department of Agriculture.

FEDERAL INSURANCE TRUST FUNDS

Stanford G. Ross, of the District of Columbia, to be a member of the Boards of Trustees of the Federal Hospital Insurance Trust Fund; the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund; and the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years.

David M. Walker, of Virginia, to be a Member of the Boards of Trustees of the Federal Hospital Insurance Trust Fund; the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund; and the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years.

DEPARTMENT OF JUSTICE

Steven D. Dillingham, of South Carolina, to be Director of the Bureau of Justice Statistics.

Jimmy Gurule, of Utah, to be an Assistant Attorney General.

Albert Z. Moore, of Ohio, to be U.S. Marshal for the Northern District of Ohio for the term of 4 years.

Robert C. Bonner, of California, to be Administrator of Drug Enforcement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE HOUSE

At 3:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5311. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; and

H.J. Res. 7. Joint resolution to repeal an obsolete joint rule of Congress (section 132 of the Legislation Reorganization Act of 1946, as amended) relating to sine die adjournment of the Congress.

ENROLLED JOINT RESOLUTION SIGNED

At 4:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5311. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4039. An act to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes;

H.R. 4238. An act to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases;

H.R. 4982. An act to promote the study of mathematics and science in elementary and secondary schools, to provide training for mathematics and science teachers, and for other purposes; and

H.R. 5112. An act to amend the Public Health Service Act to extend certain programs for health care services in home.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 5311. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-397).

Mr. LAUTENBERG, from the Committee on Appropriations, with amendments:

H.R. 5229. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-398).

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2927. An original bill to amend and extend the Export Administration Act of 1979 (Rept. No. 101-399).

By Mr. HEINZ, from the Committee on Banking, Housing, and Urban Affairs:

Special Report on the Visit to Eastern Europe of the Senate Delegation led by Senator John Heinz (Rept. No. 101-400).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 101-9. Tax Convention With the Republic of Tunisia With Supplementary Protocol (Exec. Rept. No. 101-23);

Treaty Doc. 101-22. Tax Convention With the Republic of Indonesia (Exec. Rept. No. 101-24);

Treaty Doc. 101-5. Tax Convention With the Republic of India (Exec. Rept. No. 101-25);

Treaty Doc. 101-6. Council of Europe-OECD Convention on Mutual Administrative Assistance in Tax Matters (Exec. Rept. No. 101-26);

Treaty Doc. 101-10. Tax Convention With the Federal Republic of Germany (Exec. Rept. No. 101-27);

Treaty Doc. 101-11. Tax Convention With the Republic of Finland (Exec. Rept. No. 101-28); and

Treaty Doc. 101-16. Tax Convention With the Kingdom of Spain (Exec. Rept. No. 101-29).

TEXTS TO RESOLUTIONS OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Tunisian Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Convention), together with a related exchange of notes, signed at Washington on June 17, 1985 (Treaty Doc. 99-13), and to the Supplementary Protocol to the Convention, signed at Tunis on October 4, 1989 (Treaty Doc. 101-9).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol and exchange of notes, signed at Jakarta on July 11, 1988 (Treaty Doc. 100-22).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol signed at New Delhi on September 12, 1989 (Treaty Doc. 101-5).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention negotiated by the Member States of the Council of Europe and the Organization for Economic Co-operation and Development (OECD), on Mutual Administrative Assistance in Tax Matters, done at Strasbourg, January 25, 1988, and signed by the United States at Paris on June 28, 1989 (Treaty Doc. 101-6), subject to the following reservations:

(1) That the United States will not provide any form of assistance in relation to the taxes of other Parties described in subparagraphs (b)(1) or (b)(iv) of paragraph 1 of Article 2 of the Convention (taxes imposed by or on behalf of possessions, political subdivisions, or local authorities) (as permitted by paragraph 1(a) of Article 30 of the Convention);

(2) That the United States will not provide assistance in the recovery of any tax claim, or in the recovery of an adminsitrative fine, for any tax, pursuant to Articles 11 through 16 of the Convention (as permitted by paragraph 1(b) of Article 30 of the Convention); and

(3) That the United States will not provide assistance in the service of documents for any tax, pursuant to Article 17 of the Convention (as permitted by paragraph 1(d) of Article 30 of the Convention); this reservation does not apply to the service of documents by mail, pursuant to paragraph 3 of Article 17 of the Convention.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the Convention), together with a related Protocol, signed at Bonn on August 29, 1989 (Treaty Doc. 101-10), subject to the following understanding:

That in the event that the German Democratic Republic and the Federal Republic of Germany unite under the Government of the Federal Republic of Germany, the Convention will apply, according to its terms, to residents of the area currently comprising the German Democratic Republic, and to income from sources within, and to capital situated in, such area, only at such time as the laws imposing the covered national taxes in the area currently comprising the Federal Democratic Republic and the laws imposing the covered national taxes in the area currently comprising the Federal Republic of Germany are identical in substance. The preceding sentence shall not affect the application of the Convention to any income or capital to which the Convention would apply absent unification.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital (the Convention), signed at Helsinki on September 21, 1989 (Treaty Doc. 101-11), subject to the following understanding:

That nothing in the Convention requires the United States to allow any person, as a credit against the United States tax on income, any amount of Finnish capital tax.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol signed at Madrid on February 22, 1990 (Treaty Doc. 101-16).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE from the Committee on Banking, Housing, and Urban Affairs:

S. 2927. An original bill to amend and extend the Export Administration Act of 1979; placed on the calendar.

By Mr. INOUYE:

S. 2928. A bill to make certain technical and clarifying amendments to the Indian Self-Determination Act, and for other purposes; to the Select Committee on Indian Affairs

By Mr. BENTSEN:

S. 2929. A bill to amend the Caribbean Basin Economic Recovery Act to establish a

center to study and support improved trade and economic relations among Western Hemisphere countries; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 2930. A bill to eliminate "substantial documentary evidence" requirement for minimum wage determination for American Samoa; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 2931. A bill to amend title XVIII of the Social Security Act to provide for enhanced medicare managed care activities, and for other purposes; to the Committee on Finance.

By Mr. HEFLIN:

S. 2932. A bill to authorize a certificate of documentation for the vessel CAPTAIN DARYL; to the Committee on Commerce, Science, and Transportation.

By Mr. EXON (for himself, Mr. KASTEN and Mr. BURNS):

S. 2933. A bill to amend title 49, United States Code, regarding the collection of overpayments of undercharges on shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EXON (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. BYRD, Mr. COATS, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. FOWLER, Mr. GORE, Mr. GRASSLEY, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SANFORD, Mr. SIMON, and Mr. SPECTER):

S.J. Res. 355. A joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its 20 years of existence; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTION

The following concurrent resolution and Senate resolution were read, and referred (or acted upon), as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. Res. 315. A resolution expressing the sense of the Senate that the President should exercise certain emergency authorities to provide for relief, rehabilitation, and rebuilding of affected areas of the Philippines from damage due to the recent earthquake; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2928. A bill to make certain technical and clarifying amendments to the Indian Self-Determination Act, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN SELF-DETERMINATION ACT AMENDMENTS

● Mr. INOUYE. Mr. President, today I am introducing a measure to make certain amendments to Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1974. This act represents a major turning point in the history of the relations between the United States and the sovereign Indian tribes of this Nation. The first major amendments to the law ere enacted in October 1988, as Public Law 100-472. In the nearly 2 years since enactment of these amendments, certain problems have surfaced that need correction or clarification of congressional intent. The bill I am introducing will make those corrections and clarifications so that tribal self-determination can go forward. The act requires the Bureau of Indian Affairs and the Indian Health Service, the two agencies of government whose only constituencies are Indian tribes, to contract with those tribes for the programs and services that would otherwise be performed by the agencies on behalf of the tribes.

The following section-by-section analysis explains the rationale for the provisions of the bill I am introducing today and I ask unanimous consent that the bill and the analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled,

SECTION 1. AMENDMENTS TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

The Indian Self-Determination and Education Assistance Act is amended as follows:

(1) In section 4(h) of such Act (25 U.S.C. 450b(h)), delete "in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988".

(2) In section 4(j) of such Act (25 U.S.C. 450b(j)), delete "contract entered" each place it appears and insert in lieu thereof" contract (or grant or cooperative agreement utilized under section 9 of this Act) entered".

(3) section 5(d) of such Act (25 U.S.C. 450c(d)), delete the word "Any" and insert in lieu thereof "Except as provided in section 8 or 106(a)(3) of this Act.".

SEC. 2. AMENDMENTS TO INDIAN SELF-DETERMINATION.

(a) In section 103(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3)), delete "reservation boundaries" and insert in lieu thereof "Indian country (as defined in chapter 53 of title 18, United States Code)".

(b) In section 102(d) of such Act (25 U.S.C. 450f(d)), immediately after "investigations", insert "and the operation of emergency motor vehicles".

(c) Section 105(c)(1)(B) of such Act (25 U.S.C. 450j(c)(1)(B)) is amended to read as follows:

"(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.".

(d) Section 105(d) of such Act (25 U.S.C. 450j(d)) is amended to read as follows:

"(d)(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this Act, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall, on or before April 1 of each fiscal year, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year.".

(e) In paragraphs (2) and (3) of section 105(f) of such Act (25 U.S.C. 450j(f) (2) and (3)), insert "or real" immediately after "personal" each place it appears in such paragraphs.

(f) Section 106(c)(2) of such Act (25 U.S.C. 450j-1(c)(2)) is amended to read as follows:

"(2) an accounting of any deficiency of funds from any agency needed to provide required indirect costs or contract support costs to all contractors for the current fiscal year.".

(g) In section 107(c) of such Act (25 U.S.C. 450k(c)), immediately after "authorized", insert the following: ", with the participation of Indian tribes.".

(h) Section 106(d)(2) of such Act (25 U.S.C. 450j-1(d)(2)) is amended to read as follows:

"(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs, including any shortfall that is the result of lack of full indirect cost funding by any Federal, State, or other agency associated with a self-determination contract.".

SEC. 3. AMENDMENTS TO OTHER ACTS.

(a) AMENDMENT TO INDIAN LAND CONSOLIDATION ACT.—Section 207(a) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by deleting "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe" and inserting in lieu thereof the following: "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or otherwise subject to such tribe's jurisdiction shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government".

(b) AMENDMENT TO ACT OF NOVEMBER 8, 1988.—In section 1 of the Act entitled "An Act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes", approved November 8, 1988 (102 Stat. 3327), insert "and attached narrative metes and bounds description" immediately after "map" each time it appears.

(c) AMENDMENT TO ACT OF SEPTEMBER 21, 1959.—Section 5 of the Act entitled "An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959 (25 U.S.C. 955), is amended by adding at the end thereof the following:

"(c) An allottee for whom a cash payment is held in trust, may specify that the Secretary shall invest any or all of such trust account of such allottee in obligations of the United States or commercial obligations insured by the United States.".

(d) AMENDMENT TO THE ACT OF MARCH 29, 1956.—The second sentence of subsection (a) of the Act entitled "An Act to authorize the execution of mortgages and deeds of trust on individual Indian trust or restricted land", approved March 29, 1956 (25 U.S.C.

483a), is amended by inserting immediately before "State" the following: "tribe in which the land is located or, in the case where no tribal foreclosure law exists, in accordance with the laws of the".

SEC. 4. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 338J(a) of subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254s) is amended to read as follows:

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.".

SECTION-BY-SECTION ANALYSIS

Section 1(1) clarifies that a tribal organization's right to request that its contract be considered mature applies to all past and future contracts, and is not limited to contracts in effect on the date of enactment of the 1988 amendments. The clause deleted by this subsection has led to confusion regarding the process for designating as "mature" those contracts that are awarded for the first time after the 1988 amendments.

Section 1(2) clarifies that the benefits accorded tribes elsewhere in the Act relating to contracts (such as funding amounts, prohibited funding reductions, savings, carryover, etc.) apply equally to grants and cooperative agreements which, under section 9, may be utilized in lieu of a contract when mutually agreed to by the tribal organization and the Secretary.

Section 1(3) makes a correction to the 1975 Act that was overlooked during the 1988 amendments. Under those amendments, Section 106(a)(3) authorizes tribes to retain savings of unexpended funds into the next fiscal year. However, in making these changes, Congress did not show these new provisions as exceptions to section 5(d) of the Act, which is a general requirement that unexpended funds be returned to the Treasury. This amendment will make those exceptions part of section 5(d).

Section 2(a) clarifies the territory over which the law applies. Section 103(a)(3) authorizes the Secretary to make grants for the acquisition of land. Recent decisions of the United States Supreme Court and several courts of appeals have clarified that the general principles of Indian law apply not strictly to areas declared to be "reservations," but to the broader category of areas designated as "Indian Country." including "dependent Indian communities." Such communities include pueblos, and at least one off-reservation Navajo community and two tribes in Oklahoma and South Dakota. *See California* v. *Cabazon Band of Mission Indians,* 480 U.S. 202, —— n. 5 (1987); *United States* v. *Sandoval,* 231 U.S. 28 (1913); *United States* v. *McGowan,* 302 U.S. 535 (1937); *Alaska* v. *Venetie,* 856 F.2d 1384 (9th Cir. 1988); *United States* v. *Azure,* 801 F.2d 336 (8th Cir. 1986); *United States* v. *Levesque,* 681 F.2d 75 (1st Cir. 1982); *United States* v. *South Dakota,* 665 F.2d 837 (8th Cir. 1981); *Weddel* v. *Meierhenry,* 636 F.2d 211 (8th Cir. 1980); *United States* v. *Martine,* 442 F.2d 1022 (10th Cir. 1971). (*See also,* 25 U.S.C. 1903(10) "Indian country" used to define tribal jurisdiction in Indian Child Welfare Act proceedings.) The amendment clarifies the Secretary's authority under the Act to permit grants for the acquisition of land within all Indian country, whether technically characterized as a formal reservation or as a "dependent Indian community."

Section 2(b) amends Section 102(d) of the Act which reflects a comprehensive effort by Congress to make the Federal Tort Claims Act applicable to all medically-related liabilities arising out of the administration by tribal contractors of federal medical programs. Despite the congressional intent to comprehensively cover this entire area in subsection (d), the Public Health Service has taken the position that only health services delivered in connection with the operation of ambulances or other emergency medical motor vehicles are within the scope of the Federal Tort Claims Act. The amendment addresses this issue by expressly making the Federal Tort Claims Act also applicable to the actual operation of vehicles.

Section 2(c) corrects an oversight in the 1988 amendments which suggests that despite a tribal organization's desire othewise, a contract declared to be "mature" must always be for an indefinite term, and may never have a termination date. This oversight yields he peculiar result of not permitting a mature contract to ever end unless the special retrocession procedures set forth in section 109 of the Act are triggered.

Congress intended to expand the range of options available to tribes through the more liberalized "mature" designation, not to restrict those options, and the section as presently drafted is defective. The amendment makes clear that a mature contract can be for either a fixed term or for an indefinite term, with the choice to be made by the affected tribe or tribal organization. The amendment also makes clear that a tribal organization, as in all instances, is limited by any applicable restrictions contained in a tribal resolution when requesting mature contract status. For instance, if a tribe has only granted a tribal organization authority to contract for five years, the tribal organization cannot request as a term of a mature contract a provision which would result in a contract lasting longer than five years.

Section 2(d) corrects current law which "defaults" to the calendar year as the funding period for self-determination contracts, beginning with fiscal year 1990. That is, unless a tribe or tribal organization affirmatively selects a different funding period and the Secretary agrees to it, all contracts and agreements are automatically converted to the calendar year.

Although the current law reflects the desires of many tribes and will typically improve financial management, many tribal contractors do not want to convert to the calendar year in 1990. (This includes many school contractors which hope that Congress will enable schools to convert to a July-June period by making the necessary one-time additional funds available in FY '91.) Under the current law, these contractors are required to obtain concurrence from the appropriate Secretary to maintain the status quo. Similarly, any contractor wishing to move to any funding period other than the calendar year (or the government's fiscal year) must first obtain the Secretary's concurrence.

Moving from the government's fiscal year to the calendar year (or to any other contract period) necessarily has one-time funding implications for the transition year (the year in which conversion to the new contract period is effected). In the case of conversion from the fiscal to the calendar year, funds for one additional quarter must be appropriated (as was done for FY 1990). If any other contract period is agreed upon, one-time additional appropriations would be needed for two or three extra quarters in the transition year. Yet, existing law requires the BIA and IHS to only report the amount of the additional funding needed for contract conversion in FY '89. In fiscal year 1990, a one-time appropriation was made available to convert all contracts to a calendar year basis. Some contractors wish to retain a fiscal year basis of funding, or in the case of school contractors, to convert to a July-June period, and some contractors are unaware that their contracts will be automatically converted to a calendar year basis. Accordingly, section 2(d) provides the flexibility for a tribal contractor and the Secretary to agree upon a different basis of funding, subject to the availability of appropriations to effect a conversion from a calendar year basis of funding.

Existing law does not provide a mechanism for exercising calendar year contracting rights after 1990, where a contractor decides to stay with fiscal year contracting for the time being. Nor does it require the Secretary to report on the additional funding needed for contract conversions effected after FY '89. The proposed amendment corrects these technical deficiencies.

Section 2(e) clarifies that Congress, in enacting the 1988 amendments, understood that the Secretary of the Interior and the Secretary of Health and Human Services had statutory authority to convey real property to an Indian tribe or tribal organization. Although the Secretary of the Interior agrees that such authority exists (25 U.S.C. 443a), officials within the Department of Health and Human Services have raised the question of whether their authority goes so far. If it does not, DHHS would have to make an interagency transfer to Interior, so Interior could then donate the property to a tribe. The amendment clarifies that both Secretaries have the authority to convey real property to an Indian tribe or tribal organization under the circumstances addressed in subsections (f)(2) and (f)(3).

Section 2(f) amends Section 106(c) of the Act which requires the Secretary to provide Congress with certain information on or before March 15 of each year so that the Congress can consider taking whatever action may be necessary in the appropriation cycle.

Subsection (2) requires the Secretary to report on indirect costs. Section 106(a)(2) requires the Secretary to include in all contracts "contract support costs." In the discussions over the use of the terms "indirect costs" and "contract support costs," the directions to the Secretary in the existing subsection (c)(2) fail to note that the Secretary should also identify annually any expected shortfall in the funding of such contract support costs. The amendment cures this omission.

The amendment also clarifies that in reporting anticipated shortfalls and indirect costs the Secretary is to identify indirect cost shortfalls from any agency contributing to the tribal contractor's indirect cost pool. Section 106 (d) and (e) of the Act are both designed to specifically eliminate adverse consequences for tribal contractors resulting from the failure of any agency to pay its fair share of indirect costs, and Congress intended that through the reporting requirement of subsection (c)(2) the Secretary would advise the Congress in a timely fashion of all such indirect costs shortfall problems.

Section 2(g) conforms with the 1988 amendments in which Congress made clear in subsection (b) that the Secretary was to formulate appropriate regulations to implement the Act, as amended, "with the participation of Indian tribes." Subsection (c) of section 107, which deals with future amendments to such regulations, was not similarly amended. Obviously, it is equally important that Indian tribes participate in the development of future amendments. The proposed amendment clarifies the intent of the Congress on this issue.

Section 2(h) borrows language from Section 106(d)(1). That section protects tribes from claims based on the failure of other agencies to pay their shares of indirect costs. In order to be sure tribes are not only protected against such claims, but actually receive those costs, subsection (2) requires the Secretary (i.e., the cognizant agency) to cover all indirect cost needs. The amendment clarifies that this includes needs due to such shortfalls and matches the Secretary's duty to report all indirect cost needs in Section 106(c)(2) of the Act.

Section 3(a) amends the Indian Land Consolidation Act to make clear that lands within a reservation or other trust lands outside of reservations subject to the escheat provision, escheat to the recognized tribal government of the particular reservation, or to the tribal government that has jurisdiction over the off-reservation lands, and not to a different tribal government. For example, if a member of the Quinault Indian Nation who owns land within the Lummi Indian Reservation that is subject to the escheat provision of the Indian Land Consolidation Act, dies interstate, his land would escheat to the Lummi Indian Tribe and not the Quinault Indian Nation.

Section 3(b) clarifies the Quinault Indian Nation Land Act of 1988 so that both the map and its attachments make up the Quinault Indian Reservation boundary description. The referenced map and attached metes and bounds description appears in printed record of the hearing on S. 2772, which was enacted at P.L. 100-638; see, S. Hrg. 100-927, at 134-135.

Section 3(c) allows individual members of the Agua Caliente Band of Indians, to place assets of the Individual Indian Management Accounts in Treasury Notes or other similar protected investment.

Section 3(d) amends 25 U.S.C. 483, enacted in 1956 to authorize Indian owners of land held in trust or restricted status by the United States to mortgage the land with the approval of the Secretary of the Interior. In 1984 Congress amended 25 U.S.C. 483 to allow foreclosed land purchased by an Indian or an Indian tribe to remain in trust status. Under the 1956 version of section 483, Indian land foreclosed upon was required to lose its trust status. Adherence to *state* foreclosure law was mandated. Unfortunately, the 1984 perfecting amendment to 25 U.S.C. 483 only partially cured the problem: it protected the trust status of foreclosed lands when the purchaser was Indian, but it did not authorize application of *tribal* foreclosure law on Indian trust land.

Increasingly, Indian tribes seek to advance economic independence and self-government through tribal credit loan programs benefitting Indians and Indian businesses. In order for loan programs to operate efficiently, foreclosure must be an option. Many tribes, therefore, are in the process of adopting tribal foreclosure ordinances. This amendment will ensure that tribes are able to enforce foreclosure laws not only on Indian fee lands but on Indian trust lands.

Section 4 amends the Public Health Service Act to provide that funds for scholarships for Native Hawaiians may be provided to Kamehameha Schools/Bishop Estate by means other than a contract.●

By Mr. BENTSEN:

S. 2929. A bill to amend the Caribbean Basin Economic Recovery Act to establish a center to study and support improved trade and economic relations among Western Hemisphere countries; to the Committee on Finance.

NORTH-SOUTH CENTER FOR THE STUDY OF WESTERN HEMISPHERE TRADE

Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation which would create in the State of Texas, the North-South Center for the Study of Western Hemisphere Trade.

The North-South Center would be an academic research institute which would study the advantages and disadvantages from liberalized trade relations among countries from North, Central, and South America. The center will take a multidisciplinary approach, analyzing the effects increased trade would have, for example, on the wages of American workers or on illegal Latin American immigration to this country. It will employ leading scholars in the area of international trade and related areas of study. It will also provide scholarships and fellowships to students interested in these subjects.

The center will be affiliated with a Texas university or college which the U.S. International Trade Commission will help select. This legislation would authorize $10 million to establish the center.

I believe now is the time to create such a center. We now are choosing the future course the United States will take within our global economy. The center could help us make that choice, helping us decide how we will economically interact with Mexico and other countries from North, South, and Central America.

I believe that before we rush to follow the lead of the European Common Market and enter into free trade agreements with Mexico and other Latin American countries, we should study the long-term implications of these agreements more carefully and objectively. What could be a more objective forum than an academic institution like the North-South Center.

And what could be a better place to locate the center than in Texas. Literally and figuratively, Texas is the primary bridge through which Latin America does business with the United States. For example, in 1989, approximately one-half of the $51 billion in United States-Mexican trade flowed through ports of entry in South Texas. Indeed, more imports from Mexico and more exports to Mexico pass through Texas than any other State. This last statistic is not surprising when you consider that the Texas-Mexican border is 889 miles long, the longest border of any State with Mexico.

Mr. President, this legislation would create a clearinghouse of information which we so desperately need to decide how we shall live with our Western Hemispheric neighbors. The center will provide information not only to Government policymakers, but also to companies from all over the hemisphere, companies which seek to do business in neighboring countries. Thus the center will facilitate business activity, and ultimately economic growth, within the hemisphere.

The center will charge businesses for the information it supplies and will therefore not totally depend on Federal funding for its existence. Ideally, the center will pay its own way after only a few years.

Because the North-South Center promises this Nation such a good return on the dollars we will invest in its creation, I urge my colleagues to seriously consider this legislation. I invite them to ask me any questions they may have. Finally, I invite them to join me in sponsoring this legislation and in ultimately passing it.

By Mr. McCLURE (by request):

S. 2930. A bill to eliminate "substantial documentary evidence" requirement for minimum wage determination in American Samoa; to the Committee on Labor and Human Resources.

ELIMINATION OF "SUBSTANTIAL DOCUMENTARY EVIDENCE" REQUIREMENT FOR MINIMUM WAGE DETERMINATION IN AMERICAN SAMOA

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to eliminate "substantial documentary evidence" requirement for minimum wage determination in American Samoa.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior for Territorial and International Affairs be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of subsection (b) of section 8 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C., subsection 208(b)) is amended by striking out the semicolon and the material following the semicolon and inserting a period in lieu thereof.

DEPARTMENT OF THE INTERIOR,
Washington, DC, July 18, 1990.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To eliminate 'substantial documentary evidence' requirement for minimum wage determination for American Samoa."

We recommend that this draft legislation be introduced, referred to the appropriate committee and enacted.

The Fair Labor Standards Act (FLSA) requires a biannual hearing of a Special Industry Committee to recommend to the Secretary of Labor the minimum wage rate that applies to various industries in American Samoa. The Secretary then applies the minimum wage rates recommended by the Committee.

Prior to the 1989 Amendments to the FLSA, the industry committee provisions applied to American Samoa by reference elsewhere in the Act. When the FLSA was amended, references to Puerto Rico and the Virgin Islands were removed from the industry committee provisions and American Samoa was substituted. The effect of the Amendments was that one provision of the Act which formerly applied to Puerto Rico and the Virgin Islands and not to American Samoa under the Department of Labor's regulations, was applied to American Samoa. This provision required application of the mainland minimum wage unless employers provide "substantial documentary evidence, including pertinent unabridged profit and loss statements . . . ."

It is our understanding that Congress did not intend to make any substantive changes in the manner in which the industry committee provisions of the Act applied to American Samoa.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

STELLA GUERRA,
Assistant Secretary for Territories and International Affairs.●

By Mr. CHAFEE:

S. 2931. A bill to amend title XVIII of the Social Security Act to provide for enhanced Medicare managed care activities; to the Committee on Finance.

MEDICARE MANAGED CARE ACT

Mr. CHAFEE. Mr. President, national health care expenditures are expected to reach $660 billion in 1990. We spend more money and a greater percentage of our GNP on health care than any other nation, yet an estimated 15 percent of our population is uninsured. Clearly, we are not getting our money's worth. I believe that health care will be one of the most important issues we face during the 1990's. We must ensure that all Americans have adequate and quality health care, but we also must restructure our system to ensure that our health care dollars are spent wisely. The bill I am introducing today is a step in that direction.

In recent years, both the public and private sectors have realized that managed care programs can help ensure that health dollars are wisely spent. For example, in 1982, Congress enacted legislation that encouraged the development of Health Maintenance Organizations [HMO's] under Medicare.

Under current law, a Health Maintenance Organization [HMO] with a Medicare risk contract is, for each Medicare enrollee, paid an amount equal to 95 percent of the adjusted average per capita cost [AAPCC] for the class of beneficiaries to which the enrollee belongs. The AAPCC is computed by estimating the amount Medicare would pay for beneficiaries who are not enrolled in the HMO. These costs are estimated on a regional basis. When payment for HMO's was established, it was assumed that they would be able to achieve savings relative to the existing fee-for-service contracts by better management and coordination of health care services. But with the implementation of the prospective payment system [PPS] and physician cost-containment strategies, hospitals and physicians have become more efficient, making it more difficult for HMO's to achieve savings relative to other Medicare providers.

The legislation I am introducing today has two major components. First, it increases payments to HMO's from 95 percent of the AAPCC to 100 percent. Part of the increase in funding would be provided directly to beneficiaries in the form of a partial rebate of their Medicare supplemental medical insurance premium. Early estimates indicate that this proposal could result in a $5 to $6 decrease in monthly premiums for beneficiaries enrolled in a Medicare HMO. While increasing the payment is not a substitute for further refining the AAPCC methodology, I believe that this legislation is necessary to maintain and encourage managed care within the Medicare Program.

Second, this bill relaxes the Medigap insurance policy standards to allow Preferred Provider Organizations [PPO's] into the Medigap insurance market. Today, nearly 30 million Americans receive health care services through preferred provider organizations. Employers use these managed care networks to provide, along with fee-for-service medicine and HMO's, an additional option to their employees and retirees.

Unfortunately, laws governing Medigap insurance have not kept pace with the changes in health care delivery. While the current standards do not expressly prohibit the entrance of PPO's into the Medigap market, the unusual structure of a PPO makes it difficult, if not impossible, for PPO's to work within these guidelines. This proposal would provide the flexibility necessary to permit PPO's to participate in the Medigap market.

In his fiscal year 1991 budget, the President proposed an initiative to encourage the use of managed care networks within the Medicare Program. I have been working with the administration on that initiative to strengthen the existing managed care options under Medicare while making new options available to beneficiaries, and am pleased to offer this legislation on the President's behalf.

Through legislation such as this, Federal health programs will be able to keep pace with innovative health care delivery systems being utilized by the private sector. In addition, we will be able to gain valuable information on managed care and its role in the restructuring debate. I urge my colleagues to join with me in supporting this legislation. Through it we will be able to provide Medicare benficiaries better managed and better coordinated health care services, while allowing the Medicare program the flexibility to provide these services.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Managed Care Act of 1990".

(b) REFERENCES IN ACT.—The amendments in this Act apply to the Social Security Act.

SEC. 2. PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS AND REBATES FOR THEIR MEMBERS.

(a) REBATES FOR HMO AND CMP MEMBERS.—Section 1876(g) (42 U.S.C. 1395mm(g)) is amended by inserting after paragraph (3) the following:

"(4)(A) The Secretary shall twice a year pay each individual specified in subparagraph (B) the amount specified in subparagraph (C).

"(B) An individual is entitled to a payment under subparagraph (A) if that individual was enrolled under this section at any time in the last month and in one other month of the preceding January through June or July through December period with one or more eligible organizations that had entered into a risk-sharing contract.

"(C) The payment to which an individual is entitled under subparagraph (A) equals one-twelfth of 5 percent of the lowest adjusted average per capita cost among all classes of those age 65 or older in all areas in the 50 States for the applicable 6-month period under subparagraph (B) multiplied by the number of months (during the period) in which the individual was enrolled under this section at any time with one or more eligible organizations that had entered into a risk-sharing contract.".

(b) INCREASE IN PAYMENTS TO HMOs AND CMPs.—

(1) Section 1876(a)(1)(A) (42 U.S.C. 1395mm(a)(1)(A)) is amended—

(A) by redesignating clauses (i) and (ii) as (ii) and (iii), respectively, and

(B) by inserting before clause (ii) (as designated) the following:

"(i) the percentage of the adjusted average per capita cost that the Secretary estimates will produce total payments equal to the difference between—

"(I) the estimated total payments for that year to organizations which have entered into risk-sharing contracts if the per capita rate of payment for each class were equal to 100 percent of the adjusted average per capita cost, and

"(II) the estimated total payments in the second half of that year and the first half of the following year under subsection (g)(4),".

(2) Section 1876(a)(1)(C) (42 U.S.C. 1395mm(a)(1)(C)) is amended by striking "95 percent" and inserting "the percentage specified in subparagraph (A)(i)".

(1) The amendment made by subsection (a) applies to payments made after June 1991.

(2) The amendments made by subsection (b) apply to payments for calendar years after 1990.

SEC. 3. CERTIFICATION OF MEDICARE SELECT POLICIES.

(a) MEDICARE SELECT POLICIES.—

(1) Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following:

"(o) If a policy meets the NAIC Model Standards except that benefits under the policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), the policy shall nevertheless be treated as meeting those standards if—

"(1) full benefits are provided for items and services furnished through a network of entities which have entered into contracts with the issuer of the policy,

"(2) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(3) the network offers sufficient access, and

"(4) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network.".

(2) Section 1882(c)(1) (42 U.S.C. 1395ss(c)(1)) is amended by inserting "(except as otherwise provided by subsection (o))" before the semicolon.

(3) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

(A) in subparagraph (A), by inserting ", except as otherwise provided by subparagraph (F)" before the semicolon,

(B) by striking "and" at the end of subparagraph (D),

(C) by inserting "and" at the end of subparagraph (E), and

(D) by adding after subparagraph (E) the following:

"(F) in the case of a policy that meets the standards under subparagraph (A) except that benefits under the policy are limited to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), provides for the application of requirements equal to or more stringent than the requirements under subsection (o)".

(b) MEDICARE SELECT DETERMINATIONS OF REASONABLENESS AND NECESSITY.—

(1) Section 1882 (42 U.S.C. 1395ss) (as amended by subsection (a)(1) of this section) is further amended by adding at the end the following:

"(p) The Secretary may enter into a contract with an entity whose policy has been certified under subsection (o) or has been approved by a State under subsection (b)(1)(F) to determine whether items and services (furnished to individuals entitled to benefits under this title and under that policy) are not allowable under section 1862(a)(1). Payments to the entity shall be in such amounts as the Secretary may determine, taking into account estimated savings under contracts with carriers and fiscal intermediaries and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(C), paragraph (3)(D), and paragraph (3)(E) of section 1842(b) shall apply to the entity.".

(2) The first sentence of section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended by inserting "(or subject to review under section 1882(p))" after "section 1876".

(c) EFFECTIVE DATE.—

(1) The amendments made by the preceding subsections are effective as of 1992, except as otherwise provided by paragraph (2).

(2) In the case of a State which the Secretary of Health and Human Services identifies as—

(A) requiring State legislation (other than legislation appropriating funds) to comply with the amendments enacted by subsection (a)(3), and

(B) having a legislature that is not scheduled to meet in 1991 in a legislative session in which that legislation may be considered,

the amendments enacted by subsection (a)(3) are effective as of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins after 1991 and in which that legislation may be considered.

SEC. 4. TERMINATION OF CONTRACTS WITH HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADDITIONAL REQUIREMENTS.—Section 1876(b)(1) (42 U.S.C. 1395mm(b)(1)) is amended by inserting "and meets the requirements of subparagraphs (C) and (E) of paragraph (2)" before the comma.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to contracts (including renewals) entered into after 30 days after the date of enactment of this Act.

By Mr. EXON (for himself, Mr. KASTEN, and Mr. BURNS):

S. 2933. A bill to amend title 49, United States Code, regarding the collection of overpayments of undercharges on shipments via motor common carriers of property and nonhousehold goods freight forwarded, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NEGOTIATED RATES EQUITY ACT OF 1990

● Mr. EXON. Mr. President, on June 21, 1990, the U.S. Supreme Court issued a decision in the case of Maislin Industries versus Primary Steel that invalidated a policy of the Interstate Commerce Commission [ICC] with regard to negotiated, but unfiled, motor carrier tariff rates. On July 17, I chaired a hearing of the Surface Transportation Subcommittee to consider the ramifications of the Supreme Court's decision. A cross-section of witnesses affected by the decision testified during the hearing, including the new Chairman of the ICC, Ed Philbin, as well as representatives of shippers, carriers, transportation brokers, consultants, and creditors.

Taken as a whole, the testimony during our committee's hearing led me to conclude, as I believe it led my committee colleagues to conclude, that legislation is necessary to eliminate the inequitable situation which would result because of the Court's decision. The legislation I am introducing today would enable the ICC to consider the equities associated with negotiated, but unfiled, tariff rates. Without this legislation, the ICC will be precluded from implementing a policy which has been agreed upon by carriers and shippers, the parties who negotiated the very rates at issue and who successfully negotiated compromise legislation to address this matter.

The legislation I am introducing would accomplish several objectives. At the outset, it would give the ICC the express authority to declare that the collection of additional tariff rates and charges, in addition to those agreed upon, billed and paid by the parties, could be found to constitute an "unreasonable practice." The Commission would be authorized to exercise this authority only in circumstances where it finds five criteria to be met. These criteria include findings that: First, a person has been offered negotiated transportation rates with the carrier other than those legally on file with the Commission; second, the person tendered freight to the carrier in reasonable reliance upon the negotiated transportation rates; third, the carrier failed to file with the Commission the tariff providing for such transportation rates; fourth, the negotiated transportation rates were billed and collected by the carriers; and fifth, the carrier demands additional payment of higher rates filed in tariffs.

The Commission's authority in this regard would be limited in order to address cases where the parties' failure to follow the literal requirements of the "filed tariff doctrine" could be best justified in light of previous declarations by the ICC that it actively encouraged the negotiation of rates.

Section 2 of the bill would authorize a gradual reduction to 18 months of the statute of limitations for filing under- and over-charge claims. Section 3 of the bill would enable shippers and carriers to resolve, among themselves, purely technical matters associated with tariff filing requirements.

Finally, this bill includes a provision granting States the authority to waive commercial drivers' license requirements with respect to vehicles used to transport farm supplies from retail

dealers to or from a farm and to vehicles used for custom harvesting operations. This builds on the waiver authority granted to States by the Department of Transportation with respect to general farm vehicles and farming operations. There had been consideration of offering an amendment for this purpose to S. 2830, the farm bill. Based on jurisdictional concerns, the amendment was not offered to that legislation and the waiver provisions were included in the bill I am introducing today.

Taken as a whole, I believe this bill presents a sound solution to an unanticipated problem. It is fair and it is absolutely necessary to remedy an inequity that would otherwise exist.

I am pleased to have Senators KASTEN and BURNS as original cosponsors of this measure. I look forward to their assistance in securing expeditious consideration of this proposal.●

By Mr. EXON (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. BYRD, Mr. COATS, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. FOWLER, Mr. GORE, Mr. GRASSLEY, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SANFORD, Mr. SIMON, and Mr. SPECTER):

S.J. Res. 355. Joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its 20 years of existence; to the Committee on Commerce, Science, and Transportation.

COMMEMORATION OF THE CONTRIBUTIONS OF AMTRAK

Mr. EXON. Mr. President, on October 30, 1970, Congress enacted the Rail Passenger Service Act in an attempt to salvage the Nation's rail passenger system. Now, nearly 20 years later, the wisdom and vision reflected in passage of the act is demonstrated daily as thousands of travelers board Amtrak trains across the country. I rise today to introduce a joint resolution commemorating the 20th anniversary of the Rail Passenger Service Act, which will occur on October 30 of this year.

As chairman of the Senate Subcommittee on Surface Transportation charged with the oversight of Amtrak, I have served at various times as headmaster, teacher, student, and friend of this federally created corporation charged with saving and revitalizing the Nation's intercity rail passenger system.

While many were skeptical 20 years ago that Amtrak could or would succeed, there were those in this body who believed that it had to succeed for the good of the Nation. While every other major industrialized nation was rapidly developing their rail passenger programs, trains in the United States were on the transportation endangered species list.

Congress recognized that rail passenger service had an important role to play in the Nation's transportation system—both in urban areas and as a link to rural America. As an energy efficient and environmentally benign alternative to highway and airport congestion, its role was a unique one.

The convictions of this Congress proved well founded. While the new rail passenger corporation struggled with antiquated equipment, a decentralized and fragmented rail network and a skeptical industry, the public responded with their wallets at the ticket windows. The downtrend in rail passenger ridership reversed itself overnight and Amtrak set its sights on expansion and improvement.

It was anything but smooth sailing for Amtrak in the first decade. The railroad maintained its equipment in outdoor facilities in the dead of winter. It fought breakdowns for lack of parts, and struggled to instill a sense of professionalism and optimism in a work force that had been demoralized by years of neglect of the passenger train business.

Amtrak's success in the face of those early challenges has exceeded the expectations of even their most ardent supporters. Its on-time-performance today rivals that of the airline industry. Rolling stock, though in short supply, is well maintained and in many cases state of the art. Amtrak's track and track maintenance capabilities are unparalleled, and its modern computer reservations and ticketing system is serving as the model for the development of new systems around the world.

No rail passenger system in the world covers a higher percentage of its costs from non-Federal sources than Amtrak, and it has announced that it intends to become the first passenger railroad in the modern age to operate without Federal operating support by the year 2000.

Frankly, Mr. President, if Amtrak had announced such a goal 10 years ago, I would have been concerned for its collective sanity. But I have witnesses first-hand the strides the company has made under the capable and steady hand of its President and Chairman, W. Graham Claytor, Jr. He has brought a toughmindedness about cost control and a dedication to quality transportation service to Amtrak, with remarkable results.

Indeed, an announcement that would have seemed absurdly unrealistic under another CEO suddenly strikes anyone who knows Graham Claytor as deadly serious. His organization has made it clear that he is not content merely keeping the status quo in today's transportation environment. Amtrak wants to be able to meet the call for new service and expanded service, where it makes good business sense.

Amtrak is an important part of our nationwide transportation system. Amtrak serves my home State of Nebraska with stops in Omaha, Lincoln, Hastings, Holdredge, and McCook. Amtrak has also become the Nation's largest rail commuter operator and is expanding its leadership role in that field. With that learning curve behind them, Amtrak is now looking ahead to the development of high-speed rail passenger systems and magnetic levitation systems in the United States. It intends to be an active participant in this repainting of the American transportation landscape.

Mr. President, the support shown for Amtrak in this Congress during the recent votes on the Amtrak Reauthorization and Improvement Act was impressive. For the first time in a decade, a free-standing Amtrak authorization bill has been signed by the President. I believe Amtrak has a very bright future, and I further believe that the Nation will be better for it.

In light of the dramatic progress Amtrak has made since its inception, and the enthusiasm with which it looks to its future, it gives me great pleasure to introduce this joint resolution of Congress, to commemorate 20 years of good railroading and to applaud those with the vision and conviction to preserve rail passenger service.

ADDITIONAL COSPONSORS

S. 1651

At the request of Mr. MCCAIN, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1661

At the request of Mr. PRYOR, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1661, supra.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Louisiana [Mr. JOHNSTON], the Senator

from New Jersey [Mr. BRADLEY], the Senator from Utah [Mr. HATCH] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1839

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 1839, a bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes.

S. 1883

At the request of Mr. KENNEDY, the names of the Senator from Colorado [Mr. WIRTH], the Senator from North Dakota [Mr. BURDICK] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1883, a bill to amend the Public Service Act to establish a center for tobacco products, to inform the public hazards of tobacco use, to disclose and restrict additives to such products, and to require labeling of such products to provide information concerning such products to the public, and for other purposes.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. BRYAN], was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional statewide service, and for other purposes.

S. 1974

At the request of Mr. INOUYE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 2039

At the request of Mr. COCHRAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from Delaware [Mr. ROTH], was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. FOWLER], and the Senator from Iowa [Mr. HARKIN], were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2312

At the request of Mr. SYMMS, the name of the Senator from Maryland [Ms. MIKULSKI], was added as a cosponsor of S. 3212, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2410

At the request of Mr. LEVIN, the name of the Senator from Kansas [Mrs. KASSEBAUM], was added as a cosponsor of S. 2410, a bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on dispositions of stock in domestic corporations by 10-percent foreign shareholders.

S. 2617

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Nebraska [Mr. EXON], the Senator from Hawaii [Mr. AKAKA], and the Senator from South Dakota [Mr. DASCHLE], were added as cosponsors of S. 2617, a bill to amend the Public Health Service Act to make various improvements in existing scholarship and loan repayment programs, and for other purposes.

S. 2640

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. LEAHY], was added as a cosponsor of S. 2640, a bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of medicare supplemental insurance.

S. 2641

at the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Colorado [Mr. WIRTH], were added as cosponsors of S. 2641, a bill to amend title XVIII of the Social Security Act to provide for simplification in the purchase of medicare supplemental insurance.

S. 2654

At the request of Mr. HARKIN, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Massachusetts [Mr. KERRY], were added as cosponsors of S. 2654, a bill to provide for an intensified national effort to improve the health and enhance the independence of older Americans through research, training, treatment, and other means, and for other purposes.

S. 2709

At the request of Mr. BOSCHWITZ, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2709, a bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or Reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income.

S. 2737

At the request of Mr. ARMSTRONG, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2776

At the request of Mr. HARKIN, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2776, a bill to provide for the development and dissemination of educational materials regarding the American flag.

S. 2805

At the request of Mr. MCCLURE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2805, a bill to amend the Federal Power Act.

S. 2836

At the request of Mr. MITCHELL, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2836, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

S. 2850

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2850, a bill to authorize demonstration projects in connection with providing health services to Indians.

S. 2873

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2873, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 2880

At the request of Mr. BURNS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2880, a bill to allow the Secretary of the U.S. Department of Agriculture or other appropriate official to protect persons engaged in a lawful hunt within a National Forest or on other lands affected with a Federal interest; establishing an administrative civil remedy against individuals or groups intentionally obstructing, impeding, or intefering with the conduct of a lawful hunt; and for other purposes.

S. 2923

At the request of Mr. WIRTH, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2923, a bill to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act.

S. 2924

At the request of Mr. MITCHELL, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2924, a bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 346

At the request of Mr. BOSCHWITZ, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. COATS], the Senator from Hawaii [Mr. AKAKA], the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BURNS], the Senator from Illinois [Mr. DIXON], the Senator from North Carolina [Mr. SANFORD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America."

SENATE JOINT RESOLUTION 354

At the request of Mr. GLENN, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 354, a joint resolution designating November 18–24, 1990, and November 17–23, 1991, as "National Family Caregivers Week."

SENATE RESOLUTION 296

At the request of Mr. DASCHLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

AMENDMENT NO. 1613

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

AMENDMENT NO. 2389

At the request of Mr. THURMOND, his name was added as a cosponsor of amendment No. 2389 proposed to S. 2830, an original bill to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

SENATE RESOLUTION 315—RELATIVE TO EARTHQUAKE RELIEF FOR THE PHILIPPINES

Mr. AKAKA (for himself and Mr. INOUYE) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas a devastating earthquake registering 7.7 on the Ritcher scale struck Central Luzon, the Philippines, on July 16, 1990, followed by numerous aftershocks;

Whereas the death toll from the earthquake now exceeds 1,000, and large areas of the region lie devastated, with hundreds of thousands of people without electricity and emergency supplies;

Whereas the Philippine people are in dire need of assistance, above and beyond the emergency funds and rescue support provided by the United States in the immediate aftermath of the earthquake;

Whereas the Philippines is our oldest ally in Asia, and the people share our democratic values;

Whereas other nations, including Japan, the United Kingdom, and the Federal Republic of Germany, are providing generous amounts of aid; and

Whereas the freely-elected government of Corazon Aquino faces staggering domestic problems, and is in need of assistance at this time: Now, therefore be it

Resolved, That it is the sense of the Senate that the President should exercise his authority under section 506(a) of the Foreign Assistance Act of 1961 (providing the transfer of articles and assistance from the Department of Defense for unforeseen emergencies), section 451 of the Foreign Assistance Act of 1961 (relating to emergency assistance), and section 491 of the Foreign Assistance Act of 1961 (relating to international disaster assistance), to transfer funds available for fiscal year 1990, to be utilized only for relief, rehabilitation, and rebuilding of affected areas of the Philippines from the damage due to the recent earthquake.

AMENDMENTS SUBMITTED

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT OF 1990

GRAMM (AND OTHERS) AMENDMENT NO. 2398

Mr. GRAMM (for himself, Mr. DOLE, Mr. BENTSEN, Mr. SIMON, Mr. BREAUX, Mr. BURDICK, Mr. COCHRAN, Mr. CONRAD, Mr. MCCLURE, Mr. SYMMS, Mr. PRYOR, and Mr. BUMPERS) proposed an amendment to the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, as follows:

At the end of the amendment add the following:

"( ) If the Secretary of Agriculture finds that the credit restrictions imposed by this title would result in decreasing the export of agricultural products from the United States that are readily available to Iraq from non-United States sources, so that the impact of the restriction of credit imposed under this title would harm American farmers more than it would Iraq, the Secretary may waive the restriction on the availability of credit in support of agricultural exports. If the Secretary of Commerce finds that the credit restrictions imposed by this title would result in decreasing the export of manufactured products from the United States that are readily available to Iraq from non-United States sources, so that the impact of the restriction of credit imposed under this Title would harm American workers more than it would Iraq, the Secretary may waive the restriction on the availability of credit in support of manufactured exports. Restrictions on credit under this title shall not become effective until after the Secretary of Agriculture and the Secre-

tary of Commerce have studied the impact of such credit restrictions and determined whether such restrictions would have a negative impact greater upon American farmers and/or workers than upon Iraq.".

SYMMS (AND OTHERS) AMENDMENT NO. 2399

Mr. SYMMS (for himself, Mr. WALLOP, Mr. HATCH, Mr. BURNS, Mr. MCCLURE, Mr. NICKLES, Mr. SIMPSON, and Mr. BOREN) proposed an amendment to the bill S. 2830, supra, as follows:

At the appropriate place insert the following new section:

"SEC. . PROTECTION OF PRIVATE PROPERTY.

"No regulation promulgated after the date of enactment of this Act by or under the authority of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army or the Administrator of the Environmental Protection Agency or their designees shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of federal regulatory activity, with the goal of minimizing such where possible.".

PRESSLER (AND OTHERS) AMENDMENT NO. 2400

Mr. PRESSLER (for himself Mr. DOLE, Mr. PRYOR, Mr. FOWLER, Mr. BOREN, Mr. HEFLIN, Mr. CONRAD, and Mr. DASCHLE) proposed an amendment to the bill S. 2830, supra, as follows:

At the appropriate place in the bill strike "SEC. 208.—Honey Price Support" and insert in lieu thereof the following new section:

SEC. . HONEY PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

(a) LOANS, PURCHASES, AND OTHER OPERATIONS.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 53.8 cents per pound, as determined by the Secretary.

(b) REPAYMENT.—The Secretary may permit a producer to repay a loan made to the producer under this section for a crop at a level

(1) the loan level determined for the crop; or

(2) the level as the Secretary determines will—

(A) minimize the number of loan forfeitures;

(B) not result in excessive total stocks of honey;

(C) reduce the costs incurred by the Federal Government in storing honey; and

(D) maintain the competitiveness of honey in domestic and export markets.

(c) PLEDGING ADULTERATED OR IMPORTED HONEY AS COLLATERAL.—

(1) IN GENERAL.—If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this section, the person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment under this section for the 3 crop years succeeding the determination.

(2) ADULTERATED HONEY.—For purposes of paragraph (1), honey shall be considered adulterated if—

(A) any substance has been substituted wholly or in part for the honey;

(B) the honey contains a poisonous or deleterious substance that may render the honey injurious to health, except that in any case in which the substance is not added to the honey, the honey shall not be considered adulterated if the quantity of the substance in or on the honey does not ordinarily render it injurious to health; or

(C) the honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

SPECTER (AND OTHERS) AMENDMENT NO. 2401

Mr. SPECTER (for himself, Mr. HEINZ, Mr. ROTH, Mr. BIDEN, Mr. BRADLEY, and Mr. LAUTENBERG) proposed an amendment to the bill S. 2830, supra, as follows:

On page 924, between lines 19 and 20, insert the following new section:

SEC. 1722. CHILEAN INSPECTION PROGRAM.

(a) TRIAL GRADING PROGRAM.—Not later than November 1, 1990, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of Agriculture shall establish and implement a trial grading program (that may include on-site inspections), to be applied to fruits and vegetables that are to be imported into the United States from the Republic of Chile, in accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act. The Secretary shall use amounts provided by the exporters to carry out the program established under this paragraph. Such program shall terminate 5 years after the date of enactment of this Act.

(b) The inspections done in Chile shall be done under shipping point standards. Once the imported produce reaches the U.S., inspections would parallel those for domestic produce and be done under delivery point or "en route" standards, upon request.

(c) The Secretary shall use amounts provided by the exporters to carry out the program established under this paragraph. Such program shall terminate 5 years after the date of enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the implementation of the program established under subsection (a), and every 2 years thereafter, the General Accounting Office shall prepare and submit, to the appropriate Committees of Congress, a report that shall contain—

(1) a summary of the performance of on-site inspection programs conducted with respect to the requirements set out in domestic marketing orders;

(2) a summary of the effect of such marketing orders on the importation of Chilean fruit into the United States;

(3) a summary of the effect of on-site inspection programs as they relate to the concern of United States producers regarding to the quality standards for imported fruit; and

(4) the effect of the program established under subsection (a) on the availability of imported produce in the United States.

BREAUX (AND OTHERS) AMENDMENT NO. 2402

Mr. BREAUX (for himself, Mr. COCHRAN, Mr. GLENN, Mr. KOHL, and Mr. DIXON) proposed an amendment to amendment No. 2384 proposed by Mr. INOUYE to the bill S. 2830, supra, as follows:

Strike all after subtitle E and insert the following:

SHIPPING PROVISIONS

SEC. 1151. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to a vessel designated as an American Great Lakes vessel under section 1152.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1152. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—The Secretary of Transportation (hereinafter referred to in this subtitle as the "Secretary") shall designate a vessel to be an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b); and

(4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

(1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation;

shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 120-day period following the date of any revocation of such designation under section 1154, an exclusive right to purchase the vessel for a price equal to—

(A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1153. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or

(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)), except that on each voyage from a Great Lakes port, an American Great Lakes vessel may carry not to exceed 7,000 metric tons of commercial bulk cargo not subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241f), or the Cargo Preference Act of 1904 (10 U.S.C. 2631); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—

(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1154. REVOCATION OF DESIGNATION.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1152 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this subtitle; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1152(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1155. ALLOCATION OF CARGOES.

(a) Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. app. section 1241f(c)(2)(B)) is deleted and the following is inserted instead:

"(b) In addition, in administering sections 901(b) and 901b (46 U.S.C. app. sections 1241(b) and 1241f), and consistent with these sections, the Secretary of Transportation shall take such steps as may be necessary and practicable without detriment to any port range, commencing as of the date hereof and terminating March 30, 1995, to allocate, on the general principle to lowest landed cost, fifty percent of the bagged, processed or fortified commodities pursuant to title II of the Agriculture Trade Development and Assistance Act of 1990 (7 U.S.C. section 1721 et seq.): *Provided, however,* That such allocation shall not result in the Great Lakes port range receiving a percentage share, or metric tonnage of such commodities, whichever is lower, greater than that experienced by that port range in 1984 as determined by the Secretary of Agriculture: *Provided, further,* That any determination of nonavailability of United States-flag vessels resulting from this provision shall not reduce the gross tonnage of such commodities transported on United States-flag vessels as required under section 901(b) and 901b."

SEC. 1156. DEFINITIONS.

As used in this subtitle—

(1) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1152.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNITED STATES.—The term "United States" means the 50 States.

SAVINGS AND ECONOMIC GROWTH ACT

HATFIELD AMENDMENT NO. 2403

(Ordered referred to the Committee on Finance.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (S. 2071) to amend the Internal Revenue Code of 1986 to provide incentives for savings and investments in order to stimulate economic growth, as follows:

On page 3, strike lines 4 through 6, and insert the following:

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage shall be the percentage determined in accordance with the following table:".

On page 3, before line 7, insert the following:

"(2) NET TIMBER CAPITAL GAIN.—If for any taxable year a taxpayer has any net timber capital gain, paragraph (1) shall be applied by increasing each applicable percentage for the appropriate holding period determined for such gain by 15 percentage points.".

On page 5, between lines 7 and 8, insert the following:

"(5) NET TIMBER CAPITAL GAIN.—

"(A) IN GENERAL.—The term 'net timber capital gain' means the lesser of—

"(i) the net capital gain for the taxable year, or

"(ii) the net capital gain for the taxable year determined by taking into account only gain or loss on eligible sales and exchanges of qualified timber.

"(B) ELIGIBLE SALES AND EXCHANGES.—The term 'eligible sales and exchanges' means—

"(i) The cutting of timber if such cutting is treated as a sale or exchange under section 631(a) by reason of an election under such section, and

"(ii) any sale, exchange, or disposal of timber if—

"(I) the taxpayer could have made the election under section 631(a) with respect to such timber, and

"(II) such timber is sold, exchanged, or disposed of before any substantial processing of such timber has occurred.

"(C) QUALIFIED TIMBER.—The term 'qualified timber' means any timber with respect to which the taxpayer has provided assurances (satisfactory to the Secretary) that substantially all of the processing of such timber will occur within the United States.".

On page 5, line 8, strike "(6)" and insert "(7)".

On page 5, line 23, strike "(7)" and insert "(8)".

On page 8, line 3, insert "(other than with respect to net timber capital gain)" before "shall".

On page 18, between lines 16 and 17, insert the following:

Subtitle C—Alternative Capital Gains Rate for Corporations

SEC. 121. ALTERNATIVE CAPITAL GAINS RATE FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If, for any taxable year, a corporation has a net timber capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) in an amount equal to the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus—

"(2) a tax equal to the sum of—

"(A) 28.9 percent of the lesser of—

"(i) the net timber capital gain, or

"(ii) the net capital gain for the taxable year, plus

"(B) 34 percent of the excess (if any) of—

"(i) the net capital gain for the taxable year, over

"(ii) the net timber capital gain.

"(b) NET TIMBER CAPITAL GAIN.—The term 'net timber capital gain' shall have the meaning given to such term by subparagraph (A) of section 1202(c)(4).

"(c) CROSS REFERENCES.—For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3) (A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) CONFORMING AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "66 percent (or in the case of a net timber capital gain (as defined in section 1201(b), 71.1 percent)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after March 15, 1990.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

HEINZ (AND OTHERS) AMENDMENT NO. 2404

Mr. HEINZ (for himself, Mr. SPECTER, Mr. BRADLEY, Mr. BIDEN, Mr. LAUTENBERG, and Mr. ROTH) proposed an amendment, which was subsequently modified, to the bill S. 2830, supra, as follows:

On page 924, line 15, insert "(a) IN GENERAL.—" before "The first".

On page 924, between lines 19 and 20 insert the following new subsection:

"(b) COOPERATIVE AGREEMENTS.—The President of the United States shall have the authority to enter into cooperative agreements with heads of state of foreign governments to establish grading programs to be applied to horticultural crops to be imported into the United States, in accordance with certain domestic marketing orders implemented under the Agricultural Adjustment Act. Nothing in the provision of this subsection may be construed as limiting the existing authority of the President to enter into cooperative agreements described under this subsection. This amendment shall take effect 7 days after enactment.

KASTEN (AND OTHERS) AMENDMENT NO. 2405

Mr. KASTEN (for himself, Mr. WIRTH, Mr. JEFFORDS, Mr. GRASSLEY, and Mr. KOHL) proposed an amendment to the bill S. 2830, supra, as follows:

On page 541, line 25, insert "(a) In General" before "Section".

On page 542, line 8, after the period add end quotation marks and a period.

On page 542, between lines 8 and 9, insert the following new subsection:

(b) INFORMATION CONCERNING FLEXIBILITY.—Section 1212 of such Act (16 U.S.C. 3832) (as amended in subsection (a)) is further amended by adding at the end thereof the following new subsection:

"(f) The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of sections 1001, 1213, 1271, 1274, and 1303 of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendment made by such sections).".

On page 542, strike out lines 9 through 13.

On page 542, after line 22, add the following new section:

SEC. 1235. GRADUATED SANCTIONS FOR CONVERSION OF HIGHLY ERODIBLE LAND.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by sections 1232, 1233, and 1234) is further amended by adding at the end thereof the following new subsection:

"(h)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems and conservation treatment measures and schedules prepared under subsections (a)(2) or (b)(3), if the Secretary determines that—

"(A) such person has not violated the provisions of section 1211 more than one time (excluding any violation of a minor and technical nature under paragraph (3)) in any 10-year period on a farm; and

"(B) such person acted in good faith and without an intent to violate the provisions of this substitle.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1211 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than $750 nor more than $10,000, (depending on the seriousness of the violation as determined by the Secretary) program benefits described in section 1211, that such producer would otherwise be eligible to receive in a crop year.

"(3) Notwithstanding any other provision of this subtitle, if the Secretary determines that a violation of section 1211 is technical and minor in nature and that such violation has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which such violation has occurred, the ineligibility provisions of section 1211 shall not apply to the owner or operator of such land.

"(4) Any person whose benefits are reduced in any one crop year under this subsection shall continue to be eligible for the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying conservation plans prepared under subsections (a)(2) or (b)(3), according to the schedule set forth in such plan.".

On page 543, line 1, strike out "1235" and insert in lieu thereof: "1236".

On page 543, line 5, strike out "1247" and insert in lieu thereof "1248".

On page 544, line 13, strike out "1236" and insert in lieu thereof "1237".

On page 544, line 16, strike out "1235" and insert in lieu thereof "1236".

On page 545, after line 23, insert the following new section:

SEC. 1238. COMPREHENSIVE REPORT.

Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by sections 1237) is further amended by adding after section 1246 the following new section:

"SEC. 1247. COMPREHENSIVE REPORT.

"(a) IN GENERAL.—Not later than December 31, 1992, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (c), the programs and policies established and operated under this title.

"(b) CONSULTATIONS.—The report required under subsection (a) shall be developed, where appropriate, in cooperation with the Fish and Wildlife Service, other Federal agencies, and such State agencies or officials as the chief executive officer of each State may designate for this purpose.

"(c) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) require the Soil Conservation Service to assess the progress made toward the national objective of protection of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend means to overcome such obstacles;

"(2) require the Soil Conservation Service, in consultation with the Agricultural Research Service, and using the best available techniques for estimating average annual erosion rates in the field, to perform on-site evaluations of conservation practices on highly erodible lands, on-site estimates of erosion reductions that may result from the implementation of conservation plans, and to assess the technical adequacy and feasibility of such plans;

"(3) require the Soil Conservation Service, in cooperation with the Fish and Wildlife Service, to assess the contribution toward the national objectives of wetlands preservation, wildlife and waterfowl habitat improvement, and water quality improvement through the implementation of the relevant provisions of this title, identify obstacles to furthering progress toward such objectives, and recommend manners in which to overcome such obstacles; and

"(4) collect data concerning the social and economic impacts, violations and appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title.

"(d) COMPLIANCE MONITORING—

"(1) PROCEDURES.—The Secretary shall develop and implement procedures for monitoring the compliance of producers and others with the provisions of this title at the local level. Such procedures shall include annual spotchecks of not less than 5 percent of all affected acreage.

"(2) REPORT.—Beginning on December 31, 1991, the Secretary shall prepare an annual report that shall contain a summary of the results of the monitoring conducted under paragraph (1), and include information concerning the adequacy of conservation plans and practices implemented under this title, the impact of such plans and practices on soil erosion, the number and nature of violations of such plans and appeals, and other matters that may be necessary to monitor the implementation of this title.

"(3) SPECIAL REVIEW.—Based on the information contained in the report under paragraph (2), the Secretary may designate for special review any areas or soil types for which the national objective of adequate protection of soil resources is likely to prove difficult to attain under existing conservation plans.

"(4) NOTICE.—The Secretary shall provide notice to all persons whose conservation plans are being monitored of the results of such monitoring, and provide such persons with information regarding erosion rates, the adequacy of conservation practices, or the designation of special review status.

"(5) SUBMISSION.—The Secretary may develop and implement the procedures re-

quired under paragraph (1) in conjunction with the preparation by the Secretary of the report required under subsection (a). The report required under paragraph (2) shall be submitted together with the report required under subsection (a) on December 31, 1992.".

KASTEN (AND OTHERS) AMENDMENT NO. 2406

Mr. KASTEN (for himself, Mr. CHAFEE, Mr. ROTH, and Mr. KOHL) proposed an amendment to the bill S. 2830, supra, as follows:

On page 524, line 13, strike out "the Secretary" and all that follows through "of the Interior" on line 14, and insert in lieu thereof "in consultation at the local level with a representative of the Fish and Wildlife Service.

On page 524, line 16, insert after the comma, "including appropriate buffer areas".

On page 527, line 14, insert the following:

"(c) in general, Wetland Reserve Program Lands may be used for compatible economic uses, including such activities as hunting and fishing, managed timber harvest, or periodic haying, if such use is specifically permitted by the Plan and consistent with the long term protection and enhancement of the wetlands resources for which the easement was established;".

On page 527, line 14, strike out "(c)" and insert in lieu thereof "(d)".

On page 527, line 19, strike out "(d)" and insert in lieu thereof "(e)".

On page 528, line 2, insert after the comma the following: "except in the case of a permanent easement, a single lump-sum payment may be provided".

On page 528, between lines 2 and 3, insert the following new subsection:

"(e) EASEMENT PRIORITY.—In carrying out this chapter, to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent conservation easements before shorter term conservation easements.".

On page 529, between lines 15 and 16, insert the following new subsection:

"(b) DELEGATION OF EASEMENT ADMINISTRATION.—The Secretary may delegate any of the easement management, monitoring, and enforcement responsibilities of the Secretary to Federal or State agencies that have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities.".

On page 529, line 16, strike out "(b)" and insert in lieu thereof "(c)".

KOHL (AND OTHERS) AMENDMENT NO. 2407

Mr. LEAHY (for Mr. KOHL, for himself, Mr. KASTEN, and Mr. HEINZ) proposed an amendment to the bill S. 2830, supra, as follows:

On page 33, between lines 19 and 20, insert the following new section:

SEC. 117. STUDY OF FEDERAL DAIRY PRODUCER TRUST.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Packers and Stockyards Administration, the Agricultural Marketing Service, the Agricultural Cooperative Service, and representative of the dairy and agricultural lending industries, shall conduct a study of the need for and the impact of the establishment of a Federal dairy producer trust, comparable to trusts established for the benefit of livestock and poultry producers under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) on various segments of the dairy industry.

(b) TRUST IMPACT. —In evaluating the impact of a Federal dairy producer trust, the Secretary shall consider—

(1) the extent of economic losses suffered by dairy producers as a result of the bankruptcy of dairy processing facilities since 1975;

(2) the adequacy of protection provided producers by individual State dairy plant security programs;

(3) the extent to which a Federal dairy producer trust could have prevented economic losses to dairy producers;

(4) the potential economic costs and benefits to dairy producers of the trust;

(5) the potential economic impact on dairy processing facilities considering factors such as the differences between the operations of and business conditions affecting dairy processors, as compared to livestock and poultry processing facilities currently subject to Federal producer trust laws;

(6) the potential economic impact on dairy processing facilities in terms of size, number, and ownership of dairy processing operations and in terms of credit availability, credit costs, operating expenses, and liquidity;

(7) the economic impact of existing Federal producer trust laws on those industries currently subject to the laws: and

(8) the need for Federal laws in order to protect dairy producer income and, in the event of dairy product wholesaler or retailer bankruptcies, to protect dairy processor income.

(c) OTHER FACTORS.—In addition to analyzing the impact of a Federal dairy producer trust, the Secretary shall also consider—

(1) the need for alternative Federal legislative approaches, or combination of approaches, as a means of improving economic protection for dairy producers in the event of a dairy processing plant bankruptcy, including—

(A) requiring the filing of different types of security arrangements for dairy processing plants (such as surety bonds, letters of credit, cash escrow accounts, and certificates of deposits) and the degree of financial requirements necessary in filing such types of security (based on milk purchases, debt-to-assets ratios, and other financial criteria) in order to adequately protect dairy producer income; and

(B) establishing a producer guaranty trust fund funded, fully or partially, by producer and processor assessments, including consideration of—

(i) the size of such a trust fund;

(ii) the size of assessments;

(iii) whether such a fund should be established nationally or by State;

(iv) whether the fund should require a deductible in the case of processor bankruptcy; and

(v) the effective amount of the deductible if such a deductible is required;

(C) the effect of such alternative legislation on dairy processors;

(2) the need for Federal legislation in order to more adequately protect dairy producer income in the event of a dairy processing plant bankruptcy;

(3) the likely changes in existing State dairy plant security lwas as a result of the implementation of Federal dairy plant security laws; and

(4)(A) the economic impact on dairy producers, proprietary dairy product processors, and lenders, and desirability, of excluding dairy cooperatives from the trust fund; and

(B) the economic impact of implementing Federal dairy producers trust legislation on proprietary processors, versus its impact on dairy cooperatives, in the event dairy cooperatives are excluded from the trust fund.

(d) CONSULTATION.—In conducting the study, the Secretary shall seek the advice and counsel of the Packers and Stockyards Administration, the Agricultural Cooperative Service, the Agricultural Marketing Service, and representatives of the dairy and agricultural lending industries, including representatives from—

(1) State Departments of Agriculture in those States with State dairy plant security laws:

(2) dairy cooperatives;

(3) proprietary dairy processing associations;

(4) lending associations that provide financing to dairy processing facilities; and

(5) dairy producer organizations.

(e) REPORT.—Not later than October 1, 1991, the Secretary shall submit a report describing the results of the study conducted under this section (together with legislative recommendations, if appropriate) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 118. PRIORITY STATUS OF DAIRY PRODUCERS IN DAIRY PROCESSOR BANKRUPTCIES.

Section 507(a)(5) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking out "or" at the end thereof;

(2) in subparagraph (B) by striking out "facility—" and inserting in lieu thereof "facility, or"; and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) engaged as a dairy producer against a debtor who owns or operates a dairy processing facility,".

BURNS AMENDMENT NO. 2408

Mr. LEAHY (for Mr. BURNS) proposed an amendment to the bill S. 2830, supra, as follows:

On page 502, line 16, after "opportunities," insert "the consequences for the economic health and vitality of rural communities of enrolling such acres,"

On page 502, line 19, insert the following at the end of the line:

"If the Secretary determines to place acreage into the conservation stewardship program in excess of 40 million acres, the Secretary may limit the cropland enrolled into the conservation reserve on an owner or operator's farm to 25 percent of the cropland on such farm.".

GRAHAM AMENDMENT NO. 2409

Mr. LEAHY (for Mr. GRAHAM) proposed an amendment to the bill S. 2830, supra, as follows:

On page 924, line 19, after the word "papayas", insert "(except papayas grown in the beneficiary countries under the Caribbean Basin Economic Recovery Act".

JOHNSTON AMENDMENT NO. 2410

Mr. LEAHY (for Mr. JOHNSTON) proposed an amendment to the bill S. 2830, supra, as follows:

Insert in the appropriate place: The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473E (7 U.S.C. 3319e) the following new section:

"SEC. . (a) The Secretary is authorized to award a grant to a research facility that is part of a land grant college or university system that on the date of the enactment of this section benefits from a dedicated non-Federal nutrition endowment of at least $100 million to establish at least one food science nutrition research center for the Southeast Region of the United States.

"Funds appropriated to carry out the purpose of this section shall be administered by the Cooperative State Research Service in consultation with the Agricultural Research Service to assure a coordinated approach to human nutrition research and to avert duplication of research conducted at existing Federal human nutrition research centers.

"There are authorized to be appropriated in each of the fiscal years 1991 thru 1995 such sums as may be necessary to carry out this section."

DOLE (AND KASSEBAUM) AMENDMENTS NOS. 2411 AND 2412

Mr. LEAHY (for Mr. DOLE) (for himself and Mrs. KASSEBAUM) proposed two amendments to the bill S. 2830, supra, as follows:

AMENDMENT No. 2411

At the appropriate place at the end of title XIX add the following new section:

SEC. . REPORTING AND RECORDKEEPING IMPROVEMENTS ANALYSIS.

(a) This section may be referred to as the "Agricultural Program Reporting and Recordkeeping Improvement Act of 1990."

(b) Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an analysis that examines the feasibility of, and contains criteria and recommendations for, reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as 'producers') who apply for participation in, or attempt to comply with the requirements of—

(1) agricultural price and income support programs administered by the Secretary, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(2) voluntary or mandatory soil or water conservation programs administered by the Secretary, including programs under the Food Security Act of 1985 (7 U.S.C. 1281 note); and

(3) other related programs administered by the Secretary.

(c)(1) In the analysis required by subsection (b) of this section, the Secretary shall examine the feasibility of reducing current levels of paperwork and recordkeeping required of producers by providing such producers with access to a computerized Departmental network or system (including the utilization of computer capability and equipment which has been or will be acquired by the Department of Agriculture and its various agencies, which could be used by producers: (i) to communicate by voice, video, or a combination thereof for the purpose of submitting electronically all of (or a significant portion of) any necessary and appropriate applications, reports, or other documentation, and (ii) to provide updated electronic information and data pertinent to the producer's agricultural operation and marketing activities, or information-sharing by means of video conferences.

(2) In determining the feasibility and costs of providing a computerized network or system as described in paragraph (1) of this subsection, the Secretary may examine the usefulness of establishing a schedule of nominal fees to be charged to producers for a pro-rata share of a portion of the costs associated with access to and use of such system, which fees would partially or entirely defray the costs (after taking into consideration any ongoing savings to the Department) associated with the operation and maintenance and future expansion of such portion of the network or system and its capabilities, but not to include any reimbursement for existing equipment and capabilities nor any reimbursement for the costs associated with the initial establishment of the network or system. The analysis should also contain recommendations outlining additional categories of users who might also be permitted access to the network or system for a fee, and the types of safeguards which would be reasonably necessary to limit file access as may be necessitated in accordance with provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and other relevant authorities governing the disclosure of individual or proprietary information.

(d)(1) Insofar as practicable, in preparing the analysis required by subsection (b) of this section, the Secretary shall take into consideration and incorporate the recommendations of the commission created by title V, section 501 of the Farm Credit Amendments Act of 1985 as contained in the Report of the National Commission on Agricultural Finance, dated February 22, 1989, insofar as such recommendations relate to the need to develop a universal loan application form and uniform accounting standards for farm business. In considering such recommendations, the Secretary shall strive to design and adopt forms and standards which are brief and succinct as possible and shall consult with representatives of the Farm Credit System and with representatives of the commercial banking system as well as with those representing other significant providers of farm ownership and operating credit.

(2) In order to increase the efficiency of agricultural programs administered by the Department of Agriculture and to reduce the burden of paperwork on participants in such programs, the Secretary shall examine the feasibility of creating one brief application form to be used by applicants for participation in the agricultural programs of the Department of Agriculture including the analysis required by subsection (b) shall include information with regard to the progress made by the Department of Agriculture toward compliance with this subsection. The analysis shall also identify statutory impediments to the use of such single brief form.".

(e) The Secretary is authorized to use such funds of the Commodity Credit Corporation, not to exceed $1,500,000, as the Secretary deems necessary to timely complete the analysis, to the extent such funds are provided in advance in appropriations acts.

AMENDMENT No. 2412

At the appropriate place in the bill, add the following:

It is the sense of the Senate that, in the event the budget reconciliation instructions or a budget summit agreement for any of the fiscal years ending September 30, 1991 through September 30, 1995, require that budget authority and outlays for programs under the jurisdiction of the Senate Committee on Agriculture, Nutrition and Forestry be reduced, that the Congress shall comply with those instructions.

Further, it is the sense of the Senate that the budget process unfairly penalizes producers of commodities supported primarily by Treasury payments relative to producers of commodities supported primarily by consumers.

Further, it is the sense of the Senate that whatever outlay reductions required by the budget process for Treasury payment supported commodities should be shared equitably between such commodities. In addition, there should be equitable reductions in support mechanisms for commodities supported by consumers relative to Treasury payment supported commodities.

GRASSLEY AMENDMENT NO. 2413

Mr. LEAHY (for Mr. GRASSLEY) proposed an amendment to the bill S. 2830, supra, as follows:

On page 593, lines 16 and 17, insert the following new subsection:

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351(h0(1) (7 U.S.C. 1999(h)(1)) is amended by striking "3-year" and inserting "4-year".

PRYOR AMENDMENT NO. 2414

Mr. LEAHY (for Mr. PRYOR) proposed an amendment to the bill S. 2830, supra, as follows:

At the end of title XIX add the following new section:

"SEC. 19 . REGULATION GOVERNING INSPECTION OF IMPORTED POULTRY.

"Since in 1985 the Poultry Products Inspection Act, an Act to maintain the integrity and wholesomeness of this nation's food supply, was amended by the Food Security Act of 1985;

"Since, the 1985 amendment provided that poultry products offered for importation into the United States shall be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States and that such products shall have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States;

"Since, on October 30, 1989, the Food Safety and Inspection Service, an agency within the United States Department of Agriculture charged with the responsibility of administering the provisions of the Poultry Products Inspection Act, promulgated a regulation, implementing the 1985 amendment to that Act, providing that a foreign inspection system seeking certification for export of poultry to the United States merely impose requirements at least equal to those applicable in the United States.

"Now, therefore, be it

"Determined that the Senate of the United States considers the regulation promulgated by the Food Safety and Inspection Service do not reflect the intention of the Congress of United States; with respect to poultry products offered for importation into the United States.

"Determined further, that the Senate of the United States urges the Food Safety and Inspection Service of the United States Department of Agriculture to repeal the October 30, 1989 regulation and promulgate a new regulation reflecting the intention of the Congress.".

DOLE AMENDMENT NO. 2415

Mr. LEAHY (for Mr. DOLE) proposed an amendment to the bill S. 2830, supra, as follows:

Insert at the appropriate place at the end of the bill:

"Notwithstanding any other provision of this Act, to conserve scarce federal resources, the Secretary may after concurrence with the chairman and ranking member of the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, rank by priority the studies or reports authorized by this Act and determine which of those studies or reports shall be completed, however the Secretary must complete at least 12 such studies or reports.

ROBB (AND BOND) AMENDMENT NO. 2416

Mr. LEAHY (for Mr. Robb, for himself and Mr. BOND) proposed an amendment to the bill S. 2830, supra, as follows:

On page 574, line 22, after "Secretary of Agriculture", insert", in consultation with the task force established in subsection (c),"; and

On page 574, line 6, after "Secretary of Agriculture", insert", in consultation with the task force established in subsection (c),";

On page 575, insert the following new subsection after line 20:

"(c) COMPOST TASK FORCE.—

"(1) ESTABLISHMENT.—Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall establish a Compost Task Force, which shall meet at least two times annually.

"(2) MEMBERSHIP.—The Compost Task Force shall consist of 15 members, appointed by the Secretary, from representatives of the Department of Commerce, The Environmental Protection Agency, the Department of the Interior, the Food and Drug Administration, the United States Trade Representative, Federal Highway Administration, States with laws concerning composting, agricultural representatives (including livestock, forestry, fishing, nursery, horticulture, vineyard, and orchard interests), landscapers and builders, the composting industry, microbiological scientists, food and fiber processors, food service industries, public interest groups, and manufacturers of consumer product packaging.

"(3) CHAIR.—The Secretary shall serve as the chairperson of the Compost Task Force.

"(4) CONSULTATION.—In its deliberations, the Compost Task Force shall consult regularly with and solicit recommendations from the agencies, organizations, and entities referred to in paragraph (2).

"(5) SUNSET.—The task force authorized by this subsection shall terminate on September 30, 1995.".

DOLE AMENDMENT NO. 2417

Mr. LUGAR (for Mr. DOLE) proposed an amendment to the bill S. 2830, supra, as follows:

On page 95, line 19, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 145, line 6, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 200, line 6, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

On page 243, line 14, strike the period and insert "and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The secretary shall provide an analysis of the Secretary's determination to the Committees on Agriculture of the Senate and the House of Representatives.".

LUGAR AMENDMENT NO. 2418

Mr. LUGAR proposed an amendment to the bill S. 2830, supra, as follows:

On page 420, between lines 9 and 10, add the following new section:

"SEC. 409. ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

"Notwithstanding any other provision of law, the President through the Administrator may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under this Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(1)(2) of the Foreign Assistance Act of 1961) for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.".

GRASSLEY AMENDMENT NO. 2419

Mr. LEAHY (for Mr. GRASSLEY) proposed an amendment to the bill S. 2830, supra, as follows:

On page 520, after line 22, add the following new subsection:

(d) EFFECT OF FORECLOSURE.—Section 1232 of such Act (16 U.S.C. 3832) (as amended by subsections (b) and (c)) is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, an owner or operator that is a party to a contract entered into under this chapter shall not be required to make repayments to the Secretary of amounts received under such contract if the land that is subject to such contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This subsection shall not void the responsibilities of such an owner or operator under the contract if such owner or operator resumes control over the property that is subject to the contract within the period specified in the contract. Upon the resumption of such control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.".

CONRAD AMENDMENT NO. 2420

Mr. LEAHY (for Mr. CONRAD) proposed an amendment to the bill S. 2830, supra, as follows:

On page 501, at the end of title XI, add the following:

SEC. 11—. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study, and prepare and submit to the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report, concerning the effects of the multilateral elimination by all Western Hemisphere nations of tariffs, quotas, marketing orders, quality standards, and other limitations on agricultural trade among the nations of the Western Hemisphere on the United States and other Western Hemisphere nations.

LEVIN (AND OTHERS) AMENDMENT NO. 2421

Mr. LEAHY (for Mr. LEVIN, for himself, Mr. HATCH, and Mr. RIEGLE) proposed an amendment to the bill S. 2830, supra, as follows:

On page 455, between line 4 and 5, insert the following new subsection:

"(i) REVIEW OF REGULATIONS.—The Foreign Agricultural Service shall review the regulations governing the eligibility of trade and agricultural commodity promotion organizations for Marketing Assistance Program funds and make recommendations, within sixty days of enactment of this act, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on ways to improve the use of funds under this secton by smaller trade organizations, and advise the Committees on changes in these regulations."

LEAHY AMENDMENT NO. 2422

Mr. LEAHY proposed an amendment to the bill S. 2830, supra, as follows:

On page 879, line 12, strike out "or".

On page 879, line 13, strike out the period and insert in lieu thereof "; or".

On page 879, between lines 13 and 14, insert the following new subparagraph:

"(D) medicated feeds.".

On page 880, line 14, insert "medications including" after "of".

On page 881, strike out lines 1 through 6, and insert in lieu thereof the following new paragraph:

"(1) POULTRY.—

"(A) IN GENERAL.—All poultry from which the meat will be labeled as organically produced, shall be managed in accordance with this subtitle prior to (except for the first day after hatching) and during the period in which such meat is sold.

"(B) LAYING HENS.—All poultry from which the eggs will be labeled as organically produced, shall be managed in accordance with this subtitle for a period of not less than 4 months prior to the sale of such eggs.".

On page 881, line 16, insert "from birth" before the period.

On page 882, between lines 4 and 5, insert the following new subsection:

(i) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary, in carrying out the provisions of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or any other Act concerning the misbranding of meat and poultry products, may accept a certification provided by a certifying agent at the point of slaughter as proof that the meat and poultry have been raised in accordance with this subtitle.

SIMPSON (AND WALLOP) AMENDMENT NO. 2423

Mr. LEAHY (for Mr. SIMPSON, for himself and Mr. WALLOP) proposed an amendment to the bill S. 2830, supra, as follows:

SEC. . DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATED ON THE WIND RIVER INDIAN RESERVATION.

(a) IN GENERAL.—Effective only for providers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture may make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note, and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity; *provided, however,* that said assistance shall be drawn from a pool of funds not to exceed $250,000.

(b) ADMINISTRATION.—Titles I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, including crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4) for purposes of this amendment only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this amendment only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B) for purposes of this amendment "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this amendment "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) *Provided further,* That if the Secretary determines to offer the assistance described in subsection (a), the producers on a farm as specified in (a) may elect, at the producer's option, to request and receive a 12-month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States;

(1) said request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent certified mail to the nearest regional office; and

(2) written requests for deferral under (c) must be made within 60 days or enactment of this title.

GRASSLEY (AND KASTEN) AMENDMENT NO. 2425

Mr. GRASSLEY (for himself and Mr. KASTEN) proposed an amendment to the bill S. 2830, supra, as follows:

On page 499, insert between lines 9 and 10 the following new section:

SEC. 1136. LIMITATION ON RATES CHARGED BY UNITED STATES FLAG VESSELS UNDER CERTAIN CARGO PREFERENCE LAWS.

Section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (c)(1) of this section or section 901(b) of this Act, in the administration of subsection (a)(1) (and in the administration of section 901(b) of this Act by the Department of Agriculture as such section applies to any export activity, agricultural commodity, or product under subsection (b) of this section), no United States-flag vessel transporting cargo may be awarded a contract at a rate for such transport greater than 110 percent of the lowest bid of any foreign-flag vessel for the transport of such cargo.".

LEAHY (AND OTHERS) AMENDMENT NO. 2424

Mr. LEAHY (for himself, Mr. LUGAR, Mr. HARKIN, Mr. BOSCHWITZ, Mr. DOLE, Mr. PRYOR, Mr. MCCONNELL, Mr. FOWLER, Mr. WILSON, Mr. HEFLIN, Mr. BOND, Mr. DASCHLE, Mr. GORTON, and Mr. COCHRAN) proposed an amendment to the bill S. 2830, supra, as follows:

On page 17, after the item relating to section 1946, add the following new items:

TITLE ____—FOOD STAMP AND RELATED PROVISIONS

Sec. ____01. References to the Food Stamp Act of 1977.

SUBTITLE A—PROTECTING HOUSEHOLDS IN SPECIAL CIRCUMSTANCES

Sec. ____11. Restaurant meals at concessional prices for the homeless.
Sec. ____12. Emergency food for disaster victims.
Sec. ____13. Estimates in lieu of verification for homeless households with shelter costs.
Sec. ____14. Protection for participants in cash-out demonstrations.
Sec. ____15. Notifying shelters of charitable institutions program.

SUBTITLE B—PROMOTING SELF-SUFFICIENCY

Sec. ____21. Families in transitional housing.
Sec. ____22. Expanding the availability of employment and training opportunities.
Sec. ____23. Eligibility for students in other employment and training programs.

SUBTITLE C—SIMPLIFYING PROGRAM ADMINISTRATION

Sec. ____31. Categorical eligibility for recipients of State general assistance.
Sec. ____32. Simplifying resource determinations.
Sec. ____33. State flexibility in assisting households.
Sec. ____34. Simplified application requirements.
Sec. ____35. Food stamp application for general assistance households.

SUBTITLE D—PROMOTING ACCESS FOR THE ELDERLY AND DISABLED

Sec. ____41. Simplified procedure to claim excess medical deduction.
Sec. ____42. Simplified issuance procedures in rural areas.
Sec. ____43. Optional issuance procedures for low food stamp allotments.
Sec. ____44. Applicants for supplemental security income.

SUBTITLE E—PROGRAM INTEGRITY

Sec. ____51. Authorization of wholesale food concerns.
Sec. ____52. Required submission of social security numbers by retail food stores.
Sec. ____53. Improved collection of information from retail food stores.
Sec. ____54. Employer identification and social security numbers.
Sec. ____55. Permanent disqualification for certain abuses.
Sec. ____56. Fines for retail food stores and wholesale food concerns that accept loose coupons.
Sec. ____57. Fines for unauthorized third parties that accept food stamps.
Sec. ____58. Fraud claims repayment.
Sec. ____59. Computer fraud penalties.
Sec. ____60. Increased fines for coupon trafficking.

SUBTITLE F—PROGRAM IMPROVEMENTS

Sec. ____61. Food Stamp Act provisions.
Sec. ____62. Commodity distribution program and commodity supplemental food programs.
Sec. ____63. Soup kitchens and food banks.
Sec. ____64. Continuation of provision of cheese and nonfat dry milk.
Sec. ____65. Processing agreements.
Sec. ____66. Nutrition education authorization.

SUBTITLE G—MISCELLANEOUS
Sec. ____71. Commodity distribution reform.
Sec. ____72. Temporary emergency food assistance program.
Sec. ____73. Commodity distribution program; commodity supplemental food programs.
Sec. ____74. Older Americans nutrition programs.
Sec. ____75. Food stamp program.
Sec. ____76. Assistance to homeless preschool children.
Sec. ____77. Food distribution program on Indian reservations.
Sec. ____78. Audit of simplified food stamp applications at Social Security Administration offices.
Sec. ____79. School lunch study.
SUBTITLE H—INDIAN NUTRITION GARDENING PROGRAM
Sec. ____81. Purposes.
Sec. ____82. Definitions.
Sec. ____83. Indian subsistence farming grant program.
Sec. ____84. Extension Service.
Sec. ____85. Training and technical assistance.
Sec. ____86. Tribal consultation.
Sec. ____87. Use of grants.
Sec. ____88. Amount and term of grant.
Sec. ____89. Other requirements.
Sec. ____90. Native Hawaiian Garden Program.
Sec. ____91. Authorization for appropriations.
Sec. ____92. Assistance to Native Hawaiians.
SUBTITLE I—EFFECTIVE DATES
Sec. ____95. Effective dates.

On page 1081, after line 10, add the following new title:

TITLE ____—FOOD STAMP AND RELATED PROVISIONS

SEC. ____01. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), except to the extent otherwise specifically provided.

Subtitle A—Protecting Households in Special Circumstances

SEC. ____11. RESTAURANT MEALS AT CONCESSIONAL PRICES FOR THE HOMELESS.

Section 3(g)(9) (7 U.S.C. 2012(g)(9)) is amended by inserting before the period at the end the following: "and by private establishments (other than private nonprofit establishments and private nonprofit shelters previously described in this paragraph) that contract with the appropriate agency of the State to offer meals for such persons at concessional prices".

SEC. ____12. EMERGENCY FOOD FOR DISASTER VICTIMS.

Section 5(h) (7 U.S.C. 2014(h)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster.

"(B) The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary of not greater than the applicable maximum monthly allotment for the household size.

"(C) The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.".

SEC. ____13. ESTIMATES IN LIEU OF VERIFICATION FOR HOMELESS HOUSEHOLDS WITH SHELTER COSTS.

Section 11(e)(3)(E) (7 U.S.C. 2020(e)(3)(E)) is amended by inserting before the final semicolon a period and the following: "Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. The Secretary may issue regulations to preclude the use of the estimates for households with extremely low shelter costs in which event the following sentence shall not apply. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses".

SEC. ____14. PROTECTION FOR PARTICIPANTS IN CASH-OUT DEMONSTRATIONS.

(a) COMPENSATION FOR SALES TAX.—Section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (ii), no waiver or demonstration program shall be approved, and no waiver or demonstration program shall be continued, under this paragraph after September 30, 1991, unless—

"(I) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project; and

"(II) the State agency conducting the demonstration project pays the cost of the increased allotments.

"(ii) Clause (i) shall not apply if—

"(I) the waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides;

"(II) in the case of a demonstration projected approved prior to October 1, 1990, the jurisdiction in which the demonstration project operates does not apply sales tax to a significant number of food items; or

"(III) in the case of a project in which the payment of the value of allotments of the average value of allotments by household size in the form of cash to eligible households all of whose members are entitled to supplemental security have benefits under title XVI of this act.

(b) CONFORMING AMENDMENT.—Section 8(b) (7 U.S.C. 2017(b)) is amended—

(1) by inserting after "of the allotment" the following: "(or benefits issued in lieu of the allotment)"; and

(2) by inserting after "of an allotment" the following: "(or benefits issued in lieu of an allotment)".

SEC. ____15. NOTIFYING SHELTERS OF CHARITABLE INSTITUTIONS PROGRAM.

The Secretary of Agriculture or the appropriate State agency shall undertake efforts to inform shelters for the homeless and for battered women and children of—

(1) the availability of commodity donations to charitable institutions;

(2) the criteria for qualifying to receive the donations; and

(3) how application can be made to receive the donations.

Subtitle B—Promoting Self-Sufficiency

SEC. ____21. FAMILIES IN TRANSITIONAL HOUSING.

(a) DEFINITION OF TRANSITIONAL HOUSING.—Section 3 (7 U.S.C. 2012) is amended by adding at the end the following new subsection:

"(t) 'Transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable period of time, as determined by the Secretary of Housing and Urban Development. 'Transitional housing' includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children.".

(b) THIRD PARTY PAYMENTS.—Section 5(k)(2) (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (F) and inserting the following new subparagraph:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing; or".

SEC. ____22. EXPANDING THE AVAILABILITY OF EMPLOYMENT AND TRAINING OPPORTUNITIES.

(a) DEMONSTRATION PROJECT EXPANDING STATE FLEXIBILITY.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following new subparagraph:

"(O) The Secretary shall conduct a demonstration project to give priority in the provision of services under this paragraph to voluntary participants, including both exempt and nonexempt participants, except that giving priority to the participants shall not excuse the State agency from compliance with the performance standards set forth in subparagraphs (K) and (L). Voluntary participation in an employment and training program under this subparagraph shall not affect the requirements of the job opportunities and basic skills training program established under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).".

(b) PROGRAMS THAT FOCUS ON SELF-EMPLOYMENT OPPORTUNITIES.—

(1) AUTHORIZATION FOR PROGRAMS.—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(A) by redesignating clause (vi) as clause (vii); and

(B) by inserting after clause (v) the following new clause:

"(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.".

(2) EXEMPTION FOR RESOURCES USED IN PROJECTS.—Section 5(g) of such Act (7 U.S.C. 2014(g)) is amended—

(A) by designating the first, second, third, and fourth sentences as paragraphs (1) through (4), respectively; and

(B) in paragraph (3) (as so redesignated), by inserting before the period at the end of the paragraph the following: "and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes

adequate participation in an employment and training program under section 6(d)".

(c) ENHANCED WAIVER AUTHORITY FOR DEMONSTRATION PROJECTS.—Section 17(b) of the Act (7 U.S.C. 2026(b)) is amended by—

(1) in the second sentence of paragraph (1) inserting after "eligible households" the following "or a project authorized under paragraph (3) of this subsection";

(2) inserting at the end a new paragraph (3) to read as follows:

"(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act. Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 6(d) to permit a State to operate an employment and training program for food stamp recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F of title IV of the Social Security Act, and any work experience program conducted as part of such project shall be conducted in conformity with section 482(f) of part F of title IV of such Act. A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of sections 402(a)(19) and 402(g) of part A of title IV of the Social Security Act (but not including the provision of transitional benefits under sections 402(g)(1)(A)(ii) through (vii) and sections 481–487 of part F of title IV of such Act, and each reference to aid to families with dependent children in those sections shall be deemed to be a reference to food stamps for purposes of the demonstration project. Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which food stamp benefits are converted to cash shall occur only with the consent of the participant.

"(B) For the purposes of any project conducted under this paragraph, the provisions of this Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402 of part A and sections 481–487 of part F of title IV of the Social Security Act. At least 60 days prior to the granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraphs for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Waivers may be granted under this paragraph to conduct projects at any one time of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

"(C) A waiver for a change in program rules may be granted under this paragraph ony for a demonstration project that has been approved by the Secretary, is being evaluated by the Secretary, and that will be in operation for no more than 4 years.".

SEC. ____23. ELIGIBILITY FOR STUDENTS IN OTHER EMPLOYMENT AND TRAINING PROGAMS.

Subsection (e) of section 6 (7 U.S.C. 2015(e)) is amended to read as follows:

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half time in an institution of higher education, unless the individual—

"(1) is under 18 years of age or is age 50 or older;

"(2) is not physically and mentally fit;

"(3) is attending or assigned to an institution of higher education through or in compliance with the requirements of—

"(A) a program established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) an employment and training program established under this section;

"(C) a program established under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(D) another program for the purpose of employment and training operated by a State or local government;

"(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

"(5) is—

"(A) a parent with responsibility for the care of a dependent child under the age of 6; or

"(B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual both to attend class and to satisfy the requirements of paragraph (4);

"(6) is receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(7) is so enrolled as a result of participation in the work incentive program established under title IV of the Social Security Act or its successor programs.".

Subtitle C—Simplifying Program Administration

SEC. ____31. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF STATE GENERAL ASSISTANCE.

Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by inserting after "receives benefits under" the following: "a state or local general assistance program that complies with standards established by the Secretary for ensuring that such programs are appropriate for categorical treatment (except that no member of any such household who is disqualified under sections 6 or 16(e)(1) may receive benefits),".

SEC. ____32. SIMPLIFYING RESOURCE DETERMINATIONS.

Section 5(g) (7 U.S.C. 2014(g)) (as amended by section ____23(b)(2) of this Act) is further amended by adding at the end the following new paragraph:

"(5) The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that the household is unlikely to be able to sell for any significant return because the interest of the household is so slight or because the cost of selling the interest of the household would be excessive in relation to the value of the interest. Resources so identified shall be excluded as inaccessible resources.".

SEC. ____33. STATE FLEXIBILITY IN ASSISTING HOUSEHOLDS.

Paragraph (3) of section 8(c) (7 U.S.C. 2017(c)(3)) is amended to read as follows:

"(3) A State agency may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e). A State agency that does not elect to provide aggregate allotments under this paragraph shall provide any household that applies after the 15th day of the month and that is entitled to expedited service under section 11(e)(9) with the allotment of the household for the month after the month of application not later than the first business day of the month.".

SEC. ____34. SIMPLIFIED APPLICATION REQUIREMENTS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended—

(1) in the third sentence, by striking "instructions" and inserting "(on or near its front cover) explanations"; and

(2) by striking the sentence beginning "One adult member" and inserting the following new sentences: "The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process.".

SEC. ____35. FOOD STAMP APPLICATION FOR GENERAL ASSISTANCE HOUSEHOLDS.

Section 11(i)(3) (7 U.S.C. 2020(i)(3)) is amended by—

(1) striking "state or local general assistance grant" and inserting in lieu thereof "a general assistance grant provided under basic eligibility standards established by the state"; and

(2) inserting before the semicolon at the end thereof the following: ", and households applying for a local general assistance grant in local jurisdictions in which the agency administering the general assistance program also administers the food stamp program shall be provided an application for participation in the food stamp program at the time of their application for general assistance, along with information concerning how to apply for the food stamp program".

Subtitle D—Promoting Access for the Elderly and Disabled

SEC. ____41. SIMPLIFIED PROCEDURE TO CLAIM EXCESS MEDICAL DEDUCTION.

The last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by inserting before the period at the end the following: ", shall rely on reasonable estimates of the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period".

SEC. ____42. SIMPLIFIED ISSUANCE PROCEDURES IN RURAL AREAS.

Section 11(e) (7 U.S.C. 2020(e)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting a semicolon;

(3) by striking "and" at the end of paragraph (23);

SEC. ____43. SIMPLIFIED ISSUANCE PROCEDURES IN RURAL AREAS.

Section 11(e) (7 U.S.C. 2020(e)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting a semicolon;

(3) by striking "and" at the end of paragraph (23);

(4) by striking the period at the end of paragraph (24) and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within the area where the mail loss rates exceed standards set by the Secretary.".

SEC. ____43. OPTIONAL ISSUANCE PROCEDURES FOR LOW FOOD STAMP ALLOTMENTS.

Section 8(a) (7 U.S.C. 2017(a)) (as amended by section ____42 of this Act) is further amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) A State agency may establish procedures that allow a household whose regular food stamp benefits does not exceed $20, at the option of the household, to receive, in lieu of the food stamp benefits of the household for the initial period under subsection (c) and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed $60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 11(e) (except that no household shall begin to receive combined allotments under this paragraph until the household has complied with all applicable verification requirements of subsection 11(e)(3)) and (with respect to the first aggregate allotment so issued) within the time provided for allotments under section 7(h).".

SEC. ____44. APPLICANTS FOR SUPPLEMENTAL SECURITY INCOME.

Section 11(j)(1) (7 U.S.C. 2020(j)(1)) is amended by inserting after "recipient of" the following: "supplemental security income or".

Subtitle F—Program Integrity

SEC. ____51. AUTHORIZATION OF WHOLESALE FOOD CONCERNS.

Section 9(b)(1) (7 U.S.C. 2018(b)(1)) is amended by inserting after the first sentence the following new sentence: "No colocated wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households.".

SEC. ____52. REQUIRED SUBMISSION OF SOCIAL SECURITY NUMBERS BY RETAIL FOOD STORES.

Section 9(c) (7 U.S.C. 2018(c)) is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second and third sentences as paragraph (2); and

(3) by adding at the end the following new paragraph:

"(3) Regulations issued pursuant to this Act shall require that an applicant retail food store or wholesale food concern provide social security numbers of the officers, owners (except in the case of publicly-held corporations), and on-site managers of the applicant retail food store or wholesale food concern.".

SEC. ____53. IMPROVED COLLECTION OF INFORMATION FROM RETAIL FOOD STORES.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section ____52 of this Act) is further amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to issue regulations providing for improved collection of information from retail food stores and wholesale food concerns, including periodic reporting of information needed to ensure the integrity of the program.".

SEC. ____54. EMPLOYER IDENTIFICATION AND SOCIAL SECURITY NUMBERS.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section ____53 of this Act) is further amended by adding at the end the following new paragraph:

"(5) Regulations issued under this Act shall require an applicant retail food store or wholesale food concern to provide the employer identification number assigned to the store or concern by the Internal Revenue Service and the social security numbers of the officers, owners, and on-site managers of the store or concern.".

SEC. ____55. PERMANENT DISQUALIFICATION FOR CERTAIN ABUSES.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting after "substantial evidence" the following: "(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a finding of the sale of firearms, ammunition, explosives, or controlled substances (as the term is defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence that the store or food concern had an effective policy and program in effect to prevent violations of this Act.".

SEC. ____56. FINES FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ACCEPT LOOSE COUPONS.

Section 12(e) (7 U.S.C. 2021(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for change-making as specified in regulations issued under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. ____57. FINES FOR UNAUTHORIZED THIRD PARTIES THAT ACCEPT FOOD STAMPS.

Section 12 (7 U.S.C. 2021) is amended by adding at the end the following new subsection:

"(f) The Secretary may impose a fine against any firm or individual not approved by the Secretary to accept and redeem food coupons that violates any provision of this Act, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. ____58. FRAUD CLAIMS REPAYMENT.

The last sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)) is amended by striking "thirty" and inserting "10".

SEC. ____59. COMPUTER FRAUD PENALTIES.

(a) USE OF AN ACCESS DEVICE.—Section 15(b) (7 U.S.C. 2024(b)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "or authorization cards" the first place it appears and inserting ", authorization cards, or an access device"; and

(B) by inserting after "a value of $100 or more," the following: "or if the item used, transferred, acquired, altered, or possessed is an access device,"; and

(2) by adding at the end the following new paragraph:

"(3) As used in this section, the term 'access device' means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act.".

(b) CONFORMING CHANGE.—The first sentence of section 15(g) (7 U.S.C. 2024(g)) is amended by striking "or authorization cards" and inserting ", authorization cards, an access device, or anything of value obtained by use of an access device,".

SEC. ____60. INCREASED FINES FOR COUPON TRAFFICKING.

Section 15(c) (7 U.S.C. 2024(c)) is amended by striking "$10,000" each place it appears and inserting "$20,000".

Subtitle F—Improvements Program

SEC. ____61. FOOD STAMP ACT PROVISIONS.

Paragraph (1) of section 16(h) (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for the fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through

1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.".

SEC. ____62. COMMODITY DISTRIBUTION PROGRAM AND COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

The Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "15 per centum" and all that follows through "and (B)" and inserting the following: "the sum of (A) 20 percent of the amount appropriated for the commodity supplemental food program and (B) 15 percent of".

SEC. ____63. SOUP KITCHENS AND FOOD BANKS.

Section 110(b) of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization whose primary purpose is to distribute food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.".

SEC. ____64. CONTINUATION OF PROVISION OF CHEESE AND NONFAT DRY MILK.

Section 130 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 130. CONTINUATION OF PROVISION OF CHEESE AND NONFAT DRY MILK.

"Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 1995 to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program authorized under section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) before the end of each fiscal year.".

SEC. ____65. PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1990" and inserting "1995".

SEC. ____66. NUTRITION EDUCATION AUTHORIZATION.

Section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)) is amended by adding at the end the following new paragraph:

"(3) There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343(d)) and this section $63,000,000 for fiscal year 1991, $68,000,000 for fiscal year 1992, $73,000,000 for fiscal year 1993, $78,000,000 for fiscal year 1994, and $83,000,000 for fiscal year 1995.".

Subtitle G—Miscellaneous

SEC. ____71. COMMODITY DISTRIBUTION REFORM.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended—

(1) by redesignating section 14 as section 15; and

(2) by inserting after section 13 the following new sections:

"SEC. 14. STATE OPTION CONTRACTS FOR COMMODITIES.

"(a) PAYMENT BY SECRETARY.—The Secretary may use the funds of the Commodity Credit Corporation and the funds available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost of food or the processing or packaging of food on behalf of a State distribution agency.

"(b) REIMBURSEMENT BY STATE DISTRIBUTION AGENCY.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed-on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or the appropriation originally charged for the food, processing, or packaging, as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full for all such foods that have been delivered to the State, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.

"SEC. 15. COMMODITY PROCESSING PROGRAM.

"(a) IN GENERAL.—In accordance with section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)), the Secretary shall establish a commodity processing program to promote and facilitate the reprocessing of commodities into end-use products that are useful and suitable to the needs of local agencies distributing or making use of the commodities.

"(b) REGULATIONS.—The Secretary shall issue regulations for the commodity processing program that—

"(1) provide uniformity, to the maximum extent possible, in conducting processing agreements under the direction of the Secretary;

"(2) take into account the preferences and needs of local agencies using commodities; and

"(3) foster administrative and cost efficiency.".

SEC. ____72. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

The Temporary Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in section 203A, by adding at the end the following new sentence: "The Secretary may undertake a demonstration project in which part or all of one or more surplus commodities are processed into an end product that is more readily usable for household consumption.";

(2) in section 203B, by adding at the end the following new subsection:

"(e) The Secretary shall not require a State to impose additional recordkeeping or application requirements on individual recipients, so long as the Secretary has not determined that the recordkeeping or application procedure of the individual recipient agency is inadequate.";

(3) in the second sentence of section 204(c)(2), by inserting after "handling," the following: "repackaging, processing,"; and

(4) in section 210, by striking subsection (c) and inserting the following new subsection:

"(c)(1) With respect to the commodity distribution program under this Act in effect during the period ending on the date specified in section 212, the Secretary shall as early as feasible but not later than the beginning of each of the fiscal years during the period, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available during the fiscal year.

"(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1).".

SEC. ____73. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

(a) ELDERLY.—The Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "supplemental feeding programs" and inserting "supplemental feeding programs serving women, infants, and children or elderly persons, or both,"; and

(2) in section 5(f), by inserting after "additional sites for the program" the following: ", including sites that serve only elderly persons,".

(b) REFERRALS TO OTHER PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN.—Section 5 of such Act (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(h) Each State agency administering the commodity supplemental food program shall—

"(1) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult participant in and each adult applicant for the commodity supplemental food program;

"(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

"(3) provide to individuals applying to the commodity supplemental food program, or reapplying, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the program, if the individuals are not participating in the program and appear to have family income below the applicable maximum income limits for the program.".

(c) ADVANCE WARNING FOR DECLINE IN PERSONS SERVED UNDER PROGRAM.—Section 5 of such Act (7 U.S.C. 612c note) (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(i)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

"(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify

all local agencies operating the program in the State of the decline.".

SEC. ____74. OLDER AMERICANS NUTRITION PROGRAMS.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended—

(1) by inserting after "Secretary of Agriculture" the following: "or is made available pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))"; and

(2) by inserting after "eligible recipient agencies" the following: "(including agencies providing nutrition services under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)".

SEC. ____75. FOOD STAMP PROGRAM.

(a) ELDERLY AND DISABLED PERSONS IN THE TERRITORIES.—

(1) DEFINITION OF FOOD.—Section 3(g) (7 U.S.C. 2012(g)) is amended—

(A) in clause (3), by striking "under title XVI" and inserting "or disability or blindness payments under title I, II, X, XIV, or XVI"; and

(B) in clause (7)—

(i) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(ii) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

(2) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) is amended—

(A) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(B) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

(b) BUDGETING INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 5(f) (7 U.S.C. 2014(f)) is amended to read as follows:

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

"(B) In the case of the first month, or at the option of the State, the first and second months, during a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.

"(C) Households specified in clauses (i), (ii), and (iii) of section 6(c)(1)(A) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B).".

(2) CALCULATION OF HOUSEHOLD INCOME.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning October 1, 1988, and ending on the first day of the first month beginning at least 120 days after the date of enactment of this Act, a State agency may elect to implement the amendment to section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) made by section 202(a) of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1656) (with respect to the requirement that income be calculated on a prospective basis in the case of households that are not required to report monthly on their income and household circumstances).

(B) PAYMENT ERROR RATES.—Notwithstanding section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), during the period referred to in paragraph (1), errors resulting solely from implementation by a State agency of the amendment referred to in paragraph (1) shall not be included in payment error rates determined under section 16(c) of such Act.

(c) NUTRITION EDUCATION.—Section 11(f) (7 U.S.C. 2020(f)) is amended by striking the first sentence and inserting the following new sentence: "To encourage the purchase, preparation, and consumption of nutritious foods, the Secretary is authorized to assign responsibility for the nutrition education of people eligible for food stamps to the Cooperative Extension Service, in cooperation with the Food and Nutrition Service.".

SEC. ____76. ASSISTANCE TO HOMELESS PRESCHOOL CHILDREN.

Section 18(f)(5)(A) of the National School Lunch Act (42 U.S.C. 1769(f)(5)(A)) (as added by section 107(2) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101-147; 103 Stat. 886)) is amended by striking the first sentence and inserting the following new sentence: "Except as provided in subparagraph (B), the Secretary shall expend to carry out this section, from amounts appropriated to carry out this Act, not less than $500,000 in fiscal year 1991, not less than $750,000 in fiscal year 1992, not less than $2,000,000 in fiscal year 1993, and not less than $3,000,000 in fiscal year 1994, in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966, except that not more than $5,000,000 shall be expended for the program authorized by this subsection in any fiscal year and, in any fiscal year in which funds are not used to carry out this sentence, the Secretary shall return the unused portion to the Treasury.".

SEC. ____77. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) INCREASE IN FOOD PACKAGES.—The food packages provided to participants in the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall be increased by approximately 10 percent to provide a greater amount of foods to needy participants.

(b) INCREASE IN VARIETY.—The Secretary of Agriculture, in taking into account to views of participants, the Indian Health Service, and participating tribal organizations that administer the food distribution program on Indian reservations, shall increase the variety of foods, or develop procedures to increase the variety of foods, provided to participants in the program to better address the nutritional problems faced by participating tribal members, including the problems of hypertension, diabetes and the malabsorbtion of certain nutrients.

(c) DEADLINE.—The Secretary shall carry out this section not later than 1 year after the date of enactment of this Act.

SEC. ____78. AUDIT OF SIMPLIFIED FOOD STAMP APPLICATIONS AT SOCIAL SECURITY ADMINISTRATION OFFICES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the program established under subsections (i) and (j) of section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) under which an applicant for or recipient of Social Security benefits may make a simple application to participate in the food stamp program at social security offices, including an examination of whether—

(1) the program is operating effectively;

(2) the program should be expanded to include all applicants for and recipients of social security benefits; and

(3) a joint application is feasible for benefits under the the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).

(b) REPORT.—Not later than September 30, 1991, the Comptroller General shall deliver a report on the results of the study required by this section to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Special Committee on Aging of the Senate.

SEC. 79. SCHOOL LUNCH STUDY.

(a) PURPOSES.—It is the purpose of the study required by this section to provide an updated analysis of the national school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) that will serve as a basis for evaluating changes to the program and will help ensure that the program is structured and administered in such a way as to provide the greatest number of children with nutritious meals.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the national school lunch program to determine—

(1) the quantity of bonus commodities lost, by State, since the 1987-88 school year;

(2) the amount of indirect costs assessed against local school food service authorities by schools;

(3) the current cost of providing a school lunch by component, including the costs of labor;

(4) why those schools that voluntarily dropped the national school lunch program during the 1980's made their decision to do so;

(5) if low-income children in schools that voluntarily dropped out of the national school lunch program continued to receive meals free of charge;

(6) the changes in responsibility, and costs associated with those changes, that have occurred since 1980 at the State agency level in the administration of the school programs at the State level;

(7) the changes in responsibility and costs to local school food service authorities of satisfying the Federal administrative program requirements, including the cost of audits; and

(8) what school food service authorities charge students for nonfree or reduced price meals.

(c) REPORT.—Not later than October 1, 1992, the Secretary shall submit a final report to Congress on results of the study conducted under this section.

Subtitle H—Indian Nutrition Gardening Program

SEC. ____81. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of gardening programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian and Alaska Native Gardening Grant Program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. ____82. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any gardening program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. ____83. INDIAN SUBSISTENCE FARMING GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish an Indian gardening grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of gardening operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the gardening project proposed by the applicant;

(B) the number of Indians to be employed in the project;

(C) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(D) the number of Indians who are projected as eligible recipients of produce grown on for the project.

SEC. ____84. EXTENSION SERVICE.

The Secretary shall provide technical assistance and training through the Extension Service to Indian tribes and intertribal consortia for the development and operation of gardening projects designed to improve the nutritional health of participating tribal members. The extension service shall provide—

(1) appropriate training and educational programs;

(2) equipment, tools, and materials needed for gardening; and

(3) seeds, seedlings, or plants, fertilizer, soil enhancers, or other gardening supplies to assist Indian tribes and intertribal consortia in the development of gardening projects.

SEC. ____85. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service shall conduct, with respect to the projects established under this subtitle, site surveys, workshops and short courses on such topics as spacing, depth of seed placement, soil types, and other aspects of gardening operations.

SEC. ____86. TRIBAL CONSULTATION.

An Indian tribe participating in any gardening program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian gardening project.

SEC. ____87. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. ____88. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $500,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. ____89. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. ____90. NATIVE HAWAIIAN GARDENING PROGRAM.

Notwithstanding any other provision of this subtitle, the Secretary shall by regulation develop a nutrition gardening program for Native Hawaiians in areas in Hawaii set aside for the use of Native Hawaiians under the Act of July 9, 1921. Such regulations shall be based, to the extent practicable, on the requirements of this subtitle. Grants made under this subtitle for the benefit of Native Hawaiians shall be used, to the extent practicable, for the purposes set forth in this subtitle. For purposes of this section the term "Native Hawaiian" means a person who is eligible to receive an assignment of land under the Act of July 9, 1921 (42 Stat. 108).

SEC. ____91. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $8,000,000 for each of the fiscal years 1991 and 1992 and $10,000,000 for each of the fiscal years 1993 and 1994.

SEC. ____92. ASSISTANCE TO NATIVE HAWAIIANS.

Notwithstanding any other provision of Subtitle H, the Secretary may provide grants to an agency of the State of Hawaii administering assistance to Native Hawaiians under the Act of July 9, 1921 (42 Stat. 108) from funds appropriated under authority of section ____90 of this subtitle. Grants under this section shall be for components of irrigation systems not normally eligible for assistance under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(h)), including water meters, connecting pipe and related connection costs, if such components are necessary for the operation of systems providing agricultural irrigation to Hawaiian Home Lands.

Subtitle I—Effective Dates

SEC. ____95. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall become effective and be implemented 120 days after the date of enactment.

(b) SPECIAL EFFECTIVE DATES.—

(1) Sections ____11, ____12, ____13, ____22, ____23, ____31, ____32, ____34, ____41, ____43, ____44, and ____71(b), and the amendments made by such sections, shall become effective and be implemented on April 1, 1991.

(2) Section ____21, and the amendments made by such section, shall become effective and implemented on February 1, 1991.

(3) Section ____61, and the amendments made by such section, shall become effective and implemented on October 1, 1990.

HARKIN AMENDMENTS NOS. 2426 AND 2427

Mr. HARKIN proposed two amendments to amendment No. 2425 proposed by Mr. GRASSLEY to the bill S. 2830, supra, as follows:

AMENDMENT NO. 2426

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

"(k) OCEAN FREIGHT CHARGES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food and export assistance provided by the Federal government in any fiscal year under this Act, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(2) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under paragraph (1).

"(3) DEFINITIONS.—As used in this subsection:

"(A) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed immediately prior to the date of enactment of this Act).

"(B) FOOD ASSISTANCE.—The term "food assistance" means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

"SEC. 407. FOOD ASSISTANCE TO FOREIGN COUNTRIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal government in any fiscal year, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(b) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section immediately existed prior to the date of enactment of this Act).

"(2) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

AMENDMENT NO. 2427

On page 2 of the amendment, strike out all after "SEC.—" and insert in lieu thereof the following:

"(k) OCEAN FREIGHT CHARGES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of transportation shall finance any ocean freight charges for food and export assistance provided by the Federal government in any fiscal year under this Act, to the extent that such charges are higher than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States flag vessels.

"(2) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under paragraph (1).

"(3) DEFINITIONS.—As used in this subsection:

"(A) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed immediately prior to the date of enactment of this Act).

"(B) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

"SEC. 407. FOOD ASSISTANCE TO FOREIGN COUNTRIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal government in any fiscal year, to the extent that such charges are higher than would otherwise be the case because of the application or a requirement that agricultural commodities be transported in United States flag vessels.

"(b) APPLICATION OF OTHER ACTS.—Subsection (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954 (as such section immediately existed prior to the date of enactment of this Act).

"(2) FOOD ASSISTANCE.—The term 'food assistance' means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).".

GRASSLEY (AND OTHERS) AMENDMENT NO. 2428

Mr. LEAHY (for Mr. GRASSLEY, Mr. DOLE, Mrs. KASSEBAUM, and Mr. HARKIN) proposed an amendment to the bill S. 2830, supra, as follows:

On page 802, after line 24, add the following new section:

SEC. 1497. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary for Science and Education, acting through the Cooperative State Research Service special grants program, may provide assistance to eligible entitles to encourage and assist efforts made by research institutions to improve the efficiency and effectiveness of safety and inspection systems for livestock products.

(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section an entity—

(1) shall be a Land Grant college or university or any other college or university with demonstrable capability in the agriculture sciences, an individual research institution, or a consortia of such institutions;

(d) CONTRIBUTION BY ENTITY.—

(1) REQUIREMENT.—To be eligible to receive assistance under this section, an entity shall agree that such entity will, with respect to the costs to be incurred by the entity in conducting the research for which the assistance is provided, make available (directly or through donations) non-Federal contributions toward such costs in an amount equal to 50 percent of such costs.

(2) NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions, required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(e) ADMINISTRATION.—

(2) DISTRIBUTION.—In providing assistance under this section, the Assistant Secretary for Science and Education shall to the extent practicable ensure that the amount of such assistance is provided equally to eligible entities representing the beef, pork, poultry, and aquaculture industries.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as necessary for each of the fiscal years 1991 through 1995.

LEAHY AMENDMENT NO. 2429

Mr. LEAHY proposed an amendment to the bill S. 2830, supra, as follows:

Section 1054(b)(4)(A) of the bill (as amended by amendment No. 2304)(page 11, lines 16 through 20 of the amendment No. 2304.) is amended to read as follows:

"(A) IN GENERAL.—The program benefits to be offered participating producers shall include the cost of option premiums and payments of not more than 15 cents per bushel to cover transaction fees, interest, and other expenses.".

On page 941, line 3, strike out "17(a)(7)" and insert in lieu thereof "17(a)(8)".

On page 942, line 16, strike out ", 17(a)(8)(C)".

On page 943, strike out lines 6 through 9, and insert in lieu thereof:

"(a) IN GENERAL.—Subsections (a) and (b) of section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 1360(a) and (b)) are amended to read as follows:".

On page 967, line 25, insert end quotations marks and a period after the period.

On page 968, strike out line 1 and all tht follows through line 5 on page 969, and insert in lieu thereof the following:

"(b) COOPERATION IN INTERNATIONAL EFFORTS.—Subsections (d) and (e) of section 17 of such Act (7 U.S.C. 1360(d)(e)) are amended to read as follows:".

On page 970, line 12, strike out "(e)(1)" and insert in lieu thereof "(e) STUDY.—" (1)".

On page 971, strike out line 14 and all that follows through the matter before line 1 on page 972, and insert in lieu thereof the following:

(2) by striking the items relating to subsections (a) and (b) of section 17 and inserting the following:

"(a) Pesticides or devices intended for export.
"(1) In general.
"(2) Export of pesticides.
"(3) Temporary waiver for the control of communicable disease.
"(4) Temporary waiver in circumstances of famine.
"(5) Statutory construction.
"(6) Additional requirements for the export of certain pesticides.
"(7) Restriction on the export of certain pesticides.
"(8) Labels.

"(9) Special exemption for the export of research or experimental pesticides.
"(b) Notices of regulatory events furnished to foreign government.
"(1) In general.
"(2) Content of notice.".

and

(3) by striking the item relating to subsections (d) and (e) of section 17 and inserting the following:

"(d) Cooperation in international efforts.
"(e) Study.".

On page 615, strike lines 1 through 5;

On line 6, strike "SEC. 1349" and insert "SEC. 1348";

On line 13, strike "SEC. 1350" and insert "SEC. 1349";

On page 616, line 1, strike "SEC. 1351" and insert "SEC. 1350";

On page 618, line 3, strike "SEC. 1352" and insert "SEC. 1351".

(a) striking "(c)" and inserting:

"(c) ANIMAL INSPECTION AND VETERINARY DIAGNOSTICS.—(1) ANIMAL INSPECTION.—The Secretary may prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance.

"(2) VETERINARY DIAGNOSTICS.—Section 11 of the Act of May 29, 1884 (58 Stat. 734, as amended, 21 U.S.C. 114a) is amended by inserting immediately following the first sentence: 'The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of carrying out the provisions of this section which relate to veterinary diagnostics.

"(3) LIABILITY.—Any person for whom an activity related to the importation, entry, or exportation of an animal, article, or means of conveyance or relating to veterinary diagnostics, is performed pursuant to the section, shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by 31 U.S.C. 3717. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation.

"(4) LIENS.—

"(A) IN GENERAL.—The Secretary shall have a lien against the animal, article, means of conveyance, or facility for which services have been provided under this subtitle for the fees, any late payment penalty, and any accrued interest assessed under this subsection.

"(B) OTHER ANIMALS, ETC.—In the case of any person who fails to make payment when due under this subsection, the Secretary shall have a lien against any animal, article, or means of conveyance thereafter imported, moved in interstate commerce, or attempted to be exported by the person after the date of such failure until the date on which such owner or operator make full payment to the Secretary under this subsection.

"(C) SALE OF ANIMALS, ETC.—

"(i) AUTHORITY.—The Secretary may, if a person does not pay fees, late payment penalties, or accrued interest on such, after providing reasonable notice of default to such person, sell at public sale after reasonable public notice, or otherwise dispose of, any such animal, article, means of conveyance or facility on which the Secretary has a lien under this paragraph.

"(ii) EXCESS PROCEEDS.—If the sale proceeds under clause (i) exceed the fees due, any late payment penalty assessed, any accrued interest on such, and the expenses associated with the sale; such excess shall be paid to the owner of the animal, article, means of conveyance, or facility if such owner submits an application for such excess together with proof of ownership not later than 6 months after the date of such sale. If no such application is made, such excess shall be credited to accounts that incur the costs associated with the fees collected and shall remain available until expended, without fiscal year limitation. The Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest under this subtitle.", and

(b) (on page 11) strike subparagraph "(4) and insert:

"(4) ANIMAL QUARANTINE LAWS.—For the purposes of subsection (c), the term 'Animal Quarantine Laws' means the provisions in 19 U.S.C. 1306; 21 U.S.C. 101-105, 111-131, and 134-134h; and any other statute, except 21 U.S.C. 135, administered by the Secretary relating to animal diseases or pests."

On page 97, line 23 of amendment number 2351 the "Rural Partnership Act of 1990," (as adopted on July 24, 1990) strike out "COMMUNITYU" and insert in lieu thereof "COMMUNITY".

On page 100, line 11 of amendment number 2351 (as adopted on July 24, 1990), strike out "34(i)" and insert in lieu thereof "34(h)".

On page 100, line 12 of amendment number 2351 (as adopted on July 24, 1990), strike out "medical link project" and insert in lieu thereof "projects authorized in this subtitle".

On page 593 strike lines 9-16 and insert:

"(C) Notwithstanding any other provision of law,

"(1) the Secretary shall reduce the amounts otherwise made available for insured loans by $100,000,000 in fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(2) to the extent practicable, the Secretary, in implementing the program established under Section 351 shall guarantee loans, in an amount totaling not less than $100,000,000 in fiscal year 1991, $200,000,000 in fiscal year 1992, and $300,000,000 in each of the fiscal years 1993 through 1995.

"(D) Notwithstanding subsections (a) and (b) of section 338, the Secretary shall, as soon as practicable after the date of enactment of this subsection, make or guarantee loans at the levels authorized by this subsection for the fiscal years ending September 30, 1991, 1992, 1993, 1994, 1995.".

HARKIN AMENDMENT NO. 2430

Mr. HARKIN proposed an amendment to the bill S. 2830, supra, as follows:

Section 1962 of the bill (as added by Amendment No. 2304) is amended in the following manner (beginning on page 53 of the amendment):

In section 1962(a), (on line 10 of the amendment) immediately after the word "implement", by striking the word "a" and inserting in its place "an ongoing", and by adding the following new sentence (at the end of line 14 of the amendment): "It shall be the express goal of the program to bring about within three years of the enactment of this provision a reduction, in general and for the typical producer, of not less than one-third in the volume of documentation and paperwork, the amount of time for completion of documentation and paperwork, and the number of visits to offices of the Department of Agriculture required of producers participating in programs administered by the Department of Agriculture."

On page 53, between lines 14 and 15 of the amendment, by inserting the following new subsection 1962(b): "(b) Advisory Committee: The Secretary shall establish a standing advisory committee to assist in carrying out the program established in this section, which shall consist of not fewer than six individuals chosen from the Department of Agriculture, other government agencies and the private sector, at least two of whom must be family farmers as the Secretary may determine appropriate, with an emphasis placed upon the selection of individuals having expertise in time management and information systems management."

By redesignating subsection (b) as subsection (c) (on line 15, page 53 of the amendment).

By inserting in redesignated subsection (c), (on line 16, page 53 of the amendment) following "Secretary of Agriculture", the following: "in consultation with the committee established pursuant to subsection (b),".

By substituting in redesignated subsection (c) "recommendations" for "proposals" (on page 53, line 20 of the amendment).

By substituting "subsection (c)" for "subsection (b)" wherever it appears thereafter in the section.

By redesignating subsection (c) as subsection (d) (page 54, line 21 of the amendment).

By redesignating subsection (d) as subsection (e) (page 57, line 6 of the amendment).

In redesignated subsection (e), by inserting in paragraph (1) the word "maximum" immediately prior to the word "extent" (page 57, line 7 of the amendment).

In paragraph (2) of redesignated subsection (e), by inserting immediately before the period the following: "and the progress made in achieving the goals and purposes of program established in this section." (page 57, line 19).

CONSUMER SEAFOOD SAFETY AND QUALITY ASSURANCE ACT

HOLLINGS (AND OTHERS) AMENDMENT NO. 2431

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. KENNEDY, Mr. DANFORTH, Mr. KERRY, Mr. ROBB, Mr. PACKWOOD, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill (S. 2924) to expand the meat inspection program of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes, as follows:

Strike everything after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Consumer Seafood Safety and Quality Assurance Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Seafood safety and quality assurance program.
Sec. 5. Federal seafood standards.
Sec. 6. Registration of processing facilities and importers.
Sec. 7. Federal inspection system.
Sec. 8. Monitoring of growing and harvesting areas.
Sec. 9. Recall.
Sec. 10. Imports.
Sec. 11. Exports.
Sec. 12. Prohibited acts and penalties.
Sec. 13. Hearings and subpoenas.
Sec. 14. Whistleblower protection.
Sec. 15. Cooperation with Centers for Disease Control.
Sec. 16. Consumer education.
Sec. 17. Research priorities.
Sec. 18. Regulations.
Sec. 19. State and interagency cooperation.
Sec. 20. Recovery of costs.
Sec. 21. Exemptions and exclusions.
Sec. 22. Relation to other laws.
Sec. 23. Authorization of appropriations.

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds and declares the following:

(1) Seafood constitutes an important component of the Nation's food supply. Domestic and imported fish and fish products are consumed throughout the Nation, and are harvested and marketed by a large and diverse commercial fishing industry.

(2) Heightened awareness of the health benefits associated with seafood and a greater diversity of fish products have raised consumption rates and increased the demand for wholesome, high quality seafood.

(3) The sale of fish harvested from polluted waters and the sale of adulterated or misbranded fish products are injurious to the public welfare, destroy markets for wholesome and properly labeled and packaged fish and fish products, and result in injury to consumers and losses to the United States seafood industry.

(4) A significant number of consumer illnesses are caused by improper handling of fish and fish products in the home, and individuals dependent for dietary protein on fish obtained through recreational fishing are at particular risk.

(5) Existing Federal standards and systems of inspection and monitoring have failed to incorporate advances in science and food technology and are insufficient to ensure consumer confidence in the wholesomeness of fish and fish products.

(6) The Federal Government has the responsibility of ensuring the safety and quality of fish products sold in interstate commerce for consumption in the United States.

(7) A comprehensive national seafood safety and quality assurance program is necessary to protect public health and to maintain the position of the United States as a leading supplier of and market for fish and fish products.

(b) PURPOSES.—It is declared to be the purposes of the Congress in this Act to—

(1) safeguard the safety of fish and fish products sold in interstate commerce to consumers;

(2) increase the health benefits of consuming seafood and enhance public confidence in the wholesomeness of fish and fish products; and

(3) promote commerce in fish and fish products by encouraging the acceptance of wholesome fish and fish products in foreign and domestic markets.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "adulterated" means, with respect to any fish or fish product, that the fish or fish product—

(A) bears or contains any contaminant—

(i) for which a standard has been established under section 5(a)(1) and which is not within the limits of such standard; or

(ii) for which no standard has been established under section 5(a)(1) and whch may render the fish or fish product injurious to health;

(B) has been made or derived in whole or inpart from fish harvested in a restricted harvesting area designated under section 8 for that species;

(C) bears or contains—

(i) any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348); or

(ii) a color additive which is unsafe within the meaning of section 706(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(a));

(D) consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human food;

(E) is or has been contained in a package that is composed in whole or in part of any contaminant that may render such fish or fish product injurious to health;

(F) has any valuable constituent in whole or in part omitted or abstracted therefrom; any substance substituted wholly or in part therefor; damage or inferiority concealed in any manner; or any substance added thereto or mixed or packed therewith so as to significantly increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is; or

(G) is not in compliance with, or has not been processed in accordance with, this Act or standards and regulations promulgated under this Act;

(2) "contaminant" means any substance that may render fish or fish products injurious to health and includes—

(A) such chemicals as heavy metals, pesticides, and polychlorinated biphenyls;

(B) such parasitic or microbiological organisms as nematodes, bacteria, and viruses; and

(C) such naturally-occurring toxins as ciguatoxin and scombrotoxin.

(3) "fish" includes all finfish, mollsusks, crustaceans, amphibians, and other forms of aquatic animal and plant life, whether from wild or cultured sources, except birds and mammals.

(4) "fish product" means any food product intended for human consumption and derived in whole or in part from fish, including unprocessed fish, except any product that—

(A) contains fish in a relatively small proportion or historically has not been considered by consumers as a product of the seafood industry, and

(B) is exempted by the Secretary of Health and Human Services from the definition of fish product under such conditions as may be prescribed to assure that the fish contained in such product is not adulterated and that such product is not represented as a fish product.

(5) "inspection" means the examination, by an authorized Federal or State agent, of any fish or fish product, of any processing facility, or of any activity involving the handling or processing of any fish or fish product, to ensure that the requirements of this Act and regulations promulgated under this Act are met.

(6) "interstate commerce" means commerce—

(A) between a place in a State and a place outside such State (including a place outside the United States);

(B) between two places in a State through another State or a place outside of the United States; or

(C) within the District of Columbia or any territory or possesion of the United States.

(7) "label" means a display of written, printed, or graphic matter upon the package (not including package liners) of any article.

(8) "labeling" means all labels and other written, printed, or graphic matter upon any article or any of its packages, or accompanying such article.

(9) "misbranded" means, with respect to any fish or fish product, that—

(A) the labeling of the fish or fish product is false or misleading in any particular;

(B) the fish or fish product is offered for sale under the name of another food;

(C) the fish or fish product is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;

(D) the package of the fish or fish product is so made, formed, or filled as to be misleading;

(E) the fish or fish product does not bear a label containing—

(i) the name and place of business of the manufacturer, packer, of distributor;

(ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, except that reasonable variations may be permitted, and exemptions as to small packages or articles that are not in packages may be established by regulations promulgated by the Secretary of Health and Human Services;

(F) any word, statement, or other information required by or under authority of this Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(G) the fish or fish product purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulation under this Act unelss—

(i) the fish or fish product conforms to such definition and standard, and

(ii) the label of the fish or fish product bears the name of the food specified in the definition and standard;

(H) the fish or fish product purports to be or is represented as a food for which a standard of fill of the container of such product has been prescribed under regulations promulgated by the Secretary of Health and Human Services, and such fish or fish product falls below such standard, unless the label of the fish or fish product bears, in such manner and form as such reg-

ulations require, a statement that it falls below such standard;

((I) the fish or fish product is not subject to the provisions of subparagraph (G), unless its label bears—

(i) the common or usual name of the food, if any such common or usual name exists; and

(ii) in the case of a product that is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings may, when authorized by the Secretary of Health and Human Services, be designated as spices, flavorings, and colorings without naming each and, to the extent that compliance with this clause is impracticable or results in deception or unfair competition, exemptions shall be established through regulations promulgated by the Secretary of Health and Human Services; or

(J) the labeling or packaging of the fish or fish product contains an official mark which is not authorized under section 7 and which indicates compliance with any Federal standard applicable to fish or fish products.

(10) "official mark" means any symbol prescribed by regulations promulgated pursuant to this Act to identify the status of any fish or fish product.

(11) "package" includes any container, box, can, tin, cloth, plastic or other receptable, wrapper, or cover.

(12) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(13) "process" means, with respect to fish or fish products, to prepare or manufacture such products by canning, cooking, smoking, filleting, fermenting, or freezing to the extent that the freezing is associated with other actions related to processing (including heading and gutting), dehydrating, mincing, drying, and consumer packaging.

(14) "processing facility" means any fish processing vessel or any building, premises, structure, or other facility that is used in the handling or processing of fish or fish products intended for human consumption.

(15) "seafood" means fish products in general.

(16) "shellfish" means any species of oyster, clam, or mussel, either shucked or in the shell, and either fresh or frozen, or otherwise processed, or any part thereof.

(17) "State" means any State of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.

SEAFOOD SAFETY AND QUALITY ASSURANCE PROGRAM

SEC. 4. (a) ESTABLISHMENT OF PROGRAM.—Not later than two years after the date of enactment of this Act, the Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall establish, in accordance with this Act, a comprehensive seafood safety and quality assurance program for fish and fish products. The program shall be designed in consultation with the Secretary of Agriculture, the Secretary of Transportation, the Interstate Shellfish Sanitation Conference, the heads of other appropriate Federal and State agencies, and representatives of the seafood industry and national consumer organizations.

(b) PROGRAM REQUIREMENTS.—The program shall—

(1) be specifically designed to take into consideration the special characteristics of fish and fish products, including the distinctive characteristics, hazards, control points, and processing procedures related to different species of fish;

(2) prescribe health-based standards for safety and sanitation in the harvesting and processing of fish and fish products;

(3) be based on a comprehensive evaluation of processing and distribution of fish and fish products, including—

(A) identification and assessment of the severity of potential health risks associated with fish and fish products, and with processing and handling of fish and fish products;

(B) determination of sources and specific points of potential contamination that may adulterate fish and fish products; and

(C) assessment of the potential for persistence and multiplication or concentration of contaminants in fish and fish products;

(4) provide for procedures to prevent, eliminate, or control potential contaminants and for monitoring of those procedures;

(5) implement a system to monitor fish growing and harvesting areas;

(6) provide inspection, enforcement, and monitoring authority for State governments and compensation to the States for carrying out such functions;

(7) design and implement a national consumer education program and an information program related to health hazards associated with the human consumption of fish and fish products; and

(8) establish and administer a shellfish indicator research program and other research in furtherance of the purposes of this Act.

(c) CONSISTENCY WITH ISSC GUIDELINES.—The program established under subsection (a) shall be consistent, to the maximum extent practicable, with the guidelines for the National Shellfish Sanitation Program developed by the Interstate Shellfish Sanitation Conference.

FEDERAL SEAFOOD STANDARDS

SEC. 5. (a) FEDERAL STANDARDS.—(1) The Secretary of Health and Human Services shall develop and prescribe standards for contaminant levels of fish and fish products intended for human consumption, except with respect to contaminants for which tolerances are or will be established by the Administrator of the Environmental Protection Agency under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a). Such standards may include indicators, including indicator organisms, from which it may reasonably be inferred that a contaminant in the fish or fish product is likely to be present whenever the contaminant itself cannot be practicably detected.

(2) The Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall prescribe health-based and other appropriate standards of sanitation and quality control for the processing of fish and fish products. The standards shall—

(A) be based on the evaluation required in section 4(b)(3) and take into account the results of the Model Seafood Surveillance Program carried out by the National Marine Fisheries Service of the Department of Commerce;

(B) require the freezing or cooking of fish or fish products that are customarily consumed raw only if the Secretary of Health and Human Services determines that freezing or cooking is necessary to adequately prevent, eliminate, or control an identified source of adulteration in the specified fish species; and

(C) included all applicable (i) sanitation and good manufacturing practices established by the Secretary of Health and Human Services, (ii) sanitation and good harvesting and processing practices established by the Secretary of Commerce for vessels, and (iii) sanitation and good harvesting and processing practices contained in the National Shellfish Sanitation Program.

(3)(A) The Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall prescribe standards of identity and composition, minimum quality, label and packaging, and fill of container for fish and fish products. Such standards shall build upon existing Federal regulations and shall take into consideration any applicable international standards related to fish and fish products.

(B) In developing a standard of identity, the Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall define a common or usual name for a fish or fish product which fairly describes the nature of the fish or fish product or its characterizing ingredients. The common or usual name may include generic designations for fish or fish products which have similar nutritional properties or other characteristics affecting the marketing of food products.

(C) To promote commerce in fish and fish products, the Secretary of Commerce may establish voluntary grading criteria for fish and fish products which exceed minimum quality standards developed pursuant to this subsection.

(4) The Secretary of Commerce in cooperation with the Secretary of Health and Human Services shall prescribe standards for fish growing areas and harvesting areas. In developing such standards, the Secretaries shall consult with the Administrator of the Environmental Protection Agency, the Chairman of the Interstate Shellfish Sanitation Conference, and the heads of other appropriate Federal and State agencies and shall carry out a comprehensive assessment of the effectiveness of existing Federal standards and guidelines for classifying shellfish growing areas in minimizing—

(A) hazards associated with the human consumption of shellfish; and

(B) closure of growing areas containing safe and wholesome shellfish.

(5) The Secretary of Health and Human Services shall prescribe such other standards as such Secretary determines are necessary to carry out the provisions of this Act.

(a) REGULATIONS.—(1) In implementing this section, the Secretary of Health and Human Services and the Secretary of Commerce, respectively, shall promulgate regulations to establish the Federal seafood standards required, and such regulations or guidelines as are appropriate for applying and enforcing such standards. The Secretaries shall review such standards, regulations, and guidelines on a continuing basis, no less frequently than once every three years, and revise as necessary to reflect changes in processing methods and related advances in science and technology.

(2)(A) In developing the standards required under subsection (a)(1), the Secretary of Health and Human Services shall, within 30 days after the date of enactment of this Act, contract with the National

Academy of Sciences for a report which shall—

(i) identify the contaminants which are likely to be found in fish and fish products and which are likely to cause fish or fish products to be injurious to health;

(ii) recommend priorities for the development of standards for contaminant levels under subsection (a)(1) on the basis of health risks; and

(iii) provide such other data or assistance as such Secretary determines necessary.

(B) The National Academy of Sciences shall prepare and submit to such Secretary within 18 months after the date of enactment of this Act the report described in subparagraph (A).

(C) In promulgating regulations to implement subsection (a)(1), such Secretary shall establish standards for those contaminants which are most likely to be found in fish and fish products and which are most likely to cause fish and fish products to be injurious to human health.

(c) REPORT.—The Secretary of Health and Human Services shall report annually, beginning one year after the date of completion of the report required by subsection (b)(2), to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce and Committee on Merchant Marine and Fisheries of the House of Representatives, regarding the progress that, as of the date of such annual report, has been made to implement the standards required under subsection (a)(1). The annual report shall, among other things—

(1) describe, as of the date of such report, the research that has been conducted and the research that remains to be conducted in order to establish any of such standards that have not yet been developed;

(2) specify, with respect to each of such standards that has not yet been established, the public health significance of the failure to have established such standard;

(3) specify a timetable for the development of each such standard that has not yet been established; and

(4) estimate the costs, including the costs of research, associated with the development of each such standard.

REGISTRATION PROCESSING FACILITIES AND IMPORTERS

SEC. 6. (a) IN GENERAL.—The Secretary of Commerce in consultation with the Secretary of Health and Human Services shall establish procedures for the registration of processing facilities and persons engaged in the commercial importation of fish and fish products. No processing facility or importer shall process or handle any fish or fish product unless such processing facility or importer is registered by the Secretary of Commerce under this section.

(b) APPLICATION.—(1) Application for registration under the program shall be made to the Secretary of Commerce using such forms and containing such information as the Secretary of Commerce, in consultation with the Secretary of Health and Human Services, shall prescribe by regulations, including the name of the owner and operator of the processing facility or import business, the principal place of business, and a list of each type of fish product processed or imported.

(2) Upon receipt and review of a completed application, the Secretary of Commerce shall register such processing facility or importer and issue to the applicant a certificate of registration unless good cause is shown why such application should be denied. Such Secretary shall promptly notify any applicant of such denial, include a written explanation of the reasons for such denial, and provide an opportunity for a hearing upon request.

(c) SANCTIONS.—(1) If a processing facility for importer registered under this section fails to comply with any requirement of this Act or regulations promulgated under this Act, the Secretary of Commerce in consultation with the Secretary of Health and Human Services may, after notice and an opportunity for a hearing—

(A) revoke the registration;

(B) suspend the registration for a period of time; or

(C) impose conditions and restrictions on the registration as the Secretary of Commerce determines are necessary and appropriate.

(2) The registration of a processing facility may be suspended immediately by the Secretary of Commerce for—

(A) failure to permit access for inspection; and

(B) violation of this Act or regulations promulgated under this Act, if the Secretary of Health and Human Services determines that such action is necessary to prevent serious, adverse health consequence or death.

(d) REINSTATEMENT.—(1) The holder of a registration that has been revoked or suspended may apply for reinstatement thereof. The Secretary of Commerce shall grant reinstatement of the registration if such Secretary in consultation with the Secretary of Health and Human Services finds that the processing facility or importer is no longer unfit to engage in the processing or handling of fish and fish products.

(2) The holder of a registration that is conditioned or restricted may apply for the removal of such conditions or restrictions. The Secretary of Commerce shall immediately remove such conditions or restrictions if such Secretary in consultation with the Secretary of Health and Human Services finds that adequate measures have been taken to comply with this Act or regulations promulgated under this Act.

(e) RECORDS AND DOCUMENTATION.—Each registrant under this section shall maintain such records and provide such information as the Secretary of Health and Human Services in consultation with the Secretary of Commerce may require by regulation. Such regulations shall include requirements for records of sampling fish and fish products to determine compliance with the standards established under section 5(a), and shall only require that records be maintained under this subsection for a reasonable period after the fish or fish products to which they apply can reasonably be expected to have been consumed.

(f) IDENTIFICATION CODE.—The Secretary of Commerce shall assign a unique code for identification purposes to each registrant under this section.

FEDERAL INSPECTION SYSTEM

SEC. 7. (a) INSPECTION SYSTEM.—As part of the program established under section 4, the Secretary of Health and Human Services shall establish and administer, in cooperation with the Secretary of Commerce, a comprehensive and efficient inspection system for fish and fish products that protects the consuming public from fish and fish products that are adulterated or misbranded. The Secretary of Health and Human Services shall assure the effective operation of this inspection system and shall provide general oversight under which the Secretary of Commerce shall routinely inspect processing facilities. The inspection system shall provide for frequent and random, unannounced inspections by the Secretary of Commerce of processing facilities to determine if the facilities meet the requirements under section 5. Processing facilities in which imported fish and fish products are processed shall be inspected at least at the same rate as other processing facilities are inspected. The elements of such system shall include—

(1) the appointment and training of authorized inspection officers;

(2) the provision for training and certification of processing personnel in sanitation, quality control, and the requirements of this Act;

(3) the sampling of fish and fish products for contaminants using the best available and cost effective methodologies needed to achieve the purposes of this Act;

(4) the inspection of fish and fish products and of the processing of them, at such points, in such manner, and with such frequency as the secretary of Health and Human Services in consultation with the Secretary of Commerce determines are necessary based on (A) the nature and volume of operations, (B) the adequacy of monitoring programs, (C) the history of processing facility compliance with this Act and other health and safety laws, (D) the degree that the fish or fish products involved are susceptible to contamination or otherwise have the potential to affect public health, (E) the recommendations of the Model Seafood Surveillance Project, and (F) such other factors as the Secretary of Health and Human Services in consultation with the Secretary of Commerce may determine are appropriate;

(5) recordkeeping, marking, labeling, or other handling procedures to assist in determining sources of adulteration or misbranding; and

(6) such other inspection activities as are determined by the Secretary of Health and Human Services in consultation with the Secretary of Commerce to be necessary for effectively carrying out the provisions of this Act.

(b) POWERS OF INSPECTION OFFICERS.—An inspection officer authorized by the Secretary of Commerce to conduct inspections under this Act (including a State employee authorized under section 19(d) to conduct such inspections) may, pursuant to procedures prescribed by the Secretary of Health and Human Services in consultation with the Secretary of Commerce, take such actions as are necessary to ensure the effectiveness of the provisions of this Act and regulations promulgated under this Act. Such actions shall include but not be limited to—

(1) the inspection of processing facilities and related fish and fish products, packages, labeling, conditions, equipment, and records;

(2) the sampling of fish and fish products;

(3) the detention and condemnation of adulterated and misbranded fish and fish products in accordance with subsection (c); and

(4) upon request and at reasonable times, inspection and copying of any records required under section 6(e).

Whenever the Secretary of Health and Human Services requests a copy of any record required under this subsection, the Secretary of Commerce shall obtain and provide such copy to the Secretary of Health and Human Services.

(c) PRODUCT DETENTION AND CONDEMNATION.—Subject to paragraph (2), all fish and fish products found by the Secretary of Commerce to be adulterated or misbranded shall be immediately segregated, impounded, and if objection is not made within 48 hours, condemned. If objection is made, such fish or fish product that are in perishable form may be processed to the extent necessary to prevent spoilage pending hearing and judicial review.

(2) If such Secretary determines that an adulterated or misbranded fish or fish product can, by relabeling or other action, be brought into compliance with this Act or regulations promulgated under this Act, final determination as to the condemnation of such fish or fish product may be deferred pending the performance by the owner of such fish or fish product, within a time specified by such Secretary, of such relabeling or other action as such Secretary may authorize. Entry of the fish or fish products into interstate commerce shall be permitted if, after such action is performed, such Secretary determines that the fish or fish product has been brought into compliance with this Act and regulations promulgated under this Act.

(3) Any fish or fish product condemned by such Secretary without objection, or after hearing and judicial review, shall be destroyed for human food purposes under the supervision of such Secretary.

(d) LABELING AND PACKAGE.—Each package of fish or fish product that is processed by a processing facility registered under this Act shall be marked, at the time the package leaves the processing facility, with—

(A) the unique codes assigned by the Secretary of Commerce under section 6 for the purposes of identifying the processing facility; and

(B) a label that bears or contains an official mark that is available only to processing facilities which are registered under this Act;

except that the Secretary of Commerce may exempt from such requirement any processing facility if the Secretary of Commerce in consultation with the Secretary of Health and Human Services determines that the facility is not the primary processing facility with respect to such fish or fish product and such exemption will not undermine the ability of the Secretary of Health and Human Services to ensure that standards prescribed under this Act are met.

(e) NOTICE.—Upon completion of any inspection and before leaving the processing facility, the inspection officer shall give to the owner or operator of the facility a written report detailing the results of the inspection.

(f) TRADEMARK PROTECTION.—The Secretary of Health and Human Services or Secretary of Commerce, as appropriate, may apply for, secure, and maintain protection under the trademark laws of the United States and under the design, copyright, or trademark laws of a foreign nation for any official mark, or other mark or device, required by such Secretary for carrying out this Act.

MONITORING OF GROWING AND HARVESTING AREAS

SEC. 8. (a) MONITORING SYSTEM.—As part of the program established under section 4, the Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Chairman of the Interstate Shellfish Sanitation Conference, shall establish and maintain a comprehensive system to monitor and classify geographical growing and harvesting areas from which significant quantities of fish and fish products not in compliance with this Act or regulations under this Act originate, or may be reasonably expected to originate.

(b) RESTRICTED AREAS.—(1) If as a result of monitoring conducted under subsection (a), the Secretary of Commerce determines that fish harvested from a particular area are likely to be unsafe under section 5(a)(1) or (4), such Secretary shall designate such area as a restricted harvesting area. Such designation shall apply only to species of fish for which such Secretary has made the determination described in the preceding sentence.

(2) An area from which shellfish are harvested shall be deemed a restricted harvesting area for shellfish if the State which has jurisdiction over such area—

(A) does not have in effect for such area a monitoring and classification system for shellfish which the Secretary of Health and Human Services, in cooperation with the Secretary of Commerce, determines is at least equal to the system established under this section; or

(B) has such a system and has prohibited the harvesting of shellfish from such area.

(c) REVIEW.—The Secretary of Commerce shall periodically review the areas designated under subsection (b) and shall withdraw or modify the designation to the extent such Secretary determines is consistent with the requirements of this section. The Secretary of Commerce shall review the designation of any such area upon request from the Governor of an affected State or upon petition, supported by reasonable information that such review may be warranted, by affected fishermen.

(d) PUBLIC NOTICE.—The Secretary of Commerce shall notify the Secretary of Health and Human Services, the Governor of any affected State, the Chairman of the Interstate Shellfish Sanitation Conference, and the Chairman of any affected Regional Fishery Management Council, and to the extent practicable, shall give reasonable public notice before any action is taken under this section.

RECALL

SEC. 9. The Secretary of Health and Human Services may require any person who owns or operates a processing facility or who is engaged in the importation of fish or fish products to recall any fish or fish product if such Secretary finds that there is reasonable probability that such fish or fish product will cause a serious, adverse health consequence or death. Such Secretary in consultation with the Secretary of Commerce shall promulgate regulations for tracing fish and fish products in connection with a recall ordered under this section.

IMPORTS

SEC. 9. (a) IN GENERAL.—(1) No fish or fish product may be entered, or withdrawn from warehouse, for consumption in the United States unless such fish or fish product—

(A) is not adulterated or misbranded;

(B) complies with all standards applicable to fish and fish products in interstate commerce in the United States;

(C) is marked and labeled as required by regulations for imported articles; and

(D) complies with the requirements of this section.

(2) Upon entry for consumption in the United States, fish or fish products satisfying the requirements of paragraph (1) shall be deemed to be and treated as domestic fish or fish products.

(b) INSPECTION OF IMPORTS.—(1) The Secretary of Health and Human Services, in cooperation with the Secretary of Commerce and the Secretary of the Treasury, shall enforce this section through random inspections and sampling of fish and fish products that are offered for importation or entered, or withdrawn from warehouse, for consumption in the United States, and through any other procedures the Secretary of Health and Human Services in consultation with the Secretary of Commerce determines are necessary to ensure compliance with this Act.

(2) Upon request and at reasonable times, the Secretary of Health and Human Services may inspect and copy any records required of importers under section 6(e).

(c) CORRECTIVE ACTIONS.—All fish and fish products that are refused entry pursuant to subsection (a) or that are entered, or withdrawn from warehouse, for consumption in the United States in violation of this section shall, pursuant to regulations, be destroyed unless—

(1) such fish and fish products are exported within a time fixed therefor by the Secretary of Commerce; or

(2) such Secretary determines that any such fish or fish product can be brought into compliance with this Act by relabeling or other action.

If such Secretary determines that the fish or fish product can be brought into compliance, the destruction of such fish or fish product may be deferred pending filing of a written application by the owner or consignee and the execution by the applicant of a bond within a time specified by such Secretary. Upon such filing and execution of a bond, such Secretary may authorize the applicant to perform such relabeling or other action specified by such Secretary. After such action is performed, if such Secretary determines that such fish or fish product has been brought into compliance with this Act, such Secretary shall permit its entry for consumption in the United States.

(d) COSTS.—Storage, cartage, labor, and other costs resulting from the denial of entry, or withdrawal from warehouse, of any fish or fish product shall be paid by the owner or consignee, and nonpayment of such costs shall constitute a lien against such fish or fish product and any other fish or fish product thereafter entered, or withdrawn from warehouse, by such owner or consignee, for consumption in the United States.

(e) FOREIGN PROGRAM.—(1) The Secretary of Health and Human Services, in cooperation with the Secretary of Commerce and through the Secretary of State, may enter into an agreement with each nation desiring to export fish or fish products to the United States. Prior to concluding such an agreement the Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall evaluate the seafood safety and quality assurance program of the foreign nation to determine if such program is at least equal to the program established under this Act. Any agreement under this paragraph shall provide for reciprocity between the two nations with respect to seafood safety and quality assurance.

(2) If the Secretary of Health and Human Services in consultation with the Secretary of Commerce determines that a nation desiring to export fish or fish products to the United States has a program at least equal to the program established by this Act, the Secretary of Health and Human Services shall, upon entry into force of an agreement under paragraph (1), issue a certificate to

such nation stating that the nation maintains such a program.

(3) All fish or fish products imported from a nation that does not have a valid agreement with the United States under paragraph (1), or from a nation which does not possess a certificate issued by such Secretary under paragraph (2), shall, upon their entry into the United States, be subject to intensified inspection, sampling, and such other procedures as such Secretary in consultation with the Secretary of Commerce determines are necessary to ensure compliance with this Act.

(4) All fish or fish products imported from a nation possessing a valid certificate issued under paragraph (2) shall, upon entry into the United States or as provided by an agreement under paragraph (1), be subject to random inspections, sampling, and such other procedures as such Secretary in consultation with the Secretary of Commerce determines are necessary to ensure compliance with this Act.

(5) The Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall periodically or for good cause, and not less than once every five years, review certificates issued under paragraph (2), and shall revoke the certificate of any nation that the Secretary of Health and Human Services determines is not maintaining a seafood inspection and quality assurance program at least equal to the program established under this Act.

(6) The Secretary of Health and Human Services, in cooperation with the Secretary of Commerce and through the Secretary of State, shall review and modify, as needed, an agreement made under paragraph (1) with any nation that has a certificate revoked under paragraph (5).

(7) The provisions of section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) shall apply to imports referred to in this section.

(f) REPORT.—Not later than March 1 of each year, the Secretary of Health and Human Services in cooperation with the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate an to the Committee on Energy and Commerce and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive and detailed, written report with respect to the administration of this section during the immediately preceding calendar year. Such report shall include a statement of—

(1) the nations with which a valid agreement under paragraph (1) is in effect;

(2) the nations which have been certified under this section, the nations which have not qualified for certification under this section, the nations which have lost their certification under this section, and the reasons for such lost certification;

(3) the number of inspectors employed by the Secretary of Commerce, in the calendar year reported on, in connection with certifications under this section;

(4) to the extent practicable, the number of inspectors of each nation from which fish or fish products were imported who were assigned (during the calendar year reported on) to inspect such fish and fish products, the identity of the facilities in which such fish and fish products were handled, and the frequency and effectiveness of such inspections; and

(5) the volume of fish and fish products imported during the calendar year reported on, the portion of that volume which was inspected by inspectors employed by such Secretary, and the portion of the volume inspected which was found not to be in compliance with this Act.

EXPORTS

SEC. 11. (a) STANDARDS.—Fish or fish products intended for export to a foreign nation may be exempted from specific requirements of this Act if such exemption is necessary to avoid conflict with a law or custom of the importing nation. Fish or fish products so exempted shall be deemed not to be adulterated or misbranded under this Act if such fish or fish products—

(1) are in accord with the specifications of the foreign purchaser;

(2) are not in conflict with the laws of the nation to which they are intended for export;

(3) are shipped in a package whose outside labeling states that the fish or fish products are intended for export; and

(4) are not sold, offered for sale, or otherwise disposed of in commerce within the United States;

except that any such fish or fish product shall be deemed to be adulterated if the Secretary of Health and Human Services determines such fish or fish product are likely to be injurious to the health of the eventual consumer.

(b) INSPECTION.—The Secretary of Commerce shall inspect fish or fish products intended to be exported to foreign nations at such times and places and in such manner as the Secretary of Health and Human Services in consultation with the Secretary of Commerce determines are necessary to ensure compliance with this Act.

(c) CERTIFICATES.—The Secretary of Commerce shall, upon request, provide a certificate of export stating the condition of fish or fish products inspected under this section.

PROHIBITED ACTS AND PENALTIES

SEC. 12. (a) PROHIBITED ACTS.—No person shall—

(1) process or sell any fish or fish product that is adulterated or misbranded;

(2) process any fish or fish product at any processing facility, except in compliance with this Act or any regulations promulgated thereunder;

(3) sell, transport, offer for sale or transportation, receive for transportation, or otherwise dispose of, in interstate commerce any fish or fish product that is adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, receipt for transportation, or disposal;

(4) commit, with respect to any fish or fish product, and while such fish or fish product is being transported in interstate commerce or held for sale after such transportation, any act that is intended to cause or has the effect of causing such fish or fish product to be adulterated or misbranded;

(5) sell, transport, offer for sale or transportation, receive for trnsportation, or otherwise dispose of, in interstate commerce any fish or fish product that is not processed or labled in accordance with the requirements of this Act or any regulations promulgated thereunder;

(6) forge, counterfeit, or falsely represent any official mark or registration;

(7) without authorization from the appropriate Secretary, use any official mark or registration, or simulation thereof, or alter, detach, deface, or destroy any official mark or registration;

(8) refuse to permit entry to or inspection of any processing facility, or otherwise interfere with any inspection or other person carrying out duties required under this Act;

(9) create or maintain records that are false either by content or omission, or destroy records containing information required under this Act or any regulations promulgated under this Act, or refuse access by the Secretary of Health and Human Services or Secretary of Commerce to records required under this Act or any regulations promulgated under this Act;

(10) handle or process for interstate commerce fish or fish products in any processing facility unless there is in effect for such facility a registration by the Secretary of Commerce; or

(11) import into the United States fish or fish products that are capable of use as human food if such articles are adulterated, labeled or packaged in a false or misleading way, or otherwise misbranded, or fail to comply with all the inspection, good processing practices, and other provisions of this Act and regulations promulgated under this Act applicable to such articles in interstate commerce within the United States.

(b) CIVIL PENALTIES.—(1) any person who violates subsection (a) shall be liable, after notice and opportunity for a hearing, to the United States for a civil penalty in an amount not to exceed $5,000 for each violation. Each day of a continuing violation shall constitute a separate offense. In determining the amount of such penalty, the appropriate Secretary shall take into account the gravity of the violations and, with respect to the violator, the degree of culpability and history of prior violations (including violations resolved by written warnings), and such other matters as justice may require.

(2) Such Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition under this section.

(c) CRIMINAL PENALTIES.—(1) Any person who willfully or by gross negligence violates subsection (a) shall be fined in an amount not to exceed $10,000, or imprisoned for not more than one year, or both; except that if such violation involves intent to defraud, or any distribution of any fish or fish product that is adulterated, be fined in an amount not to exceed $20,000, or imprisoned for not more than three years, or both.

(d) NOTICE OF WARNING.—In the case of one or more minor violations of this Act regulations promulgated under this Act, or the appropriate Secretary may, whenever such Secretary believes that the public inaterest will be adequately served thereby, issue to the violator a suitable written notice of warning. In determining whether the public interest will be adequately served by a written notice of warning, such Secretary shall consider, among other factors—

(1) the gravity of the violation;

(2) the compliance history of such person;

(3) whether compliance with this Act would likely be obtained as a result of such notice; and

(4) whether such violation is of a minor or technical nature.

(e) CARRIERS.—No common carrier or contract carrier shall be subject to penalties under this section for the receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of any adulterated or misbranded fish or fish product owned by another person, unless the carrier—

(1) during the time of such receipt, carriage holding, or delivery, had knowledge or was in possession of facts that would cause a

reasonable person to believe that the fish or fish product were adulterated or misbranded or were otherwise not eligible for transportation under this Act; or

(2) refuses to furnish on request of the appropriate Secretary the name and address of the person from whom the carrier received the adultered or misbranded fish or fish product, and copies of all documents pertaining to the delivery of such fish or fish product.

HEARINGS AND SUBPOENAS

SEC. 13. (a) ADMINISTRATIVE HEARINGS.—The Secretary of Health and Human Services or Secretary of Commerce, as appropriate, shall afford an opportunity for an informal hearing as defined in section 201(y) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(y)) to any person adversely affected by the action or inaction of the Secretary of Health and Human Services or Secretary of Commerce under this Act, and as soon as practicable after such hearing, shall take appropriate action.

(b) SUBPOENAS.—(1) For the purposes of any hearing or investigation under this Act, the appropriate Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of any documentation or other evidence that relates to any matter under investigation or in dispute before such Secretary and to administer oaths or affirmations.

(2) Such Secretary shall pay witnesses subpoenaed under this subsection customary reasonable fees and mileage.

(3) In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for the district in which such person is found, resides, or transacts business, upon application by such Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before such Secretary or to appear and produce documents before such Secretary or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

WHISTLEBLOWER PROTECTION

SEC. 14. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges or employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or caused to be instituted any proceeding relating to a violation of this Act or of any regulation promulgated under this Act, or has testified or is about to testify in any such proceeding.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to perform the employee's duties when performing such duties would result in a violation of this Act or any regulation promulgated under this Act, or because of the employee's reasonable apprehension of serious injury to the public from adulterated or misbranded fish or fish products. The circumstances causing such refusal must be of such nature that a reasonable person would conclude that there is a bona fide danger of serious injury to the public resulting from adulterated or misbranded fish or fish products. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the circumstances causing such refusal.

(c)(1) Any employee who believes he or she has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, such Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Within 60 days of receipt of a complaint filed under paragraph (1), such Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and shall notify the complainant and the person alleged to have committed a violation of this section of the findings resulting from the investigation. Where such Secretary has concluded that there is reasonable cause to believe that a violation has occurred, such Secretary shall accompany the findings with a preliminary order providing the relief prescribed by subparagraph (B). Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days after notification, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order shall be deemed a final order which is not subject to judicial review. Such Secretary shall issue a final order within 120 days after the conclusion of such hearing. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by such Secretary, the complainant, and the person alleged to have committed the violation.

(B) If in response to a complaint filed under paragraph (1) such Secretary determines that a violation of subsection (a) or (b) has occurred, such Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position (taking into account any seasonal nature of such position) together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, and (iii) compensatory damages. If such an order is issued, such Secretary, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by such Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within sixty days from the issuance of such Secretary's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of such Secretary, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2), such Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory damages.

SURVEILLANCE BY CENTERS FOR DISEASE CONTROL

SEC. 15. (a) SURVEILLANCE SYSTEM.—The Secretary of Health and Human Services shall establish, through the Centers for Disease Control, an active surveillance system, based on a representative proportion of the population of the United States, to provide an accurate estimate of the frequency and sources of human disease in the United States associated with the consumption of fish and fish products.

(b) ASSESSMENT OF HEALTH HAZARDS.—Through the surveillance system referred to in subparagraph (a), the Secretary of Health and Human Services in consultation with the Secretary of Commerce shall, among other things, assess such health hazards with respect to—

(1) fish and fish products that are commercially harvested and processed as compared with those harvested for recreational or subsistence purposes and prepared noncommercially;

(2) fish and fish products that are domestically harvested and processed as compared with imported fish and fish products that are harvested and processed outside the United States; and

(3) contamination originating from certain practices that occur both prior to and after sale of fish or fish products to consumers, including contamination resulting from the manner in which consumers handle and prepare the fish and fish products they purchase.

(c) REPORTS.—The Secretary of Health and Human Services shall make timely reports to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce of the House of Representatives on significant findings of the surveillance system established under this section.

CONSUMER EDUCATION

SEC. 16. The Secretary of Health and Human Services and the Secretary of Commerce shall design and implement a national consumer education program on seafood. Such program shall provide—

(1) information to consumers and persons involved in processing regarding the standards and good practice requirements prescribed under section 5 and promotion of public awareness, understanding, and acceptance of such standards and requirements;

(2) advice to individuals involved in recreational and subsistence fisheries concerning the health hazards associated with the fish they may harvest and the precautions they should take to safeguard themselves and others from those hazards; and

(3) such other information or advice to consumers and other persons as such Secretaries determine will promote the purposes of this Act.

RESEARCH PRIORITIES

SEC. 17. (a) SHELLFISH INDICATOR RESEARCH PROGRAM.—(1) The Secretary of Commerce in cooperation with the Secretary of Health and Human Services shall establish and administer a five-year shellfish indicator research program to develop a system of classification of shellfish growing waters based upon the latest technological advancements in microbiology and epidemiological methods. In establishing such a program, the Secretary of Commerce shall develop a program plan which shall provide for, but not be limited to, the following activities:

(A) Environmental assessment of commercial shellfish growing areas in the United States, including evaluation of the relationships between indicators of fecal contamination and human enteric pathogens.

(B) Evaluation of such relationships with respect to potential health hazards associated with human consumption.

(C) A comparison of the current microbiological methods used for evaluation of indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose.

(D) Design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption.

(E) Recommendations for revising the Federal standards established under section 5 and improving the capabilities of Federal and State agencies to effectively manage shellfish resources and ensure the safety of fish products containing shellfish.

(2) The research program established pursuant to this section shall evaluate representative estuaries in each of the major shellfish growing regions of the United States and shall result in development of recommendations pertaining to shellfish management and regulatory considerations for each of the following shellfish growing regions:

(A) the New England region, consisting of the States north of New Jersey which border the Atlantic Ocean.

(B) the Mid-Atlantic region, consisting of Maryland, Virginia, Delaware, and New Jersey.

(C) the South Atlantic region, consisting of North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida.

(D) the Gulf of Mexico region, consisting of Texas, Louisiana, Mississippi, Alabama, and the Gulf coat of Florida.

(E) the Pacific region, consisting of Hawaii, California, Oregon, Washington, and Alaska.

(3) The Secretary of Commerce shall carry out the research program authorized by this section by providing assistance in the form of grants to eligible applicants. Not later than 90 days after the date of enactment of this Act, such Secretary shall publish in the Federal Register a call for research proposals to carry out the research program. Not later than 90 days after the date of such publication, such Secretary shall award a grant or grants to eligible applicants for carrying out the research program. As used in this paragraph, the term "eligible applicant" means—

(A) any public or private institution of higher education;

(B) any public or private organization with suitable research capabilities; or

(C) any consortium of two or more entities referred to in subparagraphs (A) and (B).

(4) The Secretary of Commerce in cooperation with the Secretary of Health and Human Services shall establish an advisory panel to assist in the development and implementation of the research program. Such advisory panel shall include one representative each from the Environmental Protection Agency and the Interstate Shellfish Sanitation Conference. In addition, the Secretary of Commerce shall appoint an industry representative from each of the shellfish growing regions identified in paragraph (2) to serve on the advisory panel, and the Secretary of Health and Human Services shall appoint three representatives of consumer and public health organizations.

(5)(A) The Secretary of Commerce shall review the research program authorized by this section not less than every two years and, on the basis of that review, make changes in the administration of the program that are appropriate to carry out more effectively the activities described in paragraph (1).

(B) The Secretary of Commerce shall submit a biennial report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the operation of the program. Each such report shall include, with respect to the period covered by the report—

(i) a description of the research assisted under the program and the results of such research; and

(ii) all changes to the program made under subparagraph (A) since the previous such report.

(C) At the completion of the research program, the final report submitted pursuant to subparagraph (B) shall include any recommendation for legislative action needed to improve the effectiveness of shellfish management and ensure the safety of shellfish and fish products containing shellfish.

(D) The final report shall be made available to appropriate Federal and State agencies, the shellfish industry, and the general public.

(b) OTHER RESEARCH.—Within one year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Commerce jointly shall develop and publish in the Federal Register a strategic plan for research on fish and fish product safety. The strategic plan shall take into consideration the requirements of this Act and shall establish priorities for a comprehensive program, including research with respect to—

(1) testing methodologies for detecting and measuring contaminants in fish and fish products;

(2) techniques and procedures for inspecting fish and fish products;

(3) sanitation practices for the processing, transportation, and storage of fish and fish products;

(4) determining the souces of contamination of fish and fish products; and

(5) any other matters that may further the purposes of this Act.

REGULATIONS

SEC. 18. The Secretary of Health and Human Services and the Secretary of Commerce may each promulgate, after notice and opportunity for public comment, such regulations as are appropriate in carrying out this Act. Such Secretaries shall ensure that all regulations promulgated under this Act are developed and implemented in a consistent manner.

STATE AND INTERAGENCY COOPERATION

SEC. 19. (a) IN GENERAL.—The Secretary of Health and Human Services and Secretary of Commerce shall encourage States to continue, strengthen, or establish seafood safety and quality assurance programs at least equal to the program established under this Act.

(b) ASSISTANCE.—The Secretary of Health and Human Services in consultation with the Secretary of Commerce may provide to a State, in the planning and developing of such a program—

(1) advisory assistance;

(2) technical and laboratory assistance and training (including necessary materials and equipment); and

(3) financial and other aid.

(c) APPROVAL OF STATE PROGRAMS.—(1) At any time after establishment of the Federal seafood safety and quality assurance program under this Act, the Governor of any State desiring to administer its own seafood safety and quality assurance program may submit to the Secretary of Health and Human Services a full and complete description of the program the State administers or proposes to establish and administer under State law. In addition, such State shall submit a statement from the attorney general (or appropriate legal officer) that the laws of such State provide adequate authority to carry out the described program. Such Secretary shall approve each such submitted program for a period of no more than five years unless such Secretary in consultation with the Secretary of Commerce determines that adequate authority and capability does not exist to—

(A) ensure that fish and fish products originating in the State and entering interstate commerce meet the Federal standards established under section 5;

(B) ensure that registration, inspection, and monitoring systems are at least equal in effectiveness to systems established under sections 6, 7, and 8;

(C) provide the Secretary of Health and Human Services with regular reports regarding State activities under the program; and

(D) abate violations of the program, including civil and criminal penalties and other ways and means of enforcement.

(2) If the Secretary of Health and Human Services in consultation with the Secretary of Commerce approves a State program under paragraph (1), such Secretary shall designate such State as one in which the Federal program established under this Act shall not apply within that State.

(3) The Secretary of Health and Human Services in cooperation with the Secretary of Commerce and Chairman of the Interstate Shellfish Sanitation Conference shall monitor the effectiveness of each approved State program to assure that the program is at least equal to the program established under this Act. If the Secretary of Health and Human Services determines that a State with an approved program has failed to maintain or is not operating a program that is at least equal to the program established under this Act, the Secretary of Health and Human Services shall promptly notify the Governor of the State of such determination and provide an opportunity for the State to correct any deficiencies identified in such notification. If after notice and opportunity for appropriate corrective

action the State program does not meet the requirements of this section, such Secretary shall withdraw approval of the State program and reinstate the Federal program.

(4) Notwithstanding paragraph (2), the Secretary of Health and Human Services may enforce the Federal program in a State having a program approved under paragraph (1) if—

(A) such enforcement is necessary to address a circumstance which such Secretary finds is an emergency and poses a reasonable probability that failure to carry out such enforcement will cause a serious, adverse health consequence or death; or

(B) the State requests such enforcement.

Enforcement by such Secretary under this paragraph shall be discontinued no later than six months after its commencement or at such subsequent time as may be agreed upon by the State.

(5) The Secretary of Health and Human Services shall annually grant to each State with a program approved under paragraph (1) an amount not to exceed 60 percent of the cost of operating a federally equivalent State program. Such Secretary may withhold Federal assistance under this paragraph if such Secretary determines that the State program has failed to meet the requirements of this section. Such withheld assistance shall be paid subsequently upon a determination that any deficiencies have been corrected.

(d) SERVICE AGREEMENTS.—The Secretary of Health and Human Services or the Secretary of Commerce, as appropriate, may, under agreements entered into with Federal, State, or local agencies or foreign governments, use on a reimbursable basis or otherwise the personnel, services, and facilities of such agencies in conducting registrations, inspections, monitoring, and certification under sections 6, 7, 8, and 10. Such an agreement shall provide that any compliance records, notices, or reports issued in connection with activities under the agreement and in the possession of the agency or government which entered into the agreement shall be made available in accordance with section 552 of title 5, United States Code. Agreements with a State under this subsection may provide for training of State employees. The Secretary of Health and Human Services shall pay for or reimburse the State for the expenses of such training and for the actual cost of inspection activities performed by a State employee at the request of the Secretary.

RECOVERY OF COSTS

SEC. 20. (a) IN GENERAL.—The Secretary of Health and Human Services or Secretary of Commerce, as appropriate, shall promulgate regulations to assess and collect such fees as will be reasonable and will, to the extent practicable, cover the actual cost of services rendered under sections 5(a)(3)(C) and 11(c), except that no person shall be required to use the services authorized under section 5(a)(3)(C).

(b) FEES; LATE PAYMENT PENALTIES; INTEREST.—Any fees, late payment penalties, or interest earned from fees collected under this section shall be credited to the appropriate trust fund account that incurs the cost of the services provided under sections 5(a)(3)(C) and 11(c), and shall remain available without fiscal year limitation to pay the expenses of the Secretary of Health and Human Services or Secretary of Commerce, as appropriate, incident to providing such services. Such funds may be invested in insured or fully collateralized, interest bearing accounts or in United States Government debt instruments.

EXEMPTIONS AND EXCLUSIONS

SEC. 21. (a) IN GENERAL.—This Act shall not apply to—

(1) the processing by any individual of fish and fish products of that individual's own raising or harvesting exclusively for use by that individual, or by that individual's household members, nonpaying guests, and employees;

(2) any processing facility solely processing fish or fish products not intended for human consumption; and

(3) any restaurant, retail store, or recreational vessel as determined by the Secretary of Commerce.

(b) VESSELS.—Vessels that harvest or commercially prepare fish or fish products, unless they prepare fish or fish products other than by gutting, decapitating, gilling, icing, freezing, or brine chilling, as determined by the Secretary of Commerce, shall be exempt from sections 6 and 7.

(c) AQUACULTURE OPERATIONS.—To the extent that an aquaculture operation handles, as determined by the Secretary of Commerce, fish for the purpose of transporting such fish directly to a processing facility, such operation shall be exempt from sections 6 and 7.

(d) CONTRACT OR COMMON CARRIERS.—Except as provided by section 12, this Act shall not apply to any contract or common carrier that transports fish or fish products that are already processed.

(e) STUDY.—(1) The Secretary of Commerce in consultation with the Secretary of Health and Human Services shall, not later than 18 months after the date of enactment of this Act, conduct and complete a study of—

(A) the role of vessels exempted under subsection (b) in providing fish and fish products;

(B) the role of aquaculture operations, to the extent exempted under subsection (c), in providing such fish and fish products; and

(C) based on a scientific analysis conducted pursuant to section 4(b)(3) the necessity of including any particular type or class of such vessels or aquaculture operations in the registration and inspection system established pursuant to this Act.

The Secretary of Commerce may from time to time update any such study, and shall consult with the Secretary of Agriculture regarding subparagraph (B).

(2) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives the results of the study required under paragraph (1) and the results of any date of such study.

RELATION TO OTHER LAWS

SEC. 22. Except as directly inconsistent with this Act, nothing in this Act shall be construed to affect or limit the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Secretary of Commerce under title II of the Agriculture Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

AUTHORIZATION OF APPROPRIATIONS

SEC. 23. (a) IN GENERAL.—There are authorized to be appropriated, to carry out this Act, not to exceed $35,000,000 for fiscal year 1991, $60,000,000 for fiscal year 1992, and $90,000,000 for fiscal year 1993.

(b) RESEARCH PROGRAM AUTHORIZATION.—Of the funds authorized to be appropriated under subsection (a), there are authorized to be appropriated not to exceed $15,000,000 for each of fiscal years 1991, 1992, and 1993, for carrying out the research program authorized by section 17.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that the hearing scheduled before the Subcommittee on Energy Regulation and Conservation for August 2, 1990, has been rescheduled to begin at 9 a.m., instead of 9:30 a.m. as originally announced. The afternoon session will begin at 2 p.m.

The hearing will take place in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2923, legislation to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy production to enhance energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act.

For further information, please contact Allen Stayman or Joel Saltzman at (202) 224-4756.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENT CONTRACTING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Government Contracting and Paperwork Reduction be authorized to meet during the session of the Senate on Friday, July 27, 1990, at 9:30 a.m. The committee will hold a hearing to examine the Federal prison industries competition with small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, July 27, at 9:30 a.m. for a hearing on the subject: Regulation of All Terrain Vehicles.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on July 27, 1990, at 10 a.m. to hold a hearing on options relating to increasing domestic energy production and reserves.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, July 27, 1990, at 10:15 a.m. to conduct a hearing on the nomination of Constance Horner to be a member of the Board of Directors of the National Cooperative Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, July 27, 1990, at 2 p.m. to conduct a hearing on the implications of the failure of the Higher Education Assistance Foundation, a large student loan guarantor.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., Friday, July 27, 1990, for a hearing to receive testimony on S. 2521, a bill to exchange certain lands in the State of New Mexico, and for other purposes; S. 2527, a bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded Environmental Education Program in New Mexico; S. 2597, a bill to amend the act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges; S. 2684, a bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM; and S. 2804, a bill to amend the act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 27, at 10 a.m. to hold a hearing on pending Antarctica legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH, AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, July 27, beginning at 2:30 p.m., to conduct markup of S. 2637, the Lead Exposure Reduction Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. MITCHELL. I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 27, 1990, at 9:30 a.m. on S. 1933 and H.R. 4522, to consider legislation to provide for the minting of coins to commemorate the bicentennial of the death of Benjamin Franklin, so as to raise funds for existing firefighters and their families (S. 1933), and legislation to improve information to emergency response personnel in the field of firefighting (H.R. 4522).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

● Mr. BIDEN. Mr. President, as part of the continuing effort by the United States Congress to recognize the plight of Soviet Jews, I would like to make a few remarks on the case of Igor Trigub and his family.

In the past 2 weeks we have seen tremendous changes in the Ukrainian Republic. On July 16, the Ukrainian Supreme Soviet issued a declaration of sovereignty that, among a number of remarkable provisions, announced that Ukrainian law would prevail over Soviet law and proclaimed the Republic's complete authority within its own borders.

The Ukraine is beginning to throw off the chains of Soviet control and demand its freedom. But, unfortunately, one young Ukrainian resident, Igor Trigub, has been halted in this quest for personal and religious freedom. Sadly, Soviet Jews have not been able to benefit from glasnost as fully as we would hope and as we urge.

Mr. Trigub's case is all too similar to the many, many other cases we know of. Mr. Trigub served 2 years as a military clerk in the Soviet Army. Two years after leaving the service, his family of 11 people applied for and received permission in July 1989, to leave the Soviet Union. In preparation for their move to freedom, the family gave up their citizenship, sold their belongings, and left their jobs.

But in August 1989, only 1 month before the family was due to leave, Mr. Trigub received notice that he could not leave because of secrecy—that tired, old excuse that we have heard so many times. The rest of Mr. Trigub's family left for the United States in September 1989. To add to Mr. Trigub's burden, in February of this year the Supreme Soviet of the U.S.S.R. reaffirmed the earlier refusal of his departure and prolonged the denial for 4 more long years.

I imagine, Mr. President, that the Soviet Union that will exist in 4 years will be quite different from the one we know today. The Ukrainian move for independence may only grow stronger along with that of other republics. Of all the changes that time may bring, however, I hope for none more than the freedom of all people, like Mr. Trigub, whose lives have been turned upside down and whose freedom has been denied by old-style Soviet oppression.●

POSITRON EMISSION TOMOGRAPHY

● Mr. WILSON. Mr. President, recently in a speech to the 37th annual meeting of the Society of Nuclear Medicine, HHS Secretary Louis Sullivan spoke of the future vitality of positron emission tomography [PET]. He said:

> The importance of PET's use in basic and clinical research of such widespread and devastating disorders as Alzheimer's, Huntington's and Parkinson's diseases, epilepsy, stroke, heart disease, and brain tumors cannot be overstated.

PET, as it is known, is the next advance level of diagnostic imaging—well beyond the capabilities, in some procedures, of the CAT scan or magnetic resonance imaging [MRI]. Eleven years ago the National Institute of Neurological Disorders and Stroke funded the first PET centers in the United States. Today there are 42 such centers throughout the Nation.

Again, quoting Dr. Sullivan:

> PET has more than demonstrated the value of its ability to reveal the biochemistry and metabolism of the living human brain.

Much of the early, pioneer work on PET was accomplished at the Medical Center of the University of California at Los Angeles where there are three PET machines. Today clinical studies involving a common protocol are underway at seven major university centers, including UCLA. The others are: Creighton University, the University of Tennessee, Vanderbilt University, the University of Michigan, Duke University, and Johns Hopkins University.

The clinical studies, preliminary results of which are to be announced in early October, are being conducted

under the sponsorship of the Institute for Clinical PET [ICP]. ICP is a consortium of physicians, academics, and manufacturers whose common purpose is to bring PET fully into the family of the latest available health care technology at a price that is reasonable and controllable. And, in the process, ICP may have the effect of setting a new standard for medical technologies seeking Medicare reimbursement.

Because ICP is a consortium, it represents the agreement of each of its members to set aside individual professional or financial advantage in order to seek a goal for both patients and consumers—those who pay for health care services, notably the Federal Government—that will bring PET into full service faster and cheaper. To accomplish this goal, ICP is directly sponsoring—and funding—the New Drug Application [NDA] submitted to the Food and Drug Administration [FDA] for approval of the radiopharmaceuticals used in PET procedures. And ICP is also the direct sponsor of the clinical studies.

It is also important to note that, after the clinical studies are completed, ICP will provide to the Health Care Financing Administration [HCFA] a detailed analysis of the cost benefit of appropriate PET uses, including recommendations on when a PET procedure is not advised. To the best of my knowledge, this will be the first time a petitioner for Medicare reimbursement will volunteer suggestions for utilization controls and such suggestions may well become the standard by which those seeking reimbursement for high-cost medical technology in the future must abide.

Mr. President, I am proud of the work of those at UCLA and at the other major PET centers. Because of my own involvement as an active trustee of the Dorothy Kirsten French Research Foundation on Alzheimer's Disease, I share the excitement about the potential of PET to diagnose Alzheimer's at much earlier stages so that treatment can be started earlier resulting in a far better quality of life for the patient at a lesser cost per patient over the long run. And, of course, as Dr. Sullivan says, PET has already demonstrated that it can obtain diagnostic signatures on a number of other illnesses, primarily of the brain and the heart, that will have the very real effect of improving the lives of thousands of patients and save on costs.

I believe that the future of PET is exciting due to those who have labored on PET research. Mr. President, I commend to my colleagues the progress of the institute on the vital research concerning PET which holds such great promise for the future.●

RURAL MONTANA BYWAYS: A SPECIAL KIND OF BEAUTY

● Mr. BAUCUS. Mr. President, when most Americans visit Montana, they come to a few well known destination areas: Glacier and Yellowstone National Parks, the Custer Battlefield, the National Bison Range, or Big Sky and Big Mountain ski resorts.

These are all great places to visit. But Montana has even more to offer. Those who drive off the beaten path are surprised and pleased by what the lesser known areas of both eastern and western Montana have to offer. Wide open space, spectacular scenery, and a friendly brand of western hospitality are the norm under the Big Sky.

The Bureau of Land Management [BLM] recently recognized this fact by establishing the Back Country Byways Program. This program is aimed at encouraging tourism in three areas of Montana that I believe are some of the most scenic and interesting places in the entire Nation. I commend BLM for establishing this program and I hope more Americans will acquaint themselves with some of Montana's best kept secrets.

Mr. President, I ask that two recent articles from the Billings Gazette and the Miles City Star further describing BLM's Back Country Byways Program be printed in the RECORD.

The articles follow:

[From the Billings Gazette, July 22, 1990]

RURAL TOURISM BOOST

(By Lorna Thackeray)

Winifred, population 190, rarely ranks as a destination point in out-of-state tourism circles. Even Montanans who are not regular visitors to the remote agricultural towns in the core of the state consider it somewhere in the mythical middle of nowhere.

But its location only a few miles south of the Missouri River provides a gateway to some of the most historic and scenic terrain in the Eastern part of the state. An increasing number of people may soon be enjoying this under-appreciated stretch of back country.

A new federal program designed to encourage motorists to stray from the beaten path features Winifred as the starting point in an 81-mile "back country byway" loop. The loop, which consists of two-lane gravel or dirt roads, features the Lewis and Clark National Historic Trail, the Nez Perce National Historic Trail, the Charles M. Russell National Wildlife Refuge and the Upper Missouri National Wild and Scenic River. Antelope, white-tailed deer, mule deer, bighorn sheep, elk and varieties of upland game birds and waterfowl are part of the scenery. Just east of Winifred, motorists can take a side trip on a country road into the Missouri Breaks and to a free ferry ride across the river.

The Bureau of Land Management, which has designated the loop as one of the nation's first back-country byways, lists the recreation opportunities as sightseeing, horseback riding, fishing, hiking, picnicking, floating, bird watching, camping, hunting and wildlife viewing.

The Missouri Breaks Historic Trails Byway is one of three designated in Montana and 35 nation-wide since April when the BLM launched the program with the dedication of its first byway—Gold Butte Road in Nevada.

Also designated as Montana back-country byways were Big Sheep Creek and the Garnet Range. The Big Sheep Creek Byway includes 50 miles of gravel and dirt road beginning at Dell, 24 miles north of the Montana-Idaho Border off Interstate 15. The Garnet Range Byway includes a 12-mile snowmobile trip to the old ghost town of Garnet east of Missoula.

Jim Binando of the BLM office in Billings said designation of byways was the result of a study by the president's Commission on Americans Outdoors completed a few years ago.

"The study showed that about 43 percent of adult Americans identified driving as their favorite leisure pursuit," he said. "It came in second, right after walking."

Each BLM district made recommendations for suggested byways, which were reviewed by the state director. The state director sent the recommendations for Montana to the National office a year ago this month, Binando said. Those who could be affected by the byways—landowners and lessees, as well as county governments were included in the process, he said.

BLM won't be pouring a lot of money into the project, he said. Planning and signing constitute the only major expenses. Signing probably won't begin until next year, although brochures on the byways are available from BLM offices.

The roads won't change much, with the exception of the addition of turnouts and interpretive signs. Most are not paved and some are not always passable in wet or snowy weather. BLM urges travelers to check before loading the kids in the car or the RV.

Traditional uses of BLM lands along the byways won't change either. Binando said BLM may use the byways as an opportunity to help the public understand the rancher and foresters who work public lands. No new restrictions will be imposed on recreational activities. Unless otherwise posted, campers can stay on the byways free for up to two weeks.

It's too early to tell how popular the newly designated byways will be. But Steve Shimek, travel publicity director for the Montana Promotions Division, said the concept falls in line with state goals to keep visitors in Montana longer.

"It has great potential for diverting people into more rural areas of Montana," he said. "It goes right along with what we have been trying to do. Once they get off the highway, visitors are likely to stay a little longer."

[From the Miles City (MT) Star, July 24, 1990]

ENJOY THE SIGHTS

Anything that drags tourists off the interstate and into the state's small towns is a good idea, so we applaud the Bureau of Land Management's backcountry byways program.

It may be a sad commentary on the state of America's recreational ambitions, but a recent poll found the second most popular leisure pursuit for Americans was driving around. Walking came first. Anyway, the BLM decided to make the most out of that bit of trivia by designating some scenic routes and areas in the nation's out-of-the-way places.

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There will be scenic byways along the Missouri Breaks near Dell, the Garnet Range near Missoula and Big Sheep Creek near the Montana-Idaho border.

The byways will take travelers along little-used roads and encourages people to slow down and see some things they would most likely miss otherwise.

Each BLM director made recommendations on what would make a good byway in that particular area, and Montana had three chosen for the national program.

Hopefully in the future some byways through eastern Montana will be selected. There's some beautiful countryside that the average interstate Winnebago-driver misses but would surely appreciate if someone took the time to point it out.

Montana's mega-tourist attractions get plenty of exposure, but many other areas have a subtle beauty all their own, and it's good to see others will be encouraged to slow down and enjoy them, too.●

STEEL SUBSIDY NO. 8: SPAIN

● Mr. HEINZ. Mr. President, today I would like to acquaint Senators with yet another example of the problem of foreign steel subsidies and how they damage the U.S. steel industry.

Today's subsidy of the day comes from Spain. Despite the European Community's [EC] banning of further subsidies to its steel producers, many of its countries continue to subsidize steelmaking through regional development aid and programs in lieu of direct subsidies.

In the case of Spain, such actions are readily apparent. As recently as February of this year, the government-owned Bank of Industrial Credit was awarded a European Coal and Steel Community global loan of $35 million. This money, in turn, is to be reloaned to domestic coal and steel producers at below-normal interest rates. Furthermore, Altos Hornos de Vizcaya, Spain's second largest integrated steelmill, received State subsidies of $229 million in 1989. According to the company's annual report, this money was equal to 34 percent of total revenues.

It is clear to this Senator that subsidization practices are alive and well in Spain. Yet, these practices are restricted under our bilateral consensus agreement with the EC. To insure that international steel trade is fair and open, situations like this one must be addressed and future ones avoided. That is why Senator BAUCUS and I and others have introduced the Trade Agreements Compliance Act, to make sure that all U.S. trade pacts are fully implemented and properly enforced. I hope Senators will give American industry a vote of confidence by supporting this bill.●

TRIBUTE TO GEN. JOHN W. ROBERTS, USAF, RET.

● Mr. DOMENICI. Mr. President, it gives me great pleasure to offer a tribute to Gen. John W. Roberts, USAF, retired, as he terminates his current position as chairman of the board of the Retired Officers Association. His service as a board member, and as chairman of the board, has been a continued example of the leadership he demonstrated throughout his distinguished U.S. Air Force career.

General Roberts entered the Air Force in 1943 and earned his pilot's wings a year later. His unique leadership qualities were recognized early in his career and, following the Korean conflict where he flew combat missions in F-84 and F-86 aircraft, he was earmarked for challenging positions with ever-increasing responsibilities. Among these were commander 3529th Combat Crew Training Squadron, Williams Air Force Base, AZ; assistant deputy chief of staff for plans and operations, Headquarters Air Training Command (ATC) Randolph Air Force Base, TX; chief, Mobility and Strike Division, Pacific Air Forces, Hawaii; and assistant chief of the Special Air Warfare Division at Headquarters United States Air Force.

In 1966, John was assigned to a covert organization tasked to develop specialized equipment to retard and identify the scope of infiltration from North to South Vietnam. Subsequently, after an interim assignment as vice commander of the F-4 Combat Crew Training Wing located at Davis-Monthan AFB, AZ, he assumed command of the famed 366th Tactical Fighter Wing (the Gunfighters) located at Da Nang Air Base on January 2, 1968. Upon selection for brigadier general, he was transferred to Tan Son Nhut Air Base in October 1968, as director, Tactical Air Control Center, Headquarters Seventh Air Force.

General Roberts became deputy director of personnel plans, Air Force Headquarters in 1970 and later was assigned as director. In 1973, he was appointed deputy chief of staff, personnel, U.S. Air Force. His last active duty assignment was as commander of Air Training Command in San Antonio, TX, a position he held until retirement in 1979.

General Roberts' tenure as chairman of the board of the Retired Officers Association has been a marked increase in membership to its current level 369,500. His demonstrated concern for the welfare of military people continued as he spearheaded the fight to ensure cost-of-living adjustments for retired service members, widows, and survivor benefit plan recipients, as well as continued pay increases for the active duty force. Under his guidance, the Retired Officers Association led the effort which resulted in the repeal of the Medicare Catastrophic Coverage Act surtax. General Roberts' personal commitment to excellence through education was reflected in the Retired Officers Association's strong support for improvements to the Montgomery GI bill, bringing the dream of a college degree within reach of every one of our military members, thus increasing their contributions not only to the defense of the Nation, but also to its long term economic productivity.

Mr. President, John Roberts is a fine American and a leader worthy of emulation. He continues to benefit his community and the country as a volunteer with the Boy Scouts of America, the American Red Cross, and the Armed Services YMCA. His personal warmth, charismatic leadership, and sensible guidance as chairman of the board for the Retired Officers Association will be sorely missed and we shall be forever grateful for his dedicated contributions to our country. We wish him and his lovely wife, Fern, well in retirement.●

TRIBUTE TO INDIANAPOLIS CHAMBER ORCHESTRA CONDUCTOR KIRK TREVOR

● Mr. COATS. Mr. President, recently I had the pleasure and the privilege to meet with Kirk Trevor, the conductor of the Indianapolis Chamber Orchestra who was in the Nation's Capital as a guest conductor of the National Symphony Orchestra [NSO] of Washington, DC. Mr. Trevor had the honor of being selected as one of three conductors who were to participate at the Fourth Annual American Conductors Program as part of the American Symphony Orchestra League's 45th national conference hosted by the National Symphony Orchestra.

The American Conductors Program, a joint project of the league and the NSO, is designed to recognize gifted conductors whose work has had a significant impact on the American orchestras they conduct and the communities in which they perform. The program is funded by a generous grant from the Ford Motor Co. fund.

Mr. Trevor, together with the other two honored guest conductors, led the National Symphony Orchestra in works by Stravinsky, Strauss and Beethoven. The Washington press warmly praised the performances.

Kirk Trevor was a good choice for this year's program. Mr. Trevor is artistic advisor and principal conductor of the Indianapolis Chamber Orchestra. Concurrently he has completed his fifth season as music director and conductor of the Knoxville [TN] Symphony Orchestra and the Knoxville Chamber Orchestra. Previously he was associated with the Dallas [TX] Symphony Orchestra, first as Exxon Arts Endowment Conductor and later as associate conductor.

As guest conductor, Mr. Trevor has appeared with the St. Louis, Denver, Baltimore, San Diego, Indianapolis, Grand Rapids, New Jersey, and Na-

tional Symphony Orchestras. During the 1988–89 season, he conducted the Orquesta Sinfonica Municipal de Caracas, the Orquesta Sinfonica del Estado de Mexico, and the Latvian Philharmonic Society.

Although he is now a Hoosier, Kirk Trevor's accent reveals his English birth and breeding. Upon graduation with distinction from London's Guildhall School of Music, Mr. Trevor continued his postgraduate studies there as assistant conductor for orchestra and opera programs, studying with such musical giants as the late Sir Adrian Boult, George Hurst, and Vilem Tausky. Mr. Trevor was later awarded a British council scholarship to study in France with Paul Tortelier, one of the world's great cellists. In 1975 he came to the United States on a Fulbright exchange grant to study and teach at the North Carolina School of the Arts. Subsequently he became assistant conductor at that school as well as assistant conductor of the International Festival Orchestra in Italy, and later associate conductor of the Charlotte Symphony Orchestra, a post he held for 5 years.

While Mr. Trevor now lives in Knoxville, he is very much a Hoosier and he contributes significantly to the musical and cultural life of Indiana. Kirk comes to Indianapolis at least 10 times a year to conduct Indianapolis Chamber Orchestra programs in Clowes Memorial Hall at Butler University and to work with the board of directors and trustees on development projects for the orchestra.

For my colleagues unfamiliar with this ensemble, I must add that the Indianapolis Chamber Orchestra is the city's only professional chamber orchestra. Modeled after the St. Paul and Los Angeles Chamber Orchestras, the Indianapolis Chamber Orchestra specializes in a repertoire which embraces baroque, classical and contemporary music. The ICO performs works that require from 17 to 38 players, themselves outstanding young talent drawn from all over Indiana.

Mr. President, I am pleased to salute Kirk Trevor for his many achievements. I ask that the text of the article "Carving a Niche" by Tom Aldridge from the March 1990 issue of Arts Indiana which documents the rise of the Indianapolis Chamber Orchestra and its young conductor be printed in the RECORD.

The article follows:

CARVING A NICHE

(By Tom Aldridge)

Can—or should—Indianapolis support a chamber orchestra of players distinct from those employed by the Indianapolis Symphony Orchestra (ISO)? After a harrowing period of financial distress over the last two years, the six-year-old Indianapolis Chamber Orchestra (ICO), founded and first conducted by Dr. David Urness and now under the direction of British-born conductor Kirk Trevor, seems to be answering in the affirmative.

While it may be too early to state that the new ensemble has achieved the stability of such local performing groups as the ISO or Suzuki and Friends, it is safe to say the 32-piece ICO, consisting wholly of professional musicians, has already carved a niche in the community. In addition to performing in six regular subscription concerts a season at Clowes Hall, the ICO is now engaged extensively in tours of surrounding communities and as a pit orchestra for opera, ballet, and choral groups.

Trevor's appointment in the spring of 1988 happened at a time when orchestra finances were insufficient to pay the players for several subscription concerts—including the first two Trevor conducted in his new role in the 1988–89 season. (It should be pointed out that the ICO players are not on salary: they're paid by the engagement.) But he was impressed with the fact that the players were so committed to the orchestra that they were willing to play gratis long enough to see it through its doldrums.

"At the very beginning I had certain qualms and misgivings about taking on the job, given the organization's fiscal problems," Trevor comments. "But I was turned on by the esprit de corps of the musicians and the potential quality of the orchestra. So, probably against my better judgment at the time, I accepted the position.

"For instance, things were so bad for a while, we didn't know each time whether there was going to be a next concert. But now, I think, with the addition of Clay [Robbins] as board president and his administrative efforts to make the board side of the organization much stronger, the orchestra has turned around. And the Eli Lilly grant of $50,000 last January [1989] really helped stabilize the organization in the sense that it gave the orchestra credibility within both the music community and the corporate sector."

Whatever concerns Trevor may have had initially seem now to have been erased, as he projects a genuine enthusiasm and an intense involvement with his part-time duties in the Hoosier capital. Having studied in England with Sir Adrian Boult and George Hurst, Trevor moved to the U.S. in 1975, and has appeared as a guest conductor with major orchestras in cities such as Denver, St. Louis, and Baltimore. Since 1985 he has been music director of the Knoxville Symphony Orchestra, where he currently resides. He was one of several conductors who auditioned for the ICO post during the 1987–88 season, and was the clear choice of all concerned following his guest appearance here in the spring of 1988.

Interestingly, Trevor's British background, the period of his U.S. residency, and his galvanizing influence on his players all have parallels with Raymond Leppard and the ISO. Trevor remarks: "You know, Raymond and I knew each other in England. We both played in the English Chamber Orchestra, although I arrived just after he left. I was a cellist in the ECO, and he had been harpsichordist [as well as conductor]. Then we knew each other in this country because of our paths crossing on several occasions."

What are Trevor's general views regarding ICO repertoire? "A lot of people are commemorating that they like the eclectic mix in our programming. And I think that's going to be our trademark. But some people say, 'Well why don't you become a true chamber orchestra and play Vivaldi, Bach, early Haydn, and Mozart?' I think there are more specialized groups better suited to that than we are. I think we have a duty to present the whole spectrum of chamber orchestra repertoire—which, by the way, is the widest spectrum of all. Our music ranges from basically 1600 to the present including a great deal of contemporary literature. With that breadth we need to keep our variety and mix open."

An outsider happening upon the Indianapolis music scence may see some irony in the fact that the 32-piece ICO performs in the 2,200-seat Clowes Hall, while the 88-piece ISO is in residence at the 1,833-seat Circle Theatre. The explanation, as always, lies in an organization's history, in turn determined by such mundane factors as hall availability, rent, potential market, and—most of all—arts organzation-community-corporate politics.

The ICO's relocation to Clowes from the Indianapolis Museum of Art's Showalter Pavilion and the shift in concert days from Sundays at 5:00 p.m. to Mondays at 7:30 p.m. both happened when Trevor took over the orchestra. "I think the move to Clowes was a very good one." Trevor states, "We're now located there and our concerts are advertised by Clowes, which has an enormous mailing list."

Does Trevor feel that the difficulty in filling such a large hall is detrimental?

"We're seeing attendance figures now of 500 to 600, which is up, obviously, from Showalter, and it certainly does not look empty from onstage. We very much feel the presence of the audience there. But I also don't think Clowes has had the impact yet that it is going to eventually.

"And in addition to the eclectic program mix people are responding to the more casual atmosphere in our concerts. It comes down to the fact that there are really two audiences for classical music. Ours are the chamber orchestra aficionados—and there's a good chance many of these don't go to symphony concerts."

The formation of the ICO was made possible because of the increase, over the last decade, in locally resident professional players not employed by the ISO and seeking an outlet for their talents. Donna Clark, violist in the Lockerbie String Quartet and adjunct professor of viola and chamber music at Butler's Jordan School of Fine Arts, has been the ICO's principal violist since the orchestra's inception. She recounts the events leading to its founding:

"In the spring of 1984 the Lockerbie Quartet was working with the Indiana Arts Commission [IAC], because we were going for a grant. At that time David Urness was performing arts coordinator [for the IAC], so we had gotten to know him through that contact, and he had come several times to hear us perform. About six months or so after we first met him, he told me he was thinking about forming a chamber orchestra. He had done quite a bit of this kind of organizing [in other cities] before.

"I was very excited about it because his idea was that the orchestra would be stronger if the principals were members of an active string quartet. Because there you already have four people used to working with each other. [The Lockerbie had been formed in 1980, with Clark as a founding member.]

"The quartet was very happy to do this. It consisted then of Sherban Lupu, still our [ICO] concertmaster, Margaret Jones, our principal second, cellist Marjorie Hanna, and myself. This was great for us because it

just expanded what we were already doing. David asked Sherban and me to serve on the original board, which then consisted mostly of members of Trinity Episcopal Church, of which David was a member."

Also on the original board was Clay Robbins, an attorney with Baker and Daniels, who has now become the orchestra's president. Clark recalls: "From the very beginning Clay was a tremendous help to the orchestra: he incorporated us virtually overnight. Also, in starting out performing in the church, which was already very active musically, we had a place to play where we didn't have to pay rent. We also had a built-in audience, because they already had a series which we then became a part of."

As many may remember, the orchestra was originally called the Musicians of the Cloister. "As far as the name, I believe David came up with it, and the board then approved it," says Clark. "So long as we were strongly tied to the church, I think it was quite appropriate. Finally at one point the board felt that people didn't understand the name, and would understand 'Indianapolis Chamber Orchestra' much better." The name was officially changed in March 1987.

Though the emergence of the orchestra from Trinity's "cloister" happened gradually, it was first proclaimed in a free concert held at the Indianapolis Museum of Art's Showalter Pavilion in April 1985. Artistically the concert was an enormous success. Reviewing it in the June 1985 issue of Arts Indiana (then called Arts Insight), this correspondent wrote: "The Musicians of the Cloister, under the direction of Mr. David Urness, demonstrated . . . that instrumental excellence in the Indianapolis area extends at least one layer deeper than might have been previously thought."

Deeper, that is, than that of the ISO players. Sadly, the quantity of instrumentalists of major-symphony caliber in this country far exceeds the available positions. It is through the audition ritual, to which hundreds of applicants may apply at an advertised opening, that the fortunate ones are selected into the exclusive fraternity of major symphony players—the only place where a living income and job security are provided for the most classical performing musicians.

How were the ICO musicians originally chosen?

Clark recalls: "We knew there was a lot of talent around here because there is a lot of free-lance work in Indianapolis. Several years ago it wouldn't have been possible to have an orchestra of this caliber using players in town who were not already in ISO. That situation started to change about seven or eight years ago. Some of these people were trained in Bloomington and they would get used to coming to Indianapolis to do work. Then maybe they would take a series of auditions, and not get a job—not because they weren't good, but because 150 people were auditioning for the same position. A lot of times people a little bit older, a little bit more experienced, would be preferred. But a lot of the Bloomington people ended up moving here because of the work that was available."

Urness directed the orchestra for two full seasons, in 1985-86 on the Indiana Repertory Theatre Mainstage, and in 1986-87 at Showalter. His departure arose mainly because of his not being primarily an orchestral conductor, and because the board and the players felt that the orchestra had by then evolved to the point where they needed someone on the podium who was in the conducting profession full time. It was a difficult, awkward period for all concerned because all felt considerable gratitude towards Urness for his talents as an organizer and his manifold contributions to the ICO's launching. At present Urness serves as director of performing arts on the South Carolina Arts Commission.

Clay Robbins comments on the orchestra's finances: "Our budget typically runs from $110,000 to $125,000 a year [scarcely more than a hundredth of the ISO's budget]. Our six subscription concerts cost us $8,000 to $10,000 each. We then do what we call contract-service performances—these are with the other arts organizations such as the ballet and the Arts Chorale. We try to do these at a very reasonable rate, allowing them to keep their budget in line."

Because the ICO's players are free lance, it is easy to adjust ensemble size according to need. Clark observes: "We obviously grow from our normal size for Nutcracker [the ICO has, for several seasons, been the pit orchestra for the Butler Ballet's annual pre-Christmas production of the Tchaikovsky ballet, replacing the ISO, which had been so engaged for many years prior.] We try to get as extras people who have auditioned for the orchestra, so we always know the quality of the people we are using."

Butler's decision to look for an alternative to the ISO for the Nutcracker arose mainly because the ISO's rates had been very high (though according to an ISO spokesperson the costs they incurred in playing The Nutcracker still exceeded the rates they charged Butler). Four Indiana Orchestras were invited by Butler in 1986 to bid for the pit job, including the ISO and the ICO. The ICO won. Now the ICO is also regularly used by the Indianapolis Ballet Threatre and was hired by the Indiana Opera Theatre for one opera this year, with talk of its being used more in the future.

Although the ISO may intially have been upset at losing the Budget job, it ironically cleared the time for them to launch their highly successful—and money-making—Yuletide Celebration series, so that, according to ISO vice President and general manager Thomas R. Ramsey, no hard feelings remain. Clark adds: "Indianapolis has come of age. It's time for us to have a professional chamber orchestra as well as a symphonic orchestra. It should be a situation where we help each other, and I know Kirk has tried to promote that a great deal. As far as we're concerned, because we can go out in a smaller group and we can be paid by service rather than a salary, it enables us to go to the outlying communities and do things in cooperation with them—things these communities couldn't afford to hire the ISO for."

In this connection Trevor shares his vision for the orchestra: "I want the ICO to become the orchestra for all the arts organizations in the community—to link the arts organizations together. In other words, the ballet and the opera should be using the ICO, because in my view we have the best free-lance players in town. And because we play together as an orchestra all the time [an average of 12 to 15 days a month counting pit, touring, and subscription engagements], we need less rehearsal time than anybody else. With us these organizations will certainly get the most for their money."

For the six subscription concerts, however, Clark feels the rehearsal time is insufficient. "At present," she explains, "we're only allowed—only budgeted for—three rehearsals. The reason our playing may be occasionally uneven is that there are certain works that fall together easier than other works. Maybe the easier works are ones most of us already knew. I think it would be the most wonderful thing in the world—I mean it would be heaven—to have four rehearsals. Because it ends up that Kirk chooses very ambitious programs—as he should. But sometimes he picks very unusual works none of us have played before. When we get to the dress rehearsal, there's not a lot of time to do more work on the pieces.

"I know the board is aware of this, and they know that we need more rehearsal time. The good side is that those of us who've been with the orchestra for quite a while have learned to put things together quickly. We're lucky we have a fine conductor who can do so much in two rehearsals. But four total rehearsals, including the dress, would still be the best; it would be good for the musicians, and good for the audience."

And, Clark might have added, good for the community.●

NORTHEAST IOWA COMMUNITY ACTION CORPORATION'S 25TH ANNIVERSARY

● Mr. GRASSLEY. Mr. President, on June 1, 1965, the Northeast Iowa Community Action Corp. [NEICAC] began in Alamakee, Winneskiek, and Howard Counties with a Federal grant of just $28,000 in its pocket on which to operate. On August 9, 1990, NEICAC will celebrate 25 years of service and dedication to helping those in need in northeast Iowa. The agency's fiscal year budget has grown to $3.5 million and its staff is now comprised of over 100 concerned individuals who care for the residents of local communities.

Needless to say, NEICAC has grown considerably over the years. After its start, this concerned organization flourished with the help of dedicated individuals. In May 1966, Neal Weidemann was hired as the first executive director, with a total staff of three people. This was the start of many exciting new programs and projects to assist those in northeast Iowa as the agency's first needs assessment was completed. The Iowa Conservation Corp. was started; Meals on Wheels began as a community service project to serve lunches in the homes of shut-in individuals; senior citizen centers were opened; outreach activities were initiated; and Head Start, a program for children with financial and education disadvantages, began with 15 summer centers.

In March 1967, Chickasaw, Bremer, and Fayette Counties merged their Economic Opportunity Program with NEICAC to form an even stronger entity. This provided agency employees health care benefits at $11.10 per month. Clayton county joined forces with NEICAC in 1968. All counties have remained in constant and concerned service since.

In August 1974, the hands of the directorship changed to Richard E. Wagoner. The agency then grew to include such community focused programs as the Northeast Regional Transit System, Family Planning, WIC, Weatherization, LIHEAP, Child Development, Child Care Food Program, Family Development, and Employment Programs.

Finally, on June 1, 1989, Mary Ann Humpal became NEICAC's third executive director. Under her direction five new Head Start centers and two more child devlopment centers have been created. Over the past 3 years the Family Development Program has helped 30 families become totally self-sufficient. Additionally, 170,000 one-way rides were given by the Northeast Regional Transit, including a private/city/community action coalition to provide services to senior citizens.

The excellent model of effective community service provided by NEICAC is a large part of the reason I remain an enthusiastic and dedicated supporter of community action agencies. CAA's service to their local communities can be matched by no other entity which serves low-income people.

Congratulations and best wishes to the Northeast Iowa Community Action Corp. and all of its fine work! A dedicated organization such as this is a fine example of people caring for people for a better community for everyone.●

FREEDOM OF PRESS IN ROMANIA

● Mr. DODD. Mr. President, in December 1989, Petre Bacanu, publisher of Romania Libera, the largest independent newspaper in Romania, languished in a Romanian jail awaiting his execution for his anti-Ceausescu writings.

Then came the revolution and Bacanu was released. Immediately, he resumed publishing the paper. But Bacanu faced one overriding problem in realizing his dream of managing a truly free press: the Government controls both the printing and distribution of all publications, including Romania Libera. Each evening the paper delivers a manually typed copy to the Government printing office, as does every other publication in the country. It is then reliant on the good graces of the Government as to whether the newspaper is printed, how many copies are printed, and to whom they are distributed.

Clearly, neither Romania Libera nor any other publication in Romania can be truly free if it does not own and control its own presses and the means of distribution.

But that was not Bacanu's only problem. It took the new government of President Iliescu only weeks to decide that Bacanu's outspoken criticism of the regime, was, to put it mildly, unhelpful. So it began a campaign of harassment and intimidation of Bacanu and the paper, culminating in a ransacking of its offices by the rampaging miners a month ago.

In recent days, Mr. President, we have read numerous public statements in the western press from the Iliescu government affirming its commitment to democracy and freedom. The statements appear to be part of an orchestrated public relations campaign to persuade the West to lift sanctions that were imposed after the recent wave of repression.

But word out of Bucharest suggests that this commitment is a bit hollow. The Government-controlled press is calling for the expulsion of Bacanu from Romania as punishment for his outspoken criticism of the regime during his trip here a few weeks ago. Equally offensive, I might add, is that the press is also calling for the expulsion of Doina Cornea, who joined Bacanu on the Washington trip. Ms. Cornea is perhaps the leading prodemocracy dissident in Romania—a stature she has held throughout the Ceausescu era. Expulsion of these voices of freedom would make a mockery of the Romanian Government's often stated commitment to democracy.

Furthermore, there are persistent rumors that the Government may try to nationalize Romania Libera, either by official fiat or legislative action. Either course would result in a silencing of the paper's independent voice.

Mr. President, expelling your most prominent critic and nationalizing the most widely read opposition paper hardly seems consistent with endorsing free expression and democracy.

I call on the Government of Romania to cease once and for all its harassment of Bacanu and Romania Libera. Progress toward democracy by those of us in the United States will not be measured by words and rhetoric, but by deeds. We are still waiting to see actions by the Iliescu government that demonstrate unambiguously that its commitment to democracy, a free press, and other freedoms goes beyond public relations fluff. Until we see such evidence, Romania cannot expect the United States to extend to it the kind of economic benefits it seeks and so desperately needs. It can start by letting Romania Libera and Petre Bacanu pursue their dream of managing a free and independent newspaper.●

BILLS PLACED ON CALENDAR—H.R. 4238, H.R. 4982, H.R. 5102, AND H.R. 4039

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following bills just received from the House be placed on the calendar: H.R. 4238, Vaccine and Immunization Amendments Act; H.R. 4982, Dwight D. Eisenhower Math and Science Education Amendments Act; H.R. 5102, home health care demonstration projects; H.R. 4039, Public Health Service Program for Prevention of Disabilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

KOREAN WAR VETERANS MEMORIAL 38TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. MITCHELL. I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 2737, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2737) to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I am pleased to cosponsor S. 2737, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act.

This important legislation will honor the brave men and women who served so courageously in the Korean war. It authorizes the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the violence in Korea. Profits from the sales of this coin will go into the Korean War Memorial Fund, which will be used to finance the completion of the Korean War Memorial.

Fundraising for the Korean war memorial, which was authorized by Congress in 1986, has already yielded more than half of the amount required for construction to begin. The funds to be raised through the sale of the Korean war memorial coin will thus make a critical contribution to the completion of that important memorial.

This coin will help reaffirm the gratitude of America to the courageous men and women who fought in the Korean war. If, as President Truman said, Korea was the testing ground in the ideological conflict between communism and democracy, the true scope of their victory is still unfolding.

The North Korean invasion of South Korea 40 years ago did more than ignite the Korean war. It revealed that

the conflict with communism was not just ideological. It revealed our adversaries' commitment to aggressive military force to accomplish their ends and their desregard for human life and self-determination.

The American and United Nations forces that fought that aggression endured the rigors and dangers of combat and the extremes of climate to preserve the independence of the Republic of Korea. They suffered reversals and came back to achieve stunning victories. But the value of their sacrifice has never been more evident than today, as the cold war draws to an end and freedom triumphs over totalitarianism in many parts of the world.

Although there is still a long way to go, as we look forward to the strengthening of democracy around the world, we should remember those whose sacrifices led the way to a more democratic and freer world. Those millions of Americans who served, the more than 100,000 that were wounded, and the tens of thousands that lost their lives in the Korean war, did not die in vain.

The commemorative coin and the memorial it will help build will ensure that our Nation always remembers the bravery and sacrifice of those who fought and died for the cause of freedom in Korea and in the world. We must let them, their families, and descendants know that America has not forgotten.

Mr. GLENN. Mr. President, I rise today in support of S. 2737, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act, which represents a very significant step toward completion of the Korean War Veterans Memorial project.

The purpose of this proposed commemorative coin is to raise the remaining money necessary to construct the Korean War Veterans Memorial. A mall site has been designated and a design selected. Today the American Battle Monuments Commission has on hand $6.8 million for the memorial project, $1 million in public funds provided in the original authorizing legislation, $5.8 million raised from the private sector. Gen. Richard Stilwell and the other members of the Korean War Veterans Memorial advisory board have done yeoman's service in raising these funds and I want to take this opportunity to commend them for their hard work and dedication.

However, $11 million is estimated to be needed to construct the memorial, pay engineering and architectural fees, and permanently endow a maintenance fund. There is considerable urgency to raising the remaining funds since, by law, we only have until July 1991 to begin construction. S. 2737 offers a means for raising the remaining funds at no cost to the taxpayers. Coin collectors as well as veterans organizations, Korean War veterans and their families make up a substantial potential market for the proposed coin. Those of us interested in seeing the memorial project through to completion cannot assume our job is done once this bill is passed, but the commemorative coin act gives us a very promising tool to use in completing the fundraising task. I know that the advisory board, and everyone else who shares their dedication to this memorial project, will make the most of this opportunity.

I thank my colleagues who have already demonstrated their support for the Korean War Veterans Memorial by cosponsoring this legislation; I thank the Banking Committee for moving expeditiously to send this measure to the Senate floor; and I thank the leadership for bringing the measure up in so timely a fashion.

The Korean war has often been referred to as America's forgotten war. I dare say that those of us who served there have not forgotten and never will. Finally, with the completion of the Korean War Veterans Memorial, we will demonstrate that the country, too, has not forgotten those who served in defense of freedom in Korea. ● Mr. ARMSTRONG. Mr. President, today the Senate unanimously passed S. 2737, a bill authorizing the minting of a silver dollar coin honoring those Americans who bravely served in our Armed Forces during the Korean War. Mr. President this honor is long overdue.

Between 1950 and 1953 the Korean war ultimately involved over 5.7 million American servicemen and women. More than 54,000 of these Americans would make the ultimate sacrifice, dying in defense of freedom. These unsung heroes of democracy began the first attempt to stem the flow of Communist expansionism and were arguably the first ripple in the tide of democracy sweeping the world today. It is to these men and women we pay tribute today.

Mr. President, in effect, we are honoring our veterans twice with the passage of this bill. This legislation does not simply provide our Korean War veterans with a commemorative coin, it helps ensure that the necessary funds are available to provide a lasting tribute to these heroes. All moneys raised by the sale of these coins in excess of the cost of minting will be deposited in the Korean War Memorial Fund. This money, in turn, will be used for the construction of the Korean War Memorial on the Mall here in Washington. Any funds raised in excess of the construction costs will be given to the National Park Service for perpetual maintenance of the memorials, helping to ensure that all our memorials are maintained.

Mr. President, it gives me great pleasure to have been involved in this legislation along with Senators GLENN and RUDMAN. With their help this legislation was introduced and passed in less than 2 months. It is high time we honored our Korean War veterans. Today is a victory for them and for what they fought for.●

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act".

SEC. 2 FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) on June 25, 1950, the Republic of Korea was invaded by the North Korean Army,

(2) United States forces in a United Nations action defended South Korea and repelled the attackers.

(3) further aggression by the Chinese Communists was also repelled,

(4) an armistice was signed on July 27, 1953,

(5) American combat deaths totaled 33,629, and more than 8,000 remains are still unaccounted for,

(6) an additional several thousands nonbattle deaths occurred on or around the Korean peninsula,

(7) 103,284, Americans were wounded, with many disabled and handicapped,

(8) this war, waged under the United Nations aegis, halted communist aggression in Northeast Asia, preserved the human rights of 40 million people, and restored the territorial integrity of the Republic of Korea,

(9) the desire to memorialize American gratitude to the courageous men and women who served has led to the Korean War Veterans Memorial authorization,

(10) this memorial must be built by private donations, and

(11) the monies must be raised by the thirty-eighth anniversary of the ending of the war.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the thirty-eighth anniversary of the ending of the Korean War should not go unrecognized,

(2) that the United States should recognize this anniversary and the veterans of the Korean War by minting and issuing a silver dollar coin; and

(3) that issuance of this coin will enable the Korean Was Veterans Memorial to be built in the Nation's capital on schedule, with all donations to be deposited in the United States Treasury Memorial Fund.

SEC. 3 KOREAN WAR VETERANS COMMEMORATIVE COIN.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue not more than 1,000,000 one-dollar silver coins to commemorate the thirty-eighth anniversary of the ending of the Korean War.

(b) SPECIFICATIONS.—Each silver coin minted under this Act shall—

(1) have a diameter of 1.500 inches; and

(2) be composed of 90 percent silver and 10 percent copper.

(c) DESIGN.—The design of the coins minted in accordance with this secton shall be symbolic of the Korean War Veterans' heroic service. Each coin shall bear a designation of the value of the coin, an inscription of the years "1953-1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The design for the coins authorized by this title shall be selected by the Secretary after consultation with the Korean War Veterans Memorial Advisory Board and the American Battle Monuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Act (50 U.S.C. 98 et seq.).

SEC. 5. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities, except that only one facility of the United States Mint may be used to strike each quality of coins.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1991.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1991.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) SURCHARGES.—Sales of coins minted under this Act shall include a surcharge of $7 for each one-dollar coin.

(c) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(d) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sales prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

SEC. 8. USE OF SURCHARGES.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

(b) DISPOSITION OF SURCHARGES.—Surcharges received from the sale of coins minted under this Act shall be deposited in the Korean War Veterans Memorial Fund in the United States Treasury.

(c) USE OF SURCHARGES.—

(1) CONSTRUCTION.—All surcharges collected shall be available to the Commission—

(A) to establish and erect the Korean War Veterans Memorial in the Nation's capital to honor those who served;

(B) to make the donation required by section 8(b) of Public Law 99-652; and

(C) to make the deposit described in section 3(c) of Public Law 99-572.

Any surcharges in excess of the amounts needed for the purposes of this paragraph shall be used as provided in paragraphs (2) and (3).

(2) MAINTENANCE AND PERPETUAL CARE.—Excess funds above the funds required for paragraph (1) shall be available to provide maintenance and perpetual care for the memorial. Any additional excess funds shall be used to establish interpretive centers and to disseminate information.

(3) NATIONAL PARK SERVICE FUNDS.—Any remaining excess funds shall be donated to the National Park Service for maintenance of memorials under its jurisdiction and authorized by Congress during the 20th century relating to the commemoration of military conflicts in which the United States was involved.

(d) AUDIT.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the Commission relating to the expenditure of amounts paid under subsection (c).

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

SEC. 10. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 8 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT—REPORT NO. 101-386

Mr. MITCHELL. I ask unanimous consent that the report No. 101-386 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE BILL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4872, the National Advisory Council on the Public Service bill.

The PRESIDING OFFICER. Without objection it is so ordered. The Clerk will report

The legislative clerk read as follows:

A bill to establish the National Advisory Council on the Public Service.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4872) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AGRICULTURAL RESEARCH WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 699, House Joint Resolution 548, designating National Agricultural Research Week.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 548) designating the week of August 17 through 25, 1990, as "National Agricultural Research Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 548) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STRATEGIC PETROLEUM RESERVE AMENDMENTS OF 1990

Mr. MITCHELL. Mr. President, I ask that the chair lay before the Senate a message from the House of Representatives on S. 2088.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 2088) entitled "An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Sharp, Mr. Markey, Mr. Bruce, Mr. Tauzin, Mr. Lent, Mr. Moorhead, and Mr. Dannemeyer be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I move that the Senate disagree with the House amendments and agree to the request for a conference and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to, and the Chair appointed Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, and Mr. DOMENICI, conferees on the part of the Senate.

PHILIPPINE EARTHQUAKE DAMAGE

Mr. MITCHELL. Mr. President, on behalf of Senators AKAKA and INOUYE, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 315, submitted today by Senators AKAKA and INOUYE.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 315) expressing the sense of the Senate that the President should exercise certain emergency authorities to provide for relief, rehabilitation, and rebuilding of affected areas of the Philippines from damage due to the recent earthquake.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

EMERGENCY AID TO PHILIPPINES

Mr. AKAKA. Mr. President, last Friday I introduced S. 2883, a bill directing the President to transfer funds for emergency aid to the Philippines. I am pleased that the distinguished chairman of the Foreign Relations Committee, Senator PELL, as well as the ranking minority member, Senator LUGAR, are now cosponsors of the legislation, which I now resubmit in modified form, as a sense-of-the-Senate resolution.

As many of you know, the death toll from the devastating July 16 earthquake which struck the central Luzon region of the Philippines has grown to over 1,000 confirmed dead. Large areas of the struck region lie devastated, and hundreds of thousands of people are without electricity or emergency supplies. The fact of the matter is that the Philippine Government has not been able to cope with a disaster of this dimension.

My original bill directed the President to transfer $20 million in funding, under the authority of the Foreign Assistance Act, to be used for relief, rehabilitation, and restructuring of the Philippines from damage due to the earthquake. However, I have concluded that the amount of any funding should be left to the discretion of the President, for two reasons. First, the extent of the earthquake damage is still being assessed. Until we know how much aid is needed for reconstruction purposes, it would be unwise to pin ourselves to a specific amount of money. Second, since I originally introduced my bill, the United States has acted quickly to provide earthquake relief to the Philippine people. I believe these ongoing efforts should be factored into any further U.S. aid.

Mr. President, the basic rationale of my modified bill remains the same. As I indicated when I introduced the original version, the Philippine people are our oldest allies in Asia. We should not shrink from lending assistance when they are in particularly bad trouble. The earthquake has been a heavy body blow to the Philippines, and threatens to undermine the Aquino government, at a time when that government faces staggering economic problems. It seems to me that the Senate should encourage the President, in the strongest terms, to provide meaningful amounts of earthquake assistance to the Philippines at an hour of great need.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 315

Whereas a devastating earthquake registering 7.7 on the Richter scale struck Central Luzon, the Philippines, on July 16, 1990, followed by numerous aftershocks;

Whereas the death toll from the earthquake now exceeds 1,000, and large areas of the region lie devastated, with hundreds of thousands of people without electricity and emergency supplies;

Whereas the Philippine people are in dire need of assistance, above and beyond the emergency funds and rescue support provided by the United States in the immediate aftermath of the earthquake;

Whereas the Philippines is our oldest ally in Asia, and its people share our democratic values;

Whereas other nations, including Japan, the United Kingdom, and the Federal Republic of Germany, are providing generous amounts of aid; and

Whereas the freely elected government of Corazon Aquino faces staggering domestic problems, and is in need of assistance at this time: Now, therefore be it

Resolved, That it is the sense of the Senate that the President should exercise his authority under section 506(a) of the Foreign Assistance Act of 1961 (providing the transfer of articles and assistance from the Department of Defense for unforeseen emergencies), section 451 of the Foreign Assistance Act of 1961 (relating to emergency assistance), and section 491 of the Foreign Assistance Act of 1961 (relating to international disaster assistance), to transfer funds available for fiscal year 1990, to be utilized only for relief, rehabilitation, and rebuilding of affected areas of the Philippines from the damage due to the recent earthquake.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have a brief statement to make and I understand the distinguished Republican leader has two statements to make. So I ask unanimous consent that following my remarks the distinguished Republican leader be recognized to address the Senate for such time as he chooses, and that upon the conclusion of his remarks the Senate stand in recess as under the order until 12:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the majority leader.

THE RETIREMENT OF MISS RUTH

Mr. MITCHELL. Mr. President, I take this opportunity to pay tribute to a very special person who today is retiring after 43 years of Government service.

Miss Ruth Martin began her work in Government as a printer's helper at the Bureau of Engraving. She then moved to the Senate restaurant, where for 37 years she has had the pleasure to serve many members of the national media who work in the Senate press galleries.

Miss Ruth, as she is known to her many friends here in the Capitol, has a quiet and gentle manner. She takes great pride in her work and offers a nice break in the middle of the day to those she serves.

The press has good reason to miss Miss Ruth. I am told that she has always saved the best desserts for members of the media.

On behalf of all the Members of the Senate, I wish Miss Ruth Martin all the best as she begins her retirement and extend to her the gratitude of all Senators for her many years of dedicated service.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senate Republican leader.

TRIBUTE TO RUTH MARTIN; LONGTIME EMPLOYEE OF SENATE RESTAURANT

Mr. DOLE. Mr. President, I rise today to pay tribute to a woman of uncommon dedication and outstanding service to the Senate. For the past 37 years, Ruth Martin has been a cheerful and hard working employee of our Senate restaurant. In fact, she worked there for more than 8 years before the Senate actually took over the restaurant's operation in 1961.

For much of her tenure at the Senate restaurant, Ruth Martin has served food at the press table reserved for the reporters covering Congress; for that alone, she deserves a medal of honor. You might say that when reporters were not feeding on debate here on the Senate floor, they were feeding on fine food served by Ruth. In her day, she gave the press their share of scoops—ice cream, mashed potatoes, and otherwise.

Mr. President, combined with several years of service at the Bureau of Engraving in the 1940's, Ruth Martin retires today with 43 years of Government service. I know my colleagues join me in congratulating Ruth and wishing her all the best as she begins her well-deserved retirement.

NOMINATION OF DAVID SOUTER

Mr. DOLE. Mr. President, it is maybe not surprising but somewhat frustrating to read a story this morning, that Justice Marshall suggested that the Souter nomination may be politically motivated, and made other remarks regarding President Bush.

I believe Justice Marshall stepped over the line yesterday with his cheap shots of President Bush and Judge Souter, who is the nominee for the Supreme Court and could be on the bench serving with Justice Marshall.

Unfortunately, Justice Marshall has a habit of criticizing Republicans. He is a very partisan liberal Democrat.

In my view America does not want its Supreme Court playing politics. When Justice Marshall starts making partisan statements, you can guess they will also be reflected in his judicial opinions.

The botton line is, as far as I am concerned, Judges should not be sitting on the highest court in the land making partisan pot shots and demeaning political statements and judgments.

ORDERS FOR MONDAY, JULY 30, 1990

Mr. MITCHELL. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12:30 p.m. on Monday, July 30; that following the time for the two leaders; that there be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each, and that at 1 p.m. the Senate resume consideration of S. 137, the Campaign Finance Reform Act.

The PRESIDNG OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, if I might at this time advise Members of the Senate of the plans for the schedule on Monday, following a discussion between the distinguished Republican leader and myself.

We will go back to the campaign finance bill at 1 o'clock. I understand that the Republican Senators will be present to offer three amendments during the day. We anticipate that two of those will require rollcall votes on Monday, and that those rollcall votes will not occur prior to 7 p.m.

It is not definite that they will occur right at 7 p.m. but they will occur not prior to that. We will give plenty of notice by agreement of consultation between the distinguished Republican leader and myself, so that Senators will be able to make those votes on Monday evening. But Senators should be aware that there will be opening statements and debate on three amendments. Then we anticipate that the vote on the third amendment will likely be scheduled for early Tuesday morning.

Mr. DOLE. That is correct.

RECESS UNTIL MONDAY, JULY 30, 1990 AT 12:30 P.M.

The PRESIDNG OFFICER. Under the previous order, the Senate now stands in recess until Monday, July 30 at 12:30 p.m.

Thereupon, the Senate, at 6:29 p.m., recessed until 12:30 p.m., Monday, July 30, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 27, 1990:

DEPARTMENT OF AGRICULTURE

LEON SNEAD, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF AGRICULTURE.

FEDERAL INSURANCE TRUST FUNDS

STANFORD G. ROSS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND; THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND; AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

DAVID M. WALKER, OF VIRGINIA, TO BE A MEMBER OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND; THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND; AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

DEPARTMENT OF JUSTICE

STEVEN D. DILLINGHAM, OF SOUTH CAROLINA, TO BE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

JIMMY GURULE, OF UTAH, TO BE AN ASSISTANT ATTORNEY GENERAL.

ROBERT C. BONNER, OF CALIFORNIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

ALBERT Z. MOORE, OF OHIO, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Friday, July 27, 1991*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BONIOR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 26, 1990.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on Friday, July 27, 1990.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, of the power of trust and honor. May we learn to give our word in such a way that people will rely on what we say and accept our confidence. May we so speak and treat others with such honesty and integrity that we develop the character and reputation that we so earnestly desire. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. SOLOMON] please come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

EDUCATIONAL EXCELLENCE ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 695) to promote excellence in American education by recognizing and rewarding schools, teachers, and students for their outstanding achievements, enhancing parental choice, encouraging the study of science, mathematics, and engineering, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educational Excellence Act of 1990".

SEC. 2. TABLE OF CONTENTS.

This Act is organized as follows:

TITLE I—IMPROVING ELEMENTARY AND SECONDARY EDUCATION
PART A—PRESIDENTIAL SCHOOLS OF DISTINCTION
PART B—SCHOOLS OF EXCELLENCE
PART C—ALTERNATIVE CERTIFICATION FOR TEACHERS AND PRINCIPALS
PART D—ADMINISTRATIVE PROVISION
PART E—BILINGUAL EDUCATION
PART F—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM
TITLE II—NATIONAL SCIENCE SCHOLARS
TITLE III—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES
TITLE IV—EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAM
TITLE V—STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT PROVISIONS
TITLE VI—NEEDS ANALYSIS AMENDMENTS
TITLE VII—OTHER HIGHER EDUCATION AMENDMENTS
TITLE VIII—WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION
TITLE IX—NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS
TITLE X—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS
TITLE XI—PRESIDENT'S COUNCIL ON ACADEMIC EXCELLENCE
TITLE XII—STUDENT ATHLETE RIGHT-TO-KNOW
TITLE XIII—EFFECTIVE DATE
TITLE XIV—GENERAL PROVISIONS

TITLE I—IMPROVING ELEMENTARY AND SECONDARY EDUCATION

PART A—PRESIDENTIAL SCHOOLS OF DISTINCTION

SEC. 101. PRESIDENTIAL SCHOOLS OF DISTINCTION.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended by adding at the end thereof a new part G to read as follows:

"PART G—PRESIDENTIAL SCHOOLS OF DISTINCTION

"SEC. 4701. SHORT TITLE.

"This part may be cited as the 'Presidential Schools of Distinction Act'.

"SEC. 4702. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the basic goal of all schools is to develop the skills and abilities of students to their maximum potential;

"(2) achievable standards of excellence can and should be set for all students and for all schools;

"(3) financial incentives can spur schools to rise to the challenge of meeting these standards; and

"(4) improvement in the quality of our educational system is vital to the Nation's future, and demonstrated schoolwide progress in achieving excellence deserves public recognition.

"(b) PURPOSE.—The purpose of this part is to recognize and reward public and private elementary and secondary schools that have made substantial progress in—

"(1) raising student educational achievement;

"(2) creating a safe and drug-free school environment; and

"(3) reducing the dropout rate.

"SEC. 4703. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—The amount authorized to be appropriated for the purposes of carrying out the provisions of this part for each of the fiscal years 1991, 1992, and 1993 is an amount equal to the lesser of—

"(1) the excess, if any, of—

"(A) the amount appropriated to carry out parts A, B, D, E, and F of chapter 1, of title I, of this Act for such fiscal year, over

"(B) $5,090,000,000, or

"(2) the excess, if any, of—

"(A) the amount appropriated to carry out part C of chapter 1 of title I of this Act for such fiscal year, over

"(B) $200,000,000.

"(b) LIMITATION.—The amount authorized to be appropriated under subsection (a) shall not exceed $200,000,000 for fiscal year 1991.

"SEC. 4704. ALLOCATION OF APPROPRIATIONS.

"(a) RESERVATION.—From the amount appropriated under section 4703 for any fiscal year, the Secretary may reserve up to one quarter of 1 per centum for grants to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau) for activities under this part.

"(b) ALLOCATION AMONG STATES.—(1) The amount remaining after any reservation of funds under subsection (a) shall be allocated to States as follows:

"(A) from one half of such amount, each State shall be allocated an amount that bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all such States, according to the most recent available data that are satisfactory to the Secretary; and

"(B) the other one half of such amount shall be allocated among such States on the same basis as funds are allocated among such States under section 1005 of this Act for the same fiscal year.

"(2) For purposes of this subsection, the term 'State' means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 4705. STATE APPLICATIONS.

"(a) THREE-YEAR APPLICATION.—Each State that wishes to receive a grant under this part shall submit to the Secretary, through its State educational agency, an application for a three-year period, at such time and in such manner as the Secretary may prescribe.

"(b) APPLICATION CONTENTS.—Each State application shall contain—

"(1) the criteria the State educational agency will use to select Presidential Schools of Distinction under section 4708;

"(2) the criteria it will use to determine the amount of awards;

"(3) an assurance that it will carry out this part in accordance with the requirements of this part and other applicable legal requirements; and

"(4) other information the Secretary may require.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 4706. STATE USE OF FUNDS.

"(a) ADMINISTRATION.—Each State educational agency may use up to 5 per centum of its grant for the administrative costs of carrying out this part.

"(b) PRESIDENTIAL SCHOOL OF EXCELLENCE AWARDS.—Each State educational agency shall use at least 95 per centum of its grant for Presidential School of Distinction Awards made in accordance with section 4708.

"(c) INSULAR AREAS.—The provisions of Public Law 95-134, permitting the consolidation of grants to the Insular Areas, shall not apply to funds received by such areas under this part.

"SEC. 4707. STATE ACTIVITIES AND RESPONSIBILITIES.

"(a) STATE REVIEW PANEL.—(1) Each State educational agency shall establish a State review panel to assist in the selection of Presidential Schools of Distinction.

"(2) The State review panel shall be broadly representative of the following interests in the State—

"(A) elementary and secondary school teachers and administrators;

"(B) college and university faculty and administrators;

"(C) parents;

"(D) State and local boards of education;

"(E) State and local governments;

"(F) labor;

"(G) business; and

"(H) the general public.

"(b) ANNUAL REPORTS TO THE SECRETARY.—(1) Within sixty days of making Presidential School of Distinction Awards under this part for any fiscal year, each State educational agency shall submit a report to the Secretary that—

"(A) identifies the schools chosen as Presidential Schools of Distinction;

"(B) states the reasons for their selection; and

"(C) states the amount of their awards.

"(2) Beginning with the second year for which any State educational agency receives funds under this part, its annual report shall also include a brief description of how schools selected in the previous year used their awards.

"SEC. 4708. SELECTION OF PRESIDENTIAL SCHOOL OF DISTINCTION.

"(a) ELIGIBLE SCHOOLS.—(1) A State educational agency may designate as a Presidential School of Distinction any public or private elementary or secondary school in the State whose students are receiving services under chapter 1 of title I of this Act that has been nominated through procedures established by such agency.

"(2) In selecting Presidential Schools of Distinction, each State educational agency shall apply the selection criteria uniformly.

"(3) DISTRIBUTION OF AWARDS.—Each State educational agency shall make at least one Presidential School of Distinction Award in each congressional district.

"(b) CRITERIA ESTABLISHED BY SECRETARY.—(1) The Secretary shall establish minimum criteria to be used by every State educational agency in selecting Presidential Schools of Distinction.

"(2) The criteria established by the Secretary shall address—

"(A) progress in improving educational performance, with particular emphasis on mastery of reading, writing, and mathematics skills;

"(B) the degree to which the school demonstrates progress in achieving and maintaining a safe environment, including reduction or elimination of problems related to drug and alcohol use; and

"(C) secondary school progress in reducing the number of students who drop out of school or in encouraging those who have dropped out to reenter school and complete their schooling.

"(c) STATE CRITERIA.—(1) Based on the selection criteria established by the Secretary, as required by subsection (b), each State educational agency shall establish additional criteria that measure progress in such areas as—

"(A) student achievement, as measured by such factors as year-to-year improvement in test scores, college entrance rates, and employment of graduates in jobs with significant potential for career development; and

"(B) other indicators of a school's success, such as improvements in school leadership, the teaching and learning environment, and parental and community support and involvement.

"(2) In setting criteria for Presidential Schools of Distinction, the State educational agency shall establish standards that recognize the composition of the student body and other relevant factors, and that give special consideration to schools with substantial numbers of proportions of children from low-income families. The State educational agency may also set different criteria for different grade levels.

"(3) In applying the criteria to a school in which a program is conducted under part A of chapter 1 of title I of this Act, the State educational agency shall consider the desired outcomes identified for children in the application submitted under section 1012(b) of this Act by the local educational agency operating the school. No school that a local educational agency has identified under section 1021(b) of this Act shall be eligible for a Presidential School of Distinction Award until such time as the school has demonstrated progress in complying with the provisions of the State or local improvement plan set forth under section 1020 or 1021 of this Act.

"(4) In selecting Presidential Schools of Distinction and in setting the amount of their awards, the State educational agency may not consider a school's planned use of a Presidential School of Distinction award.

"(5) Except as provided in section 4706, each State educational agency receiving assistance under this Act shall make the same number of awards to elementary schools within the State as such State educational agency makes to secondary schools within the State.

"(d) AMOUNT OF AWARD.—(1) Each State educational agency shall establish criteria, subject to subsection (c)(4), including criteria relating to the size of the school and the economic circumstances of the student body, for determining the amount of Presidential School of Distinction Awards.

"(2) The amount of Presidential School of Distinction Awards shall be substantially equivalent among congressional districts.

"(e) BYPASS.—If a State educational agency is either prohibited by State law from providing funds made available under this part to private schools, or is unwilling to do so, it shall notify the Secretary of such prohibition or unwillingness, as well as the private schools it has designated as Presidential Schools of Distinction and the amount of their awards. The Secretary shall then provide those funds, from the State's allocation under this part, to the designated private schools, through such arrangements as the Secretary finds suitable. The Secretary shall also withhold from the State's allocation under this part the administrative costs of making such arrangements.

"SEC. 4709. PRESIDENTIAL CERTIFICATES OF DISTINCTION AND AWARDS CEREMONY.

"(a) PRESIDENTIAL CERTIFICATES OF DISTINCTION.—Each Presidential School of Distinction shall be awarded a Presidential Certificate of Distinction.

"(b) AWARDS CEREMONY.—The Secretary is authorized to accept gifts to pay the costs of conducting awards ceremonies for Presidential Schools of Distinction.

"SEC. 4710. PUBLIC SCHOOL USE OF FUNDS BY PRESIDENTIAL SCHOOLS OF DISTINCTION.

"A Presidential School of Distinction shall use its Presidential School of Distinction Award for activities that further the educational program of the school. Such activities may include, but are not limited to—

"(1) development, implementation, or expansion of special programs, such as those focused on: dropout prevention or reentry, student transition to college or employment, preschool children, remedial services, or gifted and talented students;

"(2) the purchase or lease of computers, telecommunications equipment, scientific instruments, instructional materials, library books, and other equipment and materials, except that a public agency shall have title to, and exercise administrative control of, all such equipment and materials;

"(3) bonus payments for faculty, administrators, and school personnel;

"(4) school based management/shared decision making;

"(5) parental involvement activities; and

"(6) community outreach activities;

"SEC. 4711. PRIVATE SCHOOL USE OF FUNDS BY PRESIDENTIAL SCHOOLS OF DISTINCTION.

"Each State educational agency receiving financial assistance under this part shall ensure that each private school designated as a Presidential School of Distinction under section 4708 will use the Presidential

School of Distinction Award for capital expenses as set forth in section 1017(d) of the Elementary and Secondary Education Act of 1965, and after capital expenses have been met, use such award for purposes as set forth and administered under section 1572 of the Elementary and Secondary Education Act of 1965.

"SEC. 4712. PROHIBITION ON STATE OR LOCAL REDUCTION OF OTHER ASSISTANCE.

"No Federal, State, or local agency may, in any year, take a Presidential School of Distinction Award into account in determining whether to award any other assistance from Federal, State, or local resources, or in determining the amount of such assistance, to either the Presidential School of Distinction itself or the local educational agency, if any, that operates the school.

"SEC. 4713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall conduct a biennial evaluation of Presidential Schools of Distinction.

"(b) NATIONAL DIFFUSION NETWORK.—The Secretary shall submit information on successful Presidential Schools of Distinction programs to the National Diffusion Network for possible dissemination.

"SEC. 4714. DEFINITION.

"(a) IN GENERAL.—As used in this part the term 'school based management/shared decision making' means a process by which a team of individuals is formed at a school site to make decisions regarding the management of the school. Such a team may include teachers, the school principal, other school administrators, parents, and community representatives.

"(b) RESPONSIBILITIES.—The school based management/shared decision making team is responsible for decisions which affect the school and classroom environment. Such decisions may include decisions regarding—

"(1) curriculum and instruction priorities which meet priorities and goals of the local educational agency, including materials and activities, organization, and evaluation and assessment, while taking into account the special needs of students;

"(2) student grouping, promotion, and tracking;

"(3) school rules and discipline policies;

"(4) the scheduling and structure of the school day;

"(5) the school environment;

"(6) the physical structure of school facilities;

"(7) the administrative structure of the school;

"(8) the use of funds available to the school;

"(9) hiring and evaluation of teachers and administrators;

"(10) professional development programs which will meet faculty needs; and

"(11) relationships with parents and community.".

PART B—SCHOOLS OF EXCELLENCE

SEC. 111. SCHOOLS OF EXCELLENCE.

Title IV of the Elementary and Secondary Education Act of 1965 is further amended by adding at the end thereof a new part H to read as follows:

"PART H—SCHOOLS OF EXCELLENCE

"SEC. 4801. SHORT TITLE.

"This part may be cited as the 'Schools of Excellence Act of 1990'.

"SEC. 4802. FINDINGS.

"The Congress finds that—

"(1) no single method of education, or single way of organizing schools and school systems, is best for every community or every group of students;

"(2) schools that have increased competition and choice have helped to improve the quality of schools and the education of children in the school districts in which they have been established; and

"(3) schools that focus on mathematics and science train future leaders in such disciplines are of critical importance to the Nation's economic competitiveness;

"SEC. 4803. PURPOSE.

"It is the purpose of this part to support the establishment, expansion, or enhancement of Schools of Excellence in order to promote open enrollment through parental choice and to strengthen the knowledge of elementary and secondary school students in academic and vocational subjects.

"SEC. 4804. DEFINITION.

"As used in this part, the term 'School of Excellence' means a public elementary or secondary school that—

"(1) offers the highest quality instruction in an academic or vocational discipline or creates a unique and effective learning environment;

"(2) is open to students from beyond the immediate school attendance area; and

"(3) is capable of attracting students from a variety of backgrounds.

"SEC. 4805. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—The amount authorized to be appropriated for the purposes of carrying out the provisions of this part for each of the fiscal years 1991, 1992, and 1993 is an amount equal to the lesser of—

"(1) the excess, if any, of—

"(A) the amount appropriated to carry out title III of the Elementary and Secondary Education Act of 1965 for such fiscal year, over

"(B) $165,000,000, or

"(2) the excess, if any, of—

"(A) the amount appropriated to carry out section 4606 of the Elementary and Secondary Education Act of 1965 for such fiscal year, over

"(B) $35,000,000.

"(b) LIMITATION.—The amount authorized to be appropriated under subsection (a) shall not exceed $50,000,000 for fiscal year 1991.

"SEC. 4806. GRANT APPLICATIONS.

"(a) IN GENERAL.—(1) Any local educational agency, intermediate educational agency, or consortia of such agencies desiring to receive a grant under this part shall submit an application at such time, in such manner, and containing such information, as the Secretary may require.

"(2) An applicant may be, but is not required to be, adopting or implementing a desegregation plan.

"(b) REQUIREMENTS.—Each application shall contain—

"(1) a description of—

"(A) the objectives of the proposed project and how those objectives will achieve the purpose of this part, as set out in section 4803; and

"(B) how the funds made available to the applicant will be used to provide an educational program of the highest quality that will encourage greater parental decisionmaking and involvement;

"(C) the method of information dissemination;

"(D) the unique learning environment; and

"(E) the open enrollment policy for students beyond the immediate attendance area; and

"(2) such assurances as the Secretary may reasonably require.

"(c) SPECIAL RULE.—The Secretary shall encourage applications for proposed projects that—

"(1) recognize the potential of children who are educationally disadvantaged or who come from low-income families; and

"(2) establish, expand, or enhance schools that focus on a particular educational approach or on a particular subject area, such as mathematics and science.

"(d) DEMONSTRATION.—Each application submitted pursuant to this section shall demonstrate to the satisfaction of the Secretary that any proposed project assisted with funds under this part will not result in segregation based upon race, religion, color, national origin, sex, or handicap, or impede the progress of desegregation within the applicant's school system.

"SEC. 4807. SELECTION OF APPLICATIONS.

"In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the likelihood of the project's successful implementation, and the likelihood of its strengthening the educational program of the applicant.

"SEC. 4808. LIMITATIONS.

"(a) IN GENERAL.—No School of Excellence may be supported with funds under this part for more than two years.

"(b) SATISFACTORY PROGRESS.—No applicant may receive a grant for more than one year under this part, unless it demonstrates to the Secretary that the School of Excellence for which assistance was provided in the first year is making satisfactory progress in meeting the objectives specified in its approved application.

"(c) SPECIAL RULE.—No Federal, State, or local agency may, in any year, take a School of Excellence award into account in determining whether to award any other assistance from Federal, State, or local resources, or in determining the amount of such assistance, to either a School of Excellence itself or to the local educational agency or intermediate educational agency that operates the school.".

PART C—ALTERNATIVE CERTIFICATION FOR TEACHERS AND PRINCIPALS

SEC. 121. ALTERNATIVE CERTIFICATION FOR TEACHERS AND PRINCIPALS PROGRAM.

Title IV of the Elementary and Secondary Education Act of 1965 is further amended by adding at the end thereof a new part I to read as follows:

"PART I—ALTERNATIVE CERTIFICATION FOR TEACHERS AND PRINCIPALS

"SEC. 4901. SHORT TITLE.

"This part may be cited as the 'Alternative Certification of Teachers and Principals Assistance Act of 1990'.

"SEC. 4902. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by recruitment pools of well-qualified individuals, such as scientists and engineers, from which to select teachers and principals;

"(3) talented professionals who have demonstrated a high level of subject area competence or management and leadership qualities outside the education profession wish to pursue second careers in education, but often do not meet traditional certification requirements; and

"(4) alternative certification requirements that do not exclude such individuals from

teaching or school administration solely because they do not meet current certification requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers and principals.

"SEC. 4903. PURPOSE.

"It is the purpose of this part to improve the supply of well-qualified elementary and secondary school teachers and principals by encouraging and assisting States to develop and implement alternative teacher and principal certification requirements.

"SEC. 4904. DEFINITIONS.

"As used in this part—

"(1) The term 'alternative teacher and principal certification requirements' means State or local requirements that permit entry into elementary and secondary teacher and principal positions for individuals who have demonstrated a high level of appropriate subject area competence, or management or leadership qualities, in careers in or out of the education field, but who would not otherwise meet existing requirements for teaching or supervisory positions. Alternative teacher and principal certification requirements may recognize that—

"(A) for teachers, a high level of demonstrated competence in an appropriate subject area may be substituted for traditional teacher certification requirements (such as teacher training course work); and

"(B) for principals, a high level of demonstrated competence in administration and management may be substituted for traditional principal certification requirements.

"(2) The term 'State' means any of the States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 4905. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1991.

SEC. 4906. ALLOTMENTS.

"(a) IN GENERAL.—(1) From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 4907 or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

"(2) If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallocate the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this part shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

"SEC. 4907. STATE APPLICATIONS.

"(a) IN GENERAL.—Any State desiring to receive a grant under this part shall submit, through its State educational agency, an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each State application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary deems necessary, including assurances that—

"(A) funds awarded to the State educational agency will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of alternative teacher and principal certification requirements;

"(B) the State educational agency has, in developing the State's application, consulted with representatives of local educational agencies, elementary and secondary school teachers and principals, parents, and other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with funds awarded under this part and the results achieved.

"(c) SPECIAL RULE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 4908. USE OF FUNDS.

"(a) IN GENERAL.—(1) A State educational agency shall use funds awarded under this part to support programs, projects, or activities that develop and implement new, or expand and improve existing, alternative teacher and principal certification requirements.

"(2) A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through subgrants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) PROGRAMS, PROJECTS, AND ACTIVITIES.—Programs, projects, and activities supported under this part may include, but are not limited to, the—

"(1) design, development, implementation, testing, and evaluation of alternative teacher and principal certification requirements;

"(2) establishment of administrative structures necessary to the development and implementation of alternative teacher and principal certification requirements;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers and principals entering the school system through the alternative teacher and principal certification program;

"(4) development of recruitment strategies; and

"(5) development of reciprocity agreements between or among States for the certification of teachers and principals.

"SEC. 4909. EXPIRATION DATE.

"Effective October 1, 1992, the Alternative Certification of Teachers and Principals Assistance Act of 1989 is repealed.".

PART D—ADMINISTRATIVE PROVISION

SEC. 131. DEFINITION.

Section 403(6) of Public Law 81-874 is amended by adding the following sentence at the end thereof:

"Such term does not include any agency or school authority that the Secretary determines, on a case-by-case basis—

"(A) was constituted or reconstituted primarily for the purpose of receiving assistance under this Act or increasing the amount of that assistance;

"(B) is not constituted or reconstituted for legitimate educational purposes; or

"(C) was previously part of a school district upon being constituted or reconstituted.".

SEC. 132. TECHNICAL AMENDMENTS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 is amended—

(1) in sections 1005(a), 1006(a)(1)(A), 1291, 2004(a), and 4502 by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau";

(2) in sections 1404, 1405(a)(2)(A), 1405(a)(2)(B) and 1471(22) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau";

(3) in sections 1511(a)(1), 2104(a)(1), 5112(a)(1) and 5141(b)(6) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau";

(4) in section 1469 by—

(A) redesignating subsections (g), (h) and (i), as subsections (h), (i) and (j), respectively; and

(B) striking "(f) Staff" and inserting "(g) Staff"; and

(5) by redesignating title heading relating to title 10 as the title heading relating to title 8.

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau"; and

(2) in sections 313(b) and 361(a) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(c) STAR SCHOOLS PROGRAM.—Section 907(8) of the Star Schools Program Assistance Act is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau".

(d) IMPACT AID PROGRAM.—Section 5(a) of Public Law 81-874 is amended by—

(1) inserting "(1)" before "Any"; and

(2) inserting at the end thereof the following new paragraph (2):

"(2) Notwithstanding any other provision of law or regulation, a State educational agency that had been accepted as an applicant for funds under section 3 for fiscal years 1985, 1986, 1987 and 1988 shall be permitted to continue as an applicant under the same conditions by which it made application during such fiscal years only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.".

(e) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau";

(2) section 611(a)(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) Section 611(e)(1) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Microne-

sia, the Republic of the Marshall Islands, and Palau".

(f) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) by striking "or the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia";

(2) section 5(a)(3) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting in lieu thereof "Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia";

(3) section 7(a) by striking "the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia"; and

(4) section 7(b) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia".

PART E—BILINGUAL EDUCATION

SEC. 141. BILINGUAL EDUCATION.

Awards made by the Secretary of Education to the Franklin-Northwest Supervisory Union of Vermont under the Bilingual Education Act (20 U.S.C. 3221 et seq.), in amounts of—

(1) $388,076.56 for fiscal year 1984 (for programs of bilingual education);

(2) $400,061.00 for fiscal year 1986 (for programs of transitional bilingual education) and any expenditure of funds by the Franklin-Northwest Supervisory Union pursuant to such awards, shall be treated as if they were made in accordance with the provisions of the Bilingual Education Act for purposes of any claims for repayment asserted by the Secretary of Education.

PART F—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM

SEC. 151. PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM.

(a) TITLE HEADING AND TABLE OF CONTENTS.—(1) The heading for title II of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"CRITICAL SKILLS IMPROVEMENT AND PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION".

(2) Section 1 of the Elementary and Secondary Education Act is amended by inserting after "SEC. 2203. Authorization of Appropriations." the following:

"PART F—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM

"Sec. 2301. Findings and purpose.
"Sec. 2302. Allocation to States.
"Sec. 2303. State applications.
"Sec. 2304. Selection of award recipients.
"Sec. 2305. Amount and use of awards.
"Sec. 2306. Awards ceremony.
"Sec. 2307. Authorization of appropriations.".

(b) AMENDMENT TO TEXT.—Title II of the Elementary and Secondary Education Act of 1965 is further amended by adding at the end thereof the following new part:

"PART F—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM

"SEC. 2301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the success of America's elementary and secondary schools depends most heavily upon the Nation's educators;

"(2) when educators are highly motivated and committed to excellence, they succeed not only in imparting subject matter knowledge, but also in instilling in their students an appreciation of the value and importance of education;

"(3) elementary and secondary school systems should have in place standards of teacher excellence and fair and effective procedures for measuring teacher success; and

"(4) in return for their efforts, excellent elementary and secondary school educators deserve public recognition, respect, and appropriate financial awards.

"(b) PURPOSE.—It is the purpose of this subpart to reward educators in every State who meet the highest standards of excellence.

"SEC. 2302. ALLOCATION TO STATES.

"(a) ALLOCATION FORMULA.—From the funds appropriated under section 2307—

"(1) 50 percent shall be allocated among the States in an amount which bears the same ratio to such amount as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all such States, according to the most recent available data that are satisfactory to the Secretary; and

"(2) 50 percent shall be allocated among the States on the same basis as funds are allocated among such States under section 1005 of this Act for the same fiscal year.

"(b) ADMINISTRATIVE EXPENSES.—Each State may reserve up to 5 percent of its allocation under subsection (b) for administrative expenses, including the cost of convening the panel described in section 2304(c).

"(c) STATE DEFINED.—For the purposes of this part, the term 'State' shall include the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) INSULAR AREAS.—The provisions of Public Law 93-134, permitting the consolidation of grants to the Insular Areas, shall not apply to funds allocated under this part.

"(e) DISTRIBUTION OF AWARDS.—Other provisions of this title notwithstanding, each State shall make at least one Presidential Award for Excellence in Education in each congressional district.

"SEC. 2303. STATE APPLICATIONS.

"(a) SUBMISSION OF STATE APPLICATIONS.—The Secretary is authorized to make allocations to States in accordance with the provisions of this part. In order to receive an allocation under this part, the Governor of each State shall submit a one-time application to the Secretary. Such application shall be filed at such time in such manner, and shall contain such information, as the Secretary may reasonably require.

"(b) DESCRIPTION OF STATE CRITERIA AND PROCEDURES.—The application submitted pursuant to subsection (a) shall contain a description of the State's criteria and procedures for selecting recipients of Presidential Awards for Excellence in Education. The State's criteria and procedures shall be subject to the approval of the Secretary.

"(c) ASSURANCES.—The application submitted pursuant to subsection (a) shall contain assurances that—

"(1) Presidential Awards for Excellence in Education shall be made in accordance with the provisions of this part;

"(2) the State shall provide such fiscal control and fund accounting procedures as the Secretary shall require; and

"(3) the State shall apply the selection criteria uniformly to nominations for recipients of Presidential Awards for Excellence in Education that are received from public and private schools, educators, associations of educators, parents, associations of parents and educators, businesses, business groups, or student groups, as well as those received from educational agencies.

"SEC. 2304. SELECTION OF AWARD RECIPIENTS.

"(a) ELIGIBLE RECIPIENTS.—Any full-time public or private elementary or secondary school teacher of academic or vocational subjects or any full-time public or private elementary or secondary school principal or headmaster shall be eligible to receive an award under this subpart, except that teachers of religion (other than religion as an academic discipline) shall not be eligible.

"(b) NOMINATIONS.—(1) Local educational agencies, public and private schools, educators, parents, associations of educators, associations of parents and educators, businesses, business groups and student groups may nominate teachers for awards under this part.

"(2) The State educational agencies shall notify local educational agencies, public and private schools, associations of educators, associations of parents and educators, business groups, and the general public of the deadlines and procedures for making nominations, and inform them of the selection criteria which will be used in selecting award recipients in a given year.

"(c) SELECTION BY STATE PANEL.—Selection of award recipients in each State shall be made from among the teachers nominated in accordance with subsection (b). Award recipients shall be selected by a panel which is chosen by the Governor in consultation with the chief State officer and is composed of members representing parents, school administrators, teachers, school board members, and the business community.

"(d) SELECTION CRITERIA.—The State panel shall select award recipients in accordance with the criteria approved by the Secretary in the State's application. Such selection criteria may include an educator's success in—

"(1) educating 'at-risk' students, such as educationally or economically disadvantaged, handicapped, limited English proficient, or homeless children to their fullest potential;

"(2) educating gifted and talented students to their fullest potential;

"(3) encouraging students to enroll, and succeed, in advanced classes in subjects such as mathematics, science, and foreign languages;

"(4) teaching in schools educating large numbers of 'at-risk' students, including schools in low-income inner-city or rural areas;

"(5) introducing a new curriculum area into a school or strengthening an established curriculum;

"(6) acting as a 'master teacher' by helping new teachers make the transition into a teaching career;

"(7) encouraging potential dropouts to remain in school or encouraging individuals who have dropped out to reenter and complete their schooling;

"(8) improving daily attendance;

"(9) leadership qualities; and

"(10) success in employing other innovative educational techniques.

"SEC. 2305. AMOUNT AND USE OF AWARDS.

"(a) AMOUNT OF AWARDS.—The amount of a Presidential Award for Excellence in Education shall be $5,000.

"(b) PRO RATA REDUCTION.—Should the amount allocated by the Secretary to a State not be sufficient to support one Presidential Award for Excellence in Education in each congressional district, the State is authorized to make pro rata reductions in the amount of other awards to enable the award of at least one Presidential Award for Excellence in Education in each congressional district.

"(c) USE OF AWARDS.—An award to an individual recipient under this part shall be available for the recipient's use of any purpose, except that private school educators receiving a Presidential Award for Excellence in Education may only use such award for capital expenses at the school where such individual teaches as set forth in section 1017(d) of the Elementary and Secondary Education Act of 1965.

"SEC. 2306. AWARDS CEREMONY.

"The Secretary is authorized to accept gifts to pay for the costs of conducting awards ceremonies to recognize recipients of Presidential Awards for Excellence in Education.

"SEC. 2307. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $7,600,000 for the fiscal year 1991 and each of the fiscal years 1992 and 1993 to carry out the provisions of this part.".

TITLE II—NATIONAL SCIENCE SCHOLARS

SEC. 201. NATIONAL SCIENCE SCHOLARS PROGRAM.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; hereinafter referred to in this title as "the Act"), is amended—

(1) by redesignating subparts 7 and 8 as subparts 8 and 9, respectively; and

(2) by inserting immediately after subpart 6 the following new subpart:

"SUBPART 7—NATIONAL SCIENCE SCHOLARS PROGRAM

"PURPOSE

"SEC. 419L. (a) PURPOSE.—It is the purpose of this subpart—

"(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

"(2) to encourage role models in physical, life, and computer sciences, mathematics, and engineering fields for young people by offering opportunities to pursue a postsecondary education in such fields;

"(3) to strengthen the leadership of the United States in the fields of physical, life, and computer sciences, mathematics, and engineering; and

"(4) to assist students who have demonstrated outstanding academic achievement in continuing their education in these fields of study.

"SCHOLARSHIPS AUTHORIZED

"SEC. 419M. (a) PROGRAM AUTHORITY.—(1) The Secretary is authorized, in consultation with the Director of the National Science Foundation (hereinafter referred to as the 'Director') and in accordance with the provisions of this subpart, to carry out a program of awarding scholarships for the study of the life, physical, or computer sciences, mathematics, or engineering.

"(2) The Director, in consultation with the Secretary, shall establish and implement a merit-based program for annually awarding scholarships for the study of physical, life, or computer sciences, mathematics, or engineering to—

"(A) one male and one female from each congressional district of the United States, the District of Columbia, and Puerto Rico, and

"(B) one male and one female from Guam, the Virgin Islands, American Samoa, Palau, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Commonwealth of the Northern Mariana Islands.

"(3) Wherever possible in awarding scholarships, special consideration shall be given to economically disadvantaged students or students from groups traditionally underrepresented in the life, physical, or computer sciences, mathematics, and engineering professions.

"(b) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State and in each of the entities set forth in subsection (a)(2)(B) annually of the availability of scholarships under this subpart.

"(c) CRITERIA AND PROCEDURE FOR NOMINATION AND SELECTION.—(1) Individuals shall be nominated and selected for scholarships under this subpart on the basis of the student's—

"(A) academic achievement in the life, physical, or computer sciences, mathematics, or engineering;

"(B) promise of outstanding academic achievement in physical, life, or computer sciences, mathematics, or engineering;

"(C) potential to successfully complete a post- secondary program in physical, life, or computer sciences, mathematics, or engineering; and

"(D) motivation to pursue a career in physical, life, or computer sciences, mathematics, or engineering.

"(2) The Director, in consultation with the Secretary, shall appoint a National Science Scholars Program Board (hereinafter referred to as the 'Board'), composed of scientists, mathematicians, educators, engineers, and representatives of the business community, to—

"(A) recommend to the Director specific academic achievement criteria for use in the nomination of scholars; and

"(B) make recommendations for awarding scholarships to the Director,

The Director, in consultation with the Secretary, shall review the Board's recommendations and shall each publish the appropriate academic achievement criteria in the Federal Register.

"(3) The Director, in consultation with the Secretary, is authorized to establish, either directly or by contract, a procedure for nominating at least 4, but not more than 10 students from each congressional district and from each of the entities set forth in subsection (a)(2)(B), for scholarships under this subpart. The Director shall ensure that such nominations shall be made in consultation with educators, scientists, mathematicians, engineers, and representatives of the business community.

"(4) After considering the students nominated under paragraph (3), the Director, in consultation with the Board, shall recommend to the President one male and one female from each congressional district of the United States, and one male and one female from each of the entities set forth in subsection (a)(2)(B), for scholarships under this subpart.

"(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed by the Secretary on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"(e)(1) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this subpart shall be known as 'National Science Scholars'.

"(2) Students nominated under subsection (c) but not awarded scholarships under this subpart shall be known as 'National Science Scholarship Finalists'.

"(f) NATURE AND AMOUNT OF SCHOLARSHIPS.—(1) Scholarships shall be limited to a maximum of $5,000 per student, per year, for a period not to exceed 4 years.

"(2) In the event that funds available in a fiscal year are insufficient to fully fund all awards under this subpart, the amount paid to each student shall be ratably reduced.

"(g) USE OF EXCESS FUNDS.—If the funds available under this subpart for any fiscal year exceed the amounts required for initial and continuing awards under this section, additional scholarships may be awarded by the President, in consultation with the Director, to students selected as National Science Scholarship Finalists for the award year.

"(h) RELATION TO COST OF ATTENDANCE AND OTHER GRANTS AND SCHOLARSHIPS.—(1) The amount of a scholarship awarded under this subpart shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Act.

"(2) Notwithstanding any other provision of law, the award made under this subpart shall be considered as income for the purposes of awarding Federal student financial aid.

"(i) SPECIAL RULE.—The Director shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship Finalists.

"(j) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The selection process shall be completed, and the announcement of the selection of National Science Scholars will be made by the President prior to January 1st of each fiscal year. The Secretary shall notify Members of Congress of selections before the public announcement by the President. Presentation of scholarships shall be made in a public ceremony.

"ELIGIBILITY OF SCHOLARS

"SEC. 419N. (a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 419M, a student shall—

"(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State or entity in which the student resides), during the school year in which the award is made;

"(2) be a citizen or national of the United States or the entities set forth in subsection (a)(2)(B), or be an alien lawfully admitted to the United States for permanent residence;

"(3) have applied, or intend to apply, for admission to an institution of higher education in the United States or an institution of higher education in the entities set forth in subsection (a)(2)(B), that is accredited by a nationally recognized accrediting agency or association in accordance with the provisions of section 1201(a) of this Act.

"(b) MAINTAINING ELIGIBILITY.—(1) In order to maintain eligibility to receive funds pursuant to a scholarship awarded under this subpart, a student must—

"(A) be enrolled at an institution of higher education that is accredited by a nationally recognized accrediting agency or association in accordance with the provisions of section 1201(a) of the Act;

"(B) major in any field of physical, life, or computer science, mathematics, or engineering;

"(C) maintain academic performance in good standing, as determined by such institution; and

"(D) except as provided in paragraph (2), carry a full-time academic work load, as determined by the institution in which the student is enrolled under standards applicable to all students enrolled in that student's program.

"(2) The Secretary shall make exceptions to the requirement under paragraph (1)(D) in the case of a student who—

"(A) is on active duty as a member of the armed services;

"(B) has a disability or serious injury as certified by a qualified physician; or

"(C) has exceptional personal circumstances or emergencies, as determined by the Secretary.

"(c) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this subpart shall be determined in accordance with the regulations of the Secretary.

"SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS

"SEC. 419O. (a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this subpart shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

"(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

"EFFECTIVE DATE

"SEC. 419P. The amendments made by this subpart shall be effective on October 1, 1990, for award year 1991-1992 and each succeeding award year thereafter.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419Q. There are authorized to be appropriated to the Department of Education for the purpose of carrying out this subpart $6,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the 2 succeeding fiscal years.".

SEC. 202. CONFORMING AMENDMENTS.

(a) Section 401(b) of the Act is amended by striking out "subparts 1 through 8," and inserting in lieu thereof "subparts 1 through 9,".

(b) Section 481(a)(1) of the Act is amended by striking out "except subpart 6" and inserting in lieu thereof "except subparts 6 and 7".

TITLE III—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

SEC. 301. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Section 360(a)(3) of the Higher Education Act of 1965 is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) inserting the following new paragraph after paragraph (3):

"(4) There are authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of fiscal years 1991, 1992, and 1993 for awards under section 332 of the Act to historically black colleges and universities that qualify as part B institutions, except that any part B institution that receives an award from funds appropriated for any fiscal year under paragraph (4), shall not be eligible to receive an award in the same fiscal year under paragraph (3).".

TITLE IV—EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAM

SEC. 401. EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAMS.

Section 6003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3243) is amended—

(1) by striking "There" and inserting the following: "(a) IN GENERAL.—Subject to subsection (b), there";

(2) by inserting "each of" before "the fiscal";

(3) by striking "year" and inserting "years";

(4) by inserting before the period the following: ", 1990, and 1991"; and

(5) by adding at the end the following new subsection:

"(b) No amounts are authorized to be appropriated under subsection (a) for any fiscal year in which assistance is made availalbe to local educational agencies under part C of chapter 1 of title I.".

SEC. 402. AUTHORIZATION OF USE OF FUNDS FOR EVALUATION ACTIVITIES.

Subsection (a) of section 6004 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244) is amended—

(1) by inserting after "the Secretary" the following: "shall first reserve not more than $1,500,000 for the purposes of evaluating programs carried out with assistance under this part. From the remaining amount, the Secretary"; and

(2) by striking "the amount appropriated" each place it appears after the first occurrence and inserting "such remaining amount".

SEC. 403. AUTHORIZATION OF REALLOTMENT OF CERTAIN FUNDS.

Paragraph (1) of section 6004(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244(b)) is amended by striking "25 percent" and inserting "not less than 25 percent and not more than 50 percent".

SEC. 404. DEADLINE FOR EVALUATIONS.

Subsection (d) of section 6201 of the Elementary and Secondary Education Act of 1965 is amended by striking "at the end" and all that follows and inserting "not later than the expiration of the 6-month period following the end of the grant period.".

TITLE V—STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT PROVISIONS

SEC. 501. GUARANTY AGENCY PROHIBITION ON THE SALE OF CERTAIN STAFFORD STUDENT LOAN LISTS.

Section 428(b)(3) of the Higher Education Act of 1965 (hereafter in this title referred to as the "Act" is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) sell lists of student borrowers who have loans made, insured, or guaranteed under this part.".

SEC. 502. GUARANTY AGENCY USE OF STATE LICENSING BOARD INFORMATION.

Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(7) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.".

SEC. 503. SPECIAL LIMITATION ON THE DEFERMENT OF PAYMENT OF PRINCIPAL AND INTEREST ON PLUS LOANS.

Section 428B(c)(1) of the Act is amended—

(1) by striking out "(A)"; and

(2) by striking out "; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under the section and who meets the conditions required for a deferral under clause (i) of either such section".

SEC. 504. CREDIT BUREAUS.

(a) NOTICE OF DELINQUENCY.—Section 430A(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) with respect to any payment on a loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and".

(b) NOTICE TO BORROWER.—Section 430A(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of any payment that is delinquent for 90 days or more.".

(c) LIMITATION ON REPORTING.—Section 463(c)(3)(B) of the Act is amended by striking ", if that account has not been previously reported by any other holder of the notes".

SEC. 505. ADDITIONAL BORROWER INFORMATION REQUIRED.

Section 484(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) In order to be eligible to receive any loan under this title, a student shall provide to the lender at the time of applying for the loan the driver's license number of the student borrower, if applicable, and the name and address of the next of kin of the student borrower.".

SEC. 506. RESTRICTIONS ON INSTITUTIONAL PROMOTIONAL ACTIVITIES.

Section 487(a) of the Act (20 U.S.C. 1094(a)) is further amended by adding at the end thereof the following:

"(11) The institution does not—

"(A) use any contractor or any person other than salaries employees of the institution or a volunteer to conduct any activities related to recruiting and admission of stu-

dents, including canvassing, surveying, promotion, or similar activities; or

"(B) pay any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments to any person engaged in any such activity.".

SEC. 507. ACADEMIC YEAR DEFINITION.

Section 487(a) of the Act is further amended by adding at the end thereof the following new paragraph:

"(12) The institution will use the same definition of 'academic year' for all programs authorized by this title.".

SEC. 508. NOTICE ON DELINQUENT LOANS REQUIRED.

(a) PRE-CLAIMS ASSISTANCE.—Section 435(d) of the Act is amended—

(1) in paragraph (1) by striking "(5)" the first two places it appears and inserting "(6)"; and

(2) by adding at the end thereof the following new paragraph:

"(6) REQUEST FOR PRE-CLAIMS ASSISTANCE.—To be an eligible lender under this part, each eligible lender shall, if the agency that guaranteed the loan offers pre-claims assistance for default prevention, request pre-claims assistance within the first 10 days such assistance is available as specified by the guarantee agency.".

(b) NOTICE.—Section 428(k) of the Act is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) inserting the following new paragraph after paragraph (1):

"(2) PROVISION OF NOTICE OF REQUEST FOR PRE-CLAIMS ASSISTANCE TO ELIGIBLE INSTITUTIONS.—Each guaranty agency shall, within 30 days of receipt of the request for pre-claims assistance, notify each eligible institution, with respect to students who are delinquent on the repayment of any loan received for attendance at such institution, of the lender's request for pre-claims assistance for default prevention on such loan. Such information may be provided to the eligible institution by submission of a copy of the lender's pre-claims request or through other means.".

SEC. 509. REGULATIONS FOR INSTITUTIONAL DISCLOSURE OF BORROWER RECORDS.

The Secretary shall promulgate regulations specifying the legal restrictions and the requirements of eligible institutions relating to loan counseling and reporting requirements including but not limited to disclosure of borrower records to third parties, the Fair Debt Collection Practices Act, and any other applicable Federal law.

SEC. 510. EFFECT OF LOSS OF ACCREDITATION.

(a) STATUS AS ELIGIBLE INSTITUTION FOR STAFFORD STUDENT LOAN PROGRAM.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (m), the term"; and

(2) by adding at the end thereof the following:

"(m) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) STATUS AS ELIGIBLE INSTITUTION FOR OTHER TITLE IV PROGRAMS.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose"; and

(2) by adding at the end thereof the following:

"(e) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

SEC. 511. SPECIAL ACCREDITATION RULES.

Section 487(c) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by adding after paragraph (2) the following new paragraphs:

"(3) The Secretary is authorized to carry out the provisions of paragraph (1)(D), relating to limitation, suspension, or termination of an eligible institution whenever the institution withdraws from a nationally recognized accrediting agency or association during a show cause or suspension proceeding brought against that institution.

"(4)(A) Whenever a nationally recognized accrediting agency or association reports pursuant to subparagraph (B) that an eligible institution was denied institutional accreditation, the Secretary is authorized to carry out the provisions of paragraph (1)(D) relating to limitation, suspension, or termination of an eligible institution.

"(B) The Secretary is authorized to enter into such arrangements with accrediting agencies and associations as may be necessary to assure notice of the denial of institutional accreditation in order to carry out subparagraph (A).".

SEC. 512. ELIGIBLE INSTITUTION ACCREDITATION RULE.

Section 481(a) of the Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whenever the Secretary determines accreditation for the purpose of paragraph (1), the Secretary shall not approve the accreditation of any eligible institution of higher education under this section if the eligible institution of higher education is in the process of receiving new institutional accreditation by a national or regional accreditation agency unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including the reasons, if applicable, for changing the accrediting agency or association.".

SEC. 513. TOLL-FREE CONSUMER HOTLINE.

Section 485 of the Act is amended by adding at the end thereof the following new paragraph:

"(e) TOLL-FREE CONSUMER HOTLINE.—(1) In addition to the toll-free telephone information provided for in section 483, the Secretary shall contract for, or establish, and publicize a toll-free telephone number for use by the public, in order to permit students who allege fraud or unfair practices by eligible institutions to inform the Department of such fraud or unfair practices.

"(2) The Secretary shall, directly or by way of contract or other arrangement, make the toll-free telephone number, and the availability of the consumer hotline established by this subsection, generally available to students receiving financial assistance under this title.".

SEC. 514. TUITION REFUNDS.

(a) REFUND RULE.—Section 487(c)(2)(B)(i) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may require such eligible institutions to make refunds in accordance with division (iii).".

(b) REFUND PROCEDURES.—Section 487(c)(2)(B) of the Act is amended by adding the following new division after division (ii):

"(iii) When the Secretary determines there has been a violation, failure, or misrepresentation pursuant to division (i), the Secretary may require the institution to refund the student's tuition and fees. The Secretary shall establish procedures for refunding the tuition and fees. Such procedures shall—

"(I) first require the payment by the institution to the United States Government of any portion of the tuition and fees paid with Federal funds received under this title (other than funds under subpart 3 of part A and part B of this title); and

"(II) then require payment by the institution to the lender of that portion of the tuition and fees attributable to a loan made, issued, or guaranteed under part B of this title.".

SEC 515. PELL GRANT PROGRAM AMENDMENT.

Section 411(c)(1)(A) of the Act (20 U.S.C. 1070a(c)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year; or

"(ii) 6 academic years in the case of a undergraduate degree or certificate program normally requiring more than 4 academic years;".

SEC. 516. DISCLOSURE OBLIGATION FOR SLS AND PLUS LOANS; REPAYMENT PERIOD.

(a) AMENDMENT.—Section 433 of the Higher Education Act of 1965 (20 U.S.C. 1083) is amended by inserting at the end thereof the following new subsection:

"(e) SPECIAL DISCLOSURE RULES ON SLS AND PLUS LOANS.—

"(1) DISCLOSURE OF PROJECTED MONTHLY PAYMENTS.—Loans made under sections 428A and 428B shall not be subject to the disclosure of projected monthly payment amounts required under subsection (a)(8), provided that the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school.

"(2) TIMING OF DISCLOSURES.—Disclosure pursuant to section 433(b) made on loans made under sections 428A and 428B shall be made not later than 30 days prior to the due date established by the lender for the first payment from the borrower.".

(b) COMPUTATION OF REPAYMENT PERIODS.—

(1) SLS LOANS.—Section 428A(c) of the Higher Education Act of 1965 (20 U.S.C. 1781-1(c)) is amended by inserting the following new paragraph at the end thereof:

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall be considered to commence at the time the first payment is due from the borrower.".

(2) PLUS LOANS.—Section 428B(c) of the Higher Education Act of 1965 (20 U.S.C. 1078-2(c)) is amended by inserting the following new paragraph at the end thereof:

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall be considered to commence at the time the first payment is due from the borrower.".

SEC. 517. STUDY OF DISCHARGE OF STAFFORD STUDENT LOANS IN BANKRUPTCY.

(a) STAFFORD STUDENT LOAN DISCHARGE STUDY.—The Comptroller General shall conduct a study relating to the discharge of student loan indebtedness in proceedings in bankruptcy. Such study shall include—

(1) an evaluation of the treatment of student loan debtors under chapter 13 of title 11, United States Code, including—

(A) the frequency of attempts to discharge or the discharging of such loans compared to such attempts to discharge or the discharging of other consumer loans by such students; and

(B) the number and amount of such loans discharged;

(2) an evaluation of the effect of students who attempt to or do discharge such loans relative to the costs of the Stafford Student Loan Program and the institutional costs of the Perkins Loans Program; and

(3) an evaluation of the behavior of student loan debtors who discharge such loans as compared to other debtors who discharge debts in bankruptcy by evaluating such factors as—

(A) the average age of the debtors in each group;

(B) the amounts and types of debts sought to be discharged by each group; and

(C) the percentage of discharge of other types of consumer debts by each group.

(b) STAFFORD STUDENT LOAN DISCHARGE REPORT.—The Comptroller General shall prepare a report of the study required by this section and shall submit the study of the Congress within 3 years after the date of enactment of this Act.

TITLE VI—NEEDS ANALYSIS AMENDMENTS

SEC. 601. DEFINITION OF INDEPENDENT STUDENT.

(a) SECTION 411F.—Section 411F(12) of the Higher Education Act of 1965 (hereafter in this title referred to as the "Act") is amended to read as follows:

"(12) The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(B) is an orphan or is or has been a ward of the court;

"(C) is a veteran of the Armed Forces of the United States;

"(D) is a graduate or professional student and will not be claimed by his or her parents (or guardian) for income tax purposes for the award year;

"(E) is married or has legal dependents;

"(F) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the first calendar year of the award year, and who either was awarded assistance under this title as an independent student in the prior year, or demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000; or

"(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.".

(b) SECTION 480(d).—Section 480(d) of the Act is amended to read as follows:

"(d) INDEPENDENT.—The term 'independent', when used with respect to a student, means any individuals who—

"(1) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(2) is an orphan or is or has been a ward of the court;

"(3) is a veteran of the Armed Forces of the United States;

"(4) is a graduate or professional student and will not be claimed by his or her parents (or guardian) for income tax purposes for the award year;

"(5) is married or has legal dependents;

"(6) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the first calendar year of the award year, and who either was awarded assistance under this title as an independent student in the prior year, or demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.".

SEC. 602. MODIFICATION TO COMPUTATION OF CONTRIBUTIONS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 411C(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(3) Section 411D(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(b) GENERAL NEEDS ANALYSIS.—(1) Section 475(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 477(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

SEC. 603. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 604. NEEDS ANALYSIS FINANCIAL AID ADMINISTRATOR ADJUSTMENTS.

(a) IN GENERAL.—Section 479A(a) of the Act is amended to read as follows:

"SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

(b) SPECIAL RULE.—Section 479A of the Act is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) SPECIAL ADJUSTMENTS.—

"(1) ADJUSTMENTS FOR INDEPENDENT STUDENTS WITH DEPENDENTS.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of attendance in section 472 should include costs of food and shelter for dependent care when the total income for independent students with dependents is less than the Standard Maintenance Allowance under section 477(b)(4).

"(2) ADJUSTMENT FOR DISLOCATED WORKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

"(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator excludes the net value of investments and real estate, including the primary residence in the calculation of the family contribution for the Pell Grant Program and the expected family contribution under part F.

"(3) ADJUSTMENT FOR DISPLACED HOMEMAKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, for displaced homemakers, the administrator excludes the net value of investments and real estate, including the primary residence, from the calculation of the Pell Grant family contribution and from the expected family contribution under part F.".

(c) CONFORMING AMENDMENTS.—(1) Section 479A(d) of the Act (as amended by subsection (a)) is amended by striking out "subsection (b) is an example" and inserting in lieu thereof "subsections (b) and (c) are examples".

(2)(A) Section 411B(g)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(B) Section 411B(l) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(C) Section 411C(f)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(D) Section 411D(f)(3) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(E)(i) Section 411F(1)(G) of the Act is repealed.

(ii) Section 411F(9)(E) of the Act is repealed.

(F) Section 475(d)(2)(B) of the Act is amended by striking out "except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(G) Section 475(h) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(H) Section 476(c)(2)(B) of the Act is amended by striking out "except in the case of a displaced worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(I) Section 477(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

SEC. 605. TREATMENT OF VETERANS BENEFITS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(d)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(2) Section 411C(c)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(3) Section 411D(c)(1)(C) of the Act is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(b) GENERAL NEEDS ANALYSIS.—(1) Section 475(a) of the Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 105, 106, and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

(2) Section 476(b)(1)(D) of the Act is amended by striking out "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code".

(3) Section 477(a) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A) of paragraph (1);

(B) by striking out "and" at the end of subparagraph (B) of paragraph (1);

(C) by striking out subparagraph (C) of paragraph (1);

(D) by striking out "and" at the end of paragraph (2);

(E) by adding at the end of paragraph (3) the word "and"; and

(F) by adding at the end thereof the following new paragraph:

"(4) adding any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

(c) CONFORMING AMENDMENT.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "and any amount paid to the student under chapters 32, 34, and 35 of title 38, United States Code".

SEC. 606. TREATMENT OF NONLIQUID ASSETS.

(a) PELL GRANT NEEDS ANALYSIS.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(i) the family's principal place of residence; or

"(ii) a farm on which the family resides.".

(b) GENERAL NEED ANALYSIS.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "ASSETS.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(A) the family's principal place of residence; or

"(B) a farm on which the family resides.".

TITLE VII—OTHER HIGHER EDUCATION AMENDMENTS

SEC. 701. SUBSIDIZED EMPLOYMENT MODIFICATION UNDER WORKSTUDY.

Section 443(b)(4) of the Higher Education Act of 1965 (hereafter in this title referred to as the "Act") is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-working-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;".

SEC. 702. STUDENT LOAN MARKETING ASSOCIATION AMENDMENTS.

(a) ESTABLISHMENT.—Section 439(b) of the Act is amended to read as follows:

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.".

(b) DIRECTORS.—Section 439(c) of the Act is amended to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors (hereinafter in this section referred to as the 'Board') which shall consist of 21 persons, 7 of whom shall be appointed by the President of the United States and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (e). Commencing with the annual shareholders meeting to be held in 1989—

"(A) 7 of the elected directors shall be affiliated with an eligible institution, and

"(B) 7 of the elected directors shall be affiliated with an eligible lender.

The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the expired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(c) STOCK.—Section 439(f) of the Act is amended to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Amendments of 1990, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(d) SHORT TITLE.—This section may be cited as the "Student Loan Marketing Association Amendments of 1990".

SEC. 703. FORMS AND REGULATIONS.

(a) FINANCIAL AID APPLICATION PREPARER.—Section 483 of the Act is amended by inserting the following new subsection at the end thereof:

"(g) Any financial aid application required to be made under subpart 1 of part A of this title or part B or this title shall include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.".

(b) NOTICE OF FEDERAL STUDENT AID.—Section 483(f) of the Act is amended to read as follows:

"(f) NOTICE OF FEDERAL STUDENT AID RECEIPT.—Each eligible institution shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 8 of part A) a statement listing the estimated student assistance received by the recipient, and specifying the estimated amount and type of assistance awarded under this title and specifically indicating that such aid is federally supported assistance.".

SEC. 704. LENDER OF LAST RESORT.

Section 428(j) of the Act is amended by adding at the end thereof the following: "Each State guaranty agency shall ensure that there is a lender of last resort in its State. The lender of last resort shall process loan applications of students enrolled in an eligible institution within 30 days after such application has been filed. The lender of last resort shall make loans to any eligible applicant attending an eligible institution.".

SEC. 705. PERKINS LOAN PROGRAM AMENDMENT.

Section 462(c)(3) of the Act is amended—

(1) by redesignating clause (B) and (C) as clause (C) and (D); and

(2) by inserting after clause (A) the following new clause:

"(B) 75 percent of the cash on hand at the institution under the program authorized by this part for the second year preceding the beginning of the award period;".

SEC. 706. ELIGIBILITY FOR EDUCATION PROGRAMS.

(a) HIGHER EDUCATION.—Section 484 of the Act is amended by adding a new subsection (k) at the end thereof:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subparts 1, 2, or 4 of part A or part C of this title.

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new subsection (d):

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 707. CLERICAL AND TECHNICAL AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.

The Higher Education Act of 1965 is further amended—

(1) in section 312(c)(2) (20 U.S.C. 1058(c)(2)), by striking "second" the second place it appears and inserting "the second such";

(2) in section 332(b)(5) (20 U.S.C. 1065(b)(5)), by striking out "year" the first place it appears;

(3) in section 411B(g)(5)(B) (20 U.S.C. 1070a-2(g)(5)(B))—

(A) by striking out "effective family income" each place it appears and inserting "discretionary income"; and

(B) by striking out "subsection (d)" and inserting "subsection (f)";

(4) in section 411C(f)(5)(B) (20 U.S.C. 1070a-3(f)(5)(B)), by striking out "effective family income" and inserting "discretionary income";

(5) in section 411D(f) (20 U.S.C. 1070a-4(f))—

(A) by striking out "effective family income" in paragraph (1) and inserting "discretionary income"; and

(B) by striking out "subsection (c)" each place it appears in paragraph (1) and (2) and inserting "subsection (e)";

(6) in section 411F(2) (20 U.S.C. 1070a-6(2)), by striking out "including amount" and inserting "including amounts";

(7) in section 411F(9)(B) (20 U.S.C. 1070a-6(9)(B)), by striking out "Student" and inserting "student";

(8) in section 413D(d)(3)(C) (20 U.S.C. 1070b-2(d)(3)(C)), by striking out "three-fourths in" and inserting "three-fourths of";

(9) in section 427(a)(2)(G)(i) (20 U.S.C. 1077(a)(2)(G)(i)); by striking out "system," and inserting "system";

(10) in section 428C(c)(3)(A) (20 U.S.C. 1078-3(c)(3)(A)), by inserting "be" before "equal to";

(11) in section 428E(a)(1) (20 U.S.C. 1078-5(1))—

(A) by inserting "(A)" after "except that" the first place it appears; and

(B) by striking out "except that" the second place it appears and inserting ", and (B)";

(12) in section 435(c)(1) (20 U.S.C. 1085(c)(1)), by striking out "section 481(d)" and inserting "section 484(d)";

(13) in section 435(d)(2) (20 U.S.C. 1085(d)(2))—

(A) by striking out "institutions" in subparagraph (C) and inserting "institution"; and

(B) by indenting the matter following subparagraph (D) two spaces;

(14) in section 435(d)(3) (20 U.S.C. 1085(d)(3)), by striking out "section 435(o)" and inserting "subsection (l) of this section";

(15) in the last sentence of section 442(e)(2) by striking "section 447(c)" and inserting "section 442(c)";

(16) in section 454(a)(3)(C) (20 U.S.C. 1087d(a)(3)(C)), by striking out "fourth and fifth" and inserting "fourth or fifth";

(17) in sections 462(a)(1) and 462(a)(2)(D) (20 U.S.C. 1087bb(a)(1), (a)(2)(D)), by striking out "institution which" and inserting "institution";

(18) in section 464(c)(2)(A)(iv) (20 U.S.C. 1087dd(c)(2)(A)(iv)), by inserting "Service" after "Volunteer";

(19) in section 465(a)(2)(D) (20 U.S.C. 1087ee(a)(2)(D)), by striking out "services" and inserting "service";

(20) in the table contained in section 475(c)(2) (20 U.S.C. 1087oo(c)(2))—

(A) by striking out "less than $15,000 or" and inserting "less than $15,000"; and

(B) by striking out "$15,000 more" and inserting "$15,000 or more";

(21) in the table contained in section 475(c)(4) (20 U.S.C. 1087oo(c)(4))—

(A) by striking out "substract" and inserting "subtract"; and

(B) by striking out "1,430" and inserting "$1,430";

(22) in section 475(e) (20 U.S.C. 1087oo(e)), by striking out "section 479" and inserting "section 478";

(23) in the table contained in section 477(b)(4) (20 U.S.C. 1087qq(b)(4)), by striking out "1,430" and inserting "$1,430";

(24) in the last sentence of section 481(b) (20 U.S.C. 1088(b)), by striking out "section 413(e)" and inserting "section 435(b)";

(25) in the last sentence of section 483(a)(1) (20 U.S.C. 1090(a)(1)), by striking out "that is" and inserting "that are";

(26) in section 491(h)(1) (20 U.S.C. 1098(h)(1)), by striking out "subtitle III" and inserting "subchapter III";

(27) in section 525(g) (20 U.S.C. 1105d(g)), by striking out "subpart" and inserting "part";

(28) in section 557 (20 U.S.C. 1111f), by striking out "part B of this title" and inserting "part B of title IV of this Act";

(29) in section 558(a)(6) (20 U.S.C. 1111g(a)(6)), by striking out the comma after "preschool";

(30) in section 571(g) (20 U.S.C. 1115(g)), by striking out "subpart" each place it appears and inserting "part";

(31) in section 622(a)(6) (20 U.S.C. 1132(a)(6)), by striking out "language an area studies" and inserting "language and area studies";

(32) in section 762(a) (20 U.S.C. 1132g-2(a)), by striking out "Secretary notwithstanding" and inserting "Secretary, notwithstanding";

(33) in section 762(h) (20 U.S.C. 1132g-2(h)), by striking out "subcontractors or any project" and inserting "subcontractors on any project";

(34) in section 764(b)(3)(B) (20 U.S.C. 1132g-3(b)(3)(B)), by striking out "anyone" and inserting "any one";

(35) in section 764(e) (20 U.S.C. 1132g-3(e)), by striking out "member" and inserting "members";

(36) in section 802(d)(1)(B) (20 U.S.C. 1133a(d)(1)(B)), by striking out "has demonstrated" and inserting a comma and "as demonstrated";

(37) in section 942(b)(2) (20 U.S.C. 1134m(b)(2)), by inserting a period at the end thereof;

(38) in section 1045(a) (20 U.S.C. 1135d-4(a)), by striking out "sexual, geographic," and inserting "gender, geography,"; and

(39) in section 1204(a) (20 U.S.C. 1144a(a)), by striking out "Trust Territories of the Pacific Islands, and the Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands, Palau, and, subject to the provisions of Public Law 99-239, the Federated States of Micronesia, and the Republic of the Marshall Islands.".

SEC. 708. DEFINITION.

Section 545 of the Higher Education Act of 1965 is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau".

SEC. 709. ADMINISTRATION OF THE COMMISSION.

Section 1321 of the Higher Education Act of 1965 (20 U.S.C. 1221-1) is amended by inserting after subsection (d) the following:

"(e) ADMINISTRATION OF THE COMMISSIONER.—

"(1) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for Grade GS-18 of the General Schedule as authorized by section 5332 of title 5, United States Code, for each day, or any part of a day, they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(2) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

"(A) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule; and

"(B) appoint and fix the compensation at a rate not to exceed the rate payable at the GS-18 rate of such other personnel as the Chairperson considers necessary.

"(3) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, as amended, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and reponsibilities.

"(4) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

"(5) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18. Experts and consultants may be employed without compensation if they agree to do so in advance.

"(6) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.";

and redesignating subsections (e) and (f) as (f) and (g) respectively.

TITLE VIII—WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

SEC. 801. WE THE PEOPLE . . . THE CITIZEN AND CONSTITUTION.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended by—

(1) redesignating section 4608, as renumbered and amended in sections 202(1) and 202(2), respectively, of Public Law 100-569 as section 4610; and

(2) inserting after section 4608 as added by Public Law 100-569 and renumbered by Public Law 100-690 the following new section 4609:

"SECTION 4609.—We the People . . . The Citizen and the Constitution.

"(a) GENERAL AUTHORITY.—(1) The Secretary shall, in accordance with the provisions of this section, carry out a program entitled "We the People . . . The Citizen and the Constitution" to educate students about the history and principles of the Constitution and Bill of Rights and to foster civic competence and civil responsibility.

"(2) The education program authorized by this section shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) The Secretary is authorized to contract with the Center for Civic Education to carry out the provisions of this section.

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(A) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights.

"(B) school and community simulated congressional hearings following the course of study at the request of participating schools.

"(C) an annual competition of simulated congressional hearings at the congressional district, State, and national level for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991, 1992, and 1993 to carry out the provisions of this section.".

TITLE IX—NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

SEC. 901. SHORT TITLE.

This title may be cited as the "National Board for Professional Teaching Standards Act of 1990".

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the economic well-being and national security of the United States depends on efforts to strengthen the educational system to provide all children with an education which will ensure a well-educated workforce;

(2) improved teaching is central to the goal of ensuring a well-educated workforce;

(3) incentives to enhance the professionalism and status of teaching can be provided through the development and promulgation of voluntary standards of professional certification that are rigorous and unbiased, that complement and support State licensing practices and recognize the diversity of American society;

(4) the National Board for Professional Teaching Standards, a private nonprofit organization has been created to establish such voluntary standards and a significant initial investment in research and development from non-Federal sources will be required to create such a system of professional certification; and

(5) the Federal Government has played an active role in funding vital educational research and can continue to support this national effort by providing limited but essential support for critical research activities.

(b) PURPOSE.—It is the purpose of this Act to provide financial assistance to the National Board for Professional Teaching Standards to enable the board to conduct independent research and development related to the establishment of national, voluntary professional standards and assessment methods for the teaching profession.

SEC. 903. DEFINITIONS.

For the purpose of this title—

(1) The term "Board" means the National Board for Professional Teaching Standards.

(2) The term "Committee" means the Research and Development Advisory Committee established pursuant to section 905 of this Act.

(3) The term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965.

(4) The term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965. Nothing in this Act shall be construed to infringe upon the practice or accreditation of home school or private school teaching.

(5) The term "Secretary" means the Secretary of Education.

SEC. 904. PROGRAM AUTHORIZATION.

(a) PROGRAM AUTHORIZED.—From sums appropriated under subsection (b) in any fiscal year, the Secretary is authorized and directed, in accordance with this Act, to provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in section 906.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for the period beginning October 1, 1989, and ending September 30, 1993 to carry out the provisions of this title.

(c) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this Act except upon an application as required by section 907.

(2) No financial assistance may be made available under this Act unless the Secretary determines that—

(A) the Board will comply with the provisions of this Act;

(B) the Board will use the Federal funds only for research and development activities in accordance with section 906 and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

(C) the Board—

(i) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process, and

(ii) will send such announcements to the Secretary of Education, the Director of the National Science Foundation, the National Research Council, and the educational research community.

(D) the Secretary, pursuant to an arrangement with the Board, will publish the announcement described in subparagraph (C) in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

(E) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in subparagraph (C) for a 30-day period following publication, and after reconsidering any project which comment is made or to which exception is taken, through the Secretary issue a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

(F) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select, to the extent practicable consistent with standards of excellence—

(i) a broad range of institutions associated with educational research and development; and

(ii) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

(G) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with section 909(c);

(H) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

(I) the Board will submit an annual report to Congress in accordance with the provisions of section 909(a); and

(J) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this Act, upon the payment of the cost of reproducing the appropriate material.

(d) AVAILABILITY OF FUNDS.—(1) Notwithstanding any other provision of law, funds appropriated to carry out this Act shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

(2) No funds shall be made available to the Board after September 30, 1993, except as authorized by paragraph (1) of this subsection.

SEC. 905. RESEARCH AND DEVELOPMENT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Board shall establish a Research and Development Advisory Committee composed of ten recognized scholars and experts in teaching, assessment, and other relevant fields. In carrying out the previous sentence the Board shall appoint two individuals selected by the Secretary. The Board shall consult with the Secretary of Education, the Director of the National Science Foundation, the National Research Council, and the educational research community on the appointment of other Members to the Committee.

(b) FUNCTIONS.—The Committee shall advise the Board on the design and execution of its overall research and development strategy, including procedures to assure compliance with the requirements of this Act. The procedures shall include—

(1) an outline of specific research and development agenda and activities to be conducted with the Federal funds; and

(2) provisions to ensure compliance with the open competition and merit review requirements of this Act for proposals and projects assisted under this Act.

SEC. 906. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Federal funds received under this Act may be used only for research and development activities directly related to the development of teacher assessment and certification procedures for elementary and secondary school teachers.

(b) PRIORITIES.—(1) The Board shall give priority to research and development activities in—

(A) mathematics;

(B) the sciences;

(C) foreign languages; and

(D) literacy, including the ability to read, write and analyze.

(2) The Board shall give priority to research and development activities for the certification of elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

(A) limited English proficient children;

(B) gifted and talented children;

(C) handicapped children; and

(D) economically and educationally disadvantaged children.

SEC. 907. APPLICATION.

(a) IN GENERAL.—The Board shall submit applications to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance is sought; and

(2) provide assurances that the non-Federal share of the cost of activities of the Board is paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this paragraph.

(b) APPROVAL.—The Secretary shall approve an application unless such application fails to comply with the provisions of this Act.

SEC. 908. FEDERAL SHARE.

(a) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities of the Board for the period for which the application is approved under section 907.

(b) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent of the costs of the activities described in section 906.

SEC. 909. REPORTS AND AUDITING PROVISION.

(a) NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS REPORT.—(1) The Board shall submit an annual report to the appropriate committees of the Congress not later than December 31 of 1990, and each succeeding year thereafter for any fiscal year in which Federal funds are expended pursuant to this Act. The Board shall disseminate the report for review and comment to the Department of Education, the National Science Foundation, the National Research Council, and the education research community. The report shall—

(A) include a detailed financial statement and a report of the audit practices described in section 904(c)(2)(G);

(B) include a description of the general procedure to assure compliance with the requirements of this Act as required in section 906; and

(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

(i) the Board's overall research and development program and activities;

(ii) the specific research and development projects and activities conducted with Fed-

eral funds during the preceding fiscal year, including—

(I) a description of the goals and methodology of the project;

(II) a description and assessment of the findings (or status and preliminary findings if project is not yet completed);

(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

(IV) a description of the Board's plans for dissemination of the findings described in clause (ii);

(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

(2) The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

(b) ADDITIONAL REPORTS.—The Department of Education, the National Science Foundation, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this Act not later than 30 days after the Board submits its annual report pursuant to subsection (a).

(c) AUDITING PROVISION.—The Comptroller General of the United States, and any of his authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of funds from the Board, that are pertinent to the sums received and disbursed under this Act.

SEC. 910. CONSTRUCTION.

Nothing in this Act shall be construed to—

(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

(3) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal; or

(4) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board.

TITLE X—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS

SEC. 1001. MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS.

Title V of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new part F:

"PART F—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS

"SEC. 581. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

"SEC. 582. DEFINITIONS.

"As used in this part—

"(1) The term 'developmentally appropriate' means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

"(2) The term 'institution of higher education' has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'local educational agency' has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

"(4) The term 'middle school' means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

"(5) The term 'State educational agency' has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

"SEC. 583. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

"(b) SPECIAL RULE.—(1) The Secretary shall ensure an equitable geographic distribution of grants awarded under this part.

"(2) The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this part.

"(c) GRANT PERIOD.—Grants under this part may be awarded for a period not to exceed 3 years.

"(d) FUNDING LIMITATION.—Grants awarded under this part may not exceed $250,000 in the first year of funding.

"SEC. 584. APPLICATION.

"(a) IN GENERAL.—Each institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall demonstrate that—

"(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

"(2) the applicant has designed a program of teacher training or retraining which includes—

"(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

"(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

"(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

"(D) training in at least 2 subject areas and related instructional strategies;

"(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

"(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

"(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

"(H) methods of encouraging parental and community involvement with middle schools; and

"(3) the program will be designed and operated with the active participation of classroom teachers and will include an in-service training component.

"SEC. 585. REPORTS AND INFORMATION DISSEMINATION.

"Each institution of higher education receiving a grant under this part shall submit to the Secretary such reports and other information regarding programs conducted under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

"SEC. 586. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $25,000,000 for fiscal year 1991 to carry out the provisions of this part.".

TITLE XI—PRESIDENT'S COUNCIL ON ACADEMIC EXCELLENCE

SECTION 1101. SHORT TITLE.

This title may be cited as the "President's Council on Academic Excellence".

SEC. 1102. STATEMENT OF PURPOSE.

It is the purpose of this title to establish a President's Council on Academic Excellence to define the components or courses of an academically rigorous secondary school curriculum and to develop and present a medal or other suitable award to all secondary students who complete the curriculum.

SEC. 1103. COUNCIL ESTABLISHED.

There is established a President's Council on Academic Excellence (hereinafter referred to as the "Council").

SEC. 1104. DUTIES OF THE COUNCIL.

(1) The Council shall—

(A) enlist the active support and assistance of individual citizens, civic groups, private enterprise, voluntary organizations, the media, educators, and others in efforts to promote and improve American education and to encourage the pursuit of academic excellence in our secondary schools;

(B) initiate programs to inform the general public of the importance of academic excellence and the link which exists between academic excellence and international competitiveness;

(C) encourage State and local governments, private enterprise, and the media to recognize and honor academic excellence;

(D) encourage students to undertake an academically rigorous course of study;

(E) develop cooperative programs with professional societies to encourage the pursuit of academic excellence;

(F) stimulate and encourage research on academic excellence and achievement;

(G) assist educational agencies at all levels in developing high quality, innovative, educational programs which emphasize the importance of academic excellence; and

(H) encourage and cosponsor programs with public and private organizations which support and promote academic excellence.

(2) In addition to academic coursework, the Council may elect to include other activities such as school and community service, athletic participation, and artistic achievement in defining the components of

an academically rigorous secondary school curriculum.

(3) The Council may adopt achievement standards that might be used to document academic excellence.

SEC. 1105. SPECIAL RULE.

The Council shall emphasize that the Council does not intend to establish a national curriculum, nor a national secondary school diploma; rather, the Council intends to recognize the successful completion of an academically demanding course of study.

SEC. 1106. MEMBERSHIP AND LOCATION.

(a) MEMBERSHIP.—The Council shall consist of—

(1) 11 members selected by the President;

(2) 5 members selected by the Senate Majority Leader; and

(3) 5 members selected by the Speaker of the House.

(b) VACANCIES.—A vacancy in the Council shall be filled in the same manner as the original appointment was made. A vacancy in the Council shall not affect the powers of the Council.

(c) CHAIRPERSON.—The members of the Council shall elect a Chairperson from among the members of the Council.

(d) COMPENSATION.—Members of the Council shall serve without compensation.

(e) TRAVEL.—While away from their home or regular places of business in the performance of duties for the Council, all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Council not to exceed the rates authorized for employees of agencies under section 5702 and 5703 of title 5, United States Code.

(f) LOCATION.—The Council shall be located in Washington, D.C.

SEC. 1107. COMMISSION STAFF.

(a) EXECUTIVE DIRECTOR.—The Council shall appoint an Executive Director who shall be compensated at a rate established by the Council not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) ADDITIONAL PERSONNEL.—With the approval of the Council, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Council.

SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993 to carry out the provisions of this title.

TITLE XII—STUDENT ATHLETE RIGHT-TO-KNOW

SEC. 1201. SHORT TITLE.

This title may be cited as the "Student Athlete Right-to-Know Act".

SEC. 1202. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) an overwhelming majority of college presidents (86 percent) in a survey by the U.S. News and World Report believe that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 1203. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletic scholarships shall annually submit a report to the Secretary which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the graduation rate for students at the institution of higher education who received athletic scholarships for football, basketball, and all other sports, broken down by race and sex;

(4) the graduation rate for first-time, full-time students, broken down by race and sex;

(5) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(6) the average graduation rate for the 4 most recent graduating classes of all students, broken down by race and sex; and

(7) the average graduation rate for the 10 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into, and out of, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 1204. REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 1203, shall compile and publish a report containing the information required under section 1203, broken down by—

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 1205. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 1203 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 1206. WAIVER.

The Secretary shall waive the requirements of this Act for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily publishes graduation rate data or has already agreed to publish the data that, in the opinion of the Secretary, is substantially comparable to the information required under this Act.

SEC. 1207. DEFINITION DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Education, through the Commissioner of Education Statistics and in consultation with State governments and institutions of higher education, shall develop definitions of the term "graduation rate" and other student outcome measures as such terms apply to postsecondary education.

(b) DEFINITION.—For the purposes of this section the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

SEC. 1208. DEFINITIONS.

For the purpose of this title—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance.

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1209. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1991.

TITLE XIII—EFFECTIVE DATES

SEC. 1301. EFFECTIVE DATE RULE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act shall be effective upon the date of enactment of this Act.

(b) SPECIAL RULE.—(1) The amendments made by sections 503, 505, 506, and 703(b) shall take effect for award year 1990–1991 and thereafter.

(2) The amendments made by title VI and section 515, 701, and 703(a) shall take effect for award year 1991–1992 and thereafter.

TITLE XIV—GENERAL PROVISIONS

SEC. 1401. DRUG TESTING.

Part B of the Drug-Free Schools and Communities Act of 1986 is amended by inserting at the end thereof the following new section:

"SEC. 5128. DRUG TESTING.

"(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized to make grants to States for use by the Governor of the State to

fund a program of drug testing for student athletes in secondary schools in the State in accordance with the provisions of this section.

"(2) Grants awarded pursuant to paragraph (1) shall be awarded on the basis of the number of secondary school students in the State.

"(b) LOCAL GRANTS.—(1) Each Governor of a State receiving funds pursuant to subsection (a) shall use such funds to make grants to eligible schools within the State to pay the costs of testing student athletes for drug use.

"(2) Funds awarded pursuant to paragraph (1) shall only be used to test secondary school athletes who—

"(A) voluntarily choose to participate in a random drug testing program; and

"(B) attend eligible schools.

"(c) STATE APPLICATION.—(1) The Governor of each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary shall reasonably require.

"(2) Applications submitted pursuant to paragraph (1) shall—

"(A) describe the drug testing program for which financial assistance is sought; and

"(B) contain assurances that the State will implement the drug testing program for which financial assistance is sought within 6 months of the date the funds become available to the State.

"(d) LOCAL APPLICATION.—Each eligible school desiring a grant pursuant to subsection (b) shall submit an application to the Governor of the State in which such eligible school is located at such time, in such manner, and accompanied by such information as the Governor shall require.

"(e) DEFINITIONS.—For the purposes of this section—

"(1) The term 'Governor' includes the chief executive officer of any State;

"(2) the term 'eligible school' means a secondary school that—

"(A) the Governor of the State in which the school is located has determined to be a school at risk of experiencing a serious drug problem;

"(B) has a drug and alcohol abuse problem as demonstrated by appropriate data;

"(3) the term 'secondary school' has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965; and

"(4) the term 'Secretary' means the Secretary of Education.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal years 1991, 1992, and 1993 to carry out the provisions of this section.".

SEC. 1402. DRUG ABUSE RESISTANCE EDUCATION PROGRAM.

(a) IN GENERAL.—The Secretary of Education is authorized to award grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through six to recognize and resist pressures that influence such students to use controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—A local education agency in consortium with an entity shall not be eligible for a grant under subsection (a) unless such local education agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provisions of services that shall include—

(1) drug abuse resistance education instruction for students grades kindergarten through six to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under subsection (a), or beverage alcohol, including instruction in the following areas—

(A) drug use and misuse;

(B) resistance techniques;

(C) assertive response styles;

(D) managing stress without taking drugs;

(E) decisionmaking and risk taking;

(F) media influences on drug use;

(G) positive alternatives to drug abuse behavior;

(H) interpersonal and communication skills;

(I) self-esteem building activities; and

(J) resistance to gang pressure;

(2) classroom instruction by uniformed law enforcement officials;

(3) the use of positive student leaders to influence younger students not to use drugs; and

(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds, either in cash or in kind that are not less than 10 percent of the amount of the grant under subsection (a);

(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b); and

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 in fiscal year 1990, and such sums as may be necessary for each of the 3 succeeding fiscal years.

MOTION OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAWKINS moves to strike all after the enacting clause and insert in lieu thereof the text of H.R. 5115, as passed by the House, as follows:

H.R. 5115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equity and Excellence in Education Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) historically equity and excellence have been the twin goals of American education;

(2) belief in the ability of every child to succeed, if competently guided, and in the capability of every school to implant basic and higher order skills, if given the necessary resources, constitutes the foundation of the educational systems of the Nation;

(3) the Elementary and Secondary Education Act of 1965 was enacted to give meaning to these objectives;

(4) successively, throughout the education continuum, new elements have been added to the process;

(5) in the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the various elements were combined into a framework that includes early childhood development programs, school readiness and completion programs, accountability for results, parental involvement, acquisition of critical skills, the concept of effective schools, and preparation for life after the age of compulsory school attendance;

(6) the Congress concurs with the recent findings of the Commission on Excellence in Education that—

(A) the educational foundations of the Nation are being eroded;

(B) education is in crisis;

(C) the United States is a nation at risk; and

(D) education must be made a priority;

(7) the United States, therefore, is challenged to—

(A) fully implement proven, cost-effective programs;

(B) vigorously enforce accountability requirements;

(C) adequately fund school improvement; and

(D) work cooperatively in a total, all-out mobilization;

(8) the President and the Governors recently announced goals for education in the United States; and

(9) the next step must be to agree upon a plan of specific action to achieve national goals in education.

(b) PURPOSE.—It is the purpose of this Act to coordinate the first steps that now must be taken by the Federal Government, in conjunction with others, and within the decade of the 1990s, to assure the achievement of national goals in education and to once again give the Nation preeminence in commerce, industry, and social and technological innovation.

SEC. 3. FINDINGS WITH RESPECT TO RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENTS.

The Congress further finds that—

(1) State and local governments bear the primary responsibility for educating children under their jurisdictions;

(2) this Act identifies areas of national importance that traditionally have been assisted by the Federal Government;

(3) there are other areas of education that are in need of assistance and that should receive attention from State and local governments; and

(4) the Congress expects State and local governments to dedicate extra resources and attention to achieving the national goals in education described in section 2(a)(8).

TITLE I—READINESS

SEC. 101. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that the Federal Government has a long-standing commitment to ensuring that all physically and economically disadvantaged children

are ready and able to begin school by providing them with the same opportunities to develop physically and mentally as their more advantaged peers.

(b) POLICY.—It is the goal of the United States that, by the year 2000, all children in America will start school ready to learn. In recognition of this goal, it is the policy of the United States—

(1) to provide, by 1994, Head Start services to every eligible child who needs such services;

(2) to provide, by 1994, sufficient funding for the special supplemental food program for women, infants, and children so that all potentially eligible women, infants, and children have access to the services provided by the program; and

(3) to expand, by 1995, funding for Even Start to allow programs to reach all parts of the United States and to allow each State to fund a sufficient number of programs throughout the State so that approaches are available for local educational agencies, the State educational agency, and other organizations to adopt and implement.

TITLE II—SCHOOL COMPLETION

SEC. 201. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that in order for the Nation to regain its economic competitiveness, each individual in the United States must be educated to his or her greatest potential and must be encouraged to finish secondary school.

(b) POLICY.—It is the goal of the United States that, by the year 2000, the high school graduation rate will increase to at least 90 percent. In recognition of this goal, it is the policy of the United States—

(1) to expand, by 1995, funding for secondary school dropout prevention and reentry programs and basic skills programs to allow programs to reach all parts of the United States and to allow each State to fund a sufficient number of programs throughout the State so that approaches are available for local educational agencies, the State educational agency, and other organizations to adopt and implement; and

(2) to collect uniform, reliable data from the States with respect to school completion rates.

SEC. 202. NATIONALLY COMPARABLE AND UNIFORM DATA REQUIRED.

Subparagraph (C) of section 406(g)(4) of the General Education Provisions Act (20 U.S.C. 1221e-1) is amended by adding at the end the following: "The Center shall ensure that the report submitted under the preceding sentence contains nationally comparable and uniform data by State.".

TITLE III—STUDENT ACHIEVEMENT

SEC. 301. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) American students are falling behind students in other industrialized nations on tests measuring abilities in all academic subject areas; and

(2) the United States, in seeking to increase student ability and achievement, has traditionally served special populations, such as disadvantaged individuals and individuals with disabilities.

(b) POLICY.—It is the goal of the United States that, by the year 2000, American students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy. In recognition of this goal, it is the policy of the United States—

(1) to provide remedial assistance for all disadvantaged children in the United States by increasing the participation of eligible children in programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 from approximately 50 percent of such children in the fiscal year 1990 to 100 percent of such children by the fiscal year 1993;

(2) to fulfill, by the year 2000, the commitment made by the United States in 1975 to provide 40 percent of the costs of educating children with disabilities, with at least 25 percent of such costs being provided by 1995;

(3) to reward successful programs in schools with concentrations of disadvantaged children; and

(4) to promote efforts that encourage all students to be involved in activities that promote and demonstrate good citizenship, community service, and personal responsibility.

PART A—PRESIDENTIAL SCHOOLS OF DISTINCTION

SEC. 311. PRESIDENTIAL SCHOOLS OF DISTINCTION.

(a) IN GENERAL.—Chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

"PART F—PRESIDENTIAL SCHOOLS OF DISTINCTION

"SEC. 1411. SHORT TITLE.

"This part may be cited as the 'Presidential Schools of Distinction Act'.

"SEC. 1412. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the basic goal of all schools is to develop the skills and abilities of students to their maximum potential;

"(2) achievable standards of excellence can and should be set for all students and for all schools;

"(3) financial incentives can spur schools to rise to the challenge of meeting these standards;

"(4) improvement in the quality of our educational system is vital to the Nation's future; and

"(5) demonstrated schoolwide progress in achieving excellence deserves public recognition.

"(b) PURPOSE.—The purpose of this part is to recognize and reward public and private elementary and secondary schools that have made substantial progress in—

"(1) improving student educational achievement;

"(2) creating a safe and drug-free school environment; and

"(3) reducing the dropout rate.

"SEC. 1413. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL AUTHORITY.—Except as provided in subsection (b), there are authorized to be appropriated for the purpose of carrying out this part $280,000,000 for the fiscal year 1991, $350,000,000 for the fiscal year 1992 and $450,000,000 for the fiscal year 1993.

"(b) MINIMUM APPROPRIATIONS FOR CHAPTER 1 PROGRAMS.—Subsection (a) shall not apply with respect to any fiscal year unless amounts appropriated in such fiscal year for the purpose of carrying out parts A, B, D, E, and F of chapter 1 of title I exceed $5,600,000,000.

"SEC. 1414. ALLOCATION OF APPROPRIATIONS.

"(a) RESERVATIONS.—

"(1) the Secretary may reserve up to ¼ of 1 percent of the amount appropriated under section 1413 for any fiscal year for grants to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Secretary of the Interior for activities under this part.

"(2)(A) Subject to subparagraph (B), from the amount appropriated under section 1413, the Secretary may reserve up to ¼ of 1 percent for evaluations, studies, reports, and other activities the Secretary considers appropriate.

"(B) The amount reserved under subparagraph (A) may not exceed $500,000.

"(b) ALLOCATION AMONG STATES.—

"(1) The amount remaining after any reservation of funds under subsection (a) shall be allocated among the States on the same basis as funds are allocated among the States under section 1005 for the same fiscal year.

"(2) For purposes of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1415. STATE APPLICATIONS.

"(a) 3-YEAR APPLICATION.—Each State that wishes to receive a grant under this part shall submit to the Secretary, through its State educational agency, an application for a 3-year period, at such time and in such manner as the Secretary may prescribe.

"(b) APPLICATION CONTENTS.—Each State application shall contain—

"(1) the criteria the State educational agency will use to select Presidential Schools of Distinction under section 1418;

"(2) the criteria it will use to determine the amount of awards;

"(3) an assurance that it will carry out this part in accordance with the requirements of this part and other applicable legal requirements; and

"(4) such other information as the Secretary may require.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 1416. STATE USE OF FUNDS.

"(a) ADMINISTRATION.—Each State educational agency may use not more than 3 percent of the amount it receives under this part for the administrative costs of carrying out this part.

"(b) PRESIDENTIAL SCHOOL OF DISTINCTION AWARDS.—Each State educational agency shall use at least 97 percent of the amount it receives under this part for Presidential School of Distinction Awards made in accordance with section 1418.

"(c) PUBLIC LAW 95-134 INAPPLICABLE.—The provisions of Public Law 95-134, permitting the consolidation of grants to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, shall not apply to funds received under this part.

"SEC. 1417. STATE ACTIVITIES AND RESPONSIBILITIES.

"(a) STATE REVIEW PANEL.—

"(1) Each State educational agency shall establish a State review panel to assist in the selection of Presidential Schools of Distinction.

"(2) The State review panel shall be broadly representative of—

"(A) elementary and secondary school teachers and administrators, including

teachers who provide services under programs receiving assistance under chapter 1;

"(B) college and university faculty and administrators;

"(C) parents, including parents of children being served by programs receiving assistance under chapter 1;

"(D) State and local boards of education;

"(E) State and local governments;

"(F) labor;

"(G) business; and

"(H) the general public.

"(b) ANNUAL REPORTS TO THE SECRETARY.—

"(1) Before the expiration of the 60-day period beginning on the date a State educational agency distributes Presidential School of Distinction Awards under this part for a fiscal year, such State educational agency shall submit a report to the Secretary that—

"(A) identifies the schools chosen as Presidential Schools of Distinction;

"(B) states the reasons for their selection; and

"(C) states the amount of their awards.

"(2) For the second year and each succeeding year for which any State educational agency receives funds under this part, such agency shall include in any report submitted under paragraph (1) a brief description of how schools selected in the previous year used their awards.

"SEC. 1418. SELECTION OF PRESIDENTIAL SCHOOLS OF DISTINCTION.

"(a) ELIGIBLE SCHOOLS.—A State educational agency may designate as a Presidential School of Distinction any public or private elementary or secondary school in the State that—

"(1) is participating in programs under chapter 1 of title I; and

"(2) has been nominated through procedures established by such agency.

"(b) CRITERIA ESTABLISHED BY SECRETARY.—

"(1) The Secretary shall establish minimum criteria to be used by every State educational agency in selecting Presidential Schools of Distinction.

"(2) The criteria established by the Secretary shall address—

"(A) with respect to children being served under chapter 1 of title I, aggregate performance as assessed by objective measures and standards of program improvement evaluation and review under sections 1019 and 1021;

"(B) with respect to all children being served by a school, progress in improving educational performance, with particular emphasis on mastery of reading, writing, and mathematics skills;

"(C) the degree to which the school demonstrates progress in achieving and maintaining a safe environment, including reduction or elimination of problems related to drug and alcohol use; and

"(D) with respect to secondary schools, progress in reducing the number of students who drop out of school or in encouraging students who have dropped out to reenter school and complete their schooling.

"(c) STATE CRITERIA.—

"(1) Based on the selection criteria established by the Secretary under subsection (b), each State educational agency shall establish additional selection criteria that measure progress in such areas as—

"(A) student achievement, as measured by such factors as—

"(i) year-to-year improvement in test scores; and

"(ii) with respect to secondary schools—

"(I) college entrance rates; and

"(II) employment of graduates in jobs with significant potential for career development; and

"(B) other indicators of a school's success, such as improvements in—

"(i) school leadership;

"(ii) the teaching and learning environment; and

"(iii) parental and community support and involvement.

"(2) In setting criteria for Presidential Schools of Distinction, the State educational agency shall consider the special problems faced by schools with substantial numbers or proportions of children from low-income families and other relevant factors. The State educational agency may also set different criteria for different grade levels.

"(3) In applying the criteria established by the Secretary under subsection (b)(2)(A) to a school, the State educational agency shall consider the desired outcomes identified for children in the application submitted under section 1012(b) by the local educational agency that has jurisdiction over the school. No school that a local educational agency has identified under section 1021(b) shall be eligible for a Presidential School of Distinction award until such time as the school has demonstrated progress in complying with the provisions of the State or local improvement plan developed pursuant to section 1020 or section 1021.

"(4) To the extent consistent with other provisions of this part, each State educational agency shall apply uniform selection criteria in selecting Presidential Schools of Distinction.

"(5) Any local educational agency that has jurisdiction over a school designated as a Presidential School of Distinction under subsection (a) shall implement the provisions of section 1013(c)(2) with respect to children attending such school if the provisions of such section are otherwise applicable.

"(d) AMOUNT OF AWARD.—Each State educational agency shall establish criteria for determining the amount of Presidential School of Distinction awards, including criteria relating to the size of the school and the economic circumstances of the student body.

"(e) LIMITATION.—A State educational agency may not consider a school's planned use of a Presidential School of Distinction award in selecting Presidential Schools of Distinction or in setting the amount of their awards.

"SEC. 1419. PRESIDENTIAL CERTIFICATES OF MERIT.

"Each Presidential School of Distinction shall be awarded a Presidential Certificate of Merit.

"SEC. 1420. USE OF FUNDS BY PRESIDENTIAL SCHOOLS OF DISTINCTION.

"(a) GENERAL AUTHORITY.—A Presidential School of Distinction other than a private school shall use its Presidential School of Distinction award for activities that improve student achievement. Such award may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

"(b) PRIVATE SCHOOL PARTICIPATION.—

"(1) In the case of a private school that is designated as a Presidential School of Distinction, the monetary award shall be allotted to the local educational agency that provides services under chapter 1 of title I to the children from the private school that qualify for such services. The local educational agency, after consultation with private school officials, shall use the award to improve services provided under chapter 1 of title I to such children.

"(2) If a local educational agency is either prohibited by law from providing for the participation in programs assisted with funds made available under this part of eligible children who are enrolled in private schools, or is unwilling to do so, it shall notify the Secretary of such prohibition or unwillingness, and shall include in such notification—

"(A) the names of the private schools it has designated as Presidential Schools of Distinction; and

"(B) the amounts of their awards.

"(3) The Secretary shall, with respect to the private schools identified under paragraph (2)—

"(A) make suitable arrangements to provide the awards to such schools; and

"(B) withhold from the State's allocation under this part the funds necessary to make the awards to such schools and to pay the administrative costs of making such arrangements.

"SEC. 1421. PROHIBITION ON STATE OR LOCAL REDUCTION OF OTHER ASSISTANCE.

"No Federal, State, or local agency may, in any year, take a Presidential School of Distinction award into account in determining whether to award any other assistance from Federal, State, or local resources, or in determining the amount of such assistance, to either the Presidential School of Distinction or the local educational agency that has jurisdiction over such school.

"SEC. 1422. EVALUATION.

"(a) IN GENERAL.—The Secretary shall conduct a biennial evaluation of Presidential Schools of Distinction.

"(b) NATIONAL DIFFUSION NETWORK.—The Secretary shall submit information on successful Presidential Schools of Distinction programs to the National Diffusion Network for possible dissemination.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1991.

PART B—LAW-RELATED EDUCATION PROGRAMS

SEC. 321. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 the second place it appears as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) CONTENTS OF PROGRAM.—The program required by subsection (a)(1) shall provide—

"(1) a course of instruction on the basic principles of the constitutional democracy of the United States and the history of the

Constitution of the United States, including the Bill of Rights;

"(2) at the request of participating schools, simulated congressional hearings in the school or community following the course of instruction described in paragraph (1); and

"(3) an annual competition of simulated congressional hearings in congressional districts and at the State and national levels for secondary students who wish to participate.

"(c) PARTICIPANTS.—The program required by subsection (a)(1) shall be made available to local educational agencies in each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) TEACHER TRAINING.—Amounts appropriated for purposes of carrying out this section may, if sufficient amounts remain after carrying out the program required by subsection (a)(1), be used for providing advanced training to teachers with respect to the Constitution of the United States, including the Bill of Rights.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 322. AMENDMENT TO LAW-RELATED EDUCATION PROGRAM.

Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is amended—

(1) by striking "(a) AUTHORIZATION.—" and inserting "(1)";

(2) by inserting after the section heading the following:

"(a) AUTHORIZATION.—";

(3) in subsection (a)—

(A) by moving paragraph (1) (as designated by paragraph (1) of this section) 2 ems to the right so that it is indented 4 ems from the left margin and aligned with paragraphs (2) and (3) (as added by subparagraph (B) of this paragraph); and

(B) by adding at the end the following:

"(2) The Secretary shall give priority for grants and contracts under this section to agencies, organizations, and institutions described in paragraph (1) that plan to operate statewide programs.

"(3)(A) Except as provided in subparagraph (B), the Secretary shall award grants and enter into contracts under this section for periods of 2 or 3 years.

"(B) The Secretary may award a grant or enter into a contract under this section for a period of less than 2 years in any case in which the Secretary determines that special circumstances exist."; and

(4) by adding at the end the following:

"(d) APPLICATIONS.—

"(1) Any agency, organization, or institution described in subsection (a)(1) that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) The Secretary shall convene a panel of experts for purposes of reviewing applications submitted under paragraph (1). Such experts shall be individuals who have experience in and are familiar with law-related education.".

PART C—AMENDMENTS TO OTHER EDUCATION PROGRAMS

SEC. 331. AMENDMENTS TO THE BILINGUAL EDUCATION ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (b) of section 7002 of the Bilingual Education Act (20 U.S.C. 3282) is amended by adding at the end the following:

"(8) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary is authorized to reserve not more than $1,000,000 for developmental bilingual education projects and special alternative instructional projects in middle school grades carried out under section 7021(a)(7).".

(b) BILINGUAL EDUCATION PROGRAMS.—Subsection (a) of section 7021 of the Bilingual Education Act (20 U.S.C. 3291) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) programs for developmental bilingual education or special alternative instructional projects, to be carried out in middle school grades, that feature developmental bilingual approaches for fostering academic achievement and retention by emphasizing the arts and humanities and placing special emphasis on site-based decision-making, magnet schools community involvement, and collaboration with local colleges.".

SEC. 332. PROGRAMS FOR IMPROVING EDUCATIONAL PERFORMANCE OF UNDERACHIEVERS.

(a) GENERAL AUTHORITY.—Section 4601(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151(a)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) establish programs for improving the educational performance of and employment opportunities available for underachieving students in accordance with section 4606.".

(b) PROGRAM AUTHORIZED.—Part F of title IV of the Elementary and Secondary Education Act of 1965 (as amended by section 321 of this Act) (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating sections 4606 through 4610 as sections 4607 through 4610, respectively; and

(2) by inserting after section 4605 the following:

"SEC. 4606. PROGRAMS FOR IMPROVING EDUCATIONAL PERFORMANCE OF UNDERACHIEVERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants and enter into contracts with local educational agencies, as authorized by section 4601, for the purpose of improving the educational performance of and employment opportunities available for underachieving students.

"(b) PRIORITY.—The Secretary shall give priority for grants under this section to local educational agencies that propose to demonstrate effective approaches to improving the performance of underachieving students.

"(c) DEFINITION.—For the purposes of this section, the term 'underachieving student' means an elementary or secondary school student who is not performing to his or her educational potential.".

PART D—ACADEMIC AREAS OF NATIONAL IMPORTANCE

SEC. 341. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) students in the United States have demonstrated deficiencies in knowledge of foreign languages; and

(2) the Federal Government has a vested interest in ensuring that all students learn about the diverse cultural heritage of the Nation and the world community so that the Nation's ability to compete in the global marketplace is preserved.

(b) STATEMENT OF RESPONSIBILITY.—It is the responsibility of the Federal Government to—

(1) expand foreign language programs in elementary schools, secondary schools, and institutions of higher education; and

(2) equip students with the necessary language skills for productive employment in the global marketplace.

SEC. 342. AMENDMENTS TO THE FOREIGN LANGUAGE ASSISTANCE ACT OF 1988.

(a) IN GENERAL.—The Foreign Language Assistance Act of 1988 (as contained in part B of title II of the Elementary and Secondary Education Act of 1965) is amended—

(1) by inserting before section 2103 the following:

"Subpart 1—Grants to States for Improvement and Expansion of Foreign Language Study";

(2) by redesignating sections 2103 and 2104 as sections 2111 and 2112, respectively;

(3) by redesignating section 2105 as section 2103 and moving such section so that it appears following section 2102; and

(4) by adding at the end the following:

"Subpart 2—Teacher Training and Instructional Materials

"SEC. 2121. FOREIGN LANGUAGE INSTITUTES.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants on a matching basis to States, through their State educational agencies, for the establishment and operation of foreign language institutes for the professional development and retraining of elementary and secondary school teachers in the areas of foreign languages, foreign culture, and international studies.

"(b) PROGRAM PARTICIPATIONS.—Programs operated with grants under this section shall—

"(1) provide a preference for elementary teacher development and the retraining of secondary teachers for elementary schools;

"(2) provide preservice elementary and secondary teacher education in the areas of foreign language, foreign culture, and international studies; and

"(3) allow teachers from other fields to retrain as foreign language teachers.

"(c) GRANT LIMITATIONS.—Grants pursuant to this section shall—

"(1) not exceed $3,000 per teacher;

"(2) not exceed 300 teachers per institute; and

"(3) not exceed $200,000 to any institution.

"(d) BYPASS PROVISION.—In any State where the State educational agency does not submit an application, the Secretary may consider applications from the local educational agencies, institutions of higher education, or a consortia thereof. A consortia of State educational agencies may also apply to provide a regional institute.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 to carry out this section for each of the fiscal years 1991, 1992, and 1993.

"SEC. 2122. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to provide grants on a competitive basis to qualified State and local educational agencies, institutions of higher education, private nonprofit foreign language organizations, nonprofit education associations, or a consortia thereof, to act as a resource center for—

"(1) coordinating the development of, and disseminating, foreign language and culture instructional material, including children's literature in foreign languages, videotapes, computer software, and teacher's instructional kits relating to international study; and

"(2) expanding the use of technology in teaching foreign languages and culture at the elementary and secondary school level.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1991, 1992, and 1993.

"SEC. 2123. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out this subpart within 90 days after the date of the enactment of this subpart. Such regulations shall establish procedures for the selection of grant recipients for the distribution of funds, and for the evaluation and review of the results of the programs authorized by this subpart.".

(b) CONFORMING AMENDMENT.—Sections 2111 and 2112 of the Foreign Language Assistance Act of 1988 (as redesignated by subsection (a)(2) of this section) are amended by striking the term "part" each place it appears and inserting "subpart".

TITLE IV—MATHEMATICS AND SCIENCE

SEC. 401. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) students in the United States are falling behind students from other industrialized nations on tests measuring achievement in mathematics and science;

(2) the Federal Government has a significant role in promoting the study of mathematics and science in elementary and secondary schools by providing financial assistance to local educational agencies to improve the general quality of programs for the study of mathematics and science; and

(3) the Federal Government has indirectly assisted in the postsecondary study of mathematics and science by providing future scientists, mathematicians, and engineers with financial assistance to attend postsecondary institutions, but more incentives are needed to attract high-achieving students into these areas of study.

(b) POLICY.—It is the goal of the United States that, by the year 2000, United States students will be first in the world in mathematics and science achievement. In recognition of this goal, it is the policy of the United States—

(1) to, by the year 2000, expand funding for the Dwight D. Eisenhower Mathematics and Science Education Act so that all elementary teachers and all secondary teachers of mathematics and science will have an opportunity for updating and improving their mathematics and science education skills;

(2) to, by 1995, expand funding for such Act so that all elementary school teachers have an opportunity for skill improvement; and

(3) to award scholarships to high-achieving students to pursue the study of mathematics, science, and related subjects at postsecondary institutions.

SEC. 402. NATIONAL SCIENCE SCHOLARS PROGRAM.

(a) AMENDMENT.—Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) by redesignating subparts 7 and 8 as subparts 8 and 9, respectively; and

(2) by inserting immediately after subpart 6 the following new subpart:

"Subpart 7—National Science Scholars Program

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 419L. (a) PURPOSE.—It is the purpose of this subpart—

"(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

"(2) to provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

"(3) to contribute to strengthening the leadership of the United States in these fields;

"(4) to strengthen the United States science, mathematics, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

"(5) to encourage role models in scientific, mathematics, and engineering fields for young people;

"(6) to strengthen the United States scientific, mathematics, and engineering potential by encouraging equal participation of women with men in scientific, mathematics, and engineering fields; and

"(7) to attract talented students to teaching careers in science and mathematics in elementary and secondary schools.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $4,350,000 for fiscal year 1991 for awards to National Science Scholars.

"SCHOLARSHIPS AUTHORIZED

"SEC. 419M. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, and who—

"(1) are selected by the President;

"(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

"(3) show promise of continued outstanding academic performance in such field of study.

"(b) PERIOD OF AWARDS.—

"(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 419O(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

"(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 419O(b) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for up to 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for up to 4 academic years of undergraduate study.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education, as defined in section 1201(a) of the Act.

"(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this section shall be known as 'National Science Scholars'.

"SELECTION OF SCHOLARS

"SEC. 419N. (a) SELECTION CRITERIA FOR INITIAL AWARDS.—

"(1) SELECTION CRITERIA.—The Director of the National Science Foundation shall develop and submit to the Secretary criteria to be used in the selection of National Science Scholars for initial year awards under section 419M(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to successfully complete a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the criteria for measuring the potential and motivation of nominees.

"(2) PUBLICATION.—The Secretary shall review the Director's recommendations and, after consultation with the Director, publish appropriate selection criteria in the Federal Register.

"(b) SELECTION PROCESS FOR INITIAL AWARDS.—

"(1) NOMINATING COMMITTEE.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State elected official, acting in conjunction with the State educational agency, or by an existing grant agency or panel designated by such official, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

"(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least two individuals from each congressional district in the State, at least one of whom is female. Such selections shall be ranked in order of priority.

"(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female.

"(4) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify each Member of Congress of selections made from such Member's district before public announcement of such selections is made.

"(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 419M(b)(2) to recipients of initial awards under section 419M(b)(1) who the Secretary determines meet the requirements of section 419O(b).

"(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student

until the student is enrolled at an institution of higher education.

"ELIGIBILITY OF SCHOLARS

"SEC. 419O. (a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 419M(b)(1), a student shall—

"(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made, or be scheduled to so graduate or obtain such equivalent within three months after the date of the award;

"(2) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

"(3) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

"(4) have declared a major in 1 of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of his or her intent to major in 1 of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

"(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 419M(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 419M(b)(2) if the student—

"(1) maintains a superior level of academic achievement, as determined in accordance with the regulations of the Secretary;

"(2) continues to major in, or provides a statement to the State as described in subsection (a)(4) of his or her continuing intent to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

"(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

"(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

"(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this subpart shall be suspended in accordance with the regulations of the Secretary.

"(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this Act could be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

"(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools in the United States annually of the availability of scholarships under this Act.

"SCHOLARSHIP AMOUNT

"SEC. 419P. (a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this subpart for any academic year shall be $5,000.

"(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this subpart shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of this Act. A scholarship awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this subpart, the amount paid to each student shall be reduced proportionately.

"SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS

"SEC. 419Q. (a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this part shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

"(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.".

(b) CONFORMING AMENDMENTS.—

(1) Section 401(b) of the Higher Education Act of 1965 is amended by striking out "subparts 1 through 8," and inserting in lieu thereof "subparts 1 through 9,".

(2) Section 481(a)(1) of such Act is amended by striking out "except subpart 6" and inserting in lieu thereof "except subparts 6 and 7".

(3) Section 483(f) of such Act is amended by striking out "subparts 4, 5, and 7" each place it appears and inserting in lieu thereof "subparts 4, 5, and 8".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 1991.

SEC. 403. SCIENCE CAREER SCHOLARSHIPS.

(a) PROGRAM AUTHORIZED.—There is established a scholarship program for students in a baccalaureate degree program in physical, life, or computer science, mathematics, or engineering who are willing to commit themselves to—

(1) teaching elementary or secondary school science or mathematics; or

(2) service described in subsection (m)(2).

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of subsection (g)(1) may receive a scholarship, for a period of 1 academic year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—

(A) FIRST CONTINUATION AWARD.—A student who satisfies the requirements of subsection (g)(2) may receive an additional scholarship, awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study.

(B) SECOND CONTINUATION AWARD.—An additional period of scholarship support, not to exceed 1 year, shall be available to recipients of scholarships under subsection (a)(1) who have completed requirements for the baccalaureate degree but require additional education courses in order to obtain certification to teach.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this section may attend any institution of higher education.

(d) DESIGNATION.—The individuals awarded scholarships under subsection (a)(1) shall be referred to as the "Robert Noyce Mathematics and Science Teacher Corps".

(e) SELECTION.—

(1) SELECTION PROCESS FOR INITIAL AWARDS.—

(A) SELECTION CRITERIA.—The Director shall develop and submit to the Secretary application procedures and criteria to be used in the selection of nominees under this section. Such criteria shall provide for the selection of such nominees on the basis of academic merit and demonstrated accomplishment in physical, life, or computer science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

(B) PUBLICATION.—The Secretary shall review the Director's recommendations and, after consultation with the Director, publish appropriate application procedures and selection criteria in the Federal Register.

(C) MERIT REVIEW PANEL.—Award recipients shall be nominated from among applicants by a merit review panel composed of 8 individuals, 4 of whom shall be appointed by the Director and 4 of whom shall be appointed by the Secretary. Members of the panel shall not be employees of the United States and shall serve as volunteers without compensation. Nominees shall be selected on the basis of selection criteria, which shall be developed and established in accordance with subparagraph (A). The panel shall rank the nominees in order of priority.

(D) AWARDING OF SCHOLARSHIPS.—The panel shall submit its nominees to the President, who shall, after consultation with the Director and the Secretary, award not more than 500 scholarships under subsection (a)(1) and, with any remaining funds, not more than 500 scholarships under subsection (a)(2).

(2) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under this section who the Secretary determines meet the requirements of subsection (g)(2) or (b)(2)(B).

(f) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(g) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering;

(C) in the last 2 years of a baccalaureate degree program; and

(D) enrolled in an institution of higher education,

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR FIRST CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a first continuation award under subsection (b)(2)(A) for a subsequent academic year of undergraduate education if the student—

(A) maintains a superior level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(h) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(i) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(j) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section could be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(k) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(l) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraph (2), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(m) SERVICE REQUIREMENT.—

(1) TEACHING SCHOLARSHIPS.—(A) Each recipient of an award under subsection (a)(1) shall, as a condition of the receipt of such award, agree to complete, within 6 years after graduation from the baccalaureate degree program for which the award was made or within 6 years after completion of the additional period of scholarship support, if applicable, at least 2 years of service as an elementary or secondary science or mathematics teacher for each year of scholarship support under this section, except that such requirement shall not exceed a total of 4 years. Service required under this paragraph shall be performed at a school receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.).

(B) As part of the agreement required under subparagraph (A), each recipient shall agree, in the event of failure to complete the service obligation described in subparagraph (A), to repay an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

except that such payment shall be reduced, for each year of service that the individual has successfully completed, by a fraction equal to 1 divided by the number of years of service the student is obligated to perform. Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in subparagraph (A).

(2) CAREER OPTION SCHOLARSHIPS.—(A) Each recipient of an award under subsection (a)(2) shall, as a condition of the receipt of such award, agree to complete—

(i) two years of—

(I) service in a physical, life, or computer science, mathematics, or engineering related capacity in the employ of the United States or any corporation or other entity, organized under the laws of the United States or of a State of the United States, at least 50 percent of which is owned by United States nationals, and which is engaged in scientific or engineering research or endeavor;

(II) postgraduate education in physical, life, or computer science, mathematics, or engineering at an institution of higher education; or

(III) a combination of service and education described under subclauses (I) and (II); or

(ii) a postgraduate degree program in physical, life, or computer science, mathematics, or engineering at an institution of higher education.

(B) As part of the agreement required under subparagraph (A), each recipient shall agree, in the event of failure to complete the service obligation described in subparagraph (A), to repay an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in subparagraph (A).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(n) DEFINITIONS.—For purposes of this section—

(1) the term "Director" means the Director of the National Science Foundation;

(2) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(3) the term "Secretary" means the Secretary of Education.

(o) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation, for transfer to the Secretary for carrying out this section—

(1) $5,000,000 for fiscal year 1991;

(2) $10,000,000 for fiscal year 1992; and

(3) $12,500,000 for fiscal year 1993.

SEC. 404. EFFECT OF CERTAIN CONTROLLED SUBSTANCE AND FELONY CONVICTIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), or by a court under the authority of section 5301 of the Anti-Drug Abuse Act of 1988 (102 Stat. 4310), if any person is convicted under Federal or State law of the illegal use, possession, or distribution of a controlled substance (as such term is defined in the Controlled Substances Act), or of any crime which is a felony under Federal law or for an act which, if committed in a Federal jurisdiction, would be a felony under Federal law, and such crime was committed during a period with respect to which such person has received an award under this title or the amendments made by this title, such person shall not be eligible to receive any further such awards, and shall be liable to the United States for the repayment, within 1 year after such conviction, of all amounts received pursuant to such awards, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as of the time of such conviction, as determined by the Treasurer of the United States.

(b) EXEMPTION.—A person subject to the provisions of subsection (a) may be exempted from those provisions in whole or in part if—

(1) that person, within 90 days of a conviction described in subsection (a), petitions the Secretary of Education for a good cause exemption from subsection (a); and

(2) the Secretary of Education approves the petition.

SEC. 405. REPORT.

The National Science Foundation shall prepare and submit to the Congress no later than 1 year after the date of enactment of this Act a report examining current efforts to improve the quality of elementary and secondary mathematics and science education and career potential for the underprivileged through joint efforts of business, school districts, and institutions of higher education, and recommending ways the Federal Government could encourage such efforts. The report shall include, to the extent possible, a comprehensive list of existing efforts, an assessment of what factors have made some such efforts more successful than others, and a review of the extent to which such efforts have drawn on Federal programs.

TITLE V—FAMILY LITERACY AND LIFELONG LEARNING

SEC. 501. SHORT TITLE.

This title may be cited as the "Literacy for All Americans Act of 1990".

SEC. 502. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) nearly 30,000,000 adults in the United States have serious problems with literacy (the ability to read, write, speak English, compute, and solve problems effectively);

(2) literacy problems are closely associated with poverty and pose a major threat to the economic well-being of the United States;

(3) present public and private literacy programs reach only a small portion of the population in need and often result in only minimal learning gains;

(4) literacy programs generally lack adequate funding, adequate coordination with other literacy programs, and an adequate investment in teacher training and technology; and

(5) access to better information about the best practices in the literacy field and more

research in order to provide better diagnostic and instructional tools are essential for the improvement of literacy and employability in the United States.

(b) POLICY.—It is the goal of the United States that, by the year 2000, every American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. In recognition of this goal, it is the policy of the United States—

(1) to provide all workers and adults in the United States with the opportunity to acquire the skills needed to function productively;

(2) to promote the pursuit of lifelong learning by all individuals in the United States by providing essential support for the Nation's system of public school, academic, and research libraries;

(3) to establish programs for large-scale public-private partnerships in workforce literacy for upgrading the basic functional literacy skills of workers;

(4) to provide for teacher training and instructional technologies to increase the number of students served by each teacher and increase the rate and extent of learning gains;

(5) to provide easy access to information on model programs by teachers, community-based organizations, volunteers, small businesses, and large businesses; and

(6) to help build the capacity of States to assist larger numbers of adults and families.

SEC. 503. DEFINITIONS.

For purposes of this title:

(1) APPLICABLE PROGRAM.—The term "applicable program" means any program under—

(A) the Adult Education Act;

(B) the Carl D. Perkins Vocational Education Act;

(C) the Job Training Partnership Act; or

(D) the Library Services and Construction Act.

(2) BASIC SKILLS.—The term "basic skills" means—

(A) reading in the English language;

(B) writing in the English language;

(C) speaking in the English language;

(D) mathematics; and

(E) problem-solving.

(3) LITERACY.—The term "literacy" means the attainment of a level of proficiency in basic skills that is sufficient to allow each individual to meet individual goals for proficiency and to meet social and economic demands for proficiency.

(4) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Education.

PART A—LITERACY: STRATEGIC PLANNING, RESEARCH, AND COORDINATION

Subpart 1—National Planning, Research, and Coordination

SEC. 511. INTERAGENCY TASK FORCE ON LITERACY.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Literacy (in this section referred to as the "Task Force").

(b) COMPOSITION.—

(1) IN GENERAL.—The Task Force shall consist of—

(A) the Secretary of Education;

(B) the Secretary of Labor;

(C) the Secretary of Health and Human Services; and

(D) any other head of an agency that the President considers appropriate.

(2) SPECIAL APPOINTMENTS.—Any officer not appointed to the Task Force who is the head of an agency of the United States may be assigned by the President or the Chairperson of the Task Force to serve whenever matters within the jurisdiction of the agency headed by such officer are to be considered by the Task Force.

(3) CHAIRPERSON.—The President is requested to appoint the Chairperson of the Task Force from among its members to serve as Chairperson at the President's discretion.

(c) QUORUM.—1 more than ½ of the members of the Task Force shall constitute a quorum for the purpose of transmitting recommendations and proposals to the President, but a lesser number may meet for other purposes.

(d) ABSENCES.—Any member of the Task Force who is unable to attend a meeting of the Task Force shall appoint an appropriate Assistant Secretary from the department of which the member is the Secretary, or in the case of an agency, the second-ranking official of such agency, to represent the member for that meeting.

(e) DUTIES OF THE TASK FORCE.—The Task Force shall—

(1) coordinate the various literacy functions of the Federal Government;

(2) measure departmental progress toward meeting the goals of this Act;

(3) devise, coordinate, and implement government-wide initiatives in workplace literacy and other high-priority issues affecting adult and family literacy;

(4) facilitate the integration of resources across programs; and

(5) issue an annual report to Congress and the President concerning the progress being made by the Federal Government, the individual States, and the United States as a whole toward improving adult and family literacy.

SEC. 512. NATIONAL INSTITUTE FOR LITERACY.

(a) ESTABLISHMENT.—There is established the National Institute for Literacy (in this section referred to as the "Institute"). The Institute may include any research and development center supported under section 405(d)(4)(A)(ii) of the General Education Provisions Act and any other center, institute, or clearinghouse established within the Department of Education the purpose of which is determined by the Secretary of Education to be related to the purpose of the Institute.

(b) DUTIES.—The Institute shall, in order to improve and expand the system for delivery of literacy services—

(1) conduct basic and applied research and demonstrations on literacy, including—

(A) how adults learn to read and write and acquire other skills;

(B) how the literacy skills of parents affect the ability of children to learn literacy skills;

(C) the assessment of literacy skills;

(D) the best methods for assisting adults and families to acquire literacy skills, including the use of technology;

(E) the special literacy needs of individuals with learning disabilities and individuals with limited English proficiency;

(F) how to effectively reach and teach the most disadvantaged individuals; and

(G) how to attract, train, and retain professional and volunteer teachers of literacy;

(2) assist Federal, State, and local agencies in the development, implementation, and evaluation of policy with respect to adult literacy by—

(A) establishing a national data base with respect to—

(i) adult literacy and basic skills programs (including programs in Federal departments, State agencies, and local agencies, and programs that are privately supported through nonprofit entities and for-profit entities;

(ii) assessment tools and outcome measures;

(iii) the amount and quality of basic education provided in the workplace by businesses and industries; and

(iv) progress made toward the national literacy goals described in section 2(a)(8); and

(B) providing technical and policy assistance to government entities for the improvement of policy and programs relating to literacy;

(3) provide program assistance and training for literacy programs throughout the United States and technical and policy assistance to government entities in order to improve the effectiveness of such programs and to increase the number of such programs, which assistance and training shall—

(A) be based on the best available research and knowledge; and

(B) be coordinated with activities conducted by—

(i) regional educational laboratories supported under section 405(d)(4)(A)(i) of the General Education Provisions Act;

(ii) curriculum centers assisted under section 251(a)(8) of the Carl D. Perkins Vocational Education Act; and

(iii) other educational and training entities that provide relevant technical assistance;

(4) collect and disseminate information to Federal, State, and local entities with respect to literacy methods that show great promise (including effective methods of assessment, effective literacy programs, and other information obtained through research or practice relating to adult and family learning that would increase the capacity and quality of literacy programs in the United States), using a variety of methods to ensure that the best information is received by State and local providers of literacy services; and

(5) establish and administer a National Workplace Literacy Assistance Collaborative, in accordance with the requirements of subsection (q), to assist small and medium-sized businesses, business associations, and labor organizations in developing and implementing national strategies in workforce literacy programs tailored to the needs of the workplace.

(c) NATIONAL INSTITUTE FOR LITERACY GOVERNING BOARD.—There is established the National Institute for Literacy Governing Board (in this Act referred to as the "Board"), which shall consist of the following:

(1) The Secretary of Education.

(2) The Secretary of Labor.

(3) The Secretary of Health and Human Services.

(4) The head of any other Federal department that chooses to participate and that is invited by the Board.

(5) 8 individuals, not more than 4 of whom shall be from the same political party, appointed (not later than the end of the 90-day period beginning on the date of the enactment of this Act) by the President with the advice and consent of the Senate from individuals who are not otherwise officers or employees of the Federal Government who are representatives of—

(A) literacy organizations and providers of literacy services, including—

(i) providers of literacy services receiving assistance under the Adult Education Act; and

(ii) nonprofit providers of literacy services;

(B) businesses that have demonstrated interest in literacy programs;

(C) literacy students;

(D) experts in the area of literacy research;

(E) State and local governments; and

(F) organized labor.

(d) DUTIES.—

(1) IN GENERAL.—The Board shall determine policy for the Institute, set an agenda for the Institute, and oversee the operations of the Institute.

(2) CONTRACT AND GRANT AUTHORITY.—The Board may enter into contracts or cooperative agreements with, or make grants to, individuals, public or private nonprofit institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by the Secretary of Education.

(e) TERMS.—

(1) IN GENERAL.—Each member who is not an ex officio member shall be appointed for a term of 3 years. Any such member may be appointed for not more than 2 consecutive terms.

(2) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

(f) WAIVER OF LIMITATION ON EXECUTIVE SCHEDULE POSITIONS.—Appointments may be made under this section without regard to section 5311(b) of title 5, United States Code.

(g) BASIC PAY.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Board shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay payable for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

(h) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation may be passed only by a majority of its members present.

(j) CHAIRPERSON; VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Board shall be elected by the members. The term of office of the Chairperson and Vice Chairperson shall be 1 year.

(k) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its members.

(l) GIFTS, BEQUESTS, AND DEVISES.—The Board may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Board. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Board.

(m) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(n) STAFF.—The Board may appoint and fix the pay of a Director and such staff as it considers appropriate.

(o) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(p) EXPERTS AND CONSULTANTS.—The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(q) NATIONAL WORKPLACE LITERACY ASSISTANCE COLLABORATIVE.—

(1) There is established within the Institute a National Workplace Literacy Assistance Collaborative (in this subsection referred to as the Collaborative) to improve the basic skills of the currently employed, especially those workers who are marginally employed with low basic skills and limited opportunity for long-term employment and advancement, by assisting small and medium-sized businesses, business associations, and labor organizations to develop and implement literacy programs tailored to the needs of the workplace and workforce sectors.

(2) The Collaborative shall—

(A) develop and implement a plan for providing small and medium-sized businesses with the technical assistance required to address the literacy needs of their workforce;

(B) monitor the development of workplace literacy training programs and identify best practices and successful small and medium-sized business program models;

(C) inform businesses and unions of research findings and best practices regarding exemplary curricula, findings, and best practices regarding exemplary curricula, instructional techniques, training models, and the use of technology as a training tool in the workplace;

(D) provide technical assistance to help businesses assess individual worker literacy skill needs, implement workplace literacy training programs, and evaluate training program effectiveness;

(E) promote cooperation and coordination among State and local agencies and the private sector to obtain maximum uses of existing literacy and basic skills training resources;

(F) conduct regional and State small business workplace literacy meetings to increase program effectiveness and accountability;

(G) establish cooperative arrangements with the National Institute for Literacy and other centers involved in literacy and basic skills research and development activities;

(H) prepare and produce written and video materials necessary to support technical assistance and information dissemination efforts; and

(I) establish a program of grants, in accordance with the requirements of paragraph (3), to facilitate the design and implementation of national strategies to assist small and medium-sized businesses and unions to effectively provide literacy and basic skills training to workers.

(3) In order to carry out the purpose of paragraph (2)(I), the Board shall establish a program of grants in accordance with the requirements of this paragraph.

(A) Grants awarded under this paragraph shall provide funds to establish large-scale national strategies in workforce literacy, which may include, but are not limited to, the following activities:

(i) basic skills training that is cost-effective and needed by employees and required by their employers to establish a trainable workforce which can take advantage of further job specific training and advance the productivity of the labor force on an individual, industry, or national level;

(ii) specific program offerings, which may include—

(I) English as a second language instruction;

(II) communications skill building;

(III) reading and writing skill building; and

(IV) computation and problem solving;

(iii) appropriate assessments of individual worker's literacy and basic skills needs and appropriate assessments of the skill levels required by business;

(iv) cooperative arrangements with other organizations involved in providing literacy and basic skills training, including adult education, vocational education, community and junior colleges, community-based organizations, State level agencies, and private industry councils; and

(v) the establishment as appropriate of technology-based learning environments, such as computer-based learning centers.

(B) To receive a grant under this paragraph, a proposal shall be submitted to the Board by a business association, industry organization, or organized labor, or consortia of these organizations, containing a plan specifying a strategy for designing and implementing workplace literacy and basic skills training for workers, and justifying the national, statewide, or industry-wide importance of this strategy. The proposal shall include—

(i) a demonstration of need for literacy and basic skills training;

(ii) a description of the business or industry for which the strategy is to be established;

(iii) a statement of specific, measurable goals and participant outcomes;

(iv) a strategy for achieving the goals, including a description of the process to identify literacy and basic skills required by employers and the skills of individual workers, and a description of the specific services to be provided;

(v) letters of agreement from all organizations participating in the grant program and letters of support from appropriate national, State, or community officials;

(vi) a plan for an independent evaluation of the model's effectiveness in improving the literacy and basic skills of workers and the productivity of employees, including potential for the model's potential replicability or adaption; and

(vii) a description of the costs of the activities to be undertaken.

(C) The Board shall develop a formal process for the submission of proposals and an-

nounce that process and the availability of funds in the Federal Register.

(D) The Board shall pay to each grant recipient the Federal share of the cost of the activities described in the application. The Federal share shall not exceed 70 percent. The non-Federal share may be in the form of in-kind contributions, cash, worker-release time, instructional costs, equipment, or facilities provided by the entities participating in the grant program.

(E) The Board shall give priority to grant proposals that are authorized in paragraph (3)(A)(iv).

(G) The Board may take into account geographic considerations (such as rural and urban) and national distribution, when awarding grants under paragraph (3) of this subsection.

(H) The Board shall award no more than 5 grants from each $10,000,000 appropriated to carry out the provisions of paragraph (3) of this subsection.

(4) EVALUATION.—The Board shall every 3 years and at the expiration of this section have an independent evaluation conducted on the effectiveness of activities undertaken by the Collaborative.

(r) REPORT.—Not later than the expiration of the 3-month period beginning on the last day of any fiscal year in which the Institute receives assistance under this section, the Institute shall submit a report to the President and to the Congress. Such report shall include a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for such fiscal year.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—

(A) There are authorized to be appropriated for purposes of carrying out this section (other than subsection (q)(3)) $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

(B) There are authorized to be appropriated for purposes of carrying out subsection (q)(3) $40,000,000 in fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

(2) USE OF OTHER FUNDS.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this title may be provided to the Institute for such purposes.

Subpart 2—State Planning, Research, and Coordination

SEC. 516. STATE COORDINATION OF ADULT LITERACY PROGRAMS.

Subsection (f) of section 332 of the Adult Education Act (20 U.S.C. 1205a) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) meet with the State agency responsible for literacy training to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of the individuals in the State;" and

(2) by amending paragraph (2) to read as follows:

"(2) advise the Governor concerning—

"(A) the development and implementation of measurable State literacy and adult education goals, especially with respect to—

"(i) improving levels of literacy in the State;

"(ii) improving literacy programs in the State; and

"(iii) fulfilling the long-term literacy goals of the State;

"(B) the coordination of State literacy training programs in order to progress toward the long-term literacy goals of the State;

"(C) the expansion of literacy programs to eventually fulfill the educational needs of all illiterate adults in the State;

"(D) the improvement of the quality of literacy programs in the State by supporting integration of services, staff training, and technology-based learning; and

"(E) private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships; and".

SEC. 517. LITERACY RESOURCE CENTERS.

(a) ESTABLISHMENT.—From amounts appropriated pursuant to subsection (f), the Secretary shall make grants for purposes of establishing a network of State or regional adult literacy resource centers.

(b) AUTHORIZED ACTIVITIES.—The centers established with assistance under subsection (a) shall—

(1) serve as a reciprocal link between the National Institute for Literacy and service providers for the purpose of sharing information, data, research, and expertise;

(2) improve the diffusion and adoption of state-of-the-art teaching methods;

(3) assist in coordinating the delivery of services by public and private agencies;

(4) encourage government-industry partnerships;

(5) encourage innovation and experimentation in literacy services;

(6) provide technical and policy assistance to State and local governments in improving literacy policy and programs; and

(7) provide training and technical assistance to service providers, including service providers that serve special populations.

(c) STATE APPLICATIONS.—Each State or group of States, as appropriate, that desires to receive a grant under this section shall submit to the Secretary an application that has been reviewed and commented on by the State advisory board and that describes how the State or group of States will—

(1) develop a literacy resource center or expand an existing literary resource center;

(2) provide services and activities with the assistance provided under this section; and

(3) assure access to services of the center for all public and private programs providing or seeking to provide basic skills instruction, including local educational agencies, agencies responsible for corrections education, service delivery areas under the Job Training Partnership Act, welfare agencies, labor organizations, businesses, volunteer groups, and community-based organizations.

(d) ALLOTMENT.—From sums available for purposes of making grants under this section for any fiscal year, the Secretary shall allot to each State having an approved application under subsection (c) an amount which bears the same ratio to such sums as the number of adults in such State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently enrolled or required to be enrolled in the schools of such State bears to the number of such adults in all States.

(e) MATCHING REQUIREMENT.—Each State that receives assistance under this section shall agree to provide funds for the center established with such assistance in the following amounts:

(1) In an amount equal to 10 percent of the amount provided under this section for each of the first 2 years for which assistance is provided under this section.

(2) In an amount equal to 20 percent of the amount provided under this section for the third year for which such assistance is provided.

(3) In an amount equal to 30 percent of the amount provided under this section for the fourth year for which such assistance is provided.

(4) In an amount equal to 40 percent of the amount provided under this section for the fifth year and each succeeding year for which such assistance is provided.

(f) REGIONAL CENTERS.—

(1) AUTHORIZATION.—A group of States may enter into an interstate agreement to develop and operate a regional adult literacy resource center if the States determine that a regional approach is more appropriate for their situation.

(2) REDUCTION OF MATCHING REQUIREMENT FOR REGIONAL CENTERS.—Any State that receives assistance under this section as part of a regional center shall only be required to provide under subsection (e) 50 percent of the funds such State would otherwise be required to provide under such subsection.

(3) REGIONAL CENTERS REQUIRED IN SOME AREAS.—In any fiscal year in which the Secretary determines that the amount a State is entitled to receive under this section is insufficient to carry out this section, the Secretary may designate certain States that may only receive assistance under this section as part of a regional center.

(4) BASIS FOR DESIGNATION.—The Secretary shall select States that may receive assistance under this section only as part of a regional center on the basis of the proportionate population in each State in need of services.

(5) RESERVATION OF FUNDS FOR STATE SERVICES.—In any fiscal year in which paragraph (2) applies, the Secretary may allow certain States that receive assistance as part of a regional center to reserve a portion of such assistance for State literacy services pursuant to this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for each of the fiscal years 1991, 1992, and 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 518. STATE LITERACY COORDINATION PLAN.

Subsection (c) of section 342 of the Adult Education Act (20 U.S.C. 1206a) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) describe and provide for the fulfillment of the literacy needs of individuals in the State;";

(2) by striking paragraph (9);

(3) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(4) by inserting after paragraph (1) the following:

"(2) set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State and describe a comprehensive approach for achieving such goals, including the expected outcomes of pro-

grams, services, and activities during the 4-year period;";

(5) in paragraph (4) (as redesignated by paragraph (3) of this section)—

(A) by striking "the use of" and inserting "coordination by";

(B) by striking "other than" and inserting "including"; and

(C) by striking "such as"; and

(6) in paragraph (9) (as redesignated by paragraph (3) of this section), by inserting before the semicolon the following: "and the progress the State has made toward achieving the goals set forth in each State plan subsequent to the initial State plan".

SEC. 519. EVALUATION.

Section 352 of the Adult Education Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) annually submit a report to the Interagency Task Force on Literacy describing—

"(A) how the State will or has met the literacy goals established in its State plan; and

"(B) progress being made in reaching its literacy goals, coordination of workplace literacy services, and building a high quality delivery system for adult literacy programs.".

PART B—INVESTMENT IN LITERACY

SEC. 521. AMENDMENTS TO THE ADULT EDUCATION ACT.

(a) AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.—Section 313 of the Adult Education Act (20 U.S.C. 1201b) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "There"; and

(B) by striking "1993" and inserting the following: "1990, $280,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995"; and

(2) by amending subsection (b) to read as follows:

"(b) ALLOTMENT.—(1) From the amounts appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall allot—

"(A) $100,000 each to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

"(B) $250,000 to each of the other States.

"(2) In any fiscal year the Secretary, from the amount remaining after the allotments are made as required by paragraph (1), shall allot to each State an amount which bears the same ratio to such remaining amount as the number of adults in such State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently enrolled or required to be enrolled in schools of such State bears to the number of such adults in all States.".

(b) USE OF FUNDS.—Subsection (a) of section 322 of the Adult Education Act (20 U.S.C. 1203b(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies, agencies responsible for corrections education, community-based organizations, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the capacity to provide literacy services to adults and families. In determining which programs shall receive assistance under the preceding sentence, the State shall ensure that all potential applicants have a fair opportunity to apply and be considered for such assistance. Where relevant to making such determination, the State shall consider—

"(A) the past effectiveness of applicants in providing effective services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

"(B) the degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

"(C) the commitment of the applicant to serve individuals in the community that are most in need of literacy services.";

(2) in paragraph (3)—

(A) by striking the first sentence; and

(B) by inserting after "sources;" the following: "the projected goals of the applicant with respect to participant recruitment, retention, and successful completion of the literacy program;";

(3) in paragraph (4)—

(A) by striking "(A)"; and

(B) by striking subparagraph (B);

(4) by redesignating paragraphs (3) and (4) (as amended by paragraphs (2) and (3) of this subsection) as paragraphs (4) and (5), respectively; and

(5) by inserting after paragraph (2) the following:

"(3)(A) Grants to States provided under this section shall also be used for competitive 2-year grants to public housing authorities for literacy programs and related activities. Any grant provided under the preceding sentence shall be referred to as a 'Gateway Grant'.

"(B) The Secretary shall, not less often than every 2 years, evaluate any grants made under this paragraph and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(c) EVALUATION.—Section 352 of the Adult Education Act (20 U.S.C. 1207a) (as amended by section 519 of this Act) is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ", including—

"(A) the number and percentage of local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients; and

"(B) the amount each such grant recipient receives under this Act"; and

(2) in paragraph (2)—

(A) by striking "before the end" and all that follows through "shall consider" and inserting the following: "evaluate ¼ of the grant recipients each year so that at the end of such period each grant recipient shall have been evaluated once and such evaluations shall consider, at a minimum—";

(B) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively;

(C) by inserting before subparagraph (B) (as redesignated by subparagraph (B) of this paragraph) the following:

"(A) the projected goals of the grant recipient as described in its application under section 322(a)(3);"; and

(D) by amending subparagraph (D) (as redesignated by subparagraph (B) of this paragraph) to read as follows:

"(D) the success of the grant recipient in recruiting, retaining, and assisting participants in reaching desired literacy goals and obtaining subsequent work experience; and".

(d) DEMONSTRATION PROJECTS.—Subsection (a) of section 353 of the Adult Education Act (20 U.S.C. 1208) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) development and expansion of innovative programs; and

"(4) support for statewide volunteer technical assistance activities.".

(e) FUNCTIONAL LITERACY REQUIREMENT FOR INDIVIDUALS IN STATE CORRECTIONAL INSTITUTIONS.—Section 321 of the Adult Education Act (20 U.S.C. 1203) is amended—

(1) by striking "From" and inserting the following: "(a) PROGRAM AUTHORIZED.—Subject to subsection (b), from"; and

(2) by adding at the end the following:

"(b) LIMITATION.—

(1) No State shall receive the portion of its grant under this subpart that is required under section 322(b)(1) to be used for corrections education unless such State—

"(A) before the expiration of the 2-year period beginning on the date of the enactment of the Equity and Excellence in Education Act of 1990, has in effect a mandatory functional literacy program in at least 1 State corrections institution; and

"(B) before the expiration of the 5-year period beginning on the date of the enactment of the Equity and Excellence in Education Act of 1990, has in effect a mandatory functional literacy program in each State corrections institution.

"(2) Each mandatory functional literacy program required by paragraph (1) shall include—

"(A) a requirement that each individual convicted of a felony who is incarcerated in the State corrections institution and who is not functionally literate participate in such program until such individual—

"(i) achieves functional literacy;

"(ii) is granted probation, parole, or a suspended sentence;

"(iii) completes his or her sentence; or

"(iv) is released pursuant to a court order;

"(B) a prohibition on granting probation or parole to or suspending the sentence of any individual described in subparagraph (A) who refuses to participate in such program; and

"(C) adequate opportunities for individuals required to participate in such program to be tested for functional literacy.

"(3) For purposes of this subsection, the term 'functional literacy' means the ability to demonstrate, in English, educational skills at not less than the eighth grade level. Skills required to be demonstrated under the preceding sentence shall include all skills necessary to function independently in society, such as reading, writing, comprehension, and arithmetic computation skills.

"(4) Any individual serving a life sentence or under a sentence of death shall not be required to participate in a mandatory functional literacy program.

"(5) The Secretary may waive the application of paragraph (2)(B) in any case in which a court order requires early release of an individual due to constitutional considerations.".

SEC. 522. INVESTMENT IN TRAINING AND TECHNOLOGY.

(a) CHALLENGE GRANTS FOR TRAINING AND TECHNOLOGY.—

(1) GENERAL AUTHORITY.—The Secretary is authorized to make matching grants to States or groups of States for purposes of—

(A) training staff to provide adult and family literacy instruction; and

(B) providing, purchasing, or developing learning technologies related to adult and family literacy.

(2) STATE ALLOCATIONS.—From amounts appropriated for purposes of making grants under this subsection, the Secretary shall first allocate $1,000,000 to each State that applies for a grant under this subsection. From any remaining amounts, the Secretary shall allocate to each such State an additional amount that bears the same ratio to such remainder as the number of adults in such State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently enrolled or required to be enrolled in the schools of such State bears to the number of such adults in all States applying for grants under this subsection.

(3) INTERSTATE AGREEMENTS.—A group of States may enter into an agreement to provide the training services described in paragraph (5)(A) at a regional center or to make a joint purchase of the learning technologies described in paragraph (5)(B).

(4) MATCHING REQUIREMENT.—(A) Except as provided in subparagraph (B), each State that receives a grant under this subsection shall agree to provide, from other sources, assistance for the activities for which the grant is received. Such assistance shall be in an amount equal to not less than 20 percent of the amount of the grant. Such assistance may be in the form of State funds or Federal funds provided under provisions of law other than this subsection for staff training, capital improvement, or general administration (to the extent that such funds are used for training individuals to provide literacy instruction, adult education, or basic skills instruction).

(B) Each State that enters into an interstate agreement under paragraph (3) shall agree to provide, from other sources, assistance for the activities for which the grant is received in an amount equal to not less than 20 percent of the amount of the grant.

(5) AUTHORIZED USES.—Each State that receives a grant under this subsection—

(A) shall use not less than 60 percent of amounts received under the grant for purposes of training staff to provide adult literacy instruction; and

(B) may use not more than 40 percent of amounts received under the grant for purposes of providing, purchasing, or developing learning technologies related to adult literacy.

(6) APPLICATIONS.—Each State or group of States that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(7) UNIFORM ACCESS TO ADULT LITERACY FACILITIES AND EQUIPMENT.—Each State that receives funds under this subsection shall provide assurances that any equipment, facilities, or training services purchased or supported with assistance under this subsection—

(A) will be available without charge to any adult literacy or basic skills program receiving Federal assistance; and

(B) will be available at cost to corporate efforts, community-based organizations, volunteer groups, or other groups providing adult literacy programs that do not receive Federal assistance.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this subsection $40,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

(b) LITERACY LEADER TRAINING FUND.—

(1) ESTABLISHMENT OF FUND.—There is established the Literacy Leader Training Fund (in this subsection referred to as the "Fund").

(2) SCHOLARSHIPS.—The Secretary shall make grants from the Fund to professional individuals pursuing a career in adult educational instruction, adult educational management, research in adult education, or innovation in adult education for purposes of education or research intended to expand their expertise.

(3) APPLICATIONS.—The Secretary shall establish a process for submission and review of applications for grants under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this subsection $10,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 523. AMENDMENTS TO THE EVEN START PROGRAM.

(a) STATE GRANT PROGRAM.—Section 1052 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2742) is amended—

(1) by adding at the end of subsection (a) the following: "In any year in which this subsection applies, from amounts appropriated for purposes of carrying out this part, the Secretary may reserve an amount equal to not more than 3 percent of such amounts for purposes of—

"(1) carrying out the evaluation required by section 1058; and

"(2) providing technical assistance for program improvement to local educational agencies or consortia of such agencies that receive grants under this part.";

(2) in subsection (b)—

(A) by striking "$50,000,000" and inserting "$100,000,000"; and

(B) by adding at the end the following: "In any year in which this subsection applies, each State that receives a grant under this part may use not more than 5 percent of assistance provided under the grant for costs of administration and technical assistance."; and

(3) in subsection (c)—

(A) by inserting after "part" the following: "(other than section 1053)";

(B) by striking "and"; and

(C) by inserting before the period the following: ", Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands".

(b) ALLOCATION.—Section 1053 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2743) is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESERVATION FOR MIGRANT PROGRAMS AND TERRITORIES.—In each fiscal year in which this section applies, the Secretary shall first reserve for programs consistent with the purpose of this part—

"(1) for migrant children, an amount equal to 3 percent of the amount appropriated for purposes of carrying out this part, which programs shall be conducted through the Office of Migrant Education; and

"(2) for allocations to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, an appropriate amount comparable to their relative need as measured by the number of children in such territories who are eligible to be counted under section 1005(c).."; and

(2) by adding at the end the following:

"(d) For the purpose of this section, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(c) FEDERAL SHARE LIMITATION.—Subsection (c) of section 1054 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2744) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving such subparagraphs 2 ems to the right so that they are indented 6 ems from the left margin;

(2) by striking "LIMITATION.—" and all that follows through "may be—" and inserting the following: "LIMITATION.—

"(1) The Federal share under this part may be—";

(3) by moving the matter following subparagraph (B) (as redesignated by paragraph (1) of this subsection) 2 ems to the right, so that it is indented 4 ems from the left margin;

(4) by striking the last sentence and inserting the following: "The remaining cost may be provided in cash or in kind, fairly evaluated, and may be obtained from any source other than funds made available for programs under this chapter."; and

(5) by adding at the end the following:

"(2) The Secretary may waive, in whole or in part, the requirement that all or part of the remaining cost described in paragraph (2) be obtained from sources other than funds made available under this chapter if a local educational agency—

"(A) demonstrates that it otherwise would not be able to participate in the program under this part; and

"(B) negotiates an agreement with the Secretary with respect to the amount of the remaining cost to which the waiver would be applicable.".

(d) ELIGIBLE PARTICIPANTS.—Section 1055 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2745) is amended—

(1) by striking "Eligible" and inserting the following: "(a) IN GENERAL.—Except as provided in subsection (b), eligible"; and

(2) by adding at the end the following:

"(b) CONTINUATION OF ELIGIBILITY FOR CERTAIN PARTICIPANTS.—Any family participating in the program under this part that becomes ineligible for such participation as a result of 1 or more members of the family becoming ineligible for such participation, may continue to participate in the program until all members of the family become ineligible for participation, which—

"(1) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of 8, shall be when the parent or parents become ineligible due to educational advancement; and

"(2) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of 8.".

(e) SELECTION PROCESS.—Subsection (a) of section 1057 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2747) is

amended by striking paragraph (2) and redesignating the succeeding paragraphs accordingly.

(f) EFFECTIVE DATES.—

(1) OCTOBER 1, 1990.—The amendments made by subsections (a) and (d) of this section shall take effect on October 1, 1990.

(2) GRANTS FOR FISCAL YEAR 1991.—The amendments made by subsection (b) shall apply with respect to grants made under this part for the fiscal year 1991.

PART C—BUSINESS LEADERSHIP FOR EMPLOYMENT SKILLS

SEC. 531. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the skills of current commercial drivers which are necessary to successfully complete the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

(b) FEDERAL SHARE.—The Federal share of the costs of the adult education programs authorized under subsection (a) shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section include—

(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

(3) approved apprentice training programs; and

(4) labor organizations, the memberships of which includes commercial drivers.

(d) REFERRAL PROGRAM.—Grantees shall refer individuals who are identified as having literacy skill problems to appropriate adult education programs as authorized under this Act.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "adult education" has the meaning given such term in section 312(2) of the Adult Education Act.

(2) The term "approved apprentice training programs" has the meaning given such term in the National Apprenticeship Act of 1937.

(3) The term "commercial driver" means an individual required to possess a commercial driver's license under the Commercial Motor Vehicle Safety Act of 1986.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1991 and 1992.

TITLE VI—SAFE, DISCIPLINED, AND DRUG-FREE SCHOOLS

SEC. 601. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) use of illicit drugs and alcohol by the youths of the Nation continues to be a major problem that threatens the safety of the children of the Nation and impedes their ability to succeed in school and in their lives; and

(2) more Federal efforts are urgently needed in the areas of drug and alcohol abuse education and prevention.

(b) POLICY.—It is the goal of the United States that, by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning. In recognition of this goal, it is the policy of the United States to, by 1993, expand funding for the Drug-Free Schools and Communities Act of 1986 in order to ensure that all students receive drug abuse prevention education and counseling services.

TITLE VII—TEACHER RECRUITMENT AND RETENTION

SEC. 701. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the success of America's schools depends most heavily on the Nation's teachers;

(2) when teachers have the necessary skills to be highly motivated and committed to excellence, they succeed in not only imparting subject matter knowledge, but also in instilling in their students an appreciation of the value and importance of education; and

(3) teachers are instrumental in the education of the children of the United States and are instrumental to achieving the national goals in education described in section 2(a)(8).

(b) POLICY.—It is the goal of the United States that, by the year 2000, there will be a well-qualified teacher in every classroom in the Nation and that these teachers will reflect the demographic make-up of the general population of the United States. In recognition of this goal, it is the policy of the United States—

(1) to recruit talented individuals into the teaching profession with special emphasis on teachers who are members of minority groups;

(2) to ensure that current teachers continually develop their teaching skills and subject matter knowledge;

(3) to reward successful teachers and encourage all teachers to further enhance their skills; and

(4) to encourage qualified professionals in other fields to enter the teaching profession.

PART A—TEACHER RECRUITMENT AND RETENTION

SEC. 711. SHORT TITLE.

This part may be cited as the "21st Century Teachers' Act".

SEC. 712. FINDINGS; POLICY.

(a) FINDINGS.—The Congress finds that it is necessary to enact additional programs—

(1) to alleviate shortages of teachers, including minority teachers, particularly in urban schools with high concentrations of disadvantaged students, and teachers specializing in specific subject areas or trained to work with targeted populations;

(2) to improve teacher training by encouraging new developments in teacher preparation which provide for greater integration of subject matter and pedagogical training;

(3) to improve teacher retention by supporting new teachers' induction into the teaching profession;

(4) to improve teacher skills by providing opportunity for in-service training in specialty areas, teaching and classroom management skills, and school based management;

(5) to improve teacher retention by providing opportunities for experienced teachers to take leadership roles in professional development academies, school based management efforts, and sabbatical programs; and

(6) to support local school officials in restructuring and improving our Nation's schools.

(b) POLICY AND PROGRESS.—It is the policy of the United States that, by the year 2000 or earlier, there will be a well qualified teacher in every classroom in the nation. The purpose of this part is to provide financial assistance for the development, recruitment, retention, and training of teachers and other instructional personnel.

Subpart 1—Loans Incentives for Teaching

SEC. 721. ESTABLISHMENT OF SEPARATE NDSL FUND FOR TEACHERS.

Part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) is amended by adding at the end thereof the following new section:

"LOANS INCENTIVES FOR TEACHING

"SEC. 469. (a) PURPOSE.—It is the purpose of this section to provide separate funds for loans under this part to students who undertake a commitment to enter into the teaching profession.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of enabling the Secretary to make, for the purposes of this section, separate capital contributions to student loan funds established under this part, there are authorized to be appropriated $90,000,000 for fiscal year 1991 and each of the 4 succeeding fiscal years.

"(c) USE OF FUNDS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to subsection (d) and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463 and subsection (c) of this section. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"(d) ALLOCATIONS.—The Secretary shall allocate the amount appropriated pursuant to subsection (b) for any fiscal year among institutions which have agreements under subsection (e) on the basis of the number of students enrolled in that institution who obtained Pell Grants during the most recently completed academic year for which satisfactory data is available to the Secretary. The Secretary shall reallocate any amounts for which institutions do not qualify by reason of subsection (e)(2)(B) in accordance with such equitable criteria as the Secretary shall prescribe by regulation.

"(e) AGREEMENTS WITH INSTITUTIONS.—An agreement with any institution of higher education for the payment of Federal capital contributions from funds appropriated under subsection (b) shall—

"(1) provide for the establishment and maintenance of a separate account, for purposes of this section, in the student loan fund required under section 463(a)(1);

"(2) provide for the deposit in such separate account of—

"(A) Federal capital contributions from funds appropriated under subsection (b);

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

"(C) collections of principal and interest on student loans made from the account;

"(D) charges collected pursuant to regulations under section 464(c)(1)(H);

"(E) reimbursement payments received under subsection (f)(6); and

"(F) any other earnings of the account;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this section;

"(B) administrative expenses, as provided in section 463(b), but including expenses under subsection (i) of this section;

"(C) capital distributions, as provided in section 466; and

"(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

"(4) make the provisions of the agreement required by paragraphs (4) through (10) of section 463(a) applicable to loans made from funds appropriated pursuant to subsection (b) of this section; and

"(5) require the institution to disseminate information, in accordance with subsection (i), on the loans made from accounts established under paragraph (1) of this subsection.

"(f) TERMS OF LOANS.—

"(1) IN GENERAL.—Except as otherwise provided by this section, loans from any separate account established pursuant to subsection (e)(1)—

"(A) shall be made in the amounts, on the same terms and conditions, and under a loan agreement with the student that contains the same provisions as are required by section 464, and

"(B) shall be subject to deferral and cancellation in the same manner as any other loan from a loan fund established under this part.

"(2) SPECIAL CONDITIONS.—A student may not receive a loan from a separate account established pursuant to subsection (e)(1) unless—

"(A) in the case of an undergraduate student, such student has successfully completed at least one year of a program of undergraduate education, and

"(B) in the case of either an undergraduate or graduate student, such student enters into an agreement that—

"(i) contains a statement of the student's present intention to pursue a teaching career upon completion of his or her academic preparation;

"(ii) provides that, if the student does not enter employment as a full-time teacher providing service described in section 465(a)(2)(A) within 2 years after such student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, the loan shall be immediately repaid through consolidation as provided in subsection (g);

"(iii) provides that, if the student ceases to be employed as such a teacher before the loan is canceled in full pursuant to section 465(a)(3)(A)(i) for 5 years of such service, the loan shall be immediately repaid through consolidation as provided in subsection (g); and

"(iv) contains such other terms and conditions as the Secretary may require to enforce the requirements of this section.

"(3) PRIORITY TO MINORITY, OTHER UNDERREPRESENTED, AND HIGH ACHIEVING STUDENTS.—(A) In making loans from an account established under subsection (e)(1), an institution shall give priority to—

"(i) individuals who are minority students or are otherwise underrepresented in the teaching profession, or in the curricula areas in which they are preparing to teach, and

"(ii) individuals who qualify and have need for such a loan and who demonstrate high academic achievement and potential for success in the teaching profession.

"(B) An institution of higher education shall—

"(i) have the responsibility for making the determinations required by subparagraph (A); and

"(ii) in setting the priorities under this paragraph, shall consult with the local education agencies in its area to determine the curricula areas that are experiencing teacher shortages and attempt to give priority to students meeting the requirements of clause (i) or (ii) of subparagraph (A) who are pursuing courses of study that will enable them to teach in these shortage areas.

"(4) AGGREGATE LOAN LIMITS.—Notwithstanding section 464(a)(2)(B), the aggregate of the loans for all years made by institutions of higher education from an account established under subsection (e)(1) may not exceed the amount specified in section 464(a)(2)(A).

"(5) EXPEDITED CANCELLATION OPTION.—(A) Loans from an account established under subsection (e)(1) shall, at the option of the borrower, be cancelled either under section 465 or under this paragraph.

"(B) Loans may be cancelled under this paragraph at the rates provided in subparagraph (C) for each complete year of service as a full-time teacher—

"(i) in schools currently receiving assistance under section 1013 of the Elementary and Secondary Education Act of 1965,

"(ii) in schools currently designated for schoolwide projects under section 1015(b) of such Act,

"(iii) in schools serving rural or geographically isolated areas (as defined by the Secretary by regulation consistent with the purposes of this section), or

"(iv) in a Head Start program designated by the Secretary for this purpose.

"(C) The percent of a loan which shall be cancelled under subparagraph (A) is 33⅓ percent for each complete year of service described in such subparagraph. If a portion of a loan is cancelled under this paragraph for any year, the entire amount of interest on such loan which accrues for such year shall be cancelled. Paragraphs (4) and (5) of section 465(a) apply with respect to cancellations under this paragraph.

"(g) CONSOLIDATION AUTHORITY.—Any student who is required to repay a loan or loans under this section by reason of subparagraph (B) or (C) of subsection (f)(2) shall be eligible for a consolidation loan under section 428C of this Act, notwithstanding subsection (a)(3)(A)(i) of such section, for purposes of repaying the loan or loans under this section.

"(h) REIMBURSEMENT FOR CANCELLATION.—The Secretary shall pay to each institution for each fiscal year an amount equal to 125 percent of the aggregate amount of loans from an account established under subsection (e)(1) which are canceled pursuant to subsection (f)(5) for such year, minus an amount equal to the aggregate amount of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

"(i) OBLIGATION TO DISSEMINATE INFORMATION ON PROGRAM.—Any institution which receives a Federal capital contribution under this section shall include with the information required to be disseminated under section 485 a separate document describing, in a form approved by the Secretary, the incentives provided under this section and develop an awareness and outreach program for prospective students entering the teaching profession.

"(j) MINORITY STUDENT DEFINITION.—For purposes of this section, the term 'minority student' means a student who is American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central and South American origin), Pacific Islander, Native Hawaiian, or Asian American.".

Subpart 2—Financial Assistance for Institutional Recruitment and Retention of Individuals Preparing To Enter the Teaching Force

SEC. 731. PURPOSE.

It is the purpose of this subpart to authorize a grant program to provide financial assistance to institutions of higher education for new and innovative programs to recruit and retain students, especially minority students, preparing to enter the teaching profession.

SEC. 732. DEFINITIONS.

As used in this subpart—

(1) The term "Secretary" means the Secretary of Education.

(2) The term "institution of higher education" has the meaning provided by section 1201(a) of the Higher Education Act of 1965.

(3) The term "historically Black college or university" means an institution that qualifies as a "part B institution" under section 322(2) of the Higher Education Act of 1965.

(4) The term "Hispanic-serving institution of higher education" means an institution of higher education which—

(A) has a student enrollment that is at least 25 percent Hispanic,

(B) is duly accredited by an agency recognized for that purpose by the Secretary of Education,

(C) provides a 4-year program leading to a baccalaureate degree or a 2-year program leading to an associate's degree, and

(D) is a public or nonprofit institution of higher education.

(5) The term "local educational agency" has the meaning provided by section 1471 of the Elementary and Secondary Education Act of 1965.

(6) The term "minority student" means a student who is American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central and South American origin), Pacific Islander, Native Hawaiian, or Asian American.

(7) The term "teacher" includes a certified school library media specialist.

SEC. 733. GENERAL AUTHORITY.

The Secretary shall allocate funds under this subpart to State agencies for grants for new and innovative programs, in accordance with the requirements of this subpart, to institutions of higher education submitting applications that meet the requirements of section 735(a) and plans that meet the requirements of section 735(b).

SEC. 734. ALLOCATION OF FUNDS.

(a) ALLOCATION OF FUNDS TO STATE EDUCATIONAL AGENCIES.—

(1) ALLOCATION FORMULA.—The Secretary shall allocate funds appropriated under section 737 for any fiscal year among States entering into agreements with the Secretary that meet the requirements of paragraph (2). Such allocation shall be made in accordance with an allocation formula which the Secretary shall prescribe by regulation. Such formula shall provide for an equitable distribution of such funds among the States and shall—

(A) take into account the number of institutions in the States that are eligible for grant priority under subsection (b)(2) and

the number of students enrolled in such institutions;

(B) take into account evidence of teacher shortages; and

(C) provide a minimum amount for each State that is sufficient to fund grants of sufficient size to operate at least one effective grantee program.

(2) STATE AGREEMENTS.—Any State desiring to obtain an allocation under paragraph (1) shall enter into an agreement with the Secretary in such form and containing such information and assurances as the Secretary may reasonably require by regulation for the effective administration by the State of the grant program under this subpart. Such agreement shall, at a minimum—

(A) designate a single State agency to administer the grant program;

(B) provide for the close coordination of the program with the State educational agency;

(C) provide for the selection of grant recipients in accordance with subsection (b); and

(D) provide (i) for such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement and accounting for grant funds, and (ii) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform the functions required by this subpart.

(b) INSTITUTIONAL AWARD.—From the amount allocated to any State under subsection (a), the State agency shall award grants to institutions of higher education located in such State. In making such awards, the State agency shall—

(1) evaluate the applications and plans submitted by such institutions in accordance with such competitive criteria as the Secretary shall prescribe by regulation;

(2) give priority to the applications and plans submitted by—

(A) historically Black colleges and universities, Hispanic-serving institutions of higher education, and other institutions with significant minority populations;

(B) institutions of higher education which have prepared and are preparing substantial numbers of teachers for service in rural schools or geographically isolated areas;

(C) institutions which have the highest numbers of Pell Grant recipients; and

(D) institutions of higher education that (i) have agreements with community and junior colleges to accept and honor the credits awarded by such colleges for a 2-year program of study in full satisfaction of the first 2 years requirements of that institution of higher education or (ii) are making substantial progress toward adoption of such an agreement.

SEC. 735. APPLICATIONS AND PLANS; USE OF FUNDS.

(a) APPLICATION.—Any institution of higher education desiring to obtain a grant under this subpart shall submit an application to the State agency designated under section 734(a)(2)(A) at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require by regulation.

(b) PLANS.—Each institution of higher education desiring to obtain a grant under this subpart shall—

(1) prepare, develop, update, and submit to such State agency a plan which will enhance the recruitment and retention of students seeking careers in teaching, with a priority to—

(A) individuals who are minority students or are otherwise underrepresented in the teaching profession, or in the curricula areas in which they are preparing to teach, and

(B) individuals who qualify and have need for such a loan and who demonstrate high academic achievement and potential for success in the teaching profession.

(2) include in such plan—

(A) specific recruitment strategies for reaching secondary schools, community colleges, or other agencies and institutions from which candidates are to be drawn;

(B) specific retention strategies and activities, such as preinduction, summer sessions, instructional technology awareness, field trips, academic support services, including internships and mentoring programs and similar activities;

(C) specific recruitment and retention strategies developed by the institution of higher education with one or more local educational agencies, community colleges, or other agencies and institutions from which candidates are to be drawn;

(D) one or more adopted agreements between the institution of higher education and community colleges which assure that transfer students will receive full course credit and not be burdened with additional course requirements which impede or alter the normal sequence and graduation process and which describes the available financial assistance (including financial assistance available under subpart 1 of this part) for which transfer students may be eligible;

(E) specific methods by which the institution of higher education will be working with local educational agencies to ensure that prospective graduates will be interviewed and, if possible, placed in jobs upon meeting all graduation requirements;

(F) the goals and objectives which are to be used to indicate the degree of success being obtained by the grant recipient in its program under this subpart, including specific timelines; and

(G) the special plans, if any, which will assure that students are being prepared for careers in rural or geographically isolated communities; and

(3) develop and implement such plan after consultation and in coordination with local nonprofit agencies and organizations that the institution determines have the capability to assist the institution in recruitment and retention activities under this subpart.

(c) USE OF FUNDS.—An institution of higher education may use funds provided under this subpart only for the conduct of activities that are specifically described in the plan submitted in accordance with subsection (b) of this section.

SEC. 736. REPORTS AND EVALUATION.

(a) REPORTS.—Any institution of higher education receiving a grant under this subpart shall submit to the Secretary an annual report and a final report containing such information as the Secretary may reasonably require—

(1) to determine whether the institution has attained the goals and objectives (including timelines) set forth in its plan under section 735(b)(2)(F); and

(2) to evaluate the success of the programs under this subpart in achieving the purposes of this subpart.

(b) EVALUATION.—The Secretary shall prepare and submit to the Congress, not later than the 3rd and 5th years after the date of enactment of this Act, an evaluation of the effectiveness of the program authorized by this subpart in attaining the purpose of this subpart. Such report shall contain any recommendations the Secretary considers appropriate for changes in such program.

SEC. 737. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart $90,000,000 for fiscal year 1991 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Subpart 3—Professional Development Academies

SEC. 741. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) professional development academies can serve as forums for the coordination and provision of a variety of activities to meet the needs of school districts;

(2) in-service training for experienced teachers enables such teachers to keep current in their substantive fields of expertise and in the practice of teaching;

(3) in-service training enables teachers to learn new substantive fields of expertise in order to alleviate teacher shortages;

(4) in-service training provides teachers an opportunity to enhance skills in classroom management;

(5) in-service training in school districts operating new school based management and shared decisionmaking programs assist teachers, principals, and administrators to assume new responsibilities;

(6) providing experienced teachers with sabbaticals allows such teachers the opportunity to participate in professional programs and activities, and allows such teachers the opportunity to return to the classroom renewed; and

(7) professional development academies shall support local school officials in restructuring and improving our Nation's schools.

(b) PURPOSE.—It is the purpose of this subpart to authorize a grant program to provide financial assistance to consortia of local education agencies, institutions of higher education and other eligible entities in order to develop and provide the highest quality professional training for our existing and future workforce for our Nation's schools.

SEC. 742. DEFINITIONS.

As used in this subpart—

(1) The term "professional development academy" means an entity that—

(A) is operated by a partnership which includes one or more local educational agencies and one or more institutions of higher education that offer teacher training programs, and

(B) provides in-service training and other activities described in this subpart to teachers and administrators.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "local educational agency" has the meaning provided by section 1471 of the Elementary and Secondary Education Act of 1965.

(4) The term "institution of higher education" has the meaning provided by section 1201(a) of the Higher Education Act of 1965.

(5) The term "State educational agency" has the meaning provided by section 1471 of the Elementary and Secondary Education Act of 1965.

(6) The term "teacher" for the purposes of this subpart includes library media specialists, counselors, administrators, or other personnel which the school district employs.

SEC. 743. SELECTION OF GRANT RECIPIENTS.

(a) FORMULA GRANTS.—

(1) STATE ALLOCATION.—Except as provided in subsection (e), the Secretary shall allocate an amount equal to 95 percent of the amount appropriated under section 747 for

any fiscal year among States educational agencies that have entered into agreements with the Secretary that meet the requirements of section 744(a). The Secretary shall allocate such amount among such State educational agencies on the basis of the number of children counted, under section 1005(c) of the Elementary and Secondary Education Act of 1965 for the most recent allocation under such section, in the school districts of the local educational agencies which are participating in consortia that have submitted applications meeting the requirements of section 744(b)(1).

(2) SUBSTATE ALLOCATION.—Each State educational agency receiving an allocation of funds under paragraph (1) shall, subject to subsection (e), distribute such funds among the consortia (that have submitted such agreements) on the same basis and using the same data as was used by the Secretary in making the allocation under paragraph (1), except that the State educational agency may reallocate any funds which it determines will not be used by a consortia, or will not be a sufficient amount to provide an effective program, among the other consortia on an equitable basis.

(b) COMPETITIVE GRANTS.—From the remaining 5 percent of the amount appropriated under section 747 for any fiscal year, the Secretary shall award grants to establish and operate professional development academies under this subpart on the basis of a competition among eligible applicants whose applications provide evidence that the professional development academy will provide an interstate, international, or other exemplary program. The Secretary shall prescribe, by regulation, criteria for the selection of grant recipients under this subsection.

(c) ELIGIBLE APPLICANTS.—Grants under this subpart shall only be made to applicants that are consortia composed of one or more local educational agencies and one or more institutions of higher education that offer teacher training programs. Such consortia may also include components from nonprofit organizations and agencies, business, industry, and technical, proprietary, and community colleges. The State educational agency may, notwithstanding section 742(1), grant a waiver from the requirement that the consortia include an institution of higher education to local educational agencies that are geographically isolated from such institutions if such agencies demonstrate that the inclusion of such an institution in the consortia is not feasible and that those agencies and other appropriate entities can provide the services and expertise required to conduct programs under this subpart.

(d) DURATION OF GRANTS.—Grants under this subpart shall be for 5 years and may be renewed for not more than one additional 5-year period.

(e) STATE ADMINISTRATION.—The Secretary shall reserve 3 percent of the amount allocated under subsection (a)(1) for the purpose of providing administrative funds to State educational agencies. Such funds shall be in an amount equal to 3 percent of the total amount awarded to consortia in that State and shall be used for the purposes described in section 305(b).

SEC. 744. APPLICATIONS AND PLANS.

(a) STATE AGREEMENTS.—Any State educational agency desiring to obtain an allocation under section 743(a)(1) shall enter into an agreement with the Secretary in such form and containing such information and assurances as the Secretary may reasonably require by regulation for the effective administration by the State educational agency of the grant program under this subpart. Such agreement shall, at a minimum—

(1) provide for the allocation of funds in accordance with section 743(a)(2); and

(2) provide (A) for such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement and accounting for grant funds, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform the functions required by this subpart.

(b) CONSORTIA APPLICATIONS.—

(1) APPLICATIONS FOR ALLOCATIONS.—Any consortium desiring to obtain an allocation under section 743(a)(2) shall submit an application therefor to the State educational agency of the State within which it is located. Such application shall be submitted at such time, in such form, and contain or be accompanied by such information and assurances as the Secretary may require by regulation. An application that complies with such regulation shall be approved by the State educational agency unless the State educational agency determines that such application is not in fact designed to meet local and statewide current and projected teacher shortages, and of sufficient size and scope to meet the articulated goals of the projects.

(2) APPLICATIONS FOR GRANTS.—Any consortium desiring to obtain a grant under section 743(b) shall submit an application therefor to the Secretary. Such application shall be submitted at such time, in such form, and contain or be accompanied by such information and assurances as the Secretary may require by regulation.

(c) CONSORTIA AGREEMENTS.—Any consortium desiring to obtain funds under this subpart for the establishment of a professional development academy shall enter into an agreement with the Secretary, in the case of a grant under section 743(b), or with the State educational agency, in the case of a grant under section 743(a). Such agreement shall be in such form and contain such information and assurances as the Secretary may reasonably require by regulation for the effective administration of such academy by the consortium. Such agreement shall, at a minimum—

(1) describe in detail the intended use of such fund;

(2) provide for such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement and accounting for grant funds; and

(3) provide for the making of such reports, in such form and containing such information (including information on effective models and programs), as may be reasonably necessary to enable the Secretary to perform the functions required by this subpart.

SEC. 745. USE OF FUNDS.

(a) LOCAL FUNDS.—Funds provided to consortia under section 743(a) or 743(b) of this subpart may be used—

(1) to provide support and in-service training for local educational agencies based upon most recent research findings, successful teaching practices, and the needs articulated by the local education agencies;

(2) to coordinate research and practice, especially between professional preparation programs and current and future demands of workplace;

(3) to improve and upgrade skills of teachers, especially in regard to emerging technology;

(4) to recruit and retain teachers, with highest priority to minority individuals and individuals serving in shortage areas as determined by members of the consortia;

(5) to enhance school improvement efforts by training school personnel how to provide high quality instructional programs targeted to particular populations of students such as disadvantaged students, handicapped students, students who are limited English proficient or individuals who are preschool age;

(6) to improve teacher skills so that teachers may participate fully as partners in school based management and decisionmaking and practice;

(7) to develop strategies which include business and industry as fully active partners in the consortia agreements;

(8) to provide guidance in the establishment of priorities for, and assistance in the coordination of, in-service and professional renewal for teachers across the full spectrum of Federal and State programs, as reflected in the consortia agreement;

(9) to expand upon, implement, or develop teaching models, including the teaching hospital models and clinical supervision models;

(10) to establish intrastate and interstate networks for the purposes of this subpart; and

(11) to establish international networks for the purposes of this subpart.

(b) STATE FUNDS.—Funds awarded under section 743(e) shall be available to cover the cost for the State educational agency to review and comment on each grant application submitted under section 744(b). Such review shall be for purposes of ascertaining whether the grant applications are in fact designed to meet local and statewide current and projected teacher shortages, and whether the work plans proposed are of sufficient size and scope to meet the articulated goals of the projects.

SEC. 746. EVALUATION.

(a) REPORT BY SECRETARY.—The Secretary of Education shall submit biennial reports on the program authorized by this subpart to the appropriate authorizing committees of Congress and shall, using existing dissemination programs, disseminate information developed or operated under this subpart.

(b) GAO REPORT.—The Comptroller General shall submit an evaluation on the program authorized by this subpart due to the appropriate committees by January 1, 1994.

SEC. 747. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart $270,000,000 for fiscal year 1991 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART B—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION

SEC. 751. PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM.

(a) TECHNICAL AMENDMENT.—The heading for title II of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE II—CRITICAL SKILLS IMPROVEMENT AND PRESIDENTIAL TEACHER AWARDS".

(b) PRESIDENTIAL TEACHER AWARDS FOR EXCELLENCE IN EDUCATION.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2982 et seq.) is further amended by adding at the end the following:

"PART D—PRESIDENTIAL AWARDS FOR EXCELLENCE IN EDUCATION PROGRAM

"SEC. 2301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the success of America's elementary and secondary schools depends most heavily upon the Nation's teachers;

"(2) elementary and secondary school systems should have in place standards of teacher excellence and fair and effective procedures for measuring teacher success; and

"(3) in return for their efforts, excellent elementary and secondary school teachers deserve public recognition, respect, and appropriate financial awards.

"(b) PURPOSE.—It is the purpose of this part to reward teachers in every State who meet the highest standards of excellence.

"SEC. 2302. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this part $5,000,000 for each of the fiscal years 1991, 1992, and 1993.

"(b) ALLOTMENT FORMULA.—

"(1)(A) Subject to subparagraph (B), the Secretary shall, from amounts made available to carry out this part in any fiscal year—

"(i) first allot to the Secretary of the Interior an appropriate amount for purposes of making awards under this part to teachers in elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior; and

"(ii) from the remaining amount, allot to each State an amount that bears the same ratio to the remainder as the number of full-time equivalent public elementary and secondary school teachers in the State bears to the total number of such teachers in all the States.

"(B) No State shall be allotted an amount which is equal to less than the sum of—

"(i) the amount necessary to fund 1 Presidential Award for Excellence in Education; and

"(ii) the State's administrative expenses reserved pursuant to subsection (c).

"(2) In determining a State's allotment under paragraph (1), the Secretary shall use the most recent satisfactory data available to the Department.

"(c) ADMINISTRATIVE EXPENSES.—Each State may reserve up to 3 percent of its allotment under subsection (b)(2) for administrative expenses.

"(d) USE OF EXCESS FUNDS.—If a State has excess funds remaining after it has made the maximum number of awards possible in accordance with section 2305(a) and reserved a portion of its allotment for administrative expenses in accordance with subsection (c), the State may use the remainder of its allotment for appropriate recognition of teachers in the State who do not receive a Presidential Award for Excellence in Education.

"(e) STATE DEFINED.—For the purposes of this part, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(f) PUBLIC LAW 95-134.—The provisions of Public Law 95-134, permitting the consolidation of grants to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, shall not apply to funds allocated under this part.

"SEC. 2303. STATE APPLICATIONS.

"(a) SUBMISSION OF STATE APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, the State educational agency shall submit an application to the Secretary. Such application shall be filed at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) DESCRIPTION OF STATE CRITERIA AND PROCEDURES.—The application shall contain a description of the criteria and procedures the State educational agency will use to select recipients of Presidential Awards for Excellence in Education. Such criteria and procedures shall be subject to the approval of the Secretary.

"(c) ASSURANCES.—The application shall contain assurances that—

"(1) Presidential Awards for Excellence in Education will be made in accordance with the provisions of this part;

"(2) the State educational agency will provide such fiscal control and fund accounting procedures as the Secretary may require;

"(3) the State educational agency will apply the selection criteria uniformly to nominations for recipients of Presidential Awards for Excellence in Education that are received from public and private schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, or student groups, as well as those received from local educational agencies; and

"(4) to the extent practicable, the State educational agency will use existing procedures for programs of recognition and awards to teachers.

"SEC. 2304. SELECTION OF AWARD RECIPIENTS.

"(a) ELIGIBLE RECIPIENTS.—Any full-time public or private elementary or secondary school teacher that teaches any subject other than religion (other than religion as an academic discipline), shall be eligible to receive an award under this part.

"(b) NOMINATIONS.—(1) Local educational agencies, public and private schools, teachers, parents, associations of teachers, associations of parents and teachers, businesses, business groups, and student groups may nominate teachers for awards under this part.

"(2) Annually, the State educational agency shall notify local educational agencies, public and private schools, associations of teachers, associations of parents and teachers, business groups, and the general public of the deadlines and procedures for making nominations, and inform them of the selection criteria that will be used in selecting award recipients.

"(c) SELECTION BY STATE PANEL.—Selection of award recipients in each State shall be made from among the teachers nominated in accordance with subsection (b). Award recipients shall be selected by a panel that is chosen by the State educational agency and is composed of members representing parents, school administrators, teachers, school board members, and the business community.

"(d) SELECTION CRITERIA.—The State panel shall select award recipients in accordance with the criteria approved by the Secretary in the State educational agency's application. The selection criteria may take into account, but are not limited to, a teacher's success in—

"(1) educating at-risk students to their fullest potential, including educationally or economically disadvantaged, handicapped, limited English proficient, or homeless children, as well as the children of migrant agricultural workers;

"(2) educating gifted and talented students to their fullest potential;

"(3) encouraging students to enroll, and succeed, in advanced classes in challenging fields of study which include mathematics, science, and foreign languages;

"(4) teaching in schools educating large numbers of at-risk students, including schools in low-income inner-city or rural areas;

"(5) introducing a new curriculum area into a school or strengthening an established curriculum;

"(6) acting as a master teacher by helping new teachers make the transition into a teaching career; or

"(7) encouraging potential dropouts to remain in school or encouraging individuals who have dropped out to reenter and complete their schooling.

"SEC. 2305. AMOUNT AND USE OF AWARDS.

"(a) AMOUNT OF AWARDS.—The amount of a Presidential Award for Excellence in Education shall be $5,000. The Secretary may issue award certificates.

"(b) USE OF AWARDS.—An award to an individual recipient under this part shall be available for the recipient's use for professional development and other educational experiences.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1991.

Part C—Nontraditional Routes to Teacher Licensure

SEC. 761. NONTRADITIONAL ROUTES TO TEACHER LICENSURE.

(a) IN GENERAL.—Title V of the Higher Education Act of 1965 is amended by adding at the end the following new part:

"PART F—NONTRADITIONAL ROUTES TO TEACHER LICENSURE

"SEC. 581. SHORT TITLE.

"This part may be cited as the 'Nontraditional Routes to Teacher Licensure Act of 1990'.

"SEC. 582. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers;

"(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be licensed as teachers; and

"(4) nontraditional routes can enable qualified individuals to fulfill State licensure requirements and would allow school systems to utilize the expertise of these professionals and improve the pool of qualified individuals available to local educational agencies as teachers.

"SEC. 583. PURPOSE.

"It is the purpose of this part to improve the supply of qualified elementary and secondary school teachers by assisting States to develop and implement programs to assist talented professionals who have demonstrated a high level of competence in a subject area outside the education profession and wish to pursue careers in education to meet State licensing requirements, with special emphasis on participation by individuals who are members of minority groups.

"SEC. 584. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purpose of carrying out this part $15,000,000 for the fiscal year 1991.

"SEC. 585. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of—

"(A) the amount for which the State educational agency applies under section 586; or

"(B) an amount which bears the same ratio to the amount appropriated to carry out this part as the school-age population of the State (aged 5 through 17) bears to the school-age population of all the States.

"(2) If a State does not apply for the full amount of its allotment under paragraph (1), the Secretary may reallocate the excess funds to 1 or more other States that demonstrate, to the satisfaction of the Secretary, a need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, assistance provided under this part shall remain available for obligation by a recipient until the expiration of the 2-year period beginning on the date the grant is awarded.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 586. STATE APPLICATIONS.

"(a) IN GENERAL.—Any State desiring to receive a grant under this part shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary considers necessary, including assurances that—

"(A) assistance provided to the State educational agency under this part will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide nontraditional routes to fulfilling teacher licensure requirements;

"(B) the State educational agency has, in developing and designing the application, consulted with—

"(i) representatives of local educational agencies, including superintendents and school board members, including representatives of their professional organizations;

"(ii) elementary and secondary school teachers and principals, including representatives of their professional organizations;

"(iii) parents; and

"(iv) other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this part and the results achieved.

"SEC. 587. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) A State educational agency shall use assistance provided under this part to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that provide teacher training to individuals who are moving to a career in education from another occupation through a nontraditional route to teacher licensure.

"(2) A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) USES OF FUNDS.—Funds received under this part may be used for—

"(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the teaching profession to fulfill State licensure requirements;

"(2) the establishment of administrative structures necessary to the development and implementation of programs to provide nontraditional routes to fulfilling teacher licensure requirements;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers licensed through alternative means;

"(4) the development of recruitment strategies;

"(5) the development of reciprocity agreements between or among States for the licensure of teachers; and

"(6) other appropriate programs, projects, and activities designed to meet the objectives of this part.

"SEC. 588. DEFINITION.

"For purposes of this part—

"(1) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(2) the term 'State educational agency' has the meaning provided by section 1471 of the Elementary and Secondary Education Act of 1 35; and

"(3) the term 'local educational agency' has the meaning provided by such section 1471.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1991.

(c) EXPIRATION DATE.—Effective July 1, 1993, the Nontraditional Route to Teacher Licensure Act of 1990 (as contained in part F of title V of the Higher Education Act of 1965) is repealed.

PART D—NATIONAL WRITING PROGRAM

SEC. 771. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 772. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to enter into a contract with the National Writing Project (hereafter in this section referred to as the "contractor"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices

and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF CONTRACT.—The contract shall provide that—

(1) the contractor will enter into subcontracts with institutions of higher education or other non-profit educational providers (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this title and will provide such technical assistance as may be necessary to carry out the provisions of this part.

SEC. 773. TEACHER TRAINING PROGRAMS.

The teacher training programs authorized in section 772(a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher corps whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

SEC. 774. FEDERAL SHARE.

(a) IN GENERAL.—(1) Except as provided in paragraph (2) and for purposes of section 772 the term "Federal share" means with respect to the costs of teacher training programs authorized in section 772, 50 percent of such costs to the subcontractor.

(2) The Federal share of the costs of teacher training programs conducted pursuant to section 772 may not exceed $40,000 for any one subcontractor.

(b) SPECIAL RULE.—For the purposes of subsection (a) the costs of teacher programs do not include the administrative costs, publication cost or the cost of providing technical assistance, to the contractor.

SEC. 775. CLASSROOM TEACHER GRANTS.

(a) GRANT AUTHORITY.—(1) The National Writing Project may reserve an amount not to exceed 5 percent of the amount authorized to be appropriated in section 779(a) to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(b) SUPPLEMENTATION OF FUNDING.—(1) Grants awarded pursuant to subsection (a) shall be used to supplement and not supplant State and local funds available for the purposes set forth in subsection (a).

(2) Each grant awarded pursuant to this section shall not exceed $2,000.

SEC. 776. NATIONAL ADVISORY BOARD.

(a) BOARD AUTHORIZED.—The National Writing Project shall establish and operate a National Advisory Board.

(b) COMPOSITION.—The National Advisory Board established pursuant to subsection (a) shall consist of—

(1) national educational leaders;

(2) leaders in the field of writing; and

(3) such other individuals as the National Writing Project deems necessary.

(c) DUTIES OF THE BOARD.—The National Advisory Board established pursuant to subsection (a) shall—

(1) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(2) review the activities and programs of the National Writing Project; and

(3) support the continued development of the National Writing Project.

SEC. 777. EVALUATION.

The National Writing Project may reserve up to $100,000 from the amount authorized to be appropriated pursuant to section 779(a) to evaluate the teacher training programs conducted pursuant to this Act. The results of such evaluation shall be made available to the appropriate committees of the Congress.

SEC. 778. RESEARCH AND DEVELOPMENT ACTIVITIES.

(a) GRANT AUTHORITY.—From amounts available to carry out the provisions of this section, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(b) PRIORITY AND RESERVATION.—(1) In awarding grants pursuant to subsection (a), the Secretary shall give priority to junior researchers.

(2) The Secretary shall award not less than 25 percent of the funds received pursuant to section 779(b) to junior researchers.

(3) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of subsection (a).

SEC. 779. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL WRITING PROJECT.—There are authorized to be appropriated to the National Writing Project $10,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this part.

(b) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of section 778.

SEC. 780. DEFINITIONS.

As used in this part—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE VIII—EQUAL OPPORTUNITY FOR POSTSECONDARY EDUCATION

SEC. 801. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) it is essential to the economic well-being of the United States that all Americans be educated to their fullest potential;

(2) to bring this about, it is necessary to increase college participation by all Americans, especially minorities, and to reduce the imbalance between grants and loans in financing a college education, so that all Americans with the desire and the ability have an equal opportunity to participate in postsecondary education and training, from the undergraduate to the postgraduate level, by the year 2000.

(b) GOAL.—Therefore, it is the policy of the United States that, by the year 2000, no qualified student shall be denied the opportunity for postsecondary education because of financial or other barriers.

(c) STATEMENT OF RESPONSIBILITY.—In recognition of this goal, Congress declares it to be the policy of the United States to—

(1) increase the participation of low-income, first-generation-in-college, and minority students in postsecondary education;

(2) expand college assistance to middle income families;

(3) reduce the reliance on loans as the principal means of financing postsecondary education for students and their parents by—

(A) increasing the annual appropriations for the Pell Grant program under title IV of the Higher Education Act of 1965 by annual increments so that in fiscal year 1995 the maximum Pell Grant will be $3,700, restoring it to the level of purchasing power it had in fiscal year 1975 (when the $1,400 maximum award was fully funded); and

(B) increasing the maximum award by at least 10 percent per year thereafter until the year 2000; and

(4) enhance the capacity of postsecondary institutions to recruit and retain low-income, first-generation-in-college, and minority students, including graduate students, and to provide those students with a quality education, by increasing the annual appropriations for the TRIO programs under title IV of the Higher Education Act of 1965 by at least 25 percent per year until the year 2000 to expand the percentage of eligible students served and to more effectively serve the students receiving services from these programs.

SEC. 802. PELL GRANTS.

Section 411 of the Higher Education Act of 1965 is amended by striking subsection (g) and inserting the following:

"(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall, from the next succeeding fiscal year's appropriation for this subpart, expend such sums as may be necessary to meet any such insufficiencies for the preceding fiscal year.".

SEC. 803. TREATMENT OF NONLIQUID ASSETS.

(a) PELL GRANT NEEDS ANALYSIS.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1992-1993, the term 'assets' shall not include the net value of—

"(i) the family's principal place of residence; or

"(ii) a family farm on which the family resides.".

(b) GENERAL NEED ANALYSIS.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "ASSETS.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1992–1993 and succeeding academic years with respect to determinations of need under this title, other than for subparts 1 and 3 of part A and part B, the term 'assets' shall not include the net value of—

"(A) the family's principal place of residence; or

"(B) a family farm on which the family resides.".

(c) SECRETARY TO RECOMMEND ADJUSTMENTS.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to the Congress such recommendations for changes to parts A and F of title IV of the Higher Education Act of 1965 as may be necessary to achieve an equitable assessment of income and assets after exclusion of the assets described in the amendments made by subsections (a) and (b) of this section. Such changes may include changes in the assets protection allowances, asset conversion rates, and other factors used in the determination of expected family contribution.

SEC. 804. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) AMENDMENT.—Section 360(a)(3) of title III of the Higher Education Act of 1965 is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof a new subparagraph to read as follows:

"(B)(i) There are authorized to be appropriated $20,000,000 for fiscal year 1991 for awards under section 332 of the Act to historically Black colleges and universities that qualify as part B institutions.

"(ii) A part B institution that receives an award from funds appropriated for any fiscal year under clause (i) shall not be eligible to receive an award from funds appropriated for that fiscal year under subparagraph (A), but a part B institution that does not receive an award from funds appropriated for any fiscal year under clause (i) shall be eligible to receive an award from funds appropriated for that fiscal year under subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective October 1, 1990.

SEC. 805. STUDENT MENTOR PILOT PROGRAM.

Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"STUDENT MENTOR PILOT PROGRAM

"SEC. 448. (a) PURPOSE.—The purpose of this section is to establish a pilot program to test the feasibility of using work-study funds to provide incentives to eligible students at institutions of higher education to encourage those students to engage in mentor activities for the benefit of disadvantaged youths who are at risk of dropping out of elementary or secondary school.

"(b) PROGRAM AUTHORIZED; AGREEMENTS.—The Secretary is authorized to designate not less than 10 or more than 100 institutions of higher education that may use a portion of their allocations under this part to establish a program under this section. Each such institution shall enter into an agreement with the Secretary for purposes of this section. Such agreement shall—

"(1) contain or be accompanied by such information and assurances as the Secretary may require by regulation;

"(2) specify the methods and rates of compensation of the mentors, which may include incentive bonuses based on the satisfactory academic progress of the eligible youth;

"(3) describe the methods—

"(A) to be used by the institution of higher education to identify and select suitable students to serve as mentors;

"(B) to be used by elementary and secondary schools to identify and select eligible youth;

"(4) provide that the eligible youth, his or her teacher, and the mentor shall enter into an agreement—

"(A) which provides attainable goals for the eligible youth to pursue with the advice and assistance of the mentor; and

"(B) which identifies the stages at which progress toward such goals will be evaluated.

"(c) USE OF FUNDS.—An institution with which the Secretary has an agreement under subsection (b) may use funds provided under this part to pay students to engage in activities as a mentor for an eligible youth for the purpose of—

"(1) tutoring the youth in subjects in which the youth is experiencing difficulty;

"(2) supporting the youth in educational and recreational activities;

"(3) counseling the youth on career, ethical, and social choices;

"(4) otherwise encouraging the youth to stay in school, to develop his or her aptitudes, and to follow the mentor student into a successful college and adult career; and

"(5) developing in the student a better self-awareness and a self-motivated desire to academically excel.

"(d) APPLICABILITY OF GENERAL PROVISIONS.—Funds provided under this section to a mentor student shall be subject to all the conditions and requirements of this part, except that funds provided under this section may, notwithstanding part F of this title, be counted as part of a student's expected family contribution and not be counted as student assistance in the computation of need for other student assistance under this title.

"(e) EVALUATION AND REPORTS.—Not later than 3 years after the enactment of this section, the Secretary shall submit to the Congress a report evaluating the program under this section. Such report shall include such recommendations as the Secretary considers appropriate concerning such program, and may include proposals for legislative changes.

"(f) DEFINITIONS.—The term 'eligible youth' means an individual who is—

"(1) aged 5 to 18, inclusive;

"(2) enrolled but failing to maintain satisfactory progress in an elementary or secondary school, as determined under the standards of that school; and

"(3) determined by a teacher or other qualified staff of that school to be likely to benefit from participation in the program under this section.".

TITLE IX—POLICY EVALUATION AND ASSESSMENT

PART A—POLICY EVALUATION

SEC. 911. SHORT TITLE.

This Act may be cited as the "National Summit Conference on Education Amendments of 1990".

SEC. 912. FINDINGS.

Section 5(b)(1) of the National Summit Conference on Education Act of 1984 (Public Law 98–524; 98 Stat. 2489) is amended to read as follows:

"(b)(1) The Congress finds that—

"(A) the United States economic well-being requires a better trained and educated workforce;

"(B) a strong educational system is essential to achieve such a workforce;

"(C) agreement has been reached among many citizens that the Nation's schools must be improved in order to strengthen economic competitiveness and achieve economic prosperity;

"(D) reforms and goals to improve our educational system, including the preparation and retraining of classroom teachers, have been proposed by various groups concerned about education;

"(E) there should be a national forum authorized by law to review these reforms and goals and to suggest and recommend ways to implement and achieve them.".

SEC. 913. EXECUTIVE COMMITTEE MEMBERSHIP.

Section 5(f)(1) of the National Summit Conference on Education Act of 1984 is amended to read as follows:

"(f)(1) There shall be an executive committee on the Conference consisting of—

"(A) 6 individuals appointed by the Speaker of the House of Representatives, of whom—

"(i) 2 shall be members of the House, one from each political party;

"(ii) one shall be a local school board member;

"(iii) one shall be a local elected official; and

"(iv) 2 shall be representatives of local educational agencies; and

"(B) 6 individuals appointed by the Senate majority leader, of whom—

"(i) 2 shall be Senators, one from each political party;

"(ii) 2 shall be State Governors, one from each political party;

"(iii) one shall be a State legislator; and

"(iv) one shall be the head of a State educational agency; and

"(C) the Secretary of Education, ex officio.".

SEC. 914. REGIONAL MEETINGS.

Section 5(h)(2)(A) of the National Summit Conference on Education Act of 1984 is amended by striking the last sentence and inserting "The executive committee is authorized to conduct regional meetings to carry out the purposes of this Act.".

SEC. 915. AGENDA.

Section 5(i)(1) of the National Summit Conference on Education Act of 1984 is amended to read as follows:

"(i)(1) The executive committee shall develop an agenda for the conference prior to the conference. The purpose of this agenda shall be to review the goals and recommendations made by recent reports on education in this country, by organizations such as the National Governors Association, and by the President of the United States, and to make recommendations as to how these goals might be implemented and the roles of different levels of government in that implementation.".

SEC. 916. TECHNICAL AND CLARIFYING AMENDMENTS.

Section 5 of the National Summit Conference on Education Act of 1984 is further amended—

(1) in subsection (d), by inserting "postsecondary education," after "school board members,";

(2) in subsection (e), by striking "section 605" and inserting "subsection (f)"; and

(3) in subsection (f)(2)—

(A) by striking "section 604" and inserting "subsection (d)"; and

(B) by striking "sections 603 and 604" and inserting "subsections (c) and (d)".

PART B—ASSESSMENT

SEC. 921. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Comprehensive assessment systems provide data to address—

(A) the need for information instrumental to improving student learning, teacher performance, and program design, which derives from diagnostic sets of assessment information that are curriculum-referenced; and

(B) the need for information describing existing levels of student, teacher, or program performance, which derives from evaluative sets of test information that usually are standardized and norm-referenced.

(2) Results from standardized and norm-referenced tests are used to compare individuals, groups of individuals, or institutions with other similar individuals, groups of individuals, or institutions. Such results provide accurate normative information that, over a period of several years, can be used to identify major trends in the educational achievement of students within a district, a State, or the Nation.

(3) Results from curriculum-referenced assessments are used to analyze and assess the strengths and weaknesses of students and programs and to prescribe corrective measures. Such assessments provide one of the best methods of measuring student growth and development.

(4) Diagnostic assessment is used to improve curriculum, instruction, and achievement for all students at all ability levels by assessing needs and abilities of students, developing a curriculum based on such needs and abilities, and matching the assessments with the taught curriculum.

(b) PURPOSE.—It is the purpose of this title to develop diagnostic assessment systems that are curriculum-referenced to improve student learning, program design, and teacher performance at the local level, and to train teachers in such assessment.

SEC. 922. DEMONSTRATION PROJECTS FOR THE DEVELOPMENT OF EXEMPLARY AND INNOVATIVE DIAGNOSTIC AND ASSESSMENT SYSTEMS AND POLICIES.

(a) PROGRAM AUTHORIZED.—The Secretary, through the Office of Educational Research and Improvement, is authorized to make grants, for purposes of establishing demonstration projects to develop exemplary and innovative diagnostic assessment systems, policies, and practices, to—

(1) State educational agencies;

(2) local educational agencies; and

(3) consortia of State educational agencies and local educational agencies, which may include institutions of higher education and nonprofit or for-profit agencies.

(b) ELIGIBLE AGENCIES.—Any State educational agency, local educational agency, institution of higher education, or consortium described in subsection (a) that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall demonstrate to the Secretary that the agency, institution, or consortium, in developing diagnostic assessment systems and policies with assistance under the grant—

(1) will collaborate with experts from the field, including experts from institutions of higher education and other scholars, to ensure the proper critical perspective and the quality of the assessment; and

(2) will conduct a comprehensive, district-wide needs assessment to gather data concerning the strengths and weaknesses of students served by the agency, institution, or consortium, which assessment will incorporate the assessment required by section 1014.

(c) PRIORITY FOR GRANTS.—The Secretary shall give priority for grants under this section to State educational agencies, local educational agencies, institutions of higher education, or consortia described in subsection (a) that submit applications that—

(1) demonstrate how data gathered through comprehensive, district-wide needs assessments as required by subsection (b)(2) will be analyzed to reveal strengths and weaknesses of students served by the agency, institution, or consortium;

(2) demonstrate how data gathered from such assessments will be used to improve student performance, program design, and instructional content at the local level, particularly with respect to students who are members of minorities and students of varying socioeconomic statuses;

(3) provide for programs for teacher training in diagnostic assessment skills, with special emphasis on minorities;

(4) describe how the scope of work will focus on local school improvement and will include professional expertise from test publishers, institutions of higher education, textbook publishers, and other experts from the field; to ensure the proper critical perspective and the quality of the assessment; and

(5) demonstrate how data will be disaggregated and presented in nontechnical language to appropriate members of the school community, including visiting committees and review boards.

(d) LIMITATION ON ELIGIBILITY.—An agency or consortium may receive a grant under this section in each of not more than 5 fiscal years.

(e) REPORTS.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, and every 2 years thereafter, the Secretary shall report to the Congress on the grant program established under this section. Each such report shall describe how diagnostic assessment systems developed with assistance under this section relates to research conducted by the Office of Educational Research and Improvement, including research on other Federal and State programs of standardized testing.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

PART C—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

SEC. 931. NATIONAL CENTER FOR EDUCATION STATISTICS.

Paragraph (4) of section 406(d) of the General Education Provisions Act (20 U.S.C. 1221e-1(d)) is amended by adding at the end the following:

"(G)(i) This paragraph shall not apply to—

"(I) the survey required by section 1303(c) of the Higher Education Amendments of 1986; or

"(II) to any longitudinal study concerning access, choice, persistence progress, or attainment in postsecondary education.

"(ii) In conducting any study described in clause (i), the Center shall protect the confidentiality of respondents by separating information relating to the identity of individuals from other information contained in questionnaires responded to by such individuals. Any file that is publicly released shall not include the following individual identifiers:

"(I) Name.

"(II) Social Security number.

"(III) Address.

"(IV) Telephone number.

"(iii) No department, bureau, agency, officer, or employee of the Government, except the Commisssioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of responses or reports that include individual identifiers described in clause (ii). Copies of such responses or reports that have been so retained or filed with the Center, or any of its employees, contractors, or agents, shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(H) This paragraph shall not apply to the General Accounting Office.".

SEC. 932. RESPONSIBILITY OF STATES TO FURNISH INFORMATION CONCERNING USES OF FEDERAL FUNDS.

Section 406A of the General Education Provisions Act (20 U.S.C. 1232f) is amended to read as follows:

"RESPONSIBILITY OF STATES TO FURNISH INFORMATION

"SEC. 406A. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

"(1) information with respect to the uses of Federal funds in that State in the 2 preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) to the extent practicable, information with respect to the uses of Federal funds in that State in the 2 preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted as required by subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned and specify which appropriation Act or Acts made such funds available;

"(4) separately account for any funds carried over from a preceding fiscal year by any State or local educational agency; and

"(5) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c)(1) On or before August 15th of any year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government.".

SEC. 933. ENFORCEMENT.

(a) OFFICE OF ADMINISTRATIVE LAW JUDGES.—Section 451 of the General Education Provisions Act (20 U.S.C. 1234) is amended—

(1) in the first sentence of subsection (c), by striking "the Department" and inserting "the United States";

(2) in subsection (e), by striking "determination" and inserting "decision"; and

(3) in paragraph (2) of subsection (g)—

(A) in the first sentence, by striking "subsections (f)(1) and (g)(1)" and inserting "subsection (f)(1) and paragraph (1)";

(B) by inserting after the first sentence the following: "Such application for enforcement may be made in the judge's name, through the judge's attorneys, or through the party seeking enforcement of the subpoena."; and

(C) by adding at the end the following: "The judge is authorized to institute and maintain litigation to carry out such provisions without the approval or assistance of the Department of Justice.".

(b) RECOVERY OF FUNDS.—Paragraph (1) of section 452(f) of the General Education Provisions Act (20 U.S.C. 1234a(f)) is amended by striking "Department" and inserting "departmental".

(c) MEASURE OF RECOVERY.—Subsection (b) of section 453 of the General Education Provisions Act (20 U.S.C. 1234b) is amended—

(1) in paragraph (3), by striking "paragraph (2)" and inserting "paragraph (2)(B)"; and

(2) in paragraph (5)—

(A) in subparagraph (B), by striking "was permissible" and inserting "might have been permissible"; and

(B) in subparagraph (C), by striking "was permissible" and inserting "might have been permissible".

(d) USE OF RECOVERED FUNDS.—Subsection (c) of section 459 of the General Education Provisions Act (20 U.S.C. 1234h) is amended by striking "following" and all that follows and inserting the following: "following the later of—

"(1) the fiscal year in which final agency action under section 452(e) is taken; and

"(2) the fiscal year in which judicial review of such action is completed.".

TITLE X—PLANNING GRANTS FOR INNOVATIVE DEMONSTRATION PROJECTS AND RESEARCH

SEC. 1001. GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES.

(a) STATEMENT OF PURPOSE.—The Secretary is authorized to make grants to State educational agencies, local educational agencies, and consortia of such agencies to plan for the development and expansion of policies, programs, and projects that—

(1) increase opportunities of parents, particularly parents of disadvantaged children, parents of minority children, and parents of children who live in rural areas, to select the school or program attended by their children;

(2) advance equity in the methods used by States and local educational agencies to support systems of public elementary and secondary education;

(3) further the involvement of parents in the education of their children, especially parents who are economically disadvantaged; and

(4) further the involvement of businesses and communities in public education.

(b) USES OF FUNDS.—Funds provided under grants under this section may be used to plan for—

(1) the development of State or local policies and procedures for open enrollment among public schools or programs;

(2) the development of State or local policies and procedures to assist parents, particularly parents of disadvantaged children and parents of minority children, to become more involved in the education of their children;

(3) the development of improved methods for States to advance equity in the systems used by States and local educational agencies to finance public elementary and secondary education; and

(4) the development of improved methods to involve businesses and communities in public education.

(c) APPLICATIONS.—

(1) IN GENERAL.—Any agency or consortium that desires to receive a grant under this section shall submit to the Secretary an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(A) assure that the funds provided under the grant will be used for the purposes described in subsection (b);

(B) describe the need for the grant;

(C) describe the objectives of the project and how those objectives will be fulfilled;

(D) assure that any project assisted with funds under this section will not—

(i) result in segregation in schools within the State based upon race, religion, color, national origin, sex, or handicap, or impede the progress of desegregation among the schools within the State; or

(ii) in the case of a grant to a local educational agency or to a consortium that includes a local educational agency, result in such segregation or impede the progress of desegregation among the schools of the local educational agency;

(E) in the case of a grant to a State educational agency, assure that the State educational agency will provide assistance to the project, in cash or in kind, in an amount at least equal to the amount of funds awarded under the grant; and

(F) assure that outreach and dissemination activities will be conducted with assistance under the grant to inform parents of their rights, choices, and obligations with respect to activities funded under the grant as such activities relate to the education of their children.

(2) OPPORTUNITY FOR COMMENT BY STATE EDUCATIONAL AGENCY.—Each local educational agency or consortia consisting entirely of local educational agencies that submits an application to the Secretary under this subsection shall also provide a copy of such application to the appropriate State educational agency. The State educational agency may review such application and provide comments to the Secretary with respect to such application not later than the expiration of the 30-day period beginning on the date that the application is submitted to the Secretary and to the State educational agency.

(3) APPLICATIONS FOR CONTINUATION OF GRANTS.—An agency or consortium that receives assistance under this section for 1 year may not receive such assistance under this section for any later year unless such agency or consortium includes in its application for continuation of such assistance, in addition to the information and assurances required by paragraph (1), a description of the methods employed by such agency to fulfill the assurance described in paragraph (1)(D).

(d) PRIORITY.—

(1) IN GENERAL.—The Secretary shall give priority for grants under this section other than planning grants for open enrollment systems to agencies and consortia that propose projects that have the greatest potential for improving the education of disadvantaged students, and minority students.

(2) OPEN ENROLLMENT GRANTS.—In making planning grants for open enrollment systems under this section, the Secretary shall give equal priority to students described in paragraph (1) and students who live in rural areas.

(e) DURATION OF AWARDS.—Grants under this section may be awarded for a period not to exceed 3 years.

(f) COOPERATION.—Any agency or consortium that receives a grant under this section shall, to the extent practicable, cooperate with research activities carried out under section 1002.

(g) DISSEMINATION OF EVALUATION RESULTS.—Each agency and consortium that receives a grant under this part shall provide a copy of results of evaluations of programs assisted under such grants to the Educational Resources Information Center.

SEC. 1002. RESEARCH AND DISSEMINATION.

(a) GENERAL AUTHORITY.—The Secretary, through the Office of Educational Research and Improvement, is authorized to conduct research on open enrollment systems, parental involvement, school finance equalization, and business involvement in public education and to disseminate the results of such research. The Office of Educational Research and Improvement may conduct such research and dissemination directly or through grants, contracts, or cooperative agreements with institutions of higher education, State educational agencies, public or private nonprofit organizations, or individual researchers.

(b) PROGRAM REQUIREMENTS.—Each recipient of funds under this section for purposes of conducting research shall submit a copy of its final research results to the Educational Resources Information Center.

(c) FEDERAL DISSEMINATION.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this part through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965. The Secretary shall coordinate the identification of exemplary projects with the National Diffusion Network.

SEC. 1003. DEFINITIONS.

For purposes of this part:

(1) The term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(2) The term "open enrollment system" means a system adopted by a State educational agency or local educational agency under which parents may select the school or educational program in which their child will be enrolled.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "State educational agency" has the meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

SEC. 1004. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For purposes of carrying out this part, there are authorized to be appropriated $40,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) AMOUNTS FOR RESEARCH AND DISSEMINATION.—From the amounts appropriated under subsection (a) in any fiscal year, the Secretary may reserve not more than $1,000,000 for purposes of carrying out section 1002.

TITLE XI—EDUCATIONAL PERFORMANCE AGREEMENTS FOR SCHOOL RESTRUCTURING

SEC. 1101. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the ability of the United States to deliver more effective educational services to its citizens, especially disadvantaged citizens and traditionally underserved citizens, is of primary importance to the national security and to the continued role of the United States as a world leader;

(2) local school authorities should have more discretion in the uses of Federal and State funds than currently provided, if they can demonstrate the ability to educate children and adults to perform at higher levels;

(3) local school authorities and the Governors of several States have requested greater flexibility in designing innovative programs for training, special needs education, and drug education, in exchange for an agreement to achieve higher, clearly stated performance levels in a reasonable period of time; and

(4) all public education in this country will benefit from school improvement models developed under such agreements.

(b) PURPOSE.—It is the purpose of this title to establish a national demonstration program of educational performance agreements under which—

(1) local authorities develop proposals which enable students to achieve higher performance;

(2) with such proposals, schools are allowed to combine funds for the education of special needs students, drug education, and training programs;

(3) Federal, State and local protections with respect to civil rights, discrimination and safety will be upheld; and

(4) States will make available such funds as may be necessary to plan, develop, monitor and evaluate local performance agreements.

SEC. 1102. ESTABLISHMENT OF PROGRAM FOR EDUCATIONAL PERFORMANCE AGREEMENTS FOR SCHOOL RESTRUCTURING.

(a) GENERAL AUTHORITY.—For the purposes of granting authority to combine Federal and State special needs education, drug education, and training programs, and waiving Federal laws and regulations relating to the use of funds under certain Acts, the Secretary of Education shall—

(1) receive assurances from and enter into educational performance agreements with the State concerned for not more than 50 local school authorities, each of which shall also enter into a local performance agreement in accordance with section 1103; and

(2) develop procedures by which the agreements in paragraph (1) will be reached.

(b) FEDERAL PROGRAMS PERMITTED TO BE COMBINED.—The educational performance agreement and the local performance agreements may provide for the combination (and contain waivers from restrictions regarding uses of funds applicable to) Federal, State, and local funds available for programs relating to special needs education, drug education, and training programs, including—

(1) in the case of training programs at the secondary level for children participating in vocational education courses, funds provided under—

(A) the Carl D. Perkins Vocational Education Act; and

(B)(i) the Job Training Partnership Act;

(ii) the Drug-Free Schools and Communities Act of 1986; or

(iii) subtitles A, B, and C of title VII of the Stewart B. McKinney Homeless Assistance Act; and

(2) in the case of special needs programs at the elementary school level for children receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, funds provided under—

(A) such chapter; and

(B)(i) subtitles A, B, and C of title VII of the Stewart B. McKinney Homeless Assistance Act;

(ii) the Drug-Free Schools and Communities Act of 1986;

(iii) the School Dropout Demonstration Assistance Act of 1988;

(iv) the Bilingual Education Act;

(v) the Jacob K. Javits Gifted and Talented Students Education Act of 1988;

(vi) the Emergency Immigrant Education Act of 1984; or

(vii) title XI of the Education Amendments of 1978.

(c) AUTHORITY OF OTHER AGENCIES.—For the purposes of implementing an educational performance agreement that proposes to include programs not under the jurisdiction of the Secretary of Education, the Secretary of Education shall provide copies of such proposed agreement to each Secretary concerned. Each such Secretary shall, with respect to the programs under the jurisdiction of such Secretary, have the same power as the Secretary of Education has under subsection (a) to grant authority to combine such programs, and to waive Federal laws and regulations relating to the use of funds in accordance with an educational performance agreement and its component local performance agreements that meet the requirements of this title.

(d) LIMITATIONS.—Nothing in this title may be construed—

(1) to authorize any changes in, substitutions for, or lessening of the mandates and protections of Federal laws and regulations regarding civil rights, discrimination, and safety, and the procedural safeguards contained therein;

(2) to affect regulations and prohibitions concerning the diversion of Federal funds for private use;

(3) to absolve any State or local agency of any maintenance of effort or comparability of services requirements under any program described in subsection (b);

(4) to alter the distribution of funds to schools within the local educational agency, or to change the way funds are utilized within schools for programs not included under the local performance agreement; or

(5) to permit funds made available for services and activities to be used for the construction, renovation, or repair of facilities.

(e) SUNSET OF COMBINATION AUTHORITY.—The authority to combine programs (and receive exemptions) under this section shall expire at the conclusion of the sixth year of the educational performance agreement. Each applicant shall sign a form acknowledging that—

(1) the applicant's participation in the agreement is for experimental purposes;

(2) the applicant understands that the rules and regulations waived under the agreement will no longer be waived at the end of the 6 years, absent subsequent legislation to the contrary; and

(3) the applicant will not use any public funds to influence the passage of legislation to extend the agreements under this section.

(f) AUDITS.—Expenditures made in accordance with the provisions of this title, the applicable educational performance agreement, and local performance agreement shall not be subject to exception or recovery, pursuant to audit, for failure to comply with the provisions of any law governing a program or funds combined under the agreement, other than a provision referred to in subsection (d).

SEC. 1103. STATE ASSURANCES AND EDUCATIONAL PERFORMANCE AGREEMENTS.

(a) STATE ASSURANCES.—Within 2 years after the date of enactment of this title, the Secretary of Education shall select, from those States that provide appropriate assurances, not more than 50 local school authorities to combine Federal special needs education, drug education, and training program funds under an educational performance agreement that complies with subsection (b). Such assurances shall contain such information as the Secretary of Education may determine to be necessary, including—

(1) assurances that sufficient State funds will be available for technical assistance, planning and development, implementation, assessment, and evaluation;

(2) commitments from the State that local educational performance agreement working groups will be formed to develop and implement the local performance agreements;

(3) assurances from the State that participating in an educational performance agreement will not lessen its commitment to enforce Federal laws and regulations with respect to civil rights, discrimination, and safety;

(4) commitments from the State that it will exempt local school authorities from regulations for State programs, as specified in the local performance agreements relating to the use of funds under certain Acts, and will permit comparable combination of the funds provided under State programs included under such agreements;

(5) assurances that the State will—

(A) give priority to local performance agreements proposed by local school authorities concerning schools in areas with high poverty rates serving large numbers or percentages of students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(B) give appropriate consideration to the geographical distribution of local performance agreements, and the distribution between urban and rural areas;

(C) consider the prior record of compliance regarding Federal laws and regulations with respect to civil rights, discrimination, and safety; and

(D) in determining areas with high poverty rates under this paragraph, utilize the most recent poverty income guidelines promulgated each year by the Secretary of Health and Human Services;

(6) assurances that, other than the local performance agreements, the State will not require new or additional paperwork or promulgate new regulations as a result of participation in the agreement;

(7) assurances from the State that appropriate indices and goals for higher educational performance will be described in the local performance agreements;

(8) commitments from the State that the local performance agreements will be developed with the assistance of full-time local educational personnel (including paid release time for teachers), parents and other representatives of relevant groups;

(9) assurances from all appropriate State agencies that an approved local performance agreement will serve as any required local application or plan for programs that are included in the agreement;

(10) commitment from the State that a collaborative process will occur which involves, at a minimum, participation from the chief elected official and the chief State school officer;

(11) assurances from all appropriate State agencies that approved local performance agreements will serve as modifications or amendments to the relevant State plans; and

(12) assurances from the State that authority to waive State laws and regulations specified under the local performance agreements regarding uses of funds under certain Acts will be retained by the appropriate State agency.

(b) EDUCATIONAL PERFORMANCE AGREEMENTS.—Each educational performance agreement under this title shall be entered into by each Secretary concerned and the States selected under subsection (a) within 2 years of the date of enactment of this title and shall be effective for 6 fiscal years. Such agreement shall—

(1) identify the responsibilities of the respective parties to the agreement;

(2) describe the methods and activities by which the commitments and assurances provided under section 1103(a) will be implemented;

(3) require that the first such fiscal year be devoted to the development of local performance agreements (in accordance with section 1104) for the implementation of the agreement;

(4) not permit the combination of Federal funds during such first fiscal year;

(5) require that the second through sixth such fiscal years be years in which the educational performance agreement is implemented in accordance with the local performance agreements;

(6) once the local performance agreements are adopted, include a specific description of—

(A) the Federal and State special needs education, drug education, and training programs and funds which will be affected and the manner in which the funds will be combined; and

(B) the waivers which will be provided from restrictions applicable to Federal, State, and local funds available for such programs; and

(7) contain such additional information and assurances as each Secretary concerned may require consistent with the purposes of this title.

(c) INITIAL PLANNING YEAR.—During the initial planning year, the State shall provide to the local school authorities—

(1) such technical assistance or funding for technical assistance as may be necessary; and

(2) funds sufficient to meet the costs of developing comprehensive and detailed plans for the implementation of the local performance agreements, including the costs of the working group.

(d) IMPLEMENTATION YEARS.—For the second through sixth fiscal years in which an educational performance agreement under this title is in effect, the State shall make such funds available to the local school authorities as are necessary for continuing technical assistance and local administration, monitoring, and annual evaluation. Such funds shall also be available to other program providers participating in the agreement.

SEC. 1104. LOCAL PERFORMANCE AGREEMENTS.

During the second through sixth year of an educational performance agreement, such agreement shall be effective only if it contains, as component elements, local performance agreements that—

(1) are developed and coordinated by a local educational performance agreement working group comprised of individuals representative of program providers, business, local school authorities and personnel, parents, and other representative individuals with direct involvement with the local performance agreement as appropriate, and who reflect local needs and interests;

(2) are entered into by the schools, the local educational agency, the State, and each Secretary concerned;

(3) are amendable through negotiation during the term of the educational performance agreement;

(4) include any relevant provisions of the State assurances and educational performance agreement under section 1103;

(5) specify the funds to be combined and the waivers required from State and Federal laws and regulations regarding uses of funds under certain Acts to carry out the educational performance agreement;

(6) contain goals for—

(A) children receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

(B) children participating in vocational education courses;

(7) include a set of intermediate performance goals;

(8) include higher outcomes than previously demonstrated over the preceding 3 years for the children described in paragraph (6);

(9) identify the entities which will be responsible for the achievement of the stated goals at the end of each year of the agreement;

(10) include—

(A) a description of the indices to be measured in order to ascertain the amount of progress made toward the stated goals of the agreement, which indices may include measurement instruments developed before or after the date of enactment of this title and may include—

(i) the dropout rate, retention rate, or graduation rate;

(ii) teacher and student absenteeism rates;

(iii) skill levels of students in reading, mathematics, analytical reasoning, and higher order thinking; and

(iv) other indicators considered to be appropriate by the local educational agency, including open-ended problem solving exercises to measure analytical and mathematical skills, portfolios of student's work in subject areas, and performance tests (including vocational skills assessments);

(B) a description of the methods to be used in measuring such indices; and

(C) an average measurement of such indices over the preceding 3 years as of the date the local performance agreement is entered into;

(11) provide for the termination of the local performance agreement, and withdrawal of authority to combine programs, if any Secretary concerned, in consultation with the State, determines that the agency has substantially failed to comply with any requirement of this title, the educational performance agreement, or the local performance agreement;

(12) include a plan for coordinated services and service delivery;

(13) describe rewards and incentives that will be provided to students and successful service providers, particularly incentives for service providers that meet goals for students who are members of special populations and dropouts; and

(14) include a commitment that—

(A) the local performance agreement will be adopted at a regular meeting of the local school authorities, with adequate public notice, and the agreement will include comments received at such meeting with a written description of the response to the concerns expressed in such comments;

(B) the local performance agreement will be reviewed by the local educational agency not less often than once annually during the term of the agreement in accordance with section 1105(a); and

(C) the State will submit the results of the assessments conducted under section 1105(b) to each Secretary concerned.

SEC. 1105. LOCAL REVIEW AND ASSESSMENT.

(a) ANNUAL REVIEW.—

(1) CONDUCT OF REVIEW.—(A) Each local educational agency that enters into a local performance agreement under this title shall conduct an annual review of programs operated under such agreement to ascertain whether improved performance is being achieved and whether such performance is being sustained. Such review—

(i) shall at least include measures of the performance of students targeted under the programs combined under the local performance agreement; and

(ii) shall be conducted in consultation with the local performance agreement working group.

(B) The results of each annual review required by paragraph (1) shall be made available to parents, the public, and the State educational agency involved, and shall be considered as part of the 3-year assessment required under subsection (b).

(2) CONSEQUENCES OF REVIEW.—If the annual review required by paragraph (1) reveals any decline in performance, the local educational agency concerned shall, in cooperation with the local educational performance agreement working group, develop alternative strategies and modify the program as appropriate, including making available additional sources of technical assistance and inservice training.

(b) ASSESSMENT.—

(1) CONDUCT OF ASSESSMENTS.—Each local educational agency shall assess the effectiveness of programs operated under the provisions of the local performance agreement at the end of the third year of program implementation. At a minimum, such assessment shall include measurement of the performance of students eligible for services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and students enrolled in vocational education programs. Such assessment results shall be submitted to the State educational agency. The State educational agency shall make public the results reported, and shall transmit the results of these assessments to the Secretary of Education.

(2) CONSEQUENCES OF ASSESSMENTS.—If the local educational agency assessment results do not achieve the stated goals and out-

comes in the local performance agreement, or if the performance of the students participating in the programs does not exceed the average performance of such children for the preceding 3 years or exceed the performance of similar target populations district wide, the local educational agency and the State educational agency shall develop a local implementation and improvement strategy that may include agreement modification, technical assistance from the State, and revised assessment criteria and timetables. The local performance agreement may be terminated, and authority to combine programs withdrawn, if the Secretary of Education determines that—

(A) the local educational agency cannot achieve the goals or sufficient improvement in educational performance even with assistance; or

(B) the local educational agency refuses to negotiate or implement an improvement strategy.

SEC. 1106. EVALUATION AND REPORT TO CONGRESS.

(a) FINAL REPORT.—

(1) CONDUCT OF EVALUATION.—The Secretary of Education, in consultation with each other Secretary concerned, shall enter into a contract for an independent evaluation of each educational performance agreement under this title, and the local performance agreements thereunder, and submit to the appropriate committees of the Congress a report that contains an analysis of that evaluation and a description of the results achieved.

(2) SUBMISSION DEADLINE.—Each report required by paragraph (1) shall be submitted not later than 1 year after the termination or completion of the educational performance agreement.

(b) INTERIM REPORT.—The Secretary of Education shall provide interim progress reports to the Congress with respect to each educational performance agreement under this title, based on an analysis of the yearly evaluations conducted pursuant to each agreement.

SEC. 1107. ASSESSMENT TO ASSIST CONGRESS, STATES, AND SCHOOLS IN IMPROVING STUDENT PERFORMANCE.

(a) REPORT ON THE PUBLIC SCHOOLS.—In order to assist State and local educational agencies and teachers in focusing more time and resources on improving student performance, the Secretary of Education shall, not later than January 1, 1991, prepare a report on the public schools of each State.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) describe the administration of public education within each State and identify any legal, regulatory, and organizational requirements promulgated since 1980 that affect educational practices;

(2) identify which governmental entity promulgated each requirement described in paragraph (1);

(3) analyze the impact of the requirements described in paragraph (1) on the time and resources local educational agencies have available for educating students, including fiscal resources, staff time, facilities, instructional equipment, and services;

(4) determine the extent to which the number of requirements described in paragraph (1) has increased or decreased since 1980 and the reasons for any such increase or decrease; and

(5) include recommendations on how best to simplify Federal or State regulations so that more resources can be used to improve student performance.

(c) SPECIFIC ISSUES FOR ANALYSIS.—In preparing the report on new requirements imposed since 1980, the Secretary of Education shall analyze for each State—

(1) the amount of resources, if any, that local educational agencies must direct to complying with new mandates and other new legal and regulatory requirements directly related to the education of students, including mandated curricula and student-teacher ratios;

(2) the amount of resources, if any, that local educational agencies must expend to meet new mandates and other new legal and regulatory requirements that are not directly related to the education of students;

(3) the amount of time, if any, that school personnel must spend responding to new requests for data and completing new reports to fulfill Federal or State requirements;

(4) the amount of time, if any, that administrators must spend responding to the paperwork requirements that result from new legal, regulatory, and organizational requirements;

(5) the effect of any new legal and regulatory requirements on the ability of local educational practices, including the impact of such requirements on local flexibility and control over the classroom and school building management; and

(6) the degree to which any Federal or State requirements have been reduced since 1980 and how such a reduction was achieved.

(d) DISTRIBUTION OF REPORT.—The appropriate State report shall be submitted to the chief executive officer, chief State school officer, legislative leaders of each State, and major State education organizations by January 1, 1991.

(e) SUMMARY REPORT TO THE CONGRESS.—A summary report on all States shall be submitted by the Secretary of Education to the Congress not later than January 1, 1991. Such summary report shall include a chart comparing the findings in each of the States and shall rank the States according to the degree of regulatory burden within each State.

(f) UPDATE OF REPORT.—By January 1 of each year, the Secretary of Education shall update each State report and the summary report to the Congress, illustrating where Federal or State requirements have increased or decreased during the previous year.

(g) CONSULTATION WITH THE CONGRESS.—The Secretary of Education shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by June 1, 1990, concerning the report's design.

SEC. 1108. DEFINITIONS.

For the purposes of this title:

(1) Except as otherwise provided, each term has the meaning provided under section 1471 of the Elementary and Secondary Education Act of 1965.

(2) The term "local school authorities" shall include, as appropriate, local educational agencies and administrators of all affected public schools.

(3) The term "Secretary concerned" means the head of the Federal agency responsible for the program which the State and local entities propose to be made part of the local performance agreement. In the case of a local performance agreement involving programs under the jurisdiction of more than 1 Federal agency, the agreement on the part of the Federal Government may only be entered into, modified, or terminated by the mutual consent of all involved heads of Federal agencies, except that failure to comply with the terms of the exemption from a provision of law or regulation of 1 agency may be grounds for that agency's withdrawal of that exemption or the involvement of that program, without termination of the entire agreement.

(4) The term "State" includes each of the 50 States and the District of Columbia.

TITLE XII—SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.

SEC. 1201. SUSPENSION REQUIREMENTS.

(a) AMENDMENT.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end thereof the following new subsection:

"(k) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

"(1) IN GENERAL.—An individual student who has been convicted of any offense under any Federal lawor State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of an offense involving:	
The possession of a controlled substance:	Ineligibility period is:
1st offense	1 year
2nd offense	2 years
3rd offense	Indefinite
The sale of a controlled substance:	
1st offense	2 years
2nd offense	Indefinite

"(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this paragraph.

"(3) DEFINITIONS.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to improve education in the United States."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5115) was laid on the table.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 4739, DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee is planning on meeting on Friday, August 3, 1990, on H.R. 4739, the Department of Defense Authorization Act for Fiscal Year 1991. In order to provide for an orderly process in the consideration of this matter the Rules Committee is requesting that Members submit 55 copies of their amendments to the bill together with a brief explanation of the amendment to the Committee office at H-312 the Capitol, by 5 p.m., Thursday, August 2, 1990. The committee is aware that the Armed Services Committee has scheduled its markup of H.R. 4739 for July 31, 1990, and that printed copies of the bill may not be available before the Rules Committee reports a rule.

The committee is also aware that the time between the Armed Services Committee reporting and Rules Committee action on the bill is quite short. It would well behoove Members to submit their amendments to the Rules Committee at the earliest possible time. In considering the submitted amendments the Rules Committee will understand if the amendments are not drafted in proper form due to the lack of availability of the report bill. Again the committee would urge Members to submit any amendments to the Rules Committee at the earliest possible time but in no case later than 5 p.m. on Thursday, August 2, 1990.

REPEAL OF OBSOLETE JOINT RULE OF CONGRESS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up the joint resolution (H.J. Res. 7) to repeal an obsolete joint rule of Congress—section 132 of the Legislative Reorganization Act of 1946, as amended—relating to sine die adjournment of Congress, and ask for its immediate consideration.

The Clerk read the joint resolution, as follows:

H.J. RES. 7

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 132 of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), is repealed.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes, for the purpose of debate only, to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 7 would repeal section 132 of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, which requires the House and Senate to adjourn sine die on July 31 of each year, unless a declaration of war has been passed by Congress.

This obsolete provision, though it was enacted as part of a statute, was an exercise of the rulemaking powers of the Congress and serves as a joint rule for both the House and Senate.

Mr. Speaker, clause 1(q) of rule X of the rules of the House gives the Committee on Rules jurisdiction, among other matters, over the rules of the House and any joint rules of the Congress, and recesses and final adjournments of the Congress. The jurisdiction of the Committee on Rules extends to these matters as part of the rules of the House and also to any statute enacted as an exercise of the rulemaking authority of the Congress.

House Joint Resolution 7 was introduced by me on January 3, 1989. It was ordered reported on June 27, 1990, by the Subcommittee on Rules of the House by unanimous voice vote. On July 25, 1990, the Rules Committee, also by unanimous voice vote, ordered the joint resolution reported favorably to the House without amendment.

House Joint Resolution 7 has been reported to the House and is being called up on the House floor today as a privileged measure by the Committee on Rules and is subject to consideration in the House under the 1-hour rule.

Mr. Speaker, section 132 is an obsolete provision which represents the practices of an earlier era. Congress has not adjourned sine die on or prior to July 31 of any session since July 27, 1956. During the last 20 years, the earliest adjournment date was October 1, 1976.

Congress has enacted a number of statutes over the years, such as the Budget and Impoundment Control Act, which assume that Congress will be in session to take action after July 31.

Congress is a full-time legislative body and has been for many years. We are full-time Members fulfilling our responsibilities as Members of this House here on the floor, in our committees, and in our districts yearround.

Mr. Speaker, the requirement that Congress must adjourn sine die each year by July 31 has been routinely waived by the Congress through the passage of concurrent resolutions providing that Congress shall continue in session.

At other times, most recently in 1988, Congress has ignored the statute entirely and has simply remained in session to conduct business, and no question has been raised in many years regarding Congress' power to do so.

Under article 1, section 5 of the Constitution, neither House may adjourn for more than 3 days without the consent of the other.

Sometimes, Members have reserved the right to object to consideration of concurrent resolutions extending the session in order to discuss the House's inability to complete its work by July 31, and to speculate on the committee and floor schedule for the remainder of the session.

Several distinguished Members of the House over the years have expressed puzzlement as to why the July 31 adjournment provision was ever enacted and have called for its repeal.

On July 24, 1974, during discussion of a concurrent resolution waiving the July 31 adjournment deadline, Representative H.R. Gross of Iowa, one of the legendary Members of this body, engaged in a colloquy with then-majority leader Tip O'Neill, and I quote:

Mr. GROSS. Mr. Speaker, if the gentleman will yield, might this then be described as another great reform that has bit the dust for years?

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, I would have to say that it is, but this one bit the dust back in 1946 * * *.

Mr. GROSS. Mr. Speaker, I will say to the distinguished majority leader that it is time that this charade was ended. * * * I hope, though, that the reformers around here who are so eager to change everything and the procedures of the House, and all of the rules, take note of the means of this one that never should have been.

Mr. O'NEILL. May I say to the gentleman I will be sorry to see him leave.

Mr. Speaker, more recently, our distinguished colleague, the gentleman from Pennsylvania [Mr. WALKER], suggested repeal of the 1946 statute. On July 29, 1982, the then-majority leader, Mr. Wright, called up a concurrent resolution to extend the session, and Mr. WALKER questioned the need for it and reserved the right to object. Mr. WALKER said, and I quote:

Mr. WALKER. Would it not be logical * * * that maybe what we ought to do is go and change the Legislative Reorganization Act of 1946 and reflect what has happened over the last 20 years.

Mr. WRIGHT. I think the gentleman would be within his rights to introduce an amendment to that act if he thought of doing so.

Mr. WALKER. Mr. Speaker, further reserving the right to object, it seems to me it is not this gentleman's responsibility to do that. It is the responsibility of the people who are in leadership positions here in the House not to put the House in the embarrassing position of every year having to come back and raise questions about whether or not we are just going to exceed the law and move forward here * * *.

Mr. Speaker, my response to the comments of our distinguished colleague from Pennsylvania is, "better late than never." It has taken awhile, but we are finally able today to move this legislation and to follow the gentleman's recommendation. I commend him for his leadership. He was ahead of his time.

I only hope that we still have time to pass this legislation, get it over to the Senate, have them pass it and get

it to the President in time to avoid having to pass another concurrent resolution this year extending our session beyond July 31, which is coming up next Tuesday.

Mr. Speaker, in conclusion, repeal of section 132 would have no impact on the operation of Congress, but would eliminate what has become a nuisance procedure. If the section is repealed, Congress could simply continue in session under the normal procedures of each House.

SUMMARY OF HOUSE JOINT RESOLUTION 7

Section 132 of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193) requires the House and the Senate to adjourn no later than July 31 of each year, unless a state of war pursuant to a declaration of war by Congress exists at such time.

House Joint Resolution 7 consists of a single section which repeals in its entirety section 132 of the Legislative Reorganization Act of 1946, as amended.

Congress has not adjourned sine die on or prior to July 31 of any session since July 27, 1956. During the last 20 years, the earliest adjournment date was October 1, 1976. Congress has enacted a number of statutes over the years, such as the Budget and Impoundment Control Act, which assume that Congress will be in session to take action after July 31.

Customarily, in even-numbered years Congress passes a concurrent resolution which waives the provision and allows both Houses to remain in session beyond the adjournment date. The normal form of the concurrent resolution is as follows:

"Resolved * * *, that notwithstanding the provisions of section 132(a) * * *, the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die."

However, the concurrent resolution is not privileged if offered directly from the floor, and its consideration is by unanimous consent. There is always the possibility that a Member could object, necessitating further action by the House to ensure continuation of the session.

There have also been occasions, such as in 1988, when the House has forgotten to pass the concurrent resolution and has remained in session into August, theoretically raising some question as to the validity of actions taken during that period.

In odd-numbered years, Congress evades the mandatory adjournment deadline by utilizing provisions of section 132(a)(2) of the statute, which makes in order a privileged concurrent resolution providing for the customary August recess through Labor Day in September. The statute requires that adoption of the concurrent resolution be by a rollcall vote.

In August, 1949, Speaker Sam Rayburn overruled several points of order which questioned the ability of the House to sit in the absence of passage of a concurrent resolution.

The Speaker noted that the state of war and national emergencies from World War II still existed. Section 132 contained at that time an exemption which allowed Congress to meet either in the event of a national emergency proclaimed by the President, or if a state of war declared by Congress existed, although the exemption for a national emergency was subsequently repealed.

It has also been argued that Congress can remain in session beyond July 31 regardless of whether or not it waives the statute, because pursuant to the provisions of Article I, section 5 of the Constitution neither House may adjourn for more than three days without the consent of the other. Section 132 has thus merely represented an outdated policy goal in congressional scheduling and is effectively moot.

Repeal of section 132 would have no impact on the operation of Congress, but would eliminate what has become a nuisance procedure. If the section is repealed, Congress could simply continue in session under the normal procedures of each House. The concurrent resolution providing for an August adjournment would remain privileged for consideration, as are all adjournment resolutions in the House, though it would no longer be mandatory to take a rollcall vote.

Subcommittee Action: H.J. Res. 7 was introduced on Jan. 3, 1989 by Rep. Moakley and was referred to the Committee on Rules. On May 5, 1989, it was referred to the Subcommittee on Rules of the House. The Subcommittee ordered H.J. Res. 7 reported favorably to the full committee on June 27, 1990, by voice vote.

Committee Action: On July 25, 1990, the Committee on Rules ordered H.J. Res. 7 reported to the House by voice vote, without amendment.

□ 1010

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of this joint resolution and commend Chairman MOAKLEY of the Rules Committee for bringing it to the floor today.

As the chairman has indicated, this resolution appeals an obscure provision in the Legislative Reorganization Act of 1946 which requires that Congress adjourn sine die by July 31 of each year. Mr. Speaker, many of us believe that the best interests of the United States of America, and indeed the entire free world, would be served if Congress did adjourn by July 31 of each year. But be that as it may, we also have to be realistic, and the record shows that the last time Congress adjourned sine die was back in July, July 31 of 1956, as the gentleman from Massachusetts has said, and that was back during President Eisenhower's first term. During the last 20 years, again, the earliest Congress ever adjourned in any given year was by October 1976.

There are, moreover, any number of statutes enacted since 1946 which presuppose that the Congress will be in session after July 31. The Congressional Budget Act, for example, comes readily to mind. So by repealing this obscure requirement we will be sparing ourselves the necessity of passing a resolution each summer to waive the July 31 deadline.

Mr. Speaker, the necessity for passing such a concurrent resolution each summer is described in the committee report on the desk before Members as being an irrelevant nuisance procedure, well defined by the gentleman from Massachusetts [Mr. MOAKLEY]. We have occasionally even forgotten to do it, most recently I think 2 years ago.

So Mr. Speaker, I would urge all Members to support this joint resolution.

But I must also issue a caution or a warning. I know that Chairman MOAKLEY is sincere in his effort to pass this joint resolution, as am I. This resolution does not represent some kind of a large agenda. However, I am not so sure about what the Senate might have in mind. House Joint Resolution 7, after it goes over to the Senate for consideration, must not become the vehicle for changing other requirements and deadlines that Congress has a hard time meeting. Again, the Budget Act comes to mind. There have been rumors about the Senate wanting to tinker with the dates and deadlines in the Budget Act, but Mr. Speaker, this resolution should not be the vehicle for making those kinds of changes.

If this joint resolution comes back to us from the Senate with other items attached, it will have to be referred back to the Rules Committee and our subcommittee for appropriate action, and I hope that this brief debate here today in the House will serve as sufficient notice to the Senate to keep this resolution clean. Let us not monkey with it, Senate.

So I urge support of the resolution and commend Chairman MOAKLEY for bringing it to the floor today.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 7.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OUR FLAG

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute.)

Mr. ANNUNZIO. Mr. Speaker, last September 12, I brought you the good

news of the successful completion of the rewriting and updating of the classic congressional publication, "Our Flag."

You will recall this was done by House Concurrent Resolution 361 which I sponsored here in the House and Senator FORD sponsored in the Senate.

From the many inquiries I received before publication, I knew this book was in great demand here in Congress and throughout our Nation.

Mr. Speaker, I am here to say that it is so well liked and highly regarded that the National Association of Government Communicators has chosen over the large number of qualified Government entries "Our Flag" to win the first place award in its 1990 Blue Pencil Monograph Competition.

This is recognition well deserved, and the Joint Committee on Printing is honored to have produced this patriotic publication on behalf of the Congress.

PROVIDING FOR CONSIDERATION OF H.R. 1180, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 435 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 435

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1180) to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5157 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 435 is the rule providing for the consideration of H.R. 1180, the Housing and Community Development Act of 1990.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance, and Urban Affairs.

The rule makes in order the text of H.R. 5157 in lieu of the amendments now printed in the bill as original text for the purpose of amendment. The substitute is to be considered by titles, with each title considered as having been read. All points of order against the substitute are waived.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, over the last decade the Federal Government has retreated from its commitment to provide the means to a "safe home and suitable living arrangement for every American," as was promised in the Federal Housing Act of 1949. Instead, policies during the 1980's contributed to an assault on housing that has left a dwindling housing stock filled with vacant and unusable properties, 3 million Americans left to find refuge on the streets of our Nation, and millions more precariously housed or on waiting lists for subsidized housing. Unless decisive Federal action is taken, the downward housing spiral is due to continue through the 1990's with as many as 900,000 low-income housing units projected to disappear by 1995.

Three-quarters of a million of this homeless population are children living in a shelter, in the back of a family car, with a friend. They begin every morning of their lives wondering whether breakfast is going to be served or if a bus will pick them up and take them to school. The tragedy of the 1980's is that many Americans have come to believe that the homeless population is an indigenous American population. This is not so.

I am pleased that today we are on the verge of approving the first legislation in ten years that would expand the Federal commitment to housing and homeownership programs.

The Housing and Community Development Act, the bill for which the committee has recommended this rule, is comprehensive legislation that includes both rental assistance and new homeownership programs proposed by the administration. Of particular importance is the reaffirmation in H.R. 1180 of efforts to improve existing housing stock through the renovation and new construction of housing across the country.

I commend the Banking Committee and Chairman GONZALEZ for providing the necessary leadership to develop a consensus to expand the supply of housing, to encourage landlords that are eligible to prepay their federally subsidized mortgages to continue serving those in need of low income housing, and to renew expiring section 8 contracts.

Mr. Speaker, this is an open rule which will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

□ 1020

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the chairman and ranking Republican member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] for their leadership in putting together this long and complex legislation. Many different interests have to be balanced in legislation of this magnitude, and they have done a good job of achieving legislation which is fair to the various groups concerned.

Mr. Speaker, before I came to Congress, I was in the homebuilding business, so I have had firsthand experience with some of the problems in providing good and affordable housing. One of the things that has contributed to the stability of this Nation is that a relatively large percentage of Americans have been able to afford their own homes. But buying a new home is not an easy thing to do, especially for families with modest incomes.

That is why the FHA program is so important. It enables families who cannot come up with large cash downpayments to live in their own home.

I certainly understand the need to keep the FHA insurance fund on a sound financial footing. But while working to achieve that goal we must not lose sight of the underlying purpose of the FHA program which is to provide low downpayment home mortgages for Americans of limited means.

Mr. Speaker, in the Rules Committee, the gentleman from Minnesota [Mr. VENTO] appeared to present an amendment he proposed to offer along with the gentleman from Pennsylvania [Mr. RIDGE]. The Vento-Ridge amendment offers a responsible, actu-

arially sound, solution to the financial problems encountered by the FHA insurance fund. At the same time it safeguards the originial congressional intent of providing affordable mortgage credit to low and moderate income home buyers.

Mr. Speaker, may I quote from a "Dear colleague" letter signed by Mr. VENTO and Mr. RIDGE which provides additional specific information about their amendment:

Strengthens the FHA insurance premium by returning to a "pay-as-you-go" structure. The current up-front fee of 3.8 percent of the loan would be changed to require 1.35 up-front, plus a .6 percent over the life of the loan. This change would be phased in over a five year period;

Requires a minimum capital standard, as recommended by Price Waterhouse, of 1.25 percent to be attained within 24 months and a 2 percent capital standard to be attained within 10 years;

Discontinues the payment of distributive shares until the MMIF is actuarially sound (achieves the capital standard of 1.25 percent);

Requires, beginning in 1993, that no mortgage be allowed to exceed the market value of the property; and

Eliminates the rebate of unearned premiums. All premiums would be "earned" when paid and a portion would no longer be rebated to those who prepay their loans.

With homeownership already on the decline and the FHA Fund at risk, we need to provide meaningful, sound reform while continuing to facilitate homeownership through the most successful homeownership program established for the American family—FHA mortgage insurance.

Mr. Speaker, I know firsthand that throughout this country our homebuilding industry and our mortgage industry and our real estate industry are at a low ebb. We must do something to beef them up.

When this Vento-Ridge amendment is offered, I urge my colleagues to support it.

The provisions of this rule have been fully explained by the gentlewoman from New York [Ms. SLAUGHTER] and it would be redundant for me to go into the provisions of the rule. But Mr. Speaker, I support the rule and I urge its exceptance.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I appear in strong support of the Rules Committee's recommendation for an open rule.

With the House consideration of H.R. 5157, the Moakley bill, which will for purpose of enactment a little later on become H.R. 1180 again, the Gonzalez bill, the Housing and Community Development Act of 1980.

Mr. Speaker, with respect to this legislation, I would like to offer hearty congratulations to both the Democratic and Republican members of the Banking Committee. Most of all, I want to thank our capable, hardworking chairman, the gentleman from Texas, Mr. HENRY GONZALEZ, for his determined efforts to produce balanced, bipartisan housing legislation. Housing legislation is indeed the first love of our committee chairman, and I am pleased to work with him to enact a meaningful housing legislation.

Despite the long odds, it seems to me that he has succeeded admirably in doing so. Mr. Speaker, I believe that there is a climate and the commitment necessary for good housing legislation this year. I think an open rule is absolutely necessary to make progress in that regard.

The size, the scope, and complexity of this bill alone makes it somewhat cumbersome and lengthy. The bill consists of over 640 pages of written text and contains 9 separate titles with 250 sections.

During our subcommittee and full committee markups, 121 amendments were adopted out of over 250 amendments that were offered. The reordering of the bill through H.R. 5157 simply confuses the issue a little further. But the Banking Committee reported out unanimously H.R. 1180 and, despite the mixup in the process during the Rules Committee consideration, the reordering of titles, I suggest that we adopt the rule here today. But I do not want to delay the process, and I would hope that Members will not engage in dilatory tactics. A problem does exist with regard to the administration's position on this bill, I may say.

The administration has identified several problem areas which, if not resolved, could cause advisors to recommend a veto. Let me say that those are not Secretary Kemp's words. I want to make that quite clear. But we have worked very hard and long with the Secretary, and he has been very willing to be available at all times.

A major portion of this bill is indeed his HOPE provision, which Mr. GONZALEZ and I introduced as separate legislation and is included in H.R. 1180. I think both the Democratic and Republican Members alike have appreciated the proactive stance by our Secretary, Secretary Kemp, on housing legislation.

Despite his strong support for H.R. 1180, there still remains the issue of reform of FHA. I would suggest to the gentleman from Tennessee, who has come out foursquare in favor of the Vento-Ridge amendment, that there is a difference of opinion as to whether this will meet the necessary criteria to ensure the long-term safety and soundness of the FHA mutual mortgage insurance fund.

But we are still working on that issue and hope to come up with an agreement which Price Waterhouse will sign off on and which the Secretary will sign off on as well as Mr. VENTO and Mr. RIDGE, who I know have worked very long and hard on this.

A second problem is what I regard as the poorly targeted new construction program. In particular, I oppose the rental production program in title II of H.R. 5157 which was title III in H.R. 1180.

□ 1030

I do not think it is targeted well enough, and I know that there are some negotiations and discussions still going on in that regard. I hope when we come to the floor next Tuesday, again, there will be agreement on that title. However, I do not want to seem to focus simply on the negative aspects of this bill. Under the very able leadership of the chairman, the gentleman from Texas [Mr. GONZALEZ], H.R. 1180 contains a good range of options aimed at improving national housing policy, including several new initiatives.

The administration's whole proposal, I have mentioned, is in here. The gentleman from Texas Mr. GONZALEZ's National Housing Trust Fund is in here, and a permanent solution to the prepayment issue, which has dogged Members for several years, now is in this year. Despite certain continuing reservations, I do believe that H.R. 1180 represents a good piece of bipartisan legislation, well-deserving of passage by the House of Representatives.

For these reasons, I urge approval of the rules today.

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, June 6, 1990.

Hon. CHALMERS P. WYLIE,
Ranking Minority Member, Committee on Banking, Finance and Urban Affairs, Washington, DC.

DEAR MR. WYLIE: As the Banking Committee begins markup of HR 1880, the Housing and Community Development Act of 1990, I am pleased to present the Department's views on the bill and proposed amendments to the bill.

As you recall from our meeting with President Bush earlier this year, the President indicated his willingness to work toward enactment of a housing authorization bill this year. Accordingly, the Administration has sent forward a major new budget and legislative proposal to increase spending for new housing assistance over the next three years and embark on a bold strategy for housing assistance which emphasizes empowerment over containment and opportunity over dependency.

The President's proposal, Homeownership and Opportunity for People Everywhere (HOPE), was introduced this year with bipartisan support in both the House and the Senate. I am pleased that the HOPE program has been adopted in large measure by both the House and Senate housing bills.

The Department is generally pleased with the HOPE provisions in HR 1180, and believes that any further substantive change to the HOPE proposals in Subtitles A, B, and C is unnecessary and would be counterproductive.

OTHER HOPE PROVISIONS

However, other provisions of the HOPE bill, HR 4245, have not been incorporated

into HR 1180 and I strongly urge their adoption in full committee. In particular, the HOPE proposal called Operation Bootstrap represents an important policy objective, which gives low income residents of assisted housing the opportunity to gain an economic foothold for themselves, and ultimately break the cycle of dependency which so often entraps poor people.

Operation Bootstrap is modeled after a previous HUD demonstration called Project Self-Sufficiency and inspired by the late Senator Claude Pepper of Florida, who sought to create a program of supportive services for "welfare mothers" who wanted to go to work. As a demonstration program in 1989, Operation Bootstrap received requests by Public Housing Authorities (PHAs) for eight times as many certificates as were available for the program. This year there is strong bipartisan support for making the Operation Bootstrap model a permanent program.

We have been working with Representatives Kaptur and Carper, as well as with the Housing Subcommittee staff, to develop an acceptable proposal, now called "HOPE for Family Self-Sufficiency." Since Representative Kaptur has left the Banking Committee, we understand Representative Roukema will join Representative Carper in offering this new amendment. I strongly urge its adoption.

In addition, we also support adoption of the Shumway amendment to authorize the Housing Opportunity Zone proposal, which was requested by the Administration in its HOPE proposal. We also support Representative Roukema's amendment to HR 1180's HOPE for Vacant Public Housing provision, which would include a small demonstration for rehabilitating vacant buildings for low-income homeownership and long-term use as affordable rental housing.

Finally, Mr. Wylie, the Administration in its HOPE package proposed a program to help prevent premature institutionalization of frail, low-income elderly individuals by coupling supportive services with housing assistance. I am pleased that the program, HOPE for Elderly Independence, was included in the Subcommittee bill. The Administration is concerned, however, that the bill would continue funding the duplicative Congregate Services demonstration program and would authorize a new $11 million congregate services program.

Mr. Wylie, as I have stated in my many appearances before your Committee over the last 18 months, I believe the mission of HUD should not be to merely provide housing assistance through vouchers, but should also encompass a variety of initiatives to expand affordable housing opportunities for low income families and provide incentives for self-sufficiency and economic independence.

The Administration wants to ensure that new federal housing legislation is designed to deliver assistance directly to the intended beneficiaries—low income families. Policies that ignore the lessons of the past and reestablish—under new names or through various "delivery mechanisms"—programs that invite waste, fraud and abuse will be vigorously opposed.

While the Administration has signaled it is prepared to be flexible on funding new housing legislation, that flexibility must depend on the substantive character of the housing provisions. Such legislation must reflect both the increasingly adverse financial situation facing the federal budget in 1991 and any agreements on domestic discretionary spending limitations likely to emerge from the on-going budget summit discussions.

NEW CONSTRUCTION

Mr. Wylie, at the center of our concern to maintain program integrity is the issue of new construction. Our experience over the past year and a half—as well as the history of new construction programs—has overwhelmingly exposed the flaws of these programs and why they are under almost any design destined to fail.

How do we know these approaches will fail? New construction programs are prone to fail for two very fundamental reasons. The first reason is political: any program that is well-intentioned and targeted to the poor still requires rich, often layered subsidies that attract influence peddling and profiteering. The second problem is even more unresolvable—no government construction program in history has ever contained long-term incentives for maintenance and upkeep of properties to assure that housing is run in the best interests of the tenants. When the poor can't choose where they want to live without losing subsidized housing, they become a captive clientele of landlords; normal market between landlords and tenants breaks down completely.

The Department of Housing and Urban Development (HUD) historically has had few remedies. Despite the best intentions of Democratic and Republican Administrations alike, history tells us that HUD's efforts to continually monitor thousands, indeed millions, of housing units through a top-down, bureaucracy is no replacement for market discipline, consumer choice, and economic incentives.

Because of these systemic flaws, Congress and the Administration, on a bi-partisan basis, terminated three successive generations of new housing production programs over the past half century. These programs had ballooned in cost, developed physical and financial problems, required repeated bailouts and did little to help poor people become self-sufficient. In short, these programs didn't empower the poor or create a ladder of opportunity out of poverty, they entrapped the poor into squalor and dependency—the epitome of hopelessness and despair.

Even with a Tyler House tragedy reminding us of these failures, the Congress appears poised to repeat the mistakes of the past. The bill reported by the Housing Subcommittee last month contains six rental production programs. Funding for the six production programs equals $2.1 billion, or 53 percent of total funding in the bill for new rental assistance, although it produces only half as many low-income units as would the more efficient, non-construction tenant-based programs. In fact, the bill authorizes no funding for the successful housing voucher program. Furthermore, it converts expiring vouchers into Section 8 certificates, which offer the tenants less flexibility in choosing their housing.

I realize that there are tight housing markets. But in these areas, the Administration supports new low income housing construction through the low income housing tax credit and through the Section 202 program for the elderly and handicapped. These two new construction programs are producing up to 130,000 additional units this year—the largest volume of subsidized rental production since 1979.

Mr. Wylie, these programs—and even the public housing new construction program—dedicate the entire Federal investment to the creation of low income housing. The tax credit program, for example, provides a benefit to the developer or investor only for low-income housing units produced.

HR 1180 has three objectionable construction programs, authorized at more than $1.3 billion. In particular, the rental housing production program contained in Title III of HR 1180 would reward developers for providing market-rate units over low-income units. It only requires that 15 percent of all units go to households below 60 percent of median and that a total of 30 percent of the units go to lower-income households below 80 percent of median. It provides an upfront subsidy for up to 50 percent of development costs. But at the same time, the program provides no security for the government's investment in the production of this housing and fails to provide any incentive for long-term maintenance. This proposal is apparently a reconstitution of the Housing Development Grant (HoDAG) program, which Congress has decided not to fund over the last three years.

The Administration is strongly opposed to enactment of the Title III rental production program. In addition, the Administration opposes the reauthorization of the Moderate Rehabilitation program.

LOW-INCOME TARGETING

The Administration believes that the limited funds available to provide new housing assistance should address worst-case needs. The purpose of HUD rental assistance programs is to make good quality housing available at reasonable cost to those who need it most. Congress gave priority for assistance to those who live in severely inadequate housing; pay more than 50 percent of their incomes for rent; or have been involuntarily displaced from their existing homes. In 1987, 3.8 million of the unassisted, very low-income families eligible for rental assistance had excessive rent burdens or lived in severely inadequate housing. Affordability was their dominant problem; 3.5 million families paid over half of reported income for housing.

Under these statutory preferences, over 80 percent of admissions and incremental units now go to very low-income families with these "worst case" needs. Several provisions in HR 1180, however, would weaken the current targeting of public or assisted housing, drawing assistance away from these vulnerable, worst-case families.

The Administration is strongly opposed to provisions in HR 1180—such as those to increase the statutory exemption to assisting worst-case needs (from 10 percent to 30 percent) and to amend the 1981 targeting provisions contained in Section 16—which weaken targeting and divert critical assisted housing funds away from the individuals and families who need it most. The proposals for income eligibility for Section 8 new construction and public housing would reverse a decade-long effort to target occupancy in Section 8 new construction and new public housing units to very low income people. We are not certain of the genesis of the proposal, and while we do not oppose allowing an income mix in assisted units, such a mix should not undermine our efforts to reach those who most need assistance. Nationally, only 6 percent of lower income families have worst case needs, compared with 40 percent of very low income families.

Furthermore, as the previous discussion illustrates, the "new" housing production programs in the bill direct very little of their assistance to very low-income families.

For example, we estimate that only one percent of the units produced under the Title III production program would serve worst-case needs and only 13 percent under the currently drafted Community Housing Partnership program would serve the worst-case needs.

We are further concerned that amendments will be offered in Committee that further weaken statutory preferences and the Department's efforts to target assistance. These amendments would have the effect of increasing turnover in public housing by simply increasing mobility between one type of assisted housing and another at the expense of those who need but do not already receive housing assistance.

The Administration is particularly troubled by a provision adopted in Subcommittee which would effectively create an entitlement program for families with children who might be placed in foster care or prevented from returning from foster care. I applaud the goal of the provisions's sponsor, Representative Schumer, to not let poverty break up a family. I strongly believe that the bond of the family has value that well exceeds the "value" of Food Stamps or housing vouchers or any other social assistance commodity, and that the federal government in a responsible way, can help encourage families to maintain that bond.

However, this provision creates an entitlement to housing assistance for a particular class of families for the first time in the history of housing assistance. This major policy shift raises serious questions about equity (to other needy poor families), and, finally, about program integrity. The pressures on local welfare agencies to certify that families were in danger of breaking up in order to entitle them to housing assistance could be enormous.

Similarly, the Administration is concerned that HR 1180 provides three new programs and set-asides under two existing programs exclusively to assist persons with AIDS who are homeless or at risk of becoming homeless. We recognize that federal programs should assist low income persons with AIDS and other special needs obtain shelter and supportive services. However, we question the equity of placing persons with this disease ahead of others who are in need of assistance and who are equally qualified based on income and/or handicap.

Finally, the Subcommittee continues to provide $100 million for a separate Nehemiah program which almost exclusively benefits middle income homebuyers. We believe that folding this program into HOPE will better enable us to serve lower income homebuyers who would otherwise be unable to buy a home.

BLOCK GRANT HOUSING ASSISTANCE

Title IV of HR 1180, the Community Housing Partnership (CHP), proposes a demonstration program which would consolidate federal funding for housing assistance into a block grant to states and communities. In particular, the Administration is concerned that without reconciling the clear structural problems of housing production programs at the federal level, we will decentralize these failures to state and local governments through this approach. If State and local housing assistance is a priority for the Committee, we would prefer to build onto the successful and flexible Community Development Block Grant (CDBG) program.

In addition, while the Administration believes community-based non-profit groups can help deliver federal housing assistance at the local level, the Title IV proposal, as currently structured, instead relies on for-profit developers and consultants—who are traditionally enriched by the new construction program which CHP promotes. In addition, the CHP proposal is poorly targeted, with at best 13 percent of its assistance estimated to serve worst-case needs.

The Administration would be more encouraged by a well-targeted program which provides affordable housing in a cost-effective way, allowing the rehabilitation of existing units. Such a program would complement tenant-based vouchers and certificates by making additional housing available for families both with and without tenant-based assistance, but would avoid the long-term tie of rent subsidies to units that limits freedom of choice and leads to management failure.

PRESERVATION

The Department is concerned about the direction the Committee is taking to resolve the low-income preservation (prepayment) issue. The provision in Title VIII of the House bill seems to reflect a "preservation at any price" philosophy which would effectively reward property owners for a commodity not provided, pay high premiums to protect buildings instead of residents and culminate in an extraordinary cost of over $33 billion over 20 years.

We are deeply concerned that the Committee does not place an appropriate emphasis on the opportunity this issue presents to expand opportunities for homeownership. The Administration's HOPE initiative emphasizes homeownership as the first option when an owner files a notice of intent to prepay. We would provide a two-year right-of-first-refusal to resident groups and nonprofits who wish to purchase their buildings and become homeowners, and in addition would provide the monetized value of 10-year vouchers to assist in making homeownership a reality.

The Administration remains firmly committed to preserving housing assistance for low-income families, and has demonstrated that commitment by submitting a budget this year which fully funds all Section 8 expiring contracts, and proposes a preservation strategy which seeks to accomplish the following goals:

Protect project residents from becoming homeless as a result of mortgage prepayment;

Honor contracts entered into by the federal government with project owners;

Provide for alternative preservation strategies that provide opportunities to end the poverty of residents through empowerment, self-sufficiency and homeownership; and

Ensure the greatest benefit at the least cost for long term preservation of assistance to low-income families.

I know the framers of the House preservation provisions intend to accomplish similar goals. However, the proposal in Title VIII appears to go in the opposite direction by:

Overpaying current owners: requiring tenants and the federal government to pay rents to compensate an owner for higher and better use of the property, even though the property will remain as basic housing and not be converted to higher and better use; and

Ignoring availability of alternative housing: requiring the government act first to compensate current owners, at a substantial premium, before considering less costly and more effective low-income housing alternatives.

These excesses and inefficiencies cannot be sanctioned in the name of preservation.

I've been encouraged by recent negotiations with members of the Committee to produce a prepayment program that preserves as many projects as is reasonable, promotes alternative preservation strategies, including homeownership, and protects the public from paying a premium to private owners for a benefit that will not be realized. I remain optimistic that these discussions will yield a compromise proposal that the Committee, the Congress and the Administration can accept.

Mr. Wylie, I have attempted to outline a number of concerns the Department has about both inclusions in and exclusions from the Committee print. It is my understanding that 119 amendments have been filed to be offered during full Committee markup. I fully respect the will of Congress to establish its legislative and policy priorities, and that the work of the Committees—and all their members—is an essential part of developing those priorities. The Chairman spoke eloquently at the commencement of the Subcommittee markup about the importance of this legislative process and, to prove the point, entertained nearly 150 amendments to the Subcommittee print.

However, I hope that this process will yield a final product that is mindful of the overall mission of the Department of Housing and Urban Development, will recognize the importance of establishing priorities for federal assistance, and will ensure that this assistance is effectively focused on meeting those needs.

As one example of how the Committee can help us address the priorities of both the Department and the Congress more effectively, I urge the Committee to approve an amendment that adopts the formula for Public Housing Comprehensive Grants. The development of a comp grants formula was authorized in the Housing and Community Development Act of 1987. Approval of the Bartlett amendment to adopt this formula is critically needed to help the Department better manage the activities of public housing authorities.

I look forward to working with this Committee and the Senate in the weeks ahead to produce landmark housing legislation that can be fully endorsed by the President and the Congress. Let's not lose this historic opportunity to do something truly creative and far-reaching; above all, let's not repeat what we know has not and will not work. I stand ready to discuss with you and other Members of the House Banking Committee how we can move this process forward to reach a bi-partisan victory on new directions in housing policy for the nineties and into the next century.

The Office of Management and Budget has advised that there is no objection to the presentation of this letter from the standpoint of the Administration's program.

Very sincerely yours,

JACK KEMP.

STATEMENT OF ADMINISTRATION POLICY ON H.R. 1180, HOUSING AND COMMUNITY DEVELOPMENT ACT

The Administration remains fully committed to working with Congress to enact a fiscally-responsible housing and community development authorization bill. Such a bill must focus on certain objectives, which we are confident we share with Congress. These incluse: (1) authorizing the Administration's Homeownership and Opportunity

for People Everywhere (HOPE) initiatives; (2) making the Federal Housing Administration's (FHA) single-family insurance fund financially sound; (3) directing housing resources more effectively to the neediest poor families, those with severe housing problems; (4) increasing the power of poor people in the housing marketplace; and (5) meeting the overall tests of fiscal responsibility. The Administration is pleased that progress toward meeting these principles was made in the House during markup of the bill, particularly the adoption of most of the President's HOPE proposal. However, neither H.R. 1180, as reported, nor the proposed substitute amendment, H.R. 5157, meet all these important objectives. Consequently, if either one were presented to the President in its current form, his senior advisers would recommend that it be vetoed.

The Administration has demonstrated that it is willing to be considerably flexible on funding, but only after the program integrity and financial soundness of the authorization proposals are assured. Because the Administration has worked productively with the Chairman and members of the House Banking, Finance and Urban Affairs Committee to modify H.R. 1180 to bring it closer to meeting the Administration's objectives. The Administration is confident that further improvements can be made to H.R. 1180 consistent with the shared principles stated above. Yet, since certain provisions currently contained in H.R. 1180 do not uphold those principles, they would require major revision or elimination. In particular, the Title III Rental Production program and the Title IV Community Housing Partnership program encourage costly, developer-driven new construction in lieu of more efficient tenant-based housing assistance, and both are very poorly targeted to low-income families.

In addition, it is necessary for the House bill to include a responsible proposal to restore financial soundness to the FHA. The Administration understands that its proposal is currently under review by the leadership of the Banking Committee. The Administration is committed to working closely with the Chairman, the Ranking Minority Member and other Committee members toward producing and adopting an amendment to assure the long-term financial soundness of the FHA fund. Such an amendment must uphold the critical principles underlying the Administration's reform proposal and adopted by the Senate, particularly that:

Adequate capital standards be maintained;

The needs of low and moderate income homebuyers be maintained through the availability of mortgage credit;

Insurance premiums be established which reflect default risk; and

Minimum equity contributions be made by borrowers to adequately protect them as well as the Fund from excessive default risk.

Current FHA reform proposals, such as the amendment sponsored by Representatives Vento and Ridge, do not fully support these basic principles and would be opposed by the Administration.

The Administration opposes H.R. 1180 in its current form because of the following major problems:

The bill would exceed the President's FY 1991 Budget for HUD and Department of Agriculture housing programs by over $6 billion in budget authority and by $1.3 billion in outlays. A fiscally responsible funding level for a new housing bill will depend upon (1) the substantive character of the housing provisions, and (2) agreement on domestic discretionary spending limits pursuant to the ongoing budget summit discussions.

The bill does not include the Administration's proposals to reform the FHA program.

The bill creates several additional housing programs which fail to adequately target Federal funds to very low-income households. While current rental assistance programs provide 95 percent of funds to very low-income households (below 50 percent of local median income):

Under the proposed Rental Housing Production program, localities would be required to provide only 20 percent of Federal funds to very low-income households or 40 percent to households with incomes below 60 percent of median income. A full 60 percent of these housing resources could be provided for non-poor households. (The current Low-Income Housing Tax Credit, supported by the Administration, permits projects to be either (1) 20 percent very low-income or (2) 40 percent below 60 percent of median income. In either case, every Federal dollar must be spent on low-income households.)

The Community Housing Partnership (CHP) program rental component would provide 25 percent of Federal funds to households below 30 percent of median income and 50 percent to households below 60 percent of median income. Over one-half of these funds would be available for non-poor households.

The homeownership component under the proposed CHP program would target only 25 percent of Federal assistance to households below 80 percent of median income and 75 percent to households below 115 percent of median income.

Homeownership opportunities under the proposed National Housing Trust Fund would target Federal assistance to households below 115 percent of median income. This homeownership income target is too high, especially in light of evidence that a family at 100 percent of median income has 108 percent of the income needed to afford a median-priced existing home.

Similarly, additional homeownership assistance would be provided to middle-income homebuyers under the Nehemiah program (up to 115 percent of median income), Homeownership Made Easier Demonstration (20 percent below 80 percent of median income; 100 percent below 115 percent), and Second Mortgages for First-Time Homebuyers (all Federal funds for households below 80 percent of median income).

The bill would authorize $2.1 billion in FY 1991 for Farmers Home Administration new rural housing construction direct loans. This would be $1.1 billion more than in the President's Budget. The bill also would authorize deferred mortgage payments for very low-income borrowers. These provisions are contrary to Administration policy. Instead of increased direct loans, the Administration supports the use of a combination of direct and guaranteed loans as well as tenant-based housing vouchers. The bill's proposed deferral of mortgage payments would increase Federal credit risks.

The bill reverses existing targeting of public housing and Section 8 assistance to the point that, in aggregate, *fewer* additional "worst-case" very low-income households, e.g., those paying more than 50 percent of income for rent or living in substandard housing, will be served by these programs in FY 1991 than in FY 1990—even though an additional 69,000 public housing units, Section 8 vouchers and certificates are proposed to be authorized.

The bill would make housing assistance an entitlement for families whose lack of adequate housing is a primary factor in their children being in foster care. Such a provision would result in significant pressure on local welfare agencies to certify families requiring housing assistance to avoid foster care. In addition to creating a perverse incentive, the program would establish an untenable precedent for requiring housing assistance for this group over other deserving groups, such as the elderly or handicapped-specific individuals.

The bill also would establish new programs and set-asides to assist certain individuals with AIDS. While well intentioned, these provisions would override preferences for families who are homeless or live in severely inadequate housing. These provisions would set an undesirable precedent for creating special programs or entitlements for other groups.

The bill creates more than 10 new HUD programs and imposes significant additional requirements on existing HUD programs. There are no program terminations. In fact, the bill reauthorizes the scandal-ridden Section 8 Moderate Rehabilitation program ($220 million).

The bill authorizes a program for modernizing vacant public housing. This would be an unnecessary discretionary program that would encourage PHAs to allow units to deteriorate and become vacant.

The bill includes the Administration's Operation Bootstrap proposal, but would oversubsidize PHAs by including an increase of Section 8 fees to 9 percent of the local fair market rent (FMR). HUD and GAO are reviewing the existing fee structure of the Section 8 program, and preliminary evidence shows that the current rate of overpayment may cover the cost of this new activity.

The bill modifies current income deductions for determining tenant rents in Section 8 and public housing. This provision, along with others, would increase Federal spending annually without any appropriate action.

The bill authorizes several programs that duplicate activities covered in existing programs. In public housing, the bill creates a new perinatal services demonstration to provide facilities and renovate existing structures, activities that are eligible for funding under the public housing modernization (CIAP) program.

The bill authorizes unlimited use of Federal operating subsidies for services costs in public housing and Section 202.

The bill authorizes Fair Market Rents (FMRs) to be established in smaller areas within a housing market area. If these submarket FMRs are increased only 5 percent, the net Federal cost of providing vouchers and certificates in that locality would be increased 15 to 20 percent. The Section 8 FMR-based system authorizes the distribution of over $10 billion annually; any small change to this program would be expensive and could result in a significant reduction of the number of new households served—every $30,000 diverted to existing households eliminates a new housing voucher.

The bill reauthorizes the existing Congregate Services program while authorizing a "Revised" Congregate Services program. The bill authorizes overlapping activities, such as the formation of a new Asset-Recycling Housing Funds Grant program to

create homeownership opportunities in vacant properties, activities covered in other parts of the bill, in this case, as authorized in HOPE Subtitles B and C.

The bill creates a new program to convert State and local government in rem properties for permanent affordable housing. Such activities are already eligible under the current CDBG program.

The bill creates an Energy Efficiency program, an unnecessary categorical program to improve the energy efficiency of existing housing.

The bill authorizes significant improvements to existing preservation requirements, but would be overly generous in providing monetary incentives to landlords and developers for not prepaying their mortgages. Monetary incentives to landlords and developers for not prepaying their mortgages should be reduced.

The bill authorizes PHAs to project-base a separate 15 percent of Section 8 certificates to the State mortgage programs threatened with prepayment. Such a provision disregards existing waiting lists and preferences for obtaining rental housing assistance, reduces tenant choice as to where to live, and substitutes Federal subsidies for those already provided by States to carry out their existing low-income housing programs.

The bill's emphasis on new housing construction, namely the creation of six new housing production programs, fails to provide necessary flexibility or appropriate matching incentives. Under each program, including the Community Housing Partnership Block Grant programs, States and localities are prohibited from using funds for tenant-based rental assistance. In addition, there is no distinction between using matching resources for light or substantial rehabilitation, or outright new construction. In most communities, new construction and substantial rehabilitation are the least efficient uses of Federal funds—and the most prone to scandals. These program uses should be required to meet a more stringent State and local match.

H.R. 1180, THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

TITLE I—NATIONAL HOUSING TRUST

National Housing Trust Fund

This title establishes a new housing trust fund, operated by HUD and governed by the Secretaries of HUD and Treasury, the chairpersons of the Federal Housing Finance Board, FHLMC, FNMA, FDIC, and a community representative. The National Housing Trust Fund provides (1) downpayment assistance to first-time homebuyers with family incomes not exceeding 115% of median income; (2) a subsidy to keep their effective mortgage interest rate at or below 6 percent; or (3) both forms of assistance.

The trust fund is authorized at $500 million for FY '91, and has a sunset date of Sept. 30, 1993. Purchasers under this Title must certify that credit has not been available to them in the conventional market, and repayment must be made to the Fund if the home ceases to be their principal residence. Homebuyers under this Title must make a downpayment contribution of at least 1 percent of the property's value.

Homeownership Made Easier (HOME)

Title I also authorizes two other demonstration programs. The first authorizes a $20 million demonstration for 1991 to provide matching grants to homeowners saving for downpayments. No match would be permitted in any year a homebuyer's income exceeded 120% of area median. The amount of the match would increase in inverse proportion to the homebuyer's income.

Second Mortgages for First-time Homebuyers

The second demonstration is the Second Mortgages for First-time Homebuyers program. This program authorizes $20 million for FY '91 to provide grants to local governments and nonprofit organizations. These grants would be used to provide second mortgage loans to first-time homebuyers, with deferred payments of interest and principal. The grant recipients must provide homeownership counseling services to persons receiving the second mortgage loan.

TITLE II—RENTAL HOUSING PRODUCTION

The Rental Housing Production program establishes a revolving loan fund from which HUD can make advances to nonprofits, for-profits, and public housing agencies of up to 50% of the costs of construction, acquisition, or substantial rehabilitation of affordable rental housing. Interest on these advances is capped at 3 percent, with no payment due if cash flow is inadequate. Principal and accrued interest are due after twenty-five years. If, after twenty-five years, the developer agrees to keep the project low-income, the balance of the advances are forgiven at 6.7 percent/year.

At least 20% of the units must be occupied by families with up to 50% of area median income, or at least 40% of the units must be occupied by families with up to 60% of area median income. Rents in affordable units are capped at 30% of either 40% or 50% of the area median income. The Rental Housing Production program is authorized at $300 million for FY 1991.

TITLE III—HOPE PROGRAMS

This title incorporates the majority of the Administration's HOPE proposal (Homeownership and Opportunity for People Everywhere, H.R. 4245). HOPE grants for public & indian, multifamily, and single family homeownership constitute the first three subtitles. Subtitle D includes HOPE for Elderly Independence, HOPE for Vacant Public Housing, and HOPE for Family Self-Sufficiency. The final subtitle includes the Housing Opportuntity Zone proposal.

HOPE Grants

The first three subtitles of Title II include the HOPE grant programs: for Public and Indian Housing Homeownership, for Multifamily Housing, and for Single Family Housing. HOPE grants are intended to make homeownership possible for low-income families. Under the HOPE grant programs, assistance would be distributed in the form of two grants: one for planning activities, including development of residential management corporations; and the other for implementation activities, including rehabilitation work.

The bill authorizes $310 million for the three HOPE grant programs, some $70 million over the Administration's request. HOPE grants for Public and Indian Housing offer post-sale subsidies through implementation grants, while replacement housing would be funded from Section 8 rental assistance. Planning grants would be limited to 15 percent of amounts appropriated for any fiscal year. In addition, no single grant recipient would be eligible to receive more than 5 percent of the amounts appropriated for planning grants.

Other HOPE Programs

Three other programs are included in Subtitle D. HOPE for Elderly Independence establishes a demonstration program to test the effectiveness of combining vouchers/certificates and supportive services in order to assist frail elderly individuals to continue to live independently. Authorization of $34 million in Sec. 8 assistance and $10 million in supportive service funding is included in the Committee's bill. The cost of services will be shared between the elderly tenants and the states or local governments.

HOPE for Vacant Public Housing Units is the second program included under Subtitle D. This program is a grant to Public Housing Authorities for the purpose of rehabilitating vacant public housing units, beyond the regular modernization program (CIAP). Funds under this program are to be distributed under the CIAP formula, with $250 million funded in FY 91.

The last program under Subtitle D is HOPE for Family Self-sufficiency. This program, formerly the Administration's Operation Bootstrap, requires Public Housing Authorities to link Sec. 8 assistance with services to help families attain economic self-sufficiency. The program is voluntary in the first year for the PHA, then mandatory thereafter.

Housing Opportunity Zones

Subtitle E, the final under Title II, includes the Administration's Housing Opportunity Zones proposal. Fifty of these Zones will be designated for a period to last two years. Applicants for the Zone designation must show that they will remove barriers to affordable housing and develop housing within the Zone for low-, moderate-, and middle-income families. The Zone designation confers the following benefits: a 5%/10% bonus on Rental Rehabilitation grant awards; automatic fulfillment of the CDBG low-income benefit tests; authority to forgive urban renewal debt; urban homesteading preference; and special single-family mortgage insurance programs.

TITLE IV—COMMUNITY HOUSING PARTNERSHIP

This title consists of two programs—Housing Education and Organizational Support Grants, and Community Housing Partnership Grants. Both are intended to assist community-based, nonprofit sponsors to acquire, construct, rehabilitate, and maintain affordable rental housing.

Housing Education and Organizational Support Grants

This program authorizes the Secretary to make housing education and organizational support grants to eligible cities and states to assist nonprofit sponsors and organizations, or to make grants directly to such nonprofit groups. Grants may not be used for project-special activities. Rather, grantees must use the funds to cover operational, training, technical, legal, engineering, and other expenses, or to cover the costs of counseling and education for low-income homeowners or tenants. For FY 1991, $14 million is authorized.

Community Housing Partnership Grants

Grants may be used for either rental assistance or home ownership assistance (60% must go to rental assistance). Partnership grants may go towards loans for technical assistance, site control loans, preconstruction expenses, and fees. At least 5% of grant funds must go to technical assistance. These loans must be repaid from construction loan proceeds. Also, funds may be used for grants or loans to reduce rents/sales prices through mortgage buy-downs, interest reduction payments, capital grants, or other means.

To receive project-specific grants or loans, applicants must provide 1 dollar of matching funds for every 3 dollars of grant or loan funds. These grants are allocated on a block-grant basis similar to the CDBG formula: 60% to cities/urban counties; 25% to States for use in non-metro areas; and 15% directly to nonprofit sponsors.

For the rental part of the program, at least 25% of the units must be occupied by families whose incomes are less than 30% of area median, and 50% of the units must be available to families with 60% of area median or less. Tenant rent in eligible units is capped at 30% of adjusted income. Return on equity is capped at 6%, with low-income restrictions lasting in perpetuity. For first-time homebuyers, income may not exceed the greater of 115% of area median, or 115% of State median. After paying off the mortgage and returning the owner's equity, resale price appreciation is split—50% to owner, 50% to nonprofit sponsor.

TITLE V—HOUSING ASSISTANCE

Overall, the Committee bill reauthorizes most existing housing assistance programs at higher levels for FY '91. The following comments only address significant policy changes.

Programs Under the Housing Act of 1937

Expiring Sec. 8 contracts are all to be renewed on an in-kind, 5-yr basis at a cost of $7.7 billion. (Sec. 501/811)

The calculation of adjusted family income is redefined by: increasing the allowance for each dependent to $550; allowing working families a deduction of 10% of earned income; permitting an allowance of up to $550 for child support and/or alimony; and extending deduction of medical expenses exceeding 3% of family income to families, as well as the elderly. (Sec. 502)

Public housing lease and grievance procedures are modified in the cases of activity which threatens the health and safety of residents. Language regarding consideration of family circumstances is deleted. (Sec. 503)

Public housing modernization (CIAP) funding is modified to a formula allocation. (Sec. 507)

The exception to assisted housing preferences for those with severe housing needs is increased from 10% to 30%. (Sec. 518)

An housing assistance entitlement is created (the first) for foster care children. (Sec. 519)

Public housing and Sec. 8 new construction income targeting is relaxed. (Sec. 508)

Other Housing Assistance Programs

Acquisition of RTC-held properties is made an eligible activity under the Sec. 202 Elderly and Handicapped programs. (Sec. 542)

Existing congregate housing services program is funded at $6 million, while a new Revised Congregate Housing Services is expanded and funded at $11 million. Costs are split 40% federal, 50% PHA, 10% tenant. New program expands and refines existing legislation. (Sec. 547–548)

Nehemiah grant recipients receive priority over federal government in the distribution of proceeds from sale of the home. (Sec. 552)

Disposition of unsubsidized, FHA-foreclosed properties is streamlined, removing requirement that Sec. 8 assistance be attached to units upon sale of foreclosed multifamily properties. (Sec. 553)

New Elderly/Disabled Homeowner Repair Grants program created to make grants of $300,000 or less to nonprofits providing repairs to elderly or disabled homeowners. Funded at "such sums". (Sec. 554)

New REACH program created to make grants for asset-recycling housing funds. Program would formula allocate funds to state housing finance agencies to purchase federally-held (FHA, RTC, FDIC, etc.) real estate owned. Funded at "such sums". (Sec. 555)

TITLE VI—RURAL HOUSING

Overall, the Committee bill reauthorizes most existing rural housing programs at higher levels. The following significant policy changes were made.

FmHA given demonstration to defer payments under Sec. 502 program, at "such sums". (Sec. 607)

Moderate-Income Loan Guarantee program created. Provides for eligible moderate-income homeowners (up to 100% of area median income) in underserved rural areas. (Sec. 608)

Housing for Rural Homeless and Migrant Farmworkers program created. Establishes a program of advances and grants for the construction, rehabilitation, and operation of affordable rental housing, not to exceed $400,000. Authorized at $10 million in FY 1991. (Sec. 610)

TITLE VII—COMMUNITY DEVELOPMENT, MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKETS, AND MISCELLANEOUS PROGRAMS

Overall, the Committee bill reauthorizes most existing community development programs at higher levels for Fiscal Year 1991. Please note: as reported, the Committee bill does not address FHA reform for actuarial soundness. The following comments only address significant policy changes.

Community & Neighborhood Development

The low- and moderate-income targeting requirements of the CDBG program are increased from 60 percent to 75 percent. (Sec. 702)

Lump-sum payments to revolving loan funds are authorized under CDBG. (Sec. 706)

Homeownership activities are made an eligible direct activity under CDBG. (Sec. 709)

Bulk sales at a discount from the RTC are authorized under the Urban Homesteading program. (Sec. 713)

The Neighborhood Reinvestment Corporation is expanded and its authorization level almost doubled to $50 million. A 15-percent cap for administrative expenses is imposed. (Sec. 715)

FHA Insurance and the Secondary Market

The FHA maximum mortgage limit for single-family homes is permanently authorized at $124,875. (Sec. 732)

FHA lenders are prohibited from charging different origination fees, discount points, and settlement costs for low-balance loans. Accountability and disclosure required for FHA lender originations, similar to Home Mortgage Disclosure Act. (Sec. 734)

FHA single-family homes are required to conform with the CABO standards for energy-efficient housing, if they are more cost-effective and energy-efficient than the MPS. (Sec. 737)

The Home Equity Conversion Mortgage demonstration is extended for three years and expanded to 25,000 mortgages. (Sec. 737)

The Title I property improvement loan limits are increased from $17,000 to $30,000. (Sec. 739)

HUD must implement a delegated processing system for multifamily mortgage insurance within 60 days of date of enactment. (Sec. 742)

Regulatory and Other Programs

Mortgagees who transfer the rights to mortgage servicing must disclose this information upon origination and prior to transfer. Borrowers held harmless for late penalties during 60-day period following any servicing transfer. (Sec. 754)

Manufactured housing construction and safety standards are totally modernized and restructured. Regulatory enforcement and compliance procedures are streamlined, while still assuring housing quality and safety standards are improved to ensure consumer protections. (Sec. 756)

Volunteers are exempted from coverage under the Davis-Bacon Act requirements. (Sec. 758)

Low-income housing conservation and efficiency grant program established. Requires Secretary to establish improved energy-efficiency standards for HUD-assisted housing. Authorizes $2 million for FY 1991. (Sec. 763)

The Joint Venture for Affordable Housing is established in order to promote the establishment and adoption of housing technologies which reduce the cost of providing affordable housing. (Sec. 766)

Disaster Relief

Subtitle D of Title VII automatically increases the amount of budget authority available under Sec. 8, CDBG, and rural housing programs during major disasters. Such assistance must go to families whose homes have been affected by the disaster.

TITLE VIII—HOMELESS PREVENTION

Low-Income Preservation and Prepayment

Currently, over 360,000 units of privately owned, publicly assisted housing will become eligible for mortgage prepayment in the 1990's. Grave concerns have been raised about the potential displacement of a significant number of low- and moderate-income tenants if a substantial number of owners exercise their contractual right to prepay. In the 1987 Housing Act, the Congress created a virtual moratorium on prepayment of assisted housing, with the intent of finding a permanent solution.

The Bartlett amendment on the preservation of assisted housing was adopted as a balanced, voluntary solution to the prepayment issue. Owners retain the contractual right to prepay a project's mortgage after twenty years. However, the provision also ensures that current residents of these projects will be protected. In instances where an owner chooses to prepay, tenants will receive at least two years notice, relocation assistance, and Sec. 8 assistance. In low vacancy areas, tenants will be allowed to remain in place for up to an additional three years at current rent.

The provision requires owners to give two years notice prior to prepayment. In the first six months, HUD must furnish an appraisal and a description of incentives to the owners. The owner then has six months to decide to prepay, sell, or keep the project in its current use with the new incentives (if any). Appraisal value, on sale for continued low-income use, is highest and best use; for incentives, highest and best residential rental use. Incentives are capped at the lower of fair return on the fair market value for residential rental use, or 110 percent of Sec. 8 Fair Market Rents for the area in which the project is located.

Owners receiving incentives must keep the project low-income for the remaining term of the mortgage. Nonprofit, public, or resident management groups are given a one

year right of first purchase during the notice period. An authorization of $250 million in Sec. 8 assistance is provided during FY 1991 for tenants displaced by prepayment. An additional $200 million is authorized for nonprofit purchases of assisted housing which would otherwise prepay. Title VIII preempts any conflicting state or local legislation

Homeless Prevention for Persons with AIDS

The title also establishes several new programs for the prevention of homelessness for people with AIDS. Under the first program, Grants for AIDS Housing, HUD would provide grants to public or nonprofit organizations which disseminate housing information and assistance to persons with AIDS. Grants would be based on the incidence of AIDS in the community, at a FY 1991 funding level of $3 million. The second program, AIDS Short-term Supported Housing, provides $8 million for a supportive housing and services demonstration program. The final provision sets aside $53 million in Sec. 8 certificates, $18 million in Sec. Mod Rehab SRO, and $68 million in grants to community residences and services for persons with AIDS.

(Note: H.R. 5157 has been substituted as original text for the purposes of amending H.R. 1180. This summary reflects the differences between the bills—Titles II and III are reordered, and Title IX (McKinney Programs) is deleted.)

FUNDING COMPARISON FOR HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Housing programs under the Banking Committee (dollars in budget authority)	1990 appropriation	1991 HUD budget	CBO Program baseline	House (H.R. 1180)	1991 House-passed appropriation	Senate (S. 566)
Title I.—National housing trust				$540,000	0	
National Housing Trust Demonstration				500,000		
Second Mortgage Demonstration				20,000		
Homeownership Savings Plan				20,000		
Title II.—Hope programs				629,000	0	
Subtitle A. Public and Indian housing				136,000		
Transition funding for section 21 homeownership—from CIAP				3,000		
Subtitle B. Multifamily units				102,000		
Subtitle C. Single family homes				72,000		
Subtitle D. Elderly independence				44,000		
HOPE for family self-sufficiency:						
From Oper. Subs				25,000		
Proj. Coordinators				25,000		
Subtitle E. Vacant public housing—Chairman's initiative				250,000		
Title III.—Rental housing production				300,000	0	
Title IV.—Community housing partnership				300,000	0	
Subtitle A. Housing education and support grants				14,000		
Subtitle B. Community housing partnership grants				286,000		
Title V.—Housing assistance	$11,364,793	$17,089,502	$18,422,887	19,447,399	$22,168,591	$7,318,120
New construction, public	443,153	0	460,875	514,122	550,320	0
New construction, Indian	130,098	0	135,248	224,000	194,468	179,200
Modernization [CIAP]	1,975,555	1,847,492	2,054,577	2,100,000	2,700,000	2,217,000
Technical assistance and training	2,430	5,000	NA	5,000	0	0
Lease Adjustments/Amendments	199,257	82,100	207,227	207,227	244,305	0
Section 202/8	1,393,015	942,755	1,216,184	1,200,000	1,450,562	(1)
Elderly	855,708	518,799	NA	(2)	890,800	(2)
Handicapped	313,751	185,956	NA	(2)	321,762	(2)
Amendments	223,556	238,000	NA	(2)	238,000	(2)
Certificates	1,112,401	367,663	1,156,957	[3] 1,874,880	1,767,075	1,294,350
Freestanding	957,222	213,192	NA	.....	1,701,975	(2)
P.H. Demolition/Disposition	NA	45,605	NA	.....	65,100	(2)
Opt outs/prepayment/relocation	109,202	NA	NA	.....	0	(2)
Replacement	45,977	108,866	NA	.....	0	(2)
Vouchers	758,029	1,564,744	788,399	.....	1,370,225	1,138,600
Freestanding	654,349	1,276,814	NA	.....	1,311,975	(2)
Opt outs/prepayment relocation	103,680	171,430	NA	.....	29,125	(2)
P.H. relocation	(2)	116,500	NA	.....	29,125	(2)
Loan management	138,924	110,200	114,482	179,430	440,600	149,400
Property disposition	309,620	329,400	322,004	523,720	1,046,250	324,570
Section 23 conversions	6,598	22,800	6,866	0	22,789	0
Section 8 amendments	1,334,591	1,810,400	1,620,473	1,620,473	1,883,442	0
Rental rehabilitation	127,985	69,905	133,104	133,000	135,000	0
Contract renewals	1,074,492	7,735,000	7,734,980	7,735,000	7,734,985	0
Regular mod rehab	73,185	0	0	222,667	0	0
Public housing drug elimination	48,409	149,798	50,345	150,000	100,000	150,000
Section 202 construction loans	412,969	228,016	491,570	491,570	491,570	(1)
Section 202 loan limit	472,664	282,543	491,570	491,570	491,570	(1)
Congregate services	5,829	0	6,062	6,002	7,000	0
Housing counseling	3,446	3,498	3,584	3,584	5,000	0
Emergency homeownership	0	0	0	4,700	(3)	0
Nehemiah grants	24,205	0	25,200	100,000	25,000	0
Public Housing Operating Subsidies	1,793,032	1,825,731	1,864,750	2,145,780	2,000,000	1,865,000
P.H. child care [from CDBG]	4,859	5,000	NA	(1)	5,000	0
Revised congregate housing services				11,244	0	
REACH Program (federal asset disposition grants)				(4)	0	
P.H. One-stop perinatal services				(4)	0	
Lead based paint abatement—from P.H. modernization				100,000	0	
Youth Sports Program—from P.H. Drug elimination				0	0	
Frail Elderly—from Section 202 construction loans				10,000	0	
P.H. Early Childhood Lrng. Services—from P.H. const				15,000	0	
Indian housing child care—from Indian new const				5,000	0	
Title VI.—Rural housing	2,269,000	2,116,000	2,345,231	2,585,581	NA	2,645,000
Rural Housing Insurance Fund [RHIF]				2,091,200	[5]	
Section 502				1,325,000		
Section 504				12,000		
Section 514				12,000		
Section 515				740,200		
Section 523(b)				1,000		
Section 524				1,000		
Rural Housing Grants				79,181		
Section 504				18,000		
Section 509				1,000		
Section 511				(4)		
Section 516				21,296		
Section 523(f)				8,979		
Section 533				29,906		
Rental assistance payments [RAP]				400,000		
Supplemental RAP				5,200		
Rural Migrant Homeless Program				10,000		
Title VII.—Community development	2,992,924	2,880,414	3,100,897	3,442,712	3,081,450	3,087,004
CDBG Program level	2,915,064	2,752,265	3,031,667	3,241,700	3,000,000	3,031,700
Insular areas/work study/other	95,643	14,500	N/A	16,500	14,500	0
Urban homesteading	24,445	49,953	13,515	78,500	15,000	0
Section 108 loan guarantee	141,768	0	147,439	300,000	140,000	0
Estimated budget authority			5,000	???		

FUNDING COMPARISON FOR HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS—Continued

Housing programs under the Banking Committee (dollars in budget authority)	1990 appropriation	1991 HUD budget	CBO Program baseline	House (H.R. 1180)	1991 House-passed appropriation	Senate (S. 566)
Section 312 loans	84,019	0	87,380	([4])	0	0
FHA, overall credit limit	73,837,500	75,000,000	76,791,000	76,791,000	75,000,000	0
GNMA MBS limit	81,713,500	80,000,000	84,982,040	84,982,040	80,000,000	0
Policy development and research	20,426	48,000	21,243	21,000	30,000	21,200
Fair housing [only FHIP, not FHAP]	5,839	5,592	6,240	6,000	12,200	6,000
Neighborhood reinvestment	26,554	24,500	27,616	50,000	24,000	28,000
Nat'l Inst. of Bldg. Sciences	492	0	512	512	250	0
Section 221(g)4 incentives regarding Put option				(158,000)	0	
Low income energy grants				38,000	0	
Energy Efficiency Program				2,000	0	
Older/disabled homeowner repair grants				([2])	0	
Housing energy conservation grants				([2])	0	
Community development plans—from CDBG				10,000	0	
Computer mapping technology—from CDBG				500	0	
Urban homesteading—RTC single family bulk sales				36,000		
Urban homesteading—holding costs for RTC S.F. bulk sales				6,500	0	
Title VIII.—Homeless prevention				630,000	0	
Prepayment/preservation				450,000	([7])	
Section 8 for displaced tenants				250,000		
Nonprofit preservation grants				200,000		
Homeless in-rem conversion				30,000		
AIDS housing provisions				150,000		
S. 566 Initiatives						4,544,700
Title III						2,000,000
Housing opportunity partnership [HOP]						2,000,000
Contracts for capacity building						25,000
Title IV.—HOPE programs						100,000
Subtitle A. Public and Indian homeownership						50,000
Public housing replacement						108,750
Subtitle B. Multifamily homeownership						25,000
Planning grants						1,000
Technical assistance grants						1,000
Subtitle C. Homeownership through nonprofits						25,000
Title						412,500
Preservation (preservation/prepayment)						412,500
Title						2,032,200
Supp. Hsng. for elderly (revised 202):						
Capital advances (loan fund)						628,000
Project rental assistance						346,000
Project retrofit (frail elderly)						50,000
Supp. Hsng. for handicapped (revised 202):						
Capital advances						258,000
Project rental assistance						234,000
Shelter plus care						246,200
McKinney grants						220,000
Flexible subsidy						50,000
Title VII:						0
P.H./project independence						N/A
HOPE/budget initiatives		$664,183				
HOPE grants		249,660				
Subtitle A—Public housing homeownership		95,869				
Subtitle B—HUD multifamily homeownership		71,902				
Subtitle C—Homeownership through nonprofits		71,902				
Elderly independence services		9,987				
Preservation through homeownership (prepayment)		411,741				
P.H. homeownership (reloc./replac.) >—from section 8		251,171				
P.H. repalcement vouchers >—from section 8		54,930				
P.H. transitional vouchers >—from section 8		87,375				
P.H. replacement certificates >—from section 8		108,866				
Homeless: Section 202 homeless—from section 202(h)		35,835				
SRO, homeless—replaces mod rehab SRO		49,571				
Rental housing assistance for the homeless		160,782				
Elderly independence demonstration—from section 8		34,050				
Section 221(g)4 incentives regarding Put option		(158,000)				
Housing bill comparison	17,041,913	23,140,461	24,300,816	28,527,392	25,725,255	17,673,524

[1] Initiative.
[2] See above.
[3] Up to 50 percent of the total certificate funding may be used for vouchers.
[4] Such sums.
[5] Not yet appropriated.
[6] Extension.
[7] See sec. 8, loan management very little funding for preparement.
Source: Submitted by the Hon. Chalmers P. Wylie (all figures are for committee-reported bills).

Ms. SLAUGHTER of New York. Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the gentleman from Texas [Mr. GONZALEZ] the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I rise to say that this is an open rule. It is as free as the air, for any Member to participate during the deliberations. I wanted to thank the chairman of the Committee on Rules, [Mr. MOAKLEY] as well as the gentlewoman from New York [Ms. SLAUGHTER] and the gentleman from Tennessee [Mr. QUILLEN]. This is the first omnibus housing bill in more than 10 years that has come across the way. I also want to recognize the indispensable contribution and cooperation of the gentleman from Ohio [Mr. WYLIE]. It was Mr. WYLIE who really agreed with Members that we had to have a commitment to Housing, and he arranged a meeting with the President and the Secretary of HUD in the White House in February, and a commitment was made. We feel that the Nation does need a renewal of the commitment to shelter in our country.

This is a comprehensive bill, but as far as the rule is concerned, it is, I think ideal. I wanted to thank the members of the Committee on Rules, and as I say, the gentlewoman from New York [Ms. SLAUGHTER], the gentleman from Tennessee [Mr. QUILLEN], and particulary the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], who spent quite a bit of time considering the various suggestions as to what kind of a rule should come out.

I would like to say that when we reach general debate, we will have further elaboration on these statements.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise in support of the rule. An open rule is important not just because it allows

maximum input from all Members of this body. It's also particularly appropriate because this is landmark legislation, and our colleagues should have a full opportunity to debate and discuss its various provisions.

This bill marks a new direction in our Nation's housing policy. It reverses a decade of neglect and retrenchment, and reasserts this Government's duty to ensure that every American has a decent place to live.

Of all the areas where the Reagan philosopy of budget cuts succeeded, it succeeded most in the area of housing. And it succeeded in devastating the ability of poor and working people to find and keep affordable homes. HUD's budget was cut by 77 percent, from over $30 billion to less than $10 billion. The number of new units of affordable housing dropped from 316,000 in the final year of the last Democratic administration, to just 82,000 last year. It's no wonder that between 2 and 3 million of our fellow citizens must now call home a cardboard box or a cold basement floor.

But the crisis of affordable housing effects more than the homeless. Hundreds of thousands of families now must pay 40, 50, even 60 percent of their income for rent. That leaves them less and less money for education, for investing in a business, for purchasing a home—in short, for achieving a prosperous and secure future in America.

H.R. 1180 marks the end of the politics of callousness and a first step toward policies of concern. It authorizes a total of $28 billion for new and existing programs. Expiring section 8 contracts are renewed in full—a decision to keep faith with those fortunate enough to receive such assistance. And nearly $2 billion in section 8 assistance will be provided to families who have been waiting patiently—sometimes for years—for help. Almost $3 billion is authorized to build and modernize public housing—including $224 million for Indian housing. In addition, the bill contains a large increase of funds to help our most frail citizens, the elderly and handicapped, meet their housing needs.

H.R. 1180 also contains some new programs intended that attack a root cause of the housing crisis: A lack of low-cost homes and apartments. The community housing partnership, in particular, is a promising innovation for an era of tight budgets. It provides $300 million to nonprofit organizations to renovate and build affordable housing. As the Federal Government has reduced its commitment to housing, nonprofit housing developers have ably and efficiently shouldered part of the task of creating inexpensive homes. They have built over 150,000 affordable units in the last few years alone.

The community housing partnership taps the vast potential of these community nonprofits. And in doing so, the costs to the taxpayer of affordable housing are reduced in several ways. First, Federal dollars will be leveraged by State, local, and private contributions. Second, the speculative profits of developers are eliminated. For-profit builders, contractors, engineers, and architects may be paid a fair price for the services they provide, but no one will get a windfall by real estate speculation. Third, the housing is intended to remain affordable in perpetuity, so we will not face the crisis of future conversions to upscale condos and co-ops. Finally, the housing is paid for up front to reduce the financing costs that drive rents up over the long run.

The nonprofit sector cannot possibly bear the burden of solving the housing crisis on it own. It can, however, play a greater part. The community housing partnership is a cost-effective way to help nonprofits fulfill their considerable potential.

On a less optimistic note, Mr. Speaker, H.R. 1180 contains some new language terminating the Government's commitment to protect tenants in buildings with federally subsidized mortgages. As you know, in 1987 Congress enacted some strong tenant protections. Unfortunately, they were significantly watered down by amendments at the committee markup of H.R. 1180. I look forward to offering an amendment with Chairman GONZALEZ and Representatives CONTE, MARTIN, SCHNEIDER, FRANK, BOGGS, and others to protect tenants from arbitrarily losing their homes, while still providing owners with a fair return on their investments.

Mr. Speaker, this is landmark legislation. Under the courageous leadership of Chairman GONZALEZ, millions of Americans have new hope of finding relief for high rents and unreachable mortgages. I look forward to working in the coming days and weeks with my colleagues on both sides of the aisle to make it a better bill. And I urge its swift passage and enactment into law.

Mr. QUILLEN. Mr. Speaker, I yield myself 2 minutes.

We all know that the real estate and home building industry is the backbone of our economy. We cannot afford to let it drop and drop and drop, because it affects everyone.

Therefore, I think this omnibus housing bill is very important to this Nation of ours, and I am anxious for the House to consider it. I think the rule, an open rule, is commendable. All Members will have an opportunity to debate their views and support the amendments offered, or express their opposition.

Mrs. ROUKEMA. Mr. Speaker, I rise today as the ranking member of the Housing Subcommittee to express my strong support for this rule for the consideration of H.R. 5157, the omnibus housing authorization.

It has not been since 1987 that the Banking Committee has been able to bring a housing authorization bill to the House for consideration. This bill reverses a period of apathy and indifference toward housing and is the product of a climate of comity and commitment on the part of the HUD, and the majority and minority to bring a good housing bill to the floor.

It was in the spirit of bipartisan cooperation that we asked for an open rule so that all of the Members of the House will have every opportunity to debate and amend this legislation.

This authorization has moved a long way toward a bipartisan bill which the administration can eventually accept. The comprehensive nature of this legislation, some 600 pages, and the fact that our committee adopted over 120 amendments, is testament to the commitment we, on both sides of the aisle, dedicated ourselves to in order to fashion an acceptable bill.

The legislation before us establishes a clear direction for national housing policy and introduces several new and promising housing initiatives.

The cornerstone of this legislation is the emphasis we placed on the principle of homeownership for all which is embodied in title III of the new bill, Secretary Kemp's HOPE proposals. Our bill provides new incentives for linking housing with economic and training opportunities. The HOPE for Family Self-Sufficiency Program will create new opportunities for families in the area of job training and counseling, education and child care.

We also dealt with the very critical problem of preservation and prepayment and we did manage to adopt a very workable and fair bipartisan solution.

Finally, we also included several additional reform measures aimed at addressing the recently uncovered scandals involving our public housing administrations. I am happy to say that the Roukema amendment to help clean-up these festering problems was adopted with strong bipartisan support.

Despite this positive report, Mr. Speaker, we on the minority side do have some lingering problems with the bill. We are concerned with the overall budget figures and while we support an increase in the funding for housing, we must maintain budget and fiscal responsibility.

We were also concerned with the number of new rental production programs especially because we felt they were poorly targeted and do present the potential for an additional round of overproduction and even scandal as we have seen already.

All in all, I believe we have a good bill which can stand the scrutiny of the House. It is for this reason that the House should consider this legislation under an open rule and why I am here to urge such a rule.

At this point, I do want to divert somewhat and address the broader question of housing and call to my colleagues' attention some rather sobering facts, and I have often referred to when I address groups interested in housing.

The facts I want to address in my brief time today relate directly to the housing needs of

the country and they relate to the political realities in Washington—two considerations which often come into conflict.

Our first fact, and this should come as no surprise to you, is that we face a genuine housing crisis—or, more accurately, we face several housing crises, because this problem is multifaceted.

How can I say there is a crisis when Americans are among the best housed people in history, with nearly two out of every three families now living in a home of their own?

It is true that since we adopted a public policy in the 1930's to see that every American had a safe and decent home, we have made substantial progress toward that goal.

But much remains to be done. And there is new evidence that our progress may have halted, that we may even be seeing some considerable regression.

It is a fact that the numbers of homeless Americans are growing. The homeless population is becoming more complex. And it is also a fact that we do not know exactly how to cope with this phenomenon. We are making a concerted effort to cope, but we are really feeling our way.

There are also the invisible housing problems—the thousands of people across the country who are on waiting lists for public housing, the mother and her children who are doubled up—or even tripled—with another family while they search for an affordable apartment, the working class family in a substandard apartment unit struggling to get ahead and to be able to afford a more decent unit, and the young married couple wondering how it will ever be possible for them to scrape together a downpayment and buy a home of their own.

One of the most disturbing facts is that this decade has seen the first decline in the rate of homeownership in half a century.

Today's median-priced new home absorbs nearly twice as much family income as it did in 1973.

Since 1970, the cost of housing has risen four times faster than income.

Young people who are just beginning their families have a particularly difficult time of it. In 1981, the percentage of homeowners 25 to 34 years old was 50.4. In 1986, the percentage had decline to 45.4.

The number of Americans unable to afford decent housing is increasing, as a result of rising housing costs and a loss of affordable housing stock.

I regret to say that even with that sobering set of statistics, home ownership continues to come under new attack. In our efforts to developed a deficit reduction package, some continue to propose that we eliminate or further limit the mortgage interest deduction.

We need to restate our commitment for retaining the deduction and I will be offering a "sense of the Congress" amendment during consideration of the Housing bill which would place the House on record in support of retaining this deduction. No housing issue is more important, and I wanted all of you to be aware of the threat and our response to it.

In addition, home ownership is being threatened on another level with the potential insolvency of the FHA. No program is more important to the average American who is a potential home owner than the assistance which the FHA can provide. In 1989, 600,000 mortgage loans were made under FHA. The average loan amount was $70,000, which indicates that a lot of low- and medium-income wage earners realized the American dream. Nevertheless, in 1989 FHA experienced close to 90,000 defaults and foreclosures. This figure has caused the FHA to lose an average of $340 million per year. At that rate, the FHA insurance fund will be broke in just a few years.

HUD, through an effort with Price-Waterhouse, studied this problem and concluded that drastic action must be taken in order to reverse this trend and to present yet another taxpayer bailout of the Federal insurance fund.

We on the committee have been working very hard to seek the best possible approach to make the FHA actuarially sound and at the same time limit the negative impact any action reform would have on potential home buyers. We will debate this alternative and others at a later time, but it is essential that the Members of this body support the alternative which best meets the capital and soundness requirements in the least amount of time.

Now, what must we do with respect to housing?

As I heard Charles Kuralt once put it, "Surely, a nation which has the resources to reach out and touch the face of the Moon can also provide shelter for those who have none."

I have said several times to other groups that what we need from the private sector is a Henry Ford of housing, an Arthur Leavitt for the 1990's. We need someone who can mass produce quality starter homes at prices new families can afford.

I realize that that is increasingly difficult to do, particularly in high-cost areas and where certain local and State requirements add to that cost.

This then leads all roads to Washington.

Now, what should the commitment of the Federal Government be—or should there be a Federal commitment?

For this Member of Congress, the answer is clearly yes there must be a firm Federal commitment to housing.

But let me emphasize that this does not mean we should simply return to the past. One reason we have seen such a dramatic decline in Federal housing dollars during the last several years is that many of the old programs just did not work, and they were too expensive. The average annual per-unit rental subsidy of the section 8 new construction program had reached staggering figures. In many parts of the country, one could purchase a starter home for that same amount of subsidy money.

As a result, there was a very small constituency for housing within the Congress. I myself voted for most of those past cuts, and I do not regret having done so. When I came to the Congress in 1981, changes were long overdue.

However, having said that, I hasten to add that enough is enough. Housing has taken more than its share of cuts in recent years. Since 1980, the budget authority for the Department of Housing and Urban Development has been reduced by 70 percent. Some other areas of the budget now need to take their turn.

Yes, we need a renewed Federal commitment to housing, and that means we need to make housing a higher priority.

There is a concerted congressional effort to boost the visibility of housing issues. I consider myself a leader in this effort. And, I want to especially congratulate HUD Secretary, Jack Kemp for his commitment, not just to housing and home ownership, but to housing and home ownership for the poor.

This effort has been bipartisan in nature and has helped to form the basis of this housing authorization legislation.

In sum, a renewed commitment to housing should address the plight of both the renter and the first-time home buyer. This omnibus housing bill is a step in the right direction. Our problems are formidable. Indeed, I may have had you face more facts today than you care to. But our task is not dismaying; it is manageable. There is a crying need across the land, and, together, we must answer the call.

Support this rule and support H.R. 5157.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise to oppose the rule because it waives all points of order, including sections 303(a)(4), 303(a)(5), and 402(a) of the Budget Act in the consideration of H.R. 5157, the Omnibus Housing Reauthorization Act of 1990.

This bill creates a new entitlement beginning in fiscal year 1992 to section 8 housing certificates for families where the lack of adequate housing is the primary factor in the placement of a child in foster care. This provision violates section 303(a)(4) of the Budget Act because it creates new entitlement authority first effective in a fiscal year for which Congress has not yet adopted a budget resolution. CBO estimates the 4-year costs of this program to be $1.2 billion in budget authority and $266 million in outlays.

The bill also permanently increases the maximum mortgage amount eligible for FHA insurance from $101,250 to $124,875 for one-family residences, thereby increasing the demand for such FHA loan guarantees by $3 billion over current levels. This new credit authority violates the following two sections of the Budget Act: Section 303(a)(5) for creating new credit authority first effective in a fiscal year for which no budget resolution has yet been adopted; and section 402(a) for creating credit authority not subject to amounts provided in appropriations acts.

Both of these programs may have merit but, they should not be considered now while the budget summit is ongoing. Negotiations on bringing down the estimated $160 billion 1991 deficit are difficult enough without Congress briskly conducting business as usual—creating new programs and expanding existing programs.

Once again, I urge my colleagues to reject this rule because it waives all points of order under the Budget Act.

□ 1040

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to my colleague, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentlewoman very much, and I appreciate the yielding of time.

I first want to compliment the Committee on Rules on the job they have done. Second, I want to talk a little bit about this bill that is coming forward.

It is an important bill. It is a needed bill. We have lots of problems in housing. One of the hallmarks of this bill, which I think does represent some changes, is that we are all willing to try some new program. There is a general feeling that the old programs at least were not cost-efficient. Some have said they have not worked. I think they have worked, but I think they can be improved upon.

For the last decade we have had criticisms from the left, the right, and the center about those programs. Now in this bill we are trying some new things. I do not agree with all the new things. The Secretary of HUD, Mr. Kemp, has a Hope Program on home ownership that he believes will work. The gentleman from Massachusetts [Mr. KENNEDY] has a program on community development, and I have authored a rental production program as well as some other parts of the bill.

Are we certain any of these will work? No. Are we certain that it is worth trying to see if they work, even if we might not agree with each letter and each dotting the "i" and crossing of the "t"? Yes, because we have such severe problems in housing.

Those problems are no longer limited to the very poor. When we talk in any one of our districts to young families about the old American dream—boy meets girl, they marry, they rent for a while, they save some money, and then buy a home—we find that is becoming more and more remote in many parts of the country. So we definitely have to think things through. This housing bill is a turning point because it says we are going to think things through and we are not going to let our narrow ideological blinders say to us that because we do not exactly agree with what someone else has done, we are just going to reject it.

So this is a very good bill. It is an important bill. It is a bill that took a long time to develop.

In conclusion, I want to praise both the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], and ranking minority member of the committee, the gentleman from Ohio [Mr. WYLIE]. They have gone above and beyond the call of duty to urge their respective Members on both sides of the aisle to come together on a bipartisan housing bill. Again I would say it is a bill that probably none of us on the committee would agree with in toto, but it is a bill that represents a meeting of the various needs and various compromises that have been made. It is an excellent bill. I appreciate the Committee on Rules giving us an open rule because I think it can stand that test.

Mr. Speaker, again I want to thank and congratulate the chairman and the ranking minority member of the committee for their perseverance in bringing this bill to the floor.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I rise today in support of House Resolution 435, the rule for consideration of the Housing and Community Development Act of 1990 (H.R. 1180).

This rule will allow us to debate and approve this desperately needed housing and community development authorization bill.

Throughout the last decade, housing, especially housing for lower-income Americans, suffered tremendously under the Reagan administration.

H.R. 1180 is the Banking Committee's response to the years of neglect, cutbacks, and scandal in our Nation's federally assisted housing stock.

To restore America's housing, this legislation authorizes nearly $28 billion in spending, the vast majority of which will finance our existing housing and community development programs in fiscal year 1990.

This funding will create or modernize roughly 200,000 housing units for roughly 600,000 homeless, low- and moderate-income renters and potential owners.

H.R. 1180 authorizes $3.2 billion for community development block grants to our States, cities and nonprofits to promote much-needed economic development in our neighborhoods.

In addition to these basic housing programs which have served our Nation so well, H.R. 1180 will initiate a number of innovative, new housing and homeownership programs such as the Community Housing Partnership, the National Housing Trust, the Hope programs, and the Rental Housing Production Program.

Overall, this legislation goes a long way toward rebuilding America's housing stock which has been so badly decimated in the 1980's.

The Housing and Community Development Act of 1990 puts us back on track by clearly demonstrating Congress' commitment to work toward assisting all Americans in obtaining housing.

Mr. Speaker, I urge my colleagues to support House Resolution 435 because it is a good rule for a good bill.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 303, nays 98, not voting 31, as follows:

[Roll No. 275]

YEAS—303

Ackerman	Emerson	Leath (TX)
Alexander	Engel	Lehman (CA)
Anderson	English	Lehman (FL)
Andrews	Erdreich	Lent
Annunzio	Espy	Levin (MI)
Anthony	Evans	Levine (CA)
Applegate	Fascell	Lewis (GA)
Aspin	Fazio	Lipinski
Atkins	Fish	Lloyd
AuCoin	Flake	Long
Baker	Flippo	Lowey (NY)
Barnard	Foglietta	Luken, Thomas
Bartlett	Ford (MI)	Machtley
Bateman	Ford (TN)	Madigan
Bates	Frank	Manton
Bellenson	Frost	Markey
Bennett	Gallo	Martin (IL)
Bereuter	Gaydos	Martin (NY)
Bevill	Gejdenson	Matsui
Bilbray	Gephardt	Mavroules
Bliley	Geren	Mazzoli
Boehlert	Gibbons	McCandless
Bonior	Gilman	McCloskey
Borski	Glickman	McCollum
Bosco	Gonzalez	McCurdy
Boucher	Goodling	McDade
Boxer	Gordon	McDermott
Brennan	Grandy	McGrath
Brooks	Grant	McHugh
Browder	Green	McMillan (NC)
Brown (CA)	Guarini	McMillen (MD)
Bruce	Gunderson	McNulty
Bryant	Hall (TX)	Meyers
Bustamante	Hamilton	Mfume
Byron	Harris	Michel
Campbell (CA)	Hatcher	Miller (CA)
Campbell (CO)	Hawkins	Miller (OH)
Cardin	Hayes (IL)	Mineta
Carper	Hayes (LA)	Moakley
Carr	Hefner	Mollohan
Chandler	Hiler	Montgomery
Clarke	Hoagland	Moody
Clay	Hochbrueckner	Morella
Clement	Horton	Morrison (WA)
Clinger	Hubbard	Murphy
Coleman (TX)	Huckaby	Murtha
Collins	Hughes	Myers
Condit	Hutto	Nagle
Conte	Hyde	Natcher
Conyers	Jenkins	Neal (MA)
Cooper	Johnson (SD)	Neal (NC)
Costello	Johnston	Nowak
Courter	Jones (GA)	Oakar
Coyne	Jones (NC)	Oberstar
Darden	Jontz	Obey
de la Garza	Kanjorski	Olin
DeFazio	Kaptur	Ortiz
Dellums	Kastenmeier	Owens (NY)
Derrick	Kennedy	Owens (UT)
Dicks	Kennelly	Pallone
Dingell	Kildee	Panetta
Donnelly	Kleczka	Parker
Dorgan (ND)	Kolter	Pashayan
Downey	Kostmayer	Patterson
Durbin	LaFalce	Payne (NJ)
Dymally	Lancaster	Payne (VA)
Dyson	Lantos	Pease
Eckart	Laughlin	Pelosi
Edwards (CA)	Leach (IA)	Penny

Perkins	Sharp	Thomas (GA)
Pickett	Shaw	Torres
Pickle	Shays	Torricelli
Poshard	Sikorski	Towns
Price	Sisisky	Traficant
Quillen	Skaggs	Traxler
Rahall	Skelton	Unsoeld
Rangel	Slattery	Valentine
Ray	Slaughter (NY)	Vander Jagt
Regula	Smith (IA)	Vento
Richardson	Smith (NE)	Visclosky
Rinaldo	Smith (NJ)	Volkmer
Ritter	Smith (TX)	Walgren
Roe	Snowe	Walsh
Rose	Solarz	Washington
Roth	Solomon	Watkins
Rowland (GA)	Spence	Waxman
Roybal	Spratt	Weber
Russo	Staggers	Weiss
Sabo	Stallings	Weldon
Sangmeister	Stark	Wheat
Sarpalius	Stearns	Whitten
Savage	Stenholm	Williams
Sawyer	Stokes	Wilson
Saxton	Studds	Wise
Scheuer	Sundquist	Wolf
Schneider	Swift	Wolpe
Schroeder	Synar	Wyden
Schuette	Tallon	Wylie
Schulze	Tanner	Yates
Schumer	Tauzin	Yatron
Serrano	Taylor	Young (AK)

NAYS—98

Archer	Goss	Petri
Armey	Gradison	Porter
Ballenger	Hammerschmidt	Pursell
Barton	Hancock	Ravenel
Bentley	Hansen	Rhodes
Broomfield	Hastert	Roberts
Brown (CO)	Hefley	Rogers
Buechner	Henry	Rohrabacher
Bunning	Herger	Ros-Lehtinen
Burton	Holloway	Schaefer
Callahan	Hopkins	Schiff
Coble	Houghton	Sensenbrenner
Coleman (MO)	Hunter	Shumway
Combest	Inhofe	Shuster
Coughlin	Ireland	Skeen
Cox	James	Slaughter (VA)
Craig	Kasich	Smith (VT)
Crane	Kolbe	Smith, Denny (OR)
Dannemeyer	Kyl	Smith, Robert (NH)
DeLay	Lagomarsino	Smith, Robert (OR)
DeWine	Lewis (CA)	Stangeland
Dickinson	Lewis (FL)	Stump
Dornan (CA)	Lightfoot	Tauke
Douglas	Lukens, Donald	Thomas (CA)
Dreier	Marlenee	Thomas (WY)
Duncan	McEwen	Upton
Edwards (OK)	Miller (WA)	Vucanovich
Fawell	Molinari	Walker
Fields	Moorhead	Whittaker
Frenzel	Nielson	Young (FL)
Gallegly	Oxley	
Gekas	Packard	
Gillmor	Parris	
Gingrich	Paxon	

NOT VOTING—31

Berman	Hall (OH)	Nelson
Bilirakis	Hertel	Ridge
Boggs	Hoyer	Robinson
Chapman	Jacobs	Rostenkowski
Crockett	Johnson (CT)	Roukema
Davis	Livingston	Rowland (CT)
Dixon	Lowery (CA)	Saiki
Dwyer	Martinez	Smith (FL)
Early	McCrery	Udall
Feighan	Morrison (CT)	
Gray	Mrazek	

□ 1106

Mr. HAMMERSCHMIDT and Mr. COBLE changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent this morning and missed rollcall vote 275, which occurred on House Resolution 435, the rule for the omnibus housing authorization. Had I been present, I would have voted "yea."

□ 1110

REQUEST FOR LIMITATION OF DEBATE ON H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. DE LA GARZA. Madam Speaker, in order to allow Members to keep their commitments and facilitate consideration of the legislation, hopefully to conclusion, I ask unanimous consent that debate on the bill (H.R. 3950) entitled the "Food and Agricultural Resources Act of 1990," and all amendments thereto end at 2 p.m., except that amendments printed in the RECORD and amendments authorized by paragraph (2) of the rule shall be debatable for 10 minutes.

The SPEAKER pro tempore (Ms. SLAUGHTER of New York). Is there objection to the request of the gentleman from Texas?

Mr. FRENZEL. Madam Speaker, reserving the right to object, can the Chair advise the House as to amendments that are printed in the RECORD and what kind of debate they are subject to?

The SPEAKER pro tempore. The Chair would advise the gentleman from Minnesota they would get 5 minutes on a side, 10 minutes total.

Mr. CONTE. Madam Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO MAKE IN ORDER IMMEDIATE CONSIDERATION OF A CERTAIN AMENDMENT TO H.R. 3950

Mr. ARMEY. Madam Speaker, I ask unanimous consent that in further consideration of the farm bill, we return to title VIII and take up for consideration a revised amendment on the peanut program which I would put at the desk.

Mr. ROSE. Madam Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 439 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3950.

□ 1112

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3950) entitled the "Food and Agricultural Resources Act of 1990," with Mr. BONIOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 25, 1990, pending was the amendment to title XII offered by the gentleman from Connecticut [Mr. GEJDENSON] as amended.

Following disposition of the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], it is the intention of the Chair to return either to title VI, which has yet to be designated, or title XI, which is open for amendment at any point.

Is there further discussion on the amendment.

Mr. DE LA GARZA. Mr. Chairman, we have been deferring title VI. The pending amendment is the Gejdenson amendment. I would hope that we can finalize title XII, come back to title VI, which has been deferred, and then pick up on title XI that is pending also.

The CHAIRMAN. The pending business is the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

AMENDMENT OFFERED BY MR. GLICKMAN TO THE AMENDMENT OFFERED BY MR. GEJDENSON, AS AMENDED

Mr. GLICKMAN. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN to the amendment offered by Mr. GEJDENSON, as amended: At the end of subtitle B (page 114, after line 17), insert the following:

SEC. 1223. PROHIBITION ON EXPORT PROMOTION.

(a) PROHIBITION.—Except as provided in subsection (b), neither the Secretary of Agriculture nor the Commodity Credit Corporation may make available any credit guarantee pursuant to section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) or section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), or any other commercial export promotion program, for exports to any country for which exports under such program, as a result of review by the Commodity Credit Corporation, have been suspended if such country—

(1) has demonstrated, through a pattern of conduct, a lack of respect for internationally recognized human rights,

(2) is acquiring chemical, biological, and nuclear weapons and delivery systems and components for such weapons, and has not forsworn the first use of such weapons,

(3) has demonstrated a lack of commitment to abide by the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisoning or Other Gases, and of Bacteriological Methods of Warfare, or

(4) provides support for international terrorism.

(b) EXCEPTION.—Subsection (a) shall not apply if the President certifies to the Congress—

(1) that the government of such country—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights,

(B) is no longer acquiring chemical, biological, and nuclear weapons and delivery systems and components for such weapons, and has forsworn the first use of such weapons,

(C) has recommitted itself to abide by the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisoning or Other Gases, and of Bacteriological Methods of Warfare, and

(D) does not provide support for international terrorism; and

(2) that the President has determined that it is essential to the national interest of the United States to waive the requirements of subsection (a);

except that any such waiver shall not take effect until at least 60 days after the President's certification is submitted to the Congress. Any such certification shall include the justification for the President's determination under each subparagraph of paragraph (1) and under paragraph (2).

(c) EFFECTIVE DATES.—This section shall cease to be effective 4 years after the date of enactment of this Act. The provisions of this section shall not apply to contracts or agreements entered into before July 27, 1990.

(d) REALLOCATION.—Any program amounts denied to a country pursuant to subsection (a) shall be reallocated to other countries, including emerging democracies (as defined in section 406 of the Agricultural Trade Development and Assistance Act of 1954).

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment, as amended, be considered as read and printed in the RECORD. Copies have been distributed to all Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. WALKER. Mr. Chairman, reserving the right to object, may I understand what the unanimous-consent request was?

Mr. GLICKMAN. Mr. Chairman, the unanimous-consent request was that the amendment be considered as read.

Mr. WALKER. Mr. Chairman, may I ask the gentleman from Kansas [Mr. GLICKMAN], is this an amendment that was printed in the RECORD?

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield, no, it is not. It is similar to the Schumer amendment printed in the RECORD. It is an amendment to the Gejdenson amendment.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, before I begin, I would yield to the gentleman from Texas [Mr. DE LA GARZA]. He may want to get a time limit on this amendment.

Mr. DE LA GARZA. Mr. Chairman, I would ask unanimous consent that this amendment be allowed 20 minutes for consideration, 10 for and 10 against.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Chairman, reserving the right to object, do I understand this is on the Glickman amendment, and that the gentleman fromn Texas [Mr. DE LA GARZA] is asking this?

Mr. DE LA GARZA. The gentleman is correct.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the proponent of the amendment, the gentleman from Kansas [Mr. GLICKMAN] will control 10 minutes of the time, and an opponent of the amendment, the gentleman from Montana [Mr. MARLENEE], will control 10 minutes. There was no objection.

The CHAIRMAN. The gentleman from Kansas [Mr. GLICKMAN] is recognized for 10 minutes.

Mr. GLICKMAN. Mr. Chairman, this amendment is similar to the Schumer amendment which was noticed in the RECORD. This amendment denies export credit guarantees, GS-101 short term and GS-103 long term, and other export subsidies, to any country that, one, has been suspended from these programs by the Commodity Credit Corporation, if that country has a lack of respect for internationally recognized human rights, is acquiring chemical, biological, or nuclear weapons and has not foresworn first use of these weapons, is not committed to abide by the 1925 Geneva Protocol on basically biological and gas warfare, and, number four, provides for support for international terrorism.

There is one country that is now currently under suspension by the Department of Agriculture, and that is the country of Iraq. This amendment is geared toward that, but the amendment itself is not country specific.

The amendment does provide a Presidential waiver. It provides for reinstatement to the programs if the President certifies to Congress that the country no longer meets the conditions which disqualified it from the programs. The sanctions would expire 4 years after enactment. It provides for contract sanctity for contracts entered into before today, July 27.

Mr. Chairman, let me just say that in October 1989 the Department of Agriculture suspended Iraq from participation in the GSM programs after discovering a variety of problems.

No. 1, inflated prices of commodities sold to Iraq under the programs, in some cases $40 per ton over the prevailing prices.

No. 2, allocation of freight costs to an amount financed by this credit that is prohibited.

Questions of whether shipments made under the programs have actually arrived there.

Fourth, Iraq's insistence on aftersales services in the form of industrial goods and cash rebates.

Five, Iraq's insistence that exporters pay domestic stamp tax on some sales.

The review of the Iraqi participation began after the U.S. attorney began investigating irregularities of loans made by the Atlanta branch of an Italian bank, Banco Lavaro, which had made $2 billion in unauthorized loans to Iraq.

In 1989 this Commodity Credit Corporation guaranteed over $1 billion in loans to Iraq. Iraq has received $500 million in 1990 and requested an additional $500 million, but the second allocation has been denied by the Department of Agriculture. It is suspended right now, pending an ongoing investigation.

I would just make a couple of comments why we are doing this. The State Department has characterized Iraq's human right record as abysmal. I do not need to go into great detail. The human rights deprivations involving Iraq, the use of biological weapons, the deprivations involving disappearances, arbitrary detentions, lack of a fair trial, political imprisonment, and those kinds of things.

□ 1120

I would point out that under this amendment, so that everybody knows, that any credits that were available to Iraq or under the statute available would be reallocated to other countries, including the emerging democracies, Eastern Europe, other parts of this world. So the credits would be reallocated and the President can waive the restrictions if he feels Iraq is doing better on human rights.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I think this is an excellent amendment because it does several things. It continues to support the export of the agricultural products from this country. It just shifts the American subsidy from a terrorist nation that has annihilated its own people, that is involved in scandals presently in the program that involve kickbacks, and shifts that subsidy to the emerging democracies where our help ought to be going.

It does not hurt American grain exporters. It helps American grain exporters export the grains where they ought to be going, and does not have American taxpayers subsidizing the murderous government of Saddam Hussein in Iraq.

Mr. GLICKMAN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Kansas [Mr. GLICKMAN] has consumed 4 minutes.

Mr. MARLENEE. Mr. Chairman, I yield 4 minutes and 30 seconds to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to ask several questions of my colleague from Kansas. I certainly do not rise in support of the country of Iraq, more especially since we have an itemized list of real problems in that country from APAC AIPAC. But I am concerned about this.

The gentleman is correct in describing the situation of the Banco Nationale Lavaro, but it is my understanding as a result of that review, the request for these credit guarantees was postponed, that they concluded there is no evidence to indicate that that country should be precluded from getting additional credit guarantees. So we have that out of the way.

Now, is the gentleman from Kansas offering an amendment to replace the Schumer amendment?

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, yes, that is correct.

Mr. ROBERTS. So this is the Schumer amendment as modified by yourself?

Mr. GLICKMAN. It is modified by providing a presidential waiver and reallocating the credits to other countries.

Mr. ROBERTS. I hestitate to rise in opposition to anything offered by the gentleman from New York [Mr. SCHUMER] on the second day of debate on the farm bill. But I must say that I am concerned with regards to contract sanctity, and I am concerned in regards to let us just, call this what it could develop into, and that is an embargo. I know that is a buzzword in the farm community. But we do sell to Iraq about a million tons of wheat and 450,000 tons of rice.

I wonder who we are hurting here? The people of Iraq or the farmers as opposed to the leaders of that country. And I am wondering if this is the best means to get the attention of the leaders of that country. And I am wondering where does this end.

I do not have the gentleman's amendment right before me, but what is going to happen down the road in terms of human rights violations? Today it is I guess Iraq and tomorrow it is the Soviet Union, although things are changing very rapidly over there. I would imagine that since the Romanians mistreat the ethnic Bulgarians, we could be in the same kind of a situation, or the Turks that mistreat the Armenians. And here once again we are using grain as a foreign policy weapon as opposed to a tool for peace.

I can understand the blood pressure behind this, and we ought to take some action to put pressure on that country's leadership. I know the gentleman knows the drift of my conversation and our mutual concern. Could the gentleman respond, please?

Mr. GLICKMAN. First of all, this amendment is similar to that offered by our junior Senator from Kansas, Senator KASSEBAUM, in the Export Administration Act. It does not deal with cash sales at all. Cash sales may continue.

Contract sanctity is protected. We are talking about a matter of principle.

This government, the Government of Iraq, probably has the worst human rights record in the world. The question is should American taxpayers, through dollars provided to the Commodity Credit Corporation, be subsidizing sales to that country when their human rights record is so atrocious, and especially when we can reallocate these credits to other countries which are not committing atrocities; countries like Poland, Hungary, Czechoslovakia, Eastern European countries, and Latin American countries.

But I understand where the gentleman is going, and I have been involved in this debate with him for a very long time. It is just my judgment that this is something we need to do as a matter of principle, particularly if the President has the necessary waiver power.

Mr. ROBERTS. Reclaiming my time, I understand the gentleman's concern, and I have talked this over at great length with the junior Senator from Kansas, Senator KASSEBAUM.

I would just say that the past history of prohibitions like this is they prove very counterproductive, and I am concerned about it. I am not going to bring this to a vote. I understand the gentleman's concern. Others may. But I do have a real concern that it is misdirected at the expense of our exports, and I thank the gentleman for responding.

Mr. GLICKMAN. Mr. Chairman, I would just take 10 seconds to comment that as the gentleman knows I have been one of the most active Members in trying to get the Jackson-Vanik amendment waived, because I think the Soviets have complied. So I am trying to open it up where I think people are doing a good job on human rights. But I am trying to say that where they are doing a lousy job on human rights they should not get taxpayer assistance.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I would like to ask the gentleman from Kansas, if I may, to have a colloquy with me. I think Iraq is perhaps at this point in time the most abysmal government in the world. But at the same time, sharing the concerns expressed by the gentleman from Kansas [Mr. ROBERTS], I want to make sure that we are not shooting ourselves in the foot.

In previous similar circumstances when we have denied our grain, in this case rice to one country, some other country has simply sold it. They do not have the scruples that we do, and we have not only lost the sale, we have lost the customer long term.

I do not think that we should be meddling here in the House quite as much as we do in foreign policy. I think the President should have more discretion than we sometimes give him.

I do not want to do Iraq any favors, but can the gentleman describe for me a scenario here by which, for example, we transfer these credits to some other country so that the American farmer is not going to lose the benefit of the sale, because if we are not selling the rice in this case to Iraq, I dare say that Thailand will pick up the sale and be selling them rice tomorrow. Then our point, while well made, will have had no real impact upon the human rights circumstances in Iraq.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think the gentleman raises a good question.

Let me say again cash sales to Iraq are permitted. We are not talking about that.

Second of all, the USDA through the Commodity Credit Corporation has suspended the credit program to Iraq almost a year now, and the Iraqis have made very little purchases after the suspension, waiting to see what takes place.

In my amendment, we do reallocate the Iraqis credits to other countries, and in my judgment that takes care of most of the situation.

Finally, the President has a waiver. I have required that to be in there, the waiver to turn this around if he says that the Iraqis are doing a good job on human rights, and I do not think that provision is unreasonable.

We imposed sanctions on South Africa, they are not quite the same kind of sanctions. These sanctions have had an incredible effect on that government. In Iraq we have a government that has basically been charged in the killing thousands of people with poison gas, and I think this amendment is a reasonble way to handle it.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding time to me. I rise only to make the point that it is my understanding that we currently have most-favored-nation status with Syria which is not a stellar participant in human rights, either. I am curious to know are we not setting up a dual standard in the same region?

That is the only point that I make on this. I am curious about the inconsistency. I am sympathetic to this amendment, but I wonder if it does not, as we have said before, use agriculture as a weapon. And we have found that to be an unworkable weapon in the past.

I thank the gentleman for yielding.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

□ 1130

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment. I will explain up front that rice is the largest single income-producer in the First Congressional District of Arkansas. My district produces more rice than any other State.

Now, the effect of the gentleman's amendment could reduce rice exports in my State and across the country by 20 percent. I am reminded of the statement that was made by the famous Yogi Berra, who said, "This is de'ja vu all over again." Back before the Cuban revolution, which is in the news these days—celebrating its 37th anniversary—Arkansas was the single largest exporter of rice to Cuba. Over 30 years since the embargo was imposed by our country against selling rice to Cuba, it has cost my rice farmers $1,500,000,000 in uninflated dollars.

The embargo on Cuba has been a classic case of shooting ourselves in the foot in agricultural trade. To do so once was folly. To do so a second time, with respect to Iraq, is near insanity.

In 1984, Congress created a bipartisan commission, the National Commission on Agricultural Trade and Export Policy, which was composed of Republicans and Democrats from the House, the Senate, and private life.

That Commission worked hard for 2 years. And, when it made its final report in 1986, it came up with a number of interesting conclusions.

Among other things, the Commission said:

Greater consideration should be given to the needs of U.S. agriculture in the design and execution of United States foreign policy . . .

The Commission recommends Congress and the Administration resist pressure to subjugate legitimate trade interests of the United States to facilitate or enhance U.S. foreign policy interests, or those of other nations . . .

Agricultural export embargoes have never been effective. It is not evident that such embargoes currently in effect are having the desired results, particularly since the commodities and products denied currently embargoed nations are freely available from other sources . . .

U.S. agricultural exporters should be authorized to ship U.S. agricultural commodities and products to such nations if such commodities and products are freely available elsewhere, in a manner the President determines to be consistent with the maintenance of United States national security.

I realize the amendment deals only with export credit guarantees, and does not explicitly impose an embargo. However, the effect would be the same.

Here's why we shouldn't restrict agricultural trade with Iraq:

First, we need the trade. We still have a $100 billion trade deficit. The answer is simple, as former Commerce Secretary Verity used to say: You solve the trade deficit by exporting more and importing less. This amendment says we should export less.

Second, agricultural export sanctions don't work unless every other farming nation goes along with the sanctions. While American agriculture is the world's greatest engine of food production, none of the major program crops are grown here exclusively. Unless every other nation goes along, sanctions only lose markets for the American farmer while having no foreign policy impact.

And let me assure the members that if the amendment becomes law, the other rice exporting nations of the world will certainly not follow our lead.

I dare say that export officials in Thailand are nearly beside themselves with joy over the gentleman's amendment.

Third, the amendment may actually cost the taxpayers money.

In the rice program, we have a marketing loan. Under the regular program, the budget exposure for deficiency payments can be no greater than the difference between the target price and the loan rate. But under the marketing loan, the exposure is the difference between the target price and the market price.

Therefore, whenever you do something that sends the market price through the floor—which this amendment might do—you send the taxpayer's exposure through the roof.

So anything that we do in the nature of trying to punish the Iraqis for being despicable, for having a despicable government, is only going to punish the people that are producing food for our Nation and adding to our economy in this great country.

I ask my colleagues to look and to reflect upon this amendment in the reality that exists today and to vote down this amendment because it is only going to hurt our own people.

Mr. GLICKMAN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman offering this amendment. For the record, the difference between the amendment that we had printed, that I had printed in the RECORD, and the gentleman's amendment is it lays out certain conditions that I think everyone in this Chamber can agree with and it says specifically that the credits can and should be used for other countries that do not practice terrorism.

We are not trying to hurt any individual farmer at all. What we are trying to do is simply say that this country should not give $1 billion, which in effect is free, to Iraq. Saddam Hussein is a madman. He has butchered 80,000 of the Kurds in his country with chemical weapons.

Just the other day, in an effort to thwart the free market in petroleum, he had his troops roll up near the nations of Kuwait and Abu Dabi and threatened them to restrict their oil production or he would invade.

As a result, for the rest of this summer our motorists are going to be paying more money at the pump to subsidize a man like this.

To give this man $1 billion, one-fifth of the entire program, his country, in free agricultural commodities just does not make sense at this time.

I think we have to make a strong stand against Hussein. We have to make a strong stand against terrorism.

The amendment that we are talking about, the gentleman from Kansas and myself and others, and the gentleman from Missouri, does that without, in my judgment, hurting U.S. agricultural industry. I hope all Members of this body will strongly support this amendment. It is just a scheme to continue to give money to Saddam Hussein.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman and my colleagues, I would much have preferred that this issue be discussed in the Committee on Foreign Affairs with appropriate hearings, where there is a greater degree of expertise. I would like to state to the chairman and members of the Committee on Foreign Affairs that it was not my intention nor my desire that this issue be considered during debate on the farm legislation. There are a lot of things that concern us, and I think we would have to take it in context, whom we hurt, whom the other countries involved are.

There are just a lot of other things that I think merit more than the

debate that we are allowing it here on the floor at this point.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand the chairman is opposed, and I am opposed, to this amendment. It seems we want to balance the budget on the back of the American producer, we want to establish foreign policy on the back of the American producer. We are even delving into drug policies on the back of the American producer.

This amendment, in my opinion, would be very, very disruptive to the marketplace. Make no mistake about it, the President right now and the Secretary of Agriculture right now can deny, can deny, can shut down export enhancement programs at any time.

So this amendment is not needed. It is very disruptive.

You must ask yourselves what happens if a country has received some foreign credits and then they are suspended, what does that do to our policy, to our ability to sell to those countries.

So, Mr. Chairman, I would urge the members of this committee to vote down this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 1 minute remaining, and the gentleman from Kansas [Mr. GLICKMAN] has 2 minutes remaining.

Mr. GLICKMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, I would like to get Mr. SCHUMER's attention, if I could. We are just picking on agriculture here. We do not deny any access to the Export-Import Bank, we have commercial arms sales, we have exports of dual-use items. Why are we just selecting agriculture?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I inform my friend that we in the Committee on Foreign Affairs are acting on all those others as well. It is insane, with limited resources, for the United States to subsidize Iraq when we ought to be assisting countries in Eastern Europe.

Mr. GLICKMAN. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from North Carolina [Mr. ROSE], who has been very helpful on this particular issue.

Mr. ROSE. Mr. Chairman, if this was a perfect world, we should not need this amendment and we should not have it. I urge my agricultural colleagues to understand the depth of the concern of many of our Members who are not as directly concerned with American agriculture as we are. I have been into this issue in my subcommittee. They are correct. There is a problem. The Secretary has not policed this area. We need this amendment.

Mr. Chairman, I urge its adoption.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, I oppose using food as a bargaining chip or a weapon in dealings with foreign countries. History is often our best teacher, and in this case, history teaches us that the embargo of grain can result in the irreparable loss of markets. We saw this during the Carter administration when the embargo of grain sales to the Soviet Union caused damage to our Nation's farm economy that took years to recoup.

Mr. GLICKMAN. Mr. Chairman, I would like to close the debate.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in opposition to the Schumer amendments to the trade title of the farm bill. In particular, I am concerned about the amendment merging the Targetted Export Assistance Program [TEA] and the Market Development Cooperator Program into the Market Promotion Program [MPP] by 1995.

My district—and Idaho as a whole—is a leader in the production of vegetable, grass, and other seed products. One of the reasons for this has been the market development program. Because of its relatively small size and the nature of its products, the seed industry cannot effectively participate in TEA. Instead, it has participated in the market development program through the Foreign Agricultural Service [FAS] which is much more suited to its industry and interests. As a result of the seed industry's participation in the market development program since 1968 total seed exports have grown from $36.5 million to $590 million in 1990.

To merge these two programs and reduce export marketing funding as Representative SCHUMER now proposes, would very likely sound the death knell for the seed industry's overseas marketing efforts. TEA's main focus is to advertise and promote high-value exports. The seed industry cannot be characterized as that kind of a high profile and value commodity. Yet the seed industry pumps millions of dollars into the rural economies of Idaho and other Northwestern States. The seed industry needs continued access to an overseas marketing program like the market development program. Clearly, the only way to help small agricultural commodities like vegetable and grass seeds which have contributed to the growth of our overseas agricultural trade is to keep the TEA and market development program independent.

These programs have separate and distinct purposes. I urge my colleagues to oppose this amendment so that commodities like the seed industry, which are smaller but just as important to rural economies, may benefit from overseas trade as well.

□ 1140

Mr. GLICKMAN. Mr. Chairman, I yield myself the remaining 1 minute.

Iraq is one of the largest oil producing countries in the world. They have a tremendous amount of cash. They could buy all the agricultural products they want from the United States, but instead they are putting their cash in to weapons of destruction, chemical weapons, biological weapons, which are killing tens of thousands of people. These are documented human rights violations. That is why we are doing this right now. They could buy cash grain, cash anything from the United States, and they do, in fact, do this on occasion. But for the most part, they are getting their agricultural products on credit, financed by the taxpayers of this country.

The second point, the Department of Agriculture has already suspended Iraq from the credit program. The suspension has taken place, largely because of allegations, irregularities, and possible criminalities in these sales to Iraq. In my judgment, Iraq is tainted in a variety of ways. I am reminded that the Italian poet Dante once said, and I hope I can paraphrase him right, "The darkest place in hell is reserved for those who in a period of moral crisis claim neutrality." We cannot claim neutrality when we are talking about a country which is somewhat equivalent, in terms of their actions, to the darkest place in hell. I urge Members to vote for the amendment.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this request.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN] to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GLICKMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 175, not voting 23, as follows:

[Roll No. 276]

AYES—234

Ackerman	Applegate	AuCoin
Anderson	Armey	Bartlett
Annunzio	Atkins	Barton

Beilenson	Hefley	Pease
Bennett	Henry	Pelosi
Bentley	Hochbrueckner	Pickle
Berman	Horton	Porter
Bevill	Hughes	Poshard
Bilbray	Hunter	Price
Boehlert	Hutto	Pursell
Bonior	Inhofe	Ravenel
Borski	Ireland	Regula
Boucher	James	Rhodes
Boxer	Johnston	Richardson
Brennan	Jones (GA)	Ridge
Broomfield	Jones (NC)	Rinaldo
Browder	Kanjorski	Ritter
Brown (CA)	Kaptur	Roe
Brown (CO)	Kasich	Rohrabacher
Bryant	Kennedy	Ros-Lehtinen
Buechner	Kennelly	Rose
Bunning	Kildee	Roybal
Byron	Kleczka	Russo
Callahan	Kolbe	Sabo
Campbell (CA)	Kolter	Sangmeister
Campbell (CO)	Kostmayer	Saxton
Cardin	Kyl	Schaefer
Carper	LaFalce	Scheuer
Chandler	Lagomarsino	Schneider
Clarke	Lancaster	Schroeder
Clay	Lantos	Schuette
Clinger	Leach (IA)	Schulze
Collins	Lehman (FL)	Schumer
Conte	Lent	Sensenbrenner
Cooper	Levin (MI)	Serrano
Coughlin	Levine (CA)	Shaw
Courter	Lewis (GA)	Sikorski
Cox	Lipinski	Sisisky
Coyne	Lloyd	Skaggs
Craig	Lowey (NY)	Slattery
Crane	Lukens, Donald	Slaughter (NY)
Dannemeyer	Machtley	Smith (NJ)
DeFazio	Manton	Smith (VT)
Derrick	Markey	Smith, Robert (NH)
DeWine	Martinez	
Dicks	Mavroules	Snowe
Donnelly	McCandless	Solarz
Dornan (CA)	McCollum	Solomon
Douglas	McDade	Spratt
Downey	McDermott	Staggers
Dreier	McGrath	Stark
Durbin	McHugh	Stearns
Dyson	McMillen (MD)	Stokes
Eckart	McNulty	Studds
Edwards (CA)	Mfume	Sundquist
Engel	Miller (CA)	Swift
Erdreich	Miller (WA)	Synar
Evans	Mineta	Tallon
Fascell	Moakley	Tanner
Fish	Molinari	Torricelli
Flake	Montgomery	Traficant
Foglietta	Moody	Unsoeld
Ford (TN)	Moorhead	Upton
Frank	Morella	Valentine
Frost	Mrazek	Vander Jagt
Gallegly	Murphy	Vento
Gallo	Murtha	Walgren
Gaydos	Neal (MA)	Waxman
Gejdenson	Neal (NC)	Weiss
Gephardt	Nowak	Weldon
Gilman	Oberstar	Wise
Glickman	Owens (NY)	Wolf
Gordon	Owens (UT)	Wolpe
Goss	Packard	Wyden
Green	Pallone	Yates
Guarini	Patterson	Yatron
Harris	Paxon	Young (AK)
Hawkins	Payne (NJ)	
Hayes (IL)	Payne (VA)	

NOES—175

Alexander	Clement	Dymally
Andrews	Coble	Edwards (OK)
Anthony	Coleman (MO)	Emerson
Archer	Coleman (TX)	English
Aspin	Combest	Espy
Baker	Condit	Fawell
Ballenger	Conyers	Fazio
Barnard	Costello	Feighan
Bateman	Darden	Fields
Bates	Davis	Flippo
Bereuter	de la Garza	Ford (MI)
Bliley	DeLay	Frenzel
Bosco	Dellums	Gekas
Brooks	Dickinson	Geren
Bruce	Dingell	Gibbons
Bustamante	Dorgan (ND)	Gillmor
Carr	Duncan	Gingrich
Gonzalez	Martin (NY)	Sharp
Goodling	Matsui	Shays
Gradison	Mazzoli	Shumway
Grandy	McCloskey	Shuster
Grant	McCurdy	Skeen
Gunderson	McEwen	Skelton
Hall (OH)	McMillan (NC)	Slaughter (VA)
Hall (TX)	Meyers	Smith (IA)
Hamilton	Michel	Smith (NE)
Hammerschmidt	Miller (OH)	Smith (TX)
Hancock	Mollohan	Smith, Denny (OR)
Hansen	Morrison (WA)	
Hastert	Myers	Smith, Robert (OR)
Hatcher	Nagle	
Hayes (LA)	Natcher	Stallings
Hefner	Nielson	Stangeland
Herger	Oakar	Stenholm
Hiler	Obey	Stump
Hoagland	Olin	Tauke
Holloway	Ortiz	Tauzin
Hopkins	Oxley	Taylor
Houghton	Panetta	Thomas (CA)
Hubbard	Parker	Thomas (GA)
Huckaby	Parris	Thomas (WY)
Hyde	Pashayan	Towns
Jenkins	Penny	Traxler
Johnson (CT)	Perkins	Udall
Johnson (SD)	Petri	Visclosky
Jontz	Pickett	Volkmer
Kastenmeier	Quillen	Vucanovich
Laughlin	Rahall	Walker
Leath (TX)	Rangel	Walsh
Lehman (CA)	Ray	Washington
Lewis (CA)	Roberts	Watkins
Lewis (FL)	Rogers	Weber
Lightfoot	Roth	Wheat
Long	Rowland (GA)	Whittaker
Lowery (CA)	Saiki	Whitten
Luken, Thomas	Sarpalius	Williams
Madigan	Savage	Wilson
Marlenee	Sawyer	Wylie
Martin (IL)	Schiff	Young (FL)

NOT VOTING—23

Bilirakis	Gray	Robinson
Boggs	Hertel	Rostenkowski
Burton	Hoyer	Roukema
Chapman	Jacobs	Rowland (CT)
Crockett	Livingston	Smith (FL)
Dixon	McCrery	Spence
Dwyer	Morrison (CT)	Torres
Early	Nelson	

□ 1203

The Clerk announced the following pair:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Spence against.

Messrs. BROOKS, GINGRICH, ROTH, JONTZ, VOLKMER, PASHAYAN, KASTENMEIER, COSTELLO, PANETTA, TOWNS, CONYERS, and MATSUI changed their vote from "aye" to "no."

Mr. GAYDOS, Mr. SUNDQUIST, Mrs. COLLINS, and Messrs. JAMES, HAYES of Illinois, RHODES, SABO, DANNEMEYER, CRAIG, and TALLON changed their vote from "no" to "aye."

So the amendment to the amendment as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SCHUMER TO THE AMENDMENT OFFERED BY MR. GEJDENSON, AS AMENDED

Mr. SCHUMER. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER to the amendment offered by Mr. GEJDENSON, as amended, in section 103(a) of the Agriculture Trade Act of 1978, as contained in section 1221 of the amendment, redesignate paragraph (4) as paragraph (5), strike "and" at the end of paragraph (3), and insert after paragraph (3) the following:

"(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees; and

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARLENEE. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] is not in order.

The gentleman from New York [Mr. SCHUMER] is recognized on his amendment for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

Mr. CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Mr. Chairman, when is the proper time to reserve the right to object?

The CHAIRMAN. The Chair had already put the question. The Chair looked, no Member was standing, and the gentleman from New York [Mr. SCHUMER] was recognized on his amendment.

The gentleman from New York [Mr. SCHUMER] is recognized for 5 minutes on his amendment.

Mr. SCHUMER. Mr. Chairman, this is an amendment that has been worked out with the committee. It simply makes sure that the financial institutions that are making the loans get evaluated so that they are capable of actually making the loans and getting paid back, that they are not such weak financial institutions that they will fail or cause the U.S. Government to end up picking up the tab.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, this is an excellent amendment. These are lessons that we should have learned elsewhere in other programs. We need to pay attention to make sure that the guarantees are not only justified guarantees, but the institutions that provide these loans are viable institutions to limit the liability of the Government.

The work of the gentleman from New York [Mr. SCHUMER] here, as in the savings and loan area, is excellent work, and we support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER] to

the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended.

The amendment to the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER TO THE AMENDMENT OFFERED BY MR. GEJDENSON, AS AMENDED

Mr. SCHUMER. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER to the amendment offered by Mr. GEJDENSON, as amended: In section 202(e)(4) of the Agricultural Trade Act of 1978, as contained in section 1221 of the amendment, strike "may provide" and insert "may not provide" and strike "under such terms and conditions as may be established by the Secretary".

In section 202(f) of the Agricultural Trade Act of 1978, as contained in section 1221 of the amendment, add the following new paragraph at the end:

(6) PHASING OUT OF ASSISTANCE.—Assistance under this section to an eligible trade organization for export promotion activities relating to an agricultural commodity in a particular country may not be provided for a period of more than 5 years. The Secretary shall establish criteria for phasing out such assistance before such assistance is terminated under this paragraph.

In section 202(g) of the Agricultural Trade Act of 1978, as contained in section 1221 of the amendment, strike "$325,000,000" and insert "$110,000,000".

In section 202 of the Agricultural Trade Act of 1978, as contained in section 1221 of the amendment, add the following new subsection at the end:

"(i) COMBINING OF PROGRAMS.—In order to more effectively carry out export promotion programs, in particular by avoiding duplication of effort, the Secretary shall, by the beginning of fiscal year 1995, combine the cooperator market development program of the Foreign Agricultural Service and the program established under this section.

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, is this the market promotion amendment?

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield, this is the TEA amendment that has been printed in the RECORD.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection.

□ 1210

Mr. SCHUMER. Mr. Chairman, what this amendment simply does is that it drops the amount for the TEA Program to $110 million by cutting out branded advertising.

Simply put, the market promotion, that is the new name for it, is a use of the taxpayers' money that I think is not required at this time in the sense that we are going to have huge cuts coming up before us in the budget deficit.

I would guess that when the Agriculture Committee is asked to make cuts that this program would probably be high on their list, even though we would disagree at this time whether it is necessary.

The program was created by the 1985 farm bill or offset the adverse effects on U.S. commodities of unfair trade practices of foreign competitors.

The intent sounds good, but in reality it is a corporate welfare program. More than 35 percent of the annual $200 million appropriation is given out to companies and cooperatives for brand name advertising. Many of the beneficiaries of this program are huge multinational corporations.

Now, I do not deny that those corporations gain a real benefit by this advertising. They certainly do. The issue is, why should the Government pay for that advertising when these companies can very well afford to do it themselves? Should the U.S. taxpayers be picking up the tab for these large businesses to advertise overseas.

In 1989 the Federal Government gave McDonald's, for instance, $210,000 for brand name advertising overseas. Last year McDonald's reported net profits of over $700 million.

Tyson's Foods with profits of $100 million on sales of $2.5 billion got $4.4 million in TEA funds.

Other megabusinesses that have received these funds are Hershey Foods, $290 million.

Dole, $1.6 million.

Mars, $783,000.

Sunkist, $9 million, and the list goes on and on: Gallo Wine, $2 million. Even Paul Newman Salad Dressing Co. got $150,000.

When they called up the head of the company and said, "Why did you get this money?"

Here is what she said. She said, "I don't know," says Ursula Hotchner. "Someone from the Export Council called up one day from out of the blue and said why don't we take the money to help fight the deficit or something. They said all we had to do was send in our advertising bills and they would reimburse us. I figured why not."

In other words, the Newman Co. was advertising anyway. This did not encourage them to advertise. Simply someone called up because there was some money in a program and said, "Why don't you use it?"

This is the kind of thing that goes on in this program. A company or association does not have to spend its advertising subsidy in a country that poses a barrier, even though that was the intent of the program. They can use it in a country that practices free trade and has no barriers at all.

At my request, the GAO has extensively examined the program and found serious management problems.

So Mr. Chairman, I believe that the program should be cut. Maybe at a time of complete prosperity we could afford this kind of program. I do not know if it would be worthy anyway, but at a time when we are cutting so many other things and when in agriculture itself we will have to cut very many worthy programs, I find this program unnecessary, and I would urge that we move to cut the program.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MARLENEE. Mr. Chairman, are we operating under the 5-minute rule?

The CHAIRMAN. That is correct.

Mr. MARLENEE. I have a further parliamentary inquiry. Mr. Chairman, under the 5-minute rule are the members of the committee recognized first?

The CHAIRMAN. The gentleman is correct.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I suggest that we arrive at some limitation of time if we are going to finish this legislation today.

From the author of the amendment, I ask unanimous consent that we limit debate to 15 minutes, 10 minutes to those in opposition and 5 minutes to the gentlemen in favor of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MARLENEE. Reserving the right to object, Mr. Chairman, I would like to have some idea of how many Members on this side of the aisle wish to speak on this amendment.

It appears that there are quite a number here. I think that 10 minutes is not quite enough.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will yield under his reservation, I might inform the gentleman that at stake here is whether we finish this legislation or not.

There is a procedure called revise and extend that a Member can utilize to the fullest extent. Even to those of us involved in the immediate amendment it means something, but to the rest of our colleagues who are not immediately involved, to them it is repetition when 5 or 10 say the same thing.

Mr. MARLENEE. Regaining my time, Mr. Chairman, and further reserving the right to object, I hate to keep anybody from the debate and having their input on this very important legislation; however, if that is the chairman's desire, 10 minutes for the opposition and 5 minutes for the proponents, I will withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] will control 10 minutes and the gentleman from New York [Mr. SCHUMER] will control 5 minutes.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. ROBERTS], a member of the committee.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to point out to the Members that in regard to the TEA Program, we asked for the GAO study that prompted this amendment. Not only did the gentleman from New York [Mr. SCHUMER] ask for this study, but the Committee on Agriculture asked for this study.

We are putting in new audits and new management controls. I do not see any real benefit in regards to simply prohibiting any branded product from being used. Most of these products are consumer ready goods, so they represent the end point of the food processing chain, so we are exporting the highest value product and capturing the most economic activity possible at home.

Generic market develoment for oranges in Japan does very little to assure any United States orange producer that the Japanese will not just as likely buy any other oranges. I do not see the point of this amendment.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON], a member of the Agriculture Committee.

Mr. EMERSON. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, effective marketing of any product depends on concentrating the sales pitch on the person making the buying decision. If consumers are the ultimate target, brand loyalty, product image, and product positioning are important. All of these are beyond the scope of generic advertising. For some products branded advertising is the only way to promote certain products—especially high value products intended for direct sales to consumers. Branded advertising is an essential tool in meeting the diverse need of agriculture in a highly competitive, and at times unfair, world marketplace.

Most consumers spend their money on branded products and effective promotional activities must take this into account. Branded promotion is essential to: reach consumers; counter the competition; achieve a more immediate impact than through generic advertising; develop product loyalty; help establish close relationships with firms in major foreign markets; and, build an effective long-term market development program.

A few examples show why branded promotion makes sense in marketing of value-added consumer products abroad:

Wine for example is one of the most highly differentiated products on the market. You wouldn't dream of buying a bottle of generic wine. Effective promotion of U.S. wine in a foreign market means getting a wide range of individual labels and classes of wine established in the local trade.

In recent years U.S. long-grain rice has tended to be relatively expensive in comparison with Thai rice. However, in northern Europe consumers can afford to pay a premium for superior quality rice and frequently choose by brand. The Rice Council for Market Development has carried out a promotion for branded rice identified as U.S. origin. This has kept commercial exports moving into the European Community even when our export prices were far above those of our competitors.

Brand loyalty is a very important part of the marketing equation in overseas Chinese markets such as Singapore. Once consumers become accustomed to purchasing a certain brand of dried fruit, for example, they stay with that brand. Because Singapore is an open market, our dried fruit exports go head to head with products from competitor countries. It's not likely that a consumer will stop buying the usual Australian brand because of a generic ad for the same product of United States origin. We need to get consumers to switch their loyalty to a U.S. brand, and we may need the help of an American exporter to make that happen.

The poultry market in Japan traditionally has not been a branded market. The import trade has been dominated by large Japanese trading companies which buy United States chicken in large volumes, competing for sales to wholesalers at the budget end of the market. As a result, our chicken is generally known by Japanese handlers to be of low quality and they downplay or hide its country of origin at the retail level.

However, branded promotion of frozen chicken from the United States under the TEA Program is turning this situation around. The product is clean, packaging is attractive, quality is uniform, and our exports of chicken to Japan have risen 10 percent in the last year. Moreover, the TEA Program has brought about the active participation of a significant number of U.S. poultry integrators in export marketing for the first time.

The European Community, which currently dominates international trade in processed products, is taking notice of the U.S. effort to compete with them through the TEA Program. The European Community has won its dominance of the market through a comprehensive system of import barriers and processing and export subsidies. TEA has given us a way to begin to challenge that dominance.

Mr. MARLENEE. Mr. Chairman, I defer to the gentleman from Texas [Mr. DE LA GARZA] the chairman of the committee.

Mr. DE LA GARZA. Mr. Chairman, the Chair divided 10 minutes to the opposition and 5 minutes to the proponents.

I would like to inform the gentleman that there are several Members opposed on our side, and I wonder if the gentleman could allow some time on this side within the contraints of time.

Mr. MARLENEE. Mr. Chairman, I will yield to the gentleman from Texas, the committee chairman, half the time, 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman. We may not utilize that. We can work back and forth, but I appreciate the gentleman's cooperation and thank him for it.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BROWN].

□ 1220

Mr. BROWN of California. Mr. Chairman, I must start by indicating my admiration for the intelligence and persistence of the gentleman from New York [Mr. SCHUMER].

I have read the GAO report which he did request with regard to this matter. It made a number of recommendations for changes in the program which the committee has carefully considered and has incorporated in most instances.

At no point in that GAO report did it recommend what the gentleman's amendment does, which is the elimination of branded advertising.

I must say that this element of the program is extremely important to many States and regions throughout the United States. It happens to be particularly important to California. It is also important to Texas, to Florida to many other States and regions which benefit tremendously from the increased exports produced as a result of this program. It is a very modest program, $200 million. Most of the benefit goes to the nongrain crops, and that, of course, is why it is important to California.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment.

Since 1985, the targeted export assistance program, or TEA, has been an incredibly effective tool for increasing U.S. exports of our agricultural prod-

ucts and, therefore, reducing our trade deficit.

In its first year, exports of 21 commodities under TEA showed increases averaging more than 48 percent. A recent USDA study found that between 45 and 70 percent of all the total United States increase of exports to Japan for specific products were attributable to TEA matching fund promotion activities.

My colleagues, I urge strong opposition to this. This is one of the best dollars we have that are invested in extending exports abroad.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. MORRISON], a member of the committee.

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding.

Unfortunately throughout this debate on the farm bill, we bring into play the law of unintended consequences. I am not one to stand here and defend a lot of big brand names except I am one to help organize farmers into groups. And guess what they do, small farmers adopt brand names, because that is the way you break into foreign markets.

I have in my district, for instance, people who grow mink, and they cannot compete with the Russians at all unless they come up with their own quality requirements, their own brand label.

So let us defeat the Schumer amendment. It is well-intended but hits the wrong target.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New York.

During my tenure in this House, one of the most effective legislative tools developed directly to assist agriculture in my district and my State is the Targeted Export Assistance Program.

During the early 1980's, farmers were not only facing outrageous interest rates, but also the loss of their traditional markets in Europe and the Pacific Rim, owing to the policies of foreign competitors: Read that foreign governments.

This Congress passed in 1985 a law to establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program. Section 202 of title 12 continues the wisdom of this body by revising but extending that program.

Since passage of the original TEA Program, the United States challenged some of the actions of those foreign governments. Some were challenged under the General Agreement on Tariff and Trade and some under our own trade laws. In many cases, our farmers prevailed in the legal arena, but were nowhere near a victory in reclaiming lost sales.

The TEA Program gave to them the necessary tool. I cosponsored the original legislation, and I cosponsored the current legislation reauthorizing the program. I also support the Committee on Agriculture in its handling of the reauthorization, even to the point of accepting a new acronym for the Market Promotion Program. Henceforth TEA will become MPP.

Since its inception in the 1985 Food and Agriculture Act, 250 companies producing 125 high-value agricultural crops have participated in TEA. In the first year alone, the 21 participants did record an increase in exports of 48 percent. A recent study by the Foreign Agriculture Service found that from 45 to 70 percent of the total United States increase in exports to Japan for specific consumer-oriented products were attributable to TEA.

The walnut industry in California was one of the most impacted of the commodities because the European Economic Community elected to single out those growers for retaliation. The EEC did so by imposing a 22 percent ad valorem duty. The result, a $12 million loss.

Today the walnut industry faces a new nontariff barrier, this time from the South Koreans who prohibit the entrance of United States walnuts and pecans into their country because of unfounded claims of codling moth infestations. The Japanese tried this as well but accepted a fumigation protocol. Unfortunately South Korea refuses to even talk.

The reason I bring this to the attention of my colleagues is because South Korea has tremendous potential for the U.S. walnut growers. It is an area where this country would establish a new market, and where the new Market Promotion Program would be one of the tools. Relief from the unfair trade practice is but one step; establishing, maintaining, and expanding that new market is the important second step. Therein lies the value of the MPP.

Producers and processors of Alaskan salmon, California kiwi fruit, Mississippi catfish, Florida citrus juice, cherries from the Pacific Northwest, and many other high-value commodities have all benefited as they open or expand markets in Pacific Rim countries and in Europe.

The amendment now before us speaks to branded promotional activities.

In certain markets, branded identification is the key to consumer demand and purchases. Many of the commodities produced in my district, like raisins and citrus, have been the subject of unsuccessful cases under section 301 of the Trade Act or GATT and are the very reason that Congress enacted TEA.

Some of the successful participants in the TEA program suggest to me that the amendment before us could actually help our foreign competitors to establish markets in other nations. As one said: "* * * this would cause exporters to advertise generically thus creating demand for our foreign competitors product as much as our own."

We hear about a June 1990 General Accounting Office report entitled "Agricultural Trade: Improvements Needed in Management of Targeted Export Assistance Program."

Let me also quote from that report:

Many government and private sector marketing experts agree that branded advertising is more effective for high value products. Because of congressional interest in increasing exports of high value and value-added commodities and products, FAS [Foreign Agriculture Service] should decide how much funding should be dedicated to branded activities, and it should establish a better system for tracking them.

The GAO did not recommend the elimination of branded advertising. It did recommend more "oversight of those participants who are private firms promoting their own brand."

That suggestion alone is enough for me to ask for defeat of the amendment offered by Mr. SCHUMER.

The committee must vote down this amendment so ruinous to so many small farmers and their families.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I am strongly opposed to this amendment.

The Marketing Promotion Program, formerly the Target Export Assistance Program, is broadened in the 1990 farm bill. The objective of the Market Promotion Program is to expand foreign markets for U.S. agriculture products through facilitating, coordinating and supporting export promotion activities. These funds are allocated on a priority basis to combat unfair trade practices by our trading partners.

The Targeted Assistance Program was extremely effective promoting many U.S. high-value products in foreign markets that are highly subsidized or have prohibitive trade barriers.

Many of the organizations that receive assistance under this program do not receive direct Federal funds but are provided cost share funding and technical assistance.

The program has worked extremely well for the domestic citrus industry in order to counteract unfair trade practices by other nations. For example, since the beginning of the program and through its assistance, the Florida Department of Citrus has more than doubled offshore shipments of fresh Florida grapefruit. In the 4 years that the Florida Department of Citrus has participated in this program, export shipments of fresh grapefruit have more than doubled from 10 million cartons to 24 million cartons. Florida's citrus exports have increased approximately $7 for every $1 in TEA funds that have been employed.

Of the export tools we have, the TEA program has one of the smallest budgets under USDA, yet its results have been among the most impressive. We should resist any attempts to pare down a program that has been extremely successful in opening foreign markets.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO Mr. Chairman, I rise today in opposition to the amendment offered by my colleague Mr. SCHUMER, and urge Members to vote against it.

By seeking to prohibit the use of branded adveristing to promote the sale of agricultural commodities in a foreign country, the amendment will significantly reduce U.S. export effectiveness.

Since 1985, the TEA Program has been the most effective tool in increasing U.S. exports of high-value agricultural commodities. The export gains realized by the TEA Program have outpaced even the expectation's of the program's most avid supporters. Currently, virtually every State in the union has increased its exports through participation in the TEA Program. By all accounts, the program has been a huge success.

Branded advertising under the TEA Program is accepted under the General Agreement of Tariffs and Trade and is one of the few ways specialty crops have of overcoming foreign trade barriers designed to keep U.S. exports out of foreign markets.

Many U.S. brands are purchased solely because they are identified by foreign consumers as products of superior quality. If branded advertising ceased, foreign consumers would have no way of distinguishing the origin of products. For example, the use of U.S. moneys to promote generic orange consumption overseas would do nothing to indicate the superior quality of U.S. oranges over foreign competitors. Therefore, if generic adveristing replaced branded advertisting under the TEA Program, the end result would be to have U.S. moneys spent to promise foreign products to the same extent as U.S. made goods.

Basically, foreign consumers like to know where the goods they purchase originate. A recent report form the American agricultural officer in Tokyo indicates that the Japanese are increasingly demanding branded products. It does not make sense to prohibit this program when the largest foreign customer for U.S. agricultural products is insisting on branded products.

Through branded advertising under the TEA Program, U.S. producers are able to inform foreign consumers that the highest quality goods originate right here in the U.S. branded advertising, and the TEA Program have greatly enahnced the demand for U.S. agricultural products abroad.

I urge my colleagues to oppose the Schumer amendment, which seeks to eliminate this highly successful program.

Mr. DE LA GARZA. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, you know, we ought to get our newspaper stories together. Every day we read about the trade deficit and the trade imbalance. This is one of the most productive areas of our trade.

This is a bad amendment. Sixty-six percent of international agricultural trade is not grain running in a ship to some other country. It is high-value, often branded products, and if we end up striking this program, we will increase the trade deficit. That is the simple truth of the matter.

In one instance alone, we had a $25 million increase in American exports. When you think about your own shopping, think about the people that walk into the grocery store. Do you buy orange juice or do you buy a brand name of orange juice? When you buy products, you buy them by the brand name that you trust.

If we take that opportunity away from our export market, we may end up helping particular commodities, but we may be helping the French or the Italian or the Spanish version.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, I just wanted to add it will not reduce the price to the consumer. This amendment ought to be defeated.

Mr. MARLENEE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I want to compliment my colleagues on the Committee on Foreign Affairs, understanding that a number of products are sold at the retail end and that the only way we can make an impact is in dealing with targeting, not generic.

I also wanted to compliment the gentleman fron New York in terms of offering this and the GAO report. In the GAO report they had some specific provisions which will make this a better program. This is a good program. It ought to continue. It is going to be better because of you folks examining these kinds of programs.

I want to compliment you. We are going to continue with this program. The amendment does not fully understand the importance of this area of marketing.

Mr. Speaker, I want to make clear my opposition to amendments to the Marketing Promotion Program being recommended by Members of this body. These amendments do not enhance the program. At best, they limit a program that has been extremely useful in expanding marketing opportunities for specialty crop producers and others trying to gain a foothold in foreign markets.

The Marketing Promotion Program, an expansion of the Targeted Export Assistance Program legislation Senator WILSON and I introduced in 1985, will continue to aid specialty crop and program crop exporters if the program is retained in the form reported by the House Agriculture Committee. This program focuses Federal and private resources on retail sales efforts, particularly on advertising and promotion, that traditional export programs emphasizing price cuts and bulk commodity sales have not supported. The program has given farm commodity exporters a new tool with which to educate foreign consumers about the quality and value of American farm products that have been damaged by unfair trade practices. I agree with the committee's efforts to expand the program and urge rejection of the amendments that we are being asked to consider.

First, we should reject the proposed limitation of Marketing Promotion Program benefits after a period of 5 years. Advertising and promotion campaigns can take longer than 5 years to build the consumer loyalty and perception needed for long term sales. It makes no sense to stop these efforts when experience in a market shows us new opportunities for successful promotions.

Second, limiting the authorization of aid to $110 million per year will limit exporters' opportunities to conduct new promotions. It could force current program participants to reduce the scope of their activities and prevent new applicants from getting started. At a time when we need to expand exports, such a limitation goes in the wrong direction. Similarly, placing arbitrary limitations on the amount of aid available for particular programs or allocating funds by geographic region rather than by need or opportunity may keep the Marketing Promotion Program from supporting valuable new market penetration efforts.

Third, we should not make the mistake of combining the Marketing Promotion Program and cooperator programs. They have distinct purposes and histories. While the cooperator program has primarily assisted sellers of bulk commodities, the Targeted Export Assistance Program and the Marketing Promotion Program that would succeed it are designed to promote retail sales, develop advertising programs and support other kinds of consumer education that specialty crop producers and others need in order to educate host country consumers about American products. Combining the cooperator and Marketing Promotion Program programs creates the possibility that the Marketing Promotion Program's retail focus will be subverted by combination with programs for bulk commodities. In fact, H.R. 3950's Export Enhancement Program should help bulk commodity sellers even more than the relatively Marketing Promotion Program because bulk commodities often trade primarily on the basis of price.

Striking branded authority from the Marketing Promotion Program authorization is also a questionable concept. Branded promotions may be needed because consumers consider brands when deciding what to buy. Generic advertising may end up promoting a competitor's products, which is not a goal any of us can support. About one-third of the Targeted Export Assistance Program's funds have gone to brand promotions, and those funds have been used to promote goods consumers will see only as branded products at the retail level.

It is my understanding that the administration has expressed opposition to all these proposals. We should reject them as well.

The Targeted Export Assistance Program's successes illustrate what we lose if these kinds of limitations are used to hamstring the Marketing Promotion Programs. Since its inception, the TEA Program has financed promotional efforts that helped increase U.S. sales of 25 agricultural commodities in target markets by an average over 48 percent and, in some cases, increased sales over 100 percent. Specific examples of successes show just how important this program has been. The Alaskan seafood industry has used $9.5 million in TEA funds since 1987 to increase salmon sales in Japan, the United Kingdom and France by $345 million. Plywood exporters have used $11 million in TEA funds to generate $159 million in new sales through building demonstrations and other programs. TEA funds helped increase fruit cocktail and canned peach sales in Tokyo by 126 percent between 1988 and 1989, have been used to educate 5,000 European companies in the use and value of United States raisins, has allowed the United States rice industry to maintain record sales to Iraq despite price cutting by our competitors, have helped raise United States almond exports by 50 percent, have helped build educated Korean consumers about the quality of United States cotton, helped United States winemakers expand exports to Japan by 200 percent, and helped increase sales of United States wines in Britain by 95 percent.

The Marketing Promotion Program reported by our colleagues addresses the serious concerns raised by the General Accounting Office about the Targeted Export Assistance Program's early administration. H.R. 3950 requires more recordkeepiing by program participants, requires USDA to conduct evaluations of programs and requires the Department of Agriculture to provide more detailed guidance about the program so applicants have a better understanding of their responsibilities. Some of these requirements will undoubtedly limit the program's flexibility and impose additional work on applicants. They are not, however, serious threats to the achievement of the kinds of successes under the Marketing Promotion Program that we have seen develop under the TEA Program. The amendments I mentioned are threatening because they limit the program's ability to assist in developing new markets. I will oppose these amendments and hope the rest of the House will join me in doing so.

Mr. MARLENEE. Mr. Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 30 seconds remaining, the gentleman from Texas [Mr. DE LA GARZA] has 2½ minutes remaining, and the gentleman from New York [Mr. SCHUMER] has 5 minutes remaining.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to our colleague, the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, this amendment would gut the brand advertising section of the TEA Program. That program is so successful, it is so envied by foreign governments, that today they spend more money on brand advertising than we do.

This amendment would completely destroy our position in those foreign markets and would allow foreign governments to take over the markets that we have created. This program has been enormously successful. It is very positive on the balance of trade, and it benefits products that do not receive any other subsidy from the Federal Government.

I urge a no vote.

Mr. MARLENEE. Mr. Chairman, I yield the balance of my time, 30 seconds, to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, among the other products that have been talked about here today, we need to talk about American citrus. Up until the advent of this program and the ability of American citrus producers to brand name their products, we were not able to break into the Pacific Rim countries.

Because of this program and because of the ability to sell under a brand name, we are having enormous success in moving American citrus into the Pacific Rim. This is a good program. It should be retained, and the amendment should be defeated.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again, let me say to my colleagues that you have to take this issue in the whole context of American commerce, American jobs; and how we do with our exports.

Granted, the program is not perfect. We are addressing those issues, and you can bandy around GAO studies all over the place, but it does not have the imprimatur of correctness all the time.

But I am not taking issue with GAO. The thing is that we are trying to address areas where the program may not be working as intended. The main thing is, every time you hear balance of trade, we are at a deficit except agriculture, except agriculture. This is one of the programs that has helped in that respect.

We go back, and the gentleman from New York and I have already gone through this. It is American jobs we are speaking of, and as in any business, you have to advertise.

As a last resort, you come to the Government for assistance. This is what this program is all about. But I want Members to understand this: The only thing bringing money back from abroad is agriculture. It is not our manufacturing, it is not our high tech, it is not our banks. It is nothing else but agriculture. This is a major factor in bringing that money back from overseas.

□ 1230

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I want to support the gentleman from Texas [Mr. DE LA GARZA]. This is an important program to sell farm commodities overseas. Its administration has not been perfect in the past, but under the leadership of the gentleman from California [Mr. BROWN] and the gentleman from Kansas [Mr. ROBERTS], we have substantially improved it. I urge the rejection of this amendment.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I rise in strong opposition to the Schumer amendment and in support of the committee changes to the program.

Mr. DE LA GARZA. Mr. Chairman, reclaiming my time, I ask a "no" vote on the amendment.

Mr. SCHUMER. Mr. Chairman, I am not going to take my 5 minutes, in the interest of moving the bill along, although I know that Members would like to hear everything I say. I would just say that first, as everyone knows, the Gejdenson amendment moved up the amount of the program. I think the Committee on Agriculture has done a good job in incorporating a lot of GAO suggestions into the program, and the Subcommittee on Foreign Affairs also incorporated these things. It will be a better program after this bill passes and is signed into law.

I would also say that to raise the amount of money from $200 million to $325 million at a time when we have so many other needs does not make that much sense.

Mr. Chairman, I just read a quote from a fellow at Eusafec, a cooperative that is selling this program. Here is what Mr. Catranis says: "For Eusafec, however, the biggest problem has been finding food companies to take the $3 million or $4 million in TEA funds the Government has granted to exporters. We have got a bag of money here and we are desperate for companies to give it to," says the 32-year-old Mr. Catranis. The answer, of course, is to advertise. That is what he did. He put up a big sign, a big poster with a bag of money, and here is this fellow that looks like he is from Wall Street urging people to come and get this money.

Yes, we need advertising; yes, we need exports. Does that mean that the Government should subsidize them? We can make this argument for all other exporters. Maybe GE should get free money to advertise detergents.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate my distinguished colleague yielding. The Government is the element of last resort. New York City came to us, Chrysler has come to us, every involvement when we have to compete with other governments. It may not be the perfect program, but we will work with the gentleman from New York [Mr. SCHUMER] to make it a better program. I can assure the gentleman that.

Mr. SCHUMER. Mr. Chairman, reclaiming my time, I know that. I know the committee has worked hard to tighten up the program and make it better.

In any case, I would urge Members at a time of need and a time of deficit problems that this should not be a program that should increase its funding by 50 to 60 percent, but rather it should be able to suffer a cut, which is what the amendment proposes.

Mr. Chairman, I yield back the balance of my time.

Mr. GRANDY. Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from New York to prohibit the Secretary of Agriculture from entering into agreements for the use of branded advertising under the Market Promotion Program [MPP] established under section 202(e)(4) of the Gejdenson amendment (A019).

Branded promotion is a central component of the MPP, formerly the Targeted Export Assistance [TEA] Program, which has been extremely successful in increasing U.S. exports of value-added and high-value agricultural commodities. Due to action by both the Agriculture and Foreign Affairs Committees, and regulatory activity conducted by the Department of Agriculture, the MPP has been vastly tightened and improved this valuable program. A key issue to remember is that this program requires companies to contribute at least 50 percent of the funds used in any promotional project.

To give you an idea of how useful and universally available this program is, let me share the experience of four TEA recipients—the Mid-America International Agri-Trade Council [MIATCO], Eastern U.S. Agricultural and Food Export Council, Inc. [EUSAFEC], Southern United States Trade Association [SUSTA], and the Western U.S. Agricultural Trade Association [WUSATA]. These four regional organizations have been used by the Foreign Agriculture Service [FAS] of USDA for, in some cases, 20 years to conduct market development activities with small businesses. This is FAS's outreach effort—they have no other means by which to go out and solicit companies to increase exports.

These four regional organizations have received, at the most 6.8 percent of the TEA allocations in any given year. They have, in turn, allocations get spread out to over 400 companies for both branded and generic promotions. EUSAFEC, 100+, MIATCO, 137; SUSTA, 70; WUSATA, 108.

Generic advertising would promote a product, but we need to promote U.S. products. A recent internal memo of the American Soybean Association [ASA] clearly shows that TEA works. It reads:

USDA's accumulated export report (May 21, 1990) shows that U.S. soybean exports to the EC [European Community] are up 25 percent. This is in the face of growing EC Oilseed and protein crop production. Our TEA promotions appear to be having an impact. U.K. up 42%, Spain 45%, Portugal 30%, Greece 87%, West Germany 8%, Italy 549%.

Thirty-five brands of soybean oil have now been developed in Europe and by utilizing branded promotions, the ASA has been able to generate over $10 million from foreign third parties to promote U.S. ag commodities under their brands.

Branded promotions involve the high-value, value-added market. The world market in value-added and high-value ag products is increasing at a greater rate than bulk commodities—3 percent versus 1 percent. As an example consider our newest market Eastern Europe. Sixty percent of Eastern Europe's imports are high value, yet 85 percent of U.S. exports to that area are currently bulk commodities. We need to be able to use MPP funds to promote U.S. products in that vast market and to be a player in the lucrative high-value international market.

The Foreign Agriculture Service of USDA revealed in their report of February 12, 1990, on the status of their efforts to increase U.S. exports of high-value ag products that the products most likely to have a significant impact on our trade numbers are red meat, poultry products, and both fresh and processed fruits and vegetables. It is these products which are the focus of the MPP program, as many of the companies on the list I just read revealed. It is also these products that are very often branded. We need to maintain this program if we want to remain competitive.

Our competitors know about the high-value market and they are putting their money where their mouth is. The facts reveal that the European Community, which has a 41-percent share of the global value-added market, clearly supports its industry, some would argue unfairly. In 1988 alone they provided the following export subsidies to the following high-value commodity industries:

Beef and veal	$922,000,000
Poultry meat	233,000,000
Pork	207,000,000
Olive oil	77,000,000
Fruits and vegetables	77,000,000
Wine	52,000,000
Fats and oils	30,000,000
Dariy products	3,700,000,000
Total	5,300,000,000

Other examples of subsidization Canada recently admitted that it subsidized pork exports to U.S.S.R. Brazil recently sold broilers to U.S.S.R. at $400 less per ton than the world market price.

There are enormous universal benefits from sales of high-value, value-added branded ag products. A 1983 USDA study revealed that a 5-percent increase in the U.S. share of the global high-value market would translate into: A $50 billion increase in GNP; a $10 billion increase in Federal tax receipts; and 1 million additional jobs.

The Market Promotion Program plays a vital role in maintaining and expanding the U.S. share of the global high-value agricultural market. Hopefully with other innovative changes contained in this bill, which this Member was intimately involved with, such as the Market Development Task Force, U.S. high-value products may continue to make inroads in foreign markets.

Mr. Chairman, I urge a "no" vote on Mr. SCHUMER's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER] to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended.

The amendment to the amendment, as amended, was rejected.

The CHAIRMAN. Are there further amendments to title XII and the pending amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended?

AMENDMENT OFFERED BY MR. BEREUTER TO THE AMENDMENT OFFERED BY MR. GEJDENSON, AS AMENDED

Mr. BEREUTER. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER to the amendment offered by Mr. GEJDENSON, as amended: Add at the end of subtitle B the following:

SEC. 1225. PROTECTING UNITED STATES AGRICULTURAL EXPORTS.

If the Secretary of Agriculture finds that the credit restrictions imposed by section 1224 would result in decreasing the export of agricultural products from the United States that are readily available to a country to which section 1224 applies from non-United States sources, so that the impact of the restrictions of credit imposed under that section would harm American farmers more than it would that country, the Secretary may waive such restrictions with respect to that country. Restrictions on credit under section 1223 shall not become effective until after the Secretary of Agriculture has studied the impact of such credit restrictions and determined whether such restrictions would have a negative impact greater upon American farmers than upon a country to which section 1224 applies.".

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Texas, the distinguished chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, was the amendment of the gentleman from Nebraska [Mr. BEREUTER] printed in the RECORD?

Mr. BEREUTER. Mr. Chairman, reclaiming my time, it was not. It was distributed to the desk of the gentleman just now.

Mr. DE LA GARZA. Mr. Chairman, we have not seen a copy.

The CHAIRMAN. The Chair would state this is a secondary amendment, and as such does not have to be printed in the RECORD.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, is this amendment basically to undo the Iraq amendment?

Mr. BEREUTER. Mr. Chairman, reclaiming my time, I certainly would not state it in that frame. What this amendment does is put the issue in clear and simple English so that Members can understand the option that really ought to be available to the President of the United States through the Secretary of Agriculture. If in fact any kind of trade restrictions would be more harmful to the American farmer than they would be to the country on which trade sanctions would be applied by title XII, section 1223, then the Secretary of Agriculture would have an opportunity to waive other parts of section 1223.

In other words, if in fact trade sanctions to be imposed upon a country like Iraq did more harm to the American farmer because those kinds of agricultural commodities were available from other sources to Iraq, then the American farmer's best wishes and best interest could be taken into account by the Secretary of Agriculture.

Mr. Chairman, it is fairly simple. I think that most people would not like to hurt the American farmer when in fact there is no real detriment done to a nation like Iraq. In reality, what is going to happen, of course, is that Iraq will be able to buy rice and wheat and other kinds of grain and processed agricultural products from other sources.

We have had a lot of discussion about credit being extended to Iraq. Indeed, we have never granted a subsidy through our credit guarantee programs, and I emphasize the word "guarantee," because Iraq pays for what they buy. We have never had a default by Iraq on the credit guarantee.

In reality then, what our credit guarantee program does is match such endorsements of major European and other industrial countries or agriculture production countries.

Mr. Chairman, I think it is important that we don't, in our interest of trying to condemn the kind of conduct carried on by certain countries like Iraq, simply hurt our own agriculture producers and all of the agricultural and food manufacturing and process firms and their employees across the country that may be involved in the sale of these American products.

Mr. Chairman, I think this is a reasonable amendment. It provides protection to the American farmer. If in fact products are not available to Iraq from other sources, then, in effect, the sanction does apply.

Mr. Chairman, I yield back the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment. It pains me to be in oppositon to my good friend the gentleman from Nebraska [Mr. BEREUTER] whom I have worked together with on so many issues, but I think that if we passed this amendment we would generally create a hole big enough for a caravan of trucks to drive through in regard to the amendment that the House just recently passed regarding Iraq.

Mr. Chairman, I understand the gentleman from Nebraska [Mr. BEREUTER] has a philosophical concern here that is very legitimate. I know the gentleman is not a supporter of Saddam Hussein or repressive governments. There is no one more concerned about human rights than my good friend the gentleman from Nebraska [Mr. BEREUTER] who offers this amendment. But what he does it make it eaiser to avoid the intent of the House, and the intent of the House is to use those scarce resouces for subsidizing sales elsewhere.

Mr. Chairman, we have a limited amount of money here. What we are telling the President is that for a government that has gassed its own people, that is presently using military force and threatening Kuwait, and raising the price of oil in the United States for the gentleman's farmers and those who commute and drive in my own district and State as well, that we do not want to use resources to subsidize Iraq.

□ 1240

And even if accountants with green eyeshades can make it somehow seem that it does hurt us, and I am sure you can find somebody to make that argument, my goal is to make sure that we do not aid and abet Saddam Hussein who has murdered women and children, gassed his own population. And this is not just lots of governments in the world. This is one small and particularly brutal country in the world, and that is what we are talking about here.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

The gentleman knows, of course, that last year the American farmer and the agricultural processors were able to sell about 1 billion dollars' worth of products to Iraq. Now if the gentleman wants to impose limits on our ability to trade with Iraq, would it not be more appropriate to deal with this in a comprehensive fashion before the Committee on Foreign Affairs and the Committee on Banking, Finance and Urban Affairs, and deal with the programs of the Ex-Im Bank and OPIC, and deal with all of the industrial products and services, and not just single out agriculture?

Mr. GEJDENSON. I would say the gentleman has given a menu that would give me every option in the world. I would use virtually every option we have against the government that annihilated the Kurds, the government that killed its own people, that finances terrorism around the world. But I will take each opportunity one at a time to make a statement and act against the government of Saddam Hussein. That government has plenty of money to buy grain from their oil sales which are now rising in value as a result of their military action.

So what I am saying is let us use the resources to find new markets elsewhere, and let us not have taxpayers subsidizing grain sales to Saddam Hussein. There are only a few of these countries in the world. There are the Syrias, the Iraqs, Libya, South Africa that are really pariahs, and this is among the worst, and we ought to make a statement clearly here and now.

I am happy to join the gentleman in every other area to make sure that Iraq feels the heat of international outrage at its behavior.

Mr. BEREUTER. Will the gentleman continue to yield?

Mr. GEJDENSON. I continue to yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

I would just say to the gentleman it seems to me though that at the moment we are only considering in the Foreign Affairs Committee the possibility of doing something to limit trade with Iraq in the industrial and service sectors. In reality what you are doing through the Gejdenson amendment and amended by the Schumer amendment, is focusing only on one sector, the agricultural sector. That is of course the same agricultural sector in which the gentleman grew up and which brought him into the illustrious position where he now serves today. So I think that we ought to wait and handle any trade sanction against Iraq in a comprehensive fashion.

Mr. GEJDENSON. I disagree with the gentleman tactically.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to my friend, the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

The gentleman from Nebraska has made an excellent point that if this is going to be done, should it not include all aspects of U.S. Government assistance.

Mr. GEJDENSON. We have, by the way, reclaiming some of my time and I will continue to yield in a moment, we have under the Export Administration

Act, now renamed the Export Facilitation Act that passed this House, provided procedures to be very tough on Iraq and make extra restrictions on what can be sold there for foreign policy reasons. So we have in fact in a piece of legislation that has already passed this House, and industry folks did not get up and say hey, wait a minute, you are picking on industry today, you should not do anything to us until you get to agriculture, those arguments would prevent us from ever taking any action against the villains of the world. The fact that we have forgotten one segment of this economy at one time should not be a reason for inaction.

Mr. ENGLISH. If the gentleman will continue to yield, I would suggest that of course there is no segment of the economy that has had such terrible experiences and unfair experiences historically as has agriculture with the various embargoes.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(On request of Mr. ENGLISH and by unanimous consent Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH. If the gentleman will continue to yield, the other point that I would make though is I think it is unfortunate that this debate is necessary, and that in fact the gentleman's amendment is necessary.

The Secretary of Agriculture has wide discretion. There is no requirement that he provide this assistance to Iraq.

I think the unfortunate part is that programs such as the export enhancement program were designed to offset unfair trading practices. What we are finding all too often though is that the trading practices are being used to carry out foreign policy from the administration as opposed to simply trying to make sure that the playing field is level.

Mr. GEJDENSON. It does both. It does both. The Government has the right to execute its foreign policy. This is the second largest recipient of American foreign assistance. American taxpayers do not want to subsidize the butcher that runs that country, and the House has just voted to that effect, and we ought not through the back door give the bureaucracy a way to undercut the direct inclination and action of this House.

Mr. ENGLISH. Will the gentleman yield further?

Mr. GEJDENSON. I am happy to yield.

Mr. ENGLISH. The point I was making though was that was not the intent of the legislation when it was passed. The export enhancement program, for instance, was designed to be used to offset unfair trading practices, not to deal with foreign policy.

Mr. GEJDENSON. It does both.

Mr. ENGLISH. It appears that is what is going to be done with it, but that is not what was intended or what was supposed to be done.

Mr. GEJDENSON. It was intended to do both. The export enhancement is to unshackle American industry and give them a fair shot where competition is the issue, but it also gives the Secretary of State the power to execute foreign policy concerns, as a great nation ought to have that power where a country like Iraq has shown itself to be an international outlaw.

Mr. ENGLISH. I think the gentleman is misunderstanding what I am saying. I am talking about the export enhancement program in the 1985 agricultural program which in effect was designed simply to offset unfair trading practices by our agricultural competitors abroad. This was not the intent of it.

Mr. GEJDENSON. And the House has just voted not to do that in the case of Iraq.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to my friend, the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, there is a misunderstanding that is creeping into the discussion here, and I would like to clarify it.

While the distinguished gentleman from Oklahoma [Mr. English] was making good points about the export enhancement program, I do not want people to think that my amendment is addressed to the export enhancement program. That is not the subject of the Schumer amendment or the amendment of this gentleman.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(On request of Mr. BEREUTER and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman continue to yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, at this moment, and in our past trade relationships on agriculture with Iraq, there is no subsidy from the American taxpayers to Iraq. This is a credit guarantee program, but Iraq does pay for its agricultural imports from the United States, and they pay for them in short order. So there is no subsidy, even though this is a credit guarantee program.

This Member does not want anybody to go away from here thinking that the American taxpayer is subsidizing Iraq. They are not. We are only being competitive by a credit guarantee—competitive with the French and other export sources.

I thank the gentleman for yielding.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I want the record to show that there is no Member of this Congress who supports the conduct of the leaders of the country of Iraq. The gentleman from Connecticut has indicated already that they have, as a matter of policy, supported domestic murder and international terrorism, and we need to get at that. If the gentleman wishes to endorse, or push, or legislate on a comprehensive ban of all exports to that country, why I would certainly support it and be more than willing to do so.

I have here the APAC memorandum on the Iraq talking points that goes down the heinous leadership policy of that country. I share the gentleman's concern and sense of outrage. That is not the issue here.

All we are trying to do is ask that the Secretary of Agriculture have an assessment. That is all. In that assessment, if he determines that by this action the practical effect of this action is determined to be that it hurts our farmers and American jobs more than Iraq, then we ought to take a look at this.

What is going to happen here? We are going to say I am sorry, we are going to cancel 460,000 tons of rice and a million tons of wheat in sales to Iraq that would go to the people of Iraq.

What will happen? Those sales will be replaced or those sales will be filled by Italy and Thailand and China in regards to rice, and in regards to wheat they will be supplanted by the French and by the Argentineans.

What is the result? We made a statement. From a perception standpoint we have said stop, stop to Iraq, what they are doing either domestically or internationally, but what we are also doing is denying that farmer that market, and he pays for it.

It pains me in regards to that country's behavior, but it also pains me we are asking only the farmer to do this. So the gentleman from Nebraska has simply said let the Secretary make an assessment. If this works, fine. If it does not, do not penalize the farmer.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I thank the gentleman and concur with his remarks. I would merely add we are trying with this Bereuter amendment to restore some of the authority the Secretary is already using. Under the present provisions the Under Secretary, Mr. Crowder, has already withheld $500 million of that $1 billion program because of the ongoing allegations of abuse.

□ 1250

The other thing that we have to specify here is the taxpayer may be at risk because if we impose this sanction on Iraq, $2.2 billion of loan guarantees may not be repaid or repaid so slowly it will effectively be a denial of credit.

Mr. ROBERTS. Mr. Chairman, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the gentleman's remarks. I want further to say that this is a very agonizing situation for a lot of us here. I think if we believed that we were going to have the adverse effect upon the Government of Iraq that the opponents of this particular amendment claim, it would be a different story. But the fact of the matter is, when you look at the whole scenario as it lays out there, the only people who are going to suffer directly are the American producers.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think it should be very clear, these following points: first, this amendment, in effect, guts the amendment, in effect, guts the amendment previously adopted, the amendment of the gentleman from Kansas [Mr. GLICKMAN].

Second, you cannot say accurately that this is not a subsidy. There is nothing in the Glickman amendment, and no one has suggested that we embargo trade with Iraq in agricultural commodities. This is a credit guarantee program.

There is a reason why the Iraqis want to participate in this program. It is because they are short of commodities and exchange to purchase these products. This is why they need the credit guarantee program.

The logic of saying that they may not repay debts they previously have to us is an argument against every single thing we might do against a country which has, in violation of the 1925 treaty against the use of poison gas, used poison gas not only in the Iraq-Iran war, but against its own people after the cease-fire, a country which has proceeded on a track to garner the ability to produce every weapon of mass destruction known to mankind that it has acquired the capability for, a country that has been found by our own State Department to have perhaps the worst human rights record of any other government, any other country in the world, a country that is threatening its own neighbors as part of an effort to raise oil prices on American consumers, a country which is saber-rattling and threatening to destroy half of Israel with chemical weapons, to continue its use, I would suggest that the American subsidy of credit guarantees is not appropriate.

We will have other sanctions coming to this floor. We have refused for the past 8 years to sell munitions. There are other industries in this country which have accepted and paid the price of our effort to try and reduce Iraq's ability to enhance its own military capabilities. There are countries, there are industries in this country, the munitions industry, which have been banned from selling munitions, through administration actions over the past 8 years.

There is legislation around to prohibit the sale of computers and dual-use items to Iraq. That will be marked up next week in the House Committee on Foreign Affairs.

I guess I would close by using the words of the junior Senator from Kansas in informal conversations, a sponsor of an amendment which was even stronger than the amendment of the gentleman from Kansas, Mr. GLICKMAN, when asked why would she do that because she represents a State that produces a great deal of wheat that might have some benefits from this, she said, "Once in a while you got to do the right thing."

I suggest the Glickman amendment is the right thing. This amendment guts the Glickman amendment. I urge this amendment be defeated.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the distinguished gentleman for yielding.

Mr. Chairman, the gentleman has talked about the subsidy of a credit guarantee. But is the gentleman aware that Iraq has never defaulted on these guaranteed credits? So, in effect, there has never been a subsidy going to Iraq.

Mr. BERMAN. I am aware of that. I am aware of the fact that Iraq, in a difficult economic condition now, has defaulted on almost every other loan it received during the Iraq-Iran war and it is in danger of defaulting on these as well. But the gentleman is correct.

Mr. BEREUTER. I know the gentleman is familiar with the term of foreign availability. We deal with it all the time in the subcommittee.

I can understand how the gentleman might want to focus on a whole variety of economic sanctions against Iraq because there are some industrial products and even some services, in quality, that can only come from the United States. Denying such United States exports would harm the Iraqi regime. But there is foreign availability on these agricultural products. So there is no harm coming to the Iraqi regime by limiting our agricultural exports. They can ignore our agricultural trade sanctions from someone else. Would the gentleman agree?

Mr. BERMAN. If I may reclaim my time in order to make two points to respond to that.

One, they are getting credit guarantees. We are not talking about an embargo on the product. Second, let me just tell the story: American chemical companies sold a variety of chemicals that are relevant and necessary to the making of the poison gas Iraq used against its own population.

Mr. BEREUTER. That should be deplored.

Mr. BERMAN. Every other developed country in the world has the capacity to produce and export those same chemicals. The American chemical manufacturers and the American Government said, "We don't care if there is foreign availability; we are not going to sell these products to the Iraqis."

The CHAIRMAN pro tempore (Mr. OBEY). The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 1 additional minute.)

Mr. BERMAN. So once in a while the conduct of the government is so egregious and so outrageous and so violative of the norms of civilized behavior that even the test of foreign availability should not settle the question.

I suggest this is the government and this is the program where we should apply that exception.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Chairman, I would only say that while they have not been defaulting, they have apparently been skimming. That is what USDA believes, that Iraq has been skimming these programs and has a number of other legal problems in how they have operated them. So it seems to me that there is another good reason to take Iraq out of the program.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are trying to get a little farm bill out of the way here. I wish my colleagues with expertise in foreign affairs would use the proper vehicle, the Committee on Foreign Affairs or a foreign affairs bill, and let us get on with our business. We have enough problems as it is. I would hope that we might limit time here because I repeat again to those of us intimately acquainted with the situation, we feel that we must have our say; to our colleagues out there that want us to finish with the legislation, to them it

is repetition when the same thing is said 5, 10, 15 times.

Mr. Chairman, I oppose this for the same reasons as on the previous amendment. Although this tends to, in some degree, correct the situation on the previous amendment, I have made some suggestions to the author in the hopes that we might compromise some area to satisfy the desires of the gentleman who is offering this amendment.

But at this point, Mr. Chairman, I would ask unanimous consent that debate on this amendment be concluded in 10 minutes, divided 5 minutes on each side.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BEREUTER. Mr. Chairman, reserving the right to object, I did not hear the request.

Mr. DE LA GARZA. Ten minutes, divided 5 and 5.

Mr. BEREUTER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Nebraska [Mr. BEREUTER] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, I would yield to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

The CHAIRMAN pro tempore. The Chair would ask, who is controlling the time in opposition to the amendment?

□ 1300

Mr. DE LA GARZA. Mr. Chairman, I defer to the distinguished gentleman from Connecticut [Mr. GEJDENSON] to control the time.

Mr. GEJDENSON. Mr. Chairman, we have no speakers, and yield back the balance of our time.

Mr. BEREUTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I did want to respond very briefly to the distinguished gentleman from Connecticut [Mr. GEJDENSON], the chairman of the Foreign Affairs Subcommittee. I want to assure him and put into the RECORD a letter addressed to Senator RICHARD LUGAR dated May 21, 1990, signed by Richard Crowder, Under Secretary of International Affairs and Commodity Programs at the USDA. He indicates that USDA has looked specifically at the question of skimming by Iraq, involving our GSM 102 program, an issue which the gentleman raised and USDA found no such evidence of such shimming and no reason to be concerned about that problem.

Mr. HERGER. Mr. Chairman, I stand in strong support of this amendment. I think as was pointed out earlier, I also want to urge this body to do the right thing. What is the right thing in this situation? No. 1, I am sure I speak for everyone, there is not any Member here that does not abhor the human rights situation that is taking place in Iraq today.

However, let Members learn by our mistakes. Back in the 1970's when President Jimmy Carter was abhorring the human rights violations being conducted by the Soviet Union on Afghanistan, we created a grain embargo. Who was penalized by that? One small segment, but a major segment, of the U.S. economy, and that was our American agriculture. Did the Soviets change? Did they stop eating grain? No. They did not stop eating the grain. It did not change their policy. So is the case today for Iraq. If we cease to sell American rice to Iraq, will they cease eating rice? No, they will just buy it from the Chinese or Thais or some other country. Therefore, I urge a strong yes on this vote. We need an amendment. We need your support. American agriculture needs your support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 191, not voting 33, as follows:

[Roll No. 277]

AYES—208

Andrews	Craig	Hall (TX)
Anthony	Dannemeyer	Hamilton
Archer	Darden	Hammerschmidt
Aspin	Davis	Hancock
Baker	DeLay	Hansen
Ballenger	DeWine	Hastert
Barnard	Dickinson	Hatcher
Bartlett	Dingell	Hayes (IL)
Barton	Dorgan (ND)	Hayes (LA)
Bateman	Dreier	Hefley
Bates	Duncan	Hefner
Bentley	Dymally	Herger
Bereuter	Eckart	Hiler
Bliley	Edwards (OK)	Hoagland
Bosco	Emerson	Hopkins
Boucher	English	Houghton
Brooks	Espy	Hubbard
Browder	Fawell	Huckaby
Bruce	Fazio	Hunter
Buechner	Feighan	Hutto
Bunning	Fields	Hyde
Byron	Frenzel	Inhofe
Callahan	Gephardt	Jenkins
Carper	Geren	Johnson (CT)
Chapman	Gibbons	Johnson (SD)
Clement	Gillmor	Jontz
Clinger	Gingrich	Kaptur
Coble	Goodling	Kasich
Coleman (MO)	Gradison	Kastenmeier
Coleman (TX)	Grandy	Kolbe
Combest	Grant	LaFalce
Condit	Gunderson	Lancaster
Costello	Hall (OH)	Leach (IA)
Leath (TX)	Packard	Skelton
Lehman (CA)	Panetta	Slaughter (VA)
Lewis (CA)	Parker	Smith (IA)
Lewis (FL)	Parris	Smith (NE)
Lightfoot	Pashayan	Smith (TX)
Long	Penny	Smith, Denny (OR)
Lowery (CA)	Perkins	Smith, Robert (OR)
Luken, Thomas	Petri	Stallings
Madigan	Pickett	Stangeland
Marlenee	Pickle	Stenholm
Martin (IL)	Quillen	Stump
Martin (NY)	Rahall	Sundquist
Matsui	Ravenel	Tauke
Mazzoli	Ray	Tauzin
McCandless	Regula	Taylor
McCloskey	Rhodes	Thomas (GA)
McCurdy	Richardson	Thomas (WY)
McDermott	Roberts	Traxler
McEwen	Roe	Valentine
McMillan (NC)	Rogers	Vander Jagt
Meyers	Roth	Visclosky
Michel	Rowland (GA)	Volkmer
Miller (OH)	Sabo	Vucanovich
Montgomery	Saiki	Walker
Moody	Sangmeister	Walsh
Moorhead	Sarpalius	Washington
Morrison (WA)	Savage	Watkins
Murphy	Sawyer	Weber
Myers	Schaefer	Weldon
Nagle	Schiff	Wheat
Natcher	Schulze	Whittaker
Nielson	Sharp	Whitten
Oakar	Shaw	Williams
Obey	Shays	Wilson
Olin	Shumway	Wylie
Ortiz	Shuster	
Oxley	Skeen	

NOES—191

Ackerman	Frank	Mfume
Anderson	Frost	Miller (CA)
Annunzio	Gallegly	Miller (WA)
Applegate	Gallo	Mineta
Armey	Gaydos	Moakley
Atkins	Gejdenson	Molinari
AuCoin	Gekas	Mollohan
Beilenson	Gilman	Morella
Bennett	Glickman	Mrazek
Berman	Gonzalez	Murtha
Bevill	Gordon	Neal (MA)
Bilbray	Goss	Neal (NC)
Boehlert	Green	Nowak
Bonior	Guarini	Oberstar
Borski	Harris	Owens (NY)
Brennan	Hawkins	Owens (UT)
Broomfield	Henry	Pallone
Brown (CA)	Hochbrueckner	Patterson
Brown (CO)	Horton	Paxon
Bryant	Hoyer	Payne (NJ)
Bustamante	Hughes	Payne (VA)
Campbell (CA)	Ireland	Pease
Campbell (CO)	James	Pelosi
Cardin	Johnston	Porter
Carr	Jones (GA)	Poshard
Chandler	Jones (NC)	Price
Clarke	Kanjorski	Pursell
Collins	Kennedy	Rangel
Conte	Kennelly	Ridge
Cooper	Kildee	Rinaldo
Coughlin	Kleczka	Ritter
Courter	Kolter	Rohrabacher
Cox	Kostmayer	Ros-Lehtinen
Coyne	Kyl	Rose
Crane	Lagomarsino	Russo
de la Garza	Lantos	Saxton
DeFazio	Lehman (FL)	Scheuer
Dellums	Lent	Schneider
Derrick	Levin (MI)	Schroeder
Dicks	Levine (CA)	Schuette
Dixon	Lewis (GA)	Schumer
Donnelly	Lipinski	Sensenbrenner
Dornan (CA)	Lloyd	Serrano
Douglas	Lowey (NY)	Sikorski
Downey	Lukens, Donald	Sisisky
Durbin	Machtley	Skaggs
Dyson	Manton	Slattery
Edwards (CA)	Markey	Slaughter (NY)
Engel	Martinez	Smith (NJ)
Erdreich	Mavroules	Smith (VT)
Evans	McCollum	Smith, Robert (NH)
Fascell	McDade	Snowe
Fish	McGrath	Solarz
Flake	McHugh	Solomon
Foglietta	McMillen (MD)	Spratt
Ford (MI)	McNulty	

Staggers	Traficant	Wise
Studds	Udall	Wolf
Swift	Unsoeld	Wolpe
Synar	Upton	Wyden
Tanner	Vento	Yates
Torres	Walgren	Yatron
Torricelli	Waxman	Young (AK)
Towns	Weiss	Young (FL)

NOT VOTING—33

Alexander	Ford (TN)	Rostenkowski
Billrakis	Gray	Roukema
Boggs	Hertel	Rowland (CT)
Boxer	Holloway	Roybal
Burton	Jacobs	Smith (FL)
Clay	Laughlin	Spence
Conyers	Livingston	Stark
Crockett	McCrery	Stearns
Dwyer	Morrison (CT)	Stokes
Early	Nelson	Tallon
Flippo	Robinson	Thomas (CA)

□ 1322

The Clerk announced the following pairs:

On this vote:

Mr. Thomas of California for, with Mr. Morrison of Connecticut against.

Mr. Stearns for, with Mr. Tallon against.

Mr. ANNUNZIO and Mr. YOUNG of Alaska changed their vote from "aye" to "no."

Messrs. DANNEMEYER, BARTON of Texas, OLIN, SAWYER, MYERS of Indiana, BOSCO, HAYES of Illinois, and GEPHARDT changed their vote from "no" to "aye."

So the amendment to the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] in title XII?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate that we conclude now title XII. Let that be closed, and, under my previous reservation that we now return to title VI, that we might continue accordingly.

Mr. Chairman, I would also advise Members that we hope that we can reduce the time of debate, and I will inform my members from the Committee on Agriculture that some of the urban colleagues, who are not well acquainted with the issues, have, in effect, complained to me that they hope that we would have amendments that are clearcut and definable so that they can understand what it is that we are debating, and I would hope that Members who have amendments posed will be able to explain them in a minute or so, if at all possible, to accommodate our urban colleagues who are very cooperative with us in view of the time constraint that we have.

I hope that we can still get as close as possible to, if not finishing the legislation, but the leadership has informed us that we must rise by 3. Therefore, I hope that Members who have amendments would be accommodating to the degree possible that would be fair to them, but that they be able to explain amendments and cooperate in reducing time for the amendments.

So, at this point, Mr. Chairman, I would hope that we conclude now title XII and, under the reservation previously agreed to, now return to title VI.

The CHAIRMAN. The pending business before the Committee is still the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended.

The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title XII?

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that we now return to consideration of title VI, and, following that, that we return to title VIII and take under consideration a revised amendment on the peanut program that I will submit to the desk.

Mr. HATCHER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CONTE. Mr. Chairman, I ask unanimous consent that we return to title VI.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—HONEY

Subtitle A—Beekeeping Stabilization

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Beekeeping Industry Stabilization Act of 1990".

SEC. 602. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) honeybees serve a vital function for United States agriculture by pollinating millions of acres of fruits, vegetables, oilseeds, and legume seed crops annually;

(2) pollination by honeybees adds an estimated $9.7 billion annually to the value of the crops pollinated in the United States and has many additional indirect benefits to agriculture and horticulture, and such pollination has increased in importance to farmers in recent years as urbanization and other pressures on the environment have lessened the availability of other natural pollinators;

(3) while the value of honeybees to agriculture as pollinators far exceeds the value of the honey produced by bees, the income from honey production is essential to most beekeepers' operations since their income from honey production far exceeds the fees they receive for pollination services;

(4) honey production provides the incentive for beekeepers to maintain strong colonies of bees during the many months of the year that bees are not involved in commercial pollination; and

(5) the honey price support program has enabled beekeepers to continue operations and provide vital pollinating services while also assuring consumers of a stable supply of nutritious honey at reasonable prices.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that the provisions of this Act to extend the honey price support program are necessary to preserve a viable beekeeping industry in the United States.

SEC. 603. HONEY PRICE SUPPORT.

Effective only for the 1991 through 1995 crops of honey, subsection (b) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended to read as follows:

"(b)(1) For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 53.8 cents per pound.

"(2) The Secretary may permit a producer to repay a loan made to the producer under this subsection for a crop at a level that is the lesser of—

"(A) the loan level determined for such crop; or

"(B) such level as the Secretary determines will—

"(i) minimize the number of loan forfeitures;

"(ii) not result in excessive total stocks of honey;

"(iii) reduce the costs incurred by the Federal Government in storing honey; and

"(iv) maintain the competitiveness of honey in the domestic and export markets.

"(3)(A) If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this subsection, such person, in addition to any other penalty or sanction prescribed by law, shall be ineligible for a loan, purchase, or payment under this subsection for the 3 crop years succeeding such determination.

"(B) For purposes of subparagraph (A), honey shall be considered adulterated if—

"(i) any substance has been substituted wholly or in part for such honey;

"(ii) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

"(iii) for any other reason, such honey is unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.".

Subtitle B—Research, Promotion, and Consumer Information

SEC. 611. SHORT TITLE.

This title may be cited as the "Honey Research, Promotion, and Consumer Information Act Amendments of 1990".

SEC. 612. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended by—

(1) in paragraph (8)—

(A) striking "or who acts" and inserting "or acts"; and

(B) inserting before the period at the end the following: "and who is listed in the import records as the importer of record for such honey or honey products"; and

(2) adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 613. REQUIRED TERMS IN ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (c)—

(A) by amending paragraph (2)(C) to read as follows:

"(C) two members who are either importers or exporters, of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following paragraph (2)(E), by striking "nominate an alternate or alternates" and inserting "submit nominations for an alternate";

(C) at the end of paragraph (2), by adding the following sentence: "However, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer."; and

(D) in paragraph (4), inserting before the period at the end the following: ", except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed"; and

(2) by adding at the end the following new subsection:

"(k) Any patent on any product, copyright on any material, or any invention, product formulation or publication developed through the use of funds collected by the Honey Board shall be the property of the Honey Board. The funds generated from any such patent, copyright, invention, product formulation, or publication shall inure to the benefit of the Honey Board.".

SEC. 614. ASSESSMENTS.

(a) ASSESSMENT RATE AND EXEMPTIONS.—Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is further amended—

(1) in subsection (e)(1) by striking the second and third sentences and inserting the following: "The assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 9."; and

(2) by striking subsection (e)(2) and inserting the following:

"(2)(A) Honey that is consumed at home by the producer or importer or donated by the producer or importer to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sold shall be exempt from assessment under the order, except that donated honey that later is sold in a commercial outlet by a donee or a donee's assignee shall be subject to assessment on such sale.

"(B)(i) A producer, producer-packer, or importer who produces or imports during any year less than 6,000 pounds of honey shall be eligible for an exemption in such year from paying an assessment on honey such person distributes directly through local retail outlets, as determined by the Secretary, during such year.

"(ii) In order to claim an exemption under this subparagraph, a person shall submit an application to the Honey Board stating the basis on which the person claims the exemption for such year.

"(iii) If, after a person claims an exemption from assessments for any year under this subparagraph, such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.

"(3) If a producer, producer-packer, or importer does not pay any assessments under this Act due to the applicability to such person of the exemptions from assessments provided in paragraph (2), then such producer, producer-packer, or importer shall not be considered a producer or importer for purposes of voting in any referendum conducted under this Act during the period the person's exemption from all assessments is in effect.".

(b) COLLECTION OF ASSESSMENTS; REFUNDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) in subsection (a), by striking "and (e)" and inserting "(e), and (i)";

(2) by amending subsection (d) to read as follows:

"(d) In any case in which a loan is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949, or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds promptly after each occasion when an assessment is deducted from any such loan funds under this subsection.";

(3) in subsection (f), by inserting after "assessments" the following: ", and persons receiving an exemption from assessments under section 7(e)(2),";

(4) in subsection (h), by—

(A) striking "Any" and inserting "(1)(A) Except as otherwise provided in paragraph (2), any";

(B) striking "to importers" and inserting "an importer";

(C) striking "from importers" and inserting "from such importer"; and

(D) adding at the end the following:

"(B) A producer that has obtained a honey price support loan under the Agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(2) With respect to the order in effect on the date of the enactment of this paragraph, following the referendum on such order required under section 13(b)(2), a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to terminate refunds under the order is defeated in such referendum."; and

(5) by inserting after subsection (h) the following:

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.".

SEC. 615. FIRST RECONFIRMATION REFERENDUM.

(a) IN GENERAL.—Section 13(b) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "Five" and inserting "(1) Except as otherwise provided in paragraph (2), five";

(2) striking "continuation, termination," and inserting "termination"; and

(3) inserting at the end the following:

"(2)(A) In lieu of the first referendum otherwise required to be conducted under paragraph (1) for the order in effect on the date of the enactment of this paragraph, the Secretary shall conduct a referendum to determine if honey producers and importers favor—

"(i) the continuation of the order; and

"(ii) termination of the authority for producers and importers to obtain a refund of assessments under section 9(h)(1).

The referendum shall be conducted at the time the first referendum otherwise required under paragraph (1) would have been conducted, except for the operation of this paragraph.

"(B)(i) The Secretary shall terminate such order at the end of the marketing year during which such referendum is conducted, if the Secretary determines that termination of the order is approved or favored by not less than a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

"(ii) If the Secretary determines that termination of the authority for producers and importers to receive refunds of assessments under section 9(h)(1) is favored or approved by a majority of the producers and importers voting in such referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum, then the Secretary shall amend such order as necessary to reflect the vote of producers and importers. Such amendment to the order shall become effective on the date it is issued, but in no case more than 180 days after the conduct of such referendum.".

(b) CONFORMING AMENDMENT.—Section 13(d) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended by—

(1) striking "such order" and inserting "an order";

(2) inserting "in which a referendum is conducted under subsection (b) or (c)" after "marketing year"; and

(3) striking "of the order".

SEC. 616. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

"INVESTIGATIONS AND POWER TO SUBPOENA

"SEC. 11A. (a) IN GENERAL.—The Secretary may make such investigations as the Secretary deems necessary—

"(1) for the effective administration of this Act; or

"(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this Act, or of any order, rule, or regulation issued under this Act.

"(b) POWER TO SUBPOENA.—(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant

to the inquiry. The production of any such records may be required from any place in the United States.

"(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 10 or section 11, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

"(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

"(f) HEARING SITE.—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.".

SEC. 617. CONFORMING AMENDMENT TO ORDER.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture, after notice and opportunity for public comment, shall issue an amendment to the order in effect under such Act on the date of the enactment of this Act to conform such order to the amendments made by this title, which shall become effective on the date of the publication of such amendment to the order in the Federal Register without a referendum thereon (except for the referendum specifically provided for under section 05). The Secretary shall issue such amendment to the order in final form not later than 150 days after the date of the enactment of this Act.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, previously I stated that concern of Members, and our concern, on the time, and I would ask my distinguished colleague and friend, the gentleman from Massachusetts [Mr. CONTE] if he might not agree on a time limitation at this time. I would hope to make it less, but at least a half an hour divided evenly, 15 minutes to the side.

Mr. CONTE. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The Chair would state that there is no amendment pending at this time. There has only been the designation of title VI.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DE LA GARZA. Mr. Chairman, I would like to ask my colleague, the gentleman from Massachusetts [Mr. CONTE] if he is to offer an amendment momentarily, if we might, if it is parliamentarily possible, agree under unanimous consent on a time limitation on his amendment.

Mr. Chairman, would that be possible?

The CHAIRMAN. The Chair would state that the amendment should be offered first.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman from Texas [Mr. ARMEY] offer his amendment at this time?

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I would be happy to offer an amendment if the gentleman from Texas [Mr. DE LA GARZA] would yield back his time.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

□ 1330

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: In section 603, strike "1995" the first time it appears and insert "1992".

In the amendment to section 201(b) of the Agricultural Act of 1949 made by section 603 strike paragraph (1) and insert the following:

"(b)(1) For each of the 1991 and 1992 crops of honey, the price of honey shall be supported through loans, purchases, or other operations as follows:

"(A) at not less than 43 cents per pound for the 1991 crop; and

"(B) at not less than 32.3 cents per pound for the 1992 crop.

Mr. ARMEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DE LA GARZA. Reserving the right to object, Mr. Chairman, is this amendment printed in the RECORD?

Mr. ARMEY. Mr. Chairman, if the gentleman will yield, yes, it is. It is amendment No. 5, printed in the RECORD.

Mr. DE LA GARZA. Addressed to the title on honey?

Mr. ARMEY. Yes, it is to the title on honey.

Mr. DE LA GARZA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HATCHER. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield to me at this point to see if we can arrive at a time limit?

Mr. ARMEY. I would like to finish my statement.

Mr. DE LA GARZA. My reason is, if the gentleman will yield, to see if we can arrive at a time limitation in order to accommodate our colleagues who are trying to leave town.

Mr. ARMEY. Mr. Chairman, I am very anxious to move to a position where we can accommodate such a request, but I am not in a position now by agreement with other Members of the body that I could do so. I understand the gentleman's point and we will move to it as quickly as possible.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman and we will proceed and at a point in the not too distant future I hope again we can discuss a time limitation.

Mr. ARMEY. Mr. Chairman, if I can regain my time, I understand and fully appreciate the importance of the point the distinguished chairman of the Committee on Agriculture is making. Let me make my points on the honey program as quickly as possible.

I had planned a very poetic discourse on the honeybee and honey and our great affection for the honeybee. I will spare the body that discourse; but let me just say, Mr. Chairman, that honeybees are extremely important, not only in the making of honey, but more importantly, for the pollination of many fruits that you and I enjoy eating.

Now, there are three possible ways we can get those honeybees to get in those fields and pollinate those fruits. That is, we can own the honeybees ourselves if we own the orchard, or we can rely on the good faith and charity of our neighbor to keep the honeybees and allow them to freely come across our fence lines and pollinate our orchards and many of our neighbors are gracious enough to do that, or we can go out and rent or buy the honeybees from a supplier.

In any event, it is true that we cannot have apples and any of the other things we care about unless the honeybees do their duty.

Mr. Chairman, we would not want in any way to impede that, but I suggest that anybody who keeps an orchard should be expected to have enough sense to acquire in one way, by begging, borrowing, or stealing, those precious honeybees to pollinate that precious fruit and to be able to do this to accomplish this enormous intellectual feat of agriculture without the assistance of the Federal Government.

So I have crafted here legislation that would deny the price support for honey by virtue of which the Government presupposes upon itself the merit of getting those honeybees into the orchard.

The honeybee price support program was first started as a parity price program in the 1940's. Can you imagine that we had orchards pollinated before the Government got involved in this process; but yes, indeed, that is true. In 1985, we felt it necessary to upgrade the honeybee program and to provide a generous price support for honey in order to get those honeybees back to work, and we changed the program.

Now we have an elaborate program that subsidized the price of honey.

I would suggest, Mr. Chairman, that if there is anything in this bill that cannot be said to be absolutely imperative to and necessary for agriculture in this Nation, it is not to support the work of the honeybee.

I would suggest that we could conceivably remove this program or phase that program out and do harm to not one apple, one orange or one apricot in our Nation's agricultural food supply.

On that basis, I am offering an amendment here to eliminate, to reduce the honeybee program.

I might say, Mr. Chairman, in concluding my remarks, I want to pay my compliments to the Agriculture Committee. They have done their work and they have done it well.

This has been a merry fight and I would like to have continued it on peanuts, but unfortunately, our allegiance to budget principles preempted us from doing so.

At any rate, Mr. Chairman, I would suggest that this body can safely protect our Nation's food supply, and do not fear that we are taking a meat cleaver or a meat ax to the honeybee. We are only saying to this wonderful creature of God's world of nature, we believe you can fly on your own. You do not need to be uplifted by enormous expenditures of the taxpayers' money.

AMENDMENT OFFERED BY MR. CONTE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ARMEY

Mr. CONTE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE as a substitute for the amendment offered by Mr. ARMEY:

Strike subtitle A of title VI and insert the following:

SUBTITLE A—HONEY

SEC. 601. HONEY PRICE SUPPORT.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is further amended—

(1) in section 201 (7 U.S.C. 1446), by striking subsection (b); and

(2) by adding at the end the following new section:

"SEC. 208, HONEY PRICE SUPPORT.

"(a) 1991 THROUGH 1994 CROPS.—For each of the 1991 through 1994 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at such level as is determined to be appropriate by the Secretary.

"(b) 1995 AND SUBSEQUENT CROPS.—Beginning with the 1995 crop of honey, the price of honey shall not be supported through loans, purchases, or any other operations.".

SEC. 602. RESEARCH OF HONEYBEE DISEASES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) diseases affecting the entire honeybee population impact on the ability of honeybees to carry out crop pollination and honey production, and therefore impact negatively on beekeepers, producers and consumers; and

(2) certain diseases (such as those caused by tracheal mite, varroa mite, and the Africanized honeybee) pose a threat to the continued well-being of the general honeybee population, and thus merit further study.

(b) RESEARCH.—Notwithstanding any other provision of law, the Secretary of Agriculture shall give priority attention to the funding of research regarding the diseases referred to in subsection (a) that are affecting the honeybee population.

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Chairman, I ask unanimous consent to proceed for a total of 9 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] is recognized for 9 minutes.

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield, may I be sure that the House will be in order? This may be the high moment in the debate on the entire bill.

The CHAIRMAN. The Chair would request that the applause in the Chamber be reduced to a minimum so that the gentleman from Massachusetts can continue on his amendment.

Mr. CONTE. Mr. Chairman, I am sorry that I may disappoint the gentleman, because I have been waiting 3 days for this amendment. I think it was the strategy of the opposition to my amendment to do this, and I am just worn out waiting.

Mr. Chairman, I could be standing here with an amendment to eliminate the honey program altogether. That was my original intention. And I could be standing here fighting to terminate the program after 2 years. But, Mr. Chairman, I have heard the whining and groaning about how that would wreak havoc on the beekeeping industry.

So to show you I am a reasonable man, and that I can compromise, I am instead offering a substitute amendment to phase out the honey support program over 4 years, plenty of time for the few beekeepers who use the program to move off the Federal dole, and exactly what the Senate has just done.

Mr. Chairman, for once our esteemed colleagues in the Senate have done the right thing. They approved the very same amendment I am offering today. They saw the honey program for what it is—a wasteful, needless giveaway of taxpayer dollars to a few select beekeepers, and they came to the only conclusion possible: It's got to go.

The Senate is absolutely right. This is the most ridiculous giveaway program to ever wriggle its way into the lawbooks. Beekeepers got their hands in the honey pot as a result of World War II, when honey was a needed substitute for sugar and was called "war essential". After the war beekeepers demanded their war booty in the form of a price support program, and we have been paying ever since.

You want to know who we are paying, Mr. Chairman? We are paying the queen bees of the honey business, the 2,000 commercial beekeepers and 4,000 largest part-time beekeepers who are stuck on this program. That is 6,000 beekeepers, barely 3 percent of the 212,000 beekeepers in the country. We continue to pay them huge subsidies. We paid $152,704 to A.H. Meyer in 1988. We paid $143,810 to the Knoefler family. We paid $264,136 to Dick Ruby.

And we paid $531,115 to the Adee family, including $240,882 to Richard Adee, $137,626 to Kelvin Adee, and $152,607 to Bret Adee. And worse, those individual payments can actually soar up to $500,000 before hitting the limit.

It is outrageous, Mr. Chairman. And that is only the half of it. Wait until you hear about this sweet deal.

The queen bees are making a killing off this program, getting a double benefit. The way this program is set up virtually guarantees it. They take out Federal loans at 54 cents per pound of honey, but they repay the loans at 38 cents per pound. So they are getting 16 cents per pound of honey from Uncle Sam. But then they go out and sell that very same honey at the market price of 46 cents per pound—collecting another sweet 8 cent profit over the repayment rate. Uncle Sam is taking a 16 cent hit, and the beekeepers are buzzing off with 8 more cents. That is a raw deal for the taxpayers, but a honey of a deal for the beekeepers.

And for what, Mr. Chairman? Why are we giving away the store to a few beekeepers? For their honey? Mr. Chairman, we are up to our eyeballs in honey.

The CCC inventory has 57 million pounds of honey in stock; 57 million pounds. Even the beekeepers admit that we don't need their honey. They now say we can always import honey—

when just a few years ago they were crying about the record level of honey imports. But when you back them into a corner, when you cut through the phoney baloney on needing honey, the beekeepers drone out the magic word: pollination.

"We can import honey," says the American Bee Federation, "but we can't import pollination." They proudly point out that their honeybee pollination services add $9.7 billion a year to the value of crops grown in the United States; $9.7 billion, every year.

That is impressive, Mr. Chairman. And it proves my point. There is just no reason to shell out tens of millions of taxpayer dollars a year to a small, special interest group of beekeepers—when they already have a $9.7 billion market from which they can earn an honest income. With pollination so valuable, it's time we told the beekeepers to make some money off of it, stop sucking on the taxpayers' wallets, and get off the Federal dole. The honeymoon is over.

We tried to cut the waste and abuse in the program.

We got rid of the beekeeper indemnity program, the scam to end all scams, paying beekeepers for their dead bees killed by insecticides, when we all know the real reason they died was from too much sex. When forfeitures boomed out of control and costs went through the roof in the early eighties, we reformed it. I wanted to get rid of it then, but I agreed to compromise because the reforms were supposed to work.

But they have not, Mr. Chairman. Nothing has worked.

The marketing loan has not worked—in fact, it has made this program even more of a boondoggle. Five years ago this program supported 2,000 of the 212,000 beekeepers in the United States. But it is foolish for most beekeepers to ignore the marketing loan, which guarantees you a subsidy check. Now there are 6,000 producers in the program.

We have created a monster that keeps growing and growing. We have taken 4,000 honey producers who did not need any help with their honey and made it too hard to resist. It has got to stop, Mr. Chairman. It is out of control.

Quit stinging the taxpayer. Support my amendment.

□ 1340

Let me say to the chairman of the committee, "KIKA, you're a great chairman. You have got to help me. You have got to help me get this under control."

We have been stung long enough. Vote for my amendment.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a hard act to follow.

I, quite frankly, am surprised. I thought the good health and appearance of my good friend from Massachusetts would better understand the importance of pollination than what he has discussed today, but apparently he has not.

Let me say this: it is easy to joke about the honey program, and I would not stand before the Members today and say that everything the gentleman has said is wrong or right. I certainly would not.

In our subcommittee hearings that we have held we have numerous testimony from universities all over the country that testify to the importance of pollination and the significance of the honey program within that context, and it is for that reason that we ask the Members to strongly oppose both of the amendments that have been offered today and also, to the gentleman that says that the monster is growing and growing, once again, an individual Member of the House chooses to stand before all of our colleagues and say things that just are not so.

□ 1350

In 1985, when we did work with the gentleman from Massachusetts [Mr. CONTE], and again in 1987, we had worked to bring the cost and the growth of the program under control, and the facts speak for themselves. We have cut the cost of the honey program in half since 1985. Again I plead with Members to take a look at the other programs that come before us today and find any other program that has had the actual cost cut in half.

Mr. Chairman, we have reduced the support price to these honey producers the gentleman refers to from 64 cents down to 54 cents. The bill that we bring to you today freezes that for the next 5 years. That is what we say to Members today as we look at the program. Do not listen to the gentleman that says, "Let's eliminate it." Let us not ignore the best scientific advice that we have, that there is some significance to pollination, and that just maybe it is not as simple as the gentleman from Massachusetts [Mr. CONTE] makes it out to be, and just maybe there is some merit to continuing the program which we on the House Committee on Agriculture strongly do believe.

Mr. Chairman, it is easy to joke about this program, but the facts speak for themselves. Honey and honey bees are important to the food production of this country. I doubt very seriously very many Members will stand on this floor and laugh in 5 years if the gentleman wins and it turns out we are right, and the price of food has gone up because we have materially changed the pollination habits of this country through the honey program and its effect on bees.

Mr. Chairman, I ask Members sincerely, we have reduced the cost of the program. We will continue to move in that direction. This is not the time to unilaterally take the meat ax to the honey bee.

Mr. Chairman, there is one last point I would make. We have got another uncertain in the honey bees, and that is the African bee. They know it is approaching. We are being told by our best scientists and researchers that may be a problem. It may or may not be. If you believe the worst, it is a major problem.

Mr. Chairman, this is not the time for us to do as the gentleman from Texas [Mr. ARMEY] and the gentleman from Massachusetts [Mr. CONTE] have asked us to do. I ask Members to strongly oppose these amendments.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the honey title as established in H.R. 3950.

Many people snicker and laugh when the honey price support program is discussed. I guarantee, few people would laugh if their grocery bills increased. An estimated 15 percent of the plant-derived portion of our diet comes from plants dependent upon, or helped by, insect pollination. In fact, a recent Cornell University study measured the value of agricultural crops pollinated by honeybees at $9.7 billion annually. Without the assurance of a fair price, many honey producers would leave beekeeping and their colonies would no longer be available for pollination—possibly decreasing pollinated crops—resulting in a reduced crop yield and higher consumer prices.

The honey program provides market price stability to honey producers and encourages producers to maintain sufficient honey bee populations to pollinate important agricultural crops.

Honeybees also play a role in the production of plants that provide food and shelter for wildlife, control soil erosion, and beautify the environment.

Since 1985, the price of honey has been supported through nonrecourse loans to producers. These loans provide beekeepers interim financing to assist them in marketing their crop in an orderly manner. This provides market stability to producers and encourages maintenance of bee populations.

Honey is another commodity where the price support level has decreased significantly since 1985. The loan rate has fallen from 64 cents in 1986 to 54 cents in 1990—a decrease of 16 percent. As contained in H.R. 3950, a 5-year freeze of the honey loan rate at 53.8 cents is established. This rate will keep U.S. honey producers in business and assure that pollination continues. This program helps assure that American consumers continue to enjoy the cheapest and most plentiful agricultural products in the world. I urge my colleagues to support the honey title as established in H.R. 3950.

Mr. SKEEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the honey program as established in H.R. 3950 and in strong opposition to the amendment being offered by my good friend from Massachusetts.

I will be brief.

If you weaken the economic viability of the honey industry, you substantially weaken the viability of agriculture across the Nation. This amendment will weaken, if not destroy, the ability of our most important domestic honey producers to stay in business.

Honey bees serve two primary functions. One, they produce honey. Second, and most importantly, those bees pollinate crops that add nearly $10 billion in value to domestic crops in the United States.

Do not be fooled with the notion that the 200,000 Americans whose hobby is beekeeping, will provide adequate bee colonies for pollination.

It just will not happen.

The commercial beekeepers in this country, who are generally the sole participants in the honey program, have a critical role to play in American agriculture. These beekeepers derive little, if any, net revenue from pollination. There bread and butter comes from the sale of honey.

The honey program must be maintained in a way to ensure those beekeepers provide their essential services to agriculture producers.

I urge my colleagues to reject this amenement and help maintain an integral part of our agriculture industry.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts [Mr. CONTE]. I will be more than happy to accept the amendment as a substitute to my own, but I would like to make this point: The contribution of the honey bee is clearly first and foremost in the pollination services to the orchards. There can be no doubt about that. The orchards in turn produce a primary product that we all enjoy, apples, oranges.

The primary products do not have loan programs and price support programs, except, of course, citrus, which benefits from a government-financed, enforced, cartel arrangement. But aside from the exception for citrus, there is no program for the primary product.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, the point I would like to make, the gentleman from Texas [Mr. ARMEY] makes a good point on economics. The only point we ask Members to consider is we are moving gradually in that direction by having reduced the support price from 64 cents to 54 cents, and freezing it at 53.8 cents for the next 5 years. It will in fact allow this normal, efficient manner of operation the gentleman talks about to occur because honey priced at the level we are talking about is not going to promote the increased production of honey.

Mr. ARMEY. Mr. Chairman, reclaiming my time, I appreciate the remarks of the gentleman from Texas [Mr. STENHOLM]. If I may complete my point, honey, which is the primary product of the bee, is a secondary economic product of the operation. It is what we call a byproduct.

Here we have a case in point where we are being asked to keep in place a very expensive subsidy program to the byproduct, when in fact we have not found it necessary to have a support program for the product.

The gentleman from Texas [Mr. STENHOLM] mentioned this as an economic point. It is in fact a point that I studied. It is one of the most famous bucolic examples of externalities in my own discipline of economics. After years of study by the greatest economists in the world, they came to this conclusion: The person with the orchard producing the primary product would have a natural incentive to put the bees in place for the purpose of pollination. If it is not necessary to subsidize the primary product, it ought not be necessary to subsidize the input and its byproduct.

Mr. Chairman, I might add, we have not heretofore looked at direct subsidies to the chemical fertilizer industry for other crops that enjoy subsidies.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, in answer to my good friend the gentleman from Texas [Mr. STENHOLM], and he is my good friend, I am reading from a GAO report here. In answer to what the gentleman said, I read,

Legislative changes in 1985 eliminated the mandatory parity formula; established progressively lower support prices; and authorized a lower loan repayment option, at the discretion of the Secretary.

Mr. Chairman, that is from the GAO report. The next paragraph says,

However, program costs remained high because high support prices induced increased production. After initially declining through 1987, Government costs increased to about $100 million in 1988, largely because of the largest honey crop in 5 years. Honey production will probably remain at a relatively high level because the price support program still provides a very strong incentive.

Mr. Chairman, listen to this:

In 1985, GAO recommended that the Congress repeal the honey price-support program and direct the Secretary of Agriculture to reduce the price support incrementally to ensure an orderly phaseout of the program. At the time, USDA agreed that the Congress should eliminate the program.

Mr. Chairman, that is exactly what I am doing with my substitute amendment, an orderly phaseout over 4 years.

Mr. ARMEY. Mr. Chairman, reclaiming my time, I want to thank the gentleman from Massachusetts [Mr. CONTE] for his comments. If I might say, I want to thank the gentleman from Massachusetts [Mr. CONTE] for allowing me to be his honey apprentice. I appreciate the honor, and I support the work of the gentleman.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if the gentleman from Massachusetts [Mr. CONTE] could tell me how much his amendment would save the taxpayers?

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Massachusetts.

Mr. CONTE. Two hundred five million dollars.

Mr. FRENZEL. The gentleman from Massachusetts [Mr. CONTE] says $205 million. That is over a 4-year period?

Mr. CONTE. Mr. Chairman, that is right.

Mr. FRENZEL. Mr. Chairman, when I first came to Congress, I tried to reduce the honey program a little. It was a little overly sweet to the producers and pretty sour to the taxpayers even then.

Over the years we have made, as the gentleman from Texas [Mr. STENHOLM] suggests, a few modest changes in it. But remember, we have a total bill here that is about $5 billion over the spending baseline in mandatory spending alone. That increase is just on the Food Stamp Program alone. The agriculture programs also have large increases.

Mr. Chairman, we have here a bill that is not going to be enacted the way it is being dealt with on this floor. We have a chance right now to make one tiny, minuscule, little bit of savings. If we pass that chance up, it is going to look to the people of the United States and the world like we are not very serious about our task.

Mr. Chairman, because I am serious about that task, I hope the amendment of the gentleman from Massachusetts [Mr. CONTE] will be accepted.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I do not want to take a great deal of time, but I think that while this is a lot of fun and poking fun has provided great benefit to not only American agriculture, but the American consumer, I think we should become a bit serious about it.

Mr. Chairman, the point is that we have got 140 cultivated crops in this country that depend upon the honey

bee. While we can in fact import honey into this country, and without question without the support program those importations will grow, we will damage severely the ability to produce honey in competition with imports, there is no way that we can import the pollination that is carried out. It will do grave damage.

Mr. Chairman, as was pointed out earlier, the United States receives some 9.7 billion dollars' worth of benefit because of the honey bee and because of this particular program. We can be penny wise in this case, but certainly we are going to be pound foolish, and it would be a very serious mistake.

Mr. Chairman, while there is a very small constituency as far as the honey bee producers of this country are concerned, I hope that we will look instead to the tremendous contribution that they are making to American agriculture, to the American economy, and to the consumers of this Nation as well.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Oklahoma [Mr. ENGLISH] and enthusiastically urge Members to accept the balance brought to us by the Committee on Agriculture on this issue and reject the amendment before us.

□ 1400

Mr. JOHNSON of South Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to associate myself with the remarks of the chairman of the committee, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Oklahoma [Mr. ENGLISH], and support the honey program with a loan rate that has already declined by 22 percent, which has been frozen and which will result in the loss of another 20 to 25 percent of the buying power for the duration of this farm bill. I rise in support of the program and in opposition to the amendment.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are a couple of key points that I think need to be made here. Over the week we have tried to spend a great deal of time in debate making it clear that the act of 1949 and every farm bill since then is not a welfare program but it is a food management program.

I would encourage anyone who is having fun with the honey program to go back to the 1949 act and figure out why we instituted a honey program at that time. It was not that we had a lack of honey, but we had the very same pollination problem we are talking about now in the 149 crops that the gentleman from Oklahoma talked about and said this was necessary.

Our friend, the gentleman from Minnesota [Mr. FRENZEL], has suggested somehow that this is going to save over $200 million. I do not know where those numbers come from, but they are not what the Agriculture Committee is using. It is our understanding that this amendment would save $69 million. The whole program, the whole program under the revision that we are talking about is going to cost something like $204 million. We have instituted here a 40 percent reduction in the cost of the honey program over the life of the 1990 farm bill compared to the 1985 farm bill.

How have we done that? It gets to the other basic issue we have talked about this week, food management, not welfare is No. 1, and No. 2 is fairness. What we are doing in honey is the same thing we have done in most commodities, and that is that there is going to be in essence a freeze in the support program. It is only fair that we treat this commodity like the others, and for those reasons I would encourage Members to reject these amendments and stick with the committee.

Mr. DE LA GARZA. Mr. Chairman, I wonder if the gentleman from Massachusetts [Mr. CONTE] would agree to a unanimous-consent request that we conclude debate in 10 minutes with 5 minutes to each side, the time to be divided between myself and the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman that is all right with me.

Mr. DE LA GARZA Mr. Chairman, I make that unanimous consent request, that all debate on the Armey amendment and all amendments thereto conclude in 10 minutes, the time to be divided 5 minutes to myself and 5 minutes to the gentleman from Massachusetts [Mr. CONTE].

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I had not intended to become involved in this debate. However, some statements have been made with regard to pollination as if the orchard owners and farmers of this country did not have enough sense to put the honeybees in the orchards even without the program. I think it is absolutely absurd to make the argument that we are going to suffer from a lack of pollination should we do away with this particular program. That just does not make any sense.

I have much more faith in the American farmer than to even think that he would not know to have the honeybee present on his farm in order to take care of that problem. I think the real problem here is that we are pollinating the taxpayer with this particular program, and we ought to do away with it.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I rise in strong opposition to the Conte amendment and in strong opposition to the Armey amendment.

My colleagues should stay with the committee print.

Mr. DE LA GARZA. Mr. Chairman, I am happy to yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I stand today in opposition to the Conte amendment. The beekeeping industry is vital to American agriculture and adoption of this amendment will devastate an industry that cannot be replaced. Over 140 cultivated crops either require or benefit from bee pollination. The value added to pollinated crops has been estimated in the billions of dollars. Rest assured, the American consumer benefits from the byproduct of the domestic honeybee.

Beekeeping is specialized like many farm enterprises, but it is uniquely different in many respects from the production of row crops, forage crops, and livestock. The honey producer requires an extensive knowledge of biology, a keen mechanical aptitude, and a substantial capital investment. Largely, the honey producing industry is family owned and is frequently handed down from generation to generation.

Additionally, the Food Security Act of 1985, along with several other measures passed into law since that time, made several changes to the honey program that has continued to drive support levels downward. Since 1985, the honey program has minimized loan forfeitures, reduced stock levels, reduced costs incurred by the Government, and increased the competitiveness of American honey in domestic and export markets.

The present honey program is critical to sustaining the growth of this enterprise that supports both farmers and consumers. The honey producers of this Nation are looking for our support to build upon their success in the marketplace. This remains a program that contributes to the rural and urban communities of this Nation and I urge its continued support.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I will only take 30 seconds. But I would

like to point out that this is a program for the poor. All of the school lunch programs that I know of have received honey from this program.

The food for the poor program received in 1987 was 8 million pounds a month.

Go ahead and cut the program out if you want, but you are cutting out commodities that have gone to schools, and that have gone to school lunch programs and have gone to the poor people.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, let me just make the point regarding the comment by the gentleman from Minnesota [Mr. FRENZEL] on the budget a while ago, and the $50 million involved in this program. We know on the House Agriculture Committee that we are going to have to make some significant cuts when the summit agreements come in. This $50 million we will find somewhere other than in the proposal of killing the entire honey program.

This is not a budget argument as was made on this particular program, unless you truly believe that we can eliminate the honey program and not suffer consequences. If you do, then obviously you would go with the gentleman from Massachusetts [Mr. CONTE] and the gentleman from Texas [Mr. ARMEY].

Those of us on the Agriculture Committee, particularly those of us who have spent the time over the last 6 months in the hearing process, believe the scientists and the researchers who say there is some significance, maybe not to the degree we all talk about today, but there is some.

Therefore, I ask Members to vote against both of the amendments.

Mr. CONTE. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, first of all, with regard to the program savings, phasing this out over a period of 4 years will save $205 million. Where do we get that figure? It just did not come out of the clouds. We called the USDA, and that is who gave us the figure. The USDA.

Mr. Chairman, I happen to be sitting on that summit trying to figure out how to save a few bucks here and there, and believe me, one guy will say, "I don't want taxes"; and another one will say, "Don't touch the COLA's," "Don't touch the entitlements," "Don't touch this, don't touch that."

We have got to start somewhere, and here is a program that everyone, except a few beekeepers, has said should be eliminated.

Read the agriculture bill. The agriculture bill says pollination produces $9.7 billion a year in added value to crops. That is the market for pollinization. Do you mean to tell me they cannot afford a few bees to take care of that pollinization? I ask you: Am I being unfair?

My apple farmers, my peach farmers, my pear farmers, they are all out there. They have beehives. They have pollination, and they do not ask the Federal Government for any money. And when you have a few bee people out there in South Dakota and in the State of Washington and in California sucking up all of these millions and millions of dollars, I cannot understand why we cannot get complete unanimity on this amendment. It is not helping the little guy.

And there was my good friend from Montana [Mr. MARLENEE] talking about the School Lunch Program. They will still get honey. I went to a honey camp down in Alabama to shoot turkeys, and this guy brings out this big gallon of honey. And I said, "Where did you get that?" And he said, "Surplus. Surplus," he says, "they give it to me." Slopping it up at the taxpayers' expense. Forget the kids. I am no kid.

Mr. Chariman, let me close with a quote from William Shakespeare. He wrote the lines, "Where the bee sucks, there suck I. Merrily, merrily shall I live now."

"Where the bee sucks, there suck I."

There has never been a better description of the Federal honey support program. Some 6,000 well-read beekeepers have taken the immortal bard's words to heart, and they are sucking away at the taxpayers' wallet like there is no tomorrow.

Vote for the Conte substitute.

Mr. DE LA GARZA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I have stated to Members throughout the debate, what we are all about today is jobs, American agriculture, farmers big and small. It is the only thing bringing money back from abroad.

□ 1410

It is the only one that is giving us jobs, from the local farmworker to the tractor drivers to the combines. It is the only thing that we produce from the land. I know that this subject matter has a tendency to attract—we have quoted from Shakespeare, we have gone to the laboratory of the highest economic doctors. My colleagues who oppose this program have their fun. But this is seriouis business. I do not begrudge them their fun.

Good gosh, the honey program, they had more toilet seats in the B-2's that cost more than the honey program. We have had squandering, yes, but I am not here to tell you the areas of abuse, and there are a lot that the gentlemen could well address, both gentlemen, in the billions of dollars.

You know, when a farmer goes over 5 acres in planting his field, they bring him into the ASC office, they bring him into court. When it happens in another area, in defense, they call it cost overrun and it is OK. It is cost overrun.

Who got the cost overruns in Massachusetts, in Texas, in California, where they build the massive instruments of death and sell you coffee pots for $500? This is where our friends should be dedicating their efforts.

Let me correct this: This $9.7 billion you mentioned that has gone to farmers, cranberry farmers in Massachusetts and all kinds, let me tell you, my dear friendss, the biggest import of honey comes from Red China, from Red China is where we import the largest amount of honey.

We are back again, I hope I do not tire you, but it is jobs, it is the School Lunch Program. When you buy candy, read the contents of what is in the candy bar; when you buy pastries, read the contents; when you buy cereal, read the contents. All of this is the honey industry coming into play, giving you better quality food.

Let me add about this thing about the pollination: It is true, it is technically correct, that if they bring all these beautiful produce to the markets on Saturday and Sunday and you get this good price, good quality product in Boston or Dallas or Ft. Worth or Chicago, part of the reason that you got that good-quality food was because of the pollination done by these bees. You cannot cut that, you cannot deny that.

You can make fun, you can make fun, but we have to protect American interests, we have to protect American jobs, we have to protect American agriculture. We should not be here pointing the finger at this program. It is wrong, it is wrong, wrong, wrong.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me? I have 1 minute, and I will yield to the gentleman from Texas so that I can answer one question.

Mr. DE LA GARZA. I will be happy to yield to my friend.

Mr. CONTE. Mr. Chairman, I yield my 1 minute to my good friend, the gentleman from Texas.

Let me say this: First of all, you say we are having fun. I am not having fun. It is not funny to my taxpayers to have to pay for this. Sometimes you have to use levity to try to get your point across. As far as the B-2 bomber, go check my record, go check my record. I have fought all of those instruments that you are talking about, and you know that. I have been against every single one of them in the 32 years that I have been in the Congress.

As far as cranberries, you know, you could not find a cranberry in my district if you searched for the rest of

your life. Do you know where the cranberries are grown? They are grown in STUDD's district and in MOAKLEY's district.

Mr. DE LA GARZA. I am glad to find that out.

Mr. CONTE. And let me tell you: There is not one nickel, not one nickel, and you know that, not one nickel for subsidies for cranberries in this bill. Is there? Is there one nickel for cranberries? They are on their own. They believe in the free enterprise system and they do pretty darn well.

Mr. DE LA GARZA. The gentleman is correct, and it is those little bees that are helping them be on their own. I would not in any way defer from the gentleman's levity.

My friends, vote "no."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE] as a substitute for the amendment offered by the gentleman from Texas [Mr. ARMEY].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 215, not voting 39, as follows:

[Roll No. 278]

AYES—178

Ackerman	Edwards (OK)	Martin (IL)
Andrews	Erdreich	Mazzoli
Annunzio	Fawell	McCloskey
Applegate	Feighan	McDade
Archer	Fields	McGrath
Armey	Ford (MI)	McMillan (NC)
Aspin	Frank	McMillen (MD)
Atkins	Frenzel	McNulty
Baker	Gallegly	Meyers
Ballenger	Gallo	Mfume
Bartlett	Gaydos	Michel
Barton	Gejdenson	Miller (CA)
Bates	Gibbons	Miller (OH)
Beilenson	Gillmor	Miller (WA)
Bennett	Gingrich	Molinari
Bentley	Gordon	Moody
Berman	Goss	Morella
Bilbray	Gradison	Mrazek
Bliley	Green	Murphy
Bonior	Hall (OH)	Neal (MA)
Borski	Hamilton	Nielson
Brennan	Hancock	Nowak
Broomfield	Hansen	Oakar
Brown (CO)	Hastert	Owens (NY)
Buechner	Hefley	Owens (UT)
Campbell (CA)	Henry	Packard
Cardin	Hiler	Pallone
Carper	Hochbrueckner	Parris
Carr	Hughes	Patterson
Clarke	Hunter	Payne (NJ)
Clay	Hyde	Petri
Conte	Inhofe	Porter
Cooper	Ireland	Pursell
Coughlin	Johnson (CT)	Rahall
Courter	Kennedy	Ravenel
Cox	Kleczka	Regula
Crane	Kostmayer	Rhodes
Dannemeyer	Kyl	Ridge
DeLay	Lagomarsino	Rinaldo
DeWine	Lantos	Ritter
Douglas	Lehman (FL)	Rohrabacher
Downey	Lent	Ros-Lehtinen
Dreier	Levin (MI)	Russo
Duncan	Levine (CA)	Sawyer
Durbin	Lukens, Donald	Schaefer
Eckart	Machtley	Scheuer
Schneider	Solomon	Waxman
Schroeder	Spratt	Weiss
Schulze	Stokes	Weldon
Schumer	Studds	Wheat
Sensenbrenner	Sundquist	Whittaker
Sharp	Torricelli	Wise
Shaw	Traficant	Wolf
Shays	Upton	Wolpe
Shuster	Vander Jagt	Wyden
Smith (NJ)	Vento	Wylie
Smith, Robert (NH)	Vucanovich	Yates
	Walgren	Yatron
Snowe	Walker	Young (FL)
Solarz	Washington	

NOES—215

Alexander	Harris	Penny
Anderson	Hatcher	Perkins
Anthony	Hayes (IL)	Pickett
AuCoin	Hayes (LA)	Pickle
Barnard	Hefner	Poshard
Bateman	Herger	Price
Bereuter	Hoagland	Quillen
Bevill	Hopkins	Rangel
Boehlert	Houghton	Ray
Bosco	Hoyer	Richardson
Boucher	Hubbard	Roberts
Brooks	Huckaby	Roe
Browder	Hutto	Rogers
Brown (CA)	James	Rose
Bruce	Jenkins	Roth
Bryant	Johnson (SD)	Rowland (GA)
Bunning	Johnston	Roybal
Bustamante	Jones (GA)	Sabo
Byron	Jones (NC)	Saiki
Callahan	Jontz	Sangmeister
Campbell (CO)	Kanjorski	Sarpalius
Chandler	Kaptur	Savage
Chapman	Kasich	Saxton
Clement	Kastenmeier	Schiff
Clinger	Kennelly	Schuette
Coble	Kildee	Shumway
Coleman (MO)	Kolbe	Sikorski
Coleman (TX)	Kolter	Sisisky
Collins	Lancaster	Skaggs
Combest	Leach (IA)	Skeen
Condit	Leath (TX)	Skelton
Costello	Lehman (CA)	Slattery
Coyne	Lewis (CA)	Slaughter (NY)
Craig	Lewis (FL)	Slaughter (VA)
Darden	Lewis (GA)	Smith (IA)
Davis	Lightfoot	Smith (NE)
de la Garza	Lipinski	Smith (TX)
DeFazio	Lloyd	Smith (VT)
Dellums	Long	Smith, Denny (OR)
Derrick	Lowery (CA)	
Dickinson	Lowey (NY)	Smith, Robert (OR)
Dicks	Luken, Thomas	
Dingell	Madigan	Staggers
Dixon	Manton	Stallings
Dorgan (ND)	Markey	Stangeland
Dornan (CA)	Marlenee	Stenholm
Dymally	Martinez	Stump
Dyson	Matsui	Swift
Edwards (CA)	McCandless	Synar
Emerson	McCollum	Tanner
Engel	McCurdy	Tauke
English	McEwen	Tauzin
Espy	McHugh	Taylor
Evans	Mineta	Thomas (CA)
Fascell	Mollohan	Thomas (GA)
Fazio	Montgomery	Thomas (WY)
Fish	Moorhead	Torres
Flake	Morrison (WA)	Towns
Foglietta	Murtha	Traxler
Frost	Myers	Udall
Gekas	Nagle	Unsoeld
Gephardt	Natcher	Valentine
Geren	Neal (NC)	Visclosky
Gilman	Oberstar	Volkmer
Glickman	Obey	Walsh
Gonzalez	Olin	Watkins
Goodling	Ortiz	Weber
Grandy	Panetta	Whitten
Grant	Pashayan	Williams
Guarini	Paxon	Wilson
Gunderson	Payne (VA)	Young (AK)
Hall (TX)	Pease	
Hammerschmidt	Pelosi	

NOT VOTING—39

Bilirakis	Conyers	Early
Boggs	Crockett	Flippo
Boxer	Donnelly	Ford (TN)
Burton	Dwyer	Gray
Hawkins	Mavroules	Rostenkowski
Hertel	McCrery	Roukema
Holloway	McDermott	Rowland (CT)
Horton	Moakley	Serrano
Jacobs	Morrison (CT)	Smith (FL)
LaFalce	Nelson	Spence
Laughlin	Oxley	Stark
Livingston	Parker	Stearns
Martin (NY)	Robinson	Tallon

□ 1434

The Clerk announced the following pairs:

On this vote:

Mr. Jacobs for, with Mr. Robinson against.

Mrs. Roukema for, with Mr. Tallon against.

Mr. Morrison of Connecticut for, with Mr. Parker against.

Mr. PAXON and Mrs. LOWEY of New York changed their vote from "aye" to "no."

Ms. OAKAR, Mr. GORDON, and Mr. DANNEMEYER changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The amendment was rejected.

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we conclude consideration of legislation that will chart the course of farm policy for the next 5 years, let us consider the dramatically different farm economy in which we formulated the 1985 farm bill. Five years ago, high prices weakened the competitiveness of American commodities on world markets. The economy of rural communities was suffering as people were losing farms that had been tilled by their families for generations.

As chairman of the congressional rural caucus, I hope that support of this legislation will not be divided between rural and urban interests. Farmers are not the only beneficiaries of the market-oriented policies we implemented in 1985. Urban as well as rural citizens benefit from the availability of an adequate supply of food at relatively low prices.

As we set the direction of farm policy for the next half-decade, I think that few if any of us here today want to return to the depressed farm economy of 5 years ago. Let us stay the course we set in 1985 by supporting the farm bill. American farmers and consumers are depending on us.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that before com-

pletion of consideration of amendments to this bill we revisit title VIII and take up for consideration my amendment on the peanut program.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HATCHER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DE LA GARZA. Mr. Chairman, I wanted to inform the Members that the leadership has graciously allowed all of this time so that we might consider our legislation, but unfortunately it does not appear that we would be able to successfully conclude it by 3 o'clock, which is the time allotted to us.

I want to thank all of the Members for their patience and indulgence and their support of the committee throughout the process. It would be my hope that we would rise, because if we were to consider anything else, a vote might put it beyond the 3 o'clock time, and I want to comply with the agreement that we have with the leadership.

So again, Mr. Chairman, I thank all the Members for their support and their patience during the debate, and we will revisit next week, sometime at the direction of the leadership, the rest of the bill that is pending.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished friend, the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to thank the gentleman from Texas for his explanation and his understanding. We will come back here sometime to revisit this bill, and we will still be on title 6 at that time.

□ 1440

Mr. DE LA GARZA. Mr. Chairman, if there are no other amendments, I hope we can conclude title VI at this point.

Mr. CONTE. Mr. Chairman, I have another amendment to title VI.

Mr. ARMEY. Mr. Chairman, I have another amendment.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] still has the time.

Mr. SMITH of Texas. Mr. Chairman, I rise to express my concern about the amendment made to title V of the farm bill last Wednesday, July 25. The amendment will impose a $100,000 limit on payments made under the wool and mohair program beginning in fiscal year 1994.

I support the wool and mohair title as originally written by the Agriculture Committee. We have heard the facts about the program: that it is financed through a tariff, not the taxpayer; that it is a program designed to encourage production, that it is not a welfare program.

The wool and mohair program is not one that rewards people for not producing sheep, or pays people to slaughter their animals. It is a program that gives ranchers across the country an incentive to produce a high quality product that will be used here in the United States.

This program does not favor existing producers to the exclusion of people hoping to start a small family operation or shift to production of wool and mohair.

The wool and mohair producers rely solely on the wool and mohair program. They do not have marketing loan programs, export enhancement programs, or commodity storage programs like other commodities. For that reason, a $250,000 payment limitation is consistent with the limit placed on other commodities.

Imposing a $100,000 payment limit would be telling producers that they should not be too efficient, they should not expand their operation too much, they should not do too good a job of competing with foreign producers who do have export enhancement programs and who do have commodity storage programs.

I am very disappointed that the House has chosen to restrict the wool and mohair program before American producers are able to compete on a level playing field with producers in Australia and South Africa, and before similar limits are placed on all commodity programs.

Until our negotiators in Geneva bring home a GATT agreement that creates a fair world market, I urge Congress, and our conference committee negotiators, to continue to help American producers.

Mr. KOSTMAYER. Mr. Chairman, I would like to take this time to highlight the debt for nature provision in title XII of the Food and Agricultural Resources Act. The debt for nature provision in section 105A gives the President the authority to release a government in the Western Hemisphere from all or part of its obligation to repay its Public Law 480 loans to the United States. In exchange, that government would agree to set up a trust fund in local currency for environmental protection, and to pay periodic interest into the trust.

Section 105A is based on H.R. 5088, the Western Hemisphere Debt for Nature Conversion Act, a bill I introduced in June of this year. The bill is cosponsored by the ranking minority member of the Subcommittee on Western Hemisphere Affairs and several other Members of the House. Although I introduced H.R. 5088 before the President announced his enterprise for the Americas initiative, I believe the language in the bill and in section 105A will accommodate the President's plans for the hemisphere.

The main purpose of section 105A is to help provide debt burdened governments in our hemisphere with the resources to protect millions of acres of land currently classified as preserves. All of the countries in the hemisphere, including the United States, have an interest in protecting the thousands of plant and animal species that inhabit these lands.

The Subcommittee on Western Hemisphere Affairs, on Human Rights and International Organizations, and on International Economic Policy and Trade held two hearings on H.R. 5088. At the first hearing, the subcommittees heard testimony from environmental and debt experts, including the former Environment Minister of Costa Rica. All of the witnesses strongly supported the legislation. At the second hearing, the subcommittees received testimony from the Undersecretary of Treasury for International Affairs. Since that hearing, I have been working with the Treasury on the finer points of section 105A and H.R. 5088, and will continue to work with the Treasury as this legislation moves toward conference and as H.R. 5088 moves through the Foreign Affairs Committee.

I would like to thank the chairmen of the Committees on Agriculture and Foreign Affairs for their support of this very timely and important initiative.

Mr. ROWLAND of Georgia. Mr. Chairman, it is no secret that times have not been easy in rural America.

Although there's nothing new about the decline of family farming, that trend rapidly accelerated during the 1980's. And when farmers experience hard times, it's not only themselves and their families that suffer. Entire communities feel the pain.

Many rural communities have experienced high unemployment, business failures, an unprecedented number of hospital closings, major population migrations, and general depression-like conditions.

As we begin a new decade, it appears rural America is beginning to make a comeback. Agriculture is somewhat more stable, at least for some farmers and agribusinesses. Rural road development is improving. Congress has provided financial help for rural hospitals. And some rural areas are beginning to have more success in attracting new business and industry.

But the rural economy is still very fragile.

That is why it's so distressing that we are threatened with proposals to abolish or radically revise farm programs which are playing an essential part in the recovery of rural areas.

One of our colleagues commented that maybe it isn't so bad for family farms to disappear if they can't make a go of it without Government programs. He doesn't understand that it's not just the livelihood of individual farmers that's at risk. It's the economic security of entire communities and regions. Ultimately, it's an issue that will affect our entire national economy.

The peanut program is a good example. Peanuts have become a stable commodity for some 45,000 growers in the country. These are mostly small farmers, averaging about 70 acres. The only reason so small farmers are making a living producing peanuts is because they have a peanut program that protects them from wild swings in both production and prices. The program costs just $5 million a year, a small investment for the level of stability we have given to family farming.

In my own district, more than 70,000 acres are planted in peanuts. This is more acres than many of you may have in your entire districts. It is a crop which is enabling many farmers to recover and survive. Stability has produced economic vitality. If you take away the stability, you take away the vitality.

Mr. Chairman, I believe in free market principles. So do our farmers. That is a goal we

should strive for in agriculture as well as in other areas of our economy. But this is not the time to destabilize rural America with ill-timed and ill-conceived changes in our farm programs.

Mr. FRENZEL. Mr. Chairman, today we are considering the farm bill, H.R. 3950, which will establish agricultural policy for the next 5 years. In my judgment H.R. 3950 is too expensive and is being debated at the wrong time.

Although the budget summit is progressing much slower than I would like, I am confident that outlays for the farm bill will have to be reduced significantly when we reach a budget summit agreement. In addition the 1990 farm bill should be debated with an eye on the GATT negotiation and not in a vacuum of its own.

When the Agriculture subcommittee's was considering the 1990 farm bill, I was worried because they were increasing the target prices and creating new program as if there was no budget deficit to contend with. The bill that was reported out of the full committee is somewhat improved but it is still too expensive.

The Agriculture Committee seems to be trying to reverse the market orientation direction that was established in the 1985 farm bill. The 1985 farm bill was debated and passed in the middle of what some would have called the "farm crisis." The 1985 bill froze or lowered target prices and lowered loan rates. This has helped make U.S. farm products more price-competitive in the world market.

Since the passage of the 1985 bill many of the agriculture economic indicators are up. That would call into question the decision of the Agriculture Committee to freeze target prices and raise loan rates in the 1990 bill. H.R. 3950 is no way to build on the successes of the 1985 bill. It does not send a positive message to the negotiators at GATT. And finally, it is no way to deal with our budget deficit.

As we consider the bill I want to point out some important amendments. These amendments are targeted at programs that are unfair or archaic and should have been amended or abolished years ago. I am supportive of amendments offered to the peanut, tobacco, wool, and mohair programs as well as limits on payments to high income farmers.

The peanut program is a system of mandatory supply controls in which a farmer needs a license to grow peanuts. It is illegal for a farmer to sell peanuts in the domestic market if he or she does not have a permit. The amendment would eliminate the quota system and substitute a price support similar to those covering other food crops. Depression era production control measures were eliminated for other food crops years ago. It is about time we did the same for peanuts. We might even save the consumer some money.

I am also supportive of the payment limitation amendment. This amendment would close loopholes which have allowed farmers to avoid the $50,000 payment limitation provision of the farm bill. I would also establish a $50,000 payment limitation for each of the farm programs not currently subject to the limit such as the wool and mohair.

In addition, I am in favor of the amendment denying farm income support payments to individuals with over $100,000 annual adjusted gross income or to farms with more than $500,000 in annual gross receipts. This amendment could save $900 million annually.

Since Congress has chosen to debate the farm bill before the budget summit and without regard to the GATT negotiations, I would urge my colleagues to vote for cost saving and market oriented amendments.

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the Glickman amendment, which would prohibit the extension of credit guarantees by the Commodity Credit Corporation to Iraq unless the President determines that certain conditions have been met.

The issue here is whether the United States should continue to extend $1 billion in credit guarantees to a country that has repeatedly threatened to destory our friend and democratic ally—Israel—and has the military capability to do so—has used chemical weapons against its own Kurdish citizens, and that has, according to the State Department, an abysmal human rights record. The fact is that Saddam Hussein is an extremely dangerous man who poses a real threat to world peace and stability.

On April 2, Hussein threatened to "let our fire eat half of Israel if it tries to wage anything against Iraq." Considering Iraq's extensive chemical weapons capability and its use of chemical weapons against its own citizens, we must take Hussein's threats very seriously. Hussein himself claimed that only the United States and the Soviet Union could match Iraq's chemical weapons capability.

Iraq is also continuing to build up its conventional, biological and nuclear weapons capabilities. Earlier this year, a plot to smuggle 40 United States-made nuclear detonators to Iraq was uncovered and Hussein admitted that Iraq is conducting research on biological weapons. Just recently, the administration blocked the shipment of four titanium processing furnaces that metallurgists concluded were intended for military uses. The experts said that the furnaces can be used to make missile parts, aerospace equipment, gas turbines and parts, turbines for fighter aircraft, nuclear reactor facilities, and components of nuclear devices. The furnaces also have the capability of producing a metal that can be used in the nose cones of Iraqi missiles to increase their range and impact.

Since 1980, Iraq has more than tripled its army and has imported more than $3 billion in arms. Iraq's recent decision to deploy 30,000 troops to the Kuwaiti border to bully Kuwait into raising oil prices reveals Hussein's willingness to use Iraq's military might to achieve his ends.

The fact is, Mr. Chairman, that Iraq has the ballistic delivery vehicles necessary to use chemical, nuclear, or biological weapons. It is deploying approximately a dozen intermediate-range missiles with a range of 560 miles, which makes Israel an easy target. The seizure of sections of a 130-foot cannon destined for Iraq is another indication of Iraq's destructive intentions.

We simply should not subsidize Iraq so that it can strengthen its already substantial military capability. As a matter of fact, since the USDA and Justice Department have initiated an investigation into allegations of unauthorized use of CCC loans by Iraq, including illegally diverting funds to develop its chemical and nuclear capabilities, all CCC credits to Iraq have been suspended.

We must also consider the moral implications of supporting a regime that has a deplorable human rights record. According to the State Department's 1989 country-by-country report on human rights practices, Iraq's human rights record remained abysmal in 1989. The report states that: "intelligence services engage in torture and summary execution to deal with antiregime activity," and there are "continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians, and an almost total lack of worker rights."

Mr. Chairman, the United States cannot continue to extend credit blindly. Continuing the guarantee program to Iraq would enhance Iraq's threat to the State of Israel, and its recent destabilizing actions in the Persian Gulf. We must put an end to this imprudent policy now.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise to express strong support for the amendment of Mr. GEJDENSON to title XII of H.R. 3950 which reauthorizes our Food for Peace Program. This amendment, which constitutes a significant reform of our Food Aid Program, reflects a sound compromise among leaders of the Agriculture, Foreign Affairs and Hunger Committees.

The amendment is important, both in its own right, and as a building block in the structure of the new foreign aid program of the post cold war era. The amendment puts the poorest countries at the center of our concern by providing them food aid on a grant, rather than a loan basis. It ensures that our food aid to the poorest countries will no longer add to the crushing debt burden which thwarts development efforts of those nations.

NEW CRITERIA FOR FOOD AID

AID is instructed to allocate food on the basis of need, the capacity of recipients to use it effectively and their willingness to adopt policies to promote food security. These are seemingly very unremarkable criteria, but ones which were neglected during the cold war, when political considerations distorted title I allocation decisions.

The Gejdenson amendment is consistent with the reform thrust of a bill initiated by my Hunger Committee colleagues Chairman HALL, Representatives BEREUTER and PENNY, and myself. That bill called for the new directions in Food for Peace now expressed in the Gejdenson amendment.

NEW DIRECTIONS IN FOREIGN AID

Last month, when this House approved the foreign aid appropriations bill it pointed the administration in the direction it should travel in the nineties to change the old, and perverse priorities in which countries most in need received the least U.S. aid. The U.S. House action told the administration there was less need for helping foreign armies and more for meeting basic human needs.

Frankly, however, there is a very long way to go before we can honestly say the U.S. Foreign Aid Program is, first and foremost, a development program to help poor countries.

This week, as Chairman of the Select Committee on Hunger's International Task Force, I held hearings to urge the administration to reorder its assistance priorities. I urged the administration to put promoting development in the poorest countries, fighting hunger and malnutrition, and alleviating poverty at the top of its assistance priorities.

I told the State Department and the Agency for International Development officials that to continue to allow outdated strategic and political considerations to dominate our aid decisions in the new international political environment will cost us our world leadership on development issues.

We have a rare opportunity to dramatically improve our Foreign Assistance Program so as to really make a difference in the lives of more of the world's poor. This amendment to the Food for Peace Program should help reform foreign aid and, I am confident, bolster the fight against hunger and malnutrition.

Mr. Chairman, this amendment will help rebuild our Foreign Aid Program into one in which all Americans can once again take pride: one which reflects our best humanitarian values. So I urge my colleagues support for the Gejdenson amendment.

Mr. DE LA GARZA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. BONIOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3950) entitled the "Food and Agricultural Resources Act of 1990," had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unavoidably absent for rollcall votes No. 234 and No. 257. I would have voted "yes" had I been present.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "yea" on rollcall No. 275 and No. 276. I would have noted "nay" on rollcall No. 277 and No. 278.

PERSONAL EXPLANATION

Mr. FOGLIETTA. Mr. Speaker, I rise today to clarify my vote on roll call vote No. 278. Inadvertently, I registered a vote against the Conte amendment to H.R. 3950, the Food and Agricultural Resources Act to cut price supports for the honey program. If my vote had been correctly registered, I would have voted "aye."

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on today's consideration of H.R. 3950.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A PREPOSTEROUS PROPOSAL

(Mr. DOWNEY asked and was given permission to address the House for 2 minutes and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, the President got it half right in his new tax proposal. It is a good idea to tax the rich to help solve the deficit problem. And his limitation on the deductability of State and local taxes hits the people best able to pay. However, it only goes after the wealthy in States that have income taxes. What about well-healed taxpayers in States without income taxes, they get a free ride? This proposal is preposterous. It punishes the States and cities who have progressive taxes and eliminates a whole category of wealthy individuals who should be paying more taxes. It was an idea rejected soundly in the 1986 tax reform plan and should be rejected out of hand by the summiteers now. If the President is serious about raising revenue from the people who can most afford it, he'll propose a new top rate to 35 percent. Anything else is just a political plan designed to be divisive.

NO NEW TAXES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I know the summiteers are working now at this momemt, and they are considering a lot of proposals.

Let me say, Mr. Speaker, that we have had repeated, and we do have repeated, efforts to find ways in which we can reduce the expenditures of the taxpayers' hard-earned dollars in matters which are quite often foolish, unneccessary and wasteful. Until Congress can arrive at ways in which to eliminate this unnecessary burden on the taxpayers' dollars, I would consider it unconscionable for this summit to bring any new tax or tax rate increase before these people for a vote.

Mr. Speaker, I would oppose any effort to raise the taxes on the backs of the American people while we are squandering foolishly in so many ways their hard-earned dollars.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1-minute for the purpose of inquiring of the distinguished majority leader the program for the balance of this day and, more preferably, what we have in store for next week.

Mr. Speaker, I think this will be an extended dialog covering the interests of the broad spectrum of our membership on both sides of the aisle.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, the remaining business for today is the general debate on the housing bill, but there will be no more votes.

On Monday, July 30, the House will meet at noon to consider 19 suspension bills. Recorded votes on suspensions will be postponed until after consideration of the military construction bill.

First, H.R. 2921, Telephone Advertising Regulatory Act;

H.R. 2965, Emerging Telecommunications Technologies Act of 1989;

H.R. 293, Fire Safe Cigarette Act of 1989;

H.R. 4638, Orphan Drug Amendments of 1990;

H.R. 4437, National Health Service Corps;

S. 2461, Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990;

H.R. 3562, The Nutrition Labeling and Education Act;

H.R. 5084, Mary McLeod Bethune National Historic Site;

H.R. 3493, Route 66 Study Act of 1989;

H.R. 2949, to authorize a study of nationally significant places in American labor history;

S. 1230, regarding the acquisition of land for inclusion in the Knife River Indian Village National Historic site;

S. 1524, Pemigewasset River Study Act of 1989;

S. 1046, Merrimack River Study Act of 1989;

H.R. 4498, Grand Canyon Protection Act of 1990;

H. Res. 398, regarding U.S. ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region;

H.R. 3687, regarding a memorial to George Mason in the District of Columbia;

H.J. Res. 183, the National Fire Academy in Emmitsburg, MD;

H.R. 2575, commemorative medal for members of the Armed Services present during the attack on Pearl Harbor on December 7, 1941;

H.R. 4983, Federal Employees Cost Savings Awards; and

H.R. 5313, military contruction appropriations for fiscal year 1991.

□ 1450

As I said before, votes on suspensions will be held until after all of the votes on the military construction bill.

On Tuesday, July 31, the House will meet at 10 a.m. First we will consider H.R. 5335, to increase the statutory limit on the public debt, subject to a rule.

Then we will go to H.R. 1180, the omnibus housing authorization, to complete consideration.

On Wednesday, August 1, and the balance of the week, the House will meet at 10 a.m. to consider H.R. 4000, the Civil Rights Act of 1990, subject to a rule; a House resolution on legislative branch appropriations for fiscal year 1991, subject to a rule; H.R. 3950, Food and Agricultural Resources Act, complete consideration; H.R. 5170, to amend the Airport and Highway Improvement Act of 1982, to complete consideration.

Then we will take up the conference report on H.R. 1465, Oil Pollution Prevention Response Liability and Compensation Act, 1989, subject to a rule.

Conference reports may be brought up at any time and any further program will be announced later.

At the close of the week's business, the House may adjourn—I say may adjourn until noon on Wednesday, September 5, for the August district work period.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

I note that there is no mention of campaign reform in the gentleman's discourse, although that was discussed between the gentleman and the Speaker and I earlier today. Can the distinguished majority leader enlighten us on that subject?

Mr. GEPHARDT. There is still consideration of that legislation and it may be asked to be put on the calendar for next week. A decision has not been made on that yet.

Mr. MICHEL. Notwithstanding the fact that the Speaker pretty much had indicated to the gentleman from Illinois that before we broke for August that that would be under consideration on the floor; now, I understand there are problems on the gentleman's side of the aisle, and that while we would like an open rule for discussion of that, that might be highly unlikely now. I am wondering if it does go over until September, does that give us any indication that there will be a more relaxed rule under which we could consider that, in view of the time that cannot be honored now to bring it up before we break here for the August recess?

Mr. GEPHARDT. As I understand it, if the bill comes up, there obviously would be provision for a Republican substitute. Beyond that, I do not think final decisions have been made on the substance of that rule.

As the gentleman knows, it has been the Speaker's desire to have campaign reform legislation up for some time. We wanted to do it a month, even 2 months ago. It has been difficult to pull the legislation together. We will give definitive word on it as soon as humanly possible, probably by Monday.

Mr. MICHEL. Well, I thank the gentleman.

Of course, I would remind the distinguished majority leader that we have had our plan with 25 points out there for public inspection for 60 or 90 days or more. It is kind of difficult, even if limited to a substitute, to craft a substitute in answer to something we have never seen, so I would remind the distinguished gentleman of the handicaps under which we operate here on the minority side.

If I might quickly move to the civil rights area, there again we have Members with significant amendments, particularly in the area of remedies and quotas and several others.

While the gentleman says in his dissertation here that it would be subject to a rule, is there any enlightenment the gentleman might give us on the kind of rule that would be at least recommended by the leadership for consideration of the Civil Rights Act to give us the opportunity to offer amendments which we think are very much in order and legitimate and ought to be discussed.

Mr. GEPHARDT. I am not prepared to give an exact description of a rule, but there obviously would be a Republican substitute and there would be other amendments allowed. Exactly what amendments, that decision would be made by the Rules Committee at a later point.

Mr. MICHEL. Now, if I might move on, the gentleman made mention that the House may be leaving on our scheduled recess period of the 4th. Of course, as the gentleman is well aware, the Speaker, the gentleman from Missouri and the gentleman from Illinois have argued for some time, always in the interests of our membership, that August was kind of a sacrosanct month because of wanting to have a vacation period while the children are out of school, for the benefit of those with families. Some of us are beyond that stage, but I remember full well how important that was in my junior years around here; although since the President earlier on had asked for a meeting or an agreement by July 4, or soon thereafter on the summit, and there being very little progress up to this point, I think he has a legitimate argument to make, or at least question whether or not it is possible to get anything done before we leave, even if extending our adjournment date for a week, as has been talked about to some degree over in the other body.

I am not advocating that altogether at this juncture, because as I have indicated, I have been arguing the other way in the interests of the membership; but if we should per chance leave here on the scheduled date, I think the gentleman from Missouri might very well indicate that some of us who serve on the summit would have to come back earlier and that we would really have to have an expedited schedule beginning as soon as we return and one that would have to be adhered to, and there would be all kinds of requests from Members on both sides of the aisle, "Leave us off this day, leave us off that day."

We are really getting to the crunch period then if we have to leave the summit agreement go until the month of September, rather than staying here now and finishing it.

I throw that out only for the gentleman's own observation in answer to what the gentleman from Illinois has said.

Mr. GEPHARDT. I think the gentleman has stated it well. As far as our side is concerned, we along with the gentleman from Illinois hope for a summit agreement. We want to work prodigiously to that end. We feel we have, and that the other side has as well.

It is not entirely our decision alone on whether we stay and work it through or whether we come back. I think in either event, the people on the summit have to be prepared to do a good deal of work next week and the week after that and through the recess, perhaps coming back for the entire summit early and then working on a very tight schedule timeframe in order to get through with a hoped-for agreement by October 1.

I also feel that it will be critical for all of the Members to be prepared to do a lot of work during the month of September, if that is the choice, to put all this legislation through in a timely manner. We not only have other substantive legislation that we know we have to do yet to finish the appropriation bills, and if you had a summit agreement you would have to pass a budget conference report and a reconciliation bill and then all the appropriation conference reports consistent with any potential summit agreement; so whether we do it in August or whether we do it in September, there will be a lot of legislative activity during the month of September that people will have to be prepared for.

□ 1500

If the gentleman will yield further, I also believe that if the decision of the summit and the President is to do this largely in the month of September, late August and in September, that we should set out a schedule, a definitive schedule, for doing that in some kind of resolution so that we all know exactly what the limits are on each phase of the operation.

Mr. MICHEL. I thank the gentleman. When we have an adjournment resolution here, there could very well be a proviso in that adjournment resolution that could spell that out. I think it is a distinct possibility, coming over from the other side in that form, if it were not one that was originating in the House without that proviso.

One other question, and then I will be happy to yield to my friend from Georgia.

On the rule for defense authorization, now, we did not talk about that earlier other than in our earlier conversation, the day, the second week or so in September, I think when that may be coming up. I had the chairman of the Committee on Rules was going to ask that all amendments to that measure, that there be a deadline by this coming Thursday on a bill that would not be considered until the second week in September. Is the gentleman aware of that, or is that cast in stone as yet?

Mr. GEPHARDT. Our hope was that we could try to do the rule on Friday, that the rule would come out of the Committee on Rules, and we can consider it on the floor on Friday.

Mr. MICHEL. A week from today?

Mr. GEPHARDT. A week from today, and as the gentleman knows, last year we had a procedure that called for amendments to be printed in the RECORD by a certain time. Now, to my knowledge, they have not finally decided on when that time is, but if we are to be able to get the bill done in a reasonable period of time, we are going to, I think, try to duplicate that process at least so that we can have amendments defined by a certain period of time and we are not just waiting for the last minute and anything that anybody wants to bring up.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just wanted to make one or two comments and then ask one or two questions of the majority leader.

First of all on the campaign reform bill, I would hope with all the savings and loan scandal conversations and newspaper reports that the leadership on the Democratic side would consider an open rule. It seems to me that a number of individual Members may well have things they want to bring as well as the two party leaderships, and I think on our side we would have very strong support for some kind of an open rule for campaign reform. It would seem to me to be sort of contradictory to have a closed rule reform procedure. I just wondered if there was any possibility, and I might ask the majority leader, of having an open rule on campaign reform.

Mr. GEPHARDT. Certainly it would be considered. I would say to my friend that one of the concerns people have about a totally open procedure in this case is that, as the gentleman well knows, these are complicated bills with interacting provisions and that if all alternatives are left entirely open, people argue, the other side can defeat any effort to get a bill by taking something out which causes an interaction in the bill that makes it less desirable for a majority to vote for. These are complicated issues, lots of different moving parts, and a lot of people like to do this on integrated wholes. That is one view. I am sure we will consider other views.

Mr. GINGRICH. I might just say that it seems that it would be better to be as open as possible in trying to have campaign reform.

Second, as the gentleman knows, there is a bill in the House also on the savings and loan issue, the savings and loan prosecution bill, which has been introduced by the gentleman from Ohio [Mr. WYLIE] and the gentleman from New York [Mr. FISH]. It is H.R. 5353. It is based on a bill originally reported out of the Committee on Banking, Finance and Urban Affairs, the Financial Crimes Prosecution and Recovery Act. It is esentially, as I understand it, identical with a portion of the crime bill which is now bogged down.

It would be, I think, very much useful both in the interests of the savings and loan scandal itself and in the interest of comity if there be an opportunity next week to bring up H.R. 5353 and to give the Members a chance to vote on the Wylie-Fish act. I wonder if the majority leader might know offhand if there is any possibility we could bring up that act next week.

Mr. GEPHARDT. As a matter of fact, we have discussed this. We talked to the minority leader about it about an hour or so ago, and our hope is that that bill on the savings and loan part of the crime bill can be brought up next week, and we also hope that the rest of the crime bill could be brought up during the week of September 10, the second week we are back. We intend to bring it up.

Mr. GINGRICH. Let me just say, last, and the gentleman may want to respond, that on this whole issue of the summit and the fact that we will have been in, I guess, 3 months by the time we adjourn, and it will be 4 months since the President first asked for the Congress' help by the time we get back, I just want to report to the House and to the majority leader that I think it would be very, very difficult to get very many votes on our side of the aisle for any kind of short-term debt ceiling that is not tied in some way to a summit agreement, that we may have to think through and in a bipartisan way talk out some kind of schedule, but I would hope that the democratic leadership would not bring debt ceiling, particularly a short-term debt ceiling, to the floor that had not in some bipartisan way been worked out in terms of scheduling and tying it into whatever negotiations we do on the summit in terms of the budget.

And, last, I would just say that it would seem to me that we would want to possibly even consider passing a joint resolution on adjournment that would bind the Congress in a very clear way to the precise scheduling procedures that we would use when we come back. I think it is fair for the average citizen of this country and for the President to look at what will have been 4 months of investment by that stage and to ask for a very clear and very binding commitment by Congress before letting us go home for August. I do not know if the gentleman wants to comment on either the debt-ceiling part or the adjournment part. I wanted to raise those. I think it is something we have to deal with next week.

I thank the minority leader for yielding to me.

Mr. GEPHARDT. I appreciate the suggestion. I think it is a legitimate one and certainly one we will take into consideration with the gentleman and with the minority leader and with your counterparts on the other side.

I would say this, I do not think the months and weeks we have spent in the summit have been wasted. In fact, I think they have been very productive. I think, as the gentleman knows, what we are trying to accomplish is very difficult to do. We are trying to do a deficit reduction package that is twice as large as anything in our history, twice as large as after the crash in 1987. We are trying to do a 5-year instead of just a 2-year package, something that, in my knowledge, has never been done. We are trying to do it in a bipartisan way and do it with a majority of votes on both sides in both Houses and with the President. We are doing it because all of us believe that the economy would be helped by it and the country would be helped by it.

We are trying to do it any way that we can avoid the usual political rhetoric on both sides, some of which has already occurred on both sides, but which I think everybody has really tried to dampen down. If we could advance this by doing it in an orderly way over a period of time that will allow us to do it without making mistakes, giving committees time to draft correctly, I think that would make sense, and so we are interested in trying to work out both the debt ceiling, shortterm debt ceiling, and an adjournment resolution that would contain language which would somehow bind us to schedule that we would like to follow.

It is clear to me from having looked at the schedule, even if you do this beginning, say, August 31, starting the intensive negotiations to get an arrangement, that you would need to have a very tight schedule in order to get all of the steps done before October 1.

I would just remind all Members to understand that this is not a choice ultimately between whether I am for the deal or I am against it. It is whether you are for the deal, if we get one, and sequestration which begins October 1, and will be a 40-percent cut

across the board in all domestic programs and a 25-percent cut across the board in all defense programs, and it would be 10 or 20 times higher than any sequestration that we have ever had.

So we are in an unusual historic situation which will take an immense job in order to overcome and to do something positive for the country.

I am convinced that we can do it, but I think it will take that kind of schedule to do it.

Mr. GINGRICH. I thank the gentleman.

Mr. MICHEL. If I maybe could just build on that comment of the distinguished majority leader that it is tough enough to get a resolution adopted by both sides committing ourselves to dates certain around here, as much as that would appear to be a desirable thing, I think probably it is easier to pass here in the House under the rules under which we operate as distinguished from the other body, where they have their own rules.

□ 1510

So I should say in support of the distinguished majority leader's comment, that earlier this morning, while meeting with the President and trying to resolve this issue of how do we make a commitment, that it may very well have to be through this mechanism of open dialog, for all to see what has been agreed to as maybe the most efficient way of getting this kind of agreement. It is just rather difficult to get a joint resolution adopted by both Houses and so on and passed and down to the President.

I would like to think that the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, speaks in good faith and openly and candidly as he has been here, as this next week moves along, because it is going to be absolutely essential, as the gentleman said, for us to really go all out when we return in September, if we are to leave on our recess here on time.

Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, for his comments.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL]. I think in closing on this point, that as Members consider these issues, I think it would be most helpful if people could avoid making definitive statements of what they can and cannot do. Whether we do this in August or September, I think everybody has got to maintain some flexibility. I was asked a bunch of questions today about was I for this proposal or that proposal. I said that everything is on the table; I am willing to entertain any idea. I think if we start shutting doors, we are going to make it more and more difficult.

Mr. Speaker, the final point I would make is that we are prepared to do this now, or at the end of August. If the decision of the joint leadership and the President is to do it now and to try to get it done as quickly as possible, we are prepared to do that, and will do that, and we will ask the Members to either stay or come back to consider such a proposal in August. This issue is important to the future of the economy of this country and to all of the people in it, and we cannot worry about momentary inconveniences. We have got to do the right thing and do it when it needs to be done. I think everyone is prepared to do that.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT]. If I might, I would ask Members on both sides of the aisle that whatever position they take publicly, it is not altered by what they tell us privately with respect to times for leaving around here. That is very important, because we are out there attempting to do the best we can for individual Members, but sometimes we get comments on both sides of that issue without being clearly definitive one way or another. It does not make our job of trying to do the bidding of Members any easier in that respect.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to dispense with business in order under the Calendar Wednesday rule on Wednesday, August 1, 1990.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 30, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TUESDAY, JULY 31, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at 10 a.m. on Tuesday, July 31, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERSONAL EXPLANATION

Mr. ALEXANDER. Mr. Speaker, I was unavoidably detained during the vote on the Bereuter amendment to title XII of the farm bill. Had I been present, I would have voted "aye."

WHITE HOUSE TAX PLAN UNFAIR TO PROGRESSIVE STATES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the White House tax plan leaked this week begins another attack on the deductibility of State and local taxes. It is simply a sneaky, selective attack on the most progressive States who do the most to solve their own problems. States like Wisconsin, Minnesota, and New York. It pretends to be an attack on the wealthy, but it is a cynical ploy to prevent Congress from eliminating the so-called bubble, a quirk in the Tax Code which allows people with incomes of more than $100,000 a year to pay lower tax rates on that income than people with far less income.

So I have a message for the White House: Do not expect people from States like ours to support any tax deal that is so cynical and selective. If you really want to go after high income people who are not pulling their fair share of the load, go after the deductibility of Federal tax provisions that apply to all States and go after the bubble. Those are the only two ways to make the wealthy pay their fair share of taxes in this country.

TAX THE GREEDY, NOT THE NEEDY

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, notwithstanding the tax reform efforts of the 1980's, significant corporate tax avoidance continues today:

In 1988, seven major U.S. corporations with combined earnings of $1.2 billion not only paid no Federal income taxes but received tax refunds of $120 million;

More than three-fourths of all companies paid less than the supposedly required corporate income tax rate of 34 percent in 1988; and

If every company that paid less than the statutory rate in 1987 and 1988 had instead paid the full rate, $38 billion more would have been contributed to the Federal Treasury.

Mr. Speaker, at a time when we are hearing more and more about the possibility of new taxes, I think the Amer-

ican people have a right to know these disturbing facts.

To those involved in the budget negotiations, my message is a simple one—don't try to balance the budget on the backs of middle- and low-income America.

A gasoline tax would do just that. It is regressive and it unduly burdens the average American wage earner.

On the other hand, eliminating unfair and distorted tax preferences enjoyed by corporate fat cats is one way to keep productive investment strong and to deal fairly with the Federal budget.

Mr. President and budget negotiators, if you must tax, tax the greedy, not the needy.

PRESIDENT ALLOWING AMERICA TO GIVE AWAY ITS CROWN TECHNOLOGY JEWELS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, the President of the United States within the next 24 hours has a very important decision to make, and that decision is whether or not to allow or to block or to delay the sale of an extremely sensitive American company, Semi-Gas Systems, Inc., to Nippon Sanso.

Semi-Gas Systems, Inc., is a company that currently controls some 50 percent of the market for an absolutely vital process pertaining to semiconductor manufacturing. If this bill is allowed to go through to any company other than an American-owned company, I believe and a number of Members on this floor believe that would be a national disaster and it would jeopardize our economic sovereignty in the vital industry of semiconductors.

Mr. Speaker, America is the only country in the world that would give away its crown technology jewels so freely. If the President of the United States allows this purchase to go through, it will raise very serious questions: Does the President care who controls America's strategic industries and who controls America's economic future?

Mr. Speaker, a group of Members have sent the President a letter urging the President to block or delay this sale. We urge the President to prevent the loss of an irreplaceable and critical U.S. company, whose concerns go far beyond those of this particular company itself, and to reverse the erroneous and dangerous decision not to block the sale.

Without a fuller and more exhaustive effort to find an American buyer, one which clearly could occur if given adequate time, this sale would amount to an unconscionable abandonment of America's national security responsibilities and America's economic security.

Mr. Speaker, we urge the President within the next 24 hours to review this decision and to block or delay what could be a tragic sale.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore (Mr. ROSE). Pursuant to House Resolution 435 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1180.

□ 1519

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1180) to amend and extend certain laws relating to housing community and neighborhood development and preservation, and related programs, and for other purposes, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

□ 1520

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, today we begin the process of taking up for consideration H.R. 1180. I will advise my colleagues that for purposes of amendment it will be known as H.R. 5157, which is the order of things and procedure that the Rules Committee indicated. But actually we are traveling on the basis of H.R. 1180, which is the first omnibus housing bill in more than 10 years.

It extends as well as amends existing laws and programs that have existed in housing and community development programs, neighborhood development and preservation, and in fact is the first real attempt to respond to the very serious shelter needs that are arising from a country that is still growing, it is dynamic, and it has as every community, every human being, the need for that indispensable thing known as shelter.

I want to say at the outset that I have asked unanimous consent to revise and extend because I would like to summarize in 3 minutes what I think would justify my taking the time at this particular juncture in our deliberation.

Some of the Members are not here because they had overriding necessity to be either back home because of family, personal, or medical problems, or as in the case of some of some of our most active members of the Subcommittee on Housing, and particularly with reference to the ranking minority leader of the Housing Subcommittee, Mrs. MARGE ROUKEMA, of New Jersey, who I am sure would like nothing better than to be right here with us, she has been one of the most effective and hardworking members of this committee but, because of overriding personal matters that one can readily understand, she had to leave Washington yesterday. But we will be having her full participation when the bill is scheduled to be brought up for the amendatory process on Tuesday.

In the case of the ranking minority leader of the full committee, the gentleman from Ohio [Mr. WYLIE], I want everybody to know, my colleagues of the majority side with me and my colleagues on the minority side, and I say this, and I have said it before repeatedly, that without the gentleman from Ohio, Mr. WYLIE'S preeminent leadership and good will and good faith, frankly we would not be here at this point today. We would be bogged down on a partisan effort which, if it would not fail in the House, it certainly would fail in the other body. It was Mr. WYLIE who, knowing my great concern about housing needs ever since we got together on the Banking Committee, who said earlier in this Congress he felt that we would need a housing authorization this year. He wanted to pledge his support, so he did.

On February 21 of this year he arranged a meeting with Secretary Kemp and the President of the United States, and there we all pledged toward working to a housing program. I will say this, as I think I have every occasion that there is a need to say the unvarnished truth, President Bush is the first President in about 10 years that gives the Congress an affirmative recommendation on housing and community development. In his budget message in January he had an entire section or title in which he referred to his what he calls Project Hope. It is true that in the budget message it was very sketchy. But then to his everlasting credit, and because we do have a new day in the person of Secretary Jack Kemp, Jack Kemp took that over and by March of this year, the first week, he had perfected the whole program. I want everybody to know that about 90 percent of that is in H.R. 1180, if not a slight fraction more than 90 percent.

Why? Because in good faith we gave, we took. Those of us who have been on this committee for 29 years and have watched the dramatic and some-

times awesome changes in our demographic and economic situation, and therefore are reflected in the commitment for housing for every American, really were able to satisfactorily reach a meeting of the minds and good will. So we do have that pledge.

Up to now we have worked on that basis, on a bipartisan basis. What you have here today in the shape of H.R. 1180 is a bill that in the subcommittee, with no restrictions whatsoever, we had over 140 amendments offered or listed to be offered. Evey one was considered. Nobody was shut out.

We got the bill out of the subcommittee. In the full committee it took 1 day only, and we had the markup, and we passed it for consideration for the full House after going to the Rules Committee.

Again I want to express my gratitude to Chairman MOAKLEY and the ranking minority leader of the Rules Committee, Mr. QUILLEN, because they and their colleagues on the Rules Committee gave us a most sympathetic and fair audience. Then they did their part and, therefore, the rule was issued, and we are scheduling general debate today, and the full debate and amendatory process next Tuesday.

Let me say that this is a complicated, comprehensive, complex bit of legislation. But thanks to the conditions and the persons I have mentioned we are here, and believe that other than just about two or three areas, and incidentally in those two or three areas both contending views are being worked out, and some reconciliation is still being sought, however, we all agree that if, in the full committee, these were two or three basic areas of difference that we would appeal to the whole majority and let the majority will decide.

It is an open rule that we have. No Member will be precluded who has a legitimate and serious interest in adding to the meaningful debate and consideration of this bill. It has been my observation that no matter what bill we bring out of a committee after much deliberation and many heads, after all the Banking Committee consists of 51 members, that we still have Members that until we get to the full House, and not being Members of the committee, have added magnificently to the creativeness and the worthwhileness of the legislation. And it is with that spirit in mind that I recommended to the Rules Committee that we have a totally open rule, no modified rules, no half closed rules, but an open rule, and I am delighted.

Also I want to express my gratitude to the leadership on our side. Speaker FOLEY, who is beset with tremendous scheduling problems, has managed to keep room for us before the recess.

Mr. WEISS. Mr. Chairman, will the gentleman yield for the purposes of a colloquy?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding to me, and I do want to compliment him on this piece of legislation.

Mr. Chairman, it is my understanding that funds for housing can now be made available, under existing law, through both the McKinney permanent housing program and the section 202 program, to provide housing for disabled persons with similar service needs. Does the bill before us change that provision of existing law?

Mr. GONZALEZ. No; the committee continues to believe that it makes good sense to support housing whose residents would be limited to disabled persons with similar service needs.

Mr. WEISS. It is also my understanding that it is the committee's view that housing for persons with AIDS can be funded under section 202 and McKinney programs if they are not limited exclusively for persons with AIDS, but can house other persons with similar service needs. Is that correct, and does the bill before us make change in that provision of existing law?

Mr. GONZALEZ. The gentleman is correct, and the bill does not change that provision of law.

□ 1530

Mr. WEISS. I thank the gentleman.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to discuss the housing bill, H.R. 5157, the omnibus housing authorization bill. At the very outset I would like to report, as the chairman did, that the two key players from the minority side who are missing today regret they cannot be present for this general debate but are absent due to circumstances beyond their control.

Mr. Chairman, I want to congratulate the chairman for his indulgence in this whole bill process. I think the staff have worked together exceedingly well. We have a product that is before the House today, the first time that we have had a bill since 1987, which is a major authorization bill for housing. It has been a long time in coming.

Mr. Chairman, it incorporates many of the administration's housing initiatives, and for that the minority is indeed very, very grateful and pleased that we have been able to work together.

H.R. 5157, which used to be H.R. 1180—all of these numbers keep floating around, whichever it is, anyway—our bill that is before us today provides for increased funding for existing housing programs and establishes new major initiatives, including a housing trust fund.

The administration's HOPE proposals, a new rental production program, and a new community housing partnership initiative, also.

The bill also puts in place a permanent solution to the HUD mortgage prepayment issue by permitting voluntary prepayment for private owners and, at the same time, fully protects the low-income residents in those projects.

In general, the administration is pleased with these things, but it opposes the bill in its present form and has issued a policy statement indicating that unless certain changes are made in the bill, in the markup and the debate which is in the process, and also in the conference with the Senate, that it will be the intent of the administration and the President to veto this bill.

The statement of administration policy is as follows:

STATEMENT OF ADMINISTRATION POLICY ON H.R. 1180, HOUSING AND COMMUNITY DEVELOPMENT ACT

The Administration remains fully committed to working with Congress to enact a fiscally-responsible housing and community development authorization bill. Such a bill must focus on certain objectives, which we are confident we share with Congress. These include: (1) authorizing the Administration's Homeownership and Opportunity for People Everywhere (HOPE) initiatives; (2) making the Federal Housing Administration's (FHA) single-family insurance fund financially sound; (3) directing housing resources more effectively to the neediest poor families, those with severe housing problems; (4) increasing the power of poor people in the housing marketplace; and (5) meeting the overall tests of fiscal responsibility. The Administration is pleased that progress toward meeting these principles was made in the House during markup of the bill, particularly the adoption of most of the President's HOPE proposal. However, neither H.R. 1180, as reported, nor the proposed substitute amendment, H.R. 5157, meet all these important objectives. Consequently, if either one were presented to the President in its current form, his senior advisers would recommend that it be vetoed.

The Administration has demonstrated that it is willing to be considerably flexible on funding, but only after the program integrity and financial soundness of the authorization proposals are assured. Because the Administration has worked productively with the Chairman and members of the House Banking, Finance and Urban Affairs Committee to modify H.R. 1180 to bring it closer to meeting the Administration's objectives. The Administration is confident that further improvements can be made to H.R. 1180 consistent with the shared principles stated above. Yet, since certain provisions currently contained in H.R. 1180 do not uphold those principles, they would require major revision or elimination. In particular, the Title III Rental Production program and the Title IV Community Housing Partnership program encourage costly, developer-driven new construction in lieu of more efficient tenant-based housing assistance, and both are very poorly targeted to low-income families.

In addition, it is necessary for the House bill to include a responsible proposal to restore financial soundness to the FHA.

Such an amendment must assure that:

The minimum 1.25% capital ratio for FHA is met within two years and that a 2% ratio can be achieved over the next ten years;

Insurance premiums are varied to reflect default risk;

Homebuyer equity is increased above currently inadequate levels; and

The needs of low and moderate income homebuyers continue to be met by a financially sound FHA insurance fund.

An amendment to be offered by Representatives Vento and Ridge does not meet these minimum standards. It would fall at least two years short of achieving adequate capital for the FHA fund and actually increase defaults well above the current high level. Although the Administration strongly opposes the Vento-Ridge proposal, the Administration would support an amendment consistent with the principles in its own FHA reform proposal. We understand that an effort is underway to develop a bipartisan compromise FHA amendment, and we look forward to its presentation. The Administration is willing to consider modifications to the FHA reform proposal which are consistent with the principles listed above.

The Administration opposes H.R. 1180 in its current form because of the following major problems:

The bill would exceed the President's FY 1991 Budget for HUD and Department of Agriculture housing programs by over $6 billion in budget authority and by $1.3 billion in outlays. A fiscally responsible funding level for a new housing bill will depend upon (1) the substantive character of the housing provisions, and (2) agreement on domestic discretionary spending limits pursuant to the ongoing budget summit discussions.

The bill does not include an FHA proposal that meets the standards decribed above.

The bill creates several additional housing programs which fail to adequately target Federal funds to very low-income households. While current rental assistance programs provide 95 percent of funds to very low-income households (below 50 percent of local median income):

Under the proposed Rental Housing Production program, localities would be required to provide only 20 percent of Federal funds to very low-income households or 40 percent to households with incomes below 60 percent of median income. A full 60 percent of these housing resources could be provided for non-poor households. (The current Low-Income Housing Tax Credit, supported by the Administration, permits projects to be either (1) 20 percent very low-income or (2) 40 percent below 60 percent of median income. In either case, every Federal dollar must be spent on low-income households.)

The Community Housing Partnership (CHP) program rental component would provide 25 percent of Federal funds to households below 30 percent of median income and 50 percent to households below 60 percent of median income. Over one-half of these funds would be available for non-poor households.

The homeownership component under the proposed CHP program would target only 25 percent of Federal assistance to households below 80 percent of median income and 75 percent to households below 115 percent of median income.

Homeownership opportunities under the proposed National Housing Trust Fund would target Federal assistance to households below 115 percent of median income. This homeownership income target is too high, especially in light of evidence that a family at 100 percent of median income has 108 percent of the income needed to afford a median-priced existing home.

Similarly, additional homeownership assistance would be provided to middle-income homebuyers under the Nehemiah program (up to 115 percent of median income), Homeownership Made Easier Demonstration (20 percent below 80 percent of median income; 100 percent below 115 percent), and Second Mortgages for First-Time Homebuyers (all Federal funds for households below 80 percent of median income).

The bill would authorize $2.1 billion in FY 1991 for Farmers Home Administration new rural housing construction direct loans. This would be $1.1 billion more than in the President's Budget. The bill also would authorize deferred mortgage payments for very low-income borrowers. These provisions are contrary to Administration policy. Instead of increased direct loans, the Administration supports the use of a combination of direct and guaranteed loans as well as tenant-based housing vouchers. The bill's proposed deferral of mortgage payments would increase Federal credit risks.

The bill reverses existing targeting of public housing and Section 8 assistance to the point that, in aggregate, *fewer* additional "worst-case" very low-income households, e.g., those paying more than 50 percent of income for rent or living in substandard housing, will be served by these programs in FY 1991 than in FY 1990—even though an additional 69,000 public housing units, Section 8 vouchers and certificates are proposed to be authorized.

The bill would make housing assistance an entitlement for families whose lack of adequate housing is a primary factor in their children being in foster care. Such a provision would result in significant pressure on local welfare agencies to certify families requiring housing assistance to avoid foster care. In addition to creating a perverse incentive, the program would establish an untenable precedent for requiring housing assistance for this group over other deserving groups, such as the elderly or handicapped-specific individuals.

The bill also would establish new programs and set-asides to assist certain individuals with AIDS. While well intentioned, these provisions would override preferences for families who are homeless or live in severely inadequate housing. These provisions would set an undesirable precedent for creating special programs or entitlements for other groups.

The bill creates more than 10 new HUD programs and imposes significant additional requirements on existing HUD programs. There are no program terminations. In fact, the bill reauthorizes the scandal-ridden Section 8 Moderate Rehabilitation program ($220 million).

The bill authorizes a program for modernizing vacant public housing. This would be an unnecessary discretionary program that would encourage PHAs to allow units to deteriorate and become vacant.

The bill includes the Administration's Operation Bootstrap proposal, but would oversubsidize PHAs by including an increase of Section 8 fees to 9 percent of the local fair market rent (FMR). HUD and GAO are reviewing the existing fee structure of the Section 8 program, and preliminary evidence shows that the current rate of overpayment may cover the cost of this new activity.

The bill modifies current income deductions for determining tenant rents in Section 8 and public housing. This provision, along with others, would increase Federal spending annually without any appropriate action.

The bill authorizes several programs that duplicate activities covered in existing programs. In public housing, the bill creates a new perinatal services demonstration to provide facilities and renovate existing structures, activities that are eligible for funding under the public housing modernization (CIAP) program.

The bill authorizes unlimited use of Federal operating subsidies for services costs in public housing and Section 202.

The bill authorizes Fair Market Rents (FMRs) to be established in smaller areas within a housing market area. If these submarket FMRs are increased only 5 percent, the net Federal cost of providing vouchers and certificates in that locality would be increased 15 to 20 percent. The Section 8 FMR-based system authorizes the distribution of over $10 billion annually; any small change to this program would be expensive and could result in a significant reduction of the number of new households served—every $30,000 diverted to existing households eliminates a new housing voucher.

The bill reauthorizes the existing Congregate Services program while authorizing a "Revised" Congregate Services program. The bill authorizes overlapping activities, such as the formation of a new Asset-Recycling Housing Funds Grant program to create homeownership opportunities in vacant properties, activities covered in other parts of the bill, in this case, as authorized in HOPE Subtitles B and C.

The bill creates a new program to convert State and local government in rem properties for permanent affordable housing. Such activities are already eligible under the current CDBG program.

The bill creates an Energy Efficiency program, an unnecessary categorical program to improve the energy efficiency of existing housing.

The bill authorizes significant improvements to existing preservation requirements, but would be overly generous in providing monetary incentives to landlords and developers for not prepaying their mortgages. Such incentives should be reduced.

The bill authorizes PHAs to project-base a separate 15 percent of Section 8 certificates to the State mortgage programs threatened with prepayment. Such a provision disregards existing waiting lists and preferences for obtaining rental housing assistance, reduces tenant choice as to where to live, and substitutes Federal subsidies for those already provided by States to carry out their existing low-income housing programs.

The bill's emphasis on new housing construction, namely the creation of six new housing production programs, fails to provide necessary flexibility or appropriate matching incentives. Under each program, including the Community Housing Partnership Block Grant programs, States and localities are prohibited from using funds for tenant-based rental assistance. In addition, there is no distinction between using matching resources for light or substantial rehabilitation, or outright new construction. In most communities, new construction and substantial rehabilitation are the least efficient uses of Federal funds—and the most prone to scandals. These program uses

should be required to meet a more stringent State and local match.

The reason for the opposition comes in three basic areas: One of them is the fact that the bill is about $6 billion over the budget authority in the President's fiscal 1991 budget and about $1.3 billion over the outlay that was in his budget.

But I think the two most contentious issues beyond the dollar amount problems that the bill possesses at the present time come from the fact that it has a very large emphasis on new production, what would be called new construction, and not enough emphasis in that area on targeting to the very needy and the low-income who really need housing in this country.

The second point the administration is deeply concerned with is the FHA compromise that has not been worked out yet. There is nothing in this bill that would help us with respect to the problems that we have in FHA.

So I would like to discuss both of those very briefly for a moment. Republican Members strongly object to the heavy emphasis on new construction programs. This print contains six rental production programs totaling $2.1 billion, representing 53 percent of the total funding for the bill. Not only do we object to this overproduction commitment, but we object to the targeting of these programs. They simply do not commit enough Federal funds to those low-income individuals who need the assistance the most.

We must change the targeting, and we must change this kind of commitment in this process.

With regard to the FHA question, on July 10, the Housing Subcommittee held a hearing on the status of FHA as a followup to a thorough actuarial study of the MMI by the accounting office of Price Waterhouse, ordered by Secretary Kemp in the wake of the savings and loan debacle that many of us are dealing with.

While some in the industry would deny correlation with the savings and loan problem, perhaps on the issue of the order of magnitude, the issue is really all too related in that we have a Government-insured fund which has the potential of going broke if the appropriate steps are not taken.

Now, there are recommendations the administration has, that Price Waterhouse has, there are recommendations industry has. We will probably have a full debate over a couple of alternatives at least on the floor of the House over doing something to resolve the problems with the insurance fund question over FHA.

None of us wants to go back through the process of seeing anything even close to what is happening with savings and loans, in the housing industry.

So I am confident that somehow, by hook or crook, before this bill gets to the President's desk, we will have an FHA provision.

But it is understandable and justifiable that the administration has made one of its most significant points in that this bill at the present time does not contain relief in this regard and it is absolutely essential and paramount that it does. I do not have a lot of detail to give on the bill. There are many, many provisions to it.

There has been a lot of progress made on this bill. Chairman GONZALEZ has been very, very open about it. As he said, he asked for an open rule, and that is about as fair as you can possibly be to our side, to allow full debate on the floor and for there to be amendments that the House in its own will chooses to this legislation before it is completed.

In committee, there were many hours spent that were very appreciated by our side in getting to the point where we did have a hearing on those things we felt in committee were important.

We did not win all of our initiatives, and obviously we are going to be out there particularly fighting on overproduction questions, on preservation questions, and on issues related specifically to the dollar amount and, of course, on the FHA issue.

Mr. WYLIE. Mr. Chairman, H.R. 1180 is the logical next step, after last year's HUD Reform Act, in restoring HUD to its original mission of helping low- and moderate-income families. The committee bill, as reported, is the product of bipartisan cooperation between the majority, minority, and administration. H.R. 1180 incorporates 90 percent of the HOPE legislation (H.R. 4245) introduced by Chairman GONZALEZ and myself, as well as many amendments sponsored by Republican Members. Most importantly, let me say that the unanimous committee vote on final passage of this bill represented a strong commitment from Republican Members to continue the process of rebuilding national housing policy.

This legislation amends certain laws and increases funding for housing, community and neighborhood development and related programs, and it creates several important new initiatives. As I mentioned, among the more significant initiatives are the administration's HOPE proposal and Chairman GONZALEZ' national housing trust fund. The bill also puts into place a permanent, bipartisan compromise as a solution to the HUD mortgage prepayment issue.

Despite its many good proposals, Mr. Chairman, many of us on this side of the aisle have serious reservations with the new construction-oriented program. Let me state quite strongly that most Republicans do not necessarily oppose limited public housing construction or tightly targeted, neighborhood-based production. Rather, like Secretary Kemp, we believe that regardless of good intention, even a well-targeted production program often requires layered subsidies requiring too much government money which attracts influence pedding and profiteering, and no production program in history has ever contained long-term incentives for property maintenance and upkeep and the prepayment/preservation problem will continue to rear its ugly head.

Specifically, I would urge Members to think hard over the Rental Housing Production Program in title II of H.R. 5157. This title would authorize a costly new developer-subsidy program in the guise of multifamily rental housing production. This poorly targeted, mixed-income construction program is not an efficient use of our limited Federal housing dollars. Moreover, this House should not approve a program so open to profiteering, when we have not terminated the section 8 Mod Rehab Program which generated the HUD scandals in the first place. I understand that amendments will be offered to try to target and/or strike certain flawed programs like title II and section 8 Mod Rehab. I am optimistic that the whole House will support these amendments.

Mr. Chairman, the overall funding level of H.R. 1180 is a most important issue. The minority favors increasing the funding devoted to housing and community development, but only within the bounds of fiscal responsibility and program integrity. In 1990, Congress appropriated $17 billion for housing programs. The President added $6 billion more, for a total of $23 billion, in his 1991 budget to prevent the eviction of thousands of tenants with expiring section 8 contracts. This $6 billion addresses the issue of contract renewals, upon which the Congress and administration both agree the subsidies should be renewed. H.R. 1180 would add an additional $5 billion to increase old programs and fund new initiatives. Mr. Chairman, it seems to me that Republicans are not unwilling to provide modest increases for housing programs. However, I will be offering a budget compliance amendment to ensure that this bill will comply with the budget mandates hopefully arrived at in the budget summit.

Mr. Chairman, FHA reform is always important in any housing bill. It also happens to be of real concern to the administration. Secretary Kemp has proposed legislation to make safe and sound the FHA mutual mortgage insurance fund. I believe that the Secretary has taken the appropriate position on the issue, particularly in view of what has happened with respect to the savings and loan insurance fund. Congressmen VENTO and RIDGE have put forth an alternative proposal. I know they have worked hard on this issue and feel their proposal will solve the problem. Price Waterhouse tells me it will not. Mr. Chairman, Chairman GONZALEZ, Mrs. ROUKEMA, Secretary Kemp, and I are working on a proposal to reduce the up front closing costs. I am confident we will have a compromise before next week.

Mr. Chairman, let me address several other important issues. First, H.R. 1180 does not reauthorize the Farmers Home Administration rural housing programs, though it weighs more toward direct loans. Let me say, Mr. Chairman, that I would have preferred the administration's budget proposal of combining direct and guaranteed loans. Second, H.R. 1180 does propose a permanent solution to the prepayment issue. Preservation/prepayment has been a controversial issue since enactment of the moratorium in 1987. The Banking

Committee did reach a bipartisan agreement on a permanent solution. I strongly support the prepayment solution embodied in title VIII of the bill, and will oppose any attempts at weakening amendments. Third, the AIDS homeless housing and section 8 foster care entitlement provisions in the bill raise serious policy implications which, at the very least, will have to be resolved before the bill can be sent to the President for signature.

Mr. Chairman, considering the past HUD scandals, H.R. 1180 has the potential to be a landmark change of course for Federal housing programs. The Housing and Community Development Act of 1990 is a bipartisan, compromise effort to authorize comprehensive housing legislation. The Republican Members hope that the same spirit of cooperation which went into its development will apply to examining and eliminating what we consider to be flaws in the bill. Over the 25 years since HUD's creation, the successes and failures of the past should have taught us, if nothing else, that simply providing housing units is not enough. I am confident that we will pass a bill which recognizes this fact.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 5157, the omnibus housing authorization bill.

I want to congratulate the chairman, our ranking member, the other members of this committee and our staff who have worked cooperatively over the past several weeks on this housing bill. I have appreciated the courtesy extended to me in particular and to the minority in general. Our cooperation and willingness to work in as bipartisan a manner as possible has resulted in bringing this bill to the full committee for consideration today.

It is my intention to continue that comity and, to the extent possible, to recognize that what differences we may yet have on this housing bill, I stand ready to work with all interests to produce a bill on which both sides of the aisle can agree to.

In this respect, the bill before us today, the first major housing bill since 1987, has gone a long way in trying to accommodate the administration's desire to reverse the trends of the past few years by seriously addressing the need for a housing bill as well as the chairman's own initiative.

I can report to my colleagues that we Republicans entered the markup process in committee with great apprehension but with great anticipation that with the committment of Secretary Kemp, we were going to work very hard with the majority to achieve a housing bill we would not just vote out of committee, but a bill we could bring to the floor in a united front.

When we started this process, minority support for a housing bill was contingent on the total budget level, the inclusion of as much of the HOPE Program as possible, and a sensible approach to increased housing programs, including the number of new construction programs accepted. We have come along way in grudgingly accepting the extremely high budget level in this bill. And we appreciate the chairman's cooperation with HOPE. In fact, almost all of the Secretary's proposals are contained in this legislation.

However, we still have problems with the amount of new construction programs in this bill. This print contains six rental production programs totaling $2.1 billion and representing 53 percent of the total funding for the bill.

Our side's commitment to supporting this bill was not based on any one program but on the total bill. We have come a long way in supporting new construction programs. While we support the very important section 202 Elderly Housing Program, it was with particular reluctance that our side agreed to support new public housing, and the Community Partnerships Act. But even here, the Partnerships Program is a worthwhile effort which utilizes the block grant approach to encourage local solutions to this Nation's housing needs and to promote the use of nonprofits.

But, Mr. Chairman, having said this, asking us to accept all of the programs in this bill, is asking too much and some adjustments may have to be made before we finish our work on the floor.

In addition, several other programs have caused us concern. In particular, I was strongly opposed to the creation of a $150 million housing preference for individuals who have AIDS. This program would place those individuals ahead of the line with respect to housing and would unnecessarily require public housing authorities to literally become health care professionals for this one group of persons. This is the wrong way to address this health problem. During full committee markup, I offered an amendment to transfer funds for this program to the Shelter-Plus Care Program which was created to coordinate housing and medical care for the mentally ill and those who suffer from chronic alcoholism and drug abuse. The Senate bill takes this approach and I believe we must work to defeat this set-aside and combine the program with "Shelter-Plus Care."

With respect to preservation I am confident that our committee has reached a much discussed and debated compromise which does not hurt low-income tenants nor overcompensate the owners at the expense of the taxpayer.

Members of our committee have worked hard and long on this issue and I am confident that while not all sides are sufficiently satisfied with the agreement reached in committee, it can at least be supported by all.

NEW HOUSING APPROACH—HOP

While I support this bill, I would have preferred to take this legislation down a slightly different path, such as along the lines of the HOP Program advanced in the other body.

The HOP is intended to provide new innovations and new directions in housing policy which would result in magnified benefits. It would streamline housing assistance and maximize State and local flexibility. As a block grant, this type of assistance would promote homeownership or improve rental assistance by providing States and localities with money to acquire, construct, or rehabilitate real property.

The HOP approach begins to move us away from narrow, inflexible, categorical housing programs which, by their very nature, cannot respond adequately to local housing requirements, which vary greatly from region to region. The HOP Program recognizes that what is needed in one section of the country may not be a priority in another, and it encourages local experimentation and innovation which are the genius of our Federal system.

I know that the committee could not take this approach now, but I believe we should consider this block grant approach for the future.

LEAD-BASED PAINT

I want to take a moment to address a subject that is of priority concern to me which has been neglected and pushed aside for too long—lead-based paint.

I congratulate HUD for all their hard work in publishing the long-awaited "Guidelines" for lead-based paint testing and abatement. The Secretary put his mind to this goal and he came through.

And, equal congratulations are due to the committee for including specific funds in this bill for lead paint abatement. The figure, $100 million, while modest, represents the first time we have recognized the need for additional funding to get on with the job of "getting the lead out". But, more needs to be done.

The problem of lead paint is pervasive. Dr. Herbert Needleman, recognized expert on lead poisoning from the University of Pittsburgh, has said:

Childhood lead poisoning is a manmade disease. Unlike other important illnesses, for example, AIDS, cancer, or Alzheimer's disease, its nature is clear. Few mysteries surround it; the greater engima is why lead has been permitted to persist in the human environment in the face of a mass of convincing data about where it is, what it does, and what is needed to get rid of it.

The effects of lead poisoning are devastating and well-documented. Lead poisoning can impair children's intelligence and growth. It produces hyperactivity and aggression and ultimately can result in death.

In short, we are enduring a national tragedy, and we must do something about it.

No one wants to perpetuate the continued poisoning of our children and no one wants unsafe abatement to continue. We know how to clean up lead paint safely and effectively and the issuance of the standards and guidelines will help everyone do it safely. But this will be an expensive program and we must start now by providing funds in the fiscal year 1991 budget to directly appropriate through the traditional HUD modernization programs. The lives and future well-being of our children cannot be measured in terms of cost to HUD or the Federal Government. "We can pay now or pay later but we will pay."

The issue of lead paint abatement will not simply fade away. The HUD guidelines have been published, public housing authorities will be held accountable for implementing these guidelines, and the future health of our families and children will continue to demand more funds from Congress to support this program.

FHA

On July 10, the Housing Subcommittee held a hearing on the status of the FHA as a followup to a thorough actuarial study of the MMI by the accounting firm of Price Waterhouse ordered by Secretary Kemp in the wake of the S&L debacle that many of us have been dealing with. While some in the industry will deny a correlation with the S&L problem, perhaps on the issue of "order of magnitude,"

the issue really is all too related in that we have a Government insurance fund which has the potential for going broke if the appropriate steps are not taken now.

The Price Waterhouse study concluded that while the MMI is solvent today, it is losing money on each year's new business, at a rate of $350 million, that the funds capital ratio has fallen dangerously from over 5 percent of outstanding insurance in force at the beginning of 1980 to 1 percent in 1989. This capital level is well below the absolute minimum of 1.25 percent identified by Price Waterhouse as essential to protect the fund against normal business risk. Our experience with the S&L's is dramatic proof of the dangers inherent in allowing an undercapitalized Federal insurance program to continue to operate on an actuarily unsound basis.

I am confident that my colleagues share the Banking Committee's goal of restoring the financial integrity fo the MMI fund by supporting four principles established by HUD which must provide the foundation upon which we resolve this problem. These principles include: minimum capital, actuarial soundness, reduction in defaults, and service to low- and moderate-income homebuyers.

I, along with Chairman GONZALEZ and the ranking minority member of the full committee, engaged in negotiations with HUD to try and develop an alternative to the Vento-Ridge option which we felt was not sufficient to meet the overall goals of the FHA program. This process resulted in a compromise package which addresses the needs of the FHA and the principles put forward by HUD and which will be offered by the committee leadership. We urge your support for this compromise.

In conclusion, I believe the bill before us will, with modifications, prove to be one in which we, and here I include the Members of both sides of the aisle, as well as the administration, should support.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has consumed 6 minutes.

Mr. GONZALEZ. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 1180, the Housing and Community Development Act. This bill represents months of hard work of the members and staff of the Housing Subcommittee.

This is a critical time for housing. A time when every step must be sure and every dollar wisely spent. Because, as most Americans are aware, our Nation's housing stock and the people it serves are in a state of crisis. Whether we talk of prepayment, vacant housing, or the homeless, the crisis is here in our cities, in our neighborhoods, and on our streets; 1990 can be the year to turn around housing. That can only happen, however, if we all agree—Congress and the administration—that housing our people is a priority—both in budgetary and humanitarian terms.

Most of you are aware of an amendment I intend to offer with Mr. RIDGE regarding a restructuring of the Federal Housing Administration premiums that is designed to protect the FHA Mutual Mortgage Insurance Fund while preserving the objective of providing mortgage insurance for millions of people from all walks of life from all over this country. This is in sharp contrast to the amendment that passed the Senate and the proposal being proffered by the Department of Housing and Urban Development [HUD].

With respect to our amendment and its opponents, I want to inform Members that HUD has given only lip service to negotiation. They have refused to negotiate with me and my colleague from Pennsylvania [Mr. RIDGE]. In my judgement HUD has refused to negotiate in good faith with the chairman of the Banking Committee, who should be highly commended for his leadership and tenacity in trying to accommodate the curious objections raised by the administration. It is indeed a shame that HUD has been unable to see all sides on this issue as the chairman has done so well. Instead the Department has resorted to scare tactics, rumor innuendo and misrepresentations.

Unfortunately, HUD still seems unwilling to acknowledge the 8 years of unprecedented bureaucratic blunders that bled away the lifeblood of housing programs, including FHA. This time, they have decided to treat the patient and fix the program in a manner that is the equivalent of medieval bloodletting to cure the malady from low-down payment and first-time homebuyers. The proposal being suggested by the administration is one that will deny Americans the opportunity to achieve one of their most important personal dreams—owning their own home. Instead, it will stand as a gatekeeper at the white picket fence preventing them from achieving the proverbial dream of home ownership.

The administration has and will continue to use scare tactics to cover up what should be a clear public policy debate waving the bloodied shirt of the S&L crisis. Not only is this nonsense, it is pretense, text without context!

The Vento-Ridge amendment is sound. It will fairly balance the need to preserve the fund for homebuyers and the need to maintain low-down-payment mortgages for affordable housing. The Vento/Ridge amendment will restore FHA to full financial health without cutting off potential homebuyers. It is bipartisan. It is cosponsored by 124 additional Members of this Congress. It is roundly supported by consumer groups, public agencies, and industry groups.

I entreat my colleagues to carefully evaluate these facts and those that are forthcoming on this amendment because we are talking about hundreds of thousands of future homebuyers, hundreds of thousands of jobs in our economic system, hundreds of thousands of families that want a home of their own, hundreds of thousands of your constituents for whom that extra $2,000 at closing could always be just 1 more year away or forever. These people and this program are too important to risk to HUD's latest version of budget and social engineering.

I do want to point out a number of additional provisions in the bill on which I have worked for the last year and a half. Through the efforts of Mr. Wylie and myself, we are expanding the successful Neighborhood Reinvestment Corporation and its various Neighborhood Housing Services that are serving over 265 neighborhoods in 147 cities and counties, leveraging $39 of local reinvestment for every dollar we have invested in Neighborhood Reinvestment.

Additionally, through the tremendous support of the committee and my cosponsor, the gentlelady from Tennessee [Mrs. LLOYD], the bill includes an expansion of the effective and successful Congregate Housing Services Program. This expansion will ensure that virtually all federally assisted housing will be eligible to serve as CHSP sites and it will increase State involvement and commitment to this unique program for older Americans and others who need assistance with daily living.

I am pleased that the Housing and Community Development Act includes a number of new programs that are targeted to address special housing needs. For assisting the Federal Government in asset disposition for low- and moderate-income housing—REACH—Recycling Existing Assets for Cost-Effective Housing—a program that provides funding for State housing finance agencies to match for revolving funds through which first-time homebuyers and nonprofits can purchase federally owned housing stock. Thereby reducing holding costs while supplying affordable housing.

For weatherization rehabilitation needs, I worked for a program to dovetail with small-scale weatherization rehabilitation programs carried out by the community action agencies. The Housing Conservation and Efficiency Grant Program enables more of the essential repairs to be made to a house and will help thousands to maintain safe and sound homes.

For homeless prevention, a program that the gentlelady from Hawaii and I worked for in our Permanent Housing for Homeless Americans Act has been included. This program will provide targeted CDBG moneys for the conversion and rehabilitation of properties that are acquired by local governments through tax default proceedings for the purpose of homeless prevention.

Mr. Chairman, I would be remiss if I did not mention the importance of crafting a workable and acceptable solution to the prepayment crisis that faces multifamily housing throughout the Nation. To do less than trying to preserve this housing for these hundreds of thousands of Americans is to relegate these same families to the streets. In my own State of Minnesota, some 39 projects have been labeled "at risk," jeopardizing the over 5,200 units they represent. In total, over 11,000 units in 99 developments in Minnesota alone could be affected by this legislation.

As my colleagues know, this omnibus housing bill represents most of the programs that assist the people of this Nation in putting a decent and safe roof over their heads. From public housing to CDBG, from Indian housing to FHA. There are others, such as the low-income housing tax credit, mortgage revenue bonds, the mortgage interest deduction, the Affordable Housing Program established in FIRREA and McKinney Act programs, that are equally important. In as much as these programs are an intricate part of our total housing policy they are deserving of recognition. Their time, however, is not now.

The McKinney Act, with the broad support of many members in all committees of jurisdiction, should be before the House soon. I hope the tax provisions will be a part of any package that is developed by the Ways and Means Committee. The Affordable Housing Program also has need of some corrections in terms of price discounts and other matters that will untie the wings of this fledgling program.

Mr. Chairman, I want to thank the Banking Committee and the Housing Subcommittee for reporting out this bill and I urge my colleagues to support it.

□ 1540

Mr. McCOLLUM. Mr. Chairman, I yield 6 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in strong support of this bill, H.R. 5157, the Community Housing and Development Act of 1990, and ask permission to revise and extend my remarks.

Mr. Chairman and colleagues, this is legislation which deserves your support. It is the product of hours of a great many hearings over the last several years and bipartisan effort. During debate, varied and diverse viewpoints were aired, to an extraordinary extent, in a spirit of comity and shared goals.

In large part, this successful effort is due to the leadership and thorough knowledge of the subject matter on the part of the committee and subcommittee chairman, the distinguished gentleman from Texas [Mr. GONZALEZ]. This Member is most appreciative of the chairman's thoughtful and scrupulously fair treatment of all Members. This Member offers his most sincere congratulations to the chairman on his efforts. Congratulations and sincere commendations are also in order for the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking Republican member of the Housing Subcommittee, and for the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of the full Banking Committee. Without their very able dedication, untiring effort and leadership, we clearly would not be considering this remarkable bill today. Very valuable and conscientious staff assistance from both sides of the aisle was made readily available to the Members and gratefully accepted and acknowledged.

Today we are certainly beginning to examine and debate the details of our assisted housing programs. We are also considering and attempting to sharpen our focus on the attainment of a dream—one of the most fundamental and durable aspects of the American dream—home ownership. In the last several years, the realization of that dream has moved further and further out of reach for too many Americans. Today, however, we have the opportunity to approve a new beginning—to expand affordable housing for low- to moderate-income Americans, whether they rent or buy.

Mr. Chairman, this legislation begins to move the Federal Government's housing programs into a new era. Past scandals and ills destroyed the public's confidence in HUD and demoralized those working to ensure affordable housing for all Americans. Out of those woes, however, have come new directions and a new excitement about opening up the dream for more and more citizens. It is a sure sign of this new era that the administration, through the reinvigorating energy and leadership of our former colleague, Secretary Jack Kemp, and the committee were able to reach agreement on many of the Secretary's initiatives to enhance homeownership as well as self-sufficiency. For example, in public housing programs, as well as multifamily programs and single family housing, HOPE's direct assistance will enable millions of Americans to become homeowners.

Additionally, the linkage of support services and rental housing assistance in the HOPE for Elderly Independence is not only very humane, but good public policy as well. In the same way, the linkage of treatment and housing assistance in the Shelter Plus Care Program is good public policy. By assisting alcohol and drug dependent homeless Americans, we have the opportunity to help people move from dependency to self-sufficiency.

Families, too, should benefit from the new direction that HOPE envisions. HOPE for family self-sufficiency will offer opportunities for families in HUD-assisted programs to secure jobs, child care, education and training.

Furthermore, H.R. 5157 recognizes that there are groups of individuals with special needs who are new petitioners in the Federal housing fray—persons with AIDS. This legislation shows an effort to ensure that their impoverishment as a result of disease will not result in their homelessness. Speaking in general in the same manner, this legislation recognizes that the poorest of the poor in this Nation, and the most unseen of our citizens, American Indians, need special provisions to help them address the ramnpant homelessness and despair that characterize too many of their reservations.

In fact, this Member particularly appreciates the committee's support for his efforts. Several Indian housing proposals were taken from H.R. 4614, the Indian Housing Improvement Act, introduced by this Member. For that I thank the members of the committee, and especially, again, the chairman.

In particular, the increase in authorized new construction of Indian housing is especially appreciated, as is the approval of the authorization for a one-time use of CIAP funds for modernization and rehabilitation of Indian housing units. Additionally, amendments to the McKinney Homeless Act that were adopted in subcommittee will make Indian tribes eligible applicants for the emergency shelter grants program, the supportive housing demonstration program, and section 8 assistance for single room occupancy.

The legislation also includes an amendment to FmHA programs that would prevent alienation of Indian trust lands in the event of a default on an FmHA loan, and authorizes a child care demonstration project to make grants for providing child care services in our near lower income housing developed or operated by Indian Housing Authorities. Finally, it allows the Secretary of HUD to waive any matching requirements in Indian housing programs, and provides a new authority for the use of Federal funds for matching funds.

Mr. Chairman, also included in the bill is a provision that this Member added during subcommittee action to adjust the definition of areas eligible for FmHA financing from communities with up to 20,000 people to communities with up to 25,000 people. Those relatively larger communities whose populations may exceed 20,000 in the 1990 census should not face the financing difficulties that such a statistical shift could cause.

Mr. Chairman, of course the bill before us does not perfectly satisfy any one member of the committee of the House. It reflects compromises in many areas is not without flaws. This member for example is very concerned that under the CDBG Program, the legislation increases the overall targeting of low and moderate income beneficiaries form 60 percent to 75 percent for the entire program of States, entitlement cities, and urban counties. This change would seem to jeopardize the availability of this very flexible fund for the infrastructure projects that many small cities and towns could not otherwise afford, but Secretary Kemp's position has strong support on the urban-dominated Housing Banking Committee. It is this Member's hope that it can be blocked by efforts in the other body.

Finally, this Member is also concerned about the solvency of the FHA's Mutual Mortgage Insurance Fund. There is no point in working to put families in homes if the Federal Government which assists them can not back up its commitments. The taxpayer should not be saddled with still another very large bill like those presented after the failures in the Farm Credit System and savings and loan industry.

Overall, however, Mr. Chairman, this Member is convinced that the bill before us today sends the right message to the American people. Today we are saying to them—we will not overlook you just because you are rural residents, or American Indians, or residents of small towns. We will not ignore the poor, sick, old or invisible. In passing this bill, we reaffirm the Federal Government's ongoing commitment to house Americans in rural and small town America as well as urban America. We express our commitment to help house our poor and indigent, encourage those striving to move from shelters, and assist those who finally climb up on the ownership ladder.

Mr. Chairman, I urge my colleagues in the House to support and pass H.R. 5157.

□ 1550

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise in support of the Housing and Community Development Act of 1990 which reauthorizes a number of important Federal housing programs and reaffirms this country's commitment to provide decent and affordable housing for all.

I want to commend Chairman GONZALEZ for his tireless efforts over the last few years to pull a housing bill together. Without his persistence and determination, we would not be debating this legislation today and so, I would be remiss if I did not recognize this accomplishment. It was no small task.

In fact, this legislation reaches across the entire spectrum of the housing industry and I am sure that as the debate proceeds today and into next week, we will have an opportunity to see just how that is so. But for my part, this afternoon, I would like to specifically address the issue of FHA reform and express my strong support for the Vento-Ridge amendment to put the FHA Program back on track to financial health.

The reason we must act on FHA reforms is clear. A recent study by Price Waterhouse of the FHA insurance fund determined that the fund is in jeopardy after a decade of poor management, inefficient premiums, and regional economic troubles. To continue on this course without taking action would be to court disaster and I am not willing to take that route and neither are my colleagues, Mr. VENTO and Mr. RIDGE.

Price Waterhouse put forward several options to make the fund financially sound. The Vento-Ridge amendment incorporates the pay-as-you-go option which brings the fund up to snuff with the least negative impact on home buyers and especially, without putting the burden on the backs of working class families whom this program was intended to serve.

The Vento-Ridge amendment would strengthen the FHA fund by returning the program to its original, successful pay-as-you-go operation which was basically in effect until 1983. This would mean a lower up-front premium with a yearly premium set at a level sufficient to ensure that the fund would meet actuarial standards. The amendment also requires an annual FHA audit and does not allow borrowers to mortgage more than the value of the home.

Before going any further we should stop and remind ourselves of just how vital FHA has been to making the dream of home ownership come true for millions of first-time home buyers. Over its 56 years, it has been the ticket to a home for 17 million families. In my own State of Indiana, FHA insures nearly one out of every five loans. This role becomes even more critical when you consider that survey after survey shows that home ownership in this country is on the decline and that one of the biggest barriers to home purchase is coming up with the up-front cash for a downpayment.

Is Vento-Ridge the only way to fix the fund? Certainly not. The administration and some of my colleagues endorse an alternative solution which calls for higher premium payments by lower-end borrowers and lower premium payments for high-end borrowers—so-called risk-related premiums—which effectively turn the social purpose of FHA on its head. In addition, it would cost all home buyers under the program to pay about $1,200 to $1,400 more in up-front cash, locking-out of home ownership at least 100,000 families. It should also be noted that the later costs are imposed on the buyer because the administration requires two-thirds of closing costs to be paid up-front. While this hits the buyer right between the eyes, it does nothing to increase a buyer's equity in the home. As we all know from experience, closing costs are simply fees paid for a variety of settlement charges and services. The administration's proposal would also cause FHA to lose approximately 15 percent of its current business which means even less money going into the fund.

If this sounds terrible to you, it is. To endorse this approach is to sell out future home buyers of America in order to continue a little-known, but dangerous budget charade. The current practice, begun in 1983, of collecting a hefty insurance premium up-front while allowing the borrower to finance it, rather than charging a smaller up-front premium with annual premiums, has given Treasury the right to use FHA funds just the like the Social Security trust fund—to artificially lower the deficit. Unfortunately, it has hurt FHA and resulted in more highly leveraged loans which are then bound to fulfill our worst nightmare—defaults. So to me, the choice is clear: let's take a little advice from Lee Iacocca when he says, get back to what works. Restore FHA to the old system that well-served American home buyers and Treasury alike. And that's what the Vento-Ridge amendment is all about.

In our efforts to make the fund safe and sound, I urge my colleagues to support Vento-Ridge. It saves the FHA Program and saves it for those who need it the most—that struggling family trying to save enough to buy a modest home and become a part of the community, a part of our private property system of ownership which we cherish. That struggling single parent or that teacher leaving in a region experiencing tough economic times where private mortgage insurers no longer venture.

I realize that under both the Vento-Ridge amendment and the administration's proposal, working men and women will have to pay more one way or another. But the difference is this: the administration's misguided approach makes them victims of the problem. The Vento-Ridge reforms make them part of the solution.

Mr. MCCOLLUM. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I am very pleased to rise in strong support of the Housing and Community Devel-

opment Act of 1990. This bill represents an important milestone, a watershed, in a bipartisan effort to rebuild and revitalize a national housing policy.

Certainly no two individuals in this body deserve more credit for that achievement than the distinguished chairman of the full committee, Mr. GONZALEZ, and my distinguished colleague from Ohio, the ranking member of the committee, Mr. WYLIE. It is truly a testament to their own hard work and efforts that the product before us today carries with it the unanimous support of the Banking Committee.

I would like to take just a few moments to touch on several provisions in the bill that, at least from this Member's perspective, deserve special note.

First, I am very proud that legislation that I authored, the Community Enterprise Revitalization Act, has been included in H.R. 5157. My legislation will make important changes in the section 108 Loan Guarantee Program, changes that will for the first-time make small cities and rural communities eligible for section 108 financing.

With this expansion of the 108 program, even more communities will be able to undertake the vital development and infrastructure projects they so desperately need. The committee's support for expanding this program stands in my mind as a reaffirmation of the Federal Government's commitment to local efforts designed to assist low- and moderate-income persons. I am grateful to the members of the committee for their support of this measure.

In addition, I would like to mention an amendment—formerly the Neighborhood Accountability Act—that I was successful in offering at full committee, with the help of my colleague, Ms. OAKAR, that will prohibit HUD-approved mortgagees from discriminating against borrowers seeking small mortgage loans by charging these borrowers higher interest rates, points and closing costs.

The evidence indicates that this is a pervasive problem from which no area of the country is immune. These discriminatory practices have the effect of discouraging origination of relatively small insured mortgages, often those sought by the segment of home buyers that we should be striving hardest to serve. The committee's strong bipartisan support for this amendment shows the degree of its concern on this issue and our desire to see these practices halted.

I am also pleased that H.R. 5157 reauthorizes the Rental Rehabilitation Program. Providing nearly a 150,000 rehabilitated units over the course of the past 6 years, rental rehab is one of the most successful, cost-effective, programs operating today and has become an essential took in preserving affordable housing for thousands of individuals, families and communities.

The success of rental rehab stands in stark contrast to the less-productive and scandal-ridden section 8 Moderate Rehabilitation Program, which H.R. 5157 unfortunately continues to fund. Flawed in design, fraught with widespread abuse and mismanagement, a trough for greedy developers, and the central focus of the HUD scandals, no action we could take would be more appropriate than to terminate this program altogether.

Finally, one of the most important decisions that this House will make is on the direction of FHA reform. For the past 55 years, FHA has been the answer for 17 million American dreams. But now FHA is in trouble and if we don't act now we threaten the future dreams of many more millions of Americans.

We can restore safety and soundness to FHA. We can return FHA to financial stability. We can impose tough capital standards that will ensure that the program can weather the most severe of economic conditions. And we can do that in a way that still preserves FHA for the first-time, low- and moderate-income, home buyers the program was designed to help. The Vento-Ridge FHA amendment is that way.

Indeed, the amendment that I plan to offer, along with my colleague from Minnesota, Mr. VENTO, restores actuarial soundness to FHA, meets the required capital standards and ensures the future solvency of FHA. And it does this with the least negative impact on potential home buyers and in the least regressive manner.

Now some would choose to reform FHA, to make it so actuarially sound, that no one can use the program. Still others would seek to correct the mistakes of the 1980's—mistakes that are the root cause of FHA's current problems—by attempting to place the burden of reform squarely on the backs of those who can least afford it.

Those who would choose to reform FHA along this path would say to lower income, first-time home buyers, the majority of which cannot afford to put more than 5 percent down, "you will pay more under our proposal, you will have less access to FHA."

But to those with greater incomes, those who can afford to put more down, and who arguably have the least claim to FHA because they can just as easily go the private market, they would say to those people, "you will get a better deal under our proposal, you will have better access to FHA."

That is not reform, that is not consistent with putting the American families who need our help most into homes—that's turning FHA and sound public policy on its head.

I urge Members to support sound FHA reform, reform that will preserve FHA as the affordable route to homeownership. I urge my colleagues to support Vento-Ridge and certainly to support this comprehensive housing legislation.

□ 1600

Mr. GONZALEZ. Mr. Chairman, I yield 4 minutes to the gentleman from Delaware [Mr. CARPER], a hard-working member of the committee.

Mr. CARPER. Let me just begin by saying that I am proud of the bill that we are bringing to the House floor next week. I believe it is a bill that represents great work done by people on our side of the aisle, Democrats, on the Republican side of the aisle. HUD is to be commended for their willingness to work with us in the spirit of comity and cooperation. I especially wanted to say to our staff, "Thank you for the work that you've done," personal staff, as well as subcommittee and committee staff.

There are several parts of the bill that I am especially pleased with, and one of those has been mentioned by an earlier speaker, and that is the provisions that deal with self-sufficiency for those people who live in public housing, to provide them with some kind of opportunity to move up the ladder of success, to get started, if they need education, if they need training, if they need home management skills, if they have problems with alcohol abuse, if they need help with child care; as they get their feet up on the ladder, they will be able to get that kind of assistance with our legislation.

I am pleased with the portions of the bill that deal with how can a public housing authority evict someone who poses a threat to the health and safety of other tenants and yet do so in a way that does not infringe on the rights of innocent family members and is probably difficult and ticklish an aspect of this bill that we have dealt with. I think we have done so in a satisfactory manner.

A third issue, and I think one especially thorny, grows out of a program that was adopted roughly 20 years ago, when we provided, through HUD, 40-year mortgages, HUD-insured mortgages, for developers who would build property that would then be used to house low-income families, and under the legislation that was put into effect 20 years ago, the deal was that those owners could elect to prepay their mortgages 20 years out, which is really right about now, and to convert those properties to whatever use that they intended them to be. The problem with that, we face now, is a lot of owners would like to prepay their mortgages, and a lot of owners would like to take those properties and to

convert them to some higher and better use. Unfortunately, by doing so, they literally throw out on their heads, out on their heels, potentially hundreds of thousands of low-income families. We do not want that, but yet we have a contractual obligation to the owners to let them prepay their mortgages.

We have tried in committee, the gentleman from North Carolina [Mr. PRICE] and I, to offer amendments that were adopted in full committee to try to address this issue to soften the blow on the low-income families that might otherwise be affected, but yet to respect the contractual right of the owners. The gentleman from North Carolina [Mr. PRICE], the gentlewoman from South Carolina [Mrs. PATTERSON], and the gentleman from Nebraska [Mr. HOAGLAND] and I will be offering an amendment on Tuesday when we debate the bill to further address this issue to give nonprofit organizations the right to first refusal to buy a property, if an owner elects to prepay, to insure that the mix of tenants within those low-income properties does not somehow become skewed toward wealthier individuals, to try to refine the rather broad language on preemption of State and local laws, refine it to some extent; further, that we strengthen compliance of the owners to maintain a property that meets health and safety standards, and, finally, to try to ensure that 20 years from now we do not have to face the same problem again. We do not want a 20-year fix. We want a fix that will go well beyond that so that 20 years from now, whoever serves as chairman, and members and ranking members of this committee do not have to face the same problem all over again.

I think we have succeeded in an amendment that we will offer on Tuesday that hopefully does those things, and my hope is that the Members of the body will favorably consider our amendment at that time.

Mr. Chairman, I thank the gentleman from Texas [Mr. GONZALEZ] for the time he has yielded to me today.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL], the distinguished ranking member of the Committee on the Budget.

Mr. FRENZEL. Mr. Chairman, I am an expatriot member of this committee, having served two terms on the committee, and in a galaxy far, far away, a long time ago. At that time the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman, and the gentleman from Ohio [Mr. WYLIE], the distinguished vice chairman, were senior to me and were of great help to me in my work on the committee. Had I known they were going to be chairman and vice chairman respectively, I may have never wanted to get off the committee because I have gauged their work to be consistently superior over the years. I only regret it took them so long to get to the top, and I think they have brought us a characteristic piece of work.

That said, however, Mr. Chairman, I must express some concerns. The principal one that I have is that this bill is well over the budget, and that is going to give rise to problems later on. I am told that one of the gentlemen to whom I referred earlier, the gentleman from Ohio [Mr. WYLIE], will have some sort of a mitigating amendment which will respect the priorities of the committee, but try to get the bill back down to manageable size.

Mr. Chairman, I think that is a laudable ambition. I hope it is successful.

Mr. Chairman, there is one other part of the bill which I find offensive, and that is, I think, the dangerous precedent of the first housing program that is a mandatory entitlement. We have never had any programs like this before. They escape the scrutiny of the Committee on Appropriations and, I think, spend the Congress' money in advance, in the future, for things that we may wish to be changed in the future.

I believe, however, that since the Senate bill does not have this feature, there is at least some chance that it will be dropped off. My own judgment is that no bill can be enacted with a mandatory housing provision in it, and I suspect the conferees will be clever enough to understand this.

Finally, Mr. Chairman, I share the hopes expressed previously that the FHA program will be straightened out it some way or another.

Again, Mr. Chairman, despite my severe criticism of the budgetary aspects of this bill, I have nothing but praise for the committee for bringing out what I think is basically a strong bill, one that supports the programs of the distinguished Secretary of Housing and Urban Development, our former colleague, Mr. Kemp, and it also does credit to all the members of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I compliment and congratulate the gentleman from Texas [Mr. GONZALEZ] and the committee for such a magnificent job.

Mr. Chairman, I am in strong support of this measure and offered my appreciation to the chairman of the authorizing subcommittee and full committee, the gentleman from Texas, and the subcommittee's ranking minority member, the gentlewoman from New Jersey, and to other colleagues on the committee for devoting time, energy, and exercising diligence in crafting this onmibus housing authorizaton bill. This bill is long awaited and much needed. They are to be congratulated.

Mr. Chairman, I am from a Southern State, deep in the heart of the Sunbelt. We have many beautiful homes, splendidly decorated and well care for. And, Mr. Chairman, we have our share of homes that are hard to ignore and depressing to see, dilapidated, shot-gun shanties, more than the Bureau of the Census can probably count. But even more disconcerting is the number of safe, decent, sanitary, and affordable homes that don't exist.

The Second District of Mississippi which I am proud and humbled to represent, the region of the State more often referred to as the Delta, has a substandard housing rate of 27 percent, where homes are dilapidated, without indoor plumbing, overcrowded, and basically uninhabitable by minimum Federal property standards. Yet, our housing vacancy rate is only 6 percent. Mr. Chairman, this means that there are hundreds of men, women, and children living in those uninhabitable dwellings. Today, in America, that should not be be the case. I am hopeful that H.R. 1180 will make a difference and the 1990's will be the decade of rebuilding the housing stock of this great Nation.

Mr. Chairman, we are all aware of the tremendous budgetary pressures placed on our scarce Federal resources, but we also know that basic human needs that go unmet can further devastate the lives of old and young alike and in the out-years, crush our efforts to rebuild the integrity of our Federal budget process. I say the time is now. Let's pass this H.R. 1180 and lets recover what we've lost over the past decade. We don't have to do it all at once nor in the same old way. But we do need to do something now and do it in the most underserved and depressed of areas.

Mr. Chairman, H.R. 1180 represents the renewing of the Federal role in providing seriously needed affordable housing to low- and moderate-income families. I know that my district, State, and region will benefit, as will this nation. At the higher levels of funding authorized in the bill, much can be accomplished if we appropriate these funds. And, much more will probably need to be done.

Home ownership is a distant dream for so many young people and for many young families struggling to make end meet. Titles I and II of the bill are the core of assistance to low- and moderate-income families who have aspirations for home ownership. For instance, the National Housing Trust Demonstration is authorized at $500 million in fiscal year 1991 and allows for a buy-down on interest or down payment assistance for first time homebuyers, and a maximum interest rate of 6 percent.

In particular, for rural housing, the bill authorizes $2.1 billion for direct and guaranteed loans by Farmers Home Administration in fiscal year 1991. It redefines rural areas eligible for FmHA financing from an area with a population of 10,000 to an area with a population between 10,000 and 25,000 with a severe mortgage shortage and it ensures that families living in remote areas must not be denied credit. And the bill requires FmHA to identify 50 counties in fiscal year 1991 and 100 counties in fiscal year 1992 that are underserved and meet certain criteria for a reserved por-

tion of FmHA's lending authority, 1.5 percent in 1991 and 3.5 percent in 1992 will be reserved for these underserved areas.

Next week I will join two of my colleagues, Mr. HUBBARD and Mr. EMERSON, who serve with me on our newly formed lower Mississippi Delta congressional caucus in offering an amendment that strengthens section 609 of the bill which addresses housing in underserved areas. This is a practical and logical provision that we can build on.

In closing, Mr. Chairman, I feel confident that many influences have created this product, H.R. 1180 as reported to us for our consideration. The esteemed chairman of the full committee and subcommittee chairman, Mr. GONZALEZ, and I have shared numerous conversations about housing development and housing needs. I was more than honored to have the distinguished chairman in my district not too long ago, to Rosedale, MI, for a rural housing hearing. He saw first hand why my interest in housing is so strong and why it persists. My concerns resonate in the final product of the Federal-State Lower Mississippi Delta Development Commission. Its report to the President and Congress this past May noted housing as one of the most pressing needs in the seven-State region of the lower Mississippi Delta. This bill will go a long way to meeting these pressing housing needs. I strongly urge passage of this landmark housing legislation.

Mr. GONZALEZ. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today in support of H.R. 5157, the Housing and Community Development Act of 1990. This bill takes the first step toward renewing the Federal Government's commitment to providing decent, safe, and affordable housing for our Nation's citizens. I want to commend Chairman GONZALEZ and Mr. WYLIE for making this bill possible.

Decent housing is the foundation for people's self-respect and dignity. This stable environment gives people the opportunity to develop and prosper; it gives people the ability to take advantage of the other opportunities such as education and employment that our society offers its citizens; and it gives people the right start for moving into successful positions in our society.

Unfortunately, the benefits of housing are becoming increasingly difficult for many of our citizens. We have all felt torn by the stories of homeless citizens in our streets; we have all felt frustration as we have seen our Nation's elderly faced with the inability to stay in the same house they have lived in for 30 years because of rising costs. We know that far too many of our poorer citizens are putting two-thirds of their income in rent and are unable to get off the long waiting lists for assisted housing. And we all have felt deep concern when we see young families unable to purchase that first home.

During the House Banking Committee's consideration of this bill, I offered a number of amendments to address these problems. One amendment was to authorize a demonstration project utilizing a new financing option called a soft second. Soft seconds are low-cost, deferred payment, both principal and interest, second mortgage. In general, the second mortgage is about one-third of the total mortgage. Payments are generally deferred for 5 years, and then are paid back over a 15-year period.

In January, the Housing Subcommittee held a field hearing in my district on housing affordability issues. I was struck at that time by a consensus that emerged between nonprofit representatives, the private sector, and local government about this creative financing technique.

The success of this financing technique was apparent at the hearing. In Chapel Hill, a project called Tandler was developed which put 30 families with incomes between $17,000 and $25,000 into home ownership. Unfortunately, as the mayor of Chapel Hill commented at the hearing, "The problem is that we know this works, we don't have the resources to replicate it again."

Under my amendment, funds are disbursed on a competitive basis, and one of the selection criteria is the extent to which a grant recipient, a local government or nonprofit, has secured other public and private funds. This is important because soft seconds are the financing part of some unique arrangements which have come about between developers, nonprofits, local governments and lenders. I want money out of the trust fund to promote more of these partnerships. And many of the new homeowners are able to move into newly constructed, high quality homes and thus avoid the potential costs associated with buying an older home.

I also offered, along with Mr. SCHUMER of New York, an amendment to expand and improve the reverse mortgage program currently being run by the Federal Government. This amendment is based on a bill first introduced by Mr. Florio when he was chairman of the Select Committee on Aging's Housing Subcommittee, and after Mr. Florio's victory in the New Jersey Governor's race, reintroduced by the new chairman of that subcommittee, MARILYN LLOYD.

Currently, the Federal Government's program is only for 2,500 mortgages and this amendment expands it to 25,000. The small number of mortgages hinders the full effectiveness of the demonstration because most lenders that are interested in participating cannot.

In North Carolina, for example, we only have one lender with 50 mortgages. This means that in major cities like Raleigh, Greensboro, and Charlotte, there is not a single lender available to make these loans. And this is true across the country. And even for the lenders who get 50, it is simply too small a number of justify staffing and administrative expenses. In fact, nearly two-fifths of the original mortgage companies and banks chosen by HUD have dropped out, leaving States like Maryland and Massachusetts, without this program.

But the amendment does more than just expand the program. It offers some additional consumer protections for reverse mortgage borrowers. Most importantly, it gives borrowers using the Federal program the opportunity to conserve part of the equity in their home. This gives a cash-poor but house-rich senior citizens the ability to remain in their house but still leave some money left over for long-term care needs or simply to leave some money to their children. The cash payments the senior citizen receives would only be based on that part of the home's value they choose not to conserve, so the Federal Government's liability is not increased in any way by this amendment.

The amendment also clarifies a number of areas left uncertain by the original provisions. First, it clarifies that any financial institution participating in the program must offer to the homeowner—a full range of reverse mortgage options. These options are usually line of credit, tenure, term, or some combination of the first three. It also allows borrowers to switch options during the course of mortgage. And it adds clarifying disclosures on the potential liability for and the potential cost to the borrower.

I also offered an amendment regarding the payoff of FHA-insured mortgages. Under my amendment, consumers will be informed at the time of loan closing, and on an annual basis, that they must meet certain requirements if they are to avoid additional interest charges beyond the date of payoff.

This problem was brought to my attention by some constituents. They complained they had been charged interest for an entire month even when they had paid off their loan much earlier in the month. For instance, one of the cases involved a consumer making an extra interest payment of over $500. It is my hope that this amendment will end consumers having to face additional charges when they payoff their loan.

The final amendment was to give public housing authorities more flexibility in implementing current Federal preference regulations for public housing. Currently, public housing authorities can grant admission in any one year to only 10 percent of their slots to nonpreference families, or families without a Federal preference. My amendment would raise that exemp-

tion to 30 percent, giving our public housing authorities the flexibility that they almost universally say that they need.

Federal preferences give priority to those who pay more than 50 percent of their income for rent, who are involuntarily displaced, or who are living in substandard housing. And indeed, persons in such desperate circumstances should be given priority and still would be under my amendment.

But the case for an absolute priority is not as strong as it may at first appear. For what is at stake is not only redressing the plights of individual families, but making public housing developments work as communities—to ensure a certain mix of residents that provides stability and viability to the project as a whole. If we apply Federal preferences too rigidly, we may fall to achieve this mix. In hearings held by this subcommittee both in North Carolina and in Washington, public housing authority directors and their representatives have convinced me that they do indeed need more flexibility and that the current 10 percent limit needs to be raised.

All slots would, of course, still be filled with persons fitting the income eligibility requirements for public housing. But 30 percent of the slots could be filled apart from the strict Federal preference requirements.

I also think that the strictness of the rules is ultimately unfair. There are many people on waiting lists, who are still eligible for assistance and still needy and deserving, and because they don't quite fit the Federal preferences criteria, have relatively little chance of getting off the list. It seems to me a balance must be struck between their legitimate needs and those with a Federal preference. My amendment still gives more weight to Federal preferences overall but it does so in a way that is more fair to all those who need housing assistance and that meets the needs of the public housing development as a community.

The committee bill also makes permanent the increases in the ceiling for FHA mortgage insurance. This is a vitally important provision, ensuring the availability of FHA insurance to families of modest income in high-cost areas, and I commend the committee leadership for its inclusion.

The committee bill also includes some carefully drafted and much contested language on the difficult issue of the preservation of low-income housing. Along with Mr. CARPER, I offered an amendment in committee which, while recognizing the right of owners to prepay, gives them stronger incentives to keep this property in the low-income housing stock and offers strengthened tenant protections when prepayment occurs. We said at the time that we intended to continue to work in this matter. We have done so, and along with our colleagues, LIZ PATTERSON and PETER HOAGLAND, will be offering an amendment to further refine these provisions.

Beginning the 1990's, we have new challenges and new opportunities in the housing area. I believe we can meet these challenges and exploit these opportunities by working together. I look forward to continuing to work to find creative and innovative housing programs which effectively leverage Federal dollars to end the plight of homelessness in this country, reverse the decline in home ownership opportunities, and make rental housing more affordable.

□ 1610

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a member of the committee.

Mr. DREIER of California. Mr. Speaker, I thank my friend, the gentleman from Florida, for yielding me this time.

I want to begin by commending the distinguished chairman of the full committee and, of course, the subcommittee, recognized on the front page of the Sunday Los Angeles Times with a spectacular article which has been printed in the CONGRESSIONAL RECORD. I was proud to have been able to introduce that. It talked about the very interesting and fascinating career of our distinguished chairman, and I commend that article to my colleagues to read. That article is actually indicative of the kind of work which has gone on in this committee in dealing with housing issues over the years.

I also want to commend our distinguished ranking member of the full committee, the gentleman from Ohio [Mr. WYLIE], our ranking member of the subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA] for their leadership in providing us with what is under the circumstances a pretty good bill.

Certainly, the bill is far from perfect. It contains a number of ineffective programs that continue to emphasize bricks and mortar instead of human needs. These programs could be better targeted to the truly needy through tenant-based assistance. But in many respects, the bill takes a number of steps in that direction.

For example, contained in H.R. 5157 is virtually all of Secretary Kemp's HOPE initiatives. HOPE is a comprehensive and forward-looking program and I would say to anyone who is committed to helping low-income families struggling to achieve economic self-sufficiency should wholeheartedly embrace these proposals.

H.R. 5157 also includes a number of other important initiatives. The Bartlett-Barnard amendment on preservation and prepayment is the best approach in terms of addressing the needs of the tenants and assuring a fair return to the owners. I urge my colleagues to resist the temptation to change this carefully crafted compromise. H.R. 5157 also contains improvements in the manufactured housing code, and I want to congratulate Congressman HILER for his tremendous work on this issue.

Finally, Mr. Speaker, we will need to address the important issue of strengthening the financial solvency of the FHA insurance fund, which was one of four Federal insurance funds to lose over $5 billion in the 1980's. The Vento-Ridge amendment will help to strengthen the financial soundness of FHA, but I am concerned that it may not be adequate to stem the rising tide of foreclosures, protect home buyers and make the FHA actuarially sound in a timely fashion. Studies show that approximately one-third of FHA loans with no equity in the home go into default, and the Vento-Ridge amendment does not fully address this problem.

Chairman GONZALEZ has been working closely with us to craft a compromise amendment that will address these concerns, and I want to encourage the chairman to continue these good-faith efforts so that FHA can continue to provide access to affordable housing for low- and moderate-income families.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to speak on the housing bill as it will be brought to the floor next week. It is my hope that we do have a housing bill this year, and my congratulations to the gentleman from Texas [Mr. GONZALEZ] and to the gentleman from Ohio [Mr. WYLIE] for having produced a housing bill that is close, it is 75 to 80 percent ready to pass and be signed into law.

In my judgment, in many ways this housing bill pushes us into the 1990's of a housing policy for the 1990's that will focus on affordable, decent, safe housing for individuals and their families, based on where they want to live and based on being able to afford those units. It focuses in large part on home ownership and in large part in freedom of choice for tenents.

Let me suggest that there are about three items, major items, left to be resolved in the housing bill before we will have one that is ready to be signed into law. They are resolvable items, but they are still large.

One is the budget numbers. Before the bill is passed and signed into law, the principals have to reach an agreement, which is not yet made, on how

much totally the bill will cost American taxpayers in fiscal year 1991.

The bill as it is currently before us as I read it spends or authorizes about $28 billion. The budget that we have that seems to be foreseeable in terms of adjusting from last year is about $23 billion, so there is a $5 billion gap still left to negotiate.

Second, it seems to me that we have to take out of this legislation any new rental production programs. Under no circumstances should the Congress of the United States authorize additional developer subsidy programs that would get us into the same trouble in the 1990's that we got into in the 1970's and 1980's.

Third, we do have to resolve, and I hope it can be done in a compromise fashion, the FHA issue. Currently we have a large difference of opinion between the proposal to be offered by the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from Minnesota [Mr. VENTO] and the proposal that has been requested by HUD.

My sense is, looking at it today, that the Ridge proposal seems to make a lot more sense, but I would hope we could compromise in some way in which we both provide for the solvency of the FHA, and at the same time ensure that at least the same number, if not more, of home buyers will be able to buy their homes.

I would also note, Mr. Speaker, that there are several items that will be in some dispute on the House floor that I have been involved with. One will be, I would urge the House to keep the Bartlett-Barnard section on preservation of multifamily units that was drafted by the committee in a bipartisan way, adopted 29 to 19, as offered by the gentleman from Georgia [Mr. BARNARD] and myself. It was compromise legislation. It changes current law. It compromises in a bipartisan way to protect tenants to guarantee that every income eligible tenant currently living in a multifamily unit that was guaranteed by a Federal mortgage will be guaranteed a section 8 certificate or voucher that will be usable in that marketplace.

□ 1620

So we protect tenants. We provide for a large amount of incentives for these owners to continue to provide low-cost housing to the tenants, and we provide adequate notification.

Second, the community housing partnership program that is provided in the bill is a good program. It goes in the right direction, but it has one fatal flaw, and between now and the floor, I hope that in working with the gentleman from Texas [Mr. GONZALEZ] and working with the gentleman from New York [Mr. SCHUMER] and others, and I would hope to be able to prevail upon this body and those gentleman that we should require that any homeowner that is subsidized in the purchase of his home be required to repay the subsidy, but to eliminate this ridiculous proposal that is currently in this draft that would limit that homeowner's right to sell his property and keep the equity.

I have researched Federal law. No other housing program in Federal law or in this bill provides for a limitation on the resale and the keeping of equity by subsidized homeowners. This bill has other subsidies for homeowners, and not a single one of them limits the right to keep profits on resale. Only in this one limited section does it do that, and we ought to strike that section and provide for the more traditional repayment of subsidies.

Mr. Chairman, third, I will be offering a sense-of-Congress that we establish enterprise zones in tax policy in this year, and that ought to be adopted.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has 1 minute remaining, and the gentleman from Texas [Mr. GONZALEZ] has 2 minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield the remainder of my time, 1 minute, to the gentlewoman from Maryland [Mrs. MORELLA].

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA] who has contributed very much to the bill.

Mrs. MORELLA. Mr. Chairman, I commend the Chairman of the committee, Mr. GONZALEZ; the ranking member, Mr. WYLIE; Mr. MCCOLLUM, and the staff who worked for so long and hard for this important measure. I rise in support of H.R. 1180, the Housing and Community Development Act of 1990. This legislation will directly benefit low- and moderate-income first-time home buyers who are struggling to meet the affordability requirement necessary to own their own homes. I sponsored a provision, which is a part of the National Housing Trust title, which expands the definition of first-time home buyers to include displaced homemakers.

The need is clear. The number of displaced homemakers has increased by approximately 200,000 annually during the 1980's. In the United States today, there are almost 16 million displaced homemakers. More than one in three displaced homemakers is living below the poverty line, and one in five is part of the "hidden homeless," who double up in housing with friends and relatives. The majority of these women are elderly.

Because they have little or no income, displaced homemakers often cannot rent or purchase adequate housing for themselves and their children. Because many owned homes jointly with their former husbands, they have been declared ineligible for mortgage assistance programs available to first-time homeowners. This legislation will assist these women by expanding the definition of first-time buyers to include displaced homemakers and thereby provide those who are eligible with monthly interest rate subsidies or down payment assistance for the purchase of a home.

I urge my colleagues to join me in support of H.R. 1180.

In addition to the first-time home buyer provisions, I am pleased to note a number of programs fostering adequate, affordable housing. The permanent authorization of the FHA mortgage ceiling at $124,875 is welcome news to many young adults, senior citizens, and moderate-income workers, who live in Montgomery County, MD, and for whom decent, affordable housing in the county is becoming out of reach. In regard to rental housing, the education and organizational support grants and community housing partnership grants will assist nonprofit organizations to build, rehabilitate and maintain affordable housing, and the housing production program will support new construction or rehabilitation of affordable rental housing.

This legislation contains some creative programs to provide for the housing needs of the elderly. included is the 5-year demonstration program, HOPE for elderly independence. This program will assist the frail elderly to remain independent by combining housing vouchers or certificates with supportive services. In addition, the bill funds the existing congregate housing services program at $6 million, and a new revised congregate housing services at $11 million. This modest program, made permanent in the 1987 housing authorization, also aims to assist elderly residents by providing such services as housekeeping and meals so that they can maintain a semi-independent lifestyle.

Another provision that assists older homeowners is the new elderly/disabled homeowner repair program. As we know, many elderly "age in place" and defer necessary and expensive home repairs. This new program will allow grants to nonprofit organizations to provide home repairs to elderly or disabled homeowners. In Montgomery County, the "Christmas in April" project provides such needed services to elderly residents with walls falling down.

The bill reauthorizes the section 202 program, the only Federal rental housing program specifically for the elderly, and allows, under the 202 programs, for the acquisition of properties held by the Resolution Trust Corporation.

To address a great need for those older homeowners who have excess equity in their homes, the home equity conversion mortgage demonstration is extended for 3 years and expanded from the original 2,500 to 25,000 mortgages. While this program is not for everyone, it will certainly be useful for some homeowners.

Finally, the McKinney homeless assistance programs are reauthorized through fiscal year 1992. I strongly support the increase in funding for these programs. The McKinney funds provide for emergency food and shelter, job

training and counseling. Montgomery County's Housing Opportunities Commission and the city of Rockville Housing Authority have used their McKinney grant awards to provide for more permanent housing for homeless men who have a job or have the ability to secure a job. HOC has also begun a transitional housing program for homeless families, who, in addition to transitional shelter, receive support services to aid them to move into permanent housing within a 2-year period.

Mr. Chairman, I urge my colleagues to join me in supporting the Housing and Community Development Act of 1990. It is unconscionable that there is a lack of affordable housing in one of the wealthiest nations on Earth. This legislation is a step along the path to increasing the availability of decent, affordable housing for the most needy among us.

Mr. KLECZKA. Mr. Chairman, as a member of the Banking Committee, I rise today in strong support of the Housing and Community Development Act of 1990 (H.R. 1180).

America's housing suffered tremendously under the Reagan administration. During the 1980's, Federal spending on housing was cut by two-thirds from over $30 billion in 1980 to less than $10 billion at the end of the decade.

While the administration's commitment to our most basic housing needs was being abandoned, military spending increased by 46 percent between fiscal years 1980 and 1987.

Now that the cold war has ended, we are left with tons of useless weapons and millions of homeless on our streets and ill-housed in our communities.

Since 1980, there are 1.3 million fewer low-income rental units now available through the number of low-income households eligible for Federal housing aid has risen by 1.4 million.

Thus, we are falling further and further behind in meeting the housing needs of America's poorest families.

To remedy this dismal situation, Chairman HENRY B. GONZALEZ and members of the Banking Committee have crafted the Housing and Community Development Act. I commend the chairman and his staff for their expertise and hard work on this urgently needed bill.

This legislation is the Banking Committee's best effort to reverse the shameful trend of the 1980's and to begin the new decade with adequate funding for existing housing programs and support for some new concepts to house America's neediest.

H.R. 1180 authorizes nearly $28 billion for housing and community development in fiscal year 1991.

In all, this authorization creates or modernizes roughly 200,000 housing units for about 600,000 homeless, low- and moderate-income renters, and potential owners.

The lion's share of this funding goes to tried-and-true low-income housing programs such as public housing construction and modernization grants and section 8 certificates.

H.R. 1180 provides $738 million for the construction of 10,000 new public housing units and $2.1 billion for the modernization of existing public housing units.

Those Members who have visited public housing sites in their districts as I have know that these funds are needed to improve aging apartments and to build new public housing to relieve the lengthy waiting lists in most States.

To prevent homelessness, the measure also provides $10.3 billion for section 8 certificate renewals and amendments and nearly $2 billion for new certificates.

The bill contains $3.2 billion for community development block grants to promote needed economic development in our neighborhoods in cooperation with local officials. Without this funding, many projects critical to improving life in our cities and towns would not be possible.

H.R. 1180 launches four innovative new housing initiatives: The community housing partnership, the national housing trust, the HOPE programs, and the Rental Housing Production Program.

One new approach, found in title 4, the community housing partnership, would provide $300 million in grants and loans to cities, States, and nonprofit housing groups to build, buy, rehabilitate, and maintain housing for low- and moderate-income families.

Not all of the new elements of this legislation require funding. Section 734 addressed the serious problem we have had in Mllwaukee of discrimination against low mortgage amount loans.

In the 1987 housing authorization bill, I offered an amendment, which was accepted, to forbid FHA-approved lenders from refusing to make FHA loans for smaller mortgage amounts.

Unfortunately, some lenders have attempted to circumvent this law by charging higher points for smaller amount loans.

I commend Congressman TOM RIDGE for proposing and developing section 734 of the bill which prohibits basing mortgage costs and interest rates on the size of the loan.

This provision should eliminate the spectacle of home buyers paying up to six times the number of discount points on a $24,000 loan than on loans over $50,000.

Good as this bill is, it can still be perfected in several ways. On the prepayment issue, I believe the bipartisan coalition amendment would maintain affordable housing for low- and moderate-income tenants while fairly compensating owners.

Owners have a right to receive fair compensation from the Government if they are not allowed to prepay; I support the coalition prepayment amendment because it does just that.

At the same time, the amendment will save the vast majority of the more than 300,000 units of affordable housing now under threat of loss through prepayment.

I will be offering an amendment to H.R. 1180 on another matter of importance to my constituents: Federal housing administration disclosure.

My amendment to title 7 would improve public disclosure and monitoring of the performance of FHA-approved lenders who make federally insured home mortgage loans.

It would require a publicly available report, on a quarterly basis, of information on loans, defaults, and foreclosures, broken down by lender for various census tracts.

The data provided will assist the Department of Housing and Urban Development and interested members of the public, including nonprofit housing advocates, in monitoring the performance of lenders.

The goal of this added security is to reverse the wave of foreclosures sweeping Milwaukee, Chicago, Philadelphia, and other large cities which are caused by sloppy or even fraudulent underwriting and an unwillingness to work with delinquent borrowers when foreclosures are still avoidable.

I look forward to outlining the need for this amendment in greater detail as we proceed to consider the bill title by title.

One final, more controversial area of the bill that needs to be clarified is the difference between modular housing and manufactured housing.

Right now, a great deal of confusion exists due to section 756 which removes the requirement for a permanent chassis from the definition of manufactured housing in Public Law 93–383.

Housing experts have offered conflicting interpretations of this change, some arguing that it eliminates the difference between these two types of factory made and others saying it will make no difference at all.

Some, including many of my good friends in the labor movement, contend that restoring the permanent chassis requirement would clear up this confusion.

Others, including myself, are not so sure that this is the most logical, cost-effective way to define the differences between modular and manufactured housing.

I am considering offering an amendment that would specifically define the distinctions between manufactured and modular in terms of how these homes are produced and moved to site.

I look forward to listening to the debate on this complex issue as we try to reach a solution that benefits consumers without unduly harming either the manufactured or modular housing industries.

Mr. Chairman, once more I would like to commend Chairman GONZALEZ and the Banking Committee for producing such a promising package to restore housing in America. I urge my colleagues to give it their full consideration and support.

Mr. GREEN of New York. Mr. Chairman, I congratulate the Banking Committee on producting this major housing bill for our consideration.

However, I should like to raise a word of warning. The FHA insurance funds are not in good shape. We have learned from the S&L debacle that to procrastinate or temporize in dealing with such a situation is unwise.

For that reason I am particularly concerned at the 1 percent downpayment program contained in the bill. It is very like the original section 235 program, which was a disaster. Whenever we set the downpayment significantly below the commission that a real estate or mortgage broker will get from the transaction, it is an open invitation to fraud and abuse through under the table provision of the dowmpayment to the purchaser by the broker or use of essentially fictitious purchasers. Those are not hypothetical worries; these frauds have occurred before.

I hope that as this bill makes its way through the legislative process, the Congress will take a closer look at this proposal in par-

ticular and at the needs of the FHA insurance funds in general.

Mr. FRENZEL. Mr. Chairman, I rise to express my concerns with the measure before us today. I am nervous about the large authorization which is a part of this housing bill. After participating in the budget summit for the past 6 weeks, and reviewing the possibilities of a balance budget amendment only last week, consideration of a budget-busting $28 billion authorization makes me queasy.

As an inveterate budgeteer, I must also voice my concern about a small program in this omnibus bill. In title 5 of the bill under consideration, a housing entitlement is extended to families whose children might otherwise be placed in foster homes. Even an old curmudgeon like myself has difficulty finding fault with such a noble provision.

Nonetheless, it is a dangerous and expensive precedent. Federal housing assistance programs are, at this time, funded with discretionary money. With this language, a beachhead is established into which further housing entitlements will certainly be offered. We all know that entitlement programs are exempt from the work of appropriators. We must recognize that additional program exemption from the appropriations process will erode what congressional control currently exists with regard to fiscal policy.

Finally, in the course of this measure's consideration, we will review the FHA Mutual Mortgage Insurance Program. I know the FHA loans are important to low- and moderate-income first-time home buyers in Minnesota. In fact, FHA loan figured into roughly 30 percent of existing home sales in Minnesota last year.

In this spirit of this bill, which includes various programs to extend the American dream of homeownership to a greater number of persons, such as effective mechanism in providing homeownership as FHA should be retained and continue to exist for qualified home buyers. As we take up reforms to the FHA Program, I hope that we consider the great importance of this program and its usefulness, now and in the future, for putting Americans in their own homes.

Mr. SCHUMER. Mr. Chairman, I strongly believe that a sound long-term national housing policy should be a balanced one, composed of tenant-based subsidies, the rehabilitation of units in the existing stock, and the production of new units. In the 1960's and 1970's, housing programs were predominantly production oriented. Although this dominance was reversed in the last decade, most subsidized tenants still live in units with project based subsidies. The current inventory of assisted rental units, both publicly and privately owned, totals about 3.5 million compared to about 1 million tenants who have rental assistance that they can take with them if they move from one apartment to another. This tenant-based subsidy is currently the predominate form of new housing assistance being provided each year.

I am concerned that although the inventory of units dedicated to house subsidized tenants still is relatively large, it is aging and ultimately will be lost. We will in time find ourselves faced with millions of low-income persons carrying rental assistance certificates and vouchers whose access to affordable housing is subject to shifts in market conditions and the whims of private landlords who can enter or leave the program virtually as they please.

The responsible and prudent course to follow is to correct the trend toward excessive reliance on tenant-based subsidies. H.R. 1180 begins that correction in a modest and limited manner with the programs authorized by title II and IV.

Title II authorizes $300 million for a rental production program which is targeted to certain priority uses. It is not intended to be a program of general applicability that will compete with tenant-based subsidies in all areas. Title II is designed to stimulate additions to the rental housing stock, primarily through new construction and substantial rehabilitation, in areas where market demand alone is insufficient to add needed units to the housing supply unless the housing is made more affordable. It also is designed to serve classes of persons who have difficulty finding decent and affordable housing in many areas—specifically, large families, section 8 certificate and voucher holders who live in areas where there is an inadequate volume of participating properties, and elderly or handicapped persons who are or who may become frail and need assistance in living in a congregate housing setting.

The title II program is structured to avoid many of the weaknesses of production programs of the past. These weaknesses were in large part a result of a policy to have programs in place that could produce several hundred thousand units a year in projects that overwhelmingly were to be 100 percent occupied by subsidized tenants. Problems that became apparent over time in some situations were: Inadequate subsidies in the first generation of programs to maintain long-term viability, inadequate incentives for the commitment of owner resources for project operation over the long-term and concomitantly the assumption of excessive risks by the Federal Government, poor management and maintenance practices because tenants had few other choices for housing, the location of many projects in unsuitable or undesirable locations, poor design and construction practices, and excessive profits when HUD subsidies were augmented by generous tax subsidies.

The keys to breaking away from these past difficulties are: One, to have projects that are subject to market risks and that must attract market tenants; and two, to limit HUD assistance to gap or last resort financing in the minimum amount necessary for project feasibility.

Market discipline is achieved through putting capital at risk and having tenants who could choose to live elsewhere. These are the incentives lacking in the old programs that will lead to sound project locations and design, good management and maintenance practices, and owners regarding the projects as their responsibility to keep viable and not the Federal Government's responsibility. Under title II, a specific number of units in a project will be dedicated for use only by certain income classes of persons and the rents will be controlled. The remainder, or market units, will not be controlled as to occupancy or rents. The formula for determining the number of dedicated units is the same as that used under the Federal Income Tax Code for eligibility for tax-exempt bond financing and the low income housing tax credit: at least 20 percent of the units are reserved for very-low-income persons—50 percent of median income or below, generally—or 40 percent are reserved for low-income persons—60 percent of median income or below, generally. The remaining market units will be occupied by section 8 certificate and voucher holders, other low and lower income tenants, and other members of the tenant population who choose to live in a mixed-income project.

In order to offset the low rentals for the dedicated units and otherwise make the project feasible, HUD would provide assistance in the form of a soft loan secured by a junior lien on the project at an interest rate determined by the Secretary, up to 3 percent. The amount of the HUD loan needed will vary depending on a number of factors, including development costs, market conditions, and income levels in the area; project type; the amount of other assistance; and whether rents on some market units are to be made affordable to section 8 certificate and voucher holders for a period of time. The bill establishes a maximum loan amount of 50 percent of development cost—including land—which should make the program workable in all areas of the country that need if. If in some cases the maximum loan is insufficient, other forms of subsidy to fill the gap would have to be obtained. I expect, however, based on experience with prior programs, that the average loan amount will be closer to one-half the maximum statutory amount.

Downward pressure on loan amounts comes about in several ways. Projects will be selected in national competitions based generally on objective factors. One of the statutory selection factors is the extent of non-Federal assistance made available to the project. These other forms of assistance would reduced the amount of Federal loans needed, since section 102 of the HUD Reform Act of 1989 requires the Secretary to consider all other Federal, State, and local assistance provided the project in order to calculate the lowest possible amount of HUD assistance. In addition, the amount of the HUD loan would be established at the time an application is accepted and could not be subsequently increased. If development costs turn out to be higher than anticipated, as they often are, the risk and cost would be the sponsor's responsibility. Finally, HUD would review rent and cost projections to assure that rents were not proposed to be lowered below levels that were clearly feasible under prevailing market conditions and that costs were in the moderate range for the type of project involved.

For a workable program, it is essential that from the aggregate of Federal, State and local assistance that might be made available to the project, including the HUD loan, tax-exempt financing, Federal tax credits, State interest rate reduction loans, and CDBG loans or grants, that some portion be available to lower the initial cost of the market units. If the market costs do not need lowering it is likely that there is not a shortage of that particular type of housing in the area and therefore not a need for the programs. Since title II is a gap

financing program and because of the provisions of section 102 of the HUD Reform Act, the overall amount needed from the HUD loan could be reduced dollar for dollar by the availability of other subsidies. Thus the HUD loan would be the appropriate mechanism to lower the costs of both dedicated and nondedicated units to the extent needed.

Although market costs may need some assistance initially, it would be the expectation that market rents would rise over time to the point where any shortfall that might develop in the rental income from the dedicated, rent-controlled units, because operating costs rose faster than median incomes, could be offset by cross subsidies from the market units. The HUD loan is a one-time subsidy and the project must maintain its own long-term viability through the availability of cross-subsidization. If the market units come to the point of generating what might be termed excess profits, the Secretary would in effect become an equity partner and share 50–50 in those profits, with the HUD share going into a revolving fund for reuse in the program.

The remaining element to attaining market discipline is the equity at risk in the project. The bill contains no specific minimum equity requirement and definition of equity but it is expected that the Secretary would impose such a requirement as a condition of making the loan. Rather than rigid statutory terms, it is preferable for several reasons to give the Secretary flexibility in specifying equity contributions and in defining what constitutes equity. For example, what level of equity is reasonable at a particular time may depend on the tax incentives that are then available. In addition, the Secretary should be able to adjust the equity requirement and definition of equity based on experience as to what is or isn't working well and what definition of equity is or isn't subject to abuse. Finally, the Secretary may find it makes sense to impose different equity requirements on different sponsor types or perhaps for certain types of projects. For example, a community based nonprofit sponsor might have no minimum equity requirement while a broader based nonprofit or a public sponsor might be required to contribute a smaller amount of equity than a profit-making sponsor.

In addition to administratively established minimum equity rules, the bill includes, as part of the competitive selection process, factors based on the relative equity contributions of applicants, thus putting competitive pressure on applicants to commit more than the administratively established minimum. In establishing minimum equity contributions, the Secretary should take into account the existence of these selection factors, the increase in owner equity that often accompanies development cost increases, and the additional risks and limitations in maintaining the project as rental housing with dedicated units over a long period of time.

In order to enhance the competition for loan funds and encourage the best applications, the bill permits the broadest possible range of applicants. Thus, in addition to nonprofit and for-profit sponsors, States, counties, cities, and their agencies would be eligible to participate as project owners.

Projects would be selected in a competition based on their scores in meeting objective criteria. The bill specifies several factors and authorizes the Secretary to add others, which the committee expects will be similarly unsuited to political manipulation. The title II program is structurally repellant to political or other influence peddling.

The specific factors to be considered by the Secretary are: First, the rental vacancy rates in the area—with luxury housing vacancy rates discounted to the extent possible. If a project is proposed to meet a specific need, such as housing for handicapped persons, data supporting that need would be considered and would offset the effect of a high overall rental vacancy rate if alternative methods to meet the need other than new production are not available. Second, the extent large families with children are served. There is considerable documentation that large families have the most difficulty of any group in finding suitable and affordable housing. Without a strong selection factor as an incentive, most sponsors would not build projects for this group because of the additional risks and costs involved. Under the older construction programs, very few projects were developed to accommodate large families. Third, the extent the project contains more very low or low income dedicated units than the minimum required. Fourth, the extent market units do not exceed section 8 rent limitations in the area. This factor should be used where it can be demonstrated that there is a shortage of participating projects for section 8 certificate or voucher holders. A reasonable period of time to maintain such rent levels is 5 years. Fifth, the extent of non-Federal public assistance to the project; Sixth, the extent of project sponsor's commitment of equity to the project; Seventh, the sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project. Factors six and seven are not applicable to nonprofit or public sponsors and should be applied, to the extent possible, in a way that neither advantages nor disadvantages these sponsors in a competition for funds with all other sponsors. Eighth, the extent the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project. There is an enormous and growing need for these kinds of facilities and services in order to delay or avoid expensive institutional care and in order to enhance the quality of life of elderly and handicapped persons. Several parts of H.R. 1180 address in various other ways the major problem of accommodating the frail without expensive institutionalization. This multifaceted approach is a sound one, as there is no single correct approach for helping the frail live independently.

Based on experience with other selection factors, many of which would be relatively minor in weight, the Secretary could apply additional factors in the title III program that were designed to select the better projects.

The HUD loan or advance is repayable as a soft loan, that is, it is not repayable in a manner that would result in a default or foreclosure during the term of the project. Stated another way, the Federal subsidy is not the difference between a market-rate loan and a 3-percent loan, but the difference between a market-rate loan and a 3-percent deferred payment loan. A repayable loan covering only a portion of the cost of the project could not be structured otherwise or it would be impossible to obtain primary financing. Alternatives to a deferred payment loan are a grant or a low interest Federal loan that covers the entire financed cost of the project. Neither alternative is as desirable or cost effective as the one provided by the bill.

The term of the junior loan would be 25 years, with interest payable annually but principal payable in a balloon payment at maturity. In order to make it possible to obtain a first mortgage loan and to avoid jeopardizing the viability of the project, interest would be payable out of surplus cash-flow, that is, the project income left after the payment on the first mortgage, operating and maintenance expenses, payments into replacement reserves, and a reasonable return on equity. The Secretary would have the flexibility to determine what a reasonable return was based on the prevailing market outlook.

The important point to be emphasized is that the project should be viable and successful and that the owner be committed to operating it as a sound project over a long period of time, and not that the Federal subsidy be repaid as quickly as possible. If surplus cash-flow is more than enough to pay interest and any accrued interest on the junior loan, one-half of the excess would be returned to HUD as additional interest payments.

The deferral of principal repayment until loan maturity provides a relatively inexpensive incentive to extend the term of the project from 25 to 40 years through the proportionate forgiveness of principal and any accrued interest over a 15-year period. For this type of market risk program, unlike earlier construction programs, the provisions with respect to project term are appropriate.

The committee expects that the committed number of dedicated units will be provided as specified for the term of the project—a minimum of either 20 percent very low income or 40 percent low income. It is not necessary for the bill to establish or specify enforcement mechanisms as the Secretary can be expected to use common methods such as covenants running with the land to enforce low-income occupancy requirements and to prohibit conversion of the project to other uses during the project term.

Rents for dedicated units would be limited in the following manner: Very-low-income tenants—50 percent of median income or below, generally—would pay for rent—including utilities—not more than 30 percent of the adjusted income of a family at 40 percent of median income. The Secretary should calculate an amount which is 40 percent of median income by reducing the very-low-income limit for the area by 20 percent. Low-income tenants—60 percent of median income or below, generally—would pay for rent no more than 30 percent of the adjusted income of a family whose income equaled the very-low-income limit for the area. The bill provides for fixed rents by income category rather than rents pegged to 30 percent of a tenant's income for three rea-

sons: Fixed rents provide more predictability in determining project economics for purposes of securing a first mortgage loan and in providing the lowest possible HUD subsidy; a rent tied to 30 percent of each tenant's income would encourage owners to select tenants at the very top of the income range in order to achieve the highest possible income stream; and because excessive rent variations could detract from the marketability of the project among other tenants.

The bill provides a method for dealing with tenants in dedicated units whose incomes rise above the requisite income limit. If a tenant who initially qualifies to occupy a very-low-income unit ceases to so qualify, the tenant will not be forced to pay a market rent or to leave the project. If the tenant qualifies as a low-income tenant the rent charged would be the rent applicable to a low-income tenant. The rent would be further controlled until the tenant ceased to be a lower income tenant—80 percent of median income. At that point the original very-low-income unit would have to be replaced either with a very-low-income tenant in a market unit or through the filling of the next available vacancy. This mechanism gives tenants protection against burdensome rent increases and also assures that the project will not be thrown into insolvency by having the number of persons paying less than market rent increase beyond the anticipated number.

I am aware that the administration contends that the low-income housing tax credit is sufficient to produce a large volume of low-income housing and that a direct assistance program is unnecessary. The tax credit is an important and valuable, albeit expensive, tool, but it is not a substitute for a direct subsidy program. According to the General Accounting Office, most units produced with the availability of tax credits have had other Federal subsidies to make them feasible. Without other Federal programs—and State and local subsidies also—the tax credit is generally workable only in limited areas of the country and for certain types of projects. Thus, the distribution of tax credit projects will follow two courses—they will be located where other subsidies are available or where development costs are low in relation to incomes. Title II, on the other hand, is designed to tackle the hard cases, to fund the most needed projects in the areas the private market has difficulty in serving.

It also is contended that it is cheaper and more sensible in providing shelter for low-income persons to moderately rehabilitate existing housing. The Congress has a long history of supporting housing rehabilitation programs. There are about a dozen separate rehabilitation programs in existing law and a large portion—about one-third—of the Community Development Block Grant Program is devoted to rehabilitation programs. H.R. 1180 adds several additional rehabilitation authorities. These are important and worthwhile efforts but they are only one part of a balanced strategy. Moderate rehabilitation has very impressive short-term impacts but its long-term impact is more questionable. Unless rental income can be enhanced, the rehabilitated properties will slide back over time into their former condition. Either section 8 certificates or vouchers—or project-based section 8—have to be used, greatly adding to the costs, or the properties will come to be occupied by tenants with incomes higher than those who lived there before rehabilitation. The true costs of a workable moderate rehabilitation program over the life of a title II project—25 to 40 years—will be substantially higher than the short-term statistics reveal.

Mr. ALEXANDER. Mr. Chairman, I rise in support of this bill to improve the Nation's housing supply and encourage home ownership.

Finding and keeping safe and decent housing is a continuing concern for most Americans whether they are renters or homeowners. For moderate and low-income individuals and families, particularly in Arkansas' First Congressional District, securing such homes can be a constant struggle.

This bill, the first major housing legislation in 10 years, will not solve all of the needs. But, it can assist in making major improvements in the availability of housing to low and moderate families and individuals. It is a step toward meeting the needs for increased rental housing and for helping families and individuals to become home owners.

In Arkansas housing assistance is urgently needed.

There are long waiting lists for available, affordable, federally assisted, rental housing units. This includes virtually all programs for low and very-low-income families, including senior citizens and disabled persons.

For instance, in Jonesboro and Craighead County, AK, there are more than 1,400 applicants—primarily families, senior citizens, and disabled persons—on the waiting lists for federally assisted housing. Some have been waiting more than 4 years. This is an area of about 65,000 people with a healthy economy.

In Marianna and Lee County, an area where economic distress and unemployment are severe and chronic problems for more than 500 families, senior citizens and disabled persons are reported on waiting lists for federally assisted rental housing. The population of Lee County is about 15,000.

Similar waiting list stories can be found in most of the 24 counties of First Congressional District.

Safe, decent, affordable housing is a basic human need. It is in the national interest for the Government to aid families and individuals in obtaining such homes.

My home State of Arkansas has one of the Nation's largest, most active affordable housing, home ownership programs. It was initiated by Arkansas homebuilders with the objective of making it possible for moderate and low-income families achieve the American dream of home ownership.

From the beginning, homebuilders, local officials, and realtors in the First Congressional District have been leading forces in working with Federal housing officials to prove the effectiveness of such a program.

The success of Arkansas's affordable housing activities has been recognized by the Department of Housing and Urban Development and by homebuilders and local officials across the Nation.

The heroic efforts in Arkansas to make affordable homes available to potential buyers would not have been possible without the existence of the Federal home mortgage insurance programs.

Home buyers, builders, and realtors report that Federal home mortgage insurance programs have been essential to the home purchase ability of literally thousands of Arkansans. Use of the programs has been increasing. In each of the last 2 years the programs have made 10,000 home purchases possible.

Arkansas' First Congressional District encompasses 24 counties. The county per capita income ranges from slightly more than $8,000 to less than $14,000. There is a constant campaign to overcome chronic economic distress, including higher than average unemployment rates.

It is essential that the housing legislation enacted by this Congress supply constructive assistance to shelter needs whether they be for rental housing or home purchases.

Mr. HILER. Mr. Chairman, as we begin our consideration of the Housing and Community Development Act of 1990, I want to take a few minutes of our colleagues' time to discuss the manufactured home standards modernization amendments that, I'm pleased to report, were adopted unanimously by the full House Banking Committee on June 12.

And in this last regard, I certainly want to extend my deepest appreciation to Chairman GONZALEZ for his hard, sincere work to help us develop our compromise, and to ranking members WYLIE and ROUKEMA for their capable, welcome support, as well. I think our efforts led to good, productive amendments that will benefit consumers and will help us meet the demand for well-constructed, affordable housing—a demand that, unfortunately, grows daily.

Mr. Chairman, some 16 years ago, Congress saw in manufactured housing a great potential: By harnessing the efficiencies, control, and uniformity of factory construction, while still employing the same components used in on-site construction, manufactured housing could become the wellspring of quality homes for Americans seeking affordable shelter they could own.

The promise of manufactured homes as a premier source of affordable housing is tremendous. The cost of the structure of a manufactured home averages about $25,000 while the cost of a site-built structure is closer to $100,000. As this suggests, the overwhelming majority of site-built homes are not designed for homebuyers of modest means: Only about 20 percent of American families can qualify for the average priced site-built home unless they already are home owners with substantial equity.

While some 12.5 million Americans live in the 6.7 million manufactured homes in our Nation's housing stock, many more Americans, especially young adults, need access to the kind of housing that can help them catch the receding dream of home ownership. The archaic perception of manufactured homes as vehicles—firmly embedded in current law—remains an obstacle to the greater use of factory-built housing.

The compelling reason for revising this act is to correct the incongruities between the legitimate housing built by manufactured home producers today and the expediency of treat-

ing them like vehicles in years gone past. By modernizing the act, Congress can present HUD with a legislative view that encourages the agency to regulate and promote manufactured homes as a valuable housing resource for America's consumers.

While the amendment encourages HUD to review its building code and enforcement scheme with an eye on increasing our Nation's supply of affordable housing, our proposal also recognizes that such a laudable goal is empty if the homes are not well-built and consumers are dissatisfied with the product. Today's manufactured home builders are dedicated to constructing an exceptional, dependable product—and the package sets up a rigorous home inspection program to lay any doubts to rest.

Mr. Chairman, as with any other type of housing built by human hands and despite the stringent inspection program that H.R. 1180 seeks to codify, problems do crop up after a manufactured home leaves the factory. While the manufactured home builder makes every effort to catch and correct these problems at the homesite or retail center, even these final efforts sometimes, regrettably, fail.

Therefore the House proposal requires each and every manufactured housing builder to offer its buyers a 2-year warranty, in writing, on every home it produces. This is the first and only national mandatory warranty requirement for housing built in our Nation. And H.R. 1180 spells out that this extraordinary mandate does not in any way affect the consumer protections offered through tougher warranty laws enacted by individual States.

The desire to ensure the absolute safety of these homes recommends another mandate that is unique to the manufactured home enterprise. Unlike requirements governing site-built homes, the package directs manufactured home builders to correct any safety hazard for the life of the home. Such serious problems are rare, yet even the rarest occurrances demand swift and certain action—no if's and's, or but's about it.

Mr. Chairman, a stubborn misconception continues to circulate in the House, and with your indulgence, I would like to set the record straight. The misconception is this: That the amendments blur or erase the distinction between manufactured homes and modular homes.

First, the proposal in no way changes the current law—the law that has been in force for 16 years now. Title VI, section 604(h) says, and has said, that "The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be: * * * designed and manufactured to comply * * * with a State or local modular building code." Again, the amendments do not change this provision in any way.

The confusion seems to hover around whether a factory-built home has or does not have a permanent chassis. While modular homes and manufactured homes are both constructed in a factory setting, modular homes are built to individual State housing codes and manufactured homes are built to HUD's preemptive, Federal code for manufactured homes. Whether a home has a permanent chassis is irrelevant: The distinction is whether the builder chooses to follow the State code and enforcement requirements or whether he or she follows HUD's code and enforcement scheme. The builder must choose between them before building the home. A home cannot be built to both. H.R. 1180 maintains this distinction.

Mr. Chairman, the changes adopted by the House Banking Committee were not produced in a vacuum. Rather, they result from 16 years of experience with the 1974 law and over 2 years of drafting, discussions, and negotiations in an effort to craft good, honest housing legislation.

About 9 months ago, the new HUD, under the able guidance of Secretary Kemp, initiated discussions to help add certainty and reason to the manufactured home regulatory scheme—two elements that had been sorely missed during the 1980's. While productive, those talks highlighted the need to seek a permanent, statutory change to this timeworn law.

Drawing on the ideas and concerns expressed by HUD and, yes, by manufactured home builders, the first amendments were put to paper in early March. Four revisions followed, the last of which was adopted by the House Subcommittee on Housing and Community Development by a vote of 24 to 20 on May 9, 1990.

Our work to create good legislation, and to alleviate the concerns and anxieties of my fellow committee members, did not stop there, however. Serious, detailed, and sincere negotiations with HUD and with Mr. GONZALEZ, chairman of the Banking Committee, began immediately after the subcommittee vote. Chairman GONZALEZ was good enough to hold hearings on May 24.

The hearings and our ongoing negotiations produced over 50 changes to the subcommittee amendments, and thanks to the good will and efforts of HUD, Chairman GONZALEZ, and our ranking member, Mr. WYLIE, we were able to reach a miraculous agreement. On June 12, those amendments, and the Hiler amendments, were included in a leadership package that the House Banking Committee approved unanimously.

Mr. Chairman, let me reiterate, in conclusion, that the committee's manufactured housing provisions address, to a large extent, our Nation's need for affordable housing by changing the approach and tone of the law so that HUD, in turn, can better structure its manufactured home building code to meet the realities of 1990, rather than the conditions and perceptions that guided Congress in 1974. By modernizing the act, Congress can help fulfill the original promise of manufactured housing: A good home at a good price for America's consumers.

Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 1180, the Housing and Community Development Act of 1990. I believe we experienced a housing problem in the 1980's that reached the crisis level. H.R. 1180, however, represents a fresh start that hopefully will continue throughout the 1990's. The measure authorizes a total of $27.9 billion in fiscal year 1991 for existing and new housing and home ownership programs. This amount represents about $11, billion, or 65 percent more than the amounts appropriated for housing programs in fiscal year 1990.

The bill creates the National Housing Trust, the administration's Home ownership and Opportunity for People Everywhere [HOPE] Program, the Community Housing Partnership Act and the Rental Housing Production Program. H.R. 1180 also reauthorizes and continues subsidized housing programs, rural housing, FHA assistance programs, community development, and other programs.

At this time I would like to mention two amendments that I plan to offer to this legislation. First, I intend to offer an amendment to restore the language "built on a permanent chassis," to the section on manufactured housing construction and safety standards. The current language in the bill eliminates the distinction between manufactured housing and modular housing. Manufactured housing is a subject of preemptive Federal law insofar as standards are imposed. There are no State standards for manufactured housing. However, modular housing is not the subject of a Federal preemption. States have been involved for several years in establishing guidelines and standards for modular housing and there is a comprehensive State network of modular home standards.

By eliminating the distinction, in effect, the Federal law preempts the State modular standards. The removal of the language preempts structural, electrical, and plumbing codes now governing modular home building in a local area. My position is that it is simply bad policy to peempt well-established regulatory programs at the State and local levels without extensive hearings and full consideration.

My amendment on the permanent chassis is supported by the AFL-CIO, the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada [AFL-CIO], the United Brotherhood of Carpenters and Joiners of America [AFL-CIO], International Brotherhood of Electrical Workers [AFL-CIO], Consumers Union, Consumer Federation of America, American Association of Retired Persons, and the National Association of Home Builders.

I also plan to offer an amendment to conform HUD's residential real estate appraisal policies to those established in title XI of FIRREA and accepted by most other Government agencies which utilize appraisals directly or regulate appraisal usage by others. The amendment would continue most features of HUD's current appraisal policies and procedures, except that it would require firms operating as corporations or partnerships, so long as those firms employed fully qualified appraisers. The amendment does not inhibit in any way HUD's existing quality control authority over providers of appraisal services in connection with FHA insurance programs.

Again, Mr. Chairman, I rise in support of H.R. 1180 and urge my colleagues to support the two amendments I plan to offer.

Mr. GILMAN. Mr. Chairman, I rise today to thank the chairman, the distinguished gentleman from Texas [Mr. GONZALEZ] and the ranking member, the gentleman from Ohio [Mr. WYLIE] for their invaluable efforts in bring-

ing this measure before the House for consideration.

The relationship between the plight of the homeless and the lack of affordable housing has resulted in one of the most pressing problems facing our Nation. As my colleagues are all well aware, the extremely high cost of housing in regions throughout our Nation has forced young married couples to relocate in less expensive housing markets. People performing vital public services such as teachers, firefighters, and others do not receive income sufficient to buy homes in their community, not to mention the tragedy of the homeless who wander the streets in the midst of prosperity.

In fact, the lack of affordable, decent housing has become so pronounced in some regions of the country that many people despair that they will never have a home that they can call their own. In my own 22d Congressional District, a number of cities have experienced innercity decay and economic decline. In recent years, many of these cities have faced increased poverty and unemployment due to their fall out of the economic structure.

Obviously, Mr. Chairman, some new initiatives must be implemented to alleviate this situation, to enable all Americans to work toward home ownership. We, in this Chamber, will today have the opportunity to do just that as we begin to debate and formulate a national policy aimed at meeting the housing needs of all Americans, providing a housing policy which will introduce new and innovative programs to assist Americans in obtaining a home that they can call their own.

Mr. Chairman, in my efforts to reach this goal, I will offer an amendment to title V to eliminate the provision reauthorizing the section 8 Moderate Rehabilitation Program and transfer the $222.7 million to the section 202 Handicapped Program. The purpose of my amendment will be to discontinue a program which has basic program design flaws and to redirect these funds to a housing program that the Housing Committee itself has recognized as having the need for greater funding.

Mr. Chairman, I truly believe that the section 202 Handicapped Program is an important program that allow our Nation's disabled individuals to share in the American dream of one day owning a home.

Accordingly, I invite my colleagues' support and look forward to working with you during the next week as we consider the Housing and Community Development Act of 1990. We cannot afford to let an essential ingredient of the American dream—home ownership—to remain just a dream and not a reality.

Mr. GONZALEZ. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, I wish to render profound thanks to the gentleman from Florida [Mr. MCCOLLUM], who is handling the bill for the minority this time. He is a very active and influential member of the committee, and the gentleman from Texas [Mr. BARTLETT], my fellow Texan. We work out our differences in good will, and the staff, above all, on both sides, Mr. DeStefano, the staff director, our counsel, Mrs. Danna Fischer, the full committee staff director, Mr. Kelsay Meek, and over on the minority side, Mr. Joseph Ventrone, doing admirable work and, of course, his assistant, or his colleague, Mr. Warfield, and all of the rest of the staffers who have made it possible for us to function.

Mr. Chairman, as we all know, sometimes we can truthfully admit that we are as good as the staffers we are able to attract.

I thank the Chairman, the gentleman from Pennsylvania [Mr. MURTHA].

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. STENHOLM] having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1180) to amend and extend certain laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1180, the bill just considered.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNUNZIO SUPPORTS TAX BREAK FOR HIGHER EDUCATION STUDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO], is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the future of the United States lies in its most valuable resource—its young people. They are the ones who will build, man, and launch our rockets into space. They will cure the ill and care for the disabled. They will plant, grow, and reap the crops needed by every American. They will design and construct the automobiles, inner-city transit systems, cross-country trains, and international airliners. They are the future.

There is a need, however, for an education beyond the normal 12 years of schooling. More and more of our young people rely on self-help loan programs to achieve their goals in postsecondary education. The huge costs for the most important scientific and advanced degrees result in enormous interest payments on loans. These payments are usually deferred until the student is working. Often, they reach proportions equal to nearly half a graduate's income. Initial payments on such loans, while usually deferred, consist mainly of interest. Allowing a tax deduction for this interest could actually be a matter of economic survival for thousands of higher education graduates.

Mr. Speaker, the 1986 Tax Reform Act eliminated tax deductions for educational loans by classifying this interest as consumer rather than investment interest. The law prohibited the deductibility of consumer interest. We must change that interpretation to enable the Nation's young people to attain a college or postcollege education.

It is for that reason that I vigorously join more than 300 of my colleagues in supporting legislation sponsored by Representative DICK SCHULZE to correct this error in the 1986 tax law and to make education more affordable to the Nation's students. The purpose of the bill is to permit the deductibility of interest in debt incurred to pay certain tuition, fees, and reasonable living expenses while away from home, of the taxpayer, his spouse or a dependent, for attendance at an educational institution.

The 1986 tax change came at a time when college costs were increasing and when the Federal Government has shifted the emphasis in student aid programs from grants to loans. Currently, nearly half of Federal student aid is in the form of loans.

The American Council on Education also tells us that the change is contrary to the spirit of tax reform because it rewards affluent taxpayers with equity against which they can borrow, while penalizing taxpayers who lack such equity. The result has been a dramatic increase in home equity loans taken out, to finance educational expenses and consumer purchases as well as home improvements. The inequity in this situation derives from the fact that a diminishing portion of the population either owns a home or has sufficient equity available to apply such loans to education.

Mr. Speaker, the 1986 tax reform law went a long way to closing loopholes, but deductibility of interest on educational loans is not a loophole. It is a necessity for thousands of families across the Nation who want their children to receive the education they will need in the near future. The deduction for interest on student loans is an important component of a strategy to help families defray the cost of a college education and encourage investments that will strengthen our society and improve our economic competitiveness.

There is still time to act. Under currentl law, the deduction for interest on consumer loans will be phased out by the end of the year. We need to restore full deductibility for interest on educational loans.

The educational community is overwhelmingly behind the legislation. Among those supporting the bill are the Education Resources Institute, American Association of Community and Junior Colleges, American Association of Dental Schools, American Association of State Colleges and Universities, Association of American Universities, Association of Catholic Colleges, National Association of Independent Colleges and Universities, National Association of State Universities and Land-Grant Colleges, plus many, many others.

Mr. Speaker, there is no doubt about it: We must prepare our young people for the 21st

century, and that begins in about 10 years. We cannot let them down. Many, many youngsters possess everything necessary to obtain a college degree—brains, attitude, ability, and ethics—but lack only the financial resources to attain their goal. Even those who win grants, make loans or work while attending school, still can use more as educational costs continue to rise every year. This legislation is one small step to assist them on their way. Let us not waste the talent that is just waiting to be cultivated to meet the Nation's future needs.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACOBS (at the request of Mr. GEPHARDT) for today, on account of family reasons.

Mr. BILIRAKIS (at the request of Mr. MICHEL) for today and Monday, July 30, 1990, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 5 minutes, today, and for 60 minutes each day, on July 31, August 1, and August 2.

(The following Members (at the rquest of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MCMILLEN of Maryland, for 60 minutes each day, on July 31 and August 1.

Mr. WOLPE, for 60 minutes, on August 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. DEWINE.
Mr. SMITH of New Jersey.
Mr. PORTER, in two instances.
Mr. SCHUETTE.
Mr. HOUGHTON.
Mr. LAGOMARSINO.
Mr. SKEEN.
Mr. GILMAN.
Mr. LEACH of Iowa.
Mr. IRELAND.
Ms. ROS-LEHTINEN.
Mr. BLAZ.
Mr. DORNAN of California.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. NELSON of Florida, in two instances.
Mrs. SCHROEDER.
Mr. TALLON, in two instances.
Mr. BONIOR.
Mr. MATSUI, in two instances.
Mr. LANTOS.
Mr. YATRON.
Mr. LAUGHLIN.
Mr. WILLIAMS.
Mr. WALGREN.
Mr. WEISS.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

H.R. 2843. An act to establish the Tumacacori National Historical Park in the State of Arizona;

H.J. Res. 591. Joint resolution designating the third Sunday of August of 1990 as "National Senior Citizens Day."

H.J. Res. 577. Joint resolution designating the month of November 1990 as "National American Indian Heritage Month."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Monday, July 30, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3634. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31387 (Sub. No. 1), "Canadian National Railway Company—Lease from Grand Trunk Western Railroad Company," has extended the time period for issuing a final decision by 30 days, pursuant to 49 U.S.C. 10327(k); to the Committee on Energy and Commerce.

3635. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Ryan Clark Crocker, of Washington, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador to the Republic of Lebanon, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3636. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Edward Brynn, of Vermont, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador to Burkina Faso, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3637. A letter from the Clerk of the House, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1 of House Rules (H. Doc. No. 101-218); to the Committee on Standards of Official Conduct and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2921. A bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; with an amendment (Rept. 101-633). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2965. A bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; with an amendment (Rept. 101-634). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4638. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes; with an amendment (Rept. 101-635). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BYRON (for herself and Mr. MONTGOMERY):

H.R. 5386. A bill to provide an improved transition program for members of the Armed Forces who are separated from active duty, to provide improved transition benefits for those members who are involuntarily separated, and for other purposes; jointly, to the Committees on Armed Services, Education and Labor, Veterans' Affairs, and Ways and Means.

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 5387. A bill to provide for the better enforcement of criminal and civil law relating to banking matters; jointly, to the Committees on the Judiciary and Banking, Finance and Urban Affairs.

By Mr. BALLENGER:

H.R. 5388. A bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mrs. BOXER (for herself, Mr. EVANS, Mr. MARKEY, Mr. DURBIN, Ms. KAPTUR, Mr. AUCOIN, Mr. CAMPBELL of Colorado, Mrs. UNSOELD, Mr. MORRISON of Connecticut, Mr. SMITH of Florida, Mr. BRYANT, Mr. BEILENSON, Mr. HERTEL, Mr. MRAZEK, and Mr. SCHEUER):

H.R. 5389. A bill to amend title 10, United States Code, to require that a major defense procurement system meet requirements established for that system for a fiscal year before funds for that system for the next year are made available; to the Committee on Armed Services.

By Mr. HERTEL (for himself, Mr. NOWAK, and Mr. DAVIS):

H.R. 5390. A bill to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel, and other nonindigenous acquatic nuisance species; to the Committee on Merchant Marine and Fisheries.

By Mr. LAUGHLIN (for himself and Mr. JONES of North Carolina):

H.R. 5391. A bill to ratify a memorandum of agreement concerning the cooperative management of public lands included within the National Wildlife Refuge System on Matagorda Island, TX, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. MORELLA:

H.R. 5392. A bill to amend the Public Health Service Act to establish programs of research with respect to acquired immune deficiency syndrome in women; to the Committee on Energy and Commerce.

By Mrs. MORELLA:

H.R. 5393. A bill to amend the Public Health Service Act to establish a program of grants regarding the prevention of acquired immune deficiency syndrome in women; to the Committee on Energy and Commerce.

By Mr. RANGEL:

H.R. 5394. A bill to amend the Internal Revenue Code of 1986 to deny the benefits of certain exceptions to the disallowance of certain entertainment, etc., expenses with respect to facilities that discriminate on the basis of race, color, sex, or religion, and for other purposes; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 5395. A bill to amend the Public Health Service Act to reduce the incidence of infertility by establishing a program for the prevention and control of the sexually transmitted disease known as chlamydia; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER:

H.R. 5396. A bill to amend titles XVIII and XIX of the Social Security Act to provide for coverage under the Medicare and Medicaid programs of obstetrical and gynecological services furnished by nurse practitioners; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. SCHROEDER (for herself, Ms. SNOWE, Mrs. BOGGS, Mrs. BOXER, Mrs. COLLINS, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mrs. KENNELLY, Mrs. LOWEY of New York, Mrs. MEYERS of Kansas, Ms. MOLINARI, Mrs. MORELLA, Ms. OAKAR, Ms. PELOSI, Mrs. SAIKI, Ms. SCHNEIDER, Ms. SLAUGHTER of New York, Mrs. UNSOELD, Mr. AUCOIN, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. CONYERS, Mr. CROCKETT, Mr. DEFAZIO, Mr. DICKS, Mr. EDWARDS of California, Mr. FAZIO, Mr. FOGLIETTA, Mr. FROST, Mr. FRANK, Mr. GEJDENSON, Mr. HAYES of Illinois, Mr. HOYER, Mr. JONTZ, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. MACHTLEY, Mr. MARTINEZ, Mr. MILLER of California, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. RANGEL, Mr. ROSE, Mr. SCHEUER, Mr. SERRANO, Mr. SIKORSKI, Mr. SMITH of Florida, Mr. STUDDS, Mr. TOWNS, Mr. WEISS, Mr. YATES, Mrs. LLOYD, and Mrs. MARTIN of Illinois):

H.R. 5397. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women; jointly, to the Committees on Energy and Commerce, Ways and Means, and Post Office and Civil Service.

By Mr. SCHUETTE (for himself and Mr. ROBERT F. SMITH):

H.R. 5398. A bill to amend the Disaster Assistance Act of 1989 to extend the assistance provided by that act to orchardists who lose trees and certain crops as a result of damaging weather or related condition in 1990; to the Committee on Agriculture.

By Mr. BOSCO (for himself, Mr. FASCELL, Mr. HAMILTON, Mr. LEACH of Iowa, Mr. GREEN, Mr. PORTER, Mr. MARKEY, Mrs. SCHROEDER, Mr. PANETTA, Mr. MCDERMOTT, and Mr. MOODY):

H.J. Res. 632. Joint resolution requesting the President of the United States to negotiate agreements to achieve early prohibition of nuclear explosions; to the Committee on Foreign Affairs.

By Mr. LANTOS (for himself, Mr. PORTER, and Mr. DELLUMS):

H. Con. Res. 356. Concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

480. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Federal accounting procedures; to the Committee on Government Operations.

481. Also, memorial of the Senate of the State of Florida, relative to declaring the week of July 4, 1990, as "Buy American Week"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 214: Mr. LAUGHLIN.

H.R. 220: Mr. SOLARZ.

H.R. 293: Mr. BOUCHER.

H.R. 378: Mr. ROBERT F. SMITH.

H.R. 933: Mrs. KENNELLY and Mr. ROBERT F. SMITH.

H.R. 1036: Mrs. UNSOELD, Mrs. BYRON, and Mr. FROST.

H.R. 1570: Mr. WEISS.

H.R. 1730: Mr. LIPINSKI.

H.R. 2121: Mr. ROWLAND of Connecticut.

H.R. 2288: Mr. TAUKE.

H.R. 2395: Mr. SCHIFF, Mr. BATES, Mr. HORTON, Mr. FROST, Mr. LOWERY of California, and Mr. FAZIO.

H.R. 2499: Mr. SAXTON.

H.R. 2816: Mr. ATKINS.

H.R. 2974: Mr. KANJORSKI.

H.R. 3004: Mr. APPLEGATE.

H.R. 3037: Mr. MAVROULES, Mr. WALGREN, and Ms. SCHNEIDER.

H.R. 3050: Mr. CAMPBELL of Colorado and Mr. LEVINE of California.

H.R. 3251: Mr. MARTINEZ.

H.R. 3401: Mr. ARMEY.

H.R. 3603: Mr. LEATH of Texas, Mr. PARRIS, Mr. TAUKE, Mr. CHANDLER, Mr. SKAGGS, Mr. SCHUETTE, Mr. VENTO, Mr. PACKARD, and Mrs. JOHNSON of Connecticut.

H.R. 3734: Mr. BEREUTER and Mrs. MARTIN of Illinois.

H.R. 3739: Mrs. MORELLA.

H.R. 3775: Mr. FAUNTROY, Mrs. COLLINS, Mr. DE LUGO, Mr. SMITH of Florida, Mr. HUGHES, Mr. BENNETT, Mr. BRYANT, Mr. HAWKINS, Mr. FROST, Mr. BATES, Mr. SHAW, Mr. OWENS of New York, Mr. SLATTERY, Mr. HORTON, Mr. FALEOMAVAEGA, and Mr. MOODY.

H.R. 3864: Mr. FROST, Mr. POSHARD, and Mrs. MEYERS of Kansas.

H.R. 3906: Mrs. MEYERS of Kansas, Mr. CRAIG, Mr. TALLON, Mr. HILER, Mr. HAMILTON, and Mr. MILLER of Ohio.

H.R. 3914: Mr. NIELSON of Utah.

H.R. 3936: Mr. FAZIO, Mr. ESPY, Mr. SMITH of Iowa, and Mr. RICHARDSON.

H.R. 3954: Mr. CLAY, Mr. ANNUNZIO, Mr. CROCKETT, Mr. BURTON of Indiana, Mr. DONNELLY, Mr. GREEN, Mr. HASTERT, Mr. HUGHES, Mr. FISH, Mr. MACHTLEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MINETA, Mr. PARKER, Mr. SISISKY, Mr. SPENCE, and Mr. GUARINI.

H.R. 3970: Mr. ERDREICH and Mr. YATRON.

H.R. 3999: Mr. MCDERMOTT.

H.R. 4226: Mr. JENKINS, Mr. BATES, Mr. WEBER, Mr. COBLE, and Mr. LANCASTER.

H.R. 4258: Mr. EVANS, Mr. MADIGAN, Ms. ROS-LEHTINEN, Mr. SCHIFF, Mr. WOLF, Mr. FAUNTROY, Mr. INHOFE, Mr. MOLLOHAN, Mr. VENTO, Mr. HOCHBRUECKNER, and Mr. COLEMAN of Texas.

H.R. 4262: Mr. COLEMAN of Texas.

H.R. 4268: Mrs. MARTIN of Illinois, Mr. FROST, and Mr. SMITH of Texas.

H.R. 4418: Ms. ROS-LEHTINEN.

H.R. 4481: Mr. DYSON, Mr. WILLIAMS, and Mr. OBERSTAR.

H.R. 4483: Mr. FALEOMAVAEGA, Mr. MILLER of Washington, Mr. RAVENEL, Mr. DYSON, and Mr. GILMAN.

H.R. 4499: Mr. BATES and Mr. CAMPBELL of Colorado.

H.R. 4520: Ms. KAPTUR.

H.R. 4603: Mr. WILLIAMS, Mr. PICKETT, and Mr. BRUCE.

H.R. 4759: Mr. HUNTER.

H.R. 4761: Mr. SCHIFF and Mr. BUSTAMANTE.

H.R. 4765: Mr. JONES of Georgia and Mr. KOSTMAYER.

H.R. 4898: Mr. MATSUI and Mr. POSHARD.

H.R. 4972: Mr. FROST and Mr. GOODLING.

H.R. 4990: Mr. FROST and Mr. WEISS.

H.R. 5028: Mr. ROYBAL and Mr. DELLUMS.

H.R. 5030: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5031: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5032: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5033: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5034: Mr. HILER, Mr. SUNDQUIST, Mrs. MEYERS of Kansas, and Mr. SHAYS.

H.R. 5035: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5036: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5037: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5038: Mr. HILER and Mr. SUNDQUIST.

H.R. 5039: Mr. HILER, Mr. SUNDQUIST, and Mrs. MEYERS of Kansas.

H.R. 5050: Mr. DELLUMS.

H.R. 5054: Mr. GLICKMAN, Mr. FAZIO, Mr. MCMILLEN of Maryland, Mr. CROCKETT, Mr. DWYER of New Jersey, Mr. MCNULTY, and Mr. POSHARD.

H.R. 5084: Mr. FROST.

H.R. 5090: Mr. LAGOMARSINO, Mr. FALEOMAVAEGA, Mr. LEACH of Iowa, Mr. HASTERT, and Mr. EMERSON.

H.R. 5097: Mr. SISISKY and Mr. MACHTLEY.

H.R. 5120: Mr. SAVAGE.

H.R. 5163: Mrs. MEYERS of Kansas and Mr. BATES.

H.R. 5188: Mr. DYMALLY, Mr. TORRES, and Mr. DELLUMS.

H.R. 5246: Mr. FROST.

H.R. 5262: Mr. COYNE, Mr. MCMILLEN of Maryland, Mrs. MARTIN of Illinois, Mr. PORTER, Mr. RANGEL, and Mr. TORRICELLI.

H.R. 5288: Mr. FROST, Mr. MARTINEZ, Mr. MCGRATH, and Mr. TRAXLER.

H.R. 5290: Ms. OAKAR, Mr. FLIPPO, Mrs. MORELLA, Mr. HYDE, Mr. FAUNTROY, Mrs. BOXER, Mr. LOWERY of California, Ms. PELOSI, Mr. WALGREN, Mr. BEILENSON, Mr. BERMAN, Mrs. SCHROEDER, Mrs. MARTIN of Illinois, Mrs. UNSOELD, and Mrs. SAIKI.

H.R. 5323: Mrs. MARTIN of Illinois, Mr. NEAL of Massachusetts, Mr. GREEN, Mr. MORRISON of Connecticut Mr. BORSKI, Mr. HOUGHTON, Mr. SENSENBRENNER, Mr. BRUCE, Mr. SCHUETTE, Mr. RUSSO, Mr. ASPIN, Mr. SHARP, Mr. FISH, Ms. SCHNEIDER, Mr. PURSELL, Mr. DAVIS, and Mr. MACHTLEY.

H.R. 5353: Mr. WALKER, Mr. LAGOMARSINO, Mr. BEREUTER, Mr. BARNARD, Mr. THOMAS of Wyoming, Mr. HELFEY, Mr. GOSS, Mr. UPTON, Mr. CLINGER, Mr. BILIRAKIS, Mr. BOEHLERT, Mr. REGULA, Mr. MCMILLAN of North Carolina, Mr. REVENEL, Mr. ROGERS, Mr. HOPKINS, Mr. MCGRATH, Mr. GUNDERSON, Ms. SNOWE, Mr. BUNNING, Mrs. VUCANOVICH, Mr. GALLO, Mr. BUECHNER, Mr. BALLENGER, Mr. STEARNS, Mr. SPENCE, Mr. MACHTLEY, Mr. MCCRERY, Mr. HANCOCK, Mr. PAXON, Mr. HYDE, Mr. MYERS of Indiana, Mrs. BENTLEY, Mr. SUNDQUIST, Mrs. ROUKEMA, Mr. GILLMOR, Mr. THOMAS of California, Mr. MADIGAN, Mr. DANNEMEYER, Mr. MILLER of Ohio, Mr. DONALD E. LUKENS, Mr. LEACH of Iowa, Mr. SMITH of Texas, Mrs. MARTIN of Illinois, Mr. GILMAN, Mr. SHAYS, Mr. SMITH of New Hampshire, Mr. SCHIFF, Mr. DICKINSON, Mr. GREEN, Mr. HERGER, Mr. HUBBARD, Mr. COX, Ms. ROS-LEHTINEN, Mrs. SMITH of Nebraska, Mr. EMERSON, Mr. MCEWEN, Mr. KYL, Mr. PETRI, Mr. WELDON, Mr. OXLEY, Mr. CAMPBELL of California, Mr. TAUKE, Mr. IRELAND, Mr. SCHAEFER, Mr. DELAY, Mr. SHUMWAY, Mr. RITTER, Mr. SENSENBRENNER, Ms. MOLINARI, Mr. COLEMAN of Missouri, Mr. SMITH of Vermont, Mr. WALSH, Mr. RIDGE, Mr. HASTERT, Mr. RHODES, Mr. KOLBE, Mr. BARTON of Texas, Mr. BARTLETT, Mr. HAMMERSCHMIDT, Mr. LIGHTFOOT, Mr. LOWERY of California, Mr. MARTIN of New York, Mr. MCCANDLESS, Mr. STANGELAND, Mr. LEWIS of Georgia, Mr. STALLINGS, Mr. GALLEGLY, Mr. ROWLAND of Georgia, Mr. NIELSON of Utah, Mr. KASICH, Mr. CALLAHAN, Mr. CONTE, Mr. ARCHER, Mr. ARMEY, Mr. BLILEY, Mr. BROOMFIELD, Mr. COBLE, Mr. DORNAN of California, Mr. FRENZEL, Mr. GRADISON, Mr. GRANDY, Mr. HOLLOWAY, Mr. MARLENEE, Mr. MCDADE, Mrs. MORELLA, Mr. PORTER, Mr. PURSELL, Mr. QUILLEN, Mr. ROBERTS, Mr. ROHRABACHER, Mr. SCHULZE, Mr. SHUSTER, Mr. SKEEN, Mr. SLAUGHTER of Virginia, Mr. WOLF, Mr. BAKER, Mr. BROWN of Colorado, Mr. BURTON of Indiana, Mr. CHANDLER, Mr. COMBEST, Mr. COUGHLIN, Mr. DEWINE, Mr. GOODLING, Mr. GRANT, Mr. HANSEN, Mr. HENRY, Mr. INHOFE, Mr. LENT, Mr. LEWIS of Florida, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. MORRISON of Washington, Mr. PACKARD, Mr. PASHAYAN, Mr. ROBINSON, Mrs. SAIKI, Ms. SCHNEIDER, Mr. STUMP, Mr. WHITTAKER, Mr. YOUNG of Alaska, Mr. NEAL of North Carolina, and Mr. DELLUMS.

H.J. Res. 459: Mr. YATRON, Mr. SHUMWAY, Mr. BROWDER, Mr. NEAL of North Carolina, Mr. FAWELL, Mr. SOLARZ, and Mr. HAMILTON.

H.J. Res. 509: Mr. DOUGLAS, Mr. LEWIS of Georgia, and Mr. SOLARZ.

H.J. Res. 515: Mr. MILLER of Ohio, Mr. BROWDER, Mr. MONTGOMERY, Mr. PICKLE, Mr. WATKINS, and Mr. WOLPE.

H.J. Res. 532: Mr. FISH, Mr. YOUNG of Florida, Mrs. MARTIN of Illinois, and Mr. HAYES of Illinois.

H.J. Res. 551: Mr. TAUZIN, Mr. MCNULTY, Mr. MARTINEZ, and Mr. FROST.

H.J. Res. 552: Mr. JACOBS, Mr. LEWIS of Georgia, Mr. MCNULTY, Mr. SIKORSKI, Mr. KENNEDY, Mr. KILDEE, Mr. RAY, Mr. NEAL of North Carolina, Mr. HUGHES, Mr. GUNDERSON, Mr. LEHMAN of California, Mr. COUGHLIN, Mr. LENT, Mrs. PATTERSON, Mr. SOLARZ, Mr. CLARKE, and Mr. WEISS.

H.J. Res. 557: Mr. STALLINGS, Mr. REGULA, Mr. BUECHNER, Mr. CLARKE, Mr. DEWINE, Mr. MARTIN of New York, Mr. MILLER of Washington, Mr. WYLIE, Mr. FAWELL, Mr. MCGRATH, Mr. BROWN of Colorado, Mr. MORRISON of Connecticut, Mr. DICKS, Mr. JONES of Georgia, Mr. HATCHER, Mr. MCCLOSKEY, Mr. EVANS, Mr. WOLF, Mr. SABO, Mr. FLIPPO, Mr. MCDADE, Mr. MATSUI, Mr. MCNULTY, Mr. SANGMEISTER, Mr. IRELAND, Mr. BORSKI, Mr. SOLARZ, Mr. PURSELL, Mr. SCHUETTE, Mr. PORTER, Mr. MOAKLEY, Mr. YATRON, Mr. RUSSO, Mr. MONTGOMERY, Mr. CONTE, Mr. RITTER, Mr. WALGREN, Mr. HENRY, Mr. FALEOMAVAEGA, and Mr. CHAPMAN.

H.J. Res. 616: Mr. PARKER, Mr. MAVROULES, Mr. MINETA, Mr. NATCHER, Mr. CLARKE, Mrs. MARTIN of Illinois, Mr. WEISS, Mr. MONTGOMERY, Mr. HANSEN, Mr. YATES, and Mr. YOUNG of Florida.

H.J. Res. 620: Mr. HALL of Ohio, Mr. STOKES, Mr. MARTINEZ, Mr. DONALD E. LUKENS, Mr. FAUNTROY, Mr. AUCOIN, and Mr. LEWIS of Georgia.

H.J. Res. 627: Mr. MARTINEZ, Mr. EMERSON, Mr. DENNY SMITH, Mr. WOLF, Mr. GILMAN, Mr. SLATTERY, Mr. HORTON, Mr. POSHARD, Mr. RICHARDSON, Mr. BEVILL, Mr. COSTELLO, Mr. MORRISON of Connecticut, Mr. HOYER, Mr. FAUNTROY, Mr. GRANT, Mrs. BOXER, Mr. FAZIO, Mr. RAHALL, Mr. MCGRATH, Mr. BLILEY, Mr. BORSKI, Mr. BOSCO, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CALLAHAN, Mr. COURTER, Mr. DE LUGO, Mr. CRAIG, Mr. FOGLIETTA, Mr. APPLEGATE, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCEWEN, Mr. CONTE, Mr. MCNULTY, Mr. MARTIN of New York, Mr. MFUME, Mr. MRAZEK, Mr. MOAKLEY, and Mr. OBERSTAR.

H.J. Res. 628: Mr. BATEMAN, Mr. BROWDER, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. GRANT, Mr. HASTERT, Mr. HEFNER, Mr. KOLTER, Mrs. MARTIN of Illinois, Mr. MCDADE, Mrs. MORELLA, Ms. PELOSI, Mr. POSHARD, Mr. PRICE, Mr. RICHARDSON, Mr. ROE, Mr. SMITH of Texas, Mr. STALLINGS, Mr. VALENTINE, Mr. WILSON, and Mr. WOLPE.

H. Con. Res. 270: Mr. MARTINEZ.

H. Con. Res. 340: Mr. QUILLEN.

H. Con. Res. 350: Mr. RAHALL, Mr. INHOFE, Mr. JONTZ, Mrs. UNSOELD, Mr. HORTON, Mr. QUILLEN, Mr. SCHUETTE, Mr. BROWN of Colorado, Mr. COLEMAN of Texas, Mr. MARLENEE, Mr. HERGER, Mr. BUSTAMANTE, Mr. LEWIS of Georgia, Mr. RICHARDSON, and Mr. RITTER.

H. Res. 396: Mr. SLATTERY and Mr. FALEOMAVAEGA.

H. Res. 438: Mr. MURPHY and Mr. PERKINS.

EXTENSIONS OF REMARKS

THE WORLD'S LARGEST DRUG FIELD

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. DORNAN of California. Mr. Speaker, for some time now I have been trying to educate my colleagues on the brutal nature of the Assad regime in Syria. Syria is a state sponsor of terrorism. Syria's Armed Forces occupy large areas of Lebanon, thus denying the Lebanese people chance at true political reconciliation. The Syrian Government also runs drugs out of the Bekaa Valley in Lebanon, which is the issue I want to address today.

Mr. Dennis Eisenberg has written an article on Syrian drug-running which appeared recently in The World and I magazine. The title of the article says it all: "The World's Largest Drug Field." Mr. Eisenberg describes the poppy and cannabis fields that cover this part of Lebanon. He describes the connection between the Syrian drug-runners and the Irish Republican Army, an organization too many people in this country are willing to apologize for. He describes how Assad's younger brother, Rifaat, was the chief of a vast network smuggling opium and heroin to North America and Europe in diplomatic pouches.

I urge all my colleagues to read this article. I am sure it will open some eyes. I would then invite my colleagues to join me in cosponsoring my bill H.R. 2797, which would impose a trade embargo on the gangster state Syria:

THE WORLD'S LARGEST DRUG FIELD

(By Dennis Eisenberg)

As the U.S. government cracks down on the Colombian drug traffic, Lebanon's lush Bekaa Valley has emerged as the largest "killing field" on the globe. Already producing 80 percent of the world's cannabis, its farmers have now planted a record acreage of poppies to cope with the growing demand for the even more profitable heroin.

Hundreds of acres of fruit orchards, wheat fields, and vineyards of the Bekaa Valley—known in Roman times as the breadbasket of the world—have been uprooted to make way for the intensive cultivation of crops in eager demand by international drug dealers.

The Syrian government, which invaded the area to "bring law and order," is an active partner with local merchants and raked in an estimated $1 billion last year. This money was desperately needed, as the Syrians have to pay off their vast debts to the Soviet Union before Moscow will supply any more sophisticated missiles, fighter planes, and other weapons for President Hafez Assad's 800,000-strong army.

Syrian troops not only guard the poppy and cannabis fields to prevent theft and ensure that supplies are not sold to competing bidders, but they also intervene to settle disputes between rival terrorist gangs, who have their own drug estates and transportation networks to Scandinavia, France, Finland, Holland, Belgium, and West Germany. Yasser Arafat's PLO (known locally as the "poppy lovers' organization") uses its links with the Irish Republican Army (IRA) to rake in massive profits from sending drugs via Holland to its network of agents in Britain, West Germany, and Ireland for international distribution. Terror groups today spend far more time as merchants of death selling drugs than carrying out violent attacks for their cause.

European police first stumbled on this trade when Scotland Yard special units, in cooperation with the Dutch Narcotics Squad, unearthed a haul of 300,000,000 pounds' worth of top-grade "Lebanese Gold" transported from Lebanon in two freighters chartered by the PLO. Earlier, a six-man PLO squad led by one of Arafat's chief aides, Ali Mahmoud Buro, was arrested at Heathrow Airport after customs men found a 150-kilogram cache of Bekaa Valley cannabis in their luggage.

Following up on these leads as well as information from Western intelligence services operating in the Middle East, Scotland Yard detectives recently cracked down on a vast IRA-PLO money-laundering operation. The IRA was using British banks and other financial organizations to purchase arms with their drug profits for terrorist operations in Ireland, Britain, Germany, and France.

An intelligence source told me: "Most of the IRA and Arab terror group leaders spend far more time and energy today buying legal businesses under registered company names and stashing money away in their private banking accounts than fighting for 'freedom and liberation.'"

Experts say the drug trade is worth $6 billion a year to Lebanon. The street value in Western cities is a staggering $150 billion.

As no one in Lebanon even pretends to try to stop the growth of cannabis and poppies, three-quarters of the 4,280-square-kilometer Bekaa Valley is cultivated with these two crops. The Muslim farmers in the eastern and central valleys of the Bekaa, especially in the town of Manara, have concentrated on the easy-to-grow cannabis weed to provide Western marijuana and hashish users with their needs. Poppies, which are the source of opium before it is converted into heroin, require greater skill in care and extraction and until recently have been planted near the homes of local peasants.

Farmers have discovered, however, that heroin is a far more profitable crop. They have been helped by the Syrians, who supplied them with mobile laboratories transported in army trucks. As a result, peasants can plant poppies among cannabis fields even in the mountains of the Bekaa to increase their profits. Heroin from the Bekaa is considered to be superior even to the best quality Turkish-produced drug.

THE SYRIAN CONNECTION

Masterminding the entire operation in the Bekaa today is Gen. Ghazy Kenaan, chief of Syrian military intelligence. He keeps a particularly close eye on the intensely cultivated Hermel district located next to the Syrian area, recognized as the home of the highest quality "Lebanese Gold" cannabis. To oblige the large North American market for a black "pot" product, the crop from here is mixed with oil to create just the right color demanded by both Canadian and U.S. dealers.

The overall godfather of the Lebanese drug trade was, until recently, Assad's ambitious younger brother, Rifaat. The CIA has revealed that the 54-year-old Rifaat was chief of a vast network smuggling opium and heroin to North America and Europe in diplomatic pouches. Israeli army intelligence reports that Syrian army helicopters are used to speed up the international distribution of Rifaat's evil trade by flying processed drugs out of Damascus to Europe and North America.

An international playboy with seven wives, dozens of mistresses, and 17 known children, Rifaat has amassed a vast fortune from the drug business. Western intelligence agencies have details of frequent meetings between Rifaat and terrorist leader Abu Nidal as well as with Arafat's PLO chiefs. Because Rifaat was suspected by his brother of planning to depose him, he was sent into temporary exile—to live in immense luxury in his heavily guarded villa on the French Riviera.

The heroin now being shipped all over the world is produced throughout the entire Bekaa Valley, particularly in Baalbek, Hermel, Hellanyeh, Niha, Abbasyeh, Barqa, Iaat, Zarazeer, and Kuddam. Even tiny villages are producing more than 70 kilograms a year, with the total output having doubled to 2,500 kilograms since 1985. Dealers are hoping to double this quantity yet again with this spring's bumper crop. During the height of the season, the entire marketplace in Baalbek is one vast wholesale drug supermarket, with truckload after truckload piled high with the golden weed and processed opium wending its way westward to the country's ports.

Although the civil war in Lebanon is theoretically one between various Christian and Muslim sects, there is close cooperation between all groups when it comes to the mind-boggling profits being made from the drug business. The local trades are mostly Christian Lebanese who buy entire harvests from one Muslim village after another. In return for "protection" by Syrian soldiers in areas controlled by Damasus, they hand over half their profits to officers working under Kenaan.

I was told by an intelligence source: "The entire Lebanon is really a country of 24 fiefdoms, each one ruled by its own Mafia chief whose wealth and power spring from the drug trade. The Lebanese civil war is really about who controls the best cannabis and poppy fields as well as ports from where to export the drug harvest. It also explains why the Syrian government refuses to withdraw from the Bekaa and has even strengthened its vast armies stationed there.

"Those Lebanese who refused to play ball with the Syrian occupiers soon learnt the error of their ways," he added. "Some were shot and others had their entire stock of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cannabis and heroin 'confiscated.' So lucrative has this trade become that there is now rivalry between the various Syrian intelligence agencies and lower rank army officers who also want a share of the loot. Several shooting incidents have taken place and even some highranking officers have been shot or court-martialed."

To establish order, the crack 25,000-strong Syrian presidential guard, called Defense Brigades of the Revolution—created by Rifaat and considered still loyal to him—was sent from Damascus to take over control of the Bekaa Valley drug business.

U.S. HAS PROOF

U.S. satellite photographs supply proof of this by the number of tanks and heavy artillery platforms in the midst of cannabis and poppy fields. The tents of Syrian army units are pitched in every village and farm of eastern Lebanon.

Foreigners or international drug traffickers trying to penetrate the area in an effort to make local deals with farmers are turned back or arrested by the guards of Kenaan's agents. U.S.-made tractors and other agricultural equipment supplied by the Syrians to villagers have speeded up harvesting during the past two years. One reason for this is the growing value of the Bekaa Valley as the world's major source of this modern scourge in Britain and other Western countries. This is particularly true as the governments of other suppliers, such as Burma and Thailand, under American pressure, have been trying to cut down and destroy poppy fields.

American officials, armed with satellite pictures, sent a special delegation to Damascus 18 months ago to ask Assad to destroy drug crops in Bekaa Valley areas under his control. Hoping to get economic aid from the United States, Syria saw to it that some cannabis fields were ploughed under, with television cameras proudly recording the event. But as one official told me: "Go back there today and you will see the poppy and cannabis flourishing better than ever."

In January, two members of Syrian military intelligence were sentenced to eight-years' imprisonment in Paris for drug trafficking. Mohammed Fartuzi and Ahmed Ali were caught after trying to smuggle eight tons of cannabis by ship from the Syrian-controlled Lebanese port of Tripoli to France. Evidence was accepted that the former Syrian military attaché in Paris and a senior Syrian army commander directed the smuggling of Lebanese drugs to Europe.

There is one handle on this, however. The Syrians are desperately anxious to establish closer ties with the United States, since Damascus faces a deepening economic crisis. Syria's major ally, the Soviet Union, is in upheaval and refuses to supply its Middle East ally with credit to purchase the modern weapons it craves in order to achieve its goal of military parity with Israel.

Two years ago, when pressure was exerted by Washington, the Syrians made cosmetic efforts to burn at least some of the drug fields. And this was at a time when the Syrian-Russian relationship was at its fruitful peak.

With the United States able to supply proof garnered by satellite pictures and on-the-ground intelligence, it will be very difficult for the Syrians to brush off demands to cease their drug export business, particularly as U.S. economic aid is needed to save the country from economic collapse. It is up to the United States to apply this leverage in a constructive way.

INTRODUCTION OF WOMEN'S HEALTH EQUITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mrs. SCHROEDER. Mr. Speaker, I am pleased today to introduce the Women's Health Equity Act of 1990, and to be joined in this important endeavor by Ms. OLYMPIA SNOWE, the Republican cochair of the "Congressional Caucus for Women's Issues," and by 59 of my colleagues.

This legislation addresses in a comprehensive and meaningful way the appalling lack of attention given to women's health care needs. The facts speak for themselves. The death rate from breast cancer increased 24 percent between 1979 and 1986. Women are now the fastest growing group of those infected with AIDS. Heart disease is the No. 1 killer of women but virtually all research is conducted on men.

Despite these facts, women's health issues have received scant attention both in terms of funding and research. The National Institutes of Health [NIH], the Nation's major source of funding for medical research conducted in the United States, spends only about 13 percent of its budget on women's health. It is time for Congress to act to protect the health of American women.

The Women's Health Equity Act of 1990 contains 20 individual bills divided into three titles: research, services, and prevention. Taken together, these bills represent a broad agenda for addressing a number of critically important issues, including the creation of a center for women's health research at the National Institutes of Health and an end to the arbitrary exclusion of women from research studies.

The package also calls for increased research on breast cancer, osteoporosis, the development and treatment of AIDS in women, and contraception and infertility; better information on treatment options for women facing breast cancer surgery; comprehensive health and social services for pregnant adolescents and parenting teens; the prevention of infertility through improved screening and treatment for sexually transmitted diseases and coverage of infertility and adoption services for federal employees; and the reimbursement of mammographies and certain osteoporosis prevention technologies under Medicare.

The basic issue is one of equity. Women constitute 52 percent of the population and make 25 percent more visits to doctors than men. The Women's Health Equity Act will begin to address the important deficiencies that exist for women in the health care system. I urge the support of my colleagues.

ASSURANCES FOR HONG KONG

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. PORTER. Mr. Speaker, on Wednesday an estimated 45,000 Hong Kong residents lined up to beat the deadline for filing a special application to emigrate to Britain. Under this plan, less than 10 percent of those eligible will be given permission to relocate to Great Britain before Hong Kong reverts to Chinese control in 1997.

As a result, 1,000 Hong Kongers are emigrating to Canada and Australia every week.

This drain of people threatens Hong Kong's economic future. Most Hong Kongers don't want to uproot, but they fear repression at the hands of the Chinese.

What the people of Hong Kong need is assurances. If they are given an insurance policy against future injustice, many would stay. The United States must act soon to provide special visas to Hong Kong residents that can be used any time up to 2002. Such a proposal in the form of a Frank amendment has already been adopted at the subcommittee level.

Mr. Speaker, such a system would give Hong Kongers the peace of mind they need to stay in Hong Kong and would be an effective lever to force the Chinese Government to respect the rights of Hong Kong after 1997. I would hope Members would give strong support to the Frank amendment.

OUR FAILURE TO PROTECT OUR NATIONAL FLAG

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. DEWINE. Mr. Speaker, many Americans, myself included, remain frustrated over our failure here in the Congress to properly protect our national flag. Stephen Carr, a resident of my district, recently presented me with his thoughts on the flag desecration issue. I present his petition for my colleagues' consideration.

Throughout the course of events in our nation's history there has been and still is one symbol of what this nation stands for. That symbol is Old Glory. Old Glory, a field of blue with fifty stars that represent the fifty states in our wonderful union and thirteen stripes that represent the thirteen original colonies. Old Glory represents much more than these pieces of cloth symbolize. She symbolizes life, liberty, and the pursuit of happiness; the land of free and the home of the brave. Moreover, she symbolizes our homes, our government, and the rights given to us by those who died for what she represents.

We submit to the Supreme Court, Congress, and the President of the United States of America that burning our country's flag is an act of slander against our Government, and is in violation of the sedition law on the grounds that flag burning is a disgraceful act against the Government, our country, and what it stands for. More-

over, to be a citizen of the United States of America means one should support the constitution. Immigrants must pledge an oath to become a citizen, and naturally born citizens are assumed to be supporters of the constitution. If citizens do not support the constitution or the Government, they should renounce and forfeit their citizenship, not burn the flag. If they do such acts, is it not an act of treason against the Government? Do traitors have the privilege of walking the streets of America? We hope not. Therefore, we wish to submit to our Federal Government that regardless of some liberal consensus, flag burning is illegal and should be severely punished for the sake of those who paid for our freedom and to preserve the respect that is due to our founding fathers, those who fought to defend and keep the constitution, and to those who made the ultimate sacrifice; that of death.

TRIBUTE TO JOHN J. SAITO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual who truly deserves to be recognized for his dedication and service, to the Japanese-American community. On July 24, John J. Saito retires after 11 years of dedicated service as the Pacific Southwest District Regional Director for the Japanese-American Citizens League [JACL]. It is indeed a honor to share with you and my colleagues the inspiring career of this devoted public servant.

Mr. Saito has spent the entire span of his career serving the citizens of California. After graduating from Loyola University, his first position was as a deputy probation officer in 1959 for the County of Los Angeles. This led to an opportunity as a human relations consultant for the same county. In 1977, he became an affirmative action specialist for the Los Angeles Health Department. He retired from Los Angeles County in 1979. It was in May of the same year that he became regional director of JACL.

To add to his career, Mr. Saito has been appointed to a number of positions in the past decade. Mayor Tom Bradley personally appointed him to the Los Angeles City Human Relations Commission and later to the War on Drugs Citizens Panel. Attorney General John Van de Kamp appointed him to the Attorney General's Racial, Ethnic, Religious and Minority Violence Commission. Further, he was an appointed staff member of the Personnel Committee for the National JACL.

Coupled with Mr. Saito's devotion to the community is his dedication to his family. He and his lovely wife, Carol, are the proud parents of three children, John, Jr., Mark, and Jennifer.

Mr. Speaker, Mr. John J. Saito has served as an exemplary role model and I commend his many accomplishments. I ask that my colleagues join me in saluting this stellar public servant and extend best wishes in his future endeavors.

PRINCIPLE OF SELF-DETERMINATION SHOULD ILLUMINATE DETERMINATIONS OF INSULAR AFFAIRS COMMITTEE REGARDING PLEBISCITE IN PUERTO RICO

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. FUSTER. Mr. Speaker, after many hearings and serious discussions, the Insular and International Affairs Subcommittee of the Interior and Insular Affairs Committee has announced it will mark up H.R. 4765, the Puerto Rico Self-Determination Act next week.

At this juncture, the action of the subcommittee hopefully will be illuminated and guided by the principle of self-determination. For the 3.5 million citizens of Puerto Rico who eagerly await enlightened action on this bill, this vote will be a key indicator about the prospects for passage of the legislation in this session and about their own personal prospects for the exercise of their right to self-determination.

My remarks at the last hearing of the Insular Affairs Subcommittee, on July 18, 1990 which I submit for the RECORD, I hope, will remind my colleagues about the stance we hope they will take now at the markup and the rest of my colleagues will take on the floor of the House when this legislation is considered for final passage:

STATEMENT BY HON. JAIME B. FUSTER

During the hearings this Subcommittee held almost four months ago, on March 2, 1990, on the Puerto Rico status plebiscite bill, in my opening statement I identified the legal basis of the principle of free determination as it applies to Puerto Rico. In that statement I specifically traced back Puerto Rico's right to self determination to three legal sources, namely:

1. President Eisenhower's Declaration of 1953 at the United Nations,

2. Resolution 748 of the General Assembly of the United Nations also in 1953 and finally

3. a Concurrent Resolution by both houses of Congress in 1979.

I pointed out then that all these basic legal documents read together defined Puerto Rico's right to self determination to mean, at the very least, that any reasonable petition by a majority of Puerto Ricans for a change in the present status should be honored by the United States as much as it is constitutionally possible. The clear thrust of the legal sources referred to is that Congress is bound to acquiese to a Puerto Rican choice if that choice is well founded and if it is consistent with the United States Constitution.

With that in mind, today I wish to delve deeper into some of the policy considerations which support the legal concept of free determination that I have just summarized, and consequently, to suggest how Congress ought to deal with the claims of the Puerto Rican people as represented by the three parties and the leaders that will be testifying shortly.

Underlying the legal concept of self-determination, of course, is a very elementary notion of *justice*. It behooves Congress to accommodate any reasonable Puerto Rican petition on status simply because it is, after all, Puerto Rico's very life as a people which is at stake. It is precisely Puerto Rico's form of political existence and future that are to be determined; it is Puerto Ricans who are the ones to be primarily affected by any decision; and it is we, the Puerto Ricans, who will have to live under the alternative that is chosen; consequently, the choice, in all fairness, should be left for Puerto Ricans to design and decide upon. In the last analysis, neither the integrity, nor the welfare, nor the security of the United States are in any real way affected or jeopardized by any decisions Puerto Ricans realistically will make, and therefore the United States role in this process of self-determination can not in any way be one that limits the options that Puerto Ricans want to consider for themselves, as long as those options are not arbitrary or illegal.

There is a second fundamental reason, one of prudence and wisdom, why it should be essentially Puerto Ricans—not Congress—who in fact design the options and decide among them. And that is that only WE, Puerto Ricans, are in a position to really sort out a choice in this very complex situation. Only Puerto Ricans, steeped in this debate for many decades, are fully equipped to sort out the intricacies of this matter and make a head or tails choice among them.

You all know that Puerto Rico's political status question is distressingly entangled in a web of very complicated and even contradictory elements. On the one hand, we have our deeply shared ties with the United States, which bind us to the American way of life, the most important one being our United States citizenship for which most Puerto Ricans have the highest regard. We cherish common fundamental values and desire to remain intimately linked in friendship, partnership and mutual selfrespect, fulfilling shared aspirations for a prosperous, free and democratic way of life where individuals enjoy real possibilities for full personal development.

Recent events in Eastern Europe and the Soviet Union only underline the uniqueness of the American experience and we are proud to be a part of it.

But on the other hand, we Puerto Ricans have an equally unrenounceable claim to preserve our indigenous culture and language, to maintain our identity and personality as a separate cultural nationality as well as our own political right to self-government. Congress is not dealing here with a minority group within the context of a pluralistic nation but rather, in fact, with a wholly separate and distinct people, older than the American Nation.

I cannot emphasize strongly enough the existential magnitude of this second element. As I have said already, we deeply cherish our authentic links to the U.S. but generally we all feel that our homeland—nuestra patria—is Puerto Rico. If I may wax poetic for a moment, many of us rejoice in reading Shakespeare and John Dunne, Robert Frost and Walt Whitman. But it is Cervantes, Neruda, Becquer, Palés Matos and the like who most deeply delight our souls. As Puerto Ricans we pray, and cry and make love and revert in all intimate actions to our Afro-hispanic and Caribbean culture—an ancestry and culture that alone permeates our whole being, whether we know it or not.

These two deeply contrasting elements coexist in the Puerto Rican collective psyche embedded within the framework of an experience, a vital historical experience which is the almost centenarian relationship be-

tween the United States and Puerto Rico. During those almost hundred years of interaction, Puerto Rican blood has been shed many times to defend the United States national goals even while we have resentfully endured the paternalistic and demeaning treatment that so often has characterized the relationship.

Of course, fruitful collaboration has also existed, particularly in the last few decades, so the relationship itself has not been merely a colonial one but a much more complex one, full of both lights and shadows. These conundrums indeed, form the treacherous political quicksand we are dealing with today.

Only the Puerto Ricans—if anyone at all—can find a way out of this maze of conflicting demands. But we need the understanding of the United States to help us create the space in which a sound and lasting solution can be found to our dilemma. The only imperative ingredient needed to solve the riddle is the freedom to activate the concept of self determination anew.

Congressional attempts to settle this problem in the past have been ill fated. The vague notions of "balanced options" or well meaning but ill-starred attempts to forge consensus by requesting all concerned to "give a little" are condemned to failure again.

The only way out of the maze, it seems to me, is to allow a broad latitude to the three options to define their positions and to provide the necessary time and means to fully present them to the people of Puerto Rico for their decision.

The time has come to set aside paternalistic impulses and to bring to bear the magnanimity which has always characterized the United States in its finest moments, so that we can together fully implement the free determination concept we claim to honor. To fail to do so would be to condemn ourselves to an uninterrupted predicament and to the deterioration of the highly valuable relationship between our two peoples.

Mr. Chairman and my colleagues, in this historic moment when Nelson Mandela is received and acclaimed in the United States like a unique hero for his stirring struggle for the self-determination of the South African people and when the Soviet empire trembles with the cries for self-determination of so many of its peoples, let's show the world that America can still write the book on free determination by opening up the space for Puerto Ricans to pursue their destiny under an alternative freely designed and chosen by us.

CPSC INVESTIGATES JAPANESE TV RECALLS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. WALGREN. Mr. Speaker, in April, I wrote to the Consumer Product Safety Commission [CPSC] in response to an Associated Press news report of recalls of hundreds of thousands of television sets sold in Japan. I ask the CPSC to investigate this matter to examine the safety implications for American consumers, particularly since the manufacturers affected by the recall in Japan also market TV's in the United States.

I am pleased to report that the CPSC has responded to my request for an investigation and concluded that no substantial product hazards were involved in TV's sold in the United States. However, the CPSC did find that two Sony TV models sold in the United States—of which 73,929 sets were distributed from December 1984 to March 1988—may have been installed with a defective transformer, as were three recalled Sony TV models sold in Japan. The defect could result in transformer arcing.

But because the television enclosures of the two Sony models sold in the United States, unlike those of the three Sony models sold in Japan, were fire retardant, there was no fire hazard. Fortunately, most TV's sold in the United States comply with an Underwriter Laboratories voluntary standard providing for this fire retardant feature, while TV's sold in Japan do not have fire retardant enclosures.

The discovery of this transformer defect points out the clear relevance of foreign consumer product recalls for the safety of American consumers and why information about such recalls should be shared with the CPSC.

I am pleased the CPSC was responsive to this potential hazard. The CPSC's response, from Chairman Jacqueline Jones-Smith, follows:

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
Washington, DC, July 12, 1990.

Hon. DOUG WALGREN,
Chairman, Subcommittee on Commerce, Consumer Protection and Competitiveness, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: With reference to my previous correspondence of April 11, 1990, this letter provides the full report concerning the five Japanese recalls identified in the Associated Press wire story of March 28, 1990. The Commission staff investigated this matter by contacting the following four American television companies and the one American computer company, respectively: Matsushita Electric Corporation of America, Secaucus, N.J.; Sony Corporation of America, Park Ridge, N.J.; Toshiba America Consumer Products, Inc., Wayne, N.J.; Pioneer Electronics (USA) Inc., Long Beach, CA; and Epson America, Inc., Torrance, CA.

With the exception of Sony Corporation of America, these American companies confirmed that (1) none of the recent Japanese recalls involved products distributed or sold in the United States, and (2) none of the identified component defects, design defects, and quality control problems which resulted in the Japanese recalls were common to products distributed and sold in the United States. A summary of identified product defects or quality control problems, the period of production and distribution, the hazard, incidents, the corrective action taken and the results, were provided to the Commission staff by the five Japanese companies via each related American company contacted. The identified product defect and quality control problems included flyback transformer and printed circuit board problems for the recalled television receivers, and a resistor overheating problem in the recharger of a laptop computer.

All of these Japanese products were reportedly recalled either because the electronic component failures could present a potential fire hazard or due to inadequate product reliability and performance. Few actual fires and no injuries were reported.

The Sony Corporation of America (Sony) reported that the recall of three Sony brand 13" and 27" television models manufactured and sold only in Japan did not involve distribution and sale in the United States. However, Sony also reported that three 21" Japanese Sony brand television models manufactured and sold only in Japan were recalled due to a defect which may have involved the two Sony television models KV-20XBR and KV-2084R, which were distributed and sold in the United States.

Sony reported the possibility that the two U.S. 20" Sony color television models KV-20XBR and KV-2084R, may have been installed with a defective flyback transformer containing voids in the insulating encapsulation material, as were the three recalled Japanese 21" Sony television models. Sony reported that a defective flyback transformer could arc between the high voltage lead and the grounded flyback transformer core, especially in the presence of carbon deposits from the use of kerosene heaters, or from dust or other foreign matter. Sony indicated that if arcing occurred, the television enclosure of the Japanese models could ignite to present a fire hazard. Sony further reported that if flyback transformer arcing occurred with the American television models, their enclosures could not ignite because they were constructed with a fire retardant plastic which meets the UL 94V-O flammability rating.

However, Sony reported that this flyback transformer defect has not been involved in any incidents of failure, arcing, or fire for the three Sony television models sold in Japan or for the two comparable U.S. models. Further, no incidents involving either the model KV-20XBR or the KV-2084R have been reported to the Commission staff. Sony reported that 73,929 model KV-20XBR and KV-2084R televisions were distributed in the United States from December, 1984 to March, 1988.

As a result, the Commission staff determined that the Sony television models KV-20XBR and KV-2084R, with respect to their installed flyback transformers, present neither a fire hazard nor a substantial product hazard as defined by Section 15 of the Consumer Product Safety Act. The staff investigation of the five Japanese company appliance recalls has now been concluded and is closed. Each of the five American companies has been informed of this decision via a June 15, 1990 letter from the Commission's Directorate for Compliance and Administrative Litigation.

The Commission's investigation into this matter also confirmed that, with respect to safety, there is one major difference between television receivers manufactured for sale in Japan and television receivers manufactured for sale in the United States. American market televisions are significantly more resistant to ignition and fire spread resulting from internal electronic component failure than are those televisions intended for the Japanese market.

Virtually all televisions sold in the United States comply with the voluntary standard issued by Underwriters Laboratories, Inc., entitled, "UL 1410, Standard for Television Receivers and High Voltage Video Equipment." This standard specifies that polymeric or plastic enclosures must meet the flammability rating of UL 94V-O, or that the enclosures should be made of particle board or materials which are equivalent in ignition resistance. Materials which have a flammability rating of UL 94V-O will not support burning when the ignition source is

removed. In effect, the UL flammability requirement for television enclosures should alleviate any potential fire hazard resulting from the failure or ignition of an internal electronic component. This current UL flammability requirement became effective in 1975, as a result of the cooperative efforts with the CPSC.

Televisions sold in Japan, however, are not UL listed. Instead, Japanese televisions comply with the Japanese government regulation, "Japanese Legal Requirement for Electrical Appliances and Materials." Though Japanese television enclosures are not rated for fire resistance, our information is that they are equivalent to the flammability rating of UL 94HB. Essentially, materials which meet the UL 94HB rating will support burning even after the ignition source is removed.

If you have any further questions or comments about this matter, please do not hesitate to contact me.

Sincerely,

JACQUELINE JONES-SMITH.

THE IRAQI BULLY—A NEW HITLER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. LANTOS. Mr. Speaker, we have witnessed a new low in Iraqi diplomacy under its President Saddam Hussein. This week, in order to make his point in the regular meeting of the Organization of Petroleum Exporting Countries [OPEC], Saddam Hussein massed 20,000 Iraqi soldiers—a small proportion of the million-man strong Iraqi armed forces—on the border of Kuwait and launched a vituperative media assault on Kuwait and the United Arab Emirates. Needless to say, Kuwait, which has a total military force of 16,000, agreed to the Iraqi demands at OPEC.

We are witnessing the emergence of a new Hitler in the Middle East. Saddam Hussein has already used poison gas against thousands of his own Kurdish citizens and just a few weeks ago threatened to use poison gas to destroy half of Israel. The same irresponsible leader is involved in an effort to develop atomic weapons, as was evidenced by the arrest recently of Iraqi agents who were apprehended attempting to smuggle nuclear triggers from the United States to Iraq.

Mr. Speaker, the time has come for the Congress to take a firm stand against this vicious, irresponsible, and dangerous leader. The time has come for economic and military sanctions against Iraq. We cannot sit idly by while he continues to intimidate and dominate his neighbors in the Middle East. Mr. Speaker, will we be remembered as the Neville Chamberlains of this era or will we stand up against this brutal totalitarian dictatorship in the tradition of Sir Winston Churchill?

Mr. Speaker, Charles Krauthammer has written an excellent column on Saddam Hussein which was published in this morning's issue of the Washington Post. I ask that the text be placed in the RECORD, and I urge my colleagues to give it careful and thoughtful attention. His chilling message is something all of us should ponder.

NIGHTMARE FROM THE 1930'S

(By Charles Krauthammer)

Hitler analogies are not to be used lightly. To be compared to Hitler is too high a compliment in evil to pay to most tyrants. The time has come, however, to bestow the compliment on a tyrant who is truly a nightmare out of the 1930s; Saddam Hussein, president (soon for life) of Iraq.

Hussein has a million-man army left over from the war he started with Iran, and he is itching to do something useful with it. So last week he threatened to attack a defenseless Arab neighbor, Kuwait, over a dispute he concocted about cash.

Kuwait, together with other Arab gulf states, sustained Hussein through his eight-year Iranian war with tens of billions of dollars in loans. Gratitude is not one of Hussein's strong points. He now accuses Kuwait of stealing Iraqi oil, and, together with another local pygmy (the United Arab Emirates), of destroying his economy by overproducing oil, thus driving down prices. His tiny neighbors are to return the stolen oil, unilaterally cut oil production and forgive all war debts (estimated at between $30 billion and $60 billion). Otherwise, he promises that "Iraqis will not forget the saying that cutting necks is better than cutting [one's] means of living."

What raises Hussein to the Hitlerian level is not just his unconventional technique—violence—for regulating prices. Nor is it merely his penchant for domestic brutality—the wholesale murder of political opponents, the poison gas attacks on his own Kurdish minority, the "Republic of Fear" (as a now anonymous expatriate calls his book on Hussein's Iraq) that he has constructed.

What makes him truly Hitlerian is his way of dealing with neighboring states. In a chilling echo of the 30s, Iraq, a regional superpower, accuses a powerless neighbor of a "deliberate policy of aggression against Iraq," precisely the kind of absurd accusation Hitler lodged against helpless Czechoslovakia and Poland as a prelude to their dismemberment.

The diplomacy practiced by the fascist powers of the '30s was to their dismemberment.

The diplomacy practiced by the fascist powers of the 30s was to accumulate massive military power for translation into immediate gain—territorial, economic, political—through extortion and, if still necessary, war. Hussein has mastered the technique. As one Iraqi expert says, "Hussein has never met a weapon he didn't use."

Whether Hussein will in fact use his weapons against Kuwait will depend purely on whether or not he feels that he needs to occupy Kuwait in order to turn it into a vassal state. The threat alone might make it submit. But Kuwait is not Hussein's ultimate objective. Saudi Arabia is. The Saudis have a long history of acquiescing to regional bullies. If Hussein can successfully bully Kuwait and the Emirates, the Saudis will follow.

Saudi production decisions alone can make oil prices rise or fall dramatically. If Hussein could dictate not just Iraqi production but Saudi, Kuwaiti, Emirate and the rest of Arab gulf production, he would realize his fondest ambition. He would become not just King of the Gulf but King Oil.

Why should Americans care about this? Because King Oil's hostility to America is today unmatched in the world, except possibly for that of Iran, from whom the United States helped save Hussein during the Iran-Iraq war. (The gratitude problem again.) Hussein's declared objective is to raise oil prices to at least $25 a barrel. Last week oil was $14 a barrel. Such an oil shock, not seen since the '70s, would be ruinous for Western economies, and in particular the U.S. economy, which now imports half its oil.

Last week's thuggery finally jolted the Bush administration out of its policy of craven appeasement of Iraq. It had been resisting congressional efforts to punish Iraq by stopping subsidies for American-Iraqi trade. Perhaps now it will consider supporting Sen. Daniel Inouye's (D-Hawaii) bill denying all assistance and banning all trade with Iraq.

Hussein is roughly $80 billion in debt, and banks are not lending to him because he doesn't feel he has to pay loans back. It is because Iraq is hurting economically that Hussein has decided to solve his problem with storm troopers. A quarantine would kick him while he's (financially) down, which is the best time to kick a bully. Once he gains control of world oil prices, he will be much harder to stop.

Even if a quarantine does not stop him, however, there is an important lesson to be learned from Hussein's emergence as a world disturber. With the collapse of communism, it has become fashionable to believe that the use of force as a means to achieve political objectives has become obsolete. Force may indeed be obsolete in some places (Western Europe, for example). The Persian Gulf, however, is not such a place. And while Iraq begins its thrust into the Gulf by sending 30,000 troops and tanks to the Kuwaiti border, Congress debates how much to cut the U.S. carrier fleet, our best deterrent against such regional thugs.

"The day of the dictator is over," declared President Bush in his Inaugural Address. In many places, yes. But it is precisely because in some places dictators remain, massively armed and practiced in Hitler's formula for turning arms into power, that this heady time is not time for disarmament.

Hussein will undoubtedly be appeased this time. But there will be a next. Like all bullies, he will in the end be deterred only by superior force. We had better make sure we have it.

WOOL AND MOHAIR TITLE OF THE FARM BILL

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. SKEEN. Mr. Speaker, I rise to express my concerns on the agreement that was reached Wednesday on the wool and mohair title of the 1990 farm bill.

I believe the compromise reached on the wool and mohair title will hurt our producers, it will hurt our rural communities where wool is produced, and it will open the door even wider for foreigners to capture more of our domestic market.

I find it regrettable the House of Representatives did not have the chance to hear a full debate on the merits of the Wool Act before this compromise was accepted. Once we complete action on the farm bill, I believe too many Members will have an incomplete and

inaccurate view of this important domestic program.

This is not fair to the Members and it is not fair to the thousands of hard-working men and women in this country who try to make a living from the production of sheep and wool.

The Wool Act established in 1954 is a unique agriculture program to address a unique problem facing American wool producers.

Wool is a deficit commodity, meaning that Americans do not produce the amount of wool this Nation consumes. In fact, we have to import nearly two-thirds of the wool we use in this country.

To offset the market-depressing impact of imports, an incentive was created through the 1954 act to encourage domestic wool production. These incentive payments are made based on the average market price of wool. Because market prices fluctuate, payments also fluctuate up and down with market conditions.

The financial aspects of this program are also unique, and should be recognized accordingly.

Revenue from tariffs collected on wool and wool products are used to determine the amount of funds available to make incentive payments. Payments cannot exceed 70 percent of the gross receipts collected through the tariffs. In fact, these payments have rarely approached this level. For example, in 1988, incentive payments equal to only 20 percent of the tariffs collected were paid to wool and mohair producers.

Congress intended for the program to provide income stability in an erratic marketplace, maintain a viable domestic industry and provide an incentive to improve wool quality. It has succeeded on all accounts.

Some Members of this body have expressed dismay that we provide an incentive to produce wool, when most sheep ranchers are in the business to produce meat.

Well of course they are!

Sheep produce two commodities: wool and lambs.

Without the income from both of these commodities, most, if not all producers, would go out of business.

Sheep ranching is a capital intensive business. Those who derive most of their income from sheep have well over $1 million invested in the operation. But the average return on that investment might reach 5 percent a year, if the producer is lucky.

While selling lambs brings in most of the income of that ranching operation, wool payments invariably determine whether a rancher is going to be able to meet his financial obligations and maybe, just maybe, turn a profit.

Why is the issue of reducing payments so important to the wool and mohair industry? Because it is the only Federal program available to our producers. There are no deficiency payments for sheep producers, no marketing loans, no target prices or loan rates, no paid diversion program and no protection against imports.

The incentive payment is all our domestic industry has in its effort to provide a viable industry to rural America.

If wool payments are capped too low, the producers who make up the backbone of this industry will have to make some tough financial decisions. With a limit on wool payments, producers will reduce the number of sheep they raise.

Consequently, that will reduce the number of lambs going to market. That will reduce the number of packing plants that serve the industry. That will reduce the ability of all sheep producers to have access to a market for their most valuable commodity, lambs. That means sheep producers, particularly the small producers, will be going out of business.

A reduction of the payment cap to $100,000 means that we will literally hand over to Australia and New Zealand even more of the domestic market than they currently control.

The current tariff on wool has in no way acted as a deterrent to imports, and establishing a lower payment cap gives foreign producers an extra advantage.

Let me stress that a substantial reduction in the payment cap will have a severe impact on the infrastructure that keeps the sheep and wool industry together. I am afraid changes in the domestic industry will be inevitable.

More than 2,000 counties across the United States receive a critical percentage of their total agriculture income from sheep. Hundreds of these counties receive more than 50 percent of their total agriculture income from sheep producers.

As a result of the compromise reached on the Wool Act, I believe many of these rural communities across the country will see producers cut back on their herds. Some of these rural communities will see some producers go out of business.

The ensuing impact on rural communities will be substantial and irreversible.

A low cap on wool and mohair incentive payments threatens American jobs and threatens viable rural economies.

Since 1954, the Wool Act has offered the only Federal protection available to our domestic wool and mohair producers. It not only encourages production of a commodity we need in this country, it encourages the production of quality wool.

Just as important, the Wool Act is the fabric that supports the economic base of numerous rural communities.

I hope when the 1990 farm bill is finally presented to the President for his signature that we will make some changes to the wool and mohair title that will ensure the viability of an important domestic industry.

TRIBUTE TO HEALTH UNIT COORDINATORS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. FISH. Mr. Speaker, I rise today to pay tribute to the Health Unit Coordinators on the 50th anniversary of their profession, the 10th anniversary of the National Association of Health Care Unit Clerk/Coordinators [NAHUC], and the 1st anniversary of the Mid-Hudson Valley, New York, Chapter of NAHUC.

The need for health care unit coordinators arose during WW II, when nurses were in short supply and high demand, in order to alleviate the nurses' clerical obligations. As medicine and the medical profession have grown increasingly sophisticated and complicated, so have the responsibility of health care unit coordinators. Currently, these dedicated peoples perform a myriad of significant duties, such as entering computer data, transcribing physicians' instructions, ordering unit supplies and managing patients' care between departments. Additionally, health unit coordinators play an integral role in the hospitals' communication network by answering the telephones, and greeting patients and their visitors.

In 1980, 10 devoted unit clerks and instructors attended the first meeting of the National Association of Health Unit Coordinators. From its inception, the association has striven to ensure that unit coordinating be recognized as the important health profession it is. Currently, NAHUC is working to bring national uniformity to the use of the unit coordinator title. In order to maintain a high professional standard, NAHUC offers continuing education programs to keep coordinators up to date regarding advanced technology and knowledge in the health care field. Additionally, the association operates a national voluntary certification program.

I would like to thank the health care unit coordinators for their dedication to the patients and hospitals they serve, and congratulate them as they celebrate the 50th anniversary of their profession and the 10th anniversary of the National Association of Health Unit Coordinators on August 23, 1990. Additionally, it is my pleasure to applaud the Mid-Hudson Valley Chapter of NAHUC, located in the 21st Congressional District of New York, on the occasion of its first anniversary.

MATAGORDA ISLAND

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. LAUGHLIN. Mr. Speaker, Matagorda Island is an important resource to our Nation, State, and to the 14th Congressional District. It represents a large area of primarily undeveloped barrier island owned and managed by governmental agencies. It offers unparalleled opportunity to provide visitors with a full appreciation and enjoyment of a large, dynamic ecosystem.

The Federal Government purchased 19,000 acres at the beginning of World War II for an Air Force base, which has since been closed. Since 1971, the Federal lands on Matagorda have been managed as part of the National Wildlife Refuge System and are administered as part of the Arkansas National Wildlife Refuge. At various times throughout the year, the lands are home to such endangered species as the whooping crane and the brown pelican, as well as being a prime habitat for migratory birds.

In December 1982, a memorandum of agreement was signed between the U.S. Fish and Wildlife Service and the Governor of Texas, William P. Clements, that allowed for

cooperative management of the Matagorda Island National Wildlife Refuge. On August 24, 1983, the U.S. Congress passed Public Law 98–66, ratifying the 1982 agreement.

Today, I am introducing a bill that would ratify a new memorandum of agreement between the U.S. Fish and Wildlife Service and the State of Texas General Land Office and Parks and Wildlife Department for another cooperative management program. Under this legislation, the U.S. Fish and Wildlife Service would have primary responsibility for wildlife and habitat management while the Texas Parks and Wildlife Department would have principal responsibility for compatible public use management. In accordance with this, the Texas General Land Office would retain primary jurisdiction over all State lands on the island.

Mr. Speaker, this truly marks an important step in the history of Matagorda Island. Therefore, I urge my colleagues' support for this legislation when it comes to the floor of the House for a vote.

AIRLINE INDICTMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. PORTER. Mr. Speaker, on Tuesday a Federal grand jury indicted top executives of Eastern Airlines for failure to perform necessary airplane maintenance and repairs, and for falsification of maintenance records.

If the grand jury's accusations are accurate, Eastern management knowingly ignored its most important responsibility—safety—and deliberately jeopardized the lives of its pilots, flight attendants, and customers.

The indictment confirms information I received over the last 2 years from Eastern pilots. One pilot told me of instances in which maintenance personnel encouraged him to fly planes that required repairs. If he would agree to fly, maintenance promised to alter the records to show that the repairs had been done.

If managers encouraged employees to fly substandard aircraft, they not only violated Federal law, they betrayed the trust of the American people, and endangered the lives of thousands of people.

Mr. Speaker, Eastern's actions were absolutely unconscionable. Any manager convicted of wrongdoing should receive the maximum penalty allowed by law, and should serve as an example that the Federal Government will not allow safety to be compromised under any circumstances.

LOCAL HEROES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. LAGOMARSINO. Mr. Speaker, 1 month ago today, the community of Santa Barbara, CA, suffered a devastating fire. One person was killed, two injured, 4,500 acres burned and 648 homes and housing units were destroyed. It was a tragedy of major proportions—a disaster.

In the wake of the devastation, however, the community has found many reasons to be grateful. The fact that only one person died, as sorrowful as that is, remains little less than a miracle. And that only two firefighters were injured, of the many thousands who battled the blaze, is another grace for which we are thankful. Many families were left homeless; but homes can be rebuilt. And although it is the worst fire on record for the community, many other homes were spared through the diligence of the firefighters and the eventual cooperation of nature.

There are many people who contributed to the firefighting and recovery effort—too many to list—and any list given would be incomplete, due to the many individual acts of kindness or heroism known only to those who gave or received them.

Nevertheless, many of the heroes are known, and to these, listed below, as well as to the others, I would like to pay public tribute. First, to the many thousands of firefighters—city, county, State, and Federal—who worked for hours without rest on the fire lines, in helicopters, in the headquarters and elsewhere—and whose efforts resulted in the saving of lives, homes, and public property, our heartfelt thanks.

To the many other public safety and administrative employees—city, county, State, and Federal—who worked to maintain order, support the firefighters, take care of the victims, and deal with the aftermath of the fire, we salute you for fullfilling the true meaning of public service, above and beyond the call of duty.

To the many private organizations—newspapers, radio and TV stations, philanthropic and business organizations—who lent their resources and their talents to combatting the fire and helping its victims, we say, thank you for your community spirit and generosity.

To the schools, churches, and colleges, the Red Cross, who opened their doors and kitchens to provide food and shelter for the firefighters and the victims, you have already received the gratitude of those you served, to which we add our own.

To President George Bush, Gov. George Deukmejian, and the Santa Barbara County Board of Supervisors, who issued declarations of disaster, in record time clearing the way for an infusion of aid from State and Federal agencies; and to the county office of emergency management, California Office of Emergency Services, and Federal Emergency Management Agency, whose timely and efficient documentation of the disaster made swift action possible, our gratitude and appreciation.

And to the people of Santa Barbara and the surrounding communities who responded with open arms and open hearts to the needs of the victims, God bless you all.

Mr. Speaker, at this point, I would like to insert in the RECORD a list, compiled by the Santa Barbara County Office of Emergency Management, of organizations and agencies who contributed to the firefighting and recovery effort. The list is necessarily incomplete, but it stands for the many thousands of individuals who generously contributed time, money, and support to their neighbors in a time of trial. They represent truly, "a thousand points of light" and more, and their kindness will not be forgotten.

LIST OF PARTICIPATING AGENCIES

FIRE AGENCIES

Unified command: Santa Barbara County Fire Dept., Los Padres National Forest, and Santa Barbara City Fire Dept.

Supporting fire agencies: California Department of Forestry (CDF), Ventura County Fire Dept., Ventura City Fire Dept., Oxnard City Fire Dept., Bureau of Land Management, San Luis Obispo City Fire Dept., Los Angeles County Fire Dept., Los Angeles City Dept., Lompoc City Fire Dept., Santa Maria City Fire Dept., Solvang Fire Dept., Vandenberg Air Force Base Fire Dept., U.S. Army Fire Fighters, Carpinteria/Summerland Fire District, Montecito Fire Dept., Arroyo Grande Fire Dept., and Pismo Beach Fire Dept.

LAW ENFORCEMENT AGENCIES

Santa Barbara County Sheriff's Department.

Supporting agencies: Santa Barbara City Police, California Highway Patrol, Carpinteria Police Dept. Ventura County Sheriff's Department, and UCSB Police Department.

SANTA BARBARA COUNTY DEPARTMENTS

Administrative Office, Agricultural Commissioner, Air Pollution Control District (APCD), Animal Health and Regulation, Assessors Office, Auditor/Controller, Board of Supervisors, Tony Rogers, Chair, Clerk of the Board, County Clerk/Recorder, County Counsel, District Attorney's Office, Office of Emergency Management, Fire, Flood Control, General Services, Health Care Services, Parks Department, Personnel, Probation, Public Works, Public Defender, Resource Management, Sheriff-Coroner, and Social Services.

ADDITIONAL SANTA BARBARA COUNTY AGENCIES

Santa Barbara Operational Area Emergency Services Organizations; City of Carpinteria—Tom Lewis, Mayor; City of Guadalupe—Renoldo Pili, Mayor; City of Lompoc—Marvin Loney, Mayor; City of Santa Barbara—Sheila Lodge, Mayor; City of Santa Barbara Disaster Response Team; City of Santa Maria—George Hobbs, Mayor; City of Solvang—Ken Verkla, Mayor; Operational Area Media Team; County Schools, Office of the Superintendent; Goleta School District; Santa Ynez High School; and Dos Pueblos High School.

ACTIVE NON-PROFIT AGENCIES

American Red Cross, Santa Barbara Chapter, American Red Cross, Western Region, Direct Relief International Salvation Army, Amateur Radio Emergency Service, Family Service Agency, United Way, Council of Christmas Cheers, Veteran's Service Center, Greek Orthodox Church, Church of the Latter Day Saints, Presbyterian Church, United Methodist Church, Vineyard Church, Catholic Services, and Santa Barbara Humane Agency.

FEDERAL AGENCIES

Federal Emergency Management Agency, U.S. Forest Service, Small Business Administration, Social Security Administration, U.S. Postal Service and Internal Revenue Service.

ADDITIONAL CALIFORNIA STATE AGENCIES

CALTRANS, Office of Emergency Services, University of California, Santa Barbara, and Department of Justice.

OTHER ASSISTING AGENCIES OR COMPANIES

General Telephone, Cellular One, Southern California Edison, Southern California Gas, Southern Pacific Railroad, Metropolitan Transit District, Goleta Valley Hospital, Saint Francis Hospital, Cottage Hospital, Board of Realtors, Security Pacific Bank, City Commerce Bank, La Cumbre Plaza, First American Title, Imperial Savings, First Interstate Bank, Chevron, Texaco, and Shell.

PARTIAL LIST OF MEDIA PARTICIPATING

Print press: Santa Barbara News-Press, Santa Barbara Independent, Carpinteria Herald, and Goleta Sun.

Television stations: KOOY—Channel 12, KEYT—Channel 3, KSBY—Channel 6, KCTV—Channel 19 Community Television, and Channel 18 Government Access TV.

Radio stations: KTYD—FM 99.9, KDB—AM 1490, KIST—AM 1340, and KTMS—1250.

THE WOMEN'S HEALTH CARE COVERAGE EXPANSION ACT OF 1990

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mrs. SCHROEDER. Mr. Speaker, Marilyn Quayle is recuperating from a hysterectomy. Fortunately, cervical cancer was detected early in a Pap smear and the operation was not an emergency procedure. Many women are not so fortunate, going years without Pap smears.

That is why I am introducing the Women's Health Care Coverage Expansion Act of 1990. This bill expands Medicare and Medicaid reimbursements to include obstetric and gynecologic services provided by nurse practitioners.

Many older women prefer to see a nurse practitioner for services like Pap smears. By expanding Medicaid and Medicare coverage, more women will have the chance that Marilyn Quayle had—to stop cancer before it starts.

In addition, women needing obstetric services will receive the kind of preventive care that saves lives and money.

Forty thousand babies die each year in the United States, and many of these deaths are preventable—through early prenatal care. But many State Medicaid offices face shortages of Medicaid providers. While States search for Medicaid providers, pregnant patients wait for prenatal care. At the same time, well-trained nurse practitioners are willing to see the patients, but cannot be directly reimbursed for their services.

The range of services that nurse practitioners can provide is impressive: preconceptual and prenatal care; contraceptive management; the management of common gynecological care, including management of sexually transmitted diseases; and cancer screening for women of all ages.

We have taken steps recently to increase women's health services. In 1989 Congress expanded Medicaid coverage to include pediatric nurse practitioners and family nurse practitioners. In addition, Congressmen BYRON DORGAN and BILL RICHARDSON have introduced H.R. 4483, to provide direct Medicare reimbursement for nurse practitioners in rural areas. But further steps must be taken to provide adequate health care to women.

Nurse practitioners can help alleviate some of America's health woes. It is our responsibility to let them help.

WOMEN AND AIDS LEGISLATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mrs. MORELLA. Mr. Speaker, today I am pleased to introduce two bills to encourage research on human immunodeficiency virus [HIV] infection in women, and to improve access to health services for women with AIDS in this country. These bills are part of a larger package, the Women's Health Equity Act, introduced by the Congressional Caucus for Women's issues.

Because AIDS in the United States was originally a disease predominantly affecting men, there is a common misconception of AIDS as a men's disease. The face of the AIDS epidemic in the United States, however, is rapidly changing as more women and children become infected with this fatal disease.

According to the Centers for Disease Control [CDC], women now comprise the fastest growing group of persons with AIDS in this country. Of those individuals who have contracted the disease through heterosexual contact, women now outnumber men. In New York City, AIDS not only has become the leading cause of death among women age 20 to 40 years, but 1 out of every 80 births is to an HIV-infected woman. If current mortality trends continue, by 1991 HIV/AIDS can be expected to become one of the five leading causes of death in women of reproductive age nationwide.

Despite these devastating statistics, most AIDS research, treatment, and prevention programs focus predominantly on men. Women are routinely omitted from experimental protocols and thus have limited access to the few medicines available to treat AIDS. To date, there is not one clinical trial designed to explore or address the specific clinical concerns of HIV-infected women.

Because the AIDS epidemic in the United States first emerged among predominantly white males, the case definition of AIDS is based on the disease's manifestation in men. AIDS, however, appears to manifest itself differently in women, often appearing as a disease of the reproductive tract. Although the CDC has broadened the case definition of AIDS over time, it still does not reflect the clinical manifestations of HIV in women.

Women, not expected to have AIDS, may be misdiagnosed and given insufficient and incorrect treatment by health care providers. For these reasons, countless cases of HIV infection in women are believed to go unrecognized and unreported. Physicians find little information available to help them understand the unique manifestations of HIV infection in women.

Many of the factors involved in the transmission of HIV from mothers to their children also remain obscure. It is still not known why some of the infants born to HIV-positive women become infected themselves, while others never develop the disease.

With regard to the prevention of the sexual transmission of HIV, the sole physical method available to obstruct transmission from men to women is the use of the condom, a procedure which necessitates active male cooperation. So far, little or no research has been done on a wider range of chemical and physical barriers that rely on the woman and are under her control.

The two bills I am introducing today seek to remedy the neglect of the growing AIDS epidemic among women.

The Women and AIDS Research Initiative would expand the focus of current AIDS research to include research on women as persons at risk of AIDS. The bill would authorize $10 million in fiscal year 1991 for a Women and AIDS research initiative within the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration that would support both intramural and extramural research concerning the transmission, development, treatment, and prevention of HIV infection in women.

This bill also would authorize $6 million to create a new program under the Community Based Clinical Research Initiative, which provides funds for the establishment of research organizations located in community settings to provide access to clinical research for populations at high risk for HIV infection. Under the legislation, funds would be used to expand clinical trials involving AIDS treatment for women. Funds under this program also will be available for support services, such as child care and transportation, to enable women to participate in clinical trials.

The Women and AIDS Outreach and Prevention Act authorizes $10 million in fiscal year 1991 for select family planning clinics and other public health clinics that provide preventive health services for women in high-risk areas. This funding would be used to design and carry out innovative programs of outreach, referral, services, and training.

Under this legislation, funds would be available for family planning clinics and community health centers to provide preventive health services, including family planning, screening, and treatment for sexually transmitted diseases, and counseling and testing for the HIV virus; as well as to provide outreach to inform women and their partners of the availability of these services.

Clinics would also develop improved referral arrangements with agencies that serve women and their partners, including drug abuse clinics, sexually transmitted disease clinics, and homeless shelters, and would provide appropriate followup services. In addition, funds would be available to train clinic personnel in dealing with persons at high risk of AIDS, sexually transmitted diseases, and unintended pregnancy.

Women have been called the invisible victims of the AIDS epidemic. I urge my col-

leagues to remedy this oversight by joining me in support of these two crucial pieces of women's health legislation.

TRIBUTE TO MR. DENNISON R. ROSE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a renowned individual, Mr. Dennison R. Rose. Mr. Rose is being recognized 200 years after his birth on Dennison R. Rose Day, August 3, 1990.

Mr. Rose was a native of Clarendon, VT, where he defended that State's western border with the U.S. Cavalry in the War of 1812. In 1827, he settled with his family on a farm in Hamtramck Township, MI, by Lake St. Clair. In 1832, he purchased land in another part of Hamtramck Township, and by 1834 he was operating Rose's Tavern on the Gratiot Turnpike.

Mr. Rose quickly became a part of his community. He became active at all levels of community life. He was appointed a justice of the peace by Gov. Lewis Cass, he served as an assessor and was a commissioner of schools in Hamtramck Township. In 1836, he was a candidate for the convention to decide Michigan's position on its boundary dispute with Ohio.

On January 1, 1836, Mr. Rose received a 4-year contract to transport mail from Detroit to Hamtramck Township and Mount Clemons. When the Roseville Post Office was established on September 21, 1836, it was named in honor of Mr. Dennison R. Rose.

In 1848, he moved to Macomb County, where he initially lived in Mount Clemens. After the death of his wife, Hannah, on July 31, 1868, he moved to Detroit in Wayne County. He died at the age of 87, on November 21, 1877. Ironically, Mr. Rose died without ever living in the city that now bears his name—Roseville.

I commend Mr. Rose on his involvement and impact on the area now known as the city of Roseville. In name alone, he will be long remembered as a true friend of our community.

TRIBUTE TO MINNIE BOMMER

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. TANNER. Mr. Speaker, I rise today to bring to the attention of our colleagues a striking example of how one dedicated individual who is committed to helping others can have profound effects on his or her community. Minnie Bommer of Covington, TN, is one such person.

Since 1983, Ms. Bommer has been helping the people in her community and the surrounding four-county area through Children and Family Services, Inc. She established this organization herself and has guided it through its development as a nonprofit, independent organization whose sole aim is to eliminate obstacles to a person becoming self-sufficient and self-sustaining.

More than just providing counseling or financial assistance, Children and Family Services, Inc., has identified practical needs of people who are underserved, handicapped, and low income. Ms. Bommer's organization now offers seven different programs ranging from assistance for young mothers to day care for the working poor. I understand that an eighth program is being planned to offer assistance for youths who are first time, nonviolent offenders in the juvenile justice system.

Ms. Bommer approaches this task with a simple approach. She recently told a reporter from the Jackson Sun, "I want to prevent stuff. I want to intervene at the earliest possible opportunity that I can." Her targets for intervention are poor nutrition, low self-esteem, early sexual activity, substance abuse, and other problems that hinder people's ability to reach for their dreams and unlock the key to their potential.

The people that Ms. Bommer serves have hope because of the human potential she sees in each of them. We, here in the Congress, can learn from her willingness to identify the least among us who with just a small boost can overcome the impediments they may face to the full realization of their potential.

Ms. Bommer deserves our praise and our recognition. Her Children and Family Services, Inc., can be a model which future local grassroots organizations can emulate. I want to extend to her and her small staff of dedicated workers my sincere congratulations and my warmest wishes for continued success in their ongoing effort to develop the potential of their clients.

I insert a recent newspaper story featuring Ms. Bommer into the RECORD:

COVINGTON AGENCY STRIKES AT ILLS GRIPPING BLACKS

(By Diana Branum)

COVINGTON.—Minnie Bommer doesn't see retarded children—she sees children that need extra attention.

She doesn't see poor children, she sees children that need a chance.

She doesn't see juvenile delinquents, she sees children that need love and guidance.

And eight years ago when she looked at the abandoned, deteriorating buildings that were Covington's former black school, Minnie Bommer saw a structure that could be made useful again.

Since 1983, Bommer has been building a non-profit agency within the walls of the Frazier School that has given people hope in a four-county area of West Tennessee.

Bommer helped found Children and Family Services, Inc.—an independent, nonprofit agency—and serves as its director today. The agency offers seven different programs for under-served, handicapped and low-income children and their families, ranging from assistance for young mothers to daycare for the working poor.

Plans are being laid for an eighth offering—a corrective program for youth who are first-time, nonviolent offenders in the juvenile justice system.

Though Tipton County is only 30 percent black, the higher poverty rate among blacks means that a majority of the center's clients are black. That's OK with Bommer, because she knows her people suffer proportionately more from the ills that her programs strive to cure.

Bommer's work is an example of the programs that health experts say are needed throughout West Tennessee to stem the region's growing gap between black and white death rates.

In a special report published last March entitled "The Color of Death," The Sun showed that West Tennessee blacks have a 50 percent higher death rate than whites. Blacks also are; four times as likely to be poor, twice as likely to be unemployed and more than half again as likely to lack a high school education as their white neighbors.

Children and Family Services attacks the root causes behind those statistics, Bommer said.

"I want to prevent stuff. I want to intervene at the earliest possible opportunity that I can" against poor nutrition, low self-esteem, early sexual activity, substance abuse and other problems that can drag people down, Bommer said.

Bommer sees poverty as the single greatest impediment to blacks' progress. And if a child is illiterate, a teen-age parent and/or abusing alcohol and drugs, that child's chances of remaining in poverty skyrocket, she said.

"We believe it is cost-effective to help people become self-sufficient and self-sustaining. Then they're going to pay taxes and support the community."

"Where the problem is greater, the solution needs to be greater," said Bommer. And the solution needs to come from those who suffer.

As Children and Family Services' offerings have grown, so has community involvement. Parental volunteers extend staffing in the daycare programs. Some families donate equipment for the center's use. And a seven-member founding board of directors has expanded to 18.

Bommer said people are seeing first-hand that: handicapped children can improve with special attention; out-of-work parents can get jobs with their children in affordable daycare; and young girls at high risk for pregnancy can stay in school and set career and life goals. "Every year things get better and better."

Bommer's zealousness in seeking funds to do the things she wants to do has garnered funding from sources as far away as the Netherlands. A private California foundation that funds two programs is eyeing Bommer's pregnancy prevention program for teen-age girls as a potential model for the nation.

"I think she has provided a very valuable service to the children and families in the area that she serves," said state Rep. Jimmy Naifeh, D-Covington, who helped get $50,000 of state money for the building renovation. Bommer renamed the building for him in thanks.

Bommer wears many hats in her busy life—social worker, city alderwoman, political activist, mother—but there's a common quality that underlies them all: concern for others.

CENSUS UNDERCOUNT CHEATS NEW YORK

HON. TED WEISS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. WEISS. Mr. Speaker, I would like to bring to my colleagues' attention the following New York Times article which clearly illustrates how past census undercounts have cheated the city of New York of valuable Federal funding and proper congressional representation.

As the article indicates, the conclusions of a recent study by New York University's Robert F. Wagner School of Public Service demonstrate that Census Bureau figures throughout the 1980's have failed to accurately assess and report significant population growth in the city. These undercounts may have cost the city one congressional seat and as much as $900 million in Federal and State financial aid over the past decade. Additionally, the undercounts have negatively affected municipal funding allocations as well as business decisions regarding the location of stores and manufacturing plants.

Mr. Speaker, the study and its findings underscore the need for the Commerce Department to statistically adjust the 1990 Census results. I commend the article to my colleagues.

STUDIES ASSERT NEW YORK CITY MORE CROWDED—CHALLENGE 1988 ESTIMATE BY CENSUS AS TOO LOW

(By Thomas Morgan)

In contrast to demographic trends in much of the country and contrary to official estimates and conventional wisdom, the population of New York City has continued to grow and is now larger than ever—8 million, according to economists, demographers and city planners.

The figure, reached most recently in a new study by a New York University economist, is larger than estimates by the Census Bureau and highlights a long-running dispute between the Federal agency and urban officials. New York and other cities have contended that the Census has undercounted their populations, costing them Federal aid and seats in Congress.

Researchers have also found that by the end of the 1980's New York City had not only grown but its population had become younger, partly because of the second-largest wave of immigration to the city in this century. The influx, chiefly from Asia, the Caribbean and South and Central America, was made up of large numbers of children and young adults who have begun to change New York, much as the larger migration of Italians, Russians, Jews, Greeks and Poles did at the turn of the century.

WIDE IMPLICATIONS

Census Bureau figures for the 1980's do not show this growth in population. But statisticians and demographers in New York City's Department of Planning as well as economists who have conducted their own studies have said that the bureau's population estimates for New York City are too low.

This view is supported by a study that is to be released soon by the Urban Research Center at the Robert F. Wagner School of Public Service at N.Y.U. The study uses the 1980 Census count for New York City as a base and then projects population growth to 1987 by using information about births, deaths, enrollments in public and private schools, Social Security recipients and various other demographic indicators.

The New York University study and others achieving similar results have striking implications for city planners, who must determine how to allocate precious city resources to serve a much younger, child-bearing population. New York City public school officials, who have started an extensive school rebuilding plan, estimate that next fall's student enrollment will be 946,438, the highest in a decade.

The N.Y.U. study, by Emmanuel Tobier, an economics professor at the university's Urban Research Center and a former chief economist for the Regional Plan Association, highlights population increases among immigrants as well as among teen-agers and young adults in the city's major racial and cultural groups.

Gov. Mario M. Cuomo said last week that if the conclusion of Mr. Tobier and other economists are correct, the undercount would have "serious repercussions" for the city. Mr. Tobier's study says the Census Bureau's 1988 estimate of the city's population fell short of the actual number by 700,000; if so, New York City residents would be entitled to significant additional representation in Congress and in the State Legislature and more money in state and Federal revenue-sharing grants.

CLOSE TO 8 MILLION

Counting people in large cities, particularly those with large immigrant populations, has always been difficult for demographers. But several university economists who specialize in demographics, economists at the Regional Plan Association and demographers in the city's Planning Department say that the city population is closer to 8 million than the 7,353,000 poeple estimated by the Census Bureau in July, 1988.

Demographers say census figures show that the city's population hovered around 7.8 million people from 1950 to 1970, despite a large migration out of the city and a population shift nationwide from inner cities to the suburbs. In keeping New York's numbers relatively stable, immigrants made the difference, demographers say.

"In view of the possible difficulty in establishing the 1990 census, somebody ought to be ready with credible numbers to question the Census," Mr. Tobier said.

Births in New York City grew by 28 percent between 1980 and 1989, compared with 11 percent for the country as a whole, statistics show.

Mr. Tobier said the Census Bureau estimated that the city growth rate was 3.5 percent between 1980 to 1987, from 7,071,000 to 7,317,000. His projection found a growth rate of 10 percent during that period.

A POPULOUS 15-TO-44 GROUP

The fastest growing category, according to the N.Y.U. study, was that of 15- to 44-year-olds, who grew in numbers by 20 percent from 1980 to 1987. Young people in this age group, considered by demographers as the prime working and child-bearing group, make up about 50 percent of white, black and Hispanic residents of the city. Those aged 15 to 44 compose about 63 percent of New Yorkers of Asian background.

"The widespread image that the city is in the midst of a population downturn is not supported by the evidence of Tobier's study," said Mitchell Moss, director of the Urban Research Center.

100,000 IMMIGRANTS A YEAR

Not everyone agrees with Mr. Tobier or the other economists and demographers who have made similar projections.

Samuel H. Ehrenhalt, regional commissioner of the Federal Bureau of Labor Statistics, relies on census estimates for his statistical projections of the region's labor force and unemployment. He said he has not seen statistics suggesting that the city's population is as high as Mr. Tobier and others have estimated.

Those who have concluded that the population is growing have attributed the phenomenon to immigration. Regina B. Armstrong, an economist and consultant for the Regional Plan Association whose report for the Citizens' Budget Commission found results similar to Mr. Tobier's, said she estimates that 35 percent of the city population is foreign-born. "All the growth comes from new arrivals, and there are more arrivals than there is net growth in the population," she said.

City demographers say that during the 1980's nearly 100,000 immigrants came to the city each year and that most of them stayed.

The studies show that New York City is more crowded than ever, and the effects can be seen in greater traffic congestion, a growing demand for low-cost housing and the doubling-up among low-income families.

Roy Metcalf, a spokesman for the city's Housing Authority, said that in 1989 more than 22,000 first-time applicants who filed for public housing apartments gave a home address indicating that they had already lived in public housing. He said almost 40,000 families are doubled-up in Housing Authority projects.

SOMETHING IS HAPPENING

Rosemary Scanlon, chief economist for the Port Authority of New York and New Jersey, said automobile registrations in New York City increased by 24 percent between 1980 and 1988. But the Census Bureau reported that in the same period both the number of households and the population growth showed only about a 4 percent increase.

"Clearly something is happening," Ms. Scanlon said. "The household figures come from the Census study, and I presume that either more people are driving, or the census numbers are wrong."

An undercount of the city's population would have profound implications for New York City's government and residents.

"The 1980 undercount has cost New York City one Congressional seat and as much as $900 million in the Federal and State financial aid over the past decade," said Victor Kovner, New York City's Corporation Counsel. The city had challenged the Census Bureau's 1980 count, and Mr. Kovner said the city would mount another court challenge if city officials believed the 1990 census results were too low.

City officials also use population data to assist in allocating money for schools, parks, housing and hospitals among other recipients.

IMPACT ON INDUSTRY

An undercount can also have an impact on industry. Businesses use census data to select locations for supermarkets, retail stores and manufacturing plants as well as to market new products.

"The smart marketer today is recognizing that it is very important to develop marketing programs that address the population as

a set of distinct and quite separate market segments," said Jackie Silver, executive vice president and director of research and planning for Backer Spielvogel Bates Worldwide Inc., the Manhattan advertising agency.

"When we don't get accurate demographic information, marketers and communications experts are not getting the information needed to make the right decisions about how to spend their advertising and product development money," Ms. Silver said. "Ethnic groups are very responsive to promotional programs which tie into products they use heavily. If that group is not represented properly, it's a very serious problem for us."

TRIBUTE TO KAPPA ALPHA PSI FRATERNITY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Kappa Alpha Psi Fraternity as it celebrates the occasion of its 43d annual Western Province Council Convention in Sacramento, CA.

Kappa Alpha Psi, an educational fraternity, is dedicated to the goal of spiritual, moral, social and intellectual welfare and achievement in chosen fields. Founded in 1971, the 67 member Sacramento Alumni Chapter has been honored by the Western Province Council as the best alumni chapter for outstanding community service in both 1988 and 1989. By providing annual scholarships to high school students, sponsoring youth leadership conferences and making financial donations to local nonprofit organizations, Kappa Alpha Psi continues to show its leadership and commitment to the Sacramento area.

Among the members of the local chapter are State workers, judges, doctors, educators, a poet, and a host of military officers. Such a fine array of individuals can only contribute to the quality and achievements of Kappa Alpha Psi.

Mr Speaker, Kappa Alpha Psi has shown to be exemplary in its contributions to the Sacramento area. I commend this organization for its dedication to the community that I represent. I ask that my colleagues join me in extending our best wishes to Kappa Alpha Psi and its affiliate chapters for a pleasant and successful Western Providence Council Convention.

DEVELOPMENT IN KOREA

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. LEACH of Iowa. Mr. Speaker, I would like to take just a moment to relate to the Congress recent developments on the Korean peninsula. It is obvious to all observers of international affairs that the relationship between the United States and the Republic of Korea is evolving in all fields: politically, in terms of the balance of trade, and in security. My own view is that the American commitment to the ROK has well served American interests in peace and stability in northeast Asia, and we should retain a presence in South Korea as long as U.S. assistance is integral to deterring aggression on the part of the North.

This spring has seen South Korea truly emerge as an active player on the world stage. A better relationship has been forged with Tokyo; diplomatic ties have been formed with virtually every former Soviet bloc country in Central and Eastern Europe; formal diplomatic relations between Seoul and Moscow, if not imminent, are at least impending; and now it even appears as though there is an emerging thaw in north-south relations, with two unprecedented Prime Ministerial meetings tentatively scheduled for this fall.

While the ROK is not free from the occasionally wrenching economic and political growing pains associated with the development of a modern democratic society, the Congress can only tip its hat to the richly-deserved success the South Korean people are now enjoying.

With regard to U.S. relations with North Korea, it is certainly a hopeful sign that Pyongyang has responsed to low-key American overtures by returning some Korean War remains and agreeing to a high-level dialogue with the ROK.

While most of us in the Congress believe that normalization of relations should await North Korean acceptance of IAEA nuclear safeguards and real progress in the North-South dialogue, if the present positive trends continue it may well be in the United States interest to heighten our level of informal and formal contact with North Korea. But this issue, of course, is best and properly left to the Executive Branch in the context of close consultation with the ROK and other American allies.

Let me conclude by stressing that it is impressive how the Government of South Korea is taking the initiative in North-South dialogue and attempting to adapt by leading instead of passively waiting for change to occur.

In this regard, I am taking the liberty to enclose below an impressive recent statement by South Korean President Roh Tae Woo. The statement reads as follows:

SPECIAL ANNOUNCEMENT BY PRESIDENT ROH TAE WOO OF STEPS FOR GRAND INTER-KOREAN EXCHANGES OF PEOPLE

My seventy million fellow countrymen. I hereby announce a decision to promote exchange of people between the South and the North of our land with a view to achieving peaceful unification at the earliest possible date now that the world is undergoing momentous changes highlighting the end to Cold War confrontation and the emergence of a new order of detente. Through my special declaration of July 7, 1988, I enunciated a policy of ending confrontation between the one people in the South and the North and forging a partnership and cooperative ties between the two parts of our land. On October 18 of that year, I went before the General Assembly of the United Nations and in a speech proposed that the barrier dividing the Korean Peninsula into southern and northern halves be dismantled to permit free exchanges in all fields with the aim of realizing peace and the unification of our land.

Two years later, the old world order is being fundamentally transformed. A tide of openness and reconciliation has torn away the Iron Curtain separating the East and the West and is now shaping a new world in which nations are cooperating with each other regardless of differences in ideology and political system. This tide of reform has collapsed the Berlin Wall and is moving West and East Germany into unity.

The time has come to end the total division and Cold War confrontation on the Korean Peninsula, too. Korea must not remain the world's only land still partitioned by Cold War politics. The fact that compatriots in the South and the North are still unable to visit each other is a shame on us who are a proud people with a rich cultural heritage that has evolved over many millenniums. Such a state of affairs should not continue any longer.

We must achieve peaceful unification within the 1990s so that the 21st century will be an era of glory for our people. Both the South and the North should boldly do what needs to be done to reconcile each other and integrate our people.

I hereby proclaim the five-day span around the 45th anniversary of national liberation, which is August 15, a period for grand Inter-Korean exchanges of people. For five days beginning on August 13, we will keep P'anmunjom open as the passage and will accept brethren from the North without restrictions. We will allow them to freely visit any place in the South and meet anyone whom they want to meet. We will provide all possible manner of convenience to our brethren visiting the South and will, if necessary, furnish room and board also.

We will also take steps to allow any of our citizens to vist North Korea through P'anmunjom without restrictions. We will guarantee North Korean brethren visiting the South personal safety and safe return home. We expect North Korea to take reciprocal measures.

I hope that North Korea will open not only the northern portion of P'anmunjon but its entire territory as well to permit people from the South to freely visit any place in the North. I also hope that like us, the North will accept without restrictions brethren in the South who wish to visit North Korea.

If we can successfully exchange our compatriots on Liberation Day this year, we should be able to routinize mutual visits on and around such national holidays as Ch'usok (The Harvest Moon Festival), Solnal (Lunar New Years' Day) and Hanshik (a day in early April set aside for visits to ancestral graves). We should build upon such exchanges of holiday visitors to clear the way for free mutual visits at any time. Mutual visits and exchanges between our compatriots in the South and the North are an indispensable step toward unification.

On January 1 this year, President Kim Il-sung of North Korea also proposed that South and North Korean societies be completely opened and free travel be allowed between the two parts of Korea. In this context, I am convinced that there will be no obstacle to realizing both exchanges of our compatriots and the full opening of both the South and the North on Liberation Day this year. Even if North Korea cannot agree to mutual exchanges at this time for some unavoidable reason, we will one-sidedly open our society completely to North Korean brethren.

In the near future, we will permit foreigners to freely travel between South and

North Korea through P'anmunjon. The Government will take all necessary measures and make all necessary preparations to implement what has just been announced.

Fellow countrymen at home and abroad.

It is high time that the South and the North embarked on genuine efforts to integrate the Korean people by transcending idealogy and politics. Consider how magnificent and great an age the 21st century could be for our people if only the country is unified and the 70 million Koreans become one again. With such a vision, let us all participate in the endeavor to fulfill our national yearning.

SOVIETS REFUSE TO LET COUPLE EMIGRATE TOGETHER

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. SMITH of New Jersey. Mr. Speaker, this morning I had the honor of meeting with Galina Barats, a courageous woman whom I have met on two occasions in Moscow. Sadly, Galina's husband, Vasili, did not accompany Galina in Washington because the Soviet authorities are denying him the right to emigrate.

After years of imprisonment, harassment and beatings by the KGB, and refusing to grant permission to emigrate, the Soviets agreed to Galina's request to emigrate to Canada but Vasili was denied. The Barats made the very difficult decision of having Galina come to Canada and work in the freedom of the West for Vasili's immigration case.

Mr. Speaker, the story of Galina's imprisonment in a strict regimen labor camp for ladies who were thought to be "politically dangerous" is inspiring. The courage that she has shown—denouncing the Communist Party to which she once belonged, refusing to willingly follow KGB orders, unashamedly standing up for her religious convictions and faith, and withstanding the brutal beatings by the KGB—that courage and her determination are hard for most of us to comprehend.

Both President Reagan and President Bush have raised the case of the Barats with Mr. Gorbachev. We are thankful that permission to emigrate was finally granted to Galina. Visili must be allowed to join her in Canada. Members of Congress, the Helsinki Commission, the administration and President Bush will continually raise our concerns with the Soviets. This couple deserves nothing less than the freedom to live together in the West, free to work in their areas of expertise, free to live a life without harassment, beatings and severe restrictions, and free to practice their religious convictions without fear of persecution.

H.R. 5303

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. IRELAND. Mr. Speaker, last week I introduced legislation that would instruct the Administrator of the Small Business Administration to conduct a study of the impact of electronic data interchange [EDI] technology on small business concerns. I am pleased that my distinguished colleagues, NORMAN SISISKY, IKE SKELTON and ESTEBAN TORRES cosponsored the Small Business Electronic Data Interchange Technology Promotion Act of 1990.

EDI is the future of all business transactions. Just as FAX is indispensable today, yet unknown several years ago, EDI will be the business environment in coming years. It is important that we protect and insure small business participation.

According to the Electronic Data Interchange Association, EDI is "a form of computer-to-computer interaction among enterprises as well as government agencies. It is not a fax or electronic mail, but the exchange of strictly standardized, electronic versions of common business documents. These documents include, but are not restricted to such items as purchase orders, invoices, and shipment notices." This type of business interaction has sped transaction time and dramatically reduced transaction error.

Mr. Speaker, I first became aware of the significance of EDI at a joint hearing of two key small business subcommittees on the effects of EDI on small business. This hearing, which was cochaired by our distinguished chairmen, NORMAN SISISKY and ESTEBAN TORRES, demonstrated that even though EDI will herald a new way of doing business, small business could be left out if their concerns are ignored.

To quote the Rand Institution, private industry has shown us "the question * * * is not 'whether' to use EDI but where and how to implement it first." Therefore, the pivotal question that faces the Small Business Administration is how to protect small businesses from being isolated by the widespread use of EDI due to several reasons:

First. We know that EDI brings increased productivity, reduced costs, reduced leadtime, reduced errors, potential enhancement of small business opportunities, and the potential for an expanded industrial base. It is possible that these advantages will be limited to big business because of restrictive entry costs, etc.

Second. Over the last 20 years, as EDI has evolved, the Government, as well as private industry, has attempted to establish standards of EDI use. But despite these best efforts, America has largely failed to establish any type of standard format of EDI. It is up to the SBA to establish ground rules that will permit small business to participate in the procurement process.

My bill, the Small Business Electronic Data Interchange Technology Promotion Act of 1990, instructed the Administrator of the Small Business Administration to identify costs and benefits of EDI with respect to small business concerns, identify ways the SBA can aid small business in a transition to an EDI-based environment, and identify how to protect small businesses from isolation of EDI in the Federal procurement process. It will also provide baseline information for uniform technical standards of EDI.

Mr. Speaker, I am pleased to report to the House that this bill H.R. 5303 today was accepted by the House Small Business Committee and became part of H.R. 4793 the Small Business Reauthorization and Amendments Act. I am indebted to Mr. James Smith of Buckland, MA, an intern from Wheaton College, IL, who has been assisting our committee this summer for his extraordinary efforts on this legislation.

STATEMENT IN OPPOSITION TO THE GLICKMAN AMENDMENT TO THE GEJDENSON SUBSTITUTE TO TITLE XII OF H.R. 3950

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. DELAY. Mr. Speaker, I rise in strong opposition to the amendment. The funds which we are currently considering terminating are extremely important to the U.S. rice industry as it attempts to maintain its share of the overall world market for rice.

U.S. rice producers have struggled economically for the last several years and, this year, prices have not shown any appreciable improvements even though our carryover stocks are the lowest in many years. The driving force behind the U.S. rice price is our export market. As Members of the House know, many of agricultures' major foreign customers are countries that must borrow money to purchase their food supply.

Iraq has been one of the biggest customers for United States produced rice. While we recognize that there are some problems with Iraqi policy, it is incumbent on me to inform the Members of this body that this action is devastating to the U.S. rice market and ultimately the U.S. rice farmer.

It would be somewhat inconsistent for us to suggest that world market share should be the avenue of survival for U.S. producers and put in place the restraint on moneys which this amendment would cause. This Member from Texas has one of the largest rice producing districts in the Nation. It would be unconscionable for me to support this amendment which would have so detrimental an effect on the rice industry. At the very minimum, producers should be given the opportunity of a study in this area. I urge a "no" vote on this amendment to H.R. 3950.

EX-MAJOR LEAGUE BASEBALL PLAYERS HELP FIGHT AGAINST DRUGS IN GUAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. BLAZ. Mr. Speaker, I rise today to salute a group of outstanding men who are participating in our Nation's fight against drugs in my district. Twelve ex-major league baseball players, under the leadership of Major League Baseball Players Alumni Association staffers Bob Rodwell and David Chaves, will

visit Guam on August 1-6, 1990, to help in the fight against drugs. The visit is funded largely by a Federal drug prevention grant obtained by the Governor of Guam. The Professional Athletes Speak Out project itself was conceived by Guam attorney Patrick M. Wolff, chairperson of the Guam Governor's Council on Physical Fitness and Sports.

In the summers of 1988 and 1989, Pat Wolff brought to Guam ex-Dodger "Sweet" Lou Johnson and Tug McGraw for drug-awareness talks to our young people throughout the territory. This year a legend tour team includes the following stars: Bobby Tolan, John "Blue Moon" Odom, Stan Bahsen, Bert Campaneris, Bill Campbell, Al Oliver, and Bill Madlock.

Special events planned in Guam's civilian community include two baseball doubleheaders, three free youth baseball clinics, a high school assembly, a Fantasy Baseball Camp, a VIP softball game, a memorabilia auction and golf tournament. Guam Cable TV is a cosponsor of this project under the leadership of Ron Tangye, Tom Blaz, and Marty Bahamonde.

In a July 19, 1990, letter to me from our distinguished colleague, Congressman JIM BUNNING, a former pitcher for the Phillies, he said,

The charitable events planned for the week sound so exciting that I'm tempted to fly to Guam myself. With proceeds from the activities benefiting such cases as Guam's participation in senior games, high school baseball scholarship program, Little League, and a locally produced television exercise program, I encourage all sports lovers in Guam to fully support the alumni visit.

Mr. Speaker, I ask that our colleagues join JIM BUNNING and me in saluting these baseball heroes who will no doubt have a positive impact on the youth of Guam as they have had on our youth everywhere.

APPLE AND CHERRY DISASTER ASSISTANCE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. SCHUETTE. Mr. Speaker, today I am introducing legislation that will provide needed relief to red tart and sweet cherry and apple growers whose crops were devastated by abnormal weather conditions during the 1990 crop year. The window of opportunity for growing a successful crop is extremely short. Unfortunately, this last year that window of opportunity was plagued by adverse weather which consequently destroyed the fruit.

The legislation I am introducing will extend the Disaster Assistance Act of 1989 to include those apple and cherry growers who were devastated by the abnormal weather during the 1990 crop year. Not only would producers be eligible for disaster assistance for the fruit lost, they would also have funds available to replace trees that were damaged as a result of the disaster.

In particular, Michigan apple and cherry growers will have a very lean year at best. Red tart cherry production potential is 275 million pounds annually; it is predicted by the U.S. Department of Agriculture [USDA] that production will be 175 million pounds. Under the disaster conditions of 1989 the production of cherries was 190 million pounds, substantially higher than this year's crop. Apple production in the State of Michigan is also down from a potential of 30 million pounds to 19.8 million pounds for crop year 1990. In 1989, the crop yield was at 23 million pounds, again that crop year is higher than 1990.

Other areas of the country which produce apples and cherries were affected by the abnormal weather conditions as well as Washington State and Oregon in particular. In fact, these industries as a whole have been through extremely hard-times. Apples were severely hurt by the Alar scare in 1989. Apple prices dropped by nearly half and have not recovered fully. Adding to the Alar scare, disaster conditions that have prevailed since 1988 have furthered the industry's attempt to regain market stability.

Mr. Speaker, I believe that the apple and cherry industry need assistance to overcome the latest perils that have once again impaired their crops. My legislation will help them overcome their crop losses.

STUDENT LOAN DEFAULT DIFFICULTIES

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. WILLIAMS. Mr. Speaker, I rise today concerning a very serious development in the student loan program. This development has been the subject of much speculation and news coverage over the past week. It has been the cause of a great deal of uncertainty and some confusion in the student aid community.

The largest guarantor of Federal student loans, the Higher Education Assistance Foundation [HEAF], is experiencing severe financial problems. During the past several years HEAF has guaranteed a large number of student loans to very low income students. Thus, a large portion of its loan portfolio comprised loans made to students attending trade schools. These loans are now entering repayment, and many of them, instead of being repaid, are going into default. That is making it increasingly difficult for HEAF to continue as a solvent guarantor in the loan program since so much of its loan portfolio, because of reduced Federal reinsurance provisions, is not 100 percent guaranteed.

Some claim that HEAF made some bad business decisions in exposing such a large portion of its portfolio to risky loans. These critics note that HEAF failed to move quickly enough to take corrective action when defaults began to soar.

There is some Federal responsibility in this as well. Under the budget cutting and deregulation frenzy of the 1980's, the ability of the Department of Education to monitor student loan programs and to move quickly to curb abuses was seriously undermined. In 1981, the Department of Education conducted almost 2,000 reviews of schools, lenders and guaranty agencies participating in the student loan program. These reviews are the Department's chief method of looking at what is happening with student aid programs and anticipating problems before they grow to crisis proportions. By 1985 those reviews had been reduced to 1448; by 1988 to less than 1,000. It is no wonder that problems began to develop. It did not take too long for those who wanted to abuse the system to do so with impunity, because they realized that an understaffed Department of Education was not going to catch them.

However, the situation now facing HEAF is so critical that we do not have the luxury of finger pointing or blame assessment. The task at hand is to solve the problem and protect the loan program for those students who are relying on it to continue their education this fall, and to do that as quickly as possible. The Department of Education continually assures me that it is moving to achieve that solution. The Department must also reassure students, parents, schools and lenders that it will act to preserve the student loan program and to protect its integrity. With so much confusion and uncertainty, the Department's assurance would be timely and welcomed.

I want to assure my colleagues that the Education and Labor Committee will be monitoring developments in this matter as closely as we possibly can. Our concern, however, is not new. We have been reforming the loan program for several years, and we have acted to solve problems when we saw them developing. Let me give you just a few examples of what we have done.

In 1988 I convened a group of student aid experts from around the nation to give us their advice on ways to reduce defaults in the student loan program. That group, known as the Belmont Task Force, made approximately 40 recommendations for change. Most of these changes have been implemented by the Congress and the Administration. I submit a copy of the Belmont Report for the RECORD. I have included its text at the end of this statement.

That same year, 1988, the House initiated legislation that is now law tightening up the student loan eligibility process. We also developed a major default reduction bill—based in large part on the recommendations of the Belmont group—that was scheduled for floor action. We deferred action on that bill at the request of then newly appointed Secretary of Education Lauro Cavazos so that he could have the chance to develop his own regulations addressing the issue of loan defaults. Those regulations were developed in early 1989. They were consistent with the legislative effort we were proposing, and we quickly embraced them. They are now in place, and they are working. More than 1,000 schools have had to change their refund and student loan disbursement policies. Almost 1,700 schools have been forced to implement default management plans. More than 5,000 schools now have to disclose job placement rates to incoming students. And 638 schools have had student aid eligibility termination proceedings initiated against them by the Department of Education.

Last year, as part of the budget reconciliation effort, we developed student loan

changes that further restricted program eligibility, and provided new authority to the Secretary of Education to address problems in the loan program and to move quickly against those who would abuse the program. These new initiatives went into effect the first of this year, and preliminary reports indicate that they are having a definite impact. From these reports it appears that overall borrowing in the loan program has dropped 45 percent from last year's level, with a 64 percent reduction in borrowing by students attending trade schools. And a recent study reports that there has been an 11 percent decline in trade school enrollment and a 15 percent decline in the number of these schools that are accredited. What we have done is working. The Congressional Budget Office estimates that savings from our action will result in $40 million in savings this year and will save $500 million over the next 5 years.

So, when we have seen a problem developing, we have acted. And we will act again. Last week we pased H.R. 5115, the Equity and Excellence in Education Act of 1990. When we go to conference with the Senate passed version of that legislation, we will have the chance to adopt further default initiatives, if that is warranted. Until then, the course of action is to continue encouraging the Secretary of Education in his efforts to resolve the financial crisis facing HEAF in a way that preserves the integrity of the program and at the same time protects this vital source of student aid for our Nation's students.

STAFF REPORT ON THE GUARANTEED STUDENT LOAN PROGRAM BELMONT TASK FORCE RECOMMENDATIONS

(Prepared for the Subcommittee on Postsecondary Education of the Committee on Education and Labor)

[Graphs not reproducible in the Record]

MESSAGE OF AUGUSTUS F. HAWKINS, CHAIRMAN, EDUCATION AND LABOR COMMITTEE

I commend my colleague, Congressman Pat Williams, Members of the Task Force, and staff who participated in the meetings for their fine work in producing a document which will assist the Committee in responding to the problem of student loan defaults.

In organizing the Belmont Task Force, Congressman Williams included staff members of the Committee, representatives from the higher education community, student associations, the banking community and State guaranty agencies. Task Force members were asked to review more than one hundred recommendations that had been made to the Subcommittee regarding ways to reduce defaults in the Guaranteed Student Loan Program. This final report, which contains many fine suggestions, represents the framework for developing a comprehensive response to this growing problem.

This Committee Print shows the wide-ranging discussions which were held, and points the way to some specific legislative alternatives.

BELMONT TASK FORCE RECOMMENDATIONS (FINAL REPORT, FEBRUARY 1, 1988)

Recognizing that the increasing costs of student loan defaults represent a serious threat to public support for federal student financial aid, Congressman Pat Williams, Chairman of the House Subcommittee on Postsecondary Education, convened a Task Force of individuals knowledgeable about the GSL program. Represented among the members of the Task Force were lenders, guaranty agencies, institutions, students, financial aid officers, secondary markets, Congressional staff, and the Department of Education. The Belmont Task Force, which met January 12 through January 14, 1988, at the Belmont House in Elkridge, Maryland, received three tasks from the Chairman.

First, the Task Force was asked to take a closer look at the GSL program as a social program and to consider how this program has evolved since it was created. Many factors have come to affect the operation of this program . . . some intended and others not. And with some of these changes, have come additional costs. The Task Force was asked to determine if the costs of the GSL program still measure up, in a general sense, to the social purpose of the program.

Second, Congressman Williams asked the participants to determine what we need to know about the default problem. For example, do we know what is the true default rate? Can we quantify what the actual cost of this program is to the federal government? How much private capital would be available to students without a federal guaranty? What aspects of this program do we need to better understand in order to produce a viable solution?

Finally, the Task Force was asked to explore how the GSL program might be managed to reduce the default rate. The Subcommittee has received numerous suggestions from the community, from Members of Congress, the General Accounting Office, and the Administration. The Conferees were asked to review these recommendations and reach consensus on those that might be helpful in reducing default costs.

What follows is the response of the Task Force to the charges presented to them by Congressman Williams.

THE GUARANTEED STUDENT LOAN PROGRAM

The purpose of the Guaranteed Student Loan Program, originally established as a loan of convenience for middle-income students, has changed significantly in the last decade, becoming the primary federal program for access to postsecondary education by low-income students.

The magnitude of the costs of student loan defaults has been the object of growing scrutiny by both the public and the Congress. These costs recently have been escalating dramatically, and it is estimated that approximately half (47 percent) of the FY88 Guaranteed Student Loan Program (GSL) costs of $3.4 billion will be used to pay default claims. According to the Department of Education, the $1.6 billion in FY88 default costs represents a 25 percent increase over FY87 default costs. Furthermore, as Figure 1 illustrates, there has been dramatic growth in total annual loan volume, up from $3.0 billion in 1979 to $8.6 billion in 1986, and this has resulted in large increases in loans entering repayment status and thus becoming subject to default.

It is important to place the gross default rate in perspective. Increased borrowing, particularly by low income students, results in part from the failure of appropriations for Pell Grants and title IV campus-based aid programs to maintain pace with inflation. Further, recent borrowers have come increasingly from low-income families due to the GSL needs test imposed by recent legislation. This trend is likely to continue under current policy. Existing studies indicate an inverse relationship between borrowers' income level and the propensity of the borrower to default. It is also important to note that the gross default costs cited above do not include subsequent collections through the IRS tax refund offset program and other collection programs.

While the dollar volume of defaulted student loans has grown every year, the percentage of loan volume in default has not changed greatly. Data from the Department of Education indicate that the rate of default has decreased from 10.0 percent in FY78 to 8.9 percent in FY85. Therefore, the Task Force participants note that the increase in default costs are likely due more to increase in loan volume than to increases in the default rate. Loan volume is continuing to increase and data for FY87 show an overall 7 percent increase in total loan volume between FY86 and FY87 for the GSL loan program. Because of these continued increases in loan volume and the relationship between increases in that volume and subsequent increases in default costs, the GSL program's default costs are likely to increase even more in the future.

The GSL program, authorized by title VI of the Higher Education Act, is an entitlement program and provides three different loans: regular GSLs, Supplemental Loans for Students (SLS) and Parental Loans for Undergraduate Students (PLUS). Regular GSL's are low-interest loans originating in the private sector but subsidized by the Federal Government, and all applicants now must meet a needs test. The remaining two loans are unsubsidized and non-needs tested. Since its creation, the GSL Program has generated an estimate 35,055,000 loans and has leveraged approximately $67.7 billion in private loan capital.

No Federal funds are used for GSL loan capital, only for program and default costs. Instead, commercial and nonprofit lenders provide the loan capital in return for assurances by the Federal Government that it will guarantee the loan's repayment as long as the lenders and the guaranty agencies fulfill their loan collection responsibilities in accordance with federal regulations. Lenders do, however, receive payments from the federal government to encourage their participation in the loan program.

Pell Grants: In contrast to the GSL Program in the Pell Grant Program, which was conceived as the foundation for all federal student assistance for needy students from low-income families. All students meeting certain need criteria are eligible to receive Pell Grant assistance, limited by the amount of annual appropriations made available to the program and the number of applicants eligible to receive funds under this grant program. In addition, no student may receive a grant in excess of 60 percent of the cost of education at the school the student attends.

The Pell Grant was first authorized in 1972 with enactment of the Basic Educational Opportunity Grant program. The Pell Grant program was established to assist needy students from low-income families. It was envisioned as the floor above which a student's remaining need could be met with other forms of assistance. In the original legislation the maximum Pell Grant award was $1400; because of pressures in the appropriations process, increases in the maximum award which have been authorized in the statute have not been funded, and the maximum award has not kept pace with increases in the CPI or college costs.

The Pell Grant maximum award, which will be $2200 in FY88, has increased only 26 percent since 1980 even though the CPI will have increased over 40 percent; a $2200

maximum award will cover only 29 percent of average college costs. Funding for the Pell Grant program has increased 78 percent during that period largely because of increasing numbers of very low-income students, and appropriations have not been available to increase the maximum award annually as well as fund the increase in low-income students. See Table 1.

TABLE 1.—PELL GRANT: SELECTED HISTORICAL STATISTICS

Fiscal year	Appropriation (in thousands)	Grants to receipients (in thousands)	Number of recipients (in thousands)	Average grant	Valid applicants	Maximum award
1973	$122,000	$47,602	176	$270	482,331	$452
1974	475,000	356,353	568	627	1,114,084	1,050
1975	840,200	925,882	1,216	761	2,178,696	1,400
1976	1,325,800	1,475,281	1,944	760	3,408,718	1,400
1977	1,903,900	1,512,620	2,028	746	3,621,641	1,400
1978	2,140,000	1,540,465	1,918	803	3,401,428	1,600
1979	2,431,000	2,357,178	2,733	862	3,868,429	1,800
1980	1,578,000	2,387,181	2,858	835	4,475,762	1,750
1981	2,604,000	2,285,149	2,779	826	4,614,590	1,670
1982	2,419,040	2,424,660	2,608	930	4,709,225	1,800
1983	2,419,040	2,792,116	2,849	980	4,955,775	1,800
1984	2,800,000	3,035,191	2,830	1,073	4,962,191	1,900
1985	3,862,000	3,596,011	2,907	1,237	5,187,118	2,100

Source: Department of Education, Summary Book for 1985–86. Based on data available as of March 3, 1987.

Creation of the GSL program policy: In 1965, when Congress enacted the Higher Education Act, it was responding to three significant issues. In addition to providing institutional assistance to help with the large increases in the numbers of students eligible to attend college, the Act was designed to provide financial assistance to help low-income individuals cope with increases in the costs of attending college. It established Educational Opportunity grants for students from low-income families as a way to ensure that these students had access to postsecondary education opportunities. As Carl Perkins said when the bill was debated on the floor, "these opportunity grants will, for the first time, make it possible for high school graduates from the lower income families to attend college as first-class students. The grants are directed to a segment of the population which thus far has been largely excluded from . . . higher education."

In addition, the Act established an interim program of federally guaranteed, reduced-interest, student loans [the FISL program which is now being phased out; no new loans are being made] and it stimulated and assisted the establishment of similar State guaranteed student loan programs [the State Guaranty Agency program]. The Guaranteed Student Loan Program was intended to serve students from middle income families who might not qualify for existing but limited aid provided under the National Defense Education Act or the new educational opportunity grants. As Representative John Anderson said when the bill was debated on the floor, "I am pleased with the expansion of existing student loan programs . . . These programs have proven . . . to be quite successful and are fiscally sound. However, their scope is limited. Present programs are restricted to only the neediest students. A more comprehensive program that would cover all who have a legitimate need is badly needed . . . The HEA of 1965 will make this possible."

Congresswoman Edith Green, who was the principal author of this legislation concurred with Anderson: The Guaranteed Student Loan program ". . . is designed primarily for those students who come from middle-income families—those students who have not up to this time been able to obtain loans under the National Defense Education Act."

And, if one examines other statements and committee reports, it is clear that the Congress intended to help improve student access to postsecondary education by creating a two-pronged approach: a loan program to provide assistance to middle-income families and a grant program to help low-income families. Further, it was the intent of the Congress that these two initiatives act in tandem, and not in isolation.

Changes in the GSL Program Policy: In the 22 years since the dual grant/loan policy was established, there have been changes, stimulated by economic and ideological forces. One significant change was enactment of the Middle Income Student Assistance Act in 1978 which expanded participation in the GSL program by eliminating any determination of need. However, since 1981 there has been a significant reduction of middle-income participation in the GSL program. The 1981 Omnibus Budget Reconciliation Act restricted eligibility for students whose annual family income was $30,000 or higher; students from these families had to undergo a needs test, and in 1986, the law was changed again to require that all regular GSL borrowers undergo a needs test. The effect of these two provisions has been to significantly restrict the regular GSL eligibility of students from middle-income families. This fact, coupled with continued postsecondary cost increases and no significant growth in the size of Pell Grant awards, has resulted in increasing numbers of students from low-income families taking out loans.

Figures 2–5 provide data to illustrate this change in reliance on Pell Grants. These data, taken from the files of UCLA's Higher Education Research Institute reveal some significant trends in student financial aid between 1978 and 1985. While student reliance on parental support has remained fairly steady, there has been a sharp drop in the proportion of freshmen receiving Pell Grants (from 31.5 to 19.9 percent), and a corresponding rise in freshman reliance on Guaranteed Student Loans (up to 23.0 percent in 1985, from 10.4 percent in 1978).

Similarly, a recent study tracking the impact of changes in Federal student aid at private Historically Black Colleges reveals that in 1979–80, of the total aid received by students at United Negro College Fund institutions, 42.2 percent was from Pell Grants and 3.8 percent was from GSLs. In contrast, in 1984–85, at the schools studied, the percent of Pell Grant aid had declined to 27.6 while reliance on GSL aid had increased by 849 percent, to 26.3 percent of total aid.

As a consequence of these changes, neither the original policy that established the GSL program not the original population intended to be served by that program is dominant. Instead, more and more students, especially students who have very limited resources, are taking out loans. Stated another way, for students with limited resources, loans have become the primary means of financing a college education.

WHO IS IN DEFAULT?

Contrary to popular perception, the typical defaulter is not a "deadbeat" who refuses to pay, but appears to be a dropout who is unable to pay. Defaulters tend to be first year students, from low income and minority backgrounds, with a small loan balance (90 percent less than $5,000) who did not complete much more than the first year, have borrowed only once, receive no or little assistance from parents in repaying, are likely to be unemployed when the loans comes due, and never makes a first payment. The present default problem is thus predominantly structural. These costs are not likely to be recovered under current terms of the program.

When defaults are discussed, there is a tendency to view those who default as "deadbeats", and inevitably anecdotes of high-income professionals who have refused to repay their loans will be provided whenever the subject comes up for discussion. The popular conception of someone who defaults then is that of an individual who elects not to repay his or her obligation. But is this really the case with most defaulters? The data do not support this view.

Characteristics of student loan defaulters: Current research on the causes of student loan defaults is incomplete and does not provide a definitive understanding at this time. However, several state agencies have studied this issue and their data are instructive. According to the Pennsylvania Higher Education Assistance Agency (PHEAA), data from research reports and state data files show that very few borrowers default on loan balances of more than $5,000. In Virginia only 10.6 percent of all defaulters had loan balances greater than $5,000. In Pennsylvania 10.8 percent of all defaulters had such higher loan balances. In California only 4.8 percent defaulted on loan balances of $5,000 or more. In Vermont 80 percent of the defaulters had obligations of $3,000 or less. In New York the average defaulted loan was $3,183 and in Illinois it was almost $2,900. The Department of Education has recently estimated that the average FY86 defaulted loan was $3,260. Clearly the loans on which most borrowers default are small balance obligations.

Perhaps more helpful in understanding who defaults are studies of borrower characteristics that consistently show that stu-

dents from very low-income families have a high probability of defaulting. For example, about a third of the Virginia and Pennsylvania defaulters reported incomes of less than $5,000 upon receipt of a loan. Moreover, 6.3 percent of the Virginia and 20.3 percent of the Pennsylvania defaulters reported *no income* when they applied for a loan. These state findings are consistent with a national sample of defaulting borrowers which revealed that 12.1 percent had no family incomes and 28.6 percent had incomes under $5,000.

There is also a very high correlation between a borrower's unemployment and defaulting on a loan. According to a 1984 study by the New York State Higher Education Service Corporation, 66 percent of those in default were unemployed at the time their loans came due. Data from the New York Agency also revealed a strong inverse relationship between default and the number of years spent in school.

Borrowers who last borrowed as freshmen, including students enrolled in one year vocational programs, had the highest default rate, 14.2 percent, and this rate dropped steadily as class level rose. These borrowers received little assistance in repaying their loans from their families. However, students who repaid their loans reported receiving family assistance that was three times as large as the proportion of defaulters who reported such help.

Similar data are found in the recent study by the California Student Aid Commission. Specifically, students who borrow only in the first year have a higher probability of defaulting on loans, and most defaulters have borrowed only once. Morever, California's defaulters consistently have lower family incomes than repayers. For example, 66 percent of all defaulters had family incomes of less than $10,000 when they took out their first loans.

The California study also reported that while students from all ethnic minority groups borrowed more frequently than whites, black students were the most frequent borrowers. And Wilms and his colleagues in a 1987 study of California institutions (Whose Fault is Default?) reported that black students have the highest probability of defaulting. Wilms et al. also reported that dropping out was the single most potent predictor of default status.

Collectively these findings indicate that a significant number of students who default are members of ethnic minority groups and come from low-income familes who are unable to help these students finance their educational costs. Many of these students do not complete the program of study they selected; they drop-out and find employment difficult to obtain. Therefore, the finding by the Virginia Education Loan Authority that a significant portion of these students never make the first payment on their loan is not surprising. Based on the findings of the several studies cited above, it seems reasonable to estimate that no less than one out of every three defaulting borrowers comes from an extremely limited financial circumstance. When these studies were conducted in the early 1980s, borrowers with no incomes or with incomes of less than $5,000 represented at least one-fifth of the then current GSLP borrowing population. It is likely that this proportion has not diminished but increased since that time.

Structural Defaults. If that assumption holds, then it would not be unreasonable to ascribe some portion of the present default costs to the social costs of maintaining the GSL Program. The present evidence points to a shift in the population using the GSL program. As part of this shift, individuals with very limited resources and academic preparation are taking out loans, enrolling in an educational program, failing to complete that program, and subsequently finding themselves unemployed. These students represent what the Task Force participants have chosen to refer to as Structural Defaulters. If one can accept this line of reasoning, then it follows that the present default situation includes a significant portion of unrecoverable costs associated with structural defaults. What is needed to correct this situation is a restoration of the original policy intended by the Congress in 1965 and 1972, the concurrent and balanced access provided to all by the Pell Grant, the GSL Programs, and other title IV aid programs.

HOW CAN WE REDUCE DEFAULT COSTS?

The only way to accomplish a major reduction in the default rate is to restrict access to high-risk students until they have had a chance to demonstrate their ability to make satisfactory academic progress. However, this would result in a denial of educational access for such students, unless substantially higher appropriations for Pell Grants and SEOGs are assured for them, as well as increased funding for special service programs which encourage their retention.

The default rate can be reduced by eliminating those students most likely to default. Prohibiting lower income and minority group students in their first year of postsecondary education will lower default rates dramatically. Under the current limited availability of alternatives. Such an approach would effectively end the national policy of not having income as a barrier to attending college.

A better way to reduce default rate and not loan to those who are most likely to default is to return to the logic of the original congressional policy: grants for students from low-income families and loan assistance for students from middle-income families. If adequate Pell Grant assistance were provided to students from low-income family circumstances, these students would not need to borrow until they have had the chance to demonstrate their ability to make academic progress, and they would need to borrow considerably less. Consequently, default costs would be reduced.

Furthermore, reliance on such a policy would mean that the risk associated with making loans to students would be diminished since students who may be characterized as "high-risk borrowers" (i.e. students who are more likely to default on their loans) would be less likely to be in the loan pool. Therefore, in addition to reducing default costs, this policy would contribute to reductions in program management costs.

The Task Force participants therefore recommend to Chairman Williams and the Subcommittee Members that Congress consider significantly increasing the maximum Pell Grant award for eligible students. Task Force participants noted that a more adequate Pell Grant award in the first or second year of study should be the sum of the maximum Pell Grant award plus the maximum GSL loan amount for the first year of school. Larger Pell Grant awards for most needy students would reduce substantially the dependence of high risk, low-income students on borrowing and, for many, would eliminate borrowing altogether.

In addition, because of the important role that the Student Support Services program, popularly known as the TRIO programs, play in encouraging disadvantaged students to remain in school, the Task Force participants recommend significant increases in funding of TRIO programs and other supporting services. The participants call to the attention of Congress the data collected by the Department of Education that demonstrates that participation in the Student Support Services program more than doubles a disadvantaged student's likelihood of remaining in college. Similarly, the participants reaffirmed the important role played by the Supplemental Educational Opportunity Grant program and the State Student Incentive Grant program in ensuring access and choice and the need to increase funding for these programs as well.

Depending on how it was structured, the potential costs of such a Pell Grant proposal are high. A rough estimate indicates an increase over the present $4.26 billion of between $3 and $7 billion, depending on how many students would receive increased grant awards and how far up the income spectrum the increased grant awards would be distributed. There would be, however, corresponding savings in the GSL programs' default costs as well as savings associated with reduced risk. Finally, there are program management initiatives, to be discussed below, that the Task Force participants believe will reduce program costs if enacted. The Task Force Members are aware that achieving the necessary funding levels required by this recommendation will be difficult. However, the costs associated with establishing effective social policy are more than offset by the positive contributions of those assisted to the nation's overall social and economic advancement.

PROGRAM MANAGEMENT INITIATIVES

In addition to proposing the restoration of original Congressional policy with respect to the purpose of the Pell and GSL programs, the Task Force participants reviewed numerous proposals that had been provided by a variety of sources. While it was the consensus that no amount of legislation or regulation would reduce the structural default rate arising from socio-economic factors, it is believed that some changes to the program, in addition to the 26 default prevention changes made by the 1986 Amendments, would be helpful in reducing defaults.

What follows is a list of the proposals that the Task Force participants agreed would have a positive effect on the GSL program if instituted.

Lenders

Require multiple disbursement of SLS loans as required in the regular GSL program.

Require lenders to report delinquent loans to credit bureaus at 90 days of delinquency.

Require that lenders release the second disbursement of eligible GSL loans no earlier than ⅓ of the way into the loan period and in accordance with a schedule provided to the lender by the educational institution.

Authorize lenders and services to place borrowers in deferment status based on information by borrowers in order to prevent technical default. If the borrower is subsequently found to be ineligible for a requested deferment, the borrower shall be returned to repayment and the incorrectly deferred principal payments and interest shall be capitalized.

Recommend that the Higher Education Secretariate Task Force on Defaults review current provisions for deferments on all

title IV loans and report to the Congress recommendations to simplify the current system of deferments.

Clarify that no GSL may be made for an amount greater than the amount requested by the student and certified by the institution.

Recommend that lenders and services should be required to establish contact with the student during the grace period by mailing a form letter to the borrower to indicate how many more months the borrower has before the loan goes into repayment.

Borrowers

Require institutions to hold the first loan disbursement of a first year student until that individual has completed at least two weeks of classes. The institution may disburse up to 60 percent of other title IV student aid funds to students during this two week period for non-tuition and fee expenses.

Limit the number of GSLs to two in a calendar year, where the borrower is otherwise eligible.

Require that a student's eligibility for a GSL be determined before such student is eligible for a SLS or in the case of an independent student, a PLUS.

Amend Sections 484(d) (2) and (3) of the HEA, [Ability to Benefit] to require *both* testing and counseling for students who are admitted to a program under provisions contained in this section.

Modify title IV loan repayment provisions to prevent defaulters from entering repayment status at an interest rate that is less than the rate charged at the time of origination.

Prohibit the discharge of SLS/GSL/PLUS/Perkins Loans under Chapter 13 of the Bankruptcy Code, except under due hardship.

Require all GSL loan application forms to include the borrower's drivers license identification number.

Department of Education

Modify the Act's Limitation, Suspension and Termination (LS&T) provisions to include the following:

Prohibit any LS&T actions that are based solely on the default rate of the institution.

Require the Secretary to develop standards for the review of institutions that shall consider: the high-risk nature of the student body population and its historical propensity to default, the efforts of the institution to reduce defaults and the economic and employment condition of the area(s) served by the institution.

Require the Secretary and the guaranty agencies to apply standards that provide assurance of non-discrimination based on institutional type, control or tax status.

Allow the Secretary and the guaranty agency to impose fines on lenders and education institutions for willful errors in administering federal student assistance programs, in addition to requiring such errors to be cured or remedied. A schedule of such fines shall be defined in regulations and shall be based on the magnitude and the recurrence of such errors.

Require the Department to develop an annual plan for conducting program reviews of institutions, lenders, and guaranty agencies. This plan shall be published in the Federal Register for comment. The Department shall report to Congress the results of these reviews. A state guaranty agency shall focus its program review activity on institutions and lenders who, in the judgment of the guaranty agency, exhibit characteristics which indicate that they may be experiencing difficulty in administering the GSL program.

Require the Department to submit to Congress by December 31, 1988, a report on the effectiveness of the changes made to the Guaranteed Student Loan program since 1985, and then report to the Congress annually.

Amend Section 485B of the Higher Education Act to require the Secretary to develop the National Student Loan Data System, and provide an authorization of $7 million for its development. This system shall be developed in consultation with guaranty agencies and after 12 months of operation, the Department of Education and the Guaranty agencies shall determine whether it is feasible for guarantors to use the system for verification on all loans. According to the Boeing Report, use of this system would result in savings in excess of the developmental and operational costs.

Establish a set of common definitions for defining defaults and require that the definition be used by the Department of Education and participants in the program for all calculations and actions. Such definitions should cover gross and net calculations for both annual and cumulative default rates. Require that any presentation by the Department of Education of default rates or costs, particularly comparing different year data, use these consistent definitions and calculations.

Require the Department of Education to develop and implement a pilot program to study the feasibility of requiring borrowers to begin monthly repayments of $10.00 a month 30 days after the loan is disbursed for the in-school and grace periods.

This payment will be collected by the institution and then forwarded to the lender to be credited as a pre-payment to the student's loan principal.

The institution will monitor the students' repayment schedule and in the event that the student fails to make a timely repayment, the institution shall provide additional borrower counseling.

Guaranty Agencies

Authorize the state guaranty agencies to utilize skip tracing tools to trace defaulters, if necessary by limited federal preemption of state laws which prohibit access to such records. Available records shall include motor vehicle department records, state tax, labor, employee registers, unemployment commissions, and licensing bodies.

Require Guaranty Agencies periodically to provide institutions with a list of defaulted borrowers so that institutions have the opportunity to provide additional information that could help locate the student.

Require Guaranty Agencies to provide preclaims assistance.

Require the Guaranty Agency to remit collections owed to the Department of Education within 30 days of the receipt of the funds by the agency.

Institutions

Require the collection of additional information on borrowers, including family and personal references. The institution would also be required to recheck these references and such additional information at the time of the exit interview.

Recommend that each institution conduct an entrance interview for all first time borrowers before the first check is disbursed. At this time, the student should sign a "rights and responsibilities" contract, and the institution should encourage that each student re-sign the "rights and responsibilities" contract during the exit interview. Counsel students in this interview that loans are to be used only as a last resort to financing their education.

Authorize institutions to withhold the academic and financial aid transcripts of borrowers who default on any title IV loan.

Require institutions to withold the second and subsequent disbursements of a student loan until after the student has enrolled for that term or period for which that portion of the loan is intended.

Allow institutions to cancel or reduce the disbursement of the second installment of a GSL for students who receive additional financial aid from other sources. Such funds shall be credited to the students' loan principal in the form of a prepayment.

Require that no institution be certified or recertified for program eligibility in title IV of the Higher Education Act if such institution has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the prior 12 months; or has withdrawn from accreditation voluntarily while under a show cause or suspension order during the prior 12 months.

Other

Request that the General Accounting Office, in its upcoming study of the effectiveness of the IRS check-off provisions, study whether a requirement should be imposed that employers be authorized to collect loans through garnishment proceedings after notification by the IRS, and the administrative problems and effectiveness of such a requirement.

Recommend to the House Committee on Ways and Means and the Senate Finance Committee that the IRS income tax offset program for defaulted student loans be made a permanent provision in the law.

Deny title IV eligibility to any institution which uses non-employee personnel working on a commissioned basis to recruit students.

Amend Section 491 of the Higher Education Act to require the Advisory Committee on Student Financial Assistance to review the provisions regarding disclosure and borrower debt counseling provisions in law and report to the Congress regarding not only the effectiveness of these provision but also ways to simplify the requirements for disclosure.

TRAINING

In addition to the program management initiatives discussed above, the Task Force participants believe that the Department of Education is not providing sufficient training to individuals who work with title IV programs. The participants are aware that the Department requested additional funds in its most recent budget but only as part of its total Salary and Expenses budget. Unfortunately, these funds were not provided. The participants note the numerous changes that have been made in the law by OBRA, COBRA, the 1986 HEA Reauthorization, and the HEA Technical Amendments of 1987. These changes have added significantly to the level of complexity of administrating the student aid programs. Therefore, the participants urge the Congress to enact a provision that would authorize specific funds for training of financial aid administering the student aid programs. Therefore, the participants urge the Congress to enact a provision that would authorize specific funds for training of financial aid administrators, lenders, departmental personnel, including regional personnel, and others who work with title IV of the

HEA. The participants believe this action would be helpful to efforts to reduce defaults.

DEFINITION OF DEFAULT

Finally, the use of different indices or measures of default is confusing to Task Force participants, to those who work with the Student Aid programs, and to the general public. The Department of Education has reported defaults using several different indices. Their gross cumulative default rate reflects the total of all defaulted loans divided by the total of all loans that have entered repayment. The Department also uses a net default index which adjusts the cumulative rate to reflect subsequent federal and state collections on loans that are in default. Most recently, the Department has created a cohort default rate which will reflect the number of loans which were in default in two succeeding years divided by the number of loans which entered repayment status in the first of the two years being used. In addressing the question of how the student loan default rate should be defined, many observers have suggested adopting a definition enabling a better comparison between student loan defaults and other types of loans. It is likely that several measures of default will be helpful, and the participants urge the Congress to adopt a consistent set of definitions that describe precisely how defaults must be calculated so they can be uniformly used by all program participants, and which will also provide information about the effects of efforts to reduce defaults.

CLOSING NOTE

In closing, Task Force Participants again caution against a belief that a major decrease can be made in student loan default rates as long as loans are a substantial source of financing for large numbers of the highest risk students from disadvantaged and minority populations. The experience of institutions with the NDSL loan program and who serve a predominantly disadvantaged student clientele shows substantial difficulties in getting rates down even with tough due diligence practices.

The experience to date indicates that precisely for those for whom the benefits of education are the greatest are those who, if there is no alternative to taking a loan, the likelihood of default is also the greatest. Strict and tough management of pre-loan counseling and of collections can not change the characteristics of the populations which have the greatest difficulty in paying off a loan.

The social policy of equalizing educational opportunity by making financial help available to students whose families can not afford to send them to college will always require the greater risk of supporting students who will not successfully complete their work. The costs associated with those risks are no greater than the costs of losing the capacity of those who do succeed and make a return on the investment in their education. As much as one-third of our future workforce will be minorities. Disadvantaged white students added to this third means that upwards of 40 percent or more of the age groups out of which we must get a college trained workforce will be similar to those now showing the higher default rates. The nation will have to get these groups well educated for its own good. If they have to borrow to finance their education, default rates will rise. If alternatives to loans are available for financing their education then the volume of loans in these high default prone populations will decline as will the cost to the government of loan defaults. These considerations are behind our recommendation on increasing the Pell grant award to a level for first year students which makes loans unnecessary.

BELMONT TASK FORCE PARTICIPANTS

Robert Atwell, President, American Council on Education.

Stephen Biklen, Vice-President, CitiBank, New York State.

Stephen Blair, President, National Association of Trade and Technical Schools.

Elias Blake, Howard University.

William Clohan, Association of Independent Career Schools.

John Dean, Consumer Bankers Association.

Edward Fox, President and Chief Operating Officer, Student Loan Marketing Association.

Jean Frohlicher, Executive Director, National Council of Higher Education Loan Programs.

Ken Howard, Director of Financial Aid, University of the District of Columbia.

Richard Jerue, Vice-President for Governmental Relations, American Association of State Colleges and Universities.

Ronald Kimberling, Assistant Secretary for Postsecondary Education, U.S. Department of Education.

Samuel Kipp, Director, California Student Aid Commission.

William Lannan, Executive Director, Montana Guaranteed Student Loan Program.

William Mann, Chancellor, Metro Community Colleges, Kansas City, MO.

Dallas Martin, President, National Association of Student Financial Aid Administrators.

Arnold Mitchum, Executive Director, National Council of Educational Opportunity Associations.

Mary Preston, Legislative Director, U.S. Student Association.

Kristen Rupert, Assistant Vice-President, Bank of Boston.

Julianne Still Thrift, Senior Vice-President, National Association of Independent Colleges and Universities.

Marcia Vance, Director of Student Financial Aid, Burlington College.

IN HONOR OF 65 YEARS OF SERVICE BY THE JAMES E. SCOTT COMMUNITY ASSOCIATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I call upon my colleagues in the House of Representatives to join me today in saluting the James E. Scott Community Association for its 65 years of dedicated service to the people of the Miami-Dade County area. Since 1925, JESCA has worked tirelessly to serve the community, helping people to help themselves, and promoting racial cooperation and harmony for the benefit of all. To aid in that endeavor, on August 18, 1990, JESCA will be hosting its first Annual Charity Golf Classic at Normandy Shores Golf Course in Miami Beach, and I encourage everyone to support this worthy event.

Sixty-five years ago, Capt. James E. Scott, a veteran of World War I, moved to Miami and founded a community center named the Colored Associated for Family Welfare. He was dedicated to the idea of helping people to help themselves, calling his "the first organization with the executive power to unify the efforts or our people, and to harmonize their spirits, for the good of the entire community." Later, the name of this great organization was changed to the Negro Welfare Federation, but because of Captain Scott's outstanding leadership and commitment to the agency and the community, the agency was aptly renamed in his honor.

In the years since, JESCA has been unmatched in its efforts to provide traditional but essential programs to the disadvantaged and at risk family units. Today, this agency serves 7,000 people each day in 59 centers. Under the dynamic leadership of the current president, Mr. Archie W. Hardwick, Jr., JESCA is making a difference. With care, love, labor, and quiet dignity, JESCA is reaching out to save our families and protect our children from the daily threats to their minds, hearts, and lives. They are helping people realize their dreams, breaking down barriers to opportunity and growth, and inspiring us all to make a difference. As the courageous former Chairman William Allen, Jr., has said, "Against all odds, JESCA is winning."

JESCA is providing over 16 exceptional programs and services to ensure the integrity of families, including: Reaching hard-to-reach youth in strengthening their self-image and stimulating changes in attitude; educating parents to facilitate early detection of mental and emotional illness in their children; counselling high-risk families to prevent child abuse or neglect, and substance abuse; offering rehabilitative services to ex-offenders to facilitate their return to the community; offering legal and economic development assistance to low income and minority entrepreneurs; providing job placement assistance and job training to dislocated workers and the economically disadvantaged; and services for the elderly to provide employment opportunities, consumer protection, hot meals, recreation activities and companionship.

For all that they have done these last 65 years, JESCA deserves the appreciation and admiration of us all. Their leadership is a shining example of integrity and selfless dedication to improving the community and they deserve recognition and our heartfelt thanks: Chairman Charles W. George, Executive Vice Chairman Pual Cejas, Second Vice Chairman Thomas W. McAliley, Secretary Helen Ross, Treasurer James E. Lamar, Senior Vice President Dr. Clyde Pettaway, vice president for program development Dr. Wanda Cody, and, of course, President Archie W. Hardwick.

The Executive Committee is likewise full of rolemodels, deserving of praise: Mr. Dewey Knight, Jr., Mrs. Glenda G. Harris, Mr. Tony Ojeda, Mr. Ben J. Guilford, II, Mr. Ricky L. Mitchell, Mr. Otis Pitts, Mrs. Wilhelmina Rhetta, Dr. Allen Blackman, Mrs. Evelyn Simpson, Mr. Merret Stierheim, Mrs. Susan Weiner, Mr. Eric Hendon, Mr. Laurice Mayes, Mr. W. Charles Jackson, and my good friend and colleague, Hon. William Lehman.

It is indeed an honor and privilege, Mr. Speaker, for me to pay tribute to the commitment and dedication of the James E. Scott Community Association. They have brought hope to thousands, easing their hardships, and overcoming the quiet desperation of the reality of the inner city.

TRIBUTE TO THE POLISH AMERICAN FIRE COMPANY OF SHENANDOAH, PA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to the Polish American Fire Company of Shenandoah, PA. During the week of August 26 to September 2, the valiant men of this company will celebrate the 75th anniversary of the organization's establishment. They have the distinction of being the only Polish American Fire Company in the United States.

An adept, dedicated, and courageous company, the Polish American Fire Company is always there to lend a hand when the community is in need. Through its selfless endeavors, lives have been saved and valuable, sentimental, and sometimes irreplaceable property has been preserved. The company plays an active role in the community, and has earned the respect and admiration of the citizens it protects everyday.

Mr. Speaker, this company has brought inspiration, leadership, and a feeling of security to the community. The Polish American Fire Company served as the epitome of outstanding civic and community service. It is only fitting that the company be recognized for its contributions to Shenandoah, PA. Indeed, it is an honor and a privilege to congratulate the members of the Polish American Fire Company on the occasion of its 75th birthday, and thank them for their outstanding service.

ESPY HONORS PERNELLA SHORTIE

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. ESPY. Mr. Speaker, I would like to give tribute today to Mrs. Pernella Shortie, who is making sure our Federal agricultural programs are truly serving our farmers in Mississippi. Mrs. Shortie of Greenville, MS, was honored on June 13, 1990, by the U.S. Department of Agriculture for providing superior service as acting executive director of the Agricultural Stabilization and Conservation Service.

The USDA honored Mrs. Shortie by saying she deserved recognition for demonstrating dedication, knowledge, and ability in administering ASCS programs as acting county executive director.

Mrs. Shortie has worked in the ASCS program for about 9 years. Through the years, she has demonstrated true dedication to providing superior service. When first hired by ASCS, she worked as a program assistant. After serving as acting county executive director for 7 months, she has been promoted to the permanent position of chief program assistant. As chief program assistant, Mrs. Shortie oversees the administration of all programs in her office.

Besides her highly successful professional life, Mrs. Shortie has a strong family life. She is married to Jesse Shortie and is the mother of the three children, Dale, Michelle, and Tasha.

Mr. Speaker, many Government programs are slammed by the general public as being plagued with red tape hassels and unresponsive bureaucrats. I want to thank Mrs. Shortie for serving her neighbors and country well.

BOUNDARY TO BE DESIGNATED ASCE'S NEWEST NATIONAL LANDMARK

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1990

Mr. ROGERS. Mr. Speaker, have you ever wondered what sets Kentucky apart from Tennessee? What separates these two States from each other is the boundary originally known as the Royal Colonial Boundary of 1665. It is the newest National Historic Civil Engineering Landmark of the American Society of Civil Engineers [ASCE]. The boundary will be designated in a ceremony sponsored by the Kentucky section of ASCE at Cumberland Gap National Park on July 27, 1990.

Decreed by England's King Charles II in 1665, the Royal Colonial Boundary was intended to run at 36° 30″ north latitude from the Atlantic Ocean "and so west in a direct line as far as the South Seas." It was surveyed from its point of beginning to the Mississippi River in five stages between 1728 and 1821, and the surveys drew attention to the importance and to the difficulty of surveying areas for the purpose of recording ownership, cadastral surveying, so large the curvature of the Earth must be taken into account in calculations, geodetic surveying. One of the first boundaries surveyed to a prescribed geographical position, the boundary was recognized as the de facto division between north and south in the Missouri Compromise of 1820 when Congress voted to prohibit slavery north of the 36° 30″. Today, the boundary serves to demarcate Virginia and North Carolina, and Kentucky and Tennessee.

The Kentucky section of ASCE nominated the boundary for recognition as a National Historic Civil Engineering Landmark and will host the ceremony that will take place near the common corner of Tennessee, Kentucky, and Virginia, culminating in the presentation of a bronze plaque to the National Park Service by James E. "Tom" Sawyer, ASCE's president-elect. Representatives from the National Oceanic and Atmospheric Administration [NOAA], the U.S. Geological Service, and ASCE's Tennessee, Virginia, and North Carolina sections will also attend.

Initiated in 1966, ASCE's Historic Civil Engineering Landmark Program has recognized over 150 national and international landmarks. Founded in 1852, ASCE is the oldest national engineering society in the country and currently has over 100,000 members.

SENATE—*Monday, July 30, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As we begin our prayer this morning, let us remember Senator BILL ARMSTRONG, rushed to the hospital Wednesday evening but now doing very well and will soon be home. Father, we commend him and Ellen to Thee and ask Your blessing upon them.

Search me, O God, and know my heart: try me, and know my thoughts: And see if there be any wicked way in me, and lead me in the way everlasting.—Psalm 139:23, 24.

Almighty God, Lord of history, Ruler of the universe, in substantive ways the destiny of the Nation and all its parts—States, counties, cities, and citizens—rests with the United States Senate. Help the Senators comprehend this monumental responsibility. Be present in this place today, this week, and enable those who labor here to respond with truth and justice to this inordinate burden. Give to the Senators, their leaders, and their staffs wisdom and courage to do what is right and equitable.

We pray in Jesus' name, Lord of life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today, following the time for the two leaders, there will be a period for morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

At 1 p.m. today the Senate will resume consideration of S. 137, the Campaign Finance Reform Act. When the measure is considered today, it is expected that three amendments will be offered by Republican Senators. Rollcall votes are anticipated relative to those amendments.

At least two votes will occur today sometime after 7 p.m. There will be no rollcall votes prior to 7 p.m. It is expected now that there will be two rollcall votes sometime after 7 p.m. with the time to be determined by me following consultation with the distinguished Republican leader. The third amendment, it is expected, will be voted on the first thing tomorrow morning, again at a time to be determined following consultation with the Republican leader.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business until the hour of 1 o'clock p.m. with Senators permitted to speak therein for up to 5 minutes each.

Mr. MOYNIHAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN] is recognized for not to exceed 5 minutes.

INTERIM REPORT ON SOCIAL SECURITY

Mr. MOYNIHAN. Mr. President, I rise to inform the Senate that on Friday an interim report was issued by the 1991 Advisory Council on Social Security. I think it is important that we note this unusual event, an interim report from a council that is intended to provide a full report next year in that quadrennial pattern that has been in place for 20 years now.

The more disturbing fact is that this interim report is plainly political and painfully misleading.

Mr. President, the report appears at the request of the Secretary of Health and Human Services, but we may confidently assume that it is the Office of Management and Budget that is the acting party. The report appears on the eve of the time when this Senate will vote on returning the Social Security payroll contributions to a pay-as-you-go basis and cease using the present surplus as if it were general revenue.

I announced at the end of last December that I would offer this measure. In February, the interim report was requested, and it has come out just in time for the vote which will be offered on the debt ceiling extension.

The situation, Mr. President, is understood, I think, by the Senate and increasingly by members of the media and the public. It is that we are bringing in an enormous surplus from the payroll levy, a levy under the Federal Insurance Contributions Act, FICA, and using those moneys as if they were general revenues. They were designed for benefits and benefits only. They are being used for everything, as the phrase was once said, from paper clips to battleships. This is a misuse of the funds.

At one point earlier, I think it was in February, if I recall correctly, the distinguished Senator from Pennsylvania [Mr. HEINZ] and I were being interviewed on the "Today Show." I had cited an editorial in the Rochester Democrat and Chronicle, which said there was a word for what is going on, thievery. And the television interviewer asked Senator HEINZ, did he agree with the characterization of what is going on here as thievery? And he said, in his inimitable manner, "Certainly not. What is going on is not thievery; it is embezzlement."

Well, there is a distinction and I will accept it. But "embezzlement" is my colleague's term. He is on the Finance Committee with me. And it is to put an end to this embezzlement that I hope we will be voting on that issue within the next 2 weeks at some point.

Hence, the not very coincidental appearance of a document from the administration that says, "Don't touch that money. We need it for other unnamed purposes," not for benefits.

To give you a sense of the dimension, Mr. President, the time is now well past when the surplus was rising at only $1 billion a week. We are approaching the $2 billion a week period. It is the largest flow of funds in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

history of public finance, all being used to disguise the deficit, all being misused on things other than benefits.

A year ago, on March 1, 1989, we presented to the President pro tempore, the Speaker and the President of the United States, the report of the National Economic Commission. We proposed at that time that we go back to a truly balanced budget, such that this money, this surplus in trust funds, would buy down the privately held public debt. That automatically becomes an increase in savings. That is the only way you can truly save the money.

But we Democrats also said, sir, do not suppose that a Democratic Congress is going to continue to allow a $3 trillion debt to be serviced, to have the interest paid for, by a payroll levy for pension benefits. "Obscene" would be the only word for that. We said balance the budget and save the money, or go back to pay-as-you-go.

The budget was not balanced. Mr. President, it is not being balanced. The President has never proposed that it should be balanced. He has proposed, instead, to continue to use pension funds as if they were tax revenues. So we are going to have this vote.

Sir, this is an issue that affects 132 million workers, people who get paid by the hour. These are people who count their pennies, people who know what is in their paychecks. As the distinguished President pro tempore would know, we have gone through the most extraordinary generation in American economic history. Average weekly wages today, sir, are lower than they were in 1959. In the history of the American Republic there has been no such experience—30 years. They went up a little bit, they are back down. Thirty years have gone by and nothing has happened.

They are lower because the Social Security contributions are higher. They had been flat, anyway, but they are, in fact, lower by $5 or so. And we are proposing to give back to those workers who have not seen an extra dollar in their pocket, give back the money that they are putting into pension contributions, that is being taken by the Treasury and used for other things—to pay interest to the Japanese. The founders of the Social Security System would have been appalled.

More important, they would have not believed the misrepresentation in this report on page 23, in which it says:

> Under pay-as-you-go financing, the payroll tax rate would need to rise rather quickly when the baby boom retires between about 2010 and 2030. Under current projections, the OASDI, Old-Age Survivors Disability Insurance, taxes needed to match the pay-as-you-go cost, would have to rise over the 20-year period by about 50 percent. And that is the news: Pay-as-you-go means, out there, the year 2030 or so, a 50-percent rise.

The people who founded the Social Security System would not have permitted such a misrepresentation. They knew that this is a complicated subject. There has to be good faith. People have to know they are being dealt with fairly, honestly.

Of that 50 percent increase in that 20-year period, half of the increase would simply be bringing the Social Security payroll tax rate up to what it now is because we would have cut it back. Not to make that clear is dishonest. I use that word—I am conscious it is a strong word. It is dishonest. And the other half would have to be done in one way or another, regardless, under the present system or under the system which I will propose.

If you would like a contrast, sir, with integrity in these matters, I offer the testimony last February of the distinguished honorable chairman of the Federal Reserve, Dr. Alan Greenspan. This was a hearing in the Finance Committee on this issue.

What is going on at present, when the moneys are not being saved but are used for other Government purposes? What would be the effect if they were truly saved, by having a balanced budget and buying down the privately held debt?

I asked Dr. Greenspan this question:

> Can I ask you, if we continue to use the Social Security surplus as if it were general revenue and spend it on current consumption of Government, or if we just took away that surplus by cutting back the tax rate, would there be any real economic difference to our situation in the year 2030?

Here is Dr. Greenspan's response. One word. "None."

There is an honest answer.

In the year 2017 outlays for Social Security will exceed the income from the payroll contributions. At that point the Federal Government, under the present arrangements, can borrow the extra money and pay it, or it can raise general taxes to get the revenue, or it can raise the Social Security contribution rate to get the revenue. Because the revenue will not be coming in from the current 6.2 rate. There is no difference.

To suggest that, indeed, a 50-percent rise would be required is disingenuous, at best. I am glad Frances Perkins is not around to see it. I am also glad that two members of this panel dissented most emphatically and firmly, and they are representatives of the AFL-CIO. In the first case, the very able young director of the Department of Employee Benefits, Karen Ignagni of the AFL-CIO headquarters; and then the most able and influential labor, trade union leader, John J. Sweeney, who is international president of the Service Employees International Union.

They know they are dealing with working people, people who get paid by the hour and have not seen hourly wages increase in 25 years. Real median family income in this country is just now getting back to where it was in 1973. The way we maintain family income is for our wives to go to work. As more and more and more wives go to work in the United States, fewer and fewer have stayed in the labor force in Japan. We have more women in our labor force than the Japanese do. And understandably so. They have had more capable public finances; they have more responsible Government in that regard.

From the beginning, it is well remembered that the Social Security Program was proposed by the Secretary of Labor in the Roosevelt administration, Frances Perkins. And labor is always represented on these quadrennial commissions, and rightly so.

I regret there is now a body of opinion in Washington—it is the sort of thing that grows up—that looks at this surplus and says, we could return it to workers who need it, or maybe there will be a Democratic President again and then we can think of a wonderful new program to spend it on.

That was an understanding 20 years ago, or 30 years ago, but how can you tell people who have not seen an extra dollar in their pay in 30 years that I need your money because I am going to think of something wonderful to do with it? I will have a program which will hire a lot of very able people—not you, not you. The old Latin query which I believe the Presiding Officer would know is used in American common law, qui bono. Who benefits?

I see the gavel is about to come down. I see that the very able Senator from Nebraska would like to speak. I have said what I have to say. I yield the floor and thank the Chair. I look forward to hearing the address from my friend, Senator KERREY.

Mr. KERREY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY], is recognized for not to exceed 5 minutes.

EXTENSION OF MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent that the period of morning business be extended until 1:15 and that I be permitted to speak for not to exceed 15 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The time is extended for morning business until the hour of 1:15 p.m. and the Senator from Nebraska is recognized for—how long does he wish to speak?

Mr. KERREY. Fifteen minutes.

The PRESIDENT pro tempore. Not to exceed 15 minutes.

SOCIAL SECURITY

Mr. KERREY. Mr. President, let me first of all comment on the statement of the Senator from New York previously on Social Security. I have listened and have learned a great deal about the history of Social Security, the organization of it as the Senator from New York has presented it to this body.

I find myself in full agreement with his proposal to reduce the FICA tax, withholding tax on working men and women. I think the most compelling question that he asks, not just of this body but of all America, is the one of by what right and for how long are we going to make that reduction a peculiar burden on those who get paid by the hour?

In a lengthy article the Senator from New York has written recently, he presents to the American people that we are now required to collect taxes from the people west of the Mississippi River for one single purpose and that is simply to pay the interest on the national debt. Increasingly, we are going, as the Senator from New York has proposed, to people who get paid by the hour, people for whom we are constantly trying to describe new programs to help, we are constantly trying to figure out how to provide incentives for these individuals, and then we take away their incentives by increasing their taxes. It seems to me, Mr. President, that we are penalizing their behavior of trying to increase their wages by increasing their taxes.

I think, to that extent, the supply siders are correct, that if you increase the tax on working people, there is a discouragement, that tends, in fact, to run at cross purposes with another very important program the Senator from New York worked on and that is the Welfare Reform Act of 1988 where we are trying to design a way whereby people who are on welfare, on AFDC, food stamps, or on the other welfare programs, can get off. We provided extended health care and child care benefits to try to reduce the barriers, and here with these wage taxes we raise the barrier on January 1. We are discouraging them from doing the very thing that all of us talked about to try to have in the country.

With the wage force growing at 1.2 percent a year in the 1990's, this is not just a proposal to keep Social Security solvent and to keep us from digging in and using now $2 billion a week for other purposes. This is, I think, in fact, a very important economic strategy, a part of a strategy for America that goes beyond just restoring what I think is perhaps the most important program this Nation has ever established, and that is Social Security.

So I applaud the Senator from New York for coming back constantly and reminding us with an urgency that I think enables us to get over this sort of inertia of continuing the status quo.

AMERICA'S SAVINGS AND LOAN PROBLEM

Mr. KERREY. Mr. President, there has been enthusiasm lately for proposed legislation which would create a special Savings and Loan Commission. This group would investigate, analyze, and explain to the American people how we got in this mess.

As valuable as a historical evaluation might be, it is less important than knowing what is going on right now. Let me suggest that we could probably predict what such a Commission would find without doing any additional work. I do not object to such a Commission; I am just skeptical about its value to the taxpayers.

I am just as skeptical about getting much benefit from going after the crooks. It does make you angry watching smug former executives prancing around while the taxpayers pick up the tab for their gambling. However, we must be careful not to promise too much; something tells me not to get overly optimistic about the possibility of large amounts of cash rolling into the Treasury from this source.

Mr. President, I am going to ask unanimous consent to include in the RECORD a report by Mr. Bert Ely that estimates the loss due to crime. Mr. Ely has carefully analyzed the problem and calculates that less than 3 percent of the total loss is attributable to criminal activities.

Our anger should be sustained long enough to make certain that anyone who stole from the taxpayers is brought to justice. We should take care, however, that our anger does not blind us to the possibility of reducing further losses right now.

Mr. President, a more worthwhile object of our attention is this: Maximize the value of assets, franchises, and operations we are likely to seize and minimize the cost of the expenditures including the financing charges.

If we are trying to minimize the current cost to the taxpayer and maximize the value of assets, we need to take a different approach than the one being used. I believe much more could be done to reduce the overall cost to the taxpayers if we were less concerned about what happened yesterday than with what is going on right now.

What is going on right now is that we are being given information by the bureaucracies charged with administering the programs after they have filtered it for political considerations.

What is going on right now is the Board responsible for policy decisions is composed of five people dominated by three men who are too busy to give more than an hour a week to the task.

What is going on right now is that decisions are being made about expenditures, policies, and deals, over which the citizens have very little oversight or control. The decisions are made with one eye on potential adverse political reactions and one eye on efficiency.

Most significantly to the taxpayer, what is going on is the Resolution Trust Corporation is failing to control the long-term cost of the rescue. The procedures used are reducing the value for S&L charters. The financing methods are increasing the interest costs. Paradoxically, because there is fear of accusation of political favors, decisions are not being made which maximize the return to the taxpayers.

Mr. President, the condition which should cause all of us in the legislative branch to want to make changes in current procedures is the fact that we know little about what is being done right now. Let me illustrate how little we know by asking my colleagues if they feel comfortable being able to explain to their taxpaying citizens and voters how their money is being spent.

To get specific let me ask if you noticed the report in the July 24 Wall Street Journal which highlighted the status of the deficit through the month of June? June is the month when we normally run a surplus because it is the deadline for quarterly corporate tax payments.

Unfortunately, corporate tax receipts were only $18.57 billion, down from $20.88 billion last year. Overall revenue—from all those good taxpayers who President Bush now says are going to have to pay a little more—was up from $108.25 billion last year to $110.6 billion.

Normally, $110.6 billion would pay all the bills in June. It is one of the few months when the U.S. Treasury can make that claim. However, this year our expenses were up, too, from $100.46 billion last year to $121.84 billion this year. Thus, instead of running a surplus of $7.79 billion or more like we did in 1989, we ran a deficit of $11.22 billion.

I do not have to tell you what this means. We will be borrowing more money, importing more capital from the rest of the world to pay our bills, burdening tomorrow's generation with the paycheck on our current needs, and we will be asking those people who get paid by the hour to shoulder the largest piece of the burden.

You have all heard that before. You have probably explained it at home before and are accomplished in blaming it on someone else, as I am.

This year, however, things are going to be different in those townhall meetings. This year President Bush has asked us to consider a tax increase to

cover our costs. And, our summiteers will be presenting us soon with a list of spending reductions from Medicare to defense to farm program payments. These will be as difficult to explain back home as the tax increase the President now says is necessary.

And this year there is an added wrinkle which we will have to explain: The expenditures for President Bush's S&L program. In the month of June we spent $15.82 billion on that program which is why we had to borrow so much additional money.

Mr. President, I ask my colleagues: What are you going to tell your taxpayers when you are asked how this money was spent? Will you answer in general terms about crooks and swindlers? Will you describe the geographical inequities shifting the audience's attention to taxpayers in Texas and California, who are just as outraged by this situation as all other Americans?

Or will you be able to answer with the same precision that you could if the question was about some other spending program authorized by Congress. If you are asked about defense, or the space program, or the farm program, or aid to schools, you should be able to answer precisely. You may disagree with the way the money is spent; you may have different priorities; but you will not have to scratch your head and wonder where it's all going.

Will you confidently declare that we got top dollar for our expenditures? Do you know enough about the policies being developed at the RTC and the OTS to trust your own answers?

To illustrate further how Congress and the American people are in the dark allow me to describe a press conference held July 25 by Mr. Timothy Ryan, the head of the Office of Thrift Supervision. This was the quarterly report on the status of America's savings and loan institutions and the President's bailout program.

"Things are looking a little better," Mr. Ryan said. "We have got a lot more work to do, but things look a little better this year." He said that the 2,505 institutions not in the Government's hands had trimmed their losses in the first quarter of 1990, and he attributed that to the bailout effort. He said the institutions not under Government supervision posted a loss of $271 million, a substantial improvement in light of the total $6.2 billion that the industry lost in the previous three quarters. For the first 3 months of 1989, the industry had a loss of $10.3 billion.

Although Mr. Ryan went on to say that "he was not going to be Mr. Rosy Scenario" and to emphasize that it is still "a very, very tough situation," the impression given was that we are making great progress. Things are a lot better than a year ago. Mr. Ryan's presentation to the American people was reinforced by the earlier testimony of Secretary Brady before the Senate Banking Committee; he continues to assert against all other predictors that the total cost will be less than $120 billion, without interest.

Mr. President, this is not just the presentation of the Director of the Office of Thrift Supervision. This must be seen as the presentation of the executive branch to the legislative branch, and we in turn must now explain what is going on to the people in our States.

Given what Mr. Ryan withheld from his presentation, I must observe that the manner and detail of Mr. Ryan's presentation carries the unmistakable odor of something which has been intentionally covered with the film of political fears. Here is what Mr. Ryan, on behalf of the executive branch, did not tell us. Here is a short list of things which had previously been disclosed in these quarterly reports, but was left out of last Wednesday's analysis:

First, he did not tell us how much money was lost by the 350 thrift institutions which are operated by the taxpayers. His defense: It would be misleading to include the Government-run thrifts because making money is not the goal of the RTC. This is a weak rationale for the following reasons:

These S&L's are all taking deposits that are guaranteed by the taxpayers; their losses reflect on the entire industry.

The billions of dollars in subsidies that went into the 202 institutions which have been sold were not subtracted from the year to year numbers. This inclusion makes the industry look much better than it actually is. So, when taxpayers' money helps to make the numbers look good, it is included. When it produces the opposite, it is excluded.

Second, he did not tell us how many loans have been foreclosed because of nonpayment.

Third, he did not tell us how many loans are past due.

The full and honest evaluation of the possible costs associated with 621 institutions that are losing money, low on capital, and/or targeted for takeover is also lacking. Mr. Ryan merely states the obvious: The costs could escalate if the economy turns down, that is, interest rates go up, GNP growth slows.

Mr. President, I believe the Bush administration is underestimating the total cost of the problem. I believe they are intentionally understating the costs and the full range of options available to pay those costs.

Worse, the American people are not being given the full story. Information is being withheld. They are being given a political assessment of the current problem. Long-term policy considerations are being rejected for short-term political gain. Instead of telling us about even more difficult expenditures, we are told things are tough but improving.

The result is that trust is declining. The people are not going to give us permission much longer to appropriate in blank check fashion the money needed to solve the problem. And the reason for this is simple: All they have heard is political accusations and political statements designed to protect the interests of the politician.

Through investigative journalism and not from Government reports they are learning about deals which make them angry and sick. They read about a man who was indicted for a felony and barred from doing business in Alabama getting $1.45 billion in taxpayers' money after putting up $1,000 of his own money. They read about the potential of assets being sold at bargain prices to the very people who defaulted on loans.

They read about a California institution offering $153 billion for 53 branches of 1 failed institution and after the Government said "no," buying all of the branches for $60 million. They are losing confidence that it is being done right.

The pathway to making this bailout work, to restoring the trust of the American people, does not lie in the direction of looking for someone to blame. I am not happy with the pace of prosecution in the Department of Justice and am angry that shoplifters are pursued more vigorously than S&L crooks. However, if we only froth at the mouth and try to outdo one another in proposing more dire penalties for offenders, we run a serious risk of making the situation worse.

The solution is not to examine what went wrong, although that may be a worthwhile exercise for other reasons. We might be able to learn what we can do to avoid the same situation in the future, although I suspect we will discover what we know now: We were all a little negligent while some openly encouraged the greed and avarice which encouraged gambling.

Mr. President, I believe the solution is to bring in an independent board with a strong chairman and give them the authority for making policy decisions. President Bush needs to find someone like Admiral Watkins or Bill Riley or Bill Seidman, who can develop a relationship of trust with the American people. President Bush needs to shift the authority away from the Secretary of the Treasury, who is a fine man, but is too concerned with political considerations and too busy with other problems to do this job right.

I have proposed legislation which will simply replace the current policy board with one with the needed inde-

pendence and accountability. This will enable us to improve the environment between the Federal Government and the American people. With a recession building in many Northeastern States and with an economy growing at less than 1.5 percent a year and with America's economic health in question, there is an urgency to act to restore trust.

Mr. President, we are spending more money than is needed. At the same time we are creating capital shortages for housing and commercial development. We are putting pressure on interest rates and are reducing the market value of institutions we then are trying to sell.

It would be a serious mistake for the Bush administration to be so frightened by how the S&L problem might damage them politically, that time is wasted on the wrong problems.

I believe that much more could be done to reduce the overall cost to the taxpayers, if we were less concerned about what happened yesterday than with what is going on right now. Americans have ample opportunity to witness politicians polishing their skills at avoiding responsibility—they do not need, nor can they afford, to see us doing so when discussing the savings and loan issue.

In summary, Mr. President, there has been a lot of enthusiasm recently expressed by the Nation's Governors for a special savings and loan commission and legislation that would create it. This group apparently is going to investigate, analyze and explain to the American people how we got into the mess we are in now.

I suggest, Mr. President, that as valuable as that historical evaluation might be, it is less important now than knowing what is going on today, right now. Let me suggest that we can probably predict, in fact, what a commission would find without doing any additional work. While I do not object to such a Commission, and I intend to vote for the creation of it, I am just skeptical about its value to the taxpayers.

I am just as skeptical, Mr. President, though I am enthusiastic about doing it, I am skeptical about getting much benefit for going after the crooks, although it makes me angry and it makes my constituents angry, the people who have sent me here, watching smug, former executives prancing around while the taxpayers pick up the tab for their gambling.

I think we have to be careful as representatives not to promise too much. Something tells me not to get overoptimistic about the possibility of large amounts of cash rolling into the Treasury from this source.

Mr. President, I ask unanimous consent to print in the RECORD a report by Mr. Bert Ely that estimates the size of the loss in this venture due to crime.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CRIME ACCOUNTS FOR ONLY 3 PERCENT OF THE COST OF THE S&L MESS

(By Bert Ely)

Claims that crooks stole a big chunk of the money that the S&L cleanup is going to cost is pure hogwash. The accompanying analysis, titled: "Where Did All The Money Go?," suggests that crime, at most, cost insolvent S&Ls $5 billion, or approximately 3% of the total cost of the FSLIC mess. This analysis presents what are admittedly imprecise estimates of the components of the insolvency loss that has built up in insolvent S&Ls. This analysis, however, is the first that anyone has prepared which attempts to reconcile known components of the FSLIC cleanup cost with realistic estimates of the total present value cost of the cleanup.

An appendix accompanying this analysis gives one possible distribution of $5 billion in criminal losses. Another way to look at the $5 billion cost of S&L crime: 500 people would have to have stolen $10 million each to accumulate a total crime loss of $5 billion.

Interest costs ($57 billion) are the largest component (39%) of a $147 billion present value cost estimate for bailing out FSLIC (which includes the cost of the 1988 deals). Price deflation, bad lending, and real estate deterioration account for another $28 billion (19%) of the present value cost of cleaning up the mess.

One element of the present cost of the cleanup that often is overlooked is the estimated cost of $25 billion (17%) of cleaning up the FSLIC mess back in 1983. The failure to use taxpayer monies back in 1983 to dispose of the S&Ls then insolvent because of the interest rate crisis of the early 1980s effectively buried that cost in the S&L industry. Like an unpaid loan on which no interest is paid, that unrecognized loss back in 1983 compounded at a very high rate of interest throughout the 1980s and up to today. Much of the high rate of compounding took the form of excess interest costs, excess operating costs, bad lending, and the subsequent price deflation when the real estate boom fueled by the bad lending finally burst.

Two accompanying graphs help to illustrate this point. The first graph shows how FSLIC's real reserves (reported reserves less goodwill created in FSLIC-assisted transactions) went negative, beginning in 1982, the same year in which the assets of tangible-insolvent S&Ls skyrocketed. These insolvent S&Ls are the ones in which most of the subsequent losses occurred.

The second graph shows why the real estate bust occurred. S&L real estate lending in Texas (and elsewhere in the Southwest) exploded in 1983, two years after the Southwest energy boom peaked. Real estate lending should have been declining in the 1983–86 period, not rising. This escalating lending fueled the building of unneeded real estate, which then suffered the price collapse that added far more to S&L losses than did crime.

Where Did All the Money Go?

[Components of the current cost of cleaning up the FSLIC mess (1)]

Where the money went:	*Billions*
Cost in mid-1983 of disposing of then insolvent S&Ls	(2) $25
Real estate losses suffered since mid-1983 by insolvent S&Ls due to price deflation, bad lending, wasteful and excessively expensive projects, physical deterioration of repossessed real estate, etc	(3) 28
Losses on junk bonds	(4) 3
Losses on other non-real estate assets of insolvent S&Ls	(5) 3
Excessive operating costs in insolvent S&Ls	(6) 14
Excess interest paid by insolvent S&Ls on their deposits and borrowings	(7) 14
Crime—maximum amount stolen by crooks from already insolvent S&Ls	(8) 5
Deterioration of the retail deposit franchise in insolvent S&Ls because case resolutions were delayed	(9) 7
Excessive cost of FSLIC's 1988 deals	(10) 5
Subtotal—actual losses	104
Interest paid by insolvent S&Ls on post-1983 losses	(11) 43
Present value (check written today) of cleaning up the S&L mess	147

Memorandum: Present value of Treasury and FDIC cost estimates for cleaning up the FSLIC mess ranges from $141 billion to $184 billion.

Addendum—What it would have cost by 1990 to have cleaned up the S&L mess in mid-1983:

	Billions
Cost in mid-1983 of disposing of then insolvent S&Ls	(2) $25
Interest since mid-1983	(12) 21
Cumulative cost to the American taxpayer, by mid-1990, if all insolvent S&Ls had been disposed of in mid-1983 and if subsequent problems among S&Ls had not been allowed to have developed	(13) 46

Source: Estimate prepared by Bert Ely, Ely & Co., Inc., July 12, 1990.

APPENDIX

How $5 billion could have been stolen from insolvent S&Ls: One possible distribution of the amounts stolen.

First billion stolen: thefts in one S&L total $350 million; theft in a second S&L total $275 million; theft in a third S&L total $200 million; theft in a fourth S&L total $175 million.

Second billion stolen: theft in a fifth S&L total $150 million; theft in two more S&Ls of $125 million each; theft in three additional S&Ls of $100 million each; theft in four S&Ls of $75 million each.

Third billion stolen: thefts from 20 S&Ls averaging $50 million each.

Fourth billion stolen: thefts from 40 S&Ls averaging 25 million each.

Fifth billion stolen: thefts from 50 S&Ls averaging $10 million each, plus thefts from 100 S&Ls averaging $5 million each.

Totals: Thefts from 224 insolvent S&Ls totalling $5 billion.

FOOTNOTES TO: WHERE DID ALL THE MONEY GO?

(1) Current cost is the present value of all future cash outlays required to clean up the FSLIC mess. In lay person's terms, the present value amount equals the size of the check that would have to be written today to completely clean up the FSLIC mess.

This cost estimate includes the full cost of S&Ls disposed of by FSLIC in 1988.

(2) In mid-1983, FSLIC-insured S&Ls had tangible assets of about $725–$750 billion. Tangible-insolvent S&Ls held about one-third of these assets, about $250 billion, and had a tangible negative net worth of $14 billion. The increase in the loss estimate to $25 billion reflects three considerations. First, there were substantial unrecognized losses in tangible-insolvent S&Ls in mid-1983. These losses largely reflect fixed low-interest-rate mortgages with market values in mid-1983 that were less than book value. Second, there were tangible solvent S&Ls in mid-1983 that in fact were insolvent on a market value basis. A third, offsetting consideration, is that long-term interest rates since mid-1985 have been lower than they were in mid-1983. Thus, the government would have benefitted from lower interest rates after mid-1985 if it had taken over all insolvent S&Ls in mid-1983 and held off selling their mortgages until after mid-1985. Because these insolvent S&Ls were not shut down, the losses in them have rolled forward to the present. The beneficiaries of this $25 billion loss were the home buyers who had the good fortune to have obtained a fixed-rate home mortgage before 1980 from an S&L that became insolvent when interest rates skyrocketed in the early 1980s.

(3) The net exposure of all S&Ls to higher-risk (non 1-4 family) real estate loans and real estate assets almost tripled from the end of 1982 ($93 billion) to the end of 1987 ($272 billion) and peaked at $282 billion at the end of 1988. Approximately one-half ($140 billion) of these higher-risk assets were in insolvent S&Ls. This estimate of real estate losses equals 20% of the peak amount of higher-risk real estate loans and assets owned by insolvent S&Ls. From mid-1983 to the end of 1989, all FSLIC-insured S&Ls reported total asset write-downs and losses including non-real estate assets, of $18.8 billion. An undetermined portion of these losses, however, were in solvent S&Ls. If 80% of this loss ($15 billion) occurred in already insolvent S&Ls, then an estimated $17 billion of loss remained to be recognized at the end of 1989 ($32 billion in losses on real estate and non-real estate assets—$15 billion).

(4) Total investment by S&Ls in junk bonds peaked at $15 billion at the end of 1988. Most of these junk bonds were owned by S&Ls that were or eventually became insolvent. This estimate assumes a loss equal to 20% of the maximum S&L investment in junk bonds. This loss represents both losses in the market value of these bonds and losses when actual bond defaults occurred.

(5) Non-mortgage loans for all S&Ls peaked at $92 billion at the end of 1988. Assuming that insolvent S&Ls held one-third of these loans on which these S&Ls suffered an average loss of 10%, these S&Ls would have lost a total of $3 billion on their non-mortgage lending. This loss adds to the amount of insolvency in the insolvent S&Ls.

(6) The cash operating expenses of FSLIC-insured S&Ls increased from .32% of nominal GNP in 1982 to a peak of .51% of GNP in 1987. These expenses then declined to .44% of GNP in 1989 and will decline further in 1990. In 1989, each .01% of GNP equalled $523 million. A substantial portion of the increase in S&L operating expenses reflected the cost of excess capacity in the S&L industry represented by insolvent S&Ls. In other words, had S&Ls been taken over as soon as they became insolvent, S&L operating expenses as a percent of GNP would have risen much less, if at all. Much of rise in operating expense, as a percent of GNP, therefore added to the operating losses of insolvent S&Ls and therefore to the cost of cleaning up the FSLIC mess. This dollar estimate equals one-third of the amount by which S&L operating expenses grew faster than the GNP; therefore, it is the estimate of the amount by which unnecessary resource consumption by the S&L industry added to the cost of the FSLIC clean-up.

(7) It is estimated that insolvent S&Ls over the mid-1983 to mid-1990 period on average paid .5% to .75% more for their deposits and borrowings than solvent S&Ls paid. It also is estimated that the deposits and borrowings of insolvent S&Ls over this seven year period averaged between $300 and $350 billion. Therefore, insolvent S&Ls between mid-1983 and today paid approximately $14 billion more in interest to finance their assets than solvent S&Ls would have paid in interest to finance these same assets.

(8) This is an admittedly rough estimate of the maximum amount crooks actually stole from already insolvent S&Ls. This estimate excludes amounts stolen from solvent S&Ls (which losses cost stockholders, not taxpayers) and it excludes wasteful operating activities, incompetent lending practices, price deflation, and other actions which themselves are not violations of the criminal law. See attached appendix.

(9) Assumes the franchise value of deposits in insolvent S&Ls declined by an amount equal to 2% of the deposits in these S&Ls from the time the S&L could reasonably be predicted to fail to the time it was actually sold by the government.

(10) The most recent present value cost estimate for S&Ls sold by FSLIC in 1988 is $52 billion. This cost was driven up unnecessarily by poor bidding procedures, excessive yields on notes and assistance agreements provided to the acquirers of these S&Ls, and perverse incentives in the assistance agreements which will drive up losses in these deals.

(11) The losses in insolvent S&Ls have been compounded by the median cost of funds for all S&Ls during the mid-1983 to mid-1990 period. The interest rate in excess of the median cost of funds was included above.

(12) This calculation assumes that the government borrowed $30 billion in 3-month Treasury bills on June 30, 1983, and then kept rolling those bills over at three month intervals. Thus, the amount borrowed was compounded quarterly at the average yield on 3-month Treasury bills (secondary market yield) during the first month of each quarterly compounding period. This calculation further assumes that the government would have reaped $5 billion in gains between mid-1985 and early 1987 as it sold mortgages owned by insolvent S&Ls in mid-1983. These gains were used to reduce the amount borrowed in mid-1983.

(13) This is the amount by which the federal debt would be higher today had the federal government decisively disposed of insolvent S&Ls in * * *

Mr. KERREY. Mr. President, for my colleagues, Mr. Ely has carefully analyzed the problem and shows approximately 3 percent, a significant amount, somewhere between $3 and $5 billion to be attributable to crime. I believe it is important for the Attorney General of the United States to pursue diligently that money.

I just do not believe personally that we should offer out a great deal of hope to the American taxpayers, the people who pay for this thing, that this is going to be an important source of revenue to reduce our costs. Our anger should be sustained long enough to make sure anybody who is responsible is brought to justice. We should take care, as I said, though, not to become blinded by this avenue. We should, it seems to me, pay attention to what is going on now.

It seems to me that our objective in this whole thing should be to maximize the value of our assets, maximize the value of franchises and operations that we are likely to seize and minimize the cost of expenditures, including the financing charges. That ought to be simple. We should say to the taxpayers, we have a problem here and we are trying to minimize the cost. If we are trying to minimize the cost and maximize the value of the assets, I believe, Mr. President, we need to take a different approach than the one being used today. I believe much more can be done to reduce the overall cost to the taxpayer if we were less concerned about what happened yesterday and more of what is going on right now.

What is going on right now is we are being given information by the bureaucracy charged with administration of the program after they have filled it with political considerations. What is going on right now is the Board responsible for policy decisions is composed of five people, Mr. President, and is dominated by three men who are too busy to give more than an hour a week to the task. What is going on right now is the decisions are being made about expenditures, policies, and deals over which the citizens have very little oversight and very little control. Decisions were made with one eye on potential adverse political reactions and one eye on efficiency.

Most significantly to the taxpayer, Mr. President, what is going on right now is the Resolution Trust Corporation is failing to control the long-term cost to the rescue. The procedures used are reducing the value for S&L charters. The financing methods are increasing interest costs. Paradoxically, because there is fear of accusation of political favors, decisions are not being made which maximize the return to the taxpayer.

Mr. President, the condition which should cause all of us in the legislative branch to want to change the way we are currently doing things is the fact that we know very little about what is being done right now, not just very little about what happened yesterday but very little about what is happening today.

Let me illustrate how little we know by asking my colleagues if they feel comfortable being able to explain during the upcoming recess to their taxpaying citizens and voters how the money is currently being spent. To get specific, let me ask if my colleagues noticed the report in the July 24 Wall Street Journal which highlighted the status of the deficit through the month of June. June is the month when we normally run a surplus. June is the month of the deadline for quarterly corporate tax payments.

Unfortunately, Mr. President, corporate tax receipts were only $18.57 billion, down from $20.88 billion last year. Overall revenue from all those good taxpayers who we are now saying are going to have to pay a little more in taxes was up from $108.25 to $110.6 billion. Normally, in the month of June, $110 billion would pay all the bills. It is one of the few months when the U.S. Treasury can make that claim. However, this year our expenses were up from $100.46 billion last year to $121.84 billion this year. Thus, instead of having a surplus of $7.79 billion like we did last year, we ran a deficit of $11.22 billion.

Mr. President, we have in the month of June an illustration of why we should be more concerned about how the current dollars are being spent. In the month of June, we had to sell additional bonds to pay the bills. In the month of June, we have a good example of how we are again advancing until tomorrow the repayment for expenditures that were incurred in this case not just today but throughout the entire decade of the 1980's. It means that we are going to borrow more money in the month of June. We will import more capital from the rest of world to pay our bills. We will burden tomorrow's generation to pay our current needs and we will ask those people who get paid by the hour, in reference to the Senator from New York's good evaluation, to shoulder the largest piece of the burden. We have all heard that before. We have talked about it a lot. We have explained it so many times at home that they are probably far more accomplished than I am at getting it done.

However, this year we are going to have a little different piece to explain. This year we are also going to be going back home talking about a proposed tax increase that now appears to be necessary, according to the President, to cover our costs. Summiteers will also be presenting us with that a list of spending reductions from medicare to defense to farm program payments. These are going to be extremely difficult to explain back home, Mr. President, both the spending reductions and the proposed tax increase the President now says is necessary.

This year there is an added wrinkle which we will have to explain and that is the expenditure for President Bush's savings and loan programs. In the month of June, we spent $15.82 billion on that program, which is why we had to borrow the additonal money.

I urge my colleagues to focus on that amount, $15.82 billion, which is a lot of money, a lot of money, Mr. President. We are going to be spending on average $20 billion a year over the next 40 years to fund this program, $20 billion a year, Mr. President. That is approximately $5 million an hour, 24 hours a day, 7 days a week, 52 weeks a year over the next 40 years. I believe we ought to be asking, what are we getting for our money? I believe we ought to be prepared to answer the question our taxpayers are going to ask us about how that money is being spent. We ought to be able to do more than just answer in general terms about crooks and swindlers and the geographical inequities and all the other sorts of things that have been referenced to date. We need to be answering with the same kind of precision that we will answer if we are asked questions about some other spending program authorized by Congress.

If we are asked about defense or the space program or the farm program or aid to schools, we expect to answer very specifically and precisely about what ought to happen. But in this particular case, Mr. President, it seems we are far less able to answer with the kind of precision to which I think our taxpayers rightfully hold us accountable.

Let me illustrate a bit further about how we are being kept in the dark about what is happening. Mr. Timothy Ryan, head of the Office of Thrift Supervision, held a press conference last week on July 25. This was a quarterly report on the status of American savings and loan institutions and the President's bailout program.

Things are looking a little better, Mr. Ryan said. We have a lot more work to do but things look a little better. He said the 2,505 institutions that are not in the Government's hands had trimmed their losses in the first quarter of 1990 and he attributed that to the bailout effort. He said the institutions not under Government supervision posted a loss of $271 million, a substantial improvement in light of the total $6.2 billion the industry lost in the three previous quarters.

He went on to say that he was going to be "Mr. Rosy Scenario," and to emphasize that it is still a very tough situation. The impression given in his first announcement was that we are making great progress. Things are a lot better than they were a year ago. His presentation was reinforced by the earlier testimony of Secretary Brady before the Senate Banking Committee where he continued to assert, against the predictions of almost everyone else, including Mr. Seidman, that the total costs will only be about $120 billion.

Mr. President, this is not just a presentation of the Director of the Office of Thrift Supervision. This must be seen as a presentation of the executive branch to the legislative branch and, in turn, we must see it as a presentation to the American people.

Given what Mr. Ryan withheld from his presentation, I must observe that the manner of details in Mr. Ryan's presentation carries the unmistakable odor that has been intentionally covered with the film of political fear. Here is what he said on behalf of executive branch, what he did not tell us. Here is a short list of things that have previously been disclosed in these quarterly reports but left out of last Wednesday's analysis. He did not tell us how much money was lost by the 350 institutions which are operated by the taxpayers. His defense was that it would be misleading to include the Government-run thrifts because making money is not the goal of the RTC.

This is weak rationale, Mr. President, for the following reasons: First of all, these S&L's are all taking deposits that are guaranteed by the taxpayers and their losses thus reflect on the entire industry.

Second, and perhaps most importantly, the billions of dollars in subsidies that went into the 202 institutions that have been sold were not subtracted from the year-to-year number. Thus he includes tax money if the numbers are made better by that inclusion, and he excluded taxpayers' efforts when the numbers would be made worse.

Mr. President, this does not help us in being able to go the the American taxpayers to get additional funding as we all expect the administration will request from us.

In addition, he did not tell us how many loans have been foreclosed because of nonpayment. He did not tell us how many loans are past due. He did not give us a clear assessment, Mr. President, of the status of this Nation's savings and loans and the likely cost to the taxpayer and, as a consequence, he puts us, the representatives of the people, I believe, in a very difficult position of not being able to answer clearly and specifically as to what is going on with our current situation.

Mr. President, I believe the Bush administration is underestimating the total cost of the problem. I believe they are intentionally understating the costs and the full range of options available to pay those costs. Worse, the American people are not being given the full story. Information is being withheld. They are being given a

political assessment of the current problem. Long-term policy considerations are being rejected for a short-term political gain. Instead of telling us about even more difficult expenditures, we are told things are tough but improving.

Mr. President, the proposal that I have to put us in a position where we are able to answer specifically what our taxpayers are going to be asking us is quite simple. I simply say that the five-person oversight board that is in charge of the policy does not have the time and does not have the capability, given political considerations, to deliver information to the people. I suggest simply replacing that board with an independent board that the President can appoint with the Senate to confirm so that it would begin to get independent judgments, not only about what we ought to do to minimize the cost through financing and other sorts of policy decisions but so that we can maximize the return to the taxpayer.

We are decreasing values of franchises every single day with current policy. We are increasing the costs to the taxpayer every single day with current policy. Those who want to go back and look at what happened in the past, I will support that effort. Those who want to put all the crooks in jail, I will support that effort. But in neither one of those two cases will I constantly go to my taxpayers and say those two events will reduce those costs and minimize their burden over the next few years.

We need to focus on the current problems and current resolutions of the problems. It is not being done under the current rate.

I yield the floor, and thank the Chair.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,962d day that Terry Anderson has been held in captivity in Beirut.

SUPER SETBACK FOR NUCLEAR EXPORT CONTROLS

Mr. GLENN. Mr. President, the administration has thought long and hard about the wisdom of approving exports of supercomputers to nations that have poor records in the area of nuclear nonproliferation. But evidently not long or hard enough, for it has recently approved the export of supercomputer equipment to Brazil. Short-term diplomatic and commercial interests appear once again to have triumphed over our national security and nonproliferation interests, policies, laws, and regulations. In plain words, the ghost of the Reagan administration is back and the implications for our nonproliferation policy can only be described as profound.

Five months ago, President Bush heralded the 20th anniversary of the Nuclear Nonproliferation Treaty [NPT] entering into force. In his statement of March 5, the President characterized the NPT as "the primary legal barrier to nuclear proliferation" and "a principal foundation of international security." He correctly termed nuclear proliferation "one of the greatest risks to the survival of mankind" and urged "all states that are not party to the NPT to join and thereby demonstrate their support for the goal of preventing nuclear proliferation."

I am probably not alone in seeing a growing gap between the administration's excellent statements on behalf of nuclear nonproliferation and its actual practice of turning a blind eye toward activities and policies that detract from that goal. Brazil, a nonparty and constant critic of the NPT, has just obtained permission to import a high-technology, dual-use commodity that our laws intended should only be sent to nations that have joined the NPT or that have strong nonproliferation credentials. In previous floor statements—CONGRESSIONAL RECORD, May 24, 1990, p. S6976 and October 30, 1989, p. S14382—I have underscored the importance of vigorously enforcing our dual-use export controls, especially as they apply to supercomputers.

As representatives from 140 nations assemble this August in Geneva to review the status of the NPT, some legitimate questions might be asked abou this chronic U.S. practice of providing massive, untied military aid and high-technology favors to non-NPT nations. Evidently, this administration's commitment to the letter and spirit of the NPT, not to mention our own nuclear export controls, has its limits. Since the Brazilian supercomputer case may be just one of many more to come involving non-NPT nations, the sale merits some examination.

OF CHIPS AND BARGAINING CHIPS

According to the Brazilian press report issued on June 6, U.S. Trade Representative Carla Hills recently concluded talks with the Brazilian Economics Minister and declared that America would permit the export of supercomputer equipment to Embraer, a firm with interests in missile technology and one of the world's largest manufacturers of military training aircraft and mid-sized air commuters. Ambassador Hills reportedly noted recent Brazilian efforts to open their markets to U.S. businesses and engaged in discussions over pharmaceutical patents, the U.S. import tariff on orange juice, and other trade issues.

I ask unanimous consent to have printed in the RECORD a Reuters news wire story on this announcement.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

U.S. TO ALLOW BRAZIL TO IMPORT SUPERCOMPUTERS

BRASILIA, June 5 (Reuter).—The United States will allow Brazilian aircraft manufacturer Embraer to import U.S.-made supercomputers, Brazil's Estado news agency reported.

The agency said U.S. Trade Representative Carla Hills made the announcement after meeting Wednesday afternoon with Economy Minister Zelia Cardoso de Mello.

The export of supercomputers to Brazil had been prohibited by the U.S. Government, which cited national security reasons.

Before meeting with the economy minister, Hills told reporters she had not yet discussed the issue of supercomputers.

Hills, who will be in Brazil until Thursday, said the United States was encouraged by measures President Fernando Collor de Mello has taken to open up Brazil's markets.

"The Bush administration has strong admiration for Collor's economic program" she said.

"But much work must still be done," she added.

Hills said she has discussed with Collor the importance of recognizing intellectual property rights. The U.S. has a long-running trade dispute with Brazil over its refusal to recognize patents, particularly in the area of pharmaceuticals.

Protection of intellectual property rights would be necessary in order for the United States "to implement a generous General System of Preferences (GSP) program in reference to Brazil," she said.

Hill also met with Brazilian business leaders, who asked for reductions in U.S. Tariffs on imports of frozen concentrated orange juice. Hills said the United States is negotiating such a reduction within the Uruguay Round of trade talks, scheduled to end in December.

Mr. GLENN. Mr. President, has our nonproliferation policy now reached the point where we are treating supercomputers on a par with drug patents and orange juice concessions in our trade discussions with other nations? Amid the current national fever to export high technology to unstable regions around the world, it is worth noting that there once was a time when America's economic stakes in world trade were measured against our national security and nonproliferation interests, a time when such interests were pursued in accordance with statutory export control limitations.

As the administration now prepares to rationalize the export of computer equipment that—in the words of the Nuclear Nonproliferation Act—"could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes," to a nation that fails to meet any one of the six nonproliferation criteria spelled out quite clearly in our Export Administration Regulations, it is clear how far our policy has come from an earlier day in which such criteria were taken seriously.

One of the voices from that time, not so long ago, was that of Victor Gilinsky, a former Commissioner of the Nuclear Regulatory Commission, who once cautioned against permitting our nuclear-related exports to become "* * * the modern-day equivalent of glass beads and Indian blankets—prime items of international political barter." (Washington Post, January 26, 1978, p. A23.)

Similarly, President Gerald Ford stated quite categorically that the United States must "* * * be sure that all nations recognize that the U.S. believes that nonproliferation objectives must take precedence over economic and energy benefits if a choice must be made * * * the goal is to prevent proliferation, not simply to deplore it." (Statement on Nonproliferation Policy, 28 October 1976.)

If today it is supercomputers—a technology officially labeled by all three U.S. nuclear weapon labs as "the cornerstone of the nuclear weapons design program"—if it is supercomputers that we find on the negotiating table with orange juice and pharmaceutical patent rights, what will we find on that table tomorrow? The administration's action in approving this export puts into question our national commitment to nonproliferation and converts our export controls over dual-use commodities into a dead letter. Even if this particular sale comes with a special security plan intended to reduce the risk of illicit uses, that does not justify such an export to a nation that cannot satisfy our most fundamental nonproliferation criteria.

WHY WORRY ABOUT BRAZIL?

Neither Brazil's new democratic government, nor its constitutional requirement that nuclear energy be used only for peaceful purposes, provides much assurance that Brazil is regulating its nuclear affairs in accordance with international nuclear nonproliferation standards. The current government in Brazil, much like its predecessors, prefers policy pronunciamentos to binding international commitments. A few examples will illustrate this point with respect to commitments relating to both nuclear and missile nonproliferation.

First, Brazil has ratified the Latin America Nuclear Free Zone Treaty, but refuses to bring it into full force, and continues to assert the right to conduct so-called peaceful nuclear explosions—a term coined long ago in the United States and used by India to rationalize its nuclear detonation in May 1974.

Second, Brazil adamantly refuses to join the NPT. The Brazilian Foreign Minister recently reassured foreign journalists that Brazil has no intention even of reviewing its opposition to the NPT. (FBIS, LAT-90-088, May 7, 1990, p. 34.) Jose Goldemberg, Brazil's science and technology secretary, was asked last April if Brazil would sign the NPT; his response was, "No. If we signed we would be committed to international safeguards. I see no reason for this because the great powers have programs not subjected to the safeguards." (Jornal do Brasil, April 8, 1990, p. 13.)

Third, Brazil continues to have unsafeguarded nuclear facilities that are being run by the military. Though there are many in Brazil, even in the Brazilian Government—especially the national congress—who strongly oppose nuclear weapons, serious allegations have been made that the military is preserving its options to acquire such weapons. Brazil's continuing refusal to enter into binding nonproliferation obligations only contributes to international suspicions over Brazil's true intentions.

In July 1989 the nuclear trade journal, Nucleonics Week, quoted from what is described as a report prepared by West German intelligence for the Bonn Government in 1987. The article claimed that Brazil was able to enrich uranium to 70 percent of the weapon-related isotope U-235 "without any problems" using gas centrifuges developed by the Brazilian military; Brazil was also alleged to be processing and exporting its "large reserves" of beryllium, a strategic metal used in nuclear reactors and weapons. ("Germans Say Brazil Developing Two Production Reactors," Nucleonics Week, 27 July 1989, p.4)

The journal also cited what if termed a report from the West German Foreign Office, dated October 26, 1987, allegedly claiming that some 20 percent of the Brazilian staff trained in West Germany had wandered from the civilian program into other areas. Other documents cited by the journal noted growing concerns by the International Atomic Energy Agency about this alleged movement of personnel and technology into unsafeguarded parts of Brazil's nuclear program. ("Kohl Pressed by Opposition, IAEA over Technology Sent to Brazil," "Nucleonics Week, July 27, 1989, p. 5. See also, "Brazil Violating Nuclear Accord, Files Indicate," Wall Street Journal, July 24, 1989, p. 11.)

Though a spokesman for the West German government subsequently denied these reports and asserted that Brazil's nuclear program has a "purely civilian character," doubts persist both internationally and domestically in Brazil. ("Bonn: There is 'No Military Background' to Brazil's Unsafeguarded Program," Nuclear Fuel, August 7, 1989, p. 13.)

In late May 1990 the Brazilian Physics Society presented a report to the National Congress saying that Brazil had the capability of building a nuclear bomb and calling on the legislature to create a commission to exercise stricter oversight of the facilities in Brazil's parallel nuclear program. Mr. President, I ask unanimous consent to have printed in the RECORD a news wire describing this report; the article also notes a recent unsuccessful effort by United States Ambassador at Large for Nonproliferation Policy, Richard T. Kennedy, to encourage Brazil to sign the NPT. No sooner had Ambassador Kennedy returned from Brazil, than we read in the Brazilian press that the United States was selling Brazil supercomputer equipment.

There being no objection, the news wire was ordered to be printed in the RECORD, as follows:

[From Inter Press Service, May 25, 1990]

BRAZIL: MILITARY COULD BE MAKING NUCLEAR BOMB, PHYSICISTS SAY

(By Gabriel Canihuante)

RIO DE JANEIRO, May 25.—The Brazilian physics society (SBF) fears the armed forces could be developing a nuclear bomb without the knowledge of local and international groups.

The physicists presented a document to the National Congress saying Brazil is capable of producing a nuclear bomb, and proposed the creation of a commission to look into the matter.

In 1987, Brazilian navy experts succeeded in developing the technique of refining uranium, one of the components of the atomic bomb.

Although the government said the radioactive substance had been refined by up to 20 percent, Brazilian physicists say army experts could now be producing uranium more than 90 percent pure, the level needed to make a nuclear bomb.

"We have to prevent the armed forces from using the technology they have to build the bomb," warned physicist Luis Pinguelli Rosa May 23 as he handed over the document to Senator Nelson Carneiro, president of the National Congress.

According to the SBF study, the Brazilian military is developing nuclear technology in the navy's experimental center in the state of Sao Paulo, and has a place where a nuclear bomb could have been exploded.

Pinguelli Rosa said that in the mountains of Cachimbo in the northern state of Para, the army has a piece of property with a well 352 yards deep, similar to those used in trial nuclear explosions.

The president of the National Commission on Nuclear Energy (CNEN), Jose de Santana, said experts from the Army Technological Center (Cetex) in the state of Rio de Janeiro, have already developed pure graphite.

Santana said this substance could be used for testing nuclear bombs.

U.S. authorities share the Brazilian physicists' concern over the possibility that Brazil is making its own atomic bomb.

During a recent visit here, the U.S. representative to the International Atomic Energy Agency, Col. Richard Kennedy, tried in vain to convince Brazilian authorities to sign the international treaty on the non-proliferation of nuclear arms.

Kennedy stressed that the Brazilian government's refusal to sign the treaty prevents the United States from exchanging technology with this South American country.

There are clauses in the Brazilian constitution that prohibit the making, storage and transport of nuclear weapons intended

for war in the country, but these are not enough guarantee for Kennedy or the Brazilian physicists.

Deputy Fabio Feldman, who supports the physicists, said the constitution does not prevent Brazil from building its own nuclear bomb.

"The bomb can be made with the justification that it is an instrument of peace," the social democratic legislator said.

The physicists did not comment on the signing of the non-proliferation treaty, rejected by the government for allegedly being discriminatory, but asked congress to assume control over the country's nuclear program.

They proposed the setting up of a commission of experts to be chosen by congress and the SBF to investigate activities of the navy in its Sao Paulo installations and the army in its Rio de Janeiro property.

Mr. GLENN. Mr. President, a fourth area of concern relates to Brazil's attempts to develop a nuclear-capable, medium-range missile; both Libya and Iraq, among other nations, have appeared as actual or potential customers for Brazil's nuclear or missile technology, and related commodities.

In October 1989 the Associated Press reported that the United States had protested France's apparent intention to sell sensitive rocket technology to Brazil. Mr. President, I ask unanimous consent to have printed in the RECORD an AP story of October 5, 1989, describing the French/Brazilian discussions over the purchase of the liquid-fueled Viking rocket motor technology.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

[From the Associated Press, Oct. 5, 1989]

U.S. PROTESTS FRENCH PLAN TO GIVE BRAZIL ROCKET MOTOR

(By Ruth Sinai)

WASHINGTON.—Despite strong U.S. protests, the French government plans to trade Brazil sensitive rocket technology that could be used by U.S. enemies to make ballistic missiles, government and industry officials said Thursday.

France has promised to give Brazil the technology of a liquid fuel motor called Viking, which powers the Ariane space launch vehicle, the officials said. In return, the French company Arianespace would be awarded a $60 million contract for the launch of two Brazilian communications satellites, they added.

The U.S. officials, who spoke only on condition of anonymity, said French President Francois Mitterrand personally made the decision to give the technology to Brazil, promising that safeguards would be placed to prevent use of the motor for lethal purposes.

But a statement issued by the government in Paris denied a final decision had been made. "The definitive contract will be submitted to the government for approval and this contract has not yet been given" to the government, the statement said.

"This contract will have to follow certain purposes and restrictions regarding technology transfers," it said.

The United States, however, is doubtful such safeguards can be implemented effectively.

"If someone like Libya wants to use this motor to harmful purposes, who will stop them?" asked one official.

Libya has been seeking to buy from Brazil equipment and know-how in an effort to develop a ballistic missile arsenal capable of delivering chemical weapon warheads, according to U.S. experts.

Brazil, one of an estimated 20 Third World countries which have some form of ballistic missile capability, has been exporting some missile technology while and attempting to develop a more accurate and sophisticated arsenal of its own.

Word of the planned French sale was first reported by Signal magazine, published by the Armed Forces Communications and Electronic Association. Representatives of McDonnell Douglas Corp., the St. Louis-based firm competing for the Brazilian launch contract against Arianespace, were informed of the French proposal by Brazilian officials and conveyed the information to the Defense Department, officials said.

A spokesman for McDonnell Douglas, Bob O'Brien, said that if the French "transfer is made, obviously it wouldn't enhance our chances" to win the contract. He said Brazil had been expected to announce its decision already but has not done so yet.

The United States first protested the planned French sale last July during the seven-nation economic summit in Paris, one official said.

For while it appeared the protest had stopped the French plan, the official said. But the French government reconsidered when it appeared France stood to lose the lucrative satellite launch contract, he said.

The United States has warned France the technology transfer would violate the Missile Technology Control Regime, a 1987 agreement to stem the proliferation of such weapons, of which France is a signatory, the official said. But France contends the Viking motor will be used for peaceful purposes and would not violate the agreement.

The United States is still reviewing whether it can stop the deal, the official said.

Mr. GLENN. Mr. President, this development is particularly disturbing in light of numerous reports in 1988 that Brazil and Libya were negotiating a $2 billion arms deal including missile technology—see "U.S. and Brazil at Odds Over Arms for Libya," New York Times, January 30, 1988; "State Department Concerned Over Brazil's Arms Sales to Libya," Associated Press, January 28, 1988; "Brazil To Sell Arms to Libya Despite U.S. Objections, Official Says," Los Angeles Times, January 28, 1988; and "Brazil Plans To Resume Weapons Sales to Libya—Foreign Minister Dismisses U.S. Protests," Washington Post, January 28, 1988.

On April 1, 1990, arms control specialist Gary Milhollin wrote in the Washington Post that:

Through its ownership in another firm called Orbita, Embraer is now trying to turn Brazil's Sonda IV space launcher into an intermediate-range nuclear-capable missile. In January 1988, Libya's arms buyers offered to pay Orbita's development costs in exchange for long-range missiles and the means to make them. * * * Embraer also exchanges personnel with the research arm of the Brazilian Air Force, called CTA, which West German intelligence says is secretly making nuclear weapon material. The U.S. supercomputer could wind up designing missiles for Libya and nuclear weapons for Brazil.

Brazil is also reportedly working with Iraq on satellite technology. Mr. President, I ask unanimous consent to have printed in the RECORD a recent article describing the alleged involvement of Orbita, a firm closely tied to Embraer, with Iraq in this area.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Middle East, November 1989]

IRAQ'S SKY SPY

(The prospect of an Iraqi satellite peering down on the Middle East from space is certain to be unsettling for many countries in the region. But if plans described by Alan George reach fruition, Baghdad will soon be using Brazilian technology and even help from China to launch its spy in the sky)

Amid the growing international furor over Iraq's clandestine efforts to acquire technology for the development of ballistic missiles, it has been scarcely noticed that Baghdad is engaged in a drive to launch a space programme whose military implications could be profound.

Of particular interest to Baghdad is the acquisition of a surveillance satellite equipped with powerful cameras. Locked in geostationary orbit, such a device could offer Iraq invaluable data on the military activities of its three main regional enemies, Iran to the east, Syria to the west and Israel to the south west, and on the activities of Kurdish guerrillas in Iraq's northern mountains.

Brazil, which has a relatively sophisticated aerospace sector, is set to play a central role in Iraq's plans. Baghdad's Scientific Research Centre (SRC) and Brazil's space agency, Instituto de Pasquisas Espaciais (INPE) have been discussing a satellite deal for some time. Baghdad had planned to place a formal order for a Brazilian satellite in January, but the deal was delayed by a reshuffle of INPE's board.

Further talks were underway in the early months of this year, and in spring the deal was discussed during a visit to Baghdad by Ozilio Silva, president of the Brazilian rocket manufacturing company Orbita Space Systems. This firm links the Brazilian aircraft manufacturer Embraer, the armaments company Engesa Engenheiros Especializados (Engesa) and Engesa's marketing arm, Engexco. Mr. Silva is a former president of Embraer. It is understood that most of the negotiations have been conducted by Embraer, Engesa and Engexco on behalf of Orbita and INPE.

The proposed contract is thought to involve a satellite similar to INPE's SCDI model, which would be equipped with a French-built high resolution camera capable of taking infra-red pictures.

The deal would also involve the supply of a range of associated technology, including a laboratory where Iraq could build and test its own satellites. This would be modelled on INPE's elaborate Integration and Test Laboratories, now nearing completion of Sao Jose dos Campos by Interspace, a subsidiary of the French space agency, Centre National des Etudes Spatial (CNES). In addition, Brazil would provide training for Iraqi technicians. The package would cost Baghdad

about $50m, of which $10m would be for the laboratory.

Negotiations are now thought to be at an advanced stage, although the latest known development was a visit to Brazil by an SRC team in late May. The delegation left Brazil on 2 June to visit France to discuss the provision of the satellite's camera.

The project is shrouded in secrecy. Orbita chief Ozilio Silva has confirmed that Iraq "is trying to establish a space programme", adding that "certainly, French companies would be involved" on sensor technology although "private Brazilian companies would be in charge". However, he has declined to say any more. Sergio Prado, Orbita's senior executive officer, declined "to confirm or deny" his company's involvement with Iraq.

Similar reticence surrounds the French involvement. Only two companies in France, Aerospatiale and Matra Espace, make satellite cameras. However, both companies deny any knowledge of or participation in the Iraqi-Brazilian project. CNES, the French space agency, also claims to know nothing, as does the French Foreign Ministry. And all this is despite Mr. Silva's confirmation of French involvement, the known visit to France by an Iraqi negotiating team in June and the fact that the CNEA subsidiary Interspace is building the Brazilian laboratories on which Iraq's will be modelled.

Although the satellite deal is being negotiated by civilian agencies and companies, its military significance for Iraq is not in doubt. A senior Matra Espace official commented: "As soon as you put a camera onto a satellite, no-one will check up to see whether it is being used for civilian or military purposes."

Indeed, Orbita chairman Ozilio Silva has implicitly conceded that the Iraqi project is inspired by military considerations. Earlier this year he was quoted as saying that Iraq's space programme was "maybe in reaction to Israel's own efforts". Israel made its first successful satellite launch in September 1988, using a locally produced Shavit (Comet) rocket. Although the Israelis claimed that the satellite, Ofeq 1, was a purely civilian device, its name suggest otherwise, Ofeq is Hebrew for "horizon", implying that the satellite was in reality for reconnaissance.

Should Iraq secure a satellite from Brazil, there would remain the question of how it would be launched into orbit. One possibility is that the Iraqis plan to use a Condor 2 rocket. This is a two-stage, solid fuel missile with a range of 1,000 kilometers on which Baghdad has been working in collaboration with Egypt and Argentina and with the involvement of European companies. However, the missile has yet to be test-fired, and the project has reportedly slowed. West German and Italian companies working on the Condor 2 are presently under investigation by their governments for possible violations of export regulations.

A more attractive option might be to launch the satellite on a Chinese rocket, under a contract with the new Brazilian-Chinese company, International Satellite Communication Ltd (Inscom), which specialises in satellite launching and tracking. Formed in February this year and registered in Liechtenstein, Inscom is a joint venture between the China Great Wall Industrial Corporation (CGWIC) and the Brazilian armaments and missile company Avibras Aerospacial, Inscom combines Avibras considerable experience of earth station construction with CGWIG's access to proven launch vehicles, in the shape of Chinese Long March rockets. In July, the Brazilian space agency INPE became Inscom's first customer, signing up for the launch of two data collection satellites in 1992 and two remote sensing satellites in 1994.

Mr. GLENN. Mr. President, allegations have been appearing in recent weeks that Brazil is actively assisting Iraq in the missile area as well. Three weeks before Ambassador Hills' supercomputer announcement, a Sao Paolo newspaper described in some detail Brazil's alleged assistance in helping Iraq manufacture an air-to-air missile—the "Piranha"—much like our Sidewinder. The paper went on to say the following:

It happens that the Brazilian team now in Baghdad is essentially the same one that developed the Brazilian Air Force's project for a 'Big Piranha' capable of delivering a nuclear warhead to a distance of 1,000 km * * * another Brazilian team in Baghdad recently improved a Soviet medium-range missile for Husayn—and that the new version is large and powerful enough to carry a nuclear warhead. (Sao Paolo, Veja, May 16, 1990, p. 53.)

And with respect to Embraer, the proposed recipient of United States supercomputer equipment, a newspaper in Rio reported the following on May 17:

For the past year, employees of Embraer and Orbita Aerospace Systems have been providing the Baghdad government with services in the areas of aerodynamics, structural and flight testing, trajectory control, on-board electronics, and propellants * * * [these firms] are also there to improve the performance of the Soviet Scud missiles used by Iraq. (Rio de Janeiro, O Globo, May 17, 1990, p. 7)

On the issue of Brazilian-Iraqi nuclear cooperation, here is what the CIA Director, William Webster, had to say in testimony before the Senate Governmental Affairs Committee on May 18, 1989:

Brazil continues to construct and operate unsafeguarded nuclear facilities * * * they signed an agreement in Baghdad about 10 years ago for cooperation in the field of the peaceful use of nuclear energy [including] studies of uranium, supply of natural uranium and low enriched uranium for use in nuclear reactors, supply of equipment and construction services for nuclear reactors, security for nuclear reactors, exchange of visits to research and development facilities, and training of human resources. That is going to expire in October of this year, and it can be either be renewed for one-year period or either party can terminate it.

A BETTER BARGAIN FROM BRAZIL

Mr. President, I have no doubt that there are many political leaders and citizens of Brazil who oppose nuclear proliferation with the same sincerity and vigor that I oppose it. I cannot see, however, how America's assistance to Brazil's pursuit of a supercomputer capability will help the cause of those in Brazil who oppose the bomb. To the contrary, the sale only strengthens the hand of those in the Brazilian Government who have been arguing that the United States will ultimately sell Brazil the technology it needs without any requirement to abandon the nuclear option.

There has been absolutely no quid pro quo: Brazil may soon get its supercomputer, but we are still at square one with the Brazilian government on the NPT and other nonproliferation treaties. This is a good deal for Brazil and a United States company, a bad deal for the United States, and no deal whatsoever for nonproliferation.

America's efforts to halt nuclear proliferation have come to an ironic crossroad. While West Germany slowly proceeds to tighten up its export controls in the wake of the Libyan chemical weapon plant affair, we are diligently rolling back our own export controls in the pursuant of global markets. While the Soviet Union declares glasnost, we are shrouding our own nuclear exports in a bureaucratic secrecy so dense that even the United States Congress must rely on foreign press reports to learn what is going on.

A deeper question now lies at the doorstep of this Administration: what is America now willing to *sacrifice* on behalf of its nonproliferation policy?

Here are some ideas.

First, we should rule out exports of sensitive dual-use technology to nations with poor nuclear nonproliferation records. Fortunately, this is not a major sacrifice, since there are few nations with such records.

Second, we should redouble our efforts to build strong economic and political ties to those nations that have joined the NPT and abided by its terms, and should continue to encourage other nations to join that treaty. Unfortunately, our tendency in recent years has been to do virtually the opposite, that is, to provide massive economic, military, and high technology assistance to nations that have neither joined the NPT nor agree with even its most basic objectives. And let no one claim that such a policy has served the global goal of nuclear nonproliferation.

Third, we in Congress should encourage other legislatures, particularly in Brazil, to exercise greater oversight over national nuclear activities—we have that challenge here at home as well. I am very sympathetic about recent signs that the Brazilian National Congress is becoming aware of the need to enhance these oversight responsibilities; we in Congress should offer our hand to our counterpart Brazilian legislators who might wish to seek to learn from our experiences in managing our own bureaucracy. As in America, however, good congressional oversight is no substitute for binding international obligations as a measure of a nation's commitment to nonproliferation.

Fourth, let us separate orange juice from supercomputers in our trade

talks with nations with dubious nonproliferation credentials; the means for acquiring weapons of mass destruction should never be permitted to become commodities for barter with such nations. Our diplomacy in this area should concentrate on squeezing nuclear proliferators, not oranges.

Fifth, we must not let inflated allegations about foreign availability drive our nonproliferation policy; in the case of supercomputers, Japan is our only major international competitor. Unrestrained export competition will surely serve our nonproliferation interests far less than supplier restraints.

Sixth, let us not unilaterally index our supercomputer export controls to narrow technical standards here in the United States or elsewhere. The relevant index should remain what it is today in U.S. law: the credibility of the importing nation's nonproliferation commitments. The various proposals that are circulating now for a narrow technical standard would, in short order, put ultra-sophisticated computers in the hands of nations with unsafeguarded sensitive nuclear facilities and with export ambitions that include both long-range missiles and nuclear technology.

Seventh, we must not abandon the IAEA's safeguards system in favor of so-called national safeguards such as are being now discussed in Brazil and in other nations. Such national safeguards may well be a useful complement to, but not a replacement for, safeguards system that has been administered globally by the IAEA for nearly 40 years. In the business of safeguards, there is genuine merit in a global standard; the case has not yet been made that a patchwork of regional or national safeguard arrangements would serve international security better than the IAEA regime.

Finally, I hope the administration will reconsider the wisdom of approving this export. If my advice is not heeded, the administration should certainly not use this export as a precedent to rationalize future exports to any non-NPT nation or to any other country with poor nonproliferation credentials. If this occurs, new legislation will clearly be necessary to restore some fiber to our nonproliferation policy.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition?

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I shall proceed. I understand the majority leader is on his way to the floor. I will yield when he gets here.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If the Senator will yield, I was just about to announce that morning business is closed and under the previous order, if the Senator wishes to proceed in morning business, he must ask unanimous consent to do so.

Mr. PRESSLER. I wish to proceed to speak on campaign reform, if that is appropriate.

SENATORIAL ELECTION CAMPAIGN ACT

The PRESIDING OFFICER. I believe that would be appropriate after we go to the consideration of S. 137, which is the pending business beginning at 1:15. In fact, under the previous order, the Senate will now resume consideration of S. 137, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Mr. PRESSLER. Mr. President, if I may proceed for 3 minutes, I will yield to anybody who feels need for the floor.

I wish to make some general remarks on the issue of campaign reform. For many years this body has been in a debate over campaign reform. It is a popular topic. Everybody has their own point of view. To some people campaign reform means limiting the other side—or limiting the business PAC's and not the labor PAC's, or vice versa. So we have a very challenging task before us.

Regarding PAC's, I think that we could very well eliminate PAC's altogether. I understand it is now in the Democratic bill. This Senator had planned to offer an amendment to limit them or eliminate them. But they seem to be a major target of everyone interested in campaign reform. They have now been adopted in the Democratic bill.

Let me say that the issue of soft money is perhaps even more important. The New York Times calls soft money "sewer" money. It is a situation where there are many groups active in politics who are really not identified. Every time I receive a contribution in my campaign, I report it. But there are many groups that come forth with essentially campaign assistance that do not report it as such.

For example, recently in my State, the group Common Cause ran several ads tying the savings and loan scandal to some of the cloture votes we had on S. 2 on this floor 2 years ago. It seems to me that the ads were not only misleading on the facts, but it is a situation that should be reported as a campaign expenditure if it is done in the middle of a campaign.

There are other examples of soft money abuses. In fact, in the S&L debate the main complaints have been about abuses of soft money. I say complaints because I do not know all the facts surrounding those situations. But the public should know that many third-party groups and others use soft money to influence politics.

Also I long have been concerned about some of the so-called foundations that actively participate in politics. They do not report, in terms of who their contributors are or how much they are paying their people, whereas those who actually run for Federal office must make detailed reports. Sometimes the public is fooled by groups that call themselves "Citizens for Motherhood and Apple Pie" when actually they are somebody else.

Also in this debate on campaign reform let us remember that labor and business must be treated equally. On each side there are calls for limitations of this or that. But if we dig back into it, it is usually a candidate or a candidate's party's political base that is most affected. I think we have to seek a sense of fairness.

Finally, Mr. President, I hope on the issue of public finance that we realize we have a large Federal deficit. Let us try to find a way to do this with a minimum or no public tax dollars. I believe that if we are going to have limits; if we are going to change PAC's; if we are going to change soft money reporting, we can do so and there still will be sufficient money to be raised privately so we do not have to go to the public Treasury.

I believe that the American people will contribute to political campaigns and to political parties sufficiently if they have confidence in the system, and if they have confidence that their contributions will not be lost in an avalanche of bigger contributions. There are a number of other issues, such as eliminating the millionaire's loophole, that I think are very important. If we are going to limit people's sources of money, yet we allow a person to spend as much of his or her own money as possible, we are creating a situation where only multimillionaires would be able to run for the U.S. Senate.

So there are a number of very hard issues before us, as we are in the midst of a campaign year. I hope we pass a substantial bill. We stand on the verge of being able to substantially improve American politics. But let us remem-

ber that the individual contributor, the individual worker who wants to make a contribution, and the individual businessman, should have the freedom to do that without his or her contribution being treated differently than large soft money contributions, or any other contribution.

So, Mr. President, I look forward to participating in this debate. I had hoped to offer some amendments regarding PAC's, but the need for those apparently has been eliminated since some of the ideas that I and others had now have been incorporated into at least one of the amendments.

Mr. President, I note the presence of the majority leader on the floor. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. the majority leader.

AMENDMENT NO. 2432

Mr. MITCHELL. On behalf of the Rules Committee, I withdraw the committee amendments, and I send a substitute amendment to the desk on behalf of Senator BOREN, myself, and others.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BOREN, for himself, Mr. MITCHELL, Mr. FORD, Mr. KERRY, Mr. DASCHLE, and Mr. BRADLEY, proposes an amendment numbered 2432.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendments is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, today, the Senate again turns its attention to the issue of campaign finance reform. We have probably had more legislation introduced, hearings held, and floor debates conducted on this issue over the last 8 years than on any other issue on which legislation was not ultimately approved.

For years we have been told by some that there is no problem with the Senate election finance system. They maintained that legislation was not necessary; that the system worked just fine. We have been stalemated in oftentimes bitter partisan disputes over whether legislation was needed and what effect it would have on each party.

But I believe the situation this year is different. It is different this year because the American people have come to realize just how bad the election finance system is. By now, it should be clear to all of us that the system by which we finance political campaigns for the U.S. Senate is wrong. It does not serve our Nation well. It undermines citizen faith in our system of government. It must be changed.

The solution must be fair to everyone—challengers and incumbents, Democrats and Republicans, alike. I believe the substitute before the Senate today accomplishes that objective. I recognize, however, that some Members are uneasy about this. Republicans suspect that a bill written by Democrats must disadvantage them. I believe they are wrong. We have taken every opportunity to write provisions that are fair to both parties and to incumbents and challengers.

Nevertheless, we are willing to entertain constructive proposals on the Senate floor to improve this legislation. Already, in recent days we have made major changes to respond directly to Republican suggestions. We have taken out the public financing grants and adopted the proposal to ban political action committees. I invite Republicans to join us in enacting this important legislation.

In recent weeks, Democrats and Republicans have been meeting in negotiations to discuss possible compromises to this legislation. Those discussions were useful but they did not result in an agreement because we remain far apart on the basic issue of spending limits. I hope Republicans will reconsider their position on this issue. We have been, and continue to be, willing to compromise on every other issue. But we cannot agree to give up spending limits, for without a system of limited spending we will never stop the ceaseless pursuit of money. That is the key to real reform.

This substitute already represents a substantial compromise from what the overwhelming majority of Senate Democrats want to do and believe should be done to reform our election finance system—full public financing of Senate general election campaigns to remove special interest contributions entirely from the system.

We have compromised on that. But this substitute nevertheless represents a major reform of the current system. It includes the essential elements of true campaign finance reform: First, voluntary spending limits for Senatea primary and general election campaigns; second, limitations on political action committees; and third, prohibitions on the use of soft money to fund party activities that affect Federal elections. It also includes other restrictions on the ability of Federal office holders to raise unlimited amounts of money from interests with a role in Federal legislation.

One thing is clear, the only meaningful way to reform the Senate election finance system is to have limits on campaign spending. Anything less than that avoids the real issues and simply creates the appearance of reform.

In both the executive and legislative branches of Government, public officials are consumed with the unending pursuit of money to run election campaigns, to fund party organizations, to help colleagues raise campaign funds. The pursuit of money takes an ever increasing amount of our time and resources, intruding in ways both large and small, direct and indirect, on our responsibilities as legislators.

In the 1988 Senate elections, incumbent candidates spent, on average, $4 million for their reelection campaigns. That requires raising $13,000 a week, 52 weeks a year, for 6 years. Every election those numbers get higher and higher. They will continue to escalate still higher until reasonable limits are placed on campaign spending.

We could eliminate PAC's, reduce out-of-State individual contribution amounts, limit the participation of private organiations in the political process, impose special rules on broadcast stations, and make many other changes—but without spending limits we will not have addressed the real problem.

The legislation that we offer today will directly address the problem by establishing a system of voluntary spending limits for Senate campaigns. Senate candidates will be encouraged to agree to such limits by the use of broadcast vouchers, low-cost mailing and lower broadcast rates. In addition, contingent public financing will be available to candidates who agree to spending limit if their opponent exceeds the limit. PAC's will be put out of business. Campaigns will be encouraged to directly address issues, rather than make negative attacks, by two provisions in this legislation. The first requires a candidate for the Senate to appear at the end of the ad to take responsibility for the broadcast. The second provides for broadcast vouchers, amounting to 20 percent of the spending limit, to be made available to a candidate to be used to purchase air time of at least 1 minute but no more than 5 minutes.

This is a balanced approach that is fair to Democrat and Republican, challenger and incumbent alike. It is a comprehensive effort to restore Senate elections to the American people by stopping the spiral of ever increasing spending and distancing wealthy individuals and political action committees from the process. This is real reform of a discredited system.

SPENDING LIMITS

There are many ways to improve the current campaign finance system. But only an overall limit on campaign spending will address the central problem with the current system. As a result of the 1976 Supreme Court decision in the case of Buckley versus Valeo, candidates for Federal office

cannot be compelled to limit their spending. Instead, such limits must be voluntarily agreed to.

A commonly expressed criticism of spending limits is that they benefit incumbents. That can be the case if the spending limits are set so low that a challenger does not have the financial resources to reach the voting public. On the other hand, if spending limits are set sufficiently high that a challenger can communicate effectively with the voters, any system of limits will principally benefit challengers, because it is incumbents who now have the greatest access to money and will thus be most affected by spending limitations.

This legislation would establish reasonable limits on general election campaign spending, ranging from $950,000 in the smallest States to $5.5 million in the largest States. An additional 67 percent of that amount, up to a maximum of $2.75 million, could be spent in primary election campaign. General election spending could be an additional 25 percent higher, to the extent that candidates raise small in-State contributions from individuals.

This should be enough money to enable challengers to get their message across without distorting the election process.

Under the current system, incumbents have an overwhelming advantage over their challengers in raising campaign funds. It is rare for a challenger to raise and spend more money than an incumbent Senator.

Increasingly, Senate elections are decided by the fundraising capacity of the candidates. That is a system tailormade for incumbents because they almost always have more funds to spend in an election.

The numbers bear this out. Let us look at the record. From 1984 to 1988, Senate incumbents outspent their challengers by more than two to one—that difference amounted to $140 million over a period of three elections. There were 55 races involving incumbents and challengers in the 1986 and 1988 elections. Incumbents outspent challengers in 51 of those races by a total of more than $100 million. Let me repeat that of 55 races in the last 2 Senate elections in 51 out of 55 incumbents out spent challengers by more than $100 million. It was no accident that challengers lost 80 percent of those races.

Opponents of spending limits have advanced the argument that limits penalize challengers because every once in a while a challenger comes along who can raise almost as much money as an incumbent. Proof for this view is sought by citing evidence that 6 of the 11 winning challengers in the 1986 and 1988 races spent more than the limits in this proposal. While that may be true, that is a selective use of statistics because it ignores the fact that in the case of four of those challengers their incumbent opponents spent even more.

There can be no question about it. The spending limits in this proposal apply almost exclusively to incumbents, not challengers. It is incumbents who will be limited by this proposal, not challengers.

In the 1986 and 1988 Senate elections, only 12 of 55 challengers were able to even spend as much as would be permitted under this proposal. That is, 43 of the 55 challengers spent less than the amount of the limit that would have existed had this legislation then been law.

In fact, 30 out of the 55 of those challengers did not even spend half of the limit provided for in this bill.

This substitute addresses the handicap challengers have, not only with spending limits, but also by giving challengers the ability to mount effective campaigns. No one should underestimate the importance of this. It is unprecedented that incumbent Senators should propose this kind of mechanism to restore competitive balance to Senate elections. It is a measure of our dissatisfaction with the current system that we propose this comprehensive legislation.

In addition to voluntary spending limits, this proposal includes several other far reaching proposals to improve the election finance system.

POLITICAL ACTION COMMITTEES

Political action committees would be abolished. A backup provision is included if this is ruled unconstitutional. In that event, nonconnected PAC's would be permitted to contribute up to $1,000 per election. This is a controversial proposal that is opposed by many groups. I believe political action committees have a legitimate role in the campaign finance process. Many PAC's bring together thousands of small contributors to participate in Federal elections. PAC's give voice to the concerns and interests of their members and that is an appropriate role to play in the American political process.

At the same time, however, PAC's have come to play too large a role in Federal election finance and too large a role in the legislative process. The influence, and the perception of influence that they exert on Congress has served to undermine public faith in the integrity of Congress. Clearly something must be done to change this relationship. Because we are proposing to provide Senate candidates with alternative resources to run their campaigns, we propose to prohibit PAC contributions to candidates.

SOFT MONEY

Another important part of this legislation deals with the problem of soft money. As Federal law has imposed restrictions on the amount of money spent and raised in connection with Federal elections, increasing use has been made of so-called soft money used outside the limits of the law. These soft money funds are spent for State, local, and national party activities which theoretically do not directly benefit a candidate for Federal office and are therefore not covered by the limits of the Federal law.

In reality, however, soft money is often used to circumvent Federal election law limitations. These unregulated funds from corporations, unions, and wealthy individuals are spent for voter registration drives, get out the vote efforts, and generic advertising often designed specifically to benefit Federal candidates. The last Presidential election witnessed a return to the Watergate era when wealthy individuals bankrolled campaigns for the Presidency. Both political parties raised more than $30 million outside the limits of the law, effectively ending the Presidential spending limits.

If permitted to continue, soft money will severely undermine Federal election law limitations, particularly if spending limits are imposed on Senate races. This legislation attempts to address this problem by bringing under Federal limits all spending which is in connection with a Federal election, including voter registration, get out the vote, and generic voter communication activities which may affect a Federal election.

This is a controversial provision which has been widely questioned because it requires certain State party activities which affect a Federal election to be funded under Federal rules. Questions have been raised about the rationale for federalizing activities which are ostensibly targeted on behalf of non-Federal candidates. Those criticisms are not without some merit but they ignore the circumstances which give rise to this legislation.

The fact is that substantial sums of soft money are being raised under current law to be spent on activities that affect Federal elections. Current law allocation rules are inadequate to the task of removing this money from the Federal election process. Indeed, any artificial allocation rules will permit substantial soft money to be used to elect Federal candidates depending on the circumstances of a particular election. Soft money would continue to be used in large amounts of $100,000 or more on behalf of Federal candidates.

In this legislation we have attempted to draw clear lines as to the types of activities that are Federal in nature. Money spent during the Federal election period to support such activities would have to be subject to Federal law. The same activities which occur during an election period not involving Federal office would not be subject to

Federal law. In return for imposing these tighter restrictions on State party activities we proposed to increase the contribution limits for State parties, raising individual contributions from $5,000 to $20,000. Federal candidates and office holders would in turn be prohibited from raising soft money.

I believe this is a reasonable approach to deal with the problem of soft money in Federal elections.

BROADCAST ISSUES

I am particularly pleased with provisions in this legislation that attempt to raise the level of debate in Senate campaigns. Too often campaigns for Federal office have degenerated into name calling competitions between candidates, where victory is achieved by the candidate who runs the most negative ads. By the end of the campaign the voters are turned off both candidates and adopt the attitude that they are voting for the lesser level. It is no wonder politicians are not held in the highest regard and the percentage of the population that votes continues to fall.

There are no magic answers to this. Candidates will continue to be as negative as the voters permit. And as long as they are successful, negative advertisements as a form of campaigning will continue. In this legislation we attempt to get candidates to think twice about running such ads by requiring the candidate to appear at the end of every radio and television commercial they purchase to inform the viewer who they are and that their authorized campaign committee paid for the ad.

We also provide broadcast vouchers for the candidates to use for up to 20 percent of the general election spending limit. These vouchers can only be used to purchase broadcast ads of at least 1 minute in duration—a time period that is less likely to be used solely for negative purposes.

CONTINGENT PUBLIC FINANCING

One of the difficulties of designing this legislation was to create sufficient incentives for candidates to voluntarily agree to spending limits without coercing such a decision to the point that the candidate really has no choice.

This legislation includes many reforms of the current system that amount to substantial restrictions on the ability of Senate candidates to raise and spend money for election. Those restraints are imposed independent of the voluntary spending limits because of the overriding Government interest in removing the appearance and the reality of improper influence in the political process.

Nevertheless, the most important part of this legislation is the option it gives candidates to campaign for the Senate in a system with spending limits. We do not expect all candidates to voluntarily agree to those limits but it is our desire to encourage enough candidates to participate that public faith in our election finance system is restored. This is not a substitute for the present system of unlimited spending but an alternative available to candidates who do not wish to be beholden to special interests and large givers and who wish to maximize their time spent on direct campaigning rather than fundraising.

We believe these incentives to participate in this alternative system will broaden the range of candidates willing to run for the Senate and attract individuals who are now repelled by the present unlimited financing system. In that way, it should increase political competition and political dialog in ways that are healthy for the system. The effect of the spending limits will then be to generate more political activity and diversity in our system. The spending limit option therefore should be seen as but a means to an end and certainly not an end itself.

In developing this legislation we believed it essential that candidates who choose to campaign under a spending limit not be exposed to the risk that this decision will undermine their candidacy. We deal with this in three areas.

First, candidates who opt for spending limits are provided resources to wage a credible competitive race. That includes reduced mailing rates, lower cost broadcast rates, and vouchers to purchase television ads amounting to 20 percent of the cost of the general election.

Second, candidates who opt for spending limits are provided additional resources to offset outside money that comes into a race from independent expenditures. Although many believe the current practice of independent expenditures to be a problem for Senate campaigns the issue becomes more acute where the candidates themselves agree to operate under a spending limit. The expenditure of money by groups not bound by the spending limit would clearly influence a candidate's assessment of whether to opt for spending limits.

Third, candidates who choose to be bound by spending limits are provided some protection against a candidate who decides to exceed the limit. This is provided in the form of contingent public financing. The limited public financing had to be structured in such a way that the candidate agreeing to the spending limit would not be disadvantaged by a last minute spending spree in excess of the spending limit by the opponent.

The legislation provides that once a nonparticipating candidate commits to exceed the spending limit, the participating candidate will receive public funds amounting to two-thirds the spending limit. We wanted to provide for smaller increments of contingent public financing but concluded that it would be impossible in the last days of a campaign for the Federal Election Commission to respond rapidly enough. Candidates would be aware of this deficiency and it would no doubt influence their decision whether to choose the alternative system with its spending limits. Therefore, in the interest of making this legislation work, we built in substantial contingent public financing.

Although some may choose to believe otherwise, the contingent public financing is not intended to force anyone to participate in the spending limit system but is instead designed to enable a candidate to prudently decide to be bound by limits while waging a serious campaign for the U.S. Senate.

CONCLUSION

Over the last few years, this body had had considerable discussion of campaign finance reform. In the last Congress we had eight cloture votes on legislation to impose spending limits on Senate campaigns. Members of the Senate have sharply divergent views about what changes are in order. Many Senators have insisted in the past that no changes are necessary.

This year is different. That has changed this year. I believe we are all fed up with a campaign finance system that requires a major effort by most of us to travel around the Nation in search of campaign funds from people we do not know.

It has now reached the point where many elected officials are scrambling to investigate the identity of their contributors over the past decade. They are looking at the names of people they do not know and in many cases have never heard of, but who are being closely associated with them by virtue of their campaign contributions. They are returning campaign funds and attempting to distance themselves from their own contributors.

The public is rapidly losing confidence in the Federal election campaign process. They question the integrity of this institution and its members.

How did we get ourselves in this situation? Is there a single Member of this body who fails to deplore this? Can anyone deny that we must rewrite our campaign finance laws?

The legislation we consider today gives us a way out of this dilemma.

We have gone this route before. But too many of us have resisted change out of a concern for the effects such legislation could have on the ability of one party or the other party to elect candidates to the Senate. It is clear that we have now gotten to the point that the worst alternative is to do nothing. Now is the time to enact campaign finance reform legislation and

restore the integrity of this institution and its Members.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, first, I say I am pleased that we have this matter on the Senate floor. As the majority leader indicated in the early portion of his remarks, it has been a long time, and we have had a lot debate and a lot of differences. This does affect every Member of this body who expects to run again for the U.S. Senate. It is important from that standpoint.

It also points up the difficulty. Every one of the 100 Senators wants to design a package that will fit his or her reelection. In my view, as long as that is going to be the criteria, there is no possibility of coming together.

But having said that, I think it is also fair to say there are certain areas that are rather clearly defined where we have rather clear differences.

The Democrats have touted inflexible, aggregate spending limits as the centerpiece of their own reform proposal.

The Republicans, on the other hand, have argued that the real culprit in the campaign finance reform debate is not the spending but the sources of campaign funds. It seems to me that the source of campaign funds, for instance, right now, all the folks who got S&L money, it is the source; it is not how much, it is the source. So what we are trying to do on the Republican side is take a look at the source, and, in our view, we think we have a better proposal.

But both positions are strongly held, the Democrats' position and ours are strongly held. Both have very forceful advocates, and both serve to highlight the wide gap that separates the two parties on an issue that is of immense importance, not only to the Senate as an institution, but to the very wellbeing of our democracy.

THE BIPARTISAN PANEL

Last week, I attempted to bridge the partisan gap by embracing the flexible approach developed by the partisan panel of campaign finance experts, who were appointed earlier this year by the majority leader and myself.

In its report, the bipartisan panel distinguished between potentially corrupting sources—we cannot seem to get the media to focus on sources, it is all spending—potentially corrupting sources of campaign financing, such as political action committees and big-money out-of-State contributors, and those desirable sources such as a candidate's own individual constituents, the home State voters.

Using the good money/bad money distinction, the panel then proposed a compromise solution: Flexible spending limits which placed an aggregate cap on campaign spending but retained enough flexibility to encourage contributions from the good money sources. That is what we are trying to do. The good money sources are not the problem.

Mr. President, last week in a Republican proposal, which was cleared by the group of five that I asked to negotiate with the group appointed by the majority leader, we adopted this bipartisan approach. We submitted it to the Democrats. It retained a complete ban on PAC contributions, which has been a key element of the Republican reform plan from the beginning.

It provided for a reduction in the out-of-State individual contribution limit from $1,000 to $500.

And, perhaps most importantly, the proposal called for the creation of flexible fundraising targets establishing an aggregate cap on those bad money sources recognized by the bipartisan panel—personal funds, contributions from out-of-State individuals in excess of $250, and contributions from PAC's, in the event that the Republican PAC-ban was ever declared unconstitutional by the courts. So we believe that we made a good proposal.

"GOOD MONEY" SOURCES

The Republican proposal did not place any restrictions on contributions from individuals residing in a candidate's home State.

Contributions from individual constituents are, very simply, the best dollars in politics. And I challenge anyone to say that the voters of this country should be shut out from contributing to a candidate from their own State.

I do not believe we should have any limits except the one announced limit that is now in effect on other limits. When it comes to contributions from somebody in my State of Kansas, I should not say no, I cannot take your $15, $25, $30 because I have this arbitrary limit.

The Republican proposal also did not cap out-of-State individual contributions of $250 or less.

Experience tells us that small out-of-State contributions are not made to gain access to the decisionmakers here in Congress. They are not made to curry favor with congressional incumbents.

They are made out of a personal commitment to a political cause, and they are given to those who support this cause in Congress.

In my opinion, that is good political money, and it should not be hamstrung by mindless restrictions.

WALK THE "EXTRA MILE"

Mr. President, with this proposal, Senate Republicans believe they have walked the extra mile. We made a sincere effort to close the partisan gap here in the Senate.

And it had been my hope that the Republican proposal would be well received by my colleagues on the other side of the aisle, and perhaps could be used as the basis for a resumption of bipartisan negotiations.

Well, I was wrong. My colleagues on the other side rejected the proposal. Some were even quoted as saying it did not amount to much. Well, those are rather harsh words, rather harsh rhetoric. It is still my hope that as we offer amendments and as we take a look at this bill, there will still be some way to come together to preserve the principles that each side feels very strongly about.

I do believe that the Democratic acceptance of the Republican PAC ban does change one big piece of the puzzle and that is a step in the right direction. I congratulate my colleagues on the other side.

But I think, perhaps notwithstanding the statement by the majority leader, if we had only that and the rest of the so-called Democratic proposal, we still are going to have spending limits in my view that stifle challengers, promote incumbency gridlock, and guarantee a Democratic majority in the Senate for years to come.

We are still stuck with a partisan bill that does nothing to stop soft money abuses of corporations, labor unions, and so-called tax exempt organizations who hide their partisan political activities behind tax exempt status.

We would still be stuck with a bill that places yet another burden on the taxpayers by forcing them to partially finance political campaigns with something called "broadcast vouchers." And most importantly we would be stuck with a bill that everyone knows is not going anywhere, since it is a spending limits bill that President Bush simply will not sign.

Mr. President, let me make it clear as my colleague from Kentucky has made it clear last week and the week before and months before, Republicans have no intention of filibustering S. 137. That is not in our strategy. We are going to try to be helpful and try to be cooperative and try to offer amendments and see if we cannot improve the matter pending before the Senate.

But, we are going to offer amendments. Many of these amendments were based on a Republican 34 point program of reform, 34 different points in our reform proposal which was introduced this past May.

These amendments will eliminate the taxpayer financing provision that remains in the Democratic bill. They will promote competition in politics by allowing the parties to give seed money to viable Senate and House challengers. They will close the millionaire's loophole that allows wealthy candidates to buy congressional seats in effect.

That is the Domenici proposal, I might add. The Senator from New

Mexico just entered the Chamber and reminded me of that.

They prevent Members of Congress from sending out franked mail during an election year.

And they will ban nonparty soft money—a provision that is noticeably absent from the partisan Democratic bill.

So I would just urge my colleagues on both sides to keep an open mind. We have a way of getting together sometimes around here where each side can, in effect, preserve their principles. Ours are very strongly held and so are the principles on the other side. But I believe if we can adopt a number of amendments then we might get around to working out some final compromise. Maybe not. We are not going to sacrifice principle, and I doubt the other side will sacrifice what they believe to be principle.

But now I think we have before us a piece of legislation that is flawed in many ways. It can be corrected by amendments and I look forward to debate. As someone who has been engaged in a lot of fundraising activities, I do not like it. Nobody likes it. We do not like to raise money. It is demeaning to call somebody on the telephone, in my view, and I do very little of it but it is still necessary if we are going to raise the money.

It is not so much, again, the spending limit.

I was told today by the Senator from New Hampshire, Senator RUDMAN, how the cost on television in the Boston TV stations has gone from, I think, $5,000 for a 30-second spot it is going to be over $20,000 for that same 30-second spot in the year 1992.

Now if we are going to have spending limits, as proposed on the other side, it seems to me it is not the spending, it is the costs. It is the cost of campaign, it is the cost of television, it is cost of everything you do in politics just as the cost of everything else. And that is why we have not adopted that approach.

But having said that, my view is we are dealing with this at an appropriate time. There is a considerable amount of interest beyond the beltway in campaign finance reform. I think taxpayers and our constituents are asking a number of questions. Hopefully they can be addressed in the next 2 or 3 days.

Mr. BOREN. Mr. President, I thank the chair and I thank the distinguished minority leader for the comments that he has just made. Likewise, I thank the distinguished majority leader for the comments he made in presenting the lastest version of our proposal for consideration by the Senate.

This is a moment that I have been waiting for personally for a long time. I was just checking the record, and it was on June 8, 1983, when Senator Barry Goldwater, then a Senator from State of Arizona, one of the most respected people to ever serve in the U.S. Senate, joined with me in laying down a bill which would have attempted to limit special interest influence in the financing of campaigns. That bill would have placed an aggregate limit on the amount that any candidate could have received from political action committees. So the subject that we are discussing today, campaign reform, is a subject that has been of great interest to me for a long time.

I began this discussion today with high hopes that we will eventually have the will of the Senate worked, the best thinking of the Senate brought together in the course of the next few days and we will finally have an opportunity to enact real campaign reform and send our proposal to the other side of the Capitol, where I hope it will be responded to favorably, and then on to the desk of the President of the United States, where I hope it will reach the President in a form that he will decide is in the best interest of this Nation and sign it into law.

There are some issues that come before us, Mr. President, that could be described as political issues. There are times in this body when it is considered fair for one party to seek an advantage over another party; where it is proper, in order that we might show to the American people and demonstrate to the American people philosophical differences between the two parties, for us to engage in partisan competition. There are times when it is, perhaps, fair to employ all of the tricks of the trade to try to make sure that issues are only framed in a certain way and that only certain options are allowed to come before the Members of the Senate to vote on them.

Then there are other circumstances, Mr. President, in which we are called to a higher duty, in which we have a higher responsibility, in which higher standards should govern our conduct. Those are issues in which we are called upon to act not as Republicans or Democrats, not as people who hold political offices and engage in political competitions. We are called upon on some occasions in this body, and I think most us recognize those occasions when we see them, to rise above politics as usual, to surmount the divisions that are sometimes present between us and to come together in a united way to act as trustees for all of the people of the United States in the preservation of the essence of our constitutional system.

We are sometimes called upon to act as U.S. Senators; as representatives, not of political parties, but as trustees of the American democratic system, as trustees for the Senate of the United States as an institution, so that we can be assured we will fulfill the role and purposes intended by the framers when they provided for a U.S. Senate in our Constitution.

This is one of those moments when we are called upon to put aside our differences, our own personal political agendas, even our own personal political self-interest or the interest of our parties, and do what is right for the country, do what is right for the Constitution, do what is right for the U.S. Senate as an institution. We have come to that moment.

The Senate begins debate on an historic piece of legislation at a time in which all of us on both sides of the aisle can say with one united voice the current system of campaign financing is not working. I will be very surprised, Mr. President, if a single person comes to the floor in the course of our debate this week, over the next few hours or the next few days until we finally reach a conclusion, to argue that the present system is not fatally flawed.

All of us on both sides of the aisle believe so. We have just heard this from the distinguished Republican leader and distinguished Democratic leader, both saying something is wrong with the current system. We recognize the election process is the heart and soul of our democratic system, that it is through the election process that the people of this country have an opportunity to express their views and to have a role in their own Government; that it is because of the election process that we say we are a country where the people govern themselves.

Since we are prepared to say, in a bipartisan fashion as we begin this debate today, Mr. President, that something is wrong with the system that is at the very basis, the first building block on which our whole constitutional system is based, then we should also be prepared to say with one voice that, as hard as it may be, we must all be prepared to work here on the Senate floor over the next few days to reach decisions, to hammer out compromises, to consider amendments until finally in the end we can come forth with a proposal that will truly change and reform the system and restore vitality and integrity to the election process in this country.

We must not shirk our duty to the people. We must not shirk our duty to keep our oaths to uphold the Constitution. We must be prepared to stay here and do the people's business and not let the people down and not stop and not go on to other legislative duties until we have finally enacted real campaign finance reform.

As I said, I began this debate with the highest hopes I have ever had. I remember on the first day Senator Goldwater and I introduced our bill, we were talking between ourselves. We were saying to each other how we expected to be greeted with laughter.

They were going to say: There are a couple of Don Quixotes for sure, with a proposal like that. We felt strongly enough about it that we wanted to go forward anyway. I remember, again in our private discussions, we said if in this first year of trying to focus the attention of the American people on this issue we could even get 20 Senators to support our cause we would consider it to be a moral victory.

I will never forget the first discussion our two caucuses had on the Boren-Goldwater bill. I went into the Democratic Caucus. My colleagues said almost with one voice, to me: How in the world could you agree to cosponsor a bill like this with Senator Goldwater? Do you not know you have allowed yourself to walk into a Republican trap, to sponsor a bill with Senator Barry Goldwater on this subject which would limit the influence of political action committees?

Senator Goldwater walked into the Republican Caucus. When the meetings were over he came and reported to me. He said that is one of the roughest meetings I have ever been in. Almost every single member of the caucus spoke up and said to me: Senator Goldwater, how could you begin to allow yourself to walk into such a Democratic trap as to sponsor this pro-Democratic bill with Senator BOREN?

Barry and I agreed on that occasion that it would have been wonderful if we would have been able to pipe in the debate from the Republican caucus into the Democratic Caucus, and vice versa, since we were each accused of walking into a political trap opened by the other side.

We were not trying to do something, quite honestly, for Democrats or for Republicans. We were trying to do something for America, and that is still the goal of true campaign finance reform.

But there has always been the hesitation. When we are talking about changing the rules there are always those on each side of the aisle—in fact there are 100 different views of it, as many different views as there are Members in this Chamber—and all are concerned that any change, particularly if it is a way that that particular candidate or that particular party has been conducting himself or itself, will end up favoring the other side. Somehow we, in the course of this debate, must try to rise above those partisan suspicions and find a way to trust each other and work together in a bipartisan way to craft something that will not favor one party or another and will end up serving the interests of this Nation.

I do not for a minute think it would be wise for those of us on this side of the aisle to try to ram a bill through the Senate of the United States that strongly favored our own political party. I know, for one thing, the President of the United States, who is of the other political persuasion, would not be about to sign a bill that would be demonstrably favorable in an unfair way to my party over his. I would not blame him for taking that position.

So it would be just a waste of time for all of us concerned, on either side of the aisle, to try to play political partisan games. The majority of the Senate and the House happen to be of my political party. I am sure, just as we cannot expect the President to sign a bill that would favor our party, those on the other side of the aisle understand the majority in both Houses would not be about to pass a bill that would be to our detriment in an unfair way.

Mr. WIRTH assumed the chair.

Mr. BOREN. Mr. President, so we must find a way to be evenhanded. When we say we want real campaign reform, and we want to pass it, in the course of this debate, it should be understood that we do not mean by real campaign reform something that will favor one party over another, even something that would favor our own political party. It must be right for all of the people, for both parties. It must meet the test of fairness. It must stand the light of day.

I believe we can do that. Why do I say I am the most optimistic I have ever been, having been involved in this bill going back to the Boren-Goldwater bill, going back to early votes on that particular legislation, and we were not ever able to get a meaningful vote framed on the Senate floor on that particular bill? We finally did struggle up to 37 supporters at least who indicated support to us in private. We later had S. 2 in the last Congress which had a record number of cloture votes, as the majority leader has already indicated. We had at the high-water point something between 55 and 57 votes for that bill but were never able to get the full 60 votes necessary for cloture, as there was a filibuster conducted on the other side of the aisle.

So I have been through discouraging times with this legislation in attempting to pass it. I think I am a realist about how difficult it is to get people who are part of a political system to change the rules by which they have learned to live and succeed in politics. But I think it can be done.

For one thing, the times have changed. The American people now understand the need for reform. There has been too much the appearance given to the American people and, indeed, to the world, that money plays too great a role in American politics. There is the perception that people are giving campaign contributions and raising large amounts of money, not just because they want good government, but as someone once said very humorously, "For a large campaign contribution, you not only get good government, you get a whole lot more." And by that they meant access to those who have to make the important decisions on the issues of the day.

All of us who hold public office who did not come here because we desired to spend a great portion of our lives raising political contributions but came here because we hoped to perform a public service to help the people of this country, we are also victimized by the current system. When you have to raise millions of dollars, you have to begin to raise a lot of that money from people you do not know, from States outside your own State, and there is no way you can know all about those people from whom you are receiving money. There is no way that you can learn what they might do in the future after you have accepted campaign contributions from them.

So sometimes 3 years, 5 years, 10 years even after accepting a political contribution, if that contributor does some things wrong, the appearance is given that somehow that Member of Congress must also be at fault for having taken a campagin contribution from someone with whom they were not very familiar. The more money we have to raise and the more we have to go across the United States into States where we do not know the people very well in order to raise the average amount of moeny to run a campaign, more and more of that is going to happen. So the people are saying, "Enough." Enough; that is one of the things that has changed. The people themselves are saying we want something done.

The most recent poll taken this year indicates that 85 percent of the American people say, "We want a limit on campaign spending"—85 percent. "We want something done. We do not want the image that our Congress is for sale. We do not want the image that we have a Congress because of so much money being required to run for office has to be filled with full-time fundraisers and part-time Senators and Congressmen. We have had enough. We want something done." And the people are right.

That message from the people deserves to be heeded by us. They deserve for us to stay here until we write a bill that does something to reduce the influence and the impact of money on the political system of this country.

So I am more optimistic than ever because the people are beginning to be heard from, not softly, but loudly, on this issue. I am more optimistic than I have ever been because of the spirit that has been engendered on both sides.

The Senator from Kentucky and I have argued this issue for a long time.

We know each other well. We would be well acquainted if we had only known each other in the course of debates on this issue. But I have to say that I am encouraged. I have heard him say that there is no desire on the other side of the aisle to filibuster a bill. There is a desire to let the Senate work its will.

The distinguished Republican leader, Senator DOLE, has said we are not going to filibuster. We are going to vote up and down on these issues and what is left at the end of the process, we are going to let the Senate vote on it.

The majority leader, Senator MITCHELL, has clearly indicated, showing good faith on his side, that as long as there is not the use of a delaying tactic on the other side or a filibuster, indirectly as well as directly, that he has no intention of choking off, through the cloture mechansim, the right of those on the other side to offer their amendments freely, to have their point of view heard and debated.

That is the way the process ought to work. If we are going to have a bipartisan bill and we are going to write something that is right for this country, if we are going to have true campaign reform, that is the only way it is going to happen: For those of us on both sides of the aisle to act in good will.

I want to repeat again what the majority leader said, we are prepared on this side of the aisle to allow amendments to come, to let them be considered, and as long as there is no attempt to offer amendments purely for the intent of delay but out of trying to get the issues resolved, we will allow that process to work. We will try to find a common ground anywhere we can.

So I am encouraged by the procedural attitudes being reflected on both sides of the aisle. I am encouraged by the attitude of both the Republican leader and the Democratic leader about this process—a no-filibuster pledge and a pledge not to use cloture and other procedures to stifle the ability of those on the other side of the aisle to have their amendments fairly heard and disposed of through deliberative action.

I am encouraged also, Mr. President, by the fact that we have been able to get those on our side of the aisle to move in a very dramatic way to try to meet some of the objections that have been raised by the opposition to our original proposal.

When I first had a discussion with Mr. Boyden Gray, the Chief Counsel to the President, the one thing that Mr. Gray told me that was uppermost in the mind of the President of the United States was that he wanted a total ban on political action committees; a total ban on political action committees.

Mr. President, we understood from those on the other side of the aisle when we first begun to prepare for the amendment process on this bill that that also was the amendment that they intended to offer first. According to Senator DOLE, he said they want to offer that amendment first. We went back to our own negotiating team and, led by the majority leader, we reached a decision, not an easy decision on our side of the aisle because it is well known that, in the aggregate, Democrats have received more political action funds, at least in recent election cycles, than have Republicans. That is not unusual because political action committees tend to favor giving to incumbents over challengers by more than a 4-to-1 ratio. Since there are more Democratic incumbents in the House and Senate, it is not surprising that more political action committees would be going to Democrats.

So we decided, Mr. President, as a gesture of our desire to get a bipartisan bill that we would adopt in this draft, and it is in this draft, identical language used by the Republicans in their own proposal which I must say includes several good propositions. We have tried to incorporate several of them into our bill. There may well be others that can be offered in amendment form which will receive strong bipartisan support. The more proposals we can get unanimity on on both sides of the aisle, the better, as far as this Senator is concerned. We put in the exact language from the Republican proposal banning all political action contributions not only to candidates but to parties and other entities as well.

We adopted very similiar language to theirs as a standby mechanism to use in case our total ban on PAC's in both proposals happened to be declared unconstitutional.

Then, Mr. President, we were told that another one of the items that was of great interest to them was the degree to which we had increased the amount of public financing in our original draft. As the Senator from Maine has said a few moments ago, there is very strong support on our side of the aisle for public financing. A number of people at our party caucus have argued for it quite forcefully as the only way of removing special influence completely from campaigns in the general election.

But we understand that was a sticking point on the other side of the aisle, and we have removed the concept that there would be automatic provision of cash out of the checkoff fund equal to approximately 60 percent of the spending limits set forth in our bill for those candidates that were the nominees of their party that accepted the spending limits.

We retain in our bill only the benefit of lowering mailing rates and the provision of vouchers for certain kinds of television time, largely as proposed by the distinguished Senator from Missouri [Mr. DANFORTH] again as a show of our desire to have a bipartisan proposal.

So we have removed two major items that have been indicated by the other side could be roadblocks to agreement, two items on which it was not easy at all to get agreement on our side of the aisle, two compromises that we offer in the very beginning that some would face with a lot of misgiving, and yet we have done it. Why have we done it? We have done it because we want a bill.

I can assure you this Senator did not come to the floor today any more than he came to the floor on June 8, 1983, with Senator Goldwater for the purpose of making partisan points. This Senator came to the floor. As did I believe the majority leader—and I take it in good faith the minority leader, and the Senator from Kentucky—because we want a bill, real reform, and we want a bill the President will sign into law. It would be a waste of our time to come to the floor for rhetorical purposes and to merely engage in partisan political competition.

So I am more optimistic than I have ever been. The people want change. The people are demanding it. Eighty-five percent of the people want limits on spending. Both leaders on both sides have said we are going to have an open process, allow the amendments to come, no attempts to filibuster, and a final vote on this bill in the end.

We have already begun by having some important compromises offered on our side of the aisle, including putting in our draft that element which the President of the United States through his legal counsel indicated to me was the most essential element of all, a total ban on political action committees.

So, Mr. President, I am optimistic, and I hope and I pray that we will succeed. We have so much to be proud of as Americans. We have been an inspiration for the changes that have come in the rest of the world.

We all remember when Lech Walesa came here to speak to us and he began with the words "We the people." He said those are American words, but we have taken them as our words because they reflect the kind of political system that we want to have, they are the words that have inspired us in times of trouble and difficulty in the long decade through which we struggled for the right of free expression.

We should take great satisfaction that when the students in China and Tiananmen Square wanted to find a way of expressing to the world what it was they were fighting for that they chose our symbols, the symbol of the Statue of Liberty, representative of

our political system, to say to the world why they were risking their lives and why they were struggling.

This last week, we had the acting Polish Ambassador come to speak to the college interns who are working in my office this summer. I must say to my colleagues it was an emotional moment for me, as well, I am sure, for the students who have been working in my office this summer, to hear him talk about what they have been through. Here was a man 53 years old who in the years of his elementary schooling had seen the Nazi troopers come in and take over his country, had seen his classmates hauled off to concentration camps out of the elementary shool classrooms, and then as he moved on into his secondary high school years and his college year, the Stalinist troops came in and there was repression and he was unable to express himself freely. And now, having lived more than half a century, for the first time in his life he has a right in his country to express the views he wants to express and, not only that, to control the destiny of his own government through the political process.

He said to us, "You American were our inspiration."

Mr. President, how proud we can be. No country, no country's ideals have ever moved the world as much at any point in the world's history as American ideals have inspired and led the rest of the world to the massive changes that have taken place in the last year. And we can hold our heads high having made that contribution.

At the same time, there are troubling aspects of it because, as I listened to that acting Ambassador from Poland speak to us, I kept asking myself and saying to myself, have we come to the point in which we now have to learn about our own ideas? Have our own ideals been revitalized by listening to other countries? You look at it. We have inspired others to fight for the right to vote. In the last off-year congressional elections 37 percent of the people turned out to vote. This year in West Germany, 95 percent of the people turned out to vote. In Nicaragua, where there were threats of violence, 90 percent of the people turned out to vote.

These people who we have inspired with our ideals around the world are in many ways acting in ways truer to our ideals than we are ourselves.

Why is it the people have become cynical about the political process in our country and why is it that they no longer take an opportunity to participate? Why is it, even when they do not have to risk their lives, as you have to risk your life in some countries where I have been as an election observer, to go vote, they do not take the time on the way home from work or to turn off the afternoon soap opera to participate in the political process.

I think much of it has to do with the way the political system has been corrupted, and much of that has to do with the image that people have of their own government; much of that has to do with the amount of money that is being poured, through every available means, from every special interest group, into the political process. No wonder people have become disillusioned about campaigns. The sky is the limit as far as campaign spending is concerned.

When I first came to the Senate, it cost an average of $600,000 to run for the Senate. That is in the report. In fact, the actual amount is $609,000; in 1976 that was the average amount spent to run for the Senate; 12 years later, in the last election cycle, 1988, over $4 million.

If you just take the current rate of increase, and when you look at how much it cost to win, not just the average amount spent, but let us look at the average amount it cost to win a Senate seat, if you project that on out, 12 more years from now, 15 years from now when those who are graduating from high school this year will be old enough to run for the Senate it is going to cost in the neighborhood of $15 million.

How can we expect people to remain idealistic about our political system when they see that it costs so much and you have to go out into places where you do not even know the people to raise $4 million. I could not raise $4 million in a State like Oklahoma right now with the economic conditions that they have. And so candidates have to go out all across the country.

They look at something else about our system that is not working. They look at the great advantage that incumbents have over challengers and how difficult it is for a person with a new thought, with a new idea, to get elected to the Congress, the House or the Senate. And no wonder, because under a system in which the sky is the limit, in which people can raise as much money as they can with no limits whatsoever, incumbents are almost always going to be able to outraise challenges. As Senator MITCHELL said, this is no hypothesis. In 51 out of the last 55 of the last Senate races that was the case, incumbents outraised challengers.

Incumbents outraised challengers. They were able to raise over $2.50 for every $1 raised by challengers in the last Senate election cycle. So if we want to do something to open up the process—this is something quite honestly I do not say as a partisan point; I say it to plead with my colleagues on the other side of the aisle who somehow seem to think that putting over some kind of overall spending limit is designed to hurt over their party.

For their party which has fewer incumbents, which is out of power in both Houses of Congress, why in the world would they not favor a system that would put some equality back into it between challengers and incumbents? Why in the world would they favor a system that allows incumbents to outraises challengers $2, more than $2, for every $1 that challengers can raise?

I can say with all honesty—and again I say this not as a partisan Democrat; if I were a member of the minority party in either House of Congress, looking at the ability of incumbents to always outraise and outspend challengers, I would be the first person to be for some kind of limit on the runaway spending process.

So we have a perception out among the people that it is really not the voter that counts; it is the contributor that counts, and the bigger the contributor the more they count.

How many people really think that on a busy day around here, if there are two people wanting to go in, and that Senator or Congressman has 10 minutes of his time available, that some average voter off the street will have just as much chance of getting in to see that busy Congressman or Senator as that individual who gave $1,000, or maybe members of his family gave $10,000, or maybe he is the head of a PAC that gave $10,000, as opposed to an average citizen off the street that had not been able to give $5, or just perhaps a voter?

I say perhaps a voter—it should be the voter who is the driving force of the whole system, not the contributor. We need competition for public office, not based upon who can raise the most money, but who has the best ideas, who is best qualified, who is best prepared to serve the country.

So it is no wonder that people have become cynical about the system, and it is no wonder that they have called out for real reform. What does real reform include? I have already indicated I think real reform includes some kind of overall constraint on runaway campaign spending. Does that mean that the limits set forth in the legislation that we have introduced today in S. 137, that these limits, as far as we are concerned, are engraved in stone, that they cannot be changed? Absolutely not.

Mr. President, we are prepared to sit down with those on the other side of the aisle and talk about what the limits ought to be. Does it mean we are not prepared to consider some kind of system that might lower the amount that individuals from out of State could contribute, versus the amount that those in State could contribute; that might in some way put the greatest restraint on out-of-State contributions, as opposed to in-State contributions; that might not in some way exempt from our spending limits

or at least provide some kind of a flexible spending limit for smaller in-State contributions? Not at all.

We are willing to look at any of these details as long as there is some effective overall final constraint that when we pass this bill, we can say yes, the bill do something to reduce this money chase which makes us into full-time fundraisers and part-time Senators.

As long as we can say there is some effective overall constraint, we can look at the details. We can make changes. Let us hope we will find a formula for bipartisan agreement. But we cannot turn our backs on the American people when 85 percent of the American people say when we talk about campaign reform we mean some kind of limit on runway spending.

We cannot do our duty by the people and just disregard that, and say oh, well, put the name campaign reform on some bill number and say we have done our duty when we have not done anything to really stop the money chase. Let us work together for real reform, and let us work together to find a way that will stop the money chase, but hopefully find a way that will be acceptable and a formula that will be acceptable to both sides of the aisle. I think frankly we have been moving toward that.

Second, we have to be concerned about where the money comes from. Too much of its has come from special interests; too much of its from out of State. Over half the Members of Congress elected last time got more than half their money outside their own States, most of it from political action committees.

I do not think there is any disagreement on this on both sides of the aisle. We have been absolutely prepared to accept the provision banning all PAC's, and that is the bulk of the largest amount of the out-of-State money.

Finally, we have to look at soft money and other loopholes, including independent expenditures, bundling, millionaries loopholes, and other problems. I know from discussions with the Senator from Kentucky that he and I both share a desire to do something with these kind of problems. I think we can work together and fine tune these kinds of solutions that will really work in areas like independent expenditures and bundling and other problems that we face.

Soft money; we must do something about soft money. It has been estimated that each 1988 Presidential candidate, for example, raised $20 to $30 million through the State parties. It has been estimated as much as $50 million in the last election cycle went into State parties for the purpose of influencing Federal elections in either the House or the Senate.

There have been released by the other party the names of 249 people that gave $100,000 or more, when we thought the system was only supposed to allow $1,000 contributions in congressional races, and a total limit of $25,000 on what any individual could give in terms of soft money.

Yet, a list of 249 has been released who gave $100,000 each. I might say I am not pointing to them because they could easily release a list of a similar number of names—those who contributed to the Democratic Party in the last election that also gave amounts like $100,000. They are doing it through the soft money loophole instead of giving it to a candidate directly.

The State party committee, for example: $100,000. That State party committee spends it to at least indirectly influence Federal elections, vote Democratic, vote Republican, phonebanks for targeted precincts where you know your voters are.

So millions of dollars are going in through this soft money loophole. It has been called sewer money by those of us on both sides of the aisle. Let us unite and do something about it.

In the first Republican proposal, they allowed individuals to give to party committees, State party committees, without being under the $25,000 limitation of total campaign contributions in a year. That would have allowed $20,000 to go to each of the State party committees and to national party committees.

Total that number, and it is $680,000. In any one year, double that for a husband and wife in a 2-year election cycle. I do not think they intended that. They have been working on that. We have to make sure, and we do it by defining soft money like we define hard money; putting it under the limits of how much an individual can give to State parties.

We understand when you give money to a State party when a Federal election is going on with State candidates running at the same time that we have to consider that money is also being spent to impact the Federal elections. So we bring it under the limits. We treat it as if it were hard money, not soft. We bring it under the limits in place in current law to limit what you can do to influence Federal elections.

We have to work on that real reform. We have to work on some kind of overall effort to end the money chase. We have to control where the money comes from, reduce the influence of the special interests, and I think we are doing that on both sides of the aisle. We have to work on soft money and other loopholes.

We should try to change the quality of campaigns themselves. The Senator from Missouri [Mr. DANFORTH] eloquently talked about this. There is the 30-second spot that has become typical of campaigns, character assassinations, negative messages, without the candidates being required to be on that spot themselves. They can hire actors to say bad things about his or her opponent without even claiming responsibility.

The Senator from Missouri has suggested that we have vouchers given for a period of time. He suggested 5 minutes, a 1- to 5-minute spot in this bill, and not 30 seconds. There is nothing magic about it. Perhaps it could be improved.

I hope the Senator from Missouri will come forward with other improvements. We need longer time slots, not just 30-second slots where you cannot really say very much about meaningful discussion of an issue if it is mainly used to attack the opponents.

We need longer time slots, and also a requirement at the end that if somebody is going to say something about the other, to attack that candidate, he has to come on at the end and assume responsibility for it. He or she ought to come on the screen at the end and claim credit for it, and perhaps think twice about whether or not they want to run these kinds of ads. So our proposal meets the test of real reform.

I have to say that I do not believe those on the other side have yet done that. The limit on out-of-State contributions of only $250 or more, I believe, will be a real danger to American politics, because if you have that kind of limit only, you have to ask yourself, how would you raise large amounts of money by direct mail from people you do not know is States where you do not live, contributions of $250 or less? There is really one way you do it. You get the right mailing list to the right single-issue group. If you are pro-life, you write to those that are pro-life in the 49 States. If you are pro-choice, you write to those pro-choice in the 49 States. If you are for the National Endowment for the Arts, you write to those strong supporters of the National Endowment for the Arts. If you are against it, you get the right mailing list to that group. There are Senators—and it is well known in this Chamber—who raised $3 and $4 and $5, almost $6 million in contributions of $250 or less with the right mailing list to the right single-issue group.

if there is anything we do not need in this country, it is more single-issue politics. We need to be uniting as Americans to solve problems like the budget crisis. So we must not pass anything that opens the door simply to encouraging more single-issue politics in our country and does not do anything to really limit the amount of out-of-State money.

If you have the red-hot single-issue group and the right issue and the right mailing list, you can raise, $3, $4, $5 million just as easily that way from out-of-State people as you can raise

$1,000 each out of State fundraisers. If we are concerned about out-of-State money and single-issue politics, we must be careful about adopting a proposal that will make it worse. We have to think about what we are doing.

Our bill sets an aggregate limit of all money that can be raised and spent, depending on the size of the State. For smaller States, it is $950,000. It can go up to $5.5 million in general elections for the very large States. That still is significantly lower than the $15 to $20 million that is being spent in some of these larger States right now.

We have an incentive for accepting these limits. Under the Supreme Court decision, there have to be incentives so the acceptance is voluntary. We provide lower mailing rates for those voluntarily accepting them. We allow the lowest unit broadcasting rate. We worked on that on both sides of the aisle. We worked on this together in making sure that we define what the lowest broadcasting rates are.

We provide vouchers for 1- to 5-minute broadcasts of what I would call the clean-issue type ads, along the lines that Senator DANFORTH has proposed. We provide that if a candidate refuses to voluntarily accept spending limits, that his or her ad should have a trailer saying this candidate does not accept spending limits, so the people will know that candidate has not agreed to keep campaign spending under control. So we have that kind of system.

We also have a standby process of enforcing voluntary spending limits. One candidate accepts a spending limit and the other does not and goes over the limit. Then the candidate who has been so disadvantaged may get two-third of the money available from a voluntary checkoff fund, not taxpayer, but an additional $2 that will be contributed over and above what the taxpayer owes in taxes to fund-matching grants back to those candidates who have been hurt, because their opponents have broken the spending limit.

So, Mr. President, I think we have offered a bill which meets the tests of real reform. It gets the money chase under control. It limits the special-interest influence in politics. It closes completely the soft-money loophole. It deals with other problems like independent expenditures and bundling. And it also does something to try to clean up and to elevate the level of discussion in campaigns to get people to discuss the issues in substance instead of making purely negative attacks on the opponent. So we have done our best, Mr. President.

Does that mean that this bill we present is perfect? Absolutely not. Does that mean that we are in any way fearful or negative about an amendment process at this point? Absolutely not. We welcome suggestions from the other side of the aisle for improving our bill. In those areas where they make suggestions we do not think are appropriate, we will try to defeat those amendments, but we will go back to them to see if there is another way of addressing the problems in order to get an agreement. We take them at their word that they do not intend to filibuster this bill, that they are going to let us have a final vote when all is said and done. We want them to take us at our word that as long as they operate that way in good faith, we are not going to try to frustrate the bill, and they will get votes on their amendments, and we will not make a premature filing of cloture to cut off our colleagues, as long as there are no delaying tactics on the other side.

We owe it to the American people. We extend our hand to the other side of the aisle. I know from talking with them, I believe they extend their hands to us. We have a challenge, a challenge to write real campaign reform. I think the other side wants to do that. We want to do it. I believe the vast majority of the Members of the U.S. Senate in both parties understand that it is critically important for us to succeed in this effort. I believe that they view this task the same way we view it, not a time for scoring political points, not a time for gaining partisan advantage, but a time for doing something for our country, a time for repairing the election process, which is the heart and soul of the political process.

So I end where I began this discussion, with optimism, with the greatest optimism I have ever had on this issue, that when the debate ends in the next few days, we will have a bill. I hope, when we have a bill, that it will be a bill that leaves the Senate in a form in which we can get a large majority on both sides of the aisle to vote for it and that it will be in a form that the President of the United States can sign. If that ends up not being possible, I hope we will continue to work and continue to refine it, and do so in a conference committee, if we have to, to get it into a form that the President of the United States will approve.

I say to my good friend and colleague from Kentucky, who is now managing the bill on the other side of the aisle—and he has been ready for me to cease so he can make his comments on this matter—that I look forward to working with him on this matter. I think that we can make no greater contribution, the two of us, along with the majority and minority leaders and those colleagues on both sides of the aisle that have met trying to hammer out an agreement, I can think of no greater contribution that we could make during our time of service in the U.S. Senate than for us to be able to get together and thread through some honest differences of opinion and some honest intellectual differences to try to come up with a bill that will truly reform the process and that will be accepted in a bipartisan fashion on both sides of the aisle and one that will restore confidence to the American people that the U.S. Senate does not belong to special interests, that the U.S. Senate does not belong to the largest contributors, or does not belong to people outside their home States and home districts, but that this institution is here to serve the people at the grassroots and to try to do what is right for the country, and that it is composed of men and women who came here not to be fundraisers but because they want to perform a public service.

I say to my friend from Kentucky, I think if we can help do that, we can look back on our time in the U.S. Senate with satisfaction. It is my hope and my prayer that when this week ends and the period of time for debate and consideration of this legislation has ended in the U.S. Senate, we will look back with just those feelings of satisfaction when it is all over.

I pledge to continue to work with him and to work with those on the other side of the aisle to try to make that happen. Even while we have many differences of opinion about how to proceed, we have a fundamental agreement that the current system is not working. It must be changed. And it is my hope that all 100 of us will have a common commitment to stay here and work on this issue until our work is successfully completed.

I thank my colleague for his patience and, again, let me say it is a privilege for us to try to work together on a matter of this historic importance to this institution and to our constitutional system.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank my friend from Oklahoma for not only his kind words, but his contribution to this most important issue over the years. Campaign finance is the rule of the game in our democracy, so obviously it has enormous significance to those who participate in the electoral process in this country as candidates, as voters, as contributors and as interested citizens.

It has been interesting to note how the debate has evolved over the years. On June 2, 1987, the Senator from Kentucky, along with 14 Republican colleagues, introduced a bill to ban PAC contributions. At that time I could not find anybody else on the Republican side, not a soul on the Democratic side, who was willing to step up to what I feel is the most significant issue in the whole question of reform, and that is the source of political money. Clearly, the source is the issue.

Where does the money come from?

By eliminating PAC contributions—and now it appears as if the Democrats are following our lead on this most important issue—we will have an opportunity to get at that particular source of campaign money. But there are still some major sticking points.

I might say to my friend from Oklahoma, I think he may or may not know this, we only got the revision at 11:30 this morning. We will have the two amendments that the majority leader wanted us to have available for this evening for votes. They will be there, but they will not be introduced for another hour or so as we make certain they are properly crafted, since this is the most recent revision of the Democratic proposal. We will be ready later in the afternoon to do that.

What we really get down to, as we have so often in the past, is the question of limitations on campaign spending. It has been awfully difficult, particularly when you have to grouse with Common Cause as well, to keep the discussion on a rational basis.

For example, it is frequently said, not only out around the Capitol or inside the beltway, but sometimes even in the Senate, that a money chase exists under which Senators do nothing but raise money from the beginning to the end of their terms.

Mr. President, the facts just do not bear that out. Certainly there is money raised around this town, most of it from political action committees. And if we get rid of those, as it now appears we will be able to do that, technically the source will be eliminated, but there is simply no evidence that Senators are raising money throughout their terms.

We have done an analysis of the class of 1986, for example. The class of 1986 raised—and this is the cumulative amount of money raised by the Senators who were in the class of 1986—4 percent. Four percent came in the first 2 years, 10 percent came in the second year, and 86 percent came in the last 2 years.

Mr. President, there clearly is no indication that the class of 1986 was engaged in this sort of continuous fundraising activity that has been asserted is going on around here.

Take a look at the class of 1988. The total amount of money the class of 1988 raised, 6 percent came in the first 2 years of that 6-year term, 11 percent came in the second 2 years, and 83 percent came in the last 2 years.

That has been the pattern throughout every class and, in fact, the so-called money chase is not going on. There are people who are running who have competition and those who have competition want to win. They are the ones who raised the money during the last 2 years of the 6-year cycle; those who are threatened and those who have competition.

I think most of us will agree that is good for the system. We do not own these seats. We ought to have to fight to keep them. The chances are if we are raising money during the last 2 years of the 6-year term, it is because we have a serious contest and our right to continue here is threatened by legitimate competition. Mr. President, I would argue that is good. That is not bad. I think that sort of thing ought to be encouraged.

It has been said time and time again, of course, there can be no meaningful campaign reform without spending limits and that is what we always get back. That has been the crux of the issue.

It is interesting to note that one group, Common Cause, nobody else in America who studied the issue, thinks spending limits is a step in the right direction. You would be hard pressed to find one well-qualified academic anywhere in America who thought spending limits was a good idea.

As a matter of fact, I inserted into the RECORD before, and I will do it again today in a few moments, a list of academics across America, who specialize in this field—liberal Democrats of course—none of whom think spending limits is a good idea, none of them. They tend to share the opinion of the Supreme Court that they are unconstitutional. And in addition to that, they are not a good idea because a spending limit is really a limit on participation. It is saying if there is a cap on how many people can get involved in your campaign what a terrible step backward.

Mr. President, I have a list of academics, all of whom oppose spending limits. I ask unanimous consent to have this list printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SCHOLARS AND ACADEMICS WHO HAVE CRITICIZED SPENDING LIMITS AS BAD PUBLIC POLICY

Herbert Alexander: Professor, University of Southern California; Director, Citizens' Research Foundation; Director, President Kennedy's Commission on Campaign Costs.

Christopher Arterton: Dean, Graduate School of Political Management, New York; Chair, Campaign Finance Study Group, John F. Kennedy School of Government, Harvard University; Associate Professor of Political Science, Yale University; Member, Commission on the Presidential Nomination and Party Structure of the National Democratic Party.

John Bibby: Professor of Political Science, University of Wisconsin.

Joel Fleischman: Vice-Chancellor, Duke University; Chair, Department of Public Policy Studies, Duke University; Member, Committee on Election Reform and Voter Participation, American Bar Association.

Joel Gora: Associate Professor, Brooklyn Law School; Assistant Legal Director, American Civil Liberties Union; Winning Counsel Buckley v. Valeo.

Gary Jacobson: Associate Professor, University of California, San Diego.

Xandra Kayden: Research Associate, John F. Kennedy School of Government, Harvard University; Director, Women's Advisory Council, McGovern-Shriver Campaign.

Susan King: Assistant to the Commissioner, Federal Election Commission; Chair, U.S. Consumer Product Safety Commission under President Carter.

Michael Malbin: Assistant Director, House Republican Conference Committee; Resident Scholar, American Enterprise Institute; Editor and Co-Author, "Money and Politics in the United States."

Nicholas T. Mitropoulos: Assistant Director, Institute of Politics, Harvard University; Senior campaign staffer for George McGovern, Jimmy Carter and Charles Robb.

Jonathan Moore: Director, Institute of Politics, Harvard University.

Richard Neustadt: Lucius N. Littauer, Professor, Harvard University; Foundng Director, Institute of Politics, Harvard University; Consultant to Presidents Truman, Kennedy, and Johnson; Chair, Platform Committee, '72 Democratic National Convention.

Gary Orren: Professor, Institute of Politics, Harvard University; Member Democratic Commission on Presidential Nominations; Director, Polling and Survey Research, Kennedy for President Committee, 1980.

Norman Ornstein: American Enterprise Institute.

Nelson Polsby: Professor, University of California, Berkeley.

Austin Rammey: Professor, University of California, Berkeley.

Larry Sabato: Associate Professor of Government, University of Virginia.

Richard Scammon: Professor, American University.

Frank Sorauf: Professor, University of Minnesota.

Mr. McCONNELL. Mr. President, it is too bad that we are right down to the nub again of spending limits. We have made it clear on a number of occasions that we think that kind of legislation is not going to become law. In our discussions of the group of five each that the two leaders appointed, we all got around once again to the question of expenditure limitations.

Mr. President, I think it might be appropriate for the moment here to take a look at what Buckley versus Valeo had to say about expenditure limitations. To elaborate on this just a little further, the Buckley court drew a constitutionally significant distinction between a contribution and an expenditure. The court said when a contribution is given to a candidate or political committee it carries with it the possibility of a political quid pro quo and the seeds of corruption. On the other hand, expenditures do not have the same connotation. They are for communication.

The court said:

Although the act's contribution and expenditure limitations both implicate fundamental first amendment interests, its expenditures ceilings impose significantly more severe restrictions on protected freedoms of political expression and association than do its limitations on financial contributions.

In other words, what the court was saying, Mr. President, is the act of spending the money in our society represents first amendment freedom.

It went further to say that the act of contributing the money is the potential for corruption and therefore it was appropriate to limit that and to require disclosure. But to limit the aggregate amount of expression was clearly a violation of the first amendment.

No question about it in Buckley versus Valeo. There is not any chance the court is going to change that this time around.

Why did it sanction the Presidential system and not the congressional that has been proposed in those days? Quite simply because the Presidential system was truly voluntary. We have had one candidate for President run who chose not to accept money. He got one delegate. I suppose everybody else decided after that time they would take a public subsidy.

But, when former Gov. John Connally decided not to take public money and run for President, nothing happened to any opponent. They did not get public subsidies. He did not get punished. They just got some money.

But, alas the substitute sent to the desk today, similar to S. 137, that came out of the Rules Committee, punishes the candidate who exercises his first amendment freedom.

As a matter of fact, the substitute that has been sent to the desk today purports to largely eliminate public money, although it retains the vouchers for the purchase of broadcast advertising. In fact, it is just as hanging over the candidate's head a pool of public money waiting to go to his opponent should he exceed the arbitrary spending limit.

I do not think there is any chance that the courts would uphold this scheme as a truly voluntary spending limit. It seems to this Senator it is not a great idea for Congress to pass legislation that is obviously blatantly unconstitutional. We do it once in a while by accident, but rarely do we go out and pass legislation that is clearly and unambiguously unconstitutional. I hope the Senate will not do that this time.

In addition to that, basically in trying to continue the spirit of cooperation and communication around here, I have been holding for a couple months a letter I have from the President of the United States, dated May 24. Oftentimes on this side, and I am sure even on the other side, they wonder about these threats of vetoes. Sometimes, we hear that the Secretary of Transportation or the Attorney General or someone else will recommend to the President that he veto and we are not quite sure what that means. We do not know whether that means the President is really going to veto the bill or whether they are just trying to use the bluff to hope that we will not pass bad legislation.

Sometimes it has escalated up to another level and we hear maybe that the Chief of Staff to the President is saying, "I will recommend to the President that he veto a bill."

Well, the letter I have is not from any Cabinet Secretary. It is not from the Chief of Staff. It is from the President of the United States. It reads in pertinent part.

Spending limits, on the other hand, would simply entrench incumbents further while ironically enhancing the influence of specific political action committee contributions. It is my intention to veto any such counterproductive legislation, should it reach my desk.

Mr. President, that is not an ambiguous statement. It is a letter signed by President George Bush, dated May 24, 1990.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, May 24, 1990.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR MITCH: I wrote to express again my hope that we can achieve true campaign finance reform this year. Opportunity is ripe to pursue the fundamental goals of attacking special interest influence, promoting electoral competition, and increasing the voice of individual citizens and the political parties. I have proposed for some time the complete abolition of political action committees subsidized by corporations, unions, or trade associations; that critical step, coupled with proposals to reduce other unfair advantages upon which incumbents now rely, would go a long way toward improving the perception and realities of our political system.

I hope that Congress does not waste the chance for reform by attempting instead to increase the advantage of incumbent officeholders through limiting overall speech in campaigns to challenge them, and by devising new schemes to provide taxpayer subsidies for financing congressional campaigns.

The legislative initiative that you and numerous of your colleagues recently introduced would eliminate the problem of special interest PACs that is also addressed by the Administration package, and I am pleased to note several other similarities between our reform measures.

Spending limits, on the other hand, would simply entrench incumbents further while ironically enhancing the influence of specific political action committee contributions. It is my intention to veto any such counterproductive legislation should it reach my desk.

As you recognize, curbing the self-serving and divisive role of special interests is essential to good government, as is the political disinfectant provided by real electoral competition. I look forward to working with you and your colleagues to arrive at a meaningful reform consistent with these aims.

Sincerely,

GEORGE BUSH.

Mr. McCONNELL. Mr. President, I could not agree more with my friend from Oklahoma. We have had some movement here. The movement has been in the direction of doing something about the source of campaign money, and that is a significant step in the right direction. We are eliminating political action committees. I think that is terrific.

I was the one who first suggested it. This was my first bill 1987 that proposed it. We had 14 Republican cosponsors at that time, and no Democratic cosponsors. Now that appears to be a Senatewide position, and I am pleased to see that.

But let us not make this whole exercise one of futility by passing legislation that is blantantly unconstitutional and certain to be vetoed. I hope we have not gone through all of this over the last 3 years to get to this point today that we have all wanted. It is obvious that none of us are satisfied with the status quo. I would like to see significant changes. Let us not go through all of this as an exercise and get no legislation in the end.

We need to have campaign finance reform legislation. We need to have it this year, but we need to have the right kind. The truth of the matter is we agree on a lot of things now. There has been a coming together of both sides stimulated by the discussions that we had with the negotiating group.

We have made a lot of progess. Let us not fail to get all the way to the finish line on campaign finance reform because of this unconstitutional effort to impose arbitrary spending limits on political campaigns.

Mr. President, in terms of my opening statement, let me say I begin my remarks today by inserting into the CONGRESSIONAL RECORD a recent copy of a report on campaign finance commitment developed by a bipartisan panel of experts. This was the group that Senator MITCHELL and Senator DOLE put togerther earlier in the year. They laid out a blueprint, much of which I approved of, some of which I did not. But really it was an important effort in the direction of getting us to where we are today.

Mr. President, I ask unanimous consent that that report be printed in the REPORT.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CAMPAIGN FINANCE REFORM

(A Report to the Majority Leader and Minority Leader, U.S. Senate, by the Campaign Finance Reform Panel, Herbert E. Alexander, Jan Witold Baran, Robert F. Bauer, David B. Magleby, Richard Moe, Larry J. Sabato, Mar. 6, 1990)

INTRODUCTION

You have asked us to consider the issues involved in campaign finance reform in an effort to "stimulate discussion and perhaps

even break the legislative logjam in Congress." We have spent two weeks grappling with these issues to respond to your request and to meet your March 6 target date. We are pleased to submit herewith our report.

Each member of this Task Force has devoted years to issues of campaign finance, either in political or academic life or in law practice, and each has brought to our discussions strongly-held views on certain of these issues. On some issues, these views were very different. All of us, however, took seriously the charge contained in your letter to us dated February 8, 1990, which called upon our most creative efforts to consider alternatives to pending proposals for reform. This required that each of us reconsider our own positions in the light of a common commitment to seeking the widest possible agreement on a well-integrated, functional set of reforms. This is what we have attempted to do, and while any one of us may retain reservations about one or more components of the reform package, all of us believe that the overall package of reforms is balanced and stakes out a constructive middle ground on many of the issues which have proven most divisive over the years.

A few words of explanation are necessary. First, many of the issues involved here are extremely complex. Too many of them are imperfectly understood. Our first and strongest recommendation is that you enlist qualified and experienced technical assistance in drafting any changes to the Federal Election Campaign Act to ensure that each provision will, in fact, achieve its desired effect.

Second, we encourage the Senate to view campaign finance reform comprehensively, that is to say, to view it not as a series of individual and unrelated issues but, rather, as an integrated whole. While some issues can be considered separate from others, most cannot; doing so in the past almost invariably has led to unforeseen consequences.

Third, we have limited our discussions to the impact of the law on Senate elections. We were not asked to consider, nor did we have time to consider, the impact on presidential elections or elections to the House of Representatives, and we have not done so. While many of the reform proposals which we propose may have application in House races, the very different dynamic and scope of campaigns for House seats require a separate set of deliberations and conclusions. Our limited time also prevented us from addressing other issues worthy of debate such as leadership PACs and the role of professional political consultants and their effect, if any, on campaign costs. Additionally, we recognize but were unable in this time to address issues raised by officeholder or candidate involvement with tax-exempt organizations. We understand that this is a matter which will be considered by the Senate Select Committee on Ethics.

Finally, in presenting our proposals, we also make note of certain of the basic assumptions controlling our discussion of campaign finance reform. None of us believe that the laws are appropriately the object of repeated revisions. The present legal regime imposes on candidates, political organizations and political activities a heavy—and for campaigns in particular, a costly—burden of compliance with the increasingly complex law. Constant change in legal rules sows considerable confusion within the regulated community, increased the cost of compliance, and necessarily detracts from the efficient conduct of legitimate political activities. Moreover, the readiness to make repeated changes in the laws invites a struggle for partisan advantage which is waged in the name of sound public policy but primarily in the interest of successful electoral competition. This is a dangerous trend. Because the law in question affects fundamental rights of political speech and participation, it should be amended only with great care to achieve narrowly, neutrally defined policy objectives.

Accordingly, throughout our deliberations, we made every effort to define the goals which are properly pursued in reform of the law at the present time. These are, in our view:

Avoidance of substantial danger that political contributions and their solicitation will unduly influence the official conduct of elected officials. This is the central objective of the law, stressed by its drafters and sanctioned by the Supreme Court in upholding its constitutionality. Every major measure we recommend for your consideration is influenced by an overriding concern with the relationships between officeholders and those who give them money.

Allowing robust political debate and activity but seeking, where possible and constitutional, to encourage the development of sources of funding which expand political participation and limit the potential of undue influence or corruption.

Enhancing public confidence in campaign financing by structuring a system which is comprehensive, well-enforced and, perhaps above all else, characterized by timely and thorough public disclosure.

Accounting for and neutralizing as much as possible disproportionate competitive impacts of any reform, such as impacts on challengers, independent candidates, minor political parties or between major parties.

Structuring a system of enforcement which produces timely results on major issues, avoiding excessive or punitive attention to minor infractions and seeking as much to advise political participants on avoiding violations as to determining and punishing such violations.

In order to reach the recommendations outlined below within the time given us, they are necessarily conceptual. We are confident, however, that you and your representatives can, through good faith negotiations and careful drafting, flesh out these concepts with the necessary detail. In any case, we offer them to you as a framework which we hope will be useful in your deliberations.

FLEXIBLE SPENDING LIMITS, IN-STATE CONTRIBUTIONS AND PARTIES

The most contentious issues in campaign finance is candidate spending limits. Advocates argue that limits on what campaigns may spend are necessary to reduce fundraising pressures on candidates who must raise more and more money, often from sources that create the highest risks of corrupt relationships. Those opposed to spending limits believe that limits are unworkable; that money is necessary for the effective exercise of public political expression; and that a restriction on what a campaign can spend inevitably both restricts the amount of political debate and fosters evasion. Added to these concerns are valid practical considerations of whether certain categories of candidates (challengers v. incumbents), parties (Republican v. Democratic) or campaigns (large state v. small state) would be advantaged or disadvantaged by a spending limit.

In your letter to us, you stated that you were looking for "new and innovative ideas" and that the "proposal of new ideas is strongly encouraged." We offer to you the following "idea" for consideration and to "stimulate discussion."

We believe that if a system of campaign reform is to be effective and an improvement, it should restrict raising of funds from potentially corrupting sources, encourage financing from desirable sources, and promote the greatest amount of political discussion and participation possible. This could be accomplished by the use of campaign spending limits if, and only if, three conditions are included:

1. Reasonably high limits: limits which, within the context of any overall funding system, permit adequate competitive opportunities for candidates to gain name recognition and enable the candidates to contact and communicate with all the voters. Any limits should be subject to automatic cost-of-living increases. Spending limits in Senate elections need to reflect the disproportionate costs of running in less populated states and in those states which require advertising in adjacent state's media markets.

2. A significantly expanded role for parties: the political parties should be statutorily empowered to conduct and finance without limitation, or under generous allowances, defined organizational activities on behalf of its candidates such as research and get-out-the-vote and registration drives conducted with phone banks, canvassing, and mailings. This would require the enactment of a special exemption for this purpose which must be financed with publicly disclosed donations subject to current contribution limits. Media expenditures (television, radio, newspapers, magazines and billboards) on behalf of clearly identified candidates should remain subject to existing (two cents per voter available to both national and state parties, adjusted periodically for Consumer Price Index increases) "coordinated expenditure" limits. In addition, contributions from individuals to a party committee should be exempt from the current annual aggregate limit, or made subject to a limit significantly higher than the current $25,000 annual cap.

3. An exemption for limited contributions from individuals from the candidate's state: by exempting from spending limits limited in-state donations from individuals, the candidate becomes dependent upon his or her ability to convince voters to contribute. Thus, the voters would determine how much money a candidate is permitted to spend. The candidate also is encouraged to spend less time on fundraising among PACs and out-of-staters (whose funds are subject to spending limits) and more time among voters (whose contributions are limited but not capped). We could not determine what level of individual contribution should be exempt from the spending limit.

The net result of this type of system is that it provides for spending limits, restricts dependence on special interest groups and non-residents, encourages limited contributions from individuals and emphasizes the role of the parties which would provide traditional and appropriate organizational and voter contact activities financed solely with limited, disclosed donations. We are cognizant of disparities between the Republican and Democratic parties in institutional fundraising. Even though the gap between the two parties' successes in raising money has narrowed in recent years, it is still significant. Our proposed system depends on each party believing that it will have equal

opportunities to raise money and support its candidates. We encourage examination of all possible private sources (which are affected, for example, by a repeal of the annual limit on contributions to the party), or alternatively by a significant increase in that limitation as well as expansion of existing Presidential Fund programs such as party convention financing (assuming sufficient funds are available), to help support party sponsored registration and voter turnout activities.

Of course, any spending limit must be voluntary and a condition to the receipt of governmental benefits in order to pass constitutional muster. We do not recommend public financing of campaigns through grants or matching funds for this purpose. We suggest a package of three incentives: [1]

1. Reduced broadcast rates.
2. Reduced postal rates or free mailings.
3. A 100% tax credit (up to specified amount) for any individual taxpayer who contributes to the campaign of a participating candidate and resides in the same state as the candidate.

In order to encourage wealthy candidates to participate in this system, we suggest that a participating candidate be permitted to use his personal funds up to the spending limit. While this at first may appear to be excessive, it is in fact the only possible inducement for such individuals voluntarily to accept any limit. Furthermore, to the extent a candidate donates his own funds to his campaign, it reduces the amount of special interest PAC and out-of-state money that can be raised.

We recognize that this proposal, if enacted, would constitute a major change in the way congressional elections are conducted and that, if it is to be effective, it must be implemented with great care and precision. We therefore recommend that this proposal be made effective in the 1992 election cycle only if Congress is prepared to give the Federal Election Commission the resources it will clearly need to give timely and accurate notice to candidates and others of how the new law will work.

The reforms we propose will constitute a new and complex challenge for candidates and party committees also seeking to conduct legitimate activities while still meeting the requirements of the law. For this reason, we recommend the establishment of an allowance outside the spending limit for funds raised and spent by candidates and party committees for legal and accounting services.

Finally, in the hopes that this or something like it be at least tried, we suggest that legislation enacting this new system include a "sunset provision" after three general election, i.e., six years. At that time, the legislation would expire unless reenacted by Congress and signed by the President.

INDIVIDUAL CONTRIBUTION LIMITS

The federal limit for individual contributions of $1,000 per candidate per election may seem high to many Americans who could not make such a gift. Yet the erosion of the dollar has been substantial; a $1,000 contribution in 1988 was worth about $400 in 1975 value, when the limit went into effect. In other words, when adjusted to reflect increases in the Consumer Price Index, it cost about $2,246 in 1988 dollars to buy what $1,000 would have purchased in 1975. Accordingly, the Panel recommends a modest increase in the individual contribution limit. From the inception of any increase, Consumer Price Index adjustments should be made in the individual contribution limit, when appropriate, and rounded to the nearest $100.

Because the Panel has recommended an increase in the individual contribution limit, a corresponding increase in the annual calendar-year $25,000 individual limit may have to be considered. The Panel earlier proposed that individual contributions to political party committees at the federal, state or local levels be exempt from the annual calendar-year limit or subject to a separate and significantly higher limit.

Finally, we recommend that the limit be based on an election cycle (rather than per election) with provision for run-off elections.

POLITICAL ACTION COMMITTEES

Some observers see political action committees as the embodiment of corrupt "special interests" which use campaign contributions to influence the outcome of legislation while others view PACs as natural and diverse vehicles encouraging citizen participation in politics and promoting the representation of legitimate interests and groups in the campaign process.

We believe PACs have a legitimate role to play in the campaign finance system. Nonetheless, contributions by individuals and parties are preferable because they are somewhat less interested forms of giving. Rather than directly limiting PAC donations, we prefer devices and incentives that reduce PAC influence indirectly by increasing individual and party activity. (These incentives are outlined elsewhere in this report).

However, we do advocate two reforms concerning PACs:

1. After PAC gifts accumulate to a specified percentage (perhaps a third) of a Senate candidate's spending limit, the maximum permissible PAC contribution of $5,000 per election should be cut in half (to $2,500 per election) for each PAC giving to the candidate after the threshold is crossed.

2. A PAC should be prohibited from giving a post-election contribution for debt retirement to a candidate elected to public office in the preceding cycle. This prohibition would remain in effect for the first two years of the Senator's term. It is discomfiting to observe how some PACs, which devote an overwhelming percentage of their funds to incumbents, rush to cement relations with successful challengers by making post-election debt retirement contributions. This promotes cynicism by candidates and public alike, affecting adversely overall confidence in the campaign finance process.

Alternatively, this prohibition could be enacted by providing that a challenger opting for the spending limit and related inducements must certify, as a condition of participation, that if elected, he or she will not accept PAC contributions for debt retirement for the first two years of his or her Senate term.

We note that in many proposals for reform in recent years, the concept of PAC limitations, in the form of aggregate limits or reduced contribution limitations, has figured prominently. Our recommendations have not included this approach in their most familiar forms, but we believe that we have addressed the underlying concerns in constructive, if different, ways. The spending limits we propose operate, of course, as a ceiling on PAC contributions any one candidate may receive, and we have also suggested a ceiling on the total number of contributions which a candidate could receive within the limit in the maximum $5,000 per election amount provided by law. In addition, we have proposed to prohibit the involvement of PACs in making independent expenditures or in bundling. These measures, taken together, meet the concern with PAC influence over current campaign financing without placing undue and, in our view, unjustified restrictions on legitimate political activities by these organizations.

BROADCAST TIME FOR POLITICAL PARTIES

At least forty cents of every dollar raised in Senate elections is devoted to purchasing time for media advertising, and in some recent elections, well over half of the candidates' warchests have been consumed by the costs of airing television and radio advertisements. The rising price of broadcast time, which has increased at a rate several times the Consumer Price Index in recent years, is clearly a major factor in the skyrocketing cost of campaigning. This is especially significant because the United States is the only major democracy in the industrialized world that does not provide for some free broadcast time.

Accordingly, we propose that broadcasters provide free time to the political parties in the following fashion:

Total free time: As a condition of license renewal, every television and radio station should be required to make available eight hours of free time for political advertising every year. This constitutes less than one percent of all advertising time.

Grantees: The free time should be given not to individual candidates but to the political parties. Each station should annually give two hours of time to each of the two major national parties and another two hours to each of the state party organizations in the station's primary viewing or listening area (a total of at least eight hours). Each cable network should give four hours to each of the major national parties.

Free-time Segments: The time should be granted in 5-minute, 60-second, 30-second, and 10-second spots rather than 30-minute programs. The exact combination of short spots should be left to negotiations between the parties and each media outlet.

Guarantees: Broadcasters must offer a wide variety of time slots, with at least half of the allocations scheduled for weekday evening prime time and at least two-thirds devoted to the September-November period in election years.

Content and Format: The parties and their candidates should be left completely free to determine the uses to which the free time is put.

Remuneration: There should be no remuneration to broadcasters in any form (public funds, tax credits, and so on) in exchange for the free time.

Third Parties: Lesser parties should be allotted free spots in proportion to the percentage of the vote they received in the prior presidential election (with 5 percent of the vote the minimum threshold necessary to receive any free time.) New parties that did not contest the previous election would receive no free time.

Other Advertising Purchases: Candidates and political parties (major and minor parties) would be free to purchase unlimited additional advertising time at the usual discounted rates.

A more detailed version of this proposal appears in Larry Sabato's Paying for Elec-

[1] Mr. Baran abstained from any discussions or recommendations which pertained to the broadcasting industry.

tions (New York: Twentieth Century Fund, 1989), pp. 25-42.

BUNDLING

A recurring concern under existing law has been the practice known as "bundling." Some confusion, or at least disagreement, appears to surround the very meaning of "bundling," and no suggestion for a change in existing law is possible without consideration of what constitutes bundling and how the practice offends public policy.

At bottom, bundling occurs when an individual or organization—known under existing law as a "conduit" or "intermediary"—solicits or receives contributions from a number of contributors and "bundles" them for delivery to the candidate. This activity can occur in a variety of contexts—from the setting of a fundraising event in a volunteer's home, to a more systematic and ongoing bundling program conducted by a political committee, such as a party committee, which solicits regular contributions from a community of potential donors with the intent of passing them on to the candidate on whose behalf they were solicited. In the first case, there is little obvious cause for concern. The host of the event, operating with the consent of the candidate, collects checks from. the attendees and forwards them to the candidate's committee as agreed. The second case is more troublesome insofar as it raises questions about whether bundling provides a vehicle for circumventing contribution limits by allowing the bundling political committee to have an impact on the financing of the candidate's campaign well beyond what the committee's contribution limits would appear to afford.

It is crucial, then, to separate out the types of bundling which present problems for contribution limits and those which may, in theory, have some impact on limits but nonetheless serve other appropriate purposes and should be permitted. We draw a distinction between bundling by separate segregated funds—PACs financed by corporations and unions—and other political committees. The establishment and operation of a corporation or union PAC is provided by law as a limited exception to the general rule that corporations and unions may not spend funds in connection with a federal election. This exception, in our view, should be read narrowly. This is particularly required in the current climate of concern about the influence of corporate and union PACs in the financing of Senate campaigns. Bundling by these PACs, which permits them to expand their giving power, should be prohibited.

We also recommend that bundling should not be permitted by any "conduit" or "intermediary" which is registered for lobbying purposes under the Federal Regulation of Lobbying Act. For unions and corporations, this prohibition would be redundant: their bundling practices would be prohibited in our proposal by a complete ban on bundling by organizations of this kind, whether or not registered to lobby the Congress. The prohibition related to lobbying activity would affect their agents in Washington—professional lobbyists—who are so registered. These individuals or organizations might not bundle at the direction of a particular corporate or union client, but their bundling activity for the benefit of particular candidates upon which they can draw for any client in need, at any time. By thus also expanding their own financial influence, they are effectively able to negotiate their way around the contribution limits and have an impact on campaign financing that those limits were meant to restrict.

Finally, there are ideological PACs which also bundle, by soliciting contributions from their sympathetic community of donors for transmittal to the candidates they support. We do not recommend, with the *caveats* stated below, that such committees, including party committees, be barred from bundling.

For these types of political committees, bundling constitutes a means of drawing into efficient collective political activity a large number of contributors with similar goals. The communications which make up bundling—solicitations of contributions accompanied by some message about the candidate who would receive them—impart useful information to the donors and provide those donors with an opportunity for concerted political participation which they might otherwise not have. Whether this be done by a political party communicating with its members, or a PAC devoted to an environmental issue reaching out to activists on this issue, this is an activity which lies too close to the heart of legitimate activity to be prohibited altogether. And, unlike corporation and union PACs, these political organizations are not operating within a uniquely restrictive and conditioned set of legal allowances such that a concern with the integrity of the contribution limits should outweigh the rights of association involved.

Still, even for these political organizations, there should remain requirements for the lawful conduct of these activities which prevent abuses of the limits and of disclosure. We recommend that:

1. A bundled contribution may be accepted by a permissible conduit only if made payable, by name, to the candidate to whom it will be transmitted. The donor needs to clearly know and voluntarily contribute to the candidate, not leave the discretion entirely to the conduit.

2. All bundled contributions must be received and passed on to the candidate directly, not through the conduit's own accounts and redrawn on the conduit's own check.

3. All bundled contributions must be fully reported to the candidate, by disclosing both the original sources of the funds and the intended beneficiary for each bundled contribution.

4. Costs incurred by the conduit must be treated as an in-kind contribution to the candidate-beneficiary—or, alternatively, in the case of a party committee, a coordinated expenditure on behalf of that candidate—subject in full to federal law limits and disclosure.

INDEPENDENT EXPENDITURES

We recommend prohibiting the making of independent expenditures by separate segregated funds, that is, political action committees sponsored by unions, corporations and their incorporated entities such as trade associations.

We are mindful of the broad constitutional protection afforded independent expenditures by the Supreme Court in *Buckley* v. *Valeo*. At the same time, the premises underlying its treatment of independent expenditure do not hold for the making of these expenditures by PACs and there is substantial question whether, in the light of experience with the creation and establishment of PACs since that time, the Court would extend protection to their independent expenditure activity. The Buckley case acknowledged a legitimate Congressional interest in limiting contributions to avert the act or appearance of officeholder corruption but assumed that, generally, this threat was not present by truly independent expenditures. This conclusion was grounded in the belief that these expendituress would be made in virtual isolation from the candidates on whose behalf the expenditures were made, thereby making remote the possibility of an illicit quid pro quo. The Court suggested, in fact, that the candidates, unaware of the immimence of the expenditures and unable to control them, could conceivably object to them as harmful in some fashion to their campaigns.

This analysis is pertinent to this day to the activities of true independent expenditures by citizens and ad hoc groups expressing themselves in this fashion on the candidates and campaign issues of their day. It is not, as the Court could not foresee, applicable to the activities of corporate and union PACs. Many of the large corporations and unions establishing and financing PACs have substantial, ongoing legislative interests, and their programs for pursuing these interests are conducted in many instances by large lobbying staffs headquartered here in the Nation's Capital who maintain continuous relationships with Members of Congress and their staffs. It strains public credibility to assume that on one level, lobbying relationships may be maintained while, on another, the PAC "connected" to the corporation or union can instantly fabricate "independence" in campaign seasons and proceed to make hundreds of thousands of dollars in independent expenditures for the benefit of the same Members running for reelection. The danger of illicit quid pro quos in these circumstances is very real and immediate. The same rationale for the imposition of contribution limits has no less force here and supports an outright prohibition on "independent expenditures" by these PACs.

The Congressional allowance for the establishment of PACs is, in any event, an exception to the general prohibition on expenditures by corporations and unions in connection with federal elections. Congress is not required, on the record of recent years, to permit the expansion of this exception to include the making of independent expenditures with serious adverse impact on core goals of campaign finance reform.

Finally, we recommend that candidates attacked by independent expenditure groups, or whose opponents are supported by such groups, be authorized to bypass the complaint procedures of the Federal Election Commission and seek relief from the federal courts if they have reason to believe that these expenditures are not truly independent—not coordinated or arranged with, or made with the consent of the suggestion of, another candidate.

SOFT MONEY

Definition of problem, "Soft money" is a term used to describe the raising, receiving and disbursing of political money outside of the source restrictions, contribution limitations and disclosure requirements of federal law. The term applies more specifically to any unlimited and/or undisclosed use of funds affecting federal elections, ranging from certain types of party spending for registration or get-out-the-vote activities; to the acceptance by political parties of "building fund" unlimited monies under special exemption; and to the use of union treasury funds to finance communications with its members. Disagreements include the ques-

tion of what precisely constitutes soft money, proceeding then to the policy options for addressing identified abuses. We recommend a carefully drawn plan for defining and correcting such abuses, seeking overall to separate the type of soft money which appears to subvert federal campaign finance laws and other state regulated funds which, because of their use for appropriate state and local activities beyond the constitutional scope of federal regulation, cannot and should not be federally restricted.

We do not recommend the federalization of campaign finance affecting all offices, federal and nonfederal, in all states. Numerous states have enacted statutes which allow for a greater or lesser degree of money in state or local elections than federal law. In some states, for example, the expenditure of corporate treasury funds is permitted, and in others, the use of union treasury money; in some states, neither and in others, both. This is a choice that each state may make, without undue interference from the federal government, and the only properly raised federal concern may be whether in certain defined cases, the state law is used as a screen for funnelling FECA-prohibited funds for the benefit of federal candidates.

The questions about possible circumvention have arisen most frequently over the conduct by state and local parties of joint federal and nonfederal candidates, or ticket-wide, activities. Because these activities affect both federal and nonfederal candidates, the FEC has authorized, in regulation now under revision, that the state and local parties may draw upon a mix of federally qualified and state (or "soft") funds. The mix has been determined by a formula which, by recognizing that in any state in most years the ballot will offer more nonfederal than federal choices, allows for a large percentage of nonfederal or soft spending for this purpose. The possibility that this type of allocation of costs will open the way for substantial soft or unregulated spending for federal purposes is a legitimate and serious one. But, at the same time, critics may fail to recognize that state and local parties, and indeed also national parties, legitimately do and should organize, finance and conduct joint candidate or ticketwide efforts for the benefit of *all* of its candidates, or in certain instances, for the collective benefit of the top federal and nonfederal candidates on the ballot.

The task is to protect the federal interest in upholding regulations with respect to federal candidates without inappropriate interference with legitimate and traditional party activity. We recommend in summary, (1) comprehensive and complete nonfederal funding disclosure requirements applicable to national, state and local parties, which would supplement the filing requirements for nonfederal activity currently in effect under state law; and (2) specific restrictions on the amount of nonfederal funding which may be used to support ticket-wide or other federal/nonfederal activity.

Disclosure. It is the Panel's consensus that complete disclosure of soft money should be required by federal law. The precedent of disclosure that was made voluntarily by both national parties of 1988 soft money activities should ease the way to federally-mandated disclosure. National party committees with nonfederal accounts should be required to disclose their receipts and expenditures to the Federal Election Commission. Similarly, state and local party committees which are registered at the FEC and which also maintain undisclosed accounts should be required to file with the FEC copies of their relevant reports as required as required by state law. While most states currently have laws that required party committees to file, some few do not, and accordingly, the FEC should devise appropriate forms for national, state or local committees not otherwise filing and unable to submit to the FEC a copy of relevant state reports.

Because our mandate does not include presidential elections, we have not directly addressed the issues arising from the recent practice of presidential candidates and their agents soliciting very large soft money contributions in order to circumvent, as some argue, general election spending limits. Our recommendations also concern only Senate election soft money issues, though certain of our conclusions may be helpful in focusing the issues and policy choices in this area for all elections.

Substantive restrictions: assumptions. Because of the failure of existing law to address real abuses, more substantive restrictions of soft money activity are also required. In this regard, we preface our recommendation with certain preliminary observations about the soft money debate. First, we cannot agree with either the critics or their counterparts in this debate that the operative legal concern is intent, that is, whether soft funds are used in a particular case by a national, state or local party committee with the intent to influence federal elections. Intent is usually difficult to guage, in the administration of this law and others; and typically those with the most brazen and practiced intent to circumvent the law possess the skills, resources and experience to conceal their intent or to leave it in doubt. Moreover, from a reform perspective, any reliance on intent is self-defeating, since there is an appropriate federal concern with limiting the federal election-related impact of soft money regardless of intent. It is our view that the focus should be on the impact of soft money, and that the potentially significant effect of this money in weakening the restrictions of federal law is sufficient reason in and of itself for a comprehensive reform.

Second, we conclude that while soft money restrictions should be enacted to cover the activities of both national and other parties, there is ground to distinguish between them in fashioning the nature of those restrictions. Critics of soft money activity by national parties contend that they have purely federal interests inconsistent with the use of soft or unregulated money, and while we cannot conclude that this is an accurate characterization of, for example, the character or programs of either the Republican National or Democratic National Committees, the perception is one with which any reform must come to terms. By the same token, state and local parties should be provided with some greater leeway to finance with both federal and state unregulated money the joint federal/nonfederal activities which are historically a crucial component of their goals and actual programs.

Finally, political parties engage in a broad range of activities for the benefit of their candidates, ranging from specialized voter contact activities such as voter registration and get-out-the-vote phase banking and mail, to persuasive broadcast media advertising. The implications of soft money for each of these activities is different, and we present below our recommendations for spending restrictions which would be appropriate to each. In addition, under existing law, parties using soft money may finance their internal operating expenses with a mix of federal or soft funds, and this internal or self-contained benefit to the parties from the use of unregulated funds needs also to be addressed.

We also note that while we are not recommending federal limitations on nonfederal contributions, received by parties, these limitations come into play when the funds are spent in a particular state, by operation of state law.

Substantive restrictions: contents. Considering first the case of national party organizations, we recommend as follows:

Voter contact (non-broadcast media). National party committees spending directly for certain voter contact programs, such as voter registration or get-out-the-vote, should be permitted to utilize a so-called "ballot composition" method for determining the amount of federal and soft funds which may be used, subject to a fixed federal minimum share. The ballot composition allocation formula, recognized under existing law, calls upon the party to determine the ratio of federal to nonfederal candidates appearing on the ballot in the election year in connection with which the funds are spent. The number of offices counted for this purpose would be drawn from the average ballot presented to the voter in the affected political jurisdiction—i.e., an average statewide ballot for a statewide program, or an average county ballot for a program directed toward a particular county. This methodology assures that the amount of soft money actually spent to influence the nonfederal races is keyed to the relative number of such races on which the concerned voter will have to make a choice. However, because this ratio often produces a high nonfederal percentage, justifying the expenditure of a substantially higher share of soft than federal money, we recommend that national parties be required to spend for these purposes no less than a fixed percentage of federally qualified funds, on the order of 33⅓%.

We note that enhanced national party committee activity, proposed earlier in this Report, for defined voter registration and get-out-the-vote activity should serve to generally reduce pressure to locate funds for these purposes from unregulated sources.

Printed persuasion materials. National parties may also produce for state and local use printed materials, such as brochures or handbills, identifying and seeking support for both federal and nonfederal candidates. Under current law, the parties may establish yet another federal/nonfederal ratio by which to determine the appropriate mix of funds which may be spent for this purpose, and the ratio is constructed from a measurement of the total space devoted to each class of candidates discussed in the printed text. This allocation, while not precise, produces acceptable results, but only, in our view, if there is applied again a federal minimum share. We recommend again, a minimum on the order of one-third of the total cost.

Broadcast media. The law currently recognizes that broadcast media constitutes the most potent form of voter persuasion and on that basis, treats it differently for certain purposes. We would follow this approach in recommending that any "generic" national party broadcast media, promoting support for its candidates as a class without regard to federal or nonfederal identity, be

financed with no less than 50% federal funds. Should the party finance media advertising of this nature in any subnational market, we recommend that the federal minimum be filled at a high level, on the order of 40%, which places the minimum somewhere between that national media minimum and the minimums we recommend for voter contact programs and printed persuasive materials.

Overhead and fundraising costs. Party committees on the national level may, under existing law, pay internal costs on a mix of regulated and unregulated funds, provided that they engage in some measured amount of direct federal and soft money spending to influence voters. We recommend that such costs be paid under a formula established by existing law and known as the "funds expended" method, which requires the party committee to pay internal costs in the same ratio as the ratio of federal to nonfederal funds spent over a discrete measured period for direct contributions to, or expenditures on behalf of, federal and nonfederal candidates and party committees. This pegs the overhead allowance to actual nonfederal performance for actual nonfederal candidate and parties. It prohibits, in particular, the use of the currently allowed "funds raised" method which permits the funding mix to be determined by the ratio of federal to nonfederal funds raised: We conclude that any allowance for soft money must be geared to actual and bona fide nonfederal activity. Fundraising costs taken separately may be paid on the ratio of federal to nonfederal funds raised, treated appropriately as a separate overhead activity.

Considering state parties, we recommend as follows:

Voter contact. We recommend also the ballot composition method and a fixed federal minimum, but we would propose a federal minimum lower than the one we advanced for national parties, on the order of 25%.

Printing persuasion. We recommend for state, as well as national parties, the space evaluation method and a federal minimum, but we propose a federal minimum lower than for national parties, on the order also of 25%.

Broadcast media. We recommend a ballot composition method but also a federal minimum of 33⅓%, higher than for all other categories but lower than the federal minimum for national parties.

Overhead and fundraising costs. We recommend for state parties the same funds expended methodology and allocation of fundraising costs which we proposed for the national parties.

Finally, we have not had time to consider whether local parties, historically operating with far more local than statewide or federal concerns, should be provided greater relief from these proposed federal restrictions. We believe that this is a matter which Congress should take up and carefully examine in the event it proceeds to a detailed legislative effort to address soft money.

FEC

The Federal Election Commission has been the subject of much criticism over the years, and the object of numerous proposals for the improvement of its enforcement function. We also recommend certain structural improvements in the operation of the agency. In making these proposals, however, we are constrained to acknowledge that much of the dissatisfaction with the agency is, on reflection, frustration with weakness in the law, and that the Commission cannot be expected, nor should it be encouraged, to improve on the law by administrative fiat in place of the role Congress should rightly play. Still, some improvement in the current regulatory enforcement structure is in order.

We note the decline in the number of requests for Advisory Opinions by the Commission. The Advisory Opinion function is most crucial to the Commission's statutory responsibility to encourage voluntary compliance and to give guidance to the regulated community to avoid violations. The decline in the volume of such Opinions, particularly on important issues, is disturbing. It cannot be known for sure how this has come to pass, but some effort should be made to reverse the trend. We recommend that the Advisory Opinion function be removed from the Office of General Counsel where it is currently located, staffed and funded as a separate office and required to report its recommendations directly to the Commission. By separating out the general enforcement and advisory functions, there stands a better chance that Opinions can be creatively crafted without undue concern with indirectly-related enforcement strategies. The General Counsel's office is devoted to enforcement, and its approach to statutory issues is inevitably influenced by this prosecutorial role. This does not lend itself to the more neutral consideration of legal issues from the perspective of providing advice to encourage voluntary compliance. A separate office within the Commission to address such issues in the rendering of Advisory Opinions may bolster the confidence of the regulated community in the Advisory Opinion process and encourage more Opinion requests and the development of a useful and well-drawn body of binding rulings.

Second, the Task Force recommends the adoption of certain procedural recommendations made by the Committee on Election Law of the American Bar Association's Section of Administrative Law. In the words of the Committee, "these recommendations are designed to increase the procedural safeguards for those who, while exercising constitutional rights, may be investigated by the agency and potentially subjected to probable cause determinations." The recommendations also attempt to expedite the enforcement proceedings without increasing administrative burdens.[2]

Complaint Generated Investigations. There should be nothing in the Act to prevent the Commission from gathering voluntarily provided information from the Respondent prior to a Reason to Believe determination.

Internally Generated Investigations. With respect to internally generated investigations, the General Counsel should have the discretion to invite the Respondent to respond to the allegations of wrongdoing prior to recommending that the Commission find Reason To Believe.

Access to Information. Respondent should be provided access to documents submitted to or obtained by the staff from third parties during its investigation and which the staff relies on in its recommendation. Such access should be afforded to the Respondent at the conclusion of the investigation but before briefing commences.

Access to General Counsel's Reports. Any report submitted to the Commission by the General Counsel after the Respondent has filed his or her brief should be provided to the Respondent.

Right to Oral Argument. The Respondent should be provided a right to present argument before the Commission prior to a finding of Probable Cause.

Admission. An admission by the Respondent that a violation has occurred should not be required routinely by the Commission.

Time Limit on Investigations. The Commission should impose time limits on investigations by the General Counsel's office in order to encourage the speedy resolution of such investigations.

Publication of Index. The Commission should publish an index of all investigations which have been concluded. The Commission should update this index on an annual basis.

Third, the Commission should be instructed by law to pursue a set of rational enforcement priorities. The establishment of such priorities should not be left entirely to agency discretion. A long-standing criticism of the agency has been that it is unable to resolve the most significant issues, but devotes a disproportionate share of its resources to the prosecution of minor matters with minor consequence for core statutory objectives. We recommend that under a reformed statutory scheme such as the one we have proposed, the Commission address on a priority basis, violations of spending limits; corporate and union PAC contributions and disclosure limitations and requirements; bundling; non-federal funding or "soft money" disclosure; and direct corporate or union general treasury spending. Moreover, in each instance, the Commission should be directed to consider whether factors present in a particular case, including the amount of money implicated in the violation or the apparent inadvertence of the misconduct, warrant the application of full-dress enforcement procedures. We recommend that, for any such inadvertent or de minimis violations, the statute provide for a summary enforcement procedure which would produce an expedited result, including the payment of fines appropriate to the nature of the offense.

This summary enforcement process would also be appropriate for a class of offenses other than those cited by statute for priority enforcement. One example would be late-filings of reports, ones which violate the statutory deadlines by a matter of days owing to error or simple negligence. Another would be contribution limitation violations by individuals which result from the failure to meet certain technical requirements. These arise, for example, when a husband and wife present a check to a candidate in an amount in excess of $1,000, intending that the contribution be treated as half from one and half from the other, but the check or some accompanying writing does not carry the signature of both. Treating such violations within a summary enforcement process would spare agency resources, avoid cost to the respondent, focus the agency on the more significant issues and promote public confidence in a rational administration of justice.

Finally, none of these recommendations, nor the recommendations made elsewhere in this report for substantial changes in the current law, would have any hope for success if the agency is inadequately funded. Without funds, the agency cannot staff current operations effectively, much less expand them, and it cannot attract the additional qualified staff it needs. We recom-

[2] The language of the recommendations which follow are drawn verbatim from the Resolution of the Committee.

mend an appropriate increase in agency appropriations for purposes of existing law as well as the administration of the reforms we propose.

MEMBERS OF THE CAMPAIGN FINANCE REFORM PANEL

Herbert E. Alexander is a professor of political science at the University of Southern California and since 1958 has been director of the Citizens' Research Foundation. He received a B.S. from the University of North Carolina, his M.A. from the University of Connecticut, and a Ph.D. in political science from Yale University. He has held a number of government posts, including executive director of the President's Commission on Campaign Costs, 1961-62, and consultant to the Office of Federal Elections at the General Accounting Office, 1972-73. In 1973-74, Dr. Alexander undertook a consultancy with the U.S. Senate Select Committee on Presidential Campaign Activities. He is the author, among other books, of Financing the 1984 Election (with Brian A. Haggerty); Financing Politics: Money, Elections and Political Reform and is the editor of Comparative Political Finance in the 1980s.

Jan Witold Baran is a former campaign manager and a partner in the Washington, D.C. law firm of Wiley, Rein & Fielding where he specializes in election law. He is or has been General Counsel of the Republican National Committee, the National Republican Congressional Committee, the National Republican Senatorial Committee and the Bush for President campaign. He was Executive Assistant to FEC Commissioner Joan D. Aikens from 1977-79 and chaired various election law committees of the Federal and American Bar Associations. He has consulted on foreign election laws in The Philippines, France, Nicaragua and Hungary.

Robert F. Bauer, a partner in the Washington, D.C. office of Perkins Coie, has, for over a decade, provided counseling to Congressional officeholders, candidates, corporations and political committees; engaged in litigation in campaign finance issues; and represented on an on-going basis national and state party organizations. He is the coauthor of articles on election, lobbying and ethics laws. Mr. Bauer has been a member of the American Bar Association Committee on Election Law and Co-Chairman of the Advisory Commission to the Committee on Law and the Electoral Process, and has lectured on numerous occasions on election, lobbying and ethics laws.

David B. Magleby is an Associate Professor of Political Science at Brigham Young University. He received his B.A. from the University of Utah and his M.A. and Ph.D from the Univesity of California, Berkeley. He has taught at the University of California, Santa Cruz, the University of Virginia, and Brigham Young University. In 1986-87, he was an American Political Science Association Congressional Fellow. He has participated in international conferences on election law matters, and has served as an expert witness in election law cases. Magleby is the author of numerous journal articles on election related subjects and his books include Direct Legislation: Voting on Ballot Propositions in the United States; The Money Chase: Congressional Campaign Finance and Proposals for Reform with Candice J. Nelson; and The Myth of the Independent Voter with others.

Richard Moe, a partner in the Washington, D.C. office of the law firm of Davis Polk and Wardwell, has been involved for 30 years in campaigns at the national, state and local levels. Following his education at Williams College and the University of Minnesota Law School, he served in positions in municipal and state government and, from 1969 to 1972, as chairman of the Minnesota Democratic Farmer Labor Party. He later spent four years as administrative assistant to Senator Walter F. Mondale and four years as chief of staff to Vice President Mondale.

Larry J. Sabato is an election analyst and Professor of Government and Foreign Affairs at the University of Virginia. A former Rhodes Scholar, he took his B.A. from the University of Virginia, did graduate work at Princeton, and received his doctorate in politics from Oxford Univeristy. Sabato's books include The Rise of Political Consultants: New Ways of Winning Election; PAC POWER: Inside the World of Political Action Committees; The Party's Just Begun: Shaping Political Parties for America's Future; and Paying for Elections: The Campaign Finance Thicket.

SUMMARY OF RECOMMENDATIONS

Flexible spending limits which are reasonably high, do not limit significant party support and limited donations from in-state contributors, and which are voluntarily accepted by candidates in return for preferential broadcast advertising rates, reduced postal rates or a free mailing and tax credits for small in-state contributors.

Enhanced role for the political parties for research and certain defined types of voter registration and get-out-the-vote activity and for the acceptance of individual contributions. Coordinated expenditure authority would remain at current levels and would continue to apply to television and radio advertising. This may promote conversion of soft money activity to hard money activity.

Individual contribution limits increased modestly and the annual limit re-examined.

Political Action Committees may contribute up to a specified percentage of a candidate's spending limit, then maximum PAC contributions are half of ordinary limit. PACs are prohibited from giving post-election contributions for debt retirement.

Free Broadcast time to parties for use by congressional and other candidates.

Bundling prohibited for corporate and labor PACs, and other separate segregated funds established and financed by incorporated entities such as trade associations, and for registered lobbyists. Full disclosure and application of contribution limits required where practice is permitted.

Independent expenditures by PACs sponsored by corporations, unions and trade associations (i.e., separate segregated funds) barred and private lawsuits to enforce independence permitted.

"Soft money" defined, curtailed and subject to complete disclosure both of receipts and expenditures.

Federal Election Commission improved with specified procedural and enforcement reforms, including the setting of priorities and especially adequate funding, to do its job.

U.S. SENATE,
Washington, DC, February 8, 1990.

JAN BARAN, ESQ.,
Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC.

DEAR MR. BARAN: During the past several years, Congress has grappled with the issue of campaign finance reform. Despite the good-faith efforts of many of us in Congress, Democrats and Republicans have simply been unable to come together and fashion a bipartisan reform package that reflects the concerns of both parties.

Needless to say, recent events have made the argument for meaningful campaign finance reform even more compelling. As a result, we are looking for some new and innovative ideas that will stimulate discussion and perhaps even help break the legislative logjam in Congress.

To accomplish these goals, we thought it would be useful to establish a Campaign Finance Reform Panel. This Panel will consist of six private citizens with a recognized expertise in the financing, legal requirements, and other technical aspects of the federal campaign process. It is our hope that the Panel will be a well-balanced mix of academics, lawyers, and political consultants.

In light of your expertiste in the area of campaign finance, we would like to invite you to join the Panel.

Although we are hesitant to give the Panel formal instructions, we think it would be helpful if the Panel could develop a series of recommendations, both to deal with specific problems in the current campaign finance system and to establish a new system. To the extent practicable, your recommendations should be organically structured, blending proposals into a single, coordinated strategy for reform. Furthermore, all the well-recognized campaign finance issues—spending caps, public financing, PAC contributions, "soft money" contributions, the role of the parties in the electoral process, etc.—should be considered. And as we have mentioned, the proposal of new ideas is strongly encouraged.

We would also like to emphasize that the Panel will work independently of us and of any other member of the Senate.

Ideally, we would like the Panel to complete its work no later than Tuesday, March 6, 1990. At this time, the Panel will have an opportunity to present its recommendations to us and to other interesed Senators.

If you have any questions about the Panel, please contact either Bob Rozen of Senator Mitchell's stafff (224-5344) or Dennis Shea of Senator Dole's staff (224-3135).

We appreciate your consideration of our invitation and hope that you will be able to accept it. Since we would like the Panel to complete its work in a fairly short period of time, we hope to hear from you as soon as possible.

Sincerely,

GEORGE MITCHELL.
BOB DOLE.

Mr. McCONNELL. Mr. President, I issued a statement, when this distinguished group of experts released their report, praising the comprehensive nature of their work and urging that it becomes the framework of a truly bipartisan piece of legislation. Well, here we are 5 months later, and I would argue that we have made some progress, although there is still some important sticking points.

It is my view, Mr. President, that Republicans have been earnest and sincere about seeking a bipartisan solution this year. We drafted a 34-point bill which was the most comprehensive even introduced on this subject, some of the provisions of which have now been adopted in the Democratic substituter. We entered into good-faith negotiations with the Democrats

to see if a party neutral solution could be found. Some on my side even supported a change in our party's position in order to propose a flexible spending limit plan modeled after the recommendations of the bipartisan panel that I referred to before.

Unfortunately, a good portion of this effort may have been a waste of time and energy because there is still a feeling that we want to make political points here rather than writing a bill. And this is one of the reasons that I pointed out the letter from the President. Let us not waste this effort to get a meaningful bipartisan reform. Let us write the kind of bill that can become law.

For the last 3 years, the majority has been trying to sell a concept of spending limits as the only way to reform campaign finance laws. As I have pointed out earlier, there are several obvious problems with that. One is they are unconstitutional as drafted in the substitute, and, No. 2, the President would veto such legislation.

Anyone who is knowledgeable about our campaign finance system agrees that that is not the only reform. Virtually every scholar in America—and I have already put the list in the RECORD—who studied the issue of campaign finance has come to the conclusion they do not work. There is hardly anybody who has really studied this issue who thinks that that is a step in the right direction. They tend to refer to the Presidential system in which virtually every candidate who has run for office has been cited for significant violations. One out of four dollars have gone for lawyers and accountants. It has been an incredible disaster in every respect. And I think everyone who has studied the issue understands that and does not want to duplicate that by applying a similar system to 535 additional races.

We have seen a number of new bills and new substitutes but unfortunately this spending limit sticking point remains a permanent fixture on the other side. I hope that will change sometime in the next 2 days.

In my opinion, it is inappropriate to make the issue of campaign spending the focal point of serious reform. Spending, Mr. President, is not so much the problem. The problem is where does it come from? Much like the Supreme Court said 14 years ago in Buckley against Valeo.

Look at the concerns we all have about the influence of political action committees on incumbent Members of Congress. This is an issue which deals with the source of fundraising, not some vague notion of how much money is spent or how much is necessary to communicate with our constituents.

Look at the concerns we have about Charles Keating and other individuals who are not constitutents that seek some legislative favor. This type of out-of-State fundraising is an issue of source as well. Look at the soft money activities of organizations generally tax exempt which seek to influence campaigns in a manner which is not disclosed or limited like a regular contribution.

My friend and colleague, Senator BOREN, talked a great deal about soft money a few minutes ago. Well, what he did not say is that the Democratic proposal does nothing about nonparty soft money. There are two kinds of soft money, party soft money and nonparty soft.

The substitute at the desk does nothing to restrict spending of nonparty soft money. It adopts a couple of proposals of ours with regard to who can raise money for these organizations, but in terms of their expenditures, it does nothing. That is an enormous gaping loophole through which millions of dollars are poured every year into the political system, untouched by the substitute at the desk.

If we were to enact that legislation that is pending before us without change what you would have is a limit on hard money, and no limit on soft money. That does not address the overall system. It is not a comprehensive solution. It leaves a gaping loophole that only benefits those who happen to be in good shape with whatever 501(c) is out there operating on their behalf.

The point I am trying to make, Mr. President, is we need to take a much more comprehensive look at the campaign finance system and not confine ourselves to the notion that some sort of spending limit would be the instant cure for the ills which plague our campaign finance laws. Spending in a campaign is the amount of money which is necessary for a candidate to communicate with his or her constituents. It involves spending for television, radio, direct mail, and other communications tools.

How we spend our money is an entirely separate activity from where it comes from. The reason we have to raise more money for a Senate campaign than Senators who were running 20 years ago is simply because the costs have gone up like everything else. But in this particular area they have gone up much faster than everything else. The cost of a postage stamp is higher, the cost of producing a direct mail piece is higher, and most importantly the cost of broadcast media, especially television, has skyrocketed in the last decade.

I do not favor piecemeal campaign finance reform. But if there is one thing that we could pass here today that would help the system more than anything else, it is a meaningful broadcast discount, a real one that the broadcasters could not get around by recrafting the way they sell the time; a real break. That is the single most important thing we could do to improve the system and it would not unfairly help either side. It would help both sides and it would help challengers.

More money being raised can create problems both in the perception people have of us as legislators and in the actual fact of what type of influence a contribution has on daily decisionmaking. But the answer is not to place arbitrary caps on the amount of communicating; not to put a cap on how much expression we can engage in. Instead, the answer is to take a hard look at the different sources of our campaign money. We should then restrict whatever we consider to be tainted money, and we should encourage the type of participation which we believe is healthy for the system.

Senate campaigns rely, really, on three sources of money. We raise our money from individuals who are residents of our States, individuals who are not residents, and PAC's. The opposition would like to limit the participation of all three of these sources of money without any regard for the individual merits of each source. For example, I think it would be a grave mistake for us to limit the amount of contract and communication between a Senator and the constitutents of his or her State. That is a principle we should never ever change under any circumstance.

Similarly, I think some type of out-of-State fundraising should be encouraged. Small donors who are not residents of a candidate's State are often the only hope for a challenger who cannot raise sufficient funds in a State where the power structure favors his or her opponent.

Mr. President, we have a number of States in which one party is so weak, the power structure is so much on the side of the other party, that it is very, very difficult for that kind of challenger to be competitive—particularly against an incumbent who may be in the advantageous party in that particular State. Candidates from small or less affluent States need to seek out-of-State funds to adequately communicate their candidacies.

Finally, I see nothing wrong with our colleagues who have national supporters having the ability to raise money, from a whole lot of people who share the same philosophy, in $20, $30, or $40 amounts. There are not many of us who have those kinds of bases but some in this body do. Some on the right and some on the left have fairly large direct mail operations that appeal to groups that like their positions on some high profile issues.

I want to make a comment about the last type of fundraising. Several of our colleagues on the other side have criticized this type of out-of-State fund-

raising as encouraging single issue politics. Yet these same Senators criticize our current system as taking too much of our time, time which we could spend legislating and doing our jobs as Senators.

What is wrong with contacting people who agree with your philosophy? They contribute small amounts which over time can help you finance much of your campaign. This type of direct mail fundraising takes less than 5 or 6 hours of a Senator's time each month—probably even less than that—no trips to the west coast for fundraisers, no lengthy sessions developing a finance plan or having to meet with your steering committee for an upcoming event, and no appearance of special interest influence. You just sit in your office in Washington and raise the money without any real constraints on your time.

I am amused by some of our colleagues who complain about the money chase and then reduce the issue to single issue politics when confronted with the logical alternative of saving time in fundraising. Obviously, our inability to agree on the goals and objectives in campaign reform has contributed to the stalemate which has existed over the last 3 years.

I am not saying all out-of-State fundraising should be encouraged. In my opinion we should create incentives for in-State fundraising, while permitting those who need to raise funds from those outside of their States to do so in small amounts. That is what the Republican alternative proposes, that we keep the same limit for in-State contributions but we cut in half the contributions for out-of-State funds. We even plan to restrict this activity further with an amendment by Senator DOMENICI to lower the out-of-State contribution limit from $1,000 to $250 per individual.

Now, with regard to the third source of our money, political action committees, if there is any source we should be concerned about, this is it. While the theory behind the PAC is laudable, I think everyone would agree that PAC's have not played a constructive role. PAC supporters try to focus attention on the many individuals who through small donations make up the typical corporate trade association or union PAC. These individuals, like those who give directly to candidates, generally are giving because they want to advance some cause or point of view.

I fully support any effort to encourage people to contribute based on their principles and I readily concede the point that PAC's have brought thousands of new people into the political process, people who could not have always been reached directly by the candidate. Unfortunately, by the time the Washington representative for the PAC gets his or her hands on the money, another objective intervenes. That, unfortunately, is what tends to taint the process. And that, unfortunately, becomes a question of access.

In most cases, the person in charge of the PAC is the organization's lobbyist. He or she has different concerns than the average contributor. The lobbyist is concerned much more about having a good relationship with incumbents instead of being concerned about principle or philosophy. As a result, PAC's generally give to incumbents without much thought being devoted to what a candidate stands for.

To correct this problem, I think we need to make a better distinction between our policy role and our reelection campaigns. The best way to do this is to encourge individual contributions while at the same time limiting the influence of organizations which are primarily interested in incumbents and not campaigns. I think the easiest way to do this is to abolish PAC's altogether, and we now may well be on the verge of doing that.

Let me now turn to the concept of flexible spending limits. In proposing flexible limits the bipartisan panel focused attention on the same sources of campaign money that I have just described. In summary, the panel recommended that in-State individual contributions be exempted from any type of spending or fundraising restrictions and that out-of-State individual money and PAC contributions be subject to limits.

We followed the panel's recommendations in drafting the Republican bill. However, instead of having a flexible limit with several exemptions, Republicans decided to lower the contribution requirements for out-of-State and PAC sources. We suggested lowering the PAC limit to zero and reducing by one-half the contribution limit for out-of-State individual contributions.

In our negotiations, which went on for a month or so, the opposition did not like this approach because it did not contain an overall limit on spending. After embracing the bipartisan panel report when it was first issued, it seemed inconsistent to not want to adopt some type of source limit similar to that which was recommended by the panel of six experts.

Last week, Republicans made an even more significant concession and proposed a flexible spending limits plan, one that I personally do not favor, again modeled after the bipartisan panel report. But it was summarily rejected because it did not contain enough of an overall limit on campaign spending or, put another way, a limit on communication.

Republicans made this offer despite the fact that the President, as I indicated earlier, is likely to veto—not likely to, will veto—any bill that contains aggregate spending limits.

Where we are, Mr. President, boils down to this. The opposition, the other side, has made some important concessions in terms of political action committees. But there are still two sticking points that would draw Presidential veto, both of which are still present in the alternative before us. No. 1 is aggregate spending limits and No. 2 is public funding. The bill still does have significant public funding in it.

I do not have to tell anybody in this body we have an enormous deficit problem. We are struggling with what to do with it now. I think to spend any money whatsoever on political campaigns is never a good idea. It has not worked out well in the Presidential system and certainly ought not to be extended to 535 additional races. If that were ever to be done, certainly not now as we are struggling to meet a rather ambitious target for deficit reduction this year. So a little later this afternoon, Mr. President, we will be offering some amendments, and we will have at least two votes tonight on those amendments.

For the moment I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I also ask unanimous consent that a summary of the Senate Election Ethics Act of 1990 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATE ELECTION ETHICS ACT OF 1990

VOLUNTARY FLEXIBLE SPENDING LIMITS

A system of voluntary flexible spending limits would be established, based on state voting age population, ranging from $950,000 to $5,500,000 for Senate general election campaigns. Primary spending limits amounting to 67% of the general election limit up to $2,750,000, would be established. The general election limit could be increased by up to 25 percent of the spending limit to the extent of $100 contributions received from individuals residing in the candidate's State.

BENEFITS FOR ELIGIBLE CANDIDATES

Candidates who raise a threshold amounting to 10% of the general election spending limit in individual contributions of $250 or less (50% in-State) would be eligible to receive certain benefits. Eligible candidates would receive:

A. Broadcast Vouchers: Vouchers amounting to 20% of the general election limit would be provided to purchase prime time

television advertising in segments of between one and five minutes.

B. Low Cost Mail: First class mail would be available at one quarter the regular rate for candidate mailings. Third class rates would be 2 cents lower than first class. Candidates would be permitted to spend up to 5 percent of the general election limit on such mailings.

C. Broadcast Rates: Eligible candidates will be entitled to purchase nonpreemptable time at the lowest unit rate preemptable time throughout the general election period. All candidates would be entitled to this lowest unit rate during the last 45 days of the primary.

D. Independent Expenditures: Eligible candidates would receive public funds to respond to independent broadcast ads exceeding $10,000 from any source during the general election period.

E. Contingent Public Financing: Eligible candidates would receive additional public funding if an opposing candidate exceeds the spending limits.

PAC LIMITATIONS

Prohibits political action committee contributions and expenditures in connection with a federal election. In the event the provision is declared unconstitutional, independent PACs are permitted to give $1,000 per election. To deal with attempts to evade the PAC limits, a $5,000 limit is placed on contributions to candidates by executive and administrative personnel of the same employer. The limit for such contributions to party committees would be $20,000 and a certification is required that such contributions are not made at the direction of the employer.

SOFT MONEY

Political party committees would be prohibited from using soft money, not regulated under federal law, for any activities in connection with a federal election. Activities in connection with a federal election include get-out-the-vote activities, voter registration, generic and mixed election activities including general public advertising, and campaign materials, maintenance of voter files and other activities affecting a federal election during a federal election period. Party committee spending on mixed federal-state activities in connection with federal elections would be subject to overall limits.

State party contribution limits would be increased to the amount permitted to national parties. Federal office holders and candidates would be prohibited from soliciting soft money contributions. The contribution/expenditure exceptions in current law that permit unlimited State party spending for "volunteer activities" that affect a federal election and GOTV for presidential elections would be repealed. State parties would be permitted to spend 4 cents per voter for presidential elections.

BUNDLING

Bundling in excess of the contribution limits would be prohibited by all political committees and lobbyists, and individuals acting on behalf of those entities or on behalf of corporations, labor unions, or trade associations.

BROADCAST RULES

A. Lowest Unit Rate: All eligible candidates would be entitled to purchase nonpreemptable television broadcast time during a general election at the lowest unit preeemptable rate. All candidates would be permitted to purchase time at such rates during the 45 days prior to a primary election.

B. Candidate Accountability: All candidates would be required to appear at the end of their television advertisement conveying the message that the advertisement was paid for by the candidate.

C. Disclosure: Non-eligible candidates would be required to disclose in all advertisements that the candidate has not agreed to spending limits.

D. Vouchers: Vouchers amounting to 20 percent of the general election spending limit would be provided to eligible candidates to purchase prime time television advertisements of at least one minute but not more than five minutes during the eight week period before the general election. Broadcast stations would be required to make these longer time periods available to candidates during the five week period prior to the general election.

INDEPENDENT EXPENDITURES

The types of activities and relationships which are expenditures in coordination, consultation or concert with a candidate—and therefore not independent—would be more broadly defined. Under this definition, expenditures by political committees required to register as lobbyists would not be independent and would count against the contribution limit.

Primary spending limits would increase by the amount of independent expenditures intended to assist opponents of a candidate. The general election spending limit would be increased and public funds made available to eligible candidates who are the target of more than $10,000 of independent expenditures from any one source. Broadcast stations would be required to make time available immediately after the independent broadcast for the candidate to respond.

PERSONAL LOANS

Candidates agreeing to spending limits would be prohibited from spending more than $250,000 of their own funds for election to the Senate. Contributions could not be received after an election to repay personal loans of the candidate.

501(C) ORGANIZATIONS

Federal office holders and candidates would be prohibited from raising contributions from any one contributor of more than $5,000 on behalf of any 501(c) organization they establish, maintain or control. Federal office holders and candidates would also be prohibited from raising any funds for 501(c)(3) organizations organized to conduct voter registration or get-out-the-vote drives.

MISCELLANEOUS

Leadership PACs would be prohibited. Political committees, other than the principal campaign committee of the candidate would be prohibited from supplementing official Senate office accounts. Individual contributions in excess of $10,000 would have to reported to the FEC. Dependent children below voting age would not be permitted to contribute to a federal election campaign.

FEC REFORM

With respect to preliminary matters such as decisions to investigate violations the recommendation of the General Counsel would be sustained if supported by the votes of 3 Commissioners. Proposals similar to those proposed in S. 1655, would be included to shorten time periods of FEC action, authorize the FEC to seek court injunctions, and increase minimum penalty amounts for violations of the law.

Mr. DASCHLE. Mr. President, there will be a number of opportunities for us to discuss many of the specifics about campaign spending reform this week, and I intend to do that as amendments are offered. But certainly when campaign costs, as we have already discussed this afternoon, have been rocketing upward for over a decade, it is hard to believe anyone can call a bill that puts no real limit on political spending a "reform" bill, but that is what some will do. They craft and offer bills in which total spending is absolutely unrestricted and label them "reform."

Some reform. No limit of any kind; not a million dollars, not $5 million, not $25 million will they call a halt. Senators are forced to spend thousands of precious hours begging funds, but there is no halt. Voters are subject to hundreds of cheap attack commercials, but there is no halt. The rich and the powerful open doors with campaign cash, and still there are some who remain unwilling to dam the rivers of money that cause these problems.

Mr. President, make no mistake, it is absolutely impossible to stop the corruption of our political process by money until we slow the money chase. Politics is competitive in the extreme. We play to win. So long as money remains a big, big part of what it takes to win, and the amount of money one is allowed to spend is unlimited, the chase for funds will continue. Any reforms we do enact will soon be wiped away.

The cost of winning a Senate seat has gone from $600,000 in 1976 to over $4 million in 1988, a 700-percent increase and no end in sight. Tell me how we can reform our campaign finance system with costs escalating like that. Every Senator in this Chamber knows it can be done, and if we try to get reform by outlawing PAC's but we have no limit on total spending, we make kingmakers out of the rich individuals.

If we ban large individual donations, we make kingmakers out of the direct mail consultants and single issue organizations.

Whatever we ban, without a total spending limit, we just set off a frenzy chase to find the money somewhere else. Because it is still money that wins elections, and there is still no limit on how much money a candidate can spend to win.

The problem with the political money that is flooding our campaign streets is that in some ways, like the problem with drugs that are flooding our city streets, so long as the drug user is addicted, it makes no difference if we reform a neighborhood because the pusher just takes his drugs to a new neighborhood and sets up shop all over again. It is the same in politics.

So long as we remain addicted to big money to win, who cares if we clean up the PAC neighborhood. Does anyone really think the special interests will not be able to find ways to get their money into politics without PAC's? So long as candidates need it to win and there are lawyers to find loopholes, that money is going to find its way through another neighborhood right back into our campaigns.

The only answer is to cut the addiction; put a tough tight limit on total spending; make it so that money is not the determinant of who wins because nobody is allowed to spend more than a fixed amount. That is what this body must do to clear the scent of scandal from the air. That is what most Senators on this side of the aisle have been trying to do in this body for more than 3 long years. It is to the immense credit of our majority leader that he has persevered in that effort. He has long sought and offered compromise after compromise on this issue. He has spent long hours and pursued numerous tactics to try to break what, in effect, has been a 3-year filibuster against progress.

I was privileged to be appointed to serve on a bipartisan panel seeking compromise on campaign finance reform. When Democratic Members met amongst themselves for the first time, the leader had just one instruction: be ready to compromise on everything, he said; he wanted agreement because we want action at long last, not deadlock. He said Democrats should be willing to consider reasonable compromises on PAC's and on public financing, on TV time, on soft money, on enforcement, on disclosure, on every other issue.

Frankly, that is what we have done. As we sat down, we said everything is on the table; we will discuss everything; let us come up with a compromise; let us see if we cannot put together a bipartisan package that comes to the realization, at long last, that enough is enough.

But there is only one requirement our caucus set out. On this I believe the caucus spoke with unanimity. The caucus on many occasions, having had the opportunity to discuss this issue expressing many of the same concerns the leader expressed to us as we began our negotiations, said under no circumstances can we call it reform unless it has limits.

We cannot in good conscience agree to a campaign finance reform package that has not limits on the very runaway spending that has made reform an issue in the first place. With unanimity, we believe spending reform with no limit on spending would be a travesty, a fraud on the public, a guarantee that voter cynicism would only accelerate.

I could not personally feel more strongly about this issue. The vast majority of American people share our strong views about the need for legislation that will put a serious, realistic lid on total campaign spending.

Senator BYRD, who helped launch this effort, and Senator BOREN, who spoke so eloquently and who knows this issue so completely, both understand this same principle and feel as strongly as anyone in the caucus about our determination to compromise on everything, to give as much as we can give as long as one thing is given back, and that is a commitment on a ceiling, a commitment on limit.

I must say, Senator BYRD and Senator BOREN and so many who have labored on this issue for so long, deserve the highest commendation for the perseverance through the eight cloture votes and the thicket of political gamesmanship on this issue.

I know they will hold fast to the central principle on this reform battle, that central principle being tough spending limits. There may be no Senator who is entirely satisfied, nor can ever there be an entire satisfaction with each word in a comprehensive campaign finance reform package. I understand that.

But I am one Senator who is convinced that the compromises we each may have to make are well worth making so long as we retain serious enforcement limits on total campaign spending as a central part of our effort. To do no less, in my view, frankly, would be a sham.

So I hope this body will act promptly and fairly and in a spirit of cooperation with each side giving some but with nobody pretending we can reform anything if we do not slap a cap on the huge amounts of money that have infected our entire political system.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. BINGAMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, none of us can go to any kind of a town meeting, meet with any group of constituents without having the issue of campaign finance reform come up. People are really fed up. They are sick and tired of what is going on.

Our constituents are telling us at least four things. Our constituents are telling us that campaigns are too long; they are telling us campaigns cost too much money; they are telling us that campaigns are replete with special interests, crowding out the average citizen; and they are telling us that campaigns are filled with negative campaigning and that substance is drowned out by the 22-second commercial.

And they are right. They are absolutely right. The American people know what is going on. As has been pointed out over and over again, this process is turning them off, the process of American politics. Campaigns are too long. Every one of us who has been involved in politics for any period of time watches how the cycle gets longer and longer and longer.

It costs too much money. When I first ran for the House in 1974 I spent $130,000 in that race, and that was one of the high-water House races in 1974. That has escalated on the House side. On the Senate side the figures have been laid out very clearly here. At the same time, in the mid-1970's, the average Senate race cost about one-half million dollars. Now it is eight times that amount of money and escalating again, escalating very sharply.

These campaigns are too long, and they cost too much money. All we have to do if we are concerned about special interests is look at what happened in the S&L crisis. There is S&L money and money from all kinds of other groups running right through the warp and woof of the fabric of American politics. That money is everywhere.

I suggest to you, Mr. President, almost none of that S&L money was PAC money. It was almost all individual contributions. It was not the PAC's. They contributed all of this, but it was not the PAC's. If you look at almost every one of those institutions that made contributions, there were not very many PAC contributions in there. It was mostly the executives calling in their friends, calling in their clients and targeting that money on individuals, and targeting that money on a particular interest. That happens all across the board.

We are seeing more and more interests buying into American politics. They are not buying in because they are concerned about the well-being of American politics, or concerned about the health of the Republic. For the most part they are buying in because they want a piece related to their particular concern. There is nothing unusual about that in our history. Lobbists have been out there forever. Lobbyists were outside the First Continental Congress trying to make their voices heard.

The people have the right to petition their government, but what this is all about is what kind of petitioning are we going to have. Are we going to have petitioning that is only at the end of a checkbook, or are we going to have petitioning that is legitimate, related to substance, related to the issues that our country, the Republic, ought to be concerned about?

Taxpayers are right. The campaigns are too long, they cost too much money, they are replete with special interests, and they have now become festooned with negative campaigning. The famous 22-second, 30-second spot all of us know we get set up for with amendment after amendment here on the floor of the Senate, "it sounds good if you say it fast enough" kinds of amendments. But then you get put into a thing saying you were against motherhood, apple pie, Americana, the Farm Belt, all that sort of thing if you vote against these amendments.

It is absolutely preposterous. We all know that is the case. But you get canned out there when some well-known political specialist takes it on; boom, you have a negative commercial. You spend your time answering a negative commercial.

The cycle gets worse and worse, and the American public increasingly walks away from the political process. That is what is going on. We all know that. I think everybody knows that this is what is going on.

I suggest to you one other thing that is going on that is maybe even more dangerous than any of those other items, that the advent of all of this money in politics is tending to make this a much less responsive institution. Our Congress, overall, and Members of this body, are concerned that if they do, maybe a contribution will not come from that particular group.

That is the least of the fears. A greater fear is that contribution might not come from those groups at a time that everybody has to raise this enormous amount of money. It may go to the other fellow, which doubles the penalty. You have to raise the money because the other fellow is getting it. You double the penalty. That is the second level of concern.

The third and greatest level of concern is that that group out there is going to organize what are called independent expenditures, in which a vast amount of money, hundreds of thousands of dollars, is going to be targeted in to run negative campaigns against an individual. The muffle of special interest money is out there, and out there in a very appalling and dangerous way.

People are afraid to do a lot of things they once would do. They are afraid to reflect the real values of their constituency. They are afraid to stick their own necks out, because what is happening is a real fear of political money, a real fear of retribution coming in. We do not like to talk about that, Mr. President, but in fact that is the case.

I suggest to you that the level of debate, the level of concern, the level of political fortitude has declined as a consequence.

What we have to do, Mr. President, is to clean this out. We need a "roto rooter" in American politics. We have to get into this and change this significantly, and that is the purpose of the legislation introduced today by the distinguished majority leader. We have to put limits on the amount of money that is in there.

We can talk all we want about sources of money and the difference between sources of money and expenditures of money. The basic fact of the matter is, as long as all of this money is pouring into American politics, this process is going to continue. As long as all this money is pouring in, campaigns are going to continue to be too long. As long as all this money is pouring in, the special interests are going to continue to have the voice that is getting louder and louder. And, as long as this money is pouring in, people running for office are not making very real decisions about their own campaigns.

Buy television here, and if that does not work, buy radio here; buy direct mail over here; hire volunteers to go out; hire phone banks. And if that does not work, buy everything that moves; put a bumper sticker on the carrier pigeons flying through your neighborhood.

There are not very real decisions being made. They are throwing enormous amounts of money at the execution of campaigns. I think limits on campaigns and limits on soft money is one of the greatest problems that we see. It was raised earlier regarding this long list of $100,000 contributors, skirting the law, putting money into campaigns. That is going on, and that is absolutely not the intent of what we have in mind.

Limits on PAC are in here, and that has a real down side to it; I will be the first to say. PAC's have been abused by many people, and PAC's are also a way that small individuals can make a contribution. That is now piously discussed on the other side.

How about "Tommy Tycoon" sitting up above the silent city, the president of that particular company, the head of that corporation, president of that bank, getting together with his vice president and with his suppliers, getting together and collecting many, many more times the money any PAC has ever contributed, and targeting that right in. What is the difference between the Tommy Tycoons of this world and the political action committees?

I do not think there is any. They are all trying to have a voice. It is perfectly legitimate. But the fact is that the voice has gotten garbled by the yank of the slot machines, by the clang of the money, by the jangle of too much cash in campaigns. We have to not only eliminate the force of Tommy Tycoon, but eliminate the force of the political action committee.

Ultimately, if we are really honest about this, Mr. President—I will close with this, and my opening comments on this very important major bill—we really have to ask ourselves, who do not want to pay for American politics? Who do we want to pick up the cost of the democracy, and democracy is expensive? Who do we want to pick up the tab? Do we want the average citizen of the country to be paying the cost of American politics, to pick up this tab of democracy, of self-government? Or do we want a few interests, with influence far beyond their legitimate stakes in this society, to continue to be hammering away at our government and its governmental structure?

I believe if you carry all of these arguments to their logical conclusion, you have to get to the voluntary checkoff, and ultimately to the kind of taxpayer funding of American campaigns, not dissimilar to what has been done in the Presidential race.

If you eliminate the soft money side of Presidential elections and go back to that public-private match, voluntary contributions from taxpayers, the checkoff, where they voluntarily say that is what they want to do, and match that in a way with a lot of small contributions, you have a system that has worked very well, aside from the soft money.

The abuses, in my opinion, that we saw in the sixties and seventies of a few very large interests having a hold on Presidental campaigns, cannot exist any more in that, and that is the right thing to do. That is a model we ought to follow. I think, inevitably, we get ourselves to that point, if we are going to be honest not only about PAC's, but honest about Tommy Tycoon. We are going to eliminate the ability of all those groups to reach beyond their legitimate interests and get back to where it ought to be, which is the individual's ability to control his own destiny in self government through the voluntary checkoff fund, encouraging that and making it work.

I am a cosponsor of the amendment which will do that, and I believe Senator KERRY of Massachusetts will offer it. That is the right way to go. Between now and then, we are going to have a lot of fencing and a lot of good discussion, some right to the point, others circumventing the real issues.

I am pleased that we are here, and I commend the distinguished Senator from Oklahoma for leading us and getting us this far, and the distinguished majority leader, Senator MITCHELL, for his continuing commitment to the goal of removing these abuses from American politics.

I think we have to start by limiting the amount of money. Campaigns are too long, cost too much, and they are replete with special interest; campaigns are foul with this kind of nega-

tive campaigning. Those are the basic and initial thrusts of what we have to do. We can do a variety of other things, but let us start with the proposal put forward this morning by the majority leader.

I yield the floor and look forward for a continuing debate on this. I hope we make real progress.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Illinois.

Mr. DIXON. Mr. President, I want to echo what my friend, the Senator from Colordo, has said, in expressing his high regard for what the majority leader and the distinguished Senator from Oklahoma have done in connection with the campaign spending reform legislation now before us in the form of S. 137.

I think it is entirely appropriate, as well, Mr. President, to remark about the fact that the majority leader's predecessor, our now distinguished President pro tempore, Senator BYRD of West Virginia, in his time as majority leader spent considerable time as well in an attempt to pass campaign reform legislation here in the Senate.

I do not know how much time we have spent on this, Mr. President, but we have spent a good deal of time. In the past, I think during the service of Senator BYRD as majority leader, we spent a number of weeks. He may later talk and elaborate upon our attempt to pass campaign finance reform legislation in the past.

Senator BOREN, of course, was an important leader in that attempt, as well.

I think it is time to just talk openly about the form of opposition that is being made to this legislation, because with a few exceptions, our friends on the other side are saying campaign spending limits are not the important thing. There are a lot of little things inside we ought to work on, but campaign spending limits are not the important thing.

My friend from Kentucky has said that again today. That has been the nature of the position of our friends on the other side of the aisle throughout the time that we have discussed campaign spending limits. But, Mr. President, I put it to you that campaign spending limits are the central question in campaign finance reform, and I want to examine that a little bit.

Incidentially, my friend from Kentucky claims the Supreme Court has said you cannot put on campaign spending limits. You can put on campaign spending limits. You can put those on. It takes careful crafting of a bill, but you can certainly put campaign spending limits into law if you appropriately draft the legislation.

If my friend who manages on the other side suggests that the President will veto such a bill, then I say it is time we test whether the President would veto such a bill, because I would love to go to the country, and campaign on the question of campaign spending limits. I want that issue to go to the country. I want it to be the central question in this campaign and the next campaign. I cherish the thought of it. I embrace the thought of it.

The people of this country want campaign spending limits. We want them overwhelmingly, Mr. President. In the last poll I saw, 80 percent of the people in America want campaign spending limits.

To suggest that the source of the money is important, but not the amount, I think is a remarkable form of argument. There are some bad sources, quite obviously. No one sought to accept money from bad sources in the first place. But the amount is significantly important.

Here is how far some of our friends have gone, Mr. President. A distinguished Congressman from Minnesota—I believe he is retiring—a senior man, on the House side, has persuaded Republicans in the House to actually put in their campaign finance reform bill that States cannot put limits on Federal races as part of what a State may do in connection with the control of campaign spending within its own borders.

Why did they do that? Because some of the States are sick and tired of the gutless inability of the Congress to put campaign spending limits on the outrageous spending practices that now take place in this country. So that New Hampshire with two Republican U.S. Senators, and Minnesota with two Republican U.S. Senators, both those States, contrary to what seems to be the will of the other side, at least in its majority, have placed campaign spending limits on everything within their States including races for the U.S. Senate and the House of Representatives.

My recollection is, and I could be off a few dollars, but I think New Hampshire has set a limit of $800,000 on U.S. Senate races, and $400,000 on House of Representatives races in New Hampshire. And Minnesota has put a limit on of $3.4 million for U.S. Senate races in Minnesota and I think $425,000 for House races.

Mr. President, I do not know whether this bill has been changed a little bit because it has been in an evolutionary process attempting to accommodate our friends' objections on the other side. Let me tell you I do not believe you will ever accommodate our friends on the other side enough that they will finally go for the one significant thing the country wants, campaign spending limits. But many changes have been made to accommodate them.

The last time I figured out the formula on the last bill—before we last modified it—in Illinois there would be a campaign spending limit of $4.5 million, and under the flexible rule I think you can spend another 20 percent which would get you over $5 million in Illinois, my State.

I know my State. I have represented my State one way or another in the Illinois House, the Illinois Senate statewide office, and the U.S. Senate now for 40 years, and I know my State. And anyone ought to be able to run a decent campaign for the U.S. Senate in Illinois for a little over $5 million if the same amount is spent on both sides. That is a level playing field.

We talk about level playing field all the time, on trade, on the economy, on everything, the level playing field. How about a level playing field in politics? Each side cannot spend more than x amount. For my State I would be willing to live by those kinds of spending limits.

When I go back to Illinois I hold press conferences all over my State. I want to tell you something: I called on the Illinois Legislature to pass a law to put on campaign spending limits for anything from dog catcher, State representative, Senator, secretary of state, State treasurer, Governor, and everything, and U.S. Senators and House of Representatives, put a limit on them. And I will live by the limit you put on and run against anybody. There are 11.5 million people in my State. Stand them all up. I will run against anybody, even amount of money.

That is fair. Let me put the lie to what has been said more than anything else around here regarding this plan to put a limit on campaign spending, "Oh, my gosh, this is awful, this is going to favor the incumbents." Hogwash. That is hogwash. Incumbents spend more all the time, not that that is the secret of incumbency. Go look at the record. The incumbents always spend more. I am trying to get somebody out there into the fight in a free fight, no holds barred. That is what I am talking about, fairness.

Campaign spending limits are fair, and they protect the voter.

If you report everything in full disclosure: Name, address, occupation, and everything else and put the right kind of limits on this thing, you have a good law.

And, listen, I will do that, I will vote for a campaign spending limit no matter how you do it inside. I will vote for public financing with a checkoff. I will do this, or I will keep it private financing under the Boren theory we had before where if a person rejects that limit then there is an accommodation financing. Under the private sector, I will do it anyway you want to do it.

And I am not a cosponsor of this bill because of the elimination of PAC's, but I would do that, too. Let me tell you something about PAC's. All this

trouble about how bad PAC's are. There are good PAC's and bad PAC's, just like good people and bad people.

I am going to say something right here. I have been into corporate meeting rooms 100 times in my State. I guess I am just throwing out the number, I do not keep track. I talked to 150 or 200 people. The chairman of the PAC calls them in the room. They all sit around, have a little coffee and donuts, and I talk for 10 minutes and answer questions for 1 hour on the budget, campaign financing, the question of taxes and revenue, every kind of imaginable thing that a public servant is asked to answer to the people about just like in a town hall meeting. I have done it innumerable times at meetings with PAC's, PAC's for all kinds of companies in my State. And then in campaigns I have done it, and as I am leaving here comes my opponent running for the same office, running against me, who makes a speech and answers questions. Sometimes they voted to give the money to the other person, not to me. That is good. That is democracy in action. I do not happen to see that much problem with PAC's at all. I understand some do.

The other side seems terrified about a fair fight, with campaign spending limits. I am talking about reasonable campaign spending limits. My friend in the chair probably knows what that is for South Dakota. I suspect my friend from Kentucky probably knows what it will be for Kentucky.

Now I have been elected to the U.S. Senate twice. Once, I spent a little over $3 million, and the last time I spent a little over $2 million, second least per capita of any successful candidate in 1986; second least, per capita. I am telling you that I am willing to have fair spending limits for my State, and the people of my State want it.

Mr. President, if we do not put campaign spending limits on shortly, we are going to have some scandals in this country that are going to knock your socks off. I do not profess to know what is going to occur. But I can tell you now that every Senator, several years before his or her election cycle, spends all of his or her time trying to raise money. In fact, I am embarrassed to say this, Mr. President, but you know it is so, and there are two other Senators on the floor and they are on the other side of the aisle and they both know it is so.

The first thing you do after you get reelected is begin to start raising money again. Do you know, Mr. President, that when I first ran for State representative years ago, you did not raise any money. You just spent a little of your own, a few bucks, to get elected. Costs in campaigns have skyrocketed. And now every candidate for the U.S. Senate, Democrat or Republican, starts raising money the moment they get here for the next time they run again, and they do it all the time, night and day, weekends, 365 days a year for 6 years.

Mr. McCONNELL. Will the Senator yield?

Mr. DIXON. Yes, I will yield.

Mr. McCONNELL. I just say to my friend from Illinois that, on the point he was just articulately making, the facts just simply do not back up my friend. We looked at the class of 1986, which I believe is his class, and of the total amount of money raised by incumbents who were in the class of 1986, 4 percent came in the first 2 years, 10 percent came in the second 2 years, and 86 percent came in the last 2 years. So very few of the class of 1986 were raising any money in the first 2 years.

To show that the pattern persists, we looked at the class of 1988. In the first 2 years of that 6-year term of the class of 1988, they raised 6 percent of their money. In the second 2 years, they raised 11 percent of their money, and 83 percent of it in the last 2 years.

So I think what the Senator may be sensing here is that these are people having fundraisers, but they are the people who are in the last 2 years of their 6-year cycle and they are typically the Senators who have competition. Those who do not have competition—my friend Illinois was fortunate enough not to have a real tough race in 1986—and when that happens, fairly little money is spent, and the turnout goes down, and there is not that much interest. That is a great situation for the incumbent. I hope to have that someday.

Mr. DIXON. I thank my good friend from Kentucky for the interruption. I do not know what the statistics that he holds say that he may think persuasive, other than the fact that you start slowly and build up, I expect.

But I can tell you something, if my friend intends to continue to persist in the U.S. Senate, to try to persuade the people of this country that it does not matter how much you spend, that that is not a problem, he has got the weakest case anybody ever took into court. I do not care how you write it down on a piece of paper. The cost of these campaigns is becoming outrageous.

My friend knows that people travel all over the country. Chicago happens to be in my State. I am telling you the candidates from both sides are in Chicago all the time. There are favorite cities, we all know that. There is Chicago, and there is New York, and there is Los Angeles and Dallas and Houston and Miami. You can go throughout the country, and you will see the candidates out there raising money all over the country because of the oppresive costs of these campaigns.

If we do not do something to limit spending, I say to my friend there will be serious problems and people are going to get in serious trouble. We need to do something to bring this spending under control.

I want to come back to the incumbency argument. I wrote an op-ed piece that was printed in the New York Times about that. The actual fact is that there is very little incumbency protection in the U.S. Senate. The plain fact is that the evidence shows it is the incumbents that are raising the money. If we put limits on, in my view, it will not be an advantage for the incumbents in campaigns in the future. It will be, in almost every case, a situation in which there will be an opportunity for a fair and even contest between the candidates. I think that is what we ought to do.

I just want to conclude by saying this. I will vote for any bill, Mr. President, that has campaign spending limits on it. I think PAC's are all right. If you want to limit them, I could live with it. I do not think it is a good idea. If you want to eliminate them, I could live with it, but I think it is a terrible idea. Do anything else you want. Put any kind of configuration on it you want to, Mr. President. Make it private financing with some kind of a method in there that Senator BOREN suggested in the past that works, or public financing by a checkoff method or anything else you want.

But I say to you, Mr. President, that there is, simply, no campaign finance reform, none, that does not have campaign spending limits. And anybody that wants to go throughout the country and argue that they have made an honest, conscientious, worthwhile attempt to do something about campaign finance reform and has not put a limit on the spending has been kidding the country. That is the view of this Senator.

Campaign finance reform without campaign spending limits is not reform, should not be disguised that way, and will not fool the public in any State or in the country.

On that, I close and yield the floor, and say I will vote for any bill, in any form, that in the end puts a decent, reasonable, defendable limit on campaign spending in any of the States of the country.

I yield the floor.

Mr. McCONNELL. Mr. President, just a couple of observations. My friend from Alaska has been waiting to speak on another issue.

I read Senator DIXON's article that was in the New York Times. I thought it was excellent.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 12, 1990]

THE POWER OF INCUMBENCY IS A MYTH

(By Alan J. Dixon)

WASHINGTON.—The idea that Senate incumbents have an overwhelming electoral advantage is a myth. It should not control decisions involving campaign finance reform.

Some advocates of reform argue that challengers need special protections in order to compete with incumbents and their purported advantages of office. Yet, statistics show that outspending a challenger hardly guarantees re-election.

The supposed advantages include staff members who do nothing but spend time burnishing the Senators' images; the franking privilege, which leads to ever-increasing volumes of mail to constituents, and Senators' access to their own TV and radio facilities, which helps them command much more media attention than challengers can gather.

Let's examine Senate elections dating from 1978. The choice of that year is dictated by three considerations: it allows a review of six Senate elections and two full six-year terms; it includes two elections when the President was a Democrat, and it avoids possible aberrations from the Watergate scandal.

In 1978, 35 Senate seats were up for election, 10 because of retirement. Ten incumbents were defeated—three in primaries and seven in the general election. Considering just the 25 seats in which an incumbent was seeking re-election, only 60 percent of the incumbents were returned to office. Looked at another way, freshmen won 57 percent of all the seats at stake; in other words, more than half the contested seats were lost by incumbents.

Clearly, incumbency was no distinct advantage that year: 60 percent is a far cry from the 98 percent retention rates talked about so much these days. However, even the 60 percent figure understates challengers' real competitiveness: some incumbents retire because they believe they cannot win re-election.

If anything, 1980, when control of the Senate shifted to the G.O.P., was even more dramatic. Thirty-four seats were contested. Five incumbents resigned, and 13 lost—four in primaries, nine in the general election. Challengers won 44.8 percent of the seats contested by incumbents. Overall 52.9 percent of the seats at stake went to freshmen.

Somewhat surprisingly, considering that the country was in deep recession at the time, 1982 was a more pro-incumbent year. There were 33 seats at stake, and only three Senators retired. Only two incumbents were defeated, so newcomers won merely 6.7 percent of the contested seats and incumbents succeed in 93.3 percent of the races. Looking at the overall numbers, incumbents retained 84.4 percent of the seats at stake; freshmen won 15.2 percent.

In 1984, 33 seats were contested, and four Senators retired. Three incumbents were defeated. All three—two Republicans and one Democrat—outspent their challengers. The challengers won 10 percent of the seats contested by incumbents, and freshmen won 21 percent of the overall seats at stake.

In 1986, when the Democrats regained control of the Senate, 34 seats were contested. Six Senators retired, and seven incumbents lost; six of the seven defeated incumbents outspent their challengers, but, again, their treasury did not save them. Incumbents retained 75 percent of the contested seats. Freshmen won 38 percent of the seats up for election.

The most recent Senate election, 1988, again demonstrated the competitiveness of Senate races. Thirty-three seats were contested. Six Senators retired and four incumbents were defeated in the general election. Challengers, therefore, won 14.8 percent of the contested seats. Freshmen won 30.3 percent of the seats at stake. Two incumbents outspent their successful challengers.

These figures make a compelling case that there is no exceptional advantage to incumbency. In the six elections reviewed, only twice did incumbents win in 90 percent of the races or more. In at least two elections, newcomers won more than 50 percent of the seats at stake, and incumbents retained 60 percent or less of the contested seats.

The nation's 100 Senators serve six-year terms, and only one-third of the Senate faces the voters in any Federal election year. That makes it even more significant that there are only 55 Senators today who were Senators in 1978. Since then, 34 incumbents have retired and 39 have been defeated by challengers.

What this means is that, on average, Senators have a 55 percent chance of staying in office for more than two terms. The Senate, therefore, bears no resemblance to an incumbents' protection club. It is extremely competitive—a fact that Senators should keep in mind as they strive for the necessary consensus on campaign reform.

Mr. MCCONNELL. Senator DIXON's thesis essentially was that races are competitive in the U.S. Senate. I could not agree more. There are plenty of reasons for changing the current campaign finance system. I do not like the status quo. I would like to change it. But the one thing it has been in the Senate is competitive.

Under the current system, the Senate has changed hands twice, and Senator DIXON makes an important point when he says in his New York Times article "The Power of Incumbency"—at least in the Senate—"Is a Myth." Senate races have, indeed, been pretty darn competitive.

I have a couple of observations about spending limits and challengers. Campaign costs for successful challengers have been expanding at a greater rate than both population growth and inflation. What we need to remember here is that a challenger does not have to spend more to win, but he has to be able to spend enough. Challengers typically do not outspend incumbents, unless they happen to be sitting Governors.

By the way, I might say under the Democratic proposal that is before us, if it happens to pass, every incumbent here is going to be a sitting duck to an incumbent Governor running against him in an election with that kind of spending limit. But that is just an aside that some of my colleagues might be interested in. Nevertheless, the challengers do not have to spend as much to be competitive, but they have to be able to spend enough to get their point across.

That is illustrated by recent statistics: 13 of the 16 successful Senate challengers elected since 1980, that is 13 out of 16, spent more than the limits proposed in the Democratic proposal in order to win. As I have said repeatedly, challengers do not have to spend as much or more than an incumbent, but they have to spend enough to communicate their message. In most cases this is an amount which is more than the Democratic substitute would allow. Only two successful challengers since 1980 spent more than the incumbent.

I would just like to mention the Senate challengers who are sitting in the Senate today who were elected who spent more than the spending limit contained in the Democratic substitute before us: Senators LIEBERMAN, SHELBY, SANFORD, HARKIN, KERRY, GRAHAM, DASCHLE, BRYAN, FOWLER, and SIMON; all exceeded in their races as challengers the limits currently in this bill.

I suspect, the campaign costs having gone up like everything else in America, and even more so, it would be very, very difficult for those people, if they would go back now and challenge incumbents under this limit, to have any chance of success.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent I may speak for 7 minutes as in mornings business.

The PRESIDING OFFICER. Without objection, it is so ordered.

KANSAI INTERNATIONAL AIRPORT AND THE JAPANESE CONSTRUCTION MARKET

Mr. MURKOWSKI. Mr. President, in November 1989, in March of this year, and again in April, the United States Trade Representative Carla Hills cited Japan as having unfair barriers to trade in construction services. In each instance, no measures were taken against Japan. That is because, as Ambassador Hills stated, although the Japanese construction market has unfair barriers, progress is being made to open that market. At least that is what we thought.

This week I learned some news that I find very disturbing, and it leads me to question whether progress is indeed being made. An American company, AEG Westinghouse Transportation Systems, lost a contract with the Kansai International Airport, and there are some serious questions about whether the contract awarding procedures were followed according to the rules, rules that had been previously agreed to. The contract was for a specialized rail system. This American firm is the world's unquestioned leading producer of these systems. There are only 15 in existence and 12 were built by AEG Westinghouse. Not only

is this American firm the most experienced in building these systems, the system is one of only a handful of projects at Kansai where we know without doubt Americans have a leading edge. Kansai International Airport is an $8 billion project. It is going to be one of the construction wonders of the modern world. The airport is being built in some 60 feet of water in Osaka Bay.

The Kansai project was supposed to become a symbol for a new era in United States-Japan cooperation, an era during which United States companies would have the same opportunities to compete for work in Japan that Japanese companies have for projects in the United States. It sounds very reasonable. However, the circumstances surrounding the rail system contract suggest that Kansai will not be a symbol for progress. Kansai may become a reminder of the problems—problems that may require additional firm congressional action.

BACKGROUND ON KANSAI

Mr. President, more than 3 years ago I came before the Senate to address the building of the Kansai International Airport in Japan. At that time, it was in May 1987, I pointed out to my colleagues in the Senate that our Ambassador to Japan, it was then Ambassador Mansfield, had 1 year earlier called for the Japanese to allow nondiscriminatory bidding on the Kansai International Airport project.

Mr. President, it is 4 years later, and I rise again today to address the same issue—Kansai Airport. For the past 5 years the United States Government and private sector have been negotiating with the Japanese on the very subject which Ambassador Mansfield addressed in 1986, an open and competitive bidding for contracts involving the Kansai Airport, and for construction market projects in Japan generally. We now stand at a crossroad on this issue; both governments come to the negotiating table this week to review progress on our bilateral construction agreements and contracts for the Kansai International Airport now being awarded.

Mr. President, I am deeply concerned about how little has actually changed in the 4 years in which I have followed this issue, and I would like to take this opportunity to elaborate on the actions the U.S. Congress has taken previously, where those actions got us, and what actions I am prepared to take now and in the future.

First, allow me to explain some details of the construction markets in the United States and Japan. The U.S. construction market is worth about $420 billion. That is construction that occurs in this Nation. On average, Japanese firms participate in our construction market on about 2.2 to 2.4 billion dollars' worth of projects annually. We welcome this competition and participation in our market. It is healthy and we are happy to have them participating in our markets.

The Japanese construction market is larger; it rings in at about $470 billion, or $50 billion larger than the United States market. Yet, American construction firms have done around 200 million dollars' worth of business in Japan. That is a cumulative figure, not an average annual figure. In 1986, when I got involved in this issue, the U.S. figure was zero. I think we had two Mrs. Fields Cookie store-fronts in downtown Tokyo. Now some people say we have been making progress when the United States market share in Japan went from nothing to $200 million in 4 years. That is an average of $50 million a year compared to an average $2.4 billion a year of Japanese work in the United States. That is barely 2 percent of Japanese business here. I believe this falls far short of true progress.

By contrast, in 1981 the Japanese did about $50 million in construction business in the United States. By 1985 they were up to nearly $2 billion, and now $2½ billion. Certainly Japanese firms are making progress in the United States and as they do so our market becomes more competitive for our domestic contractors. That opens up the question of, should our contractors have an opportunity to participate in the Japanese market?

Early on, we learned that one of the things holding back United States firms was a familar catch-22 scenario; foreign firms could not bid on a Japanese project without a construction license, but a construction license could not be obtained without construction experience in Japan. Through concerted efforts of the U.S. Government, we have achieved a small victory in this arena and now U.S. firms can get licenses in 2 or 3 months as opposed to 2 years.

AEG WESTINGHOUSE AND THE KANSAI AIRPORT

Let us look at the Westinghouse bid in specific. In May 1988, the United States and Japan entered a bilateral agreement called the 14 major projects agreement. This plan was established to give American construction firms experience in the Japanese market perhaps in joint ventures, as well as to provide for a more transparent procurement procedure on Japanese public works projects. The projects covered by the agreement have an estimated value of nearly $17 billion over 10 to 15 years. The centerpiece of the bilateral agreement is Kansai International Airport.

This airport, as I mentioned, is one of the world's largest construction projects. It is to be built on artificial land in Osaka Bay, and is estimated to cost over $8 billion. There is no question in my mind that American experience and expertise in construction, design, engineering and architecture is competitive in this industry. There is also no question in my mind that American business has something to offer to this project. The projects where we unquestionably hold the leading expertise are few however, and that is why I am particularly interested in those contracts. Because we do have expertise in people movers, expertise in flight kitchens, and expertise in baggage handling.

We received word this week that one of the major contracts relating to Kansai, the contract for the automated guideway transit system was awarded, not to an American company, but to a Japanese company, as one might expect. Let me state for the record that this contract is worth something near $50 million.

AEG Westinghouse Transportation Systems was an American firm competing for the contract, as I have noted. An automated guideway transit is like a subway, it is like the train we Members of the Senate ride from our offices to the Capitol Building. However, it is more efficient. People in the business call it a "people mover." However, airport people movers are far more sophisticated in design than the one in the basement here in the Capitol.

Airport people movers are must-ride systems. The entire functioning of the airport depends on how accurately the people mover runs. Two additional factors make airport people movers more sophisticated that others: They must move a very specific number of people in a strict amount of time, and the density of operations is far greater because of the high number of short trips.

In the entire world, as I have indicated, there are currently only 15 airport people movers operating or under construction. AEG Westinghouse built 12 of those 15, or 80 percent. They have 20 years experience in the market, and are by far the largest producer of these systems in the world. There is no other company or country which can boast experience like that. The Japanese company which won the contract has never built an airport people mover before. Never, Mr. President.

Furthermore, I would like to point out that there is some question whether the correct procedures were followed throughout the bidding process. Our bilateral agreement states that all bids will be publicly opened; it is not clear that happened. In fact, AEG Westinghouse was not even notified by Kansai officials of the awarding of the contract until 2 weeks after the fact. The U.S. State Department alerted Westinghouse that the award had been made. Additionally, there is a question of how closely the specifications for the system were considered in the award. In other words, were the

specifications that the American company had to meet the same ones that its Japanese competitor will meet? Mr. President, we have not been able to find out.

Mr. President, I ask my colleagues, is this the right signal for the Japanese to be sending? This is the first real piece of business on the hallmark project of a bilateral agreement which was drafted with the intention of helping American firms gain experience in the Japanese construction market. The world's most experienced firm spent nearly $1 million dollars to compete in this bidding proposal and in this market. We have seen this happen, Mr. President, not once but over and over. We continue to be on the outside of the Japanese construction market. I want complete answers to these allegations. I demand to know if our bilateral agreement is being compromised.

LEGISLATIVE HISTORY AND POSSIBILITIES

The 14 major projects agreement, which I referred to before, is currently under review by both governments. The negotiators have met twice, and are meeting again on August 2 and 3 here in Washington DC. They are to determine whether the agreement is being carried out in the spirit in which it was written, and whether progress is being made in opening of the Japanese construction market to foreign competition. I am prepared to say that progress is not being made. The Japanese market remains, for the most part, very closed, and the spirit of the agreement is not being upheld.

Congress has enacted legislation in the past intended to pry open this market, when the Japanese have refused to open it themselves. In 1987, I offered, along with 30 cosponsors, an amendment to the Airport and Airways Safety Act, which is now law. This amendment enables the United States to disqualify any foreign bidder from participation in airport construction in the United States, which involves $500,000 or more in Federal funding, if they restrict access to American firms on their government-funded projects. It is strictly reciprocity, Mr. President. The USTR must make this determination every year. In April 1990, Ambassador Hills decided not to sanction Japan. But Ambassador Hills did conclude that the Japanese construction market is closed in her 1990 Report on Foreign Trade Barriers.

I say, based on the results of the recent Kansai Airport contract, the progress is currently not enough to exclude Japan from these sanctions again. I will be watching these talks closely next week.

Finally, Mr. President, in 1988, along with my distinguished colleague from Texas, Congressman JACK BROOKS, I offered an amendment to a continuing resolution which prohibited Japanese participation in United States public works construction if they discriminate against United States firms in their public works construction projects. Again, Mr. President, reciprocity. A Japanese contract for work on the D.C. Metro line was actually blocked because of the Murkowski-Brooks amendment. This statute has lapsed, but it has not been forgotten.

It is my understanding that another contract decision is about to be made for the baggage handling system at Kansai. I know of one American firm which has bid on this contract that has maintained an office in Japan for 17 years. The business they have won is little to nothing, and yet they have shown the commitment and interest to stay in Japan for nearly two decades. I hope to see the Japanese show similar commitment, in the spirit of the bilateral agreement, and in honor of their commitment to provide the same access to their markets which we provide here in the United States.

Mr. President, I repeat, I will be paying extremely close attention to talks being held here in Washington on August 2 and 3. I will need to see much more progress than I have seen to date, in order to be satisfied. If not, I am ready to use a legislative approach to prying open the markets where Americans are competitive, competent, and deserve to compete.

Mr. President, please understand that this is not a bashing mission by any means. It is simply a case of reciprocity. We welcome the Japanese into our markets. We simply maintain that we should have the same opportunity to participate in their markets.

I thank the Chair, and I yield the floor.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. KERREY). The pending question is amendment No. 2432.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I momentarily am going to send an amendment to the desk and ask for its immediate consideration. It is being Xeroxed right now.

The reason it took a couple of hours to get ready, as I indicated earlier, is because we just received the most recent amended version about noon today. It will be ready shortly, and I will proceed to describe it at this point.

Mr. President, once again there is a movement afoot to stick the American taxpayer with a bill for our political campaigns, under the guise of S. 137, the Democratic campaign finance reform bill.

It is being marketed as reform. Obviously, truth-in-advertising laws sometimes do not apply to us. S. 137 is a retread. They have dredged the 1970's found a lemon of a campaign finance vehicle, tuned it up a little and unveiled it in 1990 as the panacea for real and perceived corruption in the political process.

Mr. President, underneath the hood, it is the same old lemon running on taxpayer financing and spending limits. The amendment I will be offering shortly would send the taxpayer financing provision of this bill to the junkyard where I think it belongs. I will continue to address the failures of spending limits. At this juncture I will turn to the issue, however, of taxpayer financing. S. 137 is modeled on the current Presidential taxpayer financing system in which funds for campaigns are raised through a reputedly voluntary checkoff on tax forms.

A look at the fine print shows it is not so voluntary. The Presidential system is a voluntary checkoff in that you do not have to mark the box. But every taxpayer pays for those who do. The checkoff allocates money from the Treasury, money that can be used for things such as education, health care, child nutrition, or even reducing the deficit. Additional taxpayer money must, therefore, be spent to replenish that taken for the Presidential election campaign fund or these other programs come up short and the deficit increases.

So taxpayers have involuntarily paid $500 million for the last three Presidential elections, taxes that funded the campaigns of fringe candidates like Lyndon LaRouche and Lenora Fulani, who have received millions of public dollars for their respective ambitions. Andy Warhol once predicted that everyone would be famous for 15 minutes. He did not envision that taxpayers would pay for the spotlight.

The proposal the Democrats unveiled in May made the presidential race look like a red-tag sale. Extrapolating the funding mechanism in the Democratic bill to House races, the goal of proponents, the price tag added up to nearly $500 million every 2 years. That is half a billion dollars. Realizing Republicans and the American taxpayers were not going to be receptive to such an expensive proposal, last Friday the other side announced that the major candidate subsidy was being deleted from the package. I commend this decision. However, remain-

ing in the bill are several provisions that will cost hundreds of millions of dollars if, as is inevitable with such legislation, it is extended to the House of Representatives. Let me explain.

Under the original proposal, the major candidate subsidy equals 70 percent of the general election spending limit. Adding up the limits in their bill and multiplying by 70 percent, then multiplying by two Senators per State, then multiplying by two candidates per race, and dividing by three to obtain the 2-year cycle figure, our analysis concluded a $75 million price tag for the Senate. Using the same formula with the House, assuming a $600,000 limit and multiplying by 435 congressional districts and by 70 percent and by two candidates per race, we reached a total of $365 million—$365 million just for House races.

Still in the bill is the broadcast provision whereby candidates are given communications vouchers that they give to broadcasters for television advertising. The broadcasters in turn submit the vouchers to the Federal Government for redemption, a veritable food stamp program for politicians.

The value of communications vouchers equals 20 percent of the general election limit. Using the same formula as for the major candidate subsidy and substituting 20 percent for 70 percent, our analysis showed a total of $21,315,713 for the Senate, $104,400,000 for the House. The Democrats' proposal up until last Friday would have cost $565,718,460 every 2 years for just the major candidate subsidy and communication voucher provisions.

Another big ticket item still in the Democrats' bill is the independent expenditure provision whereby the Federal Government pays to candidates an amount equal to independent expenditures against them, thus a bidding war between the taxpayers and special interests.

Another interesting provision in the Democrats' bill provides penalty payments to candidates whose opponent does not comply with the so-called voluntary spending limits. Proponents of the bill call this a carrot. From my view it looks more like a sledgehammer.

Semantics aside, candidates who choose to exercise their first amendment right not to comply with the limits would be pummeled. Were this section to stand up under constitutional scrutiny, which, as I indicated earlier this afternoon, is extremely unlikely, it could cost taxpayers a huge amount of money. If one-fourth of the Senate candidates did not abide by the limits, it would cost taxpayers $26,640,017. A one-third nonparticipation rate would cost $35,525,356. Should half the candidates decide to exercise their free-speech rights, the taxpayers would be stuck with a $53,280,034 bill. As this provision is extended to the House, the costs rise exponentially from $130,500,000 if only a fourth of the candidates refuse spending limits to $261 million if half the candidates do. For $500 million you would expect to get something for your money other than an assault on the first amendment. Particularly ironic is that so many of the cosponsors of this plan declined to support the flag-burning amendment because they professed to revere the first amendment so much, yet they are hard at work pushing a bill that seeks to limit the free speech of political candidates.

What you get under this proposal is a fraud, a system riddled with abuse and ripe with sewer money. The only ones who win are the lawyers, accountants, and fringe candidates who push their agendas and stick the taxpayers with the bill.

Aside from concerns over plundering the Treasury for a campaign system riddled with loopholes and abuse, the tax refund checkoff itself is a failure. The Federal Election Commission has notified Congress that the Presidential election campaign fund may be bankrupt by 1992. The checkoff rate has plummeted 30 percent in the last decade. Obviously, the American taxpayers are not very excited about checking off their tax dollars for political campaigns.

Fewer taxpayers are willing participants in this charade. Despite their clear signal that taxpayers do not care to pay for quadrennial Presidential campaigns, proponents persist in their efforts to expand this debacle to 535 congressional races. They contend that there is widespread support to pay for all of our political campaigns. These claims are far removed from reality, Mr. President.

To bolster their positions, advocates are flashing around a survey that purportedly indicates a groundswell of support for taxpayers funding of congressional campaigns. A review of this study sheds some light on these claims.

On page 3 of the study, it is noted that "voters are adverse to paying more of their own tax money to finance political campaigns." While proponents of public financing trumpet the study's finding that 58 percent would support a checkoff from taxes they already pay, the fail to mention the next line in the survey where it is noted that this support drops dramatically when it is clear the change could add $2 to their taxes.

Further, the study states, "Just 36 percent of the respondents, even after hearing all the arguments, said they would definitely or very likely give $5 to create a fund to finance congressional campaigns and get rid of the current system."

The Presidential election campaign fund is evidence of the public's disdain for public financing of campaigns, even out of taxes they already pay. During the 1980's, the participation rate in the $1 dollar tax return checkoff dropped nearly one-third to just 20 percent of the American taxpayers.

The FEC estimates that the fund may be bankrupt, as I said earlier, by 1992. As for the accuracy of the Public Citizen poll, to which I have been referring, and its relevance to how successful a checkoff would really be, 43 percent of the respondents said they currently check off the $1 Presidential fund contribution. That is twice the actual checkoff rate leading to a certain question of who was in the sameple in this poll.

Another indication of the polls tendency to say what they think the questioner wants to hear, 75 percent said they almost certainly would vote in the November elections; 25 percent said they probably would. No one said they would not vote.

Can you imagine that? I do not think we are going to have that kind of turnout in this November election. Is there anyone here willing to bet we will have a 75-percent turnout this year or that 58 percent will check off for public funding of congressional campaigns?

I do not know where Public Citizens found these folks they were surveying, but clearly it was a pool of people designed to tell them what they wanted to hear.

While Americans are concerned over perceived abuses and corruption in the political process, the problem which S. 137 would only exacerbate, they are much more concerned about other issues, issues that could use the funds currently diverted to our failed Presidential election system.

The Public Citizens press release announcing this poll was more notable for what it left out rather than what it said. Their press release did not mention their own polls finding that just 5 percent of what is obviously a preselected pool say corruption and special interest money and politics is their top concern. The study states that Americans are "much more concerned with drugs, crime, education, the economy, and taxes."

Clearly taxpayers are not willing to pick up the tab for S. 137 even under the guise of reform. Taxpayers should be allowed to support candidates of their own choosing voluntarily rather than be forced to pay for causes and campaigns of people they do not voluntarily support. Eastern Europeans have fought a long and courageous battle to get out from under tyranny to achieve for themselves the freedoms that our Founding Fathers secured for Americans over 200 years ago. We should take care not to chip

away at our own democracy for the sake of a public relations veneer of reform such as that in the underlying amendment before us.

The bill of the other side would be a costly mistake. I think we ought to give taxpayers a break by agreeing to my amendment which I will sent to the desk at this point.

AMENDMENT NO. 2433 TO AMENDMENT NO. 2432

(Purpose: To strike provisions relating to taxpayer funding of Senate campaigns)

Mr. McCONNELL. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 2433 to amendment No. 2432.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 4, strike the comma and insert a semicolon.

On page 9, strike lines 5 and 6.

On page 9, strike lines 15 through 19.

On page 20, strike line 3 and all that follows through page 22, line 22.

On page 22, line 24, and page 23, lines 1 and 2, strike "who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b)".

On page 23, line 3, strike "from such payments to defray expenditures".

On page 23, line 5, after "section 503(b)" insert "in amounts equal to the amount of any independent expenditures in opposition to such eligible candidate".

On page 24, strike lines 3 through 21.

On page 25, strike lines 3 through 20.

On page 26, strike line 3 and all that follows through page 29, line 19.

On page 30, strike lines 11 through 22.

On page 32, strike lines 1 through 8.

On page 32, strike lines 13 through 15.

On page 37, strike lines 1 through 9.

On page 46, strike line 20 and all that follows through page 47, line 17.

On page 51, lines 19, 20, and 21, strike "to the Secretary of the Treasury for payment of any amount to which such eligible candate is entitled under section 504(a)".

On page 51, strike line 22 and all that follows through page 52, line 11.

On page 54, strike lines 16 through 20.

Mr. McCONNELL. Let me just say, in summary, what this amendment is about. If Members of this body want to delete taxpayer funding from the underlying proposal which is before us, they should support this amendment. This amendment strikes out of the bill public funding, restores campaigns to voluntary funding, and would not use a dime of taxpayers' money to support the political process. That is what the McConnell amendment, which is before us, is about. We will be discussing that later. I yield the floor.

Mr. BOREN. Will the Senator yield for a question, so I might understand all the details?

Listening to the Senator explain it, I gather that the Senator would take out of the bill what I have referred to as standby enforcement funding. In other words, that portion of the funds that would come if one of the candidates accepted the voluntary spending limit, or the candidate did not accept the spending limit, and under the terms of our bill as filed if the other candidate broke the barrier and began to spend a certain amount, then funds from the checkoff funds would be available to that candidate.

So am I correct that the Senator would strike out that, what I call standby financing or the enforcement financing?

Mr. McCONNELL. It is the goal of the amendment of the Senator from Kentucky to strike out the broadcast vouchers which would be paid for.

Mr. BOREN. That would be stricken as well.

Mr. McCONNELL. In addition to that, strike out the possibility of public funding which would punish those who would exercise their first amendment rights by exceeding the arbitrary spending limit that the proposal seeks to establish on a State-by-State basis. Summing it up, it is the goal of this amendment to strike out of the bill any possibility of public funding.

Mr. BOREN. Does the Senator's amendment also strike out lower mailing rates for those candidates that comply?

Mr. McCONNELL. No.

Mr. BOREN. As I understand it, it really strikes out the broadcast vouchers, and the standby fund from the checkoff would go to a candidate if the other candidate broke the spending limits in the bill. Is that correct?

Mr. McCONNELL. Those two, plus the independent expenditure response.

Mr. BOREN. Under our bill, S. 137, if an independent group makes an independent expenditure above a certain amount, the candidate who is being attacked by the independent group can also get some funds from the checkoff to answer. That is new—striking out that as well.

Mr. McCONNELL. That is correct.

Mr. BOREN. I thank the Senator.

Mr. WILSON. I address the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I wonder if the distinguished Senator from Kentucky would respond to a few questions. I listened to his speech with the greatest interest. I want to be clear.

As I understand it, what he is talking about would be an elimination of public financing.

Mr. McCONNELL. Yes; that is the goal of the amendment of the Senator from Kentucky.

Mr. WILSON. Or to, I think, put it more accurately, to use words the taxpayers can understand, taxpayer financing.

Mr. McCONNELL. That is correct.

Mr. WILSON. As I understand the current arrangement, I am not addressing myself now to the amendment which the distinguished Senator from Oklahoma has proposed, but just to existing law, we have a situation in which there are a declining number of Americans who have been availing themselves of this opportunity to check off $1 to fund the Presidential campaigns with a certain amount of public financing.

Mr. McCONNELL. That is correct.

Mr. WILSON. That is true, even though they are advised on their tax return that by making that checkoff they are neither diminishing their refund nor adding to their own tax bill.

Mr. McCONNELL. The Senator is correct.

Mr. WILSON. From the standpoint of the individual, from his own immediate self-interest as a taxpayer, it costs him nothing to check that box.

Mr. McCONNELL. That is correct. In spite of that, the participation is declining to the point where the FEC has indicated that in all likelihood there will not be enough money in the fund to provide funding, public funding for the Presidential race in 1992.

Mr. WILSON. The study that the Senator mentioned indicates that something like 75 percent of the respondents said that they had voted in the last election.

Mr. McCONNELL. This was the Public Citizen survey.

Mr. WILSON. Perhaps they took the survey in their own office.

Mr. McCONNELL. It appears to this Senator it had not been a pool of voters most unlike the rest of Americans.

Mr. WILSON. Let me ask further. The effect of this, as I understand it, in the Presidential campaigns has been that a certain amount of tax money was allocated to the support of the Presidential candidacies. And necessarily that has meant that whatever level of support that was provided by the taxpayers to the campaigns of Presidential candidates was taken from the total amount of Government spending for all other purposes. Or, to put it in the simplest terms, what we are doing is, we are, to the extent that people have checked off that box, supplying funds. And those funds, were it not for the checkoff, were it not for taxpayer financing, would still be coming into the Treasury, and would be available for other purposes.

Mr. McCONNELL. As a matter of fact, about $500 million has been diverted from other Government programs over the life of the public fund-

ing of Presidential systems into Presidential campaigns.

Mr. WILSON. How much again?

Mr. McCONNELL. I believe the figure is $500 million.

Mr. WILSON. One hundred million dollars. If that is close to being accurate, what we are saying is that we have paid half a billion dollars over the life of this program for the purpose of financing campaigns that used to be financed as are all others, by individual contributions. Well, it seems to me that that is a very high price to pay.

What we are now about to consider is the legislation which proposes to extend that to all Members of the Senate. I might say that I find that is a tempting proposition in one respect. It would make my life as a candidate infinitely easier. I would not have to spend the time, energy, nor the effort that I do, and that we all do, to raise campaign funds in order to take to the voters, when I seek reelection, a message of which I am proud but I do not delude myself that they are intimately familiar with every detail of that record.

So instead, what is being proposed now is that I be relieved of that burden, that instead of having fundraising events, that I be permitted simply to be supplied by the taxpayers with the costs of my campaign. I must say that it is tempting for any of us who have spent those long hours in fundraising efforts. But I have to say, as well, that the announced purpose of that, which is to not relieve my burden, but to provide assurance to voters that my decisions thereafter will be free of any influence of special-interest donors, it seems to me that in both those cases, my convenience as a candidate is not an urgent public priority.

Mr. McCONNELL. Will the Senator yield for a further observation?

Mr. WILSON. It would certainly make my life easier, but when I think of one-half billion dollars over the life of this program that could have been spent to deal with the war on drugs, could have specifically been focused upon trying to provide the kind of outreach and treatment education that would prevent young women from abusing drugs during their pregnancy, so we would not perhaps now face what we are facing as a Nation, which is an epidemic of newly addicted babies, addicted newborns; when I look at that, and all of the other things which are legitimate demands for funding, not decisions between good and evil, but competing goods, I really have to say that I do not think that my convenience, or even the announced purpose of eliminating special interest influence is the kind of priority that should have first claim upon our dollars.

Mr. McCONNELL. Will the Senator yield for an observation?

Mr. WILSON. I am happy to yield to my friend.

Mr. McCONNELL. I am sure that the proponents of this measure will say that what we have done in order to diminish the taxpayer exposure here is that they have taken the proposal under which previously 70 percent of the general election spending limit came from the Treasury, and they have moved that up into what I call the punishment pool, and they will say that we have diminished the impact on the taxpayers by creating a situation under which it is extremely unlikely that, other than the broadcast vouchers, that public money would be used because we have it up here above the line.

I say to my friend what they have done is make the bill unconstitutional there, and they have created a system that is unlike the Presidential system in the follow respects. The Presidential system is truly voluntary.

We had one candidate who had the courage to try to run his own campaign, raise his own money, without dipping into the Treasury. That was John Connally. It did not work very well. When he did that, nothing happened. None of his opponents got a subsidy from anybody. He did not get punished. Nothing happened. He just did not get any public money.

Alas, what happens in this measure is that if you exercise your first amendment right to get as much support as you can and you go above the arbitrary spending limit, your opponent gets a heavy public subsidy, and you are punished in effect for exercising what the Supreme Court said in Buckley versus Valeo was the first amendment freedom of speech. That, you see, in order to diminish the taxpayer impact they put in the punishment fund, and they made it blatantly unconstitutional.

There is still public money in this bill, the 20-percent broadcast voucher. I suspect there may even be some courageous souls out there, even under this measure, if it withstood the inevitable constitutional challenge, if it passed somehow over the President's veto, who would say, you are not going to tell me how much support I can get, I am going to get as much support from limited and fully disclosable sources as I can, and try to win in spite of the public subsidy against them.

That is what we have before us, a measure that still has public funding, but that is blatantly unconstitutional and different from the Presidential system in the sense that the money is up in the punishment pool.

I thank my friend from California.

Mr. BOREN. Mr. President, will the Senator from California yield?

Mr. WILSON. I will be glad to yield.

Mr. BOREN. I want to ask the Senator, in listening to the discussion, he talked about half a billion dollars. I do not know if the Senator is aware, but CBO has done an analysis of what they think the estimated cost of this standby authority is, and I would call it a "reward pool" as opposed to "punishment," as the Senator from Kentucky calls it. They estimated the cost would be $29 million in 1991, $30 million by 1992, and $35 million in 1994.

As I heard the Senator from California discuss it, I believe that the figures he was citing—and I am not sure those would be accurate, even in that case—were the figures in the original version, before we modified S. 137. That would have provided 60, 70 percent, at the time that the candidate agreed to accept the voluntary spending limit, that would have provided for approximately 70 percent of the value of the spending limit to be then awarded out of the checkoff fund to the candidate. That has been withdrawn.

Mr. WILSON. To my friend from Oklahoma, I say that the figures I used were the figures I heard the Senator from Kentucky use with reference to the cost-to-date of public financing or taxpayer financing in Presidential campaigns.

Mr. BOREN. Does the Senator understand that we have pulled out of the bill, because of concern on that side of the aisle about public financing, in fact, any automatic cash grants? The only things left are television vouchers, which, if utilized by all candidates would run in the neighborhood of a maximum of $20 million per candidate. That would be the maximum that could be used.

If no candidate broke the spending barrier, through these positive inducements—and it would be our hope to encourage them not to break the spending barrier, including those breaking the barrier—would have to run that "this candidate does not accept spending limits," for example.

In California, there is still a lot of private fundraising, and this would not be money paid out of the public treasury. You would be able to raise $5.5 million per candidate in California. That is a lot less than the historic average. If both candidates agreed to divide the $5.5 million spending limit in the State of California, which is provided under this bill, there would be no cash payments at all out the Treasury, under the way we have worded this bill.

I understand what the Senator is saying. It comes as no surprise to those on this side of the aisle to know, and it would not come as a surprise to the Senator to know that this Senator has never been particularly enthusiastic about large amounts of cash funding from the public treasury for election. That probably would not surprise

the Senator from California. We have taken that out of this bill.

Mr. WILSON. That sets my friend apart from his colleagues, who demonstrated repeatedly publicly, vocally, almost unbridled enthusiasm for taxpayer support of those costs. I commend him for being independent of that mentality.

Let me ask this question, though.

Mr. BOREN. Mr. President, I want to make sure the Senator from California does understand there is no automatic cash financing; that the only thing automatic under this provision as now written is what those Senators who accept the voluntary spending limit would be entitled.

Let us assume that every Senator accepted the voluntary spending limit. If that happened in all the races in the country—and let us hope they would because it would seem to me—and I am sure the Senator from California undertaking this effort right now, back-to-back effort, after a race for the Senate and now for Governor would agree with the burdens of this. If there is a $5.5 million limit and then the maximum that you would qualify for all the candidates in the country would be lower rates which the Senator from Kentucky has not suggested be removed from the bill and a 20 percent television voucher which was originally the proposal of the Senator from Missouri [Mr. DANFORTH] which was the reason that was put in the bill as an effort again to show our concern and consideration for the idea and ideals, I might say, coming from the other side of the aisle. That would be a maximum.

So on a national basis, if everyone accepted the spending limit, the $20 million value of television vouchers, 20 percent of the limit taking the limit from all States that is what it comes up to. I want the Senator from California to understand as we now have changed the bill.

Mr. WILSON. I thank my friend from Oklahoma.

I say two things. I do understand there have been changes, and overall the thrust of the Democratic bill is to impose limits upon spending. I will tell him frankly that I have some difficulty with that because a casual look at some of the limits suggests to me that it may be a great incumbent's protection device, although perhaps not intended as such, but we can deal with that when we move to a discussion of the limits.

But could my friend from Oklahoma clear up one point for me? And that has to do with the application of the provisions of his bill to the House of Representatives. As I understand what he has been describing to me, it covers Senate campaigns but not those of the House; is that true?

Mr. BOREN. I say to my colleagues that is exactly true, under the theory that the bill must go through both Houses, and as we have in the past, neither House has attempted to write rules as they apply to the other body. It is my hope, obviously, that the other body would not only agree to pass a bill along these lines but the other body would also agree to apply similar kinds of rules that we are here applying. We have done some things with the modifications.

Again, I say to my colleagues that I think we have gone a long way toward meeting the concerns of those on the other side of the aisle in addition to removing the cash public financing out of the bill and greatly reducing any costs. We have also adopted the language identically which again it would not surprise the Senator from California, going back to my own personal cosponsorship of this kind of proposal with Senator Goldwater over several years ago, that there be a total ban on political action committees as strongly suggested on that side of the aisle and the President has indicated that is a strong matter with him.

So we have taken both of these actions and, hopefully, narrowed the gap between the views on both sides of the aisle on this legislation.

Mr. McCONNELL. Mr. President, will the Senator from California yield?

Mr. WILSON. I am delighted to yield.

Mr. McCONNELL. I have a further observation about this point.

Broadcast vouchers are money, cash which will come from the Treasury. The communication vouchers and the proposal that we are seeking to amend represent 20 percent of the general election arbitrary limit that is in the Democratic proposal. Our analysis shows that that is a little over $21 million for Senate races. Obviously, this would be applied to the House. It is $104 million for the House. So that is a certainty, a lead pipe cinch. We do not know how much people have the courage to go on and exercise the first amendment rights under Buckley versus Valeo and see how much support he can get from a whole lot of contributors who are limited and fully disclosed. We do not know how many people have that courage, but I assume some would.

Of course, you are going to have to fund presumably some candidates like Lenora Fulani, we assume, and Lyndon LaRouche and others, but there is a definite certain $21 million expenditure of the Senate and $104 million expenditure for the House.

Mr. WILSON. My friend from Kentucky makes the point that I had inferred from the answer made by my dear friend from Oklahoma when he said that this bill does not apply to the House but he hopes that the House, and in a spirit of comity and kindred passion for reform, will embrace a similar device and impose the same restraints upon themselves with presumably the same provision for their needs in the form of broadcast vouchers. That is why, when I heard the figure of $29 million, it seemed to me that if that is what it is projected to cost on a first-time basis in the Senate, what we ought to be telling the taxpayers who are going to have to pay for it or at least suffer from the loss of those same resources allocated where they would do a great deal more good is this: It is not going to cost $29 million; conservatively, it could probably cost five times that amount assuming that the House does embrace, as the Senator from Oklahoma hopes, a similiar kind of regiment.

Personally, I doubt they would. But that, it seems to me, leaves us then in a position where we have good news; the good news is they are not going to be spending all that taxpayer money; the bad news is under the Senator's view of reform there will be no reform in the House. I think that we need to be very much concerned as we draft this legislation that its provisions can apply equitably, workably, and reasonably to both Houses; that is, I conceive a tall order given the history of the House of Representatives in responding, as they have, to Senate initiatives to curb the abuse of the frank and Senate reforms of other kinds.

Of course, they take deep umbrage at such suggestions. That is not new, either. But I think that what is being proposed here, I think, very candidly, necessarily understates what is likely to be the cost if my friend from Oklahoma succeeds as he sincerely hopes he will. I am not sure at this point that I can sincerely hope that he will because the thrust of his legislation really depending upon success in imposing limits, limits of a kind that I think will prove in many, many States to be so restrictive that in fact they virtually guaranteee an incumbent's reelection by making it impossible for a challenger to effectively bring a challenge, given the realities of a need for dollars to obtain media time, to pay for mailings, to do the kinds of things that are necessary to a campaign.

Mr. President, I yield the floor at this time.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from California.

As I have said in the very beginning of the discussion of this bill, we are undertaking a procedure here under which all amendments on both sides of the aisle will be in order and which, hopefully, we can have a real dialog. I think our purpose must be to try to enact real campaign reform.

As I said at the outset, my purpose here is not to score political points,

partisan points, or debating points, but a proposal that hopefully we can craft this discussion in a way we can put our heads together and do what the Senate should do and that is collectively come forth with the best proposal to bring about real campaign reform for the country because those on both sides of the aisle have now agreed, the leaders on both sides have agreed, there is something badly wrong with the current system of campaign financing.

The first thing I would like to say to my friend from California—and I hope he will consider the point which I am making on limits because he, indeed, is my friend and I have great respect for him and great affection for him—we do have a point of disagreement.

I do not think that limits, per se, and I really think that those on the other side of the aisle will think about this long and hard because I know it has become almost a cataclysmic thing to say that limits somehow choke off challengers. I think it is true if you set the limits too low we understand that incumbents have a great advantage of being well known. They are seen on the nightly news. They use the franking privilege.

My good friend from California and I have been cosponsors together on a number of occasions, along with my colleague from Oklahoma, who is on the floor trying to reduce the unfair use of the frank in mass mailings. We have attempted to do this several times together. And incumbents do have certain advantages in which they can become well known. Therefore, we set a limit too low so that a challenger does not have access to the media, to get across what he or she wants to say to get known by the public. This can certainly be a disadvantage. This can be a disadvantage to a challenger. But if the limits are high enough for the challenger to become known—and I am convinced that that is very much to the advantage of a challenger and the reason for that is that incumbents, and we had the statistics shown this morning, a case-by-case study, that in the last 55 contested elections for the U.S. Senate the incumbent has significantly outspent the challenger in 51 out of 55 cases.

In fact, in the last election cycle incumbents were able to raise $2.05 for every dollar challengers were able to raise, and that is without regard to party.

And so it seems to me—and this has always puzzled me—if you want to change the system in a way to help challengers, one of the things, you want to do is put in place a limit, not a limit that is too low, but a sufficient limit where challengers can get their chances, but not so high where the incumbent can come in and overwhelm them by a better ability to raise money.

So I think if you want to think about changing what has been sometimes called the permanent majority status on my side of the aisle, especially in the House of Representatives, that there should be a need to have some kind of spending limits so that there is an opportunity for challengers to have an equal chance.

I would say to my friend from California, my friend from the other side of the aisle, and I said this from the beginning, there is nothing magic about the provision in our bill. As far as we are concerned, it is not engraved into stone that spending limits will be at a certain level in a certain State. This is something we are willing to talk about to make sure challengers do have a chance.

But we do feel there should be some outer limit, that there should not be a stratosphere, that there should be some final limit so we get the spending cycles at sort of the arms-length range if we want to get it under control at some time.

So this is something we sincerely hope will be considered. We are willing to talk about what the level should be, but we do feel there should be some outer limit at some point.

Let me give a little history—and I will try not to take too long—as to why this provision on vouchers for television time was put into the bill. Some time ago the distinguished Senator from Missouri, Senator DANFORTH, made a very effective speech on the floor, followed up by comments publicly and a press conference, on this subject saying he was very concerned about the nature of campaigns.

Those of us who have gone through campaigns in recent years you think would understand what was being said. My colleagues on the floor right now have all been subject at one time or another to negative attacks by opponents on the other side.

I think the American people are turned off not only by the flood of money that has gone from $600,000 on the average to win a Senate seat since I have been in the Senate, to $4 million on the average to win a Senate seat—that was what was spent in 1988. Not only are they concerned about all the money spent but what is the money spent for: 30-second spots, mainly with actors on these spots used to attack the opposition, used for the purpose of character assassination, not for the purpose of discussing in depth the great issues of today, nor really going into how could we balance the budget or how should we change our budgetary priority in a changing world in which the power relationships of all countries have changed; but 30 seconds to watch some actor get on and say what a scoundrel your opponent is.

I do not think the American people like that. They do not want people to run on the demerits of their opponents. They want to know what we are for. They hunger for a real discussion of the issues. No wonder only 37 percent went to the polls with this kind of negative, awash with special interest, money paying for it.

That is why the Senator from Missouri said let us not only try to do something to choke out the money chase, let us not only try to do something about the special interests—and we are not united on both sides of the aisle—and it does my heart good to see us united on the question of PAC's; We have identical provisions—but he said we ought to try to do something else. And this is tough to do. But he said let us try to elevate the level of compaigning in this country so that we really talk about issues to the people, so we do not just engage in negative campaigns, negative spots, and character assassination. So he suggested we offer some vouchers, vouchers for longer times instead of 30-second spots. They can only, I believe, in his original proposal, be used for 5-minute spots.

He also suggested that the candidate should have to come on at the end of that ad and say, "I authorized this ad and my committee paid for it." So if you had a spot or an ad and actors are on the air saying you know my opponent is a scoundrel and saying all sorts of things and twisting and distorting a voting record, talking about his family and personal habits, if you wanted to do that, you could hide behind some actors, but you would have to come on and say "Yes, I, Senator X, authorized this ad and my committee paid for it." You would have to assume responsibility for it.

Judging by the low nature of some campaign advertising, I imagine there are a lot of situations in which candidates would not be very proud to claim credit for those ads.

So Senator DANFORTH said we ought to try to elevate the campaign. And that was his suggestion. I believe his was only for a 5-minute time. I heard his proposal. I must say that I thought it was an intriguing proposal and I have done my best to sell that proposal to Senators on this side of the aisle because of my respect for him.

This is not purely in the form he suggested it, but it does have both the concept of a longer time period than 30 seconds and it also has the concept that the person running the ad should have to assume responsibility, come on at the end of the ad and assume responsibility for it.

I am willing to change the way we have it in here. I am willing to work with the Senator from Missouri to refine his proposal. But I want those on the other side of the aisle to understand that this was not put in at the insistence of the Democratic Caucus. this was put into our bill as a good-

faith effort on my part to extend my hand to the Senator from Missouri and to indicate to all of those on the other side of the aisle that when good, constructive ideas are brought forward, we are willing to look at them on our side of the aisle and try to include those suggestions in our legislation.

So that is the history of it. It does have some cost, there is no doubt about it. I guess you have to decide. We have citizens concerned about the millions of dollars of money that are being pumped into campaigns. We have newspaper article after newspaper article about Mr. So and So, whether it is Mr. Keating or somebody else, has raised so many hundreds of thousands of dollars or millions of dollars into the political process. The public is concerned about that. The public wonders if the Senate is for sale.

Well, I do not know. Is it worth the cost? Is it worth $20 million to try to elevate the discussion of public campaigns so that the people have some understanding of what the candidates are really for in terms of the issues, candidates that are going to have to come here and appropriate money under a trillion-dollar budget a year and make fundamental decisions for them? That is something we have to decide.

I happen to think the Senator from Missouri had a good proposal and that is the reason I wanted to include it.

Now, as to the other aspect of the amendment, the provision for standby enforcement, let me say first of all I do not know if the Senator from Kentucky—I assume he does not include doing away with the current checkoff system for Presidential elections. I assume this only applies to the bill. It does not attempt to remove the checkoff.

Mr. McCONNELL. It only applies to the current bill.

Mr. BOREN. It would not apply to the Presidential system. We do have the Presidential system. I just list this again, because there are Democratic candidates who have accepted funds from this checkoff as well as Republican candidates. The Senator from Kentucky talked about those. He said some have had the courage not to accept. Well, those who have accepted it, Senator DOLE, our distinguished Republican leader accepted $8.1 million in so-called public financing out of the checkoff system; President Reagan, $20.5 million; President Bush, $14.1 million; Jack Kemp, $5.9 million; Gerald Ford, $4.5 million; the former Republican leader, my good friend, Howard Baker, $2.5 million; Pat Robertson, unsuccessful candidate on the Republican side for the Presidency, $10.4 million.

Now I do not think there is anything evil about this. I just point out that these candidates did choose to follow the system and that there is not an effort to do away with that system. I think one of the reasons why the checkoff system has fallen into some disrepair, although the latest polls indicate—I looked at the Greenberg-Lake poll, which indicates that 59 percent of the American people continue to favor some form of a voluntary checkoff.

I think one of the reasons why you have seen fewer and fewer people participating in the checkoff system is that they have wondered what in the world has happened.

The Senator from Kentucky has been one of the most effective people in pointing this out. We have a Presidential election system that is now supposed to be free of all taint. We are supposed to have a checkoff system in which that is the only money the candidates get. Once they are nominated, they are not supposed to have to raise any more money. It is not lawful for them as individual candidates to accept any more money.

The American people said we want this cleaned up. What happened? People figured out a way around it, so-called soft money, and we have had the $100,000 clubs in both parties. We mentioned that earlier this afternoon, 249 gave $100,000 or more in the last Presidential campaign on the Republican side and probably an equal number on the Democratic side. And what do they do? They funneled it into the State party committees and they are proud to say, we had "Team America"—I have forgotten the various names of these committees which raised $100,000 at a whack where they thought we were out of that business after Watergate. They poured it in because there was this loophole that allowed you to pour it in, but not to affect party elections.

Let me say on both sides we are committed to doing something about it. We ought to clean it up. It is a disgrace. But if there is any reason why that system has fallen into some disrepute and why taxpayers are wondering why should we check off money if they are out raising $100,000 a whack from individual people, I think that is the reason.

So, I would say all we are doing here in addition to the television vouchers, which was an effort on our part to reach out to the other side of the aisle, is providing some standby mechanism. My hope is that finally candidates, all of us, would see what we are doing to this institution by putting ourselves in a position of having to raise more and more and more money in more and more places where we do not know the people very well, from people we really do not know very well, to finance our campaigns.

And the perception we know we give to the American people is that we are allowing people, because they have financial means, to get a foot in the door to have access to us. I hope we realize what we are doing. If we did voluntarily accept the spending limits in this bill—as I say, these spending limits are subject to discussion if we have set them at the wrong level—but if we did voluntarily accept spending limits, there would not be one penny of public funds that would come out of this particular checkoff fund that we are setting up.

Not one penny of inducement money or enforcement money would come out. That would only happen if one of the candidates broke the spending barrier. It would be the responsibility of that candidate who said "I do not want to compete upon ideas; I do not want to compete on the basis of qualifications. I want to compete on the basis of raising more money than my opponent."

If they wanted to make that position and openly say to the people in their State "I do not want to compete on a level playing field; I want to try to buy the election," then, yes; there would be money triggered. But it would be their fault.

I happen to believe the bill as drawn would give enough strong inducements for people to accept the spending limits. I do not really believe we would ever see a penny spent. I believe the $29 million estimate from CBO, which I assume is based on the idea that some candidates would break the spending barrier, is an overly high estimate.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I wish to compliment by colleague, Senator BOREN, for his tenacity on this issue. He has worked long and hard. I do not agree with his final product that we have before us today. It is 107 pages. I have not had a chance to totally analyze it, but I have looked at a few of the major provisions, and I will talk about those briefly.

I would also like to compliment my colleague and friend, Senator McCONNELL from Kentucky. He has done an outstanding job on this bill. He has analyzed it and worked on it probably as hard as anyone. I listened to many of the comments he made earlier today, and I think he was right on target on many, many provisions, both on the shortfalls of the substitutes and also on what needs to be done to improve campaigns and campaign finance reform.

My guess is, if we ask every Member of this body, and probably the other body, the House of Representatives as well, are you in favor of campaign reform, almost everyone would say yes. The problem or the disagreement is in what constitutes reform.

The Republicans have had a package for some time. It did ban all PAC contributions. Now, As I understand it, the proposal submitted by my friend, Senator BOREN, also bans PAC's. I compliment them for that. That is a big move from where they were earlier last week. So, to my colleague from Oklahoma, I compliment them for that move.

I removed the original bill, the Boren-Goldwater bill, that I think either banned PAC's or reduced them down to $1,000, I am not sure which. I thought that was a big step in the right direction. I told my colleague that at that time. Since then, the Democratic position was different. It was going to leave PAC's where they could contribute $5,000. I am glad they have gone to the position that Republicans have had for some time now. I say Republicans; not every Republican. I think we need to make that known as well.

But basically we have introduced a bill that is supported by a strong majority of Republicans that would ban PAC's, and if that was found unconstitutional, reduce PAC's down to $1,000 from $5,000. That is the same limitation for individuals. PAC's, as everyone is well aware of, support incumbents. So we would be reducing one of the big incumbent advantages. So I compliment my friends on the Demcratic side who have now supported the Republican side's position on PAC's.

Other major provisions deal with spending limits and also deal with public financing. As my friend from Oklahoma knows, I have been adamantly opposed to public financing, so I wish to be made a cosponsor of the McConnell amendment which is now pending to strip out all the public financing provisions of the bill. I think it is vitally important to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. If we do not change it, if we are not successful in gaining agreement to the McConnell amendment—and I am glad it is the first amendment up because I think if we do not pass it, we are wasting our time—frankly, if we do not take out the idea of public financing of campaigns, I do not think the President is going to support the bill. I have heard my colleagues say we have taken out public financing except for the compliance or the carrot. I have a hard time seeing how public financing is taken out of a bill if it is still in the bill. If taxpayers' moneys can be used to finance campaigns, it is still in the bill. We need to adopt Senator MCCONNELL's amendment.

Spending limits is the third major point of contention of the bill—and there are others, I am sure—but I have heard people say they are voluntary. I question that. You might find yourself in a situation where you really do not want to comply, but yet if your opponent is going to receive millions of dollars of taxpayers' money to assist him in his race, that is like having a gun at your head. So it is not voluntary. We do not have a voluntary system if we still have public financing in this bill. So I think we need to adopt Senator MCCONNELL's amendment.

I can also mention several reasons why I think spending limits are wrong. I do not know why we would want to pass a bill that says to a participant or constituent in one State that they cannot contribute money to their Senator. In my State of Oklahoma, if I reach the limit, the so-called election cycle limit, I think it would be $1.8 million, and I want to spend another dollar—let us say I figured it was going to cost $2.8 million; I think that is what my last race cost. So I said, no, I am not going to mess with the public financing; I am not going to participate in this voluntary system. Well, then my opponent would receive $1.1 million of taxpayers' money. I do not think that is right, and I really do not think taxpayers are lining up across the country saying they want to subsidize or finance U.S. Senate races. As a matter of fact, my guess is we would find a strong majority would vigorously oppose it.

Then we would find the checkoff was not raising enough money. Then what are we going to do in financing these camapigns? Not only that, but to go a little bit further, my colleague's bill does not really address soft money. It addresses soft money and limitations on party soft money, but it does not limit soft money. If I am looking at the bill correctly, it does not really limit soft money from organized labor or from some others. They could put in a lot of money. It would not be reported; it would not be disclosed.

I think most people in this body are well aware of the fact that organized labor supports a strong majority of Democrats. I think 90-some-odd percent of their money goes to Democrats. So they would have a lot of soft money being used to advance the cause of Democratic candidates, and a Republican might find himself saying, "Wait a minute. I have a spending limit. My opponent maybe has the same spending limit, but he is getting a lot of assistance in so-called soft money that is not even reported. So I am at a disadvantage."

If they are at that kind of disadvantage, well, is that fair? Is that equal? I would not think so.

Mr. BOREN. Will the Senator yield for a moment on that?

Mr. NICKLES. I will be happy to yield.

Mr. BOREN. Is the Senator aware in our bill we do state neither labor unions nor corporations could make contributions in soft money to State party committees, for example, for the purposes of influencing the outcome of a Federal election?

So if it is during an election cycle where there are Federal candidates, neither labor unions nor corporations could make those contributions; and, as to other people, we do provide a limitation of I believe it is $20,000 to the national committees, and then a limitation of $5,000 to a State committee, as to what can be given.

So, in other words, we make soft money into hard money and we then very strictly limit the amount of contributions that can be given.

Mr. NICKLES. Two things. I have been reading the Senator's bill. I would like to learn more about what he has. But I do not see a restriction—let me give an example. Let us say you have organized labor and they decide to contact all their members, all their families, all their retirees; anybody connected, ever connected. You are talking about thousands and thousands of people that they might get very aggressive with and say we want you to campaign and contact everybody that you know in your church or organization, your city, your town, your precinct.

In other words, you could have a very, very significant soft money effort made on behalf of a candidate that would not be reported.

I may be wrong, but I know that can be done to some extent. If you violate that too much, you are certainly going to have an infringement on the first amendment.

You just have a very, very difficult time limiting groups contacting their members, their associations, their organizations. I am not even sure the Senator would want to do that.

Mr. BOREN. If the Senator will yield again, I understand what he is saying. In terms of direct contributions, I want to make it clear that regarding other groups, like party committees, we do cut them off.

Mr. NICKLES. I understand that.

Mr. BOREN. In terms of internal communications, as the Senator just said, whether it is a corporation, let us say, contacting their shareholders or employees, whether it is a member of a labor union, contacting their members, you do have obvious constitutional problems in terms of shutting off their right to do that.

I think we are perfectly willing to sit down and discuss with the other side of the aisle, with my colleague and others, to see if we can find some workable way, on an evenhanded basis with both business and labor, to make sure we try to disclose as much as we possibly can. There is certainly a willingness to discuss that. I understand what the Senator is saying, and I want to signal there is a willingness on this side of the aisle as to how we can best

do it within the constitutional confines we are operating under.

Mr. NICKLES. Correct me if I am wrong. There is no limitation on organizations in their internal efforts, not through other parties, not through soft-money contributions to other political parties, but no limitations on soft money, say, for organized labor or corporations, or whoever, from getting involved in the campaigns. Some of these groups have a lot of money and they have a lot of members.

What I am saying is, this falls outside the limitations in the Senator's bill, as I read his bill. Correct me if I am wrong. So the point I am making is that, yes, my colleague has the spending limitations that equal some $1-odd million for an average size State, and yet he has a lot of organizations—I am going to say primarily organized labor is very intent and very interested in legislative outcome. So they get involved. So they have a lot of their people show up at the headquarters to work. They may say, "We want lots of our people who are members of XYZ union," or maybe it is a corporation or shareholders, but they are not going to be quite as organized in most corporations. But one can have an enormous turnout of volunteers, an enormous turnout of workers who would be doing a lot of soft-money type operation, all internal, all contacting other members. In other words, one can have a totally separate campaign organization that does not show up under the spending limits, it is not disclosed, it is not reported, and yet, in the case of organized labor, it is all going to go to the benefit of the Democratic Party.

I read my colleague's sections that had lots of limitations on soft money dealing with parties but no limitations dealing with organized labor in their direct communications and efforts, no limitations as far as other groups. Lots of groups are big; it is not just organized labor. We might have the prolife committee or we might have the abortion-rights committee or the AARP, or we might have the gun owners groups. We can have a very aggressive group of gun owners who get involved in campaigns that decide they want to contact every single household in the State of California and give their expression that a Congressman or Senator is totally wrong on the issue or totally right on the issue.

I am not saying I really want to restrict their opportunity to do so, but if I were a candidate and I found out that one group or another was distributing leaflets to every household in my State that said I was of this particular persuasion on an issue, like abortion or on church rights or maybe it is on union issues or whatever it is, I would like to have the opportunity to be able to correspond and respond in kind. It may well be that, wait a minute, my opponent has groups such as this who are working more or less in his behalf but not quite an independent expenditure because it is not filed, it will not be filed because, again, most all soft money is not disclosed; it is not reported. So I find this to be a glaring loophole that would be very much to the advantage of the Democratic Party and very much to the disadvantage of the Republican Party.

Mr. BOREN. Will the Senator yield?

Mr. NICKLES. I have several other comments I want to make in running through the bill, and then I will be happy to discuss with my colleague from Oklahoma other provisions of the bill.

We want some equity. We want some balance. But the main thing that is wrong with the idea of spending limits is to say it is against the law for somebody in my State of Oklahoma to say, "Wait a minute, I want to contribute to your campaign," and I have to say, "No, you cannot do it; it is against the law for you to participate in my campaign because I have reached my limit, financially." Maybe they would like to physically, but they do not have the time or they may not have the physical capabilities to do so. But you are saying it is against the law for them to contribute. If maybe they want to contribute to somebody's campaign in California, it is against the law because they are already at their limit. I think that would be a mistake.

My colleague from Oklahoma talked about the Presidential campaigns. Yes, they have a checkoff and public financing. I will tell my colleagues, it has been a disaster. I am not up here saying let us repeal it. I will say, it has been abused. The whole idea of purportedly coming up with the Election Reform Act of 1974 was to clean up so we would not have $100,000 suit cases. We had some in the Watergate era. Now we find, hey, both sides.

I heard my colleagues from Oklahoma talk about Republicans in the team 100. They had just as many on the Democratic side and they all contributed $100,000 to the Democratic Party. So both parties evaded those limits and then the soft-money exemptions as well.

Public financing, again, as I have stated time and time again on this floor, is a nonstarter. What do we have in this bill? We have public financing. If a person decides not to comply, if I decided not to comply in Oklahoma—and the last time I spent about $2 million and, incidentally, I raised a strong majority of that in the State of Oklahoma—my opponent would get $1.2 or $3 million right off the bat. I do not think taxpayers should pay that.

My opponent also is going to get 20 percent; he is going to get vouchers. He is going to get another couple hundred thousand dollars in TV vouchers. "Congratulations. You are running for the U.S. Senate. Here is your TV card." We are going to give TV credit cards if you happen to run for the U.S. Senate. Paid for by whom? The taxpayers. Most taxpayers, by the time the election rolls around, are sick, and tired of seeing TV commercials with politicians on them. I doubt they want to pay for it, and I doubt they want to pay for them to the tune of—my friend from Kentucky said $21 million a year for the Senate alone; $21 million per cycle for Senate races alone. Wow.

Then let me just touch on one other glaring exception that is not in this bill. I hope to have an amendment that is being drafted by legislative counsel and hope to have it soon, that deals with franking. One of the biggest incumbent advantages we have that is certainly abused in many cases is the use of the frank. My colleague, Senator WILSON, from California, has worked hard, as I have and others, and I will compliment Senator BOREN as well because he has joined us in this effort to limit the use of the frank.

The frank is being abused in election years. As a matter of fact, Congress usually mails about 50 percent more in election years than we do in nonelection years. Now we have the situation where we have people who are running for reelection going around and borrowing unused funds from other Senators so they can go out and mail more. We want to get more mail out; we want to get it out soon so we can tell our constituents how great we are doing in an election year. This is happening time and time again. This needs to be stopped.

I have an amendment, Mr. President, that will do just that. It will prohibit the use of unsolicited mass mailings in an election year. We will just stop it. I hope that it will be agreed to. It will also put in a provision that will prohibit for this year, the borrowing of unused mail from other Members for a particular Member who is in an election for that year.

I think those are a couple of changes that really do need to be made. If they are not made, I do not know that we can really say that we have had really successful election reform. We need to make these changes. If we take PAC money out of the system, if we take the soft money out of the system—and we will come up with an amendment that will do just that—if we take soft money out, either to limit the soft money or certainly to disclose it, so we at least can restore some balance, if we have an amendment that would eliminate the so-called spending limits with this public financing provision, then I think we can come up with a good bill, a bill that can and would be signed by the President.

I do not know that it gains anybody any mileage whatsoever for us to

stand on the floor of the Senate and debate for days on end when we know we are going to come up—if the majority in this case insist on public financing, if it insists on spending limitations—I am not sure. I think we are wasting our time.

I hope that we would not do that. We have a lot of pressing business to do, to say the least.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the gentleman from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, there are few things more important that the Senate will undertake during the 101st Congress than this effort to reform our system of campaign finances.

I would like to state my strong support for a variety of reform proposals that will come to the floor as amendments to the underlying amendment offered by Senator BOREN and others, amendment 2432. I shall offer at least two amendments myself—one limiting out-of-State contributions; another dealing with millionaire candidates.

Many of the amendments the Senate will consider are taken from provisions in the Comprehensive Campaign Finance Reform Act of 1990, introduced as S. 2595 by the distinguished Senator from Kentucky [Mr. MCCONNELL], the distinguished Republican leader [Mr. DOLE], and others, including myself.

S. 2595 was progressive legislation. It was a bill that offered true reform, not partisan reform. It was legislation that made it tough on Republican candidates and Democratic candidates alike.

Key to S. 2595 were provisions totally outlawing political action committees [PAC's] and nonparty "soft money."

I support both prohibitions.

Both prohibitions were incorporated within legislation I sponsored earlier this year, S. 2265. Eliminating PAC's and soft money are critical if we are to have true campaign reform.

Without such prohibitions, I see no way to pass a reform bill that is fair—one that the President will sign.

I am pleased that amendment No. 2432 appears to accept the need that this Senator, as well as others on this side of the aisle, have stressed for so long—the need to eliminate PAC's.

Amendment No. 2432—supported by many so-called experts inside the Washington Beltway—is based on the assumption that all we need do to obtain reform is place arbitrary spending limits on campaigns, then provide American tax dollars to finance our campaigns.

Further, amendment No. 2432 would make us more beholden, relatively, to soft money, spending that the New York Times called sewer money.

With all that said, and recognizing the desire of some to use campaign reform for strictly partisan advantage, let me describe several of the very basic changes I support enthusiastically, ones we must adopt on the Senate floor.

First, the elimination of PAC's.

When the American people are asked about campaign financing, they state their strongest concerns over the role of PAC's

My position is to eliminate PAC's. When an individual wants to give to a campaign, that individual should give directly to a candidate, not use a high-powered intermediary.

Fortunately, amendment No. 2432 accepts this control.

Second—and this is terribly important—we must eliminate soft money.

Soft money is contributions for voter registration drives and other forms of spending designed to assist one party or one candidate. This is spending now outside the system—unreported and unregulated.

Soft-money expenditures during the 1988 election cycle, according to some experts, exceeded $500 million—half a billion dollars. So a soft money prohibition could well be the most significant reform of all to reduce campaign spending.

Controlling soft money is certainly critical to my support for this bill or any bill.

Yet amendment No. 2432 does nothing about nonparty soft money.

Third, we must restrict the superwealthy from overloading a campaign with family money.

Several years ago, I suggested we impose such a restriction. I suggested it again during this Congress when I introduced S. 597.

As mentioned, I shall offer an amendment to make certain that amendment No. 2432 accomplishes that same thing.

If a super-rich candidate opens the family coffers—committing more than $250,000 to a campaign—the opponents should receive a fighting chance with a higher per person giving limit for their donors.

Amendment No. 2432 merely limits family spending when that money will be, at least in part, offset by taxpayer contributions.

Next, we should prohibit all franked mass mailings during any candidate's election year. Sadly, amendment No. 2432 does nothing to control franked mail, and actually permits the Senate candidate to send out huge campaign mailings with heavy postal subsidies.

We need to place restrictions on gerrymandering of House districts, which we all know has been a major factor in the near invincibility of House incumbents over recent years. Here, too, amendment No. 2432 does nothing.

The one area where legislation I support, S. 2595, fails to go as far as I would have liked, concerns the issue of individual contribution limits.

In my reform bill, S. 2295, I proposed prohibiting all out-of-State contributions to a candidate. Amendment No. 2432 contains no new restrictions on out-of-State donations, while the McConnell-Dole bill limited out-of-State contributions to $500 per giver.

The amendment I shall offer would limit out-of-State contributions to $250—25 percent of the in-State limits.

The approaches this Senator will support restrain campaign spending by limiting sharply the sources of available funds. What is critically important is that the amendments from this side of the aisle will limit campaign spending in a natural way, not using some arbitrary, federally imposed ceiling.

Nor will our approach use any tax dollars provided by the American people to underwrite our campaigns.

Before yielding the floor, Mr. President, I would like to describe for my colleagues exactly what amendment No. 2432 would do.

As we all know, the key to amendment No. 2432 is spending limits—limits that are said to be voluntary in order to fit within the requirements set by the Supreme Court. In reality, we all know these limits are mandatory with much of the spending to be financed from the pockets of the American taxpayer.

Let us look at how amendment No. 2432 works.

First, a candidate makes a choice and agrees to the voluntary spending limit when filing for the primary. What happens then? Let's examine the New Mexico limits for an example:

A candidate under amendment No. 1613 can raise and spend up to $635,000—67 percent of the New Mexico $950,000 general election limit—during the primary. This is spending over and above the general election limit, and would be money raised within all the existing limits such as $1,000 per donor anywhere in the Nation.

Assuming you become the party nominee, your official spending limit for the general election would be $950,000 plus any money you spent during the primary that might have a carryover impact on the general election.

Once you become your party's nominee, all you must raise for the general election is an entry fee of 10 percent of that general election limit of $950,000.

If you are running in New Mexico, you must raise that entry fee of $95,000 in contributions of $250 or less, with at least $47,500 coming from in-State. I should also point out that you can count $250 portions from con-

tributions received during the primary toward your entry fee.

With your $95,000 entry fee, you will be entitled to Federal vouchers for TV advertising time—1- to 5-minute ads only—equal to 20 percent of the general election limit, or $190,000. These vouchers would be good for up to 5 minutes on each TV station you would want to use during each of the 5 weeks prior to the election.

As an adherent to voluntary limits, you are also entitled to purchase cheap TV time at the lowest unit rate throughout the election period.

Special mailing rates for up to 5 percent of your general election spending limit, or $47,500 in New Mexico. Using today's mailing costs, you would spend that $47,500 at 6¼ cents to mail a first-class campaign letter and/or 4¼ cents to mail a third-class letter.

Using only first-class mail, your cheap mailing rates would allow you to mail 760,000 letters to voters in New Mexico—the figure would be about 1,000,000 third class letters.

This works out to an additional Federal taxpayer subsidy of about $150,000 for each Senate candidate in New Mexico.

So while your constituents are paying 25 cents to mail a first-class letter, a Senate candidate can flood his or her State with similar letters mailed at the cost of 6¼ cents each.

Should your opponent happen not to agree to the voluntary spending limits, you would receive additional funds once your opponent exceeded the spending limit. For example, you would receive a taxpayers' check for $633,334 once the opponent spent $1 above the $950,000 State limit. Then you receive another $316,667 if the opponent spends $316,667 more than $950,000 limit.

And there are other sources of taxpayers funds.

If an independent expenditure, such as a TV ad campaign, attacks you, you receive a like amount of Federal tax dollars to respond. This, of course, raises the interesting prospect where a sham independent ad campaign is put on the air to denounce "Senator DOMENICI for supporting Social Security," after which I would receive Federal tax dollars to pay for my response ads restating my strong support for Social Security.

In addition: You are permitted in New Mexico to raise and spend another $237,500—25 percent of the State's spending limit—over and above the $950,000 spending limit, if that money is raised only from in-State contributors, and raised in contributions of $100 or less.

And you are entitled to raise and spend yet another $142,500 or 15 percent of the New Mexico spending limit for a compliance and official expense fund to pay all the legal and accounting expenses on the campaign, of which I am certain there will be many.

Even more significant is what amendment 2432 fails to do.

Most significant, as I mentioned earlier, amendment 2432 fails totally to control nonparty soft money.

It has been estimated that labor unions, corporations, and various nonprofit organizations spent as much as $500 million during the 1988 election cycle in nonparty soft money on voter registration, get-out-the-vote campaigns, and the like.

That works out to an average of $100 million per State—over 10 times a Senate candidate's official spending limit in New Mexico.

Let me summarize the spending permitted in amendment 1613, using the New Mexico example: $635,000 in private contributions for your primary; $760,000 in private contributions; $190,000 in a Federal voucher for super-cheap TV ads; $150,000, the estimated value of the super-cheap postal rate subsidy; $237,500 in small, in-State contributions; and $142,500 in contributions to pay your lawyers and accountants working on the campaign.

But the opportunity for spending may not stop at $2.1 million. Your additional options—much of it from the pockets of the taxpayers—for campaign spending:

You may receive a Federal Treasury check for up to $950,000 should your opponent fail to stick to the spending limits.

The uncertain—but potentially very large—Federal checks you might receive if you become the object of an attack from an independent outsider.

The real value compared with today's costs of all that super-cheap TV ad time.

And the soft money you can arrange from unions, corporations, and tax-exempt organizations.

Frankly, that does not look much like real campaign spending limits or reform to me.

Mr. President, in a democracy how you run a campaign and how you seek participation from constituents in that very exciting and determinative activity called a campaign is very important. Some believe that we are here debating this issue because Republicans think they want to have the right to spend more money than Democrats.

Democrats contend that there ought to be some kind of statutory limitation on how much you can spend; that Congress ought to judge that and set some arbitrary number saying what is enough, a certain sum is all you should spend, in presenting your views—that we know best.

The Supreme Court came along some time back and said, hey, there are some very basic constitutional rights here.

So we are going through a contortion here on the floor to try to set some limits, and the limit on how much you can spend has been picked out, perhaps averaging out what campaigns have cost, and we are saying all this is voluntary.

What we are really saying is if you do not want to agree to these amounts, then we are going to fund your opponent's campaign.

Mr. President, I really do not believe, for all the concern in the country, that the issue is how much you spend in a campaign. I do not think that is the issue at all. I think the issue is where you get the money to run the campaign.

Another issue that I think is totally irrelevant runs something like this: We are all spending too much time raising money. We are walking around, kind of like skeletons, in a comatose state, because we work so hard at raising money.

Frankly, I do not believe that is the issue. Mr. President, if every U.S. Senator running for public office raised every single solitary cent of the money he or she was using in his or her campaign at home, from Mr. and Mrs. Jones, who lived in the neighborhood, when he was a city commissioner, or when he was a member of the legislature, or when he was Governor, no one would be complaining across this land if that particular Senator raised $5 million.

Frankly, I do not believe anyone could come here to the floor of the Senate and deny that statement.

If you had a limitation of $1,000 per person, which we have now imposed, which was not there 20 years ago, and we had something as simple and as basic as raising money to run your campaign from the people of your State, we would not even have those organized groups talking about campaign reform.

Mr. President, the last time this Senator ran for this office in a little State, New Mexico, a State of 1½ million people, I had 17,000, almost 18,000, individual New Mexicans contribute to my campaign, from $5 to $1,000; the largest number of contributors in the history of that State—2½ times the number of previous givers.

Now, what is wrong with that, if that happened to yield $2 million? I do not believe it did, but what is wrong with it if it did? Would there be anyone running around here saying there is something wrong, undue influence; who are those people? You spent too much time raising it. If I had spend time raising it, it was in my home State with the constituents that elected me.

Frankly, I think in trying to set limits as to what you can spend, we are on the wrong track. We ought to limit what kind of money we raised and where it comes from, and then let nature take its course. We ought to

say you can raise any amount of money in total from residents of your home State, so long as no one gives more than $1,000, if that is what you choose as the limit that might yield some kind of an inordinate, unreasonable influence.

I believe the number is too slow, but I buy it. Frankly, I put in a bill that I think was the best of anything we have, but I am supporting the efforts of the distinguished Senator from Kentucky and Senator DOLE and others. I put in a bill that very simply said no PAC's, no soft money, no sewer money, none. Not some, not maybe a little bit here but not there. None. And no money from residents outside of your State.

Some people said, why, that is grossly unfair. In fact, somebody said that is grossly unfair. What if we had another Thomas Jefferson around? Should he not be able to get money from all over the country? I said, well, I do not know that we have one, but I surmise if we had one, and he saw this kind of problem, he would be more than willing to say let the people of the Commonwealth of Virginia contribute to his campaign. I think that is what he would say. And forget about all the rest of them.

Frankly, that is what I think we ought to address. Where are you getting the money? Now I hear you have another amendment—it is public financing, but it is not public financing, right? It is public financing, but it is not because the distinguished Senator from Missouri [Mr. DANFORTH] who is now on the floor, one of the finest Senators around and one of my best friends, has suggested that we ought to find some way to clean up campaigns. I have had this discussion with him before privately so we do not mind having it here. We ought to fix up these negative campaigns, these 30-second spots.

Well, let me tell you, if the U.S. Supreme Court has said you cannot even limit an independent group as to what they put on television, it is their business; if it is their money, and if they are unrelated to campaigns, they do not have any ties, they can spend all they want and say anything they want, I assume short of libel and slander for which they could be sued.

How in the world are we, in a bill, going to provide vouchers, public money, to people who are running for these offices like this office that I occupy, so they can go buy a very discrete kind of TV time so as to make campaigns clean.

I say to my good friend, I am on his side, but that is not going to come by way of public financing, the $190,000 that somebody will get in the State of New Mexico to go around and buy TV time that is a little bit longer than the 30-second spots and that ends up with their picture saying, "I support this ad." That is not going to clean up campaigns.

Campaigns are going to get cleaned up when the participants decide to clean them up and when the people of the country decide not to respond, as they do, to negative advertising. They tell you in all kinds of polls, interestingly enough, they despise them, they abhor them, they have no influence on us. But then you run them and they do.

Mr. McCONNELL. Not always.

Mr. DOMENICI. Not always but sometimes.

In any event, this bill before us is public financing to the extent of $190,000 in smaller States. It is public financing in another way, and we really ought to take this piece out. We ought to forget about the Postal Service and subsidized mail for candidates. If you want the people to support a reform measure, then all you have to do is put something in the bill like subsidized mail for candidates.

In the case of New Mexico, it looks like they will get almost 1 million letters per candidate, at a price of 4¼ cents per letter. Just tell the people we have just passed a reform bill and the U.S. Post Office is going to deliver mail for us at 4¼ cents per letter. The whole reform will be lost within a week once the people of the country see that—

On the other hand, when you look at the rest of the bill, it says soft money is prohibited, but you read it very carefully, it is not prohibited at all. It is prohibited in terms of money going directly to the parties.

I am led to believe, and I am a long ways from being an expert, that probably the biggest expenditure of money in campaigns like the U.S. Senate, U.S. Representatives, has to do with so-called sewer money, and the estimates of how much is spent on that are absolutely astounding to this Senator. I read them, and I said could that be the case? I did not believe it.

I understand that as much as $500 million was spent in the 1988 elections across this country in soft money. We are still talking about limiting them somewhat but not in total.

Mr. President, let me take 2 more minutes and address the issue of campaign limitations—caps. If I understand the bill, in addition to the two items which I have mentioned—the TV voucher money, and the subsidized mail—it seems to me you cannot say we are not putting any public money in. We are just sort of limiting how much you ought to spend, if you both agree to it. For each candidate in the State of New Mexico $950,000 is what you will get, much of it from the Federal Government.

I believe what you have really done is open the door to public financing for campaigns in the United States in a way that nobody really wants.

I honestly believe that we are making the job much more difficult than it ought to be. We ought to decide from whence we can get money and from whence we should not get money. That is pretty clear.

PAC's ought to be done away with. Soft money ought to be done away with. And we clearly ought to give an incentive to those who live in our home States, and a very big disincentive to those who do not live in our home States, like $1,000 per person in State, and as low as $250 for anyone who wants to contribute who is not a resident.

I think that is a good game plan. From my standpoint I cannot understand why we make it so difficult. That would be self-limiting. You would limit it.

The distinguished occupant of the chair can think in his State he would be limited, and his opponent would be limited by the popularity and the ability to seek funding in his home State. I think that is the best way to do it. I do not think it would have any bad effects, any negative effects. And frankly, within one cycle of elections, the notion that campaign finance raising, where you get your money, is sort of part of a dark side of democracy in the United States would leave the scene permanently.

I yield the floor.

Mr. MITCHELL. Mr. President, before we began this debate, it was clear to all that the central difference between the two parties on campaign finance reform was spending limits. Democrats in good faith believe deeply that some limit should be placed on the amount spent in political campaigns in America. Republicans in equally good faith believe deeply that there should be no limit to the amounts spent on political campaigns in America.

The debate so far has served merely to confirm that difference. As we have heard over and over and over again from our colleagues, it is opposition to spending limits which is at the heart of the disagreement over this bill:

So the American people should understand the central issue involved. Democrats want to have a limit on the amount of money that can be spent in political campaigns. Republicans are against any limits on the amount of money that can be spent in political campaigns.

That is the central issue. That is the central point dividing the two parties. That is the central reason why there has not been campaign finance reform in recent years; spending limits. Should there be limits on the amount of money spent in political campaigns in America, or should those amounts be unlimited?

That was the issue before we began the debate. That was the issue as we

continue the debate. That will undoubtedly be the issue throughout the debate and thereafter.

I respect the view of my Republican colleagues, each of whom has spoken in opposition to any limits on the amount of money that can be spent in political campaigns. They believe in good faith that there should be no limits; that a candidate for public office in America should be able to spend any amount of money, any amount of money in a political campaign; no matter how many millions of dollars are involved, no matter what is involved, there should be no limit of any kind on the amount that can be spent in political campaigns.

We believe strongly to the contrary that there can be no reform of the American system of financing political campaigns unless there is some limit to the amount of money that can be spent in political campaigns.

Ironically the argument advanced by my colleagues on the Republican side in opposition to spending limits is that spending limits benefit incumbents, and they purport to be representing the interests of challengers in arguing against spending limits, even though the fact of recent electoral history are directly to the contrary.

In recent elections most incumbents spent more than the limits that would have been imposed under this bill had it then been in effect, and most challengers spent less.

So in most Senate races in recent years, a limit would have had no effect on the amount of money spent by the challenger but would have reduced the amount of money spent by the incumbent.

That is of course because, as has been cited here earlier, in the 55 Senate election contests held in 1986 and 1988 the incumbent spent more than the challenger in 51 of the 55. And the difference was more than 2 to 1 in excess of $100 million. Incumbents spent more than twice as much as challengers. Incumbents spent over $100 million more than challengers.

Incumbents would be limited by a spending cap, in most cases; challengers would not be, for the simple reason that most challengers cannot raise enough money to get to the spending cap. Indeed, in a majority, 30 of the 55 races in the last two elections, challengers did not even get up to half of the limit. And so it is clear that the argument that spending limits benefit incumbents is without foundation, in the evidence, in the record of recent elections.

Interestingly, having made the argument that they are concerned about challengers with respect to spending limits, our Republican colleagues now argue in favor of this amendment, which would strike out the voucher provision, even though the principal object of the voucher provision is to benefit challengers, by making it possible for challengers to get, at a minimum, 20 percent of the spending limit in television time. The principal purpose and object of the voucher provision are to help challengers.

There is not an incumbent in the Senate who would be unable to raise enough money to reach the spending limit under this bill. Almost all of the incumbents have raised and spent more than the spending limits. The incumbents have no need of the voucher provision. It does not enable them to do something they otherwise could not do. And one could fully expect that most incumbents will not accept the voucher provision, if for no other reason, that it limits advertising to between 1 minute and 5 minutes and, therefore, prohibits the use of 30-second spots. The beneficiaries of the voucher provision will be principally, if not exclusively, challengers.

So now our colleagues, having spent the first half of the debate saying they want to help challengers, that is why they are against the spending limits, now want to strike from the bill the principal means by which challengers will be benefited, which is, of course, the voucher provision.

So I think it is a fair question. Are we really concerned about helping challengers, or are we really concerned about keeping the unlimited amounts of money involved because they help the incumbents now in the Senate?

That is really the question. That is really the issue. Vouchers are designed to give challengers a better chance in running for the Senate. If our Republican colleagues are really concerned about challengers, as they have so often said, they should be supporting the voucher provisions, not trying to strike them from the bill.

Vouchers will enable challengers to get their message across to the voters. With vouchers, challengers will have the resources to put their advertisements on television and communicate to the voters.

The amendment offered by the distinguished Senator from Kentucky would deny them that opportunity. The amendment will clearly benefit incumbents over challengers. The amendment is offered based on the reasoning that public money is being spent. We have heard a lot of that here, but in fact the vouchers are intended to be paid out of the voluntary income tax checkoff, money set aside at the option of taxpayers to fund fair, honest, Federal elections. The amounts involved are modest when measured against the full Federal budget and the positive impact that the vouchers will have.

I believe that the vouchers are one of the most important and innovative changes proposed to reform the Senate election finance system. I understand the proposal was developed based on the suggestions of Senator DANFORTH, who, as the ranking Republican on the Senate Commerce Committee, has given a lot of attention to ways in which Senate campaigns can be made more positive.

Mr. President, I want to address, briefly, some of the comments by the distinguished Senator from Kentucky on the cost of these provisions. I believe that the figures he cited are inaccurate, because they are based upon inaccurate assumptions about the cost of the amendment.

First, he referred in his remarks to full public financing. Then he assumed that it applied to all Senate and House candidates. Well, of course, the bill before us does not have full public financing, and it does not apply to House candidates.

The Senator used a figure at one point of $500 million, and at another point, $200 million.

Mr. McCONNELL. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. McCONNELL. I was recounting how much had been spent in the Presidential system to date. Then I estimated the original Democratic proposal and, later in the speech, estimated the current Democratic proposal. I was working my way forward to the most recent proposal.

Mr. MITCHELL. I thank my colleague for that clarification, which makes clear then that at least the first two-thirds of this figures are not relevant to the debate that we are engaged in, or at least do not bear directly on them.

Mr. McCONNELL. That shows where we have been in the past, I say to the leader, and probably where we will end up in the future, if we go down this road.

Mr. MITCHELL. The CBO estimate of the contingent public financing provision is $30 million an election, or an average of $15 million a year. And the voucher can cost $20 million every 2 years or an average of $10 million.

So I think that, in any event, it is very clear, and it is a fair difference of opinion that the prinicipal issue is a singular and a simple one, and it is whether there will be spending limits in political campaigns in this country.

I do not believe any reform can be called reform unless it does include spending limits, overall limits, in some fair and reasonable amount, on funds which can be spent in political campaigns.

I regret that our colleagues feel so strongly to the contrary and are so opposed to that content. But I hope that in the course of this debate, we will be able to make clear the importance of this issue and to have it included in any legislation which is finally enacted in the Senate.

Mr. WILSON. Will the leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. WILSON. Mr. President, the leader has made a point, with his characteristic effectiveness, that the cardinal difference between the Republican and the Democratic proposals relate to spending limits, and that is true, though I think it is too broad a statement. We do object to public financing or, as we term it, taxpayer financing, since that is where the money comes from. Indeed, that is the point of the amendment of the Senator from Kentucky.

We also object to spending limits, not that we object to the kind of limitation upon spending that has been placed by the existing law, which we think goes much more to the point of the objection and critics of special interests. We have, in existing law, full disclosure, except for soft money, which we would eliminate in our proposal.

But as far as individual contributions are concerned, we require both a limit of $1,000 per individual and full disclosure so that the public can be assured of two things:

First, who it is that is giving to a candidate and, therefore, what particular axe they may have to grind; and, second, by limiting the contribution to $1,000, and limiting it to individuals apart from PAC's, which we would also eliminate and now they would, also, we give assurance that not too much money will be taken from a single source. Therefore, I think we address pretty much a concern that there will not be either the fact or the appearance of influence from too large a contribution from a single source.

But as it relates to the spending limits about which the leader is concerned, about which the Democratic proposal seems preoccupied, I would have to ask him this question.

The lead author of the legislation, the distinguished Senator from Oklahoma, conceded in our earlier colloquy that too low a limit upon spending he thought indeed did favor the incumbent, did prejudice the challenger, and in fact could make it virtually impossible for a challenger to bring an effective challenge. That is the simple reality of today's media marketplace.

I am somewhat at a loss to understand the formula that has been employed. Even if you like the idea of a spending limit—and I really wonder why it is we are trying to protect the public from too much information, but we will leave that alone for a moment—If the leaders is concerned about equality of opportunity and affording challengers the right to challenge, I would say that perhaps without intending it the proponents of the Democratic proposal have created a situation in which there will be a different level of information in large States than in small States, and representing a large State, obviously I am concerned. I think my constituents are entitled to as much information about a campaign as those in the smaller State of the leader.

I wonder if my friend from Maine is aware this would be a dramatic difference, that in terms of the limits that are being proposed he would be able to spend better than $1 per constituent and my constituent would have to deal with an expenditure of perhaps a quarter?

Can there be justice on that? It seems to me there is an inherent inequity in that situation.

I would say that those may be stark examples. In Maine there are something like 917,000 eligible voters. In my State there are many more. In California, they would be subject to the ceiling that has been affixed. Why, I am not quite sure. It seems to me rather arbitrary, not unlike I might say the arbitrary ceiling that is fixed on office accounts here in the Senate. But that is another issue.

The fact of the matter is there will be a dramatic difference in what can be spent, and what it would mean in short is that my campaign and that of my challenger would necessarily be far more limited than the campaign of those in smaller States who could spend more on television in terms of the amount of time that they could buy, could reach the voters more often by direct mail, could in short bring a great deal more information to their voters than in the large States.

It seems to me that is one example both of the inequity that will exist, the lack of equal protection under the law for my constitutents and those of the Senator from Maine. It seems to me it demonstrates a basic foible of an effort to impose limits, and that is that, whether intended to or not, it is going to have the effect of limiting the amount of information that is available, and it will have the effect far more acutely in large States than in small States.

It is a simple fact that under the proposed formula voters in large States cannot receive nearly the information, at least not from the candidates, as those in small States. Perhaps the leader can explain to me the point of that necessary difference and explain why and how the formula was derived.

Mr. MITCHELL. I will be pleased to. The obvious response of course is that the equity being sought here is as between candidates opposing each other; that is, two candidates from California operate under the same rules, two candidates from Kentucky operate under the same rules, and two candidates from Maine operate from under the same rules. A candidate running for the Senate in California is not running against a candidate running for the Senate in the State of Maine.

(Mr. BRYAN assumed the chair.)

Mr. WILSON. That was not my point.

Mr. MITCHELL. Permit me to finish my response.

So the comparison has no relevance to the object of the legislation or to the reality with which we must deal.

Now, I am not as familiar with the people of California, of course, as the Senator from California, but I will be surprised if there is a groundswell of people in California who are demanding that more and more money be spent in their political campaigns because it is less per capita than is spent in other States, or that they feel somehow that they have been deprived of some rights because less per capita has been spent there than in other States. I think it is probably just the reverse.

We already have several States on their own imposing spending limits. Obviously the people of those States are not protesting the fact that they are not able to spend as much per capita as those States without limits, because they recognize the fundamental reality. What is important is establishing fairness as between candidates who are opposing each other and that is what this legislation seeks to do and will do if enacted.

Mr. WILSON. Let me just say to my friend from Maine that I understand that to be his contention, but inescapably it seems to me that by eliminating the ability to reach the voters with necessary information—and I do not delude myself that either those voters in California or those in Maine are hungry for that information, that they are hanging upon their every word and craving more, and I am not under that misapprehension, unless you are very cynical about elections that you think that they are for the purpose of informing the voters so that they can make an informed choice.

My friend from Maine says that the purpose of the legislation is to create equity not between California and Maine in terms of a particular contest but between the two contestants in each State. I well understand that. That was not my question. I am afraid I was not clear.

The point of the inquiry was to simply say that is he aware that in certain States, the larger States, the limitation that has been imposed imposes such a dramatic reduction in which has been a customary flow of information that it would very likely lead to the very point that the Senator from Oklahoma said he wished to avoid, which is too low a limit.

I think 25 cents per voter compared with $1 means that not only is there going to be a tremendous difference in the ability of the Senator from Maine

to reach his constituents than the ability that a California candidate will have. It also means, and this is far more important, that in my State it would probably result in not just a reduced ability to present information but a dramatically reduced ability. It might mean something like a single man statewide.

Unless you are very cynical about election campaigns, it seems to me that our purpose ought to be according the opportunity for more information, for better informed voters. We all know that part of the problem of rising costs and perhaps ironically lessening ability to reach those voters with more information is the rising cost of the media that has led many on both sides of the aisle who would not have thought to do so to think that the time has come to require that those who enjoy the use of a public resource be permitted to contribute to that educational process by affording broadcast time so that messages can be given to the voters at the appropriate moment in that electoral cycle.

I am one who has come to that conclusion. It seems to me that without intending to, perhaps, the Democratic proposal not only is going to provide for a very different kind of campaign in large States than in small, but it runs the risk, intended or otherwise, of depriving not only incumbents but most certainly challengers from bringing any kind of effective campaign.

So I think that that is a very real concern, if you are persuaded that limitations are a good thing in the interest of what you call equity as between the contestants.

I think you could question that basic premise. As long as there is full disclosure, as long as there is a limit upon what an individual can give, it seems to me that there is not something inherently unhealthy in a contest that reflects the confidence of individual voters, most of whom are within your own State. That is certainly true in mine.

But it seems to me that the danger or whatever you may perceive it to be from that contest in which one, perhaps with the advantage of incumbency—but incumbency is such a mixed blessing, as those who are defeated incumbents have learned, to their unhappiness—it seems to me that whatever the advantages of incumbency the disadvantages that are inherent in placing those limits need to be weighed very much against what should be an effort to try to bring better as well as more information to the voters.

But I thank the leader for his response.

Mr. MITCHELL. Mr. President, might I make just two further comments and invite the Senator's response to them.

First, if the Senator's concern—and I have no doubt it is, since he stated it so clearly—is that there would be a disparity in the amount spent on a per capita basis as between California and Maine and other small States through the enactment of this legislation, I would point out to him that that has historically been the case and is the case now under the current system. It historically and still does require more spending per capita in small States because of the fixed costs of running election campaigns. If that is the Senator's concern, what does he propose to do about it?

That is my first question. That is the case now. The system which he seeks to perpetuate contains the very evil which he has just described about this bill.

Mr. WILSON. Well, my first comment is you are not fixing it.

Mr. MITCHELL. We are reducing it. We are reducing it significantly.

Mr. WILSON. That is your hope. It is my expectation that it is not going to be able to fix it. But what I will say is that you are imposing it. And it is true that there are virtues to incumbency if you have done a good job as an incumbent. No one is arguing that point, and no one, I assume, is arguing that, in the name of fairness, each of us should do a bad job.

The point, I think, is that you are using public moneys, perhaps not as much as the Senator from Kentucky thinks, but perhaps more. I am not sure that he has been outlandish in his estimate.

I point out that a bill that relates only to the Senate and not to the House is a very strange animal indeed. I would point out it is particularly strange in an electoral contest in which there is far less turnover in the House than in the Senate. For that matter, there is far less in the House than there is in the Supreme Soviet.

But the point is really that I think the disparity that may exist in certain States is the result of a choice not by sitting incumbents and Senators; it is a choice of the citizens of those States. They make the choice to the extent that they are willing, within the context of full disclosure and limitations on each of them, to make a contribution.

Now, it is a contest, I quite conceive that. And it seems to me that that is perhaps what the Democratic proposal seeks to eliminate. I am engaged in another contest, but it is not dissimilar because the rules are much the same. The State of California has recently adopted reforms that are similar in terms of the constraints that they place on fundraising. I wish they went a little further, as a matter of fact. But at the end of the first year, I filed a statement, I told my friend from Kentucky, that weighed 13½ pounds because it documented contributions from 51,000 different contributors.

Admittedly, mine is a large State. We have 30 million people. It is not the norm. I do not profess that it is. But the point really that you are seeking in the name of equity to impose what is an inequitable situation. You impose it by law. I say better to let the voters decide how much they are willing to contribute within the constraints that prohibit any rational person from drawing an inference that too much money is being given by a single individual.

Indeed, that is pretty difficult to do since there is a limit. And the limit, even in the case of small States, under existing law means that whatever is contributed by a single individual is a tiny, tiny fraction of 1 percent of a candidate's total budget. That is true whether we are talking about incumbents or challengers.

Mr. MITCHELL. Mr. President, if I might make just one additional comment, and that is the second argument advanced by the Senator from California with respect to these provisions is that there ought to be more ability to communicate with constituents by candidates.

I would simply say then, why vote against vouchers? Because the sole and explicit purpose of the voucher provision is to permit candidates who otherwise might not be able to communicate with their constituents and the voters in elections. That is, it seems to me that the Senator's argument was a very good one for the voucher provision because he made the very point that the voucher provision is intended to reach.

So I hope that, if that is his concern, he will think about this voucher provision because it does precisely that which the Senator from California says should be done.

Mr. WILSON. Let me just say to my friend from Maine, I have thought about it. We have all thought about it on this side of the aisle. We are opposed, as a matter of both principle and the practical concern that we have for competing claims on the Treasury, we are opposed to taxpayer financing. That is why we are opposed to voucher. The voucher is a form of taxpayer financing, and for that reason we are opposed to it.

It is very simple. There is no question that any kind of public financing, taxpayer financing, would add to the convenience of candidates. It is simply not an urgent public priority. It does not meet the test of competition with any number of other far more demanding, more deserving expenditures on the part of the Federal Government. We each of us each day are besieged by voters and constituents who are asking that more money be spent for some worthy purposes.

Well, you could say this is a worthy purpose. In my judgment, it is nonetheless worthy simply because it is not an urgent public priority that our conveniences be served at the expense of more deserving expenditures.

AMENDMENT NO. 2433, AS MODIFIED

Mr. McCONNELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right and his amendment is so modified.

The amendment (No. 2433), as modified, follows:

On page 9, line 4, strike the comma and insert a semicolon.

On page 9, strike line 5 and 6.

On page 9, strike lines 15 through 19.

On page 20, strike line 3 and all that follows through page 22, line 22.

On page 22, line 24, and page 23, lines 1 and 2, strike "who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b)".

On page 23, line 3, strike "from such payments to defray expenditures".

On page 23, line 5, after "section 503(b)" insert "in amounts equal to the amount of any independent expenditures in opposition to such eligible candidate".

On page 24, strike lines 3 through 21.

On page 25, strike line 3 through 20.

On page 26, strike line 3 and all that follows through page 29, line 19.

On page 30, strike lines 11 through 22.

On page 32, strike lines 1 through 8.

On page 32, strike lines 13 through 15.

On page 37, strike lines 1 through 9.

On page 46, strike line 20 and all that follows through page 47, line 17.

On page 51, lines 19, 20, and 21, strike "to the Secretary of the Treasury for the payment of any amount to which such eligible candidate is entitled under section 5040.

On page 51, strike 22 and all that follows through page 52, line 11.

On page 54, strike lines 16 through 20.

On page 20, strike lines 1 and 2.

On page 48, strike line 1 and all that follows through page 49, line 2.

Mr. McCONNELL. Let me just briefly explain what I have just done there. I have stripped out the mail subsidy. So now the McConnell amendment, as modified means that not 1 penny of tax dollars would go into political campaigns. One other quick observation, and then two of my colleagues here are seeking recognition to speak.

In reference to the comments of the distinguished majority leader, it is not just the opinion of Republican Senators, or certainly not just the opinion of the Senator from Kentucky that spending limits benefit incumbents. That is the position of the entire academic community all across America, which has studied this issue extensively over the years.

So that is not something that Republican Senators have constructed. It is the entire position almost without exception of the academic community. With regard to the estimates of cost, I think there is no difference between the majority leader's estimate and mine with regard to the broadcast vouchers. We are looking at $21 million for Senate elections and obviously the provision would be extended to the House, which would be an additional $104 million.

What is difficult, of course, to quantify is how much money out of the punitive pool would be triggered against candidates seeking to exercise their first amendment right to get as much support as they can.

Finally, I would say the majority leader is essentially correct in describing the differences between the two parties. He phrases it in a different way than I would phrase it. He says the difference is whether or not you support putting a limit on how much the difference is, whether or not you support putting a limit on how many people can participate in a political campaign.

As Senator WILSON just mentioned, he had 51,000 contributors. I think that is wonderful. I think that is to be applauded. I think if any of us could get those kinds of numbers in our own States, that would be something everybody ought to applaud. I think it would indicate widespread participation and support. That is exactly the kind of participation the Supreme Court said ought to be encouraged, not discouraged. An arbitrary limitation on that kind of participation, the Supreme Court has said, is unconstitutional. I think this bill is as well.

Mr. President, there are a couple of my colleagues who have been waiting here for quite some time who have not had a chance to speak. Therefore, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I will speak shortly tonight. I will speak more at length another time. But I want to speak on an irony that is happening here today.

Eighty-two days ago the President called a budget summit together—82 days. He said to the Republicans and Democrats in Congress: "Come on, gang, let us get together here."

Do you know what the Democrats said, speaking in a partisan voice? All right, we will get together. But you know what the problem is, he will not propose taxes. Taxes have to be part of this deal.

The President said, no, we are not going to have taxes. I am not going to put taxes out there. Let us see what kind of spending cuts we will get out of Democrats. Eighty-two days ago we started down this road.

Finally, several weeks ago, the President even said, "All right," after all this criticism he has taken from the Democrats, "I will put taxes on the table." Everything is on the table. If this budget summit falls apart, it cannot be blamed on the President.

After months of being criticized by the Democrats for not saying taxes should be part of this, as soon as he put taxes on the table, pow, he gets hit. Breaks his promise. "That is the trouble with that man, you cannot trust him."

But he said, "You told me to do it." It does not matter.

Now what happens? Last week he actually put out some specific suggestions as to taxes, a $10,000 cap on the deduction of State and local income taxes. Do you know who that affects? Eighty-six percent of that is raised from people who make over $200,000. Pow, Mario Cuomo shoots it out of the sky. Do not want that one. Out. The President suggested alcohol taxes. Shoot that down.

What is the President finally saying to the Democrats? All right, gang, where is your budget? Democrats control the Congress; Republicans control the Presidency. He says to the Congress, "Where is your budget? I gave you one in January. Our economic figure has changed; I have given you new estimates now; I have proposed taxes. What taxes do you suggest?" Nothing. Not a word.

You know the one thing the Democratic Congress is proving very adept at? Passing appropriations bills higher than the President's budget with no way to pay for them.

And now do you know what the ultimate is? We have the gall to come here and say to the taxpayers, we have a new surprise for you. In addition to the fact that we cannot come up with a budget, and in addition to the fact that we are spending money that we do not know how to raise, we are now going to let you have the privilege of giving us another one-half billion dollars over the next few years for our campaigns so we do not have to work at it too hard. You work harder so we do not have to work at all.

This is what we are getting out of this Congress. I know it is being said this bill only applies to the Senate; CBO says it only costs so much money. Hogwash. We know where this bill eventually is going to go. We know where the proponents of it want it to go.

We can cure the few things wrong with the perception of the American political system by a few simple amendments, all of which are in the Republicans' bill. PAC's are bad? Ban them. After tugging and hauling and pushing, we have finally brought the Democrats to that position. No PAC's.

Now, they say, sewer money is bad. Only they really mean party money. They do not mean nonparty money. Let me explain the difference.

Party money is political parties, Republicans, Democrats, Libertarians, Socialists, Communists, whatever. Talk about big tents or small tents if

you want; you sort of gather around in a certain ideology. I hope we have not reached the place where the people say there is a conflict between a party and the party's candidate.

But they say this money is going to State party organizations, and they are using part of it for Federal races; therefore, that violates the spirit of clean government, so stop it.

Arguendo, let us assume that we stopped it. Is that the biggest problem? That is not the biggest problem. We have not heard many voters talking about: There seems to be a conflict of interest between the Democratic Party and its candidate or the Republican Party and its candidate. The real loophole in the law is what we call nonparty sewer money, which is not accounted for—give as much as you want, you do not have to report it. Charles Keating was giving nonparty sewer money to a variety of endeavors, all of which were designed to increase the Democratic turnout in the vote. This bill does not do a single thing to change that. Charles Keating can still give the money to these mass get-out-the-vote campaigns.

As long as we are talking about partisan advantage, let us put it very clearly as to why the Democrats do not want to do this. It is perfectly understandable. If I were a Democrat I would not want to do it either.

On balance, on average, incumbents beat challengers, including Republican incumbents against Democratic challengers. And, in the Congress, there are more incumbent Democrats than incumbent Republicans. So anything you can do to enhance the advantage of incumbency benefits the Democrats.

Two. On average, the majority party beats the minority party. That is why the minority party is the minority party. And there are more Democrats still in this country than Republicans. So all other things being equal, incumbents will win, and all other things being equal, the majority will beat the minority. And if you happen to be a majority party incumbent, you are twice blessed.

Do incumbents get beat? Sure. Some have personal scandals, some become senile, some make terrible faux pas during the campaign. I am just talking about averages.

But to ensure, in addition to everything else that this bill does, that the Democratic advantage maintains, this bill very clearly does not want to stop the Keating sewer money for a simple reason. Again I am talking about averages, Mr. President. People who have to be dragooned into voting, have to be coerced into registering, who do not take much interest in Government, are more likely Democrats than Republicans. And, therefore, if you have to go about your neighborhoods rounding them up, herding them to the registrar, dragooning them to the polls, I know, Democrats know where those votes are, where to conduct your registration drives. And do not do anything to stop organized labor, do not do anything to stop the very far left-wing environmental organizations, do not do anything to prohibit those 501(c)'s from getting out the vote; that is, the Democratic vote. Do everything you can, however, to make sure the Republicans, operating through party organizations with reported money, are hobbled in getting out their vote.

Let me say again, it is ironic that on this day we are starting this debate. There was some discussion about Congress staying in session an extra week to take care of the budget problem. An extra week? We can stay here an extra month. To take care of the budget problem, we cannot even get the Democratic Party to make an offer. Do you know why? All during August they can go home and say what a terrible thing the Republicans have done. Look at those taxes they want to levy. And not many people will say: Well, gosh, I thought you were the ones who said the President should present taxes. Do you have any suggestions for taxes?

No, they will not say that. Nor, I will bet, will they say a word about this heist they are going to make out of the taxpayers' pocket. They will go home and talk about spending, campaign reform, corruption, not a word about one-half billion dollars that they have no way of paying for and apparently intend to offer no way to pay for.

So, Mr. President, I say if you are an average American taxpayer, and I have talked a lot about averages, if you are mad about the source of money, and you should be, that can be cured. If you are mad about immense amounts of big money, and I mean $500,000, $600,000, $800,000, going to ad hoc organizations with no accounting of who gave it or when it was given or how much was given or how it was used, that can be cured. The Democratic bill does not cure it. The Democratic bill does not want to cure it.

What that bill is designed to do is to ensure every advantage possible to the Democratic Party by doing everything possible to ensure that majority party incumbents are given a further advantage, and then in the last analysis, saying we are so over burdened with work, we are so tired and our organizations are so beset with trying to raise money, that we now want you, Mr. and Ms. Taxpayer, to finance our campaigns.

Boy, I am happy to take this issue to the country. I will be happy to go home in August on this one. I will talk about our bill. I will talk about who took the first bill on getting rid of PAC's, who tried to take the sewer nonparty money, who tried to close the millionaire's loophole and who tried to do it all without blackjacking the American taxpayer for another half a billion dollars over a number of years when we have a $150 to $200 billion deficit and the Democrats cannot figure out any way to get it down.

I hope this debate goes on for a long period of time, Mr. President. But I hope it very seriously revolves around whether or not we are going to ask the American taxpayer to pungle up more money to ease our lives so that we do not have to work as hard. I thank the Chair.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH] is recognized.

Mr. DANFORTH. Mr. President, I have not been glued to the television set today and I do not know everything that has been said on the floor, but my understanding is that my name has been bandied about so frequently that the casual viewer might conclude that the present form of this legislation could be called the Boren-Danforth or the Danforth-Boren bill. I want to assure all who are interested that that is simply not the case.

I do have a slightly different position than some of my Republican colleagues, but I do not adopt the position taken by the sponsors of this legislation, and I do support the amendment that is offered by the Senator from Kentucky.

Mr. President, some months ago, I took the floor of the Senate to give my views on what I consider to be the shortcomings of the debate on campaign reform. It is usually said by people who describe what we are debating that this is campaign finance reform. Largely, the bill that is before us is a campaign finance reform bill. The position that I took on the floor, a few months ago and the position that I hold today is that campaign finance reform is really not the central issue that is before the country with respect to political campaigns. The question is not how we buy political campaigns. The most important question is what are we buying and what are we foisting on the people of this country?

I do not hear many of my constituents complain to me, "oh, isn't it too bad that you have to spend time raising money?" Nor do I hear my constituents complaining about some campaign committee raising money for my campaign. What constituents complain about, and what they should complain about, is that what we are buying in political campaigns is sleaze. It is the quality of political campaigns, not the cost of political campaigns that should be at issue and is at issue every time we go through one of these exercises every 2 years.

Every 2 years, when we go through a political campaign, we as a people say to ourselves, "This is nauseating. This is disgusting. This is beneath us as a people to have to suffer through this kind of garbage over the airwaves for weeks on end."

It is the quality of the campaign, not the cost of the campaign, that is foremost in the minds of the American people. Most political campaigns, at least most congressional campaigns and Senate campaigns these days, are television campaigns. Very little is done in the way of door-to-door campaigning. We do not have the time any more to push the doorbells, and most people do not show up to hear political speeches. Most people, frankly, are bored by them. The party faithful show up. We travel around our States during an election campaign not really to have an outreach effort, but to shore up the spirits of the party faithful.

But as far as reaching the voters are concerned, most campaigns today are conducted on the mass media, on radio and on television. Most campaigns today are comprised of the 30-second spot commercial, and the 30-second spot commercial is an art form which has one use and one use only, and that is to do a job on your opponent. Very little that is positive can be put in 30-second form. But a lot that is negative can be put in 30-second form.

In 30 seconds, you can attack your opponent; in 30 seconds, if you repeat it often enough, you can cross your opponent and all of this can be tracked scientifically by those who put out public opinion polls.

The pollsters can tell you whether your spot commerical is working or not, and all of us know stories of political campaigns which have been turned around in a matter of weeks, maybe even days by the right negative commercial. That is what political campaigns are these days: 30 seconds, attack destroy.

And the lesson for those who have been attacked is, do not be silent. It used to be thought, I am not going to dignify that charge by responding to it. Now if you do not respond, you lose the election. So you have to respond and then you attack yourself, and your opponent responds to your attack, and that is the nature of political campaigns. That is what turns off the American people, and that is what should turn off the American people.

I took that position on the floor of the Senate several months ago, and I made some proposals for how to address it. One proposal was that the candidate should appear on the commercial himself or herself and say in effect, "I adopt this message as my own. I take personal responsibility for this message."

Today, that is not the case. There is a legal requirement of a tag line. There is a requirement in the law, but the candidates say the preceding message—not the candidate even, but that it appear at the bottom of the film clip, this message was paid for by the citizens for Joe Dokes' committee, whatever.

Usually, there is no such committee, in the usual sense of a committee. It is just somebody—the brother-in-law of the candidate or somebody—purporting to be a committee. This is paid for by the citizens for Dokes. And then the secret message is, of course, candidate Dokes never heard of this before. This is not his commerical.

It was my view that the candidate should come on the screen himself or herself and say I am responsible for the garbage. That was the proposal. I am pleased to say that the Senator from Oklahoma did, in fact, include in the bill that is now before us exactly that kind of provision. I think that that is one of the most important things to be included in this bill.

I made another proposal. I said that candidates should at least have the possibility of speaking to the public in longer slots of time than 30 seconds or a minute. Candidates should at least have the possibility of speaking for periods of 5 minutes to their constituents because in 30 seconds you can do a quick hit job but in 5 minutes a candidate can express an idea. So that was the second proposal.

The Senator from Oklahoma has included in this version of the legislation a contorted and, to my mind, totally inadequate version of that provision. First of all, he does not talk about 5-minute periods of time. He talks about 1 minute to 5 minutes. That to me means 1 minute, and that to me is inadequate.

But second, he talks about paying for these 5-minute slugs of time by vouchers. I do not entirely agree with my friend from Oregon in that it does not shock me to consider the concept of vouchers or some form of limited public financing for 5-minute segments of a campaign. I do not think that candidates are going to buy 5-minute slots of time when they can buy 30 seconds. I am told that as far as the consultants are concerned, it is the number of appearances rather than the length of the appearance that is important. So I think that a subsidy or even providing free time for the 5-minute slugs of time is a concept which should be explored. I do not mind the idea of vouchers.

Mr. BOREN. Will the Senator yield?

Mr. DANFORTH. Yes.

Mr. BOREN. I do not know if the Senator was listening earlier in the day when I discussed this provision, and I appreciate the comments he has made about our inclusion in the bill of the disclaimer at the end, or rather maybe it is the opposite of a disclaimer. It is the candidate accepting responsibility for whatever is in that particular spot, which is an idea that the Senator from Missouri suggested on the floor and he should have put in this bill.

We also have attempted to put in the concept as he has just indicated with the voucher of a longer period of time than 30 seconds. If we were able to change our provision—and let me say I indicated earlier probably out of the Senator's hearing, as he was not on the floor, that we are not wedded on our side to form 1 minute of 5 minutes as opposed to 5 minutes, or 3 minutes to 5 minutes—would this make it more likely to satisfy the Senator from Missouri if we were willing to change our voucher provision to 5 minutes—that is the first question—5 minutes only, or 3 to 5 minutes or something else? Usually the time comes in 30-seconds, 1-minute, 2-minute, or 5-minute slots so that is reasonable thinking in those terms. This Senator has no problem with that.

I think the Senator is right that the longer the amount of time used the more likely it is you will have a discussion of a substantive issue. In the last Presidential election I noticed the average amount of time given the Presidential candidates in evening news was 11 seconds. It becomes a little difficult to say something substantive about the way the country should go in 11 seconds.

So I am certainly open to suggestions from the Senator from Missouri. The first question is, would it be more likely that he would support this provision if it were made 5 minutes, and second, do I understand the Senator from Missouri correctly that he is not philsophically opposed to the use of the voluntary checkoff which is money over and above what the people owe in taxes?

It is not money owed in taxes. I want to underscore that. It is not public financing. It is money over and above what people owe in taxes that would be added on voluntarily. He is not necessarily philosophically opposed to some sort of a voucher system as we have heard some others, quite frankly, on the other side of the aisle saying this is not a spending limit issue with us, this is a public financing issue?

I gather the Senator from Missouri is not changing his mind about his own propsoal that he would support the use of vouchers paid for out of a voluntary checkoff if they were appropriately framed for the right amount of time for candidates—I assume all candidates in the case of the Senator from Missouri. Am I correct?

Mr. DANFORTH. The Senator is correct in that it is my view that this bill would be significantly improved if instead of having 1-minute to 5-minute

slots of time, we had 5-minute slots of time.

Second, philosophically, I am not opposed to the concept of a voluntary checkoff. I am not opposed to the concept of vouchers. I am not opposed—and I have discussed this with my friend from Oklahoma—to the idea of letting the political parties contribute x amount of money more than they can now to a candidate's campaign provided that money is earmarked for the purpose of the longer messages. That I think is a matter of dispute.

Obviously, most people on our side of the aisle would oppose any idea of vouchers. It is my understanding that most on the other side of the aisle would oppose the concept of increasing the amount that a party can raise and contribute but to allow that to go for the purpose of the longer time slots.

But I want to hasten to say, lest the sponsor of this bill get unduly optimistic about my position on the underlying legislation, I have come to believe that the fatal flaw in the suggestion of the Senator from Oklahoma is his linkage of the idea of longer time slots, his linkage of the idea of vouchers, even his linkage of the concept of lowest unit rate, which is another reform that we have worked on, to spending caps. That to me is a linkage which fatally flaws the concept, and clearly a linkage which makes the legislation unacceptable to I believe everybody on this side of the aisle and to the President of the United States.

So while it might be good speech material on the floor of the Senate, the idea of a spending cap is one that in my judgment is not going to become law and should not become law. What I am concerned about is that a good concept, I think a very important reform, which is the longer periods of time for a candidate to convey his message, has been linked to a spending cap. It has become a carrot to extract compliance with the spending cap. Similarly, the lowest unit charge reform, again something that really should be done—it is very important to close this loophole in the law—the lowest unit charge reform that we should do in this legislation has been linked with the idea of a spending cap.

Several months ago when I took the floor of the Senate I said that, in my judgment, the content reform was what we should be focusing on. I said I believe something to the effect that the various financing reforms that were being bandied about were of little moment or no moment, as far as I was concerned. Thereupon, my friend from Kentucky met with me on more than one occasion and armed me with a stack——

Mr. FORD. Mr. President, would the Senator from Missouri yield for just a moment? I would like it if the Senator would distinguish which Kentuckian armed him when both of us are on the floor.

Mr. DANFORTH. I appreciate that. The junior Senator from Kentucky armed me with a very extensive stack of articles and papers that had been written by various scholars on the question of spending caps—asked if I would read the articles. In fact, I did. One scholar after another attacked the basic philosophy of the spending cap. I must say that I believe the arguments that were made were good arguments.

One argument is that a spending limit limits a candidate's ability to communicate with his constituents. The spending limit does not limit the cost of a campaign. The cost of the campaign is set by the television people, by the campaign consultants, by the cost of air transportation and car transportation, by the cost of the campaign staff, and by the cost of keeping the candidate in the field. None of these costs are going to be touched by this legislation.

The legislation purports to cap the price that can be paid to meet costs that are beyond the control of the candidate. Therefore, the legislation purports to say to a candidate for public office here is the cost of communicating with your public, and we are prohibiting your paying the price to meet that cost.

It is said that that raises a constitutional issue. I think it clearly must raise a constitutional issue to not limit the cost of the campaign but to say that a candidate cannot do what the candidate must do to meet that cost.

Costs go up; the funds do not go up; and a candidate is left in the position where he has to, in effect, turn off the switch.

A second reason why I think the spending caps are a bad idea is that if we were to limit what can be spent by a candidate's committee, then additional pressure would be placed on other sources of funding the campaign. To the extent that hard money contributions were capped, to the extent that a campaign committee was limited in what it could do to promote the candidacy of its choice, then there would be even greater pressure on soft money inputs to a campaign.

The campaign would not be less vigorouly contested. The candidates would not crawl into a hole but there would be other sources of supporting the campaign. To limit what is open, what is reported, what is controlled, and what is above board means that there would be more call on that part of a campaign—namely, soft money which today, under the bill as it presently stands, is not limited and which is not controlled.

Finally, in my judgment, the idea of a cap really misses the point, if the cap is regardless of the source and regardless of the amount.

Let us say that a Senator is running for reelection, the Senator has reached the cap, and the Senator's neighbor and friend comes up the day after the cap has been reached, and says I want to contribute $5 to your political campaign. What is corrupting about that? I do not think anything is.

Mr. President, I appreciate what the Senator from Oklahoma has done in the enhanced disclosure portion of the bill where a candidate must appear with his own face on the screen and take responsibility for the message.

I further appreciate the willingness of the Senator from Oklahoma to work with me in trying to come up with some method of providing for long periods of time, five-minute periods of time. I appreciate the Senator from Oklahoma being willing to entertain moving the 1- to 5-minute concept in this bill in its existing form to a 5-minute period of time.

I do not disagree with the concept of some form of voucher or in the alternative of allowing extra fundraising and contributing capabilities by the parties in order to pay for the longer periods of time. All of that I agree with the Senator from Oklahoma.

But I must say that on reflection on that portion of the legislation, which clearly means most to Senators on both sides of the aisle—that portion of the legislation which has just been described by the majority leader as the key point in contention and in his mind the most important part of the bill—on that question of spending caps, the advisability of spending caps, and the fairness and constitutionality of spending caps, I come down on the side of the Senator from Kentucky.

Therefore, while I appreciate very much the forthcoming attitude of Senator BOREN, his characteristic good humor and competence in attempting to work out legislation where he could get at least some support from this side of the aisle, I am afraid with spending caps in the legislation that constitutes a fatal flaw from my point of view.

Mr. BOREN. Will the Senator yield for a question?

I know the Senator having studied this matter, has studied the report of the group of bipartisan experts that was put together by the two leaders to deal with the question, to try to break the impasse over the concept of spending limits. And as the Senator knows, that particular panel of experts indicated that it would favor overall spending limits with an exception. That is the reason it was called flexible spending limits.

It would favor an aggregate limit on how much could be raised outside the home State of the person, favor an aggregate limit at least in its original form for in-State contributions but no limit on contributions below a certain

size which was undesignated within the home State of the candidate.

How does the Senator from Missouri feel about that? In other words, the one category, and we have tried to at least move in the direction in our proposal by saying that you can have an additional 25 percent on the spending limit for contributions raised inside the home State of $100 or less; but let us say that were open-ended, the amount of contributions under a certain size, no magic figure here, within the Senator's home State; how would he feel about some aggregate limit on large contributions and on out-of-State contributions, if that were the case; how does he feel about the overall framework of the suggestion from the bipartisan panel of experts?

Mr. DANFORTH. Mr. President, without getting into the details which many Senators have focused on in much greater depth than I have—for example, Senator MCCONNELL, who is a real expert on this—I say to the Senator from Oklahoma that if we could build into this legislation some form of flexible cap, I believe that we could get a bill passed that the President would sign. I believe it would be possible to put it together.

I have heard Senators on my side of the aisle, who fear very strongly against the legislation in its present form, say that in their opinion this is very close to being worked out, that the negotiations have been very fruitful. And without passing any personal judgment as to the precise form of a so-called flexible cap, this Senator believes that many votes would be gained on this side of the aisle by some sort of flexible spending cap proposal.

There are, I am sure, other things that should be worked out in the legislation. People have mentioned the soft money issue on the floor, and that is something that also should be addressed. But my own view is that, again without getting into the details, it would be a major contribution to the enactment of legislation, if we could come up with some sort of flexible proposal.

Mr. BOREN. Well, Mr. President, I do not want to cut off my colleague. I did want to make a few remarks on the other statements that have been made earlier by the Senator from Oregon. Let me defer until the Senator from Kentucky has an opportunity to address a question.

Mr. MCCONNELL. If the Senator from Missouri will yield, I wanted to commend him for an outstanding speech and thank him for all the work he has done in the broadcast area. I believe we ought to have comprehensive campaign finance reform. If somebody said you can do just one thing and one thing only, the area that the Senator from Missouri has provided so much leadership on, this broadcast area, is the central element, because that is the way we reach our constituents.

If we were able to come up with something that gave us an opportunity to more easily reach large numbers of people through the broadcast media, we would have taken a major step in the right direction. If we do that, I suspect the Senator from Missouri will have been one of the main reasons we reached that goal.

Mr. DANFORTH. I appreciate that comment, Mr. President, and I agree. If we are talking about real reform, it seems to me that we should be focusing on the cost of campaigns, not on the price that can be made to meet that cost.

The present system under which a broadcaster can charge a political candidate, say, five times what he charges a commercial advertiser, is totally unfair and contrary to what we intended to do in Congress back some 18 years ago when the lowest unit charge provision was put in the law.

The opportunity for abuse is obvious, and it really is something that should be corrected. I think that there is a good basis to work together in doing that in this legislation. We have some suggestions to make that are of a pretty technical nature, and I think relatively uncontroversial with respect to that part of the bill.

If the PAC's are eliminated, if the lowest unit rate provision is addressed, if we do something about soft money, and if there is some flexibility in dealing with this cap issue, which obviously is totally divisive between the two parties, we could put together not just a very good campaign finance reform, but campaign reform bill.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. I thank my colleague from Missouri for the comments he just made. I hope he will not think that I am speaking with tongue in cheek when I say to him—and I hope he will hear me when I address these comments to him for a moment—that if he looks at the package offered on the other side of the aisle, if he looks at the package on this side, he will find that we have taken his concept of lowest unit rate and the Commerce Committee proposal, which has been discussed, and we put it in this legislation, and we are fine-tuning it and improving it.

We have heard his comments on the floor, and we have said we are willing to use the checkoff, among other possible methods, to have a voucher, to pay for periods of time in which the candidate will appear longer than 30 seconds. I have to say that I have heard philosophical objection on the other side of the aisle for such vouchers. We are prepared to have such vouchers.

We also have put into this draft which is before us the proposal—I think, excellent proposal—of the Senator from Missouri, that the candidate must claim credit—or I might say discredit in some cases, if it is a negative kind of commercial, for whatever is going on in the airways, as sponsored by his or her committee.

These are suggestions that have been offered by the Senator from Missouri. Let me say, I believe we have shown even greater willingness to include them in the draft here.

I have not heard a willingness to include vouchers paid for by the checkoff, even if they went to all candidates not conditioned on acceptance of a cap on the other side of the aisle.

I say to the Senator from Missouri that his suggestions have been heard; they have been treated with respect by this Senator and by others in the negotiations on this side of the aisle. I believe that he is correct when he says at the end that we can work out legislation that will be real campaign reform. I would like to think it will also be campaign finance reform at the same time. We must continue that effort.

Let me say—and I hope I am not misunderstood—that I was disappointed a moment ago when I heard the comments of the Senator from Oregon, because they were all along the lines of Democrats want this and Republicans want that, Democrats have said this about the President, and the President said that about the Democrats.

Let me say, Mr. President, this Senator is not going to engage in a Democrat versus Republican discussion during this debate. This Senator has not once said one word of criticism about the President of the United States since the President of the United States opened budget negotiations between the two parties.

This Senator is going to do nothing but commend the President of the United States for having the courage to call that kind of meeting together, in a spirit of bipartisanship. This Senator is not going to turn this debate into a partisan debate about what is good for Democrats and good for Republicans. This Senator does not intend to have an unkind word for what is being said on the other side of the aisle, because this Senator is not interested in a Democratic bill; this Senator is not interested in making speeches to make those on the other side of the aisle look bad or to make this side of the aisle look good; this Senator is interested in one and only one thing, and that is campaign reform, genuine campaign reform, that will benefit all of the people of this country, whatever party they

happen to belong to. That is what this Senator is trying to do. That is the kind of agreement that this Senator wants to hammer out.

I think I can speak for the distinguished majority leader when I state that those are not only my sentiments, but his sentiments. I sat in the room in his office when he had those on our side of the aisle who had been working on this legislation, and I heard him lead the discussion. I heard him say the President of the United States says he wants PAC's taken totally out of the political process. Senator DOLE has indicated to me that when we get to the amendment process, the very first thing that is desired on the other side of the aisle is to get rid of PAC's, banning PAC's totally from the process.

We all know there is great division, and it is not totally on our side of the aisle. There is some on the other side of the aisle. But I would say it has been consistently the position of the White House specifically that they wanted PAC's totally out of the process.

It is a view this Senator individually favored for a long time, since Senator Goldwater and I introduced a bill back on June 8, 1983, which indicates where this Senator stood on this issue for a long, long time. But it was not an easy position to take. It was not an easy position for the majority leader, given the differences of opinion within our own party about this issue. But he said: How can we send a signal that will give our motives credibility? How can we say to the other side of the aisle we are not here to score political points; we are here to try to work something out?

He felt and I felt and at the end of the discussion all of us felt that in all sincerity this is one thing we could do, take the President's first priority and put it in this bill, and that is what we did.

The second thing we did was to take the objection to public financing and the public financing that had been put into our provision in terms of cash grants to candidates, all candidates who would accept the spending limits, whether their opponents went over the limit or not, automatically give it to all candidates that will accept the spending limit.

We felt this was a key point. As many on our side of the aisle felt that was essential, we took it out. And that was our way again of saying, Mr. President, we are not here for political exercise; we want a bill. We want a result. We want to pass something, and we want to pass something that can be bipartisan, and we want to pass something that the President of the United States can sign.

I am not going to get into a discussion answering any kind of partisan comments from the other side of the aisle. That is not what we are here for. We are going to keep this train on the track. We are going to discuss campaign reform and we are going to discuss what is good for this country and not what is good for one party or another party.

I am constrained to have to answer at least one or two comments the Senator made, and that is that this bill does not do anything to take care of the Charles Keating case. I have to say that unfortunately is just not accurate. This bill is aimed exactly at that kind of situation. Mr. Keating, it is known, raised a lot of money, a lot of money from his employees and associates for various candidates.

He did something else. He also apparently gave a lot of money to tax exempt groups that were aimed at a get-out-the-vote effort, supposedly solicited by Members of the Congress.

This bill has two provisions in it. One, it bans Members of Congress from making solicitations from others for organizations that have a get-out-the-vote purpose. So we ban any Member of Congress from making such solicitations or receiving such contributions.

It secondly puts an aggregate limit on overall spending, and therefore it does something about the person who can come in and with one contribution at a time raise huge amounts of money and let candidates spend large amounts of money. So it is aimed exactly at that kind of situation.

I have to say what we are really talking about here with this amendment. And I think it is unfortunate that so many things have been thrown into it at once. We are not talking about the merit of the proposal of the Senator from Missouri: vouchers for 5-minute time slots, to try to increase the level of public debate. We are for that. I am for that. I made it clear.

I will accept an amendment from the Senator from Missouri to change it from 1 to 5, to just 5-minute slots, if he feels that would improve the effectiveness of the provision.

We are not here to talk about lower mailing rates. Let me say again that provision has been supported consistently and publicly by Senators on the other side of the aisle. The distinguished Senator from Alaska [Mr. STEVENS] on various occasions has supported reduced mailing rates for political candidates. So have several other Senators on the other side of the aisle. In fact, some of those suggestions were most eloquently, articulately, put forth by Senators on the other side of the aisle. We put those provisions into the bill.

What is this amendment really about? This amendment is really about doing away with PAC's. That is really what it is; it is about public financing. We all raise some amount of money, direct or indirect, that involves a very, very small amount, not $500 million, as was said on the floor, because we have taken all of those provisions out of the bill. Those provisions are not in there.

If candidates running for the same Senate seat, Democrat and Republican, in a particular State both accept the spending limit and abide by it, there is not one penny drawn on from the stand-by fund; not one penny drawn. The only thing that would be available is lower mailing rates and a voucher for television time, as originally suggested by the Senator from Missouri.

What, then, really is the thrust of this amendment? And I think we ought to just openly talk about it. It is not about public financing. It is to remove from the bill all of the incentives or most of the incentives which would lead candidates to accept voluntary spending limits.

This is not a public financing amendment. This is an amendment to try to pull out of the bill anything effectively encouraging candidates to accept spending limits. That is the issue.

How do we induce candidates to accept the voluntary spending limits? We induce them to do it by several means. We say if you accept the voluntary spending limit for your State, you then get lower mailing rates and a voucher for some television time, along the lines previously suggested by the Senator from Missouri. You also avoid the negative effect of having to put a disclaimer on your ads saying you are a candidate that does not accept spending limits. And you get help if your opponent breaks the spending barrier and goes over the limit that you have voluntarily accepted. Those are the inducements.

This amendment removes nearly all of those inducements to accept spending limits. So the real issue here is not public financing. In spite of all of the overblown and overstated amounts that have been thrown around here on the floor, everybody knows the cost is a maximum of $20 million for the television vouchers. The cost of indirect mailing is much less, and there is no public money coming forth unless candidates break the spending barrier.

So what it is about, it is an effort to make spending limits ineffective, and that is what it is about. That is the issue.

Listening to my good friend from California speak a minute ago, I thought he made a very interesting statement. He said, Mr. President, that the turnover in Congress, particularly the House of Representatives, was so low that it was lower than that of the Supreme Soviet. That is what he said. And looking at what has been going on in the Supreme Soviet lately, that is an accurate statement. Certainly,

there is more turnover. More people walked out on the last party Congress than changed hands in the Congress of the United States in the last decade or so. Why is it? Has that incumbency protection occurred under this bill that we have introduced that has not yet been enacted into law?

No, Mr. President. That incumbency protection occurred under the present system of no spending limits. If that lack of turnover, less than the turnover in the Supreme Soviet, was due to spending limits, it would be impossible, because we have no spending limits. That lack of turnover has occurred under a system without spending limits, and that is what we are trying to change, and that is what this Senator has difficulty understanding. If people are concerned that there has been less turnover in the House of Representatives than has been in the Supreme Soviet, they should be joining us in an effort to have competition in American politics based on who has the best idea and is best qualified, and not who can raise the most money, because incumbents can always raise the most money.

There is an incumbent protection plan already, but it is not our bill. The incumbent protection plan is a campaign system that has no spending limits in it.

Because incumbents, and the facts show it, in 51 out of the last 55 Senate races, as the Senator from Maine pointed out, and it is a fact, in 51 out of 55 races, who raised the most money? An incumbent. In the last election cycle, they raised $2.50 for every $1 that challengers were able to raise.

Why? Because the well-heeled contributors and the special-interest groups want access to those people who are already here in power.

As I indicated earlier, no wonder only 37 percent of the American people went to vote in the last congressional off-year election, compared to 95 percent in East Germany and 90 percent in Nicaragua; 30 percent in the United States. Why? Because the people have come to believe they just do not have the influence, they do not count any more, that it is money that is deciding elections. When you look at the results, it has been the candidates who have been able to raise the most money that 9 times out of 10 have been winning the elections.

If we want to do something to change the system, and we want to do something to level the playing field, and we want to do something to get campaigns back on a path of ideas, where the majority of the American people will feel they have some say, the key to it is putting some limits on runaway spending.

I fail to understand, Mr. President, and I have heard again and again my colleague from Kentucky, for whom I have great respect, say, you know, it is wonderful for people to put all this money into the system because in that way they can participate in politics.

Well, Mr. President, I do not see the participation has gone up as the cost of winning the average U.S. Senate race has gone up, since the 12 years I have been in the Senate, from $600,000 in the first year I came to $4 million in the last election cycle. Has participation in politics gone up as a result of that? Has it gone up as a result of our having spent so much time, effort, and energy to raise money, to be full-time fundraisers and part-time Senators? I do not think so. Has it increased the confidence of the American people in our system? It has made the American people feel that they are just common individuals that cannot afford to make big political contributions. And if they want to see their Senator or Congressman and he has 5 minutes available, they are not going to get in the door, not if somebody else is standing there that happened to give him $1,000 or a PAC manager able to give him $5,000.

That is why the people have lost confidence in the Government. That is why 85 percent of the American people, according to the latest poll, said "We want a limit on spending. We want a limit on runaway spending." How can we look at ourselves, given the opinion of the American people, and say we could have real campaign reform without doing what 85 percent of them say is the heart and soul of the reform itself—putting a limit on spending? I do not know how in the world we could say we could have real reform in that case.

It would be like the young lady who wanted to talk her mother into letting her go swimming. She wanted to go swimming. Her mother was fearful something might happen to her daughter. She said, "May I go swimming?" Her mother said, "Yes, dear, you may go swimming, but you cannot go near the water." That is exactly what we are talking about; that real campaign reform will not do anything to stop the runaway chase for money and more money pouring into our system. There is no way to do it.

I would have to disagree with the concept that if we just do away with political action committees, a proposal I have long favored, and if we just limit, as has been proposed on the other side of the aisle, out-of-State contributions to $250 or less, then we will have only wholesome money left in politics. What about the single-issue politics that has gone up in this country in the last few years, judging Members of Congress not on their whole record, not on their vision for country, but on one single issue. "No, I am not going to judge your whole record. I only want to know where you stand on this one thing," whatever it happens to be: National Endowment for the Arts, gun controls, or abortion, or whatever; just one thing. You could be wrong on every issue of importance: the future of our children in education, and how we get back in international trade, and how we rebuild our economy, and how we balance our budget, but they are going to just vote on one thing.

If there is anything that is as bad for American politics as runaway spending and special-interest influence, it is single-issue politics. If we leave a loophole a mile wide that lets people that can get the hottest emotional mailing list and raise money from strangers all across the country that do not know them at $250 apiece or less because they have the right mailing list or right single-issue group, we are absolutely going to set the cause of good government back in this country in a way that will take us a long time to recover. If we are to close off other avenues of financing campaigns and throw candidates back on single-issue politics with the right direct mailing lists across the country, then we really will damage our system.

So, Mr. President, let us step back and think about this. Let us not pull the teeth from this bill. Let us not, as we begin to seriously debate campaign finance reform, pull the heart and soul out of it by saying we are going to do nothing. We are going to have no inducements left in the bill. We are going to do nothing that would encourage people to accept voluntary spending limits; that we are going to say the sky is the limit, the more millions of dollars you raise, the better.

At the rate we are going, the cost of winning a Senate race has already gone from $600,000 to $4 million in 12 years. Where will it go in the next 12 years? That is a fivefold or a sixfold increase. Is it going to go to $24 million 12 years from now and then have us stand on the floor of the Senate and say it is wonderful, it is good for the system, increase the level of participation?

There are ways to participate in politics, Mr. President, without having money. People who cannot afford to give a $1,000 contribution, thank God, can still participate in politics in this country. They can knock on doors. They can tell their neighbors what they believe. They can go to the polls and vote in a secret ballot. They are not foreclosed from participating in politics.

It is absolute nonsense to say that political participation equates with giving of money. There are things more fundamental in the political process than just giving money. The vote, first and foremost among them.

So, Mr. President, let us not corrupt our political system into a confusion in believing that money, raising and

spending of money, is the heart and soul of the political process. It is not. It is the casting of the vote. It is the forming of an informed judgment. It is the right to speak out and share that judgment with your neighbors that is the heart and soul of the political process. Let us remember our own obligations and let us remember that the elections system itself is fundamental to the legitimacy of all the actions of our Government. And let us do what we can to make that system work.

Mr. MITCHELL. Mr. President, I have discussed this matter with the distinguished Republican leader. We would like to raise with the managers the suggestion of when we might vote on the pending amendment. As all Senators know, it had been our hope and intention that there would be two amendments offered tonight. I know the distinguished Senator from Kentucky has been ready all along to offer a second amendment and indeed has indicated he is still prepared to do so, but the debate on this one took longer than anyone anticipated, through no fault of anyone. It is an important issue that people wanted to discuss, and appropriately so. The debate has been enlightening.

Perhaps it may be most useful to have a vote on this amendment at 8 o'clock. That would give Senators who are not on the Hill a few minutes to be notified and get back for the vote. Then to discontinue for this evening and resume at 9:30 in the morning, at which time another amendment could be offered, either the one that was intended for this evening or some other one, whatever the circumstances are.

I have not had a chance to discuss this with the distinguished Senator from Oklahoma. I want to check with him.

Mr. McCONNELL. It is agreeable with us, Mr. Leader.

Mr. MITCHELL. I invite the comment of the distinguished Republican leader in that regard.

Mr. DOLE. Mr. President, I do not have any problem with that. Someone suggested we could do it either way. I know there are a number of amendments pending. I do not know how many on that side or this side precisely. We have indicated we are going to try to cooperate as far as amendments are concerned in the hope that we will have final disposition.

I think the next amendment would be codifying the Beck decision. Again, if the Senator from Utah, who would offer that amendment, would agree to a very brief time agreement, that might be attractive to the managers.

I think we could vote on this amendment at 8 o'clock. In the meantime, we could decide whether or not we are going to bring up the second amendment. But if not, is the Senator from Utah prepared to do it in the morning at 9:30? Either way I think is satisfactory.

Mr. MITCHELL. Then perhaps for now the best thing to do would be to agree to vote on this at 8 and then go out for the evening and then to come in at 9:30 and be back on the bill tomorrow.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays of my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on or in relation to the pending McConnell amendment occur at 8 p.m. this evening.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Reserving the right to object and I will not object but I have been waiting for an opportunity to speak. I expect to take about 15 minutes at this time.

Mr. MITCHELL. Mr. President, 8 p.m. is 20 minutes from now. I see no objection to the Senator using that time.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? If not, the request is approved.

Mr. MITCHELL. Mr. President, might I ask the remaining 20 minutes be divided 15 minutes to the Senator from Delaware, and 5 minutes to the Senator from Oklahoma? Is that agreeable?

Mr. McCONNELL. Mr. Leader if I could have just a couple minutes to sum up what I believe my amendment is about before we vote.

Mr. MITCHELL. Mr. President, 15 minutes to the Senator from Delaware, 2 minutes to the Senator from Kentucky, 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. Under the order the Senator from Delaware is recognized for up to 15 minutes.

Mr. ROTH. Mr. President, I favor campaign finance reform. I favor broad, comprehensive reform. And I favor it now, this year.

It is critical to any discussion of campaign financing reform to understand why reform is necessary. If one does not comprehend the problem, one cannot hope to fashion an effective solution.

One of the major fictions embraced during previous debates on campaign finance reform is that raising campaign funds takes up so much of our precious time that the country suffers as a result. I am hardly persuaded by the argument.

Congress, as an insitution, unfortunately spends most of its time increasing Government spending, increasing Government debt, increasing taxpayer burdens, and increasing the Government's regulatory burdens on private enterprise. It spends the rest of its time wondering why our Nation is not more competitive. A reasonable argument can be made that the Nation would be better off if Congress spent less time making matters worse.

Even more to the point, does anyone seriously imagine that our constituents care how long or how hard we work to raise campaign contributions? It should be obvious that the argument that the concern of the American people about fundraising is the time it takes is offered merely to rationalize public financing. Taxpayer financing of campaigns, of course, saves the candidates all the time they would otherwise spend meeting with people and soliciting funds.

But the time spent is not the problem, except for us, and taxpayer financing is not the solution, except for us. The concern of the American people is not that we deserve just one more perquisite of office—free money to run for reelection. No, we all know better than that.

Mr. President, the concern that makes campaign finance reform necessary is the role of PAC's. If the American people are concerned that PAC's play too great a role, and if as a result we reduce or eliminate PAC participation in political campaigns, the result may well be that we spend even more time raising campaign contributions, from fewer sources.

The public outcry for reform is not generated out of concern for the crowded personal schedules of 100 Senators or even the majority leader's floor agenda. No, the people are concerned about the role of PAC's.

Two years ago we had an opportunity to answer the cry for reform. But we lost that opportunity when a majority of Senators held reform hostage to their insistence that public financing be the keystone reform. Well, the people do not want to give politicians another benefit. Of the people in my State who responded to my poll, 69 percent opposed taxpayer financing. Their position could not be clearer.

Mr. President, it never ceases to amaze me how Members of Congress can claim that the budget deficit is our paramount problem—the cause of our inflation, our lagging economy, and our loss of international competitiveness—yet continually press for increased spending. This is just one more example of this institution's schizophrenia.

Regardless of the merits of taxpayer financing, one thing is clear: Taxpayer financing will kill campaign finance reform. That was demonstrated time and again in the last Congress. The bipartisan academic task force excluded taxpayer financing from its recommendations. No one can doubt that it remains today as a killer provision.

Why then is it a part of the bill pending before us? That should be obvious. It provides security for those who fear the chance we have for real reform. We have an opportunity to lower the cost of campaigning, we have an opportunity to eliminate the role of PAC's, we have an opportunity to close loopholes often used to circumvent source and contribution limits, we have, in short, the opportunity for real reform. But all that will be lost if taxpayer financing is retained.

Spending limits for candidates has been an issue of some controversy as well. However, if we are able to eliminate PAC contributions, close the loopholes, and cut the cost of campaigns by sharply curtailing TV expenditures, then the issue of spending limits becomes virtually moot. The practical issue may be whether candidates can raise sufficient resources rather than exceed some arbitrary limit. If we succeed in foreclosing PAC money, how genuine is the fear that a candidate will receive too many, small, in-State contributions? What is wrong with being popular with the typical voter? What is wrong with citizen participation in the political process? Who among us has constituents who claim they cannot be trusted?

I have no good answer to those questions. I do not think any is possible. If broad reforms are adopted, if we close the loopholes, then spending limits frankly become unnecessary. If we reach this point during our consideration, it would be most unfortunate if all reform were lost over the question of spending limits. And I say that to both parties. If we do right by amending this legislation—if we eliminate PAC contributions and close major loopholes, such as soft money and bundling, while we lower costs, then the prospect of excessive spending should cease to concern either Republicans or Democrats. If we adopt the right reforms, then spending limits become at the same time both harmless and unnecessary. Then spending limits are not worth fighting for or against.

But we have much to do before we get to this point. Among our major tasks is reducing the amount of PAC money and closing the loopholes that make campaign contributions limits largely illusory. The bill before us fails on this score. Recent efforts at compromise give me hope. I am pleased that the Democrats have accepted the Republican proposal to ban PAC's. But what about the soft-money loopholes and the insistence on public financing? There still remains much to be done.

In a representative system of government, it is important that representatives honor their fiduciary responsibility to the electorate. Lest representatives become beholden to any one source of funds, we have legislated limits, yet these limits are easily and regularly circumvented. Soft-money loopholes allow a contributor to give hundreds of thousands of dollars beyond such limits. Incredibly, the bill does not adequately address these central concerns of the electorate.

What good will it do to legislate that PAC's may not give a single dollar to any congressional candidate but allow PAC's and wealthy individuals to give unlimited contributions to benefit such a candidate which are neither reported, counted, nor disclosed? Soft-money loopholes that exist today are not closed by the bill before us.

Charles Keating was able to utilize soft-money loopholes to contribute over a million dollars to a few candidates, with the bulk of that going to a single candidate. That was legal then and remains so under the legislation before us. But it should not be. The loopholes that Keating and scores of others have used must be closed.

The general rule is that there are contribution limits. An individual may give $1,000 to a candidate, and a PAC may give $5,000, under present law. If contribution limits make any sense, why should we continue to allow loopholes for unlimited and undisclosed amounts? Indeed, limits do make sense. I cosponsored the Republican proposal to bring PAC contributions down to zero. While the Democrats have announced that they would accept that language in their bill, they have not similarly agreed to Republican proposals to close the Keating loophole. Until they do, the two PAC proposals are not the same.

The legislation before us provides for spending limits in Senate campaigns. The notion behind spending limits is that too much money is being spent on such campaigns. But it is interesting to note that soft money does not appear on the spending limit radar screen. Soft money does not appear as money, so it can be spent without regard to the proposed limits. If soft money loopholes are not closed and spending limits are imposed, people like Charles Keating will become even more important and more influential in electoral politics. This bill needs work.

I hope that we can move ahead to achieve true campaign finance reform, not only for the Senate but for the House of Representatives as well. But if we do succeed, I would like to caution my colleagues that this reform, like so many others, will experience "a second bounce." If we are able to close off PAC contributions to candidates, where will that money go? Will it dry up?

It is likely that PAC money, if it cannot be given to a candidate, will be spent to benefit the candidate without his or her consent, that is, independently. Under the Supreme Court's decision in Buckley versus Valeo, an individual has a constitutional right to spend one's own money. So nothing in this legislation can stop the phenomenon of independent expenditures. Yes, we can by legislation make sure that such expenditures are truly independent, we can require disclosure, and we can try to offset them, but we cannot stop them by legislation.

That is why the only way to complete reform is through a constitutional amendment. I support a constitutional amendment, not as an alternative to legislation but as a necessary companion to it. I have introduced such an amendment, in this Congress and the last, as an indispensable ingredient in the recipe for complete reform. The problems posed by independent expenditures are not so apparent now because the law allows so many opportunities for individuals and PAC's to contribute to candidates. But to the extent we succeed in addressing the people's concerns in this legislation, to that extent we will underscore the need for a constitutional amendment.

Mr. President, as I look forward to the conclusion of our long efforts on campaign finance reform, I am optimistic. If the majority allows amendments to be offered and debated and voted upon, as they appear to be doing, we will succeed in achieving a good bill.

Let us discuss the elements of a good bill. First, there now seems to be agreement on PAC's. Second, I believe that the McConnell amendment to strike public financing from the bill will prevail. More and more, the taxpayers are voting against taxpayer financing of Presidential elections when they file their tax returns. Now 80 percent vote "no." Third, I am hopeful that soft money loopholes can be closed as well. Fourth, among the major issues, that leaves spending limits as the impasse. This is an issue that, in my opinion, can be compromised.

In hopes of producing a compromise, I offer both sides the following proposal for consideration. The single most significant expenditure of each candidate for office is the cost of television advertising. I propose that each candidate of a political party that has received 5 percent or more of the votes in the preceding election be given a block of free television time. The amount of time would be substantial—enough time for either an incumbent or a challenger to make his or her case to the voters. Each candidate would be free to accept or reject the offer. Of course, he or she would be crazy to reject an offer that would trim the typical campaign budget by more than half and sharply reduce dependence on contributions. If the offer were accepted, the candidate would not be al-

lowed to buy additional television time. There is the spending limit that should please those who are advocates of that position.

But it is a limit on spending that opponents of such limits can accept because it does not involve taxpayer financing or impose overall limits on traditional forms of communication with voters. Under my proposal, candidates for an office could spend different amounts, but if they accepted the free TV time, they would spend the same on TV—nothing at all. Unlike the spending limits imposed in the Presidential system, this limit would not be subject to manipulation or evasion.

There is no question in my mind that this legislation would reduce our spiraling campaign costs and would promote equal opportunity for opposing candidates to make their views known to the people. The only question that one might raise is whether the bill is constitutional. I believe that the bill does pass constitutional muster for the following reasons.

We have historically conditioned the holding of a broadcast license on serving the public interest. To me there is little that can surpass either: First the public interest in reducing campaign costs; or second, the public interest in equalizing the opportunity of candidates to present their views so that elections might hinge on the merits rather than on television advertising advantages.

No one would suggest that if a TV station decided on its own to adopt the policy of this legislation—a limited amount of free TV time and no more—there would be a constitutional problem. The station would only be operating in the public interest. The legislation merely gives definition to that term.

The broadcast media have been compelled to grant access to their channels of communication against their will before. The fairness doctrine and the equal opportunity doctrine are prime examples. They were challenged as unconstitutional in the landmark case of *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969). The Supreme Court held such compulsory access to be valid, saying that the first amendment as applied to the broadcast media required a balancing of interests with those of the audience paramount. Compelling all sides of an issue to be heard furthers rather than thwarts the ends of the first amendment. Such regulation, the Court said, is permitted under the first amendment because of the scarcity of broadcast frequencies, the use of which is licensed.

Therefore, in my opinion, the proposal is constitutional. While TV stations are sure to complain, it is an opportunity for them to demonstrate their claim that they serve the public interest. Should the proposal somehow inequitably impact on one TV broadcaster more than another, we could require TV broadcasters to get together to equalize the impact of the proposal.

The proposal is feasible. I offer it for consideration in the hope that it will bring about a compromise. There would be a limit on the most significant campaign expenditure of all—TV time, but there would not be a paramount limit so that a candidate who was truly popular with the electorate and received many contributions would not be limited in his ability to spend them.

Mr. President, I favor campaign financing reform. I have outlined the necessary elements of reform. I hope that we can reach an accord on this legislation soon. If we all desire reform, that goal is within our grasp.

I yield the floor.

TAXPAYER FINANCING

Mr. SIMPSON. Mr. President, although the Democrats have substantially improved their own bill by virtue of their agreement to do what we on this side of the aisle have steadfastly advocated—specifically, the elimination of PAC's—there are still some major problems in the Democrat, so-called reform package.

A glaring example of their erroneous approach to campaign finance reform is an idea which is estimated to cost the taxpayer over $400 million per election. I refer to the so-called voluntary checkoff on tax returns in order to finance congressional elections—a concept which is based on the current public funding system for Presidential races. It is called a voluntary system, but there is not much about it that is voluntary when the money ultimately comes from the Federal Treasury. It is true that taxpayers have the opportunity to check or not to check the box for this public campaign fund. But every taxpayer ultimately pays the tab.

The money collected would come straight from the Federal Treasury and it is money that could be used in other critical areas like education, health care, child nutrition, or reducing the deficit. Other taxpayer money must then replenish that which is being earmarked for the Presidential election fund or, if the Democratic bill passed, the congressional election campaign fund. Over the last three Presidential elections, taxpayers have withdrawn $500 million from the Federal Treasury to finance Presidential elections. Lots of interesting candidates are entitled to their share of those Presidential campaign funds. For instance, Lyndon LaRouche is someone who has received millions of taxpayer dollars for promotion of his Presidential ambitions.

It is not an unusual or novel thing for my friends from the other side of the aisle to propose that the Federal Treasury pick up the tab for every good idea in the mind of man. But before they go too far with this one—they should know that the Presidential campaign fund has been a huge failure. The FEC recently notified Congress that the fund may be bankrupt by 1992. The checkoff rate has gone down 30 percent in the last decade. Now, only 20 percent of the citizens have chosen to check the box. That indicates to me that the American taxpayers—or at least 80 percent of them—do realize that there is nothing voluntary about this system and it is their view that the Federal Treasury should not pay for Presidential campaigns. It would therefore, seem logical to me that expanding efforts for an effort to fund an additional 535 congressional races would meet with even less taxpayer enthusiasm. But, nevertheless, here we are.

My Democrat colleagues should wake up and smell the coffee on this issue. The American taxpayers should be allowed to support the candidate of their own choosing, rather than being forced to pay for causes and campaigns of people that they would not voluntarily support. The Democrat proposal is wholly fiscally irresponsible and I urge the adoption of this amendment to strike public financing from the bill.

Mr. LEVIN. Mr. President, I will vote against the McConnell amendment because I believe that the broadcast vouchers, and the payments to candidates in the event of independent expenditures—or in the event that one's opponent exceeds campaign spending limits—are necessary if spending limits are to be effective. The source of the funds for the vouchers and other payments to candidates should be voluntary contributions which individuals can make.

This substitute does not provide that the fund be financed other than by voluntarily and specifically designated contributions.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, at 8 o'clock, we will be voting on the McConnell amendment. We have had a good debate on it over the last 3 or 4 hours. Let me summarize what it is about.

The President of the United States has said there are two items which, if contained in campaign finance reform, will draw a veto. One is public funding and the other is aggregate spending limits. I inserted into the RECORD earlier today a letter to me dated May 24, signed by him, not by any underling, making that point in clear and unambiguous terms.

The McConnell amendment on which we will vote shortly simply scripts out all taxpayer funding of the underlying proposal. That will save, Mr. President, in the estimate of the Senator from Kentucky, about $160 million a cycle should all candidates comply with the spending limit in the underlying proposal. That is, $21 million in broadcast vouchers for the Senate, $104 million in broadcast vouchers for the House, $5 million in mail subsidies for the Senate, $26 million in mail subsidies for the House.

If a certain number of people choose to exercise their first amendment rights and not comply with aggregate spending limits, the cost of this would be difficult to estimate. It would be an open-ended entitlement program. We have been familiar with those over the years and have enacted them over the years.

I think the estimates in the beginning, should a number of candidates not choose to accept the aggregate spending limits, could run the cost of this from $150 to $310 million, quite possibly on up, depending on how many people choose to exercise their first amendment rights.

Mr. President, a lot of us have made speeches over the years in opposition to taxpayer funding of our political campaigns. If that is our position, we should vote yes on this amendment, which will be before the Senate in 5 minutes. I yield the floor.

The PRESIDING OFFICER. Senator ROTH has yielded his remaining 3 minutes to Senator DOLE.

Mr. DOLE. Mr. President, I thank the Senator from Delaware. I thank the managers.

Mr. President, I want to take a few moments to express my support for the amendment offered by my distinguished colleague from Kentucky, Senator MCCONNELL.

Despite what some may say, the Democratic campaign finance reform proposal still contains two provisions that provide for direct taxpayer-financing of politicians.

The first provision creates something called broadcast vouchers, paid for by Uncle Sam, which would be used to finance campaign TV commercials. Under the Democratic spending limits scheme, participating candidates would be eligible to receive broadcast vouchers totalling 20 percent of the general election spending limit.

Using the general election spending limit for my home State of Kansas, $956,000, that is almost $200,000 of public financing through broadcast vouchers. And that is no small change, at least in the State of Kansas.

The second provision allows direct Treasury outlays to any candidate whose opponent exceeds the general election spending limit. In some instances, this direct outlay of public money could equal the spending limit amount itself.

So, Mr. President, the proponents of the Democratic bill cannot escape the facts.

A duck is a duck. And public financing is public financing, no matter how you dress it up.

LEARNING FROM HISTORY

Mr. President, the last three publicly financed Presidential elections ate up more than $500 million in hard-earned taxpayer money—and what is worse, the system just did not work.

Believe me, I have seen the Presidential system up close. And, today, I am still being audited by the Federal Election Commission, more than 2 years after my own Presidential campaign folded up its tent for good.

The Federal Election Commission has also announced that the Presidential election campaign fund will have a $12.2 million shortfall prior to the 1992 Presidential primaries.

The reason for this shortfall is simple: The $1 tax checkoff on the Federal income tax return is showing a steady decline in taxpayer participation, from a high of 28.7 percent in 1980, to a projected low of 20 percent for 1990.

So, Mr. President, it is very clear that the American people do not want taxpayer-financing of politicians. They do not want public financing, whether it be in the form of direct outlays from the Treasury or broadcast vouchers.

And they do not want campaign finance reform if it means yet another congressional raid on their pocketbooks and wallets.

I urge my colleagues to support the McConnell amendment when we vote.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I think we ought to be clear about what this amendment is really about. As those on both sides of the aisle know, we have taken virtually all the public financing out of this bill. No longer does this bill have it in it. There are grants of cash for those who agree to accept the spending limits. The only elements left in are vouchers for television advertising of a certain kind, a concept that originally came from the other side of the aisle, to try to lift the level of discussion in political campaigns, lower unit mailing rates and, again, a proposal widely favored by many on the other side of the aisle. The essence of it, however, is to pull the teeth out of all the incentives for people to accept voluntary spending limits, to have nothing in the bill, no penalty that would come into play, no set of inducements that would be effective for people to accept spending limits.

Under the Supreme Court decision, we have to have voluntary spending limits and, therefore, for spending limits to be effective, there should be inducements for people to enter into acceptance of these spending limits. Let us be clear about what we are talking about. We are not talking about public financing, we are talking about whether or not we can have a bill with effective spending limits in it.

Mr. President, the American people have been very clear about it. The American people, 85 percent of them in a recent poll, said we are concerned about money, money, more money and too much money being pumped into political campaigns.

There is an appearance that money is swaying decisions made in the Congress of the United States. There is an appearance of who can raise the most money determines who can win an election. There is an appearance the challengers are kept out of the system because incumbents can raise over $2 for every $1 that challengers can raise.

That is what this amendment is all about. Money, money and more money. Not public money, but whether or not there will be anything done to stop the money chase, whether or not there can be anything done to stop runaway campaign spending and get politics in this country back on a competitive basis on ideas and qualifications and get it away from a competition based upon which candidate can raise the most money.

That is what this amendment is about. It is fundamental to the bill. It is an attempt to completely destroy the mechanism in the bill to encourage candidates to accept spending limits and get American politics back on the basis it should be, and that is a competition on ideas and qualifications.

I urge my colleagues to vote against the amendment and preserve a framework under which we can get spiraling spending under control. The Senator from Missouri said we must do something to control costs.

You cannot control costs unless you control spending. Even if you get the cost of the average television spot reduced, if you do nothing to control spending, candidates will simply buy more and more spots, even if they are at a lower rate. So if we are going to control costs, we must do something to stop the spiraling, runaway spending in campaigns.

I urge my colleagues to defeat this amendment, and let us move forward toward true campaign reform.

Mr. BIDEN. Mr. President, will the Senator yield me 10 seconds?

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Kentucky.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HELFIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island, [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] and the Senator from Rhode Island [Mr. PELL], would each vote "nay."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 49, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—46

Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Burns	Hatfield	Packwood
Chafee	Heinz	Pressler
Coats	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Humphrey	Simpson
D'Amato	Jeffords	Specter
Danforth	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Mack	Warner
Garn	McCain	Wilson
Gorton	McClure	
Gramm	McConnell	

NAYS—49

Adams	Dodd	Metzenbaum
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Pryor
Bingaman	Graham	Reid
Boren	Harkin	Riegle
Bradley	Inouye	Robb
Breaux	Johnston	Rockefeller
Bryan	Kennedy	Sanford
Bumpers	Kerrey	Sarbanes
Burdick	Kerry	Sasser
Byrd	Kohl	Shelby
Conrad	Lautenberg	Simon
Cranston	Leahy	Wirth
Daschle	Levin	
Dixon	Lieberman	

NOT VOTING—5

Armstrong	Heflin	Pell
DeConcini	Mikulski	

So the amendment (No. 2433), as modified, was rejected.

Mr. BOREN. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is is so ordered.

MORNING BUSINESS

Mr. BOREN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESICK CENTENNIAL 1890-1990

Mr. LEVIN. Mr. President, I rise to commend the village of Mesick, MI, which will be celebrating its centennial in August.

The village of Mesick, occupying 1 square mile in the heart of Michigan, lies in the geographic center of the State. Founded by brothers Howard and Walter Mesick it is today a scenic community celebrating a tradition of family values first instilled by its original homesteaders Howard and Eleanor Mesick in 1890. Mesick serves as a model for Michigan families.

Mesick's tourist trade is anchored by the Hodenpyle Dam with nearby campgrounds that, along with a special brand of hospitality, helps attract visitors and business worth more than $1 million annually.

Many of Mesick's 450 residents are employed in the automotive parts industry, the backbone of Michigan production. The second largest village employer is the high school, acknowledging the importance of education and training for the future.

Mesick, MI, is grassroots American. It is a pleasure to acknowledge this important event as the village of Mesick celebrates its 100th year.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 6:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 77. Joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emittsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 293. An act to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, July 30, 1990, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3370. A communication from the United States Trade Representative, transmitting, pursuant to law, the annual report identifying export subsidies and other export enhancing techniques; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3371. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, a violation of the Antideficiency Act in Kathmandu, Nepal; to the Committee on Appropriations.

EC-3372. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend the Department of Defense Authorization Act, 1987, to extend the time for implementation of the system health care enrollment for covered CHAMPUS beneficiaries; to the Committee on Armed Services.

EC-3373. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Japan for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3374. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Japan for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3375. A communication from the Director of Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Japan for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3376. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report describing the status of multifamily housing; to the Committee on Banking, Housing, and Urban Affairs.

EC-3377. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on its position with respect to establishing a loan loss reserve; to the Com-

mittee on Banking, Housing, and Urban Affairs.

EC-3378. A communication from the Secretary of Commerce, transmitting, pursuant to law, six copies of a draft of proposed legislation entitled the "Technology Transfer Improvements Act of 1990"; to the Committee on Commerce, Science, and Transportation.

EC-3379. A communication from the Secretary of the Interior, transmitting, pursuant to law, receipt of a project proposal from the Schuk Toak District, Tonohono O'Odham Nation for a loan; to the Committee on Energy and National Resources.

EC-3380. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report on the building project survey for Beaver County, Pennsylvania; to the Committee on Environment and Public Works.

EC-3381. A communication from the Deputy Assistant Attorney General of the U.S. Department of Justice, transmitting, pursuant to law, a draft of proposed legislation entitled the "Alien Witness Cooperation Act of 1990"; to the Committee on the Judiciary.

EC-3382. A communication from the Secretary of the Department of Education, transmitting, pursuant to law, a study of College Tutoring Programs for the Disadvantaged; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

H.R. 5256. A bill to amend the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, and for other purposes (Rept. No. 101-401).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1289. A bill to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes (Rept. No. 101-402).

S. 2340. A bill to develop and improve child protective service programs on Indian reservations and to strengthen Indian families (Rept. No. 101-403).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 2934. A bill to improve access to, and the quality of health care, to grants to States to encourage States to improve their systems for compensating individuals injured in the course of the provisions of health care services, to establish uniform criteria for awarding damages in health care malpractice actions, to improve the efficiency of State health care professional disciplinary systems, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEFLIN:

S. 2935. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Western Surf.*

By Mr. EXON:

S. 2936. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 2937. A bill to authorize a certificate of documentation for the vessel *Ocean Prowler;* to the Committee on Commerce, Science, and Transportation.

S. 2938. A bill to authorize a certificate of documentation for the vessel *Sea Nugget;* to the Committee on Commerce, Science, and Transportation.

S. 2939. A bill to authorize a certificate of documentation for the vessel *Swee' Pea;* to the Committee on Commerce, Science, and Transportation.

S. 2940. A bill to authorize a certificate of documentation for the vessel *Ghost Rider;* to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 2941. A bill to reform and restore integrity to the Federal reclamation system; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 2934. A bill to improve access to, and the quality of health care, to provide grants to States to encourage States to improve their systems for compensating individuals injured in the course of the provision of health care services, to establish uniform criteria for awarding damages in health care malpractice actions, to improve the efficiency of State health care professional disciplinary systems, and for other purposes; to the Committee on Labor and Human Resources.

ENSURING ACCESS THROUGH MEDICAL LIABILITY REFORM ACT

Mr. HATCH. Mr. President, I rise today to introduce legislation which will address one of the major problems with our health care system—medical liability. Not only are we paying about $7 billion each year in direct medical liability costs, but we are also paying billions each year for unnecessary defensive medicine that is the result of the fear of litigation.

While some years have been worse than others, we have had a medical malpractice crisis on our hands for the last decade. We know there is a crisis—there are 900 new malpractice lawsuits every day. The average award for cases amounts to $300,000.

Joseph Califano, Secretary of Health and Human Services during the Carter administration, estimated that medical liability adds as much as 25 percent to the cost of health care in this Nation. Just think of it—a routine inoculation that should have cost only $10 really costs $12.50, or you pay $125 for a physical checkup that should cost $100. In addition, a study by the American Medical Association found that a significant proportion of doctors order many more tests, procedures, and consultations than are medically necessary. They are forced to practice defensive medicine.

This crisis is not only affecting the cost but also the quality and availability of health care. Physicians are refusing to do high risk procedures and to accept high risk patients. They have stopped delivering babies because of liability concerns. Women today do not have to worry merely about finding affordable pregnancy-related care; they have to worry about finding care at all. For example, in Utah, more than half of the general and family practitioners have quit delivering babies. Expectant mothers from our rural areas and small communities must often travel an extra 100 to 150 miles for care.

The time has come to stop debating whether there is a medical liability problem. It is time to admit that medical liability has had a decidedly negative impact on Americans' access to quality health care. Instead, we must move forward to enact solutions.

In the past, I believed that medical liability reform should be addressed by the States. Today, however, the Federal Government pays between 40 and 50 percent of the health care costs in this country. The taxpayers deserve our attention to this major cause of rising health care costs. If we could save just part of the resources that are wasted because of the medical liability problem, we could begin to remedy this country's health care access problem without raising taxes, mandating health insurance, or adopting other forms of national health insurance that would limit individual choices.

Last June, I introduced the Comprehensive and Uniform Remedy for the Health Care System Act of 1989, the CURE bill, as part 1 of a comprehensive legislative package which will reform our health care system. Today, I am pleased to introduce another part of this package, "Ensuring Access Through Medical Liability Reform Act." In brief, this legislation does the following:

Provides protection for patients by strengthening the activities of State licensing and disciplinary agencies. When a health care provider is negligent, quick remedial and punitative action must occur.

Enhances the quality of health care by improving State programs for educating health professionals and the public about medical injury prevention and the appropriate use of the health care system.

Provides for medical liability reforms including mandatory periodic payment of future awards, limits on awards for noneconomic damage, reducing awards by the amount of compensation from collateral sources, and limiting attorneys' contingency fees;

Provides funds for State alternative dispute resolution demonstration projects such as fault-based, no-fault, or binding arbitration systems; and,

Provides malpractice insurance relief for migrant and community health centers by establishing a national risk retention group.

This legislation was developed with the help of a broad coalition representing health care provider organizations, the business community, health insurers, and other groups. This coalition came together at my request, and I am grateful to them for their efforts. Their expertise, time, and support were invaluable. I have asked several representatives of the coalition to speak this morning about the problems of access to health care and medical liability and to be available to answer your questions.

I do not want to protect those who commit malpractice. I am not interested in providing a screen for incompetent doctors to hide behind. But to me, the bottomline of this legislation is that no child, no pregnant woman, no accident victim, and no senior citizen should be denied health care merely because we have not found a way to protect honest and skilled health care professionals from the threat of malpractice.

Today, medical liability is rooting out good practitioners and driving up costs for everyone. It is adversely affecting Americans' access to quality and affordable health care. The measure I am introducing is important because it restores the balance between the need to provide civil recourse for consumers with the increasing need to get a handle on the unnecessary and wasteful costs of defensive medicine and to ensure access to health care for all Americans.

I hope my colleagues will join me in cosponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill and a copy of the summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Ensuring Access Through Medical Liability Reform Act."

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that:

(1) In recent years, there has been increasing and widespread public and professional concern about the problems associated with health care malpractice actions and health care negligence. Such concern has focussed primarily on the issues of—

(A) the reduction in access of patients to quality health care as a result of these problems;

(B) the increasing portion of health care costs attributable to defensive health care practices and the costs of health care liability insurance premiums;

(C) the ability of health care professionals to continue to practice in high risk areas of health care treatment;

(D) the inefficiency of the civil judicial system in providing access to the courts and fair compensation for individuals injured by health care negligence and in deterring such negligence; and

(E) the inefficiency of State disciplinary systems in restricting the activities of health care professionals who endanger patient safety.

(2) All health care consumers are adversely affected, directly or indirectly, by the effect that the problems associated with health care malpractice actions and health care negligence have on the availability and affordability of health care services.

(3) Regardless of whether the solution to the problems associated with health care malpractice actions and health care negligence is the responsibility of public or private sectors, or a combination of these, the Federal Government has a major interest in these problems as a direct provider of health care to many Americans through the Public Health Service, and as a source of payment for the health care of a much larger number of Americans through Medicare, Medicaid and other programs.

(4) Health care liability issues have created tensions among the professions of law and medicine, the insurance industry, and consumers of health care services, and these tensions have impeded the development and implementation of solutions.

(5) The civil judicial system is a costly and inefficient mechanism for resolving claims of health care negligence and compensating injured patients. A disproportionately large percentage of dollars spent to compensate patients for health care negligence is distributed to a few patients, while adequate compensation is not provided to most patients injured by health care negligence. In addition, far too little of the amounts paid by health care professionals and health care providers for liability insurance premiums is received by injured patients.

(6) California's reform of medical liability tort law has demonstrated that modification of existing tort law governing health care malpractice actions can bring stability and predictability with respect to the size of awards and slow the increase of health care liability insurance premiums.

(7) The Department of Health and Human Services' 1987 Task Force on Medical Liability and Malpractice was correct in recommending that the Federal Government and State governments explore, through research and demonstration projects, alternative dispute resolution mechanisms that have the potential for resolving health care negligence claims more fairly and cost-effectively than the current civil judicial system, for promoting patient safety, and for deterring health care negligence.

(8) A variety of proposals to solve the problems of health care liability and health care negligence can be implemented, studied and evaluated by using the States as laboratories in which to develop and explore various alternative dispute resolution systems.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the quality of health care through the deterrence of avoidable injuries and the detection of health care providers and health care professionals who commit health care negligence or otherwise endanger patient safety;

(2) improve the availability of health care services in cases in which health care malpractice actions have been shown to be a major factor in the decreased availability of services;

(3) expeditiously identify patients eligible to receive compensation for injuries and deliver such compensation more quickly and more efficiently than the civil judicial system; and

(4) improve the fairness and cost-effectiveness of the State system to resolve disputes over, and provide compensation for, health care negligence by reducing uncertainty and unpredictability in the amount of compensation provided to injured individuals.

DEFINITIONS

SEC. 3. For purpose of this Act:

(1) The term "alternative dispute resolution system" means a system which—

(A) is enacted or adopted by a State to resolve disputes involving health care negligence other than through a health care malpractice action;

(B) applies to one or more types of injuries resulting from health care negligence;

(C) applies to one or more political subdivisions of a State or to the entire State; and

(D) which meets the requirements of subsection (b), (c), (d), (e) or (f) of section 6.

(2) The term "economic losses" means losses for hospital and medical expenses, lost wages, lost employment, and other pecuniary losses incurred by an individual as a result of health care negligence.

(3) The term "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State.

(4) The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) The term "health care malpractice action" means a civil action brought against a health care provider or health care professional alleging that an injury was suffered by the plaintiff as the result of health care negligence.

(6) The term "injury" means an injury, illness, disease, or other harm suffered by an individual as a result of the provision of health care services by a health care provider or health care professional.

(7) The term "health care negligence" means an act or omission by a health care provider or a health care professional which deviates from the applicable State standard of care and causes an injury.

(8) The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, and other nonpecuniary losses incurred by an individual as a result of health care negligence.

(9) The term "Secretary" means the Secretary of Health and Human Services.

(10) The term "State" means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

DEVELOPMENT GRANTS

SEC. 4. (a) IN GENERAL.—The Secretary shall make grants to States for the development of alternative dispute resolution systems. A grant made under this section shall be used by a State to develop such a system

and to engage in activities to accomplish the enactment or adoption of the system.

(b) APPLICATION.—No grant may be made under this section unless an application is submitted to the Secretary. Any such application shall—

(1) be submitted to the Secretary within 365 days after the date of enactment of this Act;

(2) contain assurances that the State intends to obtain enactment or adoption of an alternative dispute resolution system in order to qualify for incentive grants under section 5; and

(3) contain such other information, be in such form, and be submitted in such manner, as the Secretary may prescribe.

(c) AMOUNT OF GRANT.—

(1) The amount of a grant under this section to a State shall be in such amount as the Secretary determines to be sufficient based upon the application to develop the alternative dispute resolution system which is the subject of the application, except as provided in paragraph (2).

(2) Notwithstanding paragraph (1)—

(A) the amount of a grant under this section to a State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) shall not exceed $250,000; and

(B) the amount of a grant under this section to the Commonwealth of Puerto Rico, Guam, or the Virgin Islands shall not exceed $150,000.

(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States in planning and carrying out activities relating to grants under this section.

INCENTIVE GRANTS

SEC. 5. (a) IN GENERAL.—The Secretary shall make grants to States for the implementation of alternative dispute resolution systems. A grant received by a State under this section shall be used by the State to implement and evaluate the effectiveness of such a system.

(b) APPLICATION.—No grant may be made under this section unless an application is submitted to the Secretary. Any such application shall—

(1) be submitted to the Secretary within three years after the date of enactment of this Act;

(2) contain a certification by the chief executive officer of the State that, on the date the application is submitted, the State has enacted, adopted, or otherwise has in effect an alternative dispute resolution system;

(3) be accompanied by documentation to support the certification required by paragraph (2), including copies of relevant State statutes, rules, procedures, regulations, judicial decisions, and opinions of the State attorney general;

(4) contain a proposal for the time period for which the grant will be made and for which the provisions of subsection (e) will apply to the grant;

(5) contain a plan for the evaluation of the alternative dispute resolution system, which shall include—

(A) a statement of the objectives of such system;

(B) an identification of performance and outcome indicators related to such objectives;

(C) a description of accounting and recordkeeping procedures designed to collect data on the alternative dispute resolution system which are related to such indicators;

(D) a description of the manner in which the evaluation will determine whether the alternative dispute resolution system achieves one or more of the purposes of this Act described in section 2(b);

(E) an estimate of the costs of the evaluation; and

(F) a time frame for the completion of the evaluation; and

(6) contain such other information, be in such form, and be submitted in such manner, as the Secretary may require.

(c) REVIEW OF APPLICATIONS.—

(1) Within 90 days after receiving an application under subsection (b), the Secretary shall review the application and determine whether the application demonstrates that the State has enacted, adopted, or otherwise has in effect an alternative dispute resolution system. If the Secretary determines that the application makes such a demonstration, the Secretary shall approve the application. In approving an application under this section, the Secretary shall determine the time period for which the grant is made and for which the provisions of subsection (e) shall apply to such grant.

(2) If, after revising an application under paragraph (1), the Secretary determines that the application does not make the demonstration required under such paragraph, the Secretary shall, within 15 days after making such determination, provide the State which submitted such application with a written notice which specifies such determination and which contains recommendations for revisions which would cause the application of the State to be approved.

(d) GRANT AMOUNT.—

(1) Within 30 days after approving an application of a State under subsection (c), the Secretary shall pay to the State a grant in the amount determined under paragraph (2) or (3), as the case may be.

(2) The amount of a grant under this section to a State shall be 75 percent of an amount which the Secretary finds reasonable and necessary for the implementation and evaluation of the alternative dispute resolution system of the State, except as provided in paragraph (3).

(3) Notwithstanding paragraph (2)—

(A) the amount of a grant under this section to a State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) shall not exceed $10,000,000; and

(B) the amount of a grant under this section to the Commonwealth of Puerto Rico, Guam, or the Virgin Islands shall not exceed $2,000,000.

(e) NONCOMPLIANCE.—If, during the time period determined by the Secretary under subsection (c)(1) that this subsection applies to an application approved under this section, the Secretary determines that the State does not have in effect the alternative dispute resolution system for which the application was approved, the Secretary shall provide the State with written notice of such determination. Such notice shall specify—

(1) the reasons for the determination of the Secretary;

(2) that the Secretary shall require the State, within 60 days after receipt of such notice, to return all funds provided to the State under the grant which have not been expended by the State at the time such notice is received unless the State—

(A) takes such corrective action as may be necessary to ensure that such alternative dispute resolution system is in effect in the State; or

(B) requests a hearing under paragraph (3); and

(3) that the State may request a hearing on the record before an administrative law judge under section 554 of title 5, United States Code, concerning the allegations set forth in the notice.

ALTERNATIVE DISPUTE RESOLUTION SYSTEMS

SEC. 6. (a) IN GENERAL.—An alternative dispute resolution system shall meet the requirements of subsection (b), (c), (d), (e), or (f).

(b) FAULT-BASED ADMINISTRATIVE SYSTEMS.—

(1) A State may establish an administrative process within the State government for the resolution of disputes concerning health care negligence. In lieu of filing a health care malpractice action, an injured individual (or the parent or guardian of such an individual) shall be required to file a health care negligence claim with the State administrative process. The process shall provide for the dismissal of nonmeritorious health care negligence claims and shall provide for the award of damages when an injury is found to have been caused by health care negligence.

(2) The administrative process shall provide for—

(A) an expedited review of all health care negligence claims filed;

(B) a procedure for early dismissal of health care negligence claims when the expedited review process does not support a finding of possible liability;

(C) the opportunity for claim investigation and a meaningful hearing on claims with possible merit before an administrative officer or panel; and

(D) the opportunity for appellate review of the administrative decision within the administrative process.

(3) The State shall provide that judicial review of the final administrative decision on a health care negligence claim is limited to avoid duplication of the administrative process in the courts. The State shall provide that—

(A) judicial review of the final administrative decision may not extend to de novo consideration of the underlying facts of a health care negligence claim resolved in the administrative process; and

(B) if a court determines that an issue of fact requires resolution, the court must remand to the State agency which conducted the administrative process for resolution of the issue.

(4) The State shall provide that the administrative process include a simplified process for filing health care negligence claims. The State shall guarantee access to the process and legal representation for all individuals with nonfrivolous claims, regardless of the economic resources of the individual or the monetary value of the individual's alleged claim.

(5) The State shall establish procedures—

(A) to ensure that the administrative process is coordinated with or monitored by the health care provider and health care professional licensing and disciplinary authorities of the State; and

(B) for the routine referral to such authorities of findings and decisions of the administrative process that indicate that health care negligence occurred.

(6) The State shall provide that under the administrative process, payment is made for economic losses and noneconomic losses. Payment for noneconomic losses shall be calculated using a formula or guidelines established by the State. Section 9(a) of this Act or such other reform provisions that accomplish the same results shall apply to health care negligence claims resolved

through the administrative process. The State shall establish programs offering legal assistance to persons with meritorious claims, in order to assure access to affordable legal representation in the administrative process.

(7) The State shall empower any administrative hearing officer or panel used in the administrative process to call independent experts not retained by a party to give evidence. The State shall provide that if called, experts are subject to cross-examination by all parties.

(c) DEFINED CATASTROPHIC INJURY COMPENSATION SYSTEMS.—

(1) A State may provide a system under which the State establishes a compensation fund to compensate all individuals who incur a certain injury (as defined by the State) in the course of receiving health care services. The State shall provide that if an individual incurs such an injury, the individual may only receive compensation for such injury by filing a claim with the State for compensation from such fund, and that such individual may not file a health care malpractice action in any State or Federal court for damages resulting from such injury.

(2) The State shall establish procedures for an individual to file a compensation claim for the defined injury. No payment may be made from the fund for an individual unless such individual (or the patent or guardian of such individual) complies with such procedures.

(3) The State shall ensure that such procedures allow an individual to file and pursue a claim without the assistance of counsel or to retain counsel if the individual chooses. Final determinations on a claim shall be made within 6 months after the date on which the claim is filed.

(4) The State shall provide compensation payments from the compensation fund for economic losses. Section 9(a)(3) shall apply to payments for economic losses from the compensation fund. The State shall pay for future economic losses as such losses are incurred. The State may elect to pay injured individuals for noneconomic losses from the compensation fund according to a schedule established by the State.

(5) The State may require that funding for the compensation fund be paid by health care providers and professionals that engage in the health care treatment or procedure which results in the injury covered by the fund. The State may establish requirements for additional sources of payments into the fund, including patient contributions or contributions made by employees covered by health care insurance plans. The State shall establish procedures for employers to pay for contributions of employees, if appropriate.

(6) The State shall establish a quality review mechanism to review claims filed with the fund and identify instances of health care negligence. The State shall provide for the routine referral by the quality review mechanism to health care provider and health care professional licensing and disciplinary authorities of the State of findings that indicate that health care negligence occurred.

(d) EARLY OFFER AND RECOVERY MECHANISM.—

(1) The State may establish a system under which health care providers and professionals have the option to offer, within a specified time period after an injury or, in certain circumstances determined by the State, after the initiation of a health care malpractice action, to compensate an individual for economic losses, in accordance with this subsection.

(2) Under such a system, the offer may include other health care providers or professionals who were involved in the provision of health care services, with their consent. The State shall provide that the participants use arbitration to determine their relative contribution to payments made to the individual.

(3) Section 9(a)(3) shall apply to the determination of an individual's economic losses for purposes of the system established under paragraph (1). Future economic losses shall be payable to the individual as they occur.

(4) The State shall provide that, if after receiving an offer under this subsection, the individual alleging an injury disputes the amount of the economic losses for which the offerors propose to provide compensation, the dispute over the amount at such offer shall be resolved by binding arbitration in accordance with rules and procedures established by the State.

(5)(A) If an individual—

(i) receives an offer under this subsection;

(ii) rejects such offer after all issues with respect to the amount of economic losses suffered by such person have been resolved under paragraph (4) or refuses to participate in arbitration under such paragraph; and

(iii) initiates a health care malpractice action against one or more persons who made such offer, the provisions of subparagraph (B) shall apply to such health care malpractice action.

(B) In any health care malpractice action to which subparagraph (A) applies—

(i) the plaintiff may only prevail if the plaintiff has proven each element of his case beyond a reasonable doubt;

(ii) with respect to claims of negligence, the plaintiff must establish that a defendant was grossly negligent; and

(iii) the amount of damages for noneconomic losses which a plaintiff may recover with respect to an injury shall not exceed $150,000.

(e) BINDING ARBITRATION.—

(1) The State may establish a system under which, prior to treatment, health care providers and professionals offer their patients an opportunity to enter into an agreement to arbitrate any claim of health care negligence.

(2) The State shall provide that an individual's consent to an agreement to arbitrate is not a prerequisite to the provision of health care services. The State shall provide that this subsection does not apply to a contract for binding arbitration between a health care entity which agrees to provide comprehensive medical care to voluntary enrolled patients for a predetermined annual fee and its patients or members.

(3) The State shall provide that an arbitration agreement may be revoked by the patient within fifteen days after the date on which the patient signs the agreement, except that the patient may not revoke the agreement after the health care services were provided. The health care provider or professional may not revoke the agreement to arbitrate. The agreement shall be binding as to any cause of action that accrues prior to revocation of the agreement. The State shall provide that this subsection does not apply to a contract for binding arbitration between a health care entity which agrees to provide comprehensive medical care to voluntarily enrolled patients for a predetermined annual fee and its patients or members.

(4) The State shall provide that a health care malpractice action cannot be brought with respect to an alleged injury if an arbitration agreement under this subsection with respect to such injury is in effect at the time of such injury. Section 9(a) of this Act shall apply to health care negligence claims resolved through an arbitration process.

(5) The State shall provide that any arbitration agreement entered into under this subsection must include, in boldfaced print, a notice that—

(A) by signing the agreement, the patient is giving up the patient's right to the initiation or hearing of a health care malpractice action;

(B) the patient may revoke the arbitration agreement within 15 days after the date on which the patient signs the agreement, except that the patient may not revoke the agreement after health care services are provided; and

(C) signature of the agreement by the patient cannot be required by the health care provider or health care professional as a prerequisite to the provision of health care services. The State shall provide that this subparagraph does not apply to a contract for binding arbitration between a health care entity which agrees to provide comprehensive medical care to voluntarily enrolled patients for a predetermined annual fee and its patients or members.

(6) The State shall provide that an arbitration panel consist of three arbiters. One arbiter shall be chosen by the individual alleging a claim of health care negligence. One arbiter shall be chosen jointly by all health care providers and health care professionals who are parties to the agreement to arbitrate. The third arbiter, who shall chair the panel, shall be chosen by the other two arbiters.

(7) Appeal of the decision of the arbitration panel shall be pursuant to the rules and procedures of chapter 1 of title 9, United States Code.

(f) STATE INITIATED ALTERNATIVE.—The Secretary may approve an application for a grant under section 4 or section 5 for an alternative dispute resolution system proposed by a State which does not meet the requirements of subsection (b), (c), (d), or (e), if the Secretary determines such system would accomplish the purposes of this Act described in paragraphs (1) through (4) of section 2(b) and meets the requirements of Section 9(a).

RESEARCH GRANTS

SEC. 7. (a) IN GENERAL.—The Secretary shall make grants to States and private nonprofit organizations for the conduct of basic research in the prevention of a compensation for injuries resulting from health care professional or health care provider negligence. In making such grants, the Secretary shall give particular consideration to applications for research on the behavior of health care providers, health care professionals, and other participants in systems for compensating individuals injured by health care negligence, the effects of financial and other incentives on such behavior, the determinants of compensation system outcomes, and the costs and benefits of alternative compensation policy options.

(b) APPLICATION.—No grant may be made under this section unless an application is submitted to the Secretary at such time, in such form, in such manner, and containing

such information as the Secretary may require.

DISCIPLINARY AND EDUCATIONAL GRANTS

SEC. 8. (a) DISCIPLINE.—The Secretary shall make grants to States to assist States in improving the State's ability to license and discipline health care professionals. Grants awarded under this subsection may be used to develop and implement improved mechanisms for monitoring the practices of health care professionals or for conducting disciplinary activities.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States to assist them in evaluating their medical practice acts and procedures and to encourage the use of efficient and effective early warning systems and other mechanisms for detecting practices which endanger patient safety and for disciplining health care professionals.

(c) EDUCATION.—The Secretary shall make grants to States, local governments, and private nonprofit organizations for—

(1) educating the general public about the appropriate use of health care and realistic expectations of medical intervention;

(2) educating the public about the resources and role of health care professional licensing and disciplinary boards in investigating claims of incompetence or health care negligence; and

(3) developing programs of faculty training and curricula for educating health care professionals in quality assurance, risk management, and medical injury prevention.

(d) APPLICATIONS.—No grant may be made under subsection (a) or (c) unless an application is submitted to the Secretary at such time, in such form, in such manner, and containing such information as the Secretary shall require.

FEDERAL REFORMS

SEC. 9. (a) CIVIL ACTIONS.—

(1) This subsection shall govern any health care malpractice action brought in any Federal or State court.

(2) No person may be required to pay for future damages exceeding $100,000 in a single payment, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of when damages are likely to occur.

(3)(A) The total amount of damages received by an individual shall be reduced, in accordance with subparagraph (B), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(i) Federal or State disability or sickness programs;

(ii) Federal, State, or private health insurance programs;

(iii) private disability insurance programs;

(iv) employer wage continuation programs; and

(v) any other source of payment intended to compensate such individual for such injury.

(B) The amount by which an award of damages to an individual for an injury shall be reduced under subparagraph (A) shall be—

(i) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury, minus

(ii) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in clause (i).

(4) The total amount of damages which may be awarded to an individual and the family members of such individual for past and future noneconomic losses resulting from an injury may not exceed $250,000, regardless of the number of health care professionals and health care providers against which such individual or family members bring one or more health care malpractice actions.

(5) Attorneys' fees shall not exceed 50 percent of the first $50,000 of any award or settlement, 33.33 percent of the next $50,000, 25 percent of the next $100,000, and 10 percent of any additional amounts in excess of $200,000.

(6)(A) The relevant statute of limitations shall begin to run at the time of the alleged health care negligence which is the basis for a health care malpractice action, except as provided in subparagraph (B).

(B) In the case of a minor, the relevant statute of limitations shall begin to run on the later of—

(i) the date on which the alleged health care negligence occurred; or

(ii) the date on which the minor attains six years of age.

(b) DISCIPLINARY REFORMS.—Each State shall allocate the total amount of fees paid to the State in each year for the licensing or certification of each type of health care professional, or an amount of State funds equal to such total amount, to the State agency or agencies responsible for the conduct of disciplinary actions with respect to such type of health care professional.

(c) PROVIDER RISK MANAGEMENT.—Each State shall require each health care provider in a State which—

(1) directly receives funds under any Federal law, regulation, or program; or

(2) receives Federal funds for or on behalf of an individual in payment for services rendered to such individual, to have in effect a risk management program to prevent and provide early warning of practices which may result in injuries to patients or which otherwise may endanger patient safety.

(d) INSURER RISK MANAGEMENT.—Each State shall require each company which provides health care professional liability insurance to health care professionals in the State to—

(1) establish risk management programs based on data available to such company or sanction programs of risk management for health care professionals provided by other entities; and

(2) require each such professional, as a condition of maintaining insurance, to participate in one program described in paragraph (1) at least once in each three-year period.

(e) ROLE OF PROFESSIONAL SOCIETIES.—

(1) Each State shall authorize the State agency responsible for the conduct of disciplinary actions for a type of health care professional to enter into agreements with State or county professional societies of such type of health care professional to permit the review by such societies of any health care malpractice action, health care negligence claim or allegation, or other information concerning the practice patterns of any such health care professional. Any such agreement shall comply with paragraph (2).

(2) Any agreement entered into under paragraph (1) for the review of any health care malpractice action, health care negligence claim or allegation, or other information concerning the practice patterns of a health care professional shall—

(A) provide that the health care professional society conduct such review as expeditiously as possible;

(B) provide that after the completion of such review, such society shall report its findings to the State agency with which it entered into such agreement and shall take such other action as such society considers appropriate; and

(C) provide that the conduct of such review and the reporting of such findings be conducted in a manner which assures the preservation of confidentiality of health care information and of the review process.

(3) The State shall provide that any activity conducted pursuant to an agreement under this subsection shall not be grounds for any civil or criminal action under the antitrust laws of the State or for any other civil action under the laws of the State.

(4) Notwithstanding any other provision of Federal law, any activity conducted pursuant to an agreement under this subsection shall not be grounds for any civil or criminal action under Federal antitrust laws, as defined in the first section of the Clayton Act and in section 4 of the Federal Trade Commission Act.

(f) REPORT.—The Secretary shall monitor the effects of the reforms required under this section and report to Congress within 3 years after the date of enactment of this Act on the effect of such reforms on—

(1) access to health care;

(2) the costs of health care;

(3) the number of health care malpractice actions filed in the United States;

(4) the number of health care negligence claims or disputes resolved through alternative dispute resolution systems; and

(5) the length of time for individuals injured by health care negligence to receive compensation for their injuries.

(g) COMPLIANCE.—

(1) If the Secretary determines that, at any time, a State is not in compliance with the provisions of subsections (b) through (e), the Secretary shall, after adequate notice and an opportunity for hearing, withhold all funds which the State would receive or be eligible to receive under the Public Health Service Act. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State is in compliance with subsections (b) through (e). Investigations, required by this paragraph shall be conducted within the State by qualified investigators.

(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious manner that a State has filed to comply with subsections (b) through (e).

(4) The Secretary may not withhold funds under paragraph (1) for a minor failure to comply with subsections (b) through (e).

(h) PREEMPTION.—

(1) Subsection (a) supersedes any State law regarding recovery for injury resulting from health care negligence only to the extent that State law establishes a rule of law applicable to any such recovery which is less stringent than the rule esablished by subsection (a). Any issue arising under subsection (a) that is not governed by any such rule of law shall be governed by applicable

State or Federal law. Subsection (a) shall not supersede the provisions of any State or Federal law which are more stringent than the provisions of such subsection.

(2) Nothing in subsection (a) shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States.

(C) affect the applicability of any provision of Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

(3) Subsection (a) shall be construed and applied after consideration of its legislative history to promote unformity of law in the various jurisdictions.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) AMOUNT AND METHOD OF PAYMENT.—

(1) The Secretary shall determine the amount of a grant under this Act, in accordance with the provisions of this Act.

(2) Payments under grants awarded under this Act may be made in advance, on the basis of estimates, or by way of reimbursement, with necessary adjustment because of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary determines necessary to carry out the purposes of such grants.

(b) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL—

(1) The Secretary, at the request of a recipient of a grant under this Act, may reduce the amount of such a grant by—

(A) the fair market value of any supplies or equipment furnished to the recipient by the Secretary;

(B) the amount of pay, allowances, and travel expenses incurred by any officer or employee of the Federal government when such officer or employee has been detailed to the recipient; and

(C) the amount of any other costs incurred in connection with the detail of an officer or employee as described in subparagraph (B).

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience, and at the request, of such recipient and for the purpose of carrying out activities under the grant.

(2) The amount by which any grant awarded under this Act is reduced under this subsection shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be considered as part of the grant that has been to the recipient.

(c) RECORDS.—Each recipient of a grant under this Act shall keep such records as the Secretary determines appropriate, including records that fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such grant;

(2) the total cost of the activity for which such grant was made;

(3) the amount of the cost of the activity for which such grant was made that has been received from other sources; and

(4) such other records as will facilitiate an effective audit.

(d) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books; documents, papers, and records of the recipient of a grant under this Act, for the purpose of conducting audits and examinations of such recipient that are pertinent to such grant.

(e) MAINTENANCE OF EFFORT.—Each recipient of a grant under this Act shall use the Federal funds made available under such grant to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this Act. In no event shall a recipient of Federal funds under a grant under this Act use such Federal funds to supplant such State, local, and other non-Federal funds.

REPORTS ON GRANT PROGRAMS

SEC. 11. (a) STATE REPORTS.—Within two years after the date of enactment of this Act, and every two years thereafter, each State which receives a grant this Act during any such two-year period shall prepare and transmit to the Secretary a report which describes—

(1) the alternative dispute resolution system adopted or in effect in the State;

(2) the activities conducted by the State with any grants received under sections 4, 5, 7 or 8 during the preceding two year period;

(3) information to enable the secretary to report on the matters described in paragraphs (1) through (5) of section 9(f); and

(4) any current problems in the State with respect to health care provider or health care professional malpractice actions or health care provider or health care professional liability insurance.

(b) SECRETARIAL REPORTS.—Within 30 months after the date of enactment of this Act, and every two years thereafter, the Secretary shall prepare and transmit to the Congress a report which summarizes the information submitted to the Secretary in the most recent reports of the States under subsection (a).

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) DEVELOPMENT GRANTS.—For grants under section 4 there are authorized to be appropriated $5,000,000 for fiscal year 1991.

(b) INCENTIVE GRANTS.—

(1) For grants under section 5, there are authorized to be appropriated a total of $200,000,000 for fiscal years 1991 and 1992. Amounts appropriated under this subsection shall remain available from October 1, 1990, to September 30, 1994.

(2) For grants under section 5, there are authorized to be appropriated $75,000,000 for fiscal year 1993. Amounts appropriated under this subsection shall remain available from October 1, 1993, to September 30, 1995.

(c) RESEARCH GRANTS.—For grants under section 7, there are authorized to be appropriated a total of $10,000,000 for fiscal years 1991, 1992, and 1993.

(d) DISCIPLINARY GRANTS.—For grants under section 8, there are authorized to be appropriated a total of $20,000,000 for fiscal years 1991, 1992 and 1993.

COMMUNITY AND MIGRANT HEALTH CENTERS RISK RETENTION GROUP

SEC. 13. (a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new section:

"SEC. 330A. RISK RETENTION GROUP.

"(a) GRANT.—The Secretary shall make a grant to an entity that represents recipients of assistance under section 329 and 330 to enable such entity to develop a business plan as described in subsection (b)(2) and establish a nationwide risk retention group as provided for in Liability Risk Retention Act of 1986 (15 U.S.C. 3901 et seq.), and that meets the requirements of this section.

"(b) BUSINESS PLAN AND FORMATION.—

"(1) DEVELOPMENT AND ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than September 30, 1991, the grantee shall develop a business plan as described in paragraph (2) and have established a risk retention group that meets the requirements of section 2(4) of the Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901(2)(4)).

"(B) ESTABLISHMENT.—In establishing the risk retention group under subparagraph (A), the grantee shall take all steps, in accordance with this subsection, necessary to enable such group to be prepared to issue insurance policies under this section.

"(2) BUSINESS PLAN.—The grantee shall develop a plan for the operation of the risk retention group that shall include all actuarial reports and studies conducted with respect to the formation, capitalization, and operations of the group.

"(3) STRUCTURE, RIGHTS, AND DUTIES OF THE RISK RETENTION GROUP.—

"(A) BOARD OF DIRECTORS.—

"(i) APPOINTMENT.—The board of directors of the risk retention group shall consist of 12 members to be appointed by the recipient of the grant under subsection (a), and approved as provided in clause (ii).

"(ii) APPROVAL.—The initial members appointed under clause (i) shall be approved by the Secretary, and shall serve for a term as provided in clause (iii). All subsequent members shall be subject to the approval of the members of the risk retention group.

"(iii) TERMS.—The recipient of the grant under subsection (a) shall appoint the members of the board under clause (i) as follows:

"(I) Four members shall be appointed for an initial term of 1 year.

"(II) Four members shall be appointed for an initial term of 2 years.

"(III) Four members shall be appointed for an initial term of 3 years.

Members serving terms other than initial terms shall serve for 3 years. Members may serve successive terms.

"(iv) EXECUTIVE DIRECTOR.—The Executive Director of the board shall be elected by the members of the board, and shall serve at the pleasure of such members.

"(v) VACANCIES.—Vacancies on the board shall be filled through a vote of the remaining members of the board, subject to the approval of the members of the risk retention group.

"(B) BYLAWS.—The board shall develop the bylaws of the risk retention group that shall be subject to the disapproval of the Secretary. Any changes that the board desires to make in such bylaws shall be subject to the disapproval of the Secretary. The Secretary shall provide the board with 90 days notice of the Secretary's intent to disapprove a bylaw.

"(C) ADMINISTRATION.—The risk retention group may negotiate with other entities for the purposes of managing and administering the risk retention group, and for purposes of obtaining reinsurance.

"(D) PROVISION OF INSURANCE.—The risk retention group shall provide professional liability insurance, and other types of profitable insurance approved for issuance by the Secretary, to migrant and community health centers that receive assistance under sections 329 and 330 and that meet the requirements of subparagraph (E).

"(E) PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), all community and migrant health centers that receive assistance under section 329 and 330 shall become members in the risk retention group established under this section and shall purchase the professional liability insurance that is offered by such group for such centers and any health care staff or personnel employed by such centers or under contract with such centers. All professional staff members of such centers shall be eligible to obtain the insurance offered by such group.

"(ii) EXCEPTIONS.—

"(I) GOOD CAUSE.—The Secretary may, on a showing of good cause by the center, exempt such center from the requirements of clause (i).

"(II) FAILURE TO MEET CONDITIONS.—If the risk retention group determines that a center is not complying with the established underwriting standards, such group may decline to provide insurance to such center. The risk retention group shall provide a center with 60 days notice of a decision by the group not to provide insurance to such center.

"(III) HEARING.—Prior to the Secretary granting an exemption or severance as requested in an application submitted under subclause (I), the Secretary shall require that the applicant provide evidence concerning its application and shall afford the risk retention group an opportunity to address the allegations contained in such application. The Secretary may grant the center temporary relief under this subparagraph without a hearing in emergency situations.

"(F) APPLICABILITY OF INSURANCE TO CLAIMS.—Insurance provided by the risk retention group under this section shall apply to all claims filed against a covered community or migrant health center after the initiation of insurance coverage by the risk retention group, including acts that occur prior to coverage under this section that are not covered by other insurance.

"(c) SUBMISSION OF BUSINESS PLAN TO OUTSIDE EXPERTS.—After the development of the business plan and the establishment of the risk retention group as required under subsection (b), the risk retention group shall enter into a contract with individuals or entities who are insurance, financing, and business experts to require such individuals or entities to analyze and audit the group. Such individuals and entities shall provide the group with an evaluation of such plan and group.

"(d) SUBMISSION OF PLAN AND EVALUATION.—

"(1) IN GENERAL.—The risk retention group shall submit to the Secretary the business plan required under subsection (b) and the evaluation completed under subsection (c) to the Secretary.

"(2) DETERMINATION BY SECRETARY.—Not later than September 30, 1990, the Secretary shall make a determination, based on the plan and evaluation submitted under paragraph (1), of whether the operation of the risk retention group would result in an increase in the amount of funds available for use by community and migrant health centers and other entities that receive assistance under sections 329 and 330 in the 2-year period ending on September 30, 1992.

"(3) IMPLEMENTATION.—If the Secretary makes an affirmative determination under paragraph (1), the Secretary shall permit the implementation of the plan and the operation of the risk retention group as provided for in this section, and shall capitalize such group as provided for in subsection (e)(2).

"(e) FUNDING.

"(1) GRANT.—There are authorized to be appropriated to make a grant under subsection (a), $1,000,000 for fiscal year 1991.

"(2) CAPITALIZATION.—There are authorized to be appropriated for fiscal years 1991 and 1992 such sums as may be necessary to provide adequate capitalization to the risk retention group. Amounts appropriated under this paragraph may only be made available if the Secretary makes an affirmative determination under subsection (D)(2).

"(3) REMAINING ASSETS.—All assets of the risk retention group that remain after the dissolution of such group shall become the property of the Secretary who shall use such assets to pay the remaining expenses of the group."

(b) CONFORMING AMENDMENTS.—

(1) Section 329(h)(1)(A) of such Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking out "1991" and inserting in lieu thereof "1992".

(21) Section 330(g)(2)(A) of such act (42 U.S.C. 254b(h)(1)(A)) is amended by inserting ", and such sums as may be necessary for fiscal year 1991" after "1991".

ENSURING ACCESS THROUGH MEDICAL LIABILITY REFORM ACT—SENATOR ORRIN G. HATCH

PURPOSES

To encourage States to improve their systems for promptly and cost effectively compensating individuals injured in the course of medical treatment.

To improve the efficiency of State government disciplinary systems in detecting and restricting health care professionals who endanger patient safety.

To require comprehensive medical quality assurance and risk management initiatives among health care providers that will assist in preventing avoidable patient injuries.

To establish guidelines for bringing health care malpractice actions and awarding damages.

To establish a risk retention program that will make medical liability insurance available at affordable rates to community and migrant health care centers.

ALTERNATIVE DISPUTE RESOLUTION SYSTEM GRANTS

This legislation would provide grants to States to encourage them to implement innovative systems for compensating individuals who are injured while undergoing medical care. States would receive grants to develop demonstration projects that establish alternative dispute resolution systems for handling medical liability claims. The bill would authorize $5 million for this purpose in FY 1991. In addition, States would receive grants to implement and evaluate the systems put in place: $200 million for FY 1991 and FY 1992, and $75 million for FY 1993.

The following programs would qualify for demonstration grant funding under the bill:

1. Fault-based Administrative Systems

A State would establish an administrative process that would have exclusive jurisdiction to review medical liability claims. A simplified procedure for filing health care negligence claims would be implemented to promote access to legal process for all patients with meritorious claims. The process would provide for expedited examination of claims, investigation and hearing, and appellate review before an agency panel. Judicial review of the final administrative decision would be limited.

The agency resolving health care negligence claims would be obligated to coordinate with State licensing and disciplinary authorities to establish early identification systems for those persons and practices that may be endangering patient safety. Full payment for all out-of-pocket damages would be made available to patients injured by health care negligence, but pain and suffering and other non-economic damages would be limited.

2. Defined Injury Catastrophic Injury Compensation Systems

A State would establish a compensation fund to compensate all individuals who were injured in the course of receiving health care services, regardless of whether the provider or professional was negligent. Persons compensated by this fund would not be allowed to seek additional compensation in the courts. The claims filing procedure would permit a claimant the option to file and pursue a claim without the assistance of counsel, although counsel could be retained if desired. A final determination on a claim would be required within six months after the claim was filed. Compensation payments would be made for economic losses according to a schedule of benefits. A State could elect to compensate for pain and suffering or other non-economic losses as well.

Funding for the compensation fund would come from all physicians and other health care professionals licensed in the State, as well as hospitals that participate in the medical treatment covered by the fund.

3. Early Offer and Recovery Mechanisms

A State would establish a system under which health care providers had the option to offer to compensate a claimant for all economic losses before a health care malpractice action is pursued. Disputes about the extent or value of economic losses would be resolved by arbitration. If the claimant rejects the offer and pursues legal action in the courts, potential noneconomic damages will be limited and the claimant will be obliged to prove his or her case beyond a reasonable doubt.

4. Binding Arbitration

A State would establish a system under which health care providers and professionals could offer their patients an opportunity to enter into an agreement to arbitrate any claims of health care negligence prior to treatment. As part of this system, the State would guarantee that an individual's decision to arbitrate was not a prerequisite to the provision of medical services and that a patient could agree to revoke the agreement within fifteen days after signing it. A health care provider could not revoke the agreement. The arbitration panel would consist of three persons, including one arbiter selected by the claimants, one selected by the health care providers and professionals against whom the claim is made, and a third arbiter chosen by the other two. Arbitration decisions will be subject to limited review in the State courts.

5. Other Alternatives

The Secretary would be authorized to approve other alternative dispute resolution

demonstration programs that are consistent with the purposes of this Act.

RESEARCH GRANTS

The Secretary of Health and Human Services would be authorized to make grants to State governmental and nonprofit organizations to conduct research on the prevention of and compensation for injuries resulting fom health care negligence. In each of FY 1991, FY 1992 and FY 1993, $10 million is provided.

DISCIPLINARY AND EDUCATION GRANTS

The Secretary of Health and Human Services would be allowed to make grants to States to assist in improving their ability to adequately monitor health care professionals and restrict those who are practicing substandard medicine. In each of FY 1991, FY 1992 and FY 1993, $20 million is provided.

FEDERALLY MANDATED REFORMS

1. *Professional Liability Reforms*—The following federal reforms would apply in all State and federal court medical malpractice actions, unless a State has enacted alternative provisions that achieve the same goals:

Mandatory periodic payment of all future damages, exceeding $100,000;

A $250,000 ceiling on noneconomic damage awards;

Mandatory offsets of awards for collateral sources of recovery;

A schedule of limitations for attorney contingency fees; and

The requirement that State limitations statutes will run from the time of injury and; in the case of infant claims, can be suspended no later than the claimant's sixth birthday.

2. *Patient Protection Reforms*—States would be obligated to comply with the following requirements as a condition of receiving funds under the Public Health Service Act:

Licensing fees collected from health care professionals will be allocated exclusively to those State agencies responsible for licensing and disciplinary activities;

Health care providers doing business in the State must institute early warning systems for practices which may result in patient injury; and

Liability insurers doing business in the State must require patient safety programs as a condition of maintaining insurance.

In addition, States would be required to authorize the appropriate participation of state and local medical societies in the process of reviewing the practice patterns of individuals who may be endangering patient safety. Protection from State and federal antitrust law is extended to encourage such activities.

COMMUNITY AND MIGRANT HEALTH CARE CENTERS RISK RETENTION PROGRAM

The Secretary of Health and Human Services would be authorized to make a grant to investigate the feasibility of establishing a nationwide risk retention group for community and migrant health care centers. If it appears that implementation of such a program would result in an increase in the funds available for use by community and migrant health centers, federal funds would be made available to capitalize the risk retention group. Under the bill, $1 million would be available in FY 1991 for the development of a feasible business plan.

By Mr. EXON:

S. 2936. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT

● Mr. EXON. Mr. President, the legislation I am introducing today is the product of a vigorous debate which has been waged during at least the past three Congresses on ways to improve the safety of hazardous materials [hazmat] transportation. The current statute, the Federal Hazardous Materials Transportation Act, has not seen any substantial revisions since its enactment in 1975.

On Wednesday, July 25, 1990, the Surface Transportation Subcommittee held a hearing on hazmat reauthorization. This hearing followed a series of hearings held on this subject during the 100th Congress and a report on this matter prepared at the request of our committee by the Congressional Office of Technology Assessment.

The Commerce Committee's most recent hearing revealed a growing consensus by the interested parties on many central issues. The bill I am introducing today is intended to build on the areas where agreement has been reached. Included within the bill are numerous provisions designed to strengthen the Federal hazardous materials transportation program. These provisions include: First, increasing the Federal safety-inspection force by 30 additional inspectors; second, requiring safety permits for those hazardous materials posing the greatest risk during transit; third, imposing a minimum civil penalty of $250 for violations of the hazardous materials laws and increasing the maximum penalty to $25,000 per violation per day; fourth, requiring single-purpose, dedicated trains for the transportation by rail of high-level radioactive waste and spent nuclear fuel; fifth, requiring the Secretary of Transportation to make planning and training grants for responding to emergencies involving hazardous materials to States and Indian tribes meeting certain requirements; sixth, mandating that 75 percent of the funds from these grants be allocated by the States to local communities; seventh, prohibiting motor carriers receiving an unsatisfactory rating from transporting hazardous materials; eighth, requires the Department of Transportation to initiate a rulemaking on the need to establish a registration program for carriers, shippers, those who store in transit, who manufacture, recondition or are otherwise involved with containers used to transport hazardous materials; and ninth, extending the Federal participation program for State rail safety inspectors to include hazardous materials.

I am pleased that the many parties involved in this issue have helped us develop a consensus on many of the provisions contained in this bill. I urge my colleagues to support passage of this measure as a way to strengthen the way we govern the transportation of hazardous materials, as well as allow for increased training for those who are charged with protecting the safety of our citizens.●

By Mr. STEVENS:

S. 2937. A bill to authorize a certificate of documentation for the vessel *Ocean Prowler*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "OCEAN PROWLER"

● Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a certificate of documentation for the 149-foot fishing vessel, *Ocean Prowler*, official number 632751, which is currently owned by a general partnership composed of longtime Alaskan fishermen. Two of the partners, John Winther and Bart Eaton, have served on the North Pacific Fishery Management Council.

The *Ocean Prowler* was originally built for the U.S. Navy in 1941 at Vallejo, CA. It was converted to a refrigerated sea water tender vessel at Seattle, WA, during 1981 and 1982. The vessel was held briefly by a Canadian owner during the 1980's.

The *Ocean Prowler* is restricted from engaging in coastwise trade because of its period of Canadian ownership. The owners would like coastwise privileges restored in order that the *Ocean Prowler* may be used as salmon and herring tender.●

By Mr. STEVENS:

S. 2938. A bill to authorize a certificate of documentation for the vessel *Sea Nugget*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "SEA NUGGET"

● Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a certificate of documentation for the 40-foot pleasure vessel *Sea Nugget*, Alaska registration number AK 2233 E, which is owned by Joe and Diana Downey and William and Barbara Basham, all of Anchorage, AK.

The *Sea Nugget* was constructed in Hong Kong for Martin Hochfeldt of Seattle, WA, in 1972. The vessel was sold to Mel Stark of Scottsdale, AZ, who in turn sold the vessel to Tom Oyster of Anchorage, AK. The vessel sank off Whittier, AK, in 1980. The vessel was salvaged and then donated to the city of Whittier, AK, who sold the vessel at auction to Richard Long of Whittier. Mr. Long sold the vessel to the present owners.

This waiver is needed in order to allow the *Sea Nugget* to be used for barefoot charter in the coastwise trade.●

By Mr. STEVENS:

S. 2939. A bill to authorize a certificate of documentation for the vessel *Swee' Pea*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "SWEE' PEA"

● Mr. STEVENS. Mr President, this legislation would allow the Coast Guard to issue a certificate of documentation to the 33-foot vessel *Swee' Pea*, Alaska registration number AK 8550 L, which is owned by Vincent Mitchell of Valdez, AK.

Mr. Mitchell purchased the hull of the *Swee' Pea* from a boatbuilder in British Columbia, Canada, and had the engines, superstructure, and fittings installed by Sunnfjord Boats of Tacoma, WA. Mr. Mitchell had the vessel built and outfitted for the purpose of engaging in sport and commercial fishing. At the time, Mr. Mitchell was unaware that the vessel must be entirely U.S. built in order to qualify for documentation under U.S. law.

This waiver is needed to allow the *Swee' Pea* to engage in the coastwise trade and fisheries of the United States.●

By Mr. STEVENS:

S. 2940. A bill to authorize a certificate of documentation for the vessel *Ghostrider*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "GHOSTRIDER"

● Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a certificate of documentation for the 33-foot fishing vessel, *Ghostrider*, official number 906121, which is currently owned by Daniel and Jody Reed of Eagle River, AK.

The *Ghostrider* was built in Toms River, NJ, in 1975. In 1986, the original owner of the vessel, John W. Greiff, donated it to Stanford University.

The *Ghostrider* is restricted from engaging in coastwise trade because the vessel was owned collectively by the board of trustees of Stanford University, and the trustees do not all qualify individually as U.S. citizens. The Coast Guard requires that all applicants for coastwise licenses provide adequate evidence of the citizenship of all previous owners. Mr. Reed would like his coastwise privileges restored in order that he may sell *Ghostrider* for use of a charter vessel.●

By Mr. HEINZ (for himself and Mr. KOHL); to the Committee on Energy and Natural Resources.

S. 2941. A bill to reform and restore integrity to the Federal reclamation system.

RECLAMATION REFORM AND INTEGRITY ACT OF 1990

● Mr. HEINZ. Mr. President, I rise today with Senator KOHL to introduce the Reclamation Reform and Integrity Act of 1990. The bill is designed to achieve five objectives.

The first is to reconcile farm and reclamation policies currently in conflict. The second is to reduce the Federal budget deficit. The third is restore equity among farmers. The fourth is to foster environmental protection. And the fifth is to promote the efficient allocation of a scarce resource.

Last Thursday, during consideration of the 1990 farm bill, S. 2830, Senator KOHL and I offered an amendment to prohibit farmers from participating in price and income support programs administered by the Department of Agriculture [USDA] if they receive irrigation water from Federal projects as subsidized rates. It does not make sense to pay some farmers not to grow certain crops while we encourage others to grow those crops with below cost water.

We withdrew the amendment because Senator BILL BRADLEY, who chairs the Senate Energy and Natural Resources Subcommittee on Water and Power, stated that he intended to hold a hearing on reclamation reform issues tomorrow. He felt that the hearing record on the double subsidy issue and other needed reforms is incomplete. We obliged Senator BRADLEY on the condition that we would introduce additional reclamation reform legislation, and that he would consider it at his hearing. He agreed.

The bill we introduce today contains additional reclamation reforms. I would like to summarize its provisions:

The first provision would amend section 208(a) of the Reclamation Reform Act of 1982 [RRA] to ensure that water contracts recover current operating and maintenance [O&M] costs and some capital fixed costs. This provision shouldn't be necessary, but the Bureau of Reclamation appears unwilling to implement the intent of Congress as expressed in previous reclamation legislation.

The second provision would amend section 209(f)(2) of the RRA to ensure that the Federal Government obtains the profit created by the construction of Federal irrigation water projects on excess land sales—as Congress intended. This provision is based on recommendations made by the General Accounting Office [GAO] in a February 1990 report (GAO/RCED-90-100) Representative GEORGE MILLER, of California, who chairs the House Interior Subcommittee on Water, Power and Offshore Energy Resources. GAO and the Office of Management and Budget estimate this provision could generate $100 million in additional Federal revenues.

The third provision would repeal section 1(1) of Public Law 84-643, the Reclamation Project Act Amendments of 1956. This simple language would repeal authority for incorporating renewal clauses in Bureau of Reclamation water service contracts. A repeal of the renewal requirement in the 1956 act would establish the need for reevaluation of water use as water service contracts expire. The repeal would also diminish water users' claims in ongoing litigation and policy discussions that the scope and content of environmental impact statements [EIS's] on contract renewals should be restricted because they claim a perpetual right to given quantities of water. Frankly, I do not believe there is any legislative basis whatsoever for the notion that water users have perpetual claims extending beyond their 40-year or 50-year contracts. Certainly, none is implied. But this repeal clarifies the issue beyond any doubt.

The fourth provision would incorporate a June 1987 memorandum of understanding [MOU] regarding the use of normalized commodity prices in the evaluation of the costs and benefits of future water projects. Repeatedly, the previous administration argued that market clearing commodity prices—not USDA supported prices—ought to be used in determining whether future water projects make economic sense. The effect of adopting this provision would be to ensure that only those water projects that actually produce a net increase in the real output of the Nation are supported for construction.

The fifth provision would require reclamation farmers to pay full cost water rates if they produce surplus—program—crops, regardless of whether they participate in USDA price and income support programs. This provision is similar to the original amendment Representative SAM GEJDENSON, of Connecticut, offered to H.R. 2567 on June 14.

Mr. President, that summarizes the Reclamation Reform and Integrity Act of 1990. Now, I would like to make a few observations about reclamation generally.

First and foremost, reclamation reform is not anti-West nor is it anti-farm. Westerners have to come to grips with the fact that agriculture accounts for 5 or 10 percent of the gross State product [GSP] of individual States. But it uses 85 or 90 percent of the water. An economist would argue that water—a scarce resource out West—is being misallocated. Current reclamation policies impede economic growth.

The Bureau of Reclamation is proud of boasting about the Federal tax revenues generated or the tax revenues accruing to State and local governments because of its irrigation projects. The Bureau bases its claims on the economic activity associated with reclamation projects, such as the value added in food processing. What the Bureau fails to acknowledge is that secondary benefits generated by a

project do not necessarily increase the net production of the Nation as a whole, or even a particular region. What is the same Federal funds had been spent somewhere else in the economy, say, to support an industrial park? Or if the funds had been left in private hands? If such alternative spending were to return more direct benefits than a water resources project with a benefit-cost ratio of less than one, greater secondary benefits and tax revenues could be expected.

Ninety years ago, 50 years ago, perhaps even 20 years ago, reclamation projects represented an appropriate Federal investment in promoting settlement in the arid West. But the economics—and the demographics—of the West have changed. Now, the West and the South have more manufacturing jobs than the Northeast-Midwest region—traditionally our Nation's industrial heartland. Now, the West is attracting high technology. Now, the West—according to Federal Reserve Bank of San Francisco economist Ronald Schmidt—has an economy that has grown much more rapidly than the national average since 1964—in large part because it has diversified away from reliance on natural resource-based industries, including agriculture.

Mr. President, 2 years ago Senator TIM WIRTH and I cosponsored project 88, a public policy project designed to identify market forces that could be harnessed for environmental protection. One of the recommendations of Project 88 was to remove barriers to water markets, a notion the Western Governors' Association has endorsed. According to the report:

An effective approach to current water supply problems is to support development of Federal and State policies which facilitate the voluntary buying and selling of water rights by individuals, firms, and other organizations in order to increase the efficiency of the system—most notably by increasing incentives for conservation.

By allowing free markets in water rights, voluntary exchanges can take place which make both parties better off. When farmers have a financial stake in conserving water, when urban needs are met without shrinking agriculture and without building new dams and reservoirs, environmental protection gains. Measures which facilitate voluntary water transfers thus promote more efficient allocation of scarce water resources and curb the perceived need for additional, expensive, and environmentally disruptive water supply projects.

The government should move to remove barriers to such voluntary water marketing. It should now certify that such voluntary transfers of Federally supplied water are indeed permissible and should establish rules to protect public and other third-party users of water. The U.S. Department of the Interior should work on issuing a generic policy statement affirming the transferability of contractual rights to reclamation water supplies. The Department currently responds to individual proposals for transfers, but contractors who are unsure what answer they will get hesitate to make requests in the first place.

So, Mr. President, advocating reclamation reform and efficient use of water does not mean "cutting reclamation farmers off at the knees" or depriving them of water. Rather, access to that water ought to be recognized and treated as a property right they hold, subject to trade, lease, or sale. Doing so would protect the environment and individual farmers, and foster economic growth.

Mr. President, I absolutely do not deny that reclamation helped settle the West. But times have changed. So, too, must reclamation policy. Resistance even to incremental change makes that policy increasingly out of touch with its original mission and new economic, agricultural, and environmental concerns. Increasingly, the policy becomes more and more difficult to justify—particularly in an era of severe Federal budget deficits, when every program—and every dollar spent—has to bring maximum returns to the Federal Government and the American taxpayer.

I ask unanimous consent that the text of our legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Reform and Integrity Act of 1990".

SEC. 2. CAPITAL COST RECOVERY.

Section 208(a) of the Reclamation Reform Act of 1982 (96 Stat. 1261) is amended by adding at the end thereof the following: "Such price shall also be sufficient to recover an appropriate and substantial share of the fixed costs of construction of works connected with water supply and allocated to irrigation.".

SEC. 3. FAIR MARKET VALUE FOR SALES OF LAND.

(a) EFFECTIVE DATE.—Section 209(f)(2) of the Reclamation Reform Act of 1982 is amended by striking "the date of enactment of this Act," and inserting "October 12, 1982 but before the enactment of the Reclamation Reform Act Amendments of 1990".

(b) FAIR MARKET VALUE.—Section 209(f) of such Act is further amended by adding at the end the following:

"(3) In the case of disposals of excess lands, including such land not under recordable contracts, made on or after the enactment of the Reclamation Reform Act Amendments of 1990, the disposal of excess lands to nonexcess owners shall be for fair market value related to the delivery of irrigation water, which shall be deposited in the Treasury of the United States as miscellaneous receipts. Upon such disposal the title to these lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled 'An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes,' approved May 25, 1926 (43 U.S.C. 423e).".

SEC. 4. REPEAL OF WATER SERVICE CONTRACT RENEWALS.

Section 1(1) of Public Law 84-643 (43 U.S.C. 485h-1(1)) is hereby repealed.

SEC. 5. MARKET PRICES IN COST-BENEFIT ANALYSIS.

Notwithstanding any other provision of law, the Secretary of the Interior shall evaluate all unstarted reclamation projects in accordance with the Statement of Procedures adopted in June 1987 by the Assistant Secretary of the Department of Agriculture, the Acting Assistant Secretary of the Department of the Army, the Washington Representative of the Tennessee Valley Authority, and the Assistant Secretary of the Department of the Interior.

SEC. 6. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) 2 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949; and

"(B) 4 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(4) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386(a), commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities concurrently with the construction of such facilities by the Secretary; and

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294; 100 Stat. 418).".●

● Mr. KOHL. Mr. President, I am pleased to join today with my colleague from Pennsylvania, Senator HEINZ, in introducing legislation intended to correct our conflicting and

expensive Federal policies in the area of agriculture and reclamation.

Last week, during consideration of the 1990 farm bill, Senator HEINZ and I offered an amendment to eliminate our current policy of paying "double subsidies"—a policy that allows farmers to receive Federal commodity program payments for growing surplus crops while allowing them to pay less than full market value for the irrigation water they use to produce those crops. We agreed to withdraw the amendment on that bill, pending hearings and consideration of the subject by the Energy Committee in the near future. It is, however, a policy that I believe is both fiscally irresponsible and disadvantageous to farmers in my home State of Wisconsin.

The legislation we are introducing today would phase out the practice of double subsidies. It does so by requiring farmers who receive irrigation water from Federal reclamation projects and who are using that water to produce surplus crops to pay 50 percent of the full cost for that water 2 years from the passage of the bill and full cost for the water 4 years hence. In allowing a transitional phase, we are offering farmers ample time to adjust their production accordingly.

Mr. President, let me make one point perfectly clear: This bill would not prevent any farmer from growing an agricultural commodity. It simply requires those farmers who are the lucky recipients of both agricultural and irrigation subsidies to choose between subsidies—if they receive one, then they are not eligible for the other.

The legislation we are introducing today will not jeopardize our Federal agricultural policy nor undermine our Federal reclamation policy. What it will do, however, is reduce unnecessary Federal spending. Some estimates show that we're wasting over $830 million a year on water subsidies for surplus crops. And, in 1986, the U.S. Department of Agriculture estimated that we spent about $730 million on commodity payments for crops grown with subsidized Federal water.

In addition, this legislation will put farmers across the country back on equal footing. Most of this country's farmers, and the majority of farmers in every State, are disadvantaged by the double subsidies which accrue to a small number of producers. Even in States with Bureau of Reclamation projects, a lucky few producers benefit at the expense of many.

In States where there are no reclamation projects, the competitive disadvantage is even more acute. In my home State of Wisconsin, dairy farmers must produce or buy their feed and forage at full cost—costs that vary each year depending on the weather. In States with Federal irrigation projects, however, dairy farmers have the luxury of purchasing forage that has been produced on irrigated acres at less than it's full cost—giving dairy producers in these States an enormous advantage in terms of costs of production.

Mr. President, the need for this type of legislation is long overdue. The House of Representatives recently endorsed a similar proposal overwhelmingly. I hope that the Senate will do so as well in the near future.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 2393

At the request of Mr. EXON, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2393, a bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes.

S. 2619

At the request of Mr. GLENN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2737

At the request of Mr. ARMSTRONG, the names of Senator from Virginia [Mr. WARNER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Florida [Mr. MACK], the Senator from Nevada [Mr. REID], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. WIRTH], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

S. 2789

At the request of Mr. GORE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2789, a bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes.

S. 2793

At the request of Mr. AKAKA, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2793, a bill to amend the U.S. Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, U.S. Senator from the State of Hawaii, and for other purposes.

S. 2801

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2801, a bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under part A of the Medicare Program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes.

S. 2806

At the request of Mr. HEINZ, the name of the Senator from California [Mr. WILSON] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2806, a bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2843

At the request of Mr. DURENBERGER, the names of the Senator from California [Mr. WILSON] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2843, a bill to amend title XIX of the Social Security Act to clarify that States may use a more liberal methodology in determining income and resource eligibility under Medicaid for certain medically needy individuals.

SENATE JOINT RESOLUTION 340

At the request of Mr. WILSON, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Oklahoma [Mr. BOREN], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 340, a joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Kansas [Mr. DOLE], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. AKAKA], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE RESOLUTION 288

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of Senate Resolution 288, a resolution expressing the sense of the Senate regarding the reopening of universities in the West Bank and Gaza without delay.

AMENDMENTS SUBMITTED

CAMPAIGN FINANCE REFORM ACT

BOREN (AND OTHERS) AMENDMENT NO. 2432

Mr. MITCHELL (for Mr. BOREN, for himself, Mr. MITCHELL, Mr. FORD, Mr. KERRY, Mr. DASCHLE, and Mr. BRADLEY proposed an amendment to the bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes, as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Campaign Ethics Act of 1990".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Broadcast rates.
Sec. 104. Preferential rates for mail.
Sec. 105. Disclosure by noneligible candidates.
Sec. 106. Reporting requirements.
Sec. 107. Other definitions.

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

Sec. 201. Cooperative expenditures not treated as independent expenditures.
Sec. 202. Equal broadcast time.
Sec. 203. Attribution of communications.

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

Sec. 211. Personal contributions and loans.
Sec. 212. Extensions of credit.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 215. Limitations on contributions to State political party committees.
Sec. 216. Provisions relating to national, State, and local party committees.
Sec. 217. Restrictions on fundraising by candidates and officeholders.
Sec. 218. Reporting requirements.

Subtitle C—Contributions

Sec. 221. Limits on contributions by certain political committees to political parties.
Sec. 222. Contributions through intermediaries and conduits.
Sec. 223. Excess campaign funds.
Sec. 224. Contributions by dependents not of voting age.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.
Sec. 302. Reporting requirements.
Sec. 303. Provisions relating to the general counsel of the commission.
Sec. 304. Retention of fees by the commission.
Sec. 305. Enforcement.
Sec. 306. Penalties.
Sec. 307. Random audits.
Sec. 308. Attribution of communications.
Sec. 309. Fraudulent solicitation of contributions.

TITLE IV—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.
Sec. 402. Polling data contributed to a senatorial candidate.
Sec. 403. Mass mailings.
Sec. 404. Effective date.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"SEC. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Commission a declaration as to whether—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed on the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Commission under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the general election expenditure limit under section 503(b), reduced by the amount of voter communication vouchers issued to the candidate; plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a compliance and official expense fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Commission with respect to such period under section 304A(b) (relating to independent expenditures in excess of $10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 10 percent of the general election expenditure limit under section 503(b).

"(2) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed $250,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of $100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed $100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) COMPLIANCE AND OFFICIAL EXPENSE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures or qualified official expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a compliance and official expense fund meeting the requirements of paragraph (2).

"(2) A compliance and official expense fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection—

"(A) The term 'qualified legal and accounting expenditures' means the following:

"(i) Any expenditures for costs of legal and accounting services provided in connection with—

"(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(II) the preparation of any documents or reports required by this Act or the Commission.

"(ii) Any expenditures for legal and accounting services provided after the general election for which the compliance and official expense fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(iii) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(B) The term 'qualified official expenditures' mean expenditures described in section 313(b).

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures exceed the limitation under paragraph (2)(B), the candidate may petition the Commission for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation, reduced by the amount of qualified official expenditures. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a compliance and official expense fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a compliance and official expense fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a compliance and official expense fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"SEC. 504. (a) IN GENERAL.—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate).

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period subject to the same conditions and rates under section 315(b) of the Communications Act of 1934 as apply to other broadcast time a candidate may purchase, except that—

"(A) each such broadcast shall be at least 1 but not more than 5 minutes in length; and

"(B) each such broadcast shall be aired during the 5-week period preceding the general election.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133⅓ percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

"(ii) amounts collected under sections 507(g) and 508(d)(3); and

"(iii) any other amounts which may be deposited into the Fund under this title.

"(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) Amounts in the Fund shall remain available without fiscal year limitation.

"(3) Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of payments which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such

candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to 200 percent of the amount of such benefit.

"(d) EXCESS EXPENDITURES.—(1) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 percent or less—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(2) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 percent—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to three times the amount of the excess expenditures.

"(e) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(f) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(g) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"SEC. 508. (a) VIOLATIONS.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 509. (a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 512. There are authorized to be appropriated to the Commission such sums as may be necessary for the purpose of carrying out its functions under this title."

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1991.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1991, shall be taken into account, except that there shall be taken into account any

such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1991, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1991, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees."

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder."

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association, to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate or a candidate's authorized committee to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraphs:

"(2) In the case of a candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971)—

"(A) paragraph (1)(A) shall be applied without regard to the phrase 'class and'; and

"(B) if the broadcast time exceeds 30 seconds, the lowest unit cost for such time shall not be greater than the rates for broadcasts of 30 seconds.

"(3)(A) In the case of candidates for United States Senator in a general election (as defined in section 501(4) of such Act), this subsection (other than paragraph (2)(A)(iii)) shall apply to a broadcast of such candidate only if such candidate is an eligible candidate (as defined in section 501(2) of such Act).

"(B) In the case of any eligible candidate for United States Senator, the rates under paragraph (1)(A) shall apply to any broadcast during the general election period (as defined in section 501(5) of such Act) rather than the 60-day period referred to in such paragraph."

(b) PREEMPTION RULES; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) In the case of a legally qualified candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) are in effect, of a broadcasting station by such candidate who has purchased such use pursuant to subsection (b).

"(2) Paragraph (1) shall not apply if the program during which the candidate's broadcast was to air is unavoidably preempted.

"(d) A licensee shall—

"(1) accept voter communications vouchers provided to an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act) under section 504(a) of such Act; and

"(2) shall, upon presentation of such vouchers, provide broadcast time to such candidate subject to the same conditions and rates as apply to other broadcast time such candidate may purchase, except that—

"(A) no time shall be required to be provided without at least 7 days advance notice; and

"(B) in the case of broadcast time in the licensee's prime time, the licensee shall be required to provide—

"(i) not more than 5 minutes of such time during each of the weeks in the 5-week period ending on the date of the general election; and

"(ii) only one broadcast per day per candidate in such time.

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by inserting "(1)" before "The charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971."

(b) AUTHORIZATION.—Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)-(h)" and inserting "3626(a)-(h), and 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates."

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by—

(1) striking "and" at the end of clause (ii);

(2) striking out the period at the end of clause (iii) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(iv) if paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'."

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Commission under section 502(c) shall file with the Commission a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b),

shall file a report with the Commission within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133⅓ percent of such limit) with the Commission within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓ percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000 shall report to the Commission as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000, each such person shall report to the Commission as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds $10,000.

"(3) Each report under this subsection shall be filed with the Commission and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than $250,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Commission within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Commission the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) COPIES OF REPORTS.—The Commission shall transmit a copy of any report received under this section to the Secretary of the Senate within 2 working days of receipt of such report.

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) ELECTION CYCLE DEFINED.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election."

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF COOPERATIVE EXPENDITURES.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure."

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made."

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made."

(b) COOPERATIVE EXPENDITURE DEFINED.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee."

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b)."

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response."

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits."; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located."

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors."

SEC. 212. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings mail (including mass mail fund solicitations) or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing)."

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees designated by State committees of a political party for purposes of paragraphs (1)(C) and (2)(C)."

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures for activities described in section 325(b) (1) and (2) with respect to the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e)."

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) TRANSFERS BETWEEN COMMITTEES.—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities."

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b) (1) and (2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990."

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate."

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law."

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) TAX-EXEMPT ORGANIZATIONS.—(1) Except as provided in paragraph (2), if an individual—

"(A) established, maintains, or controls any organization described in section 501(c) of the Internal Revenue Code of 1986; and

"(B) is a candidate for, or holds, Federal office at any time during any calendar year, such individual may not solicit contributions to, or accept contributions on behalf of, such organization from any person during such calendar year which, in the aggregate, exceed $5,000.

"(2) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns."

SEC. 218. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a)."

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported."

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported."

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following:

"For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election."

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information."

(f) REPORTS BY LARGE CONTRIBUTORS.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) REPORTS BY LARGE CONTRIBUTORS.—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating $10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating $5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3)."

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contributions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates."

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee."

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing

the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient."

SEC. 223. EXCESS CAMPAIGN FUNDS.

(a) IN GENERAL.—Section 313 of FECA (2 U.S.C. 439a) is amended by inserting "(a)" before "Amounts", and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), amounts described in subsection (a) that otherwise may be used to defray the costs of any ordinary and necessary expenses incurred in connection with an individual's duties as a holder of the office of United States Senator shall not be used to defray such costs which are expenditures with respect to such individual.

"(2) For purposes of subsection (a), ordinary and necessary expenses for the travel of the spouse or children of an individual holding the office of United States Senator between Washington, D.C. and the State from which such individual holds such office shall be treated as in connection with such individual's duties as a holder of Federal office unless such expenditures are expenditures with respect to such individual.

"(3) For purposes of this subsection, the term 'expenditure' has the meaning given such term by section 501(13)."

(b) CONTRIBUTIONS TO OFFICIAL OFFICE ACCOUNTS.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) A political committee (other than the principal campaign committee of a holder of Federal office) shall not make any contribution, expenditure, or disbursement, or transfer any amount, for the purpose of defraying expenses incurred by the holder of Federal office in connection with the officeholder's official duties.

SEC. 224. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(l) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them."

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(b) PERSONAL AND CONSULTING SERVICES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate."

SEC. 302. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year."

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under section 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission."

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed."

(c) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act."

SEC. 305. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found."

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found."

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986."

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation."

(c) TIME PERIODS FOR CONCILIATION.—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process."

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a broadcast paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the broadcast shall include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states:

"(I) 'I am a candidate for (the office the candidate is seeking) and I have approved the contents of this broadcast'; and

"(II) that the broadcast has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the broadcast has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable."

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor."

TITLE IV—MISCELLANEOUS

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party."

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media."

SEC. 404. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1991.

SEC. 405. SENSE OF SENATE REGARDING USE OF OFFICIAL FUNDS.

It is the sense of the Senate that appropriate prohibitions and restrictions be placed on the use of employees of the Executive Office of the President, the official residence of the Vice President, and official travel of the President, Vice President, and other Executive branch officers and employees in connection with political fundraising and political campaigning.

McCONNELL (AND NICKLES) AMENDMENT NO. 2433

Mr. McCONNELL (for himself and Mr. NICKLES) proposed an amendment, which was subsequently modified to amendment No. 2432 proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 9, line 4, strike the comma and insert a semicolon.

On page 9, strike lines 5 and 6.

On page 9, strike lines 15 through 19.

On page 20, strike line 3 and all that follows through page 22, line 22.

On page 22, line 24, and page 23, lines 1 and 2, strike "who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b)".

On page 23, line 3, strike "from such payments—to defray expenditures".

On page 23, line 5, after "section 503(b)" insert "in amounts equal to the amount of any independent expenditures in opposition to such eligible candidate".

On page 24, strike lines 3 through 21.

On page 25, strike lines 3 through 20.

On page 26, strike line 3 and all that follows through page 29, line 19.

On page 30, strike lines 11 through 22.

On page 32, strike lines 1 through 8.

On page 32, strike lines 13 through 15.

On page 37, strike lines 1 through 9.

On page 46, strike line 20 and all that follows through page 47, line 17.

On page 51, lines 19, 20, and 21, strike "to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 5040.

On page 51, strike line 22 and all that follows through page 52, line 11.

On page 54, strike lines 16 through 20.

On page 20, strike lines 1 and 2.

On page 48, strike line 1 and all that follows through page 49, line 2.

POLISH DEBT REDUCTION

SIMON AMENDMENT NOS. 2434 AND 2435

Mr. BOREN (for Mr. SIMON) proposed two amendments to the resolution (S. Res. 293) concerning Polish debt reduction, as follows:

AMENDMENT No. 2434

Strike out all after the resolving clause, and insert in lieu thereof the following:

"That is the sense of the Senate that—

"the President of the United States, through the Secretary of the Treasury, should immediately entered into discussion with the G-7 governments to seek innovative approaches to significantly reduce Poland's officially held debt in as quick a timetable as possible;

"the President of the United States, through the Secretary of the Treasury, with the concurrence of Congress, should take steps to explore options to significantly reduce the officially held Polish debt, if other nations will join in this important step."

AMENDMENT No. 2435

In the sixth Whereas clause, strike out "approximately $40,000,000,000" and insert in lieu thereof "nearly $41,000,000,000";

In the eighth Whereas clause, strike out "80" and insert in lieu thereof "70";

In the tenth Whereas clause, strike out "or forgiving".

PERSONNEL RIGHTS OF EXCEPTED SERVICES EMPLOYEES

PRYOR AMENDMENT NO. 2436

Mr. BOREN (for Mr. PRYOR) proposed an amendment to the bill (H.R. 3086) to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes, as follows:

On page 10, strike out lines 12 through 16 and insert in lieu thereof the following:

(b) ACTIONS BASED ON UNACCEPTABLE PERFORMANCE.—Section 4303(e) of title 5, United States Code, is amended to read as follows:

"(e) Any employee who is—

"(1) a preference eligible;

"(2) in the competitive service; or

"(3) in the excepted service and covered by subchapter II of chapter 75,

and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701.".

TRIBALLY CONTROLLED COLLEGES ACT AMENDMENTS

INOUYE (AND PRESSLER) AMENDMENTS NO. 2437

Mr. BOREN (for Mr. INOUYE, for himself and Mr. PRESSLER) proposed an amendment to the bill (H.R. 5040) to extend the authorizations of appropriations for the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed

of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

SEC. 3. GIFTED AND TALENTED PROGRAMS.

Title IV of the Augustus F. Hawkins, Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is amended by—

(1) redesignating sections 4008 and 4009 as sections 4010 and 4011, respectively; and

(2) inserting after section 4007 the following new sections:

"SEC. 4008. AMERICAN SAMOAN AND GUAMANIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the governments of American Samoa and Guam—

"(A) to establish a Gifted and Talented Center in American Samoa and Guam; and

"(B) for demonstration projects designed to—

"(i) address the special needs of American Samoan and Guamanian elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) After the term of each grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary may, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, an accredited institution of higher education in American Samoa and Guam. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate.

"(3) The governments of American Samoa or Guam or any accredited institution of higher education receiving a grant or entering into a contract under this subsection may enter into a contract with any other person for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

"(4) The centers described in subparagraph (A) of paragraph (1) shall participate in a national network of Native Hawaiian, American Indian and Alaska Native Gifted and Talented Centers.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented American Samoan and Guamanian students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Native languages and exposure to cultural traditions;

"(3) the use of educational technology, including video and computers, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children;

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects; and

"(C) teacher training.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) ADVISORY COUNCIL.—(1) The Secretary, in cooperation with appropriate local educational agencies, shall establish an advisory council (hereafter in this section referred to as the 'Council') within 1 year after enactment of this section.

"(2) The purpose of the Council shall be to—

"(A) advise in the development of criteria to identify gifted and talented children;

"(B) advise in the development of programs to meet the special needs of such children, which may include using the Native Hawaiian Gifted and Talented Center as a resource;

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate; and

"(D) study and report on the feasibility of establishing gifted and talented programs in Pacific territories and possessions of the United States other than American Samoa and Guam and report to the appropriate committees of Congress within one year after the establishment of the Council.

"(3) The Council shall be composed of—

"(A) representatives of educational institutions, public schools, agencies, organizations and associations in American Samoa and Guam and throughout the Pacific Basin associated with the education of Pacific Basin children; and

"(B) individuals in American Samoa and Guam and throughout the Pacific Basin who have a special knowledge of and special competence in working with Pacific Basin Islanders and problems in the Pacific Basin, including education, health and economic problems.

"(4) The Secretary of Education shall appoint the members of the Council from recommendations made by the governments of American Samoa and Guam and the United States Department of Education.

"(5) The Council shall elect its chairman from among its members.

"(6) The Council may reserve not more than 15 percent of the funds appropriated pursuant to the authority of paragraph (8) for administrative purposes, including staff salaries.

"(7) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

"(8) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(e) HIGHER EDUCATION SCHOLARSHIPS.—(1) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration program to provide higher education fellowship assistance to American Samoan and Guamanian students. The demonstration program under this section may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited 2- or 4-year degree granting institution of higher education with awards to be based on academic potential and financial need;

"(B) counseling and support services for such students receiving fellowship assistance pursuant to subparagraph (A);

"(C) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subparagraph (A);

"(D) appropriate research and evaluation of the activities authorized by this paragraph; and

"(E) implementation of faculty development programs for the improvement and matriculation of American Samoan and Guamanian students.

"(2) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration project of fellowship assistance for American Samoan and Guamanian students in postbaccalaureate degree programs. Such project may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited postbaccalaureate degree granting institution of higher education, with priority given to professions in which American Samoans and Guamanians are under-represented and with awards to

be based on academic potential and financial need;

"(B) counseling and support services for such subparagraph (A) students receiving fellowship assistance pursuant to subparagraph (A); and

"(C) appropriate research and evaluation of the activities authorized by this paragraph.

"(3) For the purpose of subparagraph (A) of paragraph (2) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of postbaccalaureate degree program, to the American Samoan and Guamanian community within American Samoa and Guam.

"(4) Not more than 7 percent of the funds appropriated to carry out the provisions of this subsection for any fiscal year may be used for administrative purposes.

"(5)(A) In addition to any other amount authorized to be appropriated for programs described in this section, there are authorized to be appropriated $500,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this subsection, of which—

"(i) $250,000 shall be available to the government of American Samoa; and

"(ii) $250,000 shall be available to the government of Guam.

"(B) Funds appropriated pursuant to the authority of subparagraph (A) shall remain available until expended.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'American Samoan' means an individual who is a citizen or national of the United States, and is a descendant of the aboriginal people, who, prior to 1900, occupied and exercised sovereignty in the area which now comprises the Territory of American Samoa, as evidenced by—

"(A) written genealogical records;

"(B) public birth records; or

"(C) other public records on file with the archivist or High Court of American Samoa; and

"(2) the term 'Guamanian' means an individual who is a citizen or national of the United States and who is a resident of Guam.

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to any other amount authorized for programs described in this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this section of which—

"(A) $1,000,000 shall be available to the government of American Samoa; and

"(B) $1,000,000 shall be available to the government of Guam.

"(2) Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"SEC. 4009. ALASKA NATIVE GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the Rural College of the University of Alaska, located in Fairbanks, Alaska, for—

"(A) the establishment of an Alaska Native Gifted and Talented Center (hereafter in this section referred to as the 'Center') at the Rural College of the University of Alaska, located in Fairbanks, Alaska; and

"(B) the creation of demonstration projects designed to—

"(i) address the special needs of Native Alaskan elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) The Center shall coordinate its activities with the activities of the Alaska Department of Education and school districts within the State, and shall participate in a national network of American Indian and Native Hawaiian Gifted and Talented Programs, and to the extent practicable, with other gifted and talented programs.

"(3) The Center shall establish an Advisory Committee. Such Advisory Committee shall—

"(A) advise the Center on the development of criteria to identify gifted and talented children;

"(B) advise the Center on the development of programs to meet the special needs of these children, which may include using the Native Hawaiian Gifted and Talented Center as a resource; and

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented Alaska Native students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of such support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Alaska Native language and exposure to Alaska Native cultural traditions;

"(3) the use of educational technology, including computers and television, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children; and

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, 1993 and 1994. Such sums shall remain available until expended.".

SEC. 4. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This section may be cited as the "Native American Language Act".

(b) FINDINGS.—The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

(d) POLICY.—It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native Americans language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

(e) RIGHTS.—The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

(f) POLICIES AND PROCEDURES OF FEDERAL AGENCIES.—(1) The heads of the various Federal departments, agencies, and instrumentalities are directed to—

(A) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this section;

(B) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this section; and

(C) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this section.

(2) By no later than the date that is 1 year after the date of enactment of this Act, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this section.

(g) USE OF FEDERAL FUNDS.—Nothing in this section shall be construed as precluding the use of Federal funds to teach English to Native Americans.

NOTICES OF HEARINGS

SUBCOMMITTEE ON URBAN AND MINORITY-OWNED BUSINESS DEVELOPMENT

Mr. BUMPERS. Mr. President, the Subcommittee on Urban and Minority-Owned Business Development of the Committee on Small Business has scheduled a hearing for Wednesday, August 1, 1990. The purpose of the hearing is to assess the impact on minority small business participation in Government contracting opportunities resulting from the Supreme Court's decision in City of Richmond versus J.A. Croson Co. The hearing is to be held in the Central Hearing Room, SH-216, commencing at 9:30 a.m. It will be chaired by Senator KERRY, chairman of the subcommittee.

On January 23, 1989, the U.S. Supreme Court issued its decision in City of Richmond versus J.A. Croson Co., striking down as a violation of the equal-protection clause of the 14th amendment a Richmond ordinance which prescribed a 30-percent set-aside for minority business enterprise. Under the Richmond ordinance, each prime contractor on a city-financed construction contract was required to subcontract at least 30 percent of the dollar value of the contract with minority-owned subcontractors. Applying the strict scrutiny standard of review, the Court found that: First, the Richmond City Council failed to adequately establish a record of prior discrimination—factual predicate—to substantiate the ordinance's set-aside remedy; second, even if the factual predicate of past discrimination had been properly established, the remedy selected—the 30 percent minority subcontracting requirement—was essentially arbitrary and not narrowly tailored; and third, the ordinance failed to provide an adequate waiver provision.

Following the Croson decision, minority business set-aside programs in several States and local jurisdictions were successfully challenged as unconstitutional and terminated by judicial action. Many other programs have been voluntarily suspended in the face of threatened legal action to permit their reassessment and modification to meet Croson standards. Reports from the minority business community strongly suggest that Croson decision has had a profoundly negative impact on minority small business programs across the Nation during the 18 months since the decision was issued.

The subcommittee will be seeking testimony relating to several central themes. First, what have been the practical implications of the Croson decision on existing programs to foster the participation of minority small business as Government contractors and subcontractors on procurements undertaken by State and local governments. Testimony in this regard is expected from Parren J. Mitchell, former chairman of the House Small Business Committee, who is now the chairman of the Minority Business Enterprise Legal Defense and Education Fund [MBELDEF].

Second, testimony will be sought on how various jurisdictions have sought to meet the Croson decision's stricter standards. Studies are underway in several jurisdictions to establish the factual predicate of past discrimination. Similarly, narrowly tailored remedial programs are being fashioned. The subcommittee will be exploring whether these efforts have generated one or more models that can be readily replicated. In this regard, the subcommittee will be hearing from Ray Marshall, former Secretary of Labor, and Andrew Brimmer, a former Governor of the Federal Reserve Board, who jointly directed a comprehensive study to establish a factual predicate and propose a remedial program for the city of Atlanta. The technical challenges of undertaking such a study will be explored along with the preconditions of adequate political and financial support from the community's leadership.

Third, testimony will be sought regarding whether even a targeted remedial program passing Croson's strict scrutiny standards would not benefit from supplementation by broader business development programs aimed at common small business problems, such as access to capital and credit. In revamping their minority small business participation programs, some jurisdictions have taken broad steps to eliminate barriers to participation in the Government contract market, such as access to bonding. The subcommittee will receive testimony in

this regard from a representative of the Commission on Minority Business Development, and other witnesses from the minority business community.

Finally, the subcommittee will be seeking recommendations regarding the appropriate roles to be played by the Congress. Are enhancements to existing Federal business development programs an appropriate response? Should Federal initiatives address the problems of access to capital, commercial credit, and surety bonding, for example, to provide a more level playing field? Are Federal foundations needed for the various minority small business programs maintained by State and local governments? The Supreme Court's recent decision in Metro Broadcasting versus FCC has recognized a substantially greater latitude for Congress in shaping programs that will benefit minority small businesses. How should this authority be used?

To focus on the constitutional parameters of the Croson decision's restraints on State and local governments and the greater latitude for congressional action recognized by the Court in 1980 in Fullilove versus Klutznick and this year in Metro Broadcasting, the subcommittee is looking forward to the testimony of Prof. Drew S. Days III of Yale Law School. Professor Days served as Assistant Attorney General for the Civil Rights Division in the Carter administration and played a major role in supporting the minority small business participation program challenged and upheld in Fullilove.

Further information concerning this subcommittee hearing may be obtained from the committee's procurement policy counsel, William B. Montalto; Bill may be reached at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on July 30, 1990, at 2:30 p.m. to hold a hearing on the impact of environmental concerns on international trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. DAVID BAINES

● Mr. McCLURE. Mr. President, a recent article in the American Medical Association News is about a dedicated physician practicing in St. Maries, ID.

Dr. David Baines, a native American, is a partner in the St. Joe Valley Clinic in the small logging town of St. Maries in the panhandle region of north Idaho. Until recently, he contracted with the Coeur d'Alene Indian Tribe to provide services on the reservation located near St. Maries. Dr. Baines is president-elect of the Association of American Indian Physicians and sits on a National Institutes of Health committee for cardiopulmonary risk factors in minority populations.

Dr. Baines brings to his practice a sensitive insight into the health needs of native Americans. The AMA article provides some interesting reading about how traditional culture affects health care delivery to Indian people. For example, Dr. Baines talks about how many Indian languages simply do not have a future tense. Therefore, many Indians live in the here and now and it is difficult for them to understand how they must take medication today in order to feel better in the future.

I urge my Senate colleagues to take a few minutes to read this article and I ask that it be printed in the RECORD at this point.

The article follows:

[From The American Medical News, June 29, 1990]

MEDICINE MAN

(By Julie Titone)

ST. MARIES, ID.—One of his patients lives so much in the present that she can't understand the need to take medicine that will control her diabetes next week or next month. Another thinks his physician should know intuitively what's wrong with him. He wonders if a doctor can be any good if he has to rely on his patient's answers to make a diagnosis.

How does David Baines, MD, respond?

He understands that his patients are simply reflecting their Native American heritage, and he seeks ways to incorporate that heritage into Western medical practice. "The mainstream culture in this country is insensitive to other ways, whether your're black, Hispanic or Oriental," he said.

Dr. Baines, who is himself Native American, is a national activist on behalf of Indian health care and cultural awareness. He speaks forcefully of the need for more Native American health care providers, and for increased funding of the federal Indian Health Service (IHS), which is the major source of care for the nation's 1.1 million American Indians and native Alaskans.

For four years, Dr. Baines has been a partner in the St. Joe Valley Clinic in St. Maries, an isolated North Idaho logging town of 2,800. The clinic's five doctors—Baines is the only Indian—until recently contracted with the IHS to staff the small medical office at the nearby Coeur d'Alene Indian Reservation. Since May, the reservation has had its own clinic, for which the St. Joe physicians provide back-up support.

The Coeur d'Alenes, like Indians throughout the country, struggle with high rates of diabetes and alcoholism. The tribe also has an unusually high incidence of arthritis, Dr. Baines said.

"Prior to David Baines moving to St. Maries and dealing with Coeur d'Alene Indian patients, I didn't know Indian physicians existed," said Donna Curtis, a tribal member and editor of the tribal newspaper.

Her sister, Marjorie Matheson, is director of planning for the 1,100-member tribe. When Dr. Baines arrived in the area, Matheson said, there was a "waiting period" during which Indians sized him up. It's not unusual for Indians to be leery of a Native American doctor, said Dr. Baines, because they are so used to getting medical treatment from whites.

The braided, bespectacled, bow-hunting physician apparently passed muster. "I never heard anyone question his competence or his commitment to Indian people," said Matheson. Not all of his white patients feel the same way, Dr. Baines said. "Some of my non-Indian patients still say, 'You're all right for an Indian.' They're pretty upfront."

Native American patients are a diverse group, Dr. Baines said. "There's really a wide range, from those with low eye contact and very little communication all the way to the other end, like me with my 23 years of education."

The more traditional Indians are, the less they believe in verbal communication, he said. They expect the physician to be like the traditional healer, whose hallmark is his ability to determine and treat illnesses through spiritual means. Some Native America patients simply won't say what's wrong, Dr. Baines said, so "you just have to guess."

Many Indians also are not as oriented to the clock and calendar as mainstream culture demands. "[Indian patients] may show up on the wrong day at the right time if I send them to a specialist in Spokane," Dr. Baines said. The first couple of times that happens, he added, he will intervene to get the specialist and patient together. "I tell them, 'These white folks, they have a real time fixation and you'll just have to deal with it.'" After the third missed appointment, Dr. Baines assumes the patient has decided against the treatment.

Indian culture also places much more emphasis on the here and now. In fact, "Some Indian languages do not have a future tense," Dr. Baines wrote in a 1988 article in the Medical Bulletin, a quarterly publication of the Spokane County Medical Society. "This may be why it is often difficult to get an Indian diabetic or hypertensive patient to manage their disease. They feel fine now and are less oriented to the future than the majority of Americans would be."

While the St. Joe Valley Clinic's doctors visited the reservation on a rotating schedule, Dr. Baines saw patients there several times a month. But his influence on, and interest in, the tribe's well-being goes beyond that commitment, tribal members say.

"He's not only a concerned doctor, but an ethnically sympathetic doctor," said Henry SiJohn, a tribal leader and a patient of Dr. Baines.

The physician's own professional achievement illustrates what education can do for members of a chronically undereducated and underemployed population. "He is absolutely an important role model," SiJohn said. "We need more people like him. There are too few Indian doctors."

There are 45 Indians among the 870 physicians employed by the IHS. In all, there are about 500 Native American doctors in the United States, according to the Assn. of American Indian Physicians. Dr. Baines is president-elect of the 200-member association, a private, non-profit group that works to boost the number of Indian doctors and raise the health status of Native Americans

while increasing public awareness about their special health problems.

Dr. Baines is also the only practicing physician on a National Institutes of Health committee for cardiopulmonary risk factors in minority populations, and he sits on the minority health affairs committee of the Academy of American Family Physicians. His work with the latter committee includes evaluating health care systems in Indian communities.

"I don't see many [Native American] physicians like David who are leaders," said Chuck North, MD, IHS senior clinician for family practice. "There are very few people like him who have taken on so many national responsibilities."

Dr. Baines serves as a "cultural broker" for the minority committee, Dr. North said, making contacts with traditional healers in areas spanning South Dakota to the Arctic Circle.

"He's always considered it important when we make site visits to make contact with the local indigenous healers. He gets better information that way," said Dr. North. He recalled one occasion, in Montana, when Dr. Baines left the other members to continue their tour of clinics while he hitchhiked to an Indian community. He ended up arranging an unusual meeting between committee members and Indian hospital staffers.

"We went to a sweat lodge with these fellows," North said. "We stripped down * * * it was really hot. They poured water on hot rocks, and jumped in a little stream afterwards. It made us feel a lot closer to them."

Some Indian healers are associated with the Native American Church, a movement that incorporates tribal beliefs with Christianity. Others adhere strictly to their local traditions. Although most Coeur d'Alene tribal members are Roman Catholic, many travel to Kusick or Yakima, Wash. or to Montana's Flathead reservation to consult with traditional healers.

The IHS has incorporated traditional healing into hospitals it has built in recent years, said Dr. North. "It's usually recognized in hospital policies and procedures that herbal medicines can be administered if approved by the doctor," he explained.

Dr. Baines works to promote mutual respect between medical doctors and traditional healers, who, he said, "have to realize there're certain things we can do that they can't. We can take out an appendix."

The two types of healers share a common purpose, he noted: "We both want the patient to get better."

Dr. Baines' medical career began by accident. He told the story recently to a group of fourth graders in Plummer, Idaho, some of whom were members of the Coeur d'Alene tribe. Their speaker looked younger than his 35 years, wearing a pullover sweater with a white comb protruding from the back pocket of his jeans.

A member of Alaska's Tlingit and Tsimpshian tribes, Dr. Baines returned to his reservation after high school, expecting to be a woodworker or fisherman, like most of his contemporaries, he said. He landed a job in a sawmill, where he suffered a serious leg injury.

"I could hear it coming," he said, recalling the explosion that catapulted him into the air and, he added ruefully, ruined a brand-new pair of Levi's.

During his painful recovery, he decided that there must be a better line of work for him.

After enrolling in a junior college, he took a career test and was told that six of the 10 areas for which he had an aptitude were health-related. Once he decided on medicine, he said, "I never had any doubt in my mind I was going to do family practice, rural medicine on or near a reservation."

Dr. Baines' father is a Methodist minister whose assignments took him to Arizona, where David attended Arizona State University, and Minnesota, where he graduated from Mayo Medical School in 1982.

Speeches and committee work take Dr. Baines to cities nationwide. He has welcomed the chance to speak at medical schools such as those at Stanford University and the University of Minnesota, where he has offered encouragement to Native American students while acknowledging the problems they face.

"In the last 10 years, the dropout rate for Indian medical students is around 13%, while it is less than 3% for Caucasian medical students," he said. "Eight percent to 13% of Indian students repeat, a year, while it is less than 3% for all medical students. Much of this difference is the results of cultural and financial barriers."

When he entered medical school, Dr. Baines cut off his braids in an effort to fit into the "white man's" world. But he worried about losing his "Indianness." He regained his self-confidence, he said, with the help of Native American healers.

"These medicine men proved I could retain my traditional Indian values and make them compatible with western medicine. They taught me to treat the whole patient, not just the body, but the mind and spirit as well.* * * I found as I got more comfortable in my role, non-Indians became more comfortable with me."

The message of "mind and spirit" came through clearly at an unusual workshop arranged by Dr. Baines for physicians in Spokane, Wash., 70 miles northwest of St. Maries. Spokane, the Inland Northwest's largest city, contains the region's major medical centrers. Titled "Medicine and the American Indian," the conference introduced the urban physicians to native healing practices ranging from sweat-lodge ceremonies to herbal preparations.

Although his mother is not Indian, Dr. Baines said he was influenced by the matriarchal nature of his tribe, in which women traditionally ruled in social and cultural matters and men were dominant in matters of war. His political nature surfaced, he said, after he began to look upon getting health care for his people as a battle.

He "hustled for every dime," he said, in order to leave medical school without a debt so massive that it might keep him from taking a less lucrative rural practice.

He spend his internship at the King/Drew Medical Center in the predominantly black, indigent Watts area of Los Angeles. Medical school had not prepared him to treat this population, he said, and he attributes his ability to adapt to his own experience as a minority.

After a family practice residency at the Cheyenne Family Practice Program in Cheyenne, Wyo.—which included work at the Wind River Indian Reservation—he moved to St. Maries. He and his wife, nutritionist Catherine Panfilio, filled positions at the St. Joe Valley Clinic and Benewah Community Hospital left open by the departure of another doctor and his wife.

Dr. Baines knew he had been accepted by the Coeur d'Alenes when he began getting invitations to traditional ceremonies. "A lot of traditional medicine has gone underground, partly from pressure from religious groups," he said. "When I first got here, no one would answer my questions about ceremonies."

The ceremonies are both spiritual and social events, he said. "Sometimes we get together just to rejuvenate our spirits, something not much different than what you do on Sunday." Other ceremonies are held to celebrate a birth, name a baby, provide support in troubled times, or "just for fun."

An awareness of Indian ways is reaching the highest levels of the medical establishment. In 1988, Dr. Baines, in traditional costume, performed a pipe ceremony to inaugurate James Jones, MD, as the first Indian to head the Academy of American Family Physicians. Seven years earlier, the IHS had gotten its first Indian director in Everett Rhoades, MD, a Kiowa from Oklahoma.

Both Indians and non-Indians are welcome at the new Coeur d'Alene clinic in Plummer, a town in the midst of the reservation. Dr. Baines was on the committee that planned the clinic, which is providing the tribe with its first five-day-a-week medical services. The office has one full-time physician and is funded with a variety of public and private grants.

Although his group practice no longer serves as the reservation primary physician, Dr. Baines will remain in touch with the region's Indian communities. He recently joined the board of a project that helps native American youths in the inland Northwest.

Although he doesn't foresee an immediate professional change, he said he may some day seek a job in the "pure, raw politics" of medicine, such as an administrative position with a government health agency. Or he might seek an academic post.

But "that's a long way off. You're talking gray-hair time," he said. "Whatever it is, my long-term work will involve supporting IHS in its goals. No matter what I do, at whatever level, I'll always be there plugging for them."●

TRADITIONAL BILINGUAL EDUCATION DOES IT WORKS?

● Mr. McCLURE. Mr. President, I recently ran across an article printed in the Outpost section of the Washington Post about the subject of bilingual education. It is written by Rosalie Pedalino Porter, who is head of bilingual programs for the Newton, MA, public school system. Ms. Porter is also the author of a book entitled "Forked Tongue: The Politics of Bilingual Education." Ms. Porter makes some interesting observations that I think my Senate colleagues will find instructive.

Ms. Porter points out that bilingual education, in which a student is instructed in his native language, has been used for 22 years now and that some 153 different languages are now represented in classrooms across the Nation. Ms. Porter contends that bilingual education is failing miserably. She says it is "no wonder" that bilingual education has become the single most controversial area in public education. "They segregate limited-English children, provide them with inferior schooling and often doom them to unskilled jobs as adults."

Mr. President, I do not doubt that educators and lawmakers acted with the best of intentions when bilingual programs were instituted nearly a quarter of a century ago. America is unique in that we strive for an equal education for all our citizens. We demand access to education. In the rush to provide that access, however, I wonder if we have not done a disservice to limited-English children.

The term "bilingual," Mr. President, seems to me to denote that a person will be equally well educated in two languages. Bilingual education, as we know it, has not resulted in children who can do equally well in two languages. What we have ended up with is children who are reasonably well educated in their native languages but who fell far short in their command of English.

I wish all of America was bilingual, Mr. President, I wish I could speak, read and write in more than one language. But if we must choose the language in which our youngsters will primarily be educated in—it must be English. This is an English-speaking nation, plain and simple. To fool ourselves into thinking people can succeed in America without being proficient in the English language is more than just naive, it is downright dangerous.

As Ms. Porter says in her article: "In the next 20 years, at least half the new workers entering the labor force will be minorities. U.S. companies depend upon well-educated workers; but many fear that the new work force will lack even basic skills.

Young people are doubly at risk if they have neither the ability to communicate adequately in English nor the literacy and numeracy skills they need for good jobs. The ability of minority populations to use the language of the majority society is linked directly to their individual opportunity and thus, most basically, to social justice."

I appreciate the desire and need of minorities to preserve their culture. And, obviously, language is a large part of any culture. Language frames our field of reference, it shapes our thinking and it changes the direction of history. It also allows the user of the language the right to participate in society. Without language and the tools to become actively involved in the world around us, I fear there is little hope for economic parity and social justice for minority children.

I hope my colleagues in the Senate will take the time to read Ms. Porter's article. I think they will find that she makes a lot of sense and I ask that her article be printed in the RECORD at this point.

The article follows:

[From the Washington Post]

LANGUAGE TRAP: NO ENGLISH, NO FUTURE

(By Rosalie Pedalino Porter)

In the name of "cultural sensitivity," we are systematically undereducating our language-minority children, severely reducing their opportunities for economic and social advancement. The politics of ethnicity—and in particular, pressure to continue the widely applied experiment called bilingual education, in which children are taught not in English but in their native language—has distorted public-education policy and limited the search for alternatives.

In the 22 years since bilingual education began, the number of different languages represented in schoolrooms nationwide has grown to 153, and the programs have become the single most controversial area in public education. No wonder; They segregate limited-English children, provide them inferior schooling and often doom them to unskilled jobs as adults.

Yet bilingual programs continue to increase, despite striking evidence of their failure:

In November 1988, Con Edison, the public utility company of New York City, gave an English-language aptitude test to 7,000 applicants for entry-level jobs. Only 4,000 passed—and not one of those was a graduate of the city's bilingual education programs. Yet a coalition of ethnic activists recently succeeded in convincing the state Board of Regents to pass new regulations that will keep more limited-English children enrolled for more years in native-language classrooms.

In Los Angeles, which has the largest enrollment of limited-English students in the country (142,000), a survey of teachers in 1988 revealed that they are opposed to bilingual education by a margin of 78 to 22 percent. These results have been ignored and a bilingual master plan imposed on the Los Angeles schools that requires even more teaching in the native language.

In New Jersey last year the state Board of Education announced that limited-English students may take the test of basic skills required for high school graduation in any of 12 languages. What the board didn't explain is how a student who has passed math and science tests only in Arabic, for example, can possibly use that knowledge to get a job in our English-speaking society or to qualify for college entrance.

The U.S. Department of Education—despite its own studies showing that bilingual education fails the very children it is meant to help—continues to direct the major portion of federal funding for language-minority children into these same bilingual programs.

Millions of children are affected, and their numbers are growing much faster than the rest of the school population. Estimates range from 1.5 to 7.5 million—from 5 to 20 percent of the total enrollment. The most recent survey by the DOE in May 1989 reports that from 1985 to 1988, enrollment of limited-English students in kindergarten through 12th grade increased by 7.1 percent while total school enrollment nationwide declined by 1.3 percent. Out of a total school population of 39.2 million in kindergarten through 12th grade, the number of limited-English students is reported to be 1,533,520 or 5 percent. But the survey acknowledges that the actual number may be three to six times that many. Five states reported that as many as 22.5 percent of all their schoolchildren are not able to use the English language well enough to benefit from regular classroom teaching in English.

The Bilingual Education Act of 1968 was designed to remove language barriers to learning. Access to an equal education was the primary goal and early mastery of English was seen as the key to such access. The act mandated three years of study under a new initiative called bilingual education, which was expected to help students learn English faster, develop self-esteem and master subjects for grade-promotion and high school graduation. [See box.] These presumed benefits were entirely hypothetical; there was no evidence that such results would actually occur.

Bilingual advocacy groups soon began to exert pressure at the state level for public schools to provide support for maintaining students' native cultures as well. In some instances, the original program title was changed to "bilingual/bicultural education." Often schools were urged to hire only teachers of the same ethnic background as the students. Instructors from the Dominican Republic, it was argued, could not "relate" to Puerto Rican students. There were repeated efforts to amend state laws to keep students in bilingual classed beyond the three years originally mandated.

In many cases, political pressure changed what was to have been a temporary, "transitional" program into a permanent vehicle for developing students' native language and culture at the expense of English-language learning and integration into mainstream classrooms. "The most significant thing about bilingual education is not that it promotes bilingualism," says Stanford University bilingual advocate Kenji Hakuta, "but rather that it gives some measure of official public status to the political struggle of language minorities, primarily Hispanics."

FACING UP TO FAILURE

The two basic premises of bilingual education are that it will make minority children equally literate in two languages while at the same time preserving their cultural identity. Neither in fact is the case.

For two decades, federal- and state-funded bilingual education programs throughout the country have failed to prepare language-minority children for high school graduation, much less for jobs or higher education. Moreover, they have conspicuously failed to reduce the extraordinarily high dropout rate for Latino students—between 40 and 50 percent nationwide, compared to 25 percent for African-Americans and 14 percent for non-Hispanic whites, according to the National Association for Bilingual Education.

As a classroom teacher of fifth- and sixth-grade Hispanic students in Springfield, Mass., I found that most of these children had not just arrived from another country but had lived on the U.S. mainland most of their lives. Yet after five or six years in bilingual classrooms, they were able neither to do math or reading at the proper grade level in Spanish nor to master the English-language skills they needed. My experience was representative of the conditions in other school districts. A study of the Boston Public Schools' bilingual program completed in 1986, for example, revealed that over 500 Hispanic students who had been in bilingual classrooms since kindergarten were not able, on entering seventh grade, to take classes in English.

When students are taught in Spanish a substantial part of each day, Spanish is the

language they will know well, not English. This is not surprising. Educators call it the "time on task" concept—the proven link between the amount of time spent studying anything and the degree of success in learning it.

Two multi-year research projects conducted for the Department of Education in school districts with large Hispanic populations confirm this common-sense principle. In Dade County, Fla., and El Paso, Tex., language-minority students were divided into two groups: One was taught entirely in Spanish; the other received all instruction in an English-language "immersion" program. [See box.] Each study showed the same result. Both student groups attained the same levels in math, science and social studies. But the immersion students were far ahead in English speaking, reading and writing skills. Furthermore, in both cases researchers found no evidence of greater self-esteem on the part of the students taught in their native language.

Across the nation, classroom teachers have learned firsthand how unsuccessful bilingual programs are. But they rarely speak out for fear of being labeled "racist." Now, however, even supporters of bilingual programs are realizing that linguistically separate education of minority students for most of the school day is difficult to reconcile with our commitment to integrate schools along racial lines.

Indeed, such programs can provoke ethnic discord. As early as 1977, Alfredo Mathew Jr., a pioneer in bilingual education, warned that "while bilingualism, from a political point of view, is meant to foster the Puerto Rican/Hispanic identity and consequently encourages concentrations of Hispanics to stay together and not be integrated, one also has to be wary that it not become so insular and ingrown that it fosters a type of apartheid that will generate animosities with others, such as blacks, in the competition for scarce resources, and further alienate the Hispanic from the larger society."

Continued exclusive reliance on bilingual programs is also incompatible with another national goal—increased economic competitiveness. In the next 20 years, at least half the new workers entering the labor force will be minorities. U.S. companies depend upon well-educated workers; but many fear that the new workforce will lack even basic skills. Young people are doubly at risk if they have neither the ability to communicate adequately in English nor the literacy and numeracy skills they need for good jobs. The ability of minority populations to use the language of the majority society is linked directly to their individual opportunity and thus, most basically, to social justice.

EDUCATION AND EQUITY

Certainly other factors besides language contribute to the failure of language-minority students, including poverty, family instability and overt discrimination. These students need more supervision and opportunity in their lives and more special help in their schooling if they are to overcome their disadvantages. They need early and intensive help not only in learning the language of the schools and society but in mastering the subject matter of math, science, history and information technology. Certainly no one argues that these students should be subjected to the old "sink or swim" policies of neglect that earlier ethnic groups experienced.

But neither should we confine them only to traditional bilingual education, given America's astonishing diversity of cultures. To propose that one program can successfully meet the needs of such disparate communities as Cambodians, Navajos, Vietnamese and Russians is either naive or willfully misleading. Spanish speakers alone comprise many distinct communities from more than three dozen countries in Central and South America, the Caribbean and Europe, with members in all economic and social levels. Their goals may be equally diverse.

A recently published national survey of Asian, Cuban, Mexican-American and Puerto Rican parents of limited-English students reveals their very different attitudes. Asians (whose numbers rose 70 percent during the 1980s) are the most likely to cite learning English as one of the three most important objectives of schooling and give a much lower priority to the teaching of the home language in school than the other three groups. Puerto Ricans and Mexican-Americans are more likely than Asian or Cuban parents to want their children in native-language programs and to expect schools to teach the history and customs of their ancestors. Asian and Cuban parents tend to believe that this is the family's responsibility.

KEEPING THE COMMITMENT

Clearly, we need to give parents and educators a range of alternatives—as well as the right to choose the most effective approaches for their communities and the power to assign public funding to support their choices.

One highly effective alternative has been promoted by Canada and Israel: second-language learning by the technique of "immersing" students in the new language as early as age 5. [See box.] This method requires trained teachers and a special curriculum. Comparable "early immersion" programs in the United States are operating successfully in El Paso and Uvalde, Tex.; Arlington and Fairfax, Va.; Berkeley and San Diego Calif.; Elizabeth, NJ. and Newton, Mass. They use new language teaching techniques that include early immersion in the English language. The aim of these programs is not primarily the strengthening of the student's native language but is instead pragmatic and double-barreled: Early and intensive English-language instruction together with strong emphasis on computation, analytical mathematics, biological and earth science, history and the study of different cultures.

One of our most urgent social obligations of the '90s is to ensure that our language-minority children have educational opportunities equal to those of their English-speaking classmates. In addition to our fostering respect for each child's ethnic culture and language, limited-English children must be given the means and the motivation to complete a high school education and to prepare for productive work or for higher education and professions. Such motivation comes only from real achievement. That means putting aside the segregative and inadequate program of bilingual education and replacing it with a rich, content-filled education in English, the empowering language of our society.

CLASS ACTIONS

In a transitional bilingual education program, a typical day for a Spanish-speaking child newly arrived in a Boston classroom includes the teaching in Spanish of reading, writing, math, science, U.S. history and something of the culture of the child's native land.

A 30-to-45-minute English-language lesson is provided, and occasionally a lesson in art, music or physical education in a combined class with English-speaking children. Over the course of three years, the use of English in teaching is gradually increased, in the expectation that eventually the student will be able to work in a regular English-language classroom. Such programs necessarily require teachers with native fluency, native-language textbooks (in each subject for each language group) and the separation of students for three years or longer.

The same child entering an "English Immersion" program in Fairfax, Va., however, has a very different experience. From the first day, at least three hours are spent with a special teacher of English as a Second Language (ESL) for intensive lessons in speaking, reading and writing English—lessons focused on the vocabulary and concepts of math, science and other subjects, along with some of the history and culture of the student's native land. The student spends the rest of the day in a regular classroom with English-speaking students. The expectation is that within a few weeks the student will learn enough English to participate in mainstream math classes, and in two years, on average, will be able to do all schoolwork in English.

Immersion programs do not require a separate teacher for each language group. Children from different language backgrounds are taught together. This multicultural feature, combined with extensive classroom hours spent with English-speaking students, provides the highest level of integration and affords the best opportunity for acquiring and using English.●

THE PRESIDENT'S ENTERPRISES FOR THE AMERICAS INITIATIVE

● Mr. BOSCHWITZ. Mr. President, the past decade saw two developments of historic importance in Latin America. The first was the sensational spread of democracy and the virtual end of repressive and authoritarian government in that region. The second development was the renewed appeal of the free enterprise system, which won countless adherents among our southern neighbors.

The nations to our south learned—in many cases through bitter experience—that the best route to ensuring national security and economic development does not lie in denying the people their legitimate political and economic rights. Rather, empowering the people with both the right to vote and the right to make their own economic choices allows initiative to flourish in an unparalleled manner and creates far greater opportunities for providing security than are otherwise possible.

Most Latin American and Caribbean nations face daunting economic obstacles as they struggle to bring about balanced growth that will also give their people the chance to live fully dignified and productive lives. The debt problems facing most of these nations are intimidating and seriously impede the development and implementation of policies that can end the bitter cycle of poverty; the foreign ex-

change they need to finance development is scarce.

As the most powerful Nation in the Western Hemisphere, we have a special obligation to work with our neighbors in the ongoing effort to ensure economic growth and prosperity for all. I do not say this out of any sense that only the United States knows what needs to be done. I fully realize that Americans by no means have all the answers to the economic problems afflicting our Latin and Caribbean friends. I say it, rather, in the realization that only by listening to each other and working closely with those nations which freely choose to work with us can we jointly make permanent progress against poverty and underdevelopment.

Last month, President Bush announced a new enterprise for the Americas initiative. This initiative promises to create conditions both for sustained economic growth within the nations of the Western Hemisphere and expanded, mutually beneficial relationships between them. It provides the blueprint for a solid plan to help them achieve broad-based economic growth, development, and security.

The initiative addresses four major areas which must be part of any realistic government-to-government economic program in today's world: Trade relations, investment barriers, debt, and the environment.

As the first part of his initiative, the President has indicated his intent to gradually develop a hemispherewide free trade zone. I fully support this goal and share the President's hope and expectation that the first step in this direction will be the successful completion of the Uruguay round of world trade talks.

A free trade zone of the scope proposed can not, of course, be developed overnight. Indeed, it will take years for such a goal to be realized. And it can never be achieved entirely through actions by the United States. There must also be active cooperation from the governments and business leaders of the Latin American and Carribean nations. Under policies which foster free enterprise, and with the help of both domestic and foreign investors, much progress can be made. But there must be multilateral support if there is to be success.

Today the United States is negotiating a free trade agreement with Mexico. We have removed some barriers to trade with other Latin American neighbors. I believe that mutual elimination of the many remaining barriers to free trade in the Western Hemisphere would facilitate business ventures and development activities which would improve the economies and standards of living in these nations.

The second part of the President's initiative is investment reform. The President has proposed a joint effort with the Inter-American Development Bank to create an investment sector loan program for those Latin American and Carribean nations which reduce barriers to investment. The program, whose size has not yet been determined, will provide both financial support and technical advice for endeavors to privatize industries. The President also hopes to cooperate with the European Community and Japan to establish a $300 million annual investment fund for the Americas. Grants from this fund would finance privatization of industries, training, education, and health programs to benefit employees.

Privatization is, in my opinion, one of the most important steps that our neighbors can take to bring about economic development. The private sector should be the engine driving their economies. State-owned firms have no incentives to increase either efficiency or productivity. Privatization increases tax revenues, ends wasteful subsidies, and encourages entrepreneurs to risk their capital. I strongly encourage and support the spread of privatization throughout the Western Hemisphere.

As the third part of his initiative, the President focuses on debt. The burden of debt remains an immense barrier to economic growth in Latin America and the Caribbean. Like a sword of Damocles, debt hangs over the hopes of the underdeveloped nations of the Western Hemisphere. Easing debt is essential to the initiative as a whole, as the President clearly recognizes. The Brady plan has already made some progress in reducing Latin American debt. Agreements reached with Mexico, Costa Rica, and Venezuela have stimulated investment in those countries.

The President's plan would take this a step further. He has urged cooperation among the Inter-American Development Bank, the International Monetary Fund, and the World Bank to provide funds to ease the commercial bank debt of those nations which adopt economic reforms. He has also indicated a desire to match economic reform with a reduction in these countries' official debt to the U.S. Government. I believe that the United States should help to rearrange and refinance creatively the bank debt of Third World nations upon their making market reforms. Such market reforms are really a necessity for the countries involved if they want to attract large-scale foreign investment.

I am especially gratified that the President has included the environment as part of his initiative. Environmental protection, so often neglected in the past, is an important value to foster along with economic growth. There is growing world consciousness of the effects that economic development can have on environmental stability, and I commend the President for recognizing this in his enterprise for the Americas initiative.

Mr. President, I believe that the President's initiative can foster economic development and a better standard of living for Latin American and Caribbean nations. Free markets in those countries will provide unprecedented opportunities for economic growth. Such a development is not only in their best interests but also those of the world as a whole. I encourage the nations of the Americas to accept the challenges of the free market and to work with the United States in the realization of this initiative.

I support the President's plan, look forward to working with the administration on the enactment of any required legislation, and hope that this endeavor may soon yield significant results.●

THE 25TH ANNIVERSARY OF MEDICARE AND MEDICAID

● Mr. RIEGLE. Mr. President, today marks the 25th anniversary of the Medicare and Medicaid Programs. This country can be proud of the accomplishments of these two programs. Medicare provides basic health services to over 33 million older and disabled Americans. Medicaid, the jointly funded Federal and State program for low-income people, serves over 25 million Americans. Close to half of these people, 11 million, are children under the age of 21.

Over 1 million Michigan seniors benefit from the services provided for under Medicare. In addition, Medicaid serves almost 1 million Michigan citizens. As a member of the Finance Committee which has jurisdiction over these programs and as chairman of the Subcommittee on Health for Families and the Uninsured, I will continue to work toward improving and protecting these vital programs.

Over the past decade, Medicare has suffered the largest budget cuts of any single domestic Federal program. I am concerned that excessive cuts in Medicare could undermine the system and limit health care to people. As a member of the Budget Committee, I will continue working to protect the Medicare Program.

Mr. President, while we celebrate the 25th anniversary of these important health care programs, we must remember that more must and can be done to improve the health status of all Americans. Medicare was never intended to cover all the health care needs of our seniors and thus many seniors have little protection against the costs of a catastrophic illness or long-term care.

The United States lacks a comprehensive national policy to address the

long-term care needs of our elderly and disabled citizens. Yet the need for care is ever present. By the year 2000, more than 8 million Americans aged 65 and older are estimated to need some form of long-term care due to disability or chronic illness. The cost of long-term care is high. The average cost of staying in an nursing home is $25,000 per year.

Public funding for long-term care is now primarily limited to nursing home care and only after a senior or disabled person exhausts some of his or her resources. Private sector options are also limited; only 1 to 2 percent of seniors have long-term care policies. Typically, these policies other benefits for a limited range of services provided in a nursing home, and to a lesser extent, at home. Many policies have also been restrictive in providing benefits and have been expensive.

This country needs a Federal policy on long-term care that provides a range of services to individuals including institutional and community-based services. With the recently released Pepper Commission recommendations, Congress is in the first stages of this long overdue effort in developing solutions that will afford individuals real security.

Mr. President, as we reflect upon the accomplishments that have been made in the past in Medicare and the recent appeal of the Medicare Catastrophic Health Care Program, a clear area of needed improvements is Medigap supplemental insurance. When the Catastrophic Health Care Program was repealed last year, I was very concerned that private Medigap insurance rates would rise, making supplemental private health care protection unaffordable to some seniors. Last fall, premium rates for some policies increased by up to 45 percent in Michigan.

I have introduced legislation, S. 2641, to provide uniformity in the types of benefits offered and in the language and format provided by Medigap insurers. This legislation would reduce confusion about different policies and make sure that individuals can determine which policy best meets their needs and resources. I am also a cosponsor of the Medigap Fraud and Abuse Prevention Act and have been working with other Members of Congress to prevent unnecessary insurance rate increases and prevent abuses in the sale of Medigap policies.

Mr. President, I also want to take the opportunity of this important anniversary to renew our commitment to universal access to health care for Americans. Affordable, high quality health care is not available for all Americans. It's a national tragedy that 37 million Americans have no insurance coverage at all. More than ever before, this country needs a national strategy for dealing with the major shortcomings of our health care system.

Our health care system—the most advanced and sophisticated in the world—has failed us in two important ways. Tens of millions of Americans are without health insurance or the financial resources to purchase health care services when they or families need care. In addition, our health care system is the most expensive and inefficient in the world. U.S. spending on health is approaching 12 percent of the GNP, far exceeding any other nation. A more efficient, better designed health care delivery system could provide care to all Americans without utilizing additional national resources.

We need to act now on both universal access to health care and rising health care costs. We have done enough studying of the issues, it is now time to move forward on a health care program for all Americans.

I have held six hearings in the Finance Subcommittee on Health for Families and the Uninsured on the problems related to lack of insurance. This is a part of an ongoing effort by this subcommittee to solve the problems of the 37 million Americans with no health insurance.

A bicommittee, bipartisan Senate working group on universal access has been working since last July to develop a solution that will provide universal access to health care and control rising costs. The Senate working group has compiled a document of the options that the group has been considering. In developing our proposal, we intend to draw on the data and recommendations of individuals and organizations having an interest in health care issues. With the key experts on health policy in the Senate together with the help of individuals and organizations with an interest in health issues, I believe that we can and must accomplish the goal of universal access to affordable and high quality care in this country.

Mr. President, as this Nation commemorates the 25th anniversary of Medicare and Medicaid, I will continue to work in Congress to address the health care needs of all Americans.●

POLISH DEBT REDUCTION

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 585, Senate Resolution 293, a resolution concerning Polish debt reduction.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 293) concerning Polish debt reduction.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations with an amendment.

S. RES. 293

Whereas the Government of Poland is to be commended for its commitment to democratic rule and free, mulitparty elections;

Whereas Prime Minister Tadeusz Mazowiecki and Finance Minister Leszek Balcerowicz have introduced a far-reaching economic reform program intended to bring about a private market and free enterprise system;

Whereas, despite these courageous efforts and the end of hyperinflation, the Polish economy has entered a deepening recession;

Whereas the Government and people of the United States have acknowledged the historic opportunity for freedom and economic growth presented by the dramatic changes in Poland and Eastern Europe during 1989, by providing public assistance through Public Law 101-179 (the "SEED" Act) and private assistance through private voluntary organizations;

Whereas Public Law 101-179 urged the United States Government to seek debt relief through coordination with other members of the Paris Club of creditor governments;

Whereas, although Poland's external debt owed to governments has recently been rescheduled by the Paris Club, Poland's external debt still stands at approximately $40,000,000,000, while debt-service payments will resume in March 1991;

Whereas this excessive debt burden threatens to undermine the success of the Polish Government's reform program, as foreign investors look to long-term currency stability, positive rates of economic growth, and a greatly improved balance of payments;

Whereas the Government of Poland owes nearly 80 per centum of its hard-currency debt to Western governments;

Whereas the Government of Poland has put forward a plan to significantly reduce its external hard-currency debt held by Western governments;

Whereas precedents exist for reducing or forgiving debt in the sub-Saharan African Initiative of 1989 and the London Accord of 1953;

Whereas the success of Poland's democratic, free market revolution will significantly change the face of Europe by ecouraging other East European governments and the Soviet Union to accelerate their reforms and move to open, peaceful democratic systems of government: and

Whereas assuming a leading role in finding an early solution to Poland's debt burden is in the national interest of the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

the President of the United States, through the Secretary of the Treasury and the Secretary of State, should immediately enter into discussions with the Paris Club governments to seek innovative approaches to significantly reduce Poland's officially held debt in as quick a timetable as possible;

the President of the United States, through the Secretary of the Treasury and the Secretary of State, should unilaterally announce that the United States will significantly reduce the officially held Polish debt

if other nations will join in this important step;

the President should initiate such debt-reduction discussions for Poland at the 1990 Economic Summit of Industrialized Nations in Houston, Texas, during July 8 through July 11, 1990[; and

[the President should further consider inviting the Government of Poland to send a representative to the Houston summit to make a brief presentation to the summit participants on possible debt-reduction proposals].

AMENDMENT NO. 2434

Mr. BOREN. Mr. President, on behalf of Senator SIMON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. SIMON proposes an amendment numbered 2434.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the resolving clause, and insert in lieu thereof the following:

"That it is the sense of the Senate that—

the President of the United States, through the Secretary of the Treasury, should immediately enter into discussions with the G-7 governments to seek innovative approaches to significantly reduce Poland's officially held debt in as quick a timetable as possible;

the President of the United States, through the Secretary of the Treasury, with the concurrence of Congress, should take steps to explore options to significantly reduce the officially held Polish debt, if other nations will join in this important step.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2434) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 293), as amended, was agreed to.

AMENDMENT NO. 2435

(Purpose: Amendments to the Preamble)

Mr. BOREN. Mr. President, on behalf of Senator Simon, I send three amendments to the preamble to the desk and ask unanimous consent for their consideration en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. SIMON, proposes an amendment numbered 2435, amendments en bloc to the preamble.

In the sixth Whereas clause, strike out "approximately $40,000,000,000" and insert in lieu thereof "nearly $41,000,000,000";

In the eighth Whereas clause, strike out "80" and insert in lieu thereof "70";

In the tenth Whereas clause, strike out "or forgiving".

The PRESIDING OFFICER. Without objection, the amendment to the preamble is agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution (S. Res. 293), as amended, and the preamble, as amended, are as follows:

S. RES. 293

Whereas the Government of Poland is to be commended for its commitment to democratic rule and free, multiparty elections;

Whereas Prime Minister Tadeusz Mazowiecki and Finance Minister Leszek Balcerowicz have introduced a far-reaching economic reform program intended to bring about a private market and free enterprise system;

Whereas, despite these courageous efforts and the end of hyperinflation, the Polish economy has entered a deeping recession;

Whereas the Government and people of the United States have acknowledged the historic opportunity for freedom and economic growth presented by the dramatic changes in Poland and Eastern Europe during 1989, by providing public assistance through Public Law 101-179 (the "SEED" Act) and private assistance through private voluntary organizations;

Whereas Public Law 101-179 urged the United States Government to seek debt relief through coordination with other members of the Paris Club of creditor governments;

Whereas, although Poland's external debt owed to governments has recently been rescheduled by the Paris Club, Poland's external debt still stands at nearly $41,000,000,000, while debt-service payments will resume in March 1991;

Whereas this excessive debt burden threatens of undermine the success of the Polish Government's reform program, as foreign investors look to long-term currency stability, positive rates of economic growth, and a greatly improved balance of payments;

Whereas the Government of Poland owes nearly 70 per centum of its hard-currency debt to Western governments;

Whereas the Government of Poland has put forward a plan to significantly reduce its external hard-currency debt held by Western governments;

Whereas precedents exist for reducing debt in the sub-Saharan African Initiative of 1989 and the London Accord of 1953;

Whereas the success of Poland's democratic, free market revolution will significantly change the face of Europe by encouraging other East European governments and the Soviet Union to accelerate their reforms and move to open, peaceful democratic systems of government: and

Whereas assuming a leading role in finding an early solution to Poland's debt burden is in the national interest of the United States: Now, therefore, be it

Resolved: That it is the sense of the Senate that—

(a) the President of the United States, through the Secretary of the Treasury, should immediately enter into discussions with the G-7 governments to seek innovative approaches to significantly reduce Poland's officially held debt in as quick a timetable as possible; and

(b) the President of the United States, through the Secretary of the Treasury, with the concurrence of Congress, should take steps to explore options to significantly reduce the officially held Polish debt, if other nations will join in this important step.".

Mr. SIMON. Mr. President, I am pleased that the Senate has adopted my resolution, Senate Resolution 293, as amended. This resolution, which I originally submitted with my good friend Senator ALAN DIXON, urges the President to immediately enter into negotiations with other Western countries to find a way to significantly reduce Polish debt, and also asks the President to reduce Poland's debt to the United States Government if other nations will join in this important step.

Debt reduction is essential to Polish reconstruction. Without it, the road to Polish democracy and a free economy will be much more difficult. It clearly makes sense for the United States, which holds about $3 billion out of nearly $41 billion owed by the Poles—70 percent to governments—to lead the way in the vital area.

It makes sense, Mr. President, because we all know that the real value of Polish debt is much lower than the $3 billion face value. In trading on what are called secondary financial markets in the 6-month period between September 1989 and April 1990, Poland's commercial bank debt fell from 40 cents on the dollar to 15 cents on the dollar. The officially held Polish debt is probably not worth much more than this, particularly because the prospects for Polish repayment are slim.

It also makes sense to reduce their debt for the multiplier effect this would have on the foreign assistance program begun by the Group of 24 advanced Western countries. In order for much of this aid to take root, a functioning private sector needs to take off. And for a private sector to evolve in Poland and the other Central and Eastern European nations, direct foreign investment is crucial.

But this foreign investment will be delayed if the threat of Polish default looms on the horizon. Investors will be scared off by the prospect of losing their investment, or not being able to repatriate their profits, if the debt overhang is not substantially reduced.

There is a precedent for doing this. In addition to the President's debt-reduction program recently announced for Latin America, and the section 572 Program for forgiving debts to the poorest sub-Saharan African nations, there is the precedent of the London

Accords of 1953. In a series of agreements, the victorious wartime allies reduced West Germany's foreign debt by 43 percent. The interest rates for certain debts were either eliminated or significantly reduced. It made good sense at that time to reduce Germany's debts, so that it could recover sufficiently from the war and more quickly rejoin the Western community of nations. And that is what needs to happen in Poland.

The Poles are also recovering from a devastated economy, and they clearly need our assistance in this area. We ought to exert some leadership and work as quickly on substantially reducing Poland's official debts as we did in setting up the new European Bank for Reconstruction and Development. That efforts was begun and finished in a matter of months. We ought to act with the same dispatch on resolving this problem.

CIVIL SERVICE DUE PROCESS AMENDMENTS

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 547, H.R. 3086, the civil service due process reform bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3086) to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Service Due Process Amendments".

SEC. 2. EXCEPTED SERVICE APPEAL RIGHTS.

(a) IN GENERAL.—Section 7511 of title 5, United States Code, is amended to read as follows:

"§7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service—

"(i) who is not serving a probationary or trial period under an initial appointment; or

"(ii) who has completed 2 years of current continuous service under other than a temporary appointment limited to 1 year or less;

"(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

"(i) in an Executive agency; or

"(ii) in the United States Postal Service or Postal Rate Commission; and

"(C) an individual in the excepted service (other than a preference eligible)—

"(i) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or

"(ii) who has completed 2 years of current continuous service in the same or simi lar position in an Executive agency under other than a temporary appointment limited to 2 years or less;

"(2) 'suspension' has the same meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the President for a position that the President has excepted from the competitive service;

"(B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

"(C) the President or the head of an agency for a position excepted from the competitive service by statute:

"(3) whose appointment is made by the President;

"(4) who is receiving an annuity from the Civil Service Retirement and Disability Fund, or the Foreign Service Retirement and Disability Fund, based on the service of such employee;

"(5) who is described in section 8337(h)(1), relating to technicians in the National Guard;

"(6) who is a member of the Foreign Service, as described in section 103 of the Foreign Service Act of 1980;

"(7) whose position is with the Central Intelligence Agency, the General Accounting Office, or the Veterans Health Services and Research Administration;

"(8) whose position is within the United States Postal Service, the Postal Rate Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, the National Security Agency, the Defense Intelligence Agency, or an intelligence activity of a military department covered under section 1590 of title 10, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter's applicability; or

"(9) who is described in section 5102(c)(11) of this title.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office which is not otherwise covered by this subchapter.".

(b) ACTIONS BASED ON UNACCEPTABLE PERFORMANCE.—Section 4303(e) of title 5, United States Code is amended by striking "a preference eligible or is in the competitive service" and inserting in lieu thereof "covered by subchapter II of chapter 75".

"(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any personnel action taking effect on or after the effective date of this Act.

SEC. 3. ANNUITANT STATUS NOT A BAR TO APPEALING ONE'S REMOVAL.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsecton (i) the following:

"(j) In determining the appealability under this section of any case involving a removal from the service (other than the removal of a reemployed annuitant), neither an individual's status under any retirement system established by or under Federal statute nor any election made by such individual under any such system may be taken into account".

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of the enactment of this Act, and, except as provided in section 2(c), shall apply with respect to any appeal or other proceeding brought on or after such date.

AMENDMENT NO. 2436

(Purpose: To specify employees who may appeal certain personnel actions to the Merit Systems Protection Board.)

Mr. BOREN. Mr. President, on behalf of Senator PRYOR, I send to the desk an amendment to the committee substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. PRYOR, proposes an amendment numbered 2436.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

On page 10, strike out lines 12 through 16 and insert in lieu thereof the following:

(b) ACTIONS BASED ON UNACCEPTABLE PERFORMANCE.—Section 4303(e) of title 5, United States Code, is amended to read as follows:

"(e) Any employee who is—

"(1) a preference eligible:

"(2) in the competitive service; or

"(3) in the excepted service and covered by subchapter II of chapter 75,

and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701.".

Mr. PRYOR. Mr. President, The bill, as amended, amends section 7511 of title 5, United States Code, to extend procedural protections to certain employees in the excepted service who have completed 2 years of current continuous service in an Executive agency. The bill covers such occupations as attorneys physicians, teachers, chaplains, and scientist.

The procedural protections are as follows: in cases involving removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less, the employee must be given 30 days advance written notice of the proposed action, an op-

portunity to respond in writing, a written decision containing specific reasons for the adverse action or the specific instances of unacceptable performance and an appeal to the Merit Systems Protection Board [MSPB].

The Office of Personnel Management originally opposed H.R. 3086. However, after reviewing their position, OPM Proposed certain changes to the bill which would eliminate its objections. OPM recommended that there should be a 2-year waiting period before excepted service personnel would receive the procedural protections; that excepted service personnel in probationary or trial positions should not be eligible for the protections, and that the Panama Canal Commission, the Defense Intelligence Agency and other intelligence officers and employees of the military departments should be excluded from coverage from H.R. 3086.

The subcommittee has agreed to accept these suggestions. The 2-year waiting period excepted service personnel will ensure that the agency can fully judge an employee's performance and yet vest these employees with important job protections. The exclusion for probationary or trial positions is intended to address specific job situations. Presidential management interns and veterans readjustment appointees currrently serve for a 2-year probationary period. Under H.R. 3086, for the 2 years those employees spend as excepted service, they will not be eligible for procedural protections. However, immediately upon their conversion to the competitive service, the employee will be eligible for appeal rights without having to wait another year. The probationary exclusion will cover situations such as students in certain cooperative education programs. These students can serve in the excepted service for 4 years during their schooling. Again, if converted to the competitive service, appeals rights will be immediately available.

Excluding employees in the Panama Canal Commission and the Defense Intelligence Agency simply follow the pattern set out in the House-passed bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2436) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it Pass?

So the bill (H.R. 3086) was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN TRIBALLY CONTROLLED COMMUNITY COLLEGE PROGRAMS

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5040 the Tribally Controlled Community College Reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5040) to extend the authorizations of appropriations for the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2437

(Purpose: To provide for a substitute)

Mr. BOREN. Mr. President, I offer a substitute amendment on behalf of Senator INOUYE and Senator PRESSLER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. INOUYE (for himself and Mr. PRESSLER), proposes an amendment numbered 2437.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (2437) was agreed to.

Mr. INOUYE. Mr. President, I rise in support of H.R. 5040 as amended by the Senate substitute. In addition to reauthorizing tribally controlled community colleges, the Senate substitute includes provisions to expand native American gifted and talented demonstration programs to American Samoa, Guam and Alaska Natives, and additionally includes the text of S. 1781, the Native American Languages Act, which has already been approved by the Senate.

Approximately 16,000 native and non-native Americans are enrolled in the 22 tribally controlled community colleges. Most of these young adults and adults live on or near reservations and do not have access to other educational opportunities. The tribal colleges provide a resource to these communities that is intended to fulfill the academic and vocational needs of the students in a way that is additionally sensitive to the tribal traditions and their cultures. In view of the important need the tribal colleges fill, I would additionally encourage my colleagues to support an appropriations level that is closer to the authorization amounts in the bill and that better reflect the funding needs of the colleges.

Mr. President, this legislation would also establish gifted and talented demonstration centers in Alaska, American Samoa, and Guam. In the 1988 Elementary and Secondary School Improvement Amendments, two gifted and talented centers were established for American Indians and one center was established for native Hawaiians. The proposal under consideration today would bring children in the Pacific and in Alaska opportunities for gifted and talented programs that other children nationwide now have.

The purpose of establishing these centers is to provide culturally appropriate educational opportunities to gifted and talented Alaska Native, American Samoan, and Guamanian children who, by virtue of their isolation and lack of resources, have little access to any educational opportunities beyond those offered through the public schools. In the case of American Samoa, particularly, the educational resources are extremely limited. The demonstration projects would address the special needs of native children in these areas who are gifted and talented. The projects would identify the educational, emotional, and social needs of the students and their families and conduct activities designed to help meet those needs. Additionally, the proposal would authorize the establishment of a scholarship program for American Samoans and Guamanians. Most students who pursue higher education are forced to leave the islands because of limited higher education resources available locally, and travel in the Pacific is extremely costly. Thus, the scholarship program would be used to help for travel as well as tuition costs.

Mr. President, the final provision of the Senate substitute to H.R. 5040 is identical to S. 1781, the Native Ameri-

can Languages Act, which passed the Senate under unanimous consent on April 3, 1990. Although the select committee has already approved this legislation, the native American communities involved in native language development and perpetuation have requested that the select committee continue in its efforts to help this bill keep moving through Congress. These communities have expressed an overwhelming desire to see this legislation become law this year. The purpose of the legislation is to declare that it is the policy of the United States to preserve, protect and promote the rights and freedom of native Americans to use, practice, and develop native American languages. This legislation would facilitate the efforts of native Americans to exert leadership in developing language programs appropriate to their areas. Language practitioners are not looking for new authorizations or leadership from the Federal Government on this matter, rather they are seeking the institutional support of the Federal Government for their ongoing efforts.

Mr. McCAIN. Mr. President, I am taking this action of substituting my bill, S. 2167, for the text of H.R. 5040, together with our bill establishing a policy of respect for native American languages, to assure that action on both important issues is accomplished this Congress. In addition to reauthorizing tribally controlled community colleges, as the House bill would do, my bill contains provisions to help the colleges operate more effectively and to allow the colleges to benefit more fully from the tribal college endowment fund. In addition, the bill provides for an expansion of the previously authorized gifted and talented demonstration centers to serve Alaska Natives, Guamanians, and American Samoans.

On the reauthorization of the tribal colleges, I want to express my thanks to my cosponsors—Senators INOUYE, DASCHLE, CONRAD, BURDICK, MURKOWSKI, DECONCINI, and GORTON.

The 22 tribally controlled community colleges now enroll about 16,000 young people and adults, most of them residing on reservations remote from other opportunities to obtain postsecondary education. In these colleges, they are studying standard academic subjects, and nursing, business administration, and other subjects leading to associate degrees, and in two of the colleges, bachelor of arts or science degrees, and in one, a master of science degree. In addition to being close to home geographically, these colleges are close to the values and traditions of the tribes which have founded and operate them.

What is too little known is that the tribally controlled community colleges also enroll non-Indians, and that non-Indians make up perhaps 10 percent of all students enrolled. Absent this opportunity, these non-Indians in rural areas would probably not be enrolled in any academic or vocational coursework. State institutions are just too distant from their homes.

Only one of the colleges is located in my home State. It is the Navajo Community College, the oldest and largest of the colleges. The other 21 are located in nine other western or Midwestern States—Montana, South Dakota, North Dakota, California, Michigan, Minnesota, Nebraska, Washington, and Wisconsin.

I am pleased that the Select Committee on Indian Affairs adopted the tribal college bill unanimously, for it has the unequivocal support of the tribal colleges themselves. Based upon the testimony at our hearing in Bismarck, ND, I anticipate no objection to the bill from the administration. I want to express my appreciation to my distinguished colleague, Senator CONRAD, for his many contributions to this bill, including his service in conducting the hearing in Bismarck.

In closing, I must note that the colleges have an additional need, which is beyond the authority of the select committee to meet, and that need is for a level of funding approaching the level authorized, but never appropriated. The level authorized is $5,820 per Indian student count, but this year the appropriation level allows less than $2,200 per student. I am not unmindful of the many demands made of the Appropriations Committee for funds, but I am hopeful that the pressing need of the tribally controlled community colleges for increased funding can be recognized and met in the fiscal year 1991 budget.

Mr. CONRAD. Mr. President, I would like to express my strong support for enactment of S. 2167, which reauthorizes the Tribally Controlled Community College Assistance Act of 1978. I am also pleased that the bill was modified to include a slightly altered version of S. 2213, which I introduced earlier this year to double the Federal endowment dollar that goes to tribal colleges.

I was privileged earlier this year to chair the committee's reauthorization hearing in Bismarck, ND. At that hearing, the committee received excellent testimony from nine witnesses regarding S. 2167 and S. 2213. The witnesses unanimously supported enactment of S. 2167 and suggested a few minor changes that have been incorporated into the bill.

The lone voice of opposition to S. 2213 at the hearing was the Bureau of Indian Affairs. The Bureau argued that the bill should not be considered in the fiscal year 1990 or 1991 budget context. Therefore, the endowment proposal in S. 2167 does not take effect until fiscal year 1992.

The bill also allows gifts of real or personal property to be credited toward the match. Tribal colleges generally are cash poor. This provision will enable the colleges to increase their endowments without forcing them to identify large sources of cash.

Tribal colleges have an enormous positive impact on the reservations where they exist. These institutions have accomplished more, and with fewer resources, than just about any institutions I have ever seen.

Tribal colleges offer stability in areas where insecurity is often the rule of the day. They provide educational opportunities for many individuals who would not otherwise receive a comparable education. And they are helping Indian country prepare to meet the challenges of the future.

Mr. President, tribal colleges get the job done. Every dime the Federal Government spends on these institutions is money well spent. I am pleased to support this important legislation before us today.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5040), as amended, was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FIRE SAFE CIGARETTE ACT OF 1990

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 293, the Fire Safe Cigarette Act of 1990 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 293) to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection the Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I am pleased that the Senate today is taking an important step in encourag-

ing the development of a firesafe cigarette. The necessity of moving forward in this area could not be more clear.

Year after year cigarette fires are the leading cause of residential fire deaths in the United States. In 1987, the most recent year for which the U.S. Fire Administration has compiled data, 1,492 deaths resulted from cigarette-ignited fires; 3,809 serious injuries also occurred, and $395,000,000 in property damage resulted from these fires.

These numbers and the human tragedy they represent don't have to be so high. Over the last decade I have introduced and supported numerous pieces of legislation to address this serious problem. One piece of legislation that I joined with my colleague Senator HEINZ in introducing in the 98th Congress, S. 1935, became the Cigarette Safety Act of 1984. This act established the Technical Study Group on Cigarette and Little Cigar Fire Safety to conduct studies and make recommendations concerning the technical and economic feasibility of developing less fire-prone cirgarettes and little cigars.

The study group submitted its final report in 1987. This report states that it is "technically feasible" to develop cigarettes that will have a "significantly reduced propensity to ignite upholstered furniture or mattresses." So, Mr. President, I repeat: The numbers I cited earlier do not have to be so high. Unfortunately, the tobacco industry has failed in what I consider to be its responsibility to develop the safest product possible. And when an industry fails in its obligation to consumers, Congress must act to protect the public interest.

Thus, once the feasibility of developing a less fire-prone cigarette was established, I introduced legislation in 1987 to mandate the development of performance standards for less fire-prone cigarettes and to require cigarette manufacturers to comply with such standards. I reintroduced this legislation last year in the form of bill S. 17. The bill before us today, H.R. 293, was, in its original form, companion legislation to S. 17.

The version of H.R. 293 we are considering today is a compromise. Unlike the original bill, it does not mandate a standard of fire safety that cigarettes would have to meet. Thus the legislation moves more slowly than I would like. It does, however, move in the right direction. For this reason, I support the compromise that arises out of the hard work of Representative MOAKLEY, who has been tireless in his efforts in this area over the years.

The bill before us today will require the completion of the research recommended by the Technical Study Group in its 1987 report. Under the direction of the Consumer Product Safety Commission, researchers will develop a standard test method to determine cigarette ignition propensity. This test is needed to ascertain the extent to which cigarettes represent a fire hazard. Under this act, 3 years of study will ensue with respect to the test method and other investigations in relation to this subject.

I expect that after these 3 years, we will once again be presented with a chance to mandate a performance standard. I hope that will occur without further delay. Too many lives have already been lost in the years we have waited for a solution to this tragic problem. I look forward to the day that we will move from technical feasibility to practical reality. This legislation will move us closer to that day, and I urge its adoption.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 293) was ordered to a third reading, was read the third time, and passed.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

The bill (H.R. 293) was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, JULY 31, 1990

Mr. BOREN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:30 a.m. on Tuesday, July 31; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that upon the reservation of the two leaders' time, there be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that on tomorrow the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BOREN. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to and, at 8:38 p.m., the Senate recessed until Tuesday, July 31, 1990, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Monday, July 30, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When we are hungry, O God, feed us with the bread of life; when we are thirsty, may we drink from the fount of wisdom; when we are weak, nourish us with the food that fills the soul; and at the last, grant us eternal rest. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. WALGREN] please come forward and lead the House in the Pledge of Allegiance?

Mr. WALGREN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 4872. An act to establish the National Advisory Council on the Public Service; and

H.J. Res. 548. Joint resolution designating the week of August 19 through 25, 1990, as "National Agricultural Research Week."

The message also announced, that the Senate disagrees to the amendments of the House to the bill (S. 2088) entitled "An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, and Mr. DOMENICI, to be the conferees on the part of the Senate.

RECAPITALIZATION OF FSLIC

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, 4 years ago today, July 30, 1986, I along with 15 other Republican Members of the Banking Committee wrote to the then chairman of the Banking Committee urging an expeditious markup of H.R. 4907. That bill was the administration's first FSLIC recapitalization proposal. It would have provided $15 billion, to be privately funded from the thrift industry, in order to clean up the S&L problem.

The subcommittee had marked up the bill on July 17, but for some reason we felt the chairman was delaying a markup at the full committee level.

In fact, it was not until September 23 that the committee marked up the bill, but also added several extraneous matters to it. Regrettably, the FSLIC bill never made it out of the 99th Congress for a number of reasons. And in fact, it was not until August 1987, more than a year and a half after the administration had first proposed a FSLIC recapitalization that the Congress finally acted to provide only two-thirds of the amount requested by the administration.

What happened is obvious. The U.S. League waged a power game in a blatant effort to defer and reduce industry assessments on a timely basis so that the taxpayers were hit with a bigger tab later.

In simplest terms, they won; the taxpayer lost.

Mr. Speaker, I do not like to play the blame game, but the record needs to be set straight.

Led by the minority on the Banking Committee there was an effort to deal with the issue on a more timely basis. There is no doubt that the S&L crisis would be less severe today if the majority had followed the lead of the minority back in 1986.

PRESIDENT BUSH'S SUPREME COURT NOMINEE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, you cannot see it. You cannot hear it. You cannot even detect it by radar, and I am not talking about the B-2 bomber today. I am talking about David Souter, President Bush's pick and nominee for the Supreme Court.

Think about it. The American people know absolutely nothing about David Souter, nothing. And that is evidently why President Bush selected David Souter.

Here is a man that should be on the surface confirmed very easily. Why all the secrecy? I find it highly suspicious when the American people know more about the political views of Captain Kangaroo than they do about the man who may next serve on the Supreme Court of this Nation.

The truth is you could bet your booty that David Souter's personal legal philosophy is right out of Robert Bork's personal writings and memos. Tricky, tricky, tricky.

What is next? Will we know more about the clerks at 7-Eleven than we know about our Supreme Court justices?

AMERICANS ARE WILLING TO MAKE SACRIFICES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, each time I return to Wyoming I come back struck with the notion that there is such an entirely different view of spending and the need for taxation between this place and when we go home. I find people in Wyoming are much more willing to make some sacrifices if that is necessary to be financially responsible.

In this place we are surrounded by agencies, we are surrounded by lobbyists who make us feel as though if we do not have an increase in their budget that we will surely expire by the end of next week.

I suggest that is not the feeling in Green River or Greybull, WY. They are willing to live with last year's expenditures.

□ 1210

Each morning we wring our hands about the deficit. In the afternoon we vote for appropriation bills 10 percent and 15 percent over last year's level of spending. If we are going to have to make some sacrifice—and I think we are willing to do it, there is no gain without some pain—I suggest this body pay a little closer attention to the folks at home and a little less about the area surrounding the District.

A TRIBUTE TO JIM FRED MILLS

(Mr. HUBBARD asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is indeed a pleasure and a privilege to pay tribute this afternoon to a longtime dear friend, Jim Fred Mills of Marion, KY.

For 25 years, from November 1963 to February 1988, Jim Fred Mills was the effective and efficient district manager of the Henderson-Union Rural Electric Cooperative Corp. office at Marion, KY. He began working with Henderson-Union RECC at the Henderson, KY, office in 1947 at age 21.

Jim Fred Mills has been recognized by the thousands of Kentuckians who knew him as a talented, hard-working and personable man.

To know Jim Fred Mills was to like and admire him.

Jim Fred Mills died at age 64 last Thursday night at St. Mary's Hospital in Evansville, IN.

Surviving are his lovely wife Martha Mills; five sons, Jerry, Tom, Donnie, Billy, and Hank; three daughters, Betty Boyd, Laura Smith, and Lisa Mills; three sisters, Mary Frances Strehle, Evelyn Vowels, and Sister Elizabeth Jean Mills; and 12 grandchildren.

My wife Carol and I extend to Martha Mills and the Mills family our sympathy.

THE PRESIDENT HAS A RIGHT TO CHOOSE HIS OWN NOMINEES

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, it bothers me very much to listen to our friend from Ohio criticize the President's Supreme Court nominee. It is unfortunate that the President has to be secretive about the nomination process because he cannot propose an individual for the Supreme Court or the Cabinet, whatever, without being bashed for it.

To me, the people of this country have elected a President, a President who stands for conservative views, conservative values and a conservative philosophy. For him to nominate a highly qualified individual such as our last nominee, Judge Robert Bork, and to have him unfairly criticized by the opposition bothers me very much.

I stand here to declare that the President has a right to appoint a person who shares his views and philosophy. He should be able to do so openly and expect a fair and impartial analysis of the candidate's views. But as we have seen, a great judge like Robert Bork, who probably would have been among the greatest of Supreme Court justices, did not even get through the Senate; I say I stand here in support of Judge David Souter, President Bush's nominee, I stand in support of the President's right to choose a person of conservative thinking. I respect Governor Sununu very greatly. And if he had a significant role in the nomination process, I think that Judge Souter will make a great Supreme Court Justice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after consideration of H.R. 5313, the military construction appropriations bill.

FIRE SAFE CIGARETTE ACT OF 1990

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 293) to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes and for other purposes, as amended.

The Clerk read as follows:

H.R. 293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Fire Safe Cigarette Act of 1990".

(b) FINDINGS.—The Congress finds that—

(1) cigarette-ignited fires are the leading cause of fire deaths in the United States,

(2) in 1987, there were 1,492 deaths from cigarette-ignited fires, 3,809 serious injuries, and $395,000,000 in property damage caused by such fires;

(3) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 determined that (A) it is technically feasible and may be commercially feasible to develop a cigarette that will have a significantly reduced propensity to ignite furniture and mattresses, and (B) the overall impact on other aspects of the United States society and economy may be minimal,

(4) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 further determined that the value of a cigarette with less of a likelihood to ignite furniture and mattresses which would prevent property damage and personal injury and loss of life is economically incalculable,

(5) it is appropriate for the Congress to require by law the completion of the research described in the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety and an assessment of the practicability of developing a performance standard to reduce cigarette ignition propensity, and

(6) it is appropriate for the Consumer Product Safety Commission to utilize its expertise to complete the recommendations for further work and report to Congress in a timely fashion.

SEC. 2. COMPLETION OF FIRE SAFETY RESEARCH.

(a) CENTER FOR FIRE RESEARCH.—At the request of the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research shall—

(1) develop a standard test method to determine cigarette ignition propensity,

(2) compile performance data for cigarettes using the standard test method developed under paragraph (1), and

(3) conduct laboratory studies on and computer modeling of ignition physics to develop valid, user-friendly predictive capability.

The Commission shall make such request not later than the expiration of 30 days after the date of the enactment of this Act.

(b) COMMISSION.—The Consumer Product Safety Commission shall—

(1) design and implement a study to collect baseline and followup data about the characteristics of cigarettes, products ignited, and smokers involved in fires, and

(2) develop information on societal costs of cigarette-ignited fires.

(c) HEALTH AND HUMAN SERVICES.—The Consumer Product Safety Commission, in consultation with the Secretary of Health and Human Services, shall develop information on changes in the toxicity of smoke and resultant health effects from cigarette prototypes. The Commission shall not obligate more than $50,000 to develop such information.

SEC. 3. ADVISORY GROUP.

(a) ESTABLISHMENT.—There is established the Technical Advisory Group to advise and work with the Consumer Product Safety Commission and National Institute for Standards and Technology's Center for Fire Research on the implementation of this Act. The Technical Advisory Group may hold hearings to develop information to carry out its functions. The Technical Advisory Group shall terminate 1 month after the submission of the final report of the Chairman of the Consumer Product Safety Commission under section 4.

(b) MEMBERS.—The Technical Advisory Group shall consist of the same individuals appointed to the Technical Study Group on Cigarette and Little Cigar Fire Safety under section 3(a) of the Cigarette Safety Act of 1984. If such an individual is unavailable to serve on the Technical Advisory Group, the entity which such individual represented on such Technical Study Group shall submit to the Chairman of the Consumer Product Safety Commission the name of another individual to be appointed by the Chairman to represent such group on the Technical Advisory Group.

SEC. 4. REPORTS.

The Chairman of the Consumer Product Safety Commission, in consultation with the Technical Advisory Group, shall submit to Congress three reports on the activities undertaken under section 2 as follows: The first such report shall be made not later than 13 months after the date of the enactment of this Act, the second such report shall be made not later than 25 months after such date, and the final such report shall be made not later than 36 months after such date.

SEC. 5. CONFIDENTIALITY.

(a) IN GENERAL.—Any information provided to the National Institute for Standards and Technology's Center for Fire Research,

to the Consumer Product Safety Commission, or to the Technical Advisory Group under section 2 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member or employee of the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group and no person assigned to or consulting with the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group, shall disclose any such information to any person who is not a member or employee of, assigned to, or consulting with, the Center for Fire Research, Consumer Product Safety Commission, or the Technical Advisory Group unless the person submitting such information specifically and in writing authorizes such disclosure.

(b) CONSTRUCTION.—Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research, or the Technical Advisory Group to provide such information, the Commission, the Center for Fire Research, or Technical Advisory Group shall notify the person who provided the information of such a request in writing.

The SPEAKER pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House today is considering legislation to move us closer to the important goal of developing firesafe cigarettes. Last Thursday, the Energy and Commerce Committee approved, by voice vote, H.R. 293, as amended, the Fire Safe Cigarette Act of 1990. The original legislation was introduced by Congressman MOAKLEY, who deserves enormous credit from us all for his continual efforts on the issue. I also want to recognize the efforts of our committee colleague from Virginia, Congressman BOUCHER, and his willingness to join in the search for common ground that resulted in the agreed upon approach, Congressman BLILEY has played a similarly helpful role. I also want to thank the gentleman from New Jersey [Mr. ROE] and the gentleman from North Carolina [Mr. VALENTINE], the chairmen of the Committee on Science, Space, and Technology and its Science, Research and Technology Subcommittee, respectively, for their cooperation in expediting this legislation.

During the consideration of H.R. 293 by the Commerce Subcommittee, an amendment in the nature of a substitute was offered by Congressman BOUCHER, reflecting his compromise with Congressman MOAKLEY. The bill before us today incorporates this compromise.

The fire loss in the United States is among the worst in the industrialized world. Cigarette ignition of furniture and mattresses is by far the leading cause of fire deaths. Tragically, there are about 1,400 deaths annually from cigarette fires—about 30 percent of all residential fire deaths—and we owe it to these victims to pursue the development of a firesafe cigarette. The annual toll in serious injuries and property damage is also severe.

Some progress has been made in this horrible situation as a result of a mandatory mattress flammability standard and voluntary furniture standards. Yet these products have long life spans and it will be many years until all furniture in homes is more fire resistant. In contrast, cigarettes are used quickly.

In 1987, the Technical Study Group on Cigarette and Little Cigar Fire Safety, created by Congress to examine this issue, reported that,

It is technically feasible and may be commercially feasible to develop cigarettes that will have a significantly reduced propensity to ignite upholstered furniture or mattresses.

The Technical Study Group recommended specific further research on the development of a standard test method to determine cigarette ignition propensity.

The compromise bill the House is considering today would require the completion of that necessary research. The Consumer Product Safety Commission would have the lead role in coordinating this work. The Center for Fire Research at the National Institute of Standards and Technology and the Department of Health and Human Services would work with the CPSC and assist in the technical work.

In lieu of a committee report, I am inserting into the RECORD following this statement a section-by-section analysis and description of the legislation, as amended. This analysis provides the legislative history for the bill.

Like any compromise, not everybody is completely satisfied. But all agree that further research work is necessary. This compromise will provide for the completion of this work in an objective manner and will bring us closer to the actual development of firesafe cigarettes. I urge its support.

Mr. Speaker, the section-by-section analysis is as follows:

SECTION-BY-SECTION ANALYSIS AND DESCRIPTION OF H.R. 293, AS AMENDED, FIRE SAFE CIGARETTE ACT OF 1990

SECTION 1. SHORT TITLE; FINDINGS

Subsection (a) provides the short title of the bill, the "Fire Safe Cigarette Act of 1990."

Subsection (b) provides Congressional findings.

SECTION 2. COMPLETION OF FIRE SAFETY RESEARCH

Subsection (a) provides that, at the request of the Consumer Product Safety Commission (CPSC), the Center for Fire Research (CFR) of the National Institute of Standards and Technology (NIST) shall: (1) develop a standard test method to determine cigarette ignition propensity; (2) compile performance data for cigarettes using the standard test method; and (3) conduct laboratory studies on and computer modeling of ignition physics to develop valid, user-friendly predictive capability. The CPSC shall make such request not later than 30 days after the date of enactment. The CPSC is expected to transfer to the CFR the appropriate funding, as necessary and appropriate, for the work requested of the CFR by the CPSC under this subsection.

Subsection (b) requires the CPSC to (1) design and implement a study to collect baseline and follow-up data about the characteristics of cigarettes, products ignited, and smokers involved in fires, and (2) develop information on societal costs of cigarette-ignited fires.

Subsection (c) requires the CPSC, in consultation with the Secretary of Health and Human Services, to develop information on changes in the toxicity of smoke and resultant health effects from cigarette prototypes. The subsection provides that the CPSC shall not obligate more than $50,000 to develop such information.

It is important to note that the tasks assigned to the CPSC under this legislation are in addition to those under current law. The agency will require additional funding to perform these additional tasks if the CPSC's existing activities are to be adequately funded. Thus, it is important to note that the fiscal year 1991 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, as passed by the House, includes an additional one million dollars in the appropriation for the CPSC for some of the activities contemplated by this legislation.

Laws affecting the responsibilities of the NIST fall under the jurisdiction of the Committee on Science, Space, and Technology under clause 1(r)(2) of Rule X of the Rules of the U.S. House of Representatives. Under normal circumstances, the provisions of the amended bill affecting the NIST could have triggered a sequential referral to the Committee on Science, Space, and Technology. However, Chairman Roe of that Committee agreed to waive his right to consider the legislation without prejudice. An exchange of letters confirming the agreement follows:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 26, 1990.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology, Washington, DC.

DEAR MR. CHAIRMAN: On July 26, 1990, the Committee on Energy and Commerce met in open session and ordered reported the bill, H.R. 293, the Fire Safe Cigarette Act of 1990, amended, by voice vote.

The legislation, as amended, directs the completion of the research, studies and other activities recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety. The completion of this work could lead to the successful development of a cigarette fire safety performance standard for cigarettes with less likelihood of igniting mattresses and upholstered furniture. Under the amended bill, the Consumer Product Safety Commission would play the lead role in coordinating the work, with the Center for Fire Research of the National Institute of Standards and Technology (NIST) and the Department of Health and Human Services providing technical assistance.

While we would very much like to move forward on this legislation, we recognize that provisions affecting the responsibilities of NIST fall under the jurisdiction of the Committee on Science, Space, and Technology under clause 1(r)(2) of Rule X of the Rules of the U.S. House of Representatives. Under normal circumstances, the provisions of the amended bill affecting the NIST could trigger a sequential referral to the Committee on Science, Space, and Technology.

Given the late date in this session and the cooperative spirit in which your Committee has worked with us, we would respectfully request that the Committee on Science, Space, and Technology waive its right to consider the legislation without prejudice and thus avoid any delay in consideration of this legislation by the full House. Despite such a waiver, this letter is intended as a firm acknowledgment of your Committee's jurisdiction. The agreement to avoid delay of this legislation is necessary solely as a result of the short time remaining in this session and our mutual desires to move expeditiously towards passage.

Please let us know as quickly as possible if our approach is acceptable to you in your capacity as Chairman of the Committee on Science, Space, and Technology. Thank you for your gracious consideration and attention to this matter.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC, July 27, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: We are writing in response to your letter of July 26, 1990 requesting that the Committee on Science, Space, and Technology waive its right to consider H.R. 293, the Fire Safe Cigarette Act of 1990 without prejudice.

H.R 293, as amended and reported by the Committee on Energy and Commerce, on July 26, 1990, directs the completion of the fire safety work recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety. The bill requires the completion of the fire safety work described in the final report of the Technical Study Group. The Consumer Product Safety Commission (CPSC) plays the lead role in coordinating this work. In particular, at the request of the CPSC, the Center for Fire Research (CFR) of the National Institute of Standards and Technology shall: (1) develop a standard test method to determine cigarette ignition propensity; (2) compile performance data for cigarettes using the standard test method; and (3) conduct laboratory studies on and computer modeling of ignition physics to develop valid, user-friendly predictive capability. The CPSC request of the CFR must be made no later than 30 days after enactment.

We appreciate that you recognize the laws affecting the responsibilities of the National Institute of Standards and Technology are subject to the jurisdiction of the Committee on Science, Space, and Technology under clause 1(r)(2) of Rule X of the Rules of the House of Representatives. Under normal circumstances, the Committee on Science, Space, and Technology would seek a sequential referral of H.R. 293, especially since the bill includes activities of the National Institute of Standards and Technology. However, we recognize the importance of H.R. 293 and congratulate you on your effort to bring the bill to the House for consideration as soon as possible.

Therefore, in a spirit of cooperation we will not seek sequential referral of H.R. 293. However, this action to expedite consideration of the bill should not be interpreted, in any respect, to waive jurisdiction of the Committee on Science, Space, and Technology over provisions in H.R. 293 or any other legislation addressing matters within the jurisdiction of the Committee on Science, Space, and Technology.

We are hopeful that the bill can be brought to the House for consideration immediately and that a much needed public law will be realized. To clarify the history on this legislation, we would appreciate a letter confirming my understanding, and that our letters be placed in the RECORD during House consideration.

Sincerely,

ROBERT A. ROE,
Chairman.

SECTION 3. ADVISORY GROUP

Subsection (a) establishes the Technical Advisory Group (TAG) to advise and work with the CPSC and CFR on the implementation of this Act. The TAG may hold hearings to develop information to carry out its functions. The TAG shall terminate one month after the submission of the final report of the Chairman of the CPSC under section 4.

Subsection (b) provides that the TAG shall consist of the same individuals appointed to the Technical Study Group (TSG) under section 3(a) of the Cigarette Safety Act of 1984. If such an individual is unavailable to serve on the TAG, the entity which such individual represented on the TSG shall submit to the Chairman of the CPSC the name of another individual to be appointed by the Chairman to represent such group on the TAG. It is expected the above procedure would also apply in case of any subsequent vacancy on the TAG. In addition, a member of the TSG who represented a Federal agency on the TSG but has since left the agency would be considered unavailable to serve on the TAG for purposes of this subsection, thus allowing the agency to submit the name of a current employee to represent it on the TAG.

SECTION 4. REPORTS

Section 4 requires the Chairman of the CPSC, in consultation with the TAG, to submit to Congress three reports on the activities undertaken under section 2: an interim report not later than 13 months after the date of enactment, another interim report not later than 25 months after the date of enactment, and a final report not later than 36 months after the date of enactment. It is expected that the interim reports would discuss the activities undertaken during the applicable time periods.

SECTION 5. CONFIDENTIALITY

Subsection (a) provides that any information provided to the CFR, CPSC, or TAG under section 2 which is designated as trade secret or confidential shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5 (the trade secret exemption to the Freedom of Information Act) and section 1905 of title 18, and shall not be revealed except to duly authorized committees or subcommittees of Congress. No member or employee of the CFR, SPSC, or TAG and no person assigned to or consulting with the CFR, CPSC, or TAG shall disclose such information to an outside party unless the person submitting the information specifically and in writing authorizes the disclosure.

Subsection (b) provides that the confidentiality restrictions in subsection (a) do not authorize the withholding of any information from any duly authorized committee or subcommittee of Congress, except that if a committee or subcommittee of Congress requests the CPSC, CFR, or TAG to provide such information, the CPSC, CFR, or TAG shall notify the person who provided the information of such request in writing.

Mr. Speaker, I reserve the balance of my time.

□ 1220

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I associate myself with the remarks made by the distinguished chairman of the committee, the gentleman from Pennsylvania [Mr. WALGREN]. I would like to indicate the compromise we arrived at is a combination of that by the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY]. and also H.R. 267, which is cosponsored by the two members of the Committee on Energy and Commerce, the gentleman from Virginia [Mr. BOUCHER] and the gentleman from Virginia [Mr. BILLEY]. The compromise directs them to complete the study as the chairman mentioned, and also develop standards for cigarett ignition propensity. The compromise bill reestablishes a technical study group.

I strongly support the compromise bill, and I commend the people for their willingness to make reasonable concessions to reach agreement. Developing improved cigarette ignition standards, less likely to ignite fires, is an important step. I urge Members to support this.

Mr. Speaker, I ask unanimous consent to yield the balance of my time, and transfer the remaining time allotted to the ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. RITTER].

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a Commerce, Consumer Protection and Competitiveness Subcommittee hearing on May 16, 1990, testimony revealed that in 1987, an estimated 1,420 people lost their lives in 59,000 fires started by cigarettes. These fires also seriously injured 6,100 people, and destroyed $380,000,000 worth of property.

The bill that we consider today is a compromise between the advocates of H.R. 293, as introduced by the distinguished chairman of the Rules Committee, and H.R. 673, sponsored by the two members on the Energy and Commerce Committee from Virginia. This compromise bill directs the Consumer Product Safety Commission and the Center for Fire Research of the National Institute for Standards and Technology to undertake a number of studies on developing a standard for cigarette ignition propensity. The compromise bill also reestablishes the technical study group, that previously considered the question of cigarette flammability. I strongly support this compromise bill and I commend the participants in the process for their willingness to make reasonable concessions to reach agreement.

While I strongly support the compromise bill, I do have a small reservation about the bill's title: "The Fire Safe Cigarette Act of 1990." Based on the evidence we received at the hearing, I think that it is highly unlikely that a complete fire-safe cigarette can be developed. The best we are likely to obtain is a "reduced-flammability" or "less fire-prone" cirgarette; and to describe such a cigarette as "fire-safe," even in legislation titles, may be misleading to the public. Reducing the tragic toll that results from cigarette-ignited fires is not likely to be solved by the "magic bullet" of a "fire-safe" cigarette. It will more likely result from a combination of cigarette design, installation and maintenence of smoke detectors, and education of smokers on the circumstances under which smoking constitutes an unreasonable fire hazard. The message must be hammered home that smoking while intoxicated, drug-impaired, or simply sleepy is dangerous and irresponsible. I had considered offering an amendment at the full committee to retitle the bill. But I decided against doing so, in order not to upset the compromise that this bill represents. I suggest only that my colleagues consider whether rhetoric referring to "fire-safe cigarettes" is entirely realistic.

Developing an improved cigarette that is less likely to ignite fires is an important step in reducing the number of cigarette-ignited fires, and I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WALGREN. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY], the originator of this program.

Mr. MOAKLEY. Mr. Speaker, I rise today in support of the agreement that I, Congressman WALGREN, Congressman BOUCHER, and Congressman BLILEY reached on H.R. 293, the Fire Safe Cigarette Act. I would like to commend Congressman DOUG WALGREN, chairman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness for his leadership and assistance in forging this compromise on H.R. 293, and H.R. 673, the Fire Cigarette Implementation Act, as introduced by Mr. RICK BOUCHER. Additionally, I would like to applaud Mr. BOUCHER and Mr. BLILEY for their participation in the negotiations as well.

The new bill would direct the Consumer Product Safety Commission to complete the further research recommended in the final report of the technical study group on cigarette and little cigar safety. Specifically, the legislation calls for the development of a standard test method to determine cigarette ignition propensity. I firmly believe that this step is absolutely necessary to ultimately measure the fire safety of cigarettes.

Additionally, I would like to acknowledge that this is a compromise bill and both Congressman BOUCHER and I agreed to make concessions in order to devise legislation that is agreeable to all individuals involved. My principal goal is and has always been the issuance of a mandatory fire safety standard for cigarettes. While I and others would strongly prefer that a mandated fire safety standard for cigarettes be included in the new bill, I certainly do not want to detain the completion of the necessary technical work. The development of a validated test method will bring us closer to the actual development of a cigarette that would be less likely to ignite furniture and mattresses. I strongly urge my colleagues to fully support our new agreement.

One argument I have heard in opposition to my original proposal was that, while it is possible to design a fire safe cigarette, there is no assurance that the product will be commercially feasible. I have in the past refuted this argument by stating that I believe cigarette manufacturers will be able to develop a cigarette that is acceptable to smokers and I firmly believe that it is their responsibility to develop such a cigarette. Therefore, the current agreement does not mandate a study on commercial feasibility.

I first became involved in this issue in 1979, when a family of seven perished in a fire in my congressional district; five young children were burned to death. This tragic and fatal fire could have been prevented if a fire safe cigarette was available at that time.

In October 1979, I introduced the Cigarette Safety Act, which calls for the development of a performance standard to ensure that cigarettes have a minimum propensity to ignite furniture and mattresses. In 1984 an agreement was reached with the Tobacco Institute which created the technical study group on cigarette and little cigar safety to determine the technical, economic, and commercial feasibility of developing a cigarette with a minimum propensity to ignite upholstered furniture and mattresses.

In 1987, the final report of the TSG concluded "that it is technically feasible and may be commercially feasible to develop such cigarettes. Furthermore, the overall impact on other aspects of the United States economy may be minimal." The key characteristics that lead to a fire safe cigarette are: the presence of a filter tip, less porous paper, more expandable tobacco, no citrate added to the paper and a smaller diameter. Additionally the final report, recommended that the unfinished technical work be completed.

Congressman WALGREN, Congressman BOUCHER, Congressman BLILEY, and I all agree that the further technical work recommended by the technical study group needs to be completed. This new legislation calls for the completion of the work. I firmly believe that this agreement will bring us closer to the development of a cigarette that won't ignite furniture and mattresses.

Finally, this agreement is imperative in combating the problem of fires caused by carelessly discarded cigarettes. Two months ago, 11 years after I first introduced the Cigarette Safety Act, another family in my congressional district was killed in a fire caused by a carelessly discarded cigarette. The O'Neill family of Roslindale didn't stand a chance after a carelessly discarded cigarette was dropped into an overstuffed chair and eventually sparked a 5-alarm blaze. Three children, all under the age of 3, their parents, and a friend of the parents were burned to death.

Tragic and deadly fires like this one do not need to happen. I urge your full support for H.R. 293, the Fire Safe Cigarette Act.

Mr. BOUCHER. Mr. Speaker, earlier this summer the Subcommittee on Commerce Consumer Protection and Competitiveness held a hearing on two different proposals both of which are intended to move us closer to the day when we will develop a less fire prone cigarette. H.R. 293, sponsored by Congressman MOAKLEY would have required the establishment of a mandatory fire safety standard for cigarettes by the Consumer Product Safety Commission [CPSC]. H.R. 673, which I sponsored with my colleague Congressman

BLILEY, would have reestablished the Interagency Task Force which was created pursuant to legislation the Congress passed in 1984, and would have required a 13-person task force to implement the recommendations on fire safe cigarettes that the Interagency Task Force had developed.

At the subcommittee mark up I offered an amendment in the nature of a substitute for Congressman MOAKLEY's bill, which was approved by both the subcommittee and the full Energy and Commerce Committee. That is the measure which we are considering today.

This bill is a compromise which essentially requires the completion of the fire safety research which the Interagency Task Force had recommended, but directs the CPSC to take the lead role in coordinating the work. I want to congratulate all of the participants in this compromise for their hard work and willingness to consider the legitimate needs of all the various parties in arriving at this compromise.

I want to particularly congratulate Congressman MOAKLEY for his tireless efforts to establish a cigarette which is less likely to ignite fires. And I want to commend the tobacco industry for their cooperation in that effort.

The compromise measure we are considering today requires the CPSC to direct the Center for Fire Safety Research to perform three functions:

1. Develop a standard test method to determine cigarette ignition propensity.

2. Compile performance data for cigarettes using the standard test method.

3. Conduct laboratory studies using computer modeling of ignition physics to develop valid predictive capability.

The bill also requires the CPSC to design and implement a study to collect baseline and follow up data about the characteristics of the cigarettes, products ignited, and smokers involved in fires, along with the societal costs of cigarette-ignited fires. Finally, the CPSC, in consultation with the Secretary of Health and Human Services, is required to develop information on changes in the toxicity of smoke and resultant health effects from modified cigarettes.

The bill establishes a technical advisory group to advise and work with the CPSC and the Center for Fire Research on the implementation of the act. It also requires the chairman of the CPSC to submit three reports to the Congress on their progress. The two interim reports will come 13 and 25 months after the date of enactment respectively, and a final report is required 36 months after enactment.

Mr. Speaker, while the work described in this bill may sound like dry research, it addresses a matter of life and death. Of the billions of cigarettes smoked in the United States each year, almost an unmeasurable fraction were involved in fires. Still, in 1987 nearly 1,500 people lost their lives and another 3,000 were injured in cigarette related fires.

But the infinitesimal percentage of smoked cigarettes which are related to fires tells us that the careful smoker is not our true concern. But the smoker under the influence of alcohol, drugs or just plain bad judgment is. Since the fires caused by these foolish smokers can result in tragedy for totally innocent individuals it is appropriate that we enact this measure.

The goal of this bill is to facilitate the search for a commercially feasible cigarette modification which will reduce that portion of the accidental fire problem caused by carelessly handled cigarettes.

Those responsible for implementing the mandates of the bill must bear in mind that whatever proposals they develop must be capable of being incorporated into cigarette design and manufacture without impairing the acceptability of the product among consumers.

The Cigarette Safety Act of 1984 stated specifically that the technical study group was to "undertake, subject to oversight and review by the Interagency Committee, such studies as it considers necessary and appropriate to determine the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes * * * having a minimum propensity to ignite upholstered furniture or mattresses."

Although the technical study group was able to complete substantial work on the issue of technical feasibility before its authority expired, no work was undertaken on the pivotal question of the commercial feasibility of alternative cigarette designs. Work in these areas must be undertaken and completed if the objectives of this bill are to be realized.

Once again, I want to congratulate Congressman MOAKLEY, and all of those who have been involved in negotiating this compromise for their efforts.

□ 1230

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I wish to commend the gentleman from Massachusetts [Mr. MOAKLEY] for sticking with this stand. He has informed us that he first got interested in this issue in 1979, and it occurred to me that from 1979 to 1990, some 11 years, we should reflect on the death and destruction and heartache and ruin and financial loss that have occurred over those years due to cigarette fires. We all mentioned the statistics on an annual basis, but when we think of 11 years worth of those tragedies, like the one with the family of 7, and how many such tragedies could have been avoided, we really get a feel about how important this legislation is.

Mr. WELDON. Mr. Speaker, I rise today in strong support of H.R. 293. As the chairman of the Congressional Fire Services Caucus, I am extremely pleased to see the House take this action.

Each year, fires ignited by cigarettes claim hundreds of lives and destroys millions of dollars worth of property. In 1984 alone, more than 1,500 Americans lost their lives in fires started by cigarettes. There can be little doubt of the need for swift action by this body on this issue.

For that reason, I wish to commend the sponsor of this legislation, the gentleman from Massachusets [Mr. MOAKLEY]. He has taken a deep interest in this issue, and this bill would not have come to the floor without his diligent effort. I would also like to commend the gentleman from Virginia [Mr. BOUCHER], who introduced a similar measure. Both of these distinguished Members recognized the good work accomplished by the technical study group on cigarette and little cigar fire safety.

The technical study group indicated that it is possible to develop a cigarette which will be less likely to ignite mattresses and other furniture. Both Mr. MOAKLEY and Mr. BOUCHER have pursued legislation to bring such products to the market. This compromise takes a large step on the long road toward fire safety. The adoption of H.R. 293 signals the renewed dedication of Congress toward reduction in fire losses.

Let me also take a moment to praise the distinguished chairman of the Energy and Commerce Subcommittee on commerce, consumer protection, and competitiveness, the gentleman from Pennsylvania, [Mr. WALGREN]. As a cochairman of the congressional fire services caucus, he has been an active leader in our efforts to promote fire safety. After assume the chairmanship of this important subcommittee this year, Mr. WALGREN has made good on his promise to bring fire-safe cigarette legislation to the House floor. The compromise embodied in H.R. 293 would not have been possible without his leadership.

I urge all of my colleagues to support this bill. By further carrying out the recommendations of the technical study group on cigarette and little cigar fire safety, H.R. 293 will speed the development and marketing of a more fire safe cigarette.

Mr. Speaker, we will never be able to eliminate the toll which fire exacts from America. Despite the best intentions of this Congress and the 3 million fire service professionals across the Nation, the United States has the worst record of fire loss of any industrialized nation. This legislation is evidence that we are prepared to increase our efforts to promote fire and life safety.

Mr. ROE. Mr. Speaker, I rise in strong support of H.R. 293, the Fire Safe Cigarette Act of 1990. Fire is a phenomena that is going to occur—naturally and through human activity. Fire cannot be legislated away or ignored. However, in many instances technology exists—or, as in the case of the fire safe cigarette, technology is on the verge of being developed—that could reduce the occurrence of life-threatening fires. H.R. 293, requires the completion of technical work that will lead to the successful development of fire safety performance standards for cigarettes to reduce the likelihood of igniting matresses and upholstered furniture.

Cigarettes are the country's leading cause of fatal fires. About 1,500 Americans die each year in fires associated with cigarettes. Up to 4,000 serious injuries and about $400 million a year in property damage are also caused by cigarette-initiated fires.

Fortunately, we're not without hope. Research conducted by the National Institute of Standards and Technology indicates that small design changes in cigarettes will make them less prone to ignite furniture and bedding.

H.R. 293 had its inception with each family and friend that has lost a loved one to fire as

a result of a carelessly discarded cigarette. For Rules Committee Chairman JOE MOAKLEY, who has demonstrated yet again the unique caring leadership qualities that are his hallmark, it became a cause to champion in 1979 when a family of seven from his congressional district perished in a fire caused by a smoldering cigarette.

The bill being considered by the House represents an excellent compromise between Congressman MOAKLEY and Congressman RICK BOUCHER, who introduced similar legislation. I strongly commend them both for reaching an agreement that will reduce the likelihood of cigarettes remaining the leading cause of fire deaths. Also, I applaud Congressman DOUG WALGREN, who has had a long-standing interest in fire safety, for his efforts to bring this bill to the floor.

H.R. 293 provides an opportunity to complete research on technology that will serve and protect our citizens. I am proud to support this important legislation.

Mr. RITTER. With that, Mr. Speaker, I yield back the balance of my time.

Mr. WALGREN. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the bill, H.R. 293, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard."

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 293, FIRE SAFE CIGARETTE ACT OF 1989

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 293, the Clerk be authorized to make such technical and conforming change as may be necessary to reflect the actions of the House in passing the bill, H.R. 293.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on H.R. 293, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ORPHAN DRUG AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Orphan Drug Amendments of 1990".

(b) REFERENCE.—Whenever in this Act (other than sections 4 and 5) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 526(a)(2) (21 U.S.C. 360bb(a)(2)) is amended by inserting before the period at the end a comma and the following: "and on the basis of projections as to the number of persons who will be affected by the disease or condition 3 years from the date the request for designation of the drug is made under paragraph (1)".

(b) EXCLUSIVITY.—Section 527(b) (21 U.S.C. 360cc(b)) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding at the end the following:

"(3) if a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation such disease or condition does not meet such description; or".

SEC. 3. SIMULTANEOUS DEVELOPMENT.

(a) IN GENERAL.—Section 527(b) (21 U.S.C. 360cc(b)), as amended by section 2(b), is amended by inserting "(1)" after "(b)", by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, by striking out "for a person who is not" and by inserting in lieu thereof "for an applicant who is not", and by adding at the end the following:

"(D) the Secretary finds, after providing the holder, such applicant, and other interested persons an opportunity to present their views, that the drugs of the holder and such applicant were developed simultaneously.

The Secretary shall make a decision on a request for a finding under subparagraph (D) not later than 60 days after the filing of the request.

"(2) For purposes of paragraph (1)(D), drugs of a holder and on applicant shall be considered to be developed simultaneously only if—

"(A) the applicant requested that its drug be designated under section 526 no later than 6 months after publication of the designation under section 526(c) of the holder's drug,

"(B) the applicant initiated the Human clinical trials that the applicant relied on in its application for such approval, certification, or license not more than 12 months after the date the holder initiated the human clinical trials that the holder relied on in its application for such approval, certification, or license, and

"(C) the applicant submitted such application, including the reports of the clinical and animal studies necessary for approval, certification, or licensing, not more than 12 months after the holder submitted its application, including such reports, for such action. "(3)(A) Paragraph (1)(D) does not apply to a drug—

"(i) approved under section 505, certified under section 507, or licensed under section 351 of the Public Health Service Act before August 15, 1990,

"(ii) for which an application under section 505 or 507 or such section 351 was submitted before August 15, 1990, or

"(iii) for which an exemption under section 505(i) or 507(d) was in effect before August 15, 1990, for which human clinical trials were actively being conducted before such date, and for which an application for designation under section 526 was submitted on or before July 16, 1990.

"(B) A drug designated under section 526 before the date of the enactment of the Orphan Drug Amendments of 1990 shall be considered to have been developed simultaneously under paragraph (1)(D) if it meets the requirements of subparagraphs (B) and (C) of paragraph (2).".

(b) PUBLICATION.—Section 526(c) (21 U.S.C. 360bb(c) is amended—

(1) by inserting "for a rare disease or condition" after "(a)", and

(2) by striking out "shall be made available to the public" and inserting in lieu thereof "shall be promptly published in the Federal Register and otherwise made available to the public in a manner designed to notify persons who have such disease or condition".

(c) STUDY.—

(1) The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study of the effect on the development of drugs for rare diseases or conditions (as defined in section 526(a) of the Federal Food, Drug, and Cosmetic Act) of the amendments made by subsections (a) and (b).

(2) Upon the expiration of 2 years from the date of the enactment of this Act, the Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) for conducting the study described in such paragraph. If such Institute declines to conduct the study, the Secretary shall conduct the study prescribed by paragraph (1) through another public or nonprofit entity.

(3) The Secretary shall ensure that the study required in paragraph (1) is completed after sufficient data necessary for the study are available.

SEC. 4. OFFICE FOR ORPHAN DISEASES AND CONDITIONS.

Section 227 of the Public Health Service Act (42 U.S.C. 236)—

(1) by amending subsection (a) to read as follows:

"(a) There is established under the Assistant Secretary for Health an Office for Orphan Diseases and Conditions.",

(2) by striking out "Board" each place it appears and inserting in lieu thereof "Office",

(3) by striking out "drugs and devices" in subsection (b) and inserting in lieu thereof "drugs, devices, and medical foods",

(4) by inserting "of chapter V" after "subchapter B" in subsection (c)(1)(A), and

(5) by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) There is established an advisory commitee to advise the Office in carrying out its functions under this section. The advisory committee shall be appointed by the Secretary, in consultation with the Office and the Commissioner of the Food and Drug Administration, from persons knowledgeable about rare diseases and conditions, including 5 representatives of organizations of persons with rare diseases or conditions, 3 research scientists, and 3 representatives of health-related companies. The Secretary shall also appoint as liaisons to the committee individuals from the Food and Drug administration, the National Institutes of Health, and other appropriate Federal agencies.".

SEC. 5. AUTHORIZATION FOR ORPHAN DRUG ACT.

Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c) is amended by inserting before the period at the end a comma and the following: "$20,000,000 for fiscal year 1991, $25,000,000 for fiscal year 1992, and $30,000,000 for fiscal year 1993".

The SPEAKER pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4638, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1983 the Congress passed the Orphan Drug Act to create incentives for research on and development of drugs for the treatment of rare diseases.

Today, all Members can be proud of the tremendous success of the program established by the Orphan Drug Act. Since 1983, the Food and Drug Administration has granted 375 orphan designations and it has approved 41 orphan drugs. By some estimates, this represents 10 times the number of orphan drugs under development during the 10 years prior to the time that Congress adopted the act.

However, there are two serious problems that have arisen under the act which would be remedied by H.R. 4638. First, the act defines a rare disease as a disease that affects fewer that 200,000 people. This showing is made at the time the drug is designated, which can be many years before the drug is actually marketed.

In the case of a disease such as AIDS, which has a rapidly growing patient population, a drug might qualify for orphan status at the time of designation, even though, at the time it is first sold, far more than 200,000 people have the disease. Section 2 of the bill would address this problem by requiring that the FDA project 3 years into the future when deciding whether a disease or condition qualifies as affecting fewer than 200,000 people. It would also mandate that a drug would lose its orphan drug status if the population ever goes above 200,000.

Second, in at least three instances, extremely profitable drugs have received the 7 years of exclusivity, even though they would clearly have been developed without the incentives of act, and even though in each case one or more other companies had been concurrently developing the drug and were racing to get their products on the market first.

One of these drugs, Human Growth Hormone, costs each patient between $10,000 and $30,000 per year and has annual sales of between $125 and $150 million. Another, EPO, costs $8,000 per patient and has annual sales of approximately $200 million, most of which is paid by the Medicare Program because EPO is used for patients on kidney dialysis. A third drug, Aerosol Pentamidine, is an AIDS drug that is also extremely expensive, extremely profitable, and purchased by the Federal Government.

The Orphan Drug Act was never intended to protect highly profitable drugs from competition. This is why the act needs to be fine-tuned in order to preserve the incentives where incentives are needed to stimulate drug development, but to allow competition where a drug would have been developed without the provision in the act that gives a 7-year monopoly to orphan drugs.

This issue is addressed in section 3 of the bill. Under that provision, two or more companies can both get on the market if they developed a drug simultaneously, which means they initiated clinical testing and filed their license applications within 1 year of each other. This provision will provide competition in markets where the profit potential of a drug was clear from the initial phases of research.

However, the simultaneous development provision would not apply to drugs that were already on the market, awaiting approval, or that both have applications for designationg pending and are in clinical trials.

The bill also contains two other provisions. Section 4 would substitute an Office of Orphan Disease and Conditions for the Orphan Products Board and section 5 would authorize the Orphan Drug Grant Program for 1990, 1991, and 1992.

H.R. 4638 represents a negotiated compromise between the majority and the minority on the Committee on Energy and Commerce. It was adopted by voice vote by the committee, and I urge all Members to support it today.

□ 1240

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in this country, as many as 10 to 20 million people suffer from approximately 5,000 different rare diseases. In 1983, the Orphan Drug Act was enacted to create incentives for companies to invest in developing new drugs for rare diseases. The primary incentive in the act is the grant of 7 years of market exclusivity to the first company that develops a new drug for a rare disease. During the 20 years prior to the act's enactment, only 10 orphan drugs were approved. In the 7 years since enactment, however, 45 orphan drugs have been approved and 133 are either undergoing human trials or are pending FDA review.

At this point, Mr. Speaker, I would like to commend the gentleman from California [Mr. WAXMAN], the chairman of the Health and Environment Subcommittee, for his leadership on this committee. I do not know of a committee in this Congress that does more work and is more current on legislation than that committee, that subcommittee, and it is a pleasure to serve with him.

Mr. Speaker, at subcommittee, this legislation was amended by the gentleman from Virginia [Mr. BLILEY]. This amendment will allow all drugs currently on the market to be grandfathered under the original market exclusivity provisions of the Orphan Drug Act. It also allows all drugs which are both in human clinical trials prior to August 15, 1990, and for which a request for designation was submitted by July 16, 1990, to be grandfathered under the original market exclusivity provisions of the act. This means that all pharmaceutical and biotechnology companies that have made financial commitments to research and development under the act will be able to continue their business decisions under the original rules. This

is a fair and equitable outcome for these companies.

Second, this amendment preserves the market exclusivity provisions of the original act. However, for future drugs these provisions will be changed to enhance fairness for companies that truly develop the same drug simultaneously. This result will be accomplished by a new 3-part test which a company must meet in order to be granted shared exclusivity with the first company on the market. The second drug must: First, be designated within 6 months after the first; second, must have been in human clinical trials no later than 12 months after the first drug commenced trials; and third must have its completed application filed with the FDA no later than 12 months after the application of the first drug. This test will allow for shared exclusivity for drugs that have clearly been developed simultaneously, but will exclude drugs where the second company has based its research on copying the work of the first.

I ask my colleagues for their support.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I want to express my gratitude to the gentleman from Utah [Mr. NIELSON] for his kind remarks.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill was in the subcommittee and was met with a great deal of controversy, a compromise was worked out that has allowed us here today to stand unanimously in urging this bill to move forward, and that compromise was fashioned to a great extent by the gentleman from New Mexico [Mr. RICHARDSON]. He has been a very important and a very constructive member of the subcommittee. When things have gotten difficult in subcommittee, he has been there to help us through, trying to bridge differences and to move this legislation forward.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman, the gentleman from California [Mr. WAXMAN], for his very nice words, and I think truly the compromise that was reached is a tribute to him and the gentleman from Virginia [Mr. BLILEY], who is not here, but I know was critical in fashioning this very important compromise. In addition, I know our colleague, the gentleman from Utah [Mr. NIELSON], by asking penetrating and very incisive questions about what all of this means on every issue, was very useful.

Mr. Speaker, I rise in strong support of this bill. I think, as the gentleman from California [Mr. WAXMAN] mentioned, the Orphan Drug Act was initiated in 1983 to create incentives for drug companies to research and develop drugs to treat rare and infrequently occurring diseases. The legislation did work, and it has gotten orphan drugs on the market. There has been some concern, however, about seemingly endless profits that have been made by a few companies and may, in fact, endanger the Orphan Drug Act. That is why we are proceeding today with this legislation.

Mr. Speaker, during the subcommittee process a compromise was reached after long hours of negotiation, which, in my judgment, strikes a fair and equitable balance between the concerns expressed by many that the Orphan Drug Act is endangered by orphan drugs which have become highly profitable and pharmaceutical companies who argued that the rules were being changed in midstream. Today's compromise allows limited and controlled competition for drugs which are simultaneously developed at all stages of the drug approval process.

More importantly, Mr. Speaker, the compromise contains a provision that I offered which eliminated the retroactive nature of the original bill. The elimination of prospectivity beginning with clinical trials protects the rights and concerns of those who, in good faith, undertook the research, development and tremendous expense of marketing orphan drugs for those afflicted with rare diseases who otherwise would have found no relief.

Again, Mr. Speaker, this is outstanding legislation that hopefully will be moving rapidly through this body and the other body. I once again want to thank the gentleman from California [Mr. WAXMAN], the chairman of the subcommittee. I want to thank the gentleman from Virginia [Mr. BLILEY] for his role in this compromise. Also, the gentleman from Utah [Mr. NIELSON], and I think the majority and minority staffs that labored strenuously under often very difficult circumstances to craft legislation that is fair, that will achieve both objectives, and that is protecting the public and the consumer from seemingly endless profits, but also stimulate research, development, protect those that have made substantial investment at the clinical trials level so that this needed research for many diseases that we do not have the answers to can proceed.

Mr. BLILEY. Mr. Speaker, I strongly opposed the original version of H.R. 4638 because I felt it would have seriously undermined the incentives that have worked so well to develop orphan drugs.

My concern was twofold: First, I was concerned that the simultaneous development provisions of the original bill would have destroyed any incentive to develop orphan drugs because the test for simultaneous development was so loose that latecomers or imitators could easily have been declared simultaneous developers.

Second, I was troubled by the retroactive nature of the bill. Drugs currently on the market as well as those in the pipeline would have been subject to a completely different set of rules than those which companies relied upon in good faith when making their investment decisions.

I am pleased that the compromise I worked out with Mr. WAXMAN resolves these two concerns. The compromise allows all drugs currently in the pipeline to be grandfathered under the original market exclusivity provisions of the Orphan Drug Act. This means that companies that have made financial commitments to research and development under the Orphan Drug Act will be able to continue their business decisions under the original act. This is a fair and equitable outcome for these companies.

Second, for future orphan drugs, the market exclusivity provisions will be changed to enhance fairness for companies that truly develop the same drug simultaneously. This result will be accomplished by a new three-part test which a company must meet in order to be granted shared exclusivity with the first company on the market. The second drug must: First, be designated within 6 months of the first; second, must have been in clinical trials no later than 12 months after the first drug was in clinical trials; and third, must have its complete new drug application filed with the Food and Drug Administration no later than 12 months after the new drug application of the first drug. This test will allow for shared exclusivity for drugs that have clearly been developed simultaneously, but will exclude drugs where the second company has based its research on copying the work of the first innovtive company.

The compromise allows the removal of market exclusivity in the event the patient population exceeds 200,000 at any time during the 7-year market exclusivity period. This provision will be applied both retroactively and prospectively. This provision is certainly in keeping with the original intention of the act. Orphan drugs almost exclusively serve small populations. And this provision is only likely to affect AIDS drugs and it is doubtful that anyone could argue that AIDS is an orphan disease. Hopefully this provision will have the effect of lowering the price of AIDS drugs.

I believe this compromise will be successful in both preserving the incentives to develop orphan drugs and in remedying some of the problems that have developed.

I urge my colleagues to join me in supporting it.

Mr. NIELSON of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the

House suspend the rules and pass the bill, H.R. 4638, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DRUG ABUSE TREATMENT WAITING PERIOD REDUCTION AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2461) to reauthorize appropriations to provide for and improve the Drug Treatment Waiting Period Reduction Grant Program under the Public Health Service Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment Waiting Period Reduction Amendment of 1990".

SEC. 2. REVISION AND EXTENSION OF PROGRAM FOR REDUCING WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) TECHNICAL AMENDMENT REGARDING WAITING PERIOD.—Section 509E(a) of the Public Health Service Act (42 U.S.C. 290aa-12(a)) is amended by striking "the waiting list" and all that follows and inserting the following: "the waiting period for receiving, with respect to drug abuse, treatment services from public and nonprofit private providers of such services.".

(b) PRIORITIES IN MARKETING GRANTS; AUTHORITY FOR POSTTREATMENT SERVICES.—Section 509E of the Public Health Service Act (42 U.S.C. 290aa-12) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (c), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) Subject to the availability of qualified applicants, the Secretary shall, in making grant under subsection (a), give priority to applicants that will provide, directly or through arrangements with public or nonprofit private entities, treatment services for drug abuse to pregnant or postpartum women.

"(d) A grantee under subsection (a) may expend not more than 50 percent of the grant to develop and provide, directly or through arrangements with public or nonprofit private entities, follow-up services to prevent the renewed abuse of drugs by individuals who have successfully completed, with respect to such abuse, a program of treatment provided by the grantee.".

(c) FUNDING.—

(1) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Paragraph (1) of section 509E(g) of the Public Health Service Act, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"(1) In addition to amounts otherwise appropriated to carry out this section prior to fiscal year 1991, there are authorized to be appropriated an additional $40,000,000 to carry out this section.".

(2) INCREASE REGARDING LIMITATION ON AGGREGATE AMOUNT OF GRANTS.—Paragraph (2) of section 509E(g) of the Public Health Service Act, as redesignated by subsection (a)(2) of this section, is amended by striking "$100,000,000" and inserting "$40,000,000".

(3) AVAILABILITY OF CERTAIN FUNDS.—Notwithstanding section 307 of Public Law 101-164, amounts appropriated in such Public Law for the purpose of carrying out section 509E of the Public Health Service Act shall remain available for obligation for such purpose through December 31, 1990.

(d) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit to the Senate Committee on Labor and Human Resources, and the House Committee on Energy and Commerce, a report concerning the waiting-period-reduction grant program under section 509E of the Public Health Service Act. Such report shall include—

(1) a list and description of the programs that have been awarded grants under such section;

(2) with respect to the process by which funds awarded under such section are expended for treatment services for drug abuse, a description of the extent to which such process is different than the process by which funds received by the States under subpart B of title XIX of such Act are expended by entities to which the States have awarded such funds for the purpose of providing treatment services (including a description of the extent to which there are differences in the 2 processes in the manner in which the providers of such treatment services obligate and draw down funds);

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring the need for treatment services within a specified geographic area;

(4) the views of State, local, and nongovernmental treatment experts with respect to the validity of waiting lists as a measure of treatment need and with respect to the efficacy of the waiting period reduction grant program; and

(5) an assessment of the effectiveness of the treatment programs that receive funding under such section, including the usefulness of mechanisms, such as drug testing, that detect renewed substance abuse, and information with respect to the current use of such mechanisms.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN DRUG ABUSE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-1) is amended by striking "There are" and all that follows through "section 515" and inserting the following: "For the purpose of carrying out this subpart, there are authorized to be appropriated".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

SEC. 4. TECHNICAL AMENDMENTS TO CERTAIN PROGRAMS.

(a) FORM OF ASSISTANCE FOR CONSTRUCTION OF FACILITIES TO SUPPLY SPECIALIZED MICE FOR BIOMEDICAL RESEARCH.—Public Law 101-190 (42 U.S.C. 289e note) is amended—

(1) in section 1—

(A) in the heading for the section, by striking "CONTRACT" and inserting "GRANT";

(B) in subsection (a), by striking "entering into a contract with" and inserting "making a grant to"; and

(C) in subsection (b), by striking "contract" and inserting "grant";

(2) in section 2—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant";

(B), in subsection (a)(1), by striking "contract" and inserting "grant";

(C) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "contractor" and inserting "grantee";

(D) in subsection (b)(1), in subparagraphs (A) and (B), by striking "a contract" each place such term appears and inserting "an agreement";

(E) in subsection (b)(2), by striking "contractor" and inserting "grantee";

(F) in subsection (d)(1), in the heading, by striking "CONTRACTOR" and inserting "GRANTEE"; and

(G) in subsection (d)(1)—

(1) by striking "enter into a contract" and inserting "make a grant"; and

(ii) by striking "the contract" and inserting "the grant";

(3) in section 3(a)—

(A) by striking "enter into a contract" and inserting "make a grant"; and

(B) by striking "the contract" and inserting "the grant";

(4) in section 4—

(A) in subsection (a)(1), in the first sentence—

(i) by striking "enter into a contract" and inserting "make a grant"; and

(ii) by striking "the contract" and inserting "the grant";

(B) in subsection (a)(2)(A), in the second sentence, by striking "in the contract";

(C) in subsection (b), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant";

(D) in subsection (b)(1), by striking "contract" and inserting "grant";

(E) in subsection (c), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant";

(F) in subsection (c)(1), by striking "contract" and inserting "grant";

(5) in section 5—

(A) in subsection (a), in paragraphs (1) and (2), by striking "contractor" each place such term appears and inserting "grantee";

(B) in subsection (b), in paragraphs (1) through (3), by striking "contractor" each place such term appears and inserting "grantee"; and

(C) in subsection (c), by striking "contractor" and inserting "grantee"; and

(6) in section 6(a), in the matter preceding paragraph (1), by striking "contractor" and inserting "grantee";

(b) INTRASTATE ALLOCATIONS FOR SUBSTANCE ABUSE PROGRAMS UNDER CERTAIN BLOCK GRANTS TO THE STATES.—Section 1916(c)(6)(A) of the Public Health Service Act is amended—

(A) in clause (i)—

(i) by striking "and" before "(III) in fiscal year 1989"; and

(ii) by striking before the period the following: ", and (IV) in fiscal year 1990 under appropriations made in Public Law 101-164 for allotments under this subpart"; and (B) in clause (ii)—

(i) by striking "and" before "(III) in fiscal year 1989"; and

(ii) by inserting before "bore to the funds" the following: ", and (IV) in fiscal year 1990 under appropriations made in Public Law 101-164 for allotments under this subpart".

(c) EFFECTIVE DATES FOR TECHNICAL AMENDMENTS.—

(1) CONSTRUCTION OF BIOMEDICAL FACILITIES.—The amendments made by subsection (a) shall take effect as if included in Public Law 101-190.

(2) INTRASTATE ALLOCATIONS FOR BLOCK GRANTS.—The amendments made by subsection (b) shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. SPEAKER, every day there are thousands of people in this country who come to terms with their drug addiction and decide to seek treatment, but cannot get it. They cannot get treatment for their addiction because when they finally get to the clinic doors, they are turned away, they are told there are no slots, they are told to come back in 6 weeks or 6 months, or maybe a year.

Drug treatment centers all over the country are overwhelmed with demand for services, and they have been this way for some time. While the Federal Government provides funds to the States for developing and delivering drug treatment services, the Waiting List Reduction Program was specifically designed to allow Federal officials to target assistance at programs with the greatest need.

The $100 million appropriated for the Waiting List Program since 1988 has been expended, and yet the demand for treatment services persists. The Congress has already committed $40 million in additional funds to extending this program for fiscal year 1990, subject to the passage of this legislation. This bill provides the necessary authority for the Department of Health and Human Services to expend these needed funds.

Mr. Speaker, the legislation also makes a number of noncontroversial and technical amendments.

I urge support for the legislation and ask that the attached summary be placed in the RECORD after my remarks.

SUMMARY OF S. 2461

(1) Extend authorization of appropriations for drug abuse waiting list program. Legislation increases maximum authorization from $100 million to $140 million. In addition, the bill:

Places funding priority on programs for pregnant addicts.

Requires report on activities under the program.

Allows grantees to use up to 50% of funds for relapse prevention.

(2) Authorizes the Director of NIH to use a grant mechanism for construction of a mouse breeding facility. Current law authorized only contracts for this purpose.

(3) Clarifies that the demonstration programs of the National Institute on Drug Abuse are authorized by Title V of the Public Health Service Act.

(4) Amends the Alcohol, Drug Abuse and Mental Health Services Block (ADMS) Grant to require that substance abuse treatment funds made available in the 1990 Transportation Appropriations Bill are included in calculating INTRASTATE allotments. Intrastate allotments are the percentages of ADAMS block grant funds states allocate to substance abuse programs versus mental health programs.

□ 1250

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

The legislation before us did not go through the committee process, but it merely makes technical amendments to which I know of no objections.

The first provision of the bill addresses the Waiting List Program for drug abuse treatment. It restates the goal of the program as reducing the waiting period for receiving drug abuse treatment rather than reducing waiting lists at treatment programs.

The bill permits grantees to use funds to provide followup services to those individuals who have successfully completed treatment so as to avoid a relapse back into drug use.

The legislation also increases the authorization of this program from $100 million to $140 million.

Another provision is a technical amendment to Public Law 101-190, a bill to authorize funds for the construction of a mouse research laboratory. The amendment merely changes all references to contract to grant in order to conform with the actual language used by the agency. This amendment was requested by the administration.

The final provision is a technical amendment to the alcohol, drug abuse and mental health services block grant. In the 1990 Department of Transportation appropriations bill, $415 million was allocated to the block grant to provide drug abuse treatment services. This amendment ensures that the funds will be expended on drug abuse treatment and not other services provided under the block grant.

Mr. Speaker, these amendments are noncontroversial and I urge my colleagues to support them.

Mr. ACKERMAN. Mr. Speaker, I rise in support of S. 2461, legislation that would provide an additional $40 million to expand and improve the drug treatment waiting period reduction grant program authorized under the Public Health Service Act.

Originally enacted as part of the Omnibus Narcotics Act (H.R. 5210) in the 100th Congress, this important program provides grants to expand drug abuse treatment capacity, a goal which must be met if we are to make a sincere and meaningful attempt to combat drug addiction.

I'm pleased to report that an amendment I offered to H.R. 5210 was incorporated into the measure. The proposal modified a substance abuse study called for in the bill by expanding the data collection requirements to include the number of individuals seeking drug abuse treatment and the length of time before they begin treatment. This information is vital to understanding just how widespread drug addiction is in our society and to what extent the desire for treatment goes unmet.

While H.R. 5210 was enacted into law, the funds appropriated to achieve the goals of the bill have been depleted. That is why today we are considering S. 2461, which will provide an additional $40 million to carry-out the drug treatment waiting period reduction grant program. S. 2461 also includes an added priority in awarding grants to facilities that provide drug treatment services to pregnant and postpartum women. This provision is of special significance to New York City, where the increase in the incidence of addicted newborns whose mothers used drugs during pregnancy is the most common cause for the increase in infant mortality.

Treatment capacity falls far short of the needs of New York City's drug abusers, conservatively estimated at 550,000. About 200,000 are addicted to heroin; the remainder to other illicit drugs, primarily cocaine and crack. New York City presently has licensed treatment capacity for only 42,000 people. Drug-free treatment is available for only 2 percent of the city's cocaine and heroin addicts.

It is clear that enforcement efforts alone, without matching efforts to reduce demand through drug treatment are not enough to reverse the destructive trend of drug abuse and its related crime. I urge my colleagues to support passage of S. 2461.

Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I rise in support of S. 2461, the drug treatment waiting list reduction bill.

I commend the gentleman from California [Mr. WAXMAN] for bringing this important piece of legislation to the floor. As you are aware, the Anti-Drug Abuse Act of 1988 authorized $100 million for a new program of grants to

reduce the waiting lists at drug treatment programs around our Nation. For 1989, $75 million was appropriated for this program. Last year, Congress appropriated an additional $65 million, $40 million over the authorized funding level. The law specifically required enactment of authorizing legislation before this additional $40 million could be spent. This bill is the needed vehicle to authorize that appropriation.

Another key provision in this bill would give priority to programs that serve pregnant addicts and babies born addicted to drugs, and to programs that provide aftercare. Chairman WAXMAN held a hearing on that very same issue this past April. One of the outcomes of the hearing, which hearings by the Select Committee have also found, is a failure of the Federal and State government's to provide adequate drug abuse treatment for pregnant and post partum women and their infants. It is my hope that this legislation will begin to address this need.

Without passage the money will go back to the Department of Treasury. To put it bluntly, Mr. Speaker, treatment programs have a greater need for the money than does the Department of Treasury.

Mr. NIELSON of Utah. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 2461, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to amend the Public Health Service Act to revise and extend the program of grants for reducing the waiting period for receiving treatment services for drug abuse, and for other purposes".

A motion to reconsider was laid on the table.

MARY McLEOD BETHUNE NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5084) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are to—

(1) preserve and interpret the life and work of Mary McLeod Bethune;

(2) preserve and interpret the history, lives, and contributions of African-American women; and

(3) preserve and interpret the struggle for civil rights in the United States of America.

SEC. 2. ACQUISITION.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may acquire, with the consent of the owner thereof, by donation or by purchase with donated or appropriated funds, the property designated under the Act of October 15, 1982 (Public Law 97-329; 96 Stat. 1615) as the Mary McLeod Bethune Council House National Historic Site, located at 1318 Vermont Avenue, N.W., Washington, D.C., together with such structures and improvements thereon and such personal property associated with the site as he deems appropriate for interpretation of the site.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—Upon acquisition of the property described in section 2, the cooperative agreement referred to in section 3 of the Act of October 15, 1982 (Public Law 97-329; 96 Stat. 1615) shall cease to have any force and effect, and upon acquisition of such property, the Secretary shall administer the Mary McLeod Bethune Council House National Historic Site (hereinafter in this Act referred to as the "historic site") in accordance with this Act and in accordance with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(b) COOPERATIVE AGREEMENT.—(1) The Secretary is authorized and directed to enter into a cooperative agreement with nonprofit organizations dedicated to preserving and interpreting the life and work of Mary McLeod Bethune and the history and contributions of African-American women—

(A) to provide to the public such programs, seminars, and lectures as are appropriate to interpret the life and work of Mary McLeod Bethune and the history and contributions of African-American women,

(B) to administer the archives currently located at the historic site, including providing reasonable access to the archives by scholars and other interested parties.

(2) The Secretary is authorized to provide space and administrative support for such nonprofit organization.

(c) MANAGEMENT AND DEVELOPMENT.—The historic site shall be operated and managed in accordance with a General Management Plan. The Advisory Commission appointed under section 4 shall fully participate with the Secretary in the development of the General Management Plan for the historic site. The Secretary and the Advisory Commission shall meet and consult on matters relating to the management and development of the historic site as often as necessary, but at least semiannually.

SEC. 4. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Mary McLeod Bethune Council House National Historic Site Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall carry out the functions specified in section 3(c) of this Act.

(b) MEMBERSHIP.—The Commission shall be composed of 15 members appointed by the Secretary as follows:

(1) 3 members appointed for terms of 4 years from recommendations submitted by the National Council of Negro Women, Inc.

(2) 2 members appointed for terms of 4 years who represent other national organizations in which Mary McLeod Bethune played a leadership role.

(3) 2 members appointed for terms of 4 years from recommendations submitted by the Bethune Museum and Archives, Inc.

(4) 2 members appointed for terms of 4 years who shall have professional expertise in the history of African-American women.

(5) 2 members appointed for terms of 4 years who shall have professional expertise in archival management.

(6) 3 members appointed for terms of 4 years who represent the general public.

(7) 1 member appointed for a term of 4 years who shall have professional expertise in historic preservation.

Any member of the Commission appointed for a definite term may serve after the expiration of his or her term until his or her successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) COMPENSATION.—Members of the Commission shall serve without compensation except that the Secretary is authorized to pay such expenses as are reasonably incurred by the members in carrying out their responsibilities under this Act.

(d) OFFICERS.—The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) BYLAWS, RULES, AND REGULATIONS.—The Commission shall make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to this Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5084, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5084, the bill introduced by our good friend and colleague on the subcommittee, Congressman JOHN LEWIS, establishes the Mary

McLeod Bethune Council House National Historic Site as a full-fledged unit of the National Park System. Mary McLeod Bethune stands as one of the great African-American women of this century. Her varied accomplishment as an educator, organizer, and political activist are impressive.

I want to acknowledge the efforts of the National Council of Negro Women and the Bethune Museum and Archives, Inc., for their staunch protection of the Bethune Council House and Archives. Without their stewardship her legacy would not be here today. Given their longstanding affiliation with this site and their specialized knowledge of its archives, I believe it appropriate that the National Park Service be authorized and directed to enter into a cooperative agreement to administer the archives and to continue to put on the special programs of lectures, concerts, and seminars. Given the National Park Service's decades of experience in the preservation and interpretation of historic sites, it is appropriate that the National Park Service manage the site and those activities. The National Park Service must also ensure that the council house is restored to its period of significance, and that visitors will be able to understand how this building functioned as the center for political organizing.

The committee adopted an amendment that makes several technical changes to the bill and that follows a recommendation made in the hearing to add two archivists and another representative of the public to the advisory commission.

Mr. Speaker, I believe that Mary McLeod Bethune Council House National Historic Site will be an appropriate and worthy addition to the National Park System. I endorse this legislation and look forward to its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5084, a bill to designate the Mary McLeod Bethune National Historic Site as a unit of the Natinal Park System. This is an important measure which will provide appropriate recognition of Ms. Bethune by designating this site as a full unit of the National Park System.

The Bethune Council House was in the unique position of being designated as a national historic site, but not a unit of the National Park System for the last 8 years. That arrangement has complicated management and public enjoyment of the site and I am pleased that my colleague, Mr. LEWIS, has introduced this bill to address those concerns.

I would also like to recognize the efforts of the chairman on this measure; as I know that he has been trying to work closely with the administration on this measure for some time. The careful thought he has put into this bill has helped to ensure that the final product will be workable.

I urge my colleagues to join me in supporting this measure.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to commend the gentleman from Georgia [Mr. LEWIS] for his work, the extraordinary work that he has done in bringing the groups together, providing the confidence, that they needed with regard to the work of the Park Service and the management of this resource.

As I said, it is something that people in the community here in Washington, DC, have long cherished as an important resources, reflective of their African-American heritage. The gentleman from Georgia [Mr. LEWIS] obviously shares that view, but also I think understands that with the agreements and understandings in this bill that indeed this resource and those values will be represented in the way that the Park Service manages the resources. The gentleman has done an extraordinary job.

This is a bill that for over 20 years has been in the making, with various types of treatment of the affiliated site, all of which I think have turned out not to accomplish what is desired by those who acted on such policy. This bill, however, I think will mean that we will finally take the steps and achieve what is necessary to provide the type of recognition and the predictability and certainty with regard to the future concerning this site.

Mr. STOKES, Mr. Chairman, I rise in support of H.R. 5084, which would authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site. This site, located here in our Nation's Capital, is the only institution devoted solely to the documentation of the history of African American women. This collection rightly deserves to be in the public domain.

Mary McLeod was born in Mayesville, SC, in 1875, 1 of 17 children born to former slaves. She went on to become one of the most remarkable women of the 20th century.

Despite having few material advantages, Mary McLeod secured a higher education. She at first attended a small black mission school near Mayesville and then won a scholarship to attend Scotia Seminary in Concord, NC. She later studied at the Bible Institute for Home and Foreign Missions, where she attempted to pursue missionary work in Africa. However, she was turned away from this vocation by the Presbyterian Mission Board because they had no openings in Africa for a black missionary.

Instead, Mary McLeod turned to teaching. She taught in both Georgia and South Carolina before settling in Daytona Beach, FL. In 1904 Mrs. Bethune founded the Daytona Normal and Industrial Institute. She undertook this effort with total capital of only $1.50. She made and sold sweet potato pies and ice cream to raise money for her school. Her students, who had few educational opportunities to which they could avail themselves, were willing to use crates for desks, charcoal for pencils, and mashed elderberries for ink. We now know this school as Bethune-Cookman College, an outstanding institution in Florida.

In addition to her accomplishments in the field of education, Mary McLeod Bethune also made her mark in civil rights. In December 1935, Mrs. Bethune founded the National Council of Negro Women, which was the union of the major national black women's associations. This renowned organization, which is still in existence, sought to combat segregation and discrimination, particularly as they affected black women. She served as its president until 1949. Under her tenure, the organization established chapters in our major cities, and headquarters in our Nation's Capital. Her achievements include representing the council at the founding conference of the United Nations in 1945.

Mr. Speaker, Mary McLeod Bethune also served as president of the National Association of Teachers in Colored Schools, as vice president of the Commission on Interracial Cooperation, and as president of the Association for the study of Negro Life and History. Her prominence gave her access to the White House during the Coolidge, Hoover, and Roosevelt administrations. Through Eleanor Roosevelt's influence, Mrs. Bethune was appointed to the National Youth Administration in 1935 and became director of its Negro Division the following year. She also organized the Federal Council on Negro Affairs—the so-called Black Cabinet which advised President Roosevelt during the New Deal. The Black Cabinet was responsible for the elimination of segregation in government cafeterias, and in the Armed Forces.

Mrs. Bethune died in 1955. Our Nation owes the great lady a tremendous debt. She was one of the most prominent black women in our history. She recognized the importance of preserving historical records of the contributions that black women have made to the United States. The Mary McLeod Bethune Museum and Archives opened its doors to the public in 1979. The museum has been operating as an independent nonprofit organization fulfilling Mrs. Bethune's dream of preserving and documenting the history of African American women, the only institution of its kind. Bringing the museum under the auspices of the National Park Service will further the mission of the museum and pay honor to the memory of Mary MacLeod Bethune. I am proud to support this important measure, and I urge my colleagues to join in this effort.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5084, as amended.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1300

ROUTE 66 STUDY ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3493) to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes as amended.

The Clerk read as follows:

H.R. 3493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Route 66 Study Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States Route 66, the 2,000 mile highway from Chicago, Illinois, to Santa Monica, California, played a significant role in the 20th-century history of our Nation, including the westward migration from the Dust Bowl and the increase in tourist travel;

(2) Route 66, an early example of the 1926 National Highway System program, transverses the States of Illinois, Missouri, Kansas, Oklahoma, Texas, New Mexico, Arizona, and California;

(3) Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life and has been enshrined in American popular culture;

(4) although the remnants of Route 66 are disappearing, many structures, features, and artifacts of Route 66 remain; and

(5) given the interest by organized groups and State governments in the preservation of features associated with Route 66, the route's history, and its role in American popular culture, a coordinated evaluation of preservation options should be undertaken.

SEC. 3. STUDY AND REPORT BY THE NATIONAL PARK SERVICE.

(a) STUDY.—(1) The Secretary of the Interior, acting through the Director of the National Park Service and in cooperation with the respective States, shall coordinate a comprehensive study of the United States Route 66. Such study shall include an evaluation of the significance of Route 66 in American history, options for preservation and use of remaining segments of Route 66, and options for the preservation and interpretation of significant features associated with the highway. The study shall consider private sector preservation alternatives.

(2) The study shall include participation by representatives from each of the States traversed by Route 66, the State historic preservation offices, representatives of associations interested in the preservation of Route 66 and its features, and persons knowledgeable in American history, historic preservation, and popular culture.

(b) REPORT.—Not later than two years from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(c) LIMITATION.—Nothing in this Act shall be construed to authorize the National Park Service to assume responsibility for the maintenance of United States Route 66.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be approximately $200,000 to carry out the provisions of this Act.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is a second demanded?

Mr. LAGOSMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3493, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3493, introduced by our colleague WES WATKINS directs the National Park Service to study the historic Route 66 in order to evaluate its significance and the alternatives for its preservation. Route 66, long remembered in song and television, was one of the earliest interstates linking East and West. This study seeks to find ways to preserve the road segments that remain. In so doing, it will help us better understand this aspect of 20th century history.

The committee adopted an amendment in the nature of a substitute that modifies some of the bill's findings, directs the National Park Service to coordinate the study of Route 66, and adds the participation in the study of the State historic preservation officers and other knowledgeable people because they offer particular expertise. It also places a limitation on the National Park Service to assume responsibility for the maintenance of U.S. Route 66 and authorizes appropriations of $200,000. These changes refine the bill and are supported by all. Mr. Speaker, I endorse this bill and urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of H.R. 3493 which would authorize the National Park Service to conduct a comprehensive study of historic Route 66.

I would like to point out that this legislation has been improved in two important respects since it was originally introduced.

First, the bill before us today prohibits the National Park Service from assuming maintenance responsibility for Route 66. Although the sponsor never intended for Park Service to be involved in maintenance of this highway, the legislation needed to be crystal clear on this point.

Second, the original legislation authorized "such sums as may be necessary" to conduct this study. Chairman VENTO wisely took out this provision and replaced it with a firm figure of $200,000.

Mr. Speaker, this bill has been greatly improved by the subcommittee and full committee and I urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. WATKINS], the sponsor of the House measure.

Mr. WATKINS. Mr. Speaker, I want to first thank Chairman UDALL for his assistance with this piece of legislation. I also want to thank the subcommittee chairman and my friend, Mr. VENTO, for his support and leadership with this bill, and to Mr. MARLENEE for his support. I also extend my gratitude to the committee staff for their diligent and supportive help with this bill, the Route 66 Study Act. I wish to also thank my staff, Miss Leslie Belcher for all her great help with the legislation. Without all of this support I would not be here today to talk about a bill that is very special to me and the future tourism potential of a great historical highway.

Mr. Speaker, H.R. 3493 has found a broad base of support in both the House and the Senate. The bill authorizes a study on methods to commemorate the nationally significant highway known as "American's Main Street," Route 66. The modern expression is "Route 66-America's Mother Road" which is the title of a book written by Mike Wallace. Route 66 was designated in 1926, and when completed in 1938, the road was the first paved highway across the Western United States. For 50 years the 2,488-mile road trekked across the landscape of America from Chicago, IL to Santa Monica, CA. In Oklahoma, Route 66 begins near Commerce, in the northeast corner of the State and continues for 396 miles exiting into Texas.

I introduced this legislation last fall for two reasons. First, Route 66 was a glorious new beginning for the Nation and especially for the Midwest and Southwest because, for the first time, there was a major transportation

artery in the country. Route 66 represented new hope, new beginnings. It marked a point of transition for Americans, a moment in time suspended between the wagon train and the jumbo jet. The moment of time when the Nation's pulse speeded up and time came to be measured not by weeks but by odometer. Distant places became reachable and real. Route 66 was America's highway.

As it did with many Americans, Route 66 made an impact on my life. During the Great Depression of the 1930's and early 1940's, families were driven by desperation to flee the midwestern and southwestern States to find work in California. Route 66 was the road taken by the Okies and Arkies laying the history for the "Grapes of Wrath." As a matter of fact, it was the only major East-West road in those days. Route 66 came to represent the largest movement of people in the United States from the depressed States to California.

With hope and a dream of prosperity my family made the trip three times on this route to and from California in the 1940's in search of jobs and a better way of life. The trips on Route 66 in pursuit of a better way of life is part of my motivation of why I came to the U.S. Congess and to public service. While offering hope to many, Route 66 also became a "Modern-day trail of tears." It was a time of leaving family and friends, many of which would never be reunited again.

The second reason I introduced this bill last year to preserve the memory of Route 66 with the hope that the children and grandchildren of future generations would never have to be forced to take such a road in search of employment.

It took five interstates to replace the historical highway. And, it wasn't until 1984 that the last part of Route 66 was bypassed. Most of the road is still in existence, curving through hundreds of small towns and spanning eight States. Each of the States still has long stretches of the road that can be driven.

Along the Oklahoma stretch, one can see the world's largest totem pole at Foyil, a comboy's view from Persimmon Hill in Oklahoma City, the round barn in Arcadia, and a classic railroad depot in Bristow.

Before the road was completely bypassed, Route 66 spawned a television series by the same name. It inspired John Steinbeck's "The Grapes of Wrath." In the 1930's, folksingers Woody Guthrie and Pete Seeger hitchhiked from New York to Oklahoma together and wrote a song about Route 66, "66 Highway Blues," a still unrecorded testimony to the Depression years. A few years after Guthrie and Seeger traveled Route 66, songwriter Bobby Troup wrote, "I get My Kicks on Route 66."

Today, this legendary highway and associated landmarks have almost disappeared. The familiar shield-shaped highway markers have been pulled down by State highway departments. This legislation will study the methods to preserve the last remaining trademarks of Route 66 for future generations.

My bill is simple. It calls for the National Park Service to undertake a comprehensive study and evaluation of Route 66, including preservation and revenue-generating tourism options associated with the highway. Upon conclusion of the study, the agency would then recommend methods to maintain what remains of the highway and the facilities associated with it. Preservation of Route 66 has tremendous financial potential for Oklahoma and the other States adjoining this historic route.

The study group would consist of delegates from each of the eight states along Route 66—Illinois, Missouri, Kansas, Oklahoma, Texas, New Mexico, Arizona, and California. The companion of this bill, S. 963, has already passed the Senate.

Mr. Speaker, John Steinbeck wrote in 1939 that Route 66 "is the path of people in flight." It remains to be a symbol of American heritage, a heritage of seeking a better way of life. It is legendary of an America almost, but not yet, forgotten. Whether Route 66 represents to you or your loved ones hope, change or prosperity, it is deserving of recognition and preservation.

Thus, in closing, I urge my colleagues to support this legislation to help preserve a living, historical monument of our Nation.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the sponsor of this measure and others who have worked on this. It is a good bill. It deserves our support.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3493, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING A STUDY OF NATIONALLY SIGNIFICANT PLACES IN AMERICAN LABOR HISTORY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2949) to authorize a study of nationally significant places in American labor history, as amended.

The Clerk read as follows:

H.R. 2949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEME STUDY.

Within 3 years after enactment of this Act, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall prepare and transmit to the Congress a National Historic Landmark Theme Study of American Labor History (hereafter in this Act referred to as the "Theme Study"). The Theme Study shall be prepared in consultation with the Secretary of Labor and pursuant to the guidelines prepared under section 2. The purpose of the Theme Study shall be to identify the key sites in American labor history, including the history of workers and their work, of organizing, unions and strikes, of the impacts of industrial and technological change, and of the contributions of American labor to American history. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those districts, sites, buildings, and structures that best illustrate or commemorate American labor history in its fullest variety. On the basis of the Theme Study, the Secretary shall identify possible new park units appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites. The list shall include a discussion of the feasibility and suitability of such sites.

SEC. 2. CONSULTATION.

The Secretary shall consult with workers, workers' representatives, scholars of labor history, and historic preservationists for technical assistance and for the preparation of guidelines for the Theme Study.

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary of the Interior shall enter into cooperative agreements with one or more major scholarly and public historic organizations knowledgeable of American labor history to prepare the Theme Study and ensure that the Theme Study meets scholarly standards.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $250,000 to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2949, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Nation was literally built by thousands of men and women who labored long and hard in our fields, forests, and factories.

Today we have an opportunity to honor those workers and help preserve key evidence of their efforts, Today, we can pass this measure, H.R. 2949, a bill introduced by our colleagues, the gentleman from New York [Mr. MCNULTY], that directs the Secretary of the Interior to prepare a national landmark theme study in labor history.

National historic landmarks are historic properties recognized as nationally significant after a professional, comprehensive survey of historic sites throughout the Nation.

In recent years, theme studies of the U.S. Constitution and man in space have been completed. These studies provide critical information on the historic resources that are truly important for us to save. They help us choose which sites to preserve.

According to the National Park Service, only 12 of the 1,900 national historic landmarks commemorate labor history, showing the need for a study comprehensive in its scope and reflecting current scholarship. Both the history of organized labor and the history of the American work force should be examined and documented as well as the larger social economic and technological context of labor history. This study will help us better understand the struggles and the contributions of working men and women in our Nation, those who were union members and those who were not.

□ 1310

I will be interested in learning more about Minnesota's labor history. I know, for example, the gentleman from New York [Mr. MCNULTY], will be interested in his own State's history, and of course our colleague, the gentleman from West Virginia [Mr. RAHALL], will be interested in West Virginia's history. I think each Member of this Chamber representing various States is going to find and gain interesting information, useful information concerning the history of labor and working men and women in their area.

The committee adopted amendments that made several changes to the bill, including extending the time for the study to 3 years, and deleting the advisory board which had been a point of controversy. Instead the bill now directs the Secretary of the Interior to consult workers and workers' representatives and scholars of labor history and history preservationists. It increases the authorization and directs the Secretary to prepare a list of the most appropriate sites in order of importance or merit for possible new park units.

These changes reflect our negotiations with the gentleman from Alaska [Mr. YOUNG], who is the ranking minority member of the committee, and Secretary Lujan, who has taken an active interest in this particular issue. I think most of the Members are aware that the Secretary has directed, for instance, and is seeking a comprehensive study of civil war history, and is intending to appoint or create a commission to actually accomplish that purpose. So the Secretary is well aware of the cultural and historic importance, and the fact that a number of these studies are necessary in order for action in the future by the Congress in designating such sites.

I have a letter from the Secretary indicating his support for the bill, and I am pleased to see the Secretary engaged in a bipartisan effort to study this important aspect of American history. I also have, of course, received a statement from the Office of Management and Budget, a statement from the administration saying that they support this bill. I want to thank, of course, the Secretary for his work, and I want to thank, of course, the gentleman from Alaska [Mr. YOUNG], the ranking Republican on the Interior and Insular Affairs Committee, for his support. Of course I want to commend my colleague, the gentleman from New York [Mr. MCNULTY], who has championed this idea. He came in with a bill that was different in scope and purpose, but worked I think well with the committee, and with the staff to accomplish the purposes in the bill that we see before us.

Mr. Speaker, I endorse this legislation. I strongly recommend its passage to the House and to the Members.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as amended, H.R. 2949 addresses many of the concerns of the administration. The bill continues to require a theme study on American labor history to be conducted in consultation with the Secretary of Labor. In addition, further consultation is required with workers, workers' representatives, scholars, and historic preservationists in the completion of the study. Cooperative agreements are also required in furtherance of the study.

The requirement of the establishment of an Advisory Board had caused concern in the Committee on Interior and Insular Affairs due to difference over the proportional representations of labor organizations on the Board. The requirement of the Board has been deleted although the requirement for consultation with workers and workers representatives remain. The amended version also makes it clear that this study is not designed to lead directly to the establishment of additional National Park System units.

With these amendments included in the bill brought before the House today, I have received notice from the administration that it supports this legislation.

Mr. Speaker, the history of the development of American labor is an important element in our history. Workers have shaped and built our country from its inception through the dawn of the industrial revolution and throughout the vast changes wrought by the two world wars. In recent years, American workers have helped reshape our economy and strengthen our products and industry against foreign competition.

Mr. VENTO. Mr. Speaker, I yield such time as he might consume to the gentleman from New York [Mr. MCNULTY], the principal sponsor of this measure.

Mr. MCNULTY. Mr. Speaker, I thank the distinguished chairman of the National Parks and Public Lands Subcommittee for yielding time to me.

Mr. Speaker, I rise today to encourage my colleagues to support H.R. 2949, a bill authorizing a study of nationally significant places in American labor history.

Chairman VENTO and I first introduced this legislation to highlight the contributions made to American society and culture by the American worker and the American labor movement.

The contribution the American worker has made to the industrial, economic, and military strength of the United States is enormous. American labor has been the model upon which many other nations and cultures have based their industrial and economic practices. We owe it to those early workers to preserve the knowledge gained from their experiences, for the benefit of future generations.

We are seeing today that many of the nations of Eastern Europe are adapting their economies to reflect the United States model for labor/management relations.

Many of the benefits in the workplace which Americans have come to take for granted are a direct result of organized labor's efforts. The 8-hour workday, employee pensions, sick leave, and health insurance are a direct result of collective bargaining

and negotiation between management and organized labor.

Within the boundaries of my own congressional district—in the capital district of New York State—numerous innovations and events took place impacting directly on North American economic and social development. This is emphasized by the existence of Riverspark, New York State's first urban cultural park. Riverspark is a series of sites containing tremendous social and historical significance highlighting the impact the American worker has had on the development of the capital district and on the Nation as a whole.

Often called the cradle of the American Industrial Revolution, the Troy area in upstate New York once rivaled Pittsburgh in the production of steel. Eventually, the city of Troy achieved its nickname, the Collar City, from the fact that most of the mills producing detachable collars for men's shirts were located there.

Cohoes, NY, located a few miles away at the confluence of the Hudson and Mohawk Rivers, was known as a leading producer of textiles.

Schenectady, NY, the site of the Charles Steinmetz Laboratories for the General Electric Co. and the factories manufacturing the giant steam turbine generators used in the production of electric power, became known as the electric city.

Today, contributions are still being made to our industrial and economic strength by workers and management in these communities and communities just like them all across the country.

A great deal of effort has gone into the formulation of this bill. With the able assistance of Mr. Paul Cole, the secretary-treasurer of the New York State AFL-CIO, we were able to identify not only that there are a large number of potential sites to be examined, but also that there exists a large pool of qualified individuals whose expertise will guarantee a successful study. In recognition of his assistance, it is my hope that Secretary Lujan will take advantage of Paul's interest and experience by consulting with him during the course of the study.

Through the efforts of Chairman VENTO and his very able staff, Interior Secretary Lujan, the National Park Service, Representative DON YOUNG, and Chairman UDALL, we now have a bill that has the support of the Interior Department and which gives the Members of this body an opportunity to recognize American workers and the contributions they have made to our quality of life.

Mr. Speaker, I encourage my colleagues to support H.R. 2949.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in the interest of strengthening America's understanding of the history of our workers, I rise in strong support of H.R. 2949. Given the fact that the National Park Service provides a valuable service in reviewing significant aspects of our Nation's history, the heritage of our workers deserves to be so recognized and preserved for future generations.

The work ethic in America is unquestionably one of our Nation's greatest assets. Men and women have built this Nation and provided food, products, and services for the entire world for over two centuries. However, our workers, union and nonunion alike, have had to struggle for basic freedoms. We cannot neglect the fact that they have often suffered in the workplace. While America's workers have toiled for centuries in order to meet the needs of their families and our Nation, their labors were not always properly rewarded and, the needs of their families were not always met. While our children often hear of the triumph of the American workers, the pain and despair that often accompanies such advancements is all too often overlooked.

Today, we have an opportunity to provide a modest appropriation for legislation which will help us revisit our heritage of work. An understanding of the struggles and triumphs of America's workers is not trivial, it is the story of how Americans have lived, worked, and even perished to develop today's workplace. By virtue of tremendous perseverance, America's workers and our free enterprise system have become the standard upon which the world judges what is fair, what is just, and what is most productive.

Congressmen MCNULTY and VENTO have worked with Secretary Lujan to present for our consideration a bill that is supported by the administration and deserves the support of this entire body. Let us not diminish the value of work in America as it relates to our Nation's evolution. I urge my colleagues to join me in supporting this important legislation.

Mr. RAHALL. Mr. Speaker, I want to commend the gentleman from Minnesota for bringing this legislation before the House.

From the perspective of this gentleman from West Virginia, the history of American labor has left a great mark on the people of my congressional district. In fact, our very culture was shaped to a large degree by the epic struggles and adversities faced by the men and woman who worked in the coal mines during the early part of this century, and their efforts toward unionization.

The labor disturbances of that era between the United Mine Workers of America and the coal industry—at place with names like Paint Creek, Cabin Creek, the Matewan Massacre in 1920, and the battle at Blair Mountain the following year when the President of the United States sent troops in to a quell miners' revolt—are of national significance.

For it was at these places that the line in the sand was drawn. Where the demand that human dignity, and decency, be recognized in the workplace could no longer be ignored.

It is, as such, of the utmost importance to future generations that the physical vestiges of that era not be lost.

So I would say to the gentleman from Minnesota, that it is my hope that when this "National Historic Landmark Theme Study on American Labor" is conducted, consideration be given to the United Mine Workers of America.

This is, after all, the union which was the pioneer advocate of the passage of such significant legislation as the prohibition of child labor, the 8-hour work day, workers' compensation, and the right to organize and bargain collectively.

In short, there is a pressing need to conduct a "National Historic Landmark Study on American Labor History" as envisioned by this legislation. No society can expect to remain viable if it has lost its identity, its links with the past, its knowledge of its culture and history. Such a society is aimless. Its people are orphaned, and doomed to wander insecurely through life. We owe it not only to the present generation, but generations to come, to insure this does not happen.

This bill, H.R. 2949, recognizes the contribution of American labor to our society. A contribution, it must be noted, that cannot be measured merely by the number of men and women who are union members or by the percentage of organized workers to the overall employment picture. This is, indeed, a timely piece of legislation and deserves to be enacted.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2949, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING ACQUISITION OF LAND FOR INCLUSION IN KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1230) to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes, as amended.

39-059 O-91-29 (Pt. 14)

The Clerk read as follows:

S. 1230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site, North Dakota: *Provided,* That no such lands may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the archeological, historical, or other values for which the site was established.

(b) The lands referred to in subsection (a) are those lands depicted on the map entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039A and dated July 1990.

SEC. 2. ADDITIONAL AUTHORIZATIONS.

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1230, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1230 provides for the addition of 465 acres of land to the existing Knife River Indian Villages National Historic Site located near Stanton, ND. The historic site is a 1,300-acre site at the confluence of the Knife and Missouri Rivers that was established in 1974 for the purpose of preserving historic and archeological remnants of the culture and lifestyle of the plains Indians. The purpose of this bill is to incorporate additional cultural resources into the national historic site that have been identified since the area was established and to ensure the continued integrity of the site. At the hearing the administration supported the bill with a recommended change regarding the method for acquisition of the property. The State Historical Society and the Tribal Business Council of the three affiliated tribes of the Fort Berthold Reservation have also supported the bill.

In its deliberations the committee adopted an amendment that provides for acquisition of the additional land on a willing seller basis unless a determination is made by the Secretary of the Interior that an action damaging to the values for which the property is being acquired is occurring or is threatened.

I want to thank and acknowledge the efforts of Congressman DORGAN who submitted a companion measure to the one before us and who has been a great help to us in moving this bill. His actions have been instrumental in bringing us to this point.

Mr. Speaker, I believe that the addition of this land and its associated resources as authorized in this bill are consistent with the reasons for which the national historic site was originally established. I look forward to enactment of this legislation.

□ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1230, a bill to provide for the expansion of Knife River Indian Village National Historic Site. This measure would add approximately 465 acres to an existing unit of the national park system in North Dakota.

The purpose for the addition of these lands, as pointed out by the gentleman from Minnesota, is to incorporate within the park boundary archeological resources which have been discovered since creation of the park in 1974.

While acquisition of these lands is not the top priority of the administration, it is supported by the administration, and expansion of the park boundary to include these lands will provide the opportunity for their ultimate protection. I commend the chairman for his work on this bill and feel that efforts by all concerned reflect the type of objective boundary modification process which would be provided for under the boundary study bill proposed by the subcommittee chairman.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota (Mr. VENTO) that the House suspend the rules and pass the Senate bill, S. 1230, as amended.

The question was taken.

Mr. DOUGLAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PEMIGEWASSET RIVER STUDY ACT OF 1989

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1524) to amend the Wild and Scenic Rivers Act of 1968 by the designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

The Clerk read as follows:

S. 1524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pemigewasset River Study Act of 1989".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) as amended, is further amended by adding the following new paragraph at the end thereof:

"(107) PEMIGEWASSET, NEW HAMPSHIRE.—The segments from Profile Lake downstream to the southern boundary of the Franconia Notch State Park and from the northern Thornton town-line downstream to the backwater of the Ayers Island Dam; by the Secretary of the Interior.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)), as amended, is further amended by adding the following new paragraph:

"(9) The study of the Pemigewasset River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1524 the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1524, which has already passed the Senate, would provide for a study of two segments of the Pemigewasset River, in New Hampshire, for possible addition to the Wild and Scenic River System. The part of the river to be studied extends from its origin north of Profile Lake to the southern boundary of Franconia Notch State Park, and then from the northern Thornton town line downstream to the backwaters of the Ayers Island Dam.

Mr. Speaker, the Pemigewasset River, often known as the "Pemi," is one of New Hampshire's most well-known rivers. Originating just north of Profile Lake, the northern-most segment flows through Franconia Notch State Park. The National Park Service included this river segment in its nationwide rivers inventory list of outstanding rivers published in January 1982. In its description, the Park Service noted that this stretch contains some of the State's most spectacular landmarks and scenery including New Hampshire's famed granite outcropping, the Old Man of the Mountains.

The bill before us would also provide for a study of the river segment flowing from Thornton to New Hampton, which has been the focus of an aggressive local effort to clean up and protect the river. Our hearing demonstrated that there is strong support among area residents, landowners, and river users for a study of the Pemigewasset River, in part because of concerns related to proposals for licensing a dam in the town of Campton.

Along the free-flowing Pemigewasset there are many resources of tremendous environmental significance. Wildlife, including river otter, mink, beaver, and muskrat, rely on the natural Whitewater River for most or all of their habitat. White-tailed deer, moose, raccoon, and fox roam its banks. Many species of birds use the river for nesting and feeding, and fish are in abundant supply.

In addition, Mr. Speaker, this New England river has several points of exceptional historical significance. It served such early colonists as Daniel Webster and Matthew Thornton, as well as some famous native Americans, and its banks have also been frequented by the poet Robert Frost and the Nobel recipient George Whipple.

Mr. Speaker, at our hearing the administration testified in support of this bill, and the Interior Committee approved it without amendment. I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1524, a bill to designate two segments, totaling about 36 miles, of the Pemigewasset River for study under the Wild and Scenic River Act. The House companion to this bill was introduced by my good friend and colleague from New Hampshire, Mr. DOUGLAS.

This is a good measure, culminating a major cleanup campaign which took place along this river in the 1960's and 1970's. The local towns along the length of this river have already initiated river protection initiatives, but are now seeking the added protection of Federal designation which precludes federally sanctioned dams or other water projects with the potential to significantly alter important natural values.

I would especially like to note that the river segment through the towns of Lincoln and Woodstock has been deleted from this study based on their strong opposition to inclusion. I extend my appreciation to the subcommittee chairman for his reasonable response to the concerns of the local persons who would be directly affected by this proposal.

This measure is supported by the administration, and I urge my colleagues to join me in support of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, in 1967, the Pemigewasset River of northern New Hampshire was so polluted that a terrible odor forced people to avoid its banks. Well, today after a long struggle to rid the river of offensive effluent, the Pemi has finally returned to a state similar to that which Daniel Webster saw and described in 1846. To Webster, New Hampshire's Pemigewasset River "rises in the white hills, pours down their southern slopes and declivities, dashing over many cascades, and collecting the tributes of various small rivers and brooks in its course. It is the ideal of a mountain stream: cold, noisy, winding, and with banks of much picturesque beauty." I think Mr. Webster's description would fit today. In fact, the president of the Pemigewasset River Council, Patricia Powers Schlesinger, finds "unimagined wildlife habitat and bountiful plant life * * * only some hours journey from half the population of America."

The Pemigewasset River was named by the Abenaki Indian tribes that once lived in the Pemi River valley. In their language Pemigewasset means rapid or swift current. They used this river as a highway to travel the Pemi watershed which encompasses over 1,500 square miles with its 20 tributaries.

The local support for the 3-year study of this river is strong. Former Congressman Judd Gregg, who is now Governor of New Hampshire, initiated this proposal while in Congress. This bill was passed by the Senate on November 20, 1989 and has the full support of my State's two Senators. The towns along the river segments joined together because of their concern for the river. The American Rivers, Inc., the New Hampshire Rivers Campaign, and the Sierra Club testified in favor of S. 1524.

Congress now has the opportunity to allow a detailed study of two segments of this river, consisting of about 36 river miles, which could lead to possible inclusion into the National Wild and Scenic Rivers System.

Finally, I want to thank the members of the Interior Committee for their support of this legislation. I can speak for many throughout the State of New Hampshire who are grateful for their efforts on behalf of river protection.

This bill was introduced into the House as H.R. 3104 by me and my colleague, BOB SMITH. I urge passage of it to protect our environment.

□ 1330

LAGOMARSINO. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the Houe suspend the rules and pass the Senate bill, S. 1524.

The question was taken.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MERRIMACK RIVER STUDY ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1046) to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the Na-

tional Wild and Scenic Rivers System, and for other purposes.

The Clerk read as follows:

S. 1046

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Merrimack River Study Act of 1990".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), as amended, is further amended by adding the following new paragraph:

"(106) MERRIMACK RIVER, NEW HAMPSHIRE.—The segment from its origin at the confluence of the Pemigewasset and Winnipesaukee Rivers in Franklin, New Hampshire, to the backwater impoundment at Hooksett Dam, excluding the Garvins Falls Dam and its impoundment.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)), as amended, is further amended by adding the following new paragraph:

"(8) The study of the Merrimack River, New Hampshire, shall be completed and the report thereon submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necesary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1046, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1046, which passed the Senate earlier this year, would provide for a study of a 22-mile segment of the Merrimack River, in New Hampshire, for possible addition to the Wild and Scenic River System. The river segment to be studied would begin at the confluence of the Pemigewasset and Winnepesaukee Rivers, in the town of Franklin, NH, and would extend downstream, excluding Garvins Falls Dam and its impoundment, to the backwater impoundment at Hooksett Dam.

In 1981, the Department of the Interior placed the Merrimack on the Nationwide Rivers Inventory, a list of rivers that may warrant protection under the National Wild and Scenic Rivers Act. In its description of the values of the river, the inventory stated that the Merrimack is "historically reported to be the most noted waterpower stream in the world, during the 19th century industrial era," providing power for the mills of cities such as Lowell and Manchester. The inventory also noted that the Merrimack has unique recreational qualities due to its proximity to significant population concentrations in Concord and Manchester.

The river also provides habitat for many animal species, including beavers, otters, muskrats, herons, kingfishers, and rainbow trout, and is wintering ground for the bald eagle. Further, the river provides critical habitat for the restoration of Atlantic salmon in the Merrimack River basin. For the past two decades, Federal and State agencies have been involved in a cooperative effort to restore anadromous fish in the basin, with approximately 200,000 salmon fry stocked annually in the river. Protection of the Merrimack is considered vital to ensure the success of that program.

Within the 35-mile stretch designated for study, there is one existing hydropower project on the river, the Garvins Falls Dam, near Concord, NH. S. 1046 would exclude the dam and its impoundment from the study.

At our hearing, the administration testified in support of the bill, and the Interior Committee approved it without amendment. I believe that this is a worthy bill, and I urge its approval by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of S. 1046 a bill to designate 35 miles of the Merrimack River for study under the Wild and Scenic River Act. The House companion to this bill was introduced by my good friend and colleague from New Hampshire, Mr. SMITH.

This is a good measure which will provide for development of a program to protect a number of important river values which have been identified on the National Park Service's Nationwide River Inventory. This bill has received strong support from local communities and is supported by the administration.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I rise today in support of the Merrimack and Pemigewasset River study bills—measures I coauthorized to provide a much-needed basis for the long-term protection of two of New Hampshire's most endangered rivers. If enacted, both bills would require the U.S. Park Service to study whether the Merrimack and Pemigewasset Rivers merit special protection under the Federal Wild and Scenic Rivers Act.

The Merrimack River, which is one of the 10 largest in the Northeast, has a special history. This uniquely beautiful river originates in Franklin, NH, and flows gently southward into eastern Massachusetts to the Atlantic Ocean. For thousands of years before the colonists arrived in New England, native Americans settled its banks. In the 19th century, the Merrimack powered the mills of Manchester, NH, as well as Lawrence and Lowell, MA. Today, Atlantic salmon and bald eagles flock to the Merrimack's streambed and banks, making the river a favorite spot for New England recreationists and fishermen.

Similarly, along its stretch from the White Mountains into Bristol, NH, the free-flowing Pemigewasset contains many resources of tremendous environmental significance. Wildlife, including river otter, mink, beaver, and muskrat, rely on the natural, whitewater river for most or all of their habitat. Whitetailed deer, moose, raccoon, and foxes roam the banks of the Pemigewasset. Many species of birds use the river for nesting and feeding, and fish are in abundant supply.

Passage of the Merrimack River study bill and the Pemigewasset River study bill, which I introduced with my New Hampshire colleague, Mr. DOUGLAS, would put both rivers off-limits to hydrodevelopment while the Park Service conducts studies of each. The Pemigewasset River study bill would address two segments of the Pemigewasset, totaling 30 miles in length. One segment extends from Profile Lake in Franconia to the southern boundary of the Franconia Notch State Park. The other flows from the town of Thornton into New Hampton, NH. The Merrimack River study bill would address one 22-mile segment of the Merrimack. The segment covered by this bill extends from Franklin to Hooksett, NH. Under our legislation, the U.S. Park Service must complete a wild and scenic study of these segments no later than 3 years after the bills' enactment.

There is strong support among area residents, landowners, and river users in New Hampshire for both bills. Nine local communities have banded together to protect the two segments of the Pemigewasset addressed by our legislation. Six towns have already placed development restrictions along 30 miles of the river, and the other three towns are working on similar plans. Similarly, all seven towns along the 22-mile segment of the Merrimack addressed by our bill have called for its Federal protection.

Efforts to designate both the Merrimack and the Pemigewasset for Federal study also have broad support at the Federal and State levels. The entire New Hampshire congressional delegation and New Hampshire Governor Gregg have formally endorsed the ideas of Federal studies in writing. Sections of the Pemigewasset are already on the 1982 Park Service list of outstanding rivers. The National Park Service added a section of the Merrimack to the National Rivers Inventory in 1982, identifying it as a potential national wild and scenic river. American rivers, the Nation's principal river-saving organization once placed the Merrimack second on its list of the most endangered rivers in the United States. Moreover, the Senate passed identical versions of our two bills last winter.

In view of the growing need to protect our Nation's undeveloped river resources and the widespread support for a wild and scenic study of the Merrimack and Pemigewasset Rivers, I urge the support of my colleagues for this legislation.

I also want to extend special thanks to the gentleman from Minnesota [Mr. VENTO] and the gentleman from California [Mr. LAGOMARSINO] for their help in moving this legislation through the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I am a cosponsor of the House version of S. 1046, which is H.R. 2432, to provide for a 3-year study of New Hampshire's Merrimack River for possible designation into the National Wild and Scenic Rivers System.

Part of the Merrimack River runs through my hometown, Concord, NH. Some concerns were raised by a few individuals who own property along the river in the capital city of Concord. Because their plans for that particular parcel of land include development, they are opposed to the river study. However, their concerns can now be put to rest with this letter from the National Park Service which I will submit for the RECORD. The National Park Service has addressed each issue and pointed out that the only type of development that will be affected by the river study would be "water resource development projects requiring Federal assistance that would adversely affect the river's free flowing condition or its outstandingly remarkable values. Any development not involving a water resources project would be unaffected by the study, and would remain under the jurisdiction of existing local and/or State regulations."

Hon. CHUCK DOUGLAS,
House of Representatives,
Washington, DC.

DEAR MR. DOUGLAS: Thank you for your recent correspondence regarding the proposed study of the upper Merrimack River under the Wild and Scenic Rivers Act. We appreciate the opportunity to respond to the concerns raised by a few of your constituents in the letter you forwarded from Robert J. Lloyd dated May 11, 1990. While we recognize the interests of Messrs. Cleveland, Bass and Tradif as landowners adjacent to the section of the Merrimack proposed for study, we do not concur with the conclusion drawn in the letter about the potential impacts of the study, nor do we recommend amending the study legislation as Mr. Lloyd proposes.

There are several issues raise by Mr. Lloyd that deserve further attention.

(1) *Nationwide Rivers Inventory "Draft Assessment of the Concord, New Hampshire Segment of the Merrimack River."* The earlier work of the National Park Service in evaluating the Merrimack from Goodwin Point to Garvins Falls Dam for possible addition to the *Nationwide Rivers Inventory* was a *preliminary review only* of that section of the river. The development point values to which Mr. Lloyd referred were developed administratively to produce the threshold criterion for the level of acceptable man-made changes to the natural environment for inventory purposes only. While adjacent development is an important factor, eligibility for wild and scenic river designation ultimately hinges on whether the river exists in a "free flowing condition" and whether there are any "outstandingly remarkable" resource values present. As specified in the "National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas" (*Federal Register,* September 7, 1982), rivers in urban areas may be considered eligible for wild and scenic river designation provided they are free flowing and possess outstanding resource values. It is only through the detailed and thorough evaluation involved in a full wild and scenic river study that a final determination on eligibility can be made.

(2) *Impacts on growth and development:* Mr. Lloyd suggests that the current bill, with a study area boundary of ¼ mile from the ordinary high water mark on each side as required under the Wild and Scenic Rivers Act, will produce a "practical moratorium on growth and expansion" in much of Concord's business district. This is simply not true; the only development projects affected by a study would be water resource development projects requiring Federal assistance that would adversely affected the river's free flowing condition or its outstandingly remarkable values. Any development not involving a water resources project would be unaffected by the study, and would remain under the jurisdiction of existing local and/or State regulations.

(3) *Proposed three hundred foot boundary:* To reduce the potential "chilling" economic impacts of the study, Mr. Lloyd proposes narrowing the study area from the minimum ¼-mile requirement to an area including only 300 feet on either side. The National Park Service would not support legislation which would so limit the scope of the study for three reasons. First, as stated above, the only development projects that would be directly affected by study status would be water resource development projects which, by definition, would have to affect the watercourse itself in some way. Development not involving this type of project would be unaffected by a study *regardless* of the width of the study area. Second, reducting the study area could result in a failure to identify important resources integral to river values. The proposal would dictate where future management boundaries would be set with no consideration of those river-related resources. The establishment of boundaries based on river-related values is critical to the development of a successful and effective plan for river conservation; to impose boundaries prior to identifying those values and developing the plan is tantamount to putting the cart before the horse. And third, the National Park Service would be concerned for the possible precedential nature of such language.

(4) *Impacts on public works projects:* Mr. Lloyd states that the study would "adversely interfere" with certain public works projects, and "would certainly delay, if not preclude" renovations to the Manchester Street Bridge in Concord. We fail to see the connection between such a project and the proposed study, and do not foresee circumstances in which the study would interfere with the progress of those renovations.

Again, we appreciate the opportunity to address your constituents' concerns. If you or they should have any questions, please feel free to contact either John Haubert of my Washington staff at (202) 208-4290 or Phil Huffman of our North Atlantic Regional Office at (617) 223-5142.

Sincerely,

Sen. JOHN HAUBERT,
(For James W. Stewart,
Assistant Director, Planning).

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1046.

The question was taken.

Mr. SMITH of New Hampshire. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1340

GRAND CANYON PROTECTION ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4498) to amend the Colorado River Storage Project Act, to direct the Secretary of the Interior to establish and implement emergency interim operational criteria at Glen Canyon Dam, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that:

(a) Current operational practices at Glen Canyon Dam, including fluctuating water releases made for the enhanced production of "peaking" hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(b) The Secretary of the Interior (hereafter referred to as "the Secretary") announced on July 27, 1989, the preparation of an environmental impact statement (EIS) to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the EIS process, the Secretary will be in a position to make informed decisions regarding possible changes to current operational procedures of Glan Canyon Dam.

(c) During the time required for preparation of the EIS and decisions by the Secretary, the current operational procedures, and resulting adverse effects on downstream resources, are not expected to change.

(d) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of the EIS, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 3. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) The Secretary of the Interior shall operate Glen Canyon Dam and take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to regulation of the Colorado River.

(b) The Act of April 11, 1956 (Colorado River Storage Project Act, 70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.), is amended as follows:

(1) by adding the following sentence at the end of section 3: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and take other reasonable mitigation measures so as to protect, mitigate damages to, and improve the condition of the environmental, cultural and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to regulation of the Colorado River."; and,

(2) by striking the word "Acts" in section 7 and inserting in lieu thereof the following: "Acts, nor shall he operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam."

(c) The Secretary is hereby authorized and directed to promulgate interim and long-term operational procedures for Glen Canyon Dam and take other reasonable mitigation measures as set forth in sections 4 and 5 of this Act, which procedures shall be consistent with the requirements of this section.

SEC. 4. INTERIM OPERATIONAL PROCEDURES FOR GLEN CANYON DAM.

(a) Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 5 of this Act, the Secretary shall, within 90 days after the date of enactment of this Act, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall:

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, consented to by the Act of August 19, 1921 (42 Stat. 171, chapter 71) and approved by section 13(a) of the Act of December 21 1928 (45 Stat. 1064, chapter 42, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to regulation of the Colorado River;

(2) minimize to the extent reasonably possible the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases caused by the production of peaking hydroelectric power, and adjust rates of flow changes for fluctuating flows that will minimize to the extent reasonably possible adverse downstream impacts;

(4) minimize flood releases, consistent with the requirements of section 3 of this Act;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize to the extent reasonably possible the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and,

(6) limit maximum flows released during normal operations to minimize to the extent reasonably possible the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources.

(b) The Secretary shall develop and implement the interim operating procedures described in subsection (a) of this section in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; and,

(4) Indian tribes; and with the full participation of the general public, including representatives of environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) The Secretary shall develop and implement the interim operating procedures described in subsection (a) of this section using the best and most recent scientific data available.

(d) The interim operating procedures shall terminate upon compliance by the Secretary with the requirements of section 5 of this Act.

(e) The Secretary may deviate from the interim operating procedures described in subsection (a) of this section upon a finding that such deviation is necessary and in the public interest—

(1) to comply with the requirements of section 5(a) of this Act;

(2) to respond to hydrologic extremes or power system operating emergencies; or,

(3) to further reduce adverse impacts on environmental cultural and recreational resources downstream from Glen Canyon Dam.

SEC. 5. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) The Secretary shall, within three years after the date of enactment of this act, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Glen Canyon Environmental Studies.

(b) The Comptroller General shall audit the costs and benefits to water and power users and to recreational and environmental values of management policies and operating procedures identified pursuant to subsection (a) of this section and report the results of the audit to the Secretary and the Congress.

(c) Based on the findings, conclusions, and recommendations made in the studies and the statement prepared pursuant to subsection (a) of this section and the audit performed pursuant to subsection (b) of this section, the Secretary shall implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, consented to by the Act of August 19, 1921 (42 Stat. 171, chapter 71) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064, chapter 42, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to regulation of the Colorado River.

(d) Upon completion of the requirements of subsection (c) of this section, the Secretary shall submit to the Congress:

(1) the studies and the statement completed pursuant to subsection (a) of this section; and,

(2) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural and recreational resources of the Colorado River downstream of Glen Canyon Dam.

SEC. 6. LONG-TERM MONITORING.

The Secretary shall estabish and implement long-term monitoring requirements that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements and intent of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this act.

SEC. 8. ENDANGERED SPECIES ACT.

Notwithstanding the provisions of section 4 of this Act, nothing in this Act shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) with regard to the operating of Glen Canyon Dam.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I rise in support of H.R. 4498, the Grand Canyon Protection Act of 1990.

It is disappointing to me that Congress must act to defend a world treasure like the Grand Canyon against a daily assault from a Federal water project. But that is what this bill does.

Because of bureaucratic foot-dragging and an institutionalized bias at the Department of Energy and Interior, the Grand Canyon is under a daily assault.

For more than 25 years, the Glen Canyon Dam located a few miles upstream has been choking off the Colorado River before it reaches the Grand Canyon, and diverting water through power turbines.

But the widely fluctuating water releases caused by this power generation are washing away the once pristine beaches along the canyon floor, and causing other problems for endangered species and recreational users in Grand Canyon National Park.

Mr. Speaker, the current management of this dam is a national embarrassment.

The primary purpose of H.R. 4498 is to take immediate and lasting steps to protect the resources of the Grand Canyon. The bill does this by responding to conclusions reached by the Department of the Interior in the 1988 final report of the Glen Canyon Environmental Studies [GCES]. That report followed more than 6 years of study and analysis in a broad range of scientific disciplines.

Among the conclusions of the report was a determination that "some aspects of the operation of Glen Canyon Dam have substantial adverse effects on downstream environmental and recreational resources." The report found that changes in operation of Glen Canyon Dam could reduce the resource losses occurring under current operations and, in some cases, even improve the status of the resources.

H.R. 4498 directs the Secretary of the Interior to operate Glen Canyon Dam to protect, mitigate, and improve the condition of the resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream from the dam. It directs the Secretary to implement interim operating procedures to protect downstream resources while an environmental impact statement is prepared on operations of the dam. It directs the Secretary to implement long-term operating and monitoring procedures that will protect downstream resources.

The most important part of H.R. 4498 is section 3. The purpose and intent of section 3 is simple. This language is intended as a clear, concise directive to the Secretary on how to operate Glen Canyon Dam. The Secretary must operate the dam to protect the downstream resources within the context of the Secretary's water compact responsibilities and other elements of the "Law of the River". For the last 15 years, the Secretary appears to have ignored these resource protection responsibilities in favor of maximizing the production of peaking power. Section 3 is intended to provide clear direction to the Secretary as to what his responsibilities are.

The Subcommittee on Water, Power and Offshore Energy Resources and the Subcommittee on National Parks and Public Lands held 2 days of joint hearings on H.R. 4498 this spring. The subcommittees received testimony regarding the impacts of Glen Canyon Dam operations on the resources of the Grand Canyon from scientists, commercial river rafters and guides, environmentalists, water and power user organizations, representatives of the Colorado River Basin States, and the administration. The Subcommittee on Water, Power and Offshore Energy Resources favorably considered the bill on June 26, and the bill was reported with an amendment by the Committee on Interior and Insular Affairs on July 18.

I want to express my appreciation for the tremendous cooperation we have received from many individuals and organizations as we have moved H.R. 4498 through the legislative process. In particular, the gentleman from Arizona [Mr. RHODES] has taken a personal interest in this legislation and has made many improvements to it. His work and the cooperation of his staff has been invaluable.

I also want to acknowledge the cooperation of the chairman of the Committee on Merchant Marine and Fisheries, Mr. JONES. At the suggestion of the committee, H.R. 4498 now includes specific language in section 8 to preserve the applicability of the Endangered Species Act with regard to operations at Glen Canyon Dam. Endangered species considerations are a critical element of resource protection in the Grand Canyon, and there was never an intent to limit the applicability of the Endangered Species Act. With the clarification suggested by the Merchant Marine Committee, there should be no question that endangered species considerations remain in full force as new operating procedures for Glen Canyon Dam are developed.

Again, Mr. Speaker, it is unfortunate that Congress has to tell the Department of the Interior to stop destroying one of its own national parks. But we must take immediate action before it is too late for the Grand Canyon. H.R. 4498 provides us with a unique opportunity to reverse the damages. I urge my colleagues to support H.R. 4498.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4498. This legislation addresses an important concern for Arizonans and all Americans who, like us, treasure the magnificence of the Grand Canyon.

This legislation specifically addresses the process for mitigating the impacts to environmental, natural, cultural and recreational resources within Grand Canyon National Park and the Glen Canyon National Recreation Area, downstream from Glen Canyon Dam. These resources—in and along the Colorado River—comprise a complex ecosystem that is really quite young, relative to the time when the dam began to fill in 1963. It is, nonetheless, an ecosystem that is dynamic and changing.

Studying and assessing the impacts to these resources is a difficult policy and scientific challenge. The Secretary of the Interior has responded to this challenge by ordering an environmental impact statement, which is now underway. All the members of the Arizona Congressional delegation joined in urging him to accomplish that environmental impact statement.

The House Interior Committee has struggled with this complex issue for several months, and considered fully the impacts to all those with a wide variety of direct and indirect interests in the Grand Canyon and Glen Canyon Dam. In some instances, those

legitimate interests are in fact at odds with each other.

During the committee process, changes were made to strengthen the bill and to recognize the at times very subtle yet significant distinctions between the reservoir operations and the power operations. I believe the result before us today is for the most part a fair and equitable resolution of those issues.

Section 3 of the bill before us acknowledges the complexity of the water and power operations at Glen Canyon Dam by recognizing the absolute primacy of the Colorado River compacts and the so-called Law of the River in the operation of Glen Canyon Dam and Lake Powell.

Section 4 of the bill, as amended, qualifies the term "minimize" by adding the words—"to the extent reasonably possible." I appreciate the cooperation of subcommittee chairman, GEORGE MILLER, in working out this language. My intent here is to make sure the term "minimize" is not interpreted in an extreme fashion. With the addition of the "reasonableness" language, my intent is to make sure the dam operations are not shut down, nor should the term be construed to mean or to suggest that the dam operations should be changed to result in permanent baseload operations.

Provisions in section 5 provide the flexibility the Secretary needs to perform a full and complete analysis of all mitigation alternatives during the EIS process and in developing the long-range power operating procedures that will follow the EIS. The legislation acknowledges the fact that current operating procedures for the Colorado River have in fact reduced the frequency of floods—which had been the major cause of harm to downstream resources.

□ 1350

During markup of the bill in the Interior Committee, two amendments I offered were accepted. One clarified the bills' intent that the Secretary consider any and all reasonable mitigation measures during the EIS process and in formulating his decision on long-term power operating procedures for Glen Canyon Dam.

The committee report goes to great lengths to explain my intent and the committee's intent regarding this amendment. The amendment requires consideration and use of "other reasonable mitigation measures" in conjunction with and I should emphasize "in conjunction with" possible changes in power operations. The committee report explains that this is not a stand alone requirement, nor is it in any manner contemplated to be a substitute for changes in dam operations.

We included statutory and report language that says specifically that there must be a reasonableness test regarding those other mitigation measures. We say in the report that so-called armoring of beaches with the installation of concrete sleeping pads to minimize beach erosion, does not and please allow me to emphasize "does not" meet the "reasonable" measures authorized by the legislation. Any suggestion to the contrary is inaccurate regarding my intent and the intent of the committee, and let me say that I do not know of anybody who ever has suggested or would suggest the use of such measures as concrete armoring of the beaches in the Grand Canyon as any sort of a reasonable mitigation step.

From my perspective, for example, placement of natural rocks or boulders to help stabilize beaches would be a reasonable mitigation measure. There may be many other types of reasonable mitigation measures that could be taken. Any such measures may be in addition to or in conjunction with, but not in lieu of, power operation changes that will be made as a result of this legislation.

The other of my amendments that was adopted by the committee simply reaffirmed the primacy of the Colorado River Basin States' water storage and delivery compacts in formulating the long-term operating procedures.

Finally, working on this bill has been a learning experience for many of us. I have been, and remain, greatly concerned about the timing of the interim water releases that are required by this bill. My concern is based on the impact such interim flows may have on the science to be gathered during the research/test flow phase that is now underway as part of the continuing Glen Canyon environmental studies and the environmental impact statement. In my view, imposition of an interim flow regime would better serve the cause of good science by being imposed after, rather than during, the research/test flows. There was some committee hearing testimony to support that concern. I acknowledge there are others who believe otherwise.

The other important issue that needs to be considered is that imposing interim release criteria during the research/test flow phase not upset the monthly water budgets under the Colorado River compacts. That means that the total water delivery requirements must be met during this period, as well as during the long-term operating procedures.

The data collection from the research/test flows is critical to determining what the long-term operating procedures will be. The gathering of that science must not be compromised.

Those are important considerations, and ones which I hope may be addressed further as we continue through the legislative process.

For now, however, we all have worked hard on this legislation and have developed a responsible and effective bill which will, as its title states, protect the Grand Canyon. I urge my colleagues to support this bill so we can get on with the task ahead of us.

Mr. Speaker, I particularly want to thank the gentleman from California [Mr. MILLER] and his staff for the hard work they have put in on this bill, and my staff and the staff of the committee as well. We started off pretty far apart on some of the issues on this bill, and we have come a long ways to getting to the point where we are today, and I especially appreciate the efforts of the gentleman from California [Mr. MILLER].

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me say that in the discussions of mitigation, in all of the discussions the gentleman from Arizona [Mr. RHODES] and I have had on that topic, and it is an important discussion, but it was never suggested, as he has pointed out, by anyone that the armoring of the beaches with rocks or the use of concrete in the canyon at any time was ever under any discussion; not a question of whether it was under serious discussion; it was never part of any discussion. It is widely recognized that that approach would be unacceptable to all parties to this concern and to anybody that has any slight interest in the Grand Canyon, the preservation of its resources, and that was unacceptable. I am not quite clear on where that idea came from. I only saw one statement with respect to somebody from one of the environment groups suggesting that that was the outcome of some of these deliberations. It clearly is not and never will be part of the discussions on the protection of these resources.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, who has been very, very helpful in crafting this legislation, and, as I mentioned in my opening remarks, the Subcommittee on National Parks and Public Lands and our Subcommittee on Water, Power and Offshore Energy Resources held joint hearings on this matter since tragically part of the department under my jurisdiction was destroying the resources, and it is the job of the gentleman from Minnesota [Mr. VENTO] to try to preserve those resources.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 4498 as reported from

the Committee on Interior and Insular Affairs.

As chairman of the Subcommittee on National Parks and Public Lands, I have been especially concerned with the importance of improving the way that Glen Canyon Dam is managed, so as to lessen the adverse impacts on Grand Canyon National Park and Glen Canyon National Recreation Area.

The resources being affected by dam management include Colorado River beaches, endangered fish species, and white-water rafting, much of which directly affect or are within Grand Canyon National Park.

In the past, there has been a reluctance by the administration to fully address the range of issues involved in attempting to better understand and resolve the issues presented by the tension between the duty of the Secretary of the Interior to protect the National Park System and its resources, and the Secretary's role as manager of Glen Canyon Dam and other facilities associated with that and other dams.

It should be observed that Secretary Lujan has demonstrated a willingness to press forward with a fuller environmental analysis of these matters. But opportunities will arise to derail such affirmative work. A major purpose of this bill is to assist to reinforce such undertaking, and to resolve remaining doubts about the priorities involved and to eliminate uncertainty and provide legal basis for action to address the issue of dam operation. Impact on the resources of the Colorado River and the adjacent park or other lands.

Mr. Speaker, the gentleman from California, Congressman GEORGE MILLER, the chairman of the subcommittee, has explained the bill before us, so I will not repeat that explanation. I merely want to join in underscoring the importance of this measure, and in urging that it receive the overwhelming approval of the House.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Arizona [Mr. RHODES], the gentleman from Minnesota [Mr. VENTO], and the members of the Committee on Merchant Marine and Fisheries.

Also, I want to thank our chairman, the gentleman from Arizona [Mr. UDALL], who became the catalyst for the movement on this legislation. His willingness to have the committee act in a prompt fashion on this legislation is what finally enabled us to go forward and to work out this compromise that, I think, will provide for the immediate and the long-term protection of the canyon. I certainly want to recognize his role and the political importance of his willingness to have the subcommittee take up this legislation and eventually the Committee on Interior and Insular Affairs. I would hope that our colleagues would support this legislation to protect this greatest of all of our national resources, and I urge its passage.

Mr. JONES of North Carolina. Mr. Speaker, I support H.R. 4498, the Glen Canyon Protection Act of 1990. The bill would direct the Secretary of the Interior to establish certain interim operating criteria at Glen Canyon Dam to mitigate adverse environmental effects caused by the operation of the dam.

The subject of this bill addresses several issues under the jurisdiction of the Committee on Merchant Marine and Fisheries. The bill generally directs the Secretary of the Interior to enhance the natural resources of the Colorado River by mitigating the operational effects of Glen Canyon Dam. The bill seeks to accomplish this goal by directing the Secretary to develop and implement interim operational criteria for the dam. These interim criteria would remain in place pending completion of an environmental impact statement and the issuance of permanent operating criteria. Section 4 of the bill sets out various objectives which the interim criteria must address. Among other things, this section establishes that the interim operating criteria for the dam shall "maintain sufficient minimum flow releases * * *" And to "limit maximum flows * * * to protect fishery resources." Section 4 also requires that the interim operating criteria be developed and implemented by the Secretary in consultation with the U.S. Fish and Wildlife Service [FWS]. This committee has jurisdiction over the activities of FWS. We, therefore, have a jurisdictional interest in the provisions of a bill like H.R. 4498 that imposes new program responsibilities on FWS—in this case by requiring its assistance and participation in the development of interim operating criteria for Glen Canyon Dam.

This committee also has jurisdiction over legislation affecting the fishery resources of this country, including those in the Colorado River. At least three species of fish inhabiting waters below Glen Canyon Dam are currently listed or are proposed to be listed under the Endangered Species Act [ESA]: The endangered Colorado River squawfish and humpback chub and the razorback sucker. These endangered fish could be affected by the interim operating criteria developed under section 4(a) of H.R. 4498. In addition, subsection 4(e) authorizes the Secretary to deviate from the interim operating procedures—including those designed for enhancing downstream fishery resources—when he finds that it is in the public interest to respond to "power system operating emergencies" * * * or to "further reduce adverse impacts on * * * cultural and recreational resources downstream from Glen Canyon Dam."

These two subsections individually and collectively could be read to override the ESA's protection for listed fish below Glen Canyon Dam. Any bill which affects endangered or threatened species protection similarly affects the jurisdiction of my committee.

Fortunately it was not the intent of the sponsors of H.R. 4498 to have the bill amend or modify the provisions of the ESA as applied to the operation of Glen Canyon Dam. Congressman MILLER and Congressman RHODES graciously agreed to a technical amendment, now included in the bill as section 8, which disclaims any intent that H.R. 4498 would override the provisions of the ESA. Their inclusion of this language fully satisfies the concerns of my committee and I now wholeheartedly support the passage of this bill. I would like to thank them for their leadership regarding Glen Canyon Dam and would urge my colleagues to vote in favor of this bill.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4498, as amended.

The question was taken.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1400

CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2575) to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941, as amended.

The Clerk read as follows:

H.R. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

SEC. 101. PURPOSE.

The purposes of this title are to—

(1) commemorate the sacrifices made and service rendered to the United States by those veterans of the Armed Forces who defended Pearl Harbor and other military installations in Hawaii against attack by the Japanese on December 7, 1941; and

(2) honor those veterans on the fiftieth anniversary of that attack.

SEC. 102. CONGRESSIONAL MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of the Congress, to the individuals certified by the Secretary of Defense pursuant to section 103 a bronze medal 1½ inches in diameter commemorating their service to the United States. The presentation shall be made as close as feasible to the fiftieth anniversary of the attack on Pearl Harbor. The medal may be accepted by the next of

kin of any such individual who was killed in action during the attack or who died thereafter.

(b) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medal established by subsection (a) in bronze with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 103. ELIGIBILITY TO RECEIVE MEDAL.

(a) IN GENERAL.—To be eligible to be presented the medal referred to in section 102(a), an individual must have been a member of the Armed Forces who was present in Hawaii on December 7, 1941, and who participated in combat operations that day against Japanese military forces attacking Hawaii. An individual who was killed or wounded in that attack shall be deemed to have participated in the combat operations.

(b) DOCUMENTATION.—To establish the eligibility required by subsection (a), an individual must present to the Secretary of Defense an application with such supporting documentation as the individual may have to support his or her eligibility or the eligibility of a next of kin. The Secretary shall determine, through the documentation provided and, if necessary, independent investigation whether an individual meets the criteria established in subsection (a).

(c) CERTIFICATION.—The Secretary of Defense shall, within 12 months after the date of enactment of this title, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of the individuals eligible to receive the medal.

(d) NEXT OF KIN.—If applications for a medal are filed by more than one next of kin of an individual who is eligible to receive a medal, the Secretary of Defense shall determine which next of kin will receive the medal.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Effective October 1, 1990, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

SEC. 105. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

TITLE II—YOSEMITE NATIONAL PARK CENTENNIAL MEDAL

SEC. 201. SHORT TITLE.

This title may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 202. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this title shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales shall include a surcharge of $2 each.

SEC. 203. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this title shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 204. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in National Park facilities.

SEC. 205. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this title shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 206. NATIONAL MEDALS.

The medals authorized by this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 207. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National park Foundation which are related to the medals authorized by this title.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 2575, establishes a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

An amendment in the nature of a substitute to H.R. 2575 was adopted without dissent as original text in our subcommittee markup of July 26. The amendment makes two significant changes to the bill to address concerns raised during hearings on the legislation, and also makes a few technical changes to make the bill conform to the Senate-passed version of the bill. The bill is also amended to include a second title which authorizes a medal to honor the centennial of Yosemite National Park. The second title contains the exact same language as H.R. 3182, the Yosemite National Park Centennial Medal Act, which was passed by the House on March 20, 1990.

The first significant change is that the medals produced and awarded be 1½ inches in diameter. This is a smaller medal than is generally awarded, and is much less costly to produce. This change was required to reduce the cost of this legislation that would result from giving the standard national medal to such a large number of recipients. The U.S. Mint, in testimony before the subcommittee said that H.R. 2575 as originally written could be so potentially expensive that the mint would be forced to seek a supplemental appropriation to fulfill the requirements of the legislation. The changes made in this amendment should eliminate that concern.

The second significant change deletes the requirement that duplicates of the medal be sold to the general public. This change is necessary because the duplicate sized medals sold to the public would be the same 1½ inch bronze medals that will be awarded to the eligible recipients. It would demean this award to have the same medal that is awarded available for sale to the general public.

With these two changes being made I believe we have a bill that does service to both the mint and to those individuals that the legislation intends to honor.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2575, the Pearl Harbor Survivors Medal and encourage the House to promptly pass this legislation.

I would initially like to commend the bill's chief sponsor, Congressman GUARINI, for the hard work he has done in order to comply with our subcommittee rules that require 218 cosponsors for legislation of this type. I also want to commend Subcommittee Chairman LEHMAN for the fine effort he and his staff have given to make this a workable piece of legislation. The bill we take up today will allow us to honor our Pearl Harbor veterans without significant expense to the taxpayer and has been substantially improved with the cooperation of Mr. GUARINI from the bill as introduced.

The battle of Pearl Harbor is one of the most notorious events that has occurred in our Nation's history. Truly it was a day that will live in infamy. It is entirely appropriate that this Congress should honor the men and women who were serving at Pearl Harbor on December 7, 1941. Their acts of heroism will long be remem-

bered and this country owes them a great debt.

The bill we take up today is compromise legislation that will give Pearl Harbor survivors a fine commemorative medal minted at minimal cost to the Government. It is my understanding that the U.S. Mint supports the subcommittee reported bill and prefers it to the original bill.

Let me outline the major provisions of the legislation as reported by the subcommittee. Section 101 of the bill states the purpose of the legislation to mark the 50th anniversary of the Pearl Harbor battle.

Section 102 causes the Secretary of the Treasury to strike medals to be given to the survivors or the immediate heirs of individuals who served at Pearl Harbor on December 7, 1941. The medals will be made of bronze and 1½ inches in diameter. The Secretary of Treasury will select the design for the medals. No duplicates of the medals will be sold to the general public. This was a major change made by the subcommittee and done so as not to lessen the esteem associated with the authentic medals.

Section 103 establishes the criteria for receiving a medal and establishes a procedure by which the Secretary of Defense can determine the eligibility of claimants.

Section 104 authorizes appropriate sums to mint the medals.

Section 105 designates the medals as national medals.

Additionally, the subcommittee added the Yosemite National Park Centennial Medal Act to H.R. 2575. The Yosemite Medal is noncontroversial legislation that Subcommittee Chairman LEHMAN and I cosponsored and that has already passed the House on a previous occasion.

This bill granting medals to the Pearl Harbor survivors is a case of first impression. Our subcommittee has never authorized medals of this type and I must say that I am not optimistic that we will do so again any time in the near future. But the magnitude of the events that occurred on December 7, 1941 make the Pearl Harbor survivors deserving of special attention. Therefore, I am pleased that we are considering this legislation today and I strongly urge my colleagues to support its prompt passage.

Mr. LEHMAN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. GUARINI], the prime author of this legislation.

Mr. GUARINI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, December 7, 1991 will be the 50th anniversary of one of the most tragic events in our Nation's history—The Japanese attack on Pearl Harbor. That attack swept us into World War II. It elevated the United States as the world's protector of freedom and it affected generations of Americans who believed—and continue to believe—that we as a nation must pursue the fight for freedom.

I feel strongly that it is only appropriate that we pay a final tribute to the 2,400 veterans who died that day in Hawaii and the thousands of others who survived. H.R. 2575 establishes a Pearl Harbor Commemorative Medal to be awarded to those individuals who participated in combat operations that fateful day. For those veterans who were killed or have since passed away, the medal can be presented to a next of kin.

It is my hope that, with the support of my colleagues, we can award the medals on the 50th anniversary of the Pearl Harbor attack next December. Finally, I want to thank Chairman RICK LEHMAN, Mr. JOHN HILER, and chairman HENRY GONZALES for their support of the bill.

Mr. HILER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of this legislation and would like to enter into a colloquy with my distinguished colleague, the gentleman from Indiana.

May I ask the gentleman from Indiana [Mr. HILER] if he happens to know how many veterans of Pearl Harbor are still alive today in this country, or perhaps the gentleman from California [Mr. LEHMAN] might know.

I yield to the gentleman from Indiana.

Mr. HILER. Mr. Speaker, I would defer to the chairman if my answers are not 100 percent correct, but my recollection is that it is estimated that there will be somewhere in the neighborhood of 20,000 to 25,000 medals that will end up actually being minted and distributed. Conceivably, you could have upward of 60,000 to 80,000 is my recollection from the testimony before the hearing.

The principal sponsor of the bill might wish to respond to that question, if my answer is not 100 percent correct.

Mr. GUARINI. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New Jersey.

Mr. GUARINI. I would state, Mr. Speaker, there were about 90,000 people originally involved; however, there may be only about half that number that are alive today, Pearl Harbor having been almost 50 years ago, and many of them having since passed away.

Perhaps many of the addresses of the people we do not have. Many may not apply for the medal, and as a result it is estimated that we may only need about 25,000 or 30,000 that will have to be struck.

Mr. BARTON of Texas. Another question, does the legislation before us, which again I think is very commendable, does it have any provision for a special ceremony here in the Nation's Capital or out in Hawaii?

Mr. HILER. Mr. Speaker, if the gentleman will yield further, it is planned, I believe, that there will be a special ceremony taking place on December 7, 1991, at Pearl Harbor, where I think that would be kind of the official presentation of the medal.

There is an Association of Pearl Harbor Survivors who have been extremely involved with this legislation. I know the principal sponsor has worked with them a great deal.

□ 1410

I know they will have other events planned as well.

Mr. GUARINI. If the gentleman will yield further, I think that is correct, and we would look forward to having due recognition given to the many men in service who have sacrificed either by giving their lives, through their successors, or many of the people who have survived and have been throughout the whole duration of World War II, so, hopefully, there will be something here in Washington, and there will perhaps be ceremonies in different parts of our Nation, but principally on the U.S.S. *Arizona*, which was sunk and which now lies in the national monument in Pearl Harbor today.

Mr. BARTON of Texas. Reclaiming my time, I would just like to conclude by stating that a former Congressman from the Sixth Congressional District, the late Olin E. (Tiger) Teague, my predecessor who was chairman of the Veterans' Affairs Committee and was a congressional dedication speaker at the memorial over the battleship *Arizona*. I think this is excellent legislation, and I would hope that the Congress will pass it.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I thank the gentleman from Indiana [Mr. HILER] for his hard work and cooperation on this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 2575, as amended.

The question was taken.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the

Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LEHMAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 2575, the bill just considered.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

TELEPHONE ADVERTISING REGULATION ACT

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2921) to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes, as amended.

The Clerk read as follows:

H.R. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Advertising Regulation Act".

SEC. 2. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

(a) AMENDMENT.—Title II of the Communications Act of 1934 is amended by inserting after section 224 (47 U.S.C. 224) the following new section:

"RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING

"SEC. 225. (a) DEFINITIONS.—As used in this section—

"(1) the term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce numbers to be called, using a random or sequential number generator;

"(B) to dial such numbers; and

"(C) to deliver, without initial live operator intervention, a prerecorded voice message to the number dialed, with or without manual assistance.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity—

"(A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line; and

"(B) to receive such signals over such a line and to produce a copy of the transmitted text and images.

"(3) The term 'telephone solicitation' means the unsolicited initiation of a telephone message, without initial live operator intervention, for the purpose of encouraging a person to purchase, rent, or invest in property, goods, or services.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to use any telephone facsimile machine or computer or other electronic device to send any unsolicited advertisement to the telephone facsimile machine of any person whose number is listed pursuant to subsection (c) as the telephone number of a person who objects to receiving unsolicited advertisements by telephone facsimile machine;

"(2) to use any automatic telephone dialing system to transmit, without initial live operator intervention, any prerecorded telephone solicitation to any person whose number is listed pursuant to subsection (c) as the telephone number of a person who objects to receiving telephone solicitations from automatic telephone dialing systems;

"(3) to use any automatic telephone dialing system to make unsolicited calls—

"(A) to any emergency telephone line of any hospital, medical physician or service office, health care facility, fire protection, or law enforcement agency; or

"(B) to any number assigned to paging or cellular telephone service;

"(4) to use any telephone facsimile machine or any automatic telephone dialing system that does not comply with the technical standards prescribed under subsection (d); or

"(5) to use a computer or other electronic device to send an unsolicited advertisement via a facsimile machine unless such person sending the advertisement clearly notes the date and time it is sent and the identity and telephone number of the business initiating the message.

"(c) COMPILATION OF LISTS OF OBJECTING PERSONS.—

"(1) SELECTION AND OPERATION OF LISTING MECHANISM.—The Commission shall compare and evaluate alternative mechanisms for establishing a national clearinghouse to compile a list of telephone subscribers who have submitted objections under subparagraph (A) or (B) of paragraph (2) (or both) and to make that compiled list available. Such comparison and evaluation shall include the solicitation of public comment on such alternative mechanisms and shall include the evaluation of the establishment of the clearinghouse by the Commission or its designee. Within 180 days after the date of enactment of this section, the Commission shall by regulation select the mechanism which it determines will be the most cost effective in carrying out the purposes of this section. Such mechanism shall provide for the recovery, from persons obtaining lists for purposes of complying with this section or comparable State law, of costs incurred under this paragraph.

"(2) NOTIFICATION TO SUBSCRIBERS.—Each common carrier providing telephone exchange service shall, in accordance with regulations prescribed by the Commission, afford its subscribers for telephone exchange service the opportunity to provide notification in accordance with regulations established under paragraph (3) that such subscriber objects to either or both of the following:

"(A) to receiving unsolicited advertisements by telephone facsimile machine; or

"(B) to receiving prerecorded, commercial telephone solicitations from automatic telephone dialing systems.

"(3) REGULATIONS.—The regulations prescribed under this subsection shall—

"(A) specify the methods by which a subscriber shall be informed by a common carrier of the right to give or revoke a notification of an objection under subparagraph (A) or (B) (or both) of paragraph (2) and specify the methods by which such right may be exercised by the subscriber;

"(B) specify the methods by which such objections shall be collected and transmitted to the national clearinghouse established by the Commission under paragraph (1);

"(C) prohibit any residential subscriber from being charged for giving or revoking such notification or for being carried on a list compiled under this section;

"(D) specify the methods by which such list shall be available to any person desiring to transmit unsolicited advertisements by telephone facsimile machine or to use an automatic dialing system to transmit telephone solicitations, and the costs to be recovered from such persons;

"(E) specify the frequency with which such lists will be updated and specify the method by which such updated list will take effect for purposes of compliance with subsection (b);

"(F) be designed to permit and encourage States to use the listing mechanism selected by the Commission under paragraph (1) for purposes of administering or enforcing State law; and

"(G) prohibit the use of such list for any purpose other than compliance with the requirements of this section or any similar State law and specify methods for protection of the privacy rights of persons whose numbers are included in such list.

"(4) ALTERNATIVE MECHANISM PERMITTED.—If the Commission, on the basis of its investigation during the rulemaking proceedings required for purposes of this subsection, determines that the listing mechanism required by this subsection is not the most efficient, effective, and economic means of accomplishing the purposes of this subsection, the Commission shall consider alternative mechanisms to accomplish such purposes. If the Commission determines that an alternative mechanism will provide equivalent protection of telephone subscriber privacy rights in a more efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers, the Commission shall, after notice and opportunity for comment thereon and after 90 days notice to the Congress, prescribe such regulations as are necessary to implement such alternative mechanism.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which—

"(A) is manufactured after 6 months after the date of enactment of this section, and

"(B) is used for the distribution of unsolicited advertising,

be equipped to identify, in a margin at the top or bottom of each transmitted page, the date and time sent, an identification of the business sending the advertising, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 18 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(2) AUTOMATIC TELEPHONE DIALING SYSTEMS.—The Commission shall prescribe technical and procedual standards for auto-

matic telephone dialing systems that are used to transmit any prerecorded telephone solicitation. Such standards shall require that—

"(A) all recorded messages (i) shall, at the beginning of the message, state clearly the identity of the business initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business; and

"(B) such systems will, as soon as is technically practicable (given the limitations of the telephone exchange service facilities) after the called party hangs up, automatically create a disconnect signal or on-hook condition which allows the called party's line to be released.

"(e) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed pursuant to this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(1) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements; and

"(2) the use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(f) SCHEDULE FOR PROMULGATIONS OF REGULATIONS.—The regulations required by this section shall be prescribed within 6 months after the date of enactment of this section.

"(g) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of this section shall take effect 30 days after the date that such regulations are prescribed.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "section 223 or 224" and inserting "sections 223, 224, and 225".

The SPEAKER pro tempore. Is a second demanded?

Mr. RITTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2921, the Telephone Advertising Regulation Act of 1990. This legislation will protect businesses and consumers who rely on the telephone as a necessary ingredient of their daily activities, from the cost and intrusion of the unsolicited telephone advertising which is increasingly finding its way into individual's homes and offices.

The telephone resides in virtually every American home and business and has become an integral part of our daily lives. Today telecommunications technologies are improving the services brought into our homes. However, the use of the telephone and fax machine to advertise and solicit products not only offers us new services but unfortunately, new problems.

The telephone is an insistent master—when it rings we answer it. Many consumers complain bitterly that when it rings to deliver unsolicited advertising, it is invading their privacy. Likewise, businesses dependent on the fax machine to carry vital information have come to decry unsolicited advertising that results in cost to, and interference with business activity.

In recent years a growing number of telephone solicitors have started to use automatic dialing systems. Each of these machines can automatically dial up to 1,000 phones per day to deliver a prerecorded message. According to industry officials, each day they are used by more than 180,000 solicitors to call more than 7 million Americans. Unfortunately, these machines are often programmed to dial whole blocks of numbers in sequence, including hospitals, fire stations, pagers, and unlisted numbers. Such random programming not only makes the machine an equal opportunity nuisance, but an equal opportunity hazard. This threat is particularly serious in instances where the machine is not capable of releasing the called party's line once the party hangs up.

The newest technology to gain popularity for delivering unsolicited advertising is the facsimile machine. An office oddity 2 years ago, the fax machine has rapidly become a necessity in my office and in more than 2 million others, delivering more than 30 billion pages of material each year. However, with the growth in use of the fax machines has come "junk fax," the electronic equivalent of junk mail. To quote an article from the Washington Post, "receiving junk fax is like getting junk mail with the postage due." Succinctly put, using a facsimile machine to send unsolicited advertising not only shifts costs from the advertiser to the recipient, but keeps an important business machine from being used for its intended purpose.

H.R. 2921, which I introduced together with the ranking minority member of the subcommittee, Mr. RINALDO, and Mr. FRANK, Mrs. ROUKEMA, Mr. SHAYS, and Mr. STARK, is a bipartisan effort to return a measure of control to consumers over what they hear and read.

This bill is supported by the National Association of Regulatory Utility Commissioners [NARUC], the American Telemarketers Association, and consumer groups, including the National Association of State Utilities Consumer Advocates [NASUCA]. The bill, as amended, is now acceptable to most in the telecommunications industry. It is a fair and reasonable compromise that addresses today's growing consumer complaints while protecting the interests of legitimate telemarketers.

This bill will not eliminate unsolicited telephone advertising, for certainly we must acknowledge that telephone solicitation, when conducted properly, is an established, lawful marketing practice. However, this bill will give consumers an alternative, to specify that they do not want to receive unsolicited advertising and require advertisers to honor that choice.

In addition, this bill eliminates unsolicited calls to emergency and public safety telephone numbers as well as paging and cellular equipment. The random calling of emergency and certain business equipment can be dangerous and special protections for the use of this equipment is included. Finally, the legislation, which covers both intrastate and interstate unsolicited calls, establishes Federal guidelines to fill the regulatory gap arising from differences in Federal and State telemarketing regulations. These guideline will give advertisers a single set of ground rules, and prevent them from falling through the cracks between Federal and State statutes.

Mr. FRANK, Mrs. ROUKEMA, Mr. SHAYS and I would like to thank my colleagues for their cooperation in drafting this bill, which incorporated many of the concepts that were included in legislation the originally introduced. I would especially like to commend Representative RINALDO and the minority staff for the cooperative spirit with which this bill was been crafted.

I urge my colleagues to support this legislation, not as a restriction on commercial practices, but as an affirmation of an individual's right to choose to be free from unwanted intrusions.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the telephone is much more than a means of keeping in touch with our far-flung families. The telephone is a highway of commerce through which billions of dollars of products and services are made available.

A wise man once said that every innovation breeds a new problem. This is certainly true of both auto-dialers and "junk fax". Telecommunications is exploding with innovations. So it shouldn't surprise us that the use of these new technologies has bred new problems and headaches that we have never encountered, and that present law does not address.

Automatic dialing devices, or autodialers, are widely used in telemarketing because they enable a business to complete many more calls automatically than people dialing manually. Unfortunately, these auto-dialers can clog up phone lines, making it impossi-

ble to complete calls. This can be a life-and-death situation, when someone cannot complete an emergency call because an auto-dialer has not disconnected yet.

There are legitimate purposes for auto-dialers. But they should not be permitted to tie up the phone lines. The telephone is the lifeline link for many of our citizens, especially senior citizens.

The so-called junk fax problem has arisen from the fact that fax machines are becoming indispensable tools, as many Members of Congress will tell you. There already are over 2½ million fax machines in the United States. Soon, fax machines will even be available in your car.

No sooner did fax machines begin to be used generally than fax advertising, or junk fax, began to appear. Junk fax is more than just irritating: It is also costly, because the receiver has to pay for the junk fax. Also, like auto-dialers, unsolicited and unwanted faxes can tie up a machine for hours and thwart the receipt of legitimate and important messages.

Examples of the problems with junk fax are multiplying. The Houston Oilers' office was "fax attacked" by Cleveland Browns' fans the week before a game between the two teams. Last year, Connecticut enacted a law against junk fax after Governor O'Neill was himself subjected to a fax attack: Junk fax messages urging him to vote against the bill. Unfortunately for the bill's opponents, this fax attack happened at the same time that an emergency flood report was expected.

In Maryland, a similar thing happened to Governor Schaefer, and he immediately signed legislation to ban junk fax. Recently, Virginia permitted the receiver of a junk fax to sue the sender for $200 plus attorney's fees. A dozen other States are considering similar legislation.

To address the problem of interstate junk fax calls, Federal legislation is necessary. That is why Republicans have worked with the subcommittee chairman, Mr. MARKEY, to craft bipartisan legislation to cure the junk fax problem: H.R. 2921—the Telephone Advertising Regulation Act.

Our legislation prohibits the use of auto-dialers or unsolicited faxes to reach any number which is on record with the local telephone company as objecting to their receipt. It is a narrowly tailored response to a problem which we cannot permit to grow out of control.

The bill balances the first amendment rights of those who wish to send with those who do not wish to receive. Some say that legislation of this type violates the first amendment rights of junk faxers. I strongly disagree. We must remember that the first amendment also guarantees to our citizens the choice not to listen. It is absurd to suggest that citizens who own fax machines must receive junk fax, but that they also must pay for the privilege.

□ 1420

Mr. Speaker, I would like to commend some individual Members for their leadership in bringing this legislation to the attention of Congress: The gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentleman from Connecticut [Mr. SHAYS] from our side of the aisle, and the gentleman from Massachusetts [Mr. FRANK] and the gentleman from California [Mr. STARK] on the other side of the aisle.

Mr. Speaker, there was unanimous agreement in the Energy and Commerce Committee that these abusive practices must stop. I believe this legislation will make sure that they do.

I urge the House to support the Telephone Advertising Regulations Act.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK]. The gentleman introduced the original piece of legislation dealing with the autodialing problem, and we have incorporated the basic precepts of that legislation in this bill.

Mr. FRANK. Mr. Speaker, I wish to offer my congratulations to the gentleman from Massachusetts, the ranking member from New Jersey, and others for a very well done piece of legislation. This is the legislative process at its best, a problem that is bothering citizens being brought to the attention of members of the committee, and they have brought over a bill that balances legitimate competing interests quite well. It gives protection to those entitled to protection, without interfering with any legitimate commercial activity.

There are people who wonder sometimes about the degree of responsiveness in our system. I think those criticisms are greatly overstated. In my case and I believe in the case of the gentleman from New Jersey, we had constituent complaints that came to our attention. What we did was to work on them, to come up with legislative approaches. We respectively brought them to members on the Committee on Energy and Commerce, and as a result of this bipartisan corroboration, we have a very good piece of legislation generated in part by citizen complaints.

Mr. Speaker, people ought to understand how our Constitution is supposed to work and often does, and often does not get recognized.

Second, Mr. Speaker, I must say a good word for regulation. Regulation can be overdone because of inefficiencies, but is also essential. In a complex economic world, citizens need some protections. Virtually every Member in this Chamber believes that the private sector is the primary engine in this country for the creation of wealth. It is the basis of our economy. We also understand that sensible Government regulation is needed and desirable to protect people from aspects of that private system that may have negative consequences.

What members on the Committee of Energy and Commerce have done, the gentleman from Massachusetts, the gentleman from New Jersey, and others, the gentleman from Pennsylvania who participated in this, is to come forward with a bill that allows the private sector to do well what it is supposed to do, while through sensible regulation protects the interests of consumers.

Mr. Speaker, this is not an earthshaking issue. It is one that is important to people who might find they wanted to make an emergency phone call, and there is an autophone that will not disconnect, as we have seen, or people who do not like being the recipient of material over which they have no control for whatever reason.

Mr. Speaker, the committee has responded to give protection to those people, and it has done it in a very thoughtful and balanced way. This is an important bill, not just for the particular goals it serves, which are valuable in themselves, but as an example of the legislative process at its very best. I thank the members of the committee and the others that are cosponsors of the bill.

Mr. RITTER. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], one of the original drafters of legislation of this type.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 2921, the Telephone Advertising Regulation Act. I would like to commend the distinguished chairman of the subcommittee, Mr. MARKEY, and ranking Republican Mr. RINALDO, for so finely crafting this legislation, which includes the language and intent of my own "Computer Calls" bill, H.R. 2131. This legislation is much-needed and overdue. It ends unsolicited computer-generated telemarketing, and Mr. Speaker, I say none too soon.

In an age where advanced computers and telecommunications become more and more an everyday fact of our lives, these junk calls are absolutely a nuisance and an invasion of privacy, and in the worst cases, dangerous and life threatening! Ma Bell may be turning over in her grave, but with the proliferation of computer calls, and random dialing machines, our own telephones are becoming health hazards!

I know my colleagues would agree that this legislation has strong grass-

root support. I came to this issue because I've been contacted by a number of doctors in my district who have rightly complained that their office emergency lines, usually reserved for especially serious cases, have instead been clogged with unsolicited computer calls.

One of those doctors just happens to be my husband, Dr. Richard W. Roukema, who has threatened not to vote for me next time if I don't see to it that this legislation is passed.

Mr. MARKEY. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, at a point very early in the consideration of this legislation the gentlewoman from New Jersey [Mrs. ROUKEMA] came to me and told me the story of her husband's protest to the inability of disconnecting junk phone calls coming into the house, especially into a physician's home.

□ 1430

I knew that her husband was a physician, a psychiatrist.

Similarly, when I went home and I repeated to my wife, who is a doctor and a psychiatrist, the complaint of the gentlewoman from New Jersey and her husband, there was an automatic power nexus that had been constructed which I felt was going to absolutely guarantee the passage of this legislation. I believe the gentlewoman's husband deserves a lot of credit for identifying and bringing to your attention and creating momentum for the passage of this legislation, because there was a real live story that epitomized the problems that exist in human relationships with technology no longer serving us, but in fact making it more difficult for humans to serve others. I want to congratulate the gentlewoman and her husband especially for the work she was doing.

Mrs. ROUKEMA. I thank the gentleman. We have had here a little bit of levity, but it is a very serious problem and it was a serious issue in Dr. Roukema's office when the line that is to be reserved only for emergency calls from hospitals or in cases of suicidal patients, when those lines were being held up, and that is the precise nature of the kinds of health hazards that we are talking about here.

I have also been contacted by police and fire officials who have expressed dismay about random phone calls which will not disconnect.

And, if I may share with my colleagues a letter from a constituent which stresses her frustration:

Dear Mrs. Roukema: I've had these calls early in the morning and as late as 9:30 at night. I have had surgery, and while home recuperating these calls were coming in. I volunteer at the hospital on Sunday at the information desk, and when I am there these computer calls are coming in through two phones; one would come and after hanging up it would ring again and again.

That's an excerpt from her letter, and I think my constituent gets to the heart of this problem.

Without question, Mr. Speaker, the most important provision in this bill is the prohibition on computer-generated calls to the emergency phone lines of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement facility. When phone lines to police stations, fire stations, doctors' offices, and hospitals are blocked with tape-recorded plugs for time shares, this matter moves from beyond annoyance to a potentially life-threatening situation. And that must stop.

But it is not only when these calls come to doctors' offices or fire stations that the public faces a dangerous health hazard. If you recall, when I introduced my legislation a year ago, I spoke of a New York mother who tried to call an ambulance for her child who had collapsed, and the sheer terror she went through when she picked up her phone to find it tied up by a computer call that would not disconnect. Thankfully, the child survived—but think of what might have happened. Mr. Speaker, another key component of this bill is the requirement that these computer calls disconnect and free up the telephone line as soon as possible. Anyone who, under this bill, would choose to block their phones to telemarketing computer calls need not worry. But this vital provision protects those people who, even though they may choose to receive computer calls, may still need a free and clear phone line in cases of emergency.

In short, Mr. Speaker, if computers, cellular phones, and global FAX machines are ideas whose time has come, the ban on the nuisance and hazard of random, intrusive, and potentially life-threatening computer-generated sales calls is even more necessary. Let me say that I believe a compelling case can be made to ban all computer-generated telemarketing. But lacking that, this bill is a major step forward in protecting the public. I urge my colleagues to vote for this bill, stand up for privacy, the end of harassment, and most important, health and safety, and put the phone lines back where they belong: in the hands of the people who pay for them!

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN]. He has been working on this legislation this year with us and been a very valuable Member in constructing this piece of legislation we bring to the House floor today.

Mr. MCMILLEN of Maryland. Mr. Speaker, I too rise in strong support of H.R. 2921. I want to thank the gentleman from Massachusetts [Mr. MARKEY] for his leadership in moving this bill expeditiously through the Subcommittee on Telecommunications and Finance, and through our full committee and onto the floor, I also want to commend the gentleman from Pennsylvania, [Mr. RITTER] for his leadership as well.

Mr. Speaker, today I rise in strong support of H.R. 2921, the Telephone Advertising Regulation Act. This legislation would prevent abusive and dangerous use of automatic dialer recorded message players [ADRMP's]—which automatically dial telephone numbers and play a prerecorded message. H.R. 2921 would prohibit the use of ADRMP's to tie up communications services, and would make illegal the use of ADRMP's in sending "junk fax" to emergency services and to persons and organizations who do not wish to receive these forms of unsolicited advertising.

Mr. Speaker. I believe that this legislation is desperately needed. We have seen an explosion in the last few years in the use of ADRMP's. What originated as an innovative idea, has become an abused practice which hinders the ability of emergency agencies to receive critical information and serves as a nuisance to individuals at home and in the workplace. I believe the chairman of the Telecommunications and Finance Subcommittee has acted expeditiously in moving H.R. 2921 through the Energy and Commerce Committee. And I believe the final legislative product is an excellent one.

I hope to work with Chairman MARKEY in the next few months in ensuring that the FCC promulgate regulations of certain uses of ADRMP's that are not specifically covered in the bill. Abuses of ADRMP's are not limited to just emergency telephones, paging, and cellular, but to other types of answering services such as voice mail. If ADRMP's are to become a legitimate advertising mechanism, we need regulations that will protect the consumer. H.R. 2921 is an important first step in moving us closer to that goal. Therefore, I ask my colleagues to support H.R. 2921.

Mr. RITTER. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume only for the purpose of concluding our discussions on this piece of legislation by thanking the gentleman from Pennsylvania [Mr. RITTER] for his leadership on this issue and on every other issue that comes before the Telecommunications and Finance Subcommittee dealing with these issues of technology and their relationship with humanity. As usual, he has done a splendid job in handling this bill out on the floor. It is just a continuation

of the fine job that he does in the committee as well.

I would like to thank the gentleman from New Jersey [Mr. RINALDO] for his work and thank his staff and my staff for their leadership, as well as the gentleman from Michigan [Mr. DINGELL] at the full committee level and his staff in ensuring that we do push forward the toughest possible bill at this time.

We recommend it to the full House at this time as a good piece of legislation that will really help our country.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2921, as amended.

The question was taken.

Mr. RITTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EMERGING TELECOMMUNICATIONS TECHNOLOGIES ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2965) to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emerging Telecommunications Techologies Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of such frequencies are underutilized by Government licensees;

(3) the public interest requires that many of such frequencies be utilized more efficiently by government or commercial operators;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

(5) scarcity of assignable frequencies for commercial use can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) reduce the capacity and efficiency of the United States' telecommunications systems; and

(C) thereby adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns; and

(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

SEC. 3. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Assistant Secretary for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

(1) the future spectrum requirements for public and private uses;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum as a means of increasing commercial access.

(b) REPORTS.—The Assistant Secretary for Communications and Information and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities. The first annual report submitted after the date of the report by the private sector advisory committee under section 4(d)(4) shall include an analysis of and response to that committee report.

SEC. 4. IDENTIFICATION OF REALLOCABLE AND SHARED FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 monhts after the date of the enactment of this Act, prepare and submit to the President and the Congress a report identifying, and recommending for reallocation or sharing of, frequencies that—

(1) are assigned to Government stations pursuant to section 305(a) of the Act;

(2) are not required for the present or identifiable future needs of the Government;

(3) it is or will be feasible to make available for use under the Act (other than for Government stations under such section 305);

(4) are most likely to have the greatest potential for commercial uses under the Act; and

(5) will not result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from such commercial uses.

(b) AMOUNT OF SPECTRUM TO BE RECOMMENDED.—

(1) IN GENERAL.—The report required by subsection (a) shall identify, and recommend for reallocation or sharing, bands of frequencies that—

(A) as a goal, span a total of not less than 200 megahertz,

(B) as a required minimum, span a total of not less than 175 megahertz,

(C) are located below 6 gigahertz, and

(D) offer frequencies meeting the criteria specified in paragraphs (1) through (3) of subsection (a).

If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (4) of such subsection.

(2) MIXED USES PERMITTED TO BE COUNTED.—Frequencies which the Secretary's report recommends be partially retained for use by Government stations within geographically limited areas, but which are also recommended to be reallocated to be made available under the Act outside that area, may be counted toward the spectrum required by paragraph (1) of this subsection, except that—

(A) the frequencies counted under this paragraph may not count toward more than 20 percent of the minimum required by paragraph (1) of this subsection; and

(B) a frequency may not be counted under this paragraph unless the geographically limited area for which it will be retained for Government use includes not more than 20 percent of the population of the United States.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE GOVERNMENT.—In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the frequency is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies in geographically separate areas (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of government services and operations; and

(ii) excessive costs to the Federal Government and civilian users of Government services.

(2) FEASIBILITY OF USE.—In determining whether a frequency meets the criteria specified in subsection (a)(3) the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Act over the course of not less than 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation, reassignment, or sharing will relieve actual or potential scarcity of frequencies available for commercial use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish services displaced by the reallocation of spectrum.

(3) COMMERCIAL USE.—In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing the frequency;

(B) the proximity of frequencies that are already assigned for commercial use; and

(C) the activities of foreign governments in making frequencies available for experi-

mentation or commercial assignment in order to support their domestic manufacturers of equipment.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE FREQUENCIES.—

(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable or shared frequencies which meet the criteria established by this section.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than the date the Secretary submits the report required by paragraph (1) of this subsection, the Secretary shall convene a private sector advisory committee—

(A) to review the frequencies identified in such report,

(B) to advise the Secretary with respect to the frequencies which should be included in the final report required by subsection (a) of this section,

(C) to receive public comment on the Secretary's report and on the final report, and

(D) to prepare and submit the report required by paragraph (4) of this subsection.

The private sector advisory committee shall meet at least monthly until each of the actions required by section 5(a) have taken place. The Chairman of the Commission and the Assistant Secretary for Communications and Information shall each designate a representative to serve as a liaison with, and to attend meetings of, the advisory committee.

(3) COMPOSITION OF COMMITTEE.—The private sector advisory committee shall be composed of representatives of—

(A) United States manufacturers of spectrum-dependent telecommunications equipment;

(B) commercial carriers;

(C) other users of the electromagnetic spectrum, including radio and television licensees; and

(D) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 36 months after the date of the enactment of this Act, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, a report containing such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between civilian and Government use.

SEC. 5. WITHDRAWAL OF ASSIGNMENT TO GOVERNMENT STATIONS.

(a) IN GENERAL.—Within 3 years after receipt of the Secretary's report under section 4(a), the President shall—

(1) withdraw the assignment to a Government station of any frequency which the report recommends for reallocation;

(2) limit the assignment to a Government station of any frequency which the report recommends be made available for mixed use under section 4(b)(2);

(3) assign or reassign other frequencies to Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and other appropriate committees of the Congress.

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national defense interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 4(a) unless the substituted frequency also meets each of the criteria specified by section 4.

(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

SEC. 6. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

Not later than one year after the President notifies the Commission pursuant to section 5(a)(4), the Commission shall prepare and submit to the President and the Congress a plan for the distribution under the Act of the frequencies reallocated pursuant to the requirements of this Act. Such plan shall—

(1) not propose the immediate distribution of all such frequencies, but shall—

(A) gradually distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

(B) reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure—

(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act; and

(B) the availability of frequencies to stimulate the development of such technologies;

(3) address (A) the feasibility of reallocating private sector spectrum from current uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations.

SEC. 7. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Government stations pursuant to section 5, the President may reclaim reassigned frequencies for reassignment to Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act, except that the notification required by section 5(b)(1)(A) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing commercial licensees.

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Government of the United States shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unuseable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Act.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "Commission" means the Federal Communications Commission.

(3) The term "the Act" means the Communications Act of 1934.

(4) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Government stations licensed pursuant to section 305.

(5) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(6) The term "assignment" means an authorization given to a station licensee to use specific frequencies or channels.

The SPEAKER pro tempore. Is a second demanded?

Mr. RITTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

□ 1440

Mr. MARKEY. Mr. Speaker, I yield such time as I may consume.

Mr. Speaker, the legislation which we have before us today, the Emerging Telecommunications Technologies Act of 1990, is one of the most important pieces of legislation which will be considered by the U.S. Congress this year. What it would require is for the Secretary of Commerce to identify 20 megahertz of radio spectrum and to transfer it from Government use over to civilian commercial application.

Now, why is it so important?

The cellular industry provides a dramatic example of the economic benefits we can realize by releasing spectrum for commercial development. In 1968, the Government relinquished approximately 50 megahertz of the spectrum for cellular services. Today, the cellular industry is a $4.5 billion industry serving more than 3½ million subscribers.

Today we are asking the Secretary of Commerce to take 200 megahertz of the spectrum and transfer it over in a way which makes sense for the long-term optimization of commercial utilization of the spectrum in our country.

This could potentially result in between 15 and 20 billion dollars' worth of commercial activity which would be generated by this particular redistribution.

In a way, this is a peace dividend; it is something that comes to our country as a byproduct of the ending of the ending of the cold war. We clearly do not have to allocate as much of the spectrum as we have had to over the last 40 to 45 years to the discretion of all of these Government agencies.

It clearly will not take as much spectrum, for example, to monitor arms control agreements as it did the massing of hundreds of thousands of troops, missiles, tanks along a very narrow border in the Eastern European arena.

Mr. Speaker, this is an important bill. It is something that will unfold slowly over the next 5 and 10 years, but inevitably and inexorably will result in giving opportunities to American entrepreneurs, to American corporations to play a large role in the development of technologies which will be key to the world's civilization in the 21st century.

If we do not make these kinds of decisions, we are going to wind up in a situation where the Germans, the French, and the Japanese have made the allocations, have given the incentives for entrepreneurs to invest in new technologies because spectrum is available in their countries, and in the end, we will wind up as net consumers of these products rather than as the exporters, rather than as the base for these technologies into the 21st century.

It is my hope that we can be successful as a result in pushing in this legislation through here today.

Mr. Speaker, the chairman of our full committee, the gentleman from Michigan [Mr. DINGELL], identified this subject as a subject for this personal attention more than 1½ years ago. Since that time, we have had a series of hearings in the Subcommittee on Telecommunications and Finance, reflecting the interest which the full committee Chair has had in the subject.

The product which we bring to you today is one which has resulted from a bipartisan consensus developed on our committee, majority and minority, liberal and conservative, that has basically ratified the fundamental decision made by the full committee chairman 1½ years ago.

I hope that the full Congress today, as a result, would accept this product. The Congressman from New Jersey, MATT RINALDO, ranking minority member of the subcommittee, has played a vital role in insuring that any compromises that had to be achieved would be done in a nonacrimonious and nonbitter environment. We have done this as Americans, moving forward, trying to capture opportunities that we can place in front of entrepreneurs in our country that will ultimately inure to the benefit of all American citizens.

Mr. Speaker, my hope is that, as a result, the full House will accept this piece of legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2965, the Emerging Telecommunications Technologies Act.

In the 20th century, communications has become the most important influence on our lives. Communications technologies have transformed the way we work—from cellular phones and the pagers used by Members of Congress, to fax machines.

Yesterday's novelty quickly becomes tomorrow's necessity when it comes to communications technology.

All resources are scarce, and the radio spectrum is no exception. As the spectrum becomes crowded with existing communications technologies, it becomes impossible for new systems to find the room to start and to grow. This may make us as a nation unable to adapt our communications systems to changing times and technologies, and stunt our future economic growth and competitiveness.

To avoid that kind of stagnation, we've got to do everything we can to make sure that commercial radio spectrum is used as efficiently as possible. Competition can play a big role in guaranteeing efficient spectrum use.

Of course, much of the radio spectrum is used by the Government, not just by private interests. The Government doesn't have a competitive spur to make their spectrum use efficient. So we've got to balance legitimate Government needs with the spectrum demands of commercial users in some other way.

This legislation is the first step in that process. It should ultimately force greater spectrum coordination by the Government and more efficient spectrum use by Government agencies and the military.

The bill's approach is a commonsense one. It directs NTIA, as the Government's spectrum coordinator, to study Government spectrum uses and identify spectrum that can be turned over to commercial uses. The FCC may then allocate that spectrum for whatever new uses it sees fit.

This spectrum could be used to expand existing technologies, or to establish new ones. But this legislation will greatly benefit us all by easing the overcrowding that now plagues all our communications technologies. It will also provide new communications technologies the ability to move from curiosity to necessity. That is what will keep our communications networks state of the art in the increasingly competitive global economy.

We also struck language from the original bill which prohibited spectrum auctions on newly allocated frequencies. Given the administration's interest in spectrum auctions, this change is absolutely necessary if this bill is to become law. The committee is taking no position on spectrum auctions with this legislation. The bill does not change existing law in any way.

The committee also made numerous improvements in the spectrum coordination plan proposed in the original legislation. Also, we have met with the administration on two separate occasions, and we incorporated a variety of their suggestions.

I want to commend the gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee, for his leadership on this important issue. Both he and the gentleman from Massachusetts [Mr. MARKEY], the chairman of the Telecommunications Subcommittee, should be commended for the time

and effort they have put into this issue. It is not the most glamorous issue, but it is one of the most important long-range issues we face. Hopefully, this bill will make a difference for many years to come.

The committee also appreciate's the administration's interest and willingness to work cooperatively on this legislation. We look forward to working with them to implement the goals of the bill.

I urge the House to support H.R. 2965, the Emerging Telecommunications Technologies Act.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Energy and Commerce and the principal author of this legislation, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I commend my good friend, the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee not only for the kindness in making this time available to me but also for the remarkable leadership which he is providing to the House and the committee on these and other matters. I would also like to pay tribute to the gentleman from Massachusetts [Mr. MARKEY] for the fine leadership, as I have indicated, that he has given here. Also the gentleman from Pennsylvania [Mr. RITTER] who is always interested in matters of this kind, as well as the ranking minority members, the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Illinois [Mr. MADIGAN], as well as the ranking minority member, the gentleman from New York [Mr. LENT], and my good friend and colleague, the gentleman from Washington [Mr. SWIFT], who has great interest in all telecommunication matters.

Mr. Speaker, I rise in strong support of H.R. 2965, the Emerging Telecommunications Technologies Act of 1990.

This bill has been drafted to meet our Nation's spectrum needs well into the next century. The Federal Communications Commission currently has no frequencies available to allocate for new technologies. Yet technological innovation continues. New uses for spectrum are being developed—uses which will alleviate existing congestion, as well as bring new services to the American public. Unless we act, the FCC will be unable to accommodate these new applications—and the American public will be the loser.

Without the spectrum that this legislation would make available, our telecommunications industries will lose their leadership position. Manufacturing will migrate offshore, as will thousands of jobs. American consumers will not have access to products and services that will be available in other countries. Passage of H.R. 2965 is critical to prevent this erosion of our leadership in spectrum-dependent technologies.

Mr. Speaker, the manner in which the Government makes it own spectrum allocation decisions is outmoded, inefficient, and contrary to the best interests of the United States. The radio spectrum is a finite natural resource, which must be managed and husbanded carefully. Its bifurcated management by the Commerce Department and the FCC leads to inefficient use, and prevents a rational management scheme from being implemented.

For a brief time, the current system may have made sense. From 1924 to 1927, when Herbert Hoover ran the Commerce Department, Government and commercial spectrum management decisions were made by a single individual—the Secretary of Commerce. The IRAC—the Inter-agency Radio Advisory Committee—advised the Secretary. Coordination was easy.

But in 1927, Congress created the Federal Radio Commission. Its duties were assumed by the FCC in 1934. And since 1927, the radio spectrum has been managed by two managers, with no requirement for joint planning or coordination.

Not only is the overall management of the spectrum inefficient. Within the Government, spectrum decisions are made in the dark. There is no public record. There is no process to guarantee that spectrum decisions lead to the highest and best use. There is simply a decision, and frequently that decision itself is withheld from the American people.

Mr. Speaker, this cannot continue. In the early days of radio, the role of the Government was simply to prevent interference. Today, spectrum managers allocate scarcity.

H.R. 2965 addresses these problems. It compensates for past inefficiency by allocating 200 megahertz to the FCC for commercial assignment. It requires the FCC and the Commerce Department to conduct joint planning activities—and to report to the Congress. Finally, it establishes a high level advisory committee to address the long-term problem created by the current bifurcated management scheme.

Mr. Speaker, H.R. 2965 is one of the most important initiatives for our long-term economic prosperity to come before the House. It ensures that our children and grandchildren will enjoy the same benefits from new technologies that have benefited our economy and all of us. I urge my colleagues to support this bill, and give American industry the spectrum it needs to stay in the forefront of technological development.

Mr. RITTER. Mr. Speaker, I yield myself an additional 3 minutes.

Mr. Speaker, I would like to commend the gentleman from Michigan [Mr. DINGELL], the chairman of our committee, for his judicious leadership on this issue. It is one of those quiet but extremely important issues.

For those unimpressed by the 200 megahertz figure, let me put it in perspective. An average television station uses only 6 megahertz of spectrum. An average cellular telephone system uses 25 megahertz. The entire FM band is only 20 megahertz. These technologies I just mentioned use spectrum on a local basis. This bill would free up 200 megahertz on a national basis.

There is no doubt that we are running out of room in the usable radio spectrum. The usable radio spectrum is finite. Private industry is doing its best to implement spectrum management techniques. Some of these spectrum saving technologies include multiplexing, trunking, digital compression, and the increased ability to transmit information over fiber optic cable. However, Government users have not been forced to conserve spectrum. There is no mandate that the Government must use the spectrum efficiently. By removing 200 megahertz of spectrum from the Government to private use, will force the Government users to be as efficient as their private industry counterparts.

More importantly, perhaps, this bill will allow for new technologies to be developed. One of the technologies that may need additional spectrum is high definition television. In order to make HDTV and high resolution systems commercially viable, there must be a way to transmit the HDTV signal to homes. Many benefits will be recognized from the commercial viability of HDTV. Improved medical diagnosis from a distant clinic, of a fiber optic transmission of a high resolution x-ray will make vast improvements in the medical sciences. The ability of a business to send three dimensional high resolution designs to a manufacturer will help American businesses be competitive on the international market.

HDTV is not the only new technology that requires additional spectrum. Other technologies, such as nationwide digital cellular telephones and air-to-ground telephones are currently running up against a spectrum shortage barrier. So that the next generation of telecommunications technology has a chance to blossom, we need to make additional spectrum available.

Mr. Speaker, once again I would like to commend the leadership of the chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and also commend the subcommittee chairman, the gentleman from Massachusetts [Mr. MARKEY], and our ranking member, the gentleman from New

Jersey [Mr. RINALDO], for their leadership in this area.

Mr. Speaker, I yield 5 minutes to the ranking member of the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, the primary role of Congress in the communications field is to preserve and stimulate competition and innovation wherever possible—not to pick and choose between technologies. We can only do that by making our scarce radio spectrum available for as many different uses as possible, and by making sure that it is used efficiently.

Unfortunately, the radio spectrum is beginning to burst at the seams. There's serious overcrowding in many established services, and not enough spectrum for many new uses, including high definition TV.

The Emerging Telecommunications Technologies Act, which the House has before it today, will be a great step forward in realizing the twin goals of spectrum availability and spectrum efficiency.

For years, the Government has championed policies designed to promote efficient spectrum use. This bill requires the Government to practice what it preaches, and turn over the spectrum it doesn't use for private uses wherever possible. No more, no less.

The Government has a multitude of legitimate spectrum uses that we must continue to provide for. But the Government also should be required to justify its existing uses. In the absence of competition, spectrum policies must serve as a lever to force Government uses to be as efficient as possible.

We all know the commercial potential of new communications technologies will be essential to our economy as we move into the next century. Without spectrum allocation and assignment policies which force efficiency and encourage innovation, our communications systems will become even more congested and frozen into obsolete technologies.

So we must make sure now that our spectrum planning and coordination policies give us the biggest communications "bang for the buck" in the fiercely competitive global economy. That is what this legislation is trying to achieve. It is an important first step in changing how spectrum—the raw materials of communications—is parceled out and used in this country.

This bill should serve as a catalyst to push the Commerce Department and the FCC to improve their spectrum coordination and assignment policies as quickly as possible consistent with their recognized roles.

The legislation, as amended by the committee, also struck language from the original bill which prohibited spectrum auctions on newly allocated frequencies. Given the administration's interest in spectrum auctions, this change is absolutely necessary if this bill is to become law. The committee is taking no position on spectrum auctions with this legislation. The bill does not change existing law in any way.

The committee also made numerous improvements in the spectrum coordination plan proposed in the original legislation. Also, we have met with the administration on two separate occasions, and incorporates a variety of suggestions which should lessen their opposition to the legislation.

Finally, I want to commend the gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee, for his leadership on this important issue. The gentleman from Massachusetts [Mr. MARKEY], the chairman of the Telecommunications Subcommittee, should be commended for the time and effort he has put into this issue. It is not the most glamorous issue, but it is one of the most important long-range issues we face. Hopefully, this bill will make a difference for many years to come.

I urge all Members of the House to support H.R. 2965 today.

□ 1500

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time only for the purpose of noting that we are working very closely with the administration and all agencies to ensure that there is minimal disruption on the Government's side as we are mandating this reallocation of resources to civilian use. It is our highest goal to insure that that coordination and cooperation be the hallmark of this transition into an area where we can more usefully employ the spectrum on this limited basis for commercial use for our country's long-term economic growth, as we have in the past in this monitoring of cold war activities and other governmental purposes which now have thankfully been reduced. I would just like to note that we promise our ongoing cooperation with the administration to attain this goal.

Mr. Speaker, I have no other speakers on our side, but before I yield back the balance of my time I would like to thank Terry Haines, the counsel for the minority, for his great work; David Leach of our full committee staff working on this issue; Peter Wade and Steve Cope from legislative counsel, who have done an excellent job as usual; Herb Brown; and Gerry Salemme, who was the lead staff person on this issue at the subcommittee level. And on his last day, his final day on our staff, I would thank Kevin Joseph, who is going on to law school but who has been working on this legislation for the past year.

In conclusion, Mr. Speaker, one more time I would like to thank our committee chairman, the gentleman from Michigan [Mr. DINGELL], for introducing the legislation. I think this is going to be a monumental contribution to American telecommunications policy.

Mr. RITTER. Mr. Speaker, having no additional speakers, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2965, as amended.

The question was taken.

Mr. RITTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2965, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps and to establish a program of grants to the States with respect to offices of rural health, as amended.

The Clerk read as follows:

H.R. 4487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Health Service Corps Revitalization Amendments of 1990".

TITLE I—REVISIONS IN GENERAL PROGRAM FOR NATIONAL HEALTH SERVICE CORPS

SEC. 101. NATIONAL HEALTH SERVICE CORPS.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by inserting "(1)" after the subsection designation; and

(B) by striking "There is" and all that follows and inserting the following: "For the purpose of eliminating health manpower shortages in health manpower shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—";

(2) by striking "States," at the end of paragraph (1)(C) and all that follows and inserting "States."; and

(3) by adding at the end the following new paragraphs:

"(2) The Corps shall be utilized by the Secretary to provide primary health services in health manpower shortage areas.

"(3) For purposes of this subpart and subpart III:

"(A) The term 'Corps' means the National Health Service Corps.

"(B) The term 'Corps member' means each of the officers, employees, and individuals of which the Corps consists pursuant to paragraph (1).

"(C) The term 'health manpower shortage area' has the meaning given such term in section 332(a).

"(D) The term 'primary health services' means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.".

(b) REMOVAL OF LIMITATION REGARDING SUPPLEMENTAL PAY DURING INITIAL YEARS OF SERVICE.—Section 331(d)(1)(A) of the Public Health Service Act (42 U.S.C. 254d(d)(1)(A)) is amended by striking "(not to exceed $1,000)".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REGARDING ADDITIONAL PROVISIONS ON PRIORITY.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(2) REGARDING DEFINITIONS.—Section 331(h) of the Public Health Service Act, as redesignated by paragraph (1) of this subsection, is amended in the matter preceding paragraph (1) by inserting "and subpart III" before the colon.

SEC. 102. DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS.

(a) PUBLICATION OF DESIGNATIONS AND REVISIONS.—Section 332(d) of the Public Health Service Act (42 U.S.C. 254e(d)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) For purposes of paragraph (1), a complete descriptive list shall be published in the Federal Register not later than July 1 of 1991 and each subsequent year.".

(b) DEFINITION OF MEDICAL FACILITY.—Section 332(a)(2) of the Public Health Service Act (42 U.S.C. 254e(a)(2)) is amended—

(1) in subparagraph (A), by inserting before "and community health center" the following: "facility operated by a city or county health department,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act"; and

(3) in subparagraph (C)—

(A) by striking "sections 321" and inserting "section 321", by striking "or" before "326", and by striking "or section 320" and inserting "320"; and

(B) by inserting before the semicolon at the end the following: ", or 340 (relating to the provision of health services to homeless individuals)".

(c) REMOVAL OF SUPERFLUOUS REFERENCES.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (b), in the first sentence of the matter preceding paragraph (1), by striking ", promulgated not later than May 1, 1977,";

(2) in subsection (c), by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in subsection (d)(1) (as designated by subsection (a) of this section), by striking ", not later than November 1, 1977,"; and

(4) in subsection (f), by inserting "and" after the semicolon at the end of paragraph (1), and by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

SEC. 103. ASSIGNMENT OF CORPS PERSONNEL.

(a) REQUIREMENT OF APPROPRIATE AND EFFICIENT USE OF CURRENT PERSONNEL AS CONDITION OF RECEIVING FURTHER PERSONNEL.—Section 333(a)(1)(D)(ii)(II) of the Public Health Service Act (42 U.S.C. 254f(a)(1)(D)(ii)(II)) is amended—

(1) by striking "will be" and inserting "has been"; and

(2) by inserting "any" before "Corps".

(b) TECHNICAL AND CONFORMING AMENDMENTS REGARDING ADDITIONAL PROVISIONS ON PRIORITY AND ON EFFECTIVE SERVICE OF PERSONNEL.—Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) by striking subsections (b), (c), (f), (h), (j), and (k); and

(2) by redesignating subsections (d), (e), (g), and (i) as subsections (b), (c), (d), and (e), respectively.

SEC. 104. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by inserting after section 333 the following new section:

"SEC. 333A. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

"(a) IN GENERAL.—In approving applications made under section 333 for the assignment of Corps members, the Secretary shall—

"(1) give priority to any such application that—

"(A) is made regarding the provision of primary health services to a health manpower shortage area with the greatest such shortage, as determined in accordance with subsection (b); and

"(B) is made by an entity that—

"(i) serves a health manpower shortage area described in subparagraph (A);

"(ii) coordinates the delivery of primary health services with related health and social services;

"(iii) has a documented record of sound fiscal management; and

"(iv) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity;

"(2) with respect to the geographic area in which the health manpower shortage area is located, take into consideration the willingness of individuals in the geographic area, and of the appropriate governmental agencies or health entities in the area, to assist and cooperate with the Corps in providing effective primary health services; and

"(3) take into consideration comments of medical, osteopathic, dental, or other health professional societies whose members deliver services to the health manpower shortage area, or if no such societies exist, comments of physicians, dentists, or other health professionals delivering services to the area.

"(b) EXCLUSIVE FACTORS FOR DETERMINING GREATEST SHORTAGES.—In making a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages, the Secretary may consider only the following factors:

"(1) The ratio of available health manpower to the number of individuals in the area or population group involved, or served by the medical facility or other public facility involved.

"(2) Indicators of need as follows:

"(A) The rate of low birthweight births.

"(B) The rate of infant mortality.

"(C) The rate of poverty.

"(D) Access to primary health services, taking into account the distance to such services.

"(c) ESTABLISHMENT OF CRITERIA FOR DETERMINING PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish criteria specifying the manner in which the Secretary makes a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages. Such criteria shall specify the manner in which the factors described in subsection (b) are implemented regarding such a determination.

"(2) PUBLICATION OF CRITERIA.—The criteria required in paragraph (1) shall be published in the Federal Register not later than July 1, 1991. Any revisions made in the criteria by the Secretary shall be effective upon publication in the Federal Register.

"(d) NOTIFICATIONS REGARDING PRIORITIES.—

"(1) PREPARATION OF LIST FOR APPLICABLE PERIOD.—For the purpose of carrying out paragraph (2), the Secretary shall prepare a list of health manpower shortage areas that are receiving priority under subsection (a)(1) in the assignment of Corps members for the period applicable under subsection (f). Such list—

"(A) shall include a specification, for each such health manpower shortage area, of the entities for which the Secretary has provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments; and

"(B) shall, of the entities for which an authorization described in subparagraph (A) has been provided, specify—

"(i) the entities provided such an authorization for the assignment of Corps members who are participating in the Scholarship Program;

"(ii) the entities provided such an authorization for the assignment of Corps members who are participating in the Loan Repayment Program; and

"(iii) the entities provided such an authorization for the assignment of Corps members who have become Corps members other than pursuant to contractual obligations under the Scholarship or Loan Repayment Programs.

The Secretary may set forth such specifications by medical specialty.

"(2) NOTIFICATION OF AFFECTED PARTIES.—

"(A) Not later than 30 days after the preparation of each list under paragraph (1), the Secretary shall notify entities specified for purposes of subparagraph (A) of such paragraph of the fact that the entities have been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

"(B) In the case of individuals with respect to whom a period of obligated service

under the Scholarship Program will begin during the period under subsection (f) for which a list under paragraph (1) is prepared, the Secretary shall, not later than 30 days after the preparation of each such list, provide to such individuals the names of each of the entities specified for purposes of paragraph (1)(B)(i) that is appropriate to the medical specialty of the individuals.

"(3) REVISIONS IN LIST.—If the Secretary makes a revision in a list under paragraph (1) during the period under subsection (f) to which the list is applicable, and the revision alters the status of an entity with respect to the list, the Secretary shall notify the entity of the effect on the entity of the revision. Such notification shall be provided not later than 30 days after the date on which the revision is made.

"(e) LIMITATION ON NUMBER OF ENTITIES OFFERED AS ASSIGNMENT CHOICES IN SCHOLARSHIP PROGRAM.—

"(1) DETERMINATION OF AVAILABLE CORPS MEMBERS.—The Secretary shall determine the number of participants in the Scholarship Program who are available for assignments under section 333 for the period applicable under subsection (f).

"(2) AVAILABILITY OF 500 OR FEWER MEMBERS.—If the number of participants for purposes of paragraph (1) is less than 500, the Secretary shall limit the number of entities specified under subsection (d)(1)(B)(i) to the lesser of—

"(A) 500 such entities; and

"(B) a number of such entities constituting 300 percent of the number of such participants available for assignment under section 333.

"(3) AVAILABILITY OF MORE THAN 500 MEMBERS.—If the number of participants for purposes of paragraph (1) is equal to or greater than 500, the Secretary shall determine the number of entities to be specified under subsection (d)(1)(B)(i), subject to ensuring that assignments of such participants are made to 500 entities that serve health manpower shortage areas that have chronic difficulty in recruiting and retaining health professionals to provide primary health services.

"(4) ADJUSTMENT IN BASE NUMBER.—The number 500, as used for purposes of paragraphs (2) and (3), may by regulation be adjusted by the Secretary to a greater or a lesser number.

"(f) APPLICABLE PERIOD REGARDING PRIORITIES.—

"(1) IN GENERAL.—With respect to determinations under subsection (a)(1) of the applications that are to be given priority regarding the assignment of Corps members, the Secretary shall make such a determination not less than once each fiscal year. The first determination shall be made not later than July 1 of the year preceding the year in which the period of obligated service begins. If the Secretary revises the determination before July 1 of the following year, the revised determination shall be applicable with respect to assignments of Corps members made during the period beginning on the date of the issuance of the revised determination and ending on July 1 of such year.

"(2) DATE CERTAIN FOR PREPARATION OF NOTIFICATION LIST.—A list under subsection (d)(1) shall be prepared for each of the periods decribed in paragraph (1). Each such list shall be prepared not later than the date on which a determination of priorities under such paragraph is required to be made for the period involved.".

SEC. 105. COST SHARING.

Section 334(f)(2) of the Public Health Service Act (42 U.S.C. 254g(f)(2)) is amended by adding at the end the following new subparagraph:

"(C)(i) A determination under subparagraph (B) regarding the revenues and costs of an entity in an annual period shall be made by the Secretary utilizing criteria specific to the entity and shall be made without regard to whether the entity is making progress toward collecting sufficient revenues to provide an adequate level of primary health services without the assignment of Corps members.

"(ii) In making a determination referred to in clause (i)—

"(I) the Secretary may consider whether the proposed budget submitted under subparagraph (A) provides a reasonable estimate regarding the revenues and costs of the entity; and

"(II) may not consider the reasonableness of the amount of revenues collected, or the amount of costs incurred by the entity, except to the extent necessary to ensure that the entity is operating in good faith and is operating efficiently with respect to fiscal matters within the control of the entity.

"(iii) A determination of whether an entity is eligible for a waiver under paragraph (3) shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).

"(iv) A determination of whether an entity is a small health center shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).".

SEC. 106. PROVISIONS REGARDING EFFECTIVE PROVISION OF SERVICES.

Section 336 of the Public Health Service Act (42 U.S.C. 254h-1) is amended to read as follows:

"SEC. 336. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

"(a) CONSIDERATION OF INDIVIDUAL CHARACTERISTICS OF MEMBERS IN MAKING ASSIGNMENTS.—In making an assignment of a Corps member to an entity that has had an application approved under section 333, the Secretary shall seek to assign to the entity a Corps member who has (and whose spouse, if any, has) characteristics that increase the probability that the member will remain in the health manpower shortage area involved after the completion of the period of service in the Corps.

"(b) COUNSELING ON SERVICE IN CORPS.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), offer appropriate counseling on service in the Corps to individuals during the period of membership in the Corps, particularly during the initial period of each assignment.

"(2) COUNSELING ON OBLIGATED SERVICE.—

"(A) In the case of individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, counseling under paragraph (1) shall include appropriate counseling on matters particular to such obligated service.

"(B) With respect to the Scholarship Program, counseling under paragraph (1) shall include counseling individuals during the period in which the individuals are pursuing an educational degree in the health profession involved, including counseling to prepare the individual for service in the Corps.

"(3) EXTENT OF COUNSELING SERVICES.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, this subsection shall be carried out regarding such individuals throughout the period of obligated service (and, additionally, throughout the period specified in paragraph (2)(B), in the case of the Scholarship Program). With respect to Corps members generally, this subsection shall be carried out to the extent practicable.

"(c) GRANTS FOR PROGRAMS REGARDING PREPARATION FOR PRACTICE.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, the Secretary may make grants to, and enter into contracts with, public and nonprofit private entities for the conduct of programs designed to prepare such individuals for the effective provision of primary health services in the health manpower shortage areas to which the individuals are assigned.

"(d) ASSISTANCE IN ESTABLISHING LOCAL PROFESSIONAL RELATIONSHIPS.—The Secretary shall assist Corps members in establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned, including such relationships with hospitals, with health professions schools, with area health education centers under section 781, with health education and training centers under such section, and with border health education and training centers under such section.

"(e) TEMPORARY RELIEF FROM CORPS DUTIES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (4), provide assistance to Corps members in establishing arrangements through which Corps members may, as appropriate, be provided temporary relief from duties in the Corps in order to pursue continuing education in the health professions or to pursue other interests, including vacations.

"(2) ASSUMPTION OF DUTIES OF MEMBER.—Temporary relief under paragraph (1) may be provided only if the duties of the Corps member involved are assumed by another health professional. Such duties may be assumed by health professionals who are not Corps members, if the Secretary approves the professionals for such purpose. Any health professional so approved by the Secretary shall, during the period of providing such temporary relief, be deemed to be a Corps member for purposes of section 224 (including for purposes of the remedy described in such section), section 333(f), and section 335(e).

"(3) RECRUITMENT FROM GENERAL HEALTH PROFESSIONS COMMUNITY.—In carrying out paragraph (1), the Secretary shall—

"(A) encourage health professionals who are not Corps members to enter into arrangements under which the health professionals temporarily assume the duties of Corps members for purposes of paragraph (1); and

"(B) with respect to the entities to which Corps members have been assigned under section 333, encourage the entities to facilitate the development of arrangements described in subparagraph (A).

"(4) LIMITATION.—In carrying out paragraph (1), the Secretary may not, except as provided in paragraph (5), obligate any amounts (other than for incidental expenses) for the purpose of—

"(A) compensating a health professional who is not a Corps member for assuming the duties of a Corps member; or

"(B) paying the costs of continuing education, a vacation, or other interests that a Corps member may pursue during the period of temporary relief under such paragraph.

"(5) SOLE PROVIDERS OF HEALTH SERVICES.—In the case of any Corps member who is the sole provider of health services in the geographic area involved, the Secretary may, from amounts appropriated under section 338, obligate on behalf of the member such sums as the Secretary determines to be necessary for purposes of providing temporary relief under paragraph (1).

"(f) DETERMINATIONS REGARDING EFFECTIVE SERVICE.—In carrying out subsection (a) and sections 338A(d) and 338B(d), the Secretary shall carry out activities to determine—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas after the completion of the period of service in the Corps;

"(2) the characteristics of health manpower shortage areas, and of entities seeking assignments of Corps members, that are more likely to retain Corps members after the members have completed the period of service in the Corps; and

"(3) the appropriate conditions for the assignment and utilization in health manpower shortage areas of certified nurse practitioners, certified nurse midwives, and physician assistants.".

SEC. 107. NATIONAL ADVISORY COUNCIL.

Section 337(a) of the Public Health Service Act (42 U.S.C. 254j(a)) is amended—

(1) by striking the second sentence; and

(2) by inserting "(1)" after the subsection designation, and adding at the end the following new paragraph:

"(2) The Council shall be composed of 15 members appointed by the Secretary. Of such members—

"(A) 1 shall be a Corps member who is providing obligated service pursuant to the Scholarship Program;

"(B) 1 shall be a Corps member who is providing obligated service pursuant to the Loan Repayment Program;

"(C) 1 shall be a resident of a frontier area;

"(D) 1 shall be a resident of a rural area other than a frontier area;

"(E) 1 shall be a resident of an urban area;

"(F) 1 shall be a physician assistant;

"(G) 1 shall be a certified nurse practitioner;

"(H) 1 shall be a certified nurse midwife;

"(I) 1 shall be a family practitioner;

"(J) 1 shall be a physician practicing obstetrics and gynecology;

"(K) 1 shall be a pediatrician; and

"(L) 1 shall be a physician practicing internal medicine.".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k) is amended by striking "To carry " and all that follows and inserting the following: "For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 2000.".

TITLE II—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS

SEC. 201. SCHOLARSHIP PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338A(a) of the Public Health Service Act (42 U.S.C. 254*l*(a)) is amended by striking "Corps Scholarship" and all that follows and inserting the following: "Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals.".

(2) SCHOLARSHIP CONTRACT.—Section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254*l*(f)(1)(B)(iv)) is amended in the matter after and below subclause (II) by inserting "as a provider of primary health services" before "in a health manpower shortage area".

(b) PRIORITY IN AWARDING SCHOLARSHIPS.—Section 338A(d) of the Public Health Service Act (42 U.S.C. 254*l*(d)) is amended to read as follows:

"(d) In providing contracts under the Scholarship Program, the Secretary shall give priority—

"(1) first, to any application for such a contract submitted by an individual who has previously received a scholarship under this section or under section 758; and

"(2) second, to any application for such a contract submitted by an individual who has characteristics that increase the probability that the individual will continue to serve in a health manpower shortage area after the period of obligated service pursuant to subsection (f) is completed.".

(c) REPORTS TO CONGRESS.—Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is amended by striking "and" after the semicolon at the end of paragraph (3), by striking paragraph (4), and by adding at the end the following new paragraphs:

"(4) the amount of scholarship payments made for each of tuition, stipends, and other expenses, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years; and

"(5)(A) the number, and type of health professions training, of individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f).".

SEC. 202. LOAN REPAYMENT PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338B(a) of the Public Health Service Act (42 U.S.C. 254l-1(a)) is amended by striking "Corps Loan" and all that follows and inserting the following: "Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals.".

(2) LOAN REPAYMENT CONTRACT.—Section 338B(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254*l*(f)(1)(B)(iv)) is amended by inserting "as a provider of primary health services" before "in a health manpower shortage area".

(b) ELIGIBILITY.—

(1) IN GENERAL.—

(A) Section 338B(b)(1) of the Public Health Service Act (42 U.S.C. 254l-1(b)(1)) is amended to read as follows:

"(1)(A) must have a degree in medicine, osteopathic medicine, dentistry, or other health profession;

"(B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(C) be enrolled as a full-time student—

"(i) in an accredited (as determined by the Secretary) educational institution in a State; and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;".

(B) Section 338B(f)(1)(B) of the Public Health Service Act (42 U.S.C. 254l-1(f)(1)(B)) is amended in clauses (ii) and (iii) by striking "(b)(1)(A)" each place such term appears and inserting "(b)(1)(C)".

(2) TIME FOR SUBMISSION OF CONTRACT.—

(A) Section 338B(b) of the Public Health Service Act (42 U.S.C. 254l-1(b)) is amended—

(i) by adding "and" after the semicolon at the end of paragraph (2); and

(ii) by striking paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f) (relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for a period of obligated service)."

(B) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254l-1(e)) is amended by striking "only" and all that follows and inserting the following: "only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(c) PRIORITY IN MAKING AWARDS.—Section 338B(d) of the Public Health Service Act (42 U.S.C. 254l-1(d)) is amended to read as follows:

"(d) In providing contracts under the Loan Repayment Program, the Secretary shall give priority—

"(1) to any application for such a contract submitted by an individual whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps; and

"(2) to any application for such a contract submitted by an individual who has (and whose spouse, if any, has) characteristics that increase the probability that the individual will continue to serve in a health manpower shortage area after the period of obligated service pursuant to subsection (f) is completed.".

(d) CONTENTS OF CONTRACT.—Section 338B(f)(2) of the Public Health Service Act (42 U.S.C. 254l-1(f)(2)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) PAYMENTS.—

(1) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Section 338B(g)(1) of the Public

Health Service Act (42 U.S.C. 254l-1(g)(1)) is amended in the matter preceding subparagraph (A) by striking "loans received by the individual for—" and inserting the following: "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(2) ANNUAL AMOUNT OF REPAYMENTS.—Section 338B(g)(2) of the Public Health Service Act (42 U.S.C. 254l-1(g)(2)) is amended—

(A) in subparagraph (A), by striking "$20,000" and inserting "$35,000", and by striking "Except" and all that follows through "for each" and inserting "For each"; and

(B) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(f) TAX LIABILITY.—

(1) IN GENERAL.—Section 338B(g)(3) of the Public Health Service Act (42 U.S.C. 254l-1(g)(3)) is amended to read as follows:

"(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

"(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) shall apply only with respect to contracts under section 338B of the Public Health Service Act (relating to service in the National Health Service Corps) that are entered into on or after the effective date of this Act.

(g) REPORTS TO CONGRESS.—Section 338B(i) of the Public Health Service Act (42 U.S.C. 254l-1(i)) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) the total amount of loan payments made under the Loan Repayment Program in the year for which the report is submitted;

"(2) the number of applications filed under this section in the school year beginning in such year and in prior school years;

"(3) the number, and type of health profession training, of individuals receiving loan repayments under such Program;

"(4) the educational institution at which such individuals received their training;

"(5) the total amount of the indebtedness of such individuals for educational loans as of the date on which the individuals become participants in such Program;

"(6) the number of years of obligated service specified for such individuals in the initial contracts under subsection (f), and, in the case of individuals whose period of such service has been completed, the total number of years for which the individuals served in the Corps (including any extensions made for purposes of paragraph (2) of such subsection); and

"(7)(A) the number, and type of health professions training, of such individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f).".

SEC. 203. ESTABLISHMENT OF CORPS MEMBER REPLACEMENT FUND.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by redesignating sections 338F through 338H as sections 338G through sections 338I, respectively, and by inserting after section 338E the following new section:

"SEC. 338F. FUND REGARDING USE OF AMOUNTS RECOVERED FOR CONTRACT BREACH TO REPLACE SERVICES LOST AS RESULT OF BREACH.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated under subsection (b) to the Fund.

"(b) AUTHORIZATION OF APPROPRIATIONS TO FUND.—For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to the liability of individuals under section 338E for the breach of contracts entered into under section 338A or 338B;

"(2) the amount by which grants under section 338I have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

"(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c) USE OF FUND.—

"(1) PAYMENTS TO CERTAIN HEALTH FACILITIES.—Amounts in the Fund and available pursuant to appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

"(A) to which a Corps member has been assigned under section 333; and

"(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under section 338A or 338B by the individual.

"(2) PURPOSE OF PAYMENTS.—An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

"(d) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

SEC. 204. REPORT AND AUTHORIZATION OF APPROPRIATIONS.

(a) INCREASE IN PERIOD FOR WHICH NEEDS PROJECTED.—Section 338H(a) of the Public Health Service Act, as redesignated by section 203 of this Act, is amended in paragraphs (1) and (2) by striking "3 fiscal years" each place such term appears and inserting "5 fiscal years".

(b) FUNDING.—Section 338H(b) of the Public Health Service Act, as redesignated by section 203 of this Act, is amended to read as follows:

"(b) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $63,900,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 2000.

"(2) RESERVATION OF AMOUNTS.—

"(A) SCHOLARSHIPS FOR NEW PARTICIPANTS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing contracts for scholarships under this subpart to individuals who have not previously received such scholarships.

"(B) SCHOLARSHIPS FOR FIRST-YEAR STUDY IN CERTAIN FIELDS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, of the amounts appropriated under paragraph (1) for a fiscal year, obligate not less than 10 percent for the purpose of providing contracts for scholarships under this subpart to individuals who are entering the first year of study in a course of study or program described in subsection 338A(b)(1)(B) that leads to such a certification. Amounts obligated under this subparagraph shall be in addition to amounts obligated under subparagraph (A).".

TITLE III—GRANTS TO STATES FOR IMPROVEMENTS REGARDING HEALTH SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM FOR STATE LOAN REPAYMENTS REGARDING SERVICE IN HEALTH MANPOWER SHORTAGE AREAS.

Section 338I of the Public Health Service Act, as redesignated by section 203 of this Act, is amended to read as follows:

"SEC. 338I. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health services in health manpower shortage areas.

"(2) LOAN REPAYMENT PROGRAMS.—The programs referred to in paragraph (1) are, subject to subsection (c), programs of entering into contracts under which the State involved agrees to pay all or part of the principal, interest, and related expenses of the educational loans of health professionals in consideration of the professionals agreeing to provide primary health services in health manpower shortage areas.

"(3) DIRECT ADMINISTRATION BY STATE AGENCY.—The Secretary may not make a grant under paragraph (1) unless the State involved agrees that the program operated with the grant will be administered directly by a State agency.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State agrees that, with respect to the costs of making payments on behalf of indi-

viduals under contracts made pursuant to paragraph (2) of such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(c) COORDINATION WITH FEDERAL PROGRAM.—

"(1) ASSIGNMENTS FOR HEALTH MANPOWER SHORTAGE AREAS UNDER FEDERAL PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in carrying out the program operated with the grant, the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in health manpower shortage areas.

"(2) REMEDIES FOR BREACH OF CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will provide remedies for any breach of the contracts by the health professionals involved.

"(3) LIMITATION REGARDING CONTRACT INDUCEMENTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will not be provided on terms that are more favorable to health professionals than the most favorable terms that the Secretary is authorized to provide for contracts under the Loan Repayment Program under section 338B, including terms regarding—

"(A) the annual amount of payments provided on behalf of the professionals regarding educational loans; and

"(B) the availability of remedies for any breach of the contracts by the health professionals involved.

"(d) RESTRICTIONS ON USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended—

"(1) to conduct activities for which Federal funds are expended—

"(A) within the State to provide technical or other nonfinancial assistance under subsection (f) of section 330;

"(B) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(C) under a grant under section 338J; or

"(2) for any purpose other than making payments on behalf of health professionals under contracts entered into pursuant to subsection (a)(2).

"(e) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports providing the same types of information regarding the program operated pursuant to such subsection as reports submitted pursuant to subsection (i) of section 338B provide regarding the Loan Repayment Program under such section; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(g) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided by the State under paragraph (2) of such subsection with respect to which there has been an initial breach by the health professionals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) In the case of State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the expenditures of Federal funds made regarding the contracts involved.

"(h) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there is authorized to be appropriated $10,000,000 for each of the fiscal years 1991 through 1995.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.".

SEC. 302. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

Subpart III of part D of title III of the Public Health Service Act, as amended by section 203 of this Act, is amended by redesignating section 338J as section 338K, and by inserting after section 338I the following new section:

"SEC. 338J. GRANTS TO STATES FOR OPERATION OF OFFICES OF RURAL HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Rural Health Policy (established in section 711 of the Social Security Act), may make grants to States for the purpose of improving health care in rural areas through the operation of State offices of rural health.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions in cash toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second year of such payments, not less than $1 for each $1 of Federal funds provided in the grant; and

"(C) for any third year of such payments, not less than $3 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

"(1) establishing and maintaining within the State a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues;

"(B) research findings relating to rural health care; and

"(C) innovative approaches to the delivery of health care in rural areas;

"(2) coordinating the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

"(3) identifying Federal and State programs regarding rural health, and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) RESTRICTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) if research with respect to rural health is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

"(B) the grant will not be expended—

"(i) to provide health care (including providing cash payments regarding such care);

"(ii) to conduct activities for which Federal funds are expended—

"(I) within the State to provide technical and other nonfinancial assistance under subsection (f) of section 330;

"(II) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(III) under a grant under section 338I;

"(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment; or

"(iv) to purchase or improve real property.

"(2) AUTHORITIES.—Activities for which a State may expend a grant under subsection (a) include—

"(A) paying the costs of establishing an office of rural health for purposes of subsection (a);

"(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State; and

"(C) providing grants and contracts to public and nonprofit private entities to carry out activities authorized in this section.

"(f) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(h) NONCOMPLIANCE.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(i) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1991, $4,000,000 for fiscal year 1992, and $3,000,000 for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(k) TERMINATION OF PROGRAM.—No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) are equal to $10,000,000.".

TITLE IV—GENERAL PROVISIONS

SEC. 401. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4487 was introduced on April 4 by Mr. RICHARDSON, Mr. COOPER, Mr. SLATTERY, Mr. TAUKE, Mr. SYNAR, Mr. BOUCHER, Mr. ROWLAND, Mr. TOWNS, myself, and 18 other Members. It would revise and extend the authorization for the National Health Service Corps to meet the needs of rural and urban underserved areas for primary health care services.

This bill was reported from the Committee on Energy and Commerce with bipartisan support. The committee amendments reflect substantive contributions from Mr. MADIGAN, Mr. TOWNS, Mr. BILIRAKIS, and Mr. RICHARDSON. I would also like to recognize the work that Mr. SLATTERY, Mr. COOPER, and Mr. TAUKE did in committee to create a product that both sides of the aisle can enthusiastically support. In addition, I would like to acknowledge Mr. STENHOLM, who authored the concept of a program of incentives to States to establish rural health offices.

The National Health Service Corps is the way in which the Federal Government makes primary health care available to underserved rural or urban communities. The corps provides scholarships or repays health education loans for doctors and other health professionals. In exchange, the recipients agree to provide primary health care at designated sites in health manpower shortage areas for a specified period of time.

The corps is 20 years old this year. Over the past two decades, the corps has placed over 10,000 physicians and other health professionals in rural and urban communities that have been left unserved by the market. It has been a critical source of staffing for the community and migrant health center programs as well as the Indian Health Service.

As we enter the 1990's, the corps faces a major challenge.

According to the Department, there are about 12.5 million Americans living in over 1,900 rural and urban areas with a shortage of primary care practitioners. The problem is not that these Americans are all uninsured; while some of them are, many have public or private coverage. The problem is that there are no primary care doctors or other health professionals serving the communities in which they live.

Unfortunately, because of some bad decisions made in the early 1980's, the corps is not in a position today to meet the needs of most of the Nation's 1,935 underserved communities or population groups. To eliminate these shortages would require 4,147 primary care physicians.

This year, the corps expects to have only 1,751 physicians and other health professionals in the field. There are currently 123 scholarship recipients and 74 loan repayment recipients available for placement. By 1993, the number of scholarship recipients available for placement will decline to 18. At the same time, the number of health manpower shortage areas may grow larger than 1,900, as older rural physicians retire, and as competition for new primary care practitioners increases.

The logic of these numbers is obvious.

Unless we revitalize the corps, we are never going to meet the needs of the 12.5 million unserved Americans, and we may leave even more unserved.

The bill before the House this afternoon would provide the policy tools for eliminating primary care shortages during the coming decade. It would revise and extend the corps scholarship and loan repayment programs through fiscal year 2000. It would revise and extend the State loan repayment program through fiscal year 1995. And it would establish a 3-year program to stimulate the development of State Offices of Rural Health.

As requested by the administration, the first year authorization for the corps scholarship and loan repayment programs would be $63.9 million. According to the Congressional Budget Office, the bill would result in new budget authority of $137 million in fiscal year 1991, and $740 million over the next 5 years. This modest investment will pay large dividends by making primary care services available to millions of Americans over the next decade.

I urge my colleagues to support this critical bill.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

□ 1510

Mr. Speaker, the National Health Service Corps was formed to provide health manpower to those communities of greatest need, both urban and rural, which otherwise cannot recruit and retain health care providers. Since its inception it has placed over 12,000 physicians and other health care providers in medically underserved areas across the Nation.

The legislation before us today will help revitalize the corps by clarifying that its purpose is to provide primary health services and I am pleased to say that it represents a compromise worked out by the majority and the minority. I want to particularly thank the chairman of the subcommittee, and the members of the Energy and Commerce Committee from Iowa, New Mexico, Tennessee, and Kansas for their work on this compromise.

Let me briefly describe the amendment I offered at full committee which represents the compromise:

First, it provides for Secretary Sullivan's proposal of $63.9 million in 1991 and such sums as necessary in the outyears for the authorization for the

Scholarship and Loan Program. This authorization level is an eightfold increase over the current appropriation for this program. For the field authorization, it authorizes "such sums as necessary."

Second, the amendment strikes from the legislation the requirement for single-year funding in the Scholarship Program which means that the scholarships will continue to be funded on a multiyear basis.

Third, it will earmark a minimum of 30 percent of appropriated moneys for scholarships for physicians, and an additional 10 percent for nurse midwives and practitioners.

Finally, it will place a new goal statement in the statute stating that the purpose of the corps is to eliminate all health manpower shortages in health manpower areas.

I ask my colleagues for their support.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], the lead author of this legislation.

Mr. RICHARDSON. Mr. Speaker, first I wish to thank the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Tennessee [Mr. COOPER], the joint coauthors of this bill. I think, without their role, we would not have this legislation. In addition, Mr. Speaker, I thank the gentleman from Iowa [Mr. TAUKE] and the gentleman from Illinois [Mr. MADIGAN], the chairman of the subcommittee, equally. I think also we forget the work of the outstanding staff that works here in the Congress: Janet Murguia from the office of the gentleman from Kansas [Mr. SLATTERY], Atul Gwandi from the office of the gentleman from Tennessee [Mr. COOPER], Tara Federici from my staff, Andy Schneider, Howard Cohen, many others that have toiled endlessly on this very important legislation which is a major, major initiative for rural health care in the country.

Mr. Speaker, the National Health Service Corps [NHSC] is the Federal Government's primary means of recruiting physicians to rural, inner city, and other areas suffering from health manpower shortages. As such, the corps has been a successful and model program for recruiting physicians and other health care personnel into medically underserved areas. Needless to say, the corps was more successful in the past than it is now in meeting these needs.

PHYSICIAN SHORTAGES

In recent years, the corps has declined from a peak field strength of 3,127 NHSC providers in 1986, to the 123 scholarship recipients available for placement this year. If the program continues without change, only 18 scholarships will be meted out in 1993. More importantly, communities served by the corps are losing 600 providers a year with no replacements.

CRISIS IN RURAL HEALTH CARE

As a result, the corps is no longer even minimally meeting its mandate "to improve and maintain the health status of medically underserved populations." Given the crisis in rural health care, this cannot and should not be allowed to continue. Today, people living in rural areas continue to be in poorer health, travel farther for health care, report chronic or serious illness more frequently, are more likely to die from injury, and are older than their urban counterparts. Moreover, rural residents are more than twice as likely as the Nation as a whole to face shortages of primary care physicians.

H.R. 4487 REVITALIZES THE NATIONAL HEALTH SERVICE CORPS

H.R. 4487 and changes made during the committee process renew the National Health Service Corps' commitment to primary health care for medically underserved areas. It continues the current loan repayment program and rejuvenates the Scholarship Program by insuring that a minimum of 30 percent of appropriated funds are used for scholarships each fiscal years. In this way, the corps will meet both short- and long-term needs by replenishing the supply of doctors to medically underserved areas.

H.R. 4487 INSURES MIDLEVEL PRACTITIONER SCHOLARSHIPS

H.R. 4487 also requires that a minimum of 10 percent of appropriated funds be used for scholarships for midlevel practitioners such as nurse practitioners, nurse midwives, and physician assistants. Better utilization of midlevel practitioners can increase the productivity of primary care physicians and save money in the long run.

H.R. 4487 WORKS TO RECRUIT AND RETAIN PROVIDERS

To help retain NHSC providers and get them into the neediest areas, among other things, H.R. 4478 increases the maximum loan payment from $20,000 to $35,000 per year, and directs the corps to give priority to individuals with characteristics that increase the probability that they will remain in the underserved area when their obligation is completed.

In addition, H.R. 4487 establishes as a priority the assignment of corps personnel to areas with the greatest shortages based on the following criteria: the ratio of health manpower to the number of individuals; the rate of infant mortality, low birthweight, and poverty; access to primary health care services; and the effect on access to primary care if corps members are not assigned to a site.

H.R. 4487 also requires that the National Advisory Council on the corps be more representative of the corps and hopefully more responsive; and adds clarifying language delineating priorities in awarding scholarships to those who have already received corps scholarships or scholarships under the title VII exceptionally financially needy program. I am pleased H.R. 4487 also contains the National Health Service Corps member replacement fund designed to provide restitution to NHSC sites that lose NHSC providers due to a breach of contract from a corps provider. More importantly, this fund will enable NHSC sites to recruit and employ other health professionals to provide primary care services.

H.R. 4487 ESTABLISHES GRANT PROGRAM FOR RURAL HEALTH OFFICES

H.R. 4487 also provides $10 million for a new grant program to help States operate new and existing State offices of rural health. Under the legislation, State offices of rural health would be required to serve as clearinghouses on rural health information, and provide technical assistance. States could also use these funds to recruit and retain health care professionals in rural areas.

H.R. 4487 REAUTHORIZES THE STATE LOAN REPAYMENT PROGRAM

H.R. 4487 also reauthorizes the State Loan Repayment Program and insures that the State Loan Repayment Program coordinates with and supports national efforts to eliminate health manpower shortage areas.

In closing, I would ask my colleagues' support of H.R. 4487 and point out the critical need to reauthorize and revitalize the National Health Service Corps.

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the most noble and very distinguished gentleman from Iowa [Mr. TAUKE], the principal architect of the compromise before us.

Mr. TAUKE. Mr. Speaker, I rise in strong support of H.R. 4487, the National Health Service Corps revitalization amendments. The passage of this legislation is a top priority for the House Rural Health Care Coalition. A revitalized National Health Service Corps is crucial to our efforts to address the pressing health professional shortages across rural America and ensure that rural Americans have access to community-based health care services.

I wish to personally thank my colleagues Mr. RICHARDSON, Mr. SLATTERY, Mr. COOPER, Mr. STENHOLM, Mr. BRUCE, Mr. MADIGAN, and Mr. WAXMAN and their staffs for the many hours of work that have gone into perfecting this important legislation.

Over the past decade, we gradually phased down the National Health Service Corps in the belief that an anticipated surplus of physicians would result in physicians moving into medically underserved rural and innercity areas. That has not happened.

Since 1981, the number of medically underserved areas has increased by 36 percent, not decreased. Today, over 33.6 million Americans live in areas that have inadequate numbers of primary health care providers to ensure access to basic health care services.

The legislation before us today addresses the needs of these citizens in three basic ways. First, we are revitalizing the scholarship program to increase the number of health professionals available to serve in rural America. Recognizing that physician assistants and nurses are important primary care providers, we are earmarking 10 percent of the funds available for scholarships for nurses and physician assistants.

Second, we are expanding and improving the loan repayment program, under which physicians, nurses, physician assistants, and allied health professionals may receive educational loan repayment in exchange for serving in an underserved area.

Third, we are extending the State loan repayment program, under which States may qualify for Federal matching funds for establishing loan repayment programs of their own.

This legislation also provides States with start-up funds to establish and expand State offices of rural health to assist local communities to recruit and retain health professionals.

On behalf of the 145 members of the bipartisan House Rural Health Care Coalition, I ask my colleagues to vote for this legislation, the goal of which is ensuring that every American, whether living in a rural or innercity area, has access to community-based primary health care services.

□ 1520

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I, too, would like to join with my colleagues in acknowledging the hard work of the members of the Energy and Commerce Committee on this legislation, and to the committee chairmen, who deserve a lot of credit for bringing this bill to the floor today.

I would like also to express my deep gratitude to the gentleman from Illinois [Mr. MADIGAN] and the gentleman from Iowa [Mr. TAUKE] on the other side who have worked very hard in moving this legislation forward, and certainly our friend, the gentleman from New Mexico [Mr. RICHARDSON], and the gentleman from Tennessee [Mr. COOPER] on this side of the aisle deserve an awful lot of credit for their hard work, too.

The staff has already been acknowledged, but I would also like to pay special recognition to Janet Murguia on my side, who I know has worked countless hours on this legislation.

In the 1970's and early 1980's, thousands of poor communities, rural and urban, received doctors they would not otherwise have received had it not been for the National Health Service Corps. However, due to the drastic budget cuts during the 1980's, the corps is on the verge of disappearing.

H.R. 4487 would reauthorize and revitalize the ability of the corps to attract health professions to areas with cronic shortgages of medical personnel.

Few things are more important to the future of rural America than the availability of affordable, quality health care. That is why this legislation before us today is so important. Close to 2,000 communities, with almost 34 million people, face health care personnel shortages. They need an estimated 4,000 health professionals to provide even minimal medical services.

In my home State of Kansas, there are at least 16 counties with severe health manpower shortages that could benefit from the reenactment and revitalization of the National Health Service Corps.

The corps in the past went a long way toward meeting these needs by offering scholarship and loan repayment awards to medical students in exchange for a commitment to practice in underserved areas. At one time, 3,000 corps doctors were serving 5 million patients per year; however, the budget cuts of the 1980's slashed the number of scholarships awarded from more than 6,400 in 1980 to less than 50 in 1988. Communities served by the corps are losing 600 practitioners a year with no replacement.

While a significant increase in funding will make a big difference, there are other changes in this program that must be made. I believe the changes proposed in H.R. 4487 will strengthen the corps and make a basically good program much better.

This bill achieves a good balance between scholarship awards and loan repayment contracts.

This legislation would maintain a necessary mix of scholarship and loan repayment awards. It sets a minimum floor for the amount of funding allotted for scholarship in order to guarantee that the neediest and least attractive shortage areas receive physicians and primary care health personnel.

The current trend to rely solely on the loan repayment program does not achieve this important objective.

This, Mr. Speaker, is a proven program, with a 96-percent completion rate. It has put health care professionals in communities where medical services were most needed in the past and it will work in the future.

To meet the primary care needs of underserved communities in the 1990's, we will have to use the National Health Service Corps. In the short run, we will have to rely on the loan repayment program; but we also need to start funding new scholarships so that by the mid-1990's we will again have an adequate supply of primary care physicians and midlevel personnel coming out of medical schools available for placement in the areas with greatest need.

Ultimately, it is my hope that this bill will encourage young physicians, dentists, nurses, and other health professionals to serve in areas where they are most needed, instead of choosing areas where they can earn the most money to repay expensive school loans.

Again, I thank my colleagues for their help in bringing this important legislation to the floor today and I urge all the Members of this body to support this important legislation.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I would like to add my words of thanks and praise to the members of the Energy and Commerce Committee, particularly the gentleman from California [Mr. WAXMAN], our great subcommittee chairman, and also my colleague, the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Illinois [Mr. MADIGAN], and the gentleman from Iowa [Mr. TAUKE], who all together did such a fine job of crafting this legislation.

The staff, of course, was also extremely important. I would like to single out a member of my staff, Atul Gawande, for his fine efforts on this legislation.

Mr. Speaker, few pieces of legislation that this Congress will consider will do more good for more people than this bill. We have heard the numbers, anywhere between 12 million and 34 million Americans are terribly underserved today. They need doctors. They lack doctors. This bill will provide doctors.

I think it is highly appropriate that on the 20th anniversary of this program we will be not only reenacting it, but revitalizing it so that these urgent needs can be filled.

Some 2,000 communities across this great Nation of ours, both in rural America and in urban America, are facing these shortages. Many of our colleagues on the House floor are acutely sensitive to these needs that have gone unmet for so long.

We know that the free market theory for doctor distribution did not work, as my colleague, the gentleman from Iowa [Mr. TAUKE] pointed out. Doctors, unfortunately, did not choose to go to the most underserved areas in the country. We need incentives like this to help doctors make the right decisions.

I represent a county called Morgan County in my district that for decades had no doctor at all. They had 20,000 good people in that county, but no doctor. Finally, in 1974, two doctors arrived in that county under this program. One of those doctors is now gone and that leaves one doctor to serve 20,000 people. Now the folks in Morgan County can look forward to getting help, to getting the attention of the doctors that they need and deserve.

I hope that young people all over this country, young people who are in school, people who are poor but deserving, will look at this bill and take heart, realize that our Federal Government is going to help them serve the most underserved in America.

Mr. MADIGAN. Mr. Speaker, I again yield myself such time as I may consume. I do that, Mr. Speaker, for pointing out the participation and the negotiation of this successful compromise that one of our colleagues from the Health and Environment Subcommittee who could not be with us this afternoon and requested that I express on his behalf his strong support for this bill. I would like to acknowledge the work of the gentleman from Florida [Mr. BILIRAKIS] on this bill, with other members of the subcommittee. The gentleman from Florida [Mr. BILIRAKIS] authored an amendment which was unanimously approved by the full Energy and Commerce Committee that will provide some relief to health centers that lose their National Health Service Corps professionals prematurely.

Currently these health professionals are required to pay a penalty if they leave before their term of commitment is completed; but unfortunately, clinics are unable to use any of this money. Additionally, most health centers have difficulty in replacing the professional, and the overall health delivery system of the community declines.

The Bilirakis amendment would require that a portion of the penalty money would go directly to the clinic that lost the health professional and would be used to assist the clinic in recruitment or paying the salary of a replacement health professional.

Again, I want to take this opportunity to recognize the contribution of the gentleman from Florida [Mr. BILIRAKIS] and his efforts on behalf not only of his particular amendment, but of all the work that went into this successful compromise that we have before us this afternoon.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding to me this time.

Mr. Speaker, as a member of the Infant Mortality Task Force of the Congressional Sun Belt Caucus and the Rural Health Care Coalition, I rise today in strong support of H.R. 4487, the National Health Service Corps Revitalization Amendments of 1990.

At one time, the corps provided desperately needed doctors to hundreds of rural and and inner-city communities by making scholarships and loan repayment programs available.

□ 1530

However, drastic budget cuts during the 1980's have jeopardized the very existence of this vital program, and the number of scholarships have been slashed from 6,400 to less than 50 in 1989, and as a result of these cuts, medically underserved communities in my State and all over the country are losing their doctors with no replacements in sight.

Mr. Speaker, we see a direct correlation between the lack of adequate prenatal care and the high incidence of infant mortality. It is a sad fact of life that in our region we have one of the highest infant mortality rates in the United States.

Not too awfully long ago, the gentleman from Mississippi [Mr. ESPY], the gentleman from Alabama [Mr. ERDREICH], and I conducted a hearing in Birmingham on the question and issue of infant mortality. One of the things that we heard at that hearing from doctors and other health care professionals was the fact that the corps that we are speaking of today needed to be emphasized and that we needed more scholarships and more programs available so that we could encourage doctors to go into medically underserved areas of our country.

I rise, as I said, today in strong support of this program, because I feel the passage of this bill will help provide health care professionals to the medically underserved communities of our country. I urge my colleagues to pass this bill.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise in strong support of H.R. 4487, the National Health Service Corps Revitalization Amendments of 1990. As an original cosponsor of this legislation, I am pleased to see it being considered today.

Since its inception, the National Health Service Corps [NHSC] has placed more than 13,000 professionals in communities that would not be able to recruit their services otherwise. But drastic budget cuts in the 1980's have almost extingushed this program, with fewer than 50 scholarships being offered in 1989. As a result, communities served by the corps are now losing 600 practitioners a year with no replacements.

H.R. 4487 would reauthorize and revitalize the corps, providing scholarships and loan forgiveness to students during their graduate medical education in exchange for their commitment to provide services in health manpower shortage areas after graduation. It would set aside 40 percent of recruitment funds for scholarships, with a special set-aside for allied health professionals, and strengthen practitioner retention programs to improve our ability to encourage corps doctors to remain in needy areas after their assignment ends.

The National Health Service Corps has been an integral part of the success of the community and migrant health centers and has provided communities with family practitioners where there have been no practicing obstetricians. It has helped ensure that adequate personnel are available to serve the communities that are most often plagued with high infant mortality rates and maternal and child health problems. That is why I and other members of the Congressional Sun Belt Caucus Task Force on Infant Mortality, in our efforts to address the tragic rate of infant death in this country, have focused on the NHSC as a key element of the solution.

In my home State of North Carolina, the latest infant mortality figures place us last among the 50 States. The story across the Nation is not much different. The most recent study conducted by the National Center for Health Statistics estimates our Nation's infant mortality rate to be 10.1 deaths per thousand live births, considerably behind most industrialized nations. It makes no sense whatsoever, as infant mortality rates and maternal and child health actually worsen in many areas, to let a program as demonstrably relevant as the NHSC atrpohy and die. The bill before us will turn that around, and none too soon. I urge my collegaues to join me and other members of the task force in supporting this desperately needed legislation which will send practitioners into medically underserved areas and help give our children a healthier start in life.

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 4487, the National Health Service Corps Revitalization Amendments of 1990. This measure will ensure that medically underserved areas, primarily in rural communities, will not have to go without basic medical services.

The National Health Service Corps has almost 20 years of success in assisting physicians and other health professionals become established in areas which have health manpower shortages. The corps works diligently with local communities to assess needs and determine strategies to recruit and retain the most qualified individuals to serve these rural areas.

In 1987 there were 2,700 National Health Service Corps professionals delivering primary care to approximately 2 million underserved

patients in about 1,500 communities nationwide. They are serving at least a 2-year obligation and may subsequently select a career in the corps.

But despite the successes of the past, communities served by the corps are losing close to 600 doctors and health practitioners a year with no replacements. In my district, I know that the Casey County War Memorial Hospital has only three physicians on staff and all three are ready to retire. In this case the hospital has undergone an intensive review of how to recruit and retain much needed physicains in this county. Clearly, the National Health Service Corps could play a vital role in these efforts.

Mr. Speaker, H.R. 4478 revitalizes the corps' ability to provide health professionals in areas with chronic shortages of medical personnel. According to the Public Health Service, close to 2,000 communities with almost 34 million people face such shortages. States and local governments report that they need at least 4,000 health professionals to provide these vital medical services. This legislation will go a long way in meeting these needs.

Specifically, the bill authorizes the National Health Service Corps at the administration's request level of $63.9 million in fiscal year 1991, while reauthorizing the program through the year 2,000.

It also directs the Health and Human Services Department to place personnel in the worst shortage areas as shown by the numbers of doctors, infant mortality, low birth weights, access to care and poverty levels. In addition, the measure sets aside 40 percent of recruitment funds for scholarships, including 10 percent for allied health professionals. But, most importantly, this bill institutes needed reforms to retain practitioners in these underserved areas after their assignment ends.

The basic mission of the National Health Service Corps has been, and still is, to provide health manpower resources to areas, populations, and facilities of greatest need. H.R. 4487 renews our commitment to ensure that basic health care needs do not go unmet. I urge my colleagues to approve this important measure.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4487, as amended.

The question was taken.

Mr. MADIGAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NUTRITION LABELING AND EDUCATION ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3562) to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Nutrition Labeling and Education Act of 1990".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. NUTRITION LABELING.

(a) NUTRITION INFORMATION.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(q)(1) Except as provided in subparagraphs (3), (4), and (5), if it is a food intended for human consumption and is offered for sale, unless its label or labeling bears nutrition information that provides—

"(A)(i) the serving size which is an amount customarily consumed and which is expressed in a common household measure that is appropriate to the food, or

"(ii) if the use of the food is not typically expressed in a serving size, the common household unit of measure that expresses the serving size of the food,

"(B) the number of servings or other units of measure per container,

"(C) the total number of calories—

"(i) derived from any source, and

"(ii) derived from the total fat,

in each serving size or other unit of measure of the food, and

"(D) the amount of the following nutrients: Total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein contained in each serving size or other unit of measure.

The statement of the serving size or other unit of measure required by clause (A) and the statement of the calories, total fat, cholesterol, sodium, and fiber required by clause (D) shall be highlighted on the label by larger type, bold type, or contrasting color.

"(2)(A) If the Secretary determines that a nutrient other than a nutrient listed in subparagraph (1)(C) or (1)(D) should be included in the label or labeling of food subject to subparagraph (1) for purposes of providing information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices, the Secretary may by regulation require that information relating to such additional nutrient be included in the label or labeling of such food.

"(B) If the Secretary determines that the information relating to a nutrient required by subparagraph (1)(C) or (1)(D) or clause (A) of this subparagraph to be included in the label or labeling of food is not necessary to assist consumers in maintaining healthy dietary practices, the Secretary may by regulation remove information relating to such nutrient from such requirement.

"(3) For food that is received in bulk containers at a retail establishment, the Secretary shall, by regulation, provide that the nutrition information required by subparagraphs (1) and (2) may be displayed at the location in the retail establishment at which the food is offered for sale.

"(4)(A) The Secretary shall provide for furnishing the nutrition information required by subparagraphs (1) and (2) with respect to raw agricultural commodities and raw fish by issuing voluntary nutrition guidelines, as provided by clause (B) or by issuing regulations that are mandatory as provided by clause (C).

"(B)(i) Upon the expiration of 12 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary, after providing an opportunity for comment, shall issue guidelines for food retailers offering raw agricultural commodities or raw fish to provide nutrition information specified in subparagraphs (1) and (2). Such guidelines shall take into account the actions taken by food retailers during such 12-month period to provide to consumers nutrition information on raw agricultural commodities and raw fish. Such guidelines shall only apply

"(I) in the case of raw agricultural commodities, to the 20 varieties of vegetables most frequently consumed during a year and the 20 varieties of fruit most frequently consumed during a year, and

"(II) to the 20 varieties of raw fish most frequently consumed during a year.

The vegetables, fruits, and raw fish to which such guidelines apply shall be determined by the Secretary by regulation and the Secretary may apply such guidelines regionally.

"(ii) Upon the expiration of 12 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary shall issue a final regulation defining the circumstances that constitute substantial compliance by food retailers with the guidelines issued under subclause (i). The regulation shall provide that there is not substantial compliance if a significant number of retailers have failed to comply with the guidelines. The size of the retailers and the portion of the market served by retailers in compliance with the guidelines shall be considered in determining whether the substantial-compliance standard has been met.

"(C)(i) Upon the expiration of 30 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary shall issue a report on actions taken by food retailers to provide consumers with nutrition information for raw agricultural commodities and raw fish under the guidelines issued under clause (A). Such report shall include a determination of whether there is substantial compliance with the guidelines.

"(ii) If the Secretary finds that there is substantial compliance with the guidelines, the Secretary shall issue a report and make a determination of the type required in subclause (i) every two years.

"(D)(i) If the Secretary determines that there is not substantial compliance with the guidelines issued under clause (A), the Secretary shall at the time such determination is made issue proposed regulations requiring that any person who offers raw agricultural commodities or raw fish to consumers provide, in a manner prescribed by regulations, the nutrition information required by subparagraphs (1) and (2). The Secretary shall

issue final regulations imposing such requirements 6 months after issuing the proposed regulations. The final regulations shall become effective 6 months after the date of their promulgation.

"(ii) Regulations issued under subclause (i) may require that the nutrition information required by subparagraphs (1) and (2) be provided for more than 20 varieties of vegetables, 20 varieties of fruit, and 20 varieties of fish most frequently consumed during a year if the Secretary finds that a larger number of such products are frequently consumed. Such regulations shall permit such information to be provided in a single location in each area in which raw agricultural commodities and raw fish are offered for sale. Such regulations may provide that information shall be expressed as an average or range per serving of the same type of raw agricultural commodity or raw fish. The Secretary shall develop and make available to the persons who offer such food to consumers the information required by subparagraphs (1) and (2).

"(iii) Regulations issued under subclause (i) shall permit the required information to be provided in each area of an establishment in which raw agricultural commodities and raw fish are offered for sale. The regulations shall permit food retailers to display the required information by supplying copies of the information provided by the Secretary, by making the information available in brochure, notebook or leaflet form, or by posting a sign disclosing the information. Such regulations shall also permit presentation of the required information to be supplemented by a video, live demonstration, or other media which the Secretary approves.

"(E) For purposes of this subparagraph, the term 'fish' includes freshwater or marine fin fish, crustaceans, and mollusks, including shellfish, amphibians, and other forms of aquatic animal life.

"(F) No person who offers raw agricultural commodities or raw fish to consumers may be prosecuted for minor violations of this subparagraph if there has been substantial compliance with the requirements of this paragraph.

"(5)(A) Subparagraphs (1), (2), (3), and (4) shall not apply to food—

"(i) which is served in restaurants or other establishments in which food is served for immediate human consumption or which is sold for sale or use in such establishments,

"(ii) which is processed and prepared primarily in a retail establishment, which is ready for human consumption, which is of the type described in subclause (i), and which is offered for sale to consumers but not for immediate human consumption in such establishment and which is not offered for sale outside such establishment,

"(iii) which is an infant formula subject to section 412,

"(iv) which is a medical food as defined in section 5(b) of the Orphan Drug Act (21 U.S.C. 360ee(b)), or

"(v) which is described in section 405(2).

"(B) Subparagraphs (1) and (2) shall not apply to the label of a food if the Secretary determines by regulations that compliance with such subparagraphs is impracticable because the package of such food is too small to comply with the requirements of such subparagraphs and if the label of such food does not contain any nutrition information.

"(C) If a food contains insignificant amounts, as determined by the Secretary, of all the nutrients required by subparagraphs (1) and (2) to be listed in the label or labeling of food, the requirements of such subparagraphs shall not apply to such food if the label, labeling, or advertising of such food does not make any claim with respect to the nutritional value of such food. If a food contains insignificant amounts, as determined by the Secretary, of more than one-half the nutrients required by subparagraphs (1) and (2) to be in the label or labeling of the food, the Secretary may require the amounts of such nutrients to be stated in a simplified form.

"(D) If a person offers food for sale and has annual gross sales made or business done in sales to consumers which is not more than $500,000 or has annual gross sales made or business done in sales of food to consumers which is not more than $50,000, the requirements of subparagraphs (1), (2), (3), and (4) shall not apply with respect to food sold by such person to consumers unless the label or labeling of food offered by such person provides nutrition information or makes a nutrition claim.

"(E) If a food to which section 411 applies (as defined in section 411(c)) contains one or more of the nutrients required by subparagraph (1) or (2) to be in the label or labeling of the food, the label or labeling of such food shall comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for such food and which is specified in regulations of the Secretary.

"(F) Subparagraphs (1), (2), (3), and (4) shall not apply to food which is sold by a food distributor if the food distributor principally sells food to restaurants or other establishments in which food is served for immediate human consumption and does not manufacture, process, or repackage the food it sells.".

(b) REGULATIONS.—

(1) The Secretary of Health and Human Services shall issue proposed regulations to implement section 403(q) of the Federal Food, Drug, and Cosmetic Act within 12 months after the date of the enactment of this Act. Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement the requirements of such section. Such regulations shall—

(A) require the required information to be conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet,

(B) include regulations which establish standards, in accordance with paragraph (1)(A), to define serving size or other unit of measure for food,

(C) permit the label or labeling of food to include nutrition information which is in addition to the information required by such section 403(q) and which is of the type described in subparagraph (1) or (2) of such section, and

(D) permit the nutrition information on the label or labeling of a food to remain the same or permit the information to be stated as a range even though (i) there are minor variations in the nutritional value of the food which occur in the normal course of the production or processing of the food, or (ii) the food is comprised of an assortment of similar foods which have variations in nutritional value.

(2) Before issuing the proposed regulations under paragraph (1) after the date of the enactment of this Act, the Secretary of Health and Human Services shall consider the vitamins, minerals, and other nutrients required to be placed on the label and labeling of food under the Federal Food, Drug, and Cosmetic Act before the date of the enactment of of this Act and shall determine whether information with respect to any of such nutrients shall be required under the authority of section 403(q)(2)(A) of such Act.

(3) If the Secretary of Health and Human Services does not promulgate final regulations under paragraph (1) upon the expiration of 18 months after the date of the enactment of this Act, the proposed regulations issued in accordance with paragraph (1) shall be considered as the final regulations upon the expiration of such 18 months. There shall be promptly published in the Federal Register notice of new status of the proposed regulations.

(4) If the Secretary of Health and Human Services does not promulgate final regulations under section 403(q)(4) of the Federal Food, Drug, and Cosmetic Act upon the expiration of 6 months after the date on which the Secretary makes a finding that there has been no substantial compliance with section 403(q)(4)(C) of such Act, the proposed regulations issued in accordance with such section shall be considered as the final regulations upon the expiration of such 6 months. There shall be promptly published in the Federal Register notice of new status of the proposed regulations.

(c) CONSUMER EDUCATION.—The Secretary of Health and Human Services shall carry out activities which educate consumers about—

(1) the availability of nutrition information in the label or labeling of food, and

(2) the importance of that information in maintaining healthy dietary practices.

SEC. 3. CLAIMS.

(a) LABELING REQUIRED.—Section 403 (21 U.S.C. 343) is amended by adding after the paragraph added by section 2 the following:

"(r)(1) Except as provided in subparagraph (5), if it is a food intended for human consumption which is offered for sale and for which a claim is made in the label or labeling of the food which expressly or by implication—

"(A) characterizes the level of any nutrient which is of the type required by paragraph (q)(1) or (q)(2) to be in the label or labeling of the food unless the claim is made in accordance with subparagraph (2), or

"(B) characterizes the relationship of any nutrient which is of the type required by paragraph (q)(1) or (q)(2) to be in the label or labeling of the food to a disease or a health-related condition unless the claim is made in accordance with subparagraph (3).

A statement of the type required by paragraph (q) that appears as part of the nutrition information required or permitted by such paragraph is not a claim which is subject to this paragraph and a claim subject to clause (A) is not subject to clause (B).

"(2)(A) Except as provided in subparagraphs (4)(A)(ii), (4)(A)(iii), and (5), a claim described in subparagraph (1)(A)—

"(i) may be made only if the characterization of the level made in the claim uses terms which are defined in regulations of the Secretary,

"(ii) may not state the absence of a nutrient unless—

"(I) the nutrient is usually present in the food or in a food which substitutes for the food as defined by the Secretary by regulation, or

"(II) the Secretary by regulation permits such a statement on the basis of a finding that such a statement would assist consumers in maintaining healthy dietary practices and the statement discloses that the nutrient is not usually present in the food,

"(iii) may not be made with respect to the level of cholesterol in the food if the food contains, as determined by the Secretary by regulation, fat or saturated fat in an amount which increases to persons in the general population the risk of disease or a health related condition which is diet related unless—

"(I) the Secretary finds by regulation that the level of cholesterol is substantially less than the level usually present in the food or in a food which substitutes for the food and which has a significant market share, or the Secretary by regulation permits a statement regarding the absence of cholesterol on the basis of a finding that cholesterol is not usually present in the food and that such a statement would assist consumers in maintaining healthy dietary practices and a requirement that the statement disclose that cholesterol is not usually present in the food, and

"(II) the label or labeling of the food discloses the level of such fat or saturated fat in immediate proximity to such claim and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of cholesterol,

"(iv) may not be made with respect to the level of saturated fat in the food if the food contains cholesterol unless the label or labeling of the food discloses the level of cholesterol in the food in immediate proximity to such claim and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of saturated fat,

"(v) may not state that a food is high in dietary fiber unless the food is low in total fat as defined by the Secretary or the label or labeling discloses the level of total fat in the food in immediate proximity to such statement and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of dietary fiber, and

"(vi) may not be made if the Secretary by regulation prohibits the claim because the claim is misleading in light of the level of another nutrient in the food.

"(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food, the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See for nutrition information.' In the statement—

"(i) the blank shall identify the panel on which the information described in the statement may be found, and

"(ii) if the Secretary determines that the food contains a nutrient at a level which increases to persons in the general population the risk of a disease or health-related condition which is diet related, taking into account the significance of the food in the total daily diet, the statement shall also identify such nutrient.

"(C) Subparagraph (2)(A) does not apply to a claim described in subparagraph (1)(A) and contained in the label or labeling of a food if such claim is contained in the brand name of such food and such brand name was in use on such food before October 25, 1989, unless the brand name contains a term defined by the Secretary under subparagraph (2)(A)(i). Such a claim is subject to paragraph (a).

"(3)(A) Except as provided in subparagraph (5), a claim described in subparagraph (1)(B) may only be made—

"(i) if the claim meets the requirements of the regulations of the Secretary promulgated under clause (B), and

(ii) if the food for which the claim is made does not contain, as determined by the Secretary by regulation, any nutrient in an amount which increases to persons in the general population the risk of a disease or health-related condition which is diet related, taking into account the significance of the food in the total daily diet, except that the Secretary may by regulation permit such a claim based on a finding that such a claim would assist consumers in maintaining healthy dietary practices and based on a requirement that the label contain a disclosure of the type required by subparagraph (2)(B).

"(B)(i) The Secretary shall promulgate regulations authorizing claims of the type described in subparagraph (1)(B) only if the Secretary determines, based on the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), that there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence.

"(ii) A regulation described in subclause (i) shall describe—

"(I) the relationship between a nutrient of the type required in the label or labeling of food by paragraph (q)(1) or (q)(2) and a disease or health-related condition, and

"(II) the significance of each such nutrient in affecting such disease or health-related condition.

"(iii) A regulation described in subclause (i) shall require such claim to be stated in a manner so that the claim is an accurate representation of the matters set out in subclause (ii) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

"(4)(A)(i) Any person may petition the Secretary to issue a regulation under subparagraph (2)(A)(i) or (3)(B) relating to a claim described in subparagraph (1)(A) or (1)(B). Not later than 100 days after the petition is received by the Secretary, the Secretary shall issue a final decision denying the petition or file the petition for further action by the Secretary. If the Secretary denies the petition, the petition shall not be made available to the public. If the Secretary files the petition, the Secretary shall deny the petition or issue a proposed regulation to take the action requested in the petition not later than 90 days after the date of such decision.

"(ii) Any person may petition the Secretary for permission to use in a claim described in subparagraph (1)(A) terms that are consistent with the terms defined by the Secretary under subparagraph (2)(A)(i). Within 90 days of the submission of such a petition, the Secretary shall issue a final decision denying the petition or granting such permission.

"(iii) Any person may petition the Secretary for permission to use an implied claim described in subparagraph (1)(A) in a brand name. After publishing notice of an opportunity to comment on the petition in the Federal Register and making the petition available to the public, the Secretary shall grant the petition if the Secretary finds that such claim is not misleading and is consistent with terms defined by the Secretary under subparagraph (2)(A)(i). The Secretary shall grant or deny the petition within 100 days of the date it is submitted to the Secretary and the petition shall be considered granted if the Secretary does not act on it within such 100 days.

"(B) A petition under clause (A)(i) respecting a claim described in subparagraph (1)(A) or (1)(B) shall include an explanation of the reasons why the claim meets the requirements of this subsection and a summary of the scientific data which supports such reasons.

"(C) If a petition for a regulation under subparagraph (3)(B) relies on a report from an authoritative scientific body of the United States, the Secretary shall consider such report and shall justify any decision rejecting the conclusions of such report.

"(5)(A) This paragraph does not apply to infant formulas subject to section 412(h) and medical foods as defined in section 5(b) of the Orphan Drug Act.

"(B) Subclauses (iii) through (vi) of subparagraph (2)(A) and subparagraph (2)(B) do not apply to food which is served in restaurants or other establishments in which food is served for immediate human consumption or which is sold for sale or use in such establishments.

"(C) A subparagraph (1)(A) claim made with respect to a food which claim is required by a standard of identity issued under section 401 shall not be subject to subparagraph (2)(A)(i) or (2)(B).".

(b) REGULATIONS.—

(1)(A) Within 12 months of the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act. Such regulations—

(i) shall identify claims described in section 403(r)(1)(A) of such Act which comply with section 403(r)(2) of such Act,

(ii) shall identify claims described in section 403(r)(1)(B) of such Act which comply with section 403(r)(3) of such Act,

(iii) shall permit statements describing the amount and percentage of nutrients in food which are not misleading and are consistent with the terms defined in section 403(r)(2)(A)(i),

(iv) shall provide that if multiple claims subject to section 403(r)(1)(A) are made on a single panel of the food label or page of a labeling brochure, a single statement may be made to satisfy section 403(r)(2)(B),

(v) shall determine whether claims respecting the following nutrients and diseases meet the requirements of section 403(r)(3) of such Act: Calcium and osteoporosis, dietary fiber and cancer, lipids and cardiovascular disease, lipids and cancer, sodium and hypertension, and dietary fiber and cardiovascular disease,

(vi) shall not require a person who proposes to make a claim described in section 403(r)(1)(B) of such Act which is in compliance with such regulations to secure the approval of the Secretary before making such claim,

(vii) may permit a claim described in section 403(r)(1)(A) of such Act to be made for butter, and

(viii) may, in defining terms under section 403(r)(2)(A)(i), include similar terms which are commonly understood to have the same meaning.

(B) Not later than 18 months after the date of the enactment of this Act, the Secre-

tary shall issue final regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act.

(2) If the Secretary does not promulgate final regulations under paragraph (1)(B) upon the expiration of 18 months after the date of the enactment of this Act, the proposed regulations issued in accordance with paragraph (1)(A) shall be considered as the final regulations upon the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 4. STATE ENFORCEMENT.

Section 307 (21 U.S.C. 337) is amended by striking out "All such proceedings" and inserting in lieu thereof "(a) Except as provided in subsection (b), all such proceedings" and by adding at the end the following:

"(b)(1) A State may bring in its own name and within its jurisdiction proceedings for the civil enforcement, or to restrain violations, of section 401, 403(b), 403(c), 403(d), 403(e), 403(f), 403(g), 403(h), 403(i), 403(k), 403(q), or 403(r) if the food that is the subject of the proceedings is located in the State.

"(2) No proceeding may be commenced by a State under paragraph (1)—

"(A) before 30 days after the State has given notice to the Secretary that the State intends to bring such proceeding,

"(B) before 90 days after the State has given notice to the Secretary of such intent if the Secretary has, within such 30 days, commenced an informal or formal enforcement action pertaining to the food which would be the subject of such proceeding, or

"(C) if the Secretary is diligently prosecuting a proceeding in court pertaining to such food or has settled such proceeding out of court. In any such court proceeding by the Secretary a State may intervene as a matter of right.", and

(2) in the last sentence, by striking out "any such proceeding" and inserting in lieu thereof "any proceeding under this section".

SEC. 5. CONFORMING AMENDMENTS.

(a) SECTION 405.—Section 405 (21 U.S.C. 345) is amended by adding at the end the following: "This section does not apply to the labeling requirements of sections 403(q) and 403(r).".

(b) DRUGS.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by adding at the end the following: "A food for which a claim subject to sections 403(r)(1)(B) and 403(r)(3) is made in accordance with the requirements of section 403(r) is not a drug under clause (B) solely because the label or labeling contains such a claim.".

SEC. 6. NATIONAL UNIFORM NUTRITION LABELING.

(a) PREEMPTION.—Chapter IV is amended by adding after section 403 the following new section:

"SEC. 403A. (a) Except as provided in subsection (b), no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—

"(1) any requirement for a food which is the subject of a standard of identity established under section 401 which is not identical to such standard of identity or which is not identical to the requirement of section 403(g),

"(2) any requirement for the labeling of foods of the type required by section 403(c), 403(e), or 403(i)(2) that is not identical to the requirement of such section,

"(3) any requirement for the labeling of foods of the type required by section 403(b), 403(d), 403(f), 403(h), 403(i)(1), or 403(k) that is not identical to the requirement of such section,

"(4) any requirement for nutrition labeling of foods that is not identical to the requirement of section 403(q), or

"(5) any requirement respecting any claim made in the label or labeling of food that is not identical to the requirement of section 403(r).

Paragraph (3) shall take effect in accordance with section 6(b) of the Nutrition Labeling and Education Act of 1990.

"(b)(1) Subsection (a) does not apply to any requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food.

"(2) Upon petition of a State or a political subdivision of a State, the Secretary may exempt from subsection (a), under such conditions as may be prescribed by regulation, any State or local requirement that—

"(A) would not cause any food to be in violation of any applicable requirement under Federal law,

"(B) would not unduly burden interstate commerce, and

"(C) is designed to address a particular need for information which need is not met by the requirements of the sections referred to in subsection (a).".

(b) STUDY AND REGULATIONS.—

(1) The Secretary of Health and Human Services shall enter into a contract with a public or nonprofit private entity to conduct a study of—

(A) State and local laws which require the labeling of food that is of the type required by sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the Federal Food, Drug, and Cosmetic Act, and

(B) the sections of the Federal Food, Drug, and Cosmetic Act referred to in subparagraph (A) and the regulations issued by the Secretary to enforce such sections to determine whether such sections and regulations adequately implement the purposes of such sections.

(2) The contract under paragraph (1) shall provide that the study required by such paragraph shall be completed within 6 months of the date of the enactment of this Act.

(3)(A) Within 9 months of the date of the enactment of this Act, the Secretary shall publish a proposed list of sections which are adequately being implemented by regulations as determined under paragraph (1)(B) and sections which are not adequately being implemented by regulations as so determined. After publication of the lists, the Secretary shall provide 60 days for comments on such lists.

(B) Within 18 months of the date of the enactment of this Act, the Secretary shall publish a final list of sections which are adequately being implemented by regulations and a list of sections which are not adequately being implemented by regulations. With respect to a section which is found by the Secretary to be adequately implemented, no State or political subdivision of a State may establish or continue in effect as to any food in interstate commerce any requirement which is not identical to the requirement of such section.

(C) Within 18 months of the date of the enactment of this Act, the Secretary shall publish proposed revisions to the regulations found to be inadequate under subparagraph (B) and within 24 months of such date shall issue final revisions. Upon the effective date of such final revisions, no State or political subdivision may establish or continue in effect any requirement which is not identical to the requirement of the section which had its regulations revised in accordance with this subparagraph.

(D)(i) If the Secretary does not issue a final list in accordance with subparagraph (B), the proposed list issued under subparagraph (A) shall be considered the final list and States and political subdivisions shall be preempted with respect to sections found to be adequate in such proposed list in accordance with subparagraph (B).

(ii) If the Secretary does not issue final revisions of regulations in accordance with subparagraph (C), the proposed revisions issued under such subparagraph shall be considered the final revisions and States and political subdivisions shall be preempted with respect to sections the regulations of which are revised by the proposed revisions.

(E) Subsection (b)(2) of section 403A of the Federal Food, Drug, and Cosmetic Act shall apply with respect to the prohibition prescribed by subparagraphs (B) and (C).

SEC. 7. INGREDIENTS.

Section 403(i) (21 U.S.C. 343(i)) is amended—

(1) by striking out "If it is not subject to paragraph (g) of this section unless" and inserting in lieu thereof "Unless",

(2) by inserting before "; except" the following: "and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice contained in the food", and

(3) by striking out "colorings" and inserting in lieu thereof "colors not required to be certified under section 706(c)".

SEC. 8. STANDARD OF IDENTITY REGULATION.

Section 701(e) (21 U.S.C. 371(e)) is amended by striking out "401,".

SEC. 9. CONSTRUCTION.

The amendments made by this Act shall not be construed to alter the authority of the Secretary of Health and Human Services and the Secretary of Agriculture under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2)—

(A) the amendments made by section 2 shall take effect 6 months after—

(i) the date of the promulgation of all final regulations required to implement section 403(q) of the Federal Food, Drug, and Cosmetic Act, or

(ii) if such regulations are not promulgated, the date proposed regulations are to be considered as such final regulations,

except that section 403(q)(4) of such Act shall take effect as prescribed by such section,

(B) the amendments made by section 3 shall take effect 6 months after—

(i) the date of the promulgation of final regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act, or

(ii) if such regulations are not promulgated, the date proposed regulations are to be considered as such final regulations, except that any person marketing a food the brand name of which contains a term defined by the Secretary under section 403(r)(2)(A)(i) of the Federal Food, Drug, and Cosmetic

Act shall be given an additional 6 months to comply with section 3,

(C) the amendments made by section 4 shall take effect 18 months after the date of the enactment of this Act, and

(D) the amendments made by section 5 shall take effect on the date the amendments made by section 3 take effect.

(2) Section 403(q) of the Federal Food, Drug, and Cosmetic Act (as added by section 2) shall not apply with respect to food which was labeled before the effective date of the amendments made by section 2 and section 403(r) of the Federal Food, Drug, and Cosmetic Act (as added by section 3) shall not apply with respect to food which was labeled before the effective date of the amendments made by section 3.

(3)(A) If the Secretary finds that a person who is subject to section 403(q)(4) of such Act is unable to comply with the requirements of such section upon the effective date of final regulations to implement section 403(q) of such Act or of proposed regulations to be considered as such final regulations because the Secretary has not made available to such person the information required by such section, the Secretary shall delay the application of such section to such person for such time as the Secretary may require to provide such information.

(B) If the Secretary finds that compliance with section 403(q) or 403(r)(2) of such Act would cause an undue economic hardship, the Secretary may delay the application of such sections for no more than one year.

(b) SECTION 6.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 6 shall take effect—

(A) with respect to a requirement of a State or political subdivision described in paragraph (1) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date of the enactment of this Act,

(B) with respect to a requirement of a State or political subdivision described in paragraph (2) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, one year after the date of the enactment of this Act,

(C) with respect to a requirement of a State or political subdivision described in paragraph (3) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, as prescribed by section 6(b) of the Nutrition Labeling and Education Act of 1990,

(D) with respect to a requirement of a State or political subdivision described in paragraph (4) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date regulations to implement section 403(q) of such Act take effect, and

(E) with respect to a requirement of a State or political subdivision described in paragraph (5) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date regulations to implement section 403(r) of such Act take effect.

(2) EXCEPTION.—If a State or political subdivision submits a petition under section 403A(b)(2) of the Federal Food, Drug, and Cosmetic Act for a requirement described in section 403A(a) of such Act within 9 months of the date of the enactment of this Act, paragraphs (3) through (5) of such section 403A(a) shall not apply with respect to such State or political subdivision requirement until—

(1) 18 months after the date of the enactment of this Act, or

(2) action on the petition,

whichever occurs later.

(c) SECTION 7.—The amendments made by section 7 shall take effect one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3562, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is to make sense of the confusing array of nutrition labels that confront all consumers every time they enter the supermarket.

H.R. 3562 would require that food products disclose their nutritional content. Every food that is covered would have a uniform nutrition label that would disclose the amount of calories, fat, salt, and other nutrients. Where full labeling would be impractical, the bill provides for an exemption or requires that the information be provided in a modified form. Under this principle, restaurants are exempt from the nutrition labeling requirements. The information pertinent to fish, fruits, and vegetables would be conveyed by a sign or brochure made available at the supermarket, rather than by labeling on the food.

The bill also addresses the issue of nutrition claims on foods. First, content claims would have to be consistent with terms defined by the Secretary of the Department of Health and Human Services, who would presumably delegate this authority to the Commissioner of the Food and Drug Administration. Today, companies use terms such as "low" and "light" differently and inconsistently. On some products, "light" means low in fat; on others, such as some brands of olive oil, it refers to the color of the product. The bill would correct this deceptive and misleading state of affairs by requiring that terms such as "light" have a single meaning.

The second issue concerns disease claims. Today, a variety of disease claims are made on foods. An example would be the claim that bran prevents cancer. Under this bill, before such a claim could be made, the FDA would review the scientific evidence and decide whether the claim is valid. Once the FDA decides that a specific claim is valid, then any company could make a claim that was consistent with the FDA's findings.

Mr. Speaker, the bill before us has been substantially changed since it was reported by the Committee on Energy and Commerce. Those changes reflect negotiations between the committee and interested parties in the private sector. The legislative intent of those negotiations is reflected in a separate statement of intent of the changes that have been made to H.R. 3562 since the bill was reported by the Energy and Commerce Committee. That statement has been reviewed by both me and by Mr. MADIGAN, and it reflects our understanding of the changes that have been made.

I would like to say a word about the changes that have been made with respect to preemption of State laws because I believe that the compromise that we have negotiated reflects principles that we should adhere to in the future when addressing similar issues.

The first principle is that State laws should not be preempted unless the nature of the laws at issue makes it difficult and even impossible for companies to operate in interstate commerce. In the case of food labeling laws at issue with regard to H.R. 3562, the food industry made a strong argument that this was the case. A national food processor understandably finds it difficult to comply with numerous conflicting and inconsistent State and local laws. This argument, which has particular appeal with respect to food labels, would have far less appeal where other types of preemption are at issue.

Second, the States should never be preempted unless a strong Federal regulatory system is in place. Under this principle, provisions for preempting the States on nutrition labeling and health claims were included in H.R. 3562 at the time it was reported out by the Subcommittee on Energy and Commerce.

However, the bill before the Members today contains provisions that would preempt other aspects of the food label, such as provisions regarding misleading containers and the prominence of labeling. Because we were unable to determine whether the Federal standard is strong in these areas, the bill provides for a study of Federal and State standards to determine whether additional Federal regulation is needed. If additional Federal regulation is deemed necessary, then the States will not be preempted until those regulations are in place.

Third, any preemption provision must recognize the important contribution that the State can make in regulation, and it must leave a role for

the states. H.R. 3562 recognizes the importance of the State role: by allowing States to adopt standards that are identical to the Federal standard, which may be enforced in State court; by allowing the States to enforce the Federal standard in Federal court; and by allowing the States to petition for permission to enforce a separate State law where the State demonstrates a particular need and where such a law would not unduly burden interstate commerce.

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Fourth, and most importantly, the most compelling argument for State regulation is where the States have adopted laws to protect the safety of their citizens. Therefore, the preemption provisions in H.R. 3562 explicitly permit the States to adopt requirements for warning about the ingredients or components of food.

As a result of these negotiations, H.R. 3652 has strong support from both the public health organizations that have been active on nutrition issues and from the trade associations of food companies that will be affected by the bill. I have received letters of support from the American Bakers Association, the Food Marketing Institute, Grocery Manufacturers of America Inc., International Ice Cream Association, Milk Industry Foundation, the National American Wholesale Grocers Association, the National Food Processors Association, the National Grocers Association as well as the American Dietetic Association, American Heart Association, American Cancer Society, American Association of Retired Persons, and the Society for Nutrition Education.

I would like to say a final word about the work behind this bill. As is true of any important piece of legislation, H.R. 3562 is the result of hard work by many Members, some of whom have had their own legislative proposals in this area, specifically Mr. COOPER, Mr. SLATTERY, Mr. SMITH, and Mr. GLICKMAN.

There are two Members whose contribution I would particularly like to single out for special mention. The first is the gentleman from Massachusetts, Mr. MOAKLEY, who has championed the cause of nutrition information for many years and who introduced legislation which served as the progenitor of H.R. 3562 before our subcommittee even considered it.

The second Member I would like to thank is my friend, the gentleman from Illinois [Mr. MADIGAN], the principal cosponsor of this bill. From the time the bill was introduced, the gentleman from Illinois has worked tirelessly to ensure that the bill remains strong and that we do all we can to enact it into law. He has insisted that the bill be as effective as possible so that all Americans can be fully and fairly informed about the nutritional characteristics of the food that they eat.

Then last I want to mention the contribution of the staff, particularly the minority staff, Mary McGrane, and our subcommittee counsel, Bill Schultz.

STATEMENT OF INTENT OF CHANGES IN THE VERSION OF H.R. 3562 REPORTED BY COMMITTEE ON ENERGY AND COMMERCE

There are a number of changes from the version of H.R. 3562 that was reported by the Committee on Energy and Commerce. The intent of significant changes is discussed below:

Section 403(q)(4), in the version reported out by the Committee, directed the Secretary to issue regulations requiring that retailers that sell fresh fish, fruits and vegetables to provide nutrition information on the 20 most frequently consumed varieties of each type of product. The provision in the bill instead adopts a guideline approach which would be followed by regulations if a significant number of retailers were not in compliance with the guidelines.

Under the bill, the Secretary would adopt guidelines within 12 months of enactment. The guidelines would provide for furnishing the nutrition information required by 403(q) (1) and (2) through signs, brochures or other similar methods. The information would be furnished for the 20 most common varieties of fruit, vegetables and fish. In promulating the guidelines, the Secretary would take into account the experience in any voluntary programs that had been adopted by food retailers.

The bill requires the Secretary to adopt regulations if there is not substantial compliance with the guidelines. The Secretary is required to issue regulations defining substantial compliance within 12 months after the date of enactment. The Secretary is required to include in that definition the concept that there will be a finding of no substantial compliance if a significant number of retailers are not in compliance with the Act. In making this determination, the Secretary shall also provide that the size of the retailers in compliance and not in compliance will be considered, as well as the portion of the market served by retailers in compliance with the guidelines.

Section 403(q)(4)(C) requires that, 30 months from the date of enactment, the Secretary shall issue a report on whether there has been substantial compliance with the guidelines. If the Secretary finds that there has been substantial compliance, then regulations would not be issued, but the Secretary would review the determination every two years. However, if the Secretary at any time finds that there is not substantial compliance with the guidelines, then the Secretary must, at the same time, issue proposed regulations requiring that the information required by subparagraphs (1) and (2) be furnished for raw agricultural commodities and raw fish. Final regulations must be issued six months thereafter, and they may require labeling for more than 20 types of fish, fruits and vegetables if the Secretary finds additional labeling is required so that all frequently consumed products are covered by the nutrition labeling requirements.

These regulations would replace the voluntary guidelines. A provision is also included that would require the proposed regulations be treated as the final regulations if the Secretary misses the deadline for issuing the final regulations.

Section 403(q)(5) has been amended by adding clause (F) which provides that section 403(q) shall not apply to a food distributor that sells principally to restaurants and other food service establishments. Under the bill, the manufacturer of such products would be responsible for providing the nutrition information on the products if there is a reasonable possibility that the product will be purchased directly by consumers, even if the principal customers are restaurants and other wholsale purchasers. However, section 403(q)(5) provides that the distributor is not liable as long as the distributor does not manufacture the product sold to the consumer.

Section 403(r)(1) has been amended to make it clear that the information on the nutrition label is not a claim under that provision and therefore is not subject to the disclosure requirements in section 403(r)(2). This provision would extend to optional statements permitted on the panel containing nutrition information, but the identical information will be subject to section 403(r)(2) if it is included in a statement in another portion of the label.

Section 403(r)(2)(A)(iii) has been amended to prohibit claims as to the level of cholesterol if the Secretary determines by regulation that the food contains fat or saturated fat in an amount that increases to persons in the general population the risk of disease or a health-related condition that is diet related. The provision provides for exceptions to this rule, but the levels of fat and saturated fat that increase the risk must be disclosed. Sections 403(r)(2)(A) (iii)-(v) have been amended so that the size of the required disclosure statement may be smaller than the size of the claim if the Secretary finds a smaller size would be appropriate, but in no event may the disclosure statement be smaller than one-half the size of the claim.

Section 403(r)(2)(A)(vi) has not been amended. That provision provides that the Secretary may prohibit any claim that is misleading in light of the level of another nutrient. Under this authority, the Secretary could also require statements on the labeling of the type required by sections 403(r)(2)(A) (iii)-(v).

The disclosure required in section 403(r)(2)(B), which applies any time that a claim of the type described in section 403(r)(1)(A) (such as "low salt") is made, has been shortened to "See — for nutrition information.", with the blank referring to the nutrition panel. However, the statement must also identify any nutrient found by the Secretary to increase the risk of disease or a health-related condition to persons in the general population. Thus, if the Secretary found that fat in a food that made a claim described in section 403(r)(1)(A) increased that risk, then the statement would read "See [nutrition panel] for information about fat and other nutrients."

Section 403(r)(3) refers to disease claims (such as "fiber prevents cancer"). Section 403(r)(3)(A)(ii) prohibits a disease claim on food if it contains other ingredients that are associated with a health risk. However, that provision has been changed to provide that the Secretary may permit such a claim even if the food contains an ingredient associated with a health risk based on a finding that the claim would assist consumers in maintaining healthy dietary practices. In that event, the label must refer to the nutrient

panel in accordance with the rules in section 403(r)(2)(B) and discussed above.

Section 403(r)(4) provides for petitions to the Secretary to issue regulations relating to health claims. The provision has been amended to provide that the Secretary must take initial action on the petition within 100 days, by either filing the petition (on the grounds that it is not deficient and not obviously defective) or denying the petition. A petition that is denied shall not be made available to the public. However, once the petition is filed then it will be made available, unless disclosure is specifically prohibited by another provision of law.

Section 403(r)(4)(A)(iii) has been added to provide a petition procedure for implied content claims in brand names (such as "Diet Orange Juice" which implies that the product is low in calories). Under this provision, the Secretary must act on such a petition within 100 days, and the petition will be considered granted if the Secretary does not act within that period of time. However, the Secretary is expected to provide an opportunity for public comment on such a petition, and any decision would be subject to judicial review.

Section 403(r)(4)(C) has been added to provide that in considering any petition for a disease claim regulation, the Secretary must consider any report from an authoritative scientific body of the United States (such as the National Cancer Institute) and the Secretary must justify any decision rejecting the conclusions of the report.

Section 403(r)(5)(B) has been amended to provide that restaurants that use content descriptors in connection with the sale of food (for example, the use of the word "light" or "low" on a menu) must comply with the regulations issued by the Secretary under section 403(r)(2)(A)(i). Restaurants would also be prohibited from stating the absence of a nutrient in food unless they complied with section 403(r)(2)(A)(ii). However, restaurants would be exempt from the disclosure requirements in sections 403(r)(2)(A) (iii)-(v) and 403(r)(2)(B).

A number of clarifying provisions have been added to section 3(b), which gives the Secretary direction concerning the regulations that must be issued to implement section 403(r). Under section 3(b)(1)(A)(iii), the Secretary is required, in the regulations, to define the circumstances under which statements disclosing the amount and percentage of nutrients in food will be permitted. Those statements must be consistent with the terms that the Secretary has defined under section 403(r)(2)(A)(i) and they may not be misleading under section 403(a) in current law.

Thus, if the Secretary defined "low fat" as less than 1% fat for a particular category of food, the Secretary might conclude that the statement "Less Than 1% Fat" is consistent with the defined term. However, the Secretary might conclude that the statement "Less Than 2% Fat" is not consistent with the definition of "low" because it implies that the product is low in fat when it is not. Following a similar analogy, the Secretary might prohibit the statement "98% Fat Free" while permitting the statement "More Than 99% Fat Free" for a product where "low fat" has been defined as less than 1% fat.

Section 3(b)(1)(A)(viii) makes it clear that in defining terms under section 403(r)(2)(A)(i), the Secretary may also identify and permit the use of terms that are commonly understood to have the same meaning. However, the law would prohibit the use of any term that characterizes the level of a nutrient unless that term is defined by the Secretary.

Section 4 has been amended to limit state actions to enforce federal law to civil actions under the Federal Food, Drug and Cosmetic Act. In addition, the scope of this provision has been expanded to included other provisions in the Act. Finally, a provision has been added (section 307(b)(2)(B)) to permit the Secretary to delay any State action for 90 days if the Secretary notifies the State that the Secretary has initiated an enforcement action. However, the State may commence the action at the end of the 90-day period, unless the Secretary has entered into a formal, written settlement of the matter or has filed a judicial action in the name of the federal government.

Section 6, which provides for the preemption of certain State laws, has also been expanded. In the bill reported out by the Committee, State requirements pertaining to nutrition labeling and health claims were prempted unless they were identical to the federal requirements. Section 6 has been expanded to provide for preemption of certain, other State laws that are not identical to certain provisions of section 401 pertaining to standards of identity and section 403 pertaining to the label on foods.

Under section 403A(a)(1), State requirements for foods that are subject to a standard of identity are preempted unless identical to the federal requirements. A standard of identity is a recipe established by federal regulation that requires that food have specified ingredients. For example, ice cream and many other dairy products are subject to standards of identity. Under this provision, a standard of quality and identity would be treated as a standard of identity. Section 10(b)(1)(A) provides that section 403(A)(a)(1) will become effective upon the date of enactment.

Section 403A(a)(2) provides for preemption of State requirements for labeling of food of the type required by section 403(c) (imitation labeling), 403(e) (name and address of the manufacturer and net weight) and 403(i)(2) (ingredient labeling). Section 10(b)(1)(B) provides that this section will become effective one year from the date of enactment.

Section 403A(a)(3) provides for preemption of certain other sections of 403 that all pertain to the food label. Prior to the time that this section would become effective, the Secretary must undertake a study of federal standards. Any provisions that have not been adequately implemented by federal regulations would not be preempted until additional federal regulations are issued.

Section 403A(a) (4)-(5) contains provisions for preempting State laws on nutrition labeling and claims that are similar to the provisions included in the bill reported by the Committee.

Prior to the effective dates of the various provisions in section 403A, it is anticipated that the States and the federal authorities will work to strengthen and harmonize federal laws. Hopefully, the States will focus their energies in that direction rather than in the direction of issuing additional laws that would ultimately be preempted by section 403A.

Section 403A(b)(1) states that section 403(a) does not apply to any requirement for a statement in food labeling (including statements on the label) that provides a warning concerning the safety of the food or a component of the food. This section may be unnecessary because section 403 does not require health warnings and therefore, by the terms of section 403A, state laws requiring health warnings would not be preempted. Nevertheless, section 403A(b)(1) has been included to underscore that State laws requiring warnings pertaining to the safety of foods are not preempted.

State laws pertaining to the following matters would also not be preempted: open date labeling; unit price labeling; grade labeling; container deposit labeling; religious dietary labeling; item price labeling; organic labeling; and previously frozen labeling. This is not intended to be a complete list of State labeling laws that are not preempted.

Section 403A(b)(2) permits State petitions for exemptions from the preemption in 403A(a). This provision has been revised in accordance with the revisions in section 403A(a).

Section 6(b)(1) requires the Secretary to enter into a contract for a study of State and local laws of the type that will be preempted by section 403(a)(3), and of the relevant federal laws and regulations. The purpose of this study is to provide the Secretary information upon which to determine whether federal laws are adequate once the State laws are preempted. It is anticipated that the study will identify all federal regulations that are applicable as well as State laws that will be preempted. The study should also survey local laws, but it is not anticipated that every local law will need to be identified. Section 6(b)(2) provides that the study must be completed within 6 months.

Under section 6(b)(3), the Secretary must, nine months after enactment, determine which of the federal laws listed in section 403A(a)(3) are adequately being implemented and which are not being adequately implemented. Adequate implementation does not contemplate the base minimum. Instead, after examining the State activity in these areas, the Secretary must determine whether the sections listed in 403A(a)(3) are being fully implemented either by enforcement of those sections or by regulations. After the lists are published, 60 days will then be permitted for comment.

Section 6(b)(3)(B) provides that within 18 months of enactment, after evaluating any comments received, the Secretary shall publish a final list of sections that are adequately being implemented by regulations and a list of sections that are not being adequately implemented. As to any sections being adequately implemented, State laws not identical to those sections will be preempted at that time.

As to any sections not being adequately implemented, the secretary is required to issue proposed regulations at the time the Secretary makes that finding. The final regulations must be implemented six months later.

Section 6(b)(3)(D) provides that the proposed list and the proposed regulations will become effective if the Secretary misses the deadline for final regulations. This provision, which is similar to provisions that are included elsewhere in the statute, is intended to pressure the Secretary to meet the Congressional deadlines for issuing regulations.

There may be State laws that the Secretary finds are valuable, but which, for whatever reason, should not be adopted on a national scale. Under section 10(b)(2), a State may petition to retain the effectiveness of that law under section 403A(b)(2). If the State petition is submitted within 9 months of enactment, then the State will not be

preempted with respect to sections 403A(a)(3)-(5) until 18 months after the date of enactment or action on the petition, whichever occurs last.

There is no analogous provision for paragraphs (1) and (2) of section 403A(a), which will become effective immediately in the case of paragraph (1) and within one year in the case of paragraph (2). However, the States may submit petitions under section 403A(b)(2) and the Secretary is expected to act on such petitions promptly.

Section 7 would eliminate two significant exceptions to the mandatory ingredient labeling requirements in section 403 of the Federal Food, Drug and Cosmetic Act and would impose new requirements for the labeling of fruit and vegetable juices. Section 7(1) would repeal the exception to mandatory ingredient labeling that is currently provided to products covered by standards of identity, the only major category of products exempted under current law.

Section 7(2) would require statements as to the percentage of fruit or vegetable juice contained in products sold as such juice. The Secretary is expected to give the industry guidance as to how this information should be calculated.

Section 7(3) requires that color additives subject to certification under section 706(c) of the Federal Food, Drug and Cosmetic Act be identified on the food label. This section is intended to require the listing of all the coal tar dyes that are permitted in foods, but not to require the listing of natural colors. The 10 dyes that would be covered are listed at 21 C.F.R. 74.101-74.710. The colors may be identified by the shortened version of their name ("Blue 2" rather than "FD&C Blue No. 2"). This section will become effective one year from enactment.

Section 8 eliminates the formal rulemaking requirement for standards of identity, so that standards of identity may be modified or issued under simple notice and comment procedures. This should assist the Secretary in bringing the definitions of the descriptors required by standards of identity (such as "low fat milk") into compliance with the definitions issued under the Act. Section 8 will become effective on the date of enactment.

Mr. Speaker, before going any further I yield 5 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], who I mentioned has played such an important role in this legislation, and I would like to acknowledge at this time the great work and contribution he has made to that and thank him for it.

Mr. MOAKLEY. Mr. Speaker, it is with great pleasure that I come before you today to express my very strong support for H.R. 3562, the Nutrition Labeling and Education Act of 1990. This issue is very important to me and I thank the gentleman from California [Mr. WAXMAN] for his tireless efforts to bring a strong, responsible, and fair nutrition labeling bill to the floor. I know that he and his staff have spent many months working on this legislation. He has been able to accommodate many of the valid concerns of business and still produce an excellent bill that will serve the consumers in the country well.

For the first time, consumers will be able to purchase foods with nutrition content labeling on all packages. Currently only about half of the food products on the grocers' shelves contain nutrition information on the label. Of those only the ones making specific health, diet, or nutrition claims are required by law to list nutrition contents. Additionally, existing labeling on foods is often inadequate for today's consumer needs. It is also confusing and, in some cases, very misleadng. Terms such as "litte," "high fiber," and "low cholesterol," which now have litle or no guidelines, will be defined and their use restricted to the FDA definition. This bill will help curb misleading claims and will direct the Food and Drug Administration to present information in a format that will enable consumers to better understand and utilize this information in the context of the total daily diet.

Last year I introduced legislation called the Food Labeling and Heart Disease Reduction Act which focused on our Nation's No. 1 killer, heart disease. Over half a million Americans die each year from cornary heart disease. Over 1.25 million people suffer heart attacks annually. And, in 1985, the cost of lost productivity and direct health care expenditures due to illness and deaths from heart disease was an estimated $49 billion.

Although the causes of heart disease are multifactorial, including genetic predisposition, there are three major modifiable risks factors to help prevent heart disease—high blood cholesterol, high blood pressure, and cigarette smoking. The first two are directly influenced by diet. In order to reduce these risk factors through diet, the Surgeon General, the American Heart Association, and other health authorities have recommended specific dietary guidelines. And while surveys have shown that increasing numbers of Americans are concerned about their diets and reducing the risk of heart disease and other aliments, there is no requirement on the current nutrition label that manufacturers include this necessary information to meet these guidelines.

My legislation would have required a relatively simple restructuring of the nutrition label to include this important, potentially lifesaving information to enable consumers to make informed, educated decisions on food purchases. I am pleased to report that Chairman WAXMAN has graciously included much of the language in my bill in this comprehensive nutrition labeling bill.

Mr. Speaker, at this time I especially want to thank the gentleman from Illinois [Mr. MADIGAN] for his outstanding efforts on this matter. I know how hard he and his staff worked in putting this bill together.

I urge my colleagues to join me in passing this landmark nutrition labeling initiative.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 3562 as amended. Neither Federal regulation of nutrition labeling nor industry efforts have kept pace with scientific knowledge about diet and nutrition. Consumers today are confronted with a variety of labels that provide them with disjointed and confusing information. This bill is an effort to remedy this situation while allowing FDA sufficient flexibility to modify the rules when valid, new scientific information is presented. Given increased consumer awareness and advances in our scientific knowledge on the relationship between diet and health, this legislation is very timely.

In the past few years, important scientific evidence has been repeatedly reported that clearly links dietary habits to good health. For this reason, the need to provide consumers with better information about the foods they eat is important. The question before us today is how can consumers be most effectively informed about these risks and be given the ability to make the most appropriate choices for themselves.

I think the amended version of H.R. 3562 effectively accomplishes this goal by providing complete and meaningful information to the consumer. It strikes the right balance in providing consumers with information, without being overly burdensome on industry.

The main features of the bill require mandatory nutrition labeling for most foods that will be uniform throughout the country. It also requires that claims that products have certain characteristics such as "low fat" and "light" must meet definitions established by the FDA for the use of these characteristics. In addition, the bill will also provide for the regulation of health claims in order to ensure that these claims are scientifically valid.

The bill before us represents innumerable hours of negotiation with the food industry and consumer groups that have taken place since the bill was reported by the Energy and Commerce Committee. The bill is fair to both consumers and industry in that it emphasizes disclosure of all valid and relevant information to the consumer, while providing the industry with uniformity of law in a number of important areas that will permit them to conduct their business of food distribution in an efficient and cost-effective manner. I am pleased to say that this bill is now supported by the Grocery Manufacturer's Association, the National Food Processors Association, the Food Marketing Institute, the National Grocer's Association, and a significant number of public health and consumer groups.

I would like to express my appreciation to the distinguished chairman of

the Health and Environment Subcommittee for his willingness to work out the many concerns that have been raised about this bill. I would also like to thank his staff, Bill Schultz, for the many hours of work he put in to reach the consensus we have achieved on this bill. In addition, David Meade, of the Office of Legislative Counsel, deserves credit for the considerable time he devoted to the crafting of this legislation.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

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Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, this is the second very important health care legislation we are considering today. It is extremely important that we realize that although it is obviously not health care legislation, this could have as great an impact as anything this body could do to promote the health of all Americans.

The previous piece of legislation we considered would help put doctors in underserved areas across our great country.

This legislation will allow all Americans, every time they go to the grocery store to shop, to purchase foods that are good for them and for their families.

We are lucky in America. We enjoy some of the greatest stores in the world's history of any place on Earth today. We have been misled in the past, sometimes, by products that are not fairly labeled, products that do not tell the whole truth on the label, and it has become almost an exercise in frustration to go to the grocery store today and try to shop for the most healthful needs of your family.

So this bill will go a long way toward enabling the consumers every time they go to the grocery store, to shop for the foods they really need and deserve.

My interest in this came 5 or 6 years ago when I learned how many products were mislabeled in terms of "lite" and "lean." Virtually every product in the store had, it seemed, lite or lean somewhere plastered on the front of the package. But if you read the label carefully, if there was a label, you discovered these products were not as lite or lean as they bragged about being.

This is just one slender aspect of this bill. This bill touches all dimensions of food labeling. I think it is a tribute not only to the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], but also the gentleman from Illinois [Mr. MADIGAN] for crafting legislation with this power and with this remarkable degree of unanimity.

Mr. Speaker, food labeling bills are very, very difficult to pass. It is almost unheard of them to be brought to the floor on suspension. I think it is a tribute to these two fine gentlemen that they were able to fashion a compromise of this magnitude and scope, and I think it will be good for the health of all Americans that this bill be passed.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is a tremendously significant consumer advance. Those of us who have tried to watch our diets, tried to watch the food we eat, and to follow the regime suggested by the Surgeon General have been frustrated by the fact that we have not had the information on food products that could provide us the information that we need to follow those recommendations.

Those of us who watch our caloric intake have been misled many times by misleading serving size information on products.

This kind of deception will be corrected as we now move legislation for mandatory nutrition labeling. There are labels now, but there is no requirement that there be nutritional labels on products. They are done voluntarily.

This legislation would require full information so that consumers will get the kind of information they want.

Consumers do want to know about calories. They want to know about fiber and sodium. They want to know about cholesterol. There are the macroingredients that can help us as we design our diets.

So often, we are told about minor nutrients that have some relevance but not a great deal of relevance to most people.

And then there is the issue of health claims. Prior to the mid-1980's, health claims were simply not permitted. A health claim on a food product turned that food product, in a legal sense, from a food to drug because if the health claim were made, then the product had to go through the approval process at FDA to show the efficacy of that claim was valid, the same as would be required by a pharmaceutical.

That was an awfully stringent requirement. And in the attempt to liberalize the rules, the FDA opened the door to any health claim rather than closing the door to any health claim.

What we have sought to do is to permit health claims but only health claims based on scientifically valid information, and we hope by having that scientifically valid information upon which a claim can be made, that health claims in the future will be healthful and not misleading.

So there are two purposes of the legislation: give consumers nutrition information about the products they are consuming; and, second, prohibit misleading health claims.

We have had other concerns that have been raised, and we tried to deal with those concerns. We have had amendment after amendment of this legislation in subcommittee, in committee and even as of the time we moved to the floor of the House.

We tried to deal with questions that have been raised. For example, what kind of information should be given on fresh fruits and vegetables? There are nutritional values to these products, consumers ought to know about it, but then the question is raised how these bits of information should be given out.

We tried to be as flexible as possible in establishing the way the information would be given out. And I think we have worked out a compromise that has satisfied everyone so that grocers will furnish this information, either through leaflets that would be distributed or signs that would be posted. These are certainly not onerous requirements for fresh fruit or vegetable product.

So we have a bill of which we can all be proud. I think it is a strong, a good consumer bill, it is a good health bill.

I would hope that Members see fit to support it.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, at this time I would appreciate engaging the distinguished chairman of the subcommittee in a colloquy if I may.

Mr. Chairman, on page 23 of the report in section 3, reference is made to the use of the term lite "butter," and it is further referred to in two footnotes on the bottom of that page.

My inquiry is whether it would be within the authority of the FDA under the language we have been discussing to authorize the marketing of a product called lite butter that achieved not only the standards in the footnote but indeed, if it were possible, a product that could be 35 or 40 percent milk fat, and with a third less calories as long as it were not nutritionally inferior and kept other characteristics of butter and were properly labeled. In other words, my point is whether or not we are able to meet but perhaps to exceed some of the characteristics referred to in section 3? I wanted to insure that FDA retained that authority, as I believe section 3 of the report indicates that its does.

□ 1600

Mr. WAXMAN. Mr. Speaker, if the gentleman will continue to yield and would permit me to respond to that, it would be in the FDA's discretion to determine the characteristics of light butter.

Mr. TORRICELLI. Inquiring further if I could, as I am certain the gentleman is aware, in April 1990, there was submitted to FDA a citizen petition for establishment of a common or usual name regulation for such a product. In other words, using the term "light butter." I understand from the gentleman's comments that under the language of the bill, it would be within the FDA's authority to grant that petition; does that continue to be the case?

Mr. WAXMAN. The gentleman's understanding is correct, to my knowledge.

Mr. BRUCE. Mr. Speaker, H.R. 3562 is much needed legislation. In the past 15 years, eating habits have changed and our knowledge of nutrition has grown. Several groups, including the American Heart Association and the National Academy of Sciences indicate that we need to pay closer attention to our diet.

The bill on the floor today is a result of weeks of discussions between committee staff and industry. I am pleased that the resulting bill expands the uniformity provisions, but an important provision on health warnings was omitted.

This omission may have major ramifications for the food industry. The United States has a national food production, distribution, and marketing system. Consumers on the west coast eat the same nationally marketed food brands as their counterparts on the east coast. The industry has a huge task ahead of them and that is the job of changing the more than 20,000 labels in a typical grocery store. For example, one company estimated that to accommodate any one State with unique food labeling requirements would require additional costs of up to $3 million for design and engraving and up to $15.6 million in additional packaging material costs annually and unique State labeling requirements would necessitate the routing of more trips of shorter distances requiring more trucks and increased fuel costs, all of which contribute to the final sales price paid by the consumer.

In H.R. 3562, the House has taken a great step forward in establishing uniformity and clarifying the Federal-State relationships for certain aspects of food labeling. The House clearly has chosen to deal specifically with selected nutrition provisions of the Food, Drug, and Cosmetic Act. However, the Food, Drug, and Cosmetic Act is very complex and broad in scope; it contains numerous other provisions dealing with foods and other products. In adopting this bill, the House expresses no opinion about the matter of uniformity in respect to those other provisions.

Federal courts have on prior occasions determined that the Food, Drug, and Cosmetic Act preempts State activity in areas encompassed by the act. For example, in the *Rath Packing* case (430 U.S. 519 [1977]), the Supreme Court held that the act preempted State requirements. Similarly, U.S. appeals courts held that Federal requirements preempted State rules in *Committee for Accurate Labeling and Marketing* v. *Brownback* (665 F. Supp. 880 [D. Kan. 1987]) and in *Cosmetic Toiletry and in Fragrance Association* v. *Minnesota* (440 F. Supp. 1216, 1222-23 [D. Minn. 1977]). It is likely that Congress in future legislative matters affecting other areas of the act will have the opportunity to address these other aspects of uniformity. FDA and the courts remain free to establish national uniformity in all the areas not covered by this legislation.

Mr. EMERSON. Mr. Speaker, I rise in support of this bill, which through modifications, has come to enjoy the support of industry, as well as consumer groups. H.R. 3562 will move the Food and Drug Administration forward in meeting consumer food information needs, which are increasingly important as the relationship between diet and health becomes better understood.

I am also pleased to note that the bill includes a provision, section 3(b)(1)(A)(v), which makes clear the authority of the Secretary to allow claims to be made for butter products with less than 80 percent fat. Very appropriately, the committee report indicates that the Secretary may permit such claims using whatever term the Secretary deems appropriate. There is no intention in this legislation to prejudge which terms may be used. A review by the Secretary to determine what terms would be appropriate as descriptive of the product and consistent with the regulation of other food labeling statements is envisioned. The Secretary may deem it appropriate to allow for these dairy spreads and butter products to be labeled under regulations governing common or usual names.

Whatever nomenclature is decided upon by the Secretary, it is a sound step forward to permit dairy spreads to bear claims that will help consumers understand the character of the product being offered to them.

Mr. TAUKE. Mr. Speaker, I rise in support of H.R. 3562, the Nutrition Labeling and Education Act. This legislation will for the first time require that most foods be labeled for nutritional content, providing consumers with the information they need to select more healthful diets, standardizing label format and content, and clarifying the basis for making health claims about foods.

It was my pleasure to participate in the development of this legislation, and I wish to especially thank my colleagues Congressman HENRY WAXMAN and Congressman ED MADIGAN for their efforts to perfect this legislation and bring it to the House floor.

Over the past several years, we have made great strides in understanding the role of diet generally and specific types of food in particular in promoting health. H.R. 3562 reflects this knowledge and translates it into meaningful labels for the American consumer.

Mr. McMILLEN of Maryland. Mr. Speaker, the Nutritional Labeling and Education Act, H.R. 3562, is scheduled for consideration today. This legislation will provide for national uniformity in nutritional labeling on food products supplied to consumers. Unfortunately, this bill does not provide for similar uniformity in health warning labels. Because I believe that, overall, the bill is a positive step toward national uniformity in food labeling, I am lending my support toward passage of this bill. However, I must voice my disappointment that this legislation is silent on the issue of health warnings.

Without national uniformity requirements for health warnings on food labels, manufacturers are forced to continue operating in a system of patchwork regulations. It should be evident that this is yet another example of how the United States continues to perpetuate hurdles to its own competitiveness in the international market place. By requiring manufacturers to abide by 50 different State labeling regulations we are in effect legislating higher prices and wasted resources; the direct result of which is to place ourselves behind foreign competition. It is ironic to consider that as Europe is rapidly moving toward cohesion in its domestic market place, thereby increasing its international competitiveness, America is simultaneously moving toward greater diversity.

I am hopeful that Congress will see fit to address the issue of national uniformity in health warning labels in the near future. American products can and will become more competitive in the world market but not unitl we eliminate these self-created handicaps.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3562, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING A MEMORIAL TO GEORGE MASON IN THE DISTRICT OF COLUMBIA

Mr. MANTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3687) to authorize the Colonial Dames at Gunston Hall to establish a memorial to George Mason in the District of Columbia, as amended.

The Clerk read as follows:

H.R. 3687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Board of Regents of Gunston Hall is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor George Mason.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works

on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the memorial.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILLMOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GILLMOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3687, as amended, authorizes the establishment of a memorial to George Mason as an addition to an existing legislatively established commemorative work, the George Mason Memorial bridge. While the southbound lanes of the 14th Street Bridge have been designated as the George Mason Memorial Bridge pursuant to a law enacted in the 86th Congress, this fact is not generally known, even to area residents. At no expense to the Federal Government, a memorial would be constructed on the flank of that bridge to better commemorate the author of the Virginia declaration of rights and a principal architect of the Bill of Rights. This legislation is necessary in the event that the flank of the northern end of the bridge is chosen as the site for that memorial. The Senate has already acted on the companion bill, S. 1543. At this time I urge my colleagues to support passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3687, which authorizes the board of regents of Gunston Hall to build an addition to the existing memorial to George Mason.

George Mason, author of the Virginia bill of rights upon which our Nation's Bill of Rights is based, was an outstanding statesman and Founding Father of our country. The board of regents of Gunston Hall, Mason's home, would like to memorialize this exemplary Founding Father of our country further by erecting a monument to him. With their involvement, the board of regents will help to ensure our youth are educated about the contribution George Mason made to the birth of our country.

Mr. Speaker, I urge my colleagues to join me in supporting passage of H.R. 3687.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise to urge passage of H.R. 3687, legislation which I introduced to authorize the erection of an appropriate memorial at the foot of the George Mason Memorial Bridge, which is the southbound span of the 14th Street Bridge over the Potomac River.

Next year, we will celebrate the 200th anniversary of the ratification of the Bill of Rights, which was derived from the Virginia declaration of rights, authored by George Mason. George Mason, the father of Virginia's 1776 Constitution, insisted that Virginia's Constitution provide real protections for the ordinary citizen out of concern over what kind of government would ultimately lead this country.

In Virginia's declaration of rights, Mason wrote that "government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community, of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public will."

The contributions of George Mason to the success of this Nation cannot easily be quantified—perhaps, however, we can best pay tribute to his contributions by taking just 1 minute to reflect on what our lives would be like without the Bill of Rights, and, second, whether our country would still exist in its current form today if the Bill of Rights had not been added to the Constitution.

Mr. Speaker, I urge my colleagues to support this bill to erect, at no cost to the Federal Government, a memorial in tribute to one of the most important Founding Fathers of the greatest democracy in the world.

Mr. Speaker, I include the Virginia declaration of rights, as follows:

VIRGINIA DECLARATION OF RIGHTS

ORDINANCES & C.

(A Declaration of Rights made by the representatives of the good people of Virginia, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and foundation of government.)

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be instituted for the common benefit, protection, and security, of the people, nation, or community, of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and satety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the publick weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or priviliges from the community, but in consideration of public services; which, not be descendible, neither ought the offices of magistrate, legislator, or judge, to be hereditary.

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the publick good.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his savour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and suits between man and man, the

ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

15. That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our C R E A T O R, and the manner of discharging it, can be directed only by reason and conviction, not by force of violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscienies; and that it is the mutual duty of all to practice Christian, love, and charity, towards each other.—Drawn originally by George Mason and adopted by the General Convention June 12, 1776.

Mr. GILLMOR. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of H.R. 3687—which authorizes the establishment of a memorial, built with non-Federal funds, on Federal land—to honor George Mason in the District of Columbia.

George Mason was a wealthy landowner, neighbor, and friend of George Washington, and in the words of Thomas Jefferson, "a man of the first order of wisdom * * * profound judgement * * * [a man] of the first order of greatness."

Mason wrote the Virginia Declaration of Rights, which served as the basis of our own Declaration of Independence and the first 10 amendments to the Constitution, the Bill of Rights. George Mason was a man of such principle that he refused to sign the original Constitution because it omitted the guarantees of individual freedom which he set forth in his Declaration of Rights. The validity of his position was acknowledged by the swift adoption of the first ten amendments.

Mr. Speaker, in Robert Rutland's book, "George Mason: Reluctant Statesman," Dumas Malone of the University of Virginia has written a foreword which capsulizes George Mason's contributions to our heritage. I insert this foreword at this point in the RECORD.

FOREWORD

That the name of George Mason should be acclaimed throughout the Republic whose birth pangs he shared, and indeed throughout the free world, will be agreed, I believe, by all American historians. He was the author of the Virginia Declaration of Rights, which was adopted three weeeks, before the national Declaration of Independence; and in this he charted the rights of human beings much more fully than Jefferson did in the immortal but necessarily compressed paragraph in the more famous document. Of the contemporary impact of Mason's Declaration there can be no possible question. Draftsmen in other states drew upon it when they framed similar documents or inserted similar safeguards of individual liberties in their new constitutions. Universal in its appeal, it directly affected the French Declaration of the Rights of Man and the Citizen of 1789. In our own time it is echoed in the Declaration of Human Rights of the United Nations. Writing in his old age, Lafayette said: "The era of the American Revolution, which one can regard as the beginning of a new social order for the entire world, is, properly speaking, the era of declarations of rights." More than any other single American, except possibly Thomas Jefferson, whom in some sense he anticipated, George Mason may be regarded as the herald of this new era; and in our own age, when the rights of individual human beings are being challenged by totalitarianism around the world, men can still find inspiration in his noble words.

The fact that Jefferson rather than Mason became the major American symbol of individual freedom and personal rights is attributable to no difference between the two men in basic philosophy, but was owing rather to the subsequent course of events and the accidents of history. Mason was by no means a minor figure in his own time; besides the Declaration of Rights he was the main author of the Virginia Constitution of 1776; and, because of his recognized wisdom, he was constantly consulted by other leaders. But, partly because of health, partly because of family cares, partly because of temperament, he was, in Mr. Rutland's apt phrase, a reluctant statesman. At times other leading Virginians sought to escape the burdens and responsibilities of public service—Jefferson being a good example—but no one of them carried reluctance to the same degree as Mason, who loathed routine legislative tasks and had no stomach for any sort of political intrigue. Venturing from home and his family as little as possible, he did not often leave Virginia. Thus, even in his own time, circumstance made this man of universal mind more a local than a national figure. As the architect of the new government in his own commonwealth he had shown himself to be constructive, but in connection with the new federal Constitution his own deep convictions caused him to assume a negative role and even to seem obstructive. As a delegate to the Federal Convention, he declined to sign the document which emerged from those closed sessions in Philadelphia; he opposed ratification in his own state and went down in defeat. His chief objection to the new frame of government was that it lacked the sort of guarantees of individual freedom which he had set forth in his Declaration of Rights; and also that is went further than was necessary toward centralization, thus endangering local rights and liberties. Opposition of the sort he symbolized had a positive result in the adoption of the first ten amendments to the Constitution—the national Bill of Rights—and to that extent his contemporaries recognized the validity of his position. The triumphant Federalists were not kind in their judgment of their opponents, however; even George Washington was cool toward his old friend and neighbor. Furthermore, Mason's objections to Hamiltonian consolidation gave him a black mark in the history the partisans of the first Secretary of the Treasury did so much to write. It should be noted that Jefferson likewise protested against the omission of a bill of rights from the Constitution and eventually offered similar objections to Hamilton's policy. But Jefferson lived to achieve vindication in his own election to the presidency, by which time Mason was long since dead.

In his own "country"—that is, Virginia—Mason was and remained an honored prophet. Indeed there were those, like the historian of the Virginia Convention of 1776 who regarded the Declaration of Rights as a loftier work than the Declaration of Independence, which was in considerable part a political manifesto, designed to justify a change in government. Comparisons of this sort, if not odious, are quite unnecessary, for the two documents breathe the same philosophy. But the later national pronouncement can be advantageously supplemented by the fuller state declaration, and in certain cases Mason's language may be preferred. A good example follows:

"That all men are by nature equally free and independent, and have certain inherent rights, . . . namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."

The author of the Declaration of Independence, who claimed no originality for his production, had nothing but praise for the author of the Declaration of Rights. Jefferson described Mason as "a man of the first order of wisdom among those who acted on the theatre of the Revolution, of expansive mind, profound judgment, cogent in argument, learned in the lore of our former constitution, and earnest for the republican change or democratic principles." Mason, he said, was a man "of the first order of greatness."

The story of such a person cannot fail to be of wide, and should be of universal, interest. The purpose of this body is something more than to inscribe his name in larger letters on the list of eminent champions of individual freedom. It is also to make him live again as a human being. There is no need to anticipate here the human story which the author of this book tells so well, but I cannot refrain from pointing out that Mason provides a striking example of the spirit of *noblesse oblige*, for he was born to wealth and a privileged position, just as Jefferson was. Such men cannot be explained in terms of economic determinism. Every reader is entitled to find his own answer to the question, why this master of broad acres and scores of slaves laid supreme emphasis on man's freedom and found tyranny of all sorts abominable. It may be suggested, however, that the spirit of liberty appears in high places as well as low—that, in fact, it assumes its nobles form when most disinterested. Rarely has it appeared in nobler form than in George Mason.—Dumas Malone, University of Virginia.

Mr. GILLMOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MANTON] that the House suspend the rules and pass the bill, H.R. 3687, as amended.

The question was taken.

Mr. GILLMOR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3687, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE NATIONAL FIRE ACADEMY IN EMMITSBURG, MD

Mr. MANTON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 183) recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

The Clerk read as follows:

H.J. RES. 183

Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

Whereas the National Fall Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, honors the approximately 160 volunteer and career firefighters who die each year in the line of duty; and

Whereas such Memorial serves as a symbol of the courage and dedication of past, present, and future firefighters in their efforts to protect life and property: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the memorial known as the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, is recognized as the official national memorial to volunteer and career firefighters who die in the line of duty.

□ 1610

The SPEAKER pro tempore (Mr. MAZZOLI). Under the rule, a second is not required on this motion.

The gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GILLMOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 183, recognizes the fallen firefighters' memorial on the campus of the National Fire Academy in Emmitsburg, MD, as the national memorial to career and volunteer firefighters who die in the line of duty. This memorial has been established since 1981, and is already highly regarded. The resolution before us was originally authored by our colleague, the gentlewoman from Maryland [Mrs. BYRON], and was passed by this body in the 100th Congress. The Senate, however, failed to act on the bill in the last Congress.

On November 1, 1989, the Senate, finally recognizing the wisdom initially demonstrated by the House, passed Senate Joint Resolution 77, an identical bill to House Joint Resolution 183. By acting today to pass House Joint Resolution 183 we will not only reaffirm the previous judgement of this body, but afford those who have given their life in the service of others the national recognition they deserve.

I commend my colleague from Maryland for her inspiration and diligence in bringing this deserved designation to pass and urge my colleagues to support passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the gentleman from New York [Mr. MANTON] in support of House Joint Resolution 183, which would recognize the National Fallen Firefighters Memorial on the campus of the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

Mr. Speaker, approximately 160 volunteer and career firefighters die each year as a result of job-related injuries. This memorial to these brave citizens was erected on the campus of the National Fire Academy in 1981, and is widely respected. It is only appropriate that we recognize this memorial as the official memorial of our Nation to those firefighters who have risked and lost their lives so that others may be protected. Such bravery and such dedication deserve no less.

Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to commend the gentleman who brought this measure to the floor at this time for our volunteer firemen throughout the country who have done so much for all of us in saving property and lives. This is certainly an appropriate gesture and one that is deserving of recognition by the entire body.

Mr. Speaker, I rise in support of House Joint Resolution 183, which would recognize the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

Our fire departments are perhaps the most crucial of all public services, but in many ways fire departments are the most forgotten. Perhaps this is because they are not consistently visible such as our police and postmen.

Yet the numbers show, that in the United States, a higher percentage of firefighters are killed or injured in the line of duty than are workers in any other occupation.

Accordingly, it is appropriate that there be a national memorial to honor the more than 160 firefighters who die in the line of duty each year. Our deepest sympathies go out to those families who have suffered such severe losses.

Mr. Speaker, I urge my colleagues to support this important measure.

Mr. GILLMOR. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I rise today in strong support of the House joint resolution (H.J. Res. 183) recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD.

As a member of the congressional fire caucus, I would like to take this opportunity to salute both career and volunteer firefighters across the United States. At the same time, I salute the families of those firefighters who have lost their lives in the line of duty. These brave people deserve special recognition.

The National Fire Protection Agency reports that there are a total of 4.6 fires per minute—which breaks down to approximately 1 fire every 13 seconds. Statistics show that in 1989 alone there were 111 firefighter fatalities. It is for this reason that the establishment of the national memorial to volunteer and career firefighters who die in the line of duty is a resolution well worth supporting.

One of my first official duties as a city councilman in Syracuse, was to attend the wakes and triple funeral at the cathedral for three fine young dedicated officers. These young men and their families deserve such honor and recognition and I encourage my colleagues to vote in favor of the measure.

Mr. GILLMOR. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to rise in favor of this joint resolution (H.J. Res. 183) recognizing the National Fallen Firefighters Memorial at the National Fire Academy at Emmitsburg, MD. As

a member of the fire safety caucus, I particularly want to grant recognition to those volunteer firefighters, including the Federal firefighters, who have given their lives for us.

I had the occasion about 3 years ago of being the keynote speaker there, and they even rang bells to each one of the fallen firefighters, and it reminded me very much of John Donne's quotation, "For whom the bell tolls," because no man or woman is an island. We all belong to each other, and the bell tolls for each and every one of us.

So, Mr. Speaker, I stand here in support of this joint resolution and commend it to the House.

Mrs. BYRON. Mr. Speaker, I rise in support of House Joint Resolution 183, a resolution recognizing the National Fallen Firefighters Memorial in Emmitsburg, MD, as the official national memorial to career and volunteer firefighters who have died in the line of duty. The monument is located on the campus of the National Fire Academy in Emmitsburg, and has become a very significant symbol of bravery and honor for the firefighting community and their families. The men and women honored by the memorial willingly accepted the responsibilities as firefighters to protect the lives and property of others. For some, their dedication and courage led them to dangerous situations which ultimately claimed their lives.

As a representative of dozens of small communities, many times I have heard the local fire department's whistle blow, and witnessed a virtual transformation of a town. Men and women, without hesitation, rush from their jobs and families to help their neighbors. I can think of few professions and voluntary organizations which demand this unselfish attitude by both the firefighters and their families. Although the memorial lists only the names of the fallen firefighters, we know that without the support of their families, we would not have a courageous fire service.

I am extremely grateful for the support of this resolution by my distinguished colleague and chairman of the libraries and memorials subcommittee, Chairman BILL CLAY. As we know, this resolution was approved by the House in the last Congress, and I appreciate the chairman's willingness to keep it going this year. Without his interest, and the help of his staff who took a day to come to Emittsburg to see the memorial, this national recognition would not have been possible. In addition, I would like to thank the chairman of the Committee on House Administration, Chairman ANNUNZIO, and the ranking minority members of both the subcommittee and full committee, Mr. GILLMOR and Mr. THOMAS.

With this resolution, we are nationally recognizing the heroic actions and courage of the fallen firefighters. I am delighted to be able to join in this national appreciation of our fire services.

Mr. GOODLING. Mr. Speaker, Representative BEVERLY BYRON, is to be commended for her efforts to bring this legislation before the House, for it is action which is long overdue.

House Joint Resolution 183 recognizes the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

Each year a ceremony is held at the memorial to honor those firefighters who have given their lives to help others. It is a moment to pay tribute to these firefighters but also an opportunity to thank their families for they too have given through their loss.

I am especially pleased to note that the National Fallen Firefighters' Memorial pays tribute to both professional and volunteer firefighters. In this it is unique. The contributions of these firefighters are identical, in that each has made the ultimate sacrifice. The memorial honors them regardless of how they came to firefighting, and well it should.

Perhaps the words of Henry Wadsworth Longfellow best capture the spirit of this Memorial:

Were a star quenched on high,
For ages would its light,
Still travelling downward from the sky,
Shine on our mortal sight.
So when a great man dies,
For years beyond our ken,
The light he leaves behind him lies
Upon the paths of men.

Mr. GILLMOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. MANTON] that the House suspend the rules and pass the joint resolution (H.J. Res. 183).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 77) recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty, a Senate joint resolution identical to the House joint resolution just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 77

Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in line of duty.

Whereas the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, honors the approximately one hundred and sixty volunteer and career firefighters who die each year in the line of duty; and

Whereas such Memorial serves as a symbol of the courage and dedication of past, present, and future firefighters in their effort to protect life and property: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the memorial known as the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, is recognized as the official national memorial to volunteer and career firefighters who die in the line of duty.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 183) was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions, House Joint Resolution 183 and Senate Joint Resolution 77, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FEDERAL EMPLOYEES COST-SAVINGS AWARDS

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4983) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.

(a) AGENCY AWARDS PROGRAM.—Section 4512 of title 5, United States Code, is amended to read as follows:

"§ 4512. Agency awards for cost savings disclosures

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any employee or former employee of such agency whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b)(1) Subject to paragraph (2), an award under this section may not exceed an amount equal to—

"(A) 10 percent of the agency's cost savings which the Inspector General determines to be the total savings attributable to the employee's or former employee's disclosure; or

"(B) if no cost savings are involved, such amount as the Inspector General considers appropriate.

"(2) No award under this section may exceed $20,000.

"(3) In determining an agency's cost savings for purposes of paragraph (1)(A), the Inspector General may take into account agency cost savings projected for subsequent fiscal years which will be attributable to the disclosure.

"(c) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(d) An agency may pay or grant an award under this section notwithstanding the death or separation from the service of the employee concerned, or the death of the former employee concerned.

"(e) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(b) PRESIDENTIAL AWARDS PROGRAM.—The first sentence of section 4513 of title 5, United States Code, is amended to read as follows: "The President may pay a cash award in the amount of $40,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted or may reasonably be expected to result in substantial cost savings for the Government.".

(c) AUTHORITY TO MAKE AWARDS TO CERTAIN NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 4512 the following:

"§ 4512a. Awards for certain non-employees

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any individual or entity whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b) An award under this section may only be made where the information disclosed by the individual or entity was gained by such individual or entity in the course of performing any services for, or furnishing any services to, such agency under contract.

"(c) An award under this section for any disclosure may not exceed the amount which would be allowable under section 4512 if such disclosure had been made by an employee of the agency involved.

"(d) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(e) Each program under this section shall include, with respect to individuals covered by this section, provisions comparable to the provisions of subsection (d) of section 4512, as such subsection relates to employees covered by that section.

"(f) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4512 the following:

"4512a. Awards for certain non-employees.".

(d) ELIMINATION OF EXPIRATION PROVISION.—Section 4514 of title 5, United States Code, and the item relating to such section in the analysis for chapter 45 of such title are repealed.

SEC. 2. AWARDS FOR SUPERIOR ACCOMPLISHMENTS.

(a) PROGRAM MODIFICATIONS.—Title 5, United States Code, is amended by striking sections 4502 through 4504 and inserting the following:

"§ 4502. General provisions

"(a) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee or such employee's heirs or assigns.

"(b) A cash award to, and expenses for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503. The President determines the amount to be paid by each activity for a Presidential award under section 4504.

"§ 4503. Agency awards

"(a) The head of an agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

"(b)(1) Except as provided in paragraph (2), a cash award under this section may not exceed—

"(A) an amount equal to 10 percent of the agency's cost savings attributable to the employee's accomplishments, or the annual rate of basic pay payable for grade GS-18 of the General Schedule, whichever is less; or

"(B) if no cost savings are involved, the annual rate of basic pay payable for grade GS-18 of the General Schedule.

"(2) When the head of an agency certifies to the Office of Personnel Management that the highly exceptional or unusually outstanding nature of the accomplishments of an employee so warrants, a cash award in excess of the maximum amount allowable under paragraph (1), but not in excess of an amount equal to two times such maximum amount, may be granted with the approval of the Office.

"§ 4504. Presidential awards

"(a) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

A Presidential award may be in addition to an agency award under section 4503.

"(b) The President determines the amount of a cash award under this section.".

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT.—Subchapter I of chapter 45 of title 5, United States Code, is amended—

(i) by redesignating section 4507 as section 4508; and

(ii) by inserting after section 4506 the following:

"§ 4507. Reports

"(a)(1) Each agency shall prepare and transmit to the Office of Personnel Management on an annual basis a report on such agency's awards program under section 4503.

"(2) An agency report under this subsection shall include, for the period covered by that report—

"(A) the number of cash awards made by the agency under the agency's awards program (as referred to in paragraph (1)), and the amount of each such award;

"(B) if no cash award was made, a statement of the reasons why no such award was made, particularly any difficulties which the agency may have encountered with respect to administering its awards program;

"(C) a statement of any measures taken, or proposed to be taken, by the agency in order to overcome any difficulties identified under subparagraph (B); and

"(D) any other information which the Office may require in preparing a report under subsection (b).

"(b)(1) The Office shall, on an annual basis, transmit to the Committee on Post Office and Civil Service of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the head of each agency, a report under this subsection. The report shall include—

"(A) the name of any agency which either did not make any cash award under section 4503 during the period covered by the Office's report (including any explanation given by the agency) or did not submit a report under subsection (a) with respect to the period involved;

"(B) a description and evaluation of each agency's cash awards program under section 4503; and

"(C) recommendations for any legislation or administrative action which may be necessary in order that section 4503 may more effectively be carried out.

"(2) Any information which, pursuant to paragraph (1)(A), is included in a report under this subsection shall be published in the Federal Register.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by striking the item relating to section 4507 and inserting in lieu thereof the following:

"4507. Reports.
"4508. Awarding of ranks in the Senior Executive Service.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 3151(c), 5383(b)(1), and 5384(a)(2) of title 5, United States Code, section 1601(c) of title 10, United States Code, section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)), section 733(a)(5) of title 31, United States Code, and sections 4101(e) and 4107(c) of title 38, United States Code, are each amended by striking "4507" and inserting in lieu thereof "4508".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective as of October 1, 1990.

The SPEAKER pro tempore. Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on H.R. 4983, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a quest for increased productivity and efficiency, the Federal Government has established incentive awards programs for Federal employees. Cost incentive programs reward Federal employees for a variety of reasons ranging from suggesting cost-effective and efficient improvements in Government operations to reporting waste, fraud and mismanagement within the Federal Government. They are based on the principle that employees are best able to recognize and to propose solutions for problems in their job, and that no one has a monopoly on good ideas.

In these times of monstrous budget deficits, defense procurement overruns, the savings and loan crisis, and HUD scandals, these awards programs should be part of our swat team. They should encourage Government employees to report waste and abuse wherever they find it. The aim of these programs is to create an incentive to ferret out waste and wrongdoing, and go beyond every day duty.

Federal employee suggestion and incentive programs have existed within the Federal Government since 1912. However, in the past few years, concern has been expressed that Federal agencies are not taking advantage of them and that chances are needed to encourage better use of them by employing agencies and better participation in them by employees.

H.R. 4983, introduced by Representative KASICH and myself, strengthens and extends the two existing incentive awards programs created in chapter 45 of title 5, United States Code, the Cost Savings Disclosure Awards programs and the Superior Accomplishments Award Program.

H.R. 4983 is not a new bill. In the 100th Congress, Representative KASICH and Representative SCHROEDER introduced a similar bill that was passed by the House under suspension of the rules.

The Cost Savings Disclosure Awards Program authorizes inspectors general and the President to pay cash awards to employees who disclose fraud, waste, or mismanagement in the Government. H.R. 4983 makes permanent this awards program.

The bill will increase the maximum amount of inspector general awards to 10 percent of the savings attributable to the disclosure, not to exceed $20,000. The bill expands the program to allow inspectors general to make awards to Government contract employees and to former Federal employees. The bill will allow awards for disclosures which are made either directly or indirectly to the inspector general. H.R. 4983 allows the inspector general to make awards for disclosures to which a cost savings cannot be attributed but which are significant important to the Government or the public. Additionally, the maximum presidental award for cost savings disclosures will be increased to $40,000.

The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of Government operations.

H.R. 4983 strengthens the awards program by increasing the maximum amount of the award to 10 percent of the agency's cost savings attributable to the employee's accomplishments or to an amount not to exceed the basic pay of a GS-18. The agency may make an award twice this amount with the approval of the Office of Personnel Management [OPM]. The President may give a Superior Accomplishment Award in addition to the agency award. Each agency is required to report to OPM annually on the awards given or the reasons for failing to make the awards.

In fiscal 1987 alone, under the existing program, close to $8 million in awards were paid to almost 37,000 employees and the Government achieved almost $400 million in first year measurable benefits by virtue of these suggestions.

While we all hope Federal employees will blow the whistle, we know that blowing the whistle can be risky. This legislation is intended to provide an incentive for Federal employees to disclose waste and abuse within their Government agencies and positively offer suggestions to increase the efficiency and save money for the operation of the Federal Government. I would like to commend Representative KASICH for his leadership and concern in this area, and I urge my colleagues to support this bill.

□ 1620

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my privilege to speak in favor of H.R. 4983 which was approved by the House Committee on Post Office and Civil Service.

Mr. Speaker, I want to commend the sponsor, the gentleman from Ohio [Mr. KASICH], and the gentleman from Minnesota [Mr. SIKORSKI].

This bill makes the Cost Savings Disclosure Awards programs permanent and strengthens the Superior Accomplishment Awards Program. The Cost Incentive Award Program is due to sunset on September 30, 1990. These incentive awards programs for the public sector were created in 1981 and 1954 respectively.

The Superior Accomplishment Awards Program recognizes and rewards employees who have contributed to the efficiency and effectiveness of their agency. The Cost Savings Disclosure rewards Federal employees, Government contract employees and former Federal employees who disclose Government fraud, waste or mismanagement. This program was extended in 1984 and then in 1988.

The bill raises the maximum amount which may be awarded. In the superior accomplishments award, this amount is raised to the lesser of 10 percent of the agency's cost savings which can be attributed to the employee's participation but not more than the basic pay of a GS-18 employee—whichever is less. The Office of Personnel Management may approve an award up to twice that amount, if the case is justified by an employing agency.

The other award, the Cost Savings Disclosure Awards Program, increase the maximum to 10 percent of the sav-

ings attributable to the disclosures, but not more than $20,000. Presently, the maximum is 1 percent, or $10,000, whichever is less, and this bill requires each agency to report to the Office of Personnel Management if these awards are not made.

As you know, Mr. Speaker, we are trying to recruit and retain the best Federal employees. It is cost effective to reward Federal employees when they are instrumental in holding costs and improving efficiency. It is imperative that these awards are meaningful in terms of monetary subsidy. I find it very interesting in defense of the bill that the Department of Defense, the inspector general, who has most utilized the cost savings award, has strongly endorsed the expansion as seen within this bill.

Mr. Speaker, I want to commend the sponsors of this important bill; also, the chairman of the Committee on Post Office and Civil Service and the ranking member of that committee for expediting this important legislation.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from New York [Mr. GILMAN], the ranking member of the full Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4983, the Federal Employees Cost Savings Awards measure. I would like to congratulate the sponsors of this bill, the gentleman from Ohio [Mr. KASICH] and the chairman of the Subcommittee on Civil Service the gentleman from Minnesota [Mr. SIKORSKI] and the gentlewoman from Maryland [Mrs. MORELLA] for their diligent work and for their efforts on this legislation.

H.R. 4983 strengthens and extends the two existing incentive awards programs for Federal employees. The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of Government operations. Although in existence since 1954, most agency managers have rarely utilized this program. The Superior Accomplishment Awards Program is permanent law and the legislation before us reforms and strengthens the program.

This bill also authorizes the Awards for Cost Savings Disclosures Program which allows inspectors general and the President to pay cash awards to employees who disclose Government waste, fraud, or mismanagment. This program was established in 1981 and has been extended on a periodic basis since that time. H.R. 4983 makes this worthwhile program permanent.

Mr. Speaker, this legislation, H.R. 4983, is a part of our continuing efforts to increase efficiency in Government and deserves my colleagues wholehearted support.

Mrs. MORELLA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. KASICH], the sponsor of the bill.

Mr. KASICH. Mr. Speaker, I want to rise, first of all, and thank the gentleman from Minnesota [Mr. SIKORSKI] for moving this legislation. As my colleagues know, GERRY has a very big job. He has got a lot of very important pieces of legislation that flow through his subscommittee and which are under his jurisdiction. Mr. Speaker, we kind of pestered the staff a little bit to move this bill along, and it is sometimes tough to prioritize up there because there are so many good ideas.

However, Mr. Speaker, I want to tell my colleagues that I came in 1983 with the gentleman from Minnesota [Mr. SIKORSKI] to Congress, and I not only like working with him on this piece of legislation, but he and I have been able to work closely together on legislation on Defense Department reform, and I just have great respect for him. I want to thank him for giving me an opportunity to bring this bill to the floor one more time.

Mr. Speaker, this bill did pass the House of Representatives in the last session, was held up in the Senate by one of my good friends over there because he had some staff that was a little bit nervous. I hope that that confusion or concern will be eliminated this time and that we can actually pass this bill.

The gentlewoman from Maryland [Mrs. MORELLA] who represents a number of Federal empolyees understands, as well as I do, that, rather than giving the public employees a pat on the back and a plaque at a dinner, if we can give then a little bit of cash for coming up with innovative solutions for problems, that is really what is going to bring out the greatest amount of imagination and ingenuity on the part of Federal workers. In addition, Mr. Speaker, I know the gentleman from New York [Mr. GILMAN] shares this view as well.

I do not want to get into the details of the program, but what we are really trying to say is that the Federal Government ought to really in this day and time, day and age, improve their programs for awarding employees who really want to be innovative and imaginative by actually putting cash in their pocket when it can be shown that they have turned off waste or fraud or when they have come up with a major cost-sharing idea.

People say, "How did you come up with this idea?"

Mr. Speaker, I had a constituent by the name of Jim Clark who worked at the VA in Columbus, and Jim was able to cut down the wait for veterans on prescriptions from about 2½ hours down to 10 minutes by an innovative process, and at the same time he saved tremendous amounts of money, millions of dollars, for the Federal Government because of the system. Jim came down here to testify, and somebody asked him, "If you had to do this all over again, would you do it?"

Mr. Speaker, he said, "Absolutely not. The amount of harassment I received, or hassle that I received, from fellow workers and supervisors who kept questioning, 'Are you out of your mind, spending all this time?'" and he just said, "It wasn't worth it."

□ 1630

Jim, by the way, did get an incentive award, was even unaware of the program because no one ever promoted it, and when he did get his award, by the way, it was not tax free. He did not get the full award.

What we are trying to do in this legislation is to encourage other Jim Clarke's, and there are a number of other Federal employees who have taken some risk in their activities to try to improve the workings of the Federal Government.

This program is modeled after the very successful programs that Xerox and the IBM Corp. have employed over the years, and as you know, Xerox and IBM are on the cutting edge of innovative technology and they believe that their work force ought to be made part of the family.

I think that is the way we ought to view Federal workers, not just as people who come in and punch a clock, but rather who are part of the Federal family, people who we have to reward, people we have to give incentives to, and that is what this bill is all about. It will not only do that in the Government sector, but for those people who are contract employees, it will expand the I.G. to affect them as well, something that has met with a degree of success in the Department of Defense.

So again I want to thank the gentlewoman from Maryland for her support, and the gentleman from New York [Mr. GILMAN], the ranking member on the committee and, of course, my friend, the gentleman from Minnesota [Mr. SIKORSKI] for moving this bill expeditiously. Hopefully we will not have to do it another session. Hopefully in this session it will actually become law.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mrs. MORELLA. Mr. Speaker, I yield another 30 seconds to the gentleman from Ohio, who has persevered for 2 years in a row on this bill.

Mr. KASICH. Mr. Speaker, I appreciate the gentlewoman yielding me this additional time.

I want to pay special tribute to Kathy Krupp of my staff who has worked on this thing for a number of

years and has to put up with my asking her every day when she comes in the door, "When is the bill coming in committee? When is the bill going on the floor?"

So Kathy Krupp has done an outstanding job on this. All too often the staff people who do so much of the work for us do not get recognized. It is with a special personal privilege I thank the gentlewoman, and again to Kathy Krupp, thanks for all her work.

Mrs. MORELLA. Mr. Speaker, we all do appreciate the work that the staff has done, just as we appreciate what Federal employees do and what they will do and those who are cognizant of this program will do to help it, even to reduce the budget deficit; so again, I thank the gentleman from Ohio [Mr. KASICH] for his perseverance and his innovation.

I want to echo what the gentleman from Ohio [Mr. KASICH] has said about the gentleman from Minnesota [Mr. SIKORSKI]. I have the privilege here of working with the gentleman as the ranking member on the Civil Service Subcommittee and it is a pleasure because of his dedication and his fairness.

I also thank the gentleman from New York [Mr. GILMAN] for his work, and the chairman of the Committee on Post Office and Civil Service.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

I just want to thank the gentlewoman from Maryland [Mrs. MORELLA]. The pleasure is on our side, working with such a fine supporter of civil servants and taxpayers in this country.

I also want to commend not only the staff of the gentleman from Ohio [Mr. KASICH], but Ross Peterson on the subcommittee, Alan Lopatin and Bob Lockhart of the full committee for their efforts, and thank the gentleman from New York [Mr. GILMAN], and point out that only with his help and leadership as the ranking Republican on the full committee can we move this legislation along.

Finally, once again I want to call attention to the selfless hard work that the gentleman from Ohio [Mr. KASICH] has committed to cleaning up the defense procurement process, saving taxpayers money, and rewarding Federal employees who blow the whistle as well as offer positive suggestions to save taxpayers money.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 4983, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5355, INCREASING STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 101-647) on the resolution (H. Res. 443) providing for the consideration of the bill (H.R. 5355) to increase the statutory limit on the public debt, which was referred to the House Calendar and ordered to be printed.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5313, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1991

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 441 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 441

Resolved, That during consideration of the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: Beginning on page 2, line 1 through page 11, line 4; and beginning on page 17, line 5 through page 19, line 20.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. QUILLEN] for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 441 is the rule waiving points of order against certain provisions of the bill, H.R. 5313, the military construction appropriations for fiscal year 1991.

Since general appropriations bills are privileged under the rules of the House, the rule does not provide for any special guidelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule. Customarily, Mr. Speaker, general debate time is limited by a unanimous consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

The rule waives clause 2 of rule XXI against specified provisions of H.R. 5313. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in general appropriations bills. The provisions receiving this waiver are designated in the rule by reference to page and line in the bill.

Mr. Speaker, H.R. 5313 appropriates approximately $8.8 billion for fiscal year 1991 military construction and family housing for the various branches of the Department of Defense. It is consistent with the House passed budget resolution.

The bill appropriates nearly $14 million in funding for three projects at Wright-Patterson Air Force Base, which is partially located in my congressional district. I am pleased that the committee approved the necessary projects. The first project at Wright-Patterson is funding for a building to house the School of Civil Engineering and Services of the Air Force Institute of Technology [AFIT]. This will improve the Air Force's advanced technical and management education needed to maintain Defense installations.

The second project included in the bill is a building for the Foreign Technology Division which evaluates foreign technology and weapons that threaten our national defense. Third, the bill includes funds for the Air Force Reserve to upgrade two World War II hangars. This upgrade includes installing new utility systems and bringing fire protection up to current standards. These projects are important to Wright-Patterson Air Force Base, the people of the Dayton area, and to our country's national security. I commend my colleagues for including them in H.R. 5313.

Mr. Speaker, under the normal rules of the House, any amendment which does not violate any House rules could be offered to H.R. 5313. The rule received unanimous support in the House Rules Committee, and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairman and the ranking Republican member of the Appropriations Subcommittee on Military Construction, the gentleman from North Carolina [Mr. HEFNER] and the gentleman from California [Mr. LOWERY] for their hard work in putting this legislation together.

In funding military construction it is necessary to take into consideration the changing nature of the military threat to this Nation. We must not be lulled into a false sense of security because the Soviet Union is withdrawing its forces from Eastern Europe, however. There are still a large number of weapons in the Soviet Union, and while they appear to be in friendlier

hands now, the situation could always change, and we have a duty to make certain this Nation is able to defend itself, if there should be an unexpected turn of events. While it may be feasible to make some reductions in military spending, we should proceed cautiously, and maintain the military strength necessary to defend ourselves.

The bill before us today is the tenth of the thirteen general appropriations bills considered by Congress each year. Only three will remain after action on this bill is completed. Of those, the legislative branch appropriations is scheduled to be heard in Rules Committee on Wednesday, and then considered on the floor later this week. That would leave only two general appropriation bills, Interior and Defense. We are making progress, though it is important that we all keep in mind that further changes in these bills will be necessary if and when a budget summit agreement is reached.

The gentleman from Ohio, Mr. HALL, has fully explained the provisions of this rule, and I will not repeat that explanation. I support the rule so that the House can get down to business and complete its action promptly on the military construction appropriations bill for fiscal year 1991.

□ 1640

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 93, not voting 50, as follows:

[Roll No. 279]

YEAS—289

Ackerman	Bereuter	Bryant
Alexander	Berman	Buechner
Anderson	Bevill	Bustamante
Andrews	Boehlert	Campbell (CO)
Annunzio	Boggs	Cardin
Anthony	Bonior	Carper
Aspin	Borski	Chandler
AuCoin	Bosco	Chapman
Barnard	Boucher	Clarke
Bartlett	Boxer	Clement
Barton	Brennan	Clinger
Bates	Brooks	Coleman (TX)
Beilenson	Browder	Collins
Bennett	Brown (CA)	Condit
Conte	Kennelly	Ridge
Conyers	Kildee	Rinaldo
Cooper	Kostmayer	Ritter
Costello	LaFalce	Robinson
Coyne	Lancaster	Roe
Darden	Leath (TX)	Rose
Davis	Lehman (CA)	Rostenkowski
de la Garza	Lehman (FL)	Roukema
Derrick	Lent	Rowland (CT)
DeWine	Levin (MI)	Rowland (GA)
Dicks	Levine (CA)	Roybal
Dingell	Lewis (GA)	Russo
Dixon	Lipinski	Sabo
Donnelly	Lloyd	Sarpalius
Dorgan (ND)	Long	Savage
Downey	Lowery (CA)	Sawyer
Duncan	Lowey (NY)	Scheuer
Durbin	Luken, Thomas	Schneider
Dwyer	Machtley	Schroeder
Dymally	Madigan	Schulze
Dyson	Manton	Schumer
Early	Markey	Sharp
Eckart	Martinez	Shaw
Edwards (CA)	Matsui	Shays
Edwards (OK)	Mavroules	Shumway
Engel	Mazzoli	Sikorski
Erdreich	McCloskey	Sisisky
Espy	McCollum	Skaggs
Evans	McCurdy	Skeen
Fazio	McDade	Skelton
Fish	McDermott	Slattery
Flake	McGrath	Slaughter (NY)
Flippo	McHugh	Slaughter (VA)
Foglietta	McMillan (NC)	Smith (FL)
Frank	McMillen (MD)	Smith (IA)
Frost	McNulty	Smith (NJ)
Gaydos	Mfume	Smith (TX)
Gejdenson	Michel	Snowe
Gephardt	Miller (CA)	Solarz
Geren	Miller (OH)	Spratt
Gibbons	Mineta	Staggers
Gillmor	Moakley	Stallings
Gilman	Molinari	Stark
Glickman	Mollohan	Studds
Gonzalez	Montgomery	Swift
Goodling	Moody	Synar
Gordon	Morella	Tallon
Gradison	Mrazek	Tauke
Grant	Murphy	Tauzin
Gray	Murtha	Taylor
Green	Nagle	Thomas (CA)
Guarini	Natcher	Thomas (GA)
Hall (OH)	Neal (NC)	Torres
Hall (TX)	Nowak	Torricelli
Hamilton	Oakar	Towns
Hammerschmidt	Oberstar	Traficant
Hansen	Obey	Traxler
Harris	Olin	Udall
Hatcher	Ortiz	Unsoeld
Hayes (IL)	Owens (NY)	Valentine
Hayes (LA)	Owens (UT)	Vander Jagt
Hefner	Pallone	Vento
Hertel	Panetta	Visclosky
Hiler	Parker	Walgren
Hoagland	Parris	Walsh
Hochbrueckner	Pashayan	Watkins
Horton	Patterson	Waxman
Houghton	Payne (NJ)	Weiss
Hoyer	Payne (VA)	Weldon
Hubbard	Pease	Wheat
Huckaby	Pelosi	Whitten
Hughes	Penny	Williams
Inhofe	Perkins	Wilson
Jenkins	Pickett	Wise
Johnson (SD)	Pickle	Wolf
Johnston	Poshard	Wolpe
Jones (GA)	Price	Wyden
Jones (NC)	Quillen	Yates
Jontz	Rahall	Yatron
Kanjorski	Ravenel	Young (AK)
Kasich	Ray	Young (FL)
Kastenmeier	Regula	
Kennedy	Richardson	

NAYS—93

Archer	Coleman (MO)	Douglas
Armey	Combest	Dreier
Baker	Coughlin	Emerson
Ballenger	Courter	Fawell
Bentley	Cox	Fields
Broomfield	Craig	Frenzel
Brown (CO)	Crane	Gallegly
Bunning	Dannemeyer	Gallo
Burton	Dickinson	Gekas
Callahan	Dornan (CA)	Goss
Grandy	Lukens, Donald	Schaefer
Gunderson	Marlenee	Schiff
Hancock	Martin (IL)	Sensenbrenner
Hastert	Martin (NY)	Shuster
Henry	McCandless	Smith (NE)
Herger	Meyers	Smith (VT)
Holloway	Miller (WA)	Smith, Denny (OR)
Hopkins	Moorhead	Smith, Robert (NH)
Hunter	Morrison (WA)	Smith, Robert (OR)
Hyde	Myers	Spence
Ireland	Nielson	Stearns
Jacobs	Oxley	Stump
James	Paxon	Sundquist
Johnson (CT)	Petri	Thomas (WY)
Kolbe	Porter	Upton
Kyl	Rhodes	Walker
Lagomarsino	Roberts	Weber
Leach (IA)	Rogers	Whittaker
Lewis (CA)	Rohrabacher	Wylie
Lewis (FL)	Ros-Lehtinen	
Lightfoot	Roth	
Livingston	Saxton	

NOT VOTING—50

Applegate	Fascell	Nelson
Atkins	Feighan	Packard
Bateman	Ford (MI)	Pursell
Bilbray	Ford (TN)	Rangel
Bilirakis	Gingrich	Saiki
Bliley	Hawkins	Sangmeister
Bruce	Hefley	Schuette
Byron	Hutto	Serrano
Campbell (CA)	Kaptur	Solomon
Carr	Kleczka	Stangeland
Clay	Kolter	Stenholm
Coble	Lantos	Stokes
Crockett	Laughlin	Tanner
DeFazio	McCrery	Volkmer
DeLay	McEwen	Vucanovich
Dellums	Morrison (CT)	Washington
English	Neal (MA)	

□ 1703

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, due to air travel delays, I was unavoidably absent for rollcall 279, ordering the previous question on House Resolution 441. Had I been present, I would have voted "aye" on rollcall 279.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

They yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 299, nays 93, not voting 40, as follows:

[Roll No. 280]

AYES—299

Ackerman	Boucher	Collins
Alexander	Boxer	Combest
Anderson	Brennan	Condit
Andrews	Brooks	Conte
Annunzio	Broomfield	Conyers
Anthony	Browder	Cooper
Aspin	Brown (CA)	Costello
AuCoin	Bryant	Coughlin
Barnard	Buechner	Courter
Bates	Bustamante	Coyne
Beilenson	Campbell (CO)	Darden
Bennett	Cardin	Davis
Berman	Carper	de la Garza
Bevill	Chapman	Derrick
Boehlert	Clarke	DeWine
Boggs	Clement	Dickinson
Bonior	Clinger	Dicks
Borski	Coleman (MO)	Dingell
Bosco	Coleman (TX)	Dixon

Donnelly	Lehman (CA)	Roe
Dorgan (ND)	Lehman (FL)	Rogers
Downey	Lent	Rose
Duncan	Levin (MI)	Rostenkowski
Durbin	Levine (CA)	Roukema
Dwyer	Lewis (GA)	Rowland (CT)
Dymally	Lipinski	Rowland (GA)
Dyson	Lloyd	Roybal
Early	Long	Russo
Eckart	Lowery (CA)	Sabo
Edwards (CA)	Lowey (NY)	Sarpalius
Edwards (OK)	Luken, Thomas	Savage
Emerson	Machtley	Sawyer
Engel	Madigan	Scheuer
Erdreich	Manton	Schiff
Espy	Markey	Schneider
Evans	Martinez	Schroeder
Fazio	Matsui	Schulze
Fish	Mavroules	Schumer
Flake	Mazzoli	Sharp
Flippo	McCloskey	Shaw
Foglietta	McCollum	Shays
Ford (MI)	McCurdy	Shuster
Frank	McDade	Sikorski
Frost	McDermott	Sisisky
Gaydos	McGrath	Skaggs
Gejdenson	McHugh	Skeen
Gephardt	McMillan (NC)	Skelton
Geren	McMillen (MD)	Slattery
Gibbons	McNulty	Slaughter (NY)
Gillmor	Mfume	Slaughter (VA)
Gilman	Michel	Smith (FL)
Glickman	Miller (CA)	Smith (IA)
Gonzalez	Miller (OH)	Smith (NJ)
Goodling	Mineta	Smith (TX)
Gordon	Moakley	Snowe
Gradison	Mollohan	Solarz
Grant	Montgomery	Spence
Gray	Moody	Spratt
Green	Morrison (WA)	Staggers
Guarini	Mrazek	Stallings
Gunderson	Murphy	Stark
Hall (OH)	Murtha	Stenholm
Hall (TX)	Myers	Studds
Hamilton	Nagle	Swift
Hammerschmidt	Natcher	Synar
Hansen	Neal (NC)	Tallon
Harris	Nowak	Tauzin
Hatcher	Oakar	Taylor
Hayes (IL)	Oberstar	Thomas (CA)
Hayes (LA)	Obey	Thomas (GA)
Hefner	Olin	Torres
Hertel	Ortiz	Torricelli
Hiler	Owens (NY)	Towns
Hoagland	Owens (UT)	Traficant
Hochbrueckner	Pallone	Traxler
Horton	Panetta	Udall
Hoyer	Parker	Unsoeld
Hubbard	Parris	Valentine
Huckaby	Pashayan	Vander Jagt
Hughes	Patterson	Vento
Ireland	Payne (NJ)	Visclosky
Jacobs	Payne (VA)	Walgren
Jenkins	Pease	Walsh
Johnson (SD)	Pelosi	Watkins
Johnston	Penny	Waxman
Jones (GA)	Perkins	Weiss
Jones (NC)	Pickett	Weldon
Jontz	Pickle	Wheat
Kanjorski	Poshard	Whitten
Kasich	Price	Williams
Kastenmeier	Quillen	Wilson
Kennedy	Rahall	Wise
Kennelly	Rangel	Wolf
Kildee	Ray	Wolpe
Kolbe	Regula	Wyden
Kolter	Richardson	Yates
Kostmayer	Ridge	Yatron
LaFalce	Rinaldo	Young (AK)
Lancaster	Ritter	Young (FL)
Leath (TX)	Robinson	

NOES—93

Archer	Callahan	Frenzel
Armey	Chandler	Gallegly
Baker	Coble	Gallo
Ballenger	Cox	Gekas
Bartlett	Craig	Gingrich
Barton	Crane	Goss
Bentley	Dannemeyer	Grandy
Bereuter	Dornan (CA)	Hancock
Bliley	Douglas	Hastert
Brown (CO)	Dreier	Hefley
Bunning	Fawell	Henry
Burton	Fields	Herger
Holloway	Meyers	Shumway
Hopkins	Miller (WA)	Smith (NE)
Houghton	Molinari	Smith (VT)
Hunter	Moorhead	Smith, Denny (OR)
Hyde	Morella	Smith, Robert (NH)
Inhofe	Nielson	Smith, Robert (OR)
James	Oxley	Stangeland
Johnson (CT)	Paxon	Stearns
Kyl	Petri	Stump
Lagomarsino	Porter	Sundquist
Leach (IA)	Pursell	Tauke
Lewis (CA)	Ravenel	Thomas (WY)
Lewis (FL)	Rhodes	Upton
Lightfoot	Roberts	Walker
Livingston	Rohrabacher	Weber
Lukens, Donald	Ros-Lehtinen	Whittaker
Marlenee	Roth	Wylie
Martin (IL)	Saxton	
Martin (NY)	Schaefer	
McCandless	Sensenbrenner	

NOT VOTING—40

Applegate	English	Nelson
Atkins	Fascell	Packard
Bateman	Feighan	Saiki
Bilbray	Ford (TN)	Sangmeister
Bilirakis	Hawkins	Schuette
Bruce	Hutto	Serrano
Byron	Kaptur	Solomon
Campbell (CA)	Kleczka	Stokes
Carr	Lantos	Tanner
Clay	Laughlin	Volkmer
Crockett	McCrery	Vucanovich
DeFazio	McEwen	Washington
DeLay	Morrison (CT)	
Dellums	Neal (MA)	

□ 1721

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CAMPBELL of California. Mr. Speaker, I wish to offer my explanation for having missed the last two procedural votes. I was called to the White House for discussions dealing with the civil rights bill and was unavoidably detained when the votes were called. Had I been present, I would have voted no.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent today and missed two votes on House Resolution 441, the rule for the military construction appropriations bill. I would have voted "yea" on both rollcall 279, which occurred on ordering the previous question on the resolution, and rollcall 280, on the resolution's passage.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, due to air travel delays, I was unavoidably absent for rollcall 280, on agreeing to the resolution House Resolution 441. Had I been present, I would have voted "aye" on rollcall 280.

REPORT ON H.R. 5399, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

Mr. FAZIO, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-648) on the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. LEWIS of California reserved all points of order on the bill.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 1594, EXTENSION OF NONDISCRIMINATORY TREATMENT TO PRODUCTS OF THE PEOPLES' REPUBLIC OF HUNGARY

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, July 30, 1990, to file a conference report on the bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 3 years.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

VACATING ORDERING OF THE YEAS AND NAYS ON CERTAIN MOTIONS TO SUSPEND THE RULES AND AUTHORIZING THE QUESTION TO BE PUT DE NOVO ON EACH MOTION

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to vacate the ordering of yeas and nays on all of the 11 motions to suspend the rules, and that the Chair be authorized to put the question de novo on each motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Reserving the right to object, I would take this time to allow the gentleman from Mississippi to explain his request.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, basically what that means is that it would put all the suspensions off until tomorrow. We would start all over again. The Chair would put the question on each bill, and if a Member wanted to vote on that suspension, that Member could ask for a vote.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, it is my understanding, then, that these votes would possibly be ordered? Is that what the gentleman is saying?

If so, what time tomorrow would this happen? Some of us have made plans under the program announced last week for other things tomorrow morning. We made plans several days in advance, and now at 5:30 in the evening we decide we are not going to vote on these issues and they will be set over until tomorrow when some of us have made plans. Are program schedules not worth anything around here anymore?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would say to the gentleman that it is our expectation based on some negotiations that have taken place today, that none of these bills would be voted on tomorrow.

Mr. MYERS of Indiana. That none will be voted on tomorrow?

Mr. WALKER. We do not figure that there would be votes. The process the gentleman from Mississippi has described is the process that we have to go through to clear the bills finally off the calendar, but it would be our expectation that when these bills are brought up early tomorrow morning, we would not have votes on those. I would say to the gentleman that there has been another bill added to the calendar, a bill on savings and loans, which probably will be new suspension that will be voted on by the House. But that, we think, would be the only vote that would occur.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. There would be votes tomorrow before noon then? Is that what the gentleman is saying?

Mr. WALKER. I would say to the gentleman that it has always been contemplated, I think, as a matter of fact, that the first item of business to come up tomorrow would be the debt limit.

Mr. MYERS of Indiana. That is what the program says, but the program already does not mean anything. We have already decided that by this request.

Mr. WALKER. What I am saying to the gentleman is that I think the vote that was planned on that would probably occur before noon anyhow, and as result of the debt limit being up and this action and the 1-minutes, my guess is that we would not get to the other items much before noon.

Mr. MYERS of Indiana. Mr. Speaker, I will not object, but I think when we do make a program for the future, we should try to honor it. I will not object to this, but I wish we could keep our word around here for a change.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Chair will state that the questions will be put on each suspension on tomorrow de novo to a voice vote.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 5313, the Military Construction Appropriations Act, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1991

Mr. HEFNER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided between the gentleman from California [Mr. LOWERY] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

□ 1729

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5313, with Mr. COOPER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes, and the gentleman from California [Mr. LOWERY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

□ 1730

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my pleasure to present to you H.R. 5313, the fiscal year 1991 military construction and family housing appropriations bill.

The bill we are recommending amounts to $8.3 billion, of which almost $1 billion is to capitalize the base closure account. The bill is within our section 302 allocations for both budget authority and outlays. It is $815 million below the budget request and almost $200 million below last year's appropriated amount. When the base closure amount is excluded from the comparison, the bill is almost $700 million below last year's level.

The bill before the House reduces overseas spending by about $750 million, $287 million of which are rescission of prior year funds requested by the President. The reductions overseas constitute a 60-percent reduction from the President's request. It was the committee's feeling that in view of the rapid changes in Europe and attendant reevaluation of force structure that the reductions were appropriate. However, the committee did fund the highest priority projects at bases that were expected to remain.

With regard to the MX rail garrison program, we are recommending deferring funding of $243 million for 3 new operational bases. The committee took this action because of the uncertainty as to whether a rail garrison system will be deployed.

With regard to the B-2 base at Whiteman Air Force Base, the committee has recommended a 40-percent reduction from the President's budget request. Final level of funding will depend on the outcome of the Armed Services conference regarding the B-2 program.

With regard to construction of a new base at Crotone, Italy, to support the relocation of the 401st Tactical Fighter Wing, we are recommending a prohibition against the use of all design and construction funds, including prior year funds, until December 31, 1990. We have taken this action to allow sufficient time for a decision to be made in the authorization bill as to whether a new base should be built in Italy. There was considerable debate in our subcommittee markup over this issue and it was a consensus that we should await the authorization recommendations. However, I understand that an amendment will be offered to kill the project. I will speak to that amendment when and if it is offered.

With regard to the base closure account we are recommending funding of $916.5 million as requested. This would be in addition to the $500 million provided in fiscal year 1990. The committee has also added to the requested amount $81.6 million for envi-

ronmental restoration at closed bases. The committee has taken this action to ensure that funding is available and environmental cleanup is given priority at closed bases as well as providing accountability for costs associated with base closure.

The committee has reported its dissatisfaction with the construction moratorium which is programmed to last until at least November 15, 1990, which is more than 1 year. There is no certainty that it will terminate in November. For that reason the committee has disapproved the deferral of such funds and directs the Department to release funds for obligation upon enactment of this act.

While the first moratorium announcement may have been a prudent action, given the rapid change in Europe and the attendant reevaluation of force structure, the decisions to extend the moratorium to June 15, 1990, and then to November 15, 1990, is disruptive and not necessary. The result of the moratorium is that $5 to $6 billion have been delayed for bases where there is a certainty that missions are likely to remain.

The committee has recommended rescinding about $287 million of prior year funding for projects overseas. These rescissions were requested by the President's special message of June 28, 1990.

The committee recommends funding $250 million for NATO infrastructure account instead of $420.4 million as requested. The recommendation is more than required to fund ongoing commitments.

Those are some of the more significant items in the bill. The bill we are recommending is a bipartisan effort; it provides for the highest priority military construction requirements, and it is within our section 302 allocations.

At this point, I would just like to express my appreciation to all the members of the Military Construction Subcommittee. I would like to particularly thank our ranking minority member, BILL LOWERY, for his diligence and cooperation in making this a bipartisan effort.

Mr. Chairman, I reserve the balance of my time.

Mr. LOWERY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the military construction appropriations bill for fiscal year 1991.

I would like to thank the chairman of the Military Construction Subcommittee, the gentleman from North Carolina, for his kind remarks and commend him for his diligence in bringing this bill to the House floor.

Mr. Chairman, H.R. 5313 provides $7.3 billion for military construction and family housing. This represents a $681 million decrease from last year's appropriation. This bill also includes $998 million for continued funding of the base closure and realignment account. When combined the total appropriation provided is $8.3 billion. This is still $183 million below last year's bill and $815 million below the President's request.

We have worked hard to bring this bill to the House floor. It has not been an easy task. In this year of Defense Department building moratoria and the proposed cuts in defense spending, this bill represents a good balance between the needs of our servicemen and servicewomen and the changing defense posture. We can, and have, cut military construction, but it cannot be meat axed. As we consolidate, close bases, and reduce manpower, the remaining bases and equipment must be maintained in top working order and personnel must be highly trained and adequately housed.

The chairman of the subcommittee has outlined the major provisions of this bill. I would like to take this opportunity to comment on a few of them.

First, the Secretary of Defense issued a moratorium on all military construction and family housing projects on January 24, 1990. This moratorium has been extended twice and is currently in effect until November 15. This has held up the majority of last year's appropriations by over 1 year. While I understand the prudence of this action, I believe construction should go forward at those bases the Department knows will not be closing. The committee has included language disapproving the deferral of these funds and directs the Department to release funds for obligation upon enactment of this bill. This action requires the Department to comply with the Impoundment Control Act. The Secretary of Defense still has the option to formally submit a rescission list to Congress.

The committee has reduced the request for overseas construction by $287.3 million. The projects funded in this bill are for those installations we anticipate will remain intact. In addition, the NATO infrastructure account has been reduced by 40 percent. This action was taken in light of the changes in Europe and the anticipated reduction in construction. The committee has also recommended rescinding prior-year funds in the amount of $286.5 million at overseas locations. This action is in line with the President's request of June 28, 1990.

As we watch the changes in Europe, anticipate troop reductions, and face major reductions in defense spending, it becomes more important that we get the most efficient use of our facilities here at home. This bill helps ensure that. We have deferred funding for the MX rail garrison; reduced by 40 percent the request for construction related to the bed down of the B-2 bomber; added several worthy projects for the Guard and Reserves; provided needed facilities to support air, sea, and land operations and those necessary to maintain a vast array of weapons and equipment; provided for barracks, hospitals, clinics, child care centers, and community facilities. Funds are included for construction of new homes and whole house improvements. We also have approved projects that will provide for improvements to the health, safety, and environmental aspects of our installations.

While there are many projects in this bill that are important to our national defense, none are more important than those that support the men and women of our Armed Forces—they are our constituency. We provide for their working environment; their housing; and their support facilities.

Mr. Chairman, I think it is important to note that this is the second year we are providing funds for the Base Realignment and Closure Commission's recommendations. The administration requested $916.5 million for the second year of implementation. The committee has increased this amount by $81.6 million in support of Mr. FAZIO's initiative to ensure adequate funds are provided for environmental cleanup of those bases to be closed. Although the law requiries environmental restoration before a base can be used for new purposes, there is no funding source dedicated solely for that purpose. I strongly support this initiative, for it will ensure adequate funds are available and will help provide a clearer accounting of the costs associated with the Commission's recommendations.

It is important to note that, while the driving force behind passage of the Base Closure Act was cost savings, we are continuing to find it is going to cost much more than anticipated to realize any savings. Including the appropriation in this bill, we have provided over $1.5 billion the past 2 years to implement the Commission's recommendations. Based on figures presented to the committee this spring, our latest estimate of costs, minus revenues from land sales, shows a necessary appropriation of $2.8 billion from fiscal year 1989 to fiscal year 1993 to implement the plan. I continue to believe we will see this estimate grow.

Finally, I urge my colleagues to begin to look at the very real and pressing needs for facilities that support our servicemen and servicewomen. Mr. Chairman, I think it is safe to say that as we see the authorization process move forward, changes will be necessary to this bill. However, in lieu of that process, we have acted prudently. We have worked hard to bring this bill to the House floor. It is a balanced bill and deserves the support of this House.

□ 1740

Mr. HEFNER. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas [Mr. ALEXANDER], a member of the committee.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this military construction appropriations bill.

The environment in which the Subcommittee on Military Construction and the Committee on Appropriations produced this bill this year was even more complex than in the past. Despite that, I believe the bill we bring for your consideration today is a very good bill, with one exception which I propose to amend.

It is $814.8 million below the President's request. And, it is $9.1 million below the amount provided for the fiscal year 1990.

The leadership of our subcommittee chairman, Mr. HEFNER, and ranking Republican member, Mr. LOWERY of California, and the hard work of the subcommittee staff have been major factors in achieving the formulation of this bill. I very much appreciate the contributions that they have made.

H.R. 5313 takes into account the severe budget problems facing our Nation. It recognizes to some extent the recent spectacular events in Eastern Europe and the Soviet Union which have brought about the end of the cold war and the need for formulation of a new defense policy in response to those developments.

I share the concerns about the need for a fairer distribution of defense burden sharing among our allies which have been expressed this year, as it has in many previous years. The economies of Western Europe and Japan have grown so strong that it not only just but necessary for those nations make a major increase the share they pay of cost of defending our comnon security interests.

I believe it is important to our national security that the United States participate in a free world alliance to share the cost of collective defense of combined interests around the world. At the same time, I must state that the United States cannot afford this policy, especially in light of the dramatic changes in central and Eastern Europe.

It is past time for the United States to tell its allies that the river of American defense dollars going offshore is being barricaded by a fed-up American public.

In recognition of the improved ability of these nations to share defense costs, the committee has recommended a $170 million reduction in the United States contribution to the North Atlantic Treaty Organization infrastructure program; and, denial of funding for projects eligible for funding under the Japanese Facilities Improvement Program and the Korean Combined Defense Improvement Program.

Further, the committee has recommended a $287 million—over 60 percent—reduction in overseas military construction. This funding has been redirected to higher priority projects in the United States. The bill also contains rescissions of $237.2 million of fiscal year 1990 funds which were provided for overseas projects.

These cuts were made for various reasons. They include—

Uncertainty regarding sensitive base rights;

The need for our allies to substantially expand their share of common defense costs;

Potential for overseas base closures and realignments; and,

The probability of cuts in U.S. military forces stationed in Europe.

Our subcommittee and committee are concerned about the vigorous efforts of the Department of Defense to close U.S. military bases before providing a new, post cold war defense strategy and related force structure plan to support it and before taking major action to close and realign U.S. overseas bases.

In view of the dramatic changes in the international military security situation, I believe the Nation must move toward a dual basing policy which permanently stations most U.S. military forces stateside with plans for temporarily deploying them to foreign locations for training and for crisis response.

In response to my request, the committee has directed, in the report accompanying this bill, the Department of Defense to provide by February 1, 1990, a report on the impact on the military constuction program of stationing 95, 90, and 85 percent of all active U.S. military forces at locations inside the United States.

As I have already indicated, this bill is below both the President's request and below last year's appropriations. That carries on a congressional tradition stretching back to the early 1940's. In 39 of the last 45 years, Congress has appropriated less money than Presidents requested be appropriated.

I would like to include in the RECORD at this point a table which documents the fact that funds appropriated by the Congress in the 1945–89 period were $173.5 billion less than Presidents proposed be appropriated during that time. The table is as follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS, COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

Calendar year	Administration budget requests	Appropriations enacted	Difference [1]
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,529,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,206	−2,615,359,760
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,597,448,053	86,606,487,273	−4,990,960,780
1962	96,803,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	98,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,480	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
Totals...	10,249,467,607,455	10,075,912,028,737	−173,555,578,718

[1] Difference: Under −; over +.

Source: Prepared by House Committee on Appropriations.

Mr. LOWERY of California. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today to support the fiscal year 1991 military construction appropriation bill. I serve on the Military Construction Subcommittee because I believe that improving the quality of life for those who serve our country in uniform is important. However, I support this year's bill with some degree of trepidation. In years past, shaping this bill has been an example of bipartisanship and cooperation. Unfortunately, this year this bill became controversial and difficult due to circumstances beyond the Military Construction Subcommittee's control. I would like to comment briefly on this point.

The subcommittee was first faced with passing an appropriation bill that had not been authorized, and during a time of budget negotiations between leaders of Congress and the administration. As a result, the bill we pass today may substantially change before it is signed by the President. I would prefer to wait until the defense authorization committees acted, and until a fiscal year 1991 budget was agreed on. But as time dragged on, it became apparent that the authorizing

committee was not going to pass a bill before the August recess, and that a budget agreement was not going to be reached. This subcommittee was faced with either passing a bill now, or waiting for Santa Claus to join the conference committee later.

As a result, several controversial decisions had to be made, the most contentious involving the dynamic between spending defense dollars on bases overseas, or spending those dollars here at home.

During consideration of this bill, we did not know, and we still do not know, what our force structure in Europe will look like in the next few years. We do know that troops will be coming home, but we don't yet know when or which ones. The administration's requests for overseas construction became outdated as time passed, and it did not make fiscal sense to fund many of the military construction projects at overseas bases that may either be deactivated or turned over to host governments. As a result, we funded only those highest priority projects identified by the services, and cut the rest. These reductions totaled $287,000 million.

Prompt completion of a Conventional Forces in Europe [CFE] Treaty will prevent further spending that will prove to have little long-term benefit for our national security. It will enable us to develop a workable and comprehensive defense plan by which construction needs at overseas bases can better reflect our national security policy through the 1990's and into the next century.

One provision in the bill I am concened about is the substantial reduction in NATO infrastructure obligations. There is a significant difference between funding construction projects overseas and living up to our commitment to NATO. We don't know which bases will be closed, so it is prudent to hold up construction funds until these decisions are made. What we do know is that the United States must remain a vital member of a strong NATO alliance. Reducing our NATO obligation unilaterally is a dangerous step that could have serious repercussions through the whole alliance.

In the wake of sweeping changes in the European landscape, and in anticipation of changes yet to come, the administration has continued to support a policy that includes full participation in the future of NATO, and full participation in whatever European security arrangement may be formed to complement NATO. I support this position. Despite our valid reasons for optimism about the course of events in Europe, the vast majority of changes have yet to be made permanent. A weakening of our resolve, and the resulting weakening of NATO, would encourage chaotic changes that could produce dangerous results.

Funding agreements should be made within the alliance itself, not unilaterally by Congress. This is the very charge we have leveled at our allies in the alliance in the past debates on burden sharing; it would be hypocritical of us to take this action now when uncertainty in Europe is greater than ever.

Crotone Air Force Base in Italy is a prime example. When completed, this base will be the home of the 401st Tactical Fighter Wing, comprised of our most sophisticated fighter aircraft. Given the volatility of NATO's southern flank, this base is vital to the security of the alliance. Not one member nation has backed away from the commitment to building this base, which represents the most unique example to date of NATO burden sharing. However, today there will be an amendment to zero out the U.S. obligation for this base. If approved, such a move would greatly jeopardize our credibility in the alliance.

Like many Members of this body, I have a base in my district currently under study for possible closure. Despite the severe economic consequences such a closure would have on my district, I will not pretend for the sake of my constituency that cutting military bases abroad will somehow legitimize keeping more bases open at home. These dicisions must not be based on dollar amounts, but on operational and strategic considerations, especially during a time when defense resources are becoming more scarce.

The subcommittee also had to make a decision regarding a continuing moratorium on military construction imposed by the Secretary of Defense. By the time it would expire in November, the moratorium would have been in effect for almost 1 year, creating additional projected costs and substantially harming businesses depending on completing winning bids for military construction projects. The moratorium has also unnecessarily delayed needed construction projects at bases that we know will not be closed.

The Comptroller General determined that the moratorium on construction was actually a deferral. The subcommittee then disapproved the deferrals. The administration could avoid this situation in the future if it simply determined those projects that were unnecessary and then rescinded them. That the subcommittee would be more amenable to this action is demonstrated by the approval of $286 million in rescinded military construction and family housing projects requested by the President.

I would also like to touch on the B-2 bomber program. The subcommittee cut $37.1 million from the $92 million requested for Whiteman Air Force Base for the B-2. I would have rather seen all of this money delayed until the authorization committee takes action on this issue, especially since there is an excellent chance that the program will be halted with the 15 currently authorized aircraft. The Air Force has not indicated what the mission of 15 or fewer B-2's would be, so the money for these construction projects may be premature.

Mr. Chairman, as I indicated earlier, the real purpose of the military construction appropriations bill is to improve the quality of life for our men and women in uniform which comprise the largest All-Volunteer Force in the world. Through military constructions programs in the 1980's, we made great progress in recruiting and retaining the highest caliber of personnel ever seen in our military. Despite the controversies it contaIns, this bill accomplishes that basic goal, and that's why I support it.

□ 1750

Mr. HEFNER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS], a member of the subcommittee.

Mr. DICKS. Mr. Chairman, I want to compliment the chairman and the ranking member and all the members of our committee and the staff for another outstanding job.

The chairman pointed out that but for the money for base closure which has to be funded this bill would be about $890 million below what the President had requested and $670 million below last year's level, or a 13-percent reduction. I would hope that those people who have been offering across-the-board amendments would take into account this reality that this committee has done a good job and that I think any further cuts would be a serious mistake.

I want to also say that this bill does provide tremendous housing and other requirements for our military personnel. I think we still have met the basic needs here even though we are in a period of transition.

Again, I want to compliment particularly our chairman. He has done an outstanding job year after year on this bill making sure that every dollar is justified, and I think he deserves enormous credit and support on this measure.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN], who is a member of the subcommittee.

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like just to take this opportunity to congratulate the subcommittee and the Committee on Appropriations for their work on this bill. The direction of the Department of Defense in the months and years ahead is one that I know concerns us all, particularly those of us

who have substantial commitments of the armed services in our congressional districts.

I think that this bill is particularly sensitive in its addressing some of the issues that are critical to the future manpower needs, particularly of the Army. I have in my district a supply depot that may or may not be able to be a vital and vibrant part of a consolidated supply effort of the military and the Department of Defense in the years ahead. This bill addresses the concerns of my constituents in that facility, the Red River Army Depot, as well as many others, in directing that the Department of Defense be very careful in its analysis of its future supply needs and view with caution and care whether or not in its consolidation and base closing procedures it is in our national security interests and the interests of the American taxpayer to proceed as they have in the past.

I just want to say I think this committee has done a great job, the Committee on Appropriations has, and I want to congratulate the gentleman from North Carolina [Mr. HEFNER] for his efforts in this behalf, because I think it is the goal of everyone in this body that as we move forward with cuts to the Department of Defense, as most surely we will, that we do so in a way that neither jeopardizes our national security or wastes any money of the taxpayers.

I think this bill has struck a very good compromise in those efforts. I applaud the committee.

Mr. HEFNER. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN], who is not a member of the committee.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman's yielding me this time.

Mr. Chairman, I want to comment especially about the proposal in this appropriation bill for the MX rail garrison missile. We are deciding today to defer funding for the MX rail garrison missile, which is the first step in scrapping a weapon system we do not need. The world is changing dramatically. The walls of communism are crumbling all around the world, and we must reflect this in what we do in defense policy.

Yes, we need a defense. We need an Army that is combat-ready. We need airplanes that fly. We need guns that fire. But we do not need gold-plated weapon systems built with money we do not have.

I think the MX rail garrison missile is a waste. If we are so all-fired bent on putting missiles on railroad cars, why not instead put wheat on railroad cars, and move it around the world at $5 a bushel to the producers?

The MX rail garrison missile was to have been built in my home State, among others, providing millions of dollars and hundreds of jobs. In my judgment, we should not build weapons we do not need, with money we do not have.

This is the first step in facing reality on defense policy. We must finally face reality if we are going to reduce the Federal deficit and begin investing in things that make a better life in America.

Mr. LOWERY of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I would like to ask my colleague if he would join me in a brief colloquy.

As the chairman knows as well as my colleague, the gentleman from California [Mr. LOWERY], San Bernardino County was hit as heavily in the base-closing process as any in the country, two Air Force bases closed down. Within that mix in the Commission's report, they said the following, "Because of the high cost of relocation and the function requirement of the ballistic missiles office to remain in a local area, the Commission recommends it remain at Norton Air Force Base.

Subsequent to that report passing the House, the Air Force moved very quickly in their effort to do just the reverse of that which the report indicated they should do. As a result of that, the committee this year has put language within their bill that clearly restates the committee's intent as well as the intent of this Commission. Is that correct?

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. LOWERY of California. Mr. Chairman, that is correct. It was the committee's intent to keep faith with the Base Closure and Realignment Commission and the report, and on page 4 of the bill, line 15, we put language, "Provided further that herein and hereafter the ballistic missile organization shall not be relocated from Norton Air Force Base, CA."

Mr. HEFNER. Will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, I wanted to thank the gentleman from California [Mr. BROWN], and the gentleman from California [Mr. LEWIS], for bringing this to our attention, because it seemed to us that maybe the Air Force was trying to do an end run and kind of circumvent what should be done.

I want to thank the gentleman, and the gentleman from California [Mr. BROWN] for bringing this to our attention.

Mr. LEWIS of California. Reclaiming my time, I would like to thank both the chairman and the ranking member for their cooperation in the problem that faces both the gentleman from California [Mr. BROWN] and myself in our districts. I appreciate the help of the gentlemen.

Mr. HEFNER. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, I want to congratulate the House. Whenever most of those appropriation bills are handled, someone like the gentleman from Kentucky is the recipient of endless accolades for his fine work, but after having a conference earlier with many Members from Georgia and Alabama, we have decided not to burden anyone this afternoon with those endless compliments, and we are sure the gentleman from North Carolina [Mr. HEFNER] understands.

Mr. HEFNER. Mr. Chairman, I might emphasize that the gentleman from Louisiana is not a member of the subcommittee and not likely to be.

Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH], who is a member of the Committee on Appropriations and a very distinguished member.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I commend the members of the subcommittee for this bill. I looked the bill over, and I had in mind the fact that we are in a great transition, with regard to priorities for the Armed Forces at home and in the world. I think that this bill does better than any other that we have developed in recognizing the transition that we are in.

Someone in Iowa said to me, "How can you justify continuing to appropriate money for defense facilities and equipment when we are reducing the Armed Forces?"

□ 1800

A part of what is going on is that we are going to rely more on the National Guard and Reserves and less on large numbers of Regulars. So we are going to be abandoning some of the bases at the same time that we are shifting over to more dependence upon Reserves and National Guard and training them to be fully qualified and ready to go if needed with the latest equipment.

I think this bill does a good job of that, and I do commend the subcommittee for the bill.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of H.R. 5313, the fiscal year 1991 military construction appropriations bill. First, I would like to express my deep appreciation to the chairman of the Subcommittee on Military Construction, Mr. HEFNER, and the

ranking minority member, Mr. LOWERY, for the time and energy they each put into crafting this bipartisan bill. As a member of the subcommittee, I can attest to the pragmatic and cooperative spirit with which this legislation was prepared. In addition, the subcommittee staff is to be commended highly for the long hours they put into the subcommittee's hearings and for their work in putting this year's bill together.

Mr. Chairman, H.R. 5313 has been drafted to reflect the changes that are taking place in the world around us. The bill recommends a total of nearly $8.3 billion in fiscal year 1991 for military construction and family housing. This represents a reduction of $837 million below President Bush's budget request and $205 million below last year's appropriation. Aside from making its contribution to our deficit reduction effort, I am also pleased to report that H.R. 5313 takes an important and needed step toward ensuring that environmental cleanup at military bases is completed.

We are currently in the process of closing 86 domestic military installations as directed by the Base Closure and Realignment Act of 1988. A fundamental tenet of the act was to enable affected communities to convert these installations to civilian use in an expeditious manner. However, the enormity of environmental restoration work needed at these sites is already presenting significant barriers to this process. With this in mind, I introduced legislation (H.R. 5174), together with Chairman HEFNER and Mr. LOWERY, to do the following:

First, increase the authorization and appropriations for the base closure account by $81.6 million and require that this additional funding be used only for environmental restoration activities at installations to be closed pursuant to the Base Closure and Realignment Act of 1988;

Second, create an interagency task force to develop ways to improve coordination and cooperation among the relevant agencies to ensure that cleanup activities and property transfers are expedited.

Mr. Chairman, H.R. 5174 simply codifies into law what has been the subcommittee's position since the Base Closure Act was passed—to ensure a rapid transfer of base closure sites to civilian use. H.R. 5174 will help ensure that funding is available for environmental restoration activities required under the Base Closure Act and will ensure that the closing facilities will be given priority consideration in the budget process.

The House Armed Services Committee is expected to adopt the provisions of H.R. 5174 when they mark up the fiscal year 1991 Defense authorization bill this week. The military construction appropriations bill, H.R. 5313, provides the first full infusion of funding needed to implement my legislation. Moreover, H.R. 5313 guarantees that base closure cleanup activities will continue so that the recovery process for affected communities can begin in a more timely fashion. I look forward to working with Chairman HEFNER and Mr. LOWERY in the future as the Subcommittee on Military Construction continues its oversight in this area.

Perhaps the only contentious issue the subcommittee had to address this year was the proposed construction of a new Air Force base in Crotone, Italy. The Crotone base is scheduled to be the new home base for the 401st Tactical Fighter Wing. The Crotone base is the result of the Air Force's efforts to relocate the 401st Tactical Fighter Wing from Torrejon Air Base, Spain to Crotone, Italy. Increasing local resistance to United States forces on its soil led Spain to tie its continued participation in NATO with a significant reduction of United States forces in Spain. As part of this agreement, the 401st Tactical Fighter Wing is scheduled to leave Torrejon in May 1992.

The Air Force initially planned to deactivate the 401st, but NATO proposed relocating the 401st to another southern European location. Italy agreed to be the new host of the 401st, and NATO agreed to fund much of the construction costs through the NATO Infrastructure Fund. The 401st provides the only U.S. land-based aircraft in the Southern Region, where our allies' air power capabilities are the weakest and where our ability to respond to tensions in the Middle East and North Africa has grown in importance.

I fully recognize the seeming conflict between DOD's efforts to close various domestic military installations while proceeding with the construction of a brand new airfield in Crotone. However, this issue goes far beyond the issue of military construction costs. The Crotone airbase is the result of negotiations between NATO, Italy and the United States. It is as much a diplomatic and foreign policy issue as it is a question of military spending. NATO has agreed to pay over half of the total cost of construction which is a significant step toward the level of burden sharing that we have urged our allies to achieve in recent years. Furthermore, the bulk of the U.S. share of the cost of construction would come out of the dues we pay to NATO and, therefore, would not constitute an additional expense beyond what we already pay to NATO.

However, the subcommittee did include language in H.R. 5313 to prohibit the use of funds appropriated in fiscal year 1991 or in previous years for construction of facilities in Crotone, Italy until December 31, 1990. This provision will avoid any precipitous action relating to the Crotone facility, but puts a hold on any work at the Crotone base while Congress can fully explore the budgetary and foreign policy implications involved in this project. At this time, I believe that the subcommittee's approach is the most appropriate action.

Finally, Mr. Chairman, I would like to point out several projects included in H.R. 5313 which affect bases in my district. For McClellan Air Force Base, $11.2 million has been appropriated for the construction and upgrading of a depot corrosion control facility. As part of its mission to provide maintenance and repair work for some of our country's most advanced aircraft, McClellan employs a corrosion prevention program which entails the painting and paint stripping of aircraft. These activities are currently performed in substandard facilities. The $11.2 million allocation will be used to construct a new paint facility with advanced technology and to convert the existing facility into a paint stripping shop.

Travis Air Force Base has two projects being funded at a level of $10.8 million. $5.8 million will be used to complete renovation of a vacated medical facility. The renovated building, which has 193,000 square feet of floor space, will be used as centrally located office space for the support functions at the base. The centralized office building will replace World War II and Korean War vintage buildings.

The remaining $5.0 million requested for Travis AFB will be used to construct a dining hall to serve unaccompanied enlisted personnel. Two of the current dining facilities cannot be economically upgraded to support approximately 2,700 enlisted personnel. The old dining facilities will be demolished upon completion of this project.

Also included in H.R. 5313 is $6.3 million for the construction of a dormitory on Beale Air Force Base. Unaccompanied enlisted personnel are currently housed in 10, 30-year-old wood dormitories which cannot be upgraded to meet Air Force standards. Due to the distance from adequate local community housing and limited transportation, off-base housing is not attractive nor affordable for many of the junior enlisted personnel. An economic analysis concluded that it would be more economical to build new on-base housing rather than house enlisted personnel off-base.

Mr. Chairman, investing in the infrastructure of U.S. military installations will only translate into improved morale, efficiency and productivity. H.R. 5313 is a fair and well-balanced bill, and reflects the need to maintain modern military facilities. I am pleased to have had the opportunity to work with Chairman HEFNER, Mr. LOWERY and the other subcommittee members to craft this legislation, and I strongly urge my colleagues to support the bill.

Mr. BRENNAN. Mr. Chairman, I rise today in strong support of H.R. 5313, military construction appropriations for fiscal year 1991. As we face a changing world political climate with the decline of communism and the Soviet threat, we are seeing a corresponding decline in defense dollars. We in this Congress have a special responsibility to the men and women who serve in our Armed Forces. As dollars for Defense shrink, our commitment to the quality of life for our personnel should not be shaken.

I am pleased to offer my appreciation to subcommittee chairman, BILL HEFNER, and ranking member BILL LOWERY for crafting a measure which addresses many high priority military construction projects. As our forces are drawn down, we must carefully restructure and maintain the quality and readiness of our military. An important component of troop morale and readiness is insuring quality of life concerns—such as military housing and facilities. This measure will assist in meeting that goal while at the same time reporting a measure which is under last year's appropriations level.

There are projects of particular interest to my home State of Maine which I wish to emphasize. Funding is provided for a dry dock modernization and cover at the Portsmouth-Kittery Naval Shipyard. This modernization project will enhance worker productivity, safety, and efficiency through its completion. In working on our newest and most modern submarines, the support facilities should reflect state-of-the-art technology and equip-

ment. The covered dry dock facility is a positive step toward meeting the challenges of future naval ship repair and overhauls.

I am also pleased with the inclusion of funds for a munitions equipment storage facility at Loring Air Force Base. This is another indication of the strong commitment given to the role and mission of Loring AFB by DOD and this Congress.

I urge my colleagues to join me in a strong show of support for this measure which meets the many high priority military constructuion needs and keeps the funding level below last years level.

Mr. CRAIG. Mr. Chairman, I rise today during consideration of H.R. 5313, the military construction appropriations for fiscal year 1991, to detail the impressive credentials of one of our Nation's most vital military installations, Mountain Home Air Force Base.

Mountain Home Air Force Base, the only active military installation in the State of Idaho, is home to a number of aircraft, including the 389th and 391st Tactical Fighter Squadrons. However, these two squadrons are being deactivated and their 35 F-111A aircraft drawn down, as ordered by the Base Closure and Realignment Act of 1990. Although the act also called for the relocation of F-4s to the base, the F-4 is being phased out, so it is unclear what aircraft will replace the F-111As. In addition, Air Force Secretary Rice has stated that the base is currently in a "holding pattern" until the Nation's future military needs are determined.

In this time of tight budgets and reduced military tensions, there is talk of closing military installations in addition to those eliminated by the Base Closure and Realignment Act of 1988. Although I am pleased to note that H.R. 5313 would appropriate $1.35 million for construction at the Mountain Home Air Force Base, many in Idaho remain concerned that the base may be one of the next round of closures. I would like to take this time to state that such an act would seriously harm my State's economy and severely threaten national security.

For more than 47 years, Mountain Home Air Force Base and the city of Mountain Home have worked together to establish a relationship based on friendship and cooperation. The air base allows the town of 8,900 to exist and grow. Its economic impact can be felt 40 miles away in our State capital, as $100 million is spent each year in the region surrounding the base. Recognizing this important coexistence, the Mountain Home community will be celebrating its 30th annual Air Force Appreciation Day on the eighth of September this year.

Mountain Home Air Force Base has a bright future that Idahoans have worked hard to assure. The postponement of the Department of Defense's realignment program give Idaho time to show the Federal Government the distinct advantages that Mountain Home Air Foce Base offers.

Mr. Chairman, I invite Congress and the Department of Defense to take a closer look at Mountain Home, ID, where they will find a friendly community and model Air Force base critical to the preservation of our Nation's security.

Ms. PELOSI. Mr. Chairman, I rise today in support of the provision to earmark funds from the base closure and realignment account for environmental cleanup in H.R. 5313. I commend my esteemed colleague, Congressman VIC FAZIO, for his leadership on this important issue.

Mr. Speaker, the environmental mess left behind by the Department of Defense at domestic and international bases is the untold story of the end of the cold war. The General Accounting Office estimates that the cost of cleaning up hazardous waste at bases slated for closure by the Base and Realignment and Closure Commission will be a staggering $661 million.

Moreover, this figure is in all likelihood too low. For example, the Commission estimated that the cleanup of the Presidio of San Francisco would cost $2 million. The Commission cites the presence of asbestos, PCB's, leaking underground storage tanks, transformers, and unspecified "contaminated sites." The GAO estimate is $10 million. But, according to Army officials at the Presidio, environmental cleanup will cost an estimated $82.5 million, 10 times as much as the GAO estimate and 40 times the DOD estimate.

With the enormity of the cleanup undetermined, I consider the appropriation of $81.6 million for environmental cleanup at closed bases an extremely important step for us to take. These funds will help fulfill the intent of the Base Closure and Realignment Act by allowing conversion of military bases to civilian uses in an expeditious manner and help us on the road to a peacetime economy.

I must add, however, that the environmental restoration of closed bases included in this appropriations bill should only be the beginning of our efforts to confront the Defense Department's environmental mess. Based on current Department of Energy, DOD, and GAO estimates, the total cost of bringing U.S. military facilities—military bases, nuclear warhead and chemical production sites—into compliance with environmental laws and mending the damage they have caused could easily exceed $150 billion, or over half of all defense spending for 1990.

Before we can enjoy a peace dividend, we must face the cost of cleaning up the toxic hot spots left by the cold war. I urge my colleagues to vote for H.R. 5313 to begin the process of environmental restoration at military bases. Thank you.

Mr. CAMPBELL of Colorado. Mr. Chairman, I have no choice today but to vote against H.R. 5313, the military construction appropriations bill for fiscal year 1991.

My vote is not directed at the important efforts of Chairman HEFNER and his Appropriations Subcommittee, which faces a difficult job each year in trying to fund military construction projects. I have appreciated and supported the committee's efforts in the past.

Rather, my vote is one of protest and frustration. For the past year and a half, I have attempted to obtain from the Army the cost of relocating existing missions at the Pueblo depot activity, a facility in my district which is the subject of realignment and of an uncertain future. The realignment is supposedly being carried out to save money and yet, the order for other military facilities to assume Pueblo's missions, new facilities need to be built and new personnel hired. No one has ever been able to explain to me how this is supposed to save money.

I don't know whether any of this money being appropriated will ever be used to build new facilities to carry out missions currently being performed at Pueblo. But until I am shown that moving Pueblo missions elsewhere is cost-effective for taxpayers, I cannot vote for this bill.

And so, here we are, a year and a half after I began my appeals for information, and I and the people of Pueblo are still in the dark. I cannot in good conscience vote for the extinction of jobs in my district without being able to tell my constituents whether such action is budgetarily sound or not. They at least deserve this much consideration, and they haven't gotten it.

Mr. COLEMAN of Texas. Mr. Chairman, as a member of the subcommittee, I rise in support of this bill. It is unusual for our subcommittee to report to the House a bill which is under the President's request. In year after year of hearings, we have heard about the Office of Management and Budget [OMB] eliminating funding sought by the services for construction of facilities, barracks modernizations, and family housing. In bill after bill, we have had to add funding to a Presidential budget request which has failed to meet the needs of the men and women in our armed forces. This year, it is only appropriate that we step back from our regular pattern and withhold funding for a number of items. It makes no sense for us to go ahead with a full-blown spending program overseas while we are in the midst of conventional force reduction talks. This bill also suspends judgment on such sensitive issues as the future of the B-2 bomber program, the MX missile program and the relocation of a wing of F-16 fighters along NATO's southern flank from Torrejon in Spain until such time as the authorization committee and the House have had a chance to work their will on these issues. On the issue of Crotone, it is my personal belief that a freeze on the obligation of funds throughout the upcoming fiscal year is appropriate, but the bill in its present form simply defers the issue until the end of the calendar year.

I will speak to just one issue in this bill among the many to which the subcommittee devoted its attention—the moratorium on new construction imposed by the Secretary of Defense. As members of the House are aware, Secretary of Defense Cheney placed a moratorium on the letting of new construction contracts in January. Since that time, the moratorium has long since outlived its usefulness. In fact, in extending the moratorium on two occasions, and specifically, in acting more recently to extend it through November 15, it is clear that the Bush administration is not any longer imposing a moratorium, it is attempting to defer the obligation of appropriated funds without coming to the Congress and declaring its intentions.

In fact, the Comptroller General ruled that the repeated "moratorium" constituted a de facto violation of the Budget Impoundment and Control Act in a letter to the committee dated June 28, 1990. In view of this ploy, the

committee has overturned the deferral and ordered the obligation of these fiscal year 1990 moneys. My only frustration is that, because the bill will likely not be enacted until well into the fall of this year, the Department of Defense will likely have gotten away with not spending funds it was ordered to spend by the Congress for an entire fiscal year. Frankly, this bothers me a good deal. If the President or the Secretary of Defense had approached the Congress with a deferral message, saying in effect, we disagree with your priorities, then we might have discussed the question out in the open. But this administration apparently chose not to be so straightforward. Under the circumstances, the committee has had no choice but to act as it has in this regard.

I strongly support this bill and urge its passage.

Mr. KOSTMAYER. Mr. Chairman, I rise today in support of provisions included in the fiscal year 1991 military construction authorization appropriations bill that would set-aside 7,600 acres of the Fort Meade Army Post for transfer from the U.S. Army to the U.S. Fish and Wildlife Service.

Mr. Chairman, on April 16, 1990, my subcommittee, the General Oversight and Investigations Subcommittee of the House Interior Committee held a hearing regarding this most precious piece of open space. Fort Meade represents one of the last remaining significant open spaces in the corridor between Boston and Richmond, VA. As a result of this hearing, various groups were able to air their discontent over the Army's original proposal to sell 9,000 acres for development. But through legislation passed by the House of Representatives, a large parcel was transferred at no cost to the Department of the Interior for wildlife purposes. Of the 9,000 acres, only 1,400 will not be included in the transfer.

I'd like to thank the Fort Meade Coordinating Council, a 30-member panel of local officials and residents, who unanimously endorsed a plan to convey 9,000 acres of the post to the U.S. Fish and Wildlife Service. The Fish and Wildlife Service will most likely annex the land to the adjacent Patuxent Wildlife Research Center, an idea endorsed by Maryland's congressional delegation, the State Senate, the Howard, Anne Arundel, and Prince Georges County governments and numerous environmental groups.

This is a crucial, far-reaching step in the overall scope of protecting open space as we enter the 21st century. More decisions like these will have a resounding affect on protecting our rapidly diminishing open space.

Until about 30 years ago, many of our Nation's farms, forests, meadows, valleys and plains—the hallmarks of the American landscape—had gone largely unchanged. Today, a depressing sameness is creeping over the American countryside. The rolling hills of Georgia are becoming crowded with the same shops and housing developments that fill the alluvial plains along the Mississippi. At the ground level, the sweeping valleys of California now bear a remarkable resemblance to the bedroom communities along the Hudson River.

With the advent of this transfer, created will be the largest contiguous forest preserve in the Northeastern United States and the second-largest greenspace between Boston and Richmond, VA—more than 19,000 acres.

This is the last chance to protect the Baltimore-Washington corridor from becoming an environmentally impure area. One which future generations can enjoy.

Mr. Chairman, I expect that my subcommittee will continue to monitor the remaining forests, sanctuaries, and valleys in the Northeastern corridor, and continue to protect all potentially endangered open space in the future.

It is my hope that more counties across this great land pay special heed to this pivotal decision to free the wildlife of any danger of their stomping grounds being sapped up to shopping malls, condominiums, and parking lots.

Mr. LOWERY of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $747,067,000, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $95,577,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-500 and Public Law 99-591, $14,905,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-202, $29,030,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-447, $26,910,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 101-148, $44,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,137,278,000, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $76,951,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 101-148, $6,200,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $949,446,000, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $107,741,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $4,700,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148, $20,690,000 is hereby rescinded: *Provided further,* That, herein and hereafter, the Ballistic Missile Organization shall not be relocated from Norton Air Force Base, California.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $625,326,000, to remain available until September 30, 1995: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $94,285,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $35,578,000 is hereby rescinded: *Provided further,* That of the funds appropriated for

"Military Construction, Defense Agencies" under Public Law 101-148, $32,541,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $250,000,000, to remain available until expended: *Provided,* That none of the funds appropriated or otherwise available under the North Atlantic Treaty Orgranization Infrastructure Account in this or any other Act may be obligated for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing to Crotone, Italy, until December 31, 1990.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $201,558,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $135,240,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $68,297,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $63,300,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $37,700,000, to remain available until September 30, 1995.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $61,800,000; for Operation and maintenance, and for debt payment, $1,463,967,000; in all $1,525,767,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 100-202, $4,264,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 100-447, $8,400,000 is hereby rescinded.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $185,000,000; for Operation and maintenance, and for debt payment, $691,101,000; in all $876,101,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 101-148, $11,037,000 is hereby rescinded.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $185,100,000; for Operation and maintenance, and for debt payment, $771,442,000; in all $956,542,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-202, $1,941,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-447, $167,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 101-148, $43,856,000 is hereby rescinded.

FAMILY HOUSING, DEFENSE AGENCIES

(INCLUDING RESCISSIONS)

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $500,000; for Operation and maintenance, $20,514,000; in all $21,014,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Defense Agencies" under Public Law 101-148, $300,000 is hereby rescinded.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $998,100,000, to remain available for obligation until September 30, 1995: *Provided,* That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further,* That $81,600,000 of the funds appropriated herein shall be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction

project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1991, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundred First Congress.

SEC. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1991, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1991 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $16,000,000 may be obligated for contract cleaning of family housing units.

SEC. 121. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 122. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 123. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 124. None of the funds herein or heretofore appropriated for Military Construction and Family Housing are available to fund costs associated with military operations in Panama known as Operation Just Cause, notwithstanding transfer authority contained in section 211 of Public Law 101-302.

SEC. 125. The Congress disapproves the deferrals relating to the Department of Defense as set forth in the message from the Comptroller General transmitted to the Congress on June 28, 1990 (H. Doc. 101-210).

SEC. 126. (a) Notwithstanding any other provision of law, the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland, located generally south of Maryland Route 198 extended and the power-line right-of-way, as determined under subsection (d).

(b) The Secretary of the Interior shall administer the property transferred pursuant to subsection (a) consistent with wildlife conservation purposes and shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this Act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission.

(c) The Secretary of the Interior may not convey, lease, transfer, declare excess or surplus, or otherwise dispose of any portion of the property transferred pursuant to subsection (a) unless approved by law.

(d) The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Director of the United States Fish and Wildlife Service within the Department of the Interior, after consultation with the Department of the Army and appropriate State and local government officials.

SEC. 127. (a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Army may convey to the city of Tacoma, Washington, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, located at 3009 North Star Street, Tacoma, Washington, consisting of approximately 6.7 acres.

(2) The conveyance under paragraph (1) shall be made in consideration for a 50-year leasehold interest in and to Pier 23, Port of Tacoma, made available by the State of Washington to the Department of the Army.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for public purposes.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interest in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the city.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 128. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

Mr. HEFNER (during the reading). Mr. Chairman, I ask unanimous that the bill through page 20, line 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there any points of order against that part of the bill?

AMENDMENT OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALEXANDER: On page 6, line 10 strike", until December 31, 1990"

POINT OF ORDER

Mr. MARTIN of New York. Mr. Chairman, I make a point of order against the Alexander amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MARTIN of New York. Mr. Chairman, the Alexander amendment strikes the date with respect to the proviso on page 6 of the bill, thereby broadening the application of the legislative provision contained in the bill.

On July 30, 1985, an amendment to strike the word "Federal" from a legislative provision in the District of Columbia appropriations bill was found by the Chair not to be in order. The Chair held that the amendment broadened the application of that underlying legislative provision, which prohibited the use of funds for abortions with certain exceptions. By striking the word "Federal," the application was broadened by expanding the funding restriction to local funds in the bill. Similarly it retained the requirements for new determinations regarding the life of the mother with respect to the use of those funds. As a result the amendment was not allowed to be offered under clause 2(c), rule XXI, since the amendment was additional legislation subject to a point of order under that clause. The Chair was specific to rule that, and I quote, "the amendment in effect constitutes or creates a new limitation * * *."

The Alexander amendment presents a similar problem. It creates a new limitation. The amendment strikes a date certain in the legislative restriction, and thereby extends the application of the provision from December 31, 1990 to September 30, 1991, the end of the fiscal year. As the Chair ruled on July 30, 1985, the amendment broadens the application of the legislative provision—from December 31 to September 30, and it retains the legislative requirements in the underlying amendment. In effect, the Alexander amendment creates a new limitation that is legislative in nature. Because under the 1985 precedent, the deletion of language creates a new and broader limitation and for that reason is subject to a point of order as legislation on an appropriations bill, this amendment should be ruled out of order.

Furthermore, Mr. Chairman, under the precedents of the House, there is another ground on which to rule this amendment out of order. Under section 3.43 of chapter 26 of Deschler's precedents, an amendment which creates a new congressional policy different from that expressed in the bill is no longer to be considered a perfecting amendment. The policy in the section that the gentleman seeks to amend is to delay obligation of funds until December 31.

The policy that the gentleman seeks to set forth is to provide no funding under this bill for the project in question. The difference between delaying funding by 3 months and not funding at all is so substantial as to constitute a change in policy and therefore under the precedents means that the gentleman's amendment cannot be considered a perfecting amendment, but rather a new limitation that is not protected under the rules and must be struck on a point of order as legislation on an appropriation bill.

Mr. Chairman, I ask that the point of order be sustained.

The CHAIRMAN. Does the gentleman from Arkansas [Mr. ALEXANDER] wish to be heard on the point of order?

Mr. ALEXANDER. Yes, Mr. Chairman.

Mr. Chairman, the effect of my amendment would merely have the effect of extending the existing limitation which is carried in the committee-reported bill from 3 months to 12 months, in effect making it a full year limitation applicable to the entire fiscal year rather than to a portion of the fiscal year. It provides no new material and is not legislation on an appropriation bill.

Moreover, I would add that my amendment goes to a paragraph that is protected under the rule.

The CHAIRMAN (Mr. COOPER). The Chair is prepared to rule.

The gentleman from New York makes a point of order that the amendment offered by the gentleman from Arkansas violates clause 2 of rule XXI by legislating on a general appropriation bill.

The pending paragraph contains a legislative proviso permitted to remain in the bill by waiver of points of order pursuant to H.R. 441. As indicated on page 21 of the committee report, the proviso restricts until December 31, 1990, the obligation of certain funds in the bill and certain unobligated balances from prior years. The amendment strikes the delimiting date from the proviso.

Where legislative language is permitted to remain in a general appropriation bill by waiver of points of order, a germane amendment merely perfecting that language and not adding further legislation is in order. A case analogous to this one is recorded as precedent in Deschler's volume 8, chapter 26, section 3.28. There, an amendment to legislation permitted to remain simply changed a ceiling on certain public housing starts from 25,000 to 5,000. Here, the amendment simply changes the period of the restriction on obligation from one-quarter of the fiscal year to the full fiscal year. The precedent cited by the gentleman from New York, on the other hand, either involved a different statement of policy on its face, or applied to different funds. The instant amendment is merely perfecting the question of delay.

Accordingly, the point of order is overruled.

Mr. ALEXANDER. Mr. Chairman, I would like to say to my colleagues that like many of them I am a veteran of the Armed Forces. I served in the U.S. Army during the Korean era, and since coming to Congress I have received training by the Air Force, flight training, and by the U.S. Navy, U.S. Navy diving training. I believe that we in this Congress and the American people owe to our men and women in uniform the best possible support and the best materials and the best weapons that money can buy. We have an obligation to help keep them the best. And, that is exactly what I have striven to do since I have come here as a Member of Congress.

We also owe our men and women in uniform something else that is vital to their success as the best fighting forces on Earth, and that is a clear, comprehensive, concise defense strategy.

We are in the first stages of the post-cold war era. It is vital that the Department of Defense and all other agencies of government make plans based on changing world conditions.

Even though DOD has not come forward with a new defense plan and the formulation of the necessary force structure to support it, domestic bases are being closed or proposed for closure while new ones are being built overseas.

These decisions are being taken in the absence of a clear-cut, over-all defense strategy. This is what we in Arkansas would call putting the cart before the horse. Insisting on that arrangement tends to move you in the wrong direction. I fear that is what is happening in the case of Crotone.

A number of Members have asked to join me in this amendment, some of who are here today, one of whom has just shown up and asked that he be mentioned as an original cosponsor of the amendment, the gentleman from Wisconsin [Mr. OBEY].

By adopting this amendment to strike four words from the text of this military construction appropriations bill, the House can vote to save American taxpayers millions of dollars which would otherwise be used to build a new Air Force base in Crotone, Italy.

The General Accounting Office is currently evaluating the Department of Defense justification for selecting

the Crotone site. And, the House Armed Services Subcommittee on Military Installations and Facilities has recommended against further U.S. spending at Crotone.

My amendment would halt this unnecessary spending.

The Crotone, Italy, base has been proposed to support the United States Air Force's 401st Tactical Fighter Wing which Spain is forcing the United States to remove from Torrejon Air Base, Spain. Total costs associated with the relocation are estimated to exceed $700 million. The U.S. share of the North Atlantic Treaty Organization [NATO] costs, together with other related costs, are currently estimated to be $320.3 million.

□ 1810

The decision to move the 401st wing to southern Italy was made almost 2 years ago. Remarkable changes have occurred in the international military threat situation since that time. These have created the opportunity to make major changes in the force structure and base realignment in Europe and to reevaluate alternatives to building a new base at Crotone.

While the Defense Department has not come up with major base realignments in Europe, it is aggressively pursuing closure and realignments of domestic military bases. This does not make good sense in light of changing conditions.

On several occasions, witnesses appeared before the Subcommittee on Military Construction Appropriations and said that redefining of the threat against our national security was under way at the Defense Department and in the administration and that it would probably be completed sometime in December. I believe that it is necessary to give this Congress and our Nation 1 full year to debate any recommendations from the Department of Defense that come to us in the nature of a defense strategy for Western Europe before we go headlong into spending large sums of money to build new bases in Europe at a time when the threat is questionable from our once-defined adversary, the Soviet Union.

I ask my colleagues to adopt this amendment at this time on the simple basis that, as we say in Arkansas, it is putting the cart before the horse.

Mr. LOWERY of California. Mr. Chairman, in view of the Chair's last ruling, I rise in opposition to the amendment.

AMENDMENT OFFERED BY MR. LOWERY OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. ALEXANDER

Mr. LOWERY of California. Mr. Chairman, I offer an amendment to the amendment.

Mr. ALEXANDER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Arkansas reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LOWERY of California to the amendment offered by Mr. ALEXANDER: In the amendment offered by the gentleman from Arkansas add at the end thereof and insert, "until the date of enactment of the National Defense Authorization Act for Fiscal Year 1991"

The CHAIRMAN. Does the gentleman from Arkansas [Mr. ALEXANDER] wish to reserve his point of order?

Mr. ALEXANDER. Mr. Chairman, may I be heard on my point of order?

The CHAIRMAN. The gentleman will state his point of order.

POINT OF ORDER

Mr. ALEXANDER. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California [Mr. LOWERY]. I make the point of order against the amendment because it constitutes legislation on an appropriation bill, which is in violation of clause 2 of rule XXII. Unlike the amendment which was offered by the gentleman from New York prior to that time, it does attempt to legislate on an appropriation bill. The amendment is legislative in nature and is in violation of clause 2, rule XXII. Therefore, Mr. Chairman, I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from California [Mr. LOWERY] wish to be heard on the point of order?

Mr. LOWERY of California. I do, Mr. Chairman.

Mr. Chairman, I offer this perfecting amendment to the gentleman from Arkansas' amendment to clarify the intent of the committee. While I personally support the relocation to Crotone, I believe the Appropriations Committee has acted responsibly. The committee has not said Crotone is to go forward; it has not said Crotone is to be stopped. It has said Crotone, like all other projects in this bill, is subject to authorization. The committee has included language prohibiting any fiscal year 1991 funds and prior-year unobligated funds, including recoupments, from being obligated for construction of facilities at Crotone, Italy, until December 31, 1990.

As pointed out in the report, this action was taken to allow sufficient time for the authorization committee to determine if it will continue to approve and authorize funds for the Crotone base.

My amendment will clarify the committee's intent by making obligation of NATO infrastructure funds for Crotone subject to enactment of the 1991 authorization bill.

It was my intent to alleviate any confusion as to the intent of the committee language.

The CHAIRMAN (Mr. COOPER). The Chair is prepared to rule.

The gentleman from Arkansas makes a point of order that the amendment offered by the gentleman from California to the amendment offered by the gentleman from Arkansas violates clause 2 of rule XXI by legislating on a general appropriation bill. The pending paragraph contains a legislative proviso permitted to remain in the bill by wavier of points of order pursuant to House Resolution 441.

As indicated on page 21 of the committee report, the proviso restricts until December 31, 1990, the obligation of certain funds in the bill and certain unobligated balances from prior years. The pending amendment offered by the gentleman from Arkansas strikes the delimiting date from the proviso. The amendment to that amendment inserts language in lieu of the delimiting date to remove the restriction on the obligation upon the enactment of subsequent legislation.

Where legislative language is permitted to remain in a general appropriation bill by waiver of points of order, a germane amendment merely perfecting that language and not adding further legislation is in order. The amendment offered by the gentleman from California, however, is not merely perfecting. It subjects the obligation of the funds in question to a new contingency, the enactment of separate legislation, not contained in existing law.

Under the precedents discussed in Deschler's volume 8, chapter 26, section 49, such an amendment constitutes legislation.

Accordingly, the point of order is sustained.

The CHAIRMAN. Is there further discussion of the Alexander amendment?

Mr. HEFNER. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Let me say first that I hope this issue could be dealt with in the authorization bill, which I understand that it is being dealt with. And that is why, as the chairman of the Military Construction Subcommittee, I was willing to go along with the consensus of Members who agreed that to kill or not to kill the project should be addressed in the authorization process. However, I must tell you, my colleagues, that I am personally opposed to building a new base in Crotone, Italy. A year ago, this was probably a good idea and a sound decision.

But many things have happened in the past year. Dramatic changes have occurred. First of all, there is the question of the threat. We all know that the Warsaw Pact is no longer a reliable threat. There is also a question of increased warning time from a Soviet offensive.

More than that, there is also the question as to whether we might have excess capacity at existing European bases once we begin to implement force structure reductions and to close bases overseas.

Members need to understand that, like Torrejon, Spain, where the F-16's are currently based, this base at Crotone will be a peacetime base whereby the planes will be deployed to classified locations in case of military threat.

So in our estimation, there is no reason why they cannot be based at existing facilities if that capability exists.

I would say this is no different than what is happening in the States on base closures, realignments. The dramatic changes in the world and the attendant reductions in force structure in the States have necessitated the Department to reevaluate its base structure and to implement base closures. This same evaluation should also apply to overseas base.

We have not seen any major base structure changes overseas, as we have in the United States.

Now, I understand that we are waiting for the talks to go forward, but I see nothing that we can justify to our constituents that we should be, in a very big way, going ahead. And this is a very big step for us to take.

Now, let me say further that we have a base overseas that has just been completed in Comiso, Sicily, and because of the INF agreement, the base is absolutely of no value to us. We spent $230 million in support facilities for that base, and I doubt if we will ever receive $1 in residual value from this $230 million expenditure.

Now, I point this out as an example of how we hurry up to construct facilities overseas that end up being an unnecessary cost.

□ 1820

Why hurry up to build a facility in Crotone when there might be a better alternative that is based on a long-range strategic plan. Now I understand that there could be some political repercussions, economic implications to eliminating our agreement to build the base overseas, but I do not believe we should go ahead and rush into something when we believe that we are not right on this decision.

Now, we have this before Members now, and I think that it is prudent for Members, and I think that our constituents will agree, that certainly the political decisions are something we should look very closed at. We are closing base, and Members are coming forward every day for help in trying to keep bases open in the United States that have to do with jobs, the local economy, and we have spent billions of dollars in bases overseas. At this point, I do understand some of the restraints. We do not have a plan, and I understand that we are supposed to have 100 bases delivered, potential bases to be closed in Europe that hinge on the talks that are going on at this very moment.

However, it seems to me at a time when we are telling our constituents and we are telling other Members of this House and other people all across the United States, that we are strapped for dollars, and service people are living in substandard housing at our bases all over the United States, it seems to me a little bit adventurous for Members to go and commit themselves to a bold new project in Crotone, Italy, when we cannot keep the things that we feel we need to do in this bill.

This is a bill that is 13 percent below last year. It is a bill that does not go far enough to alleviate some of the substandard housing and living conditions that we are forcing our enlisted personnel to live in today. To me, this is a decision that we should support, and I think that right now we should, as one of the great writers once said, "If it were done, 'tis well it were done quickly." I think now is the time for Members to act as Macbeth did: To kill this project now once and for all.

Mr. LOWERY of California. Mr. Chairman, while I personally support the relocation to Crotone, I believe the committee has acted responsibly on this issue. We have provided ample time for the authorization process to work. As I have stated, there will be changes to this bill. We will conform to the final authorization as we always have in the past.

In addition, Mr. Chairman, this amendment is premature. At a time when overall NATO and U.S. forces face major reductions, it is crucial that the remaining forces be deployed in a balanced manner. It is important that we remember two important facts: First, the move is necessary to maintain NATO's overall deterrent and response capability in an uncertain and changing international situation; and, second, it is an unprecedented example of NATO cohesiveness and burden sharing.

The decision to move the 401st Tactical Fighter Wing from Torrejon Air Base, Spain to Crotone, Italy was not a unilateral U.S. decision and it should not be reversed unilaterally. It was a decision made by the NATO alliance as a whole. All participating NATO member governments endorsed the move and continue to support it. In addition, because of our congressional directive that U.S. funds for construction should come from the NATO Infrastructure Account, each nation is sharing the cost of the relocation through their contribution to the account. In fact, member nations of the alliance will shoulder nearly two-thirds of the costs associated with the relocation. This consensus reflects a view throughout NATO that the movement of the 401st is vital.

This entire response was one of the most vivid demonstrations of alliance burden-sharing displayed in recent years. In light of the major efforts demonstrated by the Alliance to maintain the wing in Europe, a U.S. decision to withdraw from our commitments would raise questions about the reliability of the United States as an ally, both in Europe and elsewhere. What signal will it send for future urging of burden-sharing? How do we ask our allies to help pay the costs for closing overseas bases after we renege on the best deal we have gotten regarding burden-sharing? Mr. Chairman, such a decision would weaken NATO as an institution and drive a wedge between the United States and our partners when the pressures of European political changes make cooperation absolutely essential if the alliance is to survive.

The alliance decision to support the 401st reflects the importance our allies attach to maintaining a potent military capability in the southern region. The presence of the 401st and its multirole capability is a major stabilizing element in the overall security of the Mediterranean region. Such a southern deployment would substantially bolster the air forces of our allies in the southern flank. Crotone is situated in a key location, astride main air lines-of-communications and its central forward position would eliminate the need for refueling in order to deploy to wartime bed-down locations. The importance of that role increases with successful negotiations to reduce forces in central Europe.

Also, there are solid strategic and tactical reasons to complete the relocation. Crotone's location provides flexibility in U.S. contingency operations that could not be obtained by deployments from existing locations. The permanent presence of U.S. aircraft at Crotone may be expected to have a powerful deterrent effect on unpredictable actors in the region, most notably, Colonel Qadhafi.

Mr. Chairman, this simply is not the time for a final decision to withdraw the 401st. Our decision should be made in the context of a complete analysis of the effect of base closures, relocations, realignments, and personnel reductions on the national military strategy for a changed world. Today, there is no agreement on a new strategy; indeed change continues in Eastern Europe and the Soviet Union. To undo the decision to move the 401st to Crotone, after the alliance has agreed to shoulder a major portion of the burden, without strategic consensus, would be folly.

U.S. security commitments in Europe will not evaporate overnight—

precipitous U.S. decisions to withdraw forces, in violation of existing international agreements, may foreclose cost-effect options such as dual basing, and create conditions that will weaken alliance defenses and greatly increase U.S. exercise and deployment costs.

CFE will result in fewer, and more evenly matched forces on both sides and a much reduced probability of short warning attack in NATO's central region. But if we unilaterally reduce our capabilities in NATO's flanks, without regard for negotiations and our future security requirements, the balance we seek to achieve through negotiations is undermined, our flexibility reduced, and the credibility of our commitments to the alliance brought into question.

NATO has served us well. U.S. national security and our role as a world leader are inextricably linked to our partnership in NATO. A partnership which has successfully guarded European peace for over 40 years.

Mr. Chairman, I urge by colleagues to vote "no" on this amendment—a vote for stability and the continuation of peace and prosperity in the Western World, Europe, the Mediterranean region, including North Africa and the Middle East.

Mr. OBEY. Mr. Chairman, I move to strike the last word. The base agreement in question is outdated. The agreement was reached before the momentous events in Eastern Europe in 1989, which turned the world upside down. It is yesterday's solution to yesterday's problem. This is not just a policy question. This is a financial question. We simply cannot afford to proceed, and we ought to knock out the money now.

The money that it will cost to provide this base will be more than we will save through all the base closings in the United States that we are supposed to be making in this fiscal year. In my judgment, that means that there is absolutely no sense in proceeding.

We are on the verge of deep budget cuts here at home in the budget summit. We are in agonizing discussions about what kind of tax increases, if any, ought to be approved at the summit, and in that context, to make a discussion to continue to allow the possibility for this project to go forward, in my judgment, is simply fiscally irresponsible.

□ 1830

I do not think we should be surprised that this choice is presented to us because I think that, as this base is yesterday's solution to yesterday's problem, it fits pretty much in the administration's request for foreign aid which we just disposed of about 6 weeks ago. The administration also put its foreign aid budget together before a lot of the events that made many of their requests unnecessary. The administration admitted that when they testified before us. I make no criticism. The fact is that events have moved very quickly and the administration did not have the opportunity to respond. But it seems to me that because they did not have the opportunity to respond to new events is not a reason why we should not take the opportunity to respond to new events when that opportunity is presented to us.

The Alexander amendment presents just such an opportunity. I am happy to cosponsor it with the gentleman. I congratulate him for offering it, and I simply want to say this: Europe has taken us to the cleaners for a long time. We spend almost twice as much as a percentage of our GNP as our European allies do, and there is no reason, in my judgment, to continue that practice.

We now see a rush to a unified Germany. We see Western Germany expending large amounts of money to in fact bail out Eastern Germany and bring them into the fold. We see, in my judgment, a German hope that they will be able to afford to do that because the United States will still be carrying a larger share of the NATO burden than fairness would dictate. It seems to me we should not allow them to get away with it. We ought to defend our own taxpayers, and we ought to drop this spending just as quickly as we can.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, let me say to the gentleman and to my dear friend, the gentleman from California, that I do not think we ought to be on a guilt trip here about our reluctance to support a new base and a new initiative in Italy.

I remember talking with the Minister of Defense in Germany and the Italians years ago when we had our tremendous budget deficits, just as we do now, and we bellied up—if I may use that expression—we bellied up and we made our commitment to defense. I said to one of the ministers—I will not mention his name—I said, "What happens when you have the bad years?"

He said, "When we have bad years, we don't meet our commitments to NATO."

But Uncle Sugar, the United States, year after year, in good times and bad, with high unemployment, with recessions and big deficits, made its commitments to NATO.

The gentleman from Ohio [Mr. REGULA], who was the ranking member of this subcommittee, and I have been talking about burden-sharing year after year. Only in the last Presidential cycle did burden-sharing become a real item that people talked about.

So I would not like the gentleman to leave the suggestion that we have a little bit of a guilt complex because we have some doubts about going into a new initiative with our NATO partners, because we have been staunch allies. We have made our commitments in good times and in bad times. I just wanted to point out that I do not think we should be on a guilt trip simply because we have this new request for a new initiative in Crotone.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, the gentleman indicated that we should proceed because we do not yet have new defense planning and new theoretical planning to decide what the shape of our defense strategy ought to be in the next 10 years. It seems to me that one of the best ways to require those plans to come forward is for us to stop spending money on things that we do not need. If we do not have the plans to lay out how we ought to be spending that money, we ought not provide the money. That is the quickest way we are going to get the planning that is needed.

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LOWERY of California. Mr. Chairman, I talked to General Galvin this morning. He indicated there will be between 100 and 200 existing bases closed in Europe. This is the only new facility that he is requesting.

My only point to my good friend, the subcommittee chairman, is that in the past these decisions have been made jointly and funding levels established, but never to my knowledge as one country unilaterally made the decision to pull out of a project. It has been a joint NATO decision.

Mr. OBEY. Mr. Chairman, I would simply say that we cannot afford it. We ought to shut it down, and the time to do it is now.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER]. It seems to me that this is one of those amendments that is easy to support sometimes from a political standpoint. It is harder to explain one's opposition, but I think the arguments are compelling against this amendment. The arguments are compelling in favor of going forward with our base in Crotone.

I think we need to start understanding the background of why we are doing this. As the gentleman from

California has pointed out, as General Galvin said, we are going to be closing 200 or more bases in Europe in the next several years. So why are we going forward with this one major capital investment, this new major NATO infrastructure investment? The answer is, of course, that this has to do with the relocation of a very tactical air wing, the 401st, from Torrejon, Spain, to Crotone, Italy. We failed to get those base negotiations in Spain renewed. We have had to seek another location for this, and this has been done with our NATO Allies.

The Washington Post referred to it as one of the most favorable NATO base deals in history. That was their editorial comment on the subject.

Is it important? Well, General Galvin believes that it is. Our commander in chief of the U.S. European Command testified in June of this year before the congressional committees, and I quote: "If there were only 2 fighter wings in Europe, I would want one of them to be based at Crotone."

So it is an important one. Clearly, if the United States is going to recognize its role in the world, if we are going to maintain a role in this world as a major leader with major world responsibilities, we cannot back out from our responsibilities once we go into them. Even as times change, we must negotiate those changes with our NATO allies. Two years ago the United States made this agreement with our NATO Allies, and our NATO Allies have lived up to their part of the agreement. There has been no suggestion on their part that they have not and there has been no suggestion that they do not want to continue to do so.

The U.S. role in this whole project amounts to about 28 percent of the funding through our contribution to the NATO infrastructure fund. In addition, our contribution to the construction of housing there, to be paid back from the payments made to individuals for housing, would bring the total of the U.S. participation to about 42 percent. That is certainly not insignificant, but this does demonstrate that this is a base that has very important significance, not just to us but to all our NATO Allies and certainly to Italy.

When we talk about saving several hundred millions of dollars, as has been suggested, we need to keep in mind that if we bring this 401st Tactical Air Wing home or put it someplace else, we are going to have to find facilities for it there. So we are not going to really save that amount of money. It is not that kind of a savings.

Is this important to us? Well, I say that it is very important. Certainly as the changes that have taken place in Eastern Europe have become more dramatic, the shift now is to look a the southern flank of NATO, and the southern flank is becoming increasingly important because of the change and the things that are happening in the Middle East as we work toward an agreement on conventional forces in Europe and as we work toward making those reductions, there will be fewer bases, but those that exist will be more important and those kinds of units, such as the 401st Tactical Wing and its role that it can play in such countries along the periphery of our southern flank of NATO, in Libya, and in the Middle East, become more and more important.

I would just conclude by saying that it seems to me that it is extremely important that we not undermine our credibility with our NATO Allies. Now is not the time to say to them that we are going to actually turn around and walk away from this project. Now is the time for us to support our allies, support NATO in this critical transition from the kind of alliance it has been for the last 40 years or more to a new alliance.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding.

Is the gentleman from Arizona familiar with the concept of dual basing where we would in this case bring the 401st back home to the United States and bed it down here on a permanent basis but deploy it on a temporary basis for training and for emergencies? Would that not make more sense than building a new base in Italy that might cost us as much as $700 million?

Mr. KOLBE. Mr. Chairman, reclaiming my time, actually it may or may not make more sense. Strategically, it probably does not make more sense. From a cost standpoint, it probably almost certainly does not make more sense. If we are going to be deploying on a rotating basis, we have certain costs that are involved with moving them in and out, and we would have significant support facilities that would have to be built anyhow.

□ 1840

So, Mr. Chairman, it probably is not going to save us those kinds of funds.

Mr. ALEXANDER. Mr. Chairman, if the gentleman would yield further, we, of course, could utilize some of the bases here at home that are already bought and paid for by the Federal taxpayers that the Defense Department is threatening to study to close for the purpose of bedding down some of the forces that we have over in Western Europe, and we could achieve that without any additional costs for permanent installations, adding only the cost for transport back and forth to the theater for training and for emergency.

Mr. Chairman, I thank the gentleman from Arizona [Mr. KOLBE] for yielding.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

Mr. HEFNER. Will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from North Carolina.

Mr. HEFNER. As my colleagues know, some have said that this would be unprecedented for us to back out of a commitment. However, many times we have prefinanced with the understanding that we would be reimbursed by NATO partners. We have got $135 million in outstanding recoupments from prefinancing, that we have done over the past years, and I am not bashing our NATO allies. I am just stating facts. In all those years that they did not meet their commitments, financial commitments to NATO, the money was provided up front, so I think it is a little bit wrong to say that we are backing out. We have $135 million outstanding that we cannot recoup because we provided prefinanced, and it is just a drain on the taxpayers of the United States.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from North Carolina [Mr. HEFNER]. I think he makes a very good point.

Mr. Chairman, I rise in support of the Alexander amendment. This amendment would guarantee that no United States money goes to build a brand new Air Force base in the boot of Italy. At the time of the largest peacetime reduction of United States military forces in history, why are we building a new base in Italy?

The facts behind Crotone are now well known. Spain demanded that we remove our F-16's from Torrejon, outside Madrid. Secretary Carlucci told our NATO Allies, who were none too helpful in trying to dissuade the Spanish from kicking us out, that we were going to bring the planes back to the United States and turn them over to the reserves. Our NATO Allies said they wanted the planes to remain in the southern region and persuaded Italy to offer land. A funding deal was worked out where we paid 55 percent of the cost and our NATO Allies paid 45 percent. Congress balked last year and placed a cap of $360 million on construction.

The Department of Defense has now come back with a scaled back design. Simply put, DOD did not ask our allies to pay more; rather, DOD decided to build half a base to stay within the cost cap. For example, the new plan calls for building fewer units of housing than there are assigned personnel. Where are the rest supposed to live? There is no suitable housing within 100 miles. So, once the cap expires in

1993, the Air Force will be back asking for more housing, asking for the commissary, the bowling alley, the swimming pool, and the golf course.

Times have changed. While there was still a serious Warsaw Pact threat to NATO when the Crontone deal was hatched in 1988, today there is not even a Warsaw Pact. We no longer need an airbase in the southern region to deter Soviet aggression, because there is little evidence of Soviet aggression in the southern region or anywhere else in Europe.

Crotone was supposed to be a peacetime base. The planes were supposed to forward deploy for exercises to bases in northern Italy and Turkey. Today, there are no interesting targets left within the unrefueled range of an F-16 flying from northern Italy. And, if these planes are to forward deploy for short-term exercises, why not base them in the United States, under a dual basing concept?

There is another problem. Even if Congress fully blessed Crotone, it would take 5 or 6 years to complete the base. Under our new base rights agreement with Spain, we must be out of Torrejon on May 9, 1992. So, the F-16's now at Torrejon will be homeless for 3 or 4 years. The Air Force is working on an interim basing plan. Under current drafts of the plan, most of the planes would be based in the United States. Well, if this scheme is good enough for interim basing, why isn't it good enough for permanent basing? We could save all the construction money.

Some in the administration say, in a whisper, that having a base in Crotone would allow us to strike Libya. Has anyone asked NATO or the Italians? Of course not. We know their answer. The Italians have an oil pipeline from Libya. Virtually all NATO countries were unwilling to let us launch our last strike from Italy. And, as their actions over the last decade show, they do not want to take as tough a line in the Middle East as we do. So, I don't put a lot of stock in Crotone as a base from which to launch operations against Libya.

Secretary Cheney proposed 34 base closures in January and is likely to propose dozens more over the next few months. Nearly all of these closures are proposed for the United States. What are you going to say in your district when a constituent asks you, "Why did you vote to build a new base in Italy at the same time that the Defense Department is closing Camp Swampy right here?" Or, when another constituent wonders, "Are jobs in Calabria more important to you than jobs right here?" I know what my answer is: I opposed any money for Crotone. I urge you to do the same.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. As chairwoman of the Subcommittee on Military Installations and Facilities, what has been the recommendations of your subcommittee as to the disposition of the Crotone air base in Italy?

Mrs. SCHROEDER. Mr. Chairman, in our markup last week, our subcommittee voted 11 to 7 not to fund the moving of the planes from Torrejon to Crotone. They feel very strongly that this is not where we should go. We have had so many Members in front of us on their base closings at home. We have almost been telling them, "Put a NATO flag over it. That seems to make them pure. You'll never have your base closed," but, at the same time, building this new one and, as the Chair pointed out, we built all those new ones for INF. I believe there are four or five INF bases that we built, brand new, that we never moved into all over Europe.

I think the Americans are saying:

We've done our fair share. It was very important, and NATO's important. We're not pulling out of NATO. We're only doing what a lot of our NATO allies are doing. We're just scaling down, recognizing reality and bringing them back to the pre-Vietnam status.

Mr. HEFNER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. LOWERY of California. I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER]. I am not quite sure how to go about this because, as I listened to some of the other speakers who are taking part in this debate, I am not sure that we are talking about the same thing. One preceding speaker got up here and argued very persuasively that we should not go ahead with spending for Crotone, but the committee is not recommending spending for Crotone. The committee is recommending putting a hold on spending until the decision is made by the proper committees that are looking into it.

In addition, Mr. Chairman, I would say to the preceding speaker, the gentlewoman from Colorado [Mrs. SCHROEDER], who makes a very good argument and who states her case very well that, if the facts are on her side, and she has done her work, then she will probably win in the full committee, and she will probably come to the floor with the authorizing committee saying, "We will not go ahead with Crotone," and the House will be very glad to follow the recommendations of the Committee on Armed Services unless, of course, the gentlewoman from Colorado [Mrs. SCHROEDER] does not think she can get the authorizing committee to agree.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think, as the gentleman knows, when the full committee bill comes to the floor, there is often as many as 100 amendments. I honestly think we will win. We have whipped this very carefully, and there is a very strong number for that, but we really felt that because we have started down there, the numbers look very good, that it makes a lot of sense to do this now. The sooner, the better.

□ 1850

Mr. EDWARDS of Oklahoma. If I can reclaim my time, Mr. Chairman, I would say to the gentlewoman that that is the way the democratic—with a little "d"—system is supposed to work, with very careful, thoughtful deliberation. You go through the committee process, you bring the bill to the floor, you have a lot of amendments, you have thorough discussion after the authorizing committees have done their work.

So the gentlewoman really ought to have no complaint about what I am saying, because I am saying that I respect the gentlewoman's committee, and I respect the members of the committee, including the gentlewoman from Colorado, and that we ought to allow them to look thoroughly into this matter and then bring their recommendations to the floor.

I might also say, Mr. Chairman, that it is a mistake for us to attempt to change our commitment to NATO here on the floor on the spur of the moment in an appropriations bill, rather than through careful deliberation of the committees with the authority and the responsibility to make this decision.

This bill is not going ahead willynilly spending money on Crotone. It withholds funds for the Crotone base until December 31, which is certainly enough time, even this year the way we are operating, to allow the Congress to work its will on this issue through the authorization process.

If the Congress decides to withdraw from Crotone, no harm is done by following the committee's recommenda-

tion; but if the amendment of the gentleman from Arkansas is agreed to, then we will have limited the proper debate and discussion about the role of the base in our defense picture.

The relocation of the 401st to Crotone is an important issue from the standpoint of our national security and our ability to project U.S. power in Southern Europe and the Middle East. Last week we were confronted by threats from Iraq. If needed, Crotone puts the 401st in range of Libya without refueling.

The gentlewoman has suggested that, of course, our allies would not permit such an action to take place. I would suggest that it is the height of folly to predetermine what world situations might occur that would cause our allies to make a decision without thinking through the consequences.

Somebody said here that we need to be shrinking our defense spending. We are shrinking our defense spending. It is not just the British who are reducing their defense budget. We are, too, and precisely at the time when you are cutting back on the amount of money that you have for defense is when you cannot afford to make snap decisions. That is when you need to carefully consider where every dollar can do the most good.

That is why the committee recommends a hold on these funds until a proper decision can be made.

I also want to say this, Mr. Chairman. I address myself to the chairman, the gentleman from North Carolina. During the time that I was privileged to serve as the ranking member of this subcommittee, the gentleman from North Carolina and I worked very closely together trying to require of our allies a greater percentage of burden sharing.

Well, the Crotone Air Base is being largely paid for by the NATO infrastructure fund. Our contribution to that effort is about 28 percent.

This had been a very successful burden-sharing project. I would say the gentleman from North Carolina ought to take some credit for that. It has been successful, and when our allies comply with our request for increased participation, as they have on Crotone, that needs to be fully considered, because if it is not, the next time we ask them to participate, they are going to tell us to get lost.

The committee's recommendation is that Crotone stand on its own two feet, that the Pentagon justify to the Congress the need for this base.

I would say, Mr. Chairman, that what we should do is wait and hear from the Armed Services Committee and then make our decision. That is the only responsible way to proceed.

Mr. BRYANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to congratulate the gentleman from Arkansas [Mr. ALEXANDER] for bringing this amendment forward, and the gentleman from North Carolina [Mr. HEFNER] for being willing to advocate it as well.

I think the amendment is the tip of the iceberg pointing to a much broader consideration of what this Congress must now come to grips with, and that is the fact that in 1990, 45 years after World War II, we are still spending $170 billion a year defending Europe and Japan and other parts of the world as well, which interestingly enough, is approximately the size of President Bush's recently recalculated estimate of the deficit that we are facing this year.

The plain truth is that we no longer have the money to pay the costs of defending everybody else in the world, and the fact of the matter is we no longer have the obligation, either.

These countries have become prosperous. They have become democratic. They have become free. Indeed, they have become rich while we paid the cost of their defense. To continue to advocate that course of action today, in my opinion, is a very expensive form of nostalgia. It is something we must come to grips with in the context of reality and we must do so immediately, because what we are doing today is borrowing money, borrowing money and then giving it to the Europeans, the Japanese, the Koreans, and others in the form of a subsidy of their defense. They use that money to subsidize their economies, to subsidize the education of their children, the health and safety of their societies, and to compete with our producers and ultimately to defeat us in that competition in the world marketplace and then to buy American farms and ranches, banks, manufacturing companies, and real estate.

It is time, Mr. Chairman, for this subsidy to end. If the Europeans need our military presence in Europe, they must pay the cost of it, not the American people.

I think it is fair to ask what interest do the American people have in building another base in Italy under the circumstances that have changed so dramatically in Europe, and also to ask how can we justify continuing to close American bases which protect the continental United States and our territories and possessions, while at the same time we are building U.S. bases in a foreign country.

Well, the answer is that we cannot justify that. It is time that we recognized it. It is time that we supported the Alexander amendment and came to grips with the new reality in the world.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I am happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I appreciate the gentleman yielding to me.

One of the reasons that we are unable to save money on defense spending is that with all of the difficulty that we went through to achieve the 1989 base closing savings of $381.8 million, we are about to turn around and spend up to $360 million to build a new base in a foreign country that is not needed, and that does not include any of the housing, the infrastructure, the water, the sewers, the railroad tracks, the highways, and all the other facilities that add to that rising cost once the military base is established.

Mr. BRYANT. Reclaiming my time, Mr. Chairman, I thank the gentleman for his additional comments.

I would just add that if we need to find a location for this group of fighters, that location ought to be in the United States protecting the American people who pay for those fighters in the first place.

Mr. HEFNER. Mr. Chairman, we are trying to move ahead as fast as possible. There are Members who have commitments to go other places. We want to finish this bill.

Could we reach some kind of an agreement? I know everybody is very concerned about it and wants to be heard.

How many more speakers do we have?

Mr. LOWERY of California. To my knowledge, Mr. Chairman, we have four additional speakers on this side. there may be more.

Mr. HEFNER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. LOWERY of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. LOWERY of California. Let us settle on 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HEFNER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MARTIN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last year when we debated the authorization bill for 1990, it was this Member who offered an amendment to limit the total cost of the relocation of the 401st Tactical Fighter Wing from Spain to Italy. I

think as most of you remember, I was very upset, and I felt the United States was paying a disproportionate share of this move.

We had worked out an agreement with all our NATO Allies, as this was their No. 1 priority. As the membership will recall, when we went to conference, this was a very hot item. We put on that cap that the gentleman from Arkansas [Mr. ALEXANDER] and the gentlewoman from Colorado [Mrs. SCHROEDER] talked about of $360 million and required our negotiators to go back and renegotiate.

As a matter of fact, I want to read from the language that was in the conference report:

> The conferees recognize that under this agreement the Administration will probably have to reopen negotiations with our NATO partners so that our allies will pay a larger portion of the cost involved in the relocation.

□ 1900

Our 15 partners in NATO agreed that there was going to have to be a change in the manner in which this was paid for, and we are paying a substantially lower share than we had even agreed to last year when the Congress reached the agreement with my support. Mr. Chairman, but now, we are going back again and we are doing something a little bit different.

I heard a Member of Congress speak on the floor not too long ago saying that we are going to build a U.S. base in a foreign country. Mr. Chairman, this is not a U.S. base. This is a NATO base, and what we are saying is that as we pay and the other 15 countries pay into the NATO infrastructure fund, that this Congress has something new, a better idea.

We have a line-item veto. We do not even allow the President of the United States to have that. The NATO organization, for all of these years with its various members who have entered or who have left NATO, have paid into the infrastructure, and those 16 countries have set up the priority as to what they think ought to be the priorities of NATO of which we are but 1 of 16 countries.

Last year I received phone calls from, yes, General Galvin and Ambassador Taft and just about everybody else who had a phone and any access to NATO, and we stood our ground and we saved a lot of taxpayer money. But now I hear people stand on the floor and say how many taxpayers' dollars are going to be saved if this line-item veto by the Congress superimposing its will on the 16 countries of NATO, is passed.

You ask the question about how much the U.S. taxpayer is going to save if this is passed, and the answer to that is easy to remember, because it is zero. Of those moneys that we pay into the infrastructure fund, those other projects on the priority list with NATO are going to be built rather than this project. Is that saving the taxpayer's money? I do not think so.

But the thing that bothers me most about this, Mr. Chairman, yes, we had our way; yes, we had a cap; yes, we had them go back and renegotiate. But the thing that bothers me most is in this ensuing year the NATO members have met again and again and again, and I have talked to General Galvin about it again and again and again, and he says that remains the No. 1 priority for NATO as far as their infrastructure funds.

Some people think that maybe this base is being built out in the middle of nowhere. It is built on the southern flank of NATO, and for those people who have had the opportunity to come up and take a look at the map, they can find that area of the Middle East, Libya and Syria and some of those other people who seem to make the front page of the Washington Post with great regularity are also in the area.

I would ask that if you are going to vote for this amendment, and I hope you would not, that at least people would explain that this is not a U.S. base. This is a NATO base, and that we are still members of NATO, and while I cannot see into the future like some of the other Members of Congress who feel they know precisely what the world is going to look like in another 10 or 15 years, but I cannot.

It is my judgment that in the next 10 or 15 years, while we do not face the same threat we faced in years past, NATO is going to be important to world peace and security for all of us.

The CHAIRMAN. The time of the gentleman from New York [Mr. MARTIN] has expired.

(At the request of Mr. HEFNER and by unanimous consent, Mr. MARTIN of New York was allowed to proceed for 1 additional minute.)

Mr. HEFNER. Will the gentleman yield?

Mr. MARTIN of New York. I am happy to yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, in the event we had a conflict in the Middle East with Syria, Iraq, or Libya, would we have any assurance whatsoever that we would be able to use this base for operation out of Crotone?

Mr. MARTIN of New York. Reclaiming my time, in this gentleman's opinion, no, absolutely no assurances. There are very few assurances out there, I say to the gentleman from North Carolina [Mr. HEFNER], about anything, but I do know this, that if we do not have a base with access to those areas, we are not even going to be able to ask for its use.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. I am happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. As a matter of curiosity, and I have not asked this question before, the United States, with its NATO Allies, has been building up in Western Europe since about 1948. Does the gentleman know why it has taken over 40 years for the NATO Allies with the United States to decide on this new base in Italy?

Mr. MARTIN of New York. Reclaiming my time, I would like to say to the gentleman, and I have heard a number of references, here today that somehow in a kind fashion demeans NATO, but I think it has worked very well. I say to the gentleman from Arkansas, and the fact that circumstances change might very well mean the requirements for bases such as this change from time to time. Certainly, we would still be in Spain if they wanted us there, quite frankly, and NATO would have felt no need to move.

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to try to take the whole 5 minutes, but it just struck me in listening to the proponents of the amendment that all of a sudden many of those same proponents have found fiscal responsibility.

Most of these, excluding the chairman, the distinguished chairman, of our subcommittee, most of these have voted time and time again this whole year for increased spending in all kinds of programs including spending on appropriations bills. So the arguments here about fiscal responsibility to me are specious.

What we ought to be discussing here is the threat, but also some of the figures that have been misused, misstated and thrown around, and before we vote on this, I think we need to set the figures of the amount of money that will be spent on this base straight.

The gentleman from Arkansas has said that we are going to spend $700 million on this base. We are not going to spend $700 million on this base. NATO is going to spend $700 million, and of NATO, we are a participant, and we are going to only spend 28 percent, some $162 million on the capital expenditures on building the operational facilities.

The gentleman from Arkansas throws in the housing costs. We are going to pay housing costs that we would pay to these personnel no matter where they are, because the way it is set up is that NATO would loan us the money to build the housing. We pay back the loans through our housing allowances, so that is not

a new cost to the taxpayers of America.

The gentleman just said not too long ago that now we are going to spend $360 million. The $360 million is the statutory cap that we have put on this construction money, and of that our Defense Department says that we can come under that by $40 million, and the total expenses, including housing allowances that we would be spending anyway, are some $320 million.

Mr. Chairman, it is not a matter of the United States going over to Crotone, Italy, and building a new base. It is NATO that is building the new base. We are just going to station the 401st Wing at that base.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, may I say that I have served on Defense appropriations since 1943, and on military construction for a big part of that time.

I am not opposed to NATO, but I think we ought to put it in its place.

Mr. Chairman, I have visited NATO countries any number of times. Most people forget that NATO was headquartered in France, but as soon as we built pipelines to the coast, they ran us off. Most folks do not know that the location of NATO headquarters was then accepted in Belgium only after we signed an agreement to pay unemployment compensation if we ever relocated it. The times I have visited there, they avoid answering a question I usually ask that if we ever had trouble whether the NATO troops would go where NATO directed them or whether they would go home and take care of their own people.

Insofar as this base is concerned, I have been there. They would just love to have this base in their area because of the impact on their economy as a result of what our people spend. Our Ambassador to Italy said that the NATO people will do anything you ask them to do, and I said, "How about fighting?" He said, "I don't know about that." That is what you have got. You do not know which way they will go. That was our Ambassador in Rome who said, "They will do anything in the world you ask them to," and I said, "How about fighting," and he said, "I don't know about that."

This base is just one of many of our overseas facilities that would not be in our hands 24 hours if we were attacked by the Soviets.

□ 1910

BILL HEFNER is one of the ablest Members of Congress. He is a longtime member of the Defense Subcommittee and chairman of the Military Construction Subcommittee. I know of no one better able to meet the problems we face in cutting back military spending, which has become necessary, while at the same time being sure we are protecting real defense.

His support of this bill means we will strengthen our National Guard and Reserves, where its members can contribute to the economy during the week and train on the weekend.

The Members of this House trust his judgment.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

The fiscal year 1990 Defense Authorization Act contained an important provision to relocate the 401st Tactical Fighter Wing from Torrejon, Spain, to Crotone, Italy. This decision was the result of base negotiations in which the Spanish Government decided that our 72 F-16's must be removed from Spanish soil.

The Italian Government subsequently provided three possible bases for the relocation of the 401st Tactical Fighter Wing. Of the three possible bases, Crotone was found to be the most advantageous.

In the Defense Authorization Act, the Congress limited U.S. expenditures to $360 million for the costs of this air wing relocation. Additionally, the Department of Defense recently reported to Congress that it will be able to complete the move at $40 million under the $360 million cap. Furthermore, this move stands as a positive example of NATO burden sharing. The United States will be responsible for a 28-percent share of the $700 million cost.

However, aside from the positive financial considerations of this move, the 401st Tactical Fighter Wing is a key to providing deterrence in the southern region.

As the military threat in the world shifts away from central Europe and increasingly toward the Mediterranean and Middle East, it is vital that NATO continue to maintain and develop a strong presence in the region.

With the deployment of the 72 F-16's at Crotone, NATO's presence in the southern region would represent a powerful balancing and deterring force.

Accordingly, Mr. Chairman, I urge my colleagues to defeat the Alexander amendment and support stability in the Mediterranean.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just say that all of the turbulence that is occurring in Europe now and the realignment is something that we are watching very carefully. One element has been very important throughout all of the events of the last several years, and that has been a strong NATO and a NATO that has relied on consistent American policy.

There is a real problem when this House of Representatives tries to send a message that may be misinterpreted on the other side of the water. We have to come out of the reunification of the Germanys with a strong NATO. We came out of the removal of the SS-20's versus the Pershings and GLCM's with a strong NATO. A strong NATO is necessary for a stable Europe. This absolutely undermines that concept, and undermines the reliance that our Western allies have on us.

Mr. Chairman, I think we should defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 20, insert after line 5 the following new section:

SEC. 130. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

Mr. PENNY. Mr. Chairman, this bill appropriates a total of $8.3 billion in new budget authority for fiscal year 1991. That includes $4.8 billion for new construction. I repeat, new construction.

The bill is actually $70 million above current year funding, because the committee does not credit $253 million in rescissions from the supplemental appropriations to 1990. In other words, we have acted as if there was no rescission in this part of the budget, and if you account for that rescission, we are actually $70 million above the amounts honestly spent in 1990.

It appropriates $55 million for facilities for the B-2, even though the future of that plane is clearly in doubt. Additionally, the committee bill provides funding for over 100 unrequested projects. Mr. Chairman, for the RECORD I include a list of those projects:

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991: UNREQUESTED PROJECTS

1. Child Development Center, Miramar Naval Air Station, California—$2.3 million.

2. Tactical Aircrew Combat Training facility, Miramar Naval Air Station, California—$1.25 million.

3. Computer Center, Monterey Fleet Numerical Oceanography Center, California—$6.01 million.

4. Child Development Center, San Diego Naval Submarine Base, California—$4.13 million.

5. Combat Crew Training School, Castle AFB, California—$3.0 million.

6. Standardization Evaluation Center, Castle AFB, California—$2.2 million.

7. Strategic Command Center, Castle AFB, California—$5.0 million.
8. Corrosion Control Facility, Edwards AFB, California—$7.0 million.
9. Barracks, Camp San Luis Obispo, California—$9.14 million.
10. Child Development Center, Lowry AFB, Colorado—$4.55 million.
11. Consolidated Education and Training Facility, Air Force Academy, Colorado Springs, Colorado—$15.0 million.
12. Armory, Army National Guard, Watkins, Colorado—$2.441 million.
13. Operations and Training facility, Air National Guard, Buckley, Colorado—$4.15 million.
14. Fire Station, Air National Guard, Buckley, Colorado—$1.8 million.
15. Training facilities, Camp O' Neill, Army National Guard, Connecticut—$2.9 million.
16. Composite Support Facility, Air National Guard, East Granby, Connecticut—$1.9 million.
17. Aviation Fuel Facility, Camp Blanding, Army National Guard, Florida—$275,000.
18. Light Anti-Armor Weapon Range, Camp Blanding, Florida—$550,000.
19. Mout Assault Course Range, Camp Blanding, Florida—$954,000.
20. Mout Range, Camp Blandin, Florida—$2.6 million.
21. Armory and Aviation Support Facility, Lakeland, Florida—$5.153 million.
22. Weekend Training Site, Vero Beach, Florida—$5.3 million.
23. Civil Engineering Maintenance Facility, Air National Guard, Camp Blanding, Florida—$1.5 million.
24. Civil Engineering Heavy Equipment Shop, Camp Blanding, Florida— $1.0 million.
25. Vehicle Maintenance Complex, Camp Blanding, Florida—$1.3 million.
26. Add/Alter Vehicle Maintenance Facility, Jacksonville Air National Guard, Florida—$700,000
27. Elementary School Replacement, Fort Benning, Georgia—$7.9 million.
28. Community Impact assistance, Kings Bay Naval Sub Base, Georgia—$10.8 million.
29. Dorm Renovation, Grissom AFB, Indiana—$2.5 million.
30. Dormitory, McConnell AFB, Kansas—$9.75 million.
31. Consolidated Education Center, McConnell AFB, Kansas—$3.6 million.
32. Aircraft Hangar, Naval Air Station, New Orleans, Louisiana—$13.1 million.
33. Chemistry Lab, Indian Head Naval Air Test Center, Maryland—$6.0 million.
34. Child Development Center Annex, Andrews AFB, Maryland—$3.85 million.
35. Armory, Army National Guard, Fort Ritchie, Maryland—$1.8 million.
36. Armory, Laurel, Maryland—$4.959 million.
37. Jet Fuel Storage Complex, Air National Guard, Westfield, Massachusetts—$3.0 million.
38. Maintenance facility addition, Camp Ripley, Minnesota—$6.108 million.
39. Composite Support Facility, Minneapolis/St. Paul IAP, Minnesota—$4.35 million.
40. Dining Hall and Medical Training facility, Minneapolis/St. Paul IAP, Minnesota—$3.7 million.
41. Flight Training Simulator, Minneapolis/St. Paul IAP, Minnesota—$3.0 million.
42. Bachelor Officer Quarters Upgrade, Columbus AFB, Mississippi—$2.7 million.
43. Tank Tables Nine and Eleven, Army National Guard, Camp McCain, Mississippi—$600,000.
44. Troop Issue Subsistence Activity, Camp McCain, Mississippi—$780,000.
45. Ammunition Supply Point, Camp McCain, Mississippi—$500,000.
46. Bachelor Officer Quarters, Army National Guard, Camp Shelby, Mississippi—$450,000.
47. Ammunition Supply Point, Camp Shelby, Mississippi—$280,000.
48. Add/Alter Armory, Army National Guard, Durant, Mississippi—$780,000.
49. Add/Alter Armory, Army National Guard, Fulton, Mississippi—$535,000.
50. Add/Alter Armory, Army National Guard, Starkville, Mississippi—$975,000.
51. Base Civil Engineering Facility, Air National Guard, Allen C. Thompson Field, Jackson, Mississippi—$1.6 million.
52. Medical Training and Security Police facility, Thompson Field, Jackson, Mississippi—$1.5 million.
53. Add/Alter Base Engineer Maintenance Facility, Air National Guard, Gulfport, Mississippi—$490,000.
54. Communications Electronics Training Facility, Gulfport, Mississippi—$2.3 million.
55. Upgrade Utility Systems, Holloman AFB Realignment, New Mexico—$11.0 million.
56. Add/Alter Integrated Maintenance Facility, Griffiss AFB, New York—$2.3 million.
57. Munitions Storage Igloos, Griffiss AFB, New York—$2.2 million.
58. Aeromedical Evacuation Facility, Air National Guard, Scotia, NY—$1.35 million.
59. Land Acquisition, Fort Bragg, North Carolina—$720,000.
60. Addition to Hdqts. Facility, Fort Bragg, North Carolina—$4.95 million.
61. Aviation Museum, Cherry Point Marine Corps Air Station, North Carolina—$2.0 million.
62. Armory, Army National Guard, Goldsboro, North Carolina—$1.663 million.
63. Organizational Maintenance Shop, Goldsboro, North Carolina—$394,000.
64. Composite Aircraft Maintenance Hangar, Air National Guard, Charlotte, North Carolina—$12.0 million.
65. Extend Runway, Air National Guard, Albemarle, North Carolina—$1.85 million.
66. Land Acquisition, Army National Guard, Muskingum County, Ohio—$6.0 million.
67. Dining Hall/Medical Training Facility, Toledo Express Airport, Ohio—$3.1 million.
68. Jet Fuel Storage Complex, Toledo Express Airport, Ohio—$3.55 million.
69. Underground Fuel Storage, Toledo Express Airport, Ohio—$1.5 million.
70. Army Reserve Center/Maintenance Facility, Toledo, Ohio—$7.3 million.
71. Land Acquisition, Tinker AFB, Oklahoma—$1.85 million.
72. Barracks, Army National Guard, Camp Gruber, Oklahoma—$3.332 million.
73. Water Treatment Plant, Camp Gruber, Oklahoma—$1.204 million.
74. Armory, Army National Guard, Pendleton, Oregon—$1.542 million.
75. Military Education Facility, Army National Guard, Monmouth, Oregon—$4.06 million.
76. Armory, Army National Guard, Butler, Pennsylvania—$2.223 million.
77. Combined Support Maintenance Shop, Army National Guard, Fort Indiantown Gap, Penn.—$2.79 million.
78. Armory, Army National Guard, Norristown, Penn.—$3.028 million.
79. Access Road, Air National Guard, Greater Pittsburgh IAP, Penn.—$5.0 million.
80. Child Development Center, Newport, Rhode Island—$1.0 million.
81. Integrated Propulsion/Acoustic Facility, Newport, Rhode Island—$13.7 million.
82. Barracks Modernization, Ft. Bliss, Texas—$20.0 million.
83. Armory, Army National Guard, Camp Bowie, Texas—$2.142 million.
84. Land Acquisition, Camp Bowie, Texas—$1.901 million.
85. Armory, Army National Guard, Camp Mabry, Texas—$6.284 million.
86. Upgrade and Expand Sewer System, Army National Guard, Camp Swift, Texas—$600,000.
87. Mobilization and Training Equipment Site Expansion, Army National Guard, North Ft. Hood, Texas—$14.369 million.
88. Add/Alter Armory, Army National Guard, Waco, Texas—$2.162 million.
89. Expand Organizational Maintenance Shop, Waco, Texas—$726,000.
90. Armory, Army National Guard, Wylie, Texas—$2.227 million.
91. Ammunition Demilitarization Facility, Tooele Army Depot, Utah—$40.4 million.
92. Cryofracture Demilitarization Fac Site Preparation, Tooele Army Depot, Utah—$10.0 million.
93. Automated Tire Storage Facility, Hill AFB, Utah—$5.0 million.
94. Electrical Upgrade, Hill AFB, Utah—$407,000.
95. ICBM Non-Destructive Inspection Bunker, Hill AFB, Utah—$2.8 million.
96. Missile Maintenance Shop, Hill AFB, Utah—$2.35 million.
97. Temporary Lodging Facility, Defense Depot, Ogden, Utah—$1.1 million.
98. Dining/Medical Training Facility, Air National Guard, West Jordan, Utah—$3.4 million.
99. Ship Services Support Facility, Norfork Naval Shipyard, Virginia—$14.6 million.
100. Armory, Army National Guard, Emporia, Virginia—$1.7 million.
101. Land Acquisition, Puget Sound Naval Shipyard, Washington—$20.0 million.
102. Watercraft Support and Training Complex, Army National Guard, Tacoma, Washington—$2.863 million.
103. Armory, Army National Guard, Madison, Wisconsin—$7.372 million.
104. Add/Alter Armory, Army National Guard, Waukesha, Wisconsin—$1.341 million.
105. Maintenance Hangar, Air National Guard, Mitchell Field, Milwaukee, Wisconsin—$4.7 million.

Mr. Chairman, by funding new projects, the committee overturns the Defense Department's decision to place a moratorium on military construction until such time as the Congress and the administration determine which projects are no longer required. Many of the projects funded in this bill I contend will not be needed once that study is complete.

Mr. Chairman, the amendment would reduce each account within the bill by 2 percent. That would result in approximately $166 million in budget savings.

I understand this bill does not include a big increase over last year's spending level. If you do not account for the rescission, it can be argued that we are spending less than we originally intended to spend in fiscal year 1990. I respect the work of the

chairman and members on the subcommittee for their efforts to stay within the allocation given to them, which is a very tight allocation when compared to other appropriations measures.

But in total, spending is still spending. These projects were given a lower priority by the House when we adopted the House budget resolution. If we are to cut by 2 percent those bills which were given a higher priority and higher spending levels, then in a relative sense it also stands to reason that those with the lower priority should be trimmed by that same 2 percent, with no exceptions.

Mr. Chairman, I do agree with some of the new emphasis in this bill on guard and reserve funding, but again by and large we are talking about new construction, and if we cannot trim construction budgets at the Federal level by 2 percent, I do not know which part of the Federal budget we can trim.

I would urge adoption of the amendment.

Mr. HEFNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if I may have the attention of the Members, we have worked very hard on this bill. This is probably the only appropriations bill we are going to have a chance to vote on this year that is going to be under the request of the President. It is going to be 13 percent lower than last year, and that is real dollars.

The gentleman can argue that it is $70 million over last year. We have $500 million more in this bill for base closure than last year. If one wants to go against base closure, we have $500 million more than we had last year in base closures.

If one wants to take that out, we would be far under. But we are not over our allocation, we are not over last year's appropriation level and all the new starts are for family housing, day care centers, projects that have been ignored for many years, and we have a backlog for all of our bases in the United States that go for 50 years or more.

This may be the only appropriations bill that we are going to have this year that is under the request of the President, that is less than last year's appropriation level. In all due respect to the gentleman and also on this 2-percent across-the-board cut, this bill is lower than it was last year, it merits Members' support, and I ask a "no" vote on the gentleman's 2-percent cut across the board.

Mr. LOWERY of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support to the gentleman's amendment.

This committee has done its job and has been responsible.

In fact, the Director of OMB sent a letter to us urging the committee to restore funding to the requested level.

Mr. Chairman, I am not saying military construction should not take its share—it has. Over the past 7 years we have reduced this bill by close to $10 billion from the President's request. We have done our share.

This bill does not have the constituency expensive weapon systems have—our constituency is the soldiers, sailors, airmen, marines, and their families—that is what this bill is about: Providing for their working environment; their housing; their hospitals and clinics; and their child care centers.

Mr. Chairman, we are going to see drastic reductions in defense spending in the coming years. As we find ourselves with fewer resources and fewer personnel we are going to have to provide bases that are maintained in top working order and personnel must be adequately housed.

I would like to ask the author of the amendment if he believes our soldiers, sailors, airmen, and marines are overhoused, because a total of $3.3 billion, or 40 percent of this bill, goes toward family housing.

Does the gentleman support the base closure initiatives started last year? Because you are cutting very needed funds to implement those recommendations.

Does the gentleman not believe the members of the Armed Forces deserve to have updated hospitals and clinics? His amendment would inhibit the ability to provide these needed facilities.

Let me cite an example that I know very well. In San Diego we have a family housing shortage of over 6,000 units. We have sailors on food stamps, sailors separated from their families; sailors living in Mexico, in another country—all because they cannot afford housing—this bill provides $32 million for an additional 300 family housing units in the San Diego area. I invite the gentleman from Minnesota to come to San Diego, talk to our sailors, listen to their housing problems. I believe then he would find that while his 2-percent cut sounds small, to them it is enormous.

Every year our subcommittee holds hearings on quality of life in the military. We bring the top senior noncommissioned officer from each service to tell us whatever is on their mind. I would like to quote from Sergeant Major Gates' testimony this year:

> It is easy and safe to talk; it is easy to wave flags; it is easy to listen to the bands; and it is easy to watch the soldiers march on parade. But it is hard to jump from 400 feet onto a hot drop zone at night; it is hard to blow the barricades; and it is hard to take the barracks. It is hard and dangerous.

He goes on to say:

> If your nation's most precious resource, the men and women who volunteer to serve in your Army, are willing to lay their lives on the line to ensure our freedoms, and to protect the integrity of our United States of America, then: They deserve a quality of life for themselves and their families equal to the society that they are committed to defend.

Mr. Chairman, that is what this bill is about, and trying to deal with it. I urge my colleagues to defeat this amendment.

□ 1920

Mr. FRENZEL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the distinguished chairman of the Military Construction Subcommittee indicated that his bill was under the 1990 spending level, and indeed, it would have been had it not been for rescissions. Rescissions are always conveniently forgotten when we get down to adding the totals around here.

As a matter of fact, his bill is $70 million above the 1990 level, taking into account a $253 million rescission in the dire emergency supplemental. So it is not accurate to say that this is below 1990. It is above 1990.

The distinguished vice chairman of the subcommittee wants to know if those who promote the amendment are against military housing or military clinics. We are not. What we object to is the fact that while the President's budget was reduced by several hundreds of millions of dollars, that money was not saved. Instead it snuck back into unrequested initiatives which come from the committee and were not requested by any of the armed services.

By my count, I found 113 such projects and find them costing about $480 million that were thrown in gratuitously by the committee. They are all in somebody's district, and I am sure they are all wonderful projects. But they are add-ons. And they were not requested.

I counted 19 unrequested armories that are in this bill, and maybe there are more. There are a couple of BOQ's. There are at least five child development centers around the country put in by the committee, not at the request of the administration.

There is an aviation museum. I suppose that is a high priority item that needs to be funded now because air museums are wonderful. There are four instances of land acquisition. There is a single community impact assistance. Now I do not know why we need to assist that particular Florida community for impact, but I suppose the committee considers it very important.

There are fire stations and dormitories and dining facilities and computer centers and weekend training sites, all important I suppose, except that they are not so important that they were

requested by the Department or by the administration.

So does this bill have something to give? You bet it has something to give. It is over last year's spending, and the amendment of the gentleman from Minnesota [Mr. PENNY] should be accepted by voice vote by this committee. I urge the acceptance.

This is an area of military spending that should be no more sacrosanct than the regular military appropriation.

I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 239, not voting 29, as follows.

[Roll No. 281]

AYES—164

Andrews	Hefley	Ravenel
Applegate	Henry	Regula
Archer	Herger	Rhodes
Armey	Hopkins	Ridge
Baker	Houghton	Rinaldo
Ballenger	Hubbard	Ritter
Bartlett	Huckaby	Roberts
Barton	Hughes	Robinson
Bates	Hyde	Rohrabacher
Bereuter	Inhofe	Ros-Lehtinen
Bosco	Ireland	Roth
Boxer	Jacobs	Roukema
Broomfield	James	Savage
Brown (CO)	Johnson (CT)	Sawyer
Bryant	Johnston	Schaefer
Buechner	Kastenmeier	Schneider
Bunning	Kyl	Schulze
Burton	LaFalce	Schumer
Campbell (CA)	Lagomarsino	Sensenbrenner
Campbell (CO)	Leach (IA)	Sharp
Chandler	Lewis (FL)	Shaw
Clement	Lewis (GA)	Shays
Clinger	Long	Shumway
Coble	Lowey (NY)	Shuster
Collins	Lukens, Donald	Slattery
Condit	Marlenee	Slaughter (NY)
Conyers	Martin (IL)	Smith (NE)
Crane	McCandless	Smith (VT)
Dannemeyer	McCollum	Smith, Denny (OR)
Dellums	McDermott	Smith, Robert (NH)
DeWine	McMillan (NC)	Smith, Robert (OR)
Dickinson	Meyers	Solomon
Dorgan (ND)	Michel	Stangeland
Dornan (CA)	Miller (OH)	Stark
Douglas	Miller (WA)	Stearns
Dreier	Moody	Stenholm
Eckart	Moorhead	Sundquist
Emerson	Morella	Tauke
Erdreich	Morrison (WA)	Thomas (WY)
Fawell	Murphy	Towns
Fields	Nielson	Traficant
Fish	Nowak	Upton
Flake	Owens (NY)	Vander Jagt
Frenzel	Owens (UT)	Volkmer
Gallegly	Oxley	Walgren
Gekas	Packard	Walker
Gingrich	Parker	Walsh
Goss	Parris	Weber
Gradison	Pashayan	Weldon
Grandy	Paxon	Whittaker
Guarini	Payne (NJ)	Wylie
Hamilton	Pease	Yatron
Hammerschmidt	Penny	
Hancock	Petri	
Hastert	Porter	
Hayes (IL)	Pursell	

NOES—239

Ackerman	Gordon	Pallone
Alexander	Grant	Panetta
Anderson	Gray	Patterson
Annunzio	Green	Payne (VA)
Anthony	Gunderson	Pelosi
Aspin	Hall (OH)	Perkins
AuCoin	Hall (TX)	Pickett
Bateman	Hansen	Pickle
Beilenson	Harris	Poshard
Bennett	Hatcher	Price
Bentley	Hayes (LA)	Quillen
Berman	Hefner	Rahall
Bevill	Hertel	Ray
Bilbray	Hiler	Richardson
Bliley	Hoagland	Roe
Boehlert	Hochbrueckner	Rogers
Boggs	Holloway	Rose
Bonior	Hoyer	Rostenkowski
Borski	Hunter	Rowland (CT)
Boucher	Hutto	Rowland (GA)
Brennan	Jenkins	Roybal
Brooks	Johnson (SD)	Russo
Browder	Jones (GA)	Sabo
Brown (CA)	Jones (NC)	Sarpalius
Bruce	Jontz	Saxton
Bustamante	Kanjorski	Scheuer
Byron	Kennedy	Schiff
Callahan	Kennelly	Schroeder
Cardin	Kildee	Serrano
Carper	Kleczka	Sikorski
Carr	Kolbe	Sisisky
Chapman	Kolter	Skaggs
Clarke	Kostmayer	Skeen
Coleman (MO)	Lancaster	Skelton
Coleman (TX)	Leath (TX)	Slaughter (VA)
Combest	Lehman (CA)	Smith (FL)
Conte	Lehman (FL)	Smith (IA)
Cooper	Lent	Smith (NJ)
Costello	Levin (MI)	Smith (TX)
Coughlin	Levine (CA)	Snowe
Courter	Lewis (CA)	Solarz
Coyne	Lightfoot	Spence
Craig	Lipinski	Spratt
Darden	Livingston	Staggers
Davis	Lloyd	Stallings
de la Garza	Lowery (CA)	Stokes
DeLay	Luken, Thomas	Studds
Derrick	Machtley	Stump
Dicks	Manton	Swift
Dingell	Markey	Synar
Dixon	Martin (NY)	Tallon
Donnelly	Martinez	Tanner
Downey	Matsui	Tauzin
Duncan	Mavroules	Taylor
Durbin	Mazzoli	Thomas (CA)
Dwyer	McCloskey	Thomas (GA)
Dyson	McCrery	Torres
Early	McCurdy	Torricelli
Edwards (CA)	McDade	Traxler
Edwards (OK)	McGrath	Udall
Engel	McHugh	Unsoeld
English	McMillen (MD)	Valentine
Espy	McNulty	Vento
Evans	Mfume	Visclosky
Fascell	Miller (CA)	Vucanovich
Fazio	Mineta	Watkins
Flippo	Moakley	Waxman
Foglietta	Molinari	Weiss
Ford (MI)	Mollohan	Wheat
Frank	Montgomery	Whitten
Frost	Murtha	Williams
Gallo	Myers	Wilson
Gaydos	Nagle	Wise
Gejdenson	Natcher	Wolf
Geren	Neal (NC)	Wolpe
Gillmor	Oakar	Wyden
Gilman	Oberstar	Yates
Glickman	Obey	Young (AK)
Gonzalez	Olin	Young (FL)
Goodling	Ortiz	

NOT VOTING—29

Atkins	Gephardt	Morrison (CT)
Barnard	Gibbons	Mrazek
Bilirakis	Hawkins	Neal (MA)
Clay	Horton	Nelson
Cox	Kaptur	Rangel
Crockett	Kasich	Saiki
DeFazio	Lantos	Sangmeister
Dymally	Laughlin	Schuette
Feighan	Madigan	Washington
Ford (TN)	McEwen	

□ 1945

The Clerk announced the following pairs:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Barnard against.

Mr. Sangmeister for, with Mr. Rangel against.

Mr. Dymally for, with Ms. Kaptur against.

Mrs. UNSOELD and Messrs. McDADE, VENTO, BERMAN, and HOLLOWAY changed their vote from "aye" to "no."

Mrs. COLLINS and Messrs. CONYERS, OWENS of New York, OWENS of Utah, STARK, SMITH of New Hampshire, McCANDLESS, TOWNS, and SAWYER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 20, insert after line 5 the following new section:

SEC. 130. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 0.8 percent.

Mr. FRENZEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, my amendment cuts eight-tenths of 1 percent across the board from this bill which is all discretionary spending, although the committee would like to have Members believe it is under last year's spending by about $183 billion.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Iowa.

Mr. NAGLE. I appreciate the gentleman yielding, and would like to ask how much does it cost in the CONGRESSIONAL RECORD to debate the gentleman's amendment?

Mr. FRENZEL. Mr. Chairman, I have no idea. For as long as the gentleman wishes.

Mr. NAGLE. If the gentleman will continue to yield, we did this last week with the gentleman from Pennsylvania [Mr. WALKER]. Eight-tenths of 1 percent, I forget the cost for printing a page of the CONGRESSIONAL RECORD, but I would think the gentleman from Minnesota can inform me how much it costs to debate this amendment. I ask

again, how much is it going to cost Members to debate this amendment?

Mr. FRENZEL. My guess is that Members will get the same pay whether they continue this discussion or not, and so are the rest of the Members.

This amendment, Mr. Chairman, will save, if adopted, $70 million. That may not be important to some of my friends who like to spend it by the billions or hundreds of millions, but I assure Members that I doubt their constituents will think an amendment that could save $70 million is unworthy of our consideration. I know at least that mine do not.

For that reason, I ask the House's indulgence to at least let me explain. The bill is, by the budget count, about $70 million more than the 1990 level. I have introduced amendments for each appropriation bill to restore those bills to the 1990 funding level. I believe this bill could take more. So I supported the Penny amendment. I believe it could be cut more than mine. However, I tried to keep mine consistent with the other amendments which were based on the fact that we should be spending until the summiteers bring Members a recommendation, no more.

□ 1950

Mr. Chairman, the committee did a good job in making reductions. It is more than $800 million less than the President requested. On the other hand, on its own motion, it included over 100 projects costing nearly half a billion dollars that were not included or requested by the President. For that reason, I do not think it is unreasonable to try to reduce by $70 million the total amount.

Mr. Chairman, because the House is restless and not interested, let me just say that I urge the Members to support my amendment.

Mr. HEFNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Minnesota [Mr. FRENZEL] said that the committee would lead us to believe that this was less than last year's budget. This committee does not try to mislead anybody. This is one of the most bipartisan subcommittees in this entire House.

We brought to the Members a bill that is under last year's level. It is over $800 million less than the President's request, and if we take away the $500 million that we put in for base closure above last year's level, which an overriding majority of the Members supported, if we take that away, we are well under last year's level. Let me say that this committee has worked very hard to put together a bill that is under last year's level by some 13 percent in real terms.

We support family housing, and we support day care centers. We did not go for the frivolous stuff like swimming pools and craft centers. We fund projects that help the quality of life, and as to most all the cuts, we made them overseas; we did not hit bases in this country unduly. We worked very, very hard, and we had many hours of hearings on this bill.

This may be the only appropriations bill that we are going to have a chance to vote for this year that is under last year's funding level, and I take exception to the gentleman's implying that this committee would mislead anybody. We are not trying to mislead this House. We have accommodated people who have legitimate requests, and as to those 100 new projects the gentleman is talking about, they are for the majority for the Guard and Reserve, on which we are going to have to rely heavily in this buildown.

I know that this is a very minor cut. We had one the other day that was just as frivolous, one for $19.20.

This is a good bill. It is supported by the entire subcommittee. We worked hard, and it is under last year's level.

Mr. Chairman, I urge this entire House to give us a strong vote against this cut in the military construction bill.

Mr. LOWERY of California. Mr. Chairman, I move to strike the last word, and I rise in strong opposition to this amendment.

Mr. Chairman, all of the arguments on the last amendment, the Penny amendment, apply in this instance as well. Let us defeat this amendment. As the chairman of the subcommittee has said, we are not going to get another opportunity to vote for an appropriations bill that is below last year's level.

Mr. Chairman, I rise in opposition to the amendment and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I think it is important to point out where the changes are from last year's level are: Construction is down by $777 million; family housing is up by $96 million; and the base closure account is up by $498 million.

Mr. Chairman, we have made our cuts to the construction account. While family housing shows an increase over last year, the majority of this is mandatory to pay for utilities and operations and maintenance. We have already had to cut some $142 million from the President's request.

We are paying the price of base closures. It is not cheap. These funds are necessary to implement the Commission's recommendations; without them, it will seriously compromise completion of all the required realignments by the end of fiscal year 1995.

If we use the gentleman's scenario of including those funds rescinded in the supplemental, he is correct, we are some $70 million over last year's level but, we are over last year's level because of base closures.

Let's not make very needed projects and housing pay the price of base closure. We must defeat this amendment.

Mr. FAWELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I know this is perhaps not the popular thing to do, but I think the gentleman from Minnesota [Mr. FRENZEL] has been doing a tremendous job in this body for a number of years. We will not have him around here next year. When I think of the tremendous debt that we are putting on the heads of our children and our grandchildren, I am amazed to see my friends on the other side of the aisle voting so heavily against defense cuts. I cannot understand why that should be.

I know that this committee has, as I understand it, come in with recommendations which represent a cut. We are talking here only about $70 million. I have a communication from the OMB and the Secretary of Defense indicating that there is $600 million in projects of marginal priority which the Secretary of Defense strongly opposes. I will not go over those lists, but it seems to me we should look at this carefully.

Mr. Chairman, I am serious about this. We have peace dividends here of some $600 million, and what do we do with them? They have vanished; they are gone. We are talking about construction funds, and as the gentleman from Minnesota [Mr. FRENZEL] has pointed out, perhaps these are very good programs as people see them spread across the Nation like this. But what we are doing and what we have done for the last 21 years by being unable to balance budgets is that we have removed all flexibility. We have a $280 billion cost of interest on the national debt, and what that means as a practical matter is that we have stripped ourselves of the ability to fund so many of the programs which the more liberal Members of this body have continuously and rightly pointed out we ought to be funding.

Let me refer to some programs like Head Start, chapter I, and the S&L crisis. I am sorry to be a bit bothersome about this, and obviously I am, but just think, if we did not have that $280 billion in money that we cannot spend except to pay for interest, we would not have an S&L crisis that we would not be able to handle, and we would be able to fully fund these programs about which we worry so much. What we have done is to stifle all the liberal programs because we do not know how to balance budgets and we do not know how to cut under the system we have right now. Surely, when we have an appropriation bill like this we ought to be able to cut.

Let me simply close by saying that unless we as a body, in regard to all of the appropriation bills, recognize that we have an obligation to our children and to our grandchildren to stop this senseless piling of debt on debt, we will just continue to say to the administration, "Well, it is under what you

have requested," and we will say to the Budget Committee, "It is under the 302(b) allocation and, therefore, we can't cut any more."

Mr. Chairman, we can cut and we have to cut, and maybe across the board is the only way we can do it. But on a minor cut like this, we cannot possibly say no to something like this.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will just take this time to remind all the Members that we voted to televise the proceedings of this body, and millions of people watch these proceedings, for some reason or other, all over the United States and all over the world. I just want to remind my colleagues that we are being watched all the time.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to take this opportunity to set the record straight. We have been told that this would be the only opportunity to vote for a bill reported by the Appropriations Committee that came in below budget. I simply want to remind the Members that we do have a Department of Defense bill that will likewise come in under budget.

I would also like to point out that cumulatively thus far our increases in discretionary spending above baseline have been $28 billion. They exceed by $3 billion the $25 billion in new taxes which are being discussed by our summiteers should we in fact pass a $25 increase in taxes.

□ 2000

We still then have a net increase over baseline discretionary spending above and beyond the $25 billion in new revenues of another $3 billion.

In other words, Mr. Chairman, what we are getting is more spending, more taxes and more deficits.

I urge a yes vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 214, not voting 38, as follows:

[Roll No. 282]

AYES—180

Andrews	Bereuter	Campbell (CA)
Applegate	Bosco	Campbell (CO)
Archer	Boxer	Chandler
Armey	Brown (CO)	Clarke
Baker	Bryant	Clement
Ballenger	Buechner	Clinger
Bartlett	Bunning	Coble
Barton	Burton	Coleman (MO)
Bates	Callahan	Collins
Condit	Kyl	Rohrabacher
Courter	LaFalce	Ros-Lehtinen
Craig	Lagomarsino	Roth
Crane	Leach (IA)	Roukema
Dannemeyer	Lent	Russo
DeFazio	Lewis (GA)	Savage
Dellums	Lightfoot	Sawyer
DeWine	Long	Schaefer
Dorgan (ND)	Lowey (NY)	Schneider
Dornan (CA)	Lukens, Donald	Schroeder
Douglas	Marlenee	Schulze
Dreier	Martin (IL)	Schumer
Duncan	McCandless	Sensenbrenner
Eckart	McCollum	Sharp
Emerson	McDermott	Shaw
Erdreich	McMillan (NC)	Shays
Fawell	Meyers	Shumway
Fields	Mfume	Shuster
Fish	Miller (OH)	Slattery
Frenzel	Miller (WA)	Slaughter (NY)
Gallegly	Moody	Smith (FL)
Gekas	Moorhead	Smith (NE)
Gillmor	Morella	Smith (NJ)
Gingrich	Morrison (WA)	Smith (TX)
Goodling	Murphy	Smith (VT)
Goss	Nagle	Smith, Denny (OR)
Gradison	Nielson	Smith, Robert (NH)
Grandy	Nowak	Smith, Robert (OR)
Guarini	Oakar	Solomon
Hamilton	Owens (NY)	Stangeland
Hancock	Owens (UT)	Stearns
Hastert	Oxley	Stenholm
Hayes (IL)	Packard	Sundquist
Hefley	Parker	Tauke
Henry	Pashayan	Thomas (WY)
Herger	Paxon	Torricelli
Hoagland	Payne (NJ)	Traficant
Holloway	Pease	Udall
Hopkins	Penny	Upton
Houghton	Petri	Vander Jagt
Hubbard	Porter	Volkmer
Huckaby	Pursell	Walgren
Hughes	Rahall	Walker
Hyde	Ravenel	Walsh
Inhofe	Regula	Weber
Ireland	Rhodes	Weldon
Jacobs	Ridge	Whittaker
James	Rinaldo	Wolf
Johnson (CT)	Ritter	Yatron
Johnston	Roberts	
Kastenmeier	Robinson	
Kolbe	Rogers	

NOES—214

Ackerman	Dickinson	Hayes (LA)
Alexander	Dicks	Hefner
Anderson	Dingell	Hertel
Annunzio	Dixon	Hiler
Anthony	Donnelly	Hochbrueckner
Aspin	Downey	Hoyer
AuCoin	Durbin	Hunter
Bateman	Dwyer	Hutto
Beilenson	Dyson	Jenkins
Bennett	Early	Johnson (SD)
Bentley	Edwards (CA)	Jones (GA)
Berman	Edwards (OK)	Jones (NC)
Bilbray	Engel	Jontz
Bliley	English	Kanjorski
Boehlert	Espy	Kennedy
Boggs	Evans	Kennelly
Bonior	Fascell	Kildee
Borski	Fazio	Kleczka
Boucher	Flake	Kolter
Brennan	Flippo	Kostmayer
Brooks	Foglietta	Lancaster
Browder	Ford (MI)	Leath (TX)
Brown (CA)	Frank	Lehman (CA)
Bruce	Frost	Lehman (FL)
Bustamante	Gallo	Levin (MI)
Byron	Gaydos	Levine (CA)
Cardin	Gejdenson	Lewis (CA)
Carr	Geren	Lipinski
Chapman	Gilman	Livingston
Coleman (TX)	Glickman	Lloyd
Combest	Gonzalez	Lowery (CA)
Conyers	Gordon	Luken, Thomas
Cooper	Grant	Machtley
Costello	Gray	Manton
Coughlin	Green	Markey
Coyne	Gunderson	Martin (NY)
Darden	Hall (OH)	Martinez
Davis	Hall (TX)	Matsui
de la Garza	Hansen	Mavroules
DeLay	Harris	Mazzoli
Derrick	Hatcher	McCloskey
McCrery	Rangel	Swift
McCurdy	Ray	Synar
McDade	Richardson	Tallon
McGrath	Roe	Tanner
McHugh	Rose	Tauzin
McMillen (MD)	Rostenkowski	Taylor
McNulty	Rowland (CT)	Thomas (CA)
Miller (CA)	Rowland (GA)	Thomas (GA)
Mineta	Roybal	Torres
Moakley	Sabo	Towns
Molinari	Sarpalius	Traxler
Mollohan	Saxton	Unsoeld
Murtha	Scheuer	Valentine
Myers	Schiff	Vento
Natcher	Serrano	Visclosky
Neal (NC)	Sikorski	Vucanovich
Oberstar	Sisisky	Watkins
Obey	Skaggs	Waxman
Olin	Skeen	Weiss
Ortiz	Skelton	Wheat
Pallone	Slaughter (VA)	Whitten
Panetta	Smith (IA)	Williams
Patterson	Snowe	Wilson
Payne (VA)	Solarz	Wise
Pelosi	Spence	Wolpe
Perkins	Spratt	Wyden
Pickett	Staggers	Yates
Pickle	Stallings	Young (AK)
Poshard	Stark	Young (FL)
Price	Stokes	
Quillen	Studds	

NOT VOTING—38

Atkins	Gephardt	Montgomery
Barnard	Gibbons	Morrison (CT)
Bevill	Hammerschmidt	Mrazek
Bilirakis	Hawkins	Neal (MA)
Broomfield	Horton	Nelson
Carper	Kaptur	Parris
Clay	Kasich	Saiki
Conte	Lantos	Sangmeister
Cox	Laughlin	Schuette
Crockett	Lewis (FL)	Stump
Dymally	Madigan	Washington
Feighan	McEwen	Wylie
Ford (TN)	Michel	

□ 2017

The Clerk announced the following pairs:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Barnard against.

Mr. Bilirakis for, with Ms. Kaptur against.

Mr. Dymally for, with Mr. Nelson of Florida against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 129. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Military Construction Appropriations Act, 1991".

Mr. HEFNER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. COOPER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5313) making appropriations for military

construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 312, noes 82, not voting 38, as follows:

[Roll No. 283]

AYES—312

Ackerman	Darden	Hall (OH)
Alexander	Davis	Hall (TX)
Anderson	de la Garza	Hamilton
Andrews	DeLay	Hansen
Annunzio	Derrick	Harris
Anthony	DeWine	Hatcher
Aspin	Dickinson	Hayes (LA)
AuCoin	Dicks	Hefley
Baker	Dingell	Hefner
Bateman	Dixon	Herger
Beilenson	Donnelly	Hertel
Bennett	Dorgan (ND)	Hiler
Bentley	Downey	Hoagland
Bereuter	Dreier	Hochbrueckner
Berman	Duncan	Holloway
Bilbray	Durbin	Hopkins
Bliley	Dwyer	Hoyer
Boehlert	Dyson	Huckaby
Boggs	Early	Hutto
Bonior	Edwards (CA)	Hyde
Borski	Edwards (OK)	Inhofe
Bosco	Emerson	Jacobs
Boucher	Engel	James
Brennan	English	Jenkins
Brooks	Erdreich	Johnson (SD)
Browder	Espy	Johnston
Brown (CA)	Evans	Jones (GA)
Bruce	Fascell	Jones (NC)
Bryant	Fazio	Jontz
Bustamante	Fish	Kanjorski
Byron	Flake	Kennedy
Callahan	Foglietta	Kennelly
Cardin	Ford (MI)	Kildee
Carr	Frank	Kleczka
Chandler	Frost	Kolbe
Chapman	Gallegly	Kolter
Clarke	Gallo	Kostmayer
Clement	Gaydos	LaFalce
Clinger	Gejdenson	Lagomarsino
Coble	Geren	Lancaster
Coleman (MO)	Gillmor	Leath (TX)
Coleman (TX)	Gilman	Lehman (CA)
Combest	Glickman	Lehman (FL)
Condit	Gonzalez	Lent
Cooper	Goodling	Levin (MI)
Costello	Gordon	Levine (CA)
Coughlin	Grant	Lewis (CA)
Courter	Gray	Lightfoot
Coyne	Green	Lipinski
Craig	Gunderson	Livingston
Lloyd	Payne (NJ)	Smith (VT)
Long	Payne (VA)	Smith, Robert (NH)
Lowery (CA)	Pelosi	Smith, Robert (OR)
Lowey (NY)	Perkins	Snowe
Luken, Thomas	Pickett	Solarz
Machtley	Pickle	Solomon
Manton	Porter	Spence
Markey	Poshard	Spratt
Marlenee	Price	Staggers
Martin (NY)	Quillen	Stallings
Martinez	Rahall	Stearns
Matsui	Rangel	Stenholm
Mavroules	Ravenel	Stokes
Mazzoli	Ray	Studds
McCandless	Regula	Sundquist
McCloskey	Rhodes	Swift
McCollum	Richardson	Synar
McCrery	Rinaldo	Tallon
McCurdy	Robinson	Tanner
McDade	Roe	Tauzin
McDermott	Rogers	Taylor
McGrath	Rohrabacher	Thomas (CA)
McHugh	Ros-Lehtinen	Thomas (GA)
McMillan (NC)	Rose	Thomas (WY)
McMillen (MD)	Rostenkowski	Torres
McNulty	Rowland (CT)	Torricelli
Mfume	Rowland (GA)	Traxler
Miller (CA)	Roybal	Udall
Miller (OH)	Russo	Unsoeld
Miller (WA)	Sabo	Valentine
Mineta	Sarpalius	Vander Jagt
Moakley	Sawyer	Vento
Molinari	Saxton	Visclosky
Mollohan	Schaefer	Volkmer
Moody	Scheuer	Vucanovich
Moorhead	Schiff	Walgren
Morella	Schumer	Walsh
Morrison (WA)	Serrano	Watkins
Murtha	Sharp	Waxman
Myers	Shaw	Weber
Natcher	Shays	Weiss
Neal (MA)	Shuster	Weldon
Neal (NC)	Sikorski	Wheat
Nowak	Sisisky	Williams
Oakar	Skaggs	Wilson
Oberstar	Skeen	Wise
Obey	Skelton	Wolf
Olin	Slattery	Wolpe
Ortiz	Slaughter (NY)	Yates
Panetta	Slaughter (VA)	Yatron
Parker	Smith (FL)	Young (AK)
Parris	Smith (IA)	Young (FL)
Pashayan	Smith (NE)	
Patterson	Smith (NJ)	
Paxon	Smith (TX)	

NOES—82

Applegate	Goss	Packard
Archer	Gradison	Pallone
Armey	Grandy	Pease
Ballenger	Guarini	Penny
Bartlett	Hancock	Petri
Barton	Hastert	Pursell
Bates	Hayes (IL)	Ridge
Boxer	Henry	Ritter
Brown (CO)	Houghton	Roberts
Buechner	Hubbard	Roth
Bunning	Hughes	Roukema
Burton	Hunter	Savage
Campbell (CA)	Ireland	Schneider
Campbell (CO)	Johnson (CT)	Schulze
Collins	Kastenmeier	Sensenbrenner
Conyers	Kyl	Shumway
Crane	Leach (IA)	Smith, Denny (OR)
Dannemeyer	Lewis (GA)	Stangeland
DeFazio	Lukens, Donald	Stark
Dellums	Martin (IL)	Tauke
Dornan (CA)	Meyers	Towns
Douglas	Morrison (CT)	Traficant
Eckart	Murphy	Upton
Fawell	Nagle	Walker
Fields	Nielson	Whittaker
Frenzel	Owens (NY)	Wyden
Gekas	Owens (UT)	
Gingrich	Oxley	

NOT VOTING—38

Atkins	Cox	Hammerschmidt
Barnard	Crockett	Hawkins
Bevill	Dymally	Horton
Bilirakis	Feighan	Kaptur
Broomfield	Flippo	Kasich
Carper	Ford (TN)	Lantos
Clay	Gephardt	Laughlin
Conte	Gibbons	Lewis (FL)
Madigan	Nelson	Stump
McEwen	Saiki	Washington
Michel	Sangmeister	Whitten
Montgomery	Schroeder	Wylie
Mrazek	Schuette	

□ 2037

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Lewis of Florida against.

Ms. Kaptur for, with Mr. Dymally against.

So the bill was passed.

The result of vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. SAIKI. Mr. Speaker, had I been present for the votes cast on the House floor, I would have cast my vote as follows:

On rollcall 279, I would have voted "aye";
On rollcall 280, I would have voted "aye";
On rollcall 281, I would have voted "nay";
On rollcall 282, I would have voted "nay";
On rollcall 283, I would have voted "aye".

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "nay" on rollcalls No. 281 and No. 282. I would have voted "yea" on rollcalls No. 279, No. 280, and No. 283.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, had I not had a previous engagement with President Bush at the White House, I would have voted on H.R. 5313 as follows:

Amendments: Representative PENNY, "aye" and Representative FRENZEL, "aye."

Final passage: "nay."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Earlier today, following unanimous consent to vacate the ordering of the yeas and nays on the Suspension Calendar, the Chair announced that he would on tomorrow put the question de novo on the 11 postponed motions to suspend the rules. The Chair wishes to clarify that announcement. Without objection, the Chair will put the question de novo at this point.

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4, rule XV, will be postponed until tomorrow, July 31, 1990.

ROUTE 66 STUDY ACT OF 1989

The SPEAKER pro tempore. Pursuant to the unanimous-consent agree-

ment of earlier today, the pending business is the question of suspending the rules and passing the bill, H.R. 3493, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3493, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING THE ACQUISITION OF LAND FOR INCLUSION IN THE KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1230, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1230, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 2040

PEMIGEWASSET RIVER STUDY ACT OF 1989

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1524.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1524.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MERRIMACK RIVER STUDY ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1046.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1046.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GRAND CANYON PROTECTION ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4498, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4498, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2575, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 2575, as amended.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941, to provide for the striking of medals in commemoration of the Centennial of Yosemite National Park, and for other purposes."

A motion to reconsider was laid on the table.

TELEPHONE ADVERTISING REGULATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2921, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2921, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EMERGING TELECOMMUNICATIONS TECHNOLOGIES ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2965, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2965, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4487, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4487, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States."

A motion to reconsider was laid on the table.

REGARDING A MEMORIAL TO GEORGE MASON IN THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3687, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr.

MANTON] that the House suspend the rules and pass the bill, H.R. 3687, as amended.

The question was taken; and (two-thirds having voted in favor thereof) ther rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia or its environs."

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES COST SAVINGS AWARDS

The SPEAKER pro tempore. The pending is the question of suspending the rules and passing the bill, H.R. 4983, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 4983, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CABLE TELEVISION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last Thursday the Energy and Commerce Committee reported out a bill addressing an issue near and dear to the hearts of many of our constituents, and that is the cable television industry.

In 1984, we voted to deregulate the industry. Since then we have seen an explosion of cable television with more homes gaining access to cable, new programming, including programs such as CNN and C-SPAN. While I believe that overall the cable industry has done a good job under deregulation, in some areas, however, we have also seen bad service and skyrocketing prices.

Mr. Speaker, I have been on the Energy and Commerce Committee 8 years. I have never seen such outstanding leadership in managing a bill as that performed by Chairman ED MARKEY. Chairman ED MARKEY produced a bipartisan piece of legislation that in a very highly charged atmosphere puts forth something that we as consumers can support.

First, the bill establishes a basic tier of service which includes over-the-air broadcasts, public government and educational channels. It empowers the FCC to go after bad-actor cable systems, and roll back prices for consumers in cable services such as ESPN, CNN, and others. The bill also includes an amendment I offered which provides access to all systems for minority owned or oriented programming.

Mr. Speaker, this is a bill produced by one of the outstanding chairmen in the Congress, the gentleman from Massachusetts [Mr. MARKEY]. He deserves enormous credit, and hopefully we will have a bill on the floor soon that simply ensures that the summer is protected. While the cable television industry on the whole has done a good job, I think we have to have some of the protections that are part of this very important Markey bill.

A summary of the bill follows:

SUMMARY OF THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1990

RATE REGULATION

Local programming—A low price for local programming and PEG (public, education and government) access programming would be guaranteed. The FCC would establish a formula, to be initiated 120 days after enactment, for setting the maximum price cable operators could charge for such a local broadcasting tier.

Bad actors—The FCC would develop criteria for identifying individual "bad actors" in the cable industry within 180 days of enactment that employs an "unreasonable or abusive" standard for rates. The FCC's "unreasonable and abusive" standard would be applied to existing rates. Rates for similarly situated cable systems offering comparable cable programming services would be among the criteria to be taken into account by the FCC. A franchising authority, or other relevant State or local government entity, would be authorized to file a complaint with the FCC. The FCC would be required to establish procedures for resolving such complaints and for reducing rates it deems unreasonable or abusive.

Premium programs—Programming for which consumers pay extra on a monthly basis ("premium" programs such as HBO, Showtime, The Movie Channel, Home Team Sports or Disney) or pay-per-view special events (such as a sporting event or a rock concert) that are paid for per performance would remain unregulated under the bill.

Misc cable services—The FCC would be required to set national standards for the cost of providing such miscellaneous cable services as remote control devices.

ACCESS TO PROGRAMMING

Access—Vertically integrated cable programming services would be prohibited by FCC regulations, to be in place 180 days after enactment, from unreasonably refusing to deal with any multichannel video system operator concerning the provision of video programming. This prohibition would sunset nine years after the date of enactment. The sunset could end earlier under certain conditions; the sunset would be lifted nationwide if the FCC determines that a "competitive national market" exists for the delivery of video programming; the sunset could end earlier at the local level if the FCC finds that the competitive market exists on the local level.

Exclusivity—An exclusive contract would be permitted as long as it does not "significantly impede competition."

Coercion—Multichannel video system operators would be prohibited by FCC rules, to be in place 1 year after enactment, from coercing programmers to enter into exclusive contracts as a condition of carriage; from requiring a financial interest in a program service as a condition of carriage; and, if necessary, from discriminating on the basis of alliliation with regard to terms and conditions of carriage.

Home satellite dish access—Any person who encrypts (scrambles) any satellite delivered programming would be required to make such programming available for private viewing by home satellite antenna users; would be required to establish reasonable and nondiscriminatory financial, technical, service and character criteria for dealing with programming distributors; and would be required to establish nondistriminary price, terms and conditions for distribution of such programming.

MUST CARRY AND CHANNEL POSITIONING

Cable operators would be required to carry public and commercial television stations pursuant to the agreements reached by the National Cable Television Association (NCTA) with the National Association of Broadcasters (NAB), the Association of Independent Television Stations (INTV) and the National Association of Public Television Stations (NAPTS).

Under this agreement, cable operators would be required to reserve about 25 percent of their total channel capacity for local broadcast signals.

CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS

Federal standards—Minimum federal standards for customer service and consumers protection would be established by the FCC within 180 days of enactment.

Local/State authority—Local authorities would be allowed to seek enhanced customer service and consumer protection standards as (or when) they renegotiate their franchise agreements. States and francise authorities would retain the ability to enact legislation imposing more stringent consumer protection standards.

Standards—The FCC would conduct an inquiry, to be initiated 60 days after enactment, to determine whether standards for such consumer-related cable equipment as converter boxes and remote controls are necessary. In addition, the FCC would be required to study whether various cable-enabling technologies should be required in all television sets.

Technical standards

The FCC would establish minimum technical standards for the technical operation and signal quality of cable systems.

Financial reporting requirements

Annual reports—Cable operators would be required to file financial information with the FCC on an annual basis.

Home wiring

The FCC would establish rules concerning the disposition of any cable, installed by a cable operator within the premises of a subscriber, after such subscriber terminates service.

Antitrafficking

Cable operators would not be permitted to sell or transfer ownership of a cable system within 36 months following the acquisition

of initial construction of that system, subject to certain exceptions.

Leased access

Rates—The Commission would establish a formula, within 180 days of enactment, to determine the maximum rates a cable operator may charge for leased access.

Minority programming—Cable operators would be permitted to reduce their leased access obligations (a fixed percentage set by the 1984 Cable Act) on a 1 to 1 basis, up to ⅓ of required leased access capacity, by providing access for minority cable programming services.

Foreign ownership of cable systems

Foreign ownership restrictions—Current restrictions on foreign ownership that apply to broadcast and common carrier licensees would be extended to cabled, wireless cable, and DBS systems. Corporate licensees would be limited to 20 percent alien ownership of capital stock while holding companies would be limited to no more than 25 percent foreign ownership.

Exceptions—The bill would "grandfather" foreign ownership of those cable systems already in place while limiting their future growth.

Theft of cable service

Penalties for theft of cable service would be brought into conformity with those for theft of satellite signals.

Diversity, competition, and the future of the video marketplace

Diversity—The FCC would be required, within one year of enactment, to conduct a study and report to Congress on diversity and competition in the video marketplace, including whether to place limits on horizontal and vertical integration.

Competition—The FCC would be required to submit a report to Congress, the first one due 18 months after the promulgation of regulations, on the status of competition in the market for the delivery of video programming.

DBS—The FCC would be required to initiate a rulemaking proceeding, within 180 days of enactment, to impose access to broadcast time, use of facilities, and other public interest requirements on DBS systems not regulated as common carriers and to consider the implications of DBS for localism. DBS operators would be required to reserve 4-7% of channel capacity for noncommercial public service uses. A study panel would be established to consider strategies for promoting and identifying sources of funding for such use.

C-Band—The FCC would conduct an inquiry and rulemaking, 45 days after enactment, to determine whether its rules act as barriers to the use of smaller receivers by home satellite dish owners.

Exclusivity—The FCC would be required to submit to Congress a report by January 1, 1995, concerning the effects of exclusive licensing arrangements for video programming on competition between classes of multichannel video system operators.

Finances—The FCC would be required to report to Congress by January, 1994, on the financial condition, profitability, rates and performance of the cable industry.

Future—The FCC would be required to submit to Congress within a year of enactment a report to Congress including legislative recommendations, regarding the status, direction, and future of the U.S. video marketplace.

BUDGET SUMMITEERS MUST HONORABLY DISCHARGE THEIR DUTIES TO VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker many of our Nation's 27 million veterans have fought their way up some pretty difficult hills in combat. Many have risked their lives to make their way to the summits of these hills in service to their Nation. Now there is another summit that lays ahead challenging our veterans: the budget summit.

There has been a great deal of talk lately from Republicans at both ends of Pennsylvania Avenue that the key to reducing the deficit is cutting back on so-called entitlement programs. There have been threats made that if Democrats are unwilling to slash these programs dramatically, then the budget summit will end in ruin. No one has yet talked about veterans' programs, but when you read between the lines of what the White House and congressional Republicans are saying, it gives me reason for concern.

Mr. Speaker, as I have said before, the budget deficit needs to be reduced, but it should not be done on the back of veterans. However, there are those in Washington who see veterans as just another pressure group fighting for a piece of the Government pie. Some consider veterans' programs just another Federal entitlement program, living off the dole of the U.S. Treasury.

I, for one, consider such views shameful. Veterans are not just entitled to these programs, they earned them through service to their country as deferred compensation, and have paid for them with their sweat and blood.

The Nation's veterans have suffered severely during the last 10 years, particularly in the area of health care benefits. Although expenditures of veterans' programs are at their highest nominal level ever, when inflation is taken into account, Federal spending for veterans' programs have been declining steadily since 1976. Frankly, Mr. Speaker, I believe they deserve better than this.

The challenges facing our Nation's veterans are clear. There is a well-documented need for more resources at our VA medical facilities. By the turn of the century, 2 out of 3 males age 65 and older will be veterans, and the VA will need to shift its focus from acute care to extended care, and place greater emphasis on ambulatory care and health care delivered at home. These new burdens, however, will be added to the current budgetary shortfall of more than one-half billion dollars. This current shortfall results in continuing backlogs for outpatient and nursing care, closed beds, delayed equipment replacement, and loss of personnel. Medical equipment purchases, both new and replacement, are 3 years or more behind schedule. Almost 20,000 hospital beds are vacant because of inadequate resources and staff. Obviously, this is not a very good base to build upon to meet future medical challenges.

Unfortunately, VA medical programs are not the only ones to have suffered from this decade of neglect. Staff levels at VA regional offices is down 25 percent since 1982. As a result, some veterans must routinely wait months and months to receive a decision on claims for compensation because of backlogs. Service-connected disabled veterans seeking vocational rehabilitation must wait sometimes 100 days after filing an application before the VA can schedule the first job interview. In addition, some of our national cemeteries are not up to standard. The list goes on and on.

The Reagan administration, in its questionable wisdom, chose to subject veterans to a series of budgetary restrictions that have created a situation in which the mission of the Veterans Affairs Department has been jeopardized. It is important now more than ever to demonstrate congressional support for veterans and programs within the VA.

For that reason, I strongly supported the budget proposal for fiscal year 1991 presented by the House Committee on Veterans' Affairs. The committee added $729 million to the $1 billion increase recommended in this year's VA health care budget by President Bush, who, to his credit, appears to be realistically and sincerely addressing the needs of the VA. I don't know for sure what caused this change in White House policy, but I suspect that my friend and Chicago's own, the Honorable Ed Derwinski—who I had the pleasure of serving in Congress with for many, many years and who is now Secretary of Veterans' Affairs in President Bush's Cabinet—had something to do with it. Secretary Derwinski has done a fine job as the Nation's first Veterans Affairs Secretary since the VA was elevated to a Cabinet-level post, and I am sure that he is making great use of his personal access to the President.

Even with these increases, this proposed budget would not cure all the problems the VA is confronted with. This amount is no small piece of change, however we must remember that it is not going to expand VA programs but rather to merely maintain them against years of rapid inflation in the costs of medical care. Nonetheless, it is a step in the right direction.

That's why it would be so tragic and ironic if, just at the moment that the White House was beginning to take steps, however small, in the right direction, these advances were to be wiped out by the budget summit. I call upon my colleagues representing Democrats at the budget summit to resist any and all attempts to reverse the positive actions concerning veterans which occurred earlier this year.

But these are not the only issues concerning veterans which I believe Congress has an obligation to act upon before the adjournment of the 101st Congress. Mr. Speaker, there are three pieces of legislation affecting our Nation's veterans which I have cosponsored which I hope we can deliver to the White House and have signed into law this year.

The first is the Veterans Agent Orange Exposure and Vietnam Service Benefits Act, H.R. 3004. This bill would create a legal presumption that certain diseases experienced by veterans of active service in Vietnam are connected to agent orange exposure. In addition, H.R. 3004 would provide permanent benefits for Vietnam-era veterans suffering from such agent orange-related diseases as non-Hodgkin's lymphoma, soft-tissue sarcoma, melano-

ma and basal cell carcinoma, or their survivors.

Mr. Speaker, for too many years the Government has failed to act and fulfill its obligations to those who served this Nation in good faith. That is why I cosponsored this legislation to establish a presumption that certain illnesses and conditions of Vietnam veterans are related to agent orange exposure and should be compensated.

The second is H.R. 3756, which would authorize the Secretary of Veterans Affairs to conduct a 5-year pilot program in Chicago to demonstrate the advantages of furnishing care to elderly veterans in nursing homes in order to treat, reactivate, and maintain day-to-day living functions for those veterans. An increasing number of our veterans will experience the effects of advanced aging, the ravages of illness, and dependence on family caregivers, and their families will face the traumatic decision of having to commit a loved one to an institution.

For many of these veterans, commitment to institutional care may be unavoidable, but for many others, institutionalization can be avoided by restoring and maintaining physical, psychological, and social functioning. Such programs have had tested and proven success in other countries, and I am hopeful that the pilot program which H.R. 3756 authorizes will show that such programs can be beneficial in the United States as well.

The third is the Missing Service Personnel Act, H.R. 1730, which would improve current procedures for determining whether servicemen or civilians currently listed as missing in action are indeed deceased or not. The goal of this legislation is for Congress to find the most workable and acceptable solution to ending the pain and suffering of the families of those left unaccounted for.

Mr. Speaker, our Nation's veterans have honorably discharged their duties to the United States. Now Congress and the White House must honorably discharge their obligations to our Nation's veterans.

VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM WINNER NIKKI LYNN WILLIAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. UNSOELD] is recognized for 5 minutes.

Mrs. UNSOELD. Mr. Speaker, Nikki Lynn Williams is a 17-year-old student from the small town of Tenino in my district. She wrote the winning essay for the State of Washington in the Voice of Democracy broadcast scriptwriting contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary.

I am very proud of Nikki and her accomplishments. She demonstrates that the youth of this country do, indeed, understand how fortunate they are to live in a land of unequaled freedom and opportunity and that they are aware of the obstacles that have been overcome to reach this point in our history.

We must all strive to continue the journey Nikki describes from "a viewpoint on the mountain of the 'American Dream'." There is much work to be done if we are to create a more perfect union. Let Nikki's words serve as an inspiration and a reminder that we are here to make this country better for those who follow us.

Mr. Speaker, I include Nikki's essay for the RECORD.

WHY I AM PROUD OF AMERICA

(1989/90 VFW Voice of Democracy Scholarship Program, Washington Winner Nikki Lynn Williams)

As a young American of the 20th century, who is privileged to enjoy the freedom and liberties of this great nation, I stand at a viewpoint on the mountain of the "American Dream". My vantage point is a result of the efforts, sacrifices, and accomplishments of past generations. When I think of why I'm proud of America, I can look upwards and know that the beacon of hope and freedom is shining, but on the other hand, my thoughts travel back down this mountain and through the valleys that our forefathers traveled. It was on a distant horizon that they began their journey with a vision and hope of climbing to new heights.

When contemplating America's beginning, I envision our forefathers making many voyages across turbulent and unchartered waters in their quest for freedom and a better way of life. Because of their courage and desire to be independent, they began the trek into the unknown which landed them in a new world.

From this point they traveled through many valleys which led to the base of this mountain, the "American Dream". Many hardships were encountered, such as disappointment, hunger, hard work, cold winters, and Indian attacks, but their desire for freedom helped them to endure.

As they stood at the base of the mountain they didn't realize the magnitude of its existence, nor did they comprehend the vast heritage they would begin to create, as they started their ascent.

The first viewpoint in our forefathers climb up the mountain of the "American Dream', was the Mayflower Compact, in 1620. This was the foundation for freedoms that were to follow.

Continuing upward the next vantage point in striving for freedom was the Declaration of Independence, in 1776, which was the birth of our nation. Ascending to new heights, our Constitution of the United States was adopted in 1787, establishing the democratic government on which our nation was founded. This has served as a model for other nations seeking democracy.

Climbing onward the Emancipation Proclamation, signed in 1863, gave freedom to slaves in the confederate states, and the 13th Amendment, in 1865, abolished slavery in all states.

Continuing further, in 1870, our government guaranteed a new freedom, that of voting rights to all men regardless of race, color, or previous conditions of servitude.

Climbing to the next viewpoint of our forefathers ascent up this mountain was the 19th Amendment that gave women the right to vote in 1920. Progressing still further, the 26th Amendment guaranteed citizens eighteen years or older the right to vote in 1971. Ascending upward, the Equal Rights Amendment, giving women more rights, was passed by Congress in 1972. I am proud as I look back down this mountain, of the "American Dream: seeing the patriotic symbols that have marked the pathway for our forefathers ascent towards freedom for all Americans. These symbols of pride include our flag, our eagle, our Liberty Bell, our Star Spangled Banner, and our Statue of Liberty.

We're not at the top of the mountain yet, and we can't even see the top, but we recognize the light shining from the beacon as a symbol of freedom and hope and we, as America, are the beacon of hope to the rest of the world.

In closing I would like to leave you with this thought: after signing a major document, the Constitution of the United States, Benjamin Franklin looked at the back of the chair that Washington had occupied, on which a picture of the sun was painted and said, quote "I have . . . often and often . . . looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting sun." end quote. From my vantage point today, on the mountain of the "American Dream", that sun is still rising. I hope for you and all Americans that same vision of pride and appreciation for that rising sun is evident, and that this inspires us to continue to keep America great amongst the nations of the world, as a beacon of hope and freedom. I am proud of America, and the beacon at the top of our mountain that continues to shine, proclaiming hope, freedom, and liberty to all mankind.

□ 2050

THE SAVINGS AND LOAN FRAUD MONEY RECOVERY ACT OF 1990

The SPEAKER pro tempore (Mr. MINETA). Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 5 minutes.

Ms. OAKAR. Mr. Speaker, today I am introducing a bill to improve the process for recovering for the taxpayers of this country the proceeds of savings and loan fraud. It is called the "Savings and Loan Fraud Money Recovery Act of 1990."

Mr. Speaker, day after day, we hear or read of yet another savings and loan institution or a bank that has gone belly-up because of substantial fraud or insider abuse. There are currently over 500 failed financial institutions under investigation by the FBI. In addition, there are over 7,000 pending cases of bank and thrift crime, and over 21,000 criminal referrals not yet addressed. This is incredible—and more to the point—it is absolutely intolerable. The Chairman of the FDIC, William Seidman, says that 60 percent of the S&L's that failed included serious elements of fraud and insider abuse; and in many institutions outright fraud caused the downfall of these institutions.

Last June, the General Accounting Office examined 26 thrift institutions that had failied and compared them to a sample of 26 solvent savings and loan associations. In the 26 that failed, the GAO found certain activities at each insolvent institution that appeared to have various degrees of fraud and insider abuse.

Mr. Speaker, too many federally-insured institutions have failed because white-collar

criminals used these institutions as their play toys or personal piggy banks. These criminals must be brought to justice, and every legislative effort must be considered to recoup the billions of dollars these crooks have taken from the American public to satisfy their insatiable greed.

Mr. Speaker, I want to make it absolutely clear, however, that the vast majority of financial institutions executives are honest businessmen and outstanding citizens in their respective communities. It would be tragic, indeed, if we in our collective efforts to address this crisis would inadvertently besmirch the reputation of, or otherwise cause havoc in, the lives of these law-abiding citizens.

Last year, in response to the ever-growing S&L crisis, the Congress passed and the President signed into law the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA]. That act is, without question, the most far-reaching financial legislation enacted by Congress in the past half-century.

Title IX of that act, the "regulatory enforcement authority and criminal enforcements" substantially strengthened the enforcement powers of Federal regulators of depository institutions and the civil and criminal penalties for defrauding depository institutions and their depositors. It provided unprecedented powers to the agencies, reflecting congressional concern over fraud, insider abuse, and other criminal activity which have contributed to the insolvency of many savings associations and commerical banks. Mr. Speaker, title IX of FIRREA was sound and tough legislation. But, as the S&L debacle continues to grow, and the more we learn about the repugnant activities of some sleazy S&L operators, the more it becomes evident that additional hard-hitting legislation is required if we are to recoup any of the funds and assets from these crooks who have perpetrated the most outlandish financial fraud on the American taxpayer in the history of our Nation.

My bill would, among other things, substantially improve on the legislative efforts of last August. For example, it is expected that some con artists who have already driven their institutions into conservatorship may attempt to buy back from the RTC, at bargain-basement prices, the properties their institutions once held. Having inside information on such properties, they may think they have an inside track on such bids for these assets. My bill would prohibit any executive of a federally-insured depository institution for which the FDIC or the RTC has been appointed conservator or receiver, and who caused a substantial loss to that institution from purchasing any property or other assets of that institution from the FDIC or the RTC at a fire sale. The least we can do is to stop these ripoff artists who ran their institutions into the ground from using the

the RTC as their launching pad for another fast-buck, get-rich-quick scheme.

Another provision of my bill, Mr. Speaker, would give the FDIC the authority to regulate or prohibit certain forms of benefits, otherwise known as golden parachutes and indemnification payments, to certain executives whose institutions are insolvent, placed into conservatorship or receivership or are in a troubled condition as determined by the FDIC. Mr. Speaker, hearings held by the Banking Committee revealed that while the FDIC/RTC may have the power to repudiate exorbitant severance packages after an institution is placed in receivership, it is difficult to force former executives to return bonuses already paid through so-called sweetheart deals. Mr. Speaker, my bill not only would give the FDIC and RTC authority to prohibit such benefit packages, but would give the regulators clear authority to take back money already paid out under these sweetheart deals.

In addition to the foregoing, my bill would:

First, increase the maximum penalty for bank fraud and embezzlement from 20 to 40 years imprisonment;

Second, establish the concealment of assets from FDIC or RTC as a criminal offense with a fine of up to $1 million or imprisonment up to 5 years, or both;

Third, make the laundering of proceeds derived from bank and embezzlement offenses a crime under the Federal money laudering statute;

Fourth, prohibit the discharge of cetain S&L-related debts as a result of bankruptcy proceedings, and bankruptcy court protection would be denied to officers, directors and others for debts arising from a breach of fiduciary duties;

Fifth, expand the Federal forfeiture laws to seize the proceeds of fraud against the U.S. Government involving the sale of assets by the RTC; and

Sixth, give the RTC subpoena authority and clarify existing subpoena authority of the FDIC to investigate sales of assets by the RTC.

Mr. Speaker, unless we enact comprehensive crime prevention legislation, I am afraid we will continue to see the rape of our financial institutions system by crooks who would have no qualms about bringing to ruin our financial system in order to feed their insatiable greed. The taxpayers of this country do not deserve this; they demand that an end be put to this travesty and, indeed, it is our collective responsibility, hopefully, in a bipartisan way, to see that justice is done, that the taxpayers recoup as many assets as is possible, and that the crooks that perpetrated this obscene debacle be substantially fined and sent to jail.

The following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This Act may be cited as the "Savings and Loan Fraud Money Recovery Act of 1990."

Sec. 2. Amendments relating to Civil Forfeiture. This section expands the Federal Government's authority in civil forfeiture cases involving the concealment from assets from the FDIC or the RTC, mail or wire fraud which affects federally-insured depository institutions, and authorizes the Attorney General to seize forfeited property involving cases of bank fraud.

Sec. 3. Increasing Bank Fraud and Embezzlement Penalties. This section would increase the maximum penalties for bank fraud and embezzlement criminal offenses from 20 to 40 years.

Sec. 4. Concealment of Assets from FDIC or RTC Established as Criminal Offense. This section establishes as a criminal offense the concealment of assets or property from the Federal Deposit Insurance Corporation or the Resolution Trust Corporation when acting in their capacity as conservator or receiver for any insured depository institution. Penalties up to $1 million or imprisonment for up to 5 years or both may be imposed.

Sec. 5. Subpoena authority for FDIC and RTC acting as Conservator or Receiver. This section clarifies the subpoena authority of the RTC and the FDIC, as conservator or receiver to assist in uncovering assets and recovering funds.

Sec. 6. RTC and FDIC Enforcement Division. This section directs the RTC and FDIC to establish a fraud and enforcement review division within their respective corporations. Their duties are to assist, advise, and coordinate the pursuit of claims by Federal agencies, including the Department of Justice, the Comptroller of the Currency and the Securities and Exchange Commission. Reports on the coordinated pursuit of claims by Federal agencies are to be submitted to the Banking and Judiciary Committees of the House and Senate.

Sec. 7. Priority of Claims. This section would give the RTC and FDIC a priority, under certain circumstances, for claims against an insured depository institution's director, officer, employee and other institution—affiliated parties over competing suits by shareholders and others. Although some courts have recognized this priority, others have not. This section explicitly grants the FDIC and the RTC a priority as to private claims.

Sec. 8. Civil and Criminal Forfeiture for Fraud in the Sale of Assets by the RTC. This section would expand federal forfeiture law. It would permit the proceeds of fraud against the U.S. Government involving the sales of assets by the RTC and FDIC to be seized and forfeited.

Sec. 9. Disallowing Use of Bankruptcy to Evade Commitments to Maintain the Capital of a Federally Insured Depository Institution or to Evade Civil or Criminal Liability. This section would prohibit the discharging of debts under the bankruptcy statute for an officer, director, or other fiduciary of a federally-insured institution, who committed fraud upon the institution. Also, bankruptcy court protection would be denied from suits for damages, penalties, fines, forfeitures, restitutions, or other claims ordered by a court or by a bank regulatory agency.

Sec. 10. Money Laundering Involving Bank Crimes. This section would expand the prohibition on the laundering of money to include proceeds derived from fraudulent bank activities, fraudulent loan or credit applications, and mail or wire fraud affecting an insured depository institution.

Sec. 11. Regulation of Golden Parachutes, and Other Benefits which are Subject of Misuse. This section would give the FDIC authority to prohibit or limit golden parachute payments made after an insured institution is troubled or insolvent, or after the appointment of a conservator or receiver. Also, it authorizes the FDIC to recoup bonuses already paid through so-called "sweetheart deals." In addition, it prohibits insiders from using the assets of an institution on the brink of insolvency to pay for future legal defense for alleged wrongdoing on the part of insiders; and finally, it prohibits those who have had enforcement actions brought against them from forcing the institution to pay their attorney's fees.

Sec. 12. Prohibition on Acquisitions from Conservators and Receivers of Depository Institutions by Certain Institutions-Affiliated Parties. This section would prohibit an

officer, director or any other institution-affiliated party of an insured depository institution who caused a substantial loss to that institution, which is in conservatorship or receivership, from purchasing any asset from the FDIC or the RTC.

SALE OF SEMI-GAS SYSTEMS, INC., TO THE JAPANESE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, what a shock to read an article this weekend that President Bush has approved the sale of Semi-Gas Systems, Inc., to the Japanese. It is not too late to stop the sale, and tonight I am requesting President Bush to reconsider his decision.

I think this action could have grave consequences for the semiconductor industry, and it does affect our national security.

Semi-Gas is vital to Sematech, which was established several years ago to help the U.S. semiconductor industry compete in the world market. If Semi-Gas is sold to the Japanese firm, Nippon Sanso, it will force a shutdown of the Sematech research laboratory for 6 months and be a setback to Sematech.

The article, entitled "Bush To Let Japanese Buy Concern Vital to Chip Race," stated that, "President Bush said today that he would not block the sale of Semi-Gas Systems, a major supplier of gas distribution and control systems to American chipmakers, to a Japanese bidder even though the California company has a central role in the semiconductor industry's effort to overtake its Japanese rivals."

It also stated that Nippon Sanso of Japan intends to acquire Semi-Gas Systems for $23 million from Hercules, Inc., a large chemical producer based in Wilmington, DE.

Hercules acquired Semi-Gas 3 years ago for an investment of about $5 million.

I must add that the employees of Hercules have endeavored to buy the company for $18 million to keep it in the United States. But the Government apparently has only a bottom-line mentality and, instead, signed off on the sale.

I might add, Mr. Speaker, that Sematech has received a subsidy of $100 million each year because its production has been considered vital to our national security.

Semi-Gas is one of those vital components of Sematech, as has already been pointed out. Again I want to point out and emphasize that selling it to a foreign firm means Sematech will have to shut down its research laboratory for at least 6 months while trying to find a replacement.

The other aspect of this approval to sell Semi-Gas to a Japanese firm that causes me to ask questions is a result of the fact that only 3 or 4 weeks ago Chairman J.J. PICKLE brought out in his Committee on Ways and Means subcommittee that foreign firms, particularly the Japanese, owe some $50 billion in taxes to the United States Treasury, taxes that they have been dodging since 1983. Now we are turning over another American-owned firm, one essential to our national security, to foreigners who play games with our tax system as well as take our technology away.

Yes, Mr. Speaker, I want to repeat, the sale is a threat to Sematech's security and that means to this country's security.

Mr. Mills, senior vice president of Sematech, stated that, "Semi-Gas has been an intimate partner to Sematech almost since we began 2 years ago. They have an intimate knowledge of our fabrication facility. You couldn't choose a better way to do industrial espionage." That is what he said.

What amazes me, Mr. Speaker, is that the Committee on Foreign Investment in the United States, headed by Treasury Secretary Nicholas Brady, recommended approval of Nippon Gas' bid. I wonder why. Is it because we need to sell T-bills at this time?

According to the New York Times article, Mr. Noyce, Sematech's president and chief executive, stated before his death last month that, "The alliance was on course to reclaim the lead from their Japanese rivals by the mid-1990's, and with this sale Sematech will have a tough time to ever reclaim the lead." How can this happen?

In a story last November, the Journal of Commerce reported that Congress was being warned that the United States' semiconductor industry "is falling prey to foreign competitors determined to gain a chokehold on the materials and equipment needed to make computer chips."

In that article, Robert Noyce was quoted that, "Foreign competitors are determined to control the supply lines, the manufacturing and the end products." Mr. Noyce testified at a joint hearing of two House science subcommittees that, "While the United States has a 40-percent share of the worldwide semiconductor market, its hold on the markets for critical equipment and material is below that."

Does not Semi-Gas Systems qualify under one of those conditions? It certainly does under national security. The American people have placed their money in Sematech along with 14 American companies. They deserve a chance to succeed. In effect, we might say this is knocking the wind out of the semiconductor industry by allowing the sale of Semi-Gas Systems to Nippon Sanso.

I say to President Bush for economic and national security, Mr. President, please do not sell this company to the Japanese. Please reconsider your decision.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER], who has been outstanding in all of our efforts to block technology transfer.

Mr. HUNTER. I thank the gentlewoman for yielding.

Mr. Speaker, I want to thank her for her vigilant efforts to retain American technology and to prevent a transfer that might accrue to the detriment of either the national security or the American economic base.

The one thing that I think should concern Members of Congress is this: We have spent a lot of money and undertaken a great deal of effort to make Sematech work and to succeed in the goals that we have set out for this consortium. The problem is that no one in Congress and no one in Sematech and no one, I think, in the administration presumed that some of the participants in Sematech would be purchased by the trading competitors against whose domination of the market the consortium is working.

If you look at it from a strategic aspect on the part of our competitors, I have to agree with Peter Mills, who says, "You couldn't choose a better way to do industrial espionage."

If one of these companies had undertaken to acquaint our trading competitors with intimate knowledge of the consortium's activity at Sematech, they would be subject to civil and possibly criminal charges. But by purchasing one of the players, one of the participants, our trading competitors are putting themselves in an especially advantageous position.

And the tragic part of this is that this transfer and this activity that has led to a reversal in a very important area has received the imprimatur of approval from our administration, from the Bush administration.

Mr. Speaker, I think it is appropriate for Congress to take action to protect this very vital investment that we have made. We made it with the taxpayer dollars from the American people because we had a very, very vital strategic and economic interest; in fact, a vital defense interest as well as an economic interest in the success of Sematech.

I cannot understand what rationale would lead the administration to not prevent this particular sale. Maybe the gentlewoman has some answers there.

Mrs. BENTLEY. I do not have the answers, but I can make some guesswork.

For example, I mentioned there are some purchases on some vital bills in August, and I know we need the money to keep going on operating in the red because we are destroying ourselves economically. We have guessed in the past that at each crucial sale the Japanese have come in and said,

"Hey, if you want us to buy, you've got to give us this." The FSX was one example of that. I am wondering if this comes back to that same category.

□ 2100

Going back to April, I did at that time protest one. I first heard that this was pending, and I protested to Brent Scowcroft, the National Security Adviser, about it. The sale has moved on. I think we need to try some emergency legislation tomorrow to see if we can stop this. I think this is really too crucial, and again, the taxpayers' money. Are we wasting it? Are we turning eveything over to the foreigners?

Mr. HUNTER. If the gentlewoman will continue to yield, I think this does not make good business sense to expend as many taxpayer dollars as we have to to make sure this consortium works, and then to allow one of the partners in the consortium to sell out to a trading competitor against whose advantage the consortium was formed. It makes no business sense, and it really is not dealing in good faith with the American taxpayers who are shelling out the dollars to make Sematech work. If the gentlewoman will draft up legislation, I am prepared to support it.

I want to commend also my colleague, the gentleman from California [Mr. LEVINE], who also has registered some disapproval with this particular sale.

Mrs. BENTLEY. We will move quickly on that, and I thank the gentleman from California [Mr. HUNTER] for these remarks.

THE SPIRALING AIDS CRISIS

The SPEAKER pro tempore (Mr. MINETA). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, about 2 weeks ago this House and the Congress of the United States passed what was known as the Americans With Disabilities Act, and I think last week President Bush signed that act into law. There were many good things about the Americans With Disabilities Act. Some of those things are going to help the handicapped around this country, and they were very, very important.

Other things in that bill were not so good. In fact, some of them were kind of bad. For instance, health care workers and food handlers who have the AIDS virus, who have active AIDS, are allowed to continue to work in close proximity to patients at hospitals, cleaning their wounds and so forth, and food workers in restaurants who have active AIDS can continue to work preparing food for the people who come into those restaurants. The arguments on this floor were that a person cannot get AIDS through that kind of contact, so health care workers who work cleaning wounds of people who just had surgery, or people who prepare food are no danger to the general public. The fact of the matter is, Mr. Speaker, we really do not know all the ways that the AIDS virus can be communicated, can be spread.

The Center for Disease Control says AIDS cannot be transmitted through casual contact, and only through blood contact or by needles of intravenous users or sexual contact. Those are the only ways.

The problem is, exceptions have occurred. For instance, in the Soviet Union, seven mothers were infected with the AIDS virus by their children who were nursing, because the children had been infected in a nursery by a nurse who continued to use the same needle to give shots to these children because they had sold the regular needles on the black market. She continued to use one needle. She would clean it and stick it in the other children. All seven of those children got AIDS, and those childen breast fed off of their mother, and seven of the mothers in the Soviet Union contracted AIDS through the mouth contact of their child. So that was an exception. It was not through sexual contact. It was not from drug contact. It was not by intravenous drug users and needles. There was the case of a man who was in his 70's whose only contact with his wife was kissing her occasionally. They had no sexual contact. She contracted AIDS, and the general opinion was, of most doctors who were conversant, is that she received it through kissing her husband.

The Center for Tropical Diseases in Florida also has concern that flying insects, mosquitoes, might had transmitted AIDS virus in areas around the Miami area. Now, we do not know whether these are facts or whether they are not. The problem is that there is concern because they do not know all the ways that the AIDS virus is being transmitted. We do know that those mothers in the Soviet Union did contract the AIDS through the breast feeding.

That is why I have advocated over the past several years that we adopt a rational testing program nationwide to find out how AIDS is spreading, where it is spreading most rapidly, who is spreading it, and what we should do to deal with this terrible, terrible tragedy. Mr. Speaker, the fact of the matter is that in 1983, we had 4,200 cases of AIDS in the United States; in 1984, we had 9,900 cases of active AIDS; in 1985 that jumped to 20,000; in 1986, that jumped to 35,000; in 1987, 48,000; 1988, was 91,000. 1989 was 118,000. By the end of 1990 it will be about 153,000. 153,000 Americans have active AIDS and are doomed to die, and that is not to mention all of those who are carrying the virus who eventually will become active AIDS patients, and they will, in turn, die as well. The projections are that before the end of this decade we will have well over 1 million people dead or dying of the AIDS virus.

Now we have been told, though, by CDC and the health experts of this country that we cannot get AIDS except through two or three ways: intravenous needles that drug users use; blood-to-blood contact; and through sexual contact. Now, this past week it was reported in many publications around the country that a dentist in Florida who wore gloves, who wore all the apparel that the dentists wear these days, and a mask, transmitted the AIDS virus to a woman who he was performing oral surgery on. He pulled two of her teeth. He had active AIDS, knew it at the time, but wore all the protective gear. But this lady contracted AIDS, and all data points to her getting it in the operation of the dentist's office.

People say how can it happen? The fact of the matter is there are 230 million AIDS viruses that will fit on a period at the end of a sentence. Think about that: 230 million AIDS viruses will fit on a period at the end of a sentence. It is a very, very small virus, and it has been proven that the gloves that physicians and nurses wear are porous, and the AIDS virus can go through those gloves. Lest anyone doubt what I say, the fact of the matter is the Centers for Disease Control has sent out an edict and directives from the Centers urging doctors and nurses not to wear one set of gloves, but two sets of gloves, to double-glove, wear all kinds of protective clothing and masks. This dentist, obviously, did not do that, and the fact is, the woman contracted AIDS.

Now, we do not know for sure that she got it from that dentist, but all indications are that she did. I am not trying to scare people into saying that they should not go to their dentists for cleaning and for oral protection of their mouths and their gums, but we need to know more about how AIDS is transmitted in this country. We passed the ADA bill 2 weeks ago which said that if a person is a health care worker and someone moves them from a position where they are working on taking care of patients' wounds against their will, that hospital or the doctor that moved them can be used. He can be held liable, even though there is definitely a risk. If in a restaurant a person has active AIDS and they are preparing food, and the fellow that owns that restaurant decides to move them out of that position into a nonfood handling position, he can be held liable and will be sued.

Now, it is my contention that we must be concerned about the public health of the Nation. Our No. 1 responsibility as a body is to protect this Nation against a health crisis of this type. We must make sure that the majority of the people are protected. This has been done in the past. When we had a tuberculosis epidemic a couple of decades ago, three or four decades ago, we started putting people in sanitariums. I am not saying that should be done with AIDS, but I am saying that this country does take steps to protect the majority of the population's health when it is necessary

Right now we are finding that AIDS is being transmitted in several ways that cannot be explained, that the Centers for Disease Control and the HHS, Health and Human Services, continue to say it cannot be spread that way. The fact of the matter is, no matter what they say, strange things are happening in the way AIDS is being communicated, and we need to come to grips with this to protect the vast majority of the people of this country.

□ 2110

Mr. Speaker, people carry the AIDS virus for anywhere from 2 to 20 years before it becomes visible. It is in a latent stage, and so those people do not know they have the AIDS virus, nor does anyone who comes in contact with them. So, during this period, this incubation period, those people can infect other human beings without them knowing it or without the person with whom they come in contract with knowing it.

So, Mr. Speaker, the fact of the matter is, if we are to protect the people in this country who do not have AIDS, who do not know who has AIDS, then we have got to take some logical, orderly steps to deal with this crisis, and I think that we need to start off first with a routine testing program that will tell us where AIDS is spreading most rapidly, who is spreading it and how it is spreading to get some idea of what kind of a battle plan we should come up with.

The second thing we need to do is continue to educate the public, especially our young people, about the dangers of AIDS. It is extremely important. A recent study showed that children in the high school and college years have not changed their sexual practices at all, and that is the most dangerous area of our society, as far as the possibility of contracting AIDS is concerned.

So, Mr. Speaker, we need to continue education. Testing, education. We need also to have counseling for those people who are found to have AIDS, and we need to tell them that they can no longer have sexual contact with people outside the AIDS community because they might very well kill that individual, and then we need to have contact tracing to find out if individuals who have the disease and know it continue to indiscriminately have sexual contact or other contact that endangers the rest of our society and infects other humans.

Finally I think, Mr. Speaker, there needs to be penalties for those who have AIDS and knowingly continue to communicate it to other human beings. It is as bad as if they shot somebody with a gun. In fact, many people think it is worse because the penalty they are imposing upon their fellow man by giving them AIDS knowingly is something that is very, very painful, and it lasts over a long period of time and causes heartache, mental anguish, and ultimately a very tragic and horrible death.

So, right now, Mr. Speaker, they estimate we have somewhere between 1 million, and some people say it is as high as 5 to 6 million people in this country carrying the AIDS virus. Ninety-five percent of them do not know that they have it, and so they are going on their merry way, conducting business as usual, and we are all at risk.

The American Dental Association said in a recent interview that there are more than 5,000 health care workers in this country that have the AIDS virus, and there are more than 144 dentists have the AIDS virus. Those people are working on other human beings in hospitals and dental offices across this country, and the people going into those offices and those health care facilities do not know the people working on them have the AIDS virus because of the confidentiality that has been attached to the AIDS patient, the people who have the AIDS virus.

I am not saying that we need to publicly disclose who has AIDS, but I think that a dentist or a person who is a doctor who is doing invasive procedures on another human being should at least let that human being know that they have this virus and that those people, unless there is proper protections taken, precautions taken, that those people might be at risk.

We have a case here where it very likely happened that a dentist gave a patient the AIDS virus by extracting two teeth when he knew he had the AIDS virus, and I think that that is something that is darn near unforgivable. That patient should have known that they were to be at risk. The doctor should have double gloved. There are a lot of things that should have happened, if that was the case.

So, I think the bottom line, Mr. Speaker, is this body, the people's House, the House of Representatives, has a responsibility to deal with this crisis, this pandemic, before it gets completely out of hand. If we have 1 to 6 million people infected with the AIDS virus in this country, that means 1 to 6 million people are definitely going to die, and everyone they come in contact with sexually has a risk of getting that virus, and many of them will, and the virus and the epidemic will continue to spread.

Mr. Speaker, it is a silent, it is a very insidious, type of disease because of the way it is spread, because it is not readily apparent for many, many years, and I believe it is extremely important that we come to grips with this. The American people in the future will not forgive us if this epidemic get completely out of hand, and it is well on its way right now, and we are doing nothing to deal with it.

The only thing, Mr. Speaker, we have done in the past few weeks and months is to pass the ADA bill, which says, "No, we're not going to protect the American people's health, as far as AIDS is concerned. We're going to protect the people who have the AIDS virus and their civil rights."

Mr. Speaker, health rights are also very important, just as important, if not more so, than civil rights, and, if a person has the AIDS virus, and they are working in close proximity to a person who has just had surgery, heart surgery, or something else, then that persons either has a right to know or the person who has the AIDS virus and is working on them should not be allowed to do so, and yet, if that hospital or that doctor moves that health-care worker who has AIDS out of that position and moves them to some other job not involved with patients, that hospital and that physician can be sued, and sued dearly, and the AIDS carrier will be able to collect.

If a person who owns a restaurant moves and AIDS carrier out of a food-handling job or a food-preparation job into another position, they can and will be sued, and the AIDS carrier will be able to collect. Never mind that there may be a risk to the health of the people in that restaurant or that health care facility.

Mr. Speaker, my colleagues never did address one very fine point as far as food handling was concerned, and that was, if a person has active AIDS, their immune system breaks down, what happens is they get other disease because they have no immunity. Usually they get, first, pneumonia, or they get tuberculosis, or they get hepatitis B. All of those things are communicable diseases, and, if they are in a job where they are close to patients whose immune systems are down because of surgery, or if they are in close proximity to food or preparing food for individuals in a restaurant, tuberculosis, hepatitis B, and pneumonia can be and will be communicated. So, Mr. Speaker, I say to my colleagues, "Even if you

couldn't communicate the AIDS virus through this kind of contact, you most certainly would be putting these people at risk through the possibility of them getting tuberculosis, hepatitis B, or pneumonia."

I guess, Mr. Speaker, the last thing I would like to say is I think it is extremely important that we get our head out of the sack in this body, and in the other body, and at the Center for Disease Control in Atlanta and Health and Human Services and come up with a comprehensive program to deal with this terrible pandemic that faces every one of us in the United States of America and the world. If we do not do it, I think our children and our grandchildren are going to have to face a much more devastating part of this pandemic, and they are really going to condemn us for our inaction.

I know it is a difficult thing to deal with because there are civil rights involved, but we have to be concerned, first and foremost, about the health of the Nation.

CONFERENCE REPORT ON H.R. 1594

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 1594) to make miscellaneous and technical changes to various trade laws:

CONFERENCE REPORT (H. REPT. 101-650)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1594) to make miscellaneous and technical changes to various trade laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment to the text of the bill insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Customs and Trade Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—TRADE AGENCY AUTHORIZATIONS, CUSTOMS USER FEES, AND OTHER PROVISIONS

Subtitle A—Trade Agency Authorizations for Fiscal Years 1991 and 1992

Sec. 101. United States International Trade Commission.
Sec. 102. United States Customs Service.
Sec. 103. Office of the United States Trade Representative.

Subtitle B—Customs User Fees

Sec. 111. Customs user fees.
Sec. 112. Exemption of Israeli products from certain user fees.
Sec. 113. Customs Service administration.
Sec. 114. GAO report on entries by mail.
Sec. 115. Effective date.

Subtitle C—Miscellaneous Customs Provisions

Sec. 121. Customs forfeiture fund.
Sec. 122. Increase in value subject to administrative forfeiture; processing of money seized under the customs laws.
Sec. 123. Annual national trade and customs law violation estimates and enforcement strategy.
Sec. 124. Reports regarding expansion of customs preclearance operations and recovery for damage resulting from customs examinations.

Subtitle D—Miscellaneous Provisions

Sec. 131. Treatment of Czechoslovakia and East Germany under the Generalized System of Preferences.
Sec. 132. Technical amendments regarding nondiscriminatory trade treatment.
Sec. 133. Competitiveness Policy Council.
Sec. 134. Technical amendments relating to the United States-Canada Free-Trade Agreement.
Sec. 135. Treatment of certain information under administrative protective orders.
Sec. 136. Extension of time for preparation of report on supplemental wage allowance demonstration projects under the Worker Adjustment Assistance Program.
Sec. 137. Drug paraphernalia.
Sec. 138. Economic sanctions against products of Burma.
Sec. 139. Miscellaneous technical and clerical amendments.
Sec. 140. Increase in expenditures to provide assistance for United States citizens returning from foreign countries.
Sec. 141. Administrative provision.
Sec. 142. Nondiscriminatory treatment for the products of East Germany.

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

Subtitle A—Short Title and Findings

Sec. 201. Short title.
Sec. 202. Congressional findings.

Subtitle B—Amendments to the Caribbean Basin Economic Recovery Act and Related Provisions

PART 1—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Sec. 211. Repeal of termination date on duty-free treatment under the Act.
Sec. 212. Duty reduction for certain leather-related products.
Sec. 213. Worker rights.
Sec. 214. Reports.
Sec. 215. Treatment of articles grown, produced, or manufactured in Puerto Rico.
Sec. 216. Application of Act in eastern Caribbean area.

PART 2—AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE AND OTHER PROVISIONS AFFECTING CBI BENEFICIARY COUNTRIES

Sec. 221. Increase in duty-free tourist allowances.
Sec. 222. Duty-free treatment for articles assembled in beneficiary countries from components produced in the United States.
Sec. 223. Rules of origin for beneficiary country products.
Sec. 224. Cumulation involving beneficiary country products under the countervailing and antidumping duty laws.
Sec. 225. Ethyl alcohol.
Sec. 226. Conforming amendment.
Sec. 227. Requirement for investment of section 936 funds in Caribbean Basin countries.

Subtitle C—Scholarship Assistance and Tourism Promotion

Sec. 231. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America.
Sec. 232. Promotion of tourism.
Sec. 233. Pilot preclearance program.

Subtitle D—Miscellaneous Provisions

Sec. 241. Trade benefits for Nicaragua.
Sec. 242. Agricultural infrastructure support.
Sec. 243. Extension of trade benefits to the Andean region.

TITLE III—TARIFF PROVISIONS

Sec. 301. Reference.

Subtitle A—Temporary Suspensions and Reductions in Duties

PART 1—NEW DUTY SUSPENSIONS AND TEMPORARY REDUCTIONS

Sec. 311. Castor oil and its fractions.
Sec. 312. Certain jams, pastes and purees, and fruit jellies.
Sec. 313. Mercuric oxide.
Sec. 314. 1,5-Naphthalene diisocyanate.
Sec. 315. 2,3,6-Trimethylphenol.
Sec. 316. p-Hydroxybenzaldehyde.
Sec. 317. DMBS and HPBA.
Sec. 318. MBEP.
Sec. 319. 6-t-Butyl-2,4-xylenol.
Sec. 320. 4,4'-Methylenebis(2,6-dimethylphenylcyanate).
Sec. 321. Neville-Winter acid.
Sec. 322. 7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt.
Sec. 323. 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene.
Sec. 324. Anthraquinone.
Sec. 325. 1,4-Dihydroxyanthraquinone.
Sec. 326. 2-Ethylanthraquinone.
Sec. 327. Chlorhexanone.
Sec. 328. 3-Aminopropanol.
Sec. 329. Naphthalic acid anhydride.
Sec. 330. Diflunisal.
Sec. 331. Diphenolic acid.
Sec. 332. 6-Hydroxy-2-naphthoic acid.
Sec. 333. Methyl and ethyl parathion.
Sec. 334. N-Methylaniline and m-chloroaniline.
Sec. 335. 4,4'-Methylenebis(3-chloro-2,6-diethylaniline).
Sec. 336. 4,4'-Methylene-bis(2,6-diisopropylaniline).
Sec. 337. 2-Chloro-4-nitroaniline.
Sec. 338. 4-Chloro-α,α,α-trifluoro-o-toluidine.
Sec. 339. Trifluoromethylaniline.
Sec. 340. 5-Amino-2-naphthalenesulfonic acid.
Sec. 341. 7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt.
Sec. 342. 4-Amino-1-naphthalenesulfonic acid, sodium salt.
Sec. 343. 8-Amino-2-naphthalenesulfonic acid.
Sec. 344. Mixtures of 5- and 8-amino-2-naphthalenesulfonic acid.
Sec. 345. 1-Naphthylamine.

Sec. 346. 6-Amino-2-naphthalenesulfonic acid.
Sec. 347. Broenner's acid.
Sec. 348. D salt.
Sec. 349. 2,4-Diaminobenzenesulfonic acid.
Sec. 350. Paramine acid.
Sec. 351. Tamoxifen citrate.
Sec. 352. K-acid.
Sec. 353. o-Anisidine.
Sec. 354. 2-Amino-4-chlorophenol.
Sec. 355. Ornithine.
Sec. 356. Clentiazim.
Sec. 357. 7-Anilino-4-hydroxy-2-naphthalenesulfonic acid.
Sec. 358. 1,4-Diamino-2,3-dihydroanthraquinone.
Sec. 359. Tfa Lys Pro in free base and tosyl salt forms.
Sec. 360. 4-Fluoro-3-phenoxybenzaldehyde.
Sec. 361. 1-Amino-2-bromo-4-hydroxyanthraquinone.
Sec. 362. ADC-6.
Sec. 363. L-Carnitine.
Sec. 364. Quizalofop-ethyl.
Sec. 365. Acetoacet-para-toluidide.
Sec. 366. Naphthol AS types.
Sec. 367. Diltiazem hydrochloride, and sustained release diltiazem hydrochloride.
Sec. 368. Anis base.
Sec. 369. Acetoacetsulfanilic acid, potassium salt.
Sec. 370. Iohexol.
Sec. 371. Iopamidol.
Sec. 372. Ioxaglate.
Sec. 373. 4-Aminoacetanilide.
Sec. 374. D-Carboxamide.
Sec. 375. 2,6-Dichlorobenzonitrile.
Sec. 376. Octadecyl isocyanate.
Sec. 377. 1,6-Hexamethylene diisocyanate.
Sec. 378. 1,1-Ethylidenebis(phenyl-4-cyanate).
Sec. 379. 2,2'-Bis(4-cyanatophenyl-1,1,1,3,3,3-hexafluoropropane).
Sec. 380. 4,4'-Thiodiphenyl cyanate.
Sec. 381. 2-[(4-Aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester.
Sec. 382. Dimethoate.
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Sec. 384. Bendiocarb.
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TITLE I—TRADE AGENCY AUTHORIZATIONS, CUSTOMS USER FEES, AND OTHER PROVISIONS

Subtitle A—Trade Agency Authorizations for Fiscal Years 1991 and 1992

SEC. 101. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $41,170,000 for fiscal year 1991.

"(ii) $44,052,000 for fiscal year 1992.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

SEC. 102. UNITED STATES CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $516,217,000 for fiscal year 1991.

"(B) $542,091,000 for fiscal year 1992.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $672,021,000 for fiscal year 1991.

"(ii) $705,793,000 for fiscal year 1992.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

"(A) $143,047,000 for fiscal year 1991.

"(B) $150,199,000 for fiscal year 1992.".

SEC. 103. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $23,250,000 for fiscal year 1991.

"(ii) $21,077,000 for fiscal year 1992.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office;

"(ii) not to exceed $2,050,000 may be used to pay the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the United States-Canada Free-Trade Agreement; and

"(iii) not to exceed $1,000,000 shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 406(b)(2) of the United States-Canada Free-Trade Agreement Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(2) The United States Trade Representative is authorized to transfer to any department or agency of the United States, from sums appropriated pursuant to the authorization provided under paragraph (1) or section 141(g)(1) of the Trade Act of 1974, such funds as may be necessary to facilitate the payment of the expenses described in paragraph (1).".

Subtitle B—Customs User Fees

SEC. 111. CUSTOMS USER FEES.

(a) MERCHANDISE PROCESSING FEES.—Paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) are amended to read as follows:

"(9) For the processing of merchandise that is formally entered or released during any fiscal year, a fee, subject to the limitations in subsection (b)(8)(A), in an amount equal to 0.17 percent ad valorem.

"(10) For the processing of merchandise that is informally entered or released, other than at—

"(A) a centralized hub facility,

"(B) an express consignment carrier facility, or

"(C) a small airport or other facility to which section 236 of the Trade and Tariff Act of 1984 applies,

a fee of—

"(i) $2 if the entry or release is automated and not prepared by Customs personnel;

"(ii) $5 if the entry or release is manual and not prepared by Customs personnel; or

"(iii) $8 if the entry or release, whether automated or manual, is prepared by Customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), see subsection (b)(9).".

(b) LIMITATIONS ON FEES.—Subsection (b) of section 13031 of such Act of 1985 (19 U.S.C. 58c(b)) is amended as follows:

(1) Subparagraph (B) of paragraph (1) is amended to read as follows:

"(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or".

(2) Paragraph (8) is amended—

(A) by redesignating subparagraph (A) as subparagraph (D),

(B) by striking out subparagraph (B),

(C) by inserting before subparagraph (D) (as redesignated by this paragraph) the following:

"(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) for the formal entry or release of merchandise may not exceed $400 or be less than $21.

"(ii) A surcharge of $3 shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

"(B) No fee may be charged under subsection (a) (9) or (10) for the processing of any article that is—

"(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

"(ii) a product of an insular possession of the United States, or

"(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

"(C) For purposes of applying subsection (a) (9) or (10)—

"(i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—

"(I) air passenger processing,

"(II) export control, or

"(III) international affairs, and

"(ii) any reference to a manual entry or release includes—

"(I) any entry or release filed by a broker or importer that requires the recording of cargo selectivity data by Customs personnel, except when the recording of such data is required because of a temporary administrative or technical failure in the Customs Service automated commercial system that prevents the filing of entries or release in that system by brokers and importers that are certified by the Customs Service to do so; and

"(II) any entry or release filed by a broker or importer that is not certified by the Customs Service to file entries and releases in the Customs Service automated commercial system.".

(D) by amending subparagraph (D) (as redesignated by this paragraph)—

(i) by striking out "be based" in clause (ii) and inserting "except as otherwise provided in this paragraph, be based",

(ii) by striking out "and" at the end of clause (iii),

(iii) by striking out the period at the end of clause (iv) and inserting "; and", and

(iv) by inserting after clause (iv) the following new clause:

"(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.", and

(E) by adding at the end thereof the following new subparagraph:

"(E) For purposes of subsection (a) (9) and (10), merchandise is entered or released, as the case may be, if the merchandise is—

"(i) permitted or released under section 448(b) of the Tariff Act of 1930,

"(ii) entered or released from Customs custody under section 484(a)(1)(A) of the Tariff Act of 1930, or

"(iii) withdrawn from warehouse for consumption.".

(3) Paragraph (9) is amended to read as follows:

"(9)(A) With respect to the processing of merchandise that is informally entered or released at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

"(i) In the case of a centralized hub facility or small airport or other facility—

"(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

"(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

"(ii) In the case of an express consignment carrier facility—

"(I) an amount, for which the Customs Service shall be reimbursed under section 524 of the Tariff Act of 1930, equal to the cost of the Customs inspectional services provided by the Customs Service at the facility during the fiscal year; and

"(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement made under subclause (I).

"(B) For purposes of this paragraph:

"(i) The terms 'centralized hub facility' and 'express consignment carrier facility' have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations, as in effect on July 30, 1990.

"(ii) The term 'small airport or other facility' means any airport or facility to which section 236 of the Tariff and Trade Act of 1984 applies.".

(4) Paragraph (10) is amended by striking out "under subsection (a)(10)" and inserting "under subsection (a) (9) or (10)".

(5) The following new paragraph is added at the end:

"(11) No fee may be charged under subsection (a) (9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.".

(c) DISPOSITION OF FEES.—Subsection (f) of section 13031 of such Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) by striking out "All funds" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this subsection, all funds"; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) (other than subsection (a) (9) or (10)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

"(i) in providing—

"(I) inspectional overtime services, and

"(II) all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

"(ii) to the extent funds remain available to make reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance Customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection (a) (distributed on a basis proportionate to the fees collected under subsection (a)(1) through (a)(8)).

Funds described in clause (ii) shall only be available to reimburse costs in excess of the highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

"(B) Reimbursement of appropriations under this paragraph—

"(i) except for costs described in subparagraph (A)(i) (I) and (II), shall be subject to apportionment or similar administrative practices;

"(ii) shall be made at least quarterly; and

"(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

"(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to fully reimburse inspectional overtime and preclearance costs shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

"(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that $30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A) (i) and (ii), shall be used for—

"(I) the costs of providing the services described in paragraph (A)(i), and

"(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives summarizing the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii).".

(d) ENFORCEMENT AUTHORITY.—Subsection (g) of section 13031 of such Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by amending the heading to read as follows: "REGULATIONS AND ENFORCEMENT.—"; and

(2) by adding at the end the following new paragraph:

"(3) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of Customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a Customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a Customs duty.".

(e) EXTENSION OF FEES.—Paragraph (3) of section 13031(j) of such Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1990" and inserting "1991".

(f) AGGREGATION OF MERCHANDISE PROCESSING FEES.—

(1) Notwithstanding any provision of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c), in the case of entries of merchandise made under the temporary monthly entry programs established by the Commissioner of Customs before July 1, 1989, for the purpose of testing entry processing improvements, the fee charged under section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 for each day's importations at each port by the same importer from the same exporter shall be the lesser of—

(A) $400, or

(B) the amount determined by applying the ad valorem rate determined in such section 13031(a)(9) to the total value of each day's importations at each port by the same importer from the same exporter.

(2) The fees described in paragraph (1) that are payable under the program described in paragraph (1) shall be paid with each monthly consumption entry. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

SEC. 112. EXEMPTION OF ISRAELI PRODUCTS FROM CERTAIN USER FEES.

If the United States Trade Representative determines that the Government of Israel has provided reciprocal concessions in exchange for the exemption of the products of Israel from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (as amended by section 111), such fees may not be charged with respect to any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day (which day may not be before October 1, 1990) after the date on which the determination is published in the Federal Register.

SEC. 113. CUSTOMS SERVICE ADMINISTRATION.

(a) IN GENERAL.—The Commissioner of Customs shall—

(1) develop and implement accounting systems that accurately determine and report the allocations made of Customs Service personnel and other resources among the various operational functions of the Service, such as passenger processing, merchandise processing and drug enforcement;

(2) develop and implement periodic labor distribution surveys of major workforce activities (such as inspectors, import specialists, fines, penalties, and forfeiture officers, special agents, data transcribers, and Customs aides) to determine the costs of different types of passenger and merchandise processing transactions, such as informal and formal entries, and automated and manual entries;

(3) as soon as practicable after the enactment of appropriations for the Customs Service for each fiscal year, but not later than the 15th day after the beginning of such year, estimate, based on the amounts appropriated, the amount of the fee that would, if imposed on the processing of merchandise, offset the salaries and expenses subject to reimbursement from the fee that will likely be incurred by the Service in conducting commercial operations during that year;

(4) develop annually a detailed derivation of the commercial services cost base and the methodology used for computing the merchandise processing fee under paragraph (3); and

(5) report within 45 days of the beginning of any fiscal year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of each fee estimate made under paragraph (3) and each cost base and user fee methodology derivation made under paragraph (4).

(b) SURVEY REPORTS.—The Commissioner of Customs shall no later than January 31, 1991, submit to the Committees referred to in subsection (a)(5) a report on the results of the first survey implemented under subsection (a)(2).

SEC. 114. GAO REPORT ON ENTRIES BY MAIL.

Before the 240th day after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) determine the extent to which the fees imposed under section 13031(a)(6) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(6)) are collected;

(2) develop recommendations for maximizing the collection of such fees; and

(3) submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth such determination and recommendation and the bases therefor.

SEC. 115. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by this subtitle, take effect October 1, 1990, but the amendment made by section 111(b)(1) applies with respect to railroad cars arriving in the United States on or after July 7, 1986.

(b) EXCEPTIONS.—The amendment made by section 111(d), and section 112, take effect on the date of the enactment of this Act.

Subtitle C—Miscellaneous Customs Provisions

SEC. 121. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of this Act or section 981 of title 18, United States Code.".

(2) Subsection (a)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end thereof the following:

"(B) Any payment made under subparagraph (F) of paragraph (1) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.".

(3) Subsection (c) is amended by inserting "forfeited currency and" before "proceeds".

(4) Subsection (e)(1) is amended—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by amending subparagraph (B)—

(i) by striking out clause (ii),

(ii) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively,

(iii) by striking out "and" after the semicolon in clause (iv) (as so redesignated); and

(iv) by striking out the period at the end thereof and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) a report containing, for the previous fiscal year—

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessels, aircraft, cash, and real property) and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).".

(5) Subsection (f) is amended to read as follows:

"(f)(1) Subject to paragraph (2), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(2) Of the amount authorized to be appropriated under paragraph (1), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(A) $14,855,000 for fiscal year 1991.

"(B) $15,598,000 for fiscal year 1992.".

SEC. 122. INCREASE IN VALUE SUBJECT TO ADMINISTRATIVE FORFEITURE; PROCESSING OF MONEY SEIZED UNDER THE CUSTOMS LAWS.

Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) by striking out "$100,000" in subsection (a)(1) and inserting "$500,000";

(2) by striking out "or" at the end of subsection (a)(2);

(3) by inserting "or" after the semicolon at the end of subsection (a)(3);

(4) by inserting after paragraph (3) of subsection (a) the following new paragraph:

"(4) such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code;";

(5) by adding at the end thereof the following new subsection:

"(c) The Commissioner of Customs shall submit to the Congress, by no later than February 1 of each fiscal year, a report on the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Customs Forfeiture Fund under section 613A within 120 days of seizure, as of the end of the previous fiscal year."; and

(6) by striking out "$100,000" in the section heading and inserting "$500,000".

SEC. 123. ANNUAL NATIONAL TRADE AND CUSTOMS LAW VIOLATION ESTIMATES AND ENFORCEMENT STRATEGY.

(a) VIOLATION ESTIMATES.—Not later than 30 days before the beginning of each fiscal year after fiscal year 1991, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") a report that contains estimates of—

(1) the number and extent of violations of the trade, customs, and illegal drug control laws listed under subsection (b) that will likely occur during the fiscal year; and

(2) the relative incidence of the violations estimated under paragraph (1) among the various ports of entry and customs regions within the customs territory.

(b) APPLICABLE STATUTORY PROVISIONS.—The Commissioner of Customs, after consultation with the Committees—

(1) shall, within 60 days after the date of the enactment of this Act, prepare a list of those provisions of the trade, customs, and illegal drug control laws of the United States for which the United States Customs Service has enforcement responsibility and to which the reports required under subsection (a) will apply; and

(2) may from time-to-time amend the listing developed under paragraph (1).

(c) ENFORCEMENT STRATEGY.—Within 90 days after submitting a report under subsection (a) for any fiscal year, the Commissioner of Customs shall—

(1) develop a nationally uniform enforcement strategy for dealing during that year with the violations estimated in the report; and

(2) submit to the Committees a report setting forth the details of the strategy.

(d) CONFIDENTIALITY.—The contents of any report submitted to the Committees under subsection (a) or (c)(2) are confidential and disclosure of all or part of the contents is restricted to—

(1) officers and employees of the United States designated by the Commissioner of Customs;

(2) the chairman of each of the Committees; and

(3) those members of each of the Committees and staff persons of each of the Committees who are authorized by the chairman thereof to have access to the contents.

SEC. 124. REPORTS REGARDING EXPANSION OF CUSTOMS PRECLEARANCE OPERATIONS AND RECOVERY FOR DAMAGE RESULTING FROM CUSTOMS EXAMINATIONS.

(a) CUSTOMS PRECLEARANCE.—The Secretary of the Treasury, in consultation with the Secretary of State, shall assess the advisability of expanding the use of preclearance operations by the United States Customs Service at foreign airports. The Secretary of Treasury shall submit a report on the assessment to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") no later than February 1, 1991.

(b) RECOVERY FOR CUSTOMS DAMAGE.—

(1) The Secretary of the Treasury, in consultation with the Attorney General, shall determine and evaluate various means by which persons whose merchandise is damaged during customs examinations may seek compensation from, or take other recourse against, the United States Customs Service regarding the damage.

(2) No later than February 1, 1991, the Secretary of the Treasury shall submit to the Committees a report on the evaluation required under paragraph (1), together with any legislative recommendation that the Secretary considers appropriate.

(c) MERCHANDISE DAMAGE STATISTICS.—The Commissioner of Customs shall keep accurate statistics on the incidence, nature, and extent of damage to merchandise resulting from customs examinations and shall provide an annual summary of these statistics to the Committees.

Subtitle D—Miscellaneous Provisions

SEC. 131. TREATMENT OF CZECHOSLOVAKIA AND EAST GERMANY UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Czechoslovakia" and "Germany (East)".

SEC. 132. TECHNICAL AMENDMENTS REGARDING NONDISCRIMINATORY TRADE TREATMENT.

(a) WAIVER AUTHORITY.—

(1) Paragraph (5) of section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)(5)) is amended—

(A) by striking out "the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and",

(B) by striking out "such authority will" in the first sentence thereof and inserting in lieu thereof "the waiver authority granted under subsection (c) will", and

(C) by striking out ", unless" in the next to the last sentence and all that follows through the end of such paragraph and inserting ", unless a joint resolution described in section 153(a) is enacted into law pursuant to the provisions of paragraph (2).".

(2) Subsection (d) of section 402 of the Trade Act of 1974 (19 U.S.C. 2432(d)), as amended by paragraph (1), is amended—

(i) by striking out paragraphs (1), (2), (3), and (4),

(ii) by redesignating paragraph (5) as paragraph (1), and

(iii) by adding at the end thereof the following new paragraph:

"(2)(A) The requirements of this paragraph are met if the joint resolution is enacted under the procedures set forth in section 153, and—

"(i) the Congress adopts and transmits the joint resolution to the President before the end of the 60-day period beginning on the date the waiver authority would expire but for an extension under paragraph (1), and

"(ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the later of the last day of the 60-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 154(b)) beginning on the date the Congress receives the veto message from the President.

"(B) If a joint resolution is enacted into law under the provisions of this paragraph, the waiver authority applicable to any country with respect to which the joint resolution disapproves of the extension of such authority shall cease to be effective as of the day after the 60-day period beginning on the date of the enactment of the joint resolution.

"(C) A joint resolution to which this subsection and section 153 apply may be introduced at any time on or after the date the President transmits to the Congress the document described in paragraph (1)(B)."

(3) Subsection (a) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(a)) is amended to read as follows:

"(a) CONTENTS OF RESOLUTION.—For purposes of this section, the term 'resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on with respect to .', with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the clause beginning with 'with respect to' being omitted if the extension of the authority is not approved with respect to any country."

(4) Subsection (b) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(b)) is amended—

(A) by striking out ", and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days" in paragraph (2),

(B) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (3),

(C) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (3),

(D) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (4), and

(E) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (4).

(5) Subsection (c) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by striking out "in subsection (a)(1)" and inserting in lieu thereof "in subsection (a)".

(6) Section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by adding at the end thereof the following new subsection:

"(d) PROCEDURES RELATING TO CONFERENCE REPORTS IN THE SENATE.—

"(1) Consideration in the Senate of the conference report on any joint resolution described in subsection (a), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(2) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment to any amendment in disagreement shall be received unless it is a germane amendment."

(b) BILATERAL COMMERCIAL AGREEMENTS.—

(1) Subsection (c) of section 405 of the Trade Act of 1974 (19 U.S.C. 2435(c)) is amended to read as follows:

"(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) that approves of the agreement referred to in subsection (a) is enacted into law."

(2) Section 151 of the Trade Act of 1974 (19 U.S.C. 2191(b)) is amended—

(A) by inserting "or resolution" after "revenue bill" in subsection (b)(2),

(B) by inserting ", or approval resolution," in subsection (b)(2) after "implementing bill",

(C) by striking out "concurrent" in subsection (b)(3) and inserting in lieu thereof "joint",

(D) by striking out "revenue bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "revenue bill or resolution", and

(E) by striking out "such bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "such bill or resolution".

(3) Subsection (c) of section 407 of the Trade Act of 1974 (19 U.S.C. 2437(c)) is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 151(b)(3) that approves of the extension of nondiscriminatory treatment to the products of the country concerned is enacted into law.", and

(B) by redesignating paragraph (3) as paragraph (2).

(c) COMPLIANCE REPORTS.—

(1) Paragraph (2) of section 407(c) of the Trade Act of 1974 (19 U.S.C. 2437(c)(2)), as redesignated by subsection (b)(3)(B) of this section, is amended—

(A) by striking out "either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152)" and inserting in lieu thereof "a joint resolution described in section 152(a)(1)(B) is enacted into law that disapproves",

(B) by striking out "the date of the adoption" and inserting in lieu thereof "the end of the 60-day period beginning with the date of the enactment", and

(C) by adding at the end thereof the following new sentence: "If the President vetoes the joint resolution, the joint resolution shall be treated as enacted into law before the end of the 90-day period under this paragraph if both Houses of Congress vote to override such veto on or before the later of the last day of such 90-day period or the last day of the 15-day period (excluding any day described in section 154(b)) beginning on the date the Congress receives the veto message from the President.".

(2) Subparagraph (B) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(B)) is amended to read as follows:

"(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve transmitted to the Congress on .', with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date."

(3) Paragraph (2) of section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(A) by striking out "second" in the matter preceding subparagraph (A) and inserting in lieu thereof "first",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking out "407(c)(3)" in subparagraph (C) and inserting in lieu thereof "407(c)(2)",

(D) by striking out subparagraph (B), and

(E) by redesignating subparagraph (C) as subparagraph (B).

(4) Paragraph (1) of section 152(c) of the Trade Act of 1974 (19 U.S.C. 2192(c)(1)) is amended by striking out "except" and all that follows thereafter and inserting the following: "except that a motion to discharge—

"(A) may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so; and

"(B) is not in order after the Committee has reported a resolution with respect to the same matter.".

(5) Subsection (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(f)) is amended to read as follows:

"(f) PROCEDURES IN THE SENATE.—

"(1) Except as otherwise provided in this section, the following procedures shall apply in the Senate to a resolution to which this section applies:

"(A)(i) Except as provided in clause (ii), a resolution that has passed the House of Representatives shall, when received in the Senate, be referred to the Committee on Finance for consideration in accordance with this section.

"(ii) If a resolution to which this section applies was introduced in the Senate before receipt of a resolution that has passed the House of Representatives, the resolution from the House of Representatives shall, when received in the Senate, be placed on the calendar. If this clause applies, the procedures in the Senate with respect to a resolution introduced in the Senate that con-

tains the identical matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, except that the vote on passage in the Senate shall be on the resolution that passed the House of Representatives.

"(B) If the Senate passes a resolution before receiving from the House of Representatives a joint resolution that contains the identical matter, the joint resolution shall be held at the desk pending receipt of the joint resolution from the House of Representatives. Upon receipt of the joint resolution from the House of Representatives, such joint resolution shall be deemed to be read twice, considered, read the third time, and passed.

"(2) If the texts of joint resolutions described in section 152 or 153(a), whichever is applicable, concerning any matter are not identical—

"(A) the Senate shall vote passage on the resolution introduced in the Senate, and

"(B) the text of the joint resolution passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the joint resolution passed by the House), be substituted for the text of the joint resolution passed by the House of Representatives, and such resolution, as amended, shall be returned with a request for a conference between the two Houses.

"(3) Consideration in the Senate of any veto message with respect to a joint resolution described in subsection (a)(2)(B) or section 153(a), including consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees."S6333

(6) Subsection (b) of section 154 of the Trade Act of 1974 (194 U.S.C. 2194(b)) is amended by striking out "407(c)(2) and 407(c)(3)" and inserting in lieu thereof "and 407(c)(2)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date of the enactment of this Act.

(2) EXTENSION OF WAIVER AUTHORITY.—

(A) The amendments made by subsections (a) and (c) (4) and (5) apply with respect to recommendations made under section 402(d) of the Trade Act of 1974 by the President after May 23, 1990.

(B) Solely for purposes of applying the applicable provisions of the Trade Act of 1974 with respect to the recommendations made by the President to the House of Representatives and the Senate under subsection (d) of section 402 of the Trade Act of 1974 after May 23, 1990, and on or before the date of the enactment of this Act—

(i) in paragraph (2)(A)(i) of subsection (d) of such section 402 (as amended by subsection (a)), the date on which the waiver authority granted under subsection (c) of such section 402 would expire but for an extension under paragraph (1) of such subsection (d) is the date of the enactment of this Act;

(ii) paragraph (2)(A)(ii) of subsection (d) of such section 402 (as amended by subsection (a)) shall be treated as reading as follows:

"(ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the last day of the 60-day period referred to in clause (i).";

(iii) if the waiver authority granted under such subsection (c) is extended after application of clauses (i) and (ii), the expiration date for such authority is July 3, 1991; and

(iv) only joint resolutions described in section 153(a) of the Trade Act of 1974 (as amended by subsection (a)) that are introduced in the House of Representatives or the Senate on or after the date of the enactment of this Act may be considered by either body.

SEC. 133. COMPETITIVENESS POLICY COUNCIL.

(a) MEMBERSHIP OF COUNCIL.—Section 5205 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4804) is amended—

(1) in subsection (b) by striking out "January 21, 1989" and inserting in lieu thereof "the date of the enactment of the Customs and Trade Act of 1990";

(2) by striking out subsections (e) and (f) and inserting in lieu thereof the following new subsections:

"(e) CONFLICT OF INTEREST.—A member of the Council shall not serve as an agent for a foreign principal.

"(f) EXPENSES.—Each member of the Council, while engaged in duties as a member of the Council, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code."; and

(3) by striking out subsections (l) and (m).

(b) EXECUTIVE DIRECTOR AND STAFF.—Section 5206 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4805) is amended by adding the following new subsections:

"(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

"(d) DETAILS.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.".

(c) POWERS OF THE COUNCIL.—Section 5207 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4806) is amended—

(1) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (c) (as redesignated under paragraph (1)) by striking out "60" and inserting in lieu thereof "120".

(d) ANNUAL REPORT.—Section 5208(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4807(a)) is amended by striking out "prepare and" and inserting in lieu thereof "on March 1".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 5209 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4808) is amended by striking out "1989 and 1990" and inserting in lieu thereof "1991 and 1992".

SEC. 134. TECHNICAL AMENDMENTS RELATING TO THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—

(1) Section 313(n) of the Tariff Act of 1930 (19 U.S.C. 1313(n)) is amended—

(A) by inserting ", except an article" before "made from or substituted for", and

(B) by striking "of 1988" the second place it appears and inserting a comma.

(2) Section 313(o) of the Tariff Act of 1930 (19 U.S.C. 1313(o)) is amended by adding at the end thereof the following new sentence: "This subsection shall apply to vessels delivered to Canadian account or owner, or to the Government of Canada, on and after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988).".

(3) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) in subsection (a)(5)—

(i) by striking subparagraph (A) and inserting:

"(A) the date of publication in the Federal Register of notice of any determination described in paragraph (1)(B) or any determination described in clause (i), (ii), or (iii) of paragraph (2)(B),", and

(ii) by striking out the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the date as of which—

"(i) a binational panel has dismissed the binational panel review for lack of jurisdiction, and

"(ii) any interested party seeking review under paragraph (1), (2), or (3) has provided timely notice under subsection (g)(3)(B),

except that if a request for an extraordinary challenge committee has been made with respect to the decision to dismiss, the date under this subparagraph shall not be earlier than the date on which such committee determines that such panel acted properly when it dismissed for lack of jurisdiction,"; and

(B) in subsection (g)(3)—

(i) by striking "or" at the end of subparagraph (A)(ii), by striking the period at the end of subparagraph (A)(iii) and inserting ", or", and by adding at the end of subparagraph (A) the following new clause:

"(iv) a determination which a binational panel has determined under paragraph (2)(A) is not reviewable by the binational panel.", and

(ii) by inserting "or (iv)" after "subparagraph (A)(i)" in subparagraph (B).

(4) Section 777(d) of the Tariff Act of 1930 (19 U.S.C. 1677f(d)), as added by section 403(c) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, is redesignated as subsection (f) and is further amended—

(A) in paragraph (1)(A)—

(i) by striking "(but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement)", and

(ii) by adding at the end thereof the following new sentence: "If the administering authority or the Commission claims a privilege as to a document or portion of a document in the administrative record of the proceeding in question and a binational panel finds that in camera inspection or limited disclosure of that document or portion thereof is required by United States law, the administering authority or the Commission, as appropriate, may restrict access to such document or portion thereof to the authorized persons identified by the panel as requiring access and may require such persons to obtain access under a protective order described in paragraph (2).";

(B) in paragraph (1)(B)—

(i) by inserting ", and persons under the direction and control," after "employees" in clause (ii),

(ii) by striking "and" at the end of clause (ii),

(iii) by striking all after "in order to" in clause (iii) and inserting "make recommendations to the Trade Representative regarding the convening of extraordinary chal-

lenge committees under chapter 19 of the Agreement, and"; and

(iv) by adding at the end thereof the following new clause:

"(iv) any officer or employee of the Government of Canada designated by an authorized agency of Canada to whom disclosure is necessary in order to make decisions regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.";

(C) in paragraph (3)—

(i) by striking "or" after "violate," each place it appears, and

(ii) by inserting "or knowingly to receive information the receipt of which constitutes a violation of," after "violation of," each place it appears; and

(D) in paragraph (4), by striking out "or inducement of a violation," and inserting "inducement of a violation or receipt of information with reason to know that such information was disclosed in violation,".

(b) AMENDMENTS TO THE UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988.—

(1) Section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by adding at the end thereof the following new paragraph:

"(4) If the Canadian Secretariat described in chapter 19 of the Agreement provides funds during any fiscal year for the purpose of paying, in accordance with Annex 1901.2 of the Agreement, the Canadian share of the expenses of binational panels, the United States Secretariat established under section 405(e)(1) may hereafter retain and use such funds for such purposes.".

(2) Section 408(c) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking all after "persons" and inserting "who would otherwise be entitled under Canadian law to commence procedures for judicial review of a final antidumping or countervailing duty determination made by a competent investigating authority of Canada.".

(3) Section 409(b)(3)(A) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking "section 305" and inserting "section 308".

(c) AMENDMENT TO HARMONIZED TARIFF SCHEDULE.—U.S. Note 1 to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by adding at the end thereof the following new paragraph:

"(c) For purposes of this subchapter, the shipment to Canada of an article entered into the United States under heading 9813.00.05 shall not constitute an exportation, unless the article is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988. This paragraph shall apply to shipments on or after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of such Act).".

SEC. 135. TREATMENT OF CERTAIN INFORMATION UNDER ADMINISTRATIVE PROTECTIVE ORDERS.

(a) IN GENERAL.—Section 333 of the Tariff Act of 1930 (19 U.S.C. 1333) is amended by adding at the end thereof the following new subsection:

"(h) ADMINISTRATIVE PROTECTIVE ORDERS.—Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protective orders issued by the Commission in connection with investigations or other proceedings under this title shall be treated as information described in section 552(b)(3) of title 5, United States Code.".

(b) COUNTERVAILING AND ANTIDUMPING DUTY INVESTIGATIONS.—Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended)—

(1) by adding the following sentences at the end of subsection (c)(1)(A): "Customer names obtained during any investigation which requires a determination under section 705(b) or 735(b) may not be disclosed by the administering authority under protective order until either an order is issued under section 706(a) or 736(a) as a result of the investigation or the investigation is suspended or terminated. The Commission may delay disclosure of customer names under protective order during any such investigation until a reasonable time prior to any hearing provided under section 774."; and

(2) by adding at the end thereof the following new subsection:

"(g) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c) or (d), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code.".

(c) APPLICATION OF AMENDMENTS TO PRODUCTS OF CANADIAN ORIGIN.—For purposes of section 404 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the amendments made by subsection (b) also apply with respect to investigations under title VII of the Tariff Act of 1930 involving products of Canadian origin.

SEC. 136. EXTENSION OF TIME FOR PREPARATION OF REPORT ON SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS UNDER THE WORKER ADJUSTMENT ASSISTANCE PROGRAM.

Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended—

(1) by striking out "and carry out" in the matter preceding paragraph (1) of subsection (a); and

(2) by striking out "3 years" in subsection (d) and inserting "6 years".

SEC. 137. DRUG PARAPHERNALIA.

(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277.

(b) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.

SEC. 138. ECONOMIC SANCTIONS AGAINST PRODUCTS OF BURMA.

(a) IN GENERAL.—If, prior to October 1, 1990, the President does not certify to Congress that Burma has met all of the conditions listed in subsection (b), then the President—

(1) shall impose such economic sanctions upon Burma as the President determines to be appropriate, including any sanctions appropriate under the Narcotics Control Trade Act of 1986; and

(2) should confer with other industrialized democracies in order to reach cooperative agreements to impose sanctions against Burma.

(b) CONDITIONS WHICH BURMA MUST MEET.—The conditions referred to in subsection (a) are as follows:

(1) Burma meets the certification requirements listed in section 802(b) of the Narcotics Control Trade Act of 1986.

(2) The national governmental legal authority in Burma has been transferred to a civilian government.

(3) Martial law has been lifted in Burma.

(4) Prisoners held for political reasons in Burma have been released.

(c) IMPOSITION OF SANCTIONS.—In applying subsection (a)(1), the President shall give primary consideration to the imposition of sanctions on those products which constitute major imports from Burma, including fish, tropical timber, and aquatic animals, unless the President determines that sanctions against such products would have a significant adverse effect on the economic interests of the United States.

(d) REPORTS IF SANCTIONS NOT IMPOSED.—If the President does not impose economic sanctions under subsection (a)(1), the President shall—

(1) report to the Congress his reasons for not imposing sanctions and the actions he intends to take to achieve the conditions listed in subsection (b)(1) through (4); and

(2) for as long as economic sanctions are not imposed during the 2-year period after the date on which the report is first made under paragraph (1), submit semiannual reports to the Congress regarding the reasons and actions referred in such paragraph.

SEC. 139. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.

(a) TARIFF ACT OF 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 555(b)(6) (19 U.S.C. 1555(b)(6)) is amended by striking out "subpart A of part 2 of schedule 8 of the Tariff schedules of the United States" and inserting "subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States".

(2) Section 739(a)(1)(B)(v) (19 U.S.C. 1673h(a)(1)(B)(v)) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(3) Section 771(20)(A) (19 U.S.C. 1677(20)(A)) is amended by striking out "schedule 8 of the Tariff Schedules of the United States" and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.—Section 1102(c)(4) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(c)(4)) is amended—

(1) by striking out "paragraph (3)(B)" and inserting "paragraph (3)(C)"; and

(2) by striking out "1103(f)" and inserting "1103(e)".

(c) COBRA OF 1985.—Section 13031(b)(8)(D) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.

58c(b)(8)(D)) (as redesignated by section 111(b)(2)(A) of this Act) is amended—

(1) by striking out "subparagraph 9802.00.60 of the Tariff Schedules of the United States" in clause (iii) and inserting "subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "subparagraph 9802.00.80 of Schedules" in clause (iv) and inserting "heading 9802.00.80 of such Schedule"; and

(3) by striking out "subparagraph 9802.00.60 or 807.00 of such Schedules" in the sentence following clause (iv) and inserting "subheading 9802.00.60 or heading 9802.00.80 of such Schedule".

SEC. 140. INCREASE IN EXPENDITURES TO PROVIDE ASSISTANCE FOR UNITED STATES CITIZENS RETURNING FROM FOREIGN COUNTRIES.

Section 1113(d) of the Social Security Act (42 U.S.C. 1313(d)) is amended to read as follows:

"(d) The total amount of temporary assistance provided under this section shall not exceed $1,000,000 during any fiscal year beginning on or after October 1, 1989."

SEC. 141. ADMINISTRATIVE PROVISION.

(a) GENERAL RULE.—The determination of whether temporary 1990 census services constitute "Federal service" for purposes of subchapter I of chapter 85 of title 5, United States Code, shall be made under the provisions of such subchapter without regard to any provision of law not contained in such subchapter.

(b) TEMPORARY 1990 CENSUS SERVICES.—For purposes of subsection (a), the term "temporary 1990 census services" means services performed by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population (as determined under regulations determined by the Secretary of Commerce).

SEC. 142. NONDISCRIMINATORY TREATMENT FOR THE PRODUCTS OF EAST GERMANY.

Notwithstanding any other provision of law, the President may, by proclamation, lower the rate of duty under the Harmonized Tariff Schedule of the United States on products of the German Democratic Republic that are entered, or withdrawn from warehouse for consumption, in the custom territory of the United States—

(1) after September 30, 1990; and

(2) before the beginning date on which a unified Germany is treated as a country eligible for column 1 duty treatment under such Harmonized Schedule;

to any rate of duty that is not lower than the rate that would be imposed if the column 1 general rate of duty provided for in such Schedule applied to the product at the time of entry or withdrawal.

TITLE II —CARIBBEAN BASIN ECONOMIC RECOVERY

Subtitle A—Short Title and Findings

SEC. 201. SHORT TITLE.

This title may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1990".

SEC. 202. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

(2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

Subtitle B—Amendments to the Caribbean Basin Economic Recovery Act and Related Provisions

PART 1—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

SEC. 211. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

SEC. 212. DUTY REDUCTION FOR CERTAIN LEATHER-RELATED PRODUCTS

(a) IN GENERAL.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods work gloves, and leather wearing apparel that—

"(A) are the product of any beneficiary country; and

"(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

"(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

"(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

"(B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

"(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

"(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

"(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus percent ad valorem.".

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 213 is amended—

(1) by striking out ", handbags, luggage, flat goods, work gloves, and leather wearing apparel" in paragraph (2);

(2) by striking "or" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting "; or"; and

(4) by adding at the end thereof the following new paragraph:

"(6) articles to which reduced rates of duty apply under subsection (h).".

SEC. 213. WORKER RIGHTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended—

(1) by striking out "and" after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting "; and";

(3) by adding at the end of subsection (b) the following new paragraph:

"(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).";

(4) by amending the last sentence in subsection (b) by striking out "and (5)" and inserting "(5), and (7)"; and

(5) by amending subsection (c)(8) to read as follows:

"(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 214. REPORTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

"(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c).".

SEC. 215. TREATMENT OF ARTICLES GROWN, PRODUCED, OR MANUFACTURED IN PUERTO RICO.

(a) IN GENERAL.—Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended by adding at the end thereof the following new paragraph:

"(5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b)) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if—

"(A) the article is imported directly from the beneficiary country into the customs territory of the United States,

"(B) the article was by any means advanced in value or improved in condition in a beneficiary country, and

"(C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.".

(b) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry, or withdrawal from warehouse—

(A) which was made after August 5, 1983, and before October 1, 1990, and with respect to which liquidation has not occurred before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by subsection (a) applied,

shall be liquidated as though such amendment applied to such entry or withdrawal.

SEC. 216. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of

Eastern Caribbean States countries and Belize to benefit from the Caribbean Basin Economic Recovery Act.

PART 2—AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE AND OTHER PROVISIONS AFFECTING CBI BENEFICIARY COUNTRIES

SEC. 221. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—Subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting the following new note at the end of the notes to such subchapter:

"4. As used in subheadings 9804.00.70 and 9804.00.72, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).";

(2) by striking out "subheading 9804.00.65 or 9804.00.70" and all that follows thereafter in the superior article description to subheadings 9804.00.65 and 9804.00.70 and inserting "subheadings 9804.0.65, 9804.00.70, and 9804.00.72 within 30 days preceding his arrival, and claims exemption under only one of such items on his arrival.";

(3) by striking out "$800" in subheading 9804.00.70 and inserting "$1,200";

(4) by inserting "or up to $600 of which have been acquired in one or more beneficiary countries" before the parenthetical matter in subheading 9804.00.70; and

(5) by inserting after subheading 9804.00.70 the following new subheading with the article description for the new subheading having the same degree of indentation as subheading 9804.00.70:

"9804.00.72 Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including—.	.....	.....
(a) but only in the case of an individual who has attained the age of 21, not more than 1 liter of alcohol beverages or not more than 2 liters if at least one liter is the product of one or more beneficiary countries, and	.....	.....
(b) not more than 200 cigarettes, and not more than 100 cigars, if such person arrives directly from a beneficiary country, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in beneficiary countries).	Free.....	..... Free."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to residents of the United States who depart from the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 222. DUTY-FREE TREATMENT FOR ARTICLES ASSEMBLED IN BENEFICIARY COUNTRIES FROM COMPONENTS PRODUCED IN THE UNITED STATES.

(a) IN GENERAL.—U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "2. Any" and inserting "2. (a) Except as provided in paragraph (b), any"; and

(2) by adding at the end thereof the following new paragraph:

"(b) No article (except a textile article, apparel article, or petroleum, or any product derived from petroleum, provided for in heading 2709 or 2710) may be treated as a foreign article, or as subject to duty, if—

"(i) the article is—

"(A) assembled or processed in whole of fabricated components that are a product of the United States, or

"(B) processed in whole of ingredients (other than water) that are a product of the United States,

in a beneficiary country; and

"(ii) neither the fabricated components, materials or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) applies with respect to goods assembled or processed abroad that are entered on or after October 1, 1990.

SEC. 223. RULES OF ORIGIN FOR PRODUCTS OF BENEFICIARY COUNTRIES.

(a) ITC INVESTIGATION.—

(1) The United States International Trade Commission shall immediately undertake, pursuant to section 332(g) of the Tariff Act of 1930, an investigation for the purpose of assessing whether revised rules of origin for products of countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act are appropriate. If the Commission makes an affirmative assessment, it shall develop recommended revised rules of origin.

(2) The Commission shall submit a report on the results of the investigation under paragraph (1), together with the text of recommended rules, if any, to the President and the Congress no later than 9 months after the date of the enactment of this Act.

(b) LEGISLATIVE RECOMMENDATIONS.—If the President considers that the implementation of revised rules of origin for products of beneficiary countries would be appropriate, the President shall transmit to the Congress suggested legislation containing such rules of origin. In formulating such suggested legislation, the President shall—

(1) take into account the report and recommended rules submitted under subsection (a); and

(2) obtain the advice of—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974,

(B) the governments of the beneficiary countries,

(C) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(D) other interested parties.

SEC. 224. CUMULATION INVOLVING BENEFICIARY COUNTRY PRODUCTS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) MATERIAL INJURY.—Section 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is amended to read as follows:

"(iv) CUMULATION.—

"(I) IN GENERAL.—For purposes of clauses (i) and (ii) and subject to subclause (II), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

"(II) CBI EXCEPTION.—Solely for purposes of determining material injury, or the threat thereof, by reason of imports which are products of a country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.), the volume and effect of imports from such country may only be cumulatively assessed with imports of like products from one or more other countries designated as beneficiary countries.".

(b) THREAT OF MATERIAL INJURY.—Section 771(7)(F)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(iv)) is amended by striking out "(C)(v)," and inserting "(C)(iv)(II) and (v),".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations (including investigation regarding products of Canadian origin) initiated under section 702 or 732 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 225. ETHYL ALCOHOL.

Section 7(b) of the Steel Trade Liberalization Program Implementation Act (19 U.S.C. 2703 note) is amended by striking out "calendar years 1990 and 1991." and inserting "calendar years after 1989.".

SEC. 226. CONFORMING AMENDMENT.

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

"(b)(1) The duty free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(B) the sum of (i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

"(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.".

SEC. 227. REQUIREMENT FOR INVESTMENT OF SECTION 936 FUNDS IN CARIBBEAN BASIN COUNTRIES.

(a) GENERAL RULE.—Paragraph (4) of section 936(d) of the Internal Revenue Code of 1986 (relating to investment in Caribbean

Basin countries) is amended by adding at the end thereof the following new subparagraph:

"(d) REQUIREMENT FOR INVESTMENT IN CARIBBEAN BASIN COUNTRIES.—

"(i) IN GENERAL.—For each calendar year, the government of Puerto Rico shall take such steps as may be necessary to ensure that at least $100,000,000 of qualified Caribbean Basin country investments are made during such calendar year.

"(ii) QUALIFIED CARIBBEAN BASIN COUNTRY INVESTMENT.—For purposes of clause (i), the term 'qualified Caribbean Basin country investment' means any investment if—

"(I) the income from such investment is treated as qualified possession source investment income by reason of subparagraph (A), and

"(II) such investment is not (directly or indirectly) a refinancing of a prior investment (whether or not such prior investment was a qualified Caribbean Basin country investment)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years after 1989.

SUBTITLE C—SCHOLARSHIP ASSISTANCE AND TOURISM PROMOTION

SEC. 231. COOPERATIVE PUBLIC AND PRIVATE SECTOR PROGRAM FOR PROVIDING SCHOLARSHIPS TO STUDENTS FROM THE CARIBBEAN AND CENTRAL AMERICA.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage the establishment of partnerships between the State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the "scholarship diplomacy" efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the "American experience" for foreign students.

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) AGREEMENT WITH STATES.—The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) DEFINITIONS.—As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 232. PROMOTION OF TOURISM.

(a) CONGRESSIONAL FINDING.—The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY.—It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism industry in the Caribbean Basin.

(c) STUDY.—The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include—

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agrobusiness.

SEC. 233. PILOT PRECLEARANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) RESTRICTIONS REGARDING PROGRAM.—

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a) if preclearance operations are currently carried out by the United States Customs Service in that country.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that—

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and affords diplomatic protection to United States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

(3) In determining the country in which to establish the operation described in paragraph (1), the Commissioner of Customs and the Commissioner of Immigration and Naturalization shall first determine the viability of establishing such operations in either Aruba or Jamaica. If the Commissioners determine, after full consultation with the governments of such countries, that it is not viable to establish pre-clearance operations in either Aruba or Jamaica, they shall so report to the Committee on Finance of the Senate and the Committee on Ways and

Means of the House of Representatives, including an explanation of how this determination was reached. Such report shall be submitted to those Committees within six months after the date of the enactment of this Act. Following the submission of such a report, the Commissioners shall take all necessary steps, consistent with the requirements of this section, to establish such operations in another country.

(c) REPORT.—As soon as practicable after September 30, 1992, the Commissioner of Customs shall submit to the Congress a report regarding the preclearance operations program carried out under subsection (a). The report shall include—

(1) a summary of the preclearance operations, including the number of individuals processed, any administrative problems encountered, and cost of the operations;

(2) an evaluation of the extent to which the preclearance operations contributed to—

(A) the stimulation of the tourism industry of the country concerned, and

(B) expedited customs processing at United States ports of entry;

(3) the opinion of the Commissioner of Customs regarding the efficacy of extending preclearance operations to other countries within the Caribbean Basin that are developing tourism industries, and if the opinion is affirmative, the identity of those countries to which such operations should be extended and the estimated costs and results of such extensions; and

(4) such other matters that the Commissioner of Customs considers relevant.

SUBTITLE D—MISCELLANEOUS PROVISIONS

SEC. 241. TRADE BENEFITS FOR NICARAGUA.

Notwithstanding any other provision of law, the President is authorized to designate Nicaragua as a beneficiary developing country for the purpose of title V of the Trade Act of 1974, as amended, and as a beneficiary country under the Caribbean Basin Economic Recovery Act, and any such designation may remain effective for the duration of the calendar year 1990.

SEC. 242. AGRICULTURAL INFRASTRUCTURE SUPPORT.

It is the sense of Congress that in order to facilitate trade with, and the economic development of, the countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act, the Secretary of Agriculture should, in consultation with the Agribusiness Promotion Council, coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in these countries for the purpose of improving agricultural trade between these countries and the United States. Such programs should focus on improving distribution of agricultural commodities and products in these countries, and the phytosanitary institutions, quarantine capabilities, and pesticide regulations of these countries regarding agricultural commodities and products.

SEC. 243. EXTENSION OF TRADE BENEFITS TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that:

(1) United States antinarcotics policy places a high priority on assisting the nations of the Andean region of South America, the source of 100 percent of the world's supply of cocaine.

(2) The President and Congress have recognized that United States trade and economic policies play an important role in the overall United States antidrug strategy in the Andes.

(3) The extension of special trade preferences for articles from the Andean region would help revitalize the national economies of the Andes and further United States antinarcotics policy in the region.

(b) SENSE OF CONGRESS.—The Congress urges the President to—

(1) review the merits of extending the benefits provided under the Caribbean Basin Economic Recovery Act to the Andean region; and

(2) continue to explore additional mechanisms to expand trade opportunities for the Andean region, and report to Congress in a regular and timely fashion on the result of this review.

TITLE III—TARIFF PROVISIONS

SEC. 301. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, addition U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

SUBTITLE A—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

PART 1—NEW DUTY SUSPENSIONS AND TEMPORARY REDUCTION

SEC. 311. CASTOR OIL AND ITS FRACTIONS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.15.15 Castor oil and its fractions (provided for in subheading 1515.30.20 or 1515.30.40)	Free	No change	No change	On or before 12/31/92

SEC. 312. CERTAIN JAMS, PASTES AND PUREES, AND FRUIT JELLIES.

(a) Subchapter 11 of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following:

"10. The column 1 rate of duty for goods entered under heading 9902.20.07 is a rate that would have applied for such goods if they had been entered at the column 1 rate of duty under the former Tariff Schedules of the United States (19 U.S.C. 1202) on December 31, 1988, unless otherwise proclaimed by the President before December 31, 1992.".

(2) by inserting in numerical sequence the follwing new Heading:

"9902.20.07 Jams, pastes, and purees, and fruit jellies, the foregoing of peaches, apricots, raspberries, or cherries (provided for in subheading 2007.999	The rate prescribed in U.S. note 10 to this subchapter.	No change	No change	On or before 12/31/92"

(b) If before December 31, 1992, the President determines that approprate trade concessions, including the correct of errors and oversights in foreign tariff schedules, have been obtained, the President may proclaim such modifications to the column 1 rates of duty on jams, pastes, and purees, and fruit jellies falling under subheading 2007.99, as are necessary and appropriate to restore with respect to such goods the tariff treatment that applied under the former Tariff Schedules of the United States (19 U.S.C. 1202) of December 31, 1988.

SEC. 313. MERCURIC OXIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.28.25 Mercuric oxide (provided for in subheading 2825.90.60)	Free	No change	No change	On or before 12/31/92".

SEC. 314. 1,5-NAPHTHALENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.07 1,5-Naphthalene diisocyanate (provided for in subheading 2929.90.10)	Free	No change	Free	On or before 12/31/92".

SEC. 315. 2,3,6-TRIMETHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.08	2,3,6-Trimethylphenol (provided for in subheading 2907.29.30)	Free	No change	No change	On or before 12/31/92".

SEC. 316. p-HYDROXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.09	p-Hydroxybenzaldehyde (provided for in subheading 2912.49.20)	Free	No change	No change	On or before 12/31/92".

SEC. 317. DMBS AND HPBA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.30.10	4.4-Isopropylidenedicy-clohexanol (CAS No. 80-04-6) (provided for in subheading 2906.19.00)	Free	No change	No change	On or before 12/31/92"; and
"9902.30.83	Bis-O-[(4-methylphenyl)methylene]-D-glucitol (CAS Nos. 54686-97-4 and 58956-31-3) (dimethylbenzylidene sorbitol) (provided for in subheading 2932.90.41)	Free	No change	No change	On or before 12/31/92".

SEC. 318. MBEP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.11	2-(1,1-Dimethylethyl)-4-ethylphenol (CAS No. 96-70-8) (provided for in 2907.19.50)	Free	No change	No change	On or before 12/31/92".

SEC. 319. 6-t-BUTYL-2,4-XYLENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.12	6-t-Butyl-2,4-xylenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92".

SEC. 320. 4,4'-METHYLENEBIS(2,6-DIMETHYLPHENYLCYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.13	4,4'-Methylenebis-(2,6-dimethyl-phenylcyanate) (provided for in subheading 2907.29.50)	Free	No change	No change	On or before 12/31/92".

SEC. 321. NEVILLE-WINTER ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.14	1-Naphthol-4-sulfonic acid and its monosodium salt (CAS Nos. 84-87-7 and 6099-57-6) (provided for in subheading 2908.20.10)	Free	No change	No change	On or before 12/31/92".

SEC. 322. 7-HYDROXY-1,3-NAPHTHALENEDISULFONIC ACID, DIPO-TASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.15	7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt (CAS No. 842-18-2) (provided for in subheading 2908.20.50)	Free	No change	No change	On or before 12/31/92".

SEC. 323. 7-ACETYL-1,1,3,4,4,6-HEXAMETHYLTETRAHYDRO-NAPHTHALENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.16	7-Acetyl-1,1,3,4,4,6-hexamethyltetrahy-dronaphthalene (provided for in subheading 2914.30.00)	Free	No change	No change	On or before 12/31/92".

SEC. 324. ANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.17 Anthraquinone (provided for in subheading 2914.61.00)	Free	No change	No change	On or before 12/31/92."

SEC. 325. 1,4-DIHYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.18 1,4-Dihydroxy-anthraquiance (CAS No. 81-64-1) (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92)"

SEC. 326. 2-ETHYLANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.19 2-Ethylantraquinone (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12-31/92".

SEC. 327. CHLORHEXANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.20 1-Chloro-5-hexanone (CAS No. 102226-30-9) (provided for in subheading 2914.70.50	Free	No change	No change	On or before 12/31/92."

SEC. 328. 3-AMINOPROPANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.30.21 3-Aminopropanol (CAS No. 156-87-6) (provided for in subheading 2922.19.50)	Free	No change	No change	On or before 12/31/92."

SEC. 329. NAPHTHALIC ACID ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.22 Naphthalic acid anhydride (provided for in subheading 2917.39.10)	Free	No change	No change	On or before 12/31/92".

SEC. 330. DIFLUNISAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.23 2',4'-Difluoro-4-hydroxy-3-biphenyl-carboxylic acid (Diflunisal) (provided for in subheading 2918.29.40)	Free	No change	No Change.	On or before 12/31/92".

SEC. 331. DIPHENOLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.24 4,4-Bis(4-hydroxyphenyl)-pentanoic acid (CAS No. 126-00-1) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92".

SEC. 332.6-HYDROXY-2-NAPHTHOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.25 6-Hydroxy-2-naphthoic acid (CAS No. 16712-64-4) (provided for in subheading 2918.29.50)	Free	No change	No change	On or before 12/31/92".

SEC. 333. METHYL AND ETHYL PARATHION.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.26 0,0-Diethyl-0-(4-nitrophenyl) phosphorothioate and 0,0-Dimethyl-0-(4-nitrophenyl) phosphorothioate (provided for in subheading 2920.10.20)	Free	No change	No change	On or before 12/31/92".

SEC. 334. N-METHYLANILINE AND M-CHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.30.27	N-Methylaniline (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/92; and
9902.30.28	m-Chloroaniline (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92".

SEC. 335. 4,4'-METHYLENEBIS(3-CHLORO-2,6-DIETHYLANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.29	4,4'-Methylenebis-(3-chloro-2,6-diethylaniline) (Provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/92".

SEC. 336. 4,4'-METHYLENE-BIS(2,6-DIISOPROPYLANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.30	4,4'-Methylenebis-(2,6-diisopropylaniline) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92".

SEC. 337. 2-CHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.31	2-Chloro-4-nitroaniline (CAS No. 121-87-9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92".

SEC. 338. 4-CHLORO-α,α,α-TRIFLUORO-O-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.32	4-Chloro-α,α,α-trifluoro-o-toluidine (CAS No. 445-03-4) (provided for in subheading 2921.42.10)	Free	No change	No change	On or before 12/31/92".

SEC. 339. TRIFLUOROMETHYLANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.33	3-(Trifluoromethyl)-aniline (CAS No. 98-16-8) (m-Aminobenzotrifluoride) (provided for in subheading 2921.43.50)	Free	No change	No change	On or before 12/31/92".

SEC. 340. 5-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.34	5-Amino-2-naphthalenesulfonic acid (CAS No. 119-79-9) (provided for in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92".

SEC. 341. 7-AMINO-1,3-NAPHTHALENEDISULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.35	7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt (CAS No. 842-15-9) (provided for in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92".

SEC. 342. 4-AMINO-1-NAPHTHALENESULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.36	4-Amino-1-naphthalenesulfonic acid, sodium salt (CAS No. 130-13-2) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92".

SEC. 343. 8-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.37 8-Amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92".

SEC. 344. MIXTURES OF 5- AND 8-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.38 Mixtures of 5- and 8-amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.30)	Free	No change	No change	On or before 12/31/92".

SEC. 345. 1-NAPHTHYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.39 1-Naphthylamine (CAS No. 134-32-7) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92".

SEC. 346. 6-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.40 6-Amino-2-naphthalenesulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92".

SEC. 347. BROENNER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.41 2-Naphthylamine-6-sulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92".

SEC. 348. D SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.42 2-Naphthylamine-1,5-disulfonic acid and its monosodium salt (CAS Nos. 117-62-4 and 19532-03-07) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92".

SEC. 349. 2,4-DIAMINOBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.43 2,4-Diaminobenzenesulfonic acid (CAS No. 88-63-1) (provided for in subheading 2921.51.50)	Free	No change	No change	On or before 12/31/92".

SEC. 350. PARAMINE ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.44 1,4-Diaminobenzene-2-sulfonic acid (CAS No. 88-45-9) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/92".

SEC. 351. TAMOXIFEN CITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.45 Tamoxifen citrate (provided for in subheading 2922.19.10)	Free	No change	No change	On or before 12/31/92".

SEC. 352. K-ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.46 1-Amino-8-hydroxy-4,6-naphthalenedisulfonic acid, monosodium salt (CAS No. 85294-32-2) (provided for in subheading 2922.21.20)	Free	No change	No change	On or before 12/31/92".

SEC. 353. O-ANISIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.47	1-Amino-2-methoxybenzene (o-Anisidine) (CAS No. 90-04-0) (provided for in subheading 2922.22.10)	Free	No change	No change	On or before 12/31/92".

SEC. 354. 2-AMINO-4-CHLOROPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.48	2-Amino-4-chlorophenol (CAS No. 95-85-2) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/92".

SEC. 355. ORNITHINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.49	L-Ornithine, ethyl ester (L-2,5-Diaminopentanoic acid, ethyl ester) (CAS No. 84772-29-2) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/92".

SEC. 356. CLENTIAZIM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.50	(+)-cis-(2s,3s)-3-(Acetoxy)-8-chloro-5-[2-(dimethylamino)-ethyl]-2, 3-dihydro-(4-methoxyphenyl)-1,5-benzothiazepin-4(5H)one maleate (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 12/31/92".

SEC. 357.7-ANILINO-4-HYDROXY-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.51	7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (CAS No. 119-40-4) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/92".

SEC. 358. 1,4-DIAMINO-2,3-DIHYDROANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.52	1,4-Diamino-2,3-dihydroanthraquinone (CAS No. 81-63-0) (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/92".

SEC. 359. TFA LYS PRO IN FREE BASE AND TOSYL SALT FORMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.53	Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms (provided for in subheadings 2933.90.50 and 2933.90.37, respectively)	Free	No change	No change	On or before 12/31/92".

SEC. 360. 4-FLUORO-3-PHENOXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.54	4-Fluoro-3-phenoxybenzaldehyde (provided for in subheading 2913.00.10)	Free	No change	No change	On or before 12/31/92".

SEC. 361.1-AMINO-2-BROMO-4-HYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.55	1-Amino-2-bromo-4-hydroxyanthraquinone (CAS No. 116-82-5) (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/92".

SEC. 362. ADC-6.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.56	3-Amino-2-(1-hydroxethyl)pentanedioic acid, 5-methyl ester (provided for in subheading 2922.50.50)	Free	No change	No change	On or before 12/31/92".

SEC. 363. L-CARNITINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.57	L-Carnitine (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/92".

SEC. 364. QUIZALOFOP-ETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.58	2-[4-[(6-Chloro-2-quinoxalinyl)oxy]-phenoxy]propionic acid, ethyl ester (Quizalofop-ethyl) (provided for in subheading 2933.90.20)	Free	No change	No change	On or before 12/31/92".

SEC. 365. ACETOACET-PARA-TOLUIDIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.59	Acetoacet-para-toluidide (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/92".

SEC. 66. NAPHTHOL AS TYPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.60	3-Hydroxy-2-naphthanilide (CAS No. 92-77-3); 3-Hydroxy-2-naphtho-o-toluidide (CAS No. 135-61-5); 3-Hydroxy-2-naphtho-o-anisidide (CAS No. 135-62-6); 3-Hydroxy-2-naphtho-o-phenetidide (CAS No. 92-74-0); 3-Hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide (CAS No. 4273-92-1); and N,N'-Bis(acetoacetyl-o-toluidine) (CAS No. 912-96-3) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/92".

SEC. 367. DILTIAZEM HYDROCHLORIDE, AND SUSTAINED RELEASE DILTIAZEM HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.61	Diltiazem hydrochloride (provided for in subheading 2934.90.25, 3003.90.00, or 3004.90.60)	Free	No change	No change	On or before 12/31/92".

SEC. 368. ANIS BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.62	3-Aminomethoxybenzanilide (provided for in subheading 2924.29.25)	Free	No change	No change	On or before 12/31/92".

SEC. 369. ACETOACETSULFANILIC ACID, POTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.63	Acetoacetsulfanilic acid, potassium salt (provided for in subheading 2924.29.44)	Free	No change	No change	On or before 12/31/92".

SEC. 370. IOHEXOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.64	N,N'-Bis(2,3-dihydroxypropyl)-5-[N-(2,3-dihydroxypropyl)-acetamido]-2,4,6-triiodoisophthalamide (Iohexol) (provided for in subheading 2924.29.44)	Free	No change	No change	On or before 9/30/91".

SEC. 371. IOPAMIDOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.65	Iopamidol (provided for in subheading 2924.29.44	Free	No change	No change	On or before 9/30/91".

SEC. 372. IOXAGLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.66	N-(2-Hydroxyethyl)2,4,6-triiodo-5-[2(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl)benzamido)acetamido]-isophthalamic acid (Ioxaglic acid) (provided for in subheading 2924.29.44)	Free	No change	No change	On or before 9/30/91".

SEC. 373.4-AMINOACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.67	4-Aminoscetanilide (CAS No. 122-80-5) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/92".

SEC. 374. D-CARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.68	2,2-Dimethylcyclo-propylcarboxamide (provided for in subheading 2924.29.50)	Free	No change	No change	On or before 12/31/92".

SEC. 375. 2,6-DICHLOROBENZONITRILE.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.69	2,6-Dichlorobenzonitrile (provided for in subheading 2926.90.10)	Free	No change	No change	On or before 12/31/92".

(b) WITH INERTS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.38.14	Mixtures of 2,6-dichlorobenzonitrile and inerts (provided for in subheading 3808.30.10)	Free	No change	No change	On or before 12/31/92".

SEC. 376. OCTADECYL ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.70	Octadecyl isocyanate (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/92".

SEC. 377. 1,6-HEXAMETHYLENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.71	1,6-Hexamethylene diisocyanate (provided for in subheading 2929.10.50)	7.9%	No change (E, IL) Free (CA).	No change	On or before 12/31/92".

SEC. 378. 1,1-ETHYLIDENEBIS(PHENYL-4-CYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.72	1,1-Ethylidenebis-(phenyl-4-cyanate) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92".

SEC. 379. 2,2'-BIS(4-CYANATOPHENYL-1,1,1,3,3,3-HEXAFLUOROPROPANE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.73	2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (CAS No. 32728-27-1) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92".

SEC. 380. 4,4'-THIODIPHENYL CYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.74	4,4'-Thiodiphenyl cyanate (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92".

SEC. 381. 2-[(4-AMINOPHENYL)SULFONYL]ETHANOL, HYDROGEN SULFATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.75	2-[(4-Aminophenyl)-sulfonyl]ethanol, hydrogen sulfate ester (CAS No. 2494-89-5) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92".

SEC. 382. DIMETHOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.76	0,0-Dimethyl-S-methylcarbamoylmethyl phosphorodithioate (provided for in subheading 2930.90.40)	Free	No change	No change	On or before 12/31/92".

SEC. 383. DIPHENYLDICHLOROSILANE AND PHENYLTRICHLOROSILANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.77	Diphenyldichlorosilane and phenyltrichlorosilane (provided for in subheading 2931.00.40)	Free	No change	No change	On or before 12/31/92".

SEC. 384. BENDIOCARB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.78	2,2-Dimethyl-1,3-benzodioxol-4-ylmethylcarbamate (Bendiocarb) (provided for in subheading 2932.90.10)	Free	No change	No change	On or before 12/31/92".

SEC. 385. RHODAMINE 2C BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.79	Rhodamine 2C base (CAS No. 41382-37-0) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/92".

SEC. 386. 2,5-DICHLORO-4-3-METHYL-5-OXO-2-PYRAZOLIN-1-YL)-BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.80	2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzenesulfonic acid (CAS No. 84-57-1) (provided for in subheading 2933.19.42)	Free	No change	No change	On or before 12/31/92".

SEC. 387. CIPROFLOXACIN HYDROCHLORIDE, CIPROFLOXACIN, AND NOMODIPINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.30.81	Nimodipine (provided for in subheading 2933.39.35)	Free	No change	No change	On or before 12/31/92
"9902.30.92	Ciprofloxacin and its hydrochloride salt (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92".

SEC. 388. BPIP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.83	N,N'-Bis(2,2,6,6-tetramethyl-4-piperadinyl)-1,6-hexanediamine (CAS No. 612-55-7) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/92".

SEC. 389. FENOFIBRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.84	2-[4-(4-Chlorobenzoyl)phenoxy]-2-methylpropanoic acid, isopropyl ester (Fenofibrate) (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92".

SEC. 390. NORFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.85	1-Ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl)-3-quinolinecarboxylic acid (Norfloxacin) (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92".

SEC. 391. 6-METHYLURACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.86	6-Methyluracil (provided for in subheading 2933.59.50)	Free	No change	No change	On or before 12/31/92".

SEC. 392. 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.87	2,4-Diamino-6-phenyl-1,3,5-triazine (provided for in subheading 2933.69.00)	Free	No change	No change	On or before 12/31/92".

SEC. 393. AMILORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.88	N-Amidino-3,5-diamino-6-chloryrazinecarboxamide, monohydrochloride dihydrate (Amiloride hydrochloride) (provided for in subheading 2933.90.36)	Free	No change	No change	On or before 12/31/92".

SEC. 394. TRIMETHYL BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.89	1,3,3,-Trimethyl-2-methyleneindoline (CAS No. 118-12-7) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92".

SEC. 395. ALA PRO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.90	L-Alanyl-L-proline (provided for in subheading 2933.90.50)	Free	No change	No change	On or before 12/31/92".

SEC. 396. THIOTHIAMINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.91	Thiothiamine hydrochloride (CAS No. 2443-50-7) (provided for in subheading 293.10.10 or 2934.10.50)	Free	No change	No change	On or before 12/31/92".

SEC. 397. ETHYL 2-(2-AMINOTHIAZOL-4-YL)-2-HYDROXYIMINOACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.92	Ethyl 2-(2-aminothiazol-4-yl)-2-hydroxyiminoacetate (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92".

SEC. 398. ETHYL 2-(2-AMINOTHIAZOL-4-YL)-2-METHOXYIMINOACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.93	Ethyl 2-(2-aminothiazol-4-yl)-2-methoxyiminoacetate (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92".

SEC. 399. 7-NITRONAPHTH[1,2]-OXADIAZOLE-5-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.94	7-Nitronaphth[1,2]-oxadiazole-5-sulfonic acid (CAS No. 84-91-3) (provided for in subheading 2934.90.06)	Free	No change	No change	On or before 12/31/92".

SEC. 400. CEFTAZIDIME TERTIARY BUTYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.95	(6R,7R)-7-[(Z)-2-(2-Aminothiazol-4-yl)-2-[(2-text-butoxycarbonyl)-prop-2-oxyimino]-acetamido]-3-(1-pyridinium-methyl)ceph-3-em-4-carboxylate (provided for in subhearing 2934.90.25)	Free	No change	No change	On or before 12/31/92".

SEC. 401. CHEMICAL INTERMEDIATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.96	(6R,7R)-7-amino-3-chloro-8-oxa-5-thia-1-azabicyclo(4.2.0)oct-2-ene-2-carboxylic acid, (4-nitro-phenyl)-methyl ester (provided for in subhearing 2934.90.40)	Free	No change	No change	On or before 12/31/92".

SEC. 402. SULFACHLOROPYRIDAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.97	Sulfachloropyridazine (provided for in subheading 2935.00.39)	Free	No change	No change	On or before 12/31/92".

SEC. 403. MIXED ORTHO/PARA-TOLUENESULFONAMIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.98	Mixed ortho/para-toluenesulfonamides (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/92".

SEC. 404. HERBICIDE INTERMEDIATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.30.99	N-(2,6-Dichloro-3-methylphenyl)-5-amino-1,3,4-triazole-2-sulfonamide (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/92".

SEC. 405. N-(4-(((2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL)METHYL)AMINO)BENZOYL)-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.00	N-(4-(((2-Amino-5-formyl-1,4,5,6,7,8-hexahydro-4-oxo-6-pteridinyl)-methyl)amino)benzoyl)-L-glutamic acid (provided for in subheading 2936.29.20)	Free	No change	No change	On or before 12/31/92".

SEC. 406. THEOBROMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.01	Theobromine (provided for in subheading 2939.90.10 or 2939.90.50)	Free	No change	No change	On or before 12/31/92".

SEC. 407. (6R-(6a,7B(Z)))-7-(((2-AMINO-4-THIAZOLYL)((CAR-BOXYMETHOXY)IMINO)(ACETYL)AMINO)-3-ETHENYL-8-OXO-5-THIA-1-AZABICYCLO(4.2.0)OCT-2-ENE-2-CARBOXYLIC ACID (CEFIXIME).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.02	(6R-(6a,7B(Z)))-7-(((2-Amino-4-thiazolyl)((carboxy-methoxy)imino) acetyl)amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0)-oct-2-ene-2-carboxylic acid (Cefixime) (provided for in subheading 2941.90.50)	Free	No change	No change	On or before 12/31/92".

SEC. 408. TEICOPLANIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.03	Teicoplanin (provided for in subheading 3003.20.00 or 3004.20.00)	Free	No change	No change	On or before 12/31/92".

SEC. 409. CARFENTANIL CITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.04	Carfentanil citrate (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92".

SEC. 410. CALCIUM ACETYLSALICYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.05	Calcium acetylsalicylate, in bulk or put up in measured doses or in forms or packings for retail sale (provided for in subheadings 2918.22.50 and 3004.90.60)	Free	No change	No change	On or before 12/31/92".

SEC. 411A. SUCRALFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.06	Sucralfate (provided for in subheading 2940.00.00)	Free	No change	No change	On or before 12/31/92".

SEC. 411B. 1-[1-((4-CHLORO-2-(TRIFLUOROMETHYL)PHENYL) IMINO)-2-PROPOXYETHYL]-1-H-IMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.07	1-[1-((4-Chloro-2-(trifluoromethyl)-phenyl)imino)-2-propoxyethyl]-1-H-imidazole (provided for in subheading 2933.29.30)	Free	No change	No change	On or before 12/31/92".

SEC. 411C. COPPER ACETATE MONOHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.08	Cupric acetate monohydrate (provided for in subheading 2915.29.00)	Free	No change	No change	On or before 12/31/92".

SEC. 411D. 0,0-DIMETHYL-S-[(4-OXO-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL]PHOSPHORODITHIOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.09	0,0-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl]phosphorodithioate (provided for in subheading 2933.90.18	Free	No change	No change	On or before 12/31/92".

SEC. 412. p-TOLUALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.10	p-Tolualdehyde (provided for in subheading 2912.29.50)	Free	No change	No change	On or before 12/31/92".

SEC. 413. CERTAIN ACID BLACK POWER AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.06	Acid black 210 powder and presscake (CAS No. 112484-44-3) (provided for in subheading 3204.12.40)	Free	No change	No change	On or before 12/31/92".

SEC. 414. PIGMENT RED 178.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.07	Pigment red 178 (CAS No. 3049-71-6) (provided for in subheading 3204.17.10)	Free	No change	No change	On or before 12/31/92".

SEC. 415. PIGMENT RED 149 DRY AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.08	Pigment red 149 dry and pigment red 149 presscake (CAS No. 4948-15-6) (provided for in subheading 3204.17.50)	Free	No change	No change	On or before 12/31/92".

SEC. 416. SOLVENT YELLOW 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.09 Solvent yellow 43 (CAS No. 19125-99-6) (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/92".

SEC. 417. SOLVENT YELLOW 44

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.10 Solvent yellow 44 (CAS No. 2478-20-8) (provided for in subheading 3204.19.19)	Free	No change	No change	On or before 12/31/92".

SEC. 418. MODELING PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.34.07 Modeling pastes (provided for in heading 3407.00.20)	Free	No change	No change	On or before 12/31/92".

SEC. 419. METAL OXIDE VARISTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.85.33 Metal oxide varistors (provided for in subheading 8533.40.00, 8541.10.00 or 8541.50.00)	Free	No change	No change	On or before 12/31/92".

SEC. 420. CHEMICAL LIGHT ACTIVATOR BLENDS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.38.25 Mixtures of dimethyl phthalate, t-butanol, hydrogen peroxide, and sodium salicylate (provided for in subheading 3823.90.29)	Free	No change	No change	On or before 12/31/92".

SEC. 421. POLYMIN P AND POLYMIN P HYDROCHLORIDE, AND POLYMIN SNA 60.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.39.08 Polymin SNA 60 (CAS No. 28825-79-8) (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92"; and
"9902.39.10 Polymin P and polymin P hydrochloride (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/92".

SEC. 422. HYDROCARBON NOVOLAC CYANATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.39.11 Hydrocarbon novolac cyanate ester (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92".

SEC. 423. THEATRICAL, BALLET, AND OPERATIC SCENERY, PROPERTIES, AND SETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.44.22 Theatrical, ballet, and operatic scenery and properties, including sets (provided for in subheading 4421.90.90, 5907.00.10, 5907.00.90, 9701.10.00, 9706.00.00, or 9813.00.65)	Free	No change	No change	On or before 12/31/92".

SEC. 424. WICKER PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.46.02 Wicker products (provided for in subheading 4602.10.11, 4602.10.13, 4602.10.19, 4602.10.40, or 4602.10.50)	Free	No change	No change	On or before 12/31/92".

SEC. 425. CERTAIN PLASTIC WEB SHEETING.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following new note:

"11. For purposes of heading 9902.56.03, the term 'non-woven fiber sheet' means sheet comprising a highly uniform and random array of polyester fibers 1.5 to 3.0 denier, thermally bonded and calendered into a smooth surface web having—

"(a) a thickness of 3.7 to 4.0 mils;

"(b) a basis weight of 2.5 oz. per sq. yd.;

"(c) a machine tensile strength of 30 lb. per sq. in. or greater;

"(d) a low cross-direction tensile (approximately ⅓ of MD tensile strength); and
"(e) a Frazier air permeability of 1.0 to 1.5 cfm per sq. ft."; and
(2) by inserting in numerical sequence the following new heading:

"9902.56.03	Nonwoven fiber sheet (provided for in subheading 5603.00.90)	Free	No change	No change	On or before 12/31/92".

SEC. 426. PROTECTIVE SPORTS APPAREL.

Subchapter II of chapter 99 is amended—
(1) by adding at the end of the U.S. notes thereto the following:

"12. (a) For the purposes of subheading 9902.62.01—
"(1) The term 'sports clothing' refers to:
"(A) ice hockey pants, provided for in subheadings 6113.00, 6114.30, 6210.40, 6210.50, 6211.33 or 6211.43; and
"(B) other articles of sports wearing apparel which because of their padding, fabric, construction, or other special features are specially designed to protect against injury (e.g., from blows, falls, road burns or fire).
"(2) The term 'sports clothing' does not include protective equipment for sports or games such as fencing masks and breast plates, shoulder pads, leg guards, chest protectors, elbow and knee pads, cricket pads and shin guards.
"(b) The column 1-general rate of duty for articles entered under heading 9902.62.01 is a rate equal to the column 1 rate of duty that would have applied to such articles under the Tariff Schedules of the United States on December 31, 1988."; and
(2) by inserting in numerical sequence the following new heading:

"9902.62.01	Sports clothing, however provided for in chapters 61 and 62	The rate of duty prescribed in U.S. note 12 to this subchapter.	No change	No change	On or before 12/31/92".

SEC. 427. ISOINDOLENINE RED PIGMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.30	Isoindolenine red pigment (CAS No. 71552-60-8) (provided for in subheading 3204.17.30)	Free	No change	No change	On or before 12/31/92".

SEC. 428. GRIPPING NARROW FABRICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.58.06	Fastener fabric tapes of man-made fibers (provided for in subheading 5806.10.20)	7%	No change	No change	On or before 12/31/92".

SEC. 429. IN-LINE ROLLER SKATE BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.64.02	Skating boots for use in the manufacture of in-line roller skates (provided for in subheading 6402.19.10)	Free	No change	No change	On or before 12/31/92".

SEC. 430. SELF-FOLDING COLLAPSIBLE UMBRELLAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.66.01	Self-folding telescopic shaft collapsible umbrellas chiefly used for protection against rain (provided for in subheading 6601.91.00)	Free	No change	No change	On or before 12/31/92".

SEC. 431. GLASS BULBS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.70.11	Monochrome glass envelopes with both (1) gray, tinted, skirted faceplates, and (2) either a video display diagonal of not more than 35.6 centimeters or a transmission level of 37 percent or less (provided for in subheading 7011.20.00)	Free	No change	No change	On or before 12/31/92".

SEC. 432. DRINKING GLASSES WITH SPECIAL EFFECTS IN THE GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.70.14	Drinking glasses decorated with metal flecking, glass pictorial scenes, or glass thread-like or ribbon-like effects, any of the foregoing embedded or introduced into the body of the glassware prior to its solidification; millefiori glassware (all of the foregoing provided for in subheading 7013.29.10 or 7013.29.20)	6.6%	No change	No change	On or before 12/31/92
"9902.70.15	Drinking glasses colored prior to solidification, and characterized by random distribution of numerous bubbles, seeds, or stones, throughout the mass of the glass (provided for in subheading 7013.29.10 or 7013.29.20)	20%	No change	No change	On or before 12/31/92".

SEC. 433. CERTAIN GLASS FIBERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.70.19	Fiberglass rubber reinforcing cord or yarn, made from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.10.10, 7019.10.20, or 7019.10.60)	Free	No change	No change	On or before 12/31/92".

SEC. 434. ARTICLES OF SEMIPRECIOUS STONES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.71.16	Graded semiprecious stones (except rock crystal) strung temporarily for convenience of transport (provided for in subheading 7116.20.20)	2.1%	No change	No change	On or before 12/31/92".

SEC. 435. LUGGAGE FRAMES OF ALUMINUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.76.16	Luggage frames of aluminum (provided for in subheading 7616.90.00)	Free	No change	No change	On or before 12/31/92".

SEC. 436. MOLTEN-SALT-COOLED ACRYLIC ACID REACTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.84.19	Molten-salt-colored acrylic acid reactors and their associated parts, accessories and equipment (provided for in subheadings 8419.89.50, 8419.90.30 or 8419.90.90), when imported as an entirety	Free	No change	No change	On or before 12/31/92".

SEC. 437. CERTAIN PAPER PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.48.18	Toilet paper, of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (provided for in subheading 4818.10.00)	3.5%	No change	No change	On or before 12/31/92.
"9902.48.19	Handkerchiefs, cleansing or facial tissues or towels, all the foregoing of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (provided for in subheading 4181.20.00)	3.5%	No change	No change	On or before 12/31/92".

SEC. 438. IMPACT LINE PRINTERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.84.65	Impact line printers using band drive mechanisms and which are capable of printing speeds of not less than 1,300 lines per minute (provided for in subheading 8471.92.65)	No change	No change	3.75%	On or before 12/31/92".

SEC. 439. MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS; CERTAIN BICYCLE

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.84.79	Wheelbuilding, wheeltruing, rim punching, tire fitting and similar machines suitable for use in the manufacture of wheels for bicycles (provided for in subheading 8479.89.90)	Free	No change	No change	On or before 12/31/92"; and
"9902.87.15	Bicycle handlebar stems wholly of aluminum alloy (including their hardware of any material), valued over $2.15 each (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92
"9902.87.16	Bicycle handlebar stem rotor assemblies (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92".

SEC. 440. MOTOR VEHICLE PARTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.84.83	Motor vehicle parts, provided for in subheading 7014.00.20 or heading 8483	No change	Free (B) No change (A,C,E,IL).	No change	On or before the date proclaimed by the President providing such duty free entry under such subheading or heading".

SEC. 441. PARTS OF GENERATORS FOR USE ON AIRCRAFT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.85.03	Parts of generations suitable for use on aircraft (provided for in subheading 8503.00.60)	Free	No change	No change	On or before 12/31/92".

SEC. 442. MAGNETIC VIDEO TAPE RECORDINGS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.85.24	Video tape recordings of a width exceeding 6.5mm but not exceeding 16mm, in cassetes of United States origin as certified by the importers, and valued at not over $7.00 per prerecorded cassete unit (provided for in subheading 8524.23.10)	Free	No change	No change	On or before 12/31/92".

SEC. 443. CERTAIN INFANT NURSERY MONITORS AND INTERCOMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.85.25	Infant nursery intercommunication systems, each consisting in the same package of a pair of transceivers operating on frequencies from 49.82 to 49.90 mHz and an electrical adapter (proivded for in subheading 8504.00 or 8525.20.20)	Free	No change	No change	On or before 12/31/92
"9902.85.26	Infant nursery monitor systems, each consisting in tghe same package of a radio transmitter, an electical adapter, and a radio receiver (provided for in subheading 8504.40.00, 8525.10.60, 8527.39.00, or 8527.90.80)	Free	No change	No change	On or before 12/31/92".

SEC. 444. INSULATED WINDING WIRE CABLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.85.44	Self-contained fluid filled submarine cable of 345 kilovolts (provided for in subheading 8544.60.40)	Free	No change	No change	On or before 12/31/92".

SEC. 445. CERTAIN PISTON ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.84.07	Internal combustion piston-type engines, of a cylinder capacity exceeding 50 cc but not exceeding 1,000 cc (provided for in heading 8407.32.20 or 84077.33.20), to be installed in vehicles specially designed for traveling on snow, golf carts, nonamphibious all-terrain vehicles, and burden carriers (provided for in subheading 8703.10.00, 8703.21.00 or 8704.31.00)..	Free	No change..	No change..	On or before 12/31/92".

SEC. 446. TIMING APPARATUS WITH OPTO-ELECTRONIC DISPLAY ONLY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.91.06	Apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movements, battery or AC powered and with opto-electronic display only (provided for in subheading 9106.90.80)	3.9% on the apparatus + 5.3% on the battery.	No change..	No change..	On or before 12/31/92".

SEC. 447. CERTAIN FURNITURE AND SEATS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.94.01	Furniture seats and parts thereof, the foregoing of cane, osier, bamboo or other similar materials, including rattan (provided for in subheading 9401.50.00, 9401.90.25, 9403.80.30, or 9403.90.25)	Free	No change..	No change..	On or before 12/31/92".

SEC. 448. CHRISTMAS ORNAMENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.95.05	Christmas ornaments other than ornaments of glass or wood (provided for in subheading 9505.10.25)	Free	No change..	No change..	On or before 12/31/92".

SEC. 449. 3-DIMENSIONAL CAMERAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.90.06	Cameras incorporating 4 fixed lenses which together are capable of producing a 3-dimensional effect (provided for in subheading 9006.53.00)	Free	No change..	No change..	On or before 12/31/92".

SEC. 450A. FROZEN CARROTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.07.10	Carrots, frozen (provided for in subheading 0710.80.70)	2.2¢/kg	No change..	No change..	On or before 12/31/92".

SEC. 450B. CERTAIN VENEER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.44.21	Manmade or recomposed wood veneer not exceeding 6 mm in thickness, sliced from a block composed of wood veneer sheets produced from logs and flitches (provided for in subheading 4421.90.90)	Free	No change..	No change..	On or before 12/31/92".

SEC. 450C. PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 1990 GOODWILL GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.98.00	Personal effects of aliens who are participants in or officials of the 1990 Goodwill Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and other related articles as prescribed by the Secretary of the Treasury	Free	No change..	Free	On or before 9/30/90".

SEC. 450D. PERSONAL EFFECTS AND EQUIPMENT FOR WORLD UNIVERSITY GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.98.03 Personal effects of aliens who are participants in, or officials of, the 1993 World University Games, who are accredited members of delegations thereto, who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and such other related articles as may be prescribed by the Secretary of the Treasury	Free	No change	Free	On or before 9/30/93".

SEC. 450E. KARATE PANTS AND BELTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.62.04 Karate pants and karate belts (provided for in subheading 6203.42.40, 6203.43.40, 6204.62.40, 6204.63.35, or 6217.10.00)	8%	No change	No change	On or before 12/31/92".

SEC. 450F. METALLURGICAL FLUORSPAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.25.29 Fluorspar containing by weight 97 percent or less of calcium fluoride (provided for in subheading 2529.21.00)	Free	No change	No change	On or before 12/31/92".

PART 2—EXISTING TEMPORARY DUTY SUSPENSIONS

SEC. 461. EXTENSION OF CERTAIN EXISTING SUSPENSIONS OF DUTY.

(a) EXTENSIONS UNTIL JANUARY 1, 1993.—Each of the following subheadings or headings is amended by striking out the date in the effective period column and inserting "12/31/92":

(1) Subheadings 9902.05.10 and 9902.05.11 (relating to crude feathers and down).

(2) Heading 9902.08.07 (relating to fresh cantaloupes).

(3) Heading 9902.09.04 (relating to mixtures of hot red peppers and salt).

(4) Heading 9902.29.04 (relating to p-toluene-sulfonyl chloride).

(5) Heading 9902.29.05 (relating to certain menthol feedstocks).

(6) Heading 9902.29.06 (relating to dicofol).

(7) Heading 9902.29.11 (relating to triethylene glycol dichloride).

(8) Heading 9902.29.13 (relating to 2,6-dichlorobenzaldehyde).

(9) Heading 9902.29.14 (relating to dinocap).

(10) Heading 9902.29.21 (relating to m-hydroxybenzoic acid).

(11) Heading 9902.29.22 (relating to d-6-methoxyacmethyl-2-naphthaleneacetic acid and its sodium salt).

(12) Heading 9902.29.24 (relating to 3-amino-3-methyl-1-butyne).

(13) Heading 9902.29.30 (relating to 8-amino-1-naphthalenesulfonic acid and its salts).

(14) Heading 9902.29.31 (relating to 5-amino-2 (p-aminoanilino) benzenesulfonic acid).

(15) Heading 9902.29.33 (relating to 1-amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-amino-5-hydroxy-2,7-naphthalendisulfonic acid, monosodium salt (H acid, monosodium salt)).

(16) Heading 9902.29.43 (relating to 1-amino-2,4-dibromoanthraquinone).

(17) Heading 9902.29.44 (relating to bromamine acid).

(18) Heading 9902.29.51 (relating to N-(7-hydroxy-1-naphthyl)acetamide).

(19) Heading 9902.29.57 (realting to N,N-bis(2-cyanoethyl)aniline).

(20) Heading 9902.29.60 (relating to trialate).

(21) Heading 9902.29.64 (relating to 6-(3-methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-methyl-1-phenyl-5-pyrazolone (methylphenylpyrazolone)).

(22) Heading 9902.29.66 (relating to m-sulfaminopyrazolone (m-sulfamidophenylmethylpyrazolone)).

(23) Heading 9902.29.76 (relating to 2-n-octyl-4-isothiazolin-3-one and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants).

(24) Heading 9902.29.79 (relating to 2-amino-N-ethylbenzenesulfonanilide).

(25) Heading 9902.32.04 (relating to methylene blue).

(26) Heading 9902.38.06 (relating to mixtures of dinocap with application adjuvants).

(27) Heading 9902.38.07 (relating to mixtures of mancozeb and dinocap).

(28) Heading 9902.38.08 (relating to mixtures of maneb, zineb, mancozeb, and metiram).

(29) Heading 9902.38.10 (relating to mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants).

(30) Heading 9902.38.11 (relating to mixtures of dicofol and application adjuvants).

(31) Heading 9902.39.14 (relating to cholestyramine resin USP).

(32) Headings 9902.40.11, 9902.73.12, 9902.73.15, 9902.85.12, and 9902.87.14 (relating to certain bicycle parts).

(33) Heading 9902.51.01 (relating to certain wools).

(34) Heading 9902.84.42 (relating to certain narrow weaving machines).

(35) Heading 9902.84.45 (relating to certain wool carding and spinning machinery).

(36) Heading 9902.84.48 (relating to certain knitting machines designed for sweater strip or garment length knitting).

(37) Heading 9902.84.50 (relating to certain lace braiding machines).

(38) Heading 9902.29.10 (relating to 6-hydroxy-2-naphthalenesulfonic acid and its sodium, potassium, and ammonium salts).

(39) Heading 9902.29.23 (relating to triphenyl phosphate).

(40) Heading 9902.29.28 (relating to α,α,α-trifluoro-o-toluidine).

(41) Heading 9902.29.35 (relating to 6-amino-4-hydroxy-2-naphthalenesulfonic acid (gamma acid)).

(42) Heading 9902.29.38 (relating to 3,3'-dimethoxybenzidine (o-dianisidine) and its dihydrochloride).

(43) Heading 9902.29.40 (relating to 2-amino-5-nitrophenol).

(44) Heading 9902.29.47 (relating to 4-methoxyaniline-2-sulfonic acid).

(45) Heading 9902.29.49 (relating to benzethonium chloride).

(46) Heading 9902.29.59 (relating to 2,2-bis(4-cyanatophenyl)propane).

(47) Heading 9902.29.62 (relating to paraldehyde).

(48) Heading 9902.29.63 (relating to aminomethylphenylpyrazole).

(49) Heading 9902.29.67 (relating to 3-methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone)).

(50) Heading 9902.29.69 (relating to 3-methyl-5-pyrazolone).

(51) Heading 9902.29.71 (relating to barbituric acid).

(52) Heading 9902.30.04 (relating to nicotine resin complex).

(53) Heading 9902.36.06 (relating to metaldehyde).

(54) Heading 9902.84.44 (relating to machines designed for heat-set, stretch tecturing of continuous man-made fibers).

(55) Heading 9902.84.51 (relating to knitting needles).

(56) Heading 9902.29.27 (relating to tetraamino biphenyl).

(57) Heading 9902.29.88 (relating to cyclosporine).

(58) Heading 9902.26.14 (relating to synthetic rutile).

(59) Heading 9902.57.01 (relating to needlecraft display models, primarily hand stitched, of completed mass-produced kits).

(60) Heading 9902.29.52 (relating to 2,5-dimethoxyacetanilide).

(61) Heading 9902.29.61 (relating to 3-(4'-aminobenzamido)phenyl-β-hydroxyethylsulfone).

(62) Heading 9902.29.25 (relating to 4-chloro-2-nitroaniline).

(63) Heading 9902.29.07 (relating to 2-[(3-nitrophenyl)sulfonyl]ethanol).

(64) Heading 9902.29.42 (relating to 4-chloro-2,5-dimethoxyaniline).

(65) Heading 9902.29.45 (relating to 3,4-diaminophenetole, dihydrogen sulfate).

(66) Heading 9902.29.86 (relating to 2,4-dichloro-5-sulfamoylbenzoic acid).

(67) Heading 9902.25.04 (relating to graphite).

(68) Heading 9902.29.01 and 9902.37.07 (relating to photographic color couplers and coupler intermediates).

(69) Heading 9902.95.01 (relating to stuffed dolls and doll skins).

(b) EXTENSION UNTIL DATE OTHER THAN JANUARY 1, 1993.—Heading 9902.61.00 (relating to certain knitwear fabricated in Guam) is

amended by striking out "10/31/92" and inserting "10/31/96".

SEC. 462. EXTENSION OF, AND OTHER MODIFICATIONS TO, CERTAIN EXISTING SUSPENSIONS OF DUTY.

(a) CORNED BEEF IN AIRTIGHT CONTAINERS.—Heading 9902.16.02 is amended—

(1) by striking out "3%" and inserting "Free"; and

(2) by striking out "12/31/89" and inserting "12/31/92".

(b) SURGICAL GOWNS AND DRAPES.—Heading 9902.62.10 is amended to read as follows:

"9902.62.10 Spunlaced or bonded fiber fabric disposable gowns of manmade fibers intended for use during surgical procedures (provided for in subheading 6210.10.40) and spunlaced or bonded fiber fabric disposable surgical drapes of manmade fibers (provided for in subheading 6307.90.70)	5.6%	No change (E*, IL), 3.3% (CA)	26.5%	On or before 12/31/92, except that in the case of goods originating in the territory of Canada, the effective period is on or before 12/31/98".

(c) CERTAIN JEWELRY.—Heading 9902.71.13 is amended—

(1) by amending the article description to read as follows: "Toy jewelry provided for in subheading 7117.19.10, 7117.19.50, 7117.90.40 (except parts) or 7117.90.50 (except parts) valued not over 5¢ piece; and articles (except parts) provided for in heading 9502, 9503, 9504 or subheading 9505.90 (except balloons, marbles, dice, and diecast vehicles), valued not over 5¢ per unit"; and

(2) by striking out "12/31/90" and inserting "12/31/92".

(d) ELECTROSTATIC COPYING MACHINES.—Heading 9902.90.90 is amended—

(1) by inserting "and accessories," after "Parts,";

(2) by inserting ", and parts and accessories and accessory and auxiliary machines which are intended for attachment to an electrostatic photocopier and which do not operate independently of such photocopier (provided for in subheading 8472.90.80)" after "(provided for in subheading 9009.90.00)", and

(3) by striking out "12/31/90" and inserting "12/31/92".

(e) CERTAIN HOSIERY KNITTING MACHINES.—Heading 9902.84.47 is amended—

(1) by striking out "12/31/90" and inserting in lieu thereof "12/31/92",

(2) by striking out "single cylinder fine gauge and all double cylinder" and inserting in lieu thereof "and parts thereof", and

(3) by striking out "or 8447.20.60" and inserting in lieu thereof ", 8447.20.60, or 8448.59.10".

(f) JACQUARD CARDS.—

(1) EXISTING SUSPENSION.—Heading 9902.48.23 is amended—

(A) by striking out "4823.90.85" in the article description and inserting in lieu thereof "3926.90.90, 4823.30.00, 4823.90.85,", and

(B) by striking out "12/31/90" and inserting "12/31/92".

(2) CARDS TO BE USED AS JACQUARD CARDS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.39.27 Cards, not punched, suitable for use as, or in making, jacquard cards (provided for in subheading 3926.90.90, 4823.30.00, or 4823.90.85)	Free	No change	No change	On or before 12/31/92".

(g) KITCHENWARE OF GLASS-CERAMICS.—Heading 9902.70.13 is amended—

(1) by striking out the article description and inserting: "Kitchenware of glass-ceramics, with handles measuring less than 5.1 cm in length, if any, nonglazed, black in color, greater than 75 percent by volume crystalline, of lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10×10^{-7} per Kelvin within a temperature range of 0°C to 300°C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm in thickness, and containing β-quartz solid solution as the predominant crystal phase (provided for in subheading 7013.10.10)", and

(2) by striking "12/31/90" and inserting "12/31/92".

(h) UMBRELLA FRAMES AND PARTS.—Heading 9902.66.03 is amended—

(1) by inserting ", umbrella handles and knobs (provided for in subheading 6603.10.00), and umbrella tips and caps (provided for in subheading 6603.90.00)" after "(provided for in subheading 6603.20.30)", and

(2) by striking out "12/31/90" and inserting "12/31/92".

(i) TERFENADONE.—Heading 9902.29.74 is amended—

(1) by striking out "2933.90.37" and inserting "2933.39.47", and

(2) by striking out "12/31/90" and inserting "12/31/92".

(j) TOY FIGURES.—

(1) Heading 9902.95.02 is amended—

(A) by striking out "toy figures of animate objects (except dolls)" and inserting "toys representing animals or nonhuman creatures,"; and

(B) by striking out "12/31/90" and inserting "12/31/92".

(2) Heading 9902.95.03 is repealed.

(3) Heading 9902.95.04 is amended—

(A) by striking out "toy figures of animate or inanimate objects" and inserting "toys representing animals or nonhuman creatures"; and

(B) by striking out "12/31/90" and inserting "12/31/92".

(4) U.S. note 6 of subchapter II of chapter 99 is amended to read as follows:

"6. For purposes of heading 9902.95.02, the term 'filled' includes toy figures which are not completely filled or are filled with materials such as plastic beads or crushed nutshells but which otherwise possess the characteristics of toy figures classifiable as 'stuffed'.".

SEC. 463. TERMINATION OF EXISTING SUSPENSION OF DUTY ON C-AMINES.

Heading 9902.29.29 is repealed.

Subtitle B—Other Tariff and Miscellaneous Provisions

PART 1—TARIFF CLASSIFICATION AND OTHER TECHNICAL AMENDMENTS

SEC. 471. CERTAIN EDIBLE MOLASSES.

Additional U.S. notes 2, 3, and 4 of chapter 17 are amended by striking out "1702.90.40," each place it appears therein.

SEC. 472. CERTAIN WOVEN FABRICS AND GAUZE.

(a) WOVEN FABRICS OF CARDED WOOL OR CARDED FINE ANIMAL HAIR.—Heading 5111 of chapter 51 is amended—

(1) by striking subheadings 5111.11.10 and 5111.11.60 and inserting the following new subheadings with the article description for subheading 5111.11.20 and the superior heading for subheadings 5111.11.30 and 5111.11.70 each having the same degree of indentation as the article description in subheading 5111.19.10:

"5111.11.20 Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.1% (IL), 5.6% (CA)	68.5%";	
"5111.11.30 Other:				

	Hand-woven, with a loom width of less than 76 cm	*17.6¢/kg + 12.5%*	*5.3¢/kg + 3.8% (IL). 14¢/kg + 10% (CA).*	*$1.10/kg + 60%*	
5111.11.70	*Other*	*36.1%*	*9.9% (IL) 28.8%*	*68.5%*";	

(2) by inserting after subheading 5111.20.05 the following new subheading with the article description having the same degree of indentation as the article description in subheading 5111.20.05:

"5111.20.10	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*";	

(3) by inserting after subheading 5111.30.05 the following new subheading with the article description having the same degree of indentation as the article description in subheading 5111.30.05:

"5111.30.10	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*";	

and

(4) by striking out subheading 5111.90.60 and inserting the following new subheadings with the superior heading for subheadings 5111.90.40, 5111.90.50 and 5111.90.70 having the same degree of indentation as the article description for subheading 5111.90.30:

"5111.90.40	*Other:*				
	Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*";	
"5111.90.50	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*";	
"5111.90.70	*Other*	*33%*	*9.9% (IL) 26.4% (CA).*	*68.5%*";	

(b) WOVEN FABRICS OF COMBED WOOL OR OF COMBED FINE ANIMAL HAIR.—Heading 5112 of chapter 51 is amended by striking out subheadings 5112.11.00 through 5112.90.60, inclusive, and inserting the following with the article descriptions for subheadings 5112.11 and 5112.19 having the same degree of indentation as the article description in subheading 5111.90.30, with the article descriptions for subheadings 5112.20, 5112.30, and 5112.90 each having the same degree of indentation as the article description in subheading 5111.90 and with the superior heading to subheadings 5112.90.40, 5112.90.50, and 5112.90.60 having the same degree of indentation as subheading 5111.90.30:

"5112.11	*Of a weight not exceeding 200g/m⁻²:*				
5112.11.10	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.11.20	*Other*	*36.1%*	*9.9% (IL) 28.8% (CA).*	*68.5%*	
5112.19	*Other:*				
5112.19.10	*Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.19.60	*Other*	*36.1%*	*9.9% (IL) 28.8% (CA).*	*68.5%*	
5112.20	*Other, mixed mainly or solely with man-made filaments:*				
5112.20.10	*Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.20.20	*Tapestry fabrics and upholstery fbrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6 (CA)*	*68.5%*	
5112.20.30	*Other*	*48.5¢/kg+38%.*	*14.4¢/kg+11.4% (IL). 38.8¢/kg+30.4% (CA).*	*48.5¢/kg+68.5%*	
5112.30	*Other, mixed mainly or solely with man-made staple fibers:*				
5112.30.10	*Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.30.20	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1%(IL) 5.6%(CA)*	*68.5%*	
5112.30.30	*Other*	*48.5¢/kg+38%*	*14.4¢/kg+11.4% (IL). 38.8¢/kg+30.4% (CA).*	*48.5¢/kg+68.5%*	
5112.90	*Other:*				
5112.90.30	*Containing 30 percent or more by weight of silk or silk waste, valued over $33/kg*	*7.8%*	*2.3% (IL) 6.2% (CA)*	*80%*	
5112.90.40	*Other:*				
	Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.90.50	*Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²*	*7%*	*2.1% (IL) 5.6% (CA)*	*68.5%*	
5112.90.60	*Other*	*33%*	*2.6% (IL) 26.4% (CA).*	*68.5%*	

(c) GAUZE.—Chapter 58 is amended by striking out subheading 5803.90.10 and inserting the following with the superior heading to subheadings 5803.90.11 and 5803.90.12 having the same degree of indentation as the article description for subheading 5803.90.20:

"5803.90.11	*Of wool or fine animal hair:*				
	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	*7%*	*2.1% (IL) 5.6%(CA)*	*68.5%*	
5803.90.12	*Other*	*33%*	*9.9% (IL) 26.4% (CA).*	*68.5%*	

SEC. 473. CLASSIFICATION OF CERTAIN ARTICLES IN WHOLE OR PART OF FABRICS COATED, COVERED, OR LAMINATED WITH OPAQUE RUBBER OR PLASTICS.

Chapter 42 is amended—

(1) by striking out "Additional U.S. Note" and inserting "Additional U.S. Notes"; and

(2) by inserting after additional U.S. note 1 the following:

"2. For purposes of classifying articles under subheadings 4202.12, 4202.22, 4202.32, and 4202.92, articles of textile fabric impregnated, coated, covered or laminated with plastics (whether compact or cellular) shall be regarded as having an outer surface of textile material or of plastic sheeting, depending upon whether and the extent to which the textile constituent or the plastic constituent makes up the exterior surface of the article.".

SEC. 474. GLOVES, MITTENS, AND MITTS.

(a) ICE AND FIELD HOCKEY GLOVES.—

(1) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.10.10:

6116.10.05	Ice hockey gloves and field hockey gloves	Free	25%."

(2) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.92.10:

6116.92.05	Ice hockey gloves and field hockey gloves	Free	45%."

(3) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.93.10:

6116.93.05	Ice hockey gloves and field hockey gloves	Free	45%."

(4) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.99.30:

6116.99.20	Ice hockey gloves and field hockey gloves	Free	45%."

(5) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.10:

6216.00.05	Ice hockey gloves and field hockey gloves	Free	25%."

(6) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.34:

6216.00.33	Ice hockey gloves and field hockey gloves	Free	45%."

(7) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.44:

6216.00.43	Ice hockey gloves and field hockey gloves	Free	45%."

(b) OTHER SPORTS GLOVES.—The article descriptions in subheadings 6116.10.50, 6216.00.23, 6216.00.29 and 6216.00.47 are each amended to read as follows: "Other gloves, mittens, and mitts, specially designed for use in sports".

SEC. 475. CHIPPER KNIFE STEEL.

Subchapter XV of chapter 72 is amended by striking out subheadings 7226.91.10 and 7226.91.30 and inserting the following with the article description for subheading 7226.91.05 having the same degree of indentation as that of subheading 7226.91.50:

"7226.91.05	Of chipper knife steel	Free		34%
"7226.91.15	Of a width of 300mm or more	9.6%	Free (E. IL). 7.6% (CA) ...	29%
"7226.91.25	Of a width of less than 300mm	11.6%	Free (E. IL). 9.2% (CA) ...	34%

SEC. 476. ELIMINATION OF INVERTED TARIFF ON CANTILEVER BRAKES AND BRAKE PARTS FOR BICYCLES.

The following provisions are amended as follows:

(1) Subheading 8714.94.20 is amended by striking out "Caliper brakes" and inserting "Caliper and cantilever bicycle brakes and parts thereof".

(2) Heading 9902.73.12 is amended by inserting "and cantilever bicycle" immediately after "caliper".

(3) Heading 9902.87.14 is amended by inserting "and cantilever bicycle brakes," immediately after "Caliper".

SEC. 477. BICYCLES HAVING 26-INCH WHEELS.

Chapter 87 is amended—

(1) by striking out "65 cm" in subheadings 8712.00.10 and 8712.00.20 and inserting "63.5 cm"; and

(2) by striking out "4 cm" in subheading 8712.00.20 and inserting "4.13 cm".

SEC. 478. PROCESSING OF CERTAIN BLENDED SYRUPS.

(a) IN GENERAL.—U.S. note 2 to subchapter IV of chapter 99 is amended by adding at the end thereof the following:

"(e) Blended syrups of heading 9904.50.20, if entered from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990, to the extent that the annual quantity entered into the customs territory from such zone does not contain an amount of sugar of nondomestic origin greater than that authorized by the Foreign Trade Zones Board for processing in such zone during calendar year 1985.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1988.

SEC. 479A. ARTICLES EXPORTED AND RETURNED.

The U.S. notes to subchapter II of chapter 98 are amended by adding at the end thereof the following new note:

"6. Notwithstanding the partial exemption from ordinary customs duties on the value of the metal product exported from the United States provided under subheading 9802.00.60, articles imported under subheading 9802.00.60 are subject to all other duties, and any other restrictions or limitations, imposed pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), or chapter 1 of title II or chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2251 et seq., 19 U.S.C. 2411 et seq.).".

SEC. 479B. BROOMS.

(a) IN GENERAL.—Chapter 96 is amended—

(1) by inserting "wholly or in part" after "Whiskbrooms," in the superior article description for subheading 9603.10.10; and

(2) by inserting "wholly or in part" after "Other brooms," in the superior article description for subheading 9603.10.40.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered or withdrawn from warehouse for consumption on or after the date that is 15 days after the date of enactment of this Act.

SEC. 479C. FOLIAGE-TYPE ARTIFICIAL FLOWERS.

Subheading 6702.90.40 is amended by striking out "Artificial flowers, of" in the article description and inserting in lieu thereof "Of".

PART 2—MISCELLANEOUS PROVISIONS

SEC. 481. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "before January 1, 1991" and inserting in lieu thereof "on or before December 31, 1992".

SEC. 482. RAIL CARS FOR THE STATE OF FLORIDA.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall admit free of duty each bilevel rail passenger car that was—

(1) entered after March 14, 1988, and before January 1, 1989, and classified under item 690.15 of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(2) designed for, and is for the use of, the Department of Transportation of the State of Florida.

If the liquidation of the entry of any such rail car has become final before the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated in accordance with the provisions of this Act and the appropriate refund of duty made.

SEC. 483. RELIQUIDATION OF CERTAIN ENTRIES.

(a) CERTAIN ANTIDUMPING DUTIES.—(1) Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to paragraph (2), the entries listed in paragraph (3) shall be reliquidated, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund threof shall be made within 90 days after reliquidation.

(2) Reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) The entries referred to in paragraph (1) are as follows:

Entry number	Date of entry
74-222089	May 7, 1974.
74-225275	June 17, 1974.
76-237223	July 9, 1976.
76-247178	October 1, 1976.
79-251251	September 11, 1979.
80-223851	October 9, 1979.
80-224447	November 27, 1979.
80-224448	November 27, 1979.
80-225842	April 29, 1980.
80-225843	April 29, 1980.
80-225844	April 29, 1980.
80-225845	April 29, 1980.
80-226742	August 13, 1980.
80-226743	August 18, 1980.

(b) DIGITIAL PROCESSING UNITS.—(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, any entry of a processing unit that—

(A) was entered under item 676.15 or 676.54 of the Tariff Schedules of the United States;

(B) would not, if classified under item 675.15, have been subject to temporary duties under item 945.83 or 945.84 of the Appendix to such Schedules; and

(C) was made after January 16, 1986, and before July 2, 1987;

shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund and duties paid with respect to such entry.

(2) For purposes of this subsection, the term "processing unit" means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon.

(c) CERTAIN OTHER ENTRIES.—Nothwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act—

(1) any entry of 1-(3-sulfopropylpyridinium hydroxide (provided for in item 406.39 of the Tariff Schedules of the United States (19 U.S.C. 1202)) that occurred after September 30, 1988, and before January 1, 1989, shall be reliquidated as free of duty; and

(2) any entry of brussels sprouts (provided for in item 903.29 of such Schedules (19 U.S.C. 1202)) that occurred after December 31, 1987, and before November 11, 1988, shall be liquidated at the rate of 12.5 percent ad valorem.

SEC. 484 PROTEST RELATING TO CERTAIN ENTRIES.

For purposes of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), and notwithstanding any other provision of law, Protest Numbered 1801-000027 shall be deemed to have been filed with the appropriate customs officer within 90 days of the liquidation of entries 81-103533-2 and 81-103789-3.

SEC. 484A. SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.

(a) IN GENERAL.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsection:

"(p) SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.—

"(1) Notwithstanding any other provision of this section, in the case of articles, described in headings 2707 through 2715, 2901 and 2902, or 3901 through 3914 (limited to liquids, pastes, powders, granules, and flakes) of the Harmonized Tariff Schedule of the United States, that—

"(A) are—

"(i) manufactured or produced under subsection (a) or (b) from crude petroleum or petroleum derivatives, or

"(ii) imported duty-paid, and

"(B) are stored in common storage with other articles of the same kind and quality that are otherwise manufactured or produced.

drawback shall be paid on the articles withdrawn for export from such common storage (regardless of the source or origination of the articles withdrawn), if the requirements described in paragraph (2) are met.

"(2) The requirements of this paragraph are met if—

"(A) inventory records kept on a calendar month basis (not on a daily or transaction-by-transaction basis) demonstrate sufficient quantities of imported duty-paid articles or articles manufactured or produced under subsection (a) or (b) in the common storage against which such withdrawal is designated;

"(B) such inventory records reflect deliveries to and withdrawals from such common storage that assure that the drawback paid does not exceed the amount of drawback that would be payable under this section had all of the articles withdrawn from common storage been imported duty-paid or manufactured or produced under subsection (a) or (b);

"(C) certificates of delivery or certificates of manufacture and delivery, establishing the drawback eligibility of the imported duty-paid articles or articles manufactured or produced under subsection (a) or (b), when required, are filed with the drawback entry; and

"(D) the inventory records of the operator of such common storage are, upon reasonable notice, available to the Customs Service.

"(3) For purposes of this subsection—

"(A) The term 'common storage' includes all articles of the same kind and quality stored at a single facility regardless of the number of bins, tanks, or other containers used.

"(B) The term 'same kind and quality' means articles that are commercially interchangeable or that are referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States.

"(C) The term 'single facility' means all storage units under the control and record-keeping of a single operator adjacent to a manufacturing plant, refinery, warehouse complex, terminal area, airport, bunkering facility, or similar facility.".

(b) TECHNICAL CORRECTION.—Subsection (b) of section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) is amended by inserting "imported articles," after "foreign-trade zone,".

(c) EFFECTIVE DATE.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendments made by this section shall apply to—

(1) claims filed or liquidated on or after January 1, 1988, and

(2) claims that are unliquidated, under protest, or in litigation on the date of enactment of this Act.

SEC. 484B. AGGLOMERATE MARBLE FLOOR TILES.

Chapter 68 is amended by striking out subheading 6810.19.10 and inserting the following new subheadings with the article descriptions for such subheadings having the same degree of indentation as the article description for subheading 6804.22.60:

"6810.19.12	Floor and wall tiles:					
	Agglomerate marble tile.	4.9%	Free (A.E. IL).	40%		
6810.19.14	Other	21%	Free (A.E.IL).	55%"		

SEC. 484C. PARTS OF IONIZATION SMOKE DETECTORS.

Chapter 90 is amended by inserting in numerical sequence the following new subheading with the article description having the same degree of indentation as the article description in subheading 9022.90.60:

"9022.90.70	Of smoke detectors, ionization type	2.7%	Free (A, B, E, IL). 2.1% (CA)	35%		

SEC. 484D. NUCLEAR MAGNETIC SPECTROMETER.

The Secretary of the Treasury shall admit free of duty a Phillips Medical Systems 4 tesla nuclear magnetic resonance (NMR) spectrometer for the use of the University of Alabama at Birmingham. If the liquidation of the entry of the spectrometer becomes final before the date of the enactment of this Act, the Secretary of the Treasury, notwithstanding any other provisions of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this Act, and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

SEC. 484E. FOREIGN REPAIR OF VESSELS.

(a) IN GENERAL.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(h) The duty imposed by subsection (a) of this section shall not apply to—

"(1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers, or

"(2) the cost of spare repair parts or materials (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) any entry made before the date of enactment of this Act that is not liquidated on the date of enactment of this Act, and

(2) any entry made—

(A) on or after the date of enactment of this Act, and

(B) on or before December 31, 1992.

SEC. 484F. CERTAIN DISTILLED SPIRITS IN FOREIGN TRADE ZONES.

Subsection (c) of section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 48 Stat. 999, chapter 590; 19 U.S.C. 81c(c)) is amended—

(1) by striking out "domestic" before "denatured distilled spirits",

(2) by inserting "which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section 5002(a)(1) of the Internal Revenue Code of 1986)" after "distilled spirits",

(3) by striking out "Notwithstanding" and inserting in lieu thereof "(1) Notwithstanding", and

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of the fifth proviso of subsection (a), distilled spirits which have been removed from a distilled spirits plant (as defined in section 5002(a)(1) of the Internal Revenue Code of 1986) upon payment or determination of tax may be used in the manufacture or production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.".

SEC. 484G. ETHYL TERTIARY-BUTYL ETHER.

(a) IN GENERAL.—Subchpater I of chapter 99 is amened by inserting in numerical sequence the following new heading:

"9901.00.52	Ethyl tertiari-butyl ether (provided for in subheading 2909.10.10) and any mixture containing ethyl tertiary-butyl ether	6.66c/liter	No change (A, E, IL). 5.29c/liter (CA).	6.66c/liter	The earlier of 12/31/92, or the date in which Treasury regulation § 1.40-1 is withdrawn or declared invalid.".	

(b) STAGED RATE REDUCTION.—Any staged reduction of a rate of duty set forth in heading 9901.00.50 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall also apply to the corresponding rates of duty set forth in subheading 99901.00.52 of such Schedule.

(c) EFFECTIVE DATE.—The Amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

SEC. 484H. CANADIAN LOTTERY MATERIAL.

(a) IN GENERAL.—Section 553 of the Tariff Act of 1930 (19 U.S.C. 1553) is amended—

(1) by striking out "any merchandise" and inserting "(a) any merchandise"; and

(2) by adding at the end thereof the following new section:

"(b) Notwithstanding subsect (a), the entry for transportation in bond through the United States of any lottery ticket, printed paper that may be used as a lottery ticket, or any advertisement of any lottery, that is printed in Canada, shall be permitted without appraisement or the payment of duties under such regulations as the Secretary of the treasury may perscribe, except that such regulations shall not permit the transportation of lottery materials in the personal baggage of a traveler.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

SEC. 4841. CERTAIN FORGINGS.

Notwithstanding sections 304 and 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 180 days after the date of the enactment of this Act, shall, upon request filed with the appropriate customs officer, reliquidate entries numbered 85414397-7, 85414495-0, 85414647-9, 85414649-5, 85414983-2, 85414995-5, 85415031-3, 85415122-8, 85415244-7, 85415496-6, 8541619-7, 85415683-8, and 85415828-9, filed at the Port of Porland, Oregon, and, upon such reliquidation, shall refund the additional marking duties that were collected upon such entires pursuant to such section 304.

SEC. 484J. CERTAIN EXTYRACORPOREAL SHOCK WAVE LITHOTRIPTER.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, entry numbered 86-707943-6, dated November 10, 1985, shall be reliquidated as duty-free and any duties paid with respect to such entry shall be refunded.

SEC. 484K. CERTAIN METHANOL ENTRIES.

Nothwithstanding section 514 or 520 of the Tariff act of 1930 or any other provision of law, the secretary of the Treasury shall—

(1) reliquidate as free of duty—

(A) Entry No. 85322102-3, dated June 21, 1985, and

(B) Entry No. 85603168-9, dated September 20, 1985,

made at New York, New York, that consists of methanol, and

(2) refund any duties paid with respect to such entries,

if the appropriate certification of actual use for such entries is submitted to the appropriate customs officer by no later than the date that is 180 days after the date of enactment of this Act.

SEC. 484L. CERTAIN FROZEN VEGETABLES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry, or withdrawal from warehouse for consumption, made after December 31, 1989, and before May 1, 1990, of—

(A) cut and frozen green beans (provided for in subheading 0710.22.40 of the Harmonized Tariff Schedule of the United States), or

(B) frozen and off the cub whole kernel sweet corn (provided for in subheading 0710.40.00 of such Schedule),

that is the product of a foreign country to which nondiscriminatory (most-favored-nation) tariff treatment applies, and

(2) refund any duties paid with respect to such entry or withdrawal.

SEC. 484M. CERTAIN FILMS AND RECORDINGS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any article described in items 960.50 through 960.70 of the Appendix to the Tariff Schedules of the United States (as in effect on August 11, 1985) which was made after August 11, 1985, and before January 1, 1987, shall be liquidated or reliquidated as though such entry or withdrawal had been made on August 11, 1985 and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry or withdrawal.

SEC. 485. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry—

(A) which was made after the applicable date and before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by section 311, 312, 377, 419, 423, 426, 428, 432, 434, 436, 438, 440, 441, 442, 445, 446, 450A, 461(a)(36), 462(d), 472, 474, 475, 477, 479C, 484B, or 484C applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this title—

(A) The term "applicable date" means—

(i) if such amendment is made by section 442, December 31, 1987,

(ii) if such amendment is made by section 438, October 1, 1988,

(iii) if such amendment is made by section 311, 312, 377, 419, 426, 428, 432, 434, 440, 441, 445, 446, 450A, 462(d), 472, 474, 475, 477, 479C, 484B, or 484C, December 31, 1988.

(iv) if such amendment is made by section 436, July 1, 1989,

(v) if such amendment is made by section 461(a)(36), December 31, 1989, and

(vi) if such amendment is made by section 423, January 31, 1990.

(B) The term "entry" includes any withdrawal from warehouse.

(C) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(c) CORNED BEEF.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry of corned beef in airtight containers—

(1) described in subheading 9902.16.02,

(2) to which the column 1 general rate of duty in effect on December 31, 1989 would have applied if entry had been made on such date, and

(3) that was entered after December 31, 1989, and before October 1, 1990.

shall be liquidated or reliquidated at the column 1 general rate of duty in subheading 9902.16.02 in effect on December 31, 1989, and the Secretary of the Treasury shall refund any duties paid with respect to such entry in excess of such column 1 general rate.

(d) STAGED RATE REDUCTIONS FOR CERTAIN GOODS.—

(1) Any staged reductions of a special rate of duty set forth in subheading 5111.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rates of duty set forth in subheadings 5111.11.20, 5111.20.10, 5111.30.10, 5111.90.40, 5111.90.50, 5112.11.10, 5112.20.10, 5112.20.20, 5112.30.10, 5112.30.20, 5112.90.40, 5112.90.50, and 5803.90.11 (relating to certain woven fabrics and gauze) of such Schedule (as added by section 472).

(2) Any staged rate reduction proclaimed by the President before October 1, 1990, that—

(A) would take effect on or after October 1, 1990; and

(B) would, but for any amendment made by section 472 (relating to certain woven fabrics) or 475 (relating to chipper knife steel), apply to a special rate of duty set forth in any subheading of the Harmonized Tariff Schedule of the United States that is listed in Column A;

applies to the corresponding special rate of duty set forth in the subheading of such Schedule that is listed in column B opposite such column A subheading:

Column A	Column B
5111.11.10	5111.11.30
5111.11.60	5111.11.70
5111.90.60	5111.90.70
5112.11.00	5112.11.20
5112.20.00	5112.20.30
5112.30.00	5112.30.30
5803.90.10	5803.90.12
7226.91.10	7226.91.15
7226.91.30	7336.92.25

(3) The amendments made by section 472 shall not affect any staged reductions of a rate of duty set forth in subheadings 5112.19.10, 5112.19.60, 5112.90.30, 5112.90.60 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990.

(4)(A) Any staged reductions of a special rate of duty set forth in subheading 6810.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.14.

(B) Any staged reductions of a special rate of duty set forth in subheading 3926.90.90 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.12.

(B) Any staged reductions of a special rate of duty set forth in subheading 9022.29.40 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rate of duty in subheading 9022.90.70.

TITLE IV—EXPORTS OF UNPROCESSED TIMBER

SEC. 487. SHORT TITLE.

THis title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1990".

SEC. 488. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberlands in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to see an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973, the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) PURPOSES.—The purposes of this title are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the General Agreement on Tariffs and Trade, to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 489. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.

(a) PROHIBITION ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United State, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUSES.—

(1) DETERMINATIONS BY SECRETARY CONCERNED.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs.

(2) PROCEDURES.—Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

SEC. 490. LIMITATIONS ON THE SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER EXPORTED FROM PRIVATE LANDS.

(a) DIRECT SUBSTITUTION.—(1) Except as provided in subsection (c), no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if—

(A) such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(B) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.

(2) Notwithstanding paragraph (1)—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the Secretary concerned before the date on which regulations to carry out this subsection are issued under section 495 shall be governed by the regulations of the Secretary concerned in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands;

(B) in the 1-year period beginning on the effective date of this title, any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering into contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989;

(C) a person referred to in subparagraph (B) shall reduce the person's remaining substitution volume by an equal amount each year thereafter such that no volume is substituted under such a quota in fiscal year 1995 or thereafter; and

(D) the 24-month period referred to in paragraph (1)(B) shall not apply to any person who—

(i) before the enactment of this Act, has, under an historic export quota approved by the Secretary concerned, purchased unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States in substitution for exported unprocessed timber originating from private lands;

(ii) certifies to the Secretary concerned, within 3 months after the date of the enactment of this Act, that the person will, within 6 months after such date of enactment, cease exporting unprocessed timber originating from private lands; and

(iii) ceases exports in accordance with such certification.

(b) INDIRECT SUBSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may, beginning 21 days after the date of the enactment of this Act, purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. Acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibitions contained in this paragraph.

(2) EXCEPTIONS.—(A) The Secretary of Agriculture shall, as soon as practicable but not later than 9 months after the date of the enactment of this Act, establish, by rule, a limited amount of unprocessed timber originating from Federal lands described in subparagraph (B) which maybe purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(i) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(ii) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(B) The Federal lands referred to in subparagraph (A) are Federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east.

(C) Any person may sell, trade, or otherwise exchange with any other person the rights obtained under subparagraph (A), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under subparagraph (A).

(D) Federal timber purchased from Federal lands described in subparagraph (B) pursuant to a contract entered into between the purchaser and the Secretary of Agriculture before the date on which regulations to carry out this subsection are issued under section 495 shall be governed by the regulations of the Secretary of Agriculture in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands.

(c) APPROVAL OF SOURCING AREAS.—

(1) IN GENERAL.—The prohibitions contained in subsections (a) and (b) shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area west of the 100th meridian in the contiguous 48 States approved by the Secretary concerned under this subsection by a person who—

(A) in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area; and

(B) during the period in which such approval is in effect, does not export unprocessed timber originating from private lands within the sourcing area.

The Secretary concerned may waive the 24-month requirement set forth in subparagraph (A) for any person who, within 3 months after the date of the enactment of this Act, certifies that, within 6 months after such date, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area.

(2) REQUIREMENTS FOR APPLICATION.—The Secretaries concerned shall, not later than 3 months after the date of the enactment of this Act, prescribe procedures to be used by a person applying for approval of a sourcing area under paragraph (1). Such procedures shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) shall not apply to a person before the date which is 1 month after the procedures referred to in this paragraph are prescribed. With respect to any person who submits an application in accordance with such procedures by the end of the time period set forth in the preceding sentence, the prohibition contained in subsection (a) shall not apply to such person before the date on which the Secretary concerned approves or disapproves such application.

(3) GRANT OF APPROVAL.—For each applicant, the Secretary concerned shall, on the

record and after an opportunity for a hearing, not later than 4 months after receipt of the application for a sourcing area, either approve or disapprove the application. The Secretary concerned may approve such application only if the Secretary determines that the area that is the subject of the application, in which the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located, is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands. In making a determination referred to in this paragraph, the Secretary concerned shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.

(4) DENIAL OF APPLICATION.—(A) Subject to subparagraph (B), and notwithstanding any other provision of law, in the 9-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 75 percent of the annual average of such person's purchases of unprocessed timber orginating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary concerned, within 90 days after receiving disapproval of such application, that such person shall, within 15 months after such disapproval, cease the export of unprocessed timber originating from private lands from the geographic area determined by the Secretary for which the application would have been approved, such person may continue to purchase unprocessed timber originating from Federal lands in the area which is the subject of the application, without being subject to the restrictions of subparagraph (A), except that such purchases during that 15-month period may not exceed 125 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application which was denied.

(C) Any person to whom subparagraph (B) applies may not, during the 15-month period after the person's application for sourcing area boundaries is denied, export unprocessed timber originating from private lands in the geographic area determined by the Secretary concerned for which the application would have been approved in amounts that exceed 125 percent of the annual average of such person's exports of unprocessed timber from such private lands during the 5 full fiscal years immediately prior to submission of the application.

(5) REVIEW OF DETERMINATIONS.—Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in this title, not less often than every 5 years.

SEC. 491. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS.

(a) ORDER TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—Except as provided in subsection (e), the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, in the amounts specified in subsection (b).

(b) SCHEDULE FOR DETERMINATION TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.

(1) STATES WITH ANNUAL SALES OF 400,000,000 BOARD FEET OR LESS.—With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue an order referred to in subsection (a) to prohibit the export of unprocessed timber originating from public lands not later than 21 days after the date of the enactment of this Act.

(2) STATES WITH ANNUAL SALES OF GREATER THAN 400,000,000 BOARD FEET.—With respect to any State with an annual sales volume greater than 400,000,000 board feet, the following shall apply:

(A) The Secretary of Commerce shall issue an order referred to in subsection (a) not later than 21 days after the date of the enactment of this Act. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.

(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.

(D) For all periods on or after January 1, 1996, the Secretary of Commerce shall issue an order referred to in subsection (a) not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the total annual sales volume.

(3) REPORT TO CONGRESS.—Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation, as a result of the enactment of this title, of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by States pursuant to this title, and trends in growth and productivity in the domestic timber processing sector.

(c) BASIS FOR INCREASE IN VOLUME PROHIBITED FROM EXPORT.—The Secretary of Commerce may increase the amount of unprocessed timber to be prohibited from export above the minimum amount specified in subsection (b)(2)(B) and (C), based on a determination that the purposes of this title have not been adequately met and that such an increase would further the purposes of this title. In making this determination, the Secretary shall consider—

(1) actions or decisions taken, for the purpose of conserving or protecting exhaustible natural resources in the United States, which have affected the use or availability of forest products;

(2) whether the volume of timber from public lands that is under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months; and

(3) the probable effects of unprocessed timber exports on the ability of timber mills to acquire unprocessed timber.

(d) ADMINISTRATIVE PROVISIONS.—

(1) DELAY OF SECRETARY'S ORDER.—In the event that any order of the Secretary of Commerce under subsection (a) of its implementation is delayed for any reason, the prohibitions on exports under subsection (b) to which such order would apply shall apply in the absence of such order.

(2) ADMINISTRATION BY STATES.—Each State shall determine the species, grade, and geographic origin of unprocessed timber to be prohibited from export under subsection (b) and shall administer such prohibitions consistent with the intent of this title and ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export is representative of the species, grades, and geographic origin of timber comprising such State's total timber sales program. The State is authorized to cooperate with Federal and State agencies with apropriate jurisdiction to further the intent of this title.

(3) STATE REGULATIONS.—(A) Except for States with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, the Governor of each State to which this title applies, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section, the promulgation of which shall be consistent with section 553 of title 5, United States Code. Such regulations in each State shall remain in effect until such time as the legislature of that State enacts such requirements as it deems appropriate to carry out this section. Before issuing such regulations, the Governor shall enter into formal consultation, concerning such regulations, with appropriate State officials and with a State Board of Natural Resources where such a board exists. When formulating regulations under this paragraph, the Governor shall take into account the intent of this title to effect a net increase in domestic processing of timber harvested from public lands consistent with all orders issued by the Secretary of Commerce under subsection (a).

(B) The Governor of each State with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, or such other State official as the Governor may designate, shall, within 120 days after the date of enactment of this Act, issue regulations to carry out the purposes of this section. Until such regulations are issued in a State, the prohibitions contained in subsections (a) and (b) of section 490 shall apply to unprocessed timber originating from public lands in that State to the same extent as such prohibitions apply to unprocessed timber originating from Federal lands,

except that the provisions of subsection (c) of such section shall not apply.

(4) PRIOR CONTRACTS.—Nothing in this section shall apply to any contract for the purchase of unprocessed timber from public lands entered into before the effective date of a Secretary's order issued under subsedction (a).

(5) WESTERN RED CEDAR.—Nothing in this section shall be construed to supersede the provisions of section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).

(e) PRESIDENTIAL AUTHORITY.—The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(f) REMOVAL OR MODIFICATIONS OF STATE RESTRICTIONS.—Based upon a determination that it is in the national economic interest, the President may remove or modify any prohibition on exports from public lands in a State if that State petitions the President to remove or modify such prohibition.

(g) EFFECT OF PRIOR FEDERAL LAW.—No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before the enactment of this Act shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to this title.

(h) SURPLUS TIMBER.—The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary concerned determines by rule to be surplus to the needs of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by the Secretary concerned if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(i) SUSPENSION OF PROHIBITIONS.—Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon review of the purposes and implementation of this title, that the prohibitions on exports required by subsection (a) no longer promote the purposes of this title, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

(j) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this title shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with this title.

SEC. 492. MONITORING AND ENFORCEMENT.

(a) MONITORING AND REPORTS.—In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the Secretary concerned, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons; and

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary concerned may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of this title, in such form as the Secretary concerned may prescribe; and

(C) provide to the Secretary concerned copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) REPORT TO CONGRESS.—Using the information gathered under subsection (a), the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian in the contiguous 48 States, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 490(b)(2)(C); and

(6) provide such other information as the Secretaries consider appropriate.

(c) CIVIL PENALTIES FOR VIOLATION.—

(1) EXPORTS.—If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the prohibition contained in this title against exporting Federal timber, exported or caused to be exported unprocessed timber originating from Federal lands in violaiton of this title, such Secretary may assess against such person a civil penalty of not more than $500,000 of each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) OTHER VIOLATIONS.—If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person has violated any provision of this title or any regulation issued under this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of this title), such Secretary may—

(A) assess against such person a civil penalty of not more than $75,000 for each violation if the Secretary determines that the person committed such violation in disregard of such provision or regulation;

(B) assess against such person a civil penalty of not more than $50,000 for each violation if the Secretary determines that the person should have known that the action constituted a violation; or

(C) assess against such person a civil penalty of not more than $500,000 if the Secretary determines that the person committed such violation willfully.

(3) PENALTIES NOT EXCLUSIVE; JUDICIAL REVIEW.—A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(d) ADMINISTRATIVE REMEDIES.—

(1) DEBARMENT.—The head of the appropriate Federal department or agency under this title may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

(2) CANCELLATION OF CONTRACTS.—The head of the appropriate Federal department or agency under this title may cancel any contract entered into with a person found to have violated this title or regulations issued under this title.

(e) EXCEPTION.—Subsections (c) and (d) do not apply to violations of section 498.

SEC. 493. DEFINITIONS.

For purposes of this title:

(1) The term "acquire" means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term "acquisition" means the act of acquiring.

(2) The term "Federal lands" means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian Tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) The term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, or parent company, and business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(4) The term "private lands" means lands held or owned by a perosn. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(5) The term "public lands" means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is:

(A) held by the United States;

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United Statges against alienation, or

(D) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(6) The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to Federal lands administered by that Secretary; and

(B) the Secretary of the Interior with respect to Federal lands administered by that Secretary;

(7)(A) The term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grade or Pacific Lumber Inpsection Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on 4 sides, with wane less than ¼ of any face, not exceeding 8 ¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips.

(8) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

SEC. 494. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title take effect on the date of the enactment of this Act.

SEC. 495. REGULATIONS AND REVIEW.

(a) REGULATIONS.—The Secretries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this title on lands which they administer. The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out this title. Except as otherwise provided in this title, regulations and guidelines under this subsection shall be issued not later than 9 months after the date of the enactment of this Act.

(b) REVIEW.—The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 493(7) for purposes of this title and, not later than 18 months after the date of the enactment of this Act, submit to the Congress any recommendations they have with respect to such definition. Specifically, the Secretaries shall report on the effects of maintaining 2 size standards under section 493(B)(ii) and (iii).

SEC. 496. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 497. SAVINGS CLAUSE.

Nothing in this title, or regulations issued under this title, shall be construed to abrogate or affect any timber sale contract entered into before the effective date of this title.

SEC. 498. EASTERN HARDWOODS STUDY.

(a) STUDY.—The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridian. In order to carry out the provisions of this section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture, and shall take such steps as each Secretary considers appropriate to ensure that such markings are not altered or destroyed before manufacturing.

(b) REPORT TO CONGRESS.—Not later than April 1, 1993, the Secretary of Commerce shall submit to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the volume and value of unprocessed timber grown and harvested from Federal lands or public lands east of the 100th meridian that is exported from the United States during the 2-year period beginning on January 1, 1991, the country to which such timber is exported, and the State in which such timber was grown and harvested.

SEC. 499. AUTHORITY OF EXPORT ADMINISTRATION ACT OF 1979.

Nothing in this title shall be contrued to—

(1) prejudice the outcome of pending or prospective petitions filed under, or

(2) warrant the exercise of the authority contained in,

section 7 of the Export Administration Act of 1979 with respect to the export of unprocessed timber.

And the House agree to the same.

From the Committee on Ways and Means, for consideration of the House amendment to the Senate amendment, and the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
TOM DOWNEY,
DONALD J. PEASE,
MARTY RUSSO,
FRANK J. GUARINI,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,
BILL FRENZEL,

As additional conferees, solely for consideration of title II of the House amendment to the Senate amendment, and for title II of the Senate amendment, and modifications committed to conference:

J.J. PICKLE,
RICHARD T. SCHULZE,

From the Committee on Agriculture, for consideration of title VI and VII of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
HAROLD L. VOLKMER,
GEORGE E. BROWN, Jr.,
JIM OLIN,
RICHARD STALLINGS,
SID MORRISON,
ROBERT F. SMITH,
WALLY HERGER,

From the Committee on Interior and Insular Affairs, for consideration of title VI and VII of the Senate amendment, and modifications committed to conference:

MO UDALL,
BRUCE F. VENTO,
PAT WILLIAMS,
PETER DEFAZIO,
J. MCDERMOTT,
DON YOUNG,
LARRY E. CRAIG,
DENNY SMITH,

From the Committee on Foreign Affairs, for consideration of titles VI and VII of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
HOWARD WOLPE
SAM GEJDENSON,
PETER H. KOSTMAYER,
EDWARD F. FEIGHAN,
WM. BROOMFIELD,
TOBY ROTH,
JOHN MILLER,

Managers on the Part of the House.

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
BOB PACKWOOD,
BOB DOLE,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1594) to make miscellaneous and technical changes to various trade laws, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, con-

forming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

H.R. 1594, AS AMENDED

Short title and table of contents (section 1 of House bill; section 1 of conference agreement)

Present Law

No provision.

House Bill

This Act may be cited as the "Customs and Trade Act of 1990."

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TITLE I—TRADE AGENCY AUTHORIZATIONS, CUSTOMS USER FEES, AND OTHER PROVISIONS

SUBTITLE A—TRADE AGENCY AUTHORIZATIONS FOR FISCAL YEARS 1991 AND 1992

United States International Trade Commission (section 101 of House bill; section 3002 of Senate amendment; section 101 of conference agreement)

Present Law

Section 2 of Public Law 101-207, which was enacted subsequent to the appropriation Act, authorized appropriations of $39,943,000 for FY 1990 to the U.S. International Trade Commission (ITC). The FY 1990 appropriation to the ITC (Public Law 101-162, enacted November 21, 1989) is $38,477,000 ($39,000,000 less Gramm/Rudman sequestration).

House Bill

Section 101 amends section 330(e)(2) of the Tariff Act of 1930 to provide an authorization of appropriations of $41,170,000 for FY 1991 and $44,052,000 for FY 1992. Of the amounts authorized, not more than $2,500 may be used for reception and entertainment expenses, subject to the approval of the Chairman.

Senate Amendment

Section 3002 provides an authorization of appropriations of $42,430,000 for FY 1991 and $46,673,000 for FY 1992. Identical provision regarding reception and entertainment expenses.

Conference Agreement

The Senate recedes.

United States Customs Service (section 102 of House bill; section 3003 of Senate amendment; section 102 of conference agreement)

Present Law

The FY 1990 Customs authorization (Public Law 101-207), enacted subsequent to the Treasury Department appropriation, authorized $1,075,290,000 for salaries and expenses and $128,128,000 for operations and maintenance of the Air Interdiction Program. For noncommercial operations, the Act authorized $440,504,000; for commercial operations, $615,247,000 was authorized.

The FY 1990 Treasury Appropriation Act (Public Law 101-136) appropriated $1,059,634,000 for Customs salaries and expenses and $196,728,000 for Air Interdiction. The FY 1990 Department of Transportation Appropriation Act (Public Law 101-164) provided supplemental emergency drug funding to Customs in the amount of $18 million for salaries and expenses, thereby bringing the total appropriated amount to $1,077,600,000. For Air Interdiction, the Act provided an additional $35.8 million, for a total appropriated level of $232.5 million for operations and maintenance.

Due to sequestration absorptions and transfers, the total budget authority available for the current fiscal year for salaries and expenses is $1,065,090,000 and 16,663 FTE positions. For Air Interdiction operations and maintenance, the adjusted total is $230,528,000.

House Bill

Section 102 amends section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 to authorize appropriations for FY 1991 for salaries and expenses incurred in noncommercial (enforcement) operations in an amount not to exceed $510,551,000. Section 102(b) also authorizes an appropriation from the Customs User Fee Account for Customs commercial operations in an amount not less than $672,397,000 for FY 1991. For operations and maintenance of the Air Interdiction Program, subsection (b) authorizes $143,047,000.

For FY 1992, section 102 authorizes the following amounts for salaries and expenses: a maximum of $536,079,000 for noncommercial operations and a minimum of $706,017,000 for commercial operations. For Air Interdiction operations and maintenance in FY 1992, $150,199,000 is authorized.

Senate Amendment

Section 3003 provides an authorization of appropriations for salaries and expenses incurred in noncommercial operations of $521,882,000 in FY 1991.

The authorization of appropriations from the Customs User Fee account for Customs commercial operations is $671,645,000 for FY 1991. For operations and maintenance of the Air Interdiction Program, the section authorizes $143,047,000, the same as the House bill.

For FY 1992, section 3003 authorizes the following amounts for salaries and expenses: $547,958,000 for noncommercial operations and $705,569,000 for commercial operations. For Air Interdiction operations and maintenance in FY 1992, $163,047,000 is authorized.

Conference Agreement

The conferees agree to merge the House and Senate provisions in the following manner: provide a statutory funding floor for commercial operations and a ceiling on noncommercial (enforcement) operations; authorize appropriations of no more than $516,217,000 in fiscal year 1991 and no more than $542,019,000 in fiscal year 1992 for salaries and expenses incurred in noncommercial operations; authorize appropriations of no less than $672,021,000 in fiscal year 1991 and no less than $705,793,000 for fiscal year 1992 for salaries and expenses incurred in commercial operations. The authorized appropriations for commercial operations are from the User Fee Account, except that for salaries and expenses incurred in processing merchandise exempt from the user fee, amounts are appropriated from the general fund. For operations and maintenance of the Air Interdiction program, House and Senate provisions for the fiscal year 1991 authorization of appropriations are identical at $143,047,000. For fiscal year 1992 the Senate recedes to the House authorization of $150,199,000.

Office of the United States Trade Representative (section 103 of House bill; section 3001 of Senate amendment; section 103 of conference agreement)

Present Law

Section 141(g)(1) of the Trade Act of 1974 authorizes an annual appropriation to the Office of the U.S. Trade Representative (USTR). Public Law 101-207, enacted subsequent to the appropriation Act, authorizes total appropriations to the USTR for FY 1990 of $19,651,000. An additional $1,492,000 was authorized separately as an amendment to section 406(b)(1) of the United States-Canada Free-Trade Agreement (FTA) Implementation Act of 1988 to fund the U.S. share of expenses for Chapter 19 binational review panels under the FTA. The combined authorization for USTR for FY 1990 was $21,143,000.

The total appropriation to the USTR for FY 1990 (Public Law 101-162) is $17,778,000 ($18,000,000 less Gramm/Rudman sequestration), of which a maximum $89,000 is available for official reception and representation expenses and $1,000,000 shall remain available until expended. The total appropriation includes $1,000,000 to cover estimated expenses of Chapter 19 panels under the U.S.-Canada FTA.

House Bill

Section 103 amends section 141(g)(1) of the Trade Act of 1974 to provide a two-year authorization of appropriations to the USTR totaling $23,250,000 for FY 1991 and $21,077,000 for FY 1992. Of these amounts, not to exceed $98,000 is available in each of the two fiscal years for entertainment and representation expenses and $1,000,000 in each year shall remain available until expended. The total authorization for each of fiscal years 1991 and 1992 includes $2,050,000 to cover the U.S. share of estimated expenses of Chapter 19 binational review panels under the U.S.-Canada FTA.

Senate Amendment

Section 3001 authorizes the same total appropriation to USTR as the House bill. However, it amends the 1974 Trade Act and the U.S.-Canada FTA Implementation Act to divide the authorization as follows: FY 1991—$21,200,000 for USTR functions and $2,050,000 for U.S.-Canada FTA expenses; and FY 1992—$19,027,000 for USTR functions and $2,050,000 for U.S.-Canada FTA expenses.

Conference Agreement

The Senate recedes on the inclusion of the total authorization levels in section 141(g) of the Trade Act of 1974, with an amendment to specify under section 141(g) that the total amounts authorized for each of fiscal years 1991 and 1992 include not to exceed $2,050,000 that may be used to pay the U.S. share of expenses for Chapter 19 binational reviews under the U.S.-Canada FTA.

The House recedes on amending section 406(b) of the U.S.-Canada Free Trade Agreement Implementation Act, with an amendment to authorize USTR to transfer to any administering department or agency such sums as may be necessary from appropriations authorized under section 141(g) of the Trade Act to pay for Chapter 19 binational review expenses.

SUBTITLE B—CUSTOMS USER FEES

Customs user fees (section 111 of House bill; section 4002 of Senate amendment; section 111 of conference agreement)

Present Law

Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, as amended in 1986 and 1987, requires the Secretary of the Treasury to collect a customs user fee from the importer of record to cover the costs of processing dutiable or duty-free merchandise formally entered or withdrawn from warehouse for consumption. For entries on or after October 1, 1987, the fee is the lesser of 0.17 percent ad valorem, or an ad valorem rate the Secretary estimates will provide an amount of revenue during the fiscal year equal to the total authorization of appropriations for conducting Customs Service commercial operations reduced by any excess of the total amount authorized over the total amount actually appropriated, except that if appropriations are not authorized for the fiscal year, the fee shall be 0.17 percent ad valorem. The current fee level is 0.17 percent ad valorem.

Exempted from application of the fee are products of Caribbean Basin Initiative beneficiary countries, of U.S. insular possessions, and entries under chapter 98 of the Harmonized Tariff Schedule (except for foreign value included in products assembled abroad from U.S. components or materials or in U.S. articles returned after repair or alteration abroad). Until the enactment of the Harmonized Tariff System in the 1988 Trade Act, products of least developed developing countries were also exempt, at which time they were inadvertently made subject to such fees. In addition, in compliance with the U.S.-Canada Free-Trade Agreement, such fees on goods of Canadian origin are to be phased out and eliminated by January 1, 1994.

Receipts from the fees are deposited into a dedicated "Customs User Fee Account" within the general fund of the Treasury, with one sub-account consisting of the receipts from the merchandise processing fee and a second sub-account consisting of the receipts from the vehicle and passenger fees. Subject to authorization and appropriations, all funds in the Account are available to pay the costs incurred by the Customs Service in conducting commercial operations and are treated as receipts offsetting expenditures of salaries and expenses for these purposes, except for that portion of the fees that is required for the direct reimbursement of appropriations for costs incurred by the Customs Service in providing inspectional overtime and preclearance services.

House Bill

Section 111 revises user fee authority for processing merchandise entries as a one-year interim measure pending a six-month study by the General Accounting Office (GAO) of the costs of Customs commercial operations. For fiscal year 1990, the user fee on any formal merchandise entry is 0.17 percent ad valorem or $575, whichever is less. These levels could be adjusted as under current law to reflect actual amounts appropriated for commercial operations. No fee is applicable to informal entries.

Costs of air passenger processing, export controls, and international affairs activities are not included in calculating the interim fee for commercial services to individual importers.

There is no change in the exemptions from fee application (except for the potential exemption of Israel the restoration of the exemption for least developed developing countries (LDDC's)), but the costs of processing such entries are funded from general revenues rather than from receipts in the Customs User Fee Account collected on other entries.

Senate Amendment

Section 4002 revises user fee authority for processing merchandise entries during FY 1991, although there is no provision for the GAO study. For FY 1991, the user fee on formal entries is the lesser of 0.17 percent ad valorem or $550 on automated entries ($553 on manual entries). Such entries are subject to a minimum fee of $20 on automated entries ($23 on manual entries). These levels are not subject to adjustment. No fee is applicable to informal entries. Articles excluded from the calculation of the fee and the exemptions from fee application are identical in substance to the House provision (except for no potential exemption of Israel and the restoration of the exemption for the LDDC's).

Conference Agreement

The conference agreement replaces the current fee with a new fee structure that is intended to bring the United States into conformance with the General Agreement on Tariffs and Trade (GATT). The conferees have spent considerable time and effort ensuring that this new fee structure conforms to the international obligations of the United States under that agreement.

The fee is being amended in response to a GATT panel ruling that the current fee structure is not consistent with GATT Article VIII. The findings and recommendations of that panel were adopted by the GATT Contracting Parties, including the United States, in February 1988.

In making its determination, the GATT panel recognized that the application of a customs user fee is, in principle, permitted under the GATT. However, the panel ruled that certain aspects of the U.S. merchandise processing fee were inconsistent with the United States' GATT obligations. In particular, the panel ruled that the across-the-board ad valorem nature of the U.S. fee schedule did not meet Article VIII's requirement that such charges, if not import duties or domestic taxes, must be limited in amount to the approximate cost of the services rendered. In addition, the panel ruled that the fee had been set at a level that offset the cost of Customs operations not directly related to merchandise import processing and the cost of the processing of imports excluded from the fee. The panel also noted that, in some years, revenues collected exceeded the total cost of the commercial Customs Service operations.

The new fee schedule is structured to respond to this ruling and to bring the U.S. into conformity with its GATT obligations. As required by the relevant provisions of Articles II and VIII of the GATT, the new fee schedule limits the fees charged to the approximate cost of the services rendered. It also limits the fee to Customs operations related to merchandise processing and to the processing of imports covered by the fee. Fee revenues also are established so as to approximate the cost of the commercial Customs services. As a result, the new fee schedule represents the type of fee permitted under GATT Article VIII. It does not represent an indirect protection to domestic products nor does it represent a taxation of imports for domestic purposes.

For each formal entry, the new fee schedule imposes an ad valorem fee of 0.17 percent, subject to a maximum fee of $400 and a minimum fee of $21. All entries would be subject to an additional $3 surcharge if filed manually. Specific provisions prevent entry consolidation.

The maximum and minimum fee levels ensure that imports of very high or very low value items, which might not differ substantially in the cost of import processing, do not pay unduly different import fees. The maximum and minimum levels eliminate the excess collections on high value entries associated with the current across-the-board ad valorem fee. As a result, it also avoids the subsidization of low-value entries.

Other features of this fee have been introduced to ensure that the fee more accurately reflects actual processing costs. The $3 surcharge reflects the greater expense to the Customs Service in processing entries manually rather than through automated methods. Similarly, the prevention of consolidation helps prevent the avoidance of fee payment, which can lead to less accurate assessments of processing costs. As a result, the formal fee schedule as closely as feasible approximates the cost of processing individual transactions. It reflects the intent of the conferees to make the fee structure as equitable and predictable as possible, and sufficiently easy to administer that the fee does not become, in itself, a barrier to trade.

The conference agreement also establishes fees on informal entries, which are not covered under the current merchandise processing fee. The agreement establishes a flat fee schedule with three categories: 1) $2 for automated, non-Customs-prepared informal entries; 2) $5 for manual, non-Customs-prepared informal entries; and 3) $8 for Customs-prepared informal entries. In lieu of these informal fees, air courier facilities and other reimbursable facilities would be subject to a reimbursement for Customs' processing costs to be collected at a rate of twice the assessment currently applied at courier hubs. Also, the courier industry's current 80 percent offset would be eliminated.

This expansion of the current fee to cover informal entries reflects the recognition of the conferees that all entries cost money to process. However, it also takes into account that in general informal entries are the least time-consuming and least costly category of entries processed by Customs. It attempts to reflect as closely as possible and practicable the differences in costs to process entries that are not custom-prepared, and to ensure that prior reimbursements are taken into account. It also retains the $3 differential, contained in the formal fee structure, between the charges imposed on manual versus automated entries. The conferees believe that the informal fee schedule as closely as feasible approximates the cost of processing individual transactions.

The conference agreement also includes several other features that are intended to meet U.S. obligations under the GATT. The conference agreement explicitly states that those operations identified by the GATT panel as inappropriate (e.g., activities associated with passenger processing, export controls and international affairs) are not funded out of the merchandise processing fee. The agreement also specifies that fees may in no case be used to offset the cost of processing imports excluded from the fee. Similarly, application of the fee to Canadian trade will continue to be phased out (in accordance with the U.S.-Canada Free-Trade Agreement), and the USTR may ne-

gotiate similar treatment for Israel, but in neither case can merchandise processing fees be charged to offset the relevant costs. These changes further help ensure that revenues collected from the merchandise processing fee will not exceed the anticipated cost of covered commercial services.

With respect to entries at ports along the northern border of the U.S. prior to the full implementation of Customs' cargo selectivity system, the conference agreement provides that the applicable fees shall be imposed at the automated rate. The conference agreement also restores the fee exemption for LDDC's.

Treatment of railroad cars (section 4002(e) of Senate amendment; section 111(b)(1)(B) of conference agreement)

Present Law

Current practice of the Customs Service currently is to impose the COBRA fee on each railroad car arriving at a port of entry in the United States. Exempted from that fee are railroad cars which are "in transit" (e.g., those that are parts of trains that originated in the United States, crossed over into Canada, and returned to the United States).

Customs recently announced its intention to collect the fee on all cars in a train, whether or not cargo has been loaded or unloaded, if any car is added or dropped off the train, if a locomotive is switched out, or if the train is redesignated for purposes of railroad operations.

House Bill

No provision.

Senate Amendment

Section 4002(e) provides that the COBRA fee shall not be imposed on the arrival of any railroad car, when the journey of the car originates and terminates in the same country and if no passengers board or disembark from the train and no cargo is loaded or unloaded from the car while the car is outside the country of origination or destination.

Conference Agreement

The House recedes, with an amendment to apply the provision retroactively to July 7, 1986.

Agricultural products processed and packed in foreign trade zones (section 4002(a)(2)(D) of Senate amendment; section 111(b)(2)(D)(v) of conference agreement)

Present Law

As a result of a 1988 Customs ruling, the practice of the Customs Service is to assess the merchandise processing fee against the entire value of articles packed in non-reusable containers, whether of foreign or domestic origin, which are formally entered into U.S. Customs territory from a foreign trade zone.

House Bill

No provision.

Senate Amendment

Section 4002(a)(2)(D) provides that, in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, the user fee should be applied solely to the value of material used to make the container for the merchandise, if it is subject to entry and the container is of a kind normally used for packing such merchandise.

Conference Agreement

The House recedes.

Disposition of surplus fees (section 4002(b) of Senate amendment; section 111(c) of conference agreement)

Present Law

Section 13031(a) of the COBRA establishes a schedule of flat-rate user fees (the "COBRA fees") on various conveyances and air passengers arriving from abroad and on dutiable mail and customs broker permits. The fees are paid into a dedicated account and used to pay the costs of Customs' overtime inspectional services and preclearance operations.

Under present law, any surplus from the fee (i.e., the amount beyond the funds needed to pay the costs of services and preclearance operations) is deposited in a user fee fund.

House Bill

No provision.

Senate Amendment

Section 4002(b) authorizes the Commissioner of Customs to use any surplus from the fee to hire full- and part-time personnel, buy equipment, or satisfy other direct expenses necessary to provide service directly to the payers of the fee. The amendment also provides that $30 million of such surplus shall be reserved to maintain staffing levels equal to those existing in the prior year in the event Customs collections are reduced due to an economic downturn or other causes.

Conference Agreement

The House recedes, with an amendment to require administrative apportionment of any additional spending on full and part-time personnel and equipment beyond the direct costs of Customs' overtime inspectional services and preclearance operations.

This overall provision is intended to address the ongoing problem where Customs has delayed or not approved landing rights for new or expanded international flights already approved by the Transportation and State Departments. The conferees intend that the additional funds authorized for increased full and part time staff and equipment be used to alleviate this problem, so that the lack of Customs staffing resources is no longer a factor in approving new or expanding international service.

The provision requiring administrative apportionment reflects the view of the conferees that there should be sufficient controls over budget and accounting processes of the Customs Service. The intent of the apportionment requirement is to ensure that there are adequate administrative controls and scrutiny over the newly authorized spending activities.

Enforcement authority (section 112 of House bill; section 111(d) of conference agreement)

Present Law

No provision.

House Bill

Section 112 applies all administrative and enforcement provisions of customs laws and regulations (except those relating to drawback and except to the extent otherwise provided in regulations) to any customs user fee imposed under section 13031(a) (i.e., fees on passengers, vehicles, or merchandise) and to persons liable for such fees, as if the fee is a customs duty. Any penalty expressed in terms of a relationship to the amount of the duty will be treated as not less than the amount bearing a similar relationship to the amount of user fee assessed. Any customs user fee would also be treated like a customs duty for purposes of determining the jurisdiction of any U.S. court or agency. This enforcement authority would apply to both the existing and interim fees with respect to merchandise.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Extension of customs user fee program (section 115 of House bill; section 4002(c) of Senate amendment; section 111(e) of conference agreement)

Present Law

The authority under section 13031(a) of the COBRA to impose customs user fees for the processing of either passengers and vehicles or merchandise terminates on September 30, 1990.

House Bill

Section 115 amends section 13031(j)(3) of the COBRA to extend the passenger and vehicle fees for one year until September 30, 1991. The amended merchandise processing fee expires on September 30, 1990.

Senate Amendment

Section 4002(c) extends the amended merchandise processing fees for one year through FY 1991, and extends the passenger and vehicle fees for 15 years through FY 2005.

Conference Agreement

The House recedes, with an amendment to extend both the merchandise processing fee and the passenger and vehicle fees for one year, through FY 1991.

Entries under temporary monthly entry programs (section 4002(d) of Senate amendment; section 111(f) of conference agreement)

Present Law

The Customs Service operates a monthly entry program under which importers of certain entries are permitted to file entry summaries on a monthly basis as opposed to the normal 10-day basis. The program was established for the purpose of improving entry processing.

House Bill

No provision.

Senate Amendment

Section 4002(d) provides that for entries under monthly entry programs established by Customs prior to July 1, 1989, for the purpose of improving entry processing, the user fee is to be applied on the aggregate value (up to the fee cap) of each day's importations at each port of entry by each importer from the same exporter. These fees are to be paid with each monthly consumption entry, with interest accruing in accordance with section 6621 of the Internal Revenue Code of 1986.

Conference Agreement

The House recedes.

Exemption of Israeli products from user fees (section 113 of House bill; section 112 of conference agreement)

Present Law

Products of Israel are subject to the customs user fee.

House Bill

Section 113 exempts products of Israel from the existing and interim commercial processing fee if the U.S. Trade Representative determines that the Government of Israel has provided reciprocal concessions in

exchange for the exemption. The exemption would apply to any product of Israel entered, or withdrawn from warehouse for consumption, on or after the 15th day after the determination is published in the Federal Register, but not before October 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with an amendment to make October 1, 1990, the earliest effective date for implementation of any changes with respect to the user fee applicable to products of Israel.

Customs Service administration (section 114 of House bill; section 113 of conference agreement)

Present Law

No provision.

House Bill

Section 114 requires the Comptroller General of the United States to report, within 180 days after the effective date of this section, to the House Committee on Ways and Means and the Senate Committee on Finance on the costs incurred by the Customs Service in conducting commercial operations and on appropriate fees to be charged to service beneficiaries.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with an amendment to require the Customs Service to provide to the Committees more complete information on merchandise processing costs and how the merchandise processing fee is calculated. The amendment requires changes to Customs' cost accounting systems, new labor distribution surveys, annual fee re-calculations and a detailed explanation of the cost base and methodology used to compute the fee.

GAO report on entries by mail (section 114 of conference agreement)

The conference agreement includes a provision directing the General Accounting Office (GAO) to study and report to the House Committee on Ways and Means and the Senate Committee on Finance on the extent to which fees are being collected on entries by mail. The GAO report is due eight (8) months after date of enactment of this Act. This provision results from the conferees' concern over reports that the Postal Service may not be collecting all charges, including duties, on mail imports, thereby placing at a disadvantage one segment of the importing community.

Effective date (section 116 of House bill; section 4002(f) of Senate amendment; section 115 of conference agreement)

Present Law

No provision.

House Bill

All provisions on customs user fees take effect on October 1, 1989, except section 113 (Israel exemption) takes effect on date of enactment.

Senate Amendment

All provisions on customs user fees take effect on October 1, 1990.

Conference Agreement

The House recedes, with an amendment to make section 111(b)(1)(B) (relating to railroad cars) and section 111(d) (relating to enforcement authority) effective on date of enactment of the Act. All other provisions would take effect on October 1, 1990.

SUBTITLE C—MISCELLANEOUS CUSTOMS PROVISIONS

Customs forfeiture fund (section 121 of House bill; section 121 of conference agreement)

Present Law

The Anti-Drug Abuse Act of 1988 (19 U.S.C. 1613b(e)) requires an annual report to Congress by the Commissioner of Customs on the financial and management status of the Customs Forfeiture Fund.

Section 616(c) of the Tariff Act of 1930 authorizes Customs to share forfeited seized property with State and local law enforcement agencies, the Civil Air Patrol, and, under certain conditions, foreign governments, which participated in Customs law enforcement activities. However, sharing of forfeited seized cash or the proceeds of sales of forfeited seized property from the Fund is not specifically authorized (19 U.S.C. 1613b).

The 1988 Drug Act also authorized an appropriation of up to $20 million from the Customs Forfeiture Fund for each fiscal year to carry out the discretionary purposes of the Fund. A permanent authorization for nondiscretionary costs of processing forfeiture was included. At the end of each fiscal year, any unobligated amount above $15 million will be deposited into the general fund.

House Bill

Section 121 requires the Customs Forfeiture Fund Annual Report to include a complete set of audited financial statements for the previous fiscal year consistent with the requirements of the Comptroller General.

Section 121 also requires Customs to deposit all forfeited cash into the Fund, and provides the necessary authority for associated asset sharing payments involving forfeited cash and the proceeds of sales of forfeited seized property to be made from the Fund.

Section 121 authorizes $20 million for discretionary purposes of the Fund, of which $14,855,000 for FY 1991 and $15,598,000 for FY 1992 are available to the Customs Service.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Increase in value subject to administrative forfeiture; processing of money seized under the customs laws (section 122 of House bill; section 122 of conference agreement)

Present Law

Section 607(a) of the Tariff Act of 1930 requires that seized conveyances, merchandise, or baggage over $100,000 in value must be forfeited under a judicial process, rather than through an administrative process within the applicable law enforcement agency. This provision applies to forfeiture proceedings of the U.S. Customs Service, as well as the Drug Enforcement Administration, the Immigration and Naturalization Service, and the Federal Bureau of Investigation. There is no value limit on conveyances that contain illegal drugs. The provision does not apply to real property cases.

Section 607(a) also requires that all cash seizure cases over $100,000 in value must be forfeited under a judicial process, rather than through an administrative process within the Customs Service.

House Bill

Section 122 increases from $100,000 to $500,000 the value of seized conveyances, merchandise, or baggage subject to summary (administrative) forfeiture proceedings in uncontested cases. Section 122 also removes the $100,000 limit on administrative forfeiture proceedings in uncontested cash seizure cases. The Customs Service is required to report to Congress annually on delays in processing uncontested cash cases over 120 days.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Annual national trade and customs law violation estimates and enforcement strategy (section 123 of House bill; section 123 of conference agreement)

Present Law

No provision.

House Bill

Section 123(a) requires the Customs Service to submit annually to the House Committee on Ways and Means and Senate Committee on Finance a report estimating, for the coming fiscal year and each fiscal year thereafter, the likelihood of violations of trade, customs, and illegal drug laws enforced by Customs, and the relative threat of these violations among Customs ports and regions. The Commissioner of Customs is directed to compile a list of applicable statutes in consultation with the Committees. Under section 123(c), the Commissioner is directed to develop and submit to the Committees a nationally uniform enforcement strategy based on the threat assessment. The required reports are confidential and restricted to designated employees of Customs and the Committees.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Reports regarding expansion of customs preclearance operations and recovery for damage resulting from customs examinations (section 124 of House bill; section 124 of conference agreement)

Present Law

There are no reporting requirements regarding Customs foreign preclearance operations or recourse to importers for damaged imported merchandise under present law. Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) does provide statutory authority for customs inspections and preclearance operations in foreign countries.

The Federal Tort Claims Act, 28 U.S.C. 1346(b), provides that the United States shall be liable for injury or loss of property caused by negligent or wrongful acts or omissions of any employee. However, 28 U.S.C. 2680(c), exempts any claims against the United States which arise from "the detention of any goods or merchandise by an officer of customs." This provision has been interpreted by the Supreme Court to exempt not only damage caused by the detention of goods, but also any damage caused by Customs officers during the period of detention. The Small Claims Act, 31 U.S.C. 3723, authorizes agencies to make discretionary settlements of $1,000 or less for loss of privately owned property damaged through the negligence of an employee of the United States.

House Bill

Section 124(a) requires the Secretary of the Treasury, in consultation with the Secretary of State, to study the feasibility of expanding U.S. Customs preclearance operations to additional foreign airports and report to the House Committee on Ways and Means and Senate Committee on Finance by February 1, 1991.

Section 124(b) requires the Secretary of the Treasury, in consultation with the Attorney General, to develop legal proposals to compensate importers for damages to merchandise damaged during customs inspection. A report with legislative recommendations must be submitted to the Committees by February 1, 1991. Section 124 also requires the Commissioner of Customs to annually provide merchandise damage statistics to the Committees.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Treatment of Czechoslovakia and East Germany under the Generalized System of Preferences (section 125 of House bill; section 131 of conference agreement)

Present Law

Title V of the Trade Act of 1974 authorizes the President to designate developing countries as beneficiaries of preferential duty-free treatment on eligible articles under the Generalized System of Preferences (GSP) program, subject to certain specific statutory criteria. Section 502(b) prohibits the President from designating a specific list of countries as GSP beneficiaries. Czechoslovakia and East Germany are the only East European countries remaining on this statutory exclusion list.

House Bill

Section 125 amends section 502(b) of the Trade Act of 1974 to remove Czechoslovakia and East Germany from the statutory exclusion list. Section 125 does not amend any of the criteria under present law that the President must determine are met or take into account before designating either country as a GSP beneficiary.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Technical amendments regarding nondiscriminatory trade treatment (section 127 of House bill; section 4001 of Senate amendment; section 132 of conference agreement)

Present Law

Title IV of the Trade Act of 1974—the so-called Jackson-Vanik amendment—sets forth three specific freedom of emigration requirements which must be met, or waived by the President, and minimum provisions which must be included in a bilateral commercial agreement in order for the President to grant most-favored-nation (MFN) trade status to a nonmarket economy country.

Sections 405(c) and 407(c) provide that a trade agreement and the Presidential proclamation granting MFN treatment shall take effect only after adoption by the House and Senate of a concurrent resolution of approval under the fast-track implementing-procedures of section 151. (House and Senate rules provide a maximum of 90 legislative days for adoption of a concurrent resolution.)

Annual Presidential recommendations under section 402(d)(5) for a 12-month extension of authority to waive Jackson-Vanik freedom of emigration requirements (either generally or for specific countries) are subject to a resolution of disapproval by either the House or the Senate, adopted under the fast-track procedures of section 153 within 60 calendar days after expiration of the previous waiver extension. (Recommendations must be submitted at least 30 calendar days prior to expiration of the waiverauthority).

Presidential reports submitted by December 31 of each year under section 407(c) regarding a country's compliance with the Jackson-Vanik freedom of emigration requirements are subject to a resolution of disapproval by either the House or the Senate, adopted under the fast-track procedures of section 152 within 90 legislative days. (Presidential reports must be submitted by June 30 and December 31 each year for countries the President determines to be meeting the Jackson-Vanik freedom of emigration requirements. However, only those reports submitted pursuant to the December 31 deadline are subject to Congressional disapproval.)

House Bill

Section 127 amends sections 402(d)(5), 405(c), and 407(c) to provide for the use of a joint resolution of approval of trade agreements; and a joint resolution of disapproval of Presidential waivers or reports with respect to the Jackson-Vanik freedom of emigration requirements. Section 127 also removes from Title IV certain provisions which have expired and makes conforming amendments in sections 151-153 with respect to the form of resolutions and the elimination of expired provisions. No changes are made in the 60 or 90 day periods or in the rules and procedures for Congressional consideration of resolutions.

Senate Amendment

Section 4001 contains the same provisions as the House bill, except the Senate amendment extends the time periods for Congressional consideration of resolutions as follows: (1) for resolutions disapproving a Presidential waiver of the Jackson-Vanik freedom of emigration requirements, the time period is extended from 60 to 105 calendar days; and (2) for resolutions disapproving a Presidential determination that a country is in compliance with the Jackson-Vanik freedom of emigration requirements, the time period is extended from 90 to 135 legislative days.

Conference Agreement

The Senate recedes, with an amendment to clarify that the "fast-track" procedures of section 153 of the Trade Act of 1974 are triggered by the introduction of a resolution of disapproval on or after the date that the President recommends to Congress that the waiver authority be extended. Because a Presidential recommendation must be made at least 30 calendar days before the previous year's waiver authority expires (i.e. by no later than June 3); and because Congress has up to 60 calendar days following the expiration of that waiver authority to pass a resolution (i.e., by no later than September 3); in effect, Congress has 90 calendar days in which to pass a resolution disapproving a Jackson-Vanik waiver. The conferees also agreed to provide an additional 15 legislative days for Congressional consideration of any veto message relating to a resolution of disapproval (of waiver extensions or compliance reports). The 15-day period is calculated in accordance with section 154 of the Trade Act of 1974 and begins on the date on which the veto message is received by the Congress. Most-favored-nation treatment of the products of a country will terminate 60 calendar days after enactment of a resolution disapproving a Presidential waiver or compliance report, rather than terminating on the date such a resolution is adopted, as under current law.

The conferees also agreed to the following technical and clarifying amendments with respect to the procedures for consideration of disapproval resolutions:

(i) An amendment to House rules under section 152(c) providing that a Member may make a motion to discharge the Committee on Ways and Means from further consideration of a resolution of disapproval only on the second legislative day after the calendar day on which the Member announces to the House the intention to make the motion. This rule will give all Members advance notice of a date certain on which the motion will be made.

(ii) An amendment to Senate rules under section 152 providing necessary procedures to assure that final action in the Senate on any resolution of disapproval occurs with respect to the House-passed measure. This provision is necessary since resolutions of disapproval are revenue measures and, therefore, must originate in the House.

(iii) A clarification of Senate rules providing that the procedures set forth in section 153 apply to consideration of any conference report or veto message relating to resolutions disapproving Presidential waivers; and that the procedures set forth in section 152 apply to consideration of any conference report or veto message relating to resolutions disapproving Presidential compliance reports. Normal House rules will continue to apply to consideration of conference reports and veto messages in the House.

Finally, the conferees agreed to a temporary "transition rule" for consideration in 1990 of resolutions disapproving extension of the Jackson-Vanik waiver authority through July 3, 1991. Under this amendment, the fast-track procedures of section 153 apply for a 60-calendar-day period beginning on the date of enactment of this Act with respect to such resolutions of disapproval introduced on or after the date of enactment of this Act.

Competitiveness Policy Council (section 4006 of Senate amendment; section 133 of conference agreement)

Present Law

The Competitiveness Policy Council was established by the Omnibus Trade and Competitiveness Act of 1988 as a high-level advisory committee to the President and the Congress on issues of competitiveness policy. It was authorized for FY 1989 and FY 1990. Members of the Council are to be paid for their service.

House Bill

No provision.

Senate Amendment

Section 4006 reauthorizes the Council for FY 1991 and FY 1992. It also eliminates the compensation provision for members and makes certain other technical changes to the law.

Conference Agreement

The House recedes, with an amendment to change the deadline for appointment of ini-

tial members from no later than June 1, 1990, to 30 days after the date of enactment of the Act. The conferees agreed to extend the authorization for the Competitiveness Policy Council because, to date, the President has not appointed the members of the Council.

Technical amendments relating to the United States-Canada Free-Trade Agreement (section 4007(c) of Senate amendment; section 134 of conference agreement)

Present Law

The U.S.-Canada Free Trade Agreement (FTA) Implementation Act makes necessary changes to U.S. law to implement the U.S.-Canada FTA. Included in that Act are amendments to section 313 of the Tariff Act of 1930 (relating to drawback) and to the antidumping (AD) and countervailing duty (CVD) laws. The purpose of the amendments relating to drawback is to implement the FTA's provision eliminating drawback on most articles between the United States and Canada. The amendments relating to the antidumping and countervailing duty laws implement the provisions of Chapter 19 of the FTA which provide for review of antidumping and countervailing duty determinations by binational panels.

(i) Section 204(c)(3)

Section 204(c)(3) added subsection (n) to section 313 of the Tariff Act of 1930 to provide that on or after January 1, 1994, an article made from or substituted for a drawback-eligible good that is sent to Canada will not be considered to have been exported, the exact opposite of the intent of Article 404 of the FTA.

The Act does not contain a provision to implement Article 404(1) on the treatment of goods that are imported free of duty under bond for processing.

(ii) Sections 401 (a) and (c)

Section 516A(a)(5)(A) of the Tariff Act of 1930 presently provides that an interested party that was a party to an AD or CVD administrative proceeding may request binational panel review of a final AD or CVD determination in an investigation within 30 days after an AD duty order or a CVD order is issued.

Under section 516A of the Tariff Act, an interested party may state its intention to seek judicial review of a final AD or CVD determination made by International Trade Commission (ITC) within 20 days after a final determination or order. However, if another interested party or the Government of Canada makes a request for binational panel review within 30 days after the final determination or order, review would be conducted by a binational panel established under chapter 19 of the FTA. Present law does not address the situation of a flawed panel review request that deprives the panel of jurisdiction.

(iii) Section 403(c)

Section 777(d)(1)(A) of the Tariff Act of 1930 does not expressly authorize the release under protective order of privileged documents in an administrative record.

Under the present definition of "authorized persons," the only representatives of interested persons who may have access to business proprietary information under administrative protective order are counsel and their employees.

Section 777(d)(1)(B) provides for the release, under an administrative protective order, of business proprietary information contained in an administrative record to designated officers or employees of the U.S. Government for purposes of carrying out the FTA with respect to the panel proceeding.

Paragraphs (3) and (4) of section 777(d) of the Tariff Act of 1930 concern actions that are subject to sanction by the administering authority or ITC in the event of a violation of a protective order. These actions include a violation of a protective order (committed by a person to whom information has been released under the terms of a protective order) and an "inducement of a violation" (committed by a person who is not personally subject to the terms of a protective order).

(iv) Section 406(b)

The law is silent with regard to the directive in Annex 1901.2 of the Agreement that the United States and Canadian sections of the binational Secretariat established under chapter 19 of the Agreement would share the costs of convening binational panels.

(v) Section 408(c)

Section 408(c) provides that, when panel review of a final AD or CVD determination made by a Canadian administrative agency is commenced by the filing of a request with the U.S. section of the binational Secretariat, the U.S. Secretary serves the request on persons that would be entitled to participate in the panel review. To describe such persons, the statute draws an analogy to those who would have standing to appear in a judicial review of an equivalent determination made in the United States.

House Bill

No provision.

Senate Amendment

(i) Amendments to Section 204

The amendment correcting section 204(c)(3) provides that shipment to Canada of an article on or after January 1, 1994, except an article made from or substituted for a drawback-eligible good, does not constitute an exportation. The amendment adds an effective date of on or after January 1, 1994, to section 313(o) of the Tariff Act.

The amendment also adds a provision to Article 204 on the treatment of goods imported duty-free under bond for processing.

(ii) Amendment to Sections 401 (a) and (c)

The amendment alters the deadline for requesting binational panel review to within 30 days after issuance of the final determination.

The amendment permits an interested party to have its complaint heard by a domestic court in the event that a binational panel had dismissed the action for lack of jurisdiction. To take advantage of this provision, the interested party must file its intent to seek judicial review within 20 days after the final determination and must follow normal procedures for filing a summons and complaint within 30 days after the panel review is dismissed.

(iii) Amendment to Section 403(c)

The amendment deletes a provision that might be interpreted as prohibiting release of privileged documents under protective order and adds a provision expressly permitting the administering authority and the Commission to limit disclosure of such documents to persons under an extraordinary type of protective order.

The amendment extends the definition of "authorized persons" to include independent consultants and their employees who are retained by counsel to assist in representing interested persons during binational panel review, and to cover Canadian officials who have an equivalent need for access to such information. It also clarifies the purpose for which certain officers or employees of the United States Government would have access to business proprietary information.

The amendment adds to the sanctionable activities by the administering authority or ITC for breach of a protective order the receipt of business proprietary information when the recipient has reason to know that such information was disclosed in violation of an administrative protective order, (also committed by a person who is not personally subject to the terms of a protective order).

(iv) Amendment to Section 406(b)

The amendment provides the U.S. section of the binational Secretariat with an exception to the Miscellaneous Receipts Act for the limited purpose of using funds remitted by the Canadian section of the Secretariat to defray the expenses of binational panels under chapter 19 of the Agreement.

(v) Amendment to Section 408(c)

The amendment clarifies that the persons whom the U.S. Secretary would be required to serve are those who would be entitled to receive service under the binational panel rules of procedure relating to review of final AD or CVD determinations in Canada.

Conference Agreement

The House recedes with a technical amendment.

Treatment of certain information under administrative protective orders (section 4007 (a) and (b) of Senate amendment; section 135 of conference agreement)

a. Amendment to section 333 of the Tariff Act of 1930

Present Law

Section 337 of the Tariff Act of 1930 provides for relief against unfair methods of competition and unfair acts in the importation of articles into the United States or in their sale. The Omnibus Trade and Competitiveness Act of 1988 made various amendments to section 337.

House Bill

No provision.

Senate Amendment

Section 4007(a) makes the following changes relating to the administration of the 1988 Trade Act's amendments to section 337: (1) provides that any forfeited bond, posted by complainants as a prerequisite to temporary relief, shall go to the general fund of the Treasury Department; (2) provides that the ITC may delay issuing an exclusion or a cease or desist order until the end of an investigation; (3) provides that the ITC may issue default orders when the respondent fails to participate substantially in the investigation; and (4) authorizes the ITC to withhold from inquiries under the Freedom of Information Act files of investigations of violations of administrative protective orders.

Conference Agreement

The Senate recedes on (1) through (3). The House recedes on (4) with an amendment to amend section 333, rather than section 337, of the Tariff Act of 1930.

b. Amendments to antidumping and countervailing duty laws

Present Law

Section 777 of the Tariff Act of 1930 sets forth procedures for interested parties to obtain access to business proprietary information in investigations involving antidumping or countervailing duties. The Omnibus Trade and Competitiveness Act of 1988 amended section 777 to require, for the first time, that the ITC make such information available to interested parties under administrative protective order (APO), subject to certain exceptions.

House Bill

No provision.

Senate Amendment

Section 4007(b) makes the following changes relating to the administration of the 1988 Trade Act's amendments to section 777: (1) authorizes the administering authority (Department of Commerce) and the ITC to withhold customer names from release under APO; and (2) authorizes the administering authority and the ITC to withhold from inquiries under the Freedom of Information Act (FOIA) files of investigations of violations of APOs

Conference Agreement

The House recedes, with an amendment to authorize limited disclosure of customer names under administrative protective order (APO) and to apply the provision explicitly to investigations involving products of Canada.

The conference agreement includes the Senate provision on FOIA disclosure, and a modified version of the Senate provision on disclosure of customer names under APO. Specifically, the conference agreement prohibits disclosure by the administering authority (Department of Commerce), under APO, of customer names until either an order is published, or the investigation is suspended or terminated. The ITC may delay disclosure under protective order of customer names until a reasonable time prior to any hearing in the final injury phase of the investigation. The provisions only apply, with respect to both the administering authority and the ITC, in investigations which require an injury determination by the ITC.

The conferees are disturbed to learn, from ITC staff, about the suspected practice of some legal counsel who approach customers (other than their own clients' customers) and provide unsolicited advice or coaching on the so-called "appropriate" written or oral responses to provide to the ITC. Such coaching practices present serious questions relating to the integrity of the information received by the ITC. In title VII investigations, customers provide critical information on a variety of issues, such as purchase quantities, prices, like product definitions, and cumulation determinations. It is imperative that the responses to ITC inquiries be as candid, complete, and objective as possible.

It is the view of the conferees that the use by any party of customer names obtained under an APO issued by either the Department of Commerce or the ITC, to approach customers and attempt to influence the customers' responses (either written or oral) to the ITC is an inappropriate use of information obtained under a protective order.

The conference agreement provision is intended to minimize the opportunities for such abusive practices to occur, while at the same time providing interested parties a reasonable period of time during which access to customer names would be allowed, for legitimate purposes of analyzing and presenting arguments to the Commission relating to lost sales and conditions of competition.

In order to ensure the effectiveness of this rule as it applies to the ITC, the Commerce Department is prevented from disclosing customer names until the investigation is concluded, either by publication of an order, or suspension or termination of the investigation. The intent of the provision is to prevent any disclosure until the appropriate point in time during final injury stage of the investigation.

It is the view of the conferees, after consulting with ITC investigative staff and representatives of the private trade bar, that release of customer names at the same time as the release of the prehearing staff report under APO would serve the balance of interests to be protected.

This amendment prohibiting early disclosure of customer names is not meant to preclude or prohibit disclosure of customer names under protective order by the Department of Commerce during investigations that do not require an injury determination, or in proceedings subsequent to the original investigation, such as administrative reviews. The conferees also do not intend to preclude or prohibit disclosure of customer names under judicial protective order or during U.S.-Canada binational panel review under section 516A. In compliance with section 404 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the provision expressly states that these amendments shall apply to investigations involving products of Canada.

It is also the view of the conferees that the Commission should publish in the Federal Register, as soon as practicable, a summary of the actions taken by the Commission in response to APO violations. Thereafter, the Commission should either publish a notice each time an action is taken, or periodically (at least annually) publish a summary of actions taken.

Extension of time for preparation of report on supplemental wage allowance demonstration projects under the Worker Adjustment Assistance Program (section 126 of House bill; section 136 of conference agreement)

Present Law

Section 246 of the Trade Act of 1974, as added by section 1423(d) of the Omnibus Trade and Competitiveness Act of 1988, requires the Secretary of Labor to establish and carry out demonstration projects during fiscal years 1989 and 1990 on a supplementalwage allowance as an option for facilitating worker adjustment under the Trade Adjustment Assistance (TAA) program.

Section 246(d) requires the Secretary to transmit a report to the Congress no later than 3 years after the date of enactment of the 1988 Act (i.e., by August 23, 1991) that includes an evaluation of the demonstration projects and a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an option for some or all workers eligible for TAA.

House Bill

Section 126 amends section 246(d) of the Trade Act of 1974 to require that the report by the Secretary of Labor on the supplemental wage demonstration projects be transmitted to the Congress no later than 6 years, rather than 3 years, after date of enactment of the 1988 Act (i.e., by August 23, 1994).

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with an amendment to eliminate the requirement that the projects be carried out in FY 1989 and FY 1990.

Under present law, the supplemental wage demonstration projects are to be established and carried out during FY 1989 and 1990, with the report to the Congress evaluating the results due by August 23, 1991. The Department of Labor has interpreted the term "carry out" to mean that all demonstration activity must be completed within the two-year period. This includes identifying an adequate number of workers eligible for trade readjustment allowances and allowing sufficient time to elapse for them to find a job, qualify for wage supplements, and collect up to 52 weeks of supplements as authorized by the statute.

The Department has advised that it will not be possible to fully carry out the projects by the end of FY 1990. The Department also advised that the number of workers would be inadequate to make the demonstration worthwhile unless the authority to pay wage supplements were extended beyond September 30, 1990.

The amendment will have the effect of authorizing the participating States to continue and complete after FY 1990 the demonstration activities for projects established before the end of FY 1990. The amendment enables the States to continue to pay wage supplements to a sufficient number of eligible workers to ensure that an adequate sample of participants is obtained to conduct a valid and worthwhile demonstration and evaluation. The amendment does not authorize establishment of any new projects after FY 1990, nor does it entitle workers to any additional weeks of payments than authorized under present law. The evaluation report will be submitted to the Congress by August 23, 1994.

Drug paraphernalia (section 4003 of Senate amendment; section 137 of conference agreement)

Present Law

U.S. International Trade Commission (ITC) Report Number 332-277, submitted to the Senate Committee on Finance in September 1989, provided certain recommendations of the ITC on the enforcement efforts being made against imports of drug paraphernalia.

House Bill

No provision.

Senate Amendment

Section 4003 directs the Secretary of the Treasury, the Secretary of Commerce, and the ITC to take actions to implement the recommendations of the ITC regarding additional statistical annotations that were made in the report. The provision also requires customs to submit—within one year of enactment—a report on the operational response of Customs to the ITC report. The Customs report is to address the effectiveness of Customs in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.

Conference Agreement

The House recedes.

Economic sanctions against products of Burma (section 4004 of Senate amendment; section 138 of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Section 4004 prohibits imports of any article that is the growth, product, or manufacture of Burma. Any importer of an article imported from Burma, or from any country whose nationals are allowed to acquire articles from Burma by virtue of a treaty or agreement between Burma and that country and/or such nationals, must certify the country of origin of the article.

The import embargo shall not apply if the President certifies to Congress that the provision violates U.S. obligations under the GATT.

Conference Agreement

The House recedes, with an amendment providing that the President shall impose such economic sanctions on Burma as he determines appropriate, giving primary consideration to sanctions on major U.S. imports from Burma, including tropical timber, fish and aquatic animals, unless the President determines that sanctions against such products would have a significant adverse effect on the economic interests of the United States. The amendment also provides that the President should confer with other industrialized democracies to reach agreements on sanctions against Burma. These provisions apply unless the President certifies to Congress before October 1, 1990 that all of the following conditions have been met: (1) Burma has satisfied the certification requirements of the Narcotics Control Trade Act; (2) national governmental legal authority in Burma has been transferred to a civilian government; (3) martial law has been lifted; and (4) political prisioners have been released. It is the intention of the conferees that those prisoners to be released include Aung San Suu Kyi and Tin Oo.

If the President has not certified that Burma has met the conditions described above and the President does not impose sanctions, he must report to Congress the reasons for his decision and outline the actions he plans to take to achieve the above conditions. Such a report shall be submitted to Congress every six months for a two-year period following the enactment of this Act, or until the President imposes sanctions or makes the above-mentioned certification during that two-year period.

Miscellaneous technical and clerical amendments (section 139 of conference agreement)

The conference agreement makes strictly technical corrections in the Tariff Act of 1930 and the Consolidated Omnibus Budget Reconciliation Act of 1985 to change references to expired provisions in the Tariff Schedules of the United States to the current provisions of the Harmonized Tariff Schedule, and corrects clerical errors in paragraph and subparagraph cross-references in section 1102 of the Omnibus Trade and Competitiveness Act of 1988.

Increase in expenditures to provide assistance for United States citizens returning from foreign countries (section 140 of conference agreement)

Section 113 of the Social Security Act permits the Secretary of Health and Human Services to offer temporary assistance to American citizens who are repatriated for emergency reasons to the United States from a foreign country. Such aid may be provided because of illness, destitution, or because of external factors such as war or threat of war. The conference agreement increases the limit on expenditures under this repatriation program from $300,000 to $1 million annually.

Administrative provision (section 141 of conference agreement)

The conference agreement includes a provision stating that services performed after April 20, 1990, by temporary employees of the Bureau of the Census for purposes relating to the 1990 decennial census constitute "Federal service" under the unemployment compensation program. As a result, wages earned by these temporary census workers will be credited to them in determining their eligibility for unemployment compensation. This provision reverses a provision enacted into law by the Dire Emergency Supplemental Appropriations Act of 1990.

Nondiscriminatory treatment for the products of East Germany (section 142 of conference agreement)

The conference agreement includes a provision authorizing the President to proclaim lower rates of duty applicable under the Harmonized Tariff Schedule on products of East Germany at any time after September 30, 1990, and until the date on which a unified Germany is eligible for MFN column 1 rates of duty under the Harmonized Tariff Schedule of the United States. The proclaimed rate of duty for East German products may not be less than the column 1 rate of duty applicable on the date that such products are entered into the United States for customs purposes. The authority only applies to the general rates of duty under the Harmonized Tariff Schedule, and does not include antidumping or countervailing duties under the Tariff Act of 1930. Because East and West Germany achieved economic and monetary union on July 1, 1990, the conferees believe it is appropriate for the President to be authorized to provide tariff treatment for East German products comparable to that of West German products, pending complete political unification. At such time as East Germany and West Germany are unified, the products of such a unified Germany will be eligible for column 1 rates of duty.

However, the conferees expressed the view that the President should not proclaim lower rates of duty for East Germany until such time as Czechoslovakia receives the benefits of MFN column 1 rates of duty. A bilateral commercial agreement between the United States and Czechoslovakia has been signed. However, the agreement still must be approved by Congress, and the President must issue a proclamation providing for MFN treatment before the products of Czechoslovakia will be eligible for such treatment. It is the strong view of the conferees that a country such as Czechoslovakia, which has been following the Title IV procedures for MFN tariff treatment, should not be disadvantaged by this provision.

GSP for countries supporting international terrorism (section 4005 of Senate amendment)

Present Law

Under Title V of the Trade Act of 1974, the President is prohibited from designating as eligible for GSP treatment any country that aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may waive the prohibition if he determines designation is in the U.S. national economic interest and so reports to the Congress.

House Bill

No provision.

Senate Amendment

Section 4005 provides that any country which has been designated under the Export Administration Act of 1979 as a country supporting international terrorism shall no longer be eligible for GSP benefits.

Conference Agreement

The Senate recedes.

Administrative procedure for noncontroversial tariff suspensions (Title V of Senate amendment)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Title V provides administrative procedures for the temporary suspension of import duties, complementary to the current legislative procedure. Based on private petitions requesting a duty suspension or duty reinstatement on a product, and only after a bill to effect such a change has been pending in Congress for at least one year, the ITC shall investigate the suspension or reinstatement, providing an opportunity for public comment. The ITC shall publish a preliminary report for comment within 75 days, and submit a final report to the President 30 days thereafter. The report shall include the ITC's determinations regarding various statutory criteria, such as whether the same product, or a competing product, is made in the United States, whether there are any objections to the change, and the revenue implications of the change.

Within 30 days of receiving an ITC report on a proposed duty suspension, the President may proclaim the suspension for up to 3 years if the President determines that no person has a valid objection to the suspension and that the sum of revenues lost by the duty suspension and other duty suspensions proclaimed does not exceed $100 million. Within 30 days of receiving an ITC report on a proposed duty reinstatement, the President may proclaim the reinstatement if he determines that there is a valid objection to the suspension.

Title V provides that the President may establish an annual deadline for the filing of petitions under this provision. The provision would be effective October 1, 1991.

Conference Agreement

The Senate recedes.

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

SUBTITLE A—SHORT TITLE AND FINDINGS

Short title (section 201 of House bill; section 2001 of Senate amendment; section 201 of conference agreement)

Present Law

No provision.

House Bill

Section 201 provides that the subtitle may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1989".

Senate Amendment

Section 2001 is identical, except the date of the Act is 1990.

Conference Agreement

The House recedes.

Congressional findings (section 202 of House bill; section 2002 of Senate amendment; section 202 of conference agreement)

Present Law

No provision.

House Bill

Section 202 makes Congressional findings that (1) a stable political and economic climate in the Caribbean region is necessary for development of the countries in that region and for U.S. security and economic interests; (2) the Caribbean Basin Economic Recovery Act (CBERA) was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and (3) the U.S. commitment to the successful development of the region, as evidenced by the enactment of the CBERA, should be reaffirmed and further strengthened by amending that Act to improve its operation.

Senate Amendment

Section 2002 is identical.

Conference Agreement

The conferees agree to both the House and Senate provisions.

SUBTITLE B—AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT AND RELATED PROVISIONS

PART 1—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Repeal of termination date on duty-free treatment under the Act (section 211 of House bill; section 2003 of Senate amendment; section 211 of conference agreement)

Present Law

Section 218(b) of the CBERA contains a September 30, 1995 termination date for duty-free treatment of eligible imports from CBI beneficiary countries. There is no statutory termination date on the tax provisions of the CBI program.

House Bill

Section 211 repeals the statutory termination date on duty-free treatment under the CBERA.

Senate Amendment

Section 2003 is identical in substance.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Duty reduction for certain leather-related products (section 212 of House bill; section 212 of conference agreement)

Present Law

Under section 213(b) of the CBERA, imports from CBI beneficiary countries of footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not eligible for duty-free treatment under the Generalized System of Preferences (GSP) as of August 5, 1983; textile and apparel articles subject to textile agreements; canned tuna; petroleum and petroleum products; and watches and watch parts containing any materials from non-MFN country sources are exempt from duty-free treatment under the CBI.

House Bill

Section 212 amends section 213 of the CBERA to provide by Presidential proclamation for a 50 percent reduction in the rates of duty applicable to handbags, luggage, flat goods, work gloves, and leather wearing apparel that are products of CBI beneficiary countries and currently excluded from duty-free treatment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with an amendment to authorize the President to proclaim in the tariff rates applicable to leather products from CBI beneficiary countries reductions of 20 percent, but not more than 2.5 percent ad valorem for any item, to be phased in in five equal annual stages beginning on January 1, 1992. The duty reductions apply to all handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated on January 3, 1975 (the effective date of the Trade Act of 1974) as eligible articles under the Generalized System of Preferences, except that any such articles that are also textile or apparel articles which are subject to textile agreements will continue to be exempt from the CBI program and subject to present rates of duty.

The reductions made under this provision would be in addition to any tariff reductions on such products resulting from the Uruguay Round. However, the additional cuts mandated by this provision in conjunction with Uruguay Round cuts may not result in a differential between the rate applicable to CBI beneficiary countries and the MFN rate applicable to all other countries of greater than 1 percent ad valorem.

Worker rights (section 213 of House bill; section 2004 of Senate amendment; section 213 of conference agreement)

Present Law

Section 212(b) of the CBERA prohibits the President from designating any country as a CBI beneficiary if such country does not meet specified statutory criteria, some of which may be waived if the President determines that designation will be in the national economic or security interest of the United States. Worker rights are not included in these mandatory designation criteria. Section 212(c) of the CBERA requires the President to take into account in determining whether to designate any country as a CBI beneficiary the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively.

Section 212(e) of the CBERA authorizes the President to withdraw or suspend designation of a country as a CBI beneficiary or to withdraw, suspend, or limit the application of duty-free treatment to any article of a beneficiary country if the President determines that as a result of changed circumstances the country would be barred from designation as a beneficiary because it does not meet one or more conditions under section 212(b).

House Bill

Section 213 adds a new criteria to section 212(b) of the CBERA that prohibits the President from designating any country as a CBI beneficiary if such country has not or is not taking steps to afford internationally-recognized worker rights to workers in the country (including any designated zone in that country), as those rights are defined under the GSP statute. The Presidential waiver for economic or national security reasons would apply. The existing criteria under section 212(c) of the CBERA for taking into account worker conditions in the country is also amended to be consistent with the new standard under section 212(b).

Section 213 also adds a new requirement to section 212(e) of the CBERA that the President conduct a general review of beneficiary countries not later than January 4, 1991 and biennially thereafter, based on all of the considerations in section 212(b) and (c).

Senate Amendment

Section 2004 contains an identical provision on worker rights criteria, but no provision requiring general reviews of beneficiary countries.

Conference Agreement

The conferees agree to both the House and Senate provisions on worker rights criteria. The House recedes on the general review provision, with an amendment to require the President to include the results of a general review of CBI beneficiary countries based on all section 212(b) and (c) criteria in the report to the Congress every 3 years (section 214 below).

The complete reports of the CBI program are to include general reviews of CBI beneficiary countries based upon all of the designation criteria in section 212(b) and (c). The conferees expect the USTR to hold a public hearing prior to the preparation of the report to the Congress every 3 years. The basic purpose of the hearing is to provide an opportunity for the interested private sector to express views and give informational input to the Administration on the operation of the CBI program and on individual beneficiary countries based on the statutory criteria. This input should be reflected in the reports, as well as information obtained from other sources.

Reports (section 214 of House bill; section 2005 of Senate amendment; section 214 of conference agreement)

Present Law

No provision.

House Bill

Section 214 amends section 212 of the CBERA to require the President to submit a complete report to the Congress by October 1, 1992, and every 3 years thereafter regarding the operation of the CBI.

Senate Amendment

Section 2005 is identical, except the deadline for the initial report is October 1, 1993.

Conference Agreement

The House recedes.

Treatment of articles grown, produced, or manufactured in Puerto Rico (section 2014 of Senate amendment; section 215 of conference agreement)

Present Law

In determining whether imports from CBI beneficiary countries meet the 35 percent value added test under the rule-of-origin requirements set forth under section 213 of the CBERA, the value of any Puerto Rican content qualifies as CBI beneficiary country content. However, the Customs Service has ruled that, in the case of a product that is made in Puerto Rico, then sent to a CBI beneficiary country for a minimal amount of processing, the final product is fully dutiable when imported into the United States. Such a product is not eligible for duty-free treatment under the CBI because it has not been substantially transformed in the CBI beneficiary country.

House Bill

No provision.

Senate Amendment

Section 2014 amends section 213 of the CBERA to provide that any article which is the growth, product, or manufacture of Puerto Rico qualifies for duty-free treatment under the CBI if (1) the article is imported directly from a CBI beneficiary country into the United States; (2) the article was advanced in value in a CBI beneficiary country; and (3) if any materials are added to the article in a CBI beneficiary country, such materials are a product of a beneficiary country or the United States.

The provision does not apply with respect to goods otherwise ineligible for duty-free treatment under the CBI.

The provision would become effective with respect to goods imported on or after October 1, 1990, with retroactive duty-free treatment granted upon request for unliquidated imports entered between August 5, 1983 (the effective date of the CBERA) and October 1, 1990.

Conference Agreement

The House recedes.

Application of Act in eastern Caribbean area (section 215 of House bill; section 2010 of Senate amendment; section 216 of conference agreement)

Present Law

No provision.

House Bill

Section 215 expresses the sense of the Congress that special efforts should be undertaken to improve the ability of the Organization of Eastern Caribbean States countries and Belize to benefit from the CBERA.

Senate Amendment

Section 2010 is identical.

Conference Agreement

The conferees agree to both the House and Senate provisions.

PART 2—Amendments to the Harmonized Tariff Schedule and Other Provisions Affecting CBI Beneficiary Countries

Increase in duty-free tourist allowances (section 222 of House bill; section 2006 of Senate amendment; section 221 of conference agreement)

Present Law

Notes and tariff items under subchapter IV of chapter 98 of the Harmonized Tariff Schedule provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including CBI beneficiary countries) of $400, and an allowance to U.S. residents returning from U.S. insular possessions of $800. In addition, U.S. residents returning from foreign countries may bring in not more than 1 liter of alcoholic beverages duty-free and excise-tax free.

House Bill

Section 222 amends the HTS (1) to increase the duty-free allowance for U.S. residents returning directly or indirectly from a CBI beneficiary country from $400 to $600 and to allow such tourists to enter 1 additional liter of alcoholic beverages duty- and excise-tax free if produced in a CBI beneficiary country; and (2) to increase the duty-free allowance for U.S. residents returning from U.S. insular possessions from $800 to $1,200.

The amendment becomes effective with respect to residents who depart from the United States on or after 15 days after date of enactment.

Senate Amendment

Section 2006 is identical.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Duty-free treatment for articles assembled in beneficiary countries from components produced in the United States (section 223 of House bill; section 2007 of Senate amendment; section 222 of conference agreement)

Present Law

U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule treats an article returning to the United States after being advanced in value or improved in condition abroad as a "foreign article", and thereby subject to U.S. duties and quotas upon reentry.

House Bill

Section 223 amends U.S. Note 2 to create an exception to the normal rule that articles returning to the United States after being advanced in value or improved in condition abroad are treated as foreign articles. The exception grants duty-free and quota-free treatment for articles (other than textiles and apparel) that are assembled wholly from U.S. fabricated components or processed wholly from U.S. ingredients (except water) in a CBI beneficiary country and neither the components and ingredients after export from the United States nor the article itself before importation into the United States enters the commerce of any other country.

The amendment becomes effective with respect to goods assembled or processed abroad entered on or after 15 days after date of enactment.

Senate Amendment

Section 2007 is a similar provision, except:

1. Articles processed wholly from U.S. components or materials, in addition to articles assembled wholly from U.S. components, shall receive duty-free treatment.

2. The provision does not apply to any article currently exempt from CBI duty-free treatment (i.e., footwear, leather products, canned tuna, petroleum and petroleum products, certain watches and watch parts, as well as textiles and apparel).

The amendment becomes effective with respect to goods assembled or processed abroad entered on or after October 1, 1990.

Conference Agreement

The House recedes, with an amendment to apply the provision to all articles except textiles and apparel and petroleum and petroleum products.

Rules of origin for beneficiary country products (section 224 of House bill; section 223 of conference agreement)

Present Law

Section 213 of the CBERA sets forth rule-of-origin requirements that must be met for an article to be eligible for duty-free treatment under the CBI. These rules provide that an article is eligible for such treatment if it meets three basic tests: (1) the article is imported directly from a CBI beneficiary country into the customs territory of the United States; (2) a minimum of 35 percent of the appraised value of the article consists of the cost or value of materials produced in one or more beneficiary countries plus the direct costs of processing operations performed in one or more beneficiary countries, of which up to 15 percent may consist of materials or components produced in the United States; and (3) the article is wholly the growth, product, or manufacture of a beneficiary country, or is a new or different article of commerce which has been grown, produced, or manufactured (i.e., "substantially transformed") in the beneficiary country. The statute also requires that regulations prohibit eligibility for duty-free treatment if the article merely undergoes certain minor operations.

House Bill

Section 224 authorizes the President to proclaim, effective on January 1, 1991, new rules for determining whether articles originate in CBI beneficiary countries for purposes of granting duty-free treatment. The new rules may not be proclaimed unless the President has complied with the requirements of a consultation and layover procedure: (1) obtained advice regarding the proposed rules through consultations with appropriate private sector advisory committees established under section 135 of the Trade Act of 1974, the governments of CBI beneficiary countries, the House Ways and Means and Senate Finance Committees, and other interested parties; (2) submitted a report to the House Ways and Means and Senate Finance Committees setting forth the proposed rules and the reasons therefor; (3) at least 90 calendar days expire after the consulting and reporting requirements are met before the new rules are proclaimed; and (4) the two Committees are further consulted during that layover period.

Senate Amendment

No provision.

Conference Agreement

Senate recedes, with an amendment to require the President to submit recommendations to Congress regarding new rules of origin for CBI beneficiary countries, to be followed by any appropriate Congressional action. The conferees further agreed to direct immediate initiation of an ITC investigation to form the basis for the Administration's recommendations.

Cumulation involving beneficiary country products under the countervailing duty and antidumping duty laws (section 225 of House bill; section 224 of conference agreement)

Present Law

Under section 771(7) of the Tariff Act of 1930, imports from two or more countries subject to an antidumping or countervailing duty investigation must be aggregated for the purpose of determining whether the unfair trade practice causes material injury to a U.S. industry. They may be aggregated for the purpose of determining whether the U.S. industry is threatened with material injury. The ITC is not required to aggregate the imports of an individual country with those of other countries under investigation if it determines that the volume of imports from such country is negligible and has no discernible impact on the U.S. industry.

House Bill

Section 225 amends section 771(7) to create an exception to the general cumulation rule for imports from CBI beneficiary countries. If imports from a CBI country are under investigation in an antidumping or countervailing duty case, imports from that country may not be aggregated with imports from non-CBI countries under investigation for purposes of determining whether the imports from the CBI country are causing, or threatening, material injury to a U.S. industry. They may be aggregated with imports from other CBI countries

under investigation. However, imports from CBI countries would continue to be aggregated with imports from non-CBI countries under investigation for purposes of determining whether imports from the non-CBI countries are causing injury.

The amendment would become effective with respect to investigations initiated on or after date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with an amendment to clarify that imports from CBI beneficiary countries will continue to be cumulated, as under present law, with imports from non-CBI countries for the purposes of determining whether the imports from a non-CBI country are causing, or threatening to cause, material injury to a U.S. industry, in investigations of imports from a non-CBI country.

The conferees emphasize that this provision is intended to benefit CBI beneficiary countries, consistent with the specific objectives of the CBI program. This provision is not intended to set a precedent for the anti-dumping or countervailing duty negotiations under the Uruguay Round.

Ethyl alcohol (section 226 of House bill); (section 225 of conference agreement)

Present Law

Under the CBERA, articles are entitled to duty-free treatment if they are produced in the region and at least 35 percent of their value was added in the CBI countries. The Tax Reform Act of 1986 amended the CBERA to require increasing amounts of CBI feedstock in order for ethanol to qualify for duty-free treatment.

As amended by the Steel Trade Liberalization Program Implementation Act of 1989 (the so-called CBI ethanol compromise), ethanol (and any mixture thereof) that is only dehydrated within a CBI beneficiary country or an insular possession receives duty-free treatment only if it meets the applicable local feedstock requirement: (1) no feedstock requirement is imposed on imports up to a level of 60 million gallons or 7 percent of the domestic ethanol market (as determined by the ITC, based on the 12-month period ending on the preceding September 30), whichever is greater; (2) a local feedstock requirement of 30 percent by volume applies to the next 35 million gallons of imports above the 60 million gallon or 7 percent level described above; and (3) a local feedstock requirement of 50 percent by volume applies to any additional imports.

Ethyl alcohol (or a mixture thereof) that is produced by a process of full fermentation in an insular possession or beneficiary country continues to be eligible for duty-free treatment in unlimited quantities without regard to feedstock requirements.

These provisions are effective for calendar years 1990 and 1991.

House Bill

Section 226 is the same as present law, but is effective for all calendar years after 1989. Although this appears to be a permanent provision on its face, its practical effect is to create a one-year extension of the existing provision. The so-called ethanol compromise provision enacted as part of the Steel Trade Liberalization Program Implementation Act of 1989 (which would be extended by the House provision) is an amendment to the original ethanol provision contained in the 1986 tax bill. Since the duration of that provision is linked to the effective date of the existing additional tariff applicable to imported ethanol (which is scheduled to expire on December 31, 1992), the House provision would expire on December 31, 1992 unless the tariff provision were extended beyond that date.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes. The conferees agree to accept the House provision relating to ethanol imports from the Caribbean Basin and the Senate provision providing an additional tariff on ethyl tertiary butyl ether (ETBE) (see section 484G, following). Additionally, the conferees intend to consider later this year the extension of all relevant ethanol provisions as part of tax-related legislation addressing the extension of expiring tax provisions generally. Specifically, the conferees intend to consider extension of the excise tax exemption for alcohol fuels, the blenders tax credit, and the additional tariff applicable to imported ethanol as well as the extension of the CBI-ethanol provision included in this conference report. Under this CBI provision as adopted by the conferees, the expiration date for this tariff relief provision is linked to the expiration of the additional tariff on imported ethanol. It is the conferees' intention that this provision would continue in effect in the future as long as this additional tariff or other similar restrictions apply to imports of ethanol.

The conferees further note that the pending expiration of the blenders tax credit may affect the ability of the domestic industry to obtain long-term financing. In light of this, the conferees intend to consider a long-term extension of these interrelated provisions prior to their 1992 expiration dates.

Conforming amendment (section 227 of House bill; section 2008 of Senate amendment; section 226 of conference agreement)

Present Law

The rules of origin set forth under section 213(a) of the CBERA include the specific requirement that duty-free treatment provided under the CBI applies to an article that is the growth, product, or manufacture of a beneficiary country. Regulations issued by the Secretary of the Treasury must provide that the article be wholly the growth, product, or manufacture of a beneficiary country or a new or different article of commerce grown, produced, or manufactured (i.e., substantially transformed) in a beneficiary country. The statutory rules of origin for the Generalized System of Preferences (GSP) program do not specifically include this requirement, but the legislative history of the CBI statute confirms the intent that the same standards apply to the GSP program.

House Bill

Section 227 amends section 503(b) of the Trade Act of 1974 to conform GSP to CBI rules of origin by inserting the requirement in the origin rules for determining duty-free treatment under GSP that an eligible article must be the growth, product, or manufacture of a beneficiary developing country. Regulations issued by the Secretary of the Treasury, after consultation with the USTR, must provide that, in order to be eligible for GSP duty-free treatment, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce grown, produced, or manufactured (i.e., substantially transformed) in the beneficiary developing country. These regulations must also prohibit any article or material of a CBI beneficiary country from being eligible for duty-free treatment by having merely undergone simple combining or packaging operations or mere dilution that does not materially alter the characteristics of the article.

Senate Amendment

Section 2008 is identical.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Requirement for investment of 936 funds in Caribbean Basin countries (section 227 of conference agreement)

Present Law

Under section 936 of the Internal Revenue Code, qualified investment income earned in U.S. possessions is exempt from U.S. tax. Most of the tax benefits claimed under this provision are claimed by corporations in Puerto Rico. Prior to the Tax Reform Act of 1986 (1986 Act), this investment income, commonly referred to as "qualified possessions source investment income" or QPSII, had to be derived from sources inside Puerto Rico. Section 936(d)(4), added to the Code in the 1986 Act, amended the definition of QPSII to allow for investments outside of Puerto Rico. Under section 936(d)(4), interest income will qualify as QPSII if derived from loans by qualified financial institutions (including the Puerto Rican Government Development Bank) for the acquisition of active business assets and for the construction of development projects located in eligible Caribbean Basin countries. The purpose of this provision was to promote employment-producing investment in, and the transfer of, technology to eligible Caribbean Basin countries.

Conference Agreement

It is the conferees' intent that a minimum of $100,000,000 of new investments under section 936(d)(4) shall be made each year in eligible Caribbean Basin countries.

The conference agreement requires the Government of Puerto Rico to take such steps as may be necessary to ensure that at least $100,000,000 of new investments which qualify under section 936(d)(4) in eligible Caribbean Basin countries shall be made each calendar year. Refinancings of existing investments shall not constitute "new investments" for this purpose. It is expected that the U.S. Government would carry out in a reasonably expeditious manner its established procedures that bear on the Government of Puerto Rico's meeting its obligation. The provision does not provide for penalties or sanctions if $100,000,000 of new investments is not made.

SUBTITLE C—SCHOLARSHIP ASSISTANCE AND TOURISM PROMOTION

Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America (section 231 of House bill; section 231 of conference agreement)

Present Law

There are currently ten Federal programs that provide scholarship and training assistance to Caribbean Basin countries. The majority of U.S. scholarship programs are short-term, undergraduate or graduate level, and emphasize Central American countries. The Caribbean Scholars Program, which focused on the Caribbean countries

and was initiated with the CBI, has since been terminated.

House Bill

Section 231 requires the Administrator of the Agency for International Development (AID) to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to enable students from CBI beneficiary countries that also receive U.S. foreign assistance to study in the United States. The Administrator may make grants to States (including the District of Columbia, Puerto Rico, and U.S. possessions and territories) to provide scholarship assistance for undergraduate degree programs and for training programs of at least one year in study areas related to the critical development needs of the students' respective countries. The Administrator will also consult with theparticipating States on the educational opportunities available within each State and on the assignment of scholarship recipients.

With respect to program funding, the Federal share for each year for which a State receives payment will be not less than 50 percent. The Federal share will be funded from amounts otherwise made available for Latin American and Caribbean regional programs under the economic support fund of the Foreign Assistance Act of 1961; no separate funding is authorized for this purpose. The non-Federal share of payments may be in cash or in-kind. To the maximum extent practicable, each participating State shall enlist private sector assistance to meet the non-Federal share of payments. Wherever appropriate, each participating State will also encourage the private sector to offer internships or other opportunities to students receiving scholarships. The obligation of any recipient to reimburse any or all scholarship assistance shall be forgiven upon the student's prompt return to their home country for at least one year longer than the period spent studying in the United States with scholarship assistance.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment to (1) clarify the purposes and need for the program; (2) ensure that selection of students is targeted to the economically and socially disadvantaged; and (3) clarify State roles in the selection and placement of students.

Promotion of tourism (section 232 of House bill; section 2011 of Senate amendment; section 232 of conference agreement)

Present Law

No provision.

House Bill

Section 232(a) makes a Congressional finding that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin. Section 232(b) expresses the sense of the Congress that increased tourism should be developed in the region as a central part of the CBI program, and that a high priority should be assigned by U.S. Government agencies to projects that promote the tourism industry in the Caribbean.

Section 232(c) requires the Secretary of Commerce to complete a study begun in 1986 on tourism development strategies for the Caribbean region. The study shall include information on the mutual benefits to the U.S. and Caribbean economies as a result of tourism in the region and proposals for developing increased linkages between the tourism industry and local industries such as agrobusiness.

Senate Amendment

Section 2001 is identical.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Pilot preclearance program (section 233 of House bill; section 2009 of Senate amendment; section 233 of conference agreement)

Present Law

Customs preclearance operations currently exist only in Canada, Bermuda, and the Bahamas.

House Bill

Section 233 requires the Commissioner of Customs to carry out preclearance operations during fiscal years 1990 and 1991 at a U.S. Customs Service facility in a Caribbean Basin country which the Commissioner considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism. The country selected cannot be a site of current preclearance operations and U.S. immigration preinspection operations must be currently carried out in that country.

Before preclearance operations may begin in the country selected for testing, the Commissioner of Customs and the Commissioner of Immigration and Naturalization must jointly certify that (1) a bilateral government agreement exists between the United States and the country which protects U.S. interests and affords diplomatic protection to U.S. employees working at the preclearance location; (2) the facilities at the preclearance location are suitable and conform to Federal Inspection Services standards; (3) there is adequate security for international arrivals; (4) the government of the country grants the U.S. Customs and Immigration and Naturalization Services appropriate search, seizure, and arrest authorities; and (5) U.S. employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

The Commissioner of Customs must submit a report to the Congress as soon as practicable after September 30, 1991, regarding the pilot preclearance program, including a summary of the operations, an evaluation of the extent preclearance contributed to stimulating tourism in the country and expedited customs processing at U.S. ports of entry, and the Commissioner's opinion regarding the efficacy of extending preclearance operations to other Caribbean countries and the identity of these countries.

Senate Amendment

Section 2009 of the Senate amendment also requires the Commissioner of Customs to carry out preclearance operations at a U.S. Customs Service facility in a Caribbean Basin country. However, the Senate provision provides that the operations must becarried out in fiscal years 1991 and 1992 and that Customs submit its report regarding the pilot preclearance program as soon as practicable after September 30, 1992.

In addition, the restrictions on country selection (not a site of current preclearance operations and U.S. immigration preinspection operations currently exist) are deleted. Finally, the requirement is added that the Commissioner of Customs and Commissioner of INS must first determine the viability of establishing such operations in Jamaica. If they determine, after full consultations with the Government of Jamaica, that establishment in Jamaica is not viable, they must so report to the Senate Finance and House Ways and Means Committees within 6 months after date of enactment. After the report is submitted, negotiations may be undertaken to establish operations in another country.

Conference Agreement

The conferees agree to merge the two provisions. Under the conference agreement, the pilot preclearance operations must be carried out in fiscal years 1991 and 1992; the pilot program is restricted to countries that do not currently have preclearance operations; and the requirement is added that the Commissioner of Customs and Commissioner of INS must first determine the viability of establishing such operations in either Aruba or Jamaica.

If they determine, after full consultations with both governments, that neither country is viable, they must so report to the Senate Committee on Finance and the House Committee on Ways and Means within 6 months after date of enactment. After suchreport is submitted, the Commissioners shall take all necessary steps consistent with the requirements of this provision to establish such operations in another country. The date for the report to Congress on the pilot preclearance operation is to becompleted as soon as practicable after September 30, 1992.

In determining where to establish the mandated Customs pilot preclearance operation, the Commissioner of Customs shall consult with the Secretaries of State and Commerce on the implications of this decision for U.S. anti-drug policy and programs, and for U.S. foreign policy interests, as well as the projected overall impact on tourism in each country. This consultation shall include input from the U.S. embassies in Jamaica and Aruba on any appropriate issues, including the expected economic impact. The Commissioner shall also consider the relative costs of establishing the program, as well as consider options for minimizing such costs, such as limiting the service areas covered by preclearance. Finally, the Commissioner periodically shall inform the Committees on Finance and Ways and Means about the status of such consultation and evaluation. The conferees intend that the Customs Service shall initiate the program within six months.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Trade benefits for Nicaragua (section 2015 of the Senate amendment; section 241 of conference agreement)

Present Law

The President is authorized to designate beneficiary countries under the CBI and GSP programs if the statutory criteria for eligibility are met. Nicaragua is not currently designated as a CBI beneficiary country. In 1987, the President revoked Nicaragua's eligibility for GSP on the grounds that it did not meet the statute's requirements regarding worker rights.

House Bill

No provision.

Senate Amendment

Section 2015 authorizes the President to designate Nicaragua as a beneficiary country under the CBI and GSP programs, effective through 1990, notwithstanding any other provision of law.

Conference Agreement

The House recedes. It is the intention of the conferees that the authority to designate Nicaragua as a CBI beneficiary country in 1990 apply to the trade, not tax, benefits under the program.

Agricultural infrastructure support (section 2012 of Senate amendment; section 242 of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Section 2012 expresses the sense of the Congress that, to facilitate trade and the development of CBI countries, the Secretary of Agriculture should coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in CBI countries to improve agricultural trade.

Conference Agreement

The House recedes.

Extension of trade benefits to the Andean region (section 2013 of Senate amendment; section 243 of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Section 2013 expresses the sense of Congress urging the President to consider the merits of extending the benefits of the CBERA to the Andean region and to explore additional mechanisms to expand trade opportunities for the Andean region, and report to the Congress on the results of this review.

Conference Agreement

The House recedes.

Sugar imports from beneficiary countries (section 221 of House bill)

Present Law

Additional U.S. notes under Chapter 17 of the Harmonized Tariff Schedule (HTS) provide the statutory authority to establish an annual quota for U.S. imports of sugars, syrups, and molasses. The global quota is allocated on a country-by-country basis among supplying countries in accordance with their historic shares of the U.S. market. In addition, section 902 of the Food Security Act of 1985 (Public Law 99-198) requires that the U.S. sugar program operate under no cost to the Federal government. As a result of this no-net-cost requirement, the global sugar import quota has fluctuated annually. The total global sugar import quota for the 21-month period Jan. 1, 1989 through Sept. 30, 1990 is currently set at 2,834,865 metric tons (equivalent to 3,124,905 short tons). The CBI beneficiary countries account for 1,044,699 metric tons of the total quota.

Section 213 of the CBERA provides duty-free treatment under the GSP program on imports of sugar from all CBI beneficiary countries except the Dominican Republic, Guatemala, and Panama or, if the country so requests, absolute quotas whenever a proclamation to protect a U.S. sugar price support program is in effect. Sugar imports from the three countries are subject to duty-free absolute quotas. The President may adjust or suspend any of the CBERA limits or duty-free treatment depending on U.S. market conditions or to protect the price support program; more restrictive quota programs under other provisions of law also take precedence.

House Bill

Section 221 amends the sugar import quota authority under the additional U.S. notes of chapter 17 of the HTS to establish a guaranteed minimum access level for sugar imports from CBI beneficiary countries that are allocated quotas. The aggregate amounts of base quota allocations to CBI countries for any quota year after 1988 may not be less than the initial 1989 aggregate level of 371,449 metric tons. Irrespective of the total global import quota level set in future years, the CBI aggregate quota cannot be reduced below the initial 1989 level, but the CBI share would increase proportionally if the amount of the total global import quota increases in future years.

Section 221 also amends the HTS note authority to require the Secretary of Agriculture to determine whether any country is not fully utilizing its base quota allocation for that quota year and to reallocate any amount unused during that year on a pro rata basis to CBI countries receiving base quota allocations for that year. If a quota allocation is suspended or terminated with respect to any country for any year under law authorizing such action for national security or foreign policy reasons, the amount of the suspended or terminated allocation shall also be reallocated on a pro-rata basis among CBI countries receiving allocations for that year. Any unused or suspended or terminated quota amounts would be reallocated only for the same quota year; no such amounts would be carried over into a subsequent quota year.

Section 221 also authorizes the President to enter into and proclaim trade agreements with foreign governments granting appropriate compensation if any of these sugar actions are found to be inconsistent with U.S. international obligations, including under the General Agreement on Tariffs and Trade. The President must first consult with the House Ways and Means and Senate Finance Committees on the reasons for taking the action and the compensation proposed to be offered.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

TITLE III—TARIFF PROVISIONS

REFERENCE (SECTION 301 OF HOUSE BILL; SECTION 1001 OF SENATE AMENDMENT; SECTION 301 OF CONFERENCE AGREEMENT)

Present Law

No provision.

House Bill

Section 301 applies to all other sections of this subtitle. It states that whenever an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

SUBTITLE A—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Part 1—New Duty Suspensions and Temporary Reductions

Castor oil and its fractions (section 311 of House bill; section 1354 of Senate amendment; section 311 of conference agreement)

Present Law

Imports of castor oil and its fractions enter under HTS subheadings 1515.30.20 and 1515.30.40 with a column 1 general rate of 3.3 cents per kilogram.

House Bill

Suspends the column 1 general rate of duty for castor oil and its fractions through December 31, 1992. Retroactive to January 1, 1989.

Senate Amendment

Identical, except no retroactive provision.

Conference Agreement

The Senate recedes with a technical amendment.

Certain jams, pastes and purees, and fruit jellies (section 312 of House bill; section 312 of conference agreement)

Present Law

Imports of certain jellies and jams enter under HTS subheading 2007.99 with column 1 general rates ranging from free to 35 percent ad valorem.

House Bill

Temporarily reduces the rate of duty on jams, pastes, purees, and fruit jellies of peaches, apricots or cherries to those prevailing under the former TSUS on December 31, 1988. Provides the President the authority to reduce permanently those rates upon his determination that appropriate reciprocity has been provided by affected trading partners. Retroactive to January 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment to add jams, pastes, purees, and jellies of raspberry to the coverage of the provision.

Mercuric oxide (section 313 of House bill; section 1406 of Senate amendment; section 313 of conference agreement)

Present Law

Imports of Mercuric oxide enter under HTS subheading 2825.90.60 with a column 1 general rate of duty of 3.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Mercuric oxide through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

1,5-Naphthalene diisocyanate (section 1409 of Senate amendment; section 314 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2929.90.10 with a column 1 general rate of duty of 13.5 percent ad valorem and a column 2 rate of 15.4 cents per kilogram plus 52 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 and column 2 rates of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes.

2,3,6-Trimethylphenol (section 1407 of Senate amendment; section 315 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2907.29.30 with a column 1 general rate of duty of 7.2 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes.

p-Hydroxybenzaldehyde (section 1402 of Senate amendment; section 316 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2912.49.20 with a column 1 general rate of duty of 11.9 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes.

DMBS and HPBA (section 317 of House bill; sections 1306 and 1307 of Senate amendment; section 317 of conference agreement)

Present Law

Imports of chemicals DMBS and HPBA enter under HTS subheadings 2932.90.41 and 2906.19.00 with column 1 general rates of duty 13.5 percent ad valorem and 7.1 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rates of duty for DMBS and HPBA through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The Senate recedes.

MBEP (section 318 of House bill; section 1371 of Senate amendment; section 318 of conference agreement)

Present Law

Imports of Mono-butyl-para-ethyl phenol (MBEP) enter under HTS subheading 2907.19.50 with a column 1 general rate of duty of 7.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for MBEP through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The Senate recedes.

6-t-Butyl-2,4-xylenol (section 319 of House bill; section 1398 of Senate amendment; section 319 of conference agreement)

Present Law

Imports of the subject chemical enter under HTS subheading 2907.19.50 with a column 1 general rate of duty of 7.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 6-t-Butyl-2,4-xylenol through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

4,4'-Methylenebis(2,6-dimethylphenylcyanate) (section 320 of House bill; section 1383 of Senate amendment; section 320 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2907.29.50 with a column 1 general rate of duty of 7.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes, with a technical amendment.

Neville-Winter acid (section 321 of House bill; section 1319 of Senate amendment; section 321 of conference agreement)

Present Law

Imports of Neville-Winter acid enter under HTS subheading 2908.20.10 with a column 1 general rate of duty of 6.4 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2908.20.10 through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes with a technical amendment.

7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt (section 322 of House bill; section 1345 of Senate amendment; section 322 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2908.20.50 with a column 1 general rate of 1.5 cents per kilogram plus 19.4 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 7-Hydroxy-1,2-naphthalenedisulfonic acid, dipotassium salt through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene (section 323 of House bill; section 1404 of Senate amendment; section 323 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2914.30.00 with a column 1 general rate of duty of 11.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Anthraquinone (section 324 of House bill; section 1312 of Senate amendment; section 324 of conference agreement)

Present Law

Imports of Anthraquinone enter under HTS subheading 2914.61.00 with a column 1 general rate of duty of 11 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Anthraquinone through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

1,4-Dihydroxyanthraquinone (section 325 of House bill; section 1338 of Senate amendment; section 325 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2914.69.50 with a column 1 general rate of duty of 11 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 1,4-Dihydroxyanthraquinone through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

2-Ethylanthraquinone (section 326 of House bill; section 1372 of Senate amendment; section 326 of conference agreement)

Present Law

Imports of 2-Ethylanthraquinone enter under HTS subheading 2914.69.50 with a column 1 general rate of duty of 11 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2-Ethylanthraquinone through December 31, 1992.

Senate amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Chlorhexanone (section 327 of House bill; section 1314 of Senate amendment; section 327 of conference agreement)

Present Law

Imports of chlorhexanone enter under HTS subheading 2914.70.50 with a column 1 general rate of duty of 4 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2914.70.50 through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The Senate recedes.

3-Aminopropanol (section 1437 of Senate amendment; section 328 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.19.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on this chemical through December 31, 1992.

Conference Agreement

The House recedes.

Naphthalic acid anhydride (section 329 of House bill; section 1315 of Senate amendment; section 329 of conference agreement)

Present Law

Imports of Naphthalic acid anhydride enter under HTS subheading 2917.39.10, with a column 1 general rate of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty on item 2917.39.10, through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Diflunisal (section 330 of House bill; section 1394 of Senate amendment; section 330 of conference agreement)

Present Law

Imports of Diflunisal enter under HTS subheading 2918.29.40 with a column 1 general rate of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2918.29.40 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Diphenolic acid (section 331 of House bill; section 1391 of Senate amendment; section 331 of conference agreement)

Present Law

Imports of this synthetic organic chemical enter under HTS subheading 2918.29.40, with a column 1 general rate of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate for Diphenolic acid through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

6-Hydroxy-2-naphthoic acid (section 332 of House bill; section 1392 of Senate amendment; section 332 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2918.29.50, with a column 1 general rate of 3.7 cents per kilogram plus 17.9 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2918.29.50 through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number and absence of chemical classification number.

Conference Agreement

The House recedes.

Methyl and ethyl parathion (section 333 of House bill; section 333 of conference agreement)

Present Law

Imports of these insecticides enter under HTS subheading 2920.10.20, with a column 1 general rate of 12.5 percent ad valorem.

House Bill

Suspends the column 1 general rates for item 2920.10.20 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

N-Methylaniline and m-Chloroaniline (section 334 of House bill; section 334 of conference agreement)

Present Law

Imports of these chemicals enter under HTS subheadings 2921.42.20 and 2921.42.50, with column 1 general rates of 5.8 percent ad valorem, and 2.4 cents per kilogram plus 18.8 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rates for these chemicals through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

4,4'-Methylenebis(3-chloro-2,6-diethylaniline) (section 335 of House bill; section 1388 of Senate amendment; section 335 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2921.42.30 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

4,4'-Methylenebis(2,6-diisopropylaniline) (section 336 of House bill; section 1389 of Senate amendment; section 336 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2921.42.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The House recedes with a technical amendment.

2-Chloro-4-nitroaniline (section 337 of House bill; section 1348 of Senate amendment; section 337 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2921.42.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2-chloro-4-nitroaniline through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

4-Chloro-a,a,a-trifluoro-o-toluidine (section 338 of House bill; section 1340 of Senate amendment; section 338 of conference agreement)

Present Law

Imports of this product enter under HTS subheading 2921.43.10 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2921.43.10 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with a technical amendment.

Trifluoromethylaniline (section 339 of House bill; section 1395 of Senate amendment; section 339 of conference agreement)

Present Law

Imports of this item enter under HTS subheading 2921.43.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for TFM Aniline item 2921.43.50 through December 31, 1992.

Senate Amendment

Identical provision, except for expiration date of December 31, 1990.

Conference Agreement

The Senate recedes with a technical amendment.

5-Amino-2-naphthalenesulfonic acid (section 340 of House bill; section 1335 of Senate amendment; section 340 of conference agreement)

Present Law

Imports of this acid enter under HTS subheading 2921.45.10 with a column 1 general rate of duty of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 5-Amino-2-naphthalene- sulfonic acid through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt (section 341 of House bill; section 1341 of Senate amendment; section 341 of conference agreement)

Present Law

Imports of the chemical enter under HTS subheading 2921.45.10 with a column 1 general rate of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 7-Amino-1,3-naphthalene disulfonic acid monopotassium salt through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The Senate recedes.

4-Amino-1-naphthalenesulfonic acid, sodium salt (section 342 of House bill; section 1337 of Senate amendment; section 342 of conference agreement)

Present Law

Imports of this acid sodium salt enter under HTS subheading 2921.45.20 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this acid sodium salt through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

8-Amino-2-naphthalenesulfonic acid (section 343 of House bill; section 1333 of Senate amendment; section 343 of conference agreement)

Present Law

Imports of the product enter under HTS subheading 2921.45.20 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this product through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The Senate recedes with a technical amendment.

Mixtures of 5- and 8-amino-2-naphthalenesulfonic acid (section 344 of House bill; section 1334 of Senate amendment; section 344 of conference agreement)

Present Law

Imports of the chemical enter under HTS subheading 2921.45.30 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2921.45.30 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

1-Naphthylamine (section 345 of House bill; section 1336 of Senate amendment; section 345 of conference agreement)

Present Law

Imports of 1-Naphthylamine enter under HTS subheading 2921.45.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2921.45.50 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

6-Amino-2-naphthalenesulfonic acid (section 346 of House bill; section 1332 of Senate amendment; section 346 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2921.45.50 with a column 1 general rate of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 6-amino-2-naphthalenesulfonic acid through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Broenner's acid (section 347 of House bill; section 1317 of Senate amendment; section 347 of conference agreement)

Present Law

Imports of Broenner's acid enter under HTS subheading 2921.45.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Broenner's acid through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

D Salt (section 348 of House bill; section 1318 of Senate amendment; section 348 of conference agreement)

Present Law

Imports of D Salt enter under HTS subheading 2921.45.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for D Salt through December 31, 1992.

Senate Amendment

Substantially the same as House provision, except for reference to HTS heading number and differences in article description language.

Conference Agreement

The Senate recedes with a technical amendment.

2,4-Diaminobenzenesulfonic acid (section 349 of House bill; section 1343 of Senate amendment; section 349 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2921.51.50 with a column 1 general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2,4-Diaminobenzenesulfonic acid through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number.

Conference Agreement

The Senate recedes.

Paramine acid (section 350 of House bill; section 1310 of Senate amendment; section 350 of conference agreement)

Present Law

Imports of Paramine acid enter under HTS subheading 2921.59.50, with a column 1 general rate of 2.4 cents per kilogram plus 18.8 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2921.59.50 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Tamoxifen citrate (section 351 of House bill; section 1396 of Senate amendment; section 351 of conference agreement)

Present Law

Imports of this antiestrogen enter under HTS subheading 2922.19.10, with a column 1 general rate of 6.6 percent ad valorem.

House Bill

Suspends the column 1 general rate for Tamoxifen citrate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

K-Acid (section 352 of House bill; section 1316 of Senate amendment; section 352 of conference agreement)

Present Law

Imports of K-Acid enter under HTS subheading 2922.21.20 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for K-Acid through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number.

Conference Agreement

The Senate recedes.

o-Anisidine (section 353 of House bill; section 1346 of Senate amendment; section 353 of conference agreement)

Present Law

Imports of o-Anisidine enter under HTS subheading 2922.22.10 with a column 1 general rate of duty of 7.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for o-Anisidine through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The Senate recedes.

2-Amino-4-chlorophenol (section 354 of House bill; section 1342 of Senate amendment; section 354 of conference agreement)

Present Law

Imports of this product enter under HTS subheading 2922.29.10 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2-Amino-4-chlorophenol through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Ornithine (section 355 of House bill; section 1376 of Senate amendment; section 355 of conference agreement)

Present Law

Imports of L-Ornithine enter under HTS subheading 2922.49.50 with a column 1 general rate of duty of 3.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2922.49.50 through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The Senate recedes.

Clentiazim (section 1416 of Senate amendment; section 356 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2934.90.25 with a column 1 general rate of duty of 6.9 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (section 357 of House bill; section 1352 of Senate amendment; section 357 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.29.50 with a column 1 general rate of duty of 3.7 cents per kilogram plus 15.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 7-anilino-4-hydroxy-2-naphthalenesulfonic acid through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

1,4-Diamino-2,3-dihydroanthraquinone (section 358 of House bill; section 1353 of Senate amendment; section 358 of conference agreement)

Present Law

Imports of the subject chemical enter under HTS subheading 2922.30.30 with a column 1 general rate of duty of 3.7 cents per kilogram plus 15.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2922.30.30 through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The House recedes with a technical amendment.

Tfa Lys Pro in free base and tosyl salt forms (section 359 of House bill; section 1358 of Senate amendment; section 359 of conference agreement)

Present Law

Imports of Tfa Lys Pro in free base and tosyl salt forms enter under HTS subheadings 2933.90.50 and 2933.90.37, respectively, with a column 1 general rate of 7.9 percent and 13.5 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rates of duty for Tfa Lys Pro in free base and tosyl salt forms through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with technical amendments.

4-Fluoro-3-phenoxybenzaldehyde (section 1431 of Senate amendment; section 360 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2913.00.10 with a column 1 general rate of duty of 20 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on this chemical through December 31, 1992.

Conference Agreement

The House recedes.

1-Amino-2-bromo-4-hydroxyanthraquinone (section 361 of House bill; section 1347 of Senate amendment; section 361 of conference agreement)

Present Law

Imports of the subject chemical enter under HTS subheading 2922.50.40 with a column 1 general rate of 3.7 cents per kilogram plus 15.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 1-Amino-2-bromo-4-hydroxyanthraquinone through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

ADC-6 (section 362 of House bill; section 1393 of Senate amendment; section 362 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.50.50 with a column 1 general rate of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate for ADC-6, item 2922.50.50, through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

L-Carnitine (section 363 of House bill; section 1390 of Senate amendment; section 363 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2923.90.00 with a column 1 general rate of duty of 6.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for L-Carnitine through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Quizalofop-ethyl (section 364 of House bill; section 1427 of Senate amendment; section 364 of conference agreement)

Present Law

Imports of Quizalofop-ethyl enter under HTS subheading 2933.90.20 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty on Quizalofop-ethyl through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number.

Conference Agreement

The House recedes.

Acetoacet-para-toluidide (section 365 of House bill; section 1378 of Senate amendment; section 365 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2924.29.09 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Naphthol AS types (section 366 of House bill; section 1321 of Senate amendment; section 366 of conference agreement)

Present Law

Imports of Naphthol AS types enter under HTS subheading 2924.29.14 with a column 1 general rate of duty of 14 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2924.29.14 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with technical amendments.

Diltiazem hydrochloride, and sustained release diltiazem hydrochloride (section 1415 of Senate amendment; section 367 of conference agreement)

Present Law

Imports of these chemicals enter under HTS subheadings 2934.90.25, 3003.90.00, or 3004.90.60 with column 1 general rates of duty ranging from 6 to 6.9 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for these chemicals through December 31, 1992.

Conference Agreement

The House recedes.

Anis base (section 368 of House bill; section 1320 of Senate amendment; section 368 of conference agreement)

Present Law

Imports of Anis base enter under HTS subheading 2924.29.25 with a column 1 general rate of duty of 12.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for items 2924.29.25 through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Acetoacetsulfanilic acid, potassium salt (section 369 of House bill; section 1379 of Senate amendment; section 369 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2924.29.44 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Iohexol (section 370 of House bill; section 1401 of Senate amendment; section 370 of conference agreement)

Present Law

Imports of Iohexol enter under HTS subheading 2924.29.44 with a column 1 general rate of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate for Iohexol through September 30, 1990.

Senate Amendment

Identical provision, except for expiration date of September 30, 1991.

Conference Agreement

The House recedes.

Iopamidol (section 371 of House bill; section 1400 of Senate amendment; section 371 of conference agreement)

Present Law

Imports of Iopamidol enter under HTS subheading 2924.29.44 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Iopamidol through September 30, 1990.

Senate Amendment

Identical provision, except for expiration date of September 30, 1991.

Conference Agreement

The House recedes.

Ioxaglate (section 372 of House bill; section 1403 of Senate amendment; section 372 of conference agreement)

Present Law

Imports of Ioxaglate enter under HTS subheading 2924.29.44 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through September 30, 1990.

Senate Amendment

Identical provision, except for expiration date of September 30, 1991.

Conference Agreement

The House recedes.

4-Aminoacetanilide (section 373 of House bill; section 1331 of Senate amendment; section 373 of conference agreement)

Present Law

Imports of 4-aminoacetanilide enter under HTS subheading 2924.29.45 with a column 1 general rate of 3.7 cents per kilogram plus 18.1 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2924.29.45 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

D-carboxamide (section 374 of House bill; section 1366 of Senate amendment; section 374 of conference agreement)

Present Law

Imports of D-carboxamide enter under HTS subheading 2924.29.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for D-carboxamide, through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

2,6-Dichlorobenzonitrile (section 375 of House bill; section 1326 of Senate amendment; section 375 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2926.90.10 with a column 1 general rate of duty of 6.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for mixtures of 2,6-dichlorobenzonitrile and inert substances through December 31, 1992.

Senate Amendment

Suspends the column 1 general rate of duty for the basic chemical as well as the mixtures covered by the House bill.

Conference Agreement

The House recedes with a technical amendment.

Octadecyl isocyanate (section 376 of House bill; section 1304 of Senate amendment; section 376 of conference agreement)

Present Law

Imports of this specialty chemical enter under HTS subheading 2929.10.40, with a column 1 general rate of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2929.10.40 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

1,6-Hexamethylene diisocyanate (sections 377 and 483(c)(3) of House bill; sections 1411 and 1601(b) of Senate amendment; section 377 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2929.10.50 with a column 1 general rates of duty of 2.9 cents per kilogram plus 16.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 1,6-Hexamethylene diisocyanate through December 31, 1992.

Senate Amendment

Reduces the column 1 general rate of duty to the TSUS level of 7.9 percent ad valorem through December 31, 1992. Retroactive to January 1, 1989.

Conference Agreement

The House recedes.

1,1-Ethylidenebis(phenyl-4-cyanate) (section 378 of House bill; section 1386 of Senate amendment; section 378 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2929.90.10 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

2,2'-Bis(4-cyanatophenyl-1,1,1,3,3,3-hexafluoropropane) (section 379 of House bill; section 1384 of Senate amendment; section 379 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2929.90.10 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

4,4'-Thiodiphenyl cyanate (section 380 of House bill; section 1385 of Senate amendment; section 380 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2930.90.20 with a column 1 general rate of duty of 6.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2930.90.20 through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

2-[(4-Aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester (section 381 of House bill; section 1351 of Senate amendment; section 381 of conference agreement)

Present Law

Imports of the subject chemical enter under HTS subheading 2930.90.20 with a column 1 general rate of duty of 6.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2-[(4-Aminophenyl) sulfonyl-lethanol, hydrogen sulfate ester through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with technical amendments.

Dimethoate (section 382 of House bill; section 382 of conference agreement)

Present Law

Imports of Dimethoate enter under HTS subheading 2930.90.40 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Dimethoate through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Diphenyldichlorosilane and phenyltrichlorosilane (section 383 of House bill; section 1429 of Senate amendment; section 383 of conference agreement)

Present Law

Imports of both of these chemicals enter under HTS subheading 2931.00.40, with a column 1 general rate of 17.7 percent ad valorem.

House Bill

Suspends the column 1 general rate for these chemicals through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Bendiocarb (section 384 of House bill; section 1302 of Senate amendment; section 384 of conference agreement)

Present Law

Imports of this insecticide enter under HTS subheading 2932.90.10, with a column 1 general rate of 6.8 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2932.90.10 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Rhodamine 2C base (section 385 of House bill; section 1373 of Senate amendment; section 385 of conference agreement)

Present Law

Imports of the 4 chemicals enter under HTS subheadings 2932.90.45 with a column 1 general rate of 3.7 percent per kilogram plus 16.2 percent ad valorem.

House Bill

Suspends the column 1 general rates for Rhodamine 2C base, through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl) benzenesulfonic acid (section 386 of House bill; section 1344 of Senate amendment; section 386 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.19.42 with a column 1 general rate of duty of 3.7 cents per kilogram plus 16.2 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number.

Conference Agreement

The Senate recedes with a technical amendment.

Ciprofloxacin, ciprofloxacin hydrochloride, and nimodipine (sections 387 and 391 of House bill; section 1360 of Senate amendment; section 387 of conference agreement)

Present Law

Imports of both Ciprofloxacin and ciprofloxacin hydrochloride enter under HTS subheading 2933.59.27 with a column 1 general rate of duty of 8.1 percent ad valorem.

Imports of Nimodipine enter under HTS subheading 2933.39.35 with a column 1 general rate of duty of 8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Ciprofloxacin and ciprofloxacin hydrochloride through December 31, 1992.

Suspends the column 1 general rate of duty for Nimodipine through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature for Ciprofloxacin and ciprofloxacin hydrochloride.

Conference Agreement

The House recedes.

BPIP (section 388 of House bill; section 1370 of Senate amendment; section 388 of conference agreement)

Present Law

Imports of Hexamethylenebistriacetonediamine enter under HTS subheading 2933.39.47 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for BPIP through December 31, 1992.

Senate Amendment

Identical provision, except for inclusion of chemical identification number.

Conference Agreement

The House recedes.

Fenofibrate (section 1397 of Senate amendment; section 389 of conference agreement)

Present Law

Imports of fenofibrate enter under HTS subheading 3004.90.60 with a column 1 general rate of duty of 6.3 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for fenofibrate through December 31, 1992.

Conference Agreement

The House recedes.

Norfloxacin (section 390 of House bill; section 1365 of Senate amendment; section 390 of conference agreement)

Present Law

Imports of Norfloxacin enter under HTS subheading 2933.59.27 with a column 1 general rate of duty of 8.1 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Norfloxacin through December 31, 1992.

Senate Amendment

Identical provision, except for chemical nomenclature.

Conference Agreement

The House recedes.

6-Methyluracil (section 392 of House bill; section 1380 of Senate amendment; section 391 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.59.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

2,4-Diamino-6-phenyl-1,3,5-triazine (section 393 of House bill; section 1399 of Senate amendment; section 392 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.69.00 with a column 1 general rate of duty of 3.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for 2,4-Diamino-6-phenyl-1,3,5-triazine through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Amiloride hydrochloride (section 394 of House bill; section 1367 of Senate amendment; section 393 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.90.36 with a column 1 general rate of duty of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Amiloride hydrochloride through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Trimethyl base (section 395 of House bill; section 1350 of Senate amendment; section 394 of conference agreement)

Present Law

Imports of this chemical, also known as Fischer's base, enter under HTS subheading 2933.90.39, with a column 1 general rate of 3.7 cents per kilogram plus 16.2 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2933.90.39 through December 31, 1992.

Senate Amendment

Identical provision, except for reference to chemical name.

Conference Agreement

The House recedes.

Ala pro (section 396 of House bill; section 1357 of Senate amendment; section 395 of conference agreement)

Present Law

Imports of L-Alanyl-L-proline enter under HTS subheading 2933.90.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Ala pro through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Thiothiamine hydrochloride (section 397 of House bill; section 1309 of Senate amendment; section 396 of conference agreement)

Present Law

Imports of Thiothiamine hydrochloride enter under HTS subheading 2934.10.50 with a column 1 general rate of duty of 7.9 percent ad valorem or subheading 2934.10.10 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2934.10.50 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Ethyl 2-(2-aminothiazol-4-yl)-2-hydroxyiminoacetate (section 398 of House bill; section 1381 of Senate amendment; section 397 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2934.10.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

Ethyl 2-(2-aminothiazol-4-yl)-2-methoxyaminoacetate (section 399 of House bill; section 1382 of Senate amendment; section 398 of conference agreement)

Present Law

Imports of this chemical enter under HTS heading 2934.10.50 with a column 1 general rate of duty of 7.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision, except for absence of chemical identification number.

Conference Agreement

The House recedes.

7-Nitronaphth[1,2]-oxadiazole-5-sulfonic acid (section 400 of House bill; section 1339 of Senate amendment; section 399 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2934.90.06 with a column 1 general rate of duty of 7.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Ceftazidime tertiary butyl ester (section 401 of House bill; section 1322 of Senate amendment; section 400 of conference agreement)

Present Law

Imports of Ceftazidime tertiary butyl ester enter under HTS subheading 2934.90.25 with a column 1 general rate of duty of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2934.90.25 through December 31, 1992. Retroactive to January 1, 1988.

Senate Amendment

Identical provision, except for expiration date of June 30, 1992. No retroactive provision.

Conference Agreement

The House recedes with an amendment to change expiration date to December 31, 1992.

Chemical intermediate (section 402 of House bill; section 401 of conference agreement)

Present Law

Imports of this chemical intermediate enter under HTS subheading 2934.90.40, with a column 1 general rate of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2934.90.40 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Sulfachloropyridazine (section 403 of House bill; section 1308 of Senate amendment; section 402 of conference agreement)

Present Law

Imports of sulfachloropyridazine enter under HTS subheading 2935.00.39, with a column 1 general rate of 10.8 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2935.00.39 through December 31, 1992.

Senate Amendment

Identical provision, except for expiration date of December 31, 1990.

Conference Agreement

The Senate recedes.

Mixed ortho/para-toluenesulfonamides (section 404 of House bill; section 1325 of Senate amendment; section 403 of conference agreement)

Present Law

Imports of mixed ortho/para-toluenesulfonamides enter under HTS subheading 2935.00.47 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for mixed ortho/para-toluenesulfonamides through December 31, 1992.

Senate Amendment

Identical provision, except for additional retroactive duty-free treatment to January 1, 1989.

Conference Agreement

The Senate recedes.

Herbicide intermediate (section 405 of House bill; section 404 of conference agreement)

Present Law

Imports of this herbicide intermediate enter under HTS subheading 2935.00.47 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this herbicide intermediate through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

N-(4-(((2-Amino-5-formyl-1,4,5,6,7,8- hexahydro-4-oxo-6-pteridinyl)methyl) amino)benzoyl)-L-glutamic acid (section 406 of House bill; section 1364 of Senate amendment; section 405 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2936.29.20 with a column 1 general rate of duty of 6.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2936.29.20 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The House recedes.

Theobromine (section 407 of House bill; section 1313 of Senate amendment; section 406 of conference agreement)

Present Law

Imports of Theobromine enter under HTS subheadings 2939.90.50 or 2939.90.10 with a column 1 general rate of duty of 3.7 percent ad valorem, or 1.8 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rate of duty on Theobromine through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

(6R-(6a,7B(Z)))-7-(((2-Amino-4-thiazolyl)((carboxymethoxy) imino)aetyl)amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0) oct-2-ene-2-carboxylic acid (Cefixime) (section 408 of House bill; section 1363 of Senate amendment; section 407 of conference agreement)

Present Law

Imports of this chemical treated as an antibiotic for tariff purposes enter under HTS subheading 2941.90.50 with a column 1 general rate of 3.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Cefixime through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with technical amendments.

Teicoplanin (section 409 of House bill; section 1377 of Senate amendment; section 408 of conference agreement)

Present Law

Imports of Teicoplanin enter under HTS subheading 3003.20.00 (bulk form), and 3004.20.00 (dosage form), both with column 1 general rates of duty of 3.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for dosage form through December 31, 1992.

Senate Amendment

Suspends the column 1 general rate of duty for both dosage and bulk forms through December 31, 1992.

Conference Agreement

The House recedes.

Carfentanil citrate (section 410 of House bill; section 409 of conference agreement)

Present Law

Imports of Carfentanil citrate enter under HTS subheading 3004.90.60 with a column 1 general rate of duty of 6.3 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Carfentanil citrate through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Calcium acetylsalicylate (section 411 of House bill; section 1301 of Senate amendment; section 410 of conference agreement)

Present Law

Imports of calcium carbaspirin enter under HTS subheading 2918.22.50 (bulk form) with a column 1 general rate of duty of 6.8 percent ad valorem, and under 3004.90.60 (dosage form) with a column 1 general rate of 6.3 percent ad valorem.

House Bill

Suspends the column 1 general rate for dosage form throughDecember 31, 1992.

Senate Amendment

Suspends the column 1 general rate for bulk form through December 31, 1992.

Conference Agreement

The House recedes with an amendment to combine both provisions.

Sucralfate (section 1311 of Senate amendment; section 411A of conference agreement)

Present Law

Imports of sucralfate enter under HTS subheading 2940.00.00 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for sucralfate through December 31, 1992.

Conference Agreement

The House recedes.

1-[1-((4-Chloro-2-(trifluoromethyl)phenyl) imino)-2-propoxyethyl]-1-H-imidazole (section 1327 of Senate amendment; section 411B of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.29.30 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes.

Copper acetate monohydrate (section 1418 of Senate amendment; section 411C of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2915.29.00 with a column 1 general rate of duty of 2.8 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

0,0-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl]phosphorodithioate (section 1355 of Senate amendment; section 411D of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.90.18 with a column 1 general rate of duty of 12.5 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

p-Tolualdehyde (section 1414 of Senate amendment; section 412 of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2912.29.50 with a column 1 general rate of duty of 11.4 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The House recedes.

Certain acid black powder and presscake (section 413 of House bill; section 1434 of Senate amendment; section 413 of conference agreement)

Present Law

Imports of these compounds enter under HTS subheading 3204.12.40 with a column 1 general rate of 15 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain acid black powder and presscake through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Pigment red 178 (section 414 of House bill; section 1433 of Senate amendment; section 414 of conference agreement)

Present Law

Imports of Pigment red 178 enter under HTS subheading 3204.17.10, with column 1 and 2 rates of duty of 8.3 and 46.8 percent ad valorem, respectively.

House Bill

Suspends the column 1 duty for Pigment red 178 coatings through December 31, 1990.

Senate Amendment

Suspends the column 2 duty for Pigment red 178 coatings through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment to suspend column 1 duty.

Pigment red 149 dry and presscake (section 415 of House bill; section 1435 of Senate amendment; section 415 of conference agreement)

Present Law

Imports of these pigments enter under HTS subheading 3204.17.50, with a column 1 general rate of 20 percent ad valorem.

House Bill

Suspends the column 1 general rate for these pigments through December 31, 1990.

Senate Amendment

Identical provision, except for expiration date of December 31, 1992.

Conference Agreement

The House recedes.

Solvent yellow 43 (section 416 of House bill; section 416 of conference agreement)

Present Law

Imports of fluorescent yellow R dyes enter under HTS subheading 3204.19.15, with a column 1 general rate of 15 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 3204.19.15 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Solvent yellow 44 (section 417 of House bill; section 417 of conference agreement)

Present Law

Imports of these dyes enter under HTS subheading 3204.19.19, with a column 1 general rate of 20 percent ad valorem.

House Bill

Suspends the column 1 general rate for solvent yellow 44 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Modeling pastes (section 418 of House bill; section 1405 of Senate amendment; section 418 of conference agreement)

Present Law

Imports of these modeling pastes enter under HTS subheading 3407.00.20 with a column 1 general rate of 10 percent ad valorem.

House Bill

Suspends the column 1 general rate for modeling pastes through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The Senate recedes with a technical amendment.

Metal oxide varistors (section 1717 of Senate amendment; section 419 of conference agreement)

Present Law

Imports of metal oxide varistors enter under HTS subheadings 8533.40.00, 8541.10.00, and 8541.50.00 with a column 1 general rate of duty ranging from free to 6 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on this item through December 31, 1992. Retroactive to January 1, 1989.

Conference Agreement

The House recedes with technical amendments.

Chemical light activator blends (section 420 of House bill; section 1368 of Senate amendment; section 420 of conference agreement)

Present Law

Imports of the chemical mixture enter under HTS subheading 3823.90.29 with a column 1 general rate of duty of 3.7 cents per kilogram plus 13.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for chemical light activator blend through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Polymin P and polymin P hydrochloride, and polymin SNA 60 (section 421 of House bill; sections 1374 and 1375 of Senate amendment; section 421 of conference agreement)

Present Law

Imports of these chemicals enter under HTS subheadings 3911.90.50 and 3911.90.30 with column 1 general rates of 2.2 cents per kilogram plus 7.7 percent ad valorem and 5.8 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rates for polymin P and polymin P hydrochloride, and polymin SNA 60 through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number and absence of chemical identification number.

Conference Agreement

The House recedes.

Hydrocarbon novolac cyanate ester (section 423 of House bill; section 1387 of Senate amendment; section 422 of conference agreement)

Present Law

Imports of this item enter under HTS heading 3911.90.30 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this item through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Theatrical, ballet, and operatic scenery, properties, and sets (section 451 of House bill; section 1430 of Senate amendment; section 423 of conference agreement)

Present Law

Imports of operatic scenery and properties enter under various HTS subheadings with varying column 1 general rates of duty; a few are entered under HTS heading 9813.00.65 duty-free under bond.

House Bill

Suspends the column 1 general rates of duty for operatic scenery and properties, including operatic sets imported by certain nonprofit, cultural organizations through December 31, 1992.

Senate Amendment

Substantially the same as House provision, except incorporates theatrical and ballet properties into scope of duty suspension. Retroactive to January 31, 1990.

Conference Agreement

The House recedes.

Wicker products (section 425 of House bill; section 1362 of Senate amendment; section 424 of conference agreement)

Present Law

Imports of certain wicker products enter under HTS subheadings 4602.10.11, 4602.10.13, 4602.10.19, 4602.10.40, or 4602.10.50 with column 1 general rates of duty ranging from 3 percent ad valorem to 10 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for these wicker products through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Certain plastic web sheeting (section 426 of House bill; section 1323 of Senate amendment; section 425 of conference agreement)

Present Law

Imports of nonwoven fiber sheet of polyester fibers enter under HTS subheading 5603.00.90 with a column 1 general rate of 12.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty on certain plastic web sheeting through December 31, 1992.

Senate Amendment

Identical provision, except for technical drafting differences.

Conference Agreement

The House recedes with a technical amendment.

Protective sports apparel (section 427 of House bill; section 1408 of Senate amendment; section 426 of conference agreement)

Present Law

Imports of protective sports articles of textile materials enter under HTS subheadings 6201.93 and 6203.43 with column 1 general rates of duty ranging from 7.6 percent to 62.9 cents per kilogram plus 21 percent ad valorem.

House Bill

Reduces through December 31, 1992, the column 1 general rates of duty for protective sports articles of textile materials to apply the same rates of duty that applied to such goods before January 1, 1989. Retroactive to January 1, 1989.

Senate Amendment

Substantially the same as House provision, except for specific reference to ice and field hockey pants and additional HTS subheadings. No retroactive provision.

Conference Agreement

The House recedes with an amendment to add retroactive provision and make technical changes. It is the understanding of the conferees that this provision applies to certain protective ski apparel.

Isoindolenine red pigment (section 1436 of Senate amendment; section 427 of conference agreement)

Present Law

Imports of this pigment enter under HTS subheading 3204.17.30 with a column 1 general rate of duty of 15 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on this pigment through December 31, 1992.

Conference Agreement

The House recedes.

Gripping narrow fabrics (section 429 of House bill; section 1369 of Senate amendment; section 428 of conference agreement)

Present Law

Imports of fastener fabric tapes of manmade fibers enter under HTS subheading 5806.10.20 with a column 1 general rate of duty of 9.5 percent ad valorem.

House Bill

Reduces the column 1 general rate of duty for gripping narrow fabrics to 7 percent ad valorem through December 31, 1992. Retroactive to January 1, 1989.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

In-line roller skate boots (section 430 of House bill; section 1412 of Senate amendment; section 429 of conference agreement)

Present Law

Imports of boots actually used in the manufacture of in-line roller skates enter under HTS subheading 6402.19.10 with a column 1 general rate of duty of 6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 6402.19.10 through December 31, 1992.

Senate Amendment

Identical provision, except for additional retroactive duty-free treatment to April 30, 1986.

Conference Agreement

The Senate recedes.

Self-folding collapsible umbrellas (section 431 of House bill; section 1410 of Senate amendment; section 430 of conference agreement)

Present Law

Imports of self-folding collapsible umbrellas enter under HTS subheading 6601.91.00, with a column 1 general rate of 8.2 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 6601.91.00 through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Glass bulbs (section 432 of House bill; section 1303 of Senate amendment; section 431 of conference agreement)

Present Law

Imports of glass bulbs enter under HTS subheading 7011.20.00 with a column 1 general rate of duty of 6.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain glass bulbs through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to the House and Senate provisions with a technical amendment.

Drinking glasses with special effects in the glass (section 433 of House bill; section 432 of conference agreement)

Present Law

Imports of certain glasses with special effects in the glass enter under HTS subheadings 7013.29.10 or 7013.29.20 with column 1 general rates ranging from 6 to 38 percent ad valorem.

House Bill

Reduces the rates for certain drinking glasses to those prevailing under the former TSUS through December 31. 1992. Retroactive to January 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Certain glass fibers (section 434 of House bill; section 1421 of Senate amendment; section 433 of conference agreement)

Present Law

Imports of colored glass yarns enter under HTS headings 7019.10.10, 7019.10.20, and 7019.10.60 with column 1 general rates of duty ranging from 6.0 to 9.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain fiberglass yarns through December 31, 1992.

Senate Amendment

Identical provision, except for differences in article description language.

Conference Agreement

The House recedes.

Articles of semiprecious stones (section 435 of House bill; section 434 of conference agreement)

Present Law

Imports of certain semiprecious stones enter under HTS subheading 7116.20.20 with a column 1 general rate of 21 percent ad valorem.

House Bill

Temporarily reduces the rates for graded, semiprecious stones strung temporarily for convenience of transport to those prevailing under the former TSUS (column 1 general rate of 2.1 percent ad valorem.) Retroactive to January 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Luggage frames of aluminum (section 436 of House bill; section 435 of conference agreement)

Present Law

Imports of aluminum luggage frames enter under HTS subheading 7616.90.00 with a column 1 general rate of duty of 5.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain luggage frames of aluminum through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Molten-salt-cooled acrylic acid reactors (section 437 of House bill; section 1305 of Senate amendment; section 436 of conference agreement)

Present Law

Imports of these products enter under HTS subheadings 8419.89.50, 8419.90.30, or 8419.90.90, with column 1 general rates of 4.2 percent ad valorem.

House Bill

Suspends the column 1 general rates for these products entered on or before December 31, 1992. Retroactive to July 1, 1989.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Certain paper products (section 1432 of Senate amendment; section 437 of conference agreement)

Present Law

Imports of certain toilet paper, and handkerchiefs and facial tissues or towels enter under HTS subheadings 4818.10.00 and 4818.20.00, respectively, with column 1 general rates of duty of 5.3 percent ad valorem.

House Bill

No provision.

Senate Amendment

Reduces the column 1 general rates of duty on these products to 3.5 percent ad valorem through December 31, 1992.

Conference Agreement

The House recedes.

Impact line printers (section 439 of House bill; section 1330 of Senate amendment; section 438 of conference agreement)

Present Law

Imports of all impact line printers, regardless of drive mechanism, enter under HTS subheading 8471.92.65, with a column 2 rate of 35 percent ad valorem.

House Bill

Reduces the column 2 rate of duty for item 8471.92.65 to 3.75 percent ad valorem through December 31, 1992. Retroactive to October 1, 1988.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Machines used in the manufacture of bicycle parts; certain bicycle parts (section 440 of House bill; section 1356 of Senate amendment; section 439 of conference agreement)

Present Law

Imports of these items enter under HTS heading 8479 and 8714 with column 1 general rates of duty from 3.7 percent ad valorem to 10 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain bicycle parts and machines through December 31, 1992.

Senate Amendment

Identical provision, except for exclusion of handlebar stem hardware.

Conference Agreement

The Senate recedes.

Motor vehicle parts (section 441 of House bill; section 440 of conference agreement)

Present Law

Imports of certain motor vehicle parts enter under HTS subheading 7014.00.20 and certain provisions of heading 8483 with varying rates of duty; they are not currently eligible for benefits of the Automotive Products Trade Act.

House Bill

Restores duty-free treatment for certain motor vehicle parts retroactive to January 1, 1989, through the date on which the President proclaims modifications to the Harmonized Tariff Schedule. Additional provisions provide for reliquidation of entries already made during that period.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment to limit scope to imports from Canada.

Parts of generators for use on aircraft (section 442 of House bill; section 1419 of Senate amendment; section 441 of conference agreement)

Present Law

Imports of parts of generators for aircraft enter under HTS subheading 8503.00.60 with a column 1 general rate of duty of 3 percent ad valorem; certain parts enter free of duty under the Civil Aircraft Agreement.

House Bill

Suspends the column 1 general rates of duty for parts of generators for use on aircraft through December 31, 1992. Retroactive to January 1, 1989.

Senate Amendment

Identical provision, except for reference to HTS heading number(s).

Conference Agreement

The Senate recedes.

Magnetic video tape recordings (section 443 of House bill; section 1324 of Senate amendment; section 442 of conference agreement)

Present Law

Imports of pre-recorded magnetic videotapes enter under HTS subheading 8524.23.10, with a column 1 general rate of $0.0066 per linear meter (yielding $1.60 per "standard" cassette). Duties on these items had been suspended entirely under terms of the Nairobi Protocol between 1983 and 1987.

House Bill

Suspends duty on magnetic videotape recordings of a width exceeding 6.5 millimeters, but not exceeding 16 millimeters, in cassettes of U.S. origin, valued at not over $7.00 per cassette; provided for in item 8524.23.10, through December 31, 1992. Retroactive to January 1, 1988.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Certain infant nursery monitors and intercoms (section 444 of House bill; section 1420 of Senate amendment; section 443 of conference agreement)

Present Law

Imports of infant nursery monitors and intercoms enter under HTS subheadings 8504.40.00, 8525.10.60, 8525.20.20, 8527.39.00, or 8527.90.80 with column 1 general rates of duty ranging from 2 percent to 6 percent ad valorem.

House Bill

Suspends the column 1 general rates of duty for infant nursery monitors and intercoms through December 31, 1992.

Senate Amendment

Identical provision, except for reference to HTS heading number(s).

Conference Agreement

The House recedes with a technical amendment.

Insulated winding wire cable (section 1428 of Senate amendment; section 444 of conference agreement)

Present Law

Imports of self-contained fluid filled (SCFF) submarine cable enter under HTS subheading 8544.60.40 with a column 1 general rate of duty of 5.3 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on SCFF submarine cable through December 31, 1991.

Conference Agreement

The House recedes.

Certain piston engines (section 446 of House bill; section 1426 of Senate amendment; section 445 of conference agreement)

Present Law

Imports of two-stroke cycle engines for use in vehicles (excepting personal watercraft engines) enter under HTS headings 8407, 8703, and 8704 with column 1 general rates of duty of 2.5-8.5 percent ad valorem.

House Bill

Suspends the column 1 general rates on two and four-cycle engines through December 31, 1992. No specific provision for personal water craft engines. Retroactive to January 1, 1989.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Timing apparatus with optoelectronic display only (section 447 of House bill; section 1359 of Senate amendment; section 446 of conference agreement)

Present Law

Imports of time-of-day recording apparatus enter under HTS subheading 9106.90.80 with a column 1 general rate of duty of 45 cents plus 7.0 percent ad valorem plus 2.5 cents per jewel.

House Bill

Temporarily restores the column 1 general rate of duty to 3.9 percent ad valorem on timers and clock timers as previously provided under the Tariff Schedules of the United States (TSUS) through December 31, 1992. Retroactive to January 1, 1989.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Certain furniture and seats (section 448 of House bill; section 1361 of Senate amendment; section 447 of conference agreement)

Present Law

Imports of furniture seats and parts thereof made of certain vegetable materials enter under HTS subheadings 9401.50.00, 9401.90.25, 9403.80.30 and 9403.90.25, with a column 1 general rate of 7.5 percent ad valorem.

House Bill

Suspends the column 1 general rates for furniture, seats and parts produced from unspun fibrous vegetable material through December 31, 1992.

Senate Amendment

Identical provision, except for punctuation differences.

Conference Agreement

The House recedes.

Christmas ornaments (section 449 of House bill; section 1328 of Senate amendment; section 448 of conference agreement)

Present Law

Imports of certain Christmas ornaments enter under HTS subheading 9505.10.25

with a column 1 general rate of duty of 5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain Christmas ornaments through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

3-Dimensional cameras (section 450 of House bill; section 1422 of Senate amendment; section 449 of conference agreement)

Present Law

Imports of cameras capable of producing a 3-Dimensional effect enter under HTS subheading 9006.53.00, with a column 1 general rate of 3 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for these cameras under subheading 9006.53.00 through December 31, 1992, with a further clarification of the item description.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Frozen carrots (section 1329 of Senate amendment; section 450A of conference agreement)

Present Law

Imports of frozen carrots enter under HTS subheading 0710.80.70 with a column 1 general rate of duty of 25 percent ad valorem.

House Bill

No provision.

Senate Amendment

Reduces the column 1 general rate of duty for frozen carrots to 2.2 cents per kilogram through December 31, 1992. Retroactive to January 1, 1989.

Conference Agreement

The House recedes.

Certain veneer (section 1413 of Senate amendment; section 450B of conference agreement)

Present Law

Imports of wood veneer enter under HTS subheading 4421.90.90 with a column 1 general rate of duty of 5.1 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for certain manmade or recomposed wood veneer through December 31, 1992.

Conference Agreement

The House recedes.

Personal effects and equipment of participants and officials involved in the 1990 Goodwill Games (section 1417 of Senate amendment; section 450C of conference agreement)

Present Law
No provision.

House Bill

No provision.

Senate Amendment

Suspends all duties on personal effects and equipment of alien participants and officials through September 30, 1990.

Conference Agreement

The House recedes.

Personal effects and equipment for World University Games (section 1423 of Senate amendment; section 450D of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Suspends all duties on personal effects and equipment of alien participants and officials of the 1993 World University Games through September 30, 1993.

Conference Agreement

The House recedes.

Karate pants and belts (section 1424 of Senate amendment; section 450E of conference agreement)

Present Law

Imports of karate pants and belts enter under HTS headings 6203, 6204, and 6217, with column 1 general rates of duty ranging from 15.5 to 30.4 percent ad valorem.

House Bill

No provision.

Senate Amendment

Reduces the column 1 general rate of duty on karate pants and belts to 8 percent ad valorem through December 31, 1992.

Conference Agreement

The House recedes.

Metallurgical fluorspar (section 1425 of Senate amendment; section 450F of conference agreement)

Present Law

Imports of metallurgical fluorspar enter under HTS subheading 2529.21.00 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on metallurgical fluorspar through December 31, 1992.

Conference Agreement

The House recedes.

Hexyl chloride (section 314 of House bill)

Present Law

Imports of Hexyl chloride enter under HTS subheading 2903.19.50 with a column 1 general rate of duty of 18 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Hexyl chloride through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

tertiary-Butyl chloride (section 315 of House bill)

Present Law

Imports of tertiary-Butyl chloride enter under HTS subheading 2903.19.50 with a column 1 general rate of duty of 18 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for this product through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Hexachlorobutadiene (section 316 of House bill)

Present Law

Imports of Hexachlorobutadiene enter under HTS subheading 2903.29.00 with a column 1 general rate of duty 18 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for Hexachlorobutadiene through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

p-Toluic acid (section 328 of House bill)

Present Law

Imports of p-Toluic acid enter under HTS subheading 2916.39.50 with a column 1 general rate of duty of 3.7 cents per kilogram plus 17.9 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for p-Toluic acid through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

DEMAP (section 356 of House bill)

Present Law

Imports of this chemical enter under HTS subheading 2922.29.15, with a column 1 general rate of 6.8 percent ad valorem.

House Bill

Suspends the column 1 general rate for DEMAP, item 2922.29.15, through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Levodopa (section 360 of House bill)

Present Law

Imports of this product enter under HTS subheading 2922.50.25, with a column 1 general rate of 8.7 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 2922.50.25 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

N-[[(4-chlorophenyl)-amino]carbonyl]- 2,6-difluorobenzamide (section 367 of House bill)

Present Law

Imports of these chemicals enter under HTS subheadings 2924.29.19 and 3808.10.20 with column 1 general rates of duty of 12.9 percent and 1.8 cents per kilogram plus 9.7 percent ad valorem, respectively.

House Bill

Suspends the column 1 general rates of duty for these chemicals through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

12,2,6,6-Tetramethyl-4-piperidinon and amino hydroxy- and imido derivatives (section 389 of House bill)

Present Law

Imports of these chemicals enter under HTS subheading 2933.39.47 with a column 1 general rate of duty of 13.5 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 2933.39.47 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Resolin Red F3BS (section 412 of House bill)

Present Law

Imports of Resolin Red F3BS enter under HTS subheading 3204.11.20, with a column 1 general rate of 15 percent ad valorem.

House Bill

Suspends the column 1 general rate for item 3204.11.20 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Mono- and dibenzyl toluenes (section 419 of House bill)

Present Law

Imports of mono- and dibenzyl toluenes enter under HTS subheading 3823.90.29 with a column 1 general rate of duty of 3.7 cents per kilogram plus 13.6 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for item 3823.90.29 through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Specialty thermoset resin (section 422 of House bill)

Present Law

Imports of this specialty thermoset resin enter under HTS subheading 3911.90.30 with a column 1 general rate of duty of 5.8 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain specialty thermoset resin through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Chlorinated synthetic rubber (section 424 of House bill)

Present Law

Imports of chlorinated synthetic rubber enter under HTS subheading 3913.90.50 with a column 1 general rate of duty of 2.2 cents per kilogram plus 7.7 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for chlorinated synthetic rubber through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Garments specially designed for handicapped persons who are not ambulatory (section 428 of House bill)

Present Law

Imports of particular garments for nonambulatory handicapped persons enter under HTS headings 6203, 6304, and 6205 with column 1 general rates of duty ranging from 4.7 percent to 52.9 cents per kilogram plus 21 percent ad valorem (trousers); 5.9 percent to 17 percent ad valorem (dresses), 3 percent to 52.9 cents per kilogram plus 21 percent ad valorem (shirts); and 3.7 percent to 82.7 cents per kilogram plus 21 percent ad valorem (blouses).

House Bill

Suspends the column 1 general rates of duty for particular garments specially designed for handicapped persons who are not ambulatory through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Zinc printing type (section 438 of House bill)

Present Law

Imports of zinc printing type enter under HTS subheading 8442.50.90 with a column 1 general rate of duty of 8 percent ad valorem.

House Bill

Reduces the column 1 general rate of duty for zinc printing type to 3.7 percent ad valorem through December 31, 1992. Retroactive to January 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

Certain machined electronic connector contact parts (section 445 of House bill)

Present Law

Imports of machined electronic connector contact parts enter under HTS subheading 8538.90.00 with a column 1 general rate of duty of 5.3 percent ad valorem.

House Bill

Suspends the column 1 general rate of duty for certain machined electronic connector contact parts through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

(1,3,3-Trimethyl-indoline-2-ylidene)-acetaldehyde (section 1349 of Senate amendment)

Present Law

Imports of this chemical enter under HTS subheading 2933.90.39 with a column 1 general rate of duty of 3.7 cents per kilogram plus 16.2 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty for this chemical through December 31, 1992.

Conference Agreement

The Senate recedes.

Ranitidine hydrochloride (section 1438 of Senate amendment)

Present Law

Imports of this chemical enter under HTS subheading 2932.19.50 with a column 1 general rate of duty of 3.7 percent ad valorem.

House Bill

No provision.

Senate Amendment

Suspends the column 1 general rate of duty on this chemical through December 31, 1992.

Conference Agreement

The Senate recedes. The House conferees were unable to accept this provision because of strong opposition from domestic interests and the Administration. In light of the fact that a number of competing allegations have been made with respect to this product, however, the House conferees agree to hold public hearings on this issue this year. The conferees further agree to request an ITC study of the domestic competition in the ulcer drug market to determine the potential impact of this provision. The House conferees agree not to object to the inclusion of this provision in a subsequent tax bill solely on the grounds that this is a trade matter if the House's hearings demonstrate that the proposed relief does not adversely impact domestic competition.

PART 2—EXISTING TEMPORARY DUTY SUSPENSIONS

Extension of certain existing suspensions of duty (section 461 of House bill; sections 1201, 1202, 1209, 1210 of Senate amendment)

a. Crude feathers and down (section 461(a)(1) of House bill; section 461(a)(1) of conference agreement)

Present Law

Imported crude feathers and down are classifiable under HTS subheading 0505.10.00, but receive temporary duty-free treatment under subheadings 9902.05.10 and 9902.05.11 (expires December 31, 1990).

House Bill

Continues current duty suspension through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

b. Fresh cantaloupes (section 461(a)(2) of House bill; section 1201(1) of Senate amendment; section 461(a)(2) of conference agreement)

Present Law

Imports of fresh cantaloupes enter under HTS subheading 0807.10.20 with a column 1 general rate of 35 percent ad valorem; duty currently suspended under heading 9902.08.07 until December 31, 1990.

House Bill

Continues current part-year duty suspension for fresh cantaloupes imported through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

c. Mixtures of hot red peppers and salt (section 461(a)(3) of House bill; section 461(a)(3) of conference agreement)

Present Law

Imports of hot red peppers are classifiable under HTS subheading 0904.20.40, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.09.04 (expires December 31, 1990).

House Bill

Continues current duty-free treatment of column 1 general rates for certain mixtures of hot red peppers and salt through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

d. p-toluene-sulfonyl chloride (section 461(a)(4) of House bill; section 1201(2) of Senate amendment; section 461(a)(4) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2904.10.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.04.

House Bill

Extends current duty suspension for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

e. Certain menthol feedstocks (section 461(a)(5) of House bill; section 1209 of Senate amendment; section 461(a)(5) of conference agreement)

Present Law

Imports of menthol feedstocks, which contain not more than 20 percent by weight of any one stereoisomer, enter under HTS subheading 2906.19.00 with a column 1 general rate of duty of 7.1 percent ad valorem; but these products now enter duty-free under HTS heading 9902.29.05 until December 31, 1990.

House Bill

Continues duty-free treatment for certain menthol feedstocks through December 31, 1992.

Senate Amendment

Substantially the same as House provision, except raises the limit to 30 percent for any one stereoisomer.

Conference Agreement

The Senate recedes.

f. Dicofol (section 461(a)(6) of House bill; section 1201(3) of Senate amendment; section 461(a)(6) of conference agreement)

Present Law

Imports of these chemicals are classifiable under HTS subheadings 2906.29.50 and 3808.90.10, but receive temporary duty-free treatment for column 1 sources under HTS headings 9902.29.06 and 9902.38.11 (expires December 31, 1990).

House Bill

Continues current duty suspension for dicofol and on mixtures of dicofol and application adjuvant through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

g. Triethylene glycol dichloride (section 461(a)(7) of House bill; section 1201(5) of Senate amendment; section 461(a)(7) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2909.19.50, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.11 (expires December 31, 1990).

House Bill

Continues current duty suspension for triethylene glycol dichloride through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

h. 2,6-dichlorobenzaldehyde (section 461(a)(8) of House bill; section 1201(6) of Senate amendment; section 461(a)(8) of conference agreement)

Present Law

Imports of this product enter under HTS subheading 2913.00.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.13 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

i. Dinocap (section 461(a)(9) of House bill; section 1201(7) of Senate amendment; section 461(a)(9) of conference agreement)

Present Law

Imports of these products are classifiable under HTS headings 2916.19.50 and 3808.20.10, but receive temporary duty-free treatment for column 1 sources under HTS subheadings 9902.29.14 and 9902.38.06 (which expire December 31, 1990).

House Bill

Continues the current duty suspension on dinocap and on mixtures of dinocap with application adjuvants through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

j. m-hydroxybenzoic acid (section 461(a)(10) of House bill; section 1201(8) of Senate amendment; section 461(a)(10) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2918.29.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.21 (expires December 31, 1990).

House Bill

Continues the current duty suspension for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

k. d-6-methoxy-a-methyl-2-naphthaleneacetic acid and its sodium salt (section 461(a)(11) of House bill; section 1201(9) of Senate amendment; section 461(a)(11) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2918.90.30 with a column 1 general rate of duty of 6.8 percent ad valorem; duty currently suspended under heading 9902.29.22 until December 31, 1990.

House Bill

Continues the current duty suspension for this imported chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

l. 3-amino-3-methyl-1-butyne (section 461(a)(12) of House bill; section 1201(11) of Senate amendment; section 461(a)(12) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2921.19.50, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.24 (expires December 31, 1990).

House Bill

Continues current duty suspension for 3-amino-3-methyl-1-butyne through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

m. 8-amino-1-naphthalenesulfonic acid and its salts (section 461(a)(13) of House bill; section 1201(13) of Senate amendment; section 461(a)(13) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2921.45.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.30 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

n. 5-amino-2 (p-aminoanilino) benzenesulfonic acid (section 461(a)(14) of House bill; section 1201(14) of Senate amendment; section 461(a)(14) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2921.59.10, but receive temporary duty-free treatment for column 1

sources under HTS heading 9902.29.31 (expires December 31, 1990).

House Bill

Extends current duty suspension for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

o. 1-amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt) (section 461(a)(15) of House bill; section 1201(15) of Senate amendment; section 461(a)(15) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.21.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.33 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

p. 1-amino-2,4-dibromoanthraquinone (section 461(a)(16) of House bill; section 1201(19) of Senate amendment; section 461(a)(16) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.30.30, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.43 (expires December 31, 1990).

House Bill

Extends current duty suspension for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

q. Bromamine acid (section 461(a)(17) of House bill; section 1201(20) of Senate amendment; section 461(a)(17) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2922.30.30, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.44 (expires December 31, 1990).

House Bill

Extends current duty suspension for this chemical through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

r. N-(7-hydroxy-1-naphthyl)acetamide (section 461(a)(18) of House bill; section 1201(23) of Senate amendment; section 461(a)(18) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2924.29.09, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.51.

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

s. N,N-bis(2-cyanoethyl)aniline (section 461(a)(19) of House bill; section 1201(24) of Senate amendment; section 461(a)(19) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2926.90.40, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.57 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

t. Triallate (section 461(a)(20) of House bill; section 1201(26) of Senate amendment; section 461(a)(20) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2930.20.50 (3.7 percent), but receive duty-free treatment for column 1 sources under HTS heading 9902.29.60 (expires December 31, 1990).

House Bill

Continues the current duty suspension on triallate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

u. 6-(3-methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-methyl-1-phenyl-5-pyrazolone (methylphenylpyrazolone) (section 461(a)(21) of House bill; section 1201(29) of Senate amendment; section 461(a)(21) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2933.19.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.64 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

v. m-sulfaminopyrazolone (m-sulfamidophenylmethylpyrazolone) (section 461(a)(22) of House bill; section 1201(30) of Senate amendment; section 461(a)(22) of conference agreement)

Present Law

Imports of these chemicals enter with HTS column 1 general rates of duty ranging from 5.8 percent ad valorem to 1.5 cents per kilogram plus 19.4 percent ad valorem but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.66.

House Bill

Extends current duty suspension for certain benzenoid dye intermediates through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

w. 2-n-octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (section 461(a)(23) of House bill; section 1201(35) of Senate amendment; section 461(a)(23) of conference agreement)

Present Law

Imports of these products are classifiable under HTS subheadings 2934.10.50, 3808.90.20, and 3808.90.50, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.76 (expires December 31, 1990).

House Bill

Continues current duty suspension for these products through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

x. 2-amino-N-ethylbenzenesulfonanilide (section 461(a)(24) of House bill; section 1201(36) of Senate amendment; section 461(a)(24) of conference agreement)

Present Law

Imports of this chemical enter under HTS subheading 2935.00.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.79 (expires December 31, 1990).

House Bill

Extends current duty suspension for this intermediate through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

y. Methylene blue (section 461(a)(25) of House bill; section 1201(38) of Senate amendment; section 461(a)(25) of conference agreement)

Present Law

Imports of methylene blue are classifiable under HTS subheading 3204.13.50, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.32.04 (expires December 31, 1990).

House Bill

Continues current duty suspension for methylene blue through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

z. Mixtures of dinocap with application adjuvants (section 461(a)(26) of House bill; section 1201(40) of Senate amendment; section 461(a)(26) of conference agreement)

Present Law

Imports of these products are classifiable under HTS subheadings 2916.19.50 and 3808.20.10, but receive temporary duty-free treatment for column 1 sources under HTS headings 9902.29.14 and 9902.38.06 (which expire December 31, 1990).

House Bill

Continues the current duty suspension on dinocap and on mixtures of dinocap with application adjuvants through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

aa. Mixtures of mancozeb and dinocap (section 461(a)(27) of House bill; section 1201(41) of Senate amendment; section 461(a)(27) of conference agreement)

Present Law

Imports of these products are classifiable under HTS subheading 3808.20.10, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.38.07 (expires December 31, 1990).

House Bill

Continues the current suspension for mixtures of mancozeb and dinocap through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

bb. Mixtures of maneb, zineb, mancozeb and metiram (section 461(a)(28) of House bill; section 1201(42) of Senate amendment; section 461(a)(28) of conference agreement)

Present Law

Imports of these mixtures are classifiable under HTS subheading 3808.20.20, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.38.08 (expires December 31, 1990).

House Bill

Continues current duty suspension for mixtures of maneb, zineb, mancozeb, and metiram through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

cc. Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants (section 461(a)(29) of House bill; section 1201(43) of Senate amendment; section 461(a)(29) of conference agreement)

Present Law

Imports of these chemical mixtures are classifiable under HTS subheading 3808.90.20, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.38.10 (expires December 31, 1990).

House Bill

Continues the current duty suspension for these chemical mixtures through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

dd. Mixtures of dicofol and application adjuvant (section 461(a)(30) of House bill; section 1201(44) of Senate amendment; section 461(a)(30) of conference agreement)

Present Law

Imports of these chemicals are classifiable under HTS subheadings 2906.29.50 and 3808.90.10, but receive temporary duty-free treatment for column 1 sources under HTS headings 9902.29.06 and 9902.38.11 (expires December 31, 1990).

House Bill

Continues current duty suspension for dicofol and on mixtures of dicofol and application adjuvant through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

ee. Cholestyramine resin USP (section 461(a)(31) of House bill; section 1201(45) of Senate amendment; section 461(a)(31) of conference agreement)

Present Law

Imports of Cholestyramine resin USP are classifiable under HTS subheading 3914.00.00, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.39.14 (expires December 31, 1990).

House Bill

Continues the current suspension for Cholestyramine resin USP through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

ff. Certain bicycle parts (section 461(a)(32) of House bill; sections 1201(46), (50), (51), (55), and (56) of Senate amendment; section 461(a)(32) of conference agreement)

Present Law

Imports of bicycle parts enter under HTS heading 8714 with column 1 general rate of duty from 4.6 percent ad valorem to 10 percent ad valorem; duties on some parts currently suspended through December 31, 1990 under HTS headings 9902.40.11, 9902.73.12, 9902.73.15, 9902.85.12 and 9902.87.14.

House Bill

Renews current duty suspensions on certain bicycle parts.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

gg. Certain wools (section 461(a)(33) of House bill; section 1201(47) of Senate amendment; section 461(a)(33) of conference agreement)

Present Law

Imports of coarse wool are classifiable under HTS heading 5101, but receive temporary duty-free treatment for column 1 general and column 2 sources under HTS heading 9902.51.01 (expires December 31, 1990).

House Bill

Continues current duty suspension for certain wools until December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

hh. Certain narrow weaving machines (section 461(a)(35) of House bill; section 1201(68) of Senate amendment; section 461(a)(34) of conference agreement)

Present Law

Imports of certain narrow fabric looms enter under HTS subheading 8466.10.00 with a column 1 general rate of duty of 4.9 percent ad valorem; duties on imports of certain narrow weaving machines are suspended through December 31, 1990.

House Bill

Extends current duty suspension on certain narrow weaving machines through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

ii. Certain wool carding and spinning machinery (section 461(a)(36) of House bill; section 1201(69) of Senate amendment; section 461(a)(35) of conference agreement)

Present Law

Imports of certain wool carding and spinning machines enter under HTS subheading 8445.11.00 and 8445.20.00 with column 1 general rates of duty of 4.2 percent ad valorem; duties on imports of certain wool carding and spinning machinery are suspended through December 31, 1990.

House Bill

Extends current duty suspension on certain textile machines through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

jj. Certain knitting machines designed for sweater strip or garment length knitting (section 461(a)(37) of House bill; section 1201(53) of Senate amendment; section 461(a)(36) of conference agreement)

Present Law

Imports of knitting machines for sweater or garment strip knitting enter under HTS subheadings 8447.12.90, 8448.19.00, and 8448.59.10 at column 1 general rates of duty ranging from 4.2 to 4.7 percent ad valorem. Prior to January 1, 1990, these entries received temporary duty-free treatment for column 1 sources under HTS heading 9902.84.48.

House Bill

Reinstates duty-free treatment for certain knitting machines designed for sweater strip or garment length knitting through December 31, 1992.

Senate Amendment

Identical provision, except for differences in article description language and additional retroactive duty-free treatment to January 1, 1990.

Conference Agreement

The House recedes with a technical amendment.

kk. Certain lace braiding machines (section 461(a)(38) of House bill; section 1201(70) of Senate amendment; section 461(a)(37) of conference agreement)

Present Law

Imports of certain lace braiding machines enter under HTS subheading 8447.90.10 with a column 1 general rate of duty of 4.7 percent ad valorem; duties on certain lace-braiding machines are suspended through December 31, 1990.

House Bill

Extends current duty suspension on certain textile machines through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

ll. 6-hydroxy-2-naphthalenesulfonic acid and its sodium, potassium, and ammonium salts (section 1201(4) of Senate amendment; section 461(a)(38) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2908.20.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.10 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

mm. Triphenyl phosphate (section 1201(10) of Senate amendment; section 461(a)(39) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2919.00.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.23 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

nn. a,a,a-trifluoro-o-toluidine (section 1201(12) of Senate amendment; section 461(a)(40) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2921.43.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.28 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

oo. 6-amino-4-hydroxy-2-naphthalenesulfonic acid (gamma acid) (section 1201(16) of Senate amendment; section 461(a)(41) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.21.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.35 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

pp. 3,3'-dimethoxybenzidine (o-dianisidine) and its dihydrochloride (section 1201(17) of Senate amendment; section 461(a)(42) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.22.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.38 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

qq. 2-amino-5-nitrophenol (section 1201(18) of Senate amendment; section 461(a)(43) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.29.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.40 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

rr. 4-methoxyaniline-2-sulfonic acid (section 1201(21) of Senate amendment; section 461(a)(44) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.50.40, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.47 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ss. Benzethonium chloride (section 1201(22) of Senate amendment; section 461(a)(45) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2923.90.00, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.49 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

tt. 2,2-bis(4-cyanatophenyl)propane) (section 1201(25) of Senate amendment; section 461(a)(46) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2929.10.40, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.59 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

uu. Paraldehyde (section 1201(27) of Senate amendment; section 461(a)(47) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2932.90.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.62 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

vv. Aminomethylphenylpyrazole (section 1201(28) of Senate amendment; section 461(a)(48) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2933.19.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.63 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ww. 3-methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone) (section 1201(31) of Senate amendment; section 461(a)(49) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2933.19.40, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.67 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

xx. 3-methyl-5-pyrazalone (section 1201(32) of Senate amendment; section 461(a)(50) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2933.19.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.69 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

yy. Barbituric acid (section 1201(33) of Senate amendment; section 461(a)(51) of conference agreement)

Present Law

Imports of this acid are classifiable under HTS subheading 2933.51.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.71 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

zz. Nicotine resin complex (section 1201(37) of Senate amendment; section 461(a)(52) of conference agreement)

Present Law

Imports of nicotine resin complex are classifiable under HTS subheading 3004.40.00, but receive temporary duty-free treatment from column 1 sources under heading 9902.30.04 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

aaa. Metaldehyde (section 1201(39) of Senate amendment; section 461(a)(53) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheadings 2912.50.00, 3606.90.60, or 3808.90.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.36.06 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

bbb. Machines designed for heat-set, stretch texturizing of continuous man-made fibers (section 1201(52) of Senate amendment; section 461(a)(54) of conference agreement)

Present Law

Imports of these machines are classifiable under HTS subheading 8444.00.00, but receive temporary duty-free treatment under heading 9902.84.44 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ccc. Knitting needles (section 1201(54) of Senate amendment; section 461(a)(55) of conference agreement)

Present Law

Imports of knitting machine needles are classifiable under HTS subheading 8448.51.10 or 8448.51.30, but receive temporary duty-free treatment under heading 9902.84.51 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ddd. Tetraamino biphenyl (section 1201(57) of Senate amendment; section 461(a)(56) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2921.59.40, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.27 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

eee. Cyclosporine (section 1201(58) of Senate amendment; section 461(a)(57) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheadings 2941.90.10 or 3004.20.00, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.88 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

fff. Synthetic rutile (section 1201(60) of Senate amendment; section 461(a)(58) of conference agreement)

Present Law

Imports of synthetic rutile are classifiable under HTS subheading 2614.00.30, but receive temporary duty-free treatment from column 1 sources under heading 9902.26.14 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ggg. Needle-craft display models, primarily hand stitched, of completed mass-produced kits (section 1201(61) of Senate amendment; section 461(a)(59) of conference agreement)

Present Law

Imports of needle-craft display models are classifiable under HTS headings 5701 or 5805, or under chapter 63, but receive temporary duty-free treatment from column 1 sources through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

hhh. 2,5-dimethoxyzcetanilide (section 1201(62) of Senate amendment; section 461(a)(60) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2924.29.09, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.52 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

iii. 3-(4'-amino-benzamido)phenyl-B-hydroxy-ethylsulfone (section 1201(63) of Senate amendment; section 461(a)(61) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2930.90.20, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.61 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

jjj. 4-chloro-2-nitroaniline (section 1201(64) of Senate amendment; section 461(a)(62) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2921.42.25, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.25 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

kkk. 2-[(3-nitrophenyl)sulfonyl]ethanol (section 1201(65) of Senate amendment; section 461(a)(63) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2906.29.50, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.07 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

lll. 4-chloro-2,5-dimethoxyaniline (section 1201(66) of Senate amendment; section 461(a)(64) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.29.20, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.42 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

mmm. 3,4-diaminophenetole, dihydrogen sulfate (section 1201(67) of Senate amendment; section 461(a)(65) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2922.50.30, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.45 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

nnn. 2,4-dichloro-5-sulfamoylbenzoic acid (section 1201(71) of Senate amendment; section 461(a)(66) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2935.00.45, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.86 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

ooo. Graphite (section 1201(72) of Senate amendment; section 461(a)(67) of conference agreement)

Present Law

Imports of graphite are classifiable under HTS subheading 2504.10.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.25.04 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

ppp. Certain photograghic color couplers and coupler intermediates (section 1202 of Senate amendment; section 461(a)(68) of conference agreement)

Present Law

Imports of these chemicals are classifiable under HTS chapter 29 or heading 3707, but receive temporary duty-free treatment from column 1 sources under headings 9902.29.01 and 9902.37.07 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes.

qqq. Stuffed dolls and doll skins (section 461(a)(39) of House bill; section 461(a)(69) of conference agreement)

Present Law

Imports of inexpensive stuffed dolls and the skins thereof are classifiable under HTS subheadings in Chapter 95, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.95.01.

House Bill

Continues the current duty suspension for stuffed dolls and the skins thereof through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

rrr. Knitwear fabricated in Guam (section 461(b) of House bill; section 1201(48) of Senate amendment; section 461(b) of conference agreement)

Present Law

Imports of knitwear fabricated in Guam enter under HTS heading 6110 with column 1 general rates of duty from 6 percent to 34.2 percent ad valorem; duties currently suspended through October 31, 1992, under HTS heading 9902.61.00.

House Bill

Extends the existing column 1 general rate of duty suspension on certain knitwear fabricated in Guam through October 31, 1996.

Senate Amendment

Identical provision, except for expiration date of December 31, 1992.

Conference Agreement

The Senate recedes.

Extension of, and other modifications to, certain existing suspensions of duty (section 462 of House bill; sections 1203-1208 of Senate amendment; section 462 of conference agreement)

a. Corned beef in airtight containers (section 462(a) of House bill; section 1208 of Senate amendment; section 462(a) of conference agreement)

Present Law

Imports of corned beef in airtight containers enter under HTS subheading 1602.50.10 with a column 1 general rate of duty of 7.5 percent ad valorem. Prior to January 1, 1990, a reduced column 1 general rate of duty of 3 percent ad valorem was applicableto these imports.

House Bill

Suspends the column 1 general rate of duty through December 31, 1992.

Senate Amendment

Identical provision.

Conference Agreement

The House recedes with a technical amendment regarding retroactive provision.

b. Surgical gowns and drapes (section 461(a)(34) of House bill; section 1210 of Senate amendment; section 462(b) of conference agreement)

Present Law

Imports of disposable surgical gowns and drapes are classifiable under HTS subheadings 6210.10.30 and 6307.90.65, but currently enter at a temporarily reduced rate of duty of 5.6 percent ad valorem for column 1 sources under HTS heading 9902.62.10 (expires December 31, 1990).

House Bill

Continues current duty reduction for certain disposable surgical gowns and drapes through December 31, 1992.

Senate Amendment

Substantially the same as House provision, except amends the article description in 9902.62.10.

Conference Agreement

The House recedes.

c. Certain jewelry (section 462(b) of House bill; section 1205 of Senate amendment; section 462(c) of conference agreement)

Present Law

Imports of inexpensive toy-type jewelry are classifiable under HTS Chapter 71, but those valued not over 1.6 cents per piece receive temporary duty-free treatment for

column 1 sources under HTS heading 9902.71.13 (expires December 31, 1990).

House Bill

Continues the current duty suspension for toy-type jewelry through December 31, 1992. Maximum value increased to 5 cents per piece.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

d. Electrostatic copying machines (section 462(c) of House bill; section 1204 of Senate amendment; section 462(d) of conference agreement)

Present Law

Imports of these parts and accessories are classifiable under HTS subheading 9009.90.00, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.90.90 (expires December 31, 1990).

House Bill

Continues current duty suspension for electrostatic copying machine parts and accessories through December 31, 1992. This duty-free treatment is retroactive to January 1, 1989.

Senate Amendment

Substantially the same as House provision, except adds ancillary machines intended for attachment to copying machines.

Conference Agreement

The House recedes with an amendment to add retroactive provision. For the purposes of this suspension, accessories includes, but is not limited to, ancillary parts and accessories, covered under heading 8472.90.80, which are attached to the electrostatic office copiers, and which do not operate independently of the office copier. The amendment to the description of the existing suspension is designed to clarify the originally intended coverage of the suspension, following issues arising as result of the conversion to the Harmonized Tariff Schedule.

e. Certain hosiery knitting machines (section 1203 of Senate amendment; section 462(e) of conference agreement)

Present Law

Imports of hosiery knitting machines are classifiable under HTS heading 8447, but receive temporary duty-free treatment for column 1 sources under heading 9902.84.47 through December 31, 1990. Parts for these machines enter under subheading 8448.59.10 with a column 1 general rate of duty of 4.7 percent ad valorem.

House Bill

No provision.

Senate Amendment

Continues current duty suspension for hosiery knitting machines through December 31, 1992. Suspends the column 1 general rate of duty for parts through December 31, 1992.

Conference Agreement

The House recedes.

f. Jacquard cards (section 1206 of Senate amendment; section 462(f) of conference agreement)

Present Law

Imports of jacquard cards are classifiable under HTS headings 4823 and 8448, but receive temporary duty-free treatment for column 1 sources under heading 9902.48.23 through December 31, 1990. Cards suitable for use as, or in making, jacquard cards enter under HTS subheadings 3926.90.90 and 4823.30.00 at column 1 general rates of duty of 5.3 and 3.9 percent ad valorem, respectively.

House Bill

No provision.

Senate Amendment

Continues current duty suspension for jacquard cards through December 31, 1992. Suspends the column 1 general rate of duty for cards suitable for use as, or in making, jacquard cards through December 31, 1992.

Conference Agreement

The House recedes.

g. Kitchenware of glass-ceramics (section 1201(49) of Senate amendment; section 462(g) of conference agreement)

Present Law

Imports of certain glass ceramic kitchenware are classifiable under HTS subheading 7013.10.10, but receive temporary duty-free treatment from column 1 sources under heading 9902.70.13 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

This provision extends until December 31, 1992, the existing duty suspension on certain transparent, non-glazed, glass ceramic kitchenware provided for in subheading 7013.10.10 and currentlly receiving temporary duty-free treatment under heading 9902.70.13 until December 31, 1990. In addition, certain revisions and amendments were made to the product definition under the existing duty suspension to narrow the scope of product coverage. As amended, this provision would cover only those products meeting the existing product description which, in addition, also appear black in color and if with handles, the handles extend outward from the rim of the article no further than 2 inches (5.1 cm). These articles, although appearing black in color are readily transparent when subjected to an artificial illumination source (i.e., non-distorting, not opaque or translucent). Therefore, most of the products covered by subheading 7013.10.10 will no longer fall under the suspension provision. This change is to assure that the provision, will not have an adverse impact on domestic manufacturers of products competing with the imported product covered by this provision.

h. Umbrella frames and parts (section 1201(59) of Senate amendment; section 462(h) of conference agreement)

Present Law

Imports of these frames are classifiable under HTS subheading 6603.20.30, but receive temporary duty-free treatment from column 1 sources under heading 9902.66.03 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes with an amendment to add duty suspension until December 31, 1992, for umbrella handles and knobs (HTS subheading 6603.10.00) and for umbrella tips and caps (HTS subheading 6603.90.00).

i. Terfenadone (section 1201(34) of Senate amendment; section 462(i) of conference agreement)

Present Law

Imports of this chemical are classifiable under HTS subheading 2933.90.37, but receive temporary duty-free treatment from column 1 sources under heading 9902.29.74 through December 31, 1990.

House Bill

No provision.

Senate Amendment

Extends the existing column 1 general rate of duty suspension through December 31, 1992.

Conference Agreement

The House recedes with a technical amendment.

j. Certain toy figures (section 462(d) of House bill; section 462(j) of conference agreement)

Present Law

Imports of certain inexpensive toy figures are classifiable under HTS Chapter 95, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.95.02. (Expires December 31, 1990.)

House Bill

Continues current duty suspension for certain toy figures through December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Termination of existing suspension of duty on C-Amines (section 463 of House bill; section 1207 of Senate amendment; section 463 of conference agreement)

Present Law

Imports of these chemicals are classifiable under HTS subheadings 2921.43.50 and 2971.49.50, but receive temporary duty-free treatment for column 1 sources under HTS heading 9902.29.29 (expires December 31, 1990).

House Bill

Eliminates the current duty suspensions for C-amines which have column 1 duties of 2.4 cents per kilogram plus 18.8 percent ad valorem.

Senate Amendment

Identical provision, except for additional retroactive treatment to January 1, 1990.

Conference Agreement

The Senate recedes.

SUBTITLE B—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

PART 1—TARIFF CLASSIFICATION AND OTHER TECHNICAL AMENDMENTS

Certain edible molasses (section 471 of House bill; section 1104 of Senate amendment; section 471 of conference agreement)

Present Law

Imports of certain edible molasses enter under HTS subheading 1702.90.40 with a column 1 general rate of duty of 0.77 cents

per liter; the subheading's products are currently subject to quota.

House Bill

Restores the previous exemption from quotas for edible molasses containing more than 6 percent nonsugar solids.

Senate Amendment

Identical provision, except for technical differences in HTS references.

Conference Agreement

The Senate recedes.

Certain woven fabrics and gauze (section 472 of House bill; section 472 of conference agreement)

Present Law

Classifies tapestry and upholstery fabrics of wool or fine animal hair in HTS headings 5111 and 5112 and of gauze construction in 5803 at various rates.

House Bill

Creates a new provision covering upholstery-weight fabrics of a weight not exceeding 140 grams per square meter at a 7 percent ad valorem duty rate. Retroactive to January 1, 1989.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with technical amendments.

Classification of certain articles in whole or part of fabrics coated, covered or laminated with opaque rubber or plastics (section 473 of House bill; section 473 of conference agreement)

Present Law

Classifies goods of HTS heading 4202 (luggage and handbags) consisting of an outer surface of plastic-coated fabric as if wholly of textile fabric.

House Bill

Adds an additional U.S. note to Chapter 42 to permanently classify goods of HTS heading 4202 of an outer exposed surface of opaque rubber or plastic as if wholly of plastic.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with a technical amendment.

Gloves, mittens, and mitts (section 474 of House bill; section 1101 of Senate amendment; section 474 of conference agreement)

Present Law

Imports of nonleather sporting gloves, mittens, and mitts enter under HTS headings 6116 and 6216 with column 1 general rates of duty ranging from 3.7 percent to 25 percent ad valorem.

House Bill

Amends the HTS article descriptions to include miscellaneous gloves principally designed for sports use under HTS headings 6116 and 6216, along with ski and snowmobile gloves, mittens, and mitts at column 1 general rates of duty of 5.5 percent ad valorem. Retroactive to January 1, 1989.

Senate Amendment

Substantially the same as House provision, except adds new permanent HTS subheadings for ice and field hockey gloves with duty-free column 1 general rates. No retroactive provision.

Conference Agreement

The House recedes with an amendment to add retroactive provision and make technical changes.

Chipper knife steel (section 475 of House bill; section 1102 of Senate amendment; section 475 of conference agreement)

Present Law

Imports of certain chipper knife steel products enter under HTS subheadings 7226.91.10 and 7226.91.30 with column 1 general rates of duty of 9.6 percent ad valorem and 11.6 percent ad valorem, respectively.

House Bill

Amends the HTS by establishing a new subheading for chipper knife steel (7226.91.05) and provides a free general rate of duty and 34 percent ad valorem column 2 rate of duty for this item. Retroactive to January 1, 1989.

Senate Amendment

Identical provision, except for inclusion of staged rate reduction.

Conference Agreement

The Senate recedes with a technical amendment.

Elimination of inverted tariff on cantilever brakes and brake parts for bicycles (section 476 of House bill; section 476 of conference agreement)

Present Law

Imports of bicycle parts enter under HTS heading 8714 with column 1 general rate of duty from 4.6 percent ad valorem to 10 percent ad valorem; duties on some parts currently suspended through December 31, 1990.

House Bill

Renews current duty suspensions on certain bicycle parts, and grants suspensions on other parts, all through December 31, 1992. Also amends two subheadings in Chapter 87 to eliminate the inverted tariff on cantilever brakes and brake parts.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with a technical amendment.

Bicycles having 26-inch wheels (section 477 of House bill; section 1103 of Senate amendment; section 477 of conference agreement)

Present Law

Imports of 26-inch bicycles enter under HTS subheadings 8712.00.10 and 8712.00.20 with a column 1 general rates of duty of 11 percent ad valorem.

House Bill

Permanently amends the HTS to correct the classification of 26-inch bicycles. Retroactive to January 1, 1989.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Processing of certain blended syrups (section 478 of House bill; section 478 of conference agreement)

Present Law

Certain, but not all, sugar-containing products are subject to import quota limitations as a result of action taken by the President under Section 22 of the Agricultural Adjustment Act of 1933, as amended.

Since 1984, certain companies have been permitted by the Commerce Department's Foreign Trade Zones Board to operate sugar processing facilities in a Foreign Trade Zone (FTZ), subject to very specific limitations concerning the amount of sugar which may be brought into the FTZ for processing into sugar blends destined for consumption in the United States. Provided that these companies' FTZ operations stay within the parameters of the Foreign Trade Zones Board's approvals, importation of these sugar-containing products had not, until January 1, 1989, been subject to import quota.

Effective January 1, 1989, however, the Harmonized Tariff Schedule established a zero import quota restriction for certain blended syrups not previously subject to import quota restrictions.

House Bill

Section 478 of the House bill provides a limited exemption from the zero quota established under the HTS for certain blended syrups, if the blended syrup is entered into U.S. customs territory from a foreign trade zone that was previously authorized by the Foreign Trade Zone Board, and only to the extent that the quantity entered does not exceed the equivalent quantity authorized by the FTZ to be processed in 1985.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes, with clarifying amendments. The provision, as amended, exempts from otherwise applicable import quotas, imports of certain blended syrups, if such blended syrups are entered, or withdrawn from warehouse, for consumption from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990. The exemption is further limited to the extent that the annual quantity of blended syrup entered into the customs territory from such zone does not contain an amount of sugar of nondomestic origin greater than that authorized by the Foreign Trade Zones Board for processing in such zone during calendar year 1985.

The conferees intend for this provision to authorize the entry into U.S. customs territory of blended syrups of heading 9904.50.20, notwithstanding any other quantitative restriction, when three conditions exist:

(1) the blended syrups are entered into U.S. customs territory from a foreign trade zone (or subzone) by a foreign trade zone user that was authorized by the Foreign Trade Zones Board in 1985 to establish sugar blending operations in a foreign trade zone (or subzone) using sugar of nondomestic origin;

(2) as of June 1, 1990, the foreign trade zone user had not gone out of business, or shut down its processing facilities in the foreign trade zone (or subzone); and

(3) the annual quantity of imports of blended syrups entered into U.S. customs territory from the zone (or subzone) by such foreign trade zone user does not contain, in the aggregate, an amount of sugar of nondomestic origin that is larger than the amount of sugar of nondomestic origin that was authorized by the Foreign Trade Zones Board in 1985 for processing in its foreign trade zone (or subzone).

This section shall apply to all articles (blended syrups) entered, or withdrawn from warehouse, for consumption after December 31, 1988.

Articles exported and returned (section 1106 of Senate amendment; section 479A of conference agreement)

Present Law

Metal articles exported for processing, then returned to the U.S. for additional processing are subject only to duty on the value of foreign processing under HTS subheading 9802.00.60.

House Bill

No provision.

Senate Amendment

Adds additional U.S. Note to HTS chapter 98 which provides that such entries will not be exempted from antidumping and countervailing duties, as well as section 201 and section 301 of the Trade Act of 1974.

Conference Agreement

The House recedes.

Brooms (section 1107 of Senate amendment; section 479B of conference agreement)

Present Law

Certain brooms and whiskbrooms made partially of broom corn enter under HTS subheading 9603.10.70 with a column 1 general rate of duty of 10 percent ad valorem. Brooms and whiskbrooms wholly of broomcorn are subject to a tariff-rate quota.

House Bill

No provision.

Senate Amendment

Restores tariff-rate quota that existed under the TSUS for brooms and whiskbrooms "wholly or in part" of broomcorn. Takes effect 15 days after enactment.

Conference Agreement

The House recedes.

Foliage-type artificial flowers (section 1108 of Senate amendment; section 479C of conference agreement)

Present Law

Imports of certain foliage-type artificial flowers enter under HTS subheading 6702.90.60 with a column 1 general rate of duty 17 percent ad valorem.

House Bill

No provision.

Senate Amendment

Amends HTS subheading 6702.90.40 to include these items, with a column 1 general rate of duty of 9 percent ad valorem. Retroactive to January 1, 1989.

Conference Agreement

The House recedes.

Tobacco processed in Caribbean Basin Country (section 1105 of Senate amendment)

Present Law

Tobacco grown in the U.S., processed in a Caribbean Basin country, and returned to the U.S. enters under HTS chapter 24 at various rates of duty.

House Bill

No provision.

Senate Amendment

Adds additional U.S. Note to HTS chapter 24 to provide duty-free treatment to imports of U.S. grown tobacco under heading 2401, which are processed in a Caribbean Basin country.

Conference Agreement

The Senate recedes. It is the understanding of the conferees that this provision is unnecessary because section 222 of the conference agreement would apply to U.S. tobacco processed in a CBI country.

Outer garments treated as water resistant (section 1109 of Senate amendment)

Present Law

Garments classified as water resistant by virtue of an outer shell, lining, or inner lining enter under HTS chapter 62 at various rates of duty.

House Bill

No provision.

Senate Amendment

Amends additional U.S. note 2 to HTS chapter 62 to delete lining and inner lining as a basis for water resistant classification.

Conference Agreement

The Senate recedes.

PART 2—MISCELLANEOUS PROVISIONS

Renewal of existing customs exemption applicable to bicycle parts in foreign trade zones (section 481 of House bill; section 1704 of Senate amendment; section 481 of conference agreement)

Present Law

Imports of bicycles and their parts and accessories enter under HTS headings 8712 and 8714; they cannot take advantage of foreign trade zone duty reductions until 1991.

House Bill

Amends the Foreign Trade Zones Act to renew until December 31, 1992, the existing prohibition on FTZ duty reductions applicable to bicycle parts not reexported outside the United States.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Rail cars for the State of Florida (section 482 of House bill; section 1702 of Senate amendment; section 482 of conference agreement)

Present Law

Imports of bi-level railcars were classified under TSUS item 690.15, with a column 1 general rate of 18 percent ad valorem and a column 2 rate of 45 percent ad valorem.

House Bill

Provides duty-free treatment for bi-level rail cars designed for and used by the Department of Transportation for the State of Florida. Treatment would apply to railcars entered after March 14, 1988, and before January 1, 1989, either under column 1 or column 2 TSUS rates. Provides for reliquidation if liquidation has become final.

Senate Amendment

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

Reliquidation of certain entries (section 483 of House bill; sections 1601(b), 1705, 1712 of Senate amendment; section 483 of conference agreement)

a. Certain antidumping duties (section 483(a) of House bill; section 1712 of Senate amendment; section 483(a) of conference agreement)

Present Law

Imports of large power transformers entered between 1974 and 1980 were subject to antidumping duties of $792,000. The customs broker, rather than the importer, was listed as the "importer of record" and is therefore liable for the payment of these duties.

House Bill

Relieves the customs broker of liability for these antidumping duties. Requires filing of requests with the U.S. Customs Service for the 14 entries specified by the provision.

Senate Amendment

Identical provision, except for requirement to file requests with U.S. Customs Service.

Conference Agreement

The Senate recedes.

b. Digital processing units (section 483(b) of House bill; section 1705 of Senate amendment; section 483(b) of conference agreement)

Present Law

Imports of these digital processing units entered under TSUS items 676.15, 676.54, 945.83, or 945.84 during 1986-1987 with column 1 general rates of duty ranging from free to 100 percent ad valorem.

House Bill

Provides for reliquidation of duties paid for certain imports of digital processing units prior to July 2, 1987.

Senate Amendment

Similar provision, but more narrow in scope.

Conference Agreement

The House recedes.

c. Certain other entries (section 483(c) of House bill; section 483(c) of conference agreement)

(i) 1-(3-sulfopropyl)pyridinium hydroxide (section 483(c)(1) of House bill; section 483(c)(1) of conference agreement)

Present Law

Imports of 1-(3-Sulfopropyl)pyridinum hydroxide are subject to duty-free treatment from October 1, 1988, through December 31, 1990.

House Bill

Grants retroactive duty-free treatment to products imported under TSUS item 406.39 for the October 1, 1988, to December 31, 1988, period.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

(ii) Brussels sprouts (section 483(c)(2) of House bill; section 483(c)(2) of conference agreement)

Present Law

Imports of fresh, chilled or frozen brussels sprouts currently enter under HTS subheading 0704.20.00 with a column 1 general rate of duty of 25 percent ad valorem.

House Bill

Grants retroactive duty-reduced treatment to products imported under TSUS item 903.29 for the period January 1, 1987 to November 10, 1988 at a 12.5 percent ad valorem rate of duty.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Protest relating to certain entries (section 484 of House bill; section 484 of conference agreement)

Present Law

Section 514 of the Tariff Act of 1930 does not allow a protest to be filed if more than

90 days have elapsed since liquidation of the entries.

House Bill

Enables the filing of a protest relating to certain customs entries despite section 514.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Substitution of crude petroleum or petroleum derivatives (section 1713 of Senate amendment; section 484A of conference agreement)

Present Law

Current Customs practice requires recordkeeping on a daily basis for petroleum to be eligible for drawback.

House Bill

No provision.

Senate Amendment

Establishes monthly accounting procedures for drawback payments on articles stored in common storage with other articles of the same kind and quality. Retroactive to apply to all entries liquidated under protest or in litigation in accordance with C.S.D. 88-1.

Conference Agreement

The House recedes, with an amendment to clarify that (1) the crude petroleum or petroleum derivatives subject to this provision are limited to those described in Harmonized Tariff Schedule (HTS) headings 2707 through 2715, 2901 and 2902, or 3901 through 3914 (with those in headings 3901 through 3914 limited to liquids, pastes, powders, granules, and flakes); (2) the articles eligible for duty drawback are stored in a single facility with other articles that are commercially interchangeable or covered by the same HTS headings; (3) the monthly inventory records of the storage facility are adequate to ensure that any drawbacks paid are not excessive; (4) the inventory records are available, on reasonable notice, to the Customs Service; and (5) the claims for drawbacks are those filed or liquidated beginning January 1, 1988, and claims that remain unliquidated, under protest, or in litigation as of the date the provision is enacted.

It is the intent of the conferees that, for storage units to be considered part of a single facility, they must be near or close to one another, but they do not need to be contiguous or share a common border. The conferees intend for storage units that are separated as a result of property boundaries, ship channels, streams, canals, rail lines, roads, or similar geographical barriers to be considered part of a single facility where they are under the physical and legal control of a single person or entity and are treated by such person or entity as a single unit for inventory recordkeeping purposes. For example, where there are two sets of 10 storage tanks located at opposite geographical extremes of a terminal area, and the 20 tanks are controlled by the same entity and are treated as a functional unit for inventory recordkeeping purposes, they should be considered part of a single facility, although they may be connected only by one or more flow lines.

The conferees do not intend to require that the certificates of delivery or the certificates of manufacture and delivery that, when required, are to be filed with the drawback entry, be prepared contemporaneously with the underlying transaction. Rather, they may be prepared at any time between the delivery of the product and the filing of a claim.

The conferees intend that, if the inventory records show, at the end of any calendar month, that there is a net amount of a petroleum product available to a claimant in common storage that was not exported or used on a deemed exportation, that amount of petroleum product may be carried over and claimed in a subsequent month to the extent that the records of the claimant, the exporter (if a person other than the claimant), and the common storage facility operator show that petroleum product of the same kind and quality was exported or used on a deemed exportation in that subsequent month, even if that petroleum product is not physically available as shown by the records of the common storage facility operator. It is the understanding of the conferees that, consistent with existing law, the Secretary of the Treasury is authorized to make appropriate changes, by regulation or instruction, to the certificates of delivery or the certificates of manufacture and delivery.

The conferees intend that, to the extent that a claim may be made under this provision with respect to an article classified under the old Tariff Schedules of the United States (TSUS), in effect prior to the transition on January 1, 1989, to the HTS, the Customs Service shall determine whether the article is classifiable under one of the HTS headings listed in this provision.

Agglomerate marble floor tiles (section 1714 of Senate amendment; section 484B of conference agreement)

Present Law

Imports of this item enter under HTS subheading 6810.19.10 with the following ad valorem rates of duty: 21 percent under column 1; 12.6 percent under the U.S.-Canada FTA; and 55 percent under column 2.

House Bill

No provision.

Senate Amendment

Creates new HTS subheading 6810.19.12 for this item with the following ad valorem rates of duty: 4.9 percent under column 1; 4.7 percent under the U.S.-Canada FTA; and 40 percent under column 2. Retroactive to January 1, 1989.

Conference Agreement

The House recedes with a technical amendment.

Parts of ionization smoke detectors (section 1718 of Senate amendment; section 484C of conference agreement)

Present Law

Imports of this item enter under HTS subheading 9022.90.80 with a column 1 general rate of duty of 4 percent and a U.S.-Canada FTA rate of 3.2 percent ad valorem.

House Bill

No provision.

Senate Amendment

Creates a new subheading for this item with a column 1 general rate of duty of 2.7 percent and a U.S.-Canada FTA rate of 2.1 percent ad valorem. Retroactive to January 1, 1989.

Conference Agreement

The House recedes with an amendment to add staging provision.

Nuclear magnetic spectrometer (section 1706 of Senate amendment; section 484D of conference agreement)

Present Law

Imports of this item enter under HTS subheading 9018.19.80 with a column 1 general rate of duty of 4.2 percent ad valorem.

House Bill

No provision.

Senate Amendment

Provides for duty-free entry of this item for use by the University of Alabama at Birmingham.

Conference Agreement

The House recedes.

Foreign repair of vessels (section 1707 of Senate amendment; section 484E of conference agreement)

Present Law

Under the vessel repair statute (19 U.S.C. 1466), non-emergency foreign repairs of lighter aboard ship (LASH) barges, or foreign purchase of vessel repair parts are subject to a rate of duty of 50 percent ad valorem.

House Bill

No provision.

Senate Amendment

Eliminates duty on foreign repairs of LASH barges and provides for HTS import duties on foreign purchase of vessel repair parts through December 31, 1992.

Conference Agreement

The House recedes.

Certain distilled spirits in foreign trade zones (section 1711 of Senate amendment; section 484F of conference agreement)

Present Law

The Foreign Trade Zone Act restricts the use of denatured distilled spirits in FTZ operations, and their eligibility for drawback under IRS laws.

House Bill

No provision.

Senate Amendment

Amends the Foreign Trade Zone Act to enable denatured distilled spirits to be processed under FTZ rules, and to be eligible for drawback under IRS laws.

Conference Agreement

The House recedes.

Ethyl tertiary-butyl ether (section 1715 of Senate amendment; section 484G of conference agreement)

Present Law

Imports of ETBE enter under HTS subheading 2909.19.10 with column 1 and 2 rates of duty of 5.6 percent and 37 percent ad valorem, respectively.

House Bill

No provision.

Senate Amendment

Increases the column 1 and 2 rates of duty to 6.66 cents per liter through December 31, 1992 or the date on which Treasury regulation 1.40-1 is withdrawn or declared invalid.

Conference Agreement

The House recedes.

Canadian lottery materials (section 1716 of Senate amendment; section 484H of conference agreement)

Present Law

Transshipment of lottery materials through the U.S. for use outside the U.S. is

prohibited by section 553 of the Tariff Act of 1930.

House Bill

No provision.

Senate Amendment

Provides for the transshipment of Canadian lottery materials in bond through the United States. Takes effect 15 days after enactment.

Conference Agreement

The House recedes.

Certain forgings (section 1701 of Senate amendment; section 484I of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Provides for reliquidation of several customs entries and the refund of additional marking duties.

Conference Agreement

The House recedes.

Certain extracorporeal shock wave lithotripter (section 1703 of Senate amendment; section 484J of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Provides for reliquidation of an entry made on this item and the refund of duties paid.

Conference Agreement

The House recedes.

Certain methanol entries (section 1708 of Senate amendment; section 484K of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Provides for reliquidation and refund of duties paid on two entries of methanol.

Conference Agreement

The House recedes.

Certain frozen vegetables (section 1709 of Senate amendment; section 484L of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Provides for reliquidation and refund of duties paid on entries of certain frozen vegetables between January 1 and April 30, 1990 from MFN countries.

Conference Agreement

The House recedes with a technical amendment.

Certain films and recordings (section 1710 of Senate amendment; section 484M of conference agreement)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Provides for the reliquidation of entries of certain films and recordings occurring between August 12, 1985, and December 31, 1986, at the TSUS rate of duty existing on August 11, 1985.

Conference Agreement

The House recedes.

Effective dates (section 485 of House bill; section 1601 of Senate amendment; section 485 of conference agreement)

Present Law

No provision.

House Bill

Unless otherwise provided, the tariff provisions covered by Subtitle F become effective on the fifteenth day after the later of October 1, 1989, or the date of enactment of this Act. Retroactive application applies to certain entries which were made after the applicable date and before the effective date and in those instances where there would have been no duty or lesser duty if the amendment made by such section applied to such entry.

Senate Amendment

Unless otherwise provided, the effective date is October 1, 1990. Retroactive treatment is established for certain entries, which partially coincides with the House provision.

Conference Agreement

The House recedes with an amendment to reflect conference agreement on other provisions.

TITLE IV—EXPORTS OF UNPROCESSED TIMBER

(All references to the Senate Bill are H.R. 1594 as amended. All references to the House Amendment are Title II of H.R. 4653, as reported by the House Foreign Affairs Committee on May 10, 1990.)

Short Title (section 201 of House amendment; 6001 of Senate bill; section 401 of conference agreement)

Present Law

No provision.

House Amendment

"Domestic Timber Processing Allocation Act of 1990."

Senate Bill

"Federal Timber Export Restriction Act of 1990".

Conference Agreement

Provides a short title of "Forest Resources Conservation and Shortage Relief Act of 1990".

Findings and Purposes (section 6002 of Senate bill; section 488 of conference agreement)

Present Law

No provision.

House Amendment

No provision.

Senate Bill

Contains numerous purposes aimed at promoting the conservation and relieving the shortage of forest resources.

Conference Agreement

Contains findings that establish the critical nature of timber resources to the well-being of the United States, and that it is appropriate for the federal government to take measures to conserve these resources.

Asserts the purpose of this title is to take appropriate action to conserve public timber resources that is consistent with the United States international obligations.

Restrictions on Exports of Unprocessed Timber Originating From Federal Lands (section 202 of House amendment; section 6101 of Senate Bill; section 489 of conference agreement)

Present Law

The Federal Government prohibits the export of logs from federal lands west of the 100th meridian in the contiguous 48 states. Since 1973, this prohibition has been enacted annually as a rider to the annual Interior appropriations bill.

House Amendment

Section 202 contains a prohibition on the export from the United States of unprocessed timber from federal lands west of the 100th meridian. The prohibition does not apply to specific quantities and species of unprocessed timber from federal lands that the Secretary of Interior or Secretary of Agriculture determine to be in surplus. Any such determination may be withdrawn if the affected timber is no longer in surplus to the needs of timber manufacturing facilities in the United States.

Senate Bill

Section 6101 makes permanent the ban on the export of logs from federal lands west of the 100th meridian in the contiguous 48 states. The provision prohibits any person who acquires, either directly or indirectly, unprocessed timber originating from federal lands, from exporting, selling, trading, exchanging or otherwise conveying such timber for export. Section 6104 excludes from the prohibition specific quantities of grades and species of unprocessed timber from federal lands which the Secretary of Agriculture or the Secretary of the Interior determines to be surplus to domestic manufacturing needs.

Conference Agreement

The conferees agree to merge the House amendment and Senate bill. Section 489 makes permanent the ban on the export of logs from federal lands west of the 100th meridian in the contiguous 48 states. The provision prohibits any person who acquires unprocessed timber originating from federal lands west of the 100th meridian in the contiguous 48 states from exporting, selling, trading, exchanging or otherwise conveying such timber to any other person for the purpose of exporting such timber from the United States. The prohibition does not apply to specific quantities and species of unprocessed timber from federal lands that the Secretary of Agriculture or Secretary of Interior determines to be in surplus to domestic processing needs. Congress expects the Secretaries to hold hearings to determine whether species currently designated as surplus have no domestic markets. The Secretaries should not declare species or grades to be surplus unless no domestic markets for such species or grades exist.

Limitations on the Substitution of Unprocessed Federal Timber for Unprocessed Timber Exported From Private Lands. (section 203 of House amendment; section 6103 of Senate bill; section 490 of conference agreement)

Present Law

Direct Substitution—Current regulations prohibit direct substitution. Forest Service regulations (36 CFR 223.10) define direct substitution as the purchase of unprocessed national forest timber to be used as replacement for unprocessed timber from private

lands which is exported by the purchaser. However, companies with historic direct substitution quotas are grandfathered.

Indirect Substitution—Current regulations allow indirect substitution. Indirect substitution occurs when log exporting companies that are restricted from purchasing federal timber (because they would be engaging in direct substitution) buy federal timber from a third party.

House Amendment

Section 203(a) contains a prohibition on directly substituting unprocessed timber from federal lands for unprocessed timber from private lands which is exported. The subsection provides that contracts for the purchase of federal timber in effect at the time of enactment of this Act shall be honored. The subsection also provides that a Washington State firm which has a long-term agreement with the U.S. Forest Service allowing for direct substitution shall have its direct substitution rights phased out by 1995.

Section 203(b) establishes restrictions on indirect substitution of unprocessed timber from federal lands for exported unprocessed timber from private lands, and provides for an exception to these restrictions for the purpose of efficient market operation. The subsection also establishes the rules for selling, trading and exchanging certain rights. Proportionate shares shall be applied only if aggregate demand for indirect substitution volume exceeds 50 million board feet. In the case of a sale of a company or mill holding rights obtained under paragraph (2), those rights shall convey with the company or mill being sold, except that the 15 million board foot limit shall still apply to the acquiring party.

Section 203(b)(1) provides an exemption from the prohibition on indirect substitution in order to permit a small number of companies in Oregon and Washington State to continue to make indirect purchases of western red cedar from federal lands while exporting private logs.

Section 203(c)(1) provides that the prohibitions in subsections (a) and (b) shall not apply to the acquisition of unprocessed timber from federal lands within a sourcing area boundary west of the 100th meridian approved by the Secretary of the Interior or Agriculture by a person who, in the previous two years, has not exported unprocessed timber originating from private lands within the sourcing area boundaries.

Section 203(c)(3) establishes time and other restrictions on the consideration of applications made under subsection (c)(2). The subsection provides two factors which the Secretary is to consider in determining whether to approve or disapprove such applications.

Section 203(c)(4) establishes rules governing the activities of persons whose applications under subsection (c)(2) were denied. In the 18-month period after an application has been denied, the applicant may continue to purchase certain amounts of federal timber. If the denied applicant certifies to the Secretary within 90 days of receiving the disapproval that such person shall, within 18 months after disapproval, cease the export of timber from the geographic area defined by the Secretary, such person may continue to purchase federal timber without being subject to the restrictions of this paragraph.

Section 203(c)(5) provides for a review of applications under subsection (c)(2) every five years.

Senate Bill

Section 6101 prohibits direct substitution. The provision prohibits any person from purchasing unprocessed timber from federal lands and using it in substitution for exported unprocessed timber originating from private lands. The prohibition would apply to timber removed pursuant to timber sales contracts entered into on or after the date of enactment.

The section also prohibits indirect substitution. The provision prohibits any person from acquiring indirectly unprocessed timber from federal lands and using that timber in substitution for unprocessed private land timber that has been or will be exported from the United States. The prohibition on indirect substitution would take effect one year after the date of enactment.

Conference Agreement

The conferees agree to merge the House amendment and Senate bill. Section 490(a) prohibits direct substitution. The provision prohibits any person from purchasing directly from any department or agency of the United States unprocessed timber if:

(1) such timber is to be used in substitution for exported timber originating from private lands; or

(2) such person has during the preceding 24-month period exported unprocessed timber originating from private lands.

The subsection provides that contracts in effect before the date on which regulations to carry out this section are issued shall be governed by the substitution regulations in effect prior to enactment of this Title. The subsection also provides that a Washington State firm which has a long-term agreement with the U.S. Forest Service allowing for direct substitution shall have its direct substitution rights phased out by 1995.

The subsection provides that the 24-month test will not apply to any person who has legally substituted federal timber for exported unprocessed timber originating from private lands under an historic export quota approved by the Secretary of Agriculture or the Secretary of the Interior, and who certifies within three months after enactment of this act that the person will cease, and does cease exporting unprocessed timber originating from private lands within six months after the date of enactment of this Act.

Section 490(b)(1) prohibits, within 21 days of enactment of the Act, indirect substitution of unprocessed timber from federal lands for exported unprocessed timber from private lands. The subsection provides an exemption from the prohibition on indirect substitution in order to permit a small number of companies in Oregon and Washington State to continue to make indirect purchases of western red cedar from federal lands while exporting private logs. The intent of the exemption is to address the unique circumstances of certain companies which both manufacture finished products from western red cedar and export unprocessed logs.

Section 490(b)(2) provides for an exception to the restrictions on indirect substitution for federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east (i.e. within the State of Washington). The subsection also establishes the rules for selling, trading and exchanging certain rights. Proportionate shares shall be applied only if aggregate demand for indirect substitution volume exceeds 50 million board feet. In the case of a sale of a company or mill holding rights obtained under this section, those rights shall convey with the company or mill being sold, except that the 15 million board foot limit shall still apply to the acquiring party. The subsection provides that contracts in effect before the date on which regulations to carry out this section are issued shall be honored and governed by the substitution regulations in effect prior to enactment of this Title.

Section 490(c)(1) provides that the prohibitions in subsections 490(a) and 490(b) shall not apply to the acquisition of unprocessed timber from federal lands within a sourcing area boundary west of the 100th meridian in the contiguous 48 states approved by the Secretary of the Interior or Agriculture by a person who, in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area boundaries and during the period such approval is in effect, does not export unprocessed timber originating from private lands within the sourcing area boundaries. The appropriate Secretary may waive the 24-month requirement for any person who, within 3 months after the date of enactment of this Act, certifies within 6 months after date of enactment of this Act that the person will cease exporting unprocessed timber originating from private lands within the sourcing area boundaries for no less than 3 years.

The section establishes a mechanism for exporting companies to apply for a specific exemption from the ban on direct and indirect substitution if the area from which the company purchases federal timber is economically and geographically separate from the area from which it exports, or sells for export unprocessed timber from private lands. The general reason for limiting substitution is to restrict companies from purchasing federal timber for their mills and then exporting private timber from the same general area. The exemption recognizes that some companies export private timber from geographic and economic areas separate from the source of logs for their federally-sourced mills. In these instances, companies may apply for a specific exemption for individual mills in order to bid on federal timber for those mills.

Section 490(c)(2) establishes time and other restrictions on the consideration of applications made under subsection 490(c)(1). Within 3 months following enactment of this bill, the Secretaries of Agriculture and Interior shall prescribe a procedure to be used for the sourcing area application. It is not expected that prescription of this procedure will require normal rulemaking procedures. The prohibition on direct substitution shall not apply to a person until 1 month after the Secretary prescribes the sourcing area boundary procedure. In other words, the applicant has one month to file a sourcing area petition, once the Secretary has prescribed a procedure. If a person applies within that 1 month time period, the prohibition on direct substitution shall not apply until the sourcing area petition is approved or disapproved by the appropriate Secretary.

Section 490(c)(3) requires the Secretary of Agriculture or Secretary of Interior, as may be appropriate, on the record and after an opportunity for a hearing to either approve or disapprove the sourcing area application within 4 months after receipt of the application. The section provides a test for the Secretary involved to weigh approval of the ex-

emption. This test shall be applied on a case by case basis and the outcome may vary among regions. The test evaluates whether the area from which exported private logs originate is geographically and economically separate from the sourcing area of the mill for which the exemption is sought. The Secretary shall, when considering whether to grant an exemption, consider the purchasing and bidding patterns of both the applicant and his competitors in the same local vicinity. To conduct the test, the Secretary concerned shall look at the geographic area from which the company currently and historically sources its mill. The Secretary shall examine the sourcing patterns of the mills in and around the same population center, considered by the Conferees to be within a general radius of 25 to 30 miles.

Section 490(c)(4) establishes rules governing the activities of persons whose sourcing area boundary application was denied. In the event of denial of an application, this section provides an opportunity to phase out federal timber purchases over 15 months and maintain such export operations; or terminate export of private logs from the area within 15 months and maintain eligibility for federal timber purchases.

For those denied applicants desiring to phase out federal timber purchases and maintain export operations, the section limits the applicants federal timber purchases in the first 9 months after receiving disapproval to 75 percent of the annual average of the applicants purchases of federal timber in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period the applicant is limited to 25 percent of such annual average.

For those denied applicants desiring to terminate export of private logs, if the denied applicant certifies to the Secretary within 90 days of receiving the disapproval that such person shall, within 15 month of disapproval, cease the export of timber from the geographic area defined by the Secretary, such person may continue to purchase federal timber. However purchases are limited to 125 percent of the annual average of the applicants federal timber purchases in the same area during the 5 full fiscal years immediately prior to submission of the application. Additionally, during the 15-month period, the applicants exports are limited to 125 percent of the applicant's private timber exports during the 5 full years immediately prior to submission of the application.

The section provides for a review of sourcing areas approved under section 490(c)(3) every five years.

Restriction on Exports of Unprocessed Timber From State and Public Lands (section 204 of House amendment; section 7001 of Senate bill; section 491 of conference agreement)

Present Law

Since a 1984 Supreme Court decision in *South Central Timber Development* v. *Wunnicke*, states have been prohibited from barring the export of logs from state lands.

House Amendment

Section 204 restricts exports of unprocessed timber harvested from lands owned or administered by states because recent and anticipated reductions of timber supply west of the 100th meridian may have profound negative economic and social consequences in the United States. To lessen the adverse effect of these reductions, it is necessary to restrict the export of unprocessed timber owned by various governmental entities as set forth in this section.

Section 204(a) directs the Secretary of Commerce to issue an order to prohibit the export from the United States of unprocessed timber harvested from lands owned or administered by a state or any political subdivision of a state, subject to certain conditions.

Section 204(b) sets forth the schedule for the imposition of restrictions on exports of unprocessed state timber. For certain states, the schedule provides for restrictions within 30 days of enactment of this Act. For other states, the schedule is based upon one and two year periods, and beginning in 1996 does not have a specific termination date. The levels under the schedule are to be determined on the basis of the total annual volume of unprocessed timber sold from state lands. For states with annual sales volumes of 400 million board feet or less, the Secretary is directed to issue the order prohibiting the export of unprocessed timber not later than 30 days after the date of enactment of the Act. For states with annual sales volumes greater than 400 million board feet, the bill establishes a schedule for the issuance of orders by the Secretary.

Section 204(b)(3) requires the Secretary of Commerce to report to Congress by June 1, 1995, on the effects of the provisions relating to exports of unprocessed state timber.

Section 204(c) permits the Secretary to increase the amount of unprocessed state timber prohibited from export above the minimum amount required by this bill if the domestic log supply is insufficient to meet the demand of domestic mills. In making such a determination, the bill sets forth the several factors that the Secretary must consider. Such factors include the effects of log exports on the price of logs and the operating margins of domestic processors, whether the volume of public lands timber under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months, and whether and to what extent restraints on exports of unprocessed timber from public lands enhance or diminish the competitive position of the timber industry west of the 100th meridian.

Section 204(d) sets forth administrative provisions. These provisions establish requirements if the Secretary's order under subsection (a) is delayed for any reason, and establishes a system for administration by the states of the Secretary's order under subsection (a). In administering the Secretary's order, the states shall insure a substantial increase in the supply base of unprocessed timber for domestic processors. Furthermore, they shall ensure that the increase in available supply is comprised of all grades and species proportional to the state's annual sales. The states are authorized, in administering the Secretary's order, to adopt regulations restricting the practice of state timber for exported unprocessed private timber. Subsection (d)(3) provides that nothing in this section shall affect the validity of contracts for the purchase of unprocessed timber from any state which were entered into before the effective date of the Secretary's order. Subsection (d)(4) provides that nothing in this section shall affect section (7)(i) of the Export Administration Act of 1979.

Section 204(e) authorizes the President, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if the President finds them to be in violation of international treaties or trade agreements to which the United States is a party.

Section 204(f) clarifies that no provision of federal law enacted before the enactment of this Act which imposes requirements with respect to the generation of revenue from state timberlands will not affect in any way any action of a state taken pursuant to this Act. The State of Washington holds a substantial portion of its lands in trust for the benefit of its educational institutions under the 1889 Act granting statehood. This section clarifies that neither the 1889 Act nor any other federal law requires the State of Washington to sell any timber for export.

Senate Bill

Section 7001 establishes a process forstates to regulate the export of state-owned logs with the approval of the Secretary of Commerce. The Secretary of Commerce shall prohibit or otherwise restrict the exportation from the United States of any unprocessed timber harvested from land owned or administered by a state, provided that the Governor of the state has certified that the state has certified that the state supports such prohibitions based on:

(1) a statute enacted by the state legislature;

(2) a Statewide voter initiative; or

(3) an existing state statute.

For approval to be granted, a federal log export ban must be effect. In addition, each state may adopt provisions with respect to substitution.

Conference Agreement

The conferees agree to merge the House amendment and Senate bill. Section 491(a) directs the Secretary of Commerce to issue an order to prohibit the export from the United States of unprocessed timber harvested from lands owned or administered by a state or any political subdivision of a state, subject to certain conditions.

Section 491(b)(1) applies to states with annual sales of 400 million board feet or less. The subsection prohibits the export of unprocessed timber originating from state lands within 21 days of enactment of this Act.

Section 491(b)(2) applies to states with annual sales of 400 million board feet or more. For states with annual sales volumes greater than 400 million board feet, the bill establishes a schedule for the issuance of orders by the Secretary. The schedule is based upon one and two year periods, and beginning in 1996 does not have a specific termination date.

Section 491(b)(3) requires the Secretary of Commerce to report to Congress by June 1, 1995, on the effects of the provisions relating to exports of unprocessed state timber.

Section 491(c) permits the Secretary, for those states with annual sales volumes greater than 400 million board feet, to increase the amount of unprocessed state timber prohibited from export above the minimum amount required by this bill if the domestic log supply is insufficient to meet the demand of domestic mills. In making such a determination, the bill sets forth the several factors that the Secretary must consider. Such factors include the effects of log exports on the price of logs and the operating margins of domestic processors, whether the volume of public lands timber under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months, and whether and to what extent restraints on exports of unprocessed timber from public lands enhance or diminish the competitive position of the timber industry west of the 100th meridian.

Section 491(d)(1) sets forth administrative provisions. These provisions establish requirements if the Secretary's order under subsection 491(a) is delayed for any reason, and establish a system for administration by the states of the Secretary's order under subsection 491(b). In administering the Secretary's order, the states shall insure a substantial increase in the supply base of unprocessed timber for domestic processors. Furthermore, they shall insure that the increase in available supply is comprised of all grades and species proportional to the state's annual sales. In carrying out the intent of this Title, the Congress recognizes that each individual state affected should be in control of its own regulations and that its legislature should be given an opportunity to act on regulations independent of actions taken by other affected states.

491(d)(2) requires each state to consider the species, grade and geographic origin of its public timber so that the restrictions of the Title will be allocated in a representative and equitable manner. The conferees recognize that the states must also take into account other laws to which they are subject. For example, much of the timber affected by this Title is held by the states in trust for counties or schools. It is not the intent of the Conferees that the allocations made by the states discriminate against timber held in trust, or discriminate among different trusts. Rather, the concept of representative and equitable treatment should extend across all forms of public timber ownership in each state.

Section 491(d)(3) provides that each state shall develop its own regulations to implement the state export restrictions.

For states with annual sales of 400 million board feet or more, the Governor, after consultation with appropriate state officials and with a State Board of Natural Resources, if any, shall within 120 days of enactment issue regulations. The intent of Congress is that any regulations issued by the Governor under this subsection take into consideration a complete range of options applicable in meeting the purposes of this Title. Such options may include the treatment of substitution; state timber purchasing caps for individual companies; small business state timber sales allocations; or any other regulatory remedy the Governor deems appropriate. Such regulations shall remain in effect until such time as the legislature of that state enacts requirements as it deems appropriate to carry out this section.

For states with annual sales of 400 million board feet or less, the Governor shall within 120 days of enactment issue regulations to carry out this section. The states are authorized, in administering the Secretary's order, to adopt regulations restricting the practice of substituting state timber for exported unprocessed private timber. Until such regulations are developed, the federal substitution rules will apply.

Section 491(d)(4) provides that nothing in this section shall apply to any contracts for the purchase of unprocessed timber from any state which were entered into before the effective date of the Secretary's order.

Section 491(d)(5) provides that nothing in this section effects section (7)(i) of the Export Administration Act of 1979.

Section 491(e) authorizes the President, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a GATT panel, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement, finds that the state export restrictions are in violation of, or inconsistent with U.S. international obligations.

Section 491(f) authorizes the President to remove or modify any state export restrictions if a state petitions, and the President determines it is in the national economic interests to remove or modify such restrictions.

Section 491(g) clarifies that no provision of federal law enacted before the enactment of this Act which imposes requirements with respect to the generation of revenue from state timberlands will affect in any way any action of a state taken pursuant to this Act. The State of Washington holds a substantial portion of its lands in trust for the benefit of its educational institutions under the 1889 Act granting statehood. This section clarifies that neither the 1889 Act nor any other federal law requires the State of Washington to sell any timber for export.

Section 491(h) establishes that the prohibitions on state timber exports shall not apply to specific grades and species of unprocessed timber from federal lands that the Secretaries of Agriculture and Interior determine to be surplus to domestic processing needs. Congress expects the Secretaries to hold hearings to determine whether species currently designated as surplus have no domestic markets. The Secretaries should not declare species or grades to be surplus unless no domestic markets for such species or grades exist.

Section 491(i) provides that, beginning in 1997, the President may suspend the restrictions on the export of unprocessed timber from state lands if they are determined to no longer meet the intent of this Title.

Section 491(j) provides that nothing in this Act shall be construed to limit the authority of the President or USTR to take appropriate action to respond to any measure taken by a foreign government in connection with this Act.

Monitoring and Enforcement (section 205 of House amendment; sections 6102, 6201 and 6202 of Senate bill; section 492 of conference agreement.)

Present Law

Requires purchasers of federal timber to identify the disposition of such timber on an annual basis. The purchaser must identify to whom the timber will be delivered. New owners of timber sign an agreement with the timber purchasers agreeing to process the timber domestically. Present law has no reporting requirements for third party purchases of federal timber. The Forest Service reports annually to the Congress on the disposition of federal timber.

Under current law, there are no civil fines or penalties mandated by statute for violation of timber export regulations. However, the Forest Service has the authority to prohibit persons from entering into contracts to purchase unprocessed federal timber for not less than 6 months and not more than 3 years for violating timber export regulations.

House Amendment

Section 205(a) requires each person who acquires or transfers to another person unprocessed federal timber to report the origin and disposition of such timber to the Secretaries of Agriculture and Interior and to any person receiving such timber.

Section 205(b) requires the Secretaries of Agriculture and Interior to submit to Congress not later than June 1, 1995, a report and recommendations concerning the practice of indirect substitution.

Section 205(c) provides for civil penalties against any person who has knowingly and willfully exported unprocessed federal timber in violation of this title or violated any other provision of this title or any regulations issued under this title.

Section 205(d) establishes the conditions under which the appropriate federal department or agency may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from federal lands.

Senate Bill

Section 6102 requires that persons acquiring federal timber report the disposition of the timber to the appropriate Secretary administering the relevant federal lands on a quarterly basis. The section also requires that person conveying the timber must identify the origin of such timber to the purchaser, who must then submit written acknowledgment of receipt of the identification and sign an agreement to comply with the prohibitions in Section 6101. The appropriate U.S. Secretary shall report annually to the Congress on the dispositions covered by these reporting requirements.

Section 6201 imposes civil penalties for violations of the Act.

Section 6202 directs the appropriate Secretary to prohibit persons violating these provisions from entering into any contract for the purchase of unprocessed federal timber for not more than 5 years. Such a person shall also be precluded from taking delivery of federal timber purchased by another party during the period of debarment.

Conference Agreement

The Senate recedes with an amendment requiring greater reporting requirements. Under Section 492(a), the conferees intend that the Secretaries of Agriculture and Interior have a complete accounting of transactions relating to the acquisition and disposition of unprocessed timber originating from federal lands. The provision requires each person who acquires, directly or indirectly unprocessed federal timber, to report the receipt and disposition of such timber to the Secretaries of Agriculture and Interior. Additionally, each person who transfers to another person unprocessed timber is required to exchange written information with such person. The subsection provides that the transferror must provide the transferee with a written notice identifying the origin of the timber, and receive from the transferee a written acknowledgement of such notice and a written agreement that the transferee will comply with the requirements of this title. The transferror is required to provide the appropriate Secretary copies of all notices, acknowledgements and agreements required under this section.

Section 492(b) requires the Secretaries of Agriculture and Interior to submit to Congress not later than June 1, 1995, a report and recommendations concerning the practice of indirect substitution.

Section 492(c) provides for civil penalties against any person who has violated this title or any regulations issued under this title.

Section 492(d) establishes the conditions under which the appropriate federal department or agency may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from federal lands.

Definitions (section 206 of House amendment; sections 6204 and 7002 of Senate bill; section 493 of conference agreement)

Present Law

Several terms associated with the export of timber are currently defined by regulation. The interpretations of the definitions of substitution and unprocessed timber have been the subject of substantial disagreement.

House Amendment

Section 206 contains definition of "federal lands", "private lands", "public lands", "person", and "unprocessed timber".

Senate Bill

Section 6204 contains definitions of "acquire", "affiliate", "federal lands", "person", "private lands", "Secretary concerned", "substitution", and "unprocessed timber".

Section 7002 contains definitions of "state", "state lands", and "unprocessed timber".

Conference Agreement

The conferees agree to merge the House amendment and Senate bill. Section 493 contains definitions of "acquire", "substitution", "federal lands", "private lands", "public lands", "person", and "unprocessed timber". Substitution definition reflects on activity in the same geographic & economic area. In adopting this definition of unprocessed timber, the conferees intend to resolve any divergent interpretations of the definition of unprocessed timber. It is the intent of the conferees that domestic pulp mills should retain the ability to purchase federal pulp-grade logs for use in their operations. All definitions are effective upon date of enactment of this Act, but shall not apply to contracts entered into prior to date of enactment of this Act.

Effective Date (section 207 of House amendment; sections 6205 and 7003 of Senate bill; section 494 of conference agreement)

Present Law

No provision.

House Amendment

Section 207 of this Title contains specific time lines for the implementation of various provisions. Where time lines are not specified, the House intends that the effective date be upon enactment.

Senate Bill

Section 6205 provides that the federal ban is effective one year after date of enactment.

Section 7003 provides that the state ban is effective upon enactment of this Act.

Conference Agreement

Except as otherwise specified in this Title, the effective date shall be date of enactment.

Regulations and Review (section 208 of House amendment; section 6203 of Senate Bill; section 495 of conference agreement)

Present Law

No provision.

House Amendment

Section 208 provides that, except as otherwise specified in this Title, the regulations are to be completed no later than 1 year after enactment.

Senate Bill

Section 6205 requires that regulations are required to be completed no later than 1 year after enactment.

Conference Agreement

Except as otherwise provided in this Title, regulations shall be completed no later than 9 months after enactment.

Section 495(b) provides that the Secretaries of Agriculture and Interior shall review the definition of unprocessed timber and within 18 months report any recommended changes of the definition to Congress.

In particular, the report shall focus on the effect of having two size standards for timber under sections 493(7)(B)(ii) and (iii).

The conferees are particularly concerned about:

1. the confusion for government officials and U.S. producers resulting from two different size standards; and

2. the potential for harassment by government officials who—while inspecting timber bundled in large containerized shipments—may unreasonably require the unloading of the containers.

In developing the report and formulating the recommendations, the conferees expect the Secretaries to provide notice to, and solicit comments from all interes.ed parties. In addition to general recommendations about the definition of unprocessed timber, the report shall summarize the comments received from the interested parties and examine the advantages and disadvantages of having two size standards under 493(7)(B)(ii) and (iii).

Authorization of Appropriations (Section 209 of House amendment; section 496 of conference agreement)

Present Law

No provision.

House Amendment

Section 209 authorizes such appropriations as are necessary to carry out this Title.

Senate Bill

No provision.

Conference Agreement

Senate recedes.

Savings Clause (section 210 of House amendment; section 497 of conference agreement)

Present Law

No provision.

House Bill

Section 210 provides that no timber sales contract entered into before the effective date of this Title shall be altered or affected by any provision of this Title.

Senate Amendment

No provision.

Conference Agreement

Senate recedes.

Eastern Hardwood Study (sec. 498 of conference agreement)

Present Law

No provision.

House Amendment

No provision.

Senate Bill

No provision.

Conference Agreement

Section 498 directs the Secretaries to study the effects and merits of the exportation of hardwood sawlogs from federal and state lands east of the 100th meridian. The conferees believe the data necessary to complete this study could be collected as an addition to the Shipper's Export Declaration (SED). This would provide both the government and business a clear understanding of how this provision should be implemented; it would help ensure the data is treated confidentially; and it would extend the enforcement procedures of the SED process to the additional data collected.

Authority of the Export Administration Act of 1979 (sec. 499 of conference agreement)

Present Law

The Secretary may currently exercise authority under this Act to prohibit the export of domestic raw materials deemed to be in short supply due to domestic shortage or the inflationary effects of foreign demand.

House Amendment

No provision.

Senate Bill

No provision.

Conference Agreement

Section 499 clarifies that, by approving this Title, Congress does not intend to influence one way or another the outcome of any pending or prospective petition filed under section 7 of the EAA of 1979 with respect to the export of unprocessed timber. Furthermore, Congress does not intend that this Title be implemented under authority of section 7 of the EAA of 1979. This Title establishes new authority for the Secretaries with respect to regulating the export of unprocessed timber.

From the Committee on Ways and Means, for consideration of the House amendment to the Senate amendment, and the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
TOM DOWNEY,
DONALD J. PEASE,
MARTY RUSSO,
FRANK J. GUARINI,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,
BILL FRENZEL,

As additional conferees, solely for consideration of title II of the House amendment to the Senate amendment, and for title II of the Senate amendment, and modifications committed to conference:

J.J. PICKLE,
RICHARD T. SCHULZE,

From the Committee on Agriculture, for consideration of titles VI and VII of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
HAROLD L. VOLKMER,
GEORGE E. BROWN, Jr.,
JIM OLIN,
RICHARD STALLINGS,
SID MORRISON,
ROBERT F. SMITH,
WALLY HERGER,

From the Committee on Interior and Insular Affairs, for consideration of titles VI and VII of the Senate amendment, and modifications committed to conference:

MO UDALL,
BRUCE F. VENTO,
PAT WILLIAMS,
PETER DEFAZIO,
J. MCDERMOTT,
DON YOUNG,
LARRY E. CRAIG,
DENNY SMITH,

From the Committee on Foreign Affairs, for consideration of titles VI and VII of the

Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
HOWARD WOLPE
SAM GEJDENSON,
PETER H. KOSTMAYER,
EDWARD F. FEIGHAN,
WM. BROOMFIELD,
TOBY ROTH,
JOHN MILLER,
Managers on the Part of the House.

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
BOB PACKWOOD,
BOB DOLE,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILBRAY (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. BUECHNER, for 60 minutes each day, today and on July 31.

Mr. GINGRICH, for 60 minutes each day, today and on July 31 and August 1, 2, and 3.

Mr. ROTH, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, on August 3.

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mrs. UNSOELD, for 5 minutes, today.

Ms. OAKAR, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes each day, on July 31 and August 1, 2, and 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. CONTE.

Mr. CLINGER in two instances.

Mr. GOODLING.

Ms. ROS-LEHTINEN in three instances.

Mr. BEREUTER.

Mr. CRAIG.

(The following Members (at the request of Mr. HARRIS) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ACKERMAN in two instances.

Mr. MORRISON of Connecticut.

Mr. YATRON.

Mr. BERMAN.

Mr. OWENS of New York.

Mr. DINGELL.

Mr. MCMILLEN of Maryland.

Mr. SKELTON.

Mr. YATES.

Mr. FAUNTROY.

Mr. TALLON.

Mr. BONIOR.

Mr. HOYER.

Mr. LEHMAN of Florida.

Mr. MAZZOLI.

Ms. PELOSI.

Mr. STOKES.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 548. Joint resolution designating the week of August 19 through 25, 1990, as "National Agricultural Research Week."

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 19 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 31, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3638. A letter from the Assistant Secretary, Department of Health and Human Services, transmitting a report entitled "The Human Nutrition Research and Information Management System, FY 1988"; to the Committee on Agriculture.

3639. A letter from the Export-Import Bank of the United States, transmitting a report on its position with respect to establishing a loan loss reserve, pursuant to Public Law 101-240, section 101(e) (103 Stat. 2495); to the Committee on Banking, Finance and Urban Affairs.

3640. A letter from the Secretary of Labor, transmitting the Secretary's annual report on employment and training programs, pursuant to 29 U.S.C. 1579(d); to the Committee on Education and Labor.

3641. A letter from the Secretary of Education, transmitting copies of a study of college tutoring programs for the disadvantaged; to the Committee on Education and Labor.

3642. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending June 30, 1990, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

3643. A letter from the Administrator, Small Business Administration, transmitting a report of actions taken to increase competition for contracts during fiscal year 1990, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3644. A letter from the Trust Committee, transmitting a copy of the retirement plan for employees of the associations and banks of the Ninth Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3645. A letter from the Secretary of the Interior, transmitting notification that an application has been received from the Schuk Toak District, Tohono O'Odham Nation for a loan in the amount of $7,599,977, pursuant to 43 U.S.C. 485th; to the Committee on Interior and Insular Affairs.

3646. A letter from the Department of Agriculture, transmitting the fourth quarterly country and commodity allocation table showing current programming plans for food assistance, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

3647. A letter from the Administator, Agency for International Development and the First Vice President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, and El Salvador for fiscal year 1989, pursuant to 22 U.S.C. 2184(g); jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

3648. A letter from the Secretary of Energy, transmitting the annual report on the Clean Coal Technology [CCT] Demonstration Program for 1989; jointly to the Committee on Appropriations; Energy and Commerce; and Science, Space, and Technology.

3649. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Technology Administration in the Department of Commerce to provide certain services to the Advisory Council on Federal Participation in Sematech; jointly, to the Committee on Armed Services; Banking, Finance and Urban Affairs; Energy and Commerce; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3789. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with an amendment (Rept. 101-583, Pt. 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5084. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes; with an amendment (Rept. 101-

636). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3493. A bill to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes; with an amendment (Rept. 101-637). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes; with an amendment (Rept. 101-638). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1524. An act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes. (Rept. 101-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1046. An act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes. (Rept. 101-640). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4498. A bill to amend the Colorado River Storage Project Act, to direct the Secretary of the Interior to establish and implement emergency interim operational criteria at Glen Canyon Dam, and for other purposes; with an amendment (Rept. 101-641). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4487. A bill to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps and to establish a program of grants to the States with respect to offices of rural health; with amendments (Rept. 101-642). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4983. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; with amendments (Rept. 101-643). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4000. A bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, with an amendment (Rept. 101-644, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 2071. A bill for the relief of Catherine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley (Rept. 101-654). Referred to the Committee of the Whole House.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 711. A bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes; with an amendment (Rept. 101-646). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. H. Res. 443. A resolution providing for the consideration of H.R. 5355, A bill to increase the statutory limit on the public debt (Rept. 101-647). Referred to the House Calendar.

Mr. FAZIO: Committee on Appropriations. H.R. 5399. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-648). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. Report on Senate amendments to H.R. 4328, Textile, Apparel, and Footwear Trade Act of 1990 (Rept. 101-649). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee of Conference. Conference report on H.R. 1594 (Rept. 101-650). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAZIO:

H.R. 5399. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. SWIFT (for himself, Mr. GEPHARDT, Mr. GRAY, Mr. BROOKS, Mr. ANNUNZIO, Mr. MCHUGH, Mr. ANTHONY, Mr. FROST, Mr. SABO, and Mr. SYNAR):

H.R. 5400. A bill to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes; jointly, to the Committees on House Administration, Energy and Commerce, Post Office and Civil Service, and Ways and Means.

By Mr. BROOKS (for himself, Mr. WYLIE, Mr. SCHUMER, and Mr. FISH):

H.R. 5401. A bill to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. CLINGER (for himself, Mr. KOSTMAYER, Mr. BORSKI, Mr. COUGHLIN, Mr. COYNE, Mr. FOGLIETTA, Mr. GAYDOS, Mr. GEKAS, Mr. GOODLING, Mr. GRAY, Mr. KOLTER, Mr. KANJORSKI, Mr. MCDADE, Mr. MURPHY, Mr. MURTHA, Mr. RIDGE, Mr. RITTER, Mr. SCHULZE, Mr. SHUSTER, Mr. WALGREN, Mr. WALKER, Mr. WELDON, and Mr. YATRON):

H.R. 5402. A bill to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the State of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DICKINSON:

H.R. 5403. A bill to provide that all Federal civilian and military retirees, and all Federal officers and employees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes; jointly, to the Committees on Post Office and Civil Service, Armed Services, Foreign Affairs, Intelligence (Permanent Select), and Energy and Commerce.

By Mr. DORGAN of North Dakota:

H.R. 5404. A bill to amend the Agricultural Act of 1949 to alter the repayment requirements for certain producers on a farm who received an advanced deficiency pay for the 1988 or 1989 crop of wheat, feed grains, upland cotton, or rice; to the Committee on Agriculture.

By Mr. HUCKABY (for himself and Mr. TAUZIN):

H.R. 5405. A bill to establish the Bayou Cocodrie National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. JACOBS:

H.R. 5406. A bill to amend the Federal Election Campaign Act of 1971 to prohibit candidates for Federal office from using campaign contributions for inherently personal purposes; to the Committee on House Administration.

By Mrs. KENNELLY:

H.R. 5407. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for State and local sales taxes; to the Committee on Ways and Means.

By Mr. LEHMAN of California (for himself and Mr. HILER):

H.R. 5408. A bill to amend chapter 51 of title 31, United States Code, to authorize appropriations for the Bureau of the Mint, to redesignate the Bureau of the Mint as the U.S. Mint, to establish an annual commemorative coin program and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NIELSON of Utah (for himself, Mr. HORTON, Mr. GILMAN, and Mr. MCCLOSKEY):

H.R. 5409. A bill to designate the post office building at 222 West Center Street, in Orem, UT, as the "Arthur V. Watkins Post Office"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR:

H.R. 5410. A bill to improve the process for recovering for the U.S. taxpayers the proceeds of savings and loan fraud from the miscreants who perpetrated such crimes, increase the effectiveness of the investigation and prosecution of such crimes; and for other purposes; jointly, to the Committee on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. SOLARZ:

H.R. 5411. A bill to amend the Trademark Act of 1946 to limit infringement actions for registered marks of professional sports teams; to the Committee on the Judiciary.

By Mr. GOODLING:

H. Con. Res. 357. Concurrent resolution expressing the sense of the Congress that medical examiners and coroners should make reasonable, good faith efforts to locate the next of kin of deceased individuals; to the Committee on Government Operations.

By Mr. LIVINGSTON:

H. Con. Res. 358. Concurrent resolution honoring Walker Percy of Covington, LA, as one of the finest writers of the 20th century; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

482. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to the needs of America's children; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WOLPE introduced a bill (H.R. 5412) to extend the patent numbered 3,793,457 for a period of 4½ years; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mrs. SCHROEDER and Mr. MARKEY.
H.R. 199: Mr. ARMEY.
H.R. 1570: Mr. BILBRAY.
H.R. 1693: Mr. SCHUMER.
H.R. 2395: Mr. WEISS and Ms. PELOSI.
H.R. 2418: Mr. SHUMWAY.
H.R. 2596: Mr. GALLO.
H.R. 2732: Mr. MACHTLEY.
H.R. 2798: Mr. ASPIN and Mrs. PATTERSON.
H.R. 2816: Mr. CHAPMAN.
H.R. 2926: Mr. BATES, Ms. ROS-LEHTINEN, and Mr. DARDEN.
H.R. 3249: Mr. BEVILL.
H.R. 3500: Mr. MCMILLAN of North Carolina.
H.R. 3547: Mr. LAGOMARSINO, Mr. MADIGAN, Mr. HYDE, Mr. STANGELAND, Mr. PORTER, Mr. RITTER, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MRAZEK, Mr. PENNY, Mr. BALLENGER, Mr. FAWELL, Mr. KANJORSKI, Mrs. MEYERS of Kansas, Mr. SCHUETTE, Mr. SMITH of New Hampshire, Mr. DEFAZIO, Mr. HOUGHTON, Mr. KYL, Mr. JAMES, and Ms. ROS-LEHTINEN.
H.R. 3697: Mr. CLINGER, Mr. DORNAN of California, Mr. DUNCAN, Mr. HERGER, Mr. MCEWEN, Mr. RAVENEL, Mr. ROBINSON, Mr. ROGERS, and Mr. SUNDQUIST.
H.R. 3734: Mr. YATES.
H.R. 4000: Mr. BROOKS, Mr. CARR, Mr. SMITH of Florida, Mr. SMITH of Vermont, and Mr. WALSH.
H.R. 4212: Mr. GEREN of Texas, Mr. SMITH of Texas, Mr. BUSTAMANTE, Mr. GOSS, and Mr. HOLLOWAY.
H.R. 4269: Mr. DELLUMS, Mr. DONALD E. LUKENS, Mr. RITTER, Mr. ACKERMAN, and Mr. ROBERTS.
H.R. 4369: Mr. GOODLING.
H.R. 4433: Mr. MRAZEK, Mrs. MEYERS of Kansas, and Mr. LEWIS of Georgia.
H.R. 4487: Mr. ROBERT F. SMITH, Mr. MORRISON of Washington, Mr. CONDIT, Mr. WILLIAMS, Mr. MILLER of Washington, and Mr. OWENS of New York.
H.R. 4492: Mr. ATKINS, and Mr. SMITH of New Hampshire.
H.R. 4498: Mr. MORRISON of Connecticut, and Mr. LAGOMARSINO.
H.R. 4690: Mr. MCMILLEN of Maryland, Mr. STEARNS, Mr. CAMPBELL of California, Mr. BROWN of California, Mr. EDWARDS of Oklahoma, Mr. SANGMEISTER, and Mr. JONES of North Carolina.
H.R. 4741: Mr. OWENS of Utah, Mr. MCNULTY, and Mr. ESPY.
H.R. 4801: Mr. EVANS.
H.R. 4915: Mr. MINETA.
H.R. 4979: Mr. WISE.
H.R. 5041: Mr. CAMPBELL of California.
H.R. 5053: Mr. FUSTER, Mr. ALEXANDER, Mr. WEISS, Mr. SOLARZ, Mr. CARDIN, and Mr. JACOBS.
H.R. 5082: Mr. FROST.
H.R. 5086: Mr. MURTHA.
H.R. 5123: Mr. STALLINGS.
H.R. 5174: Mr. CONTE, Mr. LEWIS of California, and Mrs. UNSOELD.
H.R. 5194: Mr. HANSEN.
H.R. 5202: Mr. MORRISON of Connecticut and Mr. BERMAN.
H.R. 5217: Mr. FROST.
H.R. 5244: Ms. SNOWE, Mr. RICHARDSON, Mr. STALLINGS, Mr. PENNY, Mr. LEATH of Texas, Mr. PARKER, Mr. TAUKE, Mr. JONTZ, and Mr. BONIOR.
H.R. 5246: Mr. SOLARZ and Mr. GREEN.
H.R. 5266: Mr. CHAPMAN, Mr. JONTZ, Mr. SMITH of New Jersey, Mr. WAXMAN, Mr. ASPIN, Mr. ENGLISH, Mr. MAVROULES, and Mr. SABO.
H.R. 5282: Mr. SOLARZ, Mr. MCCLOSKEY, Mr. HORTON, Mr. DEFAZIO, Mr. SAVAGE, Mr. NOWAK, Mr. FORD of Michigan, Mr. MURTHA, Mr. HAWKINS, Mr. WYDEN, Ms. KAPTUR, Mr. MRAZEK, and Mr. SMITH of Vermont.
H.R. 5334: Mr. SMITH of New Jersey.
H.R. 5338: Mr. GILMAN, Mr. ANDERSON, Mr. FUSTER, and Mr. FAZIO.
H.R. 5356: Mr. BORSKI, Mrs. COLLINS, Mr. DELLUMS, Mr. LENT, and Mrs. MORELLA.
H.R. 5368: Mr. DEWINE Mr. SUNDQUIST, Ms. ROS-LEHTINEN, Mr. HERTEL, Mr. PAXON, Mr. LIGHTFOOT, and Mr. STARK.
H.J. Res. 519: Mr. MOODY, Mr. PARKER, Mr. WILSON, Mr. WALSH, Mr. HENRY, Mr. SAWYER, Mr. ROE, and Mr. PURSELL.
H.J. Res. 571: Mr. COLEMAN of Missouri, Mr. BOSCO, Mr. HOYER, Mr. BONIOR, Mr. BUSTAMANTE, Mr. COOPER, Mr. DWYER, of New Jersey, Mr. DE LUGO, Mr. EDWARDS of California, Mr. FALEOMAVAEGA, Mr. FEIGHAN, Mr. FRENZEL, Mr. MOODY, Mr. PORTER, Mr. CRAIG, Mr. STOKES, Mr. FLIPPO, Mr. GRANDY, Ms. PELOSI, Mr. DORNAN of California, Mr. THOMAS A. LUKEN, Mr. ROBERTS, Mr. TRAFICANT, Mr. MACHTLEY, Mr. DE LA GARZA, and Mr. KASTENMEIER.
H.J. Res. 602: Mr. COLEMAN of Texas, Mr. CLEMENT, Mr. HYDE, Mr. VALENTINE, Mr. WYDEN, Mr. POSHARD, Mr. MARTIN of New York, Mr. MURPHY, Mr. PASHAYAN, Mr. PAYNE of New Jersey, Mr. GUARINI, Mr. RINALDO, Mr. MONTGOMERY, Mr. WOLPE, and Mrs. SAIKI.
H.J. Res. 613: Mr. LEWIS of Georgia, Mr. HENRY, Mr. FROST, Mrs. BOGGS, and Mr. BAKER.
H.J. Res. 616: Ms. OAKAR, Mr. STAGGERS, Mr. SHUMWAY, Mr. WAXMAN, Mr. SAXTON, and Mr. WISE
H.J. Res. 626: Mr. FROST, Mr. WOLF, and Mr. WALSH.
H.J. Res. 632: Mr. FAZIO,
H. Con. Res. 331: Mr. VALENTINE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

220. The SPEAKER presented a petition of Amnesty International USA, relative to Iraqi human rights violations; which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1180

By Mr. DREIER of California:

—Page 137, line 8, strike "the applicable percentage" and all that follows through "and" in line 10.

—Page 250, strike line 17 and all that follows through page 251, line 17, and insert the following new subsections:

(a) RESERVATION OF AMOUNTS.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(4)(A) With respect to fiscal year 1992 and fiscal years thereafter and to the extent sufficient amounts are approved in appropriations Acts pursuant to section 5 for assistance under subsection (b) of this section, the Secretary shall reserve $35,000,000 of such amounts in each fiscal year for use only in providing assistance on behalf of families described in subparagraph (B).

"(B) The families referred to in subparagraph (A) shall be families who qualify for the preference under paragraph (1)(A)(i) relating to substandard housing because an agency referred to in subparagraph (C) has identified the family as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family.

"(C) The Secretary shall provide for public housing agencies and other agencies administering the allocation of assistance under this section to consult with any local public agencies involved in providing for the welfare of children to make available assistance under this paragraph.".

(b) STUDY AND REPORT REGARDING AFFORDABLE HOUSING ENTITLEMENT.—

(1) STUDY.—The Comptroller General of the United States shall carry out a study regarding the feasibility and cost of providing an entitlement to assistance under section 8 of the United States Housing Act of 1937 for individuals and families in the United States not residing in adequate affordable housing. Such individuals and families shall include—

(A) families having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family;

(B) individuals with acquired immunodeficiency syndrome;

(C) homeless individuals with mental illness and homeless individuals who are substance abusers;

(D) individuals and families whose only source of income is provided by public assistance programs or social security programs; and

(E) individuals and families who are employed but whose wages are insufficient to acquire adequate housing in the community.

(2) REPORT.—The Comptroller General shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report describing the results of the study conducted under paragraph (1) and any conclusions and recommendations of the Comptroller General resulting from the study.

By Mr. KLECZKA:

—Page 428, after line 14, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 738. REPORTS REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) IN GENERAL.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

"REPORTS REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall cause to be published quarterly a report entitled "FHA Default Report", which shall contain information as provided under this section. Each report shall be an official publication of the Department of Housing and Urban Development and shall be made available to the public. Each report shall be made for the applicable reporting period (as such term is defined in subsection (c)) and shall be published not more than 30 days after the conclusion of the calendar quarter relating to each such period. The first report under this section shall be made for the applicable reporting period relating to the first calendar quarter ending after the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

"(b) CONTENTS.—

"(1) MORTGAGE LENDER ANALYSIS.—Each report under this section shall contain, for each lender originating mortgages during the applicable reporting period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable reporting period.

"(B) The total number of such mortgages originated by such lender during the applicable reporting period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable reporting period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable reporting period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable reporting period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable reporting period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable reporting period.

"(2) OTHER INFORMATION.—Each report under this section shall also include the following information:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable reporting period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable reporting period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE REPORTING PERIOD.—The term 'applicable reporting period' means the 5-year period ending on the last day of the calendar quarter for which a report under this section is made.

"(2) DESIGNATED CENSUS TRACT.—The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulation issued by the Secretary of Commerce.".

(b) AVAILABILITY OF INFORMATION DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and ending on the date of the issuance of the first quarterly report under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

—Page 461, strike lines 22 and 23 and insert the following: "does not include recreational vehicles, recreational vehicle park trailers, and modular buildings";

—Page 463, line 11, strike "and".

—Page 463, line 21, strike "." and insert a semicolon.

—Page 463, after line 21 insert the following:

"(15) 'modular building' means any building of closed construction that is (A) not a manufactured home, and (B) made or assembled in manufacturing facilities off the building site for installation, or assembly and installation, on the building site, except that such term does not include recreational vehicles and recreational vehicle park trailers; and

"(16) 'closed construction' means a method of manufacturing in which parts or processes are concealed and cannot be inspected at the building site without disassembly, damage, or destruction.".

EXTENSIONS OF REMARKS

WHO DIVIDED THIS HOUSE?

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. YATES. Mr. Speaker, the annual celebration of Independence Day by the Chicago Historical Society was marked this year by the eloquent address of Prof. John Hope Franklin of Duke University. Professor Franklin, whose work in the field of American history is acclaimed nationally and internationally, was given a rousing reception by the huge crowd gathered in Lincoln Park in Chicago on July 4.

Mr. Speaker, I am very pleased to attach Professor Franklin's perceptive speech for the information of my colleagues:

WHO DIVIDED THIS HOUSE?

(A Talk by Prof. John Hope Franklin of Duke University at the Chicago Historical Society, July 4, 1990)

The magnificent exhibition now at the Chicago Historical Society, A House Divided: America in the Age of Lincoln, is a tribute to the imagination, skill, and scholarship of those who are responsible for it. It is also a remarkable delineation of the factors and forces that caused the collapse of the Union in 1861. Finally, it raises the question, subtly but inevitably, of who divided this house, and why did they do it. Answers to these questions should provide a clear perspective on the nature and age of the division, as well as the circumstances that brought it about.

As soon as the Union was created, the fissures revealing a deep and almost permanent division became apparent. Despite the professions of equality set forth in the Declaration of Independence, neither Thomas Jefferson, its author, nor many, if any, of the signatories believed a word of it. In their almost reckless haste to pin every conceivable sin on King George III, the Patriots rejected the proposition that he was responsible for slavery, lest a victory on their part would leave them no reason for retaining the institution of human bondage. Their determination to maintain the subjugation and degradation of Africans was considerably greater than any belief they had in the universal rights of humankind. Thus, from the very inception of the independence movement, there was no disposition to transform that movement into a grand, overarching thrust in favor of human brotherhood and universal freedom as well as political independence.

During the War for Independence, the Patriots took every possible step to make certain that the institution of slavery would remain inviolate. The Council of War, led by George Washington, decided at the outset that black men should not be permitted to enlist in the Continental Army. The very flavor of the language banning them is instructive. Recruiters were not to enlist, the order read, any deserter from the British Army "nor any stroller, negro, or vagabond." Then, late in 1775 the British welcomed all Negroes willing to join His Majesty's Troops and promised to set them free in return. The colonists were terrified, especially at the prospect of a servile insurrection. And so the Continental Congress reversed its policy and grudgingly admitted blacks into the Continental Army.

Ironies abound as one searches for the origins of the House Divided during the revolutionary period. Here were the American patriots, struggling to throw off the shackles of colonial control, at the very same time that they were relentless in their determination to maintain slavery. Here was a major war effort, requiring all the resources that the Americans could summon. But as long as they possibly could, they avoided using the very important manpower resource of free blacks and slaves lest they be called upon to share the spoils of victory with a group they regarded as clearly unworthy. And it was that unworthy group, from which the Patriots withheld the most basic political and social rights, that pointed out the ridiculously inconsistent position taken by the Patriots in making distinctions based on color and race.

In 1777 a group of Massachusetts blacks told the white people of that fledgling state that every principle which impelled the colonists to break with England "pleads stronger than a thousand arguments against slavery." In numerous other instances blacks, slave and free, reminded the colonists that they were entitled to the same rights as other human beings. Massachusetts slaves told the General Court of Massachusetts that "they have in common with all other men a Natural and Unaliable Right to that freedom which the Grat Parent of the Unavers hath Bestowed equally on all menkind and which they have never forfuted by any Compact or agreement whatever * * *" Also in Massachusetts, Paul and John Cuffe, well-to-do black businessmen, embarrassed the white patriots by refusing to pay their taxes, since they were denied the privilege of voting. The brothers were promptly sent to jail. Obviously the whites wanted to have it both ways, and just as obviously the blacks were determined that they should not have it both ways.

What, then, can be said of the men who led the fight for independence that they declared on July 4, 1776? It can be said that they were building a house that was flawed from the very beginning. Two generations later Abraham Lincoln would say, "A house divided against itself cannot stand * * *. I believe this government cannot endure permanently, half slave and half free." Unhappily, no one made such a profound observation when the nation was a-borning in the late eighteenth century. Abigail Adams perhaps came closest to seeing that there was a problem when she wrote her husband John Adams during the war that there was something quite strange about their fighting to achieve a status that they daily denied to others. Consequently, only the few who had the insight of an Abigail Adams could possibly see the fissures that were already beginning to develop.

It was bad enough to issue a Declaration of Independence that made no reference to human bondage and fight a war that denied freedom for all. And yet, that is precisely what the Founding Fathers did. It was even worse to write into a new Constitution a number of provisions to protect human slavery, principles which would undermine the very foundation on which a free, rational social order could have been built. How can one even entertain the hope that a house will not be divided or can possibly stand when its organic law authorizes the continuation of the slave trade for at least another twenty years, asserts the right to count three fifths of the slaves for purposes of representation in Congress, and calls for the return and reenslavement of those poor, hapless souls who attempted to replicate in their own lives what the white patriots claimed exclusively for themselves.

The year 1787, when the Constitutional Convention met, was a time to speak out for the highest conceivable principles of human relationships and to express, beyond the glittering generalities set forth in the preamble, a commitment to decent, fundamental human relations. Such sentiments and such commitments are absent. There is no passionate advocacy of freedom by anyone from the South or from the North. No one uttered in behalf of the slaves the eloquent words of Patrick Henry, "Give me liberty or give me death!" There was no real debate on the question of whether the nation should be made up of free people or, indeed, whether the nation should be half free and half slave. The tolerance of the institution of slavery on the part of delegates from the South and the North was remarkable. And to make sure that those who wanted slavery would not be disappointed, the Constitution placed its imprimatur on the institution in every possible way. Meanwhile, Oliver Ellsworth of Connecticut gave additional assurances to the slaveholders by counseling his fellow non-slaveholders that they should "not intermeddle" with the operation of the institution of slavery.

If there was any doubt about how divided the house was in 1787, the year the Constitution was written, Philadelphia, the locale of the Constitutional Convention, would provide the scenario for a house divided in the most literal sense. In November 1787, two months after the Constitutional Convention completed its work, Richard Allen and his fellow black Methodists went to worship as usual in the predominantly white St. George's Methodist Church in downtown Philadelphia. This time, the sexton, carrying out a new policy of the church, directed the blacks to sit in the balcony, instead of along the wall on the main floor. Allen and his friends dutifully complied. During the prayer that followed, one of the trustees of the church, observing that the black worshipers were on the front row of the balcony, went up and pulled Absalom Jones, one of the black worshipers, from his knees and directed him to the last row. Obviously shaken by this peremptory command, Jones asked him to wait until the prayer was over. The trustee persisted and even called on other trustees to assist him in reseating the black communicants. By this time the prayer was over and, as Allen

later recounted the incident, "they all went out of the church in a body and they were no more plagued with us in the church." This led to the founding of the African Methodist Episcopal Church, the largest black group in all Methodism. In 1787 Philadelphia blacks and, indeed, blacks in other parts of the country, had a fair understanding of what few protections, if any, they enjoyed under the new Constitution.

By the time that Lincoln delivered his celebrated "house divided" speech in 1858, the most casual observer could see that the nation was literally falling apart. The Methodist, Baptist, and Presbyterian denominations had already split along sectional lines. The fugitive slave law of 1850, that looked toward a more effective enforcement of the Constitution's provisions against runaway slaves, merely exacerbated the situation and made the antagonists on both sides even more intransigent. Slaveholders became increasingly paranoid, fearing a holocaust fueled by radical abolitionists and executed by their own human chattel. For their part the abolitionists made up in zeal what they lacked in numbers; and their defiance of the law and the Constitution marked them in the eyes of some as disloyal subversives or worse. The new Republican Party, with no admitted adherents in the South, was essentially the creature of a divided house. The chances for a Republican victory in 1860 were slim indeed unless the venom of division that had infected the nation would also hit the Democratic Party; and that is precisely what happened.

As we look back on the tragic events of 1861-65, we may well ask, "Who Divided this House?" I offer this answer, after some considerable reflection. It was divided almost from the beginning, but surely as early as 1640, when colonial law and colonial officials began to make distinctions based on race. It was divided by the Council of War during the American Revolution that preferred an all-white military establishment that would not be fouled by the presence of "negroes and vagabonds." It was divided by the Continental Congress that refused to include in the Declaration of Independence a paragraph condemning the King for introducing and maintaining slavery in the colonies. (The King was not responsible for instituting and maintaining slavery, but such niceties did not restrain the colonists from accusing the King of other "crimes" for which he was not responsible.) The house was divided by George Washington who was at least as diligent in maintaining control over his wealthy wife's slaves as he was in prosecuting the war against Britain. It was divided by Thomas Jefferson who not only graciously acquiesced in the deletion of the antislavery clause from the Declaration of Independence, but also pleaded unsuccessfully with his protege, Edward Coles, not to set his slaves free and migrate to Illinois but to remain in Virginia and uphold the institution of slavery.

The House was divided by James Madison, the "Father" of the Constitution, who not only was responsible for the "style" in which slavery was written into the Constitution, but also participated in the enactment of the laws of the first and second Congresses that respectively barred blacks from becoming naturalized citizens and from becoming members of the militia of the United States. It was divided by all the other slaveholders and their accessories, who believed in the obscene incongruity that they could establish a prosperous social order in which they would benefit from the exploitation of a labor force without its consent and with no thought of just compensation for it. The house was divided by the theologians, pseudo-scientists, sociologists, and others who conjured up the most spectacular, if flimsy, defenses and justifications for the exploitation of human beings that by the 1850's had become a craze of the worst conceivable sort.

The house was divided by the articulate, non-slaveholding leaders at the Constitutional Convention and in subsequent years whose fears, like those of Benjamin Franklin, seemed to be limited to the possible Africanization of the country if too many blacks were imported, and by the likes of Oliver Ellsworth who thought that they should not "intermeddle" with the South and its institutions.

The house was divided by the uncompromising, unbending opponents of slavery who saw slavery as an evil, godless institution, and slaveowners as devils incarnate. The more extreme among them, such as William Lloyd Garrison, believed that the Constitution was a proslavery document, and nothing less than a real revolution could correct the defects of a government operating under such a document. On Independence Day, 1854, secure no doubt in the knowledge that he was protected by the First Amendment, Garrison burned the Constitution of the United States, shouting as it went up in flames, "So perish all compromise with tyranny!" There is serious doubt that this defiant act had any profound effect on the course of events. Indeed, James Russell Lowell was later to write of Garrison: "There's Garrison, his features very Benign for an incendiary."

All of the groups and individuals whom I have mentioned, and more besides, had contributed to the house divided that was in the gravest danger by the time Abraham Lincoln ran for the Senate in 1858. As one watches them closely, and as one listens to what they said and what they did not say, the responsibility for much that was happening in the 1840's and 1850's tilts toward the leaders of the last quarter of the eighteenth century. Even if they could not shape the future exactly as they wished or, more properly, in terms of the ideals they freely expressed, one gets the impression that they were much too comfortable to see what a few saw then and what many were to see later. There was too little effort to reconcile their institutions with the social and philosophical positions that they were taking. There was too little self-criticism, too much inclination to accept things as they were and to postpone dealing with the hard problems. It was this postponement that put Lincoln's generation in a bind and that led to the tragic events of the 1860's. If there is one lesson we should learn from this, it is to face up to our staggering problems now and not put them off for some unknowing, innocent generation to which it will cost infinitely more to solve the problems we leave than it would cost to face up to them and solve them now.

INTERNATIONAL DAY AGAINST DRUG AND ILLICIT TRAFFICKING

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to bring to my colleagues' attention a speech given by Richard Pruss, the deputy president of World Federation of Therapeutic Communities.

Mr. Pruss discussed the many ways in which the theraputic centers have helped those in need, and changed with the times in order to assist those people who are suffering from drug addiction. Mr. Pruss has helped to establish programs that help beat these addictions.

It is with great pleasure that I ask my colleagues to join me in congratulating Mr. Pruss and the theraputic community for their work to help those with drug addictions. I commend his remarks to all my colleagues.

INTERNATIONAL DAY AGAINST DRUG ABUSE AND ILLICIT TRAFFICKING

(Remarks of Richard Pruss, Deputy President, World Federation of Therapeutic Communities)

Thank you and good morning.

I want to start by bringing you the warm greetings of Monsignor William B. O'brien, the president of the World Federation of Therapeutic Communities. He is abroad, as he often is; I am sure many of you know that his therapeutic community program, Daytop Village, has inspired and assisted the growth of scores of successful drug treatment programs literally around the world.

He asked me to bring you a brief message this morning. Here it is:

"Today, more than ever before, the need to curb the spread of drug abuse and illicit trafficking on a global level is of the greatest urgency. This is a problem which transcends national borders and cultures, and it is through international cooperation that progress may best be achieved.

"As an NGO in consultative status with the Economic and Social Council of the United Nations, the World Federation of Therapeutic Communities is involved in efforts to reduce demand for illicit drugs and prevention of illicit use of drugs, providing treatment, rehabilitation and social reintegration to drug abusers. It is also concerned with research and development of appropriate treatment programs and technology for the least developed countries in the field of drug rehabilitation.

"WFTC believes that demand reduction programs are an essential element of any policy to fight drugs. We think that concerted efforts aimed at demand reductions, which would include realistic approaches to treatment of drug addicts, should offer a better perspective for improved drug abuse policies to be pursued both at national and international levels."

AN INTERNATIONAL ISSUE

"Demand reduction" is a natural and essential supplement to "supply reduction" policies. And, as Monsignor O'Brien's message makes clear, it is truly an international issue. Concern about drugs, drug-related crime and the social consequences of drug

abuse dominates American news media, public debate and public opinion. But the search for effective countermeasures is worldwide. And it has given rise to the growth of the therapeutic community, or "TC," in nearly 60 nations today.

In talking a little this morning about treatment and what seems to work—I myself am the president of Samaritan Village, a TC now serving 600 men and women in the New York metropolitan area—I will not be focusing on methadone maintenance or ambulatory or other programs, although they are valuable and effective methods. I will be talking primarily about the residential, drug-free approach and about the professional performance of American TCs. They deal with as many psychological, physiological, social and cultural variables as their counterparts abroad. But it is also true that American treatment professionals share common objectives and experiences with colleagues in Europe, Asia, Latin America and Australia.

Therapeutic communities for the treatment of drug abuse are only about 30 years old. They are still developing, in terms of size and service. There have been many changes over the past generation. The small, often isolated self-help group has evolved into the larger, more open, more broadly staffed program. Many familiar problems, such as dropout and relapse, have had to be addressed. We have had to refine programs steadily to make treatment measurably more effective.

At times, this has not been easy. We have, on occasion, been held to standards of performance that exceed those for other mental health programs. A specialist in the related field of alcoholism treatment has put it this way:

"If experimental proof were required for all administrative and legal actions, almost nothing would ever get done. Why . . . is there greater urgency in the demand for bottom-line, cost-benefit analysis in the relatively new field of alcoholism treatment than in other fields of medicine? . . . It may be that alcoholism is still not regarded as an illness . . ."

GROWTH OF A NEW PROFESSION

Very slowly, over the years, we have advanced beyond the theory that alcoholism is an indication of moral deficiency rather than a medical or genetic issue. Unfortunately, this discredited and damaging theory persists with regard to drug abuse and other addictive disorders. Nevertheless, we are making progress. We have persevered, developed and learned much in the treatment of drug abuse and the residential, drug-free approach is now at the point where we have a valid, increasingly urgent claim on public attention—and public resources.

In support of that statement, I will be referring in some detail this morning to perhaps the best brief summary of treatment results that is in print today: a collection of research findings called "Treatment Works," published by the National Association of State Alcoholism and Drug Abuse Directors.

Let me start with a brief excerpt from the text:

"The National Assocaition of State Alcohol and Drug Abuse Directors examined the evidence of more than 15 years of research on the effectiveness of substance abuse treatment. The evidence decisively demonstrates that alcohol and other drug abuse treatment is effective.

"Drug treatment reduces drug abuse, increases employment, improves psychological adjustment, decreases crime as well as other negative behaviors.

"The evidence also shows that public expenditures for substance abuse treatment are wise and prudent investments, despite the fact that substance abuse is a chronic condition which typically requires multiple treatment episodes for individuals affected."

THE RESEARCH RECORD

We can get more specific. For example, there is the Treatment Outcome Prospective Study, or TOPS, which tracked 10,000 persons involved in 37 programs in 10 U.S. cities starting in 1979, Methadone maintenance, outpatient drug-free and residential programs were studied. The NASADAD text summarizes the results this way:

"Findings from the TOPS study show that treatment results in substantial decreases in opioid and nonopioid drugs in all modalities. In fact, three to five years after treatment, less than 20 percent of clients in any modality were regular users of any drug, except marijuana."

We can get even more specific. An analysis of more than 44,000 treatment admissions over five years during the Drug Abuse Report Program, or DARP, found that "for residents in therapeutic communities, daily use of opiates declined from 100 per cent before treatment to 39 per cent in the first post treatment year and 26 per cent by the third year."

There is more. The same research found that "while more than 50 per cent of therapeutic community clients had been arrested before admission, the rate was reduced to 33 per cent in the first year after treatment and to 23 per cent by the third year. Employment increased among therapeutic community residents so that about two-thirds were gainfully employed after discharge.

PATTERNS IN TREATMENT

Those figures, and there are many others, are impressive. But they do not adequately stress the amount of time and effort, by both TC residents and TC staff counselors, involved in these results. It is hard, demanding and sustained work. And it often has to be repeated. According to the TOPS findings, final success in treatment, for the resident 30 years of age or more, may require up to 70 weeks of treatment, in up to five separate episodes. This is closely related to the high early dropout rates that residential programs experience.

This pattern is not, of course, unique to residential drug-free treatment. On the contrary, treatment of other addictive disorders—overeating and smoking, for example—is also characterized by dropping out and by relapse. And, I may add, by the efforts of treatment professionals to cut down the levels of both by improved individual treatment planning.

This is a fundamental point in understanding drug abuse treatment today. Just as there is no single, simple answer to interdicting drug production and shipment, there is no single, all-purpose treatment method. We have come to learn that, even within the residential, drug-free treatment speciality, it is essential to evolve and apply new, individualized services.

THE INDIVIDUALIZED SERVICE

A good example is my own agency's special service for combat veterans. We have been able to create more effective therapies for these men as we have come to learn more about Post-Traumatic Stress Disorder (PTSD) and its association with drug abuse. Similarly, our TC staffs have pioneered in development of special services for persons with AIDS.

Writing in the International Review of Psychiatry two years ago, Dr. Herbert D. Kleber of Yale's School of Medicine commented:

"Failure of one type of treatment, or relapse from a supposedly successful state, should not, therefore, produce despair but rather a continued search for a better treatment for the particular individual, keeping in mind two key tenets:

"1. The same individual may need different types of treatment at different stages in his addiction cycle or career;

"2. A group of drug-dependent individuals, even though seemingly similar in such aspects as type and length of drug use, may need very different approaches in order to be successful."

We keep these points steadily in mind. As a result, the chances for favorable outcome are better than good and improving.

The TC approach is not limited in effectiveness against one single drug, as methadone maintenance is against heroin. By focusing intensively on the individual's addictive behavior, and by offering alternatives, in a setting which stresses social responsibility, primary medical care, secondary education, vocational training and support of healthy functioning, it can provide a broad range of very practical help. And that is a healing mission on which both recovered abusers and degreed professionals now work closely and successfully together.

A few statistics and summaries cannot possibly tell the whole TC story—not in New York, not in Amsterdam, Stockholm nor Milan. Not in Bogota nor Buenos Aires. Not in Bangkok, Tokyo nor Canberra. But thorough and trustworthy data are vital, not simply to show where we are succeeding but primarily to show where we are failing. We can't develop more effective treatment otherwise.

This has been a very limited introduction to the modern TC. I hope it will encourage your interest in learning more. We would take pleasure in offering help.

Thank you. I'll be glad to answer questions you have.

AGRICULTURE SUBSIDY FORMULAS ARE OBSOLETE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. OWENS of New York. Mr. Speaker, during the deliberations on the Schumer-Armey amendment to the Food and Agriculture Resource Act of 1990 (H.R. 3950), I joined with a number of other colleagues in seeking to convince the Congress that the time has come to use common sense and make some reasonable changes in the farm subsidy program. Although numerous changes are needed in the obsolete subsidy formulas, the amendment proposed only one small correction. Farmers earning more than $100,000 in adjusted gross income would be dropped from the subsidy program and would no longer be eligible for a Government check of up to $50,000. Despite the fact that the authors of the amendment could prove that no

family farmers would be hurt; despite the fact that less than 3 percent of the present acreage would be impacted by the change; despite the fact that it was demonstrated that the people in greatest need within our country—the children, the homeless, and the unemployed—are not eligible for $50,000 Government checks; despite these and many other illuminating facts, the Agriculture Committee refused to accept the amendment. On a floor vote the committee was overwhelmingly supported by the Members of Congress. That vote sent a clear message to the Nation. It is obvious that we have learned nothing from the pattern of massive waste in military spending and the monstrous give-a-ways to the savings and loan crooks.

There was a clear statement to the electorate of America: "Let the people suffer but we have to do our deals." I offer the following as a concession speech to the powerful Agriculture Committee.

LET THE PEOPLE SUFFER

(A concession speech to the powerful Agriculture Committee)

Let the people suffer!
But we got to do our deals
When hungry babies holler
Make them swallow bitter pills.
We got to do our deals:
Family farmers are really quite rare
But lawmakers never despair
We let millionaires profit
From the myth that farmers are there.
Let the people suffer!
Subsidize fat farmers
Guarantee corrupt banks
Cut kids' anti-viral vaccinations
But we must maintain our tanks.
Let the people suffer!
They fully understand
Why all our foreign embassies
Are built to look so grand.
Let the people suffer!
Let the children feel the pain
Government can't do it all,
So leave the homeless in the rain.
Let the people suffer!
But we have to do our deals
Leadership lacking strong wills
Rule against creative minds
Then stumble into old binds
This budget is stale stew
Nothing is really new
Our current game
Is still insane
The present message
Is too much the same:
Let the people suffer!
But we have to do our deals.

CARL LENDER AND "POPPYSEEDS" BAKERY & RESTAURANT: PROTECTING THE ENVIRONMENT IS GOOD BUSINESS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. LEHMAN of Florida. Mr. Speaker, more and more businesses are discovering that concern for the environment is more than just a corporate responsibility or a public relations gimmick. It is also good for the botton line.

A good example is "Poppyseeds" bakery and restaurant in northeast Dade. Its owner, Carl Lender, was not content to conduct business as usual. He devoted considerable thought and planning to developing ways to improve efficiency, reduce waste, and maximize service to his clients and to his community. The results of his efforts are remarkable, and I would like to share with my colleagues an article which appeared in the Miami Herald which provides greater detail.

Carl Lender and his staff of "Poppyseeds" are to be commended for a job well done. I hope their example will demonstrate to other businesses that caring for the environment makes good business sense.

WINNING S. FLORIDA FIRMS INVEST IN THE ENVIRONMENT AND FIND IT PAYS BACK IN DOLLARS AND SENSE

(By Margaria Finchtner)

The stakes are as high as they get, and as South Florida's Eco-heroes will tell you, saving the Earth is everybody's business.

"I knew a long time ago the amount of garbage we were putting out was not acceptable," says Carl Lender, owner of Poppyseeds, the North Miami Beach Bakery and restaurant that took first place in The Miami Herald's Ecoheroes contest.

"I always knew that the foam and paper goods were filling up the landfills. Here I was, in charge of the decision-making for a business that was harming the environment, but there didn't seem to be a lot of alternatives, because we're a fast-food restaurant. . . . Up until two months ago, we were a paper-goods operation—foam plates, plastic utensils, foam cups and so on."

Then, the epiphany. Flying home from California recently, Lender found himself riveted by the efficiency of airline meal-service operations. "Everything came out on a tray," he says. "There were 300 people on this plane, and when they were finished eating, everything went back. They were getting their silverware back and their cups back. I started thinking about how we could put that to work in our restaurant."

Like virtually all the nearly 100 businesses and individuals who entered The Herald's Ecoheroes contest, Carl Lender decided he could no longer leave the task of saving the environment to others. He is not alone. The battle is huge. Nobody can fight it by himself, but everyone can do something.

Inspired by this spring's Earth Day and the recurring dismal news stories about oil spills, dying reefs, dolphin kills, forest fires, air and water pollution, washed-up medical waste, carcinogens, garbage and ozone holes, South Florida Eco-heroes like Lender are at work all over the place. They are saving, recycling, converting and reusing items they once thoughtlessly discarded.

They are incorporating a new consciousness into every aspect of business, like the Waterfront Market, a Key West produce, deli and gourmet foods operation, or offering rebates for old eyeglass frames they, in turn, donate to the Lion's Club, like Mr. I's Optical Boutique in South Miami. The two firms are second-place winners in The Herald's contest.

TEACHING KIDS

They are teaching kids the importance of environmental consciousness, or of donating the proceeds from recycling efforts to feed the homeless, or donating trees to beautify public places.

They're finding you don't have to start with giant steps to make a major change. Carl Lender, for instance, began by stocking up on reusable dishes, mugs and flatware and replaced the traditional fast-food restaurant, dump-bin garbage cans with a custom-made cart to hold empty trays bused from the tables by restaurant employees.

"Should I tell you how we're doing? We used to have four garbage pickups a week—four big Dumpsters full—and now we're down to two. We're saving $300 a week on paper goods, and I had estimated it would cost us about $150 in extra labor and chemicals and water for cleaning. It's turned out to be less than that."

In addition, Lender shaved more than $800 a month from the restaurant's electric bill by replacing incandescent lights with more energy-efficient compact fluorescent bulbs, turning off a refrigerator for the summer and installing programmable timers on the air-conditioning units. He also bought a crusher for recyclable cans, planted more foliage around entranceways and began sending computer, printer and cash register ink cartridges back to their manufacturers for reloading. Whenever possible, he now provides takeout customers with either paper or reusable plastic containers and is ridding the restaurant of its deluge of junk mail by returning unwanted items to their senders stamped "Please Help the Environment by Taking Us Off Your Mailing List. Thank You!!"

1,000 PERCENT

"We're doing 1,000 percent more [environmentally] than we were doing six months ago," says Lender. "I had one customer tell me that it makes her more comfortable to come in here, knowing what we're doing. All the good wonderful things you can do for the environment somehow have a way of paying you back."

As first-place Ecohero, Lender will receive for his restaurant an eight-foot mahogany tree from Native Tree Nursery in Goulds.

MEDCAID/MEDICARE 25TH ANNIVERSARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. DINGELL. Mr. Speaker, 25 years ago, Congress took a bold step on behalf of the people of this country: we passed legislation establishing the Medicare and Medicaid Programs. President Johnson signed these bills into law on July 30, 1965.

We had great hopes then, when as a nation we made a substantial commitment to the health care needs of our most vulnerable citizens—the elderly, the poor, and the disabled. We hoped for more, that one day we would be able to provide for the health care needs of all Americans. Now 25 years later we are still a long way from that goal.

We must remember that dreams do not come easily to fruition, neither then nor now. In 1943, my father, then a member of the Ways and Means Committee, joined with Senators Robert F. Wagner of New York and James E. Murray of Montana to propose that the Social Security Act of 1935 be amended to include a compulsory national health insurance plan financed by a payroll tax.

My father did not live to see Medicare and Medicaid developed and enacted, but many of the provisions of the Wagner-Murray-Dingell

bill were included in these programs. I was proud to work for those programs then, and I have been proud to work to expand, improve and protect them since.

The full scope of the ideas represented by the Wagner-Murray-Dingell bill are alive today in H.R. 16, the "National Health Insurance Act." This is not a bill I expect to see enacted into law as is, but I have introduced it every Congress since I have been here—18 in all—to remind myself and others of the direction we should be heading, and as a memorial to fine ideas which never die.

Today we find ourselves at a crossroads in American health care. We must be concerned about the continued viability of Medicare and Medicaid, and the fact that more Americans than ever have no access to health insurance. Difficult decisions must be made. Let us use this special anniversary to good end to clarify our common goals and purpose, and to face up to providing for our people one of the defining features of a civilized, democratic nation: equal access to quality health care for all.

FINANCING FOR U.S. EXPORTS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. FAUNTROY. Mr. Speaker, I would like to share with you an issue that has been an ongoing concern of the Banking Committee's Subcommittee on International Development, Finance, Trade, and Monetary Policy—availability of Government financing for U.S. exports. As chairman of the authorizing committee of the Export-Import Bank of the United States, the principal financing agency of U.S. exports, I have learned the importance of Government support, especially in the area of financing, to enable U.S. exporters to be competitive in the market abroad.

The following Journal of Commerce article titled, "Executives, Unions Seek Export Finance Boost," July 30, 1990, comprehensively covers the issue. As the article points out, the concern about export financing is reaching the higher levels of the corporate world as well as the labor unions. Ensuring adequate levels of financing of U.S. exports is not only a competitiveness question in selling American goods abroad, but it is also a question of keeping American jobs at home. Whether the issue is tied to aid credits competition or the general availability of standard export financing, I appreciate the fact that the lack of export financing in the United States is gaining more attention. I hope that we can work together to find an effective way to address the problems.

[From the Journal of Commerce, July 30, 1990]

EXECUTIVES, UNIONS SEEK EXPORT FINANCE BOOST

(By Rosalind Rachid)

NEW YORK.—U.S. multinational corporations and key labor unions have teamed up to press for more funds for federal agencies that finance trade with, and aid to, developing countries.

The push comes from executives at such companies as American Telephone & Telegraph Co., Caterpillar Inc. and General Electric Corp. Their reasoning is that a larger pool of government financing will allow U.S. companies to offer more competitive terms when bidding on big-ticket contracts in cash-strapped Third World markets.

"Since this is a buyer's market, you have to have financing. We're prepared to match our technology with anybody's, but in some cases our customers are offered deals they can't refuse," said Ronald E. Pump, a lawyer at AT&T's federal government affairs office in Washington.

China, for example, is said to be the recent beneficiary of a 30-year, zero-interest loan in a telecommunications contract with Sweden's Telefon AB LM Ericsson.

"Financing is the lifeblood of what we're doing. Bell Labs notwithstanding, it's often more important what (the U.S. Export-Import Bank and the U.S. Agency for International Development) do," Mr. Pump said. Bell Labs is the creative genius behind AT&T's telecommunications equipment.

"We won't win many orders without the best price," said Frank P. Doyle, a GE senior vice president. "But without competitive financing, we won't win any orders at all."

The Bush administration and Capitol Hill may abhor the practice of mixed credits, argued Caterpillar's Willam W. Beddow, manager of government affairs in the company's Washington office. But this practice, under which governments engineer loans and grants to subsidize the sale of their companies' goods overseas, is the rule rather than the exception in the current competitive environment.

Like the administration, "Caterpillar would prefer to compete based on price and quality. But unfortunately, we don't dictate the competitive environment," Mr. Beddow said.

"The United States should have the same tools available to its companies that are available to its competition. We clearly have to have access to similar forms of financing. The United States has been really far behind in offering the kind of export financing terms the rest of the world is offering. All sorts of concessionary financing is available," he said.

Competition is most cutthroat in capital equipment markets like construction, transportation, power generation, telecommunications and mining, U.S. executives say.

According to a recent Ex-Im Bank study, the United States loses some $400 million to $800 million a year in exports because its companies cannot match the mixed credit and other concessionary financing packages offered by their rivals in Western Europe and Japan.

Private surveys put those losses at $2.4 billion to $4.8 billion annually.

And the losses are long-term, said Howard Lewis, vice president of international economic affairs at the National Association of Manufacturers.

"Once you lose a capital goods project, you've lost it for a while. It's not the simple-minded analogy of 'Win a few, lose a few,'" he said.

"That may be good in Economics 101. Capital projects are more analogous to buying a house. You're making a major commitment, and the factors involved are more complicated than the factors involved in buying a box of cereal," according to the NAM vice president.

"It's even more difficult to get back into that market later on because the people will be used to the equipment (of your competitors)," be added.

At stake for the labor unions, meanwhile, are the jobs saved or created every time a U.S. company wins a contract to supply heavy equipment to a foreign country.

"It's not only an income-trade issue, it's a jobs issue," declared Bruce B. Talley, executive director of the Coalition for Employment Through Exports, also based in Washington.

"We are trying to acknowledge that resources are limited. But, on the other hand, these are resources which, if employed correctly, generate income and jobs for the U.S. economy," he said.

According to the U.S. Commerce Department, merchandise exports accounted for almost 7 million jobs in the United States in 1989. That same year, about one in six U.S. manufacturing jobs was probably due directly or indirectly to exports, Commerce said.

"Jobs tend to follow financing. A U.S. company may get a contract abroad. If the company has the capability to source for that contract from plants around the world, it will tend to source from the plant (in the country that provides) the best financing. So from a public policy point of view, it would make sense to source in the United States to keep the jobs in the United States," said AT&T's Mr. Pump.

The Coalition for Employment Through Exports was formed in 1981 when the Reagan administration "tried to close down Ex-Im Bank," as one company executive puts it.

It is considered the standard-bearer for the lobby to increase funding for Ex-Im Bank, AID, the State Department's Trade Development Program and multilateral banks such as the new European Bank for Reconstruction and Development.

It represents a unique mix of labor unions, including the International Brotherhood of Electrical Workers, the Machinists Union and the Seafarers' Union, and major exporting companies.

Maritime employment could gain from cargo preference arrangements linked to tie-aid and mixed-credit programs.

Also affected by the competitiveness of U.S. capital-goods exporters, say coalition members are the small and medium-sized companies that serve as subcontractors for major corporations.

For example, subcontractors supply 65% of the manufacturing content of a GE jet engine, parts worth 45% of the engine's sales dollar, according to Mr. Doyle.

The biggest hurdle, said Mr. Talley, is convincing the Office of Management and Budget, and the Treasury Department to some degree, to appropriate more money for export financing.

"Unfortunately, they have such a hemorrhage of the budget deficit situation that it effectively (keeps them from reaching) a sound trade policy in this very finite area. They basically are unable to acknowledge the situation because that situation would require resources. And they are coming from the premise that there are no additional resources," he said.

REMARKS BY HYMAN BOOKBINDER AT THE WORKMEN'S CIRCLE 90TH ANNIVERSARY CEREMONY

HON. GARY L. ACKERMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to bring to my colleagues' attention to a stirring speech, given during ceremonies marking the 90th anniversary of the Workmen's Circle, by a man we all know, Hyman Bookbinder.

The Workmen's Circle has represented the views of the Jewish Community through some of the most difficult periods that Jews have been forced to experience. The Holocaust, Stalin, and continued persecution of Jews are all problems that this organization has been forced to tackle.

The Workmen's Circle is now concerning itself with the dramatic changes in Eastern Europe and the Soviet Union, and the disturbing rise in anti-Semitic sentiment.

I present Mr. Bookbinder's remarks to my colleagues and hope you will join me in honoring him and the Workmen's Circle for their countless good works.

KEYNOTE ADDRESS OF HYMAN BOOKBINDER

Yes, indeed, I have been in the Workmen's Circle family literally all my life. And that association has shaped my life as much as, if not more than, any other influence. Born into a world that soon exposed me to class and race conflicts, to depression and insecurity, to war after war, to the Holocaust and terrorism, but born also into a family and Jewish culture that exposed me to thoughts and dreams of a better world, a more peaceful world, a "kinder and gentler" world, a more just world, I soon acquired a compulsive interest in public affairs. I am indebted to this institution for giving me that early direction, and, more importantly, for itself staying the course throughout these many years.

On this 90th anniversary, it is natural that we note the end of a decade, the approaching end of a century, and of a millennium. But, of course, historic developments are not determined by the happenstance of our decimal system. The end of a decade or century has no special significance in its impact on the environment, or the struggle for justice, or peace among nations. But such anniversary moments do serve a useful purpose in that they prompt a look back and a look forward, a basis for evaluating, and for speculation about the future.

The history of the Workmen's Circle is, of course, congruent with the history of the 20th century. And what a century it has been! A century, it is interesting to note, that started before radio and much before television, before Zerox and FAX machines, before electric typewriters, to say nothing of personal computers, before automobiles and airplanes, before the Salk vaccine and antibiotics, before we dared even dream of a man walking on the moon. But, a century too of horrors, a century filled with names like Hitler and Stalin, Eichman and Idi Amin, with places like Munich and Auschwitz, Hiroshima and Selma, Vietnam and Biafra. A century with altogether too many reminders that incredible advances in technology, in communications, in individual human achievements, do not guarantee improved relations among peoples and among nations, that starvation and tyranny and terrorism still await more effective and humane responses from the world community.

The Jewish people have been a part of this very busy 20th century. But Jewish history itself these last 90 years has surely been as momentous as that of history generally, and as momentous as any 90 year period in our people's history. Two words alone make this a watershed period in Jewish history—Holocaust, Israel. It is no exaggeration—and no idle rhetoric of a keynote speaker—to assert that in these 90 years the existence of Workmen's Circle made a difference, a difference in the quality of American society generally, in the welfare of American Jewry, and in the security of Jews everywhere in the world, especially in Israel and the Soviet Union.

All of this became startlingly clear to me as I was preparing for these remarks. I had asked Harold Ostroff to send me some background materials, to remind me of some early Workmen's Circle history. In a few days, Walter Kirschenbaum sent me two very precious volumes—the 40th anniversary picture book with text, and the history written by Judah Shapiro on the occasion of the 70th anniversary. I would make both of these volumes compulsory reading for every current and future member. And I would love to see every one of our children and grandchildren encouraged to read them too. Not to brag about the organization, but to help them understand our glorious, if too often painful, history as a people—to make them feel proud of the men and women who came to these shores at the turn of the century, and since, with nothing but their dreams and their pride—and in a couple of generations produced a Jewish community that could point not only to the tremendous individual achievements of its people in the arts and the sciences, in music and literature, in business and public affairs, but a concerned and effective force in America for the common as well as the Jewish welfare.

To read the history of the Workmen's Circle is to read not only of the passions, the agonies, and the glories of these years, but also to recall the great debates and conflicts of our times. My major impression from this review, one that should give all of us great pride and satisfaction, is that this organization was right on every major issue of these times. It had the right instincts and it made, with relatively few and minor exceptions, the right judgment calls. It knew when and how to change as conditions warranted, but it never abandoned those basic principles and purposes which gave it birth.

Time does not permit a discussion of all those principles and purposes, or all the critical judgment calls that had to be made. But as we try to identify the challenges we face into the Nineties and into the 21st century, it may be helpful to identify some of the major policies embraced over the years that continue to have relevance today.

From its very inception, Workmen's Circle understood that its members' welfare depended not only on the impressive range of programs and benefits it initiated for its own operations, but required public policies that would protect all citizens against economic insecurity, intolerance, and repression. It was natural for it to be a firm and trusted ally of the labor movement. There could be no Jewish welfare, it insisted, without the general welfare. And it helped labor understand that there could be no real security for organized labor without economic security for society generally.

In the nineties, and beyond, Workmen's Circle is challenged to help define the proper balance between public and private responsibilities for the social welfare. For about half of its first 90 years, most of its members advocated democratic socialism—or social democracy—as the kind of society which would best protect the people's security and freedom. While abandoning the centerpiece of orthodox socialist doctrine—public ownership of the means of production—most of us have not abandoned the essence of our early commitment and belief in a society that accepts responsibility for the people's welfare. Along with that commitment, however, is our unyielding belief in and insistence upon democracy. Our proudest claim through all these years is that we refused to believe that the road to security requires a compromise with democracy. We fought the communists in our own ranks, in the community generally, and fought Communist tyranny in every part of the world.

So no group anywhere has more reason for exhilaration over the electrifying events in Europe this last year. This week's TV coverage of Moscow's food markets documents the fact that communism has meant neither freedom nor security. But as we face this next decade, we must do more than rejoice over the demise of communism. What should be the American policy, and the Jewish policy, to make the transition to democracy one that will survive and prosper, one that will not revert to a new form of terror and intolerance? How do we prevent further gains of virulent religious fundamentalism, including alas, such rise in our own Jewish ranks? There will be difficult judgment calls to make. Even as we meet here tonight, the American and Soviet presidents are engaged in summitry. How shall we answer a question that only a year ago even a TV late-nite comic would not have dared ask: How much should America do to keep a Soviet president from being toppled? How many of us feel absolutely sure we know exactly how Gorbachev should deal with Lithuania, or with Yeltsin?

Our rejoicing over the apparent trend to democracy, unhappily, is seriously tempered by our concerns over the ugly resurgence of anti-Semitism in so many places—abroad and here at home. Most ironic is the explosion of vicious anti-Semitism in the Soviet Union that was made possible by the otherwise welcome development of glasnost. The gruesome accounts of cemetery desecrations all over Europe, the senseless anti-Jewish incidents on college campuses and synagogues here at home, these and other recent abominations provide us with sobering reminders that Jews remain a target, a scapegoat for the sick and the vicious everywhere.

We are now challenged to apply the lessons we learned during and since the Holocaust. We must always try to be prudent and sophisticated in fighting those who would destroy us but prudence must not mean silence, and it must not tolerate indifference by authorities. We have every right—and every obligation—to insist upon immediate and forthright action by all government and religious and community leaders to condemn and stamp out anti-Semitism wherever and whenever it appears. But we have a reciprocal obligation, to help stamp out racism and bigotry and discrimination against any people, any group, as we have done over the years.

Perhaps the most rewarding result of my reviewing Workmen's Circle history was to be reminded, contrary to the rarely-chal-

lenged allegation, that there was indeed much Jewish awareness of and screaming out against the rise of Hitler and nazism, and of the heinous crimes being committed and planned. The record of Workmen's Circle leadership in this outcry, as early as 1933, is one that should make us all feel proud.

But the horrible truth is that as a government, as a community, as a nation, we could have and should have done much more. I reject and resent all the finger-pointing and mea-culpas that keep filling up volume after volume. I feel it is more useful to ask what we have learned from that terrible chapter, what the death of six million of our people has taught us about how better to safeguard the security of today's six million beleaguered Jews—yes, six million, the four million in Israel and the two million in the Soviet Union.

In the sessions that follow, this convention will be hearing from knowledgeable and sensitive speakers on these two priority concerns of the Jewish community, Israel and Soviet Jewry—two issues more closely linked together than ever before, as the Arab world seeks to stop the flight of Soviet refugees to Israel. But permit me to make a few comments, from my particular vantage point.

I have mentioned the six million Jews consumed in the Holocaust, and the six million Jews now struggling for freedom and security. Now let me talk about another six million—the six million of us Jews in the United States. Two of every five Jews in the world today are Americans. Is there more that we can and must do for the other three?

We have used our collective strength, as permitted and encouraged by our pluralist, democratic system, to develop massive political support both for Israel's security and economic needs, and for the right of Soviet Jews to emigrate. The Jackson-Vanik amendment, and the 3 billion dollars a year for Israel are examples of our effectiveness. Difficult and uncertain as the outlook may be today for these six million beleaguered Jews, can there be any doubt that American Jewry has played a major role in protecting them and providing some hope for a brighter future, not only in generous direct assistance but through sophisticated political and community relations efforts that have resulted in favorable governmental policies?

If only we had developed these skills by the early and middle thirties! The principal lesson we must all learn from the Holocaust experience is that we had failed to develop the political know-how required to protect Jewish interests. I have often asked myself the heart-breaking question—and some of you may have heard me ask this before—if we had had the ability—as we now have on every critical issue affecting the security of Israel or the right to emigrate—to muster the votes or the signatures of 90 or 95 Senators, or 350 to 400 Congressmen—to demand of President Roosevelt, for example, that he make available one single plane in 1943 or 1944 to bomb the railroad tracks to Auschwitz, how many Jewish lives might have been saved?" We now know that every single day about 10,000 Jews were being killed in that single death factory. If operations had been suspended for even a single week, some 70,000 Jews might have been saved. A month's delay could have saved 300,000 Jews.

So we have learned from that experience. We have developed an effective, sophisticated American Jewish political influence. Let our enemies decry and defame that influence. We decline without apology or embarrassment—Jews have interests. We intend to protect them—responsibly and with undiluted concern for the general welfare.

All of this is true—and Workmen's Circle has done its share in this success story. But I hasten to warn you not to take anything for granted, and not to feel too pleased with ourselves. As one who has been on the political frontlines for Jewish interests for almost a quarter of a century, I want to make this public confession: It isn't that we have been such terrific salesmen or lobbyists; it is, above all, because we have had a terrific product to sell.

We helped America understand that Jewish history and Jewish pain gave Jews the right to a Jewish homeland. We helped America understand that Israel shared with us a firm commitment to freedom and democracy and a craving for peace—the only country in the Middle East with such credentials. We helped America understand that a secure Israel was in America's own self-interest. We helped America understand that the struggle for free emigration in the Soviet Union was a basic human rights issue and a challenge to the brutal communist system.

When I refer to "we," let it be understood that "we" means six million Jews, including children—a large Jewish community by Jewish standards, but we are less than three percent of the American population. We could not and did not develop American support for our cause by our numbers alone. We had to have allies, and we have had them. We have had them, and can have them in the future only if two things remain true:

1. The basic case for Israel must be persuasive and consistent with American values.

2. We must show reciprocal concern for the legitimate concerns of other groups in our society. We must demonstrate every single day that we not only quote Hillel about not being only for ourselves, but that we practice what we preach.

On the first of these requirements, let me put it bluntly. Our case for Israel remains a powerful one, but it is not as powerful as it has been or ought to be. Yes, there has been some erosion in support for Israel. There are questions being asked, among our best friends, about whether Israel is sincere about resuming the peace process, about whether the intifada is being fought in the best and most humane way, about whether cynical politics on all sides is preventing the formation of a stable Israeli government. And questions are being raised about whether the reduced Soviet threat to the United States makes Israel a less vital ally, and whether our own budget crisis doesn't justify a review of our very generous aid to Israel.

Tomorrow morning, you will be discussing these and related questions. Tonight, I wish merely to say this: Unless more impressive and credible answers to these questions come soon from Israel and from Israel's friends, the quiet erosion of support and friendship for Israel will continue. Now, please do not misunderstand me. I believe that even these questions do not seriously undermine the overwhelming case that all of us can go out and make for Israel, reminding Americans that the plight of the Palestinians should be charged to historic Arab failures and intransigence, not to Israel's. If Israel hestitates to take further risks for peace, it is because the Arab world has yet to convince the Israeli people that it has stopped dreaming and planning to destroy the Jewish state. The news from Baghdad this very week says it all. Yesterday's abortive action by a PLO group was clearly designed to inflict major devastation against large numbers of Israeli civilians.

We have the obligation to tell this story. But we also have the obligation to deal honestly and frankly with our Israeli friends, to tell them what troubles us, to urge actions that we feel will firm up American support but would not jeopardize its security. I do not believe Israel need suffer from such frank talk. In Israel itself there is open discussion about alternatives. We have the right and the obligation to participate in these explorations, understanding, of course, in the final analysis the Israelis must be trusted to make their own decision. What concerns me is not our right to speak up, but whether our suggestions are right.

Not since the very birth of the new state of Israel has it been more important that Israel have friends and supporters, because it must now be in a position to meet the historic opportunities made possible by the mass exodus of Soviet Jews. Can there be any doubt that the Jewish people are, this very day, experiencing one of the great events in Jewish history? As many as two million Jews—half as many as now live in Israel—may, over the next few years, be on their way to Israel. Each of Israel's current challenges—finally achieving peace with its Arab neighbors, and providing refuge for potential millions—would be enough to tax the ingenuity and capacity of any people. But to have to meet both challenges simultaneously is more than any people should be called upon to do.

For American Jews, this challenge is also a historic one. Not all the Soviet Jews are going to Israel. Many are coming to the United States. We must be ready to open our hearts, our homes, and our pocketbooks to make their transition here a positive one. And we must be determined to provide whatever funds and political support Israel needs to make this historic Aliyah to Israel another shining chapter in Jewish history.

So the challenge to Workmen's Circle for the nineties is indeed a full one. Israel, Soviet Jewry, anti-Semitism abroad and at home. And we dare not be absent from the continuing struggle to help complete the job of achieving genuine civil rights for every American, for a renewed and even more effective war on poverty, for health care availability to every American, for a real war on drugs and crime.

Trouble and problems and fears abound. But when has this not been true for the Jewish people? We never permitted these, however, to wipe out our hopes, our faith, our glorious achievements. We must not despair. We have, and we can again, overcome.

I read in a recent issue of the Foward a report on this year's Third Seder of the Workmen's Circle. In her moving account of the 40 young children singing Yiddish songs that brought tears to many of your eyes, Mashe Leon recalled the words of the song "Mir Kumen On—we are here—we have arrived—we will go on . . ." As I read those words, I couldn't help recall what has probably been the most poignant moment of my 40 years of Washington life. As a member of the President's Commission on the Holocaust, I was present at a White House Yom Hashoa ceremony. The President was there. The Secretary of State was there, plus other Cabinet members. Israel's ambassabor was there. Senators and Congressmen crowded

the East Room. And our chairman, Elie Wiesel, was addressing this assembly of America's political leaders. The Jewish people will go on, he declared, and then he started quoting—in Yiddish—the words of Leivick's great poem, Eibig—(forever). Yiddish was being spoken by a Holocaust survivor in the residence of the president of the most powerful nation on earth! That alone was enough to bring, then and now, goosepimples and terms—but what words he recited:

Die Velt nemt mich arum mit shtechiker hent * * *
Un trugt mir zum feier, un trught mir zum sheiter.
Ich bren un ich bren, un ich ver nit farbrent,
Ich heib zich oif vider, un shpan avek veiter.
The world surrounds me with it thorny hands,
And carries me to the fire, and throws me to the flames.
I burn and I burn, but am not consumed;
I rise once again, and go on my way.

For nintey years now, the Workmen's Circle has been in the battle to keep the flames from consuming us—but more than that, it has contributed to a thriving, confident American Jewish community—and to an American society in which such a White House ceremony can take place.

And now we look to the future. Ten years from now, the 20th century will give way to the 21st—and the Workmen's Circle's first century will give way to its second. On a personal note, I'm happy to tell you that I am in good enough health to ask now for an invitation to join you at the Contennial convention! I'm sure that many of you will be there. But I am realistic enough to know that I will probably not be present at the momentous event that will come 20 years after the centennial. So I now say to my beloved Arbeiter Ring—with confidence that it will be alive and kicking—Biz Hundert un Zwanzig—and nusch amul hundert un zwunzig.

A sheinem dank—Thank you.

THE DAVE AND MARY ALPER JEWISH COMMUNITY CENTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the contributions that the Dave and Mary Alper Jewish Community Center [JCC] has given to the south Florida area. The Dave and Mary JCC has continually served this area through its community and civic efforts. Jewish community centers have been serving the Kendall area since 1973. Through the effort of staff and volunteers, innovative programs have been created to meet the community's needs and have helped to make people's lives fuller.

A "new" Dave and Mary Alper Jewish Community Center has just been opened in June 1990. Located in Miami, FL, the new Dave and Mary Alper JCC offers programs and activities suited for everyone. The JCC has a health and fitness center featuring swimming pools, weight equipment, gymnasiums, playing fields, tennis, and volleyball courts. The center offers a range of activities from early childhood services, teen network camps, and adult services to special programs, health and fitness facilities, and senior adult activities.

A Black Tie Gala Dinner Dance honoring Mikki and Morris Futernick will be held on Saturday, September 8. The dinner celebrates the grand opening and dedication of the new Dave and Mary Alpers Jewish Community Center. The dedication will take place on September 9 and will be attended by community, religious, and government leaders.

The Dave and Mary Alper Jewish Community Center is a beneficiary agency of the Greater Miami Jewish Federation, the United Way of Dade and a member agency of the Jewish Welfare Board. In fact, the center has made funds available in order to offer scholarships to those unable to pay the program fee. It is the intention of the Dave and Mary Alper JCC that no one be denied membership or accessibility based on financial need.

I would like to especially commend the JCC's board of directors for their outstanding efforts in implementing a common place where Jewish culture, tradition, and community can be fully enjoyed. The officers are: Richard N. Bernstein, president; David Blumenthal, vice president; Glenda Krongold, vice president; Marcia Reisman, vice president; Rick Schuster, vice president; Freda Greenbaum, treasurer; and Vicki Busch, secretary. The board of directors are: Gail Appelrouth, Tod Aronovitz, Robert Berrin, Michael Bittel, Felix Blank, Jeri Boschnick, Paul Breitner, Shelly Brodie, Sydney Carpel, Robert A. Cohen, Jeffrey Ducker, Karen Eisner, Steve Feldman, Mary Goldstein, Phyllis Harte, Marilyn Herkowitz, Cara Leibowitz, Susana G. Levine, Norman Lieberman, Susan Metsch, Judith Mezey, Phyllis Miller, James Q. Nolan, Jr., Jodi L. Orshan, David C. Pollack, Herschel Rosenthal, Jay C. Rossin, Estelle Segal, Laurel Shapiro, Ruth Shere, Gerry Shipner, Leonard Sklawer, Joseph A. Smith, Shelley Sokol, Barry White, Denise Wolpert, Guri Yavnieli, Rosalind Zacks, and Dror Zadok.

TRIBUTE TO CHUCK MOORE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. CLINGER. Mr. Speaker, I would like to take this opportunity to recognize Mr. Chuck Moore, a constituent of mine from Rural Valley, PA.

Recently Chuck was honored by the Rural Valley Fire Department for his many contributions throughout his 50 years of active service, including the 35 years he served as fire chief.

Chuck's dedication to the Armstrong County area and the people of its community date back to April 24, 1940 when he first joined the fire company, and his continuous service since then clearly demonstrates how deep his commitment runs.

In addition to his active fireman service, for which he received both the Rural Valley Fire Co. Service Award in 1978 and the Rural Valley Fireman of the Year Award in 1981, Chuck has also been a delegate to the Armstrong County Fireman's Association for the Rural Valley Fire Co. for 31 years. He served as the association's secretary/treasurer for 20 years, and was the association's fire school director for 17 years. Mr. Moore was the 14th president of the Firemen's Association from 1952–53, and received the Association's Service Award in 1978.

Chuck was also a delegate to the Firemen's Legislative Federation of the State of Pennsylvania, and served as its director for 15 years. In 1982, Chuck was honored as the Western Pennsylvania Firemen's Association Fireman of the Year, and was a member of the association's board of control, its awards committee, and chaired its emeritus committee.

Chuck served as the Pennsylvania State Fire Warden for 32 years and is now the permanent warden. Throughout his career, Chuck Moore has answered more than 850 calls.

In addition to his public service, Chuck is the owner of Moore's Food Market in Rural Valley which has been in operation for 41 years. He is also a member of St. Michael's Episcopal Church and Pleasant Union Lutheran Church.

I am proud to recognize Chuck Moore for his outstanding accomplishments and his extraordinary dedication to public service in Armstrong County. We in the 23d District are fortunate to have an individual like Chuck in our midst to serve as a shining example of what community service is all about. I congratulate him for his incredible 50-year tenure as a Rural Valley Fireman.

HOW WILL THE WORLD REACT TO JAPAN'S NEW ASSERTIVENESS?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. BEREUTER. Mr. Speaker, the following is the excerpted version of an excellent editorial in the July 21, 1990 edition of the Economist. This Member encourages his colleagues, and Americans generally, to read these editorial comments on a very sensitive but important issue. If the leadership of the Japanese Government and the Japanese people understand that these editorial comments are widely read and perhaps widely accepted, then changes and reassuring actions, policies, and statements can be taken in Japan and noted in the world community. Such actions could go a long way toward relieving existing and growing concern in the Congress and in the world community about the potential results of Japan's new assertiveness.

[From the Economist, July 21, 1990]

JAPAN UNFURLS

To the losers have gone the spoils. Like Germany, the other aggressor flattened in 1945, Japan has re-emerged two generations later as a powerhouse in the new world.

In many ways the 1980s were to Japan what the 1920s were to the United States. It was a decade in which Japan quickly turned into a net creditor (to the tune, so far, of more than $300 billion) and became the world's biggest provider of liquidity (at

times like the October 1987 stockmarket crash). Less happily, it too went through a sharp inflation in land and share prices that could yet end in a financial debacle. More impressively, its industrialists ventured out—so successfully that in carmaking, at least, and perhaps in other industries as well, Japanese multinationals are likely by 2000 to be the only ones with real heft in all three of the world's great markets, North America, the European Community and East Asia.

Japan has come out in other ways, too. It has just surpassed America as the biggest donor of foreign aid ($9 billion last year). For 15 years its military spending has been going up by 5% or more in real terms each year. Depending on the exchange rate you use, this has already made it the world's third biggest defense spender—with more to come, as similar increases are due to continue for years.

While only a shock of the size which drove a reluctant America into its great-power role of 1941-50 could rush Japan into a similar feat, the country is no longer the political pigmy of legend. Under Mr. Toshiki Kaifu, its prime minister for just a year, it has been adopting diplomatic stances that would earlier have made it blush. At the summit in Houston, Japan went its own way on aid to the Soviet Union (adamantly against, until four Japanese island groups occupied by the Russians in 1945 are returned) and on the resumption of loans to China (for). Japan is making a place for itself alongside Germany in the top rank of powers. But it will have a harder time of it, for two reasons.

The first is that Asia is a more complicated and dangerous place than Europe. In north-east Asia the superpowers are still frozen in cold-war postures, deploying large nuclear-armed naval and air forces. China, poor, turbulent and with nuclear weapons, glowers at anybody who threatens to cross its path. The Koreas, Japan's next-door neighbors, are still enemies of each other and instinctive antagonists of Japan. The peace among these strenuous contestants has been more or less kept for 40 years by the United States, Japan's nuclear protector. In the absence of anything like a NATO or an EC to help contain Asia's jostling giants, a continuation of the Japanese-American alliance for another 20 years or so offers the best hope of peace and stability in the region.

This is the second reason that makes Japan a harder case than Germany: it is more deeply mistrusted. It is not just that Germany has confronted its past more squarely, apologised for it more clearly, and thus buried it more reassuringly than Japan. The Japanese still appear, to themselves and to their neighbours, as too singular a race to offer an example and inspiration to other people. Germany is at least groping towards a common European ideal. Japaneseness is a creed which, by definition, has little appeal to non-Japanese.

Why should the Japanese have to worry about this? Stifling though their society is, it surpasses western societies in many ways: in fostering a sense of duty to other members of the society, in creating wealth and educating its children well, in running the only big cities in the world where a woman can still feel safe walking alone at night. The trouble is that Japan can no longer live just for itself. Britain and then America led the world and guaranteed its trading system by opening themselves to the outside, and in return offering the outside a few broad ideas about how life ought to be organised. If it is to become the leader of a yen zone, as opposed to simply issuing its money, Japan will have to do something similar.

Japan did indeed open itself up to outsiders' goods and ideas in the 1980s. That relaxation will continue. If the Japanese can also prove that they stand for universal values, not exclusive ones, they will find it easier to persuade the world that their new assertiveness is to be welcomed. Their ability to do this will decide, more than anything else, how peaceful and prosperous post-cold-war Asia will be.

EASTERN AIRLINE INDICTMENT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. WEISS. Mr. Speaker, recently, some dark clouds filled the friendly skies. According to a 60-count indictment by a Federal grand jury, Eastern Airlines routinely ignored vital repairs and maintenance and then falsified records to make it appear as if the work had been performed.

Fortunately, no accidents occurred from the alleged violations. Yet, if true, Eastern needlessly put thousands of passenger's lives at risk. Many of the charged violations occurred at major airports, such as New York's La Guardia Airport. This facility serves national and international flights as well as being a principal airport for many of my constituents. At risk were passengers not only from New York City, but from around this Nation and world, if they rode on Eastern. If found guilty of the charges, Eastern's employees were playing roulette with the lives of thousands of people.

While I mean no harm to what is an ailing airline, there is no excuse for Eastern's conduct. The indictment raises several pressing questions about airline safety in this country. Did airline deregulation fuel carelessness and negligence in air safety measures? Are the surveillance of air safety measures by regulators adequate?

In 1985, concern over aviation safety ran at crisis proportions when 2,000 people were killed around the world in airplane accidents. To beef up airline safety measures, Congress passed, and I supported, legislation to make it a criminal violation to intentionally violate air safety reporting requirements. The bill was signed into law last fall. if Eastern is found guilty of the charges, the prosecutors in the case should not hesitate to request the maximum fines and sentences allowable under the law.

The charges of Eastern's negligence are not comforting to already concerned airline passengers. I am encouraged that Eastern has pledged to improve its maintenance procedures. Its long tradition of transportation services are invaluable to my district and to the Nation. Air travel is still safest mode of transportation in this country. I trust that Eastern will help maintain that safety record and keep the skies safe.

IN COMMEMORATION OF THE DADE COUNTY PARK AND RECREATION DEPARTMENT AND THE ZOOLOGICAL SOCIETY OF FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it pleases me today to honor the Dade County Park and Recreation Department and the Zoological Society of Florida. Both organizations have contributed greatly to the Florida community. These organizations are interested in implementing innovative programming and are also genuinely concerned about improving the cultural atmosphere for their fellow Floridians.

The Dade County Park and Recreation Department is responsible for beaches, marinas, lake and pool areas, and hundreds of individual park sites. Aside from everyday management, summer programs, special camps, and cultural activities are also managed by the park and recreation department. The hard work and dedication that the Department has invested was nationally recognized in 1987 when the Metro-Dade County Park and Recreation Department was awarded the National Gold Medal for superior performance in park development and programming for the second time in seven years.

The second organization that I would like to recognize is the Zoological Society of Florida. This private, nonprofit organization established in 1958 is the founding force behind the creation, growth, and continued development of Miami's Metrozoo. The society has over 70,000 members committed to the preservation of endangered species as well as funding special projects for the zoo, such as new exhibits, research, and animal acquisitions.

Both organizations are cosponsoring a new Metrozoo exhibit titled "Asian River Life." With the outstanding contributions of both of these groups, the new "Asian River Life" exhibit, to be unveiled on August 3, 1990, should be indeed fascinating. This fascinating exhibit is a first in the area of a multilevel, mixed species, underwater showcase featuring animals that would regularly coexist in a natural habitat.

The "Asian River Life" exhibit will house Asian small-clawed otters, Malayan water monitor, clouded leopards, muntjac and blood python. Also, there is an environmental immersion exhibit which gives zoo visitors the feeling of sharing a Southeast Asian riverbank with the exhibit wildlife. With its fog, jungle sounds, tropical plantings, and a waterfall, the exhibit creates an atmosphere which makes viewers feel like they are actually in the animals' environment.

So it is with great pleasure that I thank the entire staff of the Dade County Park and Recreation Department, its director, William R. Bird and Charles Pezoldt, deputy director; as well as the individuals who form the Zoological Society of Florida, for their support of the Metrozoo and other worthy causes. The officers of the board of directors for the Zoological Society are Sanford B. Miot, president; Robert Paul, president-elect; Sherrill W.

Hudson, vice president; Frank C. Bajamonte, treasurer; Ralph Morera, secretary; Lawrence O. Turner, Jr., past president. The board of directors includes: Harvey S. Abramson, William Barkell, Gordon J. Bingham, C. Robert Black, Donald Burgess, Antonio J. Cabrera, Jr., John K. Little, John S. Lowell, Hank Luria, James E. McDonald, Leslie V. Pantin, Jr., Aristides J. Sastre, Jr., Ron Esserman, William J. Gallway III, Samuel Getz, Frank Hawkins, Barbara A. Ibarra, Laura Jack, Bobbi Litt, DeWayne Little, Paul L. Singer, Merrett R. Stierheim, Al Townsel, Stephen J. Waters, Jr., Sharon Watson, Dr. Herbert A. Wertheim, and Georgia A. Wright.

ALLEGHENY RIVER LEGISLATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. CLINGER. Mr. Speaker, today I was joined by the entire Pennsylvania delegation in introducing legislation to designate 85 miles of the Allegheny River in northwestern Pennsylvania as a National Recreation River under the Federal Wild and Scenic Rivers System.

And why did 23 Pennsylvania Congressmen join together to introduce this bill? It is plain and simple: this is good legislation that would benefit us all. It will protect a priceless piece of our natural heritage for future generations of Pennsylvanians and all Americans.

Earlier this year, Forest Service personnel of the Allegheny National Forest completed a study to determine what portions of the Allegheny River were eligible for protection under the National Wild and Scenic Rivers System. The study concluded that 85 miles of the river contained "outstandingly remarkable values." Congress directed the Forest Service in 1978 to study 128 miles of the Allegheny River from Kinzua Dam to East Brady.

Approximately 30 percent of the 85-mile river segment winds through the Allegheny National Forest with the remaining portion moving through State and private lands. The National Recreation River designation will add additional protections to the many islands of the Allegheny River, including those designated as wilderness in the 1984 Pennsylvania Wilderness Act.

Our bill creates two citizen advisory councils to ensure the maximum input by local governments and private citizens into a U.S. Forest Service management plan. Additionally, the Secretary of Agriculture is authorized to implement interim protection measures to protect the river's remarkable values prior to full implementation of the management plan.

While no section of the Allegheny River was remote enough or free enough of development to be classified as a wild river area, the 85 miles of the river designation in this bill are a national treasure worthy of additional protection as a recreational river.

A brief excerpt from Frederick Way's 1942 book, "The Allegheny," still sums it up quite nicely:

* * * Strange and untamed and little explored. Curious that such a place should exist so close to civilization and still be untouched. Miles and miles of pioneer river. The Allegheny River is a breed of its own, and it should remain so.

Finally, I would like to thank my distinguished colleague, PETER KOSTMAYER for his help and hard work on this bill. His efforts have proved invaluable in bringing this legislation to the House and I look forward to working with him in bringing it to the House floor.

CONGRATULATIONS TO LOUISVILLE'S KACY WHITE IN THE "INVENT AMERICA!" COMPETITION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to congratulate Kacy White, a student at St. Gabriel's Grade School in Louisville, KY, for being selected as the winner of the region II kindergarten category of the 1990 "Invent America!" student invention competition.

Invent America! is a national educational program designed to stimulate inventiveness, creativity and problem-solving skills in America's schoolchildren. Invent America! prepares students for challenges they will face in the increasingly complex and competitive world they will inherit and manage in the years ahead.

Invent America! is a public/private partnership with major corporate sponsorship and enjoys support of both the Departments of Education and Commerce, as well as the National Science Foundation.

Kacy's winning invention is the "After-Glow Light Bulb," which is coated with glow-in-the-dark paint to help kids and grandparents from falling over things in the dark.

At a July 26 ceremony here in Washington, Kacy was presented with a $500 U.S. Savings Bond for her imagination and her inventiveness. Kacy's teacher, Ms. Sharon Benim, and St. Gabriel's Grade School principal, Mr. Alan Huelsman, were also presented with awards at the ceremony.

Mr. Speaker, I salute Kacy White, her very supportive parents, Tom and Sharon White, educators, business people, and all the students who have participated in Invent America! both in Kentucky's Third District and across the Nation.

HOLY ASCENSION ORTHODOX CHURCH CELEBRATES 75TH ANNIVERSARY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. YATRON. Mr. Speaker, today, I rise to pay tribute to the Holy Ascension Orthodox Church of Frackville, PA. On September 30, 1990, the Holy Ascension Orthodox Church will hold a reception celebrating its 75th anniversary. I would like to take a moment to recognize the Holy Ascension Orthodox Church, which has contributed so much to the communities of the Sixth District of Pennsylvania.

In celebrating this anniversary, I am sure that the congregation has much to reflect upon. For 75 years, the church has played an integral part in the spiritual affirmation of its community, and for this, we are all most grateful. The Holy Ascension Orthodox Church has been a great source of strength for countless individuals. It has continuously provided the guidance, support, and inspiration sought so frequently.

I believe that we can all look to the Holy Ascension Orthodox Church as an example of how we can make this world a better place to live, grow, and worship. I am certain that my colleagues here in the House join me in offering congratulations to the Holy Ascension Orthodox Church on its 75th anniversary. I would also like to extend my warmest wishes for the church's continued success in its special work.

NEXT OF KIN NOTIFICATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. GOODLING. Mr. Speaker, I regret to say there is no consistent policy regarding the notification of next of kin in cases of death. Unfortunately, there exist some local officials who do not succeed in locating a deceased person's next of kin for one reason or another. As you can imagine, this is very unpleasant for a family in this situation.

The issue was brought to my attention by a family who lives in my district. Two parents had a son who had run off on his own from their home in York, PA and finally resided in another State. The son died later of natural causes, and although the local medical examiner's office attempted to locate an uncle, whom he had listed as next of kin, it was not successful in locating the uncle and made no attempt to locate the parents. After searching on their own, the parents finally found out 3 years later their son had died. This is clearly a tragic situation which no family should have to endure.

Today, I introduced a resolution expressing the sense of Congress that medical examiners and coroners should make reasonable, good faith efforts to locate the next of kin of deceased individuals, and that States should develop such procedures.

Such guidelines might include:

At the place of death and current residence—house, nursing home, and so forth—check for personal papers, phone lists, letters, and so forth.

Check for a will or insurance policies;

Check hospitals for previous admissions;

Check telephone directories;

Check city directories;

Check with police agencies;

Contact banks, and financial institutions for possible accounts with beneficiary;

Contact veterans assistance;

Contact Social Security Administration;

Contact neighbors;

Place notice in newspapers and electronic media;

Contact FBI for fingerprints;

Contact place of employment;

Check with registrar for deaths of same name;

If place of birth is known, check with local registrar, police, hospitals;

Use police telenetwork; and

Check with secretary of States office.

Federal agencies and departments, such as the Social Security Administration and the Department of Veterans Affairs, should cooperate with local officials in these efforts.

I hope these guidelines will assist local medical examiners and coroners in locating the next of kin of deceased individuals in a timely manner and no families will have to endure the trials and heartache of one family in my district. I would urge my colleagues to cosponsor this resolution.

G. HOLMES BRADDOCK HIGH SCHOOL OF TOMORROW

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to recognize today the Saturn School project planning team of the Dade County Public Schools for their fantastic efforts in implementing a unique educational program which they call Dade County's High School of Tomorrow.

I am happy to announce that on July 27, 1990, the Saturn Advisory Council has its first meeting, and it was a resounding success. The wave of the future, G. Holmes Braddock Senior High School, is now expected to open its doors this upcoming 1990–91 school year.

As a teacher, I am excited to see bold new ideas for delivering a diverse and challenging curriculum to ensure the success of our young people in the future. It is clear that in the years ahead we will need intense dedication to education so that our children can compete and I applaud the Saturn School project for their commitment to this worthy cause.

After a year of designing, refining and planning for the opening, this pilot program will finally begin teaching students this fall to bridge the gap between the classroom and the work force of the 21st century. The "High School of Tomorrow" will open as a school-based management/shared decisionmaking school. The instructional program and organization is oriented to secure economic security and growth, with the goal of turning out students who have mastered the skills and knowledge that will be necessary in this ever-shrinking world. There will be an emphasis on foreign languages, technology, ethics, global education, career decisionmaking and the adapting to the rapid changes in our way of life.

Leading this grand venture is Principal A. Louise Harms, Saturn facilitator, Carol Roth and the Dade County superintendent of schools, Paul W. Bell. Ms. Harms and Ms. Roth should both be proud for creating the unique Saturn proposal and for their exceptional dedication to the pursuit of educational excellence.

Education is one of the most, if not the most, important issue facing us today. We cannot accept anything but the best education for our children, if we are to succeed as a nation in the next century. It excites me to see such new and forward-looking ventures as the G. Holmes Braddock Senior High School and I am honored to recognize the Saturn School project planning team for their outstanding efforts.

TRIBUTE TO MOUNT ZION HOSPITAL AND MEDICAL CENTER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to the directors and employees to Mount Zion Hospital for their dedication to providing excellent community-based health care in San Francisco. Mount Zion Hospital has this year been selected by the American Medical Association and the Baxter Foundation to receive their annual McGaw Prize for excellence in community service.

Mount Zion Hospital and Medical Center, under the leadership of Martin H. Diamond, has provided excellent medical care to the city of San Francisco for 102 years. It has been consistent in its adherence to its original charter and its Jewish tradition—to care for the needy and distressed without consideration of race or creed.

Mount Zion offers a wide spectrum of services to provide medical care for elderly, young, and impoverished members of our community. The hospital has worked successfully to reach out to residents of the western addition, Soviet emigres, and indigent Jews in the San Francisco Bay area. Even in the fact of substantial revenue losses, Mount Zion has continued to provide important community services.

Mr. Speaker, I would like to congratulate Martin Diamond and his dedicated staff for receiving the coveted McGaw Prize for excellence in community service. Over 125 medical institutions throughout the country competed for this year's prize.

During this period in our Nation's History, in which many Americans suffer from lack of medical attention, I believe Mount Zion's longstanding commitment to providing health care to those who cannot afford it is an example to be recognized and emulated. I am pleased that the Baxter Foundation and the American Medical Association have chosen to do so in awarding this prestigious prize to Mount Zion Hospital and Medical Center.

TRIBUTE TO THE LATE MARCIA BORIE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. BERMAN. Mr. Speaker, on Friday, June 1, Marcia Borie died and the entertainment, journalism, and political communities of Los Angeles lost one of their most highly valued friends. I greatly admired Marcia's work and write this tribute on behalf of both myself and my good friend Los Angeles City controller Rick Tuttle.

Hollywood knew Marcia for her lifetime work covering the industry as reporter, editor, and director of communications for the Hollywood Reporter and for her interesting and entertaining books, a biography of Jack Benny, two volumes about the Hollywood legends, and stories she knew so well, a study of the Presidents of the United States, and several books on health and beauty.

Rick and I knew Marcia's outstanding accomplishments as an author and journalist, but we most admired her for the years she spent trying to get the Democratic Party to oppose this Nation's involvement in Vietnam.

Marcia was a close friend and associate of our former colleague, the legendary civil rights and antiwar activist, Allard Lowenstein. Her home was the base for all of Al's myriad operations and frenetic activity in southern California. I met her there and joined the many people who were inspired by her tireless work in the multitude of worthy battles fought by Al Lowenstein.

Marcia Borie was a wonderful woman and a great friend. All those fortunate enough to have known her will greatly miss her incisive mind, her energy and incredible talent, her ability, and her dedicated defense of justice.

IN SUPPORT OF BARATS' FAMILY

HON. STENY HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. HOYER. Mr. Speaker, an exceptional woman visited our Nation's Capital last week. I am referring to Galina Barats, a Soviet Pentecostal Christian and former political prisoner who waited for 13 years to emigrate from the Soviet Union. She arrived in Canada a few weeks ago.

However, our joy at Galina's arrival has been tempered by the sad fact that her husband and also former political prisoner, Vasily Barats still has not been allowed to emigrate, allegedly because of state secrets he learned over 15 years ago in the Soviet military.

Today, Soviet officials are saying that "the emigration issue is being resolved," and indeed many long standing refusnik cases have been resolved.

However, I was recently told by Soviet representatives at the Copenhagen CSCE Human Dimensions Meeting that Vasily Barats will still have to wait an additional 5 years before being allowed to emigrate.

Mr. Speaker, the recent NATO London communique states that:

> The Soviet Union has embarked on the long journey toward a free society. The walls that once confined people and ideas are collapsing.

But Vasily Barats remains imprisoned by walls of bureaucratic intransigence.

I call upon the Soviet Government to tear down the wall that they built around Mr.

Barats and allow him to emigrate and join his courageous wife.

GUARANTEED STUDENT LOAN PROGRAM MUST BE IMPROVED

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. TALLON. Mr. Speaker, I am appalled at the report of the Secretary of Education last week regarding the impending crisis with the student loan guarantor, the Higher Education Assistance Foundation [HEAF] of Overland Park, KS.

HEAF is one of the largest of the 55 guarantors of student loans in the country with a loan portfolio of $9.6 billion. The extremely high default rate among HEAF's loans leads to the logical conclusion that the Guaranteed Student Loan Program must be improved to ensure that loans are not wantonly made and that students, schools, lenders, and guarantee agencies all conform to strict guidelines of honesty and integrity.

The Department of Education has been reimbursing HEAF for defaults at a rate of 80 percent because of HEAF's high default rate. While the Secretary of Education has assured us that loans now guaranteed by HEAF will continue to be guaranteed, I am extremely concerned about the future of loans for South Carolina students.

Thousands of South Carolina students receive loans from Florida Federal, one of the largest lenders guaranteed by HEAF. If Florida Federal is no longer a source for loans because of the HEAF crisis, many students in South Carolina will have to suspend their education.

I think we all know why this is the case. We've got a Federal program designed to help all our citizens attain the level of education which they desire. The Guaranteed Student Loan Program is designed to improve American lifestyle at its very core and for the most part it has.

Yet, there is an element of greed which is infecting the GSL Program and will ultimately destroy our educational system. We have less than credible schools propping up all over the country, promising a bright future, charging outrageous fees, and sending students to less than credible banks for loans which the students will never be able to pay off.

This sinister anything-for-a-buck attitude is going to hurt the honest students, the honest schools, and the honest lenders. Ultimately, I fear U.S. taxpayers will have to shoulder the burden of yet another bailout.

For the sake of our young people and for the sake of education in this country, I believe that it is time for the Federal Government to ensure that the flaws in the system are corrected.

I believe that Secretary Cavazos ought to consider the offer by Sallie Mae to take over the HEAF. I will await with great curiosity the Department of Education's review of HEAF's program administration and proposals for ensuring that the HEAF collapse is not followed by a rampant deterioriation of the nationwide Guaranteed Student Loan Program.

H.R. 4617 AMENDING THE INSPECTOR GENERAL ACT OF 1978

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. CONTE. Mr. Speaker, I rise today to call attention to a little acknowledged event, that has tremendous potential for saving the American taxpayers millions of dollars and lots of pain and anguish. I am speaking about the settlement of the turf-battle between the inspectors general and the Department of Justice over the investigative authority of the inspectors general.

As everyone well knows, I am a longtime supporter of the inspectors general. I like what the inspectors general represent: integrity, honesty, and openness in Government. And I like what they do: protecting taxpayers from waste, fraud, abuse and corruption in Government.

Unfortunately a Justice Department ruling in March 1989 sent the IG community into chaos and placed many Americans at-risk because countless IG investigations were suspended and a valuable governmental resource, our watchdogs the inspectors general, were placed in limbo.

To break the gridlock and unleash the watchdogs Senator GLENN and I introduced H.R. 4617 and its companion in the Senate S. 2608 on April 25 to amend the 1978 Inspector General Act—Public Law 94-452. With the recent agreement between the IG's and Justice our bill has been placed on hold, because we want to see if the agreement will work.

Consisting of four principles, the agreement represents a clear understanding about the IG's authority in several formerly contentious areas. It says each IG may conduct criminal investigations of persons or funds so long as the investigations are related to the agency's programs or operations to which the IG is assigned.

Under the agreement IG's may conduct criminal and other investigations of persons not working for an agency or getting Federal funds in certain circumstances, such as when someone is in collusion with the Federal employee or when someone is applying for a Federal benefit or document.

In addition, each IG may conduct spot investigations of external parties in certain circumstances. These include determining the effectiveness of the program compliance or enforcement offices, and responding to allegations that agency employees are failing to carry out their responsibilities or otherwise engaging in criminal misconduct.

The parties further agreed the authority of the IG's to conduct audits was not changed by the April 1989 DOJ ruling and the recent settlement of differences concerning investigative authority.

The resolution of this dispute is a positive step away from the petty struggle over investigative authority of the IG's which has consumed valuable talent and resources that could have otherwise gone to fight crime and foster efficient programs.

Mr. Speaker, given the recent agreement I am, at least for the moment, refraining from pushing the legislation I introduced earlier this year that would have restored authority which DOJ changed by unilaterally reinterpreting a law that had been successful for 10 years. Rest assured that I will use my position as ranking member of the Appropriations Committee to monitor the agreement. I believe the DOJ interpretation was wrong and the quagmire we've been caught in could have been easily avoided.

However, in the spirit of the agreement I want to work with all parties to use this document to return to the basics of reducing waste, fraud, abuse, and corruption involving Government programs and operations. I urge all my colleagues to join me in supporting the agreement.

HOUSE JOINT RESOLUTION 620, HELSINKI HUMAN RIGHTS DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1990

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 620, legislation commemorating "Helsinki Human Rights Day," the 15th anniversary of the signing of the Helsinki accords on August 1, 1990. I commend our colleague, Mr. HOYER, for introducing this measure, which I am pleased to cosponsor. His leadership as cochairman of the Conference on Security and Cooperation in Europe, which monitors the Helsinki Final Act has indeed been stellar, and we are thankful to him for his great dedication and persistence on behalf of human rights around the world. The gentleman from Illinois [Mr. PORTER], also a member of the Helsinki Commission, deserves recognition as well for his coauthorship of this resolution and for his cochairmanship of the Congressional Human Rights Caucus.

I also want to thank the distinguished chairman of our Foreign Affairs Committtee, Mr. FASCELL, for bringing House Joint Resolution 620 to the floor for consideration in such a timely fashion, and the chairman of our Foreign Affairs Subcommittee on Human Rights, Mr. YATRON, for facilitating these efforts.

The legislation before us notes that it has been 15 years since the Helsinki Final Act was signed by 35 signatory nations, each of which pledged to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion." In the years that followed, we have seen our State Department, and the Helsinki Commission at the forefront, speaking out against human rights abuses among many of the signatory nations. Very often, abuses in the Soviet Union were the major focus of ongoing efforts.

The creation of the Helsinki Final Act was an acknowledgment of the growing dominance of human rights on international agendas. Its adoption was a landmark event, allowing the United States to very legitimately press the Soviet Union and other nations

about human rights abuses, despite protestations that these were internal matters.

Over the past 15 years, we have seen the situation in the Soviet Union change dramatically. Soviet Jewish emigration dropped from over 50,000 in 1979 to less than 1,000 in 1984 and 1986. Only a few years ago Soviet Jewish Hebrew teachers and activists were still being arrested on trumped-up charges and sent to prison and internal exile. In 1989, over 70,000 Soviet Jews left the Soviet Union, and it is estimated that this year, that number may double.

But, despite our joy with regard to these remarkable advances, we cannot rest on these laurels. The Soviet Union had assured us time and again that an open emigration law would be considered and adopted by the Supreme Soviet, most recently in the end of May just prior to Presidents Bush and Gorbachev's summit meeting. Yet, it was pulled from the calendar at the very last minute, and rescheduled for consideration, we are told, in September. I therefore remain cautious about the future.

In some ways, it seems, Mr. Speaker, that the more things change, the more they remain the same. We are witnesses to massive Soviet Jewish emigration, not only due to relaxed policies, but also because of the rise of Soviet anti-Semitism. Just recently the Soviet Communist Party newspaper Pravda discussed this matter openly. An article from the Los Angeles Times discusses this new manifestation, which I am inserting in the CONGRESSIONAL RECORD for our colleague's review. While it is news in and of itself that the highest ranks of the Communist Party have finally acknowledged this serious matter, and have further openly verified that anti-Semitism is a grave cause for concern in the Soviet Union, it is also testament to the ongoing need for the Helsinki process.

My other concern involves the several hundred Soviet Jewish families who are still refused permission, either on secrecy grounds or due to poor relative status. I am disappointed that for them, legal avenues for appeal have not yet been made available. The Soviet Union is at an important crossroads. Notwithstanding the ugliness of anti-Semitism, and other antiethnic hatreds, Mikhail Gorbachev is making history in his attempts to steer the Soviet Union away from its previous courses. I do not think that any of us would have believed even a few years ago that the Soviet Union would respond in a nonmilitary fashion to last fall's events in Lithuania. The Union of Soviet Socialist Republics still has a long way to go, but its initial steps of reform are encouraging ones.

Accordingly, I join my colleagues in urging swift adoption of this resolution, mindful that we must still stay the course in the struggle for human rights.

The article follows:

[From the Los Angeles Times, July 23, 1990]

ANTI-SEMITIC TIDE PERILOUS, PRAVDA SAYS

(By Michael Parks)

Moscow.—Anti-Semitism is growing rapidly in the Soviet Union, the Communist Party newspaper Pravda acknowledged Sunday, and it now threatens to undermine the country's political and economic reforms.

Pravda denounced not only the open anti-Semitism of groups on the far right, such as the nationalistic Pamyat, which blame Jews for all the country's problems past and present, but also that of Russian nationalists who use anti-Semitism in their efforts to revive Russian culture.

"This unprecedented anti-Semitism is of great concern because we face an attempt to disrupt the process of social consolidation," Pravda said in an article signed by a Soviet historian, S. Rogov, "A law-based state must protect people of every nationality."

In one of the strongest official warnings against anti-Semitism, the newspaper said that the country, if it aspires to democracy, cannot quietly content itself, with the expectation that the "Jewish question," a term that itself has an anti-Semitic undertone here, will be solved when the country's 1.9 million Jews have emigrated.

Pravda, in a break from official assessments in the past, argued that the problem is much broader than acknowledged up to now and that it affects the whole of Soviet society and its efforts at political, economic and social reforms.

Despite repeated warnings over the past year and a half from the Jewish communities in Moscow, Leningrad and other major Jewish centers in the country, Soviet officials have been unwilling to recognize the rapid, even frightening growth in anti-Semitism and its implications for the country.

Even when foreign leaders, including President Bush and Secretary of State James A. Baker III, have raised the question, Soviet officials have done little more than to speak of "social tensions" as a result of the country's severe economic problems.

Pravda, although approaching the issue in terms of the "Jewish question," Zionism and emigration, went well beyond the previous official position to report, in unambiguously critical terms, the growth of anti-Semitism and the threat it represents.

"A large number of extremist groups have appeared in the country," the paper said. "Pamyat and the like are openly reviving anti-Semitism as a means of their struggle against prestroika. They use such classic falsifications as the 'Protocols of the Elders of Zion,' which had been fabricated by the Czarist police.

"Again and again, they exploit the myth of the 'Yid-Mason-Bolshevik conspiracy' against Russia. Jews are being blamed for killing the Czar's family and Stalinist repressions, the forced collectivization, the corruption of the national culture and the destruction of the ecology.

"Unfortunately, political anti-Semitism is being cultivated by a number of literary publications as well. Every issue runs odious speculations. For the first time in our history, anti-Semitism has become quite popular in some intellectual circles."

Asking why anti-Semitism could not simply be outlawed, Pravda contended that this could also be used as an argument for banning Zionism as "a rejection of a democratic solution for the Jewish question in a multinational state."

"That is why we cannot 'ban' criticism of the Zionist ideology," the paper said, "and why provocative activities of openly anti-Soviet, pro-facist movements [such as the Jewish Defense League of Meir Kahane] cannot enjoy immunity either."

However, Boris N. Yeltsin, the president of the Russian Federation, the largest of the Soviet republics, said last month that he favors legislation outlawing anti-Semitism and those organizations that promote it.

"We will have to pass a law to put a barrier before those organizations that tend to develop in fascist directions," Yeltisn said. "That is absolutely inadmissible."

A major result of the growth of anti-Semitism has been to encourage Soviet Jews to emigrate at an ever-faster pace, the article said, forecasting that Jewish emigration this year will run between 200,000 and 300,000. In the first half of 1990, 50,000 Soviet Jews arrived in Israel, according to reports from Jerusalem, and the projected total for the year is 165,000.

"The number of visa applications is growing," Pravda said. "One cannot but see that the fear of programs is acquiring the scale of a panic. Visa documents are being issued for people who are far from sharing the ideas of political Zionism.

"The problem cannot and should not be solved through mass emigration. The Jewish question should be solved democratically in the Soviet Union. This should not impede natural assimilation or threaten Jewish culture or prevent Jews from going to Israel or any other state. Jewish cultural institutions should, meanwhile, develop freely and democratically to satisfy the natural ethnic requirements of Soviet Jews."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 31, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 1

9:00 a.m.

Labor and Human Resources

Business meeting, to consider proposed legislation authorizing funds for programs of the National Institutes of Health Act, proposed legislation relating to bone marrow and organ transplants, a proposed resolution to commend Erich Bloch for his six years of service as Director of the National Science Foundation, S. 2649, to provide for improved drug abuse treatment and prevention, S. 930, to establish an Office of Construction, Safety, Health, and Education to improve construction inspections, reporting, investigations and recordkeeping, and to establish safety and health programs, S. 2793, to revise the U.S. Institute of Peace Act to honor the memory of the

late Hawaiian Senator Spark M. Matsunaga, and pending nominations.
SD-430

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on reversing the decline of the U.S. electronics industry.
SR-253

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on the role of nuclear energy in meeting future electricity demand.
SD-406

Governmental Affairs
To hold hearings to examine efforts by the Internal Revenue Service (IRS) to collect taxes owed to the Government by individuals and corporations, and to examine why these IRS accounts receivable are so large.
SD-342

Judiciary
Technology and the Law Subcommittee
To hold hearings on S. 2030, to protect the privacy of telephone users by permitting the use of pen registers and trap and trace devices on emergency assistance telephone lines of police and fire departments and where the provider of wire or electronic communication services enables the communication originator to block receipt of his or her number (caller identification).
SD-226

Small Business
Urban and Minority-Owned Business Development Subcommittee
To hold hearings to examine the impact of the Supreme Court decision in City of Richmond v J.A. Croson Company on minority-owned small businesses.
SH-216

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to examine fraud in the bank and thrift savings industry.
SD-538

Foreign Relations
To hold hearings on the nomination of Edwin D. Williamson, of South Carolina, to be Legal Advisor of the Department of State.
SD-419

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on chemical exports to Latin America, and to review programs contained in title III of Public Law 100-690, the Chemical Diversion Trafficking Act.
SR-253

Governmental Affairs
To hold hearings on the nominations of Wallace E. Stickney, of New Hampshire, to be Director of the Federal Emergency Management Agency, Stephen D. Potts, of Maryland, to be Director of the Office of Government Ethics, Office of Personnel Management, and Russell F. Miller, of Maryland, to be Inspector General, Federal Emergency Management Agency.
SD-342

Select on Indian Affairs
Business meeting, to mark up S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country, S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets, S. 2850, to authorize demonstration projects in connection with providing health services to Indians, and S. 2645, to improve the health status of the urban Indian population and to enhance the quality of health care services and disease prevention.
SR-485

AUGUST 2

9:00 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on proposed legislation to promote energy efficiency through the use of waste and recoverable materials.
SD-366

9:30 a.m.
Governmental Affairs
To hold hearings on control and financial management of expired appropriations accounts, M accounts.
SD-342

Small Business
To resume hearings on the Small Business Administration's small business investment companies' program.
SR-428A

Joint Economic
To resume hearings to examine the economic outlook at midyear.
2325 Rayburn Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to examine fraud in the bank and thrift savings industry.
SD-538

Commerce, Science, and Transportation
To hold hearings to review the National Science Foundation's Director's views on science and technology policy.
SR-253

Foreign Relations
To hold hearings on the Convention on the Elimination of All Forms of Discrimination Against Women (Ex. R, 96th Congress, 2nd Session).
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nomination of Wendy L. Gramm, of Texas, to be a Commissioner of the Commodity Futures Trading Commission.
SR-332

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings to review the Department of Housing and Urban Affair's report on the safety and soundness of the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae).
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2904, to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies.
SR-253

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To continue hearings on proposed legislation to promote energy efficiency through the use of waste and recoverable materials.
SD-366

Select on Intelligence
Closed business meeting, to consider pending intelligence matters.
SH-219

AUGUST 3

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings on S. 2901, to simplify the application of the tax laws with respect to employee benefit plans, and S. 2902, to simplify pension rules for church and welfare benefit plans.
SD-215

Joint Economic
To hold hearings on the employment-unemployment situation for July.
2203 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

Labor and Human Resources
Labor Subcommittee
To hold hearings to examine the recent financial crisis of the Higher Education Assistance Foundation and its impact on student loans.
SD-430

AUGUST 6

9:30 a.m.
Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To resume hearings on the impact of restructuring the savings and loan industry.
SD-628

AUGUST 7

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 11

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation on San Carlos water settlement rights.
SR-485

AUGUST 18

2:00 p.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings to review Peace Corps programs in eastern Europe.

SD-419

AUGUST 21

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings to review the final report on the U.S.-Japan Structural Impediments Initiative (SII) talks.

SD-215

SEPTEMBER 12

9:00 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 1554, to implement water settlements involving the Pyramid Lake Paiute Tribe, the States of California and Nevada and other parties regarding the waters of the Truckee and Carson Rivers and Lake Tahoe in Nevada and California, and H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian community in Arizona.

SR-485

SEPTEMBER 18

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Veterans' Affairs Committee on legislative recommendations of the American Legion.

SD-106

SENATE—*Tuesday, July 31, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer today by the Senate Chaplain, Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?—Psalm 27:1.

Eternal God, Father of lights, all knowing and all powerful, let Thy light shine upon the Senate enabling it to complete all its legislation this week. Thou knowest all things: Thou knowest all the plans that have been made for August—plans involving family, election campaigns, speeches, travel, work with constituents. Give to the leadership transcendent wisdom to guide the Senate through the difficulties and exigencies of this week. Remove every obstacle that would prevent the Senate from finishing its work on time. Work Thy will in the minds and hearts of the Senators and their staffs so that everything that ought to be done this week will be accomplished. Demonstrate Your wisdom and Your power in our midst.

We pray in the name of Jesus, Light of the world. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the time of the leader has been reserved by unanimous consent.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business to extend not beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Tennessee [Mr. GORE].

INTERPARLIAMENTARY CONFERENCE ON THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, I have asked for this time this morning to present a formal report to the Senate on the results of the Interparliamentary Conference on the Global Environment, the first U.S.-sponsored conference of international legislators to focus on the global environment.

The distinguished Senator from Rhode Island, Senator JOHN CHAFEE, will be joining me this morning in offering this formal report to the Senate. He served as the ranking Republican Member of the host delegation. There were seven Senators in all who made up that host delegation. In addition to Senator CHAFEE and myself, the delegation included Senator BAUCUS; Senator KERRY of Massachusetts; Senator HEINZ; Senator WIRTH; and Senator BOSCHWITZ.

I wish to begin my report, Mr. President, by complimenting sincerely and effusively the teamwork, camaraderie, and productivity of this host delegation. All of the Senators really dug in to make this a productive conference.

We had parliamentarians from 35 nations visiting here in Washington at the meetings, from April 29 through May 2 of this year. The distinguished President pro tempore formally addressed the meeting of the parliamentarians at the formal dinner held in the caucus room on the evening of May 1. We certainly appreciated that.

We were able to see the first showing of the new IMAX film at the Smithsonian Air and Space Museum, taken from Earth orbit, to look from that unique vantage point, narrated by an astronaut who actually made the film, at the environmental trouble spots around the world.

But the real work of the conference took place in a long series of sessions during which we debated the principal problems facing the global environment and the proposed solutions for those problems, Mr. President, and I am pleased to report to the Senate that 3 days of meetings and debate produced agreements in seven areas:

First of all, the area of global climate change; second, the area of stratospheric ozone depletion; third, the problem of explosive population growth; fourth, the problems of deforestation and desertification, closely related; fifth, the problem of sustainable development, which is the key to solving the other problems; sixth, the challenges facing oceans and water resources; and seventh, the loss of biodiversity, or the disappearance of living species on Earth.

Each of the seven working groups was chaired by one of the host Senators and cochaired by a delegate from one of the parliamentary groups visiting from one of the other nations attending the Conference. The teamwork which came about on the part of the host delegation, I am pleased to report, extended to the delegates from other countries. Right from the start it seemed as if the delegates came ready to do business, ready to seek agreements, and ready to explore new solutions for these difficult and seemingly intractable problems.

One of the most difficult divisions, Mr. President, was, of course, the division between the developed world and the developing world. Those nations which entered the industrial revolution early on and achieved a higher standard of living and better way of life for their peoples have a particular point of view which stands, frequently, in contrast to the point of view shared by peoples in those nations throughout the world that are still in abject poverty, have not undergone the process of industrialization, and really have a standard of living for their peoples far different from that which we enjoy.

The environmental problems which have accompanied that process of industrialization are seen by us in one light but seen by those in the developing world in quite a different light, and for many years now, efforts to produce global agreements on how we might respond to these pollution and environmental problems have been frustrated by this split between the developed and developing world.

Mr. President, I ask unanimous consent that I might have some additional time. Let me frame the request as follows: We had expected to speak at this time at some length. I ask unanimous consent that I have an additional 10 minutes, and, following that 10 minutes, that the Senator from Rhode Island have 10 minutes, and that, following that time, other members of the host delegation seeking recognition be allowed to define their own time.

The PRESIDENT pro tempore. The Chair is not aware of the identities of those Senators in the delegation who would be seeking time. Would the Senator please name them?

Mr. GORE. Mr. President, I do not know if all of them will attend, but let me name them in case they do: Senator KERRY, of Massachusetts; Senator BAUCUS, of Montana; Senator HEINZ, of Pennsylvania; Senator WIRTH, of Colorado; Senator BOSCHWITZ, of Minnesota.

The PRESIDENT pro tempore. The Chair thanks the Senator from Tennessee [Mr. GORE].

Is there objection to the Senator's request? The Chair hears no objection. It is so ordered.

The Senator from Tennessee is recognized for an additional 10 minutes.

Mr. GORE. Thank you, Mr. President.

Many voices were heard during the interparliamentary conference, but only one message was delivered: On the global environment, the time to act is now.

In addition to the agreements in the seven areas that I mentioned, we also agreed upon a declaration of environmental interdependence, a statement of goals and principles that acknowledges international recognition of the need to act now to protect the global environment. It serves to reinforce our recognition of the ties that connect our futures, to acknowledge our responsibility to this generation and to every generation that follows, and to accept our role as stewards of the Earth, to safeguard the planet that supports civilization as we know it and each of the nations represented at this conference.

The resolutions, as I mentioned, focused on the seven specific areas that I outlined.

Let me briefly summarize the salient points of the resolutions adopted by the conference delegates. No. 1, we call for a reduction in greenhouse gas emissions by 50 percent from 1990 levels by the year 2010. It is important to note, Mr. President, that greenhouse gas emissions include, but are not limited to, CO_2 emissions. They also include such gases as methane, chlorofluorocarbons, nitrous oxide, and so forth.

Second, Mr. President, we called for the development of a global Marshall plan for sustainable development in the environment, not to be funded by the United States of America alone, but a worldwide effort with European and Japanese capital involved with the United States and, hopefully, under our leadership to create the conditions throughout the world necessary to make protection of the global environment and sustainable development for the peoples of the world possible.

Third, we called for the development of a strategic environment initiative to stimulate the development of industrial technologies, agricultural techniques and renewable energy sources that will make possible continued economic progress in a pattern that is consistent with the protection of the global environment.

Fourth, we called for much tougher restrictions on ozone depleting compounds. This will be remarked upon a little bit later by other members of our group, especially Senator CHAFEE who has had a longstanding leadership role in that area, among others.

Fifth, we called for the establishment of a national sustainable development charter and a bank for sustainable development.

Sixth, we called for a dramatic increase in the worldwide funding of population programs to a figure of $9 billion.

Seventh, we issued a call for an international convention for the protection of world forests. As my colleagues know, Mr. President, we are now losing world forest land at the rate of one and a half acres every second, day and night, 24 hours a day.

Eighth, we called for much stricter protections for oceans and water resources. The distinguished Senator from Massachusetts [Mr. KERRY] will elaborate on that particular matter. He led our working group on that subject, and also that group considered the issue of how to protect Antarctica. That was also the subject of one of our resolutions. We called for the protection of the continent of Antarctica as an international ecological reserve and a land of science.

Tenth, we issued a call for the Global Convention on the Preservation of Biological Diversity to be opened for signature by 1992, at the time of the worldwide conference to be held in Brazil under the auspices of the United Nations Environment Programme (UNEP).

Mr. President, on that subject, the scientists are now pretty well in agreement that if we continue current patterns, we will witness the loss of more than half of all the living creatures God put on Earth within the lifetimes of these pages here in this Chamber.

My own religious faith teaches me that we are given dominion over the Earth, but we are required to be good stewards of the Earth. If we witness with our own eyes the loss of half the living creatures God put on this Earth within the lifetimes of people in this Chamber, then surely it is a call for us to pay closer attention to the requirements of this mandate for stewardship of the Earth. In fact, the impact of industrial civilization, as we are currently pursuing it on the ecological system of the Earth, has such vast unthinkable consequences, we must now rethink the pattern of civilization as we are currently pursuing it and make possible economic progress according to a more sensible and practical pattern.

The conference, Mr. President, dramatically demonstrated that people throughout the world are ready for action. They will simply no longer tolerate the foot dragging of those who say we can put off today's problems until tomorrow. The people represented by those parliamentarians from the world over recognize that tomorrow is too late. We face today our global environmental crisis unlike anything in our history.

The conference closed with a beginning. Where others have hesitated or resisted, we acted and persisted. We strengthened the link between democracy and environmentalism by advancing a new ethic of environmental democracy. We moved closer to reality the hopes and aspirations of all peoples in all nations of this generation and all those to follow.

Several speakers at the conference, Mr. President, noted the irony that for years people have assumed there was a conflict between protecting the environment and having economic growth, but ironically, everywhere you look in the world today, those nations with the worst, most befouled environment are those nations with the worst record for economic progress on the part of their people.

Look at Eastern Europe where their economies are floundering, the standard of living for their people is falling, and yet at the very same time, the poisonous pollution is thickest, the forests are dying at the most rapid rate and the environment is in the worst state of any country in the world.

Those nations that have made a commitment to protecting the environment are almost always those nations which have made a commitment to energy efficiency and production processes that do not tolerate waste. Pollution is waste. It costs money as well as costing the environment. So these two goals can be pursued simultaneously. They go hand in hand: Protection of the environment and economic progress.

If we are going to respond to this unprecedented challenge to the global environment, we are going to have to go about it in a different way. This conference, Mr. President, and my colleagues assembled here will be telling us more about it, I think made a significant step forward in charting a path toward global agreement whereby we might achieve economic progress and, at the same time, protect the global environment.

I wish to close these introductory comments where I began, Mr. President. In the 14 years I have been privileged to serve in Washington, 6 of them in this Chamber, I have never been involved in a project where the teamwork was better and more satisfying, where partisanship was more completely laid aside, where Senators from all parts of this Nation and both political parties worked together as a single productive team toward a single goal.

I am really grateful to my colleagues for what they have done in making this possible. The comments from the parliamentarians around the world remarked repeatedly on how the host delegation really worked to make this

a success. I wish to compliment all of my colleagues.

In closing, Mr. President, I want to especially thank the distinguished Senator from Rhode Island [Mr. CHAFEE] who, as the ranking Republican member of our delegation, really helped to set that tone of bipartisanship which made this so productive. At the conclusion of his comments, I will ask unanimous consent to put materials from the conference in the RECORD.

The PRESIDENT pro tempore. Under the order previously entered, the Senator from Rhode Island [Mr. CHAFEE] is recognized for not to exceed 10 minutes.

Mr. CHAFEE. I want to thank the Chair. Mr. President, the distinguished Senator from Massachusetts has a time constraint, so I will yield 5 minutes to him. If the Senator in charge of the time will agree, I will yield 5 minutes to the Senator from Massachusetts and then I will take 10 minutes following him.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Massachusetts [Mr. KERRY] is recognized for 5 minutes.

Mr. KERRY. Mr. President, I thank the Chair. I thank the distinguished Senator from Rhode Island very much for his courtesy.

OCEANS AND WATER RESOURCES

Mr. KERRY. Mr. President, I was pleased and privileged to be able to participate in the Interparliamentary Conference on the Global Environment. I want to begin my comments by commending the distinguished Senator from Tennessee, whose leadership really created this effort, who nurtured it, guided it, goaded all of us, and managed to bring together what was really a remarkable gathering. I share his feeling about the productivity and the nature of this event. It really was different, and it was certainly one of the most rewarding efforts that I have participated in since I have been here during the course of my first term.

I thank the Senator from Tennessee for his vision and for his creativity in helping to bring this about, and I personally believe that together with Senator CHAFEE, who helped to create that bipartisanship, this really did make a significant contribution to the international dialog regarding environmental problems.

The Conference brought together people from all over the world in order to discuss the urgency with which we as legislators must begin to make decisions regarding environmental issues that involve all of us. None of these issues are unique to any one country and none of them are isolated to their own country.

Indeed, if the concept of global village ever had meaning, I think it had meaning during this particular occurrence.

I was honored to chair the panel on oceans and water resources. Participating in my group were renowned ocean explorer, Jacques Cousteau, and delegates from South and Central America, the Middle East, Eastern and Western Europe, and the South Pacific.

We began our discussions with the premise that shortsighted and negligent world water policies lead not only to contamination and to the depletion of those supplies and to aquatic habitats and fishery resources, but also that they cause an enormous amount of disease, that literally thousands upon thousands of deaths are the consequences of those policies, and that they cause drought and threaten political stability in many water-poor regions of the world. In some parts of the world it may well be that future wars will be caused not as a result of oil policy and not as a result of policies of aggression but policies that stem directly from water shortages.

We reviewed a whole host of recommendations. I would like to just put before the Senate a very few of them.

We agreed, first of all, that oceans and water are today so threatened while simultaneously being so important to life itself that countries should adopt a precautionary approach, placing the highest priority on measures that prevent the creation and dispersal of environmental contaminants.

We agreed to respond to oil spills, to increase liability, to require double hulls and bottoms for tankers, and establish an international fund for emergency response and cleanup of oil spills. I am delighted, as a member of the conference on the oilspill legislation, together with Senator CHAFEE, to be able to say that we have reached that agreement under the leadership of Senator MITCHELL and others and are in a position to adopt that in the Senate.

We agreed that we must prevent acid rain from polluting lakes and rivers by promoting energy efficiency and conservation and requiring pollution control technologies on powerplants, industries, and automobiles.

We agreed that we must ban fishing with large-scale driftnets. More than 30,000 miles of monofilamented net are put out on any given night in the Pacific which literally strip mine the ocean.

We agreed that we must strengthen fisheries conservation and management measures. Scientists estimate today that the oceans can support the taking out of some 100 million tons of fish products. Mr. President, today we take out about 87 million tons, and with the world population growing at its current rate over the course of the next years, the demand for seafood double in a period of 10 years.

We agreed to implement coastal zone management measures that protect critical coastal habitats and require land use planning to be linked to coastal management, because you cannot do one without the other.

We agreed to try to protect Antarctica by extending the current moratorium on exploitation and exploration of mineral and energy resources until a total ban is negotiated and by granting Antarctica special protective statutes as a land of science, treaty park, and international wilderness area.

The Conference also produced an overall Declaration of Environmental Interdependence which states that the legislators are determined to fund and approve new economic development activities that contribute to sustainable growth and natural resource conservation; to control the emission into the atmosphere of all greenhouse gases, ozone-depleting chemicals and other pollutants into our land, oceans and water supply, among other declarations.

Since the Conference, I have received a number of letters from participants commending the Senate for initiating such an important and timely meeting. Senators from the Philippines wrote that they had filed a resolution urging the adoption of the Declaration of Environmental Interdependence.

Next year, the delegates agreed to hold a second Conference in Prague. Eastern Europe has its fair share of environmental problems—waters that are too polluted for human consumption and air so filthy that children must go underground at certain times of the day. It will be fascinating to focus on these issues in Eastern Europe.

Here in the United States, I believe we are making good progress in a number of important areas of water resource protection. Congress is actively pursuing coastal zone management, fisheries conservation, and protection of the Antarctic. Congress will soon adopt comprehensive oilspill legislation and is negotiating a clean air bill that contains important acid rain provisions. But there is still much important work that needs to be done and I am hopeful that we can continue these efforts. The recommendations developed at the Interparliamentary Conference will be a very useful tool as we move forward to address global environmental problems.

Again, I thank the distinguished Senator from Tennessee, and I thank my colleague from Rhode Island for his courtesy.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 10 minutes.

Mr. CHAFEE. I thank the Chair.

OZONE DEPLETION

Mr. CHAFEE. First of all, Mr. President, I wish to stress the important role the distinguished Senator from

Tennessee played in this conference that took place in May. Senator GORE provided the leadership for the conference. He arranged it. It was extremely well done in every phase. Not only did we have excellent speakers, we had fine receptions. The gatherings were on time. The settings were just right. The different entertainment provided for the visiting delegations was not only instructive but extremely pleasant in every aspect. So I think we all owe a debt of gratitude to Senator GORE for what he did. It was a very fine job.

Mr. President, what is the point of bringing in delegates from all over the world? As was mentioned, there were some 170 parliamentarians from 35 countries. Does everybody just trot off to a meeting in Washington for the amusement of it? What do we expect?

It seems to me we expect three things out of a gathering such as this. First of all, we expect that every one of us will learn more about the subject. That is the purpose of having the speakers address us.

Second, I think the objective is that we will become more conscious of the problems which exist in all other nations of the world. We have our peculiar problems, but so does Australia, and so does Ghana, and so does Cameroon. In every nation, in France, in Germany, in Poland, problems are different, so in gatherings such as this we increase our sensitivity to those problems.

Finally, Mr. President, I believe that from gatherings such as this one of the purposes should be to go away inspired, to go away feeling that this challenge is not hopeless, that we can do something about it; that we can see what is taking place in Germany, for example, or in England, or in Sweden, or in the United States, or in the Soviet Union and that we can go back to our parliaments or congresses and say, look, this problem is not insurmountable, we can do something about it.

So those three points I believe were the purpose of a gathering such as this, and I believe in every instance the objectives were attained.

The particular area that I had responsibility for dealt with ozone depletion. I had the privilege of chairing that working group with a cochairman Monika Ganseforth of West Germany. We produced a resolution which was adopted on May 2 by consensus of the 170 parliamentarians, as I mentioned from more than 35 countries, in attendance. We prepared a paper on possible legislative strategies for dealing with the problem.

The resolution that we adopted really had two separate sections, if you would. The first section dealt with a five-point plan for strengthening the Montreal Protocol. The Montreal Protocol was adopted in Montreal in 1987.

What we said in this gathering in May here in Washington was there are five things we would like to see done to strengthen that Montreal Protocol. We met in the very first part of May. We were very conscious that in the first part of June there was to be a gathering in London of all the nations that signed the Montreal Protocol, hopefully, to strengthen that protocol.

So we adopted five points in which we urged that actions take place in London to strengthen the protocol.

The second section that we dealt with was a statement in support of the international fund to encourage global participation in and compliance with the protocol.

What were the five points that we adopted and which we urged London to take some action?

First, to expand the coverage of the ozone depleting chemicals, not just that restricted to CFC's, but to deal with methyl chloroform and HCFC's, and carbon tetrachloride, the first one.

Second point, to accelerate the reduction schedule that had been agreed upon in Montreal, go faster than Montreal we said, step up the time for phasing out the production and use of these ozone destroying chemicals.

Third point, to limit the growth in production and use of HCFC's, not just CFC's, the HCFC's.

Fourth, to provide for the elimination of the production of CFC's, halons, carbon tetrachloride, and methyl chloroform as early as possible but no later than January 1, 2000.

The Montreal Protocol had no final date for the elimination of the production of these CFC's and halons and, as I mentioned before, it did not even include halons and carbon tetrachloride.

The fifth point provides for the elimination of the production of the HCFC's as early as possible but no later than January 1, 2030.

Was the London meeting receptive to our suggestions? Certainly, the results indicated that they had paid some attention to what we had urged. We like to think we were influential.

In London the 57 countries there indeed did agree to expand the coverage to include methyl chloroform and carbon tetrachloride.

It did agree to accelerate the reduction schedule for CFC's and halons.

It agreed to phase out, to eliminate completely, the production of CFC's by January 1, 2000 and methyl chloroform by 2005.

In London they did agree to adopt a declaration of intent to eliminate production and use of HCFC's by the year 2020, if possible, but no later than 2040.

The nations in London also agreed to create the international fund to help developing countries meet their responsibilities and this, in turn, led to the joining in on the protocol by India and China.

Mr. President, I want to stress that these achievements in London were truly extraordinary: The acceleration of the phaseout date; the expansion of the coverage to include chemicals other than CFC's; the creation of the international fund; and, the fact that India and China joined in the protocol.

As I mentioned, we would like to think that our actions here at the interparliamentary conference about 3 or 4 weeks before the meeting in London were of some influence.

I must say that an additional resolution point in our resolution was we urged the nations to go faster than the Montreal Protocol as revised—do not just delay and just conform to the London dates, go faster if possible in phasing out these deleterious chemicals. And some nations are so doing. Notable examples are Germany, the entire European Community, Canada, and the Nordic countries.

Closer to home, we in the United States of America in both branches of Congress have passed tough programs for the protection of the ozone layer, and in some instances faster than the Montreal Protocol dates as revised. We are working currently on those matters in the Conference today.

All of the issues discussed at the meeting were critical to the health of our planet and the quality of life we want people to enjoy. It was a heartening experience, Mr. President, to participate in that meeting.

In conclusion, let me say this: Just because we have meetings, resolutions, and indeed some action does not mean that we prevailed in conquering these problems. There is a lot of work left to be done not only in proceeding faster than we proposed, but also meeting the very goals that we set for us by dates, as I mentioned previously.

Mr. President, we owe it to future generations. We were not given this Earth to despoil it, use it up, just in our generation, to throw it away when we are through.

I believe so strongly that we are trustees. We must pass this world on to those that come after us, not in the same shape we received it, not in worse shape but in better shape than we received it. That is an obligation that we have, and certainly those who participated in the meeting here in May and the Interparliamentary Conference came away inspired to do so.

I thank the Chair.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDENT pro tempore. Under the order, Mr. BOSCHWITZ is recognized for not to exceed 5 minutes.

DEFORESTATION AND DESERTIFICATION

Mr. BOSCHWITZ. Mr. President, let me also rise to first compliment my colleague and friend from Tennessee,

Senator GORE, who put this conference together, who oversaw it, and who make it work with precision and with great organizational skill. I must compliment him publicly, as I have before, because it was a pleasure to work with him.

I was the chairman, in the Interparliamentary Conference on the Global Environment, of the group that dealt with deforestation, and also the spread of deserts. I found the Interparliamentary Conference to be most interesting.

It was a different kind of conference for us. It was not a conference of the Executives of all the nations, but rather it was a conference of parliamentarians.

It is not clear to me that a conference of that nature had ever taken place before. Of course, in some countries, as the executive makes up its mind what it is going to do in this area, and in other areas of Government, they will move forward with it. In our country and in most countries the Executive perhaps introduces or determines the direction, but it is for the parliament to determine and decide whether or not that direction is followed and what action is taken.

So getting the parliamentarians of the world interested in the environment, I think, was a step in the right direction, a forward step and, indeed, a visionary step. I found it, as I said, most interesting.

I listened to my colleagues' speech about the conference, and speak about what their working groups achieved. One of the things that I personally achieved was getting to know the other parliamentarians and talking with them on the side, particularly the Russian group that came to my group.

There, the head of the Supreme Soviet Environmental Committee was present. He came from the area of Ural Sea where they are having so many difficulties environmentally, where the sea is declining a couple of rivers have been rerouted in order to increase cotton production. It is indeed not an atypical world problem where man has interjected himself into nature and caused great problems to arise. Now they are trying to reverse that with some difficulty.

Mr. President, I cochaired the working group on deforestation and on deserts. All of our groups were important. But I asked to be on that one because I am particularly interested in the role of forests in our lives and how the destruction of forests contributes to global warming.

Prior to coming to the U.S. Senate, the products of the forest were my livelihood. So I felt I had a better understanding and perhaps a better appreciation for the forest, believing that it was a renewable resource, that it can indeed be harvested, but it needs to be harvested in a more organized and a more sensible way.

We, in the developed nations, have little call, in truth, to tell those in the developing world that they must stop cutting down their forests. In the early days of our country, we eliminated most of our forests so that we could develop, farm, and build our cities. Very few of our pioneers gave much thought of any ill effect of cutting down all of those trees.

Today, many of us in the United States have had our consciousness raised about the results of cutting down and burning trees, particularly if we make no effort to replace them. I think the same awareness is taking shape among the political leaders of many other countries as well. If the lawmakers with whom we met in May are at all representative of their colleagues at home, I am convinced that most, if not all, of the world's parliaments are coming to realize that deforestation and land degradation are not only local problems, but also have critical international dimensions.

I spent 4 very productive and enjoyable days at our Conference, reviewing the problems of forests and soil loss. We had some very interesting and very useful discussions. We did not always agree with one another, but we listened to each other. I think we came up with some useful legislative proposals, which will be sorted through and fleshed out, in our respective countries, in the weeks ahead.

Forests are deteriorating all over the world. In Europe and, to a lesser extent in North America, this decline is due mostly to manmade pollutants and natural stresses. But, in general, the world's temperate-zone forests are expanding slowly.

The situation is worse, however, in the developing countries, particularly where tropical rain forests are involved. One quarter of the world's tropical forests has been lost, probably forever, over the last 50 years. Each year in the last decade, according to the Food and Agricultural Organization, at least 11 million hectares of tropical forests and woodlands were cleared for agriculture, grazing, fuelwood, human settlement, for export, or other purposes. That works out to 54 acres per minute. And, as we all know, the burning used to clear many tropical rain forests is a very large source of the CO_2 emissions contributing to global warming.

The reasons for these forest losses are complex. But the largest losses result from poverty, population pressures, and inequities in land distribution. These same factors, plus drought and poor growing practices, often lead to desertification of formerly productive land.

So how did we parliamentarians react to all this? As you can imagine, possible solutions to deforestation and desertification are hard to come by. We are dealing with very complex problems, in which world trade, debt, and other macroeconomic factors play important roles.

We are also dealing with millions of very poor people who have to struggle to survive each day, and who, understandably, most likely never heard of biodiversity or global warming, and, if they did, would say they had more important things to think about.

None of these problems are solvable, of course, in 4 days. But I think we moved the ball forward. We focused our attention on getting the right balance between development and conservation. What is the right balance, for instance, between the long-term income of the whole nation and the short-term needs of the poor for food and fuelwood, for rain forests often seems to be the only recourse?

We looked for possible legislative solutions at three basic levels. First how could each country improve its management of forests and rangelands—better conservation, better timber harvesting practices, reduced building of vehicular roads into forests, better use of water and chemical imputs to combat desertification, et cetera? In short how could we achieve more sustainable development in our forest lands and on our rangelands?

Second, we looked at the larger economic problems of population pressures, extreme poverty, large-scale national indebtedness, and a wide range of often shortsighted economic measures that undervalue forest products and make it too tempting to cut down forests indiscriminately. Lastly, we looked beyond national boundaries to the kinds of international activities and understandings that might help reverse the current trends leading to denuded forests and rangelands.

We came up with a number of resolutions which will have to be sorted out in our individual countries to see what is possible in the way of national legislation. Here are some of the items we resolved to pursue in our respective legislatures.

First, lots can be done in the forest themselves. It is useless and unfair to point our fingers in horror at the poor campesinos cutting down trees in an effort to earn their daily livelihood—unless and until their own governments, possibly with some outside assistance, can come up with other ways to help their poor get bread and shelter.

Our working group agreed to pursue more vigorously the many other sources of income in the rain forests besides wood—like fruits, nuts, bamboo, rattan, wildlife, fish, medicinal plants used for pharmaceuticals, and so on, which can be profitably sold at home and for export. Also, other industries, like tourism, can be devel-

oped and expanded to provide both jobs and economic incentives which will reduce cutting down trees in the kind of thoughtless, wholesale pattern of destruction now evident in many of our rain forests.

In many rain forests, it is the lot of the women in the family to daily scavenge for fuelwood. They cut down or trim many of the smaller trees. So the participants in the Conference are going to see how we can generate more technical and financial assistance targeted to women, particularly in small-scale efforts and agricultural extension, in order to provide them with other income alternatives.

We also concluded that much more can be done to develop more sustainable methods of forest management—to minimize clearcutting, burning, and other destructive logging practices, to provide better safeguards against forest fires, and to develop fuelwood alternatives.

Our working group acknowledged the important role of paper recycling as a means to reduce demand for tree cutting. As you may know, I sponsored the current recycling effort going on in part of the Hart Building, which I hope will be expanded to all of the Senate this fall. I have introduced another bill under which the entire Congress would buy recycled paper wherever possible.

To put the brakes on further desertification, we agreed to explore more careful designs for irrigation schemes, in order to prevent salinization and waterlogging of the soil, and to reduce use of chemical herbicides and pesticides.

All outside financial assistance, both bilateral and multilateral, should avoid negative impacts on forests and rangelands, and on other natural resources. And we will have to see what more we need to tell our aid agencies on this score.

There is a great need for public environmental education that includes the important role of forests and rangeland protection in a healthy environment. Our Interparliamentary Conference was a useful step in this direction—doing some useful consciousness raising, I am convinced, among the legislators themselves so that they would become missionaries on this subject in their own countries.

We also focused on the need to provide alternative jobs and income for those people now eking out a scant subsistence in the tropical forests. This often means devising economic incentives favoring larger-scale sustainable development, and could include at the national level a mixture of tax incentives, new laws, and regulations bearing on land use, and, in many cases, land reform. Such measures are almost always politically very, very difficult to bring about in many developing countries, but they are often urgently needed. They require dealing with the ministers of economy and finance of the concerned nations, and not just the environment ministers, who usually have less political influence in the overall scheme of things.

There is an area where we, the World Bank, and the regional lending banks should seriously consider conditioning new assistance to reforms favoring sustainable development in the forests and in other sectors of developing countries. Similarly, debt moratoriums and debt reduction exercises should, where appropriate, carefully figure in the need for forest and rangeland protection and for other environmental safeguards.

Along these macroeconomic lines, we also thought it important that governments, including our own, adopt new national accounting methods that more accurately reflect the loss of forest and land resources as reductions in national wealth, to be balanced against monetary gains from their exploitation. Again it is awfully hard to change centuries-old conventional thinking on how we view the use of lumber and other forest products. But such new ways of looking at old problems are essential if we are to slow down the rate of our forest losses.

Last, going beyond individual countries' efforts, we highlighted the need for an international convention to protect all the world's forests, along the lines of the International Whaling Convention—a convention which recognizes the need for protecting both temperate and tropical forests, and establishes both specific targets for reducing deforestation and goals for achieving reforestation. International conventions are difficult to bring about—but I think the momentum among the parliamentarians at our Conference can push it forward. We also saw the need to revitalize and strengthen the Tropical Forestry Action Plan, an existing mechanism for coordinating international assistance to tropical forest conservation.

In sum, we concluded that both developed and developing countries have to look very carefully at how we help poverty-stricken people to survive and, at the same time, search for better ways to better protect and manage our forest resources, and how, similarly, we can work to slow the destruction of the biological productivity of land that can lead ultimately to desertlike conditions.

My working group cochairman, a fine Philippine legislator named Felicito Payumo, and I labored together with the others in our working group to identify ways to improve the situation, to help each other find better policies to manage our scarce resources. We saw those meetings as a time not for finger pointing or recrimination, but rather for exchanges of information and ideas—especially on how we could cooperate—for thoughtful discussion, for serious listening and learning, for a chance to come together as a group to build a mechanism which could live beyond our Conference and continue to work to protect our forests, our rangelands, and our climate.

On a more personal note, I think we all made a lot of friends and developed a network for the international environment, which I, for one, intend to make use of and expand. In the deforestation and desertification working group, I sat side-by-side with representatives from Brazil, Kenya, Indonesia, and other countries.

My experience with the four representatives from the Supreme Soviet was really one of the highlights of the Conference for me. We just kind of hit it off. We had dinner together one night, and, in the spirit of glasnost, I took them over to the Senate buildings late one night to give them a bit of a tour and have them watch a vote in the Senate Chambers. They were very friendly and eager to talk about the role their country—one of the world's most heinous polluters—will have to play in any global efforts.

Mr. President, I look forward to next year's Interparliamentary Conference in Prague, and, God willing, hope to be there.

The PRESIDENT pro tempore. Under the order, the Senator from Pennsylvania [Mr. HEINZ] is recognized for not to exceed 5 minutes.

Mr. HEINZ. Mr. President, I thank the Chair.

ATTAINMENT OF SUSTAINABLE DEVELOPMENT

Mr. HEINZ. Mr. President, the recently concluded Interparliamentary Conference on the Global Environment, chaired by the distinguished Senator from Tennessee [Mr. GORE] was a universal signal of the urgency needed to confront and to redress the world's growing threat to our environment.

It is clear to this Senator that the Earth is today in the early stages of a global ecological crisis of historic and unprecedented proportions. If we allow it, denial or indifference to this growing environmental crisis will have almost unimaginable, possibly catastrophic costs.

For example, in this country, vast areas of U.S. farmland in the Southwest and elsewhere could be permanently converted into desert and scrub, if climate change trends continue.

Worldwide, desertification threatens about one-third of our planet's land the livelihoods of at least 850 million people. Right now an estimated 67,000 plant species are rare or under threat of extinction. Many in the world's tropical forests, which are themselves

disappearing at rate of 50 million acres a year, are equally threatened.

In sum, mankind can have a fatal impact on the world's creatures; indeed we are so doing. And we are threatening the well-being of the Earth as a viable biosphere, not only for other species but, most important, for man himself.

We are destroying our future new crop cultivars and new drugs, cures for today's fatal diseases or tomorrow's lethal viruses, not yet detected.

Mr. President, this Senator was privileged to be a part of the U.S. delegation to the historic conference on the global environment that I mentioned. I was further privileged to chair one of the seven working groups, which was indeed global in its composition. We had representatives from South and Southeast Asia, Africa, Latin America, Eastern Europe, Soviet Union, Western Europe and, of course, North America.

We were, therefore, representing a broad cross-section from north, south, east and west. Our group's goal was to seek agreement on how to implement the principle of sustainable development, and we came to the conclusion early on, in fact at the very outset, that the attainment of sustainable development is not only a desirable and achievable goal for all countries, but a sustainable development is a prerequisite, a necessity, for planetary survival.

There was unanimity of agreement in our group, and subsequently in the conference, that we cannot go on utilizing, burning up, throwing away, and polluting the resources and environment of this planet as if there is no end to our planet's original, natural endowment.

There is today an environmental imperative: What were once considered local or regional environmental problems are now global in scope and potentially disastrous in severity.

We took as our working hypothesis that countries could be divided into three groups, the first being the very poorest, the next being countries capable, with strong leadership and political will, of achieving sustainable development, if they knew what to do, and the third being the overachievers.

I might say that, in life, being an overachiever is something of which you can be proud. But when it comes to overachieving at the expense of the world's resources, it is not something to be proud of; indeed, it is an excess to be curtailed and contained.

Our working group decided there should be a special set of rules and plans to help both the very poor countries and the potential achiever countries to attain sustainable development. And we developed a plan.

In sum, we proposed a Marshall plan for sustainable development, a plan offering countries that engage in serious commitment some opportunities for their exports access, free and open, unfettered access to markets, if a country were attempting to do a good job in achieving sustainable development. In other words, we proposed to structure a green common market in which all participants agree to practice and encourage sustainable development in return for that access.

Second, access to capital, and the other side of that, the opportunity for relief from debt burden through conversion and consequent reduction of the possibility for debt for future swaps. Third, and something that my cochair, Congressman Feldman of Brazil, felt strongly about, access to technology. It is indeed true that without access to appropriate and modern technology, it will be very difficult, if not impossible, for countries, be they in Latin America or Africa, or in Eastern Europe, to make the kind of transition to sustainable development that we believe is essential.

Finally, to pursue the implementation of specific elements of a comprehensive sustainable development program, we advocated the creation of a dedicated source of investment capital: an International Bank for Sustainable Development.

As the original Marshall plan financed the rebuilding of a Western Europe devastated by war, it is in our interests to establish a Marshall plan to rebuild and protect an environment devastated by abuse, misuse, and ignorance. This sustainable development bank element of the modern Marshall plan would be financed by the developed countries and with the goal of capitalizing such bank with up to 5 or even up to 10 percent of what is now spent by the developed countries on military budgets.

Mr. President, it is in the self-interest of the developed nations to offer such assistance in ways which effectively and accountably advance global sustainable development. Absent solutions to the growing problems posed by development unfettered by responsible stewardship, we will be literally burning money if we remediate our national environmental crises only to inherit those same crises later as transboundary pollution and a devastated world resource base. At the same time, we recognized that any effort to help achieve sustainable development must be tied to performance by those receiving assistance.

Mr. President, the accountability mechanism we proposed for any would-be beneficiary of the Marshall plan for sustainable development, was the adoption and continued implementation of a national charter for susainable development, setting forth the Nation's own priorities as an overall set of activities and goals to be implemented, at the minimum, in the following seven areas:

Measures to control and stabilize population size.

Practices to conserve and reduce reliance on fossil fuels and nonrenewable resources generally.

Revisions of national accounting systems to recognize and incorporate environmental values such as the depletion of nonrenewable resources and, of course, damage to the environment.

Regulations for the preservation of habitat, endangered species, biodiversity; policies of no net loss for wetlands, farmlands, and forests.

Limitations and controls on the generation and disposal of toxics.

Elimination of subsidies that result in the loss of habitat, species or biodiversity, or the excessive consumption of nonrenewable resources.

Setting forth guidelines, especially for industry, to reduce energy demand and minimum waste.

Mr. President, this Senator believes it is very important that the Senate and the Congress take serious note of what our foreign counterparts joined with us in adopting. It needs to be emphasized once again that we all felt strongly that these are critically needed principles of national and international conduct. And that, further, countries which diligently implement such a charter should be rewarded, not as some kind of charity, but because those countries are contributing to the salvation of our planet, to our survival as a species, and to our prosperity, our children, and our grandchildren. After all is said and done I trust that what we all want is to leave a better, safer world as our finest bequest.

Mr. President, the delegates to the ICGE certainly recognize that there are significant obstacles to effective international cooperation on environment and development. However, we all agreed that there is reason for hope and determination. The environmental movements throughout the world are demanding action and holding political leaders accountable for commitment and progress. The stakes are high, and parliamentarians around the world are not indifferent to the fact that we are all in this together. We must have the will to cooperate. Sustainable development is recognized as a policy concept which simply must be implemented if we are to leave to our descendents the most priceless and precious of legacies—an environment rich enough to sustain life. The environmental decade is here, now, Mr. President. I urge my colleagues to be fully involved with creating an environmental legislative agenda that will keep faith with our descendents.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE] is recognized for 5 minutes.

Mr. GORE. I wish to again thank all of my colleagues. In closing our pres-

entation of our formal report to the Senate, I want to send to the desk a resolution, cosponsored by all seven Senators who made up the close delegation, which summarizes the principal conclusions and recommendations of the Conference in language we have negotiated among ourselves. We believe it will be acceptable to Senators on both sides of the aisle and will make up a strong and clear statement of exactly what needs to be done to preserve the global environment.

The PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Mr. GORE. Thank you, Mr. President.

I want to also mention the names of the seven cochairs from other countries. One of them has been mentioned already this morning. I want to single them out for their contributions.

Cochairing the Working Group on Global Climate Change, which I was privileged to chair, was James Miruka Owuor of Kenya. Cochairing, with Senator JOHN CHAFEE, the Working Group on Ozone Depletion was Monika Ganseforth of the Federal Republic of Germany. Cochairing, with Senator JOHN HEINZ, the Working Group on Sustainable Development, as he mentioned a moment ago, was Fabio Feldmann, a parliamentarian from Brazil. Cochairing the Working Group on Population Pressure with Senator TIM WIRTH of Colorado was Attiya Inayatullah of Pakistan, parliamentarian. Cochairing, with Senator RUDY BOSCHWITZ, the Working Group on Deforestation and Desertification was Felicito Payumo of the Philippines. Cochairing the Working Group on Oceans and Water Resources with Senator JOHN KERRY was Robert Northey, parliamentarian from New Zealand. And finally, cochairing with Senator MAX BAUCUS the Working Group of Preservation of Biological Diversity was Alexsei Yablokov, of the Soviet Union. He really did outstanding work. Mr. President.

I might add just a word on him. He published his first book on ecological protection 7 years before the publication of "Silent Spring" by Rachael Carson here in this country. He is a legend in the Soviet Union, and those who had the chance to work with him in this conference understood why he really has the tremendous working knowledge of this area.

Mr. President, finally I might just refer briefly to the poster of the Conference which was created for this occasion, which makes up the first complete photograph of the Earth's surface. I do not know if the President can see from that vantage point, but many participants in the Conference remarked frequently on this picture, the first of its kind made up of 3,000 separate cloud-free images of the Earth's surface chosen from satellite pictures from a 3-year period from the Tiros-N series of satellites put up by the National Oceanic and Atmospheric Administration.

There are many points of interest, and I will only single out one that can be seen from a distance. The continent of Africa is close to ecological collapse. As you can see, the desert is advancing in southward rapidly.

The delegates from these countries across the equatorial band across the center of Africa told us at the conference that the deserts are now moving southward at the rate of 5 kilometers per year. The panel of green here is the only rain forest left in the entire continent of Africa. There are similar ecological problems that delegates around the world pointed out by pointing to this first ever picture of the Earth.

Mr. President, in closing, I encourage my colleagues on both sides of the aisle to look favorably upon the resolution which we have introduced here this morning. I believe that it does crystalize the work of the Conference.

We will send to every Member of the Senate the formal results of the working groups, and the full resolutions of the Conference itself.

Mr. President, I ask unanimous consent to print in the RECORD Conference material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GLOBAL CLIMATE CHANCE

During the 1980's, there emerged a strong consensus in the international scientific community that the continuing buildup of greenhouse gases in the atmosphere will ultimately lead to a warming of Earth's surface and to large changes in regional climates.

Today, there is deep and growing concern among scientists, policymakers, and citizens that, for the first time in history, human activities are capable of altering the climate patterns around which societies are built and upon which the economic infrastructure and cultural activities of nation-states so vitally depend.

In spite of the controversy regarding possible future changes in the Earth's climate resulting from manmade emissions of greenhouse gases, there are some fundamental points which are well understood:

First, the science of the greenhouse effect is known for certain. Naturally occurring greenhouse gases such as water vapor and carbon dioxide keep the planet approximately 30 degrees C warmer than it would be without their presence in the atmosphere. Observations of the atmospheres and temperatures on Venus and Mars confirm the greenhouse theory. As the atmospheric concentrations of greenhouse gases increase, the greenhouse effect increases as well, pushing the planet toward further warming.

Second, manmade emissions of carbon dioxide, methane, chlorofluorocarbons (CFC's), halons, and nitrous oxide are rapidly increasing the concentrations of these greenhouse gases in the atmosphere, resulting in a manmade greenhouse effect over and above the natural effect. Because of the time lag between the emission of greenhouse gases and resulting effects on the climate, the atmosphere is probably loaded with manmade greenhouse gases whose effects have not yet been fully realized.

Third, to stabilize the concentrations of these greenhouse gases at present levels would require major reductions in most of their manmade emissions (including carbon dioxide). However, because of economic inertia, as well as time lags in the planet's biogeophysical systems, these trace gases will continue to build up in the atmosphere. Many economically important facilities built during the last fifty years will continue to operate and release greenhouse gases for decades to come.

Fourth, because of uncertainties in our understanding of the roles played by some components of the climate system, such as the oceans and clouds, we do not know the exact rate at which climate changes from an enhanced greenhouse effect will occur. What we do know is that these components may either accelerate or slow down change, but they will not reverse the enhanced greenhouse effect brought on by manmade greenhouse gas emissions.

Finally, because of manmade greenhouse gas emissions, this alteration of the atmosphere is taking place at a rate that is orders of magnitude faster than has occurred in the Earth's known history. Given present trends, the level of these emissions will continue to increase due to two fundamental pressures: the rapidly growing number of people, and the increasing scale and intensity of the activities in which they engage.

What impacts should we expect? Our best predictions of the impacts to expect from global warming tell us that, in addition to warmer global-averaged temperatures, many physical and biological systems will be affected. Surface temperatures are not expected to warm uniformly. There will be greater warming in some areas, while there will be negligible change or even some cooling in other areas. In addition to regional variations, warming may occur preferentially during some seasons or times of day. Precipitation patterns, soil moisture, and overall water distribution would also be affected; sea levels would rise due to thermal expansion of the oceans and the melting of land-based glaciers; and extreme weather events such as tropical storms and droughts—which so much of a nation's infrastructure must be designed to withstand—may increase in frequency and severity. Ecosystems would be affected, and many plants and animals may not be able to migrate fast enough to escape damage or destruction from increasingly unfavorable conditions.

The societal stresses resulting from these changes in natural climate systems will affect the economic, social, and political fabric of nations around the world. Policy choices and investment decisions made during the next decade will establish the foundation of economic activity in the twenty-first century. The productive infrastructure built during the next decade will help determine the kinds and quantities of emissions that are released during the next sixty to one hundred years. Thus, choices made in a variety of economic sectors today will shape the character of the global climate for decades to come.

OZONE DEPLETION

Some have called the "hole" in the stratospheric ozone layer above Antarctica the "smoking gun" in the debate over global environmental issues and proof positive of hu-

mankind's destructive effects on the global environment. Warnings that emissions of certain chemicals, such as chlorofluorocarbons, threatened the upper ozone have been issued for more than 15 years—the earliest coming in 1973 from Dr. Sherwood Rowland at the University of California.

The latest measurements of actual ozone loss are significantly greater than computer models had ever predicted and raise serious questions about the adequacy of control measures set forth in the Montreal Protocol. Reports from Antarctica showing that the seasonal "hole" covers 10 million square miles, in addition to reports from the Arctic on the formation of a Northern Hemisphere "hole," lend a new sense of urgency to ongoing negotiations to amend and strengthen the Montreal Protocol.

POPULATION GROWTH

It took more than one million years for the world's population to reach two billion. Now, in the course of one human lifetime beginning in 1945, the world's population is skyrocketing from two billion to ten billion and is already halfway there. People are being forced onto increasingly marginal land. Migration continues from rural to urban centers, where job opportunities are limited. Food shortages persist in some areas and scarce natural resources are being exhausted by people searching for ways to survive. Health and medical services, underfunded and without adequate supplies or resources, are increasingly strained. Every measure of our modern environmental crisis—increases in carbon dioxide emissions, for example, follow population growth.

DEFORESTATION AND DESERTIFICATION

We are destroying a football-field area of forest every second, an area the size of the state of Tennessee every year. Twenty-five percent of the world's tropical forests already have been lost. In developing countries, forests are stripped by pressures created by high population growth rates combining with energy needs, food shortages and the need for hard currency for debt payments. Industrialized countries are destroying their forests with shortsighted economic policies. Deforestation destroys habitats, and promotes soil erosion, severe flooding, and global warming.

Today, forests and drylands are faced with a serious combination of threats: population pressure; extreme poverty; security and military defense needs; a limited domestic resource base in relation to demand; disproportionate resource consumption by developed nations; as well as poor timber harvesting practices, other inefficient use of resources, and the destruction of vehicular roads into forests.

SUSTAINABLE DEVELOPMENT

Sustainable development implies the promotion of those technologies and practices that recognize the need to conserve and preserve natural resources, to make the best use of those resources, and to balance the need for economic growth with the urgency of environmental protection.

A new approach is required in which all nations aim at development that integrates economic production with resource conservation and enhancement. As an overwhelming number of people become more vulnerable to political, economic, and environmental constraints, the results will be felt in all regions of the world and the need for this new approach will be even more apparent.

Most countries have resource based economies—their capital is based on their natural resources: soils, forests, fisheries, mineral deposits, petroleum, and water. Their long term economic development requires them at least to maintain, if not increase these resource supplies and develop policies which support agriculture, forestry, fishing and mining for local use and export.

The natural resources of both developing and developed countries are being consumed faster than they can be restored or replaced. Some developing countries have basically depleted even this basic economic capital. This causes not only increased hunger and death, but also social unrest and conflict because resource depletion and degradation drives millions of people across national borders to search for a "new environment."

OCEANS AND WATER RESOURCES

Pollution threatens the future use and productivity of oceans and water resources—pollution from a wide range of economic activities. For example, agricultural runoff silts up and pollutes rivers and marine estuaries; industrial and urban sources produce pollution that fouls water resources used for human consumption, groundwater and surface water.

Many of these ocean and water resources problems cross national boundaries; many cross continents and are global in scope. In addition, the scarcity of water resources afflicts growing regions of the world and threatens to increase political tensions in water-short areas. Population pressures and agricultural activities are increasing freshwater demands, causing reductions in water tables and the depletion of aquifers. Hundreds of millions of people throughout the world have little or no access to fresh, uncontaminated sources of water. Such harsh living conditions produce devastating outbreaks of disease, famine, and intense suffering. The scope of this tragedy will increase exponentially in the years ahead.

LOSS OF BIODIVERSITY

The 10 to 30 million species that inhabit the earth are threatened by human activity. Estimates are that one hundred species become extinct every day and, because that pace is expected to increase, by the year 2000, one million species could become extinct. At this rate, more than half the world's species could disappear within one generation.

In the complex interaction of ecological systems that support life, loss of even small links in the biological chain can doom an entire system. Because many have symbiotic interrelationships, continuation of the system depends on the presence of most of the organisms in the system. In addition, medicines and pharmaceuticals depend heavily on specialized chemistry found in living organisms. Loss of these wild organisms could mean the loss forever of discoveries of new drugs that could cure human diseases or form the basis of ecologically benign chemicals.

The domesticated plants that form the basis for the world's agriculture must be replenished, from time to time, by infusions of stock from wild plants. Some of the "raw material" of biotechnology is found in the genetic riches of living organisms that are being destroyed on the current wave of extinctions, the most rapid loss of species since the mass extinctions of eras before human life on earth.

Earth's various plants, animals, and micro-organisms provide the rice and fish we eat, the penicillin doctors use to save lives, the bamboo poles villagers use to build their homes, and other natural products. They also provide options for addressing future human needs, and invaluable aesthetic, spiritual, and education benefits. Just as important, species provide more subtle benefits in the form of wide-ranging ecological services. Coast wetland ecosystems formed from various plant and animal species remove pollutants from the water and provide the spawning and rearing habitat for commercially important fish and crustaceans. Similarly, forest ecosystems help regulate water discharge into rivers, which affects the frequency of foods and the availability of water during dry seasons.

If current trends continue, extinctions in the coming decades may represent the most massive loss of species since the end of the Cretaceous era some 65 million years ago. Since 1600, 1 percent of birds and 2 percent of mammals are known to have become extinct; the unrecorded extinctions probably far exceed these figures. Already, the rate of extinction of birds and mammals may be as much as 100 to 1,000 times the background extinction rate. The single greatest cause of species extinction in the next half-century will be tropical deforestation. Scientists predict that roughly 5 to 10 percent of closed tropical forest species will become extinct per decade at current rates of tropical forest loss and disturbance. With more than 50 percent of species occurring in closed tropical forests and a total of roughly 10 million species on earth, this amounts to the phenomenal extinction rate of more than 100 species per day. Globally, roughly 5 percent of the world's species will be lost per decade if current trends continue.

The extinction crisis is not restricted to tropical forests. Freshwater habitats are being dramatically altered as rivers are impounded and exotic species introduced. In the southeastern United States, for example, 40 to 50 percent of freshwater snails have been driven to or near extinction as water impoundments were built and rivers straightened, widened, and deepened. Oceanic islands, where most extinctions have occurred in past centuries, also remain among the most threatened ecosystems on earth. Some 60 percent of the plant species endemic to the Galapagoes Islands are threatened with extinction, as are 40 percent of Hawaii's endemic species and 75 percent of the endemic plant species of the Canary Islands. Mediterranean climate zones, with their high plant species richness and distinctive floras, face continuing threats of species loss through habitat conversion and species introductions.

Habitat loss and degradation are the most important causes of the extinction crisis, but overharvesting, species introductions, pollution, and other causes also take a significant toll. Global warming will exacerbate the loss and degradation of biodiversity by increasing the rate of species extinction, changing population sizes and species distributions, modifying the composition of habitats and ecosystems, and altering their geographical extent. Even if all human impacts on the biosphere were to cease immediately, species extinctions due to the impacts that already have taken place would continue for decades.

Where does the blame for the loss of biodiversity and the degradation of biological resources lie? On the surface, the answer seems clear. The proximate causes include large-scale clearing and burning of forests, overharvesting of plants and animals, indiscriminate use of pesticides, draining and filling of wetlands, destructive fishing practices, air pollution, and the conversion of wildlands to agricultural and urban areas.

The maintenance of large, relatively intact ecosystems also have implications for regional and global environmental conditions. If the forest cover of Amazonia were lost, computer models predict that rainfall would decrease significantly in the region and the loss of the forest carbon sink could significantly increase the rate of global climate change.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. DURENBERGER] is recognized for not to exceed 5 minutes.

INTERNATIONAL ENVIRONMENT

Mr. DURENBERGER. Mr. President, I make one comment on the dialog that has taken place this morning. The first part is to compliment my colleagues. The second is to reflect on an experience I had last August in traveling to 18 of the poorest countries of the world, which are located around the Equator. I can say from personal experience going across the Sahel in Africa, going across the Middle East and Southeast Asia, the environment is the international problem. It has been well described by our colleagues, and I compliment them.

BUDGET SUMMIT

Mr. DURENBERGER. I rise to perhaps share a little bit of perspective with my colleagues on the so-called Budget Summit Act. The counterproposal was made last week to solve the deficit problem by raising taxes across State and local government in America. I think it is a proposal we have heard many times in the past. It is a proposal that is not very effective, and we believe in the way in which the intergovernmental system in this country meets the needs of Americans at State, local, and Federal levels.

I hope my colleagues who are engaged in the very difficult task of deciding how to take on an almost $300 billion deficit for next year reject that first experimentation with raising taxes on State and local government while we increase the mandated responsibility we expect them to take on.

Mr. President, there is an interesting commentary in the latest issue of Business Week magazine, August 6, which talks about the deficit and it says:

If nothing is done to attack the budget deficit, the public debt of the U.S. government will top $4 trillion by 1994, twice what it was in 1988. Interest payments alone will exceed $300 billion that year—swallowing more than half of all individual tax receipts.

Over the long term, the Treasury's debt will put an intolerable burden on future generations. In the short run, the budget deficit has paralyzed the government. The White House and Congress spend virtually the entire year talking about how to meet an artificial deficit target. Each year, they find a way to squeak by without actually cutting spending or raising revenues.

Mr. President, I hate to stand up here this morning and say I do not like somebody's idea for solving this problem. I must. I served 6 years in the body as chairman of Intergovernmental Relations Subcommittee. I dealt with President Reagan and the Governors, the counties, and cities, and educators in this country for 2 years, in 1981 and 1982, over the issue of new federalism.

The reality of the eighties is that the Federal Government has chosen, and we have chosen deliberately, to change the nature of the Federal system. We have continued to increase the responsibilities of State and local governments, particularly in the high-cost areas of education and health care. We have done nothing to change the mandate across the board on State and local government that go with the limited amount of Federal spending, and in education, in the drug war, on criminal justice, in health care. We have not financed those mandates.

We are facing today a slower economy, and on top of that the proposal is that we increase the one area that all States in this country can tax, and that is the excise taxes that are currently available, especially the excise taxes on the so-called choice products like alcohol and tobacco. There was $25 billion raised last year in this area by State and local government in this country.

The proposal before us would in effect limit the ability of State and local government to use those kinds of tax sources to meet local needs.

Mr. President, we have debated this as long as the President pro tempore has been in the U.S. Senate, the issue of who makes the decisions about selective excise taxes. This administration and its predecessor have felt strongly about federalizing excise taxes. I should not say the predecessor, because I think President Reagan did not.

I think it is a mistake. I think this is the one area that needs to be left as the responsibility of State and local government. The last issue they proposed is the issue of limiting deductibility. Again, this is a battle we have fought on this floor over the years, the last one in 1986. This same administration and its predecessor would like to get rid of deductibility of State and local taxes entirely. In 1986, we got rid of the deductibility of State sales taxes over my objection and that of others.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. BOND] is recognized.

The Chair advises the Senator that only 3 minutes remain in the period for morning business in the order.

Mr. BOND. Mr. President, I thank the Chair.

I assure him I will make my point in I hope less than 3 minutes.

THE PROPOSED BEER TAX

Mr. BOND. Mr. President, I add my voice to the literally millions of Americans who are outraged by the rumored proposal to raise the beer tax from the current 16-cent tax on a six-pack to 81 cents, an almost 500-percent tax increase. The tax on beer is already three times more than the tax on other products that they purchase, and now there is discussion of a 500-percent increase on top of that. That just does not make any sense.

The average price of a six-pack already costs more in taxes than in raw material and labor combined, and State beer tax collections have risen nearly 650 percent since 1950. To me it seems that this screwball proposal will single out one class of Americans who drink beer and say, "You are more responsible for the deficit than anyone else. Therefore, we are going to single you out to lay the tax burden on you."

That is ridiculous. Why single out one class of Americans to bear the burden of this deficit? Most beer taxes are paid by households earning less than $35,000 per year.

Mr. President, my office alone has received more than 3,200 letters in opposition to this tax from constituents. I lay on the desk just this month's mail in response to the proposal that beer taxes be significantly increased. I assume that my colleagues have had similar correspondence.

The good news is yesterday I was advised by the Office of Management and Budget, by the Director himself, that the administration has not and will not propose such an unfair, outrageous and disproportionate tax on beer drinkers.

Now, the bad news is we do not know what the proposal is from the other side. The chairman of the House Ways and Means Committee has said that there should be some tax on alcohol products, so it is likely that some minor tax increase could be proposed.

We do not know what that will be. We have not seen the proposals from the other side in the negotiations on the deficit reduction.

Everyone wants the deficit to come down. We all know that some new revenues are going to be part of an agreement. It is absolutely essential that the burden be broad, that it not unfairly single out one sector of the country, or one group of people.

I hope that this ill-fated balloon will never appear again. I hope that we will see fairness in a deficit reduction package. I join those who hope that we will see proposals from both sides so that we could get about the business of bringing the deficit under control and making sure that the economy continues to grow.

Mr. President, I hope those who floated this balloon will come to their senses and see the unfairness of this

kind of narrowly based tax increase. This does nothing but divide Americans at a time when we so desperately need unity.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

SENATORIAL ELECTION CAMPAIGN ACT

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of S. 137, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate politicial committees, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell (for Boren) amendment No. 2432, in the nature of a substitute.

The PRESIDENT pro tempore. The question is on the substitute amendment by Mr. MITCHELL and Mr. BOREN, amendment No. 2432.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I wonder if it is possible by unanimous consent to extend morning business for 10 minutes. I understand also that my colleague from Alaska desires a minute, if that is the case.

The PRESIDENT pro tempore. Does the Senator wish to make that request?

Mr. LAUTENBERG. I do make that request.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MURKOWSKI. I wonder if I may just proceed for 30 seconds prior to the Senator from New Jersey.

The PRESIDENT pro tempore. The Senator might object or not object.

Mr. LAUTENBERG. The Senator has no objection.

The PRESIDENT pro tempore. Without objection, the morning business period will be extended for 10 minutes, and the Senator from New Jersey [Mr. LAUTENBERG] will be recognized for 5 minutes.

Mr. LAUTENBERG. Mr. President, I yield 30 seconds to my colleague from Alaska.

THE SENATE'S RECESS SCHEDULE

Mr. MURKOWSKI. I thank my friend from New Jersey, and I thank the Chair.

Mr. President, unfortunately the majority leader is not with us, but inasmuch as this is the day that we have our respective caucuses, it is the suggestion of the Senator from Alaska that we deal with the recess with some certainty.

The difficulty the Senator from Alaska has is obviously one of distance. The last time I went back, it took me 16 hours. This weekend I am supposed to go another 1,200 miles west of Anchorage. That will take me 22 hours. While we were in late and did a full day on Friday, the reality is that on Monday, we had only one vote.

So the reality, Mr. President, is that we must have some degree of certainty. With all due respect, we look to our leader to provide us with that certainty.

I know there are certain conditions that have to be met. But there are deposits made by various Members, there is transportation committed, there are grown children that have taken time for vacation, and we are now in a situation where I hope that we can work through the weekend, if, indeed, it is the leader's intention to try to finish at a firm date.

I thank the Chair and I thank my friend from New Jersey for yielding.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 4½ minutes.

IRAQ'S SADDAM HUSSEIN

Mr. LAUTENBERG. Mr. President, what we have seen in recent weeks is evidence that the use of blackmail works. In particular, I am talking about Iraq's President Saddam Hussein. He never met a threat he could not make, never found a weapon he would not use, and he never saw a country he would not like to intimidate. His recent threats against his tiny neighbor, Kuwait, which bankrolled his country's war with Iran with billions in interest-free loans, and the United Arab Emirates, are nothing more than plain old bullying. Unlike the playground bully, though, Saddam Hussein has the troops and the firepower to impose his will on his weaker neighbors. His threats recently yielded an OPEC agreement to raise the price of oil by $3 a barrel. He secured this agreement by threatening to use force against those who have weakened the accord by overproducing. He massed 30,000 troops, and tanks and rockets, on the Kuwaiti border.

His threats were directed at Kuwait and the United Arab Emirates, which together have been exceeding their quotas by about a million barrels a day.

His threats also may eventually affect the price Americans pay for oil. With one fell swoop, Hussein has changed the pricing of oil from pricing by agreement of the OPEC countries to pricing by the gun.

His military moves even caused the administration to send aerial refueling planes to the United Arab Emirates, put naval units on alert, and send combat ships to sea in a rare exercise with the Persian Gulf nations.

Hussein has more than just the largest conventional army in the region—a million men, battle-tested in the recent conflict with Iran.

It is estimated that Iraq currently is capable of producing 50 tons of nerve gas and 720 tons of mustard gas a year, enough to cause massive deaths if used against civilians in neighboring countries. The recent foiling in London of a plot to smuggle 40 United States made kryton nuclear detonators to Iraq reveals Iraq is also developing more dangerous nuclear weapons.

Iraq may also be developing biological weapons. It has set up a major biological weapons research center at Salman Pak, and is believed to be working on several biological agents. To make effective use of chemical nuclear or biological weapons, Iraq has developed a whole battery of ballistic delivery vehicles.

Iraq actually used an intermediate-range Iraqi made ballistic missile to destroy large sections of Tehran and other Iranian cities.

But no one who has followed Saddam Hussein should be surprised by his bellicose and belligerent actions. This is the leader who just this year threatened to scorch half of Israel with binary chemical weapons.

This is the man who used poison gas against his own Kurdish citizens, causing over 5,000 civilians to die. This is a man who will stop at nothing to punish dissent or perceived disloyalty, including torture and murder of children to punish their parents.

Saddam Hussein is a real threat to regional and world peace. Today, his sights are set on domination of the Arab world.

But his acquisition of biological, chemical, and nuclear weapons threaten the safety of the entire world. And his assertion of control over oil prices could threaten our economic well-being.

The Senate wisely voted to impose sanctions on Iraq for its despicable and menacing behavior.

We would do well to continue along this path by working with the rest of the world to call a halt to the dangerous and destabilizing activities of Saddam Hussein's outlaw regime.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized. The Chair states that 3½ minutes remain in morning business.

Mr. HATCH. Mr. President, I wonder if I could yield that time to the distinguished Senator from New Mexico.

Mr. LAUTENBERG. I yield back my time, Mr. President.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I advise the Senator I appreciate his courtesy but it would take me longer than that. I think he should go ahead with his amendment when morning business is concluded and then I will have to ask unanimous consent to take some additional time after that.

TRIBUTE TO MICHAEL CARBAJAL

Mr. DECONCINI. Mr. President, I would like to bring to the attention of the Senate the achievements of an outstanding Arizonan, Michael Carbajal. At the age of 6 years old Michael dreamed of becoming a world champion boxer. Sunday, in Phoenix, his dream was realized. Michael defeated the International Boxing Federation light flyweight champion, Muangchai Kittikasem, in a seventh-round technical knock out before his hometown fans. It was an outstanding performance, combining finesse with sheer punching power. Michael Carbajal truly lived up to his nickname "Manitas de Piedra" [Little Hands of Stone].

With this victory, Michael became the first 1988 U.S. Olympian to win a world championship. He fought for the gold medal at Seoul. He lost the bout on a much disputed decision. Humble, as ever, Michael said of the gold medal bout, "I was disappointed, naturally, but I was just happy to be in the Olympic games. And I knew in my heart I'd won." His pride and sportsmanship are a credit to all Americans.

Michael gives a great deal of credit for his success to his family and the foundation that they established for him. His family settled in Arizona long before it was granted statehood in 1912. His father, Manuel, who was the Arizona Golden Gloves flyweight and bantamweight champion in the late 1940's, taught all of his nine children, including the girls, to box. Michael learned to box in a homemade ring, built by his oldest brother Danny, in the family garage. His love of family and boxing kept him out of trouble while he grew up in Verde Park, a Phoenix neighborhood plagued with drugs and crime.

In his free time he takes courses in youth counseling at a local community college so that he can help children resist the temptations of gangs and drugs. This commitment to his family and community is a further tribute to his athletic achievements.

Michael's victories are not just his own. They are Phoenix's, Arizona's, and America's. He is only the second American to win a world championship in the history of the 108 pound division. The State of Arizona is proud of his outstanding achievements.

Michael's goal is now to win world championships in four weight divisions. Mr. President, I ask that my colleagues join me and all Arizonans in wishing this outstanding American our congratulations and the best of luck in his future endeavors.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is again closed.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

The PRESIDENT pro tempore. The clerk may again report S. 137.

The bill clerk read as follows:

A bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized.

AMENDMENT NO. 2438 TO AMENDMENT NO. 2432

(Purpose: to protect the rights of workers to choose whether their collective bargaining dues or any other payment required as a condition of employment shall be used for political purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. GORTON, proposes an amendment numbered 2438 to amendment No. 2432.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(B) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which attests that the expenditures which the union claimed it made for certain expenses were actually made for those expenses. Such examination shall be conducted in accordance with generally accepted auditing standards.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any cleary identified candidate for elective public office."

Mr. HATCH. Mr. President, the purpose of this amendment is a matter of fundamental fairness for working Americans. It represents a simple reporting requirement through codification of the decision reached by the Supreme Court in the 1988 case of Beck versus Communications Workers of America. The amendment also codifies the decision reached by a U.S. district court in the 1990 case of Kidwell versus Transportation Communications International Union.

These cases have far reaching and significant implications for the Federal election process. In my opinion, the issues this amendment addresses are some of the root problems of our present system of election campaign finance and as such deserve our attention. This amendment should not be a surprise to anyone, since the provisions of this amendment were introduced as a freestanding bill, S. 1645, by Senator MCCONNELL last September.

For those of my colleagues who may not be aware of the substance of these court decisions, I would like to summarize the cases. Harry Beck was a telephone company technician working for what was then the Bell Telephone System. Beck was not a member of the Communications Workers of America [CWA], but was required to pay agency fees to the union under the labor contract it negotiated with American Telephone & Telegraph Co. Mr. Beck objected to the union using part of these fees to pay for its political activities and sued in an attempt to force the union to refund that portion of his fees that represented political spending. Mr. Beck alleged that the expenditure of his agency fees by the union on activities such as lobbying for labor legislation and participating in political events violated the union's duty of fair representation and his first amendment rights. The Supreme Court agreed that Beck had a right to a refund from the union for the portion of his fees being used for political purposes.

The Kidwell case, the second case, resulted in a parallel decision at the district court level for union members. Kathryn Kidwell, an Amtrak secretary and a union member, objected to her dues being used for political and other purposes not related to collective bargaining. She was told by the union that she could receive a partial refund of her dues—by quitting the union. The Federal district court ruled that Kidwell should not be penalized by losing her membership for exercising her right to disagree with the union. The judge invoked Thomas Jefferson's insistence that no one should have to contribute even "threepence" for the "propagation of opinions which he disbelieves." Ms. Kidwell was allowed to stay in the union and is not forced to pay for political expenditures with which she does not agree.

It appears that union officials are now trying to keep union members in the dark about their rights. Notwithstanding the Beck case, under the present law, union members have no way of finding out about their rights and are therefore in the dark about these rights. In fact, what incentive exists for union officials to provide this type of information when they know that if they do, it could cost the union billions of dollars? But, on the other hand, union members who do discover their rights and try to force a refund face costly and lengthy litigation against an army of union lawyers.

Mr. President, the Beck and Kidwell cases represent a glimpse into an enormous black hole of which most of the American people are not aware. Sewer money is the real scandal in American politics, Mr. President. Whether this money originates from corporations, trade associations, or unions, it needs to be banned if we are to achieve true reform of the campaign finance process.

It has been estimated that between $3.3 and $5 billion is collected annually in union dues. It is unclear how much of this total is spent by unions on political activities. One indication of the size of this amount, however, is that the court in the Beck case found that 79 percent of the assessed dues were spent for noncollective bargaining activities.

The true size of this problem is impossible to identify because reporting and disclosure requirements on this type of spending are practically nonexistent. That is why they are called sewer moneys. Most who have studied this problem agree that the numbers easily reach into the tens of millions of dollars per election cycle, and perhaps many times that amount. Unlike PAC contributions, this soft money does not go directly to candidates in the form of cash contributions. Instead, the money we are talking about pays for indirect benefits for political parties and campaigns. This money is spent in two ways. Some of it is contributed by unions directly to political parties. These are known as external contributions. Because this money is undisclosed and unregulated, many reformers would like to see this type of soft money banned.

As bad as the external spending by unions is, Mr. President, the other type of spending by unions, called internal spending, is much worse. First, the size of the internal spending greatly overshadows the external spending amounts. The National Right to Work Committee estimates that the total value of internal union soft money is $300 million per election cycle.

Internal union spending is focused on three areas. First, a union can spend its treasury funds to pay the overhead cost of operating its political action committee. This, of course, frees up PAC dollars for direct contribution to candidates. There is no limit on this subsidization, and no disclosure. Second, internal union sewer money is spent on communications to union members and their families. In these, the unions can expressly advocate the election or defeat of Federal candidates. While this type of spending is technically subject to disclosure rules, gaping loopholes allow many union communications to report nothing to the Federal Election Commission. The third type of internal union sewer money allowed is any money spent for supposedly nonpartisan voter education, registration, and turnout programs targeting union members and their families. Unfortunately, many expenditures of this type are not bipartisan, and examples of favortism to one political party abound.

Mr. President, all of this union soft money—or sewer money—spending creates a twofold problem. First, the huge amounts of undisclosed money being spent to influence Federal elections should alarm every American. This must be a part of any compaign for real reform of campaign finances. Second, the manner in which union sewer money is collected, through the coercion of union—and in some cases nonunion—members, tramples the first amendment rights of every individual who is forced to contribute.

I believe, and I feel that most of my colleagues will agree, that no one should be required to support political causes to which that person is opposed. An employee should not have to contribute to the company PAC to keep his or her job. Nor should an employer be able to deduct a portion of a workers' salary to support political candidates that the employer likes. Likewise, a worker should not be forced to subsidize the political activities of a union if he or she objects for whatever reason.

The Supreme Court supports this view, and Mr. Beck, after 12 long years, received a refund of the portion of the union fees to which he objected. Other disgruntled union members have not been so fortunate. The union leaders have resisted all efforts to extend the right of political freedom in the workplace to all workers.

Unions are still not disclosing how much is spent on political activities, and rank and file workers are not being informed of their political rights.

My amendment would put a condition on the use of union membership dues for political activities such as get-out-the-vote drives, political communications to members, and the expenses of PAC's. If a union wanted to use membership dues for these purposes, it would have to inform its members of their constitutional right not to pay for such political activities. Workers would have the right to know what portion of their dues were being spent for political activities, and they would have a right to a refund of that portion of their dues if they objected to the union's political use of their money.

I want to conclude by emphasizing my strong belief that the protection granted by the Supreme Court in the Beck decision must be extended to all union members. Any attempt to weaken this concept by extending these rights to nonunion members only is not true reform.

The Supreme Court in Austin versus Michigan Chamber of Commerce agrees. The Court said by way of analogizing its opinion that even if all members of the bargaining unit are compelled to be union members, a union may not compel these employees to financially support union activities that infringe on their first amendment rights.

Mr. President, I fully agree with the Supreme Court's analogy. These rights must be extended across the board to all union members, and anything less is a sham.

Mr. President, it is ironic that millions of people in Eastern Europe and the Soviet Union are throwing off the chains of political bondage, while millions of Americans are struggling under the coercion of laws that force them to spend their money on political activities with which they do not agree. If we hope to achieve any form of real campaign finance reform, it must include the codification of the Beck and the Kidwell decisions. Anything less is not worthy of this great body.

So I urge all of my colleagues to support this amendment. It makes sense. So that there can be no confusion, let me summarize my amendment.

This amendment would require unions to inform employees, one, that they cannot be forced to finance through union dues or other mandatory payments to a labor organization or that organization's political activities.

Two, that those employees have a right not to join a labor organization and/or pay only an agency fee which represents only the cost of a labor organization's representational services. They cannot be forced to pay for nonconcollective-bargaining costs, such as political activities.

Three, that even if an employee elects full union membership, that those employees cannot be required to finance their union's political activities.

Four, require unions to provide employees with documentation concerning the union's expenditures so that employees can make an informed decision on whether or not to pay for political activities.

Five, provide for an impartial decisionmaker should an employee choose to challenge these expenditures.

Mr. President, this is an important amendment. If we truly believe in campaign reform, and that is what we are really trying to do in these debates over these ensuing days, then it seems to me we ought to get rid of all sewer moneys, or at least require some methodology like this to require them to report not only to their union members and nonunion people who are paying dues, but also to report for the purposes of letting everybody know straight up where the moneys of individual candidates are coming from.

I do not care whether it is corporate sewer moneys or union sewer moneys, this is not good for the American political system. I remember a number of years back when I re-ran for my second term in 1982. We knew that my opponent raised a lot of money, but he had not raised on paper as much as I had raised. On paper, it looked like I had considerably more funds. The fact of the matter is that he had unlimited sewer funds that were not reported. They were not required to be reported. So the people of Utah never really knew that he actually had more money than I did. They never had any idea. It just looked like I had the most money.

In the process, it was a very unfair situation because I found myself with a collateral campaign conducted by union moneys that were never reported, that were not attributable in any way on the reports of my opponent, and I was being criticized for spending more money than he was.

To my opponent's credit—we are friends, and we are friends to this day, and we became friends through that campaign; both of us gained respect for each other—he told me long after, he said, "ORRIN, I really did not lack money; I had all the money I needed." He knew that because they were paying for his whole get-out-the-vote drive. They were paying for political operatives. They were doing just about everything that I had to shell out every dime I had to try and pay for it and really could not compete, and there was no way I could. That goes on all over America.

I have to say to my colleagues, it is wrong. I had to report every nickel that came my way; every nickel. And then at the end of it all, and I know it was paid for, at least I believe it was paid for by some of these same sources, they wound up suing me because I used a picture of some union workers. I did not even know about it. My campaign people had done this. They used a picture without saying the names of union workers who gave their consent for the use of the picture in a brochure saying the good things I had done for organized labor. It was a nice brochure, and those people actually told me themselves that it was fine to use their picture. But I did not even know that they had used it.

I was sued, and this is again how they use some of these funds. They used a lawyer out there that I have no doubt they paid his fees. I was sued, and it cost me and my campaign well over $35,000 to defend that suit all the way through the Supreme Court of the State of Utah. It was a frivolous suit, in my opinion. It was a terrible thing to do and that is what they did. That is happening more and more. It just plain is not right.

Mr. McCONNELL. Will the Senator yield?

Mr. HATCH. I will be happy to yield.

Mr. McCONNELL. It is estimated by some who looked at the soft money problem that about $500 million a cycle could well be spent in this category which means it is out there, unlimited and undisclosed, distorting the electoral process, tilting the playing field in favor of those who benefit from that kind of money.

Of course, the underlying measure which we have before us today and which we are seeking to amend does not do anything about that. It adopts a couple of provisions that I introduced back in January which prohibit either a Federal candidate or a Federal official from soliciting funds for a 501(c), but it does not keep the 501(c) from doing anything.

Of course, the amendment that the Senator from Utah is offering today is a very important amendment. It is, in effect, codifying what the Supreme Court said as the law of the land. It is high time we did it. I commend the Senator for his amendment.

Mr. HATCH. I thank my colleague. Mr. President, I have to say I hear all this rhetoric about how we better clean up campaigns and do what is right for America and how the American people deserve to know. I heard that from many Members on both sides. I agree with the rhetoric.

The problem is that this bill does not do that. If you do not do something about these sewer moneys, I do not think you have any real true campaign finance reform.

But back to the point of the distinguished Senator from Kentucky, how

much money is involved in the sewer moneys from unions? Like I say, the National Right To Work Committee estimates that unions collect $5 billion—$5 billion—annually in compulsory union dues. In that case, the Court estimated that 79 percent of that money, at least of the Communication Workers of America money, went for noncollective bargaining purposes. The only thing they use it for is political purposes. They are saying that 79 percent of it went for political purposes. Seventy-nine percent of $5 billion, we are talking about $4 billion being used for political purposes. There is no party in the world that can match that, to be honest. I do not think it is that high, but most people would say the minimum is what the Communication Workers of America admitted what went for political purposes and that was 15 percent.

Taking that $5 billion figure, if you take 15 percent, and we know that has to be a low figure because that is what they admitted to, we are talking $150 million per election cycle. That is a lot of money. That is just from one source; 10 to 1 it goes to Democrats, even though 30 to 40 percent of all union members are Republicans—10 to 1. How can that be fair? In other words, the union leaders who are mostly all Democrats and strong supporters of Democrats, and they have a right to do, spend 10 to 1 the money for Democratic candidates. If they are spending $150 million in a cycle, we are talking about maybe $15 million going to Republicans and $135 million going to Democrats.

They have a right to do that if they want to, I suppose, if their union members allow them. If 30 percent of them are Republicans, 30 to 40 percent, and they allow them, they can do it. But the Republicans ought to at least know, and the Democrats ought to at least know what is being done with their moneys. If they knew that they were giving the moneys primarily to the most liberal Democrats, I think a lot of Democrats in the unions would be upset. But they estimate that there are 30 percent Republicans, 40 percent Democrats in the unions, and 30 percent that are not affiliated with either party. So, in other words, 40 percent of the union members are getting 10 to 1 the amount of money in political donations.

The American people have to start to become aware of this because it is stilting and stacking and, I think, ruining the process in this country.

If we are going to do anything about these problems, it seems to me we ought to do it in this bill. If this bill is supposed to be campaign reform, let us reform it, let us codify the Supreme Court decisions that are supposed to protect the first amendment rights and freedoms of all union members and nonunion people who pay agency fees, and let us do it right.

If we use the Communication Workers of America numbers, we are talking about $300 million to $500 million of union dues that are being used to pay for soft money expenses or sewer moneys—political activities that are not reported by the unions that make those donations, and a lot of people feel this is a low estimate.

I have no problem with them spending that kind of money if they disclose it like everybody else has to. If they want to give 10 to 1 to Democrats, that is their right. But the dues-paying members ought to know that is what they are doing, and they do not know because they are kept in the dark on these things.

I might add that a portion of the dues collected are used for legitimate labor negotiation activities but another part is used for direct contribution to political candidates and causes, all of which has to be reported. However, the rest of the money, unreported soft money, is used for indirect political activities. I have to say that I have mentioned the three major areas of soft money spending: First, paying the overhead cost, staff salaries, rent, utilities, computers, postage, mailing lists of operating the union's PAC's, and none of this money is reported. FEC shows unions spent a minimum of 50 cents for every dollar raised on their PAC's.

Second, internal communications to members and favored candidates. As long as less than 50 percent of the communication is not focused on a specific individual, it does not need to be reported.

And third, they pay for voter education, registration, and turnout programs targeting union members.

I have to tell you it costs a lot of money for the average Republican who has to report every nickel that comes his or her way.

In simple terms, what is this soft money?

Basically, soft money refers to any contributions moneys raised and/or spent outside of Federal election laws. That is what sewer money is.

In Federal employee unions, workers are free to not join a union and not have their job revoked. Therefore, if a Federal employee or Federal employees do not like what their union is doing, they are free to not join the union, and is this not sufficient protection?

Federal and postal workers face a Hobson's choice. On the one hand, employees can join the union and be required to support political causes to which they are opposed and, on the other, employees can withdraw from the union to preserve their first amendment rights but forgo the right of union members to participate in shaping the terms and conditions of their employment. In either case, the employees lose important rights.

The issue here is that part of the union dues collected from union members are not used for labor negotiations. Instead, a large portion of the dues are used for political purposes—purposes with which individual union members may not agree.

The amendment will allow employees to remain in unions and only pay that part of the union dues directly the result of labor negotiation activity of the union. Furthermore, unions would be required to inform their members of the option of paying operating dues versus full dues that would include moneys used for political activities.

Regulations already exist for controlling partisan political activities by unions. Do not all parties benefit from union nonpartisan get-out-the-vote type activities?

As I said, while union members divide roughly into 30 percent Republican, 40 percent Democrat, and 30 percent unaffiliated groups, unions consistently and overwhelmingly support and contribute to Democrat candidates and liberal issues. During 1988, union money went to Democrats over Republicans, as I mentioned before, by a ratio of 10 to 1. And you can bet your bottom dollar when a Republican received union moneys, that Republican had to be a tremendously liberal Republican.

Labor's real importance to candidates is not so much the PAC dollars unions contribute directly to campaigns as the expenditures they make from their treasuries to lobby among their members. In each election, labor spends millions of dollars in advocating its preferred candidates before the union rank and file. I could go on and on on this.

Again, my complaint is not that they spend the money the way they want. As long as they report the money, as long as everybody knows what is happening to it, as long as everybody knows who is getting it, as long as the union members themselves have some idea for what their union dues are being used, then I think it is up to them what they do with their moneys.

Yes, I wish they did support Republicans once in a while, but that is not their choice, and that is all right. If we are going to reform campaign financing and spending, this is an area that has to be done. When you are talking about $300 million to $500 million an election cycle, you are talking a lot of money. No other collective group would come close to that. Nobody can come close to that. I have to tell you right now, there are very few Democratic Party candidates who are not very well funded both from what they get up front from various political action committees and so forth, but

then these behind the scene sewer moneys just engulf anybody who tries to run against them.

Be that as it may, this is something that I think everybody ought to support because all we are doing is codifying two Supreme Court decisions which are the law of the land and making it work so that the system becomes reformed and that these problems are resolved.

Mr. President, I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Utah. I understand the nature of the problem that he is trying to address.

I, like the Senator from Utah, have studied the Beck decision, though I do not pretend to be a scholar in regard to that particular decision. I do know that there is potentially a problem that needs to be addressed, at least perhaps some clarification that needs to be made, and in a spirit of compromise, those on this side of the aisle are prepared to offer an amendment which does, indeed, codify the Beck decision, not going further than the Beck decision but codifying what the actual Beck decision, Abood decision, and other decisions would require.

I have discussed the amendment which we intended to offer in the second degree with the distinguished manager of the bill on the other side. As we said in the very beginning, we want to give both sides of the aisle an opportunity through the procedure that we follow to have a clear vote on all proposals that are made—a fair procedure, culminating in a vote on final passage of whatever legislative product remains at the end of our deliberations.

The distinguished manager on the other side of the aisle indicated to me that he felt the spirit of this agreement could best be maintained by our offering our amendment not in the second degree but as a freestanding amendment to be offered following the vote on the amendment offered by the distinguished Senator from Utah.

At this point in the discussion, for the benefit of my colleagues who will come to the floor shortly to vote on the Hatch amendment, I will explain the nature of the alternative which I will offer following the vote, the up-or-down vote, on the Hatch amendment itself.

As the distinguished Senator from Utah has indicated, the Beck Supreme Court decision dealt with the limitation on fees that labor organizations may charge to objecting nonmembers who are subject to union security clauses and collective-bargaining agreements. Under the decision, nonmembers may request an accounting and a reduction in their fees, to the extent that such fees are used for political activities.

Mr. President, I want to read that particular sentence again because it goes to the heart of what the Beck decision, and the Abood decision, and others actually said. It said that nonmembers, those who reside in jurisdictions which have union collective-bargaining agreements where nonmembers may be required to participate in the payment of dues, according to the decision, may request an accounting and a reduction in their fees to the extent that such fees are used for political activities.

There is no mention here for requests that may be made by members. The decision was limited to nonmembers of labor unions who request an accounting for fees used for political activities.

The amendment of the Senator from Utah purports to codify this Supreme Court decision. But in fact, with respect, I must indicate that the amendment goes much further than protecting against such compelled political contributions. In the Abood decision the Supreme Court recognized that employees covered by union security agreements have a right to "prevent the union's spending a part of their required service fees to contribute to political candidates and to express political views unrelated to its duties as exclusive bargaining representatives.

This legitimate interest should be protected and I certainly agree that it is a legitimate interest. If a person is not a member of a union, chooses not to become a member of the union but because of the laws, jurisdiction, and the collective bargaining agreement in question is compelled to contribute dues to that organization, then they should be protected against having a portion of those dues used for a political purpose—given to a political candidate, for example, with whom that individual does not agree.

I will offer an amendment after the vote on the Hatch amendment which will protect this legitimate interest. But it will do so in a way that will not be unduly burdensome to labor unions, will not create bookkeeping nightmares and recordkeeping nightmares for unions to protect legitimate interests that we have just described.

The amendment which I will offer would prevent unions from spending an objecting employee's fees on political or ideological causes that are not germane to employee representation. However, unlike the Hatch amendment, the amendment which I offer does not require unwise and unwarranted governmental intrusion into the affairs of private organizations.

It has been recognized again and again that people have the right to associate in this country for whatever purpose they desire to associate, be it for economic, political reasons, ideological reasons related to some cause, and that the Government has no constitutional right to interfere with this freedom of association.

So the amendment which I will offer recognizes the interest of the objecting individual. It also recognizes the interests of the majority of the employees who have freely selected the union as their representatives. Whereas the Hatch amendment would likely generate endless and disruptive conflicts over whether its detailed and onerous requirements have been met.

The substitute amendment which I will offer, following disposition of this amendment, would allow labor organizations and private institutions the flexibility such institutions need to properly follow the law.

The legitimate rights of objecting members are protected as required by the Supreme Court decision, but without overly rigid and burdensome requirements proposed in the Hatch amendment.

We would be rightly criticized if we attempted to impose the kind of burdensome rules on small businesses that the Hatch amendment would impose upon labor organizations.

I would point out that the way the amendment is written it would impose these requirements not only on labor unions at the national-international level but would also impose very detailed and burdensome and somewhat complex requirements on even the smallest labor local.

I think this would be unwise just as it would be unwise when this Senator spoke many times on the floor about burdensome requirements being placed on small business organizations in this country that are simply not equipped to follow because of the high overhead costs required for small businesses, and the same would be true for small local labor organizations.

The amendment which I will offer accomplishes the same purpose as the Hatch amendment without the major burden of that amendment. For example, labor organizations would be permitted to apply a single fee reduction percentage to all businesses just as long as this percentage is derived from expenditures by the national-international union or comparable organizations.

The current experience is that in calculating this fee in the manner that I have just indicated a greater fee reduction for the objecting employee is the result, while also saving the union and its affiliate enough in building and administrative expenses to make up the difference.

So under this less burdensome approach everyone wins. The objecting employee who does not want his or her funds being used for a political purpose by the labor union gets a larger refund than the fee which that

employee is paid. And the local union, in particular the labor organization, is spared unnecessary and burdensome reporting requirements that are carried in the Hatch amendment all the way down to the local level.

I believe this is a reasonable compromise that satisfies the stated objectives of the Hatch amendment to codify the Beck decision. Labor organizations are now required to implement the Beck decision by Supreme Court order. The law is working as interpreted by the Supreme Court.

So I do not believe there is any urgency in legislating the Beck decision. But in the spirit of compromise we will nonetheless be offering an amendment to do just that; not to go beyond Beck, not to go beyond Abood and the other decisions of the U.S. Supreme Court but to codify the meaning of those decisions.

Let me just say, to summarize, the essential difference between the amendment which I will offer and the amendment offered by my friend and colleague from Utah is this: the Hatch amendment applies to all members of labor unions and an accounting of that would have to be given to every single one.

The Supreme Court decisions, on the other hand, apply only to objecting nonmembers of unions, those that choose not to join unions but who nonetheless under collective bargaining agreements must pay fees to those unions. To require this kind of accounting, boil it down to the local level to all members of the organization, would be unduly burdensome.

The information, of course, will become public information because when an accounting is made as to the percentage of union dues that are being paid for political purposes, expended for political purposes, and this accounting is made to individual members, it will, of course, in no way be hidden from view; it will be fully public and fully disclosed as to what the unions are doing.

I mentioned also that the Hatch amendment would require an accounting at the local level. Our amendment would not. It would allow for an allocation based upon percentages at the national and international level and, as I indicated, the history of this kind of proposal indicates it would result in a larger refund to the objecting nonunion member rather than a smaller refund, but without the burdensome paperwork requirements.

In addition, the Hatch amendment requires an accounting and refund of all expenses which are not directly attributable to collective bargaining.

Many other organizational activities, organizational building activities, which are in no way political but which contribute to the effectiveness of an organization, to increase the membership of an organization therefore increase its standing so that it may be more effective when it comes time to negotiate collective bargaining agreements.

On the other hand, the Supreme Court decisions and the amendment which I will offer do not relate to all noncollective bargaining, or direct collective-bargaining expenses. The Court has never gone that far. The Court has said simply nonunion members may require an accounting of political expenditures, and refund of those political expenditures that have been made in their behalf without their support.

I think that is a legitimate point of view. I do not quarrel with the Supreme Court decision. The labor unions are now living under the Supreme Court decision.

I think it is fully appropriate, if it is the desire on the other side of the aisle, that we codify that particular decision in this piece of legislation. I do not think we should go further.

We had a similar discussion on this very issue during the discussion of the Hatch Act on the floor of the Senate; 63 Members of the Senate have already voted in opposition to this particular amendment—very similiar in nature, virtually identical in nature—in the course of that debate. So I will not prolong the discussion since the Senate has already voted in this matter once before.

I will say, however, and I want my colleagues on both sides of the aisle to know that following the disposition of the Hatch amendment, I will offer an amendment in the spirit of compromise, in the spirit of bipartisanship, which does indeed codify the language and the actual thrust of the Beck decision by the the U.S. Supreme Court.

So I urge my colleagues to defeat this amendment. It goes much further than the Supreme Court decision. It would put undue burdens on those who want to freely associate on a voluntary basis in labor organizations. It flies in the face of the basic right of people to get together to form organizations and to associate with one another.

But at the same time, the amendment which I will offer following disposition of the Hatch amendment does achieve the objective of codifying and putting into law the right of nonunion members to have an accounting for and a refund of those funds, a portion of the fees which they paid, which are used for political activities. It does it in a way that spares the organizations a lot of redtape, which is unnecessary and costly, and it will do it in a way which will result actually in a larger refund to the individual member, or rather the individual who is not a member of a union, who objects to a portion of their collective bargaining fee being used for political purposes.

I think the issue is clear, Mr. President. I do not intend to prolong debate on this matter. I am happy to stand aside and to allow the distinguished Senator from Utah to have an up-or-down vote on his amendment, in the spirit of discussions under which we have been operating. I will then seek recognition to offer an amendment in the nature of a compromise following the disposition of the Hatch amendment.

Mr. McCONNELL addressed the Chair.

The PRESIDENT pro tempore. Senator McCONNELL.

Mr. McCONNELL. The Senator from Oklahoma makes some interesting arguments about the amendment that he will offer after the amendment of the Senator from Utah. What he is saying in effect is because the Beck case was an agency shop case—that was the fact of that particular case—that Mr. Beck did not belong to a union, but was in an agency shop. Therefore, the Senator from Oklahoma appears to be arguing that we should confine the reach of this amendment simply to the facts of the Beck case.

It seems to the Senator from Kentucky that that sort of misses the point. The point here is providing for members of unions, as well, the opportunity to have a refund or an accounting—both—should they object to the activities of the union to which they have not been a party.

And it is the purpose of the amendment of the Senator from Utah to give both union members and nonunion members the opportunity for an accounting, and if they so desire, a refund of that portion of their dues which is being spent on political activity. It seems to me that is fundamental fairness in the workplace, an opportunity for employees not to have their money, their dues money, spent for causes with which they might not agree.

That is, of course, the point of the amendment of the Senator from Utah. Mr. President, I rise in support of that amendment. It tracks legislation I introduced last year, S. 1645, the Workers' Political Rights Act, as well as my own amendment to S. 135, the Hatch Act. Those discussions were held earlier this year.

This is a vital component of meaningful campaign finance reform. Some years ago, Mr. President, Thomas Jefferson said:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical.

The first amendment right not to support a candidate or cause reflected in Jefferson's words, as well as in my friend's amendment, served as the foundation of the Supreme Court deci-

sion in Communications Workers of America versus Beck. That case held that labor union members cannot be required to pay dues for political purposes and are entitled to a refund for the portion of their dues that is used for political activity.

The National Right to Work Committee estimates that unions collect $5 million annually in compulsory union dues, a significant portion of which goes to support Democratic candidates, both openly and under the table, in the form of soft or sewer money. Some have estimated it to be as much as $500 million per election cycle.

Harry Beck, a telephone technician, represented through an agency shop arrangement by the Communications Workers of America, objected to the use of his dues for noncollective bargaining purposes; in other words, for political purposes.

The Supreme Court, in an opinion authored by former Justice William Brennan, agreed that the union could not use his dues to support candidates that Beck opposed, or may never have even heard of. Under the Supreme Court ruling, unions are required to inform their members of their right not to support union-backed political causes. But, unfortunately, the fox has, in effect, been left in control of the henhouse.

Lack of a statutory remedy has allowed unions to flout the Supreme Court's ruling with impotence. Without definite standards for compliance, unions will continue to have every incentive to cook their figures, in order to minimize liability to their members and to further conceal their political efforts from the public eye.

Mr. President, many unions oppose the codification of the Beck decision. But I must respectfully suggest that they are simply wrong in doing that. The Congressional Quarterly quotes Letter Carriers Union "Pac-Man" George Gould saying bluntly, "We don't like what the Court said" in Beck.

Without great surprise, I also note the other side's continuing opposition to this proposal. After all, organized labor is opposed to it. I would note that soft money was a factor in at least four of the five 1986 Senate races in which Members of this side were defeated.

Labor unions, less than 20 percent of the work force, have exerted an enormous amount of control over the agenda in this body. The list of union-inspired legislation seems to be endless. Anything that cannot be gotten at the negotiating table is sort of fair game around here, whether it is mandated health benefits or other proposals.

Some union executives have been quite boastful in claiming that they had an awful lot of control over the agenda around the Congress. In a 1987 Time magazine article, AFL-CIO executive Howard Samuels boasted: "We control the committees and the agenda on the floor."

Gould and the Letter Carriers, the single largest public employee union PAC, succeeded in blocking Beck-type relief to Federal employees during the Senate's 8-day consideration of the Hatch Act reform bill.

We spent 8 days on the Hatch Act reform bill. I offered, as I indicated earlier, an amendment to this bill to address this basic inequity suffered by Federal employees.

Although Federal employee unions cannot collect compulsory union dues, Federal employees are faced with the Hobson's choice of forfeiting their vote on collective bargaining matters vital to terms of employment issues, if they wish to avoid financially supporting candidates and causes they oppose.

The amendment I offered would have provided Federal workers the opportunity to refuse to pay dues for political purposes without losing their right to vote on collective bargaining matters. Unfortunately, in the midst of what was termed workers' rights legislation, my workers' rights amendment was defeated.

We have an opportunity to revisit that issue, and this is directly relevant to campaign finance reform. Senator HATCH's amendment would nail down the Beck principle in union shop or agency shop situations in which the coercive nature of the infringement on workers' first amendment rights is most clearly present.

Mr. President, I am confident that relief, either by judicial decision or legislative action, should be brought to public union members who suffer the same infringement on their first amendment rights. The right of free speech protected by the first amendment ensures not only the right to say whatever one wishes but also the right to refuse to speak if one disagrees with the content of the required message.

So we have a very important principle before us here, and the principle, quite simply stated, is whether or not we are going to give the workers of America, whether they belong to a union or do not, an opportunity for an accounting and, if they so desire, a refund of that portion of the dues that they may have paid for political purposes. It is elementary good sense, it seems to me, and I hope that the Senate will support the Hatch amendment.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SIMPSON. Mr. President, I rise in support of this amendment which would codify the Beck decision.

Our Founding Fathers held that there were certain truths that were self-evident. Here is another one: No person in this country should be required to support a political cause which they oppose. An employee should not be required to contribute to the company political action committee in order to keep his or her job. Nor should an employer be able to deduct a portion of that employee's salary to support political candidates only of the employer's own choosing. By the same token, a union member should not be forced to subsidize the political activities of his own union, if he or she objects to those activities.

The Supreme Court decided Beck versus Communications Workers of America in 1988. Harry Beck did not appreciate the fact that a certain percentage of his compulsory union dues were being used to pay for the union's political operations. He brought suit and the Supreme Court agreed that he had a right to a refund from the union of that portion of his dues that were being used for political purposes. Harry Beck and a very few other American workers have had some of their compulsory dues returned back from the unions in cases such as these. However, to a great extent, union leadership in this country has actively thwarted conscientious efforts of union members like Herry Beck by making it difficult or impossible for members to be able to identify precisely where the money is going and how much is being spent. They typically refuse to inform the rank and file member about their political rights. A worker who wants to go through what Harry Beck did, must take the union to court and engage in expensive litigation in order to obtain a refund. The problem lies in the fact that compulsory union dues are frequently spent on unreported and undisclosed in-kind contributions to political candidates. They call this "soft money." I prefer the term "sewer money"—and our Republican substitute would also eliminate this source of campaign funding.

Since these compulsory union dues are often spent on undisclosed activities, it is very difficult for a rank and file union member to track down exactly how his dues have been spent. Therefore, despite the Supreme Court's clear mandate in Beck, workers still are being deprived of political rights.

The amendment is simple. If a union wants to dip into its own treasury for political purposes, it should be re-

quired to inform its members of their constitutional right not to have to pay for such political activities. Workers will have the right to know just how much of their dues are being spent for political activities. They would have a right to a partial refund of those dues if they objected to the union's political use of their money. Since workers presently cannot be compelled to fund the political action committees of their employers, they should not be forced to fund the political activities of their union either.

The codification of Beck and the inclusion of language which would provide a union member a practical, enforceable remedy pursuant to Beck, will help to avoid the current abuse of the political rights of the American worker.

I urge the passage of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I have been having discussions with the distinguished manager of the bill on the other side of the aisle. There are several Members who are involved in meetings with the President at the White House until 11:15, and it would appear that, to accommodate the work of the Senate, it would be appropriate for us to temporarily set aside the pending amendment and go on to other matters with an agreement that there will be no further amendments in order to the pending amendment and that a rollcall vote on the pending amendment occur at the hour of 11:15.

I first ask for the yeas and nays on the pending amendment.

The PRESIDENT pro tempore. Is the demand sustained? The demand is not sustained.

Mr. BOREN. Mr. President, I ask unanimous consent that there be a rollcall vote on the pending amendment to commence at 11:15.

The PRESIDENT pro tempore. The Chair will not put that request, the objection being that rollcall votes should not be ordered by unanimous consent.

Mr. BOREN. Mr. President, I ask unanimous consent that the vote on the McConnell amendment occur at 11:15.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOREN. And I also ask unanimous consent that no further intervening amendments to the McConnell amendment be in order.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Mr. McCONNELL. Will the Senator yield?

Mr. BOREN. I am happy to yield.

The PRESIDENT pro tempore. Please address other Senators through the Chair.

Mr. McCONNELL. Mr. President, the amendment that will be voted on at 11:15 is in fact the Hatch amendment. I also want to mention that Senator HATCH would like to speak in opposition to the Boren amendment, assuming we move on to that next, prior to setting the vote for the second amendment the Senator from Oklahoma will offer.

Mr. BOREN. Mr. President, I ask unanimous consent to correct my earlier request. I referred to the McConnell amendment. I did mean the Hatch amendment. I ask unanimous consent that the vote on the Hatch amendment occur commencing at 11:15 and no further amendments to the Hatch amendment be in order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent that the Hatch amendment be temporarily set aside that I might send an amendment to the desk for consideration.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The Hatch amendment is set aside. The Senator from Oklahoma will send his amendment to the desk.

AMENDMENT NO. 2439 TO AMENDMENT NO. 2432

(Purpose: Relating to payments to labor organizations in lieu of dues)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 2439 to amendment No. 2432.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 7, strike "subparagraphs (B) and (C)" and insert "subparagraph (C)".

At the end of the amendment, insert the following:

SEC. . PAYMENTS TO LABOR ORGANIZATIONS IN LIEU OF DUES.

"(a) IN GENERAL.—Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c)(1) A labor organization that receives payments, directly or indirectly (through any of its subsidiaries, branches, divisions, departments, or local units), pursuant to an agreement that requires covered employees who are members of the organization to make payments of dues to the organization and employees who are not members of the organization to make payments in lieu of dues to the organization shall establish the objection procedures described in paragraph (2).

"(2) The procedures under this paragraph are as follows:

"(A) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units, shall provide an employee who is not a member of the organization with—

"(i) an opportunity at least once in each yearly period to file an objection to making payments to fund the organization's expenses for political activities; and

"(ii) reasonable notice of the nature and extent of the organization's political activities and of the time, place, and manner for filing such an objection.

"(B) If an employee objects under the procedures described in subparagraph (A), any payment during the objection period by the employee to the labor organization in lieu of dues shall be reduced by an amount which bears the same ratio to such payment as the organization's expenses for political activities bears to the organization's total expenses.

"(C) The determination of the ratio under subparagraph (B) shall be based on a reasonable allocation of the labor organization's expenses using such allocation methods as are recognized by independent certified public accountants as generally acceptable with respect to nonprofit organizations, taking into consideration the special problems and functions of a labor organization.

"(D) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units—

"(i) shall provide an employee who objects under the procedures described in subparagraph (A) with an adequate explanation of the organization's method of calculating the portion of the amounts payable by the employee during the objection period which are allocable to expenses for political activities (including an opinion of an independent certified public accountant on the organization's allocation of expenses);

"(ii) shall arrange for prompt arbitration before an impartial arbitrator of any challenges by such objecting employee to the organization's calculation described in clause (i); and

"(iii) shall, pending the arbitrator's decision under clause (ii), hold in escrow any amount, which is reasonably in dispute, paid by an employee who makes such a challenge.

"(3) an employee claiming to be aggrieved by a violation of this subsection may bring a civil action against the labor organization in any district court of the United States having jurisdicion over the parties. If the court finds that the labor organization has violated this subsection, the court may order the labor organization to refund the excess payments collected from the employee, and may grant such equitable relief as the court deems appropriate.

"(4)(A) The requirements of this subsection are in lieu of any requirement limiting the financial obligations of objecting employees under any other provisions of Federal law (including the National Labor Relations Act, as amended, and the Railway Act, as amended).

"(B) Nothing contained in this section shall limit the rights and remedies of employees of any State or political subdivision thereof under the laws of the State or political subdivision thereof.

"(5) As used in this subsection—

"(A) the term 'political activities' include any activities by a labor organization in connection with any Federal, State, or local election for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the organization represents; and

"(B) the term 'labor organization' has the meaning given such term by subsection (b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after December 31, 1990.

The PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BOREN. Mr. President, the amendment that I have just sent to the desk is an amendment which I have already described. It is one which I believe achieves the objectives of the amendment set out by the Senator from Utah without overreaching what the Supreme Court has already done and without putting burdensome requirements on labor unions in order to comply.

We have heard about the influence of labor organizations, and there are many organizations in this country that exert influence.

This Senator has always followed an independent course in these matters, as I think is recognized on both sides of the aisle, and this Senator is trying to be objective in this particular instance as to the appropriate way to address the issue raised by the Senator from Utah.

I think we have to balance here the rights of nonmembers, those who are required to pay collective-bargaining fees because they are reaping economic benefit from the representation of labor unions in collective-bargaining negotiatiions, the rights of those individuals to make certain the dues of those nonmembers do not go for a political purpose to which they do not subscribe, while, at the same time, we must also take care not to violate a basically constitutionally protected right of people to freedom of association, of individuals coming together to freely associate in institutions and organizations of their own forming for purposes that they have decided are beneficial.

The Supreme Court recognized as much in the case of Machinists versus Street, where the Court held that any judicial prohibition on the part of the union to collect and expand funds from voluntary members "would work a restraint on the expression of political ideas which might be offensive to the first amendment." The Court continued by emphasizing that the majority also "has an interest in stating its views without being silenced by the dissenters." In expressing its views, the majority of employees who support the union and want to join must be allowed freely to associate in that organization as members.

This freedom of association has always been understood to mean that members, through proper democratic processes, may first adopt goals and programs, including political goals and programs, and then establish membership rules so that all who wish to join must meet their financial obligations to further these goals and programs.

So I think we have to understand that there is a right on behalf of organizations to be formed and to require that those who subscribe to voluntary membership in those organizations may be required to follow the wishes of the majority of the members, including the wishes of that organizations in terms of political activity.

At the same time the court have clearly recognized that those who do not wish to join on a voluntary basis and those who do because of collective-bargaining agreements make a financial contribution to the union to pay for the benefit which they receive from the collective-bargaining process may not be compelled to have portions of the fees which they pay go to support political causes and candidates whose views they do not support.

So we strike a balance here. To apply the requirements, as the Hatch amendment does, to all union members, including voluntary union members, would strike at the right of freedom of association, the right of people to voluntarily become members of organizations and to have the majority of voluntary members determine a course of conduct for the organization, including a political course of conduct, including decisions about which candidates and which causes to support.

On the other hand, our amendment clearly recognizes the rights of those who choose not to become members but who still make a financial contribution to assure that their contribution will not go for a political purpose to which they do not subscribe.

So, as I said a moment ago, I think we strike this balance appropriately between the right of free association, the right to free association, the right to freely form organizations, and the protection of individual rights to make sure that their own funds are not misused. We do it in a way which will actually, I believe, benefit that individual who decides not to join a union but who contributes to that union for collective bargaining purposes by allowing a national or international union to develop a refund fee schedule based upon average weights of expenditure which has historically increased the dollar amount of refund to that individual, that objecting nonmember, who makes a collective bargaining contribution financially.

At the same time, it does not overburden the union, particularly local units of the union, with impossible amounts of burdensome bureaucratic paperwork with high overhead costs. This kind of burden will not serve the purpose of getting refunds back to the objecting individuals. It will only serve the purpose of increasing the cost and the burden to local organizations that have a right to exist under our constitutionally recognized right of free association, the right of all Americans to form organizations and associations.

I would be just as opposed to this particular provision if it were going to be applied against other organizations, if it were to be applied against probusiness organizations or associations, as I feel it would be inappropriate to apply it in this case to labor unions. We all recognize that for us to have true campaign finance reform we must have a proposal that is neutral as between various competing economic interest groups in this country.

As I said yesterday, we do not seek a bill that benefits Democrats over Republicans. We also do not seek a bill that benefits one economic interest over another. It is certainly no secret that there are those in the labor movement, for example, who would object to our proposal on this side of the aisle to totally eliminate political action committees from the American political process, from the financing of campaigns. And yet, because that was stated as a very important goal on the other side of the aisle, we have included that provision in our draft legislation.

Likewise, Mr. President, because we understand that it is important to those on the other side of the aisle that we codify the Beck decision in the spirit of compromise and comity, I therefore offer this amendment which will in fact codify the Beck decision. It does not go beyond it. It does not put burdensome and crippling regulations on labor unions or other organizations. It does not interfere with a right of majority of voluntary organizations to get together and decide on a majority basis the program which they will follow or the causes which they wish to support. But it does protect that objecting nonmember of a labor union who does make a payment to a labor organization for collective bargaining representation. And it does protect the right of that individual to have an accounting of the fee which he pays or she pays which goes to support political causes or candidates. It provides a mechanism by which historically that individual has been able to recover the largest amount of repayment and refund of those particular expenses.

Mr. President, I think it does strike this balance fairly. I think it protects against the abuse of nonmembers, particularly objecting nonmembers, to labor union expenditures without upsetting the basic American principle of the right to freedom of association.

So, at the appropriate time after the final disposition of the Hatch amendment on which we will be having a vote at 11:15, we will be expressing our feelings about the pending Boren amendment, which is offered on behalf of myself and with the support of others on this side of the aisle, and I hope with bipartisan support, as has

historically been the case when we discussed and considered this very same matter during the discussion of the Hatch Act legislation earlier this year when 63 Members of the Senate voted to reject the same language that has now been, in essence, offered again by the distinguished Senator from Utah.

So I would again urge my colleagues to reject the Hatch amendment—it goes too far—and to accept the compromise amendment which I am now offering which provides the protections necessary to objecting nonmembers of labor unions, and which does indeed codify the Supreme Court decisions, accurately codify the Supreme Court decisions, in this particular area.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent that we temporarily suspend consideration of the pending amendment in order to allow the Senator from New Mexico [Mr. BINGAMAN] to speak as if in morning business, for not to exceed 10 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The Senator from New Mexico [Mr. BINGAMAN] will be recognized for 10 minutes as in morning business.

THE QUALITY OF OUR CHILDREN'S EDUCATION

Mr. BINGAMAN. Thank you very much, Mr. President. I thank my colleague from Oklahoma for his courtesy in allowing me to intervene in the debate to address a subject that I think is very important to us as representatives of the people of this country. It relates to a subject which is of great concern in my State and I believe throughout the country, and that is the quality of our children's education and, as part of that, the proper mechanism to ensure improvement in the quality of that education.

First, I would like to give a little background if I could, Mr. President, as to what has occurred in the last year or so on this subject. I think all of us are aware that the governors and the President got together in Charlottesville last September and had a summit where they discussed ways to improve education and the setting of national goals that we could work toward to improve education. I certainly complimented them on that move and I believe most of my colleagues did. Clearly, it was a step in the right direction and much of what was said there was good news.

Let me just cite a particular part of what was said there that I thought was particularly important. One of the issues that they tried to deal with at the summit in Charlottesville was a question of how to establish a mechanism to ensure accountability as we move toward these goals.

This is a quotation from their joint statement, the President and the governors joint statement. They said:

> When goals are set and strategies for achieving them are accepted, we must establish clear measures of performance and then issue annual report cards on the progress of students, schools, the States and the Federal Government.

This idea of annual report cards to give the American people a clear indication of how we, as a nation, are doing in reaching these education goals, I felt, was an excellent idea.

As a follow up to that, Mr. President, I worked to organize some hearings. We had hearings in the Governmental Affairs Committee, in the subcommittee that I chair there on Government information and regulation, on how we would establish a mechanism to accomplish this annual report card. Those hearings were very useful. We had experts from around the country, who had devoted their careers to trying to understand how we can effectively assess educational performance, testify at those hearings.

The result of those hearings was a bill which I introduced, along with several of my colleagues here in the Senate; the majority leader, Mr. MITCHELL; Senator KENNEDY, chairman of the Labor and Human Resources Committee; Mr. HARKIN and Mr. KERREY have become a cosponsor of that legislation. The bill is S. 2034 and it is entitled the National Educational Report Card Act of 1990.

A main part of the bill, Mr. President, and a clear concern that I had based on the testimony we heard, was how do you ensure the independence of this commission? It does not do any good to set up a commission to issue a report card if people are going to question the motives or the intent of the members of that commission and wonder whether the report card is, in fact, indicating the true facts.

To deal with that, we provided that the council would be made up of nine voting members and three ex officio members. The ex officio members were the Secretary of Education, the chairperson of the National Governors Association and the chairman of the National Assessment Governing Board which issues the National Assessment of Educational Progress each year. But the voting members were to be appointed by the President in consultation and with the agreement of the National Governors Association from among distinguished individuals of diverse political views who were widely recognized for their experience in, knowledge of, and commitment to education and educational excellence.

We believed—and I believed very strongly in drafting the bill after these hearings—that that was the way to ensure the independence of this group. The idea of establishing an independent group was the main focus we had. We did not concern ourselves with whether the Congress, or the Governors, or the President were particularly involved. As we set it up, the Governors and the President were to make the nominations, they were to be confirmed by the Senate, and this panel would be a distinguished group of Americans who could take on this very important activity.

This last week, Mr. President, I became concerned because a proposal began to circulate from the White House. The President's domestic policy adviser began to circulate a proposal for how they, the White House, believed that this monitoring mechanism should be established. At this point, Mr. President, I ask unanimous consent that a copy of a letter dated June 27, from our majority leader, Senator MITCHELL, and from the Speaker of the House, TOM FOLEY to the chairman and vice chairman of the Governors Association, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 27, 1990.

Hon. TERRY E. BRANSTAD,
Chairman,
Hon. BOOTH GARDNER,
Vice Chairman, The National Governors' Association, Washington, DC.

DEAR GOVERNORS BRANSTAD AND GARDNER: We were pleased to learn that the National Governors' Association and the White House are considering adopting a proposal for an education goals assessment panel. But we have two concerns we would like the Governors to consider before reaching a final decision this weekend.

First, we strongly urge that the structure of any proposed panel not be made up solely of elected officials. Clearly, as office holders, we should be held accountable for meeting or not meeting the education goals identified. But in the course of consideration of two measures that are moving through Congress, S. 2034, The National Report Card Act of 1990, and H.R. 5115, The Equity and Excellence in Education Act of 1990, we have become convinced that a panel including objective, distinguished citizens of diverse political views who are widely recognized for their knowledge of or commitment to education, would best insure that accountability. Both measures authorize panels to be established that will oversee the implementation of the national education goals.

Second, we request that you adopt a resolution instructing a delegation from your Association, with representatives of the White House, to work with the bipartisan

leadership of the Congress in order to settle on the final details of a national education goals assessment panel to be enacted into law.

Because Congress has authority over existing education programs and resources that will assist our nation's education institution to meet the national education goals, there is a legitimate and necessary role for the Congress to play in monitoring the implementation of the goals. Moreover, we believe that as a result of its work on S. 2034 and H.R. 5115, Congress can make a significant contribution to the establishment of a better panel. If an education goals assessment panel is to play a successful, meaningful role in the development of national education policy, it makes no sense to exclude from discussions about the creation of such a panel, the Congress of the United States, which establishes the majority of education policy for the federal government.

We look forward to participating actively in the implementation of the national education goals you have identified. And once again, we salute you for the great work you have done so far in moving the nation down this road.

Sincerely,

THOMAS S. FOLEY.
GEORGE J. MITCHELL.

Mr. BINGAMAN. Mr. President, this letter was a statement by the majority leader of the Senate and the Speaker of the House, indicating their concern about the proposal the White House had made. The concern was prompted by the fact that the proposal the White House had presented, and was about to present to the Governors at their meeting in Mobile, AL, was not intended to ensure accountability and was not intended to ensure independence of this monitoring group but instead was intended to provide cover for those who otherwise should be held accountable.

The panel was to be made up of six Governors, four representatives of the administration, and four ex officio Members of Congress without voting authority. These were all clearly to be political officeholders, and the final provision that I understand has been agreed to in Mobile by the Governors and the administration just in the last few days, is that the council cannot act, or the panel cannot act, unless 8 of the 10 voting members actually have agreement on what is said.

If panel members want to criticize the administration, clearly there are four representatives on the panel who can object. If council members on the panel want to criticize the Governors there are six members there who can object. If they want to criticize Congress, there are four ex officio members who, presumably, can raise objection.

Clearly, when we look at it, the conclusion of this panel is inescapable. The conclusion is if we have problems in education in the future it is not going to be the fault of the administration. It is not going to be the fault of the Governors. It is not going to be the fault of Congress as such. It is going to be the fault of the usual suspects. The usual suspects are the students, and parents, and the teachers, and the others who are working in the educational system, trying to do this very important and very difficult job.

The other question I have about the panel as proposed and agreed to by the Governors and the administration is how is it to be staffed?

There is no provision for staff. There is no provision for any kind of independent advice. Clearly the staff will come from the Department of Education. This is clearly not the kind of independent organization, Mr. President, that we had in mind and the American people deserve to have.

There is a window of opportunity here, following on what happened in Charlottesville last September; an opportunity for us to cooperate at the Federal level with the States, with local education entities to improve education. There is an opportunity for us to give the American people a meaningful assessment of how we are doing in working toward national goals as we go through this decade of the 1990's. But the problem is not going to be solved by setting up a panel of politicians. It is not going to be solved by setting up a group where any small group of 3 within a panel of 10 have authority to veto what can be said.

Clearly, it is time in my view for politicians to step aside—to continue to set policy, to continue to work at solving the problems, but to give the monitoring responsibility, responsibility for ensuring accountability, to people whose motives cannot be questioned.

Let me conclude by citing something from the compact that the President and the Governors entered into in Charlottesville last September.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed 2 additional minutes.

The PRESIDENT pro tempore. Without objection, the Senator will be recognized for 2 additional minutes. The Chair hears no objection and the Senator is recognized.

Mr. BINGAMAN. Mr. President, at the Charlottesville conference last year the President and the Governors when they issued their final statement said:

> Over the last few days we have humbly walked in the footsteps of Thomas Jefferson. We have started down a promising path. We have entered into a compact, a Jeffersonian compact to enlighten our children and the children of generations to come. The time for rhetoric is past. The time for performance is now.

Those are stirring words, Mr. President. They are words that I applaud at that time, and I believe they were sincerely meant at that time. But what was done in Charlottesville in the name of a Jeffersonian compact is in danger of being undone in Mobile in the name of a pact of mutual protection.

Clearly what we need is a nonpartisan, nonpolitical monitoring mechanism to determine whether, in fact, we as a nation are moving toward our goals in education. The people, the Congress, need to stand for that. We need to go ahead and see that such a group is established. Clearly what the Governors and the White House have agreed to in Mobile does not get that job done.

Mr. President, I urge my colleagues to continue to work with me over the next several weeks and months during the remainder of this term of the Congress to try to see to it that we can establish the mechanism necessary to give people the accountability they deserve in our educational process.

I yield the floor.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, before we vote on my amendment at 11:15, I think what I should do is chat a little bit with my colleagues about the contrast between the Hatch amendment and the Boren amendment. I think it is important to have this contrast pointed out so that everybody knows what they are voting for. I appreciate the fact that the distinguished Senator from Oklahoma is giving me a vote up or down by my amendment.

No. 1, the Boren amendment would not cover moneys collected and spent by the local unions. The amendment is limited only to moneys at the national level.

In contrast to the portrayal by the Senators as reflecting Beck, this limits severally the Beck decision. What the Boren amendment would do, in truth, is provide a giant loophole in the law. Under the amendment, local unions could circumvent the law, and continue to do so, making direct contributions, and nobody has to report it.

No. 2, the Boren amendment only applies to nonmembers of the union.

I just have a question for anybody who supports this amendment: Why

should union members be forced to pay a portion of their dues for political activities with which they disagree when we are willing to have the nonunion members have that right? Why is it not equally as important for union members to have that right, especially under the circumstances where 30 percent of them are Republican, 40 percent are Democrat, and the other 30 percent do not belong to either, or do not identify with either?

Yet, 10 to 1, union donations, the sewer money donations and all union donations go 10 to 1, basically, to liberal Democrats.

What is the basis for giving a union member fewer rights than those that a nonmember would have? In fact, what we really are talking about is a true Hobson's choice: One either has to quit the union or be forced to contribute to political activity with which one finds to be totally disagreeable. Is that fair? That is what the Boren amendment would do.

No. 3, the Senator from Oklahoma stated that his amendment reflected Beck in that it only covers political activities.

I ask if that is his reading of Beck, does it only cover political activities? My reading reflects that this limitation is much more restrictive than Beck. In fact, Beck covers all nonrepresentational expenses. Beck limits this representational coverage to those expenses associated with collective bargaining, contract administration, and grievance adjustment.

In contrast, the Boren amendment would permit these moneys to be spent for activities such as union organizing and other bargaining unions. This is not a codification of Beck and everybody better know it. If my colleagues vote for the Boren amendment, they basically are voting against Beck. In sum, the Boren amendment overturns Beck.

Let me clarify another misunderstanding. My amendment has two basic objectives:

No. 1, it guarantees that any employee has the right to know how union dues are being spent on political activities, whether they are union members or not. Anybody. It is only right.

No. 2, my amendment is to provide any employees a realistic way to gain this particular knowledge.

The difference between the two amendments is, in Beck, union members must first resign from the union. In Kidwell, union members do not have to resign. The Beck decision is current law. It is the Supreme Court's pronouncement on this issue. The Kidwell decision is a district court ruling, but nonetheless a very important ruling.

The fundamental issue here is whether union members deserve fewer rights than nonunion members and whether we should put them in a position where they have to make a Hobson's choice of quitting the union in order to assert their rights.

I do not believe the Supreme Court will do that under any circumstances. I believe the Supreme Court will recognize the first amendment rights of these people and uphold those rights.

On the other hand, if you adopt the Boren amendment, you may be sending a message to the Supreme Court that we really do not care about the rights of the union members with regard to the disclosure of these funds and the use of these political moneys, but we do care about the rights of nonunion members. That is a nice thing to care about, the rights of nonunion members. But both sets of rights are, in my opinion, equally important.

The real issue here happens to be sewer moneys. Are they going to be disclosed? Are we really going to know how much money is being spent behind the scenes—sometimes some people think under the table, but I will say it more nicely than that, I will say behind the scenes—without reporting, without anybody knowing what is really going on? Or are we really going to play a straight up game where everybody knows how much moneys are being spent for or on behalf of any given candidate? I think that is pretty important.

I have to say, so that there is no confusion, my amendment would require the unions to inform all employees, No. 1, that they cannot be forced to finance through union dues or other mandatory payments to a labor organization or that organization's political activities.

No. 2, that those employees have a right not to join a labor organization and/or pay only an agency fee which represents only the cost of the labor organization's representational services. They cannot be forced to pay for noncollective bargaining costs such as political activities, in the Hatch amendment; even if an employee elects full union membership, those employees cannot be required to finance their union's political activities.

In addition, my amendment would require unions to provide employees with documentation concerning the union's expenditures so that employees can make an informed decision on whether or not to pay for political activities, and my amendment would provide for an impartial decisionmaker should an employee choose to challenge these expenditures.

So I think if you want to clean this up, if you want true campaign finance reform, you have to vote for the Hatch amendment. It is straightforward. It is clean-cut. It resolves the problems. It does not stop the unions from using the moneys for whatever they want. It just makes them disclose, makes them be fair, and it allows those who are paying union dues, whether they are members or not members, to have some idea of what the unions are doing with their moneys. If they really want, they can revoke the union's right to use their particular portion of the dues used for political purposes. It does so whether they are nonunion members or union members.

Where the Boren amendment would not cover the moneys collected and spent by the local unions, mine would. Mine covers it from beginning to end. The Boren amendment does not. The Boren amendment limits itself to moneys spent at the national level only.

I might add if that is so, and it is so, then the Beck decision is not being codified. It is not being sustained. It is not being adopted. It would be severely limited by the Boren amendment.

So what the Boren amendment does is provide a giant loophole in the law. Under his amendment the local unions could circumvent the law by making direct contributions for political purposes.

Again, it has to be pointed out that the Boren amendment only applies to nonunion members. Frankly, it does not apply to union members who will continue to be forced to pay a portion of their dues into political activities for which they have no desire to participate and with which they disagree. That is not America. That is wrong.

What is the basis for giving a nonunion members more than you give union members? Or, put another way, why should union members have fewer rights under this campaign finance reform than nonunion members? It is just not right.

You are making a true Hobson's choice for the union members. They have to quit the union in order to not have their own dues spent for political activities which they find totally disagreeable. That is not fair.

The Senator from Oklahoma says that this amendment really covers only political activities, and therefore it reflects Beck. But if that is the reading of Beck, I have to ask: Does it only cover political activities.

My reading reflects that this limitation is much more restrictive than Beck. In fact, Beck covers all nonrepresentational expenses. It limits representational coverage to those expenses which are associated with collective bargaining contract administration, and grievance adjustment. So the Boren amendment would permit those moneys to be spent for activities such as union organizing or the other bargaining units, and that is not a codification of Beck but an overrule of Beck.

I think that has to be pointed out. If you go with the Hatch amendment, and I hope everybody will, that guar-

antees all employees the right to know how union dues are being spent on political activities. Boren only guarantees it for nonunion employees. The Hatch amendment provides any employee a realistic way to gain the knowledge of what they are doing with his or her dues. And so the difference between the two amendments is that in Beck union members must first resign from the union. In Kidwell union members do not have to resign. So that is the difference.

The question is one of rights. If we want to be fair, we have to grant the rights equally.

Mr. President, I yield the floor.

VOTE ON AMENDMENT NO. 2438

The PRESIDENT pro tempore. The time of 11:15 having arrived, the vote occurs on amendment No. 2438 by Mr. HATCH to the Mitchell-Boren substitute, amendment No. 2432.

Mr. HATCH. Have the yeas and nays been ordered, Mr. President?

The PRESIDENT pro tempore. The yeas and nays have not been ordered.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained? The demand is not sustained.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I again ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained?

The demand is not sustained.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Utah [Mr. HATCH] to the substitute amendment by Mr. BOREN and Mr. MITCHELL.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained? The demand is sustained.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Utah.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 59, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—41

Armstrong	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Packwood
Burns	Heinz	Pressler
Chafee	Helms	Roth
Coats	Humphrey	Rudman
Cochran	Kassebaum	Simpson
Cohen	Kasten	Specter
Danforth	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Warner
Garn	McClure	Wilson
Gorton	McConnell	

NAYS—59

Adams	Exon	Lieberman
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Heflin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Burdick	Jeffords	Rockefeller
Byrd	Johnston	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
D'Amato	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Wirth
Dodd	Levin	

So, the amendment (No. 2438) was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2439, AS MODIFIED

Mr. BOREN. Mr. President, I modify the pending Boren-Mitchell amendment by striking lines 1 and 2 of the amendment.

The PRESIDING OFFICER. The Senator has a right to modify his own amendment.

It is so modified.

The amendment, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. . PAYMENTS TO LABOR ORGANIZATIONS IN LIEU OF DUES.

(a) IN GENERAL.—Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c)(1) A labor organization that receives payments, directly or indirectly (through any of its subsidiaries, branches, divisions, departments, or local units), pursuant to an agreement that requires covered employees who are members of the organization to make payments of dues to the organization and employees who are not members of the organization to make payments in lieu of dues to the organization shall establish the objection procedures described in paragraph (2).

"(2) The procedures under this paragraph are as follows:

"(A) the labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units, shall provide an employee who is not a member of the organization with—

"(i) an opportunity at least once in each yearly period to file an objection to making payments to fund the organization's expenses for political activities; and

"(ii) reasonable notice of the nature and extent of the organization's political activities and of the time, place, and manner for filing such an objection.

"(B) If an employee objects under the procedures described in subparagraph (A), any payment during the objection period by the employee to the labor organization in lieu of dues shall be reduced by an amount which bears the same ratio to such payments as the organization's expenses for political activities bears to the organization's total expenses.

"(C) The determination of the ratio under subparagraph (B) shall be based on a reasonable allocation of the labor organization's expenses using such allocation methods as are recognized by independent certified public accountants as generally acceptable with respect to nonprofit organizations, taking into consideration the special problems and functions of a labor organization.

"(D) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units—

"(i) shall provide an employee who objects under the procedures described in subparagraph (A) with an adequate explanation of the organization's method of calculating the portion of the amounts payable by the employee during the objection period which are allocable to expenses for political activities (including an opinion of an independent certified public accountant on the organization's allocation of expenses);

"(ii) shall arrange for prompt arbitration before an impartial arbitrator of any challenges by such objecting employee to the organization's calculation described in clause (i); and

"(iii) shall, pending the arbitrator's decision under clause (ii), hold in escrow any amount, which is reasonably in dispute, paid by an employee who makes such a challenge.

"(3) An employee claiming to be aggrieved by a violation of this subsection may bring a civil action against the labor organization in any district court of the United States having jurisdiction over the parties. If the court finds that the labor organization has violated this subsection, the court may order the labor organization to refund the excess payments collected from the employee, and may grant such equitable relief as the court deems appropriate.

"(4)(A) The requirements of this subsection are in lieu of any requirement limiting the financial obligations of objecting employees under any other provision of Federal law (including the National Labor Relations Act, as amended, and the Railway Labor Act, as amended).

"(B) Nothing contained in this section shall limit the rights and remedies of employees of any State or political subdivision thereof under the laws of the State or political subdivision thereof.

"(5) As used in this subsection—

"(A) the term 'political activities' include any activities by a labor organization in connection with any federal, State, or local election for public office, any partisan polit-

ical cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the organization represents; and

"(B) the term 'labor organization' has the meaning given such term by subsection (b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after December 31, 1990.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I appreciate the Senator from Oklahoma modifying his amendment. As it had been previously crafted it would have changed the language in the PAC ban provision we have advocated on this side for some time and was picked up on the other side last Friday. So it had additional overtones in addition to the Beck language.

Senator BOREN's decision to strike that language delays to later in the debate an important question to get-out-the-vote activities or soft-money activities by unions and corporations. But we will delay our discussion of that until amendments are offered on this side later to deal with that question.

With regard to the Boren amendment which is before us, there are some who feel that it is worse than the status quo. Essentially as I understand the Boren amendment for those on our side over here to vote, and we will vote shortly, it covers only a situation where you have an agency shop with a nonunion employee working in that agency shop. That individual is allowed to have an accounting of how his dues are being spent and a request for refund of that portion of his dues that are being spent in a way that he disapproves. For all the other union members, if the Senator from Kentucky is correct in his understanding of the Boren amendment, only those nonunion in agency shops will be covered from this amendment, leaving out union members in agency shops and union members in closed shops.

So you have a vast number of employees here, many of whom might like an accounting of how their political dues are being spent and might like the opportunity to get a refund for that portion of their dues which are being spent against their political will.

I hope that the Senate will reject the Boren amendment. I think it does not solve the problem and does not bring democracy to the workplace.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I ask unanimous consent to have printed in the RECORD historical background of the pending amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF BECK AMENDMENT

Section (c)(1)—Defines generally the obligation of a labor organization that is directly, or indirectly through an affiliate, a party to an agreement requiring the payment of dues or fees in lieu of dues to establish the procedures in Section 2.

In this section, and throughout, the amendment speaks of the obligation of labor organizations, which are made up of many entities operating under a union constitution, at the organization's highest level, most often this will be a national or international union with which locals and regional bodies are affiliated. The purpose in so doing is to place the basic obligation on the organization best able to bear it, namely the national organization. Local unions normally have limited resources, and their governance tends to be the responsibility of the rank and file and not of paid full-time officers. Thus, it promotes stability to have a national organization establish and operate its objection procedures on the most widespread basis.

Local labor organizations that are completely separate entities will have to establish their own procedures. And in some cases it makes more sense for the national organization to delegate its obligation in this regard to its affiliated locals. The amendment allows sufficient flexibility to meet these variations.

Section (c)(2)—This section outlines the type of procedure that the labor organization must adopt to meet its obligations to protected employees. In subsection A, the labor organization, either directly or through its affiliate, must allow nonmembers the opportunity to object once each year, and must inform nonmembers of how to exercise this right. This subsection clarifies that it is only those who choose not to join the labor organization that have the right to object. Under the labor laws, employees are not required to join a labor organization, and those who do so are properly presumed to accept all of the obligations of membership along with their rights. Any other understanding is contrary to the basic concept of freedom of association.

The organization must provide the nonmembers with a reasonable notice of the right to object. This would include a general explanation of the overall nature and extent of the political activities in which the organization engages, sufficient to allow an employee to determine whether he or she has a principled objection to supporting those activities. Since the nonmember who wishes to object may be required to make known his or her objection during a specified period each year, the organization must provide annual notice to the nonmembers of when and how to file such an objection. This notice can be communicated in the way the organization normally communicates with represented employees, for example through the organization's general publication.

Subsection B specifies that an objecting nonmember's fees will be reduced for the period of objection in the same proportion as the labor organization's political expenditures bear to its total expenditures. The amendment allows labor organizations to apply a single fee reduction percentage to all affiliates, just so long as this percentage is derived from expenditures by the national or international union and its affiliates, or from the national union alone. The current experience of labor unions is that calculating the fee in the latter manner results in a greater reduction for the objecting employee, but saves the union and its affiliates enough in accounting and administrative expenses to make up the cost of a greater fee reduction. Where employees in a bargaining unit select a union that represents many bargaining units, each employee in that bargaining unit gets the cost-sharing and other benefits that only a multi-bargaining-unit organization can provide. In determining an objecting employee's financial obligation, this provision assures that these benefits are taken into account.

Subection C requires that the allocation of expenditures used in calculating the fee reduction have a reasonable basis. The amendment is balanced in that the labor organization's method of allocating expenditures must be such that an independent certified public accountant would find reasonable, provided that what is reasonable will be determined with the special problems and functions of a labor organization in mind. In this regard, the amendment mirrors the reporting provisions of the Labor-Management Reporting and Disclosure Act. The Supreme Court has recognized that "[a]bsolute precision in the calculation of such proportion is not, of course to be expected or required; * * *" *Railway Clerks* v. *Allen*, 373 U.S. 113, 122 (1963). This provision gives that admonition substance. The accounting profession has developed well-established, sensible and workable estimating, sampling and cost-allocation techniques adapted for such non-profit organizations as unions. It is our intent that these practical and efficient techniques are to be the legal benchmark. In particular, it is our intent that nothing herein is to be construed to require such onerous steps as contemporaneous time-recording that are not warranted in the setting of a cooperative workers association.

Subsection D is concerned with giving the objecting employee an explanation of the fee reduction and the opportunity to challenge its calculation. The labor organization is required to give each objecting employee an explanation of the fee reduction, accompanied by an accountant's report stating that the underlying expense allocation is reasonable within the meaning of subsection C. The labor organization must also provide the objecting employee with the opportunity to challenge the calculation before a neutral arbitrator, and to have the amount of his or her fee reasonably in dispute held in escrow until the arbitrator has ruled. This subsection insures that no employee will face even a minimal risk of being compelled to subsidize political causes.

In all of these regards, the substitute amendment follows the requirements laid down in *Teachers Union* v. *Hudson*, 475 U.S. 292 (1986), as we understand those requirements, and to the extent that there are ambiguities in the opinion, in a manner that we have determined is both constitutional and practicable.

Section 3 gives the courts authority to hear and decide cases arising under this provision, and where necessary to provide balanced and equitable relief.

Section 4(A) provides that this amendment supersedes all other federal requirements with respect to the collection and use of objecting employees' fees or dues. Various rules have been developed under the Railway Labor Act, the National Labor Relations Act and § 1983 of the Civil Rights Act to meet essentially the same problem. By this amendment, we unify this area of the law and provide that the same rules apply in all circumstances insofar as the

federal law is concerned. Subsection (B) is careful not to interfere with state regulation governing public employees in the various states.

Section 5(A) defines "political activity" in the same terms used by the Supreme Court in its *Abood* decision. So that there is no mistake about it, I wish to emphasize that this definition is meant to be limited, and to cover only those expenditures the Court has indicated raise substantial constitutional problems in the public sector. Certain judicial decisions, most notably *Ellis* v. *Railway Clerks*, 466 U.S. 435 (1984), under the rubric of statutory construction, have gone quite far in limiting the expenditure of fees paid by objecting employees. Such decisions, for example, do not allow unions to charge for organizing expenditures and for certain types of litigation expenditures that are reasonably incurred by labor organizations. In our view, this approach is unsound and unwise, and one of our purposes is to disapprove this reasoning and such results. Not the least of the problems, is that the particularistic, *ad hoc* sort of line drawing undertaken in *Ellis* v. *Railway Clerks, supra*, spawns more questions than it settles, thereby generating wasteful litigation. Moreover, because these questions relate to the practical problems of maintaining an ongoing organization involved in a complex undertaking, this litigation does not turn on issues that the judiciary is well-suited to resolve.

Effectively representing employees requires more of a labor union than meeting periodically with the employer at the bargaining table or in grievance sessions. To undertake these activities at all, the union must first of all maintain itself as an organization. The union must hold membership and leadership meetings, train officers and staff, defend and bring lawsuits, and engage in the myriad of other similar activities that any large organization would normally undertake. If the union hopes for any success in bargaining with the employer, it must be a visible and acceptable presence in the community. The union cannot achieve the public support necessary to advancing the interests of represented employees, if it has not made the employees' views known to the community and if it has not contributed positively to the community. Nor can the union ignore the effect of public laws and regulations on the working conditions of the employees it represents. The expression of the employees' views by the organization that represents them would be of value not only to a legislature enacting laws that might affect their working conditions but to administrative agencies charged with executing such legislation. This common sense understanding of how a public institution must conduct itself would not surprise any sensible businessman, and there is no reason to deprive union members of the right to operate their organizations according to the same sensible rules.

We therefore specify that only political expenditures and ideological expenditures that are unrelated to advancing the employment interests of represented employees are not chargeable to objectors. Generally then, this provision leaves it to the labor organization's members and officers to determine whether an expenditure is reasonably made to advance the employment interests of those the union represents. While we intend to protect the individual from being compelled to contribute to political causes to which he objects, we are opposed to federal judges second-guessing union decisions on how best to carry out the union's affairs. So long as the union has a rational basis for its belief that the activity in question will forward the collective bargaining process and the union's role in that process or will provide benefits to the represented employees in their working lives, the expenditure is one all employees represented by the union should share and under this amendment could be obliged to share.

Subsection (B) merely provides that the definition of "labor organization" generally employed throughout the FECA applies here.

Mr. BOREN. Mr. President, let me just say again that I do believe that the pending amendment will codify the existing Supreme Court decisions. That strikes a reasonable balance between the rights of those objecting nonmembers of unions to have returned to them a portion of any collective-bargaining fee that is used for political purposes to influence campaigns or other political purposes, while at the same time not intervening with the rights of freedom of association of any group of people including unions to get together and on a majority basis among voluntary members of that organization to decide on a course of activity, whether that is a political course of activity or otherwise.

Let me also say that this amendment is really much more narrowly and carefully drawn, I believe, than the amendment which was just defeated a moment ago. For example, there are certain kinds of activities that would be allowed under it that are not really political activities but are, certainly, activities aimed at enhancing the ability of unions to represent members and nonmembers alike in collective-bargaining situations.

Unions may want to lobby for improvements in pension laws to protect the pension security of employees that they represent. Unions may want to bring lawsuits to enforce provisions of collective-bargaining agreements or to defend positions secured through collective-bargaining. They may want to publish newsletters to discuss upcoming negotiations and to let members know their choices. They may want to call a convention to share information with employees about upcoming negotiations. Or they may win an arbitration decision in one local that has an effect in scores of other locals.

The amendment we had a moment ago, in terms of the way it defined very narrowly collective-bargaining activities, would have excluded these kinds of actions which are clearly not political in the normal sense—the sense of supporting specific causes or specific candidates—but are activities that are really related to enhancing the economic ability and the political ability, indeed, to credibly represent union members.

So I think we have struck the right balance here. We are aiming to take care of any abuse of objecting nonmembers who are paying fees for collective-bargaining representation, to make sure these fees are not misused to support political candidates not supported by the particular objecting nonmember. At the same time we do not unduly interfere with the right of the members, voluntary members of a voluntary organization, to get together and decide on a course of action. That is a constitutionally protected right, widely recognized by the courts. What we are doing here is trying to strike the right balance.

I feel this is an amendment that should be adopted. Let me say it is offered in the hope it will demonstrate our willingness—on this side of the aisle—to address problems that are raised on the other side of the aisle. The Beck decision, the Abood decision, and others are obviously already part of the law. But since there was a desire on the part of those on the other side of the aisle to codify in legislative language on this pending matter the findings of the courts in these decisions, while it is not necessary in terms of requiring unions to undertake to abide by them, we simply wanted to show our good faith by offering to codify these particular decisions in the current legislation.

I believe this amendment offered by myself and Senator MITCHELL is crafted to do that. I urge its adoption.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate as in morning business for a period no longer than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized for 5 minutes

CLASSIFIED POW/MIA INFORMATION

Mr. GRASSLEY. Mr. President, I want to take the opportunity this morning, and take a moment of my colleague's time to address what I consider a very important but also a curious matter. Like most of my colleagues, I have tried to respond to inquires from my constituents about the POW/MIA issue. Many of them are concerned that we have not done all that we can do to resolve this issue. I have committed myself, as many of my colleagues have, to verifying the assertion that the Government has in fact done everything that it can.

Last summer, for instance, the Secretary of Defense issued what is called the POW/MIA Fact Book. In this book the Secretary states that the U.S. Government is doing all it can to resolve the POW/MIA issue. Since the end of the Vietnam war the Government has acquired over 10,000 reports on sightings of POW's. Of these 10,000 there have been some 1,200 firsthand live sightings.

Some of these are cases as yet unverified, some are suspected to be fabrications, and some allegedly pertain to individuals since accounted for.

On March 23 of this year—and that is fully 4 months ago—I sent a letter to the Secretary of Defense, requesting from him access to these documents. I asked for the documents in installments and to do that over a period of time, thus trying to mitigate the workload and effort associated with my request—a heavy workload that it would be for the Department of Defense. This, as you can tell, is a pretty straightforward and simple request; simply for information that the U.S. Government claims to be very proud of, with respect to the thoroughness of its investigation, analysis, and evaluation of the POW/MIA issue.

On April 16 I did receive a response to my request. It came from assistant Secretary of Defense for International Security Affairs, Henry S. Rowen.

Mr. Rowen's response, Mr. President, was to deny CHUCK GRASSLEY, a Member of the U.S. Senate, access to that information. He did this solely on the basis that the information is classified.

Since when, Mr. President, is that—the fact that the information is classified—a condition for withholding information from a U.S. Senator?

In response to Mr. Rowen's letter I wrote a second letter to Secretary Cheney, dated May 24, indicating—with irritation, I might add—my dissatisfaction with this unacceptable, bureaucratic response. I have yet to receive a reply and it is now over 2 months later.

Now, Mr. President, I am uncertain exactly what this means. Am I getting some sort of a signal from the bureaucracy that a U.S. Senator poking around the POW issue will not be tolerated? Or is this just some kind of bureaucratic bungle that simply fell through the cracks?

Hopefully, Mr. President, the absence of a response reflects the latter. But let me warn those in the Department who handle this issue, there are people around this country, many people, who are incensed about our Government's handling of the POW issue and of legitimate requests for information and accountability. From what I have seen, based on my own recent involvement, I sympathize with these Americans' concerns.

Let me add, Mr. President, that this issue is not going to go away. It is not going to be swept under the rug. An analysis of those firsthand sightings of POW's, some 1,200 of them, have been cited by the Secretary of Defense as the basis for our Government's assertion that it knows of no American POW's in Southeast Asia. If this is true I intend to review those documents and verify to my own satisfaction the validity of the statement.

One way or another, I will review those documents. If the Defense Department wants to withhold those documents from a U.S. Senator on the mere basis that they are classified, then the Department risks adding to the growing public perception that certain elements of the Defense Department are covering up something with respect to this issue.

Many of us are inclined to believe that DOD has done all it can. If this is the case, then what can possibly be the holdup of providing access to the information? It certainly has nothing to do with the fact that the information is classified.

I am looking into this matter, Mr. President, in the same manner and with the same concern that each of my colleagues in this body has done or would do for his or her constituents.

Mr. President, I ask unanimous consent to print in the RECORD the correspondence I referred to.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 23, 1990.

Hon. RICHARD CHENEY,
Secretary, Department of Defense,
The Pentagon, Washington, DC.

DEAR DICK: In July, 1989, your office issued a POW-MIA Fact Book in support of the U.S. Government's efforts to resolve the POW/MIA matter.

Page 23 of this Fact Book references 10,173 reports acquired by the U.S. Government related to this issue. Of these reports, 1,210 are firsthand live-sighting reports: 132 relate to cases as yet unverified and under continuing priority investigation; 273 reports are known or suspected to be fabrications; and, 805 pertain to individuals since accounted for.

I respectfully request a copy of each of these 1,210 firsthand sightings. I understand that not all of these reports refer to POWs, but I would like to examine the entire body of evidence your Department has cited.

I am mindful that compliance with my request will require some time. I would therefore suggest that these reports be provided in installments.

The first installment should be the 132 reports that are as yet unverified and under continuing priority investigation; the second installment should be the 273 reports known or suspected to be fabrications; and, the third installment should be the 805 reports relating to individuals since accounted for.

In addition to these 1,210 reports, I would like a copy of each of the reports involving eyewitness accounts of Americans in Southeast Asia that have been received since the July 1989 Fact Book was completed.

I would expect the first installment of my request within ten days of this date. Thank you in advance for your cooperation, and for your Department's past efforts to resolve the POW/MIA issue.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, April 16, 1990.

In reply refer to: I-90/52320

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Secretary Cheney has asked me to respond to your letter of 23 March in which you requested copies of intelligence reports collected over the past 15 years relative to the issue of prisoners of war and missing in action in Southeast Asia.

As a matter of policy and practice, the Department of Defense does not release raw intelligence reporting such as you have requested. The reports are classified, often using sensitive sources and collection methods, making security for handling and storage of the mass of material a serious concern. Further, these reports would be of little value to anyone without access to the full range of collected intelligence upon which our analysts base their assessments.

At the same time, let me assure you that our intelligence collection and analytical activities on this important issue are not conducted without benefit of Congressional oversight. The intelligence committees in both the Senate and the House are kept apprised of developments and given update briefings on sighting reports upon request. Further, more than a decade ago a POW/MIA Task Force was formed for this purpose under the auspices of the Subcommittee on Asian and Pacific Affairs, House Committee on Foreign Affairs. This bipartisan group is currently chaired by Representative Robert Lagomarsino (R-CA) and is regularly briefed on the entire range of Executive Branch actions to secure an accounting for the missing.

I appreciate your serious interest in the POW/MIA accounting efforts and our investigation and analysis of collected intelligence. At your convenience, I will arrange for you to receive an update briefing focusing on reports of live sightings and answer any questions you may have.

Sincerely,

HENRY S. ROWEN.

U.S. SENATE,
Washington, DC, May 24, 1990.

Hon. RICHARD CHENEY,
Secretary, Department of Defense,
The Pentagon, Washington, DC.

DEAR DICK: On March 23, I sent a letter to you requesting copies of reports identified on page 23 of your POW-MIA Fact Book published last July. I requested these reports in installments, the first by April 2.

On April 16 I received a letter from Assistant Secretary of Defense for International Security Affairs Henry Rowen. Mr. Rowen denied me my request, citing the following reason: "The reports are classified, often using sensitive sources and collection methods, making security for handling and storage of the mass of material a serious concern."

As you are well aware, I as a Member of the United States Senate have the requisite clearance to review such information. Furthermore, the United States Senate has appropriate facilities, namely the Office of Senate Security located in Room S. 407 of the United States Capitol, for handling and storing classified information. The concerns raised by Mr. Rowen in his April 16 letter, therefore, have no bearing on my request.

I do not appreciate the manner in which my request was handled. I am sure you will agree with me. Please take whatever steps are necessary to correct this situation.

I have enclosed a copy of my letter to you dated March 23. I have also enclosed Mr. Rowen's April 16 letter. Tomorrow, the Senate begins a 10-day recess, until June 5. I expect that the first installment of the documents I requested will be in Room S. 407 of the Capitol when I return to Washington on June 5. Thank you for your cooperation in this matter.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). Will the Senator withhold?

Mr. GRASSLEY. I withhold; yes.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I asked for a quorum call a few minutes ago because of some question I have about the amendment of the distinguished Senator from Oklahoma. I want to clarify in my own mind—most of us were tied up in committee meetings this morning and were not able to participate in the debate on the floor.

Let me ask Senator MCCONNELL, first, if I may, I am referring to page 4, specifically beginning with line 15 which reads:

(4)(A) The requirements of this subsection—

And bear in mind, subsections set up all sorts of provisions and conditions, et cetera.

(4)(A) The requirements of this subsection are in lieu of any requirement limiting the financial obligations of objecting employees under any other provision of Federal law (including the National Labor Relations Act—

And so forth.

My problem is, Does this not overturn the Beck decision?

Mr. MCCONNELL. I say to my friend from North Carolina, it appears to. It appears to be narrower than the Beck decision, therefore, taking back some freedom, if you will, that employees may have been granted under the Beck decision.

Mr. HELMS. Let me ask my equally good friend from Oklahoma, is this his intent with this amendment?

Mr. BOREN. I will say to my colleague that it is not our intent to undermine the Beck decision. We simply are seeking to codify what we understand the Beck decision to be. We tried to provide a single uniform procedure under which the rights set out in the court by the Beck decision would be guaranteed.

In other words, we had a discussion earlier with the distinguished Senator from Utah who had a proposal that would require these kinds of accountings for all members as well as nonmembers of labor unions.

What we are trying to say is if you have an objecting nonmember of a labor union, a person who has not become a member of a labor union, who objects to becoming a member, but because of laws, jurisdictions and collective bargaining agreements is compelled to pay a fee to the union for collective bargaining and other representation, that that nonmember should have a right to an accounting and to a refund of that portion of the fee that he has paid which has gone, say, for political purpose or to a political candidate. Perhaps it is not a candidate that person supports and he wants that refund.

We provide a procedure under which the national and international unions, which have been the mechanism for making these contributions, historically, would adopt a percentage of their expenditures that have gone for political purposes. That percentage then would be refunded back to the objecting nonmember.

I say to the Senator from North Carolina that, historically, would result in a relatively larger amount of refund that has been the case in the past. It would simplify the bookkeeping. We have not required that this be done on a local-by-local basis because traditionally the fees have been collected and political expenditures have been made at the national and international level. There has not been an effort made to try to do this at the local level. That would make it very hard on the local level to do a lot of bookkeeping.

It is our intent to allow for a full refund back to the objecting nonmember while not becoming unduly burdensome and end up spending a lot of money on paperwork that might otherwise go in the form of a refund. That is the intent of the Senator from Oklahoma in offering this.

Mr. HELMS. For purposes of legislative history, and I imagine there will be consultation with this portion of the record by lawyers in the future, the Senator's intent is not to lay a finger on the Beck decision.

Mr. BOREN. The Senator is correct. The Senator's intent is in no way aimed at trying to narrow the confines of the Beck decision. It is an honest effort to provide a procedure under which the findings in the Beck case can be administered in a practical way.

Mr. HELMS. I will say to the lawyers in the future, take note of what Senator BOREN has just said.

Mr. MCCONNELL. If the Senator from North Carolina will yield, the Senator from Oklahoma is taking the factual situation of the Beck case.

As I understand it, Mr. Beck was a nonunion member in an agency shop, so they were represented by a union and saying the Supreme Court decision did not mean to go any further than the situation where you have a nonunion member working in an ageny shop and represented by a union. It is equally fair to interpret the decision as follows: That the Supreme Court really meant to say that there should be democracy in the workplace and that whether you are a nonunion member of a union or a member of a union, member of a union either in an agency shop or member of a union in a closed shop where everybody has to be a member of the union, that this accounting and this refund, if you desire it, is essential.

So the amendment of the Senator from Oklahoma gives the Beck right, as I see it, only to a nonunion member of an agency shop and all of these other employees do not have the opportunity for either, A, an accounting or, B, a refund for that portion of their dues which were going to activities they objected to.

Mr. HELMS. Does the Senator disagree with that?

Mr. BOREN. Mr. President, I will say to my colleague from North Carolina that my own reading of the case—and let me say that I do not claim to be a scholar in this area; I have to fall back on my own legal training, but I am certainly not a technical expert on labor law—my own understanding is that the facts in question at hand did deal with a nonunion member, one who is nonetheless required by local jurisdiction and agreement to pay a fee to the union, a person who had agreed not to join a union, not a volunteer member of the union.

Cases are decided, from my own legal experience, on the factual situation presented to the court. The court usually does not go far afield and

decide how it would have decided if this had been a union member as opposed to a nonunion member.

I believe that we are faithfully codifying the finding of the court which, of course, is rooted in the particular fact situation given to it. We are dealing with a nonunion member, an objecting nonunion member, objecting to some of the ways the union was utilizing the fee which he paid and, therefore, seeking a right of refund. I think we are correctly interpreting it.

Let me say there are other cases, Machinists versus Street, for example, which indicate that as far as voluntary union members are concerned, that they certainly have the right to freely associate and make decisions as any other group would—the Kiwanis Club, anybody else—on a majority decision of voluntary members about what to do.

I say again to the Senator from North Carolina that it is not the intent of this Senator to alter the findings of the Beck decision, and in offering this legislative language, as I explained earlier, we really set out offering this to the other side of the aisle as a potential compromise.

We feel that the Beck decision has been made by the court, and the unions obviously should have to abide by the Beck decision. It is not particularly necessary to have it codified. But since there was a desire to codify it in some way on the other side of the aisle, quite honestly, it was our intention and we entered into it with the best of intentions, to offer this as a compromise which we hoped might have been accepted on the other side of the aisle, to go ahead and codify the Beck language into some workable statute. So there is not, I can say, any devious intent on this side to try to change the Beck decision or the scope of the Beck decision or to try to substitute this statutory language for it. It is simply our desire to codify it. We think we are doing it in a realistic fashion.

I recognize the argument made by my good friend from Kentucky that there could be differences of opinion about this, and we are hopefully setting up a procedure under which it could practically be implemented with the least amount of bureaucratic redtape involved.

Now, that is our intent, and I am happy to say on the record again, to state to my colleague again, it is not our intent by this statutory enactment to narrow the scope of the Beck decision as previously announced by the Court.

Mr. HELMS. I say to the Senator, I have known him a long time and he has never been devious since as far as I know.

I still think this might have a subtitle of the "Lawyers' Relief Fund of 1990," because there will be a lot of litigation on this point because the Senator said he is not trying to diminish the Beck decision and I think he may be unintentionally. So we will just see.

I yield the floor, Mr. President.

Mr. LEVIN. Mr. President, while our friend from Oklahoma is on his feet, I am wondering if he might answer a question that relates to a different section of the substitute, a question that there has been some discussion about, although it is not the subject of the pending amendment, and that is section 506(a)(1) and specifically 506(a)(1)(2)(A)(i). That section reads as follows:

"Sec. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

My question is: Is it therefore totally consistent with that language of the substitute to develop a mechanism to provide money to the Senate election campaign fund through a truly voluntary taxpayers' checkoff in which the taxpayer's contribution would be limited to amounts that they send to the Treasury over and above their taxes owed and from no other source?

Mr. BOREN. Mr. President, I would answer my colleague in a very simple and direct way by simply saying to him yes. It is possible that it could be established in this way as absolutely voluntary from a checkoff fund, with funds over and above what the taxpayer would already owe.

Let us take the example, if the taxpayer owed $100, rather than having the $2 from the checkoff come out of the $100, it would be in addition to the $100. It would, indeed, be a voluntary contribution by the taxpayers. If that fund then fell short, if the voluntary contributions to it then fell short of the amount required to fully fund the vouchers, for example, adopted last night, or kept in the bill on a vote last night, or some other provision, the standby enforcement fund, if the opponent went over the spending limit, then the amount given to a candidate would be proportionally and pro rata reduced.

I call attention of my colleague to page 27 of the bill which is subsection (d) headed "Reductions in Payments if Funds Insufficient." It says:

If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the moneys in the Senate Election Campaign Fund are not, or may not be sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

So, indeed, it is the intention that it would be voluntary. If the amount of voluntary contributions were insufficient to fund the voucher or the enforcement fund or some other provision of this bill, then those administering the fund would take such action as would be necessary to assure that each candidate would get a pro rata share. If only 20 percent of the amount needed to fully fund these provisions came in the form of voluntary contributions, then those candidates would receive only 20 percent.

That is my understanding of it. So I think the Senator, if he were to state that in supporting this proposal now before us he is not supporting mandatory public financing, that he is supporting a voluntary system under which contributions may be voluntarily given and benefits given to the extent that there are sufficient voluntary contributions to cover it, he would certainly be able to say there is nothing in this bill to prevent that kind of system from being established.

I say to the Senator from Michigan that the reason we have not spelled out in this bill in great detail how the checkoff system would operate—we do establish the fund, which would be called the Senate election fund, as the Senator has just mentioned, that would be established under this bill. We do provide for a pro rata reduction if the funds in that fund prove to be insufficient.

The reason that we do not go into detail about how the checkoff will be established is that the establishment of a checkoff, even if voluntary, as a part of the Federal income tax return, even if it is money owed over and above what is owed by the taxpayer, purely a voluntary contribution, just as voluntary as a contribution to the Red Cross or Salvation Army would be, then that has been deemed to have been a revenue measure because it affects the Internal Revenue Code. Since it is a measure affecting the Code, it is deemed to be the kind of measure that would have to originate in the House of Representatives.

So, procedurally, we have not spelled out the detail about that matter because we do not want to get into a jurisdictional dispute with the House of Representatives. But let me underline again for the Senator from Michigan that it is the intent of this Senator and it is reflected in the language of the bill now before us itself——

Mr. LEVIN. To the extent that it is possible to do so.

Mr. BOREN. To the extent it can be reflected in the language—that the funding would be voluntary and that, indeed—and this is directly into the

bill—if the voluntary contributions fall short of the amount used to fully fund the vouchers or any other provision, standby enforcement funds or anything else, it would be pro rata reduced to each candidate to stay within the bounds of the voluntary contributions available.

So that is clearly the intent. That is the reason why on last evening I indicated to the Senate that I did not believe we were debating about public financing. I would quarrel with the headline I saw in the morning paper. This was not a vote about public financing. It is not public financing when you are talking about voluntary contributions from citizens over and above what is owed in taxes. That is not public financing.

What I believe it was about was whether or not there could be inducements put into a bill to encourage candidates to accept voluntary spending limits. So I truly believe it was not the issue of public financing and, indeed, several on the other side of the aisle—my good friend and colleague, the Senator from Missouri, pointed that out that he felt it was essentially a debate about spending limits, and we had an honest disagreement on that issue.

But I think the Senator would be correct in the statement he has put to me, and I think he would be correct in saying that it is his intent to vote for a purely voluntary system and there is nothing in this bill that would prevent such a system from being established on a purely voluntary basis; that it would not involve public financing, if we mean by "public financing" funds involuntarily contributed by taxpayers to the Treasury.

Mr. LEVIN. That is not only my intent, if I may say, Mr. President, but, much more important, the authoritative statement from the sponsor of the bill as the critical intent of this legislation, and I appreciate his answering the question.

Mr. BOREN. I thank the Senator from Michigan.

Mr. President, I have no further comments on the pending amendment. I believe we have well discussed it from this side of the aisle, so therefore I yield the floor.

Mr. McCONNELL. Mr. President, a couple more observations and then we can vote. With reference to the colloquy that just occurred, we can find no checkoff in the bill. I assume the money will magically appear out of tax from somewhere. But that is not my reason for seeking recognition at this point.

As the final observations about the Boren amendment, the Beck decision did deal with an agency shop situation. The Beck decision, as we understand it, provided for nonunion members and agency shops the opportunity to get a refund, an accounting and a refund of any activities they preferred their money not be spent for in two areas: For political purposes and for noncollective bargaining activities; for example, putting on conferences or a union organizing, that sort of thing, things not directly related to the collective-bargaining process. The Boren amendment, as I understand it, allows only the refund for political purposes.

So in that sense, it narrows the Beck decision. In addition to that, it will be very easy for organized labor to circumvent the Boren amendment by simply shipping its political activities from the Federal level to the local level, thereby coming outside the Boren amendment.

So I think it is fair to say as we move to a vote on this that the Boren amendment not only narrow the Beck decision, but has no practical impact on business as usual by organized labor in the American political process.

Mr. BOREN. Mr. President, have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KERREY. Mr. President, I ask unanimous consent to be able to speak as in morning business for a period of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE QUALITY OF OUR CHILDREN'S EDUCATION

Mr. KERREY. Mr. President, I rise in support of an earlier statement made by the Senator from New Mexico [Mr. BINGAMAN] describing the need for an independent panel to assess the Nation's progress toward the goals laid out by the President to the National Association of Governors last September. I emphasize the word "Nation," the language used by the Governors and the President at the time.

We have now passed the 306th day of 3,744 toward the goals laid out by the President and the Governors for the year 2000. Most of us in Congress embrace those goals. Most of us here in Congress said that those were reasonable goals for the Nation. These are not the goals of the Governors. These are not the goals of President Bush. These are the goals for the United States of America.

I urge my colleagues to look at the goals because they are difficult. They are also, I think, as was described by the President and the Governors, an integral part of our urgent need to increase our competitive position in the world. I will not go off in describing it. I heard in fact the distinguished Senator from Oklahoma talk with much greater eloquence than I about the urgency of this need.

What occurred in the last 3 or 4 days between the administration and the Governors I think is most unfortunate. They have decided that these are apparently not national goals; these are goals just of the President and the Governors. They are going to put together a little committee. They will not ask for any legislation, and they are going to assess how well we are doing toward accomplishing those goals.

Unfortunately, they have chosen to essentially exclude Congress and say we are going to have six Governors on this assessment panel, four members of the administration, and Congress be an ex officio member of this particular panel. I urge my colleagues to object to that, and to look at what the Senator from New Mexico has proposed instead, for two reasons.

First, President Bush and the Governors will not be around forever. If we want to have a panel that is going to be assessing our progress toward the goals, it needs to be a panel that is established that will be here and extend beyond individual terms of office.

What they have put together, what they are suggesting is heavily dependent upon this survival at the election booth. As a consequence, Mr. President, that leads to my second objection, which is a panel that is not independent. A panel that is heavily dependent, in fact, upon the survival of the politicians that have sent those individuals will, I think, naturally and understandably be more concerned about the political consequences of their statements, be more concerned about whether or not this is going to shed good or bad light upon their Governors or their Presidents.

With respect to what the President is trying to do and the Governors, I embrace the goals that they have set. They are important national goals. But I urge my colleagues to reject what they are proposing in terms of an assessment panel to measure whether or not we are making progress and accept instead the alternative that has been suggested by the Senator from New Mexico, an independent panel that the President can select, for consultation with the Governors and the need for confirmation by the U.S. Senate.

I believe the Senator from New Mexico has a good proposal, one that takes into account the needs and the sensitivities not only of the Governors and of the President, but also the parents of the United States of America and the educational community as well.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senator from Hawaii [Mr. AKAKA] might be recognized to proceed for not to exceed 4 minutes, as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I thank the Chairman for yielding the time.

DUKE PAOA KAHANAMOKU'S 100TH ANNIVERSARY OF HIS BIRTH, AUGUST 24, 1990

Mr. AKAKA. Mr. President, today, I rise in the well of the Senate to pay tribute to Hawaii's own Duke, Duke Paoa Kahanamoku, two-time gold medalist in the Olympics; in 1912 and 1920. He was crowned the world's fastest swimmer by the King of Sweden in his first Olympic triumph, and by the King of Belgium in his second victory.

Born on August 24, 1890, on our then island kingdom of Hawaii, surrounded by the Pacific Ocean, he would have been 100 years old this year if he were still living. He passed away on January 22, 1968, at the age of 78, leaving his lovely widow, Nadine Alexander Kahanamoku, who still lives in Honolulu.

Duke's Olympic swimming victories brought him overnight fame, and acting roles in 28 movies with Dorothy Lamour, John Wayne, Ronald Coleman and Wallace Beery to name a few of the better known film stars. Through it all, Duke remained himself, a humble, respected and beloved citizen of Hawaii. He was truly a man who had walked with kings and not lost the common touch. In time, Duke was inducted into the U.S. Olympic Hall of Fame in Santa Monica, CA.

In recognition of Duke's many contributions to swimming, surfing and to Hawaii, acknowledged in the many "whereas" clauses in many resolutions passed in his honor, the Governor of Hawaii has proclaimed August 1990, Duke Kahanamoku Month. I join the Governor and the people of Hawaii to recognize and honor Duke by the inclusion of this statement in the CONGRESSIONAL RECORD. If Duke's prowess as a swimmer did not duly impress this honorable body, consider if you will that he was our duly elected sheriff of Honolulu for 26 years.

A series of commemorative events has been scheduled in Hawaii during August. It will be highlighted with the Duke Kahanamoku Statue Dedication on August 24 at Kuhio Beach Park in the heart of Waikiki. On your next visit to Waikiki, please make it a point to visit the statue of Hawaii's Duke Kahanamoku.

I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with consideration of the bill.

MODIFICATION TO AMENDMENT NO. 2432

Mr. MITCHELL. Mr. President, I send a modification to the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification to amendment No. 2432 is as follows:

Page 41, line 6 is amended to read Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candi-

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCONNELL. Mr. President, I wonder if we could see a copy of the modified amendment.

The PRESIDING OFFICER. Copies will be made and distributed.

Mr. COCHRAN. Mr. President, I wonder if the distinguished Senator from Kentucky will yield.

Did the Senator ask the majority leader what the modification is, so we know what we are about to vote on? I think we ought to know what it is.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Mr. President, I am going to read directly what the modification is and give a brief explanation of it. On page 41, line 7, strike the parenthetical (B), and the word "and", so that instead of that reading as previously, it is amended by striking subparagraphs (B) and (C). The modification would read, "is amended by striking subparagraph (C)".

This deals with the ability of corporations and labor organizations to conduct nonpartisan voter registration and get out and vote.

Mr. COCHRAN. Will the distinguished Senator yield to me for the purposes of asking a question?

Mr. McCONNELL. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator will suspend for a moment. The Chair reminds the distinguished majority leader that under the previous order, the Senate was due to recess at the hour of 12:30.

Mr. COCHRAN. Is this a modification of a Boren amendment, Mr. President?

Mr. BOREN. Mr. President, can I respond to that?

Mr. MITCHELL. The modification of the underlying substitute.

Mr. COCHRAN. this is not the subject of the vote which is about to occur then, is that correct?

Mr. BOREN. Mr. President, as I understand the modification just made by the distinguished majority leader, he is modifying the underlying amendment pending before us. It does not change the current Boren amendment, which will be voted on in a moment. What he has done is strike language from the underlying measure pending before us, which would have removed from labor unions and business corporations the right to pay for internal communications of a political nature, of a get-out-to-vote nature, with their own members.

This was a matter that was raised by the Senator from Kentucky earlier on the floor, and, originally, it was part of my amendment. I took it out of my amendment, constrained by amendment only to the Beck matter, which has been my intent. I understand in the drafting of the substitute offered by the distinguished majority leader, that subsection (B), the language just referred to, was inadvertently included. There was an effort made to adopt the Republican language on PAC's. The Republican language on PAC's was fully adopted, but an additional provision of the pending Republican plan was also adopted inadvertently, one which was not intended to be adopted on this side of the aisle. It would constrain the labor unions and corporations to communicate internally.

That may well be a matter that should be debated separately, may well be a matter that those on the other side of the aisle may want to offer an amendment regarding, in terms of putting it back in. It was not the intention on this side of the aisle. It was a drafting error to have included that, along with the language banning all PAC's.

I hope I have not confused my colleague in my answer. The answer in terms of the pending Boren amendment is that the modification made by the Senator from Maine is to the underlying measure, not to the pending Boren amendment. It does not apply to the Beck case; it is not the issue which we have been discussing, either the Senator from Oklahoma or the

Senator from Utah in his earlier amendment.

Mr. MITCHELL. We either have to go into recess or extend the time. I ask my colleagues what their preference is.

Mr. McCONNELL. If the leader will yield, I suggest we extend the time for a couple of minutes and then we vote. I will give my version of what happened here.

Mr. MITCHELL. I ask unanimous consent, Mr. President, that the time for the recess be extended until the hour of 12:55 p.m.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, what is happening here is that the majority, in saying several days ago it adopted our PAC-man provision, apparently inadvertently also adopted a provision of our PAC-man section, which goes to the heart of the "sewer" money issue, and that is the ability of labor unions, in an undisclosed and unlimited fashion, to engage in extensive activities with regard to their members and others.

I think, frankly, it does not make any difference that the majority leader has modified the underlying amendment. We are probably going to deal with this issue later today anyway. He has simply stripped out that portion, which apparently they inadvertently adopted, that was part of our proposal which would have gone to the heart of the sewer money issue. I do not think the majority leader has done anything improper here. I think it is unfortunate, and we will have a chance to deal with that later today in the amendment I will be offering. My suggestion is, I think we have finished debate on the Boren amendment. We might go ahead and vote.

The PRESIDING OFFICER. Is there further debate?

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of the Boren amendment, No. 2432, that Senator GLENN be recognized to speak as in morning business for up to 25 minutes; that, at conclusion of Senator GLENN's remarks, the Senate stand in recess under the previous order until 2:15 p.m.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, let me just say that I think the Senator from Kentucky has accurately described the procedural situation and the effect of the modification made by the distinguished majority leader. Let me say we do not necessarily subscribe to his description of the effect of it, and I think that we will have an opportunity to determine exactly what limitations should be placed upon business corporations or labor unions in terms of internal communication with their own members and employers and shareholders.

This is an important issue and one in which we on this side of the aisle are fully prepared to try to work with those on the other side of the aisle. I hope we can reach a constructive agreement that will satisfy both sides on this issue. It was simply an inadvertent action to have adopted the other language. We do not feel it was appropriate, but we hope to work out language that will be acceptable to both sides on this issue and deal with it in a way we think is constructive and appropriate.

I yield the floor.

VOTE ON AMENDMENT NO. 2439, AS MODIFIED

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Oklahoma.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to change their votes?

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—57

Adams	Exon	Levin
Akaka	Ford	Lieberman
Baucus	Fowler	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Graham	Moynihan
Boren	Harkin	Nunn
Bradley	Hatfield	Pell
Breaux	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Johnston	Rockefeller
Conrad	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Leahy	Wirth

NAYS—43

Armstrong	Gramm	Nickles
Bond	Grassley	Packwood
Boschwitz	Hatch	Pressler
Burns	Heinz	Roth
Chafee	Helms	Rudman
Coats	Humphrey	Simpson
Cochran	Kassebaum	Specter
Cohen	Kasten	Stevens
D'Amato	Lott	Symms
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Wilson
Garn	McConnell	
Gorton	Murkowski	

So the amendment (No. 2439), as modified, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. WIRTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. MITCHELL. Mr. President, we had previously obtained unanimous consent that Senator GLENN would be recognized to address the Senate prior to going into recess, but I understand plans have changed in view of the hour.

Mr. President, I ask unanimous consent Senator WIRTH be recognized to address the Senate for 5 minutes, and that upon the completion of his remarks the Senate stand in recess until the hour of 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized for not to exceed 5 minutes.

INTERPARLIAMENTARY CONFERENCE ON CLIMATE CHANGE

Mr. WIRTH. Mr. President, I wanted to include my remarks as chairman of one of the working groups at the Interparliamentary Conference on Climate Change. The Interparliamentary Conference on Climate Change was organized by the distinguished Senator from Tennessee [Mr. GORE]. He spoke this morning, and others who had been involved in that conference spoke.

I ask unanimous consent, Mr. President, to have the full proceedings of the population group printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. Mr. President, let me begin by saluting the work of the Senator from Tennessee [Mr. GORE], and the work of his staff, for putting together a tremendous conference on behalf of the Senate. I have been to many of these conferences and without hesitation I can say that this was the finest I have participated in. Senator GORE and his staff did a magnificent job of managing a gathering that included representatives from more than 40 nations. A conference like this, with language barriers and divergent perspectives, is very difficult to manage—and AL GORE did us all proud in the way he chaired this event.

For my part, I organized the working group on population. Our working group attracted about 2 dozen delegates from 20 nations. Our goal was to try to come to grips with population growth—an issue that threatens to overwhelm all other efforts to protect the global environment.

One has to start on this issue recognizing how difficult it is to comprehend the problem that we face. It took all of human history—through the history of Greece, the Roman Empire, the Middle Ages, the Renaissance, on through the enlightment and the social structures of feudalism, mercan-

tilism on through Elizabethan England and tsarist Russia—through the totality of the history, the human population grew to 2 billion just prior to the Second World War.

The trends in population growth have changed exponentially during my lifetime, during your lifetime, Mr. President, during the lifetime of everyone in this body. In our lifetimes, the human population has more than doubled to 5.3 billion and as I speak it approaches 5.4 billion.

At this moment, global population increases are greater in real terms than at any time in human history. This year, more than 90 million individuals will be added to the population around the globe. During the decade we have just entered, as many as 1 billion more people will be with us. What does 1 billion people mean? Think of it—in the next 10 years, a number of people equivalent to the entire population of today's China will be new responsibilities for individual nations and the global community.

In the developing world, where poverty, food shortages, and malnourishment are grim facts of life in today's world—these trends will have the most profound, and devastating impact. Ninety-four percent of the population growth in the coming decades will occur in the least developed nations. And as those populations grow, it is a certainty that both the prevalence of poverty and pollution will grow as well. Today, we in the industrialized world discharge a disproportionate amount of pollution into the environment. In the near future, our friends in the developing world will be the most prodigious polluters.

Looking into prospects of growth, our working group was struck by the dramatically different implications of different population levels. Even the best international efforts to promote international family planning probably cannot prevent the doubling of today's population. More ominously, if we fall short of our best efforts, the population will probably come close to tripling—climbing to 14 billion less than 100 years from now.

These trends, population growth, pollution, and poverty ran at the heart of our discussions. In our resolution we agreed that: "The triad of population growth, environmental degradation, and pervasive poverty threatens us and our planet as never before."

In response to these facts, our working group adopted a resolution based on the idea that the task of protecting the global environment, the task of providing economic opportunity, and the responsibility to eliminate human misery and suffering will be advanced greatly if we slow down the pace of population growth in the future. Fundamentally, we based our resolution on the idea that every individual is entitled to have access to birth control information and services. We vigorously rejected the idea of coercive or involuntary family planning measures—the issues of forced abortion and sterilization that have unnecessarily destroyed the U.S. commitment to population programs. Instead, our working group agreed that family planning services must be universally available on a voluntary basis.

The goal of universal access to family planning services will not be realized without the commitment of all nations. For the United States, this means that we will have to rediscover the value of international population programs. In fact, one of the messages conveyed by the foreign delegates at our conference was that it was widely believed that the United States abdicated its historical role as the world's leader in international family planning.

Clearly, what we need to be doing is strengthening our commitment to programs that promote the status of women, improved child and maternal health, and promote economic development—the factors that determine the rate and pace of population growth.

More than anything else, however, it was agreed in our working group that international contributions must be dramatically increased to bolster population programs. As a goal for the year 2000, we agreed that global funding should be increased from today's $4.5 to at least $9 billion.

All of the goals adopted in our working group have clear implications for the work we do in this body. For the past decade, the rhetoric of abortion has atrophied our Nation's commitment in the population field. Where we once were leaders, we now follow. Where once we had a mighty financial commitment, the resources are now weak. Where we once embraced and advocated the importance of this issue, now we are reluctant, hesitant in the endeavor to come to grips with population growth.

All of us have a responsibility to move beyond the false debates about coercive abortion and involuntary sterilization. Such practices are repugnant to us all. They are equally immoral to Democrats as they are to Republicans. Let us move on to the real issues of improving the status of women, promoting the health of new mothers and children, promoting education programs, creating new economic opportunities, and giving all citizens the information and the resources they need to plan their families.

To summarize, Mr. President, the population group, parliamentarians from all over the world, Mr. President, came to some very stark conclusions about population growth and the relationship of population growth to world environmental problems. The trend of population growth, poverty, and pollution all merge together.

The resolution that was agreed upon said, "The triad of population growth, environmental degradation, and pervasive poverty threatens us and our planet as never before."

In response to this growing population issue, our working group adopted a resolution based on the idea that the task of protecting the global environment, the task of providing economic opportunity, and the responsibility to eliminate human misery and suffering will be advanced greatly if we slow down the pace of population growth in the future.

The population today is about 5.4 billion people, escalating dramatically, and will climb to over 14 billion people in less than 100 years. Can we sustain the quality of life on the planet? Can we sustain our commitment to the individual rights of each individual if population is growing that fast with all of the resultant pressure on resources available?

The goal of universal access to family planning services will not be realized without the commitment of all nations. We were stunned, Mr. President, by the condemnation from other parliamentarians about the role that the United States used to have and how we have abdicated our historic role as the world's leader in international family planning.

We were told over and over again by parliamentarians from all around the world that the United States must, once again, pick up the cudgel of international family planning program, to take the lead on the status of women, to take the lead on the health of women, infants and children, to take the lead of ensuring that all people of childbearing age have access to family planning services.

There was no discussion of the so-called Mexico City policy, Mr. President. This was not the issue. The issue is making sure everybody who wants some, particularly the enormous cadre of people of childbearing age in the developing world, have access to family planning services and we recommit ourselves to advancing the status of women around the globe.

The President of the United States, Mr. President, used to be a leader in the Congress, used to be a leader in the country, on the issue of family planning. When President Bush was a Member of the Congress, he was one of the people most outspoken on this issue. Unfortunately, he has chosen a different route in recent years.

It was clearly the hope of these parliamentarians gathered here in this brilliant conference that the President of the United States would change his mind once again and lead the United States, as the rest of the world expects us to lead.

That, then, is a summary of the population working group, Mr. President. Again, let me congratulate Senator GORE and my colleagues for their contributions to this successful conference. We can all be proud that the Senate was host and facilitator of this event.

EXHIBIT 1

REPORT OF THE WORKING GROUP ON POPULATION, INTERPARLIAMENTARY CONFERENCE ON THE GLOBAL ENVIRONMENT, MAY 1, 1990

POPULATION

Whereas:

Annual global population increases are greater, in real terms, than at any time in human history;

At current rates, in the 30 years it takes for one generation to succeed another, the world's total population will grow by close to 3 billion people;

Yearly increments over the next 10 years will approach 97 million human beings world-wide, 94 per cent of which will be born in the developing world;

The implications of such developments are staggering. Nearly everywhere, increasing demands are damaging the natural resource base—land, water and air—upon which all life depends;

Urban overcrowding and the lack of economic opportunity in many parts of the world exists. Moreover, poverty is widespread and growing: For some 1.2 billion people, poverty is a way of life;

Pressures on resources reflect the growth of population, equally relevant is the pursuit of lifestyles by industrialized countries which threaten ecosystems and sustainable development. Efforts should be taken by the industrialized countries to show bolder leadership on population and the environment;

The projected growth of the global population could be as high as 14 billion or approximately 10 billion before it stabilizes sometime late in the next century;

There is a marked difference between the social, economic and environmental implications of a global population that grows to 14 billion versus one that grows to 10 billion;

Recognize the importance of economic choices and increased equality at the local, national and international levels, to the success of family planning programs;

The working group on Population believes that the 1990s are a critical decade for developing population programs that will reduce the future size of the global population;

Clearly, it is time for concerted action. The triad of population growth and distribution, environmental degradation and pervasive poverty threatens us and our planet as never before. Future generations must be given basic human rights and have equal access to all the benefits society has to offer.

Now, therefore, be it resolved that Parliamentarians in all nations should:

Endorse the "Amsterdam Declaration" developed by the participants of the International Forum on Population in the Twenty-first Century, held in Amsterdam, the Netherlands, from 6 to 9 November 1989, whereby population goals and objectives for the coming decade and beyond should include:

(1) a reduction in the average number of children born per woman commensurate with achieving, at a minimum, the medium variant population projections of the United Nations;

(2) a major reduction in the proportion of women and men who are not currently using reliable methods of family planning, but who want to postpone, delay or limit childbearing;

(3) a substantial reduction in very early marriage and teenage pregnancy;

(4) an increase in contraceptive prevalence in developing countries so as to reach the objectives of the medium variant population projection of the United Nations.

Strengthen their political commitment to family planning programs, particularly by giving visibility through Administrative priority;

Promote citizen participation in national population programs at all levels, in particular at the local and community level;

Recognize and promote the importance of the rural family. In particular, programs should be encouraged to strengthen the delivery of reproductive health services, infant and child health care, maternal health care and the education of women in rural areas. Further, it is recommended that effective programs be demonstrated which protect the welfare of rural inhabitants and provide economic choices which enhance equality;

Develop programs that improve the organization of all planning programs, with particular emphasis given to addressing the rapid urbanization of the global population;

Improve educational programs at all levels, both within and independent of school systems. Every individual has the right to education. Particular attention should be given to improving the education of, and to reduce illiteracy among, women around the world. In addition, population and environmental education should be developed and promoted at every level;

Develop programs to improve reproductive health care for women. Programs should be designed to ensure safer motherhood by assisting women to avoid unwanted pregnancies and to procreate during the biologically safe reproductive years. Special attention should be paid to the prevention of pregnancies which carry extra health risks;

Develop programs that will improve the delivery of family planning services. Particular attention should be paid to improve the logistics and supply of family planning programs so the unmet need for family planning is addressed;

Promote programs that raise the priority given to population in international diplomacy. In particular, increased international funding for population programs is critical. Increased funding for population programs by multilateral institutions and for non-governmental population programs both nationally and through multinational non-governmental organizations is imperative. Recognizing the recommendations of the Amsterdam Declaration, population programs designed to attain the United Nations median variant estimate of population growth (10.3 billion) must be funded at a level of US $9 billion, distributed in accordance with the specific needs of individual countries. To reach this goal, all governments, and the United States in particular, must increase financial support for population programs. The United States is encouraged to renew its historical position as the world's leader in international programs;

Promote the development of integrated population, environmental and economic planning, recognizing that policies affecting one of these areas affects the others as well;

Encourage policies that promote responsible parenthood—particularly with respect to male responsibility and participation in the child-rearing process;

Promote the development of policies that improve the health of children and recognize the effects of environmental degradation on the young. In particular, efforts should be directed at creating educational programs to promote breast-feeding and ensure low-cost, effective, child survival measures. Pursuant to the Amsterdam Declaration, support is given to reducing the 1980 rate of infant mortality to rates of at most 50 per 1000 live births by the year 2000 in all countries and major sub-groups within countries. The health and nutrition of children must be improved so that the decline in infant mortality is a recognized reality by parents;

Promote policies that take into account the cultural relevancy of population programs—by taking into consideration social, political, religious and cultural traditions;

Recognize that poverty is both a determinant of and dependent upon population growth. The development of economic development programs is a critical determinant of fertility and should be encouraged nationally and internationally. Parliamentarians are particularly urged to promote more egalitarian systems and increase equity in national agriculture and rural policies. Recognizing the woman's role as a subsistence farmer, it is desirable to seek a restructuring of social, economic and political controls over agriculture and land so that women can participate in the management and decisions related to these resources;

Initiate a review of existing legal mechanisms that can be implemented to further population programs. All nations are urged to develop national population policies. Parliamentarians are encouraged to help educate political colleagues about the nature and urgency of the population issue and to work with colleagues to develop legislative agendas that promote population programs. It is recognized that family planning is a human right. It is the right of individual couples to voluntarily determine family size. We respect human rights for all families and individuals, and family planning must be consistent with acceptable doctrines of human rights;

Promote family planning research, in particular, these efforts should: (1) encourage the improvement of existing and the development of new methods of family planning; (2) study the causes and the consequences of rural-urban population migration; and (3) generate a data base on the relationship between demographic characteristics and the outcome of development programs. Increasing funding for this research is essential.

RECESS

The PRESIDING OFFICER. In accordance with the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:02 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NATIONAL FAILING

Mr. McCAIN. Mr. President, in 1953, the great scholar, Felix S. Cohen wrote:

> Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith.

Cohen's words embody an enduring truth: If the State does not serve all of its citizens fairly, then it serves none of us well.

Mr. President, we are a great Nation. Our greatness has significantly influenced two centuries of human history. The advance of American greatness is a cause I have served all of my adult life. That is why I am compelled to come before this body to announce with sadness and regret that our greatness, our progress, our honor are circumscribed by a persistent national failing. That failing is clearly evident in the long and shameful story of abuse and neglect that is the record of our treatment of native Americans.

This country long ago undertook solemn legal and moral obligations to the original inhabitants of this Nation. It is my responsibility to inform the Senate that our obligations to these people have not been met.

Inconsistent Federal policies, inept and often corrupt management of the Federal Government's trust responsibility for native Americans and their resources have helped perpetuate an appalling standard of living for Indians. The squalor and neglect which these people must daily contend with is heartbreaking. It is comparable to conditions found in the poorest of Third World countries.

According to the 1980 census, there are about 1½ million native Americans—half of whom reside on reservations—half of whom live below the national poverty level. Those who live below the poverty level are not marginally poor. They live vastly below even the standards we set for poor people.

Over one-fifth of Indians are twice as poor as those Americans who live at the poverty level.

Over one-half of adult Indians are considered unemployed. Most other Indians have long ago abandoned hope of finding employment and are not counted among the unemployed. Of those Indians who are fortunate to have found employment, the majority work for less than $7,000 a year.

Mr. President, there is little reason to hope that these grim statistics will be much improved anytime soon. The Indian population is expanding rapidly. The number of Indians who are eligible for Federal services has doubled since 1975. On many reservations, most of the population is under 18 years of age by the year 2000 most Navajos will be under the age of 10.

The paradox of dramatic growth in native American populations is that it occurs while Indian mortality rates remain incredibly high. On the Pine Ridge Reservation in South Dakota, the infant mortality rate is 400 percent greater than the national average. Nationwide, only 1 of every 8 Americans dies before the age of 45, But 3 out of 8 Indians will not see their 45th birthday.

Medical care for Indians has improved somewhat over the abysmal conditions that Indians have had to endure for most of this century. However, there is little cause for rejoicing as medical conditions for Indians remain inexcusably inadequate. Every 1,400 Indians must share the services of one doctor. In testimony before the Select Committee on Indian Affairs, the director of the Indian Health Service [IHS] has warned that IHS has become a health care rationing agency rather than a health care provider. Because of inadequate funding for IHS, 26,000 Indians were denied necessary medical care last year. Today, most IHS care is limited to treating only emergency conditions.

This inventory of misery for native Americans is virtually limitless. Every aspect of Indian life is included. There is an enormous shortage of housing for Indian families. Many homes are without running water. There is an appalling lack of sanitary facilities like wastewater treatment systems and landfills. I am relieved to hear Secretary Kemp's assurances that HUD will restore housing programs on reservations. Although that decision is late in coming and is far from a complete remedy to the Indian housing crisis, it is most welcome nonetheless.

No less than housing, education is an elusive acquirement for Indians. Little more than half of native Americans graduate from high school. For some tribes, the drop out rate soars to as high as 75 percent. A college education is a luxury that few Indians enjoy—7 percent to be precise.

Mr. President, Congress has responded to these desperate conditions of Indian life—conditions which certainly qualify as dire emergencies—by reducing funding for Indian programs. Since 1975, appropriations for Indian programs have declined by 40 percent in constant dollars. Even more mystifying, is that these reductions occurred while all other domestic spending steadily increased. Mr. President, all Americans resent unwonted governmental interference in their affairs. But we do not expect governmental indifference to our gravest problems.

We are in the throes of a real crisis in Indian country. Evidence of that crisis is apparent everywhere. Frustration is erupting into violence. Riots have broken out in the Navajo, Mohawk and Quinalt Nations. Gunfire and dealth are the consequences.

The quiet internalization of despair among Indians has deadly consequences as well. Alcohol and substance abuse are epidemic. Alcoholism among native Americans is reportedly greater than six times—six times—the national average.

Mr. President, under our Constitution, Congress has ultimate authority for Federal Indian policy. For the better part of two centuries, Congress so poorly exercised that authority that Federal Indian policy became infamous for its shortsightedness, inconsistency, and disruptive consequences.

For nearly 100 years, the United States acquired Indian lands through treaties in which tribes ceded lands and rights and received guarantees of Federal assistance and protection in return. Most tribes reserved small parcels of their lands and retained the right of self-government.

By the 1880's, Congress had changed its mind. Ignoring its previous commitments, Congress legislated the Allotment Acts and began to dissect the reservations and dismantle tribal institutions of governance. Over the next 50 years, nearly 100 million acres of Indian land were removed from Indian ownership under this singularly ill-advised policy.

In 1934, Congress suspended the Allotment Acts and encouraged the tribes to again establish their own governments. This brief window of wise Federal policy was firmly closed by the 1950's when Congress determined that the Government's proper focus should be the elimination of Indian tribes. Two decades later, that policy was correctly reversed with the passage of the Self-Determination Act.

In sum, Mr. President, we have broken nearly every promise we have made to the Indian people. Though I abhor its occurrence, I am not astonished that frustration occasionally erupts into violence in Indian country. What I do find astonishing is the depth of the enduring devotion of Indian people to this country. Nowhere in America is love of country more in evidence than among Indian communities. As a percentage of their population, no other segment of our society has served in our Armed Forces in such great numbers. Their unsurpassed dedication has survived the indifference of their countrymen. For the most part, the country has ignored their outstanding contributions to our national defense. And their service to America is not limited to our defense. Every aspect of our national life has benefited from the contributions of Indian people.

Mr. President, despite its deserved reputation for unrivaled inconsistency, Federal Indian policy did possess one constant feature before passage of the Self-Determination Act. And it was that consistency that assured the fail-

ure of every new permutation of policy. All Federal policy was simply imposed on Indians irrespective of their concerns, desires or objections. The Self-Determination Act marked the first time in history that Congress actually inquired of Indians what policies Indians thought would be in their best interests. Unsurprisingly, we have since discovered that the best solutions to Indian problems are those formed by Indians.

I commend Interior Secretary Lujan and Assistant Secretary Brown for recently entering into self-governance agreements with six Indian tribes. These agreements permit the tribes to manage and expend Federal funds for priorities they have determined, free from undue Federal interference. They were initiated by the tribes and reflect their highest aspirations for an effective role in the Federal system. They mark a new and most welcome era in Federal tribal relations.

Over the long and tragic course of America's treatment of them, Indians have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

> The answers we seek are not commodities to be purchased. * * * When Indians speak of the continent they yielded, they are not referring only to the loss of some millions of acres in real estate. They have in mind that the land supported a universe of things they knew, valued and loved.
>
> With that continent gone, except for the few poor parcels they still retain, the basis of life is precariously held; but they mean to hold the scraps and parcels as earnestly as every small nation or ethnic group was ever determined to hold identity and survival.
>
> What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

Mr. President, under the able leadership of my good friend, Senator INOUYE, the Select Committee on Indian Affairs has now developed, in close cooperation with Indian tribes, an ambitious and thoughtful legislative agenda. The bills before our committee involve all aspects of Indian life from health and education to economic development and the environment. If enacted in this Congress, this legislation will help improve the quality of Indian life.

No substantial advances in the quality of Indian life will be possible before we correct the decline in appropriations for essential Indian services and programs. I appeal to my colleagues in Congress and to the administration, please join the committee in our good faith efforts to relieve the suffering that permeates so much of Indian life. Please help us remove this stain upon our national honor.

Native Americans deserve our cooperation—late, though it is—as they seek to achieve the standard of living that is enjoyed by the rest of the country. As a boy, I was taught that a man's word is his bond. Mr. President, we have broken our bond with these people. We have denied them the full benefits derived from their lands and resources. We have denied them authority over their own affairs. We have enlisted them in programs that served them poorly: Programs that often fed Indians less than they fed the greed and malfeasance of parasites who preyed on the misfortune of others.

Let us begin to make sound law and policy by recognizing their equal right as Americans to improve the quality of their lives. As Senator INOUYE and I seek support for programs designed to achieve that end, we ask that you bear in mind one thing: This was their land on which we now prosper. We are all accountable to Indians for the continued disrespect with which they are treated. It is not the honor of native Americans that is sacrificed by our indifference to their tragic circumstances, it is our honor.

Mr. President, I hesitate to make predictions of bad things because too often they become self-fulfilling prophesies. But from my 8-year involvement in the native American issues, I am convinced that only bad things are going to happen on native American reservations between native Indians and non-Indians if we do not address these compelling issues that have been with us for a long time and now only worsen day by day.

I thank the President for his indulgence. I yield the remainder of my time.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Texas.

Mr. BENTSEN. Mr. President, I defer to the manager of the bill.

Mr. BOREN. Mr. President, I understand the Senator from Texas will offer an amendment at this time. We are trying to alternate between the two sides on amendments. I understand, after that, the Senator from Oklahoma [Mr. NICKLES] will offer an amendment.

In order that we might move along, because we have so many amendments to consider and we do hope to try to finish this bill, of course, this week because we have other items that also have to be dealt with before we go out on the recess, I wonder if we might try to begin to get time agreements on the amendments as they come up.

I ask the Senator from Texas if he would be willing to accept a time agreement on his amendment.

Mr. BENTSEN. I say to the distinguished manager of the bill on this side, I would be pleased to try.

Mr. McCONNELL. Mr. President, it would be perfectly appropriate, it seems to me, for us to have an agreement on the Bentsen amendment of, say, 20 minutes, 10 on each side, or 30, 15 on each side.

Mr. BENTSEN. That is fine.

Mr. BOREN. Mr. President, I ask unanimous consent that time on the Bentsen amendment be limited to 20 minutes equally divided, 10 minutes on a side, controlled by the Senator from Texas and by the manager on the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. And I ask unanimous consent that no amendment be in order to the Bentsen amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2440 TO AMENDMENT NO. 2432

(Purpose: To amend the Federal Election Campaign Act of 1971 to tighten provisions relating to contributions by foreign nationals)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. BRYAN, and Mr. REID, proposes an amendment numbered 2440.

Mr. BENTSEN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, between lines 2 and 3, insert the following:

SEC. 225. CONTRIBUTIONS BY FOREIGN NATIONALS

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdiction of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

Mr. BENTSEN. Mr. President, foreigners may be buying landmark American buildings and major companies, but we should not let them buy our elections. Yet, unless we change our election laws as I am proposing today, we will leave the door open for

foreign companies to influence our campaigns and elections.

I thought we closed that door in 1974, when Congress enacted my amendment forbidding contributions by foreign nationals. But in a series of hotly divided opinions, the Federal Election Commission has interpreted my amendment as permitting U.S. subsidiaries of foreign companies to set up PAC's, provided only that the PAC officers and contributors be U.S. citizens or resident aliens.

The trouble with that interpretation is that it permits foreign companies to buy into our political process by acquiring U.S. subsidiaries, and then it creates inevitable pressures on employees to use their PAC muscle in ways acceptable to the corporate masters in London or Frankfurt or Tokyo.

My amendment would safeguard those U.S. employees from cross-pressures or potential conflicts of interest and would help to restore the principle that American campaigns should be for Americans.

My specific proposal is to prohibit companies which are more than 50 percent foreign owned from forming political action committees. I first offered this measure in 1986, when we were considering the Boren-Goldwater reform legislation. It was part of the original S. 2 in 1987, but in neither case did the senate have an opportunity to vote directly on the matter.

Mr. President, I believe that this is a proposal whose time has definitely arrived. For years the Federal Election Commission noted the apparent ambiguity in the law and asked for congressional guidance. And just a few weeks ago, the FEC launched its own rulemaking procedure to resolve this matter in the same way as this amendment.

I welcome the FEC action. It would be needed in any case to implement this provision after enactment. And if we are unable to get campaign reform legislation signed into law this year, at least we could achieve significant limits on foreign PAC's.

Both the FEC action and this amendment respond to the new facts of economic life in America. As the Commerce Department reported in June, the 1980's saw a fourfold increase in foreign direct investment in the United States. In the past year alone, such foreign spending on factories, real estate, and companies surged 22 percent.

It is one thing to have foreign investment in our economy, whether to finance our deficits or buy some of our businesses and their assets. But it is quite something else when foreign money tries to influence our domestic political process.

Right along with the skyrocketing foreign direct investment has gone rapid growth in political contributions by PAC's of companies with significant foreign ownership. According to a study done for me by the Congressional Research Service, such PAC's gave $2.8 million to candidates in the 1987-88 election cycle, a figure 19 percent higher than the previous cycle and equal to 5 percent of the total given by corporate PAC's.

That figure can only go higher—unless we adopt this amendment. And as foreign-owned companies become channels for contributions, they are likely to pollute the political process in insidious but avoidable ways.

Mr. President, we cannot build a sea wall against all foreign money which might conceivably influence American policies. But we can plug the leak of foreign PAC money before it turns into a flood.

Look at what is already happening. Foreigners are already spending huge sums to influence our policies, seeking through laws and administrative decision to win what they cannot get through the marketplace.

In 1987, companies and organizations required to register under the Foreign Agents Registration Act reported spending over $400 million for their lobbying activities. Over $400 million. They are spending the money because they think it makes a difference.

When Japan faced a foreign-influence-buying crisis in the mid-1970's—the Lockheed scandal—the Japanese Diet changed the law, and prohibited campaign contributions by foreigners, by foreign corporations, and by any organization controlled by foreigners.

Mr. President, I mentioned how Japan tightened its laws after the Lockheed scandal.

Other countries have imposed similar restraints. Just this year, France enacted a law forbidding candidates and parties from accepting contributions or support "from a foreign state, or a foreign entity."

Spain and Portugal forbid contributions from foreign persons or associations.

West Germany largely prohibits foreign political contributions—except it does permit nonresident business entities to make political contributions if they are owned 50 percent by German citizens.

They recognized that foreign involvement in the political process invites corruption, and they wanted to cleanse their system of that potential for abuse.

Our law forbids individual contributions from foreigners, but we have not gone that extra step to prevent foreign-owned organizations from using PAC's to support candidates or parties. Surely, we ought to take that ounce of prevention before our own such scandal occurs.

As I said earlier, I thought that my original amendment barred foreign money from our politics back in 1974. But since it hasn't been sufficient, because of FEC rulings, we need to pass this additional limitation on foreign PAC's.

I recognize that both Republican and Democratic proposals would forbid PAC contributions to Senate campaigns. This amendment is still necessary, however. I want the Senate to make its position on this matter clear. I want to be sure that this change emerges from conference. And I want to give legislative underpinning for the FEC's proposed rulemaking.

Without a clear signal of Senate support, the FEC might otherwise back off its plans, and might return to legal gymnastics to justify its rulings in support of foreign PAC's. In a recent ruling, for example, a majority of the FEC held that a foreign parent corporation and its subsidiaries were a single entity under the contribution limits and corporate solicitation provisions, but then considered them as separate, distinct, and presumably independent entities for purposes of the foreign national provision in law.

This amendment would end such tortured constructions of what I considered straightfoward law. It would also reassert a measure of national control over our national elections.

If sovereignty means anything, it should mean that we who live here can freely decide who may make and execute our laws, who may represent us and lead us. This amendment is an important way to restore electoral sovereignty and to reduce potential foreign influence on our elections.

Mr. McCONNELL. Mr. President, as Senator BENTSEN has acknowledged, at this point, his amendment might well be a moot point, because if we are going to ban PAC's, then there is no reason to place restrictions on any entity which no longer exists. As we all know at this point, that is what the Republican bill does. It bans all political action committees not organized by a candidate or political committee. That is the language which the Democrats have now added to their bill which is before us, a total ban on all political committees, including PAC's.

Senator BENTSEN is probably concerned abut what is going to happen if our PAC ban provision is found to be unconstitutional. That is a legitimate concern, because the right of political association is a right which receives a first amendment protection. We have planned for this contingency by adopting language which lowers the PAC contribution limit to $1,000 from the current limit of $5,000, should the Supreme Court rule that we cannot ban all political committees.

The problem I have with the amendment of the Senator from Texas to this fallback position is that it does not treat all U.S. citizens the same way. Under current law, foreign citi-

zens may not participate in U.S. politics. That is the law today.

They cannot give to a candidate. That is the law today. They cannot give to a party committee. That is the law today and they cannot give to PAC. That is the law already.

Quite simply, they have no way to contribute or spend money in the U.S. elections. Foreign citizens do not have that opportunity today.

What the Senator from Texas is proposing is to prohibit an American company from having a PAC if that company is owned by a foreign company with at least a 51 percent stake in the American company. This certainly sounds reasonable on its face, and I suppose this amendment will have some appeal, but I think all Senators should know what it will do in effect is operate to treat U.S. citizens in an uneven manner. If you work for a company which produces widgets and your company is American then you can contribute to a PAC, assuming PAC's come back at some point. If your company is sold to a foreign company then you lose automatically the right to participate through that PAC.

I think the Senator from Texas has taken a sledgehammer to a problem where a scalpel might be more appropriate. If we are concerned about foreign influence on American electoral process, why not restrict foreign citizens from influencing in any way the decision of American PAC's? Let the American managers and employees make all the decisions and affirmatively prohibit any foreign influence.

Otherwise, Mr. President, the effect of the Senator's amendment will be to create two classes of Americans, those who work for companies which are foreign owned, and those who work for a company which is American owned.

In my State of Kentucky, for example, we have two automobile plants, major facilities, Ford and Toyota. I do not think American employees at these two plants should be treated differently. Both of these plants produce cars and trucks, and the employees of both have a right to participate equally in legislation, if PAC's subsequently come back.

We should regulate the conduct of foreign citizens and limit their influence, but not in the view of the Senator from Kentucky inhibit the ability of American citizens to participate in the political process.

So it seems to me while the amendment of the Senator from Texas has some surface appeal the practical result of it is to discriminate against American citizens who happen to work for a company which is majority owned by a foreign company.

Mr. President, the Capitol Hill newspaper Roll Call wrote an interesting editorial on July 2 in opposition to the proposal Senator BENTSEN is proposing.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Roll Call, July 2, 1990]

"FOREIGN" PAC'S

Should foreign-owned companies that operate in the U.S. be prohibited from having their own PACs? This thorny question has been raised both by the Federal Election Commission and by Sen. Lloyd Bentsen (D-Texas). It carries more and more urgency at a time when international investment is booming.

Foreign individuals are already barred from making campaign contributions, but foreign-owned businesses are another matter entirely. Such companies as Seagram's (Canadian-owned) and Brown & Williamson Tobacco (British-owned) employ thousands of Americans and play an important role in our economy. Should they be denied the right to participate in a political process that directly affects them and their employees? We think not. They should be treated as any other company operating here.

Bentsen, in a Dear Colleague, talked about the "insidious foreign involvement in our political process" entailed in allowing PACs of companies owned in the majority by non-U.S. investors. In an era of free trade and burgeoning overseas markets, this attitude sounds a bit xenophobic. Besides, we think disclosure provides the best antidote to possible excesses. If contributions by foreign-owned PACs (currently 5 percent of total PAC giving) rise too steeply, then candidates will attack their opponents for being too dependent on foreigners, and voters can judge whether those accusations are correct.

Mr. McCONNELL. Mr. President, I retain the remainder of my time.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 3 minutes.

Mr. BENTSEN. Mr. President, in answer to the point, I would point out that there are many distinctions made in this country on this type of issue. For example, we prohibit foreigners from owning our TV and radio stations even though they are staffed by Americans. For example, we give the Government the authority to stop foreign takeovers of defense industries, even though they are staffed and headed up by Americans. We have done the same regarding airline takeovers. That is what we have been able to do to try to help excessive foreign influence in areas that we think are sensitive.

It is still legal for U.S. citizens to go ahead and make individual contributions to campaigns. They are not prohibited in any way from doing that. What we are doing in effect is what has been done in Japan, Germany, and France where they feel that they have had undue foreign influence in their campaign process and in their elections and think it should be brought to an end.

Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no Senator yields time, time will be deducted equally from both sides.

Mr. BENTSEN. Mr. President, how much time does the Senator from Texas have?

The PRESIDING OFFICER. Two minutes and three seconds. The Senator from Kentucky has 5 minutes and 5 seconds.

Mr. BOREN. Will the Senator yield to me?

Mr. BENTSEN. Mr. President, I yield 1 minute to the manager of the bill, the Senator from Oklahoma.

Mr. BOREN. Mr. President, I rise in support of the amendment offered by the Senator from Texas. I think the point he is making is a very, very good one. Other countries take action to make sure that the policy decisions made in their country are directed and made by their own citizens looking after their own national economic interests.

We are in a period of economic competition. Military competition we are happy to say is wanning to some degree around the world, at least between the superpowers. Economic competition is certainly heating up. That is where the competition is. We need to be able to protect our own national economic interest.

I believe the amendment of the Senator from Texas does exactly that without denying to any individual American citizen the right to fully participate in the political process. Individual American citizens could still make political contributions as individual citizens. They certainly are not being deprived of any other form of political activity.

The activity which would be undertaken, however, would be their activity as individual Americans and not actively directed as a group in a sense by those who are really pulling the strings from some other country representing potentially the economic and political interests of another nation.

So I strongly support the amendment by the Senator from Texas and I hope that it will be adopted.

I ask unanimous consent that I might be added as a cosponsor of the amendment of the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator's time has expired.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the issue here is not foreign influence. What this amendment does is restrict the ability of American citizens to participate in the American political process. It is already against the law for a foreign citizen to contribute to an

American election. It has been against the law for years.

What this amendment seeks to do is to take away the rights of American citizens who happen to work in this country for a company that is in turn at least 51 percent owned by a foreign company. I have not done the totals of how many of my people in Kentucky would be taken out of the political process by this amendment, but I know there are at least over 3,000 employees who work for Toyota in Scott County, KY. These are American citizens who should not be put on a different footing simply because they work for Toyota rather than Ford.

I mentioned a Roll Call editorial a minute ago. It is a short one. I think I will read it, because it says it all.

"Should foreign-owned companies that operate in the U.S. be prohibited from having their own PAC's? This thorny question has been raised both by the Federal Election Commission and by Senator LLOYD BENTSEN, of Texas. It carries more and more urgency at a time when international investment is booming.

"Foreign individuals are already barred from making campaign contributions, but foreign-owned businesses are another matter entirely. Such companies are Seagram's (Canadian-owned) and Brown & Williamson Tobacco"—by the way, which is headquartered in Louisville, KY—"(British-owned) employ thousands of Americans and play an important role in our economy. Should they be denied the right to participate in a political process that directly affects them and their employees?"

We are talking about the employees here, not the foreign management, the employees.

"We think not," Roll Call says. "They should be treated as any other company operating here.

Bentsen, in a "Dear Colleague," talked about the 'insidious foreign involvement in our political process' entailed in allowing PAC's of companies owned in the majority by non-U.S. investors. In an era of free trade and burgeoning overseas markets, this attitude sounds a bit xenophobic. Besides, we think disclosure provides the best antidote to possible excesses. If contributions by foreign-owned PAC's," which are "currently 5 percent of total PAC giving, rise too steeply, then candidates will attack their opponents for being too dependent on foreigners, and voters can judge whether those accusations are correct."

Let me just summarize, Mr. President. As far as I am concerned that will conclude the debate on this side. What we are talking here is about American citizens; foreign citizens cannot participate today. It is the goal of this legislation now that the majority has adopted the position of the minority that PAC's be eliminated altogether.

But if that should prove to be unconstitutional, there is a fallback provision in the bill in our original bill now adopted by the majority for $1,000 limit on PAC contributions and if that happens, then the Senator from Texas is saying if you happen to work at Toyota or Brown & Williamson in Kentucky you do not get same rights as the employees who works at Ford or some other company in Kentucky.

I know what the Senator seeks to do. None of us are interested in turning America over to foreign influence, but I think we ought to protect the rights of American citizens to participate in the American political process.

I yield the floor.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Thirty-four seconds.

Mr. LAUTENBERG. Mr. President, I am strongly opposed to letting foreigners influence our political process. Ours is a government of, by and for the people—the American people. And that's the way it should be.

This amendment, unfortunately, is inconsistent with that principle. The amendment would treat some American citizens as second-class citizens, by denying them political rights available to other Americans. That is why I feel compelled to oppose it.

Mr. President, the issue is not whether foreigners can get involved in the American political process. They should not and, under current law, they may not.

Nor, Mr. President is the issue one of political action committees or PAC's. The legislation we are considering would ban all PAC contributions, whether they represent Americans who work for foreign-owned companies or Americans who work for domestically owned companies.

Mr. President, the real issue here is whether American citizens who happen to work for a company with majority ownership abroad should be denied political rights available to other Americans.

Mr. President, my State of New Jersey, under former Gov. Tom Kean, aggressively sought investment from abroad. Given our location and our topflight, educated work force, we are an attractive location for many foreign companies. As a result, the citizens of our State are now benefiting not only from the jobs and investments that have been created by such companies, but by the products that are produced by these companies in New Jersey for sale to New Jerseyans and other Americans.

Mr. President, according to the New Jersey Department of Commerce, in 1987 there were 169,000 New Jerseyans who worked for foreign-owned companies. That number may well be higher now. These people—and the children and families who depend on them—should not be discriminated against just because a majority of the owners of their company happen to reside outside the country.

Mr. President, we should do everything we can to ensure that foreigners do not directly participate in American electoral politics. But let us not discriminate against American citizens in the process.

Mr. BENTSEN. Mr. President, we are not talking about just the individual American, because that person can make his individual contributions. We are talking about the PAC committee that works for that foreign-owned subsidiary, and that PAC committee that is going to be looking over its shoulder to see what their foreign owners think they ought to be doing with the money that the PAC contributes. That is why I think it is important we put this into law.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, we have now used up the time allocated to this amendment. I assume the Senator wishes to ask for the yeas and nays?

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Texas.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I ask unanimous consent the Senator from Nevada might be recognized.

Mr. BRYAN. Mr. President, I rise in support as a cosponsor of Senator BENTSEN's amendment.

This amendment closes a major loophole in current Federal election law.

Foreign nationals are now prohibited from making any contributions in connection with American elections. This was done because participation in the electoral process is a right reserved to American citizens. Control over the governing process should come from those who choose to live under American laws as citizens.

However, foreign-owned companies are permitted, by Federal Election Commission interpretation, to form political action committees. Through these committees, foreign-owned companies attempt to have a voice in the American electoral system.

In fact, there are political action committees contributing to candidates in U.S. elections which are sponsored by subsidiaries that are 100 percent foreign owned.

Senator BENTSEN is attempting to extend the same prohibition against

foreign nationals contributing in American elections to foreign-owned corporations. If contributions by political action committees should be retained in the final version of campaign reform legislation, this is an important loophole in current law which must be changed.

The PRESIDING OFFICER. There being no further debates, the question is on agreeing to the amendment of the Senator from Texas.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any Senators in the Chamber who desire to change their votes?

The result was announced, yeas 73, nays 27, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—73

Adams	Ford	Mitchell
Akaka	Fowler	Moynihan
Baucus	Garn	Nickles
Bentsen	Glenn	Nunn
Biden	Gore	Pell
Bingaman	Graham	Pressler
Boren	Grassley	Pryor
Bryan	Harkin	Reid
Bumpers	Heflin	Riegle
Burdick	Heinz	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Rudman
Coats	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simon
Daschle	Kerry	Simpson
DeConcini	Kohl	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Warner
Dole	Lieberman	Wilson
Domenici	McCain	Wirth
Durenberger	Metzenbaum	
Exon	Mikulski	

NAYS—27

Armstrong	Gramm	Mack
Bond	Hatch	McClure
Boschwitz	Hatfield	McConnell
Bradley	Helms	Murkowski
Breaux	Humphrey	Packwood
Chafee	Kerrey	Roth
Cochran	Lautenberg	Symms
Danforth	Lott	Thurmond
Gorton	Lugar	Wallop

So the amendment (No. 2440) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, let me inquire of my colleagues on the other side of the aisle if there are other amendments at this time that are ready to be offered.

Mr. McCONNELL. There are other amendments. It is our expectation that the Senator from Oklahoma [Mr. NICKLES] will be offering an amendment shortly.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

AMENDMENT NO. 2441 TO AMENDMENT NO. 2432

(Purpose: Relating to restrictions on, and requirements with respect to, use of franked mail for mass mailings)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2441.

Mr. NICKLES. Mr. President, I ask that further reading of the amendment be dispensed with.

Mr. SYMMS. I object. I want to hear it.

The PRESIDING OFFICER. Was objection heard?

Mr. SYMMS. I object.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk resumed reading the amendment.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new subtitle:

Subtitle B—Provisions Relating to Congressional Mass Mailings

SEC. 411. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MAILINGS.

(a) SENATE.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. The summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) HOUSE OF REPRESENTATIVES.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission on Congressional Mailing Standards of the House of Representatives shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. The summary tabulations shall set forth for each Member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of such mail divided by the total population of the district from which the Member was elected.

SEC. 412. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2)(A) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service.".

SEC. 413. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

(a) AMENDMENT OF TITLE 39.—(1) Section 3210(a)(6)(A) of title 39, United States Code, is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 414. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the gorup or groups of persons to whom the mass mailing was mailed."

SEC. 415. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) PROHIBITION OF TRANSFERS TO CANDIDATES.—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) REPORTING AND PUBLICATION.—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission on Congressional Mailing Standards of the House of Representatives—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission on Congressional Mailing Standards of the House of Representatives pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

SEC. 409. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

(a) AMENDMENT OF SUPPLEMENTAL APPROPRIATIONS ACT.—Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking "mail matter" each place it appears and inserting "mail matter (other than mail matter constituting a mass mailing, as that term is defined in section 3210(a)(5) of title 39, United States Code)".

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

"3. No funds in the official office expense account of a Senator, no personal funds of a Senator, no honoraria received by a Senator, and no funds derived from a political committee (as defined in section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) may be used to pay for a mass mailing (as defined in section 3210(a)(5) of title 39, United States Code) that is made in connection with the performance of the official duties of a Senator."

(2) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

Mr. FORD. Will the distinguished junior Senator from Oklahoma yield to me for a question?

Mr. NICKLES. I am happy to yield.

Mr. FORD. I thank the chair, and I thank the Senator.

I say to my friend from Oklahoma that we may be in a posture of accepting this amendment on this side, as we have discussed. I do not know what the posture will be on his side. I hope they will accept it also and get it behind us. How long will the Senator take? We need to look at the amendment to be sure that the items we talked about follow the statutory provisions that we talked about and other things. How long will the Senator take, or did we get a time agreement?

Mr. NICKLES. To respond to the Senator, I think my explanation probably will not take very long. I will be happy to discuss the major provisions of the bill. I will tell my friend from Kentucky, the chairman of the Rules Committee, I have stricken the provisions that dealt with the amendment of the Senate rules. Actually, in our language we made statutory changes, and we also made rules changes to conform to the statute.

Mr. FORD. What rules changes were made?

Mr. NICKLES. I have stricken those from the amendment.

Mr. FORD. No rules changes are in the Senator's amendment?

Mr. NICKLES. Correct.

Mr. FORD. He kept the provisions in there as it relates to only one Senator being prohibited—and that Senator being a Senator up for election—from mailing any unsolicited mail for a year, and applied it to both Senators?

Mr. NICKLES. The Senator is correct.

Mr. FORD. That is a sticky point. I hope we can get a consensus there.

Mr. NICKLES. I appreciate my colleague's comments. I am receptive to those, but the essence of the amendment is several different points. A lot of it has been discussed on the floor.

The essence of the amendment is that we would prohibit the use of unsolicited mass mailings for Senators who are up for reelection. The reason is very simple. We found that mailings increased dramatically for colleagues in election years. I say Senators, but I am also talking to Members of Congress, House Members. Mailings go up dramatically for people who are in a reelection cycle, particularly in a reelection year. We find in reelection years the costs rise dramatically.

So the purpose of this amendment would be to say that Senators who are up for reelection could not use mass, unsolicited mailings during the election year. That is an enormous advantage that incumbents have over challengers.

We are trying to equalize the system and are trying to make this a more democratic system. Certainly, this is one change that needs to be made. It is one of the real abuses to the system.

Members of Congress have abused the franking system for electoral purposes, for their own election purposes. They not only have used the frank, but they have used the taxpayer. I personally think the taxpayers are offended by the fact that they see their tax dollars going out, in some cases, many times during the year, to pay for

mailings for possibly an incumbent they do not even support. Yet, they see their dollars are used to support their mass mailings. I think they are offended. Taxpayers are offended that the frank has been abused, and it needs to be reformed.

I ask unanimous consent that the Senator from North Carolina, Senator HELMS, and Senator GORTON from Washington, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, this amendment does several other things, and I will highlight them as well. We prohibit mass mailings by a Member during a calendar year, when the Member is a candidate for Federal office. The Senator from Kentucky said maybe that should not be quite so long—perhaps 6 months. I am amenable. The length is not the end of the world, but I personally like the calendar year.

Mr. FORD. Will the Senator yield?

Mr. NICKLES. Yes.

Mr. FORD. I do not think the calendar year bothers me as much as excluding only one Senator that is up. Under our present provisions, about which we have been getting accolades and kicks at the same time, we are doing a better job than the House as to limiting our expenses. They are $35 million over on franks, and we are $7 or $8 million under. We have about 40 percent, they got 60 percent of the budgeted amount. We are doing very well.

My problem is that this is saying to the Senators he or she cannot mail for a year under the present provision. Neither Senator can mail 60 days prior to the primary, 60 days prior to the general election. I think he is eliminating some necessity of the Senator that is up, in those interims, to be able to do what he is supposed to do as a Senator; and that may be to communicate with his constituents. That is my biggest problem.

I urge the Senator from Oklahoma to consider saying 3 months prior to the primary, and 3 months prior to the general election, rather than just once and for both Senators, rather than just one Senator being excluded for a whole year on the unsolicited mailing.

That is the only problem. I would like to have him talk to the chairman of the Legislative Appropriations Committee. He is involved in this, too. So we are beginning to put our feet in other pastures here, rather than saying——

Mr. NICKLES. If the Senator will yield. I happen to be the ranking member on legislative branch, and I compliment Senator REID on the work. Did the Senator say that both Senators in an election year are prohibited from mailing for 60 days prior to the primary?

Mr. FORD. Under the present rules, yes.

Mr. NICKLES. From the same State?

Mr. FORD. Absolutely. All I am saying to the Senator, rather than preventing the Senator from mailing for a whole calendar year, why not say to both Senators, 90 days prior to the primary, 90 days prior to the general election?

Some primaries are in October, some in September, some primaries are in May, June, July, every month. So it does get a little confusing when you have one Senator from a State mailing all year and one Senator from the State not mailing any. We can do a better job of oversight, I think, from the rules committee, if we make it all 90 days. I will not argue any more about it. I wanted to make my point. The Senator accepts my point, and I will be more than pleased to see him offer his amendment.

Mr. NICKLES. Mr. President, I thank my friend from Kentucky. I was not aware the present rules prohibited both Senators from mailing 60 days prior. I knew it applied to a Senator in an election cycle. That was one of the reforms Senator REID and I had pushed the last couple of years which we are pleased is now in the language. I was not aware it applied to both Senators. I knew it was applied to a Senator running. That is where the abuses are taking place. There may be a case or two of Senators not running in the same State might get involved with the frank trying to influence the election of his colleague. I doubt that happens very much.

The real abuse is Senators running for election themselves who can abuse the heck out of the frank.

I want to, if I could, just outline the remainder of the major provisions in this bill because the one prohibiting unsolicited mass mailings for a candidate is a major provision. But I have several other major provisions that I want my colleagues to know about so they at least know what we are proposing.

One of the things we do—and this is happening right now and I think it is wrong—right now we have people who do not use their allotment of mail who transfer that unused allotment over to candidates. I find that to be an abuse of the system. Also I find out it is not reported; it is not reported on that candidate who is spending the money. I think that is wrong.

We have reporting and disclosure in the Senate but we have a big loophole. You have five or six Senators who do not use mass mail and many in this body who do not use all of their mail funds who can transfer their unused mail funds to candidates who are in a tight race and those candidates are pouring out the mail. They have a tough race. "Come on, taxpayers, help me. I have a tough race." I think that is wrong. I am offended as a taxpayer for that to be happening. It is an abuse of the system that needs to stop. This legislation would stop it. It needs to stop today.

Mr. President, that is happening today. Unfortunately, this bill is not going to pass today. This bill is not going to become law. I am glad it is not going to become law because of a lot of provisions in there which should not be financed, like public financing campaigns and others; we should not allow the taxpayers subsidizing campaigns and having Senators transfer unused mail over to other candidates who have tight races. That is what is happening today. We take care of that.

Mr. FORD. Mr. President, will the Senator yield to me for one comment?

Mr. NICKLES. I am happy to yield.

Mr. FORD. The mailing is reported. It is reported by the Senator making the mailing. It will show that he will either go over his allotment. As to the Senator who transfers some of his franking privilege to another Senator, there is no report for him to make. But the Senator who receives the funding, that is reported by his mailing. Therefore, it is revealed.

So I want to be sure that we are all on the same track and we all are saying the right thing. It is reported on the basis of the Senator who mails the newsletters or mailing, whatever it might be.

Mr. NICKLES. I appreciate the clarification.

Let me ask the chairman of the Rules Committee for further clarification. If you had a candidate who is in a tough race and he runs around and picks up 50,000 dollars' worth of unused mail from, say, five Senators or $250,000 of mail, and he mails right before that 60 days, maybe he does not have a primary so it is before the general and he mails it in September. Does that show up on his report after the election or before the election. My guess is it is after the election.

Mr. FORD. It could be after the election. But if it is done prior to the 60 days, before the November election, it would be in that quarter's election report or mailing report, which would be the end of October. I am not sure of the date, and I will look for it. But I am trying to recall. You would have October, November, December, so September would be the end and so you would be reporting somewhere around October 15 or 25. So his mailing could not very well be reported prior to the November election.

Mr. NICKLES. I appreciate the Senator's clarification. It really boils down to where a Senator could borrow a lot of unused mailings from a lot of other Senators, dump a lot of mail right before the deadline—the deadline is 60

days before the election—to influence his election. I think that is wrong. That is why I am trying to clarify it. That is one of the things that needs to be done.

There are other major provisions in this amendment that my colleagues need to know about. First, we prohibit mass mailings when the appropriations expires. That needs to be done. We also require disclosures from both Houses. We have it in the Senate. They do not have it in the House. We need it.

The Senator from Kentucky mentioned that the Senate has been successful in reforming its mail and the cost of mail has gone down in the Senate and up in the House. One of the main reasons is that we do have disclosure. We have individual disclosure in the Senate, and I compliment the Rules Committee and those of us who worked on that to make it happen.

As a result, I will print in the RECORD the results of this, but the Senate costs have gone down substantially. The House has not enacted the reforms. Fortunately, they are voting on it presently in the House, and they still refuse to make reporting and disclosure on individual mail costs. They refuse to have individual allotments for House Members. So, as a result, the House costs have continued to escalate.

Mr. President, I have a couple of tables that I ask unanimous consent to print in the RECORD, official mail costs for both the House and Senate, and the total.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 6.—OFFICIAL MAIL COSTS, AND PERCENTAGE OF TOTAL MAIL COSTS USED BY HOUSE OF REPRESENTATIVES AND SENATE, FISCAL YEAR 1972 TO 1989 (EST.)

Fiscal year	Official mail costs			Percentage of total mail costs	
	House	Senate	Total	House	Senate
1972	$18,422,602	$4,783,734	$23,206,337	79.39	20.61
1973	18,709,109	7,576,301	26,285,410	71.18	28.82
1974	21,781,570	9,520,673	31,302,243	69.58	30.42
1975	24,508,846	11,467,479	35,976,325	68.12	31.88
1976	38,340,515	14,633,188	52,973,703	72.38	27.62
Transition quarter	14,924,536	4,250,238	19,174,774	77.83	22.17
1977	27,860,414	13,559,185	41,419,599	67.26	32.74
1978	35,109,000	13,817,000	48,926,000	71.76	28.24
1979	27,729,087	15,213,555	42,942,642	64.57	35.43
1980	43,421,682	18,484,220	61,905,902	70.14	29.86
1981	29,686,213	24,175,800	53,862,013	55.12	44.88
1982	59,894,236	40,431,989	100,038,225	59.87	40.13
1983	40,306,625	32,126,335	72,432,960	55.65	44.35
1984	67,348,392	43,608,944	110,957,336	60.70	39.30
1985	45,308,146	39,852,648	85,160,794	53.20	46.80
1986	60,400,595	35,538,040	95,938,635	62.96	37.04
1987	44,200,958	19,423,954	63,624,912	69.47	30.53
1988	77,852,082	35,507,565	113,359,647	68.68	31.32
1989	54,567,680	30,694,320	85,262,000	64.00	36.00
1990 [1]	75,371,766	16,371,223	91,742,989	81.66	18.34
1991 [2]	59,000,000	35,500,000	94,500,000	62.43	37.57

[1] 1990 figures based on Apr. 24, 1990, U.S. Postal Service estimate.
[2] 1991 House figure based on amount for use in fiscal year 1991 as reported by the House Appropriations Committee; Senate figure based on request pending before the Senate Appropriations Committee.

CONGRESSIONAL POSTAGE COSTS

Fiscal year	Regular appropriations	Total cost	Cost compared to regular appropriations
1972	$14,594,000	$23,206,337	8,612,337
1973	21,226,480	26,285,410	5,058,930
1974	30,500,000	31,302,243	802,243
1975	38,756,015	35,976,325	(2,779,690)
1976	46,101,000	52,973,703	6,872,703
1977	11,525,000	19,174,774	7,649,774
1978	48,926,000	48,926,000	0
1979	64,944,000	42,942,642	22,001,358
1980	50,707,000	61,905,902	11,198,902
1981	36,633,000	53,862,013	17,229,013
1982	75,095,000	100,038,225	24,943,225
1983	55,196,000	72,432,960	17,236,960
1984	107,077,000	110,957,336	3,880,336
1985	73,944,000	85,160,794	11,216,794
1986	100,000,000	95,938,635	(4,061,365)
1987	91,423,000	63,624,912	(27,798,088)
1988	82,163,000	113,359,647	31,196,647
1989	53,926,000	85,262,000	31,336,000
1990	67,679,521	91,742,989	24,063,468

Average of election years: $73,035,102.
Average of nonelection years: $53,857,981.

Source: 1972–89 figures from Congressional Research Service; 1990 data from July 27, 1990, U.S. Postal Service figures.

Mr. NICKLES. Let me make a couple points from these total costs, to help amplify the need for this reform: Election year versus nonelection year. I will go over the last couple cycles.

Starting in 1980, an I am going to add the House and Senate together, total mail cost was $61 million.

In 1979, the year before that—1980 was an election year—the year before that, the cost was $42 million, almost a 50 percent increase in an election year.

Taking the next cycle, 1981, mail cost was $53 million.

In 1982, an election year, the cost was $100 million, the cost almost doubled in an election year.

In 1983, the cost was $72 million.

In 1984, it was $110 milion, again, a 50-percent increase in an election year.

I could just go on down. I will mention a couple others.

In 1987, the cost was $63 million.

In 1988, $113 million. Again, the mail cost almost doubled in an election year.

I will just mention again on the Senate side the costs in 1989 were $30 million; estimated costs in 1990 were $16 million. The costs have been brought down substantially. Why? Because we enacted reforms.

Again, I compliment my friend from the Rules Committee and particularly, Senator REID, because we have made those reforms and made good choices. We have had individual allocations amongst Members. That was a positive reform and we need that for the House, as well. We needed disclosure, and we have that now in the Senate. It is a significant reform. Mail costs have come down in the Senate. But in the House, if you compare, in 1989 they spent $54 million and it is estimated in 1990 they will spend $75 million. Again, at least 50 percent more from the House between 1989 and 1990.

So significant reforms need to be made.

I might mention that the underlying bill that subsidizes mail costs which would allow candidates to mail at subsidized rates at basically one-fourth the rates the rest of taxpayers pay I think is wrong. That is another case of taxpayers subsidizing in elections with which this Senator happens to disagree.

I made one final change, and I will mention it for my colleagues. I have also modified the statute that allows the use of official accounts, office accounts, campaign funds, and honoraria to fund mass mailings. I heard this again and again, and Senator REID and I are familiar with that. When we go into conference with the House, we talk about limiting the mailing fund. They say "You guys can use the personal account, campaign accounts, your whatever accounts to subsidize mass mailings." We strike that provision in this legislation as well.

Mr. President, I thank Senator MCCONNELL for his leadership and also thank Senator WILSON for the outstanding work he did, and I thank Senator REID, because we incorporate various changes made, as well as my colleague from Oklahoma, who are supportive in efforts to bring common sense and fiscal discipline to franking which certainly has been abused in the past.

The PRESIDING OFFICER. The Chair recognizes the Repubican leader.

Mr. DOLE. Mr. President, I would like to say just a few words in support of the amendment offered by my distinguished colleague from Oklahoma, Senator NICKLES.

Without a doubt, congressional incumbents enjoy many built-in advantages—large staffs, high-name recognition, easy access to the media, the enormous power of the congressional bully pulpit, and the apparent infatuation of the special-interest political action committees located here in town.

But one of the biggest perks of incumbency can be summed up in a single word—the "frank."

According to statistics provided by the Congressional Research Service, the total cost of congressional franked mass mailings for fiscal year 1990 was a whopping $91,742,989—that's approximately $75 million for the House and $16 million for the Senate.

To put things in perspective, the $91 million spent on franked mass mailings in fiscal year 1990 represents a 395-percent increase in the cost of these mailings since fiscal year 1972.

I repeat: a 395-percent increase.

Mr. President, the Nickles amendment would help to curtail some of the abuses associated with the frank by requiring every Member of Congress to prepare quarterly reports on the cost of his or her own franked mass mailings. These reports would be published

on a quarterly basis in the CONGRESSIONAL RECORD.

The Nickles amendment would prohibit franked mass mailings if the cost of these mailings exceeded the amount appropriated to the House and Senate for this purpose.

The Nickles amendment would put an end to the franking shell game, whereby Members of Congress transfer personal mailing funds from colleague to colleague, depending upon which colleague needs the most help for his reelection campaign.

And, most importantly, the Nickles amendment would promote competition in politics by prohibiting Members of Congress from conducting franked mass mailings during an election year, which we all know happens to be a favorite pastime here in Congress.

Mr. President, in a nutshell, the Nickles amendment is about the accountability of Congress to the taxpayers. It is about fiscal responsibility.

And it is about improving competition in politics by restricting one of Congress' favorite incumbent perks, the frank.

I urge my colleagues to support the Nickles amendment when it comes time for a vote.

I think it is going to have broad support. The distinguished Senator from Kentucky, the chairman of the Rules Committee, has certainly done a lot of good work in this area. Maybe his suggestion is a good one.

I do not know much about the details, but I am certain the Senator from Oklahoma; the Senator from Nevada [Mr. REID]; the Senator from Kentucky [Mr. FORD]; and others who worked on this a great deal can come to some agreement that we can all support.

Mr. FORD. Will the Senator yield?

Mr. DOLE. I am happy to yield the floor.

Mr. FORD. The only thing I disagree with the distinguished Senator from Oklahoma about is that he just eliminates one Senator from sending out the mail. That is the one up for election. My proposal is that in the general election both Senators are excluded 60 days out.

What I hope the Senator from Oklahoma would do would not exclude the Senator from mailing anything for town meetings or whatever; I do not mind that. But I think you ought to do it for both.

One of the things that surprises me in this amendment is it is just asking the House to do what we are already doing in the Senate. It acts like this is something new for the Senate. We report. I put it in the RECORD. If you read the RECORD last week, you would have found out how much mail was mailed by every Senator in the Senate, all 100; how much we spent; how much we saved. That is already in the RECORD. I did that last week.

And so it says that it appears that we are doing something to ourselves that has never been done before. I would like the public to know that we are now doing these things and basically we are asking the House to do it. They are $35 million over the budget this year. We are under the budget by millions. And we have allocated funds. Senators in here fussed that they have not had enough money to make one statewide mailing.

So I would just like to be on the record that what is transpiring here is that the Senate is now doing these things and we are trying to incorporate it into a reform bill to see if the House cannot get into the same posture that the Senate is in. We get written up in the paper every quarter about how much money has been spent and who the big spenders are. That is something that is out there. It is distasteful to some.

I thank the Senator for his support of this amendment. I think it is the right thing to do. But I wanted to be sure that those of us who have had whacks across the back, now it is coming out that the Senate is already doing basically what this amendment calls for.

I thank the Senator for giving me this opportunity.

Mr. REID. Mr. President, Senator NICKLES and I have sometimes the dubious distinction of leading the legislative branch appropriations. It is in many instances something that is somewhat thankless because we deal with issues that affect us. I certainly have appreciated the support that the committee has received from Senator NICKLES during the time I have been involved in the appropriations process.

In the experience of comity that Senator BOREN spoke of yesterday so eloquently, there have been people that have approached me saying that maybe the amendment of the junior Senator from Oklahoma needs finer tuning. Maybe we should attack the amendment on jurisdictional grounds. I am not going to do that.

I talked to Senator BOREN personally today and told him how much I appreciated his statement yesterday on this floor when he said that this campaign spending law that is now attempting to be passed is not going to be a Democratic bill or a Republican bill, a conservative bill or a liberal bill, but a bill that the American taxpayers need.

Now, I frankly feel that perhaps this matter should be approached on a legislative appropriations bill. And it probably will be. I would also say that the House has not done anything yet in committee. They have reported out their legislative appropriations bill. We are told that they are going to make some improvements on the floor. Certainly, I would hope so.

We were expecting some real improvement in what the House was going to do with their franking. As the junior Senator from Oklahoma acknowledged numerous times during the debate last year, there were a number of things not done on this floor based on the expectation that the House was going to improve their process.

I believe that the House, when it is totally within the keeping of the constitutional framework, should handle their own problems. But this franking problem has now been brought out of the framework of leaving it to each House to, in effect, handle their own affairs because it is something that we receive criticism because people cannot separate the fact that we are now $6 million under our budget, and the House is we do not know how many millions of dollars over their budget.

We, the Senate, are receiving criticism because of the other body. I respectfully submit to the other body that they should, when their bill comes to the House foor, which I understand is going to be this week, they should make some of these improvements that are in the bill that has been submitted by the ranking member of the Appropriations of the Legislative Branch Committee. I would hope they would do that. They have not done it yet. I would hope they would do it on the floor.

I would also say that in spite of the fact that maybe the House will take care of their own business—and we should wait until they complete their legislation to see if they have done that and then do what is necessary during the markup of our own bill, because we are not going to mark our bill up until the legislative branch on the House side completes their legislation.

Having said enough about that, I want the Senator from Oklahoma to know, the sponsor of this legislation, that I think it is a bold step, a positive step, and a wise step for the Senate to change, in effect, through statute Senate rule XXXVIII. Senate rule XXXVIII now allows the use of official personal funds, campaign funds, and honoraria to help the expense account and allows franking to be paid for by money other than taxpayers' money.

I cannot congratulate and applaud the Senator from Oklahoma enough. It is a bold step. In the matters we have to deal with in the House, it will save us untold hardship. So I appreciate very much what he has done.

Again, in closing, let me say that I think Senator BOREN set the tone of this legislation yesterday. I am not going to raise any jurisdictional grounds with this. The Senator from Kentucky has not done so. We need to

pass a bill to reform the way we handle campaigns in this country.

It is inappropriate that the average Senate campaign now costs, as I understand it, about $4 million in a sparsely populated State like the State of Nevada. In 1986, I spent $2 million. Two years later in that same State, the two candidates running for the Senate spent between them about $6 million. That has to stop. We have to do something about that. That is what the taxpayers are concerned about, not whether the legislative branch has jurisdiction of this or someone else.

So I will personally support this legislation. I think it sends a message to the other body that there needs to be something done to in effect get under control these costs of mailing done at taxpayers' expense.

Mr. NICKLES. Mr. President, one, I wish to thank Senator REID. It has been a pleasure to work with him on the legislative branch appropriations bill. And that is not an easy appropriations bill. Needless to say, there is a lot of strong feelings on both sides.

MODIFICATION TO AMENDMENT NO. 2441

Mr. NICKLES. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The modification is as follows:

On page 11, beginning with line 6, strike all through the end of the amendment and insert "subparagraph (A)".

Mr. NICKLES. Mr. President, just to explain to my colleagues what I have done—I informed my colleagues from Oklahoma and Kentucky—when I had stricken the section dealing with modifications in the rules, I omitted one of those when I hastily omitted those, so I added that. In addition, as requested by the Rules Committee staff, I made a small change in the language on page 11 dealing with subparagraph (A).

The PRESIDING OFFICER. The Chair recognizes the floor manager, Mr. BOREN.

Mr. FORD. I have no objection.

Mr. BOREN. I thank my colleague. I have looked at the modification that has been sent to the desk, as has the distinguished chairman of the Rules Committee and his staff. I believe with these modifications we have avoided any kind of problem in terms of amending the rules which would have changed the cloture requirement on this legislation. I want to express my appreciation to my colleague from Oklahoma.

Let me say this is a cause I have long supported. I congratulate him for leading this effort on this occasion, as he has done in the past. I see the distinguished Senator from California also on the floor. We have joined on similar legislation affecting newsletters in the past.

I myself put into practice unilaterally these changes some years ago. I have not sent a newsletter out in my State for 7 or 8 years. I announced that decision publicly to the population of my State. I also stopped sending out mass mailings and made that announcement. I have to say in the past 7 or 8 years that I operated under the practice of no newsletters and limiting myself on mass mailings, I have not received a single complaint from a single resident in my State who has complained about not getting the wonderful news and information they had previously received from me and other Members of Congress via the newsletters with all those wonderful photographs showing me in action on the Senate floor. Not one single person telephoned me. Not one single person wrote me to say, "What happened to your newsletter? Why do I not receive it any more? I have been hurrying to the mailbox so I could look for it there."

In fact, I did receive some other communications from my constituents on that occasion, especially when they realized the several hundred thousand dollars that I was saving each time I did not send them this newsletter, to congratulate me on saving the taxpayers' money.

So I think I am living proof when I say to my colleagues, to those who fear giving up the right to send massive numbers of newsletters and communications to campaign at the public expense and fill the mailboxes of this country with correspondence that obviously the people are not yearning to have, it will not be a political disadvantage to them. The people, on the other hand, I think, will be appreciative of the fact that in these tough budgetary times their money is being saved. I think they will also be appreciative of the fact, from the point of view of campaign reform—and I believe this proposal belongs in a campaign reform bill—that incumbents, who have so many other advantages, including a more than 2 to 1 advantage in the raising of funds under our present system where spending is unlimited, also have many, many other advantages including, in the past, the misuse of the frank to advertise at the taxpayers' expense for political purposes.

I think this amendment goes a long way in constraining the abuse of the frank by those running for reelection. I think it will go a long way toward prohibiting people from running at the taxpayers' expense. I think it is good government, it is something long overdue.

I applaud my colleague from Oklahoma for offering this amendment. I am very pleased to support it. I ask unanimous consent that I might be added as a cosponsor of this particular amendment.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. BOREN. I hope because my colleagues from Nevada and the chairman of the Rules Committee, are demonstrating their willingness to accept this even though it has not gone through the usual committee procedure and jurisdictions, I hope again this is a real signal we do want real campaign reform and we want bipartisan action. When we can get together in this fashion, to do something that is overdue to accomplish an objective, to stop an abuse of taxpayer funding to finance campaigns indirectly, to stop the misuse of the franking privilege, I think it is appreciated by the American people.

That is the tone the Senator from Nevada said that we tried to set in the beginning on this bill. It is another demonstration of our hope that we will not let the American people down, and hopefully complete action by the close of business tomorrow. The leader has continued to withhold filing cloture. I certainly take those on the other side of the aisle at their word, that they are going to expeditiously offer their amendments and let us get to a vote on final passage.

Hopefully, by the time final passage arrives, we will be able to craft a product that will command very strong bipartisan support for final passage on both sides of the aisle, both on the floor and off the floor. I am going to be working to that objective to see if there are ways we can find to come to common agreement and get this bill passed.

Again I am proud to cosponsor this amendment. I commend my colleague from Oklahoma for his diligence and his perseverance on this matter. It has been a long struggle on his part, and I think he made a major contribution to the cause of good government in leading this effort.

Mr. HELMS. Will the Senator yield?

Mr. BOREN. I will be happy to yield to my colleague from North Carolina.

Mr. HELMS. I will only be a moment. I told Senator NICKLES I will be a cosponsor of his amendment even though I do not think it goes far enough. Actually, what we are doing is trying to stop something that ought not to have been started in the first place. When I came to the Senate in January 1973, I resented the use of taxpayer funds to send out so-called newsletters. I put quotation marks around the "news" part. There is no news about it. They are nothing but puff sheets. Maybe the saints have deprived me somewhere along the line, but I have never seen one newsletter that gave both sides of an issue. It is always: "I did this and I did that, and I

am spending money for this and I am spending money for that for your good." That's what they tell the taxpayers.

They are nothing but campaign vehicles, pure and simple. It ought never to have been permitted in the first place.

Some years ago, walking from my parking space in the basement of the Dirksen Building, I heard the clatter of machinery. Being always curious about what is going on, I looked in and found out there was a Senate printing office, which has been moved since. So I went in. They had not had a Senator in there for years, maybe. They welcomed me. There were all the offset presses, just whirring, turning out newsletters, for a particular Senator.

I will not identify the Senator, he is no longer a Member of this body, but he sent out 1 million copies of a newsletter every month—every month. He borrowed paper from other Senators to do it. But he sent out 1 million copies of that newsletter every month.

I called the General Accounting Office and I said: "Tell me how much it costs per copy to do a newsletter?" At that time—and that was 10 years ago—it was 28 cents. Now, the postage rate has gone up and up and up into the stratosphere since that time. The Lord only knows how much it costs per copy to send out these political puff sheets today.

I figured out that that Senator alone was spending a quarter of a million dollars a month to advertise himself. If that is not an indignity to the taxpayer, I do not know what is. So I commend both Senators from Oklahoma for their work on this issue and for offering this amendment. I just do not think it goes far enough, but I am willing to cosponsor this first step.

I thank the Senator for yielding.

Mr. BOREN. I thank my colleagues from North Carolina. I predict these qualities of frugality and good citizenship are not just qualities in my home State of Oklahoma. As strong as they are in my State, when all of us abide by this rule and the citizens do not continue to receive newsletters from us in election years, I would be so bold as to predict there will not be one single Senator out of the 100 who will receive messages of complaint from citizens that they are no longer adequately informed about the great issues of the day because they are not receiving newsletters and mass mailings from us.

I again join my colleague from Oklahoma in urging adoption of this amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, as a cosponsor of the Nickles amendment, I am obviously very pleased to support it, and I commend my friend from Oklahoma, the junior Senator and, indeed, senior Senator. The three of us have, over a period of time, worked to bring about the reform. As the senior Senator from North Carolina just observed, I would be much more pleased simply to eliminate the practice altogether. I have tried on a number of occasions to do that. The best we have been able to do is to make, certainly, progress and, certainly, compared with the House of Representatives, the performance of the Senate is almost distinguished. But then that is a comparison that we really should not seek.

The fact of the matter is that this is a campaign reform effort that is before us, so that it is appropriate that the very good amendment being offered by the junior Senator from Oklahoma should be offered to it because it is a campaign reform and appropriate.

As the senior Senator from North Carolina has observed, most of what is referred to in the category of newsletters somehow seems to celebrate the achievements of Members of this body and the other body.

I should tell my friend, the senior Senator from Oklahoma, that his experience is not unique. I have had no complaints; I am not a sender of newsletters. Indeed, on one occasion, he may be amused to learn that someone came to me and thanked me for sending them a newsletter, which is interesting, because I do not send them.

On the other hand, they get a great many, and I suspect most of those end up in the trash, unread, because they are unsolicited and, I think, largely unloved. They do, do one thing. They do put the Member's name before the public. It is like a billboard, I suppose, except that it is a passing billboard, one that passes very quickly as it leaves the mailbox and finds its way to the trash can.

I do not intend to sound cynical about the work that is done on this floor. There are any number of Members, in fact I say 100, who have every reason to be proud of their record and take some pride in telling their constituents what they have done on this floor. But even in those newsletters, which legitimately inform the constituent about matters of interest, even those that tell them things that are useful for them to know, and refrain from the repeated mention of the Senator, that refrain from multiple photographs of the Senator, even those I think we have to ask: What priority does the public attach and, therefore, what priority should we attach to them?

The answer is that in a time when we are going to be compelled to face the possibility of a sequester that may mean cuts in domestic service amounting to tens of billions of dollars, it is obviously not one of the most urgent priorities. I suggest perhaps it is the least important thing that we do by way of spending money, unless we add to that list of expenditures public financing of campaigns. That may replace even the newsletter as the most unloved and unwanted of all public expenditures which taxpayers are compelled to pay for, not as a matter of their own volition, but because we have imposed it upon them.

So, Mr. President, I will not take longer. I will just say that my friend from Oklahoma has demonstrated leadership and tenacity; that his amendment is a good one. It is appropriate as an amendment to this legislation because it is a reform of campaign practices if we eliminate, certainly in an election year, these puff pieces, as the senior Senator from North Carolina has described them. It would be best if we eliminated them altogether. I suspect one day we shall.

But it is certainly true that in the Rules Committee in the Senate, they have made a diligent effort to reform what was a very greatly abused practice. It is certainly true, as the chairman of the Rules Committee has stated, that they have not done so in the House of Representatives. As he points out, an account which should not exist at all is $6 million in surplus on this side, and $35 million in arrears in the House of Representatives.

I, too, had the experience of my friend from North Carolina. I made the error, evidently, so I was informed later by the Sergeant at Arms, of allowing a television news reporter to accompany me into the room where the mailing takes place. I was later informed that that violates a Senate rule.

It seems to me that it is a bad rule but, in any case, the whole purpose of that—and I did not initiate the request, the news media did—but the whole purpose was to allow some understanding on the part of taxpayers as to the magnitude of that mailing program so that they would begin to have some basis for questioning the wisdom of that kind of expenditure.

I will say to my colleagues, the experience of the senior Senator from Oklahoma, as he related it, is not unique to more than a dozen Members on this floor who send no letters. He has received no complaints. I have received none. He has received some commendation for his concern for taxpayers.

To put it in simplest terms: This reform is one that one day I hope will be extended to the entire practice, for the simple reason that there are far more urgent demands upon limited resources than we can now satisfy, and this is not a priority that calls out for justice in public expenditure.

So let us agree to this. It is another step forward. Perhaps one day we will even be honest enough to say it, that

there should not be a blank check at the post office for the Congress of the United States, but the best way to even deal with that problem is to say we should not do this thing, and, therefore, in the future we will not. I hope that time will come soon. In the meantime, this is a good step. I thank my friend from Oklahoma for offering it, and I am pleased to be associated with it.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. Mr. President, I want to express my appreciation to the distinguished chairman of the Rules Committee, of which I am a member.

Chairman FORD, on July 27, printed his quarterly report entitled Senate Quarterly Mass Mail Volumes and Costs for the Quarter Ending June 30, 1990. I ask unanimous consent that this table be reprinted in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1990

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita
Adams	47,993	0.01008	$10,954.66	$0.00230
Akaka	0	.00000		.00000
Armstrong	0	.00000		.00000
Baucus	110,475	.13707	17,375.03	.02156
Bentsen	28,275	.00166	5,036.04	.00030
Biden	0	.00000		.00000
Bingaman	19,195	.01256	3,991.90	.00261
Bond	61,740	.01197	8,457.25	.00164
Boren	0	.00000		.00000
Boschwitz	186,890	.04293	32,703.61	.00751
Bradley	18,300	.00237	3,242.06	.00042
Breaux	0	.00000		.00000
Bryan	53,240	.04792	6,786.84	.00611
Bumpers	6,550	.00272	1,071.63	.00045
Burdick	92,900	.14076	14,646.07	.02219
Burns	27,570	.03421	4,761.61	.00591
Byrd	0	.00000		.00000
Chafee	132,800	.13307	20,243.54	.02028
Coats	612	.00011	138.56	.00002
Cochran	0	.00000		.00000
Cohen	34,050	.02786	5,118.79	.00419
Conrad	0	.00000		.00000
Cranston	1,800,000	.06193	270,236.26	.00930
D'Amato	1,520,835	.08473	234,684.56	.01307
Danforth	0	.00000		.00000
Daschle	223,880	.31312	33,306.43	.04658
DeConcini	2,038	.00057	1,750.63	.00049
Dixon	832,000	.07137	117,508.88	.01008
Dodd	0	.00000		.00000
Dole	0	.00000		.00000
Domenici	0	.00000		.00000
Durenberger	26,500	.00609	5,159.11	.00119
Exon	3,064	.00190	2,610.52	.00162
Ford	0	.00000		.00000
Fowler	0	.00000		.00000
Garn	0	.00000		.00000
Glenn	3,000	.00028	555.14	.00005
Gore	123,750	.02505	15,779.39	.00319
Gorton	0	.00000		.00000
Graham	78,700	.00621	13,127.95	.00104
Gramm	311,175	01831	42,055.11	.00248
Grassley	234,855	.08270	37,366.16	.01316
Harkin	168,750	.05942	26,486.74	.00933
Hatch	2,300	00135	394.58	.00023
Hatfield	0	.00000		.00000
Heflin	0	.00000		.00000
Heinz	706,600	.05869	97,254.63	.00808
Helms	0	.00000		.00000
Hollings	0	.00000		.00000
Humphrey	0	.00000		.00000
Inouye	4,150	.00373	1,123.05	.00101
Jeffords	11,000	.01940	3,069.31	.00541
Johnston	110,525	.02522	15,266.38	.00348
Kassebaum	0	.00000		.00000
Kasten	361,393	.07425	52,422.91	.01077
Kennedy	0	.00000		.00000
Kerrey	1,774	.00110	1,527.41	.00095
Kerry	19,950	.00337	5,273.51	.00089
Kohl	0	.00000		.00000
Lautenberg	633,725	.08192	106,006.68	.01370
Leahy	53,805	.09489	9,038.74	.01594
Levin	0	.00000		.00000
Lieberman	141,827	.04379	22,455.56	.00693
Lott	0	.00000		.00000
Lugar	176,840	.03162	26,253.28	.00469
Mack	47,450	.00374	8,116.31	.00064
Matsunaga	5,000	.00450	851.79	.00077
McCain	139,175	.03914	23,468.06	.00660
McClure	9,775	.00964	1,296.98	.00128
McConnell	206,200	.05533	30,778.29	.00826
Metzenbaum	0	.00000		.00000
Mikulski	0	.00000		.00000
Mitchell	0	.00000		.00000
Moynihan	1,276,100	.07109	222,431.19	.01239
Murkowski	33,645	.06384	5,057.21	.00960
Nickles	17,292	.00536	13,995.35	.00434
Nunn	0	.00000		.00000
Packwood	243,780	.08645	45,482.45	.01613
Pell	322,319	.32296	51,321.83	.05142
Pressler	295,780	.41368	46,319.14	.06478
Pryor	72,150	.02999	12,775.26	.00531
Reid	50,401	.04547	9,448.37	.00850
Riegle	19,045	.00205	3,631.78	.00039
Robb	0	.00000		.00000
Rockefeller	35,025	.01886	5,823.43	.00314
Roth	298,465	.44348	45,139.99	.06707
Rudman	0	.00000		.00000
Sanford	0	.00000		.00000
Sarbanes	43,345	.00923	8,495.39	.00181
Sasser	0	.00000		.00000
Shelby	0	.00000		.00000
Simon	324,450	.02783	48,294.60	.00414
Simpson	14,200	.20989	1,816.70	.00382
Specter	360,950	.02998	47,941.28	.00398
Stevens	428,950	.81395	68,408.82	.12981
Symms	21,750	.02145	4,064.93	.00401
Thurmond	0	.00000		.00000
Wallop	674	.00142	109.69	.00023
Warner	91,050	.01493	13,954.17	.00229
Wilson	0	.00000		.00000
Wirth	0	.00000		.00000
Totals, Senators	12,729,998	4.34047	1,994,264	.68988

Mr. HELMS. I thank the Chair. Let me say to the distinguished Senator from California that I have had some experience with this issue about 10 years ago. I was hot to trot on this newsletter business, but I got nowhere. I proposed amendment after amendment, and they were voted down.

Phil Jones of CBS television became interested in it. He said, "Senator, how about letting me go see the print shop." I said, "Be my guest." So I took Phil and his cameraman there, and I had the same experience that Senator WILSON had. They said, "You cannot come in here." I said, "What do you mean? I am a member of the Rules Committee." They said, "You will have to see the Sergeant at Arms." I said, "No, I will not."

So 10 years later, 9 years later, whatever it is, I think it will be of interest to the taxpayers to study the report printed in the RECORD by the distinguished Senator from Kentucky [Mr. FORD] because it shows that for the quarter ending June 30, 1990, 12,729,998 copies of newsletters, mass mailings, whatever, were sent at taxpayers expense by Members of the Senate. That amounts to 4.34 pieces per capita. The total cost for one quarter—and this is for the Senators—$1,994,264.

Mr. President, in my previous life I ran a television station down in North Carolina, and I must have received newsletters from 40 Senators and 100 Members of Congress. I do not know how I got on their mailing lists, but I was there. I did not even look at them. Day after day, I would resent all of this trash, and that is what it amounts to, coming across my desk.

I had a call just last week from a distinguished citizen of Raleigh. He said, "JESSE, a certain Congressman is sending out thousands of newsletters." I will not identify the Congressman. He said, "I just looked in the trash can when I went to get the mail at the post office this morning and the trash can was full of newsletters." What the boxholders would do is they would pull out and see a newsletter from this Congressman and discard it immediately.

So that is what happens. But I say again newsletters are nothing but puff sheets for politicians using the taxpayers' money. I resented it before I came to Washington. I resent it now. My only regret about the amendment of Senator NICKLES is that it does not go far enough. We ought to stop doing what ought never to have been permitted in the first place.

I thank the chair, and I yield the floor.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague from North Carolina, Senator HELMS, for his statement and also for his tenacity on this issue.

FURTHER MODIFICATION TO AMENDMENT 2441

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration—a modification.

The PRESIDING OFFICER. The clerk will report the modification.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the modification——

Mr. FORD. I object. The Senator has an amendment at the desk. It has been modified. Is the Senator setting up an amendment in the second degree?

Mr. NICKLES. If the Senator will yield, no, it is just a modification of my amendment. Basically, it is a sense-of-the-Senate resolution.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I have been assured by the Parliamentarian and others that this is just a sense-of-the-Senate addition to the Senator's amendment. And in the words of Alben Barkley, the use of this is just pious hope.

I have no objection, based on the ruling of the Parliamentarian.

The PRESIDING OFFICER. The Senator retains his right to further modify his amendment. His amendment is so modified.

The further modification is as follows:

At the end of the amendment insert:

SEC. 410. It is the sense of the Senate that: (1)(A) each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report on the date of the transfer or receipt of such transfer to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of Senate passage of this resolution, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

Mr. NICKLES. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, have the yeas and nays been ordered on the pending Nickles amendment?

The PRESIDING OFFICER. They have not.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCONNELL. Mr. President, I rise in support of the amendment offered by Senator NICKLES.

Mr. President, postmasters all over America are acutely aware this is an election year. That is because around this time every 2 years, these postmasters find that they are bombarded with congressional mass mail.

No one likes it when the Postal Service announces a rate increase. But the Members of Congress should take part of the blame for the Postal Service's problems.

The House will spend over $80 million this year on mass mail—that is $35 million over budget. The Postal Service must still deliver this mail even though it has not yet been paid for.

While the House theoretically has a spending cap on franked mass mail, individual Members have no cap—you do not have to be an accountant to see that the House's appropriation for franked mass mail is nothing more than a red herring. They have drawn a blank check on the accounts of American taxpayers.

Members of Congress can mail as many newsletters to an individual as he or she desires. They can mail to an individual 20 times a year—and never be held accountable to the voters. Many of these mailings are short on information and long on public relations.

In election years Congress spends over a third more than a nonelection year. It is obvious that the frank is being used for political grandstanding.

Congress sent out almost 600 million pieces of mass mail last year. Since 1978, congressional mass mail costs have more than doubled from $48.9 million to $113.3 million in 1988.

While the Senate is by no means free from guilt, at least this body has taken steps to make our spending on mass mail accountable to the public, and to reduce the amount we spend in this area. The Senate, which discloses franking expenditures, will spend $6 million less than the $24 million we appropriated ourselves.

The Senate reports its costs four times a year in the CONGRESSIONAL RECORD for all to see.

Now it is time to take the next logical step—to ban franked mass mailings by incumbents in their election years.

The franking privilege is a tremendous advantage incumbents enjoy over challengers who would have to pay hundreds of thousands of scarce campaign dollars to obtain an equivalent level of postage to communicate with voters.

The franking privilege is yet another reason why spending limits will not work as advertised.

Taxpayer-financed postage, computers, paper and printing allow incumbents to indulge in self-serving mass mailings that give them a huge free publicity bonanza.

Congress already has taxpayer financing of incumbents' campaigns in that we are using tax dollars to send mass mail back home.

Anyone who has been elected to Congress knows the importance of name recognition in a campaign—how mail can be used to enhance one's image in one's State or district.

We must address the issue of how franked mass mail helps the incumbents in Congress.

Proponents of spending limits are schizophrenic when it comes to free speech. They want to limit the amount that challengers can spend to get their message out to the voters—but their bill does not limit incumbents own use of the franking privilege—allowing virtually unlimited quasi-campaign literature at taxpayer expense.

I ask my colleagues to join with me now in stopping this myopic drive for self-preservation by eliminating use of the franking privilege in election years.

Mr. SIMPSON. Mr. President, I rise in support of the amendment which would prohibit franked mass mailings by Members of Congress during an election year. This amendment is taken directly from the comprehensive Republican substitute, and is the kind of reform that is a recurring theme in the Republican bill—specifically, to eliminate incumbent advantages. And the corollary, to allow challengers the opportunity to have a more level playing field in races against entrenched incumbents.

One of our duties is to inform our constituents about what we are trying to do for their benefit and the frank is certainly a necessary and helpful perk of office. But it is necessary for all of us to discard some of these perks if we really intend to achieve a bill that truly reforms the system.

When a disproportionate amount of these mass-mailed, franked newsletters go out during the course of an election year, as opposed to a nonelection year, there is something plenty wrong with the system. Current law does not go far enough to correct this inequity. It only prohibits such mailings from going out within 60 days prior to an election. It needs further drastic reform and this amendment is just such an appropriate remedy.

I urge the adoption of the Nickles amendment.

Mr. BOREN. Let me suggest there are several of our colleagues on both sides of the aisle in a meeting down at the White House. I think for their convenience it would best if we could stack votes, and have the vote on the Nickles amendment occur immediately after the vote on the next amendment which is considered on the floor, whenever that occurs.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent that we temporarily set aside the Nickles amendment in order that the Senator from Kentucky may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, I ask unanimous consent that immediately following the vote disposing of the amendment of the Senator from Kentucky that he will now send to the desk, the rollcall vote occur at that time on or in relation to the Nickles amendment without any intervening votes or further modifications of the Nickles amendment being in order immediately following the disposition of the McConnell amendment which is now being sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2442 TO AMENDMENT NO. 2432

(Purpose: Eliminating soft money expenditures by tax-exempt organizations)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 2442 to amendment No. 2432.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . RESTRICTIONS ON SOFT MONEY ON TAX-EXEMPT ORGANIZATIONS.

(a) RESTRICTIONS ON TAX-EXEMPT ORGANIZATIONS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for public office."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any participation or intervention by an organization on or after September 1, 1990.

Mr. McCONNELL. Mr. President, the amendment we will be considering that I have at the desk is a very significant amendment in the view of the Senator from Kentucky.

In the course of this debate, we will have several important amendments that go to the heart of the issue of campaign finance reform. We had one of them last night. That was the question of whether or not it is appropriate in these days of spiraling deficits to be using Federal money for our political campaigns. We had that vote last night, and the Senate has spoken.

The next issue in campaign finance reform that is of enormous significance is the question of what is really being spent in campaigns; that is, the so-called "sewer" money, what professionals call nonparty soft money. The amendment I am offering today deals with sewer money, nonparty soft money.

Mr. President, if we going to seriously consider any type of limit on direct campaign spending, then we also need to limit any type of indirect or soft money activity which is designed to influence an election.

Many of you have heard me describe how spending limits will cause the same results as putting a rock on Jell-O; that is, everything oozes out to the side. Money which is normally limited and disclosed under our campaign finance laws will ooze out the sides of the rock and end up fueling the next underground economy in politics.

We can see this phenomenon with the only election campaign where we already have spending limits, the Presidential system.

In 1988, we saw the fundraisers of both party committees exploit a loophole in our laws by soliciting hundreds of millions of dollars in soft money contributions for Federal and State party committees. Much of this activity remained unlimited and unreported because of the very loose State election laws.

Both the Democratic and Republican bills deal with this loophole for party activities, primarily by converting these soft contributions into hard dollars where they can be limited and disclosed.

But, Mr. President, I do not worry as much about soft money activities of party committees. They are not coming in here to solicit my vote after an election or propose some item for the Senate's legislative agenda. The two parties exist to elect their candidates. They are not essentially out there lobbying in the traditional sense.

No, Mr. President, the soft money issue we must address if we are going to seriously consider a system of spending limits for this Congress is the issue of nonparty activities. We already regulate individuals, corporations, and some union activities under the Federal election laws. But tax exempt organizations have been playing in campaigns for years, while hiding behind the protective rules of the Internal Revenue Code.

These organizations, which include trade associations, unions, and so-called social welfare organizations, spend a lot of time supporting or opposing specific candidates for Federal office without any disclosure under the Federal election laws, and they do so with the benefit of a tax exemption.

Let me repeat, Mr. President, these organizations have a tax exemption under the Internal Revenue Code. They are in a preferred position, an exempt position, and they go out and influence elections.

If we are going to place limits on direct spending by a candidate in any reform measure, then we must consider regulating and limiting indirect spending, which is done on behalf of a candidate, often with the candidates full knowledge and cooperation.

Mr. President, this type of in-kind contribution should be treated no differently than a direct cash contribution to a campaign by a constituent. What kind of organizations am I referring to? There are, Mr. President, 25 different types of tax exempt organizations in section 501(c) of the Internal Revenue Code. They range from charities to credit unions, from social welfare organizations to title holding companies.

Mr. President, I ask unanimous consent that this list to which I have just referred be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBCHAPTER F—EXEMPT ORGANIZATIONS

Part I. General rule.
Part II. Private foundations.
Part III. Taxation of business income of certain exempt organizations.
Part IV. Farmers' cooperatives.
Part V. Shipowners' protection and indemnity associations.
Part VI. Political organizations.
Part VII. Certain home-owners associations.

PART I—GENERAL RULE

Sec. 501. Exemption from tax on corporations, certain trusts, etc.
Sec. 502. Feeder organizations.
Sec. 503. Requirements for exemption.
Sec. 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying or because of political activities.
Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).

[Sec. 501]

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

[Sec. 501(a)]

(a) EXEMPTION FROM TAXATION. —An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is defined under section 502 or 503.

Amendments

P.L. 91-172, § 101(j)(3):

Amended Code Sec. 501(a) by substituting "section 502 or 503" for "Section 502, 503, or 504" Effective for taxable years beginning after December 31, 1969.

[Sec. 501(b)]

(b) TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent

provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

Amendments

P.L. 93-625, § 10(c):

Amended Code Sec. 501(b) by substituting "Parts II, III, and VI" for "Parts II and III". Effective for taxable years beginning after December 31, 1974.

P.L. 91-172, § 101(j)(4):

Amended Code Sec. 501(b), effective January 1, 1970. Prior to amendment, Code Sec. 501(b) read as follows:

"(b) Tax on Unrelated Business Income.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided on part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purposes of any law which refers to organizations exempt from income taxes."

[Sec. 501(c)]

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (l).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which insures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (on in opposition to) any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local association of employees, the membership of which is limited to the employers of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which insures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company, for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(D) For the purposes of this paragraph, the term "qualified pole rental" means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term "rental" includes any sale of the right to use the pole (or other structure).

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or asociations without capital stock organized before September, 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings described in section 591(b).

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B), but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $350,000.

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii).

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated

in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits.

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

* * * * *

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21) A trust or trust established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

(A) the purpose of such trust or trusts is exclusively—

(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts;

(ii) to pay premiums for insurance exclusively covering liability; and

(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

(I) public debt securities of the United States,

(II) obligations of a State of local government which are not in default as to principal or interest, or

(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(g)) located in the United States, or

(iii) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

For purposes of this paragraph the term "Black Lung Acts" means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

(A) the purpose of such trust is exclusively—

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust.

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

(25)(A) Any corporation or trust which—

(i) has no more than 35 shareholders or beneficiaries,

(ii) has only 1 class of stock or beneficial interest, and

(iii) is organized for the exclusive purposes of—

(I) acquiring real property and holding title to, and collecting income from, such property, and

(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term "real property" shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is—

(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

(ii) a governmental plan (within the meaning of section 414(d)),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or

(iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E)(i) For purposes of this title—

(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of

the corporation or trust described in subparagraph (A).

(ii) For purposes of this subparagraph, the term "qualified subsidiary" means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock.

(F) For purposes of subparagraph (A), the term "real property" includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

Mr. McCONNELL. Mr. President, the reason Congress provides various tax benefits to these organizations is relatively clear. Since the Founding Fathers, Americans have always held voluntarism in high regard. Obviously, there is a strong public policy benefit to having private organizations perform activities outside of Government which benefit society as a whole.

To illustrate this point, let me quote from the 1975 findings and recommendations of the Commission on Private Philanthropy and Public Needs. The report said:

Few aspects of American society are more characteristically, more famously American, than the Nation's array of voluntary organizations * * * the practice of attending to community needs outside of Government has profoundly shaped American society and its institutional framework.

While in most other countries, major social institutions such as universities, hospitals, schools, libraries, museums, and social welfare agencies are state-run and state funded, in the United States many of the same organizations are privately controlled and voluntarily supported.

The nonprofit sector is made up of institutions which provide an alternative to Government. From religious activities to education, medical care to relief of the poor, tax-exempt organizations perform functions for which, in their absence, the Government would be responsible.

In turn, the Government agrees to do without the tax revenues which would otherwise be received from this type of activity. The public policy rationale for a tax exemption was expressed very clearly in a House Ways and Means Committee report accompanying the Revenue Act of 1938.

That report said:

The exemption from taxation of money or property devoted to charitable and other purposes is based on the theory that the Government is compensated for the loss of revenue by its relief from financial burden, which would otherwise have to be met by appropriations from public funds, and by the benefits resulting from the promotion of the general welfare.

Unfortunately, some of these organizations have gone beyond their original charitable and societal purposes and have instead exerted considerable influence on elections in this country, influence which has been hidden from the average voter.

I am not talking about nonpartisan activities like debates and legitimate voter registration activities. My amendment will not affect the League of Women Voters and other clearly nonpartisan activities. Instead, Mr. President, my amendment is designed to deal with partisan activity which can influence the outcome of an election. My amendment seeks to correct this situation and bring tax-exempt organizations engaging in this activity firmly under the authority of the Federal election laws, where the rest of us have to look for guidance on election activity.

The Tax Code already restricts this activity for some tax-exempt organizations. Section 501 already prohibits charities and religious organizations from engaging in partisan campaign activities. Specifically, any organization which receives tax deductible contributions may "not participate or intervene in any political campaign on behalf of any candidate for public office."

This prohibition was added by Senator Lyndon Johnson as an amendment to the Internal Revenue Act of 1954. Then-Senator Johnson was concerned about the activities of a private foundation in Texas which he believed was providing assistance to an individual who was challenging him for reelection. This prohibition against partisan campaign activities applies to all 501(c)(3)'s. The 501(c)(3)'s are charities, churches, educational institutions, and hospitals, to name a few.

All of these organizations receive both tax deductible contributions, and they themselves are tax-exempt. The policy rationale behind this rule is simply that a tax benefit is being conferred, and so the Government is justified in imposing a condition or restriction on this tax benefit.

Mr. President, the other 501(c) organizations, including unions, trade associations, and social welfare groups, do not accept tax deductible contributions, but they do receive a tax exemption. That is the distinction between the 501(c)(3)'s and the other 501(c)'s.

I think my colleagues on the Finance Committee would agree that a tax exemption is also a tax benefit which could be restricted for public policy reasons. The McConnell amendment, which I have sent to the desk, extends this prohibition to other tax-exempt organizations.

In other words, those prohibitions currently only applying to 501(c)(3)'s would be applied to the other 501(c)'s.

My proposal, which is also contained in the Republican alternative, takes the current prohibition on partisan campaign activities and extends this concept from 501(c)(3) organizations to all other 501(c) tax-exempt organizations. Therefore, all tax-exempt organizations would have to agree not to "participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office."

The effect of my amendment would be to force these nonprofit groups to make a choice. To keep their preferred status, they will have to agree not to spend tax-exempt dollars to influence an election.

And if they decide to participate in an election, they must do so under the rules and regulations of the Federal election laws. They must participate in campaigns like all the rest of us with after-tax dollars and under the authority of the Federal Election Commission. No longer would these organizations be able to hide behind the protective provisions of the Internal Revenue Code where their political activities rest mainly undisclosed and unlimited.

Let me repeat, Mr. President, the goal is to require a choice. You can continue to enjoy the tax exemption, and, if you do that, then you are out of politics. If you want to participate in politics, then you are going to have to participate with hard dollars under the FEC rules that apply to all the rest of Americans.

Mr. President, my amendment will level the playing field in this area, so that all tax-exempt organizations are operating fully in compliance with the Federal election laws for any of their campaign activities.

Let me tell you what my amendment does not do. The McConnell amendment does not affect lobbying activities. My amendment would not hinder the ability of these nonprofit organizations to engage in lobbying. The 501(c)(3) charities are already prohibited from engaging in substantial lobbying activity under a similar provision in the Internal Revenue Code. My amendment only extends the prohibition of campaign activities and not the separate prohibition on lobbying activities to the other 501(c)'s. Other tax-exempts, therefore, would be free to lobby or otherwise participate in the legislative process under the current rules which apply to them.

The McConnell amendment also extends current IRS regulations and precedents pertaining to campaign activity. My amendment on campaign activities, as I just said, extends the regulations and precedents which have been established over the years by

IRS. These regulations and precedents define what is considered partisan campaign activity and what is considered to be a legislative activity.

Under my amendment, all tax-exempt organizations, except political parties, would not be permitted to use tax-exempt dollars to influence a Federal election on behalf of a specific candidate for public office.

Now, the McConnell amendment affects only 5 percent of all the tax-exempt organizations. My amendment would not affect that many tax-exempt groups. Most of the nonprofit organizations in America enjoy 501(c)(3) status and, thus, are already prohibited from engaging in partisan activities.

For example, in 1984, of the $254 billion in total annual funds received by tax-exempt organizations, 50 percent was received by groups involved in health services, mostly hospitals; 23 percent was received by organizations involved in education and research; 12 percent was received by religious organizations; 8 percent was received by institutions providing various social services; 3 percent was received by civic, social, and fraternal organizations; 2 percent was received for arts and cultural activities; and 2 percent went to foundations.

Mr. President, the vast majority of these organizations are 501(c)(3) charities and, as such, are already prohibited from engaging in partisan campaign activities. My provision would only affect less than 5 percent of the tax-exempt organizations who are not currently governed by the prohibition.

Mr. President, in this legislation we must deal effectively with all "soft" money in politics. It is not enough to say that we have taken care of the soft money problem by simply focusing, as the other side of the aisle has, on party activities. That is not the lion's share of soft money. We must bring all tax-exempt organizations under the full letter and spirit of the Federal election laws. To do any less would be to permit a major exception to the concept of full disclosure and limits contained in our current campaign finance system.

Mr. President, a vote against this amendment is a vote to continue nonparty soft money, to continue sewer money, and I hope the Senate, after adequate debate and consideration, will decide to do something about sewer money. And the way to do something about sewer money would be to adopt the amendment which the Senate is currently considering.

Mr. President, for the moment I yield the floor.

The PRESIDING OFFICER. Is there further debate?

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I have been studying the amendment of my colleague from Kentucky and trying to understand exactly what the effect of it is. The Senator from Kentucky has used the term sewer money. I have been trying to understand exactly what that means. I think it must come from an article in the New York Times where that term was first used talking about the practice of Federal candidates raising large sums of money—$100,000 contributions—for political parties from individuals to spend to influence Federal elections, the practice under which we have had various groups, such as, as we mentioned yesterday, those in the last Presidential campaign for the incumbent President where 241 individuals gave $100,000 each, which was then channeled into State party and other party committees in the form of soft money which allowed an evasion of the limits—the prohibition, in fact—in Presidential elections, against giving any funds to candidates, but also allowed, from an evasion of the limits, that no person should give more than $25,000 in total campaign contributions to candidates in a particular election cycle.

So, in the article which was referred to, the term "sewer" money, which was used in connection with exactly this practice, if we go back to the original journal, the particular articles where this term first appeared were in relation to exactly this kind of problem. This is a matter that is addressed in the pending matter before us.

The package which has been presented by Senator MITCHELL, the distinguished majority leader, and myself addresses exactly this problem. I might say that the competing package on the other side of the aisle does nothing to prevent people giving in $100,000 chunks or even larger. We have costed it out. The original proposals would have allowed $680,000 to be given in a total election cycle by wealthy individuals to a plethora of various campaign committees, including State parties, for the purpose of influencing Federal elections.

So I am a little confused as to what is meant here by this term as it is being used by the Senator from Kentucky and the exact practice talked about. I hasten to say that is not a practice only on the other side of the aisle; it was also used by the Dukakis campaign as well as the Bush campaign in the last Presidential election.

I think it is something that ought to be stopped. I think it is one of the reasons why people are discouraged from participating in the Presidential checkoff. When they say that checkoff system was supposed to avoid the possibility of individual contributions, and then they read lists from both political parties of $100,000 contributors, even larger contributors, to the two Presidential candidates, they become discouraged. And this kind of funneling of soft money, which is called "sewer" money by the media and various newspaper articles, is something that should be stopped. It is something that has been stopped in the terms of the proposal from this side of the aisle.

On the other hand, I think we have to be very, very careful about what we are talking about in terms of constraining the capabilities of organizations that are not political organizations, essentially charitable organizations, tax-exempt organizations from being able to inform their own members. One of the most sacred rights of American citizens is the right to vote in elections and help to determine through the democratic process the decisions that government will make. I think we have to make sure that we do not, with perhaps the best of intentions, pass an amendment here that will really constrain that right of political participation.

We are not talking here about organizations controlled by individuals. We are not talking about organizations controlled, for example, by officeholders. We are not here talking about organizations that have been set up by Members of the Congress for the purpose of influencing the outcome of elections, for conducting get-out-the-vote drives, for example. Those kinds of committees and organizations which might be tax-exempt are already covered under this legislation. Members of Congress, for example, under this legislation, are prohibited from receiving contributions for this purpose to organizations that they control or have started for get-out-the-vote purposes and other political purposes.

We talk about the Keating type situation. We have covered that situation in the legislation which we have introduced.

But I would worry that the amendment of the Senator from Kentucky—I want to probe it further—perhaps I misunderstand exactly what the amendment would say, that unless you are a corporation or a political committee that you could not help anyone exercise their political rights; that unless you are a political committee or a corporation, both of which would be exempt from this provision, they are not tax exempt organizations, they can inform their members, they can inform other people about the voting records, for example, of Members of Congress, that you might be prohibiting every other organization that is tax exempt from doing the same thing.

If you are a social club, a church, labor organization, a civic club, the local garden club, it might be impossible under the amendment of the Senator from Kentucky, as I read it, depending upon what you mean by participating in or intervening in an election, to take simple action to inform

your members. Will it now become illegal for the garden club, for example, to put out information commending the President for his proposal to plant trees across the country and to suggest that that particular proposal should be supported? Would that be deemed to be an intervention in or a participation in a political campaign of assistance to a candidate or a potential candidate for public office?

If a group informs members of an organization as to the voting record and, particularly, if the group feels that the voting record is, let us say, unfavorable on the part of assisting an incumbent on a certain range of issues, would that mean that that organization would lose its tax exempt status?

If the minister of a church, for example, should feel a particular individual were taking positions as a public office holder that would undermine the family values or religious values, would that minister then be prohibited from taking the pulpit on a Sunday and saying that that minister urges the members of his congregation and his church to either support or oppose a certain officeholder because his record demonstrates they either do or do not share the values of that particular congregation or religious group?

I am fearful that it would. And if that is the case, I think the amendment would be clearly unconstitutional. It would be unprecedented if that, indeed, is the case. I would not go so far as to use this in a pejorative sense, but it certainly would be not in the American tradition. It would be opposed, I think, to American values of allowing organizations to express themselves.

I certainly am going back to the findings of Alexis deTocqueville when he toured this country and talked about the pulpits of America and how alive they were with expression of American values, and they have not always been free from expressing in terms of current political contests, how the pastors and members of the congregations, for example, feel about the contests that are going on, urging members to participate and perhaps to intervene in the course of a political campaign because of values that are held or not held by candidates.

This would certainly, to me, be an unconstitutional proposition and one which would unduly constrain every kind of organization imaginable.

We are not here just talking about the labor unions, for example, or groups that have had some active political participation. It would seem to me that we are talking about every possible range of organizations that you could think of.

It is often written and it is recognized around the world that Americans are the most organized people in the world, that we are the greatest joiners in the world. One of the strengths of our system is that when people see something that needs doing, they talk to each other, and before you know it, again as deTocqueville said when he was touring this country, before you know it one neighbor walks across the road, talks to another, and before the next day they formed a committee, then they formed an organization, and then they have enlisted other neighbors and they have solved the problem, often without any intervention of government whatsoever.

That is the strength of our system. It is part of the social fabric of this country. And for us to, in language that is very vague and broad I believe in terms of participating in a political campaign or intervening in a political campaign, to me that language is so broad and so vague that it alarms me as to what the effect would be on all sorts of organizations, tens of thousands across this country, organizations that we cannot even conceive of as we have this discussion today, that have expressed themselves on a range of issues facing the country and on the qualifications or commitment of various candidates, based upon their records, to these causes.

So I would have to ask my colleagues, perhaps, for further explanation. Perhaps he could explain to me exactly what the term "participates in or intervenes in" means. Would a church, for example, which is a tax-exempt organization, be prohibited from participating in or intervening in a political campaign? Would an expression of the chief officer of a church, let us say the minister of a church, for example, from a pulpit, be deemed to be an intervention in an election if the minister, from the pulpit on Sunday morning, urged the members of his congregation to vote one way or another in an election at any level, or for or against a pending State question, let us say a referendum on the ballot dealing with abortion or some other question of the day? Just exactly where would the lines be drawn and would these kinds of organizations be covered?

(Mr. KERREY assumed the chair.)

Mr. McCONNELL. I thank my friend from Oklahoma for a good question. The answer is the McConnell amendment does not affect churches, because churches are 501(c)(3)'s. There is a whole body of IRS rules and regulations that interpret what a 501(c)(3) can do. We are not charging new ground here. Churches are 501(c)(3)'s and they are unaffected by this amendment.

So the answer to the question of my friend from Oklahoma, is churches are simply not covered.

Mr. BOREN. If I could again ask my colleague, as I read the amendment it does not say only 501(c)(3) organization or it does not say non-501(c)(3) organizations. It says amends section 501 of the code, and then it says:

> Any organizations shall not be treated as exempt from taxes if such organization participates in * * *

I do not quite understand how it is limited to certain organizations, and if it is, to which organizations would it be limited?

Mr. McCONNELL. Let me repeat what I said. What this amendment does is take the current restrictions applicable to 501(c)(3)'s—and there is a whole body of IRS regulations interpreting what kind of activities they cannot do—it takes those rules and regulations and applies them to other 501(c) organizations.

Churches are 501(c)(3)'s, so they are not affected by this amendment at all. They are currently prohibited from being engaged in political activities under existing laws and rules and regulations of the Interenal Revenue Service.

What we do is take that body of the rules and regulations and apply them to the other 501(c)'s.

If I might further make some observation while I have the floor. The Senator from Oklahoma, my good friend, started out talking about the wrong kind of sewer money. We will have some amendments later dealing with party soft money. But that is not the purpose of this amendment. There are two kinds of sewer money out there; one is party sewer money and one is nonparty sewer money. The definition of sewer money obviously is unlimited and undisclosed, in the opinion of in Senator.

This is not an amendment dealing with party soft money. We will get to that later. We will deal at that time with some of the examples on both sides, both the Dukakis $100,000 donors and the Bush $100,000 donors. That is not what this amendment is about. That is another subject.

Let us talk about what this amendment is about. This amendment is about choosing how you want to operate. If you enjoy a tax-exempt status, what this amendment says is that you need to be involved in the political process some other way than through your tax-exempt organization.

There are already a number of organizations that are 501(c)(3)'s. Churches are a good example of that. They are currently prohibited from being involved in political activity. There is a whole body of IRS violations interpreting what those folks in that category cannot do.

What we are saying is we are extending those prohibitions to the other 501(c) categories. Our amendment only covers about 5 percent, the 501(c)'s. The other 95 percent are in the 501(c)(3) categories. So we are dealing with about 5 percent out there

that currently enjoys the tax exemption and being involved in the political process.

Under my amendment those groups could still inform their members. They just would have to do it with after-tax dollars. They would have to form some affiliated group. Or if the PAC ban that appears now to be on the way to passing the Senate is subsequently shown to be unconstitutional and we had a $1,000 limit on PAC donations, these groups could form a separate organization and speak in hard dollars, bringing their political activity into limited and disclosable terms rather than being off in the soft money category.

With regard to the so-called Keating language, I am pleased that the other side has picked up my bill, which I introduced in January, which said in effect that neither a Federal candidate nor a Federal office holder could solicit money for a 501(c)(3) involved in voter registration. I am pleased that was done. That was my bill which I introduced last January.

We simply with regard to this amendment that we are talking about today are saying to organizations: We do not mind your having a tax-exempt status. That is fine. This country has benefited enormously from the contributions of volunteer organizations, most of which enjoy the tax exempt status of the 501(c) section.

What we are saying is, if you are going to use the tax-exempt status and go out and get involved in the political process you are going to have to do it some other way like all the rest of Americans. So what we take is an established body of law that has been applied to 501(c)(3)'s which is 95 percent of the 501(c)'s, an established body of regulations from the IRS, and we are applying that to the other 501(c)'s.

That is not going to keep anybody from participating in the political process. It is just going to turn soft dollars into hard dollars. When you turn soft dollars into hard dollars, what you do, Mr. President, is you provide for those who would like to know what is really being spent in the American political system the answer to the question. Because then those dollars will be limited and disclosed and we will have a true picture of what is being spent in the American political process. And that is what real campaign finance reform ought to be all about.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I am not a lawyer. God may have blessed me by allowing me not to be one. I have heard a great deal of comment that this is unconstitutional, or this is unconstitutional. And that is just an opinion. I have not heard the Supreme Court say it is. So we get a lot of opinions going back and forth on this floor.

The Republican amendment that is now before us, as I understand it, would prohibit all—underscore all—tax exempt 501(c) organizations from engaging in any activity which attempts to influence a Federal election. I do not think I am wrong in that definition.

Let us look, now, at what is currently prohibited under section 501. Section 501(c) sets forth 25 different types of organizations which may be eligible for tax exemption. That is 501(c). One of those 25 types, charities, is subjected to special restrictions which condition tax-exempt status on refraining from any significant involvement in politics. This includes lobbying as well as campaign activities. That is 501(c)(3).

Charitable organizations are those organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy, educational purposes, or to foster national or international sports competition, and/or for prevention of cruelty to children and animals.

Mr. McCONNELL. Will the Senator yield?

Mr. FORD. I will be glad to. My colleague should get it through the Chair, though.

Mr. McCONNELL. My amendment does not hinder the ability of these organizations to engage in lobbying activities. I specifically crafted my amendment in such a way——

Mr. FORD. Let me beg the Senator's pardon. I said the charities, and that is set out under that 1 of the 25; they are prohibited from lobbying.

Mr. McCONNELL. They are. But I do not extend the lobbying prohibition in my amendment to the other 501(c)'s.

Mr. FORD. I understand that and I am going to get to the rest of it here in a minute.

Now, as we read the amendment—and this is a nonlawyer speaking—what organizations would be covered under the amendment? Let us think about it. What organizations are covered under this? They can lobby but they cannot participate in a Federal election, or try to influence a Federal election. But they can lobby you after you get here?

The Republican amendment would extend the campaign ban to these additional type of organizations, each of which is currently considered to have a legitimate interest in political activity—a legitmate interest: Civil leagues or organizations which promote social welfare—that is one. Labor, agriculture, horticultural organizations—that is another category. Business leagues, and chambers of commerce. What this amendment says is that a business league or a chamber of commerce cannot endorse a candidate; cannot communicate with their members, saying they are for or against a candidate, or how he or she stands. It also says that the Burley Association in Kentucky cannot tell their members that a candidate is against an allotment program—that is what this amendment says. I can go on and on.

Real estate boards, boards of trades, professional football leagues, recreational clubs, fraternal beneficiary societies, a post or organization consisting of past and present members of the Armed Forces—they are excluded under this amendment, and they cannot tell their members anything.

So I think this is much broader than what we are talking about. There is no sewer money here. This is the ability of an organization to tell their members what is in their best interest.

If the American Legion, the VFW, wants to say we want to have better treatment as it relates to hospitals, better treatment as it relates to nursing homes—one candidate is for it, the other candidate is against it, and the Senator says you cannot tell your members? That is what this amendment does.

Chambers of commerce want to endorse candidates—that is fine. Let them lose their tax exemption. That is what the Senator says. The chamber of commerce endorsed me, they lose their tax-exempt status, and if they communicate with their membership, they lose their tax-exempt status. They can lobby me, they can tell me they want this, or that, or something else, but they sure cannot communicate with their membership and they cannot endorse candidates for Federal elections.

This is not what we are talking about for reform. That is saying an organization, for the benefit of business, cannot communicate with its membership; an organization that has—REA's, they cannot communicate with their membership under this amendment.

Mr. President, this issue is much broader than just for charities. When we apply that to the business sector—small business organizations, associations for the benefit of the farmers, associations for the benefit of the veterans—this excludes them from communications. So if we are going to exclude them from communicating with their members we might as well exclude them from lobbying.

Let us go all the way. Let us paint with a broad brush. Why allow them to lobby when we will not allow them to participate otherwise?

Mr. President, I think this is a bad amendment, and I hope that my colleagues will defeat it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, on this particular amendment, on the amendment last evening and on each amendment being considered by the Senate, the question of constitutionality necessarily arises. It is our frustration over the Buckley versus Valeo decision, in essence, that has gotten us into this tremendous predicament.

I admire the tremendous effort by the Senator from Oklahoma and now the majority leader in trying to put limits on spending. And yet as we try to put those limits on spending, we have to try to artfully fashion the wording so as to meet the requirements of Buckley v. Valeo and withstand the scrutiny of the Supreme Court. Given the political division in this body, it is a nearly impossible task.

Mr. President, the quest for campaign finance reform has gotten bogged down in partisanship, with Democrats and Republicans both trying to gore each other's sacred cash cows. I respect Senator BOREN's dogged efforts to hammer out a reform package acceptable on both sides of the aisle. His bill is serious and well-intentioned effort. But even Senator BOREN has failed to take the bull by the horns. His carrot-and-stick approach of public financing and voluntary spending limits is simply too vulnerable to the inevitable manipulations of sharp lawyers and clever campaign managers. It is the latest illustration of the dictum that campaign finance reform creates.

As an alternative, I have attempted to cut through the clutter with a simple, straightforward, nonpartisan solution: a constitutional amendment empowering Congress and the States to set simple limits on the amount of money spent in campaigns for public office. We have 23 cosponsors on a bipartisan basis. As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches [to reform] since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated." I only regret that I cannot offer my constitutional amendment on this particular bill. As the President knows, a Senate joint resolution as an amendment to the Constitution must be treated singularly under the rules in both Houses and under the Constitution. As a result, this entire debate will transpire without the real solution being considered.

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court effectively amended the Constitution. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. If I have a million dollars, I simply wait until the last week in October and then in a coordinated media blitz I deluge the airwaves, the newspapers, the billboards, with charges, countercharges, releases, and everything else I can throw at my opponent. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits "are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech of particular candidates or of political speech in general."

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking $2,400 for 30 seconds of prime-time advertising. In Los Angeles, you're talking more than $30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flush with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

Buckley versus Valeo created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckely versus Valeo. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshal went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a Senate race was $1.1 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3 million in 1986, and $3.7 million in 1988. To raise that kind of money, the average Senator must raise money at the rate of nearly $12,000 a week every week of his 6-year term. Senators from large States such as California and New York are obliged to raise three or four times that amount. This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 15 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting the big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. They say, "Here he comes again. It must be election time." But in recent years, those mill visits and dropping by the country store

have become a casualty of the system. There is very little time for them. I'm out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle. The rule was, if you had money, I had the time to meet with you.

After the election, I held a series of town meetings across the State. Friends asked, "Why are you doing these town meetings? You just got elected. You've got 6 years." To which I answered, "I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy raising bucks."

I remember Senator Richard Russell saying: "They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesman. We proceed straight to demagoguery right after the election because of the imperatives of raising money.

Senate Joint Resolution 48 would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $700,000 per Senate candidate in a small State like South Carolina—a far cry from the $2.2 million I spent in 1986.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over any challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of electoral mortality in the upper Chamber. And as to the alleged invulnerability of incumbents in the House, I would simply note that nearly 50 percent of the House membership has been replaced in the last decade.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress. Look at the experience of Democratic challengers in the 1986 Senate elections: Seven Democratic challengers defeated Republican incumbents. Five of those challengers won despite being outspent by $1 million or more. Four of those five were outspent by a ratio of nearly 2 to 1. Based on this evidence, University of Virginia political scientist Larry Sabato has suggested a doctrine of sufficiency. As Professor Sabato puts it: "While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages."

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—"sufficient" to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar coming in and every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and zero individual influence to band together with others of mutual interest knowing that their contribution is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the junior Senator from Kentucky's contention that we spend too little in our Federal campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense; that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of vulgar, marketplace values run amok. Federal offices are not like cat food; they should not be up for sale.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. One, it would end the mindless pursuit of ever-fatter campaign war chests. Two, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Three, it would curb the influence of special interests. And four, it would create a more playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach of Senate Joint Resolution 48. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that four of the last five amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Takes too long? We have been dithering on this campaign finance issue since early 1970, and we haven't advanced the ball a single yard. It has been 20 years now, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment it time for it to govern the 1992 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public-financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, Senate Joint Resolution 48, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

And, by the way I reject the argument that—if we were to pass and ratify this amendment—Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign-expenditure limits. A Democratic Congress and Republican President did exactly that in 1974: we set reasonable, bipartisan limits, by law. We did it in 1974, and we can certainly do it again.

Mr. President, Senate Joint Resolution 48 will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus "if you have the money you can talk" version of free speech. In its place we must eventually turn our attention to my Freedom of Speech in Political Campaigns constitutional amendment. It has been endorsed by the Committee for a Constitutional System headed up by Lloyd Cutler, and by various other dignitaries of import and significant citizens in our land who have given it serious thought.

It enjoys bipartisan support. Fifty-three Senators, in fact, voted back in 1988 just for cloture, more than a majority of Senators. So it is the real solution, but cannot be discussed on this bill.

I do not want to take further time from the amendment of the distinguished Senator from Kentucky and the discussion of our floor leader, the Senator from Oklahoma. But I think somewhere in this record it should be shown that what we are trying to do with a constitutional amendment has been done in four of the last five amendments to the Constitution. They have dealt with elections. It is not unusual and it is certainly required.

It is embarrassing to all of us the sheer amount of time expended just to raise money to stay in office. It has to be corrected and it should be corrected in a forthright fashion. A majority of the Republicans supported campaign finance reform in 1974. A majority of the Democrats supported it back in 1974, and the Republican President Ford signed it into law. That act sought to impose spending limits, and it did so on a nonpartisan basis.

If we can limit spending to so much per voter, that would be a fair solution; it would get rid of the worst abuses. We would have the absolute authority with one line to restore equal freedom of speech for all who seek Federal office, nonwealthy and wealthy alike.

I thank the distinguished leaders on both sides for yielding me this time.

Mr. McCONNELL. Mr. President, my colleague from Kentucky raised a few moments ago the question of constitutionality. There is no constitutional problem involved here. This is current law. There is no constitutional right to a tax exemption. Every time the Court has looked at this kind of issue, they have focused on the question of whether or not an individual or group has an alternative means of expressing themselves.

My amendment does not prohibit any of these groups from expressing themselves. We take language in current law that conditions the tax exemption for 501(c)(3)'s and extend that condition to all the other tax exempts. The tax exempts can set up an affiliated organization to get involved in campaigns, but they have to do it, under my amendment, with after tax, fully disclosed hard dollars.

So there is no question here, Mr. President, of denying the people in these groups an opportunity to express themselves; they will have that opportunity, but the difference is that if the McConnell amendment is adopted, we will know how much is being spent in political campaigns because it will be done through some affiliated group that has to comply with the hard money regulations with which all the rest of us have to comply.

This prohibition is already in current law, as I indicated, for 501(c)(3)'s. Congress has already decided that charities, churches, and hospitals should not be involved in campaigning or lobbying activity in the case of those groups. My amendment simply takes one of those restrictions, the campaign part, not the lobbying part, and extends it to other tax-exempt organizations. I do not think it is going to keep any Americans from finding a way to express themselves in the political process. I think the only result will be that those who are interested in clean campaigns, who are interested in limitations and disclosure, will fully understand what is being spent in the American political process. I think that is elementary good sense.

Mr. FORD. Mr. President, will my colleague answer a question or two?

Mr. McCONNELL. Yes.

Mr. FORD. I understand the Senator's reputation as the most knowledgeable individual in the Senate as related to campaign reform, but does he say that my statement is correct as it relates to one of the organizations communicating with its members, that they would then have to set up an affiliate in order to do that?

Mr. McCONNELL. I think the answer to the question is if the (c)(3)'s cannot do it now——

Mr. FORD. The 501(c)'s cannot.

Mr. McCONNELL. Yes; if they cannot do it now, then the other groups could not do it either.

Mr. FORD. My statement basically is correct, then, that none of these organizations could endorse a candidate or notify their membership of the candidate's position unless they set up an affiliate?

Mr. McCONNELL. That is the answer. That is the answer.

Mr. FORD. I am correct, then, in the statement I made?

Mr. McCONNELL. Yes; but once they set up an affiliated group, I think the general feeling in the Senate—since the Senator's party has adopted our party's PAC provision, I think the feeling in the Senate could well be that a total PAC ban may not withstand constitutional scrutiny, in which case there is a fallback provision now that the Senator's side has adopted that was in our bill which would provide a $1,000 limit on PAC contributions.

Let us assume that that happens. Senator BENTSEN, for example, offered an amendment earlier today on the assumption that there would be some kind of PAC's that would survive this debate.

Mr. FORD. The debate——

Mr. McCONNELL. Let me finish.

Mr. FORD. Might survive. The constitutional question might not survive.

Mr. McCONNELL. Right. There would be no constitutional problem on this one. If that were to be the case, then the kind of affiliated group available to these groups would be a PAC, and that PAC would be limited to $1,000 contributions and it would be fully disclosed. It would turn that soft money into hard money. For those of us who are concerned about clean campaigns and the campaign finance reform system, then we would truly know what is being spent in campaigns. And the group would still have a chance to express itself.

Mr. FORD. So the American Legion, VFW, chamber of commerce, all of these people would have to set up a PAC under this amendment.

Mr. McCONNELL. Right.

Mr. FORD. And they could not communicate with their membership.

Mr. McCONNELL. The PAC could.

Mr. FORD. The PAC could.

Mr. McCONNELL. Sure. It would be an affiliated group. And then we would know, of course——

Mr. FORD. This gets back to the Senator's statement, you put a rock on jelly and it oozes.

Mr. McCONNELL. It does not ooze out.

Mr. FORD. It certainly does.

Mr. McCONNELL. In the opinion of this Senator, what it does is turn soft money into hard money so that when somebody looks at the report of the organization—we now do not have a report at all because they do not file with the FEC. We have no idea of what is being spent.

Under this alternative scenario, the affiliated group would file with the FEC. We would know what they were spending. It would turn soft money activity into hard money activity without in any way infringing on the rights of these individuals to express themselves.

Mr. FORD. I thank my colleague for answering my question.

But, Mr. President, it goes back to the point that these associations cannot communicate to their memberships based on this amendment, and it still allows them to lobby from the

PAC. They can lobby from the organization.

It just seems to me there is some inconsistency in that you allow—you say to the VFW, "You cannot notify your membership," but once he is a elected, you can do all the lobbying you want. But other charities that probably do more for the homeless and health care, they cannot lobby at all.

So you apply half of a loaf to 501(c)'s, not a whole loaf. I am very concerned that we are getting into our civic organizations now and telling them what they can or cannot do.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I might have the attention of the Senator from Kentucky, I want to make a statement of what I understand to be the effect of this amendment and then to inquire as to whether or not my understanding is correct.

As the Senator from Kentucky, the author of the amendment, has pointed out, under the law now, section 501(c)(3) corporations are prohibited from participating in or intervening in a political campaign on behalf of a candidate for public office, and he proposes to extend that to all other section 501 organizations.

Is that correct?

Mr. McCONNELL. That is correct. And there is a body of opinion as to what that means; IRS regulations.

Mr. MITCHELL. As I understand the Senator's response to his colleague from Kentucky, such an organization informing its members of the voting records of candidates on issues of importance to that organization would be participation or intervention in a campaign sufficient to result in the disqualification of that organization from this status. Is that correct?

Mr. McCONNELL. It could be a lobbying activity which is exempted if the group informed its members of the votes of everyone, rather than just, say, picking out a particular person about which they wanted to inform the membership. As I understand the lobbying exemption, if it is a broader information to the members, it could well stand the muster of this amendment.

Mr. MITCHELL. I am not talking about lobbying. Let me be specific. If a farm organization notifies its members in writing of the voting records of two candidates for the U.S. Senate in that State on issues that are important to the farm organization, is that participation in an election, in the Senator's opinion as the author of this amendment, that would disqualify that farm organization from the benefits of 501 status?

Mr. McCONNELL. I would rely on the IRS regulations as to what participation in an election means, and there is a body of opinion now, I am told, for 501(c)(3)'s that define what that term means. I would simply extend that body of law to the other 501(c)'s.

Mr. MITCHELL. I simply say to the Senator he is asking Members of the U.S. Senate to vote on an amendment that would affect literally thousands of organizations in this country.

Mr. McCONNELL. If the leader will yield, it will affect 5 percent of the 501(c)'s in America. It will only require them, in the judgment of this Senator, to start operating like virtually everybody else in the political process, which is in limited and disclosed terms rather than in an unlimited and undisclosed way. So there will still be an avenue of participation.

If the question is they have to change the way they are currently doing business, the answer is "Yes."

Mr. MITCHELL. I will get to that in a moment. But my point is that in every State represented by Senators here, there are civic organizations, labor organizations, agricultural organizations, there are business leagues, chambers of commerce, and there are clubs organized for pleasure or recreation. Each Senator is being asked to vote on legislation that would in some form restrict their activities.

It seems to me that some Members of the Senate ought to have the benefit of knowing what it is they are voting on in terms of restrictions.

Mr. McCONNELL. Let me read to the leader the law of tax-exempt organizations that I hope will answer his question.

* * * the June 1978 ruling referred to above * * * the IRS considered the following factors as demonstrating the absence of political activity. One, the voting records of all incumbents will be presented; two, candidates for reelection will not be identified; three, no comment will be made on an individual's overall qualifications for public office; four, no statements expressly or impliedly endorsing or rejecting any incumbent as a candidate for public office will be offered; five, no comparison of incumbents with other candidates will be made; six, the organization will point out the inherent limitations of judging the qualification of incumbents on a basis of certain selected votes by stating the need to consider such unrecorded matters as performance on subcommittees and constituent service; seven, the organization will not widely distribute its compilation of incumbents' voting records; eight, the public communication will be directed to the organization's normal membership who number only a few thousand nationwide; and, nine, no attempt will be made to target the publication for particular areas in which the elections are occurring nor to time the date of publication to coincide with an election campaign.

That is the IRS definition of what you need to avoid if you are in that particular category.

So I say to the leader that it was the desire of the Senator from Kentucky to use that definition—which is existing law as applied to 501(c)'s—for the other organizations.

To respond again in the most emphatic way, this will not prohibit these groups from getting involved in the process. It will simply give us the opportunity to understand the political process fully, how much is being spent, and in behalf of whom.

Mr. MITCHELL. On that we differ, and I would like to comment on that if I might now in response to the question from the senior Senator from Kentucky.

The Senator said that they could form a PAC but, as I understand the bill, it does not permit connecting PAC's. And a PAC of an association or one of these organizations would be a connecting PAC.

Mr. McCONNELL. We just had an amendment from Senator BENTSEN earlier this afternoon, presumably on the assumption that after all is said and done there will still be some PAC's around. If that were to be the case, and if the Supreme Court were to hold that and there is a fall back position, as the leader knows, in the provision that we crafted that the leader has now adopted indicating that if the Supreme Court were to hold a PAC ban unconstitutional, as many of us believe that it would, then the limitation on PAC contributions would be $1,000.

Mr. MITCHELL. I thank my colleague.

Mr. President, I would like to make a couple of points with respect to this amendment because I think there has been a great deal of confusion, and I would like to clarify at least one issue.

The Senator from Kentucky, who has offered the amendment, has made the point that some tax-exempt organizations are now prohibited from participating in or intervening in political campaigns. What his amendment seeks to do is to extend that prohibition to all tax-exempt organizations. That has a superficial appeal until one examines the rationale for the existing distinction. Why is it that some tax-exempt organizations are now prohibited and others are not?

The answer really is quite simple. There are two benefits conferred in these provisions in the Tax Code. One is tax-exempt status for the organization itself. It is not liable for Federal income taxes as for-profit organizations are. All of these organizations listed under section 501(c) get that benefit.

But the only organizations that are now prohibited under law from participating in the election process are those which have the added benefit of a tax deduction going to individuals who contribute to those organizations. That is a 501(c)(3) organization. That is the benefit conferred, the direct subsidy by the Government, to all taxpayers to those organizations' activities.

Mr. McCONNELL. Will the leader yield? The leader is surely not saying

that if the tax-exempt status does not benefit the organization.

Mr. MITCHELL. It does, but it is a benefit of a completely different character, nature, and value to the organizations.

So if I, or any other individual American, make a contribution to a church, which is a 501(c)(3) organization, I can deduct that from the taxable income when I file my tax return. But if I, or anyone else, make a contribution to a 501(c) organization other than a 501(c)(3) organization, I cannot deduct it.

That is the real benefit conferred under this section of the Tax Code, and that is why those organizations are prohibited from participating in and intervening in elections.

Now, the amendment of the Senator from Kentucky would extend the prohibition to all other organizations without the benefit that underlies the rationale for the existing scheme under the statute. The effect of that amendment, I submit, is inappropriate, and it is the kind of thing that we ought to examine more carefully before we act on it.

So I want to make every Senator understand clearly that if you vote for this amendment, it may be an effort here to get at labor organizations—I think rather clearly it is an effort to get at labor organizations—and that will occur. But you will also get at every agricultural organization, every association of farmers in your State, every business league, every group of business persons in your State, every chamber of commerce, every recreational club, every paternal beneficial society, order, or association, every voluntary association of employees, and a whole long list of others. What you are doing is you are saying to them they cannot participate in the process or they lose their tax-exempt status, and you are not extending to them the benefit that 501(c)(3) organizations get.

One further point. This may seem obvious, but I think it needs stating. Since for-profit corporations are, by definition, not included in section 501(c), they are excluded from coverage of this amendment.

So the effect of enactment of the amendment of the Senator from Kentucky is that a corporation can communicate with its members about the voting records of candidates, but the labor organization of its employees cannot communicate with its members about candidates. So that a corporation that deals in agricultural products can communicate with its employees about campaigns and candidates and their records, but the association of farmers, who sell their products to that corporation, cannot communicate to the farmers about the records of candidates.

This sets out here two standards, and the Senator is using as the criterion whether an entity is or is not a for-profit organization. If it is a for-profit organization, it is by definition excluded from this coverage, and it can communicate freely with its members and employees and participate in and intervene in elections to the extent otherwise permitted by law.

Mr. McCONNELL. Is the leader saying if we can craft this in a way that would comfort him, where it would apply to for-profit organizations, he would support the amendment?

Mr. MITCHELL. No, because I do not think it is a good idea to cut off communications with people in the elections process. I think if there were such an entity, that the Kentucky Farmers Association or the Maine Farmers Association ought to have the right to communicate to its members about the voting records of the two candidates of the U.S. Senate in those States without fear of losing tax-exempt status.

Mr. McCONNELL. But the leader would put an aggregate limit on how many people can be communicated with?

Mr. MITCHELL. I think we ought to be encouraging communication of information about candidates and the election process. So I do not favor extending this more. I favor defeating the amendment, frankly.

What I am pointing out is, whatever the intention, the effect of the adoption of the amendment would be as I have described in two respects. I do not want to prolong it. I will summarize it. It would be twofold.

The first would be that those tax-exempt organizations which do not get the benefit of tax deduction for contributions made to them—that is, all those entities that are under 501(c) other than 501(c)(3) organizations—would be denied the benefit of the tax-exempt status, even though they do not receive the benefit that goes to 501(c)(3) organizations.

The benefit is, we would be establishing two sets of standards for communicating with employees for members of an association with respect to an election. And I suggest that is not the proper basis upon which to decide who should or should not be able to communicate with its employee organizations.

I just repeat again, a corporation which had shareholders can communicate with its shareholders about an election, talk about the candidates' records, but the farmers who are members of an association who sell their products to that corporation could not communicate with its members about the same candidates and the same issues in the same election.

I do no think that is a desirable result. That is why, Mr. President, I urge defeat of the amendment.

Mr. McCONNELL. Mr. President, the distinguished majority leader has made an articulate argument for restricting the rights of participation of one group, but not of another.

The amendment of the Senator from Kentucky is not terribly complicated. What it is designed to do is to turn a "soft" money operation into a "hard" money operation, so that we will truly know what is being spent in the political process.

Unfortunately, a large number of 501(c) organizations participate aggressively and expansively in the political process, and I have no objection to that. I would just like to know how much is being spent.

This is a very important amendment. It goes to the heart of campaign finance reform. If this amendment is not adopted, then we have done nothing about nonparty sewer money. We will continue to have no earthly idea what is really being spent in the American political process.

We are not clamping down on these groups, the tax-exempt groups. I do not think there is a tax lawyer in America that would not say that a tax exemption is a benefit. The majority leader is correct in saying that 501(c)(3)'s are tax exempt, and when you contribute to them, your contribution is tax deductible. The other 501(c)'s are only tax exempt. But to argue that is not a benefit, it seems to me, misses the point, that there is clearly a distinction between being a tax-exempt group and not being a tax-exempt group. The important distinction is, do you not have to pay tax?

What we are saying here is you ought to enjoy that tax-exempt status. Fine, but do not participate in the political process through that entity. Do it like everybody else in America has to do it, by setting up some group that has to participate with hard money—hard money being defined as money governed by the Federal election laws—so that the American public can be comforted that they really know what is being spent in the election process.

I thought that is what this debate was all about, Mr. President, so that we would know what was really being spent in the American political process. So the McConnell amendment is extremely important. If this loophole is left in the law, anything that we adopted would be a sham, because it would not get at the millions of dollars spent every year in the political process.

I do not mind that they are being spent. I am not objecting to the fact that this money is being spent, frankly, mostly for the other side. I just would like to know how much it is, and

I would like to have that money participate in the same way that everybody else does. That is what this amendment is about. It goes right at the heart of the campaign finance debate.

Mr. HEINZ. Mr. President, I rise in support of the amendment of the Senator from Kentucky. But before I talk to that, I want to make some observations in what brings us here to the Senate floor, the overall bill.

We have been considering this bill for nearly 2 days, S. 137. The substance of what it is we are debating is something we are all experts on. It is, in largest part, the manner in which people seek public office, if you will, the rules of the game. And rules we engage in matter. They matter not because each of us has a personal, and on occasion, partisan interest in how campaigns are regulated; they matter because the rules of the game that we play by legitimize the actions that we, as elected officials take when we are in office.

The rules also matter because they determine the engagement of our citizenry, the people, whose broad and informed participation—which we appear on an increasing level to neglect—is vital to our democracy.

We are here because our current rules are not advancing these fundamental democratic functions. Furthermore, our job in debating this issue will be incomplete, unless we also examine not just the means by which people seek office, but the advantages and means we have of continuing to hold, as the incumbents, the offices we have.

I am one of those who agrees that campaign reform, comprehensive reform, is an urgent priority, but I want to see the Senate pass legislation that deserves the title "reform."

A few years ago I and many Members of my party opposed legislation that touted itself as reform. It was not reform. The 1986 legislation—it was S. 2—in my judgement would have done very little. Maybe it would have done something to entrench incumbents. I thought it would. I thought it would discourage competitive races by challengers. I thought it would further enhance the power of political action committees and shift many costs of the electoral process to the taxpayers without curbing those costs.

We thought the better of it at that time, and that is what brings us back here 4 years later because indeed there is the recognition on both sides of the aisle that we need reform, bipartisan reform if we can get it, and I do hope that we can achieve it.

But I would like to step back for a moment from the subject of the manner in which people seek political office, the elements of campaign finance and campaign reform, to ask what is the part of the issue that is really under discussion here. We are going to be here I suppose some more time in addition to the 2 days we have had. There are many issues that have been or will be discussed and they are all important issues.

I made a list of issues that deserve discussion. It is an important list that I think is a consensus set of picks.

One, of course, is the perception of special interest influence and control.

Another is the singular impact of political action committees. We had a vote on that earlier today.

Another is the enormous amounts of hidden electoral and special group influence supported by sewer money, a subject that the pending amendment in part addresses itself to.

Others are the question of the disproportionate amount of out-of-State money to well-heeled contributors and, of course, the intentions they represent; the spectacle of the money chase, real or imagined; the reduced role of the Republican and Democratic Party National Party Committees to the point that their legal capacity to contribute is so circumscribed as to render both parties support marginal to meaningless.

The exhorbitant rise in prices charged by vendors to campaigns, the TV and radio stations, the newspapers, direct mail houses, the political consultants, so that campaign costs certainly do soar at the same time that the reach of campaigns and their messages also shrink.

The increasing prevalence of negative campaign: Messages that distort and tear down; campaigns that never uplift or even enlighten; a process that turns off voters and drives the electorate not to, but away from, the polls.

Every single one of those issues are indeed important. They are compelling issues, but I think we also need to focus on two important points.

Point No. 1 is that each and every campaign rule change we might make has an impact, sometimes a very massive one, on the candidates and the conduct of campaigns. Individual reforms, therefore, do not, should not, and cannot stand alone. They are necessarily part of a package the individual elements of which are indeed interrelated. They are mutually dependent if they are to achieve a result that is both responsive and intelligent and responsible public policy.

For example, setting a ceiling on campaign spending may have the superficial appeal of reducing the supposed influence of well-heeled contributors; less money, less contributors. Leaving aside whether or not it would achieve that objective, simply setting a ceiling would undoubtedly prejudice the ability of challengers to overcome incumbents because of the manifold and obvious advantages that we officeholders have conferred on ourselves. Someone who advocates a spending ceiling without the means of resolving this particular problem, and there are others, would not have their proposal taken seriously.

Consequently, a campaign reform package is exactly that, a package. Remove part of it, or add to it, and it may or may not work at all, or worse, it may have unintended consequences that are worse than the problem you set out to solve in the first place.

Mr. President, I make this point, which is probably obvious to a good many, because I intend, as I hope most of our colleagues will, to judge the final result of any campaign reform effort, the result of many votes we are going to have on the issues I have mentioned, as well as others, so that such package indeed fits together into a real and respectable package. A so-called package that includes one or two seemingly attractive reforms but does not measure up as a whole is certainly not the kind of reform this Senator could or will support.

That leads me to my second point, which is what is the point of our efforts? What should be the goal of the tremendous energy that each Senator brings to bear on the issue of campaign reform? In short, what is the problem we are trying to cure?

Mr. President, I suggest that the fundamental problem is not one of the ones that I mentioned, or to the best of my hearing have been mentioned so far, like too much money, or too much special interest influence. I suggest that the real problem is how to make officeholders accountable to the people who we are supposed to serve, to the electorate that the Members of Congress have successively succeeded in insulating, of course, ourselves from.

Mr. President, I do not think I am telling tales out of school when I state that the American public thinks that Congress, and that is both the House and the Senate, is doing an inadequate job. People are extremely dissatisfied with our performance, and they have every right to be. They are dissatisfied with our performance on the budget deficit, on allowing the savings and loan crisis to get out of hand, on protecting the planet from the destruction of the ozone layer, on dealing ineffectively with the unfair trading practices of others, on the inability of our educational system to educate while schoolchildren and parents are being terrorized by drugs.

(Mr. BRYAN assumed the chair.)

Mr. HEINZ. Mr. President, when all of this debate is over, there is one thing I want above all, and that is to be proud of this institution, of both the House and the Senate. I want the Congress to be an object not of scorn but of respect. I want my children to take pride in the institution in which you and I serve. We want our friends

and neighbors to feel likewise. But that is certainly not the case right now.

We all know, and the public opinion polls tell us the same thing, only 46 percent, less than half of the electorate approve of our performance, and of those 46 percentage points, 38 percentage points just somewhat approve. And those words are "just somewhat approve." That is not very much approval at all. If any single Member of the Senate had this low an approval rating on election day when they were standing for election that Senator or Member of Congress would undoubtedly be defeated.

What should be deeply troubling, therefore, is why we are not.

Why are we not defeated, if that is the opinion that we are held in collectively? Alternatively, why are most of us, indeed nearly all of us, returned to office that we as a group are judged to have so failed in the eyes of the voters to do what is expected of them? Why do 98 percent of House Members and 84 percent of Senators get reelected if we are doing a bad job?

There is only one answer that suggests itself to me and that is that Members of Congress have lost the connection of accountability to the American people because of the huge advantages that we have conferred on incumbency, which is to say ourselves.

The congressional franking privilege, the huge quantity of staff, the proliferation of power centers in the grossly excessive number of committees and subcommittees, these are perhaps as important—indeed I think I could make a convincing case that they are more important—than the campaign finance and reform issues we are debating here.

I deeply regret that our debate at least so far has been so circumscribed as to virtually ignore these issues, these means by which we hold up not just the means by which people seek office, and it is my hope to raise these issues more directly in the course of consideration of the Senate Election Campaign Act.

To me the bottom line is this: That whether the end result of our legislating is meritorious must be judged by whether the final legislative package we assemble sufficiently enhances incumbent accountability. To me that is the issue. The question is will we continue the tradition of Congress, voting so-called reforms to further entrench every incumbent or will we vote to reduce the massive advantages enjoyed by Senators and Congressmen in order to make our system work and restore this institution to respectability.

The answer, of course, to me, at least, is that if the final package further undermines incumbent accountability by once again insulating officeholders against challenge, it should be resoundly defeated. Or if the final package does a little or not much but simply makes change for the sake of change, it, too, should be rejected. We should not dignify simply rearranging the deck chairs under the title of reform.

Having laid down that marker, I would like to turn to a few of the specific issues that are related to the narrower subject of campaign reform addressed by the legislation and the amendments before us.

As many have remarked, current rules do indeed promote a public perception that policy decisions are being driven by the whims of a few—the powerful and the connected through the financing of Federal campaigns. This perception undercuts public confidence that Government decisionmaking is fair, aboveboard, and prudent.

Part of that perception is based on the prevalence of political action committees and funding campaigns.

In 1974, there were some 709 political action committees. They accounted for about 17 percent of total campaign receipts for House candidates, 11 percent for the Senate. By 1988, 4,268 PAC's were funding 40 percent of total receipts in the House, 22 percent in the Senate. That is pretty impressive, substantial, even frightening.

But worse, PAC's do not contribute equally to all candidates. Indeed, the principal motivation for PAC contributions would appear to depend less on whether the organization agrees with the views of the candidates but whether the candidate holds office.

In 1988, PAC's contributed $137 million to congressional candidates, $118 million of which went to incumbents.

What the public sees is a proliferation of special interest groups and a flood of special interests made available to elected officials and draws a conclusion enshrined in American slang, "Them that has, gets."

Mr. President, I do believe it is time to acknowledge that the political action committee has not achieved the goals designed for it. The answer is not to limit political action committees but to eliminate them entirely.

Now the issue that is before us at this very moment, the McConnell amendment, relates to sewer money. The public knows that current campaign rules have loopholes and the biggest loophole, indeed, is sewer money, unreported, hidden contributions spent to influence elections. And the first rule, above all, of honest elections is that campaign financing should be based on voluntary contribution with full disclosure. The right of individuals to fully participate in the political process, including the right to support their political preferences, is premised on the public's absolute right to know who is contributing to each campaign and the extent of that contribution. Only through such full disclosure can we achieve free and unfettered political expression in an open political process in which informed voters make their own choices. Sewer money is money that is hidden from public view and directly undercuts the first principle of honest elections.

Obviously, voters cannot be informed if they do not know who is contributing or how much. Sewer money is money otherwise illegal under Federal election laws. It is money that undercuts political activities on behalf of candidates. It is money that directly effects the political process. Yet, the public, indeed, political experts, have no accounting, have no specific accounting of who is spending it or how much they are spending or for whom it is spent.

We do have general knowledge that about $100 million, almost as much as political action committees' money, of sewer money, is spent in each election cycle. We have general knowledge that special economic interest PAC's, unions, corporations, individuals, tax-exempt organizations, and political parties are spending sewer money on such campaign activities as phone banks, voter registration programs, get-out-the-vote drives, and voter education. Mr. President, these are, indeed, legitimate campaign activities, but their legitimacy is called into question when the money to support them comes from the sewer.

Mr. President, the answer is to require that all campaign-related spending by all involved in the process is disclosed and reported fully and in a timely manner.

In addition to this, many in the public have a perception that Federal officials are disconnected from the electorate, as I mentioned before. To review the source of campaign treasuries, that perception is often accurate because a growing percentage of campaign funds is being donated not by candidate's constituents but by out-of-State sources rather than people who will be in a position to cast their votes for their candidate.

Frankly, I do not know what the correct percentage of such funds should be. After all, as Senators, we act on issues of national importance. There is a legitimate basis for individuals, industries, ideologies, interest groups originating outside a State to support political campaigns not in their States. But it seems to me that candidates are relying on out-of-State sources for campaign contributions to an increasing and even alarming extent and that development tends to suggest to voters that their Federal officials have become severed from the constituents they represent.

Our system of representation is based on geography. While its genesis had more to do with preserving a balanced Federal system, the genius of

the American model of democracy is that it ensures that Federal officials listen, learn, and act based on the comments and experience of and needs of a diverse pool of individuals and interests. And in a State like my own, Pennsylvania, the process of seeking election and of truly representing the constituents involves taking into account the differing and, I must tell you, the often conflicting agendas of some 12 million Pennsylvanians. It is a valuable process nevertheless because it forces the elected to fully consider ramifications of the decisions made by government. It is a process that benefits the electorate by fostering wider debate and better reasoning on critical issues.

Current campaign finance practices, however, are eroding the linkages between the elected and their States and districts. It is not just the growth of PAC contibutions that I alluded to earlier. A recent study based on the Federal Election Commission records, and excluding—and I underline "excluding"—PAC's, found that one Senator received 96.5 percent of his contributions in excess of $200 from sources outside his State. The same study found seven other Senators with better than 80 percent of large contributions from outside their respective States. Some Congressmen have been reported as having more than 75 percent of their total contributions from outside their districts. Constituents may draw the conclusion, indeed I am sure many do, that big money interests from out of State are driving the decisions of their Representatives.

Mr. President, while there is certainly a legitimate reason for people around the country to support or oppose candidacies of national decisonmakers, in-State support, denoted in part by the source of campaign funds, ought to be a priority.

One way to provide a priority to in-State donations is to impose a tighter limit on the amount that a non-State or nondistrict resident can provide to a candidate. My view is that the maximum amount a non-State resident can donate to a campaign ought to be cut in half, from the current $1,000 to $500. Keeping the current $1,000 limit for in-State contributors will make this source of campaign funding relatively more valuable to candidates, as indeed it should be.

FUNDING SOURCE REFORMS NECESSARY BUT NOT SUFFICIENT

I have taken some time to outline a few of the necessary reforms. I believe each of these, indeed the ones I have outlined, are necessary: Eliminating political action committees, requiring full disclosure of sewer money, and providing a relative advantage to in-State contributions will alter the perception that the special interests are unduly influencing candidates and the Government decisionmaking process. But these steps, while necessary, are not sufficient to promote broader participation in the political process. To promote that fundamental goal requires a level playing field and better political debate.

REDUCING THE INCUMBENT EDGE

Over the last dozen years, Federal races, especially for House seats, have become less and less competitive. Incumbents have become adept at tilting the system to their best advantage. It matters little whether the incumbent is a Democrat or a Republican. Of the 1,206 House elections involving incumbents since 1984, incumbents won all but 28. Most of the races were not even close. In only 1 in 10 House races was the winning margin less than 10 percentage points, and fully 3 of 4 races saw the incumbent win by 60 percent or more of the vote. The reelection rate in the House tops 98 percent, and in the Senate 84 percent.

At the same time that incumbents are looking up record-winning percentages, the electorate is setting new records for nonparticipation. Roughly 60 percent of all people of voting age are registered to vote. In the last Presidential election, 93 million Americans voted. Another 75 million who could have voted did not, and 59 million of the nonvoters were not even registered.

While the people of Eastern Europe, China, and Latin America put their lives on the line for the right to determine their own futures, how to explain this appalling lack of interest in democracy among Americans to whom the people of other nations look for inspiration?

FRANKING PRIVILEGE

One factor in the equation is that political races are just not races anymore because incumbents hold all the cards. Eliminating PAC's would remove one of the aces in the hands of incumbents. We should also end the practice of allowing Members of Congress to use the franking privilege to advance their political fortunes. While the Senate has enacted franking reforms, the House has not. And people should be aware that the House has already exceeded its allowance for the frank and shows no signs of stopping the presses. Although it is the bare minimum that ought to be done, a ban on all mass mailings starting a year before the election will not only partially level the playing field for challengers, it will also save the taxpayers money; and what we really ought to do is ban the franked congressional newsletter that is mass mailed at taxpayers' expense.

CURB ROLLOVER OF CAMPAIGN FUNDS

Incumbents are now able to prepare well in advance for their elections. And, if, as is often the case, they have no serious opposition, then incumbents can simply roll over their unused campaign cash into the next election cycle. After a few cycles without opposition, the incumbent's war chest is so large that a challenger cannot hope to mount an effective campaign. It is not an isolated situation. In fact, the total amount remaining in incumbents' campaign accounts after the elections in 1988 was twice the amount of money spent by all challengers in that year. The only fair way to level the playing field is to eliminate the stockpiles of money by restricting rollover of campaign funds.

SEEDING CHALLENGERS

In addition to restricting the perquisites of the "ins," our campaign financing laws need to promote greater competition in Federal elections by allowing the parties to adequately support nonincumbent candidates. Currently, party support for a candidate is limited to 4 cents for each eligible voter. Four cents does not even buy a stamp, let alone a difference in a challenger's ability to wage a competitive race. Allowing parties to provide additional resources to their challengers running against incumbents, while banning similar assistance from a party to an incumbent, will revitalize the competitive electoral process and reengage the electorate.

PROMOTING POLITICAL SPEECH

But I have to say that even if we did everything that I have advocated here this afternoon and evening, nevertheless eliminating that kind of incumbent edge is not going to, by itself, restore the quality to political debate. The public is frustrated by the lack of genuine debate about critical issues, turned off by the ever escalating costs of campaigns and appalled by the widespread use of the attack and 30 seconds of name-calling and mudslinging.

CAMPAIGN COSTS

Candidates from both parties are daunted by an unscalable Everest of campaign bills. The cost of running a campaign has been going up, driven by the higher and higher charges assessed every year by every vendor of every service essential to conduct a competitive race—from TV stations and printers to airlines and the Postal Service. The most significant cost increases have been in television, averaging 40 percent for the period between Senate races.

In a populous, geographically diverse State like my own, reaching voters means using mass communication. Between 1982 and 1988, my two most recent campaigns, 60 seconds of affiliate primetime in Philadelphia jumped from $12,000 to $17,000, even as market share for the networks dropped 12 percent; in other words, spending 42 percent more per minute translated into reaching 100,000 fewer people. Similarly, the cost of first-class postage went from 20 to 25 cents;

$1,000 delivered position papers to 5,000 voters in 1982 but only 4,000 6 years later.

A meaningful fix of the system requires a direct curb on escalating campaign costs, particularly broadcast rates. At a minimum, we should allow political campaigns to purchase nonpreemptible time at the lowest unit rate for preemptible time around the election period.

NEGATIVE CAMPAIGNS

Faced with mounting costs and dwindling access to audiences through traditional means, campaigns have turned nastier. Sad to say, but saying bad things about your opponent is more likely to be recalled by the viewer. At least that has been true of a lot of recent campaigns, and because of game theory, it is likely to remain true.

I say game theory because the theory on positive and negative ads is a bit like that of throwing a forward pass. Three things can happen and two of them are bad.

In the case of negative ads, they can work one of two ways: get a voter to vote against the target—and for you—or get a possible vote for the opponent not to vote. Positive ads have half as much chance as they only focus on getting a possible voter to vote for a candidate.

Negative ads have also become stock pieces in media coverage of campaigns. They are nastier, newsier, and easier to report on than other types of political speech. For example, the now infamous Willie Horton ad received far more attention through repeat broadcasts on network news and extensive discussion in newspapers than the relatively modest audience reach achieved through its paid placement of a few cable networks. The wide coverage of inaccurate or misleading negative advertising through the media is rarely balanced by similar treatment for reasoned rebuttal. In fact, those attacked have found it imperative to respond quickly and massively in order to counteract the free media halo effect from negative ads. Consequently, hitting below the belt on the cheap has become the best use of limited resources for many campaigns.

To quell the distressing rise in negative campaigning, we should require all candidates to appear in their commercials and take responsibility in those commercials for the veracity and tenor of the ads.

REFORM THAT MAKES SENSE

Mr. President, the campaign system needs to be overhauled, but we need to make reforms that make sense to the system and save cents for the taxpayer.

Spending caps are what some advocates of reform want but can only get if tied to taxpayer financing of campaigns. Spending caps are a limit on a candidate's freedom of speech and banned by the Supreme Court unless coupled with taxpayer money. It is an idea which opens the door to dominance of political debate by special interests not subject to such limits. It also helps incumbents whose only real threat is from challengers who must outspend them in order to overcome the advantage of incumbency. In addition, like wage and price controls, spending caps will have unintended consequences, most likely an infiltration of new uses for sewer money.

I seriously question whether the public will be content with taxpayer financing of campaigns. An open-ended commitment to let the taxpayers pick up the tab is tantamount to unlocking Fort Knox and letting the ward heelers and media consultants in with wheelbarrows. The same taxpayers, upset with the Senate pay raise of $8,900, might be even more skeptical of paying $1 or $2 million more per candidate in every election.

In conclusion, Mr. President, if we really want to solve the campaign finance issue, we must address the structural flaws in the system that are undermining the values served by the political process. Those values are free, vigorous competition of ideas and active, knowing participation by our citizens. Promoting these values will alter the perception that Federal officials are pawn to the special interests and not serving the public interest. I believe the steps that I have outlined will restore those values and strengthen our democracy.

In addition, I do hope that the amendment before us, the one offered by the Senator from Kentucky, which I have discussed in part during the course of these remarks, will be supported by the Senate.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I support the pending amendment offered by the distinguished Senator from Kentucky and wish to express concern at this juncture about where this bill is headed in terms of the very heavy overlay of partisan politics; Democrats versus Republicans, with the virtual straight party-line votes on key amendments which have been offered so far.

I express this concern, Mr. President, because of my view that we do need campaign reform. There is no doubt about the necessity for constructive, creative, significant reform for our campaign laws, which are not functioning well at the present time.

With respect to the issue of political action committees, Mr. President, I am glad to see that there is now agreement on both sides of the aisle that we ought to eliminate political action committees, not because they are a source of impropriety, but because there is such widespread public perception that political action committees serve special interests.

Mr. President, if you take the maximum contribution of $10,000 from a political action committee, $5,000 in a primary and $5,000 in a general election, based upon what my campaign cost in 1986, that total of $10,000 will be .0012 percent. So while $10,000 is not an insignificant amount of money, in the overall scheme of things to run for election from the State of Pennsylvania it is not a dominant factor.

I believe, Mr. President, it is a fair and an accurate representation that officeholders are not inappropriately influenced by political action committee contributions; that, in fact, when you have the limits which now are in existence, that inappropriate influence simply is not a part of the system. Notwithstanding that fact, Mr. President, there is widespread concern that political action committees do have an insidious effect upon the political process. For that reason, this Senator has long advocated an elimination of political action committees.

Mr. President, I believe further that there ought to be spending limits; that it is certainly true that an inordinate amount of the time of incumbents or candidates is consumed in the effort to raise campaign funds. But, Mr. President, the source of the problem lies with the decision by the Supreme Court of the United States in Buckley versus Valeo when the Court held that it was an adjunct of first amendment rights for an individual to spend as much of his or her money as that individual chose.

The distinguished Senator from South Carolina [Mr. HOLLINGS] who was on the floor a few moments ago, and I have cosponsored an amendment to the Constitution which would eliminate the ability of any individual to spend as much of his or her money as that individual chose.

I remember very well the day Buckley versus Valeo came down, January 29, 1976, because at the time I was a candidate in a primary election for the U.S. Senate. The election law passed in 1974 provided a limitation for a State like Pennsylvania of $35,000, which was about as much money as I could save from being in private practice of law for a few years, after having been in public service for some 14 years in the district attorney's office as the district attorney of the city of Philadelphia. On the specific day in question, January 29, the Supreme Court said that an individual could spend as much of his or her money as the individual chose.

I participated in the case, Mr. President, to the limited extent of filing a petition for leave to intervene in that case because it seemed to me that,

coming down in the middle of the election, it was just not fair. But that decision has stood. We will not have an effective limit on the amount of money an individual can spend until we address that fundamental, core problem. There is nothing in this bill which will prevent a candidate from ignoring this bill and spending as much money as he or she may choose.

The concept, Mr. President, of public financing, I think, is just not right. It is just not right to have the public finance election campaigns given the shortage of money which is present in the federal budget today. We all know how great the needs are in our society and how much of a deficit we have and how it is tearing this country apart at the present time. we have debated the constitutional amendment for a balanced budget, which we ought to pass, and a line-item veto, which we ought to pass. It is the subject of a summit meeting. It is really the most serious problems confronting this country today on the domestic scene and has been for some time. And yet we are proposing legislation which would add very considerably to the cost to the taxpayer. The distinguished Senator from Kentucky yesterday estimated the cost at $150 million a year. I recall when S. 2 was first proposed in the 100th Congress, it was even more extensive. So, Mr. President, it seems to me that the answer does not lie in the public funding as proposed in this bill.

On the present amendment, it is a very direct amendment, which I suggest is fundamental fairness that where you have in-kind contributions, that kind of an in-kind contribution ought to be treated as a contribution. What is the difference if it is a phone bank or a canvassing service or some other service which is rendered as opposed to cash if it promotes a candidacy? If you are going to count how much a candidate spends, why not count soft money?

We have seen the Presidential system eroded significantly by tremendous sums of money which are being raised for State parties or national parties. Where you have legislation of this kind, Mr. President, where limits are sought to be imposed, the soft money ought to be counted as well.

As I said at the outset, Mr. President, I do not intend to speak too long. It seems to me that the in-kind contribution, as a matter of fundamental fairness, ought to be counted. If it is an independent contribution and there is no connection to the candidate and the organization is spending the money entirely on its own, then it might come under an independent contribution category. That, too, has very substantial problems, but it has been upheld as a matter of a constitutional right for a party to make an independent contribution without consulting with the candidate.

But that is not what we have here by and large when we talk about in-kind contributions, and they really ought to be counted.

Mr. President, there is great public concern on campaign finance reform, and campaign finance reform ought to be enacted. But the way this bill is going, Mr. President, we are not going to achieve that result. What we have here are provisions which are essentially designed in a partisan way to help Democrats or to help Republicans.

When we talk about limits on spending, and that has been advanced, very bluntly, to help one party, when we talk about public financing, again, it is an aid for one party. When we talk about soft money, it is an aid for one party. That party will prevail in these votes, beyond any question.

When we decided the critical issue of campaign limits, it was a 49 to 46 vote. There is no doubt about how the votes are going to come out, but it is piling on as you have amendment after amendment with a predictable result.

In this context, I do not speak for the President, but a veto is likely as this bill is emerging and as the piling on continues. In that context, Mr. President, we are simply not going to get campaign reform.

So it would be my hope that we could sit down and negotiate a bill which was fair to all parties, which served the public interest, and which provided real campaign finance reform but did not seek as its basis to give the Democrats or the Republicans an advantage, because if it proceeds in that line there is going to be a stalemate, and there will not be campaign reform, and we will not be serving the public interest. The public interest, Mr. President, would be well served if this amendment was to be adopted so that in-kind contributions would count like all others and so that we would approach these amendments with some basic fairness and equity as opposed to partisanship, which is going to lead to zero.

I thank the Chair and yield the floor.

Mr. WILSON. Mr. President, we have had so many of us rising so many times to congratulate and commend the Senator from Kentucky, and this is one more. This is a very good amendment.

My friend from Pennsylvania has just said, and rightly, that the people of America are concerned about the way campaigns are financed. They are concerned about special interest money and its influence on the decisionmaking that goes on the Congress.

What they do not think should be substituted for the present system, which needs reform, is the kind of taxpayer financing that initially was a major part of this legislation. Its role has been diminished, as was explained yesterday afternoon by the distinguished senior Senator from Oklahoma. Earlier today in a reform, in which he and I joined in commending his junior colleague from Oklahoma, Senator NICKLES, we went further and said that in an election year, the frank should not be used by a candidate for office.

Again, what we are saying is that public funds should not be used to finance election campaigns, not for incumbents nor for that matter for challengers. Here we have yet another example of a needed reform because what has been going on for many years is that organizations which purport to be dedicated to a particular interest, a public interest, perhaps consumer affairs, perhaps environmental reform, perhaps the care of the elderly, any number of different avowed purposes, have been identified as the real purpose of a number of organizations, it turns out instead engage in partisan political activity.

That is wrong, Mr. President. In the first place, I think it is duplicitous. In the second place, even if they are up front about it, it should not be financed by taxpayers any more than other political activity should be financed by taxpayers. Yet that is precisely what you have, albeit indirectly, when the Tax Code continues to provide for these organizations a deductible status so that to those who make contributions to them, presumably in the name of the betterment of America in the specific aspect of consumer affairs, or the care of the elderly, or whatever other good purpose is identified, it is the announced purpose.

It is wrong when the taxpayers of the United States, without their knowledge I suspect in the main, and certainly without any vote by them, wind up indirectly financing the deductions of people who are making contributions to organizations that then spend those contributions not really for the announced purpose but for the defeat, more often than not, of a candidate who does not represent in their view the optimum, the ideal. To be blunt and to be specific, these get very partisan, and any number of them have had very limited lives in one locale. They seem to have sort of a camp follower existence; they move from State to State, following an election cycle.

The Senator from Wisconsin [Mr. KASTEN] has done some very interesting research in this regard and the trail is rather clear.

So to my friend from Kentucky, I simply say again, well done. I hope this amendment will have the kind of support it deserves. There is no justification for taxing some Americans so that others may engage in political ac-

tivity. Yes, we think political activity is desirable. We think it is a fundamental part of democracy, but we do not think it needs to be financed by taxpayers. We are elected for the purpose of allocating too scarce resources to far more imperative, more demanding priorities than engaging in partisan political activity. That is true when we are talking about our own campaigns. It is true when we are talking about congressional newsletters. It is true and certainly should be extended to removing the tax incentive of partisan political activity by organizations which purport to have some other purpose.

If, in fact, they have that other purpose, and some combine the two, then let us divorce the two and let, in fact, those who wish to support their announced purpose rather than their politics be permitted a deduction for that purpose but not for the purpose of financing political activity. It is that simple.

I will take no more time. It is a very simple proposition: Taxpayer money should not be used to finance partisan political activity. Presently it is. The Tax Code not only permits it, it encourages it. That is wrong. We should change it. The McConnell amendment will change it. I urge an aye vote and yield the floor.

Mr. EXON. Mr. President, if I could have the attention of the managers of the bill for just a moment, I wish to make an inquiry. Two or three hours ago I had understood we had more or less of a gentleman's agreement we would have back-to-back votes at about 6 o'clock. It is now almost 7. Just for the information of this Senator and others, is there any projection at this time when we will likely have rollcalls on the matter before us and a previous rollcall which I understand is scheduled to be stacked on an amendment offered by the junior Senator from Oklahoma?

Mr. McCONNELL. In response to my friend from Nebraska, the Republican leader is going to speak; I am going to summarize in about a minute; the Senator from Oklahoma is going to take 2. At that point, unless there are other speakers on that side, we expect to have the two votes.

Mr. EXON. I thank the Senator. I appreciate the information.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOREN. Mr. President, I see the distinguished Republican leader is not yet on the floor, so let me go ahead at this point in time and make just a few very brief comments.

We have had quite a discussion of this matter, and let me say with all due respect to my friend from California, who called this a very simple, straightforward amendment a while ago, this is not a very simple, straightforward amendment. This is a very complicated question, as has already been revealed during the various colloquys on the floor that have occurred during the course of this debate.

I think we are dealing with something that is quite dangerous in terms of changing basic tax policy as well as political policy in this country.

I sympathize very strongly with the desire to do away with soft money. In our bill we have try as best we can to deal with this question. We have tried to do away, and we have adopted some of the suggestions of the Senator from Kentucky again as a show of good faith on our part in our draft that would make it impossible for people to be able to give $100,000 contributions to various political committees and then let that money flow into State party committees or other party committees as a way of getting around the $25,000 limit.

I think we are perfectly willing, and we have already passed an amendment today dealing with the Beck decision which would allow for some codification of that decision and disclosure of funds that were spent for political purposes internally by labor unions for example. In fact that would have to be accounted for so that a refund could be made to objecting nonmembers of unions in order for them to receive back those nonmembers' political expenditures made by the union in the pro rata share of that objecting nonmember.

So we have already moved in that direction as regards to disclosure for labor organizations. But I think what we have here is a case of firing at one target, the soft money target, and unintentionally perhaps hitting all sorts of other targets in the process.

I think that the Members on both sides of the aisle—and I make this not as a partisan statement. This is not a partisan issue as I can see it. It is a question of what the tax policy should be, and it is a question of what various organizations should be allowed to do in the country. I have to say that I think that anyone, whether they are on this side of the aisle or the other side of the aisle, will equally regret a vote on behalf of this amendment if they cast it on behalf of this amendment.

What we are really talking about doing is changing the rules. The current 501(c)(3) organization is one that is not only tax exempt; that is, a charitable organization that is not only tax exempt but one which can also receive tax-deductible contributions. So if I write out a check for $100 to my church which is a 501(c)(3) organization tax exempt, and also a receiver of tax-deductible contributions, and I can deduct that $100 from my income tax, that is the current law for 501(c)(3)'s.

The 501(c)(3)'s therefore, because they have the dual advantage of being both tax exempt and the recipient of tax-deductible contributions have very restrictive measures applied to them in terms of their involvement in the political process.

This amendment would take those same restrictions and apply those restrictions to 501(c) organizations, tax-exempt organizations but not organizations that have the privilege of receiving tax deduction when contributions are made. If I write a $100 check to the Disabled American Veterans or to the American Legion, or to the Farm Bureau, or to the Oklahoma Chamber of Commerce, that $100 is not deductible. Those organizations are tax-exempt organizations. But if I make a payment to them it is not tax deductible in a way that a check to my church would be tax deductible.

The Senator from Kentucky is talking about totally changing the tax laws of this country to apply the same restrictions to tax-exempt organizations that are not allowed to receive tax-deductible contributions as we apply to those organizations that can receive tax deductible contributions. It is a major change in the tax policy. It is not a simple matter.

What do we mean when we say in this amendment that an organization could lose its tax-exempt status if it participates 0 in or intervenes in a political election?

In answer to one question from the distinguished majority leader, the Senator from Kentucky quoted the manual from the Internal Revenue Service which indicates, for example, that if the Farm Bureau or the American Legion were to put in their newsletter the voting records of all 100 Members of the U.S. Senate, that would be all right; but that, if they put in the newsletter only the record of a particular Senator up for reelection that year, for example, pointing out, let us say in the American Legion newsletter that that Senator had voted consistently against funding veterans' health programs and had been unfriendly to the cause of veterans and veterans' health care, then according to the manual which the Senator from Kentucky read that organization could be in hot water, and potentially lose its tax-exempt status because he said if they single out just a Senator up for reelection that year and by commenting on his or her record in an uncomplimentary way imply lack of support for that individual, they could be deemed to be intervening or participating in an election.

Mr. President, if these organizations, and there are thousands of them across this country, I just begin to think of all of them in my own home State alone, recreational organizations—let me tell you, I have seen the time when the bass fishermen of Oklahoma took the position on a political matter at least under this definition

because they did not like something having to do with boat licensing or sales. I have seen times when the Coon Hunters Association decided they wanted to make an expression in their newsletter, let alone the American Legion, or the DAV, or the VFW, or the Farm Bureau, or the Association of Electric Cooperatives, or the Farmers Union, or the chamber of commerce, not only the U.S. Chamber of Commerce, the State chamber of commerce, every local board of trade, every chamber of commerce, and every local community, you begin to add them up.

If these organizations knew that we were changing the law completely as to what they can do currently and subjecting them to the potential liability of losing their tax-exempt status, Mr. President, the switchboards would have already been lighted up all over this building tonight if these organization had realized exactly what we were doing.

The answer from the Senator from Kentucky was, well, if they want to mention, for example, if the American Legion wants to mention in a newsletter that Senator G has an unfavorable record about supporting veterans' health care they could form a political action committee and do this through a totally new organization.

The only problem is in this legislation if it becomes law we are abolishing political action committees, and we make it illegal for such an organization to have a connected political action committee. So we do not really know, but it is possible that we may be doing away completely with their rights to express themselves to their own members on this kind of matter.

So, Members should understand this Senator certainly supports the concept of doing something about soft money.

When I was in the State legislature one of the favorite tactics I recall of those who would try to kill a piece of legislation was to do something we called loving it to death. They were so strongly for the bill that they would bring amendment after amendment to just make it stronger, and stronger, and stronger, and stronger until it was a piece of legislation that would have imposed huge burdens on every living soul, from infants in the crib to those in the senior citizens home, that they could not possibly meet all in the name of improving it; all in the name of good government.

With all due respect, this may well not be the intention of the author of the amendment in this case. I have to believe we have talked about soft money many times to each other. As I say, we have adopted some of his own language in our bill.

I understand why he does not like soft money, sewer money, and I do not either. I want to see us do everything we can reasonably do about it.

Let me say if we want to love a bill to death by putting in unintended restrictions that no one could possibly meet, then it just is absolutely we have done it in this case, because I think if we really want to get the citizens stirred up at the grassroots level then let us touch all of these organizations that would be impacted in a way, and then tell them we do not know if we abolish PAC's they might not be able to form any organizations that would enable them to do this through other organizations.

Besides that, I would like to hear how the Members of the Senate are going to go back and explain to the Farm Bureau, Farmers Union, VFW, American Legion, and every chamber of commerce you can imagine, every recreational organization, all these others, why in the world we put all these additional burdens upon them that have not been there in the past.

Mr. President, let me say, as they say, you know, look before you walk, look before you cross the intersection. This may be well-intentioned. We all want to do something about soft money. But let us look at the fine print. Let us understand what we are doing.

Let us realize that we are totally wiping out a distinction which has been in the law for a long time between charitable organizations that get tax-deductible contributions and those that do not, putting thuose that do not get tax-deductible contributions under the same limits.

Let us realize we are going to be called upon to explain to the members of the American Legion, the VFW, if this passes and they inadvertently happen in their newsletter to say that Senator "X" has been always a friend of the veterans when that Senator is up for reelection, that they have lost their tax-exempt status. Let Members realize they are going to be called upon to explain why they are against farm organizations, why they are against recreational organizations, why they think veterans' organizations are somehow sinister in the way that they have been conducting themselves in the past. And that is a burden I do not think Members on either side of the aisle will want to bear. My hope is that this amendment could be redrafted in a different way, that it could be confined to the appropriate targets, whatever it is that we are trying to get at here, and that we not paint with such a broad brush, that by the time we are through, we are going to put garden clubs, the American Legion, and a lot of other people out of business, certainly out of business in the way they have been operating in the past

I hardly think when we use the term "sewer money," that Members of this body are talking to people on the street about the American Legion newsletter saying whether or not a Senator up for reelection has supported veterans' causes, or the Farm Bureau newsletter, or union letter, saying whether or not a Senator has been a friend of the family farmer.

That is not what we mean by corrupt politics. That is part of the American right to organize and communicate with fellow members and let people know exactly how people are holding public office and how they have been behaving themselves.

I think we may have a worthwhile objective here. But I warn my colleagues, and I say this is not in a partisan sense because, believe me, I do not think you would have an easier time, if you are a Republican or Democrat, explaining to the American Legion, for example, why in the world we passed an amendment like this, when we do not even know what the effect of it might fully be? Let me wave a red flag of danger and caution here. Let us think before we vote and understand exactly what the implication of our votes will be.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, while we wave the flag, I would like to wave a white flag of surrender, because we do not have the votes on this side of the aisle to defeat any amendments offered by the Democrats. We do not have enough on this side of the aisle to pass any amendments offered by the Republicans. We ought to bring to the light of day what this debate is really all about, and it is partisanship, partisan political dominance. This bill will enhance the position of Democrats who are campaigning for the U.S. Senate. It does not help Republicans. If it did, you would get Republican votes.

Mr. BOREN. Will the Senator yield for one question?

Mr. COCHRAN. I will be glad to yield for a question.

Mr. BOREN. Is the Senator aware of my desire for this not to be a partisan bill? We will shortly vote on the amendment of my colleague from Oklahoma, which bans the newsletters and mass mailings for both parties in election year periods; and it is an amendment he offered this afternoon, which now has bipartisan cosponsorship. I think will be agreed to.

Mr. COCHRAN. This amendment will be adopted, and the amendment of the Senator from Texas was adopted with Republican votes. It would have been agreed to anyway if no Republicans voted for it. Unless an amendment here deals with something that is not a key central element of the Democrats bill, it will not be agreed to.

I congratulate the Senator from Oklahoma on crafting his amendment

and dealing with that problem, which attracted support from the Democratic side of the aisle.

The purpose of my rising was not to prolong this debate but to put remarks into the RECORD in support of the amendment of the distinguished Senator from Kentucky.

While doing that, I could not pass up the temptation to let people know what this is all about, because in listening to the discussion in many respects, one would be confused and might think this was a legitimate effort to pass a campaign reform bill that could become law. This bill is not going anywhere. We are engaged in a partisan charade, and that is what it is all about.

Mr. President, the purpose of this bill, supposedly, is to reform the laws regulating the financing of Senate campaigns to restore public confidence in the electoral and political process. The Senate should act to correct the worst problem of the present system, that is, nondisclosed nonparty, soft money, which is raised and spent to influence elections.

Nonparty soft money—the better description is sewer money—are funds raised and spent by unions, tax-exempt groups, and corporations outside Federal election laws. They are funds not subject to disclosure. They represent unlimited, hidden spending on behalf of candidates by groups seeking to influence elections. There is no way of knowing the millions and millions of undisclosed dollars that are spent each election cycle in this manner.

These millions of unreported special interest dollars are spent on phone banks, get-out-the-vote activities, and voter registration drives. They establish huge shadow campaigns influencing the election process while hidden from the light of disclosure and Federal election law regulation.

Nonparty sewer money is the black hole of the present campaign finance system. No one knows the depth of its influence and power. It is an unknown quantity, working in behalf, most of the time, of Democrats.

The Democrats' bill, in no way addresses this problem. Under their bill nonparty sewer money will remain covered up. The Democrats' bill will leave the black hole unexposed because most of these funds overwhelmingly benefit Democrat candidates.

If the Senate is going to enact effective legislation to reform campaign finance laws there must be full disclosure of these expenditures. Such disclosure is provided by the McConnell amendment.

By bringing these funds out of the shadows into the light of day, where moneys spent to influence elections can be examined by the public, we reduce the threat of special interest dominance of the election process and restore public confidence in the political system.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. My good friend from Oklahoma spent a considerable amount of time making what I think is a fairly simple amendment exceedingly complex. This is not an amendment about whether members of 501(c) organizations can participate. It is an amendment about how they participate.

The other side would like to have limits on spending of hard money, no limits on spending of soft money. This amendment simply turns soft money activities into hard money activities. What that means is, activities that are currently unlimited and undisclosed become limited and disclosed.

Mr. President, you cannot deal with campaign finance reform without dealing with nonparty soft money. This is a major issue. It goes to the heart of the reform question. So the amendment that I am offering is critical to this whole debate, and I certainly hope the Senate will see its way clear to support the amendment of the Senator from Kentucky.

It is my understanding that the Republican leader is going to speak, and we will be ready for the vote.

The PRESIDING OFFICER. The Republican leader, Senator DOLE, is recognized.

Mr. DOLE. Mr. President, I want to take a minute and express my support for the amendment. I think in some respects I echo what the Senator from Mississippi has said. Again, I think we have a very basic question. It is all right to put limits on hard money, but do not touch soft money, because most of it goes to Democrats. That is what this is all about—put limit on hard money, which for some reason might benefit Republicans.

All that soft money is out there waiting in the wings, big piles of it, ready to finance the get-out-the-vote operations and other campaign activities on their behalf.

The Senator from Kentucky explained it very well. It does not prohibit anything. It does not prohibit anything. The amendment addresses the soft money problem by prohibiting all tax-exempt 501(c) organizations from engaging in activities designed to influence the election of a specific candidate for public office.

In other words, if you are tax exempt, you should not be playing the partisan political game. That sounds fair to me, and I suspect it would sound fair to most taxpayers, if they ever had a chance to vote on it. This is not about the Rotary Club, the Girl Scouts, or Boy Scouts, or League of Women Voters. It is about Charles Keating, who contributed $850,000 to a tax-exempt organization that was supposedly dedicated to "nonpartisan voter registration."

It is about the citizens action network, an allegedly nonpartisan tax-exempt organization now under investigation by the FEC. It is about the labor unions of this country, who enjoy tax-exempt status, but who pump literally millions and millions and millions of dollars of undisclosed and unregulated dollars into the campaign finance pipeline each year on behalf of specific candidates for Federal and State office. Ninety percent goes to that side of the aisle. We are supposed to say we do not want to touch anything like this. We just want to limit what we can do. Do not limit what they can do.

Well, if you want to limit soft money and you want to play it fair and you want to limit hard money, you cannot have it both ways. A lot of us would like to get a campaign finance reform bill, but it has to be bipartisan. We cannot adopt some little sense-of-the-Senate resolution and say, that is bipartisan, and take that sense-of-the-Senate resolution and impose spending limits on candidates, and then public finance candidates through vouchers and mailing discounts, public financing, pure and simple.

A lot of my colleagues who voted for it are going to try to deny it when they go home, but there is public financing. And ask the taxpayers if they support that, when only 20 percent check that little box that says put this in the Presidential pot.

That is what most taxpayers think about public financing.

Now we are asked "Do not touch this, it might upset something in the Farm Bureau or the Chamber of Commerce." That is too bad. If they want to engage in partisan political activities, they ought to do like the rest of us, the rest of the American people. This also, of course, would have an impact on my colleagues on the other side because they get a lot of support from labor unions.

So far this campaign reform bill only reforms Republicans. We are the only ones being reformed. We like reform. We do not want all of it. We cannot take all of it. It has to be shared. Reform, as I understand, means both sides. But we will have a party-line vote on this, I assume, and we will be told now if you have some other little sense-of-the-Senate amendment, if we are going to take it, it is supposed to be bipartisan. Reform is reform.

You have read the editorial in the New York Times. Maybe you put it in the RECORD. They talk about sewer money. They had it wrong. But they talked about it. At least they know what it is. And if we are going to limit, and we are told this is the centerpiece of the Democratic campaign finance

reform, hard money and not touch soft money, I would think any objective editorial writer, any objective American would say if I understand soft money that is not fair.

If you do not understand soft money—that is what everybody hopes, nobody will understand it, so they do not know what it means. The fact that labor unions spend millions and millions of dollars in soft money, 90-some percent going to Democratic candidates, we are not supposed to complain about that.

We just want to participate with after tax dollars. That is fine. That is all it says, as I understand it. So I would hope that if we want campaign finance reform and if we are serious about campaign finance reform it has to be reform that applies to both sides of the aisle.

We do not want to be the only ones reformed around here. But it looks like that is what may be happening if you look at the party-line votes in nearly every case.

I am still an optimist but I will know after this vote how much of an optimist, and I probably know in advance what the vote will be.

If that is the case, it seems to me we might as well go on to something else. If we are not going to have an opportunity, this is going to be party-line votes, why does it do any good to let us call up our amendments, if we do not adopt sense-of-the-Senate amendments that may or may not mean anything in the final analysis.

If we are concerned or really legitimately concerned about campaign reform, then it would seem to me there ought to be a vote for the amendment. I do not think every Democrat is for public financing, but that is what came across almost on a party-line basis, because they are trying to say it is not public financing. It is public financing of tens, hundreds of millions of dollars over the years.

We cannot again have it both ways. And once you get your foot in the door on public financing it will be around next year to increase it.

As I said, I am one who participated in public financing, so maybe I should not be up here talking. If you want the FEC to become as big as the Pentagon, the Federal Election Commission, you start putting Members of Congress and Senators—you wait 2½ years for your audit and you wait, if you are Michael Dukakis or George Bush; they have not started the audit yet in the 1988 campaign. They just finished the 1984 race of Ronald Reagan this spring.

You get all the 100 Senators and 435 House Members. Boy, you set up a bureaucracy that will grow and grow. Maybe, as I said, it will replace all the people losing their jobs at the Pentagon. Just put them over in the FEC. Maybe we can put that in the DOD authorization bill. They will be transferred immediately to the FEC so they can start asking if we spend too many hours in Iowa, too many nights in New Hampshire, or spent a dollar too much in one place. Again, that is what we are asking for when we ask for public financing.

But this is a different amendment, and I would hope we would have some bipartisan support. They want it on hard money and not on soft money. Then somebody has to explain the difference to some of us on this side who do not fully comprehend it.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Oklahoma.

Mr. BOREN. Mr. President, I do not wish to prolong the debate, but I do feel obligated to respond to my good friend, the distinguished Republican leader, the Senator from Kansas. I think the Senator from Kansas understands from having talked with me about this subject over the last several years going back to the discussions that Senator Goldwater and I and Senator Stennis had with Senator DOLE at that particular time when we embarked upon our first legislative proposal.

There are many people who are sincerely interested in the issue of campaign reform, not for any partisan purpose but because we want to see a result. We have sought in many ways to demonstrate that.

It really saddens me to hear that there is a feeling that we are not trying to operate in some kind of honest fashion around here, because this Senator has sat here and listened to amendment after amendment that had been offered, and never charged the other side with trying to play partisan games, but has suggested that we not cut off debate, that we allow amendments to be offered.

So I would say to my good friend from Kansas, the amendment from the junior Senator from Oklahoma to be voted on here very shortly is not a sense-of-the-Senate amendment. It is not a trivial amendment. It is a very important amendment which he offered which will ban newsletters and mass mailings for all of us incumbents during a certain period of time during election. It is binding in statutory language. And we agreed to work together on that, and I happen to be supporting that. I supported it for a long time. I happen to think it is good government and I am not voting for it because it is offered by a Republican, and I would not vote against it just because it was offered by a Republican.

The Senator from Texas had the amendment up earlier—Senator BENTSEN, the chairman of the Finance Committee—to restrict to some degree the role that PAC's owned by foreign companies or controlled by foreign subsidiaries of foreign companies. I saw on the floor that there was a note posted on one of the tables up front, and I recall the Senator from Kansas looked at that and he ended up changing his vote on the matter and decided he should support it and telling some other people to take a look at this again and just because it came from a Democrat we ought not look at it.

Mr. DOLE. Statesmanship.

Mr. BOREN. That was statesmanship on his part.

I want to give credit also to the distinguished chairman of the Rules Committee and ranking member of the committee, Senator REID, from Nevada, who did not allow procedures or committee jurisdiction to stand in the way of an amendment and have it considered. That was a bipartisan gesture. It does not mean we are going to agree on every issue that comes up.

I have to say and repeat again we are not opposed to limiting soft money; we are in favor of limiting soft money. We have adopted some of the provisions of the Senator from Kentucky.

In fact, Charles Keating's name was mentioned on the floor a moment ago. This amendment does not have anything to do with Charles Keating. The Charles Keating situation is already taken care of in this bill. It prohibits Members of Congress from having tax-exempt organizations and I think this is a suggestion partly made by the Senator from Kentucky, preserving these contributions.

In addition, it puts a limit on overall spending in the amount of money that can be received that is raised that has to do it with bundling, and I think it is something that the Senator from Kentucky and I have agreed upon. We should do away with bundling.

Let me say what we are doing here and say again I am opposed to this amendment. I would be just as opposed to this amendment if it had been offered by the distinguished majority leader or my good friend the Senator from Illinois or anyone from this side of the aisle.

We are not talking here about labor organizations. If the purpose is to do something to regulate labor organizations, let us have an amendment to regulate labor organizations. But we are talking about restricting the right of organizations like the American Legion, the Chamber of Commerce, the Farm Bureau, from communicating with their own members about the records of people who are up for election.

I find it very difficult to believe that these organizations—and there are literally thousands of them—favor Democrats over Republicans. It would be hard to prove to me that comments and newsletters from the U.S. Chamber of Commerce over the years are favorable to Democrats as opposed to Republicans. It would be hard for me

to believe that the Farm Bureau newsletters have carried articles denigrating Republicans and praising Democrats over and over again. I find it difficult to believe that the American Legion has a decidedly partisan tilt in its coverage of candidates up for election, favoring one party of the other.

All I say is, and I want my good friend to understand the Senator from Mississippi made this comment as well, and the Senator from Kansas, this Senator is opposed to this amendment. It does not matter what side of the aisle it comes from. My vote is not based upon from which side of the aisle this amendment comes. But because we are doing something here unwise, perhaps well-intentioned—I believe well-intentioned, but unwise—if we pass it we are going to live to regret it. It should not be taken as some sign of partisanship for anyone on this side of the aisle realizing what this amendment is all about to vote against it.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. Is there further debate? If not, the question occurs on the amendment offered by the Senator from Kentucky.

THE DANGERS OF "SOFT MONEY"

Mr. DOMENICI. Mr. President, we are now discussing the very important issue of campaign finance reform.

Passage of a campaign reform bill will hold importance to the democratic processes in our Nation for decades to come.

As my colleagues know, I introduced a comprehensive campaign reform bill nearly 5 months ago. My bill, S. 2265, was explained in detail when I introduced it on March 8.

Rather than discuss all the issues covered by that legislation, as well as all the issues raised by all the alternatives to S. 137, I want to discuss what I believe is the overriding issue before the Senate—maybe the single most vital and complex issue we must resolve if we are to have campaign reform.

This is the issue of what is called "soft money," but what in reality was far more accurately described by The New York Times as sewer money.

It is under-the-table cash that is poured from the rat holes of the political system and, very frankly, could destroy our political process, if left unchecked.

Unless we pass legislation that contains strict and effective controls over soft money—particularly the soft money that subverts the political process outside the control of our two great national parties—anything we do in the name of reform will be a total sham.

Every member on this floor knows that. The public needs to understand that reality.

Soft money is spending totally outside the existing, federally controlled system. It involves hundreds of millions of dollars that go unreported, yet money spent to benefit particular campaigns for particular candidates.

The sad fact is that the majority's approach deals with only the periphery of soft money. The majority's amendment leaves untouched the largest, most destructive aspects of soft money.

Unless we eliminate soft money, we will fail totally in creating a fair system of campaign financing. In fact, the Boren amendment 2432 would create a system that is even more out of balance than what exists today.

The problem of soft money extends far beyond any controls over spending, which would be imposed by the majority's so-called reform amendment.

My bill, S. 2265, as well as S. 2595, the McConnell-Dole bill of which I am a sponsor, imposed controls on the giving of campaign contributions in an effort to return political campaigns to the grassroots.

Enactment of any legislation—if that legislation fails to control soft money—would, in effect, hand over our entire political system to the purveyors of soft money.

Let me describe existing law, with its huge loopholes on soft money, and what must be accomplished.

In reality, soft money comes stacked in two piles: Party soft money and Union/Corporate or nonparty soft money.

There is a vast difference between those two. The majority's amendment includes absolutely no provisions dealing with nonparty soft money, which is by far the greatest evil in the political system today.

By contrast, the McConnell-Dole bill, as well as my bill, S. 2265, required full and strict reporting on party soft money and prohibits entirely the use of nonparty soft money.

Under current law, any individual may legally give up to $25,000 per year in hard money contributions to all Federal candidates and all Federal activities. Money over and above that $25,000 cap may also be given directly to the political parties for party building programs, voter registration drives, get-out-the-vote campaigns, and phone banks. That is what we call "party soft money."

It is the view of this Senator that party soft money should be permitted in the future, but under new and strict controls:

Money for Federal and State campaigns must be officially segregated from money designated to help State office candidates, and any such soft money must be fully reported—by giver and by amount.

My bill did that. The McConnell-Dole bill did that. The majority's package attempts, in part, to deal with the party soft money issue, although I do not think it does so in a manner that fairly encourages party activities.

In a competitive political system, it is sound public policy that we encourage strong parties and allow them the opportunity to build strong bases of support.

But the far more insideous form of soft money is nonparty soft money, the real sewer money in politics. This is the money for which no justification whatsoever exists within the democratic process.

And the majority's amendment makes absolutely no attempt to control this abuse of the system.

Under current Federal law, corporations, unions, and trade associations are prohibited from spending money to influence Federal elections. That is a wise policy. Yet such spending occurs.

It occurs with money that is unregulated and unreported. Some of this money is spent by unions, corporations, and trade associations to staff, house, and operate their PAC's—only the contributions, of which, are regulated. A union or corporations can, in effect, set up a PAC, then spend unlimited and unreported sums to operate that PAC.

According to reports filed with the Federal Election Commission, the hard money given to PAC's and then donated, in turn, to political candidates totaled $155 million in the most recent election cycle. This is money controlled by Federal law.

But it is estimated that for every $1 raised and reported by PAC's for hard money donations, another $1 in soft money was spent by corporations, unions, and others to operate their PAC's: Salaries, offices, solicitation expenses, and so forth.

This operating money is soft money that is neither reported and regulated. This must be changed. We cannot hope to have reform without such changes.

Over and above the estimated $155 million spent to operate the PAC's—there is yet another in-the-sewer category of unreported and unregulated soft money:

This money is spent by corporations, unions, and trade associations to operate phone banks, voter registration drives, and get-out-the-vote campaigns that everyone in this Chamber knows are designed to assist particular candidates or a particular party.

This form of soft money poses, in this Senator's views, a great danger in our democratic system.

No one has any certain idea of how much is spent in this manner, but some experts estimate this figure actually ran as high as $350 million in the 1988 election cycle—over twice what PAC's gave candidates in direct contributions.

And my colleagues must recognize that those dollars are completely unreported and unregulated.

If we are to have reform, it is critical that we outlaw the spending, however indirectly it may occur, of funds for political purposes from a corporation or a union.

In addition, all the soft money requirements I have described must also reach out to include a lot of charities that now operate in the political arena.

It is most interesting, Mr. President, that the very people who argue loudest on behalf of hard money spending limits have made no effort whatsoever to reform soft money spending.

That is not true to this Senator. I believe soft money controls would prove the one key thing this Senate could do to achieve true reform in campaign financing.

If we fail to come up with a rational and fair and above-board system for controlling soft money, we will fail the American people.

I thank the Chair and yield the floor.

VOTE ON AMENDMENT NO. 2442

The PRESIDING OFFICER. The vote occurs on the amendment offered by the Senator from Kentucky.

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—41

Bond	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Burns	Hatch	Packwood
Chafee	Heinz	Pressler
Coats	Helms	Roth
Cochran	Jeffords	Rudman
Cohen	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Warner
Garn	McClure	Wilson
Gorton	McConnell	

NAYS—58

Adams	Bingaman	Bumpers
Akaka	Boren	Burdick
Baucus	Bradley	Byrd
Bentsen	Breaux	Conrad
Biden	Bryan	Cranston
Daschle	Inouye	Pell
DeConcini	Johnston	Pryor
Dixon	Kennedy	Reid
Dodd	Kerrey	Riegle
Exon	Kerry	Robb
Ford	Kohl	Rockefeller
Fowler	Lautenberg	Sanford
Glenn	Leahy	Sarbanes
Gore	Levin	Sasser
Graham	Lieberman	Shelby
Harkin	Metzenbaum	Simon
Hatfield	Mikulski	Stevens
Heflin	Mitchell	Wirth
Hollings	Moynihan	
Humphrey	Nunn	

NOT VOTING—1

Armstrong

So the amendment (No. 2442) was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2441, AS FURTHER MODIFIED

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the amendment No. 2441, as further modified, offered by the Senator from Oklahoma. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—98

Adams	Fowler	McConnell
Akaka	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth
Ford	McCain	

NAYS—1

McClure

NOT VOTING—1

Armstrong

So the amendment (No. 2441), as further modified, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader after consultation with the Republican leader may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of calendar No. 701, H.R. 5019, the energy-water appropriations bill, and that it be considered under the following time agreement:

That the committee-reported amendments be considered as original text for the purpose of further amendment; that there be 20 minutes for debate on the bill equally divided and controlled in the usual form between Senators JOHNSTON and HATFIELD; that the following amendments be the only amendments in order; that each be offered in the first degree; and that time for debate on each amendment be limited to 10 minutes equally divided in the usual form:

A Bingaman amendment to increase funding for the DOE verification and control technology program, and to reduce the amount of funds provided for nuclear weapons production and surveillance, nuclear weapons testing, and the B-90 nuclear depth/strike bomb; a Bumpers amendment earmarking $60,000 for a general investigation of the siltation problems at Taylor Bay, AR; a Johnston amendment for Senators REID and BRYAN to increase nuclear waste disposal funding for Nevada by $2.125 million; a Metzenbaum amendment to direct FERC to enter a more competitive contract for stenographic services; a Wirth amendment to transfer $7.5 million from the DOE global research account to the National Center for Atmospheric Research; a Gore amendment to provide $500,000 for a project relative to Watts Bar Lake of the TVA; a Gore amendment relative to report language on supercomputers; a Baucus amendment regarding the Corps of Engineers recreation improvement at Fort Peck Lake, MT; an Adams amendment correcting an error in House language with respect to the Wynoochee Dam; a Hatfield amendment that is technical relative to BPA; a Hatfield amendment regarding the Corps of Engineers, $150,000; a Stevens amendment regarding a computer program at DOE; a McClure amendment regarding born neutron capture therapy; a McClure amendment regarding hydro in Idaho; a Wilson

amendment regarding the San Luis Rey River; a Simpson amendment regarding Jackson Hole feasibility study, $150,000; a Chafee amendment regarding the Corps of Engineers Southeast Lighthouse; and 1 hour under the control of Senator NUNN for a discussion relative to defense; and further that no motions to recommit be in order.

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. Is there objection.

Mr. DODD. I inquire of the majority leader, as I understand it then the unanimous-consent request would be three amendments this evening. Did I understand that correctly?

Mr. MITCHELL. That is not the consent I have just proposed. I have just proposed an agreement permitting me to call up the energy and water appropriations bill.

Mr. DODD. All right.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am not quite sure. Is the Wirth amendment dealing with the EPA?

Mr. MITCHELL. The only Wirth amendment on this list which I read is the Wirth amendment to transfer $7.5 million from the DOE global research account to the National Center for Atmospheric Research.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. I have no objection to any of them other than I would like to know a little more about Senator WIRTH's amendment. I wonder if we could agree to them all and let the Senator advise me as to what it is. Perhaps I would have no objection.

Mr. JOHNSTON. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. JOHNSTON. It is an amendment that, unfortunately, I am not persuaded to accept because he wishes to transfer DOE money for supercomputer use for atmospheric research, and we have a great many requests for that. But all this is to give him the right to call up the amendment and to debate it and, if necessary, to vote on it. I hope he will not press it to a vote. But I hope the Senator will not object. We have been trying for days to get the bill up and every time we delay it there are another three or four amendments that staff think up. I hope we can get the agreement.

Mr. DOMENICI. The Senator has said enough for me to have no objection.

Mr. DOLE addressed the Chair.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER (Mr. SIMON). Is there objection? The minority leader is recognized.

Mr. DOLE. Mr. President, I am advised that on the Simpson amendment on page 2 the figure is incorrect.

Strike out the $150,000. It is his understanding that is not a correct figure, so we just leave out the dollar amount.

Mr. MITCHELL. I apologize to the minority leader. I was distracted.

Mr. DOLE. The Simpson amendment indicates it is a feasibility to $150,000. I am advised that may not be the correct amount. So we should just strike out the figure.

Mr. MITCHELL. Yes. Mr. President, I ask unanimous consent that my proposed unanimous-consent agreement be modified to strike the figure of $150,000 with respect to the Simpson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, if I might inquire of the majority leader of the description of the Baucus amendment as I understood it to be read by the leader with respect to the Army Corps of Engineers study. With respect to Fort Peck, the amendment that I offered is more broad, more general with respect to a study that the Corps will undertake with respect to the Upper Missouri River Basin system. I just do not want to be precluded from offering an amendment as it was described.

Mr. MITCHELL. As the Senator is aware, I am merely reading from a document prepared by the staff.

What language would the Senator like to describe his amendment?

Mr. BAUCUS. With respect to the Upper Missouri Basin, not Fort Peck, as described there.

Mr. MITCHELL. Mr. President, I ask unanimous consent that my request be modified, instead of where it stated "Fort Peck Lake, Montana," it should read "with respect to the Upper Missouri River Basin."

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, parliamentary inquiry.

Does not the offeror of the unanimous-consent request have the right to modify his request before it has been adopted by the body?

The PRESIDING OFFICER. The Senator does have the right.

Mr. SARBANES. Why is the Chair putting a unanimous-consent request?

The PRESIDING OFFICER. The Senator may request and ask unanimous consent. He has the right to modify.

Mr. MITCHELL. I so modify my request.

Mr. DOMENICI. Reserving the right to object——

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I will ask the majority leader a question.

With reference to the Wirth amendment, did the unanimous-consent request as propounded waive points of order on that amendment, assuming that amendment is subject to a point of order because it is funded in another subcommittee and therefore would not be in the allocation of this subcommittee?

Mr. MITCHELL. No.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the majority leader yield?

Mr. President, we have a great number of amendments in this unanimous-consent request, most of which we will take, some of which we will oppose. But I urge all Senators who have amendments and who are serious about those amendments to get them to me or to Proctor Jones, our staff man, because we hope to move, once the bill comes up, with great dispatch and do not propose to wait on Members and staff while they figure out how to draw up their amendment. If they are not there, we will assume they are not serious. So, please, overnight, get your amendments to us, and we will try to accommodate you quickly.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, in an effort to expedite consideration of this bill, I am going to propound a unanimous-consent agreement setting forth amendments to be considered further this evening, with time agreements relative to thereto.

Mr. President, I ask unanimous consent that Senator GRAHAM of Florida be recognized to offer an amendment regarding debates in Presidential elections, with debate of 20 minutes equally divided in the usual form; that, following completion of the debate on his amendment, Senator MCCAIN be recognized to offer his amendment regarding rollover accounts, that there be 1 hour equally divided in the usual form; that following completion of the debate or yielding back of that time, Senator KERRY of Massachusetts be recognized to offer his amendment re-

garding public financing, with 2 hours—1 hour and 15 minutes to be under the control of Senator KERRY, 45 minutes in opposition to the amendment be under the control of Senator DOLE or his designee; that no motions to commit be in order; that the votes, if any, on or in relation to these amendments be stacked to occur following completion of the debate on the Kerry amendment; and, that no second-degree amendments be in order to any of the above first-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, Mr. President, I would like to inquire of the majority leader, if I may. I have been over here about 3 or 4 hours. There is no secret why I am here. I know there is conspicuous absence of my amendment. I do not know. I do not want to certainly upset the majority leader's schedule. But I would like to know if I could be included this evening, or the first amendment tomorrow morning. I have been here a long time.

I know Members have strong feelings about this amendment one way or the other. But I would like to raise it, and whether I do it this evening or tomorrow morning, I do not want to not accommodate the majority leader, or the minority leader for that matter, because of schedule but I would like to be able to raise this either tonight or tomorrow morning. I would like to be guaranteed that opportunity.

Mr. MITCHELL. Of course, the Senator has the right to offer any amendment he wishes at any time, as does any Senator. Plainly, action on the bill cannot be and will not be concluded until every Senator who wants to offer an amendment has the opportunity to do so. Of course, the Senator's ultimate protection is in that rule.

It has been my hope that we could proceed to dispose of as many amendments as possible that are directly relevant to the bill which we are considering.

I will be pleased to discuss with the Senator and the managers of the bill and the Republican leader the possibility of setting a time certain for his amendment tomorrow morning if he would like getting that in a separate agreement after this.

The Senator has a right to offer the amendment. He is determined to offer it. He is going to have that right. I will see to it that he gets that right, that he is able to exercise that right. This is not an effort to preclude him from doing so which is, of course, beyond me or any other Senator's power in any event. It is just a question of trying to get as much of this done as we can because it is not likely that we will be able to get an agreement on time on the Senator's agreement or some of the other conditions that we have been able to gain approval of with respect to these amendments. Other Senators may not agree with respect to the Senator's amendment.

It is my suggestion that the Senator be prepared to offer it tomorrow morning, sometime during the day tomorrow. I will be pleased, if we can get this agreement, to discuss with him if he would like a time certain. If the managers and the distinguished Republican leader would be prepared to discuss that, I would be pleased to do so. There is no effort to prevent the Senator from offering the amendment. It cannot happen in any event.

Mr. DODD. I recognize that.

Further reserving the right to object, I would stay here this evening to do it if that makes sense. I do not know how long these three amendments are going to take. I have been ready to go since about 5, or the last 3 hours.

I let the managers know as early as this morning I was ready to go today at any point. I did not want to disrupt the schedule. I knew there were amendments pending. Can I get a time certain tomorrow morning, at least for the first amendment to be considered in the morning?

Mr. MITCHELL. I will be pleased to discuss that with the Senator and managers and the distinguished Republican leader. There are 3 hours of amendments and 3 votes, which will take us very late into the evening. We are trying to get as much done as possible that is germane to the bill. I am unable to predict how long the Senator's amendment will take. If we take it up now, it could have the effect of preventing action on amendments germane to the bill for an indefinite period of time. So my objective is simply that I would like to move forward on this bill. We have three amendments, and we would like to get them taken care of.

Mr. DODD. I will wait and discuss the matter with the majority leader.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Reserving the right to object, I must indicate that we cannot accept the 20-minute time agreement, whatever it is, on the amendment by Senator GRAHAM. It mandates how many Presidential debates there should be in the next Presidential election—we want to check that with somebody downtown—and if do you not agree to four debates, you do not get any Federal money.

Our candidate may not take Federal money. I do not know. The Vice-Presidential candidate can have one debate, and that would be five debates before being eligible for any money. It seems to me that it is another mandate of trying to determine strategy 2 years in advance. We could not agree on any time agreement on that amendment. We can agree on the other two.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I only object to one-third of it.

The PRESIDING OFFICER. The minority leader objects to one-third of it.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. An inquiry to the minority leader. Is there objection to the 20-minute time limit or to having this amendment one of the scheduled amendments for consideration tonight.

Mr. DOLE. It is only the time.

Mr. GRAHAM. If the minority leader would suggest a different period of time, I am amenable. I do not believe that this is a very complicated issue. I felt 20 minutes was a sufficient time to articulate it. If he feels more time is required——

Mr. DOLE. This does not involve anybody in this Chamber that I know of on this side of the aisle. I would like an opportunity to check with somebody down at 1600 Pennsylvania Avenue. Maybe he will agree to indicate there is no problem. But it does mandate four debates before you are eligible for money, and if you already have money, you have to give it back, plus one debate for a Vice-Presidential candidate. Maybe that is a great idea. I am not certain. If it is that good an idea, then we should dispose of it in 10 minutes.

If I can check, and if we can proceed with the other two amendments, I would be happy to get back to the Senator. Otherwise, we can start on it with no time agreement.

Mr. GRAHAM. I would be amenable to having this amendment deferred until tomorrow or some other time, and to consider any reasonable time limitation that the minority leader would like to suggest.

Mr. MITCHELL. I thank the Senator for his cooperation.

Mr. McCAIN addressed the Chair.

Mr. MITCHELL. Did the Senator from Massachusetts wish to speak?

Mr. McCAIN. Mr. President, reserving the right to object, I say to the majority leader, I believe that we can dispense with my amendment in much shorter time than an hour. I would be amenable to a half hour equally divided, if that is agreeable to that side.

Mr. MITCHELL. I am advised by those who may not support the amendment that they will want a little more time than that to review it and to look at it.

Mr. McCAIN. I thank the majority leader.

Mr. DOLE. Would 15 minutes for the Senator from Arizona and 30 for them be all right?

Mr. MITCHELL. Mr. President, may I yield to the distinguished manager of the bill?

Mr. BOREN. Mr. President, I suggest that we have been still studying the subject matter of the McCain amendment. It does not appear to strike some of the provisions in the bill relating to office accounts. We want to understand exactly the nature of the language that is being stricken. So it could possibly require—hopefully not—as much as an hour of time equally divided.

I suggest that we have an opportunity to look over that amendment, and perhaps discuss it with the Senator from Arizona. Perhaps we can begin with the amendment of the Senator from Massachusetts under the time agreement suggested by the distinguished majority leader, and then follow it with an agreement of 1 hour equally divided on the amendment of the Senator from Arizona. Hopefully, between that time and during the discussion of the earlier amendment, we might be able to see if we cannot come to a meeting of the minds and perhaps shorten the time when we actually turn to debate.

That is my suggestion; if we can sequence those two parts of the agreement previously apparently agreeable to the minority leader, perhaps that would be the best way to proceed.

Mr. McCAIN. Will the majority leader yield? I will go ahead with an hour time agreement. That is fine. I would just as soon not wait until the hour and 15 minutes after the other amendment. Go ahead and agree to the 1-hour time agreement. I was trying to expedite it.

Mr. MITCHELL. I think my unanimous-consent request has been modified out of existence, Mr. President.

Mr. SARBANES. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. SARBANES. As I understand it, one amendment will take an hour, one is going to take 2 hours. At the end of that time period, we will vote on both amendments; is that correct.

Mr. MITCHELL. That is correct. But the Senator from Oklahoma just suggested that we take the amendment by Senator KERRY first, since everybody knows what that is about, and give him the opportunity to look at and consider the amendment of the Senator from Arizona, which I understood was not acceptable to the Senator from Arizona.

Mr. BOREN. Would the Senator from Arizona be agreeable to that? I think we would stack the votes potentially, anyway. This would perhaps enable us to have a chance to discuss it with the Senator to see exactly what the Senator's intent is.

Mr. McCAIN. That would be just fine.

Mr. MITCHELL. Then, Mr. President, I modify my request to limit the amendments to the amendment of Senator KERRY of Massachusetts to be first of two, and then Senator McCAIN's to follow. I delete the Graham amendment from the request, and the remainder of the request to be as previously stated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. I do not think we will take all the time on this side. We will be looking at midnight before we finish the voting. So we will try to be accommodating and take as little time as possible. I do not know how long. It will probably be at least an hour and a half before we finish the vote.

Mr. MITCHELL. Senators should be aware that there will now be two votes this evening, one on the Kerry and one on the McCain, back to back, following debate. The maximum amount of time that could elapse before we vote is 3 hours. It is, given the discussion earlier, just preceding my remarks, likely to be less than that, hopefully.

Mr. CHAFEE. That will complete the evening's work?

Mr. MITCHELL. Until then, yes. I do not expect we will do anything beyond that. I hope by then we would have discussed with the Senator from Connecticut the best way to proceed with respect to his amendment, which I think ought to be tomorrow.

The PRESIDING OFFICER. Under the agreement, the Senator from Massachusetts controls 1 hour and 15 minutes and is recognized to offer his amendment.

AMENDMENT NO. 2443 TO AMENDMENT NO. 2432

(Purpose: Substitute amendment)

Mr. KERRY. Mr. President, I send to the desk a substitute on behalf of myself, Senator BIDEN, Senator BRADLEY, Senator SIMON, Senator BURDICK, Senator LEAHY, Senator RIEGLE, Senator KENNEDY, Senator WIRTH, Senator LIEBERMAN, Senator DASCHLE, and Senator DECONCINI, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BIDEN, Mr. BRADLEY, Mr. SIMON, Mr. BURDICK, Mr. LEAHY, Mr. RIEGLE, Mr. KENNEDY, Mr. WIRTH, Mr. LIEBERMAN, Mr. DASCHLE and Mr. DECONCINI, proposes an amendment numbered 2443 to amendment No. 2432.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the substitute that I sent to the desk is a complete substitute to date of everything that has been passed on the Boren-Mitchell bill for which it is the substitute.

There is one change and only one small change. This substitute opens up the opportunity for the fund that has been created in the underlying legislation to extend to the funding of general elections. That means that through whatever means it is decided will be down the road will be passed in order to place the available money into the fund that will support election process enforcement process, that that same fund can be used for the purposes of the general election.

This Senator contemplates that that would come from the voluntary tax checkoff, similar to the Presidential system. Another Senator might contemplate it comes from an add-on, from a system where you would add on to whatever it is you might owe in taxes so that it will be a voluntary contribution above and beyond my tax liability that a person may have.

But under any circumstances, it is only contemplated that this would be a voluntary system, purely voluntary, by which an individual taxpayer could decide that just as they today decide to put $1, or jointly as two taxpayers put $2 into the Presidential race, they would have the right to put perhaps $3 or $6 jointly into the funding of Senate general election races.

For the same reasons that Senator BOREN explained to the Senate that we do not have the right to specify precisely what that mechanism is, we do not do so in this legislation because that is the prerogative of the House and the Ways and Means Committee, and that cannot originate here.

But it is very clear what the intent of this legislation is. It is to create a choice, a voluntary choosing not only by the candidates as to whether or not they want to participate in a system that has campaign limits, but a voluntary choosing by the taxpayer as to whether or not they want to fund a system that most reforms the election process of this country.

That is what brings us here at this time. We all know that the reason that both the Republican proposal and the Democratic proposal are suggesting getting rid of PAC money and the reason there is no debate about PAC money is that we have arrived at a moment in this country where the pol-

itics are such that everybody understands the liability of accepting PAC money.

We are here supposedly to reform the election process and the question has to be asked: What is the most significant reform? If the purpose of getting rid of PAC money and the purpose of trying to "clean up the system" is to remove any taint or any question that anybody may have about money and politics, then surely it makes sense to remove us to the furthest point possible from both the amount of money we have to raise and from the numbers of people we have to raise it from, and the amount of time we have to raise it.

The most significant reform that we could achieve here is to restore to Senators the maximum amount of time to legislate, to go home, to be within our districts and our States, and to be moving around and doing the job of U.S. Senator, not being in Florida, California, New York, Ohio, Chicago, and all the other places we have to go in order to raise money.

So if we are really trying to reform, we ought to seek the maximum distancing of candidate from money, and we ought to seek the most amount of time that we can restore to our lives as legislators.

The way you do that is by adopting the voluntary contribution system which means that you would have available a certain amount of money that taxpayers would voluntarily put into the process in order to permit us those reforms that I just suggested.

Mr. President, the Republicans have consistently come back and said: You are using taxpayers' money; that is taxpayers' money that you are taking and you are spending against their will, and somehow forcing them to take part in this system.

That is not what we are doing. American citizens who have no interest whatsoever in supporting the electoral process do not have to check off on their tax return that they want to contribute to it. There is no mandatory, no coerced action whatsoever in this substitute. It is purely voluntary, purely voluntary.

Today we vote for legislation to support a B-2 bomber or support an MX missile or support the death penalty or support the funding of abortions in the District of Columbia, and what have you, and many citizens in our country disagree with those choices and they have no right to decide where that money is going to go except insomuch as they elect who represents them in Washington.

In this legislation, in point of fact, they would have a choice. They would have a choice as to where a tax dollar goes, and the alternative to that choice is the system that we have today where candidates are spending an inordinate amount of time running around raising money; $43,000 a week, $50,000 a week is the average during the election cycle, and less than that but still significant amounts of money in the nonelection cycle.

Mr. President, the fact is that in countless newspapers across the country, countless editorials have suggested that the only way you really get reform is by having a public financing that actually draws on the Federal Treasury, which this does not. This says that if the voluntary contribution is not sufficient to be able to fund the elections, then the FEC would notify candidates a year and some months out after the April returns are filed in the year out, and you would then have the right to go out and raise the money up to the limits that are in this bill.

So, you would either have a certain amount of reduction of fundraising, or you would have the full general election taken care of. But the bottom line is no money would be drawn from the Federal Treasury against the desires of any individual taxpayer or citizen in this country.

Mr. President, let me share with my colleagues some of what brings us here. In the proceedings concerning Senator DURENBERGER the other day, Senator RUDMAN in his presentation to the Senate quoted from Professor Thompson of Harvard, who is a well-know professor in the field of ethics. What Senator RUDMAN said was:

> Public officials have an obligation to do all they can to make sure that citizens do not have any reasonable basis for believing that they or their colleagues are violating their own ethics rules. There is an ethical obligation to protect the appearance of propriety, almost as great as to produce its reality.

The Standards of the Federal Government of Ethical Conduct for Government Officers and Employees suggests, regarding conflict of interest, the following:

> That employees avoid any action whether or not specifically prohibited which might result in or create the appearance of using public office for private gain, giving preferential treatment to any organization or person, impeding Government efficiency or economy, losing complete independence or impartiality of action, making a Government decision outside official channels, affecting adversely the confidence of the public in the integrity of Government.

Mr. President, I respectfully suggest that it is clear from the attitude of the American people about money in politics, from their attitude about savings and loans, about the series of allegations we have had about candidates and their funding, that we are clearly close to or in violation of the very ethics rules that we set up to hold our own employees accountable to. We are supposed to avoid the appearance of giving preferential treatment to any organization or person.

Well, you can look, vote for vote, in the Senate and the House to the PAC contributions and money given and question whether people do not have a right to ask about treatment. You can certainly ask a question about affecting adversely the confidence of the public in the integrity of Government.

The way, I believe, that you must resolve that problem is to minimize the questions that can be asked, is to reduce people's ability to look at any vote that we cast and say, "Why did you cast that vote? Was it because of the money that was contributed or not?" It seems to me that we would restore the most integrity to our Government and restore the most time to our lives if we were to reduce the possibility of those appearances of conflict.

And the way that I suggest we do that is to operate with a scheme where we have limits on what we are going to spend, with a threshold amount of money that we have to raise in order to qualify to partake in the process of the limits; a system where, if Americans want to try to say it is my choice to take $3 of my money and put it into a system that makes me confident that my elected official is not being affected by big money or by a lot of money, that is something worth investing in. What we are saying is that for the price of $3, for a bucket of popcorn at the movies, or for the price of one movie—"Conan the Barbarian," whatever the movie—is it worth that to have a system which people can say has its integrity restored and which has tried to minimize the potential for that appearance of conflict. That is what we are talking about. It is a minimal kind of investment.

Now, I know the Republicans will come to the floor and say, "Well, how can you ask Americans to pay any tax money for this? Well, Mr. President, they have paid $4.5 billion for democracy in El Salvador. They are being asked to ante up millions of dollars for democracy in Eastern Europe. They are being asked to ante up countless millions of dollars for democracy in the Philippines. We pay for democracy all over the world. The question is, are we willing to ask people in this country, voluntarily, are we willing to give them the right to be able to choose to invest in democracy in our own country? We have countless races that go totally uncontested because people take a look at the race and say, "There is not a chance that we could raise that kind of money. There is no way I could contest for that office." So over half the offices go absolutely uncontested.

Some people have tried to assert that this kind of a system would be an incumbent's dream. I say it is an exact opposite. It equalizes the playing field. It means that both candidates would

have the same amount of money. Both candidates would approach this race from exactly the same ground and, in fact, you would have more democracy and more opportunity for people to run on the basis of their ideas and on the positions that they take.

Now, I would just like to share a few of the editorials from various States around the country, many of which are States represented almost exclusively by Republicans.

In Pennsylvania, the Allentown Morning Call says:

It is time to begin building the foundation of a public-funding structure for Congressional election campaigns. It's time to reduce the special interest instrusion into the public's interest and the politician's pocket.

The Aiken Standard, in South Carolina:

If Bush really wants to help Congress reclaim its integrity, he will push for overall limits on campaign spending and he will work with Congress to forge a public-financing plan for campaigns.

The Anchorage Daily News, in Anchorage, AK:

If the American public won't pay for the campaigns (through public financing of campaigns), the special interests will.

The Beaver Times, in Pennsylvania:

Provide alternative public resources for congressional candidates * * * to replace the PAC-dominated system.

The Coffeyville Journal, in Kansas:

The best action that could be taken is to limit reelection campaigns to a set dollar amount, and then to finance those campaigns—and the campaigns of the opposition—publicly.

The Register-Guard, from Eugene, OR:

A constitutional way to limit campaign spending exists: a spending lid coupled with a system of public financing, as in presidential contests.

The Gainesville Sun, in Florida:

In the long run, public financing is the only answer. More modest reforms are too easily circumvented. It's never been easy to sell the public on using tax dollars to pay for political campaigns, but the latest scandals should awaken the public to the fact that the other way costs much, much more.

Mr. President, I yield myself another 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KERRY. Mr. President, I could go on with editorials. This system is not even the public financing those editorials have called for. It is a purely voluntary system which asks the Senate to give to the citizens of this country the right to say, "I would like to minimize the exposure of my elected representative to big donations."

If we adopted this, 34 States in this country would see their Senate candidates raise less than $1 million. Only four States would see candidates have to raise more than $2 million. Mr. President, it would change the face of the Congress, in the way that we do business. I believe, personally, it would help to break the gridlock of a certain amount of business. But it would clearly allow us to do what we are supposed to do in our system, which is run for office on the basis of what we believe in, on our records, and not on the size of our bank accounts and our ability to fund campaigns. I think it is a real democratization, and I hope we will be able to adopt it.

I ask unanimous consent that excerpts from editorials on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAMPLE NEWSPAPER EDITORIALS IN SUPPORT OF PUBLIC FUNDING

Editorials supporting public funding include the following States:

Alabama, Alaska, Arkansas, California, Connecticut, Georgia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Vermont, Washington, DC, West Virginia.

Aiken Standard, Aiken, South Carolina: "If Bush really wants to help Congress reclaim its integrity, he will push for overall limits on campaign spending and he will work with Congress to forge a public-financing plan for campaigns . . . the current corrosive system is a major reason Congress finds itself embroiled in an ethics crisis." 7/9/89

Allentown Morning Call, Allentown, Pennsylvania: "It is time to begin building the foundation of a public-funding structure for congressional election campaigns. It's time to reduce the special interest intrusion into the public's interest and the politician's pocket." 3/29/89

Anchorage Daily News, Anchorage, Alaska: "If the American public won't pay for the campaigns [through public financing of campaigns], the special interests will." 5/31/89

Atlanta Constitution, Atlanta, Georgia: "The way to deflate the whole PAC issue is through public financing the spending limits for congressional campaigns." 7/3/89

Beaver Times, Beaver, Pennsylvania: "Provide alternative public resources for congressional candidates . . . to replace the PAC-dominated funding system." 7/9/89

The Bennington Banner, Bennington, Vermont: "Whatever marginal effect [the President's reform proposals] would have on the way that special-interest money buys influence on Capitol Hill, the problems will persist until Congress moves towards public financing of campaigns." 7/3/89

Big Spring Herald, Big Spring, Texas: "If Bush really wants to help Congress reclaim its integrity, he will push for overall limits on campaign spending and work with the Congress to forge a public financing plan for campaigns." 7/13/89

Brattleboro Reformer, Brattleboro, Vermont: "The great advantage of public financing is that it assures the public that Congress is working for it, not some unseen donor behind the scenes . . . Public financing combined with bans or severe curbs on PAC money, would take Congress off the auction block." 5/17/89

The Buffalo News, Buffalo, New York: "Public financing and spending limits will bring a sense of proportion back into the system, helping to even the playing field and ensuring that voters get a legitimate choice." 7/9/89

The Burlington Free Press, Burlington, Vermont: "The public would be better served if that money came from the federal treasury. Public financing of political campaigns would take the power out of the hands of big spenders and give it back to the voters." 7/1/89

The Cadillac News, Cadillac, Michigan: "[President Bush should] work with Congress to forge a public financing plan for campaigns." 7/12/89

Champaign-Urbana News-Gazette, Champaign-Urbana, Illinois: "Reform of campaign finance must address . . . public financing." 6/20/89

The Coffeyville Journal, Coffeyville, Kansas: "The best action that could be taken is to limit reelection campaigns to a set dollar amount, and then to finance those campaigns—and the campaigns of the opposition—publicly. Sure, it would cost the taxpayer. But at least we would know for certain who is footing the bill. That's more than the taxpayer can say today." 1/9/89

The Des Moines Register, Des Moines, Iowa: "The only way to stop [corruption and negative campaigns], is for public money to be provided the candidates. As a condition of receiving the money, candidates should be required to forego special-interest money and required to show themselves and speak in person in their television ads instead of using professional announcers and image-making scenery." 3/5/89

The Detroit Free Press, Detroit Michigan: "The best answer to campaign finance abuse, so far we're concerned, is to be found in public financing of Congressional campaigns, combined with firm spending limits. We think public financing has helped assure a more open and democratic process in presidential campaigns and we think it could help in leveling the playing field in Congress. While there could be improvements in terms of congressional ethics and campaign finances without a system of public financing, such a system would do more, we believe, than any of the other options to clean up the abuses the present system entails." July 2, 1989

The Register-Guard, Eugene, Oregon: "A constitutional way to limit campaign spending exists: a spending lid coupled with a system of public financing, as in presidential contests." 7/8/89

Fort Worth Star-Telegram, Fort Worth, Texas: "Some form of public financing may be required to insulate the electoral process from the baneful and corrupting influence that now grips that representative body." 6/18/89

The Gainesville Sun, Gainesville, Florida: "In the long run, public financing is the only answer. More modest reforms are too easily circumvented. It's never been easy to sell the public on suing tax dollars to pay for political campaigns, but the latest scandals should awaken the public to the fact that the other way costs much, much more." 6/12/89

Grand Forks Herald, Grand Forks, North Dakota: "To have better congressional compaigns, we should limit special interest contributions, cap spending and finance campaigns with tax dollars * * * The alternative to some form of public finance is continued private corruption." 7/8/89

The Hartford Courant, Hartford, Connecticut: "Public financing is probably the

only way to completely eliminate pernicious outside influences." 7/3/89

Herald Dispatch, Huntington, West Virginia: "The system of financing American political campaigns stinks * * * There is a solution to this problem that has been on the table on Congress for more than a decade—public funding of Senate and House campaigns coupled with strict limits on private and PAC contributions." 11/25/89

Arkansas Gazette, Little Rock, Arkansas: "The greatest weakness in the Bush program is his failure to support two authentic, major reforms—public financing of congressional elections and limits on overall spending in a campaign." 7/5/89

The Courier-Journal, Louisville, Kentucky: "It's hard to imagine an effective solution that does not include taxpayer dollars." 4/19/90

The Milwaukee Journal, Milwaukee, Wisconsin: "The best remedy for political-action-committee domination of campaigns is public financing * * * a healthy infusion of public campaign funds—with strings attached—would permit many conscientious incumbents and challengers to free themselves from the PAC trap. Of course, one reason public financing and tighter PAC limits have not been enacted is that far too many lawmakers benefit from the existing system. The PACs usually put their money on incumbents." 6/4/89

New York City Tribune, New York, New York; "Cleaning up campaign finance will involve public financing and spending limits." 6/1/89

New York Times, New York, New York: "The Presidential election system provides a model for Congressional campaigns—public financing for candidates who accept spending limits." 6/21/89

Niles Daily Times, Niles, Ohio: "The President should work with Congress to forge a public-financing plan for campaigns, a plan that is both politically and constitutionally acceptable." 7/24/89.

The Orlando Sentinel, Orlando, Florida; "It's important for taxpayers to realize that the extra cost to them [from public funding of federal elections] would be cheap compared with what the present system costs them * * * Let's send congress that message." 2/12/90.

The Berkshire Eagle, Pittsfield, Massachusetts: "The great advantage of public financing is that it assures the public that Congress is working for it, not some unseen donor behind the scene * * * Public financing would take Congress off the auction block." 4/25/89

The Daily Herald, Provo, Utah: "[The President should] push for overall limits on campaign spending. And * * * work with the Congress to forge a public-financing plan for campaigns." 7/12/89.

St. Louis Post Dispatch, St. Louis Missouri: "What is required to clean up the election process is a limit on spending tied to voluntary public financing." 7/2/89.

St. Petersburg Times, St. Petersburg, Florida: "Public financing is the key to fashioning spending limits that the Senate Court will accept * * * the Republicans will have to concede * * * the stubborn GOP opposition to public financing and overall spending limits." 6/19/89

The San Diego Tribune, San Diego, California: "Cleaning up campaign finance will involve public financing and spending limits." 5/31/89.

San Jose Mercury News, San Jose, California: "Congress has to get serious about public financing of campaigns." 1/24/90

Sioux City Journal, Sioux City, Iowa: "[The President should] work with Congress to forge a public-financing plan for campaigns . . . Congress instituted a public financing mechanism for presidential elections, and it has worked just fine." 7/14/89

The Pocono Record, Stroudsberg, Pennsylvania: "The President was off the mark by refusing to endorse public financing of congressional campaigns. There is no better way to limit the influence of moneyed interests over congressmen than to keep private money out of the campaign equation." 7/1/89

The Tallahassee Democrat, Tallahassee, Florida: "Bush should give a public-finance plan some strong consideration. It is the key to real reform in Congressional elections." 6/17/89

USA Today, Washington, DC: "Democrats want to limit campaign spending. Republicans want to limit PAC contributions. The best way to do both is to finance congressional campaigns with the kind of income tax check-off that cleaned up presidential elections . . . The public knows something's out of whack. In a new poll, 58% said they favor public financing . . . Election to Congress should depend on what the candidates say and do. Not on how much money they can spend or how many big contributors they can attract." 3/5/90

The Trenton Times, Trenton, New Jersey: "PAC contributions and campaign spending should be restricted, and a limited system of public financing for congressional races be put into place." 6/18/89

Lincoln, Courier, Lincoln, Nebraska: "[The President should] work with Congress to forge a public-financing plan for campaigns." 7/10/89

Lincoln Times-News, Lincolnton, North Carolina: "Public-financing . . . is both politically and constitutionally acceptable. Congress instituted a public financing mechanism for presidential elections, and it has worked just fine." 7/21/89

Birmingham News, Birmingham, Alabama: "Provide alternative sources for funds . . . offer them matching money if they agree to spending limits." 2/11/90

Mr. KERRY. Mr. President, I yield to the distinguished Senator from Delaware 20 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I think about once every 4 or 5 years I find myself on the floor, since 1974, arguing for public financing. And each time since 1974, in the aftermath of Watergate, we have just missed the opportunity to come forward with some genuine reform.

Mr. President, there is a famous British statesman—his name is not Neil Kinnock—a famous British statesman who once said, "Moderate reform is like moderate chastity."

There is no such thing. Unfortunately, we are now engaged in an effort of moderate reform.

Mr. President, we have over the years attempted to reform the system that was designed to convince the American public that those of us who serve in the Congress are beyond the influence of any individual; or, to put it another way, that merely because someone contributes to a political campaign does not mean they are more likely to have their point of view promoted or agreed with than an ordinary citizen, the poorest among us, who does not have the ability to contribute to a political campaign.

In 1907 the Tillman Act was enacted, after cries of public corruption in the gilded age of American politics. That law prohibited corporations and banks from contributing to campaigns for Federal offices. Then the Taft-Hartley Act of 1947 extended that prohibition to labor unions.

But it did not take long for us to figure out it was not a violation to have political action committees make those contributions and they did not fall within the law.

The Federal Corrupt Practices Act of 1925, after the Teapot Dome scandal, attempted to limit campaign spending to $5,000 for the House and $25,000 in the high-population Senate races.

Then in 1974 the Federal Election Campaign Act was passed. By the way, we did succeed in the Senate in attaching public financing to that bill. But it was dropped in conference after a bitter struggle between the House and the Senate.

But that law did contain spending limits for congressional campaigns, contribution limits of $1,000 per individual and $5,000 per political action committee, and a system of public financing of Presidential campaigns. Then Buckley versus Valeo came along and said you cannot have spending limits, and out of our desire to clean the system up we ended up, unintentionally, with the growth of political action committees.

The fact is members of this body do not vote based on contributions. I have been here 18 years. I do not believe that is how it works. Coincidentally, the people who contribute to you are the people for whom you already are voting in such a way they would like to keep you in the Congress, not because they have changed your mind to take up their point of view. But that is not worth discussing. That is not worth discussing. We are already beyond the point in the mind of public. Whether or not that is true, we passed that point.

I heard my distinguished friend, Senator KERRY, state tonight that he read an editorial saying the President can help clean up the Congress.

Did you ever stop and think why these days there is not so much talk about Presidents having to reclaim their integrity or administrations? Because we have public financing. They moved themselves beyond reproach. I heard a couple of my colleagues who were unwise enough, as I was, to seek a nomination for President. I might note I qualified, I raised a fair amount of money, qualified for public financing but, because I had already made

the judgment to stop running, I did not claim any of the public financing. Not because I thought it was wrong but because I thought it made no sense, particularly in light of the fact I was no longer seeking the nomination.

But I note that some of my colleagues say: The public does not like this. It does not want public financing. If that is true, I wonder why all but one candidate for President of the United States of America, at the front end of their announcement for President, seeking the nomination in either of our parties, has said, "I will abide by the public financing rules." If it is such a bad thing politically, why do so many people say I will abide by that?

I will tell my colleagues why, because a candidate would be in a lot more trouble politically if he said: I am not going to take public funding and I am going to go out and raise my own money. Hardly any of us who have run for President are incapable of raising a great deal of money nationally. But think about it, why do we say we will take public financing? Because the press and the American public prefers their candidates to be running in a circumstance where there is no private money.

But the point is we all said we like the system, except one fellow named Connally, and he went out and raised several million dollars and got one vote or something at the convention. But I cannot think of anybody else who did not take the money and at the front end did not say they wanted to participate.

I say to my colleagues with every bit of sincerity that I have in me, gentlemen and ladies, we are in a dangerous situation right now. The public mood, understandably, is such that they have diminishing confidence in the independence of Members of Congress and Senators. Rightly or wrongly, it is directly associated with the way we fund our campaigns, and the way we beat one another up about how we fund our campaigns only reinforces that we think it is bad to fund our campaigns the way we do.

How many of my colleagues can say with certainty that every individual who contributed to them is someone for whom they can vouch as to their integrity and to how law abiding they are?

Most people run in large States, not small ones like mine. A lot of my colleagues have to go out and raise 4, 5, 6, 7, $10 million, primarily because of the cost of television and the competition. I wonder how many of my colleagues go to bed at night like I do and think: Oh, my God, I wonder if I have an ax murderer in the middle of that campaign contribution list. I wonder if there is someone on my list, as tightly as I screen it, who is about to commit a crime. When they gave me the contribution they were viewed by all as law-abiding citizens, but they subsequently do something wrong.

Then we sit there and, when our opponents are running negative campaigns and half truths, we say: Senator so-and-so received a contribution of $1,000 from Jack the Ripper. When at the time the contribution was made, Jack the Ripper was a clergyman in the local church. How do you explain that? How do you, the incumbent, explain, Oh, no, wait a minute, when Jack the Ripper gave me that money he was Jack the Preacher. He was not Jack the Ripper.

I should not do this but I am going to. I will give an example. When I was seeking the nomination with my distinguished colleague who is presiding, someone said to me there is a brilliant young man, a philanthropist who has great interest in the public system and is one of the most highly regarded young businessmen in the country. You ought to sit down and talk with him.

So I sat down to talk with him. I do not know whether that was the only time, as my grandmother would say, my good angel was sitting on my shoulder, but for some reason this young man and I did not hit it off, not for any particular reason.

That young man, they tell me, could have raised a fair amount of money. Three years later, that young man who was the philanthropist in his community, viewed by the business community as an upstanding citizen and a young genius, pleads guilty to criminal charges and ends up having to pay one of the largest fines in the history of America.

What would have happened had I done something totally legal, totally legitimate, totally honest, totally within the rules and let that young man raise money for me? It would be a significant political issue in my campaign.

How many of us get put in that situation? We are in that situation merely because we are in public office right now. So beyond the public interest, I just urge my colleagues to take a close look at this public financing provision. It is in the public interest, but it is also in every Senator's interest to put ourselves in a position that we not only are not influenced, which we are not, but that there is no appearance of being influenced, and, last, that you do not subject yourself to being put in a situation where you can be characterized, because of some totally legal and honest action you took, that somehow you have done something dishonest.

I my view, public funding of congressional campaigns must be the cornerstone of a reformed election process. Public funding would allow candidates, incumbents and challengers alike, to compete more on the basis of merit than on the size of the pocketbook. Public funding would free candidates from potentially corroding dependence on personal or family fortune or the gifts of special interest backers be they those of business, organized labor, or conservative or liberal interests. Public funding would end the need for perpetual fundraising by elected officials, and it would increase competitiveness in Senate elections.

There are a whole lot of reasons that I strongly believe that we should not stop short of public financing in this legislation, Mr. President. We have to provide public funding for congressional races just as we do for Presidential campaigns. This is an unpleasant prospect to many citizens who are turned off by politics, but the truth is that campaigns are financed by people, and when they are financed by all the people—all the people—they will create much better government and will do the one thing that most needs to be done at this time, in my view, and that is begin to restore public confidence in the system.

Public financing, as Senator BRADLEY, Senator KERRY, and I are proposing would work like the current Presidential system, only now the taxpayers will be able to checkoff $3 instead of $1, and a candidate would receive public funding only if he or she agrees to keep the total expenditures below the voluntary spending level.

Again, for those who say there are people in their States who will not like this, they do not have to take public financing. They can go back to their States and say, "You know what, there is a law that says I am able to have my campaign limited in the amount I can spend and allows me to take public funding for that based on the money you sent in and says you could check off for that purpose, but I am not going to do that. I am going to spend more money, and I am going to go out to special interests and raise it."

If and when we pass this, and some day we will, if not today, I want to be in that first race. I want to be in the race where my opponent says, "I will not agree to spending limits, and I want to take special interest money instead of taking a little bit of money from all the people and no large amount of money from anyone." I want to debate that issue. I will debate it.

Sure, if we ask people, do you want to spend money on balloons and bumper stickers the way it is characterized, they say, no, they do not want to do it. Maybe we should ask in a poll—maybe someone has, I do not know the answer. "Do you want to do away with public funding of the Presidential election and allow all the special interest money to fund it from now on, or do you want to keep it the way it is and not allow any special interest money in the general election"?

People do not want to spend money for anything. I know I do not. But I will tell my colleagues that, given the option of the present system or a public financing scheme, like the one proposed here, which allows for money to be spent in congressional races and a limited amount only if the American people checkoff that you can take $1, $2, or $3, and if they do not, we will not, it seems to me is an eminently rational approach, and people will support that.

We can find out. If people do not want to fund them, they will not fund them. But if they do fund them, they will be making a significant change in the way in which we are perceived doing business.

Let me go back and conclude with this final point. It has been said by a Republican colleague that our purpose in proposing public funding of general election campaigns is to squeeze the private sector out of the electoral process. Maybe it is because I am a Democrat or maybe it has nothing to do with party affiliation. I do not know. But I do not quite view the process that way. There are other ways for the private sector to be involved in campaigns, and I think that notion is absurd to suggest that by limiting money as a purpose of squeezing the private sector out, that that notion equates participation in the electoral process with contributing money.

There are many other and better ways to involve people in the electoral process than by writing a check. People in the private sector will have every opportunity to work, debate, and organize.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. BIDEN. I ask unanimous consent for 10 more seconds.

Mr. KERRY. Mr. President, I yield the Senator from Delaware such time as he needs to complete his statement.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I thank my colleague.

Public funding is consistent with other reform measures in this Democratic legislation. The bill also bans political action committees from participating and it stops the uncontrolled flow of what the New York Times calls the sewer money spent by State party organizations in behalf of Federal candidates. Such fundamental changes are needed to reverse the tide of apathy, cynicism, and mistrust that surround political campaigns.

But, Mr. President, ultimately, without public funding as a piece of this, this will, once again, be another piece of moderate reform, a reform that I do not think is worthy of the need at this time. I thank my colleagues for listening and my colleague for yielding. I yield the floor.

Mr. KERRY. Mr. President, I thank the distinguished Senator for his comments. He has been working at this a lot longer than both Senator BRADLEY and I and was an advocate of it since the first days he came to the Senate. I appreciate enormously his support. I think if anybody has lived through the periods of difficulty, 1974, and so forth, that prompted the first so-called efforts of reform, Senator BIDEN understands the impact of that period.

I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, in this bill, the limits on individuals, PAC's, hard and soft money, bundling and independent expenditures are important and along with the lower TV and postal costs for communicating with the voters, they represent significant reform.

But, Mr. President, when we declare as we have with this bill that the influence of private interests must be reduced in politics, we are really saying that political communication—the dialog between voters and their representatives that makes democracy possible—is a legitimate public purpose, and I believe, along with Senator KERRY and Senator BIDEN, it is an important public purpose.

Because we believe that expansive, detailed political communication is essential to keeping voters involved with the business of Government, we are introducing this amendment to provide modest public financing for Senate campaigns. Modeled after the system of public financing for Presidential candidates, our amendment would increase the checkoff amount on the income tax form from $1 to $3. It would only provide funds to those candidates who agree to strict spending limits tied to the population and media costs of the State, so that the candidates who did not need public help could not use it to pile on even more money.

Mr. President, I have been persuaded of the value of this approach by the experience in my State of New Jersey with the system of public financing for gubernatorial elections. New Jersey limits individual contributions and limits total spending to $2.2 million in the primary and $5 million in the general election. But to make the limits work, we supplement them with a system that provides generous public financing for those candidates who can demonstrate modest statewide support. As soon as a candidate receives and expends $150,000 from voters, the State matches $100,000 of that, 2 for 1, and after that point a candidate receives full public financing on a 2-for-1 match up to the limit.

Mr. President, the plan has worked well in New Jersey. Both Republican and Democratic candidates have used it, I think, for the benefit of the public.

The challenge that we face as leaders in a Democratic system is to get people involved in the process and purpose of Government. When turnout in a Presidential election with no incumbent barely passes 50 percent, we have to conclude that voters do not feel their participation in this democracy makes a difference. When you ask people why they do not feel participation matters, many say that private money in the process makes its voice heard more loudly than can the average citizen.

To restore the balance in a way that will make participation meaningful, we need, on the one side, to place limits on giving and spending, but, on the other side, we need to open up resources that will make voters on a voluntary basis equal contributors to the task of political communication.

Mr. President, this question would be more difficult if the cost of political communication were not so low. The entire plan envisioned by our amendment would cost an acceptable amount over an average election cycle, and if we remember, until 1986, the Federal Government spent more than $200 million in an average cycle through the 50 percent tax deduction for political contributions. The amount of this amendment would be significantly lower.

We believe that public money is a price worth paying for the purpose of freeing political communication from the special interests and ensuring that our legislation work for all the voters and only for the voters. If the threshold amount was not volunteered, a candidate could raise up to his State threshold on his own but no more.

Mr. President, I believe this approach will make an already excellent reform better. It has worked in New Jersey, and I believe it will work in the Nation. I hope we will support this amendment.

Mr. KERRY. Mr. President, I thank the Senator from New Jersey particularly for his thoughtful statement about the impact of this bill on the participation of people in the process, something that I do the not think we have focused on at this point in time.

I also would like to emphasize what the Senator said about prior experience. From 1972 until 1986, we were spending annually out of the Federal Treasury millions of dollars. In 1980, $269 million because of a tax credit for political contributions; 1981, $261 million; 1982, $269 million; and 1983, $256 million. We have spent more than several billion dollars to encourage people to participate but only 5 percent of the people took advantage of it and it was for those for whom a tax credit was an advantage.

That went away in 1986. Again, there is no mandatory aspect to this whatsoever. It is a choice, a free choice for citizens in this country who wish to decide to support the electoral process to do so.

Mr. President, unless the Senator from Oregon is about to ask for the floor, I reserve the remainder of my time.

Mr. PACKWOOD. I was going to suggest—I do not know who wants to speak on the other side—I think we would be prepared to yield back part of our time if the Senator from Massachusetts wanted to yield back part of his.

Mr. KERRY. Mr. President, I still have two other people who request to speak. I have no desire to prolong it, and as soon as they have spoken, I will be happy to yield back the time.

Mr. President, I yield the Senator from Colorado 9 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair. I thank the distinguished Senator from Massachusetts for his great help and leadership in this important issue.

Election day for everybody grows close. Not so long ago in American history, an election was an exciting time, a contest of principles and ideas. Yet today, more often than not, there is a feeling of pessimism among the electorate as we move closer to November. Somewhere along the line, Americans have lost confidence in the system. For some reason, the voting public has lost sight of the important and integral part they play in determining the leadership and direction of the country through the ballot. Without a doubt, part of that pessimism can be laid to the feet of American campaign practices.

Across the Atlantic, where new democracies bloom in Eastern Europe, candidates in their first free elections speak of a new future and of a better life for each citizen. In America, candidates in their campaigns too often have fallen into just negative commercials, Madison Avenue shock and direct mail propaganda. Is it any wonder that we cannot get citizens to the polls.

Not only do we run campaigns that are less and less worthy of the people we serve, but our campaigns have started to run us. Today's campaigns consume vast quantities of money, start earlier, and last longer. The chase for the brass ring demands more time and attention and more and more money to achieve. The cost of money goes up while the quality of the debate goes down.

There is no single cause for this disaffection, though there is a general perception that money is at the root of it all. Fueled by money-related scandals, that perception burns bright in the eyes of the public and the media. If it is true that where there is smoke there is fire, then the role of money in elections and Congress needs to be controlled, if not snuffed out altogether.

The enormous amounts of money required to run a sophisticated campaign in today's political world requires us each to raise on average of $12,000 a week through our entire 6-year terms. The sad fact is, though, if you do not raise the big bucks, your opponent will, and more likely than not he or she will use that money for the familiar and effective barrage of negative television ads.

So the driving force behind campaigns becomes not the good of the public or the welfare of the Nation but who can outraise and outspend the other.

If this were a nuclear policy and not a campaign finance, certainly this would be the epitome of the MAD principle, Mutually Assured Destruction, because surely no one wins in this sort of contest, especially the voter.

So what do we do? We get out of the business of money and politics and we get out of the business of running multimillion-dollar campaigns. We put a limit on what everybody can spend and provide alternative financing options and we get back to issue-oriented campaigns, much to the gratitude of the American public.

If money is its own force in politics, then the key to eliminating the force of money must lie in eliminating money. That is clearly an impossibility but controlling it is not. We have before us the chance to do that—to control money and its impact.

This campaign finance reform bill to the broadest degree possible neutralizes the force of money in the electoral politics. It provides for spending limits, reduced rates for broadcast and postage, and restricts bundling soft money and PAC's.

All of us here have been asking for a way to get out of the campaign finance conumdrum, and this bill is the way for us to do it. This bill does what we have been asking for—reduces the cost of campaign and dilutes the influence of campaign money. First and foremost by establishing the campaign limits in 1976, the average cost, as has been pointed out, is $600,000, and that has gone up six times. Limits will control spiraling increases in campaign fundraising and spending, diminish the reliance on the special interests that surround each of us, and make elections fair for challengers.

Hand in hand with establishing spending limits goes PAC reform. In 1988 they contributed more than $49 million to Senate campaigns. We know that there has been a great debate about who has what kind of PAC's, but what has happened is that the PAC unfortunately has become somewhat perverted and distorted, and we have put the brakes on in this particular bill.

The other major areas of reform that we need is one of alternative campaign resources. Some like to call this public financing. But I really see it as a system of checks and balances, a system that provides candidates with the opportunity to run their campaign with different public resources, keeping individuals in check, by disallowing certain types of fundraising or contributions. At the same time, it balances the needs of the candidate to promote his campaign through the use of limited specified public funds contributed voluntarily by taxpayers.

This includes a program that grants candidates to reduce mail costs, TV vouchers, and the ability to counter damaging independent expenditures.

The amendment offered by our distinguished colleague from Massachusetts, Mr. KERRY, sets up a comprehensive plan to take the issue of money out of campaigns entirely. Under his amendment there would be no question of the source of the candidate's campaign money. It would all be controlled. By relieving candidates of the need to scrounge for money to run exorbitant campaigns, the rat race of raising and spending large sums will dissipate, and we will be accountable to the people who elected us. And that is the most important variable.

I support this amendment because I believe that people want no question about the allegiance of their elected officials.

I also believe that this amendment more properly focuses on another troubling aspect of our system that is often ignored: how to get grassroots Americans back into the system once more.

The amendment provides for full voluntarily public funding of Senate campaigns. Some critics have called this extreme, but I see it as a way to control the influence of money and eliminate the question and motives associated with anybody contributing or anybody receiving a contribution.

Yes, the Kerry amendment will perhaps cost ultimately the society. CBO estimates that each eligible candidate who participates in the system would cost approximately $60 million for each cycle or $30 million a year. But I cannot imagine that is not saved by the getting rid of a variety of interests that come in and cost the American public much, much more money through the existing system and their rather insidious influences that often are felt here. The Kerry amendment more than pays for itself in that way.

Still, the $60 million cost is only a quarter of the funds the United States previously allocated to subsidize contributions under the tax laws prior to the 1986 reforms.

The financial cost of this amendment is far less than the cost of doing business without it. The campaign system that remains mired in scandal and public mistrust is something that we each have a responsibility and here an opportunity to get rid of.

If our actions on this amendment can restore some level of confidence to Americans about our electoral system then we will have achieved a great deal. I urge my colleagues to support the Kerry amendment, a very important, courageous, and actually the right thing for us all to do.

Mr. President, I once again want to commend the distinguished junior Senator from Massachusetts for this effort, for his constant leadership and his constant reminder of how important this issue is to us all. It provides an opportunity to restore American campaigns and American campaign financing back to the people who own this country and should own this body.

I yield the floor, Mr. President.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, parliamentary inquiry. How much time is remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 20 minutes and 26 seconds remaining.

Mr. KERRY. Mr. President, I am prepared to yield to the Senator 7 minutes.

Mr. SIMON. Ten minutes.

Mr. KERRY. I am delighted to yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Illinois is recognized for 10 minutes.

Mr. SIMON. Mr. President, I thank my colleague from Massachusetts. I thank him for his leadership. I am pleased to be a cosponsor, and I would like to spell out why it is important that we move on this.

First is the influence of money. You have heard the Senator from Colorado, the Senator from Delaware, the Senator from New Jersey, and the Senator from Massachusetts talk about it. But it is all too dominant.

I can remember, I guess it was about 2 years ago, when we could not get 60 votes here to stop a filibuster on the minimum wage. I got up immediately afterward, and said there are 506,000 head of households in this country trying to get by on the minimum wage; 5.3 million Americans who we cannot garner 60 votes to help. But if we had a bill that was not too obnoxious that would help the 100 wealthiest Americans who had been generous in raising funds for everyone who is in the U.S. Senate, that bill would slide through. That is the reality.

Let me add it affects on every one of us. I have used this illustration before, but I have never in all my years in political life ever promised anyone anything for a campaign contribution. But if tonight we get through at midnight, and I go back and there are 20 phone messages for me, 19 of them from people whose names I do not recognize, the 20th is someone who gave me a $1,000 campaign contribution, at midnight I am not going to make 20 phone calls. I might make one. Which one do you think I am going to make?

Well, you are right. What I say is true of 100 Members of the U.S. Senate. Under the present system the financially articulate have an inordinate access to policymakers. It is one of the reasons I have so many town meetings in the State of Illinois. I want people who are unemployed, I want the senior citizen who is struggling to get by to have access to policymakers.

A second reason why we ought to be moving on this is all the time that we waste raising funds. It is true of every Member of this body who runs for reelection. Not too many weeks ago I offered some members of my staff by going out to South Dakota of all places and holding a hearing at the Pine Ridge Indian Reservation. They were not opposed to my basic idea but they said if you are leaving the State of Illinois, you ought to be raising money. Visiting the Pine Ridge Indian Reservation, I say to my colleague from Massachusetts who is here, was a dramatic experience.

There is 73-percent unemployment, 26 percent of the homes with no indoor plumbing, 8 percent of the homes with no electricity, 65 percent of the homes with no telephones—in the United States of America. We ought to have more Members of the U.S. Senate, instead of going to New York and Los Angeles and everywhere else raising money for their campaigns, finding out what is wrong in this country and responding to those problems.

A third thing that is wrong with this system is that it raises questions in the minds of both Senators and donors. Let us just say that Tom Smith or Jane Jones comes into my office, or the office of the Senator from Delaware, or the Senator from Massachusetts, or the Senator from Oregon, someone that has raised money, and asks that you support an amendment. And you agree to support the amendment because you believe in it, but you say to yourself, I wonder if he or she believes I am supporting that amendment because of the campaign contributions. And that person in your office walks away thinking, I wonder if he is supporting my amendment because of the campaign contributions. It corrodes the whole system.

One of the arguments that is used is this system that we are proposing here protects incumbents. My friends, if it protected incumbents so well, it would go through with great ease. The reality is that the present system makes it easier for incumbents to raise money than for our challengers. That is an argument that has no validity whatsoever.

Finally, Mr. President, the thing that has been talked about by every speaker who has spoken here is the level of cynicism that we have. The public is cynical about the U.S. Senate, and the U.S. House of Representatives, and the Office of the Presidency itself, because they believe we have been bought through the process.

The truth is not as bad as the public imagines, but the truth is worse than it should be. And there are, unfortunately, far too many examples. In the last 10 years, we have seen the tax on the wealthiest of Americans go from 70 percent to 28 percent, while 60 percent of middle-income Americans have had their taxes increased. I cannot help but believe that is, in part, a reflection of how we finance campaigns. And it is how people get caught in the squeeze, average citizens, less fortunate Americans.

We are, through our present system, creating a Government that panders to the whims and the wishes of the wealthy and the powerful, rather than the average citizen. And we better wake up to that reality. I am not a politically naive person. It is very doubtful this is going to pass and become law this year. It probably is not going to happen until we get some scandal of a proportion so great that everyone will want to change this system.

But we ought to listen to the former Senator, Barry Goldwater, over on the other side, who suggested something along this line. Something is wrong. This is a proposal that gives Government back to the people to a much greater extent, and I am pleased and proud to support the Kerry amendment and be a cosponsor.

I yield the remainder of my time back to the Senator from Massachusetts.

Mr. PACKWOOD. Mr. President, on my time, will the Senator from Illinois yield for a question?

Mr. SIMON. Yes.

Mr. PACKWOOD. I am curious about his statement of the tax rate having gone from 70 to 28 percent. Is the Senator's argument that while it has gone from 70 to 28 percent, the Income Tax Code has become less progressive?

Mr. SIMON. The total tax burden, not just the income tax; the income tax plus the Social Security tax, no question about it, has become less progressive.

Mr. PACKWOOD. I do not want the Senator to leave the public with the impression that since we have lowered

the income tax rate, those in the upper income brackets have paid a proportionate amount less. They have paid more as we have lowered the rate, because we have levied the tax on a much broader base. And in 1986, when we lowered the rate from 50 to 28 percent, we increased the percentage and the amount that the upper income levels paid.

Mr. SIMON. If I may ask my colleague from Oregon, for whom I have great respect, has he read the new book by Kevin Phillips?

Mr. PACKWOOD. Yes, I have.

Mr. SIMON. Well, Kevin Phillips' book, I think, says very clearly what is happening in our society today. And we end up with a shrinking middle class—few people earning more, more people slipping down.

Mr. PACKWOOD. Now, wait. I understand, but it is not because we have lowered the tax rates to 28 percent that that has happened.

Mr. SIMON. I think that is part of it. My friend and I have differed.

Mr. PACKWOOD. I will give an example, and I want to ask the Senator from Massachusetts a question. As we are doing the debate now on the budget summit, there is an argument from the Democrats that they want to raise the taxes on the rich, and only if we raise the rates will they be satisfied.

The Republicans have said, we are not going to go up on the rates. If we were to go from 28 to 77 percent on the rates so that there was no so-called bubble, that would be less progressive than eliminating the bubble, bringing the rate down to 28 percent, and putting a $5,000 cap on income tax deducations. At a $5,000 cap on income tax deductions, that would mean you can only deduct $5,000 of your State and local income tax deductions; 93 percent of those who would pay the revenues to be collected would be in the income bracket of $100,000 and above.

That would make the Tax Code more progressive at a lower rate than raising the rate to 33 percent for everybody, because doing that would tax more middle-income or upper middle-income people than lowering the cap, lowering the rate to put in a cap.

What I have discovered among Democrats is they get a psychic pleasure out of the rate. So they took great pleasure when the rate was 70 or 90 percent, forgetting that those were the days when we used to see a story like this: The IRS announced yesterday that 5,200 Americans who make over $200,000 a year paid no taxes in any particular year. No tax. That is because we had the rates so high that we would discourage incentives.

And so to get people to do things that we wanted them to do, we gave them exemptions, deductions, and credits, and offsets, before they arrived at their taxable income and they finally had enough exemptions, deductions, and credits that they got their taxable income down to zero. It did not matter that there was a 90- or 70- or 50-percent rate. They did not pay anything.

But it gave us the great satisfaction, apparently, that the Tax Code was progressive. Anybody who was smart and rich paid nothing. But that is unrelated to this amendment.

Can I ask my good friend from Massachusetts a question, because the term "special interest" has been used all during this debate. In the Senator's judgment, what is a special interest?

Mr. KERRY. Mr. President, I ask unanimous consent that my answer come out of the time of the Senator.

Mr. PACKWOOD. Fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I have all kinds of special interests. I do not use that term. I do not think, if the Senator went through my comments, I used it a great deal. I happen to feel there are all kinds of special interests. I am not one who argues that a special interest is only defined by the fact that it happens to form a group such as a PAC. Clearly an individual can come to somebody, that individual could be a contributor, and that individual could be considered, if you are being honest about your definitions, a special interest.

The question, as I deal with the issue of special interest, is one of perception. I think that is at the root of everything we are trying to deal with here in terms of reform. I do not believe, as the Senator from Delaware said, that Senators here have a direct correlation between the vote and the contribution. But the perception is that they do. The perception is worse where there is a larger sum of money and where there is a specifically defined interest rather than the more general interest that we generally attribute to individuals.

So I know where the Senator is going, but I just do not subscribe that that is the real problem. I think it is more of a question of appearances, and we have to deal with the problem of appearances because that is where the question of integrity is most at issue.

Mr. PACKWOOD. Let me ask a further question. The Senator mentioned the amount of money spent prior to 1986 in tax credits and tax reductions. He is counting, is he not, the tax credit and tax deduction you have different forms also in State and local races. So you take deductions for those races also?

Mr. KERRY. The Senator from Oregon is correct. My point is not relevent to the sense that this is the same kind of expenditure. What we are contemplating here is purely voluntary, and this in the sense that it was voluntary but not in its impact on the budget.

Mr. PACKWOOD. The only reason I asked is that it is unfair to compare the kind of comparison we are talking about here, which is financing strict U.S. Senate and House races and its cost with a cost of tax credit that covered all the political races in the United States.

Mr. KERRY. May I respectfully suggest to the Senator from Oregon that it is not unfair for the following reason: What this Senator was using the example to underscore was the willingness of the Government to establish a purpose, a compelling interest. And the compelling interest that we established was an incentive for people to participate in the process, and that cost the Government money.

All I am suggesting is that having been willing to do it for 15 years in a way that did not work very effectively, here we have an opportunity to give the American people a chance to decide for themselves whether they want to take advantage of not a $50 deduction or $100 credit, but a $3 or $6, or whatever the Ways and Means Committee and the Finance Committee on which the Senator serves were to decide was the appropriate tax checkoff amount. And only if they contribute that would there be a contribution. If they do not, then the Senator from Oregon and the Senator from Massachusetts would have to go out and raise the difference. But there would be the incentive that the Senator is pointing to.

Mr. PACKWOOD. Mr. President, I grant you we gave the tax credits, and I simply cannot remember whether it was $150 credit or 50 percent credit. We switched it someplace midway along.

I will tell you what I discovered at some stage in this—I think it was 1985, but I would not swear to it. The State of Oregon adopted a similar credit. The upshot of it was that in Oregon, if you gave $100, you can get $100 credit, $50 of it was Federal and maybe a deduction of $50 State. You got $100 for $100. You could not get $1,000 giving to 10 different candidates $100 apiece.

I thought to myself, a 100 percent credit for $100; you can get somebody to give you $100 and say the Government is going to pay for the whole thing.

We set out a program to do it. I hired a young woman who had never been involved in fundraising before. I said to her "I do not want to have to spend any time on this. You are going to have to raise the money yourself. I gave you a list of everybody I knew in the Jaycee's, the YMCA. Call them up. See what you can do."

She worked at it a year. The total cost, including salary, was $25,000 and

all expenses. She raised about $25,000. We broke even. I began to see the potential of what can be done in small money as an inducement. My problem was I started too late because in 1986 we repealed it, and I think Oregon soon repealed it.

But once these people gave 100 bucks; I bet next year they would give another hundred. It is something like selling insurance. They renew the premiums. I sent her out to do something more. We started late.

The argument is it took time. It did not take any of my time—zero—other than giving the list.

Had I known about this program 4 or 5 years in advance, I wager that I could raise all of the money I need to run a race in the State of Oregon—and maybe I would raise 10 percent outside the State, who knows—in the State of Oregon on contributions of $100 or less with 100 percent tax credit, and it would not take me 2 hours a week at the most. And the people who give would have a commitment to want to work in your campaign. They will give you 50 bucks, 20 bucks, probably come in and put the lawn signs on Saturday, work the telephones 2 hours once a month. You are not going to get the same sense of participation on a checkoff in this form of public financing. They give you $5, $10, $15. The groups I discovered that were best of all were broad-based—Boy Scouts, YMCA—that have thousands and thousands of members, participants, raising the bulk of their money in small amounts.

Mr. KERRY. Will the Senator yield?

Mr. PACKWOOD. Let me finish this.

You know the second reason why we do not do it, though? It is too easy to raise big money. It is also cheaper to raise big money. You are going to do mass mailing and direct money by mail. The Senator from Massachusetts and I know it is expensive. You have a cocktail party, raise $1,000 apiece. Friends put it up. You raise $40,000 that night. The friends pick up the cost of the dinner. That is legal to do. Your cost is zero in terms of raising the money. Why go to the trouble of raising small money, we all think, when big money is so easy to raise?

So for 7 years I suggested a simple out for this. We limit contributions to $100. Really, $100. And we have a 100-percent-tax credit, and it would not cost as much if you limit the tax credit to Federal races, as the public financing scheme that the Senator is talking about and in his amendment. Then I thought the person that had the most wonderful idea on this that I have ever seen was Russell Long. He was making the argument—I would not attempt to imitate the wonderful Southern accent. He said you have people who cannot afford to give you money in September and wait until April to get it back. He said, what you we have to do is come up with an idea where they can give you the $100 today and you give them a check of some kind, they go to the bank that afternoon and get it back. In fact, you can take it to the bank, get them $100, and give it to them.

He said that would cause all people to give money, small money, to get them active in campaigns. He is right. It could be done.

I hope this amendment is not going to pass, but I think this amendment would allow people who already voted to publicly finance campaigns say now they are opposed to public financing of campaigns, voting against this amendment. They already voted for public financing of campaigns when voted against the McConnell amendment yesterday and now are scared spitless, going to go home and we have not been able to solve the budget problem in the country and come up with spending or tax programs or any other, now go home and say in 6 years we going to spend $500 million on our campaigns to make it next year so we do not have to work so hard. They do not want to be on record obliged with that kind of debt. Here is the amendment, a public financing amendment. I voted no. That is what we are going to get on this.

I tell you what the problem is. We have gotten lazy. We are tired, we say, of spending night after night, at fundraising cocktail party. It takes all our time. It takes all our time because we are not willing to put together the organization of thousands of people that will raise the money for us and we do not have to spend it.

Mr. McCONNELL. Will the Senator yield on that point?

Mr. PACKWOOD. Yes.

Mr. McCONNELL. In fact it is not taking all our time. We are spending time fundraising for others, not ourselves, because the statistics—and this is quickly—the statistics indicate taking the class of 1986, of which my friend from Oregon is a member, in the first 2 years of that 6-year term the Senators took in 4 percent, and in the second 2 years 10 percent, and 86 percent of the money raised came in the last 2 years. The same statistics apply in the class of 1988, 4 percent in the first 2 years, 11 percent in the second 2 years, 83 percent the last 2 years. The facts simply indicate that Senators are not raising money all the time every year throughout the 6-year term. There is no statistical basis for that. Yet we heard that on the other side time after time. The "money chase" they say.

Mr. PACKWOOD. It would not be bad for us if you put a limit of $100 on contributions with or without a tax credit. We would get out of the fundraising business altogther. We could not raise enough $100, you could not 100 times a day, 365 days a year you could not raise that amount. In that stage you have to go to the minions of volunteers. You can not raise them, you are not a good candidate. You have to say, you are going to start going out and rapping on the doors to see if you can get 50 bucks for McCONNELL, 50 bucks for me, 50 bucks for Kerry.

And they will discover something amazing. It is not unlike selling insurance. You ask 10 people, you sell 1 policy. You ask 100 people, you sell 10 policies. You ask 1,000, you sell 100. But you have to ask.

I once heard a minister describe this. It is not unlike the money you get them to give to the church. It is not that they do not want to, but they do not seem to, unless asked. And when they finally are asked, deep down they know, yes, I should give some money to my church, and deep down, they will say I should give some money to politics, not $1,000, not raise $10,000, but $20. They are never asked. And if they were, they would.

I yield the floor.

Mr. KERRY. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. KERRY. Did I hear the Senator correctly say that he thought it would be a good plan to have $100 limitation?

Mr. PACKWOOD. Yes.

Mr. KERRY. To make that $100 deductible?

Mr. PACKWOOD. That is correct.

Mr. KERRY. Then at least there is one Republican who is now on record as having a full public funding of campaigns. Because if it is $100 limit and $100 is deductible, the Senator is supporting the plan, which incidentally would not be a bad plan altogether, necessarily, but which, in effect, costs the Federal Treasury whatever amount is contributed to the campaign up to $100. Now for each year that we had that in effect, we already had it in effect, it costs three times the amount of the costs of the current proposal of Senator BOREN and Senator MITCHELL.

Mr. PACKWOOD. I am not sure what the point is you are making.

Mr. KERRY. The question is, do I hear the Senator supporting a public funding plan?

Mr. PACKWOOD. You said we had it for 15 years. It is a voluntary plan. First, my hunch is, it is not a 100-percent plan. Because when we had the old deduction, the old credit, you could only take it up to $100. You might give five different candidates $100 apiece. You could only take the $100.

Mr. KERRY. How is the voluntary plan distinguished from the voluntary checkoff?

Mr. PACKWOOD. Because you check it off on your box, then finally your party picks somebody you do not like. That is not a sense of participa-

tion. The sense of participation is when somebody raps on your door or sends a piece of mail and says, "Do you believe in JOHN KERRY? If you do, send him $20." They say, "I believe in JOHN KERRY, I am sending him $20." If they are in your State, that is participation. He will go out there for you.

Mr. KERRY. I suppose the Senator and I may agree to disagree with respect to where the participation ought to come from. But I certainly do not believe that money ought to mean the full sense of participation.

I think the program that has been set forth by Senator BOREN and Senator MITCHELL is one that encourages Senators to spend more time in their States, more time organizing. I suspect there is going to be far more participation as a result of the limit of the influence of money, and we may get back to the real grassroots politics as a consequence of that.

Mr. President, I would quickly point out on my time, in answer to the comment of the Senator from Kentucky, that the record just does not bear out his comment that there is not full-time fundraising going on.

In the 1988 Senatorial cycle, Senator WILSON raised in 1983 to 1984 $8,857 a week; in 1985 to 1986, $23,000 a week; and in 1987 to 1988 $113,000 a week. It never stopped.

Senator MOYNIHAN, a Democrat, $1,400 a week the first 2 years; $13,000 the next 2 years; and $43,000 the next 2 years.

Senator DURENBERGER, almost $8,000 a week the first 2 years; $10,500 the second 2 years; $49,000 the third.

There is not one Senator in the U.S. Senate who was not raising money every week, on an average of every week, throughout the year—I think the record is very clear on that—ranging from the $10,000 in the outyears, to $60,000, $70,000, and over $100,000 a week in the inyears.

That is precisely what we are trying to get rid of. It is on both sides of the aisle. There is no partisanship in that. But the reality is there is always fundraising.

Mr. KOHL. Mr. President, I admire the motives of those who offer this amendment to pay for campaigns with public funds. And if we were considering it as the only element of campaign finance reform, I might be compelled to support it. But we have before us a bill which I hope we will ultimately adopt; a bill which places limits on how much candidates can spend on their campaigns. Those limits are reasonable: they are high enough to allow people to wage meaningful campaigns; they are low enough so that, when you take into account the vouchers and others incentives provided in the bill, serious candidates ought to be able to raise the money needed to reach the limit. Just as significantly, under the terms of the bill, they must raise that money without resorting to PAC's or becoming dependent on special interests.

While public funding would have the advantage of reducing the perception of corruption, there are other ways to do that. We could adopt limits on campaign spending so we aren't involved in an endless money chase—that might restore some credibility to the political process. We could vote in ways which advance the national interest rather than special interests—that might restore some credibility to the political process. There are lots of things which we could do. But I don't think that we can restore credibility by taking public funds to make it easier for us to get elected while, at the same time, we cut the programs that help middle-income Americans—cuts which will make it harder for them to buy a home or give their kids a decent education or live in a cleaner environment. How can we justify solving "our" problems when we cut funding for programs designed to solve theirs? Given the alternative ways to restrict and control the money chase, public funding just isn't justified.

Mr. SASSER. Mr. President, I rise to express my support for the amendment offered by my distinguished colleagues Senators JOHN KERRY, BILL BRADLEY, and JOE BIDEN.

Their amendment injects a very essential ingredient into this debate on campaign finance—that of restoring the public trust to our election process.

Everyone in this Chamber knows that there are two basic problems with our current system of campaign finance.

First, current campaigns cost too much. The time we devote to raising money for our campaigns diverts our attention from our legislative duties and responsibilities.

Second, and perhaps more importantly, there is a growing feeling that the general public is simply not well represented in the campaign finance process. If you are not a contributor to a political action committee or if you do not have the means to be a major donor to an individual's campaign, you probably feel, and rightfully so, that you don't have much of a stake in the campaign process.

So as we debate this campaign finance bill, we should aim for two things.

We should lower the cost of running for public office. S. 137 does this by setting voluntary limits on campaign finance.

But we must also broaden the financial base on which campaigns are financed. This is what the amendment accomplishes.

We have heard a lot on this floor about the need to restrict contributions from political action committees. Yet, we have heard precious little from the opposition about the need to hold down the cost of campaigns or permit more people to participate in campaign finance through public financing.

Instead, our Republican colleagues have vigorously fought against campaign spending limits and against any form of public financing.

Why do our colleagues on the other side of the aisle fear some form of public financing in campaigns?

Do they fear the loss of the large donor in the campaign? Do they feel uncomfortable knowing that the sky won't be the limit in campaign finance. Do they fear the level playing field that would result from a system of voluntary public finance as contemplated by this amendment,

Clearly the opponents of S. 137 and this amendment prefer large elements of the status quo in our system of campaign finance. They simply do not want the general public to have a decided impact on the campaign finance process.

Is public financing something to be feared? Clearly it is not. Consider the positive role of public finance in the Presidential election process. As the commission on national elections concluded:

> Public financing of Presidential elections has clearly proved its worth in opening up the process, reducing undue influence of individuals and groups, and virtually ending corruption in Presidential finance.

If public financing can be so beneficial for Presidential elections, can't this system of public financing be equally beneficial for Senate elections?

Of course it can.

For what is the essence of public financing?

First, it allows every contributor to be on an equal footing. The corporate president and the carpenter can both give the same amount. Neither one nor the other can excercise an undue influence over the candidate by this system of contribution.

This clearly is one of the most democratic means of campaign finance.

Second, this system of voluntary public financing will allow Senators to do what they were elected to do—that is to uphold the public trust—to govern, not to grovel for campaign dollars.

In the final analysis, we have allowed our system of campaign finance to go awry. We campaign all the while depending on substantial contributions from political action committees and large donors. But we all know that we must govern not to protect the privileges of the few or the powerful but to tend to the needs, the hopes and the aspirations of the many.

I say to my colleagues that we should get back to basics. We should

hold down the unchecked costs of campaigns. And we should tell the American people once again that every one has an equal stake in campaign finance.

If we don't do that, we will be telling the American people that Government may continue to be subject to the undue influence of the large donor and those who stand ready to bankroll campaigns for their special interest.

Mr. LEVIN. Mr. President, I will vote against the Kerry amendment, because it would establish public financing of congressional elections through a system which is not truly voluntary. It basically allows a taxpayer to allocate to political campaigns' money generated from the public through the normal revenue raising process. Instead, I support a system in which the funds directed to political campaigns by individuals, in effect, would be voluntarily donated by themselves on their tax forms separately from what they owe in taxes. Such a system would be genuinely voluntary and would avoid the use of taxes to finance political campaigns.

The Kerry amendment would allow a taxpayer to allocate the public's money to political campaigns. I cannot support that in congressional campaigns, particularly in light of our huge deficits. I support a system which allows a taxpayer to donate his or her own money to political campaigns.

Mr. KENNEDY. Mr. President, I join Senator KERRY, Senator BRADLEY, Senator BIDEN, and others in sponsoring this amendment for voluntary public financing of general election campaigns for the Senate. Adoption of this amendment is critical to achieving the far-reaching reform that is urgently needed in our current system of campaign financing.

The American people are fed up with the present campaign financing system and its excessive reliance on private contributions that make conflict of interest a way of life in Congress. They are fed up with a campaign process driven by the high cost of television commercials. They are fed up with Senators who spend more time raising money from special interests instead of tending to the public interest. The constant hunt for campaign dollars demeans the process of elections and undermines the foundation of our democracy.

The bill introduced by the majority leader is the culmination of months of hard work and it deserves support. Spending limits are the cornerstone of any attempt to achieve meaningful campaign finance reform. They will give the voting public new faith in the electoral process. A reform proposal without strict spending limits will fail to overcome the major problems that are deeply ingrained in the present system.

But if we are serious about ending the arms race in campaign financing, spending limits alone are not enough. We must also take the next step toward reform, by establishing a system of public financing for our elections.

My support for public financing of elections is longstanding. It was in 1966 that the concept of public financing was first enacted into law. Thanks to the genius of Senator Russell Long, the dollar checkoff for Presidential elections was signed into law that year.

Unfortunately, partisan disputes delayed its implementation for a decade. But the Watergate scandal made reform of Presidential campaign financing irresistible. Public financing finally went into effect for Presidential elections in 1976, and has been applicable to those elections ever since.

In the 1970's, we almost succeeded in enacting this reform for House and Senate elections as well, but we were not successful. Now is the time to complete the job. The evidence is in. We have seen the success of public financing in four Presidential elections. If this reform is good enough for Presidential elections, it is good enough for congressional elections, too.

Under our proposal, the voluntary tax checkoff that has worked so well in Presidential elections would be available for Senate elections. Major party candidates who agree to abide by the spending limit would receive 70 percent of the limit directly from a Senate election campaign fund to be maintained by the U.S. Treasury and monitored by the FEC. If the fund is not sufficient, candidates could solicit funds from individual contributors to make up the difference.

In addition, major party candidates who abide by voluntary spending limits would be eligible to receive broadcast vouchers equal to 20 percent of their general election limit. Finally, candidates participating in this voluntary program would be required to raise 10 percent of their general election funds by soliciting contributions of $250 or less. Half of these contributions would have to come from in-State donors.

With this program, we will at last be able to break the stranglehold of the fat cats and special interest groups on our campaigns. In fact, this proposal will allow us to spend far less time raising money and far more time developing public policy. Public financing will ensure that elections are about issues and not about money. It may turn out to be the wisest investment in the country's future that American taxpayers will ever make.

The combination of voluntary spending limits and voluntary public financing will free us from the corrosive and corrupting influence of the current system. The public wants and deserves responsible action by Congress on the many pressing challenges facing the Nation. They do not want us soliciting large campaign contributions from those whose interests are affected by the votes we cast. Spending limits cannot do the job alone. Only public financing of elections can end the corruption and the appearance of corruption that shadow everything we do and every vote we cast.

I urge all the Members of the Senate to support this amendment. It is time to take our elections off the auction block. It is time to take our campaigns away from the special interests and give them back to the people. It is time to make our democracy worthy of its name.

Mr. McCONNELL. Mr. President, once again, there is a movement afoot to stick American taxpayers with the bill for our political campaigns—in the guise of S. 137, the Democrat's campaign finance reform bill, and the amendment offered by Senator KERRY.

It is being marketed as "reform." Obviously truth in advertising laws do not apply to the Congress.

S. 137 is a retread—they have dredged the 1970's, found a lemon of a campaign finance vehicle, tuned it up a little and unveiled it in 1990 as the panacea for real and perceived corruption in the political process.

Underneath the hood it is the same old lemon running on taxpayer financing and spending limits.

I will continue to address the failures of spending limits. At this juncture I will turn to the issue of taxpayer financing.

S. 137, and this amendment, is modeled on the current Presidential taxpayer financing system in which funds for campaigns are raised through a reputedly voluntary checkoff on tax forms.

A look at the fine print shows it is not so voluntary. The Presidential system is a voluntary checkoff in that you do not have to mark the box.

But every taxpayer pays for those who do. The checkoff allocates money from the Treasury. Money that could be used for things such as education, health care, child nutrition, or reducing the deficit.

Additional taxpayer money must therefore be spent to replenish that taken for the Presidential Election Campaign Fund, or these other programs come up short, and the deficit increases.

So taxpayers have involuntarily paid $500 million for the last three Presidential elections. Taxes that funded the campaigns of fringe candidates like Lyndon LaRouche and Lenora Fulani who have received millions of public dollars for their respective ambitions.

Andy Warhol once predicted that everyone would be famous for 15 minutes—he did not envision that taxpayers would pay for the spotlight.

The proposal the Democrats unveiled in May, and which Senator KERRY is proposing today, makes the Presidential race look like a red-tag sale.

Extrapolating the funding mechanism in the Democrats' bill to House races—the goal of proponents—the price tag adds up to nearly $500 million every 2 years.

Half a billion dollars.

This amendment will cost hundreds of millions of dollars, if, as is inevitable with such legislation, it is extended to the House of Representatives. Allow me to explain:

Under this proposal, the major candidate subsidy equals 70 percent of the general election limit. Adding up the limits in their bill and multiplying by 70 percent; then multiplying by two Senators per State; then multiplying by two candidates per race; and dividing by three to obtain the 2-year cycle figure, our analysis concluded a $74,603,247 price tag for the Senate.

Using the same formula with the House, assuming a $600,000 limit and multiplying by 435 congressional districts; by 70 percent; and by two candidates per race, we reach a total of $365,400,000.

Still in the bill is the broadcast provision whereby candidates are given communication vouchers that they give to broadcasters for TV advertising. The broadcasters in turn submit the vouchers to the Federal Government for redemption. A veritable food stamp program for politicians.

The value of the communication vouchers equals 20 percent of the general election limit. Using the same formula as for the major candidate subsidy and substituting 20 percent for 70 percent, our analysis showed a total of $21,315,213 for the Senate and $104,400,000 for the House.

This proposal will cost up to $565,718,460 every 2 years for just the "major candidate subsidy" and communication voucher provisions.

Another big ticket item in the Democrats' bill is the independent expenditure provision whereby the Federal Government pays to candidates an amount equal to independent expenditures against them. Thus, a bidding war between the taxpayers and special interests.

Another interesting provision in the Democrats' bill provides penalty payments to candidates whose opponent does not comply with the voluntary spending limits. Proponents of the bill call this a carrot. From my view it looks more like a sledgehammer. Semantics aside, candidates who chose to exercise their first amendment right not to comply with the limits would be pummeled.

Were this section to stand up under constitutional scrutiny, which is most unlikely, it could cost taxpayers a huge amount of money. If one-fourth of the Senate candidates did not abide by the limits it would cost taxpayers $26,640,017. A one-third nonparticipation rate would cost $35,525,356. Should half the candidates decide to exercise their free speech rights, the taxpayers would be stuck with a $53,280,034 bill.

As this provision is extended to the House, the costs rise exponentially from $130,500,000 if only a fourth of the candidates refuse spending limits, to $261,000,000 if half of the candidates do.

For one-half of a billion dollars you'd expect to get something for your money other than an assault on the first amendment.

Particularly ironic is that so many of the cosponsors of this plan declined to support the flag burning amendment because they professed to revere the first amendment so much.

Yet, they are hard at work pushing a bill that seeks to limit the free speech of political candidates.

What you get under this proposal is a fraud—a system riddled with abuse and rife with sewer soft money.

The only ones who win are lawyers, accountants, and fringe candidates who push their agendas and stick taxpayers with the bill.

Aside from concerns over plundering the Treasury for a campaign system riddled with loopholes and abuse.

The tax return checkoff itself is a failure.

The Federal Election Commission has notified Congress that the Presidential Election Campaign Fund may be bankrupt by 1992.

The checkoff rate has plummeted 30 percent in the last decade.

Fewer taxpayers are willing participants in this charade. Despite this clear signal that taxpayers do not care to pay for quadrennial Presidential campaigns, proponents persist in their efforts to expand this debacle to 535 congressional races.

They contend that there is widespread support to pay for all of our political campaigns. These claims are far removed from reality.

To bolster their position, advocates are flashing around a survey that purportedly indicates a groundswell of support for taxpayer funding of congressional campaigns.

A review of this study sheds some light on these claims. On page 3 of the study it is noted that, "voters are averse to paying more of their own tax money to finance political campaigns".

While proponents of public financing trumpet the study's finding that 58 percent would support a checkoff from taxes they already pay.

They fail to mention the next line where it is noted that this support drops dramatically when it is clear the change would "add $2 to their taxes."

Further, the study states:

> Just 36 percent of the respondents, even after hearing all the arguments, said they would definitely or very likely give $5.00 to create a fund to finance congressional campaigns and get rid of the current system.

The Presidential Election Campaign Fund is evidence of the public's disdain for public financing of campaigns, even out of taxes they already pay. During the 1980's, the participation rate in the one dollar tax return checkoff dropped nearly one-third to just 20 percent. The FEC estimates that the fund may be bankrupt by 1992.

As for the accuracy of public citizen's poll and its relevance to how successful a checkoff would really be—43 percent of the respondents said they currently checkoff the $1 Presidential fund contribution. That is twice the actual checkoff rate.

Another indication of people's tendency to say what they think the questioner wants to hear, 75 percent said they almost certainly would vote in the November elections; 25 percent said they probably would. No one said they would not vote.

Is anyone here willing to bet that we will have a 75-percent turnout this year? Or that 58 percent will checkoff for public funding of congressional campaigns?

While Americans are concerned over perceived abuses and corruption in the political process—problems S. 137 would only exacerbate—they are much more concerned about other issues.

Issues that could use the funds currently diverted to our failed Presidential election system.

Public citizen's press release announcing their poll is more notable for what it left out rather than what it said.

Their press release did not mention their own poll's finding that just 5 percent say "corruption and special interest money in politics" is their top concern. The study states that Americans are "much more concerned with" drugs, crime, education, the economy, and taxes.

Clearly, taxpayers are not willing to pick up the tab for S. 137—even under the guise of reform.

Taxpayers should be allowed to support candidates of their own choosing—rather than be forced to pay for the causes and campaigns of people they would not voluntarily support.

Eastern Europeans have fought a long and courageous battle to get out from under tyranny, to achieve for themselves the freedoms that our Founding Fathers secured for Americans over 200 years ago.

We should take care not to chip away at our own democracy for the sake of a public relations veneer of

reform such as is proposed in the Democrats' bill.

This amendment would be a costly mistake.

Mr. President, the statistics are clear. Senators are not out raising money all the time, every year, throughout their 6-year terms. It is just not factually accurate.

Mr. President, we are happy to yield back our time.

Mr. KERRY. Mr. President, before I yield back the time, the Senator says it is not factually accurate. I have just given the facts. Let me be more precise.

Senator BOSCHWITZ, in 1979-80, $3,996 a week; the second 2 years, $4,720 a week; the third, $59,000 a week.

Senator WARNER, $3,759 a week; the next 2 years, $4,741 a week; the next 2 years, $26,305 a week.

There is not a Senator for whom that is not true.

I ask unanimous consent that those records regarding Senate fundraising over a 6-year cycle be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAMPAIGN FUNDRAISING STATISTICS

In contrast to the contention that the bulk of fundraising is accomplished in the final two years of a senatorial term, the following statistics demonstrate the continuous cycle of fundraising inherent in the present campaign finance system. From the first moment of his or her tenure, a Senator's valuable time, resources, and money are syphoned away from the pressing needs and issues before the Congress, and into the demanding process of raising the money needed for successful re-election to public service. This is not a partisan issue—Republicans and Democrats alike fall victim to these pressures. Not only did incumbents raise substantial funds throughout their six-year terms, but many challenging Congressmen spent their entire term raising huge campaign warchests.

1988 SENATORIAL ELECTIONS

Pete Wilson (R): 1983-84—$8,857/week; 1985-86—$23,319/week; 1987-88—$113,847/week.

Connie Mack (R): 1987-88—$52,240/week.

Daniel Moynihan (D): 1983-84—$1,491/week; 1985-86—$13,125/week; 1987-88—$43,502/week.

John Heinz (R): 1983-84—$3,591/week; 1985-86—$5,044/week; 1987-88—$52,795/week.

David Durenberger (R): 1983-84—$7,889/week; 1985-86—$10,486/week; 1987-88—$49,694/week.

Lowell Weicker (R): 1983-84—$774.25/week; 1985-86—$1,866/week; 1987-88—$25,174/week.

Richard Lugar (R): 1983-84—$2,618/week; 1985-86—$3,165/week; 1987-88—$30,297/week.

George Mitchell (D): 1983-84—$920/week; 1985-86—$410/week; 1987-88—$18,106/week.

Donald Reigle (D): 1983-84—$2,083/week; 1985-86—$6,886/week; 1987-88—$32,893/week.

Edward Kennedy (D): 1983-84—$510/week; 1985-86—$2,343/week; 1987-88—$33,045/week.

Howard Metzenbaum (D): 1983-84—$2,157/week; 1985-86—$5,572/week; 1987-88—$73,125/week.

Frank Lautenberg (D): 1983-84—$4,385/week; 1985-86—$5,442/week; 1987-88—$70,874/week.

Trent Lott (R): 1987-88—$36,024/week.

John Danforth (R): 1983-84—$1,274/week; 1985-86—$6,047/week; 1987-88—$40,778/week.

Conrad Burns (R): 1987-88—$10,994/week.

Robert Kerrey (D): 1987-88—$34,857/week.

John Chafee (R): 1983-84—$1,528/week; 1985-86—$4,079/week; 1987-88—$24,552/week.

Orrin Hatch (R): 1983-84—$3,798/week; 1985-86—$3,492/week; 1987-88—$38,249/week.

1986 SENATE ELECTIONS

Robert Dole (R): 1981-82—$693/week; 1983-84—$11,271/week; 1985-86—$26,400/week.

Alfonse D'Amato (R): 1981-82—$10,851/week; 1983-84—$22,449/week; 1985-86—$65,233/week.

Alan Cranston (D): 1981-82—$1,230/week; 1983-84—$2,952/week; 1985-86—$108,515/week.

Robert Packwood (R): 1981-82—$1,480/week; 1983-84—$12,847/week; 1985-86—$67,250/week.

Arlen Specter (R): 1981-82—$1,024/week; 1983-84—$9,405/week; 1985-86—$54,507/week.

Christopher Bond (R): 1985-86—$54,440/week.

Robert Graham (D): 1985-86—$62,159/week.

Robert Kasten (R): 1981-82—$639/week; 1983-84—$7,425/week; 1985-86—$31,960/week.

Terry Sanford (D): 1985-86—$41,817/week.

Tom Daschle (D): 1985-86—$35,158/week.

Richard Shelby (D): 1985-86—$24,004/week.

John McCain (R): 1985-86—$25,100/week.

Timothy Wirth (D): 1985-86—$38,193/week.

Donald Nickles (R): 1981-82—$1,130/week; 1983-84—$4,960/week; 1985-86—$29,957/week.

Charles Grassley (R): 1981-82—$2,166/week; 1983-84—$3,350/week; 1985-86—$27,495/week.

1984 SENATE ELECTIONS

Jesse Helms (R): 1979-80—$8,219/week; 1981-82—$0.00/week; 1983-84—$165,222/week.

Phil Gramm (R): 1983-84—$98,636/week.

Rudy Boschwitz (R): 1970-80—$3,996/week; 1981-82—$4,720/week; 1983-84—$59,834/week.

Bill Bradley (D): 1979-80—$3,914/week; 1981-82—$9,566/week; 1983-84—$43,174/week.

John Warner (R): 1979-80—$3,759/week; 1981-82—$4,741/week; 1983-84—$26,305/week.

Joseph Biden (D): 1979-80—$779/week; 1981-82—$1,207/week; 1983-84—$14,291/week.

Gordon Humphrey (R): 1979-80—$1,079/week; 1981-82—$724/week; 1983-84—$16,990/week.

Thomas Harkin (D): 1983-84—$28,487/week.

Jay Rockefeller 1983-84—$120,935/week.

Charles Percy, the incumbent Senator who lost to Senator Paul Simon, raised an average of $5,000 dollars every week for the first four years of his last term, and $53,317 dollars every week for the final two years.

Mr. KERRY. I would just like to take a couple minutes to close. I know it is not going to change the votes, but I want it to be a part of the RECORD.

There are a great many States, Mr. President, that already have adopted precisely what we are talking about here today. In Alabama, the political parties have a tax checkoff. in Arizona they have a matching fund. In California, in Sacramento County, they have matching fund. In Florida, they have a matching fund for Governor, Lieutenant Governor and cabinet members with direct appropriation. In Hawaii, the State elected officials have a tax checkoff. In Idaho, political parties have a checkoff. In Iowa, a tax checkoff for political parties. In Kentucky, political parties can designate a party of choice and have a tax checkoff. In Maine, they have a tax add on: in Maryland, a tax add on; in Massachusetts, a tax add on. In Michigan a tax checkoff. Minnesota, Montana, New Jersey, New York, North Carolina, Ohio, Rhode Island, Virginia, Utah, Wisconsin, they have some variation of a checkoff or an add on.

I would simply say, Mr. President, that a system that has worked for Democrats and Republicans alike at the Presidential level in a purely voluntary form without coercion, which gives taxpayers the choice of whether they want us to be free, why would we not choose the opportunity to let the taxpayers choose. It seems to me that nothing is more Democratic than that and nothing will do more to separate politics and money.

I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Under the previous order, all time having been yielded back, the Senator from Arizona [Mr. MCCAIN], is recognized to offer an amendment which the clerk will report.

The Senator from Arizona is recognized.

AMENDMENT NO. 2444 TO AMENDMENT NO. 2432

(Purpose: To restrict the use of contributions and of payments and benefits received under title V of FECA to bona fide campaign activities and to require that surplus campaign funds be paid into the Treasury of the United States to aid in reducing the deficit)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2444 to amendment No. 2432.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 91, strike lines 4 through 25 and insert the following:

SEC. 223. USE OF CAMPAIGN FUNDS.

(a) IN GENERAL.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended to read as follows:

"USE OF CAMPAIGN FUNDS

"Sec. 313. (a) Amounts received as contributions by a candidate or an authorized committee of a candidate and payments and benefits received under title V may be used only to make expenditures for the purpose of influencing the election of the candidate.

"(b) The surplus campaign funds of the candidate and the candidate's authorized committees shall be paid into the Treasury of the United States and applied to the account to reduce the public debt described in section 3113(d) of title 31, United States Code.

"(c)(1) It shall be unlawful for a candidate or an authorized committee of a candidate or for any person acting as an agent of either to use contributions or payments received under title V or to dispose of surplus campaign funds in any manner except as specified by subsections (a) and (b).

"(2) It shall be unlawful for any person knowingly to accept or receive contributions, payments received under title V, or surplus campaign funds for purposes or in a manner other than those specified in subsections (a) and (b).

"(d) the disposition of surplus campaign funds shall be reported on the post election semiannual report that is filed pursuant to section 304 on or before July 31 of the year following the election for which the funds were raised.

"(e)(1) For purposes of this section, the term 'surplus campaign funds' means the balance remaining after a general election between—

"(A) the contributions made to the candidate and the candidate's authorized committees; and

"(B) the expenditures made by such candidate or authorized committees for the purpose of influencing the election of the candidate.

"(2) The calculation of the amount of surplus campaign funds under paragraph (1) shall be made after any unexpended funds required to be repaid to the Secretary of the Treasury pursuant to section 507(e) have been repaid.".

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to surplus campaign funds existing on November 7, 1990, and thereafter.

(c) On page 92, Line (1), change (b) to (c).

Mr McCAIN. Mr. President, much of the debate that we have engaged in, in fact perhaps the basic permise of this legislation, is to provide everyone with a level playing field. That phrase, "level playing field," those three words have probably dominated this debate. Mr. President, my amendment, I believe, will attack one of the basic inequities that presently exists in political campaigns. I am specifically speaking of the so-called rollover funds or, to the uninitiated, those campaign contributions which an incumbent can carry from one campaign to another.

Sometimes, Mr. President, these moneys account to many millions of dollars. I believe perhaps approaching 10, in one or two cases.

In the other body, Mr. President—which is known to some as the House of Lords, although there now appears to be a greater turnover in the House of Lords, since there have been more deaths lately—there has been a very, very small turnover. It is generally accepted and I believe that one of the major factors is that there is not sufficient motivation for qualified and dedicated men and women to serve in public office. What is one of the prime demotivating factors, Mr. President? I think we all know.

If a challenger is asked to seek public office and then finds out that the incumbent has $1 million, $2 million, $3 million, $4 million in his campaign fund which he rolls over from election to election, then clearly that is an incredible demotivating factor to a challenger, who we have already established has very little money to srart with as compared with incumbents.

I agree, candidates should not solicit more campaign dollars than they need. And I think it is clear when incumbents do, whether it is intentional or not, there is a clear perception that the challenger is being scared off. We voted last night to have a new campaign finance law that requires the taxpayers to pay for much of the campaigns. My friend from Kentucky indicates that we are going to spend over $150 million of the taxpayers' money on our campaigns.

Mr. FORD. Which one?

Mr. McCAIN. At least we ought to defray some of that by returning what we do not need to the taxpayer. My amendment would ban rollover accounts.

It says two things. First it says our campaign funds should only be used for campaign purposes. As long as taxpayers are subsidizing campaigns the subsidy ought to be limited to campaign purposes.

Money in a campaign is fungible. If we really want reform we should stop the noncampaign use of money given to our campaigns by contributors and the taxpayers.

Second, my amendment says at the end of the campaign when the bills are all paid and the polls close that the surplus money should go to the Treasury to reduce the deficit and to defray the costs that will be expended by the taxpayers in the next election to help pay for that election.

We all know, Mr. President, that incumbents have an easier time raising money. They simply roll up war chests before the campaigns begin. They can build it up before their election cycle if they want, right now, and they do.

Let me mention a couple of facts. Following the 1988 elections, incumbents in the other body rolled over $63.4 million; $63.4 million, Mr. President, which happens to be 1.5 times the total spent in the 1988 cycle by all the challengers, which was $41.6 million. That is incredible. In other words, the incumbents rolled over 1.5 times more money than the challengers spent in races for election in the other body. There were 214 of the winning incumbents in the last other body election cycle who finished their campaigns with at least $100,000 in unspent campaign funds. Of those winners, 86 have at least as much in the bank as they spent to win their last election, and 52 received enough from PAC's alone to finance the entire cost of their campaign. There were 16 Members of the other body who raised at least $250,000 more than they spent during the 1988 election.

The problem is getting worse. In 1986, Members of the other body had $47.8 million cash on hand, on December 31, 1986, while challengers had only $.7 million.

Those same incumbents had $63.4 million cash on hand on December 31, 1988, while challengers had $.8 million.

The figures for the Senate, this body, are lower, but incumbents still end with significantly more than the challengers. In 1986 incumbents in this body finished the year with $8.8 million while challengers finished with $1.1 million surplus. In 1988 incumbents finished the year with $7.8 million while challengers had only $.6 million.

The average carryover for incumbents in the other body has risen from about $20,000 per incumbent in 1979-80 to $146,000 in 1989 and 1990. The total carryover to all incumbents has risen from $9.2 million at the end of the 1978 election cycle to over $71 million after the 1988 election cycle.

Mr. FORD. Mr. President, will the distinguished Senator yield?

Mr. McCAIN. I would like to finish my remarks.

Mr. FORD. I thought it would be a good point, but I will wait.

Mr. McCAIN. I thank the indulgence of my good friend from Kentucky while I briefly wrap up my remarks.

Mr. President, we have going to hear some argument, with some legitimacy to it, that this puts some terrible constraints on incumbents. This will make life very difficult for some. I understand that and I appreciate it.

But I would also say, Mr. President, that campaign funds should be used for campaign purposes. I do not go out, Mr. President, and ask people to provide me with campaign funds so I might attend a funeral, or send flowers, or take a constituent to dinner, or any other form of recreation that has sometimes been indulged in with campaign funds. I ask my constituents, my contributors, for funds to conduct a political campaign.

Also, Mr. President, we do not have a tough life here. We have free tele-

phone, we have free trips home, we have free staff, we have free mailings. That was the subject of debate earlier on franking. And we also have a salary which puts us in the top one-half of 1 percent of income of all Americans.

Mr. President, I sympathize with the difficulty and arduous lifestyle that my friends have. I indulge in the same kind of lifestyle. But I think it is very hard for our constituents to show pity upon a group of individuals who are in the top one-half of 1 percent of income of the American people.

Mr. President, I do not think we are ever going to have a level playing field for challengers unless we start out, both challenger and incumbent, with the same amount of funds; recognizing that incumbents have an enormous advantage in fundraising as it is. But no challenger in his or her right mind will challenge someone with many millions of dollars in the bank that they can use for a campaign.

I urge the adoption of this amendment. I at this time would like to respond or just yield to my friend from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Just for a question, is all I want. Did the Senator figure out how much might be left with a cap? We are hoping we can set a limit on the amount of money that is being spent. Was there any effort, conscientious effort, given to trying to figure that out?

Mr. McCAIN. To respond to my friend from Kentucky, it would be fairly easy because that would be the limit that is allowed for each campaign, which varies as he well knows from some hundreds of thousands of dollars to some millions of dollars. Multiply that by 535. I think that would be the answer.

Mr. FORD. There would be a surplus, though. My colleague is talking about the turnover. I have a little money left for the next time. I hold it and draw interest on it or pay for political operations and that sort of thing. But that is the surplus the Senator wants me to give up at the end of my campaign. But, if we have a cap, will there be a surplus? Will there be anything to turn over?

Mr. McCAIN. I suggest, in the case of certain individuals here, such as my friend from Arkansas, whom I see here who is without an opponent, as are some others in this body, they could carry forward their whole amount of money.

Mr. FORD. I will gladly give up my money for the elimination of the opponent.

Mr. McCAIN. That is what I say to my friend. So it is hard to make that calculation.

Mr. FORD. There will not be a surplus, basically, with the cap.

Mr. McCAIN. Depending on how much the incumbent chose to spend.

Mr. FORD. That is true. We are raising $5 million and $6 million in my State per candidate, and the limit will be somewhere around $2.4 million. That is about half. So would there be any surplus?

Mr. McCAIN. I think it would depend on the contributions minus that individual's expenditures, clearly.

Mr. FORD. I understand. But you have a cap. I am trying to get how much money might be left if you have a cap.

Mr. McCAIN. My response, again, to my friend is I cannot give him that number because each incumbent will spend varying amounts of money. In your State, where you have $2.4 million, that might all be spent. In the case of people who are unchallenged, perhaps none.

Mr. FORD. He would not be given any allotment. He would be through. He would be certified. Therefore, he would not have to spend any money.

Mr. McCAIN. It will have to be corrected. My understanding of the bill is whether someone is opposed or not, they are still eligible to raise and expend money within those limits.

Mr. FORD. I suspect they would, but I doubt seriously.

Let me ask, there is a group in Arizona that I understand that Senator Goldwater and some others put together to put a cap on expenditures; is that correct?

Mr. McCAIN. Actually, Senator Goldwater, the Senator might be interested to know, was quite upset when he heard his name had been associated with any legislation which had anything to do with expenditure of taxpayers' dollars.

Mr. FORD. This is what was being done in Arizona, and it was a group that was put together. I believe Mr. Mahoney or Maloney came and testified before the committee.

Mr. McCAIN. There has been no legislation as a result of the activities of that group of people.

Mr. FORD. I understand that, but they have been able to get people to agree to put limits on their expenditure.

Mr. McCAIN. Not that I know of.

Mr. FORD. The testimony before our committee was 25 races prior to their organization, 24 of the 25 incumbents won. After they were able to put this philosophy in place, 19 challengers won in the same 25 races next time.

Mr. McCAIN. It interesting, I say to my friend from Kentucky, because I am very glad he brought that up. It just so happens—being something of an insomniac—I happened to watch that very interesting testimony that night before your committee and the very eloquent and penetrating questions that my friend from Kentucky asked.

What the witness failed to mention was that that campaign was certainly not typical of any campaign in the State of Arizona because we had an impeached Governor, and that Governor had a significant amount of support among some people who engaged themselves in the primary. Those incumbents, most of them, the overwhelming majority of them, were defeated in the primary by members of the Republican Party who were very much opposed to those individuals who had voted for the impeachment of the incumbent Governor.

So I would, by no means, use that scenario as an example of success or failure.

I would go to other States, if I were the Senator, that had postspending limits to get the kind of statistical data that would be helpful.

Mr. FORD. Emotions are even here on the floor at 2 or 3 o'clock in the morning. Emotions happen in political races. I had one scholar tell me, "We vote 75 percent emotion and use the other 25 percent to convince ourselves our emotional vote was correct." So emotion is involved in politics. It is your ability to create interest and enthusiasm and emotion. That has a lot to do with it.

You are telling me this group just by happenstance did a good job.

Mr. McCAIN. I would have to say that group does a very fine job. But their proposition 200 which was passed, by the way, limits contributions, not spending limits. There are no spending limits in the State of Arizona.

Mr. FORD. I was just interested in that because that was the only place that we had—we have other States that have limits. New Hampshire now has one. That was the only State that had some real factual data to give the committee, and you are saying we can throw their factual data out the window because of the Governor's position at the time.

Mr. McCAIN. No. I think my friend from Kentucky would agree with me that when the speaker of the State house of representatives, the majority leader of the State senate, the chairman of the State judiciary committee—and I could list seven or eight others—are defeated in a primary in an election cycle, that it is a very unusual situation.

Mr. FORD. I had the opportunity to run against the majority leader of our State senate.

Mr. McCAIN. My friend from Kentucky is a highly competent and unusual politician.

Mr. FORD. Flattery will get you almost everything except a vote on this amendment.

Mr. McCAIN. I thank my friend from Kentucky.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. If my friend from Arizona will yield, I would like to ask one question, if I could.

I had the privilege, Mr. President, of negotiating for approximately an hour or so with the Senator from Arizona about not only the meaning, but also the intent of the amendment. I am sorry that I do not have it here. The time was yielded back earlier than I had anticipated on the previous amendment, and I was not quite prepared.

My question is this: Does the Senator's amendment have anything to do with the so-called combo account? Does it change in any way the combo account system? Because this is what interested me in this particular area of the legislation.

Mr. McCAIN. I respond to my friend from Arkansas—and I appreciate, by the way, his efforts at working on a reasonable compromise because I know that he and I share exactly the same goal, and that is to impose a level playing field on this issue and other issues. I deeply appreciate that.

My answer to my friend from Arkansas is, no, it does not in any way affect the so-called Mitchell-Boren bill as it exists today nor is it in any way intended to. When it was presented to my friend from Arkansas, it was an oversight.

Mr. PRYOR. So the Senator from Arkansas will be assured that the so-called Mitchell-Boren language prohibiting the use of combo accounts, the commingling of funds from the various committees, into the Senator's account——

Mr. McCAIN. My friend from Arkansas is correct.

Mr. PRYOR. It would retain not only the language but also the spirit of the Mitchell-Boren language.

Mr. McCAIN. The Senator is correct.

Mr. PRYOR. Mr. President, another question, if I might.

How long, if there was an extra amount of money in a Senator's account or in a Congressman's account, after the campaign would that Senator have to pay back to the Federal Treasury that excess?

Mr. McCAIN. I say to the Senator from Arkansas, as he knows, there is an FEC-required filing of a report the following July after an election. At that time, these funds would have been required to have been dispensed with.

Mr. PRYOR. Mr. President, one other issue that I am not certain on. If we applied this to Members of the Senate and if, in the Senator's words, we are attempting to create a sense of fair play and level the playing field, why would it not also be leveling the playing field if we required the respective Republican committees and Democratic committees after the election cycle to turn back all of their money?

Mr. McCAIN. Actually, I tell my friend from Arkansas, that would not bother me a great deal. Since the conversation he and I had, it is my information that both campaign committees end up in debt after every cycle.

Mr. PRYOR. I think the Senator will speak for himself. I will speak for our side. We usually end up trying to collect extra money to pay off our debts.

Mr. McCAIN. It is my understanding in 1986 and 1988 the Republican Senatorial Campaign Committee also ended up in debt.

I ask my friend from Minnesota if he will respond. Is it true that after the 1986 election cycle, the Republican Senatorial Campaign Committee ended up in debt?

Mr. BOSCHWITZ. To the amount of $5 million.

Mr. McCAIN. After the 1988 campaign?

Mr. BOSCHWITZ. We had something of a surplus, slight surplus.

Mr. McCAIN. Could the Senator tell my colleague about how much that might have been?

Mr. BOSCHWITZ. About $2.5 million.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. How much did you spend that year?

Mr. PRYOR. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

Mr. FORD. Mr. President, could I ask the Senator from Minnesota a question?

The PRESIDING OFFICER. The Senator from Minnesota took the floor for purposes of a question from the Senator from Kentucky.

Mr. FORD. One quick question. Just one quick question, Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for purposes of a question.

Mr. FORD. In the two cycles you wound up in debt, how much did you spend?

Mr. BOSCHWITZ. I really do not recall.

Mr. FORD. The Senator was chairman.

Mr. BOSCHWITZ. I understand. But I do not recall the entirety of the expenditure.

Mr. FORD. Can the Senator give me a ballpark figure?

Mr. BOSCHWITZ. Let me answer it, because it came out of a question that the Senator from Arkansas answered, that for a committee to see to it that it ends in debt is no trick at all. I would say to my friend from Arizona that if you want to amend the amendment to say the committee can turn back a surplus, the committee can arrange to do that. If the Senator from Kentucky wants me to stipulate that the Republican committee was more successful in fundraising than the Democratic committee and that we spent more, I would be happy to stipulate to it.

Mr. FORD. All the Senator has to stipulate is the amount of money within a ballpark figure, and the Senator is beating around the bush.

Mr. BOSCHWITZ. Mr. President, I say to my friend from Kentucky that if he wants me to stipulate that the average gift to the Republican Senatorial Committee was a good deal less than the average gift to the Democratic Senatorial Committee, I would be happy to stipulate as well. I do not recall the precise figure and I am not going to give ballpark figures on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Minnesota has yielded the floor. The Presiding Officer is unclear as to who is controlling time for the opposition to this amendment. Who is controlling time in opposition? Is it the Senator from Oklahoma?

Mr. BOREN. Mr. President, I will assume that role at this point in time. It is unclear whether this Senator will actually be opposed to the amendment. So if there are other Senators who come to the floor who indicate to me that they wish to be in opposition to the amendment—I am in the position now of trying to ascertain exactly what the amendment does and whether or not there might be some modifications possible to the amendment that would cause this Senator to support it.

So let me say that I will control the time on this side unless there is someone on either side of the aisle who indicates to me they wish to be in charge of the time in opposition.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. McCAIN. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I am prepared to yield back the remainder of my time if the opposition is ready to do so.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I yield myself as much time as I might require. I was just discussing with the Senator from Arizona if he would be willing to modify his amendment and he just indicated to me he would be

willing to modify his amendment. I am a little puzzled. He just sought the yeas and nays. Now the Senator would have to ask unanimous consent to modify his amendment. I assume no one would object to that.

I would like to explore the situation as it applies here. I understand that the Senator has modified his original amendment as I first saw it to remove banning of the restrictions on what we call combo accounts. That is the use of party committees to put money into office accounts. Am I correct, if I might direct that question to the Senator from Arizona?

Mr. McCAIN. My friend from Oklahoma is correct.

Mr. BOREN. Let me ask also, has the Senator modified his proposal in terms of to which election cycle this would apply?

Mr. McCAIN. I would say to my friend I have not.

Mr. BOREN. Is the Senator willing to consider whether or not it woud be made prospective? I raise that question because the bill as we are now looking at it applies only to funds that begin to be raised from the date of enactment forward—in other words, those funds which are raised, to be raised and spent in the 1992 elections.

There are those who have suggested to me that since we have tried not to make the provisions retroactive, in effect the amendment of the Senator from Arizona would be retroactive because it would apply to funds that have been raised in years prior to the time that we are now speaking. Is it possible that the Senator would consider modifying his amendment to apply this prospectively either to funds raised after the date of enactment or to funds on hand as of election day 1992?

Mr. McCAIN. Let me say to my friend that I would not be willing to modify it to that date. I understand the point that my friend is making. I think there is some legitimacy to it. But we also have an election coming up. There will be excess funds. I think those excess funds should be returned to the Treasury after the 1990 election, and I think that the taxpayers should begin to be repaid for the nearly $150 million that we are going to be spending of their money in the upcoming elections.

Mr. BOREN. Again, I yield time to myself and I take time in responding out of the time allocated to me.

I would have to indicate I do not think those figures are accurate because the voucher maximum cost would be $20 million, not $150 million or $160 million. But the other question I would direct to my colleague from Arizona—so he is not willing to modify the amendment to make it applicable to the figure?

Mr. McCAIN. I am willing to make it applicable to the future, to the 1990 election, which is in the future.

Mr. BOREN. I understand the Senator's answer. Let me ask this question. We have had this discussion as to some amount of funds that will be necessary to be carried over. In the bill that is now before us, we have what is called compliance with campaign laws which continue really through a whole 6-year term of a Senator, where you have to hire accountants and people to advise us legally; we have to hire bookkeepers, unless we are going to violate the law and have the books kept by someone on the Senate payroll. We will have to be able to pay people to keep the campaign records that are required to be filed on a semiannual basis with the FEC.

So if no campaign funds whatsoever are carried over, it will become necessary for Senators to start raising money on day one, the day after the election, if nothing else than for the purpose of complying with the law and the Federal Election Commission requirements.

We have had a lot of discussion about this because there are a number of us concerned with this carryover question. I am concerned about it. I understand it is particularly a problem in the House of Representatives. I am not unsympathetic to the point that the Senator from Arizona is making, although I am concerned about the way, frankly, the amendment is drafted.

Had we realized it applied to the rollover, I would have probably suggested we take more time and have a greater opportunity to work it out because I think the Senator is making a valid point. I do not quarrel with the point he is making at all. I do have some problems technically with the way it is carried out.

Would the Senator be willing to modify his amendment to allow a certain number of funds, $100,000 or some figure that would be reasonable to be carried over at the end of a Senate campaign in order to be used for the kinds of purposes that we spelled out in the compliance account in the original legislation?

Mr. McCAIN. I would say to my friend from Oklahoma I have some serious concerns with the compliance fund itself. I have some concerns that we are now going to provide $300,000 in addition to the spending limits for the incumbent that the challenger will not have. I would, with an amendment tomorrow, try to address that part of that problem.

Mr. BOREN. Let me ask if the Senator, in terms of his own amendment tonight, since unfortunately we will have to go ahead and vote tonight under the unanimous-consent agreement, would be willing to modify his amendment to allow for not changing the concept of his bill but to simply say funds in excess of x amount, whether it is $100,000 or whatever the amount, carried over after the election date would have to be returned to the Treasury?

That way you would not put Senators, simply those who want to comply with the law, who are not independently wealthy, who could not reach into their own pockets to pay for attorneys and accountants and bookkeepers, for example, to keep the Federal Election Commission records—I have to pay someone for that purpose. I assume all the rest who try to carefully separate their office functions from their campaign functions have certain expenditures which begin immediately.

They do not end with an election. They continue on through the whole cycle if we are trying to be very careful about complying with the law. For those who do not have independent means who simply cannot afford to reach into their own pockets and pay lawyers, accountants, and clerks to keep the campaign records, this would become very burdensome.

Mr. McCAIN. Let me remind my friend, as he well knows, campaign expenses can be paid for out of campaign funds.

Mr. BOREN. Not if there are no campaign funds there.

Mr. McCAIN. I am sure the individual notes that there is no incumbent that has any difficulty raising the very small amount of money that would be required to maintain this, particularly since CPA and lawyer services can be provided for free to a campaign.

So I do not know what my friend from Oklahoma's expenses are that he contemplates, but they certainly would not be significant except for an FEC report which comes up 7 or 8 months after the election.

Mr. BOREN. I would just say to the Senator that I think that his statements may be worthy, but I think by saying that not a single penny may be carried over after an election, even for the purposes of funding those expenditures necessary for campaign compliance, is certainly an extreme point of view to take; I think an unwise point of view to take.

I think there are ways of crafting an amendment to avoid the multimillion-dollar or the several hundred thousand dollar carryovers from one campaign to another. But I would hope that the Senator, from our earlier discussions, would have been willing to have made this prospective in application not for the last election cycle, or at the very least, that he would have been willing to have put up some amount of money, some reasonable sum that would not be a sum sufficient to scare off a challenger in the

future or to stack the deck against a challenger.

We now have spending limits that are also the strongest message to a challenger that they could have that an incumbent cannot raise unlimited amounts of money. That is the best signal we can send to challengers—having these spending limits to prevent the kind of intimidation from huge amounts of money that have otherwise been there under the present system.

I have expressed my disappointment, in light of our conversations, that the Senator would not at least consider making some modifications because the Senator will simply have to understand and decide how to vote considering that there is a lot of refining that would have to be done later on with this amendment. But I wish we could have refined it before we had to vote on it tonight.

Mr. McCAIN. Let me respond by saying that first of all the campaign funds, of course, can be used to clean up any paperwork that needs to be taken care of from the campaign. The FEC reporting requirement is not until the following July.

When my friend from Oklahoma expresses his disappointment, let me say that my friend from Kentucky and I have been disappointed time after time after time after time, as we have to go through this ordeal: the party-line votes, protecting soft money, and providing incredible advantages to those people on the other side of the aisle, in another party, as we have gone through this process. All bipartisanship has clearly broken down, as we can see from the votes which basically took place along party lines.

So I certainly sympathize with my friend from Oklahoma because he now shares the disappointment that many of us feel that we could not get together in a bipartisan fashion and address this issue. I am sorry that my friend from Oklahoma finds it an insurmountable task to take care of the very, very minor expenses that would occur for any incumbent following an election that frankly I think are very insignificant.

I have talked to many of my other friends who are incumbents. They said the expenses that they have incurred following an election are very minor. I am opposed to the incredible proposition that this should be $300,000 in addition to that which the challenger has, which is now part of the bill which gives about a 15-percent advantage.

I find it even worse if we had even more money for the ability of the incumbents which would then give them that much more of an advantage.

So I appreciate the concerns of my friend from Oklahoma, but if he is disappointed let me tell him that the minority leader, the Senator from Kentucky, and I share his disappointment that unfortunately, on an issue that has been so rancorous, for which I have been personally attacked time after time by organizations who are clearly aligned, beginning with the antiwar movement, with causes different from me, I share your disappointment and our inability to reach an agreement on this and many other issues.

Mr. BOREN. Mr. President, how much time remains to this side?

The PRESIDING OFFICER. The Senator controls 18 minutes.

Mr. BOREN. I yield myself 3 minutes. Let me say I regret that the Senator from Arizona feels that way. I am sure the Senator from Arizona knows that this Senator has never made one derogatory word that I can ever remember or comment about the Senator from Arizona as a Senator, as a person, in any way whatsoever.

This Senator, if he has ever been quoted about the Arizona Senator, has always been in the highest possible terms of commendation and respect. Let me say I think that there is this; I do not know who is trying to fan the feeling that we are having partisanship for the sake of partisanship here on the floor. I do not think that is the case at all.

Let me say that again and again. We have begun this whole process and modified our amendment as we laid it down to provide for the total abolition of PAC's, which we were told—and perhaps we should have waited—modified our amendment as a gesture of good will; perhaps we should have allowed that to be the first amendment from the other side. We were told that was going to be the first amendment.

When the distinguished Republican leader came to us, he said that is the first amendment, we want a vote up or down, or to ban all PAC's, and we could have not modified our package, have allowed that to be the first amendment, and demonstrated by that vote our willingness to accept the amendments from the other side of the aisle.

But instead we went one step further. We thought we incorporated it in this package. I would say to my good friend and others who may have spoken in a demonstration of good faith, it is well known we received more money on this side in the aggregate from political action committees—that is particularly true in the House side—than the other side of the aisle.

But we reached out. We tried to make it clear to everyone this afternoon. We had the amendment of the Senator from Oklahoma, and some people have said, "Why did we accept that amendment on franking?" My answer would be to them that is because I think it is good government. I do not care which side of the aisle that amendment came from It was passed, I think, with only one dissenting vote.

We are not interested in trying to do something for some partisan reason, I assure my colleague. Earlier I opposed the amendment on soft money, what was said to be an amendment on soft money, not because I am opposed to doing something about soft money. We accepted language from the Senator from Kentucky in terms of some party soft money language.

We accepted an amendment proposed earlier for the piece of legislation from the Senator from Kentucky in terms of tax-exempt organizations which are created by Members for the purpose of get-out-the-vote efforts.

All I am saying is that every time there is an honest difference of opinion about whether something is properly drafted or not, I do not think we ought to say that is partisan. That is not partisan at all. I did not happen to believe that we should pull the tax-exempt status of the American Legion or the Chamber of Commerce, for example, or the VFW if they happen to bring up an article favorable or unfavorable to a Member of the Senate based upon their position on health care for veterans.

I felt that was the effect of the last amendment. If it has been offered on this side of the aisle, I would have still thought that was the effect. I would have voted against it.

So let me just say I think there are honest differences of opinion. We are going through a process which we said we would go through for every amendment to be considered. There has not been a second-degree amendment attempted on this side of the aisle to avoid an embarrassing vote or to prevent anyone from the other side of the aisle from offering an amendment and having an up-or-down vote.

In all honesty, the reason I questioned the Senator from Arizona was not to try to be opposed to his amendment, but to see if that amendment would be put in a form which is reasonable, which would be prospective in application, which would allow at least some minimal amount of compliance so that we would have amendment that would work, that could be accepted on both sides of the aisle.

But it becomes impossible if we are put in the impossible position of saying if we cannot get amendments modified, work out agreements on amendments, or continue to modify them, it becomes automatically partisan. I do not want to say quarrelsome. I am not quarrelsome to my good friend from Arizona. I just simply want to say to him, he knows in all the time we have served together I have never, on any partisan basis or any other basis, attacked him. I cannot be responsible for the actions of others,

but I have tried as we have begun this debate; I am as sincere as I can be.

As the Senator knows, his distinguished predecessor from the State of Arizona is one of the first people that led me to have an interest in this issue. It is an interest that I have carried on with sincerity. And there are many people on the other side of the aisle, some of them sitting in this Chamber right now, who have just as sincere a commitment to the cause of campaign reform as I have. I salute them for that interest and that concern.

There are some on both sides of the aisle sincerely concerned. There are some on both sides of the aisle who are not sincerely concerned about campaign reform. So let us, under the circumstances, put partisanship aside and try to work for what is best, and let us not try to read into any difference of opinion on votes that it is always partisan because, in all honesty, it is not. I want my good friend and colleague to know that.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. First of all, Mr. President, if my friend from Oklahoma interpreted my remarks as meaning that he had said anything derogatory about me, I apologize for creating that impression. I believe if we went through the RECORD, he would find I did not say that.

What I did say was that this has become a partisan issue, 57-43, 41-59, 46-49, divided up basically on party-line numbers particularly when we are talking about issues that are very important to those of us on this side of the aisle, as far as public financing is concerned and so far as "soft" money is concerned.

But I would hasten to add that no one has worked harder, longer, with more dedication, with more zeal, more bipartisanship than the distinguished Senator from Oklahoma. I think he has done a magnificant job. He has struggled and labored for literally years. I remember when I first came to this body, the Senator from Oklahoma approached me on the issue of campaign finance reform, and we had some very significant, meaningful, and, to me, educational meetings which consumed many hours of both of our valuable time. So please know that I have the utmost respect and affection for the Senator from Oklahoma.

Unfortunately, that does not change the fact that this issue, which should be bipartisan in nature, has broken down along party lines. We all agree that there needs to be campaign finance reform. It is just that our methods of arriving at that goal have diverged rather dramatically. I will not elaborate on what I was referring to. I know that the Senator knows that organizations have impugned my integrity and the integrity of others, and our sincerity, as to whether we are interested in campaign finance reform. In fact, they have spent a great deal of their money in doing so, in taking out full-page ads in newspapers and other fundraising efforts. In fact, it is very interesting to me to be a vehicle for fundraising for at least one organization.

Frankly, that upsets me. It upsets me a great deal, but it certainly has nothing to do with the incredible, Herculean efforts on the part of my friend from Oklahoma.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma is controlling 13 minutes, 47 seconds.

Mr. BOREN. I yield to the Senator from Massachusetts as much time as he requires.

Mr. KERRY. I rise to place a unanimous-consent request. I have discussed this with the minority and majority leaders. There is a technical error in the submission of the substitute. I ask unanimous consent that should the Kerry-Biden-Bradley substitute be agreed to, it be considered original text for purposes of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I do not think I will object, I think, as I understand it from the Parliamentarian, that if the Kerry amendment were adopted, which is in the nature of a full substitute, it would not be amendable. So some entertained the thought maybe we all ought to vote for it. That would certainly take care of this bill. But I understand that there are ways to get around that, and what the Senator from Massachusetts is seeking to do is just avoid that time-consuming motion to recommit and other possibilities. So I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous consent is agreed to.

Who yields time?

Mr. KERRY addressed the Chair.

Mr. McCAIN. I am prepared to yield back the remainder of my time.

Mr. KERRY. Mr. President, may I have time yielded to ask a question?

Mr. BOREN. I yield such time as the Senator from Massachusetts might require.

The PRESIDING OFFICER. The Senator from Massachusetts has such time as he may require.

Mr. KERRY. I wanted to ask a question of the distinguished Senator from Arizona, who is now in conversation. I will save everybody time and ask him personally and yield back.

The PRESIDING OFFICER. The Senator from Massachusetts yields back his time. Who yields time?

Mr. DOLE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DOLE. On both amendments?

The PRESIDING OFFICER. The yeas and nays were ordered on the amendment of the Senator from Arizona. The yeas and nays have not been ordered on the amendment of the Senator from Massachusetts.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on the amendment of the Senator from Arizona?

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I yield to the Senator from Colorado such time as he may require.

The PRESIDING OFFICER. The Senator from Oklahoma yields such time as is required to the Senator from Colorado.

Mr. WIRTH. Thank you, Mr. President. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WIRTH. Mr. President, I wanted to pick up briefly on the colloquy and questions and answers between the Senator from Oklahoma and the Senator from Arizona.

I am quite torn on this amendment. On the one hand, I think there is a good deal of virtue in terms of the rollover provision. That makes a lot of sense, and I think that the Senator from Arizona is headed in the right direction.

There are two other parts of this that I think are very unfortunate. One of those is the whole issue of compliance in ethics reflected in the questions of the Senator from Oklahoma. One of the items built into the proposal of the distinguished majority leader is to draw a very clear line, a very clear line, between one's official expenditures as a Member of the U.S. Senate, paid for by taxpayer funds and your campaign office, which should not be paid for by taxpayer funds. That is the whole purpose of the compliance fund which is now eliminated. So every temptation and every incentive is now going to be for every Member of the Senate to comingle taxpayer funds and campaign funds. That is something we should not do. We should be drawing a broader line, rather than fuzzying the line.

That is one of the problems I think could have been worked out in the amendment of the Senator from Arizona. Another one that may be more important, certainly more subtle, is

the impact which this amendment may have on the makeup of this particular institution. We already have a problem in this institution, Mr. President, of attracting individuals to run for the U.S. Senate who are not individuals of great wealth.

We have a particular problem of attracting people who both are not of great wealth and happen to be younger and have children. One of the problems that anybody in this institution faces, or in the House faces, is bringing up children and living some kind of a reasonable life, where the Member of the House or Senate has time to spend with his or her family. One of the things that one likes to do in a reasonable way of trying to be a parent is to be able to have your family with you, which means being able to take your family to your district or to your State at that time.

What this amendment does is effectively eliminate the capacity that individuals have to do that. What we are doing here is further drawing a wedge between those individuals in this institution who have a lot of money and can do anything that they want to do and individuals in the institution who, with campaign funds fully reported and fully within the law, are able to do various things with their families in terms of having their family both in their districts or in their States and helping them to perform their responsibilities here.

That is a very subtle, but I think a very dangerous and very nasty, unintended consequence of the amendment of the Senator from Arizona. I do not think that is intentional, but that is there. When we have a chance to work this out, that and the other problems reflected by the Senator from Oklahoma in this, we have an ethics problem in this amendment, and we certainly have a divisive problem in this amendment, and I think, therefore, despite its well-intended consequences and well-intended side related to rollovers, we ought to vote against it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. BOREN. Mr. President, I inquire of my friend from Arizona, the Senator from Oklahoma has indicated earlier that he is in basic sympathy with the concept of trying to prevent large rollover amounts. I think we understand the advantage that gives to incumbents. I have to say, in all honesty, that I think there are still a lot of technical problems with the McCain amendment. That is the reason I was trying to offer a constructive way to improve them.

But, on the other hand, I am not at all opposed to us trying, as a principle, to make the point of trying to prevent large rollover amounts. We can work on refinements later on in terms of the process. This is going to go to the other body in conference and we can refine it. I am certainly in general in sympathy with the principle.

Would the Senator still desire a rollcall vote or would the Senator be willing to vitiate the yeas and nays and allow me, as manager of the bill, as a sign we are endeavoring to remove the kinds of partisan divisions we had and work together and accept the amendment.

Mr. McCAIN. That is my understanding, that my friend from Oklahoma would like the vote vitiated, is that correct?

Mr. BOREN. I would.

Mr. McCAIN. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object.

The PRESIDING OFFICER. There is objection.

Who yields time.

Mr. BOREN. Mr. President, I yield back all time on this side.

The PRESIDING OFFICER. The Senator from Oklahoma yields back all the time.

Mr. KERRY. I wish briefly to explain my vote on the McCain amendment. I support its attempt to limit the ability of incumbents to stockpile funds, or to use funds for other than campaign purposes. However, I oppose the concept of returning these funds to the Treasury, which constitutes a tax on those who make political contributions. Instead, the amendment should have permitted candidates to refund those contributions proportionately to the contributors. Accordingly, I shall not vote for the McCain amendment, although I agree with its goals.

Mr. McCAIN. How much time do I have?

The PRESIDING OFFICER. The Senator controls 3 minutes, 36 seconds.

Mr. McCAIN. Mr. President, I think it is a good amendment. I know there are problems that have to be worked out. Again, I say to my friend from Oklahoma, I appreciate his efforts, and I understand the difficulties that he has, and hopefully we can smooth out the problems that are associated with this amendment.

Mr. President, I yield back the remainder of my time.

VOTE ON AMENDMENT NO. 2443

The PRESIDING OFFICER. The Senator from Arizona yields back the remainder of his time.

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts [Mr. KERRY]. On this question, the yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from Mississippi [Mr. LOTT] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 60, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—38

Adams	DeConcini	Metzenbaum
Baucus	Dodd	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Pell
Boren	Gore	Reid
Bradley	Harkin	Riegle
Bumpers	Inouye	Sanford
Burdick	Kennedy	Sarbanes
Byrd	Kerry	Sasser
Conrad	Lautenberg	Simon
Cranston	Leahy	Wirth
Daschle	Lieberman	

NAYS—60

Akaka	Gramm	McConnell
Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Breaux	Hatfield	Nunn
Bryan	Heflin	Packwood
Burns	Heinz	Pressler
Chafee	Helms	Pryor
Coats	Hollings	Robb
Cochran	Humphrey	Rockefeller
Cohen	Jeffords	Roth
D'Amato	Johnston	Rudman
Danforth	Kassebaum	Shelby
Dixon	Kasten	Simpson
Dole	Kerrey	Specter
Domenici	Kohl	Stevens
Durenberger	Levin	Symms
Exon	Lugar	Thurmond
Garn	Mack	Wallop
Gorton	McCain	Warner
Graham	McClure	Wilson

NOT VOTING—2

Armstrong Lott

So, the amendment (No. 2443) was rejected.

VOTE ON AMENDMENT NO. 2444

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 2444, proposed by the Senator from Arizona [Mr. McCAIN].

Mr. FORD. Mr. President, I believe we are in the mood to vitiate the yeas and nays on this and agree to it by voice vote. I think the two combatants are about ready to make a decision. Is there a possibility that we might wait a minute for the Senator who was the proponent of this amendment?

The PRESIDING OFFICER. Is there an unanimous-consent request?

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quoum has been suggested. The clerk will call the roll.

The clerk will call the roll for purposes of ascertaining the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Under the previous order, the question now is on agreeing to the amendment proposed by the Senator from Arizona. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Mississippi [Mr. LOTT], are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 49, nays 49, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—49

Biden	Hatfield	Murkowski
Bond	Heflin	Nickles
Boschwitz	Heinz	Packwood
Burns	Helms	Pell
Chafee	Hollings	Pressler
Cochran	Humphrey	Rudman
Cohen	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Dole	Kerrey	Specter
Domenici	Kohl	Stevens
Durenberger	Lautenberg	Symms
Exon	Levin	Thurmond
Garn	Lugar	Wallop
Gorton	Mack	Warner
Gramm	McCain	Wilson
Grassley	McConnell	
Hatch	Metzenbaum	

NAYS—49

Adams	DeConcini	Mikulski
Akaka	Dixon	Mitchell
Baucus	Dodd	Moynihan
Bentsen	Ford	Nunn
Bingaman	Fowler	Pryor
Boren	Glenn	Reid
Bradley	Gore	Riegle
Breaux	Graham	Robb
Bryan	Harkin	Rockefeller
Bumpers	Inouye	Roth
Burdick	Jeffords	Sanford
Byrd	Johnston	Sarbanes
Coats	Kennedy	Sasser
Conrad	Kerry	Simon
Cranston	Leahy	Wirth
Danforth	Lieberman	
Daschle	McClure	

NOT VOTING—2

Armstrong	Lott

So the amendment (No. 2444) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it it so ordered.

Mr. GLENN. Mr. President, I rise today in support of substantial improvements to the way that candidates for the U.S. Senate raise and spend money for election campaigns.

This issue has come under intense scrutiny. Nothing is more important to our system of representative government than the guarantee of free and fair elections and I believe that this legislation improves our current system.

I have been a candidate for office more than a few times. In the course of each campaign I have found it necessary to raise money.

In my early campaigns, less money was raised and spent, political action committees were few, contributions were almost unrestricted, and reporting requirements were all but nonexistent. Today, millions of dollars are raised through direct mail, PAC's, and endless dinners, receptions, and telephone calls.

Once raised, extraordinary amounts of money are spent on consultants, polling, computerized demographic analyses of constituencies, and television advertising.

We all remember the Watergate era that led to the current campaign finance rules. Reform was long overdue at that time. Now, we again confront the question of money in politics. In the 1970's we sought to reduce any impact of special interests by limiting contributions. The rise of PAC's, bundling, and soft money, has seriously eroded the credibility of past reform.

Mr. President, if campaigns are too expensive and fundraising detracts from the main purpose of the campaign, then let us limit campaign spending. No meaningful reform can be enacted without some limitation.

If PAC's exert too much influence or even appear to exert too much influence, then let us eliminate them.

If soft money has undermined reporting requirements and allowed large contributions, then let us eliminate soft money.

If contributions from private sources are suspect as campaign funds, then let us provide public funds to ensure that no special interests can contribute.

The measure before us is an improvement and provides substantial reform to our current system. It limits spending, it bans PAC's, it eliminates soft money, it provides public funding for mailing costs and broadcasting expenses. I believe that we should go beyond mail and broadcasting funding. I believe that we should bring to Senate campaigns the improvements we already have in Presidential campaigns—voluntary public funding contributed by the checkoff on tax returns. No question could be raised about the source of campaign when taxpayers voluntarily choose to contribute.

Our current campaign finance structure is flawed. It encourages suspicion. It distracts candidates away from the issues that are truly important in a campaign.

Mr. President, it is past time to act. Public confidence in our electoral processes has been seriously damaged. We must correct the shortcomings. We have that opportunity today.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,963d day that Terry Anderson has been held in captivity in Beirut.

REPRESENTATIVE LINDY BOGGS

Mr. JOHNSTON. Mr. President, on July 19 in New Orleans, LINDY BOGGS held a press conference. She announced that after more than 50 years in public life, first in partnership with her husband, Hale, then in her own right as a Member of Congress, she will not stand for reelection this year.

In her remarks, she recalled the events of what has been an extraordinary and productive career. Her efforts have improved the lives of women, minorities, the elderly in Louisiana and around the Nation. She has practiced her own unique brand of politics, overcoming resistance with intelligence and determination, resolving controversy with kindness and charm.

Her announcement could have been a sad occasion; it is a measure of LINDY's graciousness that it was not. It was even festive. As she has so often in the past, she made us welcome. She made everyone there feel like a friend.

When she spoke of her experiences during that half-century, I realized how far we in Louisiana and in the United States had come—how far LINDY and Hale had brought us—in housing, education, the environment. I wanted to share with my colleagues and with those who read the RECORD the eloquent statement of this very great lady, Representative LINDY BOGGS of Louisiana.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF REPRESENTATIVE LINDY BOGGS, NEW ORLEANS, LA, JULY 19, 1990

This campus has always been a very special place for me. Fifty-nine years ago I arrived here at Newcomb as a young girl from

Pointe Coupe Parish, a graduate of St. Joseph's Academy. Here I received an education that prepared me for a role in life that was unimagined at the time for women. It was here that I met a young man who would change my life. I married him, he was the father of my wonderful children, and he was my mentor in the world of public service.

It is ironic that my first real experience in a political campaign was a failure. Hale lost his campaign for Law School president. That loss didn't deter either of us. With other young leaders and backed by some outstanding women, we organized the People's League to help bring good government to the City of New Orleans and to the State of Louisiana. Then, fifty years ago this September, Hale was elected to Congress as one of the youngest Members in the history of the House of Representatives, and I found myself as the wife and partner to a young man trying to make a difference in pre-World War II Washington.

Returning to Congress after the war, Hale was filled with ideas and dreams: better housing for Americans, free international trade to bring a war-weary world closer together, and peace and prosperity for our children. It was in the late Forties that Hale and Bill Fulbright led an effort in Congress to urge the shattered countries of Europe to join together in a Western Europe Union, a visionary proposal at the time but an idea that may well be a reality in the next two years.

Politics and public service became very important in my life. My cousin, Chep Morrison, was elected Mayor. Hale ran for Governor and lost. In the House he attracted the attention of a man who would be a great friend and mentor, Sam Rayburn. Hale rose in the House leadership becoming Majority Whip and Majority Leader before his untimely death in Alaska pursuing his vocation of politics.

Many of you here today, long-time friends and supporters of Hale's, asked me to run for Congress and to carry on his tradition of service and to support his policies and goals. These last seventeen years have been momentous times for our City, our State and our Nation. We have learned how interdependent we are upon each other and on the rest of the world.

There are many achievements we can point to over those years. While the goal of affordable housing for all Americans has yet to be reached, we can be proud of what has been accomplished: revitalization of neighborhoods and a commitment, in partnership with the Archdiocese, to decent housing for our senior citizens.

The Port of New Orleans faces competition from other ports and transportation modes and it has suffered from international economic recession, oil embargoes and the like, but the River has been deepened to receive larger, modern ships and new Port facilities are being built to meet changes in technology.

Upriver at Old River new structures have been built to keep the mighty Mississippi in its course and to protect us from floods, such as the terrible one in 1927.

Hurricanes Betsy and Camille battered our region in the Sixties. Hale led efforts to plan hurricane protection for the area and, today, the Lake Pontchartrain, the Lafouche to Golden Meadow, and the New Orleans to Venice Hurricane Protection Levees are well on their way to completion. With the impending initiation of construction of the West Bank Hurricane Protection Levee, the people of our area will have the higher level of protection they need. In addition, Hale initiated and I have protected the Federal Flood Insurance program which has helped people devastated by the hurricanes and heavy rain falls of recent years.

In my time in Congress other issues have come to the fore: policies and problems undreamed of when I attended Newcomb. I am proud to have played a small role in opening doors for blacks and women so that all Americans can now take their rightful places as full participating member of our society. The Civil Rights and Voting Rights Acts that Hale and I supported were key to this progress, but so were the educational and economic opportunities we worked to create. I am proud of my part in helping get the Head Start Program off the ground, of my sponsorship of legislation to guarantee women and women-owned businesses access to credit, of my role in ensuring the participation of minority and women-owned businesses in several of the new major national projects: the Super Conducting Supercollider, the Space Station and the EPA Wastewater Treatment program.

Education itself has radically changed since I first came to this campus. Pell Grants and other Federal financial support have proven to be essential to allowing access for all Americans to higher education. We are standing in one example of my efforts to help equip our local colleges and universities to educate our young people to compete in the 21st Century. The Bioenvironmental Hazards Center at Xavier and Tulane Medical School, the Pennington Research Center at LSU, the Gillis W. Long Poverty Law Center at Loyola, the Municipal Waste Research Center and the soon-to-be Center for Energy Materials Research at UNO are important tools for providing quality education for the coming generation and for developing new technologies and industries that can sustain the economic growth of this region. Through special emphasis programs such as the Experimental Program to stimulate Competitive Research, or EPSCOR as it is better known, we are going to increase support to our universities to improve training and research in the sciences and math, fields essential for future growth where women and minorities are woefully under-represented.

I rejoice in my role in bringing about changes in the way we think our environment. Clean air, clean water, controls of hazardous materials, protection of our precious wetlands, and the acknowledgement of the global warming trend are now accepted policy objectives, not wishful thinking.

I am happy about my role in making the preservation of our historic buildings and neighborhoods a national policy and preserving natural resources such as the Jean Lafitte National Park and the Bayou Sauvage Wildlife Refuge for the public's enjoyment. Of course, more should be done but we will now bequeath a significant part of this legacy to our children, (and our great grand children!)

And, I am especially gratified to have had a part in the preservation of the history and the understanding of the institution of Congress to which Hale dedicated his life and to its buildings and its archives and its library. My first years in public service were spent striving to empower the people of this City in the face of government which did not meet their needs. Today, more New Orleanians and more Americans are able to participate in their government and their community.

My first years in Washington were spent under the clouds cast first by World War II and later by the Cold War. In the past nine months we have joyfully witnessed the struggling, peaceful birth of democracy in Europe, a trend which is rapidly spreading to Latin America and Africa. The prospect of a world at peace working together in cooperation is no longer a dream. It may be a reality.

Half-a-century is a very long time in the life of an individual, though it is but a fleeting moment in the history of nations. With my husband, I have devoted half-a-century to one of the most noble pursuits I know—public service. Much has been accomplished, though so much remains to be done.

Today I am announcing that this chapter in my service to the public is ending. After 17 years I will not stand for reelection to another term in the House of Representatives. I would like to thank each of you individually for your support and your friendship through the years. Some of us are old friends and some of us have known each other for a relatively short time, but together, we have made a difference—we have made this a better place for people who live, work and raise families alongside this beautiful crescent in the river.

This is not the end of my career. I will continue to actively participate in community activities here and in Washington. I look forward to working with each of you to find solutions to the unmet challenges. Although there are challenges that remain to be met, together we will go forward.

Thank You.

THE FARMER-TO-FARMER PROGRAM IN S. 2830

Mr. GRASSLEY. Mr. President, I neglected to bring to the attention of the Senate, as I had planned, during the debate on the farm bill last week, was the great work of VOCA. So, let me do that now with one good example.

On May 8, 1990, I participated in a breakfast meeting here on the Hill commemorating 20 years of service by Volunteers in Overseas Cooperative Assistance, known as VOCA. VOCA has sent over 800 volunteers to assist farmers and cooperatives around the world. At the breakfast, there were 11 Iowans among the nearly 200 volunteers who assembled to share their experiences in helping others help themselves.

Mr. and Mrs. Leslie Klink of Elkader worked in Cote d'Ivoire on maize production in assisting with soil conservation; Mr. and Mrs. Wesley Buchele of Ames worked in Zambia and Tanzania on manufacturing small agricultural equipment; Mr. and Mrs. Roger Newburn of Eagle Grove assisted Ugandan farmers in food production and rural extension; Mr. and Mrs. Leigh Rekow of Postville helped with field crop production in Haiti, corn production in Cote d'Ivoire and gain storage in Tanzania; Lamar Petersen of Scarville assisted in mechanization of corn production in Cote d'Ivoire; and Mr. and Mrs. Paul Willis of Thornton helped

the Barbados Agricultural Society to improve hog management practices.

Earlier this week, Gerald Pepper from Ames visited with me and reported on his recent assignment in Poland for helping Polish farmers reorganize their cooperatives.

VOCA sent these and other experienced senior cooperative executives and agricultural experts overseas to provide short-term technical assistance to cooperatives, private sector agricultural enterprises and government agencies in developing countries.

Since its founding in 1970, VOCA has completed more than 800 projects in some 87 developing nations, and has passed on appropriate U.S. technology and American technical know-how to tens of thousands of farmers and cooperators. Working side-by-side with their local counterparts, American volunteers from all across this great country have helped improve crop production, processing, storage, marketing, agribusiness development as well as strengthen cooperative operations and management.

All of VOCA's work is done at the request of the organizations in developing countries which insures that the projects are needed and demonstrates a willingness to implement the recommendations.

For VOCA volunteers, often a husband and wife team, their out-of-pocket, airfare and housing expenses are covered; the local organization provides in-country administrative support. This makes VOCA one of the most cost-effective technical assistance organizations of our U.S. foreign assistance program.

Under the SEED Act, VOCA is implementing a Farmer-to-Farmer Program in Poland which is revitalizing farmer cooperatives and developing private agribusiness. Twenty-three VOCA volunteers have assisted farmers to establish new private agricultural cooperatives, create new marketing mechanisms and processing facilities, privatize state-owned agricultural enterprises, improve dairy production and milk handling, and strengthen rural cooperative banks.

These volunteers are providing critical advice on the management and business operations as Polish farmers reclaim their former state-controlled cooperatives. Over the next 18 months, more than 100 United States farmers and agriculturalists will be providing hands-on expertise as Polish agriculture shifts to a free market economy.

Poland is the newest country. More typically, VOCA is helping poor countries in addressing international food and hunger needs in agriculture. VOCA provides a valuable people-to-people link in finding practical solutions to world hunger. Because of this outstanding work, President Bush awarded VOCA a Presidential End Hunger Award in 1989.

As we considered the 1990 farm bill, I'm glad my colleagues joined with me in supporting section 209 which extends and expands the Farmer-to-Farmer Program for another 5 years.

Initiated in the 1985 farm bill, this provision would continue this valuable volunteer program to increase farm production and raise the standard of living of the rural people in developing, middle income and emerging democratic countries. It is important that the Farmer-to-Farmer Program continue to be operated on a nongovernmental basis through Volunteers in Overseas Cooperative Assistance [VOCA].

The VOCA Program recruits American farmers and agriculturalists to work hand in hand with farmers and farmer organizations overseas. VOCA utilizes volunteers from land grant universities, private agribusiness and nonprofit farm organizations. In providing for the transfer of this broad array of agricultural knowledge on a people-to-people basis, the program encourages the democratic process by supporting private and public agriculturally related organizations abroad who request and support such technical assistance through cash and in-kind services.

This program is in the long-term interest of U.S. agriculture. As these countries become more economically viable, they will have the need and financial means to increase their purchases of U.S. agricultural commodities.

The Farmer-to-Farmer Program is a cost-effective and people-oriented approach to economic development which mobilizes the spirit of voluntarism and the practical know-how of the American farmer. I urge my colleagues to support the Farmer-to-Farmer Program in the bill through conference.

LIBERIA, AGAIN

Mr. CRANSTON. Mr. President, I rise today to express my horror and shock at the slaying of at least 200 Liberian civilians at the hands of Liberian Government troops. Although Liberian officials repeatedly claim that rebel forces conducted the killings, independent analysts confirm that Government troops are indeed responsible.

It appalls me to envision President Doe tucked away in his seaside mansion, barricaded away from rebel forces, while his army slaughters its own people.

I consider the Government's blatant and continuing violations of human rights to be a slap in the face of the United States and the international community. The massacre represents the Liberian Government's disregard for international conventions which call on governments to protect innocent citizens during civil strife. We must condemn this outrage against humanity.

As I have said earlier in this Chamber, we must not abandon the Liberian people in their time of need. We must do all we can to encourage the quick negotiated settlement of this bloody conflict.

HAWAII COMMEMORATES ITS FLAG

Mr. AKAKA. Mr. President, it gives me great pleasure today to join the people of my home State of Hawaii in saluting the Hawaiian flag. Today, July 31, marks Hawaiian Flag Day, or "La Hae Hawai'i".

The Hawaiian flag, also known as the Kamehameha flag, flies proudly as a living symbol of a people and their beloved land. It is the only flag which has flown over a royal kingdom, an American territory, and finally, in 1959, a full-fledged State in our Union.

Mr. President, look at the flag and you will immediately notice the Union Jack of the United Kingdom in its upper left-hand corner, which stands as a tribute to the important role the British played in Hawaii's early history. The flag also has eight stripes representing the eight major islands in the Hawaiian chain.

The Hawaiian flag also symbolizes a once sovereign nation which was overthrown by business leaders in 1893. It was at this time that the Hawaiian flag was lowered, cut into pieces, and given to the crowd as souvenirs. The American flag was then raised in its place and it was not until Hawaii become a U.S. territory that the Hawaiian flag officially flew again, now as a companion to the American flag. In 1959, it most proudly stood as a banner for the newest State of the Union.

Mr. President, a special ceremony honoring Hawaii's historic flag will take place today at Pu'ukohola Heiau National Historic Site, a heiau which was built by Kamehameha I, at Kawaihae on the Island of Hawaii. I wish to point out that Pu'ukohola Heiau is, by law, one of only three designated sites where the Hawaiian flag may fly independently of any other national or State banner. The other locations are the 'Iolani Palace and Mauna'ala Royal Mausoleum in Nuuanu, Oahu.

The Hawaiian flag flies smartly today, much as it has for many decades and much as it will for many more, as a guardian and witness to the fascinating history of a people and a land called Hawaii.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 10:09 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 548. Joint resolution designating the week of August 19 through 25, 1990, as "National Agricultural Research Week."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 3:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5313. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; and

H.R. 5355. An act to increase the statutory limit on the public debt.

At 3:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1046. An act to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; and

S. 1524. An act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

At 7:19 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1543. An act to authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia; and

S. 1875. An act to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.

The message also announced that the House has passed the bill (S. 930) to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4638. An act to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes; and

H.R. 5401. An act to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4638. An act to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes; to the Commitee on Labor and Human Resources.

H.R. 5313. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

H.R. 5401. An act to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 221. A bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system (Rept. No. 101-404).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 667. A bill to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions (Rept. No. 101-405).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2599. A bill to authorize a certificate of documentation for the vessel *Angelos* (Rept. No. 101-406).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2944. An original bill to authorize assistance for fiscal year 1991 activities within a comprehensive Support for East European Democracy [SEED] program to promote political and economic transition in countries of Europe emerging from the tyranny and legacy of Communist rule, to authorize appropriations for worldwide Peace Corps activities in fiscal years 1991 and 1992, to amend the Foreign Assistance Act of 1961 to establish a Development Fund for Africa, to authorize further United States contributions to the International Development Association, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Christopher A. Hart, of the District of Columbia, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1992.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. SIMPSON):

S. 2942. A bill to authorize certificates of documentation for the vessels Kainalu and He'Enalu; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 2943. A bill to provide incentive to States for the establishment of a dedicated tax-based source of revenue for funding mass transit systems; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL from the Committee on Foreign Relations:

S. 2944. An original bill to authorize assistance for fiscal year 1991 activities within a comprehensive Support for East European Democracy [SEED] program to promote political and economic transition in countries of Europe emerging from the tyranny and legacy of Communist rule, to authorize appropriations for worldwide Peace Corps activities in fiscal years 1991 and 1992, to amend the Foreign Assistance Act of 1961 to establish a Development Fund for Africa, to authorize further U.S. contributions to the International Development Association, and for other purposes; placed on the calendar.

By Mr. ADAMS (for himself and Ms. MIKULSKI):

S. 2945. A bill to amend the Public Health Service Act to require that, as appropriate, women and members of minority groups be included as subjects in clinical research con-

ducted under the Act; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. HATCH, Ms. MIKULSKI, Mr. METZENBAUM and Mr. GORE):

S. 2946. A bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOLE:

S.J. Res. 356. Joint resolution designating November 4 through 11, 1990, as "National Key Club Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GORE (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr. HEINZ, Mr. KERRY, Mr. BOSCHWITZ, and Mr. WIRTH):

S. Res. 316. Resolution concerning the Interparliamentary Conference on the Global Environment; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. HOLLINGS, Mr. DANFORTH, Mr. PELL, Mr. BINGAMAN, Mr. GORE, and Mr. ROCKEFELLER):

S. Res. 317. Resolution to commend Mr. Erich Bloch for his dedicated service as Director of the National Science Foundation; to the Committee on Labor and Human Resources.

By Mr. MITCHELL:

S. Con. Res. 142. Concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2943. A bill to provide incentive to States for the establishment of a dedicated tax-based source of revenue for funding mass transit systems; to the Committee on Banking, Housing, and Urban Affairs.

INCENTIVES FOR FUNDING OF MASS TRANSIT SYSTEMS

Mr. SPECTER. Mr. President, the administration and others are calling for a Federal-State-local partnership for the development of additional support for our Nation's mass transit systems. In reality, however, it appears that a heavier dependency is being placed on State and local sources, without additional support from the Federal Government.

If we are to urge local governments to support a growing portion of the increasing expense of maintaining transit, does it not seem appropriate that the Federal Government should go hand in hand in such a commitment?

Mr. President, between 1980 and 1988 Federal operating assistance for transit has dropped from 17.3 percent of transit operating revenue to 6.2 percent; a decrease of 64 percent. Over the same period, state and local operating assistance increased from 40 percent of operating revenue to 52.5 percent, or a 31-percent increase.

In Pennsylvania, the State and local governments have responded to the urging of the Federal Government for more funding participation. However, that funding relies upon each year's appropriation at the State level, making for a rather rocky fiscal road. Pennsylvania, unlike several other States with sizable mass transit systems, has not established a dedicated source of funding for transit.

Mr. President, recognizing this trend for more State and local participation and recognizing the need for a consistent, established source of revenue for mass transit, I am introducing legislation today to encourage States to implement a dedicated source of funding. If the States establish a dedicated source of funding for mass transit, then a bonus system should be in place for those States that implement a permanent, predictable source of funds. Therefore, my bill provides an incentive mechanism that will guarantee to transit authorities, local governments, and States, that, if they provide a dedicated source of funding for transit, they will receive support from the Federal Government for their operating and capital expenses. To fund this incentive mechanism, my bill turns to the uncommitted surplus of the transit account of the highway trust fund. It is my understanding that this surplus of funds is expected to total some $2.5 billion by the end of fiscal year 1990. This is the specific part of the trust fund which is designated for mass transit. It is already paid for by the gasoline tax so it will add nothing to the deficit.

Mr. President, this approach is consistent with the administration's desire to encourage State and local governments to create additional capacity to support transit. In addition, it provides a guarantee that there will be an established source of funds that will allow transit authorities and local governments to prepare their budgets without concern for the lack of Federal and State commitments. And last, this proposal will be funded from the existing surplus contained in the highway trust fund.

At a time when we are all concerned for our Nation's environment, we should be in strong support of promoting mass transit. It is through an effective mass transit system we can decrease our need on foreign oil and to improve our urban air quality.

Mr. President, if we are to encourage additional commitments from State and local governments, we must provide the needed support from the Federal Government. Accordingly, I urge my colleagues to join me in supporting mass transit and give prompt consideration of this bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2943

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS TO STATES.

Notwithstanding any other provision of law, the Secretary of Transportation shall provide a grant to each mass transit State that—

(1) has on the date of enactment of this Act in effect a law that provides for an authorization for a general tax-based source of revenues for paying for non-Federal share of projects for mass transportation eligible for assistance under the Urban Mass Transportation Act of 1964;

(2) adopts by June 30, 1991 a law that provides a general tax-based source of revenues for paying the non-Federal share of projects for mass transportation eligible for assistance under the Urban Mass Transportation Act of 1964; or

(3) adopts by June 30, 1991 a law that provides a general tax-based source of revenues to pay for operating expenses of mass transit services so as to satisfy financial capacity standards required by the Secretary of Transportation.

SEC. 2. AUTHORIZATION.

(a) GRANTS TO STATES.—Notwithstanding any other provision of law, the Secretary of Transportation shall provide annual grants of no less than $10,000,000 under section 1 of this Act for use by States, and urbanized areas in States, which meet the requirements of this Act to provide assistance in accordance with section 3 and section 9 of the Urban Mass Transportation Act of 1964.

(b) ALLOCATION.—Grants under section 1 of this Act shall be made from the uncommitted balance of the Mass Transit Account of the Highway Trust Fund to those States which meet the requirements of this Act.

(c) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund such sums as may be necessary to carry out this Act.

SEC. 3. TERMINATION.

The grants authorized by this Act shall be made available during the fiscal years 1991 through 1996.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) MASS TRANSIT STATE.—The term "mass transit state" means a State which has a public authority which provides mass transportation for urbanized areas of such State.

(2) MASS TRANSPORTATION, STATE, AND URBANIZED AREA.—The terms "mass transportation", "State", and "urbanized areas" have the meaning such terms have under section 12 of the Urban Mass Transportation Act of 1964.

By Mr. ADAMS (for himself and Ms. MIKULSKI):

S. 2945. A bill to amend the Public Health Service Act to require that, as appropriate, women and members of minority groups be included as subjects in clinical research conducted

under the act; to the Committee on Labor and Human Resources.

CLINICAL TRIALS FAIRNESS ACT

Mr. ADAMS. Mr. President, I rise today to introduce a very important, very necessary and at the same time, very basic bill—the Clinical Trials Fairness Act. This bill will codify existing NIH/ADAMHA policy to require the inclusion of women and minorities in clinical research trials. While NIH has had an official policy to encourage the use of women in clinical trials since October 1986, a GAO report issued in June concluded that NIH has not come close to implementing this policy.

This legislation is necessary because there is an attitude, and it is not a Republican or Democratic attitude, that I believe is pervasive in this country, certainly among the medical and research community, and perhaps among society itself. No one will say it and I believe that many do not consciously think it is, and certainly most will deny it—but the results are the same—women's health is not taken as seriously as men's.

Do you remember the buttons women wore a few years ago that said "59 cents"? For every dollar a man earned, a woman earned 59 cents. Well, today we should all be wearing buttons that say 13 cents, because out of each dollar that's exactly how much the National Institute of Health spends of the research budget on health conditions unique to women.

Recently, a GAO study was released that showed that NIH, which pays for most of this Nation's medical research, had failed to implement a policy that would encourage researchers who apply for grants to include more women. Fifty of the recent research grants were reviewed. The vast majority not only neglected to include women, in most cases, no scientific rationale was given.

Despite growing evidence that a high fat diet plays a continuing role in developing breast cancer, a $100 million study proposed by the National Cancer Institute was rejected as too costly. Meanwhile, a study of men with heart disease was approved—its cost was $115 million.

I am told that sexual bias is so prevalent that even male laboratory rats are the preferred animal used for research studies.

Sexism in medical practices can have fatal consequences. A 1988 study of 22,000 physicials funded by the National Heart, Lung, and Blood Institute found that aspirin could prevent heart attacks in men. Doctors subsequently recommended that older men at increased risk for heart disease take an aspirin every other day but, specifically stated they could not offer women the same advice. Heart disease is the leading cause of death in both sexes. 372,000 American women die from this killer every year.

And a study measuring the links between high cholesterol, lack of exercise, smoking and heart disease likewise featured 12,666 men and no women.

Needless to say, the results of these studies have proven to be virtually worthless to women. In California, researchers concluded that women who need heart bypass surgery usually exhibit more severe symptoms of coronary disease than men before doctors take their condition seriously. As a result, many women who undergo bypass surgery face a greater risk of dying from it.

The largest study of aging supported by the National Institute on Aging excluded women from the study during its first 20 years. The last major report from the Baltimore Longitudinal Study of Aging published in 1984 by the Department of Health and Human Services contains no data on women. The report is titled "Normal Human Aging." I do not believe it is merely a coincidence that the steering committee oversaw that the study is comprised of 10 men and no women.

This arrogance, indifference and neglect must change. Today is a first and important step and now as chairman of the Subcommittee on Aging, I want to examine closely health issues for older women.

As I stated earlier, the Clinical Trials Fairness Act codifies existing NIH/ADAMHA policy and sets forth requirements for both agencies to ensure adherence to the policy. Under this bill, clinical research projects must be designed in a way that will allow for a determination of whether or not women and minorities are affected by research variable differently than other research subjects. Further, clinical research equity subcommittees will be established under each institute of NIH and agency of NIH and agency of ADAMHA to review and report annually on the progress of women's health research. Additionally, in the peer review process research proposals will be required to include an evaluation of the technical and scientific merit of the proposal regarding the inclusion of women and minorities as subjects in clinical research. Finally, under the Clinical Trials Fairness Act, the Secretary can suspend or revoke the authority for any clinical research project conducted by any institute or agency of NIH or ADAMHA.

This bill is one piece of the Women's Health Equity Act, that I am pleased to co-sponsor with my good friend Senator MIKULSKI. It is a compilation of women's health bills that are critical if we are to correct these inequities. The Women's Health Research Act is an important component of this legislation because it would create an Office of Women's Health Research and Development at NIH to identify and coordinate women's health research and further ensure that the policy set forth in my bill, the Clinical Trials Fairness Act, is followed.

There are so many important measures contained in this package. Among the bill's initiatives is an increase in the authorization for breast cancer research, osteoporosis research, Medicare reimbursement for mammography screening and funds to prevent and control breast and cervical cancer for low-income women. This package contains many other very good measures that deserve the full support of Congress. This package is critical if we are to address the inadequate funding and the discrimination that is taking place in our very best research institutions. The lack of programs designed to target and educate women in the prevention of diseases, the ambivalence and yes neglect that is pervasive. I urge my colleagues to take a good look at this package and join in supporting this important effort.

Finally, without the hard work and foresight of Senator BARBARA MIKULSKI, and Representatives PAT SCHROEDER and OLYMPIA SNOWE, we would not be here today offering this important legislation. All of us are indebted to them for the effort they have made to enlighten us.

By Mr. KENNEDY (for himself, Mr. HATCH, Ms. MIKULSKI, Mr. METZENBAUM, and Mr. GORE):

S. 2946. A bill to amend Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes; to the Committee on Labor and Human Resources.

TRANSPLANT AMENDMENTS ACT

● Mr. KENNEDY. Mr. President, today I am introducing legislation to reauthorize the national registry of voluntary bone marrow donors and the Organ Transplant Program.

For people suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life and death. In contrast to matching blood types, finding a suitable donor for a bone marrow transplant is much more difficult. The first place to look is in the patient's own family. If no suitable donor is found, the only other hope is to find a compatible donor from the public at large. Until recently, that task had been virtually impossible. But now registries exist where patients can look for possible donors among numbers of individuals large enough to provide a more realistic possibility of finding a match.

The Organ Transplant Amendments Act of 1987 established authority for a national registry of volunteer bone marrow donors within the Department

of Health and Human Services. This registry is currently being administered through a contract by the National Heart, Lung, and Blood Institute. Several private independent registries coordinated under the title of the American Bone Marrow Registry also provide assistance in linking patients with potential donors.

The legislation I am introducing today reauthorizes the national registry and makes important improvements in this system. The legislation specifies several functions that the national registry must carry out, including patient advocacy, donor recruitment, and donor confidentiality. In addition, the national registry would be required to provide information to all patients at the start of the search process concerning resources available through the national registry and the comparative costs of various transplant centers. In addition all marrow donor registries must meet standards established by the Secretary.

Research has shown that an individual has a greater chance of finding a suitable unrelated match within the same race or ethnic group. In order to ensure that the registry is ethnically diverse, so that members of a minority group have a realistic chance of finding a suitable donor, the bill requires the national registry to place a special emphasis on minority recruitment.

Until now, most of the donors added to the national registry have come through public campaigns conducted by individuals faced with life-threatening illnesses and their families. The program owes much to families such as the Atlases, the Johnsons, and the Davises for building the national registry to its current level of 150,000 donors.

This spring Congress passed a supplemental appropriations bill that included $6 million to recruit and type donors. This appropriation will increase the number of donors significantly; but funding must be further increased in order to reach a level at which most patients can find a match. This bill would authorize $17 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, in order to increase the list of donors to the current goal of 250,000.

With these changes in place, we will take a significant step toward ensuring that the medical miracle of bone marrow transplantation is available to all who need it.

The legislation I am introducing today will also give us the opportunity to make needed improvements in the National Organ Transplant Program, to ensure that this essential proposal does its life-saving work more effectively.

In the 8 years since Jamie Fiske of Massachusetts focused the attention of the Nation on this issue, substantial progress has been made in finding suitable donors for the large number of citizens who need organ transplants in order to survive. Jamie's father appealed to the national convention of the American Academy of Pediatrics for a liver to save the life of his daughter, and his impassioned plea was broadcast across the country, touching the hearts of Americans everywhere.

As attention focused on the plight of other desperately ill children and adults, Americans became aware of the full scope of the organ transplant problem. In response, Congress enacted the National Organ Transplantation Act, which President Reagan signed into law in 1984, and which established a national organ matching and referral network.

Results came slowly at first; two years after the law's enactment, there was still no national network in place. Today the system is up and running, and we have made substantial progress in improving the organ transplant system. However, problems still exist. The number of organ donors has reached a plateau; the national focus of the referral system needs to be strengthened; and performance standards for organ procurement organizations must be developed.

Included in title I of this bill are provisions that expand the special grants program to increase the number of organ donors. Other private nonprofit entities in addition to organ procurement organizations are included. The Organ Procurement and Transplantation Network is given a national focus. The definition of a service area for an organ procurement organization is clarified. The Secretary is required to identify the criteria used in determining whether an organ procurement organization meets the service area requirement. The bill also directs the General Accounting Office to submit a report on the system of organ procurement and allocation and to make recommendations to improve the current system.

Title III of the bill reauthorizes the block grant program for immunosuppressive drugs, which provides funds for transplant patients who are unable to afford the cost of such drugs. These drugs act to suppress certain parts of the body's immune system, thereby preventing the rejection of a foreign transplanted organ. The development of newer immunosuppressives has led to greatly reduced organ rejection and improved survival of transplant patients.

The bill authorizes $5 million a year for fiscal years 1991 through 1993 for grants to the States. If a State chooses not to apply for these funds, a medical center approved for organ transplantation may apply for funds to provide immunosuppressives to their patients. This program improves access to organ transplantation for those who may not be able to afford expensive immunosuppressive drug therapy, extending the availability of these life-saving procedures.

Passage of this bill will greatly enhance the support for bone marrow and organ transplantation in the United States and improve health care for many needy Americans. I urge my colleagues to support its enactment.

I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990."

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

"(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a National Bone Marrow Donor Registry that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of donor centers, transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The National Bone Marrow Donor Registry established in accordance with subsection (a) shall, in accordance with subsections (c) and (d)—

"(1) establish a system, based on the donor selection criteria described in subsection (d)(1)(B), for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) maintain a system of strict confidentiality of donor records;

"(3) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor, including providing information at the start of the search process concerning—

"(A) the resources available through the National Bone Marrow Donor Registry;

"(B) the comparative costs of all charges incurred by patients prior to transplantation; and

"(C) all marrow donor registries meeting the standards described in subsections (c)(3) and (d)(1);

"(4) ensure that the pool of potential donors that form the National Bone Marrow Donor Registry is ethnically diverse so that an individual in a minority group has a comparable chance of finding a suita-

ble unrelated donor as an individual not in a minority group;

"(5) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(6) recruit potential bone marrow donors;

"(7) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(8) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CONFIDENTIALITY OF RECORDS.—

"(1) IN GENERAL.—The National Bone Marrow Donor Registry shall maintain a system of strict confidentiality of records relating to the identity, address, HLA type, and managing donor center for marrow donors and potential marrow donors.

"(2) DISCLOSURE.—The National Bone Marrow Donor Registry may disclose the content of any record referred to in paragraph (1) only in accordance with the prior written consent of the donor or potential donor with respect to whom the record is maintained, and only to such extent, under such circumstances, and for such purposes as are prescribed in regulations issued in accordance with paragraph (3).

"(3) REGULATIONS.—Not later than 270 days after the date of enactment of this part, the Secretary, in consultation with individuals and groups as the Secretary determines to be necessary, shall issue regulations to establish the system described in paragraph (1).

"(4) PENALTIES.—Any person who violates this subsection shall be fined not more than $50,000 or imprisoned not more than 2 years, or both.

"(d) CRITERIA, STANDARDS, AND PROCEDURES.—The Secretary shall—

"(1) establish and enforce—

"(A) standards for tissue typing and patient advocacy, and quality standards, for entities participating in the program, including individual donor centers, donor registries, marrow collection centers, and marrow transplant centers;

"(B) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis; and

"(C) procedures to ensure the proper collection and transportation of the marrow;

"(2) establish procedures under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the National Bone Marrow Donor Registry is carrying out the duties of the Registry under subsection (b); and

"(3) consult with the board of directors of the National Bone Marrow Donor Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(e) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(f) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(g) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to enter into contracts under this section $17,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal years 1992 and 1993.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among donor registries;

"(2) the extent to which donor registries protect donor confidentiality;

"(3) the relationship between the National Bone Marrow Donor Registry established under part I of title III and individual donor centers;

"(4) the effectiveness and appropriateness of policies and procedures of donor centers, transplant centers, and donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the donor registries to adopt change in medical understanding and practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMING AMENDMENT.—Section 373 of such Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking, "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—The provisions of this title shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document or an order issued in a lawsuit shall continue in effect until modified, terminated or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit, parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SCTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking out "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of such Act (42 U.S.C. 273(a)(3)) is amended by striking out "may make grants for special projects" and inserting in lieu thereof the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of such Act (42 U.S.C. 273(a)) is amended by striking out paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of such Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire standard metropolitan statistical area (as specified by the Office of Management and Budget) or does not include any part of such an area,".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note), as amended by Public Law 101-274, is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register criteria for determining whether an entity meets the requirement established in paragraph (1)(E).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 371(c) of the Public Health Service Act (42 U.S.C. 273(c)) is amended by striking out "1988 through 1990" and inserting in lieu thereof "1991 through 1995".

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking out "which is not engaged in any activity unrelated to organ procurement" and inserting in lieu thereof "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors, or an advisory board, composed of 24 members, including at least one, but not more than three, representatives of—

"(i) transplant surgeons;

"(ii) transplant physicians;

"(iii) transplant coordinators;

"(iv) patients or patient representatives;

"(v) hospital representatives;

"(vi) experts in the field of social science;

"(vii) experts in the field of medical ethics;

"(viii) experts in hystocompatability;

"(ix) voluntary health organizations; and

"(x) the general public.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2)(D) of such Act (42 U.S.C. 274(b)(2)(D)) is amended—

(1) by inserting "nationwide" after "organizations in the"; and

(2) by inserting "equitably among transplant patients" after "organs".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of such Act (42 U.S.C. 274(b)(2)(F)) is amended by striking out "compatability" and inserting in lieu thereof "compatibility".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. POLICY STANDARDS AND GUIDELINES.

Section 372(c) of the Public Health Service Act (42 U.S.C. 274(c)) is amended to read as follows:

"(c)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate regulations that shall apply to the Network established under subsection (a) with respect to—

"(A) the membership policies of the Network, including qualification and training requirements relating to transplant teams;

"(B) standards to be applied to organ procurement organizations;

"(c) the donation of organs;

"(D) the collection, analysis, and publication of data concerning organ donation and transplants;

"(E) standards to be applied to the acquisition and transportation of donated organs;

"(F) standards to be applied in cases relating to the acquisitions of organs infected with the etiologic agent for acquired immunodeficiency syndrome;

"(G) standards to be applied to cases of transplantations concerning citizens of other foreign nations; and

"(H) any other matter that the Secretary determines appropriate.

"(2) Beginning on the date of enactment of this subsection, the Secretary shall review all determinations made by the Network, with respect to membership of organizations in the Network, during the 180 day period referred to in such paragraph (1), and determine the appropriateness of such determinations. The Secretary may modify such determinations as the Secretary considers appropriate after publication of a notice regarding the modification in the Federal Register.".

SEC. 204. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274b) is amended—

(1) in subsection (a), by striking out "No grant" and all that follows through "373" the first place that such term appears and inserting in lieu thereof the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking out "section 371" in paragraph (1) (as so redesignated) and inserting in lieu thereof "section 371(a)(1)";

(C) by striking out "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as so redesignated), and inserting in lieu thereof "section 371(a)(2)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for not more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place such term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place such term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 205. ADMINISTRATION.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter preceding paragraph (1) by striking out "1990," and inserting in lieu thereof "1995,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of such Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by striking out "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 206. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended—

(1) in the first sentence, by striking out "The Secretary" and all that follows through "report on" and inserting in lieu thereof "The Secretary shall prepare a report each fiscal year on"; and

(2) by adding at the end thereof the following new sentence: "The biennial report shall be submitted to the Secretary each fiscal year for inclusion in the biennial report required by section 403".

SEC. 207. STUDY BY GENERAL ACCOUNTING OFFICE.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective;

"(2) the problems encountered in such procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, and January 7, 1994, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 208. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

TITLE III—IMMUNOSUPPRESSIVE DRUG THERAPY

SEC. 301. BLOCK GRANTS.

Section 1932 of the Public Health Service Act (42 U.S.C. 300y-22) is amended by striking "1988 through 1990" and inserting "1991 through 1993".●

Mr. HATCH. Mr. President, I am pleased to cosponsor the Organ Transplant Amendments Act. This bill reauthorizes legislation which has contributed significantly to our Nation's effort to increase the availability of organs and bone marrow for transplantation.

In 1983, while chairman of the Labor and Human Resources Committee, we began to look at transplant issues. There were many individuals at that time who were publicly making dramatic pleas to find an appropriate organ donors because they had no other option. This program has helped to change that.

Today, there is a transplant system in place that affords individuals equitable access to available organs. There is a single source of data on organ donors, transplant candidates, and transplant recipients. The number of donors has also increased by 71 percent since 1984.

In 1989, there were 1,673 heart, 2,160 liver, and 413 pancreas transplants performed in this country. In 1989, my own State of Utah, 87 kidney, 78 heart, 17 liver, and 7 kidney-pancreas transplants were performed.

Five years ago, 16 year-old Tony Shepard was the first heart transplant recipient in Utah. At that time, he was diagnosed as having a fatal heart condition which gave him only 6 to 8 months to live. Today, Tony is in terrific shape and holds down a full-time job. A few years ago, my good friend, the senior Senator from Utah, Senator GARN, make a courageous personal sacrifice when he donated one of his kidneys to his daughter.

Both of these individuals have experienced the modern miracle of organ transplantation. That miracle is possible, in part, because of immunosuppressive drugs. These drugs prevent the body from rejecting the new organ, but unfortunately are extremely costly. In fact, cyclosoporin, the most effective, costs approximately

$5,000 a year for a typical transplant patient.

This legislation also includes a provision to reauthorize the Immunosuppressive Drug Therapy Act of 1987 and to provide $5 million over 3 years in the form of grants to States to help individuals purchase these self-administered immunosuppressive drugs.

All organ transplant patients, whose immunosuppressive drugs are not covered by existing private or public programs, are eligible for assistance, but the extent of assistance may be based on the patient's ability to pay. States may require patients to pay part of the cost of their immunosuppressive drugs, but we anticipate that States, in establishing copayments, will take into account the financial resources of recipients.

As I have said, I strongly support the underlying reauthorization of the Organ Transplantation Act, legislation which I helped author in 1984. But, I would like to take a minute to discuss my concerns surrounding the direction our organ transplantation policy has taken since that time.

Public Law 99-509 gave the United Network of Organ Sharing [UNOS] and Organ Procurement and Transplant Network [OPTN] extraordinary power regarding Medicare and Medicaid reimbursement. It conditioned the reimbursements on a transplant center's membership in UNOS. In other words, to receive Federal funds, transplant centers and organ procurement agencies are required to become members of a private organization.

If the law had ended there, it certainly would have been bad policy. But, it went further. It required organ transplant centers and organ procurement agencies to abide by the rules and bylaws of a private organization as a condition of receiving Federal funds. For all practical purposes, the law delegated regulatory authority to a private organization, which is unconstitutional and does not provide adequate due process protections. It also raises some serious antitrust questions.

The legislation before us would correct these problems by placing the regulatory authority in the executive branch where it belongs and where it is subject to established procedures to ensure accountability as well as congressional oversight. The bill would require the Secretary of Health and Human Services, by regulation, to specify the manner in which OPTN would carry out certain activities, including membership policies and organ distribution and donation. The Secretary would be required to promulgate these policies within 180 days after the enactment of this legislation.

Having discussed these problems, I want to again express my support for the legislation before us. It continues our commitment to increase the availability of organs for transplantation so that our citizens are no longer forced to wait agonizing months for an organ to become available. I urge my colleagues to support this legislation.

● Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Organ Transplant Amendments of 1990. At the outset I would like to salute the special efforts of Senator KENNEDY. This legislation is further evidence of his tireless efforts to improve our citizens' health.

I am pleased and gratified that the Organ Transplant Amendments of 1990 incorporates the provisions of S. 2876, the Bone Marrow Registry Act of 1990, which I introduced along with Senators MIKULSKI and SIMON earlier this month. Representative FAZIO introduced a companion bill in the House in April. S. 2876 is a one-time $15 million authorization for the purpose of testing potential donors. It places special emphasis on racial and ethnic populations inadequately represented in the National Bone Marrow Registry. This funding level also will help the registry to reach its goal of 250,000 volunteers. This will help the majority of those in need of a donor to find a suitable match and fully recover from a life-threatening disease.

The Organ Transplant Amendments of 1990 authorizes $17 million for the Registry to recruit a sufficient number of donors to ensure adequate ethnic diversity and a donor population of at least 250,000. In addition, the bill requires a system of patient advocacy, donor confidentiality, and information about other bone marrow registries. These provisions will help to ease some of the burdens on patients and their families, who despite their own personal difficulties, have significantly increased the number of potential donors through their own time, efforts, and expenses.

I urge all my colleagues to support this important legislation.●

ADDITIONAL COSPONSORS

S. 814

At the request of Mr. DOMENICI, the name of the Senator from Iowa [Mr. GRASSLEY] was withdrawn as a cosponsor of S. 814, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1076

At the request of Mr. BURDICK, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1076, a bill to increase public understanding of the natural environment and to advance and develop environmental education and training.

S. 2041

At the request of Mr. SYMMS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2097

At the request of Mr. PELL, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2097, a bill to promote and encourage alternative nondefense uses of defense facilities, to provide assistance for the retraining of unemployed defense workers whose employment is terminated, and to provide adjustment assistance to communities adversely affected by the termination or curtailment of defense contracts or the closure or realignment of military installations.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2366

At the request of Mr. BOND, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 2366, a bill to encourage States to establish parents as Teachers programs.

S. 2479

At the request of Mr. LEVIN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2479, a bill to reduce funding for the MX Rail-Garrison Missile System.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2924

At the request of Mr. MITCHELL, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2924, a bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 141

At the request of Mr. KENNEDY, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Concurrent Resolution 141, a concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. DECONCINI], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE CONCURRENT RESOLUTION 142—WAIVING CERTAIN PROVISIONS OF THE LEGISLATIVE REORGANIZATION ACT

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 142

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to day certain, or for adjournment sine die.

SENATE RESOLUTION 316—RELATIVE TO THE INTERNATIONAL CONFERENCE ON THE GLOBAL ENVIRONMENT

Mr. GORE (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr. HEINZ, Mr. KERRY, Mr. BOSCHWITZ, and Mr. WIRTH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 316

Whereas over 150 distinguished parliamentarians and legislators from 36 nations attended the Interparliamentary Conference on the Global Environment held in Washington April 29 through May 2, 1990, and formulated extensive recommendations for action to save the Earth's environment;

Whereas the sense of urgency behind these recommendations resulted from the experiences of parliamentarians in their own countries, and the world;

Whereas the participating parliamentarians expressed broad consensus on the need for international cooperation to deal with the issues addressed by the Conference, as well as the need to take steps in their own countries to solve these problems; and

Whereas the United States delegation to this Conference participated in this consensus and found the recommendations to be valuable expressions of the need for action on the issues of global climate change, stratospheric ozone depletion, sustainable development, population growth, deforestation and desertification, loss of biological diversity, and protection of the world's oceans and fresh water resources;

Whereas solution of many problems of environmental degradation can be traced, ultimately, to poverty, population pressure, and other economic and social factors that result in environmentally unsustainable use of natural resources; now therefore, be it

Resolved, That it is the sense of the United States that the United States should urgently seek international cooperation, including negotiations on the necessary treaties and conventions on the pressing issues identified at the Interparliamentary Conference on the Global Environment. These issues include the following:

Potential climate change presents such a serious threat to human well-being throughout the world, that the United States should undertake urgent action to support and encourage negotiations necessary to bring about a framework convention for international cooperation on limiting the emission of greenhouse gases, including specific targets for emissions reductions wherever possible, and extending international cooperation to achieving the extensive research and monitoring needed to more completely understand the ecological systems at risk and the changes in the climate system presently underway;

A global framework for economic assistance in environmental protection efforts should be established, along the lines of a "Global Marshall Plan for the Environment," to aid developing countries in dealing with costs involved in protecting the global environment;

A Strategic Environment Initiative should be undertaken through international cooperation to develop new environmental protection technologies and assure their wide dissemination and transfer;

The United States should strongly support strengthening of the Montreal Protocol on Substances that Deplete the Ozone Layer to assure a rapid phase-out of production and consumption of all chemicals that cause depletion of stratospheric ozone, including hydrochlorofluorocarbons (HCFCs), and should enact domestic legislation that exceeds the requirements of the Protocol, as amended or otherwise. All nations should be urged to sign and ratify the strengthened Montreal Protocol and, wherever possible, to enact more stringent domestic legislation.

The United States should urgently initiate negotiations on an international convention for protection of the world's forests, especially the increasingly rare "old growth," or primary, forests. The goal of such a convention should be to reduce the rate of global deforestation that contributes both to greenhouse gas emissions and to extinctions of many flora and fauna species around the world, destabilization of regional hydrological cycles, conversion of lands to unsustainable agriculture, further impoverishment of poor farmers, extensive erosion that destroys fisheries resources and causes downstream flooding, and other harmful effects. Such an agreement should be structured to encourage the nations of the world to develop cooperatively incentives that will encourage environmentally sustainable economic uses of forest resources. Also, since the Tropical Forestry Action Plan is the primary existing mechanism for cooperation and coordination of international assistance to tropical forest conservation, and can potentially make a positive contribution to stemming the pace of tropical deforestation, the United States should urge early and effective reform and strengthening of the Tropical Forestry Action Plan to promote forest conservation more effectively and environmentally sound forest management practices.

The United States should take the lead in negotiations to establish an international convention on protection of biological diversity. Such a convention is currently under development and deserves strong support by the United States. At the present time, species are being lost at an alarming and increasing rate, depriving society of genetic material for improving agricultural crops and for developing new medicines; loss of biological diversity also has profound implications for the ecosystems that provide life support systems for large regions; as habitat destruction proceeds around the world, indigenous people and their valuable knowledge of the uses of biological resources are lost or displaced. Although species loss is, to a limited extent, a natural phenomenon, the intensified rate of loss that is a direct result of human activity raises important ethical questions. Preservation of biological diversity is important for esthetic, ecological, educational, historical, recreational, and scientific reasons.

To address the unprecedented rate of population growth, increasing investments in and commitments to international family planning programs are urgently needed.

Human activity pollutes the earth's water and oceans, shifts the distribution of water by large-scale development, and reduces aquatic life through pollution, over-harvesting, destruction of habitats and alteration of ecosystems on local, regional, and global scales; the United States should take domestic action and support international efforts to control pollution at the source, prevent oil spills, ensure future land development in a manner sustainable to the global water cycle, minimize sea level rise, manage fishery resources, ban fishing with large-scale driftnets, use fresh water more efficiently, protect ground water resources, and grant Antarctica protective status as a Land of Science, treaty park and international wilderness area;

The role of international institutions and activities, such as trade and economic development assistance, often with serious and adverse impacts on the environmental and natural resources, must be recognized by all nations;

The United States should continue its efforts to assure a high priority for environmental concerns in the multilateral lending institutions, and should urge all other nations to join in these efforts; trade negotiations and proposals must be carefully scrutinized to be sure their impacts on the environment are recognized and mitigated. Moreover, the United States should strongly urge the adoption of international and national cost accounting techniques that take environmental degradation and depletion of natural resources into account, in order that the full costs to society and future productivity are recognized and avoided wherever possible.

The United States should also, both through its bilateral assistance programs and its participation in multilateral grant and lending institutions, (a) make greater use of "debt-for-nature" swaps, as well as more encompassing debt swaps which will address the larger problems of poverty and

population pressure that lead to over-exploitation of natural resources; (b) work with aid-recipient countries to eliminate existing economic incentives that are contributing to environment degradation; and (c) provide greater technical and financial resources specifically focused on preservation and rehabilitation of natural resources."

SENATE RESOLUTION 317—COMMENDING ERICH BLOCH FOR HIS DEDICATED SERVICE AS DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

Mr. KENNEDY (for himself, Mr. HATCH, Mr. HOLLINGS, Mr. DANFORTH, Mr. PELL, Mr. BINGAMAN, Mr. GORE, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 317

Whereas Erich Bloch has raised the stature of the National Science Foundation as it has assumed increasingly important responsibilities in basic research, science education, global warming research, competitiveness, and other key issues in science and technology policy;

Whereas Erich Bloch has strengthened the National Science Foundation's support for critical research areas by establishing the Directorate for Engineering and the Directorate for Computer and Information Science and Engineering;

Whereas Erich Bloch revitalized the National Science Foundation's support for science, mathematics, and engineering education at all grade levels, including special programs to attract and retain women, minorities, and other groups historically underrepresented in the sciences;

Whereas Erich Bloch has instituted a number of important programs to establish interdisciplinary research centers, including the Engineering Research Centers, the National Supercomputer Centers, and the Science and Technology Centers;

Whereas under Erich Bloch the National Science Foundation has increasingly and effectively leveraged industrial, State, and other non-Federal resources to increase collaboration in research and education and to maximize the effectiveness of each Federal research dollar;

Whereas Erich Bloch provided both leadership regarding, and factual justification for, the planned growth in the budget of the National Science Foundation to further National Science Foundation support of high-quality research and education programs; and

Whereas Erich Bloch lifetime contributions to the advancement of science and technology, including a full 6-year term as Director of the National Science Foundation, have earned him the National Medal of Technology, membership in the National Academy of Engineering and other prominent scientific organizations, and numerous other awards and honors: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That—

(1) the Senate commends Erich Bloch for his leadership of the National Science Foundation during this critical period and for his outstanding contributions to the advancement of science and technology in the United States; and

(2) the Senate expresses its gratitude to Erich Bloch for his years of public service and for the wise counsel he has provided to the Congress, the President, and the Nation.

● Mr. KENNEDY. Mr. President, Erich Bloch, director of the National Science Foundation, will retire at the end of this month. Under his leadership, the National Science Foundation has prospered, developing essential education programs in engineering, science, and computer science and forging strong relationships with State and private industry for the purpose of education and research. Partly as a result of Mr. Bloch's successful leadership, Congress doubled NSF's authorization in our most recent legislation. He is the first Director in 20 years to complete a full, 6-year term.

Members from both the Labor and Human Resource Committee and the Commerce Committee commend Mr. Bloch for his leadership and dedication during the last 6 years. Because of his efforts, the Nation is better prepared to face the serious educational and technological challenges that increasingly confront us.●

AMENDMENTS SUBMITTED

SENATORIAL ELECTION CAMPAIGN ACT

HATCH (AND GORTON) AMENDMENT NO. 2438

Mr. HATCH (for himself and Mr. GORTON) proposed an amendment to amendment No. 2432 (in the nature of a substitute) proposed by Mr. BOREN (and others) to the bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes, as follows:

At the appropriate place, insert the following:

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(B) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Subparagraphs (A), (B) and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C) and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organizations's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which attests that the expenditures which the union claimed it made for certain expenses were actually made for those expenses. Such examination shall be conducted in accordance with generally accepted auditing standards.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs

(B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office."

BOREN AMENDMENT NO. 2439

Mr. BOREN proposed an amendment to amendment No. 2432 (in the nature of a substitute) proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

At the end of the amendment, insert the following:

SEC. . PAYMENTS TO LABOR ORGANIZATIONS IN LIEU OF DUES.

(a) IN GENERAL.—Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c)(1) A labor organization that receives payments, directly or indirectly (through any of its subsidiaries, branches, divisions, departments, or local units), pursuant to an agreement that requires covered employees who are members of the organization to make payments of dues to the organization and employees who are not members of the organization to make payments in lieu of dues to the organization shall establish the objection procedures described in paragraph (2).

"(2) The procedures under this paragraph are as follows:

"(A) the labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units, shall provide an employee who is not a member of the organization with—

"(i) an opportunity at least once in each yearly period to file an objection to making payments to fund the organization's expenses for political activities; and

"(ii) reasonable notice of the nature and extent of the organization's political activities and of the time, place, and manner for filing such an objection.

"(B) If an employee objects under the procedures described in subparagraph (A), any payment during the objection period by the employee to the labor organization in lieu of dues shall be reduced by an amount which bears the same ratio to such payments as the organization's expenses for political activities bears to the organization's total expenses.

"(C) The determination of the ratio under subparagraph (B) shall be based on a reasonable allocation of the labor organization's expenses using such allocation methods as are recognized by independent certified public accountants as generally acceptable with respect to nonprofit organizations, taking into consideration the special problems and functions of a labor organization.

"(D) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units—

"(i) shall provide an employee who objects under the procedures described in subparagraph (A) with an adequate explanation of the organization's method of calculating the portion of the amounts payable by the employee during the objection period which are allocable to expenses for political activities (including an opinion of an independent certified public accountant on the organization's allocation of expenses);

"(ii) shall arrange for prompt arbitration before an impartial arbitrator of any challenges by such objecting employee to the organization's calculation described in clause (i); and

"(iii) shall, pending the arbitrator's decision under clause (ii), hold in escrow any amount, which is reasonably in dispute, paid by an employee who makes such a challenge.

"(3) An employee claiming to be aggrieved by a violation of this subsection may bring a civil action against the labor organization in any district court of the United States having jurisdiction over the parties. If the court finds that the labor organization has violated this subsection, the court may order the labor organization to refund the excess payments collected from the employee, and may grant such equitable relief as the court deems appropriate.

"(4)(A) The requirements of this subsection are in lieu of any requirement limiting the financial obligations of objecting employees under any other provision of Federal law (including the National Labor Relations Act, as amended, and the Railway Labor Act, as amended).

"(B) Nothing contained in this section shall limit the rights and remedies of employees of any State or political subdivision thereof under the laws of the State or political subdivision thereof.

"(5) As used in this subsection—

"(A) the term 'political activities' include any activities by a labor organization in connection with any federal, State, or local election for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the organization represents; and

"(B) the term 'labor organization' has the meaning given such term by subsection (b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after December 31, 1990.

BENTSEN (AND OTHERS) AMENDMENT NO. 2440

Mr. BENTSEN (for himself, Mr. BRYAN, Mr. LEVIN, Mr. REID, and Mr. CRANSTON) proposed an amendment to amendment No. 2432 (in the nature of a substitute) to the bill S. 137, supra, as follows:

On page 93, between lines 2 and 3, insert the following:

SEC. 225. CONTRIBUTIONS BY FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end of the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdiction of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

NICKLES (AND OTHERS) AMENDMENT NO. 2441

Mr. NICKLES (for himself, Mr. HELMS, Mr. GORTON, and Mr. BOREN) proposed an amendment, which was subsequently modified, to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

At the end of the amendment, add the following new subtitle:

Subtitle B—Provisions Relating to Congressional Mass Mailings

SEC. 411. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MAILINGS.

(a) SENATE.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. The summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) HOUSE OF REPRESENTATIVES.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission on Congressional Mailing Standards of the House of Representatives shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. The summary tabulations shall set forth for each Member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of such mail divided by the total population of the district from which the Member was elected.

SEC. 412. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2)(A) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service.".

SEC. 413. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

(a) AMENDMENT OF TITLE 39.—(1) Section 3210(a)(6)(A) of title 39, United States Code, is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 414. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the gorup or groups of persons to whom the mass mailing was mailed."

SEC. 415. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) PROHIBITION OF TRANSFERS TO CANDIDATES.—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) REPORTING AND PUBLICATION.—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission on Congressional Mailing Standards of the House of Representatives—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission on Congressional Mailing Standards of the House of Representatives pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

SEC. 409. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

(a) AMENDMENT OF SUPPLEMENTAL APPROPRIATIONS ACT.—Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph (A).

Sec. 410. It is the sense of the Senate that:

(1)(A) each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report on the date of the transfer or receipt of such transfer to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of Senate passage of this resolution, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

McCONNELL AMENDMENT NO. 2442

Mr. McCONNELL proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . RESTRICTIONS ON SOFT MONEY OF TAX-EXEMPT ORGANIZATIONS.

(a) RESTRICTIONS ON TAX-EXEMPT ORGANIZATIONS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new section:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for public office."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any participation or intervention by an organization on or after September 1, 1990.

KERRY (AND OTHERS) AMENDMENT NO. 2443

Mr. KERRY (for himself, Mr. BIDEN, Mr. BRADLEY, Mr. SIMON, Mr. BURDICK, Mr. LEAHY, Mr. RIEGLE, Mr. KENNEDY, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DECONCINI) proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Campaign Ethics Act of 1990".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Broadcast rates.
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TITLE II—EXPENDITURES AND CONTRIBUTIONS

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Subtitle C—Contributions

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Sec. 222. Contributions through intermediaries and conduits.
Sec. 223. Excess campaign funds.
Sec. 224. Contributions by dependents not of voting age.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.
Sec. 302. Reporting requirements.
Sec. 303. Provisions relating to the general counsel of the commission.
Sec. 304. Retention of fees by the commission.
Sec. 305. Enforcement.
Sec. 306. Penalties.
Sec. 307. Random audits.
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TITLE IV—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.
Sec. 402. Polling data contributed to a senatorial candidate.
Sec. 403. Mass mailings.
Sec. 404. Effective date.
Sec. 405. Official funds.
Sec. 406. Labor organizations.
Sec. 407. Contributions by foreign nationals.
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TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"SEC. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Commission a declaration as to whether—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed on the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Commission under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the threshold contribution requirement under subsection (e); plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a compliance and official expense fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Commission with respect to such period under section 304A(b) (relating to independent expenditures in excess of $10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 10 percent of the general election expenditure limit under section 503(b).

"(2) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period. Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed $250,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of $100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed $100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) COMPLIANCE AND OFFICIAL EXPENSE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures or qualified official expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a compliance and official expense fund meeting the requirements of paragraph (2).

"(2) A compliance and official expense fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection—

"(A) The term 'qualified legal and accounting expenditures' means the following:

"(i) Any expenditures for costs of legal and accounting services provided in connection with—

"(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(II) the preparation of any documents or reports required by this Act or the Commission.

"(ii) Any expenditures for legal and accounting services provided after the general election for which the compliance and official expense fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(iii) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(B) The term 'qualified official expenditures' mean expenditures described in section 313(b).

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures exceed the limitation under paragraph (2)(B), the candidate may petition the Commission for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation, reduced by the amount of qualified official expenditures. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a compliance and official expense fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a compliance and official expense fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a compliance and official expense fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"SEC. 504. (a) IN GENERAL.—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the voluntary public funding amount;

"(B) the independent expenditure amount; and

"(C) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2)(A) For purposes of paragraph (1), the voluntary public funding amount is an amount equal to the general election expenditure limit under subsection (b), reduced by—

"(i) the threshold contribution requirement under section 502(e); and

"(ii) the amount of voter communication vouchers issued to the eligible candidate.

"(B) In the case of an eligible candidate who is not a major party candidate, the voluntary public funding amount is the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the amount which would be determined under subparagraph (A) if the candidate were a candidate of a major party.

"(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate).

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period subject to the same conditions and rates under section 315(b) of the Communications Act of 1934 as apply to other broadcast time a candidate may purchase, except that—

"(A) each such broadcast shall be at least 1 but not more than 5 minutes in length; and

"(B) each such broadcast shall be aired during the 5-week period preceding the general election.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133⅓ percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirect-

ly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

"(ii) amounts collected under sections 507(g) and 508(d)(3); and

"(iii) any other amounts which may be deposited into the Fund under this title.

"(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) Amounts in the Fund shall remain available without fiscal year limitation.

"(3) Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of payments which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to 200 percent of the amount of such benefit.

"(d) EXCESS EXPENDITURES.—(1) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 percent or less—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(2) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 percent—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to three times the amount of the excess expenditures.

"(e) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day

period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(f) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(g) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"SEC. 508. (a) VIOLATIONS.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 509. (a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 512. There are authorized to be appropriated to the Commission such sums as may be necessary for the purpose of carrying out its functions under this title."

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1991.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1991, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1991, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1991, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees."

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder."

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate or a candidate's authorized committee to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraphs:

"(2) In the case of a candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971)—

"(A) paragraph (1)(A) shall be applied without regard to the phrase 'class and'; and

"(B) if the broadcast time exceeds 30 seconds, the lowest unit cost for such time shall not be greater than the rates for broadcasts of 30 seconds.

"(3)(A) In the case of candidates for United States Senator in a general election (as defined in section 501(4) of such Act), this subsection (other than paragraph (2)(A)(iii)) shall apply to a broadcast of such candidate only if such candidate is an eligible candidate (as defined in section 501(2) of such Act).

"(B) In the case of any eligible candidate for United States Senator, the rates under paragraph (1)(A) shall apply to any broadcast during the general election period (as defined in section 501(5) of such Act) rather than the 60-day period referred to in such paragraph."

(b) PREEMPTION RULES; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) In the case of a legally qualified candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) are in effect, of a broadcasting station by such candidate who has purchased such use pursuant to subsection (b).

"(2) Paragraph (1) shall not apply if the program during which the candidate's broadcast was to air is unavoidably preempted.

"(d) A licensee shall—

"(1) accept voter communications vouchers provided to an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act) under section 504(a) of such Act; and

"(2) shall, upon presentation of such vouchers, provide broadcast time to such candidate subject to the same conditions and rates as apply to other broadcast time such candidate may purchase, except that—

"(A) no time shall be required to be provided without at least 7 days advance notice; and

"(B) in the case of broadcast time in the licensee's prime time, the licensee shall be required to provide—

"(i) not more than 5 minutes of such time during each of the weeks in the 5-week period ending on the date of the general election; and

"(ii) only one broadcast per day per candidate in such time.

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by inserting "(1)" before "The charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971."

(b) AUTHORIZATION.—Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)-(h)" and inserting "3626(a)-(h), and 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United

States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates."

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by—

(1) striking "and" at the end of clause (ii);

(2) striking out the period at the end of clause (iii) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(iv) if paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'."

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Commission under section 502(c) shall file with the Commission a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b),

shall file a report with the Commission within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133⅓ percent of such limit) with the Commission within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓ percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000 shall report to the Commission as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000, each such person shall report to the Commission as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds $10,000.

"(3) Each report under this subsection shall be filed with the Commission and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than $250,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Commission within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Commission the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) COPIES OF REPORTS.—The Commission shall transmit a copy of any report received under this section to the Secretary of the Senate within 2 working days of receipt of such report.

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) ELECTION CYCLE DEFINED.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election."

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF COOPERATIVE EXPENDITURES.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure."

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made."

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made."

(b) COOPERATIVE EXPENDITURE DEFINED.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee."

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b)."

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response."

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits."; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located."

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors."

SEC. 212. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings mail (including mass mail fund solicitations) or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing)."

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees designated by State committees of a political party for purposes of paragraphs (1)(C) and (2)(C)."

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures for activities described in section 325(b) (1) and (2) with respect to the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e)."

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) TRANSFERS BETWEEN COMMITTEES.—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities."

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b) (1) and (2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990."

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate."

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law."

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) TAX-EXEMPT ORGANIZATIONS.—(1) Except as provided in paragraph (2), if an individual—

"(A) established, maintains, or controls any organization described in section 501(c) of the Internal Revenue Code of 1986; and

"(B) is a candidate for, or holds, Federal office at any time during any calendar year, such individual may not solicit contributions to, or accept contributions on behalf of, such organization from any person during such calendar year which, in the aggregate, exceed $5,000.

"(2) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns."

SEC. 218. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a)."

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported."

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported."

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following:

"For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election."

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information."

(f) REPORTS BY LARGE CONTRIBUTORS.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) REPORTS BY LARGE CONTRIBUTORS.—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating $10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating $5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3)."

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contributions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates."

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee."

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 223. EXCESS CAMPAIGN FUNDS.

(a) IN GENERAL.—Section 313 of FECA (2 U.S.C. 439a) is amended by inserting "(a)" before "Amounts", and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), amounts described in subsection (a) that otherwise may be used to defray the costs of any ordinary and necessary expenses incurred in connection with an individual's duties as a holder of the office of United States Senator shall not be used to defray such costs which are expenditures with respect to such individual.

"(2) For purposes of subsection (a), ordinary and necessary expenses for the travel of the spouse or children of an individual holding the office of United States Senator between Washington, D.C. and the State from which such individual holds such office shall be treated as in connection with such individual's duties as a holder of Federal office unless such expenditures are expenditures with respect to such individual.

"(3) For purposes of this subsection, the term 'expenditure' has the meaning given such term by section 501(13).".

(b) CONTRIBUTIONS TO OFFICIAL OFFICE ACCOUNTS.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) A political committee (other than the principal campaign committee of a holder of Federal office) shall not make any contribu-

tion, expenditure, or disbursement, or transfer any amount, for the purpose of defraying expenses incurred by the holder of Federal office in connection with the officeholder's official duties.".

SEC. 224. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(l) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(b) PERSONAL AND CONSULTING SERVICES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 302. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pregeneral election report shall be filed in accordance with subparagraph (A)(i), a postgeneral election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under sections 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission.".

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(c) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act.".

SEC. 305. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

(c) TIME PERIODS FOR CONCILIATION.—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.".

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a broadcast paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the broadcast shall include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states:

"(I) 'I am a candidate for (the office the candidate is seeking) and I have approved the contents of this broadcast'; and

"(II) that the broadcast has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the broadcast has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable.".

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor.".

TITLE IV—MISCELLANEOUS

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party."

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media."

SEC. 404. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1991.

SEC. 405. SENSE OF SENATE REGARDING USE OF OFFICIAL FUNDS.

It is the sense of the Senate that appropriate prohibitions and restrictions be placed on the use of employees of the Executive Office of the President, the official residence of the Vice President, and official travel of the President, Vice President, and other Executive branch officers and employees in connection with political fundraising and political campaigning.

SEC. 406. PAYMENTS TO LABOR ORGANIZATIONS IN LIEU OF DUES.

(a) IN GENERAL.—Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end therof the following new subsection:

"(c)(1) A labor organization that receives payments, directly or indirectly (through any of its subsidiaries, branches, divisions, departments, or local units), pursuant to an agreement that requires covered employees who are members of the organization to make payments of dues to the organization and employees who are not members of the organization to make payments in lieu of dues to the organization shall establish the objection procedures decribed in paragraph (2).

"(2) The procedures under this paragraph are as follows:

"(A) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units, shall provide an employee who is not a member of the organization with—

"(i) an opportunity at least once in each yearly period to file an objection to making payments to fund the organization's expenses for political activities; and

"(ii) reasonable notice of the nature and extent of the organization's political activities and of the time, place, and manner for filing such an objection.

"(B) If an employee objects under the procedures described in subparagraph (A), any payment during the objection period by the employee to the labor organization in lieu of dues shall be reduced by an amount which bears the same ratio to such payment as the organization's expenses for political activities bears to the organization's total expenses.

"(C) The determination of the ratio under subparagraph (B) shall be based on a reasonable allocation of the labor organization's expenses using such allocation methods as are recognized by independent certified public accountants as generally acceptable with respect to nonprofit organizations, taking into consideration the special problems and functions of a labor organization.

"(D) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units—

"(i) shall provide an employee who objects under the procedures described in subparagraph (A) with an adequate explanation of the organization's method of calculating the portion of the amounts payable by the employee during the objection period which are allocable to expenses for political activities (including an opinion of an independent certified public accountant on the organization's allocation of expenses);

"(ii) shall arrange for prompt arbitration before an impartial arbitrator of any challenges by such objecting employee to the organization's calculation described in clause (i); and

"(iii) shall, pending the arbitrator's decision under clause (ii), hold in escrow any amount, which is reasonably in dispute, paid by an employee who makes such a challenge.

"(3) An employee claiming to be aggrieved by a violation of this subsection may bring a civil action against the labor organization in any district court of the United States having jurisdication over the parties. If the court finds that the labor organization has violated this subsection, the court may order the labor organization to refund the excess payments collected from the employee, and may grant such equitable relief as the court deems appropriate.

"(4)(A) The requirements of this subsection are in lieu of any requirements limiting the financial obligations of objecting employees under any other provision of Federal law (including the National Labor relations Act, as amended, and the Railway Labor Act, as amended).

"(B) Nothing contained in this section shall limit the rights and remedies of employees of any State or political subdivision thereof under the laws of the State or political subdivision thereof.

"(5) As used in this subsection—

"(A) the term 'political activities' include any activities by a labor organization in connection with any Federal, State, or local election for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the organization represents; and

"(B) the term 'labor organization' has the meaning given such term by subsection (b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after December 31, 1990.

SEC. 407. CONTRIBUTIONS BY FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdication of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

Subtitle B—Provisions Relating to Congressional Mass Mailings

SEC. 408. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) SENATE.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant of Arms and Doorkeeper of the Senate shall send to each Senator a statement of the costs of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. The compliation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. The summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) HOUSE OF REPRESENTATIVES.—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission on Congressional Mailing Standards of the House of Representatives shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compliilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. The summary tabulations shall set forth for each Member the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of mail divided by the total population of the district from which the Member was elected.

SEC. 409. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2)(A) If, at any time during the fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service.".

SEC. 410. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

(2) AMENDMENT OF TITLE 39.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a condidate for reelection; or": and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 411. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), repectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such

mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of perons to whom the mass mailing was mailed."

SEC. 412. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) PROHIBITION OF TRANSFERS TO CANDIDATES.—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) REPORTING AND PUBLICATION.—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission on Congressional Mailing Standards of the House of Representatives—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission on Congressional Mailing Standards of the House of Representatives pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

SEC. 413. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

(a) AMENDMENT OF SUPPLEMENTAL APPROPRIATIONS ACT.—Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking "mail matter" each place it appears and inserting "mail matter (other than mail matter constituting a mass mailing, as that term is defined in section 3210(a)(5) of title 39, United States Code)".

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

"3. No funds in the official office expense account of a Senator, no personal funds of a Senator, no honoraria received by a Senator, and no funds derived from a political committee (as defined in section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) may be used to pay for a mass mailing (as defined in section 3210(a)(5) of title 39, United States Code) that is made in conneciton with the performance of the official duties of a Senator."

(2) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of Senate passage of this resolution, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

SEC. 414. It is the sense of the Senate that: (1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report on the date of the transfer or receipt of such transfer to the Sergeant at Arms and Doorkeeper of the Senate—

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

McCAIN AMENDMENT NO. 2444

Mr. McCAIN proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra; as follows:

On page 91, strike lines 4 through 25 and insert the following:

SEC. 223. USE OF CAMPAIGN FUNDS.

(a) IN GENERAL.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended to read as follows:

"USE OF CAMPAIGN FUNDS

"SEC. 313. (a) Amounts received as contributions by a candidate or an authorized committee of a candidate and payments and benefits received under title V may be used only to make expenditures for the purpose of influencing the election of the candidate.

"(b) The surplus campaign funds of the candidate and the candidate's authorized committees shall be paid into the Treasury of the United States and applied to the account to reduce the public debt described in section 3113(d) of title 31, United States Code.

"(c)(1) It shall be unlawful for a candidate or an authorized committee of a candidate or for any person acting as an agent of either to use contributions or payments received under title V or to dispose of surplus campaign funds in any manner except as specified by subsections (a) and (b).

"(2) It shall be unlawful for any person knowingly to accept or receive contributions, payments received under title V, or surplus campaign funds for purposes or in a manner other than those specified in subsections (a) and (b).

"(d) The disposition of surplus campaign funds shall be reported on the post election semiannual report that is filled pursuant to section 304 on or before July 31 of the year following the election for which the funds were raised.

"(e)(1) For purposes of this section, the term "surplus campaign funds' means the balance remaining after a general election between—

"(A) the contributions made to the candidate and the candidate's authorized committees; and

"(B) the expenditures made by such candidate or authorized committees for the purpose of influencing the election of the candidate.

"(2) The calculation of the amount of surplus campaign funds under paragraph (1) shall be made after any unexpended funds required to be repaid to the Secretary of the Treasury pursuant to section 507(e) have been repaid.".

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to surplus campaign funds existing on November 7, 1990, and thereafter.

(c) On page 92, line 1, change (b) to (c).

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 1, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 1980, the Native American Repatriation of Cultural Patrimony Act; S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets; S. 2850, the Innovative Indian Health Facilities and Delivery System Demon-

stration Project Act and S. 2645, the Urban Indian Health Equity Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Tuesday, August 7, 1990, beginning at 10 a.m. in 485 Russell Senate Office Building on S. 2770, the Indian Finance Corporation Act, to be followed immediately by a hearing on S. 2423, the United Houma Nation Recognition Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, August 8, 1990, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning the energy policy implications of broad-based energy tax options to increase Federal revenues.

Those wishing to submit written statements for the hearing record should deliver them to the Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Room 364, Washington, DC 20510. For further information, please contact Patty Beneke (202) 224-2383 or Donald Santa (202) 224-4820 of the committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, July 31, at 9:30 a.m. for a hearing on the subject: Accident and Explosion Risks at the Department of Energy high-level radioactive waste facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 31, 1990, at 10 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, July 31, 1990, at 10 a.m. to conduct a hearing on modernizing financial services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m. Tuesday, July 31, 1990, for a hearing to receive testimony on S. 2659, the Reclamation Reform Act Amendments of 1990, and title XVI of H.R. 2567, the Reclamation Project Authorization and Adjustment Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 31, 1990, 2:30 p.m., to hold a hearing on S. 1400, the Product Liability Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Tuesday, July 31, 1990 for a hearing to consider the findings and recommendations contained in the two recent reports: "Report of the Task Force on National Park Service Concessions", dated April 9, 1990, prepared at the request of the Secretary of the Interior, and "Follow-up Review of Concessions Management, National Park Service, report No. 90-62, dated April 1990, prepared by the Inspector General of the Department of the Interior. The subcommittee will also consider Secretary Lujan's proposed revisions to National Park Service concessions policy which he announced on Friday, July 20.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on July 31, 1990, at 10 a.m. to hold a hearing on legislation to increase the public debt limit.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 31, 1990, at 3 p.m., to hold a hearing on S. 2476, a bill to amend title XVIII of the United States Code to clarify and expand legal prohibitions against computer abuse.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 31, 1990, at 9:30 a.m., to hold a hearing on the S&L investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 31, 1990, at 10 a.m. to hold a hearing on "Murder Rates: Why the Recent Rise?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 31, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 31, at 10 a.m. to hold a hearing on the threshold test ban and peaceful nuclear explosions treaties with the U.S.S.R., together with verification protocols for each treaty; Ex. N, 94-2 and Treaty Doc. 101-19.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congres-

sional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the budget act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 1990.

Hon. JIM SASSER,

Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through July 27, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 23, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF JULY 27, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
FISCAL YEAR 1990			
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,093.1	3,122.7	−29.6
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3] 14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with sec. 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS.: SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JULY 27, 1990

[In millions of dollars]

	Budget Authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire Emergency Supplemental Appropriations (Public Law 101–302)	2,293	666	
An act making technical amendments to Title 5, U.S. Code (Public Law 101–303)		−1	
Amtrak Reauthorization and Improvement Act (Public Law 101–322)	−10		−10
Total enacted this session	2,283	665	−10
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	([1])	([1])	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	([1])	([1])	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	([1])		
Agriculture credit insurance fund	342		
Rural housing insurance fund	([1])		
Rural communication development fund	([1])		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,384	−371	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of July 27, 1990	1,326,110	1,169,393	1,060,256
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,290		5,244

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parentheses are interfund transactions that do not add to totals.●

PUBLIC SERVICE SCHOLARSHIPS

● Mr. WARNER. Mr. President, recently, a constituent of mine, Julie A. Austin was selected to be 1 of only 10 recipients of the Public Service Scholarships, awarded by the Public Employees Roundtable. Ms. Austin was chosen on the basis of an essay she wrote, entitled "How My Chosen Government Career Affects the Quality of American Life".

Every Member of this body has a deep appreciation for those who choose to dedicate their lives to public service. A life of public service is one of sacrifice, but one of tremendous reward. Ms. Austin's commitment to work on issues that assist women and children in need is admirable. I can do her no better justice than to share with my colleagues her essay, which I request be entered into the permanent record of the proceedings of the Congress. This essay will stand as a tribute to all those dedicated citizens who devote themselves to a life of public service.

The essay follows:

HOW MY CHOSEN GOVERNMENT CAREER AFFECTS THE QUALITY OF AMERICAN LIFE

I am seeking a career in government service because I feel it is the avenue that will enable me to achieve my goal—to improve the quality of life for our future leaders, our children.

I want to work in any government agency that exerts direct influence on the lives of women and children. I believe that children need representation and advocacy at all levels—city, county, state, and federal. Further, I believe it is necessary to work within the framework of a governing structure in order to institute the necessary legal changes that are necessary to reform the social order of society.

I hope to become an attorney or work within some child protective agency in order to institute some positive changes in the lives of children. Many children in our society are denied the comfort and security of a two-parent home in our modern society, but there is no reason for them to be denied their slice of America's future. I believe their future is in jeopardy for two reasons.

First, because the laws concerning child support and enforcement are not strong enough. Second, there are not enough workers in the system to enforce the laws that have been initiated. If the enforcement of these laws is haphazard, the support of the children will be haphazard.

I feel strongly about the issue because my children were not protected. I was forced to take a second job. My children's physical needs at the cost of their emotional needs. I feel outraged that this happened to my children. I am deeply troubled because many women who have less technical skills than I possess. I believe the only solution to my situation is education, and the only solution to all of our children's plight is a strong child advocacy system within our government. I am grateful that government agencies are able to recognize this need and have stepped in to help. I want to help too!

I chose family law or child support advocacy because I received help from Virginia Child Support Enforcement Services. The process works, but it is critically slow. I am grateful to Judge Valentine and the Fairfax County child support system for their help in pointing me toward a career that I know will be satisfying for me and positive for society.

Statistics show that my case is not unique. Most women I meet share similar experiences. Since I am on my way up, it is my duty as well as my privilege to help those less fortunate than myself. I believe that by working within a government system within the child advocacy system, I can be in the best possible position to pursue my goal. I believe the quality of life in the United States is determined by the quality of the lives of those most helpless in our society—our youngest citizens, and they are the ones I am determined to help.●

THE DECLINE OF U.S. TELEVISION MANUFACTURING

● Mr. HEINZ. Mr. President, I want to speak today about the decline of U.S. television set manufacturing. The television market was once the private property of U.S. manufacturers, but in recent years it has been abandoned to aggressive, foreign competition. This decline is indicative of the desperate problems that have plagued, and continue to plague, United States trade relations with Japan. The loss of this industry has meant the loss of good American jobs; it has contributed to our trade deficit; and it has adversely affected our ability to develop new generations of advanced television equipment. I believe that these losses could have been averted. I believe that if the U.S. Government had acted more vigorously and more responsibly, this country would not today be dependent on foreign countries for television sets.

We hear arguments every day that the market works on a strict, survival-of-the-fittest basis; that Japanese TV sets came to dominate the United States market because they were cheaper than their American competition. But this is just plain wrong. Japanese television sets were never cheaper to manufacture than American TV's and Japanese companies were not producing cheaper models on a per-set basis.

You see, Mr. President, the Japanese had a plan—one in which their industry and their government conspired to take over the United States market. They dumped television sets in this country at below the cost of manufacture, forcing U.S. companies to lower prices below the survival level. Normally, in a free market situation, this kind of behavior could not occur because Americans could sell the sets back to Japanese buyers at a profit.

But in this case the market did not function. Japanese companies compensated for their losses from dumping in the United States by maintaining higher prices in their home market, prices they could sustain by keeping imported television sets out. If they had had to compete with what would have been a tsunami of United States imports, Japanese firms would have been forced to lower their prices at home, which would have left the Japanese incapable of the sustained attack that destroyed the American industry.

The fixed production costs of Japanese television sets are, in fact, quite high, due to the Japanese custom of providing permanent employment to workers and of relying on exclusive distribution outlets. These practices have been eulogized in the American press as part of the "Japanese way" of doing business, but they actually drive up production costs and necessitate supportive fiscal policies by government.

However, though restrictive distribution practices in Japan were inefficient for Japanese companies, they proved exclusionary for American ones. Indeed, Japanese industry used the country's intricate network of franchised retail outlets as a mechanism to obstruct all imports. Each dealer carried the product of one, and only one, manufacturer, and naturally favored old Japanese partners to new American ones, making it very difficult for United States firms to enter or enjoy any subsequent success in the market there.

U.S. companies did try to penetrate the market in order to take advantage of the high prices there. Zenith attempted to export television sets to Japan in 1973, but they met with scant success. Though sales of color television sets in the Japanese market were nearly 5 million annually, sales of imported models were only 16,000 in 1974, and 11,000 in 1975. But even these meager attempts were undercut when MITI apparently exerted pressure on importers and retail chains in an attempt to reduce even further the distribution of U.S. products. Their efforts were successful: By 1975, sales of imported color TV sets in Japan had plummeted to 452.

In retrospect we all realize that the market didn't work the way it was supposed to. United States companies were forcibly prevented from competing in Japan by numerous measures on the part of the Japanese Government, including tariffs, import and foreign exchange licensing, and outright restrictions on foreign investment. It's not that the Japanese models were cheaper to make; they were only cheaper in the United States, and they were propped up by an artificially profitable and hopelessly impenetrable home market that was sustained by the collusion of Japanese Government and industry. This is hardly the market operating the way it is supposed to. But, unfortunately, we do not live in the ideal world of the market. We live in a world where things go wrong all the time, and, if that were not enough, where there are people and governments who come along and make them go even more wrong.

Now, in case Senators think I am making all this up, let me assure everyone it has already been thoroughly documented in a number of publications, most recently a study by the Office of Technology Assessment on High Definition Television. The reason it is there, Mr. President, is to make clear that this devastation of a domestic industry is not without present day consequences. By virtually eliminating indigenously owned production, we have simultaneously crippled our ability to develop new generations of television, like HDTV. This is not to say that no R&D is underway on that subject. It is, as Senators well know. But thanks to the events of more than a decade ago, we are missing much of the infrastructure in this industry necessary to establish and maintain a world-class advanced television industry. That can be restored, but it will be at considerable expense, and, thanks to our failure to act in a timely fashion, it may end up being too little too late. I ask that the excerpt of the OTA study discussing the decline of the American color television set industry be printed at this point in the RECORD.

The excerpt follows:

THE DECLINE OF THE U.S. TV INDUSTRY: TRADE

Foreign trade practices were an important factor in the decline of U.S. television manufacturers. Domestic protection and coordinated pricing policies permitted Japanese firms to sell televisions in the American market at prices substantially below what comparable sets were sold for in Japan. The U.S. response to this dumping was sluggish and ineffective—in part because a statutory change that enabled a more effective response was not made until 1979—exposing American firms to competition that drove down profit margins and increased the difficulty of making the needed investments to improve their manufacturing. The Japanese Government protected domestic producers from imports as well as foreign direct investment, and the nation's distribution system

acted as a barrier to any firm that could surmount the government's restrictions.

Japanese TV manufacturers have high fixed costs, in part due to their customs of providing permanent employment and of maintaining exclusive distribution outlets. High-volume production was needed to cover these fixed costs but also provided significant economies of scale. Government fiscal policies and other factors encouraged heavy investment in plant capacity by Japanese manufacturers—in excess of domestic needs—to achieve these volumes. The large output was sold at a high profit in the protected domestic market and at low- or no-profit abroad: Japanese producers maintained domestic retail prices at least 50 to 60 percent higher than for comparable sets sold in the United States.[1] Imports would have broken this arrangement but were blocked.

The Japanese Government protected the profitability of domestic sales through tariffs, quotas, import and foreign exchange licensing, and restrictions of foreign direct investment. Tariffs on color TV imports were 30 percent in Japan until 1968 compared to 10 to 7.5 percent in the United States over the same period. Commodity taxes were reduced to less than 10 percent on sets entirely of domestic origin, but were maintained at 30 percent on those with larger imported picture tubes. Import certification took much longer and was more costly and stringent than the U.S. equivalent.

The Japanese industry blocked imports by denying distribution through their extensive network of franchised dealers, who carried only one manufacturer's products, excluding all others. Sales through large retailers also proved difficult. In 1973, for example, Zenith attempted to export to Japan to take advantage of the exceptionally high prices for TVs there, but MITI reportedly pressured Zenith's trading partners and retail chains to limit distribution.

As a result of these and other factors, sales of color TV imports in Japan totaled only 16,000 in 1974, 11,000 in 1975, and 452 in 1976—out of total color TV sales of almost 5 million.

At the same time, Japanese sold TVs at rock bottom prices in the United States. To ensure that the impact of this was on U.S. rather than Japanese producers, Japanese firms (including Hitachi, Matsushita, Mitsubishi, Sanyo, Sharp, and Toshiba) allocated U.S. retailers among themselves according to the so-called "five company" rule to eliminate inter-Japanese competition.

U.S. firms challenged the unfairness of Japanese trade practices, both in courts and through administrative processes. Action was taken on at least five separate fronts.

The first and longest proceeding began in 1968 when U.S. Customs received complaints about dumping violations. In 1971 the Department of Treasury found Japanese producers guilty of dumping,[2] but virtually no duties were collected or other actions taken until Congress overhauled the antidumping duty law in 1979.[3] At that point, the Secretary of Commerce negotiated a settlement of approximately $77 million for antidumping duties and other penalties. Zenith, having estimated its own damages as much larger than this, unsuccessfully appealed the settlement. The case was finally closed in 1987 when the government unsuccessfully tried to force Zenith to forfeit the $250,000 bond it had been required to post in challenging this settlement.[4]

This and subsequent dumping findings against Korea, Taiwan, and Japan (most recently for 1986-87)[5] resulted in the imposition of duties in TVs imported from these countries. Foreign efforts to rescind the duties have failed, but duties have reportedly sometimes been avoided by shipping TVs or components to the United States through third countries. For example, by transshipping through Mexico, Matsushita was reportedly able to cut its tariff bill from 15 to 5 percent on color picture tubes.[6]

Second, the National Union Electric Corp. (U.S.) filed suit in 1970 and Zenith filed suit in 1974 against eight Japanese firms and their subsidiaries for violations of antitrust and antidumping laws. Most of the evidence in the case was ruled inadmissible by the District Court in 1981, including, for example, thousands of pages of documents seized by the Japan Fair Trade Commission in raids on corporate offices.[7]

The District Court's decision were largely reversed by the Third Circuit Court of Appeals, which concluded that there was direct evidence of concerted action among the Japanese, including price fixing, use of the "five-company" rule, and false-invoice-and-kickbacks to avoid U.S. Customs regulations and antidumping penalties. The Court recommended that the case be sent to a jury.[8]

The Third Circuit Court of Appeals findings were narrowly reversed, 5-4, by the Supreme Court in 1986. The Supreme Court ruled that the direct evidence of concerted action among the Japanese found by the Third Circuit Court was irrelevant, because the Japanese could not have a motive to engage in predatory pricing in the United States—it would require the Japanese to sustain years of "substantial losses in order to recover uncertain gains."[9] Pricing behavior in the Japanese market was also deemed irrelevant to the antitrust charges because "American antitrust laws do not regulate the competitive conditions of other nations' economies."[10]

The legal arguments notwithstanding, the Japanese firms' actions at issue in the case caused significant damage to U.S. firms. Both U.S. and Japanese firms had to cover their fixed costs. The Japanese Government permitted, if not encouraged, the creation of a protected domestic market in which the Japanese firms were allowed to recover all of their fixed costs, free of any significant foreign competition. Japanese firms could then charge much lower prices in foreign markets, including the United States, while U.S. firms were forced to charge prices that covered their average total costs.

Third, Zenith petitioned the Treasury Department in 1970, requesting the imposition of a countervailing duty to offset the effective rebate of the commodity tax generally due on TVs which Japanese producers were receiving from their government for exports. In 1976, the Treasury Department found that the rebate was neither a "bounty" nor a "grant," either of which would have triggered the imposition of a duty. The decision was upheld unanimously by the U.S. Supreme Court in 1978.[11]

Fourth, in 1972 the U.S. Department of Justice undertook investigations of collusion and of false-invoice-and-kickback schemes run by Japanese firms to circumvent U.S. dumping tariffs and penalties.[12] In 1977, Justice concluded that there was no evidence of collusion, but it brought charges against a number of firms for these kickback schemes. At least one U.S. retailer pled guilty,[13] and at least one case was still unresolved in September 1989.[14]

Fifth, in 1976 a GTE request to the U.S. International Trade Commission (ITC) to investigate unfair acts by five Japanese firms was dismissed, but a request by COMPACT[15] led to a 1977 ITC holding that there was injury due to increased imports. While the ITC therefore recommended higher tariffs on color TVs, the Administration responded instead by negotiating a voluntary Orderly Marketing Agreement.

FOOTNOTES

[1] Kozo Yamamura and Jan Vandenburg, "Japan's Rapid-Growth Policy on Trial: The Television Case," *Law and Trade Issues of the Japanese Economy*, Gary R. Saxonhouse and Kozo Yamamura (eds.) (Seattle, WA: University of Washington Press, 1986).

[2] T.D. 71-76, 5 Cust. B. and Dec. 151, 26 Fed. Reg. 4597 (1971).

[3] Kevin Kennedy, *Zenith Radio Corp. v. United States: The Nadir of the U.S. Trade Relief Process*, North Carolina Journal of International Law and Commercial Regulation (1988), vol. 13, p. 226.

[4] *Zenith Radio Corp.* v. *United States*, 823 F.2nd 518 (Fed. Cir. 1987).

[5] "Television Receivers, Monochrome and Color, From Japan," 54 FR 13917, 1989.

[6] Committee to Preserve American Color Television, U.S. Congress, House Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, "Recommended Government Policies to Promote the Evolution of a U.S. High-Definition Television Industry," Committee Print 101E, March 1989.

[7] *Zenith Radio Corp.* v. *Matsushita Elec. Ind. Co.*, 494 F. Supp. 1190 (1980), 505 F. Supp. 1125 (1980), and 513 F. Supp. 1100 (1981).

[8] "In Re Japanese Electronic Products," 723, F.2nd 238 (1983). *See* also "Japanese Electronics Products Antitrust Litigation," 807 F.2nd 44 (1986) for the discussion of the case following the Supreme Court decision.

[9] One legal scholar noted that the Court analysis of predatory intent was in large part based on the most "conservative school of thought in the debate over predation," that of Bork-McGee-Easterbrook. *See:* Randolph Sherman, "The Matsushita Case: Tightened Concepts of Conspiracy and Predation?" *Cardozo Law Review*, vol. 8, p. 1121, 1987.

[10] *Matsushita Electric Industrial Co.* v. *Zenith Radio Corp.*, 475 U.S. 574 (1986).

[11] *Zenith* v. *United States*, 437 U.S. 443 (1978).

[12] "Scandals: Kickbacks in Living Color," *Time*, June 13, 1977, p. 63.

[13] David Staelin et al., "The Decline of U.S. Consumer Electronics Manufacturing," Massachusetts Institute of Technology Commission on Industrial Productivity, December 1988.

[14] This case has been back and forth on appeals and remands. 647 F.2nd (9th Cir. 1981); remanded to 518 F. Supp. 179 (C.D. Cal 1981); reviewed 719 F.2nd 1386 (9th Cir. 1983); cert. den. 104 S. Ct. 1441 (1984); 579 F. Supp. 1055 (C.D. Cal 1984); reviewed 785 F.2nd 777 (9th Cir. 1986); cert. den. 479 U.S. 988 (1986); 677 F. Supp. 1042 (C.D. Cal 1988); reviewed 866 F.2nd 1128 (9th Cir. 1989).

[15] Committee for the Preservation of American Color TV.●

TRIBUTE TO THOMAS J. MONTGOMERY

● Mr. WILSON. Mr. President, it is with great pleasure that I rise today to commend the exemplary community service that Mr. Thomas J. Montgomery has demonstrated to Pacoima, CA.

In recognition of his extraordinary accomplishments in promoting health care for the medically indigent, Mr. Montgomery will be the recipient of the 1990 Gilbert Award on September 11 from the National Association of Community Health Centers [NACHC]. This national honor is presented annually to the individual who best champions the cause of those who are in need of appropriate and adequate health care.

His contributions over the past 20 years to his country and community are seemingly endless. A decorated World War II veteran, Mr. Montgomery has served on countless boards and committees in Pacoima; yet it is his commitment to health care that is the most laudatory and outstanding. Understanding the growing need for health care for the poor, he served as the first president of the National Association of Community Health Centers. While in office, Tom pushed for general health care for the medically indigent, providing the necessary insurance, transportation services and promoting positive health behavior. Being a motivating spirit behind the health care movement, Tom worked diligently to insure that the NACHC became a federally qualified health network.

After the the NACHC became a nationally recognized organization, Tom realized that it could serve as a focal point from which consumers could network within the new organization. Tom Montgomery remains at the heart of the health consumers network in his capacity as president of the board of directors of the Northeast Valley Health Corp.

I am proud to salute the tremendous accomplishments Tom Montgomery has made to the city of Pacoima and to congratulate him on receiving the Gilbert Award from the NACHC. His bold and effective consumer advocacy on behalf of his fellow Californians has deservedly received national acclaim, as he continues to make a profound difference for the better in our society.●

TRIBUTE TO THE HISPANIC AIDS AWARENESS PROGRAM

● Mr. GRAHAM. Mr. President, today, I rise to honor the members of the board and community leaders who have performed outstanding service on behalf of the Hispanic AIDS Awareness Program. Drs. Moraima Trujillo and Joyner Sims, Ms. Helen Aguirre Ferre, and Mrs. Marcos Regalado have given enumerable hours of hard work and dedication. Through their efforts, they have worked to educate the Spanish-speaking population of south Florida about the issue of AIDS. These four exemplary volunteers will be honored by the Florida Legislature and the Hispanic AIDS Awareness Program during a luncheon in Miami on July 31st. The city of Miami will issue a proclamation in their names.

Some of the program accomplishments since its inception have been the creation of the first knowledge, attitude and behavior survey of the south Florida Hispanic community, which is being used to plan AIDS education efforts related to Spanish speakers. In addition, four focus groups were held to identify AIDS issues important to Hispanics.

The program has also scheduled and participated in numerous seminars and media events to disseminate AIDS information. Some of these events have had national and international exposure on TV programs such as "Cristina" and "TV Mujer."

Other education efforts by the program have been undertaken through the development of four different Public Service Announcements using the "Que Pasa?" theme and characters.

Twelve articles featuring a medical doctor specializing in AIDS were produced by the program, as well as a series of bilingual newsletters concerning AIDS-related medical and scientific advances and feature stories.

Furthermore, the program has developed a media guide for Spanish-language media, provided cultural sensitivity training to HRS health educators statewide, and testified before the Select Committee on Children, Youth and Families of the U.S. House of Representatives.

All of this has been accomplished with general revenue funds appropriated by the Florida Legislature and with limited professional staff.

The efforts of the Hispanic AIDS Awareness Program have been widely recognized by numerous community organizations and the City of Miami Commission. The work accomplished by this program has led to a greater understanding of this disease and its implications.

Today, I join in honoring these four individuals and the staff of the Hispanic AIDS Awareness Program for their labor of love.●

TWENTY-FIFTH ANNIVERSARY OF MEDICARE AND MEDICAID

● Mr. PRYOR. Mr. President, 25 years ago this week, President Lyndon Johnson signed into law the Social Security Amendments of 1965, better known as the Medicare and Medicaid Programs. I, for one, stand in awe of the accomplishments of those who worked diligently to see the passage of one of the most sweeping pieces of social reform legislation in this Nation's history. As a member of the Pepper Commission, I can fully appreciate the obstacles that had to be overcome in order to craft a comprehensive health care bill that had the support of the many groups involved.

It is nearly impossible for us to recall a time before there was Medicare and Medicaid, before the basic health care needs of our elderly and some of our poor were covered. Yet such a time existed. I would like to take this opportunity to look back at the history of the Medicare and Medicaid Programs—to give us a sense of where we were, and where we are going.

Medicare and Medicaid did not happen overnight—these programs were over 30 years in the making. President Franklin D. Roosevelt, when signing the Social Security Act in 1935, said that the act was "a cornerstone in the structure which is being built but it is by no means completed." Ten years after that, President Harry Truman proposed a comprehensive, prepaid health insurance plan for Americans of all ages that would be financed by raising the Social Security tax. It took 20 more years—and hours of debate, discussion, and hard-won compromise—before the Medicare and Medicaid Programs were signed into law in 1965.

As the chairman of the Senate Special Committee on Aging, and a member of the Senate Finance Committee, I know that the Medicare and Medicaid Programs have made enormous advances over the past 25 years toward expanding access to adequate health care services for millions of Americans. Nearly all the elderly—some 30 million of them—are covered by Medicare. The Medicaid Program covers about 25 million poor—nearly half of them children. At the same time, the elderly are now paying over 18 percent of their incomes for their health care, compared to 15 percent when Medicare and Medicaid began. And only one-half of the poor in this country are covered by Medicaid.

As we struggle to come to terms with the health care crisis that faces our Nation today, it is important for us to remember the obstacles that had to be overcome in the formation of the Medicare and Medicaid Programs. Is the challenge that we have before us today greater than that facing our leaders 25, 30, or even 50 years ago, when the Social Security Program was created in the midst of the Great Depression? It is my hope that 25 years from now, we can look back and find it hard to remember a time before there was basic health care coverage for all Americans.●

CORRECTION OF THE ENGROSSMENT OF S. 2830

Mr. MITCHELL. Mr. President, I ask unanimous consent that in the engrossment of S. 2830 the following changes be made in amendment No. 2303 offered by Senator LEAHY on behalf of himself and Senator LUGAR.

Mr. President, I ask unanimous consent that the change be made as stated in the document I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The changes are as follows:

On page 5, line 11, after the word "car" insert the word "or" and delete all language

thereafter through the end of line 24 on that page.

On page 6, line 18, after the word "with" insert the words "the services authorized in section (a)(1)." and delete all thereafter through the end of line 22 on that page.

CRIME PREVENTION MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 309 designating "Crime Prevention Month" and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 309) designating the month of October 1990 as "Crime Prevention Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 309

Whereas it has been proven that community crime prevention efforts are reducing victimization by crime and helping to rebuilt a sense of mutual responsibility and shared pride in community;

Whereas the National Citizens' Crime Prevention Campaign, featuring McGruff the Crime Dog and promoted by the United States Department of Justice, the National Crime Prevention Council, the Advertising Council, and the Crime Prevention Coalition, helps spur diverse local partnerships among law enforcement agencies, citizens, businesses, and government which work to reduce crime and improve community life throughout the Nation; and

Whereas the 10th anniversary of McGruff the Crime Dog as a symbol of the Nation's fight against crime and drugs will be celebrated in October 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1990 is designated as "Crime Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CUSTOMS AND TRADE ACT OF 1990—CONFERENCE REPORT

Mr. MITCHELL, Mr. President, I submit a report of the committee of conference on H.R. 1594 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1594) to make miscellaneous and technical changes to various trade laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 30, 1990.)

Mr. PACKWOOD. Mr. President, I am pleased to support the trade conference report on the Customs and Trade Act of 1990. Although not as well-known as the 1988 trade bill, this bill contains some very significant trade provisions.

The bill enriches the important Caribbean Basin Initiative [CBI] by making the program permanent and providing additional trade benefits for the Caribbean countries. It also makes technical changes to the Jackson-Vanik amendment. These changes are necessary to ensure the constitutionality of the congressional process used to approve Jackson-Vanik waivers and trade agreements. The changes will allow Congress to consider whether to provide or continue most-favored-nation [MFN] status to many of the new Eastern European democracies, the Soviet Union and China.

The bill brings the customs user fee into compliance with our GATT obligations as well as containing budget authorizations for the International Trade Commission, the U.S. Customs Service and the U.S. Trade Representative's office. Additionally, the bill contains over 150 miscellaneous trade and tariff provisions which temporarily suspend or reduce the tariffs on products not produced in the United States.

But, Mr. President, in my view the most significant provisions are those addressing the export of logs. I am delighted to be able to stand before the Senate and see the final passage of a bill to ban the export of logs from federal and State lands. Final passage and implementation of this bill will help establish a coordinated and cohesive policy governing the export of logs from State and Federal lands. My interest in this issue has been longstanding. Since 1973, I have been concerned about the effect of exporting logs on the environment and the economy of Oregon, as well as on the forest products industry.

The protection and future management of our public forestlands has become a national issue and over the next decade will receive considerable national attention. In light of the recent listing of the northern spotted owl under the Endangered Species Act, it has become increasingly important to look for new supplies of timber. The exporting of unprocessed logs is a critical element of the timber supply equation. Softwood logs are an important, natural resource in increasingly short supply in the western United States. There is evidence that the supply situation will worsen as the land available for harvesting timber is decreased by Federal resource management plans and restrictions imposed by the Endangered Species Act.

Mr. President, the log export provisions are unusual as they are supported by a broad coalition of interests including labor unions, environmental groups, timber interests and even have the blessing of the administration.

Let me summarize briefly what the log export provisions provide. The provisions:

Make permanent the existing prohibition on the export of logs originating from western Federal lands—excluding lands held in trust for Indians;

Ban what is commonly referred to as direct substitutions. The bill prohibits any person from buying Federal logs if that person will substitute the Federal logs for exported private logs; and

Will, for all contiguous Western states except Washington, close the loophole of indirect substitution—the practice of indirectly acquiring Federal logs while exporting private logs from the same geographic and economic area. However, indirect substitutions will be allowed in the State of Washington, but will be capped at 50 million board feet per year.

The prohibition on direct and indirect substitution would not apply if a company purchased Federal timber in one area and exported logs from private land in another area provided the two areas are geographically and economically separate. An example of a single geographic and economic area would be the area between Springfield and Coos Bay, OR. In contrast, examples of areas that are not a single geographic and economic area would include Coos Bay-Klamath Falls, OR, which are on opposite sides of the Cascade Mountain Range. The bill establishes an 8 month decision process during which a company could submit an application to the Secretaries of Interior and Agriculture to determine

the sourcing area boundaries. If the application is denied, the applicant has two options:

First, if the applicant wants to continue exporting private logs from the area, the applicant would be required to phase out Federal log purchases within 15 months. After 15 months the applicant would be prohibited from purchasing Federal logs in the area; or

Second, if the applicant agrees to completely stop exporting private logs from the area within 15 months, the applicant (during the 15 month period) would be allowed to purchase Federal logs at the applicant's historical levels. Additionally, during the 15 month period the applicant's private log exports would be limited to historical levels.

The bill for the first time imposes export restrictions on logs from State lands. For all contiguous Western States (with the exception of Washington State) the Secretary of Commerce shall prohibit the export of all logs from State lands. For Washington State, the Secretary of Commerce shall issue an order which prohibits the export of 75 percent of Washington State logs. The prohibition would not apply to grades and species of logs determined to be in surplus. Each State will establish its own implementation and substitution regulations.

While this bill mandates State export restrictions, the States do maintain some flexibility over the use of State timber. Under the bill if a State petitions, the President can modify or suspend the State export restrictions if the President determines it is in the national economic interest.

Mr. President, another attribute of the log export portion of the bill is that it is consistent with our international obligations—particularly the General Agreement of Tariffs and Trade [GATT]. While it is true that the GATT generally prohibits export restrictions, there are several exceptions to this rule. Specifically, Article XI (2)(a), and article XX(j) provide exceptions for products in short supply, and article XX(g) allows restrictions on exports to conserve exhaustible natural resources if such measures are made in conjunction with restrictions on domestic production and consumption. And that is exactly what is happening at this very moment in this country.

But to eliminate any question about consistency with our international obligations, the bill authorizes the President to suspend the State export restrictions if a GATT panel or a decision under any other trade agreement finds that the provisions violates United States obligations or, after 1997, he finds that the prohibitions no longer meets the purposes of the Act.

This bill includes meaningful monitoring and enforcement provisions. The bill mandates thorough reporting requirements and provides strict civil penalties and administrative remedies for violations.

Overall, Mr. President the Oregon and Washington House and Senate delegations have worked together to produce an excellent bill. We have produced a bill that, while not fully solving the timber supply crisis in the Pacific Northwest, will prove to be a meaningful part of the long-term timber supply solution. I thank my House and Senate colleagues who have worked so hard to see this bill passed.

Mr. BENTSEN. Mr. President, I rise today to announce that the Senate and House conferees have reached agreement on H.R. 1594, the Customs and Trade Act of 1990. This is important legislation, and I ask for its approval by the Senate as soon as possible.

On April 24, the Senate passed its version of this legislation by a vote of 92-0, which was an amendment to an unrelated House-passed revenue measure. The House subsequently passed its version of the legislation. For the past several months, the conferees have been meeting. Yesterday afternoon, we reached agreement on all outstanding issues and now stand ready to present this conference report to the Senate.

This legislation deserves the support of the full Senate. Title I of this bill contains the agency authorizations for the U.S. Customs Service, the International Trade Commission, and the U.S. Trade Representative, three critical agencies involving in enforcing our trade policy. Title I also extends various customs user fees for 1 year and contains various miscellaneous customs provisions and other provisions that make improvements in our trade laws.

Title II contains important provisions that would make the Caribbean Basin Initiative permanent. The legislation also contains certain enhancements to that program that would provide important trade benefits to the Caribbean nations, which are critical to our national security and to the economic health of the Western Hemisphere. But the legislation also retains provisions that respect the needs of import sensitive industries in the United States. In addition, title II includes changes to the Harmonized Tariff Schedule, other provisions that affect CBI beneficiary countries, and certain other msicellaneous provisions.

Title III of the legislation contains over 236 miscellaneous tariff provisions offered by 48 Senators that extend existing duty suspensions, create new duty suspensions, and make other miscellaneous tariff changes. When granting duty suspensions, the conferees generally have followed the rule that duty suspensions should not be granted when a domestic producer has a legitimate, competitive reason for objecting to the duty suspension. We have been able to adhere to that rule very closely.

Finally, title IV of this legislation contains provisions relating to the export of unprocessed timber from the United States. These provisions impose restrictions on the export of logs from Federal lands as well as on direct and indirect substitution of Federal logs for logs being exported. I know there are many Senate and House conferees who are anxious to see this title enacted.

Mr. President, I fully expect that the President will sign this legislation. Throughout the conference, we have worked closely with relevant members of the administration, and I believe they are satisfied with the product of the conferees. I have also worked closely with Senator PACKWOOD and the other Republican conferees to ensure that this represents legislation that can be supported on a bipartisan basis. I know that Senator PACKWOOD strongly supports the enactment of this legislation.

In short, Mr. President, this is a balanced, constructive piece of legislation that deserves the unanimous support of the Senate. I am hopeful we can approve the conference report as soon as possible.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the conference report was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

WAIVING CERTAIN PROVISIONS OF LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. MITCHELL. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 142) to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 142) was agreed to; as follows:

S. CON. RES. 142

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS—1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement on H.R. 5019 entered into earlier this evening be modified as follows:

That the committee amendments be adopted en bloc, the bill as amended be considered as original text for the purpose of further amendment, and that no points of order be deemed waived by virtue of the adoption of these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, if I might have the attention of the Republican leader, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:15 a.m. tomorrow, Wednesday August 1; that the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond 9:30 a.m., with Senators permitted to speak for up to 5 minutes each.

I further ask unanimous consent that at 9:30 a.m., the Senate resume considerations of S. 137, the campaign finance reform bill, and that Senator DODD then be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 9:15 a.m. tomorrow morning.

There being no objection, the Senate, at 11:36 p.m., recessed until Wednesday, August 1, 1990, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 31, 1990:

DEPARTMENT OF STATE

STEPHEN H. ROGERS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

THE JUDICIARY

DIANE GILBERT WEINSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR A TERM OF 15 YEARS, VICE RANDALL R. RADER, ELEVATED.

DEPARTMENT OF TRANSPORTATION

MARY STERLING, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION, VICE JOHN W. MELCHNER, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, July 31, 1990*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GRAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 31, 1990.

I hereby designate the Honorable WILLIAM H. GRAY III to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks, O God, for those who volunteer their time to do good work by helping others. We are grateful for those who through their generosity of spirit and their gifts of time and ability enable others to enjoy lives they would not otherwise know. May our eyes, O God, see not only the tasks we need to do, but be lifted to see opportunities for service wherever we are. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from New Jersey [Mrs. ROUKEMA] please come forward and lead the House in the Pledge of Allegiance.

Mrs. ROUKEMA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 293. An act to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2737. An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean war and in honor of those who served.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY AND FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW DURING THE 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation be permitted to sit today, July 31, 1990, and that the Committee on Public Works and Transportation be permitted to sit tomorrow, August 1, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MEDICARE/MEDICAID ANNIVERSARY

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, yesterday marked the 25th anniversary of the Medicare and Medicaid programs. I was a Member of Congress when the original legislation was passed creating these programs and I supported the effort to put them in place.

President Johnson felt very strongly, and I agreed with him, that it said something about us as a nation if we were willing to help those less able to help themselves. And he was right.

The Medicare law was signed by President Johnson in Independence, MO, and former President Truman, who was the first President to seek legislation that would create some kind of Government health care system, was on hand for the signing.

I quote from President Johnson's remarks:

No longer will older Americans be denied the healing miracle of modern medicine. . . . No longer will young families see their own incomes, and their own hopes, eaten away simply because they are carrying out their deep moral obligations to their parents, and to their uncles, and their aunts.

It was thought that if we could contribute to the health and well-being of older Americans and poor Americans, our Nation would be a better place for all. And so it was.

It was a time to believe that Government could be a positive force in the lives of its citizens, that Government could go a long way toward smoothing the edges of the harsh circumstances which come to some, and toward easing the autumn and winter of life for all. And so it has.

Today, as I look back, I can think of few Government programs which have had, and continue to have, a more direct, positive impact on individual American lives.

Older Americans live longer and in better health. They continue to be active in their communities and with their families, and Medicare has helped to make that possible.

Today there are many who are cynical about the ability of Government to do anything right. But 25 years ago, when we created Medicare and Medicaid, we did something very right.

Medicare today is often under attack, and it is not perfect. Today there are many Americans without access to health care who are not old or poor. But Medicare and Medicaid still do far more good than we might believe possible every day.

Government today is often under attack, and it is not perfect. And harsh circumstances leave much for Government to do for our fellow citizens, because it still has the power and the obligation to serve, to protect, and to defend us all.

As we celebrate 25 years of Medicare and Medicaid, and as we vote on legislation today and in the days ahead, we would do well to think about the work we are doing that will be remembered 25 years from now.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

LETTERS OF CONCERN FROM MICHIGAN CONSTITUENTS

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, from time to time over the years I have had an opportunity to take 1 minute period of time to read letters from various constituents in our congressional district.

From Mr. Frederick Glick of Adrian, MI:

DEAR REPRESENTATIVE PURSELL: I am writing because I cannot understand why the Congress continues to vote for more immigration and more amnesty for illegal aliens when practically every American citizen is opposed to this policy.

Are you aware of recent independent national polls which confirm nearly total (90 percent) support a crackdown on illegal immigration.

That is signed Frederick Glick, Adrian.

Another letter is from Thomas and Sharon McDonnell of Ann Arbor, MI:

I am a computer analyst of the Dearborn Federal Credit Union. I am outraged that the banking community is intent on crippling the Nation's credit unions and is resorting to misinformation and deception in order to do so. In an economy which thrives on serving the consumer, the bankers are asking Congress to restrict consumer choices by anti-credit-union legislation.

Credit unions play an important role in our economy, and they do so in a dedicated manner. Please, Representative Pursell, don't allow Congress to tamper with a good thing.

That is signed Thomas McDonnell, Ann Arbor, MI.

THE 25TH ANNIVERSARY OF MEDICARE/MEDICAID

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, today we are marking the 25th anniversary of Medicare, a democratic program which has profoundly improved the lives of millions of Americans, particularly those senior citizens, and there are a great many of them, Mr. Speaker, who are on fixed incomes.

In my own home district, older men and women regularly tell me that Medicare and Medicaid are their health care life lines, the difference between well-being and illness, the difference sometimes, Mr. Speaker, between life and death.

But, Mr. Speaker, for 10 consecutive years Ronald Reagan and now George Bush have sent the Congress budgets which call for drastic cuts in Medicare. During the 1980's, to pay for his bonanza for his ultrarich friends, Ronald Reagan suggested year after year that we cut Medicare by $5 billion.

Now George Bush wants to pay for the S&L scandal by cutting Medicare $6 billion. I repeat: George Bush wants to pay for the S&L crisis on the backs of elderly Americans who desperately need health care.

That, Mr. Speaker, is George Bush's idea of kinder and gentler Nation—build more bombs, cut health care to the elderly.

WESTERN NORTH CAROLINA WILDERNESS PROTECTION ACT OF 1990

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, on Friday, July 27, 1990, I introduced H.R. 5388, the Western North Carolina Wilderness Protection Act of 1990. This legislation would designate two areas in the Pisgash National Forest, Lost Cove and Harper Creek, as wilderness areas under the Wilderness Act of 1964.

Specifically, my legislation would establish approximately 13,000 acres of additional wilderness in North Carolina. I recently visited Lost Cove and Harper Creek and concluded that it is essential these areas be protected. Within the area, there is an abundance of trout, and such wildlife as bear, turkey, and deer. Passage of this legislation would ensure these areas are preserved for all time.

I often tell my colleagues that North Carolina is the best kept secret on the east coast. Our coastline and our mountains provide recreation and beauty to residents and tourists alike. Having been born and raised in western North Carolina, I find particular beauty in the mountains. I am glad that I have the opportunity as a U.S. Representative to make an effort to preserve part of this beautiful natural resource. I invite my colleagues to join me in cosponsoring this legislation; then, I invite you to come and enjoy the beautiful mountain wilderness areas of North Carolina.

SIN TAXES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the American people are "taxed" off. They are fed up with income taxes, sales taxes, property taxes, boat taxes, goat taxes, vote taxes. Now the President wants to tax their beer, tax their smoke, tax their snuff.

What is next, ladies and gentlemen? Will Congress tax sex in America? Is there any end to what Congress will do to raise revenue?

Very simply, the American people do not want more taxes. They want Congress to cut foreign aid, stop paying for the defense of rich countries in Europe and Japan and stop the thieves at the Pentagon that are ripping us off.

If Congress wants to raise sin taxes, then go after those savings and loan crooks. Leave the American people alone. They are taxed off, mad as hell, and they are not going to take it much longer. That is the message that you should be getting to the summiteers.

□ 1010

BOB MICHEL AND CAMPAIGN REFORM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, our Republican leader, BOB MICHEL, has been instrumental in bringing this Congress to the point where we are close to passing the first significant campaign reform in 15 years.

As political columnist David Broder recently has written, "more than a year ago: MICHEL said the stain of the House's honor would be removed only if this 101st Congress became the reform Congress. MICHEL focused on the need for dramatic reform of our campaign laws and practices. That was an important breakthrough."

Under BOB MICHEL'S leadership, House Republicans have been ready and willing to negotiate, and have led reform efforts with our 25 proposals for returning competition and fairness to congressional elections.

Mr. Speaker, a historic opportunity will be missed unless each of these specific reforms are voted on individually by House Members.

UNIVERSAL HEALTH INSURANCE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, today I rise to reflect upon the anniversary of 25 years of the Democratic program of Medicare and Medicaid in the United States.

These two programs have greatly improved the quality of life for millions of poor, elderly, and disabled Americans. Today, 55 million Americans take advantage of this program; most of them would not have health insurance if it were not for these two programs.

So we can be proud of that. However, we still have 37 million working families without any health insurance; another 40 million Americans are underinsured.

Let us dedicate ourselves to insuring all people. Today we ought to rededicate ourselves to say that we want universal health insurance for every single American.

You know, when we had the situation of Medicare on the floor in the sixties, they called the advocates for this program Communists and Socialists and so forth. Today they do the same thing with respect to universal health coverage toward those of us who advocate it.

It is not socialized medicine, it is civilized, and we ought to pass universal health insurance in this body.

LET US NOT GO DOWN THE SAME ROAD THAT LED TO THE S&L DISASTER

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, today's headlines are screaming that the S&L bailout will require an additional $100 billion for 1991 alone.

That is a dramatic jump from original estimates.

That is serious money and another shock for the taxpayers.

Would you not think that a Congress staring down into this particular black hole into the abyss would sober up and say "never again."

But not this gang.

In the housing bill we debate today, our colleagues are facing intense pressure from the special interests—much like the S&L lobbyists that haunted the Halls of Congress that blocked legislation in the 1980's that could have stemmed the tide of red ink.

Secretary Jack Kemp, armed with extensive actuarial studies, has sounded the alarm and warned Congress that insolvency for the FHA insurance fund lies ahead and another raid on the taxpayers.

Still many of our colleagues only have ears for the special interests.

Today we will have Members putting forward a plan they say will protect the low-income homebuyer. They will give you dubious estimates, funny numbers, and claim that they will meet the standard of actuarial soundness.

Please do not believe it. Voting for Vento-Ridge will be the vote that will go down the same road that led to the S&L disaster.

And this time you cannot plead ignorance or innocence. You have heard the alarm. You now know the facts.

Vote "no" on Vento-Ridge.

Vote "yes" on Roukema-Wylie.

CELEBRATING THE TWENTY-FIFTH ANNIVERSARY OF THE CREATION OF MEDICARE

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, 25 years ago the Medicare Program was enacted to ensure America's senior citizens ready access to necessary health care. Today, more than 33 million people are benefiting from this medical insurance program, which provides coverage for health expenditures.

Over the years the Medicare Program has grown to be a substantial percentage of the Federal budget. It is now the fourth largest expenditure behind defense, Social Security payments, and interest payments on the national debt. Today, the program represents 8.4 percent of the budget, or more than $105 billion of the fiscal year 1990 budget.

I am proud that a Democratic President, Lyndon Johnson, initiated the Medicare Program. Its enactment is a tribute to his efforts to protect senior citizens from the threat of personal bankruptcy. The program is jointly funded by payroll taxes on wages of working people and general revenues collected from all taxpayers. In a recent Gallup Poll, by more than a margin of 88 to 8 percent, Americans 18 or older oppose substantial cuts in Medicare to reduce the Federal deficit. In addition, the survey suggested most Americans would be willing to spend more than the 11 percent of the gross national product now currently spent for health care services.

In any program of this magnitude, there is always room for improvement. In many cases, the Medicare Program has provided benefits for acute medical episodes without providing sufficient reimbursements for preventive health procedures such as mammograms. The 25th anniversary of the Medicare Program should be viewed as an opportunity for Congress to review the purpose of the Medicare Program, and improve upon its successes.

KNOW WHEN TO SAY "NO" TO TAX INCREASES

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I was most disappointed to hear there are people in Washington who want to increase the tax on a 6-pack of beer from 16 to 81 cents. That is a 400-percent tax increase on people who drink beer. That is outrageous.

No other group is being singled out for this kind of tax increase. You cannot claim, as many of you in Congress do, to represent the working people of America and then turn around and propose an increase in tax on beer by 400 percent.

To the big spenders in Washington, taxes are always "less filling and taste great." Congress would be well advised to take the sage advice of that famous beer philosopher, Spuds McKenzie, and know when to say "no" to tax increases.

THE 1990'S: THE DECADE TO PROVIDE AFFORDABLE HEALTH CARE TO ALL AMERICANS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, most Americans cannot remember a time when our country did not provide basic health coverage for the poor and the elderly. But I remember—when Medicare and Medicaid passed 25 years ago, I was a medical resident, preparing for a profession that could not help millions of Americans because they could not pay for our services.

Today, we cannot imagine society without Medicare and Medicaid. Yet we live in a society where more than 30 million people have no health coverage, and another 30 million have inadequate coverage. Millions of them are children.

Some years ago I met Wilbur Cohen, one of the architects of Medicare and Medicaid. He said the 1990's would be the decade in which we complete the unfinished business of bringing affordable health care to all Americans.

But just last week, HHS Secretary Sullivan said he opposed any type of national health system or employer mandate. Many of us are waiting to hear what he recommends instead. More than 80 percent of Americans agree that our health care system needs major reform.

Twenty-five years ago we had a vision of a stronger, healthier America. We took two long steps, Medicare and Medicaid, toward realizing that vision. Now we must complete the task, and bring affordable health care to all Americans.

LEGISLATION CONCERNING TAX CREDITS FOR PILOTS INSTALLING "MODE C" TRANSPONDER EQUIPMENT

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, I rise today to introduce legislation to assist general aviation pilots in complying with current Federal Aviation Administration [FAA] rules requiring "mode C" equipment for transponders in private aircraft. I thank Representatives INHOFE, GLICKMAN, and TAUKE for cosponsoring this legislation, and I encourage all of my colleagues in the House to do likewise.

The Airport and Airway Safety and Expansion Act of 1987 instructs the FAA to enhance radar tracking equipment, thereby necessitating the requirement for "mode C" transponders. These transponders provide aircraft

altitude information to air traffic controllers operating in America's busiest airports. Reducing the likelihood of accidents between private aircraft and commercial passenger aircraft is one of the primary goals of this new equipment. Two tragic accidents in late 1986 and early 1987 might have been avoided if this needed equipment were in use. Plainly, this equipment is a benefit to air safety.

Two questions need to be asked, however: First, who will benefit from this safety equipment, and second, who pays for it? Commercial air travelers and airline carriers have the most to gain from this requirement. Private pilots flying in general aviation aircraft, however, are bearing all of the financial burden for the installation of this equipment. Most of these private pilots have only a modest income and fly only for the love of flying. This new equipment will cost each pilot with a private plane between $800 and $2,000.

Mr. Speaker, several suggestions have been aired on how to modify this requirement. All are concerned with helping private pilots survive without compromising the safety of commercial air travelers. All are worthy of study. Today, however, I ask the House to concentrate only on relieving the financial burden on private pilots. "Mode C" tax credit legislation accomplishes this start. This legislation will provide a tax credit of 10 percent, with a $100 maximum limit, for private pilots installing this equipment for the first time. A 10-percent tax credit is a small investment for the additional safety of commercial travelers and for the protection of a great love of several Americans, the love of flying.

□ 1020

DEFENSE ADJUSTMENT AND CONVERSION

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, we have spent a lot of time this past year groping for superlatives to describe the total collapse of the Communist bloc in Eastern Europe. Overnight, these events rendered over four decades of military planning useless, and sent the Defense Establishment scrambling to define the new threats for the new decade and the new political order.

The community which I represent draws much of its substance from the defense industry. In 1989 alone, defense expenditures in Utah totaled nearly $2 billion, 32 percent all all Federal spending in the State. Utahns derive 9.5 percent of all personal income from defense, compared with a national average of 5.2 percent. But world changes and good sense now dictate less money will go into defense spending. Without community mobilization and advance planning, without a guiding hand to help from the Federal Government, many States, including Utah, which rose to the task for our Nation's defense, will now pay for peace with its jobs.

Mr. Speaker, I rise today to introduce a bill which addresses many of the economic adjustment problems caused by cutbacks in defense spending. The bill recognizes that the free market is the most potent and effective force directing conversion in industry, and will establish an executive office of defense adjustment to assist in the process. For workers and communities, it requires advance notification of contract cancellation, as well as a program providing for job retraining and extension of health and unemployment benefits. In addition, it will provide technical assistance to assist private industry and State and local governments in developing adjustment plans for distressed communities.

This bill provides emergency guidance for workers and businesses which need to adjust in a hurry to the post-cold war world. We need such assistance and we need it now.

CAMPAIGN FINANCE REFORM DESERVES OPEN RULE

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, there is some talk about bringing campaign finance reform to this House under a closed rule. I ask the Speaker of this House to bring campaign finance reform to the floor of this House and under an open rule. It is enormously important that we be accountable, every Member be accountable, for the great variety of things that it can alone reform our campaign finance process. Reforming campaign finance laws is not just a matter of dealing with the issue of spending limits. Spending limits have not worked in the Presidential arena. They have really actually only opened up new vistas for special interests influence.

If we look up in Walter Oleszek's "Standard Book on Congressional Procedures," we will see that another name for closed rule is the gag rule. We ought to do better than gagging this House on the important issue of changing the fundamental process by which elected Representatives come to be the voice of their people on this House floor.

Let each Member be accountable for whether we should be responsible for raising most of our own money within our district or without our district. Let each Member be accountable on whether PAC crises should be limited. Let each Member be accountable on whether that enormous dollar driver in campaigns of TV advertising ought to be constrained. Let each Member be accountable for whether or not we think challengers ought to have a fair shot at our seat. I for one believe that, and I am for an open rule.

REAFFIRM SUPPORT OF MEDICARE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is hard to visualize what life was like in this Chamber 25 years ago. Our Nation was still recovering from the assassination of President Kennedy. Our new President, Lyndon Johnson, the consummate deal maker on Capitol Hill, was creating the Great Society. So many programs came out of that Great Society, so many failures, but so many successes as well.

Perhaps the most dramatic success of the Great Society was the creation of Medicare. It was not the kind of program that was welcomed in its day as visionary. It was viewed as a bold, innovative, and controversial program. In fact, it was labeled by critics as liberal, socialistic, communistic.

Thank goodness the Republican critics of Medicare did not prevail, and Medicare was created. In its 25-year history it has literally saved the lives of elderly citizens, and protected them from many of the costs of health care. Of these millions who have been protected, many have had to be protected in the last several years, because for the last 9 years, Republican Presidents Reagan and Bush have each year proposed dramatic cuts in Medicare, cuts that meant more out-of-pocket expenses for senior citizens, and reduced health care benefits.

The Democratic Congress has fought back against those cuts year in and year out. With our budget resolution this year, we turned back President Bush's call for a $5.5 billion cut in Medicare, and with the passage of our resolution, reduced it to a $1.7 billion cutback. Now we are told that President Bush's summit is proposing $6 billion more in Medicare cuts.

We have to remember the architects of Medicare shouldered a great responsibility 25 years ago in creating this program to help seniors face the uncertainty and expense of health care. Members of Congress today have a similar responsibility in protecting Medicare for the poor, elderly, and disabled in America.

THE AMERICAN PUBLIC DESERVES AN OPEN DEBATE ON CAMPAIGN REFORM

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, I urge you to bring campaign reform legislation to the floor under an open rule.

This week, both the House and Senate will be considering reforms to Federal election law. In the Senate, the majority leader is allowing Republicans to offer as many amendments to campaign reform legislation as they desire. This stands in sharp contrast to House Democrats—where the Speaker has indicated that campaign reform legislation will be considered under a closed rule. Your refusal to allow an open amendment process can only mean one thing: House Democrats are not serious about campaign reform.

After reading their bills, I know why they fear voting on the separate components which make up their legislation. To be blunt, their bills would give union PAC's an advantage over all others, while taking money from taxpayers to fund their incumbent protection machine. In addition, their plan would allow the Charles Keatings of the world to continue to pour money into their party. More PAC's, more government, more savings and loan crises—that's the Democrats' idea of reform.

Why did they offer a PAC protection plan and call it reform? Because House Democrats are addicted to special interest PAC money. They are as hooked to PAC money as a crack addict is to cocaine. Open debate and separate votes on key issues such as the frank, PAC limits, limiting outside donations, bundling, and soft money will expose this addiction. Mr. Speaker, it is time your party goes cold turkey. Allow an open rule on campaign reform. Do not be afraid.

PHIL SOKOLOF SAVES LIVES OF MILLIONS

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, yesterday the House passed a very important piece of legislation concerning the health of all Americans. It is called the Nutrition Labeling and Education Act, and it is specifically designed to allow Americans to know more about the food we eat.

Leading the drive to help educate the American public is a quiet but dedicated man from Omaha, NE, Phil Sokolof, the founder and the president of the National Heart Savers Association.

Phil has devoted his life and his personnel wealth to the improvement of individual health and proper nutrition. Last week, Members will recall a financed full-page advertisement urging all the House to pass this important legislation. Members might also remember that last week McDonald's announced that it was changing the way it deep fries its french fries, changing the frying from using beef tallow to vegetable oil. We will recall that Phil Sokolof ran full-page ads urging McDonald's to make those changes some months ago.

Now, a large order of McDonald's french fries cooked in beef tallow the old way, contained 9 grams of saturated fat. With the switch to vegetable oil, that will be reduced 45 to 50 percent.

Forty million people every day eat at fast food restaurants. Millions of ounces of saturated fat will not be clogging the arteries of the American people, thanks to Phil Sokolof.

□ 1030

ROMANIA'S HUMAN RIGHTS RECORD GROUNDS FOR DENYING MFN STATUS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I would like to alert my colleagues to a visiting delegation of Romanian officials who were on Capitol Hill this past week. This delegation visited my office on Thursday, July 26, led by Mr. Sirbu Advian, the Secretary of State for Mass Media.

Their goal was simple: They were trying to persuade the U.S. Government to grant their country most-favored-nation trading status, and give them a Government loan. They claimed that Romania would qualify for this because the human rights picture in Romania is not as bad as we have perceived.

The facts are that:

First, in mid-June, the Romanian Government used miners as thugs to beat demonstrators, arrested 185 of the demonstrators, and has not filed charges against 1 single miner.

Second, the Romanian Government is still harassing its opposition through State-run newspapers.

Third, the Romanian Government is still holding Mr. Marian Munteanu, a well-known student leader, and many others on charges which, according to our sources, are groundless.

Fourth, despite the atrocities committed by the Securitate—the secret police—the Iliescu government has merely rotated, not removed, many Securitate officers who worked for Nicolae Ceaucescu.

What the Romanian Government is doing is absolutely reprehensible. I hope no one in Congress or the administration is considering for even 1 second that most-favored-nation trading status be restored to Romania unless and until freedom and human dignity is nutured and allowed to grow among the people.

YOUNG PEOPLE SHOULD BE TARGETED AS MEDICARE BENEFICIARIES

(Mr. GIBBONS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, having been here 25 years ago and voted for the Medicare Program, I think it is time to reflect upon it a little. I am very happy with the way the Medicare Program has worked out. It certainly did not live up to the great expectations of its detractors. It is a popular program and it does a fine job, but there were many of us at that time who were pilloried by the people opposing Medicare, and all kinds of dire predictions were made.

We have gained enough experience now in the administration of that program to move ahead. In fact, we are far past that point. Our next emphasis should be on preventive care for all people, to pick up the 37 million people who do not have adequate insurance or no health insuance, with particular emphasis upon the young. They have been the neglected area in the whole medical care field in the United States. The young from conception or preconception up until they are able to support themselves, they are the ones who should be the beneficiaries of the next expansion of Medicare.

Mr. Speaker, it is time to start.

WHAT'S ON THE TABLE?

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, for months now, since the budget summit began on May 15, I have kept my mouth shut. Everything is on the table. We're talking. We're negotiating. We're working on the courageous and difficult decisions that we were elected to make.

Well, with an August recess just 3 days away, with a devastating and destructive sequester just 23 legislative workings days away, I can be silent no longer.

Mr. Speaker, the plain fact is that there is nothing on the bargaining table. Nothing at all. No one has put a complete proposal forward and no debate is taking place.

I have sat through just about every session since May 15. I have been waiting for the serious talk to begin.

Mr. Speaker, we are fiddling while Rome burns. If everything is on the negotiating table, can't we at least get something on the bargaining table?

Sequester is coming; $100 billion at a minimum; 30 times larger than the one last year. People laid off. Benefits ended. Unthinkable consequences that I will be spelling out over the days ahead.

Mr. Speaker, everything is on the negotiating table. Can't we get something on the bargaining table?

STEALTH TECHNOLOGY INVADES THE BUDGET FIELD

(Mr. GRAY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, I certainly agree with the gentleman from Massachusetts, but the administration is taking Stealth technology too far. First it was the B-2. Then came the Stealth nominee for the Supreme Court, Judge Souter, and now it is the Stealth budget summit proposal. We do not know where it came from, what is in it, where to read it, or who supports it. The only thing we are sure of is that most of the Republican summiteers are against it. They want credit for leaking it but take no responsibility for its contents.

I have a suggestion, Mr. Speaker. If either side in the budget negotiations has a proposal, then let us hear it, let us see it, and let us debate it, but first tell us who supports it. A proposal without any proponents is like another plane, the B-1B, and I say, "It just won't fly."

H.R. 4000—FOR THE EMPLOYEE AND EMPLOYER—OR THE LAWYER

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, most of my colleagues would agree that American enterprise benefits come from encouraging and preserving productive employment relationships. Historically, our Nation's employment laws have sought to resolve disputes by early reconciliation, mediation, and settlement.

When the employer is in the wrong, the current laws include reinstatement, backpay, and restoration of lost benefits. I am deeply concerned that H.R. 4000 departs from these legal precedents and mandates that juries may award compensation damages for such things as emotional distress, and punitive damages from the offending employer.

This provision moves H.R. 4000 from guarding employment rights to a gold mine for lawyers. A June 25, 1990, editorial in the Washington Post said the following:

> We have grave reservations about the system of punitive damages generally. It is erratic and abused. If legislatures want to punish behavior they should criminalize it and set clear penalties, not leave that to the uneven results produced by contingency fees and the jury process.

I agree.

I strongly urge my colleagues to amend H.R. 4000 and make it a bill for the employer and the employee, not for the lawyer's wallet.

A RENEWAL OF OUR COMMITMENT TO MEDICARE AND MEDICAID

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, on July 30, 1965, the American Government made a promise to older and poorer Americans that health care is a right—not a privilege.

Today I want to celebrate the success of Medicare and Medicaid. At the same time, I want to stress that the American Government is falling short on its commitment.

We have more uninsured Americans than ever before.

We have insurance companies out to make a buck by raising premiums for Medigap insurance by almost 70 percent.

And worst of all, we have an administration that wants to balance the budget with an $8 billion cut to Medicare.

It is time to renew our commitment to Medicare and Medicaid.

THE DEBT BUBBLE

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the public debt outstanding as of June 30, 1990, was $3.144 trillion, an increase of $344 billion in one year. This is the true measure of the budget deficit, not the phony figures which use trust fund surpluses to offset general fund losses.

At an average rate of 8.5 percent, we are paying about $265 billion in interest on this debt this year. We are blessed with a budget summit which is nothing more than a sound room in which it is hoped the decibel level can be ascertained as to the tolerability of tax increases by a howling public.

We are confronted by pronouncements that we will face a sequester in the range of $100 billion—though even that amount may be too low. Some wily protectors of the status quo have even hoodwinked the President into opening the door on taxes. And, of course, one body of thought in this body would love to take the entire amount out of defense, rendering us helpless in the world in the process.

We go through this charade every year. And every year we hear the same excuse: We will do something meaningful next year. Well, this is next year and we still are not taking productive steps to halt the hemorrhaging of our national finances. Let's tackle the issue of the $265 billion we are throwing away on interest payments instead of stealing more money from the taxpayers of this Nation. We have a golden opportunity to once again convert the dollar to gold and reduce interest rates for all of us.

Vote down this cowardly cop-out and, instead, really do something about the deficit.

COMMEMORATING THE 25TH ANIVERSARY OF MEDICARE AND MEDICAID

Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I rise today to commemorate the 25th anniversary of the Medicare and Medicaid programs. It is appropriate for us to celebrate the success of these vital programs which have provided health care to tens of millions of our Nation's most vulnerable citizens over the last two and a half decades. In 1965, Congress acted to protect families from the indignity of losing all of their income, savings, and hopes in exchange for health care.

As we look at the inequities and problems we have with our Medicaid and Medicare programs, I think it is also good to look at what it was like before Medicaid and Medicare became law.

I would like to highlight the importance of Medicare and Medicaid for women in our Nation. Because women comprise 60 percent of those over age 65, and often lack income security in retirement, they must depend on these programs more than men. Medicare and Medicaid provide essential economic and health care protection for older women, many of whom are on the verge of living in poverty. These programs are the least we can do for our women citizens who on average devote 18 years to the care of older family members, and 17 years to the care of children. It is time that we address some of the needs of women by enacting legislation to expand coverage for preventive services such as mammograms, cervical cancer screening, and bone mass measurement.

It is ironic that we spend so much on Medicare and Medicaid, yet older

Americans spend a larger share of their income on health care today than when these programs were enacted. At the same time, the cost of long-term care erodes any savings that older adults have carefully put away.

Mr. Speaker, my colleagues in Congress; we have a long way to go to provide the necessary health care services to older Americans and persons living in poverty. Let us use this occasion to rededicate ourselves to the task of providing adequate health care for Americans of all ages.

□ 1040

IT'S BETTER IN MONGOLIA

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, this past weekend we saw democratic reform move all the way to Ulan Bator, Mongolia. My question is, "Why can't we do that right here in the U.S. House of Representatives when it comes to dealing with the issue of campaign finance reform?"

Months ago, our distinguished leader, the gentleman from Illinois [Mr. MICHEL] called for a sweeping package, and yet we now hear the campaign finance reform may come forward with a closed rule, not even allowing us to offer amendments from our side.

Mr. Speaker, it seems to me that, as we observe these reform movements taking hold throughout the world, we must, here in the Congress, have the same kind of opportunity that these peoples throughout the world are enjoying.

TAX CHAMPAGNE AND CAVIAR, NOT BEER

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the President wants a 400-percent increase in the tax on beer to reduce the deficit. Well, I've got news for the President and his buddies down at the White House—it was not the beer drinkers of America who spent and mismanaged the United States into this mess—it was the French champagne and Russian caviar set who clinked crystal glasses in toast as they celebrated the speculative profits of the freewheeling, anything goes 80's; the fabulous windfalls they reaped under the so-called tax reform and simplification of 1986; and the lucrative plunder of the S&L industry.

If the President and his advisers insist on an increase in excise taxes, they should target champagne and caviar—better still, they should restore reasonable taxes on the wealthiest 1 percent of America by eliminating the bubble—let those who enjoyed the party of the freewheeling 80's pay the tab—that's real and appropriate deficit reduction, more than 20 billion dollars' worth.

CAMPAIGN REFORM MUST BE DEBATED OPENLY

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, this House often likes to criticize the other body in terms of the way they carry out their activities either substantively or procedurally. I have to tell my colleagues that this week the Senate is standing tall. In this last week, the gateway week of this session prior to the August recess, we have now been informed through a press conference that the Democrats are going to handle campaign finance on Friday with a closed rule in which we do not have an opportunity to carry on reasonable debate.

Mr. Speaker, our colleagues down the Hall in the other body have already agreed to, as they have said, slug it out on every section of the alternate proposals for campaign reform. It seems to me that this body owes the American people nothing less, and that is to discuss options, section by section, title by title, point by point.

We got into trouble over the savings and loan scandal by being too cozy with each other. We are going to get in trouble over campaign finance if the Democratic leadership does not allow us to discuss fully all of the ultimate points of campaign finance.

Too cozy, too inside, too closed rule, in a word, too arrogant.

INVITATION TO OLYMPIC RECEPTION

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Speaker, as chairman of the Consumer Affairs and Coinage Subcommittee I am honored to welcome a delegation of Olympic athletes here to testify on behalf of a proposed coin, that would honor the athletes participating in the 1992 Olympics and provide funds for their training.

I would also like to invite all Members to meet these Olympic athletes. Tomorrow the Olympic Caucus will be hosting a reception for the athletes in room EF-100 of the Capitol, from 11:30 a.m. to 1:30 p.m.

As busy as we all are, I hope that you will take this opportunity to meet a few of the individuals that have benefited from the Commemorative Coin Program in the past and those that with the help of this program will bring home the gold in the future.

At least 16 Olympic athletes will attend the reception. Among the notable athletes will be: gold medalist in the decathlon and former Congressman Bob Mathias, double gold medalist in swimming Steve Lundquist, Greco-Roman wrestling Olympic champion Jeff Blatnick, triple gold medalist swimmer Nancy Hogshead, and Bonnie Blair who broke a world record while winning a gold medal in speedskating.

DEMOCRATIC LEADERSHIP SAID TO BE BLOCKING PROGRESS AT BUDGET SUMMIT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, this morning's Post carries another story of the breakdown of the budget summit. Not surprisingly, once again it is the Democratic leadership that is blocking progress toward an agreement.

When the summit began, the Democratic leadership demanded that President Bush take the lead in organizing the need for new revenues.

President Bush did that.

The Democratic leadership demanded that President Bush and the Republicans come up with a budget plan.

President Bush has a plan.

In response, the Democratic leadership promised that if the President said the "T Word"—taxes—they would say the "E Word"—entitlement reform.

They promised to match Republican plans with their own plan.

They promised to work for a plan before Congress leaves for its August recess.

None of these commitments has been delivered.

To add insult to injury, the Democrats now claim they made no promises. Apparently, they would have us believe they are negotiating in good faith with no commitment to actually do anything.

Well, the Democrats may not be making promises, but I can promise

this: Without a commitment to contribute to budget negotiations, and make some tough choices that include budget process and spending reforms, this Member will not be there to support the next budget sham.

If the summit fails, let there be no mistake it is the "D word"—Democrats—who are to blame.

WE ARE ENTITLED TO KNOW THE SUPREME COURT NOMINEE'S VIEWS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I am troubled at the way the nomination for the Supreme Court is going so far. It seems the general consensus is that we should not know the next nominee's views on just about any issue.

Now I understand that we do not want to ask Judge Souter, or anybody else, their views on specific cases, but the next Supreme Court judge will have tremendous effect on all of our lives, and to nominate someone without knowing his or her general views on issues like abortion, church-state, economic relationships in America, to me is absurd. After all, we do not pick the next Supreme Court Justice out of a hat, nor do we have a panel of legal experts choose the brightest legal mind. We have the President choose and the Senate advise and consent. It is by that means that the American people are entitled to know the next justice's views on many issues affecting us.

Mr. Speaker, it would be a travesty if we were to nominate somebody at this crucial time in America and not know what they think about issues that will affect millions of Americans.

Come on. Judge Souter should state what he thinks on the issues, and the Senate should press him to speak before the American people before he is confirmed.

SILVER JUBILEE OF MEDICARE AND MEDICAID

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASHAYAN. Mr. Speaker, I wish simply to join with the good feelings generated last night when the national senior citizens group awarded my very good friend, the gentleman from Massachusetts [Mr. CONTE], and 32 others for sponsoring and supporting the establishment of Medicare and Medicaid 25 years ago.

Mr. Speaker, I believe I am correct when I say that that is the silver jubilee of Medicare and Medicaid, and I think it is most appropriate that the gentleman from Massachusetts [Mr. CONTE] was one of the recipients, Mr. CONTE, of course, being very famous in this Chamber for not only his silver tongue but also his silver hair.

PROVIDING FOR CONSIDERATION OF H.R. 5355, INCREASING STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 443 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 443

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5355) to increase the statutory limit on the public debt, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived, and all points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution. Said amendment shall be debatable for the period specified, equally divided and controlled by the proponent and a Member opposed thereto. Said amendment shall not be subject to amendment and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1050

The SPEAKER pro tempore [Mr. HARRIS]. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from California, [Mr. PASHAYAN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 443 is the rule providing for consideration of H.R. 5355, a bill to increase the statutory limit on the public debt. This is a modified closed rule, providing for 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule waives clause 2(l)(6) of rule XI, requiring a 3-day layover, so that the House can consider this bill today. It also waives clause 5(a) of rule XXI, prohibiting appropriations in a legislative bill, which is needed for any bill raising the debt limit.

Under this rule, only one amendment is permitted: The amendment printed in the report accompanying this rule to be offered by Representative DORGAN or his designee. The Dorgan amendment, which is not subject to further amendment, is debatable for 1 hour to be equally divided and controlled by the proponent and a Member opposed.

The Dorgan amendment would prohibit the use of the Social Security trust funds—the old age and survivors and disability insurance funds—in the deficit calculations under Gramm-Rudman. It would also establish a point of order against legislation which would have a negative impact on these trust fund balances. The rule provides a waiver of clause 7 of rule XVI, which prohibits nongermane amendments, so that the House can consider the important issue of how surplus Social Security revenues are treated under Gramm-Rudman in connection with this debt limit legislation.

Mr. Speaker, H.R. 5355, the bill for which the Rules Committee has recommended this rule, would raise the statutory debt limit to $3.444 trillion. That limit is $65 billion less than the administration requested to cover the Federal Government's borrowing needs through fiscal 1991; the Ways and Means Committee set it at a lower amount to accommodate only currently authorized borrowing for the Resolution Trust Corporation.

Mr. Speaker, none of us looks forward to acting on this measure; we are all troubled by the Government's huge budget deficits which have led to the need for it. However, the administration has warned that unless the statutory debt limit is increased, the Treasury will run out of cash and borrowing authority in mid-August and will default on its obligations at that time.

I urge adoption of House Resolution 443, so that the House can proceed to consideration of H.R. 5355.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 443 is a modified closed rule under which the House shall consider legislation to permanently increase the public debt by $322 billion.

The bill made in order by this rule, H.R. 5355, is a long-term increase in the statutory limit on the public debt. The legislation raises the current dollar limitation on the public debt from $3.123 to $3.444 trillion.

As always, the legislation itself is highly contentious. The rule reported from the Committee on Rules is essentially a closed rule, providing for only one amendment.

Mr. Speaker, the debt limit level provided for in the bill is an amount simply to meet the Government's borrowing needs through September 30, 1991.

This is a current law debt limit increase; that is, it assumes that any new cost the Resolution Trust Corporation might incur to guarantee funds deposited in failed savings and loan corporations will be financed off budget.

The administration estimates that the Treasury will run out of cash and borrowing authority on or about August 15, when $23 billion in notes will mature and interest payments of $21 billion are due.

Mr. Speaker, the American people are rightly concerned about the Government's ever-rising tide of debt. Indeed, many Members in the Chamber today oppose the idea of allowing the Federal Government to continue to borrow, because when the Government shall borrow, the debt will rise and eventually will reach the legal ceiling.

The periodic need to extend the debt ceiling arises from the cumulative deficits of the Federal Government. Raising revenues and selling Government bonds to the public, the Federal reserve system and foreign investors are the chief ways the Government finances the debt and fulfills the commitments of its fiscal policy. As the Government continues to borrow, however, the debt rises and eventually reaches the congressionally imposed ceiling.

I would point out, however, that if a new debt ceiling shall not be enacted into law soon, the Government will face the embarrassing prospect of default on its obligations.

Since the Budget Act of 1974 requires that each budget resolution establish a debt limit that reflects the budgetary and economic assumptions implicit in that resolution, the House has adopted a rule—House Rule 49—which allows it to raise the debt ceiling automatically when it adopts a budget resolution conference report. This rule releases the House from a separate vote on the debt limit; the Senate has not adopted a similar rule.

However, because the congressional budget process has been delayed, the House has not yet acted on a budget resolution conference report. Treasury has advised Congress that the debt ceiling will be reached during the August recess and unless it is raised before Congress adjourns, the Department will default on its obligations.

Mr. Speaker, the Committee on Rules considered the public debt yesterday afternoon and the rule reported from the committee provides the necessary waivers of the House rules in order for the House to consider the legislation today.

The rule waives clause 2(l)(6) of rule XI against consideration of the bill. This is the 3-day layover requirement that is waived. The bill was reported by the Committee on Ways and Means last Friday, and the leadership has scheduled it for today.

The rule also waives clause 5(a) of rule XXI against consideration of the bill. This is the prohibition on appropriations in a legislative bill.

The rule also provides a waiver of clause 7 of rule XVI against consideration of the amendment written by the Committee on Rules that will be offered by the gentleman from North Dakota [Mr. DORGAN].

Mr. Speaker, the rule provides for 1 hour of debate on the bill, and 1 hour of debate on the amendment printed in the report from the Committee on Rules. This is the so-called Dorgan amendment, which is not subject to amendment.

This rule waives germaneness, in order to consider the amendment drafted by the Committee on Rules. The language of the original Dorgan amendment was not acceptable to the Committee on Rules and its germaneness to the public debt limit extension is extremely tenuous.

The gentleman from North Dakota proposed to remove the annual surplus in the Social Security trust fund from the deficit calculations provided for in the Congressional Budget Act without changing Gramm-Rudman-Hollings deficit targets.

Mr. Speaker, this is a popular idea and serves to help to reassure the American public that Social Security's funds will not be used in accounting for the overall Federal deficit.

Mr. Speaker, the decision by the Committee on Rules to allow a vote on this amendment will not be applauded all over town. The administration is opposed to any extraneous items being added to a clean public debt limit extension.

The proponents of the amendment make the claim that Social Security trust funds are being used to help to reach the Gramm-Rudman-Hollings deficit target and thus "hide the true size of the Federal deficit."

Mr. Speaker, when Members of Congress say that Social Security's trust funds are being used, the American public seems to believe that Social Security's funds are being spent for other things. This is absolutely not true. Social Security receipts are invested in special securities that are not offered for public sale. These investments help to hold down other Government borrowing, but they remain, as they always have, dedicated to the economic security of retired American workers.

Mr. Speaker, the Dorgan amendment falls squarely within the jurisdiction of the Committee on Rules. When the amendment was offered in the Committee on Ways and Means, it was ruled out of order as being nongermane to the bill.

The chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS], made the same point in his letter to the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY].

Chairman CONYERS wrote:

While I believe there are considerable merits to the removal of the trust funds, I strongly believe that it has little to do with, and is not germane to, legislation that raises the public debt limit.

The Committee on Rules agreed to allow the House a vote on a change in the rules in the House. The Committee on Rules cleaned up the original language to the point that it is per se acceptable to a majority of the entire committee.

□ 1100

The amendment printed in the committee report would create a point of order prohibiting consideration of benefit increases and payroll tax cuts beyond the defined threshold of $100 million over 5 years concerning Social Security. Mr. Speaker, finally, under the amendment both the new point of order created and the idea of taking Social Security off Gramm-Rudman-Hollings will take effect on October 1, 1991, meaning fiscal year 1992.

Mr. Speaker, at this point I insert copies of the following: the Statement of Administration Policy regarding H.R. 5355, the letter Chairman MOAKLEY received from Chairman CONYERS, and a Congressional Research Service paper, entitled "The Broader Picture * * * Trust Funds and The Federal Deficit."

STATEMENT OF ADMINISTRATION POLICY

The Administration supports enactment of H.R. 5355, which would increase the public debt limit from $3,122.7 billion to $3,444 billion. The Administration urges that legislation to increase the debt limit be enacted without amendment.

The Administration estimates that the debt limit increase contained in H.R. 5355 would be sufficient to meet the Government's borrowing needs through June 30, 1991.

A default would almost certainly occur on August 15 if the debt limit is not increased. Failure to enact a debt limit increase by August 13 would prevent the Treasury from auctioning securities on August 14 and settling on August 15.

An auction of Treasury securities is scheduled to be announced on August 1. Failure to enact a debt limit increase by that date would compress the time period for distributing those securities. This would raise the cost of Treasury borrowing, all other things being equal. The cost of the delay would grow with its length.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, July 30, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to oppose the granting of a rule to H.R. 5355 which would waive a point of order against an amendment to remove the Social Security Trust Fund surpluses from Gramm-Rudman-Hollings deficit calculations. I believe that the amendment is non-germane, under House Rule XVI sec. 798, to the legislation to raise the public debt limit and that such a measure should be considered by the committees of relevant jurisdiction.

According to House Rule X, cl.1.(j)(1) the Committee on Government Operations has original jurisdiction over legislation related to budget and accounting measures, other than appropriations. That jurisdiction includes the Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985, both of which the aforementioned amendment would amend.

During the past year, the Committee on Government Operations has held hearings on budget process reform and the use of the Social Security Trust Funds in the calculation of the deficit. Presently, the Committee has before it legislation that would remove the Trust Funds from the calculation which I expect will be marked up in the near future. While I believe there are considerable merits to the removal of the trust funds, I strongly believe that it has little to do with, and is not germane to, legislation that raises the public debt limit.

Therefore, I respectfully request that you not grant a rule to allow this amendment to be considered during floor debate on the legislation to increase the statutory debt limit.

Thank you for your attention to this matter.

Sincerely,

JOHN CONYERS, Jr.
Chairman.

THE BROADER PICTURE—TRUST FUNDS AND THE FEDERAL DEFICIT

(By David Koitz, Specialist in Social Legislation; Gene Falk, Analyst in Social Legislation, Education and Public Welfare Division; and Philip Winters, Analyst in Government Finance Economics Division)

TRUST FUND PROGRAMS AND THE FEDERAL DEFICIT

The treatment of trust fund programs in the Federal budget is complicated and confusing. As a result, the impact of these programs on the financial condition of the Government is often misunderstood. Perhaps the biggest misconception today is that these programs are offsetting the Federal deficit by $124 billion and thereby masking the true size of the deficit. Although attention has been drawn to the large social security surpluses, trust fund programs overall actually have been running cash deficits.

This aggregate cash deficit is not at first visible. Official budget documents show that overall income credited to Federal trust funds in FY 1989 exceeded the spending posted against them by $124 billion—an apparent surplus. However, what is commonly called trust fund income is not just the amount of receipts from the public generated by these programs. Trust funds also receive credits from the Treasury, what might be called paper income. It can be misleading to treat this paper income like cash when assessing the Federal deficit, which is the gap between total cash income and total expenditures in any given year. When only receipts from the public for trust fund programs—cash income—are compared to Federal spending for them, a deficit emerges; spending exceeded receipts by $18 billion.

Moreover, this is not an aberration. On the whole, trust fund programs ran deficits in their cash transactions with the public in 19 of the last 21 years. Each social security went through a long period when its expenditures exceeded its revenues. And even social security receives paper credits that make its current surpluses appear larger.

Because the official or traditional approach to accounting for Federal trust funds shows them to be running surpluses, the blame for the Federal deficit frequently is placed on the rest of the Government. Thus, all the Government's borrowing is usually attributed to its non-trust fund activities, and the interest expense or debt service is generally considered part of this category. However, because trust funds have regularly run operating or cashflow deficits, they, too, can be considered responsible for the Government's need to borrow—i.e., for increasing the debt and the resulting interest expenses. If interest expense were not included in the "rest of the Government" category of the budget, this category would show a surplus. The point is that no one program or sector of the Government is responsible for deficits and the resulting buildup of Federal debt. The Government borrows as it needs to, for whatever obligations it has to meet.

Trust fund programs are a major part of what the Government does. In FY 1989 they generated 39 percent—some $386 billion—of the Government's tax revenues and were responsible for 35 percent—$403 billion—of its spending. If deficit reduction efforts are based on the erroneous assumption that trust funds overall are generating actual cash surpluses for the Government, the result may be to distort the process by which the Congress determines fiscal priorities what Congress wants to spend money on and how it will raise the resources to do so.

TABLE A.2.—SOCIAL SECURITY RECEIPTS FROM THE PUBLIC, OUTLAYS, AND SURPLUS/DEFICIT, FISCAL YEARS 1940–89

[In millions of dollars]

Fiscal year	Receipts from the public	Payment to the public	Surplus/deficit (–)
1940	550	29	552
1941	688	91	597
1942	896	137	759
1943	1,130	176	954
1944	1,292	217	1,075
1945	1,310	267	1,043
1946	1,238	358	880
1947	1,459	467	992
1948	1,616	559	1,057
1949	1,690	661	1,030
1950	2,106	784	1,322
1951	3,120	1,568	1,552
1952	3,594	2,067	1,527
1953	4,097	2,717	1,380
1954	4,589	3,364	1,226
1955	5,081	4,437	644
1956	6,425	5,485	940
1957	6,789	6,666	123
1958	8,049	8,221	–172
1959	8,296	9,737	–1,441
1960	10,641	11,609	–968
1961	12,109	12,475	–366
1962	12,271	14,367	–2,096
1963	14,175	15,790	–1,615
1964	16,366	16,622	–256
1965	16,723	17,463	–740
1966	19,085	20,701	–1,616
1967	24,401	21,726	2,675
1968	24,917	23,854	1,063

TABLE A.2.—SOCIAL SECURITY RECEIPTS FROM THE PUBLIC, OUTLAYS, AND SURPLUS/DEFICIT, FISCAL YEARS 1940–89—Continued

[In millions of dollars]

Fiscal year	Receipts from the public	Payment to the public	Surplus/deficit (–)
1969	28,953	27,298	1,655
1970	33,459	30,270	3,189
1971	35,845	35,878	–28
1972	39,907	40,158	–251
1973	46,084	49,090	–3,006
1974	53,925	65,867	–1,942
1975	62,458	64,658	–2,200
1976	66,389	73,899	–7,510
1977	76,817	85,060	–8,243
1978	85,391	93,861	–8,470
1979	97,994	104,073	–6,079
1980	113,209	118,559	–5,350
1981	130,176	139,584	–9,408
1982	143,467	155,964	–12,497
1983	147,320	170,305	–22,985
1984	168,350	177,677	–9,327
1985	189,540	188,258	1,282
1986	203,786	198,598	5,188
1987	216,708	207,352	9,357
1988	244,882	219,340	25,542
1989	267,439	232,543	34,897

Source: Derived from Budget of the United States, Fiscal Year 1991. Jan. 1990.

TABLE A.3.—FEDERAL DEBT HELD BY FEDERAL TRUST FUNDS, NOV. 30, 1989

[In billions of dollars]

Trust fund	Amount
Old age and survivors insurance	147.9
Disability insurance	7.8
Hospital insurance	82.6
Supplementary medical insurance	10.9
Civil service retirement	216.3
Military retirement	66.1
Unemployment insurance	45.3
Highways	16.4
Airport and airways	13.1
Railroad retirement	8.6
All other	44.7
Total trust fund holdings	659.7

Source: Table prepared by CRS based on data from the Monthly Treasury Statement, Nov. 30, 1989.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, we are here again to raise the debt ceiling, and we keep saying that our Government is going to shut down; and the responsible thing is for the Members to come in here and raise the debt ceiling.

There is no question about it, I am going to support the rule, and I am going to support DORGAN, and I am going to vote against raising the debt ceiling. Because I think it is time that maybe we should shut the Government down and force the Congress to come in and set some policy.

After 10 years, there is no policy, and the only policies that this Congress and this administration had have been changed every 2 years, and then Congress and the administration say that the problem in America is our manufacturers and our companies cannot make long-term plans and commitments. Tell me, how can anybody make long-term plans and commit-

ments if they do not know what the rules of the game are going to be and are changed every 18 months?

Reagan came in and he cut taxes. A family of four who made $250,000, they went out and bought a brand-new Mercedes-Benz with that tax cut. A family of four earning $25,000, they took their family out and got them a dinner, one dinner, one night, with their tax break.

President Reagan instituted an investment tax credit program and accelerated cost recovery, and in the 1986 tax bill, Ronald Reagan threw it out.

If you are a company that made some long-range plans trying to utilize an incentivized tax code, it was taken away, because Reagan got deathly afraid of history and red ink, not Walter Mondale.

So where are we now after 10 years of conservative Republicans whose policies mean well? And in many areas they have done a good job. Those policies have not worked. The only thing that is left is to raise taxes. What taxes are they going to be? No one wants to mention it.

I think DORGAN does not go far enough. We should repeal Gramm-Rudman and start telling the American taxpayer the truth of how bad things really are around here. We are going to expand this debt ceiling to $3.5 trillion. What is it going to be in 5 years, folks? Are we going to keep coming back in here every 6 months, every year raising the debt ceiling so that we can run our Government by borrowing more money?

There is nobody who is going to listen, and I am going to have people who will call and say, "Well, TRAFICANT, if you didn't vote for raising the debt ceiling, there is Social Security money in there." We should vote it down and force some policy on this country. The American taxpayers are saying, "Cut foreign aid, quit spending $150 billion a year to protect Japan and Europe, to provide them with a defense, nothing, send them a bill. Stop the Pentagon waste and make some cuts." The only cuts the Pentagon probably had in the last 10 years is a few generals probably got a vasectomy over there.

This thing is a joke, and the American people are saying, "We will even pay more taxes if you start running the Government, cut out the waste, stop taking care of everybody all over the world and take care of our country first," But Congress is not going to do it, and Congress will continue to add the little amendments that make these votes very difficult.

You know what I say, I say Gramm-Rudman is nothing more than a stop sign at the Indianapolis 500. It does nothing. It has been the biggest joke I have ever seen. It has been the "deceit-in-government act." We should repeal it and start all over again, with an incentivized tax code.

Mr. Speaker, the American people are going to pay more taxes. I tell you what, it is coming to the point, good, bad, or indifferent, where maybe the American people should vote everybody out of here including me, because evidently no one will listen to me, vote everybody out and start again. Maybe there will be a shot. Maybe a new Congress would do something about foreign aid, NATO, and stop this tax madness.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule, in support of the increase in the debt ceiling and in opposition to the Dorgan amendment, which is made in order by the rule.

Let me focus my remarks on the Dorgan amendment. Depending on its intent, the Dorgan amendment is either foolish or dangerous.

The Social Security trust fund is invested in U.S. Government bonds. To the extent that the Social Security trust fund has positive cash flows, the Treasury borrows less from other sources. To the extent that the Social Security trust fund has negative cash flows, the Treasury borrows more from other sources. Wall Street knows that. The Germans know that. The Japanese know that. To pretend otherwise is foolish.

If the Dorgan amendment is intended to govern Federal fiscal policy, it is not just foolish, it is extremely dangerous.

Social Security cash flows do affect the economy. It is estimated that at its peak in the year 2040 the outflow from the Social Security trust fund will exceed $1 trillion. Even in constant 1990 dollars, that will be $175 billion. To ignore cash flows of that amount in setting Federal fiscal policy would not just be foolish, it would be dangerous in the extreme.

For that reason, I urge my colleagues to turn their backs on whatever the superficial attraction of the Dorgan amendment seems to be and vote it down in the name of sound fiscal policy.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman yielding me this time.

Mr. Speaker, I would like to focus just for a moment on these words "foolish" and "dangerous" that the previous speaker used to refer to my amendment that we will vote on here shortly.

I recall not too long ago when President Reagan stood on the tarmac out at Andrews Air Force Base and left town for the last time for California. He gave us a kind of misty-eyed wave there at the top of the airplane, and he said, "Things are a lot better. Things are a lot better." And he flew off west.

I watched that on television, and I thought to myself, "What on Earth is he talking about? Things are not a lot better. Things are worse. The Federal deficit is not lower. It is higher. So what is he speaking of?"

He was speaking of the myth in this town that we use in place of fiscal policy. That most dangerous, yes, dangerous, foolish fiscal policy probably in the history of this country happened in the last decade. The policy spent money we do not have on things we did not need. All the while we played little fiscal policy games with numbers to try to tell the American people that things are better than they really are.

When you read the paper or watch a television report and see what the officials are saying about the Federal deficit, do you know what they are telling you? They are saying, "Well, the Federal deficit is about $165 billion maybe." Do you know what the real deficit is? The real operating budget deficit is about $300 billion this year. That is the fact. It is also a fact that a lot of people do not want to deal with this reality. So they ignore it. They say, "Well, let us keep on doing what we are doing, collecting over $50 billion in Social Security taxes from the paychecks of the wage earners in America, and tell them that we are going to save that money for their future. Then they say that we will secretly use the dedicated Social Security funds over here on this side to show a lower Federal deficit." That is dishonest.

We cannot take money from the folks who work and promise them we will save it for their future and at the same time use it to show a lower Federal deficit. That is not honest budgeting. That is not honest accounting. That is not honest representation of the payroll taxes coming from the working people of this country. It is certainly not an honest treatment of the Social Security system, especially in light of the problems we are going to face in the future.

What we are going to do down here today is not dangerous or foolish. It is very simple. It is going to decide whether we want to be honest about fiscal policy in this country. I happen to think that this amendment is the most honorable thing we have probably been prepared to do in the last decade. I think we need to tell the American people what the real deficit is, and we need to protect their Social

Security money. We need to get about the business of solving this country's fiscal policy problems.

We have been doing things wrong around here for so long that some people will not recognize it when we do them right. This is the first step in the direction of putting this country on the right path in fiscal policy. Yes, it is going to cause problems. Sure, there will be some people uncomfortable. Yes, I know why some people will not want to do it. They will feel squeezed by it, but these are the reasons that we ought to do it.

The comfortability of the 1980's in which we moved from a little over $900 billion in debt to $3.2 trillion in the Federal debt. That comfortability must end. No longer can we spend what we do not have and charge it to the grandkids. We must put our fiscal policy back on course, and it is going to be tough to do, but it is time to do it.

□ 1110

We will have a longer debate today, general debate on the bill and debate on my amendment. I look forward to that because this is important public policy. If we attach the Dorgan amendment to the debt limit extension bill we will decide now that the summit changes, the responsibility of the President changes and the responsibility of Congress changes to deal honestly and forthrightly with the massive Federal debt and the terrible and dangerous Federal deficit yearly that we face. That will be a good thing for America. We will finally begin putting America back on track where America ought to be. We will finally be building for America's future.

So yes, I think we are doing the right thing today. I am glad we are here doing it. I appreciate the Rules Committee making my amendment in order. And while I respect my friends on the other side who disagree, this is not dangerous, it is not foolish. It is the first honest, meaningful step we are going to take in years in this House to reconcile and rectify an irresponsible fiscal policy that has been around for the last decade.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I want to first say that my colleague from Ohio, Mr. TRAFICANT, is one of my good friends, and he is one of the more creative and eloquent Members of the House of Representatives. But I do disagree with the comment that he made earlier about the debt ceiling.

All of us despise the predicament we find ourselves in where are are forced to vote for this debt ceiling to pay for the debts that we have incurred as a nation in the past and what we logically expect to incur in the future. To vote against the debt ceiling because we are opposed to the present fiscal policy is similar to a homeowner saying that because he despises the electric rates he has been charged he is not going to pay last month's bill. We all know what would happen. There would not be any electricity provided to that home in the future because of that protest.

No, I am afraid the responsible thing, even the unpopular thing, is to stand up to the plate and to accept our responsibility with this debt ceiling, and to vote for it as we must, and then force ourselves to make some tough choices, some hard decisions, to move on from this tough vote that we are going to consider today to the tough decisions which we must face in the months ahead.

For the last 2 years I have worked with the gentleman from North Dakota [Mr. DORGAN], on this very question which we will consider in his amendment. It is one which I think is critically important, not just to the senior citizens protected by Social Security benefits, but for the millions of Americans and working families who each year, maybe every other week, at least once a month take a look at the payroll stub and say, "My God, take a look at that FICA tax. What is going on here?"

Ladies and gentlemen, what is going on here is that 25 percent of the American people are paying more in Social Security taxes than they pay in Federal income tax. A tax which started in 1939 when Social Security was created at a maximum of $30 a year per wage earner is now up to over $3900 per year, the maximum amount an employee can pay into the Social Security.

Why has this happened? It happened because we wanted to create a reserve for the future, realizing that the baby boomers when they retire would need this money for basic Social Security protection. That is what it was all about.

But somewhere along the way someone saw this growing reserve, this growing surplus in the Social Security Trust Fund as an easy way to avoid the tough deficit decisions which we must face. It is really sad. It is sad and tragic that the administration opposes the Dorgan amendment. The Dorgan amendment speaks to honesty and candor.

Let us level with the American people. Let us tell them what the real deficit is. Let us stop hiding behind the Social Security reserve.

President Bush ought to be for that and Members of the Republican side of the aisle ought to be for it as well. That is the kind of honesty and candor that our constituents demand of us and we must provide. To shove that under the rug, is basically the same as to push under the rug the S&L crisis. It is not going to do us any good in the long run.

Let us support the Dorgan amendment, and let us support the honesty and candor behind it. Let us shoot straight and talk straight with the American people about the future of Social Security.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am constrained to make one or two observations here in light of the last several speakers.

The Dorgan amendment, it seems to me, while it might have an effect in the nature of the kind described by its author, I think has not as much effect as that described by the author, because, as I mentioned in my remarks earlier, Mr. Speaker, Social Security's trust funds are constructed in such a way that the moneys involved are dedicated to the purposes of Social Security, with or without the amendment of the gentleman from North Dakota.

The amendment of the gentleman from North Dakota may provide a sense of assurance, and there is something perhaps to be said in favor of that. But if the amendment is intended to suggest that without it the administration has available the use of the Social Security' funds for purposes other than Social Security, that is a false argument and, therefore the solution is equally as false.

I certainly hope that this body, led by nobody on either side of the aisle, will not get us back into that kind of chicanery and fear-bashing that we were in several years ago when we scared half the senior citizens to death on what turned out really to be fallacious arguments in terms of the use of the Social Security's trust fund.

So I just want to make that point, that with or without the amendment, the Social Security's trust funds by law already have protections that keep the money within the Social Security system. I do not want to engage in any long debate on what effect the Dorgan amendment has, but I just simply wish to make the point that even without the amendment, should the amendment fail, that the recipients of Social Security, the people who brought us successfully through World War II, through the Korean conflict, and others may still feel secure that the use of the funds will not be abused.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 148, not voting 10, as follows:

[Roll No. 284]

YEAS—274

Ackerman	Eckart	Lipinski
Alexander	Edwards (CA)	Lloyd
Anderson	Engel	Long
Andrews	English	Lowey (NY)
Annunzio	Erdreich	Luken, Thomas
Anthony	Espy	Madigan
Applegate	Evans	Manton
Aspin	Fascell	Markey
Atkins	Fazio	Martin (NY)
AuCoin	Feighan	Martinez
Ballenger	Fish	Matsui
Barnard	Flake	Mavroules
Bateman	Flippo	Mazzoli
Bates	Foglietta	McCloskey
Beilenson	Ford (MI)	McCurdy
Bennett	Frank	McDermott
Berman	Frost	McGrath
Bevill	Gaydos	McHugh
Bilbray	Gejdenson	McMillen (MD)
Boehlert	Gephardt	McNulty
Boggs	Geren	Mfume
Bonior	Gibbons	Michel
Borski	Glickman	Miller (CA)
Bosco	Gordon	Miller (OH)
Boucher	Gray	Mineta
Boxer	Green	Moakley
Brennan	Guarini	Mollohan
Brooks	Hall (OH)	Montgomery
Browder	Hall (TX)	Moody
Brown (CA)	Hamilton	Morella
Brown (CO)	Harris	Morrison (CT)
Bruce	Hatcher	Mrazek
Bryant	Hawkins	Murphy
Bustamante	Hayes (IL)	Murtha
Byron	Hayes (LA)	Myers
Campbell (CO)	Hefner	Nagle
Cardin	Hertel	Natcher
Carper	Hoagland	Neal (MA)
Carr	Hochbrueckner	Nowak
Chandler	Horton	Oakar
Chapman	Hoyer	Oberstar
Clarke	Hubbard	Obey
Clay	Huckaby	Olin
Clement	Hughes	Ortiz
Coleman (TX)	Hutto	Owens (NY)
Collins	Jenkins	Owens (UT)
Condit	Johnson (SD)	Oxley
Conte	Johnston	Pallone
Conyers	Jones (GA)	Panetta
Cooper	Jones (NC)	Parker
Costello	Jontz	Pashayan
Coyne	Kanjorski	Patterson
Crockett	Kaptur	Payne (NJ)
Darden	Kastenmeier	Payne (VA)
Davis	Kennedy	Pease
de la Garza	Kennelly	Pelosi
DeFazio	Kildee	Penny
Derrick	Kleczka	Perkins
Dicks	Kolter	Pickett
Dingell	Kostmayer	Pickle
Dixon	LaFalce	Porter
Donnelly	Lancaster	Poshard
Dorgan (ND)	Lantos	Price
Downey	Leath (TX)	Quillen
Durbin	Lehman (CA)	Rahall
Dwyer	Lehman (FL)	Rangel
Dymally	Levin (MI)	Ray
Dyson	Levine (CA)	Regula
Early	Lewis (GA)	Richardson
Roe	Smith (FL)	Vander Jagt
Rose	Smith (IA)	Vento
Rostenkowski	Smith (NJ)	Visclosky
Rowland (GA)	Spratt	Volkmer
Roybal	Staggers	Walgren
Russo	Stallings	Walsh
Sabo	Stark	Watkins
Saiki	Stenholm	Waxman
Sangmeister	Stokes	Weiss
Sarpalius	Studds	Wheat
Savage	Swift	Whitten
Sawyer	Synar	Williams
Scheuer	Tallon	Wilson
Schroeder	Tanner	Wise
Schumer	Tauzin	Wolf
Serrano	Thomas (GA)	Wolpe
Sharp	Torres	Wyden
Shaw	Torricelli	Wylie
Sikorski	Towns	Yates
Sisisky	Traficant	Yatron
Skaggs	Traxler	Young (AK)
Skelton	Udall	
Slaughter (NY)	Unsoeld	

NAYS—148

Archer	Hastert	Ritter
Armey	Hefley	Roberts
Baker	Henry	Robinson
Bartlett	Herger	Rogers
Barton	Hiler	Rohrabacher
Bentley	Holloway	Ros-Lehtinen
Bereuter	Hopkins	Roth
Bliley	Houghton	Roukema
Broomfield	Hunter	Rowland (CT)
Bunning	Hyde	Saxton
Burton	Inhofe	Schaefer
Callahan	Ireland	Schiff
Campbell (CA)	Jacobs	Schneider
Clinger	James	Schuette
Coble	Johnson (CT)	Schulze
Coleman (MO)	Kasich	Sensenbrenner
Combest	Kolbe	Shays
Coughlin	Kyl	Shumway
Courter	Lagomarsino	Shuster
Cox	Leach (IA)	Skeen
Craig	Lent	Slattery
Crane	Lewis (CA)	Slaughter (VA)
Dannemeyer	Lewis (FL)	Smith (NE)
DeLay	Lightfoot	Smith (TX)
DeWine	Livingston	Smith (VT)
Dickinson	Lukens, Donald	Smith, Denny (OR)
Dornan (CA)	Machtley	Smith, Robert (NH)
Douglas	Marlenee	Smith, Robert (OR)
Dreier	Martin (IL)	Snowe
Duncan	McCandless	Solomon
Edwards (OK)	McCollum	Spence
Emerson	McCrery	Stangeland
Fawell	McDade	Stearns
Fields	McEwen	Stump
Frenzel	McMillan (NC)	Sundquist
Gallegly	Meyers	Tauke
Gallo	Miller (WA)	Taylor
Gekas	Molinari	Thomas (CA)
Gillmor	Moorhead	Thomas (WY)
Gilman	Morrison (WA)	Upton
Gingrich	Neal (NC)	Vucanovich
Gonzalez	Nielson	Walker
Goodling	Packard	Weber
Goss	Parris	Weldon
Gradison	Paxon	Whittaker
Grandy	Petri	Young (FL)
Grant	Pursell	
Gunderson	Ravenel	
Hammerschmidt	Rhodes	
Hancock	Ridge	
Hansen	Rinaldo	

NOT VOTING—10

Bilirakis	Laughlin	Valentine
Buechner	Lowery (CA)	Washington
Dellums	Nelson	
Ford (TN)	Solarz	

□ 1140

Mrs. ROUKEMA and Mrs. SMITH of Nebraska changed their vote from "yea" to "nay."

Mr. KOLTER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BUECHNER. Mr. Speaker, I was unavoidably absent for the following roll call vote due to an important meeting with my interns: Roll call 284—consideration of the rule to H.R. 5355, to increase the statutory limit on the public debt. Had I been present, I would have voted no.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be permitted to sit today, Tuesday, July 31, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Armed Services.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

INCREASING STATUTORY LIMIT ON THE PUBLIC DEBT

The SPEAKER pro tempore. Pursuant to House Resolution 443 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 5355.

□ 1143

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5355) to increase the statutory limit on the public debt, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are considering H.R. 5355, a bill to provide a permanent increase in the public debt limit. Treasury Secretary Brady has notified us that the Federal Government is projected to exceed the public debt limit in the near future. He warns us that if we do not pass an increase in the debt limit before the August

recess, the Government will default on its financial obligations on August 15, when $23 billion of Treasury notes mature and interest payments of $21 billion are due.

If the Federal Government does default, it will be the first time in our Nation's history—with disastrous economic, political, and financial consequences for the country. Social Security checks and other Government payments would bounce. Interest rates would increase significantly. The dollar and our international financial security would be threatened. Foreign investors would be reluctant to buy U.S. Treasury securities to help finance our enormous deficit.

The bill before us, H.R. 5355, provides for a permanent increase of $322 billion in the statutory public debt. It increases the limit from $3.123 to $3.444 trillion.

The debt limit level in this bill is an amount which is sufficient to meet the Government's borrowing needs through September 30, 1991. However, this increase would only accommodate currently authorized borrowing for the Resolution Trust Corporation. Any additional financing needs of the RTC would have to be separately requested by the administration.

Mr. Chairman, I urge my colleagues to support this essential bill.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the subject of increasing the Government's debt limit is always an important one—but our consideration of H.R. 5355—an extension of that limit for 1 year carries with it far more significance now as we continue our important negotiations to reduce the budget deficit.

I'm discouraged, like my colleagues, by the need to increase the public debt and the multitude of reasons for that increase. Treasury has informed us that by mid-August the current debt limit of $3.1 trillion will be insufficient to finance the operations of the Federal Government. H.R. 5355 increases the limit to $3.444 trillion.

In my opinion—and I know this view is shared by the administration—we should address the issue by passing a clean long-term debt limit.

Addition of the Dorgan amendment merely invites our colleagues in the Senate to turn the extension into a Christmas in July extravaganza once again, effectively killing a long-term extension.

The original Dorgan amendment considered by Ways and Means removed the Social Security Trust Fund reserves from Gramm-Rudman-Hollings calculations starting October 1 of this year without changing the Gramm-Rudman targets or extending the law. Since that would have increased the fiscal year 1991 deficit to $242 billion and the sequester by an additional $73 billion, the sponsor moved the effective date to the start of fiscal year 1992 in the version which will be before us today.

All that does is to postpone the problem. It provides no solution. It avoids the immediate problem of increasing the sequester from $100 to $173 billion—but it still dramatically increases the deficit to $247 billion in fiscal year 1992. Simply changing a date without facing up to the consequences may be a good political move, but it is no solution to our growing deficits looming on the horizon.

The entire question of the Social Security reserves, the Gramm-Rudman targets and sequesters is more appropriately the venue of the budget summit negotiators. The one great goal we have in the negotiations is to achieve a multiyear deficit reduction plan. The issue of accounting for the Social Security trust funds is implicit in those deliberations.

I personally intend to support removing Social Security from the deficit calculations in that context. But until the hard choices on revenue and spending are decided in concert with budget process changes in the summit talks, putting any of the accounting issues before the full House is premature.

Mr. Chairman, we cannot escape the fact that we are in a highly charged political atmosphere. But we are also faced with the reality that the United States will be unable to pay its bills starting August 15. We will have to pass new debt authority before we leave for the summer recess.

In its present form, the Dorgan amendment hinders, not helps, either that goal or the goal of achieving a long-term budget solution. I urge the House to defeat the Dorgan amendment and pass a clean debt limit. Budget process reforms—including the treatment of Social Security and long-term deficit reduction—must be considered together if we are to achieve a credible multiyear budget plan. Adoption of the Dorgan amendment—without determining how we are going to deal with the massive operating deficit increase that would cause—simply is shortsighted and irresponsible.

□ 1150

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I would only like to make two comments regarding this piece of legislation on the debt ceiling.

Mr. Chairman, this is the highest debt limit that the Congress of the United States will have ever enacted if we vote in favor of this particular program. We are asking to increase the national debt borrowing authority by some $300 billion over the next 18 months.

What is extremely ironic is that just in January of this year President Bush suggested that the budget deficit for the fiscal year 1991 would be a mere $64 billion, and now he is coming in and asking for an increase of over $300 billion. It seems to me that finally he has come to grips with reality and that, in fact, the actual deficit of this country is over $300 billion a year, and not the $64 billion that in January he talked about.

Mr. Chairman, let me make one second observation, if I may, and that is the amendment of the gentleman from North Dakota [Mr. DORGAN], which we will all be entertaining in a few moments, I think would be extremely bad policy for this Congress and for the President, and for the House and the Senate, to actually take Social Security off budget, and this is not a reaction to our senior citizen population. This is a reaction to the behavior of the Congress and the administration.

Mr. Chairman, should we take Social Security off budget, we would have a tremendous surplus for the next 20 years in that particular account. It will be very easy then for the Congress and for the President to make commitments and promises for our senior citizen population in the form of increased benefits in terms of Social Security; and, second, with the impending problems in the Medicare trust fund, it would be very easy for us to then borrow that surplus for an increase in benefits for the health care program without trying to do any structural reforms.

Mr. Chairman, it is my hope that, when we entertain the amendment to the gentleman from North Dakota [Mr. DORGAN], we will vote it down and also vote down the debt ceiling until we get some kind of a long-term budget agreement.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to this projected increase in the national debt, and, since I have made that statement, I think I have a responsibility to suggest how we can get out of this fiscal hole into which we have collectively dug ourselves.

Mr. Chairman, we are living with the consequences of a step that this Nation took in 1968 when we separated the link between the dollar and gold. The savings and loan disaster that unfolds before our eyes week in and week out, month in and month out, the total cost of which we do not know, is a direct consequence of that. The U.S. Government today has to pay about 8½ percent average interest cost for maintaining our existing national debt of $3.1 trillion.

Mr. Chairman, we should ask ourselves, "What interest rate did the U.S. Government incur when we had our currency linked to gold up until 1968?"

Answer: About 2 percent.

Mr. Chairman, that difference in the interest rate, between 2 and 8, or 6 points, is what is causing all the trauma in our system today. If we extrapolate 6 points on servicing a national debt of over $3 trillion, the increased interest which we are paying as an inflation premium to continue the existing system totals about $180 billion a year. That is not the whole deficit, but it is a good share of it.

Mr. Chairman, this should not be a partisan matter, reducing the interest cost of maintaining our national debt. I would hope that my colleagues would someday come to the realization that we cannot continue our current course. We are scheduled to increase our debt in fiscal year 1991 to $364 billion. We are going to increase the national debt by almost a quarter of a trillion this year.

We simply cannot continue this current course of adding about a third of a trillion to the national debt ad nauseam. We will ultimately come to a point where we will find out how big the debt battle can get before it bursts in our faces. I hope we never get to that point.

By once again linking the dollar to gold, interest rates can be reduced for all borrowers. Homeowners can once again borrow at 6 percent, not 11 percent, and the U.S. Government can borrow at 2, not 8 percent.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding.

Mr. Chairman, no one likes to vote for an extension of the debt ceiling. No one likes to acknowledge the fact that next year our deficit will grow from $3.1 to $3.4 trillion.

However, Mr. Chairman, it is the right vote. It is the responsible vote. Those who vote no remind me of the patron who goes into a restaurant, and orders the meal, and consumes the meal, and then does not want to pay the bill.

Mr. Chairman, we have incurred these obligations. We need to pay these obligations. It is the responsible vote.

However, Mr. Chairman, we also have an opportunity to do something else, and that is to improve our budget system by voting for the amendment of the gentleman from North Dakota [Mr. DORGAN].

Last year, Mr. Chairman, I introduced legislation that would have taken all of the trust funds off the Gramm-Rudman calculation. We now have an opportunity to take the largest, the Social Security trust fund, off the Gramm-Rudman calculation, and there are three reasons why we should support the Dorgan amendment.

First, Mr. Chairman, it will protect the Social Security trust fund. It will protect it to make sure that we do not reduce the revenues when we should not or that we do not use it to mask the deficit.

Secondly, it will allow us to deal with the deficit. In 1985, as we went into the Gramm-Rudman process, the Social Security trust fund had a surplus under $10 billion. This year it will get close to $60 billion. Next year, $75 billion. By the turn of the century, a couple hundred million dollars. That is making the Federal deficit and not letting us deal with it the way we should.

The third reason we should support the amendment of the gentleman from North Dakota [Mr. DORGAN] is that it makes the budget process more understandable to the public. It brings more credibility to the process and allows us to really deal with the Federal deficit.

Mr. Chairman, I urge our colleagues, not only to support the extension of the debt ceiling, but to support the Dorgan amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise in support of the long-term debt limit extension without amendment. In Washington, I guess when we deal with controversial legislation, we say that it will send signals. We worry so much about what kind of signals we send that sometimes I am getting to feel like a third base coach rather than a Congressman.

However, Mr. Chairman, today we once again face the question of what kind of signal we will send if we fail to enact a long-term debt limitation without amendment, and I believe such a failure will send a signal to the financial community that we really are not serious around here, and it will send a signal to our constituents that we are not all that responsible either.

However, Mr. Chairman, there is more to this issue than sending signals. We could cause a governmental disaster. Our Secretary of the Treasury, Nick Brady, has written a letter to me on this question which I, at the appropriate time, will ask permission to have included with my remarks here today. But in that letter Secretary Brady informs us that, quote, the Treasury will run out of cash and debt limit authority on August 15, when $23 billion of Treasury notes mature and interest payments of $21 billion are due.

Mr. Chairman, are those figures too astronomical to have meaning? Then think of the man or the woman who will not receive a Social Security check because their Government cannot honor its payments. They and others depend on the integrity of our Government and would be devastated by our failure to act responsibly today, or certainly by the end of this week.

□ 1200

Should not their dilemma put things in perspective for us?

Let me briefly turn, if I might, to the Dorgan amendment, because it would take the Social Security trust fund out of the Gramm-Rudman deficit calculations beginning in fiscal year 1992.

In effect, I think this amendment, says the summit is unimportant, that it is a side show, something to circumvent, a farce.

The bipartisan congressional White House group that has been attending those meetings believes we have to face up to the deficit squarely and we have got to solve it over the negotiating table. Some of us were meeting just this morning again with the President for an hour, laying out a schedule of how we will address the overall summit issue. We are going to get out of here this weekend, I suspect.

It might take additional time to get a final resolution on at least a temporary, if not a permanent debt ceiling, before we leave town. It has to be done. But then when we come back in September, we definitely have to deal with the overall question of the deficit. This, in turn, has to deal with a number of issues that are out there pending and floating around, whether on Gramm-Rudman, off Gramm-Rudman, off the budget, on the budget. That whole summit group will have to deal with this variety of issues.

Mr. Chairman, it seems to me that we ought not to make that chore any more difficult by adding to a permanent debt ceiling or a temporary debt ceiling extraneous material here that borders on another issue that obviously will have to be dealt with when the summiteers meet.

So let us send a signal, not just to the financial community, but to this nation of communities waiting so eagerly for a sign of hope and responsibility from this institution that we can do the responsible thing here today and vote for a recommendation of simply extending the debt ceiling, in my view, minus the Boren amendment.

Mr. Chairman, I include the letter from Mr. Brady earlier referred to, as follows:

THE SECRETARY OF THE TREASURY,
Washington, July 27, 1990.

Hon. ROBERT H. MICHEL,
Republican Leader, U.S. House of Representatives, Washington, DC.

DEAR MR. LEADER: I am writing to request action by Congress on legislation to increase the debt limit and to update information

that I provided to you in my letter of June 28. An increase in the debt limit is needed before the Congress leaves for its August recess.

We estimate that the Treasury will run out of cash and debt limit authority on August 15, when $23 billion of Treasury notes mature and interest payments of $21 billion are due. Treasury normally would announce the terms of the mid-August refunding on August 1, auction the securities August 7, 8, and 9, and settle them on August 15. This schedule allows time for orderly distribution of the new Treasury securities by the investment community, thus reducing the cost of financing the public debt.

Auctions of the new securities cannot be held until Treasury has assurance that there will be sufficient debt limit authority to settle them. Congressional action on the debt limit by August 1 would mean that this usual schedule for distribution could be maintained. Action at a later date would compress the time period for distributing the securities prior to their settlement and, all other things remaining equal, raise the Treasury's cost of financing.

I particularly want to emphasize that August 13 is the last day on which final Congressional action could occur in time for Treasury to auction securities on August 14 and settle them on August 15. However, if Congress waited until August 13 to act, Treasury's financing options would be limited and costly.

We are requesting an increase in the permanent debt limit to $3,509 billion, which should be sufficient to allow the government to operate until the end of FY 1991. This amount is $30 billion higher than the figure provided by OMB in the Midsession Review for the end of FY 1991 in order to allow for full investment of the normalized tax transfer to the social security trust funds in early September.

Sincerely,

NICHOLAS F. BRADY.

Mr. BORSKI. Mr. Speaker, I rise in support of the Dorgan amendment to H.R. 5355, the debt limit increase. I am in strong agreement with his proposal to remove Social Security surpluses from deficit calculations under Gramm-Rudman.

When I came to Washington as a freshman legislator in 1983, I received a sobering education about how Social Security surpluses are used to finance annual billion dollars deficits in other Federal Government programs. The substantial surpluses amassing in the Social Security Trust Fund were intended to provide benefits to the "baby boom" generation that will retire in the early 20th century.

But in truth, Social Security surpluses are being misused today to mask the real size of the Federal deficit. Next year's budget deficit is officially estimated at $170 billion. If the Social Security surplus were removed from that calculation the deficit would be $240 billion!

By using Social Security surpluses in Gramm-Rudman calculations, we're covering up more than $70 billion in red ink. But what's even worse is that that $70 billion is being used instead of other—more equitable—revenues. The most fair way to reduce the deficit is to use income tax revenues, which are at least progressive in theory. Instead, we are using $70 billion raised by one of the most regressive taxes—the Social Security payroll tax.

The big losers in this dishonest game are working people. Men and women who earn less than $51,300 a year are, in effect, being made to pay a hidden tax to reduce the Federal deficit.

This practice is misleading and unfair. It should be stopped now. I have consistently supported proposals to remove Social Security from deficit calculations. Today, Mr. DORGAN has offered an amendment that would finally end this charade. I strongly support his amendment and hope my colleagues in the House will join me.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 5355 is as follows:

H.R. 5355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$3,444,000,000".

The CHAIRMAN. No amendments to the bill are in order except the amendment printed in House report 101-647. Said amendment shall not be subject to amendment and shall be debatable for 60 minutes, equally divided and controlled by the gentleman from North Dakota [Mr. DORGAN] and a Member opposed thereto.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: Add at the end of the bill the following new sections:

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT AMENDMENT.—Subsection (a) of section 710 of the Social Security Act (42 U.S.C. 911(a)) and subsection (a)(1) of such section as in effect for fiscal years beginning on or after October 1, 1992, are amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other total of the budget".

SEC. 3. PROTECTION OF OASDI TRUST FUNDS.

(a) IN GENERAL.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or any amendment thereto or conference report thereon, if upon enactment such legislation—

(A) would provide for a net increase in OASDI benefits of at least—

(i) $100,000,000 for the period comprising the fiscal year in which the legislation would become effective and the next 4 fiscal years, or

(ii) 0.005 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act.

without providing at least a net increase, for the same period referred to in clause (i) or (ii), in OASDI taxes of an amount by which the net increase in such benefits exceeds the amount specified in such clause; or

(B) would provide for a net decrease in OASDI taxes of at least—

(i) $100,000,000 for the period comprising the fiscal year in which the legislation would become effective and the next 4 fiscal years, or

(ii) 0.005 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act,

without providing for at least a net decrease, for the same period referred to in clause (i) or (ii), in OASDI benefits of an amount by which the net increase in such taxes exceeds the amount specified in such clause.

(2) In applying subparagraph (B) of paragraph (1), any provision of any bill or resolution, or any amendment thereto or conference report thereon, the effect of which is to provide for a net decrease for any period in OASDI taxes described in paragraph (3)(B)(i) shall be disregarded if such bill, resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in Medicare taxes.

(3) For purposes of this subsection—

(A) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act.

(B) The term "OASDI taxes" means—

(i) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(ii) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(C) The term "Medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), 3111(b) of the Internal Revenue Code of 1986.

(D) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred in subparagraph (B)(ii) unless such provision changes the income tax treatment of OASDI benefits.

(b) EXERCISE OF RULEMAKING POWER OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.—Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall

be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 4. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting, after the first sentence following clause (5), the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 5. EFFECTIVE DATE.

Sections 2, 3, and 4, and any amendments made by such sections, shall apply with respect to fiscal years beginning on or after October 1, 1991.

Mr. DORGAN of North Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Dakota [Mr. DORGAN] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Mr. ARCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me describe this issue in very simple terms, because it has been mischaracterized, a number of times on the floor of the House today.

In 1983, Congress took some steps to try to make whole and to improve the Social Security financing system that appeared at that time to be in some serious trouble. A whole range of things were done to try to improve the financial future of the Social Security Program. Among those things, we intended to save a significant amount of money in the coming years in an attempt to meet future needs, because after the turn of the century the largest number of retired people will hit the retirement rolls and supported by the fewest number of people working. This will impose significant financial needs for Social Security at that time.

In 1983 it was thought that the prudent thing to do was to begin to save for the future. So, we enacted a system that provides more revenue than is necessary for current expenses in the Social Security Program.

The result has been increasing surpluses year after year in the Social Security Program. Those surpluses or reserves are building for a very specific purpose, to be saved for when we need them to meet Social Security obligations after the turn of the century.

Concurrent with that in the 1980's, we have had the most spectacularly irresponsible fiscal policy probably in the past century. We have been running very significant Federal deficits. We have a dollar's worth of spending and raise 80 cents in taxes and charge 20 cents to the kids.

We have Presidents who say, "Things are just fine. We're going to grow out of this problem. Things are getting better. Don't worry. Be happy."

In fact, the Federal deficit has blossomed, bloomed and grown from $900 billion to today's $3.2 trillion.

Part and parcel of that fiscal policy has been the pot of gold in the lap of people who do not want to make tough choices in either spending or revenues, and that pot of gold is the amount of money that is collected in the Social Security system above expenditure needs. This year it is over $60 billion. Next year, $72 billion will be collected in the Social Security system that we will not spend next year.

We have taken it from the paychecks of the workers and we have said, "Tell you what we're going to do. We're going to tax you workers of America and we're going to save it because we need it for the future."

We take it from the workers, tell them we are going to save it, bring it into Washington, and do you know what we do? We use it to offset against other operating budget expenditures and revenues to show a lower Federal deficit in the Gramm-Rudman budget calculations.

It is, in my judgment, dishonest budgeting. It conveniently allows people who do not want to face facts and avoid the tough choices in fiscal policy. It allows them to say the deficit is much lower than it really is.

Just last week I read that the deficit is $165 billion. It is not $165 billion. The real operating budget deficit this coming year is going to be about $300 billion, and everybody here knows it.

Over $70 billion of that is the Social Security surplus that will be collected in the coming year that the workers are told will be saved, but instead under current circumstances will be applied to reduce the deficit so that all those folks who want to avoid hard choices can tell us and the American people that the deficit is lower than it really is.

My amendment is not irresponsible, it is not dangerous, it is not foolish for us to be forced to take the first step toward some fiscal responsibility, the first step toward some honesty in budgeting, the first step to put this country back on track. That is what the Dorgan amendment is about. It is not anything more than that. It simply says as part and parcel of this debt ceiling, we will no longer countenance taking money from workers, telling them it is going to be saved, but using it instead to show a lower Federal deficit. That is dishonest. It weakens this country and it is time we put a stop to it.

This is not a case where we should allow people to say, "Yea, I'll stop drinking tomorrow, but pass the bottle tonight. We want to keep doing it just a little while longer." Let us just stop it. That is what my amendment does.

I know there is some sputtering around here by people who do not want to do it. Yes, it changes the deficit; of course, it does. That is because over $70 billion next year will be misused unless we pass this amendment.

I am not attempting to interfere with the summit. I hope the summit succeeds. I hope they put this country back on track.

This amendment is one more step in forcing honest choices and forcing people into situations where they cannot any longer avoid making the right choices for this country's future. That is what the amendment is about.

I think that this Congress, this House, would do well today to pass this amendment to put this country on track toward an honest and sound fiscal policy in the future.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from North Dakota has stated the circumstances accurately. The Social Security trust fund reserves are building up. They are not surpluses. They are building up in order to be able to have the funds to pay benefits after the turn of the century. We do need to protect that fund. We do need to make it independent of the budget process and independent of the Federal budget; but the Congress, in attempting to get deficits down, deliberately and intentionally kept the Social Security stream of income out of the Gramm-Rudman deliberations.

□ 1210

Even including the Social Security income under the current Gramm-Rudman law, we have a deficit to try to cure between now and October of this year of over $100 billion. The summit negotiators have said that

they are not willing to even attempt to do that, that they are attempting to negotiate an agreement that will reduce the deficit by $50 billion for the next year. That in itself will entail a requirement to change the Gramm-Rudman targets to eliminate the need for sequestration.

Yes, we need to get Social Security out of the Gramm-Rudman calculations, but we need to do it in a responsible way. To increase that deficit from $100 billion to $173 billion would not be responsible, because we are not even going to do the $100 billion. To increase the deficit for the succeeding fiscal year beginning in October of 1991, fiscal year 1992, which is what the gentleman's amendment proposes to do, would raise that deficit into the middle $200 billion category, and the gentleman knows full well that this Congress will not reduce the deficit in 1 year by that amount.

The responsible way to accomplish his end result with which I agree is to revise the Gramm-Rudman targets, but he refuses to do that. And, yes, that should be done within the budget process and within the summit deliberations.

I will say to the gentleman that if we get a summit agreement, and I hope for the benefit of this country that we do, that a part of that summit agreement will be a change in the Gramm-Rudman formula which will not include the Social Security trust fund increases that is basically agreed to on a bipartisan basis, but we should do it in the right way. We should do it through the budget summit process and changing the budget process under the Gramm-Rudman calculations.

I stand ready to do that and strongly support it, but I cannot support the gentleman's amendment today that will throw the country potentially into a sequestor about 1 year from now that will be over $200 billion. I urge rejection of the Dorgan amendment and for the responsible process of the budget being changed during the summit negotiation.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of the Dorgan amendment.

Until 1983 Social Security was financed on a pay-as-you-go system with current workers contributing to pay benefits for current beneficiaries, with a reserve to keep the system solvent.

In 1983, faced with a program that was close to bankruptcy, Congress not only rescued the system for current retirees but decided for the first time to have current workers pay for part of their own retirement benefits. This was necessary because changing demographics would have put the system in great jeopardy after the year 2000.

As has always been the case, these reserves are required to be invested in U.S. Treasury securities since this is considered the safest form of investment. What has happened since that time, however, is that the previous administration, and now this one, have tolerated huge Federal deficits. While Treasury still owes the Social Security Trust Fund this money and is obligated to pay it back when needed, the fact is that the money is being spent on the operating budget and the burden on future workers to pay for the retirement of current workers is not being eased.

Social Security should not be used in this way to mask the true size of the Federal deficit. The Dorgan amendment would remove the Social Security Trust Fund from the Gramm-Rudman deficit calculations. I support this change.

Now, a number of my colleagues are concerned that the Dorgan amendment does not address the issue of altering the Gramm-Rudman targets and therefore would significantly increase the size of the potential sequester, which is already projected to be $100 billion.

First, the Dorgan amendment does not take effect until 1992. Second, Mr. DORGAN has said that he doesn't address the targets here because the targets are being addressed in the context of the summit. I agree, to do so here would only further complicate the summit in that the savings and loan crisis is going to require the summiteers to adjust the targets even in the absence of concern about honesty with regard to Social Security.

I would urge my colleagues' support for this important amendment.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I stand in the well today to support this amendment.

Mr. Chairman, I would like to point out that if you think the savings and loan problem is a crisis you wait until about 2020, just 30 years from now when Congress will face three very difficult choices, either to drastically reduce the benefits of Social Security recipients or to eliminate some beneficiaries from the program entirely, in other words, make it a means-tested program, or to raise payroll taxes to somewhere in the area of 25 percent of payroll. That is the choice of the Congress of the future just 30 years from now.

The reason is twofold. One is demographics, the baby-boom generation, the retirees of the future, and the other is the understanding of the Social Security system.

By 2020 for every one retiree drawing a Social Security benefit there will be only two workers paying into the system, a pay-as-you-go system, and this is not a savings account. There is not a reserve that is being set aside for the future. That money is being spent every day.

I now want to say that we have no right to break the promise that we make to these future retirees. We must face up to the Social Security liability which grows every single day. One might ask: Are there proposals around, do we need to protect from proposals that the Dorgan amendment anticipates? I would cite one recent example, and that is the Moynihan plan. Despite the fact that we know full well that we are going to face this crisis in social security funding in the future, here was the Senator from New York suggesting that right now we reduce the payroll tax for Social Security and further erode whatever fund there is building. Unbelievably, Senator MOYNIHAN was taken seriously, and I might say it is disappointing to hear the gentleman from North Dakota be as partisan as he is, because a lot of people on that side of the aisle took that notion seriously that you could somehow have a system that is as seriously underfunded as it is today and, yet, complicate it by reducing the payroll taxes which fund it even at the inadequate level that it is today.

I think we have to face up to our fiscal problems. I respect my colleague from Texas and the ranking member on the Committee on Ways and Means, and I understand exactly what he is saying, but I believe that we have to find a way to say to the American people that this is exactly what we face, this is the fiscal situation, and here is what we are up against.

There are no happy choices ahead for the Congress of the United States and the American people, but we must not any longer carry on this hoax that somehow we can collect money intended for future retirees and spend it on the current spending programs of today.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me this time. I congratulate him on his initiative today.

We must protect the Social Security trust funds. The Nation's senior citizens who depend on them and America's working men and women contributing to them demand that service from us. Failure to safeguard the Social Security trust funds from use in deficit cutting would be a great tragedy and travesty against the elderly of this country.

This is a goal toward which I have been working for years. Using the reserves of the Social Security and other

trust funds to offset the deficit really does not fool anyone.

It has been estimated that the borrowings from the Social Security trust funds to mask the Federal funds deficit will reach a cumulative total of $1 trillion in 1997. And, the President's Director of the Office of Management and Budget has testified that there is no plan currently in place to insure that those loans will be repaid in a timely, fiscally responsible manner.

Twenty or so years ago I was attending a meeting in a New York City ghetto when one of the people addressing the congressional group complained that, in his words, Congress is just one big, massive con game.

The accounting system we are using on the deficit may be one of the reasons for the cynical view the public takes of the Congress. Using the reserves of the Social Security trust funds to help mask the real budget deficit—the Federal funds deficit—is a piece of that deceptive system of calculating the defict. Adoption of this amendment would bring that charade to an end.

It is part of the objective this House approved earlier this month when it passed H.R. 5258, the Balanced Budget Act of 1990, for which I was an original cosponsor.

It is part of the purpose of two bills, H.R. 1420 and H.R. 3411, which I have introduced and which are pending before the House Committee on Government Operations. These bills not only would prevent the Social Security trust funds reserves from being used to mask the Federal funds deficit, they would protect the reserves of other trust funds from being used that way. I hope that these bills can be considered by the House this year.

The public's isolation from deficit reality must be ended. This amendment will help bring that about. Mastery of the Federal funds deficit depends on making sure that the American people know and understand the massive growth of the deficit. Outlawing the deception of using the so-called trust fund surpluses in the calculation of the deficit is essential to accomplishing this objective. It would help restore truth in budgeting.

At this point in the RECORD, I want to include a table on Social Security trust funds lending to the Federal Government.

SOCIAL SECURITY LENDING TO THE FEDERAL GOVERNMENT: END-OF-YEAR BALANCES INVESTED IN U.S. GOVERNMENT SECURITIES.

[Dollars in millions]

Year:	*Invested balance*
1980	$31,251.8
1981	26,647.3
1982	18,684.3
1983	30,791.2
1984	31,879.4
1985	36,674.3
1986	45,283.5
1987	64,548.4
1988	104,482.4
1989	156,993.4
1990	218,121.0
1991	298,425.0
1992	391,570.0
1993	498,562.0
1994	623,207.9
1995	760,427.5
1996	872,300.0
1997	1,025,500.0
1998	1,194,300.0
2000	1,581,800.0
2005	2,892,500.0
2010	4,815,600.0
2015	7,196,100.0
2020	9,575,600.0
2025	11,355,600.0
2030	11,929,800.0
2035	10,832,400.0
2040	7,641,800.0
2045	1,446,100.0
2046	[1]

[1] Trust funds exhausted.

Note.—Data for 1980-89 is actual and for 1990-95 is estimated, based on fiscal years. Data for 1996-2046 is estimated based on calendar years and are from Alternative II-B of The 1989 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund.

Data sources: Historical Tables: Budget of the United States Government, FY 1990, Budget of the United States Government, FY 1991, and The 1989 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund.

□ 1220

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I am going to vote against the Dorgan amendment. I think it needlessly encumbers what would otherwise be a sensible long-term, clean acceptable debt resolution.

I say that because the greatest threat to Social Security checks has not been how we account for the funds in the trust fund. It has been the problem of not passing a debt ceiling resolution and having the checks held up because the Government's borrowing authority has expired.

So my belief is that the Dorgan amendment is making the problem more difficult, causing the threat to be even greater. It will encumber the passage of this bill, which is probably pretty well encumbered anyway.

My judgment is that once we begin segregating parts of the Government's operations from others we have lost the control of what the whole score is. I believe the unified budget should be the unified budget. It should display all income and all outgo. That after all is what determines the total net borrowings of the country, and tells us really how we are doing. We are not doing any better because we count Social Security as being on budget or off budget. We are doing exactly as well. Our budget ought to count every nickel, without exception.

But if we are going to change it, it seems to me to be even greater folly to change it before we complete some kind of budget agreement. If the Congress wishes to embrace this concept, this should be a part of the agreement.

Also I would say that this particular amendment is flawed because it includes the interest as well as the increases in the reserves of Social Security.

My other thought about it is that many Members of this Congress have tried to relieve the earnings limitation either by increasing that amount, or by repealing it. If the Dorgan amendment becomes law, it will be impossible to change the earnings limitation, short of raising taxes. That will, at least, impede the interest and aspirations of a large number of Members of this body.

Mr. Chairman, I believe that it is unwise generally to pass the Dorgan amendment. I believe it is particularly unwise to pass it at this time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in strong support of this amendment. I have been advocating this for the last 9 or 10 years.

Let me give Members one example as to why we should take the trust fund, which employers and employees pay into, and this is distinguished from any other aspect of the budget. In 1985, when Congress passed the Gramm-Rudman bill Congress failed to meet a particular deadline on the continuing budget resolution. What happened was the Secretary of the Treasury took secretly almost $20 billion out of the trust fund and put it in some convoluted bank that nobody had ever heard of, and never told anybody that that is what he was doing. He also took, by the way, the civil service retirement trust funds, railroad retirement trust fund money and so on.

The seniors are always an easy target and they paid into the system all of their lives, as did the employers. Jim Jones and I, former chairman of a subcommittee of the Ways and Means Committee that relates to Social Security and our staffs found this. If we had not found this out, that would have been a permanent loss to the Social Security trust fund. We had to offer an amendment in the conference committee, that placed back the $20 billion plus interest or so that had been borrowed from the trust fund. They never intended to replace these funds.

It was not until 1969 that the trust fund was put under the auspices of the budget. When Roosevelt signed this into law, he did not intend that this trust fund be part of the budget, because it is always tempting to dip into it, and we have done this. We should not be using the trust fund to balance the budget.

How would teachers of America like it if their pension was part of a State trust or budget, or how would people who work as auto workers like it if their pension was used as a State or Federal budget? They would not like it.

Let us take the Social Security trust fund out of the budget the way that Roosevelt intended and quit the borrowing that has been done over the years.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentlewoman from Ohio has made an interesting point. One of the problems with her comments is that the Dorgan amendment in no way restricts the way that the funds in the Social Security reserve can be used or invested. It does not touch the very thing that she argued about. So the law remains the same even if the Dorgan amendment passes relative to how the funds can be invested.

Second, I said before and I will say again that the Social Security fund is off budget today. It is not part legally of the Federal budget. But it is in the Gramm-Rudman calculation which determines how much deficit we are going to have to cut every year. That is all in the world that we are talking about here today.

But the author of the amendment in no way changes the Gramm-Rudman targets, and that is why it is inconsistent.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to ask the author of the amendment a question if he would engage in a colloquy.

In the comments that we have heard so far it is obvious that the gentleman wants to take this off budget for Gramm-Rudman. Some of the whip information indicates that he also intends to put Social Security on a pay-as-you-go plan. Does that mean the amendment is going to adopt the Moynihan plan?

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, no, that is not correct.

Mr. BARTON of Texas. Mr. Chairman, could the gentleman then explain what he means by pay as you go?

Mr. DORGAN of North Dakota. I am happy to. Let me say first the gentleman mentioned we want to take it off budget. The gentleman from Texas [Mr. ARCHER] is quite correct, it is not on budget now. What we want to do is extract it from the Gramm-Rudman deficit calculations. So I want to make that point, and the reason that is important to do is the Gramm-Rudman deficit calculations tell us what kind of a deficit we have. It is at this point $60 billion less than it really is. So that is the first point.

The second point is the second provision in this amendment tries to provide some fences around the Social Security system so that when we in fact develop these surpluses, these reserves for the future years, somebody is not going to come in and jump those fences and use it for a dozen different things. That is our point. It is not the Moynihan plan at all.

Mr. BARTON of Texas. Could the gentleman explain and be specific about what the fences are in his amendment since nobody, at least nobody in the general membership has seen the amendment? What are the fences specifically?

Mr. DORGAN of North Dakota. The amendment is available to the general membership in the chamber at this point and was available yesterday when it was offered in the Rules Committee and printed in the RECORD as well.

But the second part of the amendment deals with two provisions. One is expenditures from the funds and the second is reductions in revenue to the funds. It provides points of order on various protections so as we get down the road 5 years and somebody comes in and says hey, you know, we have $350 billion sitting over here in the Social Security account, why not spend some of that—what the heck—let us do it now because it would make us feel good now, we are saying this is saved for the future generations and we are going to need it then. So if we are going to collect it to save it for future generations, let us make sure it is protected against those who want to reduce it and deplete it through various methods.

Mr. BARTON of Texas. I thank the gentleman.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROYBAL].

□ 1230

Mr. ROYBAL. Mr. Chairman, I rise seeking further information on the gentleman's amendment. It seems to me that it is made in two parts, and in the first part, to remove the social security trust fund from Gramm-Rudman deficit calculations. But it is not effective until 1992.

Then, in the second part, it actually limits any increase in benefits to $100 million over the next 5 years.

One thing I heard on this floor, a statement made by the gentleman from North Dakota, was the fact that this would stop our borrowing—and I use the word "borrowing," not the real word, but borrowing from Social Security—and that we will no longer be able to do that. That would be a plus, in my opinion.

On the other hand, what would happen then with the second part, limiting that amount to $100 million? If there is any increase in benefits, then that trust fund would have to be increased with taxes coming in from those of us who participate in it.

But again the question: Does that leave this fund wide open so that we can continue to borrow from it in the future? That is what is bothersome.

I do not think we should continue to take money from the Social Security trust fund as we have in the past. I think that that fund was intended to be a separate fund and one that was to be laid aside so that the people now and in the future would be beneficiaries of its assets.

So I now ask the author of this amendment: Does this stop the borrowing from the Social Security trust fund that has been going on now for many years?

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, what this attempts to do is to stop the raiding of the Social Security trust fund for other purposes, yes, indeed.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, on occasions like this in which we are discussing truth-in-borrowing, in which we are putting trust into the trust fund, I cannot let the occasion pass without pointing out an action that this Congress took just last week when we declined, and which we also will consider later on Thursday, the airport-airways trust fund.

The moneys are going into these five trust funds—Social Security trust fund, airport and airways trust fund, surface transportation trust fund, as well as the inland waterways trust fund—for the sole purpose for which they were designated.

However, due to the present budget practice, all of these trust funds are used to calculate the incoming revenue and thereby the reserve, which gives the impression as though the deficit is not as large as it truly is.

Now, this amendment today would attempt to remove the Social Security trust fund from that miscalculation and misrepresentation.

Mr. Chairman, I believe in the same manner certainly those funds that are dedicated to surface transportation should be removed from this misrepresentation and allow those funds to flow freely for the infrastructure

needs of our Nation, for which they have been taxed. The same applies to the airports, and the same applies to the inland waterways.

I am disappointed this was not done in one amendment. It remains to be seen how the Congress will act on this one.

We have had near misses in the past on the transportation trust fund. But if the Congress chooses to remove from this misrepresentation and thereby restore trust to the true calculations of the trust funds, I hope they will also join many of us in this Congress who believe that the transportation trust fund should be freed for the purpose for which they were intended.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 3½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in support of the Dorgan amendment. I have been happy to work with the gentleman from North Dakota for over 2 years for this issue to come to the floor of the House of Representatives.

Earlier I stated some figures. I stand corrected.

I want to make certain the record reflects an accurate history of Social Security payroll taxes.

In 1939, when Social Security was created, in the very first year, the maximum amount which an American worker could pay in 1 year to Social Security was $30, $2.50 per month.

By 1969, 30 years later, the maximum annual contribution by an employee in America was $600.

Today, 1990, the maximum amount an American worker can pay into the Social Security in 1 year is $3,900.

The reason for this dramatic increase since 1983 was to create a reserve and surplus for those millions of Americans born after World War II who will become tomorrow's Social Security recipients. It is part of the contract. Those of us paying the payroll tax today take care of today's retirees, as we should, and as they took care of those before them. But we are also salting away this reserve or this savings account for the future needs which we know we will have.

Sadly, this money, this accumulated surplus, as it arrives in Washington is being used by this administration to conceal or at least to downplay the size of this year's deficit. This amendment says we are no longer going to allow that to occur.

The administration and Congress must be honest and candid with the American people.

When we say that we have a deficit each year, let us give them the true figure, not the figure diluted by the surplus created in Social Security. That is the sum and substance of the Dorgan amendment.

It is practical, it is objective, and it is honest. Why in the world, then, if it is so simple, you might ask why would President Bush and the Republican side of the aisle by and large oppose this change? I think the reason is twofold. First, they will have to announce, in the first year of its implementation, to the American people that the deficit is a lot more than they had originally reported, perhaps $72 billion more. Does that mean we have incurred more debt? No. The same debt is stated in honest terms. That is not a good thing for a President to announce at any time, and I am sure President Bush would not care to hold that press conference.

But I think this Government is founded on the premise that we can trust the American people with honest, cold, hard facts. That, I guess, is why the administration opposes the Dorgan amendment.

The second reason is we are going to have to change the Gramm-Rudman targets, I believe. These Gramm-Rudman targets, created by the gentlemen from Texas and New Hampshire, are not sacred writ. These were their projections about where our deficits would be. Those targets are much less important to the American people than the state of the economy. We want to make certain that our deficit reduction does not throw this Nation into a recession: more unemployed people, family farms failing, businesses failing. What good is that if we are standing fast with targets that are not realistic?

The Dorgan amendment is an honest, sincere approach to deal with a very difficult and very political topic.

I think that passing this amendment is a giant step forward in preserving the integrity of Social Security and to say to the American people, "We are going to trust you with the facts."

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I rise to commend the gentleman from North Dakota. I believe Congressman DORGAN's amendment is an excellent effort to bring truth in budgeting. I am glad to join as a cosponsor with it. I believe this Chamber and this country would be far better off with the tenets which this amendment involves. It is very basic. There are two things which this amendment will do: One, it will bring truth in budgeting or at least closer to the truth in budgeting.

□ 1240

The fact is that there is $73 billion of the deficit that is being hidden this year because of the way we account for Social Security funds. Those funds belong to the Social Security trust fund and to the people who have paid in to that fund. To count them as an offset to the rest of the budget hides the fact that this is a fund to stay intact, and hides and shies away from our commitment to our senior citizens.

First of all, this amendment will ensure much more truth in budgeting. It will give Members a much more accurate description of what this budget deficit is. Second, I believe this amendment will help protect Social Security. It will help the senior citizens who have worked and paid into this fund, ensure that the money is there when the time comes for them to get it. For those who doubt that, let me suggest to Members what might happen if this were in a $73 billion deficit this year instead of a $73 billion surplus. If it were a deficit, Members know that the pressure would be on to cut every major portion of the budget. I doubt that facing that $73 billion deficit instead of a surplus, Members would find this body able to pass over an ability to turn Social Security benefits.

The reality is, if this is accounted for correctly, it provides a major incentive to protect our senior citizens. One last thing, some have expressed a concern that in the budget negotiations this would cause Members a problem as we look at the Gramm-Rudman targets. To suggest that we should have dishonest calculation of what the deficit is, I think is a fraud. It is a fraud on the American people. But moreover, to suggest that we should not correct this, is like saying that we should not tell the king that he has no clothes on, out of concern for what the tailor's bill might be.

The reality is, we ought to be willing to look at the facts. If we deal with the facts correctly and honestly, this Nation will be better off, and I believe the markets will be more inclined to think that this body is geared to face up to its problems, not hide from it.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 30 additional seconds to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, the question was raised about the Gramm-Rudman budget summit and how this would throw off the discussion. Let me tell Members something. I think it is very important to understand that one of the items that is always on the table is the cost-of-living adjustment for older Americans and disabled people.

If we take it out of the realm of Gramm-Rudman, then there is no chance to get at that COLA. A one-time freeze would cause 331,000 people in this country to fall below the poverty line, 167,000 of them would be older women over 70 who would be at the poverty level.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, passage of the debt ceiling increase is described as a necessary evil. It is re-

quired by the fact that we do not have a balanced budget. Now, I would prefer that we cut spending and eliminate the need to borrow more, but until we cut spending, we are going to have to pass periodically a debt ceiling increase, or better said, a borrowing limit increase.

But there is a basic dishonesty in the way that we calculate our deficit under the Gramm-Rudman-Hollings law. We count the now almost $60 billion annual surplus in the Social Security trust funds in determining the size of our deficit. That means that while we admit to a deficit of $150 billion, we really have a deficit of over $200 billion. We ought to take the Social Security funds out of this calculation and face up to the fact that we are really overspending by over $200 billion per year.

The Social Security surplus is needed for future retirees. Let's leave it alone. That is the purpose of the Dorgan amendment. I have worked with the gentleman on this issue for sometime now, and I urge support of his amendment.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I would like to put a question to the gentleman from North Dakota. The gentleman from California raises the question, would the amendment eliminate borrowing from Social Security. I believe your response was, "It would eliminate raiding the Social Security trust fund."

It is my understanding, and I think the last speaker made reference to this, and I think this even goes back to Franklin Roosevelt, that all surplus in Social Security has to be invested in Government securities, is that correct?

Mr. DORGAN of North Dakota. That is correct.

Mr. MCMILLAN of North Carolina. So that the Social Security surplus to the extent that it exists, and we are fortunate to have a surplus at this point due to constructive changes made in the law a few years ago, we are compelled to borrow from Social Security, or Social Security is compelled to lend to the Government in order to invest its surplus, is that correct?

Mr. DORGAN of North Dakota. The Social Security System now invests in Government bonds.

Mr. MCMILLAN of North Carolina. It has no alternative.

Mr. DORGAN of North Dakota. Under present law it has not alternative, and this amendment does not purport to try to change that, although I suspect one day we will have a debate on this floor about prospective changes.

Mr. MCMILLAN of North Carolina. The real bottom line issue is what we hope to do is get it and treat it in an accounting matter, so the surplus can truly build and become true savings, which today, that surplus is not building, does not constitute true savings, nor true reserves against the future demands on our Social Security trust fund.

Mr. DORGAN of North Dakota. The gentleman is absolutely correct.

Mr. MCMILLAN of North Carolina. I appreciate the gentleman's remarks.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I rise in reluctant support of this amendment. The need is important to focus on the non-Social Security deficit, and I think most economists who have testifed before the Committee on the Budget agree that if we are going to focus on reducing the deficit, focus ought to be on the non-Social Security deficit because at the present time, Social Security masks the real point.

The reason I am reluctant, I am not sure this is the most appropriate vehicle for doing this because we are engaged in the summit meetings, and I think that is the more appropriate place to do it. We have to make adjustments to the Gramm-Rudman target if, in fact, we take this off budget, because otherwise we have sequester levels that are going to be truly outrageous in the future.

Lastly, the focus really ought to be on the net amount. This amount includes the gross amount, and very frankly, we ought to continue to have the interest payments remain on budget. So I say this more as a statement of intent to basically remove Social Security from the budget calculation, and I think that is something that will ultimately be done in the summit.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I rise in strong support of this particular amendment to take Social Security Trust Fund off budget. For far too long since back in the Johnson administration, Congress has been borrowing from the Social Security reserves. This practice is wrong, and I believe must be stopped.

In my opinion, the big spenders in Congress have tried to take the easy way out by using the Social Security Trust Funds to hide the size of the budget deficit. It is high time we end this sham.

I think we could do that with this amendment. The Social Security Trust Fund must be used for one purpose, and one purpose only: To provide the benefits earned by millions of Americans who are currently retired or who will be retiring in the near future. Social Security represents a promise to Americans across the country. We cannot and we must not violate the sacred trust that Americans have placed in Members to defend their retirement savings. The financial security of Americans in their later years depends on the actions that we take here today to protect their Social Security. That is why we must pass this amendment, in my opinion, and take Social Security off budget and end this disgraceful charade.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of the Dorgan amendment taking the Social Security Trust Fund off budget. The American taxpayers who pay Social Security taxes deserve to have that money available for the purposes it was collected for, not to mask the Federal budget deficit.

We are talking about basic fairness. Basic fairness to the American people. The American people face the same budget sleight of hand with the highway and aviation trust funds.

The highway and aviation trust funds are 100 percent user fee supported. Social Security can't even make this claim. The moneys collected in the highway and aviation trust funds are dedicated for use in building and maintaining our national transportation systems, one of the very foundations of our Nation's economy and way of life.

Those user fees should be used for the purposes they have been collected, not languishing in trust funds to mask general revenue shortfalls. The transportation trust funds are special and should be treated as such. The American people deserve no less.

To that end I introduced H.R. 5315, a bill to remove the transportation trust funds from the budget, if such treatment is afforded Social Security—the very issue we face today. The Committee on Public Works and Transportation plans to mark up H.R. 5315 tomorrow, and I urge all of my colleagues to support it when it reaches the floor of the House.

Mr. Chairman, I reiterate my strongest support for the amendment before the Members, and I commend the gentleman for his leadership.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to associate myself with the statement of the gentleman from California [Mr. ANDERSON].

Mr. Chairman, there are many pros and cons to taking the Social Security trust funds out of the Federal budget process. This issue has many implications and it is one to which we must give close and careful consideration.

While we are debating this matter, I would like to raise the issue of how the highway and aviation trust funds are treated in the Federal budget process.

Today we collect a 9-cent gasoline tax and a 15-cent diesel fuel tax to support the highway trust fund, and an 8-percent airline ticket tax to fund our aviation trust fund, as well as other miscellaneous highway and aviation-related taxes. These taxes were collected with the clear understanding that they would be used to improve our highway and aviation systems.

However, our Government has been refusing to spend much of the revenue collected for their specified purposes. Instead of spending the trust fund in accordance with congressional authorizations, unnecessarily high balances are maintained in these trust funds and annual net increases in the funds' receipts are used to mask the true deficit in the general fund.

These high trust fund balances are being maintained at the same time that we in this country are facing a crisis in our public work's infrastructure. Public concern grows daily as highways crack, bridges crumble, and airport delays frequently make flying an ordeal.

At least part of the solution to this growing problem is to make full use of the billions of dollars that have accumulated in the highway and aviation trust funds. Removing these trust funds from the Federal budget process would allow us to make major strides toward improving our transportation infrastructure.

The case for removing the highway and aviation trust funds from the budget is even more compelling than that for Social Security. Highway and aviation trust funds are 100 percent user fee supported while other major Federal Government trust funds, including Social Security, receive some general funds.

Tomorrow, the Committee on Public Works and Transportation will consider H.R. 5315, which would remove the highway and aviation trust funds from the budget if the Social Security trust fund is taken off budget. I hope that this measure will receive the same careful and thoughful consideration as the measure before us today.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the legislation before us to provide for a permanent increase in the statutory public debt limit.

On July 25 the House Ways and Means Committee approved two bills that would raise the current $3.1227 trillion debt limit either temporarily to $3.195 trillion (H.R. 5350) or permanently to $3.444 trillion (H.R. 5355). I favor the temporary measure, which would be good until October 15, because I believe this would send a strong signal to our financial markets, and to the American people, that the Congress is serious about making steady progress with the administration on the budget-deficit summit and that we hope to have a good, solid deficit reduction plan in place shortly. I feel that the time to act on the deficit crisis is now and that we must continue to work, in a bipartisan manner, and in a spirit of cooperation, with the administration to enact a feasible plan to control Federal spending.

A permanent increase in the statutory public debt limit is not wise fiscal policy. It should be defeated so that a temporary measure can go forth while we complete our important deficit negotiations.

I urge my colleagues to oppose H.R. 5355.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

□ 1250

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE], a subcommittee chairman of the Committee on Ways and Means.

Mr. PICKLE. Mr. Chairman, all Americans recognize that over the years the Social Security trust funds have existed in a sort of fiscal year no-man's land within the Federal budget, being considered either on-budget or off-budget at different times. Recently, the trust funds have been considered off-budget for purposes of the unified Federal budget but on-budget when calculating the Gramm-Rudman deficit targets. This has had the effect of masking the true size of our Federal deficits.

I think it is time that we be consistent in how we treat the Social Security trust funds for budget purposes. I think it has always clearly been the intent of the Congress that the Social Security trust funds be held separate and apart from the rest of the budget, protected from raids to soak off the surplus to pay for other Government programs.

As chairman of the Social Security Subcommittee in 1983, I supported removing the Social Security trust funds from the unified budget. This was a part of the bipartisan package of reforms that restored the financial solvency of the Social Security trust funds.

Then, when Gramm-Rudman was enacted, I joined with others on the Ways and Means Committee to make certain that Social Security benefits would not be reduced in the event of automatic across-the-board cuts. Since that time, it has become apparent that including the trust funds' surpluses in calculating the Gramm-Rudman deficit target has had the effect of camouflaging the magnitude of the deficit.

These are the only trust funds that I believe should be taken off-budget. The Social Security trust funds are not like other trust funds which collect revenue to fund immediate needs. Social Security represents a compact between the generations. Today's workers contribute to the funds in full anticipation that they will receive full benefits when they retire. It is for this reason that I have always believed that these funds merit special treatment.

The particular amendment offered by the gentleman from North Dakota [Mr. DORGAN] will help clear away the smoke and mirrors that have distorted the apparent size of the deficit. It also protects the trust funds against raids on the current surpluses, by requiring that any future benefit increases or FICA tax cuts be revenue-neutral and balanced. This ensures that we will keep our promise to today's workers that there will be money to pay for their benefits when they retire.

So, all in all, this amendment strikes a good balance, keeping the Social Security trust funds separate and apart from other revenues or trust funds. That is where it should be.

Mr. Chairman, I support the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in reluctant support of the Dorgan amendment. The amendment would remove the Social Security trust funds from the Gramm-Rudman deficit calculations beginning in fiscal year 1992. It would not alter the current Gramm-Rudman deficit targets. In addition, I am pleased to say, the amendment incorporates the provisions of my bill to protect the financial solvency of the Social Security trust funds once they are removed from the budget.

Mr. DORGAN's goal is a worthy one. Under the current Gramm-Rudman law, the large surpluses in the Social Security trust funds are masking the true size of the Federal deficit and discouraging us from making the tough choices necessary to reduce the deficit in the Government's operating budget. Thus, I support taking Social Security off-budget, and I have introduced legislation to do so.

My reservation about the amendment is the sponsor's choice of a legislative vehicle. The Congress and the President are currently engaged in important negotiations about how to reduce the deficit. Those negotiations have included discussions of removing Social Security from the Gramm-Rudman calculations. My personal preference is to take this issue up as a part of the budget summit where we can give full consideration to its fiscal impact and can determine whether it is appropriate to treat other trust funds in the same fashion.

I am pleased that Mr. DORGAN has included in his amendment the provisions of my bill, H.R. 3505, to protect the financial solvency of the trust funds once they have been excluded from the deficit calculations. These provisions establish a point-of-order against any bill that increases Social Security benefits or decreases Social Security taxes without providing for a commensurate change in expenditures or revenues. An exception is made for bills with a budgetary effect of less

than $100 million over 5 years. The provision is aimed at ensuring continuing budget discipline in Social Security taxation and spending once Social Security is off-budget.

I recognize that the effort to remove Social Security from the budget has strong support among my colleagues. The Committee on Ways and Means has voted twice—in nonlegislative votes—to remove Social Security from the Gramm-Rudman calculations.

While I prefer that Social Security be removed from the deficit calculations as part of the budget summit negotiations, I intend to vote for this amendment and feel that the House should work its will. I continue to believe that our chief goal should be responsible deficit reduction—the sort of serious, long-term deficit reduction which will encourage economic growth and will ensure that the Social Security trust funds are able to pay benefits for many generations to come.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us be clear about what we are debating today. There is bipartisan agreement that we should unmask the true operating deficits, to the degree that they are being masked. The Dorgan amendment, however, does not change the deficits of this country nor does it change the amount of the debt. Had it impacted on the debt, which is the result of deficits, it would have been germane in the Ways and Means Committee and it would not have required a special rule by the Rules Committee to permit it to be attached to this bill as a nongermane amendment.

What it does is change the Gramm-Rudman formula. It will have no practical effect on the deficits or the debt, because as I pointed out earlier, the Congress clearly is not even going to meet the current Gramm-Rudman target for this year or the following year, but what it will do is potentially create a sequester a little over a year from now that could, like a meat ax, cut out Medicare payments to the elderly sick unless the Congress does something in the interim to change the Gramm-Rudman targets.

I would be here today strongly supporting this amendment if it changed the deficits or if it changed the debt. I would be here strongly supporting it if it adjusted the Gramm-Rudman targets so that we could realistically realize that for the next number of years in this century we are going to be back with restraints to meet deficit targets.

Mr. Chairman, that is the responsible thing to do, but under the circumstances it does not do those things. So, as my chairman said, he reluctantly supports the amendment, but I must reluctantly oppose it.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I support this amendment, and the reason I do is because it forces us to tell the truth about the true deficit.

I have heard the terminology that trust funds are raided. They are not. There is a requirement that the trust funds be loaned, but in fact that is good business. We should not leave trust funds in a trust account without lending them to someone, and who better to lend them to than the government in order to yield the proper interest rate?

But what this does is it keeps us from pretending that the deficit is under $200 billion instead of over that by a $70 billion factor. It is true we probably will have to address the Gramm-Rudman guidelines if we are realistically to meet the requirements of it. We will have to examine this very closely so as to not cause a recession. But let us tell the people the truth, because too many people are misguided into thinking the funds are actually being raided when actually all we are doing is pretending that Cinderella's pumpkin is a coach for 1 day every 2 years or every year.

The CHAIRMAN. The Chair wishes to advise the Members that the gentleman from North Dakota [Mr. DORGAN] has 4½ minutes remaining and the gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

The Chair would also advise the Members that the gentleman from North Dakota [Mr. DORGAN] should have the opportunity to close debate since the position of the gentleman from Texas does not necessarily represent that of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, at the time the gentleman from North Dakota is prepared to close, I would be happy to yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN], a member of the Committee on Ways and Means.

Mr. LEVIN of Michigan. Mr. Chairman, my distinguished colleague, the gentleman from Texas, is correct, this amendment does not change the deficit. What it does do is make it clear what it is, and after years of covering it up, it seems to me some truth in budgeting is very, very much in order.

This is a blow for truth, an imperfect blow but a necessary one. It is more a hammer than a scalpel, but maybe a hammer is needed after years of covering up the truth.

I think adjustments will be necessary from this amendment, but that can be done later. We must start from premises on facts not fiction.

Mr. Chairman, I support the amendment.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from North Dakota [Mr. DORGAN] to close debate.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had an interesting discussion today, and let me just say that the characterization of what I attempt to do here with this amendment is wrong in some cases. Let me try to correct it, if I may.

I understand that if we enact this amendment, it is not going to solve the deficit problem tomorrow, but I also understand that if we keep doing what we have been doing, we are going to continue to pile deficit on top of deficit and further weaken the American economy.

□ 1300

Mr. Chairman, I say to my colleagues, "It seems to me you've got to step back a bit, and give yourselves some breathing room and have a little clear view of what's happening." Year after year we have continued to move along to avoid hard choices and pile on top of the debt so that we now have a debt of $3.2 trillion.

Mr. Chairman, I would not have preferred to offer this amendment to the debt ceiling. I would have preferred to have brought it to the floor separately. But this is the only opportunity for us to discuss this. That is why we take the opportunity today.

Mr. Chairman, what is happening today is wrong. We should not collect money from the workers of America, take it from their pay checks and tell them we are going to save it for their future and then use it as an offset to try to tell the American people that the Federal deficit is lower than it really is.

Mr. Chairman, what is happening today is wrong, and we have got to change it. The road ahead for us in fiscal policy is to make tough choices. They are awful choices, wrenching choices, and I understand that. But the choice we have always exercised in the last decade is to do nothing.

When we are confronted with the deficit, what do we do? Well, we do not do much at all. We just nick this corner a little bit, nick that corner a little bit, fib about the numbers here, fib about the numbers there, and fudge the numbers over on the other side, and then we tell the American people that we did something when, in fact, we did nothing, and the deficit mushrooms. The deficit this next year is nearly $300 billion. Eight hundred million dollars a day we are borrowing, 7 days a week, giving America a dollar's worth of Government, collecting 80 cents of taxes and charging 20 cents

to the kids, and it is fundamentally irresponsible.

Mr. Chairman, the question is, "When will this Congress decide to stop it? When will we call a halt to this nonsense?"

It better be soon, and this is the opportunity now.

Mr. Chairman, this is not partisan. The question here is America's economic health, our ability to compete, whether we are going to put America back on track.

That is what we are doing today, so let us vote for this amendment. Let us return some sanity to the fiscal policy of this country. Let us decide that we are going to pay our bills. Let us protect the Social Security money. Let us make sure it is there after the turn of the century, when we promised the workers it will be there.

Most importantly, Mr. Chairman, let us provide the kind of policy that allows America in the long term to grow and prosper with jobs, and opportunity and economic growth, and the only way we can do that is to put our house in order. Not tomorrow, not next month. Now, today, with this vote on the floor of the House.

Mr. KANJORSKI. Mr. Chairman, I am proud to join my distinguished colleague from North Dakota, Mr. DORGAN, in supporting his amendment to preserve the sanctity of the Social Security Trust Fund.

The amendment we are considering today is the outgrowth of legislation the gentleman from North Dakota and I, and a large bipartisan group of our colleagues, originally introduced in February 1989, H.R. 933, the Truth in Social Security Accounting Act.

That bill, and the amendment we are considering today, will fully separate the Social Security Trust Fund from the rest of the Federal budget and the Gramm-Rudman Act. It will prevent the surplus in the Social Security Trust Fund from being used to hide the true size of the Federal deficit, and it will remove the temptation to dip into the Social Security Trust Fund to finance other Federal programs.

With the adoption of this amendment today, we will tell our Nation's senior citizens, as well as working men and women who are counting on Social Security to provide for their retirement, that their benefits are safe and that Social Security funds will not be diverted to other purposes.

Ever since I was elected to the Congress it has been my strong desire to insulate Social Security from the regular political and budgetary process. Since Social Security is fully financed by its own dedicated stream of payroll taxes, there is no reason for it to be included in the regular Federal budget. That is, after all, why we created a separate trust fund for it in the first place.

If this amendment is adopted today, and accepted by the Senate and the President, we will send a strong and reassuring message to our Nation's senior citizens that their retirement funds are safe. We will send a message that Social Security will not be held hostage to our other budgetary problems and will not be used as a political football. That is a message I enthusiastically support. I urge all my colleagues to vote for this amendment, to take politics out of Social Security, and to stop hiding the true size of the Federal budget deficit from the American people.

Mr. ENGEL. Mr. Chairman, I rise today to express my concern about the Dorgan amendment, wich I fear could have a harmful effect on programs for senior citizens.

I support the Dorgan amendment's attempt to remove the Social Security Trust Fund from Federal budget deficit calculations. However, I must oppose this amendment because it would prevent the consideration of any legislation that could create a net increase in Social Security benefits.

In the past year, I have advocated using part of the growing Social Security surplus to correct the Social Security "notch" and to help provide a comprehensive health care program, including long-term nursing home care and good prescription drug programs. This amendment would effectively eliminate any attempts to correct the Social Security "notch" and to provide such a comprehensive health care program. The failure of Congress to help people who were born in the "notch" years of 1917 to 1921 is a national disgrace. These people should not continue to be treated as second-class citizens.

Our Government is constantly giving senior citizens the short end of the stick. The Government gives them help on the one hand and takes it away from them with the other. As a result, seniors are finding themselves worse off with each passing year.

Mr. Chairman, I believe that the Dorgan amendment makes it harder to increase Social Security benefits and will have a detrimental effect on senior citizens. I, therefore, must vote against this amendment.

Mr. SCHUETTE. Mr. Chairman, I rise today in strong support of the amendment offered by Mr. DORGAN to remove the Social Security surplus from the Gramm-Rudman-Hollings deficit calculation. I have introduced legislation to accomplish this same goal, and commend Mr. DORGAN for his amendment.

It is important that we take all necessary steps to ensure the soundness of the Social Security trust fund. This amendment will accomplish two goals: It will protect he Social Security system for the current and future generations to make sure that our retirees get the money that is entitled to them. It also will bring an end to budget trickery and acts of deception that have allowed use of the trust fund to hide the true extent of our Federal deficit. This sort of trickery would never be allowed in private industry, nor should it be allowed in the Congress.

Mr. Chairman, these annual shenanigans are among several good reasons to implement complete reform of the Federal budget process. However as the foremost problem affecting the most binding contract of all—that between our citizens and the Social Security system—I applaud this necessary and important first step.

This amendment is an attempt to tell the American people the truth about the deficit and to ensure that the American people get the Social Security benefits that they have earned and deserve.

Mr. McCANDLESS. Mr. Chairman, I am constantly amazed by the misguided creativity of the Democratic leadership of the House of Representatives. The issue before us is whether or not we will raise the debt limit to pay for Congress' inability to control spending. Instead of having a straight up-or-down vote on the issue, the Democratic leadership has decided to hide the issue behind Social Security and the Dorgan amendment.

The question raised by the Dorgan amendment—whether to take Social Security off-budget—is an important question, but it has nothing to do with the debt limit. There is absolutely no reason why we could not consider Mr. DORGAN's amendment as a freestanding legislative proposal. But, no. Through the imagination of the Rules Committee, the two separate and distinct issues have become one.

Be that as it may, I will address the Dorgan amendment.

In short, the amendment offered by my colleague from North Dakota [Mr. DORGAN] is about half right.

I strongly object to Congress' use of the Social Security Trust Fund to hide the true size of the Federal deficit. In fact, I first introduced legislation in 1985 to put an end to this practice by separating Social Security from the unified Federal budget.

Social Security is funded by its own tax and should not be considered as a part of the overall Federal budget. Decisions about Social Security benefits should be made solely on the objectives and condition of the Social Security system and not the budget problems of the entire Federal Government.

Despite the comments of several of my colleagues, it was not President Reagan who made Social Security a part of the budget. It was President Johnson. Lyndon Johnson made Social Security a part of the Federal budget in 1967 to hide the increasing costs of the Great Society programs and the Vietnam war. While passage of the Gramm-Rudman Balanced Budget Act in 1985 officially took Social Security out of the budget, it left Social Security in the budget for purposes of determining the Federal deficit. Because the implementation of Gramm-Rudman is based on the size of the deficit, Social Security is still a part of the budget, and Congress is still hiding the deficit behind the Social Security surplus.

In this respect, I agree with my colleague from North Dakota. This accounting trick is deceptive, and it is wrong.

But, as I said, his solution is only half right.

The Gramm-Rudman deficit targets were established as a matter of law with the assumption that the Social Security receipts would be counted. The Dorgan amendment fails to address those assumptions.

I have a solution to that problem. That solution is legislation which I introduced in 1988, the Honest and Balanced Budget Act. The act was reintroduced in this Congress and is H.R. 860.

H.R. 860 would completely separate the Social Security Trust Fund from the overall Federal budget, and adjust the Gramm-Rudman deficit targets to reflect the change in the assumptions. Using the Congressional Budget Office's estimates, H.R. 860 adds the

amount of the assumed Social Security surplus to the Gramm-Rudman target, and then follows the general pattern of Gramm-Rudman by reducing the deficit by $36 billion per year until the budget is balanced in fiscal year 1996. And in fiscal year 1996, it will be an honest balanced budget. Unless we address the Gramm-Rudman deficit targets, Congress will not meet the targets and Gramm-Rudman will effectively have been repealed. While I do not know if this is the intent of the Dorgan amendment, I would note for the record that Mr. DORGAN voted against the enactment of the Gramm-Rudman Balanced Budget Act.

Nevertheless, I will support the Dorgan amendment because it is a step—a half-step—but a step in the right direction. However, I would prefer to vote for H.R. 860, but the House Democratic leadership has declined to bring the legislation to the floor. I expect that the Dorgan amendment will pass by an overwhelming vote. Then, behind the shield of Social Security, the House will vote to raise the debt limit, the debt that we are leaving for our children and grandchildren to pay.

On final passage, I will look behind the shield, and the issue will still be the debt limit. Until Congress gets its fiscal house in order, eliminates waste and abuse in the Federal budget, and enacts meaningful budget process reform, I cannot and will not vote for increase in the debt limit.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. DORGAN of North Dakota. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 285]

Ackerman	Bartlett	Borski
Alexander	Barton	Bosco
Anderson	Bateman	Boucher
Andrews	Bates	Boxer
Annunzio	Bellenson	Brennan
Anthony	Bennett	Brooks
Applegate	Bentley	Broomfield
Archer	Bereuter	Browder
Armey	Berman	Brown (CA)
Aspin	Bevill	Brown (CO)
Atkins	Bilbray	Bruce
AuCoin	Bliley	Bryant
Baker	Boehlert	Buechner
Ballenger	Boggs	Bunning
Barnard	Bonior	Burton
Bustamante	Guarini	McDade
Byron	Gunderson	McDermott
Callahan	Hall (OH)	McEwen
Campbell (CA)	Hall (TX)	McGrath
Campbell (CO)	Hamilton	McMillan (NC)
Cardin	Hammerschmidt	McMillen (MD)
Carper	Hancock	McNulty
Carr	Hansen	Meyers
Chandler	Harris	Mfume
Chapman	Hastert	Michel
Clarke	Hatcher	Miller (CA)
Clay	Hawkins	Miller (OH)
Clement	Hayes (IL)	Miller (WA)
Clinger	Hayes (LA)	Mineta
Coble	Hefley	Moakley
Coleman (MO)	Hefner	Molinari
Coleman (TX)	Henry	Mollohan
Collins	Herger	Montgomery
Combest	Hertel	Moody
Condit	Hiler	Moorhead
Conte	Hoagland	Morella
Conyers	Hochbrueckner	Morrison (CT)
Cooper	Holloway	Morrison (WA)
Costello	Hopkins	Mrazek
Coughlin	Horton	Murphy
Courter	Houghton	Murtha
Cox	Hoyer	Myers
Coyne	Hubbard	Nagle
Craig	Huckaby	Natcher
Crane	Hughes	Neal (MA)
Crockett	Hunter	Neal (NC)
Dannemeyer	Hutto	Nielson
Darden	Hyde	Nowak
Davis	Inhofe	Oakar
de la Garza	Ireland	Oberstar
DeFazio	Jacobs	Obey
DeLay	James	Olin
Dellums	Jenkins	Ortiz
Derrick	Johnson (CT)	Owens (UT)
DeWine	Johnson (SD)	Oxley
Dickinson	Johnston	Packard
Dicks	Jones (GA)	Pallone
Dingell	Jones (NC)	Panetta
Dixon	Jontz	Parker
Donnelly	Kanjorski	Parris
Dorgan (ND)	Kaptur	Pashayan
Dornan (CA)	Kasich	Patterson
Douglas	Kastenmeier	Paxon
Downey	Kennedy	Payne (NJ)
Dreier	Kennelly	Payne (VA)
Duncan	Kildee	Pease
Durbin	Kleczka	Pelosi
Dwyer	Kolbe	Penny
Dymally	Kolter	Perkins
Dyson	Kostmayer	Petri
Early	Kyl	Pickett
Eckart	LaFalce	Pickle
Edwards (CA)	Lagomarsino	Porter
Edwards (OK)	Lancaster	Poshard
Emerson	Lantos	Price
Engel	Laughlin	Pursell
English	Leach (IA)	Quillen
Erdreich	Leath (TX)	Rahall
Espy	Lehman (CA)	Rangel
Evans	Lehman (FL)	Ravenel
Fascell	Lent	Ray
Fawell	Levin (MI)	Regula
Fazio	Levine (CA)	Rhodes
Feighan	Lewis (CA)	Richardson
Fields	Lewis (FL)	Ridge
Fish	Lewis (GA)	Rinaldo
Flake	Lightfoot	Ritter
Flippo	Lipinski	Roberts
Foglietta	Livingston	Robinson
Ford (MI)	Lloyd	Roe
Frenzel	Long	Rogers
Gallegly	Lowery (CA)	Rohrabacher
Gallo	Lowey (NY)	Ros-Lehtinen
Gaydos	Luken, Thomas	Rose
Gejdenson	Lukens, Donald	Rostenkowski
Gekas	Machtley	Roth
Gephardt	Madigan	Roukema
Geren	Manton	Rowland (CT)
Gibbons	Markey	Rowland (GA)
Gillmor	Marlenee	Roybal
Gilman	Martin (IL)	Russo
Gingrich	Martin (NY)	Sabo
Glickman	Martinez	Saiki
Gonzalez	Matsui	Sangmeister
Goodling	Mavroules	Sarpalius
Gordon	Mazzoli	Savage
Goss	McCandless	Sawyer
Gradison	McCloskey	Saxton
Grandy	McCollum	Schaefer
Grant	McCrery	Scheuer
Green	McCurdy	Schiff
Schneider	Snowe	Upton
Schroeder	Solarz	Valentine
Schuette	Solomon	Vander Jagt
Schulze	Spence	Vento
Schumer	Spratt	Visclosky
Sensenbrenner	Staggers	Volkmer
Serrano	Stallings	Vucanovich
Sharp	Stangeland	Walgren
Shaw	Stark	Walker
Shays	Stearns	Walsh
Shumway	Stenholm	Watkins
Shuster	Stokes	Waxman
Sikorski	Studds	Weber
Sisisky	Stump	Weiss
Skaggs	Sundquist	Weldon
Skeen	Synar	Wheat
Skelton	Tallon	Whittaker
Slattery	Tanner	Whitten
Slaughter (NY)	Tauke	Williams
Slaughter (VA)	Tauzin	Wilson
Smith (FL)	Taylor	Wise
Smith (IA)	Thomas (CA)	Wolf
Smith (NE)	Thomas (GA)	Wolpe
Smith (TX)	Thomas (WY)	Wyden
Smith (VT)	Torres	Wylie
Smith, Denny (OR)	Torricelli	Yates
	Towns	Yatron
Smith, Robert (NH)	Traficant	Young (AK)
	Traxler	Young (FL)
Smith, Robert (OR)	Udall	
	Unsoeld	

□ 1323

The CHAIRMAN. Four hundred twenty-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from North Dakota [Mr. DORGAN] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members they have but 5 minutes in which to vote.

The vote was taken by electronic device, and there were—ayes 413, noes 15, not voting 4, as follows:

[Roll No. 286]

AYES—413

Ackerman	Bryant	de la Garza
Alexander	Buechner	DeFazio
Anderson	Bunning	DeLay
Andrews	Burton	Dellums
Annunzio	Bustamante	Derrick
Anthony	Byron	DeWine
Applegate	Callahan	Dickinson
Aspin	Campbell (CA)	Dicks
Atkins	Campbell (CO)	Dingell
AuCoin	Cardin	Dixon
Baker	Carper	Donnelly
Ballenger	Carr	Dorgan (ND)
Barnard	Chandler	Dornan (CA)
Bartlett	Chapman	Douglas
Bates	Clarke	Downey
Bellenson	Clay	Dreier
Bennett	Clement	Duncan
Bentley	Clinger	Durbin
Bereuter	Coble	Dwyer
Berman	Coleman (MO)	Dymally
Bevill	Coleman (TX)	Dyson
Bilbray	Collins	Early
Bliley	Combest	Eckart
Boehlert	Condit	Edwards (CA)
Boggs	Conte	Edwards (OK)
Bonior	Conyers	Emerson
Borski	Cooper	English
Bosco	Costello	Erdreich
Boucher	Coughlin	Espy
Boxer	Courter	Evans
Brennan	Cox	Fascell
Brooks	Coyne	Fawell
Broomfield	Craig	Fazio
Browder	Crockett	Feighan
Brown (CA)	Dannemeyer	Fields
Brown (CO)	Darden	Fish
Bruce	Davis	Flake

Flippo
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—15

Archer
Armey
Barton
Bateman
Crane
Engel
Frenzel
Green
Hall (OH)
Houghton
Matsui
Michel
Mineta
Myers
Weiss

NOT VOTING—4

Bilirakis
Ford (TN)
Nelson
Spence

□ 1331

Mr. ENGEL changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SPENCE. Mr. Chairman, earlier today on rollcall No. 286, the Dorgan amendment, I was in the House Chamber and voted "aye." I have been advised that I am not recorded on that vote. Obviously, the voting system failed to record my vote. Mr. Speaker, I would have voted "aye" if the voting system had functioned properly.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5355) to increase the statutory limit on the public debt, pursuant to House Resolution 443, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARCHER. In its present form, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill, H.R. 5355, to the Committee on Ways and Means.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 221, noes 205, not voting 6, as follows:

[Roll No. 287]

AYES—221

Ackerman
Anderson
Andrews
Annunzio
Aspin
Atkins
AuCoin
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Cardin
Chandler
Chapman
Clarke
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Frank
Frost
Gallo
Gejdenson
Gekas
Gephardt
Gillmor
Gingrich
Goodling
Gordon
Gradison
Gray
Green
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hochbrueckner
Horton
Hoyer
Hunter
Hyde
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McDade
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Pickle
Porter
Price
Quillen
Rangel
Richardson
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schiff
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traxler
Udall
Unsoeld
Vander Jagt
Vento
Volkmer
Walgren
Walsh

Washington	Whitten	Wolpe
Waxman	Wilson	Wylie
Weber	Wise	Yates
Wheat	Wolf	

NOES—205

Alexander	Gunderson	Regula
Anthony	Hall (TX)	Rhodes
Applegate	Hammerschmidt	Ridge
Archer	Hancock	Rinaldo
Armey	Hansen	Ritter
Baker	Harris	Roberts
Ballenger	Hastert	Robinson
Barnard	Hayes (LA)	Rogers
Bartlett	Hefley	Rohrabacher
Barton	Hefner	Ros-Lehtinen
Bates	Henry	Roth
Bentley	Herger	Rowland (CT)
Bereuter	Hertel	Russo
Bosco	Hiler	Sangmeister
Broomfield	Hoagland	Sarpalius
Browder	Holloway	Saxton
Brown (CO)	Hopkins	Schaefer
Bryant	Houghton	Schneider
Buechner	Hubbard	Schroeder
Bunning	Huckaby	Schuette
Burton	Hughes	Schulze
Byron	Hutto	Sensenbrenner
Callahan	Inhofe	Shaw
Campbell (CA)	Ireland	Shays
Campbell (CO)	Jacobs	Shumway
Carper	James	Shuster
Carr	Kanjorski	Skeen
Clinger	Kasich	Slattery
Coble	Kolbe	Slaughter (VA)
Combest	Kolter	Smith (NE)
Condit	Kyl	Smith (TX)
Cooper	Lagomarsino	Smith, Denny (OR)
Costello	Leach (IA)	Smith, Robert (OR)
Coughlin	Lewis (FL)	Smith, Robert (NH)
Courter	Lightfoot	Smith, Robert (OR)
Cox	Livingston	Snowe
Craig	Lloyd	Solomon
Crane	Lukens, Donald	Spence
Dannemeyer	Marlenee	Stallings
Darden	Martin (IL)	Stangeland
DeFazio	Matsui	Stearns
DeLay	McCandless	Stump
DeWine	McCollum	Sundquist
Dickinson	McCurdy	Tallon
Dornan (CA)	McEwen	Tanner
Douglas	McMillan (NC)	Tauke
Dreier	Meyers	Tauzin
Duncan	Miller (OH)	Taylor
Dyson	Moody	Thomas (CA)
Early	Moorhead	Thomas (GA)
Eckart	Murphy	Thomas (WY)
Edwards (OK)	Myers	Traficant
Emerson	Nagle	Upton
English	Neal (MA)	Valentine
Erdreich	Neal (NC)	Vander Jagt
Fawell	Nielson	Vander Jagt
Fields	Packard	Visclosky
Flippo	Pallone	Vucanovich
Ford (MI)	Parris	Walker
Frenzel	Pashayan	Watkins
Gallegly	Patterson	Weiss
Gaydos	Paxon	Weldon
Gibbons	Payne (VA)	Whittaker
Gilman	Petri	Williams
Glickman	Pickett	Wyden
Gonzalez	Poshard	Yatron
Goss	Pursell	Young (AK)
Grandy	Rahall	Young (FL)
Grant	Ravenel	
Guarini	Ray	

NOT VOTING—6

Bilirakis	Geren	McDermott
Ford (TN)	Laughlin	Nelson

□ 1349

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Bilirakis against.

Mr. McDermott for, with Mr. Ford of Tennessee against.

Mr. FLIPPO changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, I was in a meeting with the Speaker, and I missed the last vote. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. GEREN of Texas. Mr. Speaker, I was in a meeting with the Speaker also, and I missed the last vote. Had I been present I would have voted 'aye."

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5355, the bill just passed.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY, JULY 31, 1990 TOMORROW, WEDNESDAY, AUGUST 1, 1990 AND THURSDAY, AUGUST 2, 1990 DURING THE FIVE-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, July 31, Wednesday, August 1, and Thursday, August 2, 1990

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

BANKING LAW ENFORCEMENT ACT OF 1990

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5401) to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Banking Law Enforcement Act of 1990".

TITLE I—ENHANCED CRIMINAL PENALTIES

SEC. 101. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

"Whoever—

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver, the Resolution Trust Corporation, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) knowingly impedes or endeavors to impede the functions of such Corporation or Board; or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation or Board,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution.".

SEC. 102. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10 YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES—.If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Corporation may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.".

(b) NCUA INSURED CREDIT UNIONS.—Section 205(d) of the Federal Credit Union In-

surance Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10 YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Board may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.".

SEC. 103. CRIME OF OBSTRUCTING AN EXAMINER.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code (relating to obstruction of justice), is amended by inserting after section 1516 the following new section:

"§ 1517. Obstructing examination of financial institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

"1517. Obstructing examination of financial institution.".

SEC. 104. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "20" and inserting "30".

(h) FRAUDS AND SWINDLES AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1341 of title 18, United States Code, is amended by striking "20" and inserting "30".

(i) WIRE FRAUDS AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1343 of title 18, United States Code, is amended by striking "20" and inserting "30".

(j) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended by striking "20" and inserting "30".

SEC. 105. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 3293 of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by inserting "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;".

(b) SCOPE OF APPLICATION.—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

SEC. 106. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution," after "section 1203 (relating to hostage taking),".

SEC. 107. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than $1,000,000 in gross receipts from the offense.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

SEC. 108. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or".

SEC. 109. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

"(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.".

SEC. 110. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§225. Continuing financial crimes enterprise

"(a) Whoever—

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than $10,000,000 if an individual, or $20,000,000 if an organization, and imprisoned not less than 10 years.

"(b) For purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under sections 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title committed by at least 4 persons acting in concert.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"225. Continuing financial crimes enterprise.".

TITLE II—PROTECTING ASSETS FROM WRONGFUL DISPOSITION

SEC. 201. LIMITATION ON DISPOSITION OF CERTAIN ASSETS.

Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following:

"(a)(1) If a person is—

"(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

"(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

"(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney

General may commence a civil action in any Federal court—

"(A) to enjoin such alienation or disposition of property; or

"(B) for a restraining order to—

"(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

"(ii) appoint a temporary receiver to administer such restraining order."; and

(2) by redesignating the material remaining in such section as subsection (b).

SEC. 202. ATTACHMENT OF ASSETS.

(a) APPLICATION BY CONSERVATOR OR RECEIVER FOR FDIC INSURED DEPOSITORY INSTITUTION.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraphs:

"(17) ATTACHMENT OF ASSETS.—Subject to paragraph (18), any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the likelihood that—

"(A) such person is—

"(i) an institution-affiliated party who is financially obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.

"(18) DUE PROCESS PROTECTIONS.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (17) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(b) APPLICATION BY CONSERVATOR OR LIQUIDATING AGENT FOR INSURED CREDIT UNION.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (G) as subparagraph (I) and by inserting after subparagraph (F) the following new subparagraphs:

"(G) ATTACHMENT OF ASSETS.—Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union) place the assets of any person designated by the Board under the control of the court and appoint a trustee to hold such assets if the Board demonstrates the likelihood that—

"(i) such person is—

"(I) an institution-affiliated party who is financially obligated to the credit union or otherwise may be required to provide restitution to the credit union; or

"(II) a debtor of the credit union; and

"(ii) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Board before any recovery in favor of the credit union may be completed unless a trustee is appointed.

"(H) DUE PROCESS PROTECTIONS.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(c) APPLICATION BY APPROPRIATE FEDERAL BANKING AGENCY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

"(4) ATTACHMENT OF ASSETS.—

"(A) EX PARTE ORDERS.—In connection with any action brought by any appropriate Federal banking agency under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the agency is a party, any Federal court may, upon application by the agency, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) PROPER SHOWING REQUIRED.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

(d) APPLICATION BY NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end the following new paragraph:

"(4) ATTACHMENT OF ASSETS.—

"(A) EX PARTE ORDERS.—In connection with any action brought by the Board under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the Board is a party, any Federal court may, upon application by the Board, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) PROPER SHOWING REQUIRED.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

SEC. 203. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (61), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

"(33) 'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

"(34) 'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(35) 'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);";

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

"(3) 'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act); and

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation;".

(b) ASSUMPTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed, consistent with the debtor's other obligations under section 507, any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution. This subsection shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(c) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, as amended by section 1901 is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)(iii) by inserting before the semicolon the following ", except that this clause shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party";

(B) by striking "or" at the end of paragraph (9);

(C) by striking the period at the end of paragraph (10) and inserting "; or"; and

(D) by adding at the end the following:

"(11) for failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent

for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party."; and

(3) by adding at the end the following:

"(e) For purposes of subsection (a)(4), any institution-affiliated party of an insured depository institution or of an insured credit union shall be deemed to have been acting in a fiduciary capacity with regard to any debt owed to the Federal depository institutions regulatory agency.".

(d) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(14) The plan provides that, following the completion of the plan, the debtor will maintain any commitment to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution and will continue to be obligated for any debt to such agency resulting from any failure to fulfill any such commitment. This paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(e) EXCEPTION TO DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, as amended by section 1902 of this Act, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3), as added by such section 1902, by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) of a kind specified in paragraph (2), (4), (6), or (7) of section 523(a) of this title owed by an institution-affiliated party—

"(A) to a Federal depository institutions regulatory agency; or

"(B) to an insured depository institution which a Federal depository institutions regulatory agency is seeking, in its capacity as conservator, receiver, or liquidating agent for such institution, to recover for the institution.".

SEC. 204. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS, RECEIVERS, AND LIQUIDATING AGENTS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (18) (as added by section 202(a) of this title) the following new paragraph:

"(19) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation, or any other appropriate Federal banking agency.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Corporation under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

(b) NCUA INSURED CREDIT UNIONS.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Board may recover, for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Board may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

SEC. 205. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES.—Except as provided in paragraph (5), any insured depository institution or depository institution holding company which does not meet the minimum capital requirements (as determined by the appropriate Federal banking agency) applicable with respect to such institution or holding company may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) COVERED BENEFITS.—Except as provided in paragraph (5), no insured depository institution or depository institution holding company may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) CERTAIN PAYMENTS IN ANTICIPATION OF INSOLVENCY PROHIBITED.—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such institution or holding company, or any insured depository institution subsidiary of such holding company, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the institution or holding company to creditors; or

"(B) preferring 1 creditor over another.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured depository institution or depository institution holding company pursuant to an obligation of such institution or holding company (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the institution or holding company; and

"(ii) is received on or after the date on which—

"(I) the insured depository institution or depository institution holding company is insolvent;

"(II) any conservator or receiver is appointed for such institution; or

"(III) with respect to an insured depository institution or depository institution holding company which does not meet the minimum capital requirements applicable with respect to such institution or holding company, the date such institution or holding company first fails to meet such requirement.

"(B) COVERED BENEFIT PAYMENT.—The term 'covered benefit payment' means any payment by any insured depository institution or depository institution holding company to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the appropriate Federal banking agency—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured depository institution or depository institution holding company; or

"(III) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

"(C) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) AGENCY APPROVAL FOR CERTAIN GOLDEN PARACHUTE AND COVERED BENEFIT PAYMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any insured depository institution or depository institution holding company referred to in paragraph (1) or (2) may take any action described in such paragraph if the appropriate Federal banking agency provides written approval of such action by the institution or holding company.

"(B) CORPORATION APPROVAL REQUIRED FOR FALTERING INSTITUTIONS.—Any insured depository institution which—

"(i) has a composite rating by the appropriate Federal banking agency of 4 or 5 under the Uniform Financial Institutions Rating System;

"(ii) is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution;

"(iii) has substantially insufficient capital to meet the minimum capital requirements (as defined and determined by the appropriate Federal banking agency) applicable with respect to such institution; or

"(iv) is in danger of default,

may take any action described in paragraph (1) or (2) only if the Corporation provides written approval for the institution to take such action (in addition to the approval of the appropriate Federal banking agency under subparagraph (A) of this paragraph).

"(6) CERTAIN INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the institution or holding company which is a covered benefit payment.".

(b) NCUA INSURED CREDIT UNIONS DEPOSITORY INSTITUTIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES.—Except as provided in paragraph (5), any insured credit union which does not meet the minimum capital requirements (as determined by the Board) applicable with respect to such credit union may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) COVERED BENEFITS.—Except as provided in paragraph (5), no insured credit union may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) CERTAIN PAYMENTS IN ANTICIPATION OF INSOLVENCY PROHIBITED.—No insured credit union may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such credit union, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the credit union to creditors; or

"(B) preferring 1 creditor over another.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured credit union pursuant to an obligation of such credit union (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the credit union; and

"(ii) is received on or after the date on which—

"(I) the insured credit union is insolvent;

"(II) any conservator or liquidating agent is appointed for such institution; or

"(III) with respect to an insured credit union which does not meet the minimum capital requirements applicable with respect to such credit union, the date such credit union first fails to meet such requirement.

"(B) COVERED BENEFIT PAYMENT.—The term 'covered benefit payment' means any payment by any insured credit union to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the Board—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured credit union; or

"(III) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

"(C) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) BOARD APPROVAL FOR CERTAIN GOLDEN PARACHUTE AND COVERED BENEFIT PAYMENTS.—Any insured credit union referred to in paragraph (1) or (2) may take any action described in such paragraph if the Board provides written approval of such action by the credit union.

"(6) CERTAIN INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured credit union from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the credit union which is a covered benefit payment.".

SEC. 206. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting "1032," after "1014,"; and

(B) by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

"(b)(1) Any property—

"(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

"(i) may be seized by the Attorney General; or

"(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

"(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

"(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 207. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.

(a) CIVIL FORFEITURE.—

(1) IN GENERAL.—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

"(i) section 666(a)(1) (relating to Federal program fraud);

"(ii) section 1001 (relating to fraud and false statements;

"(iii) section 1031 (relating to major fraud against the United States);

"(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

"(v) section 1341 (relating to mail fraud); or

"(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust

Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 108(3) of this Act) the following new paragraph:

"(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under—

"(A) section 666(a)(1) (relating to Federal program fraud);

"(B) section 1001 (relating to fraud and false statements);

"(C) section 1031 (relating to major fraud against the United States);

"(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

"(E) section 1341 (relating to mail fraud); or

"(F) section 1343 (relating to wire fraud), involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

"(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.".

SEC. 208. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(p) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured depository institution for which any conservator or receiver has been appointed; and

"(2) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, the Corporation, or the Resolution Trust Corporation,

may not purchase any asset of such institution from the conservator or receiver (other than with respect to the repayment in full of such loan or other extension of credit).".

(b) NCUA INSURED CREDIT UNIONS.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

"(q) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

"(2) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union or the Board,

may not purchase any asset of such credit union from the conservator or liquidating agent (other than with respect to the repayment in full of such loan or other extension of credit).".

TITLE III—IMPROVED PROCEDURES FOR HANDLING BANKING-RELATED CASES

SEC. 301. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503,";

(C) by inserting "section 1344 (relating to bank fraud)," before "sections 2251 and 2252"; and

(D) by striking "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as "(m)";

(B) by striking "and" at the end of the 2d subparagraph designated as "(m)" (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(o) any conspiracy to commit any offense described in any subparagraph of this paragraph."; and

(3) in paragraph (1)(j), by striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958".

SEC. 302. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—Any appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 208(a) of this Act) the following new subsection:

"(q) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assist-

ance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 205 of this Act) the following new subsection:

"(u) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(d) FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 208(b) of this Act) the following new subsection:

"(r) FOREIGN INVESTIGATIONS.—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

"(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

SEC. 303. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

"(g) Statute of Limitations.—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.".

SEC. 304. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER OR LIQUIDATING AGENT.

(a) FDIC AND RTC AUTHORITY.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have under section 10(c) of this Act.".

(b) NCUA AUTHORITY.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 2122(b) of this title) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).".

TITLE IV—STRUCTURAL REFORMS TO IMPROVE THE FEDERAL RESPONSE TO CRIMES AFFECTING FINANCIAL INSTITUTIONS

SEC. 401. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereinafter referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET.—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 402. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 403. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 404. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 405. INTERAGENCY COORDINATION.

(a) IN GENERAL.—The Attorney General may accept, and a department or agency of the United States may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of such department or agency to assist the Department of Justice in the investigation and prosecution of criminal or unlawful activity in or against financial institutions.

(b) AUTHORITY AND SUPERVISION OF DETAILED PERSONNEL.—Any attorney of any department or agency of the United States whose services are accepted pursuant to subsection (a), may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employee of a Federal department or agency whose services are accepted pursuant to subsection (a) shall also serve subject to the general supervision of the Attorney General.

SEC. 406. ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

(a) IN GENERAL.—Section 3056(b)(1) of title 18, United States Code, is amended—

(1) by inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) by inserting "215," after "213,";

(3) by inserting "656," after "493,";

(4) by inserting "1005," after "709,"; and

(5) by inserting "1341 or 1343 affecting a financial institution, 1344, 1510(b)," after "1014,".

(b) SUPERVISION BY ATTORNEY GENERAL.—Investigations conducted pursuant to the authority conferred by these amendments shall be at the direction and under the supervision of the Attorney General.

(c) EFFECT OF AMENDMENTS.—The amendments made by this section—

(1) shall not alter the authority of any other Federal law enforcement agency;

(2) shall expire coterminously with the authority of the Resolution Trust Corporation.

TITLE V—REPORTING REQUIREMENTS

SEC. 501. REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Attorney General shall report quarterly to Congress regarding activities of the Department of Justice with respect to crimes affecting financial institutions.

(b) CONTENTS OF REPORTS.—The report shall contain the following information to be assembled according to judicial district:

(1) The number of criminal referrals received by the Department of Justice.

(2) A breakdown of the referrals by the following loss categories:

(A) Under $25,000.

(B) $25,000 to $99,999.

(C) $100,000 to $499,999.

(D) $500,000 to $999,999.

(E) $1,000,000 and above.

(3) Actions taken with respect to the referrals.

(4) The number, and status of investigations, prosecutions, and civil actions.

(5) A description of sentences obtained pursuant to conviction.

(6) The number and type (investigator, prosecutor) of resources allocated in pursuit of these investigations, prosecutions, and civil actions.

SEC. 502. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.".

TITLE VI—NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY, AND ENFORCEMENT

SEC. 601. COMMISSION ESTABLISHED.

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this title referred to as the "Commission").

SEC. 602. DUTIES OF COMMISSION.

The Commission shall—

(1) investigate the causes of the savings and loan crisis, including the role of Government regulation, supervision, and deposit insurance, as well as economic and competitive factors;

(2) recommend methods and procedures for disposition of assets held by the Resolution Trust Corporation;

(3) recommend methods and procedures for regulation and supervision of the financial services industry;

(4) recommend methods for financing financial services industry resolutions;

(5) recommend any other administrative or legislative action necessary or appropriate to protect the safety and soundness of the financial services industry;

(6) recommend methods and procedures for improving interagency cooperation in the investigation and prosecution of financial crimes;

(7) investigate and develop recommendations for strategies and specific tactics for law enforcement officers for the successful investigation and prosecution of financial crimes;

(8) investigate the causes of fraud and abuse in the financial services industry; and

(9) recommend any other administrative or legislative actions necessary or appropriate to prevent financial crimes from occurring in the future.

SEC. 603. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(1) 4 individuals appointed by the President.

(2) 4 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 4 individuals appointed by the President pro tempore of the Senate, 3 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among the members of the Commission.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 604. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—

(1) IN GENERAL.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph

(B), incurred in connection with the production of any evidence under this subsection.

(3) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(3) UNAUTHORIZED RELEASE OF CONFIDENTIAL MATERIAL.—

(A) OFFENSE ESTABLISHED.—Any member of the Commission and any person employed by the Commission under this subtitle who discloses the name of any borrower from any insured depository institution or the collateral for any loan made by any such institution without the prior written consent of the appropriate Federal banking agency, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information provided—

(i) to any court of competent jurisdiction, the Congress of the United States, either House of the Congress, or any committee of the Congress or either House which is authorized by the Congress or such House to obtain such information; and

(ii) at the direction of the court, the Congress, either House of Congress, or any such committee.

(C) DEFINITIONS.—For purposes of subparagraph (A), the terms "insured depository institution" and "appropriate Federal banking agency" have the meanings given to such term by subsections (c)(2) and (q), respectively, of section 3 of the Federal Deposit Insurance Act.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

SEC. 605. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 606. REPORTS.

(a) INTERIM REPORTS.—The Commission may submit to the President and the Congress such interim reports as the Commission considers appropriate.

(b) FINAL REPORT.—

(1) REQUIRED.—The Commission shall submit a final report to the President and the Congress before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) CONTENTS.—The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation or administrative action as the Commission considers appropriate.

SEC. 607. TERMINATION.

The Commission shall terminate on 30 days after submitting the final report pursuant to section 606(b)(1).

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this subtitle.

SEC. 609. CONFIDENTIALITY OF TAX RETURN INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) DEFINITIONS.—For purposes of this section, the terms "return" and "return information" have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

TITLE VII—AUTHORIZATIONS

SEC. 701. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $153,000,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

"(2) ALLOCATIONS.—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

"(A) Federal Bureau of Investigation: $100,000,000.

"(B) The offices of the United States attorneys: $39,000,000.

"(C) The criminal division of the Department of Justice: $3,000,000.

"(D) The civil division of the Department of Justice: $10,000,000.

"(E) The tax division of the Department of Justice: $1,000,000.".

SEC. 702. AUTHORIZING ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.

Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

"(a) IN GENERAL.—There are authorized to be appropriated to the Federal court system $25,000,000 for fiscal year 1991 and $28,000,000 for each of fiscal years 1992 and 1993 to carry out the Federal court system's increased duties resulting from this Act, title XXI of the Comprehensive Crime Control Act of 1990, and amendments made by such Act or title to other provisions of law.

"(b) ADDITIONAL AUTHORIZATION.—Sums authorized by this section shall be in addition to any other authorization of appropriation for such purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

Mr. GONZALEZ. Mr. Speaker, I demand a second. I am opposed to the motion, and I demand a second and I ask to control the time in opposition.

The SPEAKER pro tempore. Is the gentleman from Ohio opposed?

Mr. WYLIE. I am not opposed, Mr. Speaker.

The SPEAKER pro tempore. Under the rule, the gentleman from Texas is entitled to 20 minutes.

Without objection, a second will be considered as ordered.

There was no objection.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that we be allowed 60 minutes on this bill, 20 minutes to be given to the gentleman from New York [Mr. SCHUMER], 20 minutes to the gentleman from Texas [Mr. GONZALEZ], and 20 minutes to myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. KANJORSKI. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Chair would indicate, therefore, that under the rule, 40 minutes will be allowed for consideration of this bill.

The gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that I may yield 10 minutes of my time, because we were not allowed to get the full time, to the gentleman from Ohio [Mr. WYLIE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. For debate only, the gentleman from Ohio [Mr. WYLIE] will be recognized for 10 minutes, the gentleman from New York [Mr. SCHUMER] will be recognized for 10 minutes, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes.

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American public lived through an unprecedented crime wave in the 1980's. Without even knowing it, the average American was terrorized by thugs whose weapons were pens, not guns; whose attire was a suit, not a ski mask; and whose place of attack was a boardroom, not a back alley. While no pistol was pointed at their heads, the American people got mugged anyway.

The one thing the street crook and the S&L criminal have in common is their goal: The public's money. Over the past decade, the taxpayer has been robbed of billions in the most pervasive financial swindle in our times.

By all accounts, Americans are at the end of their rope; they want explanations, they want answers, and most of all they want solutions. They have been robbed once; they will not take kindly to the notion of forking over yet more tax dollars to drain the S&L cesspool without decisive action against the crooks who perpetrated this horror.

This House can take that sort of action by enacting the legislation before it today. This measure is complete; it enables Congress to say to the S&L crook, like the cop says to the robber holed up in a house, "We've got you covered." For the first time, we can ensure that the hiding places are sealed, the escape routes cut off, and the sanctuaries shut down.

We propose to do this in three ways: With money, with weapons, and with oversight. The package gives this or any administration everything it needs: Plenty of resources, tough sentences, and sharp legal tools.

If we enact this measure, there will be no more excuses for Government inaction. By boosting funding for investigations and prosecutions to over $150 million, we prevent the Department of Justice from having to pick and choose who they will chase down. Failure now would stem from lack of will, not wallet.

This measure also addresses the problem of concealed assets. The S&L criminals are tricky with their stolen money; like the magician who takes a quarter from behind your ear and then shows you his empty hands, the fraudulent thrift operator has stolen us blind and then made the money disappear.

No more. This bill gives the Department of Justice the tools it really needs to track down and recover the ill-gotten gains of the S&L criminals. If Bill Walters purchased—directly or indirectly—his wonderful $2 million home in Palm Springs with S&L money, the Government will now have the power to take it away. And Charles Keating, who is accused of hiding more than $100 million, and who needs bank accounts in Switzerland, Panama, and the Bahamas to support his lavish lifestyle, can now be flushed out of his golden vault.

Third, because we are convinced that this mess actually does have a bottom, we create a national commission to look beyond the current political heat and shed expert, bipartisan light on the causes of this disaster and the solutions that are needed. Like the seven blind men examining the elephant, the crisis is too grave to just look at pieces of the puzzle. Only if we look at the entire picture will we make sense of the vast dimensions of the S&L scandal, and use what we learn as a lesson for the future.

Mr. Speaker, this legislation is an aggressive, creative blueprint for effective action against those who have swindled the American public. One year from now, this House will be able to look back and pinpoint specific ways in which it helped bring S&L criminals to justice. That is our obligation, and we must meet it today.

BANKING LAW ENFORCEMENT ACT OF 1990

PURPOSE

The purpose of the legislation is to enhance the enforcement powers of the Department of Justice and the Federal financial institution regulatory agencies with respect to unlawful activities affecting federally insured financial institutions.

BACKGROUND

Last year, Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act of 1989 to address the burgeoning problems of the savings and loan industry. Since last August, when the legislation became effective, the losses from failed financial institutions have ballooned. Reports of criminal activity and grossly excessive behavior that led to the dramatic decline of the savings and loan industry have proliferated. This legislation responds to the public outcry to put to justice those who defrauded the savings and loan industry by providing Federal regulating agencies, Federal prosecutors, and law enforcement agencies with additional tools to combat fraud and abuse affecting financial institutions.

The legislation contains seven titles. Title I enhances existing criminal penalties; creates new bank related offenses; bars a person convicted of specific banking offenses from participating in the affairs of a financial institution; increases the statute of limitations for criminal RICO violations based upon financial institution offenses; provides a directive to the Sentencing Commission to promulgate guidelines for certain financial institution offenses involving losses in excess of $1 million; and expands restitution for victims of crimes.

Title II of the legislation, which is aimed at protecting assets from wrongful disposition, expands the authority of the Attorney General, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration to enjoin the dissipation of assets wrongfully obtained. Title II also amends the bankruptcy code to prevent institution affiliated parties from using bankruptcy to evade commitments to maintain capital reserve requirements of a federally insured depository institution or evade other civil or criminal liability to federal banking regulatory agencies. Title II further expands the power of the Federal Deposit Insurance Corporation to void fraudulent transfers; prohibits a financial institution that does not maintain its capital requirements from entering into golden parachute contracts without permission of the appropriate Federal banking agency and, in certain cases, Federal Deposit Insurance Corporation; and expands the offenses covered by, and the property subject to forfeiture under, the civil forfeiture provision of title 18, United States Code. Finally, title II prohibits an individual who has been convicted of a major banking offense from purchasing assets of a failed institution in certain circumstances.

Title III of the legislation provides for improved procedures for handling banking related cases by expanding the wiretap provision of title 18, United States Code, to permit the Department of Justice to use wiretaps to investigate specific financial institution related offenses; authorizes Federal banking agencies to request the assistance of foreign banking authorities in the course of an investigation; increases the statute of limitation period for certain civil money penalty actions; and expands the subpoena authority of the Federal Deposit Insurance Corporation and gives new subpoena authority to the Resolution Trust Corporation and the National Credit Union Administration.

Title IV of the legislation provides for certain structural reforms to improve the Federal response to crimes affecting financial institutions. Title IV establishes within the Department of Justice a Financial Institutions Fraud Unit headed by a Special Counsel, authorizes interagency cooperation in financial institution cases, and provides additional investigative authority for the Secret Service.

Title V of the legislation establishes reporting requirements for the Attorney General with respect to civil and criminal actions involving financial institutions.

Title VI of the legislation establishes a national commission to investigate the causes of the savings and loan crisis and to make recommendations about addressing the problems confronting the industry. Title VI gives the commission the power, *inter alia*, to hold hearings and subpoena witnesses and evidence, and requires that the commission, within one year of the date of enact-

ment of the legislation, report to the President and Congress on its findings.

Title VII of the legislation authorizes appropriations for the Department of Justice for purposes of investigations, prosecutions and civil proceedings involving financial institutions. Title VII also authorizes appropriations for the Federal judiciary in order to respond to the increased demands that will result from the legislation.

SECTION-BY-SECTION ANALYSIS

Section 1 of the legislation provides that the short title of the legislation is the "Banking Law Enforcement Act of 1990."

TITLE I—ENHANCED CRIMINAL PENALTIES

Title I contains provisions that enhance existing criminal penalties and that establish new crimes.

Section 101

Section 101(a) of the legislaton amends 18 U.S.C. ch. 47 (fraud and false statements) to add a new offense dealing with concealing assets from, or impending, a conservator, receiver or liquidator of an insured financial institution. The new offense makes it a felony for a person (1) knowingly to conceal (or endeavor to conceal) an asset or property from the Federal Deposit Insurance Corporation (acting as conservator or receiver), the Resolution Trust Corporation, or the National Credit Union Administration (acting as conservator or liquidating agent;[1] (2) knowingly to impede (or endeavor to impede) the functions of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or the National Credit Union Administration;[2] or (3) corruptly to place (or endeavor to place) an asset or property beyond the reach of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or the National Credit Union Administration.[3]

The maximum penalty for a violation of the new offense is imprisonment for five years and a fine under title 18, United States Code. [4]

Section 101(b) amends the table of sections for 18 U.S.C. ch. 47 to add an entry for the new offense.

Section 102

Section 102(a) of the legislation amends section 19(a) of the Federal Deposit Insurance Act to expand the prohibition on control of or participation in the conduct of the affairs of, an insured depository institution. Revised section 19(a)(1) prohibits a person convicted of any criminal offense (Federal or State) involving dishonesty or breach of trust, or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, from serving as an institution-affiliated party, or owning, controlling, or otherwise participating in the affairs of an insured depository institution. Institution-affiliated party is defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. § 1813), and includes a director, officer, employee, controlling stockholder and agent for an insured depository institution. Revised Section 19(a)(1) authorizes the Federal Deposit Insurance Corporation to waive this prohibition.

Revised Section 19(a)(2) limits the authority of the Federal Deposit Insurance Corporation to waive the prohibition of section 19(a)(1) for a period of ten years if the person has been convicted of a violation of specified offenses. The offenses specified are so egregious as to warrant the conclusion that a person convicted of one or more of them unfit to participate in the affairs of, or own, or control an insured depository institution for at least ten years. The specified offenses are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 656 (relating to bank embezzlement);

18 U.S.C. § 657 (relating to thrift institution embezzlement);

18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1008 (relating to Federal Savings and Loan Insurance Corporation transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit);

18 U.S.C. § 1032 (relating to concealment of assets);

18 U.S.C. § 1341 (relating to mail fraud), if the offense affects a financial institution applications);

18 U.S.C. § 1343 (relating to wire fraud), if the offense affects a financial institution;

18 U.S.C. § 1344 (relating to bank fraud); and

18 U.S.C. § 1956 (relating to laundering of monetary instruments).

Section 102(b) makes parallel changes in section 205(d) of the Federal Credit Union Insurance Act.

Section 103

Section 103(a) of the legislation amends 18 U.S.C. ch. 73 (obstruction of justice) to add a new crime entitled "obstructing examination of financial institution". The new offense makes it a felony corruptly to obstruct, or to attempt to obstruct, an examination of a financial institution by an agency of the United States with jurisdiction to conduct the examination.[5] The maximum penalty is imprisonment for five years and a fine under title 18, United States Code.[6]

Section 103(b) of the legislation amends the table of sections for 18 U.S.C. ch. 73 to add an entry for the new offense.

Section 104

Section 104 of the legislation increases from 20 years to 30 years the maximum prison term that can be imposed for various financial-institution-related offenses. The offenses are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 656 (relating to bank embezzlement);

18 U.S.C. § 657 (relating to thrift institution embezzlement);

18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit applications);

18 U.S.C. § 1341 (relating to mail fraud), but only if the offense affects a financial institution;

18 U.S.C. § 1343 (relating to wire fraud), but only if the offense affects a financial institution; and

18 U.S.C. § 1344 (relating to bank fraud).

Section 105

Section 105(a) of the legislation amends 18 U.S.C. § 3293, a statute of limitation provision for financial-institution-related offenses. As amended by section 105(a), 18 U.S.C. § 3293 would require that a prosecution of a RICO offense be commenced within ten years after the commission of that offense if the RICO violation is based upon a pattern of racketeering activity that involves financial-institution-related offenses as the racketeering activity (predicate acts). The financial-institution-related offenses are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 656 (relating to bank embezzlement);

18 U.S.C. § 657 (relating to thrift institution embezzlement);

18 U.S.C. § 656 (relating to bank embezzlement); (3) 18 U.S.. § 657 (relating to thrift institution embezzlement); (4) 18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1008 (relating to Federal Savings and Loan Insurance Corporation transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit applications);

18 U.S.C. § 1341 (relating to mail fraud), but only if the offense affects a financial institution;

18 U.S.C. § 1343 (relating to wire fraud), but only if the offense affects a financial institution; and

18 U.S.C. § 1344 (relating to bank fraud).[7]

Section 105(b) provides that the amendment to 18 U.S.C. § 3293 made by section 105(a) applies to a RICO offense committed before the date of enactment of section 105(a), but only if the statute of limitation period applicable to that offense had not run as of that date of enactment.

Section 106

Section 106 of the legislation amends 18 U.S.C. § 1956, the money laundering offense, to add six new predicate offenses to the definition of "specified unlawful activity." The six new offenses are:

18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit applications);

18 U.S.C. § 1341 (relating to mail fraud), but only if the offense affects a financial institution; and

18 U.S.C. § 1343 (relating to wire fraud), but only if the offense affects a financial institution.

Section 107

Section 107 of the legislation requires the United States Sentencing Commission to promulgate sentencing guidelines for certain financial-institution-related offenses that call for an offense level of not less than 24 if the defendant personally derives more than $1 million in gross receipts from the offense. For a first-time offender, a level 24 offense calls for a prison term of 51 to 63 months. The offenses covered are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 656 (relating to bank embezzlement);

18 U.S.C. § 657 (relating to thrift institution embezzlement);

18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit applications);

18 U.S.C. § 1341 (relating to mail fraud), but only if the offense affects a financial institution;

18 U.S.C. § 1343 (relating to wire fraud), but only if the offense affects a financial institution; and

18 U.S.C. § 1344 (relating to bank fraud).

Section 108

Section 108 of the legislation amends 18 U.S.C. § 981, the civil forfeiture provision of title 18, United States Code. Section 108 amends 18 U.S.C. § 981(e) to permit the Attorney General, with regard to property forfeited as proceeds traceable to any of eight financial-institution-related offenses, to restore that property to a victim of the offense. The eight financial institution offenses are: (1) 18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans); (2) 18 U.S.C. § 656 (relating to bank embezzlement); (3) 18 U.S.C. § 657 (relating to thrift institution embezzlement); (4) 18 U.S.C. § 1005 (relating to fraudulent bank entries; (5) 18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries); (6) 18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions); (7) 18 U.S.C. § 1014 (relating to fraudulent loan or credit applications); and (8) 18 U.S.C. § 1344 (relating to bank fraud).

Section 109

Section 109 of the legislation amends 18 U.S.C. § 3663(a), which authorizes the sentencing court to order a convicted defendant to make restitution to a victim of the offense for which the defendant has been convicted. Section 109 adds to 18 U.S.C. § 3663(a) a provision defining the term "victim". The definition provides that, for the purposes of an offense that has as an element a scheme, a conspiracy, or a pattern of crime activity "victim" means a person who is directly harmed by the offense.[8]

Section 109 of the legislation also amends 18 U.S.C. § 3663(a) to permit the court to order restitution to the extent that the parties have agreed to restitution in a plea agreement.[9]

Section 110

Section 110(a) of the legislation amends 18 U.S.C. ch. 11 (bribery, graft, and conflicts of interest) to add a new offense targeted at a leader of a "continuing financial crimes enterprise" who grosses $5 million or more in a two year period. The new offense defines the term "continuing financial crimes enterprises" to mean a series of financial-institution-related offenses that are committed by at least four persons acting in concert. The financial-institution-related offenses specified are: 18 U.S.C. § 215, 656, 657, 1005, 1006, 1007, 1014, and 1344. The offense requires a minimum prison term of ten years, and the maximum may be life imprisonment or any term of years beyond the ten year minimum. The maximum fine is the greater of (1) $10 million if the defendant is an individual and $20 million if the defendant is an organization; or (2) twice the pecuniary gain derived from the offense or twice the precuniary loss inflicted.[10]

Section 10(b) amends the table of sections for 18 U.S.C. ch. 11 to add an entry for the new offense.

TITLE II.—PROTECTING ASSETS FROM WRONGFUL DISPOSITION

Title II contains provisions that enhance the ability of the Justice Department and Federal bank regulatory agencies to prevent dissipation of property and assets.

During the House Judiciary Committee's consideration of H.R. 5269, the Committee rejected by a voice vote an amendment that would have changed current law and given the Resolution Trust Corporation and the Federal Deposit Insurance Corporation a priority over all private claimants in suits against the officers, directors, attorneys, accountants, and other employees and agents of a failed depository institution. A similar priority provision was rejected last year by the House-Senate conference on the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Subsequently, the United States Court of Appeals for the Eleventh Circuit rejected the Federal Deposit Insurance Corporation's argument that such a priority exists under current law.[11] Members of the Judiciary Committee on both sides of the aisle who opposed the amendment noted that the effect of such a provision would be to eliminate private rights of action, which, in turn, would lead to more savings and loan fraud and ultimately a higher cost to the American taxpayer, such a provision, therefore, has not been included in this legislation.

Section 201

Section 201 of the legislation expands 18 U.S.C. § 1345, which authorizes the Attorney General to bring a civil action to enjoin a violation of 18 U.S.C. ch. 63 (mail fraud), or 18 U.S.C. § 287 (false, fictitious, or fradulent claims), 371 (conspiracy to commit offense or to defraud the United States), or 1001 (false statements). Section 201 of the bill expands both the violations that give rise to a cause of action under 18 U.S.C. § 1345 and the remedy that can be obtained.

Section 201 expands 18 U.S.C. § 1345 to authorize the Attorney General to bring a civil action in Federal court if a person is committing or about to commit a banking law violation (as defined in 18 U.S.C. § 3322(d)).[12] The remedy provided is an order enjoining the violation.

Section 201 also expands 18 U.S.C. § 1345 to authorize the Attorney general to bring a civil action in Federal court if a person is alienating or disposing of (or intends to alienate or dispose of) property obtained as a result of, or traceable to, a banking law violation. The remedy is an order enjoining that alienation or disposition, or a restraining order prohibiting any person from transferring, removing, dissipating, or disposing of the property (or property of equivalent value). The court is also authorized to appoint a temporary receiver to administer the restraining order.

Section 202

Section 202(a) of the legislation amends section 11(d) of the Federal Deposit Insurance Act to add two new paragraphs authorizing the Resolution Trust Corporation or the Federal Deposit Insurance Corporation to seek an attachment of assets or property. New paragraph (17) authorizes the Resolution Trust Corporation or the Federal Deposit Insurance Corporation (acting as conservator or receiver) to seek a court order to place under the control of a court appointed trustee the assets of a person if the Resolution Trust Corporation or the Federal Deposit Insurance Corporation demonstrates a likelihood that (1) the person is an institution-affiliated party obligated to the institution or a debtor of the institution and (2) the person's assets may be removed or dissipated before any recovery is completed.

New paragraph (18) provides that, in an action brought in Federal Court, the protection of the Federal Rules of Civil Procedure apply to a person whose assets or property the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is seeking to attach. If the proceeding is brought in state court, new paragraph (18) provides that the protection of the Federal Rules of Civil Procedure apply unless the court determines that state law protection will afford substantially similar due process protection.

Section 202(b) of the legislation amends Section 207(b) (2) of the Federal Credit Union Act to give the National Credit Union Administration authority that parallels the authority of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation under Section 11(d) of the Federal Deposit Insurance Act as amended by Section 202(a).

Section 202(c) of the legislation amends Section 8(i) of the Federal Deposit Insurance Act to add a new paragraph that permits an appropriate Federal banking agency, in connection with an agency enforcement action, to obtain, upon a proper showing, a restraining order to prohibit a person subject to such action from transferring, dissipating, or otherwise disposing of any funds, asset, or other property. The new paragraph requires that the action be brought in Federal court and permits the appropriate Federal banking agency to apply *ex parte* for such an order. In determining what constitutes a "proper showing" under the new paragraph of section 8(i), the court must afford all substantive and procedural rights and protections generally made available to an adverse party in such actions.

Section 202(d) amends Section 206(k) of the Federal Credit Union Act to give the National Credit Union Administration the authority given to an appropriate Federal banking agency by Section 8(i) of the Federal Deposit Insurance Act, as amended by section 202(c) of the legislation.

Section 203

Section 203 of the legislation makes several changes in the Bankruptcy Code to close off the bankruptcy "escape hatch" for persons whose fraud and mismanagement have jeopardized the financial health of a depository institution. These changes prevent persons in positions of fiduciary trust in relation to such an institution from using a bankruptcy proceeding to extinguish or reduce their liability for damage they caused the institution.

Section 203 amends the Bankruptcy Code, title 11 United States Code, to prevent institution-affiliated parties from using bankruptcy to evade commitments to maintain capital reserve requirements of a Federally insured depository institution or evade other banking-related liabilities.

Subsection (a) adds new banking-related definitions to section 101 of the Bankruptcy Code. "Institution-affiliated party" has the same meaning as in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(u)) and section 206(r) of the Federal Credit Union Act (12 U.S.C. § 1786(r)). "Insured depository institution" has the same meaning as in section 3(c)(2) of the Federal Depository Insurance Act (12 U.S.C. § 1813(c)(2)) and includes an insured credit union as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. § 1752(7)). "Federal depository institutions regulatory agency" is defined to include the Federal Deposit Insurance Corporation and the Resolution Trust Corporation in their capacity as conservator or receiver of an insured depository institution; to include the National Credit Union Administration in

either its corporate capacity or its capacity as conservator or liquidating agent for an insured credit union; and to include the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), for insured depository institutions for which a conservator or receiver has not been appointed.

Subsection (b) adds a new subsection (o) to section 365 of the Bankruptcy Code, to provide that in a Chapter 11 bankruptcy, the trustee of a debtor's estate shall be deemed to have assumed, consistent with the debtor's other obligations under section 507 of the Bankruptcy Code, any commitment by the debtor to maintain the capital of an insured depository institution. The effect of this provision is to prevent the trustee from rejecting any such commitment as an executory contract under his usual "avoidance" powers. Section (o) makes clear, however, that the provision does not supersede any banking regulatory law which would otherwise terminate such a commitment.

Subsection (c) makes four changes to section 523 of the Bankruptcy Code, the section delineating certain debts that are deemed nondischargeable through a bankruptcy proceeding. The first change creates an exemption from the requirements in section 523(a)(2)(B)(iii) that a creditor must prove that it reasonably relied on a debtor's false financial statement in order for a debt arising from such false statement to be nondischargeable. The exemption would apply to a Federal depository institutions regulatory agency seeking to recover—in its capacity as receiver, conservator, or liquidating agent to an insured depository institution—a debt to the institution arising from an institution-affiliated party's false financial statement.

The second change to section 523 adds a new paragraph (11) to section 523(a), to create a new category of nondischargeable debts—debts resulting from the debtor's failure to fulfill any commitment to a Federal financial institutions regulatory agency to maintain the capital of an insured depository institution.

The third change to section 523 creates an exemption to the requirement in section 523(c) that a debt relating to fraud, false financial statements, fiduciary defalcation, or willful and malicious injury be discharged unless the creditor makes a timely nondischargeability request to the bankruptcy court. Section 523(c) then requires notice to the debtor and a hearing before the debt can be rendered nondischargeable. The exception would apply to a Federal depository institutions regulatory agency making such a request in its capacity as receiver, conservator, or liquidating agent to an insured depository institution regarding such a debt to the institution by an institution-affiliated party.

The fourth change to section 523 adds a new subsection (e). The new subsection provides that an institution-affiliated party—which the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 already holds to a fiduciary standard under the Federal Deposit Insurance Act and the Federal Credit Union Act—will be deemed to have been acting in a fiduciary capacity for purposes of section 523(a)(4) in relation to debts to a Federal financial institutions regulatory agency. Section 523(a)(4) makes nondischargeable debts for fraud or defalcation while acting in a fiduciary capacity.

Subsection (d) adds a new paragraph (14) to section 1129(a) of the Code, to create an exception to discharge under Chapter 11 reorganization for a commitment to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution. The new paragraph states that a Chapter 11 reorganization plan may not be approved unless it provides that, following completion of the plan, the debtor will continue to stand behind any such commitment and will continue to be obligated for any debt resulting from failure to fulfill any such commitment. The new paragraph makes clear, however, that it does not supersede any banking regulatory law which would otherwise terminate such a commitment.

Subsection (e) adds a new paragraph (4) to section 1328(a) of the Code, to make certain debts owed by an institution-affiliated party to a Federal financial institutions regulatory agency, which are already nondischargeable in Chapter 7 and Chapter 11 bankruptcy, nondischargeable in Chapter 13 bankruptcy as well. These are debts relating to fraud, false statements, fiduciary defalcation, and willful and malicious injury, as well as debts in the nature of a fine, forfeiture, or criminal restitution obligation.

Section 204

Section 204(a) of the legislation amends section 11 of the Federal Deposit Insurance Act (12 U.S.C. § 1812(d)) by inserting a new paragraph (19) to provide the Federal Deposit Insurance Corporation with specific authority to avoid fraudulent transfers of assets by institution-affiliated parties and debtors of an institution within five years of the date that the Federal Deposit Insurance Corporation is appointed conservator or receiver. Paragraph (19)(B) establishes the rights of the Federal Deposit Insurance Corporation to recover for the benefit of the insured depository institution the property transferred, or if a court orders, the value of the property at the time of transfer. Paragraph (19)(C) limits the Federal Deposit Insurance Corporation's right to recover assets from the transfer where the transferee has taken the property for value in good faith. Paragraph (19)(D) gives the Federal Deposit Insurance Corporation superior rights to the trustee or any other party (other than a Federal agency) in bankruptcy with respect to the property transferred.

Section 204 of the legislation intended to grant the Federal Deposit Insurance Corporation authority in addition to that already existing under Section 11(e)(3)(B) of the Federal Deposit Insurance Act (which grants the Corporation the authority to exercise any state law powers granted to a receiver or conservator to avoid fraudulent conveyances), and Section 11(c)(2)(B) of the Federal Deposit Insurance Act (which grants the Corporation the authority to avoid any fraudulent conveyance that could otherwise be avoided by a conservator or receiver for any Federal depository institution).

Section 204(b) amends Section 207(b) of the Federal Credit Union Act to make changes parallel to the changes that section 204(a) of the legislation makes in Section 11(d) of the Federal Depository Insurance Act.

Section 205

Section 205 of the legislation amends Section 18 of the Federal Deposit Insurance Act by adding a new subsection—(k)—that prohibits an insured depository institution or depository institution holding company, which does not meet its minimum capital requirements, from entering into golden parachute contracts or making golden parachute payments, without the prior written approval of its primary federal regulator, and the Federal Deposit Insurance Corporation, if that institution or company is a "faltering institution." New subsection (k) defines the term "faltering institution" to be an institution that has a composite rating of four or five, is subject to a proceeding to terminate or suspend its Federal deposit insurance, has substantially insufficient capital, or is in danger of default.

In addition, new (k) subsection prohibits an insured depository institution or depository institution holding company from paying or reimbursing an institution affiliated party for any liability or legal expense with respect to any administrative proceeding brought by a Federal banking agency that results in a final order assessing civil money penalties, a removal or prohibition order, or an order under Section 8(b)(6) of the Federal Deposit Insurance Act requiring affirmative action as described therein. However, an institution or company, that is a faltering institution, may, with the prior written approval of that institution or company's primary Federal regulator and the Federal Deposit Insurance Corporation, make such a payment.

Except as described above, the subsection (k) does not prohibit the institution or holding company from purchasing directors' or officers' insurance or fidelity bonds.

New subsection (k) is intended to prevent officers and directors of insured institutions or holding companies from voting themselves generous bonuses at the expense of the institution or company, and ultimately, perhaps, the Federal Deposit Insurance Corporation. New subsection (k) is also intended to codify regulations, promulgated by the Office of the Comptroller of the Currency, regarding indemnification of bank directors, officers, and employees. This will prevent directors and officers from escaping personal liability for violations of law, by prohibiting institutions from paying their legal fees and fines in such actions.

Section 205(b) of the legislation amends Section 206 of the Federal Credit Union Act to make changes parallel to the changes made by section 205(a) of the legislation in section 18 of the Federal Deposit Insurance Act.

Section 206

Section 206 of the legislation amends 18 U.S.C. § 981 (civil forfeiture) to expand the offenses covered by that section. Section 206(1) adds 18 U.S.C. § 1032; 18 U.S.C. § 1341, but only if the offense affects a financial institution; and 18 U.S.C. § 1343, but only if the offense affects a financial institution. Section 206(2) changes that provision and specifically amends 18 U.S.C. § 981(b) to give the Attorney General the authority to seize certain property. Section 206(3) and (4) amend 18 U.S.C. § 981 expand the authority of the Attorney General to make forfeited property available to Federal financial institution regulatory agencies and to financial institutions.

Section 207

Section 207(a) of the legislation amends 18 U.S.C. § 981 (civil forfeiture) to expand the property subject to forfeiture. Section 207(a)(1) amends 18 U.S.C. § 981(a)(1) to add property that represents, or is traceable to, the gross receipts obtained from any of six specified offenses, but only if the particular offense relates to the sale of an asset obtained or held by the Federal Deposit Insurance Corporation (as conservator or re-

ceiver) or the Resolution Trust Corporation. The six offenses are: (1) 18 U.S.C. § 666(a)(1) (relating to federal program fraud); (2) 18 U.S.C. § 1001 (relating to false statements); (3) 18 U.S.C. § 1031 (relating to major fraud against the United States); (4) 18 U.S.C. § 1032 (relating to concealment of assets); (5) 18 U.S.C. § 1341 (relating to mail fraud); and (6) 18 U.S.C. § 1343 (relating to wire fraud). Section 207(a)(1) also amends 18 U.S.C. § 981(a)(1) to provide that if one of these specified offenses is committed for the purpose of (1) executing or attempting to execute a scheme or artifice to defraud, or (2) obtaining money or property by means of false or fraudulent statements, then the property forfeitable includes all property—real or personal, tangible or intangible—that is obtained by means of the offense. Section 207(a)(2) amends 18 U.S.C. § 981 to authorize the Attorney General to distribute property forfeited under the new language to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation or any other Federal financial institution regulatory agency.[13]

Section 207(b) of the legislation amends 18 U.S.C. § 982 (criminal forfeiture) to require the forfeiture of property representing, or traceable to, the gross receipts of six specified offenses involving the sale of an asset obtained or held by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation (as conservator or receiver). The specified offenses are: (1) 18 U.S.C. § 666(a)(1) (relating to federal program fraud); (2) 18 U.S.C. § 1001 (relating to false statements); (3) 18 U.S.C. § 1031 (relating to major fraud against the United States); (4) 18 U.S.C. § 1032 (relating to concealment of assets); (5) 18 U.S.C. § 1341 (relating to mail fraud; and (6) 18 U.S.C. § 1343 (relating to wire fraud). Section 207(b) also amends 18 U.S.C. § 982 to provide that if the specified offense is committed for the purpose of (1) executing or attempting to execute a scheme or artifice to defraud, or (2) obtaining money or property by means of false or fraudulent statements, then the property forfeited includes all property—real or personal, tangible or intangible—that is obtained by means of the offense.

Section 208

Section 208(a) of the legislation amends section 11 of the Federal Deposit Insurance Act to prohibit an individual who has been convicted of a specified major banking offense from purchasing assets of a failed institution, where that individual is in default on loans or extensions of credit to that institution and where such loans, if not unpaid, will cause substantial loss to that institution or to the Federal Deposit Insurance Corporation or Resolution Trust Corporation, as conservator or receiver. The specific offenses are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 656 (relating to bank embezzlement);

18 U.S.C. § 657 (relating to thrift institution embezzlement);

18 U.S.C. § 1005 (relating to fraudulent bank entries);

18 U.S.C. § 1006 (relating to fraudulent federal credit institution entries);

18 U.S.C. § 1007 (relating to Federal Deposit Insurance transactions);

18 U.S.C. § 1008 (relating to Federal Savings and Loan Insurance Corporation transactions);

18 U.S.C. § 1014 (relating to fraudulent loan or credit);

18 U.S.C. § 1032 (relating to concealment of assets);

18 U.S.C. § 1341 (relating to mail fraud), if the offense affects a financial institution applications;

18 U.S.C. § 1343 (relating to wire fraud), if the offense affects a financial institution; and

18 U.S.C. § 1344 (relating to bank fraud).

This provision will prevent debtors, who have been convicted of a major banking offense, from profiting from their misdeeds by prohibiting such debtors from purchasing assets of an institution that failed, at least in part, as a result of their actions.

Section 208(b) amends section 207 of the Federal Credit Union Act to make appropriate changes that parallel the changes that section 208(a) makes in section 11 of the Federal Deposit Insurance Act.

TITLE III—IMPROVED PROCEDURES FOR HANDLING BANKING-RELATED CASES

Title III contains provisions to improve the way in which banking-related cases are investigated and extends the limitation period for civil actions under section 951 of the Financial Institution Reform, Recovery, and Enforcement Act.

Section 301

Section 301 of the legislation expands 18 U.S.C. § 2516 (authorization for interception of wire, oral, or electronic communication) to authorize the Justice Department to seek an order permitting use of a wiretap to investigate three financial institution-related offenses. The three offenses are:

18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans);

18 U.S.C. § 1014 (relating to fraudulent loan or credit applications); and

18 U.S.C. § 1344 (relating to bank fraud).

These three offenses which deal with bribery, fraud, and false statements are analogous to offenses for which the Attorney General is presently authorized by 18 U.S.C. § 215 to seek a wiretap order. The Attorney General can now seek a wiretap order in investigating such offenses as bribery of public officials (18 U.S.C. § 201 and witnesses), bribery in sporting-contest (18 U.S.C. § 224), wire fraud (18 U.S.C. § 1343), mail fraud (18 U.S.C. § 1343), and computer fraud (18 U.S.C. § 1029). The Justice Department has indicated that the wiretap authority provided by the amendment in section 31 will materially aid in the investigation and prosecution of financial institution crimes.

Section 301 (2) and (3) makes technical amendments to 18 U.S.C. § 2516 in order to correct clerical and typographical errors.

Section 302

Section 302 (a) and (b) of the legislation amends sections 8 and 11 of the Federal Deposit Insurance Act to permit Federal banking agencies, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation, in their corporation capacities and as conservator or receiver, to maintain a foreign office and to request the assistance of foreign banking authorities in connection with investigations, examinations, or enforcement actions and in tracing funds overseas. The agencies are also authorized to provide assistance to foreign banking authorities.

Section 302 (a) and (b) of the legislation makes changes to section 206 and 207 of the Federal Credit Union Act, respectively, that parallel the changes made in sections 8 and 11 of the Federal Deposit Insurance Act by section 302 (a) and (b) of the legislation.

Section 303

Section 303 of the legislation amends section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to add a new subsection providing a period within which a civil action authorized by section 951 must be commenced.[14] Current law (28 U.S.C. § 2462) provides a five year period for such an action. New Section 951 (g) extends that period to 10 years from the date the cause of action accrues. The new provision will apply to any cause of action for which the present statute of limitation period has not run.

Section 304

Section 304(a) of the legislation amends section 11 of the Federal Deposit Insurance Act to allow the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to exercise all Federal Deposit Insurance Corporation enforcement powers, including subpoena authority, as conservator or receiver, for all purposes including determining any claim against an institution and collecting funds. This section also amends section 207 of the Federal Credit Union Act to give parallel subpoena authority to the National Credit Union Administration, as liquidating agent. Any such subpoenas issued pursuant to this section must be approved by the appropriate Board of Directors or their designees.

Under current law, the authority to issue subpoenas expires when an institution is declared insolvent or placed in conservator or receivership. The new authority will provide the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration with a powerful tool in conducting closed institution investigations by giving them the ability to "follow the money" even after an institution fails.

TITLE IV.—STRUCTURAL REFORMS TO IMPROVE THE FEDERAL RESPONSE TO CRIMES AFFECTING FINANCIAL INSTITUTIONS

Title IV codifies various measures recently taken by the Administration to maximize the response by the Department of Justice to crimes affecting financial institutions and enacts new measures to aid the Justice Department in combating these crimes. Title IV establishes a Financial Institution Fraud Unit in the Department of Justice (to be headed by a Special Counsel), authorizes interagency cooperation in financial institution cases, and provides additional investigatory authority for the Secret Service.

Section 401

Section 401(a) of the legislation establishes a Financial Crime Unit, headed by a Special Counsel, within the office of the Deputy Attorney General. Section 401(b) provides that the Special Counsel is responsible, and reports directly, to the Deputy Attorney General. Section 401(c) provides that this section sunsets in five years.

Section 402

Section 402(a) of the legislation provides that the President appoints the Special Counsel, by and with the advice and consent of the Senate. Section 402(b) sets forth the responsibilities of the Special Counsel, which includes supervising and coordinating investigations and prosecutions of crimes in and against the financial services industry, including crimes committed by elected officials and high-level executive branch officials and members of the immediate families of such officials (to the extent consistent with the Ethics in Government Act's in-

dependent counsel provisions). Section 402(c) provides that the Special Counsel is paid at the rate for level V of the Executive Schedule.

Section 403

Section 403 of the legislation authorizes the Attorney General to assign to the Financial Institution Fraud Unit whatever personnel the Attorney General deems necessary in order to provide an appropriate level of enforcement activities in the area of crimes in and against the financial services industry.

Section 404

Section 404(a) of the legislation requires the Attorney General to establish such financial institution fraud task forces as the Attorney General deems necessary in order to ensure that adequate resources are made available to investigate and prosecute crimes in and against financial institutions, and to recover the proceeds of unlawful activities from persons who have committed crimes in or against the financial services industry. Section 404(b) requires the Attorney General to determine how each task force is to be supervised, and permits the Attorney General to have the Special Counsel supervise any task force.

Section 404(c) establishes a senior interagency group for the purpose of assisting in the identification of the most significant financial institution cases and in the allocation of investigative and prosecutorial resources. The Attorney General appoints the members of the group, which is chaired by the Assistant Attorney General in charge of the Criminal Division. Section 404(c) requires, however, that the group include senior officials from the Justice and Treasury Departments, the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration.

Section 405

Section 405(a) of the legislation permits the Justice Department to accept, and another Federal agency to provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees in order to assist in the investigation and prosecution of crimes in or against financial institutions. Section 405(b) gives attorneys detailed to the Justice Department from other Federal agencies the authority, subject to the supervision of the Attorney General, to perform functions that United States attorneys are authorized to perform.

Section 406

Section 406(a) of the legislation amends 18 U.S.C. § 3056(b)(1) to expand the investigative authority of the Secret Service to seven financial institution offenses. The offenses are: (1) 18 U.S.C. § 215(a) (relating to receipt of commissions or gifts for providing loans); (2) 18 U.S.C. § 656 (relating to bank embezzlement); (3) 18 U.S.C. § 1005 (relating to fraudulent bank entries); (4) 18 U.S.C. § 1341 (relating to mail fraud), but only if the offense affects a financial institution applications); (5) 18 U.S.C. § 1343 (relating to wire fraud), but only if the offense affects a financial institution; (6) 18 U.S.C. § 1344 (relating to bank fraud); and (7) 18 U.S.C. § 1510(b) (relating to obstruction of criminal investigations).

Section 406(b) provides that an investigation conducted under authority conferred by Section 406(a) is subject to the direction and supervision of the Attorney General. The purpose of this provision is to assure the coordination of resources dedicated to handling criminal matters affecting financial institutions. Section 406(c) provides that the amendments made by Section 406 (1) do not alter the authority of any other federal law enforcement agency and (2) expire when the Resolution Trust Corporation's authority expires, which is December 31, 1996.

TITLE V.—REPORTING REQUIREMENTS

Title V mandates the Attorney General and the Director of the Administrative Office of the United States Courts to report to Congress on a regular basis regarding matters involving financial institutions.

The Committee expects that the increase resources for the Department of Justice will result in a heavier workload for the Federal Courts, particularly those courts in Texas and California.

Section 501

Section 501 of the legislation requires the Attorney General to report to Congress on a quarterly basis regarding activities of the Department of Justice with respect to crimes affecting financial institutions. Section 501(b) mandates that the Attorney General's reports include information assembled according to judicial district regarding criminal referrals, the number and status of investigations, prosecutions and civil actions, a description of sentences obtained, and resources devoted to the above efforts with respect to pursuing crimes affecting financial institutions.

The sponsors of the legislation are concerned about a huge backlog of criminal referrals and cases involving financial institutions fraud and embezzlement and a shortage of sufficient resources to dispose of these matters in a timely and effective manner. The report required by section 501 is intended to provide Congress with essential information to determine the magnitude of criminal activity in the financial institutions industry and the progress of the Department of Justice in combating this activity. Additionally, the report will enable Congress to ensure that the appropriate level of resources are assigned to disposing of criminal referrals, investigations, and prosecutions affecting financial institutions. These quarterly reports will highlight the need, if any, for additional personnel, by judicial district.

Section 502

Section 502 of the legislation requires the Director of the Administrative Office of the United States Courts to provide to Congress, annually, statistical tables that reflect the business imposed on the Federal courts by the savings and loan crisis.

The reforms made by this legislation will place increased burdens on the Federal courts, particularly those in Texas and California. The annual reports required by this section are intended to provide Congress with sufficient information to assess the new demands on the Federal courts and to aid Congress in determining the need for additional resources by the courts to dispose of cases involving financial institutions.

TITLE VI—NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY AND ENFORCEMENT

Title VI establishes a 12 member bipartisan commission to study the causes of the savings and loan crisis, make recommendations to improve the government's response to the crisis, and report on appropriate measures to avoid such problems in the financial services industry in the future. The Committee believes that the magnitude and seriousness of the savings and loan crisis requires a full and impartial review of the causes and consequences of that crisis by an independent commission. The Committee has endowed the commission with broad powers, including the authority to hold hearings and to subpoena witnesses and evidence, so that the commission has available all necessary information to file a meaningful and comprehensive report on its findings.

Section 601

Section 601 of the legislation establishes the National Commission on Financial Institution Reform, Recovery and Enforcement.

Section 602

Section 602 of the legislation sets forth the duties of the Commission, which include,

investigating the causes of the S&L crisis;

recommending methods for disposing of assets by the Resolution Trust Corporation;

recommending methods and procedures for regulating and supervising the financial services industry;

recommending administrative or legislative action to protect the safety and soundness of the financial services industry;

investigating and developing recommendations for strategies and tactics for law enforcement regarding financial crimes;

investigating the causes of fraud and abuse in the industry; recommending measures to prevent financial crimes from occurring in the future.

Section 603

Section 603 of the legislation provides for 12 members on the Commission. Section 603(a) provides that the President shall appoint four individuals; the Speaker of the House of Representatives shall appoint four individuals, one upon the recommendation of the minority leader of the House; the President pro tempore of the Senate shall appoint four individuals, three upon the recommendation of the majority leader of the Senate, and one upon the recommendation of the minority leader of the Senate.

Section 603(b) provides that a member of the Commission is appointed to serve for the life of the Commission and that a vacancy is filled in the manner in which the original appointment was made. Section 603(c) prohibits members of the commission from receiving compensation for their services on the commission and provides for travel expenses. Section 603(d) provide that a majority of the Commission constitutes a quorum. Section 603(e) provides that the chair of the Commission is to be elected by the Commission from among the members. Section 603(f) provides that the Commission meet at the call of the chair or a majority of the members.

Section 604

Section 604 of the legislation establishes the powers of the Commission, including the power to hold hearings, subpoena witnesses and evidence, administer oaths, request official data and administrative support services.

Section 605

Section 605 of the legislation provides for staffing of the Commission.

Section 606

Section 606 of the legislation permits the Commission to submit interim reports to the President and Congress as appropriate,

and requires the submission of the final report within one year from the date of enactment.

Section 607

Section 607 of the legislation mandates the termination of the Commission 30 days after the submission of the final report.

Section 608

Section 608 of the legislation authorizes an appropriation of $1 million for the Commission.

Section 609

Section 609 of the bill provides that, notwithstanding any other provision of this Act, no commission established by the Act may have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code.

Section 6103 of the Code provides that no one can have access to any return or return information, except as authorized by title 26, U.S.C. § 6103(a)). No statute that purports to provide access to returns and return information and that does so other than in title 26 is effective in providing such access, regardless of when that statute may be enacted. Thus, because the Commission established under this Act was not permitted to have access to returns or return information pursuant to title 26, no such access would be legal, even without the clarification. This clarification has nonetheless been made in this instance to avoid any possibility of confusion.

This provision in no way diminishes the ability of Federal government officials to obtain access to returns and return information for use in criminal investigations, whether tax-related or not. Section 1603(i)(1) and (2) generally provides for access to these returns and return information by specified officials of the Department of Justice (including any United States attorney, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration) for the preparation for any judicial or administrative proceeding pertaining to the enforcement of a Federal criminal statute (to which the United States is or may be a party), an investigation which may result in such a proceeding, or a related grand jury proceeding.

TITLE VII—AUTHORIZATION

Title VII increases the authorizations for the Department of Justice and the Federal courts in order to handle the pressing demands on the criminal justice system resulting from the savings and loan crisis. Last year, the Financial Institutions Reform, Recovery and Enforcement Act authorized for fiscal years 1990 through 1992 the appropriation of $75 million for the Department of Justice for investigations, prosecutions and civil actions affecting financial institutions, and $10 million for the Federal courts to meet the demands resulting from that Act. Since the enactment of FIRREA last year, it has become apparent that these authorization levels are insufficient to meet the demands for personnel generated by the thrift crisis. Accordingly, the legislation increases the authorization levels to $153 million for the Department of Justice for fiscal years 1991 through 1993; $25 million for the Federal court system for fiscal year 1991; and $28 million for the Federal court system for fiscal years 1992 and 1993.

Section 701

Section 701 of the legislation authorizes $153 million for the Department of Justice for investigations, prosecutions and civil actions involving financial institutions for fiscal years 1991 through 1993. With respect to fiscal years 1991 and 1992, the authorization will be allocated as follows:

	Amount
FBI	$100,000,000
U.S. Attorneys	39,000,000
Criminal Division	3,000,000
Civil Division	10,000,000
Tax Division	1,000,000

This level of funding will satisfy the needs of the various United States Attorneys and the FBI for additional personnel to handle matters affecting financial institutions. This need for greatly inflated funding levels and personnel can be expected to level off soon after fiscal year 1993, when the bulk of work involving cases affecting the thrift industry should be completed.

Section 701 does not provide for a specific allocation within the Department of Justice of the funds of fiscal year 1993 because the Committee believes that the heavy emphasis on investigations in fiscal years 1991 and 1992 may give way to increased prosecutions by 1993.

Section 702

Section 702 of the legislation authorizes to be appropriated to the Federal court system $25 million in fiscal year 1991, and $28 million in fiscal years 1992 and 1993. These figures have been supplied by the Administrative Office of the United States Courts, and are based on an assessment of the work that will be performed by new assistant United States Attorneys assigned to prosecute savings and loan cases. The Federal courts will feel an almost immediate impact from increased numbers of prosecutors, and will be allowed to respond by augmenting their own resources in the form of deputy clerks, automation, space and facilities, and other support activities. In short, the authorization will not only be appreciated by the overburdened Federal courts but it is necessary for an effective savings and loan reform bill.

FOOTNOTES

[1] The concealment must be "knowing." "An act is done 'knowingly' if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason." 1 E. Devitt & C. Blackmar, Federal Jury Practice and Instructions § 14.04 (3d ed. 1979).

Concealing an asset or property is the result of conduct, and conduct must be engaged in knowingly (unless intentionally is specified). See H.R. Rep. No. 1396, 96th Cong., 2d Sess. 30-36 (1980). The prosecution, therefore, must show that the defendant knew that the result of the defendant's conduct would be the proscribed concealment. The endeavor to conceal language reaches conduct that does not result in actual concealment. Where an endeavor is involved, the prosecution must show that the defendant's purpose was to bring about the proscribed concealment. Cf. W. LaFave & A. Scott, Criminal Law § 6.2 (2d ed. 1986) (crime of attempt requires "an intent to do an act or to bring about certain consequences that would in law amount to a crime").

[2] The impeding must be "knowing." "An act is done 'knowingly' if done voluntarily and intentinally, and not because of mistake or accident or other innocent reason." 1 E. Devitt & C. Blackmar, Federal Jury Practice and Instructions § 14.04 (3d ed. 1977).

Impeding the functions of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or the National Credit Union Administration is the result of conduct and conduct must be engaged in knowlingly (unless intentionally is specified). See H.R. Rep. No. 1396, 96th Cong., 2d Sess. 30-36 (1980). The prosecution therefore, must show that the defendant knew that the result of the defendant's conduct would be the proscribed impeding. The endeavor to impede language reaches conduct that does not result in an actual impeding. If an endeavor is prosecuted, the prosecution must show that the defendant's purpose was to bring about the proscribed impeding. Cf. W. LaFave & A. Scott, Criminal Law § 6.2 (2d ed. 1986) (crime of attempt requires "an intent to do an act or to bring about certain consequences that would in law amount to a crime").

[3] The placement of assets beyond the reach is the result of conduct, see H.R. Rep. No. 1396, 96th Cong., 2d Sess. 30-36 (1980), and must be done "corruptly." The corruptly requirement means that the defendant's conduct must be engaged in "voluntarily and intentionally, and with the bad purpose of accomplishing either an unlawful end or result, or a lawful end or result by some unlawful method or means. The motive to act corruptly is ordinarily a hope or expectation of either financial gain or other benefit to one's self, or some aid or profit or benefit to another." See 3 E. Devitt & C. Blackmar, Federal Jury Practice and Instructions § 34.08 (3d ed. 1978). See also H.R. Rep. No. 335, 99th Cong., 1st Sess. 6 n.24. (1985)..

The "endeavor to place beyond the reach" language covers conduct that does not result in an actual placement beyond the reach. If the prosecution is for an endeavor, the prosecution must show that the defendant's purpose was to bring about the proscribed placing beyond the reach. Cf. W. LaFave & A. Scott, Criminal Law § 6.2 (2d ed. 1986) (crime of attempt requires "an intent to do an act or to bring about certain consequences that would in law amount to a crime").

[4] The maximum amount of the fine is determined under 18 U.S.C. § 3571 and would be the greater of (1) $250,000 for an individual or $500,000 for an organization; or (2) twice the gross pecuniary gain derived from the offense or twice the gross pecuniary loss inflected.

[5] The requirement that the obstruction, or attempted obstruction, be done corruptly means that the conduct must be engaged in "voluntarily and intentionally, and with the bad purpose of accomplishing either an unlawful end or result, or a lawful end or result by some unlawful method or means. The motive to act corruptly is ordinarily a hope or expectation of either financial gain or other benefit to one's self, or some aid or profit or benefit to another." See 3 E. Devitt & C. Blackmar, Federal Jury Practice and Instructions § 34.08 (3d ed. 1978). *See also* H.R. Rep. No. 335, 99th Cong., 1st Sess. 6 n.24. (1985).

[6] The maximum amount of the fine is determined under 18 U.S.C. § 3571 and would be the greater of (1) $250,000 if the defendant is an individual or $500,000 if the defendant is an organization, or (2) twice the gross gain derived or twice the gross loss inflicted.

[7] The statute of limitation period for these ten offenses was increased from five to ten years by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, § 961(e)(1), 103 Stat. 501 (enacting 18 U.S.C. § 3293).

[8] The language added by section 109 requires that the person be "*directly* harmed by the defendant's criminal conduct" (emphasis added). The use of "directly" precludes, for example, an argument that a person has been harmed by a financial institution offense that results in a payment from the insurance fund because, as a taxpayer, a part of that person's taxes go to the insurance fund.

[9] Rule 11(e) of the Federal Rules of Criminal Procedure regulates plea agreements.

[10] *See* 18 U.S.C. § 3571.

[11] *FDIC* v *Jenkins*, 888 F.2d 1537 (11th Cir. 1989).

[12] 18 U.S.C. § 3322(d)(1) defines the term "banking law violation" to mean a violation of 18 U.S.C. § 215, 656, 657, 1005, 1006, 1007, 1014, or 1344, or of 18 U.S.C. § 1341 or 1343, but only if the violation affects a financial institution.

[13] The term "Federal financial institution regulatory agency" is defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act.

[14] Section 951 authorizes the Attorney General to bring a civil action to recover specified monetary penalties for a violation of 18 U.S.C. § 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 or 18 U.S.C. § 1341 or 1343, but only if the offense affects a federally insured financial institution.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we cannot afford further delays in bringing to justice the

culprits who brazenly gambled away depositors money on failed real estate schemes, junk bonds, and on personal luxuries of flying-house parties and gastronomique-fantastique eating at fancy restaurants, which resulted in taxpayers' losses because insured depositors' money was used for contemptuous greed.

On June 26, I introduced H.R. 5050 in bipartisan fashion with Chairman GONZALEZ, Chairman ANNUNZIO, minority leader MICHEL, and Congressmen HILER and BARNARD. That bill was reported out of financial institutions subcommittee by a vote of 42 to 0. It is to the credit of Congressman SCHUMER that as chairman of the Subcommittee on Criminal Justice, he took up H.R. 5050 and other bills on the subject and put together title XXI of the omnibus crime bill in expeditious fashion. HAMILTON FISH and I along with our leadership thought it important that this bill be put on a fast track and I would commend Speaker FOLEY and Chairman BROOKS for their essential role in bringing this legislation to the floor so quickly. It is important that title XXI be moved from the omnibus crime bill, so that the financial crime and asset recovery portion of that legislation could be moved quickly.

I think it is fair to say that most of the work has been done by Congressman SCHUMER and myself and our staffs with valuable assistance from FDIC and Justice. The point I would make is that it is important to move this bill along in a bipartisan way. The legislation would create a 12-member bipartisan commission to investigate the causes of the thrift crisis as well as to report on methods to improve criminal prosecutions. One of the most important provisions from my standpoint is the one which would make it a Federal crime to knowingly conceal assets from the RTC and FDIC in offshore secret Swiss bank accounts or by other means. Regulators would have the authority to undo fraudulent conveyance which took place as far back as 5 years and prevent the golden parachutes for savings and loan managers bailing out of insolvent or uncapitalized thrifts just before they go under. Savings and loan criminals will not be able to use the bankruptcy courts to evade criminal procedure or to take advantage of the liberal State bankruptcy laws which allow them to keep luxury cars, homes, or yachts. There are other key provisions which will be described by others. But, I think the Members get the general thrust of the key provisions of the bill. This is an excellent bill, it is timely, it is a workable plan to cut taxpayers' losses and prevent a reoccurrence of the savings and loan disaster by providing more tools to prosecute the wrongdoers.

□ 1400

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I rise in strong opposition to this legislation. I have most serious objections to the manner in which this bill is before Members. It just got a number this morning, and I defy any Member, including members of the committee, to tell me that they read the 68-page legislation which has not been printed yet, and tell me what is in it. So I strongly object to the manner in which this has been brought up.

I have serious objections to the bill and to the provisions contained therein. This legislation contained many provisions within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. The Committee on Banking, Finance and Urban Affairs received a joint referral on the father bills H.R. 5353 and H.R. 5387. What we have here today is a bastard child, with all the defects emanating from such a birth. I have previously requested a sequential referral on the savings and loan crime provisions of these bills which this bill is being palmed off as being. At no time has the Committee on Banking, Finance and Urban Affairs, which has jurisdiction on this matter, had the matter referred back to it as requested. Thus the Committee on Banking, Finance and Urban Affairs' jurisdiction on this legislation is well established, well known, and well circumvented this morning. Yet, I was not consulted prior to this bill, and much less, until late last night, that it would even be brought up on suspension. Moreover, the need for the legislation is not clear. Last year we cosponsored legislation which became title 8 of the so-called FIRREA, to give the banking regulators and the Justice Department enhanced enforcement authority for financial crimes. As a matter of fact, the gentleman from New York then with the Committee on the Judiciary as he is today, proudly presented this as their handmate.

The regulators in the Justice Department have not even had a chance to exercise their authority even under the proviso we gave them last year, far-reaching and unprecedented powers, and today were given more? What kind? I think it is a mistake to push this legislation in panic, and this is what it is.

It is an attempt to tell the American people at this state that we are trying to do something to get the crooks in jail. Who do we think we are kidding besides ourselves? The American people are way ahead of Members. They know what is going on. This will not kid them one darned bit.

Second, I have serious concerns about many substantive provisions of this legislation. The bill permits wiretapping for bank-related offenses, increases criminal penalties for bank crimes, and creates new bank-related criminal offenses that nobody, much less the Department of Justice, has evaluated. These provisions are touted as addressing the thrift crisis, yet they will not apply to those who brought the thrifts to insolvency, since those crimes were committed a few years ago.

I also oppose giving this national commission that is being created in this legislation subpoena authority. Subpoena authority. Unprecedented. Unprecedented. I think it is a mistake to give a commission of this nature with no capability to the electorate the power to go on a witch hunt for publicity or for any other purposes. I believe the so-called savings and loan crooks should be brought to justice like everybody else has. But I do not believe this legislation is the way to do it, nor do I believe for one minute that it will fool the American people and the electorate.

Let me just reiterate what we have in the law now, as the result of last year's enactment. Criminal enforcement, increased criminal penalties, civil penalties, extended statute of limitations, one of the most vital changes. We extended the limitations so the crooks would not get away on a technicality. Sentencing order guidelines, expansion of forfeiture procedures, amendment to RICO, the racketeering statutes, grand jury secrecy, enhanced agency regulatory enforcement authority, institutional affiliated parties. The most significant changes made by FIRREA were to change the reach of enforcement provisions to a broader range of financial institutions insider, lawyers, et cetera, et cetera. All this is in the law now. It has not been enforced. It has not even been given a chance to be tried by the Justice Department. Cease-and-desist orders, we placed that on last year's crime bill. How many of these orders have been issued? How many have been sought by the Justice Department? That is what we ought to be inquiring as we are in the committee, and so on and so on.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield 2 minutes to the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 5401, the Banking Law Enforcement Act of 1990.

As the cost of the Federal bailout soars ever higher, the S&L debacle has become the greatest financial scandal in our Nation's history. Through the 1980's, the Reagan administration managed to sell its harebrained "Look ma, no hands" scheme for loosening regulatory control over the S&L industry. Now, in the 1990's

the American taxpayers are paying the bitter price—a price which, according to this morning's Washington Post, may run as high as $100 billion in fiscal year 1991 alone.

Last year, with passage of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Congress took a major step toward picking up the shattered fragments of this massive regulatory failure. Today we have an opportunity to take the next step in the recovery process by approving legislation designed to crack down hard on the S&L crooks who have played such a major role in this costly fiasco.

H.R. 5401 encompasses the S&L enforcement title of the Comprehensive Crime Control Act of 1990 reported by the Judiciary Committee last week. The bill would provide Federal regulators, prosecutors, and law enforcement agencies a wide range of new tools to combat abusive and criminal activity involving financial institutions. Included in the bill are provisions to:

Toughen penalties already on the books for financial institution crimes and create new offenses;

Authorize Federal regulators to prevent troubled financial institutions from making golden parachute payments to any person affiliated with the institution;

Tighten the bankruptcy code to prevent persons whose fraud and mismanagement have jeopardized the financial health of a depository institution from using bankruptcy to evade their liability for the damage they have caused;

Expand wiretap and subpoena authority for Federal investigators probing financial institution offenses;

Establish a national commission to investigate the causes of the S&L crisis and recommend further corrective actions;

Establish in the Department of Justice a financial institutions fraud unit headed by a special counsel; and

Authorize $153 million per year for fiscal years 1991, 1992, and 1993 for the Justice Department to investigate and prosecute those responsible for the S&L scandal.

This is a tough, comprehensive package that will provide the tools needed to bring the S&L crooks to justice and I urge my colleagues to join me in supporting it.

□ 1410

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the American people want us to do everything possible to recover the assets stripped away from them by this debacle of a savings and loan crisis, and this bill is a giant step forward in providing some of the tools with which our prosecutors, our investigators, and our courts will be able to reach out and pull back for the taxpayer's benefit those moneys that have been so grandly lost through the machinations of these S&L people.

One element of this reaching out and bringing back the assets, though, is missing, and that is because we did not give full attention to it. I believe the American taxpayers should be first in line when we get those assets in a position to realize them, that they should be first in line before the other creditors. I hope in conference, when we get to the point where we can discuss this further, we will indeed give a priority of lien to the American taxpayer.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may require to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, it is most unfortunate that we have to consider this bill today at a time when we are getting ready to go home for a recess: Suddenly the House of Represenatives has to consider a major bill and put it on the floor in a matter of hours, even though there is no public version of the bill for us to read and no printed text to compare it with other bills introduced this session. Yet, this effort today is undertaken in the name of solving a critical problem, going after the crooks and the dishonest people in the savings and loan industry.

This bill unfortunately reminds me of a number of the things that have been happening in the House of Representatives and the Congress over the 6 years I have been here. It seems to me that every time we prepare to go home to our districts a new drug act is passed, the drug act of 1988, and still another new drug act of 1990—which I am sure will be on the calendar shortly. Meanwhile, the drug war gets worse and we continue to lose. Now we are going to start this unfortunate practice in the one field that the Congress should have some control over, the S&L disaster. We can work with the administration on this and the administration can take the actions that are necessary to prevent further erosion in the savings and loan industry, in the banking industry, in the pension industry, in the Federal Housing Administration, in HUD, and in the Government-guaranteed programs up and down the line.

In almost every program where the U.S. taxpayers stand as guarantors, we have the opportunity to do something. Instead, today we come here as feeble politicians and play politics to delude the American people into thinking that we are going to solve the problem, get the crooks, and put them in jail. And we are told we must do this today within 24 hours.

The truth of the matter is I feel badly about this because I think there are merits in this legislation. I think it can accomplish many things to save the American taxpayers money, but I do not think we have had the opportunity to analyze the bill, to improve and protect the bill, and to perform the work that is necessary to do merit to ourselves as the Congress or the U.S. Government or for the benefit of the American taxpayers.

It also disappoints me that so often my friends on the Republican side cast aspersions on my side of the aisle. They say they have not given an open rule, they have not received adequate notice, they have not had an opportunity to debate. How many times in the last 5½ years have I stood in this Chamber and, as a Democrat, been castigated by my friends on the Republican side? But all of a sudden, 3 days before the August district work period, in anticipation of town meetings and meetings with the local press, the minority has gotten new religion. They no longer have to have notice. They do not have to read a printed bill anymore. They do not have to look at a report. They do not have to know anything. All they want to be able to say is "We are going to put the crooks in jail." They do not even care how they are going to do it and they do not care, as the chairman of this committee mentioned, what powers they give away and to whom, to what act or for what purpose.

There are a lot of things that should have been included in this bill. My friend, the gentleman from North Carolina [Mr. NEAL], had an important provision in H.R. 5050. Most of it, if not all of it, has been stricken from this bill.

Mr. NEAL'S amendment, which required the Attorney General to personally report to the Congress on the status of savings and loan prosecutions, and to initiate action on at least 50 percent of the more than 21,000 pending referrals by January 1, 1991, and on all other pending referrals by January 1, a year later, has been gutted.

This bill no longer contains the requirement that action be initiated by certain dates and no longer requires the Attorney General to make himself personally accountable to the Congress on this issue. All that is left is a nebulous reporting requirement.

However, we really are not certain what is in this measure because we have not had an opportunity to read the whole bill. We requested, as early as this morning, a printed copy of this bill, but it did not exist. As early as this morning, this bill did not even have a number. You talk about a bastard child, one born certainly before anticipation, this is it.

What are some of the other elements that have been left out of this bill?

The bill does not contain any provisions which would allow private citizens to file so-called qui tam or bounty hunter civil suits to help the Federal Government recover assets from failed thrifts.

I have introduced legislation, H.R. 5247, the Savings and Loan Asset Recovery Act, which would have authorized such private civil suits. It was my intention to offer H.R. 5247 as an amendment to this bill, but under the procedures we are utilizing today, such an amendment will not be permitted, even though such civil suits could save the taxpayers hundreds of millions, and perhaps even billions of dollars.

Similar bounty hunter civil suits have been permitted since the Civil War in other circumstances, and are even permitted to combat defense procurement fraud, yet today we will be denied the opportunity to extend this proven concept to help recover funds pilfered from our savings and loans.

Have we had any consideration of that proposal? Do we care? Obviously not. Will it cost the taxpayers money? Hundreds of millions, if not billions of dollars. Does that matter? Not if you are 3 days away from vacation. It does not seem to matter, not if you want to go home and tell the taxpayers you have cured the problems of the S&L's industry. Then suddenly the same people will wake up in September or October of this year, in September or October of next year and for the next 10 years, and realize that they have been misled and misdirected by their own Representatives here in the Congress.

What are some of the other elements we could have had? One of the provisions is for a national commission for a study of the savings and loan situation. We are going to form a commission. We have come up with a new form of government in the United States—a commission. We have the Presidency, we have the Congress, we have the Supreme Court, and now we have the commission, a new fourth branch of government. I do not know whether the commission is the only form by which we can find out what happened. But, I do know we ought to spend some time in evolving what the powers of that commission will be and how broad its charter will be. We should certainly recognize that the S&L crisis is not the only crisis facing the United States today. Studies show that within a short period of time the FDIC and the bank crisis will be facing America.

We know that the Federal Housing Administration has experienced financial difficulties. We have been warned that the pension funds are struggling in this country. So, too, are the insurance companies. We know there are other Government-guaranteed programs—Sallie Mae and others—that face grave problems.

Why do we sit here thinking that all we have to do is pass something to study the savings and loan industry and we have saved the country? I would say, baloney, but I do not know if that word is sufficient to describe what is happening today.

We are deluding ourselves. Are we going to have a report? What are we doing to educate the American people? Why should that national commission not be a select committee of this House to inform the American people of what part, if any, of our Government failed, what part of the economy failed, what is wrong, and what can be done about it?

I would like to list for my colleagues just some of the issues which I believe need investigation and which are included in the charter of my proposed select committee. I invite them to compare this chapter with that of the proposed national commission.

H. RES. 414

Resolved, That there is hereby created a Select Committee to Investigate Financial Institution Fraud, Mismanagement, Oversight, and Supervision, to be composed of fifteen Members of the House to be appointed by the Speaker, one of whom he shall designate as chairman, and one of whom he shall designate as vice chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made. The select committee is authorized and directed to conduct a full and complete investigation and study, and to make such findings and recommendations to the House as the select committee deems appropriate, including those concerning the amendment of existing legislation or the enactment of new legislation regarding the following matters:

(a) The extent to which fraud, mismanagement, and conflicts of interest by or among officers, directors, consultants or employees of financial institutions, or any other individuals or entities, have or may contribute to losses to Federal or State deposit insurance funds.

(b) The adequacy of Federal and State investigation and prosecution of fraud and mismanagement at federally insured and State insured financial institutions.

(c) The adequacy of actions by the executive branch to recover the costs to the United States Treasury resulting from fraud, mismanagement, and violations of Federal banking laws and regulations.

(d) The extent to which the ability to recover the cost to the United States Treasury resulting from fraud, mismanagement, and violations of Federal banking laws and regulations is hindered by inadequate resources, or untimely investigations or prosecutions.

(e) The extent to which economic factors have or may contribute to losses to Federal or State deposit insurance funds.

(f) The extent to which financial activities permitted by States to State chartered institutions, but not permitted to federally chartered institutions, have or may contribute to losses to Federal or State deposit insurance funds.

(g) The extent to which financial activities permitted by the Federal Government have or may contribute to losses to Federal or State deposit insurance funds.

(h) The extent to which changes in Federal deposit insurance have or may contribute to losses to Federal deposit insurance funds, and whether or not any changes in the scope or nature of Federal deposit insurance are warranted.

(i) The extent to which Federal or State bankruptcy laws have or may contribute to losses at financial institutions or Federal or State deposit insurance funds, or may make it more difficult to recover funds from individuals who are found guilty of violating Federal banking law or regulations, and whether or not any changes in Federal or State bankruptcy laws are warranted.

(j) The causes and consequences of any inadequate or improper oversight, supervision or examination of State chartered financial institutions by state regulatory agencies, and the extent to which such activities have or may contribute to losses to Federal or State deposit insurance funds.

(k) The causes and consequences of any inadequate or improper oversight, supervision or examination of federally chartered or insured financial institutions by Federal regulatory agencies, and the extent to which such activities have or may contribute to losses to Federal or State deposit insurance funds.

(l)(1) The accuracy and timing of Executive Branch estimates and representations to the Congress of the magnitude and extent of problems at federally insured financial institutions.

(2) The consequences of any inaccurate estimates and representations on the final cost to the United States Treasury of resolving these problems.

(3) The extent to which any inaccurate estimates and representations were willful or intentional.

(m) The final anticipated cost to the United States Treasury of resolving problems at, or meeting its obligations to insured depositors at, federally insured financial institutions.

(n) Whether additional public or private resources are necessary to resolve current and anticipated problems at federally insured financial institutions, and if so, the most equitable way to apportion those costs.

(o) The past, present, and future disposition of failed financial institutions and their assets.

(p) The direct or indirect ramifications on the United States economy of the multibillion-dollar expenditure for resolving problems at our Nation's federally insured financial institutions.

(q) The direct or indirect ramifications on the United States economy associated with disruptions in the real estate market which have or may result from the failure of federally or State insured financial institutions or the disposition of assets from those institutions.

(r) The direct or indirect ramifications on financial intermediaries associated with disruptions in the economy which have or may result from the failure of federally or State insured financial institutions or the disposition of assets from those institutions, and the health or our remaining financial institutions in general.

(s) In connection with the matters described in this section, the implications for noninsured financial intermediaries of the failure of federally or State insured financial institutions, and the health of our noninsured financial intermediaries in general.

(t) All matters relating directly or indirectly to the foregoing.

Quite frankly, the national commission proposed in the bill we are considering today is an effort to whitewash or paper over this problem. Its charter is not broad enough. It is not required to hold public hearings to educate the American people on what has happened, and its resources are insufficient to do the job. This legislation proposes to spend no more than $1 million to investigate a debacle that may cost taxpayers upwards of half a trillion dollars. This proposed commission will not begin to even scratch the surface of past problems at savings and loans, much less the problems which may face us at banks, insurance companies, pensions funds and other Government-sponsored or insured entities like the FHA and student loan insurance funds.

All of these defects in this legislation, and many others I have not mentioned, could be remedied if this legislation was considered under normal House rules and normal House procedures. The bill could be properly considered and improved by the Banking Committee, whose jurisdiction is being ignored, and it could be thoughtfully considered and improved on the House floor.

Instead we are considering this massive bill, which few if any of us have had an opportunity to read, with only 40 minutes of debate and no opportunity for amendment.

I think we should use our funds and expertise and take the opportunity to educate and communicate these elements to the American people and to the Congress.

Just 1 year ago, this Congress overwhelmingly voted for the banking investment contracts knowing full well the consequences of exposing the FDIC to billions and billions of dollars of potential losses. But why did it go through the Congress? Because in the 11th hour, on this floor, a coalition between the big banks of this country and the labor unions of this country stampeded the Members of this House to allow that to happen. And now we do not even know the extent of the exposure.

Now, we are going to spend $100 million for the FBI, and that is going to cure something. We are going to spend $39 million for Federal attorneys, and the Justice Department does not even have applications on them.

That is all nonsense. All we are trying to do is cover up and paper over a real major economic problem and other problems facing this Government, the American economy, and the American people. We should instead be honest with the American people. They deserve honesty and candor and our commitment to resolve these matters.

This Congress cannot walk away from this, vote for this and say they are being honest. They can only walk away and say they are being political. It is time in 1990, it is time in the 101st Congress, that we recognize that this is not what we were elected to do. We were elected to represent the American people's best interest, and we are not doing that.

Mr. SCHUMER. Mr. Speaker, I yield 1 minute and 10 seconds to the gentlewoman from Ohio [Ms. OAKAR].

□ 1420

Ms. OAKAR. Mr. Speaker I rise in strong support of H.R. 5401, the Banking Law Enforcement Act of 1990. I want to praise the Democratic leadership for bringing this bill to the floor. I also want to commend the distinguished chairman of the Judiciary Committee, JACK BROOKS, and the chairman of the Criminal Justice Subcommittee, Mr. SCHUMER, for their hard work on this important measure.

Mr. Speaker, this legislation is a critical weapon in the fight to bring some measure of justice to the mushrooming savings and loan problem. Currently, there are over 500 failed institutions under investigation by the FBI, over 7,000 pending cases of bank and thrift crime, and over 21,000 criminal referrals not yet addressed. This is incredible—and more to the point—it is intolerable. For some time, we have needed a bill that can effectively be used to prosecute S&L crooks and I believe this is the correct legislation for the job.

In particular, there are several provisions of this bill—many of which are similar to a bill I recently introduced to bring S&L crooks to justice—that deserve to be singled out for praise. For example, today's bill specifies that the concealment of assets from the FDIC or the RTC should be considered a criminal offense. This is an important provision for any savings and loan crime bill.

Another feature of the bill central to the effort to clean up the industry is the extension of prison terms for S&L managers. Specifically, I strongly support this provision which increases from 20 to 30 years the maximum prison term that can be imposed for various financial-institution-related offenses. Not only should this provision act as a strong disincentive for future criminal actions, it will also provide a just prison term for the high-flying bigshots who ran their savings and loans into the ground only to leave the taxpayers to clean up the wreckage.

A third important provision relates to the seizure of assets held by crooked S&L managers. The bill provides for assets held by people who are held culpable in the failure of an insured financial institution to be placed under the control of a court appointed trustee. This provision is similar to a part of my bill which also seizes assets held by S&L criminals.

I strongly agree with the other provisions of this bill. However, upon close review there are at least two improvements that I hope can be made during the course of the legislative process. In particular, like my bill, today's bill should authorize the FDIC to recoup bonuses already paid through so-called sweetheart deals but it doesn't. This is one of the most important aspects of my bill. My bill actually empowers the FDIC to recover money given out as a golden parachute to savings and loan managers who ruined their institution.

In addition, today's bill does not include a provision constraining S&L executives from taking advantage of RTC-controlled assets. Specifically, there should be a section which prohibits an officer, director or any other institution-affiliated party of an insured depository institution who caused a substantial loss to that institution, which is in conservatorship or receivership, from purchasing any asset from the FDIC or the RTC. This provision would eliminate the special unfair insider advantage an S&L official would have about their own failed savings and loan assets. I strongly believe this provision should be adopted during the conference on this bill. This provision is in the bill I introduced. I hope in conference the conferees will adopt my provision.

In closing, let me again express my strong support for the bill before us. I urge all Members of this body to support the bill.

Mr. WYLIE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise this afternoon in strong support of H.R. 5401, the Wylie-Fish Financial Crimes Prosecution and Recovery Act.

The United States has a savings and loan disaster on its hands and a rising chorus of outrage from John Q. Public is echoing through the corridors of Washington DC. And it's about time! The taxpayers have every right to be outraged and demand a full accounting!

Meanwhile, the reaction from Congress and the White House to these howls of anger has been a torrent of fingerpointing. The White House points to Congress and vice versa while each party tries to tag each other with responsibility. Ultimately, my colleagues, it will be the voters who decide who bears that political burden for this, the worst financial calamity in the world.

In the meantime, the public is correct in wondering, "When are the crooks going to jail?"

Good question. The American people deserve an honest answer and an accounting!

We have an obligation to ensure that individuals who looted the Nation's savings and loans are prosecuted quickly. When we passed the S&L reform bill last summer, we gave the Justice Department the tools to in-

vestigate and prosecute the high flyers and crooks who looted the thrifts.

The FBI and Federal prosecutors are currently investigating over 500 institutions that suffered huge financial losses. But that falls far short of the mark. Another 21,000 potential criminal cases against thrift executives have not even been opened by investigators. S&L crimes must take a higher priority with the Justice Department.

So today, we are giving the Justice Department additional tools and additional teeth to do the job that must be done.

The legislation before us today makes it a Federal crime to impede bank examiners or to conceal thrift assets from the Federal Government, increases bank fraud prison terms to 30 years, provides for restitution for victims of bank fraud, authorizes the Secret Service to assist the FBI in thrift crime investigations and places sharp restrictions on the so-called golden parachutes—payments to S&L executives as they voluntarily or involuntarily leave a thrift.

Just as important, this legislation will establish a bipartisan national commission to investigate the root causes of the S&L debacle. The work of such a commission will provide an important roadmap as policymakers and regulators across the spectrum strive to avoid the mistakes that brought us to this day.

Let's pass the Wylie-Fish Financial Prosecution and Recovery Act.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 5401, the Banking Law Enforcement Act.

I commend this bipartisan, dual committee effort aimed at bringing the S&L kingpins to justice, justice which I hope greets them in the form of iron bars, and barbed wire.

I urge my colleagues to support this measure as a statement that this Congress is as tough with criminals in the corporate board rooms as it is with criminals in the crack houses and back alleys.

I have pledged to my constituents that not one more dime will go to the S&L bailout unless, we as lawmakers, enact laws that will get the money back and put the crooks in prison.

It's time we caught the bankers who partied all night long, and tried to stick the taxpayers with the bill. They may have had their fun for a while, but this bill assures Americans that the thieves have a hangover coming due, and an aspirin can't make a Federal subpoena go away.

Let's stop stalling, dragging our feet or pointing fingers at who's to blame for the S&L mess. Americans are outraged—they want action and they want it now.

Support this bill. Let us give the Treasury, the FBI, and the rest of the Justice Department, the funding they need to drag the crooks out of the boardroom and into the courtroom.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, more bad news on the savings and loan front settled upon us during yesterday's testimony before the House Banking, Finance, and Urban Affairs Committee.

Resolution Trust Corporation [RTC] Chairman, William Seidman and Treasury Under Secretary, Robert Glauber, testified that the RTC could well need $100 billion to conduct its rescue operation in just the next fiscal year alone. We all agree such sums are astronomical.

The Government has a clear obligation to make good on its commitment to the depositors and taxpayers. The S&L crisis will be with us for some time to come. Consensus on dollars and tactics will not be quickly achieved. But, Mr. Speaker, we can this very day take a large positive step in an area neglected for a decade—vigilance.

Mr. Speaker, H.R. 5401 was introduced by my colleagues, CHALMERS WYLIE, JACK BROOKS, CHUCK SCHUMER, and myself, in a true spirit of bipartisan vigilance against the criminal activities of those who have or should ever be involved in cases of savings and loan fraud.

Mr. Speaker, H.R. 5401 had its genesis in legislation introduced by my colleague from Ohio, Mr. WYLIE, which was passed 42 to 0 by the Financial Institution Subcommittee of the House Banking Committee. H.R. 5401 combines the strongest features of this legislation and H.R. 5150 introduced by the minority leader, Mr. MICHEL, on behalf of the administration.

Mr. Speaker, there have been observations that the Justice Department has moved slowly in prosecuting savings and loan wrongdoing. I reject these views and commend the administration, specifically the Attorney General for taking decisive action in prosecuting cases of savings and loan fraud. While others have talked, he has acted. As early as 1987, well before the publicity surrounding this crisis reached the front page, this was a priority of this department. Since October 1988, major S&L prosecution by U.S. attorneys has yielded 202 indictments involving 329 defendants; 213 defendants have been convicted so far and sentenced to nearly 400 years of imprisonment, collectively. Restitution of almost $60 million has been ordered.

Mr. Speaker, the Congress now will become a full partner with the administration by finally providing our law enforcement officials with the resources they need and the public will be well served by bipartisan action. H.R. 5401 addresses problems facing the courts, prosecutors and regulators in dealing with the S&L crisis. It is designed not only to facilitate the repair of damage that already occurred by also to prevent a repetition.

I want to highlight one provision that is in H.R. 5401. It would empower the special counsel entrusted with investigating the savings and loans fraud to investigate any involvement of current or former Members of Congress, the Cabinet and high executive officials and their immediate families.

Mr. Speaker, this provision is crucial if we as a body are to ensure the confidence and respect of the American people. We must be as vigorous about wrongdoing on the past of those who have abused the public trust as we are about private sector criminal behavior. The American people demand no less of us than complete forthrightness.

H.R. 5401 is timely and necessary. Mr. Speaker, I urge the support of all my colleagues.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HOYER). The gentleman will state it.

Mr. GONZALEZ. Mr. Speaker, is it possible under the rules for the opposition to this legislation to have a closing argument?

The SPEAKER pro tempore. Under the rules, the proponent of the proposition has the right to close.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my distinguished fellow Texan, the chairman of the Committee on the Judiciary, stated that this was a bit of legislation that contained new and novel provisos. As far as I can tell, there is nothing new or novel that the Star Chambers of England had not already done as we are inviting to be done under this legislation.

Mr. Speaker, let me assure my colleagues by saying:

Let's not make any mistake about the extent of grant of power unprecedented. There is nobody set up before as a commission or committee extraneous to the Congress that has been given this wholesale grant of power to subpoena unrestrained without the precondition of going to a court to justify a subpoena.

Now let me say, Mr. Speaker, that is unprecedented. But it was not with the old Star Chamber from which our forefathers were making sure that they would flee from, and under no circumstances, even under the covenant of the Pilgrims in the Mayflower Compact, to construct such laws as would be equal and not detrimental to any of the liberties of any of the citizens.

Mr. Speaker, I want to sympathize, and I do, with the leadership. They have a problem. They got great pressure from the minority saying, "Hey, look, we're going to make an issue to show you that you guys don't want to

do what it's going to take to get the crooks," and then the minority, hard-pressed as they are by opposition in this election year back home, is equally under pressure to say, "Oh, no, but we, too, are very zealously anxious to prove that we want to get those crooks in jail."

Mr. Speaker, I think that, without trying to sound as if this is condemnatory of these political year fears, there is no excuse for us under these circumstances, under pressure, under abortive parliamentary procedures, allowing, as my colleague from Pennsylvania has just stated, no chance to offer debate of any meaningful quality; that is, through amendment, through improvement, through modification.

Mr. Speaker, this is just simply not the time. If ever there has been a time, even during the time of such great upheaval as the Civil War when the President was very much subjected by the court to his power on suspending the writ of habeas corpus, and here what we are doing is in effect conveying unprecedented constitutional and unconstitutional powers to a yet-to-be-defined commission.

I am saying that in the end the result will be that the American people will be obviously witnessing the fact that it is folderol, that it is not going to connect up with putting the crooks in jail. The processes, as anybody should know on the Committee on the Judiciary particularly, of enforcing the while collar crime statutes is a long, arduous, difficult, and time-consuming process. I think we ought to know that.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, the gentleman from Illinois [Mr. ANNUNZIO] whose subcommittee, on which the gentleman from Pennsylvania sits, passed many of the provisions of this bill out, by a vote of 45 to nothing.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I join my good friend, the gentleman from Illinois [Mr. ANNUNZIO], in support of H.R. 5401.

The savings and loan mess is a story of stupidity, greed and crime. It includes bizarre abuses—bankers making high-interest loans for Arabian horse stables and windmill farms, S&L executives looting their own thrifts to pay for yachts, wild parties and gourmet tours of Europe—and inexcusable regulatory failures on the part of both Congress and the administration.

But the root of the problem is the dishonesty and corruption of the southwestern savings and loan organizations. Last year, after a study of 26 failed thrifts, the GAO concluded that:

Indications of "fraud and insider abuse", as defined by the Bank Board, were evident at all the failed thrifts. A majority of the allegations of criminal misconduct at both the failed and solvent thrifts involved officers and directors.

The fact is, the criminal aspect of the S&L scandal is not a sidelight—it is the heart of the problem, and punishing the criminals is part of making sure that we won't face another one in the future. These savings and loan barons have done incalculable damage to our country's financial health and our children's future. We are still just beginning to find out how much their crimes will cost us, and this bill gives us the legal tools we need to give them the punishment they deserve.

It mandates a sentence of 10 years to life in prison or a fine of up to $10 million for individuals considered kingpins, who are guilty of the most damaging crimes. It further increases the maximum term for lesser crimes from 20 to 30 years, and increases the statute of limitations for S&L crimes from to 10 years. It gives the Attorney General greater power to stop S&L crooks from selling off property gained through violations of banking laws, and establishes a special financial institutions fraud unit within the Justice Department to speed up investigation and prosecution.

These are all good measures, and they are all important. But our goal must be to make sure they are used well, and above all to ensure that nothing like the S&L mess ever happens again.

My constituents and I come from a region which bears no responsibility for the crisis. And we've been asked to pay for the crimes of swindlers from Southwestern States with lax charters and appallingly bad oversight. We know the depositors have a right to get their money back. But we've also got a right to be sure that we will never be asked to do this again. And we have got a right to know that the crooks who did so much damage to our country and our future wil get just what they deserve.

This bill is a good start and I support it. But it is just a start, and without effective implementation and oversight it would not bring the crooks to justice. I urge support for it, and I urge my colleagues to stick to the task until it's done.

Mr. RINALDO. Mr. Speaker, will the gentleman yield to me for the same purpose?

Mr. ANNUNZIO. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I join with the gentleman from Illinois [Mr. ANNUNZIO].

Mr. Speaker, I am delighted to see this House take strong action against the crooks and swindlers who caused the savings and loan bailout.

H.R. 5401, the Financial Crimes Prosecution and Recovery Act, not only strengthens the penalties for financial fraud and theft, but prevents those who have committed these crimes from hiding behind the Bankruptcy Code to keep the money that they have stolen.

The thrift collapse is the largest systematic theft in our Nation's history. It makes the famous Teapot Dome scandal of the 1920's and the Credit Mobilier scandal of the 1870's look like the activities of mischievous schoolboys.

Those who took money from thrifts stole from all of us. The only difference between their actions and those of burglars is that the thrift crooks were more efficient. Instead of visiting each and every family in the Nation and stealing $2,000 per person, they simply looted the places where our families kept their savings.

When I was growing up, a banker was regarded with awe. He held a position of trust and authority, and was expected to take his responsibilities seriously. Almost every banker that I have ever met meets this description.

However, the thrift failure presents a different picture. We have seen executives who throw around $100 bills like confetti. We have seen those who have several multimillion-dollar vacation homes, incredibly expensive art, and who indulge in what I can only call orgies of consumption.

It would only be distasteful if these people did these things with their own money. However, they used the publicly insured savings of those who trusted them. Their savings were guaranteed by the Federal Government, and now it is up to us to make good the loss.

Our children and grandchildren will be paying for this theft and fraud for years to come. In addition to paying for the losses, we in this Congress have an additional task: to make sure that this never can happen again.

Severely punishing the guilty is one way to prevent future frauds. If an executive sitting in a plush corner office realizes that he will be treated just like the drug addict that robs a liquor store, he may have second thoughts.

Under this bill, the drug addict and the thrift executive may find themselves sharing a prison cell for up to 30 years. H.R. 5401 makes it very clear that this Congress will not be lenient to the white collar criminal.

Mr. Speaker, my constituents know that they and their children and their grandchildren are the victims of theft. They want the thieves punished regardless of whether they are thrift executives, thrift customers, or public officials. I strongly agree that the guilty must be punished and stripped of the money that they stole.

I congratulate my colleagues on the Banking and Judiciary Committees for their rapid and firm action on this legislation. I am proud to support it, and urge everyone to vote for it.

Mr. ANNUNZIO. Mr. Speaker, I rise in strong support of this legislation. It is time to put the savings and loan crooks in jail and take away their ill-gotten loot. This bill is a big step in the right direction.

The American people have been victimized by the biggest robbery in history. These criminals were armed not with loaded guns or sharp knives, but with loaded portfolios and sharp pencils. The S&L crooks have stolen hundreds of billions of dollars, and are brazen enough to think that they can get away with it.

Unfortunately, the administration has been slow to go after these white-collar crooks, who often appeared to be respectable and often prominent members of their communities. Even with much prodding from Congress, the Justice Department seems reluctant to commit itself to the kind of effort that is required.

A month ago the Financial Institutions Subcommittee, which I chair, held hearings on the pace of the prosecutions and then marked up H.R. 5050, the Financial Crimes Prosecution and Enforcement Act of 1990. That legislation, of which I was an original cosponsor, contained many of the provisions that are in the bill on the floor today.

There are two things that the American people want to see when it comes to the crooks that looted the failed savings and loans.

First, the American people want to see the crooks in jail for their crimes.

For the past several months I have been trying to find out the kinds of sentences that the S&L crooks have been receiving. I am deeply distressed at the lightness of some of the sentences. I have discovered cases in which crooks have received no jail time at all, but have been sentenced to "financial counseling."

These crooks do not need courses in financial counseling, they need courses in license plate making.

The bill before us increases the maximum prison terms for various financial institution related crimes. It also increases the recommended terms under the sentencing guidelines. This should help the crooks perfect their license plate making skills.

The American people also want to see the money the S&L crooks stole taken away from the crooks. Every cent recovered from the crooks is one less cent that the American people will have to pay as part of the savings and loan bailout.

This bill contains many of the provisions in H.R. 5050 aimed at preventing the crooks from evading making restitution. No longer will the crooks be able to use the Bankruptcy Code to evade court-ordered restitution to the victims of their crimes, or discharge debts for breaches of their fiduciary duties in bankruptcy.

The bill incorporates another important remedy that was contained in H.R. 5050: prejudgment attachment of the crooks' assets. Many of the wrongdoers transfer and hide their assets when they think that the Federal Government is closing in. The bill will allow the Government to have the assets seized by the court pending the outcome of the trial for damages.

No crooks can be investigated or prosecuted, and no assets can be recovered, unless the Justice Department has the resources that it needs. Regrettably, the Justice Department continues to act as if there is little need for additional resources, and asked for only an additional $25 million for enforcement activities.

Like the Financial Institutions Subcommittee, the Judiciary Committee recognized just how unrealistic the Justice Department request is. Like H.R. 5050, this bill authorizes the resources that are necessary to go after the S&L crooks, and makes sure it gets to the FBI and U.S. attorneys who desperately need it to investigate and prosecute these complicated cases.

Mr. Speaker, I urge the House to pass this bill so that we can put the S&L crooks in jail.

□ 1430

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Speaker, I rise today in strong support of H.R. 5401, and I want to particularly commend the ranking member of the Banking Committee, the gentleman from Ohio [Mr. WYLIE] for his tireless work on this legislation.

My constituents, just like folks all over the country, are disgusted by the S&L debacle and the moneys that the taxpayer is being forced to protect insured depositors. They are demanding that the ones who were a major cause of this problem, the S&L crooks, be dealt with swiftly and severely. H.R. 5401 gives the prosecutors and regulars badly needed additional tools to bring these criminals to justice.

The bill before us today is highly similar to H.R. 5050, legislation I sponsored earlier this year that was reported by the Banking Committee's Financial Institution's Subcommittee by a vote of 42 to 0, and then largely adopted by the Judiciary Committee. It includes a new crime for the concealment of assets from the FDIC or the RTC; increased restitution authority for the Government; the Taxpayer Recovery Act of 1990 that prevents miscreants from using the Bankruptcy Code or State homestead exemptions to shield their assets.

Mr. Speaker, I urge my colleagues to support and vote for this bill.

Mr. GONZALES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out to my colleagues on the majority side that the Democratic Study Group put it all here. It says that the bill was originally reported by the Judiciary Committee as part of the omnibus anticrime bill, but it became clear that the larger measure would not be ready for floor consideration before the August recess. In order to ensure prompt action, the S&L and Bank Crimes Commission were removed for separate consideration this week, as I said at the outset, without referral back to the committee of jurisdiction, which is the Banking Committee.

Now, this is violative, I say to my fellow majority members, of the caucus rules, but I did not want to dwell on that issue and provoke a fratricidal argument on our side.

"Sufficient unto the day is the evil thereof," and the evil contained in this hastily concocted proviso, because even though this is depicted as something that came out of the anticrime omnibus bill, not all of it, a lot of it was a last-minute, no-hearings matter. There were no witnesses and no testimony before the Judiciary Committee on this bill.

So I am reminding my colleagues by way of conclusion that you are the masters of your decisions and your soul and your conscience.

What I am saying, and this I direct to my fellow Democrats, that in your haste, you are trespassing upon the proper jurisdiction of one of the prime fundamental committees, the Banking Committee; and you are violating your own rules that the August caucus of the Democratic majority itself has propounded and set up and has offered us for guidance, only to be violated flagrantly on this particular occasion.

Mr. SCHUMER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARNARD], a man who has trailblazed in this area since 1984. His subcommittee of the Committee on Government Operations has been exposing and proposing legislation on this matter.

Mr. BARNARD. Mr. Speaker, I want to commend the Judiciary Committee and the ranking Republican on the Banking Committee, Mr. WYLIE, and also Mr. HILER, for their efforts in quickly bringing this legislation to the floor.

With the exception of two important omissions in the bill, I fully support the legislation. The legislation does address a number of the problems which have surfaced during my Government Operations Subcommittee's continuing oversight of fraud, abuse, and misconduct in financial institutions. That oversight began in 1983 with numerous hearings and reports, continuing to the present, with hearings early this year. I am especially pleased that this bill increases the funding for the FBI by $75 million, so that it could devote much-needed resources to thousands of inactive cases and 20,000 inactive criminal referrals. The administration's proposal last month of only an additional $9 million for the Department of Justice was so low and unreasonable that it was ridiculous, an amount apparently picked randomly without any thought as to FBI needs. More recently, the Justice Department has indicated that it could indeed use these additional

funds, and we are now authorizing them.

This bill does not contain two provisions which were in the Banking Committee's version, H.R. 5050, which are very important. First, section 302 of H.R. 5050 would have authorized the FDIC and the RTC to obtain relevant tax return information, subject to IRS approval, for the propose of attempting to recover funds from officers, directors, and others, in these agencies' capacity as receivers of banks and S&L's. This omission means that less funds will probably be recovered, and that is troubling. Second, the bill does not contain section 206 of H.R. 5050, which would have enabled the FBI to issue administrative subpoenas to obtain financial institution and other records, subject to strict oversight and judicial controls. The FBI has subpoena authority in drug cases, and almost every Federal agency possesses such general authority. This lack of FBI authority will slow down the FBI and tie up more of their resources.

Because of this inability to obtain documents, the FBI will have to rely on U.S. attorneys' offices to find a free prosecutor to initiate a grand jury investigation to obtain such documents and travel to their offices each time the FBI needs a grand jury subpoena for documents. This creates obstacles and wastes precious investigative time. Consequently, the FBI will end up on working fewer cases. It is troubling that the Justice Department has not come out on the right side of this turf war between some U.S. attorneys and the FBI.

This bill is a continuing evolution of the Congress' efforts and my own efforts to give the banking agencies the powers that they need. In 1984, my Government Operations Subcommittee issued a lengthy report on insider abuse and misconduct and recommended increased banking agency civil enforcement powers, including the ability to kick an insider out of an institution and keep them out of the industry. In 1986, I introduced H.R. 4956, to confer on the banking agencies these additional powers. In early 1988, Mr. WYLIE and I introduced H.R. 3929, which was considered and passed by the House Banking Committee. And in 1989, Mr. GONZALEZ, Mr. WYLIE, Mr. HILER, and I introduced H.R. 32, which became title IX of FIRREA, "enhanced criminal and civil enforcement provisions."

In addition, I was the primary sponsor of title XI of FIRREA, the real estate appraisal reform amendments. These provisions require State licensing of those appraisers providing appraisals of property securing loans by federally insured financial institutions. This legislation was based on numerous hearings held by my subcommittee, beginning in late 1985. In almost every one of these real estate deals, which brought down many if not most of these thrifts, an overinflated or fraudulent appraisal was a crucial element.

Today we are filling in the gaps in the FDIC's and RTC's ability to recover funds and in the Justice Department's inadequate resources and criminal enforcement. I hope this legislation will send a message to the administration, the RTC, FDIC, and especially the Justice Department: We want action soon, and we in the Congress are prepared to do what is necessary to provide the necessary legislative authority and funds for those efforts.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time, and for this great leadership on this bill.

Mr. Speaker, the S&L story is the story of the biggiest bank heist in history. Influence peddling financiopaths have taught the world that you do not have to break into Fort Knox to steal the Government's gold. They have also taught the world that the easiest way to steal from the taxpayer is to own a federally insured financial institution.

This bill, as the gentleman from Texas has pointed out, may be a bit overzealous, but the reason for the unprecedented effort is that failure to move against white-collar criminals risks loss of confidence not only in our financial community, but also in government itself. Whether a bank is robbed from within or from without, justice must be pursued.

As a step toward holding white-collar criminals accountable for their actions, this bill should be passed.

Mr. SCHUMER. Mr. Speaker, I yield one-half minute to the distinguished gentleman from Delaware [Mr. CARPER], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. CARPER. Mr. Speaker, I am sensitive to the concerns raised by the gentleman from Texas [Mr. GONZALEZ] and others.

Do we need a special counsel? No, not if the Justice Department and not if the Ethics Committees do their job.

Do we need an independent commission to figure out how we got into this mess? No, I think we know how we got into this mess: too little supervision, underpayment of FSLIC premiums by S&L's, inadequate capital standards, and raising the deposit insurance cap from $40,000 to $100,000 a decade ago, thus increasing the exposure to the FSLIC.

Having said that, there is much in this bill to commend it. With its enactment, those persons who plundered S&L's will find it tougher to hide their assets from authorities in the future. Those persons will find it more difficult to use bankruptcy courts to avoid paying restitution, and those persons will find it tougher to avoid justice, because we extend the statute of limitations with this bill.

Is this bill perfect? No. Would I like to amend some of its more troublesome provisions? Yes, but that is not an option today. On balance, however, this measure deserves our support, and I encourage my colleagues to join me in voting for it.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in strong support of this legislation H.R. 5401—even though it has had a rather torturous beginning.

If there is one consistent thread that runs through the public comments about the S&L situation it is that Americans understandably and justifiably want the crooks put in jail who are responsible for creating this situation.

This is comprehensive legislation that will accomplish that purpose.

On June 22, 1988, I introduced H.R. 4894, a bill to establish a Presidential Commission to be known as the National Thrift Institution Commission to investigate and review the S&L crisis and to make recommendations for its resolution.

An almost identical bill was subsequently passed by this House but it died in the other body at the end of the legislative session.

Now this bill establishes a National Commission on Financial Institution Reform, Recovery, and Enforcement. The bill authorizes $1 million for the Commission, whose uncompensated members are to be appointed by the President and Congress to:

Investigate the causes of the S&L crisis and crime and abuse in the financial services industry;

Recommend procedures for disposing of RTC assets, regulating the industry, financing industry resolutions, protecting the soundness of the industry, and investigating and prosecuting financial crimes; and

Recommend other administrative or legislative actions necessary to prevent financial crimes from occurring in the future.

The Commission is to submit its final report to the President and to the Congress within 1 year.

Even though it is unfortunate that we are more than 2 years late in doing so, it is an idea whose time has come and we should support this bill if for no other reason than that.

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Mr. SCHUMER. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN].

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in strong support of the savings and loan crime bill.

Mr. Speaker, despite the efforts of the Congress which increased penalties for S&L fraud and provided $75 million to the Justice Department for investigations, prosecutions, and civil action against S&L criminals, the administration has taken a rather casual attitude toward going after S&L executives who committed fraud. As a result, the American taxpayer has recovered little from S&L embezzlers who stole billions from the Treasury.

At the same time, we are told by William Seidman that the Resolution Trust Corporation [RTC] needs another $100 billion next year to continue the bailout.

If this is the case, it is time for the administration to aggressively go after S&L embezzlers. The bill we are considering here today goes a long way in providing the Justice Department with the means to prosecute S&L criminals. This legislation provides $153 million per year over 3 years for S&L investigations and prosecutions, it increases the maximum prison term for S&L fraud from 20 to 30 years, and establishes a special S&L fraud unit in the Justice Department.

The time is now for action. We need to put an end to the S&L crisis. But before we can put this financial debacle behind us, we need to put those who helped contribute to the crisis through criminal acts behind bars.

Mr. SCHUMER. Mr. Speaker, I yield one-half minute to the gentleman from Nebraska [Mr. HOAGLAND], a distinguished member of the Committee on Banking, Finance and Urban Affairs.

Mr. HOAGLAND. Mr. Speaker, many of us regret the jurisdictional dispute, but there are many good provisions, and it is important to move quickly on this legislation.

In Omaha 2 years ago, we had a credit union failure that lost nearly $42 million due to fraud.

We have already strengthened the statutes thanks to the help of the gentleman from Texas, but there is another provision in this bill that further strengthens the credit union statutes by giving the credit union regulators the same authority to crack down on credit union fraud that the bank and thrift regulator have to crack down on the thrift fraud.

I appreciate the chairman, the gentleman from Texas, and the gentleman from New York [Mr. SCHUMER] for adopting these amendments at my request, and I advocate this legislation.

The SPEAKER pro tempore. the gentleman from Ohio [Mr. WYLIE] has 2½ minutes remaining, and the gentleman from New York [Mr. SCHUMER] has three-fourths of a minute remaining.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I want to praise the gentleman from Ohio for his trailblazing in this area, but I also want to point out that if it was not for the gentleman from Vermont [Mr. SMITH], this day would not have happened. It was the gentleman from Vermont [Mr. SMITH] who introduced H.R. 407 that now has 225 cosponsors calling for a special prosecutor to investigate everyone's involvement in this S&L mess.

This bill, at least includes a special counsel, a special counsel that through my efforts in the Committee on the Judiciary now includes the investigatory power to look at present and former Members of Congress, very often seen as the cause of this whole mess.

The bill also contains two new crimes, one that would go after assets that have been squirreled away abroad, and a second crime for anyone that would impede any of the Federal regulators in their work. That is one of the things that makes this bill so important, the new crimes, the special counsel, the Presidential Commission, and I praise, again, the gentleman from Vermond [Mr. SMITH] who forced this issue to the floor of the House.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. WYLIE] has 1½ minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SMITH].

Mr. SMITH of Vermont. Mr. Speaker, much has been said about this bill, and much about this bill is good.

I would like to address the issue of the special counsel specifically, but to say to those who say that there are parts of this bill that are unprecedented, I say back to them that the nature of this problem, the scope of this scandal, the penalty to the American public, and the challenge to our public confidence is unprecedented in our history also, and that kind of a problem demands an unprecedented response.

Over 2 months ago I rose in the beginning and spoke in the well of this House, and at that point it was a lonely struggle trying to bring a special prosecutor or a special look to the role that elected and appointed officials played in the development of this scandal. That today is a majority position of the House. Two principles, two principles that we tried to build in that are in this bill in the special counsel provision, first, that it be bipartisan. The American people do not care whether the S&L crooks have a Republican or a Democratic face on them. They care that they be sent to jail and that this House deal with its problems; second, that the Congress be included. Both provisions are there. It is a proud, if difficult, day for this body.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. WYLIE] has one-half minute remaining.

Mr. WYLIE. Mr. Speaker, I yield myself 30 seconds, the remainder of my time.

Mr. Speaker, there is one new crime provided for in this bill, and that would make it a Federal crime to conceal assets from the FDIC and the RTC. Both of these agencies would like this.

If somebody knowingly has money squirreled away in secret Swiss bank accounts or offshore banks, they have to come forward with that knowledge. It will help us get back some of these ill-gotten gains.

Each day we wait, Mr. Speaker, these crooks have more opportunity to use fraudulent conveyances to hide stolen funds, to declare bankruptcy, to shield their assets from criminal proceedings, and even to wire funds out of the country.

I think it is essential to pass this bill today.

The SPEAKER pro tempore. The gentleman from New York [Mr. SCHUMER] has three-fourths of a minute remaining.

Mr. SCHUMER. Mr. Speaker, I yield one-half minute to the gentlewoman from New York [Ms. SLAUGHTER], a distinguished member of the Committee on Rules.

Ms. SLAUGHTER of New York. Mr. Speaker, when the S&L industry was deregulated, it was issued a blank check. It guaranteed individual deposits while removing the watchdog to make sure the money was invested safely.

Instead of financing home purchases, S&L deposits went into high risk investments—corporate takeovers, junk bonds, half-built shopping malls, grandiose condominium projects—in which the principal investors put up little of their own money.

The question we ask today is how can we best prosecute the criminals most responsible for this calamity.

This legislation is a step in the right direction. It strengthens criminal penalties, stops thrift operators from avoiding restitution, and prevents them from receiving golden parachutes. Mr. Speaker, the American taxpayer deserves to know that the criminals who have ripped them off will be brought to justice.

Mr. SCHUMER. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, this bill has had extensive hearings. Its forebear, 5050, was voted on 42 to 0 by the Financial Institutions Subcommittee of the Committee on Banking, Finance and Urban Affairs without amendment, and furthermore, then, we went to the Committee on the Judiciary and had the judiciary parts of the bill added on.

It is a strong bill. It is a tough bill. We ought to get to work and pass it now.

Mr. MICHEL. Mr. Speaker, if this bill does not represent the best of all possible legislative worlds, it is at least a good start: a timely Republican initiative joined to effective Democratic sponsorship.

My Republican colleagues, especially CHALMERS WYLIE and HAMILTON FISH, deserve praise for providing the ideas at the heart of the bill.

Chairman HENRY GONZALEZ played an important role in this legislation.

And, of course, the gentleman from New York [Mr. SCHUMER] provided its current form.

Like all good legislation, this bill didn't just happen overnight.

Its start came with Mr. WYLIE's introduction of H.R. 5050 on June 14, 1990, and, if I may say so, with my introduction of H.R. 5150 on June 25.

Through Mr. GONZALEZ' cooperation and the alchemy of the legislative process, our ideas became the foundation of Mr. SCHUMER'S amendment to the omnibus crime bill, H.R. 5353.

Since I have spoken on this subject in the past, I will limit myself today to one point:

The temptation to make the savings and loan crisis a partisan issue is overwhelming. Some of our Members unfortunately have already succumbed to the temptation.

This bill shows that we can cooperate on the savings and loan issue.

Such cooperation shows we can join hands instead of raising fists, so that justice will be done in the savings and loan scandals.

This bill says we seek justice for its own sake, and not out of partisan considerations.

Will such a mood prevail? Experience suggests it will not, as the long, hot political summer dwindles toward autumn and the elections.

But we must not give in to cynicism. I hope that what we have done here is a model for the future.

In any event, what we have done is timely, effective, and worthwhile and it deserves bipartisan support.

Mr. FAZIO. Mr. Speaker, in August 1989, President Bush declared that it would cost American taxpayers $166 billion to pay for the savings and loan industry bailout. By May 1990, the Bush administration admitted the bailout will cost over $300 billion—double the amount predicted less than a year ago. The estimates as of today by the General Accounting Office suggest that the bailout will cost between $325 billion and $500 billion.

The administration's foot dragging on the S&L cleanup smacks of the same kind of costly mistakes made by the Reagan administration. The result has been a tripling in taxpayer cleanup costs in under a year.

Today, the foot dragging and indifference on the S&L cleanup stops. H.R. 5401, the Banking Law Enforcement Act, puts teeth into laws governing the conduct of bank and savings and loan managers.

With the fiscal crisis our country faces, we can ill afford to let S&L investigations and prosecutions fall by the wayside. American taxpayers are already footing the bill for the fraud, mismanagement, and excesses of the S&L industry. We owe it to them to ensure that S&L crooks are prosecuted and that we recoup as many taxpayer dollars as possible.

H.R. 5401 allows, for the first time, the establishment of an independent commission to step outside the political debate to study the causes of this crisis and make recommendations to help ensure that this situation doesn't happen again. This bill stands up for working Americans and calls for some responsibility for the acts of an unsupervised, out-of-control savings and loan industry.

No matter who is to blame for how we got into this mess, there is no question that it is the President who must lead the Nation out of this crisis. With passage of this bill today, Congress will give him a leg-up. It's now up to the President to enforce it.

The bill strengthens criminal penalties for crimes involving savings and loan institutions and banks; authorizes additional funds for investigations and prosecutions of crimes involving financial institutions; permits the government to recover assets acquired through bank fraud and abuse; requires a special counsel to pursue financial institution crime; and, establishes a commission to study the causes for the S&L crisis and make recommendations for the future regulation of the banking and savings and loan industries.

Mr. Speaker, H.R. 5401 represents the beginning of our efforts to restore consumer trust and confidence in our Government and in our Nation's financial institutions. This legislation is about fairness and equity. Its message is simple—you can't ripoff America and get away with it. By passing the Banking Law Enforcement Act, Congress will clearly come down on the side of the American taxpayer. I strongly urge my colleagues to support this important legislation.

Ms. SLAUGHTER of New York. Mr. Speaker, every week, it seems, the costs of the savings and loan scandal goes up. When the President took office 19 months ago, most of us thought we were dealing with a $40 billion problem. Today we know better. Now, experts agree, this unmitigated financial disaster is expected to cost taxpayers up to $500 billion over the next 30 years. In the next 12 months alone we can anticipate spending $100 billion cleaning up this mess. Not only are our children going to have pay for this debacle, but their children as well will feel the impact in reduced services or higher taxes or both.

In hindsight it's easy to explain what happened. In the early 1980's, when Congress deregulated the savings and loan industry, it issued a blank check to the thrift industry by guaranteeing individual deposits while removing the watchdog to make sure the money was invested properly.

Instead of financing home purchases, the money went into high-risk investments—corporate takeovers, junk bonds, half-built shopping malls, grandiose condominium projects—in which the principal investors put up little of their own money. When the projects went bust, they just walked away, leaving the American taxpayer to pick up the tab.

The real tragedy is the extent to which fraud, perpetrated by many of the S&L executives, contributed to the problem. It is estimated that fraud and criminal conduct were a significant factor in the failure of 40 percent of the approximately 450 insolvent thrifts currently under the control of the Resolution Trust Corporation. Some estimates put that figure as high as 50 and 60 percent.

Now the question we ask today is how can we best bring to justice the criminals most responsible for this man-made calamity that threatens to affect American lives just as surely as any earthquake or hurricane.

We would be kidding ourselves if we thought we could cover all the costs of the bailout through restitution or criminal fines. Of some 213 convictions over the last 2 years in association with $2.5 billion worth of thrift losses, the fines and the restitution has totaled roughly $58 million. However, the American taxpayers, who will be paying for this mess, demand to know if those who did plunder the loosely regulated S&L's are being brought to justice. Furthermore, the laws which are meant to deter such egregious activities must be strengthened to provide a real deterrent from future abuse.

The Department of Justice has been very slow in investigating the scandal. The S&L bailout legislation authorized $75 million annually for enforcement activity. Of that total, the Department last year asked for just a fraction of that funding to cover its activities for the next 3 years. By the Justice Department's own calculations, of the 425 new agents needed to begin work on some 2,300 fraud and embezzlement cases, the Attonrey General had deployed only 202 agents. This is less than half of what the FBI had requested. In Oklahoma City alone, the U.S. attorney there has a mere 5 lawyers available to supervise some 40 investigations. Congress can authorize and direct the executive branch to act, but it is up to the administration to carry out the orders.

Earlier this year I signed a letter with a significant number of my Colleagues urging President Bush to take advantage of the funds provided by Congress in the original bailout legislation. Recently, we appropriated more funding for the Department of Justice than was requested, and also provided badly needed manpower for the investigations. And today, we take one more step to strengthen the administration's hand in dealing with the S&L scandal.

The legislation under consideration today is important for a number of reasons. It will strengthen criminal penalties associated with financial institutions, and it authorizes additional funding for Justice Department activities. Furthermore, the legislation will also stop thrift operators from evading restitution to depositors by declaring bankruptcy, and will prevent S&L officials from receiving "golden parachutes". The bill will also create a national commission to look into the causes of the S&L crisis, and provide recommendations for the future.

Mr. Speaker, these are necessary steps forward, and a meaningful manner of addressing a very serious issue. We may not be able to change the past, but we can learn from it, and we can do our best to deal with its legacy. The policies of the last ten years have brought us scandals at the Department of Housing and Urban Development, on Wall Street, in Tehran and Managua, and, most pervasively in the savings and loan industry. For the sake of the American taxpayer, we

need to get to the bottom of the outrageous S&L scandal, and we need to move forward. This bill is a step in the right direction and I urge my colleagues to support this measure.

Mr. MILLER of Washington. Mr. Speaker, today, the House takes an important step in continuing the savings and loan cleanup campaign. I rise in support of H.R. 5401, the Banking Law Enforcement Act. The American taxpayer supports this bill's tough measures.

The bill strengthens criminal penalties for crimes involving savings and loans and banks. It authorizes additional funds for investigations and prosecutions of crimes involving financial institutions. And, most important, Mr. Speaker, the bill permits the Government to recover the assets acquired through bank fraud and abuse.

This savings and loan crime bill has a couple of provisions which will protect the interests of the taxpayer. First, the bill makes it a crime to conceal assets or property from Federal investigators. The bill also makes it a felony to obstruct a Federal bank examination.

Second, Mr. Speaker, the bill imposes a 10-year minimum prison sentence. It also permits fines up to $10 million, or twice the gain plus twice the harm, whichever is greater for any financial crime grossing more than $5 million in 2 years. One other key element is a commission to study the causes of the savings and loan crisis, make recommendations to improve the Government's response to the crisis and get back to Congress with recommendations within 1 year.

The bill, Mr. Speaker, is an important step to start a savings and loan cleanup. It will help put the crooks in jail. It will help recover some of the lost assets. It is not the final answer. My constituents are crying out for Congress to respond forcefully and to take additional steps now. I've cosponsored legislation to add additional prosecutors for S&L cases and legislation adding $162 million in funds for the overall cleanup. Finally, Mr. Speaker, currently Washington State could pay a larger percentage of the total cleanup costs than the percentage they contributed to the overall S&L burden. I've cosponsored legislation to provide for equitable distribution of the cleanup costs. The States with the largest S&L defaults should pay the most for the cleanup.

Congress must work vigorously to pursue an S&L cleanup and ensure this won't happen again. This bill is a step in that direction.

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in support of H.R. 5401, the Financial Crimes Prosecution and Recovery Act. This legislation gives prosecutors and bank regulators additional means to investigate and resolve cases of corruption associated with the savings and loan insolvency.

While the Congress last year approved legislation to reform the thrift regulatory system, including the prosecution of fraudulent activities associated with financial institutions, the course of investigations and recovery of assets has been unacceptably slow. Officials pursuing cases of financial fraud must be given adequate tools to conduct their investigations. As with the investigation of any crime, the most critical factor is time. The provisions of H.R. 5401 which make it illegal to conceal assets or impede the work of a bank examiner, taken together with the heightened role of the Federal Bureau of Investigation, are necessary steps to intensify the thrift recovery plan.

We cannot expect a full resolution of the savings and loan crisis if we fail to engage sufficient remedies. H.R. 5401 represents such a remedy, and I urge my colleagues to join me in supporting the measure.

Mr. KLECZKA. The administration told us yesterday an additional $100 billion must be found to restore S&L solvency.

The American taxpayers are annoyed with good reason over this latest bit of news. When financing costs are taken into account, the total cost to the Treasury will be staggering.

In the wake of the administration's unwelcome announcement, it is appropriate that the House is taking decisive action and voting on the S&L crime bill before us today, H.R. 5401.

Swift passage of this legislation will tell our constituents that Congress is serious about putting the S&L crooks who defrauded account holders, and gambled with the soundness of the Federal depository insurance system, behind bars where they belong.

In addition to authorizing necessary additional funds for Justice Department investigations and prosecutions of S&L fraud, this measure also creates a financial fraud unit at the department, to be headed by a special counsel. It would permit the Government to attempt to recover every penny obtained through S&L fraud, as well. It also requires interagency cooperation in handling these cases.

I am pleased that these provisions, which are similar to those introduced earlier as part of my bill on this matter—H.R. 5101—were adopted.

We owe the American people a vigorous effort to jail the S&L crooks. This bill would give the Justice Department the necessary resources to accomplish this. I urge my colleagues to support H.R. 5401.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise in strong support of H.R. 5401, the Banking Law Enforcement Act of 1990, and in particular, the provisions for the establishment of a financial institutions fraud unit within the Department of Justice.

Mr. Speaker, the savings and loan crisis is without question the biggest outrage to come out of the freewheeling and deregulated eighties. Although Congress has come under the fair amount of criticism recently for doing more finger-pointing than it has done fixing, I think this legislation is indicative of our commitment to going after the crooks responsible for this catastrophe, and I am pleased that we are finally getting down to the nuts and bolts business of straightening our this mass.

Having introduced a free-standing bill to create a Financial Institutions Crime Division within the Department of Justice, I strongly commend the committee for including a similar provision in H.R. 5401.

The establishment of a financial institutions fraud unit will go a long way toward ensuring that the perpetrators of this mess get the punishment they deserve. Consolidating our investigative efforts in the area of S&L abuse will allow Federal prosecutors to better coordinate their actions, and ensures the most effective use of our resources.

Given the almost daily revelations about new improprieties on the part of thrift managers, board members, and real estate speculators, and the tens of thousands of uninvestigated complaints collecting dust at the FBI, there is an undisputed need for a concerted and coordinated effort to bring these criminals to justice.

Mr. Speaker, taxpayers have already figured out that they are going to get socked with a $2,000 per person bill for the thrift crisis, whether or not the Justice Department ever decides to make the investigation of financial institutions fraud a priority.

I think we owe it to the taxpayers of this country to make sure that the persons who illegally profited from our losses are brought to justice, and this legislation seeks to ensure that the Administration does not shirk its Constitutional responsibility to the American taxpayer to go after these crooks.

In closing, I commend the Judiciary Committee for prioritizing this legislation and allowing us to address this issue in a timely manner, and I urge support for this important measure.

Mr. WEISS. Mr. Speaker, last August Congress appropriated $225 million to beef up its prosecution of S&L criminal activity. We promised to end what was then only a $100-billion mess. But the administration did not share our anxiety.

Despite its own admission of an epidemic of fraud, the administration moved sluggishly in pursuing allegations of fraud and criminal activity at the thrifts. That inaction was costly.

Since then, the cost of the savings and loan bailout has escalated to at least $500 billion. That figure could be higher depending on the interest rates. The number of bankrupt thrifts and thrifts near bankruptcy has grown. And the list of culprits is longer.

While we were funneling money through the front doors of the thrifts, the crooks were running out the back doors. Today, we can put a bigger net over the backdoor.

If Congress passes this bill today, we stiffen the penalties for financial crimes. We give more money for Justice Department investigations. We set up a special counsel for investigating allegations of financial crime, including cases involving elected officials and their family members.

The cost of the S&L bailout will be onerous on the taxpayer. Attorney General Richard Thornburgh estimated that 30 percent of the thrift failures were a result of criminal wrongdoing. To lessen the burden on the taxpayer, we should get the crooks and the money they stole.

I have a message for the administration. Don't coddle the S&L crooks. Use the money appropriated for investigations and prosecutions. And I hope we don't have to come back to do this again.

Mr. PRICE. Mr. Speaker, I rise today in strong support of H.R. 5401, the Banking Law Enforcement Act. In particular, I am pleased that a bill I introduced, H.R. 4268, the Depository Institution Golden Parachute Limitation Act of 1990, is the basis for provisions included in this package. I want to thank Mr. SCHUMER and his staff for their help in this matter.

The golden parachute provisions would prohibit an institution not meeting minimum cap-

ital requirements from entering into golden parachute contracts or making payments under such an agreement without the prior written approval of its primary Federal regulator, or the Federal Deposit Insurance Corporation [FDIC] in certain specified circumstances.

The golden parachute provision is important because there have been instances of abuse where the management of a troubled institution has bailed out with lucrative golden parachutes, and the insurance fund, and ultimately the taxpayer, have been left holding the bag. For instance, in the Continental Illinois case, it was discovered that before the institution failed, the chairman and other officers bailed out with $3.1 million in golden parachute payments. The FDIC eventually sued but was only able to recover a small fraction of the payments.

This amendment will make it possible for the FDIC to stop these payments for ever being made.

I am appalled by stories of this abuse. There is no way to justify, to hard-working people struggling to make mortgage payments, meet child care expenses, or save for their child's college education, exorbitant payments to executives of troubled or failing financial institutions. No one deserves such a windfall for failure, especially at the taxpayer's expense. I hope my colleagues will join me and the sponsors of this legislation in putting in place provisions to stop this disgusting and destructive greed.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong support of the Banking Law Enforcement Act—the S&L crime bill—which the House is considering today.

This legislation, which was originally included in the omnibus anticrime bill, now being considered in an expedited fashion, and I commend the House leadership for taking this action. This bill will strengthen criminal penalties for crimes involving S&L's and banks, authorizes additional funds for investigations and prosecutions for crimes involving financial institutions, permits the Government to recover assets acquired through fraud and abuse, requires a special counsel to pursue financial institution crime.

I am particularly pleased with the provisions for special counsel. This bill will establish a finanical institutions fraud unit in the Justice Department to be headed by a special counsel to be appointed by the President and confirmed by the Senate. This counsel will be charged with supervising and coordinating the investigation of crimes committed against the financial industry, including crimes committed by elected officials and high-level White House officials, as well as members of the immediate families of such officials.

The American public is rightly outraged as we pay the price for the "deregulation mania" of the 1980's. In many ways, the damage has aready been done largely as a result of a misguided regulatory philosophy, but it is all the more essential that we act as quickly as possible to push the Bush administration's prosecutors to get to work, and to provide whatever additional tools are needed to bring the S&L crooks to justice.

Support the Banking Law Enforcement Act.

Mr. MINETA. Mr. Speaker, I rise today in strong support of the Banking Law Enforcement Act.

The savings and loan scandal has taken on huge proportions. Just yesterday, William Seidman, Chairman of the Resolution Trust Corporation, reported that the savings and loan cleanup will require $100 billion during the next year. Total costs for the cleanup now are expected to exceed $500 billion by the end of the century.

Mr. Speaker, we are in this crisis today because the Reagan administration was guilty of active neglect of the savings and loan industry throughout the 1980's. Their general philosophy was that the Government should stay off the backs of business. It did, and we are now paying the price.

The Reagan administration slashed the budgets of the agencies responsible for investigating the institutions. As a result, there were not nearly enough cops on the beat to watch what was going on within the industry.

Now, the Bush administration is adding to that liability by failing to prosecute individuals responsible for savings and loan fraud. Meanwhile the problem continues to grow and grow.

Mr. Speaker, the savings and loan industry will survive in the end because it must. The S&L industry fulfills the vital role of providing a majority of Americans with home mortgages and other small loans.

This Banking Law Enforcement Act will help ensure that the individuals responsible for savings and loan fraud are brought to justice. Only then will we begin to provide renewed security to depositors.

Mr. DREIER of California. Mr. Speaker, I rise in strong support H.R. 5401, the Banking Law Enforcement Act. In testimony before Congress, the Justice Department and Federal banking regulators have consistently asked for added resources and authority to crack down on financial institutions crimes.

Today, there are over 7,000 pending FBI investigations involving bank fraud and embezzlement, and 530 insolvent institutions are currently under investigation. Last year, there were 791 major convictions, and that number will increase this year. Federal prosecutors have been steadily increasing the amount of resources devoted to investigating prosecuting bank and thrift fraud. However, given the magnitude of the problem, much more is needed.

H.R. 5401 will sharply increase penalties for bank and thrift fraud, and provides an additional $153 million for investigations and prosecutions. Furthermore, it creates a special counsel to coordinate investigations regarding thrift industry fraud—and Members of Congress will not, and should not, be excluded.

Mr. Speaker, the growing public outrage is justified given recent estimates of the cost of resolving the savings and loan crisis. I share their frustration over the slow pace of prosecutions relating to S&L fraud and abuse. Quick passage of H.R. 5401 will help to insure that those who are responsible for the savings and loan debacle are held fully accountable.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 5401, carefully crafted legislation designed to help stem the flow of taxpayer dollars necessary for the bailout of the savings and loan industry.

I would like to commend my House colleagues on the Banking and Judiciary Committees, and especially Mr. WYLIE, for shepherding this measure on its journey to the House floor.

As a cosponsor of numerous bills to address the savings and loan crisis, I am pleased that swift action is being taken to deal with this issue. With each passing day, the scope of this financial disaster appears to increase. By enacting comprehensive legislation now, we can limit the exposure of the Federal Treasury to further losses as a result of this bailout. In addition, by adopting tough penalties for the type of fraud and abuse that was exhibited by certain thrift executives, we may help avert similar problems from arising in the future.

The enhanced penalties established by this legislation, Mr. Speaker, are long overdue. White-collar criminals should be subjected to the same tough sentencing guidelines that other criminals currently face. In light of the tremendous amount of money that the American taxpayer will ultimately have to contribute to meet the obligations of failed savings and loans, I am sure that most people will applaud these penalties. I am also very pleased that some offenses will now carry felony status. Whether felony status will have a deterrent effect is yet to be seen; however, we cannot dismiss any possible measure that could prevent a repeat of this thrift crisis.

Mr. Speaker, H.R. 5401 also provides the U.S. Attorney General and the various regulatory agencies with new powers to prevent the dissipation of assets in financial institutions. As we have seen, some unscrupulous savings and loan officers have attempted to hide or convert to personal use assets gained through violation of our banking laws. If we are successful in adopting these changes, we may be able to close the loopholes that have been exploited by those fraudulent businessmen. Without a doubt, recapturing the lost assets of thrifts must continue to be a top priority.

This legislation also, quite appropriately, establishes a financial institution's fraud unit in the Justice Department under the leadership of a special counsel. It also establishes a national commission on financial institution reform, recovery and enforcement to investigate this crisis and make recommendations for a more efficient resolution of the matter. There may, in fact, be better ways for the Government to recover savings and loan assets that should be evaluated. While many of the past legislative and regulatory mistakes now appear obvious, we must make every effort to avoid the errors of the past.

Finally, Mr. Speaker, H.R. 5401 authorizes the additional funding necessary to facilitate the new investigations and prosecutions to be undertaken as a result of this bill. The Federal courts, the U.S. attorney's offices, the Federal Bureau of Investigation, and the Criminal, Civil, and Tax Divisions at the Justice Department will all benefit from the increased funding made available through this proposal. I regret that precious funds must be spent in this area; however, this authorization should be viewed as an investment that could pay rich dividends. A thorough investigation could unearth hidden assets which the Government could

seize. Furthermore, vigorous prosecution will see that those guilty in the savings and loan disaster are brought to justice.

I urge my colleagues to support the passage of this bill without further delay.

Mr. VENTO. Mr. Speaker, I rise in support of the Banking Law Enforcement Act. This proposal gives the administration the additional tools to investigate, prosecute, convict, and punish those who commit crimes within financial institutions.

Among the more important new provisions that this bill addresses are steps to protect the assets of financial institutions from wrongful disposition, including the authority to void fraudulent transactions.

Of particular interest to me is the step that the bill takes to stop golden parachutes contracts for directors of institutions that do not meet adequate capital requirements. I am concerned that even this provision does not go far enough. As chairman of the RTC Task Force, I held hearings earlier this year on executive salaries. Those hearings revealed that there are still on the payroll of failed thrifts, executives who contributed to the failure. Many of these executives are still receiving six figure salaries. While the FDIC/RTC claims that they are moving in a timely fashion to terminate these contracts, the facts are that an inordinant amount of time passes before terminations occur and in some cases those executives are still on the payroll. This is an abuse which should not be tolerated and, if necessary, should be addressed in this legislation. Congress and the administration must not tolerate an S&L culture which nurtures posh benefits and soft landings for such incompetent performance. We can ill afford such a double standard for individuals in our society especially when the S&L bailout exacts such a significant burden on the taxpayer—this phenomena adds insult to the injury of the S&L bailout.

Mr. Chairman, this is not a perfect measure, the opportunity of the Banking Committee to act on this bill would have resulted in a stronger bill. It is a step in the right direction. I am hopeful that improvements will continue in this measure as it progresses through the legislative process between the House and the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 5401, as amended.

The question was taken.

Mr. GONZALEZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 4, not voting 4, as follows:

[Roll No. 288]

YEAS—424

Ackerman	Aspin	Bates
Alexander	Atkins	Beilenson
Anderson	AuCoin	Bennett
Andrews	Baker	Bentley
Annunzio	Ballenger	Bereuter
Anthony	Barnard	Berman
Applegate	Bartlett	Bevill
Archer	Barton	Bilbray
Armey	Bateman	Bliley
Boehlert	Gallo	Luken, Thomas
Boggs	Gaydos	Lukens, Donald
Bonior	Gejdenson	Machtley
Borski	Gekas	Madigan
Bosco	Gephardt	Manton
Boucher	Geren	Markey
Boxer	Gibbons	Marlenee
Brennan	Gillmor	Martin (IL)
Brooks	Gilman	Martin (NY)
Broomfield	Gingrich	Martinez
Browder	Glickman	Matsui
Brown (CA)	Goodling	Mavroules
Brown (CO)	Gordon	Mazzoli
Bruce	Goss	McCandless
Bryant	Gradison	McCloskey
Buechner	Grandy	McCollum
Bunning	Grant	McCrery
Burton	Gray	McCurdy
Bustamante	Green	McDade
Byron	Guarini	McDermott
Callahan	Gunderson	McEwen
Campbell (CA)	Hall (OH)	McGrath
Campbell (CO)	Hall (TX)	McHugh
Cardin	Hamilton	McMillan (NC)
Carper	Hammerschmidt	McMillen (MD)
Carr	Hancock	McNulty
Chandler	Hansen	Meyers
Chapman	Harris	Mfume
Clarke	Hastert	Michel
Clay	Hatcher	Miller (CA)
Clement	Hawkins	Miller (OH)
Clinger	Hayes (IL)	Miller (WA)
Coble	Hayes (LA)	Mineta
Coleman (MO)	Hefley	Moakley
Coleman (TX)	Hefner	Molinari
Collins	Henry	Mollohan
Combest	Herger	Montgomery
Condit	Hertel	Moody
Conte	Hiler	Moorhead
Conyers	Hoagland	Morella
Cooper	Hochbrueckner	Morrison (CT)
Costello	Holloway	Morrison (WA)
Coughlin	Hopkins	Mrazek
Courter	Horton	Murphy
Cox	Houghton	Murtha
Coyne	Hoyer	Myers
Craig	Hubbard	Nagle
Crockett	Huckaby	Natcher
Dannemeyer	Hughes	Neal (MA)
Darden	Hunter	Neal (NC)
Davis	Hutto	Nielson
de la Garza	Hyde	Nowak
DeFazio	Inhofe	Oakar
DeLay	Ireland	Oberstar
Dellums	Jacobs	Obey
Derrick	James	Olin
DeWine	Jenkins	Ortiz
Dickinson	Johnson (CT)	Owens (NY)
Dicks	Johnson (SD)	Owens (UT)
Dingell	Johnston	Oxley
Dixon	Jones (GA)	Packard
Donnelly	Jones (NC)	Pallone
Dorgan (ND)	Jontz	Panetta
Dornan (CA)	Kaptur	Parker
Douglas	Kasich	Parris
Downey	Kastenmeier	Pashayan
Dreier	Kennedy	Patterson
Duncan	Kennelly	Paxon
Durbin	Kildee	Payne (NJ)
Dwyer	Kleczka	Payne (VA)
Dymally	Kolbe	Pease
Dyson	Kolter	Pelosi
Early	Kostmayer	Penny
Eckart	Kyl	Perkins
Edwards (CA)	LaFalce	Petri
Edwards (OK)	Lagomarsino	Pickett
Emerson	Lancaster	Pickle
Engel	Lantos	Porter
English	Laughlin	Poshard
Erdreich	Leach (IA)	Price
Espy	Leath (TX)	Pursell
Evans	Lehman (CA)	Quillen
Fascell	Lehman (FL)	Rahall
Fawell	Lent	Rangel
Fazio	Levin (MI)	Ravenel
Feighan	Levine (CA)	Ray
Fields	Lewis (CA)	Regula
Fish	Lewis (FL)	Rhodes
Flake	Lewis (GA)	Richardson
Flippo	Lightfoot	Ridge
Foglietta	Lipinski	Rinaldo
Ford (MI)	Livingston	Ritter
Frank	Lloyd	Roberts
Frenzel	Long	Robinson
Frost	Lowery (CA)	Roe
Gallegly	Lowey (NY)	Rogers
Rohrabacher	Slaughter (NY)	Thomas (WY)
Ros-Lehtinen	Slaughter (VA)	Torres
Rose	Smith (FL)	Torricelli
Rostenkowski	Smith (IA)	Towns
Roth	Smith (NE)	Traficant
Roukema	Smith (NJ)	Traxler
Rowland (CT)	Smith (TX)	Udall
Rowland (GA)	Smith (VT)	Unsoeld
Roybal	Smith, Denny (OR)	Upton
Russo	Smith, Robert (NH)	Valentine
Sabo	Smith, Robert (OR)	Vander Jagt
Saiki	Snowe	Vento
Sangmeister	Solarz	Visclosky
Sarpalius	Solomon	Volkmer
Savage	Spence	Vucanovich
Sawyer	Spratt	Walgren
Saxton	Staggers	Walker
Schaefer	Stallings	Walsh
Scheuer	Stangeland	Watkins
Schiff	Stark	Waxman
Schneider	Stearns	Weber
Schroeder	Stenholm	Weiss
Schuette	Stokes	Weldon
Schulze	Studds	Wheat
Schumer	Stump	Whittaker
Sensenbrenner	Sundquist	Whitten
Serrano	Swift	Wilson
Sharp	Synar	Wise
Shaw	Tallon	Wolf
Shays	Tanner	Wolpe
Shumway	Tauke	Wyden
Shuster	Tauzin	Wylie
Sikorski	Taylor	Yates
Sisisky	Thomas (CA)	Yatron
Skaggs	Thomas (GA)	Young (AK)
Skeen		Young (FL)
Skelton		
Slattery		

NAYS—4

Crane	Kanjorski
Gonzalez	Washington

NOT VOTING—4

Bilirakis	Nelson
Ford (TN)	Williams

□ 1502

Mr. GREEN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5401, the bill just passed.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from New York?

There was no objection.

REGARDING A MEMORIAL TO GEORGE MASON IN THE DISTRICT OF COLUMBIA

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1543) to authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. GILLMOR. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining his request.

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding. S. 1543 is identical to the bill H.R. 3687, which the House recently passed on the suspension calendar. S. 1543 authorizes the board of regents of Gunston Hall to establish a memorial in the District of Columbia or its environs. This memorial would be built at no cost to the Federal Government and would serve to better commemorate George Mason. It is anticipated that the memorial will be built on a flank of the southbound lanes of the 14th Street Bridge. That span, by a previous act of Congress, has been named the George Mason Memorial Bridge. S. 1543 has been previously passed by the Senate and the adoption of this motion will facilitate enactment of the legislation.

Mr. GILLMOR. Mr. Speaker, further reserving the right to object, I join with my colleague in support of this legislation.

I would like to make just two points. First, enactment involves no Federal funding; and second, it would commemorate the outstanding contributions of a great statesman, George Mason.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Board of Regents of Gunston Hall is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor George Mason.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the memorial.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title of the Senate bill was amended so as to read: "A bill to authorize the Colonial Dames at Gunston Hall to establish a memorial to George Mason in the District of Columbia."

A similar House bill (H.R. 3687) was laid on the table.

ROUTE 66 STUDY ACT OF 1989

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 963) to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

□ 1510

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Minnesota?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, and I will not object, I do so for the purpose of requesting the gentleman from Minnesota [Mr. VENTO] to explain the bill.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, just to explain, yesterday the House passed a similar measure, H.R. 3493. If this unanimous consent request is granted, I have a motion to strike all after the enacting clause in the Senate companion measure and to insert the text of the House-passed bill. This is the route 66 study measure that was considered and passed by the House yesterday as a House measure.

Mr. Speaker, I thank the gentleman for yielding.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Route 66 Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States Route 66, that great two thousand-mile highway from Chicago, Illinois, to Santa Monica, California, played a major role in the twentieth-century history of our Nation;

(2) Route 66, a product of a grassroots effort for better American roads and a prime example of the 1926 National Highway System program, served a similar historical function as many earlier "travel and commerce corridors", such as the Santa Fe Trail;

(3) Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life;

(4) Route 66 served as a funnel for the twentieth-century westward migration from the Dust Bowl of the Central States;

(5) Route 66 has been memorialized in books, songs, motion pictures; and television programs, and has become a cherished part of American popular culture;

(6) although the remnants of Route 66 are fast disappearing, many structures, features, and artifacts of Route 66 remain, including several segments of the highway that offer excellent insight into the experience of so many who traveled the highway; and

(7) in light of the growing interest by organized groups and State governments in the preservation of features associated with Route 66, the route's history, and its role in American popular culture, a comprehensive evaluation of preservation and tourism options should be undertaken.

SEC. 3. STUDY AND REPORT BY THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake a comprehensive study of United States Route 66. Such study shall include an evaluation of the significance of Route 66, options for preservation and use of remaining segments of Route 66, and options for preservation of features associated with the highway. Private sector initiatives are to be fully evaluated. The study shall include participation by representatives from each of the States traversed by Route 66 and representatives of associations interested in the preservation of Route 66 and its features.

(b) REPORT.—Not later than two years from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

MOTION OFFERED BY MR. VENTO

Mr. VENTO Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. VENTO. moves to strike all after the enacting clause of the Senate bill, S. 963, and to insert in lieu thereof the provisions of H.R. 3493, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3493) was laid on the table.

REFERRAL OF H.R. 3073 AND S. 1875, VIRGINIA SMITH DAM AND CALAMUS LAKE RECREATION AREA, TO COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. VENTO. Mr. Speaker, with the concurrence of the Committee on

Public Works and Transportation, I ask unanimous consent that the bill H.R. 3073, and the companion Senate bill (S. 1875), be re-referred to the Committee on Interior and Insular Affairs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

VIRGINIA SMITH DAM AND CALAMUS LAKE RECREATION AREA

Mr. VENTO. Mr. Speaker, I ask unanimous consent the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1875) to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Minnesota for an explanation of the bill.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman yielding to me on his reservation.

Mr. Speaker, this bill simply redesignates the Calamus Dam and Reservoir, which is operated by the Bureau of Reclamation as part of the North Loup division of the Missouri River Basin project as the Virginia Smith Dam and Calamus Lake Recreation Area, in honor of our colleague, the gentlewoman from Nebraska, who has served with distinction in this body for many years.

I know of no controversy with respect to this proposal, and I urge its approval.

Mr. Speaker, obviously I voice the support of the members of the committee who normally have this duty, the gentleman from Arizona [Mr. UDALL], the chairman of the full committee, and the gentleman from California [Mr. MILLER].

Mr. Speaker, I thank the gentleman for yielding.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I rise in great support of such a proposal. I have had the extreme pleasure of serving on the Committee on Appropriations with the gentlewoman from Nebraska [Mrs. SMITH] for some 14 years, I think. We have been, until recently, the only two women on the Committee on Appropriations. We served on the Subcommittee on Energy and Water Resources Development, and the gentlewoman has been a stellar member of that subcommittee. I cannot imagine anyone for whom a dam that would be protective of the interests, the lives of the people and of their environment should be named for than to have one named for VIRGINIA SMITH.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to thank the ranking member, and I want to thank the chairman of the subcommittee for so expeditiously moving this legislation. I want to thank my dear friend LINDY BOGGS. Mr. Speaker, we have been close friends now for more than 14 years.

And I do want to recognize my appreciation to the two Senators from Nebraska who initiated this legislation over in the Senate.

Mr. Speaker, this is an honor that I shall appreciate and enjoy all my life.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF DAM AND RESERVOIR.

The Calamus Dam and Reservoir in the North Loup division of the Missouri River basin project shall be known and redesignated as the "Virginia Smith Dam and Calamus Lake Recreation Area".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the dam and reservoir referred to in section 1 is deemed to be a reference to the "Virginia Smith Dam and Calamus Lake Recreation Area".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall be effective on January 3, 1991.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1875, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 435 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1180.

□ 1516

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1180) to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, with Mr. OBERSTAR, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, July 27, 1990, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 5157, is considered as an original bill for the purpose of amendment and each title is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—NATIONAL HOUSING TRUST DEMONSTRATION

Subtitle A—National Housing Trust Demonstration

Sec. 101. Short title.
Sec. 102. National Housing Trust.
Sec. 103. Assistance for first-time homebuyers.
Sec. 104. National Housing Trust Fund.
Sec. 105. Definitions.
Sec. 106. Regulations.
Sec. 107. Report.
Sec. 108. Authorization of appropriations.
Sec. 109. Transition.
Sec. 110. Termination.

Subtitle B—Other Homeownership Demonstration Programs

PART 1—HOMEOWNERSHIP MADE EASIER DEMONSTRATION

Sec. 121. Definitions.
Sec. 122. Matching contributions for homeownership downpayments.
Sec. 123. Use of matching contribution certificates.
Sec. 124. Redemption of matching contribution certificates.

Sec. 125. Administration of home savings certificate accounts.
Sec. 126. Repayment of funds received from matching contribution certificates.
Sec. 127. Sale of mortgages.
Sec. 128. Geographic distribution.
Sec. 129. Reports.
Sec. 130. Regulations.
Sec. 131. Commitments to provide matching contribution certificates and authorization of appropriations.
Sec. 132. Termination.
PART 2—SECOND MORTGAGES FOR FIRST-TIME HOMEBUYERS
Sec. 141. Grants to local governments and nonprofit organizations for second mortgage assistance for first-time homebuyers.
TITLE II—RENTAL HOUSING PRODUCTION
Sec. 201. Findings and purpose.
Sec. 202. Authority to provide repayable advances.
Sec. 203. Program requirements.
Sec. 204. Selection criteria.
Sec. 205. Rental Housing Production Fund.
Sec. 206. Nondiscrimination.
Sec. 207. Definitions.
Sec. 208. Regulations.
Sec. 209. Authorization of appropriations.
TITLE III—HOPE PROGRAMS
Sec. 301. Short title.
Subtitle A—HOPE for Public and Indian Housing Homeownership
Sec. 311. HOPE for public and Indian housing homeownership.
Sec. 312. Amendment to section 18 regarding demolition and disposition of public housing.
Sec. 313. Limitation on section 20 resident management financial assistance.
Sec. 314. Extension of section 21 homeownership program and provision of technical and other assistance.
Sec. 315. Implementation.
Sec. 316. Applicability to Indian public housing.
Subtitle B—HOPE for Homeownership of Multifamily Units
Sec. 321. Program authority.
Sec. 322. Planning grants.
Sec. 323. Implementation grants.
Sec. 324. Homeownership program requirements.
Sec. 325. Other program requirements.
Sec. 326. Definitions.
Sec. 327. Exemption.
Sec. 328. Limitation on selection criteria.
Sec. 329. Amendment to National Housing Act.
Sec. 330. Implementation.
Subtitle C—HOPE for Homeownership of Single Family Homes
Sec. 341. Program authority.
Sec. 342. Planning grants.
Sec. 343. Implementation grants.
Sec. 344. Homeownership program requirements.
Sec. 345. Other program requirements.
Sec. 346. Definitions.
Sec. 347. Limitation on selection criteria.
Sec. 348. Implementation.
Subtitle D—Other HOPE Programs
Sec. 351. HOPE for elderly independence.
Sec. 352. HOPE for vacant public housing units.
Sec. 353. HOPE for family self-sufficiency program.
Subtitle E—Housing Opportunity Zones
Sec. 361. Basic authority and purpose.
Sec. 362. Definitions.
Sec. 363. Housing opportunity zones.
Sec. 364. Selection of housing opportunity zones.
Sec. 365. Barrier removal plans.
Sec. 366. Term and revocation of housing opportunity zone designations and barrier removal plan approvals.
Sec. 367. Reports.
Sec. 368. Rental rehabilitation grant bonus.
Sec. 369. CDBG low- and moderate-income benefit in housing opportunity zones.
Sec. 370. Reuse of urban renewal land in housing opportunity zones.
Sec. 371. Urban homesteading preference.
Sec. 372. Single family mortgage insurance in housing opportunity zones.
Sec. 373. Applicability of other laws.
TITLE IV—COMMUNITY HOUSING PARTNERSHIP
Sec. 401. Short title.
Sec. 402. Findings and purpose.
Subtitle A—Housing Education and Organizational Support Grants for Community Based Housing Projects
Sec. 411. Program authority.
Sec. 412. Eligible activities.
Sec. 413. Authorization of appropriations.
Subtitle B—Community Housing Partnership Grants
Sec. 421. Program authority.
Sec. 422. Distribution and allocation of community housing partnership funds.
Sec. 423. Eligible activities.
Sec. 424. Eligible projects.
Sec. 425. Authorization of appropriations.
Subtitle C—General Provisions
Sec. 431. Definitions.
Sec. 432. Community and resident participation plan.
Sec. 433. Limitation on grant amounts.
Sec. 434. Nondisplacement.
Sec. 435. Regulations.
TITLE V—HOUSING ASSISTANCE
Subtitle A—Programs Under the United States Housing Act of 1937
Sec. 501. Lower income housing authorization.
Sec. 502. Definition of family, income, and adjusted income.
Sec. 503. Public housing eviction and termination procedures.
Sec. 504. Public housing agency reform.
Sec. 505. Public housing operating subsidies.
Sec. 506. Litigation by public housing agencies.
Sec. 507. Formula allocation of public and Indian housing modernization funding and other miscellaneous amendments.
Sec. 508. Income eligibility for public housing.
Sec. 509. Scattered-site public housing disposition proceeds.
Sec. 510. Public housing resident management.
Sec. 511. Eligibility of Indian mutual help housing for comprehensive improvement assistance.
Sec. 512. Public housing rent waiver for police officers.
Sec. 513. Public housing early childhood development grants.
Sec. 514. Indian public housing early childhood development demonstration program.
Sec. 515. Public housing drug elimination grants.
Sec. 516. Public housing youth sports programs.
Sec. 517. Public housing one-stop perinatal services demonstration.
Sec. 518. Exemption from public housing and section 8 tenant preferences.
Sec. 519. Public housing and section 8 assistance regarding foster care children.
Sec. 520. Section 8 certificates regarding foster care.
Sec. 521. Section 8 fair market rent calculation.
Sec. 522. Section 8 opt-outs.
Sec. 523. Expiring section 8 contracts.
Sec. 524. Section 8 assistance for PHA-owned units.
Sec. 525. Income eligibility for tenancy in section 8 new construction units.
Sec. 526. Settlement agreement regarding certain section 8 assistance.
Sec. 527. HUD study of section 8 utilization rates.
Sec. 528. Feasibility study regarding Indian tribe eligibility for voucher program.
Sec. 529. Rental rehabilitation grants.
Sec. 530. Exemption from housing development grant construction commencement requirements.
Sec. 531. Applicability.
Subtitle B—Other Housing Assistance Programs
Sec. 541. Housing for the elderly and handicapped.
Sec. 542. Use of Resolution Trust Corporation eligible properties for section 202 housing.
Sec. 543. Housing and services for the frail elderly.
Sec. 544. Service coordinators as eligible project cost in section 202 projects.
Sec. 545. Centralized applications for section 202 housing.
Sec. 546. Study regarding section 202 housing.
Sec. 547. Funding for congregate housing services program.
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The CHAIRMAN pro tempore. Are there amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—NATIONAL HOUSING TRUST DEMONSTRATION

Subtitle A—National Housing Trust Demonstration

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "National Housing Trust Act".

SEC. 102. NATIONAL HOUSING TRUST.

(a) ESTABLISHMENT.—There is established the National Housing Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Housing Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Housing Trust Fund.

SEC. 103. ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A).

(2) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed 115 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas). The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) CERTIFICATION.—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) PRINCIPAL RESIDENCE.—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) MAXIMUM INTEREST RATE.—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) RESPONSIBLE MORTGAGEE.—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) INSURED OR CONVENTIONAL MORTGAGE.—The mortgage—

(A) is insured under the National Housing Act; or

(B) is covered by private mortgage insurance and is for a principal amount that does not exceed 90 percent of the appraised value of the property.

(9) MINIMUM DOWNPAYMENT.—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding the mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) TERMS OF ASSISTANCE.—

(1) SECURITY.—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) REPAYMENT UPON SALE.—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) REPAYMENT UPON INCREASED INCOME.—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds 115 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) AVAILABLE ASSISTANCE.—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) ALLOCATION FORMULA.—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

SEC. 104. NATIONAL HOUSING TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the National Housing Trust Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 108 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 105. DEFINITIONS.

For purposes of this subtitle:

(1) BOARD OF DIRECTORS.—The term "Board of Directors" or "Board" means the Board of Directors of the National Housing Trust under section 102(b).

(2) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full time in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this subtitle; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FUND.—The term "Fund" means the National Housing Trust Fund established in section 104.

(4) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) TRUST.—The term "Trust" means the National Housing Trust established in section 102.

SEC. 106. REGULATIONS.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

SEC. 107. REPORT.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under sec-

tion 110, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $500,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 109.

SEC. 109. TRANSITION.

(a) AUTHORITY OF SECRETARY.—Upon the termination of the Trust as provided in section 110, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) APPLICABILITY OF TRUST PROVISIONS.—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) CERTIFICATION OF FUND TO TREASURY.—Upon a determination by the Secretary of Housing and Urban Development that the National Housing Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall cover into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

SEC. 110. TERMINATION.

The Trust shall terminate on September 30, 1993.

Subtitle B—Other Homeownership Demonstration Programs

PART 1—HOMEOWNERSHIP MADE EASIER DEMONSTRATION

SEC. 121. DEFINITIONS.

For purposes of this part—

(1) The term "buyer contribution" means the sum of the total amount of funds deposited by an eligible buyer in a HOME savings certificate account in any calendar year and any interest earned under section 125(b) during the year on such amount.

(2) The term "depository institution" means a financial institution in the business of accepting time deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(3) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this part; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4)(A) The term "eligible buyer" means a purchaser of a single-family residence—

(i) who has not, individually or jointly with 1 or more other persons, had any present ownership interest in a principal or secondary residence at any time during—

(I) the 3-year period ending on the date of the establishment of a HOME savings certificate account by the eligible buyer; and

(II) during the period beginning on the date of the establishment of such account and ending at the time of the use of amounts in the account for the purchase of a principal residence under this part; and

(ii) whose qualifying income did not exceed 120 percent of the State median gross income during the period beginning on the 1st day of the calendar year preceding the year in which the buyer established a certificate account and ending on the date the purchase by the buyer of a residence with assistance under this part.

(B) Such term may not be construed to exclude from consideration as a eligible buyer—

(i) any individual who is a displaced homemaker, on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(ii) any individual who is a single parent, on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(5) The terms "HOME savings certificate account" and "certificate account" mean a time deposit account established under this part with a depository institution by an eligible buyer, into which buyer contributions are deposited.

(6) The term "matching contribution certificate" means a nontransferable certificate issued by the Secretary of Housing and Urban Development under this part that represents, for any year, the total amount of the funds to be made available to an eligible buyer by the Secretary for purchase of a residence under this part.

(7) The term "qualifying income" means the annual family income of an eligible buyer, with adjustments for family size, and areas of high or low housing costs (in relation to the median income for the area).

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(10) The term "State median gross income" means the annual median gross income, as determined by the Secretary, for the State in which an eligible buyer resides, with adjustments for family size, and States with high or low housing costs (in relation to the median gross income in the State).

SEC. 122. MATCHING CONTRIBUTIONS FOR HOMEOWNERSHIP DOWNPAYMENTS.

(a) AUTHORITY.—To provide funds to eligible buyers for use in connection with the purchase of principal residences, the Secretary may issue matching contribution certificates under this part to eligible buyers that have established a HOME savings certificate account and, subject to subsection (e) and amounts provided in appropriations Acts, may make commitments to issue matching contribution certificates before the date of their issuance.

(b) ISSUANCE OF MATCHING CONTRIBUTION CERTIFICATES.—A matching contribution certificate shall be issued annually for each year for which an eligible buyer may receive such certificates under this part. Matching contribution certificates may be redeemed under section 124 only in connection with the purchase of a principal residence by an eligible buyer under this part.

(c) AMOUNT OF CONTRIBUTIONS.—

(1) MATCHING CONTRIBUTION CERTIFICATE.—Subject to the limitations of this section and section 124, the amount of a matching contribution certificate shall be a multiple of the buyer contribution to the certificate account as determined by the ratio of the qualifying income of the eligible buyer to the State median gross income, expressed as a percentage, in accordance with the following table:

Qualifying income expressed as percentage of State median gross income	Government matching amount per $1 buyer contribution to certificate account
50 percent or less	$4.00
51–80 percent	$3.00
81–100 percent	$2.00
101–120 percent	$1.00
Over 120 percent	$0.00.

(2) MAXIMUM BUYER CONTRIBUTION MATCHED.—The amount of a buyer contribution eligible for Government matching amounts (in the form of a matching contribution certificate) under paragraph (1) shall not exceed 5 percent of the qualifying income of the eligible buyer. Notwithstanding the preceding sentence, during the 12-month period beginning on the date that regulations implementing this part take effect the eligible portion of a buyer contribution shall not exceed 15 percent of the qualifying income, and during the 12-month period beginning on the day after the expiration of the initial 12-month period under this paragraph the eligible portion of a buyer contribution shall not exceed 10 percent of the qualifying income.

(3) TOTAL MAXIMUM MATCHING CONTRIBUTION.—Notwithstanding paragraph (2), the sum of the amounts of the matching contribution certificates issued under this part for any eligible buyer may not exceed the amount equal to 40 percent of the average State median income for the years for which such certificates are issued.

(d) INCOME INELIGIBILITY.—If, for any year during which an eligible buyer establishes a HOME savings certificate account or thereafter, the qualifying income of an eligible buyer exceeds 120 percent of the State median gross income, the eligible buyer may not receive a matching contribution certificate for such year. Loss of eligibility for matching contribution certificates under this paragraph shall not affect the ability of any eligible buyer to redeem any matching contribution certificates properly issued to the buyer, subject to the provisions of this part.

(e) COMMITMENTS.—

(1) IN GENERAL.—The Secretary shall provide for entering into commitments to issue matching contribution certificates upon such terms as the Secretary shall by regulation prescribe, subject to the requirements of this subsection.

(2) RESERVATION FOR LOW-INCOME ELIGIBLE BUYERS.—Subject only to the absence of eligible buyers under this subsection, in each fiscal year the Secretary shall reserve 20 percent of the amounts provided in appropriation Acts for the year for commitments to issue matching contribution certificates for eligible buyers whose qualifying income does not exceed 80 percent of the State

median gross income. The Secretary shall make commitments to issue certificates with amounts reserved under this paragraph for the 9-month period beginning on the first day of each fiscal year.

(3) REMAINING AMOUNTS.—Subject to the eligibility under this part, for any amounts not reserved under paragraph (2), and for any amounts not committed under paragraph (2) after the expiration of the 9-month period under such paragraph, the Secretary shall enter into commitments to issue matching contribution certificates without regard to the income limitations under paragraph (2).

SEC. 123. USE OF MATCHING CONTRIBUTION CERTIFICATES.

(a) USE.—Matching contribution certificates may be redeemed only by or on behalf of an eligible buyer and only to provide for the payment of the downpayment, closing costs, and any other expenses due at the time of closing and incurred in connection with the purchase of a principal residence.

(b) LOAN-TO-VALUE RATIO.—Amounts received from the redemption of any matching contribution certificates may be expended only in connection with the purchase of a residence for which the sum of the principal obligation incurred under the mortgage (including such initial service charges, appraisal, inspection, and other fees, as the Secretary shall determine), the amounts received from redeemed certificates, and the amount secured by any subordinated lien, does not exceed 95 percent of the lesser of (A) the purchase price of the residence, or (B) the appraised value of the residence at the time of closing, with respect to such mortgage.

(c) REQUIRED USE OF CONTRIBUTIONS OF BUYER.—Amounts from the redemption of matching contribution certificates may only be provided under section 124 and used under this section if the eligible buyer uses, for the purchase of a principal residence, an amount from the HOME savings certificate account equal to the buyer contributions necessary (in the year for which each certificate was issued) for issuance of the certificates in the amount in which the certificates were issued.

SEC. 124. REDEMPTION OF MATCHING CONTRIBUTION CERTIFICATES.

(a) PERIOD OF REDEMPTION.—A matching contribution certificate shall be eligible for redemption at any time before the expiration of the 7-year period beginning on the date on which the eligible buyer established the certificate account for which such certificate was issued. Any certificate issued to the eligible buyer that is not redeemed within the period shall be null and void.

(b) LIQUIDATION.—To redeem a matching contribution certificate the eligible buyer to whom such certificate was issued shall, at the time of the purchase of a principal residence by or on behalf of an eligible buyer, request liquidation of the certificate in the form and manner that the Secretary shall by regulation determine.

(c) REDUCTION.—The amount provided to an eligible buyer for a matching contribution certificate upon redemption of the certificate shall be reduced—

(1) if the certificate is redeemed within the 12-month period beginning on the date of the establishment of the certificate account, to 25 percent of the amount of the certificate as issued under section 122; and

(2) if the certificate is redeemed after the expiration of the 12-month period beginning on the date of the establishment of the certificate account but before the expiration of the 3-year period beginning on such date, to 50 percent of the amount of the certificate as issued under section 122.

SEC. 125. ADMINISTRATION OF HOME SAVINGS CERTIFICATE ACCOUNTS.

(a) REPORTING OF TRANSACTIONS.—The Secretary shall by regulation require depository institutions holding HOME savings certificate accounts to provide to the Secretary the following information:

(1) ESTABLISHMENT.—Notice of the establishment of certificate accounts by eligible buyers.

(2) TRANSACTIONS.—Periodic reports of transactions regarding certificate accounts and balances in certificate accounts.

(b) INTEREST.—A HOME savings certificate account established under this part shall provide for the payment of interest, in an amount determined by the depository institution in which the account is established, on amounts deposited by an eligible buyer in the certificate account.

(c) RESTRICTION OF WITHDRAWALS.—If an eligible buyer makes any withdrawal from a HOME savings certificate account other than for obtaining the amounts in the account for use in the purchase of a principal residence, any matching contribution certificates issued in connection with the certificate account shall be null and void. The Secretary may establish exceptions to the restriction under this subsection to the extent that the exceptions are consistent with the purposes of this part.

SEC. 126. REPAYMENT OF FUNDS RECEIVED FROM MATCHING CONTRIBUTION CERTIFICATES.

(a) REQUIREMENT OF REPAYMENT.—An eligible buyer who has redeemed or caused to be redeemed any matching contribution certificate under section 124 shall repay the Secretary under this section for the amount of certificates redeemed.

(b) SECURITY.—At the time of redemption of any matching contribution certificate, the eligible buyer shall execute in favor of and cause to be delivered to the Secretary or his designee a promissory note and mortgage, deed of trust, or other appropriate instrument by which an interest in real property is rendered subject to a lien under the applicable laws of the jurisdiction in which the residence to be purchased is located, in an amount equal to the value of certificates redeemed. The lien of such mortgage, deed of trust, or other instrument shall be subordinate to the lien of the first mortgage that secures advances on, or the unpaid purchase price of, the residence, but shall be superior to all other liens and encumbrances, except as the Secretary may provide by regulation.

(c) TERM.—An eligible buyer shall repay the Secretary under this section by payments of substantially equal monthly installments of principal and interest during a term equal to the term of the first mortgage secured by the residence purchased using the proceeds of matching contribution certificates.

(d) INTEREST.—The Secretary may charge interest on amounts to be repaid under this section at a rate of—

(1) 3 percent per annum, in the case of an eligible buyer whose qualifying income is equal to or less than 80 percent of State median gross income at the time the eligible buyer redeems the matching contribution certificate; and

(2) 9 percent per annum, in the case of an eligible buyer whose qualifying income exceeds 80 percent of State median gross income at the time the eligible buyer redeems the certificate.

(e) SALE OF RESIDENCE.—If the eligible buyer sells or otherwise disposes of the residence purchased with any funds from matching contributions certificates redeemed under this part before full repayment under this section is made, any amounts that have not been repaid shall become immediately due and payable.

(f) SERVICING OF REPAYMENTS.—The Secretary may provide for servicing of repayments under this section as the Secretary considers appropriate, including servicing by private loan servicers.

SEC. 127. SALE OF MORTGAGES.

(a) IN GENERAL.—The Secretary may, without limitation, sell any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates and the servicing relating to such mortgages and interests.

(b) CONSULTATION AND AGREEMENTS.—With respect to the purchase of any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates, the Secretary shall consult with, and may enter into agreements with, any agencies and entities involved in the secondary mortgage market.

SEC. 128. GEOGRAPHIC DISTRIBUTION.

In carrying out the Homeownership Made Easier Demonstration program under this part, the Secretary shall ensure, to the extent sufficient amounts are provided in appropriations Acts under section 131, that the program is carried out in each region relating to a regional office of the Department of Housing and Urban Development.

SEC. 129. REPORTS.

(a) ANNUAL REPORT.—For each year for which the Secretary provides matching contributions certificates under this part, the Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (42 U.S.C. 3536) information regarding the operation of the Homeownership Made Easier demonstration program under this part, including the extent of participation in the program and the amount of assistance provided under the program.

(b) FINAL REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 90-day period beginning on the termination date in section 132, a report summarizing the activities of the demonstration program under this part and analyzing the effectiveness of the program in promoting and facilitating homeownership.

SEC. 130. REGULATIONS.

The Secretary may issue any regulations necessary to carry out this part. The Secretary shall issue regulations to implement this part before the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

SEC. 131. COMMITMENTS TO PROVIDE MATCHING CONTRIBUTION CERTIFICATES AND AUTHORIZATION OF APPROPRIATIONS.

(a) COMMITMENTS.—The authority of the Secretary to enter into commitments to issue matching contribution certificates under this part shall be effective for any fiscal year to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part $20,000,000 for fiscal year 1991.

SEC. 132. TERMINATION.

The Secretary may not issue any matching contribution certificates to any eligible buyer who establishes a HOME savings certificate account after September 30, 1991.

PART 2—SECOND MORTGAGES FOR FIRST-TIME HOMEBUYERS

SEC. 141. GRANTS TO LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS FOR SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this part referred to as the "Secretary") may make grants to units of general local government and nonprofit housing organizations for such entities to provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) GRANT REQUIREMENTS.—To be eligible to receive a grant under this section, a unit of general local government or nonprofit housing organization shall meet the following requirements:

(1) HOMEOWNERSHIP COUNSELING.—The recipient shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(A) counseling before and after purchase of the property;

(B) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(C) providing homebuyers with financial management assistance;

(D) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(E) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing a property.

(2) FINANCIAL RESPONSIBILITY.—The recipient meets any requirements for financial responsibility as the Secretary may establish.

(c) APPLICATION AND SELECTION PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall provide for application by, and selection of, units of general local government and nonprofit housing organizations to receive grants under this section.

(2) SELECTION CRITERIA.—The Secretary shall select recipients for grants under this section based on the selection criteria that the Secretary shall establish, which shall include the following:

(A) The degree of commitment of the grant recipient to providing affordable housing.

(B) The extent to which the grant recipient has secured other public and private funds for assisting first-time homebuyers in obtaining affordable housing.

(C) The anticipated effectiveness of the homeownership counseling program of the grant recipient required under subsection (b)(1).

(d) SECOND MORTGAGE ELIGIBILITY REQUIREMENTS.—Deferred payment loans secured by second mortgages may be provided with amounts received from a grant under this section only under the following conditions:

(1) FIRST-TIME HOMEBUYER.—The homebuyer assisted is a first-time homebuyer.

(2) PRINCIPAL RESIDENCE.—The property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer.

(3) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the deferred payment loan secured by the second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(4) PAYMENT DEFERRAL.—The payment of any principal and interest accrued on the loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(5) INTEREST RATE.—The interest rate payable on the deferred payment loan secured by the second mortgage shall be established by the grant recipient, subject to approval by the Secretary, and reviewed by the Secretary not less than once every 5 years, at not less than 4 percent annually and not more than the prevailing market rate, and shall be based on the income, household size, and other relevant characteristics of the family of the homebuyer, as the Secretary determines are appropriate.

(6) TERM.—The deferred payment loan secured by the second mortgage shall be repayable over the 15-year period beginning upon the expiration of the payment deferral period under paragraph (4).

(7) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application for a loan under this section, does not exceed 80 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Secretary determines for areas outside of metropolitan statistical areas).

(8) FIRST MORTGAGE.—The principal obligation of the first mortgage on the residence securing the deferred payment loan does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(e) SECURITY.—A deferred payment loan assisted with amounts provided under a grant under this section shall be secured by a lien on the property involved, which shall be subordinate to the first mortgage on the property.

(f) DEFINITIONS.—For purposes of this part:

(1) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means a homebuyer who meets the requirements under section 103(b)(1) of this title.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part $20,000,000 for fiscal year 1991.

(h) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this part.

The CHAIRMAN pro tempore. Are there amendments to title I?

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: Page 8, before line 1, insert the following new section:

SEC. 2. BUDGET COMPLIANCE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) in accordance with the Congressional Budget Act of 1974, the House of Representatives approved a concurrent resolution on the budget for fiscal year 1991 (H. Con Res. 310, 101st Congress), establishing aggregate budget priorities for the Congress for such fiscal year;

(2) the conference report on such resolution calls for $3,300,000,000 of additional budget authority in fiscal year 1991 for new housing programs in excess of the baseline amount established by the Committee on the Budget of the House of Representatives and approved by House of Representatives;

(3) the Congressional Budget Office has estimated the programmatic baseline for aggregate budget authority for fiscal year 1991 provided under this Act to be $23,869,015,000; and

(4) therefore, the appropriate aggregate authorization of budget authority for housing programs provided under this Act (as reflected in the conference report on H. Con. Res. 310) is $27,169,015,000.

(b) COMPLIANCE WITH BUDGET RESOLUTION.—To the extent that the aggregate amount of budget authority for programs that is authorized by this Act and the amendments made by this Act exceeds $27,169,015,000 for fiscal year 1991, the amount of budget authority authorized by this Act and the amendments made by this Act for each program shall be reduced on a pro rata basis by the amount necessary to provide that such aggregate amount of budget authority is $27,169,015,000.

(c) DEFINITIONS.—For purposes of this section, the terms "budget authority" and "concurrent resolution on the budget" have the meaning given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

Page 1, in the matter following line 6, after the item relating to section 1, insert the following new item:

Sec. 2. Budget compliance.

Mr. WYLIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WYLIE. Mr. Chairman, this is what is referred to as a budget compliance amendment. It is similar to amendments which I offered in the past.

The overall funding level of H.R. 1180 is most important, but it is as yet undecided. However, it seems to me that we are willing to support modest increases in housing programs.

The House budget resolution calls for $3.3 billion on top of the CBO baseline. H.R. 1180, I am told by staff on both sides of the aisle, may exceed level established by the Budget Committee over the Congressional Budget Office baseline. I say the administration supports increased funding, and to quote the administration:

The Administration has demonstrated that it is willing to be considerably flexible on funding but only after the program integrity and financial soundness of the authorization proposals are assumed.

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I believe, Mr. Chairman, that my amendment speaks to that concern on the part of the Administration. It is

obvious that the budget summit agreement has not been reached yet. The budget summit, as a matter of fact, the summiteers are having difficulty coming to an agreement on the funding level for all of the programs, including the housing programs.

What my amendment will do will be to say that whatever agreement is reached as far as the budget on housing is concerned, by the budget summiteers, that this provision which I am pretty sure will ultimately pass, will be in compliance with that budget resolution.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words. I sympathize with the thrust of the gentleman from Ohio [Mr. WYLIE], but actually the amendment is quite unnecessary. We are well within the Budget Office on the bill itself. The amendment here would assign specific aggregate budget authority levels when compared to the funding levels provided in the fiscal year 1990 appropriation bill for housing programs which are authorized. We tracked them in this housing bill. The bill is within the House-passed budget resolution.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, it may be that the gentleman does not have the latest amendment which we put together. On page 2 of our latest amendment it would provide for the extent that the aggregate amount of budget authority for programs is authorized, and this exceeds $27 billion. If that proposal is above the CBO guidelines, if that is the CBO guideline, then this amendment would take effect.

Now, later on, budget summiteers come up with a different figure, than that will be taken into account.

But it does not suggest that there is a limit or an aggregate limit, I would suggest to the chairman.

Mr. GONZALEZ. In other words, the wording in the latest version of your amendment would address the fact that when and if there is a budget resolution, that this would adhere to whatever levels?

Mr. WYLIE. That is the intent. We cannot legislate the amount until it is done. However, that is our intent.

Mr. GONZALEZ. There is one other technicality. It looks to me like a technically incorrect part in your amendment. The amendment refers to the term "conference report," which would not be included within the amendment because the concurrent budget resolution of fiscal 1991 had been completed, but there is no conference report.

Mr. WYLIE. No, that is an outdated report, Mr. Chairman. There is no reference to that.

Mr. GONZALEZ. In other words, the version that was given to this side does not contain that language?

Mr. WYLIE. That language is not in our latest version. There is nothing in it.

Mr. GONZALEZ. Well, the latest version I have in my hands still has on line 8 on the first page, section (a)(2), "The conference report on such resolution calls for $3,300,000,000." What I am saying is that I know of no conference report that this would be pertinent to. I think it is a technical matter.

Mr. WYLIE. There has been a Budget Committee conference report which was passed by the House.

Mr. GONZALEZ. Well, it is no conference, actually. It is a House passed report, but not a conference report.

What I am saying is that technically that is incorrect. I know of no conference report that the gentleman can be referring to.

Mr. WYLIE. I defer to the gentleman that that is a drafting error. It was supposed to have said "House report," and if the gentleman would accept an amendment to strike the word "conference" and make it "House" report, if that would be agreeable to the chairman.

Mr. GONZALEZ. I was just pointing it out for accuracy's sake and not any particular criticism. I thought the gentleman was not referring to a conference report because we do not know of any.

I think that this new version we had not seen, what we had analyzed was the first version that was given to us. Therefore, I have no quarrel with this amendment.

MODIFICATION OF AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, if the gentleman will continue to yield, I ask unanimous consent to delete the word "conference" and insert in lieu thereof the word "House" on line 8 after paragraph (2).

The CHAIRMAN pro tempore (Mr. OBERSTAR). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 8, before line 1, insert the following new section:

SEC. 2. BUDGET COMPLIANCE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) in accordance with the Congressional Budget Act of 1974, the House of Representatives approved a concurrent resolution on the budget for fiscal year 1991 (H. Con. Res. 310, 101st Congress), establishing aggregate budget priorities for the Congress for such fiscal year;

(2) the House report on such resolution calls for $3,300,000,000 of additional budget authority in fiscal year 1991 for new housing programs in excess of the baseline amount established by the Committee on the Budget of the House of Representatives and approved by the House of Representatives;

(3) the Congressional Budget Office has estimated the programmatic baseline for aggregate budget authority for fiscal year 1991 provided under this Act to be $23,869,015,000; and

(4) therefore, the appropriate aggregate authorization of budget authority for housing programs provided under this Act (as reflected in the conference report on H. Con. Res. 310) is $27,169,015,000.

(b) COMPLIANCE WITH BUDGET RESOLUTION.—To the extent that the aggregate amount of budget authority for programs that is authorized by this Act and the amendments made by this Act exceeds $27,169,015,000 for fiscal year 1991, the amount of budget authority authorized by this Act and the amendments made by this Act for each program shall be reduced on a pro rate basis by the amount necessary to provide that such aggregate amount of budget authority is $27,169,015,000.

(c) DEFINITIONS.—For purposes of this section, the terms 'budget authority' and 'concurrent resolution on the budget' have the meaning given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

Page 1, in the matter following line 6, after the item relating to section 1, insert the following new item:

SEC. 2. Budget compliance.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words. Although I will not take a full 5 minutes, I want to call to the attention of the House that the amendment of the gentleman from Ohio [Mr. WYLIE] is an absolutely essential amendment that we abide by during the conference, both in the spirit and in the letter of the amendment.

The spirit of the amendment of the gentleman from Ohio [Mr. WYLIE] would say that during the course of the deficit summit over which this committee has no control, there no doubt will be additional decisions made on the budget numbers. As these budget decisions are made by the deficit summit, brought back here to the House and to the other body for confirmation, it is important that the conferees on this housing bill stick very closely, in fact, stick exactly to the budget numbers that the final budget conference provides for the House.

It is no one's intention in this bill that the housing bill exceed the authorized amendment, authorized under the final budget agreement that this Congress would reach for all spending for this Congress. So, it is important that the conferees pay very strict attention and keep very strictly within the final budget agreement as arrived at by the House and the Senate, and only then will we have a housing bill that can make progress during the course of the coming decade.

I strongly commend the gentleman from Ohio [Mr. WYLIE] for holding this bill to some fiscal responsibility, and holding it to fiscal responsibility by not just words and statements and

resolution on the House floor, but by placing a statutory requirement in the bill itself that this bill, when finally authorized and signed into law, will be strictly within the letter of the budget agreement.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. WYLIE].

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—RENTAL HOUSING PRODUCTION

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the supply of affordable rental housing is diminishing;

(2) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(3) there should be established a direct assistance program that is more cost-effective and targeted than tax incentives; and

(4) an affordable rental housing production program should be targeted to projects meeting demonstrated needs, including the needs for large family units, congregate facilities for frail elderly or handicapped persons, and additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments.

(b) PURPOSE.—It is the purpose of this title to authorize the Secretary of Housing and Urban Development to make repayable advances to the public and private sectors to assist in the provision of needed and affordable rental housing.

SEC. 202. AUTHORITY TO PROVIDE REPAYABLE ADVANCES.

(a) IN GENERAL.—The Secretary may provide repayable advances to eligible project sponsors under this title to assist the sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(b) MAXIMUM AMOUNT OF ADVANCE.—An advance under this title shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the Secretary.

(c) TERMS OF REPAYMENT.—

(1) INTEREST PAYMENTS.—

(A) IN GENERAL.—Advances provided under this title shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the Secretary to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(B) EXCEPTION.—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the Secretary to be appropriate.

(2) ADDITIONAL INTEREST PAYMENTS.—For any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under paragraph (1), 50 percent of the excess surplus cash flow shall be paid to the Secretary as additional interest.

(3) PRINCIPAL AND UNPAID INTEREST.—

(A) IN GENERAL.—The principal amount of an advance under this title, and any interest remaining unpaid pursuant to paragraph (1)(B), shall be payable upon the expiration of the 25-year period following completion of the construction, acquisition, or substantial rehabilitation of the project.

(B) EXCEPTION.—If a project continues to comply with the low income occupancy and rent provisions of subsections (c) and (d) of section 203 after the termination of the 25-year period—

(i) repayment under subparagraph (A) shall be deferred;

(ii) no further interest on the advance shall accrue; and

(iii) the percentage of the amount that shall be required to be repaid shall be reduced by 6.7 percentage points for each year of continued compliance.

SEC. 203. PROGRAM REQUIREMENTS.

(a) ELIGIBLE SPONSORS.—Nonprofit entities, for-profit entities, and public housing agencies shall be eligible to apply for advances under this title with respect to projects to be owned by such entities and agencies.

(b) COMMENCEMENT OF PROJECT.—A project sponsor shall commence construction, acquisition, or substantial rehabilitation activities under this title not later than 24 months after notice of project selection, unless the Secretary for good cause extends the commencement date.

(c) LOW INCOME OCCUPANCY REQUIREMENT.—During the 25-year period following the completion of the construction, acquisition, or substantial rehabilitation of the project, the project shall be used as affordable rental housing and—

(1) not less than 20 percent of the units in the project shall be occupied, or available for occupancy, only by very low-income families; or

(2) not less than 40 percent of the units in the project shall be occupied, or available for occupancy, only by low-income families.

(d) RENT LIMITATIONS.—

(1) UNITS FOR VERY LOW-INCOME FAMILIES.—The rent charged for any unit reserved for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 40 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(2) UNITS FOR LOW-INCOME FAMILIES.—The rent charged for any unit reserved for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals the income ceiling for very low-income families in the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) UNITS FOR LOWER INCOME FAMILIES.—The rent charged for any unit reserved for occupancy by lower income families shall not exceed 30 percent of the adjusted income of a family whose income equals the income ceiling for low-income families in the area, as determined by the Secretary with adjustments for smaller and larger families.

(e) CONTINUED OCCUPANCY.—A family who occupies a unit reserved for occupancy for very low- or low-income families but who no longer qualifies as a very low- or low-income family may continue occupancy in the unit if the family qualifies as a low or lower income family, respectively. The rent payment of such families shall be determined in accordance with subsections (d)(2) and (d)(3), respectively.

SEC. 204. SELECTION CRITERIA.

(a) IN GENERAL.—The Secretary shall establish criteria for the selection of projects for assistance under this title. Such criteria shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(b) SPECIFIC REQUIREMENTS.—The selection criteria shall include—

(1) the extent of shortage of rental housing in the area that is available to lower income families, adjusted to the extent possible by data regarding the need for the particular project that is being proposed;

(2) the extent large families with children will be served by the project;

(3) the extent to which project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(4) the extent of very low- and low-income occupancy in excess of the requirements in section 203(c);

(5) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(6) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(7) the extent market rents do not exceed rent limitations established for certificates under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(8) the extent of non-Federal public assistance to the project; and

(9) any other factor determined by the Secretary to be appropriate.

(c) LIMITATION.—In selecting projects for assistance under this title, the Secretary may not give a preference based on the ownership of the project sponsor.

SEC. 205. RENTAL HOUSING PRODUCTION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the Rental Housing Production Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 209 for purposes of carrying out this title;

(2) any amount received as interest on, or repayment of, loans made under this title; and

(3) any amount received under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriations Acts, be available to the Secretary for purposes of carrying out this title.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 206. NONDISCRIMINATION.

During the period in which a project is subject to the occupancy requirements and rent limitations in subsections (c) and (d) of section 203, the project sponsor may not discriminate against prospective tenants or tenants on the basis of such prospective tenants or tenants receipt of, or eligibility for, housing assistance under any Federal, State, or local program.

SEC. 207. DEFINITIONS.

For purposes of this title:

(1) ADJUSTED INCOME.—The term "adjusted income" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(2) LOW INCOME FAMILIES.—The term "low income families" means families and individuals whose incomes do not exceed 60 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(3) LOWER INCOME FAMILIES.—The term "lower income families" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(6) SURPLUS CASH FLOW.—The term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the Secretary.

(7) VERY LOW-INCOME FAMILIES.—The term "very low-income families" means families and individuals whose incomes do not exceed 50 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

SEC. 208. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this title.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $300,000,000 for fiscal year 1991.

AMENDMENTS OFFERED BY MR. RIDGE

Mr. RIDGE. Mr. Chairman, I offer several amendments, and I ask unanimous consent that they be considered as read, printed in the RECORD, and offered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. RIDGE: Page 44, after line 7, insert the following new subsections:

(f) LIMITATION ON UNITS ASSISTED.—

(1) LOW AND VERY LOW-INCOME DEDICATED UNITS.—Except as provided in paragraph (3), an advance under this title shall be limited to the amount necessary to comply with the requirements of subsections (c) and (d) over the term of the advance.

(2) OTHER ASSISTANCE.—If assistance other than assistance under this title is made available to a project by the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, the Secretary, in determining the amount of an advance pursuant to paragraph (1), shall allocate such assistance to all units in the project in approximately equal shares, unless the entity making the assistance available directs that a different allocation be made.

(3) EXCEPTION.—If necessary for a project to be feasible, the Secretary shall increase the amount of an advance calculated pursuant to paragraph (1) by not more than 10 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project (as determined by the Secretary), subject to the limitation on the amount of an advance under section 202(b).

(g) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this title that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be established for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

Page 49, after line 14, insert the following new section (and conform the table of contents accordingly):

SEC. 210. CONFORMING AMENDMENT.

Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(7)) is amended by inserting after "title" the following: "or under title II of the Housing and Community Development Act of 1990".

Page 44, strike the comma in line 17 and all that follows though "proposed" in line 19.

Page 45, line 22, after "public" insert "or private".

Page 45, line 23, strike "and".

Page 45, after line 23, insert the following new paragraph:

(9) the extent to which the project provides supportive housing for persons with disabilities; and

Page 45, line 24, strike "(9)" and insert "(10)".

Page 46, after line 3, insert the following new subsection:

(d) AREA ELIGIBILITY CRITERIA.—

(1) AUTHORITY.—In addition to the use of the selection criteria to direct assistance to projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing, the Secretary may establish, by regulation, criteria to limit the areas in which projects eligible for advances under this title may be located. Such criteria shall be based on objective and timely data, including the level and duration of rental housing vacancies, the vacancy and turnover rate of standard housing units with rents below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and the extent of housing overcrowding.

(2) SPECIAL NEEDS.—Projects serving special needs shall be eligible for advances without regard to any limitation established pursuant to paragraph (1). Projects serving special needs shall include—

(A) housing for large families with children;

(B) supportive housing for persons with disabilities; and

(C) congregate housing for elderly and handicapped persons.

Mr. RIDGE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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Mr. RIDGE. Mr. Chairman, let me say to my colleagues that there are several new initiatives in this piece of legislation, and the rental housing production component in title II of the bill is certainly one of them. It has been authored and sponsored by one of our colleagues from New York who has a long history of support for low and lower income families and a long history of offering initiatives to housing matters generally. I am speaking of my colleague, the gentleman from New York [Mr. SCHUMER]. The gentleman and I have had some major disagreements over the Rental Housing Production Program.

As initially drafted, I thought that it was an inappropriate initiative and that it did not belong in the bill. I might add to my friend that I have not eliminated my total objection, but I have substantially reduced my objection because the gentleman has been willing to work with my colleagues on our side of the aisle, as well as with the Secretary, in order to make considerable improvement which is embodied in this series of amendments that I now offer. I would like to briefly

review them for the record so my colleague and I will have an understanding of what is included.

One of the most important is the targeting provision. One of the amendments we are offering improves targeting of those dollars in this initiative for very low-income families, and it limits the Federal dollars to those targeted units. I think that is very, very helpful.

It also sets maximum unit cost limitations that would be generated through objective criteria in regions around the country. I think that is a significant improvement in the bill as well.

Another amendment in this series makes this kind of housing program or housing project eligible as a CDBG activity.

I think the gentleman has come a long way, and I applaud him for agreeing to that, because I think it is helpful for communities all around this country to have this kind of housing initiative as an eligible activity for CDBG funds.

Finally, in the third amendment there are some provisions I would like to discuss. It allows for private sector contributions as part of the selection criteria in awarding projects. Clearly, we have a finite number of dollars available for this initiative. Unfortunately there are going to be some winners and losers because of limited resources and excessive demand. The awarding criteria will take into consideration private sector contributions. The gentleman from New York has graciously agreed to that provision as well.

We added additional area eligibility criteria which will assure that the projects are approved in areas that have the maximum need, and in that criteria we give special consideration to congregate housing for the handicapped and the elderly, to large families, and to supportive housing for the disabled.

By agreeing to this series of three amendments, the gentleman from New York has continued his tradition of reaching out and trying to work on behalf of low and lower income families, the disabled, and the handicapped.

I admit to my friend and colleague that again I happen to think there might be better ways to spend these dollars, but we have decided to bury our diffences on this issue for the time being and perhaps expend our energy and our time disagreeing over something else. We will continue to work together to improve this in conference.

Mr. Chairman, I just want to thank the gentleman from New York not only for his initiative but for his willingness to sit down and make what I consider to be some fundamental important and significant changes in his work as provided in this series of amendments.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. RIDGE] very much, and first let me thank the gentleman for his constructive contribution to this program. I also want to thank very much the ranking member of the committee, the gentleman from Ohio [Mr. WYLIE], and the ranking member of the subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA] for their role in this; and, of course, the chairman of our full committee, the gentleman from Texas [Mr. GONZALEZ], who has encouraged the various sides to come together and compromise in a very fair and statesmanlike way.

Let me say on this compromise that I think the spirit of this housing bill is that we have a real housing problem in the country, and now we have a budget deficit problem and we have other problems as well. We are all mindful of that, and we know that no one party has a monopoly on the road to truth. Some of the old programs worked, some did not, and the choices in the 1980's, it seemed, were simply to abandon any new programs and also abandon the old programs.

I want to say that all of us, whether we be the Secretary of HUD, the chairman of the committee, the ranking member, or the various members on both sides, do feel that new approaches are needed and do feel there is a housing crisis. This program, the Rental Housing Production Program, tried to deal with that by saying, yes, we do need some new construction. We have a great shortage of construction in many areas. Rehabilitation is not available in many areas because the units are all rehabilitated already, or they are useless. We need new construction. The homeless on our streets point to that fact.

This program was brought together carefully, and it was based on the UDAG Program, which was a successful program. But when we brought it to the floor, the gentleman from Pennsylvania spearheaded a drive to say that certainly there could be salutary changes, and the amendments he outlines are, I believe, salutary.

Sometimes maybe some of us on this side want to do a little too much, and the combination of our enthusiasm and their temperance, as well as good sense, somehow creates even a better product, and I truly think there is a better product in the compromises that have been produced.

We will proceed with new construction. We will try it. Maybe it will work, maybe it will not, but we are not telling those homeless people and those people who are doubled up, "Forget it." But we are also saying that the dollars have to be targeted to them, we are saying that private dollars should come first, and we are saying that there ought to be a maximum in how much these programs cost.

These are all contributions of the gentleman from Pennsylvania, and each of those three things strengthens the program. So I think here we have a compromise in the best sense of legislation and in the best sense of what the House has done.

I, for instance, have some disagreement with the HOPE Program in the next title, title III. But again as a compromise, we are saying, "Let's try it. Maybe it will work." The existing programs have not worked as well as we would like, and the gentleman from Pennsylvania [Mr. RIDGE], the gentleman from Ohio [Mr. WYLIE], and the gentlewoman from New Jersey [Mrs. ROUKEMA] are saying the same things with regard to this program.

Mr. Chairman, this has been a long, hard road, and we have had some pretty strong disagreements. We have managed to bridge those disagreements and come together with a better product that will help the poor and needy in this country and help the cities in this country and start on the road to production. I urge support by the Members of the gentleman's well-considered amendments.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I want to commend the gentleman from New York [Mr. SCHUMER] for his hard work on this title of the bill, and I will say that he has been very persistent in it. It does not help us very much in my own State of Ohio, but this is a national housing bill that we are engaged in trying to pass here.

There is some targeting in the bill now, and there was not much before. That makes it more appealable to me. There are some cost limits in the beginning. There was some question about limits, whether they were unfettered or not. It does not address all the concerns, I may say, of the administration, but this compromise goes a long way.

Mr. Chairman, I support the efforts of the gentleman from New York [Mr. SCHUMER], and I am pleased that he has come as far as he has in his willingness to cooperate and compromise.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for his comments and for his benevolence and leadership on this issue.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments offered en bloc.

Mr. Chairman, I want to thank both my colleagues, the gentleman from New York [Mr. SCHUMER], and my colleague, the gentleman from Pennsyl-

vania [Mr. RIDGE], for the work they have put in here. The gentleman from New York has referred to our side and referred to the ranking Republican, and I accept his commendation as being a Representative of "temperance and good sense." I thank the gentleman for that.

I want to say also that under his initiative and with the help of the gentleman from Pennsylvania and the ranking Republican, we now have a good representation of public-private partnership, and for that I commend the gentleman.

We on the minority side, as has already been suggested, really approached this new construction program with a deal of apprehension, and some with outright adamant opposition to any new production program. We thought that it had the making of being fraught with the possibilities of fraud and abuse that we have seen displayed in some other HUD programs.

□ 1540

Now, however, with the work that has been done on both sides, we can all feel assured that any problems that we had were worked out. It is beyond the budget limitation to some extent, but I think the merits of the program deserve our support. The target, I believe, is excellent, particularly good for all of us. It makes it more widely acceptable to all and applicable to all parts of the Nation, and I think it is a visible and viable effort now to meet more of the low-income housing needs.

Finally, Mr. Chairman, I want to say with respect to the new production program that I think it is going to be a good one, and certainly in my area of the country it is going to be much needed.

So, Mr. Chairman, I congratulate these gentlemen for their work, the fact that they have made this a program that is truly now national in scope, and I offer my strong support.

Mr. WYLIE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding.

Mr. Chairman, I was remiss when I did not acknowledge the hard work of the gentleman from Pennsylvania [Mr. RIDGE] on this amendment. He has come a long way on it. He has worked very hard. He is one of the more articulate and knowledgeable members of our Committee on Banking, Finance and Urban Affairs, and he is very knowledgeable on housing issues. I, too, would like to compliment him for his consistent hard work and effort in this regard.

Mr. FLAKE. Mr. Chairman, I move to strike the requisit number of words.

Mr. Chairman, I rise today in support of the gentleman from New York [Mr. SCHUMER] and those who have worked together to try to strike a compromise that I think is important for the Nation, for all of the people who demand housing and where we have made arguments historically against the production of new housing while, at the same time, arguing that the Government does not have the resources to do it. The gentleman from New York [Mr. SCHUMER] has struck out with the possibility of trying to allow for a partnership that creates the mechanisms by which housing can be created.

Mr. Chairman, there were those of us who had some objections initially. Some of those objections would have gutted the bill, if we had not been able to come together.

This has not just been a compromise of those from the Republican side and the gentleman from New York [Mr. SCHUMER], but some of us who share, as a part of a concern for trying to do the best as it relates to housing policy for all the citizens of this land.

So, I would like to commend the gentleman from New York [Mr. SCHUMER] because initially, as we had a great deal of difficulty in coming to an agreement and understanding, and the gentleman from Pennsylvania [Mr. RIDGE] and I who came together feeling that we had the best possibility for trying to change the bill to something we though it ought be, and yet all of us able to come together with some clear definition of that we all wanted the same thing and, therefore, the necessity for trying to work it out together.

So, Mr. Chairman, I am happy today because I believe the future of America is one in which we will enhance the possibility for the creation of housing by creating those partnerships to make it possible for developers to participate with government in the creation of good housing, and so I say to the gentleman from New York [Mr. SCHUMER], "I commend you," and to the gentleman from Pennsylvania [Mr. RIDGE], "I commend you," that even though we were working together on this and we though we were at odds with the gentleman from New York [Mr. SCHUMER], the reality is that we see now that we are closer together than we are apart, and I think this is a great day for America, and I look forward to us being able for the first time in a number of years to produce some new housing for America.

It is a good day.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I was remiss, too, in not mentioning the gentleman from New York [Mr. FLAKE] who started the ball rolling here really in terms of changing our thinking a little bit in terms of the targeting and other things, and he did have serious objections. He moved us significantly to those objections, and I would doubt without the gentleman's initial forays here that we would have been able to come together. So, he deserves a lot of credit, and, when the housing goes up throughout the country, we will smile and say, "It was the work of a broad coalition of people reaching, not only from one end of America to the other, but across the Borough of Brooklyn into the Borough of Queens."

Mr. Chairman, we worked together.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. RIDGE].

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—HOPE PROGRAMS

SEC. 301. SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity for People Everywhere Act of 1990".

Subtitle A—HOPE for Public and Indian Housing Homeownership

SEC. 311. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"SEC. 301. PROGRAM AUTHORITY.

"(a) IN GENERAL.—

"(1) GRANTS.—The Secretary is authorized to make—

"(A) planning grants to help applicants to develop homeownership programs in accordance with this title; and

"(B) implementation grants to carry out homeownership programs in accordance with this title.

"(2) GRANT LIMITATIONS.—

"(A) Not more than 15 percent of the amounts appropriated pursuant to subsection (c) for any fiscal year may be used for planning grants under this section.

"(B) Not more than 5 percent of the amount reserved for planning grants under subparagraph (A) may be used for grants to any single grant recipient.

"(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another project. The Secretary may also reserve authority to provide such assistance in connection with replacement of units under section 304(g).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this title $136,000,000 for fiscal year 1991. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 302. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants related to development of a specific homeownership program;

"(3) studies of the feasibility of a homeownership program;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of project residents and economic development of the neighborhood;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income; and

"(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

"(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

"(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"SEC. 303. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this title.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

"(1) Architectural and engineering work.

"(2) Implementation of the homeownership program, including acquisition of the public housing project (not including scattered site single family housing of a public housing agency) from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

"(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

"(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

"(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

"(6) Counseling and training of homebuyers and homeowners under the homeownership program.

"(7) Relocation of tenants who elect to move.

"(8) Any necessary temporary relocation of tenants during rehabilitation.

"(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of residents of the property covered by the homeownership program and economic development of the neighborhood.

"(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program.

"(11) Implementation of a replacement housing plan.

"(c) MATCHING AMOUNTS.—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section that are necessary to carry out the homeownership program are provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to States or local governments on a formula basis. In determining compliance with this subsection, a recipient may include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

"(d) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

"(C) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

"(D) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

"(G) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

"(H) the estimated sales prices, if any, and terms to eligible families;

"(I) any proposed restrictions on the resale of units under a homeownership program; and

"(J) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the feasibility of the homeownership program;

"(3) whether the homeownership program meets the requirements for affordability under section 304(b);

"(4) the extent to which the project receives support from entities other than those assisted under this title;

"(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

"(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is

conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"SEC. 304. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

"(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

"(1) identifying and selecting eligible families to participate in the homeownership program;

"(2) providing relocation assistance to families who elect to move;

"(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

"(4) providing ongoing training and counseling for homebuyers and homeowners; and

"(5) replacing units in eligible projects covered by a homeownership program.

"(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project (not including scattered site single family housing of a public housing agency) in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

"(e) FINANCING.—

"(1) TERMS.—Financing under a homeownership program may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) DEFAULT.—Any lender that provides financing in connection with a homeownership program under this title shall give the public housing agency, resident management corporation, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit will—

"(1) be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

"(2) meet housing quality standards established by the Secretary for the purpose of this title not later than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

"(g) REPLACEMENT PLAN.—Each homeownership program shall provide for the replacement of each unit covered by the program for which the ownership interest is not retained by the public housing agency. Such replacement shall be in the form of a 5-year contract for tenant-based assistance under section 8(b).

"(h) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) REPLACEMENT ASSISTANCE.—The recipient shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the public housing agency will offer each tenant (A) a unit in another public housing project, or (B) assistance under section 8 (other than assistance under subsection (o) of such section), for use in that or another project.

"(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"SEC. 305. OTHER PROGRAM REQUIREMENTS.

"(a) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant (or other entity, including a for-profit entity or a nonprofit entity in cooperation with an applicant), the public housing agency shall transfer the project to such other entity, in accordance with the approved homeownership program.

"(b) PREFERENCE FOR CURRENT TENANTS.—In selecting eligible families for homeownership, a recipient of a grant under section 303 shall give preference to current tenants.

"(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

"(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(e) OPERATING SUBSIDIES.—Operating subsidies under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

"(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

"(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(1) FIRST PURCHASE RIGHT.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit. Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a lower income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

"(2) ADDITIONAL RESALE RESTRICTIONS.—The homeownership program may establish additional restrictions on the resale of a unit under the program.

"(3) RECAPTURE OF PROCEEDS.—With respect to a homeowner assisted under a homeownership program under this title, if such homeowner sells a unit or shares representing a unit within 5 years after acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

"(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

"(B) The value of any improvements made by the homeowner during ownership of the unit.

"(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

"(4) USE OF RECAPTURED AMOUNTS.—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to paragraph (3) shall be returned to the Secretary for use under this title, subject to approval under appropriations Acts.

"(5) THIRD PARTY RIGHTS.—The requirements under this subsection regarding rehabilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(h) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6) and 303(b)(9) for any project.

"(i) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To

be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

"SEC. 306. DEFINITIONS.

"For purposes of this title:

"(1) The term 'applicant' means the following entities that may represent the tenants of the project:

"(A) A public housing agency (including an Indian housing authority).

"(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

"(C) A resident council.

"(D) A cooperative association.

"(E) A public or private nonprofit organization.

"(F) A public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means—

"(A) a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant;

"(B) a lower income family; or

"(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-lower income families assisted under any mortgage insurance program administered by either Secretary).

"(3) The term 'homeownership program' means a program for homeownership meeting the requirements under this title.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"SEC. 307. RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

"The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act.

"SEC. 308. LIMITATION ON SELECTION CRITERIA.

"In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisidiction in which the applicant or project is located.".

SEC. 312. AMENDMENT TO SECTION 18 REGARDING DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

SEC. 313. LIMITATION ON SECTION 20 RESIDENT MANAGEMENT FINANCIAL ASSISTANCE.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III.".

SEC. 314. EXTENSION OF SECTION 21 HOMEOWNERSHIP PROGRAM AND PROVISION OF TECHNICAL AND OTHER ASSISTANCE.

Section 21(a) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)) is amended—

(1) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

"(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section. Of any amounts made available under appropriations Acts for financial assistance under section 14, the Secretary may use not more than $3,000,000 in any fiscal year to carry out this subparagraph.";

(2) in paragraph (2)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing subtitle A of title III of the Housing and Community Development Act of 1990. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."; and

(3) in paragraph (3)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing subtitle A of title III of the Housing and Community Development Act of 1990. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act.".

SEC. 315. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 316. APPLICABILITY TO INDIAN PUBLIC HOUSING.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

Subtitle B—HOPE for Homeownership of Multifamily Units

SEC. 321. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) GRANTS.—The Secretary is authorized to make—

(A) planning grants to enable applicants to develop homeownership programs; and

(B) implementation grants to enable applicants to carry out homeownership programs.

(2) GRANT LIMITATIONS.—

(A) Not more than 15 percent of the amounts appropriated pursuant to subsection (c) for any fiscal year may be used for planning grants under this section.

(B) Not more than 5 percent of the amounts reserved for planning grants under subparagraph (A) may be used for grants to any single grant recipient.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a non-purchasing tenant who resides in the property on the date the Secretary approves an application for an implementation grant, for use by the tenant in that or another property.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this subtitle $102,000,000 for fiscal year 1991. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 322. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program and economic development of the neighborhood; and

(7) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance

with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income; and

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 323. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of tenants who elect to move.

(8) Any necessary temporary relocation of tenants during rehabilitation.

(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(10) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(c) MATCHING AMOUNTS.—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section that are necessary to carry out the homeownership program are provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to States and local governments on a formula basis. In determining compliance with this subsection, a recipient may include such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) where applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing lower income housing;

(D) a description of the proposed homeownership program, consistent with section 324 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation, and (ii) acquisition (I) of the property, where applicable, by a resident or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the property;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program; and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the homeownership program meets the requirements for affordability under section 324(b);

(4) the extent to which the project receives support from entities other than those assisted under this subtitle;

(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for assistance under section 8 of the United States Housing Act of 1937 for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

SEC. 324. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) ACQUISITION AND REHABILITATION LIMITATION.—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) TERMS.—Financing under a homeownership program may include use of the implementation grant, sale for cash, and other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) DEFAULT.—Any lender that provides financing in connection with a homeownership program under this title shall give the acquiring entity, resident management council, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit will—

(1) be free from any defects that pose a substantial danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) meet housing quality standards established by the Secretary for the purpose of this subtitle no more than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program under this subtitle.

(2) REPLACEMENT ASSISTANCE.—The recipient shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the recipient will request the public housing agency to offer assistance under section 8 of the United States Housing Act of 1937 (other than assistance under subsection (o) of such section) to each qualified tenant, for use in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 325. OTHER PROGRAM REQUIREMENTS.

(a) PREFERENCES FOR CURRENT TENANTS.—In selecting eligible families for homeownership, a recipient shall give preference to current tenants.

(b) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) FIRST PURCHASE RIGHT.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit. Where a grant recipient, resident management corporation, resident council, or cooperative has jurisdiction over the unit, the grant recipient, corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.

(2) ADDITIONAL RESALE RESTRICTIONS.—The homeownership program may establish restrictions on the resale of a unit under the program.

(3) RECAPTURE OF PROCEEDS.—With respect to a homeowner assisted under a homeownership program under this subtitle, if such homeowner sells a unit or shares representing a unit within 5 years after the acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

(B) The value of any improvements made by the homeowner during ownership of the unit.

(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

(4) USE OF RECAPTURED AMOUNTS.—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to paragraph (3) shall be returned to the Secretary for use under this subtitle, subject to approval under appropriations Acts.

(5) THIRD PARTY RIGHTS.—The requirements under this subsection regarding rehabilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation and purchasers of property under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 322 and 323 may be used for economic development activities under sections 322(b)(6) and 323(b)(9) for any project.

(f) CONTINUATION OF AFFORDABILITY REQUIREMENTS.—Any recipient of a grant under section 323 that assumes a mortgage covering eligible property shall, in addition to any requirements of the homeownership program, comply with the low-income affordability restrictions under the mortgage for a period not shorter than the remaining term of the mortgage.

SEC. 326. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "lower income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 327. EXEMPTION.

Eligible property assisted by a homeownership implementation grant under this sub-

title shall not be subject to the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 328. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisidiction in which the applicant or project is located.

SEC. 329. AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity for People Everywhere Act of 1990,".

SEC. 330. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Subtitle C—HOPE for Homeownership of Single Family Homes

SEC. 341. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) GRANTS.—The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(2) GRANT LIMITATION.—Not more than 15 percent of the amounts appropriated pursuant to subsection (b) for any fiscal year may be used for planning grants under this section. Not more than 5 percent of the amounts reserved for planning grants under the preceding sentence for any fiscal year may be used for grants to any single grant recipient.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this subtitle $72,000,000 for fiscal year 1991. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 342. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) preliminary architectural and engineering work;

(5) homebuyer counseling and training;

(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of homebuyers and homeowners, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program and economic development of the neighborhood; and

(7) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income; and

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 343. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(5) Counseling and training of homebuyers and homeowners under the homeownership program.

(6) Relocation of eligible families who elect to move.

(7) Any necessary temporary relocation of homebuyers during rehabilitation.

(c) MATCHING AMOUNTS.—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section is provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to State or local governments on a formula basis. In determining compliance with this subsection, a recipient may include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing lower income housing;

(C) a description of the proposed homeownership program, consistent with section 344 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 344(b);

(D) a description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of any financing proposed;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families; and

(I) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the propcsed homeownership program, taking into account the qualifica-

tions and experience of the applicant, the quality of any related ongoing program of the applicant, and the extent of community interest and support for the program;

(2) the feasibility of the homeownership program;

(3) the extent to which suitable eligible properties are available for use under the program in the area to be served;

(4) whether the homeownership program meets the requirements for affordability under section 344(b);

(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

SEC. 344. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the eligible family to make payments toward the costs of homeownership (including principal, insurance, taxes, and interest and closing costs) in accordance with the affordability standards set forth in the homeownership program, which may not require payments in an amount exceeding 30 percent of the adjusted income of the family.

(c) ELIGIBLE PROPERTY.—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit will—

(1) be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) meet housing quality standards established by the Secretary for the purpose of this subtitle not later than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

SEC. 345. OTHER PROGRAM REQUIREMENTS.

(a) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) TRANSFER.—A homeowner under a homeownership program who has acquired fee simple to, or shares representing, the unit may transfer the homeowner's ownership interest in, or shares representing, the unit.

(2) ADDITIONAL RESALE RESTRICTIONS.—The homeownership program may establish restrictions on the resale of a unit under the program.

(3) RECAPTURE OF PROCEEDS.—With respect to a homeowner assisted under a homeownership program under this subtitle, if such homeowner sells a property or shares representing a property within 5 years after the acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

(B) The value of any improvements made by the homeowner during ownership of the unit.

(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

(4) USE OF RECAPTURED AMOUNTS.—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to paragraph (3) shall be returned to the Secretary for use under this subtitle, subject to approval under appropriations Acts.

(d) PROTECTION OF NONPURCHASING FAMILIES.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program under this subtitle assisted with such grant.

SEC. 346. DEFINITIONS.

For purposes of this title:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) The term "eligible family" means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (including scattered site single family properties, and properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" means a family that has not owned a home during the 3-year period prior to purchase of an eligible homeownership unit under a homeownership program, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(8) The term "lower income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this title.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

SEC. 347. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this sub-

title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisidiction in which the applicant or project is located.

SEC. 348. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Subtitle D—Other HOPE Programs

SEC. 351. HOPE FOR ELDERLY INDEPENDENCE.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly individuals to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) HOUSING ASSISTANCE.—In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide housing assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937. A public housing agency may not require that a frail elderly individual live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly individual the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in connection with existing contracts for housing assistance under sections 8(b) and 8(o).

(c) SUPPORTIVE SERVICES REQUIREMENTS AND MATCHING FUNDING.—

(1) FEDERAL, PHA AND, INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 40 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly individual shall pay 10 percent of the costs of the supportive services that the individual receives, except that a frail elderly individual may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 3(b)(5) of the United States Housing Act of 1937) of such individual and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for individuals whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly individuals may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly individuals to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly individuals assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) CALCULATION OF MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) APPLICATIONS.—An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for housing assistance under section 8 of the United States Housing Act of 1937, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly individuals and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether an individual qualifies as a frail elderly individual (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly individuals to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly individual needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each individual and for monitoring the individual's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly individuals to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the individuals to be served;

(11) a plan for continuing supportive services to frail elderly individuals that continue to receive housing assistance under section 8 of the United States Housing Act of 1937 after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act of 1965 and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly individuals in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly individuals proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by each frail elderly individual participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly individual participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "demonstration period" means the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a).

(2) The term "frail elderly individual" means an individual who, or a family where each individual, is at least 62 years old, is eligible to receive a housing assistance under section 8(b) of the United States Housing Act of 1937, is a very-low income individual at the time the individual first receives such assistance, and is unable to perform at least 3 activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(3) The term "professional assessment committee" means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(4) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(5) The term "Secretary" means the Secretary of Housing and Urban Development.

(6) The term "supportive services"—

(A) means assistance, that the Secretary determines—

(i) addresses the special needs of frail elderly individuals; and

(ii) provides appropriate supportive services or assists such individuals in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) MULTIFAMILY PROJECT DEMONSTRATION.—

(1) IN GENERAL.—In addition to the demonstration program authorized by this section, the Secretary shall conduct a demonstration, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 8 of the United States Housing Act of 1937 to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient numbers to achieve economies of scale in the provision of services and facilities.

(2) SECTION 8 ALLOCATION.—From amounts provided pursuant to subsection (j) and subject to availability in appropriation Acts, the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 8(b) of the United States Housing Act of 1937 to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) SECTION 8 TERMS.—The assistance payment contract under such section 8 shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 8 for projects for the elderly receiving loans under section 202 of the Housing Act of 1959.

(4) SUPPORTIVE SERVICES.—The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k), based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Notwithstanding the last sentence of subsection (c)(2), grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) APPLICATIONS.—An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) SELECTION.—The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(7) DEFINITIONS.—For purposes of this subsection:

(A) The term "elderly person" means an individual who is 62 years of age or older.

(B) The term "frail elderly individual" means an individual who, or a family where each individual, is at least 62 years old and is unable to perform at least 3 activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(C) The term "State" means any State of the United States and the Commonwealth of Puerto Rico.

(D) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the District of Columbia; and Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof.

(i) REPORT.—Not less than annually, the Secretary shall submit to Congress a report evaluating the effectiveness of the demonstration, which shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) AVAILABLE SECTION 8 ASSISTANCE.—The Secretary may, for fiscal year 1991, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 in connection with the demonstrations under this section, in an amount not to exceed $34,000,000, subject to the approval of sufficient amounts in appropriations Acts under section 5 of such Act.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, $10,000,000, to become available in fiscal year 1991 and remain available until expended.

(l) IMPLEMENTATION.—Not later than the expiration of the 120-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

SEC. 352. HOPE FOR VACANT PUBLIC HOUSING UNITS.

(a) CONTRACTS.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make available and contract to make available financial assistance in the form of grants to public housing agencies for the purpose of improving the physical condition of existing vacant units in low-rent public housing projects for use as residences.

(b) ELIGIBLE PUBLIC HOUSING.—Assistance under this section may be made available for units in low-rent housing projects that—

(1) are owned by public housing agencies;

(2) are operated as rental housing projects and assisted under section 5 or section 9 of the United States Housing Act of 1937;

(3) are not assisted under section 8 of such Act;

(4) are vacant at the time the assistance under this section is received; and

(5) meet such other requirements as the Secretary may prescribe.

(c) ASSESSMENT.—

(1) SMALL PHA.—For any public housing agency that operates 500 or less public housing dwelling units, the public housing agency shall file with the Secretary, not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990, a plan in a form established by the Secretary that the Secretary develops in coordination with appropriate local officials. The plan shall identify any vacant public housing dwelling units and propose a plan of action with respect to such units to ensure that each unit will be available for occupancy or demolished or disposed of in accordance with section 18 of the United States Housing Act of 1937 within 5 years after the submission of the plan. The plan shall include an estimate of rehabilitation costs, for each unit to be rehabilitated, necessary to ensure that the unit will meet housing quality standards established by the Secretary.

(2) LARGE PHA.—For any public housing agency that operates 500 or more public housing dwelling units, the public housing agency shall file with the Secretary, not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990, a 5-year comprehensive plan. The plan shall identify any vacant public housing dwelling units, identify the reason for the vacancies, and propose a plan of action for each such unit to ensure that the unit will be available for occupancy, or demolished or disposed of in accordance with the provisions of section 18 of the United States Housing Act of 1937, within 5 years after the submission of the plan. The plan shall include an estimate of rehabilitation costs, for each unit to be rehabilitated, necessary to ensure that the unit will meet housing quality standards established by the Secretary. A public housing agency under this paragraph that receives assist-

ance under this section shall annually submit to the Secretary a statement and performance report with respect to the vacant housing assisted, in the form and manner established by the Secretary.

(d) APPLICATION.—To be eligible to receive assistance under this section, a public housing agency shall file an application for such assistance in the form and manner established by the Secretary.

(e) USE OF ASSISTANCE.—A public housing agency that receives assistance under this section may use such amounts only—

(1) to undertake activities specified in the plan provided pursuant to subsection (c)(1), or in the comprehensive plan or annual statement provided pursuant to subsection (c)(2), as applicable; and

(2) for the costs of developing the plan required under subsection (c)(1), or the comprehensive plan, annual statement and performance report required under subsection (c)(2), as applicable.

(f) LIMITATION ON ASSISTANCE.—Assistance may not be made available under this section to any public housing agency for any year subsequent to the first year such assistance is made available to such agency, unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the plan required pursuant to paragraph (1) or (2) of subsection (c), as applicable, and approved by the Secretary.

(g) ALLOCATION OF ASSISTANCE.—The Secretary shall allocate assistance under this section in the manner assistance is allocated under section 14 of the United States Housing Act of 1937.

(h) REPORT.—The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.

(i) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section, including regulations establishing housing quality standards comparable to the standards issued under section 14(j)(2) of the United States Housing Act of 1937.

(j) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(k) DEFINITIONS.—For purposes of this section, the terms "public housing", "public housing agency", and "project" have the same meaning given the terms under section 3(b) of the United States Housing Act of 1937.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000 for fiscal year 1991.

SEC. 353. HOPE FOR FAMILY SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. HOPE FOR FAMILY SELF-SUFFICIENCY PROGRAM.

"(a) PURPOSE.—The purpose of the HOPE for Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or provides public housing shall carry out a local HOPE for Family Self-Sufficiency program under this section. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agen-

cies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

"(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section, except that for purposes of the fee under this subsection, the applicable percentage of the fair market rental under the second sentence section 8(q)(1) shall be 9 percent and the applicable dollar amount for preliminary expenses under subsection 8(q)(2)(A)(i) shall be $300.

"(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request.

"(3) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts appropriated under section 9(c) for fiscal year 1991, $25,000,000 is authorized to be used for costs under paragraph (2).

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish perfomance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the budget authority available in fiscal year 1991 and each fiscal year thereafter for certificate and voucher assistance under section 8 and not less than 10 percent of the public housing development assistance available in such fiscal years under section 5(a)(2).

"(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

"(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(l) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

"(m) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the HOPE for Family Self-Sufficiency program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the effective date of the final regulations issued under subsection (o).

"(B) A final report, not later than the expiration of the 5-year period beginning on the effective date of the final regulations issued under subsection (o).

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

"(o) EFFECTIVE DATE AND REGULATIONS.—

"(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 201(b)(2), the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

"(p) GRANTS FOR SELF-SUFFICIENCY FAMILY INVESTMENT CENTERS.—

"(1) PURPOSE.—The purpose of this subsection is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by—

"(A) developing facilities in or near public housing for training and support services offered under local self-sufficiency programs under this section;

"(B) mobilizing public and private resources to expand and improve the delivery of such services; and

"(C) providing funding for such essential training and support services that cannot otherwise be funded.

"(2) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to public housing agencies carrying out local self-sufficiency programs to adapt public housing to help families living in the public housing (and other families participating in the self-sufficiency program) gain better access to educational and job opportunities to achieve self-sufficiency and independence. Facilities assisted under this subsection shall be in or near the premises of public housing.

"(3) USE OF AMOUNTS.—Except as provided in paragraph (7)(B), amounts received from a grant under this subsection may only be used for—

"(A) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services under a local self-sufficiency program under this section;

"(B) the renovation of existing common areas in a public housing project to accommodate the provision of such supportive services;

"(C) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of such supportive services; and

"(D) the provision of not more than 15 percent of the cost of any supportive services under subsection (c)(2), which may be provided directly to residents of the public housing participating in the local self-sufficiency program (and other participants) by the public housing agency or by contract or lease through other appropriate agencies or providers.

"(4) ALLOCATION OF GRANT AMOUNTS.—The Secretary shall allocate any amounts appropriated under paragraph (9) among public housing agencies carrying out local self-sufficiency programs that have submitted applications under paragraph (5) and are selected by the Secretary.

"(5) APPLICATIONS.—Applications for assistance under this subsection shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain—

"(A) a description of the supportive services under the local self-sufficiency program that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under paragraph (3) that involve substantial rehabilitation);

"(B) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under paragraph (3);

"(C) a description under paragraph (3)(E) of subsection (g), which shall include evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(D) certification from the appropriate State or local agency (as determined by the Secretary) that—

"(i) the local self-sufficiency program is well designed to provide resident families better access to educational and employment opportunities; and

"(ii) there is a reasonable likelihood that services under the program will be funded or provided for the entire period specified under subparagraph (A);

"(E) a description of assistance for which the public housing agency is applying under this subsection;

"(F) a copy of the action plan under subsection (g) for the local self-sufficiency program of the public housing agency; and

"(G) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this subsection.

"(6) SELECTION.—The Secretary shall establish selection criteria for grants under this subsection, which shall take into account—

"(A) the ability of the public housing agency or a designated service provider to carry out the local self-sufficiency program;

"(B) the need for such program in the public housing project;

"(C) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of services under the program;

"(D) the extent to which the public housing agency has demonstrated that services under the program will be provided for the period identified under paragraph (5)(A);

"(E) the extent to which the public housing agency has a good record of maintaining and operating public housing; and

"(F) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this subsection are used effectively.

"(7) GRANT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall ensure that each public housing agency that receives a grant under this subsection has the capacity, in the determination of the Secretary, to—

"(i) carry out the local self-sufficiency program under this section; and

"(ii) seek, on a continuous basis, new sources of assistance to ensure long-term funding for supportive services.

"(B) FUNDING.—Public housing agencies may use amounts received from grants under this subsection to carry out the requirements of this subsection, and the Secretary may permit public housing agencies to use existing sources of funds for such purposes.

"(8) REPORTS.—

"(A) TO SECRETARY.—Each public housing agency receiving a grant under this subsection shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this subsection.

"(B) TO CONGRESS.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this subsection in such fiscal year. Such report shall summarize the progress reports submitted pursuant to subparagraph (A).

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $25,000,000 in fiscal year 1991, and such sums as may be appropriated in fiscal years 1992 and 1993.".

Subtitle E—Housing Opportunity Zones

SEC. 361. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate housing opportunity zones and approve barrier removal plans for cities and urban counties, as provided by and in accordance with this subtitle, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the production of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this subtitle by notice published in the Federal Register not later than 120 days after the date of the enactment of this Act.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of barrier removal plans and housing opportunity zones. To the extent such promulgation or revision relates only to actions that pertain to such zones or such plans, the Secretary may take such action by notice published in the Federal Register.

SEC. 362. DEFINITIONS.

For purposes of this subtitle:

(1) BARRIER.—The term "barrier" means any requirement promulgated by the legislative or executive body of any State or local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families, except that such term shall not include any requirement promulgated by the legislative or executive body of any State or local governmental entity pursuant to any requirement under Federal law.

(2) CITY.—The term "city" has the meaning given such term under section 102 of the Housing and Community Development Act of 1974.

(3) ELIGIBLE JURISDICTION.—The term "eligible jurisdiction" means a city that has a population of 50,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which housing oppor-

tunity zones and barrier removal plans are designated and approved, respectively.

(4) HOUSING OPPORTUNITY ZONE.—The terms "housing opportunity zone" and "zone" mean a geographic area designated by the Secretary that (A) has significant amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families; (B) has continuous boundaries and covers the entire area within these boundaries; and (C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) LOWER-, MODERATE-, AND MIDDLE-INCOME FAMILY.—The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. The term "moderate-income family" means a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. The term "middle-income family" means a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(7) URBAN COUNTY.—The term "urban county" has the meaning given such term under section 102 of the Housing and Community Development Act of 1974.

SEC. 363. HOUSING OPPORTUNITY ZONES.

(a) DESIGNATION.—The Secretary shall designate not more than 50 housing opportunity zones. All zone designations shall be made at one time. The Secretary shall make zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this subtitle, except that the Secretary also shall have discretion to attain geographic diversity in making zone designations.

(b) APPLICATIONS.—Each zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a housing opportunity zone shall specify—

(1) the location, boundaries, and character of the proposed zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, including the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate-, and middle-income families;

(6) any other local support for zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) HIGHER INCOME AREAS.—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a housing opportunity zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. 364. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate housing opportunity zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect on lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the zone designation.

(6) The extent of any other local support for zone activities.

(7) Any other factors that the Secretary may require.

SEC. 365. BARRIER REMOVAL PLANS.

The Secretary may approve barrier removal plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the housing opportunity zones are designated under this subtitle. Eligible jurisdictions may apply both for housing opportunity zone designation and barrier removal plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall identify the barriers to affordable housing for lower-, moderate-, or middle-income families, describe the steps that the locality intends to take to remove the barriers, and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section 361(b) such minimum standards for the approval of plans as the Secretary deems appropriate.

SEC. 366. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) TERM OF APPROVAL OR DESIGNATION.—The approval of any barrier removal plan and the designation of any housing opportunity zone shall be effective for a term that shall not exceed 2 years, and no such approval or designation shall be made after the expiration of the 2-year period beginning on the date of the enactment of this Act.

(b) REVIEW AND REVOCATION.—Not less than annually, the Secretary shall review the progress of each jurisdiction with a designated zone or an approved plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this subtitle, the Secretary may revoke the approval of the barrier removal plan or the designation of the housing opportunity zone.

(c) OBLIGATIONS UNDER RELATED PROGRAMS.—

(1) EFFECT OF REVOCATION.—The revocation of a plan approval or zone designation under this subtitle shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) BENEFITS.—For a period of 1 year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated zone the benefits under sections 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. 367. REPORTS.

(a) ANNUAL PERFORMANCE REPORTS.—The Secretary may require each jurisdiction that has an approved barrier removal plan or a designated housing opportunity zone to make annual performance reports in support of the Secretary's responsibility to conduct progress reviews and otherwise.

(b) FINAL REPORTS.—Each jurisdiction that has an approved barrier removal plan or a designated housing opportunity zone shall submit a final report to the Secretary, in such form as the Secretary requires, within six months after the plan approval or zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this subtitle, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. 368. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437o(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) The Secretary is authorized to increase, by 5 percent for an approved barrier removal plan or 10 percent for a designated housing opportunity zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved plan or a designated zone, respectively, under subtitle E of title III of the Housing and Community Development Act of 1990.".

SEC. 369. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended—

(1) striking "and (B)" and inserting the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990, to the extent so conducted, the activity shall be deemed to principally benefit low- and moderate-income persons; for purposes of construing the preceding clause, 'severely distressed unit of local government' means a unit of general local government (i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that meets such other standards as the Secretary may determine, or (ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)".

SEC. 370. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition entered into by the Secretary regarding the use or disposition of urban renewal project land, any part of which is located in a housing opportunity zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such zone.

SEC. 371. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706(e)) is amended by adding at the end the following new subsection:

"(n)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that include a designated housing opportunity zone.".

SEC. 372. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) LOAN AMOUNT.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by striking "or" before "(iii)"; and

(2) by inserting before the period at the end the following: ", or (iv) the dwelling is located in a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990".

(b) REHABILITATION.—Section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) is amended by adding at the end the following new paragraph:

"(6)(A) The Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this title, promote the rehabilitation of housing for lower-, moderate-, or middle-income families (as defined in subtitle E of title III of the Housing and Community Development Act of 1990) in housing opportunity zones designated under title III of such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, coinsurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary.".

SEC. 373. APPLICABILITY OF OTHER LAWS.

Unless otherwise expressly provided in this subtitle and the amendments made by this subtitle, this subtitle and the amendments made by this subtitle may not be construed to annul, alter, affect, or exempt the applicability of, any other Federal laws or regulations.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to remind my colleagues that title III is a HOPE project. When we had general debate, I mentioned that the President for the first time in 10 years in the budget message had included a substantial section of his budget message to what he called Project HOPE, housing opportunities for everybody, and it was very sketchy. It could not possibly have been the basis for legislation. But Secretary Kemp though, who does represent the new era and a new progressive type of administration, did shape it up, and finally this last February had a bill, and he called it "HOPE."

Mr. Chairman, this is a compromise that, together with the majority and the minority, was worked out. It represents about 90 percent of the original HOPE proposal as Secretary Kemp gave it to us. I am very happy that we were able to reach that. I think that it is offering hope and a new and innovative approach that I think there is always room for.

Mr. Chairman, I just want to mention the history of this title, and, as far as I know, there are no amendments to be offered.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I really do appreciate the kind words of the gentleman from Texas [Mr. GONZALEZ] and the recognition for the contribution of Secretary Kemp with this HOPE proposal. It is an innovative program. When we first heard about it, I think there was considerable skepticism, but the Secretary, with his usual diligence and the kind of person who does his homework, worked with us. The gentleman from Texas [Mr. GONZALEZ] is to be congratulated for having such an open mind.

In addition, Mr. Chairman, this has already marked a change in direction upward and onward, I think, for having housing as a priority in this Nation, and I think we should congratulate the Secretary for the work he has done.

Most of all, Mr. Chairman, I wish to say to the gentleman from Texas [Mr. GONZALEZ] that, "You are willing to hold out your hand in cooperation as we seek to work together to reach the truly needy in this country," and I think what this also says is, not only is it reversing the trend backward on housing, but it is also saying that we are willing to try new things, and this is more than—what is it—about 90 percent of what the Secretary has wanted? It is more than a token representation.

So, Mr. Chairman, I think we should recognize that true bipartisan spirit of this bill, and the HOPE proposal is central to that bipartisan spirit.

Mr. GONZALEZ. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA], and I completely agree with her, and I join with her in the congratulations we should offer to those that have sponsored this legislation and initiated a hopeful new day.

The CHAIRMAN. Are there any amendments to title III?

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—COMMUNITY HOUSING PARTNERSHIP

SEC. 401. SHORT TITLE.

This title may be cited as the "Community Housing Partnership Act".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the goals of the Federal housing laws, set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, are to provide affordable, decent, safe, and sanitary living environments for all Americans;

(2) there is an increasing number of Americans whose living environments have deteriorated over the past several years as a result of reductions in Federal assistance to low- and moderate-income families;

(3) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide affordable, safe, decent, and sanitary housing for low- and moderate-income families;

(4) in order to fulfill the goals of the Federal housing laws, there is a need to develop a cost-effective community based housing development program under which—

(A) the rents charged to tenants will be based on the actual cost of the construction and management of the housing; and

(B) the Federal, State, and local investment in low- and moderate-income housing will be preserved to ensure continuity of providing housing for low- and moderate-income families in perpetuity;

(5) an increasing number of States and cities have been successful in producing cost-effective low- and moderate-income housing by working in partnership with local community-based nonprofit sponsors, such as community development corporations, community action agencies, neighborhood housing services, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(6) during the 1980's, the nonprofit sector has, despite severe obstacles caused by inadequate funding, played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(7) nonprofit sponsors need technical skills and financial resources to develop housing programs and otherwise assist low- and moderate-income families; and

(8) the success of housing development programs depends upon tenants and homeowners being fiscally responsible and able managers.

(b) PURPOSE.—It is the purpose of this title—

(1) to develop affordable, safe, decent, and sanitary housing for low- and moderate-income families in a cost-effective manner—

(A) by providing funding to cities and States to be used to maintain the low- and moderate-income housing stock and to make new construction, acquisition, and substantial rehabilitation projects feasible;

(B) by encouraging the development and management of housing projects by nonprofit community based organizations such as community development corporations, community action agencies, neighborhood housing services, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and tenant organizations; and

(C) by encouraging matching funds from private entities and State and local governments to assist in the development of low- and moderate-income housing;

(2) to ensure that Federal investment in low- and moderate-income housing—

(A) produces housing stock that is available to low- and moderate-income tenants at a cost based on the actual cost of the construction (or acquisition) and management of the housing; and

(B) remains available to serve low- and moderate-income families in perpetuity;

(3) as one part of a more comprehensive housing program (including the for-profit private sector and public housing agencies and organizations) needed to meet the housing goals of the Nation, to help to steadily expand the development capacity of the nonprofit sector so that it can play an increasing role in the construction, rehabilitation, and preservation of affordable housing;

(4) to encourage potential nonprofit sponsors to develop the necessary capabilities and resources to undertake the housing development programs contemplated in subtitle B; and

(5) to assist low- and moderate-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

Subtitle A—Housing Education and Organizational Support Grants for Community Based Housing Projects

SEC. 411. PROGRAM AUTHORITY.

In order to facilitate the education of low- and moderate-income homeowners and tenants and to promote the ability of nonprofit sponsors to maintain, rehabilitate and construct housing for low- and moderate-income families, the Secretary of Housing and Urban Development may provide housing education and organizational support grants—

(1) to eligible cities and States to assist nonprofit sponsors and nonprofit organizations; and

(2) directly to nonprofit sponsors and nonprofit organizations.

SEC. 412. ELIGIBLE ACTIVITIES.

Grants made under this subtitle may be used only for the following eligible activities:

(1) ORGANIZATIONAL SUPPORT GRANT.—Organizational support grants shall be made by grant administrators to nonprofit sponsors to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the nonprofit sponsor. Organizational support grants may not be provided under this subtitle for any project-specific activity provided for in section 423(a).

(2) HOUSING EDUCATION GRANT.—Housing education grants shall be made by grant administrators to nonprofit organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under grants made pursuant to subtitle B.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $14,000,000 for fiscal year 1991. Any amount appropriated under this section shall remain available until expended.

Subtitle B—Community Housing Partnership Grants

SEC. 421. PROGRAM AUTHORITY.

The Secretary may provide the following assistance under this subtitle to facilitate the maintenance, rehabilitation, acquisition, and construction of housing for low- and moderate-income families:

(1) GRANTS TO CITIES AND STATES.—Community housing partnership grants to eligible cities and States to assist nonprofit sponsors.

(2) GRANTS AND LOANS TO NONPROFITS.—Community housing partnership grants and loans directly to nonprofit sponsors.

SEC. 422. DISTRIBUTION AND ALLOCATION OF COMMUNITY HOUSING PARTNERSHIP FUNDS.

(a) URBAN COMMUNITY HOUSING PARTNERSHIP GRANTS.—

(1) SHARE OF APPROPRIATED FUNDS.—The Secretary shall allocate 60 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to metropolitan cities and urban counties.

(2) APPORTIONMENT OF FUNDS.—

(A) USE OF CDBG FORMULA.—Except as provided in subparagraph (B), amounts allocated under paragraph (1) for community housing partnership grants shall be apportioned to metropolitan cities and urban counties in the same manner as funds are apportioned under section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)).

(B) MINIMUM ALLOCATION.—If the amount allotted in any year to any metropolitan city or urban county under paragraph (2) is less than $150,000, such city or county shall not receive a community housing partnership grant under this subsection. Such amount shall be distributed pro rata to the cities and counties otherwise receiving funding under subparagraph (A).

(b) STATE COMMUNITY HOUSING PARTNERSHIP GRANTS.—

(1) SHARE OF APPROPRIATED FUNDS.—The Secretary shall allocate 25 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to States for use in areas that do not receive a grant under subsection (a).

(2) APPORTIONMENT OF FUNDS.—Amounts allocated under paragraph (1) shall be apportioned among the States in the same manner as funds are apportioned under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)).

(c) DIRECT COMMUNITY HOUSING PARTNERSHIP GRANTS.—

(1) SHARE OF APPROPRIATED FUNDS.—The Secretary shall allocate 15 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to nonprofit sponsors.

(2) DISTRIBUTION.—The Secretary shall make grants to nonprofit sponsors from amounts allocated under paragraph (1), with priority given to any nonprofit sponsor—

(A) that will provide services in an area where the local government or State concerned—

(i) is unwilling or unable to participate in obtaining a grant under subsection (a) or (b); or

(ii) is unable to provide matching funds; or

(B) that proposes an innovative housing development.

(3) DENIED APPLICANTS.—The Secretary may make grants from amounts allocated under paragraph (1) to nonprofit sponsors that have applied to metropolitan cities and urban counties under subsection (a) or States under subsection (b) for assistance but have been denied assistance or have not been notified of the decision regarding such assistance within 90 days of filing the application for such assistance.

(d) UNUSED FUNDS.—

(1) RESERVATION OR DISTRIBUTION TO PUBLIC AGENCY SPONSORS.—A grant administrator other than the Secretary that has grant funds remaining at the end of the 12-month period beginning on the date the funds are received from the Secretary may reserve such unused funds for an additional 6-month period or make the funds available to any public agency that—

(A) is willing to act as a nonprofit sponsor, only if the grant administrator certifies that there are no nonprofit sponsors that have applied for or are qualified to receive such unused funds; and

(B) otherwise fulfills the eligibility requirements.

(2) REALLOCATION.—A grant administrator other than the Secretary that has grant funds remaining at the end of the 18-month period beginning on the date the funds are received from the Secretary shall return such unused funds to the Secretary for reallocation under subsection (c).

(e) COMBINED HOUSING AND ECONOMIC DEVELOPMENT DEMONSTRATION.—Using the amounts reserved under section 425 for use under this subsection in fiscal year 1991, the Secretary shall carry out a demonstration program for combining housing activities

under section 423(c) and economic development activities as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

SEC. 423. ELIGIBLE ACTIVITIES.

(a) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.—

(1) IN GENERAL.—A grant administrator may use funds from a grant received under section 422 to provide technical assistance and site control loans to nonprofit sponsors in the early stages of site development for an eligible project.

(2) ALLOWABLE EXPENSES.—A loan may be provided under paragraph (1) to cover project expenses necessary to determine project feasibility, including costs of an initial feasibility study, consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, and deposits to obtain options for site control.

(3) REPAYMENT.—A nonprofit sponsor that receives a loan under paragraph (1) shall repay the loan to the grant administrator from construction loan proceeds or other project income. The Secretary may waive repayment of the loan if there are impediments to project development.

(b) PROJECT-SPECIFIC SEED MONEY LOANS.—

(1) IN GENERAL.—Grant administrators may provide loans to nonprofit sponsors to cover preconstruction project expenses, such as obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) ELIGIBLE NONPROFIT SPONSORS.—A grant administrator may provide a loan under paragraph (1) only to a nonprofit sponsor who has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) REPAYMENT.—A nonprofit sponsor that receives a loan under paragraph (1) shall repay the loan to the grant administrator from construction loan proceeds or other project income. The grant administrator may waive repayment of the loan if there are impediments to project development.

(c) PROJECT-SPECIFIC MATCHING GRANT OR LOAN.—

(1) IN GENERAL.—A grant administrator may provide grants or loans to nonprofit sponsors or nonprofit sponsor partnerships to assist in the new construction, acquisition, or substantial rehabilitation of eligible projects. A grant or loan provided under the preceding sentence may be used to make a project feasible and to reduce rents or sales prices—

(A) by buying down long-term mortgages;

(B) by providing interest reduction payments;

(C) by covering operating deficits;

(D) by providing capital grants or deferred interest loans; or

(E) by providing other assistance to support the rehabilitation, construction, acquisition, and occupancy of the eligible project by low- and moderate-income families.

(2) MATCHING REQUIREMENT.—A grant administrator may not provide a grant or loan under this subsection unless the applicant, for every 3 dollars to be provided under the grant or loan, provides 1 dollar of matching funds or commitments, on a present value basis, from—

(A) the State or unit of general local government concerned (such as grants, tax abatements, subsidized loans, tax-exempt financing, or other local subsidy programs); or

(B) a private foundation, financial institution, or other private association or organization (such as grants, below market loans, or syndication proceeds, or equity contributions).

(d) PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.—Each grant administrator shall use not less than 5 percent of the funds received under the grant to provide to eligible nonprofit sponsors—

(1) technical assistance and training; and

(2) continuing support for managing and conserving properties developed under this subtitle.

(e) USE OF AMOUNTS RECEIVED AS LOAN REPAYMENTS.—Any grant administrator that receives amounts in repayment of loans made under this subtitle may use such amounts only to carry out the purposes of this subtitle.

SEC. 424. ELIGIBLE PROJECTS.

(a) ELIGIBLE RENTAL HOUSING PROJECTS.—In order to be eligible for a grant under section 422, the owner of a rental housing project shall agree to the following requirements:

(1) TYPES OF PROJECTS.—The project shall consist of—

(A) multifamily rental housing structures (including limited equity cooperatives) that contain more than 4 independent dwelling units; or

(B) single room occupancy structures that have a capacity of not less than 4 persons (and may include the sharing of common eating and bath facilities).

(2) OCCUPANCY BY LOWER INCOME FAMILIES.—In the project—

(A) at least—

(i) 40 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 60 percent of the area median income, adjusted for family size; or

(ii) 20 percent of the units shall be occupied, or be available for occupancy by, lower income families with incomes of less than 50 percent of the area median income, adjusted for family size; and

(B) at least 10 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 30 percent of the area median income, adjusted for family size.

(3) LIMITATION ON RENTAL PAYMENTS BY LOWER INCOME FAMILIES.—In each project, tenants with incomes below 80 percent of the area median income shall not pay more than 30 percent of their monthly adjusted income toward monthly rental payments.

(4) PROHIBITION ON ASSISTANCE TO NONLOWER INCOME FAMILIES.—Assistance provided under this subtitle may not be used in any project to reduce rental payments for families with incomes above 80 percent of the area median income, adjusted for family size.

(5) LOWER INCOME USE OF ASSISTANCE.—Of the assistance provided under this subtitle for eligible rental projects, not less than—

(A) 25 percent shall be used for lower income families with incomes of less than 30 percent of the area median income, adjusted for family size; and

(B) 50 percent shall be used for lower income families with incomes of less than 60 percent of the area median income, adjusted for family size.

(6) LIMITATION ON PROFITS.—Aggregate monthly rental for each eligible project may not exceed the cost of operating the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on the equity investment, if any, of the owner of the project.

(7) PERIOD OF RESTRICTIONS.—A project for which assistance is received under this subtitle shall comply with the requirements of paragraphs (2) and (3) in perpetuity.

(8) RESTRICTIONS ON CONVEYANCE.—

(A) APPLICABILITY OF RESTRICTIONS TO SUBSEQUENT OWNERS.—The ownership interest in a project for which assistance is received under this subtitle may not be conveyed unless the instrument of conveyance requires the new owner to comply with the same restrictions imposed on the original owner.

(B) ALLOWABLE PROFITS.—A nonprofit sponsor that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purposes of providing low- and moderate-income housing. Profit-motivated partners of nonprofit sponsors in a nonprofit sponsor partnership may receive—

(i) not more than a 6 percent return on their equity investment from project operations; and

(ii) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

(9) TENANT PARTICIPATION PLAN.—A nonprofit sponsor that receives assistance for a project under this subtitle shall provide a plan for and follow a program of tenant participations in management decisions and shall adhere to a fair lease and grievance procedure approved by the grant administrator.

(b) HOME OWNERSHIP.—

(1) ELIGIBLE UNITS.—Eligible home ownership units shall include the sale of dwellings (or in the case of a mutual housing corporation or association sponsorship, the sale of indicia of home ownership), including 1- to 4-family homes and dwelling units in a condominium project or cooperative, and any townhouse or manufactured home, provided such dwelling units provide facilities necessary for independent living and comply with—

(A) applicable local building codes; or

(B) in any case in which there is not an applicable building code, a nationally recognized model building code that the Secretary determines to be acceptable.

(2) ELIGIBLE FAMILIES.—In order to be eligible to purchase an eligible home ownership unit, a family—

(A) may not have a family income that exceeds—

(i) except as provided in clause (ii), the greater of (I) 115 percent of the area median income for a family of 4 persons, or (II) 115 percent of the State median income for a family of 4 persons; or

(ii) if purchasing a home located in an area that is a high housing cost area (as such term is defined under section 143(f)(5) of the Internal Revenue Code of 1986), the greater of (I) 120 percent of the area median income for a family of 4 persons, or (II) 120 percent of the State median income for a family of 4 persons; and

(B) shall be a first-time homebuyer (as defined in section 431(3) of this subtitle).

(3) LIMITATION ON PROFITS.—Eligible nonprofit sponsors and nonprofit sponsor partnerships may not charge a purchase price for any unit built or rehabilitated with assistance under this section in excess of the cost of acquisition, construction, and rehabilitation (including soft costs such as professional fees, costs of interest and insurance, and taxes) and sale of the unit and related common costs of the development plus a development fee of 10 percent of such costs. Any development fee received by a nonprofit sponsor from the sale or other disposition of an assisted project shall be used for the purpose of carrying out a program designed to—

(A) preserve low- and moderate-income housing;

(B) manage low- and moderate-income housing;

(C) provide tenant counseling services for tenants in low- and moderate-income housing; and

(D) provide low- and moderate-income housing.

(4) RESALE.—

(A) DISTRIBUTION OF PROCEEDS.—Any proceeds from the sale of a unit assisted under a homeownership program under this subtitle shall be distributed, in order, as follows:

(i) First, proceeds shall be paid to lenders to repay any outstanding mortgages against the property.

(ii) Next, proceeds shall be paid to the owner in the account necessary for the owner to recover the contribution to equity paid by the owner (including the cost of any improvements made at the expense of the owner during such ownership), adjusted by any increase in the appropriate Consumer Price Index, and closing costs paid by the owner.

(iii) Any remaining proceeds shall be divided between the owner and the nonprofit sponsor (or, if the nonprofit sponsor is unwilling or unable to receive the amounts, the grant administrator) such that the owner will receive 5 percent of the remaining proceeds for each year of occupancy of the unit for a period not to exceed 10 years, and thereafter receive 50 percent of the remaining proceeds.

(B) INSTRUMENT OF CONVEYANCE.—The restrictions described in subparagraph (A) shall be contained in the instrument of conveyance with respect to the assisted unit.

(C) ELIGIBLE FAMILIES FOR RESALE.—The owner shall use best efforts to have the assisted unit resold to a family that, at the time of resale, is eligible to purchase a unit assisted under this title. The grant administrator for the applicable city or State shall monitor compliance with this subparagraph.

(5) HOUSING COOPERATIVES.—Housing cooperatives shall be structured to limit the equity appreciation to ensure continued affordability of cooperative units for households meeting the criteria established in paragraphs (2) and (3) of subsection (a).

(6) LOW INCOME USE.—For any amounts from a grant made under this subtitle used for the purposes under this subsection, the grant administrator shall use not less than 25 percent of such amount for lower income families with incomes of less than 80 percent of the area median income, adjusted for family size.

(c) COORDINATION WITH OTHER SOURCES OF FUNDING.—

(1) IN GENERAL.—Amounts may be provided to a project under this subtitle in addition to other amounts provided to such project under local, State, or other Federal housing or community assistance programs.

(2) LIMITATION.—In determining the amounts provided to a project under this subtitle, the grantee shall consider any other amounts provided to such project as described in paragraph (1) to ensure that the monthly rental paid to the project owner for each unit assisted under this subtitle does not exceed the maximum rent permitted to be paid for such unit as determined under subsection (a)(3).

(3) SECTION 8 ASSISTANCE.—From any amounts provided in appropriations Acts, the Secretary or any local housing authority may allocate assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), including rent certificates and vouchers, to a rental project assisted under this subtitle for a term determined by the Secretary or such authority to be necessary to assist such project to obtain adequate financing or to maintain financial viability.

(d) AFFIRMATIVE ACTION REQUIREMENTS.—Each nonprofit sponsor that receives assistance for a project under this subtitle shall develop and follow an affirmative action program approved by the grant administrator to maximize the participation of minorities and women in construction, management, and maintenance employment opportunities arising from this program, particularly minority and women residents of the communities in which the project is located.

(e) NONDISCRIMINATION.—No person shall, on the grounds of race, color, national origin, age, handicap, or sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity assisted under this subtitle.

(f) ALLOCATION.—Of any amounts appropriated for the purposes under this subtitle, not less than 60 percent shall be used for eligible rental housing projects under subsection (a).

SEC. 425. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $286,000,000 for fiscal year 1991, of which not more than $20,000,000 shall be available for the demonstration under section 422(e). Any amount appropriated under this section shall remain available until expended.

Subtitle C—General Provisions

SEC. 431. DEFINITIONS.

For purposes of this title:

(1) AREA MEDIAN INCOME AND STATE MEDIAN INCOME.—The terms "area median income" and "State median income" mean the area median income and the State median income, respectively, as determined by the Secretary.

(2) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means a family that has not owned a home during the 3-year period prior to purchase of an eligible homeownership unit under section 424(b), except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(4) GRANT ADMINISTRATOR.—The term "grant administrator" means any city or State receiving funds under this title, including any entity, authority, or agency designated by such city or State to act as grant administrator. To the extent the Secretary directly administers the funding under this program under section 422(c), the term includes the Secretary.

(5) LOW- AND MODERATE-INCOME FAMILIES.—The term "low- and moderate-income families" includes families and individuals who are at or below the income levels for eligibility for the assistance set forth in this title.

(6) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any not-for-profit corporation that—

(A) is organized under State or local laws;

(B) is qualified under section 501(c)(3) of the Internal Revenue Code of 1986; and

(C) has as one of its purposes the counseling, education, or organizing of low- or medium-income homeowners or tenants.

(7) NONPROFIT SPONSOR.—The term "nonprofit sponsor" means—

(A) any not-for-profit corporation that—

(i) is organized under State or local laws;

(ii) is qualified under section 501(c)(3) of the Internal Revenue Code of 1986;

(iii) has as one of its purposes the preservation and production of affordable housing; and

(iv) provides for board representation or another manner of accountability to low- and moderate-income community residents for decisions relating to specific projects under this title, including design, siting, development and management;

(B) any nonprofit cooperative corporation that is—

(i) organized under local law; and

(ii) approved by the Secretary; or

(C) any State or locally chartered, neighborhood based, nonprofit organization that has as its primary purpose the preservation and production of housing.

(8) NONPROFIT SPONSOR PARTNERSHIP.—The term "nonprofit sponsor partnership" means a limited partnership in which a nonprofit sponsor is a controlling general partner.

(9) SECRETARY.—The term "Secretary" means the Secretary of the Department of Housing and Urban Development.

(10) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(11) STATE.—The term "State" means each of the several States or any instrumentality of a State approved by the Governor of such State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and any Indian tribe.

(12) SUBSTANTIAL REHABILITATION.—The term "substantial rehabilitation" means rehabilitation of a project with a cost, including soft costs (such as professional fees, costs of interest and insurance, and taxes), equal to at least 30 percent of the fair market value of the building. Substantial rehabilitation shall require that the structure be rehabilitated (other than a cosmetic repair) so that it is in compliance with the building standards as prescribed by the Secretary.

SEC. 432. COMMUNITY AND RESIDENT PARTICIPATION PLAN.

To receive assistance under this title, a nonprofit sponsor shall submit to the Secretary and comply with a plan for community and resident participation in development and management decisions relating to eligible housing projects assisted with grants under this title, as the Secretary shall determine.

SEC. 433. LIMITATION ON GRANT AMOUNTS.

The Secretary may not provide assistance for any fiscal year under this title to any nonprofit sponsor in an amount that exceeds 50 percent of the amount of the total operating budget of the nonprofit sponsor in the fiscal year.

SEC. 434. NONDISPLACEMENT.

To receive assistance under this title, a grant administrator shall certify to the Secretary that the city or State receiving funds under this title is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the city or State).

SEC. 435. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this title.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA:

Page 178, line 23, insert new subsection (C)

(C) Tenants shall be selected for units in housing projects assisted under this subsection according to criteria that shall give preferences to families who occupy substandard housing, are paying more than 50 percent of family income in rent, or are involuntarily displaced at the time they are seeking assistance in a rental housing project under this subsection. Notwithstanding the preceeding sentence, an owner may provide for circumstances in which families who do not qualify for any preference are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period may be families who do not quality for such preferences.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I offer this amendment in a constructive spirit and in support of the Community Housing Partnership Act, another innovative section of this bill. The partnership program, I believe, should prove to be a very worthwhile initiative which embodies two elements which I believe make it a better approach of providing housing than perhaps some other programs in the bill.

The author of the program, the gentleman from Massachusetts [Mr. KENNEDY], should be congratulated for his willingness to entertain new approaches in the way that he has put forth this program.

Mr. Chairman, the first element of this partnership includes a funding mechanism which relies on a block grant approach very much like the CDBG block grant to provide greater flexibility at the local level to meet local housing needs in a most efficient way. That is an approach that I have long supported in my years on the committee.

The second element relies on the use of nonprofit organizations working in conjunction with local governments and other interested parties and developers.

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I think that is an excellent approach and one which Secretary Kemp approves.

When this program first appeared, we had our natural skepticism. All new ideas to meet with skepticism, but I believe that we are here concerned with making adjustments that will improve the application of this program at the local level, and those of us who are concerned about income distribution among the residents will be interested in the amendment that I am offering.

I believe that the targeting change that I offer here to the proposal of the gentleman from Massachusetts [Mr. KENNEDY] will strengthen the proposal and the support.

Basically, my amendment is quite simple. It adds the Federal preferences for individuals who occupy standard housing and are paying more than 50 percent of their income in rent, or who are involuntarily displaced at the time that they are seeking assistance. In other words, it gives them that preference for those categories.

Mr. Chairman, rigid, complicated income targeting, based on project or programwide criteria for families in different income levels is not necessary in these construction programs. Nevertheless, if mixed income programs such as this one are determined to be necessary, then my amendment makes sure by enhancing and complementing the efforts of the program that the Federal contribution of assistance gives some preference to low income individuals, those with the most severe housing problems.

I do not believe that the amendment upsets the basic goals of the partnership program, which is to provide housing for mixed income individuals. It simply targets the Federal funds to those in most need. I believe it is a modest change and I would hope that the gentleman from Massachusetts would give his support to that change.

Mr. KENNEDY. Mr. Chairman, I move to strike the last word.

First, I want to compliment the gentlewoman from New Jersey for the fine work that she has done in support of the Community Housing Partnership Act.

I am also delighted to receive her support, which was critical to the passage of this initiative in both the subcommittee and the full committee. The gentlewoman's initiatives with regard to the poor of not only her State, but throughout the country, is something that I have witnessed over 4 years and I very much appreciate the substantial efforts that she has made to improve the language in this bill and to make sure that her concerns for the poorest of the poor met with this legislation.

Mr. Chairman, the reality is that in our country today as a result of the reductions in the Tax Code and the reductions and additions that the Congress has seen to put forth to direct appropriations for housing have effectively evaporated the use of housing by the for-profit sector in terms of getting low-income housing built in America. As a result of that, nonprofit corporations from all over this country have moved in to fill the void, building over 150,000 affordable housing units over the course of the past few years.

This legislation for the first time will provide some economic support from the Federal Government to those nonprofits, and the initiatives of the gentlewoman from New Jersey [Mrs. ROUKEMA] will make certain that the neediest of the needy are in fact served through this legislation. Her amendment calls for 50 percent, those individuals who spend a mini-

mum of 50 percent of their income on rent be given first preferences, along with those individuals who live in substandard housing and who find themselves displaced.

I think these are very important amendments. I think that they will do what I believe nonprofits would be in the business of accomplishing in any event, but I think that the reality is that it is important for the Congress to stipulate the exact nature of the need and the fact that this Congress is saying that we want the poorest of the poor's needs addressed first; so I welcome the amendment and I look forward to its passage.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KENNEDY

Mr. KENNEDY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KENNEDY:

Page 183, strike line 22 and all that follows through page 184, line 24, and insert the following new paragraph:

(4) RESALE.—

(A) DURING FIRST 15 YEARS.—If a homeowner of a unit assisted under this subsection sells the unit during the 15-year period beginning upon acquisition of the assisted unit by the homeowner, the nonprofit sponsor shall recapture a portion of the proceeds of the sale equal to the sum of—

(i) the amount of assistance provided to the unit under section 423(c); and

(ii) the product of the increased value of the unit and the subsidy factor.

(B) AFTER FIRST 15 YEARS.—If a homeowner of a unit assisted under this subsection sells the unit after the expiration of the 15-year period under subparagraph (A), the nonprofit sponsor shall recapture a portion of the proceeds of the sale as follows:

(i) If the sale occurs during the 1st 1-year period beginning upon the expiration of the period under subparagraph (A), the nonprofit sponsor shall recapture an amount equal to the sum of (I) 80 percent of the amount of assistance provided to the unit under section 423(c), and (II) 80 percent of the product of the increased value of the unit and the subsidy factor.

(ii) If the sale occurs during the 2d such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 60 percent of the amount of assistance provided to the unit under section 423(c), and (ii) 60 percent of the product of the increased value of the unit and the subsidy factor.

(iii) If the sale occurs during the 3d such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 40 percent of the amount of assistance provided to the unit under section 423(c), and (II) 40 percent of the product of the increased value of the unit and the subsidy factor.

(iv) If the sale occurs during the 4th such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 20 percent of the amount of assistance provided to the unit under section 423(c), and (II) 20 percent of the product of the increased value of the unit and the subsidy factor.

(v) If the sale occurs during the 5th such 1-year period or at any time thereafter, the nonprofit sponsor may not recapture any proceeds of the sale.

(C) NOTICE OF ASSISTANCE AMOUNT.—Upon initial sale of a homeownership unit under this subsection that received assistance under section 423(c), the nonprofit sponsor or nonprofit sponsor partnership selling the unit (or other seller) shall provide the homebuyer with written notice of the amount of assistance provided for such unit and the subsidy factor for such unit.

(D) DEFINITIONS.—For purposes of this paragraph:

(i) INCREASED VALUE.—The term "increased value" means the difference between the sale price of a unit upon sale by a homeowner and the sale price of the unit paid by the homeowner upon initial acquisition.

(ii) SUBSIDY FACTOR.—The term "subsidy factor" means the ratio of the amount of assistance provided to a unit under section 423(c) to the purchase price paid by the homeowner upon initial acquisition.

Page 185, line 1, strike "(B)" and insert "(E)".

Page 185, line 2, strike "subparagraph (A)" and insert "subparagraphs (A), (B), and (C)".

Page 185, line 5, strike "(C)" and insert "(F)".

Page 185, after line 11, insert the following new subparagraph:

(G) PROHIBITION OF ADDITIONAL RESTRICTIONS.—Eligible nonprofit sponsors and nonprofit sponsor partnerships may not establish any restrictions on the resale by a homeowner of a homeownership unit under this subsection in addition to the restrictions under this paragraph.

Mr. KENNEDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. KENNEDY. Mr. Chairman, I am pleased to offer this amendment with my distinguished colleague from Texas. It represents a significant improvement over the language currently in the bill. And it both provides the benefits of homeownership to working families, and recognizes the role of nonprofits in creating affordable housing.

For those of my colleagues who are unfamiliar with this title, the community housing partnership is a new program that targets $300 million to nonprofits to develop affordable housing. It is a housing program for an era of tight budgets. Over the last 10 years, nonprofits have built over 150,000 units of housing for poor and working people around the country.

The community housing partnership taps the great potential of nonprofit housing developers. And it does so in a cost-efficient way. Federal dollars must be leveraged by State, local, and private money. Speculative profits are eliminated. And the housing is paid for up front to reduce the financing costs that drive rents up over the long run.

In a nutshell, this amendment allows low- and moderate-income homeowners and community nonprofits to share in any profits from the sale of a home subsidized with community housing partnership funds. The share of each partner will be proportionate to the amounts they put up initially. For example, assume that a home costs $100,000 to build. Also assume that the low- and moderate-income owner puts up $80,000 of the cost, while the community nonprofit puts up $20,000. If the owner sells the property in the first 15 years of ownership, then he or she splits any profits 80–20. After 20 years, the owner receives 100 percent of the gained equity.

Mr. Chairman, this arrangement provides significant benefits all around. First and foremost, the low- and moderate-income owner receives the full rewards of homeownership consistent with his or her investment.

Second, the community nonprofit receives an appropriate return on its subsidy. If the nonprofit is going to take the risks of the marketplace, it ought to receive some of the rewards, too.

Third, this amendment will create a new source of funding for affordable housing—not from the government, but from the marketplace. At a time when there is little money in Federal and State coffers for affordable housing, allowing nonprofits to recover a fair share of the profits will generate new funds to meet urgent housing needs.

In summary, this amendment is good for working people, good for nonprofits, and good for the cause of affordable housing. I urge its adoption.

Mr. Chairman, I want to compliment my colleague, the gentleman from Texas [Mr. BARTLETT] for the tremendous job that he has done in first bringing up the notion of making certain that those individuals who have opportunities to own these homes as a result of his support of the Community Housing Partnership Act that the gentleman brought up in the subcommittee first alerted me to the inconsistencies that were in the bill at that time. He then pursued and insisted that we change these laws in the full committee, and I think made really an excellent point that those individuals simply because they were assisted by the Federal Government should not be cut out of their opportunities for real and meaningful homeownership.

So I want to compliment and thank the gentleman from Texas for his persistent and conscientious and above all good fine work on this bill. I commend the gentleman and thank him for his efforts on behalf of those people.

Mr. BARTLETT. Mr. Chairman, I rise in strong support of the amend-

ment offered by the gentleman from Massachusetts and thank him for the kind words that he had to say about both this amendment, which we have drafted together, and my work on the committee also.

This amendment comes as the result of rather arduous negotiations that have occurred in the last 4 months between the gentleman from Massachusetts and myself. It does resolve the issue of allowing low-income families that purchase homes under title IV of this program, the Community Housing Partnership Act, to retain most of the profits that they received in taking the risk of that homeownership.

Mr. Chairman, we did go through this at some length in the committee and did not come to a resolution.

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At the committee we did note, however, that there are two different conceptual ways that you can have to repay the subsidy to someone who the Federal Government has assisted in buying their home. On the one hand, the traditional housing programs, every program in this bill and every program in housing throughout the HUD agencies today require that over the course of the first usually 5 years that the low- or moderate-income person be required to repay the Federal subsidy in one form or another. The other way to do it, as the original committee print had it, would be a limitation on profits or a requirement that the low-income person repay their profits or their equity back to the Federal Government or, in this case, to the low-income-housing nonprofit agency and deny the low-income homeowner the right to retain their profits.

There was a considerable debate and a difference of opinion, and I very much appreciate the gentleman from Massachusetts in coming to the House floor and offering an amendment that restores the same concepts as current law under this section to provide for a repayment of subsidy.

So what the gentleman's amendment does is provide that these low-income homeowners would repay their subsidy, the direct amount of subsidy the Federal Government had provided, and then repay an amount equal to the percentage of the profit of that subsidy, so whatever portion the Federal Government put in as part of the original purchase, that is the portion of the profits that would be repaid. That is for the first 15 years. After that, that repayment would be phased out altogether.

I do confess that this is not my first choice. My first choice was much more, and still remains much more, to treat the low-income homebuyers under this program the same as we treat them under all other Federal programs, and that is to place only a limitation for the first 5 years, a limitation and a requirement that the original subsidy be repaid so that we make certain that a low-income homeowner provides some amount of sweat equity and ownership in living in the property. Nevertheless, it is a compromise, and it does restore the right of low-income homeowners in this program to an equity gain, to gain the amount of profit that they would otherwise gain that they have earned through their own downpayment.

I want to make one other comment, Mr. Chairman, and that is this: As we move housing programs in the 1990's toward providing homeownership opportunities for low-income families and individuals, we should never, ever, ever deny those low-income families the right to a gain on their own sweat equity, their own downpayment, their own risks of owning that home. We should also remember that one of the benefits of homeownership is to provide a piece of the rock, as Jack Kemp says, that ability to own part of America and to build an estate and to pass that estate along to one's family.

So at no time in the course of the 1990's as we provide homeownership opportunities to low- and moderate-income families should we ever conduct a Federal program in which we deny those low-income families the right to an equity in their homeownership, as the original version of this bill had done.

I commend the gentleman from Massachusetts for his compromise. I think we have made great progress today in providing for that profit participation by low-income families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the committee on this legislation before us and particularly on the new strategies in this bill that do try to address the future in a creative way, in a way that empowers the very people who most need our assistance. It is a good bill. It is a solid bill. I support the bill.

Mr. Chairman, I am particularly pleased that it does incorporate some of the new initiatives that Jack Kemp has proposed through his HOPE initiative, and I very much appreciate the committee's interest in the sweat-equity proposal that I proposed early in this Congress. It is by empowering people to contribute to their own efforts, to change their own lives, to shape their own futures that we will have the most lasting effect, and our housing programs will make a genuine difference in the lives of the people of this Nation.

I do want to commend the committee on their good work.

I will not take the time of the Committee to go through the details of my statement but will just enter it in the RECORD, but I do thank the chairman and the ranking member and the entire committee memberhsip for incorporating ideas that strive to meet the future with some new tools and to make a future that we have not been able to create in the past.

Mr. Chairman, last year, Federal housing programs began to receive painful but overdue scrutiny and I want to commend the Banking Committee for the job they have done writing this comprehensive bill. While Members may differ on the funding levels for individual programs, the committee has preserved the best of the old programs while making way for new ideas.

In particular, I am pleased that the administration's innovative HOPE initiative is included because it represents a fundamentally new strategy for housing assistance, one which emphasizes individual empowerment. Mr. Chairman, I am also proud that the HOPE title encorporates new authority that I proposed in separate legislation at the beginning of this Congress.

Three years ago, I first visited a new low-income cooperative housing project in my hometown of New Britain, CT, being developed by a local housing assistance group known as Communidad en Accion, I had seen a number of affordable housing renovations, but this was special: It was being financed privately by local banks and generous in-kind contributions from businesses like the Stanley Works. And, the future residents were not only taking part in the renovation work, but also attending classes to learn how to manage the cooperative once the work was completed and how to manage their finances to prepare for the next step in ownership.

The more I learned about how limited-equity cooperative housing worked, the more I believed it could contribute greatly to solving the shortage of affordable housing not only in New Britain, but nationwide. After the stories we often hear about the failures of Federal housing programs, it was exciting to see locally conceived and controlled low-income projects working so well. So, with the help of some dedicated Connecticut residents like Pat Spring of the co-opportunity group in Hartford, I developed my bill to provide Federal encouragement to low-income sweat-equity cooperative projects.

I am gratified that both my colleagues on the Banking Committee as well as Housing Secretary Jack Kemp were receptive to how my bill might work on the national level. Like my bill, the HOPE Program would allow housing providers such as local governments or nonprofit community groups to obtain grants for the purpose of developing low-income cooperatives. The money could be used for items including startup costs, such as architectural surveys and incorporation fees, and later, training and counseling of residents. At least one-third of the cost of a co-op project

would have to come from non-Federal resources, ensuring that critical local cooperation and support will back every new project.

The people the new limited equity cooperative program was designed to benefit—those with incomes of less than 80 percent of the local median—I have had few housing options in recent years. A family could either get on a waiting list for public housing, much of which was not very desirable anyway, or it could do what most did: spend an enormous percentage of their income on private rental housing. Accordingly, the new bill limits monthly co-op payments to no more than 30 percent of a resident's income.

Limited equity coops are special not only because they can create clean, safe housing at affordable costs. More importantly, they give residents the opportunity to gain ownership rights and also the life skills that past public housing efforts have ignored. This new housing option will cost the government far less than new public housing units but provide an infinitely better environment for the families and real opportunity for their future.

This is one program we can be sure will succeed based on the initiative of committed people and I am pleased to have been able to make a contribution.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I wanted to commend the gentlewoman and acknowledge the fact, and the record could show her great contribution and even though she is not a member of the subcommittee, she has been most creative and helpful to the committee, and we want to thank her.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, as the gentleman and I have discussed, the kinds of sweat-equity projects that have been made possible in this bill not only allow people to contribute their own energy to the rehabilitation of housing units but also, in that process, enable them to become educated in how to manage that project, how to build their resources for future ownership opportunities, and I appreciate the good work of the committee and the gentleman's responsiveness to nonmembers on this important matter.

The CHAIRMAN. Are there any other amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—HOUSING ASSISTANCE

Subtitle A—Programs Under the United States Housing Act of 1937

SEC. 501. LOWER INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraphs (7) and (8) is increased (to the extent approved in appropriation Acts) by $9,062,027,445 on October 1, 1989, and by $16,401,519,000 on October 1, 1990.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(7)(A) Using $5,752,065,123 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1990, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $582,913,195, of which amount not more than $132,290,799 shall be available for Indian housing;

"(ii) for comprehensive improvement assistance grants under section 14(k), not more than $1,998,535,000;

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,189,170,078; and

"(iv) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,981,446,850.

"(B) Using $6,135,669,000 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $738,122,000, of which amount not more than $224,000,000 shall be available for Indian housing;

"(ii) for comprehensive improvement assistance grants under section 14(k), not more than $2,100,000,000, of which not more than $100,000,000 shall be available for carrying out the provisions of the Lead-Based Paint Poisoning Prevention Act in public housing and for which comprehensive testing, anti-lead interim containment strategies, and risk assessment fees shall be among the eligible activities;

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,200,000,000, of which $300,000,000 shall be used in connection with section 202(h)(4);

"(iv) for certificates under section 8(b)(1) and vouchers under section 8(o), not more than $1,874,880,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o); and

"(v) for moderate rehabilitation assistance under section 8(e)(2), not more than $222,667,000.".

SEC. 502. DEFINITION OF FAMILY, INCOME, AND ADJUSTED INCOME.

(a) FAMILY.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(B)(3)) is amended—

(1) in the first sentence, by striking "(D)" and all that follows and inserting the following: "(D) and any other single persons. In no event may any single person be provided a housing unit assisted under this Act of 2 bedrooms or more.";

(2) by striking the second sentence; and

(3) by striking the third from last sentence.

(b) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting before the period at the end the following: ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

(c) ADJUSTED INCOME.—

(1) ALLOWANCE FOR DEPENDENTS.—Section 3(b)(5)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(A)) is amended by striking "$480" and inserting "$550".

(2) ALLOWANCE FOR MEDICAL EXPENSES.—Section 3(b)(5)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(C)) is amended—

(A) in clause (i), by striking "elderly"; and

(B) by striking "and" at the end.

(3) ALLOWANCES FOR WORKING FAMILIES AND CHILD SUPPORT AND ALIMONY PAYMENTS.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(B) by adding at the end the following new subparagraphs:

"(E) 10 percent of the earned income of the family; and

"(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) $550 for each individual for whom such payment is made.".

(d) EFFECTIVE DATE.—The Secretary shall issue regulations implementing the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulations may not take effect until after September 30, 1990.

SEC. 503. PUBLIC HOUSING EVICTION AND TERMINATION PROCEDURES.

(a) GRIEVANCE PROCEDURE.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k) is amended—

(1) in paragraph (1), by striking the semicolon at the end and inserting the following: "(which, in this subsection shall include any adverse failure to act on the part of a public housing agency);";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and";

(4) by adding after paragraph (6), as so amended, the following new paragraph:

"(7) have the opportunity to appeal a failure to act by a public housing agency."; and

(5) by striking the matter after the period at the end of paragraph (7) (as added by this subsection) and inserting the following: "For any grievance concerning an eviction or termination of tenancy that involves any activity (including drug-related criminal activity) that threatens the health or safety of other tenants or employees of the public housing agency, the agency may (A) establish an expedited grievance procedure, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a

tenant be given a hearing in court which the Secretary determines provides the following basic elements of due process: (i) adequate notice to the tenant of the grounds for terminating the tenancy and for eviction; (ii) opportunity for the tenant to be represented by counsel; (iii) opportunity for the tenant to refute the evidence presented by the public housing agency, including the right to confront and cross-examine witnesses; and (iv) a decision on the merits. The agency shall provide tenants the opportunity prior to the hearing or trial to examine any documents or records or regulations related to the eviction or termination.".

(b) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by inserting after paragraph (5), as so amended, the following new paragraph:

"(6) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any documents or records or reglations related to the proposed action or failure to act.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(d) APPLICABILITY.—Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937, as such section existed before the date of the enactment of this Act) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section.

SEC. 504. PUBLIC HOUSING AGENCY REFORM.

(a) PERFORMANCE STANDARDS FOR PUBLIC HOUSING AGENCIES.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall develop and publish in the Federal Register standards to be used by the Secretary to assess the management performance of public housing agencies. Such standards shall enable the Secretary to evaluate the performance of public housing agencies in at least the following major areas of management operations—

"(A) operating expenses relative to revenues;

"(B) operating reserves relative to maximum allowable reserves;

"(C) tenant rent collections;

"(D) annual inspection of units, compliance of units with housing quality standards or an equivalent standard, and existence of a system for making necessary repairs or replacements;

"(E) utility consumption;

"(F) vacancies;

"(G) repair and turnover of vacant units; and

"(H) such other factors as the Secretary deems appropriate.

"(2) The Secretary shall designate a public housing agency that meets the performance standards specified in paragraph (1) to be a high performing agency.

"(3)(A) The Secretary shall establish procedures for designating troubled public housing agencies, which procedures shall include identification of one or more serious failures to meet the performance standards specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate.

"(B) The Secretary shall enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for meeting the performance standards specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting those targets; and

"(iii) incentives or sanctions for effective implementation of those strategies, which may include such restrictions on the use of funds made available under this Act as the Secretary determines to be appropriate.

"(C) The Secretary and a troubled public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out an agreement under subparagraph (B).

"(4) The Secretary shall annually provide each appropriate housing authority of each State and the chief executive officer of each locality which has a public housing agency within its jurisdiction with a listing of the high performance and troubled public housing agencies in the State.

"(5) The Secretary shall annually publish in the Federal Register lists of public housing agencies that have been designated as high performing under paragraph (2) or troubled under paragraph (3). The Secretary shall also publish an annual update describing the status of each troubled public housing agency.

"(6) The Secretary shall require each State, as a condition for public housing agencies within the State to receive assistance under this Act, to establish (not later than 2 years after the date of the enactment of the Housing and Community Development Act of 1990) and enforce standards for a course of study and certification of executive directors and other officers and members of local, regional, and State public housing agencies. The State shall provide for completion of the course and certification before appointment to any position within a public housing agency within the State, and shall require any individuals holding such positions within any public housing agency on the date of the establishment of such course and provisions for certification to complete the course and acquire certification, within 1 year after such establishment.".

(b) PROJECT-BASED ACCOUNTING SYSTEMS.—

(1) IN GENERAL.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437(c)(4)) is amended—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) on a project basis, which shall (i) require each public housing agency to publish an annual financial statement of all its operations, including the financial status of each individual housing project, and (ii) the review of such reports by the applicable board of commissioners or other governing body with respect to such public housing agency and by the applicable State housing authority.".

(2) IMPLEMENTATION.—The Secretary shall, by regulation, develop such guidelines and timetables as the Secretary determines to be appropriate to implement the amendment under paragraph (1)(C), taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993.

SEC. 505. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $1,793,032,000 for fiscal year 1990 and $2,145,780,000 for fiscal year 1991. Notwithstanding the foregoing, there are authorized to be appropriated in each fiscal year, to provide annual contributions under this section, such sums as may be necessary to provide each public housing agency with all funds for which they are eligible under the performance funding system without adjustments for estimated or unrealized savings.".

(b) SERVICES AND COORDINATORS AS ELIGIBLE COST.—Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after the paragraph designation;

(B) in the second sentence—

(i) by striking "(A)" and inserting "(i)";

(ii) by striking "(B)" and inserting "(ii)"; and

(iii) by striking "(C)" and inserting "(iii)"; and

(C) by adding at the end the following new subparagraph:

"(B) Annual contributions to public housing agencies for costs of operation may include, with respect to projects with a sufficient number of frail elderly or handicapped residents, (i) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to frail elderly or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions; and (ii) expenses for the provision of services for frail elderly and handicapped residents of the project to enable the residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. Contributions under this subparagraph shall not be subject to paragraph (3). For purposes of this subparagraph, the term 'frail elderly' shall have the meaning given the term under section 202(d) of the Housing Act of 1959."; and

(2) in paragraph (3), by inserting before the first comma the following: "(except for payments under paragraph (1)(B))".

SEC. 506. LITIGATION BY PUBLIC HOUSING AGENCIES.

(a) ALLOWABLE EXPENSE.—Section 9(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) there shall be included as an allowable expense the unreimbursed cost of any civil action commenced by a public housing agency against the Federal Government to ensure proper implementation of any Federal law relating to public housing.".

(b) DISAPPROVAL OF REGULATIONS.—The rule of the Department of Housing and Urban Development entitled "Litigation Reporting and Related Requirements for Certain Recipients of HUD Assistance" and published in the Federal Register of October 27, 1988 (53 Fed. Reg. 43610 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule based on such rule and may not otherwise implement the provisions of such rule.

SEC. 507. FORMULA ALLOCATION OF PUBLIC AND INDIAN HOUSING MODERNIZATION FUNDING AND OTHER MISCELLANEOUS AMENDMENTS.

(a) FORMULA ALLOCATION TO AGENCIES WITH 500 OR MORE UNITS.—

(1) IN GENERAL.—Section 14(k) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(k)) is amended to read as follows:

"(k)(1) From amounts approved in appropriation Acts for grants under this section for each fiscal year, and to the extent provided by such Acts, the Secretary shall reserve not more than $75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by agencies from future allocations of assistance under paragraph (2), where available.

"(2)(A) The Secretary shall allocate the amount remaining, after determining the amount to be reserved under paragraph (1), pursuant to a formula contained in a regulation prescribed by the Secretary designed to measure the relative needs of public housing agencies.

"(B) The Secretary shall allocate half of the amount allocated under the formula referred to in subparagraph (A) based on the relative backlog needs of public housing agencies, determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (as referenced in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

"(ii) if such data are not statistically reliable for individual public housing agencies with 500 or more units, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms in the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the extent to which units for families are in high-rise elevator projects;

"(IV) the age of the projects;

"(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

"(VI) the cost of rehabilitating property in the area;

"(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

"(VIII) other factors the Secretary determines are appropriate.

The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.

"(C) The Secretary shall allocate the other half of the amount allocated under the formula established pursuant to subparagraph (A) based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraph (B)(i) (I) and (II), determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under subparagraph (B); or

"(ii) where the estimates under clause (i) are not statistically reliable for individual public housing agencies with 500 or more units, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms of the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the age of the projects;

"(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;

"(V) the cost of rehabilitating property in the area;

"(VI) the total number of units of each agency that owns or operates 500 or more units; and

"(VII) other factors the Secretary determines are appropriate.

"(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units.

"(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.

"(iii) The Secretary shall have sole discretion to determine whether the data under subparagraphs (B) and (C) are statistically reliable.

"(3) The amount determined under the formula for agencies with fewer than 500 units shall be allocated in accordance with subsection (d).

"(4) The amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e).

"(5)(A) In the case of an agency that the Secretary designated as a troubled agency on or before June 1, 1990, and that is still designated as a troubled agency on the date amounts are allocated under this subsection for fiscal year 1991, the Secretary shall limit the total amount of funding to (i) the average amount the agency received during fiscal years 1988, 1989, and 1990, for modernization activities under this section and for major reconstruction of obsolete projects, adjusted to take into account changes in the cost of rehabilitating property, plus (ii) 25 percent of the differences between the amount determined under clause (i) and the amount that would be allocated to the agency if it were not designated a troubled agency. A troubled agency may request the Secretary to increase the amount of the allocation by up to an additional 25 percent of such difference, based on the agency's progress toward meeting the performance standards. In the case of such a request, the Secretary shall render a decision within 75 days of receipt of the request.

"(B) In the fiscal year for which amounts become available in accordance with subparagraph (A), the amounts shall be reallocated to other public housing agencies that own or operate 500 or more units, based on their relative needs. In the case of troubled agencies that are Indian housing authorities, the amounts shall be reallocated to other Indian housing authorities. In the case of troubled agencies that are not Indian housing authorities, the amounts shall be reallocated to agencies that are not Indian housing authorities. The relative needs of agencies shall be determined using the formula established pursuant to paragraph (2)(A).

"(C) The Secretary may increase the amount a troubled agency receives for fiscal year 1992 and subsequent years by not more than 25 percent per year, but not to exceed the amount of the formula allocation for the agency. The amount of any increase shall be based on the progress of a troubled agency toward meeting the performance standards. An agency may appeal a decision of the Secretary not to increase the amount an agency receives or to increase it by less than 25 percent. In the case of an appeal, the Secretary shall respond within 75 days of receipt of the request for appeal.

"(6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not

qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section, and (B) recaptured by the Secretary for good cause, shall be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).

"(7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used for determining the formula amount were not correct.

"(8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies.".

(2) CONFORMING AMENDMENTS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended—

(A) in subsection (e)(3)(A), by striking the second sentence; and

(B) in subsection (h)—

(i) in the matter preceding paragraph (1), by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates fewer than 500 public housing dwelling units"; and

(ii) in paragraph (2), by striking "or (e)".

(b) DELETION OF REPLACEMENT NEEDS PLANNING ESTIMATE, OPERATING BUDGET, AND FINANCIAL RESOURCES ESTIMATE FOR PUBLIC HOUSING AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraphs (C), (D), and (E).

(c) LIMITATION OF SPECIAL PURPOSE MODERNIZATION TO PUBLIC HOUSING AGENCIES WITH FEWER THAN 500 UNITS.—Section 14 of the United States Housing Act of 1937 is amended—

(1) in subsection (f)(2)(B), by striking "and to meet special purpose needs described in section 14(i)(1)(D)"; and

(2) in the first sentence of subsection (i)(1), by striking "In addition" and all that follows through "subsection (c) through (h)" and inserting the following: "In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 500 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (c), (d), (f), (g), or (h)".

(d) SPECIAL PURPOSE MANAGEMENT MODERNIZATION FOR PHA'S WITH FEWER THAN 500 UNITS.—Section 14(i)(1) of the United States Housing Act of 1937 is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any lower income housing project other than a project assisted under section 8.".

(e) ESTABLISHMENT OF 250-UNIT THRESHOLD BEGINNING IN FISCAL YEAR 1992.—

(1) IN GENERAL.—Effective October 1, 1991, section 14 of the United States Housing Act of 1937, as amended by this section, is further amended by striking "500" and inserting "250" in each of the following places:

(A) The first sentence of subsection (d).

(B) In subsection (e), the first sentence of each of paragraphs (1), (3)(A), (4)(A) and (4)(C).

(C) Subsections (f)(1) and (f)(2).

(D) Subsection (h).

(E) The first sentence of subsection (i)(1).

(F) In subsection (k), in paragraphs (2)(B)(i), (2)(B)(ii), (2)(C)(i), (2)(C)(ii), (3), (4), (5)(B), and (6).

(G) Subsection (l)(2).

(2) EXCEPTION.—Effective October 1, 1991, section 14(k)(2)(D)(i) of the United States Housing Act of 1937, as amended by this section, is further amended by striking "400" and inserting "200".

(f) INAPPLICABILTY TO INDIAN HOUSING.—Notwithstanding the provisions of this subtitle, section 14(e) of the United States Housing Act of 1937 shall not apply to Indian housing authorities until October 1, 1991.

(g) TRANSITION.—Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Any amount that the Secretary has obligated to a public housing agency in section 14 of this Act, other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate.".

(h) SECTION HEADING.—The section heading of section 14 of the United States Housing Act of 1937 is amended to read as follows:

"PUBLIC AND INDIAN HOUSING MODERNIZATION".

(i) REGULATIONS.—The Secretary shall publish a proposed rule to implement the formula allocation amendments made to section 14 of the United States Housing Act of 1937 by this section and shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing such rule. The proposed rule shall be published not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(j) REPORTS TO CONGRESS.—

(1) INDEPENDENT EVALUATION—The Secretary of Housing and Urban Development shall enter into a contract providing for the independent evaluation of the modernization program authorized under section 14 of the United States Housing Act of 1937, as amended by this section, and report to Congress on the results of the evaluation within 3 years after the initial allocation of assistance by formula under such section 14.

(2) MODIFICATIONS.—The Secretary shall submit a report to Congress, within 2 years after the date of enactment of this Act, recommending any changes to such section 14 that the Secretary determines are appropriate to take into account the relative needs of public housing agencies for assistance to carry out lead-based paint testing and abatement activities. The Secretary shall not adopt any changes to the formula for this purpose except in accordance with an amendment to section 14.

SEC. 508. INCOME ELIGIBILITY FOR PUBLIC HOUSING.

Section 16(b) of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

(1) by striking "(b) Not" and inserting the following: "(b)(1) Except as provided in paragraph (2), not"; and

(2) by adding at the end the following new paragraph:

"(2) At the discretion of the public housing agency, not more than 25 percent of the dwelling units that become available for occupancy under public housing contributions contracts under this Act (other than for scattered-site public housing) on or after the effective date of the Housing and Community Development Act of 1990 shall be available for leasing by lower income families other than very low-income families, but only if the public housing agency certifies to the Secretary that not more than 25 percent of dwelling units occupied at the time of certification are leased by such lower income families.".

SEC. 509. SCATTERED-SITE PUBLIC HOUSING DISPOSITION PROCEEDS.

(a) IN GENERAL.—Section 18(a)(2)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(2)(B)(i)) is amended by inserting before the first comma the following: ", which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

(b) APPLICABILITY.—The amendment made by this section shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act.

SEC. 510. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) FUNDING.—Of the amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,461,000 for fiscal year 1990 and $5,000,000 for fiscal year 1991.".

SEC. 511. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "(b) FINANCIAL ASSISTANCE.—" and inserting the following:

"(b) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—"; and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide, from amounts approved under appropriations Acts for fiscal year 1991 under section 5(c) for assistance under section 14, assistance under section 14 for the housing projects under this section for the purposes under section 14. Any assistance shall be provided under this paragraph only in the form of a single grant for each housing project (or unit within a project) selected for such assistance.".

SEC. 512. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development is authorized to permit public

housing authorities to allow police officers and other security personnel to live in public housing units. Where the Secretary has authorized police officers or security personnel to live in public housing units, the Secretary may waive income eligibility limitations and rent requirements. The Secretary may further authorize the public housing authorities to set rent requirements and other terms and conditions of occupancy for units for such officers and security personnel, if the Secretary determines that there will be increased security for public housing tenants, limited loss of income to the public housing authority, and no significant reduction of units for eligible families.

SEC. 513. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriations Acts, $4,922,500 of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974 in fiscal year 1990 shall be available to carry out this section for fiscal year 1990, and $15,000,000 of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937 in fiscal year 1991 shall be available to carry out this section for fiscal year 1991. Any amount appropriated pursuant to section 103 of the Housing and Community Development Act of 1974 or section 5(c) of the United States Housing Act of 1937, and authorized for use under this subsection, shall remain available until expended.".

(b) REDESIGNATION AS EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended—

(A) in subsection (a), by striking "child care services" each place it appears and inserting "early childhood development services";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (1), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (2), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraphs (3), (4), (5), and (6), by striking "child care services program" each place it appears and inserting "early childhood development program";

(C) in subsection (c)—

(i) in paragraphs (1) and (2), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(ii) in paragraph (3), by striking "child care services programs" and inserting "early childhood development programs";

(D) in subsection (d)—

(i) in paragraph (2), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (3)(A), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraph (4), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(E) in subsection (e), by striking "child care services" and inserting "early childhood development services".

(2) CONFORMING AMENDMENT.—The section heading for section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended to read as follows:

"PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM".

(c) SUFFICIENT GRANT AMOUNTS.—Section 222(c) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) make grants in an amount sufficient to provide a significant percentage of the renovation costs or operating expenses of early childhood development centers.".

(d) 3-YEAR GRANTS.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended by adding at the end the following new subsection:

"(h) 3-YEAR GRANTS.—Grants made under this section shall be for a 3-year period, and shall be distributed to the grant recipient over such period as the Secretary shall determine.".

SEC. 514. INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

(a) SET-ASIDE OF INDIAN PUBLIC HOUSING AMOUNTS.—Of any amounts approved in appropriations Acts under section 5(c)(7)(B) of the United States Housing Act of 1937 for public housing grants for Indian housing for fiscal year 1991, the Secretary of Housing and Urban Development shall use $5,000,000 (to the extent such amounts are approved under such appropriations Acts) for carrying out a demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for lower income families who reside in such Indian public housing.

(b) OPERATION OF DEMONSTRATION.—Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section in lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in the same manner as the demonstration program under section 222 of the Housing and Urban-Rural Recovery Act of 1983 is carried out. For purposes of this section, any reference to "public housing" or a "lower income housing project" in section 222 of such Act is deemed to refer to lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(c) LIMITATIONS.—

(1) TRIBAL DIVERSITY.—The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

(2) GEOGRAPHIC DIVERSITY.—The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

(d) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) CONFORMING PROVISION.—Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 (regarding submission of a report) shall not apply to this section and the demonstration program carried out under this section.

SEC. 515. PUBLIC HOUSING DRUG ELIMINATION GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter $99,225,000 for fiscal year 1990 and $150,000,000 for fiscal year 1991.".

(b) ELIGIBILITY OF OTHER FEDERALLY ASSISTED HOUSING.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq) is amended by adding at the end the following new section:

"SEC. 5130. ELIGIBILITY OF OTHER FEDERALLY ASSISTED HOUSING.

"(a) AUTHORITY.—The Secretary may make grants under this chapter to entities eligible under subsection (c) for use in eliminating drug-related crime in federally assisted housing.

"(b) USE.—Eligible entities may use grants under this chapter for activities under section 5124 in federally assisted housing for the same purposes for which grants received under this chapter by public housing agencies are available under section 5124 in public housing.

"(c) ELIGIBLE ENTITIES.—The Secretary shall, by regulation, determine entities eligible for receiving grants pursuant to this section, which shall be appropriate to administer the use of grant amounts for the purposes under section 5124.

"(d) APPLICATIONS.—To receive a grant under this chapter, an eligible entity shall submit an application for a grant in the manner provided for submission of applications by public housing agencies pursuant to section 5125.

"(e) FEDERALLY ASSISTED HOUSING.—For purposes of this section, the term 'federally assisted housing' means any housing assisted under a program administered by the Secretary of Housing and Urban Development, but does not include the housing assisted under the mortgage insurance programs for single family housing under the National Housing Act.".

SEC. 516. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) YOUTH SPORTS PROGRAM GRANTS.—From amounts provided for public housing

drug elimination grants under section 5129 of the Anti-Drug Abuse Act of 1988, the Secretary of Housing and Urban Development may make grants to qualified entities under subsection (b) to carry out youth sports programs in projects of public housing agencies with substantial drug problems.

(b) ENTITIES QUALIFIED TO RECEIVE GRANTS.—Grants under this section may be made only to—

(1) States;

(2) units of general local government;

(3) local park and recreation districts and agencies;

(4) public housing agencies;

(5) nonprofit organizations providing youth sports services programs; and

(6) Indian tribes.

(c) USE OF GRANTS.—

(1) PUBLIC HOUSING SITES WITH SUBSTANTIAL DRUG PROBLEMS.—Grants under this section shall be used for youth sports programs only with respect to public housing sites that the Secretary determines have a substantial problem regarding the use or sale of illegal drugs.

(2) YOUTH SPORTS PROGRAM ELIGIBILITY.—To be eligible to receive assistance from a grant under this section, a youth sports program shall be designed and organized as follows:

(A) The sports program shall serve primarily youths from the public housing project in which the program assisted by the grant is operated.

(B) The sports program shall provide positive sports activities and positive cultural, recreational, or other activities, designed to appeal to youths as alternatives to the drug environment in the public housing project.

(C) The sports program shall be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related problems in the public housing project or projects within the public housing agency.

(d) ELIGIBLE ACTIVITIES.—Any qualified entity that receives a grant under this section may use amounts from the grant to assist in carrying out a youth sports program in any of the following manners:

(1) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds.

(2) Redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs.

(3) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

(e) GRANT AMOUNT LIMITATIONS.—

(1) MATCHING AMOUNT.—The Secretary may not make a grant to any qualified entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary, as the Secretary shall require, that the applicant will supplement the amount provided by the grant with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes funds from States, units of general local governments, or agencies of such governments, Indian tribes, private contributions, any salary paid to staff to carry out the youth sports program of the recipient, the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, the value of any donated material, equipment, or building, and the value of any lease on a building.

(3) PROHIBITION OF SUBSTITUTION OF FUNDS.—Neither amounts received from grants under this section nor any State or local government funds used to supplement such amounts may be used to replace other public funds previously used, or designated for use, for the purposes under this Act.

(4) MAXIMUM ANNUAL GRANT AMOUNT.—For any single fiscal year, the Secretary may not award grants under this section for carrying out a youth sports program with respect to any single public housing project in an amount exceeding $125,000.

(f) APPLICATIONS.—To be eligible to receive a grant under this section, a qualified entity under subsection (b) shall submit to the Secretary an application as the Secretary may require, which shall include the following:

(1) A description of the organization of the youth sports program.

(2) A description of the nature of services provided by the youth sports program.

(3) An estimate of the number of youth involved.

(4) A description of the extent of involvement of local sports organizations or sports figures.

(5) A description of the facilities used.

(6) A description of plans to continue the youth sports program in the future.

(7) A statement regarding the extent to which the youth sports program meets the criteria for selection under subsection (g).

(8) A description of the planned schedule and activities of the youth sports program and the financial and other resources committed to each activity and service of the program.

(9) A budget describing the share of the costs of the youth sports program provided by the grant under this section and other sources of funds, including funds required under subsection (e)(1).

(10) Any other information that the Secretary may require.

(g) SELECTION CRITERIA.—The Secretary shall select qualified entities that have applied under subsection (f) to receive grants under this section pursuant to a competition based on the following criteria:

(1) The extent to which the youth sports program to be assisted with the grant addresses the particular needs of the area to be served by the program and employs methods, approaches, or ideas in the design or implementation of the program particularly suited to fulfilling such needs (whether such methods are conventional or unique and innovative).

(2) The technical merit of the application of the qualified entity.

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application.

(4) The capabilities, related experience, facilities, techniques of the applicant for carrying out the youth sports program and achieving the objectives of the program as described in the application and the potential of the applicant for continuing the youth sports program.

(5) The severity of the drug problem at the local public housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem.

(6) The extent to which local sports organizations or sports figures are involved.

(7) The extent of the support of the public housing agency for the program, coordination of proposed activities with local resident management groups or associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of this section.

(8) The extent of non-Federal contributions that exceed the amount of such funds required under subsection (e)(1).

(9) In the case of a qualified entity under paragraph (3) or (4) of subsection (b), the extent to which the applicant has demonstrated local government support for the program.

(h) REPORT.—Each qualified entity that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 90-day period beginning on the date on which the grant amounts provided under this section are fully expended, a report describing the activities carried out with the grant.

(i) DEFINITIONS.—For purposes of this section:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

(2) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) PUBLIC HOUSING PROJECT.—The terms "project" and "public housing" have the meanings given the terms in section 3(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(4) QUALIFIED ENTITY.—The term "qualified entity" means an entity eligible under subsection (b) to apply for and receive a grant under this section.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(j) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908), as amended by the preceding provisions of this Act, is further amended by inserting after the first sentence the following new sentence: "From any amounts appropriated under this section in each fiscal year, 5 percent of such amounts shall be available for public housing youth sports program grants under section 516 of the Housing and Community Development Act of 1990 for such fiscal year.".

SEC. 517. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall carry out a program to dem-

onstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in subsection (e)(1)) available for pregnant women who reside in public housing.

(2) CONSULTATION REQUIREMENTS.—In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

(b) ALLOCATION OF ASSISTANCE.—

(1) PREFERENCES.—In selecting public housing agencies for grants under this section, the Secretary shall give preference to the following public housing agencies:

(A) AREAS WITH HIGH INFANT MORTALITY RATES.—Public housing agencies serving areas with high infant mortality rates.

(B) SECURE FACILITIES.—Public housing agencies that demonstrate, to the satisfaction of the Secretary, that security will be provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under this section.

(2) LIMITATION ON GRANT AMOUNT.—The aggregate amount provided under this section for any public housing project may not exceed $15,000.

(c) DEMONSTRATION PROGRAM REQUIREMENTS.—

(1) APPLICATIONS.—Applications for grants under this section shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under this section.

(2) USE OF GRANTS.—Any public housing agency receiving a grant under this section may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(3) REPORTS TO SECRETARY.—Each public housing agency receiving a grant under this section for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under this section and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(4) APPLICABLE STANDARDS.—No provision of this section may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program under this section. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

(e) DEFINITIONS.—For purposes of this section:

(1) ONE-STOP PERINATAL SERVICES PROGRAM.—The term "one-stop perinatal services program" means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) INFORMATION AND EDUCATION.—Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) HEALTH CARE SERVICES.—Basic health care services that can be provided without a physician present.

(C) REFERRAL.—Basic health screening of pregnant women and referrals for health care services.

(D) FOLLOWUP.—Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) SOCIAL WORKER.—Information and assistance regarding Federal and State social services provided by a social worker.

(F) OTHER.—Any other services to assist pregnant or new mothers.

(2) PUBLIC HOUSING.—The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(f) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1991.

SEC. 518. EXEMPTION FROM PUBLIC HOUSING AND SECTION 8 TENANT PREFERENCES.

(a) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "10 percent" and inserting "30 percent".

(b) SECTION 8 CERTIFICATES.—

(1) PREFERENCE PERCENTAGE.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended by striking "10 percent (or such higher percentage" and inserting "30 percent in the case of assistance attached to the structure and 10 percent in the case of assistance not attached to the structure (or such higher percentages".

(2) TREATMENT OF PUBLIC HOUSING TENANTS.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended by inserting after the semicolon at the end the following: "except that any family who is otherwise eligible for assistance under this section may not be denied preference for assistance that is not attached to the structure (or delayed or otherwise adversely affected in provision of such assistance) solely because the family resides in public housing;".

(c) SECTION 8 NEW CONSTRUCTION.—With respect to housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and projects financed under section 202 of the Housing Act of 1959, notwithstanding any tenant selection criteria under a contract between the Secretary of Housing and Urban Development and an owner of such housing pursuant to the first sentence of such section—

(1) the tenant selection criteria for such housing shall give preference to families which occupy substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under such section; and

(2) the owner may provide for circumstances in which families who do not qualify for any preference under paragraph (1) are provided assistance before families who do qualify for such preference, except that not more than 30 percent of the families who initially receive assistance in any 1-year period may be families who do not qualify for such preference.

SEC. 519. PUBLIC HOUSING AND SECTION 8 ASSISTANCE REGARDING FOSTER CARE CHILDREN.

(a) COORDINATION AND PROVISION OF ASSISTANCE.—

(1) PUBLIC HOUSING.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) In providing housing in lower income housing projects, each public housing agency shall coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

"(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

"(A) in the imminent placement of a child in foster care; or

"(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

"(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.".

(2) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(w) Any public housing agency or other agency administering the allocation of assistance under this section shall coordinate with any local public agencies involved in providing for the welfare of children to make available certificates or vouchers to—

"(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

"(A) in the imminent placement of a child in foster care; or

"(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

"(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.".

(b) SUBSTANDARD HOUSING AND INVOLUNTARY DISPLACEMENT.—

(1) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended—

(A) by inserting after "substandard housing" the following: "(including families for which substandard housing or lack of housing is a primary factor in the imminent

placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family)"; and

(B) by inserting after "involuntarily displaced" the following: "(including children aging out of or upon discharge from foster care in cases in which return to the family or extended family or adoption is not available)".

(2) SECTION 8.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended—

(A) by inserting after "substandard housing" the following: "(including families for which substandard housing or lack of housing is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family)"; and

(B) by inserting after "involuntarily displaced" the following: "(including children aging out of or upon discharge from foster care in cases in which return to the family or extended family or adoption is not available)".

(c) HOUSING ASSISTANCE PLAN.—Section 213(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(a)(5)) is amended by inserting after the period at the end the following new sentence: "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.".

SEC. 520. SECTION 8 CERTIFICATES REGARDING FOSTER CARE.

(a) PROVISION OF CERTIFICATES.—Each family or child that meets the requirements of subsection (b) of this section and that is otherwise eligible for a certificate under section 8(b)(1) of the United States Housing Act of 1937 shall be entitled to a certificate provided by the Secretary of Housing and Urban Development under section 8(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)(1)).

(b) REQUIREMENTS.—Assistance under this section shall be provided only on behalf of families identified by the agencies referred to in subsection (c) as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family.

(c) ADMINISTERING AGENCIES.—The Secretary shall provide for public housing agencies and other agencies administering the allocation of assistance under section 8 of the United States Housing Act of 1937 to consult with any local public agencies involved in providing for the welfare of children to make available assistance under this subsection.

(d) FUNDING.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to provide assistance under this section to each individual entitled to such assistance.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 1990.

SEC. 521. SECTION 8 FAIR MARKET RENT CALCULATION.

Section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended by inserting after "Federal Register." the following new sentence: "At the request of a public housing agency or public housing agencies, the Secretary may approve (for any period for which fair market rents are established under this paragraph), for any housing market area, separate fair market rents for areas that are geographically smaller than the market area and are wholly contained within the market area if the public housing agency or agencies (whose boundaries encompass all or part of the smaller geographic areas) demonstrate to the satisfaction of the Secretary that the alternative fair market rents proposed for such smaller areas (A) accurately reflect rent variations between such areas and the established market area (for such period), and (B) will (for such period) improve housing opportunities for disadvantaged minorities and families with special needs, provide very low-income families with better access to employment and education opportunities, or otherwise further the objectives of national housing policy as affirmed by the Congress.".

SEC. 522. SECTION 8 OPT-OUTS.

Section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended—

(1) by inserting at the end of the first sentence the following new sentence: "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) by inserting before the final sentence the following new sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.".

SEC. 523. EXPIRING SECTION 8 CONTRACTS.

Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.".

SEC. 524. SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by striking "newly constructed or substantially rehabilitated dwelling units as described in this section" and inserting "dwelling units".

SEC. 525. INCOME ELIGIBILITY FOR TENANCY IN SECTION 8 NEW CONSTRUCTION UNITS.

Dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, shall be reserved for occupancy by lower-income families and very low-income families in accordance with the provisions of such section (as the section existed upon the making of the contract) and to the extent that a contract for assistance under such section provided assistance for such families (notwithstanding the lack of any such condition or provision in the contract).

SEC. 526. SETTLEMENT AGREEMENT REGARDING CERTAIN SECTION 8 ASSISTANCE.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, from any amounts provided under section 5(c) of the United States Housing Act of 1937 for use in fiscal year 1991 under section 8 of such Act, provide such assistance to the City of Norfolk, in the State of Virginia, in an amount necessary to provide 186 certificates under subsection (b) of such section 8. The assistance provided under this section shall be in connection with the settlement agreement dated October 6, 1981, in the case of Robin Hood Tenants Association v. Vincent J. Thomas, Jr. (civil action no. 80-501-N), in the Norfolk Division of the United States District Court for the Eastern Division of Virginia.

SEC. 527. HUD STUDY OF SECTION 8 UTILIZATION RATES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study of the reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available by the Secretary for such areas under the certificate and voucher programs under section 8 of the United States Housing Act of 1937. The study shall examine such rates and provide information regarding such rates based on the household size, age of household members, race of household members, income of households, welfare status of households, number of children in a household.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the study under this section. The report shall contain a conclusion of the Secretary, for each city or locality studied, whether the success or failure in utilizing assistance under such section 8 relates to the existence of a local problem or a programmatic failure with respect to the certificate or voucher program.

SEC. 528. FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM.

(a) STUDY.—The Secretary of Housing and Urban Development shall carry out a study to determine the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under section 8(o) of the United States Housing Act of 1937.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with Indian housing authorities.

(c) REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the findings and conclusions of the Secretary as a result of the study under this section.

SEC. 529. RENTAL REHABILITATION GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437o(a)(3)) is amended to read as follows:

"(3) AUTHORIZATION.—There is authorized to be appropriated for rental rehabilitation under this section $133,000,000 for fiscal year 1991.".

(b) RENT CHARGES.—Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended—

(1) by inserting after the period at the end of the first sentence the following new sentence: "Notwithstanding the preceding sentence, the rent charged for units in structures assisted pursuant to subsection (a)(1)(A) may conform with requirements relating to rents imposed on such structures as a condition of receiving financial assistance under any program of a State or unit of general local government to the extent that the structure is receiving such assistance."; and

(2) in the second sentence, by striking "This subsection" and inserting "The first sentence of this subsection".

SEC. 530. EXEMPTION FROM HOUSING DEVELOPMENT GRANT CONSTRUCTION COMMENCEMENT REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 and subject to approval in appropriations Acts, the county of Santa Cruz, in the State of California, may not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grant amounts referred to in subsection (b) if during the 6-month period beginning on the date of the enactment of this Act the county (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

(b) DESCRIPTION OF GRANT AMOUNTS.—The grant amounts referred to in subsection (a) are the amounts awarded to the county of Santa Cruz, in the State of California, on October 1, 1987, under section 17(d) of the United States Housing Act of 1937, for the purpose of providing 37 housing units for lower and very low-income families at the Murphy's Crossing housing development (project no. CA030HG701).

SEC. 531. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority, except that sections 504 and 508 shall not apply.

Subtitle B—Other Housing Assistance Programs

SEC. 541. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) BORROWING AUTHORITY.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 (42 U.S.C. 1701q(a)(4)(B)(i)) is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1989," the following: "and to such sums as may be approved in appropriation Acts for fiscal years 1990 and 1991,".

(b) LOAN AUTHORITY.—Section 202(a)(4)(C) of the Housing Act of 1959 (42 U.S.C. 1701q(a)(4)(C)) is amended by adding at the end the following new sentence: "For fiscal years 1990 and 1991, not more than $472,664,357 and $491,570,000, respectively, may be approved in appropriation Acts for such loans.".

(c) AIDS AS ELIGIBLE HANDICAP.—Section 202(d)(4) of the Housing Act of 1959 (42 U.S.C. 1701q(d)(4)) is amended by inserting after the period at the end of the third sentence the following new sentence: "A person shall also be considered handicapped if such person is disabled as a result of infection with the human immunodeficiency virus.".

(d) ELDER COTTAGE HOUSING UNITS.—

(1) LOANS FOR PURCHASE AND INSTALLATION OF ECHO UNITS.—

(A) ELIGIBILITY AS HOUSING UNDER SECTION 202 PROGRAM.—Section 202(d)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(d)(1)) is amended—

(i) by striking "or" before "(B)"; and

(ii) by inserting before the period at the end the following: ", or (C) elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

(B) ELIGIBILITY OF DEVELOPMENT COSTS UNDER SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(d)(3)) is amended by inserting after the period at the end the following new sentence: "In the case of elder cottage housing opportunity units described in paragraph (1)(C), such term also means the cost of purchasing and installing the units.".

(2) LOANS FOR PREDEVELOPMENT COSTS OF ECHO UNITS.—Section 106(b)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(b)(1)) is amended in the first sentence by inserting after "Act" the following: ", section 202 of the Housing Act of 1959 (including elder cottage housing opportunity units),".

(3) INSURANCE OF LOANS PROVIDED FOR PURCHASE OF ECHO UNITS.—Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

"(i) For purposes of this section, the term 'manufactured home' includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.".

SEC. 542. USE OF RESOLUTION TRUST CORPORATION ELIGIBLE PROPERTIES FOR SECTION 202 HOUSING.

(a) AUTHORITY TO PURCHASE RESOLUTION TRUST CORPORATION PROPERTY FOR SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C 1701q(d)(3)), as amended by this Act, is further amended by inserting after the period at the end the following new sentence: "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.".

(b) RESERVATION OF AUTHORITY BEFORE PURCHASE.—Section 202(a) of the Housing Act of 1959 (12 U.S.C. 1701q(a)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).".

(c) 20-YEAR SECTION 8 CONTRACTS.—Section 202(g) of the Housing Act of 1959 (42 U.S.C. 1701q(g)) is amended by inserting after the period at the end the following new sentence: "In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.".

(d) MODIFICATION OF RTC DISPOSITION PROCEDURES FOR PROPERTIES RECEIVING HUD OR FMHA ASSISTANCE.—

(1) IN GENERAL.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959.".

(2) CONFORMING AMENDMENT.—Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended by inserting after "RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—" the following: "Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:".

(e) EXEMPTION FROM PROJECT SIZE REQUIREMENT REGARDING SUPPORT SERVICES FOR FRAIL ELDERLY.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the period at the end the following new sentence: "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.".

SEC. 543. HOUSING AND SERVICES FOR THE FRAIL ELDERLY.

(a) SECTION 202 PROGRAM.—

(1) IN GENERAL.—Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) is amended by adding at the end the following new subsection:

"(o)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for each of the fiscal years 1990 and 1991, $10,000,000 shall be available for loans for the rehabilitation of housing and related facilities financed with development loans under this section to improve the ability of such housing and facilities to meet the needs of frail elderly persons.

"(2) For purposes of assistance under section 8 of the United States Housing Act of 1937 for any housing and related facilities financed under this section, project funds may be used for the employment of service coordinators to assist frail elderly persons.".

(2) DEFINITION.—Section 202(d) of the Housing Act of 1959 (42 U.S.C. 1701q(d)) is amended by adding at the end the following new paragraph:

"(11) The term 'frail elderly person' means a person who is not less than 62 years of age and is determined, pursuant to regulations issued by the Secretary, to have an impairment (including any short-term impairment or impairment due to the aging process) that substantially impedes the ability of the person to live independently without assistance.".

(b) REVIEW AND MODIFICATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall periodically review and modify all programs within the jurisdiction of the Secretary to ensure that such programs, to the extent possible con-

sistent with statutory requirements, meet the needs of frail elderly persons (as defined in section 202(d)(11) of the Housing Act of 1959).

(2) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall annually submit to the Congress a report describing the actions taken by the Secretary to carry out this subsection. Each such report shall include any recommendations of the Secretary for modifications in statutory requirements to improve the ability of the programs within the jurisdiction of the Secretary to meet the needs of frail elderly persons (as defined in section 202(d)(11) of the Housing Act of 1959).

SEC. 544. SERVICE COORDINATORS AS ELIGIBLE PROJECT COST IN SECTION 202 PROJECTS.

(b) PROJECT OPERATING ASSISTANCE.—

(1) IN GENERAL.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following: "The Secretary may also, in determining the amount of assistance to be provided for a project pursuant to such section 8, consider (and annually adjust for) the costs of—

"(1) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and paragraph (2) of this subsection; and

"(2) expenses for the provision of services for elderly and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided.".

SEC. 545. CENTRALIZED APPLICATIONS FOR SECTION 202 HOUSING.

Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall provide for a unit of general local government, nonprofit organization, or other appropriate organization or agency (which may include the applicable Area Agency on the Aging) in each area, as the Secretary shall determine, in which housing assisted under this section is located, to provide not less than 1 location at which elderly or handicapped persons may submit an application for occupancy in a unit in a project in the area assisted under this section. The Secretary shall require that at each such location, an application may be made for each such project located within the area.".

SEC. 546. STUDY REGARDING SECTION 202 HOUSING.

(a) STUDY.—The Secretary shall conduct a study under this section regarding the program for assistance under section 202 of the Housing Act of 1959 for housing projects for elderly and handicapped families and the effects on such program of the following:

(1) FAIR MARKET RENT LIMITATION.—The area fair market rent limitation (under section 8(c)(1) of the United States Housing Act of 1937) on maximum monthly rents for units in housing assisted under section 202 of the Housing Act of 1959. The Secretary shall analyze the effect of the rent limitations with respect to—

(A) the relation of such limitations and project income to the actual development and operating costs of such housing projects (including provision of necessary supportive services);

(B) the need for increased income from rental payments for such housing projects; and

(C) the overall effect of the limitations on the financial soundness of such housing projects.

(2) PER UNIT COST LIMITATIONS.—Establishment of per unit cost limitations for such housing projects that take into account inclusion of common areas, dining facilities, accessibility features, and elevators, and use of cost containment limitations regarding building design that do not prevent or prohibit the provision of supportive services within the project to residents of the project.

(3) RESTRUCTURING OF FINANCING.—Converting the assistance provided under such section 202 from loans to capital advances, repayable only if the housing project assisted is used for purposes other than housing for elderly and handicapped families.

(4) OPERATING ASSISTANCE.—Entering into contracts with owners of housing for elderly and handicapped families assisted under such section 202 to provide monthly payments to cover operating costs for units occupied by very low- and lower income families, including costs of—

(A) project rental expenses;

(B) utilities expenses;

(C) expenses of renovations and improvements to make units more accessible to elderly or handicapped individuals (including expenses for installing grab bars, moving light switches and electrical outlets, enlarging doorways, and modifying kitchens) and to provide space within the project for the provision of services to residents; and

(D) expenses for the provision of services for elderly and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, including meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services.

(5) LIMITATION ON RENT FOR EFFICIENCY UNITS.—Limiting the monthly rent for efficiency units in such housing projects to 25 percent of the monthly income of the resident of the unit.

(b) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a report regarding the study conducted under this section not later than the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 547. FUNDING FOR CONGREGATE HOUSING SERVICES PROGRAM.

Section 411(a) of the Congregate Housing Services Act of 1978 (42 U.S.C. 8010(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $5,907,000 for fiscal year 1990 and $6,002,000 for fiscal year 1991.".

SEC. 548. REVISED CONGREGATE HOUSING SERVICES.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older individuals and disabled individuals to maintain their dignity and independence;

(B) independent living with assistance is a preferable housing alternative to institutionalization for many frail older and disabled adults;

(C) 365,000 individuals in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(D) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(E) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(F) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(G) supportive services would promote the invaluable option of independent living for nonelderly disabled adults in federally assisted housing;

(H) approximately 25 percent of congregate housing services program sites provide congregate services to young disabled individuals;

(I) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(J) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of frail older and disabled adults;

(B) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(C) to improve the quality of life of older Americans living in federally assisted housing;

(D) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(E) to develop partnerships between the Federal Government and State governments in providing services to frail older and disabled adults; and

(F) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government

and local nonprofit housing sponsors in nonparticipating States (as such term is defined in subsection (g)(2)), utilizing any amounts appropriated under subsection (o), to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services.

(2) TERM OF CONTRACTS.—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, shall be for a term of 3 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) RESERVATION OF AMOUNTS.—For each State, Indian tribe, unit of general local government and nonprofit housing sponsor in a nonparticipating State, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) CONGREGATE SERVICES PROGRAM.—

(1) IN GENERAL.—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents, as provided in subsection (e)(4)), as provided in this section, that are coordinated on site.

(2) MEAL SERVICES.—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS AND AGRICULTURAL COMMODITIES.—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(4) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(5) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—Each eligible housing project, in coordination with the State, Indian tribe, and unit of general local government in a nonparticipating State, as appropriate, shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be in an amount sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) that receive services from a congregate services program pursuant to subsection (e)(4). Such fees shall be in an amount equal to the cost of providing the services.

(6) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, or unit of general local government or nonprofit housing sponsor in a nonparticipating State, that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any individual who is a resident of eligible federally assisted housing (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section if the resident—

(A) is an individual who is at risk of institutionalization (or is institutionalized) because the individual is—

(i) a disabled individual (including temporarily disabled individuals) whose disability—

(I) impedes acquiring adequate nutritional intake and performing not less than 1 other activity of daily living or instrumental activity of daily living (with preference given to individuals whose disability impairs 2 other such activities or instrumental activities); and

(II) is expected to be of long-continued and indefinite duration; or

(ii) an older adult who has an impairment (including functional disability or impairment that is a normal consequence of the human aging process) that—

(I) impedes acquiring adequate nutritional intake and performing not less than 1 other activity of daily living or instrumental activity of daily living (with preference given to individuals whose disability impairs 2 other such activities or instrumental activities); and

(II) is expected to be of long-continued and indefinite duration; and

(B) has an income that does not exceed 80 percent of the median income for the area involved, as determined under regulations issued under subsection (m).

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of frail older and disabled adults in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—Older and disabled residents of an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (c)(5)(B).

(f) ELIGIBLE HOUSING PROJECTS.—Assistance under this section may be used to provide congregate services programs only in—

(1) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937;

(2) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section;

(3) housing assisted under section 202 of the Housing Act of 1959;

(4) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low income use restric-

tions relating to such housing for the remaining term of the mortgage);

(5) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(6) housing assisted under section 516 of the Housing Act of 1949.

(g) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) only with—

(A) States that submit applications under subsection (h)(1) and are selected to receive assistance; and

(B) Indian tribes, units of general local government located in nonparticipating States that have coordinated with local nonprofit housing sponsors (including public housing agencies and sponsors eligible for assistance under section 202 of the Housing Act of 1959), and local nonprofit housing sponsors that have coordinated with Indian tribes or units of general local government, that submit applications under subsection (h)(2) and are selected to receive such assistance.

(2) NONPARTICIPATING STATES.—For purposes of this section, a State shall be considered a nonparticipating State for any fiscal year if—

(A) the State has not applied for assistance under this section within the application period established under subsection (h)(3); or

(B) the State has indicated in writing to the Secretary of Housing and Urban Development or the Secretary of Agriculture the intent of the State not to apply for such assistance for such fiscal year.

(3) DISTRIBUTION OF ASSISTANCE.—

(A) PARTICIPATING STATES.—

(i) IN GENERAL.—Each State that receives assistance under this section shall distribute amounts received to eligible housing projects as determined by the appropriate State agency in accordance with the provisions of this section, with the advice and assistance of the State advisory committee under clause (ii). In distributing assistance, each State shall consider the ratio of each type of eligible housing to the total of eligible housing in the State and the need for services in eligible projects.

(ii) STATE ADVISORY COMMITTEES.—Each State receiving assistance under this section shall establish an advisory committee under this paragraph, which shall consist of not less than 13 individuals, chosen by the chief executive officer of the State, including—

(I) an individual who represents the Department of Housing and Urban Development;

(II) an individual who represents the Farmers Home Administration;

(III) an individual who represents the Area Agency on Aging, if such agency exists, and if such agency does not exist, an individual who represents the interest of older individuals;

(IV) an individual who represents the State agency under the Older Americans Act of 1965;

(V) an individual involved in providing services to older adults in federally assisted housing;

(VI) an individual who is an older adult residing in federally assisted housing in which congregate services are available;

(VII) an individual who is an older adult residing in federally assisted housing in which congregate services are not available;

(VIII) an individual who is a disabled adult residing in federally assisted housing in which congregate services are available;

(IX) an individual who is a disabled adult residing in federally assisted housing in which congregate services are not available;

(X) an individual who is a manager of an eligible housing project;

(XI) an individual who is the administrator of a public housing agency;

(XII) an individual who owns a housing project assisted under section 202 of the Housing Act of 1959; and

(XIII) an individual who owns a housing project for elderly individuals assisted under section 8 of the United States Housing Act of 1937.

(B) NONPARTICIPATING STATES AND INDIAN TRIBES.—Each local government, nonprofit housing sponsor, and Indian tribe that receives assistance under this section shall distribute amounts received to eligible housing projects or tribal government agency, as applicable, according to the provisions of this section.

(h) APPLICATIONS AND GRANT AWARDS.—

(1) STATE APPLICATIONS.—An application for assistance under this section by a State shall be made to the Secretary concerned and shall include the following:

(A) SERVICES PLAN.—A plan specifying the types and priorities of basic services to be made available under congregate services programs assisted by the State with assistance under this section, which shall—

(i) provide for targeting of services to—

(I) frail older individuals and disabled individuals whose levels of functional disability puts them most at risk of institutionalization;

(II) projects with eligible residents that, without assistance under this section, would have inadequate services and inadequate funding for services;

(III) the needs of individuals who might otherwise be institutionalized without such services; and

(IV) deinstitutionalized adults and adults capable of being deinstitutionalized;

(ii) provide for consideration of the needs and characteristics of project residents as such needs change over time;

(iii) include a statement of the sources of any State and local governmental amounts provided under subsection (j)(1);

(iv) describe and explain how the amounts provided to the State will be allocated among eligible housing projects within the State, including a description of how amounts will be used to provide congregate services programs in the poorest areas in the State (with respect to median income) and housing most isolated (with respect to access to services); and

(v) include a statement specifying how the State will ensure quality control of services provided to eligible residents.

(B) CERTIFICATION OF CONTRIBUTION AMOUNTS.—Certification to the Secretary concerned that amounts have been contributed by the State or other governmental units sufficient to fulfill the requirement under subsection (j)(1)(A)(i), which shall include a statement of the amount and a description of the source of any such amounts.

(C) STATE AGENCY.—Designation of the State agency that will be administering the assistance provided under this section.

(D) STATE ADVISORY COMMITTEES.—A list of names and qualifications of the members of the State advisory committee.

(E) ADMINISTRATIVE COSTS.—A description of the manner by which the State will ensure that entities to which assistance is distributed will expend only a reasonable amount of such assistance for administrative costs, as required under subsection (k)(4).

(2) LOCAL GOVERNMENT AND INDIAN TRIBE APPLICATIONS.—

(A) CONTENTS.—An application for assistance under this section by an Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, shall be made to the Secretary concerned and shall include a services plan under paragraph (1)(A), except that the description under clause (iv) of such paragraph shall (if the applicant is not a local nonprofit housing sponsor that has coordinated with a local government or tribe to apply for and receive assistance) describe how amounts will be allocated among eligible housing projects within such tribe or local government. The application shall also include the certification under paragraph (1)(B), designation of the local or tribal government agency that will be administering the assistance provided under this section, and a description of the manner by which a tribe or local government will ensure that entities to which assistance is distributed will expend only a reasonable amount of such assistance for administrative costs, as required under subsection (k)(4).

(B) REVIEW BY AGING AGENCY.—Each Indian tribe, unit of general local government, and local nonprofit housing sponsor shall, before the submission of a final application for new or renewed funding under this paragraph, submit a copy of the proposed services plan under the application to the applicable Area Agency on Aging (or, where no such agency exists, to the appropriate State agency under the Older Americans Act of 1965) for review and comment. The applicant shall consider such review and comment in the development of any final application for new or renewed funding under this section.

(3) APPLICATION DEADLINES.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish appropriate deadlines for the submission of applications for assistance under this section and shall notify any State, Indian tribe, unit of general local government, and local nonprofit housing sponsor applying for such assistance of acceptance or rejection of its application within 60 days of such submission.

(i) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, and units of general local government and local nonprofit housing sponsors in nonparticipating States to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services as required under subsection (h)(1)(A)(i), the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eli-

gible residents of the projects where the services are to be provided;

(B) the schedule for establishment of services following approval of the application;

(C) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(D) the professional qualifications of the members of the professional assessment committee;

(E) the reasonableness and application of fees schedules established for congregate services; and

(F) the adequacy and accuracy of the proposed budgets.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(j) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, and unit of general government in a nonparticipating State (or nonprofit housing sponsor, in coordination with a local government) that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(5) shall provide 10 percent of the cost.

(B) EXCEPTIONS.—

(i) For any congregate services program in a nonparticipating State that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act, the unit of general local government (or nonprofit housing sponsor, in coordination with a local government) with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 3-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 3-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.

(ii) To the extent that the limitations under subsection (d)(5) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, and unit of general local government and local nonprofit housing sponsor in a nonparticipating State, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, or local government was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) DISRUPTION IN PARTICIPATION.—With respect to any State, Indian tribe, or unit of local government or nonprofit housing sponsor in a nonparticipating State, that terminates a contract under this subsection before the expiration of the full term of the contract—

(A) if the State, Indian tribe, local government, or housing sponsor applies for a renewal of assistance under the existing contract (as the Secretaries of Housing and Urban Development and Agriculture shall provide in regulations under subsection (n)) before expiration of the term of the existing contract, the Secretary concerned may renew assistance under such contract to the extent that subsequent commitments under subparagraph (B) have not been made for amounts reserved under the contract; and

(B) the Secretary concerned may, at any time after termination of the existing contract and before renewal of assistance under the contract pursuant to subparagraph (A), make the amounts under such contract available to any other State, Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, that applies and meets the requirements under this section, for the period remaining under such contract.

(3) NEW PARTICIPATION.—

(A) IN GENERAL.—Upon termination of any contract with any unit of general local government or local nonprofit housing sponsor for assistance under this section, the Secretary concerned may not renew such contract (or enter into any new contract for assistance under this section) if the State in which the local government or housing sponsor is located is, at the time of termination of the contract with the local government, receiving assistance under a contract with such Secretary.

(B) PRIORITY.—In distributing amounts provided to a State under a contract under subsection (b), the applicable State agency shall give priority in distributing amounts to any unit of general local government or nonprofit housing sponsor for which a contract is not renewed (or that may not enter into a new contract) by reason of subparagraph (A).

(k) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize older and disabled adults who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section—

(A) that is located in a State that receives assistance under this section, shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority from the applicable State agency for assistance under this section after the expiration of such period; and

(B) that is located in a nonparticipating State, shall be given priority by the Secretary concerned in selection of recipients for amounts under this section and shall (subject to approval and allocation of sufficient amounts under the Congregate Housing

Services Act of 1978 and appropriation Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such section.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (j)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "activity of daily living" means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term "case management" means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term "congregate housing" means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term "congregate services" means services described under subsection (d) of this section.

(5) The term "congregate services program" means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term "disabled" means an individual who—

(A) has an impairment that—

(i) is expected to be of long-continued and indefinite duration;

(ii) substantially impairs the ability of the individual to live independently; and

(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(B) has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.

(7) The terms "eligible federally assisted housing" and "eligible housing project" mean housing eligible under subsection (f) for assistance for a congregate services program under this section.

(8) The term "eligible resident" means a resident of an eligible housing project who is eligible under subsection (e)(1) for congregate services under a congregate services program.

(9) The term "frail" means having impairment as described in subsection (e)(1)(A)(ii).

(10) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(12) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937.

(13) The term "nonprofit", as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(14) The term "older" means 62 years of age or older.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "Secretary concerned" means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(17) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) The term "State advisory committee" means a committee established under subsection (g)(3)(A)(ii).

(19) The term "temporarily disabled" means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(m) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, not less than annually for each fiscal year for which assistance is provided for congregate services programs under this section, a report containing the following information:

(A) A statement of the number of eligible residents served under such programs and the types of services provided to such residents.

(B) A statement of the percentage of the total number of residents in each project receiving assistance under this section that received congregate services.

(C) A statement of the number of deinstitutionalized individuals served under the programs.

(D) A statement of any new resources for providing services that have been developed on the State or local level.

(E) The cost to States and projects of providing services.

(F) A description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments.

(G) A statement of any changes in membership with respect to each State advisory comittee.

(H) A statement of the total amount of fees for congregate services collected from residents in eligible projects assisted under this section.

(I) A description of the reasons for termination of services provided to eligible project esidents.

(J) A statement of the number of persons who previously received congregate services under a congregate services program assisted under this section who have since been institutionalized.

(K) A description of the manner in which congregate services programs were provided in eligible housing projects located in the poorest areas (with respect to median area income) and that were the most isolated (with respect to access to services) in each State.

(L) An evaluation of the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 351 of this Act.

(M) Any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (n), for the submission of data by States, Indian tribes, and units of general local government in nonparticipating States, regarding the information required under the report under this subsection.

(n) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, jointly issue any regulations necessary to carry out this section.

(o) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There is authorized to be appropriated to carry out this section $11,244,000 for fiscal year 1991, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development; and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture

(through the Administrator of the Farmers Home Administration).

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until xpended.

SEC. 549. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there are authorized to be appropriated $3,445,000 for fiscal year 1990 and $3,584,000 for fiscal year 1991.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1991.".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 550. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

Section 184(c)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "at the end of September 30, 1991".

SEC. 551. FLEXIBLE SUBSIDY PROGRAM.

Section 201(j)(1) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(1)) is amended by inserting before the period at the end the following: "and shall not (except as provided in Public Law 100-404 (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose".

SEC. 552. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 612 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended to read as follows: "There are authorized to be appropriated to carry out this title $24,612,500 for fiscal year 1990 and $100,000,000 for fiscal year 1991.".

(b) EXTENSION OF PROGRAM.—Section 613 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 553. STREAMLINED PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "or vacant".

(b) ACTIONS.—Section 203(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1)(B), by striking "or are vacant (which units shall be made available for such families as soon as possible)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all lower income families that are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for lower income families.".

SEC. 554. HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) many older individuals "age in place" and prefer to remain in their homes rather than enter an institutional setting;

(B) many disabled individuals prefer to live in their own homes rather than enter an institutional setting;

(C) 75 percent of senior citizens own their own homes;

(D) 86 percent of low-income older homeowners pay 30 percent or more of their incomes for basic housing expenses, which include mortgage payments, utilities, taxes, and insurance;

(E) compared to other age groups of homeowners, older homeowners have the highest level of substandard housing;

(F) the problem of substandard housing among older individuals is especially severe for minority and women homeowners, homeowners who live alone, and homeowners living in rural areas;

(G) home repairs are necessary for the continued independence of older and disabled homeowners and for the preservation of existing housing stock;

(H) many older and disabled homeowners do not undertake routine repairs not only because of scarcity of financial resources, but also because of unrecognized need for such repairs, fear of being defrauded by contractors, difficulty in finding contractors for small repairs, or lack of the know-how or physical capabilities to perform repairs;

(I) older and disabled individuals have many skills that can benefit the community and at the same time help them to remain a part of community life;

(J) older individuals who are members of minority groups are underutilized in community projects;

(K) neighborhood and community groups should be utilized to a greater extent in assisting older and disabled homeowners, especially in minority communities;

(L) many older and disabled homeowners have social service needs in addition to needs for home repairs; and

(M) the Seven City Home Maintenance Demonstration for the Elderly, administered by the Department of Housing and Urban Development in 1981 and 1982, and other programs throughout the Nation have shown that minor home repairs can be accomplished in a cost-effective manner with significant benefits to older and disabled homeowners and progress in preserving the housing stock in the United States.

(2) PURPOSES.—The purposes of this section are—

(A) to assist older homeowners and disabled homeowners with home repairs and modifications to enhance their quality of life, assist them in remaining in their homes, and prevent housing stock deterioration;

(B) to reduce the number of disabling and fatal accidents that occur in the home to older individuals;

(C) to facilitate outreach by and improve the capacity of neighborhood and community groups to assist low-income minority, older and disabled homeowners and provide a method of referral to other social services;

(D) to empower older and disabled homeowners, especially in minority communities, to remain independent and participate more fully in community life;

(E) to more fully utilize the talents of older and disabled volunteers;

(F) to contribute to the revitalization of neighborhoods by stimulating community involvement and pride through improved housing quality and increased participation of older and disabled homeowners in volunteer work; and

(G) to provide home repair services in a manner modeled on effective and successful home repair programs, including the Seven City Home Maintenance Demonstration for the Elderly administered by the Department of Housing and Urban Development.

(b) AUTHORITY TO MAKE GRANTS FOR HOME REPAIR SERVICES FOR OLDER HOMEOWNERS AND DISABLED HOMEOWNERS.—The Secretary of Housing and Urban Development shall make grants under this section, to the extent amounts are provided in appropriation Acts pursuant to subsection (l), to eligible organizations to provide home repair services for older homeowners and disabled homeowners.

(c) ELIGIBLE ORGANIZATIONS.—Grants under this section may only be made to locally based nonprofit organizations, local governments, and Indian tribes.

(d) APPLICATION AND SELECTION.—

(1) APPLICATION.—The Secretary shall prescribe the form and procedures for eligible organizations to apply for grants under this section.

(2) SELECTION.—The Secretary shall select eligible organizations applying under paragraph (1) to receive grants under this section. The Secretary shall prescribe a procedure for the selection, which shall be competitive in operation and based on the criteria and the relative importance of the criteria under paragraph (3).

(3) CRITERIA FOR SELECTION.—In selecting eligible organizations to receive grants under this section, the Secretary shall consider the following criteria (listed in order of importance):

(A) NEED.—The need for home repair services in the area served by the applicant.

(B) COMMITMENT.—The commitment demonstrated by the applicant to assisting older and disabled individuals, especially minority and low-income homeowners.

(C) NON-FEDERAL FUNDING.—The extent to which the applicant can commit funds and services to, and acquire non-Federal funds, services, and other in-kind contributions for, home repair services.

(D) EXPERIENCE.—The experience of the applicant in the delivery of home repair services or other similar services.

(E) VOLUNTEERS.—The commitment of the applicant to the use of older and disabled individuals, in volunteer or employee positions, in the performance of home repair services and other activities carried out by the applicant.

(F) MANAGEMENT.—The ability of the applicant to efficiently manage the provision of home repair services while maintaining a high quality of services.

(G) COORDINATION WITH OTHER ORGANIZATIONS.—The ability of the applicant to coordinate its functions under this section with other organizations providing home

repair services and other services for older and disabled individuals.

(H) COORDINATION WITH FEDERAL RESOURCES.—The ability of the applicant to coordinate and combine funds and services under this section with existing Federal and other resources.

(4) ALLOCATION.—The Secretary shall allocate grants under this section in a manner to ensure, to the extent practicable, that grants are received by applicants throughout the United States, including rural areas, and to provide for diversity in the size and type of eligible organizations that receive the grants.

(5) AMOUNT.—In making grants under this section, the Secretary shall consider the limitation under paragraph (6) and the anticipated cost to the applicant of providing home repair services during the period beginning on the date of the making of a grant and ending 24 months thereafter. Notwithstanding the previous sentence, a grant under this section may not exceed $300,000.

(6) 2-YEAR GRANTS.—A recipient of a grant under this section may not receive any other grant under this section for the 24-month period beginning on the date that the recipient receives the grant.

(e) HOME REPAIR SERVICES.—

(1) IN GENERAL.—Each recipient of a grant under this section shall use any amounts provided under the grant to provide home repair services for eligible older and disabled individuals as follows:

(A) EXAMINATION.—The recipient shall provide for the examination of the homes of eligible older and disabled individuals, upon a request for repair services, to identify repair and maintenance problems and determine repair services to be provided. An examination under this subparagraph may be waived if the recipient provides for an alternative method of determining whether repairs are necessary that is adequate in the determination of the Secretary.

(B) PROVISION.—The home repair services shall include the following:

(i) Preventive repairs and modifications.

(ii) Weatherization and energy-related measures.

(iii) Emergency repairs.

(iv) Security-related repairs.

(v) Repairs to enhance accessibility and suitability of the home to the residents.

(vi) General repairs and other appropriate repairs.

(C) FOLLOW-UP.—The recipient shall provide for contacting each individual for whom home repair services have been provided upon the expiration of a reasonable period of time after the provision of such services to ensure the continued effectiveness of the repairs and to address any complaints regarding the repairs. Such contact shall include, if practicable, an on-site inspection of the repairs.

(2) ELIGIBILITY OF INDIVIDUALS FOR HOME REPAIR SERVICES.—Each recipient of a grant under this section shall provide home repair services only to individuals who meet all of the following criteria:

(A) HOMEOWNER.—The individual is the owner of and resides in the dwelling or dwelling unit for which services are provided.

(B) OLDER OR DISABLED INDIVIDUAL.—The individual is an older or disabled individual.

(C) LOWER INCOME.—The individual and the family of the individual residing in the dwelling or dwelling unit, if applicable, is a lower income family.

(3) ELIGIBILITY OF HOMES FOR HOME REPAIR SERVICES.—Each recipient of a grant under this section shall provide home repair services only for dwellings or dwelling units that are the primary residence of the eligible older or disabled individual for whom services are provided. Such dwellings may include mobile homes and condominium and cooperative units.

(4) REQUIRED NUMBER OF OLDER AND DISABLED HOMEOWNERS SERVED.—For each grant made under this section, the recipient of the grant shall provide home repair services to not less than the number of eligible older and disabled individuals that is determined by dividing 85 percent of the amount of the grant by an amount, to be determined by the Secretary, that represents the estimated average cost per repair (by a recipient conducting home repairs under this section), considering the cost of living and construction costs for the area to be served by the recipient.

(5) PREFERENCES FOR INDIVIDUALS SERVED.—Each recipient of a grant under this section shall establish a preference for providing home repair services for families and individuals otherwise eligible under paragraph (2) as follows:

(A) VERY LOW-INCOME.—Families and individuals whose incomes do not exceed 50 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(B) SOCIAL NEED.—Individuals with the greatest social need for the home repair services. For purposes of this subparagraph, the term "social need" means need caused by noneconomic factors. Such noneconomic factors shall include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of such individual to live independently.

(6) FEES.—

(A) ENROLLMENT FEE.—Each recipient of a grant under this section shall charge each eligible older or disabled individual who receives home repair services from the recipient an enrollment fee not to exceed $20 per year, except that the recipient may waive the fee at its discretion.

(B) REPAIR SERVICES FEE.—Each recipient of a grant under this section may charge fees for home repair services provided to eligible older and disabled individuals. Any fee under this subparagraph shall be based on the income of the individual receiving the home repair services and may not be implemented in a manner or amount that discourages older or disabled individuals from acquiring home repair services from the recipient.

(7) LIMITATION ON ADMINISTRATIVE COSTS.—Each recipient of a grant under this section may use not more than 15 percent of any amounts received under the grant for administrative costs relating to providing home repair services. Administrative costs under this subsection shall include costs for planning, management, training, processing of applications for home repair services, providing for referrals under subsection (f), and any other administrative functions related to the delivery of home repair services to older or disabled individuals.

(f) REFERRALS.—Each recipient of a grant under this section shall provide, upon request, to older and disabled individuals who contact the recipient for home repair services, information regarding other appropriate agencies and organizations in the area that provide services to individuals other than home repair services.

(g) COLLECTION OF DATA.—Each recipient of a grant under this section shall provide for the collection of information regarding the provision by the recipient of home repair services under subsection (e)(1) and the older and disabled individuals for whom the recipient provided home repair services. The recipient shall protect the confidentiality of the individuals from and about whom information is collected under this section. Information collected under this section shall include the following:

(1) DEMOGRAPHICS.—The age, sex, race, income, and number of people in the household of the individual served.

(2) REPAIRS.—The number, type, and cost of repairs made.

(3) VOLUNTEERS.—The extent of use of older and other volunteers by the recipient in providing home repair services.

(4) MINORITIES.—The extent of use of minority contractors, employees, and volunteers by the recipient in providing home repair services.

(5) HOUSING QUALITY.—The quality of housing stock in the area.

(6) MAJOR REPAIRS.—The prevalence of need for major repairs.

(7) MODERATE INCOME INDIVIDUALS.—The extent of need for home repairs by older individuals whose income exceeds the limitation under subsection (e)(2)(C) for receiving home repair services.

(8) SOCIAL SERVICES.—The extent of need for social services among individuals for whom home repair services are provided and the extent to which such needs are being met.

(9) INCOME ASSISTANCE.—The extent to which individuals for whom home repair services are provided receive income assistance, from any source, and the extent to which such assistance is available.

(10) OTHER.—Any other information that the Secretary considers appropriate.

(h) MANUALS.—The Secretary shall develop and distribute, to each recipient of a grant under this section, a manual to assist the recipient in providing home repair services under subsection (e)(1). The manual shall also provide a standardized manner for organization and assessment of information collected under subsection (g).

(i) REPORTS.—

(1) GRANT RECIPIENTS.—Each recipient of a grant under this section shall submit to the Secretary, not more than 30 days after the expiration of each of the 2 successive 12-month periods (the first such period beginning on the date that the recipient receives a grant), a report containing the information collected under subsection (g) and any other information that the Secretary may require.

(2) SECRETARY.—The Secretary shall submit to the Congress, not more than 90 days after the expiration of each fiscal year that the Secretary makes grants under this section, a report describing the grants made, the home repair services provided with the grants, the cost figure used by the Secretary under subsection (e)(4), and summaries of the information submitted under paragraph (1) by recipients of grants.

(j) DEFINITIONS.—For purposes of this section:

(1) DISABLED INDIVIDUAL.—The term "disabled individual" means an individual with a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.
(C) Learning.
(D) Mobility.
(E) Self-direction.
(F) Capacity for independent living.
(G) Economic self-sufficiency.
(H) Cognitive functioning.
(I) Emotional adjustment.

(2) ELIGIBLE OLDER OR DISABLED INDIVIDUAL.—The term "eligible older or disabled individual" means any older or disabled individual eligible under subsection (e)(2) to receive home repair services provided pursuant to a grant under this section.

(3) ELIGIBLE ORGANIZATION.—The term "eligible organization" means any nonprofit organization, local government, or Indian tribe eligible under subsection (c) to receive a grant under this section.

(4) HOME REPAIR SERVICES.—The term "home repair services" means services for home repairs and modifications under subsection (e)(1).

(5) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) LOCAL GOVERNMENT.—The term "local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State. The term includes any agency of or office within any local government.

(7) LOWER INCOME FAMILY.—The term "lower income family" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(8) OLDER INDIVIDUAL.—The term "older individual" means any individual of 60 years of age or older.

(9) OWNER.—The term "owner" includes any individual who owns a dwelling, whether or not subject to a mortgage or other lien given to secure advances on, or the unpaid purchase price of the dwelling. The term does not include any individual who is a lessee with regard to the primary residence of the individual.

(10) RECIPIENT.—The term "recipient" means an eligible organization that receives a grant under this Act.

(k) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary during fiscal years 1991 and 1992.

SEC. 555. GRANTS FOR ASSET-RECYCLING HOUSING FUNDS.

(a) AUTHORITY TO MAKE GRANTS TO STATES.—

(1) IN GENERAL.—Subject to the provisions of this section, the Secretary of Housing and Urban Development may make grants to States for use by State housing finance agencies to establish revolving funds to assist in providing housing for low- to moderate-income renters and first-time homebuyers.

(2) APPLICATIONS.—The Secretary shall prescribe the form and procedures for States to apply for grants under this section.

(3) FAIR SHARE ALLOCATION.—Grants under this section shall be allocated among the States on the basis of the formula prescribed by the Secretary under section 213(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)).

(4) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to any State in an amount in excess of the amount that the State certifies, as the Secretary shall require, that the State will contribute from non-Federal sources to the revolving fund established by the State housing finance agency under subsection (b) for the purposes of this section. The value of any administrative or other costs incurred by the State housing finance agency in carrying out this section shall be considered as contributions to the fund for the purposes of this paragraph.

(b) STATE REVOLVING FUNDS.—

(1) ESTABLISHMENT.—Any State that receives a grant under this section shall, through the State housing finance agency of the State, establish a revolving fund according to this subsection.

(2) USE.—Any amounts in the fund shall be available only for the following purposes:

(A) HOMEBUYER LOANS.—For making loans to low- and moderate-income families for the acquisition and rehabilitation of any property eligible under subsection (c) that is a single-family home and will serve as the primary residence of the family. In making such loans, preference shall be given to first-time homebuyers and lower-income families.

(B) GRANTS AND LOANS FOR MULTIFAMILY DWELLINGS.—For making grants to nonprofit agencies, local governments, and public housing agencies for the development and rehabilitation of any property eligible under subsection (c) that is a multifamily dwelling and loans to such organizations for purchase of such properties, subject to the following requirements:

(i) LOWER INCOME OCCUPANCY.—

(I) 40 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 60 percent of the area median income, adjusted for family size; or

(II) 20 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 50 percent of the area median income, adjusted for family size.

(ii) RENT CHARGES.—Any nonprofit agency, local government, or public housing agency that provides multifamily housing assisted with a grant or loan under this subparagraph shall provide for rent charges for each unit of the dwelling based on the income-level of the resident of the unit.

(C) PERMANENT LOW- AND MODERATE-INCOME USE.—

(i) IN GENERAL.—As a condition of receiving assistance from a revolving fund under this subsection, a nonprofit agency, local government, or public housing agency shall agree that property assisted will comply with the requirements of this paragraph for the remainder of the useful life of the property.

(ii) RESTRICTIONS ON CONVEYANCE.—An ownership interest in any property assisted with amounts received from a revolving fund under this subsection may not be conveyed by a nonprofit agency, local government, or public housing agency (or any subsequent owner) unless the instrument of conveyance requires the new owner to comply with the restrictions under this paragraph. Any amounts received by a nonprofit agency, local government, or public housing agency from the conveyance of a property assisted from amounts from a revolving fund shall be used to provide housing subject to the requirements of this paragraph.

(D) SELECTION OF TENANTS.—The nonprofit agency, local government, or public housing agency shall use a selection process for tenants for the assisted housing as follows:

(i) PREFERENCES.—The selection process shall give preference to lower income families, and among lower income families shall give preference to eligible families who—

(I) occupy housing that fails to meet relevant State or local health and safety standards or is overcrowded;

(II) are paying more than 30 percent of family income for housing (including utilities costs); and

(III) who, in the determination of the applicable State housing finance agency, have little prospect of obtaining improved housing within a reasonable time through means other than assistance under this Act.

(ii) CONTRIBUTIONS.—The selection process shall consider the capacity of the eligible families to—

(I) contribute labor in rehabilitating the housing; and

(II) obtain assistance from private sources, community organizations, and other sources.

(3) CREDITS.—A revolving fund established under this subsection shall be credited with the following:

(A) GRANTS.—Any amounts received from a grant under subsection (a).

(B) MATCHING AMOUNTS.—Any matching amounts under subsection (a)(4).

(C) REPAYMENTS.—Any repayments or amounts recaptured under paragraph (4) of this subsection.

(D) OTHER.—Any other amounts that may be dedicated to the fund.

(4) REPAYMENTS AND RECAPTURED AMOUNTS.—Any loans made from a revolving fund under paragraph (2) shall be repaid to the fund according to terms established by the State finance housing agency and the borrower.

(c) ELIGIBLE PROPERTIES.—Low- and moderate-income families and nonprofit agencies, local governments, and public housing agencies may purchase, develop, or rehabilitate with assistance from any revolving fund established under this section by a State housing finance agency only dwellings that meet the following requirements:

(1) TYPE.—The dwelling shall be an unoccupied single- or multifamily dwelling, such that rehabilitation and acquisition of the dwelling for use as provided under this title does not result in the displacement of any residents of the dwelling.

(2) OWNERSHIP.—The dwelling shall be owned or controlled by any of the following:

(A) The Department of Housing and Urban Development.
(B) The Department of Veterans Affairs.
(C) The Federal Deposit Insurance Corporation.
(D) The Office of Thrift Supervision.
(E) The Farmers Home Administration.
(F) The Resolution Trust Corporation.

(3) VALUE.—The dwelling has an appraised value that does not exceed the following:

(A) In the case of a 1- to 4-family dwelling, the applicable maximum dollar amount limitation under section 203(b)(2) of the National Housing Act.

(B) In the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase under such section for high-cost areas).

(d) LISTING OF ELIGIBLE PROPERTIES.—

(1) IN GENERAL.—The Secretary shall make available upon request by any State housing finance agency or unit of general local government a list of eligible properties owned or controlled by entities under subsection (c)(2) that are located within the State or unit of general local government.

(2) CONSULTATION.—The Secretary shall consult with the entities under subsection (c)(2) not less than quarterly to provide a current listing under paragraph (1).

(e) OTHER PROPERTY DISPOSAL LAWS.—This section may not be construed to make available for acquisition under this section any dwelling that may not be made publicly available by any entity under subsection (c)(2) under applicable laws relating to disposal of such dwelling.

(f) REPORTS.—

(1) STATE HOUSING FINANCE AGENCIES.—Any State that receives a grant under this section shall submit to the Congress, not less than annually, a report of the State housing finance agency containing a listing of any properties purchased, developed, or rehabilitated with assistance from the revolving fund established with the amounts received from grants under this section and information regarding the financing for such purchases, development, and rehabilitation.

(2) SECRETARY.—The Secretary shall submit to the Congress, not less than annually, a report regarding the grant program under this section, which shall include a summary of the reports by State housing finance agencies under paragraph (1) and a listing of any properties of any entity under subsection (c)(2) for which assistance has been made through a revolving fund established pursuant to this section.

(g) GAO AUDIT.—The Comptroller General of the United States shall audit the activities of the Secretary under this section not less than annually under any rules and regulations prescribed by the Comptroller General. Representatives of the General Accounting Office shall have access to all books, accounts, reports, and files and all other papers and property belonging to or in use by the Secretary pertaining to such activities and necessary to facilitate the audit.

(h) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who—

(A) (and whose spouse) has not had an ownership interest in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance is made available under this section;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse, while married, meets the requirements of subparagraph (A).

(3) LOW- OR MODERATE-INCOME FAMILY.—The term "low- or moderate-income family" means families and individuals whose incomes do not exceed 115 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 115 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) LOWER INCOME FAMILY.—The term "lower income family" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(5) REVOLVING FUND.—The term "revolving fund" means any fund established by a State housing finance agency under subsection (b) with amounts received from a grant under subsection (a).

(6) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(7) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(8) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

(9) STATE HOUSING FINANCE AGENCY.—The term "State housing finance agency" has the meaning given the term under section 802(b)(2)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1440(b)(2)(A)).

(i) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section in fiscal year 1991 such sums as may be appropriated. Any amounts appropriated pursuant to this subsection shall remain available until expended.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 194, line 2, strike "$16,401,519,000" and insert "$16,178,852,000".

Page 195, line 1 strike "$6,135,669,000" and insert "$5,913,002,000".

Page 195, line 23, after the semicolon insert "and".

Page 196, line 7, strike "; and" and all that follows through "$222,667,000" in line 9.

Page 258, line 19, strike "$491,570,000" and insert "$714,237,000".

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, today I am offering an amendment to title V of H.R. 1180, the Housing and Community Development Act of 1990, to eliminate the reauthorization of the section 8 moderate rehabilitation program and to transfer the $222.7 million in the program to the section 202 elderly and handicapped program.

The purpose of my amendment is to discontinue a long-term subsidy program that has basic program design flaws and to redirect these funds to a housing program which the committee itself has recognized as a program in need of greater funding. In fact, the committee in its report on page 42 under title V states the following:

The committee is aware that the need for affordable housing for the elderly and handicapped is ever increasing. By the year 2030 when the baby boomers have reached age 65, those over age 65 will equal more than 21 percent of this Nation's population. In 1989 the elderly represented only 12 percent of the population.

Mr. Chairman, considering the rapid growth of our aging population, along with the numbers of elderly persons residing in Federal assisted housing, it seems to be only logical that we should provide additional funding to help the Federal Government meet the needs of our Nation's elderly as they attempt to find a home that they can call their own.

In addition, Mr. Chairman, we in this Chamber today have the opportunity to vote for an amendment which will benefit individuals of our Nation's disabled population as they too long to share in the "American Dream" of one day owning a home.

Mr. Chairman, my colleagues, the Moderate Rehabilitation [Mod Rehab] Program was initiated to preserve and upgrade the supply of rental units for

low-income families. The program was intended to provide incentives for owners and developers to make improvements to existing structures so they could be brought up to HUD's livability standards. Under the Mod Rehab Program, owners agreed to upgrade substandard rental housing in exchange for guaranteed rental subsidies for 15 years. However, like other programs that provide long-term subsidies that are attached to the housing units, section 8 moderate rehab has basic program design flaws. These flaws stem from the fact that owners are virtually guaranteed rent collections for 15 years, and therefore are not hesitant to use the program even in very soft rental markets. In fact, GAO has reported that this program has been used in housing markets with a surplus of available housing units, when instead section 8 certificates or vouchers to help tenants afford to rent vacant units that already existed would have worked more efficiently. This, in turn, results in a misallocation of scarce Federal resources. At a time when we in the Congress debate on how best to balance the Federal budget and how best to provide proper management for Government programs we have continued to reauthorize a program which does nothing for the low-income tenant, but instead fills the developer's pocket with additional revenues at the expense of the Federal Government.

Mr. Chairman, have we not learned from our past mistakes—that is, the S&L bailout, the HUD scandal, and others. Today I offer an alternative. Today I offer a solution which will benefit both the Federal Government and those in our Nation who are in need of affordable housing. I ask my colleagues, how much program risk are we willing to endure before we decide to terminate an inept Federal program and instead decide to support a proven and workable section 202 housing program?

I believe that many of us in this Chamber today would welcome the opportunity to terminate the flawed Mod Rehab Program, but for political reasons are unable to support such a desire. In fact, we in this Chamber have not appropriated any funds to the Moderate Rehabilitation Program for fiscal year 1991 and have seriously cutback and suspended this program under H.R. 1, the HUD reform legislation.

Well today, I offer my colleagues a solution to this pressing problem. By supporting the Gilman amendment to title V, you are supporting the section 202 program, a program which provides nonprofit sponsors with loans to develop affordable housing for very low-income elderly and disabled persons.

By supporting my amendment you are helping to provide the "American dream" to all of our Nation.

□ 1610

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I will be pleased to yield to the gentleman from Texas, the distinguished chairman of the committee.

Mr. GONZALEZ. Mr. Chairman, let me ask the gentleman from New York [Mr. GILMAN] a few questions. The gentleman is not reducing the aggregate subsidized housing account, but shifting, as I understand it?

Mr. GILMAN. Mr. Chairman, that is correct.

Mr. GONZALEZ. It was not until now that we got the figures of the gentleman. Mr. Chairman, let me say that reluctantly I would accept this, because I do not want the record to show that we apologize for section 8 moderate rehab. The bad things that happened there were actually, as the record shows, mismanagement. For many years, since 1974, the program had worked very well as the Congress intended. However, Appropriations did not give us any money, and in fact they terminated the program, so in this case shifting and not reducing the aggregate housing account to section 202.

Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN] for his work, and certainly have no objection to his amendment.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from Texas [Mr. GONZALEZ] for his supportive remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GILMAN].

The amendment was agreed to.

Mr. ERDREICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H..R 5157, the Housing and Community Development Act of 1990. This bill represents the hard work of committee and subcommittee members and contains many innovative provisons and new programs to address the special housing needs of many Americans. There is no single housing problem in America, and there can be no single solution.

I am particularly happy with the continued support the bill provides to elderly and handicapped individuals through new and existing programs. The bill contains provisions to provide grants for home repair and reconstruction to meet the special needs of elderly occupants, and sets aside funds to rehabilitate section 202 financed facilities to meet the special needs of the frail elderly. The bill also allows for the purchase of property from the Resolution Trust Corporation suitable for use as elderly housing.

The bill also contains a provision I offered during the subcommittee markup that allows the use of section 202 funds by nonprofit and public agency sponsors for elder cottage housing opportunity [ECHO] units. The bill further authorizes the use of FHA insurance of such units.

ECHO units are moveable, self-contained housing units to be used by older Americans in residential settings adjacent to the existing homes of family members. The units may be located in the back or side yards of adult children for the use by older individuals or couples who wish to maintain their independence or avoid intruding on their children, but need the close proximity to family caretakers that ECHO units allow. ECHO units give elderly residents privacy and a sense of independence, while allowing them to be close to their children. For many older Americans, ECHO units will help delay costly institutional care; for many others ECHO units may eliminate the need for institutional care altogether.

ECHO units are factory-built structures which may be moved from one location to another, and located on a permanent or semipermanent foundation. They typically would consist of one to two bedrooms, with kitchens and bathrooms, and provide for a resident's complete housing needs. The ECHO concept is derived from Australia where the Housing Ministry installs and rents "granny flats" and later removes them when no longer needed. The units are then relocated for use at another location. Other countries as well have used this approach for alternative housing for the elderly.

These units represent cost effective ways to provide additional housing options for older Americans. Under this legislation, a section 202 sponsor would lease ECHO units to families or individuals eligible for section 202 assistance. The units would be located adjacent to a permanent residential structure for the length of time needed, and later returned to the sponsor for placement at another location for use by another senior individual or couple. Alternatively, FHA insurance is authorized under my amendment to provide for this type of unit.

There are approximately 30 million older Americans (people over the age of 65) in the United States. Fifteen million elderly people own their own homes, while 1.3 million are under the institutional care and supervision available in nursing homes. It has been estimated by the year 2030, nearly 4 million older Americans will require special institutional care. Some of these individuals who may not require full-time institutional care will benefit from the use of ECHO

units. Many others, no longer able to maintain a large house, would be able to occupy a smaller, more appropriate house.

ECHO units protect the independence of older Americans; they provide the proximity to children and caretakers necessary for the type of care many older Americans require; they help families avoid the high costs of institutional care for aging parents and grandparents; and they represent an efficient and economical use of temporary, specialized housing that may be used throughout a community as individual family needs arise.

I urge my colleagues to support this bill and the special provisions providing flexible, sensitive responses to elderly needs.

The CHAIRMAN. Are there other amendments to title V?

AMENDMENT OFFERED BY MRS. LOWEY OF NEW YORK

Mrs. LOWEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LOWEY of New York: Page 198, after line 4, insert the following new subsection:

(d) DETERMINATION OF INCOME LIMITS.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended by inserting after the period at the end the following: "In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester County, in the State of New York, as if such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester County, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester County.".

Mrs. LOWEY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. LOWEY of New York. Mr. Chairman, as the chairman knows, I have worked closely with members of the committee to craft this amendment. It is designed to address a problem that has effectively precluded development of federally assisted housing in Westchester County without having any affect on the balance of the New York metropolitan statistical area.

The problem the amendment addresses arises because of the very high development costs in Westchester County coupled with the fact that the county is part of the New York metropolitan statistical area. Inclusion in the metropolitan statistical area has the effect of holding down the limitations which govern these programs and, because of high development costs in our area, has made development of urgently needed affordable housing uneconomic. The resultant inability to develop housing has made it impossible to respond effectively with Federal help to the housing problem in Westchester. We have the highest per capita homeless rate in New York State.

The key figure which has inhibited federally assisted housing development is the median income calculation. A few comparisons will, I feel sure, make clear to my colleagues the discrepancy with reality caused by the current method of calculation which this amendment remedies. The New York MSA including Westchester County is subject to a $36,900 median income limitation. The Long Island suburbs of New York in Nassau and Suffolk Counties—which are very comparable to Westchester—have a median income of $49,600 according to recent HUD calculations. The Poughkeepsie MSA has a HUD-determined median income of $44,000.

This adjustment will correct that anamoly and make economically feasible federally assisted development in Westchester.

I appreciate the cooperation of the committee, including the help of Chairman GONZALEZ, the ranking members, Representative WYLIE of the full committee and Representative ROUKEMA of the Housing Subcommittee, my New York colleagues on the committee, CHUCK SCHUMER and FLOYD FLAKE. My colleagues who represent parts of Westchester County, Congressmen GILMAN, FISH, and ENGEL, have also been cooperative in working to address this problem.

It is my understanding that the committee is supportive of what we are endeavoring to do.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise today in strong support of the amendment to H.R. 1180. I wish to commend my colleague from New York, Mrs. LOWEY, for her leadership in bringing this amendment to the floor.

Westchester County, a portion of which I represent, has the highest per capita homeless rate in New York State. This is largely due to inclusion in the New York metropolitan statistical area, which is subject to a median income limitation of $36,900. Westchester County also has very high development costs, making the development of affordable housing nearly impossible. Mrs. LOWEY's amendment will help correct this grave situation in Westchester County without effecting the remainder of the New York metropolitan statistical area.

I urge my colleagues to help obtain affordable housing for the hard-working citizens of Westchester County by voting in favor of this amendment.

Mr. HILER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the author of the amendment might consider a couple of questions so I might better understand the amendment. This amendment would essentially single out Westchester County for an increase in the income limit.

Mrs. LOWEY of New York. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentlewoman from New York.

Mrs. LOWEY of New York. Mr. Chairman, that is correct.

Mr. HILER. Could the gentlewoman tell me, is there any other county in the country that has the characteristics of Westchester County?

Mrs. LOWEY of New York. Mr. Chairman, yes. In fact, the Long Island suburbs of New York and Nassau and Suffolk Counties, which are very comparable to Westchester, have a median income of $49,600, according to recent HUD calculations, and the Poughkeepsie MSA has a HUD-determined median income of $44,000.

Mr. HILER. Mr. Chairman, reclaiming my time, why are we singling out Westchester County?

Mrs. LOWEY of New York. Mr. Chairman, I would advise the gentleman that they have already been separated. Nassau and Suffolk are fine. They have already been separated.

Mr. HILER. Mr. Chairman, I wonder if the gentlewoman from New York [Mrs. LOWEY] could tell me, she mentioned the high developmental costs. Why is that?

Mrs. LOWEY of New York. The problem in Westchester County is that we are adjacant to New York City on the one hand and we are adjacent to the Hudson Valley, and we are part of that whole metropolitan region. So we suffer from the fact that our costs are high. Our median income is about $47,000 in Westchester County, and in New York City it is about $36,000.

To help us take advantage of some of these programs, whose guidelines are set at 50 percent of the median in Westchester County, it just makes it impossible to build. The problem is if you look at the statistics over the last 5 years, essentially our rental units have all been turned over to cooperatives and condominiums. There is no rental housing.

□ 1620

What we want to do is make this housing available and this kind of adjustment would make that possible.

Mr. HILER. Reclaiming my time, are there rent controls in Westchester County?

Mrs. LOWEY of New York. Right now?

Mr. HILER. Yes.

Mrs. LOWEY of New York. In some parts of Westchester there does exist rent control, not all of it; mostly not.

Mr. HILER. Mostly not?

Mrs. LOWEY of New York. Yes.

Mr. HILER. Would there be rent controls in those areas of Westchester County where the rental property is being turned into cooperatives?

Mrs. LOWEY of New York. A real problem here is that we just do not have any rental housing. The problem is that because the developers cannot build, all the current rental units are being turned over to cooperatives and condominiums, and we have a real problem in providing rental housing. That is really the problem we face.

So what we want to do is make this housing available for people of low and moderate income so that they can live in Westchester. We have over 5,000 who are homeless in Westchester County because there is no housing.

Mr. HILER. I was just trying to understand why it is the current rental property is being turned into cooperatives.

Mrs. LOWEY of New York. We are part of that whole market, and when you look at Nassau and Suffolk whose medium income is similar to ours, they have been separated from New York City for that purpose, because the developers and builders just cannot seem to build to within those guidelines.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, the main reason throughout the New York area and other places that rental productions are turned over to co-ops is tax, because you can deduct if you are a cooperative or a condominium owner. Of course you can deduct the mortgage payments and the property taxes on your own, whereas if you are a renter you do not get to deduct those. So paying the same amount of rent as you would mortgage in a condo payment you get much greater return back in terms of taxes. That is what is happening, by the way, in areas of New York, New Jersey, and Connecticut that have no rent control at all at the same rate as others.

Mr. HILER. I thank the gentleman and the gentlewoman for their explanations.

Mr. Chairman, I have concerns, but I will not object and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 310, strike line 24 and insert the following: $6,700,000 for fiscal year 1991, of which amount $2,000,000 shall be available to carry out paragraph (5)(C).".

Page 311, after line 5, insert the following new paragraph:

(3) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended to read as follows:

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provisions of homeownership counseling.

"(ii) The toll-free telephone number described in subparagraph (D)(i).

"(b) DEADLINE FOR NOTIFICATION.—The notification required in subparagraph (A) shall be made—

"(i) in a manner approved by the Secretary; and

"(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

"(C) EXCEPTIONS.—Notification under subparagraph (A) shall not be required with respect to any loan—

"(i) insured or guaranteed under chapter 37 of title 38, United States Code,

"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

"(D) ADMINISTRATION AND COMPLIANCE.—The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

"(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations that—

"(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

"(II) serve the area in which the residential property of the homeowner is located;

"(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

"(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

"(E) REPORT.—The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is an amendment that deals with the home ownership counseling program. As presently authorized, this program makes it mandatory for lender institutions to notify homeowners who are delinquent on home payments and that housing counseling agencies are in fact available to advise them how to avoid foreclosure.

I might add it has been singled out in many editorials that the program has been successful. It has saved an awful lot of money and has averted many foreclosures.

Unfortunately, though, many lender institutions fail to comply with the notification section of the program because the language is very ambiguous, and it simply states that notification should occur when the homeowner is delinquent.

This amendment then specifies when that lender notification shall be made at the 45th day of such delinquency. The HUD officials have often used the 45th day of delinquency as a guideline when lenders are unsure about the regulations and have questioned when appropriate notification should occur.

In addition, the amendment requires the Secretary of HUD to contract with a private entity to establish the already required toll free number for troubled homeowners, and to also monitor the bank compliance with the notification regulations. The monitoring agency would be required to submit the report on compliance to the Secretary of HUD, who would then submit that report and report on the effectiveness of the monitory entity to Congress.

The Secretary would also be required to include in such report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with the regulation of such notice.

With that, Mr. Chairman, I say the amendment and this language change in existing law is absolutely necessary, and I would encourage the adoption of this amendment.

My counseling amendment is both simple and necessary. It would change the notification section of the Home Ownership Counseling Program (Public Law 100-242).

The Home Ownership Counseling Program, as presently authorized, makes it mandatory for lender institutions to notify homeowners

who are delinquent in loan payments that housing counseling agencies are available to advise them on how to avoid foreclosure. Unfortunately, many lender institutions fail to comply with this notification section of the program because the language ambiguously states that notification should occur when homeowners are delinquent in making loan payments and also because there are no penalties for failure to comply with the law.

My amendment would specify that lender notification of the availability of housing counseling agencies should occur no later than the 45th day of delinquency. HUD officials have often used the 45th day of delinquency as a guideline when lenders, unsure about the regulation, have questioned when appropriate notification should occur.

My amendment also requires the Secretary of HUD to contract with a private entity to establish the already required toll-free number for troubled homeowners and to also monitor bank compliance with the notification regulation. The monitoring agency would be required to submit a report on compliance to the Secretary of HUD, who would then submit that report and a report on the effectiveness on the monitoring entity to Congress. The Secretary would also be required to include in such report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with the regulation.

H.R. 5157 provides for an appropriation of $4.7 million for the homeownership counseling program. My amendment would increase that amount by $2 million for the establishment of the toll-free number and monitoring agency.

This amendment is necessary. The ambiguous language of the law often results in messy lawsuits pitting troubled homeowners against angry lenders attempting to enact foreclosure procedures. By clarifying that language and hinting at a threat of penalties, lenders will have no choice but to comply with the regulation and many lawsuits will be avoided.

I'd like to add for the benefit of the Veterans Committee that lenders that have financed VA-guaranteed loans would be exempt from the 45-day delinquency requirement. In this way, the amendment will not conflict with present VA counseling regulations.

Please support this important amendment.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding.

I think at the tail end the gentleman mentioned there would be a reporting requirement in the bill for the Secretary of HUD to come up to the Congress and tell us the effectiveness of the gentleman's program.

Mr. TRAFICANT. The gentleman is correct.

Mr. HILER. I applaud the gentleman for including that in his amendment. On this side we certainly will concur with the gentleman's amendment.

Mr. TRAFICANT. I appreciate the support.

Mr. MURTHA. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLAKE: Page 245, after line 3, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 518. PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) COMPREHENSIVE SERVICES.—Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the private rental housing market and homeownership within a reasonable period of time.

(b) COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (h).

(2) MEMBERSHIP.—Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the chief executive officer of the applicable unit of general local government.

(B) A representative of the applicable public housing agency.

(C) A representative of the regional administrator of the Department of Housing and Urban Development.

(D) A representative of a local resident management corporation.

(E) Not less than 1 individual affiliated with a local agency that administer programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among local businesses engaged in housing and real estate.

(G) A representative from among business engaged in real estate financing.

(3) SOCIAL SERVICE COMMITTEES.—Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) (with respect to the demonstration program as carried out by the applicable public housing agency), identify the specific services that are required to successfully carry out the demonstration program.

(c) INTERAGENCY COOPERATION.—The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(d) SCOPE OF DEMONSTRATION PROGRAM.—

(1) PARTICIPATING PUBLIC HOUSING AGENCIES.—The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) PARTICIPATING PUBLIC HOUSING UNITS.—Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the total number of public housing units for families administered by each participating public housing agency.

(3) NONDISPLACEMENT.—No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(e) HOUSING DEVELOPMENT.—

(1) USE OF PUBLIC HOUSING OPERATING SUBSIDIES.—For the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing, under the demonstration program the Secretary shall amend the annual contributions contract between the Secretary and each participating public housing agency as the Secretary determines appropriate to permit the public housing agency to utilize operating subsidy amounts allocated to the agency under section 9 of the United States Housing Act of 1937 with respect to newly constructed or rehabilitated housing units that are privately developed and owned. Such units shall be reserved for use under the demonstration program for occupancy by very low-income families as provided under this subsection and subsection (g).

(2) LEASE TERMS.—Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify—

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(3) TRANSFER OF AMOUNTS.—Operating subsidy amounts may be provided for a unit of

housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(4) RENTAL TERMS.—Units acquired by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g)(1). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident family (as determined under section 3(b) of the United States Housing Act of 1937), except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(5) INCOME MIX.—Not more than 25 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(6) COORDINATION WITH OTHER ENTITIES FOR DEVELOPMENT OF HOUSING.—A participating public housing agency may seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to—

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974;

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(7) DETERMINATION OF LOCATION AND NUMBER OF UNITS.—

(A) IN GENERAL.—A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program carried out by the public housing agency and the number of units to be developed annually, with approval of the legislative body of the local government.

(B) LIMITATION ON NUMBER OF UNITS.—The total number of newly constructed or rehabilitated units that may be used under this subsection in the demonstration program may not exceed—

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;

(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and

(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

(f) EXISTING PUBLIC HOUSING.—

(1) IN GENERAL.—To facilitate the establishment of socioeconomic mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to lower income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937.

(2) LIMITATIONS ON PUBLIC HOUSING RESIDENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by lower income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

(B) EXCEPTION.—Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by lower income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public housing through establishing a socioeconomic mixed resident population.

(3) NUMBER OF UNITS.—The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

(4) RENTAL TERMS.—The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of the United States Housing Act of 1937.

(5) LEASE.—A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

(6) VACANCY.—If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may—

(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937; and

(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act, subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding any preferences for such assistance under section 8(d)(1)(A)(i) of such Act, and permit the family to remain in the unit.

(g) CONTRACTS WITH PARTICIPATING FAMILIES.—

(1) IN GENERAL.—Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program. The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

(2) ESTABLISHMENT OF CRITERIA.—Each public housing agency shall establish criteria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include—

(A) the status and history of employment of family members;

(B) enrollment of the children in the family in an educational program;

(C) maintenance by the family of the family's previous dwelling;

(D) ability of adult family members to complete training for long-term employment;

(E) the existence and seriousness of any criminal records of family members; and

(F) the status and history of substance abuse of family members.

(3) CONTINUED RESIDENCE.—Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include—

(A) all members of the family remaining drug-free;

(B) no member of the family engaging in any criminal activity;

(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

(D) family members participating in the support services and counseling under subsection (h);

(h) PROVISION OF SUPPORTIVE SERVICES.—For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities. Services shall include the following:

(1) Remedial education.

(2) Education for completion of high school.

(3) Job training and preparation.

(4) Child care.

(5) Substance abuse treatment and counseling.

(6) Training in homemaking skills and parenting.

(7) Family counseling.

(8) Financial counseling services emphasizing planning for homeownership, provided by local financial institutions under the Community Reinvestment Act of 1977, provided under section 106 of the Housing and Urban Development Act of 1968, or otherwise provided.

(i) ECONOMIC ADVANCEMENT OF PARTICIPATING FAMILIES.—

(1) EMPLOYMENT.—Under the demonstration program, for the entire term of residency of each participating family in housing provided under subsection (e)—

(A) the head of the family shall be required to be employed on a full-time basis, except that if the head of the family becomes unemployed, the public housing agency shall review the individual case to determine if mitigating factors, such as involuntary loss of employment, warrant continuing the family's participation in the demonstration program; and

(B) the public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and training employment.

(2) RENT INCREASES.—During the 1-year period beginning upon the residency of a participating family in housing provided under subsection (e), the amount of rent charged the participating family may not be increased on the basis of any increase in the earned income of the family, until such earned income exceeds 80 percent of the median family income for the area.

(3) ESCROW SAVINGS ACCOUNTS.—

(A) PURPOSE AND ESTABLISHMENT.—To ensure that participating families acquire the financial resources necessary to complete a successful transition from assisted rental housing to homeownership or other private housing, under the demonstration program each participating public housing agency shall establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name.

(B) PERIODIC DEPOSITS.—For the entire term of a participating family's residency in housing provided under subsection (e) the public housing agency shall deposit in the account established for the family under subparagraph (A) a percentage of the monthly rent charged the family, which percentage shall be established in the contract of participation under subsection (g)(1). Any rent increases charged because of increases in the earned income of the family shall also be deposited into the escrow account.

(C) ACCESS TO AMOUNTS.—A participating family may withdraw amounts in the family's escrow account only upon successful completion of participation in the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the participating public housing agency. A participating family that has committed violations referred to under subsection (j)(2)(B) shall forfeit access to such amounts.

(4) TREATMENT OF INCREASED INCOME.—Any increase in the earned income of a participating family during residency in housing provided under subsection (e) may not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(j) CONCLUSION OF PARTICIPATION.—

(1) 7-YEAR TERM.—Each family residing in housing provided under subsection (e) or (f) shall terminate residency in housing not later than the expiration of the 7-year period beginning on the commencement of such residency. Notwithstanding the preceding sentence, a public housing agency shall extend the period for any family that requests extension of the period—

(A) because the family is not prepared to enter a program for homeownership or to secure any other form of private housing; or

(B) for other good cause.

(2) INCOMPLETION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a participating family is unable to successfully fulfill the requirements under the demonstration program, the public housing agency shall offer the family a comparable public housing unit in a project administered by the agency (notwithstanding any preference for residency in public housing under section 6(c)(4)(A)(i) of the United States Housing Act of 1937), or assistance under section 8 of such Act (subject to availability of amounts provided under appropriations Acts and notwithstanding any preference for such assistance under section 8(d)(1)(A)(i) of such Act).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any participating family that has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or that has been exempted from such requirement by the public housing agency for other good cause.

(k) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Upon the expiration of each 2-year period during the term of the demonstration, the first such period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

(l) DEFINITIONS.—For purposes of this subsection:

(1) The term "coordinating committee" means a local coordinating committee established under subsection (b)(1).

(2) The term "demonstration program" means the program established by the Secretary under this section.

(3) The term "lower income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "operating subsidy amounts" means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937.

(5) The term "participating family" means a family that is residing in a housing unit provided under subsection (e).

(6) The term "participating public housing agency" means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

(7) The terms "public housing agency", "public housing", and "project" have the meanings given such terms under section 3(b) of the United States Housing Act of 1937.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(m) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(n) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

Mr. FLAKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FLAKE. Mr. Chairman, at this time we would like to present an amendment that we think is workable in consideration of the problems that we are having in public housing throughout the Nation in terms of trying to create a model housing so that persons who are among the working poor will be able to live among people who represent a positive role model.

Mr. Chairman, we are asking today that this program be considered as a demonstration project both to work in the city of Chicago and three other cities with a 10-year provision. We intend through this program to develop new, affordable housing in communities that surround existing public housing developments with 25 percent housing units, public housing units, and 75 percent market rate units, affordable to low-income families at no cost to the Federal Government. Four new units of affordable housing ought to be created for each existing public housing unit included in the program.

Mr. Chairman, we are encouraging the economic advancement of low-income families and their eventual transition out of public housing. That was the ultimate intention of public housing when the program was initiated. And it is hoped that through this program of new housing opportunities and supportive services we can create a better environment in which those

persons who are considered to be the poor, and in many instances persons living in public housing are the working poor, are currently living in public housing units are lost in the program. No units available for the very low-income families which represent 50 percent of low or median income are lost in the program.

We are asking that this body give consideration to this particular proposal, realizing that we can permit 25 percent of the units in existing public housing developments to be occupied by working families, working families who are public housing eligible, whose incomes are up to 80 percent of median income, to establish a socioeconomic mix of residents in public housing developments.

Mr. Chairman, it is our contention that it is not an appropriate environment when a major portion of those persons who live in public housing are not going out to work. Therefore, those young people who are part of the environment, who are growing up in it, have no opportunity to see that there is a possibility to be able to access the workplace or the marketplace. We believe that this particular piece of legislation gives us an opportunity for an examination period of what to do with public housing in the future. We believe that Chicago and some other urban cities represent for us a potential model for it, and we believe that this House would do itself well if it would allow for this demonstration program so that we can move in the future to try to make it available to other cities in this country, and hopefully come to the day when we will not be crying about the problems of public housing, but will have done all in our power to resolve and create some solutions to the problems that exist there.

It is my contention that if we are going to impact education, if we are going to impact the problems of drugs, the problems of those who are the working poor, that this is a sensible way to go about it, and I urge that the Members of the House will indeed support us in the passage of this particular amendment.

Mr. HAYES of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, today I rise to express my support for the amendment before us. As you may be aware, Mr. Chairman, I represent a district in Chicago with over 70,000 public housing residents—probably over half of the public housing population for the entire city of Chicago. Clearly, Chicago public housing developments constitute some of the poorest communities in both the city and the Nation.

Housing is one of my top priorities as a member of this body, and I know from experience that we must continue to address the need for decent and affordable housing for all Americans. In addition, I believe that we must begin to find ways of creating a way out for public housing residents. While the availability of public housing is, and will likely always be, a necessity, I do believe residents of public housing should have options. We in the Congress should help to provide those options by first remembering that public housing was never meant to be permanent housing, but rather a temporary housing arrangement. As we know, public housing has developed into often unhealthy living arrangements for millions of Americans—basically stacking poor people on top of poor people. The system simply is not working.

My colleague's amendment is a step in the right direction in addressing these issues. Mr. FLAKE's amendment seeks to create a mixture of working and nonworking families in public housing and surrounding private housing; develop new affordable housing; and reestablish public housing as transitional housing for those who are potential homeowners.

Mr. Chairman, I support Mr. FLAKE's efforts because I truly believe that we must continue to come up with creative ideas such as this demonstration program to address this Nation's housing crisis. I encourage my colleagues' support.

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Mrs. MARTIN of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to urge my colleagues to support the Flake amendment which will significantly augment the ability of a community to maintain its economic and social diversity.

It is the goal of housing initiatives throughout the Nation to recreate stable public housing communities that not only provide decent shelter, but also provide social and economic opportunities for its residents. In order to ensure a thriving community, there is a need for a population which reflects the diversity of the surrounding urban area—with working families living alongside families who want work.

The Flake amendment will facilitate this by establishing a demonstration project in up to four cities, including Chicago, to encourage the private development of mixed income housing in communities surrounding existing public housing developments.

Very low-income residents of the privately developed housing must keep their children in school, stay free of drugs and crime, and actively seek or obtain employment. Through these rules—and by returning working-class tenants to the community—there is an opportunity to break the cycle of poverty and ignorance.

Participation in this program would be limited to 7 years in order to encourage transition to the ultimate goal for all residents of public housing—a home of their own. Let me once again urge my colleagues to support this innovative and intelligent approach to breaking the cycle of dependency, poverty and despair in our Nation's cities.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to add my congratulations to the people who have brought this amendment forward. I had the privilege of talking to the people from the Chicago Housing Authority and members of the Illinios delegation. This seems to be a very creative approach to some of the problems we have encountered in public housing.

It is here for the city of Chicago but I believe it is the kind of program that is going to be successful and which many of the rest us in other parts of the country will be following.

So I want to say to the gentleman from Chicago who offered it, and others, that they are to be congratulated for working with the city housing authorities.

At a time when people are very critical of government, have a kind of stereotype that government is always too rigid, this is an example of how we can respond creatively.

I want to congratulate those involved, and hope the amendment is adopted.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to my chairman.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, we analyzed the amendment. We had some reservations because it appeared to turn the operating subsidies into tenant. However, I am very well aware of the Chicago situation.

This would provide for a demonstration program for Chicago and three other cities as the Secretary may decide. I think I agree with the gentleman, I think it is a creative amendment.

Mr. Chairman, I want to compliment our colleague on the subcommittee on housing, the gentleman from New York [Mr. FLAKE], for offering it, and of course I am very familiar with Mr. HAYES' district in Chicago. I think I must agree that it is a worthwhile amendment.

Mr. FRANK. I thank the gentleman.

Mr. Chairman, I was remiss in not acknowledging the leadership on this, as on other issues, of our colleague, the gentleman from New York [Mr. FLAKE], who has been a leader in housing matters.

Mr. Chairman, I want to stress again that this is our answer to people who

look at the problems with existing public housing and use the existence of those problems as a stick to try to beat the program to death.

The alternative is to look at the problems that are there which are inherent when you are trying to do difficult social things and try and respond creatively.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to my friend, the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. I thank the gentleman for yielding.

Mr. Chairman, one of the points I think we need to make for those who are asking the question, "Why Chicago?", the reality is that I have personally been to Chicago. I have seen some of the problems. I know the problems in New York. I know the problems in other urban cities. This is merely a demonstration. It says Chicago and three other cities to be selected by the Secretary. So it is not a Chicago program; it is a program that can be operated nationally.

Mr. FRANK. Mr. Chairman, this is one of those deals where we have Chicago and three cities to be named later.

Mr. HILER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in strong support of the amendment offered by my colleague from New York, Mr. FLAKE.

The minority has been privileged to have been provided the opportunity to work in close bipartisan cooperation with Mr. FLAKE and the other sponsors of this very positive and innovative amendment. I wish to compliment my colleague on his excellent work in bringing forth this program.

This amendment offers outstanding potential even though it is a limited pilot demonstration initiative, to restore public housing to a more stable economic base and to create new housing and economic self-sufficiency potential for very low income families.

What is most remarkable about this mixed income strategy is that it will create private sector and public sector partnerships for the development of new and rehabilitated housing for very low-income families without the necessity of increasing any Federal funds. It will also create opportunities for families participating in the demonstration to receive training and needed supportive services to accomplish economic independence, and improve existing public housing as well.

The amendment is budget neutral and is also supported by the administration.

I urge all of my colleagues on both sides of the aisle to support the amendment.

Mrs. COLLINS. Mr. Chairman, I rise in support of the Flake amendment to establish new, affordable, mixed income housing developments adjacent to existing public housing. The units in these low-rise buildings would be priced at an affordable rate to encourage low- and moderate-income employed persons. The goal is to establish a mix of families and income levels in an attempt to get away from simply cramming masses of poor people onto depressing facilities. It is hoped that the working families will be role models and provide encouragement for those striving to improve their lot.

The beauty of this amendment is that it is budget neutral and will not cost the Federal Government one dime to build or operate. Development costs will be borne by local public and private resources which include land write downs from the city, tax abatement by the county, low interest rate financing, low-income tax credits and CDBG funds.

Mr. Chairman, passage of this amendment will greatly benefit working families who are public housing eligible by the establishment of a rent ceiling above which rent cannot rise. Most working residents of public housing must pay 30 percent of income as rent regardless of how high their income rises. This is clearly a disincentive for working families.

For many years, now, we in Chicago and in other major urban areas in our Nation, have tried to find a way to correct some of the ills that high-rise public housing such as Cabrini-Green in my district, seems to foster. Among them are crime, high unemployment, far, too many young people dropping out of school, teen pregnancy, drug abuse, and so on.

The Flake amendment addresses these issues in a number of ways. Public housing eligible families wishing to participate will be able to voluntarily enter into a program of social services, which shall be made available over the full course of the 10-year demonstration program. Such services will include programs to keep children in school, provide adult remedial education, provide job training and job placement, develop housekeeping and family budgeting skills, and provide family counseling to enable the family to remain drug free and crime free. Again, no new Federal moneys will be required to provide the services.

This program would help revitalize the areas around public housing complexes and benefit both the local areas and the tenants of the developments. I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FLAKE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RUSSO

Mr. RUSSO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RUSSO: Page 311, after line 5, insert the following new subsection:

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

"(1) PURPOSES.—The purpose of this subsection is—

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding dewfaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) PREPURCHASE COUNSELING.—

"(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (10)(K)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

"(i) financial management and the responsibilities involved in homeownership;

"(ii) fair housing laws and requirements;

"(iii) the availability of housing opportunities within the metropolitan area in which the counseling target area is located;

"(iv) the maximum mortgage amount that the homebuyer can afford; and

"(v) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

"(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

"(i) the homebuyer has applied for a qualified mortgage;

"(ii) the homebuyer is a first-time homebuyer; and

"(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

"(6) FORECLOSURE-PREVENTION COUNSELING.—

"(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 30 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the * * *

"(ii) such home is located in a counseling target area.

"(7) SCOPE OF DEMONSTRATION PROGRAM.—

"(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

"(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

"(i) the population of which is greater than 50,000;

"(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

"(iii) in which the average age of existing housing is greater than 20 years;

"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

"(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

"(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

"(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

"(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO STUDY AND REPORT.—

"(A) STUDY.—During the 12-month period ending on the termination date under paragraph (13), the Comptroller General shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) REPORT.—The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraphs;

"(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

"(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

"(10) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'control area' means an area designated by the Secretary under paragraph (7)(E).

"(B) The term 'counseling target area' means an area designated by the Secretary under paragraph (7)(A).

"(C) The term 'creditor' means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

"(D) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full time in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family;

"(iii)(I) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

"(II) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this subtitle; and

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(E) The term 'downpayment' means the amount of purchase price of home required to be paid at or before the time of purchase.

"(F) The term 'eligible homebuyer' means a homebuyer that meets the requirements under paragraph (5)(B).

"(G) The term 'eligible homeowner' means a homeowner that meets the requirements under paragraph (6)(D).

"(H) The term 'first-time homebuyer' means an individual who—

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

"(iii) is a single parent who, except for owning a residence, with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term "metropolitan area" means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(11) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $350,000 for each of fiscal years 1991, 1992, 1993, and 1994.

"(13) TERMINATION.—The demonstration program under this section shall terminate at the end of fiscal year 1994.".

Mr. RUSSO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be consid-

ered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RUSSO. Mr. Chairman, every day homeowners and American taxpayers are losing large amounts of money to needless Government-backed loan defaults. Our own Secretary of HUD, Jack Kemp, says that the FHA insurance fund is in grave danger. Foreclosures on federally insured mortgages have reached catastrophic levels. Each federally insured mortgage in default costs the Federal Government a minimum of $25,000 to $54,000, at a total loss of approximately $5 billion a year.

My amendment would help cut down the number of loans in default by requiring mandatory prepurchase counseling for those seeking FHA backed mortgages. In addition to reducing federally insured defaults and foreclosures, this amendment will encourage the responsible and prudent use of Federal insurance, expand housing opportunities for federally insured mortgage clients, and help homeowners keep their homes.

Mandatory prepurchase counseling is not a new idea. During the early 1970's there was an epidemic of federally insured mortgages gone bad in parts of Chicago. Public outcries of abuse and discrimination led HUD to establish a mandatory prepurchase counseling pilot project in Marquette Park, an area of southwest Chicago. Under this program, prospective buyers were to be screened more carefully and borrowers were required to undergo counseling on the costs, responsibilities, and unforeseen occurrences which can make home ownership a difficult or impossible goal for some.

The Marquette Park prepurchase counseling project has been in effect since 1977, but HUD has failed to vigorously administer the program or keep detailed records. Their records were so shoddy that when the GAO attempted to conduct a study of this program, it was unable to do so. HUD has kept no records of the number of people counseled during the past 13 years, the number of people who bought houses in the Marquette Park area, or the number of homes in default. It is a disgrace that HUD was allowed to function in such a sloppy and callous manner.

My demonstration project establishes three counseling target areas in at least two metropolitan communities with older housing stock and either high delinquency and foreclosure rates or a high ratio of federally insured mortgages to conventional mortgages. HUD-approved counseling agencies, not HUD, will deliver locally based prepurchase counseling to first-time home buyers with less than 10-percent down and delinquency and default counseling to homeowners more than 30 days delinquent. Each counseling target area will be paired with a control area of similar racial and economic background which will not have prepurchase counseling. During the fourth and final year of the demonstration project, the GAO will study the default and foreclosure rates of the counseling target areas against those of the control areas which lacked counseling.

According to current law, potential home buyers must be advised only that prepurchase counseling programs exist. Home buyers who are most likely to default are also least likely to seek voluntary counseling. This prepurchase counseling would be targeted both in terms of community characteristics and individual homeseekers that fit profiles of those most likely to get into trouble with their mortgage. It has been reported that marginally qualified or unqualified first-time home buyers default on home loans within several months to 3 years of closing. Prepurchase counselors would act in the interest of the homeowner, and not in the interest of furthering a sale to gain a commission.

According to the recent Price Waterhouse audit of the FHA insurance fund, the main cause of the fund's problems was the failure of HUD to properly oversee the work of private lenders. Lenders have little to lose financially on a default, since FHA insures up to 97 percent of the mortgage amount. A recent analysis of Chicago's lending patterns demonstrated a shift away from conventional mortgages issued by savings and loans to federally insured FHA and VA mortgages issued by mortgage brokers. Only one in four mortgages were federally insured before 1987, today, a majority of those mortgages are guaranteed by the Government. Additionally, statistics for Chicago indicate that foreclosures in areas with prepurchase counseling are significantly lower, 2 to 6 per year, compared with foreclosures of 62 to 90 per year in areas with no counseling.

Mandatory prepurchase counseling is an idea that works. My amendment will provide information on which to base a responsible solution to the problem of deteriorating neighborhoods. Saving just 20 homes a year from default will completely fund this program. Let us stop telling the American taxpayer that the FHA fund is in trouble. Let us stop making excuses and start finding solutions. This program will lower default rates and keep people in their homes. Let us keep the American dream of homeownership alive. Vote for this amendment.

Mr. Chairman, I have cleared this amendment with the chairman of the committee and the ranking member of the committee, and, as I understand, it has been agreed to by both parties.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Indiana.

Mr. HILER. I thank the gentleman for yielding.

Mr. Chairman, my understanding is there are some changes that were made which made this supported by the administration.

Mr. Chairman, I ask the gentleman if that is correct?

Mr. RUSSO. Mr. Chairman, I understand there is going to be a request made on the side of the gentleman from Indiana to change 30 days to 60 days in the amendment.

MODIFICATION OF AMENDMENT OFFERED BY MR. RUSSO

Mr. RUSSO. Mr. Chairman, I offer a modification of the amendment: on page 4, line 20, change "30" to "60."

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 311, after line 5, insert the following new subsection:

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

"(1) PURPOSES.—The purpose of this subsection is—

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the home they have purchased pursuant to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under

the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) PREPURCHASE COUNSELING.—

"(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (10)(K)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

"(i) financial management and the responsibilities involved in homeownership;

"(ii) fair housing laws and requirements;

"(iii) the availability of housing opportunities within the metropolitan area in which the counseling target area is located;

"(iv) the maximum mortgage amount that the homebuyer can afford; and

"(v) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

"(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

"(i) the homebuyer has applied for a qualified mortgage;

"(ii) the homebuyer is a first-time homebuyer; and

"(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

"(6) FORECLOSURE-PREVENTION COUNSELING.—

"(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the subject to a qualified mortgage; and

"(ii) such home is located in a counseling target area.

"(7) SCOPE OF DEMONSTRATION PROGRAM.—

"(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

"(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

"(i) the population of which is greater than 50,000;

"(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

"(iii) in which the average age of existing housing is greater than 20 years;

"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

"(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A) the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

"(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

"(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

"(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO STUDY AND REPORT.—

"(A) STUDY.—During the 12-month period ending on the termination date under paragraph (13), the Comptroler General shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) REPORT.—The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;

"(ii) an assessment of the effectiveness of the counseling under the program is preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

"(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgates.

"(10) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'control area' means an area designated by the Secretary under paragraph (7)(E).

"(B) The term 'counseling target area' means an area designated by the Secretary under paragraph (7)(A).

"(C) The term 'creditor' means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

"(D) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full time in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family;

"(iii)(I) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

"(II) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this subtitle; and

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(E) The term 'downpayment' means the amount of purchase price of home required to be paid at or before the time of purchase.

"(F) The term 'eligible homebuyer' means a homebuyer that meets the requirements under paragraph (5)(B).

"(G) The term 'eligible homeowner' means a homeowner that meets the requirements under paragraph (6)(D).

"(H) The term 'first-time homebuyer' means an individual who—

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

"(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term "metropolitan area" means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(11) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section *$350,000* for each of fiscal years 1991, 1992, 1993, and 1994.

"(13) TERMINATION.—The demonstration program under this section shall terminate at the end of fiscal year 1994.".

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Illinois [Mr. RUSSO].

The amendment, as modified, was agreed to.

□ 1640

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 230, line 12, strike "(a) AUTHORIZATION OF APPROPRIATIONS.—".

Page 230, strike line 18 and all that follows through page 231, line 23.

Page 342, after line 14, insert the following new section:

SEC. 556. DRUG ELIMINATION GRANTS FOR ASSISTED HOUSING.

(a) AUTHORITY.—The Secretary shall carry out a program to make grants under this section to entities eligible under subsection (c) for use in eliminating drug-related crime in federally assisted housing. The program shall be carried out in the same manner as the public housing drug elimination pilot program is carried out for public housing under the Public Housing Drug Elimination Act of 1988, except that for purposes of this section, any references to "public housing agency" and "public housing" in such Act are deemed to refer to "eligible entity" and "federally assisted housing", respectively, as such terms are defined in this section.

(b) ELIGIBLE ACTIVITIES.—Eligible entities under subsection (c) that receive grants under this section shall use grant amounts to carry out, in federally assisted housing, drug elimination activities described in section 5124 of the Public Housing Drug Elimination Act of 1988.

(c) ELIGIBLE ENTITIES.—The Secretary shall, by regulation, determine entities eligible for receiving grants pursuant to this section, which shall be appropriate and qualified to administer the use of grant amounts for the purposes of the program under this section.

(d) FEDERALLY ASSISTED HOUSING.—For purposes of this section, the term 'federally assisted housing' means any housing assisted under a program administered by the Secretary of Housing and Urban Development, but does not include public housing or housing assisted under the mortgage insurance programs for single family housing under the National Housing Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section $10,000,000 for fiscal year 1991. Any amount appropriated under this section shall remain available until expended.

Page 5, after the item relating to section 555, insert the following new item:

Sec. 556. Drug elimination grants for assisted housing.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, during the committee consideration of this bill, our colleague, the gentleman from New York [Mr. SCHUMER] offered a very thoughful amendment to provide funds for public housing developments to be able to combat drug abuse. The great majority of people who live in public housing are decent people who are often victimized by a minority who would engage in antisocial behavior.

I was approached by people who are in control of what we call in the technical sense "assisted housing." That is, housing which is built in part with public funds for people of low and moderate income, but not run by public housing authorities, run by private developers or nonprofit groups.

I agree that they also have the problem of a law-abiding decent majority, preyed upon by a small number of people who are abusers, and that in recognition of their problems they should also be allowed to participate. I offered an amendment which was accepted at committee, which made them eligible. After discussion, however, with my colleague from New York who is quite correct and very concerned with the people of public housing and with those who run public housing and others, I reconsidered, and it did seem to me the amount of money we were providing for public housing was already insufficient. Given budgetary constraints, we understand that.

However, I agree that it would not be appropriate for me simply to have added a new list of eligibles, those who want assisted housing without adding some new money. What this amendment does is to say that for those in the assisted housing area, there would be a new parcel of money, only $10 million, hardly enough, but at least enough to begin a program so that we can get some experience. Hardly enough, as I say, to get a real attack on this problem, but the $10 million would begin it.

I do believe that the gentleman from New York is entitled and the people on whose behalf he was quite correct, the people are going to have that part of $150 million unaided. This amendment would add $10 million, but add for the people of assisted housing to do drug elimination in their particular projects.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, I would say the minority has had an opportunity to review the amendment and we support the gentleman's amendment.

Mr. DELLUMS. Mr. Chairman, I rise in strong support of the Frank-Martin amendment. Twenty-two years ago this month, we made a commitment to our Nation's low-income and minority citizens to provide them with equal housing opportunities.

The Housing Act of 1968 was passed in recognition that we would not be able to achieve other equal opportunity objectives if we did not provide all of our citizens with decent, safe, and affordable housing.

Today, we are in danger of reversing this important commitment made in 1968. Yet never have our housing needs in this country been greater than they are now. In the last 20 years we have lost 3.7 million units that are affordable to very low-income families. Half of all poor renter households pay at least 70 percent of their income for housing. Two to three million persons experience homelessness every year in this country, and that number increases by 25 percent every year. We cannot afford to lose one more unit.

This housing is a valuable resource that must be conserved. Many of these homes are in integrated neighborhoods, providing educational and employment opportunities to low-income residents who could otherwise not be able to afford to live in their communities. This housing cannot be replaced.

If this amendment does not pass, we are in danger of converting thousands of units to expensive condominiums and rentals, and causing serious trauma to the residents.

Mr. Chairman, our needs are far more serious than they were 20 years ago. We cannot go backward when we should be going forward.

I urge my colleagues to support the Frank Martin amendment and continue to honor our promise to our Nation's low-income, minority, and senior citizens.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—RURAL HOUSING

SEC. 601. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1990 and 1991 in aggregate amounts not to exceed $1,906,220,000 and $2,091,200,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, $1,310,800,000 for fiscal year 1990 and $1,325,000,000 for fiscal year 1991.

"(B) For loans under section 504, $11,170,000 for fiscal year 1990 and $12,000,000 for fiscal year 1991.

"(C) For insured loans under section 514, $11,320,000 for fiscal year 1990 and $12,000,000 for fiscal year 1991.

"(D) For insured loans under section 515, $571,870,000 for fiscal year 1990 and $740,200,000 for fiscal year 1991.

"(E) For loans under section 523(b)(1)(B), $500,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991.

"(F) For site loans under section 524, $560,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1990 and 1991, and to remain available until expended, the following amounts:

"(1) For grants under section 504, $12,500,000 for fiscal year 1990 and $18,000,000 for fiscal year 1991.

"(2) For purposes of section 509(c), $500,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $11,000,000 for fiscal year 1990 and $21,296,000 for fiscal year 1991.

"(5) For grants under section 523(f), $8,750,000 for fiscal year 1990 and $8,979,000 for fiscal year 1991.

"(6) For grants under section 533, $19,140,000 for fiscal year 1990 and $29,906,000 for fiscal year 1991.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1990 and 1991, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $297,170,000 for fiscal year 1990 and $400,000,000 for fiscal year 1991.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1990 and 1991, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $5,000,000 for fiscal year 1990 and $5,200,000 for fiscal year 1991.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(f) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 602. FORECLOSURE PROCEDURES.

(a) IN GENERAL.—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) In foreclosing on any mortgage held by the Secretary under this title, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary.".

(b) CONFORMING AMENDMENT.—The section heading for section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended to read as follows:

"LOAN PAYMENT MORATORIUMS AND FORECLOSURE PROCEDURES".

SEC. 603. DISPOSITION OF INTERESTS ON INDIAN TRUST LAND.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.".

SEC. 604. RURAL HOUSING INVENTORY.

Section 510(e)(3) of the Housing Act of 1949 (42 U.S.C. 1480(e)(3)) is amended by inserting after "fifty years" the following: ", or for use as rental units under section 514 with mortgages containing repayment terms with up to 33 years,".

SEC. 605. ASSUMPTION OF SECTION 515 LOANS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(v) The Secretary may provide for the assumption or transfer of a loan under this section to any person or entity qualified to receive a loan under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or such other terms as the Secretary determines appropriate.".

SEC. 606. RURAL AREA CLASSIFICATION.

(a) IN GENERAL.—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended to read as follows:

"DEFINITION OF RURAL AREA

"SEC. 520. (a) IN GENERAL.—As used in this title, the terms 'rural' and 'rural area' mean any open country, or any place, town, village, or city which is not (except in the cases of Pajaro, in the State of California, and Guadalupe, in the State of Arizona) part of or associated with an urban area and which has—

"(1) a population not in excess of 10,000, if it is rural in character; or

"(2) a population in excess of 10,000 but not in excess of 25,000, if it—

"(A) is rural in character;

"(B) is not contained within a standard metropolitan statistical area; and

"(C) has a serious lack of mortgage credit for lower and moderate income households as determined by the Secretary of Agriculture after consultation with the Secretary of Housing and Urban Development.

"(b) REMOTE RURAL AREAS.—The Secretary may not refuse to make or insure a loan under this title on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote.".

(b) APPLICABILITY.—The amendment made by this section shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter.

SEC. 607. SECTION 502 DEFERRED MORTGAGE DEMONSTRATION.

Section 521(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)) is amended by adding at the end the following new subparagraph:

"(H)(i) With respect to families or persons otherwise eligible for assistance under section 502(d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes, insurance, utilities, and maintenance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 50 percent of the amount of the payment due at 1 percent interest and shall be subject to full recapture.

"(ii) Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1990 and 1991 for loans under section 502 may be used to carry out this subparagraph.".

SEC. 608. RURAL HOUSING LOAN GUARANTEES.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the Federal Government should encourage support for homeownership through nonsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

(2) PURPOSES.—The purpose of this section is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources.

(b) GUARANTEED LOANS FOR HOUSING ACQUISITION.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1483) is amended by adding at the end the following new subsection:

"(f) GUARANTEED LOANS.—

"(1) AUTHORITY.—The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 100 percent of the loan.

"(2) ELIGIBLE BORROWERS.—Loans guaranteed pursuant to this subsection shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary.

"(3) ELIGIBLE HOUSING.—Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

"(A) to be used as the principal residence of the borrower;

"(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

"(C) located in a rural area that is more than 25 miles from an urban area or densely populated area.

"(4) PRIORITY AND COUNSELING FOR FIRST-TIME HOMEBUYERS.—

"(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (12)(A)).

"(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

"(5) ELIGIBLE LENDERS.—Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

"(6) LOAN TERMS.—Loans guaranteed pursuant to this subsection shall—

"(A) be made for a term not to exceed 30 years;

"(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

"(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

"(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act; and

"(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less.

"(7) GUARANTEE FEE.—With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan.

"(8) REFINANCING.—Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

"(9) NONASSUMPTION.—Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

"(10) GEOGRAPHICAL TARGETING.—In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate-income families.

"(11) ALLOCATION.—The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

"(iii)(I) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

"(II) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for a guaranteed loan under this subsection; and

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(B) the term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

"(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

"(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

"(C) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(D) the term 'State' means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.".

(c) CONFORMING AMENDMENTS.—Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended—

(1) by inserting "(A)" after "Secretary"; and

(2) by striking "Act and" and inserting the following: "Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(f) of the Housing Act of 1949; and (C)".

(d) REGULATIONS AND IMPLEMENTATION.—

(1) PROPOSED REGULATIONS AND COMMENT PERIOD.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to take effect not later than 30 days after the date on which the regulations are issued.

(3) APPLICABILITY.—The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

(4) CONSULTATION.—In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section—

(A) are made in a manner that is cost-effective; and

(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

SEC. 609. HOUSING IN UNDERSERVED AREAS.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479), as amended by section 603 of this Act, is further amended by adding at the end the following new subsection:

"(f) HOUSING IN UNDERSERVED AREAS.—

"(1) DESIGNATION OF UNDERSERVED AREA.—The Secretary shall designate as targeted underserved areas 50 counties and communities in fiscal year 1991, and 100 counties and communities in fiscal year 1992 that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 10-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this title that is substantially lower than the average annual amount of such assistance received during that 10-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

"(A) 20 percent or more of its population at or below the poverty level; and

"(B) 10 percent or more of its population in substandard housing.

As used in this paragraph, the term 'poverty level' has the same meaning as in section 102(a)(9) of the Housing and Community Development Act of 1974.

"(2) OUTREACH PROGRAM.—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(3) SET-ASIDE FOR TARGETED UNDERSERVED AREAS.—The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 1.5 percent in fiscal year 1991 and 3.5 percent in fiscal year 1992 of the aggregate amount of lending authority under sections 502, 504, 514, 515, and 524. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under sections 514 and 515 that is set aside for such fiscal year. Any assistance set aside for targeted underserved areas that has not been expended by September 1 of a fiscal year shall be reallocated to other counties and communities that meet the requirements of targeted underserved areas set forth in paragraph (1).

"(4) LIST OF UNDERSERVED AREAS.—The Secretary shall publish the current list of targeted underserved areas in the Federal Register.

"(5) PROJECT PREPARATION ADVANCES.—

"(A) IN GENERAL.—In order to promote the development of affordable housing in targeted underserved areas, the Secretary is authorized to provide advances in an amount not to exceed 80 percent of any reasonable and customary costs that are—

"(i) incurred in the preparation of a preapplication for a loan under sections 502, 504, 514, 515, and 524 for housing to be located in a targeted underserved area; and

"(ii) customarily included in the amount financed under such a loan.

"(B) REPAYMENT.—Repayment shall be made from the proceeds of a loan made under this title. In the event that the loan is not approved, repayment of the advance shall begin not later than 36 months after the date on which the advance is made, and the repayment shall be on terms similar to the terms on approved loans. The Secretary may cancel any part or all of an advance if the Secretary determines that it cannot be recovered from the proceeds of any permanent loan made to finance the housing.

"(C) GUIDELINES.—The Secretary shall establish guidelines for the project preparation advance application process. The application shall include a budget for the costs of the loan preapplication and documentation that the funds to cover preapplication costs not advanced by the Secretary or the equivalent of those funds in the form of a loan or a donation of funds or services are available to the project preparation advance applicant.

"(D) APPROVAL.—The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

"(E) PREFERENCE.—In carrying out any program under this title, the Secretary shall give a preference to an application for assistance that has been developed with project preparation advances under this paragraph, and to an application submitted by or on behalf of a sponsor that resides in the county or community to be served by the proposed housing.

"(F) ELIGIBILITY.—For the purpose of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a State, a unit of general local government, or an agency of a State or unit of general local government.".

SEC. 610. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.

(a) GRANT PROGRAM.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"HOUSING FOR RURAL MIGRANT FARMWORKERS AND HOMELESS INDIVIDUALS

"SEC. 537. (a) IN GENERAL.—The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this section.

"(b) TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide the following assistance for housing under this section:

"(A) An advance, in an amount not to exceed $400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this section. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used for the purposes under this section prior to the receipt of assistance.

"(B) A grant, in an amount not to exceed $400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this section.

"(C) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

"(2) AVAILABLE ASSISTANCE.—A recipient may receive assistance under both subparagraph (A) and (B) of paragraph (1). The Secretary may increase the limit contained in such subparagraphs to $800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

"(3) REPAYMENT OF ADVANCE.—Any advance provided under paragraph (1)(A) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this section. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this section for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

"(4) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this section prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of lower income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"(c) PROGRAM REQUIREMENTS.—

"(1) APPLICATIONS.—

"(A) Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(B) The Secretary shall require that applications contain at a minimum—

"(i) a description of the proposed housing;

"(ii) a description of the size and characteristics of the population that would occupy the housing;

"(iii) a description of any public and private resources that are expected to be made available in connection with the housing;

"(iv) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing;

"(v) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application; and

"(vi) a description of the coordination of the use of the housing for migrant farmworkers and homeless individuals (and the families of such individuals) and the number of units and availability of units for each of such occupants.

"(C) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(A) the ability of the applicant to develop and operate the housing;

"(B) the feasibility of the proposal in providing the housing;

"(C) the need for such housing in the area to be served;

"(D) the cost effectiveness of the proposed housing;

"(E) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

"(F) the extent to which the applicant has control of the site of the proposed housing; and

"(G) such other factors as the Secretary determines to be appropriate for purposes of this section.

"(3) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any housing under this section unless the applicant agrees—

"(A) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in accordance with the provisions of this section;

"(B) to monitor and report to the Secretary on the progress of the housing;

"(C) to give preference in selecting tenants for units in housing assisted under this section to migrant farmworkers; and

"(D) to comply with such other terms and conditions as the Secretary may establish for purposes of this section.

"(4) OCCUPANT RENT.—Each migrant farmworker and homeless individual residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(d) GUIDELINES.—

"(1) REGULATIONS.—Not later than 90 days following the date of enactment of the Housing and Community Development Act of 1990, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section.

"(2) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this section for administrative purposes.

"(f) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this section and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

"(g) DEFINITIONS.—For purposes of this section:

"(1) The term 'applicant' means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this section.

"(2) The term 'homeless individual' has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(3) The term 'migrant farmworker'—

"(A) means any person (and the family of such person) who—

"(i) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment; and

"(ii) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subparagraph (A); and

"(B) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of subparagraph (A) at the time of retirement or becoming disabled.

"(4) The term 'operating costs' means expenses incurred by a recipient providing housing under this section with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)), as amended by section 601 of this Act, is further amended by adding at the end the following new paragraph:

"(7) For financial assistance under section 537, $10,000,000 for fiscal year 1991.".

SEC. 611. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking "6-month period" and inserting "12-month period".

SEC. 612. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) EQUITY TAKEOUT LOANS.—Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended—

(1) in paragraph (3), by striking "original loan on the project" in the last sentence and inserting "original appraised value of the project";

(2) in paragraph (4), by inserting "initial payments and" after "except that such" in the second sentence; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989.".

(b) REUSE OF SECTION 515 LOAN AUTHORITY.—Section 515(u) of the Housing Act of 1949 (42 U.S.C. 1485(u)) is amended by striking "during the same" and all that follows and inserting a period.

(c) RURAL HOUSING ASSISTANCE DEFINITION.—Section 536(h) of the Housing Act of 1949 (42 U.S.C. 1490p(h)) is amended by striking the period at the end and inserting ", for the original construction or development of the project.".

(d) PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.—Section 502(c)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(1)(B)) is amended by inserting "initial" after "any".

AMENDMENT OFFERED BY MR. HUBBARD

Mr. HUBBARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUBBARD: On page 360, after line 19, insert the following:

"(2) PREFERENCES.—

"(A) IN GENERAL.—In designating targeted underserved areas under this subsection, the Secretary shall give preference—

"(i) for fiscal year 1991, to any county or community eligible for such designation that is located within the Lower Mississippi; and

"(ii) for fiscal year 1992, to any county or community eligible for such designation that is (I) located within the Lower Mississippi; and (II) was not designated as a target underserved area for fiscal year 1991.

"(B) DEFINITION OF LOWER MISSISSIPPI.—For purposes of this paragraph, the term "Lower Mississippi" has the meaning given such term in the Lower Mississippi Delta Development Act (H.R. 5378, 100th Congress, as introduced in the House of Represenatives on September 26, 1988), incorporated by reference as a part of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2246).

Page 360, line 20, strike "(2)" and insert "(3)".

Page 361, line 1, strike "(3)" and insert "(4)".

Page 361, line 4, strike "1.5 percent" and insert "3.5 percent".

Page 361, lines 4 and 5, strike "3.5 percent" and insert "5.0 percent".

Page 361, line 13, strike "September 1" and insert "August 1".

Page 361, line 16, after the period insert the following new sentence: "Any assistance reallocated under the preceding sentence that has not been expended by September 1 of a fiscal year shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.".

Page 361, line 17, strike "(4)" and insert "(5)".

Page 361, line 20, strike "(5)" and insert "(6)".

Mr. HUBBARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky.

There was no objection.

Mr. HUBBARD. Mr. Chairman, it is my pleasure today to be joined by my colleagues, Congressman BILL EMERSON of Missouri and Congressman MIKE ESPY of Mississippi, in offering this amendment.

The three of us, along with 21 other members of the House, represent the region that was designated by Public Law 100-460 as the Lower Mississippi Delta. This region is comprised of 219 of the poorest counties within our Nation. This region, like many other "underserved" areas, suffers because of a lack of adequate housing to meet the needs of the 8.3 million people who live within this geographical area.

The housing bill as approved by the Banking Committee recognized the need to target these underserved areas, and our amendment works within the framework of that program.

This amendment, the Hubbard "Emerson" Espy amendment, will increase the money set aside to target the housing needs in underserved areas. The original language in the bill calls for a set-aside percentage for fiscal year 1991 of 1.5 percent of the total authority, and 3.5 percent for fiscal year 1992. We are seeking to increase that set-aside to 3.5 percent for fiscal year 1991 and 5 percent for fiscal year 1992. This increase will benefit all of the 229 counties across the Nation which meet the criteria for participation in this program.

But because the need for housing programs is so great within the delta

region, we would also ask that the 35 delta counties which meet the requirements for participation in this program be given priority for participation in the program when those decisions are made by the Secretary of Housing and Urban Development.

Mr. EMERSON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would first like to commend my colleague from Kentucky, Mr. HUBBARD, Chairman GONZALEZ, Vice Chairman WYLIE, Subcommittee Vice Chairwoman ROUKEMA, Delta Caucus Chairman ESPY, and all the members of the Banking, Finance and Urban Affairs Committee for a fine job well done with the Housing and Community Development Act of 1990. There is a critical need for housing across America and this is, overall, a good bill that was passed from committee with bipartisan support.

I am especially pleased with the section of the bill which will direct much-needed assistance to underserved areas. There are many areas across the Nation which, for one reason or another, have not had access to the benefits of the housing programs administered by the Farmers Home Administration.

Mr. HUBBARD, Mr. ESPY, and I are offering this amendment to this underserved areas section to do several things: First, it will increase the set-aside for underserved areas to 3.5 percent the first year and 5 percent the second. Second, it states that all moneys which are not spent by August 1 of the fiscal year will be reallocated among other underserved areas, and all funds not used by September 1 of the fiscal year will be reallocated according to the original programs from which they came. Third, among counties designated as underserved and underutilized, those counties which are part of the Lower Mississippi Delta will be given a preference.

I am aware that many of my colleagues do not like the idea of regional designations. I frankly am generally sympathetic to that point of view. Yet the Mississippi Delta Region is overrun with so much chronic poverty that I feel this designation is warranted.

The Lower Mississippi Delta is an entire region of the country that has long been faced with a disproportionate share of economic hardship. The region begins in the southern portion of Illinois and southeastern Missouri and ends at the southeastern tip of Louisiana. It is populated by 8.3 million people. In 1985, per capita income for the region averaged $8,224, compared to the nationwide figure of $12,464. In 1988, the unemployment rate for rural delta counties averaged 8.87 percent, compared to a nationwide 5.5 percent average unemployment rate.

We do not claim that the Mississippi Delta Region is the only part of the country which suffers from economic hardship. Poverty does not obey boundaries. At this point, it is important to get a foot in the door. We cannot afford to neglect an entire region of the country. This region needs the help; it will be well placed.

Mr. ESPY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this means to support this amendment. I would like to thank my colleague, and the gentleman from Missouri [Mr. EMERSON], as well as the chairman of this committee for allowing Members to offer this amendment.

I rise today to urge my colleagues to support this amendment to the Housing Community Development Act. It is a good amendment because it strengthens an already excellent bill. It does so by focusing on strengthening what I call the weaker links in our Federal chain.

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In this bill the committee takes an important step by requiring the Secretary of Agriculture to designate 50 counties in fiscal year 1991 and 100 counties in fiscal year 1992 as targeted underserved areas. These counties are those which have been lacking Federal housing assistance and which have high rates of poverty in substandard housing. The Committee on Banking, Finance and Urban Affairs directs the Farmers Home Administration to implement an outreach program for these areas and requires the agency to reserve 1.5 percent of lending authority in fiscal year 1991 and 3.5 percent in fiscal year 1992 for these targeted areas.

Mr. Speaker, this amendment would raise the set-aside for the targeted areas to 3.5 percent in fiscal year 1991 and 5 percent in fiscal year 1992. It reaches across the country and benefits any impoverished area that has been underserved by Federal housing programs.

Our amendment, as the gentleman from Missouri [Mr. EMERSON] and the gentleman from Kentucky [Mr. HUBBARD] have indicated would also give preference to qualified counties which are located in the lower Mississippi delta area, the area which undoubtedly represents our Nation's weakest link.

Just this past May, Mr. Speaker, the Lower Mississippi Delta Commission issued its report which demonstrated just how chronic the conditions are in the 219 of the lower Mississippi delta counties. The Cable News Network termed the region America's Third World on the Mississippi. That is an accurate description because the lower Mississippi delta has problems which are as severe as those found in many countries which we consider to be Third World.

Mr. Speaker, we have many, many needs in the delta, education, jobs, and economic development. The Lower Mississippi Delta Commission report has outlined a 10-year plan of action for us to implement in each of these areas.

However, Mr. Speaker, there are certain things that we can do today, which is why we offer this amendment for our colleagues' consideration.

In summary, Mr. Speaker, I urge my colleagues to support this amendment so that we can increase our efforts to turn the situation around. Poverty has become a way of life in the delta, but our people have not succumbed to poverty. We are fighting to turn the situation around, and we need help. By passing this amendment we will demonstrate our commitment to target resources to those Americans who have been most underserved and who are undoubtedly most in need. At the same time we give preference to the delta region, we would send a strong signal that we are dedicated to helping every American achieve those things which make life worth living. We call on our colleagues to support this amendment.

Mr. GONZALEZ. Mr. Chairman, I rise in support of the amendment of the gentleman from Kentucky [Mr. HUBBARD].

Mr. Chairman, I compliment the gentleman from Kentucky [Mr. HUBBARD], the gentleman from Mississippi [Mr. ESPY], and the gentleman from Missouri [Mr. EMERSON] particularly for perfecting this amendment. We have been deliberating on it for some time.

I have also had the privilege as the chairman of the Subcommittee on Housing to have visited the delta, and I have been in the district of the gentleman from Mississippi [Mr. ESPY], and I can vouch for its meritoriousness, and I just wanted to say that we have no objection to this amendment and do accept it.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the minority would like to make the point that this is a difficult amendment and that what this amendment in a sense is doing is favoring a given part of the country. Perhaps it is a part of the country that deserves favoring, but it takes from all other parts of the country.

Second, Mr. Chairman, it does so in rather large measure; that is, 5 percent of the total funds will go to this particular kind of designation that involves, first, a particular region; and, second, something that is defined as underserved areas for Federal housing programs in the past, something which is, frankly, very hard to define.

All I will say, Mr. Chairman, is that I think many regions in the country

can make a case for deserving more assistance than they are now getting, and it is quite understandable that everyone from this region has stood up to speak for this amendment. But there are other Members of Congress from other regions that might have some doubt because, quite frankly, when government is directed in a given way, it comes from somebody else's hide.

My own sense is that this is an amendment of which the economic ramifications have not been well-considered by the committee. It is brought to us on the floor in a pretty powerful way, but I would just remark to my colleagues that I think there ought to be some caution signs raised.

Does the gentleman from Nebraska [Mr. BEREUTER] want to speak on this issue?

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I am somewhat concerned also about the fact that this amendment is a far-reaching amendment, and I commend my colleagues for their initiative and the extraordinary reach, but really it does come out of the pocket, so to speak, of the rest of the country.

Mr. Chairman, maybe it is appropriate to target this part of the country because of the kind of housing conditions that the States mentioned do face, but in my own State, after the population of American Indians, rural housing and small community housing is certainly the most desperately inadequate. I have for a long period of time been concerned about low- to low-moderate income people living in small communities where our unsubsidized loan guarantee programs do not reach.

Mr. Chairman, the gentleman from Pennsylvania [Mr. MCDADE] has made some initiatives and progress in that respect, and I have had good cooperation from the chairman and the majority and minority staff in this respect, I am pleased to say, but, if we are going to be giving a gift to one part of the country that is out of the pockets of the rest of the country, I think it ought to be recognized on the floor.

In addition, Mr. Chairman, as I read it, without having any contradicting information from the sponsors of the resolution, this indeed is targeting these States, and indeed it means the allocations available for Iowa and Nebraska, and all of the other some 40-plus States, will be reduced.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I wish to answer the gentleman from Nebraska [Mr. BEREUTER].

Mr. Chairman, by the definition of this amendment, the counties that we are trying to reach, there are none in Nebraska, and there are none in Iowa, just for example, that meet the underserved criteria of this amendment. I have a list of the counties here, and indeed most of them are in the delta region. There are some that are not, but the overwhelming majority of them are, and there are none in Nebraska and none in Iowa.

Mr. LEACH of Iowa. Reclaiming my time, Mr. Chairman, I have no intention to push a vote on this, but I do think the House should be on record that this is a regionalist kind of amendment. Frankly, I think there is some social case for it, but I think that this would have been better brought up through the committee process rather than as a floor amendment.

Mr. EMERSON. Mr. Chairman, let me respond to the gentleman from Iowa [Mr. LEACH] by saying, if he would continue to yield to me, that we are in sort of a unique set of circumstances here. The Delta Commission rendered its report just a short 6 weeks ago. We are proceeding to try to implement a number of recommendations of the Delta Commission in the most frugal, cost-effective manner that we can devise.

For example, we have agreed as a caucus, the Delta Caucus, and, as a result of recommendations of the commission, we are not going to move forward to create a vast new Federal bureaucracy to implement these recommendations. We feel that in the current fiscal climate it is better to catch the trains that are leaving the station and to try to come forward with constructive amendments to bills, to laws, that are being reauthorized.

So, Mr. Chairman, we are going to be looking for a number of vehicles, and it has been properly concluded that in so many, many ways the delta region is underserved. It does need the attention that this amendment directs to it, but above and beyond that we are proceeding to get the targeted assistance that we feel is necessary and which was confirmed by the report of the Delta Commission in the most frugal, constructive possible means.

Mr. LEACH of Iowa. Mr. Chairman, I appreciate the comment of the gentleman from Missouri [Mr. EMERSON], and let me conclude by saying that it is possible that regional caucuses could be developed across this country, and suddenly in addition to a Delta Caucus, we might have a riverboat caucus and so forth. There would be many caucuses coming before this body with similar kinds of amendments, and that is why we have a committee process to try to weight these things as evenly as possible.

However, Mr. Chairman, I must commend the gentleman on his approval. I recognize that he does have a social case. Whether it is statistically or specifically the fairest outcome, this gentleman is unprepared to conclude.

Mr. EMERSON. Mr. Chairman, if the gentleman would yield further, I would say that by and large we will be working well within the committee system.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to take a moment before we conclude debate on this to express my appreciation to the gentleman from Kentucky [Mr. HUBBARD], the gentleman from Mississippi [Mr. ESPY], and the gentleman from Missouri [Mr. EMERSON] for moving in the way they have done to have this Nation and its omnibus housing legislation to focus on these 219 counties where there is a great deal of chronic poverty.

□ 1700

I think as the committee chairman, the gentleman from Texas [Mr. GONZALEZ] has indicated, their efforts are meritorious. They have gone about constructing this in such a way that I think begs for our support. While I understand the reservations of the gentleman from Iowa who specifically stated his apprehensions about regional caucuses, and I understand that, I would simply say to all of the sponsors that outside of these 219 counties, there are four counties in my State of Maryland on the Eastern Shore where the same sort of chronic poverty exists. On that Eastern Shore of Maryland, we also would like to feel included in this measure to target these areas for some sort of special targeted housing assistance, and as such would ask the three gentlemen who have sponsored this measure if in fact they would perhaps be open to that sort of an arrangement once this bill gets to conference, so that we are able to prove that there is not a regional approach and so that we are able to embrace, as the gentleman from Mississippi [Mr. ESPY] and others have said so eloquently, those who are in the most dire need in these chronic areas.

Mr. ESPY. Mr. Chairman, will the gentleman yield?

Mr. MFUME. I am happy to yield to the gentleman from Mississippi.

Mr. ESPY. Mr. Chairman, I just want to assure the gentleman that this amendment we are seeking to pass today is not region specific. It is based on poverty guidelines and the extent to which the Farmers Home 515 and 505 programs have been utilized, it could be that the counties that the gentleman is seeking to promote in Maryland might very well be included in this amendment as well.

Mr. MFUME. Well, I appreciate that, and I can assure the gentleman

that those counties on the Eastern Shore of Maryland where there is that kind of chronic poverty and where they do meet the guidelines would be more than happy to have consideration under this measure as we move toward its passage.

I want to support it. I think it is the right thing to do. As I indicated before, I think all three of the gentlemen who have worked on this have done an excellent job in focusing national attention on a much needed area.

Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Chairman, I would like to add to what my friend and colleague, the gentleman from Mississippi [Mr. ESPY], has just said regarding our friend, the gentleman from Maryland [Mr. MFUME]. We will be happy to work with the gentleman regarding those four counties on the Eastern Shore in the State of Maryland which the gentleman represents which is an underserved area for housing.

Mr. MFUME. Well, actually I do not represent them. They are in the district of the gentleman from Maryland [Mr. DYSON], but they are a part of the State that has been working very hard, as have the States indicated here in the targeted legislation that the gentleman has to make for a better lifestyle for all their citizens.

Mr. Chairman, I thank these gentlemen for offering their support for consideration of inclusion as we move toward a conference on this bill.

Again I want to congratulate the gentleman from Missouri [Mr. EMERSON], the gentleman from Mississippi [Mr. ESPY], the gentleman from Kentucky [Mr. HUBBARD] for their vision in this very special area addressing the specific housing needs of those people who are suffering from chronic poverty.

Mr. POSHARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hubbard-Emerson-Espy amendment.

I am pleased to join these great leaders on issues that affect people in rural areas.

We all represent areas of the Mississippi Delta which have been identified in this report as being some of the most challenging areas for economic and social improvement in this country.

What we are faced with is trying to bring people up to some decent, minimum standards for living in the most prosperous Nation in the world.

This amendment makes it possible to direct a small bit of the Federal effort in housing to some of these very deserving areas. The counties involved are already qualified to receive these moneys—we are simply asking for some recognition of the tremendous challenge they face in trying to make life better.

By lifting the amount set aside for underserved counties within the FmHA's programs—and by giving some preference to the counties in this region which are being punished by oppressive poverty—we make an investment in people.

I have only one county that will be directly affected by this change—Pope County which lies along the Ohio River and within the boundaries of the Shawnee National Forest.

Some of my colleagues supporting this effort have a few more. But whether it's 1 or 10, we are all in support of saying to people in deserving areas "Use this to make a better way in life."

We will show you people of incredible promise who are buckled down with incredible poverty and they simply used this targeted assistance.

In the meantime I urge my colleagues to extend to the people of the delta this helping hand.

Mr. ALEXANDER. Mr. Chairman, I rise in support of this amendment to promote an increase in the rental housing stock in underserved rural areas, particularly those in the counties of the lower Mississippi River Delta which are the homes of hundreds of thousands of men, women, and children to whom poverty is a grim daily reality.

This amendment is directly responsive to a recommendation contained in the "Delta Initiatives: Realizing the Dream—Fulfilling the Potential" report submitted, on May 14, to the President by the Lower Mississippi Delta Development Commission [LMDDC].

Finding decent and affordable rental housing is a constant problem for very low and low-income individuals and families of this region. In my home State of Arkansas, housing industry experts and public and private rental housing operators report that there are persistent, long-waiting lists of all federally assisted rental housing units.

In connection with her work for the LMDDC, Jacquelyn McCray of the University of Arkansas at Pine Bluff, a delta housing expert, estimated that nearly 400,000 of the 792,000 the delta region's rental housing units are dilapidated beyond repair. Further, it is estimated that since almost 40 percent of the housing stock in the region was built before 1940, and median rents are low the combination of age and limited maintenance resources results potential structural deficiencies in much of the rental housing stock which is repairable.

Neither this amendment, nor this whole bill, will cure all the problems of the delta region. But, adoption of this amendment would be a step in the right direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HUBBARD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NEAL OF NORTH CAROLINA

Mr. NEAL of North Carolina. Mr. Chairman, I offer an amendment.

Amendment offered by Mr. NEAL of North Carolina: Page 347, line 13, before "Section" insert the following:

(a) TRANSFER FOR USE UNDER SECTION 514.—

Page 347, after line 17, insert the following new subsection:

(b) TRANSFER TO FOR-PROFIT ENTITIES.—Section 510(e) of the Housing Act of 1949 is further amended by striking "or public bodies" and inserting ", public bodies, or for-profit entities, which have good records of providing low income housing under section 515".

Mr. NEAL of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL of North Carolina. Mr. Chairman, I am offering an amendment to the Housing and Community Development Act of 1990 which will help the Farmers Home Administration dispose of vacant unit in its section 502 single family inventory while also increasing the supply of affordable rental housing in rural America. My amendment will allow private developers to participate in the existing program for converting vacant section 502 units to section 515 rental housing.

Mr. Chairman, section 502 is the FmHA program which provides home loans to low- and very low-income people in rural areas. Nationwide, approximately 7,000 section 502 single family homes are sitting idle in the Farmers Home inventory. Farmers Home has acquired these properties through borrower default and foreclosure.

My amendment will allow private developers to purchase this section 502 single family housing FmHA and convert it to section 515 multifamily rental housing. Section 515 is the major program for providing affordable rental housing to people in rural areas.

Mr. Chairman, under current law only nonprofit builders are allowed to participate in the conversion program. However, there are still thousands of vacant section 502 units in the FmHA inventory which are falling into disrepair. By allowing private developers to participate in the program, we will make more units available, faster, for low-income people who need them and save our government money.

This amendment has bipartisan support, and a similar provision has been included in the Senate housing bill—S.

566. I urge my colleagues to support this important amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, we compliment the gentleman on this amendment. It is a good amendment and we accept it on our side.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, the administration has no objection to this amendment. The minority supports it, and we congratulate the gentleman for his leadership.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. NEAL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS: Page 346, after line 2, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 602. SECURITY FOR LOANS FOR HOUSING IN REMOTE RURAL AREAS.

Section 502(b)(1) of the Housing Act of 1949 (42 U.S.C. 1472(b)(1)) is amended by inserting before the semicolon at the end the following: ", except that the Secretary shall consider the actual cost of the land and structure to be financed as adequate security for purposes of this subsection for any applicant (A) who is a resident of a remote rural area or whose place of employment is located in a remote rural area, and (B) whose loan finances the purchase of land and a structure located in a remote rural area".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. PERKINS. Mr. Chairman, first I would like to congratulate Chairman GONZALEZ and the Committee of Jurisdiction for their work on this piece of legislation. We have a substantive and comprehensive bill in front of us that will serve this Nation well in addressing the many housing needs we face today.

Mr. Chairman, today I am proposing an amendment which will provide for an exception to Farmers Home Administration's appraisal policy for remote rural areas. The present policy has resulted in an unfair and unintended result: Rural housing loans cannot be made in certain rural areas.

Earlier this year, nonprofit housing developers from Kentucky testified before the Housing Subcommittee that in certain areas of the State, the administering agency, Farmers Home Administration, will not make homeownership loans because the area is too rural.

A family living in rural Kentucky seeking a section 502 home ownership loan was told that Farmers Home Administration would not approve a loan on their property because it was too far from the "blacktop". The Government would not have adequate security because the housing site was too rural. Farmers Home Administration appraisal standards consider both cost and future marketability in appraising sites; this site failed on the latter standard.

The Banking Committee addresses this problem in the bill before us. I congratulate Chairman GONZALEZ for his committee's action on this issue. The omnibus legislation before us takes an important step toward solving this problem by prohibiting the Farmers Home Administration from turning down loan applications for housing located in areas that may be considered to be too rural.

The amendment that I am offering works in concert with committee action. My amendment permits an exception to Farmers Home Administration section 502 appraisals standards. Under my amendment, land and housing located in remote rural areas will be appraised only on the basis of their actual cost.

This amendment will permit lending in remote rural areas. The Government's interest will be protected as the appraisal will be based on the actual cost of the site and the unit.

This amendment, along with the action taken in the committee bill will permit rural areas to fully benefit from the Rural Housing Program. I hope that the chairman and the House will be able to accept this amendment.

□ 1710

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, our compliments to the gentleman from Kentucky, and we do, in fact, accept his amendment.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, the minority has no objection, although there may be a few technical things relating to security interests that might want to be looked at in conference, but the minority would hope to be able to preserve the full intent of the amendment in any regard.

Mr. PERKINS. I thank the distinguished gentleman.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I commend the gentleman for his initiative. This is undoubtedly important to the gentleman's district and State, but I think it is much broader than that. It is a real problem, I commend the gentleman for his initiative, and I certainly support what he is doing.

Mr. PERKINS. Mr. Chairman, I thank the distinguished gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. PERKINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 358, lines 12 and 13, strike "this section" and insert "subsections (b) and (c)".

Page 358, line 19, strike "this section" and insert "subsections (b) and (c)".

Page 358, line 24, strike "this section" and insert "subsections (b) and (c)".

Page 359, lines 12 and 13, strike "this section" and insert "subsections (b) and (c)".

Page 359, after line 18, insert the following new subsection:

(e) AGRICULTURAL MORTGAGE SECONDARY MARKET.—

(1) EXPANSION OF SECONDARY MARKET AUTHORITY.—Section 8.0 of the Farm Credit Act of 1971 (12 U.S.C. 2279a) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by striking "or" at the end;

(ii) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) a principle residence eligible for a loan that is guaranteed pursuant to or meets the requirements of subsection (f) of section 502 of the Housing Act 1949.";

(B) in paragraph (3), by inserting after the period at the end the following new sentence: "With respect to qualified loans described in the last sentence of paragraph (9), the term includes the Corporation and any affiliate of the Corporation."; and

(C) in paragraph (9), by inserting after the period at the end the following new undesignated paragraph:

"With respect to loans on agricultural real estate described in paragraph (1)(C), the term means the portion of a loan guaranteed by the Secretary of Agriculture pursuant to section 502(f) of the Housing Act of 1949, except that (A) subsections (b) through (f) of section 8.6 and sections 8.7, 8.8, and 8.9 shall not apply to the portion of a loan guaranteed by the Secretary or to an obligation, pool, or security representing an interest in or obligation backed by a pool of obligations relating to the portion of a loan guaranteed by the Secretary, and (B) the portion of a loan guaranteed by the Secretary shall be considered to meet all standards for qualified loans for all purposes under this Act.".

(2) GUIDELINES.—Not later than the expiration of the 180-day period beginning on the date of implementation of regulations by the Secretary under subsection (d), the Federal Agricultural Mortgage Corporation shall issue any guidelines and procedures necessary to carry out the amendments made by this subsection.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

POINT OF ORDER

Mr. ENGLISH. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ENGLISH. Mr. Chairman, I object to the amendment on the grounds that it is nongermane to the bill under rule 16, clause 7 of the rules of the House, because the amendment seeks to make substantial and fundamental changes in a statute and subject matter not contemplated by the underlying bill, and because the amendment addresses a subject matter different from that under consideration by the House.

The amendment is nongermane because it proposes to amend a subject matter outside the scope of the underlying bill by altering the fundamental purpose of the Federal Agricultural Mortgage Corporation. The Federal Agricultural Mortgage Corporation was established under the Agricultural Credit Act of Act of 1987 to act as a guarantor of certain agricultural real estate mortgage loans. The amendment would alter the fundamental purpose of the Corporation to allow it to act as a pooler of housing loans guaranteed by the Federal Government.

The amendment proposes to amend the Farm Credit Act of 1971, a statute not addressed in the underlying bill. The Farm Credit Act has as its fundamental purpose the governance of the extension of credit to farmers and ranchers. By contrast, H.R. 1108 has as its fundamental purpose the authorization of Federal housing programs.

Finally, the amendment addresses a subject matter within the jurisdiction of the Committee on Agriculture, the amendment has not been considered by this committee, and relevant precedents of the House hold that committee jurisdiction is a relevant test of germaneness when the pending text of the bill is entirely in one committee's jurisdiction and the amendment falls within another committee's purview.

The CHAIRMAN. Does the gentleman from Nebraska [Mr. BEREUTER] wish to be heard on the point of order?

Mr. BEREUTER. Mr. Chairman, I do.

Mr. Chairman, I would point out that the rural housing and housing generally is in the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

Title VII is a rural housing title. The amendment offered by this gentleman would enhance credit opportunities for rural housing.

Second, title VI, specifically section 608 of the bill, requires that the Agricultural Secretary consult with Farmer Mac when promulgating regulations to implement the Farmers Home Administration guarantee program.

Third, title VII, section 741, already discusses secondary markets in that it reauthorizes Ginnie Mae for 1 year.

Fourth, title VII, section 754, includes other secondary-market entities such as Fannie Mae and Freddie Mac regarding mortgage servicing transfer disclosures.

Finally, title I would create a housing trust. The title also requires establishment of a board to include Fannie Mae and Freddie Mac to oversee the trust.

The CHAIRMAN (Mr. MURTHA). The Chair is ready to rule.

The Chair concedes that there is some relationship between the housing and credit jurisdiction of the two committees, but title VI of the bill does not amend the Farm Credit Act, and the amendment amends that law which is within the primary jurisdiction of the Committee on Agriculture. Therefore, the Chair sustains the point of order that the amendment not germane to title VI.

AMENDMENT OFFERED BY MR. COLEMAN OF TEXAS

Mr. COLEMAN of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Texas:

Page 373, after line 20, insert the following new section (and conform the table of contents accordingly):

SEC. 613. RURAL HOUSING ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) PRIORITY FOR COLONIAS.—In considering applications for assistance under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) for any fiscal year to which this section applies, the Secretary of Agriculture shall give priority to applications for assistance to be used in any colonia.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) EXCEPTION.—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) shall not apply to assistance provided pursuant to this section.

(c) DEFINITIONS.—For purposes of this section:

(1) COLONIA.—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) PERSONS OF LOW AND MODERATE INCOME.—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(d) APPLICABILITY.—This section shall apply only with respect to fiscal years 1991, 1992, and 1993.

Page 400, after line 20, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 713. CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) SET-ASIDE FOR COLONIAS.—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) FIRST FISCAL YEAR.—For the first fiscal year to which this section applies, 10 percent.

(2) SUCCEEDING FISCAL YEARS.—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) PLANNING.—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering

and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) ASSESSMENTS FOR PUBLIC IMPROVEMENTS.—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for public improvement.

(c) DISTRIBUTION OF ASSISTANCE.—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) APPLICABLE LAW.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisons of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) DEFINITIONS.—For purposes of this section:

(1) COLONIA.—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) PERSONS OF LOW AND MODERATE INCOME.—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(f) APPLICABILITY.—This Act shall apply only with respect to fiscal years 1991, 1992, and 1993.

Mr. COLEMAN of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLEMAN of Texas. Mr. Chairman, I have offered this en bloc amendment in an effort to assist the "colonias" along the United States-Mexican border region that are lacking in adequate water, sewage, and housing. This amendment contains the same language that previously passed the House as a freestanding bill under suspension of the rules on October 13, 1988. That legislation, the United States-Mexico Border Region Housing and Community Development Act, like this amendment, enjoyed bipartisan support from leaders of the full committee and the Subcommittee on Housing and Community Development.

I want to especially thank the chairman of both the full committee and the Housing Subcommittee, my good friend HENRY B. GONZALEZ, for his support in 1988 and today. Without his help, I am certain these communities would have no hope of receiving any Federal assistance under these programs. By the same token, I would like to thank my colleague from Texas, Mr. BARTLETT, for being a cosponsor of the bill in 1988 and for his continuous support of the language in this amendment. In addition, the ranking minority members of the Banking Committee and the Subcommittee on Housing, Mr. WYLIE and Ms. ROUKEMA, respectively, deserve recognition for acknowledging and supporting this effort to help address the problems facing the people in the colonias. Furthermore, I would like to acknowledge Congressman ALBERT BUSTAMANTE and SOLOMON ORTIZ, my friends from central and south Texas, for their solid and consistent work and support on behalf of the poor and underpriviledged people living in colonies. And finally, both the majority and minority staff at the Subcommittee Development, who worked so hard on this legislation in 1988 and again today, have proven to be most helpful and should be complimented.

For those of us who represent the border area, there is no doubt that this region lags behind the rest of the country in developing its economic and human resources. This amendment is an important first step in allowing assistance for residents, who are living in colonias along the border, the ability to improve their living conditions. Certainly jobs and economic development are the keys to improving the lives of those people presently living in colonias, but economic development is virtually impossible in a region where there is no water or where we have terrible sewage problems. Moreover, you must understand that living without such necessities is not merely an inconvenience—it's a health hazard. As a result and an example, the County of El Paso, TX, has a higher tuberculosis rate than 20 States and has rates of disease comparable to those of many underdeveloped countries. In a study conducted by the University of Texas at San Antonio, one-third of the children 8 years of age in the community of San Elizario, TX, had the antibody of hepatitis A and that proportion increased to over 90 percent in individuals aged 20 to 34. Only 26 percent of the people in that colonia have community water supply and that is directly related to their health problems.

I do not believe these are acceptable conditions for our residents. And, I do not think the Congress considers these conditions acceptable either.

This is why I would hope my colleagues would support this amendment. It is important to note that this bill does not create a new program and does not call for additional appropriations. This amendment simply makes the colonias eligible for existing small city CDBG and FmHA programs. Therefore, the amendment does not seek to additionally burden the Federal budget. It only acts to target funds from existing programs to go to our most distressed communities in the southern border States of California, Arizona, New Mexico, and Texas. This is not to say that my amendment restricts border communities to only 10 percent of CDBG funding in the four southern border States. What it does do is establish a new category of need specifically for colonias.

Under this amendment, colonias would receive a 10 percent set-aside of the small city CDBG funds going to the four southern border States in the coming fiscal year. For the following fiscal years, fiscal year 1992, and 1993, the size of the set-aside for colonias is left up to HUD and USDA but is not to exceed 10 percent. Because these counties have neither the manpower nor the resources to effectively accomplish the preliminary planning activities associated with water, sewage, and housing activities, these funds would be used to cover the costs of providing information and technical assistance to the residents of colonias and the States and counties in which they are located. These funds can be used for preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

The bill also makes colonias eligible for FmHA programs. The amendment requires that the affected States give priority to applications received from colonias for FmHA housing assistance grant and loan programs.

I urge my colleagues to support this amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague for yielding, and I want to commend him.

Certainly a great many people will appreciate his effort and his undying effort in this endeavor, and I would like to join with him in thanking the distinguished chairman of the commit-

tee, the subcommittee, and everyone who has worked with him, and hopefully that our colleagues in the House will give approval to this committee, and, again, my commendations to the gentleman, and I join in his effort.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, of course, the amendment is agreeable to this side, and we accept it.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I do support the gentleman's amendment.

The gentleman is correct. This amendment is identical to legislation that had been passed unanimously by the House by voice vote in 1988, received a 100-percent bipartisan support from the Committee on Banking, Finance and Urban Affairs, and simply was not acted upon by the Senate as freestanding legislation.

The amendment would provide that Federal assistance for water and sewer projects would be simply made available through the HUD small cities community development block grant for up to a 10-percent set-aside and eligible for rural housing programs administered by Farmers Home. The fact is that the colonias kind of infrastructure, and the needs of the colonias kind of infrastructure, are the very kinds of projects that community block grants are designed for, and I commend the gentleman for pursuing this amendment at this point.

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Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the minority will not press a vote on this amendment, but I think like the last amendment or the amendment before this, it ought to be stressed that this is a specific area amendment. Let me just read a few statistics that the administration notes.

This provision will increase demand for limited funds by extending eligibility to 63 communities with a combined population of 1.4 million under the 1980 census and an unknown number as a result of the 1990 census. The result will be diversion of funds from truly rural communities within a State and a diversion of funds to States in which communities retain eligibility despite their population increases. All other States will lose.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield on that point?

Mr. LEACH of Iowa. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, that is exactly the problem. The gentleman from Iowa [Mr. LEACH] has touched the real crux of the issues when he uses the term "truly rural."

These communities are really caught in a catch-22 situation. It is this committee that has recognized that problem that I think is important. This amendment, of course, would not appropriate any additional funds, as the gentleman from Iowa [Mr. LEACH] correctly points out. The gentleman is concerned, I understand, about the issue of whether or not we are diverting funds away from those who might otherwise receive them.

Mr. Chairman, we are in a way, because there is no other way under existing programs we can get these agencies to address the needs of these poeple. These citiziens do not have sewer, they do not have sewage systems, they do not have running water, and I think that is a travesty in America, that American citizens do not have the basic necessities of life.

The only way I know to address this problem is to do it the way this amendment does, and I would hope Members would understand that we are not requiring a set percentage in out-fiscal years. In fact, for the fiscal year 1992-93, we do not permit over 10 percent to be diverted in the interest of the rest of the country on matters of this kind.

Mr. LEACH of Iowa. Mr. Chairman, reclaiming my time, I appreciate that the gentleman from Texas [Mr. COLEMAN] is only claiming 10 percent for a population substantially less. But I would say to the gentleman that this may be the only area of Texas that this gentleman from Iowa is inclined to suspect that the Congress has been unfair to. The State of Texas has been well served by the U.S. Congress over the last decade, particularly this year.

This particular poor area is maybe the only exception. I say this with a great deal of reluctance, because I do not want to get into State bashing, because these are very poor people.

Mr. Chairman, again, it is not the intent of the minority to press this amendment, but I would say to the gentleman that there are claims that many areas of the country can make in very many specific ways.

In this particular case, it is hard not to be sympathetic with the people. One recongizes the problem of definition of what is a town, what is a city, what is an incorporated area. But I would again suggest that we ought to recognize that in a sharing national way, every time we specify one goodhearted approach, we are taking away from the rest of the country. The Congress ought to be aware of that.

Mr. ORTIZ. Mr. Chairman, I rise in strong support of the Coleman amendment to permit colonias to receive small city community development block grants and to participate in FmHA programs.

For those of our colleagues who are still unfamiliar with the plight of the improverished men, women and children living in colonias, let me make a comparison with which you can identify. The colonias are America's version of the Third World. These people have never known clean drinking water, simply because they have no access to an adequate water supply.

Additionally, they lack any sort of wastewater disposal system, exposing them to serious health risks. These people are the most vulnerable citizens in our society, making it incumbent on us to make life as safe for them as possible.

My colleague's amendment will offer the poor people living in colonias a vehicle by which to improve their lives as well as the quality of their children's lives.

I commend the gentleman from Texas for his initiative and stand in strong support of this amendment. The problem is of paramount importance, and I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. COLEMAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—COMMUNITY DEVELOPMENT, MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET, AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 701. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: "There are authorized to be appropriated for purposes of assistance under section 106 $2,953,500,000 for fiscal year 1990 and $3,241,700,000 for fiscal year 1991. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available (A) not less than $3,000,000 in each of fiscal years 1990 and 1991 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management, (B) not less than $3,000,000 for fiscal year 1990 and $4,500,000 for fiscal year 1991 in the form of grants to historically black colleges, (C) not less than $6,802,000 for fiscal year 1990 and $7,000,000 for fiscal year 1991 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, (D) not less than $500,000 in fiscal year 1991 for grants to demonstrate the fea-

sibility of developing an integrated database system and computer mapping tool for the compliance, programming, and evaluation of community development block grants, and (E) not less than $10,000,000 in fiscal year 1991 for the establishment of a national computerized database under section 104(l).".

(b) LIMITATION ON LOAN GUARANTEES.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, to the authority provided in this section, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $141,768,000 during fiscal year 1990 and $300,000,000 during fiscal year 1991.".

SEC. 702. TARGETING COMMUNITY DEVELOPMENT BLOCK GRANT ASSISTANCE.

(a) PRIMARY OBJECTIVE.—The second sentence of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by striking "60 percent" and inserting "75 percent".

(b) CERTIFICATION REGARDING ACTIVITIES.—Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended by striking "60 percent" and inserting "75 percent".

SEC. 703. COMMUNITY DEVELOPMENT CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended—

(1) by striking the second sentence and inserting the following: "Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) in the fourth sentence, by striking "for fiscal year 1988 or 1989"; and

(3) in the last sentence, by striking—

(A) "the first or second sentence of"; and

(B) "under such first or second sentence".

(b) URBAN COUNTIES.—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)(B)) is amended to read as follows:

"(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A) or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.".

(c) RELINQUISHMENT OF ENTITLEMENT STATUS.—

(1) RELINQUISHMENT BY METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as amended by subsection (a), is further amended by inserting after the period at the end the following: "Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence".

(2) INCLUSION WITH URBAN COUNTY.—Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance in the preceding fiscal year under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause, (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies.".

(3) APPLICABILITY.—The amendments made by this subsection shall apply with respect to assistance under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 704. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) IN GENERAL.—Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

SEC. 705. COMMUNITY DEVELOPMENT HOUSING ASSISTANCE PLAN REQUIREMENTS.

Section 104(c)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(c)(1)) is amended—

(1) in subparagraph (A), by inserting "families who are participating in an organized program to achieve economic independence and self-sufficiency," after "rehabilitation assistance,";

(2) in subparagraph (B), by inserting "(including families who are participating in an organized program to achieve economic independence and self-sufficiency)" after "income" the first place it appears;

(3) in subparagraph (C), by inserting ", including families who are participating in an organized program to achieve economic independence and self-sufficiency" before the first comma; and

(4) in subparagraph (D), by inserting "including families who are participating in an organized program to achieve economic independence and self-sufficiency," after the first comma.

SEC. 706. AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act.

(b) APPLICABILITY.—This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 707. COMMUNITY DEVELOPMENT PLANS.

(a) FINDINGS.—The Congress finds that—

(1) the Federal response to past periods of economic difficulties and recession has been hampered as a result of a lack of information about local needs and resources;

(2) there is a need to promote advance planning by the Federal Government and State and local governments for periods of economic difficulty and recession;

(3) there is a need to increase coordination among the Federal Government and State and local governments in responding to periods of economic difficulty and recession;

(4) there is a need to facilitate prompt and efficient responses to periods of economic difficulty and recession;

(5) there is a need for the Federal Government and State and local governments to have in place systems to set community development priorities, and to target Federal assistance where it can be most effectively used; and

(6) an inventory of anticipated needs and resources would greatly expedite the efficient delivery of Federal assistance in both good and bad economic times.

(b) PURPOSE.—It is the purpose of the amendments made by this section—

(1) to establish systems for State and local governments to set community development priorities;

(2) to develop standardized lists of State and local community development needs, the resources necessary to meet such needs, and the resources that are readily available to meet those needs;

(3) to encourage greater cooperation and coordination among the Federal Government and State and local governments; and

(4) to set up a nationwide computerized data base of community development needs, priorities, and resources.

(c) SUBMISSION OF COMMUNITY DEVELOPMENT PRIORITY LISTS OF ANTICIPATED NEEDS.—Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l)(1) Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsec-

tion and in such standardized form as the Secretary shall, by regulation, prescribe a priority list of anticipated community development needs.

"(2) The list required in paragraph (1) shall set forth the community development needs of the recipient in priority order and describe with respect to each such need the projects that the recipient will carry out if sufficient amounts are provided under section 106. The description of each project shall include information regarding the following:

"(A) Total cost of the project.

"(B) Annual upkeep or operating costs of the project.

"(C) Area or number of individuals to be served by the project and the number of low- and moderate-income persons to be served by the project.

"(D) Physical resources required to complete the project and the availability of the resources.

"(E) Human resources required to complete the project and the availability of the resources.

"(F) Long- and short-term jobs to be created by the project.

"(G) Governmental permits required to complete the project.

"(H) Length of time required before work on the project could commence.

"(I) Length of time required to complete the project.

"(J) Amount of housing to be developed or rehabilitated by the project.

"(K) Potential for minority participation in the project and the number of minority individuals to be served by the project.

"(3) In the case of a recipient that is a unit of general local government—

"(A) prior to the submission of the list required in paragraph (1), the recipient shall consult with adjacent units of general local government and hold one or more public hearings to obtain the views of citizens on community development needs; and

"(B) the list required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(4) In the case of a recipient that is a State, the list required in paragraph (1)—

"(A) shall include only the needs and projects within the State that affect more than one unit of general local government;

"(B) shall include the needs and projects of units of local government within the State which are eligible for a distribution under subsection (d)(2)(A) of section 106; and

"(C) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(5) A list submitted under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.

"(6) Not later than the expiration of the 1-year period beginning on the date of enactment of the Housing and Community Development Act of 1990, the Secretary shall compile the lists submitted under paragraph (1) into a single, national computerized data base and shall make such data base accessible to all units of State and local government that have submitted lists under paragraph (1).".

(d) CONFORMING AMENDMENTS.—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in subsection (c)(1), by striking "or (d)" and inserting "(d), or (l)"; and

(2) in subsection (d)(3)(C), by striking "or (d)" and inserting "(d), or (l)".

(e) APPLICABILITY.—The amendments made by this section shall apply to any amounts received under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) after the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 708. LIMITATION ON USE OF CDBG AMOUNTS FOR PROVIDING PUBLIC SERVICES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by inserting "including program income" after "under this title" the second place it appears.

SEC. 709. CDBG ELIGIBLE ACTIVITIES.

(a) ECONOMIC DEVELOPMENT PROJECTS THROUGH FOR-PROFIT ENTITIES.—Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(17)) is amended to read as follows:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

"(A) creates or retains jobs for low- and moderate-income persons;

"(B) creates or retains businesses owned by community residents;

"(C) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

"(D) provides technical assistance to promote any of the activities under subparagraphs (A) through (C);".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (18), by striking "and" at the end;

(2) in paragraph (19), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(20) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

"(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

"(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

"(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

"(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

"(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.".

SEC. 710. COMMUNITY DEVELOPMENT LOAN GUARANTEES.

(a) STATEMENT OF PURPOSE AND OBJECTIVES.—

(1) PURPOSE.—It is the purpose of the amendments made by this section—

(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

(A) encouraging local governments to establish public-private partnerships;

(B) preserving and developing housing affordable for persons of low and moderate income; and

(C) creating permanent employment opportunities, primarily for persons of low and moderate income.

(b) GUARANTEE OF LOANS ISSUED BY NONENTITLEMENT COMMUNITIES AND TERRITORIES.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by striking "unit of general local government" or "units of general local government" each place such terms appear and inserting "eligible public entity" or "eligible public entities", respectively.

(B) CONFORMING AMENDMENT.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by striking "unit or agency" and inserting "entity or agency".

(2) STATE ASSISTANCE IN APPLICATIONS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.".

(3) STATE GRANTS AS SECURITY.—

(A) IN GENERAL.—Section 108(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)) is amended—

(i) by inserting "(1)" after "(d)";

(ii) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively; and

(iii) by adding at the end the following new paragraph:

"(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State may pledge any grant for which the State may become eligible under this title as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.".

(B) REPAYMENTS.—Section 108(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(e)) is amended by striking "subsection (d)(2)" and inserting

"paragraphs (1)(B) and (2) of subsection (d)".

(4) DEFINITION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this section) is further amended by adding at the end the following new subsection:

"(o) For purposes of this section, the term 'eligible public entity' means any unit of general local government, including units of general local government in nonentitlement areas.".

(c) GUARANTEE OF HOUSING CONSTRUCTION LOANS.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended in the first sentence—

(1) by striking "; or" and inserting a semicolon; and

(2) by inserting before the period at the end the following: "; or (4) construction of housing for persons of low and moderate income".

(d) LOAN REPAYMENT PERIOD.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)), as amended by the preceding provisions of this Act, is further amended by inserting after the third sentence the following: "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.".

(e) OUTSTANDING LOAN GUARANTEE AMOUNT PER ISSUER.—Section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)) is amended—

(1) by inserting after "this section" the following: "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))";

(2) by striking "three" and inserting "5"; and

(3) by inserting "or 107" after "section 106".

(f) ALLOCATION OF LOAN GUARANTEES AND LIMITATION ON AMOUNT GUARANTEED FOR EACH COMMUNITY.—

(1) ALLOCATION OF GUARANTEES.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new sentence: "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.".

(2) LIMITATION PER COMMUNITY.—Section 108(k) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)) is amended—

(A) by inserting "(1)" after "(k)"; and (B) by adding at the end the following new paragraph:

"(2) An eligible public entity may not receive guarantees under this section in any single year in a cumulative amount that exceeds—

"(A) for an eligible public entity that is a metropolitan city, urban county, or Indian tribe, $25,000,000; and

"(B) for any eligible public entity not referred to in subparagraph (A), $5,000,000.".

(g) DEBT PAYMENT ASSISTANCE.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by adding at the end the following: "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.".

(h) TRAINING AND INFORMATION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this Act) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1989.

"(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.".

(i) ANNUAL REPORT.—Section 113(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5313(a)) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of the activities carried out under section 108.".

(j) REGULATIONS.—To carry out the amendments made by this section, the Secretary of Housing and Urban Development shall—

(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act; and

(2) issue final regulations not later than 180 days after the date of the enactment of this Act.

SEC. 711. ELIGIBILITY FOR HAWAIIAN HOME LANDS TO RECEIVE ASSISTANCE FROM CDBG GRANTEES.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands.".

SEC. 712. TECHNICAL CORRECTIONS REGARDING CDBG FOR INDIAN TRIBES.

(a) INAPPLICABILITY OF LOW AND MODERATE INCOME REQUIREMENTS.—Section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting "to States and units of general local government" after "Federal assistance provided" the first place it appears.

(b) ALLOCATION AND DISTRIBUTION OF FUNDS.—

(1) SET-ASIDE FOR INDIAN TRIBES.—

(A) REPEAL.—Section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) is amended by striking paragraph (7).

(B) REPLACEMENT.—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended by striking "SEC. 106. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 106. (a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes not more than 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(2) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—Paragraphs (1) and (2) of section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) are amended by striking "After taking into account the set-aside for Indian tribes under paragraph (7), the" each place it appears and inserting "The" in each place.

(3) ALLOCATION TO NONENTITLEMENT AREAS.—Section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "section 107 and section 119" and inserting in lieu thereof "section 106(a)(1) and (2)".

(c) PROGRAM REQUIREMENTS FOR GRANTS TO INDIAN TRIBES.—Section 107(e)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(e)(2)) is amended by inserting ", section 106(a)(1)," after "this section".

(d) ADMINISTRATION OF GRANTS TO INDIAN TRIBES.—Section 702(c) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is repealed.

(e) APPLICABILTY OF HUD REFORM ACT.—Section 702(e) of the Department of Housing and Development Reform Act of 1989 (42 U.S.C. 5306 note) is amended by striking "1991" and inserting "1990".

(f) APPLICABILTY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1990 and each fiscal year thereafter.

(2) GRANTS IN FISCAL YEAR 1990.—The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103 for fiscal year 1990 for grants to Indian tribes, and

the first sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 (as amended by this Act) shall not apply to such grants.

SEC. 713. URBAN HOMESTEADING.

(a) ACQUISITION OF PROPERTIES FROM THE RESOLUTION TRUST CORPORATION.—Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary may acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk (as agreed to by the Secretary and the Resolution Trust Corporation), for transfer to units of general local government or a State, or qualified community organizations or public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary under this section and other disposition as provided under this subsection. Such properties shall be suitable for use in connection with approved urban homesteading programs, as determined by the Secretary.

"(2) The acquisition price paid by the Secretary to the Resolution Trust Corporation for properties under paragraph (1) shall be in an amount to be agreed upon by the Secretary and the Resolution Trust Corporation for each property and shall include discounts for bulk purchase and for the estimated costs and other expenses of the Secretary related to holding a property until its transfer for use in connection with an urban homesteading program or other disposition under this subsection. Notwithstanding the preceding sentence, the price paid by the Secretary for acquisition of a property under this subsection may not exceed 50 percent of the fair market value of the property, as valued individually.

"(3) If a unit of general local government, State, community organization, or public agency cannot make timely use under an urban homesteading program of a property acquired by the Secretary under this subsection, or if the property is found to be unsuitable for such use after acquisition, the Secretary may deal with, complete, rent, secure, repair, renovate, modernize, insure, or sell for cash or credit (at a price determined by the Secretary), in the discretion of the Secretary, any property purchased under this subsection. The Secretary may use the proceeds from any sales to offset any costs or other expenses related to holding properties acquired under this subsection.

"(4) After determining suitability of property under paragraph (1), the Secretary may acquire property from the Resolution Trust Corporation for more than the maximum amount that the Secretary, by regulation, has established for reimbursement for properties transferred for urban homesteading uses under this section. The local government, State, organization, or agency administering the urban homesteading program under which an individual or family receives such a property shall pay to the Secretary (in a manner as the Secretary shall provide) the amount by which the acquisition price paid by the Secretary to the Resolution Trust Corporation is greater than such maximum amount. The local government, State, or organization or agency may recover some or all of the amount paid to the Secretary by the administering agency, as the Secretary shall provide. Any property acquired pursuant to this subsection may be transferred, under an urban homesteading program under this section, only to individuals and families who are lower income families (as such term is defined in subsection (h)(3)).

"(5) For purposes of this subsection, a bulk acquisition of properties shall involve not less than 100 properties.

"(6) In using properties acquired under this subsection, each urban homesteading program shall provide for preference in conveying such properties under the program to residents of public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937.".

(b) NEIGHBORHOOD IMPROVEMENT STRATEGY.—Section 810(b)(6) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(b)(6)) is amended by striking the period at the end and inserting the following: ", except that this paragraph shall not apply with respect to any group of 10 or less properties obtained for use under an urban homesteading program if the properties (A) are located in any single census tract, and (B) were acquired by the Secretary from the Resolution Trust Corporation pursuant to subsection (l).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 810(m) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), as redesignated by subsection (a), is amended—

(1) by striking "To" and inserting "(1) To";

(2) by striking "$12,000,000 for fiscal year 1988, and $13,000,000 for fiscal year 1989" and inserting the following: "$12,995,400 for fiscal year 1990, $36,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, and $54,000,000 for fiscal year 1993"; and

(3) by adding at the end the following new paragraph:

"(2) In addition to the amounts under paragraph (1), there are authorized to be appropriated $36,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, and $54,000,000 for fiscal year 1993 for the purchase of properties under subsection (l). For the costs of holding and selling properties acquired under subsection (l), there are authorized to be appropriated $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, and $9,500,000 for fiscal year 1993. Any amounts appropriated under this paragraph shall remain available until expended.".

(e) RTC DISPOSITION PROCEDURES.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(E) URBAN HOMESTEADING ACQUISITION.—

"(i) The Corporation and the Secretary, in providing for bulk acquisition by the Secretary of eligible single family properties under section 810(l) of the Housing and Community Development Act of 1974, shall agree to an amount to be paid by the Secretary under such section for acquisition of such properties. The acquistion price shall include discounts for bulk purchase and for holding of the property, as provided under such section, such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

"(ii) To the extent necessary to facilitate sale of properties to the Secretary under such section, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

"(iii) To facilitate acquisitions by the Secretary under section 810(l) of the Housing and Community Development Act of 1974, the Corporation shall provide the Secretary with an inventory of eligible single family properties, not less than 4 times each year.".

SEC. 714. REHABILITATION LOANS.

(a) LIMITATION ON USE OF FUND.—The first sentence of section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)) is amended by inserting before the period at the end the following: "and to be used for no other purpose".

(b) LIMITATION ON LOAN COMMITMENTS.—Section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)) is amended—

(1) in the third sentence, by striking the third comma and all that follows and inserting a period; and

(2) by inserting after the third sentence the following new sentence: "For each of the fiscal years 1990 and 1991, amounts from the fund under this section shall be available for loan commitments under this section to the extent provided in appropriation Acts.".

(c) EXTENSION OF PROGRAM.—Section 312(h) of the Housing Act of 1964 (42 U.S.C. 1452b(h)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) ELIMINATION OF NONRESIDENTIAL USES.—Section 312 of the Housing Act of 1964 (42 U.S.C. 1452b) is amended—

(1) in subsection (a), by inserting "residential" after "tenants of" in the matter preceding paragraph (1);

(2) in subsection (b)(1), by inserting "residential" before "structure";

(3) in subsection (c)(4)(A), by striking "in the case of residential property,";

(4) in subsection (c)(4)(B)—

(A) by striking "residential"; and

(B) by inserting "and" after the semicolon at the end;

(5) in subsection (c)(4)(C)—

(A) by striking "residential"; and

(B) by striking "; and" and inserting a period; and

(6) by striking subsection (c)(4)(D).

(e) LIMITATION ON MULTIFAMILY LOANS.—Section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)), as amended by the preceding provisions of this section, is further amended by inserting after the period at the end the following: "Of amounts made available for loans under this section in each fiscal year, the Secretary may use not more than 50 percent of such amounts for loans for multifamily properties.".

SEC. 715. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) FINDINGS.—The Congress finds that—

(1) protecting the existing stock of unsubsidized privately held lower income housing through the rehabilitation and revitalization of declining neighborhoods is essential to a national housing policy that seeks to increase the availability of affordable housing for low and moderate-income families;

(2) the Neighborhood Reinvestment Corporation, the anchor of the national neighborhood housing services network, was chartered by Congress more than 10 years ago to revitalize neighborhoods for the benefit of current residents by mobilizing public, pri-

vate, and community resources at the neighborhood level;

(3) the national neighborhood housing services network has proven its worth as a successful cost-effective program relying largely on local initiative for the specific design of local programs;

(4) the national neighborhood housing services network has had more than 10 years of experience in revitalizing declining neighborhoods, creating housing for low and moderate-income families, and equipping residents with skills and resources required to maintain safe and healthy communities; and

(5) expanding upon the existing capabilities, resources, and potential of the national neighborhood housing services network is a cost-effective response to the affordable housing and neighborhood revitalization needs confronting the Nation, and is a strong preventive measure in addressing the national tragedy of homelessness.

(b) PURPOSE.—It is the purpose of this section to authorize appropriations for the Neighborhood Reinvestment Corporation for fiscal years 1990 and 1991 to permit the corporation—

(1) to carefully expand the capacities of the national neighborhood housing services network;

(2) to begin to meet the urgent need for neighborhood housing services and mutual housing associations in neighborhoods across the Nation as the effort to preserve affordable housing for low and moderate-income American families increases;

(3) to increase and provide ongoing technical and capacity development assistance to neighborhood housing services and related public-private partnership-based nonprofit institutions involved in the revitalization of neighborhoods for the benefit of current residents, rehabilitation, preservation of existing housing stock, and production of additional housing opportunities for low and moderate-income families;

(4) to expand the loan purchase capacity of the national neighborhood housing services secondary market, operated by Neighborhood Housing Services of America, for loans made by neighborhood housing services to residents who are unable to meet conventional lending standards, and other loans for community development purposes;

(5) to provide increased capacity development and matching grants to preserve existing privately held unsubsidized rental housing affordable to low and moderate-income households and to create flexible strategies effective in the diverse economic and geographic environments of the Nation;

(6) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to title II of the Housing and Community Development Act of 1987;

(7) to increase the resources available to neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families;

(8) to expand the national mutual housing association demonstration by providing technical assistance and matching grants to assist low- and moderate-income families to participate in such associations;

(9) to increase resources available to neighborhood housing services network programs for foreclosure intervention and prevention; and

(10) to create additional neighborhood housing services partnership organizations to serve rural communities, Native Americans, Native Hawaiians, and other communities in need.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the corporation to carry out this title $26,837,470 for fiscal year 1990 and $50,000,000 for fiscal year 1991. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

"(2) Of the amount appropriated pursuant to this subsection for each of the fiscal years 1990 and 1991, amounts appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available—

"(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

"(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

"(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to title II of the Housing and Community Development Act of 1987;

"(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

"(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.".

SEC. 716. STUDY OF NEIGHBORHOOD DEVELOPMENT OPPORTUNITIES ON INDIAN TRUST LANDS.

(a) STUDY.—The Neighborhood Reinvestment Corporation shall conduct a study under this section of neighborhood development activities for expanding affordable housing opportunities within lands held in trust for Indian tribes. The study shall examine the types and effectiveness of neighborhood development models and activities to provide affordable housing, including development by the Neighborhood Reinvestment Corporation and Neighborhood Housing Services, and the effectiveness of implementing such models and activities for development of affordable housing opportunities within such areas.

(b) CONSULTATION.—In carrying out the study under this section, the Neighborhood Reinvestment Corporation shall consult with the Secretary of Housing and Urban Development, the Assistant Secretary for Indian Affairs of the Department of the Interior, Indian housing authorities, and tribal councils.

(c) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Neighborhood Reinvestment Corporation shall submit to the Congress a report containing a detailed statement of findings and conclusions regarding the study under this section, including recommendations for such administrative and legislative action as the Corporation considers advisable.

SEC. 717. STUDY OF SWEAT EQUITY CONTRIBUTIONS.

(a) IN GENERAL.—The Neighborhood Reinvestment Corporation shall conduct a study regarding the effectiveness of, and demand for, provision of training, supervision, and counseling through local Neighborhood Housing Services programs to lower income families purchasing and rehabilitating homes through homeownership assistance programs administered by the Federal Government and State and local governments. The study shall include an assessment of the extent to which contributions of labor by lower income families to the rehabilitation of homes (commonly referred to as "sweat equity") allow families to acquire a substantially lower mortgage loans for the purchased and rehabilitated homes.

(b) REPORT.—The Neighborhood Reinvestment Corporation shall submit to the Congress a report regarding the results of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(c) SWEAT EQUITY UNDER URBAN HOMESTEADING.—Section 810(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e(e)) is amended by inserting after the period at the end the following new sentence: "The annual report shall include an assessment of the extent to which contributions of labor by applicants under urban homesteading programs reduce the need for indebtedness on the properties, and an assessment of the effectiveness of various forms of training, supervision, and counseling of such applicants.".

SEC. 718. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) To the extent provided in appropriations Acts, $1,969,000 of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974 in fiscal year 1990 shall be available to carry out this section for fiscal year 1990 and $2,000,000 shall be available for fiscal year 1991.".

SEC. 719. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS AND CERTAIN OTHER COMMUNITY DEVELOPMENT AND PUBLIC FACILITY FUNDS.

(a) LUZERNE COUNTY, PENNSYLVANIA.—Notwithstanding any other provision of law or other requirement, the city of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the county of Luzerne and in the State of Pennsylvania, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the city of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Nanticoke, the borough of Plym-

outh, and the borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(b) VALLEJO, CALIFORNIA.—Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(c) NEW HAVEN, CONNECTICUT.—Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(d) LEBANON, PENNSYLVANNIA.—Notwithstanding any other provision of law or other requirement, the city of Lebanon, Pennsylvannia, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Southside Urban Renewal Project (No. R-635(C)), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Lebanon shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(e) EAST STROUDSBURG, PENNSYLVANNIA.—Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, Pennsylvannia, is authorized to retain any land disposition proceeds from the financial closeout of the Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such proceeds, including any interest.

(f) FAIRMOUNT HEIGHTS, MARYLAND.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL003) issued July 1, 1969, under title II of the Housing Amendments of 1965. The Town of Fairmount Heights is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

(g) BUDGET COMPLIANCE.—This section shall be effective only to the extent provided in appropriations Acts.

SEC. 720. STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding the availability of housing within reasonable proximity of places of employment. The study shall—

(1) identify causes of, and factors relating to, the geographic divergence of available housing for low- and moderate-income families from places of employment for working members of such families; and

(2) propose methods for preventing such divergence and for providing housing within reasonable proximity of places of employment, without promoting establishment of cottage industries or housing developments for employees owned or controlled by the employer.

(b) STUDY REQUIREMENTS.—In carrying out the study under this section the Secretary of Housing and Urban Development shall—

(1) use, to the extent available and practicable, existing regional plans and strategies developed or implemented by public, private, and nonprofit environmental organizations and regulatory entities;

(2) select and analyze one particular region of the Nation or one State in which employment opportunities are available, relative to the remainder of the Nation, but for which lack of available housing is an acute problem; and

(3) give priority to analysis of regions and metropolitan areas not complying with Federal laws and regulations relating to clean air standards.

(c) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results and conclusions of the study conducted under this section. The report shall also contain proposed strategies for adoption by local, regional, and State governmental agencies, in consultation with nonprofit organizations, to increase the availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families and prevent the geographical divergence of such housing and places of employment.

Subtitle B—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 731. LIMITATION ON FHA INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f-9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $73,837,500,000 during fiscal year 1990 and $76,791,000,000 during fiscal year 1991.".

SEC. 732. INCREASE IN FHA MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent during fiscal year 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 733. DISCLOSURE REGARDING INTEREST DUE UPON MORTGAGE PREPAYMENT.

(a) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

"(t)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment.

"(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Housing and Community Development Act of 1990) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment.".

(b) APPLICABILITY.—The amendment made by this section shall apply to any insured mortgage outstanding upon the expiration of the 90-day period beginning upon the issuance of final regulations implementing such amendment and to any mortgage insured after such date.

SEC. 734. ACCOUNTABILITY OF LENDERS MAKING MORTGAGE LOANS UNDER NATIONAL HOUSING ACT.

(a) PROHIBITION ON BASING MORTGAGE COSTS AND INTEREST ON AMOUNT OF LOAN.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

"(u) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of such mortgagee, as determined by the Secretary, provide for variations in the interest rate, level of discount points, loan origination fee, or any other amount charged to a mortgagor with respect to a mortgage on the basis of the initial principal amount of the insured loan made by such mortgagee.".

(b) EXAMINATION OF MORTGAGEES.—Title V of the National Housing Act (12 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"EXAMINATION OF MORTGAGEES

"SEC. 539. (a)(1) In connection with any examination of any mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the lending needs of the community in which it does business with respect to residential housing lending (including neighborhoods of predominantly low- and moderate-income families), the consistency of the lending programs of the mortgagee with safe and sound lending practices, as determined by the Secretary, and the record of defaults on insured mort-

gage loans originated and serviced by the mortgagee.

"(2) The Secretary shall consider any information acquired pursuant to paragraph (1) in determining whether to permit such mortgagee to continue in its status as an approved mortgagee for purposes of this Act and to otherwise participate in programs involving mortgage insurance administered by the Secretary.

"(b)(1) If any examination of an approved mortgagee by the Secretary (including an examination under subsection (d)) discloses that the mortgagee has failed, in the determination of the Secretary, to meet the lending needs of the community served by the mortgagee (as determined by the Secretary under subsection (a)(1)) with respect to residential housing lending, the Secretary may, in the discretion of the Secretary, require that the mortgagee, for continued status as an approved mortgagee for purposes of this Act, develop and submit a plan for remedying such deficiencies.

"(2) A plan under paragraph (1) shall be filed with the Secretary and the Secretary shall cause the plan to be published in the Federal Register. The mortgagee shall cause the plan to be published in at least one newspaper of general circulation in each community in which the approved mortgagee engages in the solicitation, origination, or servicing of residential mortgage loans.

"(3) The Secretary shall provide for not less than a 60-day period of public comment concerning the adequacy of the plan under this subsection, such period beginning on the latter of the publication of the plan in a newspaper or the Federal Register.

"(4) If the Secretary approves the plan, the mortgagee shall be considered a mortgagee approved for participation in the mortgage insurance programs under this Act, subject to compliance with the terms of the plan as approved by the Secretary.

"(c) If any approved mortgagee fails to comply with the provisions of any plan approved by the Secretary in accordance with subsection (b) with respect to the mortgagee, the Secretary may withdraw the approval of the mortgagee for participation in mortgage insurance programs under this Act or limit the participation of the mortgagee in such programs and may prohibit the mortgagee from engaging in any direct endorsement or similar program.

"(d) Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall promulgate regulations to establish a procedure by which any person may file a request for an examination of the extent to which a mortgagee approved by the Secretary for participation in mortgage insurance programs under this Act is meeting the lending needs of the community (as described in subsection (a)(1)) with respect to residential housing lending. Such regulations shall provide for an expedited procedure by which persons requesting a review may obtain a written report of the results of any such requested examination, or of the results of any other examination of an approved mortgagee by the Secretary to the extent that such examination concerns the matters described in subsection (a)(1).

"(e) The Secretary shall submit to the Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to subsection (d) and any action taken pursuant to such requests.".

SEC. 735. INSURANCE OF MORTGAGES ON PROPERTY IN VIRGIN ISLANDS.

Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended—

(1) in the first sentence, by striking "Alaska, Guam, or Hawaii," and inserting "Alaska, Guam, Hawaii, or the Virgin Islands,";

(2) by striking "Alaska or in Guam or Hawaii" each place it appears and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(3) by inserting ", the Virgin Islands," after "Government of Guam" each place it appears; and

(4) by striking the section heading and inserting the following:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS".

SEC. 736. INCENTIVES REGARDING PUT OPTION.

Section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l) is amended by striking the second sentence and inserting the following new sentence: "Upon such assignment, transfer, and delivery, the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall (i) subject to the cash adjustment provided herein, issue to the mortgagee debentures having a total face value equal to the amount of the unpaid principal obligation of the mortgage which was unpaid on the date of assignment, plus accrued interest to such date, or (ii) if the mortgagee agrees not to exercise the option under clause (i), provide an incentive payment from the General Insurance Fund to the mortgagee in an amount equal to the present value at such time of the difference between the mortgage interest rate and the interest rate on similar mortgages over the remaining term of the mortgage.".

SEC. 737. IMPROVED ENERGY EFFICIENCY STANDARDS FOR NEWLY CONSTRUCTED FHA-INSURED HOUSING.

(a) IN GENERAL.—Section 526(a) of the National Housing Act (12 U.S.C. 1735f-4) is amended by inserting before the period at the end of the last sentence the following: "or the 1989 Model Energy Code of the Council of American Building Officials, whichever achieves greater energy efficiency and is cost-effective (such that it results in the lowest total of construction and operating costs)".

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall issue regulations implementing the amendment made by this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 738. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—

(1) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(2) TERMINATION DATE.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1994".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility.".

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

(d) DISCLOSURES BY MORTGAGEE REGARDING LIABILITY OF MORTGAGOR.—Section 255(e) of the National Housing Act (12 U.S.C. 1715z-20(e)) is amended—

(1) in paragraph (2)—

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.".

SEC. 739. INCREASE IN LOAN LIMITS FOR PROPERTY IMPROVEMENT LOAN INSURANCE.

(a) MAXIMUM LOAN AMOUNT—Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) $30,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

"(ii) $17,500 if made for the purpose of financing alterations, repairs and improve-

ments upon or in connection with existing manufactured homes;"; and

(2) in subparagraph (B), by striking "$43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000, respectively, where financing the installation of a solar energy system is involved)" and inserting "$75,000 or an average amount of $15,000 per family unit".

(b) HIGH COST AREAS.—The second sentence of section 2(b)(2) of the National Housing Act (12 U.S.C. 1703(b)(2)) is amended to read as follows: "In other areas, the maximum dollar amounts specified in subsections (b)(1)(A)(i), (b)(1)(B), (b)(1)(D), and (b)(1)(E) may be increased on an area-by-area basis to the extent the Secretary deems necessaary, but not to exceed the percentage by which the maximum mortgage amount of a 1-family residence in the area is increased by the Secretary under section 203(b)(2).".

(c) LOAN TERM.—Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

"(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;"; and

(2) in subparagraph (B), by striking "fifteen years" and inserting "twenty years".

SEC. 740. DISAPPROVAL OF REGULATIONS REGARDING PROPERTY DISPOSITION.

Section 291.1(c)(2) of the rule of the Department of Housing and Urban Development entitled "Disposition of HUD-Acquired Single Family Property" and published in the Federal Register of January 11, 1990 (55 Fed. Reg. 1161 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule containing or based on such provision and may not otherwise implement such provision of such rule.

SEC. 741. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $81,713,500,000 during fiscal year 1990 and $84,982,040,000 during fiscal year 1991.".

SEC. 742. DELEGATED PROCESSING SYSTEM.

(a) IN GENERAL.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall implement a system of mortgage insurance that delegates processing functions for mortgages insured under sections 207, 221, 223, 232, and 241 of the National Housing Act to approved mortgagees selected by the Secretary. Under such system, the Secretary shall retain the authority to approve rents, expenses, program appraisal, and mortgage amounts, and to execute a firm commitment.

(b) REGULAR PROGRAM.—Notwithstanding subsection (a), the Secretary shall develop and maintain a viable program for full insurance programs for multifamily housing under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

SEC. 743. SECTION 235 HOMEOWNERSHIP.

(a) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act (12 U.S.C. 1715z(h)(1)) is amended by striking "September 30, 1989" in the last sentence and inserting "September 30, 1991".

(b) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act (12 U.S.C. 1715z(m)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act (12 U.S.C. 1715z(q)(1)) is amended by striking "September 30, 1989" in the last sentence and inserting "September 30, 1991".

(d) EXTENSION OF PROGRAM.—Section 401 of the Housing and Community Development Act of 1987 is amended by striking subsection (d).

SEC. 744. SECTION 236 RENTAL ASSISTANCE.

(a) DEFINITION OF INCOME.—Section 236(m) of the National Housing Act (12 U.S.C. 1715z-1) is amended by inserting before the period at the end of the first sentence the following: ", except that any amounts not actually received by the family may not be considered as income under this subsection".

(b) RENT CHARGES.—

(1) PROJECTS ASSISTED UNDER SECTION 236.—Section 236(f) of the National Housing Act (12 U.S.C. 1715z-1(f)) is amended by adding at the end the following new paragraph:

"(5) In order to induce capital and operating loss advances by owners (including any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine.".

(2) INSURED PROJECTS.—Section 221(f) of the National Housing Act (12 U.S.C. 1715*l*(f)) is amended by adding at the end the following new undesignated paragraph:

"In order to induce capital and operating loss advances by owners (including any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine.".

Subtitle C—Regulatory and Other Programs

SEC. 751. FAIR HOUSING INITIATIVES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $5,907,000 for fiscal year 1990 and $6,000,000 for fiscal year 1991, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration.".

(b) EXTENSION OF PROGRAM.—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 752. HUD RESEARCH AND DEVELOPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS AND REPORTS.—Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended by striking the second sentence and inserting the following: "The Secretary shall include in each annual report under section 8 of the Department of Housing and Urban Development Act a statement of the activities and findings pursuant to the authority under this section, including a statement of the amounts and use of funds expended by the Secretary for such purposes. There are authorized to be appropriated to carry out this title $20,675,000 for fiscal year 1990 and $21,243,000 for fiscal year 1991. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than $500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration.".

(b) REPORT REGARDING RESEARCH ACTIVITIES.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department of Housing and Urban Development that are being conducted, have concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970, title V of such Act, or any other authority. The report shall include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.

SEC. 753. COLLECTION AND MAINTENANCE OF DATA REGARDING PROGRAMS UNDER HUD.

(a) PROGRAM EVALUATION AND MONITORING.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) in paragraph (1), by striking the periods at the end of the first and last sentences and inserting in each place the following: "and collecting and maintaining data for such purposes.";

(2) in paragraph (2)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) titles I, II, III, and IV of the Housing and Community Development Act of 1990.";

(3) in paragraph (3)—

(A) by inserting after the comma the following: "and collecting and maintaining data pursuant to the authority under this subsection,"; and

(B) by striking the period at the end and inserting the following: "and collecting and maintaining data for such purposes."; and

(4) in paragraph (4)—

(A) in subparagraph (A), by inserting after "subsection" the following: "and collecting and maintaining data for such purposes"; and

(B) in subparagraph (B), by inserting after "paragraph (2)" the following: "and to collect and maintain data for such purposes".

(b) ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.—Section 166 of the Housing and Community Development Act of 1987 (42 U.S.C. 3536 note) is amended by adding at the end the following new subsection:

"(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.".

SEC. 754. MORTGAGE SERVICING TRANSFER DISCLOSURE.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 5 the following new section:

"SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW ACCOUNTS

"SEC. 6. (a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—

"(1) IN GENERAL.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for any such loan, at the time of application for the loan—

"(A) whether the servicing of any such loan may be assigned, sold, or transferred to any other person at any time while such loan is outstanding;

"(B) for each of the most recent 3 calendar years completed (at the time of such application), the percentage (rounded to the nearest 10 percent) of loans made by such person for which the servicing has been assigned, sold, or transferred as of the end of the most recent calendar year completed, except that—

"(i) for any loan application during the 12-month period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the information disclosed under this subparagraph may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of the enactment of the Housing and Community Development Act of 1990, the information disclosed under this subparagraph may be for the most recent 2 calendar years completed; and

"(ii) this subparagraph may not be construed to require the inclusion, in the percentage disclosed, of any loans the servicing of which has been assigned, sold, or transferred by the person making the loan to a transferee servicer that is an affiliate or subsidiary of such person;

"(C) that the person originating the loan has the capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination; the estimate shall be expressed as one of the following range of possibilities—between 0 and 25 percent, between 26 and 50 percent, between 51 and 75 percent, or between 76 and 100 percent; this subparagraph may not be construed to require the inclusion, in the estimate disclosed, of any loans the servicing of which will be assigned, sold, or transferred by the person originating the loan to a transferee servicer that is an affiliate or subsidiary of such person; within 90 days after the date of the enactment of the Housing and Community Development Act of 1990, the Secretary of Housing and Urban Development shall develop a model disclosure statement that notifies the applicant that the best available estimate is a prediction, subject to change, and applies to all of the loan originations made by the lender and not the particular loan of the individual applicant; and

"(D) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application) to assign, sell, or transfer the servicing of such loan to another person.

"(2) SIGNATURE OF APPLICANT.—Any disclosure of the information required under paragraph (1) shall not be effective for purposes of this section unless the disclosure is accompanied by a written statement, in such form as the Secretary shall develop before the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, that the applicant has read and understood the disclosure and that is evidenced by the signature of the applicant at the place where such statement appears in the application.

"(b) NOTICE BY TRANSFEROR OF LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include the following information:

"(A) The effective date of transfer of the servicing described in such paragraph.

"(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

"(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

"(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

"(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

"(c) NOTICE BY TRANSFEREE OF LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

"(d) TREATMENT OF LOAN PAYMENTS DURING TRANSFER PERIOD.—During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

"(e) DUTY OF LOAN SERVICER TO RESPOND TO BORROWER INQUIRIES.—

"(1) NOTICE OF RECEIPT OF INQUIRY.—

"(A) IN GENERAL.—If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 20 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

"(B) QUALIFIED WRITTEN REQUEST.—For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

"(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and

"(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

"(2) ACTION WITH RESPECT TO INQUIRY.—Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

"(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

"(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

"(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

"(3) PROTECTION OF CREDIT RATING.—During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

"(f) DAMAGES AND COSTS.—Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

"(1) INDIVIDUALS.—In the case of any action by an individual, an amount equal to the sum of—

"(A) any actual damages to the borrower as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000.

"(2) CLASS ACTIONS.—In the case of a class action, an amount equal to the sum of—

"(A) any actual damages to each of the borrowers in the class as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than $1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

"(i) $500,000; or

"(ii) 1 percent of the net worth of the servicer.

"(3) COSTS.—In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

"(4) NONLIABILITY.—A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

"(g) ADMINISTRATION OF ESCROW ACCOUNTS.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.

"(h) PREEMPTION OF CONFLICTING STATE LAWS.—Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

"(i) DEFINITIONS.—For purposes of this section:

"(1) EFFECTIVE DATE OF TRANSFER.—The term 'effective date of transfer' means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

"(2) SERVICER.—The term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

"(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

"(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause; or

"(ii) commencement of proceedings for bankruptcy of the servicer.

"(3) SERVICING.—The term 'servicing' means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

SEC. 755. MORTGAGE ESCROW ACCOUNTS.

(a) IN GENERAL.—Section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) is amended—

(1) by inserting "(a) IN GENERAL.—" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) NOTIFICATION OF SHORTAGE IN ESCROW ACCOUNT.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 6(i)) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

"(c) ESCROW ACCOUNT STATEMENTS.—

"(1) INITIAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the

escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

"(C) INITIAL STATEMENT AT CLOSING.—Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 4. Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 4 that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

"(2) ANNUAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after the date of the enactment of the Housing and Community Development Act of 1990, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.".

(b) PROHIBITION OF FEES FOR ESCROW ACCOUNT STATEMENTS.—Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended—

(1) by inserting after the first comma the following: "or by a servicer (as the term is defined under section 6(i)),";

(2) by striking "lender" the second place it appears and inserting "lender or servicer";

(3) by striking "6" and inserting "10(c)"; and

(4) by striking the section heading and inserting the following new section heading:

"PROHIBITION OF FEES FOR PREPARATION OF TRUTH-IN-LENDING, UNIFORM SETTLEMENT, AND ESCROW ACCOUNT STATEMENTS".

SEC. 756. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

(a) STATEMENT OF PURPOSE.—Section 602 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401) is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 602. The Congress recognizes the important role served by manufactured housing in meeting housing needs in the United States. Manufactured homes provide a vital source of affordable housing accessible to all Americans. The Congress declares that the purpose of this title is to ensure the availability of safe, quality, and affordable manufactured homes.".

(b) DEFINITIONS.—Section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402) is amended—

(1) in paragraph (1), by striking "but" and all that follows and inserting "those that promote the construction of safe, quality, and affordable housing;";

(2) in paragraph (2), by striking " 'dealer' " and inserting " 'retailer' ";

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) 'serious defect' means a defect in the performance, construction, compliance, or material of a manufactured home that constitutes a safety hazard;";

(4) by striking paragraph (4);

(5) in paragraph (6)—

(A) by striking "in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or,";

(B) by striking "three hundred twenty" and inserting "four hundred";

(C) by striking "built on a permanent chassis and"; and

(D) by inserting before the semicolon at the end the following: "; and except that such term does not include recreational vehicles and recreational vehicle park trailers";

(6) in paragraph (7), by striking "reasonable standard" and all that follows and inserting the following: "reasonable performance standard for the construction and design of a manufactured home that meets the needs of the public for safe, quality, and affordable homes;";

(7) in paragraph (8), by striking "the occurrence" and all that follows and inserting "death or injury;";

(8) by striking paragraph (9) and inserting the following new paragraph:

"(9) 'safety hazard' means an unreasonable risk of death or severe personal injury that proximately is caused by—

"(A) an error in design or assembly of the manufactured home by the manufacturer; or

"(B) the failure to comply with a Federal manufactured home construction and safety standard;";

(9) in paragraph (12), by striking "and" at the end;

(10) in paragraph (13), by striking the period at the end and inserting a semicolon;

(11) by redesignating paragraphs (5) through (13) (as so amended) as paragraphs (4) through (12), respectively; and

(12) by adding at the end the following new paragraphs:

"(13) 'recreational vehicle' means a vehicular unit, built on a single chassis mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle, primarily designed for daily transit by its owner or operator, and certified in compliance with applicable regulations of the Department of Transportation specified within parts 567, 568, and 571 of title 49 of the Code of Federal Regulations; and

"(14) 'recreational vehicle park trailer' means a vehicular unit that—

"(A) is built on a single chassis mounted on wheels;

"(B) is primarily designed as temporary living quarters for seasonal or destination camping and may be connected to utilities necessary for operation of installed fixtures and appliances; and

"(C) has a gross trailer area not exceeding 400 square feet in the set-up mode.".

(c) FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS.—Section 604 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) is amended—

(1) in subsection (a), by striking "The Secretary" and all that follows and inserting the following: "The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards that shall be reasonable, practicable, and stated in objective terms, and shall meet the highest standards of protection for the provision of safe, quality, and affordable manufactured homes. The Secretary shall consider the recommendations of private standards writing organizations and the public in establishing the standards.";

(2) in subsection (e), by striking the period at the end of the first sentence and inserting the following: "and any regulation relating to such standards.";

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ", for the standards" after "shall";

(B) in paragraph (1), by inserting "(especially the Consumer Product Safety Commission)" after "agencies";

(C) in paragraph (4), by striking "; and" and inserting the following: ", including the initial acquisition cost and post sale maintenance costs;";

(D) in paragraph (5), by striking the period at the end and inserting a semicolon;

(E) by inserting at the end the following new paragraphs:

"(6) consider the need to provide safe, durable, and affordable housing; and

"(7) review such standards annually, including changes recommended by affected parties."; and

(4) by adding at the end the following new subsection:

"(j) The Secretary shall establish by order a system to periodically issue interpretations of Federal manufactured home construction and safety standards that shall provide all parties directly affected with timely notice and opportunity for comment. In establishing such system the Secretary shall—

"(1) provide a system that is practical and workable;

"(2) provide 2 separate systems for interpretations, which shall include one system for interpretations that have an industry-wide impact and one system for interpretations without an industry-wide impact that affect a single manufacturer;

"(3) provide an opportunity for comment on any interpretation of the standards that has an industry-wide impact, including the amendment or revocation of any interpretation;

"(4) provide for the expeditious adoption of industry-wide interpretations, with a reasonable period of time for the industry to adjust, redesign, retool, or test when there is no significant controversy;

"(5) provide for rulemaking under subsection (b) regarding any industry-wide interpretations for which the comments submitted clearly reveal a significant controversy;

"(6) provide for a compilation and indexing of all interpretations; and

"(7) review and publish the compilation and index annually.".

(d) NATIONAL MANUFACTURED HOME ADVISORY COUNCIL.—

(1) IN GENERAL.—Section 605 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5404) is amended—

(A) in subsection (a), by striking "eight" each place it appears and inserting "4"; and

(B) in subsection (b), by striking the first comma and inserting the following: "convene the Advisory Council periodically or when a majority of the Council requests a meeting, and shall,".

(2) DECREASE IN MEMBERSHIP.—In providing for appointments to and handling vacancies for the National Manufactured Home Advisory Council, the Secretary of Housing and Urban Development shall provide (as the Secretary determines appropriate) for the decrease in number of members of the Council from the number provided under section 605 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (as such section existed immediately before the date of the enactment of this Act) to the number provided under such section as amended by paragraph (1).

(3) APPLICABILITY.—The amendment made by paragraph (1)(A) shall apply to the first National Manufactured Home Advisory Council having 12 members in existence after the date of the enactment of this Act and all Councils thereafter.

(e) RESEARCH, TESTING, DEVELOPMENT, AND TRAINING.—Section 608 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5407) is amended to read as follows:

"RESEARCH, TESTING, DEVELOPMENT, AND TRAINING

"SEC. 608. (a) The Secretary shall conduct research, testing, development, and training using authority under sections 501 and 502 of the Housing and Urban Development Act of 1970.

"(b) The Secretary may use amounts collected under section 620 to conduct research, testing, and training for the following purposes:

"(1) Research, when the Secretary determines that unusual circumstances dictate that fee money should be used for research and the Secretary follows the procedures established in paragraphs (3), (4) and (5) of section 604(j).

"(2) Testing, on a case-by-case basis, to determine the existence of substantial safety-related or durability problems.

"(3) Testing to determine compliance with any Federal manufactured home construction and safety standards, except that not more than 5 percent of the amounts collected under section 620 in any year may be used for testing under this paragraph.

"(4) Training of primary inspection agencies and State administrative agencies under section 614.".

(f) PROHIBITED ACTS AND EXCEPTIONS.—Section 610 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5409) is amended—

(1) by striking the section heading and inserting the following new section heading:

"PROHIBITED ACTS AND EXCEPTIONS"; and

(2) in subsection (a)(3), by striking "any defect" and inserting "any serious defect".

(g) JURISDICTION AND VENUE.—Section 612(a) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5411(a)) is amended by striking "a defect which constitutes an imminent safety hazard" and inserting "any serious defect".

(h) NONCOMPLIANCE WITH STANDARDS.—Section 613 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5412) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "as a result of manufacturing or design error" after "safety standards";

(ii) by striking "a defect which constitutes an imminent safety hazard" and inserting "a serious defect";

(iii) by striking "distributor or a dealer" and inserting "retailer"; and

(iv) by striking "distributor or dealer" and inserting "retailer";

(B) in paragraph (1)—

(i) by striking "distributor or dealer" each place it appears and inserting "retailer"; and

(ii) by inserting "furnish the retailer with a replacement manufactured home for such manufactured home or" after "immediately"; and

(C) in paragraph (2), by striking "the manufacturer, at his own expense," and all that follows and inserting the following: "the manufacturer, at its expense, shall furnish to the purchasing retailer, for installation by the retailer, the part, parts, or equipment necessary to correct such serious defect or failure to comply with an applicable Federal manufactured home construction and safety standard, and for the installation involved the manufacturer shall reimburse such retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 percent per month of the selling price of the manufacturer prorated from the date of receipt by certified mail of notice of such serious defect or such failure to comply to the date such serious defect or failure to comply is corrected, so long as the retailer proceeds with reasonable diligence with the installation after the required part or equipment is received."; and

(2) in subsection (b), by striking "distributor or dealer, as the case may be," and inserting "retailer".

(i) INSPECTION PROCEDURES.—Section 614 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5413) is amended—

(1) by striking the section heading and inserting the following new section heading:

"INSPECTION PROCEDURES";

(2) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall establish criteria for approval and certification of primary inspection agencies, who may be private parties or State agencies. The primary inspection agencies shall perform inspections of facilities of manufacturers and manufactured homes, and shall review the plans of manufacturers for conformity with the Federal manufactured home construction and safety standards established under this title. The Secretary shall publish a list of all primary inspection agencies approved and certified under the criteria established under this subsection.

"(3) Each manufacturer shall select from the list of approved primary inspection agencies under paragraph (2) a primary inspection agency with whom it will contract to review plans and conduct the inspections authorized under this title, except that in cases in which a State agency has been approved as the exclusive independent agency for the inspection of homes, the manufacturer shall contract with such agency.

"(4) The Secretary shall maintain a file for each primary inspection agency in which the Secretary shall collect any monitoring reports on the performance of the primary inspection agency conducted by or for the Secretary pursuant to this paragraph and any submissions by the primary inspection agency to the Secretary during each calendar year. The Secretary shall annually review each primary inspection agency and its file for the preceding year. If the Secretary determines that a primary inspection agency satisfactorily has performed its duties under this title and that it possesses the qualified personnel and financial stability to continue to perform its responsibilities, the Secretary shall approve the primary inspection agency for service for another year.";

(3) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Secretary may audit, inspect, and investigate the primary inspection agencies on an annual basis and, based on in-plant inspections of manufacturers' facilities and manufactured homes, evaluate the performance of such agencies in carrying out their responsibilities under this section. The Secretary may, based on the evaluation, take appropriate and necessary corrective action in accordance with the purposes of this title.

"(2) For purposes of such inspection, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, may—

"(A) enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

"(B) inspect, at reasonable times, within reasonable limits, and in a reasonable manner, any such factory, warehouse, or establishment, and papers, records, and documents as are described in subsection (c), and each such inspection shall be commenced and completed with reasonable promptness.";

(4) in subsection (c)(5), by striking "a defect" and all that follows through the first period and inserting "a serious defect.";

(5) in subsection (e), by striking "Secretary or his designee" and inserting "primary inspection agency";

(6) in subsection (f)—

(A) by striking ", distributor, and dealer" and inserting "and retailer";

(B) by striking "manufacturer, distributor, or dealer" each place it appears and inserting "manufacturer or retailer"; and

(C) by striking "a person duly designated by";

(7) in subsection (g), by striking "Secretary" the first and second places it appears and inserting "primary inspection agency"; and

(8) in subsection (h), by striking "Secretary or his representative" and inserting "Secretary or the primary inspection agency".

(j) NOTIFICATION AND CORRECTION OF SERIOUS DEFECTS.—Section 615 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5414) is amended—

(1) by striking the section heading and inserting the following new section heading:

"NOTIFICATION AND CORRECTION OF SERIOUS DEFECTS";

(2) by striking the section designation and subsection (a) and inserting the following:

"SEC. 615. (a) Each manufacturer of manufactured homes who determines, in good faith, that any manufactured home produced by the manufacturer contains a serious defect, shall furnish notification of the serious defect to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the serious defect.";

(3) in subsection (b),

(A) in paragraph (1)—

(i) by striking "dealer or distributor" and inserting "retailer"; and

(ii) by inserting "serious" before "defect"; and

(B) in paragraph (3), by striking "dealer or dealers" and inserting "retailer or retailers";

(4) by striking subsection (c) and inserting the following new subsection:

"(c) The notification required by subsection (a) shall contain a clear description of such serious defect, an evaluation of the risk to the safety of the occupants of the manufactured home reasonably related to the serious defect, a statement of the measures needed to repair the serious defect, and a statement that such repairs are at no cost to the owner.";

(5) in subsection (d)—

(A) by striking "dealers" and inserting "retailers";

(B) by inserting "serious" before "defect";

(6) in subsection (e)—

(A) by striking the first sentence and inserting the following new sentence: "If the Secretary determines that any manufactured home contains a serious defect, the Secretary shall immediately notify the manufacturer of the manufactured home of each such serious defect.";

(B) in the third sentence, by striking "failure of compliance" and inserting "serious defect"; and

(C) in the fourth sentence, by striking "does not comply" and all that follows through "imminent safety hazard" and inserting "contains a serious defect";

(7) in subsection (f), by striking "distributors and dealers" and inserting "retailers";

(8) in subsection (g), by striking the first sentence and inserting the following new sentence: "A manufacturer required to furnish notification under subsection (a) or (e) of a serious defect shall also correct the serious defect in the manufactured home within a reasonable period of time at no expense to the owner.";

(9) in subsection (h)—

(A) in the first sentence, by inserting "serious" before "defect" each place it appears;

(B) in the second sentence by inserting "serious" before "defect"; and

(C) in the third sentence, by striking "defects or failure to comply" and inserting "serious defects"; and

(10) in subsection (i)—

(A) by striking "a defect or failure to comply" and inserting "a serious defect"; and

(B) by striking "the defect" and inserting "the serious defect".

(k) CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS AND WARRANTY.—Section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) is amended—

(1) by striking the section heading and inserting the following new section heading:

"CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS AND WARRANTY";

(2) by striking the section designation and inserting the following: "SEC. 616. (a)";

(3) by striking "distributor or dealer" and inserting "retailer"; and

(4) by adding at the end the following new subsection:

"(b) Each manufacturer of manufactured homes shall provide a 2-year warranty from the date of sale, in writing, to each purchaser of any manufactured home produced by such manufacturer, which shall conform to the requirements of any applicable State laws. The Secretary may not prescribe the provisions of such warranty beyond the requirement under this section to provide the warranty.".

(l) CONSUMER INFORMATION.—Section 617 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) is amended—

(1) in the first sentence—

(A) by striking "consumer's manual" and inserting "consumer's manual and an installation manual"; and

(B) by inserting before the period at the end the following: "and shall require manufacturers to provide the manuals to the purchasers at the time of purchase";

(2) in the second sentence, by striking "These manuals should" and inserting "The consumer's manual shall be easy to understand, shall contain guidelines for purchase and walk-through inspection, and shall"; and

(3) by inserting after the period at the end the following: "The installation manual shall contain detailed installation instructions, including specifications and procedures for erection and hookup of the home. The installation and consumer's manuals shall be written in an objective and easy-to-understand manner so that they can be understood by people without extensive technical training.".

(m) INSPECTION FEES.—Section 620 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419) is amended—

(1) by striking "required under this title" and inserting "authorized under section 614";

(2) by striking "manufacturers, distributors, and dealers" and inserting "manufacturers and retailers"; and

(3) by striking the period at the end and inserting the following: "; except that the Secretary may not impose on manufactured home manufacturers the costs associated with research, testing, development, training, or any other activities other than the inspections required pursuant to section 614(b) and the testing and training permitted under paragraphs (1) and (2) of section 608(b). Fee levels established pursuant to this section shall be established, and any adjustments in those levels made, in accordance with the rulemaking procedures under chapter 5 of title 5, United States Code.".

(n) STATE JURISDICTION AND PLANS.—Section 623(c)(9) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5422(c)(9)) is amended by striking "manufacturers, distributors, and dealers" and inserting "manufacturers and retailers".

(o) REPORTS TO CONGRESS.—Section 626 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5425) is amended—

(1) by striking the section heading and inserting the following new section heading:

"REPORTS TO CONGRESS";

(2) in subsection (a), by striking "Such report" and all that follows and inserting the following: "The report, consistent with the purpose and objectives of this title, shall examine issues related to the affordability, quality, and safety of manufactured housing. Such report shall include, but not be restricted to (1) a list of Federal manufactured home construction and safety standards prescribed or in effect in such years; (2) the level of compliance with all applicable Federal manufactured home standards; (3) a summary of all current research grants and contracts together with a description of the problems to be studied in such research; (4) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such years; (5) a statement of enforcement actions, including judicial decisions, settlements, serious defect notifications, and pending litigation, commenced during such years; and (6) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to manufactured home owners and prospective buyers."; and

(3) in subsection (b), by striking "to promote the improvement" and all that follows and inserting the following: "to promote the affordability, quality, and availability of manufactured housing, to promote the improvement of manufactured home construction and safety, and to strengthen the national manufactured home program.".

(p) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall issue regulations necessary to implement this section and the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 757. NATIONAL INSTITUTE OF BUILDING SCIENCES.

Section 809(h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2) is amended by striking the second sentence and inserting the following new sentence: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed $512,000 for each of fiscal years 1991 and 1992.".

SEC. 758. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT.—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "SEC. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) shall not apply to any volunteer laborers or mechanics not otherwise employed at any time in the construction work.".

(b) PUBLIC HOUSING AND SECTION 8 ASSISTANCE.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "SEC. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a), the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any volunteer laborers or mechanics not otherwise employed at any time on the project.".

(c) ELDERLY AND HANDICAPPED HOUSING.—Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)) is amended by striking "may waive the application of this paragraph" and inserting "shall waive the application of this paragraph".

(d) APPLICABILITY.—The amendments made by this section shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act, except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.

SEC. 759. ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.

(a) ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—

(1) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under a Federal program to assist first-time homebuyers; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) APPLICABILITY.—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

SEC. 760. MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.

(a) IN GENERAL.—Notwithstanding any other law, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary of Housing and Urban Development, to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning upon such employment.

(b) DEFINITION OF HOUSING ASSISTANCE.—For purposes of this section, the term "housing assistance program" means any program of assistance for housing—

(1) for which assistance is provided by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(2) under which rent payments, with respect to all or some of the units in the housing assisted, are limited, restricted, or determined under law or regulation based on the income of the occupying families.

SEC. 761. PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development may authorize preferences for native Hawaiians who seek occupancy in housing that is located on Hawaiian homelands and that is assisted under any housing assistance or mortgage insurance program administered by the Secretary. Such programs shall include programs providing assistance under the United States Housing Act of 1937, assistance under section 202 of the Housing Act of 1959, and mortgage insurance under the National Housing Act.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "native Hawaiian" means any descendant of not less than one-half of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778 (or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian homelands, such lower percentage as may be established under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5)).

(2) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5)).

SEC. 762. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) USE OF FEDERAL FUNDS FOR MATCHING AMOUNTS.—Any available assistance received from the Federal Government by an Indian housing authority may be used by such housing authority to fulfill any requirement under a housing program, in any provision of law, that requires the housing authority to provide amounts to match or supplement the amounts provided under such program, if under laws or regulations relating to the use of such assistance, the assistance is available for such housing activities. Assistance may be used as provided in this subsection notwithstanding any other provision of law prohibiting or restricting the use of assistance provided by the Federal Government to match or supplement amounts provided under any housing program.

(d) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 763. ENERGY EFFICIENCY PROGRAM.

(a) ANNUAL ENERGY ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not less than annually, assessing the status of the energy efficiency of, and energy use by, housing in the United States. The report shall include—

(A) information regarding the amount of energy used in residences, including the amount of use of renewable energy resources;

(B) a statement of the activities conducted by the Secretary to promote or achieve residential energy efficiency, and the amount and sources of any funds expended by the Secretary for such purpose; and

(C) a comparison, based on the standard established under paragraph (2), of residential energy efficiency for the year for which the report is submitted to residential energy efficiency in previous years, and an explanation of any changes in such efficiency.

(2) ESTABLISHMENT OF ENERGY EFFICIENCY STANDARD.—In the first annual report submitted under this subsection, the Secretary of Housing and Urban Development shall establish, and include a description of, a standard measure by which changes over time in residential energy efficiency may be compared.

(b) ENERGY EFFICIENCY DEMONSTRATION.—

(1) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate various methods of improving the energy efficiency of existing housing.

(2) SCOPE.—Amounts made available under this subsection may be used under existing programs administered by the Secretary of Housing and Urban Development or other organizations and agencies, and may be used to establish any new programs, as the Secretary may determine.

(3) EXISTING HOUSING.—The demonstration under this section shall determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed.

(4) REPORT.—As soon as practicable after September 30, 1991, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1991.

(c) 5-YEAR ENERGY EFFICIENCY PLAN.—

(1) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under paragraph (4) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any annual energy assessments under subsection (a).

(2) INITIAL PLAN.—The Secretary of Housing and Urban Development shall establish the first plan under this subsection not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(3) UPDATES.—The Secretary of Housing and Urban Development shall revise and update the plan under this subsection not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under paragraph (2) to the Congress (as provided in paragraph (4)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(4) SUBMISSION TO CONGRESS.—The Secretary of Housing and Urban Development shall submit the initial plan established under paragraph (2) and any updated plans under paragraph (3) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(d) REPORT REGARDING UNIFORM ENERGY EFFICIENT MORTGAGE POLICY.—

(1) REQUIREMENT.—The appropriate heads of the Federal entities under paragraph (5) shall jointly submit to the Congress a report under this subsection.

(2) CONTENTS.—The report under this subsection shall contain—

(A) a description and evaluation of any laws, regulations, and policies of, and relating to, each such entity regarding housing energy efficiency requirements; and

(B) a recommendation for a uniform policy relating to the mortgage programs under all such entities for mortgage underwriting standards that promote the underwriting of mortgages on housing meeting minimum energy efficiency requirements, which shall include recommendations for any actions to be taken by the Congress and the entities to establish and adopt the uniform policy.

(3) DISTINCTION.—The uniform policy recommended by the report under this subsection shall provide for separate treatment of newly constructed housing and existing housing.

(4) MONITORING.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall monitor the development of the recommendation of the uniform policy under this subsection and consult with the appropriate heads of the Federal entities under paragraph (5) with respect to the report required under this subsection.

(5) PARTICIPANTS.—The report required under this subsection shall be prepared and submitted by the following Federal entities:

(A) The Department of Housing and Urban Development, to the extent of the Federal Housing Administration mortgage insurance programs.

(B) The Department of Agriculture, to the extent of the Farmers Home Administration mortgage loan and mortgage insurance programs.

(C) The Federal Home Loan Mortgage Corporation.

(D) The Federal National Mortage Association.

(E) The Department of Veterans Affairs.

(6) TIME OF SUBMISSION.—The report under this subsection shall be submitted to the Congress not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(e) IMPROVED ENERGY CONSERVATION STANDARDS FOR NEWLY CONSTRUCTED HUD-ASSISTED HOUSING.—

(1) IN GENERAL.—Any single family or multifamily residential housing (except for manufactured homes) that is constructed after the expiration of the 1-year period beginning on the date of the enactment of this Act and for which housing assistance is provided shall comply with the energy performance requirements under section 526(a) of the National Housing Act.

(2) DEFINITION OF HOUSING ASSISTANCE.—For purposes of this subsection, the term "housing assistance" means any assistance provided under a program administered by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, property, cooperative agreement, insurance, or direct appropriation.

SEC. 764. LOW INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAM.

(a) AUTHORITY.—The Secretary of Housing and Urban Development may make grants under this section to States for distribution to entities that are receiving amounts from such States under part A of title IV of the Energy Conservation and Production Act to carry out a low-income housing conservation and efficiency program to provide safe, energy-efficient affordable housing for low-income persons.

(b) ALLOCATION AMONG STATES.—Of any amount approved in appropriation Acts for grants under this section in any fiscal year, each State shall receive a percentage of the total amount approved that is equal to the percentage of the total amounts available under part A of title IV of the Energy Conservation and Production Act that such State receives under such Act. If any State does not accept amounts made available under this section within 30 days after any such amounts become available, the Secretary of Housing and Urban Development may use the amounts allocated under this subsection for such State for direct grants (subject to application and a competitive selection process as the Secretary shall establish) to entities within such State that are receiving amounts under part A of title IV of the Energy Conservation and Production Act.

(c) DISTRIBUTION BY STATES.—

(1) IN GENERAL.—Each State that receives amounts under this section shall distribute such amounts to entities that are receiving funds under part A of title IV of the Energy Conservation and Production Act, subject to the approval of an application by the entity demonstrating the ability of the entity to conduct an effective housing conservation program in coordination with activities under the weatherization assistance for low-income persons program carried out by the Secretary of Energy under such part A of such Act, and meeting criteria for approval under paragraph (2).

(2) SELECTION CRITERIA.—Each State that receives amounts under a grant under this section shall select, from among entities eligible under paragraph (1) that have submitted applications for such amounts, entities to receive such grant amounts, subject to the following criteria:

(A) The entity shall have demonstrated competence in the management of weatherization programs.

(B) The entity shall have demonstrated the ability to evaluate local housing conditions and to repair and make energy conservation investments in low-income housing.

(C) The entity shall have demonstrated the capacity to significantly decrease the deterioration of low-income housing within the communities served by the entity and shall provide services in communities where housing deterioration poses a serious threat to the stock of available and habitable low-income housing.

(d) USE REQUIREMENTS.—

(1) IN GENERAL.—Amounts provided under this section shall be available to any entity conducting activities under such program for use carrying out activities under paragraph (2) and administrative costs of the entity relating to such activities and to administering amounts received from grants under this section. No amounts received under this section may be used for administrative costs of States.

(2) ACTIVITIES.—Each entity that receives amounts from a grant under this section shall—

(A) identify units of low-income housing that are—

(i) owned and occupied by persons or families who are eligible for assistance under the program established under this section and who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(ii) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(iii) are not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(B) make repairs that will significantly prolong that habitability of units identified

under subparagraph (A), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons;

(C) take reasonable steps to ensure that any units so repaired will remain occupied by persons or families with incomes not exceeding 125 percent of the area median income, as determined by the Secretary; and

(D) contribute from non-Federal sources an amount equal to 20 percent of the amount received by the entity from a grant under this section which non-Federal contributions may include the costs of labor and other self-help measures by community residents and institutions (the value of which shall be fairly evaluated based on the actual or estimated costs of labor or other self help measures).

(e) FUNDING TIMING.—The Secretary shall make funds available to States from any amounts approved in any appropriation Acts under this section not later than the expiration of the 90-day period beginning on the date of the enactment of such appropriation Act. Each State that receives amounts under this section shall issue a request for applications from eligible entities for such amounts within 45 days of the date such amounts become available to the State. Each such State shall provide amounts to entities whose applications are accepted within 120 days after the request for applications is issued.

(f) REPORTS.—

(1) TO SECRETARY.—Each State receiving amounts from grants under this section shall report to the Secretary of Housing and Urban Development regarding the distribution and use of such amounts as the Secretary shall require.

(2) TO CONGRESS.—The Secretary of Housing and Urban Development shall, using any information and reports received from States under paragraph (1), submit a report to the Congress not less than annually regarding the costs and benefits of the grant program under this section and the extent to which the program has—

(A) preserved low-income housing that otherwise would have deteriorated beyond the point of habitability;

(B) increased the energy efficiency and reduced the energy costs of homes;

(C) reduced the long-term use of fossil fuels; and

(D) prevented low-income families from becoming homeless.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary for fiscal year 1991. Any amounts appropriated under this subsection shall remain available until expended.

SEC. 765. REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties.

(b) STANDARDS.—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable. The standards shall take into consideration building type and risk exposure, including factors relating to new construction and existing structures, building materials, design criteria and construction practices used in the development of new and existing structures, soil and other geological conditions, and the proximity of structures to seismic hazards.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) ANNUAL SUBMISSION AND CONTENTS.—The Secretary shall submit a report to the Congress, not less than annually, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties by building type, location, and program, and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) INITIAL SUBMISSION.—The first report required under this subsection shall be submitted not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 766. JOINT VENTURE FOR AFFORDABLE HOUSING.

(a) IN GENERAL.—The Secretary shall carry out a program to—

(1) promote the development of information on affordable housing through reform of regulations, use of innovative construction and land planning techniques, and elimination of governmentally-imposed administrative restrictions inhibiting such development; and

(2) study model growth communities, develop a database on building and regulatory innovations that reduce development costs, serve as a clearinghouse to share resource materials and ideas among joint venture partners, publicize through conferences, workshops, demonstrations, publications, and similar activities, methods of reducing construction costs through more effective and efficient planning, site development, and building procedures, examine the use of factory-built housing (including manufactured housing) as a means of achieving affordable housing, and coordinate the activities of the Secretary that encourage and promote the objectives of this subsection.

(b) TERMINATION OF PROGRAM.—The program under this section shall terminate upon the expiration of the 2-year period beginning on the date of the enactment of this Act.

Subtitle D—Disaster Relief

SEC. 771. SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate and voucher programs under sections 8 (b) and (o) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 772. MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 773. COMMUNITY DEVELOPMENT.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (4),"; and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

"(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

"(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year

period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.".

(b) URBAN DEVELOPMENT ACTION GRANTS.—

(1) IN GENERAL.—Section 119(g) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(g)) is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding subsection (d)(5)(B)(iii), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to cities and urban counties eligible under subsection (b) for grants under this section that are located or partially located in the areas affected by the disaster, any amounts that are recaptured from previous grants.

"(B) In using any recaptured amounts, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any city or urban county under this paragraph only to the extent necessary to meet emergency urban development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to cities and urban counties under this paragraph may be used only for eligible activities under this section, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications under subsection (c)) for assistance under this paragraph.

"(F) A city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any recaptured amounts for assistance under this paragraph if, when such amounts are to be included in a competition pursuant to subsection (d)(5), no city or urban county qualifies for assistance under this paragraph.".

(2) CONFORMING AMENDMENT.—Section 119(d)(5)(B)(iii) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(d)(5)(B)(iii)) is amended by striking the period at the end and inserting the following: "and have not been awarded under subsection (g)(2).".

SEC. 774. RURAL HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"DISASTER ASSISTANCE

"SEC. 538. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts available under this title. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

"(2) AMOUNT.—Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of—

"(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

"(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

"(b) USE.—The assistance made available under this section may be used for the housing purposes authorized under this title, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(c) ELIGIBILITY.—Notwithstanding any other provision of this title, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

"(d) WAIVER OF RURAL AREA REQUIREMENTS.—The Secretary may waive the application of the provisions of section 520 with respect to assistance under this section, as the Secretary considers appropriate.

"(e) RURAL HOUSING INSURANCE FUND.—The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1).".

Mr. GONZALEZ. Mr. Chairman, in the case of the amendment of the gentleman from California [Mr. PACKARD] scheduled for title V, the gentleman was unavoidably called from the floor, and we would ask unanimous consent that in this one instance exclusively we permit the gentleman to go back to title V and offer his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will redesignate title V.

The Clerk redesignated title V.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: Page 253, after line 14, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 525. ELIGIBILITY OF VOUCHERS FOR USE WITH MOBILE HOMES.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(9)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist lower income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family, or with respect to the rental by such family of a manufactured home and the real property on which it is located. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property.

"(B)(i) A contract entered into prusuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.

"(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of—

"(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.

"(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

"(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufac-

tured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.".

Mr. PACKARD. Mr. Chairman, I want to thank the gentleman from Texas [Mr. GONZALEZ] for asking for this unanimous consent. The gentleman is a very efficient chairman in moving this bill along very well. I would have been here had I been able.

Mr. Chairman, my amendment simply allows HUD to use and issue vouchers as well as certificates for mobile homeowners that can be used for their rent. It will allow them the flexibility of using both certificates and vouchers. We feel that this would be in the interests of senior citizens, giving them no option to use them for inexpensive housing, and it would also give them the opportunity to shop for more inexpensive housing by the use of vouchers.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, we certainly have looked this amendment over and have no objection to it. We accepted it on our side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The amendment was agreed to.

The CHAIRMAN. The Clerk will redesignate title VII.

The Clerk redesignated title VII.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 421, line 20, before "Section" insert the following:

"(a) MORTGAGE LIMIT INCREASE.—".

Page 421 after line 24, insert the following new subsection:

(b) MAXIMUM MORTGAGE AMOUNT.—

(1) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after "higher dollar amount." the following: "In no case may the insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary shall approve) exceed the appraised value of the property.".

(2) CONFORMING AMENDMENT.—Section 203(d) of the National Housing Act (12 U.S.C. 1709(d)) is amended by striking the period at the end and inserting the following: ", except that this subsection shall not apply to the maximum mortgage amount limitation in the third sentence of subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to mortgages insured on or after October 1, 1992.

Page 422, before line 1, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 733. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—

(1) IN GENERAL.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by striking ": *Provided*, That with respect to mortgages" and all that follows; and

(C) by adding at the end the following new paragraph:

"(2) With respect to mortgages on 1- to 4-family dwellings—

"(A) insured prior to the effective date of this paragraph, the Secretary shall refund not more than 50 percent of the unearned premium upon prepayment of the principal obligation; and

"(B) insured after the effective date of this paragraph, the Secretary shall establish and collect—

"(i) at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which premium may be financed as a part of the mortgage loan; plus

"(ii) periodic premium payments of 0.6 percent of the remaining insured principal balance, and shall not refund any portion of the premium in the case of prepayment of the principal obligation.".

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

(b) TRANSITION RULES.—

(1) PREMIUM CHANGES.—Notwithstanding section 203(c) of the National Housing Act, mortgage insurance premiums for mortgages subject to section 203(b) of such Act for which mortgages are insured during fiscal years 1991 through 1996 shall be payable as provided in the following table:

Fiscal year of execution of mortgage	Percentage of principal obligation paid as premium at the time the mortgage is insured	Premium payable in periodic payments (expressed as percentage of principal obligation)
1991–92	3.75	0.24
1993–95	2.15	.48
1996	1.35	.60

(2) REFUNDS.—

(A) Except as provided in subparagraph (B), upon prepayment of a mortgage that was insured at any time prior to October 1, 1995, the Secretary shall refund not more than 50 percent of the unearned premium.

(B) Upon prepayment of a mortgage for which insurance is issued during fiscal years 1991 through 1995, the Secretary shall not refund a portion of the premium paid at the time of insurance that equals 1.35 percent of the original insured principal obligation. The Secretary shall refund not more than 50 percent of any unearned premium in excess of the amount referred to in the preceding sentence.

SEC. 734. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

Page 426, after line 16, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 737. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(C) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund and shall report annually to the Congress on the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c), or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Such premium change shall take effect not earlier than 90 days following such notification, unless the Congress acts during such time to increase, prevent, or modify the change.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default.".

SEC. 738. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments.".

Mr. VENTO. Mr. Chairman, the amendment which Congressman RIDGE and I offer today is of course the proposed legislation which over 130 Members have joined in sponsoring, the FHA Protection and Homeownership Preservation Act of 1990. This bill is endorsed by the Consumers Union, the Consumer Federation of America, the National Association of Realtors, the National Association of Home Builders, the AFL-CIO, ACORN, and other interested groups. The Vento-Ridge proposal is a responsible answer to the actuarial review of the Federal Housing Administration's Mutual Mortgage Insurance Fund that was released this summer. The Vento-Ridge amendment will maintain the actuarial soundness of the insurance fund, while maintaining the operating principal of the FHA—enhancing home ownership opportunities for moderate and lower income families.

Our Nation stands nearly alone in our success to provide affordable housing opportunities for American families. The reason for this unprecedented success of home ownership in our Nation flows to the genius of the FHA Program of providing a low downpayment with a national insurance basis. This program spreads the risk broadly and provides the opportunity for home ownership to millions of American families.

The success of the FHA Program is well documented. In a statement before the Housing Subcommittee, HUD witnesses testified that currently 6.5 million homes are insured through the FHA insurance fund. There are 690,000 families who used FHA insurance to buy a home last year; 450,000 of them were first-time home buyers. According to the General Accounting Office over 58 percent of the home buyers who used FHA for 30-year financing of single-family homes made downpayments of less than 8 percent.

Historically, the FHA has succeeded—not only in terms of providing home ownership opportunities, but also in terms of the insurance fund's actuarial soundness. During the 1970's and into the early 1980's the FHA built a solid surplus of $3.5 billion capable of weathering economic storms. However, as with so many other programs, FHA was victimized by the budget scorekeeping "pea and shell game." Prior to 1983 the FHA insurance fund was on a pay-as-you-go system. That year, the Reagan administration budget gurus found a way to use the FHA to mask the size of the deficit. Rather than an annual premium, the FHA insurance fund was changed to an upfront premium which was stored at Treasury rather than being immediately deposited in the FHA. This change made it easier for OMB by appearance to reduce the Federal deficit, but it certainly did not help FHA home purchasers by increasing their home mortgage loans and raising the price of home ownership at the critical time of purchase.

This summer the Department of Housing and Urban Development released an actuarial review of the Federal Housing Administration's Mutual Mortgage Insurance Fund conducted by Price Warehouse. This analysis determined that the FHA fund is sound today but did point out that the insurance fund experienced a serious depletion of this built-up surplus during the 1980's because of poor management and inefficient premiums. These losses are most disturbing and could jeopardize the FHA insurance fund in the future if not adequately addressed.

In 1989, Congress enacted strong new laws to stop the serious HUD managerial abuses that had occurred during the 1980's. It is now time for Congress to develop a policy that will once again achieve actuarial soundness for the FHA insurance fund while preserving the historic FHA role in affordable homeownership for moderate and lower income families. This is what the Vento-Ridge proposal is designed to accomplish; this is what the Vento-Ridge amendment will do.

The Vento-Ridge amendment implements needed reforms to attain an adequate capital ratio for the FHA insurance fund. The amendment requires that the FHA insurance fund attain the Price Waterhouse recommended capital ratio of 1.25 percent in 24 months. Our amendment goes even further and requires a stronger 2 percent capital ratio by the year 2000.

To accomplish that goal, the Vento-Ridge amendment takes several steps. First, the amendment reestablishes a pay-as-you-go funding system by reducing the up-front premium and replacing it with an additional premium that is payable through the life of the loan. This pay-as-you-go system provides a steady flow of funds into the FHA insurance fund to counteract the depletion of the fund and reduces by nearly two-thirds the increased mortgage amount attributed to the up-front FHA insurance fee.

The Vento-Ridge proposal eliminates the on-going practice of paying distributive shares out while the FHA insurance fund is not actuarially sound. Distributive share are similar to stock dividends and should not be paid at a time when the fund is losing money. This commonsense step saves the FHA insurance fund an estimated $140 to 150 million each year.

In addition, our amendment will restrict the amount that the FHA rebates on unearned premiums and saves another $500 million over the next 5 years. The amendment also provides better oversight for Congress and the administration by requiring annual audits of the fund and authorizing the Secretary of HUD to raise the premiums when the insurance fund is inadequate.

In achieving the goal of actuarial safety and soundness, the Vento-Ridge amendment avoids the sacrifice of homeownership opportunity for hundreds of thousands of American families, especially first time home buyers. The Vento-Ridge approach importantly does not signifiantly increase the amount of upfront cash that will be required of families to buy a home. The Vento-Ridge amendment continues the successful FHA philosophy of balancing the risk and cost through a national insurance pool. That philosophy has been successful in opening the door of homeownership to millions of American families.

In contrast to the Vento-Ridge amendment is the HUD/Senate proposal which would dramatically and drastically alter the successful FHA philosophy and place the heaviest cost burden on those who are least able to pay. This amendment turns the FHA Program literally on its head.

Rather than restoring the FHA to a pay-as-you-go system, the HUD/Senate measure continues, largely for budget gimmickry purposes, a higher up-front premium than the Vento-Ridge bill. Added to that is an wholly new untried or proven regressive risk based premium system. As a result, down payments will have to be increased by 40 to 50 percent, doubling the down payment required by the Vento-Ridge amendment. The botton line is a program that is stratified on the basis of up-front cash and that effectively locks out over 100,000 potential home buyers from purchasing a home each year. I need not remind my colleagues that most of these 100,000 home buyers will be the first time home buyers who most need our help.

Mr. Chairman, the HUD/Senate proposed reform of FHA fails the test of fairness, or workability. The FHA fund solvency must not be at the loss of the purpose for which the FHA program exists.

Mr. Chairman, when Congressman RIDGE and I first suggested our plan, the adminstration criticized it on the grounds that it did not meet adequate capital requirements. Now they admit that we will attain adequate capital ratios soon after their own proposal. Following that, HUD raised a new straw man and claimed that this amendment was only an industry position. You have all received letters of support in your office for the Vento-Ridge amendment from organizations representing the grassroots consumer movement, public agencies and the AFL-CIO. Following that ploy HUD claimed that the Vento-Ridge amendment has a loan to value ratio that is too low. Yet based on HUD's own independent analysis, our true loan to value ratio is better than the administration's own proposal. Today the new administration claim is that under Vento-Ridge, a borrower will need only $35. That is an absurd unsubstantiated charge. According to the Consumers Union analysis, our amendment will require a cash downpayment of $4,650 on a $100,000 home. Similar cash downpayments will be required for lesser valued homes.

Mr. Chairman, it is essential that Congress reiterates its support for homeownership. The Vento-Ridge amendment accomplishes that goal. I urge my colleagues to join with Congressman RIDGE and I to support this amendment and save the FHA.

□ 1730

The CHAIRMAN pro tempore (Mr. GAYDOS). The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent Mr. VENTO was allowed to proceed for 2 additional minutes.)

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I rise in strong support of the Vento-Ridge amendment. We are all concerned over the health of the Mutual Mortgage Insurance Fund and rightly so. As we have learned in the financial services industry, capital is the first line of defense against losses to the taxpayer. We are also concerned over the affordability of housing to the first time home buyers and low-income Americans.

The Vento-Ridge amendment strikes the best balance. It seems to me that the primary mechanism for losses to the fund has been to allow the financing of over 100 percent of the value of the homes under the FHA Program. As we have seen in the S&L industry and its appraisal problems, some of the worst and most extensive losses occur if the collateral is overvalued in regard to the loan. I am concerned that under the HUD-Senate proposals, most loans would have a loan to value ratio in excess of 100 percent.

The Vento-Ridge amendment deals with this problem by requiring that by 1993, no mortgage can exceed an LTV of 100 percent. If for no other reason, this makes their proposal superior. However, there are many other reasons. It will recapitalize the fund to an acceptable level within 2 years while reducing up front costs to a level that is more accessible to those we are trying to help.

I urge my colleagues to support this amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his support.

Mr. RIDGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Vento-Ridge amendment to H.R. 5157, an amendment that will restore safety and soundness to the FHA insurance fund while at the same time preserving homeownership affordability for millions of low- and moderate-income, first-time American homebuyers.

My colleagues, there has been a lot of discussion and, in my mind, much disinformation, generated about what the Vento-Ridge proposal does and does not do. I think it's time that we set the record straight.

The Vento-Ridge proposal is actuarially sound. Our proposal exceeds the level of funds that Price Waterhouse said in its report was required to build equity in the FHA fund to reach a capital standard of 1.25 percent. And Vento-Ridge goes one better. Our proposal mandates that FHA achieve an even stronger capital standard of 2 percent by the year 2000.

While the counterproposal put forward by HUD may, and I say may, reach the capital goal slightly faster, it does so by jeopardizing the opportunity for homeownership for thousands of future home buyers and by putting the burden of FHA reform solely on the backs of those borrowers.

In addition, the statutory language of the HUD proposal says that the Secretary shall endeavor to attain a capital standard of 2 percent. "Shall endeavor"? This doesn't read like a mandatory requirement to me—it's discretionary, there's no guarantee that 2 percent will be achieved.

Vento-Ridge strengthens the FHA insurance system by returning to a pay-as-you-go funding system. This reduces the upfront premium that can be financed, lowering the borrower's loan-to-value ratio, giving the borrower real equity in his home, thereby reduces the risk of default.

In contrast, the HUD proposal would allow the borrower to finance the whole of the 3.8 percent, pushing his loan-to-value ration in many cases above 100 percent, thereby encouraging default. Now supporters of the HUD proposal will claim that this 3.8 percent is equity. But the simple fact is that it's part of the borrower's total debt, it is nonrefundable upon default—it is debt, not equity.

Vento-Ridge preserves the dream of homeownership for potential home buyers. For the past 55 years, FHA has been the answer for 17 million American dreams. Last year, 690,000 American families used FHA insurance to purchase a home, 450,000 of which were first-time home buyers.

According to the General Accounting Office, of these 450,000 first-time home buyers, over 40 percent were only able to make downpayments of 5 percent or less. Yet the HUD proposal would raise the amount of the downpayment for these home buyers by 50 percent, at the same time increasing their monthly payments.

The end result would be to price anywhere from 50,000 to 100,000 potential home buyers out of the FHA Program. Yes, for some this will merely mean a delay in homeownership. But for the majority it will mean that the FHA door to homeownership will be permanently slammed shut, forever foreclosing the dream of owning a home.

The Vento-Ridge proposal, on the other hand, restores FHA to actuarially soundness while still keeping downpayment costs down. Our proposal maintains the appropriate focus of the FHA Program as one to enhance homeownership opportunities for low- and moderate-income families.

That is why the Vento-Ridge amendment has a broad, bipartisan support of over 125 Members of this House, in addition to the support of the Consumers Union, the Consumer Federation, the National Association of Realtors, the National Council of State Housing Finance Agencies, ACORN, the National Association of Home Builders, LISC, the Enterprise Foundation, the AFL-CIO, and the Mortgage Bankers Association.

My colleagues, we can restore safety and soundness to FHA. We can return FHA to financial stability. We can impose tough capital standards that will ensure that the program can weather the most severe of economic conditions. And we can do that in a way that still preserves FHA for the first-time, low- and moderate-income, home buyers the program was designed to help.

The Vento-Ridge amendment does this. It restores actuarial soundness to FHA, it meets the required capital

standards and ensures the future solvency of FHA, and it does this with the least negative impact on potential home buyers and in the least regressive manner.

My colleagues, the Vento-Ridge proposal is sound and reasonable reform. It's reform that's consistent with putting the American families who need our help most into homes. Vento-Ridge is good housing policy and it's good public policy.

During the course * * * in the forseeable future.

VENTO-RIDGE AMENDMENT HOUSING BILL

During the course of the debate on this amendment today, I am certain there will be those who will attempt to claim that the FHA situation today is the same as the situation faced by the S&L industry a few years ago.

Let me take this opportunity, to lay this argument to rest. It is simply not accurate to compare the problems of FHA and those of FSLIC.

To explain to my colleagues why the situation is not analogous, I want to read, verbatim, the testimony given before the Senate Banking and Urban Affairs Committee late last year by C. Austin Fitts, Assistant Secretary for Housing and FHA Commissioner.

In a response to a question asked by Senator D'AMATO of New York, "Is this another FSLIC situation?", Commissioner Fitts replied, and I quote:

Senator, I am extremely glad you asked that question because there are those that have tried to draw parallels between FHA and FSLIC. In certain instances, they have done that in what I consider to be a most irresponsible fashion.

There are several differences, and I would like to talk about five of them. First of all, in the situation of FSLIC, and one that made it very hard to manage over time, was interest rate risk, as opposed to credit risk. The problem that the S&Ls faced was one of funding long-term obligations with short-term liabilities. We do not face that at FHA.

Our situation in FHA is one of credit risks. In many instances it is particularly in the Mutual Mortgage Insurance Fund that I would like to point out that those are not speculative loans, as was the case with S&Ls. What we are talking about is American homeowners across the country.

I would submit to you that those people are taxpayers and workers; that the collateral that we hold is their homes. If we do not value that credit, then I submit to you that we do not value the credit of the U.S. Treasury, because certainly that is a portion of the same credit that backs us all.

Another thing, point four, that I would like to point out is the size of the FSLIC situation, which was far larger. No matter what we think our problems are here, they are eminently smaller.

Finally, I would like to say that, thanks to the work of this committee thanks to the work of GAO, and now thanks to Secretary Kemp and President George Bush, whatever our problems are they are being nipped in the bud. If early on in a problem FSLIC has been faced squarely the way I think this has been, certainly it would have been far easier to cope with than that one.

Mr. Chairman, I think there can be no beter explanation of the difference between the FHA situation and the FSLIC situation than that offered in the recent testimony by HUD's own FHA Commissioner, which I have just quoted.

While FHA has had its problems, it is still solvent. In fact, even without the changes Mr. VENTO and I propose today, the FHA fund is starting to return to a profitable level as evidenced by the fact that the latest Price Waterhouse estimate now states the reserves in the Mutual Mortgage Insurance Fund to be $3.2 billion—this is up from the $2.6 billion contained in the original Price Waterhouse figures released just a little over 1 month ago.

Furthermore, as recently testified to by Under Secretary DelliBovi, the FHA single-family fund in the first 6 months of fiscal year 1990 is operating at an $80 million surplus.

Nevertheless, Congressman VENTO and I want to make absolutely sure that in any future economic downturns, American taxpayers will never have to bail out FHA. That is why we have a proposal before you today, which has been reviewed by Price Waterhouse, in an independent and objective analysis. Price Waterhouse has issued a letter dated June 25, 1990, in which they state that the Vento-Ridge amendment is actuarially sound.

In other words, the Vento-Ridge amendment stops the losses the fund has experienced over the past few years and starts building the equity reserves needed to sustain it through any economic downturn in the foreseeable future.

I urge my collegues to support Vento-Ridge.

□ 1740

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Vento-Ridge amendment on FHA. Changes in FHA are needed, but not at the expense of the future home buyers of America who need FHA to buy their homes. The Vento-Ridge amendment returns the FHA mortgage insurance premium structure back to the 1983 method of operation which was a pay-as-you-go system. This structure would include both an upfront premium fee of 1.35 percent which could be financed, and an annual premium payment for the life of the loan based on a proven acturial need. In order to minimize the budgetary impact it will be phased in over a number of years.

The amendment also maintains current minimun downpayment requirements and financing of closing costs. Mr. Speaker, this is important. The biggest obstacle to home ownership is the inability to save enough money for the downpayment, points, and closing costs. People can make the monthly payments but cannot raise the upfront money.

This amendment is important to me and the people in my State of Ohio. In 1989 the precent of FHA transactions in my State included 22 percent in Cleveland, 22 percent in Cincinnati, 21 percent in Toledo, and 17.5 percent in Youngstown.

I urge my colleagues to support this amendment.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Vento-Ridge amendment to H.R. 1180.

Mr. Chairman, the bottom line of the 1980's is that the middle class in America took a beating. The tax burden in America shifted to the middle class, as the wealthy got huge tax cuts and payroll taxes on working people skyrocketed. At the same time that the incomes of the wealthiest Americans were increasing dramatically, middle-class incomes were stagnating.

In its present form, H.R. 1180 would only continue this assault on middle-class Americans by effectively eliminating one of the principal tools middle- and lower-income working Americans have had available to enable them to realize every American's dream of home ownership. Make no mistake: Without amendment, H.R. 1180 would mean that in my district alone, some 3,000 families who would otherwise be purchasing homes would be closed out of the housing market by the proposed FHA restructuring.

Mr. Chairman, there is not a Member of this body who is not keenly aware of the urgent actions needed to ensure the continued solvency of our critical financial and credit-giving institutions. There can be no glossing over the financial crisis that is upon us, and where restructuring is required it must be implemented without delay. But it is possible to make the required changes in a way that does not gut the entire FHA enterprise—and that is the purpose of the Vento-Ridge amendment. With Vento-Ridge, we would achieve the capital levels necessary to guarantee the solvency of the FHA; but we would simultaneously permit the FHA to pursue its original mission of helping American families own their own homes. With Vento-Ridge, we get rid of the bath water, but we hold on to the baby.

Mr. Chairman, in the interest of working families in Michigan and thoughout our country, I urge passage of the Vento-Ridge amendment.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I rise in support of the amendment offered by my colleagues, Mr. VENTO and Mr. RIDGE. As many of you undoubtedly know, a recent audit of the FHA Mutual Mortgage Insurance Fund by Price-Waterhouse found that while the fund is currently solvent, it is headed for the rocks by the end of this decade. As the primary source of assistance to moderate- and middle-income home buyers in this country, it is imperative that we stabilize and strengthen the fund.

The FHA fund is especially important to those of us representing rural districts. In my home State of New Mexico, which is predominately rural, one out of every five mortgages are through FHA. There is no question that we must assure the actuarial soundness of the FHA, but it should be done in conjunction with efforts to continue the availability and affordability of housing. I believe the Vento-Ridge amendment accomplishes this goal.

The administration proposal on FHA which passed in the Senate is directed at making the fund sound, but increases the financial burden on those it is intended to help. For example, it would increase risk-related premiums on loans with less than 10 percent down and would also require the home buyers to pay two-thirds of the closing costs up front, in cash. Combined, these two provisions mean the borrower has to come up with a significantly larger amount of money to secure financing. This will eliminate many potential first time home buyers.

I believe the Vento-Ridge amendment, which incorporates many of the recommendations made in the Price-Waterhouse report, will provide actuarial soundness to FHA while helping us meet our affordable housing needs. I urge my colleagues to join me in support of this amendment.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Vento/Ridge amendment.

During the 1980's, rural States and communities across America were hit hard—Midwestern States with the agricultural depression, Southern and Western States with the energy depression, and the current economic downturn throughout the Northeast. The challenge these communities face in revitalization is not only the need to create jobs, but also an increasing need to provide housing as well. Many of these rural areas are the largest users of FHA and need a vital, constant, yet reasonable FHA financing for home purchases.

The concerns we face about FHA dates back to the budget gimmickry that took place in the Budget Reconciliation Act of 1983. Prior to 1983, the FHA insurance premium was collected on a monthly, or pay-as-you-go basis. In order to balance the 1983 books, the administration decided to collect FHA mortgage insurance premiums at the point of loan orientation. In September 1983, this policy was changed to a 3.8-percent upfront payment which could be financed. As a result, the revenue was credited to the Federal budget and against the deficit that year.

Unfortunately, the Office of Management and Budget is insisting on maintaining this upfront collection for budget deficit reasons, not for housing reasons. And while this insistence may improve the budget deficit numbers, it will also drive thousands of families from the opportunities of home ownership.

My colleagues, in our effort to make housing more available and more affordable, we should not make it more difficult and more expensive for first-time home buyers to purchase homes.

From a rural State perspective, the administration's proposal to reform FHA which recently passed the Senate is simply devastating.

For example, the risk-related premium on loans with less than 10 percent down payment would jump from 3.8 percent, to an average of 7 percent.

It would also require the home buyer to pay two-thirds of the closing costs up front, in cash. It is conservatively estimated this would eliminate as many as 100,000 FHA families, or 14 percent of current FHA users.

Together, these provisions would mean the average FHA borrower would need as much as an additional $1,400 in cash to secure FHA financing. These proposals make it more difficult for those people which FHA was designed to help, the first-time home buyer with a low to moderate income, to purchase homes.

In rural America FHA is an important component in the home insurance market, and in many of these States the only viable home insurer remaining. Nationwide, FHA is used in rural areas almost 22 percent of the time, compared to the national average of almost 18 percent. Broken down by regions, 24 percent of the homes in the Midwest, 29 percent of the homes in the West, 40 percent of the homes in the South, and 7 percent of the homes in the Northeast were FHA insured in 1988.

If rural America is to continue to rebuild, a critical component of that effort will be housing. New housing must be created, and first-time home buyers must be allowed access to the housing market. The administration's proposal for FHA will not only discourage first-time home buyers, but it will also eliminate a crucial player, and in some areas the only player, in the home insurance market for first-time home buyers in rural America.

Mr. PARKER. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Mississippi.

Mr. PARKER. Mr. Chairman, I rise in support of the amendment.

Recent years have seen the growth of a number of Federal Government proposals to reduce Government involvement in the housing market. As you recall, possibly the most dramatic proposal was the idea of selling the Federal Housing Administration to the private sector. This notion has not surfaced since 1987, when the Reagan administration retreated from the idea. However, with the emergence of the administration's proposal on FHA, we see yet another attempt to reduce the size and scope of Federal housing insurance programs.

The administration has put together the numbers to justify substantial changes in the primary single-family insurance program of the FHA. These changes will most certainly restrict the ability of this time-honored insurance agency to provide home ownership opportunities to all Americans.

The proposed changes to the FHA, as offered by the administration, would supposedly minimize the liability and ensure the financial soundness of the Mutual Mortgage Insurance Fund. But, in fact, if this proposal was implemented, it would make it more difficult for those homebuyers who need assistance most. Low and moderate income homebuyers would be required to bring to settlement more cash to cover closing costs and prepaid fees than middle and high income homebuyers using a conventional mortgage loan. FHA homebuyers have substantially different characteristics than do homebuyers who use the conventional mortgage market. Specifically, they are younger—have much lower average and median incomes—and are more likely to be first-time homebuyers. Requiring higher fees upfront, would impose a hardship which some choose to ignore and avoid justifying.

For these reasons, I urge my colleagues to support the amendment offered by Mr. VENTO and Mr. RIDGE which provides a much more equitable solution to the FHA problem.

Mr. PAYNE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Virginia.

Mr. PAYNE of Virginia. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by my colleagues from Minnesota and Pennsylvania.

One thing that we have learned from the S&L crisis is the necessity of ensuring that programs are actuarially sound. Price Waterhouse, an independent accounting firm, has recommended several proposals to meet the minimum capital requirements necessary to put the FHA Mutual Mortgage Insurance Fund on an actuarially sound basis. In this amendment, which is based on one of the Price Waterhouse proposals, we would be restructuring the mortgage insurance premium to a pay-as-you-go system. This system worked effectively prior to 1982. Home buyers would be required to pay a 1.35-percent upfront premium, which could be financed, as well as an annual premium set at a level which will ensure that the fund would remain sound. During all of the discussion on this amendment, we have heard differing opinions as to whether or not the Vento-Ridge proposal will provide the necessary actuarial soundness. It will require that a 1.25-percent capital ratio be met within 2 years as well as a 2-percent minimum capital standard within 10 years. This amendment will fulfill the requirements recommended by Price Waterhouse to ensure that the fund remains solvent.

While we are all committed that we will not allow another S&L crisis to occur, we should not lose sight of the policy intent behind this housing bill: To provide low- and moderate-income families the opportunity to own their home. This amendment will continue to pro-

vide the means of fulfilling this dream. As we seek to stabilize the FHA loan portfolio, we should not close the door to thousands of potential home buyers by requiring that they should come up with additional upfront money to qualify for FHA financing.

Since the Vento-Ridge amendment will ensure that the FHA Mutual Mortgage Insurance Program will be actuarially sound as well as provide an ample opportunity for low- and moderate-income families to purchase a home, I will vote for it. I believe this proposal strikes a fair and workable balance between our determination that we not repeat the S&L fiasco and our goal of providing adequate and affordable housing to all Americans. I urge my colleagues to support this amendment.

Mr. KLECZKA. Mr. Chairman, I rise today in support of the FHA reform amendment offered by Representatives BRUCE VENTO and THOMAS RIDGE.

I have long supported the concept of soundness in the FHA because we must ensure that home loans will be available to American families for years to come.

After all, the single family home mortgage fund cannot help achieve the American dream of home ownership if it is bankrupt.

After carefully examining the provisions of this amendment, I have concluded it will get the job done by ensuring the future soundness of the FHA.

While the Senate acted in good faith in crafting an alternative to Vento-Ridge, their administration-backed proposal would take so many low- and moderate-income homebuyers out of the market that it would severely damage FHA's financial future and its original purpose.

I believe Vento-Ridge is the best product available to us today that truly will restore soundness to the FHA.

Mr. Chairman, I urge my colleagues to support the Vento-Ridge amendment to protect the FHA for current and future generations.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Vento/Ridge amendment and would call the attention of my colleagues also to the fact that, as part of the list of supporters read earlier by Mr. VENTO, we should also include the AFL-CIO, the National Low Income Housing Coalition and the United States Conference of Mayors.

□ 1750

I have listened to some of the arguments in committee and elsewhere by opponents of this amendment who argue that in their estimation it fails to adopt key reforms essential to the truly effective restructuring of FHA insurance programs and that, therefore, the amendment would be ineffective.

I think that is cynical to say the least, and would urge those individuals to look at the real facts. The fact is that this amendment is the best means of restoring actuarial soundness to the FHA, and that it has the least negative impact on potential home buyers. Home prices are going up and interest rates are going up just as fast. Cumulatively, that has made home ownership nearly an impossible dream for many hard-working families. There are people like you and I, old and young, black and white, from the North and the South and the East and the West who want, quite simply, to be able to buy a home. The largest part of that group are people who have never owned homes, first-time home buyers.

It is estimated that under the current administration proposed changes, an average home buyer in this country would need almost 1,400 additional dollars in cash, after closing costs, to be able to buy a home; $1,400 precludes, for many people, that opportunity. It is further estimated that while it may only seem like $1,400 to you and I, that actually what it represents throughout these 50 States are almost 100,000 people who are precluded from potential home ownership, 14 percent of all current FHA users from buying homes.

Prior to 1983, with the pay-as-you-go system, we built up a lot of surplus in the FHA. The administration does not want to return to that system because the large up front insurance premiums now help me to mask this deficit that we have. I do not know about other Members, but I think with home ownership already on the decline, we cannot afford to put up more artificial barriers. We have got to find a way, through our own wherewithal, to come to grips with this, as legislators. So I think that the Vento-Ridge amendment speaks in a very clear and concise manner to grapple with the problem, to wrestle with its implications, and to come out of that with the best possible solution.

I would urge my colleagues to support the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding, and I appreciate the statement the gentleman has made here.

I think that the amendment that has been offered makes a lot of sense. I do think that in these areas, given the problems we face in this country, given the failures we have seen around the country in a whole series of areas, we need to be very careful about what we do. We need to be careful not just in this system and in this structure we establish, we need to be careful in terms of its impact on people.

The gentleman has talked about its impact in his area on potential home buyers who have that dream and want to buy that home. In my home State of North Dakota the same is true. We have 25, 27 percent of the loans are FHA loans. I think that we need to move ahead and pass the Vento-Ridge amendment. I think it makes sense. I do think that it will make sense for Members to watch very carefully as we move ahead today, not just in terms of today and its impact, but in the soundness of the systems, so we can balance both of these interests. That is what we all want to do, and that is the reason today I rise in support of the Vento-Ridge amendment.

Mr. MFUME. Mr. Chairman, I appreciate the gentleman's considerations and expressions of support.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

I can read tea leaves very well indeed, and I know that this amendment is going to pass. So I would urge an aye vote, because it is only slightly better than the present law. However, make no mistake, this amendment does not protect the Mutual Mortgage Insurance Fund to the extent that we need to have it protected.

Now, how did we get here? Well, Mr. Kemp, the Secretary of HUD, came before the Committee on Banking, Finance and Urban Affairs and warned Members that the Mutual Mortgage Insurance Fund was losing money, and these charts indicate what has happened over the last few years. The number of dollars that have been lost in the Mutual Mortgage Insurance Fund. He recommended in a proposal which was adopted by the Senate, which would do this. It would restore the FHA Mutual Mortgage Insurance Fund solvency.

Now, I have been a very strong supporter of the FHA over the years. As a matter of fact, I received the National Association of Home Builders American Dream Award for my strong support of the Federal Housing Administration program. I know that we have financed housing for over 16 million Americans, most of them young, first-time home buyers. However, I have just been through the fiasco with the Federal Savings and Loan Insurance Corporation Fund, where there were warning signs on the horizon, and I want to err on the side of caution. I do not want another failed insurance fund, where we are going to have to ask the taxpayers to bail Members out.

Therefore, I am going to vote for the amendment because, as I say, I can see that it is going to pass, and because it is a slightly better law than what the present law is. However, the Federal Housing Mutual Insurance Fund which helps low- and moderate-income buyers become homeowners is in dis-

tress. While there is still time to save some of the hemorrhaging from the patient, this amendment, I fear, will not do it. I get that from a report by Price Waterhouse. They have been reported all over the place today. They say, under the Vento-Ridge amendment, FHA remains seriously undercapitalized, and that what we need to do is to somehow, if the amendment passes, which I am sure it will, is go to conference and try to work out some sort of compromise which will come out better

One June 6, Secretary Kemp announced the findings of his actuarial study of the FHA Mutual Mortgage Insurance Fund by the accounting firm of Price Waterhouse. He was asked to hire an outside accounting firm to do that study, and they said unless corrective action is taken the fund will be bankrupt within 6 or 7 years. In response to that study, he came up with his recommendation, and that recommendation was adopted by the other body, as I mentioned. We need to restore FHA to actuarial soundness, along the same general lines of the administration's recommendation.

Today I received a letter from Mr. Kemp, and I will read in part:

While we held the hope for an acceptable compromise,

And I would say to the chairman of the Committee on Banking, Finance and Urban Affairs who just had to leave the floor, that I appreciate the hard work and the long hours that he put in in trying to develop an acceptable compromise with this Member. Unfortunately, we were not able to do that. Mr. Kemp says,

As you know, the administration believes that such a bill must include a responsible proposal to restore full financial soundness of the FHA.

Now, it is a housing bill we are talking about here. We need adequate capital standards to provide for the needs of the low and moderate income home builders for mortgage insurance.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Kemp, in his letter, suggests that under the Vento-Ridge amendment, a $65,000 home can be purchased with a $32 equity in the house. Now, we know from past experience that the larger the downpayment, the more likely that mortgage is to be paid off. Under the scenario which has been developed by Vento-Ridge, the downpayment is minimal, at best.

So I would suggest that, while this may be slightly better, as I say, than what is in the present law. However, make no mistake, we have to do a lot better when we go to conference or we are still in the same situation in which we find ourselves now.

□ 1800

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I just want to say that I very much appreciate the gentleman from Ohio [Mr. WYLIE], the ranking Republican on this committee, taking this position of leadership, and, as my colleagues know, we met with Secretary Kemp earlier today, and I want to assure all of the Members that this Vento-Ridge amendment is a good amendment to vote for, that we vote for it in the knowledge that we are going to continue to work to improve the situation with FHA and that we are going to work with Secretary Kemp to avoid a veto. I think every Member of this House feels strongly that we ought to have a signable bill and wants a bill that will allow us to continue housing programs for America.

So, Mr. Chairman, I commend the gentleman from Ohio [Mr. WYLIE], and I look forward to the work that I am sure he will be participating in as we go into conference in getting a bill which is capable of avoiding the veto.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Georgia [Mr. GINGRICH] for his contribution.

However, Mr. Chairman, along those lines, and I do not make this in the sense of a threat, or anything like that, but I have a letter from Secretary Kemp, the Secretary of HUD, and it says:

Should a bill containing the Vento-Ridge amendment or a similarly unacceptable proposal reach the President's desk, I and the President's other senior advisors would recommend that it be vetoed.

Now the chairman and I have spent a lot of time on this bill along with the President of the United States. We do not want to lose this essential bipartisan support. We want to get a housing bill enacted this year so that, before it is over, we are going to work very hard, I assure the Members, to try to modify this to see that the Secretary of HUD will recommend to the President that he sign a bill.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, I compliment the gentleman from Ohio [Mr. WYLIE] on his statement, and I would like to rise in support of the Vento-Ridge amendment reforming the FHA program. It represents a measured response to maintaining the financial soundness of the FHA insurance fund. It is critical that Congress adopt measures that will stem the losses suffered by the FHA insurance fund; however, equally critical is that we do so in a responsible manner that does not render the program useless to those deserving Americans that it was designed to serve.

THE VENTO-RIDGE AMENDMENT

First restores financial soundness to the FHA fund by increasing the mortgage insurance premium to a level sufficient to allow the fund to remain fiscally sound;

Second, minimizes any adverse impact on homebuyers by preserving the ability to finance closing costs. Not having sufficient out-of-pocket cash for closing costs is the chief impediment to homeownership;

Third, requires a minimum capital standard for FHA as recommended by Price Waterhouse by requiring FHA to meet a 1.25 capital ratio by 1992 and 2 percent by the year 2000; and

Fourth, returns the fund to a pay-as-you-go system. The current large up-front insurance premium that is allowed to be financed serves only to mask the size of the Federal budget deficit while increasing the total loan-to-value ratio.

Mr. VENTO and Mr. RIDGE have crafted a bipartisan package that has a broad base of support. I urge your support for this proposal.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. WYLIE] yielding, and I appreciate his discussion of the Vento-Ridge amendment today and that of the minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. Chairman, I just would point out that, while the Secretary has talked about a compromise, I have seen nothing from the Secretary that indicates any willingness. I know it has been the sincere objective of the ranking member, the gentleman from Ohio [Mr. WYLIE], our good friend and colleague on the Committee on Banking, Finance and Urban Affairs and others, along with the chairman, who tried ardently to come to some sort of a compromise, but it seems to me the administration was adamant in requiring the 380 base points up front.

(On request of Mr. VENTO and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, I would further point out that, as my colleagues know, the Secretary has his own way of looking at some of the numbers. In fact, the material which has been displayed there, we never had $8 billion, or $7.9 billion, in the fund, as the gentleman knows. Those are numbers that are inflated to reflect what the numbers would be if we had the type of exposure today, and so we go a long way in this amendment to deal with the money problems.

Mr. Chairman, the Secretary is doing his level best, I take it, to deal with the management problems. I think that the proposal that we have that reverts the pay-as-you-go system and retains the low-down-payment requirements is a good one, and I thank

the gentleman from Ohio [Mr. WYLIE] for yielding and for his support for the Vento-Ridge amendment.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, I appreciate the acknowledgment of my support for the amendment of the gentleman from Minnesota [Mr. VENTO], however lukewarm my support might be. But I would just suggest that I have obtained figures from Price Waterhouse and from HUD, and I would rather look to their figures in support than the figures which the gentleman, with all due respect, has supplied me here on the floor today.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN] who is one of our very valuable ex-members of the Subcommittee on Housing and Community Development and the Committee on Banking, Finance and Urban Affairs.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman from Texas [Mr. GONZALEZ] yielding to me, and I want to urge the Members to support the Vento-Ridge amendment. I compliment the authors of this amendment for the amendment and for the bill that they introduced, which I was glad to cosponsor along with them, that does the same thing.

As my colleagues know, Mr. Chairman, during the 1980's a troubling and very disturbing thing happened to the economy of this country. The national percentage of families who owned their own home actually fell, fell, in the United States for the first time since the Great Depression. We have had no experience with this since the Depression, but in the 1980's that happened. Today we have got more than 2 million families who are middle class and who are unable to buy into home ownership.

Think of it. Two million middle-class families.

Mr. Chairman, I want to tell my colleagues something. There is a prairie fire afoot across this country right now. The American people have watched the tax burden shift to the middle class from the affluent. They have watched, and they have been told that some $2,000 per person is going to be the cost for Americans to clean up the S&L crisis that they had nothing to do with. They are watching as the budget negotiations flounder and nothing seems to come of the effort to stabilize this country's economic destiny. And they look at the tax shift that they have endured over the last decade, and they think, my colleagues, that they are being gypped.

Mr. Chairman, they are being gypped, and, if my colleagues do not think that prairie fire is going to catch up with Members of Congress, they are sadly mistaken.

I just want to suggest though that I am glad to hear the gentleman from Georgia [Mr. GINGRICH] indicate that he now supports this amendment, but I want to suggest that, unless this amendment comes out of conference and does something to address this front-end cost that the administration today would impose on home buyers, my colleagues are going to see that prairie fire turn into an inferno because they are going to price, because of this, as opposed to what Vento-Ridge does, they are going to price even more middle-class families out of home ownership.

Mr. Chairman, the fundamental American dream is home ownership. It is the piece of the rock. It is the way middle-class families have been able to house safely and decently their families. It has always been in a way that they have been able to leverage, leverage financially, in upward mobility. Downward mobility for the last decade has been the case, has been the description we could apply to this economy. It will be another burden in that direction if in any way the administration's proposal is adopted.

Mr. Chairman, I support the Vento-Ridge amendment. I compliment the authors of that amendment.

In addition, I say to the conferees, if they do not come back with the Vento-Ridge amendment in the conference report, I think that they are playing with a prairie fire, and I will not support the conference report unless we have the Vento-Ridge amendment.

Mr. INHOFE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Oklahoma.

Mr. INHOFE. First of all, Mr. Chairman, much has been said about this bill, and it would be redundant to go into this amendment, to go into it in a lot more detail, but the gentleman from Georgia who is the chairman of our Subcommittee on Government Operations brought up some very good points that I was going to elaborate on. I will have to say that, if it had not been for the fact that the area I come from in Oklahoma had undergone a massive recession over the past 5 years, I probably would not be speaking in behalf of the Vento-Ridge amendment.

However, Mr. Chairman, I have some figures here. We did a survey of our mortgage lending activity out in Oklahoma in our recessed area, and during this timeframe of some 5 years the number of home originations remained approximately the same. However, the number of FHA home originations during that time jumped from $390 million in terms of gross dollars to over $1 billion. That was 1985 and 1987, at the height of our recession. In other words, it tripled, and, as far as a percentage, that is, making the contribution to the economy for first home buyers that has been contributed by the FHA, it has gone up from 1985 by 15 percent and doubled to 30 percent in 1987 during the depths of our recession.

So, Mr. Chairman, I think that those of my colleagues who are coming from areas that have not yet felt the recession that some people are predicting may happen should look ahead a little bit, and let us prepare to allow those individuals who otherwise would not be able to own homes in a recessed environment to have that opportunity.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I rise in order to clarify some things here in all fairness to the administration, to the Secretary.

First, I wanted to compliment the gentleman from Ohio [Mr. WYLIE] and thank him, as well as the gentlewoman from New Jersey [Mrs. ROUKEMA] who, unfortunately, had to leave today because of urgent family and medical situations. I want to take this opportunity to express my prayers that everything will be all right.

□ 1810

The gentleman from Ohio [Mr. WYLIE] and the gentlewoman from New Jersey [Mrs. ROUKEMA], who is the ranking minority leader of the Subcommittee on Housing, did work with me. I did the best I knew how to work a reconciliation.

Now, our distinguished colleague and very, very active and knowledgeable and successful member of the committee, the gentleman from Minnesota [Mr. VENTO] stated awhile ago that he saw no evidence of the Secretary trying to work a reconciliation. I wanted to straighten the record out and say that I am witness to the Secretary's efforts. In fact, on very quick notice, I dropped everything at the Secretary's request and met with him, and in fact just about some 24 hours ago was meeting with him and the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentleman from Ohio [Mr. WYLIE].

I offered a compromise that the very pre-eminent staff that we are very proud to have here, Mr. De Stefano, the staff director of the Housing Committee, and above all, our own staff counsel, Mrs. Fischer, and we came up with what I thought was an acceptable reach where we would be realizing and sympathetic to the Secretary's dilemma.

We have got a situation here where the Secretary is facing 80,000 foreclosures. Now, it is good to say and we are all for it, but look, in my district, there is not a Member present who has more dependents for FHA financing than

my district, which depends 42 percent on FHA financing, so you know where I come from; but we also are caught here in what I consider a very similar situation to the earlier issue on the Suspensions Calendar on this anti-crime bill. We are acting under great haste.

I first tried to attempt to persuade the Secretary to withhold adding this issue to consideration of the bill. I consider this exogenous, that is, extraneous to the main thrust of the housing reauthorization.

I sympathize with him and I agreed with him. He said, "Look, I don't want to be the Secretary that is going to preside over the demise of the FHA, nor do I want to be the Secretary who is going to preside over the FHA going belly up."

What I could see was with great haste they were able to convince the Senate; so with that powerful leverage, we were worked over. I do not believe in that.

We have not had a chance. Price Waterhouse did not give us a report until June 6, and nobody, including the administration, can tell me that they have had a chance to adequately survey and get a GAO assessment of the exemptions that Price Waterhouse is based on.

Now, I am different from a lot of people. I do not consider Price Waterhouse infallible. As a matter of fact, Price Waterhouse has the biggest lawsuit from the FEC for bad accounting in the history of that type of litigation.

Mr. Chairman, at this point I will insert this report headed, "Audit Firm: Victim or Accomplice?"

[From the New York Times, July 17, 1990]

AUDIT FIRM: VICTIM OR ACCOMPLICE?

(By Alison Leigh Cowan)

In their view, they were unwitting victims of a client's desperate scheme to doctor the books and keep the business afloat. But to the Securities and Exchange Commission, they were willing accomplices who valued their six-figure fees more than their duty to keep the client's shareholders and potential investors informed.

In this instance, they are the three Price Waterhouse auditors who certified the books of AM International, a maker of duplicating equipment and other office products, several years before the company went bankrupt in 1982.

The Government wrapped up its case against Price and the three auditors yesterday in Federal District Court in Manhattan, but Judge John E. Sprizzo, who has appeared unsympathetic to the S.E.C.'s case, is not likely to hear the closing arguments in the case until this fall.

WHAT AUDITORS CAN DO

The case has been watched closely by the accounting profession because it involves one of the six largest accounting firms in the country and because the Government is seeking one of the harshest punishments ever against an accounting firm. It also captures in a nutshell the differences between accountants and the investors who rely upon them about what independent auditors can reasonably accomplish.

The Government's complaint, which was filed in 1985 and accuses the three auditors, two of them partners, of allowing AM to resort to nearly every type of accounting gimmick imaginable to inflate income—such as booking revenue on merchandise that customers had no obligation to buy.

It also contends that the auditors engaged in a cover-up by falsifying their work papers after a new management team took over at AM in 1981 and began questioning Price's work. Ultimately, the new team at AM, on the advice of another accounting firm, Arthur Andersen, took a $203 million charge against earnings for accounting adjustments, much of which Andersen believed would have been more appropriately recorded in the years before.

RELUCTANT JUDGES

Judges are often reluctant to second-guess accounting firms on complex issues, especially in situations where expert witnesses themselves disagree.

Yet just two weeks ago, an administrative law judge for the S.E.C., in a case brought in 1985, imposed sanctions on another firm, Ernst & Whinney, for failing to uncover wrongdoing at the U.S. Surgical Corporation. The judge temporarily suspended the firm, now part of Ernst & Young, from accepting any new audits in the New York region and censured the partner in charge of the office that did the audit.

In the Price case, the Government is seeking a harsher punishment: a wide-ranging court order against the firm and the three individuals that could subject them to harsh criminal penalties if they were found guilty of future violations of Federal securities laws.

More cases like this can be expected, as the S.E.C. has toughened its stance on accounting and auditing issues this year. In recent months, the commission has set up a special unit with five lawyers to sue advisers to public companies, mostly lawyers and accountants, whom it views as guilty of "unethical or improper professional conduct." Proceedings brought on these charges are being made available to the public for the first time, too.

The commission hopes to curb what it contends is a growing temptation by accountants to bend professional standards in a highly competitive time in which audits have become a commodity. The number of customers have been whittled by the mergers of the late 1980's, and accounting firms feel they cannot afford to lose clients.

For its part, Price Waterhouse has fought the Government's allegations for half a decade—long after AM and five of seven members of its former managers settled related charges with the S.E.C. (AM International, whose stock trades on the Big Board, emerged from bankruptcy in 1984.)

NO BETTER GROUP

Joseph E. Connor, the former chairman of Price Waterhouse, has testified that "there is no better group of auditors that this firm has ever had" than the three on trial, Daniel Jerbasi, Benjamin Perks and Michael LeRoy, who all saw their responsibilities increase after the AM bankruptcy.

To prove its case, the Government has marshaled evidence that the defendants knew of certain accounting irregularities in the client's fiscal year 1980 books and ignored them even though their colleagues at Price and some AM executives had questioned the practices.

For instance, the company adopted a policy in 1979 of booking revenue on merchandise that had been shipped to customers on a no-obligation, 90-day trial basis. Price Waterhouse maintains that a reserve set up by the company for returned merchandise was a sufficient response.

SALES WERE SWITCHED

The company was also accused of doctoring its performance on one occasion by switching $1.9 million in sales from the third quarter of the fiscal year 1980 to the fourth quarter, presumably to improve the quarterly comparisons. Price's Chicago office had identified the bookkeeping entry as a problem in a memo it sent to Mr. Jerbasi, who had final say over the audit. Chicago was ultimately one of seven Price offices that expressed reservations in internal reports about AM units that they had been asked to audit.

The company in 1980 altered its fiscal year for AM's foreign subsidiaries from June 30 to July 31, creating a one-time, phantom month. The Government contends that because the month's results were not supposed to show up on the company's income statement, AM managers dumped expenses into the phantom month and diverted revenues into the adjoining fiscal years, ringing up a $10.9 million loss for the month. Mr. Jerbasi acknowledged in a memo to AM's management that "the large loss may raise questions" about fiscal year 1980 results, but he did not reopen the 1980 audit, as the Government contends would have been proper.

UNREPORTED CHANGES

The Government also charges that the company adopted, with its auditors' blessing, three undisclosed accounting changes that affected reported income favorably. Price Waterhouse has argued that the two of them were immaterial and that the third was a "refinement of current policy" not a change and thus did not have to be disclosed.

Arthur Andersen, which eventually replaced Price Waterhouse as AM's auditor, concluded in a special investigation conducted in 1981 that the company had understated its expenses in prior years by at least $41 million.

Internal Price Waterhouse members, which the Government has introduced into evidence, suggest why the firm might have signed off on practices that in hindsight masked the company's troubles. In memos to other partners, Mr. Jerbasi complained that the firm had negotiated a very competitive three-year contract with AM and thus was not making as much money as it had expected on the audit. He said he would seek to have the firm reappointed the following year to recoup the firm's lost fees.

I do want to conclude, Mr. Chairman, by saying that as far as I can see the Secretary went as far as he could. They rejected my suggestion, I think mostly because OMB has them hog-tied.

Now, let me say, I have been around here a few years and I do not care what administration, ever since we started this OMB stuff, I do not care whether it is a Democratic President or a Republican President, OMB seems to hog-tie them. I will accept that, but I must say that when we do go to conference and as soon as the

House acts today on this, I will ask the GAO to give us a review of the various proposals and their effects from a dispassionate point of view so that we can reach an agreement when we get to the conference.

I do want the record to show, though, that I can testify to the fact that there was an attempt to reconcile. I think if it had been up to the gentleman from Ohio [Mr. WYLIE] and the gentlewoman from New Jersey [Mrs. ROUKEMA] we would have gotten together. I think if we had passed it by, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Pennslyvania [Mr. RIDGE] would have been considerate, but that is not the case. What we have before us is the Vento-Ridge amendment and we will just have to let it go at that.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The time of the gentleman from Texas has expired.

(At the request of Mr. WYLIE, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I rather feel the obligation to express my appreciation for the gentleman's generous remarks, and also to suggest that the chairman has been available on a moment's notice. I have never known a more hard-working chairman. I know his first love is housing and getting a housing bill to the President's desk for his signature, and we will both work together in that regard, whatever happens here on the House floor today.

I also make note of the fact that the gentleman mentioned the fact that the Secretary has been sincere in his efforts, and he has been available, too, whenever he has been called to the gentleman's office and we have talked about that.

Mr. GONZALEZ. Yes, he has.

Mr. WYLIE. I am glad that the gentleman mentioned the gentlewoman from New Jersey [Mrs. ROUKEMA] who spent so much time and worked so hard on this and was called home because of an emergency illness in her family.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment which would promote the financial stability of the Federal Housing Administration mortgage insurance program while protecting the home buying opportunities of low- and moderate-income families and individuals who most need the benefit of the mortgage insurance.

I am pleased to be a cosponsor of H.R. 5266 which embodies the provisions of this amendment.

Many Arkansas home buyers, builders, realtors, and mortgage bankers and officials of the Arkansas Development Finance Authority, which assists low- and moderate income buyers, have contacted me to express acute concern about the future of FHA.

Time after time they have made two points. The soundness the FHA mortgage insurance program should be protected. But, the reforms taken to guarantee that strength should not be achieved in a way that will either eliminate or severely curtail the home purchasing ability of first-time or move-up buyers.

FHA's home mortgage insurance program is essential to the ability of thousands of Arkansans to achieve the American dream of home ownership. We are not talking expensive homes. The average sales price of Arkansas homes getting FHA insured mortgages is less than $50,000.

Arkansans take great pride in being homeowners. They make great sacrifices to keep their homes once they become owners.

The default ratios for FHA loans originated in Arkansas demonstrates that. It has been dropping in the last 3 years. In fiscal year 1989 the default rate was down to 1.32 percent.

In 1989 FHA mortgage insurance was provided for 10,000 Arkansas home sales. These produced $17.7 million in premiums, almost twice as much as the amount paid out in connection with Arkansas home foreclosures.

In the last 5 years the share of Arkansas home sales made with the aid of FHA mortgage insurance has ranged between 38.9 percent and 17.3 percent.

The increase in up-front costs to home buyers associated with the administration's FHA proposal would raise the cash needed by home buyers to a level higher than money the average Arkansas user of the FHA program have traditionally been able to pull together. That would shut thousands of Arkansans out of the home buying market.

This amendment would strengthen FHA. It would maintain a reasonable up-front cash requirement for home buyers. But, it would not automatically shut the doors on the home ownership dream of thousands of Arkansans.

For those reasons, I support this amendment and urge its passage.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Tennessee.

Mr. CLEMENT. Mr. Chairman, I rise in strong support for the Vento-Ridge amendment which would restore actuarial soundness to the FHA's mutual mortgage insurance fund while preserving FHA affordability for tens of thousands of American home buyers annually.

FHA is a very important program for maintaining affordable housing. In Tennessee, 17.6 percent of all homes purchased in 1989 were financed by FHA insured mortgages. That's over 18,000 families who used the FHA program to purchase their first home. Rural communities like Springfield, TN, are especially dependent on the FHA program to provide housing.

I was deeply concerned to learn recently about the erosion experienced in the surpluses of the FHA fund. I believe an actuarially sound FHA program is essential because so many Americans depend on it to assist them in purchasing their first home.

The reforms we adopt today must maintain the soundness of the FHA's mutual mortgage insurance fund while allowing FHA to pursue its mission of providing homeownership opportunities to middle- and moderate-income Americans. That is why I support the Vento-Ridge amendment to save the FHA.

The Vento-Ridge amendment would return FHA to a position of strength while maintaining the FHA as the cornerstone of housing affordability. Specifically, the amendment keeps in place the reduced upfront charge to assure the safety and soundness of the FHA fund, while restoring FHA to a pay-as-you-go system by phasing in an annual premium.

The changes in the FHA program as proposed by the Department of Housing and Urban Development and adopted by the Senate including charging an additional half a percentage point annually for up to 15 years on mortgages it consider risky. And it would require purchasers to pay two thirds of the closing costs in cash at the time of sale.

These proposed changes are totally unaccepted to me, as well as the estimated 250,000 American families who would be locked out of home ownership. The administration plan is simply stated, devastating. This would be especially true for rural States and communities across America who were hard hit by Reaganomics in the 1980's.

Is this what we want? Do we want to lock out tens of thousands of home buyers from the FHA program? Do we want to keep rural communities from rebuilding? Do we want to kick the potential first-time home buyers while he or she is already down.?

I think not.

I urge my colleagues to join me in saving FHA and support the Vento-Ridge amendment.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to also first pay my respects, to the distinguished chairman of the committee, particu-

larly for the comments he made relative to his efforts to work with our new Secretary of HUD, Mr. Jack Kemp. I know he has made really a sincere effort to try to assist the new Secretary as best he can. I applaud him for that and I appreciate that.

I have to rise to underscore again the point made by our distinguished ranking member, the gentleman from Ohio [Mr. WYLIE] that the Vento-Ridge amendment does not, quite frankly, meet the administration's criteria for FHA reform. I will insert with my remarks at the appropriate time the full text of the letter from our distinguished Secretary of HUD, Jack Kemp, in which he says that this measure must include a responsible proposal to restore full financial soundness to the FHA. The four principles required by the administration are:

Adequate capital standards, No. 1.

No. 2, the needs of low and moderate home buyers for mortgage credit should be met.

No. 3, insurance premiums must reflect risk.

No. 4, borrowers must make minimum equity contributions. That is in essence what the administration criteria are.

In the opinion of Secretary Kemp, the Vento-Ridge amendment does not meet these requirements and he would recommend a veto of the bill if it includes this amendment.

Now, I met just this afternoon across the hall with the Secretary, and he stated that unless Congress enacts real FHA reform, there could develop an S&L-like situation with the FHA fund several years down the line.

□ 1820

I know that the distinguished chairman made mention of that concern also expressed to him by the Secretary.

The Secretary, a former member of this body, of course, is a very valued former member. His work at reforming HUD has been, I think, universally praised by Members. His ability and willingness to work with Congress is undeniable. I think we owe it to him to pay considerable attention to his informed, judicious views on the subject.

Therefore, I would urge my colleagues to take heed of what the Secretary has said before adopting this amendment to the housing bill.

The letter referred to follows:

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, July 31, 1990.

Hon. ROBERT H. MICHEL,
Minority Leader, House of Representatives, Washington, DC

DEAR MR. MICHEL: For many months, we in the Bush Administration have been working with you to develop a fiscally responsible housing reauthorization bill that will have bipartisan support. We remain fully committed to working with Congress to achieve that objective. The Administration's concerns with the current housing reauthorization bill were fully conveyed in the July 27 Statement of Administration Policy on H.R. 1180. While we held hope for an acceptable compromise, this, unfortunately, did not come to pass.

As you know, the Administration believes that such a bill must include a responsible proposal to restore full financial soundness to the FHA. This proposal must uphold the fundamental principles underlying the Administration's reform proposal as adopted by the Senate, particularly that:

Adequate capital standards must be achieved quickly and maintained;

The needs of low- and moderate-income homebuyers for mortgage credit remain a high priority for FHA;

Insurance premiums be established that reflect the risk of default; and

Minimum equity contributions be made by borrowers to adequately protect them and the insurance fund from excessive default risk.

The Administration's reform proposal as adopted by the Senate fully meets these principles, while that sponsored by Representatives Vento and Ridge does not. The Vento-Ridge amendment fails to achieve the minimum capital standards recommended by Price Waterhouse in the time necessary to provide adequate protection to the Fund or to establish insurance premiums to protect against default risk; and it actually increases defaults over current, already unacceptable levels.

Let me again stress that, while the Administration has been willing to compromise on specific aspects of its FHA reform proposal, its commitment to the basic principles stated above remains firm. The Administration cannot approve any housing bill which fails to uphold the principles for FHA's long-term safety and soundness. Should a bill containing the Vento-Ridge amendment or a similarly unacceptable proposal reach the President's desk, I and the President's other senior advisors would recommend that it be vetoed.

Very sincerely yours,

JACK KEMP.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I think the record ought to indicate, and I am not sure that this has been brought up, and maybe it has, but the Secretary did offer a compromise in an effort to try to work out an agreement on this. His compromise was not acceptable for one reason or another. Maybe it came late, but he did try to work out some arrangements so that all of us could come to the floor today in general agreement, and I think the record ought to show that.

Mr. MICHEL. The gentleman is absolutely correct, and I appreciate his including that in his remarks. I also appreciate the comment of the distinguished chairman relative to the gentlewoman fron New Jersey [Mrs. ROUKEMA] whose husband is undergoing surgery, so her absence is due to a very serious family situation.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I congratulate the gentleman from Minnesota and the gentleman from Pennsylvania for this bipartisan effort.

I want to say that, yes, we have a responsibility to address potential problems at FHA. We ought to be clear about what we were rejecting. The administration's witnesses, the Under Secretary, Mr. DelliBovi, before the Committee on Banking, Finance and Urban Affairs acknowledged that the initial administration proposal would have added $30 a month to the cost of a $75,000 home over a 30-year mortgage.

I commend, as others have, Secretary Kemp for his initiative to provide programs whereby people who are of very low income can own homes. We want to work for that. But for us to do that while at the same time saying to the kind of people who can afford $75,000 homes that we are going to add $30 a month to the cost of their mortgage over the life of a 30-year mortgage would be quite inconsistent and socially poor policy.

It was the gentleman from Ohio, in fact, who elicited that comment of a $30-a-month increase from Mr. DelliBovi.

I would also note that I think it is a grave error to talk about this in terms of the S&L crisis. I have to disagree with the minority leader who preceded me. There is a terrible problem with the misuse of analogies. The new buzzword has been "This is an S&L crisis." I expect to be told that if I do not keep the air pumped up in my tires that my car will have an S&L crisis. I assume that stands for slow leak.

The S&L crisis was a terrible problem. It was caused by factors that had to do with the S&L industry. There was, for instance, we are told, a great deal of fraud in the S&L situation. That was not related with FHA. It does a disservice to the people who run FHA, in this administration, in the Reagan administration and before, and it does a great disservice to the home buyers to analogize this to the S&L crisis. These are very different crises, and false analogies can become a real problem. I am afraid that the S&L crisis is destined to become the current equivalent of the fall of the Roman Empire. All of us have heard more things cited as the cause of the fall of the Roman Empire. We are going to hear the same thing with the S&L's.

Let us deal with this problem intelligently. Let us not try to scare people by suggesting things that are not true, that it is a potential S&L crisis. It is not. We are not talking about those kinds of numbers, not talking about that kind of fraud, we are not talking about that combination of activities.

We have also recently been told that we have to make changes with regard

to the Federal National Mortgage Association and other housing lending agencies. There is even talk about putting them in the budget crunch, and we are told we have to require them to get triple A rating from private agencies, because otherwise we will have an S&L crisis. There is a danger that housing, home ownership, rental housing, affordable housing will be forced to suffer a series of crises, and I would say, and others can look at this, to look at the way FHA has been working, to look at its record and to look in the future, you see a solid agency, one in need of some change, but to try and scare us by an analogizing it totally falsely to the savings and loan crisis would be a very grave error.

I appreciate the efforts of Secretary Kemp. I think if it were not for OMB we could probably work it out with Secretary Kemp. Secretary Kemp is committed to housing, a loyal member of the administration, in which there is an Office of Management and Budget which I do not think cares very much about that Federal role in housing.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman I thank the gentleman for yielding.

Mr. Chairman, I wanted to get the attention of the minority leader at one point, because I think the four principles that he enunciated are no different than the principles we are following. In fact, the Vento-Ridge amendment accomplishes those, and it accomplishes it, I think, with more clarity, with less risk in terms of knocking people out. Sure, you can prevent defaults in FHA; you just prevent the loan.

I think the problem with the solution that came from the Senate with the administration's support is that it does that.

The fact is that Price Waterhouse lined out or set out a number of different ways to accomplish a solvency in the fund. We took essentially one of those means, the test, and we accomplished it very well. We meet the capital standards by the year 1992. We meet the 2-percent capital standard by the end of the century which is, of course, not in the Senate amendment, I might say.

So we accomplished all of those plus we keep a loan-to-value ratio less than 100 percent, and we do it by, of course, addressing the up-front fund. We do not cause a deficit or budget problems the first 5 years, because we phase it in. All of that taken, in fact, this raises $400 million to $500 million over 5 years which should be enough to satisfy the question, but, no, it is not, because the people down at OMB are looking at what would be raised in addition to that.

The Senate proposal, as supported by HUD, adversely affects low-income people. It makes them pay an extra, or a significantly extra, premium. In fact, if defeats the purpose of FHA, and that defeats the purpose of one of their objectives.

Mr. FRANK. We ought to be clear, again, I think if we were just working with Secretary Kemp and his concern for housing, we could work this out. You have OMB without any concern for housing, with greatly exaggerated threats coming in here, and I think an indication of this is that the position that came from the administration via OMB is of such insufficient merit that nobody in the House was prepared to offer anything on their behalf. I congratulate my friends on the other side for their abstinence. They showed good judgment in refusing to offer it.

I think we ought to adopt this amendment and go to conference with it.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of the Vento-Ridge amendment, and I hope that it passes.

Mr. SMITH of Iowa. Mr. Chairman, we have been working this week and last week on the two principal necessities of life, that is, food and shelter.

I want to point out the difference in the way some Members approached these two bills. For 50 years this country has been attempting to, and do whatever is appropriate through the Federal Government, to provide a plentiful and a stable supply of food at a reasonable price, and also to provide safe and decent housing at a reasonable price.

The farm programs have been one huge success. Proof of that is that for 10 percent of average income in this country, food is available in ample supplies and even the poorest have access to a supply of food.

With this housing amendment, and any other amendment anyone has proposed, we will still not have housing affordable to the average family of the United States at anything less than about 30 percent of their income, and most people in lower income groups still will not be able to afford and find decent and safe housing at a price they can pay even with the subsidy. The housing programs have not accomplished the objectives.

Yet, when a farm bill was on the floor, several members on the Banking Committee which is responsible for housing legislation and who should be working on housing legislation fell over one another, trying to talk against the farm program, trying to put limitations on it that would not prevent it from being so successful or make it unworkable. Where are those limitations on this bill? To be consistent, or to have the same kind of limitations on this bill would mean that anyone who has an income of $100,000 a year cannot provide subsidized housing for anybody to live in. And anyone with a certain gross income would be prohibited from receiving subsidized rents from tenants of more than four or five units. They would say that such people who do not pass an income test must sell or rent units at less than cost and not participate in a program designed to produce affordable housing.

□ 1830

Some of the people that have been attacking the farm programs the last week, should spend more time working on housing. We need better housing legislation in this country. We do not have affordable housing at a reasonable cost for millions of people. We do not have safe and decent housing in this country for most of the people at a price that they can pay. Ten percent of their income buys their food but 30 percent at the minimum of the average income goes for housing and in many cases 50 percent. There is something wrong with all of these housing programs when they do not after 50 years come closer to accomplishing the objectives.

We wanted S&L's to provide more money at a lower cost to buyers of homes. There is a direct relationship between problems there and housing and we are at risk on billions of dollars for housing but have not accomplished the objectives as we have with farm programs. I think innovative approaches are needed and some Members should spend more time on that subject instead of trying to wreck a farm program which is accomplishing the objectives.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Iowa [Mr. SMITH] for yielding. Just on the point of what this program does, of course, there was during the 1980's an effort to greatly curtail the FHA Program in terms of putting limits on it and on Ginnie Mae on the part of the then administration. Of course, that was not successful.

The greater problems with the FHA Program have not been the premiums that have been paid, although I think that the upfront premium of 380 basis points was one of the reasons we ended up with this low loan-to-value

ratio. The basic problem was the way the program was mismanaged.

It was mismanaged. I think that that is what is in the Price Waterhouse report as well.

Last year we corrected that, and I assume the Secretary and his staff are working hard to proceed with a more competent control over the various programs, and I commend them for it.

Mr. SMITH of Iowa. Mr. Chairman, reclaiming my time, I think the Congress shares the blame. Bills out of Ways and Means are also partially responsible. There is a law if one sells a house, they must buy another house that costs more money in order not to pay taxes on the inflation from the price of the one they sold. It is crazy. People moving to Des Moines now from a high-income area cannot find a house the size most of them want unless they forego deferring taxes and therefore buy a more expensive house than they need or desire.

Mr. Chairman, we have enough problems in housing without some spending their time attacking programs that work. We need more attention to develop affordable programs which go much further toward accomplishing the objective of decent and safe housing at a price most people can afford.

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. FEIGHAN. Mr. Chairman, in the housing bill before us today, we are attempting to do our utmost to provide decent and affordable housing for the poor in this country. For this, I commend the distinguished chairman of the Banking Committee, Mr. GONZALEZ and the ranking member, my good friend and colleague from Ohio, Mr. WYLIE as well as the other members of the committee.

The issue immediately before us, however, is how are we going to treat low- to moderate-income families in pursuit of the American dream of homeownership? No Federal program in our Nation's history has been more effective in enabling Americans to purchase their own home than the mutual mortgage insurance fund of FHA. Over the past 55 years, 17 million families of modest means, most of them first-time buyers, have become homeowners thanks to FHA.

In June 1989, FHA-insured loans represented 23 percent of all homes sold in the United States and over the 6-year period between 1984–89, FHA accounted for over 18 percent of all home sales transactions. For my home city of Cleveland, FHA represented 22 percent of all home sales transactions in 1989.

Regrettably, Mr. Chairman, FHA is under attack. The other body has adopted a proposal that would effectively prohibit 100,000 to 200,000 families annually from qualifying for an FHA mortgage. That proposal recommended by Secretary Kemp would undermine the premise and goals of FHA by requiring that two-thirds of the closing be paid up front by the borrower. Mr. Chairman, I would like to make two points about the two-thirds requirement. First, it seems readily apparent to me that if a prospective buyer could afford the two-thirds closing costs on top of the downpayment that he or she is required to come up with under current law, then that borrower is not in the most need of FHA. Study after study concludes that the single greatest hurdle to Americans owning their own homes is the down payment and the closing costs. Under FHA, borrowers are already required to make the downpayment. If we then require them to pay most of the closing costs then we have drastically altered the premise of the program and dismantled FHA as a housing vehicle for low to moderate-income families. Second, the Kemp proposal was a byproduct of the much discussed report by Price Waterhouse which set forth several options for assuring the long-term solvency of the fund. Nowhere in those options was there a recommendation that two-thirds of the closing costs be paid up front. That requirement, by all indications, was simply added by HUD to the risk-based premium structure.

Mr. Chairman, given the losses the fund has incurred in recent years, I think it is both wise and responsible for us to strengthen the standards and requirements that govern the fund. We all know that the economic colllapse in the Southwest contributed heavily to these losses. Fortunately, the Congressional Budget Office reports that the FHA foreclosure rate in the Southwest peaked in 1988–89.

There are other reasons, however, why the fund strayed in the early 1980's from the healthy course it had been on for nearly 50 years. First, a profound lack of management and supervision took hold at HUD and it is a credit to Secretary Kemp that he has taken seriously the job of cleaning up the Department. With his active support we passed a HUD reform bill last year intended to eliminate or restructure programs that were being mismanaged at HUD or abused by unscrupulous contractors.

But most damaging to the mutual mortgage insurance fund was the changed engineered in 1983 by the Buddha of Budget Gimmickry himself, David Stockman. Prior to the 1983 change that I will detail shortly, the fund required that an annual premium of 0.5 percent be built in to the monthly mortgage payment of the borrower for the life of the mortgage. This practice served FHA well for over 50 years and the fund accrued resources in excess of $8 billion. Then along came Dave.

The former Budget Director devised a clever yet deceptive and damaging scheme for scoring FHA mortgage insurance premiums. Under this plan, which remains current law I might add, an up-front mortgage insurance premium of 3.8 percent replaced the annual 0.5 percent premium. While the 3.8 percent premium is financeable by the borrower, it is scored as money in the Federal coffers the day the closing is completed on the FHA mortgage. In addition to promoting budget deception, the change in 1983 to implement a 3.8 percent premium had the effect of increasing the loan-to-value ratio of the borrower's mortgage and decreasing equity in his home. This is precisely the problem the Vento-Ridge amendment addresses, requiring after phase-in, a lower loan-to-value ration than both current law and the administration's proposal. The lower the loan-to-value ratio, the greater equity the borrower has in his home and the less likely he will be to walk away. The Vento-Ridge proposal is not only good public policy but it is good common sense.

Mr. Chairman, I hope today the House will move away from budget gimmickry and return to the pay-as-you-go system embodied by the Vento-Ridge amendment. I commend the gentlemen from Minnesota and Pennsylvania for their sound proposal they have put before us and I urge my colleagues to support it.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Vento-Ridge admendment and against the administration's proposal. I want to commend my two Banking Committee colleagues for introducing this important admendment to maintain affordable housing.

Recently, there has been concern about losses from the FHA mortgage insurance fund. In an attempt to address these concerns, Price Waterhouse, a respected accounting firm, prepared a study recommending ways to keep the FHA mortgage insurance fund solvent. The Vento-Ridge amendment includes many of the recommendations in the Price Waterhouse Report.

This amendment would phase out over 5 years the current upfront insurance premium of 3.8 percent and replace it with a 1.35-percent premium to be paid at closing and a 0.6-percent premium to be paid annually over the life of the loan. This amendment maintains the financial integrity of FHA while ensuring that middle-class americans can still afford to buy a house.

The administration, on the other hand, has proposed to add a 0.5-percent surcharge to the current 3.8-percent mortgage insurance premium surcharge for loans with less than a 10-percent downpayment. This additional upfront charge would increase the average housing costs by $1,400 and exclude up to 100,000 people from owning a home. In a time when home ownership is declining, the last thing we need to do is make it more difficult for people to purchase a home.

FHA mortgage insurance has been available since the 1930's and has made the American Dream of owning a home possible for more than 15 million people. Today, high home prices and high interest rates have made home ownership nearly an impossible dream for many hard-working American families.

Mr. Chairman: we must stop making it more difficult for the average American to own a home. The Vento-Ridge amendment will continue the original purpose of FHA while making it financially sound. I urge my colleagues to join me in supporting this amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. chairman, I want to thank the gentleman from New York [Mr. ENGEL] for his support, a new member on the Committee on Banking, Finance and Urban Affairs. I thought it was a very thoughtful statement with regard to it.

Mr. Chairman, I just want to say there have been some questions raised about the amendment that we have offered. I would like to answer any of those. Obviously, I appreciate the broad support. Nobody has gotten up really to directly oppose this amendment, only to say that they want to keep working on the issue.

We are willing to keep working, but I must say that in the experience I have had, and I repeat it again, I see no evidence from the administration that they are willing to compromise in this particular area.

Members say they have been in meetings with the Secretary, day and night, over the last 3 weeks. I just say that I have seen no product that came out of that. Nothing was offered to me that suggested that there was any willingness to do a meaningful compromise.

Mr. Chairman, we are willing to deal with that. I am ready to answer any questions about this amendment that any Member has between now and the time that we apparently will be working on this in conference.

Mr. Chairman, I want to once again thank the gentleman from Pennsylvania [Mr. RIDGE] for the excellent work that he has done on this, and the other members that have offered the substantial support on this issue.

Mr. RIDGE. Mr. Chairman, will the gentleman from New York yield?

Mr. ENGEL. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I want to thank the gentleman for yielding.

Mr. Chairman, let me say to Members that there is no doubt in my mind that Secretary Kemp wants to preserve the FHA Program as it was originally designed, that is a first-time home buying program for all Americans. I am absolutely convinced of that.

Unfortunately, we have a difference of opinion concerning his proposal. I was pleased to work with my colleague in order to offer an alternative. Certainly we are going to have to go into conference. We are going to have to resolve our differences. But let no one leave this Chamber thinking that Secretary Kemp wants to do anything except to retain FHA as a fiscally sound program, but also meeting the needs of first-time home buyers.

Mr. Chairman, I think we can reconcile the differences we have got in the program.

I might add to Members that there are a lot of management changes that could generate a lot of dollars for this mortgage insurance fund. Price Waterhouse was not only critical of the absence of capital, it was very critical in terms of the management of the fund.

I am also convinced that Secretary Kemp, having taken over this rather moribund agency, can bring the same energy and creativity to management changes to improve the mutual mortgage insurance fund as he has done in other areas.

Mr. SERRANO. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleagues, Mr. VENTO and Mr. RIDGE. The FHA mortgage insurance program was created in 1934 to meet a need; a need that exists today, and has become more urgent as homeownership continues to decline in the United States. Hundreds of thousands of Americans turn to FHA to finance mortgages on their new homes. We must keep FHA healthy and able to serve the purpose for which it was created: To provide a financing alternative for those who are unable to obtain private mortgage insurance.

The FHA reforms proposed by the administration would disqualify thousands of families from participation in the FHA Mutual Mortgage Insurance Fund by making up-front cash payments and monthly premium requirements prohibitively high. The only people who will be able to meet those requirements are those with incomes high enough to obtain private financing without FHA. Those who most need the FHA will be shutout.

Mr. Chairman, over the decades, millions of homeowners have benefited from FHA financing. The Vento-Ridge amendment will restore actuarial soundness to the FHA Mutual Mortgage Insurance Fund without unnecessarily compromising its ability to encourage homeownership. It will ensure a healthy FHA for future generations of homebuyers, without destroying the hopes of those who count on the highly successful FHA mortgage insurance program: Young people who are struggling to save for homes of their own. This is an important provision, and it should be added to the housing bill.

Mr. Chairman, in the 1980's, the Reagan administration put forward a theory about housing policy. They called this theory the trickle down effect. We were supposed to accept the idea that tax breaks for the rich would result in better living and working conditions for the poor. We have not seen an improvement in housing conditions since the Reagan administration put this theory into practice. We have seen a drop in homeownership, a drop in rental housing production, and an enormous rise in homelessness.

Mr. Chairman, we now have before us an opportunity to see a real-life trickle down effect. If we continue to encourage home ownership by strengthening FHA in a constructive way, more people will be able to buy their own homes. This will allow lower income families to move into the units vacated by the new homeowners, and so on. This is a true trickle down effect.

By adopting this amendment, we can set into motion a process that will ease overcrowding in public housing, and eventually help to provide homes for the homeless. But making FHA financing too expensive for the low-income families it should be assisting will do nothing to move us toward our stated goal: To expand homeownership for all economic sectors of our society.

The Housing and Community Development Act of 1990 includes several new provisions to encourage home ownership. Let us not wipe out the benefits of these innovative programs by weakening an established home ownership program that has been a proven success. The Vento-Ridge amendment to protect FHA and preserve home ownership belongs in this housing bill with the national housing trust fund and the HOPE programs.

Some members of the administration and this body will try to scare us off by comparing the state of FHA with the financial condition of overextended and undercapitalized savings and loans. Let us not be swayed by these hysterical comparisons. If the savings and loans had stuck to their original purpose, extending loans to homebuyers and businesses in their communities, the American taxpayers would not now be paying for their greed.

So, Mr. Chairman, let us learn from the S&L crisis, and learn from the Reagan trickle down travesty. Let us support the original mission of the FHA Mutual Mortgage Insurance Fund. I urge my colleagues to show their commitment to solving our very real housing problems by adopting this legislation.

Mrs. COLLINS. Mr. Chairman, Representatives VENTO and RIDGE are offering an amendment today to H.R. 1180, the omnibus housing authorization bill. I am supportive of this amendment and I would like to enter into the RECORD a resolution passed by the Chicago Board of Realtors in support of the Vento/Ridge amendment:

RESOLUTION

Whereas, the United States Senate voted on June 27, 1990 to dramatically change the FHA Mortgage Insurance Program by adopting an amendment to the National Affordable Housing Act (S. 556); and

Whereas, these changes will negatively impact home buyers throughout the United States and eliminate an estimated 100,000 potential homebuyers annually from the American dream of home ownership; and

Whereas, an amendment is being considered in the United States House of Representatives (Vento/Ridge FHA Amendment) which will insure FHA's fiscal soundness without all of the negative aspects of the Senate approved FHA changes; and

Whereas, an estimated 23.2 percent of the loans made in the city of Chicago are made through the FHA Mortgage Insurance Program thus affording many residents in the city of Chicago an opportunity to realize the American dream of home ownership; and

Whereas, the City of Chicago is currently searching for ways to address the affordable housing crisis in Chicago and increase home ownership for its citizens through the Mayor's Affordable Housing Task Force; and

Whereas, this Task Force voted to oppose the Senate's changes to the FHA Mortgage Insurance Program and support the Vento/Ridge FHA Amendment in the United States House of Representatives;

Now therefore be it resolved that the Mayor and Members of the Chicago City Council, who have been duly elected to represent the citizens of the City of Chicago, do hereby urge the United States House of Representatives to oppose the Senate's changes to the FHA Mortgage Insurance Program and support the Vento/Ridge FHA Amendment to the National Affordable Housing Act; and

Be it further resolved that a suitable copy of this Resolution be delivered to the Members of the United States House of Representatives immediately so that they may record the City of Chicago's position on this matter.

Mr. SCHUETTE. Mr. Chairman, I rise in strong support of the Vento-Ridge amendment to the Housing and Community Development Act of 1990. First and foremost, I support the continued financial solvency of the Federal Housing Administration [FHA]. The Vento-Ridge amendment is the best way to assure financial soundness with the least onerous impact on homebuyers.

FHA operated without a loss prior to fiscal year 1988. Since then, however, the FHA insurance fund has begun to experience losses. As a result, the administration commissioned a report on the solvency of the Mutual Mortgage Insurance Fund [MMIF], and contracted with the independent accounting firm of Price Waterhouse. The Price Waterhouse study reports an erosion in the capital of the MMIF and outlines a number of alternative program changes to reverse this trend.

A primary reason the FHA insurance fund began to lose its actuarially sound footing was because of a budget gimmick which permitted the FHA to finance over 100 percent of the value of the homes being sold. This questionable move, combined with the economic downturn in the oil patch States, and mismanagement of HUD, is why FHA is facing problems today. The Senate-passed bill (S. 566) would place the burden for these past mistakes on those least able to pay, first time home buyers who find it difficult to cut corners and save enough for a downpayment on their modest dream home.

The Vento-Ridge amendment provides the House of Representatives an avenue for restoring safety and soundness to FHA. Through the enactment of this important amendment to the housing authorization, we can return FHA to financial stability. We can impose tough capital standards that will ensure that FHA can weather a severe economic downturn should one occur. We can accomplish these things in a way that does indeed preserve FHA for the first-time, low- and moderate-income homebuyers who are precisely those the program was designed to help.

The Vento-Ridge amendment would strengthen the FHA insurance premium by returning to a pay-as-you-go structure instead of continuing to load upfront costs on home buyers through the higher 3.8 percent premium. This amendment requires a minimum capital standard of 1.25 percent to be attained within 24 months and a 2-percent capital standard by the year 2000. Moreover, the amendment works to eliminate defaults by requiring a true loan-to-value ratio of less than 100 percent following fiscal year 1992. Additionally, it discontinues the payment of distributive shares until the MMIF is actuarially sound and it eliminates the rebate of unearned premiums.

Mr. Chairman, I strongly support the FHA proposal to be offered by Representatives VENTO and RIDGE that incorporates the option originally suggested in the Price Waterhouse report. It improves the actuarial soundness of FHA with the least negative impact on potential home buyers.

Mrs. LOWEY of New York. Mr. Chairman, as an original cosponsor of the Vento-Ridge bill, I rise in strong support of this measure which will go a long way toward reinvigorating Federal support for families seeking to buy a home. The FHA has provided the answer for millions of American families over the years, and I am pleased to be able to support a measure that will put this essential program back on a firm footing

Mr. Chairman, rising home prices and interest rates are making home ownership an impossible dream, a memory of better times when young couples could reasonably hope to own a home of their own. In seeking ways to ensure the solvency of the FHA, it is vital that we avoid placing unreasonable and unnecessary burdens on the very people this program was created to help. The Vento-Ridge amendment takes a responsible approach to stabilizing the FHA's finances by reinstating pay-as-you-go financing while holding down up-front costs to homebuyers.

These changes will provide the necessary flow of funds to maintain an adequate capital ratio without making it more difficult for low- and moderate-income families to participate in the program.

The amendment, in fact, goes further than the administration proposal to ensure that the FHA attains a capital ratio adequate to weather economic shocks. The Vento-Ridge amendment requires the FHA insurance fund to achieve a capital standard of 2 percent within 10 years. The administration proposal merely calls on the FHA to "endeavor" to reach 2 percent.

Mr. Chairman, at a time when rental costs are gobbling up higher and higher percentages of family income, making it all the more difficult for families to become homeowners, it is time to reverse the policies of the 1980's, and open up the dream of homeownership to more American families. The Vento-Ridge amendment will help keep the FHA strong and supporting the American dream.

Mr. DREIER of California. Mr. Chairman, I rise in reluctant support of the Vento-Ridge amendment, because it will help to stem the tide of massive losses that the FHA has incurred in recent years, and will incur if reforms are not enacted. But it is clearly not the best we could do to protect the taxpayers who back the program, and future homeowners who would benefit from a stronger and financial solvent FHA.

Some would have us believe that FHA problems are overstated, and that if we simply give the real estate market a chance to rebound, the FHA will be back in the black. Remember, that's what some in the savings and loan industry said about the FSLIC. The fact is that the FHA is the fourth Federal insurance program to lose over $5 billion in the 1980's. We should not wait for the problem to become another financial catastrophe.

I strongly support the objectives of the FHA program—to expand home ownership opportunities for low- and moderate-income families. More important, I believe we have an obligation to help families to stay in their homes once they obtain FHA insurance. Studies show that approximately one-third of FHA loans with no equity in the home go into default, and the Vento-Ridge amendment does not fully address this problem. In fact, according to a Price Waterhouse study, the Vento-Ridge amendment will increase the FHA default rate from 11.6 percent to over 12 percent.

While I plan to support the Vento-Ridge amendment, it is my hope that we can consider additional reforms that will lessen the default problem by requiring more equity. This would help millions of families to avoid the nightmare of foreclosure on their FHA mortgages. Additional reforms are also needed to bring FHA into actuarial soundness more quickly.

Vento-Ridge should be considered only a first stop toward ensuring the long-term viability of the FHA fund.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. RIDGE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-three Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 289]

Ackerman	Bennett	Brown (CO)
Alexander	Bentley	Bruce
Anderson	Bereuter	Bryant
Andrews	Berman	Buechner
Annunzio	Bevill	Bunning
Anthony	Bilbray	Burton
Applegate	Billey	Bustamante
Archer	Boehlert	Byron
Armey	Boggs	Callahan
Aspin	Bonior	Campbell (CA)
Atkins	Borski	Campbell (CO)
AuCoin	Bosco	Cardin
Baker	Boucher	Carper
Ballenger	Boxer	Carr
Barnard	Brennan	Chandler
Bartlett	Brooks	Chapman
Barton	Broomfield	Clarke
Bateman	Browder	Clay
Bates	Brown (CA)	Clement

Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Foglietta
Ford (MI)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1850

The CHAIRMAN. Four hundred eleven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. RIDGE] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 418, noes 2, not voting 12, as follows:

[Roll No. 290]

AYES—418

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—2

Cooper	Petri

NOT VOTING—12

Bilirakis	Hawkins	Schuette
DeFazio	Leath (TX)	Stokes
Ford (TN)	Nelson	Washington
Gray	Roukema	Weldon

□ 1908

So the amendment was agreed to.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent Mr. WYLIE was given permission to speak out of order.)

Mr. WYLIE. Mr. Chairman, some of our Members have asked if we intend to finish the bill this evening; also, how long the Chairman might anticipate it will take. If the Chairman would respond to those two questions, it would be much appreciated by the membership, and I now yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, as the gentleman knows, at the most we have about two, possibly three amendments that could possibly, call for a recorded vote. There are some negotiations going on in the meanwhile. However, it would be our intention to complete this legislation. We are completing title VII, then we will go to title VIII, and that is it.

So I see no reason why we should not complete this legislation tonight at a relatively early hour.

Mr. WYLIE. Mr. Chairman, I appreciate the gentleman's explanation.

□ 1910

Mr. WEISS. Mr. Chairman, Nothing is more fundamental to the American dream than housing. But if adequate housing is central to that dream, the dream is not only being deferred, but deteriorating.

Upon Ronald Reagan's election, he pledged to cut back the Federal Government's housing programs. And cut he did.

Spending on housing was cut by two-thirds, falling from $30 billion in 1980 to $10 billion by the end of the decade. In 1980, the Federal Government provided 316,000 new units a year for low-income renters. The number of new units now stands at 82,000 per year. That's a 75 percent cut. We now reap the problems sowed by those policies.

Compared to 1980, there are 1.3 million fewer low-income housing units available today, while the number of eligible households has increased by 1.4 million over the same time period. Meanwhile, the cost of housing is consuming a larger and larger proportion of the budgets of low- and middle-income people due to stagnating wages. Homeownership for young home buyers is also down. Juxtapose these economic indicators with 8 years of fraud and mismanagment at HUD, and it does not require a Ph.D. to figure out why homelessness has risen.

No one knows better the effects of the Reagan and Bush housing policies than the constituents of my district in New York City. There are 180,000 people on the New York City Housing Authority's waiting list. They are waiting for housing in a city that has zero vacancy rate for public housing, and an annual housing turnover rate of only 4.7 percent. Clearly, many Americans, like New Yorkers, are falling outside the housing assistance safety net due to housing that is inadequate or too costly, or both.

Yet this bill addresses some of the housing problems only in half-way measures. One important area is that of section 8 housing assistance programs in urban areas.

Section 8 housing in this bill attempts to aid the millions of poverty-level Americans who simply do not earn enough to pay the rent. But this bill lifts the moratorium that prevented owners of low-income rental housing from paying off their federally subsidized mortgages. The moratorium expires in September, 1990. The bill requires that landlords, if they choose to opt out of section 8 housing, to give their tenants a 2-year notice.

If enough landlords opt out, this will worsen the housing crisis in New York City, and cities throughout the nation. I support the amendment to this bill offered by Congressman FRANK that would make the moratorium permanent, allowing owners to prepay in only limited cases. This amendment has bipartisan support.

Tenant subsidies are not a panacea, but they are step in the right direction to providing affordable, decent housing to all our citizens, and not just to the ones who can afford it. I also support $300 million to help finance new rental housing for low-income families.

We still have much to do in the way of providing decent housing in this country. The poet Langston Hughes once inquired, "What happens to a dream deferred?" The answer lies with the millions of Americans struggling to make rent payments and the many thousands who sleep in storm drains.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR: Page 428, line 6, strike "1989" and insert "most recent edition of the".

Ms. OAKAR. Mr. Chairman, basically this amendment, to the best of my knowledge, has been agreed upon by both the distinguished chairman of the committee and the minority leader. It would only change the static reference to the 1989 Model Energy Code, the most recent edition of the Model Energy Code. It is a technical amendment, and I ask my colleagues to accept it.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR: Page 461, line 17, after the semicolon insert "and".

Page 461, strike lines 18 and 19.

Page 461, line 20, strike "(D)" and insert "(C)".

Ms. OAKAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. OAKAR. Mr. Chairman, I am under the impression that this amendment also will be accepted by my distinguished chairman and by the distinguished minority leader. It is a perfecting amendment which would conform HUD's residential real estate appraisal policies to those that we established in title XI of FIRREA and accepted by Government agencies which utilize appraisals directly or regular appraisals used by others.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I am delighted to yield to my chairman.

Mr. GONZALEZ. Mr. Chairman, we accept this amendment. It is a perfecting amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Chairman, I offer my final amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR: Page 431, after line 15, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 739. APPRAISAL SERVICES.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following new paragraphs:

"(3) DIRECT ENDORSEMENT PROGRAM.—

"(A) Any mortgagee that is authorized by the Secretary to directly endorse mortgages for insurance under this title (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

"(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary.

"(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of

the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

"(4) FEE PANEL APPRAISERS.—

"(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

"(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.".

Ms. OAKAR. Mr. Chairman, this amendment has really broad-based support by a number of various organizations that are concerned with provisions in the bill that relate to safety of manufactured housing, including The National Association of Homebuilders, the Consumers Federation of America, the American Association of Retired Persons, the AFL-CIO, the Consumers Union, and others.

Let met explain basically what has happened. I really want to explain this to my colleagues because it is not well understood by some people.

Mr. Chairman, at the housing markup in our subcommittee, without a hearing, my distinguished friend, the gentleman from Indiana, offered a very fundamental amendment that related to safety standards for the manufactured housing area, and I want to go through a couple of things that this amendment did. It is true that he tried very hard to change some things that were really unacceptable, and in the print there are some differences.

Mr. Chairman, I want to make reference to this because I want the Members to see how little I am changing it. Let me just explain what is in the print now that passed by just a few votes. In the law, since 1976, we have had a standard that HUD must follow with respect to manufactured housing. Manufactured housing is housing that a lot of senior citizens depend on—47 percent of the seniors who earn $10,000 or less live in manufactured housing. It is an affordable type housing, but they are as concerned with the durability and safety of this housing as they are with the cost.

In the committee print, what we did was make a few changes in the Hiler amendment, which was fairly devastating. Let me just list three ways we are changing the law as of today.

Let me refer to the former statement of purpose that we have had since 1976, and let me just read the first line. It says this:

The Congress declares that the purposes of this title are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes.

Congress was concerned with the numerous injuries and deaths relating to manufactured housing. I think it is a necessity to have manufactured housing, but I also think we all agree we want it to be safe.

What we did with the Hiler amendment was to change the whole purpose. We are no longer concerned with personal injuries and deaths. Basically what we are concerned with mostly is availability.

The second thing the Hiler amendment did was this: In the past, since 1976, if there was a defect in manufactured housing, one could notify HUD of that defect and get some kind of attention. Today in the bill, the Hiler amendment ways there has to be a safety hazard. I ask the Members to listen to this. It says there has to be a safety hazard that is unreasonable that relates to a risk of death before you can notify.

I could go on with this. I am not even trying to change those provisions, even though I personally feel we should. In the spirit of compromise, going along with my distinguished chairman in the manner in which we are trying to compromise in this bill, I am not trying to change that, and I am not trying to change another provision that unbelievably says that if the Secretary of HUD finds there are some problems with manufacturing, unlike any other precedent, he has to go to the industry first to tell them what his problems are and get their approval before he changes some of the items relating to the safety of our people.

□ 1920

Mr. Chairman, I am not even trying to change that, even though I think that amendment without the proper hearings was wrong to introduce. I know we had hearings after the amendment passed by a couple votes, and some Members were caught off guard. I am not trying to change that because I am trying to compromise, but let me tell my colleagues that there is one area that I will not yield to because it is too important to the safety of our people and in terms of the definition of manufactured housing.

Mr. Chairman, what I want to do with this amendment is restore the language, quote, built on a permanent chassis.

Mr. Chairman, it is important that Members understand what we are talking about. There are basically two types of factory-built housing in the United States, manufactured housing, previously known to some as mobile homes, and modular housing. Manufactured housing is distinguishable. We know the industry does not want us to have any safety issues in this bill, so I can understand why some of the people from the gallery are going a little wild.

(By unanimous consent, Ms. OAKAR was allowed to proceed for 5 additional minutes.)

Ms. OAKAR. Mr. Chairman, manufactured housing homes are distinguishable from modular homes in two ways. Manufactured homes are built on a permanent chassis; and, No. 2, manufactured homes are built to conform to the Federal manufactured homes construction and safety standards which are established by HUD. Modular homes are not built on a permanent chassis, and they are built to conform to the codes established by State or local government. Each State has their own enforcement system, and we are not trying to change the modular area.

Mr. Chairman and my colleagues, manufactured homes require a permanent chassis because they are designed to be readily relocated. It is this unique requirement that has led to the development of separate standards, to be relocatable.

In other words, Mr. Chairman, I say to my colleagues, "When you take your manufactured home to its location, they must be built on this type of chassis where they are then permanently located. They, therefore, could be more rigid structurally."

Mr. Chairman, manufactured homes frequently cross State lines. They necessitate a nationwide uniform enforcement. That is why we are talking only about manufactured housing and the necessity to restore the language related to permanent chassis.

Mr. Chairman, I really urge my colleagues to support this amendment. There are about 15 million Americans who live in manufactured homes. If my colleagues are concerned with the most minimal type of standard in this code related to manufactured housing, and I am not trying to change all the other things, although my conscience tells me I should have, but, if my colleagues are only concerned about the minimal standard, they will support my amendment because, when in transport these manufactured homes are delivered to the site, through wind, through, perhaps, rain and so on, sometimes there are problems and defects that only with this chassis they can remain intact, and that is why it is so important to keep this provision at least.

Mr. Chairman, let me tell my colleagues one other thing. The Senate has absolutely no change in the law. The House, through an amendment offered by the gentleman from Indiana [Mr. HILER], my friend, and I

know he is representing his district because they manufacture a lot of these things in his district, and I realize that, and I appreciate his concern for his district. But I want to tell my colleagues that the Senate has no gutting provisions whatsoever, and we have just about gutted the safety standards.

I am trying to restore one minuscule standard that I think senior citizens and those people who cannot afford other types of housing and live in manufactured housing have, and I urge my colleagues on this issue at least to be consumer oriented and to please support my amendment. It is a very important amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I rise to support the amendment of the gentlewoman from Ohio [Ms. OAKAR] because what it does is restore the Manufactured Housing Construction and Safety Act of 1974, which I believe is vital we uphold, and, therefore, we accept her amendment. I certainly agree with her.

Ms. OAKAR. Mr. Chairman, I thank the gentleman from Texas [Mr. GONZALEZ] for his comments.

Mr. HILER. Mr. Chairman, I rise in opposition to the amendment of the gentlewoman from Ohio [Ms. OAKAR].

Mr. Chairman, there are so many things that my distinguished colleague, the gentlewoman from Ohio [Ms. Oakar], mentioned that I am not sure where to start. But I would like to touch on three specific areas that she mentioned as her preamble.

However, Mr. Chairman, maybe before I get to that, I should trace out for my colleagues the genesis of these amendments that are in the bill.

Starting over a year ago, myself, my staff, meeting with a variety of people, including HUD, worked to develop a change in the existing title that regulates the construction of manufactured housing because I believe that manufactured housing is a critical source of affordable housing for the American people. The average cost of a new-built site home in this country is $100,000. Not everyone can afford one of those. The average price of a new manufactured home built in a factory is $35,000. It seems to me, if we are to be concerned about housing our Nation's people and if we are to be concerned about providing affordable housing products, that manufactured housing is an important ingredient in the housing mix.

Mr. Chairman, it does not matter whether my colleagues would live in one or not. The question is whether or not this form of housing ought to be readily available to the American consumer.

So, Mr. Chairman, it was out of my desire to provide more affordable housing products for the American consumer that I have been working on trying to change the existing title that controls the way HUD regulates manufactured housing.

Most of my colleagues were not in the House in 1974 when we passed the Manufactured Housing Code. At that time manufctured housing was built to a variety of State standards. But in 1974, recognizing that this industry would be stifled without the ability to have Federal preemption, this House and the other body, and at-that-time President, constructed a title which preempted State law so that manufactured housing built in a factory could be transported across State lines.

Mr. Chairman, at that time, in 1974, one of the critical concerns about manufactured housing, which used to be called mobile homes, was that people thought of them as products that drove down the street that people hitched on the back of their pickup truck or on the back of their station wagon and they hauled it from place to place. Today 90 percent of manufactured homes are put on permanent foundations and never move. That is the way this product is sold today. It is sold to be put on permanent foundations, not to be moved, but to be permanent.

Mr. Chairman, it is time for the standards and for the code which determines how manufactured housing will be constructed. It is time for that to be modernized after 16 years.

Now the gentlewoman from Ohio [Ms. OAKAR] said that I changed the statement of purposes, and I did. I did change the statement of purposes. But there were a couple of points to the statement of purposes that she failed to mention. She said that the only thing, or implied that the only thing, I put into the statement of purposes was that we should look at the question of affordability. That is not the case. The Congress declares that the purpose of this title is to insure the availability of safe, quality, and affordable manufactured housing.

The gentlewoman from Ohio [Ms. OAKAR] said that, when notice is given for a defect in the home, that essentially the only notice that is accounted for is if there is an unreasonable risk of death.

□ 1730

That is not the case. I think the phrase in the bill is that a safety hazard means an unreasonable risk of death or severe personal injury.

The gentlewoman mentioned that the Secretary has his rulemaking authority and standard-setting authority preempted by some group that can keep the Secretary from doing something. That is not the case. In the bill it says the Secretary shall consider the recommendations of private standards writing organizations and the public in establishing the standards. The Secretary can set any standard he darn well chooses.

The question of the permanent chassis is probably a complicated one. When the original Hiler amendments were considered in the Housing Subcommittee on May 9, they were adopted by a vote of 24 to 20. The permanent chassis provision was not an issue. There were other issues that were of concern.

Chairman GONZALEZ, and I appreciate his doing this, was good enough to hold full Banking Committee hearings, and those hearings were held, nearly 10 hours of hearings, and the permanent chassis provision was not a major issue; but after those hearings that took place in the full committee, but before full committee markup, after open and productive negotiations between the majority and the minority, I agreed to over 50 changes in my original set of amendments.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. HILER was allowed to proceed for 5 additional minutes.)

Mr. HILER. Chairman GONZALEZ included the Hiler amendments as changed by nearly 50 changes. He included those in his leadership package, which were adopted unanimously in the committee.

Once again, no debate over the permanent chassis issue.

Historically, the permanent chassis was in practice two twin eyebeams that ran the length of the home, permanently affixed to the home itself, yet from 1976 to 1986 HUD approved designs that allowed for removable chassis, provided that the home was erected on a permanent foundation or could not be moved again and that the design and construction of the home was approved and certified by design engineers to meet the structural and transportation safety requirements set by HUD.

The fact is that every manufactured home has to be approved in its design and its construction by agencies that have been approved and certified by the Federal Government, and before a permanent chassis could be removed, the design of that home and the construction of that home would have to be approved, and when it is approved on every manufactured home there is a piece of metal that is attached to the home saying that this home has been produced to Federal Government standards.

The author further claims that removing the chassis blurred the distinction between manufactured homes built to the Federal code and modular homes built to State and local codes.

Mr. Chairman, the permanent chassis has nothing to do with whether a home built in a factory is modular or

manufactured. Indeed, every day for many years in the past and for many years to come, modular homes, State code homes, have been, are, and will be built with permanent chassis, a fact that I reconfirmed today with the Indiana State Building Commissioner.

If the chassis is what blurs the distinciton, then that distinction has been blurred for quite some time without the catastrophic effects the gentlewoman so direly predicts here.

What distinguishes a manufactured home and a modular home is the code the house is built to.

When a businessman or businesswoman decides to build homes, he or she must first decide whether to build at the site or the factory. If the decision bends toward factory built housing, then he or she must reach a fundamental choice, before any stud is cut or any nail is drive to construct modular homes following the State building code and enforcement scheme or to construct manufactured homes built to the Federal Code and enforcement system.

The decision is made before any work takes place as to whether it is manufactured or modular. The chassis has nothing to do with it. Modular homes are built exclusively for individual, State, and local markets. They must be built to the State's modular code. They must meet the State's enforcement scheme. They cost over $50,000 on average. Manufactured homes are built to be transported and then put on a permanent location. They are built to a Federal preemptive code. On average they cost $35,000.

The ability to remove the permanent chassis will save the average manufactured house in price anywhere from $800 to $3,000. I think it makes sense if we are trying to design a product to be affordable and save, to allow permanent chassis to be removed. They will continue to be built with the structural integrity that is insured by HUD and by the design agencies that they approve and authorize. It makes no difference whether the chassis is permanent or not.

Mr. Chairman, as I mentioned at the start, the Hiler amendments were not considered in a vacuum. They are the result of over a year's worth of effort. They are the result of countless compromises and accommodations made along the way, over 50 being made between the subcommittee and the full committee markup.

A manufactured home is not distinguished by its permanent chassis. All we will do by enslaving the manufactured home once again to that requirement will be to increase the cost, reduce the availability, and not do one single thing for the safety of that home.

Mr. Chairman, I urge my colleagues to defeat the Oakar amendment.

Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Were the Hiler amendments that the gentleman referred to approved in full Banking Committee, and if so, by what majority?

Mr. HILER. They were approved by a unanimous vote in the leadership amendment package.

Mr. HUBBARD. Mr. Chairman, I rise in opposition to the Oakar amendment. I urge my colleagues to support the amendments to the National Manufactured Home Construction and Safety Standards Act of 1974 included in H.R. 5157. The amendments, as approved unanimously by the Committee on Banking, Finance and Urban Affairs, revise and update the definition of the term "Manufactured Home" by, among other things, deleting the current reference to a permanent chassis. It is to this change that I will direct my remarks.

It has been claimed by certain opponents of the amendments, such as my friend Ms. OAKAR, that the deletion of the chassis requirement will result in the preemption of State and local modular housing laws. This is simply not the case, however, because the amendments leave intact present section 604(h), which excludes from the coverage of the 1974 Act, "Homes designed and manufactured to comply * * * with a State or local modular building code."

It has also been claimed that the amendments will erase the distinction between manufactured and modular homes. But this cannot be accurate because the real distinction never inhered in the chassis to begin with. To the contrary, many modular builders use chassis for ease of transportation. The real distinction, rather, lies in the myriad of requirements imposed by the HUD Code and the local modular codes. Homes constructed in accordance with the HUD Code are manufactured homes and bear a HUD seal. Homes built to conform with modular codes and their various requirements, are modular homes. It is simply incorrect and unrealistic to seize upon the chassis as the single defining characteristics of a manufactured home.

Mr. Chairman, the amendments approved unanimously in committee will give consumers the right to decide whether they need a home with a chassis or not. For those who do not need a chassis, it will save $800 to $3,000 on the cost of a home. For these reasons, and for the other reasons that I have mentioned, the manufactured housing amendments of H.R. 5157 should be approved in the form reported by the full Banking Committee.

Mr. Chairman, I urge my colleagues to Vote No on the Oakar amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Ms. OAKAR. Will the gentlewoman yield?

Ms. KAPTUR. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, let me just respond to my dear friend from Kentucky by quoting from CRS, from the CRS report to the Congress on manufactured housing. It says, "The key defining attribute of a structure covered by the HUD code is that a chassis usually constructed of steel beams must be a permanent, integral part of the manufactured homes."

I would also like to respond that I know some of the Members have manufacturers manufacturing homes in their districts, but I would say to my friend that if he has senior citizens or families who live in manufactured homes, then I hope you will think of them, because they are the ones who will be in jeopardy if we do not pass this amendment.

Let me also quote from AARP, the distinguished organization that represents so many senior citizens. Here is what they say, "For older households, low maintenance and operating costs are more important than the initial purchase price. The true measure of the affordability of manufactured housing relative to other types of housing must include costs beyond the initial acquisition price such as durability, energy-efficiency, willingness of financial institutions to provide the loans, and more importantly, safety." They talk about floor buckling, leaky pipes, inoperative doors, uneven and settling, interior orders and so forth. So for the average person who lives in one of these homes who has had problems over the years, until we established a code in 1974 where we saw dramatic decline in these kinds of safety hazards, it is as important to have their protection when it comes to sustaining their safety, because there are a lot of a various costs associated with the manufactured home once they purchase it.

Let me just quote, to be succinct about this, let me just quote from the Arkansas Manufactured Home Commission:

> How affordable is a manufactured home if after 6 months, 1 year, or even 3 years, homeowners have to spend $2,000 to $5,000 making repairs to the home due to design or construction problems?"

If, when you transport that manufactured home, you do not have this permanent chassis that has always been associated with a manufactured home, the consumer will encounter these types of problems, and the costs will be much, much more than the initial purchase price cost.

I also would like to, in an effort to retract what my dear friend said from Indiana relative to the Secretary of

HUD, on page 465 of the bill, and we have never put the Secretary through these kinds of hoops, here is what it says related to whether or not he wants to change various interpretations of manufacturing home construction, and we are putting them through so many hoops, it says, "The Secretary shall establish by order a system to periodically issue interpretations of Federal manufactured-home construction and safety standards that shall provide all parties directly affected, with timely notice, opportunity for comment. In establishing such system, the Secretary shall, first, provide a system that is practical and workable; second" and now when have we ever made the Secretary do this, "provide two separate systems for interpretation which shall include one system for interpretation that has an industrywide impact and one system that has the impact on the single manufacturer." It goes on and on and on. We make the Secretary go through tremendous hoops.

I ask my friends, my colleagues, to please vote for this amendment. It is the least we should do.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the gentleman from Indiana first brought the amendment to the subcommittee, of all the changes to the manufactured housing code that he proposed, the only one I agreed with initially was the removable chassis. It seems to me that if, in fact, you are going to buy a manufactured home, a mobile home, and put it on a permanent foundation, why do you need two steel I beams underneath supporting the structure? The gentlewoman from Ohio says it is for travel or other reasons. I am saying, well, we can work around those by shoring up the home for any travel on the highway to its permanent site.

I oppose the amendment. I voted no in subcommittee because of all the other changes that dealt with the safety portions of the code, but the one I agreed with is the one that is the main subject of debate here tonight, and that is should these mobile homes, the manufactured homes, have permanent chassis.

The gentleman did work with the committee staff to come to an agreement on many, many items, and basically the subcommittee at the markup, the final markup, did adopt his amendment in total. As soon as we committed to the subcommittee action, I heard from some organizations in my district indicating to me that, hey, wait a minute, by removing the permanent chassis you have now destroyed the major difference between a manufactured home and modular home, and I am saying that just cannot be. There are other differences. One has a red HUD sticker, the other one, a modular, has a State sticker or local sticker. You cannot tell the difference. You cannot tell the difference, especially if it is on a permanent foundation. You cannot see the I beams anyway.

What I did was I had drafted an amendment which would provide for a definition of modular versus mobile, modular versus manufactured. I took that to the legal experts around the Capitol. They looked at it. I did share it with the chairman of the committee. The subcommittee staff did look at it. And all of these folks who had the opportunity to review the amendment indicated that it did not do the job. The subcommittee, in a letter I received from the chairman, indicates the subcommittee staff concludes that without the permanent chassis there is no hard-line distinction between HUD manufactured housing and modular manufactured housing.

In this day and age with Webster containing over 160,000 entries in his dictionary, one would think that we could string along enough words to provide for that difference between manufactured and modular. However, I am sorry to say I failed and could not do so.

I am aware that the gentleman from Indiana has also an amendment which would provide for a definition, and I do not know if his gets the job done, but I am saying that between now and the conference committee on the bill I would hope that those of us interested in this could work together to remove the chassis which is unnecessary and very costly and come up with a definition which will provide manufactured housing will be regulated by HUD, modular housing in this, this, and the other thing, which is inspected and controlled by our States and local governments.

□ 1950

I do not have the answer today.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Wisconsin [Mr. KLECZKA], and rise in support of the Oakar amendment. That, in essence, reflects exactly what is happening here. Obviously there was not the study of this bill, although I know the chairman attempted hearings afterwards, which some members were able to participate in, and I appreciate him doing that. But I think that the fact is that this outstanding definition, by taking out "the chassis," which if I understand the gentleman from Indiana makes some difference, but it eliminates the difference. All of a sudden the type of benefits that we are providing for what had been manufactured housing on a chassis, and on an interstate basis, some of the obvious effort to provide a national standard, also all of a sudden embraces or takes in other types of prefabricated housing, that otherwise, but for the fact we have made these particular changes, would come under the local and State type of codes with regard to electrical codes, plumbing codes, and so forth.

I understand what the gentleman was trying to do. I think all Members understood that that should not be necessary. But I think that the gentleman invariably has gotten into an argument here which apparently he does not want to be in, but he is in. So I rise in support of the Oakar amendment as a way of extracting ourselves from that particular portion, although I know that it is a key element.

The CHAIRMAN pro tempore (Mr. KOSTMAYER). The time of the gentleman from Wisconsin [Mr. KLECZKA] has expired.

(At the request of Mr. VENTO and by unanimous consent, Mr. KLECZKA was allowed to proceed for 2 additional minutes.)

Mr. KLECZKA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I just want to commend the gentleman. I understand the dilemma that the gentleman from Indiana [Mr. HILER] is in, but nevertheless I think the way to solve it right now on the floor is to enact the Oaker amendment. Hopefully we can work something out. I think there is receptivity to the gentleman's issue with regard to the chassis, but not at the expense of throwing out all of the local codes with regard to prefabricated housing.

Mr. KLECZKA. Mr. Chairman, reclaiming my time, the conclusion I reached is the same as the gentleman from Minnesota [Mr. VENTO], that until we have something better, I guess we have to go with the Oakar amendment. The funny thing about the entire debate is the gentleman who opposes the Oakar amendment wants modular housing to be controlled by the States and local governments like I do. So we all have the same goal. We just have not found the purpose or the means to get to that goal.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, from 1976 to 1986 HUD approved the removal of the permanent chassis.

Mr. KLECZKA. Mr. Chairman, reclaiming my time, could the gentleman from Indiana [Mr. HILER] address himself to the dilemma we are in, and that is by removing the permanent chassis from the manufactured home, we remove the distinction. We concede the fact that HUD allowed this. Then there was a letter by one of the HUD

employees taken to court by the manufactured housing people. They lost it in district court. It was not on the definition, but on whether or not that letter was rulemaking. The court ruled it was not.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin [Mr. KLECZKA] has again expired.

(At the request of Mr. HILER and by unanimous consent, Mr. KLECZKA was allowed to proceed for 2 additional minutes.)

Mr. KLECZKA. I yield to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr Chairman, I thank the gentleman for yielding. Modular homes are built to a State code. They are built to that code because the manufacturer of that modular home is trying to work into a particular marketplace. Zoning is a lot less restrictive for modular homes than it is for manufactured homes.

Modular homes are more expensive than manufactured homes by nearly a factor of 50 percent. Modular homes appeal to a different type of home buying public, the same way that Chevrolets appeal to a different type of car buying public than Cadillacs do. We do not say that what distinguishes a Cadillac from a Chevrolet is leather seats, we say it is built, the way it is constructed, et cetera.

Mr. Chairman, the same is true here. It is not the permanent chassis that makes the distinction, it is the code that it is built to.

Mr. KLECZKA. Mr. Chairman, reclaiming my time, we are in a dilemma where people surrounding us and working for us say it does blur the distinction. We have a dilemma, and the only way I see is putting the chassis back between now and conference, and yank it in the conference. We have to have a solution to the problem.

Mr. HILER. Mr. Chairman, if the gentleman will yield further, let me say HUD is supportive of the Hiler amendment.

Mr. KLECZKA. Again reclaiming my time, the question is not what HUD is saying, the question is what is being said on the floor. There are those that say taking the chassis away removes the distinction. I am saying I cannot come up with a definition of modular versus manufactured, so I am forced to support the Oakar amendment, because there is no other alternative. Let us look for one, with the bottom iine being removing the dumb chassis, that costs between $800 and $3,000, I believe was the estimate, which is nonsense if you are putting the home on a permanent foundation.

Mr. LEHMAN of California. Mr. Chairman, I rise in opposition to the Oakar amendment to restore the permanent chassis amendment to the manufactured housing provisions in this bill.

I followed closely the efforts of the manufactured housing industry and the Housing Subcommittee to come to a compromise on this issue. I believe a fair agreement was reached at full committee mark-up and I supported the final version of the Hiler amendment.

The Oakar amendment being offered today would substantially impact that carefully balanced compromise. The removal of the permanent chassis requirement is a vital component in reducing the cost of the manufactured home. Not only does the removal of the chassis make the home more affordable, but it also reflects the improvements in the industry and the need to treat manufactured housing more in terms of the housing code and not the vehicular code.

I disagree that the permanent chassis requirement is necessary to distinguish between modular and manufactured housing. I do believe modifications can be made to the package which can help to clarify this issue if necessary. I know that labor and consumer groups have both expressed concern about this provision. However, I would hope that Members which are unsure about the possible impact of removing the permanent chassis requirement will consider an alternative approach which would have a less serious impact on the agreement.

I would also like to remind Members that the Senate does not include any provisions regarding the manufactured housing industry in their housing measure. As this will be an issue in conference, I ask that we reserve judgment on this issue until such time as other—less drastic—approaches may be considered.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The question was taken; and on a division (demanded by Mr. HILER) there were—ayes 10, noes 15.

RECORDED VOTE

Ms. OAKAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 211, not voting 21, as follows:

[Roll No. 291]

AYES—200

Ackerman	Campbell (CA)	Dyson
Alexander	Campbell (CO)	Early
Anderson	Cardin	Eckart
Andrews	Carper	Edwards (CA)
Annunzio	Chapman	Engel
Applegate	Clay	English
Aspin	Coleman (TX)	Espy
Atkins	Collins	Evans
Barnard	Condit	Feighan
Bates	Conte	Foglietta
Bennett	Cooper	Frank
Bentley	Costello	Frost
Berman	Coyne	Gaydos
Boehlert	Crockett	Gejdenson
Boggs	Davis	Gephardt
Bonior	de la Garza	Geren
Borski	DeFazio	Gilman
Bosco	Dellums	Gonzalez
Boucher	Dicks	Gordon
Boxer	Dingell	Gray
Brennan	Dixon	Guarini
Brooks	Donnelly	Hall (OH)
Bruce	Downey	Hayes (IL)
Bryant	Durbin	Hayes (LA)
Buechner	Dwyer	Hertel
Bustamante	Dymally	Hoagland
Hochbrueckner	Moakley	Sarpalius
Horton	Mollohan	Savage
Hughes	Moody	Sawyer
Johnson (SD)	Morella	Scheuer
Jones (GA)	Morrison (CT)	Schneider
Jones (NC)	Morrison (WA)	Schroeder
Jontz	Mrazek	Schumer
Kaptur	Murphy	Serrano
Kastenmeier	Murtha	Shays
Kennelly	Nagle	Sikorski
Kildee	Neal (MA)	Slattery
Kleczka	Nowak	Slaughter (NY)
Kolter	Oakar	Smith (FL)
Kostmayer	Oberstar	Smith (IA)
LaFalce	Obey	Smith (VT)
Lantos	Ortiz	Solarz
Leach (IA)	Owens (NY)	Stallings
Lehman (FL)	Owens (UT)	Stark
Levin (MI)	Pallone	Stokes
Levine (CA)	Panetta	Studds
Lewis (GA)	Payne (NJ)	Swift
Lipinski	Pease	Torres
Lowey (NY)	Pelosi	Torricelli
Luken, Thomas	Perkins	Towns
Machtley	Pickett	Traficant
Manton	Porter	Traxler
Markey	Poshard	Udall
Martinez	Rahall	Vento
Matsui	Rangel	Volkmer
Mavroules	Regula	Walgren
Mazzoli	Richardson	Watkins
McCloskey	Rinaldo	Waxman
McDermott	Robinson	Weiss
McGrath	Roe	Wheat
McHugh	Rose	Wilson
McMillen (MD)	Rostenkowski	Wise
McNulty	Rowland (CT)	Wolpe
Mfume	Roybal	Wyden
Miller (CA)	Russo	Yates
Miller (OH)	Sabo	Yatron
Mineta	Sangmeister	

NOES—211

Anthony	Flippo	Lewis (CA)
Archer	Frenzel	Lewis (FL)
Armey	Gallegly	Lightfoot
AuCoin	Gallo	Livingston
Baker	Gekas	Lloyd
Ballenger	Gibbons	Long
Bartlett	Gillmor	Lowery (CA)
Barton	Gingrich	Lukens, Donald
Bateman	Glickman	Madigan
Beilenson	Goodling	Marlenee
Bereuter	Goss	Martin (IL)
Bevill	Gradison	Martin (NY)
Bilbray	Grandy	McCandless
Bliley	Grant	McCollum
Broomfield	Green	McCrery
Browder	Gunderson	McCurdy
Brown (CA)	Hamilton	McDade
Brown (CO)	Hammerschmidt	McEwen
Bunning	Hancock	McMillan (NC)
Burton	Hansen	Meyers
Byron	Harris	Michel
Callahan	Hastert	Miller (WA)
Carr	Hatcher	Molinari
Chandler	Hefley	Montgomery
Clarke	Hefner	Moorhead
Clement	Henry	Myers
Clinger	Herger	Natcher
Coble	Hiler	Neal (NC)
Coleman (MO)	Holloway	Nielson
Combest	Hopkins	Olin
Coughlin	Houghton	Oxley
Courter	Hubbard	Packard
Craig	Huckaby	Parker
Crane	Hunter	Parris
Dannemeyer	Hutto	Pashayan
Darden	Hyde	Patterson
DeLay	Inhofe	Paxon
Derrick	Ireland	Payne (VA)
DeWine	Jacobs	Penny
Dickinson	James	Petri
Dornan (CA)	Jenkins	Pickle
Douglas	Johnson (CT)	Price
Dreier	Johnston	Pursell
Duncan	Kanjorski	Quillen
Edwards (OK)	Kasich	Ravenel
Emerson	Kennedy	Ray
Erdreich	Kolbe	Rhodes
Fascell	Kyl	Ridge
Fawell	Lagomarsino	Ritter
Fields	Lancaster	Roberts
Fish	Laughlin	Rogers
Flake	Lehman (CA)	Rohrabacher

Ros-Lehtinen	Smith, Denny (OR)	Taylor
Roth	Smith, Robert (NH)	Thomas (CA)
Rowland (GA)	Smith, Robert (OR)	Thomas (GA)
Saiki	Snowe	Thomas (WY)
Saxton	Solomon	Upton
Schaefer	Spence	Valentine
Schiff	Spratt	Vander Jagt
Schulze	Staggers	Visclosky
Sensenbrenner	Stangeland	Vucanovich
Sharp	Stearns	Walker
Shaw	Stenholm	Walsh
Shumway	Stump	Weber
Sisisky	Sundquist	Whittaker
Skaggs	Tallon	Whitten
Skeen	Tanner	Wolf
Skelton	Tauke	Wylie
Slaughter (VA)	Tauzin	Young (AK)
Smith (NE)		Young (FL)
Smith (NJ)		
Smith (TX)		

NOT VOTING—21

Bilirakis	Hall (TX)	Schuette
Conyers	Hawkins	Shuster
Cox	Hoyer	Synar
Dorgan (ND)	Leath (TX)	Unsoeld
Fazio	Lent	Washington
Ford (MI)	Nelson	Weldon
Ford (TN)	Roukema	Williams

□ 2014

The Clerk announced the following pairs:

On the vote:

Mr. HOYER for, with Mr. BILIRAKIS against.

Mr. NELSON for, with Mrs. ROUKEMA against.

Mrs. UNSOELD for, with Mr. WELDON against.

Mr. FLAKE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAXTON: Page 397, after line 8, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 712. PROHIBITION OF DISCRIMINATION ON BASIS OF RELIGION UNDER CDBG PROGRAM.

(a) IN GENERAL.—Section 109(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5309(a)) is amended by inserting "religion," after "national origin,".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act.

Mr. SAXTON (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, I offer this amendment on behalf of Mr. WELDON, who is the author, and Mr. KANJORSKI and I, who are coauthors of the amendment.

Mr. Chairman, I believe that the differences, if any existed, have been worked out between the parties. It is a very simple amendment.

Mr. Chairman, people have come to our country from all over the world because we can live in freedom; people have come here because we can live the way we want to live, because we can live where we want to live and to choose the type of housing that we want.

Mr. Chairman, for years this House has supported and passed laws that ensure equal access to housing, laws against discrimination because of age, color, sex, national origin and, of course, the primary tenet upon which our country was founded, freedom of religion as it pertains to housing as well.

The Housing and Community Development Act of 1974, however, prohibits discrimination because of race, color, national origin, or sex, but does not prohibit discrimination because of religion.

Mr. Chairman, this amendment adds that provision, adds the appropriate language in the existing law.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. SAXTON, I yield to the gentleman from Texas [Mr. GONZALEZ], the chairman of the committee.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, may I ask the gentleman, is this the nondiscriminatory on account of religion amendment?

Mr. SAXTON. The gentleman is correct.

Mr. GONZALEZ. We have no objection

Mr. WELDON. Mr. Chairman, the hope of religious freedom brought American colonists 3,000 miles to a new and uncertain world. The constitutional promise of religious freedom and equal opportunity has brought millions more to our shores since 1787. In short, religious freedom has been central to America's growth, prosperity, and security; countless men and women have laid their lives on the line for America because they knew the Constitution was there for them.

That is why I was surprised and hurt when I read this letter. It is a letter from a HUD official to one of my constituents which contains the following statement:

You have alleged that [your colleague was] discriminated against on the basis of his religion. Section 109 of title I of the Housing and Community Development Act of 1974 prohibits discrimination because of race, color, national origin, or sex***. Therefore, discriminatory acts based on religion are not covered by the statute.

The gentleman who lodged the complaint was informed that HUD was, "closing the complaint administratively without prejudice.

Committee and HUD officials have suggested that the Administrator who issued that statement may have been wrong. Right or wrong under the statute, he was wrong under the Constitution. However, I do not rise before you to point a finger in blame, for we are all to blame.

As individuals whose sworn duty it is to uphold the Constitution we would make every effort to ensure that legislation and Federal dollars do not provide an avenue for religious discrimination. At present, section 109 leaves the question of religious discrimination to interpretation.

Please support this amendment and place in the letter of the law what we all know should be in the spirit of the law. America was founded on the doctrine of separation of church and state, this issue should not be left to interpretation.

Mr. KANJORSKI. Mr. Chairman, I am pleased to join my friend and colleague from Pennsylvania, Mr. WELDON, in closing this loophole in existing law.

Section 109 of the Housing and Community Development Act of 1974 prohibits discrimination on the basis of race, color, national origin, or sex.

Unfortunately, as Mr. WELDON, and his constituents have discovered from firsthand experience, it does not explicitly prohibit discrimination on the basis of religion.

This very simple amendment would rectify that oversight by adding religious discrimination to the list of proscribed activities.

I commend my colleague from Pennsylvania for discovering this omission, and I urge all my colleagues to join me in voting for this bipartisan effort to eliminate religious discrimination.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word, and I yield to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the chairman of our full committee, the gentleman from Texas [Mr. GONZALEZ], who is also chair of the Subcommittee on Housing, for his distinguished leadership in bringing this important legislation to the floor.

Mr. Chairman, it has been a pleasure to serve on the committee to work to bring to the Congress legislation which addresses the element of survival, housing.

With that, Mr. Chairman, I would like to engage the chairman, the gentleman from Texas, in a colloquy.

Mr. Chairman, the committee report section 738 indicates that the committee intends for HUD to take appropriate steps to ensure that its policies and procedures are updated in order to facilitate the origination and servicing of equity conversion mortgages. Is this also true for the Government agencies that regulate private lenders?

Mr. GONZALEZ. Mr. Chairman, the gentlewoman is correct. It is the committee's intention that the government agencies that regulate private lenders, including the Office of Thrift Supervision, the Office of the Comptroller of the Currency and the National Credit Union Administration, take appropriate steps to ensure that their supervisory policies and proce-

dures are updated and revised in order to facilitate the origination and servicing of home equity conversion mortgages by financial institutions.

Ms. PELOSI. I thank the Chairman for his clarification of this language.

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AMENDMENT OFFERED BY MR. KANJORSKI

Mr. KANJORSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KANJORSKI:

SEC. 735. MORTGAGE COUNSELING FOR DELINQUENT MORTGAGORS.

Section 203(r) of the National Housing Act (12 U.S.C. 1709(r)) is amended by striking the final period and inserting:

"; and

"(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under section 203 (12 U.S.C. 1709), using the fund to pay for such counseling."

Mr. KANJORSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KANJORSKI. Mr. Chairman, this is a very simple amendment which should be noncontroversial. I know of no opposition to it on either side of the aisle, and it has the support of the Department of Housing and Urban Development.

The need for this amendment was first brought to my attention by my distinguished colleague from Pennsylvania, the dean of our delegation, Mr. GAYDOS.

It would give the Department of Housing and Urban Development the authority to provide mortgage counseling services to delinquent homeowners whose mortgages are insured by the FHA.

Mr. Chairman, we are all familiar with Secretary Kemp's Home Ownership for People Everywhere, or HOPE, proposal, major parts of which have been incorporated into the bill we are considering today.

This amendment is the outgrowth of another, earlier, HOPE proposal, the Home Ownership Protective Effort. The Home Ownership Protective Effort, run by the nonprofit Housing Opportunities, Inc., of McKeesport, PA, has been providing mortgage counseling services to delinquent homeowners for 6 years.

That demonstration program, which has been enormously successful, expires today. Although many people believe HUD has sufficient authority under existing law to continue to provide these services, HUD's attorneys feel the Department needs explicit authorization from the Congress. My amendment would give HUD the explicit authority its attorneys desire.

The facts supporting mortgage counseling are quite compelling. The results of the demonstration program indicate that for every $1 spent on mortgage counseling, the FHA insurance fund has saved $5.08 in outlays.

Over the life of the demonstration program alone, the FHA fund saved $3,650,000.

Mr. Chairman, today it is estimated that the FHA loses 37 cents on every dollar on FHA insured mortgages that go to foreclosure. We can save the FHA fund, and thus both homeowners and potentially U.S. taxpayers, millions of dollars by expanding mortgage counseling.

Mortgage counseling is particularly effective in helping middle-class citizens who have suddenly lost their jobs, or suffered from an illness, realize that they do not have to declare bankruptcy and that they can meet their mortgage obligations. Many FHA mortgagees have never been in financial trouble and want to meet their obligations, but do not know how to make and keep a budget or restructure their finances. Mortgage counseling guides them through difficult times and reassures them that there is a light at the end of the tunnel.

I do not want to suggest that mortgage counseling is a panacea which will solve all of the FHA's problems, it will not. Other amendments we have considered today will attempt to restore solvency to the FHA fund.

This amendment will, however, make a significant contribution to those efforts by reducing the fund's losses.

It is important to remember that every dollar we save by providing mortgage counseling is a dollar we do not have to raise from other homeowners in the form of higher insurance premiums, or from U.S. taxpayers.

In addition, mortgage counseling keeps families in their homes and reduces the rates of personal bankruptcy and homelessness.

Mr. Chairman, our former colleague, HUD Secretary Jack Kemp visited Housing Opportunities, Inc., in McKeesport on February 26 of this year. During his visit he praised the Pennsylvania based nonprofit's program as "a paradigm or model for other cities and States." He also noted that it helped inspire the administration's HOPE proposal.

Today we have an opportunity to reduce homelessness and personal bankruptcy, improve the solvency of the FHA fund, protect U.S. taxpayers, and keep middle-class American families in their homes by adopting this amendment.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I rise in support of the amendment offered by my colleague from Pennsylvania [Mr. KANJORSKI] to amend section 203(r) of the National Housing Act clarifying HUD authority with respect to contracting with third parties to provide counseling to delinquent mortgagors whose mortgages are insured under FHA.

Mortgage counseling service is a vital resource for homeowners who are at risk of losing their homes as a result of unanticipated financial crises. Unemployment, extended illness, the death of a spouse or family member can be devastating for the homeowner who has carefully invested in home ownership and is suddenly faced with an unexpected loss of income.

For example, in my own congressional district, Housing Opportunities, Inc., of McKeesport, PA, a private nonprofit HUD-certified counseling corporation, provides a variety of services to protect home ownership and revitalize urban neighborhoods. Two especially important services provided include:

The Earned Home Ownership Program [EHOP] designed to make it possible for marginal income, first-time home buyers to obtain permanent mortgage financing through pre-purchase counseling and specially structured financing;

The Home Ownership Protective Effort [HOPE) which assists unemployed and underemployed families in avoiding foreclosures resulting from mortgage delinquencies;

Both the EHOP and HOPE projects are based on professional financial counseling, utilization of community resources, and I think of special significance—focus on the development of disciplined family financial management. Through counseling and with the cooperation of local banks, churches, civic organizations, and corporate efforts, these programs have enjoyed tremendous success in helping owners become current in their mortgages, avoiding loss to themselves and to their lenders.

Under the HOPE program alone, the numbers speak for themselves—a report provided to me by housing opportunities of McKeesport states that as of December 31, 1989, 2,220 families have been served; 624 families have been brought current on their mortgages, and $4,264,033 has been generated in mortgage payments.

Mr. Chairman, the amendment being offered by Mr. KANJORSKI involves no appropriation of funds. It, in fact, assists in saving the Government money by ensuring that homeowners and prospective homeowners have available to them a resource by which they can avoid default and work toward protecting the asset, which is, for most Americans, the biggest and

most important investment they will make in their lifetime—their home. The amendment clarifies the statute with respect to contracting with independent home ownership counseling and I urge its adoption.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, we accept this amendment on this side.

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I think everyone should know that the demonstration project to which this amendment refers has been an extremely successful one. Secretary Kemp has visited the facility, talked to the people that have operated the whole program. One of the ways we can go about improving the soundness of the FHA insurance program is reducing the number of defaults. Clearly this is an initiative that is designed specifically to do that.

Under the demonstration program, for every dollar that we have spent on delinquent FHA homeowner counseling, we have saved $5 for the FHA insurance program. Clearly, this along with improvements in underwriting standards, certain managerial forms and counseling, the kinds offered by the gentleman from Illinois [Mr. RUSSO], go a long way in preserving the fiscal soundness of the FHA.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KANJORSKI].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: page 459, line 18, strike the quotation marks and the last period.

Page 459, after line 18, insert the following:

"(d) PENALTIES.—

"(1) IN GENERAL.—In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of $50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b) may not exceed $100,000.

"(2) INTERNATIONAL VIOLATIONS.—If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

"(A) the penalty imposed under paragraph (1) shall be $100; and

"(B) in the case of any penalty determined under subparagraph (A)

"(i) the $100,000 limitation under paragraph (1) shall not apply and

Mr. BENNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, this is a very simple amendment, and I know of no opposition to it. Included in the bill now is language which I sent to the committee with regard to escrow accounts, to make people in the mortgage business tell people what is in the escrow account, and account to the people about what has happened because cases have come to my attention where mortgage lenders in some instances were doing wrong things and not notifying, in fact, not being willing to really have an accounting.

Therefore, that language all got in the bill, but unfortunately, the penalty part did not get in the bill. The penalties are very small, and I think there is probably agreement on both sides to the $50 for one instance, and adds up to $100,000. If it is intentional, it is higher.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Texas.

Mr. GONZALEZ. I want to compliment the gentleman from Florida [Mr. BENNETT]. It is a good perfecting amendment, and we certainly accept it on our side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: To amend section 744 of the H.R. 5157 as follows:

On page 436 line 4 delete the word "including" and insert in its place the word "excluding"; and

On page 436 line 18 delete the word "including" and insert in its place the word "excluding".

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, during the committee stage I was working with some people who were interested in repairing and improving the conditions of 221(d)(c) and 226, so I offered an amendment that I thought would be supportive of that. On consideration I realized the amendment was somewhat flawed, and it would doubly reward some of the developers in the flexible subsidy program.

What this amendment does is to remove the flexible subsidy program from the effect of that amendment, which was adopted in the committee, which would not adequately and fairly reward the owners without excessively raising rents.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, we have no problem with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

Mr. KLECZKA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], would yield for a very brief colloquy?

In light of the defeat of the Oakar amendment which provided for chassis on mobile homes, is it the gentleman's understanding that the Hiler language contained in the bill will have no effect whatsoever on State regulation and inspection of modular dwellings?

Mr. GONZALEZ. That is our intention.

Mr. KLECZKA. So it is your intention that the only thing covered in the bill has to do with HUD inspection of mobile manufactured homes, and nothing to do with modular?

Mr. GONZALEZ. That is my interpretation.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. I wonder if it would be helpful in the discourse to ask the author of the amendment what he intended.

Mr. KLECZKA. He is not on the floor. I would ask him if he was.

AMENDMENT OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. KLECZKA: Page 428, after line 14, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 738. REPORTS REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) IN GENERAL—The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

REPORTS REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall cause to be published quarterly a report entitled "FHA Default Report", which shall contain information as provided under this section. Each report shall be an official publication of the Department of Housing and Urban Development and shall be made available to the public. Each report shall be made for the applicable reporting period (as such

term is defined in subsection (c)) and shall be published not more than 30 days after the conclusion of the calendar quarter relating to each such period. The first report under this section shall be made for the applicable reporting period relating to the first calendar quarter ending after the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

"(b) CONTENTS.—

"(1) MORTGAGE LENDER ANALYSIS.—Each report under this section shall contain, for each lender originating mortgages during the applicable reporting period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable reporting period.

"(B) The total number of such mortgages originated by such lender during the applicable reporting period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable reporting period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable reporting period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable reporting period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable reporting period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable reporting period.

"(2) OTHER INFORMATION.—Each report under this section shall also include the following information:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable reporting period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable reporting period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE REPORTING PERIOD.—The term 'applicable reporting period' means the 5-year period ending on the last day of the calendar quarter for which a report under this section is made.

"(2) DESIGNATED CENSUS TRACT.—The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulation issued by the Secretary of Commerce.".

(b) AVAILABILITY OF INFORMATION DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and ending on the date of the issuance of the first quarterly report under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

Mr. KLECZKA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KLECZKA. Mr. Chairman, every time an FHA-insured home is foreclosed on, it costs the Federal Housing Administration's mutual mortgage insurance fund an average of $25,000.

In the last 2 years, FHA suffered almost 200,000 foreclosures with a cost of $5 billion a year to pay off the resulting claims.

To help prevent these heavy losses which endanger the fund, I am offering a noncontroversial amendment to improve public disclosure and monitoring of the loan, default, and foreclosure rates of FHA-approved lenders who make federally insured home mortgage loans.

My amendment would require a publicly available report, on a quarterly basis, of information on loans, defaults, and foreclosures, broken down by lender for selected census tracts.

The information would provide a clear picture of the quality of insured loans produced by each lender, broken down by urban census tract, showing the total number of loans originated and the number of those that go into default or foreclosure within 5 years or less of origination.

The report also would show the percentage of the lender's total FHA loans that experience such early defaults.

The information in this report is already collected by HUD and would place no new reporting burdens on lenders. It would have to be reformatted from ZIP Code to the smaller geographic area of census tract.

This breakdown into more precise census tract data is needed because ZIP Codes contain too many households to pinpoint specific neighborhoods hard hit by concentrated foreclosures.

Today, a great deal of attention has been paid to the soundness of the FHA and which reform plan best protects the mutual mortgage insurance fund.

Although my disclosure amendment has not gained quite as much attention, it too contributes to the FHA's soundness and at very little cost.

The data provided will assist HUD and interested members of the public, including nonprofit housing advocates, in monitoring the performance of lenders who, by their actions, commit the resources of the FHA's single family loan fund.

It will disclose both the identity of lenders with higher than normal default rates and census tracts in which unsound lending practices may be occurring.

In addition to enhancing the soundness of the FHA, it will protect neighborhoods from practices that result in abnormally high loan defaults and foreclosures.

In turn, these foreclosures can lead to erosion of property values, unfair attitudes about the creditworthiness of local borrowers, and needless damage to communities.

This added scrutiny is needed to reverse the recent wave of foreclosures sweeping Milwaukee, Chicago, Philadelphia, and other large cities which are caused by sloppy or even fraudulent underwriting and an unwillingness to work with delinquent borrowers when foreclosures are still avoidable.

These reports will be helpful to lenders themselves, who may not be aware of the damage defaults are causing in particular neighborhoods.

Concerned community groups could show lenders their default records, and work together to develop strategies for bringing these high rates down.

In cases where the disclosed information showed disasterously high foreclosure rates or supported suspicions of fraud, data could be used by the Congress and citizen groups to substantiate requests for HUD investigations.

Of course, publicly disclosed data also would encourage lenders to police themselves to avoid HUD investigations.

National People's Action, a respected national coalition of neighborhood-based groups active in housing, strongly supports this amendment.

They believe it will "help stop the devastation of home ownership and stable neighborhoods and prevent the astronomical costs to the FHA of needless foreclosures."

These benefits were realized in the 1970's when some community groups had access to the default and foreclosure records of local mortgage bankers.

Negotiations with lenders brought down the number of defaults, contributing, among other factors, to a very low rate of FHA foreclosures in 1980–81.

Unfortunately, foreclosures increased again in the 1980's once foreclosure data was no longer obtainable.

I urge my colleagues to support this noncontroversial amendment which will help reduce the number of abandoned and deteriorating houses in your districts.

You will be helping to preserve the national dream of home ownership for which so many Americans are striving but sadly risk losing due to sloppy or fraudulent underwriting practices.

Finally, you will be painlessly contributing to the soundness of the FHA, a goal we have heard much about today.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, this amendment is certainly agreeable to this side. It is a perfecting amendment, and a very desirable amendment. We agree to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLECZKA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

SEC. 721. GRANTS FOR ECONOMIC DEVELOPMENT LOAN ASSISTANCE.

(a) GRANTS TO COMMERCIAL DEVELOPMENT CORPORATIONS.

(1) IN GENERAL.—The Secretary of Housing and Urban Development may make grants to any community development corporation sponsored by a bank or thrift institution, by a non-bank economic development corporation, or by residents of an economically distressed city or urban county to assist businesses and non-profit organizations by reducing interest rates on loans for economic development activities to be carried out by such businesses and organizations in any such city or urban county.

(2) GRANT REQUIREMENTS.—The Secretary of Housing and Urban Development shall require that a community development corporation receiving a grant under paragraph (1)—

(A) use such grant to reduce the interest rate on a loan described in such subsection by an amount not to exceed 60 percent of the market rate of interest on such loan; and

(B) take such steps as may be necessary to inform businesses and nonprofit organizations of the availability of such loans, including holding informational hearings and placing notices in newspapers or other publications.

(3) MAXIMUM AMOUNT OF GRANT.—The Secretary of Housing and Urban Development shall not make a grant under paragraph (1) which exceeds $2,000,000.

(4) MONITORING REQUIREMENT.—The Secretary of Housing and Urban Development shall monitor the use of grants made under paragraph (1) and the costs of administering such grants.

(5) DEFINITIONS.—For the purposes of this subsection:

(A) ECONOMICALLY DISTRESSED CITY OR URBAN COUNTY.—The term "economically distressed city or urban county" means a city or county that—

Contains an area that has been designated as an enterprise zone under section 701 of the Housing and Community Development Act of 1987.

(B) ECONOMIC DEVELOPMENT ACTIVITIES.—The term "economic development activities" means the construction and rehabilitation of housing, downtown and neighborhood commercial revitalization, industrial development and redevelopment, small and minority business assistance, neighborhood marketing, training, and technical assistance, research and planning for nonprofit development groups, and other activities which create permanent private sector jobs.

(b) REPORT.—The Secretary of Housing and Urban Development shall transmit to Congress, not later than 1 year after the date that amounts approved in appropriations Act to carry out this section first become available and for each year thereafter in which amounts are available to carry out this section, a report containing an evaluation of the effectiveness of grants made under this section.

(c) IMPLEMENTATION STUDY AND RECOMMENDATION.—

(1) STUDY.—The Secretary of Housing and Urban Development shall conduct a study regarding the effects and costs of carrying out an effective program of making grants under this section. The study shall determine the need for such grants and the amount of funds necessary to make effective grants.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the results of the study under paragraph (1). The report shall contain a recommendation for the amount of funds to be provided grants under this section.

(d) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated to carry out this section any previously appropriated amounts for programs and activities administered by the Secretary that remain unexpended under such programs and activities.

Page 6, after the item relating to section 720, insert the following new item:

SEC. 721. Grants for economic development loan assistance.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 2030

Mr. TRAFICANT. Mr. Chairman, this amendment would empower the Secretary of HUD to utilize existing money to buy down interest rates within an enterprise zone for projects that would create jobs in the private sector for community development corporations or other thrifts or nonbank activities that develop such programs.

We do not have enough money really to provide direct grants to economically improve some of the blighted areas of our country, but the money we do have can be used to buy down interest rates as a leverage to provide more private sector funds. That is exactly what this particular program does, and it would authorize the Secretary to utilize what existing funds he might have. They are not obligated in other areas, and they have been appropriated.

With that, Mr. Chairman, I yield to the chairman of the committee.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

I have a question. The gentleman understands, of course, that it would not be operative until and unless you have a zone?

Mr. TRAFICANT. Yes, it can only be utilized in Federal enterprise zones. The Secretary said we needed some carrots involved with this type of legislation, and this would be one tool he would have.

Mr. GONZALEZ. Mr. Chairman, we have no objection to the amendment.

Mr. GEPHARDT. Mr. Chairman, I rise in support of the Traficant amendment to create community development corporations under the auspices of the Department of Housing and Urban Development. The amendment is similar to a bill, H.R. 3716, which I introduced with Representative TRAFICANT last year. Grants from these corporations would buydown interest rates on economic development loans to businesses and nonprofit organizations for projects that empower economically distressed communities to refortify local housing and businesses. Since this program would adhere to the same standards required by the Urban Development Action Grant Program, it would be targeted to those areas most in need of assistance. The program will use both Federal and private sector money to finance such projects as housing rehabilitation and new construction. I urge my colleagues to support this amendment and give our communities the tools they need to turn around their economic problems by taking charge of their own redevelopment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer three amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the amendment is as follows:

Amendments offered by Mr. TRAFICANT: Page 504, after line 3, insert the following new section and (conform the table of contents, accordingly):

SEC. 767. BUY AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY.—If the Secretary of Housing and Urban Development or the Secretary of Agriculture, as appropriate, with the concurrence of the United States Trade Representative, determines that the public interest so desires, such Secretary, as appropriate, is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made by such Secretary under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, each Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal year 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to whch the United States is a party. Each Secretary shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(2) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (1).

Page 504, after line 3, insert the following new section (and conform the table of contents, accordingly):

SEC. 767. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this Act if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Page 504, after line 3, insert the following new section (and conform the table of contents, accordingly):

SEC. 767. PROHIBITION AGAINST FRAUDULENT USE OF MADE IN AMERICA LABELS.

If the Secretary of Housing and Urban Development or the Secretary of Agriculture determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, such Secretary shall declare that person ineligible to receive any Federal contract or grant in conjunction with the issuance of any contract made under this Act and administered by such Secretary for a period of not less than 3 years and not more than 5 years. The Secretary of Housing and Urban Development and the Secretary of Agriculture, as appropriate, may bring action against such person to enforce this section in any United States district court.

Mr. TRAFICANT. Mr. Chairman, these are "Buy American" amendments. This is standard language that has been offered to many bills in the Congress.

The amendments also provide for a labeling, dealing with any fraudulent labeling under the act by anybody who would try to pass on as American-made some items that were not.

Second of all, if a President should cite a nation, as he has India, for practicing illegal trade that is damaging to American industry, those companies domiciled therein or operating under their laws would be ineligible to bid on the contracts covered by this act.

Mr. Chairman, I so offer these three amendments en bloc, and I yield to the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

I understand that this is "buy American," and we have no problem with the amendments.

Mr. MFUME. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the offeror of the amendments en bloc just for the purposes of clarification.

I understand the intent of "buy American." Could the gentleman explain to this Member the mechanism by which it works and the mechanism by which we might be able to monitor that situation?

Mr. TRAFICANT. Mr. Chairman, if the gentleman will yield, the Secretary is required to provide a report relative to all contracts under the act wherever we have competition that might develop between an American firm and a foreign firm that might win out on that particular grant award. Under this procedure the American firm is offered and given a 6-percent advantage under the plan if the item is made in America by American hands and if at least 51 percent of that particular item is domestically produced. After that particular bidding is finished, it can be waived if it violates any international agreements we may have.

Finally, the Secretary shall give a report to the Congress as to the contracts that were awarded whether or not they were made by an American firm or a foreign firm, relative to our understanding of it.

Mr. MFUME. And does the gentleman also offer some penalty structure for those fraudulent claims, those that are proven to be fraudulent?

Mr. TRAFICANT. It would be up to the Secretary who would in fact refer those cases on to the criminal justice system. It does not specifically call for contract penalties except to say that he can limit a firm that fraudulently uses a label from bidding on any awards under this amendment for 3 to 5 years.

Mr. MFUME. Mr. Chairman, let me just for the record state that the gentleman has been advocating this sort of thing and offering amendments to a number of bills before this body. I think it is a correct and a proper way to go. I commend the gentleman for his persistence in this matter, and I urge the Members to embrace and support the amendments offered en bloc.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's support.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. RIDGE

Mr. RIDGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIDGE: Page 421, after line 24, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 733. LIMITATION ON SECONDARY RESIDENCES.

(a) LIMITATION ON SECONDARY RESIDENCES.—Section 203(g)(1) of the National Housing Act is amended by inserting after the period at the end the following: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not permit such occupancy unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act, as such provisions existed immediately before such date.

Mr. RIDGE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RIDGE. Mr. Chairman, it is my pleasure to offer this amendment on behalf of our colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], who is unable to be with us this evening because of some personal matters. This amendment involves something that she has been advocating for quite some time, so I am pleased to offer this amendment on her behalf.

Mr. Chairman, this amendment would limit the use of secondary residences in the FHA single-family mortgage insurance program.

Last year, despite the fact that the FHA helped some 450,000 families realize the American dream of home ownership, more than 80,000 families, or 11.6 percent, experienced the nightmare of foreclosure on their loans.

Under existing law, an FHA borrower can qualify as an owner occupant for more than one home. In addition to a principle residence, that is a borrower's primary home, he or she can obtain an FHA loan for a secondary residence that is occupied for less than half the year.

The most common form of secondary residence is a vacation property. These properties are owned by individuals with sufficient wealth to afford an investment property that doubles as a weekend or summer retreat. Since these properties carry a greater likelihood of default and consequent loss to the insurance funds, the Department is in effect being asked to assume greater financial risk to support mortgagors' investment objectives and recreational interests.

I believe this is an inappropriate use of Federal credit authority, particularly in view of the financial condition of the FHA insurance fund we are debating here and trying to fix.

I also want to remind my colleagues that this very provision was included in the committee- and House-passed HUD reform bill considered last year. This provision had unanimous, bipartisan support and only fell out of the reform package after the Senate conferees asked that we hold off on this aspect of reform.

Again, in essence this amendment eliminates HUD's authority to insure mortgages covering vacation properties. The Department would continue to insure mortgages covering secondary residences, but only where failure to do so would impose undue hardship on the mortgagor. Examples of such hardship would include where a mortgagor is required to move, but is unable to sell the dwelling that he or she occupied as a principle residence, or where seasonal employment requires a secondary residence.

Once again, Mr. Chairman, if we are going to address the solvency of the FHA, we should address all areas of concern. This is one area which the Housing Subcommittee, the full Banking Committee, and the House has already spoken.

I urge support for this amendment.

Mr. Chairman, I understand that the chairman of the full Committee on Banking, Finance and Urban Affairs has suggested a perfecting amendment, and I would like to yield to the gentleman so he could explain that to us.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

Certainly we accept this amendment. The gentlewoman from New Jersey [Mrs. ROUKEMA] had submitted a copy of it to us. The only thing we have here, I say to the gentleman from Pennsylvania, is a suggestion by way of technically improving the language.

On line 6, after the comma and after the word "residences," it says, "the Secretary may not permit such occupancy * * *" We believe that is the wrong wording, and we would suggest that be stricken and in lieu thereof include these words: "Insure mortgages with respect to such residences * * *"

Mr. RIDGE. Mr. Chairman, we feel that that improves the amendment, and we would accept it.

MODIFICATION OF AMENDMENT OFFERED BY MR. RIDGE

Mr. GONZALEZ. Mr. Chairman, let me suggest that the gentleman ask unanimous consent to modify the amendment.

Mr. RIDGE. Mr. Chairman, I ask unanimous consent that the language be stricken and that the addition of the words be made as the chairman of the committee has suggested.

The CHAIRMAN. The Chair will ask again, what line of the amendment does this refer to

Mr. GONZALEZ. It is on line 6, Mr. Chairman. The language is: * * * "the Secretary may not permit such occupancy * * *" and in lieu thereof, we would suggest this language: * * * "the Secretary may not insure mortgages with respect to such residences * * *"

The CHAIRMAN. Is there objection to the request that the amendment be modified?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 421, after line 24, insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 733. LIMITATION ON SECONDARY RESIDENCES.

(a) LIMITATION ON SECONDARY RESIDENCES.—Section 203(g)(1) of the National Housing Act is amended by inserting after the period at the end the following: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with resepct to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) TRANSITION PROVISIONS.—Any mortgate insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act, as such provisions existed immediately before such date.

The CHAIRMAN. The question is on the amendment as modified, offered by the gentleman from Pennsylvania [Mr. RIDGE].

The amendment, as modified, was agreed to.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this moment, as the evening goes on, to commend the outstanding leadership of the chairman of this committee. I commend the gentleman for his dogged determination in moving this magnificent housing bill, the best in over a decade, to a conclusion under his leadership. I think it is the most comprehensive bill we have seen, certainly in my years in Congress.

There is much credit that is due to him, to the members of the committee, to the staff, to the ranking minori-

ty member of the Banking Committee, the gentleman from Ohio [Mr. WYLIE], and also the ranking minority member of the Housing Subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA]. And I know the Secretary of HUD, Jack Kemp, spent many hours up here trying to reach compromises.

I just want to thank the chairman for his graciousness to me personally during his many years on the committee. I know that there are many provisions in the bill that are there because of his support.

□ 2040

Mr. Chairman, I just wanted to mention a couple of them: the home program, home ownership made easier, demonstration which will test a program of providing Federal matching donwpayment funds on a sliding income scale to low- and moderate-income families who are first-time homebuyers when they create special savings accounts to accumulate these downpayments at financial institutions. What is interesting about this particular program is it will probably lower the costs for certain homebuyers, their monthly expenses, by as much as 25 percent, and I want to acknowledge the help that the committee and Members received from National People's Action in Chicago and the mortgage insurance companies of America in helping to draft this provision. This is going to help first-time homebuyers whose mortgages would likely be $50,000 or less.

I also wanted to acknowledge the help of the chairman and members of the committee, the gentleman from Delaware [Mr. CARPER], the gentleman from Ohio [Mr. WYLIE], the gentlewoman from New Jersey [Mrs. ROUKEMA] for the hope for family self-sufficiency program that will provide much needed corrdination between social services at the local level and housing programs. We know how important it is in public housing to look beyond the boundaries of any one particular project, to access other essential community resources that can provide residents with developmental opportunities leading to self-sufficiency.

I also want to say that in the section dealing with child care services, the increase from $5 to $15 million for funds that will be available for child care and public housing, that it is one of the most important and needed products of the tenant situation in many cities across this country.

We could not leave this evening without acknowledging our colleague, the gentlewoman from Louisiana [Mrs. BOGGS], a member of the Committee on Appropriations Subcommittee on HUD and Independent Agencies. She has done so very much to help promote this program by working in conjunction with the Housing Subcommittee. We will miss her, and I hope to assume in my new responsibilities the cause of this worthy program that she has helped to champion in her many distinguished years here.

I finally want to say that the amendment that was sponsored along with our colleagues, the gentleman from California [Mr. DREIER] and the gentleman from Maryland [Mr. MFUME], will phase in federally assisted rent increases for 3 years when an individual faces a rent increase as a result of employment, and this provision will help remove any disincentive to employment that may now exist, as well as ease the transition for those individuals who are attempting to lift themselves to economic independence.

I want to thank the Members. The hour is a bit late, but I especially want to acknowledge the chairman for his ability to move this type of unwieldy bill through this session of Congress that will benefit millions and millions of our citizens.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chaimran, I want to express my profound gratitude for the generous words of the gentlewoman from Ohio [Ms. KAPTUR] and say that she is really responsible for a great portion of this bill. Our loss in the Committee on Banking, Finance and Urban Affairs is the Committee on Appropriations' gain, but I am deeply grateful for her kind words.

Mr. CARPER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, I simply want to take the well for a moment to express my gratitude on behalf of all of us on the Committee on Banking, Finance and Urban Affairs who are no longer a member, but we regret that. But the self-sufficiency provisions that are in this bill are in large part due to the gentlewoman from Ohio [Ms. KAPTUR], and I want to thank her and say it was a pleasure working with her on those provisions.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Delaware [Mr. CARPER], and I thank him very much for the hard work that he did in helping to work out the differences in that particular section of the bill.

The CHAIRMAN. Are there any other amendments to title VII?

The Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—HOMELESS PREVENTION

Subtitle A—Emergency Low Income Housing Preservation

SEC. 801. REPEAL OF PREPAYMENT MORATORIUM.

Section 203 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is repealed.

SEC. 802. PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT.

(a) IN GENERAL.—Subtitle B of title II of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l) is amended to read as follows:

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act

"SEC. 221. GENERAL PREPAYMENT LIMITATION AND NOTICE OF ELIGIBLE HOUSING.

"(a) PREPAYMENT LIMITATION.—An owner of eligible low income housing shall be entitled to prepay a mortgage on such housing or terminate an insurance contract on such housing pursuant to section 229 of the National Housing Act at any time after the mortgage becomes eligible for prepayment without prior approval by the Secretary of Housing and Urban Development, except that the owner must have filed notices of intent to prepay with the Secretary, the applicable unit of local government, the mortgagee, and any tenants of the housing as required under sections 222 and 223.

"(b) PUBLIC NOTICE OF PROJECTS ELIGIBLE TO PREPAY.—The Secretary shall publish in the Federal Register, by January 31 of each year, the names of the eligible low income housing projects that are or will be eligible for prepayment during that calendar year and the following 2 calendar years. The Secretary shall also provide each State housing finance agency, by such date, with a list of projects within the State that are or will be eligible for prepayment during the current calendar year and the following 2 calendar years, and shall otherwise disseminate the list of such projects in a manner to notify the tenants of the eligible low income housing projects and other concerned parties that the owner is or will be eligible to prepay within the next 3 years.

"SEC. 222. INITIAL NOTICE OF INTENT.

"(a) FILING WITH SECRETARY.—

"(1) REQUIREMENT.—An owner of eligible low income housing that intends to transfer the housing in connection with a homeownership program under section 225, seek incentives under section 224, or to prepay the mortgage or voluntarily terminate the mortgage insurance, shall file with the Secretary an initial notice under this section indicating such intent in such form and manner as the Secretary shall prescribe.

"(2) INELIGIBILITY.—An owner shall not be eligible to file an initial notice of intent under this subsection if the mortgage covering the housing is in default on the date on which the initial notice of intent is filed, or the mortgage had been in default at any previous time, unless the owner agrees (in connection with filing such initial notice of intent)—

"(A) to bring current all delinquent payments due under the mortgage (if the owner is then in default); and

"(B) to reimburse the appropriate insurance fund in an amount equal to the sum of any portion of the original balance of the mortgage forgiven by the Secretary, any interest forgone by the Secretary on such portion, and any interest due on the mortgage which in any other manner had been forgiven by the Secretary.

"(b) TIMING.—An owner of eligible low income housing may not prepay the mortgage or voluntarily terminate the insurance on the housing until—

"(1) for any eligible low income housing for which the mortgage covering the housing was entered into on or after July 1, 1970, the expiration of the 24-month period be-

ginning on the date of the filing of the initial notice under this subsection; and

"(2) for any eligible low income housing for which the mortgage covering the housing was entered into before July 1, 1970, the expiration of the 18-month period beginning on the date of the filing of the initial notice under this subsection.

"(c) FILING WITH STATE OR LOCAL GOVERNMENTS.—An owner, upon filing of an initial notice under this section with the Secretary, shall simultaneously file a copy of the initial notice with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located, and notify the tenants of the housing and the mortgagee of the filing.

"SEC. 223. INFORMATION FROM SECRETARY AND SECOND NOTICE OF INTENT.

"(a) INFORMATION FROM SECRETARY.—

"(1) TO OWNER.—Upon receiving an initial notice of intent under section 222, the Secretary shall provide the owner filing the notice with such information as the owner needs to prepare a second notice of intent under this section.

"(2) CONTENTS.—The information shall include—

"(A) an appraisal of the property under section 224(a);

"(B) a description of incentives authorized under sections 224 and 225, which shall include, in the case of a resident homeownership program under section 225, the maximum assistance that the Secretary may provide under such section; and

"(C) the resident homeownership plan, if any, developed pursuant to section 225.

"(3) TIMING.—The Secretary shall provide the information required under this subsection not later than 6 months after filing of initial notice by the owner under section 222(a).

"(4) TO TENANTS.—The Secretary shall make available to the tenants of the housing any information provided to the owner under this subsection and other information related to the rights and opportunities (with respect to the housing) of the tenants.

"(b) SUBMISSION OF SECOND NOTICE OF INTENT.—

"(1) TIMING.—An owner of eligible low income housing shall submit to the Secretary a second notice of intent under this subsection in such form and manner as the Secretary shall prescribe. The owner shall submit the second notice not later than 6 months after receipt of the information from the Secretary under subsection (a).

"(2) CONTENTS.—A second notice of intent under this section shall state whether the owner desires to sell the project to the tenants pursuant to a plan approved by the Secretary, obtain incentives to enable the owner to maintain the project for lower and moderate income occupancy, sell the project to a nonprofit or other entity that will keep the housing affordable for lower and moderate income occupancy, or pay off the mortgage or voluntarily terminate the insurance.

"(3) OTHER PARTIES.—The owner, upon filing of second notice under this subsection with the Secretary, shall simultaneously submit the second notice of intent under this subsection to the tenants of the housing, the mortgagee, and the chief executive officer of the State in which the housing is located or the local government for the jurisdiction in which the housing is located. An appropriate agency of the State or local government shall review the second notice of intent and advise the tenants of the housing of any assistance available to the tenants to carry out the purposes of this title.

"(4) FAILURE TO SUBMIT SECOND NOTICE OF INTENT.—

"(A) EFFECT OF DEADLINE.—Except as provided in subparagraph (B), to be eligible to prepay a mortgage on eligible low income housing (or terminate an insurance contract on such housing), an owner who does not submit a second notice of intent under this section within the applicable period under paragraph (1) shall resubmit an initial notice of intent under section 222(a) and comply with the provisions of this subtitle pursuant to such filing. The original initial notice of intent filed by the owner under section 222(a) (pursuant to which notice under this subsection was not timely submitted) shall be ineffective for purposes of this subtitle.

"(B) WAIVER.—The Secretary may, upon application by an owner who failed to timely submit a second notice of intent under this section, extend the period under paragraph (1) for submission of such notice by the owner for an additional period not to exceed 60 days.

"SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

"(a) APPRAISAL.—Upon receiving initial notice of intent under section 222, the Secretary shall ascertain the value of the eligible low income housing on the basis of an independent appraisal, obtained by the Secretary, as follows:

"(1) FAIR MARKET VALUE.—The appraisal shall determine 2 fair market values of the housing, without regard to any future restrictions (resulting from the loan or mortgage on the property that qualifies the property as eligible low income housing) on the use or occupancy of the property or on the income of, or the rent charged, any future occupants of the housing, as follows:

"(A) One fair market value shall be the value of the housing based on the highest and best use of the property.

"(B) One fair market value shall be the value of the property based on the highest and best use of the property as residential rental housing.

"(2) OWNER'S APPRAISAL.—The owner of the housing may obtain an independent appraisal of the fair market values of the housing and, if the appraised values pursuant to this paragraph differ from the appraisal values obtained by the Secretary and the 2 appraisers fail to agree on the fair market values, the Secretary and the owner shall jointly select a third independent appraiser whose appraisal shall be binding on the Secretary and the owner.

"(b) INCENTIVES.—The Secretary shall offer, to any owner of eligible low income housing that makes binding commitments as required under subsection (d), the following incentives:

"(1) INCREASED RENT.—

"(A) IN GENERAL.—An increase in the rents for all units in the housing (including units assisted under a contract for project-based assistance under section 8 of the United States Housing Act of 1937) to the lesser of—

"(i) the rent level necessary to provide a fair return on the housing to the owner, based on the fair market value of the housing determined under subsection (a)(1)(B); or

"(ii) 110 percent of the fair market rental for existing dwelling units in effect, from time to time, under such section 8 for the area in which the housing is located;

"(B) ADJUSTMENT.—With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this paragraph, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

"(2) PROJECT-BASED CERTIFICATES.—Subject to the availability of amounts approved in appropriation Acts, project-based assistance attached to the housing under section 8(b) of the United States Housing Act of 1937 (with a contract term of the same duration as the remaining term of the mortgage on the housing) for any families or persons eligible for such assistance who are not at the time receiving project-based assistance under such section 8, to the extent necessary to enable the tenants of the housing to afford rents established pursuant to paragraph (1). Assistance under this paragraph shall be provided for the greater of—

"(A) the number of units in the project receiving assistance under section 8(b) of the United States Housing Act of 1937 at the time the first notice of intent is filed by the owner under section 222;

"(B) 30 percent of the units in the project; or

"(C) the number of units occupied by lower income tenants at the time the first notice of intent is filed with the Secretary under section 222.

"(3) CAPITAL IMPROVEMENTS FINANCING.—Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(4) INCREASED TENANT CONTRIBUTIONS.—Subject to subsection (d)(5), authorization for the owner to increase the tenant contributions to rent for all very low-, lower, and moderate income tenants of the housing to 30 percent of the adjusted income of each such tenant.

"(5) EQUITY TAKE OUT.—Access by the owner to any accumulated equity in the housing, to the extent of amounts provided under a second mortgage loan insured pursuant to section 241(f) of the National Housing Act or through a conventional second mortgage loan approved by the Secretary.

"(6) EXTENSION OF SECTION 8 CONTRACTS.—Subject to the availability of amounts provided in appropriation Acts, extension of all existing contracts with respect to the housing under section 8 of the United States Housing Act of 1937 to the date on which the first mortgage on the housing matures.

"(7) DISTRIBUTIONS.—Removal of all restrictions on distributions to, or other expenditures by, the owner, to the extent of surplus cash (as defined by the Secretary).

"(8) WITHDRAWAL OF RESIDUAL RECEIPTS.—Authority for the owner to withdraw any residual receipts accumulated with respect to the housing, to the extent that the housing is in sound physical condition and the reserve for replacement for the housing is adequately funded.

"(c) TIMING.—The Secretary shall make the incentives specified in subsection (b) available to the owner not later than the date on which the owner may prepay the mortgage or voluntarily terminate the insurance contract under section 222(b).

"(d) REQUIRED COMMITMENTS.—The Secretary may provide the incentives under subsection (b) only for housing for which bind-

ing commitments have been made by the owner to ensure that—

"(1) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage, to the extent that assistance under section 8 of the Housing Act of 1937 or other Federal, State, or local assistance is available to ensure that such families and persons shall not pay more than 30 percent of the adjusted income of such families and persons for rents established pursuant to section 224(b)(1);

"(2) throughout the remaining term of the mortgage, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (e), as determined by inspections conducted under such subsection by the Secretary;

"(3) current tenants will not be involuntarily displaced (except for good cause);

"(4) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant, except that the rent contributions of any tenants occupying the housing at the time of such increase may not be reduced by reason of this paragraph;

"(5) any resulting increase in rents for tenants occupying the housing at the time of any such increase (other than increases made necessary by increased operating costs)—

"(A) shall be accomplished by annual increases in equal amounts over a period of not less than 3 years, if such increase is 30 percent or more; and

"(B) shall not exceed more than 10 percent annually, if such increase is more than 10 percent but less than 30 percent;

"(6) to the extent that assistance under section 8 of the United States Housing Act of 1937 is made available to the owner, such assistance shall be provided, if necessary, to mitigate any adverse effect on current income-eligible tenants; and

"(7) lower income families and persons shall be given preference for admission to units that become available, to the extent that assistance under section 8 of the United States Housing Act of 1937, or other Federal, State, or local programs, is available to the owner to ensure that any such new tenants will not be required to pay more than 30 percent of adjusted income for rent.

"(e) HOUSING STANDARDS.—

"(1) ESTABLISHMENT AND INSPECTION.—The Secretary shall, by regulation, establish standards regarding the physical condition in which any eligible low income housing project receiving incentives under subsection (b)(2) shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

"(2) SANCTIONS.—

"(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including barring an owner from distributing any amounts otherwise available for distribution under paragraphs (5), (7), and (8) of subsection (b) for the period ending upon a determination by the Secretary that the project is in compliance with the standards.

"(B) CONTINUED COMPLIANCE.—To ensure continued compliance with the standards for a project subject to the action under paragraph (1), the Secretary may also limit access of the owner to such amounts for not more than the 2-year period beginning upon the determination that project is in compliance with the standards.

"(C) REMOVAL OF ASSISTANCE.—If, upon inspection, the Secretary determines that any eligible low income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may (subject to availability of amounts provided in appropriations Acts) provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in such housing vacated pursuant to provision of assistance to the tenant under the preceding sentence, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

"(f) REQUESTS FOR INCENTIVES BY PURCHASERS.—Any nonprofit organization or other prospective purchaser of eligible low income housing may request, from the Secretary, incentives under this section and such incentives shall be subject to the terms and conditions of section 226.

"SEC. 225. RESIDENT HOMEOWNERSHIP.

"(a) APPROVAL.—The Secretary may approve a resident homeownership program for any eligible low income housing if the program meets the requirements of this section and this subtitle.

"(b) RESIDENT COUNCIL.—If an owner has filed an initial notice of intent under section 222, the tenants of the housing may organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The tenants shall notify the Secretary of their preliminary intent to form such a council not later than 30 days after the filing of the initial notice of intent. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof) that has experience that will enable it to assist the tenants in considering their options and developing the capacity necessary to own and manage the housing (where appropriate) and that is approved by the Secretary.

"(c) REQUEST FOR ASSISTANCE.—

"(1) IN GENERAL.—If, within 6 months after the date that the Secretary provides information to tenants under section 223(a), residents of the project who comprise at least 50 percent of the units in the project indicate a desire to negotiate with the owner to purchase the project, the resident council may file a plan of action (within such period) for the homeownership program, providing such information as the Secretary shall require, and apply to the Secretary, on behalf of the residents, for assistance under this section. The Secretary may establish a different standard for determining sufficient tenant interest, where appropriate, taking into account such factors as the number of vacant units in the project, the strength of commitment of the tenants, and the ability of the resident council.

"(d) GRANT ASSISTANCE.—

"(1) AMOUNT.—The Secretary may provide assistance in the form of a grant for the homeownership program for each unit in the housing in an amount, as determined by the Secretary, not greater than the present value of the sum of the projected published fair market rents for existing housing established by the Secretary under section 8(c) of the United States Housing Act of 1937 for the 10-year period beginning upon the date of the filing of the application under subsection (c).

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for grants under this subsection.

"(e) ELIGIBLE ACTIVITIES.—As approved by the Secretary, assistance provided under subsection (d) may be used for the cost of acquisition of the housing from the owner, rehabilitation of the housing, operating and replacement reserves, training for the resident council, homeownership counseling and training, fees for the nonprofit entity or public body working with the resident council, and costs related to relocation of tenants who elect to move. The amount used for acquisition of the housing from the owner may not exceed the sum of the fair market value established by the appraisal process under section 224(a)(1)(A) and the cost of any appraisal under this title paid for by the owner.

"(f) CONDITIONS ON ACQUISITION.—

"(1) APPROVAL OF METHOD OF CONVERSION.—The Secretary shall provide for the approval by the Secretary of the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(2) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate income persons upon initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the housing are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit such owner acquires.

"(3) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this section, subject to approval in appropriations Acts.

"(4) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(A) AUTHORITY FOR RESALE.—A homeowner under a homeownership program may

transfer the homeowner's ownership interest in, or shares representing, the unit.

"(B) LIMITATION ON UNDUE PROFIT.—If the sale of a unit to a subsequent purchaser occurs before the expiration of the 5-year period beginning upon the acquisition of the ownership interest in the unit by the homeowner assisted by the homeownership program and is for less than market value, the homeownership program shall provide for appropriate restrictions to ensure that an eligible family may not receive any undue profit. Such restrictions may provide for—

"(i) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 5-year period;

"(ii) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(iii) any other appropriate arrangement that the Secretary, by regulation, determines is adequate to prevent undue profit for a period not exceeding 5 years.

"(C) USE OF UNDUE PROFIT.—50 percent of any portion of the net sales proceeds that may not be retained by the homeowner pursuant to subparagraph (B) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this section, subject to approval in appropriations Acts.

"(5) PROTECTION OF NONPURCHASING FAMILIES.—

"(A) EVICTION PROTECTION.—No tenant residing in a dwelling unit in a property on the date the Secretary approves a homeownership plan for the property may be evicted by reason of a homeownership program approved under this subtitle.

"(B) NOTICE OF SECTION 8 ASSISTANCE.—The resident council shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the council will request the public housing agency to offer section 8 assistance to each otherwise qualified tenant, for use in that or another property. The requirements for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) NOTICE OF RELOCATION ASSISTANCE.—The resident council shall also inform each such tenant that if the tenant chooses to move, relocation assistance will be provided in accordance with the approved homeownership program.

"(6) APPLICABILITY OF LOW INCOME AFFORDABILITY RESTRICTIONS.—Any entity that assumes, as determined by the Secretary, a mortgage covering low income housing in connection with the acquisition of the housing from an owner under this section must comply with any low income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"(g) APPROVAL OF HOMEOWNERSHIP PLAN.—If the Secretary determines that the plan of action submitted by the resident homeownership program meets the requirements of this section and subtitle and has been accepted by the owner, the Secretary shall approve the plan of action.

"SEC. 226. OPPORTUNITIES FOR PURCHASE BY OTHERS TO EXTEND LOW INCOME USE.

"(a) INCENTIVES.—The Secretary shall ascertain the value, under section 224(a)(1)(A), of any eligible low income housing for which a request for incentives is made under section 224 by any nonprofit organization or other prospective purchaser. The Secretary shall provide incentives under section 224 to any purchasing nonprofit organization or other purchaser, that agrees to comply with the requirements of section 224, except that for purposes of the increased rent incentive under section 224(b)(1), the fair market value used under section 224(b)(1)(A)(i) to determine the rent level necessary to provide a fair return on the housing shall be the fair market value of the housing determined under section 224(a)(1)(A).

"(b) FIRST LOOK OPTION.—

"(1) LIMITATION ON SALE.—During the applicable period under paragraph (2), an owner of eligible low income housing may offer to sell the housing only to nonprofit organizations and other purchasers that agree to comply with the requirements of section 224(d). If upon the expiration of such period, the owner has not accepted an offer to purchase the housing from a nonprofit organization or other purchaser (subject to the requirements of this section), the owner may offer to sell and may sell the housing to any purchaser.

"(2) DURATION.—The period referred to in paragraph (1) shall be—

"(A) for housing for which the owner files an initial notice of intent under section 222(b)(1), the 18-month period beginning upon the receipt by the owner of information from the Secretary under section 223(a); and

"(B) for housing for which the owner files an initial notice of intent under section 222(b)(2), the 12-month period beginning upon the receipt by the owner of information from the Secretary under section 223(a).

"(c) GRANTS.—The Secretary may make grants to assist in completion of sales and transfers to nonprofit organizations pursuant to this section. There is authorized to be appropriated $200,000,000 for grants under this subsection for fiscal year 1991.

"SEC. 227. ASSISTANCE FOR DISPLACED TENANTS.

"(a) AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under the certificate and voucher programs under sections 8(b) and 8(o) of such Act is authorized to be increased by $250,000,000 on or after October 1, 1990, and by $250,000,000 on or after October 1, 1991.

"(b) USE OF FUNDS.—The amounts made available under this section may be used only for assistance payments for lower income families that have been displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing.

"(c) RELOCATION ASSISTANCE.—The Secretary shall provide assistance to any very low-, lower, or moderate income family displaced from eligible low income housing as the result of the prepayment of the mortgage on such housing. Such assistance shall include the provision of moving expenses in the same manner and amount provided under section 202 of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. At the discretion of the Secretary, the Secretary may require the owner of such housing to pay at least 50 percent of the moving expenses under this subsection.

"(d) MAINTENANCE OF OCCUPANCY.—

"(1) IN GENERAL.—With respect to any housing located in a low-vacancy area (as such term is defined by the Secretary) for which the owner prepays the mortgage, the Secretary shall require the owner to allow the tenants occupying their units on the date of the initial notice of intent under section 222 to remain in the housing, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment, for a period not to exceed 3 years.

"(2) PROVISION OF ASSISTANCE BY OWNER.—In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

"(e) REGIONAL POOLS.—In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low income housing or the termination of an insurance contract on such housing.

"SEC. 228. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before the date of the enactment of this Act, is, or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'low income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

"(3) The terms 'lower income families or persons' and 'very low-income families or persons' means families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'moderate income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 and 95 percent of the median for the area on the basis of the Secretary's finding that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

"(5) The term 'nonprofit organization' means a private organization (including a limited equity co-operative)—

"(A) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Secretary as to financial responsibility.

"(6) The term 'owner' means the current or subsequent owner or owners of eligible low income housing.

"(7) The term 'Secretary' means the Secretary of Housing and Urban Development.

"SEC. 229. REGULATIONS.

"The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1990. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

"SEC. 230. PREEMPTION OF STATE AND LOCAL LAWS.

"(a) IN GENERAL.—No State or local law, ordinance, or regulation that in any way limits the prepayment of any mortgage on eligible low income housing or limits the occupancy, type of tenure, use, or rental charges on any such housing shall have any effect, and all such laws, statutes, ordinances, and regulations are hereby preempted and declared null and void with respect to eligible low income housing.

"(b) CONSTRUCTION.—This section may not be construed to terminate, alter, annul, or affect any agreement or contract entered into before the date of the enactment of the Housing and Community Development Act of 1990 pursuant to any State or local law, ordinance, or regulation (or any agreement pursuant to any such law, ordinance, or regulation) in effect at such time.

"SEC. 231. EFFECTIVE DATE AND APPLICABILITY.

"(a) EFFECTIVE DATE.—The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.".

(b) CONFORMING AMENDMENTS.—The table of contents in section 1(b) of the Housing and Community Development Act of 1987 is amended—

(1) by striking the item relating to section 203; and

(2) by striking the items relating to sections 221 through 235 and inserting the following new items:

"Sec. 221. General prepayment limitation and notice of eligible housing.
"Sec. 222. Initial notice of intent.
"Sec. 223. Information from Secretary and second notice of intent.
"Sec. 224. Incentives to extend low income use.
"Sec. 225. Resident homeownership.
"Sec. 226. Opportunities for purchase by others to extend low income use.
"Sec. 227. Assistance for displaced tenants.
"Sec. 228. Definitions.
"Sec. 229. Regulations.
"Sec. 230. Preemption of State and local laws.
"Sec. 231. Applicability.".

SEC. 803. INSURANCE FOR SECOND MORTGAGE FINANCING.

Section 241(f) of the National Housing Act is amended to read as follows:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 228 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of providing an incentive for nonprepayment of the mortgage of eligible low income housing.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to the lesser of 80 percent of the value of the equity in the project, as determined by the Secretary, or the amount the Secretary determines can be borne by the project on the basis of project rents being increased to the level provided in section 224(b)(1) of the Emergency Low Income Housing Preservation Act of 1987, except that for purposes of determining such equity value for housing purchased pursuant to section 226 of such Act, the increased rent levels shall be determined under section 224(b)(1) but the fair market value under section 224(a)(1)(A) shall be used in the determination under clause (i) of section 224(b)(1(A);

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require;

"(C) provide for the lender to deposit 10 percent of the loan amount in an escrow account, on behalf of the borrowing owner, which shall be available to the owner upon the expiration of the 5-year period beginning on the date the loan is made; and

"(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A public entity, qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.".

Subtitle B—Other Homeless Prevention Programs

SEC. 811. PROGRAM AUTHORIZATIONS.

Section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) inserting after paragraph (7) the following new paragraph:

"(8)(A) Using $3,309,962,322 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1990, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8 for property disposition, not more than $313,607,679;

"(ii) for assistance under section 8 for loan management, not more than $141,265,895;

"(iii) for extensions of contracts expiring under section 8, not more than $1,075,053,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(iv) for amendments to contracts under section 8, not more than $1,578,213,263; and

"(v) for public housing lease adjustments and amendments, not more than $201,822,485.

"(B) Using $10,265,850,000 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8 for property disposition, not more than $523,720,000;

"(ii) for assistance under section 8 for loan management, not more than $179,430,000;

"(iii) for extensions of contracts expiring under section 8, not more than $7,735,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(iv) for amendments to contracts under section 8, not more than $1,620,473,000; and

"(v) for public housing lease adjustments and amendments, not more than $207,227,000.".

SEC. 812. SECTION 8 AND PUBLIC HOUSING ASSISTANCE FOR SUBSTANDARD HOUSING.

(a) SECTION 8.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42

U.S.C. 1437f(d)(1)(A)(i)), as amended by section 518 of this Act, is further amended by inserting after "family" the first place it appears (as added by such section) the following: ", and families that are homeless, living in transitional housing for homeless families, or living in a shelter for homeless families".

(b) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), as amended by section 518 of this Act, is further amended by inserting after "family" the first place it appears (as added by such section) the following: ", and families that are homeless, living in transitional housing for homeless families, or living in a shelter for homeless families".

SEC. 813. FUNDING FOR THE REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) GENERAL AUTHORITY.—Section 103 of the Housing Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) by inserting after the section designation the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) ADDITIONAL ASSISTANCE FOR THE HOMELESS.—In addition to the amounts authorized in subsection (a), there is authorized to be appropriated for grants under section 106 $30,000,000 for fiscal year 1991. Amounts provided under this subsection may only be used to make grants to States and units of general local government converting in rem properties to provide affordable permanent housing units for the homeless (as defined in section 103 of the Stewart B. McKinney Homeless Assistance Act). The total cost of rehabilitation that may be funded by a grant under this subsection shall not exceed $10,000 per unit. The States and units of general local government receiving grants under this subsection may lease the properties to nonprofit organizations and permit such organizations to rehabilitate as in rem property with funds provided under this subsection.".

(b) REQUIREMENT OF ADOPTION OF ORDINANCES AND PROCEDURES.—Section 104(b) of the Housing Community Development Act of 1974 (42 U.S.C. 5304(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) the grantee has adopted the necessary ordinances and administrative procedures to ensure that vacant properties that are taken through in rem proceedings, held by the grantee, and suitable for housing, are conveyed to public or private nonprofit agencies that—

"(A) serve the homeless (as defined in section 103 of the Stewart B. McKinney Homeless Assistance Act); and

"(B) can demonstrate a sound plan for rehabilitating (if necessary) and operating such properties for the purpose of providing permanent decent and affordable housing units; and".

SEC. 814. USE OF FUNDS RECAPTURED FROM REFINANCING LOCAL GOVERNMENT FINANCE PROJECTS.

(a) IN GENERAL.—Section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended by inserting "or local government" after "State" the first place it appears.

(b) CONFORMING AMENDMENTS.—The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended—

(1) in the section heading for section 1012, by inserting "AND LOCAL GOVERNMENT" after "STATE"; and

(2) in the table of contents in section 1(b), by striking the item relating to section 1012 and inserting the following new item:

"Sec. 1012. Use of funds recaptured from refinancing State and local government finance projects.".

SEC. 815. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

(a) SECTION 8 ASSISTANCE.—

(1) AUTHORITY.—Section 8(d)(2)(A)) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following: "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.".

(2) CONTRACT TERM.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following: "Notwithstanding the preceding sentence, to the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.".

(b) STATE PRESERVATION PROJECT ASSISTANCE.—

(1) IN GENERAL.—Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

SEC. 816. SENSE OF CONGRESS REGARDING FOOD DONATIONS FOR HOMELESS SHELTERS AND PROVIDERS.

It is the sense of the Congress that, to promote volunteerism and increase the amount of food donated to nonprofit organizations to assist the homeless, the States should enact laws clearly providing that any nonprofit charitable organization that in good faith receives and distributes food without charge, and any restaurant, grocery store, or other business or organization that in good faith donates food to nonprofit charitable organizations for distribution without charge, shall not be liable for any injury or death resulting from the food unless the injury or death is a direct result of the gross negligence, recklessness, or intentional misconduct of the organization.

SEC. 817. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations

made by the Secretrary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

Subtitle C—Homelessness Prevention for Individuals With AIDS

SEC. 831. SHORT TITLE.

This subtitle may be cited as the "AIDS Housing Opportunity Act".

SEC. 832. DEFINITIONS.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "lower-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

PART 1—GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES

SEC. 841. AUTHORITY AND USE OF GRANTS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development may make grants under this part to organizations and agencies eligible under section 842 for the delivery of housing information services to individuals with acquired immunodeficiency syndrome or related diseases and for coordination of efforts to expand housing assistance resources for such individuals.

(b) USE OF GRANTS.—Amounts received from grants under this part may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist individuals with acquired immunodeficiency syndrome or related diseases to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for individuals with acquired immunodeficiency syndrome or related diseases.

(c) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this part.

SEC. 842. ELIGIBILITY.

To be eligible for a grant under this part, an applicant for a grant under section 843 shall meet both of the following requirements:

(1) PUBLIC OR NONPROFIT.—The applicant shall be a public or nonprofit organization or agency.

(2) CAPABILITY.—The applicant shall have, in the determination of the Secretary, the capacity and capability to effectively administer a grant under this part.

SEC. 843. APPLICATIONS.

(a) IN GENERAL.—The Secretary shall establish procedures and requirements to apply to receive grants under this part, which shall include requiring each applicant to enter into agreements with the Secretary, as the Secretary shall require, as follows:

(1) COOPERATION.—The applicant shall agree that the applicant will cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(2) NO FEE.—The applicant shall agree that no fee will be charged of any lower-income individual for any services provided with amounts from a grant under this part and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual.

(3) CONFIDENTIALITY.—The applicant shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this part and any other information regarding individuals receiving such assistance.

(4) FINANCIAL RECORDS.—The applicant shall agree to maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this part.

SEC. 844. SELECTION AND PREFERENCES.

The Secretary shall select organizations and agencies from eligible applicants under section 843 to receive grants under this part. In selecting grant recipients under this section, the Secretary shall give preference to the following eligible applicants:

(1) EXPERIENCE.—Applicants that are experienced in the delivery of emergency shelter or services, housing assistance or information, or health care services and have a demonstrated ability of providing services in collaboration with other service providers.

(2) HIGH-INCIDENCE AREAS.—Applicants that will undertake activities under this part in communities with a high incidence (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) of acquired immunodeficiency syndrome and related diseases.

(3) INTEGRATION OF SERVICES.—Applicants that will undertake activities under this part in a manner that effectively integrates the activities with activities undertaken by other organizations and agencies in the area providing services for individuals with acquired immunodeficiency syndrome or related diseases.

(4) OUTREACH TO WOMEN, CHILDREN, AND MINORITIES.—Applicants that will undertake activities under this part predominantly for women, children, and members of ethnic minority groups.

SEC. 845. REPORT.

Any organization or agency that receives a grant under this part shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this part, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

SEC. 846. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $3,000,000 for each of fiscal years 1991 and 1992.

PART 2—AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES DEMONSTRATION

SEC. 851. DEMONSTRATION PROGRAM.

The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) is amended—

(1) by redesignating section 417 as section 418; and

(2) by inserting after section 416 the following new section:

"SEC. 417. AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES DEMONSTRATION.

"(a) AUTHORITY AND USE OF GRANTS.—

"(1) AUTHORITY.—The Secretary may make grants to organizations and agencies eligible under subsection (b) to carry out programs to demonstrate the effectiveness of various methods of preventing homelessness among individuals with acquired immunodeficiency syndrome or related diseases and of developing and providing short-term supported housing and services for homeless individuals with acquired immunodeficiency syndrome or related diseases.

"(2) USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a demonstration program to provide (or contract to provide) assistance to individuals with acquired immunodeficiency syndrome or related diseases who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

"(A) SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

"(B) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the lessee or mortgagor of a dwelling.

"(C) SUPPORTIVE SERVICES.—Providing supportive services, to individuals assisted under subparagraphs (A) and (B), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services.

"(D) MAINTENANCE AND ADMINISTRATION.—Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

"(E) TECHNICAL ASSISTANCE.—Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

"(3) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this section may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this section.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an applicant for a grant shall meet both of the following requirements:

"(1) PUBLIC OR NONPROFIT.—The applicant shall be a public or nonprofit organization or agency.

"(2) CAPABILITY.—The applicant shall have, in the determination of the Secretary, the capacity and capability to effectively administer a grant under this section.

"(c) DEMONSTRATION PROGRAM REQUIREMENTS.—

"(1) MINIMUM USE PERIOD FOR STRUCTURES.—

"(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases—

"(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

"(ii) in any other case, for a period of not less than 3 years.

"(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

"(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

"(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

"(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

"(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

"(B) LOCATION.—A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases.

"(C) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitations under subparagraphs (A) and (B) for any demonstration program or short-term supported housing facility.

"(3) TERM OF ASSISTANCE.—

"(A) SUPPORTED HOUSING ASSISTANCE.—A demonstration program under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

"(B) HOUSING PAYMENTS ASSISTANCE.—A demonstration program under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

"(4) PLACEMENT.—A demonstration program under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

"(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a demonstration program under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

"(6) CASE MANAGEMENT SERVICES.—A demonstration program under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies of the relevant State and local government.

"(7) RECORDKEEPING.—Any organization or agency that receives a grant under this section shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

"(8) CONFIDENTIALITY.—Any organization or agency that receives a grant under this section shall maintain the confidentiality of the name of any individual assisted with amounts from a grant under this section and any other information regarding individuals receiving such assistance.

"(9) REPORTS.—Any organization or agency that receives a grant under this section shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this section, a report describing the use of the amounts received, which shall include a description of the types of assistance provided with the amounts, the costs of assistance provided, the number of individuals assisted, and any other information that the Secretary determines to be appropriate.

"(d) APPLICATIONS.—The Secretary shall establish procedures and requirements for application of organizations and agencies to receive grants under this section, which shall include the following:

"(1) PROPOSAL.—Each applicant shall submit a proposal describing the demonstration program to be carried out with a grant received under this section, including assurances that the applicant will enter into written agreements with service providers qualified to deliver any appropriate services provided under the demonstration program under this section that are not provided directly by the applicant.

"(2) MINORITY OUTREACH AGREEMENTS.—Each applicant shall agree to provide a reasonable amount of assistance under this section, in the determination of the Secretary, in communities in which the residents are predominantly members of minority groups.

"(e) SELECTION AND PREFERENCES.—

"(1) IN GENERAL.—The Secretary shall select organizations and entities from eligible applicants under subsections (b) and (d) to receive grants under this section.

"(2) PREFERENCES.—In selecting grant recipients under this subsection, the Secretary shall give preference to the following eligible applicants:

"(A) EXPERIENCE.—Applicants that are experienced in the delivery of emergency shelter, drug abuse treatment or counseling, or health care services.

"(B) POTENTIAL.—Applicants whose applications and proposals for the demonstration program under subsection (d) indicate a high probability for success of the program and feasibility for replication of the program in other areas and by other organizations.

"(C) NON-FEDERAL FUNDING.—Applicants that have acquired or secured non-Federal funds or resources to supplement any amounts received from grants under this section.

"(3) PROGRAM FOR INTRAVENOUS DRUG USERS.—In providing grants under this section for each fiscal year, the Secretary (subject only to appropriations Acts providing amounts for assistance under this paragraph sufficient to carry out this paragraph) shall make not less than 1 grant to carry out a demonstration program under this section for individuals with acquired immunodeficiency syndrome or related diseases and who are intravenous drug users.

"(f) DEFINITION OF ACQUIRED IMMUNODEFICIENCY SYNDROME AND RELATED DISEASES.—The term 'acquired immunodeficiency syndrome and related diseases' means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

"(g) REPORT TO CONGRESS.—For each fiscal year in which the Secretary makes grants under this section, the Secretary shall submit to the Congress, not later than the first January 10 occurring after the conclusion of such fiscal year, a report describing the use of any grants made during the fiscal year, the costs of any services provided with grant amounts, an evaluation of the effectiveness of the various demonstration projects established with the grants, and any recommendations for preventing homelessness among individuals with acquired immunodeficiency syndrome or related diseases and meeting the needs of homeless individuals with acquired immunodeficiency syndrome or related diseases.".

SEC. 852. AUTHORIZATION OF APPROPRIATIONS.

Section 418 of the Stewart B. McKinney Homeless Assistance Act (as redesignated by section 851(1) of this Act) is amended by inserting after the period at the end the following new sentence: "There are authorized to be appropriated $8,000,000 for each of fiscal years 1991 and 1992 to carry out the demonstration program under section 417.".

SEC. 853. CONFORMING AMENDMENT.

The table of contents of the Stewart B. McKinney Homeless Assistance Act is amended by striking the item relating to section 417 and inserting the following new items:

"Sec. 417. AIDS short-term supported housing and services demonstration.
"Sec. 418. Authorization of appropriations.".

PART 3—PERMANENT AND TRANSITIONAL HOUSING AND SERVICES

SEC. 861. PURPOSE.

The purpose of this part is to increase the availability of safe, decent, and sanitary housing of a permanent and temporary nature for individuals with acquired immunodeficiency syndrome or related diseases who are capable of independent living or living in community residential facilities and to provide services for such individuals.

SEC. 862. SECTION 8 CERTIFICATE ASSISTANCE.

(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate program under section

8(b) of such Act is authorized to be increased by $53,000,000 on or after October 1, 1990, and by $53,000,000 on or after October 1, 1991.

(b) USE OF FUNDS.—

(1) REQUIRED USE.—The amounts made available under this section shall be used only for assistance payments for lower-income individuals with acquired immunodeficiency syndrome or related diseases.

(2) PERMISSIVE USE.—

(A) SHARED HOUSING ARRANGEMENTS.—Amounts made available under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(B) PROJECT-BASED.—Assistance payments under this section may be attached to the structure. The amount of assistance provided under this section shall not be counted for purposes of the 15 percent limitations under subparagraphs (A) and (B) of section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) with respect to any public housing agency.

(c) ALLOCATION.—The amounts made available under this section shall be allocated by the Secretary in a manner to ensure, to the extent practicable, equitable allocation throughout the States (as the term is defined in section 3(b)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(7))). The assistance shall be made available to applicants based on demonstrated need for the assistance under this section and demonstrated ability to undertake and carry out a program to be assisted under this section.

(d) LIMITATIONS.—Any public housing agency receiving amounts made available under this section shall comply with the following requirements:

(1) SERVICES.—The public housing agency shall provide for qualified service providers in the area to provide appropriate services to the individuals assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, the public housing agency shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 863. SECTION 8 MODERATE REHABILITATION FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) and section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)), for assistance under section 8(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(e)(2)) is authorized to be increased by $18,000,000 on or after October 1, 1990, and by $18,000,000 on or after October 1, 1991. Any amounts made available under this subsection shall be used only for occupancy for individuals with acquired immunodeficiency syndrome or related diseases.

(b) LIMITATION.—Each contract for housing assistance payments entered into with the authority under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 864. GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for persons with acquired immunodeficiency syndrome or related diseases.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for individuals with acquired immunodeficiency syndrome or related diseases for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among individuals with acquired immunodeficiency syndrome or related diseases by increasing available suitable housing resources.

(iv) To integrate individuals with acquired immunodeficiency syndrome or related diseases into local communities and provide services to maintain the abilities of such individuals to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For lower-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a lower income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a lower-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (e)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) ELIGIBILITY FOR GRANTS.—

(1) GENERAL PROPOSAL.—To be eligible to receive a grant under this section, a State or metropolitan area shall submit to the Secretary a written proposal describing the use of the grant, as the Secretary shall require, which shall include the following:

(A) A description of the objectives of the program to provide assistance through a community residence or services provided under this section and the intended use of the grant amounts received during the fiscal year.

(B) A description of the benefits and beneficiaries of the assistance provided with grant amounts and the method by which the jurisdiction will evaluate the effectiveness of the activities.

(C) A description of any public or private organizations or entities that will participate in providing services under subsection (e)(2) and the extent and nature of the participation.

(D) A description of the program for quality assurance under subsection (g)(5).

(2) ADDITIONAL PROPOSAL FOR METROPOLITAN AREAS.—In addition to the requirements of paragraph (1), to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in the metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the proposal under paragraph (1), a proposal for the operation of such agency or organization.

(3) PRELIMINARY CERTIFICATION AND MINORITY ASSISTANCE.—To be eligible to receive a grant under this section, a jurisdiction shall certify to the Secretary, as the Secretary shall require, that the amounts received under the grant will be used and administered in accordance with this section and any regulations and terms that the Secretary may establish and that the jurisdiction will provide a reasonable amount of assistance under this section, in the determination of the Secretary, in communities in which the residents are predominantly members of minority groups.

(d) AWARD OF GRANTS.—To the extent that amounts are provided in appropriations Acts under subsection (m), the Secretary may approve the proposals under subsection (c) of eligible jurisdictions and make grants to the eligible jurisdictions. Grants to metropolitan areas shall be made to the governmental agency or organization designated under the proposal under subsection (c)(2) for receipt and use of the grant amounts. Grants shall be made under this subsection unless the Secretary makes any of the following determinations:

(1) LACK OF CAPACITY.—That the jurisdiction or the government agency or organization designated under the proposal under subsection (c)(2) lacks the capacity to administer the grant amounts in a timely or adequate manner.

(2) INSUFFICIENT PROPOSAL.—That the proposal of the jurisdiction under subsection

(c)(1) (or the additional proposal of a metropolitan area under subsection (c)(2)) fails, in the determination of the Secretary, to provide for the appropriate administration of amounts under this section or the establishment and operation of a community residence or provision of services, as appropriate, under this section or other applicable laws or regulations.

(e) USE OF GRANTS.—Any amounts received from a grant under this section may be used only as follows:

(1) COMMUNITY RESIDENCES.—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) PHYSICAL IMPROVEMENTS.—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) OPERATING COSTS.—Operating costs for a community residence.

(C) TECHNICAL ASSISTANCE.—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses.

(D) IN-HOUSE SERVICES.—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) SERVICES.—For providing services under subsection (b)(2) to any individuals assisted under this part.

(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this part.

(f) LIMITATIONS ON USE OF GRANTS.—

(1) COMMUNITY RESIDENCES.—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (e)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (e)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) SERVICE AGREEMENT.—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to individuals assisted by the community residence.

(B) FUNDING AND CAPABILITY.—That the jurisdiction has acquired sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases.

(C) ZONING AND BUILDING CODES.—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) INTENSIVE ASSISTANCE.—That, for any individual who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (e)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases.

(g) GRANT REQUIREMENTS.—

(1) NON-FEDERAL SHARE.—Each jurisdiction that receives a grant under this section shall make available for use for the activities contained in the proposal under subsection (c) an amount from non-Federal sources equal to not less than 25 percent of the amount received from the grant under this section. Non-Federal contributions under this paragraph may be in cash or in kind, and may include the value of any donated building, land, material, services, personnel, or equipment or lease on a building.

(2) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this section may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this section.

(3) RECORDKEEPING.—Each jurisdiction that receives a grant under this section shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from the grant and administration of such amounts in an efficient and cost-effective manner.

(4) CONFIDENTIALITY.—Each jurisdiction that receives a grant under this section shall maintain the confidentiality of the name of any individual assisted with amounts from a grant under this section and any other information relating to assistance provided from a grant under this section.

(5) QUALITY ASSURANCE.—Each jurisdiction that receives a grant under this section shall carry out a program, with respect to the ongoing operation of the community residences and services provided under the grant, to ensure the quality and accessibility of such assistance.

(6) REPORTS.—Each jurisdiction that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 6-month period after the award of a grant under this section and annually thereafter for any year in which amounts from a grant under this section are expended, a report describing the use of any amounts received from a grant under this section, which shall include a description of the beneficiaries of the assistance provided with grant amounts, an evaluation of the activities carried out with such amounts in comparison to the activities proposed to be carried out with the amounts in the proposal under subsection (c), and any other information that the Secretary considers appropriate.

(h) ALLOCATION.—The Secretary shall allocate amounts under this section as follows:

(1) METROPOLITAN AREA GOVERNMENTS.—Of the amount provided in any appropriation Act under subsection (m) for grants in any year, 75 percent of the amount not allocated under paragraph (4) shall be allocated by the Secretary to metropolitan areas. The Secretary shall determine the amount to be allocated to each metropolitan area eligible under subsection (c) on the basis of the incidence of acquired immunodeficiency syndrome or related diseases in the jurisdiction in comparison with the incidence in other jurisdictions (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) and other factors that the Secretary determines are appropriate.

(2) STATES.—Of the amount provided in any appropriation Act under subsection (m) for grants in any year, 25 percent of the amount not allocated under paragraph (4) shall be allocated by the Secretary among the States as follows:

(A) IN GENERAL.—The Secretary shall determine the amount to be allocated to each State eligible under subsection (c) on the basis of the incidence of acquired immunodeficiency syndrome or related diseases in the State in comparison with the incidence in other States (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) and other factors that the Secretary determines are appropriate.

(B) MINIMUM AMOUNT.—Subject only to the availability of amounts pursuant to appropriation Acts under subsection (m), for each fiscal year each State shall receive at least $200,000 in grants under this section. If allocation under subparagraph (A) would allocate less than $200,000 for any State, the allocation for such State shall be $200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any State to less than $200,000.

(3) REALLOCATION.—

(A) IN GENERAL.—The Secretary shall, periodically throughout each fiscal year and according to this paragraph, reallocate any amounts provided in grants under this section that have not been used or committed for use by the State or metropolitan area receiving the grant. The Secretary shall establish procedures for timely use and commitment of amounts and reallocation under this paragraph.

(B) METROPOLITAN AREA GRANTS.—Any amounts from grants to metropolitan areas that are reallocated under this paragraph shall be reallocated to the State in which the metropolitan area subject to the reallocation is located. The State shall distribute the amounts to nonprofit organizations in the metropolitan area subject to the reallocation to carry out the purposes of this section.

(C) STATE GRANTS.—Any amounts from grants to States that are reallocated under this paragraph shall be reallocated to metropolitan areas in the State subject to the reallocation for use by the metropolitan areas to carry out the purposes of this section.

(4) ALLOCATION TO TERRITORIES.—In addition to the other allocations required under this subsection, the Secretary shall allocate amounts appropriated under subsection (m) to Indian tribes, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

(i) MONITORING.—The Secretary shall provide for ongoing monitoring of community residences and services assisted under this section to ensure that any amounts provid-

ed under this section are used in conformity with this section, the certifications made by the jurisdiction under subsection (c)(3), and the proposal approved by the Secretary under subsection (d). Monitoring under this subsection shall include periodic on-site inspections of community residences and in-person observation of the provision of services.

(j) REPORT TO CONGRESS.—For any fiscal year that the Secretary makes grants under this section, the Secretary shall submit to the Congress, not later than the first January 10 occurring after such fiscal year, a report describing the use of any amounts received from a grant under this section, the costs of any community residences and services provided with grant amounts, an evaluation of the effectiveness of the various activities conducted with grants under this section, and any recommendations for preventing homelessness among individuals with acquired immunodeficiency syndrome or related diseases and meeting the needs of homeless individuals with acquired immunodeficiency syndrome or related diseases.

(k) DEFINITIONS.—For purposes of this section:

(1) COMMUNITY RESIDENCE.—The term "community residence" means a community residence under subsection (b)(1) established by a jurisdiction with a grant under this section.

(2) ELIGIBLE JURISDICTION.—The term "eligible jurisdiction" means a jurisdiction eligible under subsection (c) to receive a grant under this section.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) JURISDICTION.—The term "jurisdiction" means a State or metropolitan area.

(5) METROPOLITAN AREA.—The term "metropolitan area" means any metropolitan statistical area as established by the Office of Management and Budget, and includes the District of Columbia.

(6) STATE.—The term "State" means the States of the United States and the Commonwealth of Puerto Rico.

(7) URBAN COUNTY.—The term "urban county" means any county within a metropolitan area which has a population—

(A) of 200,000 or more (excluding the population of cities therein with a population of 50,000 or more) and has a combined population of 100,000 or more (excluding the population of cities therein with a population of 50,000 or more) in such unincorporated areas and in its included units of general local government; or

(B) in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(l) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $68,000,000 for each of fiscal years 1991 and 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 865. RESERVATION OF ASSISTANCE FOR INDIVIDUALS WITH AIDS.

(a) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting after subsection (k) the following new subsection:

"(l) The Secretary shall permit any public housing agency to reserve assistance under subsections (b) and (o), as the public housing agency determines appropriate, for individuals with the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.".

(b) PUBLIC HOUSING.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) as amended by section 518 of this Act, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall permit any public housing agency to reserve units in a public housing project and to reserve assistance under this Act for public housing, as the public housing agency determines appropriate, for individuals with the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.".

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: To Amend Section 815 of the H.R. 5157 as follows:

On page 553, line 17 add the following after the period:

"The application of the state or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal Use Restrictions Under Subtitle B of Title II of the Housing and Community Development Act of 1987."

On page 554, line 2 add the following after the period:

"Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under Section 223(e) of Subtitle B of Title II of the Housing and Community Development Act of 1987.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, this is not the amendment on prepayment which we are going to have a long debate about. This is a subamendment on prepayment. Several States did their own prepayment programs. Several of them, unfortunately, did them exactly as the Federal Government did, buying into a prepayment as well.

I offered an amendment in the full committee, which was accepted, which would give some eligibility for the States to participate in some parts of the Federal program. The Federal Department of Housing and Urban Development was less thrilled with that than with some other aspects of the bill. I have talked to people at HUD. We have worked out an agreement on some conditions that ought to apply.

The amendment I am now offering in effect limits the right of the States that was granted under the amendment adopted in the committee, and I would note that, while it is not in this language, I intend to agree in conference, and I have promised the people at HUD that, we would limit it, in particular, the right of the States to get section 8 to those which would be at 100 percent of the fair market rents rather than at 110 percent of the fair market rents as a matter of right. The States would still have the ability to ask for waivers to go up to a higher level, but, as a matter of right, they would only get a hundred percent, whereas the Federal ones would get 110 percent, and I am sure everybody understands that.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, this amendment is acceptable. There is only one technical thing here, and maybe the gentleman from Massachusetts [Mr. FRANK] corrected it, but what we noticed was in the second part of the amendment, line 2, and not line 3.

Mr. FRANK. Mr. Chairman, I would say to the gentleman from Texas [Mr. GONZALEZ], "Yes, that is correct in the copy I have, and I appreciate that."

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, we have examined the amendment, and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 548, after line 22 insert the following new section (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 813. DEFINITION OF OWNER.

Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1), as amended by the preceding provisions of this Act, is further amended by inserting before the semicolon at the end the following: ", and such term shall include any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project (as such term is defined in subsection (t)(2)), as well as the entity itself.

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MORRISON of Connecticut. Mr. Chairman, this amendment relates to the use of the section 8 program and relates particularly to a matter that was left open in the 1987 amendments to section 8, and in those amendments we made it clear that an owner of a multifamily property that provided the opportunity for participation in section 8, the section 8 program had to make that participation available in other properties owned by the same owner. What was not specified in the language of the amendment was what defines the same owner in different multifamily properties, and it has become a matter of debate, whether those who have partnership interests in a variety of different dwelling multifamily units are, in fact, covered as the same ownership, and this amendment provides a definition of ownership, and this amendment provides a definition of ownership that will include those who have major ownership interests in various different multifamily properties, but do it through somewhat different corporate or partnership entities.

Mr. Chairman, this is to make sure that the House's intention and the Congress's intention in 1987 is, in fact, realized, that when an owner makes a decision to participate in the section 8 program, that that decision to participate is made with respect to all of the properties involved and gives individuals with section 8 certificates the broadest possible opportunity to participate in the program.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, we were afforded an opportunity to examine the amendment. We think it is explanatory language, and we accept the amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from Ohio [Mr. WYLIE].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER:

Page 521, line 12, strike "at" and all that follows through line 14 and insert "on the tenancy determination date under subsection (g);".

Page 521, line 18, strike "at" and all that follows through line 20 and insert "on the tenancy determination date under subsection (g)."

Page 523, after line 3, insert the following:

"(9) SERVICE COORDINATORS IN PROJECTS SERVING THE ELDERLY.—

"(A) INCENTIVE.—With respect to housing planned in whole or in part for occupancy by elderly families (which term, for purposes of this paragraph and paragraph (10), shall have the meaning given the term in section 202(d)(4) of the Housing Act of 1959) and notwithstanding any other provision of law, annual adjustments authorized under this paragraph to provide for the cost of employment of 1 or more persons as service coordinators for the housing.

"(B) ADJUSTMENT.—In determining the amount of assistance to be provided for such a housing project pursuant to section 8 of the United States Housing Act of 1937 and rent charges pursuant to such assistance, the Secretary may consider and annually adjust for the cost of employment of service coordinators for the housing who shall be responsible for—

"(i) acquiring and coordinating public and private resources sufficient to ensure that supportive services are available to residents of the housing who are frail elderly persons (which term, for purposes of this paragraph and paragraph (10), shall have the meaning given the term in section 202(d)(11) of the Housing Act of 1959);

"(ii) monitoring and evaluating the impact and effectiveness of any supportive services provided in the housing; and

"(iii) carrying out such other duties and functions that the Secretary determines are appropriate to enable frail elderly persons in the housing to live with dignity and independence.

"(C) STANDARDS.—The Secretary shall establish minimum qualifications and standards for service coordinators under this paragraph necessary, in the determination of the Secretary, to ensure sound management of the services. To be eligible for assistance and adjustments under this paragraph, a housing project shall have a demonstrated need for supportive services, according to criteria established by the Secretary.

"(10) RETROFIT AND RENOVATION.—Notwithstanding any other provision of law, authority to use amounts resulting from incentives under this subsection in housing planned in whole or part for occupancy by elderly families for—

"(A) retrofitting individual dwelling units to meet the special physical needs of frail elderly residents or future residents;

"(B) renovation necessary to ensure that public and common areas are readily accessible to and usable by frail elderly residents;

"(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to frail elderly residents;

"(D) renovation of existing congregate space to accommodate the provision of services to frail elderly residents; and

"(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to frail elderly residents.

For purposes of this paragraph, the term 'congregate space' includes space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities and other outpatient health facilities, and other facilities for essential services.

Page 525, line 2, strike "and".

Page 525, strike lines 3 through 10 and insert the following:

"(7) the number of units in the housing occupied by very-low and lower income families shall not be less than the number of units so occupied on the tenancy determination date under subsection (g), except that the requirements of this paragraph shall apply only to the extent that assistance under section 8 of the United States Housing Act of 1937 or other Federal, State, or local assistance is available for the housing to ensure that such families and persons shall not pay more than 30 percent of the adjusted income of such families and persons for rent; and

"(8) upon the expiration of the term of the mortgage and pursuant to notification by the Secretary of intent to provide for incentives or sale under this paragraph (which shall be made not later than the commencement of the 18-month period ending on the date of the expiration of the term of the mortgage), the owner shall elect to (notification of which election shall be made to the Secretary not later than 6 months after notification by the Secretary of intent to take action under this paragraph) and shall—

"(A) sell the housing to the Secretary at a price equal to the fair market value determined by the appraisal method described in subsection (a)(1)(A) (or for such price to any public agency, nonprofit organization, for-profit organization, or other purchaser that is approved by the Secretary and agrees to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection, and in the condition required by the standards established under subsection (e), for a term that the Secretary, by regulation, shall establish); except that if the owner elects to sell the property under this subparagraph and the Secretary has not provided a buyer for the housing before the expiration of the term of the mortgage, the owner shall not be further subject to the provisions of this paragraph or subtitle; or

"(B) enter into a contract with the Secretary under which—

"(i) the owner shall agree to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection, and in the condition required by the standards established under subsection (e), for a 5-year period beginning upon the date of the expiration of the remaining term of the mortgage, which period may be extended for not more than 1 additional 5-year period at the discretion of the Secretary;

"(ii) the Secretary shall provide incentives under subsection (b) for the housing during the period under clause (i) (including any extension of such period) based on the fair market value of the housing determined under subsection (a)(1)(B); except that if the owner elects to enter into a contract under this subparagraph and the Secretary has not provided incentives under this clause before the expiration of the term of the mortgage, the owner shall not be further subject to the provisions of this paragraph or subtitle; and

"(iii) the Secretary may offer to provide incentives under subsection (b) for the housing for any period after the expiration of the period (and any extension) under

clause (i) and the owner may accept or refuse such incentives in the discretion of the owner; except that if the owner accepts such incentives, the incentives may be provided for the housing only if the owner agrees to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection and in the condition required by the standards established under subsection (e) for a term of not less than 5 years that the Secretary, by regulation, shall estalish.

Page 525, strike line 21 and all that follows through page 526, line 5, and insert the following:

"(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including—

"(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and

"(ii) barring distribution or withdrawal of any amounts otherwise available pursuant to paragraphs (7) and (8) of subsection (b) for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

Page 526, line 8, strike "the action under paragraph (1)" and insert "any action under subparagraph (A)".

Page 526, line 10, after "amounts" insert "and use of such amounts".

Page 526, strike line 18 and all that follows through page 527, line 6, and insert the following: may take 1 or more of the following actions:

"(i) Subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the Housing for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provision of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

"(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be default and accelerate the maturity date of the loan.

"(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default and accelerate the maturity date of the loan.

"(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

"(v) Take any other action authorized by law or the project regulatory agreement to ensure that the housing will be brought into compliance with the standards established under this subsection

Page 527, after line 12, insert the following:

"(g) TENANCY DETERMINATION DATE.—For purposes of subsection (b)(2) and (d)(7), the tenancy determination date shall be as follows:

"(1) NEWER MORTGAGES.—For eligible low income housing for which the mortgage covering the housing was entered into on or after July 1, 1970, the date on which the initial notice of intent is filed by the owner under section 222 or January 1, 1990, which date provides for a greater proportion of units in the housing to be occupied by very low- and lower income families and persons pursuant to such subsections.

"(2) OLDER MORTGAGES.—For eligible low income housing for which the mortgage covering the housing was entered into before July 1, 1970, the date on which the initial notice of intent is filed by the owner under section 222 or January 1, 1987, whichever date provides for a greater proportion of units in the housing to be occupied by very low- and lower income families and persons pursuant to such subsections.

Page 535, strike line 21 and all that follows through page 536, line 19, and insert the following:

"(b) RIGHT OF FIRST REFUSAL.—

"(1) LIMITATION ON SALE.—With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 223(b) stating an intent not to obtain incentives under section 224, the owner of such housing, during the first-refusal period under paragraph (4), may offer to sell and may sell the housing only to nonprofit organizations, public agencies, resident councils, and other purchasers as provided under this subsection.

"(2) PRICE AND RESTRICTIONS FOR MANDATORY SALE.—

"(A) GENERAL RULE.—If upon the expiration of the first-refusal period the Secretary finds that any nonprofit organization, public agency, resident council, or other purchaser has during such period made (A) a bona fide offer to purchase the housing for a sale price not less than the amount equal to the value of the housing as determined under section 224(a)(1)(A), and (B) binding commitments to comply with the provisions of section 224(d) for the remaining useful life of the housing, the Secretary shall require the owner to sell the housing pursuant to such offer.

"(B) SELECTION OF PURCHASERS.—The Secretary shall, by regulation, estasblish criteria for selecting a purchaser under this paragraph for housing for which more than 1 nonprofit organization, public agency, resident council, or other purchaser has made a bona fide offer under subparagraph (A).

"(C) TRANSFER BY SECRETARY.—

"(i) An owner of eligible low income housing may fulfill the requirement under subparagraph (A) to sell such housing as provided under this subparagraph.

"(ii) If an owner required to sell housing under subparagraph (A) refuses to sell the housing, the Secretary shall, in the name of the United States and prior to the approval of title by the Attorney General, acquire, enter upon, and take possession of such housing by purchase, donation, condemnation, or otherwise, in accordance with the laws of the United States (including the Act of February 26, 1931 (46 Stat. 1421)).

"(iii) The Secretary shall provide, by proper deed executed in the name of the United States, for the conveyance of the housing to the nonprofit organization, public agency, resident council, or other purchaser that has fulfilled the requirements of subparagraph (A) and been selected by the Secretary to purchase the housing. Such conveyance shall take effect simultaneously with the Secretary taking possession of the housing under clause (ii).

"(iv) The Secretary shall provide for the transfer to the owner, by the purchaser of the housing, of an amount equal to the amount of the bona fide offer made by the purchaser under subparagraph (A), which shall be considered just compensation to the owner for purposes of purchase, donation, or condemnation under this subparagraph. Such transfer shall comply with any provisions of law applicable to purchase, donation, condemnation, or other procedure taken by the Secretary under this subparagraph.

"(v) The Secretary shall also provide for the equitable distribution between the owner and purchaser of any other costs incurred in such transaction.

"(3) FIRST-REFUSAL PERIOD.—For purposes of this subsection, the term 'first-refusal period' means, with respect to any eligible low income housing, the 6-month period beginning upon the filing by the owner of a second notice of intent under section 223(b) for the housing.

"(4) INCENTIVES.—The Secretary shall provide incentives pursuant to subsection (a) to any purchaser under this subsection.

"(5) SUBSEQUENT SALE.—If, upon expiration of the first-refusal period, the housing has not been sold under this subsection, the owner may offer to sell and may sell the housing to any purchaser.

Page 541, strike line 24 and all that follows through page 542, line 13, and insert the following:

"(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

"(1) limits or prohibits the prepayment of any mortgage described in section 228(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, receive unrestricted distributions, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(3) in its applicability to eligible low income housing is limited to only such housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), or (3) shall be ineffective and any eligible low income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) CONSTRUCTION.—This section may not be construed to prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, or rent control, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section may not be construed to preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Housing and Community Development Act of 1990 that prevent or limit an owner

of eligible low income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

Mr. CARPER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CARPER. Mr. Chairman, during the full committee debate on this particular issue one of the thorniest issues was the issue we are taking up at this time, and that is the issue of prepayment or preservation of certain properties built by private developers, the mortgage of which is insured by the Federal Government. Twenty years ago, Mr. Chairman, a commitment was made by our Government to a private builder that, if they would build these properties, if they would then rent them to low-income families, that 20 years into the mortgage, 20 years into a 40-year mortgage, the owner could elect to prepay and to convert these properties to whatever use they deemed desirable.

□ 2050

A 20-year clock began running 20 years ago and we are up against that 20-year mark today.

We have two ways in which we are torn here in this body. On the one hand we have a commitment, a promise, a contractual right, some would say, to the owners to let them prepay at this time, to opt out and to convert their property to whatever use they deem necessary or desirable.

On the other hand, we have the interest of a lot of low-income families, in this case tens of thousands of them, who are going to face the prospect of being kicked out of their homes and in some cases have no place to go.

When we debated this issue in the full committee, the gentleman from North Carolina [Mr. PRICE] and I offered several amendments to try to preserve the right of owners to prepay, but by the same token to try to preserve the rights of tenants. At that time, our amendment was adopted by the committee, and it has been incorporated in the committee print. We indicated at the time of the full committee markup that when we got to the floor we would offer a further amendment to try to craft a better balance between the interest of the owners and the interest of the tenants. That is what our amendment tonight is about.

The gentleman from North Carolina [Mr. PRICE] joins the gentleman from Nebraska [Mr. HOAGLAND], the gentlewoman from South Carolina [Mrs. PATTERSON], and myself in offering this amendment. We would do essentially six things with the adoption of this amendment.

One, we would provide to nonprofit organizations the right of first refusal at the end of this 20-year period of time, the right of first refusal. They would have the option of buying a property at a fair appraised market value from the private owner if they agree to continue to use this property for low-income tenants.

The second thing that our amendment would do would be to try to avoid a repeat of the same problem 20 years down the road. We do not want another Congress 20 years from now simply to have to grapple with this same issue. Our amendment provides an extra 10 years of protection, a total of 50 years for the life of these properties. That is the second aspect of our amendment.

The third aspect of our amendment deals with the kind of economic mix of the people who would live in these properties. We want to insure that they do not somehow in the years ahead instead of meeting the needs of low-income families, to meet the needs of moderate- or upper-income families. We want to insure that the economic mix is such that low-income family needs are met.

The first thing that we want to do—we believe in our committee print that we have preempted too many State and local laws. We have given certain privileges and certain rights to the owners of these affected properties that they do not deserve, and our amendment simply says that the owners of these properties will face those special burdens if they prepay. By the same token, they will have no special advantages.

Finally, we provide in our amendment meaningful sanctions against those owners who do not maintain these properties to the kind of quality and the needs of the low-income tenants they are meant to serve. We provide meaningful sanctions for those owners, and that is the fifth aspect of our amendment.

The last part, there are some incentives for the elderly. Our amendment would add some incentives which could be offered to the owners to extend the low-income use of their properties by permitting service coordinators for projects that are planned in whole or in part for the elderly. That is the last aspect of our amendment.

Again, it is an amendment that I offer with the gentleman from North Carolina [Mr. PRICE], the gentleman from Nebraska [Mr. HOAGLAND], and the gentlewoman from South Carolina [Mrs. PATTERSON].

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I know the hour is late and we have two more major amendments to go, this one and subsequently the amendment to be offered by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Massachusetts [Mr. KENNEDY].

I want to make a couple comments about this amendment offered by the gentleman from Delaware [Mr. CARPER], the gentleman from North Carolina [Mr. PRICE], the gentleman from Nebraska [Mr. HOAGLAND], and the gentlewoman from South Carolina [Mrs. PATTERSON].

No. 1, this is a compromise. The proponents of this bill are going the second mile, indeed the third and the fourth mile as a compromise of absolutely guaranteeing that every low-income tenant who is currently living in subsidized housing will continue to be protected; so the gentleman from Delaware [Mr. CARPER] has offered a compromise which we ought to accept tonight as a compromise and go forward.

Second, I want to remind the Members what is in the underlying bill. The underlying bill was in and of itself a compromise. It was voted on a bipartisan basis, on a 29 to 19 vote, supported by 10 Members of the other side of the aisle and every single Republican on the committee. It was supported by Members from all over the country on both sides of the aisle as a compromise.

The underlying bill that this would offer an additional compromise to would start, Mr. Chairman, with a guarantee that every low-income tenant living in an assisted unit today, regardless of the outcome of the mortgage, would continue to have a place to live and would be guaranteed that they would be charged no more rent than what they are already paying. If they are paying 30 percent of their income today, regardless of what else happens, they would be guaranteed a certificate or voucher in which they would pay no more than 30 percent of their income tomorrow.

We provide 2 years' notice in most areas, and for high occupancy areas up to 5 years' notice before anything happens. We have provided a full set of financial incentives in which we would say to these private property owners that the Federal Government will continue to provide financial incentives on a voluntary basis in which we pay for you to provide this low income housing. These owners entered into a contract 20 years ago. They entered into a contract 20 years ago in which in exchange for 20 years worth of incentives, they provide 20 years worth of housing. Those 20 years are beginning to expire.

What the Carper compromise does, as the Bartlett-Barnard compromise did in the committee, would be to say

that we in the Federal Government want low-income families to have a place to live, so we will provide as a matter of public policy those financial incentives, and we provide for replacement certificates.

The Carper-Price compromise goes even further than that. It provides for service coordinators in elderly housing. It provides for the retrofitting of elderly housing. It provides for an extra 10 years on top of the additional 20 years that is provided in the underlying bill.

Now, these owners entered into a 20-year contract. Under the Carper compromise, which I am accepting, we would be extending that contract for another 30 years, 50 years altogether.

And most importantly, the Carper amendment would provide an option to purchase that should any owner—let me remind you that the Congressional Budget Office has said that the vast majority of owners would continue to use these properties as low-income properties and continue to keep them in the program; but should any owner choose to opt out, the compromise of the gentleman from Delaware [Mr. CARPER] would say we will go a step further and make an option and have an option for anyone who would keep that property low income, take the incentives as a qualified purchase to buy the property at the market value. That is the difference between Carper and Frank.

The Frank amendment to be offered later would provide an option of anybody in the country to buy somebody else's private property, but not to pay the full market value.

The gentleman from Delaware [Mr. CARPER], the gentleman from North Carolina [Mr. PRICE], the gentlewoman from South Carolina [Mrs. PATTERSON], and the gentleman from Nebraska [Mr. HOAGLAND] have faced up to reality. We cannot confiscate private property unless we are willing to pay for it.

The Carper compromise says that under some circumstances we will keep those owners in those units in low-income housing, but we are willing to pay for what we get at the market value. That is the essence of the Carper compromise. I urge a yes vote for the Carper compromise and a no vote on the subsequent Frank amendment.

Mr. BARNARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. PRICE and Mr. CARPER. It was carefully constructed and compromised to complement the provisions of the bill authored by Mr. BARTLETT and myself. We welcome the increased protections for low-income, very low-income, and elderly tenants as well as tougher sanctions against owners who allow their properties to fall into disrepair and a reasonable solution to the useful life problem.

The most important change that the Carper-Price amendment makes pertains to the right of first refusal for nonprofits and other approved organizations. Once the owner has notified HUD of his intent to sell the property, there is an absolute right of first refusal for HUD or the nonprofit to purchase the property at fair market value as determined by an appraisal.

Combined with the other tenant protections in the amendment as well as the incentives contained in Bartlett-Barnard, I strongly feel that this right of first refusal maximizes tenant protections and preserves the maximum amount of housing while still recognizing the contractual rights of owners.

Voting for Carper-Price in no way alleviates the problems with the Frank-Martin amendment. The Frank-Martin amendment, with or without Carper-Price will at best not preserve any more housing than the Bartlett-Barnard amendment.

We did not choose either the easy or the cheap way out of this problem, which would have been to simply abrogate contractual rights. The CBO has analyzed the effects of Bartlett-Barnard without Carper-Price and projected that the provisions will preserve a majority of those units at risk from prepayment of mortgages. The CBO study also gives a credible estimate as to the maximum amount of housing that will be lost, but there is no credible estimate for Frank-Martin. We have put our best foot forward and tested our amendment as rigorously as we know how. Carper-Price only improves the preservation aspects of Bartlett-Barnard.

Since the Frank amendment does not increase incentives available to owners, then by definition it cannot preserve any more units that Barnard-Bartlett unless it does so by abrogating contractual rights resulting in an unjust taking of property. We can either pay for these units or take them.

□ 2100

Mr. FRANK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in lukewarm endorsement of the pending amendment.

Mr. Chairman, I would say to my friend, the gentleman from Texas, that he underestimates the ability of the House. He said that we have gone the second mile and fourth and fifth mile. We are going to give him an opportunity, Mr. Chairman, tomorrow to complete a 10-K, which I believe is 6.2 miles. So he has only got another 1.2 miles to go.

I also want to thank the gentleman from Georgia, because he did mention the gentlewoman from Illinois. I feel sorry for the gentlewoman from Illinois. Here she is working hard for this amendment, and the gentleman from Texas gets up and says it is Frank-Kennedy, Frank-Gonzalez, Frank this, Frank that, and somehow the gentleman from Texas cannot bring himself to pronounce her name. It is not that hard: MARTIN. She is from Illinois, she is a Republican, and she supports the amendment which I support, because it will build on the pending amendment, build on what is in the bill and give proper protection to the tenants as well.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

I think it is partially her amendment. I just do not think she and I understand it in the same way. I thank the gentleman.

Mr. FRANK. Mr. Chairman, I thank the gentleman for that demonstration of gallantry toward a colleague.

Now, let me say that the gentleman from Delaware said let us not go through this again in 20 years. Unfortunately, what he says is let us go through it again in 30 years. That may speak as to how long the gentleman from Delaware intends to stay here, and I think there are some other colleagues who intend to be here longer.

He is right, it makes it better. What the current bill says, as amended by the gentleman from Texas and the gentleman from Georgia, is that 20 years from now we go through this again. The gentleman from Delaware said let us not go through this again in 20 years. Let us do it in 30 years. That is better, but it would seem to me better to go even beyond that.

The fundamental point I wanted to make is this, that the amendment that we will offer tomorrow, and I hope this is accepted, the amendment we will offer tomorrow which will build in everything the gentlemen from Delaware and North Carolina and the gentlewoman from South Carolina, the gentleman from Nebraska have done, in addition to what is in the bill, it will say that where we have met a fair price, then it must remain as low-income housing.

The gentleman from Texas and the CBO said, and the gentleman from Georgia repeated it, that 70 percent of the units will be preserved. Do you know what that means? That means 30 percent of the people now living in subsidized housing of which we have too little will get kicked out. If 30 percent getting kicked out seems good to you, then take the status quo. I think we can do better. I think we can improve on that situation. I hope we accept this. I hope we go beyond that.

Let me just say one last thing to my colleagues: We believe that we have met our constitutional obligation. We believe the amendment we will offer tomorrow will give a fair price. But you remember that the last time a Banking Committee bill came up you were told to worry about contractual rights; we owe these people. That is when they tried to get you to guarantee good will for the savings and loans. So remember how you voted on that, because these same arguments you heard about the absolute sanctity of contract you heard when they said people will promise their good will, they made some expenditures in reliance on it, and you do not want to break it, and we said public policy allows us, where we are giving a fair compensation, to set some terms, and in fact, this is far less even arguably of any imposition on contractual terms than the good-will issue, and this House voted 3 to 1 to say to those people who thought they had a contractual right to good will, "You do not have it."

If you look at the amendment that we are going to offer tomorrow, we believe we meet contractual rights and that we protect not 70 percent of the tenants, we believe, but much closer to 90.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to offer an amendment, along with our colleagues, TOM CARPER, LIZ PATTERSON, and PETER HOAGLAND, on the preservation of low-income housing.

This issue confronts us with two worthy goals: One is the preservation of low-income housing stock; the other is honoring the Federal Government's contract with owners who were given the right to prepay their mortgages after 20 years. Our amendment is an attempt to balance those two goals.

In general, our amendment preserves the voluntary structure of the Bartlett-Barnard bipartisan compromise that was adopted in the House Banking Committee. However, it adds a requirement that any owner wishing to prepay, must, for a 6-month period, sell a project to any nonprofit or other group wishing to preserve the project for low-income housing. The sales prices is set at the appraised highest and best use value, so the owner will not experience any economic loss.

The amendment also offers some important modifications to ensure that the incentive the Federal Government offers to owners are used effectively. First, it provides the HUD Secretary with a wider range of sanctions against an owner who fails to keep his property in good repair.

Second, it adds incentives for owners to provide important services for the elderly. Our amendment would allow qualifying projects to receive assistance for hiring service coordinators to evaluate the needs of older residents and assist them in receiving services and to undertake important retrofitting and rehabilitation activities in these projects. Both the sanctions and elderly service amendments add an important dimension to the entire preservation debate: the quality of life for these residents.

The amendment also ensures that the current economic mix of these properties is maintained. Under the committee bill, there was no requirement that the economic mix of the properties be maintained. Our amendment will make sure that very low-income people continue to be served by these projects.

The amendment also extends the low-income use restrictions on these properties for 10 years beyond the current 40-year mortgage, and authorizes the Secretary to offer incentives beyond that to keep the properties low income. Finally, the amendment clarifies the current preemption language in the bill to make certain that local zoning, rent control, and other laws are not overridden.

With the acceptance of this amendment, I plan to support the current bill. As AARP said in endorsing this amendment:

> The Carper-Price-Patterson-Hoagland amendment represents the best means currently before the House to address both the immediate problems of prepayment and displacement and the ongoing management issues associated with the aging of the resident population.

I urge my colleagues to accept this amendment.

Mrs. PATTERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, know that the hour is late, and we need to move on, but as author of this amendment, I would like to make a few statements.

I think that the issue of low-income housing has been one of the most difficult and complex issues that this Congress has had in a very long time. We have been faced with reconciling the concern of the loss of these housing units with the contractual rights of the owners, a very difficult decision.

When the Committee on Banking, Finance and Urban Affairs considered this issue a number of us felt that we could not support a total abrogation of contractual rights, but we also felt an obligation to do as much as we could to ensure that we created every opportunity for this property to continue to serve low-income residents.

This amendment and the changes adopted by the Committee on Banking, Finance and Urban Affairs have met this goal. Our amendment gives a right of first refusal to nonprofits and others who intend to keep this property for low-income use. It guarantees the continued targeting of these properties to low- and very-low-income residents, but most importantly to me, it toughens the sanctions against owners who let their properties fall into disrepair.

There are properties in this country that are literally falling apart. If owners are going to receive Federal incentives, they have an obligation to keep these properties in good condition. If they will not do it, we must make them do it. This amendment creates a sliding scale of steps that can be taken to ensure that these properties provide safe, livable housing for residents.

□ 2110

I hope my colleagues will support this amendment.

With this amendment, I intend to support the provisions of the committee. I think we have worked hard under the leadership of our wonderful chairman, the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Ohio [Mr. WYLIE]. We have worked hard to address the concerns that face all sides on this issue.

It has not been an easy task. This amendment is a tribute to the hard work of the gentleman from Delaware [Mr. CARPER], the gentleman from North Carolina [Mr. PRICE], the gentleman from Nebraska [Mr. HOAGLAND], the gentleman from Texas [Mr. BARTLETT], the gentleman from Georgia [Mr. BARNARD], as well as their staffs, and I believe this amendment deserves our support.

Mr. KENNEDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment because I think it once again ratifies the type of deal that exists for the working people and the poor people of this country when we suggest that we have some sort of contract with the landlords that are participants in the 221(d)(3)'s and the other programs that this amendment pertains to. But then somehow we say to the poor people that we do not have a contract for them. They are not on the same par with the landlords of this country. That somehow or another what we are going to say to them is that they are fine to go out on the street, they are fine to become the homeless of America. But we do not have a contract with them. We do not say to them that we are going to stand up for their rights in America.

It is time for this country to recognize that this bill as it stands today will create homelessness. There will be thousands and thousands of more families out on the street, because wealthier landlords, that have been paid internal rates of return of 16 to 27 percent through these programs, are going to say no, that is not enough,

they want more. So they line their pockets, and the poor are thrown out.

It is time for this country to wake up and grab a little of its own consciousness and recognize that it is only by standing up for the poor, it is only by standing up for the working people, but particularly that the Democratic Party is going to find its soul and begin to stand up to the wealthy and powerful interests that do so well in this city.

So I ask Members to oppose this amendment. The facade that somehow by giving the right of first refusal to nonprofit corporations is going to save the poor is nothing but a crock of baloney. There is no private nonprofit that can afford to pay the prices that the wealthy individuals that would go out and throw these poor people out on the street will be able to attain. And it is folly to suggest that that is going to be the equality that comes out.

So I ask that we oppose this amendment. I ask that we stand up for the poor. I ask that we stand up for the working people, whose rights are really going to be trounced by this amendment.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding. Page 520 of the bill that we are debating states on line 25, project-based assistance attached to the housing for any family or persons eligible for such assistance, every tenant who is income-eligible in one of these units will be guaranteed the right to continue to live and to receive rental assistance under this bill.

Mr. Chairman, I thank the gentleman for yielding.

Mr. KENNEDY. Mr. Chairman, the fundamental fact is that that is a complete crock of baloney, and the gentleman from Texas [Mr. BARTLETT] knows it. The reality is that you are going to throw those people out on the street. I do not care what that piece of paper says.

Mr. BARTLETT. It is the bill.

Mr. KENNEDY. The gentleman knows and I know that what is underneath that piece of paper is the fact that the gentleman has stood up for the landlords, that he is going to throw the people out on the street. The gentleman understands that.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the gentleman is simply incorrect.

Mr. KENNEDY. I am not incorrect.

Mr. BARTLETT. This bill provides that every tenant would be guaranteed continued rental-based assistance if they are income eligible. That is what the bill, the statute, not a piece of paper, Federal law, which we are tonight debating, that is what this bill guarantees.

Mr. KENNEDY. A voucher program replacing real housing does no good for a 70-year-old widow who is going to be thrown out on the street, and the gentleman knows it. It is absolute folly to suggest so.

Mr. BARTLETT. If the gentleman will yield one more time, I would inquire why does the gentleman from Massachusetts [Mr. KENNEDY] believe that the AARP, the Association of Retired Persons, would endorse this bill?

Mr. KENNEDY. AARP stood up against catastrophic health insurance as well.

Mr. BARTLETT. Touché.

Mr. HOAGLAND. Mr. Chairman, This amendment represents a well-thought-out compromise between owners defending their contractual right to prepay and tenants concerned about losing their homes.

Congressman BARTLETT considers this a friendly amendment and has agreed to its provisions.

The National Association of Home Builders and the National Association of Realtors have agreed to its provisions.

Many of us on the Banking Committee are committed to honoring the contractual rights of owners of federally assisted housing. We do not want to tell people who were willing to deal with the Government 20 years ago to build low-income housing that the deal has changed, and you lose. This would be wrong, and it would send a signal to the private sector not to deal with the Federal Government again.

At the same time, we are also concerned about the tenants who could be displaced by owners who elect to prepay their mortgages and get out of Federal housing programs. This amendment is a balancing of those two concerns.

Many of my colleagues have asked me if they can vote for the Frank-Martin amendment as well as this amendment. I must with reluctance say that although my colleagues are free to vote for both amendments, the Carper-Price-Patterson-Hoagland amendment makes much more sense on it own. The Frank-Martin amendment requires that if the Government incentives offered to owners offer a fair market rate of return to the owner, the owner may not prepay his mortgage. If the incentives are less than a fair market rate of return, the owner is free to prepay.

My objections to this approach are twofold: First, it abridges the contractual rights that we uphold in our amendment. Second, it makes no provision for those properties that are prepaid and taken out of low-income stock.

The Hoagland-Carper-Price-Patterson amendment honors this right of contract as well as making provision for the properties of owners who elect to prepay—by providing a right of first refusal to nonprofit organizations that will maintain the low-income nature of the property. I think it is a more effective protection for tenants who might otherwise be displaced.

In addition, the amendment makes the following improvements:

First, it requires that owners who stay in the housing programs maintain the income mix of the tenants who have been living there previously;

Second, it narrows the State and local law preemption language in the bill so that only the State and local laws that contradict this statute will be preempted;

Third, it toughens the sanctions against owners that elect to take government incentives and then let their properties fall into disrepair;

Fourth, it establishes incentives for owners to improve services for the elderly living in these properties; and

Fifth, it extends the low-income use restrictions on these properties for at least 10 years beyond the current 40 year mortgage.

I urge my colleagues to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware [Mr. CARPER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARPER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 400, noes 12, not voting 20, as follows:

[Roll No. 292]

AYES—400

Ackerman	Carr	Erdreich
Alexander	Chandler	Espy
Annunzio	Chapman	Evans
Anthony	Clarke	Fascell
Applegate	Clay	Fawell
Archer	Clement	Fazio
Armey	Clinger	Feighan
Aspin	Coble	Fields
Atkins	Coleman (MO)	Flake
AuCoin	Coleman (TX)	Flippo
Baker	Collins	Foglietta
Ballenger	Combest	Frank
Barnard	Condit	Frenzel
Bartlett	Conte	Frost
Barton	Conyers	Gallegly
Bateman	Cooper	Gallo
Bates	Costello	Gaydos
Beilenson	Coughlin	Gejdenson
Bennett	Courter	Gekas
Bentley	Cox	Gephardt
Bereuter	Craig	Geren
Berman	Crane	Gibbons
Bevill	Dannemeyer	Gillmor
Bilbray	Darden	Gilman
Bliley	Davis	Gingrich
Boehlert	de la Garza	Glickman
Boggs	DeFazio	Goodling
Bonior	DeLay	Gordon
Borski	Dellums	Goss
Bosco	Derrick	Gradison
Boucher	DeWine	Grandy
Boxer	Dickinson	Grant
Brennan	Dicks	Gray
Brooks	Dingell	Green
Broomfield	Dixon	Guarini
Browder	Dornan (CA)	Gunderson
Brown (CA)	Douglas	Hall (OH)
Brown (CO)	Downey	Hamilton
Bruce	Dreier	Hammerschmidt
Bryant	Duncan	Hancock
Buechner	Durbin	Hansen
Bunning	Dwyer	Harris
Burton	Dymally	Hastert
Bustamante	Dyson	Hatcher
Byron	Eckart	Hayes (IL)
Callahan	Edwards (CA)	Hayes (LA)
Campbell (CA)	Edwards (OK)	Hefley
Campbell (CO)	Emerson	Hefner
Cardin	Engel	Henry
Carper	English	Herger

Hertel	Miller (WA)	Schulze
Hiler	Mineta	Schumer
Hoagland	Moakley	Sensenbrenner
Hochbrueckner	Molinari	Serrano
Holloway	Mollohan	Sharp
Hopkins	Montgomery	Shays
Horton	Moody	Shumway
Houghton	Moorhead	Sikorski
Hoyer	Morella	Sisisky
Hubbard	Morrison (CT)	Skaggs
Huckaby	Morrison (WA)	Skeen
Hughes	Murphy	Skelton
Hunter	Murtha	Slattery
Hutto	Myers	Slaughter (NY)
Hyde	Nagle	Slaughter (VA)
Inhofe	Natcher	Smith (FL)
Ireland	Neal (MA)	Smith (IA)
Jacobs	Neal (NC)	Smith (NE)
James	Nielson	Smith (NJ)
Jenkins	Nowak	Smith (TX)
Johnson (CT)	Oakar	Smith (VT)
Johnson (SD)	Oberstar	Smith, Denny (OR)
Johnston	Obey	
Jones (GA)	Olin	Smith, Robert (NH)
Jones (NC)	Ortiz	
Jontz	Owens (NY)	Smith, Robert (OR)
Kanjorski	Owens (UT)	
Kaptur	Oxley	Snowe
Kasich	Packard	Solarz
Kastenmeier	Pallone	Solomon
Kennelly	Panetta	Spence
Kildee	Parker	Spratt
Kleczka	Parris	Staggers
Kolbe	Pashayan	Stallings
Kyl	Patterson	Stangeland
LaFalce	Paxon	Stark
Lagomarsino	Payne (NJ)	Stearns
Lancaster	Payne (VA)	Stenholm
Lantos	Pease	Stokes
Laughlin	Pelosi	Studds
Leach (IA)	Penny	Stump
Lehman (CA)	Perkins	Sundquist
Lehman (FL)	Petri	Synar
Levin (MI)	Pickett	Tallon
Levine (CA)	Pickle	Tanner
Lewis (CA)	Porter	Tauke
Lewis (FL)	Poshard	Tauzin
Lewis (GA)	Price	Taylor
Lightfoot	Pursell	Thomas (CA)
Lipinski	Quillen	Thomas (GA)
Livingston	Rahall	Thomas (WY)
Lloyd	Rangel	Torricelli
Long	Ravenel	Towns
Lowery (CA)	Ray	Udall
Lowey (NY)	Regula	Unsoeld
Luken, Thomas	Rhodes	Upton
Lukens, Donald	Richardson	Valentine
Machtley	Ridge	Vander Jagt
Madigan	Rinaldo	Vento
Manton	Ritter	Visclosky
Marlenee	Roberts	Volkmer
Martin (IL)	Robinson	Vucanovich
Martin (NY)	Roe	Walgren
Martinez	Rogers	Walker
Matsui	Rohrabacher	Walsh
Mavroules	Ros-Lehtinen	Watkins
Mazzoli	Rose	Waxman
McCandless	Rostenkowski	Weber
McCloskey	Roth	Weiss
McCollum	Rowland (CT)	Wheat
McCrery	Rowland (GA)	Whittaker
McCurdy	Roybal	Whitten
McDade	Russo	Williams
McDermott	Sabo	Wilson
McEwen	Saiki	Wise
McGrath	Sangmeister	Wolf
McHugh	Sarpalius	Wolpe
McMillan (NC)	Savage	Wyden
McMillen (MD)	Sawyer	Wylie
McNulty	Saxton	Yates
Meyers	Schaefer	Yatron
Mfume	Scheuer	Young (AK)
Michel	Schiff	Young (FL)
Miller (CA)	Schneider	
Miller (OH)	Schroeder	

NOES—12

Anderson	Gonzalez	Markey
Coyne	Kennedy	Torres
Donnelly	Kolter	Traficant
Early	Kostmayer	Traxler

NOT VOTING—20

Andrews	Crockett	Fish
Bilirakis	Dorgan (ND)	Ford (MI)
Ford (TN)	Mrazek	Shuster
Hall (TX)	Nelson	Swift
Hawkins	Roukema	Washington
Leath (TX)	Schuette	Weldon
Lent	Shaw	

□ 2134

Mr. MARKEY changed his vote from "aye" to "no."

Mr. EDWARDS of California and Mr. SAVAGE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. CONTE. Mr. Chairman, I rise in strong support of H.R. 1180, the Housing and Community Development Act of 1990. I am especially mindful of the extraordinary efforts of the distinguished chairman of both the Committee on Banking, Finance and Urban Affairs and its Subcommittee on Housing and Community Development, the honorable gentleman from Texas [Mr. GONZALEZ]. Chairman GONZALEZ has invested countless hours and immeasurable energy in crafting an omnibus housing bill that will be this country's beacon of housing and community development policy as we stride into the 21st century. I congratulate the chairman on his wisdom, his fairness, and his industriousness in shaping this landmark legislation.

I would also like to recognize the tireless efforts of my Republican colleagues on the committee, especially the ranking minority member of the full committee, the gentleman from Ohio [Mr. WILEY] and the ranking minority member of the subcommittee, the honorable and gracious gentlewoman from New Jersey [Mrs. ROUKEMA]. Their unwavering dedication to their important responsibilities has helped produce a package that can be widely embraced on both sides of the aisle. Indeed, the entire committee can be proud of its cooperative achievement in reporting this largely bipartisan legislation to the House.

Mr. Chairman, this legislation is enormously broad in scope. It creates new housing production programs and addresses the activities of the Federal Housing Administration. It authorizes community development programs and advances solutions to some of our most pressing social programs. In recognition of the legislation's comprehensiveness and in deference to the committee members who have spent countless hours in shaping this bill, I will limit my comments to a few items of particular personal interest.

First, I would like to extend my gratitude to the committee for fully incorporating into the housing bill my legislative initiative, the SPORT Act of 1990. I introduced the SPORT [Special Program of Recreational Training] Act in the House as H.R. 4711. My good friend, the distinguished gentleman from Ohio [Mr. WILEY], honored me by offering this legislation as an amendment to H.R. 1180 during subcommittee markup of the bill. I am pleased that the subcommittee considered this initiative worthy of its support and adopted the amendment without opposition.

The SPORT Act authorizes a program within the Department of Housing and Urban Development to provide grants for organized sports activities benefiting youthful residents of public housing developments. It is designed to provide an effective weapon in the national arsenal engaged in the war on drugs.

Under the initiative, public housing authorities, units of State and local government, special parks and recreation districts, and nonprofit organizations will be eligible to apply for grants of up to $125,000 to fund an array of recreational, cultural, and sporting activities. These activities include, but are not limited to, development of recreational facilities; acquisition of sports equipment; and organization of youth sports leagues. Further, these activities must primarily benefit youths residing in public housing.

The SPORT grants program replaces a similar project administered by HUD prior to enactment of the HUD Reform Act of 1989. When Congress passed the reform act, late at night in the final hours of the last session, it eliminated the authority under which HUD's "bats and balls" program was operated. The SPORT Act of 1990 provides authority and guidelines for a new program to promote organized sports and activities at public housing developments.

The SPORT program will be financed from appropriations for drug elimination grants for low-income housing, and therefore, will not represent a new expense for American taxpayers. Applicants will be required to provide matching funds, including in-kind contributions, representing 50 percent of the Federal commitment.

Next, I would like to turn my attention to one of the most nettlesome issues addressed by the Banking Committee during its deliberations: The preservation of low-income housing projects threatened by the prospective prepayment of mortgages insured under the National Housing Act. Projects developed some 20 years ago under sections 221(d)(3) and 236 of the act received mortgage insurance assistance in return for commitments by developers to maintain the projects as affordable housing for low-income families. Under the law, owners become eligible to prepay the balance of their 40-year mortgages after 20 years; if owners exercise this option, the restrictions on the use of their properties are lifted.

Now, as more projects become subject to prepayment, we are threatened with a reduction in the Nation's stock of low-income housing. The legislation under consideration today includes a provision, adopted as an amendment by the full committee, to address the prepayment issue. The provision offers a package of incentives for owners to maintain their projects as low-income housing. These incentives include: Increased rents, capital improvement financing, and the provision of project-based section 8 certificates. Tenants who are displaced from their homes, notwithstanding the availability of these incentives to owners, will receive relocation assistance and section 8 certificates and vouchers. The provision preempts State and local laws.

In my opinion, the prepayment provision does not adequately protect the rights of tenants who are threatened with displacement by mortgage prepayment. Specifically, I am concerned that the package of owner incentives is not accompanied by a strong package of

tenant protections. The provision of individual section 8 assistance is not an effective protection without a corresponding availability of low-income housing. Further, I am concerned that owners who accept the incentives will still be able to convert their projects to other uses after payment of their mortgages. Even in those instances where the owner accepts Government incentives to maintain the project as low-income housing, the problem of tenant displacement will recur in 20 years. It seems reasonable to require the owners who take advantage of the many incentives offered in the bill to maintain the developments as low-income housing for the remainder of the useful life of the projects. I am also troubled by the provision's preemption of State and local law.

Accordingly, I support the coalition amendment to H.R. 1180 which offers realistic tenant protections while ensuring fair compensation to owners of the properties. The amendment provides that a subject property must remain as low- and moderate-income housing for its remaining useful life when the Federal Government offers the owner incentives that equal the property's fair market value.

On a related note, I would like to express my strong support for section 815 of the bill, "Assistance to Prevent Prepayment under State Mortgage Programs." When the Federal Government imposed a moratorium on the production of federally assisted low-income rental housing in the early 1970's, States were free to set up their own mortgage assistance programs. Section 815 provides assistance to States to prevent prepayment of State-assisted mortgages and to prevent the displacement of low-income individuals from their homes. First, the provision permits a local housing agency to allocate up to 15 percent of its section 8 certificates to preserve State-assisted projects which are eligible for prepayment. Second, it permits the Secretary of HUD to make available from any appropriated assistance which is available for federally assisted prepayment projects, upon application of the appropriate State or local agency, to induce an owner not to prepay State-assisted projects which are at risk of prepayment.

State-assisted projects now face the same threat of mortgage prepayment as do Federal projects. States which stepped up to the plate to shoulder the burden of low-income housing production upon termination of the Federal program should be rewarded, not penalized, for their efforts. Without section 815, there would be discrimination against the preservation of State-assisted projects vis-a-vis those that are federally assisted. A tenant of a State-assisted project would be at greater risk of displacement solely because the owner of the project relied on State assistance as opposed to Federal assistance.

The number of State-assisted projects is quite limited, and it is expected that 250 tenants will require prepayment protection over the next 5 years. The provision does not substitute Federal subsidies for those provided by the States; instead, it utilizes the Federal assistance to complement the large investment which has been and continues to be made by the States.

Finally, I feel compelled to register my concerns regarding section 520 of the bill. Section 520 creates an entitlement of section 8 certificates to families whose lack of adequate housing is a primary factor in their children being placed in foster care. The purpose of the provision is to prevent children from entering the foster care system and to reunite families whose children are currently living in that system.

Mr. Chairman, I could not be more supportive of the goals of this particular provision. As the ranking minority member of the Subcommittee on Labor, Health and Human Services, I have dedicated countless hours to the problem of foster care, and I continue to support Federal appropriations for adoption assistance, foster care, and independent living programs of the Department of Health and Human Services.

I am, however, troubled by the creation of a housing entitlement for a certain segment of the needy population. This provision establishes a very dangerous precedent. In this time of fiscal constraints, it is unwise to exempt the provision of housing assistance from the appropriations process. Our current budget situation calls for a reexamination of current entitlements—which promote uncontrolled spending—rather than the creation of new ones.

Mr. Chairman, this bill represents, on balance, good public policy, and I am proud to offer my support.

Mr. GOSS. Mr. Chairman, in Fort Myers, FL, real people with a vision have shown that Homeownership and Opportunity for People Everywhere—the President's HOPE Program—is more than just a wonderful dream.

The Fort Myers community has set out to convert uninhabitable housing projects into neighborhoods of affordable single-family homes. And, thanks to their hard work, determination, and public-private cooperation, the people of Fort Myers are realizing that goal.

It's working in Velasco Village. It's working in Southward Village. With the right attitude, commitment, and careful prioritizing of our national resources, it can work around the country, too.

Making the dream of home ownership come true for all Americans is what the omnibus housing authorization before us today is all about. For the first time, we're talking about helping people help themselves buy their own home.

This bill takes steps toward getting Government out of the business of keeping people on welfare and into a leadership role in encouraging them to pursue the American dream.

By setting up the National Housing Trust and demonstration programs, this legislation offers assistance to first-time home buyers in meeting downpayment requirements and keeping a lid on mortgage interest rates. The bill also sets up a program of matching grants to assist low-income people in savings, loans, and closing costs.

With the goal in mind of making more affordable housing available, this bill incorporates proposals by Housing Secretary Jack Kemp to cut away at the redtape that impedes our progress on building and rebuilding affordable units.

Over and over we've seen the impact that home ownership and the sense of self-reliance can have on people's lives. The American people don't want handouts and welfare; they want a fair chance to provide for themselves, to make their own way, and to improve their lives for themselves and their children.

The omnibus housing authorization is by no means a perfect solution to the many complex housing problems we face. But it does lead us in the right direction by providing much-needed Federal support to communities like Fort Myers, where the goal is to break, not perpetuate, the cycle of dependence.

Mr. BROWN of California. Mr. Chairman, I rise today in support of the omnibus housing authorization bill (H.R. 1180). We must work to ensure that all Americans have a decent, affordable place to live. I believe that H.R. 1180 does this by renewing a Federal commitment to housing.

This comprehensive housing policy authorizes a total of $27.9 billion in fiscal year 1991 for existing and new housing and home ownership programs. This includes $16.4 billion for low-income rental assistance programs such as public housing construction, modernization grants, and section 8 certificates and vouchers. The bill also includes new initiatives designed to help first-time home buyers make mortgage payments and pay downpayments—the National Housing Trust demonstration, home ownership made easier demonstration, and a program for second mortgages for first-time home buyers. Furthermore, the bill establishes three new programs intended to help low-income people own their own homes, which are collectively referred to as the Homeownership and Opportunity for People Everywhere [HOPE] programs.

Over the course of the 1980's Federal spending on housing assistance was cut by two-thirds, going from over $30 billion in 1980, to less than $10 billion at the end of the decade. We now know that the money that was appropriated for housing programs was mismanaged, and often used strictly for political purposes. The HUD scandal made a mockery of Federal housing programs, and I believe this bill helps restore the integrity of these programs by signaling a new role for the Federal Government in housing policy.

The bill authorizes $19.4 billion in fiscal year 1991 for existing nonrural housing assistance programs, including $16.4 billion for low-income rental assistance programs and for public housing construction. I am particularly pleased to see a $3 billion increase—excluding inflation—over the amount authorized for the renewal of expiring section 8 contracts. Local housing authorities in the congressional district I represent have been unable to adequately serve all of the people eligible for section 8 assistance. This is due in part to the rapid growth that the area has experienced, but also to the funding cuts of the 1980's. In some areas, there is a 4- or 5-year wait for those deemed eligible for section 8 housing.

The Federal Housing Administration [FHA] is authorized to approve $76.8 billion in loans, and to permanently raise the FHA loan limits for single-family homes to $124,875. The congressional district which I represent, encompassing parts of Riverside and San Bernardino counties, is ranked as the 12th most expensive housing area in the United States. This

new loan limit is vital to home buyers in southern California.

One of the most contentious issues is how to reform the Federal Housing Administration's [FHA] mortgage loan insurance program. Although the fund remains solvent, a recent study completed by Price Waterhouse concluded that the fund was losing money at an alarming rate. I support the Vento-Ridge amendment, which alters the FHA insurance program by phasing out over 5 years the current up-front insurance premium, paid at settlement, of 3.8 percent of the loan amount. This measure would require 1.35 percent to be paid at settlement, and 0.6 percent paid annually over the life of the loan. It would further restrict the program by prohibiting FHA mortgages which exceed the market value of the property; eliminating the rebate of unearned insurance premiums when mortgages are prepaid; discontinuing the payment of FHA distributive shares paid to borrowers until the MMI fund reaches a capital standard of 1.25 percent of loans; and requiring the attainment of minimum capital standards of 1.25 percent within 2 years, and 2 percent within 10 years. I believe this is a much more reasonable approach to ensuring the solvency of the FHA mortgage fund. The administration's proposals would significantly increase the up-front costs for home buyers, and further contribute to our Nation's housing problems.

The implications of permitting low-income housing owners to pay off their federally subsidized mortgages after 20 years could have devastating effects on our stock of public housing. It is estimated that more than 3,200 properties—with 350,000 residential units—will soon become eligible to prepay their mortgages and terminate their commitment to providing low-income housing. I support efforts to encourage building owners to continue renting to low-income families for the full 40-year term of the mortgage. The bill includes incentives to encourage these owners to continue providing low-income housing, including equity loans, continued section 8 subsidies, and low-interest loans for maintenance and repairs. I also support requiring building owners to maintain their property for low- and moderate-income tenants when these incentives equal the fair market rate of return on the owner's equity in the building.

It is no secret that the American dream of owning a home now eludes the reach of many families. I wholeheartedly support the omnibus housing bill, and urge my colleagues on both sides of the aisle to do the same. I applaud this comprehensive approach to our Nation's changing housing needs.

Ms. SCHNEIDER. Mr. Chairman, I rise in strong support of our coalition prepayment amendment to H.R. 1180. This critical amendment will help preserve the stock of the Nation's low- and moderate-income housing by improving on the Bartlett-Barnard language, which offers incentive for developers to keep federally financed apartment buildings for affordable housing.

As my colleagues have explained, our amendment would require that owners maintain their properties for low- and moderate-income tenants if the incentives offered by the Federal Government provide fair market return on the owner's equity. By contrast, under the current language of the bill, even where HUD offers sufficient incentives, owners could decide to tear down the housing and evict the current tenants. Such action would have devastating effects in my State of Rhode Island, where there are 5,528 units of section 221 and 236 housing in more than 50 developments. I can think of no issue more important to low- and moderate-income housing in Rhode Island than the passage of this amendment.

According to the 1988 Rhode Island Housing and Mortgage Finance Corp. [RIHMFC] study of subsidized housing, "the shortage of affordable housing has reached crisis proportion." In fact, of the top 40 developments likely to prepay, 38 are section 221 and 236 projects.

Under Federal legislation of about 20 years ago, the Government offered developers low-interest, federally insured loans to encourage the building of apartments for low- and moderate-income persons. The legislation obligated developers to maintain the housing for those income groups, but allowed them to prepay the mortgages after only 20 years. Our amendment is meant to address the nearly 300,000 units of affordable housing that may be lost to prepayment when a moratorium, passed by Congress 3 years ago, expires on September 30.

Mr. Chairman, we have to act now if we are going to be able to meet Rhode Island's housing needs in the 1990's. Clearly, our housing needs in the future, particularly those of low- and moderate-income families, will be much different than was anticipated 20 years ago. This creative measure will help preserve this important housing stock for those who need it most, and will allow us to prepare adequately for the changes that the future will bring.

I urge my colleagues to vote in favor of this important amendment to preserve our Nation's low- and moderate-income housing stock.

Ms. PELOSI. Mr. Chairman, I would like to commend Chairman GONZALEZ for all of his hard work in developing the omnibus housing bill. I greatly appreciate his assistance in including in this bill several provisions of importance to me, including the Perinatal One-Stop Housing Act and the AIDS Housing Opportunities Act.

I continue to be concerned, however, about the inclusion of language related to barriers to affordable housing associated with housing opportunity zones. There has been no public debate on this program and its potential impact on local jurisdictions that wish to be designated as housing opportunity zones, as well as those which do not. I also have questions about the impact of barrier removal on portions of a jurisdiction that are not designated as a zone, but would be impacted by the barrier removal requirement.

Under the language contained in the bill, the Secretary of HUD would be authorized to award a rental rehabilitation grant bonus of 5 percent to designated zones with approved barrier removal plans. I am concerned that the Rental Rehabilitation Grant Program may be cut in order to fund these bonuses.

There are also serious questions about the effectiveness of such a program. The city of Los Angeles, for example, receives $3.6 million in rental rehabilitation grant dollars. It would cost Los Angeles more to prepare a barrier removal plan than the $180,000 it would receive in additional housing opportunity funds with the 5-percent bonus. Is this a sensible approach?

The Secretary's interest in barrier removal plans is not confined to the housing opportunity zones. The Secretary could require changes in State and local regulations that would affect land use decisions throughout the entire local jurisdiction, not just the designated zone. This unfettered authority of the Secretary is an unwarranted intrusion into the privileged domain of local government and preempts local authority to legislate on matters of purely local concern. Land use decisions have traditionally been left to local government decisionmaking. There is no place for Federal intrusion of this type into local affairs. HUD does not possess the expertise to evaluate whether or not such local regulations are a legitimate response to public necessity. HUD also does not have the expertise to pass judgment on whether or not particular local policy is in the public interest, relative to that local jurisdiction.

Those individuals supporting barrier removal argue that elimination of barriers would spur the production of affordable housing and, in the process, lower the cost of existing housing. This has not been proven. Without the so-called barriers, particularly rent control, housing prices could escalate dramatically, causing the displacement of hundreds of thousands of low-, moderate-, and even middle-income households from rental properties which they could no longer afford.

Contrary to the administration's belief, elimination of these barriers would not encourage increased purchases of single-family homes by those moderate- and middle-income households who are still renters, thereby freeing up rental units for lower income households. In cities such as San Francisco, Los Angeles, and New York, rent stabilization, for example, has been an important tool in maintaining affordable rental housing in a market where the high cost of both rental housing and single-family homes has skyrocketed in the past decade.

I look forward to working with my colleagues during the conference to ensure that the administration's pursuit of barrier removal plans is contained and does not reduce the availability of affordable housing.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 1180, the omnibus housing authorization bill for 1991. H.R. 1180 is significant in that it is the first piece of comprehensive housing legislation which reverses the Federal housing policies of the 1980's, and renews the Federal commitment to insuring that every American has access to decent and affordable housing.

The bill provides more than $19 billion in a 1-year authorization of existing housing and community development programs. Additionally, it creates several new programs within the Department of Housing and Urban Development to help first-time home buyers buy homes, and establishes new programs which will help those who have been long excluded from home ownership, poor and low-income

persons, to buy homes. And, for those persons who are unable to purchase homes, the bill authorizes $300 million in fiscal year 1991 for a new rental housing production program which provides low-interest, repayable advances to local groups for constructing, acquiring, or rehabilitating affordable rental housing. Eligible local groups include public housing agencies, and nonprofit and for-profit organizations. H.R. 1180 also authorizes $150 million in fiscal year 1991 and 1992 for programs intended to meet the housing needs of persons with AIDs.

In addition to all of these initiatives, Mr. Chairman, I am pleased to see the inclusion of the "HOPE for self-sufficiency" initiative in this bill. This program makes supportive services available to residents of assisted housing, so they can develop the skills and resources needed to support their families, independent of Government assistance. Now, before going any further, let me state that I do have some concern regarding the administration's failure to provide specific funding for this program, as well as the feasibility of the public housing authorities being able to implement some of the program's mandatory requirements. For instance, the committee notes on page 25 of its report that:

Public housing agencies are required to have a local self-sufficiency program yet this requires them to establish programs utilizing services over which they have no control and with no funding support. Social services which are to be included in these programs are within the control and funding of local and State governments or local organizations, not the public housing agencies, and no provision of this bill requires any action by any of these governmental or private organizations.

Despite these concerns, I do believe this self-sufficiency effort is a step in the right direction. Under the goals of this program, the public housing authority will be required to provide supportive services to families receiving housing assistance. For instance, families receiving section 8 certificates and vouchers, or who live in public housing, would be eligible to participate. Resources and supportive services authorized by H.R. 1180 include child care, transportation, education and literacy training, job training, drug abuse treatment and counseling, and money management training.

The educational and literacy aspects of this initiative are very similar to provisions contained in H.R. 916, the gateway bill, a bill I have introduced, and which has been included as a separate title of the Senate housing bill, S. 566. Basically, under the gateway concept, literacy and job training grants will be made available to public housing authorities. Many who live in public housing are known as the perpetual poor: individuals whose parents and grandparents lived in poverty, and whose children and grandchildren are destined to live in poverty. They are people who have had the doors of opportunity shut in their faces, generation after generation, because of illiteracy. Gateway opens doors which otherwise remain shut.

The provision of child care is an indispensable part of the gateway concept. Many families living in public housing are headed by single, young women who cannot afford quality day care. Consequently, rather than going to work or to school, they have had to stay at home with their children. It pleases me to see the education and child care provisions included as part of H.R. 1180's self-sufficiency provisions.

In closing, Mr. Chairman, I would like to commend the distinguished chairman, Mr. GONZALEZ, and the other members of the committee for including this language in this housing bill. I also would like to commend them for the leadership and foresight exhibited in bringing this bill to the floor.

Mr. SERRANO. Mr. Chairman, I rise in support of H.R. 1180, the Housing and Community Development Act of 1990. I commend the chairman of the Committee on Banking, Finance and Urban Affairs, Mr. GONZALEZ, and the ranking minority member, Mr. WYLIE, for their hard work in creating a bill which combines support for established housing assistance programs with innovative demonstration programs.

Over the last decade, the Federal Government has effectively denied its responsibility to assure that every American has a decent place to live. This legislation is an important step toward renewing our national commitment to the goal of providing affordable, decent housing for all Americans. This commitment must be upheld.

Too many of our people are homeless. For too many of our young people, the ideal of owning a home in which to begin their families is just that: a distant ideal that they have little hope or means of reaching. Too many people now live doubled up in our urban public housing projects, under severely overcrowded conditions made bearable only by the fact that homelessness is the only alternative.

Our cities need Federal money to continue to address their housing needs. New York City has been making a superhuman effort to rehabilitate vacant housing units, and considerable progress has been made using city capital funds. But there is still a long way to go, particularly in the area of providing safe, decent, and affordable housing for low and very low income renters. They cannot do it alone.

The National Housing Trust and the Homeownership Made Easier [HOME] demonstration authorized in title I of the bill are important steps toward addressing the housing crisis in our Nation. As home ownership becomes a more viable option for low- and moderate-income families, the rental units these people now occupy will become available to the hundreds of thousand of low-income families on housing authority waiting lists. Exemption from public housing and section 8 tenant preferences, used with care, will allow more tenants to leave public housing as well. These provisions, combined with programs for funding rental housing rehabilitation and production, can begin to ease the desperation of housing needs brought about by a decade of neglect and abuse of housing programs on the part of the Reagan administration.

Mr. Chairman, I support final passage of H.R. 1180 as an affirmation of this body's commitment to house the American people, and I urge my colleagues and the administration to maintain this commitment to the homeless and the struggling poor living among us in terrible conditions. While it is important that we help people to attain the American dream of home ownership, we must not lose sight of those for whom shelter and a clean place to sleep are, night after night, merely a dream.

Mrs. LLOYD. Mr. Chairman, throughout the years I have served in the Congress I have been a strong proponent of Federal assistance for affordable housing programs. I believe that such support is imperative to the quality of life for hard working men and women, and their families, who could not otherwise afford to become home owners.

The dream of home ownership is truly the American dream and programs intended to foster home ownership are particularly important in States like Tennessee where many individuals rely on FHA assistance to give them the much needed financial support necessary to acquire their first home.

Because the major stumbling block to home ownership is often the initial downpayment, I was particularly dismayed when I learned that the administration had proposed to shore up the FHA Mutual Mortgage Insurance Fund [MMIF] at the expense of first-time home buyers. This is neither prudent nor necessary, in fact, the National Association of Realtors has estimated that 100,000 families a year could not afford a home if they had to pay more up front. The Mortgage Bankers Association puts the figure at 250,000.

As an alternative to the reforms proposed by the administration, I am strongly supporting language put forth by Congressmen VENTO and BRUCE, to achieve actuarial soundness in the program with the least negative impact on potential home buyers. This amendment follows the recommendations of the Price Waterhouse report that uses a pay-as-you go formula for the FHA premium, an approach that was used successfully until 1983, and keeps in place a reduced upfront charge. This amendment will preserve FHA as an affordable route to home ownership while ensuring a safe and sound FHA insurance fund.

As an original cosponsor of the FHA Protection and Homeownership Act of 1990, put forth today as the Vento/Bruce amendment, I am convinced that this language is the best alternative before us. I believe it will help preserve future home ownership for millions of families. I urge my colleagues to join with me in strongly supporting its passage.

Mrs. BOGGS. Mr. Chairman, I would like to commend and congratulate Chairman GONZALEZ, Vice Chairman WYLIE, Subcommittee Vice Chairwoman ROUKEMA, and all the members of the Banking, Finance and Urban Affairs Committee for the fine work they have done. The Housing and Community Development Act of 1990 comes at a time when our Nation faces a critical need for housing. By hard work and dedication to a common goal, that of providing safe, decent, affordable housing for all, they have produced a fine bill.

I want to indicate my strong support of the Hubbard-Emerson-Espy amendment to the bill. It directs critically needed assistance to the Lower Mississippi Delta Region. It does this by increasing the "underserved areas" set-aside and giving preference to those counties in the Lower Mississippi Delta Commis-

sion that are among counties which qualify as underserved and underutilized.

The committee and Members of the House have been strong advocates for taking care of the people in various regions of this country, whether it has been New York City, the Heartland devastated by drought, or the pockets of poverty during the recessions of the early 1980's. We recognize that the best way to provide support to individuals is to sometimes give preferential treatment based on regional needs. It is important to realize that each region has unique strengths and weaknesses based on diversity of industry and the economy.

Conventional wisdom reminds us that a chain is as strong as its weakest link. It is important for you to know that the Lower Mississippi Delta is weak right now, through no fault of its own, because of economic downturn and regional hardship. Your vote for this amendment will help to rebuild one of the Nation's weak links so that strength in the Delta region will mean strength for the United States.

Mr. HOYER. Mr. Chairman, I rise in strong support of H.R. 1180, the omnibus housing bill. H.R. 1180 goes a long way toward addressing our Nation's housing crisis. Our Nation has traditionally considered the adequate shelter of its citizens to be not only a national priority, but a national responsibility. Unfortunately, recent years have seen a reversal in that tradition. For far too many years now, the Executive leadership of our Nation has ignored this priority and this responsibility.

Today, there are 1.3 million fewer low-income rental units available than in 1980, yet there are more than 1.4 million low-income households eligible for Federal assistance. Federal spending on housing assistance has been cut by two-thirds since 1980. America's middle class has also suffered during this time period. Where it was once a realizable dream of young couples to purchase a new home, today it is but a hazy hope. Home ownership for young families has fallen 18 percent in the 1980's.

However, under the able leadership of Chairman GONZALEZ, the bill reported by the House Banking, Finance and Urban Affairs Committee reverses that sorry trend. The bill contains several new, innovative programs to help first time home buyers and low-income people to realize the dream of home ownership. H.R. 1180 authorizes a total of $27.9 billion in fiscal year 1991 for existing and new housing and home ownership programs. This authorization also includes $300 million for a new rental housing production program. This program will be particularly important for areas like my congressional district in Prince Georges County which have been faced with skyrocketing rents.

The legislation also includes funding to construct new public housing to license the amount of public housing stock. To ensure that our Nation's public housing tenants live in decent housing, the legislation contains funding to renovate and modernize existing public housing stock. The bill also includes an authorization of $7.7 billion for low-income rental assistance. I am particularly pleased that there is a provision which addresses the realities of today's families by requiring that section 8 assistance be provided to families who are in imminent danger of losing their children to foster care because they lack adequate housing.

The public housing authorization provisions also contain important programs to eliminate drugs in public housing projects. H.R. 1180 will also ensure that space is available for one-stop prenatal and postnatal services for women living in public housing projects. Finally, I am hopeful that, inspired by the vision and leadership of this legislation, and the programs it authorizes, that more projects like Glenarden Apartment complex in Prince Georges County will be developed.

In a public-private partnership, Glenarden Apartment complex was changed from a sparsely populated, rundown, drug, and crime-ridden complex into a newly renovated, safe and attractive community with a strong anti-drug program. Glenarden Apartment complex has been recognized by the Secretary of Housing, Jack Kemp, as a leader, and I hope that it serves as an example to other communities across the Nation.

Again, Mr. Chairman, I am pleased to rise in support of this legislation which appropriately places the housing of all Americans a national priority. I commend the committee, under the leadership of Chairman GONZALEZ, for bringing this bill to the floor, and I urge my colleagues to support it.

Mr. GONZALEZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the Chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1180) to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present I would have voted "yea" on rollcall No. 284, No. 286, No. 288, No. 290, and No. 292.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-651) on the resolution (H. Res. 444) providing for the further consideration of the bill (H.R. 3950) the Food and Agricultural Resources Act of 1990, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2240, RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight on Tuesday, July 31, 1990, to file the conference report on S. 2240, the Ryan White Comprehensive AIDS Resources Emergency Act of 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VOTING RIGHTS CELEBRATION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 625) designating August 6, 1990, as "Voting Rights Celebration Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from Missouri [Mr. GEPHARDT], the chief sponsor of House Joint Resolution 625.

Mr. Speaker, further, under my reservation I yield to my colleague, the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I rise today in strong support of House Joint Resolution 625, the Voting Rights Celebration Day of 1990. I commend my colleague, the gentleman from Missouri [Mr. GEPHARDT], for introducing this legislation.

The bill designates August 6, 1990, as a day to recognize the importance of the right to vote in American life, particularly its importance for those citizens for whom this right was denied for so long. Today, the right to vote is recognized as one of the most basic of all our rights. However, few of our rights have been as difficult to obtain for many of our citizens.

At first, only a small minority of our citizens were allowed to vote. It was many years after the adoption of the Constitution before nonproperty owners were allowed to vote. Blacks were denied the right to vote until after the post-Civil War amendments to the Constitution were adopted. In fact, black citizens were effectively denied this right for a century following these amendments. Women were

not granted the right to vote until 50 years ago, and 18-year-olds were not allowed to vote until 1971. Mr. GEPHARDT's bill is a way of recognizing the struggle faced by so many for so long to obtain the right to vote.

Mr. Speaker, I urge my colleagues to join me in support of House Joint Resolution 625.

Mr. RIDGE. Mr. Speaker, continuing with my reservation objection, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. I thank my friend and colleague, the gentleman from Pennsylvania, for yielding.

Mr. Speaker, I rise only to associate myself with the thanks that we all have expressed to our colleague, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, let me thank Chairman SAWYER, the ranking member, Mr. RIDGE, Congressman DELLUMS, the distinguished chairman of the Congressional Black Caucus, and all of our good friends who are supporting this resolution commemorating the 25th anniversary of the Voting Rights Act.

On August 6, 1965, in the rotunda of our Capitol, President Lyndon Johnson affixed his signature on the most effective civil rights law the Congress has passed. The Voting Rights Act was a measure that brought fulfillment to the promise of the 15th amendment to our Constitution—an amendment that guaranteed, at least in theory, the right of all Americans to vote.

What brought the theory into practice were the sacrifices made by the courageous men and women of the civil rights movement. They forced onto the Nation's agenda enactment of the Voting Rights Act, and its adoption was their victory 25 years ago.

In the intervening years, we have had a remarkable change in this Nation. We have truly widened the circle of democracy and political participation in this country. While more needs to be done, and we will do more with the Civil Rights Act of 1990, it is appropriate that we celebrate the changes that have occurred as a result of the Voting Rights Act. These changes represent a victory for our democracy and for all of our citizens.

On Thursday, August 2, we return to the rotunda to celebrate this anniversary. It is our hope the joint resolution can be signed and sent to the President on that day. In our resolution, we ask the President to issue a proclamation declaring August 6, 1990, Voting Rights Celebration Day.

We ask the President to remind Americans of the historic struggle to provide our citizens the equal and unencumbered right to vote, the need to register to vote and participate in elections, the importance of the Voting Rights Act and the need for its continued enforcement, and the value of the vote to all citizens as an instrument of self-government and justice in a democratic society. Such a proclamation would be an elegant and appropriate statement of American values, values which are being honored in a democratic struggle across the world today.

I thank all of our colleagues who have contributed to the resolution and I urge its passage by the House.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 625

Whereas the 15th amendment to the United States Constitution guarantees the right of all citizens of the United States to vote without regard to their race or color;

Whereas, for nearly a century, the Government of the United States failed to enforce effectively the 15th amendment, thus denying African-Americans the right to exercise their voting franchise;

Whereas, in the absence of voting rights legislation, violence, harassment, intimidation, unfair tests, and other barriers to participation denied millions of United States citizens empowerment and enfranchisement in the political process;

Whereas the enactment of effective voting rights legislation was a priority of the civil rights movement for which many gave their lives;

Whereas President Lyndon Johnson declared on March 15, 1965, before a Joint Session of Congress that "every American citizen must have an equal right to vote," and that "there is no duty which weighs more heavily on us than the duty we have to insure that right";

Whereas bipartisan majorities in the House of Representatives and the Senate overwhelmingly approved the Voting Rights Act of 1965, and President Johnson signed the Act into law in a ceremony in the rotunda of the United States Capitol on August 6, 1965;

Whereas the Voting Rights Act of 1965 has been the most effective civil rights legislation for changing discriminatory practices that denied African-American, Hispanic-American, Native-American, Asian-American and other minority voters their most basic democratic rights, the right to vote and the opportunity to elect the persons they most want to represent them;

Whereas Congress has extended the Voting Rights Act of 1965 on three occasions because of its great effectiveness in expanding voter registration among minority citizens, increasing the number of African-American, Hispanic-American, Native-American, Asian-American and other minority elected officials, and causing greater and intrinsically valuable discourse between candidates for elective office and voters of all races and colors; and

Whereas August 6, 1990, marks the 25th anniversary of the enactment of the Voting Rights Act of 1965: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 6, 1990, is designated as "Voting Rights Celebration Day", and the President is authorized and requested to issue a proclamation reminding the people of the United States of—

(1) the historic struggle to provide all citizens of the United States with an equal and unencumbered right to vote;

(2) the need to register to vote and participate in elections;

(3) the importance of the Voting Rights Act of 1965 and the need for its continued enforcement; and

(4) the value of the vote to all citizens as an instrument of self-government and justice in a democratic society.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and motion to reconsider was laid on the table.

□ 2140

GERMAN-AMERICAN DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 469) to designate October 6, 1990, as "German-American Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today to lend my strong support to Senate Joint Resolution 277, legislation which would designate October 6, 1990, as "German-American Day."

This joint resolution once again reaffirms the significant contributions that Americans of German descent have made to this Nation and brings to light our appreciation for those contributions. From famous scientists to the average blue-collar worker, German-Americans have always worked to build the United States to the power it is today.

This year, Mr. Speaker, German-Americans have even more reason to celebrate their rich ancestry with the strides their forebears back home have made toward liberty and democracy for all Germans. The fierce desire for these freedoms, once demonstrated by those who left Germany and came to America, has finally led to the destruction of the Iron Curtain and freedom for East Germany. Certainly, German-Americans were an inspiration for this change and, accordingly, should be recognized for the assurance and leadership they lent to their cousins over the past year.

Mr. Speaker, I urge my colleagues to join in support of this measure.

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise today to draw your attention to a very important resolution, House Joint Resolution 469, that officially designates October 6, 1990, as "German-American Day." This fourth annual celebration of German-American Day, which overwhelmingly passed the House of Representatives on July 31, 1990, calls attention to the many contributions Americans of Germanic descent have made to the building of our country.

We are facing an era of unprecedented change in our world. We are proud indeed

that the democratic system of government celebrates vast triumphs all over the world. People everywhere are rising out of bonds of oppression and taking control of their destiny. Nowhere is this more apparent than in Germany where the people have persevered and brought about monumental changes in every aspect of their lives. It is appropriate now more than ever to recognize the contribution of German-Americans during this time of global transformation.

Since the arrival of the first German immigrants in the United States on October 6, 1683, their number has grown to an estimated 52 million, making them one of the largest ethnic communities in the United States. German-Americans have contributed immensely to all facets of American life and culture, and they will continue to contribute to the development, life and culture of our great country. They will work for and will support the Government of the United States, its democratic principles, and the freedom of all people everywhere. These outstanding people have earned this very special day to pay tribute to their achievements.

I am honored to have been able to introduce this legislation that has received such overwhelming support. This is truly an important sign of recognition and appreciation from the U.S. Congress to German-Americans across the country.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 469

Whereas the tricentennial of the arrival of the first German immigrants to the United States was celebrated on October 6, 1983;

Whereas such day was proclaimed by the President to be German-American Day in honor of the contributions made by German immigrants to the life and culture of the United States;

Whereas such contributions should be recognized and celebrated every year; and

Whereas the German-American Friendship Garden, symbolic of friendly relations between West Germany and the United States, was dedicated in the District of Columbia on November 15, 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1990, is designated as "German-American Day". The President is requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL GIVE THE KIDS A FIGHTING CHANCE WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 515) designating the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Texas [Mr. FROST] who is the chief sponsor of this joint resolution.

Mr. FROST. Mr. Speaker, I rise today to thank my colleagues for their assistance in the passage of House Joint Resolution 515, which designates the week of September 16, 1990, as "National Give the Kids a Fighting Chance Week." I introduced this commemorative legislation to help promote awareness of the reconstructive surgery techniques that can aid facially disfigured children and to let families know of resources available to assist with funding of treatment.

Most people do not realize that every year craniofacial conditions affect some 465,000 individuals in the United States alone, of which 200,000 are children under age 5. For many of these kids, tumors or skull disfigurement severely impair daily activities and in some cases, are life threatening. Receiving treatment can mean the difference between life and death for some children. It is equally disturbing that fewer than 10 percent are aware of the treatment resources available.

A number of foundations around the country are dedicated to providing funding assistance for treatment and research of craniofacial disfigurement. I have been personally involved with the International Craniofacial Foundations, Inc., which is located in Dallas, TX.

Additionally, there are groups that function solely as support organizations to help the families and the children affected by craniofacial disfigurement to adjust to today's society.

I am proud to be involved with such a worthy project and look forward to the week of September 16. It is my hope that we all can participate in giving these kids a fighting chance.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 515

Whereas as many as 200,00 children of less than 5 years of age suffer from severe craniofacial deformity;

Whereas individuals who suffer from craniofacial deformity, including children and adults, are too often forced to live secluded lives, hidden from society;

Whereas individuals who suffer from craniofacial deformity and their families experience severe emotional and behavioral difficulties;

Whereas the International Craniofacial Foundation, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other organizations dedicated to craniofacial reconstruction fund programs for research and education regarding craniofacial deformity and treatment of individuals who suffers from craniofacial deformity;

Whereas the International Craniofacial Foundation, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other organizations dedicated to craniofacial reconstruction have funded surgical and nonsurgical treatment for more than 10,000 patients from throughout the United States and 12 countries; and

Whereas the International Craniofacial Foundation, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other organizations dedicated to craniofacial reconstruction have begun to aggressively seek out individuals who can be aided by the services of the organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United states of America in Congress assembled, That the week beginning September 16, 1990, is designated as "National Give the Kid a Fighting Chance Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHILDREN'S DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 316) to designate the second Sunday in October 1990 as "National Children's Day" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I wish to acknowledge the work of the chief sponsor of this joint resolution, the gentleman from Massachusetts [Mr. KENNEDY]. I applaud the gentleman for the effort on this joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate Joint resolution, as follows:

S.J. RES. 316

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1990 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MENTAL ILLNESS AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 256) to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the good work of our colleague, the gentleman from Oregon [Mr. WYDEN] who is the chief sponsor of this joint resolution, and also to yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 486, a measure to designate October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week."

As we know, since 1973, Federal law has prohibited discrimination on the basis of mental illness in Federally funded programs. Those provisions, however, have not removed all the barriers that have kept our Nation's mentally disabled people from participating fully on the job and in the activities of daily life.

Unfortunately, many of these remaining barriers result from ignorance and misunderstanding. Mental Illness Awareness Week is intended to help to dispel the basis for much of the discrimination against the mentally disabled by education and by recognition.

Mr. Speaker, I urge my colleagues to join in support of this measure, and to provide the mentally disabled with the help and recognition they so richly deserve.

Mr. WYDEN. Mr. Speaker, today the House of Representatives will pass a joint resolution to authorize the President to designate the week of October 7–13, 1990, as "Mental Illness Awareness Week."

The purpose of this joint resolution is to focus public attention on concerns surrounding, and the advances made in, the treatment of mental illness. A Mental Illness Awareness Week resolution has been passed by Congress for the last 8 years. This resolution serves as a focal point for educating the public about conditions such as phobias, depression, anxiety, and schizophrenia.

Mental illness is a problem of staggering proportions. One in five American families will be affected by serious mental illness. Mental illness strikes all social levels and all ethnic groups in equal proportion.

According to the American Psychiatric Association, 15 to 25 percent of the elderly suffer from significant symptoms of mental illness. In addition, approximately 12 million children under the age of 18 suffer trom mental disorders such as depression, hyperactivity, and autism. About 15 percent of Americans will suffer a major depressive episode. One-third of the homeless on our streets are victims of mental illness.

But many people with mental illness are suffering needlessly. Many mental disorders are diagnosable, treatable, and even curable. But fewer than one-fifth of those who have mental disorders seek or receive the treatment they need. Many do not even realize that they have an illness which can be effectively treated.

Nine out of ten patients suffering from major depression or anxiety can recover; 7 of 10 suffering from manic depression can return to normal lives; 1 in 4 with schizophrenia can recover.

We can help turn this problem around by letting people know that help is available for mental illness. Of all the resolutions that will be considered by Congress this year, I hope you will agree that Mental Illness Awareness Week has particular merit. Its passage will help bring much-needed attention to the fact that so many mental disorders can be attacked and conquered.

The inspiration for Mental Illness Awareness Week comes from such groups as the American Psychiatric Association [APA] and the National Alliance for the Mentally Ill. APA members conduct research and provide treatment necessary for those suffering from mental illnesses. The alliance which was formed in 1979 for families of the mentally ill, supports education, advocacy, and research in the mental health field.

Few diseases have the potential which mental illness has to disrupt the lives of the sufferers, and their families and friends. And no other disease is more clouded by misunderstanding.

Only through an increased understanding of the causes and treatments available will the fear and ignorance surrounding mental illness become a thing of the past.

Mental Illness Awareness Week provides us with an opportunity to reach out and help fellow Americans understand this disease and encourage those afflicted to seek appropriate care. I thank my colleagues for their support of this important resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 256

Whereas mental illness is a problem of grave concern and consequence in American society, widely but unnecessarily feared and misunderstood;

Whereas 31 to 41 million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than 10,000,000 Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas 33 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of American adults in any 6-month period;

Whereas mental illness in at least 12,000,000 children interfers with vital developmental and maturational processes;

Whereas mental disorder-related deaths are estimated to be 33,000 annually, with suicide accounting for at least 29,000 of those, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that 1 in 10 AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and that as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the Alcohol, Drug Abuse, and Mental Health Administration represents only about 1 percent of the direct clinical costs of caring for persons with alcohol, drug, and mental disorders;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community.

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalilties of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalelled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 7-day period beginning October 7, 1990, and ending October 13, 1990, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 2150

WE NEED TO ESTABLISH A RADIO FREE ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, last March, Congress gathered in this Chamber to hear Vaclav Havel offer pronouncements on democratic traditions and the unfailing human spirit. It was a truly momentous occasion, as was the visit of Lech Walesa a month earlier. Both men credited the United States with playing an important role in fostering the dramatic changes in their respective countries.

The Vaclav Havel's, Lech Walesa's, and Natan Shcharansky's continue to remind us of the critical role that our broadcast services played in keeping them informed of events—even during their darkest of hours. While many people living in democratic nations often fail to grasp the importance of overseas broadcasts, these leaders and many more like them, continue to serve as reminders of two important things. First, that, if heard, the truth will affect democratic changes; and second, that eventually, it will be heard, notwithstanding any roadblock or wall that can be erected to keep it out.

It should come as no surprise Mr. Speaker, that the ruling elites of Communist controlled countries, past and present, have also accorded our radio broadcasts very high regard. In fact, these governments spent some 40 years doing everything in their power to prevent their citizens from listening to the Voice of America [VOA] and Radio Free Europe/Radio Liberty [RFE/RL].

First hand, we have witnessed the emergence of a powerful democratic force in Eastern Europe and the Soviet Union—a force that was aided in large part by our unfailing devotion to the ideal of freedom, by our efforts to dispense information. In view of these great successes, the United States already has commenced reviewing our broadcast services in order to chart a course on how best to consolidate resources for the future.

Historically, Radio Free Europe broadcasts have been directed at Bulgaria, Estonia, Czechoslovakia, Hungary, Latvia, Lithuania, Poland, and Romania. Radio Liberty on the other hand has concentrated on the Soviet Union and its individual Republics ranging from Armenia to Georgia and the Ukraine. There is every reason to believe that these services will continue, as should some of the Radio Free Europe broadcasts to the Baltic States.

The question facing us now is what to do with the resources that heretofore, were devoted to the Czech, Hungarian, and Polish services. Clearly we don't need to be broadcasting 137 hours a week to Poland anymore, or 126 hours per week to Hungary. The entire framework of our international broadcasting network is currently being scrutinized by various Government and independent agencies. For instance, the U.S. Advisory Commission on Public Diplomacy has recommended scaling back the Hungarian and Polish services of Radio Free Europe. Another idea that has been advanced would see the actual transfer of all Radio Free Europe assets into the Voice of America.

However, I think this could be a grave mistake as it would effectively blur the lines of distinction between the two separate services. The VOA's broadcasts are basically intended to relay information about the United States—while the mission of Radio Free Europe is to inform people about what is going on in their own country. This Radio Free Europe type of broadcasting is referred to as a surrogate service, meaning it serves as a substitute for an internal media in those countries without a free press. This surrogate service is vital because it provides news and commentaries that are normally absent in the government-controlled media. Thus, although VOA's broadcasts may be informative and popular, they do not concentrate on issues relating to internal political developments within the target country.

Even though the continued need for surrogate broadcasting to certain regions in Eastern Europe is dwindling, this is not the case in countries like Cambodia, Laos, and Vietnam, where, oddly enough, our voice has barely been heard for decades. With this in mind, Mr. Speaker, today I am introducing the Radio Free Asia Act of 1990, which will redirect some of our present broadcast resources into a new radio broadcast service to Indochina—a region that has been neglected for far too long. There is a desperate need for information in Cambodia, Laos, and Vietnam, Mr. Speaker, and I am

firmly convinced that we have a responsibility to play a constructive role in facilitating the type of peaceful democratic revolutions that have been realized in Eastern Europe and the Soviet Union.

Although the United States has multiple strategic interests in Southeast Asia, and has fought three major wars in the region since 1940, the United States has yet to make a serious effort to use radio broadcasting as a means of reaching the captive peoples of these countries.

In recent months, there has been a flurry of high profile diplomatic wheeling and dealing that has fueled speculation about future peace settlements. Unfortunately though, despite this increase in activity, internal media controls has kept information of these developments from their populations. How many of Vietnam's 67 million citizens have any idea about what is really happening in the ongoing Cambodian negotiations? And how many Vietnamese have any idea as to the whereabouts of hundreds of thousands of their fellow citizens who have fled that country, either by foot, or in anything that would float? Again, probably not many.

Unfortunately, with all of the diplomatic movement on all fronts, there has been a noticeable lack of concrete broadcast news inside Cambodia and Vietnam. I am advocating the establishment of a Radio Free Asia, in an effort to fill the information vacuum that exists in this critical and rapidly changing region of the globe.

Some will undoubtedly ask the question "Why do we really need to be broadcasting into those countries anyway?" or "Shouldn't we just refrain from inserting ourselves into a region that is better left untouched?" I think that the first response is yes! We already broadcast into the region, and have been doing so for years—the legislation that I am introducing addresses a key point regarding the substance of our radio broadcasts.

As to our getting involved over there, there are many differing opinions but the bottom line is that we have a certain degree of strategic interests in the region as do the Soviets and the Chinese. After all, we are not trying to maintain our basing rights in the Philippines because we have a special fondness for the sunsets—we have concrete security interests! But I think that we should not, under any circumstance, refrain from getting involved because to do so, is to give people like the Khmer Rouge a free ride in reasserting control over the very country that they once terrorized. We've already witnessed the types of acts they are capable of perpetrating and we should make darned sure they don't get a second chance!

For many years in fact, the People's Republic of China support for the Khmer Rouge has not been limited to military equipment. They are also allowing the Khmer Rouge to broadcast into Cambodia from cladestine facilities located inside China.

On July 19, the Wall Street Journal reported that our own State Department is giving the murderous Khmer Rouge pretty good odds at taking over Cambodia. The article clearly states that the Khmer Rouge has had great success in "cultivating a village-level support network in the rural countryside." Plain and simple, this means that they are winning the war of information. I think that all of the available evidence suggests that there is an information vacuum over there and that we—not the Khmer Rouge and their Chinese benefactors—need to fill! The best way to do this is through the establishment of a new service not through an expansion of the VOA service.

Over the years, the Voice of America [VOA] has maintained a small broadcast schedule into Cambodia, Laos, and Vietnam. Although these broadcasts are both informative and popular, there are two distinct problems. First, the total number of hours that we broadcast to these countries is wholly inadequate and quite frankly Mr. Speaker, a little shocking—10½ hours a week to Cambodia, 7 hours a week to Laos, and 14 hours a week to Vietnam. Second, and more importantly—the Voice of America, as I described earlier, is not a so-called surrogate broadcast service. VOA broadcasts are intended, first, to relay information about the United States and, second, to deal with issues related to internal political developments. Thus, the typical broadcast into Laos, Cambodia, or Vietnam contains a mixture of Americana, music and Buddhist programming.

Clearly, a service which would provide hard news and commentary regarding ongoing events is needed. The VOA's own program parameters, set forth by the United States Information Agency [USIA], are bound to restrict the collection and subsequent broadcast of hard news concerning developments within Cambodia, Laos, and Vietnam. That's why I'm firmly convinced that we need a Radio Free Asia.

I know that often times many Americans are not quite tuned into the fact that in these closed societies information flow is a quite literally a trickle. We live in a society that is awash with information and it takes the events of Eastern Europe and the Soviet Union to drive home the point that our foreign information services play a critical role.

I refuse to believe that we can't do better than broadcast 14 hours a week to a country that commands the fourth largest army in the world and whose ruling Politburo has instituted a major crackdown out of fear that they will be infected by the prevailing winds of change in Eastern Europe. As part of this clampdown, religious leaders have been jailed, former party officials considered unreliable have been placed under house arrest and foreign businessmen arrested—accused of being spies. Radio Hanoi, continues to shower its people with broadcasts that blame the fall of Eastern Europe on the CIA [FBIS, Mar. 23, 1990]. The bottom line is, we need a surrogate news service that will provide dependable an timely information to the people of those countries.

On whether we should be involved in this region's affairs, I would argue that we are already heavily involved in a number of ongoing regional diplomatic initiatives—witnessed by Secretary Baker and Soviet Foreign Minister Shevardnadze recently concluded discussions concerning Cambodia. The United States has played an active role in attempting to facilitate a Cambodia settlement—a number of Members of this body have worked tirelessly toward that end—and that is not going to change.

However, the sad thing is that in Cambodia, the man on the street is regularly deprived of information about internal political events taking place within his own backyard. Mr. Speaker, we need a Radio Free Asia that we can view as the Asian counterpart of RFE/RL and thus be placed under the authority of the Board for International Broadcasting [BIB]. The legislation that I am introducing will give the BIB the authority to operate a Radio Free Asia service from within its existing structure. Furthermore, this legislation gives the Appropriations Committees and Congress the ability to reorder our priorities for the use of existing funds, in order to start up Radio Free Asia. In addition, the Radio Free Asia Act of 1990 expands the BIB's oversight body by two people, who specifically posses exemplary knowledge of Southeast Asian affairs.

The question of staffing this new service should not be very difficult given the fact that close to 1 million Southeast Asian refugees have come to the United States over the past decade and a half. These refugees include a large pool of experienced broadcast personnel already working in radio, television, and print journalism who could be placed on the Radio Asia staff with minimal training. Also, it is important to seek out and incorporate input from recent emigres who possess firsthand knowledge about internal events in the target countries.

The choice of a site will also be crucial if Radio Free Asia is to be successful. At present the VOA blankets Southeast Asia with transmissions from medium-wave transmitters locat-

ed in Thailand and short-wave broadcasts from the Philippines actually reach into the Soviet Union. Perhaps Radio Free Asia could utilize these existing facilities through some sort of time share agreement, however this might not be the prudent course of action for any extended period of time. The reason for this is quite simple. In a nutshell, many of the individuals who staff surrogate services will have direct ties to dissident circles within the very countries that are receiving our broadcasts. As such, the Government of Romania or Cambodia is definitely going to view this type of broadcast service in a different light than it would any other type of service. It is not inconceivable that terrorist attacks would be made against the broadcast facility or its personnel, illustrated by some of the things that happened to the Radio Free Europe headquarters in Munich, Germany—including bombings. We must also recognize the fact that the difference in programming styles, a Radio Free Asia surrogate service, as opposed to a VOA-type service may incite negative reaction or hesitancy from the government of the host country as well.

The Government of Thailand for example, may feel slightly uncomfortable about hosting the service that I am advocating because of the common border that they share with Laos and Cambodia. For years, Thailand has offered sanctuary to the anti-Heng Samrin Cambodian forces and refugees alike—and has allowed us to conduct the limited VOA broadcasts that I mentioned earlier. But I for one, am not so sure that we need to further complicate their delicate position with yet another request at this point in time. At least not while they are annoyed at this administration for failing to communicate a 360-degree policy shift regarding Vietnam until after the deal had already been cut with the Soviets.

In the Philippines, the general level of internal instability probably precludes us from expanding our existing services to include a surrogate broadcast. We might however, consider broaching the subject with Taiwan. Fifteen years ago the Government of Taiwan was leasing us air time for surrogate broadcasts into mainland China. That program was halted when we cut formal ties to Taiwan and my prediction would be that the people over at the State Department would be hesitant to revisit the issue. Then again, why should they? We aren't talking about resuming any broadcasts to the People's Republic of China from Taiwan, we are talking specifically about Indochina.

Another idea that should be explored in greater detail would involve constructing a Radio Free Asia facility on U.S. territory in the Pacific. An ideal location, for example, would be the Northern Mariana Islands—located about 1,200 miles east of the Philippines and 2,300 statute miles from central Vietnam. The bill that I am introducing today asks the BIB to put together a feasibility study regarding this possibility.

Another point we need to recall is that it is highly likely that we will see a number of RFE facilities in Germany close down within the next few years—and there will undoubtedly be surplus equipment such as transmitters and antennae. I see no reason why we can't explore the idea of using some of this surplus equipment to cut-in-half the expense of building a separate Radio Free Asia in the Pacific. I want to reiterate the point that our concern for the safety of the actual broadcast facility and its accompanying personnel must be of paramount concern which is why a future Radio Free Asia need be located in a secure and relatively stable location. Anything less than that would be deemed unacceptable.

Radio Free Asia broadcasts, tailored to the needs of the people they serve, will achieve popularity and credibility and allow for the evolution of a distinct Radio Free Asia personality, which complements the official American viewpoint but remains distinct from the Voice of America. Obviously, we aren't going to have a situation where a Radio Free Asia service beams into every household—remember, unlike the United States, radios are still luxury items. But every Cambodian or Laotian family owning a transistor radio or short-wave set does not have to be a prerequisite for a Radio Free Asia service. Many surveys have shown that the information picked up by one individual will be rebroadcast many times over at the village level.

Mr. Speaker, the free nations of the world have an option of persuasion that has no equivalent—and that is radio broadcasting. A Radio Free Asia service cannot be expected to bring about complete and rapid political changes. But as we have seen in Eastern Europe, it will provide the basis for influencing the attitudes of a significant segment of the target population. I urge my colleagues to support me in this endeavor.

AMERICA DOOMED BY DEBT OF REAGAN/BUSH YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, recurring budget deficits increase the national debt. Federal budget deficits or surpluses are yearly differences between expenditures and revenues. Since the Republicans took over the White House in 1981, budget deficits—or the spending of more money than the Government takes in—have gone from incomprehensible to unimaginable. The American people have become used to large budget deficits, and the Republicans refuse to see the light: recurring deficits lead to a reduced standard of living, a less fruitful economy, and ultimately a second-rate U.S. power.

While the budget deficit is the annual debt of the Federal Government, aggregated over the years budget deficits comprise the Federal or national debt. To the average American taxpayer, national debt quotes have become as frequent and arbitrary as lottery numbers, but less meaningful or stimulating.

When Ronald Reagan assumed the Presidency in 1981, the Federal Government's debt amounted to $909 billion. In some 200 years of American history which included a civil war, two world wars, depressions and economic panics, the United States had a total of 909 billion dollars' worth of debt. Unbelievably, in just 9 years of peacetime prosperity, the Reagan-Bush administrations managed to triple the debt.

The Federal deficit was $2.8 trillion at the end of 1989. If 2.8 trillion $1 bills were stretched end to end, they would circle the world over 10,600 times. Even worse, Congress was forced to raise the borrowing limit to $3.1 trillion this year to keep the U.S. Government solvent. It had little choice but to raise the debt limit since the amount covers the accumulated deficits for government obligations that already have been or soon will be incurred. The Reagan-Bush administrations have been substituting debt for tax financing of Federal expenditures. I shudder to think what the deficit would have been like in hard times under Reagan and Bush.

Although the United States has almost always run a relatively small national debt, it has traditionally been financed internally by the American people. A generation ago most experts held that a rising national debt poses no burden on the economy at large "because we owe it to ourselves." As long as the debt was held internally, no burden could be shifted forward to future generations. On the other hand, if the debt was owed to foreigners, the burden was shifted forward.

To see the reason for the distinction between internal and external debt, consider the case in which the Government decides to purchase an additional $1 billion in goods and services to be financed through the sale of bonds. When the bonds are purchased domestically, Americans give up $1 billion in resources to the Government that they could have consumed for their own personal enjoyment. It is the decrease in personal consumption that is held to be the burden of debt finance—a burden borne by the current generation. The current generation would have behaved similarly if the additional Government expenditures had been financed by higher taxes.

If the debt were sold abroad, however, the current generation could escape the burden imposed. The reason being that when the debt was sold to foreigners, the Government could acquire additional resources without the need for the current generation to sacrifice consumption. It could continue to consume at the same rate as before. It would give up nothing. However, when it came to providing

for debt service, the purchasing power of future generations—their consumption—would have to be reduced to provide the necessary wherewithal to be paid foreigners. It is this decrease in income of future generations that both measured the burden and signified that it had been shifted forward.

Other burdens are also thrust upon future generations. When Government bonds are sold, they increase the aggregate demand for funds in financial markets. Other things constant, interest rates will rise to ration the available supply of funds. The rise in rates will then discourage others in the private sector from borrowing to finance the purchase of goods or services. In this way, the Government gets the funds by crowding out private sector borrowers. As a result, future generations inherit higher interest rates and receive a smaller stock of private capital than they would have if government expenditures had been financed by taxation. This bond financing instead of direct taxation is currently the way of the Reagan and Bush administrations.

In 1982, as a result of President Reagan's first high budget deficit, foreigners invested more in the United States than Americans invested abroad. In almost all of the previous 75 years, Americans had invested more abroad than foreigners had invested here. With the recurring Reagan budget deficits, and with President Bush showing no true sign of reversing course, America is doomed to relying on foreign money and shifting the burden to future generations.

The majority of today's annual budget deficits are financed by foreigners. Just as the Japanese are opening manufacturing and service corporations throughout the United States and buying such American entities as the Rockefeller Center in New York, the Japanese are primarily responsible for financing our deficit. Because we no longer owe it to ourselves, interest payments to finance the national debt must be made to foreigners.

As the national debt grows, interest payments on that debt also grow, and the Federal Government is left with two options: increase taxes or reduce government services. I am against raising taxes, but it is no small irony that President Bush campaigned with the slogan, "Read my lips, no new taxes," and now he is forced to raise taxes. These tax increases are a direct result of the careless spending during the Republican reign in the White House.

As the national debt tripled in the past decade, net interest payments ballooned to become one of the largest and fastest growing expenses on the Federal books. Historically, net interest payments on the national debt fluctuated between 6 and 9 percent of all Federal outlays. At the end of fiscal year 1989, the interest rate on the national debt rose to 14.8 percent.

An estimated $176 billion will be spent on national debt interest alone this year. This $176 billion could erase this year's projected budget deficit of $158 billion and still have enough left over to pay the entire environment and national resources budget. The net interest alone on the Federal debt would buy any one of the following: 6 to 8 manned space stations, 4¼ years' worth of Federal Medicaid programs, 586 B–2 Stealth bombers, 25 years' worth of nutrition programs, 22 superconducting supercolliders, housing vouchers for 32 million families, 146 Trident submarines, or Pell grants for 76.5 million needy college students. Over the 1980's, net interest became the third biggest item in the budget, behind defense and Social Security. The equivalent of more than a third of individual income taxes is needed to cover annual net interest payments. The interest on the debt grows by $8,000 per second and now represents 15 percent of the total Federal budget.

More daunting are the figures for gross interest, which some experts consider a truer measure of the cost of the debt. Gross interest includes payments the Government owes itself. The Social Security trust fund surpluses are by law invested in Treasury bonds, as are the reserves for highway construction, civil service pensions and other purposes. Gross interest, which includes interest on those Government IOU's, became the budget's second largest item in 1989, at $240.9 billion. This year it will be an estimated $254.9 billion, more than the projected $248.5 billion for Social Security payments and second only to the $296.3 billion defense budget.

Because today's recurring budget deficits and the national debt are bond financed and paid over a period of time, future generations will be hampered in their ability to finance their government. Tomorrow's America will have to pay the price for today's prosperity largely because of the lack of economic foresight of the Reagan-Bush administrations. America will likely become a second-rate industrial strength with second-rate living standards.

I have always believed that part of my duty is to try to pass an improved world to my children. I have always hoped that our children would have better living conditions and more opportunities than we have had. Our children are our future, and I think the Bush administration should step back and recall this fact.

INTRODUCTION OF ORPHAN DRUG WINDFALL PROFITS TAX ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, a small number of pharmaceutical companies are abusing the provisions of the Orphan Drug Act of 1983, and I feel that this problem has become serious enough to require corrective legislation. That is why I am introducing a bill today to amend the Orphan Drug Act to create a windfall profits tax that will only affect companies that have orphan drug status for drugs that are not true orphans. While preventing unwanted windfalls, this legislation also increases incentives for pharmaceutical companies that produce true orphan drugs.

The House Ways and Means Committee was recently referred H.R. 4369, a bill which extends the tax credit for development of orphan drugs. I believe that a windfall profits tax would work well as an amendment to H.R. 4639 to help correct the abuse of the Orphan Drug Act, while at the same time, increasing the incentive for pharmaceutical companies to produce orphan drugs.

The tax credit extension will be especially helpful in increasing incentives. In the past, many companies have decided not to develop orphan drugs because they did not want to spend several million dollars on preclinical toxicology studies required by the FDA. According to the National Organization for Rare Disorders, "tax credits for clinical research have been a minor incentive to some drug companies, while the high cost of preclinical toxicology studies continues to act as a barrier to development of true orphan drugs." Additional legislation introduced by Representatvie WAXMAN provides a grant program for oprhan drugs for the next 3 years and establishes an Office of Rare Diseases within the Office of the Assistant Secretary of Health. The grant program is currently authorized at $14 million. The legislation recently introduced provides for an authorization of $20 million for 1991 with increases of $5 million in both 1992 and 1993.

It would be difficult, however, for me to support a tax credit extension, along with all of these other benefits, while certain companies continue to act like Fagin, and exploit the orphan market. A windfall profits tax would remedy this problem.

The National Commission on Orphan Diseases estimates that between 10 and 20 million Americans suffer from approximately 5,000 known rare diseases. In the 20 years before the act, only 10 "orphan" drugs were developed. In the relatively short 8-year period of its existence, more than 40 orphan drugs have been approved and hundreds more are in the R&D stages. Before the act's passage, pharmaceutical companies had no incentives to produce drugs for rare diseases—drugs that would have been unprofitable because of high research costs but few likely patient customers. Thus, few orphan drugs were developed, and millions of people with rare diseases were ignored. From these figures, it is obvious that the act has encouraged the development of what would normally be unprofitable drugs, and provided an invaluable service to Americans who suffer from rare diseases.

However, a small handful of companies have exploited the provisions of the act and are making windfall profits from patients and, in many cases, from the taxpayers through increased costs to Medicare and Medicaid.

For example, in a Wall Street Journal article, George Rathman, President of Amgen, estimated that the Federal Government alone pays $200 million annually for his company's drug, EPO. The cost of developing this drug, according to the company, was around $170 million. Thus, in 1 year, the full cost has been more than recovered. Each future year will bring 100's of millions of dollars in profits to Amgen at Medicare's; that is, the taxpayer's expense. Amgen is riding to the bank on a cushion of money provided by the Orphan Drug Act's market exclusivity provisions.

The July issue of the Columbia Journal of Law estimates that it presently takes approximately 10 years and an average of $97 million to develop and market a drug. Protropin, a growth hormone developed by Genentech, costs between $10,000 and $30,000 a year

per person for treatment, and required an investment of $45 million to develop—according to the same issue of the Columbia Law Journal. Even though only about 10,000 people require it, Genentech generated $123 million in revenue in 1989 alone off of their orphan drug, according to the May issue of the Wall Street Journal. In this case, Genentech has more than doubled its investment in just 1 year.

Proposed amendments that would eliminate market exclusivity if the patient population for a drug exceeds 200,000 would have no effect in such a case.

My proposal would.

Companies would not be making these huge profits if it were not for the federally protected market that we create for them under the Orphan Drug Act. Furthermore, these companies have found such a variety of ways to use the act that the only way to correct this abuse is by creating a windfall profits tax that will recapture the benefits of market exclusivity and tax credits from all of the false orphans.

Under the provisions of my bill, a pharmaceutical company would be able to recapture two times its developmental costs, and generate not more than 25 percent annual profit off of its orphan drug before the windfall tax would go into effect. The figure of 25 percent is chosen because it is a comfortable estimate of the average market profit for the brand prescription drug industry. This profit rate, along with the recapture rate, will still allow for a most generous profit to be made by companies which produce true orphans. The windfall profit rate, on the other hand, will ensure that truly gross profits, created by the tax credit and exclusivity provision, are limited and that the medically needy public is not exploited by the developers of these essential drugs. Furthermore, the windfall profits tax would only apply during the 7-year market exclusivity which is granted by the Federal Government upon receipt of orphan drug status and approval.

This bill could also generate revenue that would offset the revenue lost through the extension of the tax credit that is called for in H.R. 4369, making my bill and H.R. 4369 budget neutral. The bill is also designed in such a way that it can be fine tuned in the future as R&D costs, and average market profits change.

Most orphan drugs serve such a small patient base that they are true little orphans, and the public subsidies are well-deserved. A handful of orphan drugs, however, have found such a large niche in the market that they are making their owners into Daddy Warbucks. Like Daddy Warbucks, these companies can well afford to pay back the windfall.

Furthermore, in choosing the proper legislation to remedy this problem, it is best to use a "hindsight is 20/20" approach, because some companies may not be aware that their drugs are going to be extremely profitable when they are first marketed. Since its passage in 1983, the Orphans Drug Act, on the whole, has received tremendous support, and it is a shame that certain companies would misuse such an act. I believe that the legislation I am introducing today will eradicate this problem and create a better environment for the treatment of rare diseases.

REPORT ON CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, out of deference to my distinguished colleagues in the Democratic leadership who have obviously waited here until 10 o'clock this evening for my remarks, and also out of respect to the entire leadership, the powerhouses here who have waited, and on our side, of course, my friend, the gentleman from Virginia [Mr. PARRIS], I do not plan to take the entire 1 hour which has been allotted me, but I do take the well, and it is also out of deference to this marvelous staff which has toiled here for hours and will be doing so up and throughout the Chamber, and they will be here tomorrow morning when we begin during this scheduled last week before we go into the August recess.

However, Mr. Speaker, I take the well to report to my colleagues on an experience which I had just a week ago.

Mr. Speaker, I am one of those who joined with my distinguished friend, the gentleman from New York [Mr. GILMAN] and Members on both sides of the aisle in marching from the steps of this Capitol to the Chinese Embassy last summer, a year ago, following the horrendous Tiananmen Square massacre.

I am also one, Mr. Speaker, who joined in voting to override President Bush's veto of the Chinese student legislation, and we had our vote in this House on January 24 of this year.

Mr. Speaker, I offer the fact that I marched up to meet with Ambassador Han Xu at the Chinese Embassy, and I voted to override the President's veto as a backdrop for the statement that I am about to make and that relates specifically to a meeting which I had in London last week.

Mr. Speaker, I was invited to be a guest on a television program in London entitled "The World This Week," which is a live program, sort of like our "Meet the Press" or "60 Minutes," one of those programs carried Saturday evening, and, when I was invited, I was told that I would have the opportunity to appear on the program with Fang Lixhi.

Mr. Speaker, my colleagues may remember that Fang Lixhi is the individual who last year, when he was invited to the dinner which President Bush had in Beijing, was prevented from attending that dinner by the Chinese Government leadership. He, following that, was holed up in our Embassy in Beijing for virtually a year, and actually more than a year, Mr. Speaker, and just a very few weeks ago, at the urging of many, he was released, and they urged him to go to an island. He said he would consider going to Elba, or some place like that, but he ended up saying that Great Britain was an island, so he was able to get to London.

□ 2200

So just a few weeks ago, Mr. Speaker, he went to London. He has had very few meetings. In fact, the only government official he told me he had met with was our Ambassador, Ambassador James Lilly in Beijing, until I had a chance to meet with him just a week ago. The word that I got from him was amazing. I have waited awhile to give this report until I had an opportunity to report it to both President Bush and then this afternoon I had the opportunity to talk with President Nixon and give him this report.

Fang Lixhi is one who has been in the past several months critical in his statements of United States policy toward China. He has said that the West has had a dual policy when it has come to human rights. He has said that he thought that President Bush was soft in dealing with the Chinese Government.

Well, those are the things that we have all read in the mass media. When I sat down to talk with Fang Lixhi a week ago in London, I expected that he would confirm those statements. Mr. Speaker, I was stunned to have word to the contrary from this very famous, well-known Chinese astrophysicist. He told me that he believed that the policy of 1989 of the United States Government toward the Chinese Government was a not-too-strong policy, is the way he put it. He said he did not think it was strong enough, but he did say that the 1990 policy toward the Chinese Government has been right on target.

Now, that again was contrary to what I had read in his statements before. I actually brought out the comments I had read in the press when he said there was a double standard on the issue of human rights.

He said to me that was not meant as a criticism. It was simply an observation. In fact, he said it may be a necessity.

He said that because he believes that the United States of America cannot turn its back on 25 percent of the world's population, over a billion people in China.

He said that he believed that Deng Xiaoping would not be in power for more than a few years and he thinks it is very important that the United States do everything that it possibly can to encourage the democratic process, but he said that it is especially important to encourage the democratic

process when that change of leadership takes place in China.

He went on to say that he actually was pleased that the President's veto on the student legislation was sustained.

Now, we know there have been a number of statements that have come from some of the Chinese students in this country who have said that, well, they spoke out in favor of overriding the veto of that legislation earlier this year. They actually secretly were not that concerned about the possibility of that veto being sustained.

Well Mr. Speaker, he said that he was pleased. That was part of the 1990 policy that he supports.

He also said to me that he was not that concerned about the granting of most-favored-nation status.

He went on to say, and he used this word repeatedly, he said that compromise is important. Yes, the United States of America is the bastion of freedom to which people throughout the world struggling for freedom look, but in China when we have had the kinds of economic reforms which were initiated, as Fang Lixhi told me, by the 1972 entry of Richard Nixon and his meeting with Mao Tse Tung and Chou En Lai, he said that it is very important for us to recognize that change has taken place and improvements have taken place in the area of economic reform.

We know that political reform is critically important to China and to the future.

He said that the release of Fang Lixhi, of himself and his wife, was a positive sign. He asked me specifically, as I did earlier today, to thank President Nixon, for in his meeting with Deng Xiaoping last October he insisted that the Chinese Government release Fang Lixhi, and he described the policy that the Chinese Government had as stupid. Obviously, that did certainly play a role in that release.

Fang Lixhi also extended the word that a positive sign has come with the reentry of Zhau Ziang, who you will recall is the individual who did not want to fire on the students in Tiananmen Square, who has basically under house arrest.

There are positive developments taking place there. Everyone in this House and every freedom loving person on the face of the Earth clearly decries the human rights violations and the massacre which we all saw on June 4, 1989. I will never forget that experience myself, Mr. Speaker, as I was observing the election in southern Poland, in Krakow, Poland, when I watched the Tiananmen Square massacre. In Poland it was the first free and fair election held in over four decades.

The people of the Solidarity movement in Poland thought at the point that the Tiananmen Square that was appearing on television, the massacre, was being fabricated by the Jaruzelski government trying to prevent the people of Poland moving ahead and going out and exercising their right to vote.

So what I am saying, Mr. Speaker, is that every one of us continues to decry the activities that took place on June 4 in Tiananmen Square, and every one of us must continue to recognize people like Wawa Ruowanh and Wang Dan, two very famous prisoners who should be released in China. There are a litany of other names of literally hundreds who are being held there; but Mr. Speaker, while we insist on this, it is important that we recognize these statements which have been made by Fang Lixhi. I am not saying that I agree with evèrything that Dr. Fang Lixhi has said, but I will say this, Mr. Speaker, it is something that we need to listen to and I hope very much that as the mass media reports these things that they will hone in on the statements that are actually being made.

When we met, we met for over an hour and a half and I could tell that he did not want to leave. He wanted to continue. Actually, his driver had another job he had to go to and so he said, "Well, I've got to drive the professor back to Cambridge."

What actually happened, Mr. Speaker, is that we have got to recognize that these statements which are coming out are worth listening to. While we do play a role in encouraging democracy throughout the world, we have to look at these situations in a very balanced way.

Mr. Speaker, I congratulate my colleagues who are headed towards this last week of this session for dealing as expeditiously as we have with a number of pressing issues. There will be many more pressing issues as we all know when Congress reconvenes following the August recess, but I would like to wish my colleagues well, and I thank those who have remained in the Chamber for listening to this statement. I look forward anxiously to the analysis that is going to be provided of the savings and loan question from my colleague, the gentleman from Virginia [Mr. PARRIS].

THE CONTINUING SAVINGS AND LOAN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 60 minutes.

Mr. PARRIS. Mr. Speaker, I rise again to continue the discussion I started some time ago on the savings and loan crisis and to continue the effort to set the record straight on the events which led to this most tragic financial disaster our Nation has ever faced, the savings and loan crisis.

As I stated in the beginning of the special order I gave last week, there have recently been many attempts by Democrat Members and political strategists on the other side of the aisle to misrepresent the history of the savings and loan crisis, to blame the thrift fiasco on the Republicans and the Republican Party.

I sincerely believe that for myself and others who worked and toiled through sincere efforts to resolve the savings and loan crisis, to allow these false charges and ill-conceived efforts to go unchallenged would be a serious disservice to our party and to our Nation as well.

As I noted last week, the savings and loan crisis had its beginnings in the Carter administration of the late 1970's.

□ 2210

Due to Jimmy Carter's inability to handle the most serious economic dilemma facing his administration, inflation, our Nation's economy and its financial markets were thrown into a virtual tailspin. It was under the guidance and direction of the Carter administration that savings and loans were first permitted to compete for deposits by offering inflated interest rates. It was also under Democrat Jimmy Carter's policies when thrifts were permitted to engage in an assortment of new financial activities which deviated from the thrifts' traditional practice of providing short-term savings accounts at 5¼ percent interest and making long-term home mortgages to low- and moderate-income families.

Moreover, it was during the Carter administration when deposit insurance and the contingent liability to the American taxpayers was raised from $40,000 to $100,000 per account. This historically significant and particularly damaging rise in Federal deposit insurance agreed to and raised in the dead of the night without congressional hearings opened the doors of savings and loans to fast and loose money brokers, rogues, and just outright swindlers.

Raising the deposit insured to this limit allowed high flyers to gamble with $100,000 blocks of federally insurance funds, which resulted in a slogan which would epitomize the looting of the thrift industry, and that slogan was, "Heads I win, tails the FSLIC, the Savings and Loan Insurance Corporation, loses."

When Jimmy Carter left the White House in 1980, he left the Reagan administration, President Reagan had just been elected, and the Congress with a prime interest rate of 21½ percent, the highest unemployment rate in decades, and an economy that was deep into recession, and a savings and loan industry that was slipping fast into absolute ruin. When Reagan was sworn into office in January 1981, he was faced, as the author of a recent savings and loan piece wrote, with thrifts around the country bleeding in a sea of red ink. As I said, the interest rate was unprecedented. Thrifts found it virtually impossible to compete with money-market funds and large commercial banks. They could simply not make money by competing for deposits by paying high interest rates while being restricted to receiving lower interest rates on loan portfolios largely consisting of long-term mortgages.

Out of 3,741 thrifts in existence in 1981, 110 had already been declared insolvent. By the end of 1982, that number had increased by a factor of four to 415 institutions insolvent.

According to some estimates at that time, two-thirds of the savings and loan industry was either insolvent, at a dangerously low net worth, and facing imminemt insolvency. According to the Office of Thrift Supervision, nearly all thrifts were losing money in 1982.

The net income of the savings and loan industry dropped from a positive $3.6 billion in 1979 to a negative $4.6 billion in 1981.

Some may ask why is it important to attempt to save the thrift industry? Why, what action was taken by the Congress during the early 1980's to do just that? And the answer is very simple. In the early 1980's the savings and loan industry was an important contributor to the American economy and to communities and to families as well. In fact, savings and loans were the only financial institutions specifically chartered with the intent of providing first-time homebuyers with the financial wherewithal to realize the American dream and purchase their own home.

In 1982, savings and loans held over 30 percent of the total mortgage debt outstanding in the United States, and provided 35 percent of single- and multifamily mortgages, as well as 17 percent of all commercial mortgages. Many low- and moderate-income families as well as real estate companies and other businesses had become dependent upon savings and loans for credit, credit needs that were traditionally not met by commercial bankers.

Estimates have been given that the thrift industry held $1 trillion in assets, and that it employed over 400,000 individuals across this Nation. For the Congress to have ignored the situation in the thrift industry at that time would have been a gross and serious dereliction of duty and would have further added to the ultimate cost of resolving the crisis we find ourselves in today.

It was important that something be done to resolve the ailing thrift industry, an industry which has been dedicated to the American dream of home ownership. For years, the thrift industry had been under heavy regulation. The interest rates in other areas of the savings and loan industry had been tightly restricted by the Federal Government. The Congress found the thrift industry in the early 1980's attempting to survive in an ever changing financial and economic environment.

Mr. HILER. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I am happy to yield to the gentleman from Indiana.

Mr. HILER. Mr. Speaker, I thank the gentleman for yielding, and I want to applaud him and congratulate him for continuing this dialog that he started last week in terms of both setting the record straight and giving it a kind of a capsulization of what actually took place in the late 1970's and early 1980's.

I want to see if I understand what the gentleman is saying correctly. By the end of 1981, I think the gentleman said nearly 415 S&L's were insolvent. I think that is the figure the gentleman used.

Mr. PARRIS. I think that is correct. That is correct, yes.

Mr. HILER. I think the gentleman said that by 1981 they were swimming in a sea of red ink, and that there were over $4.6 billion of losses in 1981?

Mr. PARRIS. That is again correct.

Mr. HILER. Could the gentleman tell me what shape was FSLIC in, the insurance corporation itself, at that point?

Mr. PARRIS. If memory serves, at that time Mr. Gray, who was the Chairman of the Federal Home Loan Bank Board, which administers, or is the Agency that administers all of this, testified before the Committee on Banking, Finance and Urban Affairs that at that time there was about $3.3 billion unobligated in the insurance fund insuring 1 trillion dollars' worth of assets.

Mr. HILER. So obviously that meant then when, in order to try to shut down the insolvent S&L's, FSLIC was really constrained even back in the early 1980's in terms of having enough money to do some of the things they wanted to do?

Mr. PARRIS. That is exactly correct. In, I believe, October 1986, the then Chairman, Mr. Gray, wrote me a letter in response to an inquiry that I had made as to the status of the Savings and Loan Insurance Corporation, and he indicated that if at that time the Congress would provide $26 billion, that was after the netting out of the unobligated residue in the insurance fund, that that would have offset the then hemorrhaging institutions and would have corrected the savings and loan problem at that time. This was in 1986, as I recall in October. So just 4 or 5 years ago, in that time, the problem has multiplied by a factor of 5 or 10, depending on which experts you want to talk to.

Mr. HILER. So the solvency and the health of FSLIC then from the early 1980's on then would become an extremely important part of the eventual type of debacle that we face today then? I mean, that is the conclusion, I guess, you would be left with?

Mr. PARRIS. Exactly correct. And the thing that the gentleman should keep in mind is that the reason that the insurance fund and the Federal Home Loan Bank Board which administered the entire agency was in such desperate straits is because there was simply not any money. There was no cash with which to offset the loss of the deposits, so that the institutions that were insolvent or undercapitalized could be assisted in any way, and the Treasury was hemorrhaging at a rate of about $30 million a day because of losses of insured deposits.

Mr. HILER. I suspect the gentleman is probably leading into telling us then, because FSLIC did not have any money, just what did FSLIC do?

Mr. PARRIS. I am getting there very quickly, I would say to the gentleman from Indiana.

Let me go back to where I was in the late 1980's in which the savings and loans were plunging into insolvency in increasing numbers.

The results of the congressional efforts at that time was the Garn-St Germain Depository Institutions Act of 1982. This legislation passed the 97th Congress by a vote of 272 to 91. The bill was supported by an overwhelming majority of Democrats, with 92 percent of all House Democrats voting in the affirmative.

While many Republicans at that time agreed that the deregulation of the thrifts might be good for the country and for the industry, many had not forgotten how the chairman of the Committee on Banking, Finance and Urban Affairs had betrayed their trust just 2 years earlier when at the insistence of the savings and loan lobby their deposit insurance was raised, as I have indicated before, from $40,000 to $100,000 per account. This was the genesis of brokered deposits.

□ 2220

Financial clearing houses quickly took to electronically brokering depositor's money around the country in order to take advantage of the highest interest rates being offered. No longer

were consumers limited to depositing their money in savings and loans within their own geographic market. They could now chase after highly inflated and bloated interest rates being offered by California and Texas high-flyers. After all, they had nothing to lose—their money was insured by the Federal Government up to $100,000.

Brokered deposits were aptly referred to as hot money. Since these deposits were often times not subject to penalty for early withdrawal, they stayed with an S&L only as long as that thrift offered attractive rates of interest. The FSLIC's insurance coverage of up to $100,000 per account—thanks to the actions of two Democrats in 1980—only made hot money that much hotter.

Brokered deposits enabled thrifts to grow exponentially in size in just a few years, and sometimes months. Growth rates of 1,000 percent per year were not unheard of in the S&L industry in the early 1980's. At the end of 1981 $3 billion of deposits had been brokered into savings and loans, and by the end of 1983 over $29 billion had been brokered into thrifts across the country. An almost 10 times growth rate in just 2 years.

Mr. DREIER of California. Will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DREIER of California. I thank my friend for yielding. First, I would like to ask him to repeat those figures, and then maybe we could go into a little greater detail as to exactly what these brokered deposits are. Could you talk about that virtually exponential growth again? Could you just give us those last figures again and the period of time over which we saw that increase?

Mr. PARRIS. At the end of 1981, now, this is 1 year into the Reagan administration, as a result of the brokered deposits, hot money, there was an estimated $3 billion of brokered deposits in federally insured savings and loans.

At the end of 1983, 2 years later, $29 billion had been placed into heretofore small savings and loans mostly in Texas, some in California, and in other places in the Nation, but mostly in those two States, as a result of the industry that was created by chasing the higher interest rates.

Obviously the sums were competing with each other by ratcheting up the interest rates.

Mr. DREIER of California. If the gentleman would yield further, and I stand here recognizing that much of the problem existed in my home State of California and, of course, in Texas. One of the things that I think bears repeating, and you probably have gone through this before, is the fact that that dramatic increase from $40 to $100,000 in the insuring of those deposits which took place at that now famous late night meeting which included the former chairman of our Banking Committee, Mr. St Germain, was one which created a situation which saw that growth from 1981 to 1983 in those brokered deposits. And the tragic fact is that while some have said that the deregulation here is totally responsible for the problems that have existed in the thrift industry, I would argue that it actually was the Government involvement which increased from $40 to $100,000 which created that problem, because any depositors out there would simply say hey, I want to get the highest rate of return.

We all want to get the highest rate of return. The tragic fact of life is that so many people would look at an institution and have no concern whatsoever as to the soundness of that institution, and then what they would say is heck, I can put $100,000 in there, as these brokers, those moving ahead with these brokered deposits would do, and they would say who cares about the soundness of that institution. Because the full faith and credit of the U.S. taxpayer is behind at least up to $100,000 deposited there.

So the tragic fact is that it created a skew in the economy, and investments and capital was not moving to what the most cost effective and beneficial investment opportunity, it was moving simply towards that Government guarantee.

I would like to congratulate my friend from Virginia for the time and effort that he has put into enhancing the awareness of our colleagues here of that problem. But I think that the issue of brokered deposits about which he is discussing is something that is in great need of reform, and I hope that we will be able to do just that.

I thank my friend for yielding.

Mr. PARRIS. I thank the gentleman for his kind comments. I would just add one sentence to his thoughts, which were absolutely correct, and that is that to take this one step further, the institutions that attracted these brokered deposits found themselves in a situation of paying above market interest rates for the deposits. So they therefore had to generate profits in order to carry those extraordinary burdens. What they then did obviously was turned more speculative and to higher return investments and loans of one kind or another to attract additional profits, to make additional profits, which they could in turn then spend as interest payments, and attract even higher deposits in the future.

That is what brought about the exponential growth of some of these institutions, and the high flyers, if you will, who took all kinds of unnecessary risks, in a heretofore very stable industry.

Mr. DREIER of California. If the gentleman would yield, you do not have to leave the word "California" out of any of that because I am sitting here, because I recognize, as everyone does, that much of the problem existed in my home State of California.

Mr. PARRIS. If the gentleman would hold on to his seat, I am about to give him a couple of things to think about about the home of the fruits and the nuts on the Pacific shores.

Republicans were therefore justifiably wary of many of the provisions in the Garn-St Germain Act of 1982—especially those provisions related to the types of investments savings and loans associations would be permitted, by law, to make. As the vote on the 1982 act makes clear, 82 percent of those Members voting against the bill were Republican.

A better alternative to the Garn-St Germain Act of 1982 was a substitute bill—which I supported—offered by our colleague from Ohio, CHALMERS WYLIE. The Wylie substitute to Garn-St Germain offered many prudent and sound guidelines for addressing the problems at that time in the thrift industry. Among the important provisions of this bill was a provision to require stricter accounting treatment for Federal financial assistance to S&L's. This single provision—I would submit—could have made a significant difference in the S&L crisis we find ourselves in today.

Despite the overwhelming support of Republicans for the Wylie substitute to the Garn-St Germain Act, the Democrat-controlled Congress voted this legislation down by a vote of 155 to 209 on May 20, 1982, leaving the Congress with only the Garn-St Germain Act as a panacea for addressing the ailing thrift industry.

The expanded flexibility of federally chartered thrifts meant increased and direct competition for State-chartered S&L's, which operated under separately established State regulations. In essence, States were concerned that there would be a mass exodus of their State-chartered thrifts to become federally chartered institutions in order to take advantage of the newly instituted, more flexible Federal charter.

In response to increased competition and economic conditions, States such as Texas, California, and Florida granted State charters which were more liberal than those permitted of federally chartered thrifts under Garn-St Germain. For example, several States granted the authority for S&L's to invest in equity securities, unrated corporate debt securities, and real estate developments in a capacity impermissible for Federal thrifts.

By the end of 1984, more than one-third of the States had given their thrifts investment powers beyond those that were allowed for federally

chartered institutions through an act of Congress. This, coupled with the fact that a majority of State thrifts were insured by the FSLIC, spelled a sure recipe for disaster.

In 1988 and 1989 approximately two-thirds of FSLIC's losses were caused by State-chartered thrifts in Texas and California alone. The State legislatures in many States were enacting laws for their institutions which would result in a financial disaster for all taxpayers and the Federal deposit insurance system.

Texas was no stranger to deregulation. The State of Texas had significantly liberalized regulations for State-chartered thrifts by 1981, after the Carter administration signed into law the first S&L deregulation bill. Texas thrifts promised to pay a higher interest rate on deposits than any institutions in the country—hence the term "Texas premium."

□ 2230

Texas thrifts grew at approximately three times the national average. As the story always goes, high rewards carries with it high risks, and by 1987 when oil prices collapsed, so did a very large number of the Texas State thrifts, all at the expense of the Federal deposit insurance system. Now it is estimated that 52 percent of the total losses are in Texas alone.

Mr. HILER. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I am glad to yield to the gentleman from Indiana.

Mr. HILER. Mr. Speaker, the gentleman I think has made a couple of very good points that bear repeating. The first thing the gentleman said of great importance, I believe, was that the Garn-St Germain Act was a bill that was addressed toward federally chartered savings and loans and that, in fact, under our dual banking system we have both federally chartered savings and loans and State-chartered savings and loans, and that Garn-St Germain was both a response to efforts on the part of some to expand the amount of powers that S&L's had, but it was not only a response, it became in a sense a catalyst, a kind of catalyst for other States, for States then to expand the powers and the authority that their State chartered S&L's had, and in many cases exceeding the Federal authority.

Mr. PARRIS. I would say that is exactly correct. I would say to the gentleman that some of the States reacted to the expanded authority granted to the institutions under Garn-St Germain by saying, "I'll see you and raise you some." And what they did is in California, for instance, and I am about to address that question now, in California up to 100 percent of the assets of an institution could be invested in non-mortgage financing. You could buy, and there are instances of race horses and windmill farms. There is one institution, one institution in California that had not one single mortgage loan. Every dollar, insured again by the Federal Government, was invested in some other form of investment.

Mr. HILER. So if the gentleman will yield then, clearly this problem, while there is a significant portion of it that is federally related to the actions that took place in Congress and in executive branches, et cetera, clearly a significant part of the problem lies with the general assemblies and the executive branches, the Governors of some of these States like Texas and California.

Mr. PARRIS. There is no question about that.

I would say to my friend from California, Mr. DREIER, who I would hasten to add was not a part of creating this problem, was in fact a participant in trying to solve it, that after the Garn-St Germain act was enacted by the Congress, three-fourths of the State-chartered thrifts in California switched to Federal charters. The result was a large drop in income for the California Department of Savings and Loans. The California Department of Savings and Loans lost more than half of its income and laid off, more importantly, 60 State examiners. These examiners were needed in California in an attempt to draw thrifts back to State charters, and California changed its regulations in 1983, under the so-called Noland bill, to produce some of the most liberal State regulations of savings and loans in the Nation with the least amount of regulation.

Now many State legislatures clearly went beyond the bounds of thrift laws set by the Garn-St Germain act, and the American taxpayers, obviously, are now paying the price, as three-fourths of the losses in the savings and loan industry in 1988 and 1989 were caused by State-chartered thrift institutions whose charters were more liberal than those permitted by Federal regulations but insured by the Federal Government.

Mr. HILER. If the gentleman will yield, that figure certainly bears repeating, 75 percent of the problem of the losses have been incurred by State chartered S&L's, those S&L's in 1988 and 1989 whose powers emanated not from Washington, DC, but from Sacramento and Austin and State capitals throughout the country.

Mr. PARRIS. That is correct, in the years 1988 and 1989.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I am glad to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I am not here rushing to the defense of my State of California, but I think one thing does bear noting, and that is while these State legislatures did in fact move ahead and expand those kinds of opportunities, which I do clearly believe was a mistake, they did so and the institutions were able to thrive because of deposits which came from all over the country. The gentleman from Virginia talks about the Texas premiums. That Texas premium actually drew deposits through broker deposits which came out of New York, Washington, and a wide range of other financial centers in the country. So I think that we need to recognize, yes, these States are responsible, but there are depositors involved in those States from all over this country.

Mr. PARRIS. That is correct. And the industry that developed as a result of these statutory changes was largely based in New York in which they had electronic transfers of these enormous sums of blocks of $100,000. Arab nations, unions, pensions, trust funds, they would get on the phone every morning and say who today is going to pay us the highest interest rate, and they would electronically transfer billions and billions of dollars every day on a change of a few basis points in the interest rates being paid by some unfortunate savings and loan. That is a part of the problem.

As I have indicated earlier, our ranking member on the Banking Committee, Mr. WYLIE, offered a responsible substitute to the Garn-St Germain Act. At the Banking Committee hearing on October 17, 1985, Congressman WYLIE informed the Federal Home Loan Bank Board Chairman, Ed Gray, that, "We have problems with the FSLIC and I am concerned as you are that we try to resolve the problem."

Later that month on October 29, 1985, on the floor of this House, Congressman WYLIE informed the Democratic controlled Congress that he, "and others on the Banking Committee, and as a matter of fact every Member of Congress needs to take action to assure that our system of deposit insurance is safe and sound, especially as it refers to FSLIC."

On July 30, 1986, Congressman WYLIE and 15 Banking Committee Republicans, including myself and my friend from Indiana, Mr. HILER, sent a letter to the then-chairman, Ferdinand St Germain, urging the consideration of the FSLIC recap bill.

On October 29, 1985, I took the well of this House and stood at this very podium to present to the Congress and the American people the disturbing findings of a report that I had requested from the General Accounting Office on the health of the thrift industry and the FSLIC. And as I have indicated earlier, that initial GAO report in 1985, indicated that 42 percent of the thrift industry was either insolvent or at a dangerously low level

of capital. That was almost 5 years ago.

In an act of desperation to get the Democratic controlled Congress to do something about the hemorrhaging that was occurring in the S&L industry, I introduced legislation at that time before the Congress adjourned in 1988 to establish a national commission to investigate, review, and recommend proposals for resolving the problems that were occurring in the thrift industry. I was told by the Democratic chairman of the Banking Committee at that time that my bill to address the thrift crisis was "dead in the water."

It was not until that gentleman felt the heat of a threatening campaign opponent that he allowed legislation to establish a National Commission on Thrift Institutions to be considered by the Banking Committee. I would say too that a similar bill to mine was adopted by this House and was sent to the other body. It was killed over there and was never adopted. But the good news is, I am happy to report that that Commission was adopted today by this Congress, unfortunately 2½ years later, but it is an idea whose time has come, and it will apparently now become a reality.

While Republicans were motivated by what I think were pure principles and sincere intentions in dealing with the problems in the thrift industry, the same cannot be said of some of my former Democrat colleagues.

In this Congress, not 20 years ago, but in this Congress and in the one before this one, the former Democratic Speaker of the House, Jim Wright, fought with regulators to keep open an S&L owned by his biggest contributor that has resulted in losses to the taxpayers of $1.3 billion. The owner has been indicted and faces up to 85 years in Federal prisons, as well as hundreds of thousands of dollars in fines.

A finance chairman of the Democratic Congressional Campaign Committee raised $9 million for Democratic candidates in 1 year, the same year that the Speaker intervened on his behalf with Federal thrift regulators.

The Congress passed a FSLIC recap bill in 1986, which the then-Speaker of the House, Jim Wright, killed in the last days of the session in that year. He took the Reagan administration's recap bill off the Suspension Calendar on four separate occasions, and the delay cost the American taxpayers billions of dollars.

The Reagan administration pleaded with the Democratic leadership in 1986 that at least $15 billion was needed in order to address the growing crisis. Not until 1987 did a subcommittee of the House Banking Committee adopt a Republican amendment to provide the full $15 billion requested by the Reagan administration.

□ 2240

That amendment passed the subcommittee by a vote of 23 to 20.

That evening, the Speaker complained on behalf of some of his S&L friends to a number of members of the Committee on Banking of the subcommittee's action in reporting the full $15 billion recap bill.

In what has been termed as a highly unusual move, the full Banking Committee met the next day, on April Fool's Day, poetic justice, and voted to reduce the resolution fund for cleaning up the S&L mess back to $5 billion.

We already had an estimated loss before that time of 26. My estimate at that time was 50 or 60.

Now, before anybody gets the idea that we are saving money by this move that was not an expenditure reduction, because all of that funding was an assessment against the industry and the institutions which made it up. It would not have cost the taxpayers 1 cent. That is why the thrift industry opposed it. In the end, the savings and loan industry and the House Democratic leadership got exactly what they wanted during the Banking Committee's consideration of the FSLIC recap bill of 1987.

Mr. Speaker, I yield to the gentleman from Indiana.

Mr. HILER. I thank the gentleman for yielding.

I would like to go back over some timing here, because I want to make sure that our colleagues understand what was taking place in several of these years.

The gentleman has mentioned earlier this evening that in 1985 he came to the floor, I believe, October 23, 1985, and really served as the Paul Revere. He sounded the alarm that FSLIC faced a tremendous insolvency problem, and he had commissioned the GAO study, the General Accounting Office, an official study that had reported those findings to him.

My recollection is around that same time, the head of the Federal Home Loan Bank System, Mr. Gray, came before the Committee on Banking and sounded that same alarm and said that the loss at that time, I think the figures he used might be about $22.5 billion, I think maybe a little bit more with the figures he was using, as the amount of insolvency that FSLIC faced actually was.

Then, in February 1986, the Reagan administration and George Gould, Undersecretary of the Treasury, came before the Committee on Banking of the House and the Committee on Banking of the Senate and asked for the $15 billion recapitalization bill.

Now, that $15 billion was not money that would come from the taxpayers, it would not come from the people who were working in the streets of America or in the factories of America; that money was to come from the industry in the form of additional assessments and additional liabilities.

That additional $15 billion, along with approximately $15 billion in premiums that would be collected, would provide about $30 billion of resources to tackle what at that time was estimated to be about a $22.5 billion to $25 billion problem.

Mr. PARRIS. The gentleman is correct, perhaps 26, but in that range, that is correct.

Mr. HILER. Then, from February 1986, I can recollect this very clearly, in the Banking Committee we had quite a few markups that were on again, off again, on again. Finally, it was passed out of subcommittee.

Then I believe that when the gentleman referred earlier to the letter from Congressman WYLIE and 15 other Republicans of the Committee on Banking to Chairman St Germain, that letter referenced getting this bill with the $15 billion recap from subcommittee to the full committee, is my recollection.

Mr. PARRIS. That is correct. And the Banking Committee chairman at that time responded to the letter, the gentleman may recall, with an argument, what I thought was a spacious argument, about what we should do in addition to what we were requesting him to do to solve the so-called nonbank bank loophole, which is a totally separate issue, it has nothing to do with the S&L industry. So we were being stonewalled.

Mr. HILER. So, finally, enough pressure came to bear that we did that, have that markup in the full committee, and the bill passed and was sent to the floor. I think the gentleman said that that was the time Jim Wright pulled the bill several times from the Suspension Calendar until maybe September 23 or so, 1986, and at that point, finally, the pressure had built up and the bill came to the floor for a vote.

At that time, and this was before a lot of the controversy had developed over this particular piece of legislation, but at that particular time that bill passed by voice vote on the House of Representatives to provide $15 billion for recapitalization in the industry.

Then we got involved in a real tussle back and forth with the Senate because someone had some housing provisions, as the gentleman mentioned, the nonbank bank problem, and finally on the last night of the session, I think, October 7, 1986, the Senate sent over a clean bill, the straight $15 billion recapitalization, with no amendments, no nothing.

That bill came to the floor, and a bill which had passed by voice vote in the House, when there was a request for unanimous consent to bring that

bill to the floor to be considered on October 7, 1986, to get that $15 billion into the system to close down these bad S&L's, that was objected to, was it not?

Mr. PARRIS. That is my recollection, yes.

Mr. HILER. A bill passed the Senate by voice vote, and a bill passed the House by voice vote, and the powers that be prevented that bill from becoming law in 1986,

Mr. PARRIS. The leadership in this House prevented that. I would say to the gentleman that was approximately 14 months after Undersecretary of the Treasury George Gould had requested that the Banking Committee take some action in regard to this recapitalization which was desperately needed and which, as I indicated before, resulted in hemorrhaging of the cash assets of the thrift industry itself.

Mr. HILER. Nearly a year to the date from when the gentleman sounded the clarion call about the need to do something.

Mr. PARRIS. It was in that range, yes.

Mr. HILER. The gentleman should continue.

Mr. PARRIS. I thank the gentleman.

Let me just conclude, Mr. Speaker, by suggesting that I hope you can now understand why some Democratic political strategists have recently attempted to, with what is considered certainly by this Member as selective memory, to blame the savings and loan crisis on Republicans. It is because the Democrats have the most to lose in that argument.

There are files on Democrats Jim Wright and Tony Coelho and Fernand St Germain right here in the House of Representatives under the care and control of the House Committee on Standards of Official Conduct.

I believe that those files should be turned over to the Justice Department for a thorough investigation. Let justice prevail. At the very least, let us release all of that information to the public so, as the gentleman has insisted in doing here this evening, we know what the facts are in this situation.

Then the American public, in its wisdom, as it always does, ultimately can assess the blame and take appropriate action.

I believe there is a clear distinction between the Members of this House on either side of the aisle as to who abetted and assisted the thrift fiasco for personal and political gain.

I think the record of this House, which is public information, and of the activities of individual Members should be released so that everyone has the opportunity to assess whether those actions were proper, improper, in the interest of the Nation or not.

Mr. Speaker, I yield to the gentleman again.

Mr. HILER. I thank the gentleman for yielding.

I certainly subscribe to everything the gentleman has just said. I would just like to maybe take another minute or two to continue on with that bill that kind of vanished on the closing night of the session in 1986, because that meant then that the process had to start all over again to try to get that recapitalization bill passed.

So in 1987, early in the session, that bill was introduced and, over a series of markups in committee, there was an amendment to increase the committee mark from a $5 billion recapitalization bill to $15 billion.

I believe that is a vote that prevailed by a vote of 23 to 20, to increase the amount of money that the industry would put in up to $15 billion.

Mr. PARRIS. That is correct.

Mr. HILER. Then, when we had the full committee markup, that was reversed by a vote of 25 to 24.

Mr. PARRIS. That is correct.

Mr. HILER. It went back down to $5 billion.

Mr. PARRIS. That is correct.

Mr. HILER. Then, when it came out to the floor of the House eventually, there was an effort to try to increase that $5 billion back up to the $15 billion.

Mr. PARRIS. Which ultimately was done in the Garn/St Germain act. The number, if you will, of the final version of that legislation provided after results of the conference report, $10.8 billion, if you will recall.

So that the Treasury Department, the Reagan administration, never ever got the amount of assessment against the industry which it had requested some 14 months prior to that, and I would say further to the gentleman that, as he has indicated, the $15 billion as a result of the leveraging of the money through the normal processes would have represented the availability of assistance against the problem of approximately $30 billion, which it was then estimated would have been the cost of the correction of the situation.

□ 2250

Mr. HILER. So when the House then voted on the bill the first time in 1987, the $15 billion failed, the $5 billion prevailed. The other body, I think, had passed something in the neighborhood of $7 billion. Then, because of the steadfastedness of the Reagan administration, at that time Treasury Secretary Jim Baker who absolutely positively insisted they would not sign a bill for those two figures, the compromise figure ended up being $10.8 billion, roughly two-thirds of the original request that had been made in 1985-86 time period.

That bill finally passed in August 1987, with only $10.8 billion versus the $15 billion that had been asked for nearly, I think 14, 16, 18 months beforehand. If we had been able to have the full use of that $30 billion in 1986, early 1986, when it was requested, this problem would be a faint memory by this time.

Mr. PARRIS. As I indicated earlier in these remarks, the chairman of the Federal Home Loan Bank Board at that time estimated the resolution costs to be in the neighborhood of $26 billion. There was and there is administrative costs incurred, obviously, but there was then a net plus of something in the range of $3 billion in the insurance fund. So that there was between, say, $23 and $30 billion that were available for the resolution of this accumulated problem. Those were the institutions that were insolvent or undercapitalized that needed assistance one way or another at that time. They were increasing, as I previously indicated, by substantial numbers, as time went on, and the cost of the resolution cost was increasing at the rate of $30 million a day.

Mr. HILER. The cost of resolving this problem is increasing $30 million a day, and we diddled and daddled for a year and a half?

Mr. PARRIS. About 14 months or so.

Mr. HILER. What is the old saying? Somebody fiddled while Rome burned? Clearly that has taken place in the House of Representatives.

Mr. PARRIS. Let me remind my colleagues that those that do not have the opportunity to be involved as intimately with this situation as some Members that have attempted to wrestle with it for some time now, I at least call attention to the existence of the problem.

The insurance coverage provided by the Federal Savings and Loan Insurance Corporation at that time is offset, and at least is designed to be revenue neutral, is created and paid for by the institutions themselves. They pay a premium in order to get insurance on their assets.

I would make mention to the gentleman as well that when people ask the question of where did this money go, the answer is it went under the pledge of the full faith and credit of the United States to individual Americans and their families who have their life savings in these institutions. There is no bailout of the managers of these institutions. There is no offset of the losses of the stockholders. There is no money going into the institutions as such, other than to offset the deposits owed to individual American depositors.

So the suggestion that somehow there ought to be a better or different way to do this is a very nice suggestion, but somebody suggest to me what it is that they would have Members do. The individual full faith and credit

guarantees of the Government of the United States obviously must be met, and would be by this Congress. Can Members imagine one Member of this Congress standing in this well and saying, "Let everybody in an institution in this Nation," and there is, as I recall, 14, 17 million of them perhaps, "Let them lose their money?" When the full faith and credit of this Nation is pledged?

Mr. HILER. We saw that very thing in the States of Ohio and Maryland where there were State systems, State insurance systems backing up the State-chartered S&L's, and when those systems collapsed under a great many problems, many depositors did lose their money in those States, and there was a great concern that there could possibly be a run on the S&L system if individual depositors thought that the examples that had been set in Ohio and Maryland would somehow spread to the whole industry.

In fact, my recollection is that the Federal Reserve System, even at that time, had to make the extraordinary statement of saying that they would provide the liquidity to the industry, should problems develop.

Mr. PARRIS. If the gentleman will recall, in the third quarter of 1987, disintermediation is what it is called in the industry, that is, the withdrawal of deposits in an oversimplified way. That disintermediation amounted to some $12 billion in the last quarter of either 1986 or 1987; $12 billion in 3 months, that is what is happening to the industry as a whole. That is why the acceleration of this momentum of deterioration of the industry itself was increasing at such an enormous rate. At the same time, as has already been stated, we were doing nothing here in the Congress of the United States.

Mr. HILER. If the gentleman will further yield, this will be the last point I make as the hour is late, but my recollection is that there have been some criticisms levied against the regulators using goodwill and other forms of inducements, to try to get solvent S&L's and others to take over insolvent S&L's. Really, because of the inaction of this Congress and an industry that was losing $30 million a day, these regulations had to use whatever kind of creative judgment that they had to do something to try to shut down or get these bad S&L's consolidated in some way to try to stem the tide of losses, and we were not providing the money that allowed them to go in and to pay the depositors to shut down that institution. They could not just declare a bank holiday and suddenly say, "Gosh, you were closed when I went to depositors like Maryland and Ohio," so they were left for creative devices.

We, in a sense, by our inaction in Congress, contributed to the overall use of goodwills and accounting device, and the other types of tax incentives, et cetera, et cetera, that the regulators use. Then, this institution, or at least some in it, turned around and criticized the regulators for their having to use their wits to try to solve the problem at that particular moment.

Mr. PARRIS. That is exactly correct, and I would say an important part of that, and no need to get into it now, is the net worth certificate arrangement that the Federal Home Loan Bank Board began to engage in at that time, and the regulatory accounting practices that were authorized in an attempt to hide the severity of the problem, because there was no alternative, other than to close the doors of federally insured institutions and have Americans standing as they did during the Depression, in lines in front of their bank, unable to get their own assets back.

Mr. HILER. I congratulate the gentleman again for his enlightening discourse this evening, and look forward to future sessions with him.

Mr. PARRIS. I simply conclude, Mr. Speaker, by saying that this is not the end of this tragic chapter in the history of our Nation's federally insured depository institutions. There is more. I will continue my discussion of these events in future special orders.

APARTHEID IS ALIVE AND WELL IN YUGOSLAVIA

The SPEAKER pro tempore (Mr. BRYANT). Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 60 minutes.

Mr. LANTOS. Mr. Speaker, I would like to address myself to an issue which has gotten lost in our rejoicing over the coming of democracy and pluralism to central and Eastern Europe.

The year 1989 stands as a unique year in history; 1989 represented the coming to an end of Communist dictatorships in many of the countries of central and Eastern Europe, and it was in this Hall, the Hall of the House of Representatives, that we had the pleasure of greeting two of the many leaders of these democratic movements, Lech Walesa of Poland and Vaclav Havel of Czechoslovakia.

□ 2300

However, Mr. Speaker, while we have seen democracy and pluralism take root in a number of countries in Eastern and central Europe, we have seen a very negative and retrograde development in Yugoslavia. While some of the constituent republics of Yugoslavia have moved toward political democracy and pluralism, as Croatia and Solvenia, in other parts of Yugoslavia the repressive Communist dictatorship of Serbia has reduced whatever autonomy these areas of Yugoslavia had, incarcerated large numbers of people, taken away any semblance of political freedom, destroyed whatever free press there was, and taken over radio and television. Serbian police seized the writers association in the Albanian province of Kosovo and arrested the key leaders of the ethnic Albanian community committed to democracy led by the head of the democratic alliance, Dr. Araheem Rugova.

As my colleagues know, Mr. Speaker, a couple of months ago I went on a human rights factfinding mission to the Yugoslav Province of Kosovo. I cannot begin to tell my colleagues, Mr. Speaker, of the warmth with which I and my small party were received, and it was warmth and friendship, not just directed at us, but directed at the United States of America. There are few places on the face of this planet where the United States and democracy are held in such high regard as in the Province of Kosovo, the Albanian ethnic Province of Yugoslavia.

Yet, Mr. Speaker, the communist leadership of Serbia, going against the trend in the entire region, has exercised the degree of suppression and brutality that we have not seen since the days of Stalinism in this entire region.

It is little wonder, Mr. Speaker, that the European Parliament condemned in powerful terms the repression of the ethnic Albanian people in Yugoslavia.

Allow me to quote just a small part of a resolution passed by the European Parliament that directly elected the legislative body of the 12-nation European Community, 320 million people. That Parliament condemned the suspension of the Kosovo Parliament and the subjugation of radio and television in Kosovo to the control of the Serbian authorities, and it called for the immediate lifting of the state of emergency and of measures contrary to freedom of expression and assembly. The European Parliament stated that it is convinced that the only sound base for a stable form of government is democracy, aspiring to unity in diversity and in the introduction of political pluralism and the proper respect for human rights. The European government called on the Government of the Federal Republic of Yugoslavia to enter into negotiations to find a solution to Kosovo's problems that respects the principles of human rights.

Mr. Speaker, my distinguished Republican cochairman of the Congressional human rights caucus, the gentleman from Illinois [Mr. PORTER] wanted to join me in this special order, but he had to leave and left with me his eloquent statement on this subject which I will insert in the RECORD.

Mr. Speaker, the freely elected President of the Republic of Croatia, Mr. Franjo Tudjman, in an eloquent piece in the New York Times, outlined the problem we face in Yugoslavia as this country, which for many years was in the forefront of central and Eastern European liberalization, has slipped back into last place as the Serbian Communist authorities are trying to maintain their centralized Stalinist control over a complex diverse people.

Allow me to quote just a small portion from the New York Times pieces of the freely elected President of the Republic of Croatia.

"The Croatian people," he says, "sick and tired of Communist oppression, joined the peoples of Eastern Europe in looking away from communism and toward the democratic future. We have set the goal of a Croatian society that, like the United States, is based on political and economic freedom, respect for human rights, the protection of individual liberties, an independent judiciary, and a government that is truly of the people, by the people, and for the people."

Mr. Speaker, it is this free Croatian Government that the Communist dictatorship of Serbia continues to threaten, and it is the suppressed people of the Kosovo province, over 90 percent ethnic Albanians, that the Communist authorities in Belgrade are determined to keep under their yoke at the very time that in Warsaw, Prague, and Budapest the winds of freedom are blowing.

It is incumbent upon us, Mr. Speaker, to speak out for human rights for the ethnic Albanian people of Yugoslavia. We must not allow them to continue to be treated as second-class citizens.

Apartheid is alive and well in Yugoslavia, and the suppressed people of that multiethnic state are the ethnic Albanians deprived of elementary human rights. The Serbian Communist regime is not satisfied to take away the human rights of its Albanian ethnic citizens. It has had the arrogance of excluding from entering Yugoslavia a former distinguished Member of this House for a period of 5 years.

Mr. Speaker, I call upon Secretary of State Baker to express in the strongest possible terms the rejection by the United States of this unacceptable and arbitrary action. Yugoslavia has enormous possibilities. It is in our interest, and it is in the interests of the Yugoslav people to preserve the territorial integrity of this important central Eastern European country, complex and multiethnic as it is, but its territorial integrity cannot be preserved unless and until all the people of Yugoslavia will have the same privileges and the same rights, not just the Croats, not just the Slovenes, not just the Serbs, not just the Montenegrans, not just the Macedonians, but the Albanians as well.

This is a bipartisan effort on the part of all of us, Mr. Speaker, in both the House and the Senate. The distinguished Republican leader in the Senate, Senator DOLE, and the distinguished Democratic chairman of the Senate Foreign Relations Committee, Senator PELL, have taken the lead in the Senate to fight for equal rights for ethnic Albanians in Yugoslavia.

□ 2310

We have a number of colleagues here in the House who have taken up the cause, and it gives me a great deal of pleasure to yield now to the distinguished gentleman from New York [Mr. GILMAN], who has been a champion of human rights across the globe.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding to me, and I thank the gentleman for his poignant remarks.

Mr. Speaker, I commend the gentleman from California [Mr. LANTOS] for having arranged this time in order to discuss the state of affairs in the Kosovo Province of Yugoslavia.

Mr. Speaker, in March 1989, ethnic Albanians in the autonomous Province of Kosovo in the Serbian Republic of Yugoslavia took to the streets to protest amendments to Serbia's Constitution which they felt would destroy Kosovo's autonomy from Serbia. Kosovo, which is surrounded on all sides by Serbia, is home to 70 percent of the country's Albanians. Throughout the early part of this year, violence between the Albanian majority and the Serbian minority has led to deaths and injuries too numerous to mention.

Amnesty International has reported that during 1989, at least 4,500 people were detained for political reasons in Yugoslavia. The vast majority of these people were Albanians. Of these, some 1,700 were political prisoners, of whom about 1,000 were imprisoned for up to 90 days for taking part in nonviolent protest strikes in the Kosovo Province in February. At least 27 people were killed in March, November, and December during ethnic Albanian political demonstrations. Their only crime was their protest against constitutional changes which would impugn their rights.

Those ethnic Albanians who were arrested and detained for political reasons were often denied a fair trial. In addition, allegations have surfaced that these prisoners have been beaten and ill-treated in other ways during their pretrial detention. At least one individual is known to have died during that period. Despite the nonviolent nature of their offenses, sentencing was exceedingly harsh. One prisoner is known to have been executed, and another is already sentenced to death for the crime of murder.

In February, the political and economic crisis in the Kosovo Province worsened. Protests by ethnic Albanians took the form of strikes. But let us examine the question of why did the Albanians strike? They took that action because they wanted to protest constitutional changes which would limit the Province's autonomy, thereby giving greater power to the Republic of Serbia, which, as we all know, includes Kosovo.

On February 27, 1990, Yugoslavia's federal authorities took emergency measures in the Kosovo Province. Shortly thereafter 50 more ethnic Albanians were arrested in connection with leading the strikes, and an additional 1,000 striking workers were sentenced to up to 60 days in prison. In March, the proposed constitutional changes were adopted and in the demonstrations that followed, over 100 people are believed to have been killed.

Mr. Speaker, we have witnessed remarkable changes in Eastern Europe during the last year. The political seachange in Eastern Europe, which has been inspired by the Soviet Union's glasnost has resulted in improved human rights in other nations of Eastern Europe. Yet Yugoslavia has not experienced this. The State Department's Human Rights Report for 1989, as well as Amnesty International's Report for 1990, cite a significant number of human rights practices in Yugoslavia that clearly violate internationally accepted human rights standards, and indicate that these violations are targeted against certain ethnic groups and regions, particularly, the ethnic Albanians of the Kosovo Province.

Mr. Speaker, it is time for these violations to end. In short there has been indiscriminate killing of Albanian demonstrators; mass arbitrary arrest and detention of the ethnic Albanian population; summary trial and imprisonment of Albanian peasants and workers, as well as the prohibition of strikes by the ethnic Albanian population. These human rights abuses represent an abridgment of the human rights of ethnic Albanians and are a violation of the Universal Declaration of Human Rights and the political obligations of Yugoslavia as a signatory to the Helsinki Final Act of the Conference on Security and Cooperation in Europe.

In response to these human rights violations, in April 1990, I joined with my colleague from California, [Mr. LANTOS] in introducing House Concurrent Resolution 314, which:

(1) expresses grave concern about the human rights abuses by the Government of Yugoslavia and the Government of the Republic of Serbia;

(2) urges the Government of Yugoslavia and the Government of the Republic of Serbia to cease the use of force in the Prov-

ince of Kosova and to protect basic human rights and fundamental freedoms;

(3) urges the Government of Yugoslavia to investigate the indiscriminate killing of civilians by police forces;

(4) welcomes the decision of the Presidency of Yugoslavia to lift the state of emergency in the province of Kosova and the decision of the Yugoslavia courts to acquit Azam Vlasi and 13 other ethnic Albanian defendants of all charges against them;

(5) urges the Government of Yugoslavia and the Government of the Republic of Serbia to ensure that the lifting of the state of emergency results in the full restoration of freedoms curtailed under the state of emergency;

(6) urges the Government of Yugoslavia and the Government of the Republic of Serbia to restore full autonomous status to the Socialist province of Kosova;

(7) urges the Government of the Republic of Serbia to begin a genuine dialogue with the recently formed Democratic Alliance Movement and other democratic forces in the Province of Kosova in the interest of resolving the political and economic crisis in that Province;

(8) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act to assure full protection of the human and civil rights of the Albanian nationality and all other national groups in Yugoslavia;

(9) urges the Department of State to continue to monitor more closely and onsite the human rights conditions in Yugoslavia:

* * * * *

(11) urges the President to prohibit Export-Import Bank loans or credit guarantees to the Federal Republic of Yugoslavia, where these are intended to finance projects within the Republic of Serbia, until there is a substantial improvement in the human rights situation and until all citizens of Yugoslavia are afforded equal rights.

Mr. Speaker, I would like to thank the distinguished gentleman from California [Mr. LANTOS] for his outstanding leadership on this issue, as well as the distinguished ranking Republican member of our Committee on Foreign Affairs Mr. BROOMFIELD for his work on this issue. And all of us owe a great deal of gratitude to our former colleague, Joe DioGuardi, and the Albanian-American Civic League for their dedicated work in keeping us apprised of developments in that troubled region of the world.

We hope and pray that we will soon see freedom and respect for human rights for the ethnic Albanians in the Kosovo Province of Yugoslavia.

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished colleague and good friend, the gentleman from New York [Mr. GILMAN] for his eloquent and analytical and comprehensive statement.

Mr. Speaker, it gives me a great deal of pleasure to yield to the gentlewoman from New York [Ms. MOLINARI], who although she has been with us but a short time has demonstrated a strong and sincere interest in human rights, and we on the congressional human rights caucus welcome her as a friend and colleague and comrade in arms.

□ 2320

Ms. MOLINARI. I thank the gentleman very much.

Mr. Speaker, as has been pointed out, my tenure in Congress has been short and, admittedly, as we all know, the hour tonight is late.

Let me begin my remarks, however, by stating that there have been fewer times in my congressional career that I have been prouder to stand with Members and colleagues who have led the championship of human rights throughout our globe, and certainly outstandingly in this august body.

I am also honored this evening to speak on behalf of hopeful and courageous men and women in Albania and those whom I have met in this country who have led me so compassionately and so strongly to speak on behalf of their cause tonight.

It is true, as we reflect on recent history, that world events are mysterious and difficult to predict. Nations rise and fall. Movements rage and die. In the cycle of history often flows, it appears, with little regard for mankind and our plans and determinations, and yet there are those times when we can act upon our future as it forms, when we can act in spite of our present human condition.

Today we witness a move toward the culmination of our spirit's quest for freedom. Through the efforts of patriots that we talked about, democracy has been brought to areas where democracy was once thought unachievable. Today we support, we urge, we hope and pray for the Albanian men and women of Kosovo, Yugoslavia, as they forge their own future, a future of self-determination and freedom.

Circumstances of the early 20th century Europe that bound the Albanians to the Kingdom of Serbs, Croats, and Slovens, today, no longer exists to hold them bound. The artificial state that was created in 1921 did not recognize the grave divisions among the various citizens and today the recognition that does exist is not one of toleration or acceptance but one of prejudice and persecution. Although Albanians make up the majority of the citizenry in Kosova, the democratic desires of the Albanians have been met with further repression. Furthermore, a formal declaration of Kosova's autonomy by the minority assembly has caused that regional legislative body to be dissolved. The Republic of Serbia has passed a law diminishing Kosova's regional authority and this act to silence opposition and lawful dissent should be taken as an affront to our democratic sensitivities and as an afront to the sensitivities of free thinking people everywhere.

The United States holds a unique responsibility for recent world events. Our success as the premier democracy on the globe is the greatest contributing factor encouraging the changes we witness today, thusly, we owe each movement toward democracy and freedom nothing less than our active support.

These are exciting times in the history of the democratic movement as we see more and more citizens of the world joining our ranks. Worldwide, communism is facing its end and the evil of apartheid in South Africa has received continued condemnation. We must not allow the communism and apartheid that now oppress the people of Albania to continue to blemish the hopeful changes and promises we now envision for the world's future. Please join me in support of the Albanians courageously seeking freedom from the Communist Republic of Serbia.

Mr. Speaker, I thank my colleague from California for allowing me the wonderful opportunity of participating in this very special order.

Mr. LANTOS. Mr. Speaker, I thank my friend and colleague for her powerful, well-reasoned statement which stated the situation exactly as it is, and we are proud to have you as our partner in the fight for human rights.

Mr. Speaker, the people of the Province of Kosovo, the ethnic Albanians, are crying out for their rights, for equal rights with all the people of Yugoslavia. They are also crying out for one other thing, and that is the establishment of a United States Information Agency facility in their capital city of Pristina.

I was asked by large numbers of men and women, university students, and retired people, when the United States Information Agency will establish a small library in their main city where the American flag will fly and the American books and periodicals and newspapers and films and lecturers will tell the ethnic Albanians about our experiences with freedom and open and pluralistic social structures.

I am calling on our State Department to lose no more time in establishing a United States Information Agency facility in the Province of Kosovo.

Before concluding this special order, Mr. Speaker, I would like to say a word about the need for reestablishing after decades of absence full diplomatic relations between the United States and Albania. As you know, Mr. Speaker, a few weeks ago I was the first American public official in half a century to visit Albania. I traveled throughout that small country. I met with its President, who asked me to convey to President Bush the desire of Albania to establish full diplomatic relations with the United States. I have so recommended to the President, and I suspect it has not escaped your attention that a growing number of nations in Western Europe are establishing diplomatic relations with Albania.

It is overdue that the United States, which is looked to in Albania as the prime champion of freedom and democracy have its own diplomatic mission in the capital city of Albania.

Just a couple of days ago the Soviet Union, after a long hiatus, reestablished diplomatic relations with Albania, and I earnestly hope that our Government will not delay any longer and create an American presence in Albania. American diplomats, American Peace Corps volunteers, American tourists, American businessmen, Albanian-Americans who are American citizens would be our greatest guarantees that our values are going to be values that will become increasingly dominant in that country as well as they have become dominant in Czechoslovakia and Poland and elsewhere.

This is a global struggle for the spread of pluralism, democracy, and freedom, and I think it is incumbent upon this body to do its share so that the ethnic Albanians within Yugoslavia as part of Yugoslavia and the Albanian people living in Albania should have an opportunity to move towards a degree of freedom and pluralism that for so long was denied to them.

Mr. PORTER. Mr. Speaker, I am pleased to be joining my colleague and cochairman of the congressional human rights caucus, the gentleman from California [Mr. LANTOS], in this special order focusing on human rights in Yugoslavia, where he has shown such leadership.

While we celebrate the fact that the yoke of communism has been lifted throughout Central and Eastern Europe, we cannot forget that there are still places where repression has not been lifted where Communists remain in power, and where people live without respect for human rights. Coincidentally, it is in these same places where ethnic tension has resulted tragically in violence and bloodshed. The Bulgarians repress the ethnic Turks, the Romanians persecute the ethnic Hungarians, and the Serbs and ethnic Albanians are currently at a standoff in the Kosovo region.

Today respect for human rights is nonexistent in Kosovo. The ethnic Albanian population, which comprises almost 90 percent of the population in the province, has been almost completely suppressed by Serbian authorities in response to calls for human rights and political autonomy. Of all the political prisoners in Yugoslavia, the majority have been ethnic Albanians, some of whom spent extensive time in detention without charge or trial. Others were reportedly beaten while in custody. In addition, widespread demonstrations earlier this year against the extensive restrictions on their rights resulted in the excessive use of force by security forces. Dozens were reported killed during this violence.

The heavyhanded response of the authorities to the situation in Kosovo, which has led to many human rights violations and not to solutions, threatens to tear the province apart. Further unrest in Kosovo can only be averted if all parties involved agree to peaceful dialog. I urge this sensible approach on both the Serbs and the ethnic Albanians. The continued democratization of Yugoslavia and the unity of this multiethnic federation depends upon sincere negotiations and a resolution to this crisis.

John Stuart Mill once stated "democracy is next to impossible in a country made up of different nationalities."

The potential exists for Yugoslavia to prove Mill wrong. But the Serbians and ethnic Albanians must remember that to make progress toward a democratic Yugoslavia they must stop the atrocities and respect each other's rights. Hatred and bloodshed will engender only more violence. Only through cooperation and understanding will there be a genuine chance for peace and hope for the future of the Kosovo region.

Mr. BROWN of Colorado. Mr. Speaker, ethnic Albanians in Kosova continue to be deprived of their basic right to live in freedom. Economic assistance to Yugoslavia should be banned until Serbia drastically alters their policy of gross human rights violations against the ethnic Albanian population of Kosova and until it agrees to democratic reforms.

Secretary of State Baker recently announced a five point set of criteria which nations must meet if they are to receive U.S. economic assistance. The criteria are: adherence to the rule of law; respect for human rights, multiparty political systems, free and fair elections and movement toward a market oriented economy. It is clear that the Government of Yugoslavia cannot meet these criteria.

The Serbian President of Yugoslavia, in his inaugural address this past spring, announced that Sebia would resolutely oppose democratic movements in Kosova.

At least 70 Albanians have been killed by Serbian police in the last year, most of these were unarmed, peaceful protestors asking for a return of autonomy and democratic reforms.

The Serbian Parliament has reintroduced a state of emergency in Kosova and has suspended the Kosova Assembly after they passed a declaration which returned their autonomous status to them.

CONFERENCE REPORT ON S. 2240

Mr. DINGELL submitted the following conference report and statement on the bill (S. 2240), to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-652)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2240), to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White Comprehensive AIDS Resources Emergency Act of 1990".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.

TITLE I—HIV EMERGENCY RELIEF GRANT PROGRAM.

SEC. 101. HIV EMERGENCY RELIEF GRANT PROGRAM.

The Public Health Service Act is amended—

(1) by redesignating title XXVI as title XXVII;

(2) by redesignating sections 2601 through 2614 as sections 2701 through 2714, respectively; and

(3) by inserting after title XXV (42 U.S.C. 300ee et seq.) the following new title:

"TITLE XXVI—HIV HEALTH CARE SERVICES PROGRAM

"PART A—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

"SEC. 2601. ESTABLISHMENT OF PROGRAM OF GRANTS.

"(a) ELIGIBLE AREAS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to subsection (b), make grants in accordance with section 2603 for the purpose of assisting in the provision of the services specified in 2604 in any metropolitan area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year—

"(1) there has been reported to and confirmed by the Director of the Centers for Disease Control a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

"(2) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently available data on the population of the area) is not less than 0.0025.

"(b) REQUIREMENT REGARDING CONFIRMATION OF CASES.—The Secretary may not make a grant under subsection (a) for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control.

"SEC. 2602. ADMINISTRATION AND PLANNING COUNCIL.

"(a) ADMINISTRATION.—

"(1) IN GENERAL.—Assistance made available under grants awarded under this part shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control, in the eligible area that is awarded such a grant.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—To receive assistance under section 2601(a), the chief elected official of the eligible area involved shall—

"(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on—

"(I) the number of AIDS cases in such subdivisions;

"(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

"(III) the health and support services personnel needs of such subdivisions; and

"(ii) establish an HIV health services planning council in accordance with subsection (b).

"(B) LOCAL POLITICAL SUBDIVISION.—The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area—

"(i) that provide HIV-related health services; and

"(ii) for which the number of cases reported for purposes of section 2601(a) constitutes not less than 10 percent of the number of such cases reported for the eligible area.

"(b) HIV HEALTH SERVICES PLANNING COUNCIL.—

"(1) ESTABLISHMENT.—To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall include representatives of—

"(A) health care providers;

"(B) community-based and AIDS service organizations;

"(C) social service providers;

"(D) mental health care providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities, including individuals with HIV disease;

"(H) non-elected community leaders;

"(I) State government;

"(J) grantees under subpart II of part C; and

"(K) the lead agency of any Health Resources and Services Administration adult and pediatric HIV-related care demonstration project operating in the area to be served.

"(2) METHOD OF PROVIDING FOR COUNCIL.—

"(A) IN GENERAL.—In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2601(a) may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

"(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.—In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2601(a) shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

"(3) DUTIES.—The planning council established or designated under paragraph (1) shall—

"(A) establish priorities for the allocation of funds within the eligible area;

"(B) develop a comprehensive plan for the organization and delivery of health services described in section 2604 that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease; and

"(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area.

"SEC. 2603. TYPE AND DISTRIBUTION OF GRANTS.

"(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

"(1) IN GENERAL.—In carrying out section 2601(a), the Secretary shall make a grant for each eligible area for which an application under section 2605(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

"(2) EXPEDITED DISTRIBUTION.—Not later than—

"(A) 90 days after an appropriation becomes available to carry out this part for fiscal year 1991; and

"(B) 60 days after an appropriation becomes available to carry out this part for each of fiscal years 1992 through 1995;

the Secretary shall, except in the case of waivers granted under section 2605(c), disburse 50 percent of the amount appropriated under section 2608 for such fiscal year through grants to eligible areas under section 2601(a).

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph for an eligible area shall be made in an amount equal to the sum of—

"(i) an amount determined in accordance with subparagraph (B); and

"(ii) an amount determined in accordance with subparagraph (C).

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 75 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) a percentage equal to the quotient of—

"(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control on the applicable date described in section 2601(a); divided by

"(II) the sum of the cumulative number of such cases in all eligible areas for which an application for a grant under paragraph (1) has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 25 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) a percentage developed by the Secretary through consideration of the ratio of—

"(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(II) the per capita incidence of such cumulative cases in all eligible areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such areas).

"(b) SUPPLEMENTAL GRANTS.—

"(1) IN GENERAL.—Not later than 150 days after the date on which appropriations are made under section 2608 for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) for such fiscal year for the purpose of making grants under section 2601(a) to eligible areas whose application under section 2605(b)—

"(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

"(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

"(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

"(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective; and

"(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease.

"(2) REMAINDER OF AMOUNTS.—In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under section 2603(a)(2) as a result of—

"(A) the failure of any eligible area to submit an application under section 2605(c); or

"(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

"(3) AMOUNT OF GRANT.—The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 2605(b).

"(4) FAILURE TO SUBMIT.—

"(A) IN GENERAL.—The failure of an eligible area to submit an application for an expedited grant under section 2603(a)(2) shall not result in such area being ineligible for a grant under this subsection.

"(B) APPLICATION.—The application of an eligible area submitted under section 2605(b) shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grants under section 2603(a)(2).

"SEC. 2604. USE OF AMOUNTS.

"(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

"(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(3)(A), by the HIV health services planning council that serves such eligible area; and

"(2) funds provided under section 2601 will be expended only for the purposes described in subsections (b) and (c).

"(b) PRIMARY PURPOSES.—

"(1) IN GENERAL.—The chief elected official shall use amounts received under a grant

under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related—

"(A) outpatient and ambulatory health and support services, including case management and comprehensive treatment services, for individuals and families with HIV disease; and

"(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

"(2) APPROPRIATE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, including hospitals (which may include Veterans Administration facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers.

"(B) PRIORITY.—In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

"(c) LIMITED EXPENDITURES FOR PERSONNEL NEEDS.—

"(1) IN GENERAL.—A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals (which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that—

"(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

"(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

"(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

"(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

"(2) USE.—A chief elected official may use amounts referred to in paragraph (1) to—

"(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

"(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

"(3) REQUIREMENT OF DETERMINATION BY COUNCIL.—A chief elected official shall not use any of the amounts received under a grant under section 2601(a) to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease—

"(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

"(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

"(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such paragraph.

"(d) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(1) PROVISION OF SERVICE.—Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER.—

"(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

"(e) ADMINISTRATION AND PLANNING.—The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.

"(f) CONSTRUCTION.—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

"SEC. 2605. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant under section 2601, an eligible area shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(1)(A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

"(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the 1-year period preceding the first fiscal year for which a grant is received by the eligible area; and

"(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

"(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 2602, and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B);

"(3) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

"(4) that funds received under a grant awarded under this part will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or0

"(B) by an entity that provides health services on a prepaid basis; and

"(5) to the maximum extent practicable, that—

"(A) HIV health care and support services provided with assistance made available under this part will be provided without regard—

"(i) to the ability of the individual to pay for such services; and

"(ii) to the current or past health condition of the individual to be served;

"(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

"(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services.

"(b) ADDITIONAL APPLICATION.—An eligible area that desires to receive a grant under section 2603(b) shall prepare and submit to the Secretary an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning—

"(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

"(2) demographic data on the population of such individuals;

"(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

"(4) the aggregate amounts expended for each such category of services.

"(c) DATE CERTAIN FOR SUBMISSION.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), to be eligible to receive a grant under section 2601(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2608 for the fiscal year.

"(2) EXCEPTION.—The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a

good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

"(3) DISTRIBUTION BY SECRETARY.—Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

"(4) REDISTRIBUTION.—Any amounts appropriated in any fiscal year under this part and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under 2601(a).

"(d) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

"(i) will impose a charge on each such individual for the provision of such services; and

"(ii) will impose the charge according to a schedule of charges that is made available to the public;

"(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

"(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

"(4) WAIVER REGARDING SECONDARY AGREEMENTS.—The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 2604(d)(2).

"SEC. 2606. TECHNICAL ASSISTANCE.

"The Administrator of the Health Resources and Services Administration may, beginning on the date of enactment of this title, provide technical assistance to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part.

"SEC. 2607. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE AREA.—The term 'eligible area' means a metropolitan area described in section 2601(a)(1).

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control as a metropolitan area.

"SEC. 2608. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to make grants under this part, $275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

SEC. 102. TECHNICAL AND CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 406(a)(2), by striking "2101" and inserting "2701";

(2) in section 465(f), by striking "2601" and inserting "2701";

(3) in section 480(a)(2), by striking "2101" and inserting "2701";

(4) in section 485(a)(2), by striking "2101" and inserting "2701";

(5) in section 497, by striking "2601" and inserting "2701"; and

(6) in section 505(a)(2), by striking "2101" and inserting "2701"; and

(7) in section 926(b) (as added by section 6103(c)(1) of Public Law 101-239), by striking "2611" each place such term appears and inserting "2711".

TITLE II—HIV CARE GRANTS

SEC. 201. HIV CARE GRANTS.

Title XXVI of the Public Health Service Act (as added by section 101) is amended by adding at the end thereof the following new part:

"PART B—CARE GRANT PROGRAM

"SEC. 2611. GRANTS.

"The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease.

"SEC. 2612. GENERAL USE OF GRANTS.

"(a) IN GENERAL.—A State may use amounts provided under grants made under this part—

"(1) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 2613;

"(2) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2614;

"(3) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2615; and

"(4) to provide treatments, that have been determined to prolong life or prevent serious deterioration of health, to individuals with HIV disease in accordance with section 2616.

"(b) INFANTS AND WOMEN, ETC.—A State shall use not less than 15 percent of funds allocated under this part to provide health and support services to infants, children, women, and families with HIV disease.

"SEC. 2613. GRANTS TO ESTABLISH HIV CARE CONSORTIA.

"(a) CONSORTIA.—A State may use amounts provided under a grant awarded under this part to provide assistance under section 2612(a)(1) to an entity that—

"(1) is an association of one or more public, and one or more nonprofit private, health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

"(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include—

"(A) essential health services such as case management services, medical, nursing, and dental care, diagnostics, monitoring, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

"(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this title as a 'consortium' or 'consortia'.

"(b) ASSURANCES.—

"(1) REQUIREMENT.—To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that—

"(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV disease have been identified by the consortium;

"(B) the service plan established under subsection (c)(2) by such consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

"(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

"(2) EXCEPTION.—Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that—

"(A) subpopulations exist within the community to be served that have unique service requirements; and

"(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

"(c) APPLICATION.—

"(1) IN GENERAL.—To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that—

"(A) demonstrates that the consortium includes agencies and community-based organizations—

"(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

"(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

"(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include—

"(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

"(ii) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

"(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

"(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

"(C) demonstrates that adequate planning has occurred to meet the special needs of families with HIV disease, including family centered care;

"(D) demonstrates that the consortium has created a mechanism to evaluate periodically—

"(i) the success of the consortium in responding to identified needs; and

"(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

"(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation.

"(2) CONSULTATION.—In establishing the plan required under paragraph (1)(B), the consortium shall consult with—

"(A)(i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

"(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served; and

"(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease.

The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium.

"(d) DEFINITION.—As used in this part, the term 'family centered care' means the system of services described in this section that is targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV disease.

"(e) PRIORITY.—In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority—

"(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

"(2) to any other existing HIV care consortia.

"SEC. 2614. GRANTS FOR HOME- AND COMMUNITY-BASED CARE.

"(a) USES.—A State may use amounts provided under a grant awarded under this part to make grants under section 2612(a)(2) to entities to—

"(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

"(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

"(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

"(b) PRIORITY.—In awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that—

"(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

"(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease.

"(c) DEFINITION.—As used in this part, the term 'home- and community-based health services'—

"(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

"(2) includes—

"(A) durable medical equipment;

"(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

"(C) day treatment or other partial hospitalization services;

"(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

"(E) routine diagnostic testing administered in the home of the individual; and

"(F) appropriate mental health, developmental, and rehabilitation services; and

"(3) does not include—

"(A) inpatient hospital services; and

"(B) nursing home and other long term care facilities.

"SEC. 2615. CONTINUUM OF HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 2612(a)(3) to assist eligible low-income individuals with HIV disease in—

"(1) maintaining a continuity of health insurance; or

"(2) receiving medical benefits under a health insurance program, including risk-pools.

"(b) LIMITATIONS.—Assistance shall not be utilized under subsection (a)—

"(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

"(2) to pay any amount expended by a State under title XIX of the Social Security Act.

"SEC. 2616. PROVISION OF TREATMENTS.

"(a) IN GENERAL.—A State may use amounts provided under a grant awarded under this part to establish a program under section 2612(a)(4) to provide treatments that have been determined to prolong life or prevent the serious deterioration of health arising from HIV disease in eligible individuals.

"(b) ELIGIBLE INDIVIDUAL.—To be eligible to receive assistance from a State under this section an individual shall—

"(1) have a medical diagnosis of HIV disease; and

"(2) be a low-income individual, as defined by the State.

"(c) STATE DUTIES.—In carrying out this section the State shall—

"(1) determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established under this section;

"(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

"(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals; and

"(4) facilitate access to treatments for such individuals.

"SEC. 2617. STATE APPLICATION.

"(a) IN GENERAL.—The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) DESCRIPTION OF INTENDED USES AND AGREEMENTS.—The application submitted under subsection (a) shall contain—

"(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

"(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant

is requested and the methods utilized by the State to finance such programs;

"(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

"(C) information concerning—

"(i) the number of individuals to be served with assistance provided under the grant;

"(ii) demographic data on the population of the individuals to be served;

"(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

"(iv) the aggregate amounts expended for each such category of services;

"(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including—

"(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State; and

"(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

"(3) an assurance by the State that—

"(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

"(B) the State will—

"(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

"(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

"(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

"(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in 2615, submit a plan to the Secretary that demonstrates that the State has established a program that assures that—

"(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

"(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

"(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

"(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

"(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

"(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

"(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(ii) by an entity that provides health services on a prepaid basis.

"(c) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 2611 to a State unless the State provides assurances that in the provision of services with assistance provided under the grant—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

"(i) will impose charges on each such individual for the provision of such services; and

"(ii) will impose charges according to a schedule of charges that is made available to the public;

"(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

"(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2611 unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

"(4) WAIVER.—

"(A) IN GENERAL.—The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(d) REQUIREMENT OF MATCHING FUNDS REGARDING STATE ALLOTMENTS.—

"(1) IN GENERAL.—In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

"(B) for any second fiscal year of such payments, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

"(C) for any third fiscal year of such payments, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant);

"(D) for any fourth fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant); and

"(E) for any subsequent fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) IN GENERAL.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) INCLUSION OF CERTAIN AMOUNTS.—

"(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title;

"(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in this part) or under other provisions of law.

"(3) APPLICABILITY OF REQUIREMENT.—

"(A) NUMBER OF CASES.—A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

"(B) PERIOD OF TIME.—The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

"(C) PUERTO RICO.—For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

"(4) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

"SEC. 2618. DISTRIBUTION OF FUNDS.

"(a) SPECIAL PROJECTS OF A NATIONAL SIGNIFICANCE.—

"(1) IN GENERAL.—Of the amount appropriated under section 2620 for each fiscal year, the Secretary shall use not to exceed 10 percent of such amount to establish and administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(2) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(A) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(B) the innovative nature of the proposed activity; and

"(C) the potential replicability of the proposed activity in other similar localities or nationally.

"(3) SPECIAL PROJECTS.—Special projects of a national significance may include those that are designed to—

"(A) establish a system designed to increase the number of health care facilities willing and able to serve low-income individuals and families with HIV disease;

"(B) deliver drug abuse treatment and HIV health care services at a single location, through either an outpatient or residential facility;

"(C) provide support and respite care for participants in family-based care networks critical to the delivery of comprehensive HIV care in the minority community;

"(D) deliver an enhanced spectrum of comprehensive health care and support services to underserved hemophilia populations, including minorities and those in rural and underserved areas, utilizing established networks of hemophilia diagnostic and treatment centers and community-based outreach systems;

"(E) deliver HIV health care and support services to Indians with HIV disease and their families;

"(F) improve the provision of HIV health care and support services to individuals and families with HIV disease located in rural areas;

"(G) deliver HIV health care and support services to homeless individuals and families with HIV disease; and

"(H) deliver HIV health care and support services to individuals with HIV disease who are incarcerated.

"(b) AMOUNT OF GRANT TO STATE.—

"(1) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available under section 2620, the amount of a grant to be made under this part for—

"(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

"(i) $100,000, and

"(ii) an amount determined under paragraph (2); and

"(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

"(i) an amount equal to the amount appropriated under section 2620 for the fiscal year involved; and

"(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

"(B) DISTRIBUTION FACTOR.—As used in subparagraph (A)(ii), the term 'distribution factor' means—

"(i) in the case of a State, the product of—

"(I) the number of cases of acquired immune deficiency syndrome in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data are available; and

"(II) the cube root of the ratio (based on the most recent available data) of—

"(aa) the average per capita income of individuals in the United States (including the territories); to

"(bb) the average per capita income of individuals in the State; and

"(ii) in the case of a territory of the United States the number of additional cases of such syndrome in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

"(3) DEFINITIONS.—As used in this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

"(B) the term 'territory of the United States' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

"(c) ALLOCATION OF ASSISTANCE BY STATES.—

"(1) CONSORTIA.—In a State that has reported 1 percent or more of all AIDS cases reported to and confirmed by the Centers for Disease Control in all States, not less than 50 percent of the amount received by the State under a grant awarded under this part shall be utilized for the creation and operation of community-based comprehensive care consortia under section 2613, in those areas within the State in which the largest number of individuals with HIV disease reside.

"(2) ALLOWANCES.—Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A.

"(3) PLANNING AND EVALUATIONS.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

"(4) ADMINISTRATION.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.

"(5) CONSTRUCTION.—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

"(d) EXPEDITED DISTRIBUTION.—

"(1) IN GENERAL.—Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than—

"(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

"(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

"(2) PUBLIC COMMENT.—Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

"(e) REALLOCATION.—Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) shall be repaid to the Secretary and reallotted to other States in proportion to the original grants made to such States.

"SEC. 2619. TECHNICAL ASSISTANCE.

"The Secretary may provide technical assistance in administering and coordinating the activities authorized under section 2612.

"SEC. 2620. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to make grants under this part, $275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. GRANTS FOR PROVISION OF SERVICES.

(a) IN GENERAL.—Title XXVI of the Public Health Service Act (as amended by section 201) is further amended by adding at the end the following new part:

"PART C—EARLY INTERVENTION SERVICES

"Subpart I—Formula Grants for States

"SEC. 2641. ESTABLISHMENT OF PROGRAM.

"(a) ALLOTMENTS FOR STATES.—For the purposes described in subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and in consultation with the Administrator of the Health Resources and Services Administration, shall for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 2649. The Secretary shall make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 2665.

"(b) PURPOSES OF GRANTS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless

the State involved agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

"(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.—The early intervention services referred to in paragraph (1) are—

"(A) counseling individuals with respect to HIV disease in accordance with section 2662;

"(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(C) referrals described in paragraph (3);

"(D) other clinical and diagnostic services with respect to HIV disease, and periodic medical evaluations of individuals with the disease; and

"(E) providing the therapeutic measures described in subparagraph (B).

"(3) REFERRALS.—The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of pregnant women.

"(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that each of the early intervention services specified in paragraph (2) will be available through the State. With respect to compliance with such agreement, a State may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

"(5) OPTIONAL SERVICES.—A State receiving a grant under subsection (a)—

"(A) may expend not more than 5 percent of the grant to provide early intervention services through making grants to hospitals that—

"(i) for the most recent fiscal year for which the data is available, have admitted—

"(I) not fewer than 250 individuals with acquired immune deficiency syndrome; or

"(II) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period;

"(ii) agree to offer and encourage such services with respect to inpatients of the hospitals; and

"(iii) agree that subsections (c) and (d) of section 2644 will apply to the hospitals to the same extent and in the same manner as such subsections apply to entities described in such section;

"(B) may expend the grant to provide outreach services to individuals who may have HIV disease, or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

"(C) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

"(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

"(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

"(6) ALLOCATIONS.—

"(A) Subject to subparagraphs (B) and (C), the Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(i) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2); and

"(ii) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (D) and (E) of such paragraph.

"(B) With respect to compliance with the agreement under subparagraph (A), amounts reserved by a State for fiscal year 1991 for purposes of clauses (i) and (ii) of such subparagraph may be expended to provide the services specified in paragraph (5).

"(C) The Secretary shall ensure that, of the amounts appropriated under section 2650 for fiscal year 1991, an amount equal to $130,000,000 is expended to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2).

"SEC. 2642. PROVISION OF SERVICES THROUGH MEDICAID PROVIDERS.

"(a) IN GENERAL.—Subject to subsection (b), the Secretary may not make a grant under section 2641 to a State unless, in the case of any service described in subsection (b) of such section that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(1) the State will provide the service through a State entity, and the State entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(2) the State will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(b) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(1) IN GENERAL.—In the case of an entity making an agreement pursuant to subsection (a)(2) regarding the provision of services, the requirement established in such subsection regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(2) ACCEPTANCE OF VOLUNTARY DONATIONS.—A determination by the Secretary of whether an entity referred to in paragraph (1) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

"SEC. 2643. REQUIREMENT OF MATCHING FUNDS.

"(a) IN GENERAL.—In the case of any State to which the criterion described in subsection (c) applies, the Secretary may not make a grant under section 2641 unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the purpose referred to in such subsection, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(1) for the first fiscal year for which such criterion applies to the State, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

"(2) for any second such fiscal year, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

"(3) for any third such fiscal year, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant); and

"(4) for any subsequent fiscal year, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(1) IN GENERAL.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(2) INCLUSION OF CERTAIN AMOUNTS.—

"(A) In making a determination of the amount of non-Federal contributions made by a State for purposes of subsection (a), the Secretary shall, subject to subparagraph (B), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title.

"(B) In making a determination for purposes of subparagraph (A), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in section 2641) or under other provisions of law.

"(c) APPLICABILITY OF MATCHING REQUIREMENT.—

"(1) PERCENTAGE OF NATIONAL NUMBER OF CASES.—

(A) The criterion referred to in subsection (a) is, with respect to a State, that the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State for the period described in subparagraph (B) constitutes more than 1 percent of the number of such cases reported to and confirmed by the Director for the United States for such period.

"(B) The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under section 2641.

"(2) EXEMPTION.—For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

"(d) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in subsection (a), the State shall continue to be eligible to receive Federal funds under a grant under section 2641, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

"SEC. 2644. OFFERING AND ENCOURAGING EARLY INTERVENTION SERVICES.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 unless, in the case of entities to which the State provides amounts from the grant for the provision of early intervention services, the State involved agrees that—

"(1) if the entity is a health care provider that regularly provides treatment for sexually transmitted diseases, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

"(2) if the entity is a health care provider that regularly provides treatment for intravenous substance abuse, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

"(3) if the entity is a family planning clinic, the entity will offer and encourage such services with respect to individuals to whom the entity provides family planning services and whom the entity has reason to believe has HIV disease; and

"(4) if the entity is a health care provider that provides treatment for tuberculosis, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment.

"(b) SUFFICIENCY OF AMOUNT OF GRANT.—With respect to compliance with the agreement made under subsection (a), an entity to which subsection (a) applies may be required to offer, encourage, and provide early intervention services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

"(c) CRITERIA FOR OFFERING AND ENCOURAGING.—Subject to section 2641(b)(4), an entity to which subsection (a) applies is, for purposes of such subsection, offering and encouraging early intervention services with respect to the individuals involved if the entity

"(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

"(2) provides the early intervention services only with the consent of the individuals.

"SEC. 2645. NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 unless the State involved provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will provide public education and information for the purpose of—

"(1) encouraging the population of such individuals to receive early intervention services; and

"(2) informing such population of any health facilities in the geographic area involved that provide such services.

"(b) RULE OF CONSTRUCTION.—An agreement made under subsection (a) may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 2641 provide individual notifications to the individuals described in such subsection.

"SEC. 2646. REPORTING AND PARTNER NOTIFICATION.

"(a) REPORTING.—The Secretary may not make a grant under section 2641 unless, with respect to testing for HIV disease, the State involved provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such disease;

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease; and

"(3) to assess the adequacy of early intervention services in the State.

"(b) PARTNER NOTIFICATION.—The Secretary may not make a grant under section 2641 unless the State involved provides assurances satisfactory to the Secretary that the State will require that the public health officer of the State, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of HIV disease.

"(c) RULES OF CONSTRUCTION.—An agreement made under this section may not be construed—

"(1) to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State; or

"(2) to require any State to establish a requirement that entities other than the public health officer of the State are required to make the notifications referred to in subsection (b).

"SEC. 2647. REQUIREMENT OF STATE LAW PROTECTION AGAINST INTENTIONAL TRANSMISSION.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 to a State unless the chief executive officer determines that the criminal laws of the State are adequate to prosecute any HIV infected individual, subject to the condition described in subsection (b), who—

"(1) makes a donation of blood, semen, or breast milk, if the individual knows that he or she is infected with HIV and intends, through such donation, to expose another HIV in the event that the donation is utilized;

"(2) engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV; and

"(3) injects himself or herself with a hypodermic needle and subsequently provides the needle to another person for purposes of hypodermic injection, if the individual knows that he or she is infected and intends, through the provision of the needle, to expose another to such etiologic agent in the event that the needle is utilized.

"(b) CONSENT TO RISK OF TRANSMISSION.—The State laws described in subsection (a) need not apply to circumstances under which the conduct described in paragraphs (1) through (3) of subsection (a) if the individual who is subjected to the behavior involved knows that the other individual is infected and provides prior informed consent to the activity.

"(c) STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State are adequate. The existence of a criminal law of general application, which can be applied to the conduct described in paragraphs (1) through (3) of subsection (a) is sufficient for compliance with this section.

"(d) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to receiving a grant under section 2601, if a State is unable to certify compliance with subsection (a), the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State has in place or will establish the prohibitions described in subsection (a); and

"(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions.

"SEC. 2649. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2641(a) for a State for a fiscal year shall be the greater of—

"(1) $100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined under subsection (b).

"(b) DETERMINATION UNDER FORMULA.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount appropriated under subsection (a) of section 2650 for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State involved for the most recent fiscal year for which such data is available; divided by

"(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the United States for the most recent fiscal year for which such data is available.

"(c) CERTAIN ALLOCATIONS BY SECRETARY.—After determining the amount of an allotment under this subsection (a) for a fiscal year, the Secretary shall reduce the amount of the allotment of each State by 10 percent. From the amounts available as a result of such reductions, the Secretary shall, on a discretionary basis, make grants to States receiving allotments for the fiscal year involved. Such grants shall be made subject to each of the agreements and assurances required as a condition of receiving grants under section 2641.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) IN GENERAL.—Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 2641(a) for the fiscal year (other than any State referred to

in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

"(2) SPECIFICATION OF AMOUNTS.—The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2641(a) as a result of—

"(A) the failure of any State to submit an application under section 2651;

"(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(3) AMOUNT OF ALLOTMENT.—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"(e) TRANSITION RULES.—

"(1) For the fiscal years 1991 through 1993, the amount of an allotment under section 2641 shall be the greater of the amount determined under subsection (a) and an amount equal to the amount applicable under paragraph (2) for the fiscal year involved.

"(2) For purposes of paragraph (1)—

"(A) the amount applicable for fiscal year 1991 is an amount equal to the amount received by the State involved from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for the provision of counseling and testing services with respect to HIV;

"(B) the amount applicable for fiscal year 1992 is 85 percent of the amount specified in subparagraph (A); and

"(C) the amount applicable for fiscal year 1993 is 70 percent of the amount specified in subparagraph (A).

"SEC. 2649A. MISCELLANEOUS PROVISIONS.

The Secretary may not make a grant under section 2641 unless—

"(1) the State involved submits to the Secretary a comprehensive plan for the organization and delivery of the early intervention services to be funded with the grant that includes a description of the purposes for which the State intends to use such assistance, including—

"(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with the grant will maximize the quality of early intervention services available to individuals with HIV disease throughout the State; and

"(B) a description of the manner in which services funded with the grant will be coordinated with other available related services for individuals with HIV disease; and

"(2) the State agrees that—

"(A) the public health agency administering the grant will conduct public hearings regarding the proposed use and distribution of the grant;

"(B) to the maximum extent practicable, early intervention services delivered pursuant to the grant will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

"(C) early intervention services under the grant will be provided in settings accessible to low-income individuals with HIV disease; and

"(D) outreach to low-income individuals with HIV disease will be provided to inform such individuals of the services available pursuant to the grant.

"SEC. 2650. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making grants under section 2641, there are authorized to be appropriated $230,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

"Subpart II—Categorical Grants

"SEC. 2651. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a)(1).

"(b) PURPOSES OF GRANTS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

"(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.—The early intervention services referred to in paragraph (1) are—

"(A) counseling individuals with respect to HIV disease in accordance with section 2662;

"(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(C) referrals described in paragraph (3);

"(D) other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

"(E) providing the therapeutic measures described in subparagraph (B).

"(3) REFERRALS.—The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facility of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of a pregnant woman.

"(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

"(5) OPTIONAL SERVICES.—A grantee under subsection (a)—

"(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

"(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

"(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

"(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

"(c) PARTICIPATION IN CERTAIN CONSORTIUM.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 2612(a)(1) regarding comprehensive services to individuals with HIV disease, if such a consortium exist in the geographic area with respect to which the applicant is applying to receive such a grant.

"SEC. 2652. MINIMUM QUALIFICATIONS OF GRANTEES.

"(a) IN GENERAL.—The entities referred to in subsection (b) are public entities and nonprofit private entities that are—

"(A) migrant health centers under section 329 or community health centers under section 330;

"(B) grantees under section 340 (regarding health services for the homeless);

"(C) grantees under section 1001 (regarding family planning) other than States;

"(D) comprehensive hemophilia diagnostic and treatment centers;

"(E) Federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act; or

"(F) a nonprofit private entity that provides comprehensive primary care services to populations at risk of HIV disease.

"(b) STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under section 2651 for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance

policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"SEC. 2653. PREFERENCES IN MAKING GRANTS.

"(a) IN GENERAL.—In making grants under section 2651, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV disease, as indicated by the factors specified in subsection (b).

"(b) SPECIFICATION OF FACTORS.—

"(1) IN GENERAL.—In the case of the geographic area with respect to which the entity involved is applying for a grant under section 2651, the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are—

"(A) the number of cases of acquired immune deficiency syndrome;

"(B) the rate of increase in such cases;

"(C) the lack of availability of early intervention services;

"(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

"(E) the rate of increase in each of the cases specified in subparagraph (E);

"(F) the lack of availability of primary health services from providers other than such applicant; and

"(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

"(2) RELEVANT PERIOD OF TIME.—The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 2651.

"(c) EQUITABLE ALLOCATIONS.—In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.

"SEC. 2654. MISCELLANEOUS PROVISIONS.

"(a) SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.—In making grants under section 2651, the Secretary shall ensure that any such grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

"(b) TECHNICAL ASSISTANCE.—The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under section 2651, and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

"SEC. 2655. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making grants under section 2651, there are authorized to be appropriated $75,000,000 for fiscal years 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

"Subpart III—General Provisions

"SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.

"(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless—

"(1) in the case of any State applying for a grant under section 2641, the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

"(2) in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

"(b) INFORMED CONSENT.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2662(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

"(2) PROVISIONS REGARDING ANONYMOUS TESTING.—

"(A) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

"(B) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

"SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease (based on the most recently available scientific data), including counseling on—

"(1) measures for the prevention of exposure to, and the transmission of, HIV;

"(2) the accuracy and reliability of the results of testing for HIV disease;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging the individual, as appropriate, to undergo such testing;

"(5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;

"(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2664(b); and

"(7) provisions of applicable law relating to discrimination against individuals with HIV disease.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review for the individual the information provided pursuant to subsection (a), including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

"(3) providing counseling on—

"(A) the availability, through the applicant, of early intervention services;

"(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

"(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV and any individual whom the infected individual may have exposed to HIV; and

"(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

"(d) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

"(e) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

"(f) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2663. APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

"The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2661 and 2662.

"SEC. 2664. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary may not make a grant under this part unless—

"(1) the applicant submits to the Secretary—

"(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

"(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

"(2) the applicant agrees to submit to the Secretary a report providing—

"(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

"(B) epidemiological and demographic data on the population of such individuals;

"(C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

"(D) the average costs of providing each category of early intervention service; and

"(E) the aggregate amounts expended for each such category.

"(b) PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(c) PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(d) MAINTENANCE OF SUPPORT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

"(e) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant—

"(i) will impose a charge on each such individual for the provision of such services; and

"(ii) will impose the charge according to a schedule of charges that is made available to the public.

"(2) LIMITATION ON CHARGES REGARDING INDIVIDUALS SUBJECT TO CHARGES.—With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

"(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

"(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(3) ASSESSMENT OF CHARGE.—With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(4) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 2642(b) or 2652(b)(2).

"(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 2642(b) or 2652(b)(2) regarding the entity.

"(g) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that—

"(1) the applicant will not expend amounts received pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

"(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(3) the applicant will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

"(h) CONSTRUCTION.—A State may not use amounts received under a grant awarded under section 2641 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

"SEC. 2665. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make a grant under this part unless—

"(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2664(a)(1);

"(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2666. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) IN GENERAL.—Upon the request of a grantee under this part, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(b) LIMITATION.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2667. USE OF FUNDS.

Counseling programs carried out under this part—

"(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

"(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

"(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.".

(b) REVISION, EXTENSION, AND TRANSFER OF PROGRAM OF PRISON TESTING ACT OF 1988.—

(1) TRANSFER OF PROGRAM.—Section 902 of Public Law 100-607—

(A) is transferred to part C of title XXVI of the Public Health Service Act, as added by subsection (a) of this Act;

(B) is redesignated as section 2648; and

(C) is inserted after section 2647 of such part C.

(2) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM.—Section 2648(g) of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking "1990" and inserting "1995".

(3) REVISION OF PROGRAM.—Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking subsections (a) through (f) and inserting the following:

"(a) IN GENERAL.—In addition to grants under section 2641, the Secretary may make grants to States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that—

"(1) the services be provided to such individuals; and

"(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than $1 for each $2 of Federal funds provided in the grant; and

"(B) for any subsequent fiscal year of such payments, not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(c) TESTING.—The Secretary may not make a grant under subsection (a) unless—

"(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for HIV disease—

"(A) upon entering the State penal system; and

"(B) during the 30-day period preceding the date on which the individual is released from such system;

"(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

"(A) upon the request of any such employee, provides the results to the employee in any case in which the medical officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

"(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

"(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—

"(A) upon the request of the spouse, provides such results to the spouse prior to any conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

"(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A);

"(4) with respect to such testing upon entering the State penal system of such an individual who has been convicted of rape or aggravated sexual assault, the State—

"(A) upon the request of the victim of the rape or assault, provides such results to the victim; and

"(B) informs the victim of the availability to the victim of such results; and

"(5) the State, except as provided in any of paragraphs (2) through (4), maintains the confidentiality of the results of testing for HIV disease in each prison operated by the State or with amounts provided by the State, and makes disclosures of such results only as medically necessary.

"(d) DETERMINATION OF PRISONS SUBJECT TO REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of early intervention services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

"(2) DESCRIPTION OF CRITERIA.—The criteria to be considered for purposes of paragraph (1) are—

"(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison—

"(i) the severity of the epidemic of HIV disease in the areas during the period in which the inmates resided in the areas; and

"(ii) the incidence, in the areas during such period, of behavior that places individuals at significant risk of developing HIV disease; and

"(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

"(e) APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that sections 2641(b)(4), 2662, and 2664(c) will apply to the provision of early intervention services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2641.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) RULE OF CONSTRUCTION.—With respect to testing inmates of State prisons for HIV disease without the consent of the inmates, the agreements made under this section may not be construed to authorize, prohibit, or require any State to conduct such testing, except as provided in subparagraphs (A) and (B) of subsection (c)(1).".

(4) TECHNICAL AMENDMENTS.—Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking the heading and inserting the following: "TESTING AND OTHER EARLY INTERVENTION SERVICES FOR STATE PRISONERS.".

TITLE IV—GENERAL PROVISIONS, REPORTS AND EVALUATIONS

Subtitle A—General Provisions

SEC. 401. GENERAL PROVISIONS.

Title XXVI of the Public Health Service (as added by section 101 and amended by sections 201 and 301) is further amended by adding at the end thereof the following new part:

"PART D—GENERAL PROVISIONS

"SEC. 2671. DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the National Institutes of Health, shall make demonstration grants to community health centers, and other appropriate public or nonprofit private entities that provide primary health care to the public, for the purpose of—

"(1) conducting, at the health facilities of such entities, clinical research on therapies for pediatric patients with HIV disease as well as pregnant women with HIV disease; and

"(2) with respect to the pediatric patients who participate in such research, providing health care on an outpatient basis to such patients and the families of such patients.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health facility operated by the applicant for the grant serves a significant number of pediatric patients and pregnant women with HIV disease.

"(c) COOPERATION WITH BIOMEDICAL INSTITUTIONS.—

"(1) DESIGN OF RESEARCH PROTOCOL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(A) has entered into a cooperative agreement or contract with an appropriately qualified entity with expertise in biomedical research under which the entity will assist the applicant in designing and conducting a protocol for the research to be conducted pursuant to the grant; and

"(B) agrees to provide the clinical data developed in the research to the Director of the National Institutes of Health.

"(2) ANALYSIS AND EVALUATION.—The Secretary, acting through the Director of the National Institutes of Health—

"(A) may assist grantees under subsection (a) in designing and conducting protocols described in subparagraph (A) of paragraph (1); and

"(B) shall analyze and evaluate the data submitted to the Director pursuant to subparagraph (B) of such paragraph.

"(d) CASE MANAGEMENT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the case management of the pe-

diatric patient involved and the family of the patient.

"(e) REFERRALS FOR ADDITIONAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the pediatric patient involved and the family of the patient—

"(1) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(2) referrals for other social and support services, as appropriate.

"(f) INCIDENTAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide the family of the pediatric patient involved with such transportation, child care, and other incidental services as may be necessary to enable the pediatric patient and the family of the patient to participate in the program established by the applicant pursuant to such subsection.

"(g) APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(h) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'community health center' has the meaning given such term in section 330(a).

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

"SEC. 2672. PROVISIONS RELATING TO BLOOD BANKS.

"(a) INFORMATIONAL AND TRAINING PROGRAMS.—The Secretary shall—

"(1) develop and make available to technical and supervisory personnel employed at blood banks and facilities that produce blood products, materials and information concerning measures that may be implemented to protect the safety of the blood supply with respect to the activities of such personnel, including—

"(A) state-of-the-art diagnostic and testing procedures relating to pathogens in the blood supply; and

"(B) quality assurance procedures relating to the safety of the blood supply and of blood products; and

"(2) develop and implement a training program that is designed to increase the number of employees of the Department of Health and Human Services who are qualified to conduct inspections of blood banks and facilities that produce blood products.

"(b) UPDATES.—The Secretary shall periodically review and update the materials and information made available under informational or training programs conducted under subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

"SEC. 2673. RESEARCH, EVALUATION, AND ASSESSMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Agency for Health Care Policy and Research, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop—

"(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering HIV-related health care, mental health care, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost, and a review of the appropriateness of such models for the delivery of health and support services to infants, children, women, and families with HIV disease;

"(2) through a review of private sector financing mechanisms for the delivery of HIV-related health and support services, an assessment of strategies for maintaining private health benefits for individuals with HIV disease and an assessment of specific business practices or regulatory barriers that could serve to reduce access to private sector benefit programs;

"(3) an assessment of the manner in which different points-of-entry to the health care system affect the cost, quality, and outcome of the care and treatment of individuals and families with HIV disease; and

"(4) a summary report concerning the major and continuing unmet needs in health care, mental health care, early intervention, and support services for individuals and families with HIV disease in urban and rural areas.

"(b) REPORT.—Not later than 2 years after the date of enactment of this title, and periodically thereafter, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a progress report that contains the findings and assessments developed under subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

"SEC. 2674. EVALUATIONS AND REPORTS.

"(a) EVALUATIONS.—The Secretary shall, directly or through grants and contracts, evaluate programs carried out under this title.

"(b) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under this title, and annually thereafter, prepare and submit to the appropriate Committees of Congress a report—

"(1) summarizing all of the reports that are required to be submitted to the Secretary under this title;

"(2) recommending criteria to be used in determining the geographic areas with the most substantial need for HIV-related health services;

"(3) summarizing all of the evaluations carried out pursuant to subsection (a) during the period for which the report under this subsection is prepared; and

"(4) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

"SEC. 2675. COORDINATION.

"(a) REQUIREMENT.—The Secretary shall assure that the Health Resources and Services Administration and the Centers for Disease Control will coordinate the planning of the funding of programs authorized under this title to assure that health support services for individuals with HIV disease are integrated with each other and that the continuity of care of individuals with HIV disease is enhanced. In coordinating the allocation of funds made available under this title the Health Resources and Services Administration and the Centers for Disease Control shall utilize planning information submitted to such agencies by the States and entities eligible for support.

"(b) INTEGRATION BY STATE.—As a condition of receipt of funds under this title, a State shall assure the Secretary that health support services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV disease is enhanced.

"(c) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall assure the Secretary that services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV is enhanced.

"SEC. 2676. DEFINITIONS.

"For purposes of this title:

"(1) COUNSELING.—The term 'counseling' means such counseling provided by an individual trained to provide such counseling.

"(2) DESIGNATED OFFICER OF EMERGENCY RESPONSE EMPLOYEES.—The term 'designated officer of emergency response employees' means an individual designated under section 26___ by the public health officer of the State involved.

"(3) EMERGENCY.—The term 'emergency' means an emergency involving injury or illness.

"(4) EMERGENCY RESPONSE EMPLOYEE.—The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, emergency medical technicians, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(5) EMPLOYER OF EMERGENCY RESPONSE EMPLOYEES.—The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(6) EXPOSED.—The term 'exposed', with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

"(7) FAMILIES WITH HIV DISEASE.—The term 'families with HIV disease' means families in which one or more members have HIV disease.

"(8) HIV.—The term 'HIV' means infection with the etiologic agent for acquired immune deficiency syndrome.

"(9) HIV DISEASE.—The term 'HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome, and

includes any condition arising from such syndrome.

"(10) OFFICIAL POVERTY LINE.—The term "official poverty line" means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(a) of the Omnibus Budget Reconciliation Act of 1981.

"(11) PERSON.—The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(12) STATE.—The term 'State', except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.".

SEC. 402. STUDY REGARDING PARTNER NOTIFICATION.

(a) IN GENERAL.—The Secretary shall conduct a study of programs of HIV partner notification for the purpose of determining—

(1) in the case of individuals who have been notified under such programs, the percentage of such individuals who undergo counseling and testing regarding HIV disease;

(2) in the case of such individuals who have undergone HIV testing, the number of such individuals determined through such tests to have HIV disease;

(3) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effective regarding the prevention of exposure to, and the transmission of, HIV disease; and

(4) the extent to which such programs represent a cost effective use of available HIV-related resources.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress, a report describing the findings made as a result of such study.

SEC. 403. STUDY REGARDING HIV DISEASE IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Director of the Office of Rural Health Policy, shall—

(1) conduct a study for the purpose of estimating the incidence and prevalence in rural areas of cases of acquired immune deficiency syndrome and cases of infection with the etiologic agent for such syndrome; and

(2) in carrying out such study, determine the adequacy in rural areas of services for diagnosing such cases and providing treatment for such cases that are in the early stages of infection.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress a report describing the findings made as a result of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

Subtitle B—Emergency Response Employees

SEC. 411. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Title XXVI of the Public Health Service Act (as amended by section 401) is further amended by adding at the end the following new part:

"PART E—EMERGENCY RESPONSE EMPLOYEES

"SUBPART I—GUIDELINES AND MODEL CURRICULUM

"SEC. 2680. GRANTS FOR IMPLEMENTATION.

"(a) IN GENERAL.—With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.

"SUBPART II—NOTIFICATIONS OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

"SEC. 2681. INFECTIOUS DISEASES AND CIRCUMSTANCES RELEVANT TO NOTIFICATION REQUIREMENTS.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, the Secretary shall complete the development of—

"(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

"(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

"(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 2683(d).

"(b) SPECIFICATION OF AIRBORNE INFECTIOUS DISEASES.—The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

"(c) DISSEMINATION.—The Secretary shall—

"(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

"(2) make such copies available to the public.

"SEC. 2682. ROUTINE NOTIFICATIONS WITH RESPECT TO AIRBORNE INFECTIOUS DISEASES IN VICTIMS ASSISTED.

"(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—

"(1) DETERMINATION BY TREATING FACILITY.—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

"(2) DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

"(b) REQUIREMENT OF PROMPT NOTIFICATION.—With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

"SEC. 2683. REQUEST FOR NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

"(a) INITIATION OF PROCESS BY EMPLOYEE.—If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

"(b) INITIAL DETERMINATION BY DESIGNATED OFFICER.—The duties referred to in subsection (a) are that—

"(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

"(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 2681(a), the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

"(c) SUBMISSION OF REQUEST TO MEDICAL FACILITY.—

"(1) IN GENERAL.—If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

"(2) FORM OF REQUEST.—A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

"(d) EVALUATION AND RESPONSE REGARDING REQUEST TO MEDICAL FACILITY.—

"(1) IN GENERAL.—If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency re-

sponse employee was exposed to an infectious disease included on the list issued under section paragraph (1) of section 2681(a), as indicated by the guidelines issued under paragraph (2) of such section.

"(2) NOTIFICATION OF EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

"(3) FINDING OF NO EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

"(4) INSUFFICIENT INFORMATION.—

"(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

"(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 2681(a), the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

"(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

"(e) TIME FOR MAKING RESPONSE.—After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

"(f) DEATH OF VICTIM OF EMERGENCY.—

"(1) FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

"(2) RESPONSIBILITY OF FACILITY.—Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

"(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

"(1) EVALUATION OF RESPONSE OF MEDICAL FACILITY REGARDING INSUFFICIENT FACTS.—

"(A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

"(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

"(2) FINDINGS OF EVALUATION.—

"(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

"(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

"(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

"(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

"(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

"(ii) if sufficient facts are obtained by the designated officer—

"(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

"(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

"SEC. 2684. PROCEDURES FOR NOTIFICATION OF EXPOSURE.

"(a) CONTENTS OF NOTIFICATION TO OFFICER.—In making a notification required under section 2682 or section 2683(d)(2), a medical facility shall provide—

"(1) the name of the infectious disease involved; and

"(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

"(b) MANNER OF NOTIFICATION.—If a notification under section 2682 or section 2682(d)(2) is mailed or otherwise indirectly made—

"(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

"SEC. 2685. NOTIFICATION OF EMPLOYEE.

"(a) IN GENERAL.—After receiving a notification for purposes of section 2682 or 2683(d)(2), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

"(1) responded to the emergency involved; and

"(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

"(b) CERTAIN CONTENTS OF NOTIFICATION TO EMPLOYEE.—A notification under this subsection to an emergency response employee shall inform the employee of—

"(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

"(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

"(3) if medically appropriate under such criteria, the date of such emergency.

"(c) RESPONSES OTHER THAN NOTIFICATION OF EXPOSURE.—After receiving a response under paragraph (3) or (4) of subsection (d) of section 2683, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

"SEC. 2686. SELECTION OF DESIGNATED OFFICERS.

"(a) IN GENERAL.—For the purposes of receiving notifications and responses and making requests under this subpart on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

"(b) PREFERENCE IN MAKING DESIGNATIONS.—In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

"SEC. 2687. LIMITATIONS WITH RESPECT TO DUTIES OF MEDICAL FACILITIES.

"The duties established in this subpart for a medical facility—

"(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

"(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2683(c) received by a medical facility before the expiration of such 30-day period.

"SEC. 2688. RULES OF CONSTRUCTION.

"(a) LIABILITY OF MEDICAL FACILITIES AND DESIGNATED OFFICERS.—This subpart may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this subpart.

"(b) TESTING.—This subpart may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

"(c) CONFIDENTIALITY.—This subpart may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

"(d) FAILURE TO PROVIDE EMERGENCY SERVICES.—This subpart may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

"SEC. 2689. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.

"(a) IN GENERAL.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart.

"(b) FACILITATION OF INFORMATION ON VIOLATIONS.—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

"SEC. 2690. APPLICABILITY OF SUBPART.

"This subpart shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this subpart.".

"(b) EFFECTIVE DATE.—Sections 2680 and 2681 of part E of title XXVI of the Public Health Service Act, as added by subsection (a) of this section, shall take effect upon the date of the enactment of this Act. Such part shall otherwise take effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under section 2681(a).".

Subtitle C—Miscellaneous Provisions

SEC. 421. ADAMHA IV DRUG ABUSE WAIVER.

Any State that received a waiver under section 1916(c)(7) of the Public Health Service Act (42 U.S.C. 300x-4(a)(7)) of $100,000 or less for fiscal year 1989 shall be granted a waiver under such section for fiscal years 1990 and 1991.

SEC. 422. PROHIBITION ON USE OF FUNDS.

None of the funds made available in this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

And the House agree to the same.

Amend the title so as to read: "An Act to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes."

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,
NORMAN F. LENT,
EDWARD MADIGAN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD METZENBAUM,
CHRISTOPHER DODD,
ORRIN G. HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2240) to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text and amended the title of the Senate bill.

The Senate recedes from its disagreement to the amendments of the House with an amendment which is a substitute for the Senate bill and the House amendment and the amendment of the House to the title of the Senate bill. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. SHORT TITLE

The Senate bill titles the Act the Ryan White Comprehensive AIDS Resources Emergency Act of 1990. The House bill is titled the AIDS Prevention Act of 1990. The House Recedes.

By agreement of both House and Senate conferees, Title XXVI is amended to read "HIV Care Service Program".

2. FINDINGS AND PURPOSES

The Senate bill includes a statement of purpose that the intent of this legislation is to provide emergency assistance to localities that are disproportionally affected by the HIV epidemic, and to make financial assistance available to States to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease in urban and rural areas. The House contains no purpose section.

The House recedes with an amendment, that the phrase "and to other public and not-for-profit entities" be inserted after "States".

TITLE I—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

3. TECHNICAL AND CONFORMING CHANGES

The House bill amends the Public Health Service Act (42 U.S.C. 201 et seq. by (1) redesignating title XXVI as title XXVII; (2) by redesignating sections 2601 through 2614 as sections 2701 through 2714, respectively; and (3) by amending Title XXVI and adding the following new part: Emergency Relief for Areas with Substantial Need for Services. The Senate recedes.

4. DEFINITION OF ELIGIBLE AREAS

The House bill states that the Secretary shall award grant funds to any metropolitan statistical area as reported by the Centers for Disease Control. The House bill specifies that for fiscal year 1991, eligible areas shall be those with more than 2000 AIDS cases reported by June 30, 1990. In FY 1992, 1993, 1994, and 1995 the date for establishing eligible areas shall be March 31st of each year as reported by the CDC. Eligibility for grant funds is also met if a metropolitan area has a per capita incidence of cumulative cases of AIDS equal to or greater than 0.0025, as reported by the CDC. The House requires confirmation by the CDC of the reported AIDS cases. The Senate recedes with an amendment, that the word "statistical" be deleted where it appears in Section 2621.

It is the intent of the managers that the document of reference for determining eligible areas shall be the HIV/AIDS Surveillance Report issued monthly by the Centers for Disease Control. Table 2 of such document, regularly published as the "AIDS Cases and Annual Rates per 100,000 population, by Metropolitan Area with 500,000 or more Population," contains the number of AIDS cases diagnosed in the metropolitan area referred to in the statute as the "eligible area." The managers further defined the term "metropolitan area" in Section 2607 of the statute. The managers do not intend the term "metropolitan area" or "eligible area" to be metropolitan statistical areas that are defined by the Census Bureau and utilized for other functions for federal allocation procedures.

It is the managers' intent that the Secretary confirm the cases of AIDS diagnosed for the purposes of receiving a grant under Section 2601(b). Confirmation of such cases shall be carried out in a manner consistent with the routine activities of the CDC as part of the monthly publication of the HIV/AIDS Surveillance Report. The Secretary therefore need only reference the most recent CDC issue of the HIV/AIDS Surveillance Report to assure that the required number of cases has in fact been reported and confirmed through the normal and established CDC procedures.

5. DEFINITION OF ADMINISTRATOR OF EMERGENCY RELIEF GRANTS

The Senate bill identified that the chief elected official of the city or urban county that administers the public health agency serving the greatest number of individuals with AIDS, as reported to the Centers for Disease Control, shall be awarded the grant in the eligible area. The House bill identifies that the chief elected official of the city, urban county, or other political subdivision serving the greatest proportion of cases in the eligible area shall be awarded the grant. The House recedes with an amendment: that the phrase "providing ambulatory and outpatient services to" be inserted after "public health agency" in Section 2532(a).

6. INTERGOVERNMENTAL AGREEMENTS

The Senate bill identifies that the intergovernmental agreement as established shall result in an administrative mechanism to allocate funds based on the number of AIDS cases and severity of need of local political subdivisions. The House recedes with an amendment that in Section 2532(a)(2)(A), the word "all" be deleted before local political subdivisions; that the phrase "and services" be inserted after "admininstrative mechanism to allocate funds"; the phrase "for outpatient and health and support services personnel enhancement" be inserted after "severity of need"; and that a new subparagraph be inserted defining local political subdivisions as those political subdivisions in the eligible area that (i) provide HIV-related health services, and (ii) have reported not less than 10 percent of the number of cases reported for the eligible area.

7. REPRESENTATION ON THE HIV HEALTH SERVICES PLANNING COUNCIL

Both the House and Senate bills list representatives that are to sit on the HIV Health Services Planning Council. The Senate bill includes representatives from health care providers, community based and AIDS service organizations, social service providers, mental health providers, local public health agencies, affected communities, non-elected community leaders, State government, and hospital or health care planning agencies. The House recedes with an amendment that the word hospital shall be deleted and hospital planning agencies inserted, that individuals with HIV disease shall be added, and that grantees awarded funds through the categorical Early Intervention Services program, along with the lead agency representing any HRSA demonstration project in the eligible area, shall be included.

8. DESIGNATION OF HIV HEALTH SERVICES PLANNING COUNCIL

The Senate bill gives priority to an existing entity that has demonstrated experience in assessing and planning for HIV health care service needs within the eligible area, along with representation from the full range of service-providing agencies and institutions in the eligible areas, when the chief elected official decides to designate an existing entity in lieu of establishing a new one.

The House bill directs the chief elected official receiving the grant to determine if the purpose of the HIV health services planning council can be most effectively carried out by an existing entity with demonstrated experience in assessing and planning for health care service needs within the eligible geographic area.

The Senate recedes with an amendment. The chief elected official shall consider existing entities with demonstrated experience in planning for HIV health care servcie needs, and implementing coordinated delivery of HIV health care services within the eligible geographic area. The designated entity shall be expanded to include representation of the full range of entities providing such services in the geographic area to be served.

It is the intent of the managers that the chief elected official of the eligible area give serious consideration to existing entities that have demonstrated experience in planning for the HIV health care service needs and implementing plans do address such. The managers specifically wish to note the outstanding work of the many U.S., mayors and county officials around the country in developing HIV task forces to address local needs. The important work pioneered by the recipients of demonstration grants through the U.S. Department of Health and Human Services acting through the Health Resources and Services Administration, as well as the recipients of grants awarded by the Robert Wood Johnson Foundation, have also established precedent-setting models for the planning and implementation of HIV-related health and social services. Existing entities such as these, but limited to these, are given priority under Section 2602(b)(2)(B).

Where there are multiple entities that may qualify as having priority status, the managers intend that the chief elected officials integrate and coordinate the expertise of such entities. Therefore the planning council shall incorporate the demonstrated experience and expertise of established entities accorded priority status. In its final form, the planning council shall be designated so that it serves the diverse and unique needs of the populations and subpopulations of people affected by the HIV epidemic in the eligible area.

9. DUTIES OF THE HIV HEALTH SERVICES PLANNING COUNCIL

The Senate bill stipulates that the Planning Council shall establish priorities for the allocation of funds and the efficiency of the administrative mechanism in rapidly allocating these to the areas of greatest need. The House bill further directs the Planning Council to develop a comprehensive plan for the organization and delivery of health services that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease. The Senate recedes.

It is the managers' intent that the duties of the HIV planning council include the development of a comprehensive plan for the organization and delivery of health services to individuals with HIV. While the conferees have vested the authority to appoint such a council with the chief elected political official of the eligible area, we are equally committed to the fact that these councils are not advisory in nature or intent. The managers expect that the planning councils established under this title be given full regard and discretion in executing their roles and responsibilities. The managers wish to note the inclusion of Section 2604(a)(1) to insure that the specific priorities established by the councils be adhered to by the chief elected official. Should the chief elected official of an eligible area not agree to abide by the established priorities, then the Secretary is instructed not to make funds available to the area authorized under Section 2601(a).

10. ADMINISTRATION AND PLANNING

The House bill specifies that administration expenditures may not exceed 5 percent of the grant award to the eligible area. The Senate bill states that administration and planning activities may not exceed 5 percent of grant award funds. The House recedes. The Senate offers an amendment that shall read "not to exceed 5 percent of amounts received under this title may be utilized for administration, accounting, reporting, and program oversight functions".

11. DATE FOR DISTRIBUTION OF GRANT AWARDS

The Senate bill specifies that the Secretary shall use 50 percent of the amount appropriated to make awards under this Section not later than 60 days after the appropriation becomes available. The House bill specifies that the grant awards shall be made not later than 90 days after the date on which appropriations are made available. The Senate recedes with an amendment: not later than 90 days after an appropriation becomes available for FY 91, and not later than 60 days after appropriations are available in subsequent fiscal years, the Secretary shall disburse 50 percent of the amount appropriated under this title to eligible areas.

It is the managers' intent that any appropriated funds not disbursed by the Secretary for grants under Section 2603(a) for reason of absent or inadequate application shall be disbursed under the supplemental grant program established in Section 2603(b) according to the requirements of such section.

12. FORMULA FOR EMERGENCY RELIEF GRANT AWARDS

The Senate and House bills contain formulas that result in identical allocations to the eligible areas. The Senate recedes to the House language with an amendment, that the number of cases of acquired immune deficiency syndrome reported to the Centers for Disease Control by the eligible area be confirmed by the Centers for Disease Control.

The managers provide the clarification that the term cumulative per capita incidence shall reflect the cumulative number of AIDS cases reported by the CDC in the eligible area divided by the most recently available census population number of persons residing in the eligible area.

13. SUPPLEMENTAL GRANTS

The House and Senate conferees amend this part such that: the Secretary shall disburse the remaining accounts appropriated for the purpose of making grants as described; applications from the eligible areas shall demonstrate the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic; and the amount of the grant award shall be determined by the Secretary based on the merit of the submitted application.

14. USE OF AMOUNTS

The Senate bill specifies the qualifications for institutions and agencies receiving funds under the grant award to the eligible area, and identifies the eligible uses of funds under this grant program in Section 2534 (a) and (b). The House bill specifies the minimum qualifications of service providers receiving funds this section, and identifies the eligible uses of funds through these providers in Section 2621 (c) and (d). The House and Senate offer the following amendment in lieu of such sections to guide the use of amounts:

(a) REQUIREMENTS.—The Secretary may not make a grant under Section 2604 to the chief elected official of an eligible area unless the political subdivision agrees that—

(1) the allocation of funds and services within the eligible area will be made in accordance with the priorities established by the HIV health services planning council that serves the eligible area; and

(2) funds provided under section 2601 will be expended only for the purposes described in subsections (b) and (c)

(b) PRIMARY PURPOSES.—

(1) IN GENERAL.—The chief elected official shall use amounts received under a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related—

(A) outpatient and ambulatory health and support services, including case management and comprehensive treatment services, for individuals and families with HIV disease; and

(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge from inpatient facilities, as medically appropriate.

(2) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, including hospitals [which may include VA facilities], community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers, with priority given to those entities that currently participate in existing demonstration projects administered by the Health Resources and Services Administration.

(c) LIMITED EXPENDITURES FOR HEALTH AND SUPPORT SERVICES PERSONNEL DEMAND.—

(1) IN GENERAL.—A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals, nursing homes, subacute care facilities, transitional care facilities, and hospices that—

(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease; and

(B) incur uncompensated costs in the provision of such care or services to such individuals and families.

(2) USE.—A chief elected official may use amounts referred to in paragraph (1) to—

(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training

and paying the compensation of the qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV diseases; or

(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

(3) REQUIREMENT OF DETERMINATION BY COUNCIL.—A chief elected official shall not use any of the amounts received under a grant under section 2601(a) to provide assistance or services under paragraph (2) unless the HIV health services planning council has made a determination that with respect to persons with HIV disease—

(A) a shortage of specific health, mental health, or support service personnel exists within specific institutions or entities in the eligible area;

(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the resources devoted by such institutions or entities for the purposes described in paragraph (2).

It is the managers' intention that funds provided under this emergency relief program be used to relieve the overwhelming burden that HIV has imposed on urban health care systems. In particular, this funding is intended to help eligible areas operate programs which enable individuals with HIV disease to receive appropriate care on an outpatient and ambulatory basis. The managers believe that discharge planning and case management services, including such services provided within a hospital, will be critical to efforts to reduce the burden on inpatient hospital care. The managers' intend that such services be considered one of the Primary Purposes regardless of the setting in which such services are provided.

The managers further intend that funds distributed in accordance with section 2604(c) be allocated to relieve bottlenecks in the system of delivering care and treatment to individuals with HIV disease that are created by an absence or shortage of appropriately qualified health or support services personnel. In particular, the managers intend that local HIV Health Services Planning Councils identify those personnel shortages that serve to unnecessarily protract the period of inpatient hospitalization of a person with HIV disease. The managers also intend that the Planning Councils attempt to identify and address personnel needs that cause individuals who could otherwise be cared for on an ambulatory basis to be institutionalized.

The managers note that public or nonprofit private entities which are not health care providers per se, but which research, develop, and coordinate comprehensive HIV case management and care delivery are eligible to receive funds under this part.

The managers cross-reference the Reports for the House and Senate bills for the scope of services and service providers eligible under this section.

The managers have established a limitation on the amount of funds available for expenditure in the inpatient hospital setting. Funds are available to enhance the capability of hospitals to provide for specialized services for HIV patients, as well as for enhancing the professional capacity of hospitals to facilitate the discharge process to the medically appropriate level of care. The managers specifically intend that the use of funds for these purposes is contingent upon the determination by the HIV health services planning council that there is a significant need for such services in the eligible area.

It is the managers' intent in identifying transitional care facilities as eligible entities to provide support to those facilities that provide supportive housing opportunities for people with HIV and related conditions. For example, community residence facilities that have been established for children with HIV who are awaiting foster care placement or reunification with their families would be covered under this term. Furthermore, housing facilities that have been established to assist people with HIV disease in activities of daily living, such as to allow hospital discharge at the earliest opportunity but perhaps prior to the patient's ability to live independently, would qualify as transitional care facilities.

15. RENOVATION OR REHABILITATION

The Senate bill specifies that an eligible use of grant funds is the renovation or rehabilitation of long-term care facilities, transitional care facilities, and sub-acute care facilities where these entities are not available for occupancy by individuals with HIV disease in the eligible area. The House is silent. The Senate recedes.

In deleting this provision the managers expect that the Health Resources and Services Administration will continue to provide grants, under separate authority, for the renovation of a wide range of AIDS-related facilities. The conferees encourage HRSA, when making grants to cities receiving grants under this part, to support such efforts designed to enhance the purpose of this emergency assistance.

16. PRIORITIES IN GRANT ALLOCATION

The Senate bill specifies that in allocating funds awarded under this grant, the grantee shall give priority to those eligible institutions under Section 2534(a) that—have established a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and have established a system designed to ensure that such individuals and families are referred or discharged to the most medically appropriate level of care as soon as such referral or discharge is medically indicated. The House bill specifies that providers who are providing the services specified shall receive priority, and adds requirements that the providers have established and agreed to implement such plan, and have provided such services to a significant number of individuals with acquired immune deficiency syndrome. The managers have amended conference bill in section 2604(b)(2) to give priority to those AIDS Service Demonstration projects administered by HRSA.

17. REQUIREMENT OF STATUS AS MEDICAID PROVIDER

The House bill specifies that the Secretary may not make a grant under section 2621 for the provision of health services in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State, the political subdivision involved will provide the health service directly and has entered into a participation agreement with the State plan and are qualified to receive payments under such plan. The political subdivision must also enter into an agreement with public or nonprofit private entities which will provide the health service, and assure that the entity has entered into such a participation agreement and is qualified to receive such payments. In the case of an entity that does not impose a charge or accept reimbursement available from any third party payor, the above requirement shall be waived by the Secretary. A determination by the Secretary of whether an entity meets the criteria for such a waiver shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

The Senate bill is silent. The Senate recedes with an amendment. Where the term "health services is used in section 2621(d), the word "health" shall be deleted. The requirement for the Secretary to make the determination of eligibility for the waiver provision shall be amended to read that the HIV health service planning council in the eligible area shall determine eligibility for such waiver.

18. APPLICATION

The Senate bill specifies in section 2535(a) that to be eligible to receive grant awards under this Title, the eligible area shall submit its application to the Secretary assurances that the funds received under a grant in this Title will be used to supplement and not supplant State and local funds currently utilized to provide health and support services to individuals with HIV disease. Assurances are also to be made that entities receiving funds under this grant shall participate in an established community based continuum of care, and that the eligible area has an HIV planning council that has or will develop a comprehensive plan, compatible with any existing State or local plans, for the organization and delivery of HIV services. The House bill specifies in section 2624(a) that if the grant applicant has carried out, with non-Federal funds, a program of providing services for the prevention and treatment for cases with HIV infection, or provided social services for such cases, that the applicant shall provide assurance in its application that grant funds shall be expended only for the purpose of significantly increasing the availability of such services provided by the applicant above the average level of availability provided under the program during the preceding fiscal year. The House and Senate conferees amend such sections to read:

(a) IN GENERAL—To be eligible to receive a grant under section 2601, an eligible area shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

(1)(A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the 1-year period preceding the first fiscal year for which a grant is received by the eligible area; and

(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 2602, and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B);

(3) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) will participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

(4) that funds received under a grant awarded under this part will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis; and

(5) to the maximum extent practicable, that—

(A) HIV health care and support services provided with assistance made available under this part will be provided without regard—

(i) to the ability of the individual to pay for such services; and

(ii) to the current or past health condition of the individual to be served;

(B) such services will be provided in a setting that is accessible to low-income individuals with HIV disease; and

(C) a program of outreach will be provided to low-income individuals with HIV disease to inform such individuals of such services.

The House bill specifies that to be eligible to receive a grant under Section 2621(a) for a fiscal year, the required application must be submitted not later than 45 days after the date on which appropriations are made under Section 2625 for the fiscal year. The Senate is silent. The Senate recedes with an amendment: The Secretary may extend the time for the submission of such application for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such application but has otherwise been unable to submit its application.

The managers of the bill intend that the funds authorized under this section be distributed without delay and in a manner consistant with the emergency nature of this title. Therefore they have established a 90 day expedited disbursement procedure that requires that the eligible areas submit an application to the Secretary within 45 days. The managers were concerned that in an unforseen situation an eligible area may not be capable of completion of such an application, and therefore have provided an opportunity for an eligible area to be granted a 60 day extension, following determination by the Secretary that good faith efforts to submit such application in accordance with established requirements. No application submitted more than 105 days after appropriated funds are first available to the Secretary shall be accepted. All funds available to the eligible area failing to meet application submission criteria at such time will be added to available funds for grants to all applicants under Section 2603(b).

19. ADDITIONAL APPLICATION

The Senate and House bills specify that an eligible area that desires to receive a supplemental grant shall submit to the Secretary an additional application at such time, in such form, and containing such information as the Secretary shall require. The Senate and House conferees put forward the following amendment, that this application shall also include information concerning—

(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

(2) epidemiological and demographic data on the population of such individuals;

(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(4) the aggregate amounts expended for each such category of services.

The managers have required eligible areas to submit a more detailed application for supplemental grants established by Section 2603(b). This information is for the purpose of establishing essential baseline data on the course taken and response of the eligible areas in meeting the challenges of the HIV epidemic. This requirement is not intended to slow down or otherwise impede the expedited process by which the funds authorized under this title are to be expended. The managers have directed the Administrator of the Health Resources and Services Administration to provide technical assistance as needed for compliance with this section.

20. REQUIREMENTS REGARDING IMPOSITION OF FEES

The House bill Section 2621(f) specifies a schedule of fees to be applied to services rendered under this Title. The Secretary may not make a grant under this title unless the grant applicant agrees that: for persons with an income equal to or less than 100 percent of the official poverty line, no fees shall be imposed for the provision of preventive health services under the grant; for persons with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of the poverty line, the applicant will not, for any calendar year, impose a charge exceeding 5 percent of the annual gross income for the individual involved; and in the case of persons with an income greater than 200 percent of the official poverty line, the applicant will not, for any calendar year, impose a charge in an amount exceeding 10 percent of the annual gross income of the individual involved. No grants may be made under this Title unless the applicant is also in agreement with the Secretary that the agreement for the schedule of fees for services applies to the single annual aggregate of charges imposed for such services, without regard to whether such charges are characterized as enrollment fees, premiums, deductions, a cost sharing, copayments, or similar items. The requirement of a fee schedule for persons with an income greater than 100 percent of the official poverty line shall be waived by the Secretary for those entities to which the Secretary has granted a waiver under Section 2621(d)(2)(B)(i).

The Senate bill is silent. The Senate recedes with an amendment; where the term "preventive health services" appears delete the words "preventive health"; in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved; with respect to compliance with assurances regarding assessment of charges, a recipient of assistance under this part may, in the case of individuals subject to a charge—(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, and (B) take into consideration the medical expenses of individuals in assessing the amount of the charge; where the "single aggregate of charges" is referred to delete the word "single"; and the assessment of annual aggregate charges imposed for services shall include those charges characterized as coinsurance, deductibles, or other charges. The word deductions shall be deleted. The waiver available to those entities that have received a waiver for status as a Medicaid provider shall be obtained in like manner.

The fee for service provisions included under this title and stipulated in Section 2605(d) is intended by the managers to establish a schedule of charges that may be imposed on an individual receiving services under this section. The managers do not wish for a system of bureaucratic mechanisms and means testing related requirements to be imposed on any individual or agency receiving services under this title. A simple application that includes the annual gross salary of the individual should suffice as the baseline by which the caps on fees will be established. It is the intention of the conferees to set a ceiling on the amount of money that can be charged to the recipient of services authorized under this title.

21. TECHNICAL ASSISTANCE

The bill is amended by the House and Senate conferees to provide technical assistance. This shall read "The Administrator of the Health Resources and Services Administration may, beginning on the date of enactment of this title, provide technical assistance to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part." [Report language—in response to the expanded demands on eligible areas to provide more detailed applications to Secretary.]

22. DEFINITIONS

The House bill specifies that the term "eligible geographic area" means metropolitan statistical area. The Senate bill is silent. The Senate offers an amendment that the term "eligible geographic area" shall mean metropolitan area, as defined in Section 2531 of the Senate bill.

The Senate bill defines the term metropolitan area as any metropolitan area as reported in the HIV/AIDS Surveillance Report of the Centers for Disease Control. The House is silent. The House recedes.

23. AUTHORIZATION OF APPROPRIATIONS

The Senate and House bills authorize for the Emergency Relief Grant Program $300,000,000 for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995. The Senate and House offer an amendment that $275,000,000 shall be authorized for each of the fiscal years 1991 and 1992.

TITLE II—HIV CARE GRANTS

The Senate bill, S. 2240, establishes a program of HIV Care Grants awarded to the States to address the spreading effects of the HIV epidemic on the health care delivery system nationwide. There is no counter-

part title in the House bill, H.R. 4785. The House recedes.

The HIV Care Grant title provides resources to the States, the District of Columbia, and territories to develop and operate more appropriate systems for the delivery of HIV health care services. A special emphasis is placed on the needs of smaller cities and rural areas, many of which face significant strain in designing and maintaining health care services for individuals with HIV. Funds are provided to promote development of community-based systems of care in rural and urban areas, to improve the coordination of health and support systems, and to provide services in the most medically appropriate setting. States may also use these funds to provide needed drugs and other treatments, and to help persons eligible for private health insurance to purchase that coverage. The unique needs of children and families affected by HIV disease are recognized and addressed through comprehensive care networks designed to provide support and treatment services through the complex course of HIV disease. In addition to the formula grant program to States, there is a set-aside of funds for projects of a national significance, allowing for targeted demonstration projects to address the special needs of a variety of populations, including the minorities, the homeless, and those in prison.

1. GENERAL USE OF GRANTS

The State is directed to use amounts provided under grants made under this part among five eligible uses of funds. The Senate amends section 2541 by deleting (a)(5).

2. GRANTS TO ESTABLISH HIV CARE CONSORTIA

The State may use funds to develop HIV care consortia under section 2542. The House amends the definition of those entities eligible for assistance under this section in (a) as follows: delete the phrase "To be eligible to receive a grant under section 2541(1), an applicant shall" and insert the substitute "A State may use amounts provided under a grant awarded under this part to provide assistance under section 2612(a)(1) to an entity that—

"(1) is a consortium of one or more public, and one or more nonprofit private, health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

"(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include—"

The list of essential services in (a)(2)(B) is amended as follows: delete "legal services"; insert "advocacy services provided through public and nonprofit private entities"; to modify housing services to read "housing referral services"; and to insert prior to the phrase "nutrition services" the phrase "and services that are incidental to the provision of health care services for individuals with HIV disease including."

The House amends the Assurances in section 2542(b)(1)(A), deleting "specific" before the word "populations," and adding after HIV disease "that have been identified by the consortium"; (b)(1)(C) is amended with the following substitute "except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A)." Section 2542(c)(2) is amended by inserting after the phrase "geographic area to be served" the following phrase "and after consultation with the entities described in paragraph (2)".

Seciton 2542(e) establishing priorities in awarding grants under this section is amended with a subsitute: "In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority—

(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

(2) to any other existing HIV care consortia."

It is the managers' intent that the states use these dollars for only purposes specifically defined in this statute. However, the managers do not require that each state implement all four of the eligible programs. In addition, the state need not set up separate and distinct programs for infants, children, women, and families with HIV disease in order to satify the set-aside requirement. Rather, the state must be able to demonstrate that 15 percent of funds allocated were utilized to provide health and support services to these populations.

In developing community/based care consortia, the mangers intend to: (10 support and/or facilitate the organization of systems of care for individuals and families with HIV disease through the development of a coalition (public/private partnership) of essential service providers and community-based organizations; (2) identify gaps in service needs and develop a comprehensive continuum of services to meet those needs; (3) promote coordination and integration of community resources; (4) ensure continuity of services through effective case management; and (5) provide cost effective alternatives to hospitalization.

It is not the intent of the managers that the consortia needs to be legally incorporated but each participant should commit to contribute resources such as time, personnel, and in-kind and/or fiscal support as appropriate. It is also not the intent of the managers that the consortia itself become a primary provider of essential services but rather that it utilize the consortia to coordinate and expand existing services and then to identify remaining gaps. Once needed services are indentified, the consortia should utilize the resources made available under this section to create or reimburse such services through the consortia participant best able to accomplish the goal. This means that the funds should be channeled through the organization with the most experience with the identified population and type of service needed. In this way, the consortia does not build a new and separate system but enhances the capacity of an in place network.

The managers strongly believe that the cooperation and coordination facilitated through the development and operation of community-based consortia will improve the quality, availability, and organization of essential health and support services for individuals and families with HIV disease in urban and rural areas. It is the managers' intent to maximize the percentage of dollars used for consortia for the delivery of services that would not otherwise be available. While the managers acknowledge the importance of needs assessment and service planning, we are aware that, particularly in high incidence urban areas, considerable planning has taken place and what is desperately needed are the resources to implement essential programs. It is the managers' intent that these funds represent the long awaited service dollars.

3. GRANTS FOR HOME- AND COMMUNITY-BASED CARE

The House amends Section 2543 deleting (a)(4), and inserting as a substitute the following new subsection establishing a priority in allocation of grants under this subsection: "Priority—in awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that—(1) such entities will participate in NIV care consortia if such consortia exist within the State; and (2) such entities will utilize amounts provided under such grants for the provisions of home and community-based services to low-income individuals with HIV disease."

4. CONTINUUM OF HEALTH INSURANCE COVERAGE

The House amends Section 2544 with the addition of the following at the end of (a)(2): "or Federal government."

(b) LIMITATIONS.—Assistance shall not be utilized under subsection (a)—

(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools);

(2) to pay any amount expended by a State under title XIX of the Social Security Act; and

(3) in cases in which other public or private funds are required to be expended.

5. PROVISION OF TREATMENTS

The House amends Section 2545 by substituting the word "treatment" instead of "therapeutics" wherever it is found, and by deleting (c)(3) and inserting this substitute: "provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals, and facilitate access to treatments for such individuals."

6. PROGRAMS FOR EARLY INTERVENTION

The Senate deletes Section 2546, Programs for Early Intervention from this title.

7. STATE APPLICATION

The House amends Section 2547 delineating the requirements for a State application for funds under this title by deleting the Senate provisions at (b)(1) and thereafter, and inserting the following:

"(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

(B) an accounting of the amount of funds that the State as expended for such services and programs during the year preceding the year for which the grant is requested; and

(C) information concerning—

(i) the number of individuals to be served with assistance provided under the grant;

(ii) epidemiological and demographic data on the population of such individuals;

(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(iv) the aggregate amounts expended for each such category of services;

(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including—

(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State; and

(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

(C) an assurance by the State that—

(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

(B) the State will—

(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

(iii) provide outreach to low-income individuals with HIV disease to infomr such individuals of the services available under this part; and

(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in 2615, submit a plan to the Secretary that demonstrates that the State has established a program that assures that—

(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the state under this part;

(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

(E) the State will maintain State expenditures for health and support services for individuals with HIV disease at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, with or can reasonably be expected to be made, with respect to that item or service—

(i) under any State compensation programs, under an insurance policy, or under any Federal or State health benefits progam; or

(ii) by an entity that provides health services on a prepaid basis.

(c) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

(1) IN GENERAL.—The Secretary may not make a grant under section 2611 to a State unless the State provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

(i) will impose charges on each such individual for the provision of such services; and

(ii) will impose charges according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individual with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragrpah regarding public schedules regarding limitation on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2611 unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) WAIVER.—

(A) IN GENERAL.—The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) DETERMINATION.—A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(d) REQUIREMENT OF MATCHING FUNDS REGARDING STATE ALLOTMENTS.—

(1) IN GENERAL.—In the case of any State described in paragraph (3), the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the state in carrying out the program for which the grant was awarded, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

(B) for any second fiscal year of such payments, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

(C) for any third fiscal year of such payments, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant);

(D) for any fourth fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant); and

(E) for any subsequent fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be cash or in kind, fairly evaluated, including plant, equipment, or services and may include amounts required to be expended under subsection (b)(3)(E). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(3) APPLICABILITY OF REQUIREMENT.—

(A) A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Directors of the Centers for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

(B) PERIOD OF TIME.—The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

(C) PUERTO RICO.—For purposes of subparagraph (A), Puerto Rico shall not be considered to be a State referred to in paragraph (1).

(4) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the

ratios prescribed in paragraph (1) only with respect to the amount of funds contributed by such State.

In requiring a state match, it is the intent of the managers to build a partnership between the federal government and the states in the delivery of essential health care and support services to individuals and families with HIV disease. However, in recognition of the efforts made by states in the battle against AIDS, the managers expected that each state will apply all non-Federal HIV-related expenditures within a state toward its match requirement. This would include but not be limited to HIV related: health care and support services, prevention and education, testing and counseling, diagnostics and therapeutics, research, and all related administrative costs.

8. SPECIAL PROJECTS OF A NATIONAL SIGNIFICANCE

The House amends section 2548 by changing the word "programs" to "projects" wherever it appears; deleting (a)(1)(A); in (a)(3)(C) delete the phrase "create a structure for the" and insert the word "provide"; in (a)(3)(D) delete the phrase "create the capacity to deliver" and insert in its place "improve the provision of HIV," and delete "and Indians (both Reservation and non-Reservation based), and/or deliver"; insert the word "HIV" in (a)(3)(E) and (F) after the word "deliver"; insert the 3 following new subparagraphs as possible projects: (i) deliver an enhanced spectrum of comprehensive health care and support services to underserved hemophilia populations, including minorities and those in rural and underserved areas, utilizing established networks of hemophilia diagnostic and treatment centers and community-based outreach systems, (ii) deliver HIV health care and support services to Native American Indians with HIV disease and their families, and (iii) improve the provision of HIV health care and support services to individuals and families with HIV disease located in rural areas.

9. AMOUNT OF GRANT TO STATE

The House amends the Senate formula for allocation of grant funds in section 2548 by deleting the word "additional" before the word "cases" in (b)(2)(B)(i)(I)); by deleting "additional" before the word "cases" in (b)(2)(B)(ii). The definitions in (b)(3) are amended by the following substitute: (A) the term "State" means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and (B) the term "territory of the United States" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

Section 2548(c)(1) is amended by adding the phrase "and confirmed by" following "cases reported to," and by deleting the phrase "including rural areas"; (c)(2) is amended by deleting the phrase "take into account which areas" and substituting the phrase "consider the unmet needs of those areas that have not"; and add a new subparagraph (c)(5) "Construction—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility".

Section 2548(d) is amended by deleting the phrases following "expenditure not later than" and inserting the substitute "(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and (B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State"; insert a new subparagraph (2) "Public Comment—Within the time period referred to in paragraph (1), the State shall invite and receive public comment concerning methods for utilizing of such amounts."

10. TECHNICAL ASSISTANCE

The House creates and inserts a new section 2619 as follows: "The Secretary may provide technical assistance in administering and coordinating the activities authorized under section 2612."

11. AUTHORIZATION OF APPROPRIATIONS

The House and Senate conferees amend section 2549 replacing the amount "$300,000,000' with "$275,000,000".

TITLE III—EARLY INTERVENTION SERVICES

House bill

The House bill establishes a new Title 26 of the Public Health Service Act, entitled "Preventive Health Services with respect to Acquired Immune Deficiency Syndrome".

Senate bill

The Senate bill included early intervention services as an eligible use of funds under the block grants to States.

Conference agreement

The Senate recedes to the House in the establishment of a new Part in Title 26 for "Early Intervention services".

ESTABLISHMENT OF PROGRAM

House bill

Section 2601 of the House bill establishes a program of grants for the provisions of AIDS and HIV preventive health services. Two types of grants are created: an allotment program for grants to the States and a program for categorical grants to public and non-profit private entities. The purpose of these grants is to provide preventative health services. These must include pre-test and post-test counselling, testing (which includes any tests necessary to confirm the results of initial testing, as well as tests needed to diagnose the extent of immune deficiency and those needed to provide information on appropriate preventive and therapeutic measures), and the provision of appropriate preventive and therapeutic measures.

Any grantee must provide all preventive services, either directly or through agreements with other entities. Optional services that may be covered with grant funds include appropriate outreach activities, case management in the provision of coordinated health care services, and assistance in obtaining other health, mental health, and social and support services.

Health care services funded by these grants must be provided by entities that have entered into a participating agreement with the State Medicaid plan and are qualified to receive payments under such plan. This requirement may be waived by the Secretary in the case of an entity that is performing services for a grantee if that entity does not impose charges or accept reimbursement for the provision of health care services.

This bill requires that States, as a condition of receiving these grants, must provide matching funds. In the first year, States must provide $1 for each $5 of Federal funds, increasing to $1 for each $1 of Federal funds in the fifth year.

Eligible grantees for the categorical grants include sexually transmitted disease clinics, tuberculosis clinics, community and migrant health centers, programs for health care to the homeless, family planning clinics, drug abuse clinics, hospital outpatient clinics, AIDS health service clinics or alternate test sites, and comprehensive hemophilia diagnostic and treatment centers. In making categorical grants, the Secretary is to give preference to areas with increasing numbers of cases of AIDS or HIV, if this date is available.

Senate bill

No provision.

Conference agreement

The agreement includes the House provision with amendments. Funds for States are separated from those for a limited group of categorical grantees. The matching requirement is limited to those States with 1% or more of AIDS cases and goes only to $1 to $2.

REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY

House bill

Section 2602 of the House bill requires that States receiving grants agree to maintain confidentially all information regarding the receipt of all preventive health services (i.e., counselling, testing, diagnostic, and therapeutics) in such State in a manner not inconsistent with any applicable local, State or Federal law. Categorical grantees must agree to maintain confidentially information regarding the receipt of preventive health services received pursuant to this grant in a manner not inconsistent with applicable law.

The House bill also establishes requirements that applicants for grants will test an individual only after obtaining a written statement that the individual has received pre-test counselling and that the individual is undergoing such testing voluntarily.

Senate bill

No provision.

Conference agreement

The Senate recedes. The managers adopt the provisions of the House report regarding this provision.

REQUIREMENT OF PROVISIONS OF CERTAIN COUNSELLING SERVICES

House bill

Section 2603 of the House bill requires that all grantees provide pre-test counselling that includes counselling regarding prevention, the accuracy of the test, the significance of the results, appropriate follow-up testing, encouragement of appropriate testing, the benefits (including Early Intervention) of such testing, confidentiality, and discrimination protections.

Grantees are required to provide post-test counselling to persons who test negative regarding prevention, the accuracy of the test and the significance of the results, and the appropriateness of further follow-up services. Post-test counselling to persons who test positive should include prevention, the accuracy of the test and the significance of the results, and the appropriateness of further follow-up services, the availability of AIDS and HIV preventive health services through the grantee, the availability in the area of other appropriate health and mental health care and social and support services (and appropriate referrals), the benefits of locating and counselling any partners, and the availability of public health services to perform such location and counselling.

All individuals (including women, children, and hemophiliacs) are to be provided opportunities for counselling services appropriate to their need. The Secretary may not prohibit grantees from providing counselling alone.

The Secretary is prohibited from making a grant to a State unless the state agrees to provide opportunities for emergency response employees to receive appropriate counselling.

Senate bill

No provision.

Conference agreement

The Senate recedes. The managers adopt the provisions of the House report regarding this provision.

APPLICABILITY OF REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELLING

House bill

Section 2604 provides that the Secretary may not make a grant unless the grantee agrees that all counselling and testing services for AIDS performed by the grantee will be performed in compliance with the confidentiality, informed consent, and counselling requirements of this bill.

Senate bill

No provision.

Conference agreement

The Senate recedes. The managers adopt the provisions of the House report regarding this provision.

REQUIREMENTS OF OFFERING AND ENCOURAGING EARLY INTERVENTION HEALTH SERVICES

House bill.

Section 2605 provides that certain grantees offer and encourage preventive health services as a regular practice in providing other health care. Such preventive health services are to be given only on a voluntary basis. This requirement is explicitly limited to the sufficiency of funds available for this purpose. Grantees that are health care providers to pregnant women are also required to make referrals to any demonstration projects in the area that are grantees for research and services for pediatric AIDS patients.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment.

GRANTS FOR HOSPITALS REGARDING OFFERING, ENCOURAGING, AND PROVIDING EARLY INTERVENTION HEALTH SERVICES

House bill

Section 2606 of the House bill establishes a distinct program to make grants to certain public and nonprofit private hospitals for the purpose of offering, encouraging the use of, and providing preventive health services to inpatients of the hospitals. Hospitals eligible to receive this support are those institutions that have, in the previous year for which data are available, admitted 250 AIDS patients or, alternatively, a number equal to at least 20 percent of its patients.

Grantees under this section must agree to offer, encourage the use of, and provide preventive health services to all inpatients between the ages of 15 and 50 and to any other inpatient for whom the hospital determines such services are medically appropriate. The requirement of offering and encouragement of preventive health services is explicitly limited to the sufficiency of the grant funds available for this purpose.

Funds made available under this section are only for the provision of preventive services to inpatients. When patients are discharged, grantees are to provide an appropriate referral for outpatient services. Grantees are to make reports to the Secretary of statistical and epidemiological information, and are to abide by requirements for the provision of services, informed consent, confidentiality, and application form.

For the provision of services under this section there are authorized to be appropriated such sums as necessary for FY 1991 through 1995.

Senate bill

No provision.

Conference agreement

The Conference agreement incorporates the House provisions as part of the general grant to States, allowing States to use up to 5% of their allotments for the provision of early intervention services in inpatient settings.

REQUIREMENTS FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS

House bill

Section 2607 provides that the Secretary may not make a grant under Section 2601 to a State unless the State provides assurances that it will encourage the population of individuals in the State that received transfusions of whole blood or blood-clotting factors between certain dates to receive preventive health services, and that the State will inform this population of public health facilities in the area that provide such services.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment.

REQUIREMENT FOR STATE GRANTEES OF REPORTING AND PARTNER NOTIFICATION WITH RESPECT TO CASES OF INFECTION

House bill

Section 2608 of the House bill prohibits the Secretary from making a grant to a State unless the State provides assurances that it will require that any entity performing testing services within the State report data to the chief State public health officer sufficient to perform statistical and epidemiological analyses of the epidemic in the State.

This section of the bill also prohibits the Secretary from making a grant to a State unless the State provides assurances that it will require that the chief State public health officer, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding infection with HIV.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment. The managers adopt for the purposes of this section, the Houses report regarding these provisions. The managers have included a provision that an agreement made under this section may not be construed to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State. As explained in the House report, the managers believe that it is important to leave to the States the complex decision as to whether to require identifying information based on the State's assessment of whether gathering such information will discourage individuals from volunteering for counseling, testing, and early intervention services. Thus, for example, the requirement that an entity report to the State public health officer information sufficient to assess the adequacy of early intervention services in the State may not be construed to require a State to mandate that identifying information concerning individuals with HIV disease be submitted to the State.

REQUIREMENT FOR STATE GRANTEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS WITH RESPECT TO KNOWING TRANSMISSION

House bill

Section 2609 prohibits the Secretary from making a grant to a State unless it provides assurances that knowing or intentional exposure of another to HIV is civilly and criminally actionable. An exception is provided to make these requirements inapplicable in instances in which the individual exposed provides consent to the exposure.

The Secretary may not require a State to enact a statute or regulation to meet these requirements if the Governor of the State certifies that the law of the State is in substantial compliance with the requirements of this section.

Senate bill

The Senate bill includes a provision regarding the donation of infected blood, semen, or breast milk.

Conference agreement

The conference agreement includes both provisions, with amendments.

The agreement prohibits the Secretary from making a grant to a State unless the chief executive officer of the State certifies that the criminal laws of the State are adequate to prosecute an HIV-infected individual who intentionally exposes another to HIV. Such exposure may occur through the donation of blood, semen or breast milk, through engaging in sexual activity, or through using a hypodermic needle and subsequently providing that needle to another for purposes of hypodermic injection. In each case, the individual must be infected with HIV, must know that he or she is infected, must intend that the activity that he or she is engaging in may expose that other individual to HIV through such activity.

The agreement makes clear that the required state laws need not apply in instances in which the individual exposed provides consent to the activities described in section 2609(a), with the understanding that the individual could thereby be exposed to HIV. In addition, the Conferees do not intend that conception or pregnancy or other means of transmission from mother to child be construed as a "donation" that is subject to criminal action.

The agreement makes clear that the existence of a criminal law of general application, which the chief executive officer determines can be applied to the prescribed conduct, is sufficient for compliance with this section. The Conferees recognize that many, if not all, States already have specific or general statutes, regulations or common law that meet the requirements of this Section. The Conferees do not intend that States that have general criminal laws that could be applied to intentional transmission of HIV be required to reenact or restate those provisions specifically with regard to HIV transmission in order to qualify for funds. If a Governor of a State certifies to the Secretary that he or she believes that the exist-

ing criminal laws of the State are adequate to prosecute an individual for intentional transmission of HIV, the Secretary may not require the Governor to act further. The statutory language makes this provision clear, and the Conferees believe it is important to emphasize this provision in order to reassure States that this Section does not require them to enact unnecessarily specific laws regarding HIV transmission.

Section 2609(d) provides for time limitations on the requirements of 2609(a) to allow States that do not already have laws or regulations of specific or general applicability which meet the requirements of the section a specified time period in which to meet these requirements. As noted above, the Conferees recognize that most, if not all, states already have the requisite criminal laws that can be applied to intentional HIV transmission.

GRANTS FOR STATES REGARDING MANDATORY TESTING AND OTHER EARLY INTERVENTION SERVICES FOR INDIVIDUALS SENTENCED TO CERTAIN STATE PRISONS

House bill

Section 2610 of the House bill establishes a district program to make grants to States for the purpose of mandatory testing and the provision of preventive health services to certain prisons. Prisons in which such programs are to be conducted are those in which the chief State public health officer and the chief State correctional officer have determined that such preventive health services are appropriate for the public health and safety. In making this determination, the officers are to consider the number of HIV infections and the HIV infection rate in areas in which the prison inmates resided before incarceration, the extent of risk activities in such areas, and the extent to which medical examination of the inmates indicates risk.

Grantees under this section must agree to require testing for infection of all inmates upon entering the State system and within 30 days of release from the system. Consent requirements are not applicable to such testing, although all inmates are to be informed that testing is being conducted and are to be counselled before and after testing. Other preventive health services (such as diagnostic and Early Intervention therapeutics) must also be provided to those inmates whose tests results indicate that such services are medically appropriate.

Provisions are made to inform the employees of the penal system of the results of such testing if the employee has a reasonable basis for believing that he or she has been exposed to HIV. Similarly, provision is made to inform the spouse of an inmate upon request before conjugal visits and within 30 days of the inmate's release. With these exceptions, the State is required to maintain test results confidentially and to make disclosures only as medically necessary.

There are authorized to be appropriated such sums as necessary to carry out these programs. States receiving grants under this section are required to provide matching funds at the rate of $1 for every $3 of Federal funds in the first year, increasing to $1 for every $1 in the third and all subsequent years.

Senate bill

The Senate bill included a reauthorization of the existing authorization of prison testing.

Conference agreement

The Conference agreement includes provisions included in both bills.

ADDITIONAL REQUIRED AGREEMENTS

House bill

Section 2611 of the House bill provides for a number of additional requirements for applicants for grants under this title.

The bill requires that these funds be used to supplement—not supplant—other non-Federal funds for these purposes. Applicants must provide to the Secretary sufficient information to give some measure of services against which a maintenance of effort requirement might be judged. Applicants must also agree to submit to the Secretary a report on the implementation of the program of preventive health services.

To the extent permitted under State law, applicants must offer substantial opportunities for an individual to be counselled and tested anonymously or through the use of a pseudonym.

The Secretary is prohibited from making a grant unless the applicant agrees that will not condition the provision of other health care services to an individual on the individual's agreement to be tested unless such testing is medically indicated for the services requested.

Applicants for grants must agree that charges will be made according to a publicly available schedule, and that such charges will be adjusted to reflect the income of the individual seeking services, and that no charge will be imposed on any individual below the poverty level. Applicants must agree to seek any available payments from other third-party payors.

Applicants must establish fiscal controls, and no more than 10 percent of the grant may be spent for administrative expenses.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment.

REQUIREMENTS OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES

House bill

Section 2611 establishes application requirements for grants under this part.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment.

DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES

House bill

Section 2313 of the House bill establishes the formula for allotments for grants to States. The formula is based on the number of cases of AIDS in the State in the preceding tear, with a minimum allotment of $100,000 per State and $50,000 per Territory. Provision is also made for the redistribution of any undistributed funds.

Senate bill

No provision.

Conference agreement

The Conference agreement includes a revision of the House bill's formula to provide for a limited "hold-harmless provision." Ten percent of allotted funds is to be used by the Secretary to assist States which suffer an interruption of existing programs or service delivery and to assist States which have reported 1% or more of all AIDS cases confirmed by the CDC in all States to respond to a growing need for services.

PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS

House bill

Section 2614 authorized the Secretary to provide supplies and services to a grantee at its request in lieu of providing grant funds.

Senate bill

No provision.

Conference agreement

The Senate recedes.

EVALUATIONS AND REPORTS

House bill

Section 2615 of the House bill requires that the Secretary conduct or support evaluations of programs carried out with grants under this Part and report on such evaluations to the Congress. Such report should include an assessment of outcomes of risk reduction and behavior change as a result of receiving preventive health services, as well as the adequacy of counselling, follow-up, and social and support services. Funding for these evaluations is provided.

In addition, this Section provides for a study of partner notification programs to determine the extent to which notified partners undergo counselling and testing, the extent to which these partners are subsequently found to be infected, and the extent to which these partners change risk behaviour with respect to HIV. The Secretary is to report to Congress within one year of appropriations being made.

Senate bill

No provision.

Conference agreement

The Conference agreement includes evaluation provisions for all programs at the conclusion of the agreement.

FUNDING

House bill

Section 2616 authorizes $400 million a year for FY 1991 through 1995 for grants under this Part. Half of the appropriated funds are to be used for allotments to States and half are to be used for categorical grants.

This section also specifies the use of funds for counselling.

Senate bill

No provision.

Conference agreement

The Senate recedes with an amendment. Funding for States is authorized to be $305 million in FY 1991 and such sums as necessary in the four following fiscal years. Funding for categorical agencies is authorized to be $75 million in FY 1991 and such sums as necessary in the four following fiscal years.

The managers adopt the provisions of the House Report regarding the use of funds.

TITLE IV—MISCELLANEOUS PROVISIONS

GENERAL PROVISIONS

PROVISIONS RELATING TO BLOOD BANKS

House bill

No provision.

Senate bill

Section 504 of the Senate bill authorizes an additional 150 full-time equivalent positions to the FDA to be used for the inspection of blood banks and producers of blood products.

There is authorized an appropriation of $1.5 million to carry out this activity in FY

1991, and such sums as necessary through FY 1995.

Conference agreement

The Conference agreement includes the Senate provision with an amendment. Under the agreement, the Secretary shall develop and make available to personnel at blood banks and facilities that produce blood products materials and information on diagnostic, testing and quality assurance procedures relating to the safety of the blood supply and of blood products. The Secretary is also required to develop and implement a training program to help increase the number of HHS employees who are qualified to conduct inspections of blood banks and facilities that produce blood products. The agreement includes the funding levels provided in the Senate bill.

RESEARCH, EVALUATION, AND ASSESSMENT PROGRAM

House bill

No provision.

Senate bill

The Senate bill provided that the Secretary, acting through the Agency for Health Care Policy and Research, establish a program of research to develop (i) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering AIDS and HIV health care, mental health, early intervention, and support services; (ii) a review of major health services financing mechanisms; (iii) an assessment of how point-of-entry procedures for obtaining HIV health care impacts the cost, quality, and outcome and how these are related to source of payment; (iv) a comprehensive report of the barriers that limit the delivery of high quality care to individuals and families with HIV disease, with special focus on the disadvantaged; (v) a summary report of the unmet needs in health care, mental health, early intervention, and support services for individuals and families with HIV disease: and (vi) a review and assessment of models for the delivery of health and support services to infants, women, and families with HIV disease.

These reports are due to the Committee of jurisdiction not later than 2 years after the date of enactment of this Act.

Conference agreement

The House receded to the Senate with an amendment.

EVALUATIONS AND REPORTS

The House receded the Senate with an amendment deleting (iv) and (vi) as described above and clarifying the intent of other studies.

STUDY REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME IN RURAL AREAS

House bill

Section 601 requires the Secretary, after consultation with the Director of the Office of Rural Health Policy, to conduct a study to estimate the incidence and prevalence in rural areas of cases of AIDS and infection with HIV. The study is also to assess the adequacy of services for diagnosing and treating such cases in these areas. The Secretary is to report on the study within one year of enactment.

Senate bill

No provision.

Conference agreement

The Senate recedes to House provision.

DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME

House bill

Section 403 establishes a new program of demonstration grants for the purpose of developing therapeutic drugs and providing services to pediatric AIDS patients. The Secretary, acting through the Administrator of HRSA and the Director of NIH is authorized to make grants to community health centers and other public and private non-profit primary care providers serving a significant number of HIV-infected pediatric or pregnant patients.

These grants are for the purpose of conducting clinical research on therapies for pediatric HIV patients and providing outreach health care for such patients and their families. In addition, grants are to be used to provide necessary ancillary services such as cases management; referrals for hospital, drug abuse, mental health and other social and support services; and such transportation, child care, and other services as may be necessary to enable the patients and their families to participate in the program.

Grantees are to establish cooperative agreements with entities that have expertise in biomedical research. Such entities are to assist the grantee in the design and conduct of the protocol for the research on drugs for the treatment of pediatric AIDS or HIV. Such entities are to provide data produced from such protocols to the NIH for analysis.

Senate bill

The Senate bill contains no similar provision.

Conference agreement

The Senate recedes.

SUBTITLE B—EMERGENCY RESPONSE EMPLOYEES

House bill

The House bill establishes a new Part C of Title 26 of the Public Health Service Act, entitled "Emergency Response Employees". There are two subparts to this Part: Subpart I is entitled "Guidelines and Model Curriculum"; Subpart II is entitled "Notifications of Possible Exposure regarding Acquired Immune Deficiency Syndrome and Other Infectious Diseases".

The House bill authorized the Secretary to make grants to State and local governments to assist in the implementation of guidelines and model curricula for emergency response employees developed under Section 253 of P.L. 100-607. There are authorized to be appropriated $5 million a year for FY 1991 through 1995 for this purpose.

The House bill establishes a system of notifications of emergency response employees who may have been exposed to an infectious disease. Each chief State public health officer is to designate one official of each emergency response employer as the officer to receive notifications of potential occupational exposures to infectious diseases. If an emergency patient is determined by the admitting hospital to have an infectious disease, the hospital is to notify the designated officer of the emergency response unit that transported the patient to the hospital. Alternatively, if the designated officer of an emergency response unit that served a patient who was transmitted to a hospital determines (in accordance with guidelines issued by the Secretary) that an employee may have been occupationally exposed to a risk of infection, the designated officer may request that the hospital notify him or her of any diagnosis of an infectious disease. If such an officer requests notification, the hospital is to notify the officer of any determination that the patient served by the unit has an infectious disease.

Having received a notification from a hospital, if the designated officer determines (in accordance with guidelines issued by the Secretary) that an employee may have been occupationally exposed to a risk of infection, the officer is to notify the emergency response employee of his or her potential exposure and of any actions indicated as medically appropriate.

The House bill requires the Secretary to establish an administrative process to expedite the receipt of information to the Secretary regarding violations of the notification provisions and to investigate such allegations and seek appropriate injunctive relief.

Senate bill

No provision.

Conference agreement

The Senate recedes to the House with an amendment limiting the application of routine notification and providing for a certification procedure for States with similar laws already in place.

In those instances in which notification is deemed appropriate pursuant to the guidelines, the managers intend that the identity of any victim known to the health care facility to have an infectious disease be kept confidential. It is the belief of the managers' that the best interests of emergency response workers will be served through programs of education and outreach that emphasize the need to utilize universal barrier precautions as a protection against blood borne infectious diseases.

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,
NORMAN F. LENT,
EDWARD MADIGAN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD METZENBAUM,
CHRISTOPHER DODD,
ORRIN G. HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of medical reasons.

Mrs. ROUKEMA (at the request of Mr. MICHEL), for today after 4 p.m., on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. MFUME, for 60 minutes, today.

Mr. MFUME, for 60 minutes, on August 1, 2, and 3.

Mr. FALEOMAVAEGA, for 60 minutes, on August 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. LOWEY of New York, immediately prior to the quorum call and vote on the Vento amendment to H.R. 1180 in the Committee of the Whole today.

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. BALLENGER.

Mr. MCEWEN.

Mr. BROOMFIELD.

Mr. PORTER.

Ms. ROS-LEHTINEN in five instances.

Mr. RHODES in two instances.

Mr. BUNNING.

Mrs. BENTLEY.

Mr. DREIER of California.

Mr. LIVINGSTON.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. ROE.

Mr. TORRES in two instances.

Mr. YATRON.

Mr. BILBRAY.

Mr. TRAFICANT.

Mr. WYDEN.

Mr. SOLARZ.

Mr. LEHMAN of California.

Mr. HOYER.

Mr. NELSON of Florida.

Mr. ROSTENKOWSKI.

Mr. MATSUI.

Mr. SKELTON.

Mr. GRAY.

Ms. SLAUGHTER of New York.

Mr. BRUCE.

Mr. BONIOR.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 727. An act to amend the Animal Welfare Act to provide protection to animal research facilities from illegal acts; to the Committee on Agriculture.

S. 2737. An act to require the Secretary of the Treasury, to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served; to the Committee on Banking, Finance and Urban Affairs.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which were thereupon signed by the Speaker:

H.R. 4872. An act to establish the National Advisory Council on the Public Service.

ADJOURNMENT

Mr. LANTOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 1, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Submitted July 31, 1990]

3650. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil; to the Committee on Foreign Affairs.

[Omitted from the Record of July 10, 1990]

3651. A letter from the Secretary of Energy, transmitting a comprehensive report on a project negotiated under the Department's Clean Coal Technology [CCT] Demonstration Program entitled, "Advanced Coal Conversion Process Demonstration"; jointly, to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

3652. A letter from the Secretary of Energy, transmitting a comprehensive report on a project negotiated under the Department's [DOE] Clean Coal Technology Demonstration Program entitled, "180 MWe Demonstration of Advanced Tangentially-Fired Combustion Techniques for the Reduction of Nitrogen Oxide [NO_x] Emissions from Coal-Fired Boilers"; jointly to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 4000. A bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes; with an amendment (Rept. 101-644, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. H. Res. 444. A resolution providing for the further consideration of H.R. 3950, entitled the "Food and Agricultural Resources Act of 1990" (Rept. 101-651). Referred to the House calendar.

Mr. DINGELL: Committee of Conference. Conference report in S. 2240 (Report 101-652). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BENTLEY (for herself, Mr. DYMALLY, Mrs. BYRON, Mr. MILLER of Washington, Mrs. SAIKI, Mr. WOLF, Ms. PELOSI, Mr. BLAZ, Mr. DORNAN of California, Mr. SCHEUER, Mr. LIVINGSTON, Mr. ROHRABACHER, Mr. WALSH, Mr. ROBINSON, and Ms. ROS-LEHTINEN):

H.R. 5413. A bill to establish radio broadcasts to the peoples of Asia; to the Committee on Foreign Affairs.

By Mr. COURTER:

H.R. 5414. A bill to permit the inclusion of appropriate fire safety features in housing for elderly and handicapped families under section 202 of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSTENKOWSKI:

H.R. 5415. A bill to simplify the Internal Revenue Code of 1986 by eliminating expired or obsolete provisions; to the Committee on Ways and Means.

By Mr. JACOBS (for himself and Mr. BROWN of Colorado):

H.R. 5416. A bill to nullify the pay raises provided by the Ethics Reform Act of 1989 for Members of Congress, the Judiciary, and senior Government officials, and to provide that the current method for making annual adjustments in rates of pay for those officials remains in effect; jointly, to the Committees on Post Office and Civil Service, the Judiciary, House Administration, and Ways and Means.

By Mr. LIGHTFOOT:

H.R. 5417. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for the purchase and installation of mode C equipment for transponders used in aircraft, and to require a study of such equipment by the Federal Aviation Administration; jointly, to the Committees on Ways and Means and Public Works and Transportation.

By Mr. MCEWEN:

H.R. 5418. A bill to amend chapter 83 of title 5, United States Code, to provide that a reduction in an annuity being made in order to provide survivor benefits for a spouse may be terminated if, due to a terminal illness, the spouse is not likely to survive the annuitant; to the Committee on Post Office and Civil Service.

By Mr. NIELSON of Utah (for himself, Mr. HANSEN, Mr. OWENS of Utah, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. BOSCO, and Mr. PETRI):

H.R. 5419. A bill to designate the Federal Building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building"; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah:

H.R. 5420. A bill to establish the Office of Defense Adjustment to provide Federal assistance for economic adjustment in areas affected by the termination of a major defense contract, and for other purposes; jointly, to the Committees on Education and Labor, Armed Services, and Ways and Means.

By Mr. STARK:

H.R. 5421. A bill to amend the Internal Revenue Code of 1986 to extend the credit for clinical testing expenses for certain

drugs for rare diseases or conditions, to impose a windfall profit tax on such drugs if they become excessively profitable, and for other purposes; to the Committee on Ways and Means.

By Mr. DORNAN of California:

H. Res. 445. Resolution expressing the sense of the House of Representatives regarding United States goals with respect to Lebanon; to the Committee on Foreign Affairs.

By Mr. HALL of Ohio (for himself, Mr. EMERSON, Mr. DORGAN of North Dakota, Mr. BEREUTER, Mr. MCCURDY, Mr. DELLUMS, Mr. STENHOLM, Mr. MOODY, Mr. CARR, Mr. HERGER, Mr. PENNY, Mr. SMITH of New Jersey, Mr. ACKERMAN, Mr. ESPY, Mr. FLAKE, Mr. MCNULTY, Mr. FALEOMAVAEGA, Mr. AUCOIN, Mr. WHEAT, Mr. COOPER, Mr. SPRATT, and Mr. SMITH of Florida):

H. Res. 446. Resolution expressing the sense of the House of Representatives that the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola should put humanitarian needs above military goals in their conflict and allow famine relief assistance to be delivered through corridors of safe passage to areas of Angola threatened by famine; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 446: Mr. MACHTLEY, Mr. OXLEY, Mr. NAGLE, Mr. LEHMAN of California, Mr. CHAPMAN, Mr. HOPKINS, and Mr. PASHAYAN.

H.R. 595: Mr. ROWLAND of Georgia, Mr. MRAZEK, Mr. KOLTER, Mr. SARPALIUS, Mr. ROWLAND of Connecticut, Mr. MADIGAN, Mr. RITTER, Mr. HORTON, and Mr. JOHNSTON of Florida.

H.R. 917: Mr. APPLEGATE, Ms. MOLINARI, Mrs. VUCANOVICH, Mr. ERDREICH, and Mr. HOAGLAND.

H.R. 1069: Mr. ACKERMAN and Mrs. ROUKEMA.

H.R. 1095: Mr. OWENS of Utah.

H.R. 1127: Mr. UPTON.

H.R. 1676: Mr. TORRES, Mr. SHAW, Mr. GILMAN, and Mr. STOKES.

H.R. 1691: Mr. WEISS.

H.R. 2254: Mr. JACOBS.

H.R. 2386: Mrs. MEYERS of Kansas.

H.R. 2460: Mr. DELLUMS and Mr. SERRANO.

H.R. 2647: Mr. SHAYS.

H.R. 3158: Mr. COURTER, Mr. MATSUI, and Mr. OBERSTAR.

H.R. 3200: Mr. FORD of Tennessee, Ms. OAKAR, Mr. MANTON, and Mr. WELDON.

H.R. 3243: Mr. PALLONE, Mr. BARNARD, Mr. PAYNE of Virginia, Mr. MCDADE, Mr. CLEMENT, Mr. SUNDQUIST, and Mr. DUNCAN.

H.R. 3498: Mr. GALLEGLY.

H.R. 3690: Mr. HERGER.

H.R. 3899: Mr. EMERSON.

H.R. 4052: Mrs. KENNELLY and Mr. VANDER JAGT.

H.R. 4112: Mr. NIELSON of Utah, Mr. MANTON, Mr. HARRIS, Mr. BOUCHER, Mr. HUCKABY, Mr. FROST, and Mr. NEAL of Massachusetts.

H.R. 4424: Mr. DORNAN of California.

H.R. 4433: Mr. ROHRABACHER, Mr. GALLO, Mr. DOUGLAS, Mr. SAXTON, Mr. WALSH, Mr. LEWIS of California, Mr. BUECHNER, Mr. WALKER, Mr. HANCOCK, Mr. MCGRATH, Mr. WEBER, and Mr. WELDON.

H.R. 4485: Mr. SMITH of Vermont.

H.R. 4516: Mr. DORNAN of California, Mr. MOLLOHAN, Mr. ENGEL, Mr. HOCHBRUECKNER, Mr. WOLPE, Mr. DWYER of New Jersey, Mr. ESPY, Mr. LEVINE of California, Mr. TAUZIN, Mr. WALSH, and Mrs. COLLINS.

H.R. 4548: Mr. DELLUMS.

H.R. 4565: Mr. UPTON.

H.R. 4627: Mr. ROE, Mr. JONTZ, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. OWENS of Utah, Mr. DARDEN, Mr. SMITH of Florida, Mr. LAGOMARSINO, Mr. LEWIS of Georgia, Mr. PICKETT, Mr. NIELSON of Utah, Mr. JACOBS, and Mr. DICKINSON.

H.R. 4715: Mrs. MARTIN of Illinois, Mr. PICKLE, Ms. SLAUGHTER of New York, Mr. DURBIN, and Mr. MARTINEZ.

H.R. 4763: Mr. DELLUMS.

H.R. 4818: Mr. COX and Mr. MCGRATH.

H.R. 4851: Mr. KOLBE.

H.R. 4904: Mr. INHOFE, Mr. KOLBE, and Mr. PARRIS.

H.R. 4948: Mr. PALLONE and Mr. BONIOR.

H.R. 4962: Mr. NATCHER, Mr. CAMPBELL of California, Mr. GILLMOR, Mr. LIGHTFOOT, Mr. DORGAN of North Dakota, Mr. SHAW, Mr. HOPKINS, and Mr. WEBER.

H.R. 4997: Mr. STENHOLM, Mr. HAMILTON, Mr. NAGLE, Mr. HUBBARD, and Mr. LANCASTER.

H.R. 5082: Mr. SMITH of Florida.

H.R. 5101: Mr. HUTTO.

H.R. 5123: Mr. COYNE.

H.R. 5203: Mrs. MEYERS of Kansas.

H.R. 5221: Mr. STUMP.

H.R. 5259: Mr. YATRON, Mr. MORRISON of Connecticut, Mr. FRANK, Mr. WALSH, and Mr. LANCASTER.

H.R. 5284: Mr. RITTER, Mrs. MEYERS of Kansas, and Mr. PETRI.

H.R. 5299: Mr. RANGEL, Mr. HERGER, Mr. GEREN, Mrs. MARTIN of Illinois, Mr. OXLEY, and Mr. WALSH.

H.R. 5315: Mr. HAMMERSCHMIDT, Mr. NOWAK, Mr. RAHALL, Mr. APPLEGATE, Mr. DE LUGO, Mr. SAVAGE, Mr. BOSCO, Mr. VALENTINE, Mr. LIPINSKI, Mr. TRAFICANT, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. HAYES of Louisiana, Mr. CLEMENT, Mr. PAYNE of Virginia, Mr. PALLONE, Mr. JONES of Georgia, Mr. PARKER, Mr. LAUGHLIN, Mr. SANGMEISTER, Mr. ACKERMAN, Mr. CLINGER, Mr. MCEWEN, Mr. PACKARD, Mr. BOEHLERT, Mr. INHOFE, Mr. BALLENGER, Mr. EMERSON, Mr. CRAIG, Mr. HANCOCK, Mrs. BOXER, Mr. KLECZKA, Mr. POSHARD, Mr. MCCANDLESS, and Mr. SCHIFF.

H.R. 5328: Mrs. MEYERS of Kansas, Mr. WALSH, Mr. HORTON, and Mr. EVANS.

H.R. 5352: Mr. VANDER JAGT and Mr. SUNDQUIST.

H.R. 5356: Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. FAUNTROY, and Mr. MORRISON of Connecticut.

H.R. 5359: Mr. OBERSTAR, Mr. DEFAZIO, Mr. SERRANO, Mr. BUSTAMANTE, Mrs. BOXER, and Mr. WEISS.

H.R. 5361: Mr. KOLTER.

H.R. 5377: Mr. LIPINSKI, Mr. DUNCAN, Mr. ROYBAL, Mr. STENHOLM, and Mr. WYDEN.

H.R. 5401: Mr. MAZZOLI, Mr. HUGHES, Mr. SYNAR, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. STAGGERS, Mr. BRYANT, Mr. LEVINE of California, Mr. SANGMEISTER, Mr. MOORHEAD, Mr. HYDE, Mr. DEWINE, Mr. SMITH of Texas, Mr. DOUGLAS, Mr. BONIOR, Ms. OAKAR, Mr. EDWARDS of California, Mr. HUBBARD, Mr. KASTENMEIER, Mr. SMITH of Vermont, Mr. ANNUNZIO, and Mr. BARNARD.

H.R. 5410: Mr. CLAY.

H.J. Res. 439: Mr. YOUNG of Florida,

H.J. Res. 459: Mr. LEHMAN of Florida, Mr. DONNELLY, Ms. KAPTUR, Mr. BARTLETT, Mr. SHAYS, Mr. TALLON, Mrs. SAIKI, Mr. BUECHNER, Mr. HATCHER, Mr. HOUGHTON, Mr. HALL of Ohio, Mr. BATEMAN, Mr. DERRICK, Mr. ROWLAND of Connecticut, Mr. SPRATT, Mr. BILBRAY, Mr. BOUCHER, Mr. BROWN of Colorado, Mr. CAMPBELL of Colorado, Mr. CLAY, Mr. DELLUMS, Mr. ECKART, Mr. ENGEL, Mr. EVANS, Mr. HERTEL, Mr. MINETA, Mr. ORTIZ, Mr. PALLONE, Mrs. PATTERSON, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. SIKORSKI, Mr. STALLINGS, Mr. TANNER, Mr. TAYLOR, Mr. TORRES, Mr. WATKINS, Mr. ROHRABACHER, Mr. ROSE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDERSON, Mr. AUCOIN, Mr. BEILENSON, Mr. BENNETT, Mr. CLINGER, Mr. DOWNEY, Mr. DREIER of California, Mr. FORD of Michigan, Mr. GAYDOS, Mr. HENRY, Mr. LEHMAN of California, Mr. MCHUGH, Mr. RIDGE, Mr. SWIFT, Mr. VISCLOSKY, and Mr. WELDON.

H.J. Res. 468: Mr. RINALDO, Mr. GALLO, Mr. EMERSON, Mr. DIXON, Mr. BOSCO, Mr. ANDERSON, Mr. BERMAN, Mr. MURPHY, Mr. PAXON, Mr. HUTTO, Mr. HOUGHTON, Mr. OXLEY, Mrs. PATTERSON, Mr. ROBINSON, Mr. SAXTON, Mr. SCHIFF, Mr. SCHUMER, Mr. SOLOMON, Mr. SPRATT, Mr. STAGGERS, Mr. STARK, Mr. WALSH, Mr. WOLPE, Mr. YATRON, Mr. PURSELL, Mr. SANGMEISTER, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. AUCOIN, Mr. BATEMAN, Mr. BENNETT, Mr. BONIOR, Mr. BOUCHER, Mr. BROWN of Colorado, Mr. CARDIN, Mr. CLARKE, Mr. COLEMAN of Texas, Mr. CONTE, Mr. COSTELLO, Mr. CRAIG, Mr. DOUGLAS, Mr. GRAY, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HOYER, Mr. HUBBARD, Mr. KASTENMEIER, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MRAZEK, Mr. ALEXANDER, Mr. BEVILL, Mrs. BOXER, Mrs. BYRON, Mr. CARPER, Mr. CARR, Mr. CONDIT, Mr. VISCLOSKY, Mr. DORNAN of California, Mr. DURBIN, Mr. DYMALLY, Mr. DYSON, Mr. EDWARDS of California, Mr. FLAKE, Mr. FRANK, Mr. WEISS, Mr. FORD of Michigan, Mr. GIBBONS, Mr. GILMAN, Mr. HOAGLAND, Mr. HOCHBRUECKNER, Mr. JONTZ, Mr. KANJORSKI, Mr. WELDON, Mr. KOSTMAYER, Ms. LONG, Mrs. LOWEY of New York, Mr. MINETA, Ms. PELOSI, Mr. NOWAK, Mr. OBERSTAR, Mr. WILSON, Mr. PERKINS, Mr. RICHARDSON, Mr. RUSSO, Mr. SIKORSKI, Mr. SMITH of New Jersey, Mr. TORRICELLI, Mrs. UNSOELD, Mr. MATSUI, Mr. THOMAS A. LUKEN, Mr. BATES, Mr. LEATH of Texas, Mr. LANTOS, Mr. COOPER, Mr. ORTIZ, Mr. SAWYER, Mr. DARDEN, Mr. HAMILTON, Mr. SISISKY, Mr. RANGEL, Mr. NEAL of North Carolina, Mr. MILLER of California, Mr. HILER, Mr. CLAY, Mr. SABO, Mr. STOKES, Mr. BROOKS, Mr. MOLLOHAN, Mr. VENTO, Mr. MAVROULES, Mr. SHARP, Mr. MANTON, Mr. HUCKABY, Mr. LAUGHLIN, Mr. PANETA, and Mr. BARNARD.

H.J. Res. 476: Mr. BROOKS, Mr. COLEMAN of Missouri, Mr. HAYES of Louisiana, Mr. DONALD E. LUKENS, Mr. MRAZEK, Mr. RIDGE, Mr. SCHULZE, Mr. SERRANO, and Mr. SPRATT.

H.J. Res. 509: Mr. FRENZEL, Mr. BROWN of California, Mr. MAZZOLI, and Mr. LANCASTER.

H.J. Res. 519: Mr. UDALL, Mr. GEPHARDT, Mr. SABO, Mr. MRAZEK, Mr. CRAIG, Mr. DOWNEY, Mr. GOSS, Mr. DYSON, Mr. HOPKINS, Mr. DREIER of California, Mr. LIVINGSTON, Mr. LEACH of Iowa, Mr. CHANDLER, Mr. LENT, Mr. BURTON of Indiana, Mr. PICKETT, Mr. MOLLOHAN, Mr. SMITH of Iowa, Mr. REGULA, Mr. ROSE, Mr. GOODLING, Mr. GRADISON, Mr. SHAYS, Mr. BRUCE, Mr. RUSSO, Mrs. SMITH of Nebraska, Mr. WELDON, Mr. TAYLOR, Mr. LAFALCE, Mr. GUNDERSON, Mr. ERDREICH, Mr. JENKINS, Mr. DARDEN, Mr. RITTER, Mr. VOLKMER, Mr. SHARP, Mr. NEAL of Massachusetts, Mr. ATKINS, Mr. BARNARD, Mr. BROWDER, Mr. CARR, Mr. CONDIT, Mr. DURBIN, Mr. HOYER, Mr. ALEXANDER, Mr. ANDREWS, Mr. ANTHO-

NY, Mr. BROOKS, Mr. CLAY, Mr. DORGAN of North Dakota, Mr. FRANK, Mr. GLICKMAN, Mr. GORDON, Mr. HEFNER, Mr. HOAGLAND, Mr. HUBBARD, Mr. KOSTMAYER, Ms. LONG, Mr. MARTINEZ, Mr. MAVROULES, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. PALLONE, Mr. STALLINGS, Mr. STUDDS, Mr. WATKINS, Mr. LANTOS, Mr. MCHUGH, Mrs. PATTERSON, Mr. SIKORSKI, Mr. STAGGERS, Mr. CALLAHAN, Mr. MORRISON of Washington, and Mr. LAUGHLIN.

H.J. Res. 551: Mr. WEISS, Mr. WALSH, and Mr. SHUMWAY.

H.J. Res. 552: Mr. WALSH, Mr. APPLEGATE, Mr. CALLAHAN, Mr. CONYERS, Mr. BROWN of Colorado, Mr. JONES of Georgia, Mr. DONNELLY, Mr. DOUGLAS, Mr. FAWELL, Mr. FISH, and Mr. GRANT.

H.J. Res. 557: Mr. CRAIG, Mr. TRAFICANT, Mrs. MARTIN of Illinois, Mrs. UNSOELD, Mr. ROWLAND of Connecticut, Mr. COURTER, Mr. HASTERT, Mr. DE LUGO, Mr. COLEMAN of Missouri, Mr. MOODY, Ms. SLAUGHTER of New York, Mr. SCHIFF, Mr. OLIN, Mr. NELSON of Florida, Mr. SMITH of Texas, Mr. BEVILL, Mr. CLINGER, Mr. FUSTER, Mr. DYMALLY, Mr. WAXMAN, Mr. CARR, Mr. GONZALEZ, Mr. HOYER, Mr. BLAZ, Mr. SAXTON, Mr. WYDEN, Mr. ANDERSON, Mr. DORNAN of California, Mr. MARTINEZ, Mr. PAYNE of Virginia, Mrs. MORELLA, Mr. SERRANO, Mr. MILLER of Ohio, Mr. MCEWEN, Mr. WISE, Mr. ROBERT F. SMITH, and Ms. LONG.

H.J. Res. 595: Mr. TAUKE, Mr. YOUNG of Florida, Mr. RAHALL, Mr. MCGRATH, Mr. WHITTAKER, Mr. SHAW, Mr. CLEMENT, Mr. BUNNING, Mr. HATCHER, Mr. KLECZKA, Mr. HENRY, Mr. ENGLISH, Mr. BROOMFIELD, Mr. FISH, Mr. GILMAN, Mr. HAMMERSCHMIDT, Mr. GUNDERSON, Mr. MACHTLEY, Mr. FIELDS, Mr. WOLPE, Ms. SNOWE, Mr. DONALD E. LUKENS, Mr. COLEMAN of Missouri, Mr. HOCHBRUECKNER, Mr. FUSTER, Mr. BURTON of Indiana, and Mr. PAYNE of Virginia.

H.J. Res. 603: Ms. PELOSI, Mr. LEWIS of Georgia, Mr. ANNUNZIO, Mr. JONES of Georgia, Mr. DYSON, Mr. HOCHBRUECKNER, Mr. MARTINEZ, Mr. ACKERMAN, Mr. ATKINS, Mr. BILBRAY, Mrs. BOGGS, Mr. BROWDER, Mr. BRYANT, Mr. CARR, Mr. CONDIT, Mr. DARDEN, Mr. DELLUMS, Mr. GLICKMAN, Mr. GOSS, Mr. HERGER, Mr. HERTEL, Mr. HUBBARD, Mr. HUCKABY, Mr. KOLTER, Mr. MFUME, Mr. PERKINS, Mr. PICKLE, Mr. RAVENEL, Mr. SAWYER, Mr. SPRATT, Mr. TAUZIN, Mr. ANTHONY, Mr. DE LUGO, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HANCOCK, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Ms. LONG, Mr. MINETA, Mr. NOWAK, Mr. OBERSTAR, Mr. UDALL, Mr. WISE, Mr. BONIOR, Mr. BALLENGER, and Mr. WASHINGTON.

H.J. Res. 604: Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ATKINS, Mr. BATES, Mr. BEILENSON, Mr. BENNETT, Mr. BERMAN, Mr. BEVILL, Mr. BILBRAY, Mr. BLILEY, Mrs. BOGGS, Mr. BONIOR, Mr. BOSCO, Mrs. BOXER, Mr. BRENNAN, Mr. BROOKS, Mr. BRUCE, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CHANDLER, Mr. CHAPMAN, Mr. CLAY, Mr. CLEMENT, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. COURTER, Mr. COYNE, Mr. CROCKETT, Mr. DARDEN, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DICKS, Mr. DORNAN of California, Mr. DOWNEY, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. ECKART, Mr. EDWARDS of California, Mr. ENGEL, Mr. ENGLISH, Mr. ESPY, Mr. EVANS, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. FEIGHAN, Mr. FISH, Mr. FLAKE, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FROST, Mr. FUSTER, Mr. GAYDOS, Mr. GEJDENSON, Mr. GILMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GRAY, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HENRY, Mr. HERTEL, Mr. HILER, Mr. HOAGLAND, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUTTO, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Mr. KASICH, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LANCASTER, Mr. LEHMAN of California, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of Georgia, Ms. LONG, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCDERMOTT Mr. MCGRATH, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MACHTLEY, Mr. MADIGAN, Mr. MANTON, Mr. MARKEY, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MFUME, Mr. MILLER of California, Mr. MINETA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. NAGLE, Mr. OBERSTAR, Mr. ORTIZ, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Mr. PARKER, Mr. PARRIS, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. PORTER, Mr. PRICE, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Mr. RINALDO, Mr. ROBERTS, Mr. ROE, Mr. ROSE, Mr. ROSTENKOWSKI, Mr. ROTH, Mr. ROWLAND of Georgia, Mr. ROYBAL, Mr. RUSSO, Mr. SABO, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHUETTE, Mr. SIKORSKI, Mr. SISISKY, Mr. SKAGGS, Mr. SKELTON, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SOLARZ, Mr. SPENCE, Mr. STANGELAND, Mr. STARK, Mr. STOKES, Mr. SYNAR, Mr. TALLON, Mr. TAUZIN, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. VENTO, Mr. VISCLOSKY, Mr. WALGREN, Mr. WALSH, Mr. WAXMAN, Mr. WEBER, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WYDEN, Mr. WYLIE, Mr. YATES, Mr. YATRON, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska.

H.J. Res. 616: Ms. SLAUGHTER of New York, Mr. SCHUETTE, Mr. FORD of Tennessee, Mr. NEAL of Massachusetts, Mr. GUARINI, and Mr. KOLTER.

H.J. Res. 618: Mr. GEJDENSON, Mrs. ROUKEMA, Mr. WOLF, Mr. PRICE, Mr. HORTON, Mrs. JOHNSON of Connecticut, Mr. COLEMAN of Texas, Mr. SOLARZ, Mr. GONZALEZ, Mr. NEAL of Massachusetts, Mr. VENTO, Mr. SCHIFF, Mr. APPLEGATE, Mr. HALL of Texas, Ms. SNOWE, Mr. MONTGOMERY, Mr. MURTHA, Mr. BRUCE, Mr. BEVILL, Mr. SHUMWAY, Mr. DONALD E. LUKENS, Mr. FAUNTROY, Mr. OLIN, Mr. GORDON, Mr. BONIOR, Mr. LAFALCE, Mr. DEFAZIO, Mr. HAMMERSCHMIDT, Mr. SKAGGS, Mr. FRANK, Mr. ATKINS, Mr. MINETA, Mr. LEWIS of Georgia, Mr. GILMAN, Mr. MAZZOLI, Mr. STUDDS, Mr. WILSON, Mr. MOORHEAD, Mr. CRAIG, Mr. SABO, Mr. ANDERSON, Mr. YOUNG of Florida, Mr. WEISS, Mrs. SAIKI, Mrs. SCHROEDER, Mr. HOYER, Mr. BRENNAN, Mr. LANCASTER, Mr. CROCKETT, Mr. BILBRAY, Mr. BOUCHER, Mr. BROWN of Colorado, Mr. CAMPBELL of Colorado, Mr. CLAY, Mr. DELLUMS, Mr. ECKART, Mr. ENGEL, Mr. EVANS, Mr. HERTEL, Mr. ORTIZ, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. STALLINGS, Mr. TANNER, Mr. TAYLOR, Mr. PALLONE, Mrs. PATTERSON, Mr. SIKORSKI, Mr. TORRES, Mr. WATKINS, Mr. PORTER, Mr. SHAYS, Mr. ROSE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. AUCOIN, Mr. BEILENSON, Mr. BENNETT, Mr. CLINGER, Mr. DOWNEY, Mr. DREIER of California, Mr. FORD of Michigan, Mr. GAYDOS, Mr. HATCHER, Mr. HENRY, Mr. JOHNSON of South Dakota, Mr. LEHMAN of CALIFORNIA, Mr. MCHUGH, Mr. RIDGE, Mr. SWIFT, Mr. THOMAS of Wyoming, Mr. VISCLOSKY, Mr. WELDON, and Mr. WOLPE.

H.J. Res. 625. Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. AUCOIN, Mr. WALGREN, Mr. BENNETT, Mr. SYNAR, Mr. STOKES, Mr. HORTON, Mr. SMITH of Florida, Mr. EDWARDS of California, Mr. WYDEN, Mr. FAUNTROY, Mr. NEAL of Massachusetts, Mr. DEFAZIO, Mr. JACOBS, Mr. COLEMAN of Texas, Mr. GREEN, Mr. FLAKE, Mr. SAVAGE, Mr. LEHMAN of Florida, Mr. MANTON, Mr. POSHARD, Mr. FEIGHAN, Mrs. BOXER, Mr. WHEAT, Mr. FROST, Mr. PALLONE, Mr. OWENS of New York, Mr. BRENNAN, Mr. MARTINEZ, Mr. BERMAN, Mr. BORSKI, Mr. BOSCO, Mr. CARPER, Mr. CROCKETT, Mr. WILSON, Mr. COURTER, Mr. WALSH, Mr. ANDERSON, Mr. FRANK, Mr. HAYES of Illinois, Mr. DE LUGO, Mr. HAWKINS, Mr. JONTZ, Mr. ACKERMAN, Mr. YATES, Mr. HUBBARD, Mr. ESPY, Mr. OBERSTAR, Mr. SKELTON, Mr. MARKEY, Mr. SHARP, Mr. CHAPMAN, Mr. MAVROULES, Mr. KANJORSKI, Mr. KENNEDY, Mr. LEACH of Iowa, Mr. LIPINSKI, Mr. MCMILLEN of Maryland, Mr. OWENS of Utah, Mr. BUECHNER, Mr. BUSTAMANTE, Mr. SWIFT, Mr. DIXON, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. HEFNER, Mr. FAWELL, Mr. GRANDY, Mr. DYSON, Mr. EVANS, Mr. HENRY, Mr. HOCHBRUECKNER, Mr. HARRIS, Mr. TALLON, Mr. TOWNS, Mr. TORRES, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. TRAFICANT, Mr. SCHEUER, Mr. MCCRERY, Mr. LANTOS, Mr. WASHINGTON, Mr. CONYERS, Mr. YOUNG of Florida, Mr. TORRICELLI, Mr. PORTER, Mr. TRAXLER, Mr. JONES North Carolina, Mr. STAGGERS, Mr. RAVENEL, Mr. WEISS, Mr. MCDADE, Mr. VISCLOSKY, Mr. JENKINS, Mrs. UNSOELD, Mr. JONES of Georgia, Mr. ROWLAND of Connecticut, Mr. JOHNSON of South Dakota, Mr. SOLARZ, Mr. SPRATT, Mr. STALLINGS, Mr. GUNDERSON, Mr. LANCASTER, Mr. BATES, Mr. LEVIN of Michigan, Mr. KASTENMEIER, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MCNULTY, Mr. BEVILL, Mr. MATSUI, Mr. MONTGOMERY, Mr. SAWYER, Mr. MFUME, Mr. MILLER of Ohio, Mr. PANETTA, Mr. WOLPE, Mr. SERRANO, Mrs. BOGGS, Mr. GUARINI, Mr. HOAGLAND, Mr. GORDON, Mr. NEAL of North Carolina, Mr. MAZZOLI, Mr. CLARKE, Mr. CLEMENT, Mrs. SAIKI, Mr. YATRON, Mr. DERRICK, Mr. RAHALL, Mr. PURSELL, Mr. ROYBAL, Mrs. COLLINS, Mr. DICKS, Mr. HUGHES, Mr. HYDE, Mr. STENHOLM, Mr. MOLLOHAN, Mr. ROSE, Mrs. LLOYD, Mr. SANGMEISTER, Mr. ENGEL, Mr. FRENZEL, Mr. FUSTER, Mr. GEJDENSON, Mr. MOODY, Mr. HAYES of Louisiana, Mr. EMERSON, Mr. BROWN of Colorado, Mr. MORRISON of Connecticut, Mr. SLATTERY, Mr. SABO, Mr. UDALL, Mr. KILDEE, Mr. DINGELL, Mr. MURPHY, Mr. TAUZIN, Mr. CARR, Mr. RINALDO, Mr. CRAIG, Mr. BOUCHER, Mr. WAXMAN, Mr. NAGLE, Mr. SCHIFF, Mrs. LOWEY of New York, Mr. STEARNS, Mr. MINETA, Mr. BROOKS, Ms. OAKAR, Mr. DWYER of New Jersey, Mr. HUTTO, Mr. DEWINE, Mr. GALLO, Mr. PRICE, Mr. GEREN of Texas, Mr. BILBRAY, Mr. COSTELLO, Mr. ECKART, Ms. LONG, Mr. KOSTMAYER, Mr. MOAKLEY, Mr. COYNE, Mr. COOPER, Mr. LENT, Mr. WYLIE, Mr. DYMALLY, Mrs. MORELLA, Ms. SLAUGHTER of New York, Mr. NIELSON of Utah, Mr. SARPALIUS, Mr. NOWAK, Mr. DORGAN of North Dakota, Mr. ORTIZ, Mr. HILER, Mr. ASPIN, Mr. DURBIN, Mr. WISE, Mr. SKAGGS, Mr. ENGLISH, Mr. SMITH of Iowa, Mr. STUDDS, Mr. VENTO, Mr. LEVINE

of California, Mr. GINGRICH, Mr. OBEY, Mr. BLAZ, Mr. HATCHER, Mr. HEFLEY, Mr. CALLAHAN, Mr. VANDER JAGT, Mr. MILLER of California, Mr. LAFALCE, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. PAXON, Mr. WELDON, Mr. MORRISON of Washington, Mr. ROBINSON, Mr. BRUCE, Mr. MILLER of Washington, Mrs. KENNELLY, Mr. CLAY, Mr. KOLTER, Mr. ALEXANDER, Ms. MOLINARI, and Mr. FASCELL.

H. Con. Res. 263: Mr. MCEWEN, Mr. LEWIS of Florida, Mr. ROWLAND of Connecticut, Mr. RITTER, Mr. GALLO, and Mr. FIELDS.

H. Con. Res. 280: Mr. GEJDENSON, Mr. BATEMAN, Mr. KOSTMAYER, Mr. MORRISON of Connecticut, Mr. FASCELL, Mr. FEIGHAN, and Mr. MADIGAN.

H. Con. Res. 293: Mr. PEASE.

H. Con. Res. 315: Mr. BARTON of Texas, Mr. BARNARD, Mr. BLILEY, Mr. BOSCO, Mr. DORNAN of California, Mr. GUNDERSON, Mr. LANCASTER, Mr. DONALD E. LUKENS, Mr. MARTINEZ, Mr. MORRISON of Washington, Ms. OAKAR, Mr. PACKARD, Mr. RHODES, Mr. ROBINSON, Mr. RUSSO, Mr. SERRANO, Mr. SLATTERY, Mr. TRAFICANT, and Mr. CLAY.

H. Res. 41: Mrs. SAIKI.

H. Res. 398: Mr. DORNAN of California.

H. Res. 402: Mr. MCMILLAN of North Carolina.

EXTENSIONS OF REMARKS

A MARITIME PROGRAM THAT NEEDS SOME REFORM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BROOMFIELD. Mr. Speaker, a few days ago, I read an article in the Journal of Commerce that has a depressing familiarity at a time when taxpayers are being asked to foot the bill for a lot of saving and loans that got themselves in trouble.

This article concerned the sale of two ships by the Maritime Administration for $14 million. That might not seem so exceptional but for the fact that Marad coughed up a whole lot more "to make good on $135 million in construction loans for the vessels after the owner ran into financial difficulties."

That's a huge differential between the construction cost and the selling price, so today I wrote to the head of the Maritime Administration for an explanation.

At a time when some are talking about raising taxes to balance the budget, this is the kind of abuse of the taxpayer that we cannot afford to tolerate.

The problem may be attributable to poor legislation, to poor management or simply to the vagaries of the business cycle. But whatever the reason, it is a situation that cries out for reform.

Mr. Speaker, I would like to include in my remarks copies of the article and of my letter to the Maritime Administration:

MARAD FINDS BUYER FOR PHOENIX SHIPS

WASHINGTON.—Two ships at the center of one of the biggest Maritime Administration controversies of the 1980s will be sold to a subsidiary of Coastal Corp., Houston, the agency announced.

For a price of $14,200,000, Coastal Aruba Refining Co. NV or another foreign subsidiary will take title to the Jade Phoenix and the Golden Phoenix, two large bulk carriers laid up in Malaysia.

The ships have been idle for five years as a result of the financial failure of their former owners. In 1985, Marad was obliged to make good on $135.6 million in construction loans for the vessels after the owner ran into financial problems.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1990.

Capt. Warren G. Leback,
Administrator, Maritime Administration, Washington, DC.

DEAR CAPTAIN LEBACK: Several days ago an article in the Journal of Commerce caught my attention. It concerned the sale of two ships, the Jade Phoenix and the Golden Phoenix, for $14 million to the Coastal Aruba Refining Co. NV.

According to the article, Marad was "obliged to make good on $135.6 million in construction loans for the vessels after the owner ran into financial difficulties."

I understand that the shipping industry has been in something of a slump for a number of years, and that fact may account for the significant differential in the construction cost and the selling price.

Yet, whatever the reason, it seems the taxpayer will end up footing the bill for building these two ships, and will in the end have little to show for it.

I wonder if there is not a way to prevent this kind of thing from happening in the future. I would appreciate your sending me some background information on this sale and other sales like it.

Specifically I would like to see:

1. The relevant statutes and administrative regulations which obliged Marad to take on the loans and conduct the sales;

2. The history of such transactions; that is, how many ships have been taken on and later sold under this program, including their construction costs and sale prices;

3. How many ships are now in Marad's inventory of ships that have been taken on but not yet sold.

Additionally, I would like to see any other information that you deem relevant to changing the program so that it can best serve the interests not only of the shipping industry, but the taxpayer as well.

Thank you for your expeditious attention to this matter.

Sincerely,

WILLIAM S. BROOMFIELD,
Member of Congress.

STATEMENT ON SUBCOMMITTEE REVIEW OF FAIR CREDIT REPORTING ACT OF 1970

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. LEHMAN of California. Mr. Speaker, when I was made chairman of the Subcommittee on Consumer Affairs and Coinage of the House Banking, Finance and Urban Affairs Committee at the beginning of this Congress, I decided that an area of consumer credit to which the subcommittee should give priority attention was credit reporting. I was prompted to this decision for several reasons. For one thing, the applicable Federal law—the Fair Credit Reporting Act [FCRA]—had been in effect for 25 years essentially without change or even regular congressional review. Yet in that time, enormous advances in computer capabilities had been made that greatly expanded the extent to which information could now be collected and accessed. A number of people had expressed doubt that the law was flexible enough to keep pace with these developments.

Another reason I wanted the subcommittee to look at credit reporting was because of the nature and number of complaints involving credit reporting that I had received from my constituents and other Member's constituents. These complaints evidenced that many consumers are unaware of the rights they have been guaranteed by the Federal law, or that if they do know and understand their rights, they are experiencing real difficulties in exercising them. The complaints also indicated to me that many consumers are finding significant inaccuracies in reports about them and are running into real problems getting credit or employment as a result.

In my opening statement before our second hearing related to consumer reporting, I quoted from a couple of the hundreds of individual letters I have received and I would like to share them with you as well. One letter I received was from a gentleman in Louisville, KY, who wrote:

In 1988 I had a horrifying experience with Trans Union Credit Information Company. I was denied credit due to a "delinquent credit history." It took my wife and I some three months to get the report corrected. There were 35 entries on the report and of these 35 entries there were 22 mistakes.

From a constituent of mine in Fresno, CA, I heard:

I want you to know that I am very aware that credit bureaus are giving out financial information about my credit across this state and that they are giving out incorrect information. I first discovered this three years ago when I tried to refinance our house to take advantage of the lower interest rates. Due to the mix-up of our son's credit being listed as ours, we were turned down for the loan, we lost valuable time in straightening this out, and lost quite a bit of money because the rates on the loan went back up in the meantime. The reaction of the credit bureaus and the bank was "tough luck."

And finally, a woman here in the metropolitan Washington area wrote me that: "My husband and I are living through a nightmare situation right now." She went on to recount how she and her husband returned from 6 years abroad with the State Department only to find, upon a first visit to Sears to replace carpeting damaged by their renters, that they could no longer use their credit card. They were told they would never get credit again with their credit history. These people had no debts and had never even bounced a check—and hadn't even lived in the country for 6 years. After being given telephone numbers for two of the largest reporting agencies, CBI and TRW, they obtained copies of their reports. On the CBI report the only correct information was the address and social security number—and the address had just been given to the reporting agency by the couple. The woman's husband's TRW report included both a 1930 and a 1953 birthdate! This woman wondered who was responsible for the accuracy of this information and why no red flags had been raised.

THE FAIR CREDIT REPORTING ACT OF 1970

The 91st Congress enacted the Fair Credit Reporting Act [FCRA] (Public Law 91-508) in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

October of 1970. The FCRA was added as a new title to the existing Consumer Credit Protection Act of 1968 (Public Law 90-321). Only two minor amendments have been made to the FCRA since its enactment.

The stated purpose of the FCRA is to require that reporting agencies adopt procedures that will allow them to meet the credit information needs of business while also insuring that information is furnished in a manner that respects the consumer's interest in confidentiality, accuracy, relevancy and the proper utilization of the information.

A number of consumer rights are created by the law, including a right to review the "nature and substance" of information in the consumer's file at the reporting agency, and the right to dispute the completeness or accuracy of information in the file. Reporting agencies are under an obligation to follow reasonable procedures—of their own creation—that will allow them to achieve maximum possible accuracy in consumer reports. If a consumer is turned down for credit, insurance or employment and a consumer report was used in making the decision, this must be disclosed to the consumer, and the consumer has an accompanying right to a free copy of the report—so that the consumer can check it for accuracy. The FCRA also contains restrictions on when and to whom a reporting agency is allowed to furnish information from the consumer's file.

THE SEPTEMBER HEARING ON CONSUMER CREDIT REPORTING

On September 13, 1989, the Subcommittee on Consumer Affairs and Coinage held an oversight hearing on the FCRA (Serial No. 101-50).

The September hearing was lengthy. Besides the oral testimony we received and the reponses to our numerous questions, a large number of written statements were submitted for the record by interested persons not appearing as witnesses. Among the witnesses at the hearing were Dr. Bonnie Guiton, the President's Special Adviser on Consumer Affairs, and Janet Steiger, the Federal Trade Commission [FTC] Chairman. We heard testimony from representatives of consumer and privacy interests and of users of consumer reports and the reporting industry. In addition, Mr. SHAW of Florida testified in support of his bill to amend the FCRA, H.R. 909.

Comments from witnesses covered a broad range of areas. The President's Special Adviser on Consumer Affairs testified that consumers do not understand their rights under the FCRA nor how the reporting agencies obtain information on consumers, and she offered a number of specific suggestions for changes to the act. The Chairman of the Federal Trade Commission also offered suggestions for improvements to the law, including expansion of penalties available to the FTC in enforcing the law.

The consumer groups echoed the assertion of the President's Special Adviser on Consumer Affairs that consumers are not currently aware of their FCRA-guaranteed rights. One of the witnesses noted that the FCRA is very different from the other consumer credit protection laws in that it generally lacks requirements for advising consumers of the rights the law guarantees them. They talked about the invasion of privacy consumers experience due to lack of control over who can access their reports such as in the prescreening situation and emphasized the need for meaningful access for consumers. Criticism was voiced over the act's allowing reporting agencies to provide information without the consumer's consent.

Inaccuracy levels were discussed by the consumer and privacy groups who stated that levels were too high and that consumers currently lack adequate remedies in this regard. The FTC was criticized for not being more active on FCRA enforcement, but it was also noted that the agency has limited enforcement authority under the terms of the statute. Concern was expressed as to the reporting practices of subscribers of the reporting agencies who also furnish information on their consumer account holders to the reporting agencies and the fact that this group is not required to make the consumer aware of this practice nor must they meet any standard of accuracy in the information they furnish.

Representatives from the reporting industry stated that 450 million consumer reports are sold annually. They also stated that 3 million consumers dispute information in their reports annually with around 2.25 million reports corrected as a result of the consumer's initiation of a dispute. That number corrected is out of only 9 million files consumers actually reviewed, compared to the 150,000,000 consumer files maintained by each of the three biggest reporting agencies.

The reporting agencies argued that accuracy levels are high and they spoke of the importance of accurate reports to their customers. Their feeling was that the FCRA already effectively protects consumers, although they sought increased penalties for obtaining report information under false pretenses and enactment of legislation to regulate credit repair clinics.

There was considerable discussion with the reporting industry panel on the topic of prescreening. Prescreening is when a report agency edits or compiles for its customer a list of consumers who meet some set of creditworthiness criteria provided by the customer who will then use the list to solicit consumers for its product. The FTC has found a prescreened list to be a series of consumer reports for purposes of the FCRA because the list conveys the information that each consumer on it meets certain creditworthiness criteria. At the time of the hearing, the FTC had not yet finalized a proposed interpretation of the FCRA that would allow prescreening only if the reporting agency's client agrees in advance that each consumer on the prescreening list will receive some offer of credit. The FTC finalized its interpretation on May 4, 1990. At the hearing the reporting agencies argued against the interpretation and said that the law allows their customers to use prescreened lists without any obligation to make an offer of credit.

LEGISLATION INTRODUCED SUBSEQUENT TO THE SEPTEMBER HEARING

Subsequent to the September hearing, three bills to amend the FCRA were introduced. Along with several of my colleagues on the subcommittee, Ms. KAPTUR of Ohio, Ms. PELOSI of California, Mr. PRICE of North Carolina, and Mr. SCHUMER of New York. I introduced H.R. 4213 on March 7, 1990, which is the most comprehensive of the three bills. The other two bills—H.R. 4122, introduced by Mr. SCHUMER, and H.R. 3740, introduced by Mr. RINALDO of New Jersey—include some of the same provisions as H.R. 4213, since the authors of all three of the bills utilized at least to some extent the many suggestions for amendments provided to the subcommittee in connection with the September hearing.

H.R. 4213

I will briefly run through the provisions in my bill. H.R. 4213 would:

Give consumers the right to inspect all the information in their reporting agency files;

Require reporting agencies and users of reports to furnish a summary of rights and remedies to the consumer along with any FCRA-required disclosure;

Require reporting agencies to investigate inaccuracies in consumer reports and correct them within 30 days of the consumer's request to do so in most circumstances;

Require reporting agencies to send the consumer a written notice when they have finished an investigation so that the consumer will know the outcome;

Require persons who furnish information to reporting agencies—creditors and others—to establish procedures to assure the maximum possible accuracy of the information they furnish, and to alert consumers to the fact that they furnish information about their customers to reporting agencies;

Give consumers the right to one free copy of their report once a year if they ask for it; and

Prohibit reporting agencies from using consumer reports to develop lists for prescreening purposes unless the consumer has been given a chance to tell the reporting agency not to use their file for such purpose.

The bill also includes a second title that incorporates the Credit Repair Organizations Act introduced by my colleague, Mr. ANNUNZIO of Illinois. That portion of my bill would establish certain guidelines for the operations of credit repair clinics, requiring them to provide disclosures to consumers about fees and services and prohibiting them from certain practices, such as making misleading statements about the services they can perform for the consumer.

THE HEARING ON JUNE 12, 1990

On June 12, the subcommittee held a hearing on the legislation to amend the Fair Credit Reporting Act. We invited back many of the same people who had testified in September along with several others who asked to testify. In addition, Mr. RINALDO and Mr. SCHUMER testified regarding their respective bills. A number of agencies and organizations submitted statements for the record as well, including the various Federal financial regulatory agencies. The subcommittee also received numerous letters supporting the legislation to amend the FCRA, including letters from the attorneys general of several States.

Quite a few suggestions were made at the hearing and in the written statements with regard to both technical and substantive improvements to the bill, and we are currently in the process of considering these suggestions

and contemplating possible amendments to the current bill language.

For example, strong sentiment was expressed for including a provision not now in the bill that would require reporting agencies to share with each other any information about a consumer that had been found inaccurate and correct it. This would save the consumer the burden of correcting inaccurate information with all three of the major repositories of information as is now the case.

Another suggestion I intend to consider came from the credit-granting community in their role as users of reports. They asked that we eliminate the section in the bill that would set up graduated time periods for the reporting of a consumer's late payments, with less egregious delinquencies reportable for shorter periods than the current 7 years. Several creditor representatives have indicated that the shorter time that payments history would be available would result in a real hardship in terms of making informed credit-granting decisions.

Suggestions were offered as well with regard as to how best to delegate responsibility for getting into consumer's hands the notice of their right to protect their reporting agency files from being used in connection with prescreened solicitations. Some advocated requiring creditors to include the notice at least once a year in their periodic mailings and to require that all prescreened solicitations include the notice. Others advocated a one-time notice by the reporting agencies, with periodic notice when the consumer applies for credit.

These are only a few of the suggestions we received and I intend to consider all of them to incorporate those that seem warranted. Originally my hope was that we would be able to finalize legislation and mark up before the August district work period. However, given the number of very detailed suggestions we have received on the legislation and the clear need for a comprehensive amending package, I will postpone scheduling a markup until we have reviewed all the suggestions and weighed their merits. I expect now to mark up in September, but if we are unable to complete our review and preparation of amendments before adjournment, I guarantee as chairman that markup of this legislation will be the first order of business for the subcommittee in the next Congress. The outpouring of support for our efforts from individuals, State officials and others has been remarkable, and I do not intend to disappoint these people. The process of crafting amendments and moving them through the legislative process takes time, but it will be time well spent if the end result is a credit reporting law that really fulfills its purpose.

In a national survey prepared by Louis Harris for one of the major reporting companies and released the day before our June hearing, it was reported that 71 percent of Americans feel that they have lost all control over how personal information about them is circulated and used by companies and that a majority feel that their privacy rights in credit reporting specifically are not adequately protected by either law or business practices. I hope that the bill we are crafting will go a long way to returning control to the hands of consumers. And it is my firm belief that efforts to involve and inform the consumer will translate into increased accuracy in consumer reports, which will be beneficial not just for consumers but for the credit-granting community that relies on these reports as well.

A SALUTE TO MEMBERS OF THE HOUSE AND SENATE VOTING FOR FINAL PASSAGE OF THE 1965 VOTING RIGHTS ACT IN SERVICE IN THE 101ST CONGRESS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. DELLUMS. Mr. Speaker, this week the Congress will commemorate the action taken 25 years ago by this body in passing the Voting Rights Act of 1965. It was a moment of enormous import to the future of this Nation and paved the way for America to embrace men and women who had valiantly struggled for justice and their right to participate in the democratic process. President Lyndon Johnson would on August 6 come before a joint session of Congress to sign that document and to promise that those who shaped that landmark bill would have a place of honor in our history. I rise today to pay tribute to those who gave us this legacy of courage and who, by their action, placed "an instrument of freedom in the hands of millions of our citizens." For those of us who inherit the dream and are the beneficiaries of this great legacy, we offer a rollcall of Members in service in the 101st Congress who gave us our victory on final passage 25 years ago.

Senator QUENTIN BURDICK.
Senator CLAIBORNE PELL.
Senator EDWARD KENNEDY.
Senator DANIEL K. INOUYE.
Congressman CHARLES E. BENNETT.
Congressman SIDNEY R. YATES.
Congressman JACK BROOKS.
Congressman WILLIAM NATCHER.
Congressman JOHN D. DINGELL.
Congressman DANTE FASCELL.
Congressman WILLIAM S. BROOMFIELD.
Congressman ROBERT H. MICHEL.
Congressman SILVIO O. CONTE.
Congressman ROBERT W. KASTENMEIER.
Congressman DAN ROSTENKOWSKI.
Congressman NEAL SMITH.
Congressman HENRY B. GONZALEZ.
Congressman MORRIS K. UDALL.
Congressman DON EDWARDS.
Congressman AUGUSTUS F. HAWKINS.
Congressman FRANK HORTON.
Congressman JOSEPH MCDADE.
Congressman JAKE J. PICKLE.
Congressman JAMES H. QUILLEN.
Congressman EDWARD R. ROYBAL.
Congressman FRANK ANNUNZIO.
Congressman JOHN CONYERS, JR.
Congressman KIKA DE LA GARZA.
Congressman WILLIAM L. DICKINSON.
Congressman THOMAS S. FOLEY.
Congressman WILLIAM D. FORD.
Congressman LEE H. HAMILTON.

WHY I AM PROUD OF AMERICA

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. HALL of Texas. Mr. Speaker, recently it was my pleasure to attend the District 1 Veterans of Foreign Wars banquet in Texas. One of the speakers was a young man named Michael R. Peterman of Pottsboro, TX. Michael made a very moving speech that evening as he talked about the price of freedom and the American spirit that prevails as a result of paying that price. It is indeed an honor, Mr. Speaker, to submit this speech today in order that it may be made a permanent part of the CONGRESSIONAL RECORD:

WHY I AM PROUD OF AMERICA

I can remember sitting on the floor of my grandparent's house on cold, snowy winter days. Those days were always my favorite as a child, because there was no school. On those days, I would get to walk down the hill to my grandparent's house and after my grandmother had given me a mug of steaming hot chocolate, (you know that kind with little marshmallows), and sat me down by the fireplace to warm up, my grandfather would tell me his war stories. He told me of the ships and of the amphibious vehicle he commanded. He told me of the friends he made, and lost, on the beaches in the South Pacific. He told me of the joy of erecting an American flag on an island that they had spent days fighting for. My grandfather also told me of the pain and the fear of death he felt when a bullet pierced his shoulder. The war stories always sounded so grand, but one thing I always noticed were the tears that came to his eyes. I thought he was sad, and maybe he was, but, as I grew older, I realized that he was more proud, than sad. The tears always came at times when he talked about raising the American flag on various islands. The day I realized that, I realized also, that I took the flag and what it stands for, for granted. I mean here I live, in a country where I can worship as I choose, make my choice of which college to attend, and be happy, and I don't really ever stop and think about it.

Freedom is a gift. A gift that people oppressed in a communist country, leave their families and risk their lives for. A picture in a recent newspaper shows a young family who had finally made it across the iron-curtain, the joy and excitement of knowing they are finally free is reflected in the tears on their cheeks. They have gained something that I have had from the very beginning, yet I take it for granted. I'm proud of America. The framers of the Constitution, set up a government that many said would never last. Yet, it is this flexible, yet rigid, document, that has kept America a world power for over two hundred years.

America is people helping people. One of the most powerful examples happened several years ago. A young child fell into an abandoned well. Jessica McClure had been playing near an unsealed entry and simply fell in. For three days, America turned faithfully to the news programs, to see if rescuers had saved the girl. I was inspired by the willingness of the members of that community and the people who came from around the nation to try and rescue young Jessica. The first day passed and we were still hopeful, the second day passed and we

prayed for her rescue. Men and women worked day and night and finally, in the third day, the worker's efforts paid off, and Jessica McClure was pulled safely from her prison. We, the people, witnessed a miracle. For three days the people of that community forgot about themselves, and their petty arguments and simply came together and worked side by side. Their dedication made America stop for three brief days, moments of lifetimes, and pay attention to one of the world's aspects that is most important; respect for human life! It was on a Friday evening when Jessica was rescued. I was at a football game when they announced her rescue. And for one brief moment everyone forgot about that football game, and simply stood up and cheered, and wept, and laughed for the Americn spirit that conquers all.

The ability of Americans to pull together at crucial moments, from the San Francisco Earthquake, Hurricane Hugo, Jessica McClure, to a World War, added to my grandfather's proud tears, are what make me proud of America. That is what puts goosebumps on my arms as the National Anthem is played. And perhaps this feeling is best summed up by a picture I saw in a photography book. It was a picture of a Vietnam Veteran lifting his son up to kiss the name of the boy's grandfather on the Vietnam Memorial. The grandfather was M.I.A. This is America passed from generation to generation, and that is why I am proud.

Mr. Speaker, let us salute this fine young man.

HONORING JANE ELLEN FERRIS, EXECUTIVE VICE PRESIDENT AND MANAGER, GREATER LA PUENTE VALLEY CHAMBER OF COMMERCE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. TORRES. Mr. Speaker, today I rise to recognize an outstanding individual, Mrs. Jane Ellen Ferris, the executive vice president and manager for the Great La Puente Valley Chamber of Commerce. On September 13, 1990, Mrs. Ferris will be honored by her colleagues in a "Ferris Fun Roast" for her many years of dedication.

Mrs. Ferris, formerly Jane Ellen Beaty, was born on June 8, 1936, to Alberta and Fulton Beaty. She is originally from Mohave but has resided most of her life in the San Gabriel Valley area. Jane graduated from El Monte Union High School in 1954 and married Don Ferris on December 20, 1953. Jane finished high school and joined her husband at Scott Air Force Base in Illinois. Together, Jane and Don have two children, Laurie Diane and Timothy Guy. Presently, and since 1964, they make their home in Valinda, CA.

Mrs. Ferris has been involved in scores of community organizations and boards. Her active participation and leadership in these has been outstanding. Most notably, her position with the Greater La Puente Valley Chamber of Commerce since 1979 as vice president and manager has been a catalyst to many of her contributions to the community and to the area of La Puente. Her commitment to improve the chamber and the La Puente area has earned her peers' recognition and respect.

Mr. Speaker, at this time I ask that my colleagues please join me in saluting Mrs. Jane Ellen Ferris for her unselfish contributions to the Greater La Puente Valley Chamber of Commerce and for making the San Gabriel Valley a better place in which to live and work.

NAVAL WAR COLLEGE CHANGE OF COMMAND AND RETIREMENT OF REAR ADM. RON KURTH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. SKELTON. Mr. Speaker, last month, I had the opportunity to travel to Newport, RI, the home of the Naval War College, and participate in the change of command and retirement ceremony of Rear Adm. Ron Kurth. I was honored and pleased to be a part of that ceremony. Rear Adm. Ron Kurth, the retiring president of the Naval War College and Rear Adm. Joseph Strasser, the new president, each offered remarks that I would like to share with my colleagues. I hereby submit two sets of remarks that Admiral Kurth gave: the first, as he turned over his command to Admiral Strasser; the second, upon his retirement. In addition I have included the brief statement Admiral Strasser made upon assuming his new command as president of the Naval War College.

REMARKS BY REAR ADM. RON KURTH

Congressman Skelton, Secretary of State Connell, Mayor McKenna, distinguished flag and general officers, family, friends, ladies, and gentlemen.

When I came here three years ago, I already held the view that all change is incremental. Three years ago at this time, Charlene and I were closing down our responsibilities in Moscow and looking forward toward, and planning for, Newport. Change at an educational institution, I predicted then for myself, would have much more modest increments even than at any other place. The great stereotype, as you well know, is a tall stone tower with ivy copiously climbing its exterior, seemingly inattentive to the endless changes of season, where change is measured only by the rate at which the ivy seems to grow. Professors mature and then grow gray while sitting quietly amidst a stack of books, studying, writing, and preparing lectures. It is a picture of quintessential stability. I was intent upon keeping this fine institution as great as it was when it would be turned over to me. I thought of the Naval War College in the terms I recalled from the words of Edmund Burke, that pillar of sensible conservative thought in British history: "of all the public services, the Navy is the one in which tampering may be of the greatest danger, which can be worst supplied in an emergency, and of which failure draws after it the largest train of consequences."

I was determined not to tamper. I wanted no part of the difficulty of which Edmund Burke warned.

Now, after three years, to my friends, respected colleagues and close associates on the faculty and staff, I have only this to say: it did not turn out the way I expected. In quick succession, working together, we confronted immense change.

In the edition of the Naval War College Review published after my investiture, I wrote in my first essay in that fine journal these words: "as we reorganize the curriculum to increase the amount of joint instruction it will offer,* * * we are finding a broad area of disagreement. On the one hand, there is my view—shared by my faculty—of how to approach teaching jointness, and on the other, there is the approach that others are urging on us. They insist that the joint portion of the curriculum should be separate from its other segments, easily visible to the assessors eye. Our experience has taught us, on the other hand, that the best way to introduce new educational materials into an already coherent course of study is to integrate them into what already exists. We want to weave jointness into the overall fabric of the curriculum, teaching it throughout the year at every appropriate level, rather than sticking it on as a new and discrete appendage."

Do you remember that battle to get change done as we thought would best avoid destroying the fabric of this fine college? How well we worked together as we coped. Our saving grace, as it turned out, came from a wholly unexpected source: Congressman Ike Skelton and his congressional panel on education. The attention of the panel, while shepherding the change, forced rationality into the process and became the sensible source of necessary change while its influence spread the wingspan of congressional authority over the process. It turned out well eventually. We are here together, alive and well, as great a graduate-level military institution as we have ever been. It was for that saving grace that we invited Congressman Skelton here today.

The next event of significance in this litany of change was the first student reception at my house in the fall of 1987. A number of students at that reception approached me to excuse themselves early. When I asked why, the answer was: "it is a Salve night." Fifty-percent of our student body desperately wanted a master's degree. Local institutions, especially Salve Regina, were helping them. Consulting with students, the faculty and then the president of Salve Regina who provided full support, we decided to pursue accreditation and the authority to offer our own master's degree. What was born, with full approval from the Chief of Naval Operations, was one of the finest episodes of teamwork which I have seen in my long Navy career. I quietly apoligized to Edmund Burke, for we were now tampering—and doing so big time. We turned out a self-study which won us accolades. We expected three hurdles, and at my last count we had leaped over 12 of them together. We are not there yet, but our course is true and steady. Sometime, maybe soon, we will make it.

Finally, there was a world full of political change. When I left Moscow, glasnost, perestroika, and democratization had gotten off only to a slow start. However, within 2 years, by the end of 1989, we had lived through a world revolution—and it is not over yet. But our curriculum had to undergo immense change.

We base our year of study here on a three-part 1-year curriculum, a troika if you will—very Russian. In the first part we look at

strategy beginning in history with analysis of the Pelopenisian Wars. We seek to have our students determine, in a series of historical studies, the values and national interests of many countries through the march of history. If they resorted to arms, how did those countries keep their eye on their objectives as they fashioned strategy in pursuit of national objectives?

Next, we look at the values and interests of our own country. How do we plan and how do we decide on the structure, levels, and acquisitions of our Armed Forces? Do forces match strategy within affordable limits? Is the process rational and sound.

Finally, in our third segment, we look at the way we might employ joint forces in theatre operations in various scenarios if national authority and the will of the people send us into armed confrontation.

Given this three-tiered approach, you can guess what happened to our curriculum when the political map of major parts of the world were suddenly the locus of major change. The Russian threat, with which we had lived for so long, diminished quickly. Communism, as the basis for state structure, went belly up at a rate which left all of us in awe. Change was geometrical rather than slowly arithmetic, and it seems to continue so.

The result was the need to adjust quickly our study and analysis of threat, our national interest, the structure of our Armed Forces and the ways in which they might be employed. Our faculty confronted and coped with an immense task. They did so with brilliance and alacrity, and the process continues.

I can tell Edmund Burke that his words led me down a garden path which lasted less than 1 month into our time together as the team responsible for the Naval War College in one of its finest hours. Edmund would probably say that he never meant to be right all of the time. But to you, my colleagues and friends of the faculty and staff, I can only say thank you, through me to Admiral Strasser you are turning over a war college stronger than before, both after and amidst challenge of extraordinary scope. There are no rust spots on our hull, the main battery is ready and able, and we can answer all bells. While I feel inclined to single so many of you out by name, I think it would be foolhardy to start. May I close just by saying that all of you, my crew, are smart, shipshape and seamanlike. Thank you for my finest tour, of a long series of tours, at the close of my naval career. God bless you.

REMARKS BY REAR ADM. RON KURTH

This, my final speech in a naval uniform can be short. You have already heard from me in the broad context of this fine institution over which I have had the great pleasure of presiding these last 3 years. It remains only for me to close now by narrowing the context of what I feel.

In 1950, I left Madison, Wisconsin as a fuzzy-faced kid soon to have his 19th birthday. I went to Annapolis to give the Navy a try, never devoting much thought to the possibility that I would choose to stick around. When I arrived at the Naval Academy one night about 9 P.M., it was the first time I had been more than 150 miles from home, and I had not slept in the same room before with anyone who was not my brother, I had yet to shave for the first time.

As a midshipman, I quickly settled on the hometown girl I wanted. In high school I had been intimidated by her good looks, by her popularity among the best of our classmates, and by her genuinely kind and warm nature. I gained in confidence as a midshipman and that confidence quickly led me to her door. I know that her mother once described me as a "persistent fellow." It was the finest form of persistence, I brought her out of Madison, and we did the Navy together.

We thought of leaving the Navy a few times. But we never found any organization with a sense of purpose nor a level of ethic for which we could trade the Navy.

We have four children. They are our finest work. I am immensely proud of each one of them. Lt.JG Douglas Kurth cannot be here because his ship cannot spare him. Each of the other two, Steven and John, have served also. I commissioned all three sons as Navy officers, personally. Audrey would have served also, had we not seen clearly that Princeton, Oxford and Academe was her road in life.

Charlene and I have given our youth to the Navy and to our country. We could not have made a better choice.

I would like to recognize all of our dear and close friends who have come to be a part of our farewell to uniform. Some go back decades and some span only the Newport years—so far. You honor us by being here. Thank you.

As we close out this chapter, we are excited about the next. Two distinguished members of the board of regents of Murray State University Mr. Kerry Harvey and Mr. Tommy Sanders, are here also. Thank you.

Now, let us close. Thank you all for being here.

REMARKS OF REAR ADM. JOSEPH STRASSER

I will now read my orders:

"From the Chief of Naval Personnel, Washington, D.C. to Rear Admiral Joseph C. Strasser, U.S. Navy, BuPers Order 0820. When directed, detach in July 1990 from duty as commander, cruiser-destroyer group three and report for duty as president, Naval War College, Newport, Rhode Island. Signed J. M. Boorda, Vice Admiral, U.S. Navy. Admiral Kurth, I relieve you sir. Commander Kelley, break my flag."

Congressman Skelton, Secretary of State Connell, Mayor McKenna, distinguished flag and general officers, family, friends, ladies and gentlemen.

I should tell you at the outset that a few weeks ago just prior to leaving San Diego I had occasion to visit a fourth grade classroom during a history class. The students were reviewing early Roman history and several of the youngsters read papers on the subject they had written. One young boy's composition went something like this * * * Julius Caesar was a great leader. He gave very long speeches. They killed him. Not wishing to share Caesar's fate, I will strictly follow the Navy tradition that the relieving commander be very brief.

When I arrived in Newport on Friday afternoon, and looked at the list of attendees at this ceremony. I became aware for the first time of exactly how many relatives and friends were traveling great distances to be here. In the southern part of New Jersey there is a very active Naval Academy Alumni Association which is known by the Academy Admissions Office as the South Jersey Mafia because of the interest it shows and the pressure it exerts to get the maximum number of candidates admitted to Annapolis. While it is not the same group, there is indeed a South Jersey Mafia here today made up of my parents, my two brothers and sister, many aunts, uncles cousins and grammar school and high school classmates. The six previous changes of command in which I participated were either in San Diego or Hawaii. This is the first opportunity for most of them to attend and they've turned out in force. Barbara and I are delighted to see you and are honored that you would endure the New Jersey Turnpike, the Garden State Freeway and Interstate 95 to share this special day with us. In addition, we have Naval Academy classmates and wonderful friends from Virginia, Maryland, Pennsylvania and throughout New Jersey here today. Thanks so much to all of you for making this an even more memorable event.

Barbara and I feel very blessed today. Eleven days ago we left a wonderful sea command in San Diego and today we become part of the finest military graduate school in the world in beautiful Newport. As the popular advertisement says, it just doesn't get any better than this. We are delighted to return to the War College where we spent a most rewarding and enjoyable year in the early seventies and we look forward to renewing acquaintances and making many long and enduring friendships over the next several years.

The other cause for great joy in being here is that the most probable alternative was a return to Washington and the Pentagon. I think most of you are familiar with the Pentagon * * * It's that building with five sides * * * on every issue. I'm sure that all of you would agree, especially Congressman Skelton and the others who have traveled here from Washington, that I came out way ahead in being assigned to Newport.

I know that this audience is fully aware of the momentous events that have transpired and continue to occur daily in Europe and throughout the world. In my opinion, it will be many years before we will be able to measure their impact with a comfortable degree of accuracy. The interim period is one which requires close observation, careful study and insightful analysis to ensure that this country and its military are prepared for any deviations from the tranquil path that many now predict we will travel into the next century. The Naval War College will remain what its first president, Commodore Stephen B. Luce, organized it to be * * * "a place of original research on all questions relating to war, the statesmanship connected with war or the prevention of war" this institution, like no other, has been at the leading edge of our efforts to maintain and increase the readiness and preparedness of our Navy, and in the years ahead this task will take on a new and even more profound importance. It is our responsibility and my intention to ensure that when the bell rings again, as it inevitably will, that our Navy is ready to answer the call.

The strength of this college over the years, and that which separates and makes it superior to all others, is its dedicated and talented faculty and staff. Your reputation is richly deserved and widely known. I welcome and eagerly anticipate the opportunity to work closely with you as we lead this institution to new levels of excellence. I also look forward to a close association with the Naval War College Foundation which contributes so much to our mission. We are indeed grateful for your continued service and support to the college.

It is truly a pleasure to relieve Ron Kurth. I have known Ron for many years and have always admired his intelligent, dedicated

and professional service to our Navy and our Nation. He's a hard act to follow. Ron and Charlene, on behalf of the entire faculty and staff as well as your many friends here in Newport, Barbara and I wish you every success and happiness as you depart to embark on a new and exciting career at Murray State College. God bless you both.

Finally, to Barbara and the children, here we go again. We're about to embark on another wonderful adventure. We've always been a team and with your continued love, support and encouragement we'll write another great chapter in the family log.

THE WOLFSONIAN FOUNDATION CELEBRATES THE ARRIVAL OF LA LITTORINA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, after much anticipation, La Littorina, a recently restored, streamlined 1937 Italian passenger train is now on long-term loan by the Wolfsonian Foundation for public exhibition at the Gold Coast Railroad Museum in Miami, FL.

Thanks to the gracious generosity of Miami philanthropist and art collector, Mr. Mitchell Wolfson, Jr., the public can enjoy seeing this historic rail car which was, for its time, a remarkable achievement in Italian design and engineering. In announcing the acquisition of the extraordinary Littorina, Wolfsonian Foundation director, Peggy A. Loar, said that it "draws upon a long and illustrious tradition, and reflects the overall theme of the Foundation's collections and our interest in the social, economic and political history of the period."

The Littorina was first conceived of in 1906, when the need arose for an alternative to the steam engine train that was less expensive and lighter in weight. This effort resulted in a feat of engineering that was one of the earliest self-propelled, fuel-driven rail cars, which allowed it to attain the then unheard of speed of over 70 miles per hour. Powered by two Fiat 355 diesel engines, the Littorina was a popular form of transportation throughout Italy and the rest of Europe for decades.

This generous loan to the Gold Coast Railroad Museum is only one of many charitable acts of the Wolfsonian Foundation. In 1986, the foundation was established, under the leadership of Mr. Wolfson, Ms. Loar, and associate director James J. Kamm, to create and operate two major museum and study center facilities, one in Miami Beach, and the other in a restored turn-of-the-century castle in Genoa, Italy. Both facilities will promote and sponsor a comprehensive program of museum exhibitions as well as scholarly publications and research.

I applaud Mr. Wolfson and the Wolfsonian Foundation for their benevolence. Because of their superb efforts, and those of other civic-minded private organizations, it is possible to make such historical displays available to all. Museums like the Gold Coast, and the continued exhibition of items of historical significance, are gravely important to our culture and society. I encourage these groups to remain dedicated to this endeavor and urge everyone to support their cause.

THE 25TH ANNIVERSARY OF MEDICARE/MEDICAID

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. ROE. Mr. Speaker, I rise today to focus attention on the 25th anniversary of the signing into law by President Lyndon B. Johnson the legislation that created the Medicare and Medicaid Programs. July 30, 1990, marks a quarter of a century since that significant day in 1965 when America, under the leadership of the Democratic Party, ensured that older and disabled Americans would receive vital health care and that the Nation's poor who cannot afford health insurance would receive quality health care.

The words of President Johnson at that ceremony are worth repeating on this occasion:

No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years. No longer will young families see their incomes and their own hopes eaten away simply because they are carrying out their deep moral obligations to their parents.

While medical costs today are much higher than they were in 1965, the goals and aspirations enunciated in those words remain the goals and dreams of millions of Americans today.

The passage of Medicare in 1965 marked the culmination of a 20-year struggle to enact a Federal health legislative insurance program. This struggle was marked by bitter, extended, and often unresolved congressional debate. Since its enactment into law, it has become a landmark feature of the American way of life. Since its inception, millions of Americans aged 65 and over have come to depend upon Medicare, and since 1973, those Americans under the age of 65 who are disabled.

Medicaid was enacted into law on July 30, 1965, as title XIX of the Social Security Act, and became part of the existing Federal-State welfare structure that assisted the poor. States administer their Medicaid Programs within broad Federal requirements and guidelines. Like Medicare, Medicaid has provided health benefits for millions of Americans since its inception. It has had a major role in filling the gaps in the needs of the low-income elderly and the long-term care needs of the aged in general. For many of the poor, Medicaid provides needed services that Medicare does not cover, such as drugs, eyeglasses, hearing aids, and insurance premiums.

Both Medicare and Medicaid face difficult problems today because of budget deficits. Nevertheless, they have made life easier for millions of Americans during the past 25 years, and the programs are a lasting legacy to those Americans who fought so hard to have them established. Medicare and Medicaid reveal the compassionate side of the American culture, a characteristic that cannot be overlooked or ignored. One can truly say that Medicare and Medicaid are a monument to the forethought and wisdom of American political thought.

H.R. 5388—THE WESTERN NORTH CAROLINA WILDERNESS PROTECTION ACT OF 1990

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BALLENGER. Mr. Speaker, on Friday July 27, 1990, I introduced H.R. 5388, the Western North Carolina Wilderness Protection Act of 1990. This legislation would designate two areas in the Pisgah National Forest, Lost Cove, and Harper Creek, as wilderness areas under the Wilderness Act of 1964.

Under the Wilderness Act of 1964, the definition of wilderness is as follows: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." This statement eloquently describes the rare characteristics we find in wilderness. I believe it is the preservation of these characteristics in North Carolina that make my legislation a necessity.

Specifically, my bill would establish approximately 13,000 acres of additional wilderness in the National Forest System. I recently visited Lost Cove and Harper Creek and concluded that it is essential these areas be protected. Within the area, there is an abundance of trout, and such wildlife as bear, turkey, and deer. Passage of this legislation would ensure these areas are preserved for all time.

The North Carolina Wilderness Act of 1984 established Lost Cove and Harper Creek as wilderness study areas, and since that time, they have been managed as wilderness. In my view, it is time to make the title official. In fact, over 450 of my constituents living in the area have contacted me with their support for this legislation. They, too, would like to see these areas preserved for generations to come.

I often tell my colleagues that North Carolina is the best kept secret on the east coast. Our coastline and our mountains provide recreation and beauty to residents and tourist alike. Having been born and raised in western North Carolina, I find particular beauty in the mountains. I am glad that I have the opportunity as a U.S. Representative to make an effort to preserve part of this beautiful natural resource.

I invite my colleagues to join me in cosponsoring this legislation; then, I invite you to come and enjoy the beautiful mountain wilderness areas of North Carolina. Following, is the text of the bill:

H.R. 5388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western North Carolina Wilderness Protection Act of 1990".

SEC. 2. DESIGNATION AND ADMINISTRATION.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1331-1136), the following lands in the State of North Carolina are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Pisgah National Forest, which comprise approximately 5,710 acres as generally depicted on a map entitled "Lost Cove Wilderness—Proposed" dated July 1990, which shall be known as the Lost Cove Wilderness.

(2) Certain lands in the Pisgah National Forest, which comprise approximately 7,140 acres as generally depicted on a map entitled "Harper Creek Wilderness—Proposed" dated July 1990, which shall be known as the Harper Creek Wilderness.

(b) ADMINISTRATION.—Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be reference to the date of enactment of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

ECONOMIC ADVISORY COUNCIL

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BRUCE. Mr. Speaker, Dr. Allen Smith of Eastern Illinois University in Charleston, IL, has written as excellent column proposing a national economic advisory council. I ask that it be put in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful consideration. His message is something all of us should ponder.

UNDERSTANDING ECONOMICS: No. 28

(By Allen Smith)

THE NEED FOR A NATIONAL ECONOMIC ADVISORY COUNCIL

In an effort to get the economy out of its current mess and prevent economic malpractice in the future, I propose the creation of a nonpartisan national economic advisory council made up of nine of the best economists in America. The council members, who would serve nine-year staggered terms, would be appointed by the President and confirmed by Congress.

Council members would be ineligible for reappointment so they could remain independent of partisan politics. Since it is essential that council members have a strong grasp of basic economics, only professionally trained economists would be eligible to serve on the council. The council would have only advisory powers, but it would be mandated by law to issue periodic public reports on the state of the economy and on economic policy.

The purpose of such a council would be to serve as a watchdog for the American people to ensure that sound economic policies are followed. Sound economic policy is not Republican, Democratic, conservative, or liberal policy. It is policy based on basic economic principles which are supported by the majority of professionally trained economists. Like members of any other profession, economists disagree on certain aspects of economic policy, however, there are many fundamental principles of economics upon which most economists agree. It is some of these most basic fundamental principles that have been ignored in recent years.

This proposal will be about as popular with most politicians as a bad toothache. But if enough Americans supported such a proposal it could be enacted into law. Since members of the council would be appointed, and ineligible for reappointment, they could put the interest of the economy and the American people ahead of any partisan political goals. They would be free to openly disagree with the President and Congress, and they would be obligated to report economic malpractice to the public.

Since the council would have only advisory powers, it could not prevent all economic malpractice or ensure sound economic policy at all times. But, since it would be free to criticize government economic policies without fear of reprisals, it would tend to force the government to pursue responsible economic policies. It would also ensure that professional economists have advisory input into national economic policy.

The actual structure and functioning of any such economic advisory council could differ substantially from my proposal. The important thing is that the American people need a group of highly competent economists who are looking out for the public interest instead of the interests of partisan politicians. Such a council would also benefit the many government officials who have had little or no formal training in the subject of economics. These officials cannot formulate sound economic policies without the advice of competent economists?

Since members of the President's Council of Economic Advisers are selected on the basis of their compatibility with the President's political goals, they serve the political interests of the President which are not always compatible with sound economic policies. The American people need a council of nonpartisan competent professional economists who are mandated by law to promote economic policies that will best serve the long-term interests of the American economy and the American people.

I have already met privately with a member of the U.S. Congress to discuss the feasibility of creating such a council. He is testing reaction to the proposal in Washington, and he may draft a bill proposing legislation that would create such a council. Enacting such legislation will require massive support from the general public. Politicians will not take the initiative in creating a council that would serve as a watchdog for the American people to ensure that politicians put the interests of the American economy above their own political interests. Such legislation will be possible only if the American people demand it. If you support the creation of a nonpartisan national economic advisory council, please send copies of this column, along with your letters of support, to your elected representatives in Washington. We must do more than talk about the need for sound economic policies. We must take action to ensure that they become a reality. Our future, and the future of our children and grandchildren, is at stake.

TRIBUTE TO JOSEPH CALLAHAN

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. LEHMAN of California. Mr. Speaker, I rise before my colleagues today to congratulate Joseph Callahan for being selected as Labor Leader of the Year by the Central Labor Council, AFL-CIO committee on political education. This is truly an honor for a man so committed to the principles embodied in the labor movement.

Joseph Callahan has been a vital force in the Fresno Police Officers Association since 1976. He has served on the board of directors, as a business representative, and is currently the president of the Fresno Police Officers Association. He is also currently the president of the Fresno Area Coalition of Organized Labor and the chairman of the credentials committee for the Peace Officers Research Association of California. Through Joe's leadership he expanded the relationship between the association and Fresno area organized labor from one of uncertainty to that of mutual respect. His philosophy for labor is simple: "Let's pick each other up instead of beating each other down."

Joe, the product of a long-time railroad family with strong union ties, was born and raised in Cheyenne, WY. After graduating from Cheyenne Central High School, Joe joined the U.S. Marine Corps. While in the Marine Corps, he completed a tour of duty in Vietnam and was assigned to the American Embassy in Paris, France, for 2½ years as an Embassy guard.

Upon discharge from the Marine Corps, Joe went back to school and several months later accepted a position with the Salinas Police Department where he served 6 years. While in Salinas, Joe served as a director on the association's board of directors and was a member in good standing with Operating Engineers Local No. 3.

Joe is a man truly committed to helping others which is clearly evident by his work in the community and his dedication to public service. His dedication, energy, and hard work can serve as example for us all. I truly commend him today for being selected as Labor

Leader of the Year for Fresno and Madera Counties.

TRIBUTE TO ZANER BENETIN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. HALL of Texas. Mr. Speaker, as you journey through life you meet many fine and wonderful friends—and, for those of us in public service, this constitutes much of the pay we receive. One such wonderful friend and constituent of mine is Zaner Benetin, who has just received the prestigious "Golden 50 Award" by the Texas Press Association in recognition of her 50-year career in the newspaper business. She has received many personal awards in the form of gratitude from the legions of friends she has made through the years. There is no way to calculate the hours and the days and nights she has given to her beloved Royse City.

Zaner began her career with her husband R.N. "Bob" Robison, when they started the Caddo Mills Enterprise on August 28, 1940. They later purchased the Royse City American in 1942 and the Tawakoni News in 1963 which they operated until 1973. In 1980 she was called back into the newspaper business to assist with the Lakeside American in Rockwall and Royse City. She has continued to work with the Royse City newspapers and still serves as the central operating figure of the Royse City News.

Her other accomplishments include serving 2 years as mayor of Royse City, a lay leader at the First United Methodist Church, active in the chamber of commerce and is listed among Famous Women of the South.

Members of the Texas Press Association honored Zaner with a plaque during the TPA's 111th summer convention in San Antonio. It will be placed alongside the many plaques, citations, and commendations she has received. I would not know how to start to relate the many kind and thoughtful things Zaner has done for me and my family. Probably there are few people in Royse City who can. Simply put—she cares.

Mr. Speaker, as we adjourn today, I ask that we too honor Zaner Benetin for her 50-year career in the newspaper business and in the business of making her city and State a kinder and gentler place to live.

TRIBUTE TO JUDGE PHIL H. COOK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. SKELTON. Mr. Speaker, when I graduated from law school in 1956, the judge for the Lafayette County Circuit Court was Phil H. Cook of Lexington, MO. Through the years, I had the opportunity to appear in his court. I will always remember his patience and words of encouragement as a young lawyer. I feel very fortunate to have had the opportunity to witness his keen intellect and high sense of honor throughout the time I appeared before him.

Judge Cook died on June 25, 1990 at the age of 81. He was an outstanding jurist, warm friend, and man of high morals. Burt Little, of Lexington, wrote a tribute to Judge Cook which appeared in the Lexington News on July 11 which reflects Judge Cook's legacy of honest and integrity. I submit this for the RECORD.

LONG TIME JUDGE LEAVES LEGACY OF HONESTY, INTEGRITY, AND HIGH MORALS

(By Burt Little)

The two words, "Your Honor", are customarily used in addressing the judges in America's courts of law. This title was, of course, used for the late Judge Phil H. Cook, who served as judge of the 15th Judical Circuit Court from 1946 until his retirement in 1978.

Judge Cook died June 25, at the age of 81, having lived in Lexington for 50 years.

"Your Honor" was more than a title for addressing Judge Cook. It also served as a description of him. It meant absolute honesty * * * integrity * * * the firm adherence to a code of highest moral values * * * the complete desire to serve the people with justice and fairness.

Judge Cook devoted his entire life to the practice of law. He began as a lawyer in Higginsville in the mid 1930's, later serving as the Higginsville City Attorney. From 1940 to 1946 he was Lafayette County Prosecuting Attorney at the courthouse in Lexington. Judge Cook then was elected judge of the 15th Judicial Circuit Court, comprising Lafayette and Saline counties, a post he held until his retirement in 1978.

In the August 1951 issue of the "Journal of the Missouri Bar" a lead article on its front page tells how Judge Cook brought about a change in the language of the judge's instructions to the jury in case involving automobile accidents. Such instructions, in order to conform to legal requirements, had to be so lengthy and involved that the average jury person couldn't understand them. The wording was changed to "everyday-type" language and terms that everone could comprehend. This change became a major improvement in the legal operation.

Judge Cook first was elected judge of the Circuit Court in 1946; then he was reelected in 1952, 1958, 1964, 1970 and 1976. For most of these terms he ran unopposed. He was highly respected by all the lawyers of the 15th Judicial Circuit. At one point during his career as judge he had about decided to retire. However, when the two bar associations learned about it, they petitioned him not to retire and to continue in office. He complied with their wishes.

Following Judge Cook's retirement, Rep. Ike Skelton of the United States House of Representatives delivered from the floor of the House a tribute to him which was published in the Congressional Record dated Thursday, Oct. 11, 1979. As a part of this tribute, Rep. Skelton said: "There is an anonymous saying that I remember hearing in law school—'Legal justice is the art of the good and the fair' Judge Cook was a master at this art. His even temper and vast knowledge of the law marked him as an extraordinary jurist. During his years as circuit judge for the 15th Judicial Circuit of Missouri, he won the respect of all who appeared before him. Attorneys as well as citizens, who were litigants in his court, regard him as one of the finest trial judges ever to have served the people of our State."

In Marshall, county seat of Saline County, there is a detention center for receiving delinquent young men and women. At the entrance there is a bronze plaque which reads:

PHIL H. COOK JUVENILE SERVICE CENTER

In honor of Judge Cook's dedication to young men and women during his 33 years as judge of the 15th Judicial Circuit.

Judge Cook was an active member of the board of directors of the Charles Lyons Memorial Foundation from its beginning in 1965. This foundation was begun by Mrs. Charles Lyons in memory of her husband, a noted judge of circuit court. The Foundation maintains an ever-modern law library and spacious lounge in the Lafayette County Courthouse containing hundreds of legal volumes always available to the profession. In addition, the Foundation awards scholarships to qualified graduates of every Lafayette County high school. Judge Cook served as vice-president of the Charles Lyons Memorial Foundation. This was yet another way he could help the lives of people.

His activities also included serving as chairman of the board of directors of the Family Benefit Life Insurance Company, a position that he held for many years.

Judge Cook was also active in Lexington organizations, such as the Elks Lodge, the Turners Society, Masonic Lodge and was a member of the Lexington United Methodist Church.

Judge Phil H. Cook died June 25, and is interred at Machpelah Cemetery in Lexington. But he is not gone, because his memory lives on in the hearts and the minds of countless people who knew him, loved him and whose lives were bettered by his service and his help to them throughout his long and active life.

TRIBUTE TO THE MIAMI CITY BALLET

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is indeed my pleasure to announce the Miami City Ballet's fifth anniversary season, 1990–91. In the past 5 years, Miami City Ballet has grown from a hometown ensemble into a dance company of international fame. They will bring their talent to the stage at Wolf Trap Farm Park on Sept. 7, 1990.

Special credit goes to the company's artistic director, Edward Villella, who has once again outdone himself in what is truly one of the company's most outstanding seasons to date. Having received the highest honor from the National Society of Arts and Letters in New York, Edward Villella joined the ranks of De Mille, Balanchine, and Baryshnikov when he became only the fourth recipient of the Gold Medal. He has been recognized as one of the most proficient dance personalities to date.

The company will premier in works by three of the most renowned choreographers in America today, Lew Christensen, of the San Francisco Ballet, Jerome Robbins and Paul Taylor. Their program will include such ballets as "Raymonda Variations," "Aureole," "Three Epitaphs," "Serenata," "Back in Three Move-

ments," "In the Night," "Transtangos," "Bournonville," "Tchaikovsky Suite No. 3 (Elegie)," "Divertissement d'Auber," "Rubies" from the full-length "Jewels," "Bugaku," "Glinka Pas de Trois," and "Reus (The Accused)." The season also includes two exciting world premiere ballets by resident choreographer, Jimmy Gamonet De Los Heros.

It has become increasingly apparent that the Miami City Ballet is too good to keep all to ourselves. It has become one of south Florida's most valuable exports. Florida's home company has beguiled and dazzled audiences from coast to coast and across the Atlantic, having had successful tours to Israel and South America. This September, they will make their debut in Europe, performing in such places as the Biennale International de la Danse, in Lyon, France, and England.

I highly urge all dance enthusiasts, as well as novices of the art, to attend the Miami City Ballet's performances at Wolf Trap scheduled to begin this coming September. One of Florida's treasures is about to be bestowed on the Washington, DC area.

SALUTE TO 1ST LT. DANIEL RASKIN OF THE CHESTNUT RIDGE VOLUNTEER FIRE CO.

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BENTLEY. Mr. Speaker, a young man in my district passed away a few weeks ago. A selfless individual, he had contributed, at age 31, over 11 years of volunteer service to his community. Day or night, 7 days a week, 52 weeks a year, he was there for anybody who needed him. He was a volunteer fireman, an 11-year veteran, and he died in the line of duty.

Volunteer fire companies play a vital role in thousands of communities throughout the United States. Augmenting the role of career fire stations, they can react faster to a local emergency, saving both time and lives. The men involved hold other jobs, but are always ready to drop what they are doing and risk their lives in service to others.

Maryland alone has over 350 volunteer fire companies. Adding to this number are combination fire companies, which have both career and volunteer fire fighters. The institution of volunteer companies has been in place for close to a century in the State of Maryland. In fact, the Maryland State Firemen's Association, the umbrella organization for most of the State's fire companies, will be celebrating its 100th anniversary in 1992.

Lieutenant Daniel Raskin proved to be a shining example of the type of individual who fills this invaluable role throughout the country. On July 9, as he was battling a barn fire caused by a severe storm, a faulty pipe fitting on his hose ruptured, throwing him to the ground. A week later, he succumbed to massive head wounds caused by the accident.

Daniel Raskin was a 1977 graduate of the McDonogh School. His leadership in the area of rescue soon manifested itself as he established a cardiopulmonary resuscitation course for fellow students. He went on to Washington and Lee University, graduating in 1981 with a bachelor's degree in psychology. Continuing his education, he then earned a master's degree in industrial psychology from the University of Baltimore.

Entering the Federal Government after graduation, Daniel worked for the Department of Health and Human Services, once again serving the people. He transferred to the National Transportation Safety Board [NTSB] in 1984.

He excelled at the NTSB, rising quickly to the position of human performance investigator. Among the accidents that Daniel investigated were the bus crash in Alton, TX, that killed 21 schoolchildren, the Amtrak crash in Chase, MD, and the Exxon Valdez oil spill.

Despite his excellence in an obviously time-consuming career, which might have been enough for another individual, Daniel gave even more. He maintained his ties to the community through the Chestnut Ridge Volunteer Fire Co. Attending advanced classes in firefighting techniques, he expanded his expertise and experience, rising to second in command of the fire company by the time of his accident.

A fellow investigator at the NTSB was also a volunteer fireman. As they traveled around the country investigating accidents, he and Daniel made a habit of spending time after work visiting the local fire companies. They would introduce themselves and take notes on the type of equipment and techniques used, and then apply them to their own companies.

This investigator perhaps best explained the emptiness that all of us feel; "Danny may have been small in stature, but he was big in heart, and has left a hell of a pair of boots for us to fill."

Daniel Raskin's life was a model of selfless devotion to others. His leadership, in both his professional and private life, has established a legacy that will live on. I salute 1st Lt. Daniel Raskin for providing an example for all of us to follow, in striving to better our lives, and the lives of those around us.

TRIBUTE TO THE MEMORY OF AMBASSADOR FRANKLIN H. WILLIAMS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. GRAY. Mr. Speaker, I rise today to pay tribute to the memory of Ambassador Franklin H. Williams who was chairman of the board of trustees of Lincoln University in Pennsylvania. Throughout his life he continually strived to excel and help minorities in higher education.

Ambassador Williams started his career by serving in the U.S. Army in World War II. He graduated from the Fordham University School of Law in 1945 and began his legal career as an assistant to the special counsel to the NAACP. He was then appointed as the NAACP regional secretary-counsel. In 1959 Franklin Williams was appointed assistant attorney-general of California.

In 1961 Franklin Williams helped Sargent Shriver in organizing the U.S. Peace Corps. He also helped win passage of a resolution calling for an international version of the Peace Corps under the United Nations auspices. He was the first African American to be named U.S. Representative to the Economic and Social Council of the United Nations.

In 1967 Franklin Williams was appointed U.S. Ambassador to Ghana. Because of his capable diplomacy in difficult situations, he won many honors from Ghanaian tribes, as well as the distinguished Service Award from the United States State Department. When he returned to the United States he became the head of a new urban center at Columbia University.

In 1970, Ambassador Williams assumed the post of president of the Phelps-Stokes Fund, which expanded under his leadership. He also served as vice-chairman of the New York City Board of Higher Education, governor of the American Stock Exchange, director of Consolidated Edison, and as a member of the board of the New York City Center Opera Co.; African Descendants Association Foundation, Accra, Ghana; Borden, Inc.; Chemical Bank, New York; Foundation for Research into the Origin of Man; Jackie Robinson Foundation; Museum of African Art; Council on Foreign Relations; National Minority Purchasing Council; U.R.S., Inc., CA; the American Civil Liberties Union; and the Spencer Foundation, Chicago. He was also president of the African Student Aid Fund, chair of the space commentator for Westinghouse Broadcasting Co., and a member of the Academic Advisory Committee, U.S. Coast Guard Academy; New York, California, and U.S. Supreme Court Bars; the Century Association; and the NAACP.

He helped to form the Association of Black American Ambassadors and the Boys Choir of Harlem. In 1987 he was named chairman of the New York State Judicial Commission on Minorities.

Please join me in recognizing Ambassador Franklin H. Williams, a man who dedicated his life to serving others.

WHY WE SHOULD SUPPORT THE B-2

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to voice my support for the B-2 Stealth Bomber. I would like to take this time to state why I do so, especially in the face of growing criticism in this Congress against this plane. While it is never my intention to take issue with the wisdom of the esteemed chairman of the Armed Services Committee, I respectfully submit that we need to take another look at this important weapon system before making a serious mistake in stopping procurement of the plane.

The year 1990 has brought vast challenges to the supporters of a strong American defense structure. With the democratic revolution in Eastern Europe and the great, though

incomplete, struggles for change in the Soviet Union, the United States faces a greatly different world and much changed military threat than we saw a bare 18 months ago. No longer must we commit billions to a conventional defense of Western Europe. The Warsaw Pact is dead and the Soviet Union no longer stands poised to strike with its armored legions into the heart of the Fulda Gap. Mikhail Gorbachev has made unilateral cuts and propounded a defensive theory based on the notion of reasonable sufficiency, a notion that, failing any unforeseen change in internal and external events, will guide the steady reduction in the Soviet armed forces. Clearly, the United States embraces these changes and has enthusiastically participated in the arms talks to reduce, even eliminate, a sweeping range of weapons, both nuclear and conventional. In the face of these changes, many have questioned the cost and continued viability of the B-2's mission.

Meanwhile, America struggles against a titanic, and rising, budget deficit. In this atmosphere we are obliged to look at all programs for reductions and cutbacks. A great many of my colleagues have picked the defense budget as a means to reduce the overall budget. Within reason, I support this effort. I welcome this historic opportunity to reduce the tremendous amounts of money we now spend on our defense and to restructure our forces away from a conflict with the Soviet Union. I especially support the sound fiscal goals of this body and have pledged to work diligently to bring about a balanced budget. There is no question that we must produce a balanced budget, but there is question regarding the best means to do so.

Is cutting the B-2 bomber the right way to go? I would argue that it is not. The fact remains that the Soviet Union retains, and will continue to retain long after the Strategic Arms Reduction Talks [START] process, the capability to utterly obliterate the United States from the face of the Earth. They are the only nation to have this capability. Now is no time to let down our guard against this threat, nor go about weakening the strategy that has brought about 45 years of relative peace in the world. The cold war is over, but its cessation does not mean we have license to go about dismantling the forces and strategy that were vital to its end. While we must cut our budget deficit, we can not do so in ways that threaten U.S. security.

Despite the Soviet Union cutting back on its conventional weapon capability, it has continued to modernize and expand its strategic weapon programs. The Soviet military policy has led to the introduction of next-generation road and rail-mobile ICBM's, ballistic missile submarines, and bombers. Our nuclear triad, consisting of land-based ballistic missiles, submarine-launched ballistic missiles, and strategic bombers, has ensured that the United States will always have a retaliatory strike force should the Soviet Union attack. Any small cuts we have seen in Soviet procurement of major strategic programs come from already staggeringly high levels and are more likely the result of development problems and meeting the START goals than shows of good will. There has been no reduction in Soviet nuclear capabilities. In fact, we have seen major modernizations in every aspect of their strategic forces in the last decade. Again, I ask: Is cutting the B-2 the right way to go?

The B-2 is essential for the continued viability of our strategic triad. The B-2 will be the only bomber that the United States can rely on to penetrate Soviet airspace, because of its stealth characteristic, and "hold at risk" their most valuable mobile missile launchers and command and control centers. The B-2 gives the United States the ability to penetrate Soviet airspace well into the next century, a critical necessity if we are to maintain nuclear deterrence. Secretary Cheney has stated:

The B-2 is required to maintain the effectiveness of our penetration bomber force as Soviet air defenses continue to improve. Its enhanced penetration ability, due to its revolutionary stealth characteristic, will allow it to attack heavily defended targets that other assets may be unable to strike in the future. The B-2 also provides our most promising means for holding at risk relocatable targets.

On the issue of targets, relocatable and fixed, inside the Soviet Union, four-star Air Force General John T. Chain, Commander in Chief of the Strategic Air Command and Director of Strategic Planning, stated:

An especially complex target group are those that may or may not be at a given geographic coordinate—in other words, mobile targets, officially referred to as relocatable targets * * * in the look-shoot case, the bomber flies to the target. Depending on the damage observed by the crew, they can strike it with a very accurate gravity bomb or short-range attack missiles or pass it by and go to the next assigned target. Such targeting efficiency becomes even more important in a START environment of reduced strategic weapons.

In addition to the necessity for a penetrating bomber, we must realize that the U.S. strategic bomber fleet is rapidly aging. If we do not move to modernize this leg of the triad now, very soon we will be faced with the retirement of all our B-52G's and B-52H's, leaving us with less than 100 manned bombers. Finally, the B-2 will stand at a 55-percent readiness rate and is therefore more survivable than earlier generation bombers.

Many critics of the B-2 have stated that we do not need a penetrating bomber because air-launched cruise missiles [ALCM's] can perform the same mission. I would point to a statement by General Chain to illustrate the fallacy of this argument:

The advance cruise missile, which has stealth characteristics, will have increased range and accuracy, but it must be programmed before leaving the ground, and it cannot outthink defenses or know a target has been moved or destroyed. A manned penetrating bomber can recognize those things and deviate to accomplish missions. I'm not denigrating cruise missiles. It's a must that every weapon system has its strengths and weaknesses. Total reliance on cruise missiles would be unwise.

While obviously ALCM's are important, they cannot be regarded as a substitute for penetrating bombers. Their lack of both flexibility and inflight retargeting capability, their smaller ordnance payload, and their inability to be recalled once launched are significant drawbacks to ALCM's, drawbacks the B-2 does not have. Furthermore, the Soviets are moving rapidly to improve their air defense network, effectively pushing out the defense perimeter with the introduction of Mainstay and air refueling platforms and increasingly advanced air interception fighters. Even after a Soviet-initiated nuclear exchange, we should face a widely dispersed and intact air-defense threat to our bombers. As this perimeter expands, B-52's and B-1's will be forced to launch ALCM's earlier, putting some Soviet targets out of range and reducing our deterrent force's ability to cover necessary targets. A combination of penetrating bombers and ALCM's forces the Soviets to deal with two threats and so making each more likely to succeed. Conversely, if we rely only on ALCM's, the Soviets can concentrate on defending against just this threat, especially by attacking the cruise missile carrier. We also must consider the effectiveness of nonnuclear cruise missiles. The Air Force has estimated that over 30,000 cruise missiles would have been required to deliver the same payload that was delivered by B-52's during the 11-day bombing campaign of North Vietnam, forcing them back to the bargaining table. At an average cost of $1.0 million per cruise missile, the operation would have cost $30 billion and completely depleted the U.S. cruise missile inventory. Clearly, cruise missiles are not an effective substitute for a penetrating bomber in either the nuclear or conventional mission.

Secretary Cheney also stated: "We must also recognize the B-2 has superior capability as a long-range combat aircraft in a conventional role, which is particularly important considering the declining availability of overseas bases." While the B-2 is a strategic bomber, history shows us that the line between strategic bombers and conventional bombers is easily and frequently crossed. The principle mission of this Congress should be to give the Commander-in-Chief the means to safeguard and protect the national security interests of this nation. That means flexible and capable weapon systems. The B-2 is ideally suited for that principle. Future threats will be highly capable and modernized and we must have the capability to defeat those threats with overwhelming firepower and from great distances. Take for example Iraq. With over 5,000 main battle tanks and a 1 million man, battle-tested army, Iraq is one of the most dominant landpowers in the world and certainly the most powerful Arab nation. Iraq has also shown its willingness to use long-range missiles and chemical weapons against its neighbors and even own citizens. Iraq's consuming interest in building a nuclear weapon is well known. And Iraq sits astride America's largest source of imported oil, the Persian Gulf.

Recently our dependence on that source of oil has reached staggering proportions while Iraq has become increasingly hostile to other oil-producing nations, intent on restricting supplies and driving up the price per barrel. The B-2 gives the United States the capability to take military action against this often belligerent country if we are forced to do so, without having to commit ground troops or much larger numbers of smaller planes from aircraft carriers that are in turn vulnerable to anti-ship missiles. With a 6,000 nautical mile range—10,000 with one refueling—the B-2 can attack

any target anywhere in the world from the continental United States, and deliver a 50,000 pound payload. This ability is critically important today and will become more so as we move to reduce our overseas bases.

For instance, the mission against Libya required 84 combat aircraft and 34 support aircraft. This same mission could have been executed by just two B-2's and three tanker aircraft. Those who assert we would never use an expensive asset like the B-2 against a country like Libya are off-base. The United States has always shown a propensity to use its best technology to accomplish its goals and reduce the possibility of loss of our personnel.

Without continued production of the B-2 the United States is out of the bomber business and forced to rely for the majority of its bombers on planes that are more than 40 years old. Those who point to the cost of the B-2 are misleading the public and confusing fiction with reality. Certainly the B-2 is an expensive plane. Yet a great percentage of the funds spent on the development of this program went to developing the basic stealth technologies that will be integral to the entire next-generation of Navy and Air Force fighter and attack planes. Even more importantly, the cost of development and research and development that went into this revolutionary program are being applied to each production unit. The average unit flyaway production cost of the B-2, depending on production rates and numbers built is nowhere near the $840 million figure some will throw around.

General Chain has pointed out that any cost calculations should be decided on as a cost to go basis: "The factory's been built, the engineering's been done, the tooling has been developed and is in place. If we had to write a check today to get 75 B-2's, it would be $28 billion." Furthermore, the B-2 has undergone 24,000 hours of wind tunnel testing, 44,000 hours of avionics testing, and 6,000 hours of flight control testing. In comparison to the B-1B, where all planes were funded with just 50 percent of the testing completed, only 20 percent of the B-2's will be funded when 70 percent of radar signature and 50 percent of flight testing is completed. There is not an excessive amount of concurrence in the production of this system.

The B-2 costs are also completely in line with historical patterns of expenditures for bombers. The cost of strategic nuclear systems comprises only 15 percent on the total defense budget. The B-2 would consume just 15 of the strategic account over time. With reduced procurement numbers, the B-2 will only take up 1.1 percent of the 1987-93 defense budget, while the B-52 and B-1B consumed 1.4 percent and 1.6 percent respectively. We have spent a great deal of money on this project. Let's not treat that investment as wasted and throw it away. That would be fiscally irresponsible. Most importantly though, we cannot compute in dollar terms the cost, and rewards, of the B-2. What is the price tag of peace? What is the price tag of the American lives the B-2 can defend? We make cost versus value tradeoffs everyday, but I would argue that this is not a tradeoff we can afford. And while we labor under large budget deficits and the constraints of a budgetary squeeze, we must remember we still have the money to preserve the physical integrity of this Nation. It is a question of priorities. My highest priority are those things that allow us to remain a free and democratic nation, immune from the bully tactics of those who would seek to dominate and undermine our very way of life.

Also, I would like to put to rest the debate over the Stealth characteristics of the B-2. The Air Force created a "Red Team" to study possible Soviet counter-Stealth abilities and the possible vulnerability of the B-2 to Soviet air defenses. The Air Force report concluded:

The Red Team has investigated the capabilities of HF, VHF, and UHF radars and has fully accounted for such capabilities in all survivability analyses. For current defenses, the team has found that (1) the B-2 can penetrate without allowing adequate vectoring of Soviet fighters; (2) fighter sensors cannot detect the B-2 at large enough distances to engage and provide a suitable defense and (3) envelopes have been drastically reduced so that mission planning and reactive avoidance works under most conditions.

The Air Force came to the same conclusion after having studied over 40 different unconventional systems of detection as well. No one has stated the B-2 is invisible to radar. In fact, the Air Force has admitted that "some big, powerful radars do have useful detection capability—against the B-2." Furthermore, "During test activities, air defense sensor components will occasionally detect stealthy air vehicles and, with sufficient coverage density and at short ranges, perhaps even track them for short periods of time." But the B-2 cannot be "consistently detected, tracked or engaged at militarily useful ranges in typical operational scenarios. And as Jane's Defence Weekly—June 23, 1990—stated:

Air defence, according to the USAF, does not just mean detection, but a combination of surveillance, fire control and kill, each of which must be carried out with 80 percent probability of success in order to achieve an overall kill probability of 50 percent. Moreover, air defences must be able to survive direct attacks, resist countermeasures and work despite variation of the environment, including severe weather and fluctuation in natural radiation sources * * * to counter detection by large fixed radar the B-2 could, according to the USAF, employ evasive routing, fly low to reduce coverage, and/or employ standoff weapons to attack targets in the vicinity of those radars.

The Air Force also has stated that "stealth technology essentially takes—airborne radars—out of the picture."

I would like to conclude with a last quote from General Chain. In testimony before the Senate Armed Services Committee he stated:

To deter, the United States must convince any potential adversary that they cannot achieve their aims by attacking American interest—that the cost far outweigh any potential gains. It is the aggressor's perception of U.S. nuclear strength that determines if they will even consider attacking U.S. interest or not. Because our national interest and potential challenges to those interests are worldwide, the U.S. needs strategic forces capable of influencing events and thereby defending and sustaining those interests anywhere, anytime, at any level. Thus, the need for rapid power projection, escalation control, and earliest termination of hostilities on favorable terms will remain fundamental objectives of U.S. forces. Offensive weapons will remain essential to these objectives. Deterrence based solely on defenses, for example, ensures that the worst thing that can happen to an aggressor is that his attack fails—in effect, he loses nothing, and stands to gain substantially, in any challenge to U.S. interests. Strategic forces must provide certainty of U.S. retaliation against what an aggressor most values under all scenarios. This is the essence of deterrence.

Those who accuse the B-2 of having no realistic mission miss the point of deterrence strategy. We spend billions on Trident submarines, on B-2's, on ICBMs precisely because the more survivable our nuclear force is then the greater the chance that the Soviets will be insured annihilation in an American return strike. Knowing that to attack is to be destroyed means the Soviets do not attack and peace is assured. Some will see that strategy as meaning we spend billions on weapons never used. I agree, and would add that the best weapon is the weapon never touched. We are not spending billions for weapons, we are spending billions for peace. Peace is a priceless commodity. Because bombers are the most stabilizing element of our triad, the prospects of peace are further increased by procurement and deployment of the B-2. So while some will say this program costs too much money and some will say there is no mission for this plane, I will say that peace is this plane's mission and this country can afford peace.

TRIBUTE TO KUNI HIRONAKA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my congressional district. On the evening of July 29, 1990, the friends and family of Kuni Hironaka will gather together to host a 70th birthday celebration. It is indeed an honor to share with you and my colleagues the inspiring career of this devoted public servant.

In searching for the definition of the word "dedication," one need not look any further than the name Kuni Hironaka. His devotion to his family, and his work in the Bocho Doshi-Kai makes me proud to be his close personal friend. Kuni is a proud family man. He and his wife, Rose Kazuye have four children, David, Amy, Arlene, Richard and three grandchildren, Derek, Bryson and Tori. Many of us have first-hand knowledge of the dedication required to raise a family, and to keep them healthy and happy. On the job, Kuni earned an impeccable reputation as a man who could be relied upon to get the job done. Employed for 35 years at McClellan Air Force Base, he retired in 1984. In the community, Kuni has exemplified the highest spirit of volunteerism by quietly, tirelessly and effectively providing for the backbone for numerous community programs such as the Asian Senior Hot Lunch Program and the Asian Community Nursing Home.

Mr. Speaker, as my good friend, Kuni Hironaka, celebrates his 70th birthday in the com-

pany of his loving family and friends, I ask that my colleagues join me in extending congratulations and best wishes to him for many happy years to come.

TRIBUTE TO SARAH McCLENDON

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. HALL of Texas. Mr. Speaker, I wish to recognize a very special friend, constituent, reporter, and Washington institution, Sarah McClendon—who has served the State of Texas and our Nation for more than 50 years.

This year she turned 80 years young. Since 1944 she has covered 10 presidents and wrote about 8 of them in her book "My Eight Presidents—With a Capital Cast of Thousands" in 1978. She has appeared on "Meet the Press," "The Today Show," "The Tonight Show," and "Late Night with David Letterman," just to name a few.

Sarah was born in Tyler, TX, July 8, 1910, and is a graduate of Tyler Junior College and the University of Missouri, School of Journalism. During World War II, she volunteered for the WAC's, became a first lieutenant and was selected to serve at WAC headquarters in the Pentagon, then as the first WAC in the Office of the Army Surgeon General.

Sarah is best known for her sharp, direct questions of Presidents, Cabinet members and other public officials which she describes as "trying to cut through the fog."

Her questions of Presidents created national incidents when she asked President Kennedy about security risks in the State Department; President Eisenhower about sending troops to Lebanon without asking Congress; and President Johnson about his foreign policy.

We are indebted to Sarah for keeping us well informed and for bridging the gap between the policymakers and those who are affected by those decisions. She has served us so well—and we wish for her many more years of reporting to us in her honest and sensitive style. She is a fine writer, a great reporter, and super friend. I am lucky to be her Congressman and her friend.

Mr. Speaker, as we adjourn today, let us do so in honor of Sarah McClendon.

MIAMI POLICE DEPARTMENT'S SECOND ANNUAL OPEN HOUSE CELEBRATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to note the Miami Police Department's second annual open house celebration to be held on August 3, 1990 at the North Substation. The open house is being sponsored by the Crack Prevention Unit of the Miami Police Department.

This occasion provides the community with the perfect opportunity to meet with those members of the Police and Community Crime Prevention Task Force in a friendly and informal setting. The Miami Police Department understands the importance of building trust between the community they protect and themselves.

Distinct recognition should be paid to Maj. Homer W. Lanier, section commander , Chief Perry L. Anderson, Jr., chief of police, Thelbert Johnakin, chairperson of the Model City Crime Prevention Task Force, committee members Wanda Rambo, Sgt. Warren Barns, Daisy Black, Marc Paul, Craig McQueen, Yves Fortune, Jose Machin, Jorge Perez, Ralph Suarez, Mario Miranda, Betty Watson, Brigette Moore, Maj. Jesse J. Williams, and all local Police and Community Crime Prevention Task Force members.

I would personally like to congratulate the Miami Police Department at this time, and extend my sincerest thanks to all of those mentioned above for their unflagging effort and hard work to ensure the safety and well-being of the citizens of Miami in the war against drugs.

TRIBUTE TO THE MAHONING VALLEY CHAPTER OF THE ULSTER PROJECT COMMUNITIES FOR PEACE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Mahoning Valley chapter of the Ulster Project Communities for Peace of my 17th Congressional District of Ohio.

The Mahoning Valley chapter of the Ulster Project Communities for Peace was formed 2 years ago by a committee of dedicated men and women concerned with the welfare of the children of Northern Ireland. These children have been forced to live in an atmosphere of fear and hate, in a country where their religion dictates where they go to school, where they work and where they live. Religious freedom is a concept not often imagined by the children of Northern Ireland.

The Mahoning Valley chapter of the Communities for Peace has succeeded in defining the concept of religious freedom for a number of Irish teens from both Protestant and Catholic families. This program, financed by donations from generous individuals and businesses of the Mahoning Valley, selected an equal number of boys and girls and Protestants and Catholics to come to the United States and live with host teens and their families. The host teens in this program contribute invaluable amounts of their time and energy to ensure a valuable experience for the visiting teenagers of Northern Ireland. During their 1-month stay, the teens from Northern Ireland participate in events that allow them to meet other young people from various religions, including the other Protestant and Catholic teens from their home country. This allows both Protestant and Catholic teens to meet in a neutral atmosphere, and form friendships that cut across the negative stereotypes that are perpetuated in their own country.

Mr. Speaker, the Mahoning Valley chapter of the Ulster Project Communities for Peace has given the gift of free choice to the teens from Northern Ireland. It has given them an alternative view of religious expression and tolerance. Above all, it has given them the opportunity to cross religious barriers, and even form friendships that will touch their lives forever. It is an honor to represent this outstanding group of individuals.

THE NEED FOR A BALANCED BUDGET

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. PORTER. Mr. Speaker, statutes and constitutional amendments, however well-crafted, are no substitute for courage and will when it comes to deficit reduction. The gentleman from Texas and the gentleman from New Hampshire have worked long and hard to bring to the floor the amendment to our basic law that we consider today. They deserve to be commended. They set our sights on what must be achieved. I support their efforts and will support the amendment.

But, Mr. Speaker, I do not fool myself, nor should other Members or our constituents fool themselves, that this will solve our deficit problem. Often we look for institutional changes when problems seems intractable. We want to limit the terms of Members of Congress or give the President line-item veto or write fiscal standards into the Constitution. Some of these are sensible ideas, others not. But none will work or solve the problems they are aimed to solve, unless there is collective will that the problem be solved. The minds of men and women are infinitely creative in working around legal obstacles, if that is what they are inclined to do. One has only to look at Gramm-Rudman I and II to see what can be done to avoid making progress on the deficit. And, Mr. Speaker, let's make no mistake, no, no, progress has been made on the deficit in the last 8 years.

In 1983 our Nation's debt stood at $1.1 trillion. Today, it stands at $3.1 trillion and going up. Simple mathematics tells us that our average addition to the debt over the period has been $250 billion per year. When we talk of Gramm-Rudman deficit numbers of $150 billion or so, we leave out much of the actual obligation that our country has undertaken, not, insignificantly the entire S&L bailout, which is off-budget. We also fail to recognize the net annual additions to the Social Security reserve that are being counted as revenue, offsetting spending, which is not revenue but moneys needed to help provide for retirements in the next century.

Mr. Speaker, I urge the Members to support this amendment. But no one should believe for a minute that the deficit problem will thereby be solved. Only by putting its solution as our No. 1 domestic priority and by placing the standard of living and economic opportunity of our children and grandchildren ahead of our own are we ever going to get back to a sound fiscal foundation. Mr. Speaker, we are current-

ly destroying that. We are saddling our children and grandchildren with debt that today will cost each of them huge additional taxes, estimated at $150,000 for each one over their working life-times just to carry the interest on $3 trillion of debt, and we are, in addition, in the process of destroying their Social Security system as well. This is unconscionable. This is madness. If we allow it to continue, it will destroy us, and all of the values that have been the bulwark of our Nation from its inception.

The amendment sets our sights where they ought to be. But only will and courage, in so short a supply in this Chamber, will ever resolve our dilemma.

DEREGULATION SPELLED DISASTER

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. ANNUNZIO. Mr. Speaker, the savings and loan disaster is the greatest economic catastrophe in the Nation's history. The American people look at it and wonder how it could have happened.

It did not happen in a vacuum. It is, in fact, only one part of 9½ years of deregulation and lack of supervision that ran throughout the executive branch of the Government. The Reagan-Bush era was marked by a series of scandals of self-dealing, insider trading, and abdication of governmental responsibility that would be hard to match in any other period of U.S. history.

The amount of fraud against the United States during the 1980's is simply amazing. Between March 1981, and September 1987, a period of only 6½ years, there were 23,000 successful prosecutions against wrongdoers who defrauded the United States.

Consider the case of Pentagon procurement. The administration pushed for a tremendous increase in defense spending. We need a strong national defense and I supported strengthening our forces. Whenever there is a great buildup in spending, however, the Government must act to make sure the money is spent wisely. The early Reagan administration of $640 toilet seats and $2,000 coffeemakers, always defended its spending, even at the cost of its credibility.

Little has changed with the years. The April 19, 1990, edition of Business Week reports that the Pentagon has paid $120 each for paper cup dispensers, $413 for mechanical pullers—that cost $185 just 16 months earlier—and a whopping $3,000 for a pair of pliers.

Just last week, General Electric was fined $30 million for defense contracting fraud. The fraud was committed between 1982 and 1984. This was the second time in 5 years that General Electric has been convicted of defense fraud. Yet General Electric remains the Nation's second largest defense contractor.

Other major defense contractors have also pled guilty to procurement fraud. The list reads like a who's who of defense firms; Boeing, RCA, Hughes Aircraft, Grumman, Rayetheon, just to name a few. The fines paid are just a small cost of doing business.

The past 10 years have shown that the administration not only failed to adequately audit and examine defense contractors claims, but actively resisted attempts by Congress to require the appointment of independent inspector generals to prevent and uncover waste, fraud, and abuse. The administration repeatedly fought against attempts to extend the Inspector General Act to all agencies.

Despite the administration's attempts to keep the inspector generals from doing their jobs, they still managed to bring over 8,000 administration sanctions as a result of their investigations into wrongdoing. And this was during a time in which they did not have full authority in many agencies.

It was only in 1988 that Congress was able to finally overcome administration opposition and extend the act to all Federal agencies. The final holdout ironically included the Justice Department. That Cabinet level department, which is supposed to enforce the laws of the United States, fought to prevent the creation of an independent inspector general, appointed by the President, to assure that it obeyed the laws regarding fraud and abuse.

I supported strengthening the Inspector General Act and voted in favor of it. At my urging as chairman of the Joint Committe on Printing, the act was amended to apply to the Government Printing Office, even though it is not an executive agency.

At the Department of Housing and Urban Development, corruption was the order of the day. Newsweek said, "in terms of breathtaking cynicism and hypocrisy it's hard to match." It featured the spectacle of a former Cabinet Secretary taking the fifth amendment rather than discuss his conduct in office. Dozens of well-connected political operatives profited from HUD. At least 14 former HUD officials sought agency contracts. One former aide of Secretary Pierce set up a consulting firm which grossed more than $3 million in business from HUD. The result is that the scandal will wind up costing the taxpayers $6 to $8 billion.

One can see the benefit of inspector generals in the scandal at the Department of Housing and Urban Development. The first indication that there was serious insider abuse came as a result of a report released by the HUD inspector general to Congress. The report indicated that millions of dollars of contracts had been awarded as the result of favoritism by high-ranking HUD officials to their friends, their associates, and the well-connected. Shockingly, but familiarly, the administration took no action on the report until the Congress launched an investigation of the scandal.

The same story can be told in the savings and loan crisis. It is no coincidence that the savings and loan crisis ballooned out of control during the 1980's. First the administration vigorously proposed deregulating the savings and loan industry. It advocated giving it more power, and it advocated letting the States give savings and loans more power, even though their deposits were insured by the United States.

In 1980, I opposed increasing deposit insurance from $40,000 to $100,000. Not only did this increase the risk to the taxpayer, but it did so without even increasing the premium that the financial institutions paid for the insurance. Insurance benefits increased by 150 percent, but premiums remained the same. I was 1 of only 13 Members of the House to vote against the increase.

The administration not only supported deregulation, but it actively set out to reduce supervision of federally insured financial institutions. The number and frequency of bank examinations was reduced. Some banks went 5, 6, and even 7 years without a visit from a bank examiner. When the Federal Home Loan Bank Board sought to hire more examiners for savings and loans, the Office of Management and Budget refused to allow the hiring.

At the same time, the bank regulators were making deals that suggested that who you knew was as important as what you knew. One individual with good political connections was able to buy a failed bank, even though he had been president of a firm convicted of securities fraud. Later, he was able to buy a failed savings and loan with only $1,000 of his own money from the Federal Savings and Loan Insurance Corporation.

In the case of the notorious Silverado Banking, Savings and Loan Association, someone in the headquarters of FSLIC ordered that the institution not be closed before the 1988 Presidential election. This delay cost the taxpayers millions of dollars in increased losses, but kept the closing from being an embarrassment in the waning days of the Presidential campaign.

Now that the savings and loan disaster is out in the open, the administration is still slow to prosecute the crooks or sue the officers and directors of the failed savings and loans. Only when I and other Members of Congress started to press for more vigorous enforcement did the administration take up the theme. As the chairman of the Financial Institutions Subcommittee, I held hearings and sponsored legislation to provide for more prosecutors and better tools for the pursuit of the savings and loan crooks. The subcommittee approved the legislation on June 28, and it should go to the House Floor in September.

There is a common element that runs through the Pentagon scandals, the HUD scandals, and the savings and loan crisis. It is one of deregulation, lack of supervision and political favoritism. The history of the 1980's will be written in red. The red symbolizes not only the tremendous debt piled on future generations by the administration—a tripling of the national debt to over $3 trillion—but the legacy of scandal from insider fraud and abuse.

Congress has taken several steps to uncover and stop the scandals. The passage of the amendments to the Inspectors General Act will help put independent inspectors dedicated to discovering fraud, waste, and abuse in the agencies. By making them independent, they will not be dominated by the head of the agency to which they are assigned.

Congressional oversight has increased. As chairman of the Financial Institutions Subcommittee I have held hearings into the slow pace of prosecutions of savings and loan crooks. Other committees have also stepped up their oversight activities. Congressional hearings have lifted the veil of secrecy surrounding

Pentagon procurement frauds, the extent of influence peddling at HUD, and the sweet deals received by well-connected insiders bidding on failed banks and savings and loans.

Congress must continue its efforts to eliminate governmental waste and insider abuse. Ultimately, that is the only check on the executive branch of Government.

H.R. 5387—FINANCIAL CRIMES PROSECUTION AND RECOVERY ACT OF 1990

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BUNNING. Mr. Speaker, today we come to the floor to consider H.R. 5387, the Financial Crimes Prosecution and Recovery Act of 1990. This important legislation will give us the tools to go after those who helped cause the Savings and Loan crisis through their fraud, crimes, and greed.

This legislation was inspired by the Banking Committee's consideration of H.R. 5050. Later, a new bill was introduced, H.R. 5353, that incorporated the provisions that were added to H.R. 5050 through the Judiciary Committee's consideration of the anti-crime package. This legislation is, in essence, identical to H.R. 5353. I am a proud cosponsor of both H.R. 5050 and H.R. 5353.

One of the most important provisions in this bill is the one that establishes a financial institutions fraud unit within the Department of Justice, to be headed by a special counsel. This special counsel will have among his duties, the investigation of government officials, including Members of Congress, to see if any crimes were committed. We must show the American people that we are willing to look in our own chambers for the crooks who help cause this mess.

Several weeks ago many of us called for such a special counsel and it is good to see that, for once, Congress acted quickly on our call.

HONORING CARLISLE BURCH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. HOYER. Mr. Speaker, I rise today to honor Mr. Carlisle Burch, native Marylander, born in La Plata and a resident of Prince George's County, Mr. Burch is retiring at the end of July 1990 from the U.S. Marshal Service after 20 years of distinguished service.

During his career with the Marshal Service, Mr. Burch was credited with saving a judge's life when he wrestled a man to the floor and disarmed him while court was in session. Mr. Burch handled many assignments during his 20 years with the Marshal Service, among them the security of airlines in an era of numerous hi-jackings. His professional career was interrupted by his recall to active military service during the Korean conflict where he served as a combat engineer.

Mr. Burch was a former International League professional baseball umpire. Later he served as president of Metropolitan Baseball Umpires Association for an unprecedented 12-year period. The MBUA draws its membership from the District of Columbia, Maryland and Virginia areas. Mr. Burch is also a hall of fame member of the Homeplate Club. He is a member of the National Association of Sports Officials. The Clinton American Legion Post 259, the Fraternal Order of Police, a member of the board of directors of the Prince George's County Boys and Girls Club, an accomplished master of ceremonies and a fourth degree bishop of the James E. Walsh Assembly of Knights of Columbus. In addition, Mr. Burch is a regular donor of blood to the American Red Cross, having given an incredible 11 gallons.

Mr. Burch is a dedicated and highly popular U.S. marshal. He is to be honored by his fellow officers and friends on August 4, 1990 and will be missed by his professional associates who wish him well. Mr. Speaker, I ask my colleagues to join me in congratulating Carlisle Burch on an outstanding career and wishing him a happy retirement.

INTRODUCTION OF A BILL TO SIMPLIFY THE TAX CODE BY THE ELIMINATION OF DEADWOOD AND REFORM OF TREASURY STUDY REQUIREMENTS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing legislation to simplify and improve the Internal Revenue Code by deleting certain deadwood provisions and by reforming due dates and mandates for studies by the Treasury Department. These changes are explained in more detail below.

These relatively technical housekeeping measures are the first steps in what I hope will be a major and ongoing initiative to simplify the Internal Revenue Code. On February 7, 1990, I announced this initiative and requested the public, along with Treasury Secretary Nicholas Brady and the staffs of the Committee on Ways and Means and the Joint Committee on Taxation, to develop simplification proposals for the Committee's review.

In response to this initiative, hundreds of proposals have been received and published in Ways and Means Committee Print 101-27 for the review of the interested public. The bill which I am introducing today reflects two of the proposals which were submitted by the Majority Tax Staff of the Committee on Ways and Means. This bill is being introduced today to give the interested public an opportunity to review the specific legislative language of these proposals and to provide comments to the Committee.

With respect to the other proposals for tax simplification received by the Committee, it is my intention to hold hearings in the near future to receive testimony from the interested public and, as time allows, to introduce additional legislation to simplify various areas of the tax law.

PROPOSALS TO ELIMINATE DEADWOOD

The bill would remove from the Internal Revenue Code of 1986 numerous provisions that are no longer used in computing current taxes or are little used and are of minor importance. These types of provisions are popularly referred to as "deadwood" provisions.

The bill would repeal and amend numerous sections of the Code. The bill deletes sections, subsections, and other provisions which dealt with past years, situations which were narrowly defined and unlikely to recur, as well as provisions that have outlived their usefulness.

The bill would rewrite entirely the investment tax credit provisions to eliminate matters not pertaining to the existing portions of the credit—the rehabilitation credit; the energy credits for solar, geothermal, and hydroelectric energy; and the credit for timber. This rewrite is intended to make the Code more usable to the reader without changing the substance of present law. Similarly, certain provisions relating to depreciation, net operating losses, and the 100-percent dividends received deductions have been rewritten to remove large amounts of obsolete matters.

The bill would take effect on the date of enactment. However, the tax treatment of any transaction occurring before that date, of any property acquired before that date, or of any item taken into account before that date would not be affected by the bill.

PROPOSAL TO REFORM TREASURY STUDIES

In previous years, the Congress has mandated the Treasury Department to make studies on various tax issues and to make reports of those studies to the Congress.

Many mandated Treasury studies are now past due. To encourage the orderly completion of these studies and to establish a more realistic timetable as to when the studies might be expected, the bill extends the due dates for certain studies reflecting the most recent assessments of the Treasury Department as to the time and resources required for their completion. The Treasury Department would be encouraged to meet this new schedule in a timely fashion.

To enable the Treasury Department to focus its full energies on completing these studies in a timely fashion, the bill would also repeal certain studies which the Treasury Department has agreed are no longer relevant, or have proven infeasible, or else no longer merit the necessary commitment of limited Treasury resources.

TRIBUTE TO AN OUTSTANDING GOVERNMENT WORKER: APURBA BASAK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to Mr. Apurba Basak, associate medical care administrator at the New York City

Human Resources Administration, for his fine work and service to my staff and constituents.

In this day and age, we too often hear only of society's shortcomings, and virtually nothing about its success stories. For this reason, it brings me great pleasure to be able to stand here before my colleagues to honor this gentleman. His uncommon professional ability and personal grace, shown to me, my staff, and constituents over and over again, is unmatched by most public servants we come in contact with, making him most deserving of national recognition.

In his dealings with my office, Apurba has always acted in a most professional and courteous manner and has responded to questions and requests from my office efficiently and promptly. His broad knowledge of the Medicaid program has made him invaluable in helping me to resolve countless, extremely complicated problems for several of my constituents who were unable to find help elsewhere.

His enthusiasm in performing the job at hand and his devotion to the highest standards of public service make him a credit to the Human Resources Administration, and indeed, to the entire civil service industry in our Nation.

I am proud to honor him.

THE NEED FOR TIMELY FHA INSURANCE REFORM

HON. JOHN RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. RHODES. Mr. Speaker, we need to make true reform in the FHA mortgage insurance program. During recent weeks, FHA mortgage insurance facts and figures have been circulated among Members, many of which conflict with each other. Important concerns are raised by both those who support and those who object to the reform proposals by HUD Secretary Jack Kemp.

Nonetheless, several reform initiatives offered by Secretary Kemp are very important ones and should be considered seriously.

First of all, FHA mortgage insurance reform is a top priority of the administration and Secretary Kemp. The program is losing hundreds of millions of dollars each year and is in need of prompt, serious reform.

Second, Secretary Kemp's proposal would allow the Federal mortgage insurance program to reach a level of actuarial soundness earlier than any other proposal or plan. Given our inability to precisely predict the housing industry's future or the future of the U.S. economy, this is an important feature of the Secretary's proposal.

Third, a new and innovative risk premium would be put in place. This premium would require that those who are in the riskiest category of home buyers pay insurance premiums in proportion to the risk they pose to the program.

Fourth, the Kemp proposal would reduce the overall default rate in the mortgage insurance program.

Mr. Speaker, I believe these issues should receive attention and consideration when conferees from the House of Representatives and Senate consider the respective versions of this bill. While the above points are not agreed on by all parties, they nonetheless represent an area of priority by me, Secretary Kemp, and the administration.

I would hope that the many concerns over this reform process not be given short shrift during continued action on the bill. Thank you.

CITY OF HOPE: A PUBLIC-PRIVATE PARTNERSHIP THAT WORKS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. DREIER of California. Mr. Speaker, while controversies swirl around the Government's contributions to questionable art and artists, there are countless examples throughout the country of Government-private cooperation for the betterment of mankind and the benefit of the American taxpayer.

One such example in my district is the City of Hope, located in Duarte, CA, just northeast of Los Angeles. I recently visited the City of Hope and saw first hand the wonderful work being done by a group of dedicated individuals whose contributions to medical research and healing are the result of private initiative and limited Government assistance.

The City of Hope National Medical Center and the Beckman Research Institute is a nationally recognized, not-for-profit research and treatment center designated by the National Cancer Institute as a clinical cancer research center.

The City of Hope was founded in 1913 with the erection of two tents to house victims of tuberculosis. Today it is an institution with a $165 million annual budget, housed in 118 buildings on 100 acres where 100 M.D.'s, 120 Ph.D.'s and 1,800 other staff carry out medical research and patient care objectives.

Known especially for its pioneering work in bone marrow transplantation [BMT], the National Medical Center is the second largest BMT facility in the country. Physicians at the center are also making bone marrow transplantation a key component of other lifesaving treatments for certain patients with breast cancer and other solid tumors.

City of Hope concentrates on personalized, emotional support for the patient and family. Exceptional treatment programs also are available in diabetes, respiratory, and neurological disorders.

The Beckman Research Institute is recognized for conducting investigations in genetics, biology, neurosciences, immunology, and brain and nerve function.

Some of the Institute's contributions to science include the creation of a gene to make human insulin; discovery of a faster, more definitive test for AIDS; the first synthesis of monoclonal antibodies in bacteria; the first test for single site genetic disease using DNA probes, an important factor for determining sickle cell disease; development of an automatic computerized eye movement tracking device used worldwide, and the use of genetic research to produce the body's own substance to attack and destroy tumors.

Mr. Speaker, while only a small percentage of the City of Hope's total revenues come from the Federal Government, this institution is a shining example of public funds being put to good use in partnership with the private sector.

I venture to say that you will hear more about the City of Hope, and that is the way it should be, Mr. Speaker, because the institution is an American success story, and this is the kind of story that we in Government ought to be telling over and over again.

TRIBUTE TO THE UNITED STEELWORKERS OF AMERICA READING SUB-DISTRICT'S HEALTH CARE SEMINAR

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to the United Steelworkers of America, Reading Sub-District, on the occasion of their health care seminar. On August 4, 1990, the hardworking men and women of this organization will participate in a timely and important program which will confront the various health care issues which affect them and our Nation as a whole.

An adept, dedicated, and responsible organization, the United Steelworkers of America has annually conducted a seminar informing its membership of critical health care issues. Such educational endeavors are to be highly commended. They play an important role in increasing awareness and civic-mindedness in the community.

Mr. Speaker, the Reading Sub-District of the United Steelworkers of America company has instituted an outstanding educational program which should be recognized for its contributions toward increasing the community's understanding of the state of our health care. Indeed, it is an honor and a privilege to congratulate the members and officers of the United Steelworkers of America, Reading Sub-District, for conducting such an important seminar.

TRIBUTE TO DONALD E. "DIGGER" ODELL, LT. COL., USAF (RETIRED)

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Col. Donald E. Odell, of the U.S. Air Force. Colonel Odell is retiring from his position as base public affairs officer at Selfridge Air National Guard Base.

Colonel Odell enlisted on September 6, 1952 and served in enlisted status until April 1954, at which time he entered the Aviation Cadet Pilot Training Program. He received his

commission and wings on August 1, 1955. From that time until 1958, he was an instructor pilot in the Air Force Pilot Training School.

Colonel Odell served in Europe from 1959 to 1962. He was then assigned to the 94th Fighter Interceptor Squadron, Eddie Rickenbacker's old squadron, at Selfridge Air Force Base. He was assigned to F-105 fighter-bombers in December 1966 and underwent crew training at McConnell AFB, Kansas.

In August 1967, Colonel Odell arrived at the 34th Tactical Fighter Squadron, Korat Air Base, Thailand. He was shot down on October 17, 1967, while on his 17th mission, 16 miles northeast of Hanoi, North Vietnam. For nearly 6 long years he was held as a prisoner of war until his release on March 14, 1973. After a period of hospitalization, he returned home on April 7, 1973.

Colonel Odell has received many awards and decorations, including the Silver Star, Legion of Merit, and Purple Heart with Oak Leaf Cluster. He is presently base public affairs officer at Selfridge Air National Guard Base.

Colonel Odell was a great pilot, and I commend him highly. The Air Force needs more men like him and will miss his leadership. We should all salute his service and the sacrifices he made. His contributions to our Nation should never be forgotten.

IN MEMORY OF CAROLYN REAM, LONGTIME DISABLED RIGHTS ACTIVIST

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. BILBRAY. Mr. Speaker, it is with great sorrow that I come before this body today to pay tribute to longtime disabled rights activist, Carolyn Ream, who passed on Sunday, July 22, 1990. She was 70 years old.

Mrs. Ream was born February 17, 1920, in Tulsa, OK. She moved to Las Vegas in 1953. After 17 years of dedicated service, she retired from the State of Nevada in 1983.

She held positions with the University of Nevada Las Vegas, Nevada Employment Security Department, State Bureau of Vocational Rehabilitation, the Governor's Committee on Employment of Disabled People, Nevada Industrial Commission and the State Jean Hanna Rehabilitation Center.

Among her many awards for recognitions, Carolyn was named to "Who's Who in the World" for her outstanding achievements.

My wife and I extend our heartfelt condolences to her husband of 38 years, Bud, her son Eric, and the rest of her lovely family.

Mr. Speaker, I feel that Carolyn would have been very pleased to know that just 4 days after her passing, on July 26, the Americans With Disabilities Act was signed into law. To this longtime disabled rights activist, the ADA was the most important civil rights act for our citizens with handicaps and signifies everything Carolyn stood for, fought for and believed in.

The passing of Carolyn Ream is a great loss to the Las Vegas community and all of Nevada. I thank my colleagues for this opportunity to pay tribute for this admirable woman in the permanent history of this body. It is a great privilege.

FEDERAL EMPLOYEES NEED CHANGE IN ANNUITY LAWS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. McEWEN. Mr. Speaker, today I am introducing legislation that will allow retired civil service employees to change the election of their annuity when the families encounter catastrophic illness. It seems to me that the current law is unresponsive to the needs of retired Federal employees who are faced with the terminal illness of a spouse.

Recently, I was contacted by an Ohio resident who after 28 years of service as a Federal employee retired electing a survivor annuity. He wanted to be assured his wife would be taken care of in the event of his death. It is truly unfortunate that his wife has been stricken with cancer, but what is more unfortunate is that although he is destined to out live his wife, he is unable to change his annuity election while still married to her. During an era of increasing health care costs this American is unable to receive the benefits that are due him so that he may pay the mounting medical bills that have resulted from this horrible illness.

Mr. Speaker, I urge you and all of my colleagues to join me in supporting this legislation that will allow individuals who have worked hard for the United States of America to receive only what is rightly theirs.

UNITED SENIORS HELPS THE ELDERLY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the efforts done by the United Seniors of the State of Florida in the Miami, FL, area. United Seniors is an organization set out to make the lives of our senior citizens more enjoyable and more productive. They believe that senior citizens are an invigorating and energetic portion of our population who are just as ready as our young people to take on the joys and success of our world.

United Seniors has set out to find 500 new leaders for 1990 to take on the task of watching and caring for the needs of the elderly. To achieve their goal they have weekly events throughout Miami. On July 28, a luncheon was held at the "Restaurante El Globo" in Little Havana. On July 21, the Hialeah, Florida chapter introduced the new regional president, Agustin Reyes. Their goal of finding exceptionally qualified and caring people to lead the organization into this new decade is going well. Getting people involved in dealing with the issues that effect the elderly is difficult and finding people to be leaders is a necessity.

United Seniors provides the human touch needed to make the lives of our vital senior citizens happier. For example, two members of the organization, Mr. Ruben Carrerou and his wife Maggie, have worked to help those elderly who find themselves without any children or family members. The organization also represents the divergent nationalities and cultures that are found in Miami. They are all united in an effort to better the lives of everyone in contact with the elderly.

It is organizations like United Seniors that make Miami and the State of Florida a dynamic place to live. Special thanks must go out to the board of directors: Hector A. Torres, Rolando Espinosa, Enrique Vega, Dr. Merci Fraginals, Golofredo Hernandez, Carmen Vallellanes, Gisela Elgarresta, Alma de Cuellar, Juan Alberto Iglesias, Margaret Sanchez and the countless other people that have made United Seniors the helping hand that it has become in the Miami community.

INTRODUCTION OF RESOLUTION ON FAMINE RELIEF FOR ANGOLANS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. HALL of Ohio. Mr. Speaker, today along with 21 of my colleagues, I am introducing legislation expressing the sense of the House that all parties to the conflict in Angola should put humanitarian needs above military goals by facilitating the delivery of urgently needed humanitarian assistance through international relief and private voluntary organizations for the people of Angola. I am pleased to be able to introduce this resolution with bipartisan support from Members who take widely varying views on overall United States policy toward Angola. This emphasizes what I know to be true: there is no disagreement among us when the issue is providing food and other necessary relief supplies for innocent, hungry civilians.

Over 250,000 civilians now are at immediate risk of death from hunger-related illnesses. Angola is considered the most severe humanitarian crisis in Africa today—perhaps in the world. Any assistance already comes too late; more than 2,500 people have already died.

I believe that, in all instances, the people of the United States want us to respond to humanitarian crises—whether it is an earthquake in the Philippines or the Soviet Union, a famine horribly exacerbated by war in Ethiopia, or a hurricane in Nicaragua. It has long been the policy of the United States to do everything we can to prevent hungry people from starving. It is imperative that we maintain that policy by working with all interested countries and groups to provide the needed assistance to the people of Angola.

The purpose of this assistance should be made plain: humanitarian assistance is to be provided to all civilians in need, wherever they happen to live, whichever group they support, whatever their political beliefs. The purpose of

the assistance is not to aid any group of fighting men; it is only to aid hungry Angolan civilians.

As chairman of the Select Committee on Hunger, I consider it my responsibility to do whatever I can to help end this tragedy of death from starvation. I am aware, as all of us are, that Angola has suffered from a debilitating civil war for the last 15 years. Because of the United States Government's support for the UNITA rebels fighting the Government of Angola, I believe the United States bears an additional responsibility regarding Angola: we must use our good offices with UNITA to ensure that they cooperate fully in all efforts to provide humanitarian assistance. Initial signs are positive.

This resolution acknowledges that while we must do everything we can to feed the hungry in Angola, that alone is not enough. The United States Government, and all entities supplying military support to the warring parties, must also work to promote a successful conclusion to ongoing negotiations, an end to the civil war, and a lasting peace in Angola. Let this be the final time we must unite with others to provide emergency relief to the people of Angola.

There has been some good news from Angola recently. There has been progress in peace talks under way in Portugal. This resolution supports the peace process.

The resolution further calls on the United Nations to take the lead in developing a comprehensive agreement for the delivery of famine relief supplies through agreed-upon corridors of safe passage. The United Nations is the only international body that has the experience and credibility to broker such an agreement. They have been successful in delivering food in Ethiopia and Sudan through similar arrangements; there is no reason they can't be successful in Angola.

For the benefit of my colleagues, the full text of the resolution follows:

H. Res. —

Whereas it is the policy of the United States to offer humanitarian assistance to countries whose population is suffering from famine or natural or manmade disaster;

Whereas Angola has experienced a severe drought since 1988;

Whereas many people in Angola have already died of starvation and 250,000 other civilians in Angola are at immediate risk of famine;

Whereas famine conditions throughout Angola will become especially severe unless food and other famine relief assistance are delivered through international relief and private voluntary organizations through areas of safe passage;

Whereas the famine in Angola has been exacerbated by the ongoing civil war between the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (commonly referred to as "UNITA");

Whereas both the Angolan Government and UNITA have indicated their willingness to meet the emergency needs of the people of Angola;

Whereas the United Nations has played a useful role in facilitating relief assistance in countries where conflicts exist: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Government of the People's Republic of Angola and UNITA should—

(A) put humanitarian needs above military goals in their conflict;

(B) reaffirm that deprivation of food and medicine will not be used as a weapon in the course of their political and military conflict;

(C) agree to free passage arrangements between themselves, neighboring countries, and private voluntary relief organizations to allow the safe delivery of the necessary amount of food and other relief assistance to all areas of Angola threatened by famine;

(D) enter into discussions with international relief organizations and countries willing to offer famine relief assistance to develop a comprehensive agreement relating to the most efficient and cost-effective means of delivering the required famine relief supplies to Angola;

(E) work toward a cessation of hostilities and conclude the ongoing negotiations aimed at bringing an end to the civil war and establishing a lasting eace in Angola; and

(F) take immediate steps to encourage other southern African countries to cooperate in the delivery of famine relief supplies;

(2) the Government of Angola should continue to work with the United Nations and donor countries and should develop a comprehensive agreement for the delivery of the required famine relief supplies through international relief and private voluntary organizations using efficient and cost-effective means of transporting such relief throughout Angola;

(3) the Administrator of the Agency for International Development should be prepared to participate in and contribute to an emergency famine relief plan consistent with any agreement described in paragraph (2) for the delivery of famine relief assistance from the United States to Angola; and

(4) all those entities supplying external military support to either the Government of Angola or UNITA should work with the Government of Angola and UNITA to promote the successful conclusion of the ongoing negotiations, an end to the civil war, and a lasting peace in Angola.

CAMPAIGN FINANCE REFORM

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. SMITH of Texas. Mr. Speaker, special interest money and political influence go hand in hand, and these hands are too strong in the making of public policy which effects all Americans.

The American taxpayer will be forced to bail out failed S&L's across the country. Is it coincidence that Members of Congress received huge PAC donations from investment firms that specialize in junk bonds and from related S&L's, and at the same time supported junk bond investments for S&L's—a questionable policy which has proved to be fatal?

The point here is that special interests have an undue influence on the U.S. Congress. The way to curtail this influence is, in fact, to bite the hand that feeds us. We must reduce the amount which PAC's can channel into congressional war chests.

Spending caps and public funding would only create incumbent entrenchment and economic waste. To restore the government to the people, we must draw a clear bright line limiting PAC contributions to one-third of a candidate's campaign funds.

NINTH ANNUAL CONVENTION OF AMERICAN BLACK CHIROPRACTORS ASSOCIATION

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to commend the American Black Chiropractors Association for its dedicated service toward meeting health needs of the black community. This young association is moving forward with programs to promote better health care in the black community, to educate the public on the benefits of chiropractic, and to assist the educational endeavors of those interested in the chiropractic profession. I am very pleased that the American Black Chiropractors Association has established a scholarship fund that will help students pursue careers in chiropractic. There are about 300 black chiropractors providing health care services to communities throughout the United States today. The scholarship fund will provide a needed boost to efforts to increase the number of chiropractors serving the black community.

Mr. Speaker, I am delighted that New Jersey will host the ninth annual convention of the American Black Chiropractors Association. This national convention will be held at East Rutherford, NJ from Thursday, August 16 through Sunday, August 19. In view of the health care crisis confronting black Americans, the theme of this year's convention is positive, forward looking and symbolic of the type of leadership that we need from health care professionals—"A New Decade of Health Through Chiropractic." At a time when urban black communities are ravaged by drug and alcohol abuse, epidemic diseases and emotional disorders caused by stress, the advocacy againt drug and alcohol use by black chiropractors is sincerely appreciated and indeed a service to the Nation.

Mr. Speaker, black New Jerseyans are proud of the leadership role that one of our native sons has played in the American Black Chiropractors Association. Dr. Alfred Davis Jr. of Montclair, NJ is currently vice president of the association. He has served as an able colleague to the president, Dr. Herman J. Glass II of Detroit, MI and is the chairperson of this year's convention. The black community in New Jersey is also extremely proud that Dr. Davis was recently appointed to the New Jersey State Board of Chiropractic.

Mr. Speaker, the black community of New Jersey is honored that the American Black Chiropractors Association is holding its ninth annual convention in our great State. I extend a warm welcome to all members of the asso-

ciation and send my best wishes for a successful and productive convention.

A NEW APPOINTMENT TO SCHOLARSHIPS BOARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, today I am proud to recognize Mrs. Margarita B. Tonkinson on the achievement of being appointed to be a member of the J. William Fulbright Foreign Scholarship Board. On July 12, 1990, President Bush announced his intention to appoint her to this prestigious position.

Currently Mrs. Tonkinson serves as associate director of the Office of International Programs at the University of Miami in Coral Gables, FL.

The Board of Foreign Scholarships was created by Congress to supervise the educational exchange program. The intent was to establish an impartial and independent body which assure the respect and cooperation of the academic world for the educational exchange program, particularly in the selection of grantees and of the educational institutions qualified to participate.

The Board sets policies and procedures for administration of the program, has final responsibility for approving selection of all grantees, and supervises the conduct of the program in the United States and abroad. Appointed by the President of the United States, the Board is composed of 12 members drawn from academic, cultural, and public life.

I am sure that Mrs. Tonkinson will be a successful addition to the Board and I wish her and the other members much success.

A SALUTE TO SHELDON TROMBERG FOR HIS OUTSTANDING PUBLIC SERVICE AND DEDICATION TO THE CITIZENS OF WASHINGTON, DC

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. FAUNTROY. Mr. Speaker, I submit, for the attention of my colleagues, the following copy of the "Sheldon Tromberg Recognition Resolution of 1990." This resolution, dated May 1, 1990, was passed by the District of Columbia City Council, and was presented to Mr. Tromberg at a reception held in his honor at the District Building.

CEREMONIAL RESOLUTION

Whereas, Sheldon Tromberg and his wife, Jessie, have graced this community by choosing to be citizens, friends and neighbors since 1959;

Whereas, Sheldon Tromberg, is the husband of 34 years to Jessie Tromberg; father of Bruce Jason Tromberg, Melissa Tromberg and Alicia Tromberg Kuttner; grandfather to Joshua Eric Tromberg; and father-in-law to Patricia Kathryn Tromberg and Stephan George Kuttner;

Whereas, Sheldon Tromberg has demonstrated in all his adult life his uniquely inspiring, influential, and consummate rhetorical abilities to successfully motivate our fellow citizens by helping them to better themselves and improve the qualities of their lives;

Whereas, Sheldon Tromberg has consistently and selflessly extended assistance, friendship, advice, encouragement, and hospitality to many undergraduate and graduate students of worldwide creeds, races, religions, and national origins;

Whereas, Sheldon Tromberg's Communication Arts students and proteges are now acknowledged leaders in many areas across the country;

Whereas, Sheldon Tromberg's enduring career accomplishments are as a teacher and educator; top rated and popular Washington radio talk show host; political commentator and social critic; television broadcaster; motion picture producer and distributor; newspaper and magazine columnist; author and editor; impresario; advisor and consultant in both public and private sectors;

Whereas, Sheldon Tromberg has brought recognition and credit from local, national, and international media to Washington and Washingtonians;

Whereas, Sheldon Tromberg on several occasions exemplified extraordinary personal courage in triumphing over life threatening adversities;

Whereas, Sheldon Tromberg has helped to change our world for the better in many ways, including the enhancement of our community by co-founding a religicus congregation, temple Micah, now in its 27th year;

Whereas, Sheldon Tromberg produced the 1st major motion picture made by Washingtonians;

Whereas, Sheldon Tromberg was the 1st Washingtonian to author a textbook on all aspects of the motion picture industry; and was the 1st person to successfully persuade a President of the United States to be the 1st President in history to attend a commercial movie theater in downtown Washington;

Whereas, Sheldon Tromberg has led a life seeking honors for others;

Whereas, Sheldon Tromberg's integrity during 4 decades of writing and counselling, advising, and brain-trusting remains legendary;

Whereas, Sheldon Tromberg has long been a major figure behind the scenes in social, economic, political, and governing spheres; and

Whereas, Sheldon Tromberg believes and participates in the visions and aspirations of a new generation of 20th century Americans working for the accomplishment of noble principles, hoping to foster expanding freedoms and inherit democratic rights as a goal for this Nation and the District;

Resolved, by the Council of the District of Columbia, That this resolution may be cited as the "Sheldon Tromberg Recognition Resolution of 1990."

Sec. 2. The Council of the District of Columbia unanimously and heartily commends Sheldon Tromberg for his years of providing vital service to this community and the Nation.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

ANNIVERSARY OF MEDICARE AND MEDICAID

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. WALGREN. Mr. Speaker, in recent years, we have seen a steady stream of newspaper articles and special reports on our health care system, with headlines like "The Revolution in Medicine," "The Destabilization of Health Care," "The Rationing of Health Care," and "Changes Needed in U.S. Health Care System." I believe a consensus is emerging to develop a comprehensive national health care system that leaves no one without some type of coverage for their health care needs. In the 1960's, Medicare and Medicaid were created to address the elderly and the poor's serious lack of health insurance. In 1965, 44 percent of the elderly had no hospital insurance. Yet the elderly were the most at risk, had the highest rate of illness and the lowest income.

Still today we are faced with serious deficiencies in our health care system. An aging population with longer lifespans means more chronic illnesses. We are witnessing a more restrained Federal role as the budget crisis creates stiff competition for limited resources. Technological advances and a diversity of delivery systems create pressures.

In the Reagan-Bush years, the driving force behind health care policy has been dollars—how much will it cost? The so-called Reagan Revolution introduced us to a new way to look at health care: Look at the bottom line. Despite the need, start with a number and show how fit—at times, contort—the policy into that number.

Disability and disease do not fit neatly into an arbitrary dollar amount or budget category. And in this country we all grow up with the expectation that our health care needs will be taken care of, that we will not have to worry about being impoverished by a devastating illness, that we won't be left hanging. Yet, sadly, there are many holes in our health care system. In fact, many people are saying it is a nonsystem. It is sad to say that we are the only industrialized country in the world besides South Africa that does not have a comprehensive, universal health care system, even though we spend 11 percent of our GNP on health care.

Let us review for a moment some of the problems:

The United States ranks 22d among the nations of the world in infant mortality, behind countries like Iceland, first; Luxembourg, 10th; Singapore, 15th; and East Germany, 21st; even though we spend the most per capita.

Thirty-six million Americans have no insurance coverage—8 million Americans need long-term care and cannot get it. Americans postpone doctor visits until they are really ill, when it is really costly. In 1988, health care

spending was the leading cause of personal bankruptices.

Medicare is riddled with loopholes like an inadequate home care benefit, virtually zero in long-term care benefits, no respite care, no coverage for mammograms and many other preventive measures. In fact, Medicare beneficiaries pay for over one-half of their health care themselves.

Medicaid, which in some ways is our universal health care program, pays woefully inadequate rates, to the point that some physicians refuse to participate. Medicaid covers only 50 percent of the poor. In one State, a family of three must have an income less than $1,416 a year to qualify, but the same family in another State could earn $8,316 per year. And as budgets become more strained, the proportion of the poor covered by Medicaid is declining.

In the area of long-term or chronic care for all ages, there is little. Medicare pays for 2 percent—150 days in a skilled nursing facility; Medicaid pays 49 percent; private insurance pays 1 percent; and individuals pay out of pocket 48 percent.

Middle-class Americans have traditionally subsidized care for the poor through their insurance premiums and payments to hospitals. But many businesses, unions, and individuals are beginning to question these cross subsidies.

Health insurance in the United States is largely a matter of the roll of the dice—where you work—if you do—where you live and what you can afford. We have relied on employer-based insurance which varies tremendously in cost, coverage, and availability. And as health care costs escalate, we are seeing employers and insurers cutting costs by raising beneficiary payments, cutting benefits, denying coverage.

One good thing about these developments is more segments of the society that have a stake in health care are beginning to join the chorus of the few who for a long time have realized that something has to be done. Employers are calling for reform. Unions are striking over health care. Governments at every level are alarmed.

The Pepper Commission on Comprehensive Care has done this Nation a tremendous service by focusing on the problems of the uninsured. In the area of private insurance, which is under the jurisdiction of my subcommittee, they recommend:

All businesses with more than 100 employees should provide all employees and dependents with private health insurance meeting a minimum Federal standard, or contribute to a public health insurance plan.

Businesses with fewer than 100 employees should receive tax incentives to provide health insurance.

Health insurance practices would be reformed: No exclusion of any individual because of a preexisting condition; no denial of coverage or any individual in a group; required acceptance of all groups wishing to purchase insurance; standard rates for all groups in a specified geographic area; no rate increases applied selectively to any group; a uniform Federal minimum benefits mandate.

We have begun our consideration of these recommendations. On April 26, we had our first hearing and received a wide range of views and we will have more. Here is a flavor of what we learned:

The Service Employees International Union testified that among their members the cost of family coverage rose 52 percent from 1987 to 1989 and that workers were at risk for nearly 20 percent of aftertax income. They said that every 20-percent increase in employer health costs comes at the price of a 2-percent increase.

SEIU told us that of major work stoppages in 1987 and 1989, health benefits were a major issue in strikes that involved less than one-fifth of workers on strike; in 1989, that proportion rose to 78 percent. In the coming months we will be giving increased attention to the terrible gaps in the system and the recommendations of the Pepper Commission and other groups.

The lynchpin of our health care system has been the willingness and the ability of private employers to provide health insurance and the willingness and the ability of employees to use part of their earnings for this protection. We have supplemented this system with a patchwork of public programs: Medicare, Medicaid, State risk pools, VA, CHAMPUS. But the fact remains that most Americans have relied on their employer-based private insurance for their health care. Health insurance has relied on a complicated system of cross subsidies under which we all put ourselves in a big pool, the healthy and the sick alike, and we all share the risk. Increasingly, it seems, this principle is being eroded.

The 25th anniversary of Medicare and Medicaid is a fitting time to take the next steps necessary to truly provide a comprehensive health care system for all Americans. Many other countries with vastly smaller economies and fewer resources did it a long time ago. It is long past time for us to. It is just a matter of political will.

THE STATUS OF U.S. FEDERAL JUDGES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. DYMALLY. Mr. Speaker, I wish to bring to the attention of the Members an article which appeared in the Miami Herald, July 29, 1990, entitled, "U.S. Judges Underpaid, Face Security Threats."

[From the Miami Herald, July 29, 1990]

U.S. JUDGES UNDERPAID, FACE SECURITY THREATS

(By Thomas E. Scott)

The federal judicial system is in trouble. Everybody knows it. It's spoken about, but not publicly.

Federal judges are worried. They are concerned about the politics that keep encroaching further and further upon the judicial system. They are concerned about Congress' indifference to their needs. They are concerned about the additional demands being constantly placed on an already overburdened system. They are concerned that a judicial system that they dearly love and have sacrificed to maintain is deteriorating. Their concern is justified.

I have never taken pen to paper before, because I felt bound by an unwritten rule to remain silent as a federal judge. Now, I feel the time has come to address the issues before it is too late. It is time the public knows about the personal sacrifices these judicial men and women endure everyday, especially in a district, such as Southern Florida, where the war against drug traffickers is real and personal.

Federal judges are on the front lines of the drug war. They are soldiers in the true tradition. And, as soldiers, they make sacrifices as real as any veteran.

Today there are federal judges in Florida who live with around-the-clock marshal protection. They don't want it. It isn't romantic. In fact, it is disruptive and demoralizing. Unfortunately, such protection is essential.

IT'S HARDER AND HARDER TO KEEP THEM ON BENCH

In the last several years, two federal judges have been killed; one spouse has been poisoned and another injured by a mail bomb. Many judges have been threatened by drug traffickers, racists, extremists and other lunatics. I do not want to belabor the point with a volume of statistics, but they are readily available from the U.S. Marshals Service.

Even when federal judges do not live under protection, they live under a constant awareness of the potentiality of their judgments. Their spouses and children are also aware of it. Such apprehension is a silent burden that they carry every day.

The concern for one's family is worse than any personal fear. Your child returning from school is approached by a stranger. Your spouse's car is followed. A letter containing threats is received. A foreboding message is left on your answering machine. All of this is the reality of being a federal judge in a district such as Southern Florida.

Federal judges are very visible. They are also very vulnerable. Government agents carry guns and are trained to fight. They have fellow agents to assist them. They have intelligence information to plan their moves. Federal judges have none of this. They must completely rely upon the help and advice of others. Such dependence is frightening and frustrating.

Federal judges have been pawns in the highly charged politics of congressional pay raises. Congress refuses to let the issue of judicial pay raises be considered separately from their own pay raises. The question of judicial pay raises and congressional pay raises are separate issues. They deserve separate consideration. But Congress flatly refuses to permit such independent decision.

Congress is well aware that its only hope for a pay raise lies in riding the coattails of federal judges. Public support for the federal judiciary and sympathy for its economic plight is greater than Congress will ever enjoy. While public criticism of government institutions has been great in recent years, the integrity of the federal courts has never been questioned.

Two times in three years, federal judges have been promised substantial pay raises—pay raises that are long overdue. On both occasions, the pay raises never came to fruition. The demoralizing effect of these events upon the judges and their families has been well documented and discussed.

Suffice it to say, it was dramatic and debilitating. What is worse, it should never have happened.

Ultimately, after these missed opportunities, Congress passed a pay increase, but made it effective in early 1991. Once again, the judiciary must wait another year for a pay raise that is 15 years overdue.

And, even in this seeming moment of Valhalla, increasing murmurs are heard that Congress is about to betray the judiciary again.

It has been increasingly reported that Congress intends to rescind the pay raise before its effective date. One hopes that such a catacylsmic event will never come to pass, for if it does, its effect will be devastating on an already demoralized judiciary. The defections will quickly multiply, leaving a judiciary made up of largely wealthy individuals, instead of a well-rounded group of federal judges from diverse backgrounds.

I am also afraid that even if Congress lives up to its promise, it will not be enough. It may be too little, too late.

The federal court system was originally envisioned as courts of limited jurisdiction, hearing a special class of cases and controversies. The founding fathers saw the federal courts as largely "keepers of the constitution" and as a forum for hearing those few matters that did not fall within the traditional realm of the state courts' general jurisdictions. That original intent and the realities of today's federal docket—where the average caseload per district judge jumped more than 50 percent form 1969 to 1988—are worlds apart.

Congress has made the federal courts a dumping ground for all sorts of cases that have no earthly business being there, like Social Security claims and insurance claims arising out of the workplace. (More properly, such cases should be handled by state courts or special administrative tribunals.)

These unnecessary cases, coupled with the increasingly heavy criminal docket, place an impossible burden on federal judges, especially in districts where drug cases are prevalent. It also makes it pratically impossible for civil litigants to have their day in court.

The solution to this dilemma is not more judges and facilities. That answer is simplistic—a quick fix—that merely emasculates the quality and original purpose of the federal court system. That response would merely convert the federal system into a second court of general jurisdiction. No, the answer must be more considered and thought out. The quality of the federal courts must be maintained. The solution lies in returning the system to its original place as courts of limited jurisdiction.

All of these problems and more that space prevents me to discuss weigh heavily upon federal judges. But, how does this affect the average citizen? Why is it important to you? The answer is simple.

For over 200 years, the federal courts have remained a government institution devoid of politics. It is an institution independent of the other branches of government, where judicial officers are insulated from the political ramifications of their decisions by tenure and constitutional protection. It is a judicial system consisting of the best of the legal profession, selected for their abilities and contributions, but only after undergoing the most intensive of background investigations conducted by the FBI, American Bar Association, Department of Justice and U.S. Senate.

In every trial, jurors are advised by the U.S. district judge that all parties—whether government or individual—must be treated equally and should be considered as parties of equal standing. This single principle is of the utmost importance. It ensures all parties receive a fair hearing and an impartial judgment.

Federal courts have been the great leveler, closing the gap between big and little, rich and poor, government and individuals. It is an institution that has brought governments and presidents to their knees because the justice of the cause required it. These events were the result of one person, a U.S. judge, who had the courage to proceed in the face of all obstacles.

Parenthetically, it should be added that such decisions are not easy. Federal judges walk a daily tightrope of tension. They decide high-stake calls involving the highest levels of government and business. They upset important people, because big players sometimes must walk away losers. These decisions impact upon a community and sometimes a nation.

The decision-making process is not easy, since in many instances there is no right or wrong. And, even after the decison is made, the anguish does not end. Then, the judge must sit back and await the consequences of the ruling. Criticism by the litigants, lawyers and media is not uncommon. It takes strong individuals, confident in their decision-making ability, to weather the storm of such reactions year after year, and there is a physical and psychological toll.

One standard response to these serious issues is, "If you feel that way, quit. There are plenty of people who want the job."

The truth is that many good judges are quitting, and have quit. But, even more importantly, many good people are not applying. The strains are too great. This is especially true in districts with heavy criminal calendars and reputations for judicial threats.

Recently, members of my court approached several prominent lawyers for the purpose of soliciting them to apply for vacant judgeships. We were politely, but soundly, rebuffed. The reasons were simple: money, security and workload. I do not blame these fine lawyers. I blame the system. In short, the minuses are beginning to outweigh the pluses.

Of course, the system will go on regardless of the quality of the judiciary. Government institutions do that. They are self-sustaining. But the spark that makes a judicial system great dies without the constant infusion of good people.

With all this said, our federal court system remains the finest judicial system in the world. But will that high quality continue? The answer remains in doubt.

If politics continues to encroach on the system, if weak and political applicants become judges, replacing the strong and determined, then the system cannot continue to exist as we know it.

On the other hand, if proper funding, high-quality applicants, decent and livable salaries commensurate with the responsibilities of a federal judge are provided, the federal judicial system will survive and continue to perform its historical and constitutional functions.

The choice is yours. We have reached the crossroads. The course of the federal court will be determined by future events. The answer will be povided by senators and congressmen—officials that you elect.

U.S. District Judge Thomas E. Scott, a former Dade Circuit Court judge, was appointed to the federal bench in 1985, becoming one of the youngest federal judges ever. He wrote this article for the Herald.

BALLISTIC MISSILE DEFENSES: IS THE SOVIET TUNE CHANGING?

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1990

Mr. LIVINGSTON. Mr. Speaker, in 1961 Marshall Malinovskiy, then the Soviet Defense Minister, boasted that "the problem of destroying enemy missiles in flight has been successfully resolved." Not to be outdone, Premier Khrushchev in 1962—the year of the Cuban missile crisis—was more vivid. He claimed the Soviet Union had developed an ABM system that could "hit a fly in space."

As we all know, trying to catch a fly buzzing around our head can be quite frustrating. But it is astronomically harder to hit a fly in space. In fact, it has never been done, and certainly not with the kind of ABM system Khrushchev was talking about—a high-yield nuclear weapon strapped onto a huge rocket, in essence, a lumbering nuclear blunderbuss.

The technology of Khrushchev's era was eons behind that available today or tomorrow. In the office workplace, for example, people were struggling with manual and early electric typewriters. No one then dreamed of xerox and fax machines and dazzling desktop computers more powerful than any computer anywhere at that time.

Well, the same technologies that led to these breakthroughs are causing a new revolution in military affairs. Advances in computing, materials, sensors, propulsion, and manufacturing miniaturization are the reason why. The nature of warfare is changing as high-technology precision guided weapons emerge on the battlefield, at sea, and in the air.

These exciting new technologies are also about to end the reign of the nuclear ballistic missile as an unchallenged sword of war and destruction. For three decades this reign has added fear and uncertainty to the United States-Soviet strategic relationship. Now, just as the Strategic Arms Reduction Talks [START] Treaty will finally achieve the long-awaited, first-ever reductions in strategic nuclear missiles, SDI stands ready to add further stability and security.

START is not enough. Even after START cuts, the Soviets will have 4,000 ballistic missile warheads aimed at American territory and the American people. We are utterly defenseless against them. This is what the SDI Program seeks to change. Impressive gains in technologies for nonnuclear defenses are now transforming Khrushchev's boast into the wave of the future.

But ever since SDI was first championed by President Reagan in 1983, the Soviet Union has pretended to be opposed to these trends. It claims to favor continuation of a balance of offensive nuclear weapons. Advanced defenses against nuclear ballistic missiles, ac-

cording to Soviet propaganda tirades from the mid-1980's, are destabilizing. The Soviets were so strident in propounding this absurd view that they scared many of the liberal so-called experts in America. They said we would have to trade SDI in order to get a START Treaty.

Ronald Reagan and George Bush proved these doomsayers dead wrong. They have continued with SDI full-steam ahead, and instructed our Geneva negotiators to stand firm behind SDI. They did not give an inch. As it turned out, the Soviets were the ones to flinch. Last September, they dropped an artificial demand for an accord tightening the noose on SDI as a price for a START Treaty.

Some liberal apologists are now tripping over themselves to backpedal. Their tune is that Gorbachev is desparate for a START Treaty to help him with his domestic problems. This is probably true. But the liberals also swear that the Soviets remain unalterably opposed to SDI.

Let's face it, these apologists are dead wrong again. Perestroika is sweeping away cobwebs and old thinking of many fronts in the Soviet Union. Ballistic missile defenses are no exception. What's the evidence for this surpising statement? It is the opening up, a year ago, of an unprecedented public debate in the U.S.S.R. on the long-taboo subject of ballistic missile defenses. Clearly, Moscow's thinking about defenses is in ferment. Many Soviets now realize propaganda will not kill SDI, and they are voicing understandable concern about threats to the U.S.S.R. from the Third World. And yes, some even dare suggest that ballistic missile defenses might enhance United States-Soviet strategic stability. Here are some examples:

Last year in Pravda on July 20, Soviet defense expert V. Etkin said space- and ground-based defenses were feasible. He called for international antimissile measures to deal with the threats of accidental launches and launches by extremist groups.

In Pravda on October 21, 1989, strategic expert A. Podberezkin, of the well-known Institute for the World Economy and International Relations [IMEMO], wrote that SDI research was already quite advanced in a number of areas. Making clear his disdain for the official policy of sticking the U.S.S.R's head in the sand, he went on to say that: "In no way has the U.S.S.R. come to terms with the possibility of parallel improvement of strategic offensive and defensive capabilities."

Three days later in Romsomolskaya Pravda [Young Pravda], Ye, Zhirov said that in the early 1980's, after detecting equipment at the Sary Shagan test range, the United States allocated an additional $10 billion to SDI. "The U.S.S.R. took equivalent retaliatory measures." Now, he said, "The Soviet Union is ready to examine proposals for verifying the development of strategic defensive systems when they are officially submitted.

Last December, in the Ministry of Defense publication Soviet Military Review, M. Aleksandrov was even blunter.

It is time we give up the hope that SDI-related work will be discontinued * * * If the trend toward the development of defense technologies is correctly oriented, it may, far from leading to destabilization, result in a better model of strategic stability than the one we have today.

Finally, last March 23, 1990, in the newspaper Sovetskaya Rossiya [Soviet Russia], Major General Belous said that "we should hardly deny" the possibility of "reasonable compromises" to defend Soviet and United States territory against "accidental missile launches or blackmail attempts and threats made by third countries."

The first step to changing any outdated policy is debating the alternatives. Based on what we know about the Soviet Union, the internal debate the Soviets are conducting may be only the tip of the iceberg. The one behind closed doors is probably far more extensive.

No one can be sure where the debate will lead. But its emergence, as with the debates on everything else in the Soviet Union, suggests that something major has been very wrong in Soviet policy and badly needs fixing. The Soviet policy of antagonism toward SDI fits this bill, just as do the failed Stalinist political and economic policies now under attack.

The ice age in Soviet strategic policy may be receding, with a new willingness to consider both offensive nuclear reductions and the potential of future nonnuclear defenses. The Soviet and American peoples have a profound interest in steering the United States-Soviet strategic posture toward a safer harbor. Advanced, nonnuclear defenses offer this hope for our children and grandchildren.

I hope this House and Congress remember how critical a strategic defense is in our understandable efforts to prioritize among defense programs and make our defense dollars go further.

I hope Congress realizes that our decisions to date, to continue with a strong SDI Program, have been the primary reason for even the modest changes in attitude the Soviets have taken toward SDI. During these rapidly changing times and uncertainty in the world, especially in Third World countries, Congress should not make precipitous unilateral cuts or changes to the current SDI Program.

Mr. Speaker, I ask that two of the articles I cited be printed in the RECORD. I commend them to my colleagues.

[From Soviet Military Power, December, 1989]

TWO VIEWS ON THE PROBLEM—DEFENCE DOMINATION VERSUS NUCLEAR CONTAINMENT

(By Mikhail Aleksandrov)

Speaking at a congress of the American Legion held in Louisville, Kentucky, in September 1986, George Bush declared that SDI was neither a naive nor an unfeasible programme and the U.S. was on the verge of being in a position to contain war by defending itself. After becoming President, Bush reported that his attitude to SDI had not changed, nor was it subject to change.

To my mind, "it is time we became realistic and gave up the hope that SDI-related work will be continued. It appears that if the trend towards the development of defence technologies is correctly oriented, it may, far from leading to destabilisation, result in a better model of strategic stability than the one we have." Everything will depend on future defence developments in the Soviet Union in the eventuality of the United States implementing the SDI programme.

The first alternative is an asymmetric response. According to this scenario, to counter the deployment of the American ABM system, the Soviet Union would take steps aimed at enhancing the penetration capability of the strategic offensive weapons on the one hand, and of neutralising the U.S. ABM system on the other. This type of military rivalry would be the most dangerous and destabilising.

"It appears, therefore, that our military, strategic, economic and political interests would be best suited by a model of military structuring symmetric to the American. This must in no way be taken literally: tank for tank, plane for plane etc. What is implied is the development of technologies similar to those in the United States." This varient would envisage that, with stringent limitations imposed on strategic offensive arms, the ABM systems would be given plenty of scope for perfection. Given a number of conditions, this option would bolster the crisis stability, rather than shatter it. The introduction by both sides of restrictions on the numbers of strategic offensive weapons and their qualitative parameters might be the first condition. The qualitative limitations could involve the prohibition of additional capabilities for strategic offensive armaments to enable them to overcome ABM systems, including the prohibition of relevant tests.

Another integral element of this model of strategic stability is complete repudiation by both sides of anti-satellite weapons, which is essential for survivability of space-based ABM components.

It is evidently expedient that outer space should be open to only those ABM elements which effect observation, detection and tracking of a target, and also control, command and supervision. As to interceptor missiles, laser and particle beam weapons, they must be exclusively ground-based. Moreover, they should be prevented from being able to discharge the anti-satellite function.

The given model will ensure a significantly high crisis stability, as domination of defence over the offensive in a crisis situation will not stimulate a first strike. Furthermore, unlike the offensive armaments race, "a race of defensive systems is not a destabilizing factor. First, these weapons are not intended for strikes against the opposite sides." Second, after a certain, sufficiently high, density of defence (with limitations imposed on strategic offensive weapons) has been attained, further strengthening defence potential virtually loses all sense.

Finally, this model will bring about a radical change in the nature of strategic relationships between the East and the West. Domination of the offensive over defensive will give way to defence domination. "The model of defence domination will make it possible to switch over, in deed, and not in word, to a defensive military doctrine at all levels of confrontation."

There is no doubt the transition to the new model of strategic stability will involve a certain political risk. There are apprehensions that at a definite stage the US might try and use its technological superiority in some fields in order to deploy an effective ABM system before the Soviet Union has a chance to do so, thereby attaining military advantage. It seems, therefore, that the only way to the new strategic structure is that of gradual mutually agreed and coordinated steps, which might include phased deployment of ABM components, strictly re-

stricted both qualitatively and quantitatively.

Considering the alternative models of strategic stability, we cannot gloss over such an important issue as the economic consequences of this or that way of military structuring. It is often argued that the asymmetric way will prove cheaper than the symmetric. Following the asymmetric way, however, we would invest in unpromising technologies, which would yield a temporary military effect but do nothing for the development of our country's technological basis. Conversely, "Investing in promising branches, such as directed energy, space industry, optics, microelectronics and artificial intellect, we will proceed towards strengthening the country's defence capability for a long period of time and, besides, lay a technological foundation for the progress of our industry in the 21st century."

[From Sovetskaya Rossiya, Mar. 23, 1990]

THE SDI SYNDROME. SEVEN YEARS SINCE THE UNITED STATES ANNOUNCED THE 'STRATEGIC DEFENSE INITIATIVE'

(By Maj. Gen. V. Belous)

The U.S. defense secretary's latest annual report to the Congress and the President has been published. Attention is drawn to the section of this lengthy document devoted to the first stage in the deployment of U.S. strategic ABM defense. The report's author claims that it could be developed by the end of the century under the proposed scenario.

If we analyze U.S. military-technique policy on SDI [Strategic Defense Initiative] in the seven years since it was announced, we must acknowledge that the strategic goals and schemes have not changed substantially in any way. There have only been changes in tactics, which are closely tied in with the pace of U.S. scientific and technical progress.

On the basis of what certain U.S. politicians have said and the reports of a reduction in spending on SDI, Western and Soviet specialists have often hastily concluded that this program has allegedly already "gone out of fashion" and is gradually losing significance. However, closer study of the problem reveals a different picture. There is hardly any doubt that, when the SDI program enters its decisive stage, there will be forces in the United States demanding that the country withdraw from the indefinite ABM treaty. Can the Soviet Union fail to take this possibility into account?

Undoubtedly SDI, like all other U.S. military programs, is designed to break the military parity that has taken shape and secure strategic superiority over the Soviet Union. One of the features of the SDI program is that the United States intends this time, for the first time in the postwar period, to secure so-called "strategic defensive weapons" rather than offensive weapons via the planned deployment. According to the usual human understanding, the concept of defense is frequently associated with peace-loving policy. However, one must bear the following two elements in mind when evaluating SDI. First, there is in principle no reliable defense against nuclear weapons and, second, strategic defensive and offensive arms form a single system which possesses considerably higher combat effectiveness than the simple sum of its component parts.

However, people in the United States now prefer not to remember the close connection between offensive and defensive systems. Military specialists consider the best option to be a reduction in the USSR's nuclear missile potential and the simultaneous deployment of a strategic ABM defense for U.S. territory, particularly the space-based elements, to be the best option. The following question involuntarily comes to mind: Is it advisable for the Soviet Union under these conditions to proceed to cut back its strategic offensive arms? Are we not acting rashly in agreeing to radical cuts in our nuclear missile systems? These questions cannot only be answered from the positions of "common sense" or "intuition." Definite conclusions can be drawn from studying models for possible combat operations carried out by the two opposing sides.

First, I must say that at present USSR-U.S. military-strategic parity, which is the material basis of international stability, has a considerable safety margin. This means that unilateral efforts by one country to acquire military-strategic superiority will require tremendous effort and take a long time and may, consequently, be neutralized by retaliatory actions by the other side. A 50-percent cut in USSR and U.S. strategic offensive arms ensures that strategic stability is preserved at an acceptable level. However, a further reduction in the level of military confrontation will require more profound, comprehensive study involving scientists from various scientific fields.

It must be stressed right away that the question of developing strategic ABM defense will be considerably exacerbated after the first stage of strategic offensive arms reductions. This will happen as the result of an increase in its potential influence on strategic stability. In fact, if ABM defense is 90-percent effective, for instance, approximately 600 out of 6,000 Soviet warheads from a rataliatory strike will be able to reach their targets on U.S. territory. That is virtually enough to inflict unacceptable damage on the aggressor. At the same time a further reduction in strategic offensive arms to, for example, 500 warheads could create a situation whereby a 50-warhead retaliatory strike against an aggressor would not be enough to inflict retribution. Under these conditions the "hawks" could plan to avail themselves of their potential advantages and press the nuclear button.

The existing asymmetry in USSR and U.S. offensive arms is universally recognized. Surface-launched ICBM's form the basis of the USSR's nuclear potential, while the United States has submarine-launched ballistic missiles [SLBM's]. One of the reasons for this switch to SLBM's is the U.S. ruling circles' desire to remove the most important strategic targets from the country's territory. In this case a considerable proportion of a potential enemy's warheads will be directed toward them and will not inflict direct damage on the country's population and economic potential. SDI is also meant to serve this purpose.

Siting weapons in space, some of which will be able to hit surface targets, should radically "ennoble" the scenario for a future war. Some military theoreticians depict a war where the main combat operations are mounted in space, while the U.S. population monitors the course of the battle on its television screens from safe places.

The "position of strength" policy and the development of space programs have met with no opposition among the U.S. population. The arms race has already become a customary "national sport." Employment in the military industries, notably the aerospace industry, enables millions of American families to lead a comfortable existence. Americans are only aware of the threat of war by hearsay, at a time when the specter of unemployment is an extremely real one. It is no coincidence that many Americans directly associate their well-being with the expansion of military-space programs, without considering their possible tragic consequences.

Moreover, the use of achievements of the U.S. military and space industries in the production of peaceful output goes back a long way. The point is that most major weapons-producing firms produce nonmilitary output at the same time. That is why extensive use is made of all the latest achievements in the sphere of military technology in the manufacture of goods for the population. The high profitability of military output enables subsidies to be provided for research in the development of new materials and technologies. Thus the claim that the SDI helps to increase the technological level of U.S. industry has real foundation.

The SDI program is frequently identified with the development of ABM defense alone. This inference is hardly correct. Without doubt, the development of wide-ranging ABM defense is one of the main aims of SDI. However, in the opinion of some scientists, the main aim of the studies under this program is to develop fundamentally new types of weapons that are even more effective than nuclear missiles. When deployed in space, these weapons will replace the latter and assume a global character.

Some of the arguments put forward by SDI's champions also require careful consideration. The world today is bipolar, they argue, but in the near future it will become multipolar. This will also affect the military sphere. Whereas today there are eight states on the "nuclear threshold," capable of crossing it and beginning production of mass-destruction weapons, by the end of the 20th century there will probably be 20 such states. They will also possess missile technology. All this will considerably increase the risk of both deliberate and accidental nuclear conflict.

Socioeconomic backwardness, a vast foreign debt that they cannot repay, poverty, and acute social conflicts within these countries, together with nuclear missiles, could create an extremely dangerous situation in the world. This danger could become a real one in the near future, particularly for the United States, which is the largest moneylender. Under these conditions the preservation of USSR and U.S. nuclear might for some time to come may be a reliable means of deterring certain authoritarian, adventurist regimes from issuing potential ultimatums threating to use nuclear weapons.

In order to eliminate this threat SDI's apologists argue that it is necessary at the least to develop a "thin" ABM defense capable of successfully dealing with small numbers of incoming missiles. One of the plans for this kind of defense proposes siting 1,000 ground-based interceptor-missiles in six areas of the United States. Mindful of current realities, we should hardly deny the possibility of reasonable compromise in the future and the development of defenses for U.S. and USSR territory against accidental missile launches of blackmail attempts and threats made by third countries.

However, there are fundamental problems from the viewpont of creating a genuine system of international security. One such fundamental problem is the ban on siting strike weapons in space. If the "space threshold" is crossed, this will result in the unrestrained escalation of the arms race, which no one will succeed in halting.